

Nova Scotia Energy Board

IN THE MATTER OF the *More Access to Energy Act*, SNS 2024, c 2, Sch B, (the “MAEA”)

and

IN THE MATTER OF an application by the Nova Scotia Independent Energy System Operator for an Order or Orders made pursuant to Section 29 of the MAEA for the review of its proposed expenditure and revenue requirements and the fees it proposes to charge for the fiscal year between April 1, 2026 and March 31, 2027.

M12663

**IESO Nova Scotia 2026/27 Revenue
Requirement Application - Closing
Submission**

July 24, 2026

Closing Submission

TABLE OF CONTENTS

1	INTRODUCTION	3
2	REVENUE REQUIREMENT	5
2.1	Prudency and Reasonableness	5
2.2	Staffing and Compensation.....	8
2.3	Operational Procurement Costs	18
3	DEFERAL AND VARIANCE MECHANISM.....	21
4	MORE ACCESS TO ENERGY ACT - SECTION 29	34
5	CONCLUSION.....	48

Closing Submission

1 INTRODUCTION

In this proceeding, the Independent Energy System Operator of Nova Scotia (“IESO Nova Scotia”) seeks approval from the Nova Scotia Energy Board (“NSEB”, “Board”) of:

- its fiscal 2026/27 revenue requirement of \$14,850,121; and
- its proposed Net Revenue Requirement Deferral and Variance Mechanism (“DVM”)

The evidentiary record consists of IESO Nova Scotia’s Application, responses to intervenor information requests, the evidence of Board Counsel’s consultant Doane Grant Thornton (“DGT”), responses to further information requests, and oral hearing testimony. Notably, no intervenor filed evidence challenging the prudence, reasonableness, or necessity of the proposed expenditures or the DVM. Furthermore, DGT identified no material concerns with IESO Nova Scotia’s forecast OM&A and transitional costs and did not identify any material concerns with the proposed DVM.

The issues raised during the hearing largely related to the manner in which IESO Nova Scotia has developed its forecasts, staffing plans, compensation framework, procurement costs, and proposed variance mechanism during its first year of operation as a newly established statutory organization.

The record demonstrates that IESO Nova Scotia has approached these matters prudently, has relied on the best information available to it at this early stage of organizational development, and has been transparent regarding areas where forecasting certainty will improve as operational experience is gained.

Closing Submission

IESO Nova Scotia submits that, based on the record provided to the Board under this matter to date, IESO Nova Scotia's revenue requirement is reasonable and prudent, and is necessary for it to carry out its important mandate under the MAEA; and that the DVM is a necessary mechanism to ensure that IESO Nova Scotia collects all approved revenue requirement to carry out its mandate and ensure that market participants and ratepayers pay only the actual costs of IESO Nova Scotia.

Importantly, IESO Nova Scotia is not an investor-owned utility. It is a statutory, not-for-profit organization established by the MAEA to carry out significant public-interest responsibilities, including independent system planning, energy resource procurement, and the development of Nova Scotia's future electricity market. Unlike a traditional utility, IESO Nova Scotia has no shareholder from whom additional funding may be obtained if approved revenues prove insufficient to support its legislated responsibilities. Its ability to execute its mandate is therefore directly dependent upon the approval and recovery of reasonable revenue requirements, and upon mechanisms such as the proposed DVM to reconcile any variance between approved and actual costs.

For the reasons set out in this Closing Submission, IESO Nova Scotia submits that the evidence supports the conclusion that:

- the proposed 2026/27 revenue requirement is prudent, reasonable, and necessary;
- the proposed DVM is an appropriate and reasonable mechanism to reconcile approved and actual costs while ensuring that market participants and ratepayers ultimately bear only IESO Nova Scotia's actual costs; and

Closing Submission

- the Board's role under section 29 of the MAEA is to review the proposed expenditures, revenue requirements, and fees and either approve them or refer them back to IESO Nova Scotia with recommendations for further consideration.

Accordingly, IESO Nova Scotia respectfully requests that the Board approve the Application as filed.

