M12663

NOVA SCOTIA ENERGY BOARD

IN THE MATTER OF: **MORE ACCESS TO ENERGY ACT**

-and-

IN THE MATTER OF: **AN APPLICATION by the NOVA SCOTIA INDEPENDENT ENERGY SYSTEM OPERATOR for approval of its proposed expenditure and revenue requirement for the test year ending March 31, 2027**

CLOSING SUBMISSIONS OF THE CONSUMER ADVOCATE

July 24, 2026

These are the closing submissions of the Consumer Advocate ("CA") following the hearing of the Nova Scotia Independent Energy System Operator's ("IESO NS" or "IESO") Application for Approval of Proposed Revenue, Expenditures, and Fees (the "Application").

Overview

This Application concerns IESO Nova Scotia's proposed expenditure and revenue requirement for its second test year, ending March 31, 2027.

As noted in the Application, the IESO is a not-for-profit corporation established by the *More Access to Energy Act*, SNS 2024, c 2, Sch B (the "*Act*"). It is presently engaged in the important task of pursuing a phased transition of system operator functions from NS Power. This process will no doubt be complicated, and costly. As noted in the Application, as a result of the IESO's phased approach, annual revenue requirement submissions will adjust over time commensurate with the organization's increasing scope. It is not unreasonable to provide the IESO with some latitude as it grows into its important role in Nova Scotia's energy landscape.

All that being said, the CA remains concerned with several aspects of the IESO's application, including the transparency of its conduct in the regulatory process, as well as the accuracy of the limited information it has provided. These broader reservations are also reflected in the CA's more particularized concerns regarding certain methodologies and justifications provided by the IESO in support of its various budget items, as well as the IESO's proposed timeline for further advancing the transition of system operator functions from NS Power to IESO, and the IESO's proposed variance account.

The CA's submissions regarding each of these issues are addressed more fully below. Overall, the CA does not oppose IESO NS's Application, subject to the various considerations and issues described in these submissions.

Background

On January 20, 2026, IESO NS filed its second revenue requirement application with the Board. The Application requested approval for IESO NS's ongoing operational, maintenance and administrative ("OM&A") costs budgeted for fiscal year 2026/2027, in the amount of $13.08M, as well as transitional and operational planning costs in the amount of $1.77M, for a total of $14.85M. These costs were broken out in various cost categories as follows:

Table 1: Summary of OM&A Costs

OM&A Cost Category	Total OM&A Costs ($)(Millions)	Transition Costs ($) (Millions)	Ongoing O&MA Costs ($) (Millions)
Employees (Administration)	4.44	0.00	4.44
Corporate Administrative	0.26	0.00	0.26
Governance	0.49	0.00	0.49
Legal and Regulatory	1.15	0.00	1.15
Procurement	0.89	0.00	0.89
Facilities and Technology	1.56	0.00	1.56
Finance	0.65	0.00	0.65
Transition and Operational Planning	1.77	1.77	0.00
Operations (System Planning)	3.64	0.00	3.64
Total OM&A Expenses	**14.85**	**1.77**	**13.08**

[1]

IESO Nova Scotia also requested that the Net OM&A Deferral and Variance Account continue to be used as a mechanism to true-up variances in actual Total OM&A Costs, but should be inclusive of other cost categories (i.e.: not just OM&A). Accordingly, IESO sought to rename the mechanism as the "Net Revenue Requirement Deferral and Variance Mechanism." The structure of the mechanism was summarized as follows:

[1] Application, Exhibit N-1(i), p. 9

Table 5: Net Revenue Requirement Deferral and Variance Mechanism Calculation

Cost Category	Description
1. Budgeted Revenue Requirement	The NSEB approved budgeted revenue requirement for the fiscal year period beginning April 1 and ending March 31. This amount is presented as the total Revenue Requirement in each Revenue Requirement and Fees application.
2. Actual Revenue Requirement Costs incurred.	The actual costs incurred in the prior fiscal year from April 1 to March 31.
3. Variance.	The variance in cost is calculated as the difference between cost category 1 and cost category 2. A positive variance indicates that IESO Nova Scotia's actual total revenue requirement costs were greater than the approved budget. A negative variance indicates that IESO Nova Scotia's actual total revenue requirement costs were less than the approved budget. The variance is then accounted for in the next Revenue Requirement and Fees application.

[2]

Finally, the Application sought immediate temporary financial relief by way of payments from Nova Scotia Power in the amount of $950,000 per month, due to the absence of a permanent fee and cost recovery mechanism. This aspect of the Application was ultimately approved by the Board in its letter decision dated February 25, 2026, though not without significant reservations regarding the timing and manner of the request (addressed further below).

Information Requests were filed in this matter by various parties, including the CA. Evidence was also filed by Doane Grant Thornton, on behalf of the Board. A hearing was held on June 17 and 25, 2026. Following the hearing of evidence, the Board directed the parties to file closing submissions by July 24, 2026, with any reply submissions to be provided by August 7, 2026.

Submissions

This Application was filed pursuant to s. 29 of the *Act*. In what follows below, the CA intends to first provide some discussion of this provision in relation to the IESO's Application. Following that, the CA will highlight several areas of concern arising with respect to the substance of the Application, including:

- IESO's Lack of Transparency in the Regulatory Process;
- Forecast Accuracy;
- OM&A Budget - Cost Reasonableness;
- Transition from NS Power to IESO NS; and
- Net Revenue Requirement Deferral and Variance Account.

[2] Application, Exhibit N-1(i), p. 38

These matters are addressed in turn below.

1) Legislative Context: Section 29 of the *More Access to Energy Act*

As noted above, this Application was filed pursuant to s. 29 of the *Act*. This statute established IESO NS and describes the IESO's objects and duties as Nova Scotia's Independent Energy System Operator. Pursuant to the *Act*, the Board has express regulatory oversight with respect to the IESO's expenditure and revenue requirements, as well as with respect to recovery of costs for energy resource supply contracts (including administrative costs). Sections 29 and 30 of *Act* set this out as follows:

> **Proposed expenditure and revenue requirements**
>
> 29 (1) The IESO shall, at least 90 days before the beginning of each fiscal year, submit its proposed
> expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Energy Board for review.
>
> (2) Where the IESO is unable to make its submission under subsection (1) within the time required under that subsection, the IESO shall file its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Energy Board for review as soon as possible.
>
> (3) Until the Energy Board approves the proposed expenditure and revenue requirements for the fiscal year and the fees the IESO proposes to charge during the fiscal year, the fees approved for the previous fiscal year remain in effect unless the Energy Board orders otherwise.
>
> (4) The Energy Board may approve the proposed expenditure and revenue requirements and the proposed fees or may refer them back to the IESO for further consideration with the Energy Board's recommendations.
>
> (5) The IESO shall not, without the approval of the Energy Board,
>
> > (a) establish, eliminate or change any fees it has established; or
> >
> > (b) eliminate or change any fees established by a predecessor that remain in effect.
>
> (6) The Energy Board may hold a hearing before exercising its powers under this Section.
>
> **Cost recovery**
>
> 30 (1) The IESO shall apply to the Energy Board for the recovery of costs for energy resource supply contracts, and any costs incurred by the IESO for the administration of those contracts, respecting settlements or payments under contracts for energy resources

> obtained through procurement activities or through reassignments of existing energy supply agreements from NSPI.
>
> (2) The Energy Board shall establish a mechanism to recover the costs referred to in subsection (1) from ratepayers, and the public utilities connected to the IESO grid shall collect these amounts and remit them to the IESO.

In the course of the hearing, a question was raised as to the scope and purpose of these provisions. In particular, counsel for the Department of Energy, without taking a firm position, suggested that s. 29(4) could be interpreted as allowing the Board to either (1) approve an application; or (2) refer an application back to the IESO for further consideration, but potentially did not authorize the Board to "disallow" any costs. The Department counsel's reference to the Board's authority to make disallowances appeared to include both decisions not to approve a requested forecast or budget, as well as the authority to disallow certain costs that were incurred after approval due to imprudence. In this regard, counsel for the Department stated that the *Act* did not clearly provide that authority, but also did not explicitly indicate the Board lacked that authority. Counsel stated it would fall to the Board to interpret its own statute and make that ruling, but ultimately deferred on confirming the Department's position on the issue.[3]

Effectively, the discussion raised two issues, both of which are answered by the *Act* and related legislation. First, the CA submits that the Board has broad regulatory authority over the IESO, as established by the *Act* and the *Energy and Regulatory Boards Act*, SNS 2024, c 2. Second, the preceding provisions in s. 29 of the *Act*, and the Board's general powers as described in *Energy and Regulatory Boards Act*, should be read as providing the Board with the authority to either approve or disapprove of the IESO's requests, either in whole or in part, under s. 29(4) of the *Act.* Section 29 of the *Act* grants the Board broad discretion with regards to the review and approval of a rate application filed by IESO NS, which can include adjustments to fees on the "front-end," as well as implementation of potential mechanisms to address disallowances on the "back-end". We address these issues further below.

a) Does s. 29 of the Act permit the Board to "disallow" or "disapprove" forecast costs?

First, the Board has broad regulatory authority over the IESO. Sections 5, 6, and 30 of the *Energy and Regulatory Boards Act* describe the Board's powers and authority to approve rates:

> **Powers and duties**
>
> 5 (1) The Energy Board has those functions, powers and duties that are conferred or imposed upon it
>
> (a) by this Act;
>
> (b) by the *More Access to Energy Act*;

[3] Hearing Transcript, June 25, 2026, pp. 457-464.

(c) respecting the production, transmission, delivery or furnishing of electrical energy for the purpose of heat, light and power or steam heat, geothermal heat, geothermal resources and electricity efficiency and conservation, by the *Public Utilities Act*;

(d) by the *Gas Distribution Act*, the *Electricity Act*, the *Petroleum Products Pricing Act* or any other enactment; and

(e) as the Governor in Council prescribes by the regulations.

…

Approving and fixing rates, regulatory powers

6 (1) In approving or fixing just and reasonable rates, tolls, charges or tariffs pursuant to this Act or any other enactment, the Energy Board may adopt any method or technique that it considers appropriate, including an alternative form of regulation.

(2) In approving or fixing rates, tolls, charges, tariffs, capital applications and all other matters over which the Energy Board has authority, the Board shall give appropriate consideration to the extent to which such rates, tolls, charges, tariffs, capital applications or other matters

(a) support competition and innovation in the provision of energy resources in the Province;

(b) support the development of a competitive electricity market;

(c) ensure the provision of safe, secure, reliable and economical energy supply in the Province;

(d) support sustainable development and sustainable prosperity; and

(e) support such other factors as prescribed by the regulations,

with the goal of approving rates, tolls, charges, tariffs, capital applications or other matters that are consistent with the purpose of this Act, the *More Access to Energy Act* and the regulations.

(3) Subject to subsection (4), the Energy Board shall regulate

(a) the Independent Energy Systems Operator, transmitters and all matters relating to public utilities that perform the functions of production, transmission, delivery or furnishing of electrical energy to or for the public for the purpose of heat, light and power, geothermal resources, geothermal energy, geothermal heat or steam heat;

…

Jurisdiction of Board

> 30 (1) A Board has exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on the Board.
>
> (2) The Boards, as to all matters within their jurisdiction pursuant to this Act, may hear and determine all questions of law and of fact.

In *Nova Scotia Power Incorporated (Re)*, 2026 NSEB 8 (CanLII), the Board recently commented upon the scope of its powers:

> [25] The Board is an administrative body, established under the *Energy and Regulatory Boards Act*, SNS 2024, c 2, Schedule A. It must follow legislative requirements and administrative law principles. The Board's decisions may be appealed to the Nova Scotia Court of Appeal on any question of law or its jurisdiction. The Supreme Court of Nova Scotia may also judicially review aspects of its decisions.
>
> [26] The Board is what has sometimes been referred to as a "creature of statute". In *Administrative Law in Canada*, 7th ed, p. 137 (LexisNexis Canada, 2022), Sara Blake described the powers of such entities:
>
>> An administrative tribunal is created by statute and has only those powers conferred on it by statute. It has no inherent power to undertake proceedings or to make an order that affects a person's substantive rights or obligations. Most Interpretation Acts confer on tribunals all powers that are necessary to enable them to make the decisions and do the things they are expressly empowered to do. The powers that exist by necessary implication may be deduced from the wording of the Act, its structure, and its purpose. A tribunal's powers should be interpreted so as to enable the tribunal to fulfil the purposes of the statute rather than sterilized by overly technical interpretation, but statutory powers may not be expanded to accomplish what the tribunal thinks it ought to do to further its mandate in the public interest. If a tribunal has broad authority to make any order to remedy a violation of the Act, the remedy must be related to the violation, its consequences and the purposes of the Act.
>
> [27] The NSUARB summarized the application of these principles in *Re Nova Scotia Power Incorporated* [2018 NSUARB 45]:

> [47] The UARB is a creature of statute and can only obtain jurisdiction from two sources: one, express grant of jurisdiction under the *PUA* and under other statutes (express powers); and two, from common law by application of the doctrine of jurisdiction by necessary implication (implicit powers).
>
> [48] In *ATCO Gas & Pipelines Ltd. v. Alberta (Energy & Utilities Board)*, [2006] SCC 4, the majority decision stated, at paragraph 51, that:
>
> > …the powers conferred by an enabling statute are construed to include not only those expressly granted but also, by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory regime created by the legislature.
>
> [49] The majority also held, at paragraph 74 of the *ATCO Gas* decision, that:
>
> > …the doctrine of jurisdiction by necessary implication will be of less help in the case of broadly drawn powers than for narrowly drawn ones. Broadly drawn powers will necessarily be limited to only what is rationally related to the purpose of the regulatory framework.

[28] The Board's general functions, power, duties and jurisdiction are expressly addressed in the *Energy and Regulatory Boards Act*:

…

[29] Public utilities tend to be natural monopolies. As such, the impact of competitive forces on those entities may be muted or non-existent. In the absence of these forces, the Board's ratemaking function is designed to allow the utility to recover its legitimate costs of providing service and an opportunity to earn a reasonable profit at rates that are fair for its customers. This ratemaking function has been described by the Nova Scotia Court of Appeal as a surrogate for competition and not a tool for implementing social policy:

> [32] The Board sets rates for a utility that has a virtual monopoly on the supply of electric power. The Board's decision discusses this process: (2005 NSUARB 27)
>
> > [17] … NSPI is not like an unregulated retailer. It is a virtual monopoly which operates its business on a cost-of-service basis. Providing electricity to all communities in the Province was not (and likely still is not) financially feasible

> for private, competitive companies. For that reason, the Province's electric service supplier is a cost-of-service monopoly. In return for undertaking and continuing the costs of electrification of the Province, the utility is permitted, under the ***Act***, to recover the reasonable and prudent costs of providing the service. Because it is a monopoly, regulation operates as a surrogate for competition. One of the regulator's tasks is to balance the need for the Utility to recover its reasonable and prudent costs with the need to ensure that ratepayers are charged fair and reasonable rates.
>
> [18] It is in the interests of all Nova Scotians to ensure that NSPI continues to be a stable and financially sound company. This is a reality which the Board must consider when determining what, if any, rate increase is warranted.
>
> [19] In short, rates charged to customers are based on costs incurred by the Utility in providing service. If the Board finds certain costs to be imprudent or unreasonable, it can (and has) disallowed such expenditures and reduced proposed rate increases accordingly.

[33] I agree with this portrayal of the background to the Board's rate-making function. The Board's regulatory power is a proxy for competition, not an instrument of social policy. [Emphasis added]

[*Dalhousie Legal Aid Service v Nova Scotia Power Inc.*, 2006 NSCA 74]

…

[33] In exercising its ratemaking function, following the statutory requirements and mindful of the purposes of the legislation, the Board is also guided by the following long-established, fundamental ratemaking principles, which the NSUARB noted in its decision for NS Power’s rate application in 2002 and a number of rate applications since:

> [21] In utility regulation, there are generally accepted principles which govern the rate-making exercise. The object of rate-making under a cost-of-service-based model is that, to the extent reasonably possible, rates should reflect the cost to the utility of providing electric service to each distinct customer class. In regulating NSPI, the Board is guided by these generally accepted principles as well as by case law.