2 REVENUE REQUIREMENT

IESO Nova Scotia is requesting NSEB approval of a total of \$14,850,121 in forecasted revenue requirement for its 2026/27 fiscal year. No evidence to date has been submitted challenging the prudence or reasonableness of the revenue requirement forecast and its various sub-categories. Indeed, Board Counsel's consultant DGT identified no material concerns with IESO Nova Scotia's OM&A and transitional costs.

Nevertheless, notable issues regarding various aspects of the revenue requirement were raised during the hearing. Namely, a significant amount of time was spent during cross-examination of the panel on IESO Nova Scotia staffing and salary expenditures, as well as the nature of procurement costs included in the application. These are addressed in the sub-sections that follow.

2.1 Prudence and Reasonableness

The only review submission regarding the Application was conducted by Board Counsel's consultant, Doane Grant Thornton (DGT), whose findings identified no material concerns with IESO Nova Scotia's OM&A costs or transitional costs. Several of DGT's recommendations are

Closing Submission

consistent with those made in the prior 2025/26 proceeding (M12412), which were ultimately reflected in the Board's Decision in that matter.

In the DGT Report dated March 31, 2026 (the "DGT Report"), DGT makes several references to having been "satisfied" with explanations provided by IESO Nova Scotia in the Information Request process, with respect to various costs forecasts of the organization.¹

In DGT (IG) IR-1(c), DGT states that these references to being satisfied "should be interpreted as confirmation that costs were assessed for reasonability", and that "Our industry expertise along with GUP principles were used as basis **to conclude that costs were reasonable**".² [Emphasis added]. Ms. Brown confirmed on cross-examination that DGT conducted a reasonableness review of IESO Nova Scotia's revenue requirements, which was, of necessity, a prospective review of forecast costs.³

The DGT responses to IRs draw a distinction between that reasonableness review and a "prudence review". However, Ms. Brown also confirmed on cross-examination that the prudence review described in DGT (IG) IR-3(d) was a reference to the *retrospective* review contemplated by the Board in paragraph 49 of its decision respecting the IESO 2025/26 Revenue Requirements (2026 NSEB 5), relating to approval of variances from the approved revenue requirements.

¹ DGT Report, Review of Revenue Requirement Application by the Nova Scotia Independent Energy System Operator (M12663), March 31, 2026, pages 5, 6, 25 and 31.

² DGT response to IG IR-1(c), M12663, May 12, 2026.

³ M12633 Transcript, June 25, 2026, page 530.

Closing Submission

IESO Nova Scotia submits that, in the context of a prospective review of forecast costs, there is no distinction to be drawn between a cost that is reasonable, and a cost that is prudent. In *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)* 2015 SCC 45 (“ATCO 2015”), the Supreme Court states, at paragraph 35:

However, these dictionary definitions are not so consistent and exhaustive as to provide a complete answer to the question of the meaning of “prudent” costs in the context of the Alberta utilities regulation statutes.

As such, a contextual reading of the statutory provisions at issue provides further guidance. **In the context of utilities regulation, I do not find any difference between the ordinary meaning of a “prudent” cost and a cost that could be said to be reasonable. It would not be imprudent to incur a reasonable cost, nor would it be prudent to incur an unreasonable cost.**⁴ [Emphasis added]

The Court further stated at paragraph 38:

[...] Most frequently, the adjective “prudent” qualifies the expression “costs and expenses”, which indicates that a utility enjoys a reasonable opportunity to recover costs and expenses that are prudent. **Absent a definition of the word “prudent” or a clear inference that it refers to a no-hindsight rule as described in Enbridge, this prudence requirement is to be understood in the sense of the ordinary meaning of the word: for the listed costs and expenses to warrant a reasonable opportunity of recovery, they must be wise or sound; in other words, they must be reasonable.**⁵ [Emphasis added]

IESO Nova Scotia submits that the statement by the Court, “absent.....a clear inference that it refers to a no-hindsight rule as described in Enbridge,” is a reference to the prudent investment standard set out by the Ontario Court of Appeal in *Enbridge Gas Distribution Inc. v. Ontario (Energy Board)* (2006) 41 Admin. L.R. (4th) 69. IESO Nova Scotia submits that the prudent investment standard described in *Enbridge* is a standard applicable to a *retrospective* review of utility investment decisions after they have been made.