[22] A widely-accepted publication written by Dr. James Bonbright entitled **Principles of Public Utility Rates**, sets out the following guidelines for determining appropriate rates:

CRITERIA OF A SOUND RATE STRUCTURE

> 1. The related, "practical" attributes of simplicity, understandability, public acceptability, and feasibility of application.
>
> 2. Freedom from controversies as to proper interpretation.
>
> 3. Effectiveness in yielding total revenue requirements under the fair-return standard.
>
> 4. Revenue stability from year to year.
>
> 5. Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers. (Compare "The best tax is an old tax.")
>
> 6. Fairness of the specific rates in the apportionment of total costs of service among the different consumers.
>
> 7. Avoidance of "undue discrimination" in rate relationships.
>
> 8. Efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
>
> (a) in the control of the total amounts of service supplied by the company;
>
> (b) in the control of the relative uses of alternative types of service (on-peak versus off-peak electricity, Pullman travel versus coach travel, single-party telephone service versus service from a multi-party line, etc.).

(Exhibit N-92) (James Bonbright, **Principles of Public Utility Rates**, Columbia University Press, 1961, p. 291)

[23] These principles are well established and form the background against which the current application must be assessed.

[2002 NSUARB 59, paras. 21-23]

> [34] The principles of statutory interpretation apply in determining the intent of any particular statute, including in the Board's interpretation of the statutory provisions in the *Public Utilities Act*, and other legislation relevant to this matter, to determine the scope of the powers conferred upon the Board.
>
> [35] As discussed in the reasons of the majority in the Supreme Court of Canada's decision in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, administrative decision makers are required to consider the text, context and purpose in interpreting legislation. The Board must also have regard to the *Interpretation Act*, RSNS 1989, c 235.

Given the Board's general powers as expressed particularly in ss. 6(1) and (3)(a) of the *Energy and Regulatory Boards Act*, it should generally be presumed that the Board has wide latitude with respect to the approval of any application filed by the IESO pursuant to s. 29 of the *Act*, or otherwise. Section 29 of the *Act* must be read in this context.

As noted above, s. 29 of the *Act* requires the IESO to submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge to the Energy Board for review (s. 29(1)), and also confirms that until "the Energy Board approves the proposed expenditure and revenue requirements for the fiscal year and the fees the IESO proposes to charge during the fiscal year, the fees approved for the previous fiscal year remain in effect unless the Energy Board orders otherwise" (s. 29(3)).

Based on the plain language of these two provisions, it is apparent that the IESO must obtain Board approval for its proposed expenditure and revenue requirements, as well as the related fees.

Section 29(4) further provides the following:

> (4) The Energy Board may approve the proposed expenditure and revenue requirements and the proposed fees or may refer them back to the IESO for further consideration with the Energy Board's recommendations.

Given the preceding provisions in s. 29, and the Board's general powers as described in *Energy and Regulatory Boards Act*, s. 29(4) should be read as providing the Board with the authority to either approve or disapprove of the IESO's requests, either in whole or in part. Where an application is not approved, either in whole or in part, the Board can make "recommendations" for the IESO's further consideration. This should not, however, be read as limiting the Board's discretion to approve certain aspects of an application, while disapproving others, or to make adjustments as deemed appropriate by the Board in its discretion. To read s. 29(4) more narrowly would, in our respectful opinion, unreasonably fetter the Board's authority in a manner that would undermine its general authority to regulate the IESO, and would also result in unnecessary regulatory inefficiency that could not reasonably have been intended by the legislature. This would be inconsistent with the well-established regulatory authority of the Board.

Accordingly, s. 29 of the *Act* permits the Board to either "disallow" or "disapprove" certain costs, or any other aspect of any application that the IESO may file pursuant to s. 29. The Board would, in that case, have the general regulatory authority to either simply disapprove, or approve with modifications considered appropriate by the Board in the exercise of its discretion. The option to provide "recommendations" should not read as limiting the Board's general powers.

b) Does s. 29 of the Act permit the Board to "disallow" actual costs incurred by the IESO where there is a finding of imprudence?

Section 29 of the *Act* does not explicitly address whether the Board has the authority to disallow costs incurred by IESO NS "after the fact" where there is a finding of imprudence. As noted above, that is because s. 29 is primarily concerned with granting approval over projected or forecasted costs.

That being said, the CA respectfully submits that these provisions would equally not restrict the Board from potentially ordering disallowances, particularly where the Board's approval of the application specifically contemplates such a possibility, as was the case in IESO NS's first revenue application.

In IESO NS's first rate application, the IESO not only applied for approval of its OM&A expenses (with a net cost of $5.31 million), but also sought approval to establish a Net OM&A Deferral and Variance Account "for the IESO to record any positive or negative variance between its forecast and actual net ongoing OM&A expenses for the period enduing March 31, 2025, and any one-time transition costs that exceed the Provincial funding."[4] This was, as with the current Application, a key component of the IESO's application.

In approving the IESO's first application, the Board stated it was appropriate to establish the Net OM&A Deferral and Variance Account, but directed that "specific guidelines and accounting policies must be developed and approved before there is a recovery" from the account. In this regard, the Board specifically required that the guidelines "should reflect that any variance that exceeds +/-10% will trigger a review process established by the Board … For cost overruns, the burden will be on the IESO to demonstrate that the expenditures were prudent."[5]

In this context, it is apparent that approval of the application was conditional upon the inclusion of a mechanism to address imprudent decision-making and related disallowances. The CA submits that such a finding was permissible, and properly fell within the Board's broader authority to regulate the IESO.

Indeed, as noted in the Board's February 25, 2026 letter approving the IESO's request for interim financial relief, the "term 'fees' is not specifically defined and is a general term that contemplates there may be number of potential recovery mechanisms, models and methods." Similarly, it can also be said that a request for approval of certain revenue and expenditure requirements may also contemplate a number of potential mechanisms and models to address such requirements –

[4] M12412, Decision, para. 2.
[5] M12412, Decision, paras. 48-49.

including the implementation of a deferral and variance account, subject to certain cost control mechanisms as may be approved or otherwise directed by the Board.

Given the Board's general authority to regulate the IESO, as well as the Board's general authority to approve or disapprove of the IESO's expenditure and revenue requirements and related fees, the CA submits that s. 29 does not prohibit or limit the Board's ability to review the IESO's conduct for imprudence, or potentially order disallowances. This is especially so where the mechanism approved by the Board expressly entails the possibility of such a review.

To summarize, the CA submits that s. 29 grants the Board broad discretion with regards to the review and approval of a rate application filed by IESO NS, which can include adjustments to fees on the "front-end," as well as implementation of potential mechanisms to address disallowances on the "back-end."

2) IESO's Lack of Transparency in the Regulatory Process

The CA is concerned about the level of detail provided by the IESO in the course of this hearing, and whether the IESO has provided a sufficient evidentiary record upon which to properly assess its requests.

As noted above, in this Application IESO NS seeks approval for its OM&A costs budget for fiscal year 2026/2027, in the amount of $13.08M, as well as transitional and operational planning costs in the amount of $1.77M, for a total of $14.85M. In support of its Application, the IESO provided a summary of its expected costs in various categories, but did not include any work papers or background costing information to support its various estimates.

For example, with respect to the "Employees (Administration)" cost category, which is the largest, IESO NS indicated that 4.34M out of 4.44M would be provided as "compensation" with the remaining 0.10M allocated towards "recruitment". However, no details were provided with respect to how the compensation figure was calculated, or why the IESO had allocated $100,000 towards recruitment costs (i.e. HR consulting fees). While the IESO provided some description of the methodologies employed by consultants with respect to development of compensation packages, the actual details concerning their recommendations and rationale were not provided. Details provided with respect to various other cost categories were similarly scant.

The Board has already had occasion to comment upon the lack of detail contained in the Application. Specifically, with respect to the IESO's request for interim financial relief, the IESO advised the Board that it expected to become insolvent as of May 2026 unless the Board directed NS Power to pay $950,000/month to the IESO for the duration of the 2026/2027 fiscal year (or until such date when the Board approves a permanent fee and cost recovery mechanism). In support of this highly unusual and unexpected request, the IESO provided a single-page affidavit from its Director of Finance, which referred to various historical financial records, but did not provide any such documents for review. Several intervenors were critical of IESO's approach, and the information provided, including the CA. In its letter approving the IESO's request for interim relief, the Board commented upon the lack of detail, and specifically indicated its expectation that the application would be "significantly supplemented by IESO Nova Scotia in its information request responses in this matter."[6]

The CA would have read the Board's caution as applying not simply to responses concerning the IESO's request for interim relief, but their responses to other information requests as well.

However, the IESO's responses to Information Requests were similarly sparse in nature.

For example, in CA IR-7, the CA requested information regarding the expert consultants that the IESO used when establishing compensation for non-CEO roles. In particular, the CA asked the IESO to "provide details of the work performed by the consultant(s)." In response, the IESO stated the following:

> Yes. IESO NS hired an external consultant to support the development of compensation ranges for non-CEO roles, as the HR Manager had not yet been hired. The HR consultant also discussed the compensation of multiple roles with a local recruiting firm in gathering support for the budget. The consultant developed salary bands by reviewing available market data and providing recommendations to inform the initial structure. In addition, a benefits consulting firm was hired to support the development of the benefit package.[7]

Respectfully, this answer is vague, and unhelpful. Unfortunately, it is also representative of the kinds of responses IESO NS provided to Information Requests issued by the CA and other parties.

In fact, the IESO's handling of its Application and responses to Information Requests ultimately lead the Small Business Advocate ("SBA") to request the scheduling of an oral hearing, rather than the presumptive paper hearing process. The SBA's rationale for requesting the hearing included that there was "a lot of missing information and justification for the Application, which would be best addressed at an oral hearing. These issues include the progress on recruitment and staffing of key roles; phasing and transition timing, budgetary spending, the request permanent Net Revenue Requirement Deferral and Variance Mechanism and its governance, and issues raised in relation to the request for interim funding, among others."[8] The CA supported the SBA's request.

In response, the IESO acknowledged the concerns of the parties, but also indicated that the relative lack of detail was primarily attributable to the size and maturity of the organization. In its response to the SBA's and CA's requests, the IESO stated:

> IESO Nova Scotia acknowledges the SBA's concern regarding the sufficiency of information and justification in the Application. Much of the current evidentiary record is a reflection of IESO Nova Scotia being in its first year of operation, and having had employees only as recently as November/December 2025. IESO Nova Scotia nevertheless has made best efforts to strengthen the evidence provided to the

[6] Board Letter dated February 25, 2026.
[7] CA RIR-7(c), Exhibit N-3.
[8] Letter from SBA dated April 7, 2026.

Board and intervenors through the information request process, including supplemental responses provided at the request of intervenors.[9]

On review, the Board found that it was appropriate to proceed by way of an oral hearing. The Board stated the following in its letter amending the Hearing Order:

> Given the concerns raised by the Small Business Advocate, which were endorsed by the Consumer Advocate, and the concerns expressed by the Board in its decision granting interim relief dated February 25, 2026, the Board approves converting this proceeding to a formal oral hearing. While the Board takes note of the steps IESO-NS is taking at its early stage of development, more active engagement in the regulatory process at this stage will help to ensure that these efforts are appropriately understood by ratepayers and other interested parties, and acceptable from a regulatory perspective. This will be far more efficient at the outset and mitigate the unnecessary effort and delay that would be occasioned if problems were not addressed at an early stage.
>
> Furthermore, the Board understands that the request for an oral hearing is to allow for cross-examination. There is a difference between evidence and submissions, and the Board is not convinced that the concerns about missing information and justification can be adequately addressed without this evidentiary component. The use of submissions to provide new information to address outstanding questions is not the preferred approach and generally not acceptable.[10]

As a result, a two-day hearing was held to further examine the relevant issues.

The CA appreciates and acknowledges the time constraints and limited resources faced by the IESO in preparing this Application. However, the CA also remains concerned about the lack of transparency, and the impact this can have on the regulatory process. In the interests of ensuring a more efficient process in the interest of ratepayers, the CA would strongly encourage the IESO to be more forthcoming and transparent in future proceedings.

3) Forecast Accuracy

The CA is concerned about the limited information that has been provided as well as the reliability and accuracy of the IESO's lack of transparency in this proceeding.

First, we note that IESO NS has been clear that its Application was prepared with limited resources, and in many respects was prepared as a kind of extension of the company's prior rate application.[11] As stated during the oral hearing:

[9] Letter from IESO dated April 15, 2026.
[10] Letter from Board dated April 16, 2026.
[11] Hearing Transcript, June 17, 2026, pp. 77-79.

Q. That was the last Application. The current Application, how -- what assurances can you provide to -- as to the accuracy of the forecasts that are in the current Application?

A. (Johnston) So I'm not -- in some ways, I will take you back to the story that I shared earlier, that this Application was put together within, you know, the first few weeks of me being on the job as the sole employee, and it was very much based off of the last Application and building that out for a full year, and where we've been able to provide incremental information, we absolutely have. We know we've got much more to do. And we acknowledge -- so I think even in this Application, we've been clear that there is forecasts in here that don't have, you know, detailed bottoms-up builds or quotes to justify them, so...

Q. Appreciate that. And in the Application on page 2, I think, you know, you've sort of acknowledged that and said there may be elements of this Application that may change. I think you're talking about completion of the Board's review of the 2025/2026 Application. But since the Application was filed and where we are now, are you able to identify any aspects of the Application that have changed, where you think either the numbers will be different or the plan has changed? Anything along those lines?

A. (Johnston) You can imagine in a brand-new organization that's moving at the pace that we are, as I say, when these numbers were pulled together, there was -- we didn't have a large team, and that team has grown now and we have got a better view of what we think this year will look like. And I would say there are a number of moving parts; some up, some down. But as we look at the reasonableness as a whole of the requirement that we've put in place, we think that it's an appropriate number that we can live within.[12]

While the relative maturity of the IESO as an organization may help explain some of the informational gaps in the Application and responses to Information Requests, it also does not provide much confidence in the accuracy or reliability of the information provided.

These concerns are further compounded by the IESO's track record with respect to cost forecasts. Specifically, the IESO's prior forecast for its initial test year (2025-2026) turned out to be materially inaccurate in every single cost category. In fact, the IESO confirmed that its estimates were either significantly over or under budget on a prorated basis as follows:[13]

[12] Hearing Transcript, June 17, 2026, pp. 122-124.
[13] NSEB RIR-7, Exhibit N-6.

OM&A Cost Category	2025/2026 Budget Total OM&A Costs ($) (Millions)	Prorated 2025/26 Budget at December 31, 2025 ($) Millions) A	2025/2026 Actual Costs at December 31, 2025 ($) (Millions) B	Variance (A – B) ($) (Millions)	Variance expressed as a percentage against prorated budget
Employees (Administration)	1.57M	0.87M	0.71M	0.16M	18% lower than prorated budget
Corporate Administrative	0.29M	0.23M	0.27M	(0.04)M	17% higher than prorated budget
Governance	0.52M	0.41M	0.46M	(0.05)M	12% higher than prorated budget
Legal and Regulatory	0.81M	0.41M	0.48M	(0.07)M	17% higher than prorated budget
Procurement	1.00M	0.75M	0.58M	0.17M	23% lower than prorated budget
Facilities and Technology	1.00M	0.71M	1.53M	(0.82)M	115% higher than prorated budget
Finance	0.16M	0.07M	0.01M	0.06M	86% lower than prorated budget
Transition and Operational Planning	1.02M	0.74M	1.02M	(0.28)M	38% higher than prorated budget
Operations (System Planning)	1.61M	1.08M	0.42M	0.66M	61% lower than prorated budget
Total OM&A Expenses	**7.98M**	**5.27M**	**5.48M**	**(0.21)M**	**3.9% lower than prorated budget**[14]

Nevertheless, IESO NS had indicated in the present Application that costs were “materially tracking” against its prior forecast.[15] At the hearing, IESO NS was asked to explain what it meant by “materially tracking.” In response, the IESO advised that it was referring to its performance against budget overall, as opposed to on an individual cost category basis.[16] We would refer the Board to following exchange regarding this issue:

[14] The CA acknowledges that IESO now expects the actual spend for fiscal year ending March 31, 2026 will be less than the approved revenue requirement of $5.3M, though this remains to be confirmed. See Undertaking U-3 and Hearing Transcript, June 17, 2026, p. 193.
[15] CA RIR-3; SBA RIR-7; NSEB RIR-7.
[16] Hearing Transcript, June 17, 2026, pp. 116-117.