⁴ ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission) 2015 SCC 45 (“ATCO 2015”), para 35.

⁵ ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission) 2015 SCC 45 (“ATCO 2015”), para 38.

Closing Submission

119 IESO Nova Scotia submits that, in its decision approving its 2025/26 Revenue Requirements (2026
120 NSEB 5), the Board has recognized that a “prudence” review is retrospective in nature, stating:

121 Since, under the More Access to Energy Act, the IESO must seek the Board’s approval of
122 its revenue requirements, the IESO’s proposed *forecast* costs are all subject to the Board’s
123 finding that they are just and reasonable, and to *being reviewed for prudence once spent*.⁶
124 [Emphasis added]
125

126 In the context of the review of a proposed forecast of costs, IESO Nova Scotia submits that there
127 is no distinction between a prudent cost and a reasonable cost.

128

129 **2.2 Staffing and Compensation**

130 A significant portion of the oral hearing was devoted to IESO Nova Scotia’s staffing, hiring, and
131 compensation.

132

133 The Application provides two broad corresponding categories of proposed expenditures:

- 134 • Employees (Administration) - \$4.44 million
- 135 • Operations (System Planning) - \$3.64 million

136

137 These two categories of expenditures make up the largest overall category of spend in IESO Nova
138 Scotia’s application.

139

140 As has been noted in the Application and this proceeding, the Operations (System Planning)
141 category of expenditures is related to those staff that transferred from Nova Scotia Power Inc.
142 (“NSPI”) to IESO Nova Scotia in accordance with sections 36 and 40 of the MAEA. The costs of

⁶ NSEB Decision, IESO Nova Scotia 2025/26 Revenue Requirement Application (M12412), February 25, 2026, p19 para 45.

Closing Submission

these employees are therefore effectively mandated by legislation and budgeted predictably as a result. Accordingly, IESO Nova Scotia submits that the budgeting of the Operations category is not a material issue in this proceeding. Regarding Employees (Administration), the budgeting accuracy is contingent on establishing predictable compensation once employment offers have been entered into and full staffing of IESO Nova Scotia's operations. IESO Nova Scotia's response to CA IR-6 provided, in part, as follows:

Given the majority of the IESO's OM&A costs are associated with employee salaries and compensation under the Employees (Administrative) and Operations (System Planning) categories, and 1) the Operations salaries and compensation were based on NS Power employees transferred to IESO Nova Scotia, and 2) the Administration salaries and compensation will be fulfilled in the near term and expected to remain stable, additional financial or historical operational information regarding the NSPSO would not have provided meaningful additional budgeting certainty for the remainder of the IESO's operations.⁷

Nevertheless, two pertinent issues arising from the proposed expenditures on staffing and compensation are relevant for further clarification, especially as it pertains to the Administration category. Notably, the timing of employee hires as compared to the proposed budget, as well as reasonableness of compensation.

Timing of Employee Hires

In response to CA IR-7, IESO Nova Scotia provided the following update on Administration staff hiring:

IESO NS can confirm that 9 of the 23 functional management and administrative positions are currently filled. The remaining vacancies include a mix of administrative and specialized technical roles. Several administrative roles are expected to be filled in March/April 2026. Recruitment for the specialized positions is ongoing, as these typically require longer lead times to find the necessary skillset.⁸

⁷ IESO Nova Scotia response to CA IR-6, M12663, March 10, 2026.

⁸ IESO Nova Scotia response to CA IR-7, M12663, March 10, 2026.

Closing Submission

172

173 As noted in the response to CA IR-7, for budgeting purposes, the 2026/2027 budget assumes all
174 positions are in place for the full fiscal year.

175

176 Mr. Johnston provided the following update and clarification at the hearing:

177 A. (Johnston) Nine actively hired positions that in the process of firing -- hiring. If you
178 add the nine to the 31 that would get you to 40, and of course in the Revenue
179 Application it was 44. So there's four outstanding roles to be hired.