Q. I guess what would you say to the concern that, you know, the Board approves X-dollars to be spent in a certain category, based on a forecast or an estimate that IESO Nova Scotia provides; the forecast is way off, but lucky for IESO, you were also off in another category, so you can use the money from one category to fund, you know, your shortfall in another category? What do you say to someone who might say that's a problem? That you need to have accurate forecasts and you need to be on target and you can't use the overall budget; you know, shortfalls in one area to be funded by underspends in another?

A. (Johnston) Mr. Murphy, I appreciate the question. I understand the concern being raised. I think for us as a brand-new organization, we've really tried to be focused on making the necessary progress that we can in the timeframe that we had, whilst managing the overall cost of the operation. And as I gave the example earlier, there's areas where we've been under -- able to be underspent, for example in our employee cost, because we didn't have employees, but we were then over in sort of contractor/consulting costs to cover that gap. But the important thing, I think, for the stakeholders is that we're managing the whole and we're not sort of off randomly spending costs on things that we haven't brought in front of the Board.

Q. Okay. I guess, you know, if the Board says you can have, you know, .16 million for employee administration costs, you know, understanding that you're going to be hiring employees, but then instead you hire consultants, it sort of -- you know, you get approval for one thing and then you use the money for another thing. And is it -- you know, the concern, I think, could be that hiring consultants is not the most reasonable thing to do, in terms of cost savings, cost minimization, and that the focus should be on ensuring that you're following the plan that gets presented to the Board that the Board approves.

A. (Johnston) I appreciate that perspective. I think what we've tried to do in our Revenue Applications is talk about the priorities and the outcomes that we're trying to deliver. We've built up a budget to get to those outcomes that we think is reasonable and prudent, but for sure reality and what's been put in those budgets sometimes ends up being different and we've used management judgment and experience to prudently and cost-effectively continue to deliver on the outcomes without the employees that we've necessarily had. And so I think as long as we're keeping our eye on the overall bigger picture of what are the key outcomes being delivered on the legislative mandate and the overall cost being spent for an organization at our point of maturity, I actually think we've done a pretty reasonable job on that.

THE CHAIR: Are you suggesting, Mr. Johnston, that the Board should not expect you to be accurate in your forecasts?

MR. JOHNSTON: You absolutely should expect us to be accurate in our forecasts. And I think what we're trying -- what I tried to acknowledge in my opening statement is when we put them together, we did the best that we could at the time that we did that and as we get more operational experience, our expectations will get even better at doing our forecasting going forwards. But absolutely the Board should expect that.

THE CHAIR: And do you have anything specifically underway in terms of focused on ensuring that forecasts are accurate?

MR. JOHNSTON: So the best thing is going to be operational experience. And so in some ways, there is just a function of time here that is going to help. But we will be, you know, as the Board has asked, endeavouring where there is incremental costs for particularly third-party spend, where we can try and get quotes, or at least getting more evidence for the basis of those quotes to provide more diligence going forwards. We recognize that certainly some of the numbers in here, we just didn't have the time, resources, or capacity to get more information in to give a more robust forecast. And we tried to highlight through the Application where we didn't have that information, and it was our best guess at the time.[17]

The CA appreciates the IESO's assurances on its intended diligence, but remains concerned about the potential for inaccuracy within its forecasts. Indeed, IESO NS says there is "no doubt" that actuals will vary from forecast.[18] While IESO also states that any variance will sit "within the 14.9 million application,"[19] the IESO was not able to provide clear evidence in support of that claim. It is difficult to accept the IESO's reassurance on this point without more objective data in support. The CA also remains more generally concerned with the IESO's stated intent of looking at variances holistically across categories, as opposed to within the categories for which the costs are purportedly estimated and approved by the Board.

For these reasons, the CA is generally skeptical of IESO NS's costs forecasts as presented in the current Application. That said, there is unfortunately insufficient evidence to enable the Board to better test the accuracy, given how much the IESO appears to be relying upon "operational experience". As the IESO grows further into its role, the CA would expect further and better particulars to be provided in future applications before the Board.

4) OM&A – Reasonableness of Proposed Costs

Given the concerns expressed above regarding transparency and potential lack of accuracy, the CA remains generally concerned about the IESO's forecasted costs, especially given the IESO's admittedly limited track record. With these considerations in mind, the CA would specifically highlight for the Board's consideration issues arising within two specific OM&A cost categories, namely Employees (Administration) and Governance.

[17] Hearing Transcript, June 17, 2026, pp. 118-122; see also pp. 181-182.
[18] Hearing Transcript, June 25, 2026, p. 439.
[19] Hearing Transcript, June 25, 2026, p. 441; See also Hearing Transcript, June 17, 2026, pp. 131-132.

a) Employees (Administration)

As noted above, this cost category represents the most significant cost category for the IESO, and makes up approximately 34% of the overall OM&A budget. The most significant cost within this category relates to employee compensation:

Table 3: OM&A Costs for Administration Salaries Cost Category

Ongoing OM&A Cost Category	Ongoing OM&A Costs ($) (Millions)
Employees (Administration)	**4.44M**
Compensation	4.34M
Recruitment	0.10M

As noted in the Application, for the purpose of preparing its expenditure budget, "IESO Nova Scotia has assumed that the 23 employees responsible for functional management and administrative matters are fully employed during the 26/27 fiscal year."[20] The Application further sets out the various assumptions relied upon by the IESO in established full-time employee compensation.

The CA wishes to address two concerns arising from these assumptions, namely with regards to the IESO's decision to assume a full completement of FTE for the entire fiscal year, and the methodologies employed by the IESO and its consultants in developing compensation ranges for employees.

i. Staffing Assumptions

As noted above, the IESO has sought approval for a budget that anticipated having 44 full-time employees for the entire duration of the 2026-2027 fiscal year.

However, at present, the IESO has not filled all positions. In fact, in response to CA IR-7, IESO confirmed that only 9 of 23 management and administrative positions had been filled, with several remaining positions to be filled in March/April 2026.[21] In its Opening Statement, IESO NS confirmed that the organization had 31 employees as of June 10, 2026. At the hearing, IESO NS also confirmed it was in the process of recruiting nine more positions; once those positions are filled, 40 out of a total of 44 positions will have been filled.[22] IESO NS expects all active recruitment processes should be completed within the next couple of months, i.e. approximately mid-August 2026, with any remaining positions to be filled by mid-September.[23]

In effect, the Application assumed a full complement of staff, even though IESO NS knew it would not have all positions filled for the entire duration of the fiscal year. The IESO explained its

[20] Application, Exhibit N-1(i), p. 13.
[21] CA RIR-7, Exhibit N-3; see also NSEB RIR-11(c), Exhibit N-6.
[22] Hearing Transcript, June 17, 2026, pp. 53-55.
[23] Hearing Transcript, June 17, 2026, pp. 57-58.

approach as being done primarily for expediency, as the Application was developed at a time when the organization had limited resources:

> **Q.** Okay. And so given that the roles haven't been filled and we're still looking at, you know, mid-August to mid-September and potentially longer, we don't know, I guess what is IESO's position on those projected costs and what the recovery should be?
>
> **A.** (Johnston) Yeah, so I think it's a very fair sort of line of questioning, Mr. Murphy.
>
> As we -- as I worked in my, I think it was second month on the job as the sole employee of the IESO, working through what was the resources we needed and when might they come on as we built the budget that ultimately came together for this Application, we knew that we needed to move fast. It was going to be impossible to know exactly how quickly we could get everybody on board.
>
> And so in terms of trying to be transparent to the Board and to the intervenors, we thought the right thing to do was to put the bodies in for the full year so everyone would get a full visibility of what the ongoing and enduring cost of the organization was, and -- but we also knew that this was work that needed to be done, whether we had the fulltime employees or not. And so we've been using contracting resources to manage the overall workload in advance of being able to fill fulltime positions.
>
> And as I look back to the actuals that we had for our '25/'26 Application, which is still to get through the full audit process, but if you were to look into those numbers you would see that we were underspent on our FTA costs and we were overspent on our consulting and external support costs and net got to about the same dollar value.
>
> And so sort of our position coming in here is absolutely we try to be very transparent on our hiring process and that it's taking certainly longer than we put into the Application, but there are other costs that weren't in the Application that are being borne by the organization before those resources come on board and we think that they're in the region of about being the same amount.[24]

Again, while the CA appreciates the IESO was operating under certain constraints, the IESO's forecast with respect to employee costs is clearly, on its face, inaccurate and incomplete. It would appear that IESO NS intentionally overestimated these costs, in the belief that any overspend would likely be used to pay for consulting support. The CA submits that a more appropriate approach would be to accurately estimate the employee complement for the whole year, subject that number to an appropriate vacancy rate, and then separately assess potential contractor or consultant costs that could be required to fill any gaps.

[24] Hearing Transcript, June 17, 2026, pp. 59-61; see also Hearing Transcript, June 25, 2026, pp. 410-411.

With respect to assessing employee complement through the year, as well as potential consultant costs, we would assert that this is something that can be achieved with adequate planning given the size of the organization and the number of employees. Given progress to date, this is certainly something IESO NS could and should update.

As for a potential vacancy rate, the IESO has said the organization is too new to have its vacancy rate assessed.[25] The CA accepts that the IESO is new and may not be able to rely upon its own past practices for guidance on issues like this. However, IESO NS has otherwise seen fit to rely upon other comparator organizations when necessary, including with respect to determining employee remuneration and benefits. It would seem reasonable, therefore, to rely upon comparators to determine an appropriate vacancy rate as well, and to back that up with appropriate data.

Based on the above, the CA would suggest the Board direct IESO NS to reassess its forecast Employees (Administration) costs (which should be less than the current forecast) for further review and approval by way of a compliance filing.

ii. *Employee Compensation*

As noted above, the CA requested further information from IESO NS regarding its reliance upon external consultants when establishing compensation for non-CEO roles. Although detailed information was not provided in response to these Information Requests, IESO NS confirmed at the hearing it relied upon two consulting firms for assistance in establishing compensation and benefits for its employees. This included Timbar Consulting for compensation (with additional input and advice from KBRS), and HUB International Ltd. for benefits[26] (though this evidence was modified through the IESO's response to Undertaking U-1, where IESO NS confirmed that they also relied upon HUB in developing compensation for the VP System Planning and Procurement and General Counsel positions[27]).

The CA requested that the IESO produce the work product of these consultants, and the IESO committed to do so through Undertaking U-1. Notably, the response to U-1 contains a lengthy preamble, the bulk of which is devoted to explaining HUB's scope and methodology for developing compensation for the VP and GC roles. This would appear to be because HUB's work was "communicated through direct guidance rather than a standalone written report."[28]

First, the CA questions whether the IESO's response to this undertaking is complete. The CA requested "any work product," which is broader than requesting a specific "standalone written report." The IESO's response refers to the fact that HUB constructed "a weighted hybrid match that blends multiple benchmark roles in proportion to the responsibilities of the IESO Nova Scotia position." The CA is also surprised to learn that all of HUB's recommendations were verbal, and that there is no written work product to share (if that is indeed the case). In any event, it is difficult to imagine that HUB did not produce some kind of written work product to inform its discussions with the IESO. If the IESO did not have copies available, the IESO should have requested this

[25] Hearing Transcript, June 25, 2026, p. 412.
[26] Hearing Transcript, June 17, 2026, p. 68.
[27] Undertaking U-1.
[28] Undertaking U-1.

work product, and disclosed it in response to this undertaking. Its failure to do so provides yet another example of the IESO's lack of transparency in this process.
The information the IESO provided regarding HUB's work is not helpful in terms of allowing the Board to understand the rationale behind HUB's recommendations, or to compare those recommendations against the compensation packages that the IESO ultimately implemented for these roles. Moreover, the CA also questions HUB's methodology, and in particular its apparent decision to anchor benchmarks to a "revenue scope of $1 billion, reflecting the scale and complexity of the electricity system that IESO Nova Scotia plans and operates."[29]

At the hearing, the CA also asked about the development of the 15% fringe rate estimate. IESO NS advised that HUB was the external consultant they relied upon for this figure. However, no work product concerning this estimate was provided, and neither was the development of this figure addressed in the IESO's summary of HUB's work. This figure, and its use by IESO NS, remains impossible to verify. It is unclear whether such a "fringe rate" estimate is even needed, given that costs for WCB, health insurance, pension, and even professional development all appear readily ascertainable.

The IESO also provided a spreadsheet, which was apparently produced by Timbar, though that is not entirely clear on the face of the document. Unfortunately, this document also does not assist in allowing the Board to understand how the salary ranges were developed, or whether the final results are at all reasonable.

In response to an Information Request from Doane Grant Thorton, IESO NS provided some details regarding the budgeting methodology for this category of costs, noting it relied on "peer review and the use of market information" and "aligned with peer organizations with similar administrative functions … required in all energy sector, public sector, and regulated utility sectors such as NS Power, OPG, NFLD Power, AESO, and NB Power system operators." The "initial estimates provided were based on scans of recruitment sites for similar roles within Atlantic Canada within similar size organization."[30] Given the description of the work involved, the CA is surprised that a simple spreadsheet, with no supporting data or rationale, is all the IESO was provided by this consultant.

Overall, the CA submits that the IESO has not provided sufficient information to justify the reasonableness of its costs in this category, or to convincingly demonstrate that the employees in this group (which does not include those who were transferred over from NS Power) are being paid competitive market rates. The information provided also raises questions about the IESO's own diligence in reviewing and ultimately adopting the recommendations of their consultants.

[29] Undertaking U-1.
[30] DGT RIR-10(a), Exhibit N-4.

b) Board Remuneration

In respect to remuneration for the Board of Directors, s. 21 of the *Act* provides the following:

> **Remuneration and reimbursement**
>
> **21 (1)** A director, who is not a public servant, shall be paid such remuneration as the Board of Directors determines.
>
> **(2)** The directors shall be reimbursed for reasonable expenses necessarily incurred in the performance of their duties.

The Application indicates the following with respect to costs in the Governance category:

> IESO Nova Scotia is budgeting $0.49M in ongoing costs as part of the Governance OM&A cost category. This cost category primarily consists of costs incurred in respect of IESO Nova Scotia Board of Directors, enterprise governance, board-related support, travel and expense for meetings, and meeting per diems.

In response to an Information Request from the CA, the IESO confirmed that $0.42M of the total $0.49M was paid as Board remuneration. If this figure is divided amongst the seven paid Board members evenly, that would result in each member receiving $60,000 per year for their involvement.

Based on information provided by IESO NS, it remains unclear exactly how much each individual Board member receives in remuneration for their services. However, the average amount as described above would appear quite significant comparatively speaking. For example, the Board of Directors for the Ontario IESO makes its remuneration framework publicly available. It indicates that Directors are entitled an annual retainer of $25,000, with the Chair of the Board receiving $50,000. In addition, the Chairs of certain committees receive an additional retainer of $5,000, while all directors receive $1,000 for each scheduled meeting, and $200/hour for each unscheduled meeting.[31]

By comparison, the Chair of the Board of the Alberta Energy System Operator is entitled to receive annual pay of $140,000, while members each receive an annual retainer of $60,000, plus other remuneration based on role and attendance at meetings.[32]

Based on these two examples, there is clearly a significant range of remuneration, which presumably reflects the comparative complexity of the enterprises, as well as market conditions in Ontario and Alberta.

Because IESO NS has not identified the details of remuneration paid to its Board, it is not possible to conduct a comparison for reasonableness. However, based on the average rate of remuneration

[31] IESO, Board Remuneration Framework <https://www.ieso.ca/-/media/Files/IESO/Document-Library/corporate/governance/Board-Remuneration-Framework.pdf>.
[32] AESO Bylaws, Section 4.19 <AESO_Bylaws-Jan-1-2026.pdf>.

calculated above, it would at least appear as though the Board receives remuneration that is more than the comparable pay for Board members with the Ontario IESO, and comparable to pay for Board members of AESO. The CA recognizes the Board has the statutory authority to determine its own remuneration, but the reasonableness of these rates is difficult to ascertain based on the information IESO has provided to date.

In response to an undertaking requested by the CA, IESO NS produced a report prepared by Hugessen Consulting. The report was filed confidentially, on the basis that it disclosed personal compensation information/third party proprietary information. That said, not all of the information contained in the Report is confidential. In any event, [redacted]

[redacted]

It is possible that the remuneration established for the Board is reasonable and justified. However, as it stands there is insufficient evidence provided to support or give the Board any real insight into the decision-making, or the outcomes. This has left the CA to speculate as to remuneration with no significant ability to assess the reasonableness of the remuneration provided.