180 ...

181 [Q.]: So there's -- and then there's four outstanding and nine that are active
182 recruitment. Okay.⁹

183

184 Mr. Johnston later clarified that, at the time of his testimony, there were 13 vacancies in total, and
185 it was reasonable to assume that those vacancies would be filled by mid-September.¹⁰

186

187 These vacancies raise the issue of whether a vacancy rate or adjustment should be made to the full
188 IESO Nova Scotia budgeted amounts for Operational and Administration staff, which, as noted,
189 are based on an assumption that all 44 known and expected roles are filled for the full 2026/27
190 fiscal year.

191

192 IESO Nova Scotia submits that an adjustment to the Operational or Administration staff budgets
193 is neither prudent nor necessary at this time, for two primary reasons: 1) the early state of IESO
194 Nova Scotia's operations and 2) the relationship to external support costs. Mr. Johnston also
195 addressed this in his testimony at the hearing:

⁹ M12633 Transcript, June 25, 2026, page 54.

¹⁰ M12633 Transcript, June 25, 2026, page 58.

Closing Submission

196 Q. Okay. And so given that the roles haven't been filled and we're still looking at, you
197 know, mid-August to mid-September and potentially longer, we don't know, I guess
198 what is IESO's position on those projected costs and what the recovery should be?

199 ...

200 A: ...as I look back to the actuals that we had for our '25/'26 Application, which is
201 still to get through the full audit process, but if you were to look into those numbers
202 you would see that we were underspent on our FTA [sic] costs and we were overspent
203 on our consulting and external support costs and net got to about the same dollar
204 value.

205 And so sort of our position coming in here is absolutely we try to be very transparent
206 on our hiring process and that it's taking certainly longer than we put into the
207 Application, but there are other costs that weren't in the Application that are being
208 borne by the organization before those resources come on board and we think that
209 they're in the region of about being the same amount.¹¹

210
211 And

212
213 Q. Why hasn't the IESO included any sort of vacancy rate or vacancy adjustment
214 within their labour expenses in the revenue requirement?

215 ...

216 A. ... as we talked about last time, we recognize that if it turned out that there was
217 some variance in timings from when those roles were ultimately hired, that there would
218 also likely be a variance in consulting support that would offset those. So it was the
219 best view that we could take in terms of budgeting at the time.

220 ...

221 Q. Has IESO looked into whether it would be appropriate to have a vacancy adjustment
222 for the amounts included, given the current state of the vacancies and the anticipation
223 that not everyone's going to be hired on the first day the revenue requirement comes
224 into place?

225 A. (Johnston) As a 10-month-old organization that's building itself up, it's just too early
226 to get to that point in it.

227 Q. When you're saying it's too early to get to that point, I'm not sure I understand what
228 you mean. Are you saying you just haven't looked into it or that you -- it's not that you
229 disagree with having a vacancy adjustment, right?

230 A. (Johnston) I'm saying the maturity of the organization at this point in its growth,
231 that that wouldn't be something that I would believe is reasonable to be putting into
232 the organization. If we were years down the line and had five years of data that show
233 what vacancy rates looked like, then that might be a reasonable thing to have, but we're
234 a long way from that.¹²

¹¹ M12633 Transcript, June 25, 2026, pages 59-61.

¹² M12633 Transcript, June 25, 2026, pages 410 - 413.

Closing Submission

IESO Nova Scotia is still within its first year of operations, having just recently transferred staff from NSPI, and hired administration staff to carry out its various MAEA-mandated functions.

IESO Nova Scotia's May 15, 2026 quarterly report provided the following:

Being a brand-new organization, it is worth reiterating that IESO Nova Scotia hired its first employee, its inaugural President & CEO, just nine months ago in August 2025. IESO Nova Scotia has an important, unique, and ambitious mandate set forth by the Government of Nova Scotia in the MAEA. By all accounts, IESO Nova Scotia is situated uniquely within the energy market and regulatory framework in the province to deliver enduring and material value for Nova Scotians in an agile and efficient manner.

As the Board may expect, IESO Nova Scotia has spent a substantial amount of its time, since its inception, focused on important foundational matters. Those matters include, to name a few: securing office space, hiring leadership and personnel, filing its revenue application(s), acquiring the necessary IT equipment and infrastructure, establishing corporate policies, practices, and procedures, developing a fee and cost recovery mechanism, implementing elements of the MAEA relevant to Phase 1, assessing its obligations to the Board under law, procuring critical energy resources for the province, engaging with Mi'kmaw, community, industry, regulatory, and government stakeholders, establishing corporate and transition governance, assuming certain bulk power system planning and compliance functions from Nova Scotia Power Incorporated (NS Power), and transitioning system planning and interconnection employees from NS Power effective December 1, 2025.

At the time of the submission of this report, IESO Nova Scotia has a staff of 31 full-time employees, which includes those transferred from NS Power and newly hired employees, with additional hiring ongoing to support its legislated mandate and obligations. IESO Nova Scotia has been rapidly developing its operational, regulatory, and organizational capabilities to deliver the value and intended role(s) as expressly contemplated in the MAEA. IESO Nova Scotia has continued to advance these initiatives while aiming to be responsive to ongoing and active regulatory proceedings and reporting requirements, including most recently the preparation towards an oral hearing pertaining to its \$14.85M 2026/2027 revenue requirement application.¹³

In carrying out its mandate as expeditiously as possible while building out its staffing requirements, IESO Nova Scotia has necessarily required additional external support from, for example, expert third-party consultants, project managers, and legal services. Mr. Johnston's

¹³ IESO Nova Scotia Quarterly Report, May 15, 2026. M12859.

Closing Submission

testimony reflects this fact, and highlights the value in ensuring that IESO Nova Scotia has an overall revenue requirement budget that provides some measure of flexibility and assurance that it will have the funds to carry out its mandate irrespective of which “bucket” of spend that the associated costs might fall.

IESO Nova Scotia acknowledges that this is a function of its current early state. As IESO Nova Scotia approaches and achieves a “full” staffing compliment as projected to serve its Phase 1 functions, and has a body of experience over a number of years under steady state operations, it expects that budgeting in its revenue requirement applications for staffing/salaries will become more predictable, reducing any potential variations from budget to actuals and stabilizing external support costs.

Furthermore, mechanisms have been put into place or are under development regarding regulatory oversight and internal management of IESO Nova Scotia costs. NSEB oversight of actual IESO Nova Scotia expenditures as compared to its Board-approved budget has been established via the Board-approved OM&A Deferral and Variance Account (M12412). In its Decision in that proceeding, the NSEB established a 10% variance threshold for further prudence review and approval. The proposed Net Revenue Requirement Deferral and Variance Mechanism (DVM) in this proceeding will serve the same purpose (clarifications are provided in the DVM section that follows). IESO Nova Scotia has also established and is actively developing its accounting policies, financial controls, and guidelines for the DVM – pursuant to the NSEB’s Decision in M12412, these documents will be provided to the NSEB no later than its next revenue requirement

Closing Submission

application, and IESO Nova Scotia has provided its draft accounting policies to the NSEB via Undertaking U-7.

The not-for-profit nature of IESO Nova Scotia is a significant factor that must be taken into account. If IESO Nova Scotia does not have the funding to carry out its mandate, it is simply unable to do so, with direct and material consequences for the province's energy system planning, energy resource procurement, and electricity supply reliability.

It is important to note, however, that IESO Nova Scotia has not intentionally budgeted its categories of proposed expenditures to allow the shifting of costs between categories as a matter of practice. Mr. Johnston clarified this as well in his testimony during the hearing:

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.¹⁴

¹⁴ M12633 Transcript, June 25, 2026, pages 120 - 122.