For these reasons, the Board may wish to direct IESO NS to provide further insight on this issue, either in a compliance filing or in its next application. In the meantime, the CA would note that there appears to be a practice with other independent system operators, namely Ontario's IESO and the AESO, of publicly identifying remuneration for Board members. This kind of transparent reporting should be endorsed and followed by IESO NS as well. Beyond being consistent with the sector, a transparent approach like this would also be consistent with the IESO's stated guiding principles.

c) Conclusion

As noted above, the CA is concerned about the lack of detail provided by the IESO in support of its various estimated OM&A costs, but especially with respect to costing for employee compensation, as well as governance costs. It is possible that these amounts were appropriately determined, but this remains difficult to ascertain based on the information provided. The lack of reliable work product also raises questions as to the IESO's own diligence in ensuring rates of compensation are competitive and not overstated. Finally, as noted from the outset, the CA is concerned about IESO NS's decision to assume a full complement of staff for the entire fiscal year, when it knew many positions would not be filled until August/September 2026.

Overall, the CA remains concerned about the processes followed by IESO NS to determine compensation at all levels within the organization, as the process appeared to lack rigour and decision-making was not well-documented. The Board should direct the IESO to take appropriate steps to avoid a similar situation in future proceedings.

5) Transition from NS Power to IESO NS

In addition to seeking approval for operating costs, the IESO's Application also seeks approval of transitional costs and provides a general update regarding the IESO's progress in transitioning duties and responsibilities from NS Power.

A primary concern for the CA regarding the transition from NS Power to IESO NS is the potential for functional overlap and unnecessary cost duplication, all of which ultimately costs ratepayers more for, effectively, the same service. The Board has expressed similar concerns:

> [96] The Board has concerns about the transition of system operator staffing from NS Power to IESO Nova Scotia, including the potential for overlap and duplication. IESO Nova Scotia has forecast some transition costs for NS Power employees in its recent 2025-2026 (M12412) and 2026-2027 (M12663) revenue requirement applications. The Board will closely monitor this issue to ensure that ratepayers are not impacted by unnecessary costs incurred by these respective entities.[33]

At this time, the transition from NS Power to IESO NS remains very much a work in progress. In its Application, IESO NS stated that while Phase I implementation was not yet complete, "significant progress has been made." Moreover, IESO NS also stated that it aspired to implement Phase II (which involves the transfer of real-time operations and system reliability) in Q2 of the 2027 calendar year.[34] In response to an Information Request from the Board, IESO NS effectively confirmed that the timeline was aspirational because work to understand the feasibility and reasonableness of this date remained to be undertaken. The answer further stated that the "work is ongoing and planned to be completed by end of the first half of 2026/27."[35] IESO also stated that as the plan is "firmed up, details will be shared with stakeholders including the NSEB on planned timings."

At this time, there remain a number of unknowns associated with the IESO's timeline. Specifically, IESO NS still has not finalized its implementation plan for Phase II, and neither has it established a budget for any potential costs that may arise in relation to the plan once it is finalized. At the hearing, the IESO confirmed that the implementation plan was being prepared in consultation with IBM, and the company expected to put a proposal before its own Board sometime in July, with a

[33] *Nova Scotia Power Incorporated (Re)*, 2026 NSEB 8 (CanLII).
[34] Application, Exhibit N-1(i).
[35] NSEB RIR-6, Exhibit N-6.

subsequent proposal to this Board in the next couple of months following.[36] In that regard, IESO NS has indicated it would intend to bring a subsequent application to the Board for any such costs, once more is known.[37]

Given the unknowns, the CA remains concerned about the potential for delays in implementing the Phase II transition, and the potential cost implications that may flow to ratepayers as a result. The IESO has already been directed by the Board to provide quarterly reports, which includes updates "about the status of Phase 1 and 2 of the transition of the system operator functions from NS Power to the IESO, as well as reporting about staffing, facilities and technology, regulatory compliance matters, and on any material changes to the transition timeline or to forecast costs."[38] To improve transparency, the CA suggests that such reports be provided on a monthly basis. These reports should also specifically address any impacts on the expected Phase II implementation date as things progress.

6) Approval of Net Revenue Requirement Deferral and Variance Mechanism

Through this Application, IESO NS requests approval to maintain its Net OM&A Deferral and Variance Account, which would be more appropriately renamed as the "Net Revenue Requirement Deferral and Variance Mechanism." This account/mechanism would continue to be used as a means to true-up variances in actual total OM&A costs and other cost categories.

Through this proceeding, concerns have been raised by various parties regarding the operation of this variance account. The primary concern relates to how any overspend should be addressed, particularly if there is a finding of imprudence in relation to that overspend. In response to these concerns, IESO NS has effectively stated that any concerns relating to imprudence and overspending can be addressed in the future, should such a circumstance arise.[39]

The CA, like other interested parties, remains very concerned about the risk of imprudence, and who must ultimately bear that risk and any associated costs. Given IESO NS's non-profit status, it is difficult to imagine a scenario where IESO NS itself is required to bear the costs of its own imprudence. Since IESO NS does not have an ultimate "shareholder" (unlike NS Power), all of IESO NS's costs would ultimately be borne by its customers, even those that were not prudent.

At present, the CA would also respectfully submit that IESO NS does not have a strong track record with respect to spending against budget. As noted above, IESO NS either underspent or overspent considerably in all cost categories during its initial year of operation. Nevertheless, the IESO has indicated the Board should not be overly concerned with discrepancies within cost categories, as long as costs remain on track on a more holistic basis.[40] This is concerning because the IESO's Application gets approved by the Board based on monies justified within certain cost categories, and based upon specific justifications and rationales. The CA is concerned about the IESO's position that, once these costs in particular categories are approved, the IESO has the

[36] Hearing Transcript, June 17, 2026, pp. 88-89; see also discussion at pp. 89-99.
[37] Hearing Transcript, June 25, 2026, pp. 345.
[38] M12412, Decision, para. 8.
[39] Hearing Transcript, June 17, 2026, p.. 202-205; 258.
[40] Hearing Transcript, June 17, 2026, pp. 281-283.

discretion to then reallocate based on operational needs. This "robbing Peter to pay Paul" approach does not, in the CA's view, encourage IESO NS to minimize its costs. Instead of achieving "savings" where certain categories are underspent, this approach could instead encourage the IESO to re-direct savings elsewhere, and effectively encourage over-spending in various categories where the IESO may have otherwise been able to make do with less.

The CA's concerns with potential for imprudent spending is also not merely hypothetical. In its Opening Statement, IESO NS touted the New Brunswick Energy and Utilities Board's approval of NB Power's new RIGS facility as a "significant win for electricity supply reliability for Nova Scotians."[41] However, NB Power has been criticized by the New Brunswick Auditor General, given that NB Power entered into a 25-year partnership with US firm ProEnergy to build and run the plant before receiving approval from the Board. If the project had not been approved, NB Power could have been forced to compensate ProEnergy for $55.1M. According to the Report:

> NB Power advanced the Renewable Integration and Grid Security project (RIGS) through key decisions before supporting analysis, governance processes, and regulatory requirements were fully addressed. Critical choices were made without addressing significant risks.
>
> As a result, NB Power assumed governance, financial, and long-term contractual risks. This approach increased exposure to cost and regulatory uncertainty and reduced assurance that risks to electricity customers were fully identified, assessed, and managed at key decision points.[42]

At the hearing, IESO NS confirmed that it was aware of these findings and was also aware at the time it entered into an agreement with NB Power that there was a risk the project would not be approved. IESO NS further confirmed that if that had occurred, IESO NS would have borne a proportionate share of the cost, or something "in the range of approximately 15 million."[43] Although IESO NS stated that it would have retained title to certain "long-lead equipment pieces" if the project did not proceed, the IESO also acknowledged that this would have been subject to finding a project for reuse, or otherwise selling them into the marketplace.[44] IESO NS further acknowledged that it did not negotiate for the inclusion of any indemnity from NB Power in relation to Board approval.[45]

The CA finds IESO NS's conduct in this matter to be deeply concerning. The organization's decision to support this contract without appropriate regulatory approvals effectively put ratepayers at risk of paying nearly $15M in costs if the contract had not been approved. Even though the accrual of this debt would have been arguably due to IESO NS's own imprudence, it is the customers who would have ultimately been forced to pay. While it is *possible* that any equipment pieces accruing to IESO NS could have been resold, IESO NS did not actually

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[41] IESO NS Opening Statement, Exhibit N-16.
[42] Report of the Auditor General of New Brunswick, Performance Audit, Volume 1, Chapter 2, 2026 <agnb-VI-2026-Report-En.pdf>.
[43] Hearing Transcript, June 17, 2026, pp. 42-44.
[44] Hearing Transcript, June 17, 2026, pp. 46-47.
[45] Hearing Transcript, June 17, 2026, pp. 52-53.

formulate any particular mitigation plan in that respect. Based on the evidence before the Board, it is unclear if reuse or sale on the market would even compensate for the full cost. The CA submits that this arrangement, while ultimately approved by the New Brunswick Board, exposed IESO NS (and its ratepayers) to considerable risk.

The IESO's history of risk-taking is also reflected in its last-minute request for interim financial relief as set out in the Application. As the Board has noted, this request came at a time when the IESO was on the brink of insolvency, and was granted in large part "to avoid making the bad situation created by IESO Nova Scotia even worse." As the Board further stated, this "is not an auspicious start for this new and important organization. IESO Nova Scotia's actions have shown a lack of regard for stakeholders, the regulatory process and the public interest."[46]

For reasons indicated above, the CA also generally has concerns about the accuracy of the information contained in the Application, where in large part the Application was prepared with minimal staffing and support.

Finally, it is also apparent that IESO NS has yet to finalize applicable guidelines and accounting policies in relation to the administration of the mechanism.[47] When questioned by the Board, IESO NS was unable to provide any details as to exactly what kinds of cost control mechanisms are currently in place to ensure actual costs are kept to a minimum, as reflected in the exchange below:

> **Q.** Okay. And is there some sort of -- given that, is there some sort of mechanism that you intend to also implement beside this that would ensure that your costs, your actual costs that you're flowing through there, are as low as possible?
>
> I'm asking from the context of if you've got a deferral mechanism -- deferral and variance mechanism that allows you to flow through your costs, your actual costs year-over-year, some might argue there's a disincentive for cost control there if all your costs just get flowed through and there's really no risk to the organization.
>
> So what are the internal controls and mechanisms that are going to be in place to make sure that we have our checks and balances for that?
>
> **A.** (Johnston) So I hope the record shows that we do take this very seriously and that we recognize that we are a maturing organization so we haven't been able to necessarily do all the detail and provide all the detail that might be expected, but our intention is to put forward a very thoughtful and prudent budget, assuming that that's approved by the Board, to then live within the means of that.
>
> And, you know, whilst we've talked about this variance mechanism to allow for the true-up, I think ultimately the Board has to hold me as the CEO accountable for doing a prudent job, and so I certainly feel the burden of the organization's performance and would expect that, you know, heaven forbid, we had outrageous

[46] Board Decision Letter re Interim Temporary Financial Relief dated February 25, 2026.
[47] Hearing Transcript, June 17, 2026, p. 241; 253-254; Hearing Transcript, June 25, 2026, pp. 477-482.

overspending on things that would be seen as not necessary and not in line with the *More Access to Energy Act*, I wouldn't be sat here much longer after that.

And so I don't want the Board to think that we're asking for this so we can go and spend all we like how we like. We've got internal budgets. We have all sorts of financial controls in place that I recognize back when we did our '25/'26 Application weren't there. But in terms of segregation of duties, approval limits, monthly reporting, all the things that you would expect to see in an organization that's sort of got its costs under control.

And so I feel very -- I take the weight of the position that we play in the province very seriously. I've clearly got a board of directors that also takes that very seriously. And I'm held, in the first instance I guess, accountable to them, and then in the second instance to this Board.
And so please don't take our application for a deferral and variance account as us asking for a blank cheque.

Q. And I didn't mean to suggest that. I'm asking from the perspective of good governance.

A. (Johnston) Yeah.

Q. I don't doubt for a moment your intent or your desire to do exactly what you have said you were going to do. My question is really more focused on what are the actual controls that are going to be put in place to ensure that that happens.

And you did reference approval authorities and whatnot in your response a moment ago, and none of that has been put before us. We haven't seen that, so that's where the question is coming from.

A. (Johnston) So I mean, I think it is -- I mean, it starts with having budgets, and then it's reporting and then it's controls, and then it's oversight. And so we have all of those sort of layers in place today.

And we have an audit subcommittee of the Board that is, of course, looking exactly where we are, as well as the full Board itself. And then, you know, it's my -- we have purchase orders for new contracts that are signed, so that we're very careful to make sure that folks (inaudible due to audio quality) is outside of what's been approved and the signing authority.

So we have -- I recognize we've not been able to do a nice job of laying out all the controls that we have got in place and they're still maturing, and the documentation, for sure, is catching up. But I've run significantly larger organizations than this through my career and very focused on making sure we've got the right things in place to manage our money carefully.

Q. Do you expect that the topic of cost control and a more detailed description of what's in place would be included in the guidelines for the deferral and variance account when they come forward?

A. (Johnston) Certainly that would be our intent as part of the -- on the current path that we were on -- and of course, the Board may direct us in a different direction, but of providing those guidelines as part of our '27/'28 Application, I think it's a really important part of that Application, is to update the Board on the maturity of the organization and the things that we've now got in place. And of course, we'll start to have a view of how things are performing in year two versus year one as well, to be able to share as a part of that.[48]

It is within this context that the CA submits that tighter controls should be implemented with respect to the IESO's proposed Net Revenue Requirement Deferral and Variance Mechanism. Specifically, in addition to those cost control mechanisms implemented by the Board in approving the IESO's prior application, and any further measures as the Board may direct, the IESO should also be directed to file monthly reports to update the Board on spending against budget.

In these monthly reports, IESO should be directed to:

(1) detail spending against budget generally;

(2) provide a detailed description and explanation where spending in any of the cost categories described in the Application are +/-10% of the approved budget for that category, as well as where spending overall is +/-10% of the approved total budget; and

(3) provide details of any cost minimization efforts as well as the IESO's plan to mitigate or address any over- or under-spend through the remainder of the fiscal year.

While this requirement may be somewhat onerous from the IESO's perspective,[49] the CA submits that transparency in this matter is paramount given the risks posed to customers where unjustified spending might occur.

In addition, the CA is also concerned about IESO NS's proposal to use the variance mechanism to address any spending that may arise in the course of the fiscal year, whether that spending constitutes a variance from budget or an entirely new cost item (such as a capital cost).[50] While the CA appreciates that unexpected costs may arise from time to time, the CA submits the most prudent approach would be for the IESO to seek Board approval in advance, rather than seeking approval after the cost has already been incurred. The IESO acknowledged this could be a suitable option.[51] Such pre-approval may not be necessary in every case, but it may be reasonable for the Board to establish a maximum threshold for spending after which IESO NS would be obligated to seek the Board's approval.

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[48] Hearing Transcript, June 25, 2026, pp. 503-508.
[49] Hearing Transcript, June 25, 2026, pp. 508-511.
[50] Hearing Transcript, June 17, 2026, pp. 237-238.
[51] Hearing Transcript, June 17, 2026, pp. 256; 259.

In addition, given that IESO NS has not yet finalized the applicable guidelines for the mechanism, or the required financial controls, the Board may wish to set a firm deadline for completion of these items, and to require IESO to file them with the Board once completed. The IESO should also be directed to continue updating the Board on its progress with respect to these items on a monthly basis.

Finally, given the various unknowns concerning the exact parameters and operation of the mechanism, which the IESO has openly acknowledged, we would recommend that the Board maintain this mechanism on an interim basis only (for the IESO's current fiscal year) and reject the IESO's request to make this mechanism permanent at this time.

Conclusion

The CA repeats the foregoing and confirms its view that the Application should be approved, subject to the considerations expressed above.

All of which is respectfully submitted, this 24th day of July, 2026.

Yours truly,

PINK LARKIN

Michael Murphy on behalf of
Consumer Advocate
MTM/aw