Closing Submission

In light of the foregoing, it is reasonable under the circumstances that IESO Nova Scotia maintain a measure of flexibility in its budgeting and resulting actual spend to ensure that it has funding to carry out its mandate, irrespective of the category of proposed expenditures. IESO Nova Scotia therefore submits that an adjustment to the forecasted expenditures under the Employees (Administration) and Operations (System Planning) categories, based on the timing of filling vacant positions, is neither warranted nor appropriate at this time.

Reasonableness of Compensation

IESO Nova Scotia's Application includes a budget for proposed expenditures for Administration employees, as noted above. These employees were not subject to transfer from NSPI, as were the Operational employees as mandated by the MAEA. Accordingly, Administration staff were actively hired via competitive hiring processes, and their proposed salaries were guided by external consultant-developed salary banding.

IESO Nova Scotia's response to CA IR-7 provided, in part, as follows:

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.¹⁵

Undertaking U-1 provided additional information including work product of Timbar Consulting on salary band analysis by role. The resulting compensation and budgeting philosophy employed

¹⁵ IESO Nova Scotia response to CA IR-7, M12663, March 10, 2026.

Closing Submission

by IESO Nova Scotia for Administration staff was described in its response to DGT IR-10 as follows:

The compensation philosophy and structure for the IESO Nova Scotia targeted the 50th percentile of the market for the roles required to be attracted and retained in Atlantic Canada. The initial estimates provided were based on scans of recruitment sites for similar roles within Atlantic Canada within similar size organization. These sites included Career Beacon, LinkedIn, Zip Recruiter, and Indeed, based on a point in time of open positions posted. Market information was received, by HUB International for the three (3) senior leadership roles, and from the KBRS recruiters for certain administrative roles based on comparisons with other searches of similar roles and inclusive of candidate expectations throughout the recruitment processes.

Based on the information obtained for each role, each role was then included in a pay band, and for each pay band, the highest salary in that band was applied to the number of roles in that band/level. This approach was taken to ensure the ability to secure the skill sets and experience sought.¹⁶

Mr. Johnston provided further clarity through his testimony during the hearing:

Q. And then if we go to page 18, line 30, it says:

The compensation philosophy and structure for the IESO Nova Scotia targeted the 50th percentile of the market for the roles required to be attracted and retained in Atlantic Canada.

So can you explain just what you mean by targeted the 50th percentile of the market?

A. (Johnston) Yes, I think the work that was done by our consultant gave us a range of banding with a midpoint around the 50th percentile. And so on average, we would be looking to hit the 50th percentile for roles.

Q. And that banding, would the banding have been like 40 -- like the 40th to 60th percentile, or it would have been the 40th to 50th?

A. (Johnston) I would be in that sort of range, like sort of how we got ourselves sort of stood up that was -- we got some advise, I think. We could have done -- as I sit here today, I think there is more work for us to do in terms of our overall pay structure and guidelines, and so we're just kicking off some work to -- we hope to have that as part of our next Application. But yes, we got a range. Was it 60 -- 40 to 60 or 25 to 75, I couldn't guarantee exactly what that number was, but it was a range.

Q. Okay. So if we go to page 19, 18 the reason I wanted some clarification on that is that at the top of that page, it says:

Based on the information obtained for each role, each role was then included in a pay band, and for each pay band, the highest salary in that band was applied to the number of roles in that band/level.

So can you explain to me kind of how that 50th percentile works with the selection of the highest salary in the band?

¹⁶ IESO Nova Scotia response to DGT IR-10, M12663, March 10, 2026.

Closing Submission

393 A. (Johnston) Yes. So this was really a simplifying assumption as we tried to pull the
394 Application together. And so as we had, let's call it our 44 roles, they were essentially
395 put into, I think, five bands, and then we took a -- from a budgeting perspective, we
396 took a number for each of those bands. It was tied to the 50th percentile. It was put in
397 at the top of the band, and that was really to do a couple of things: one, to sort of try
398 and simplify the overall Application and budgeting process; secondly, it recognized
399 that, you know, the banding was -- or the 50th percentile would have been the direct
400 employee salary cost, but then on top of direct employee salary costs, you have things
401 like travel, training and other things that you won't see anywhere in the budgeted items
402 because we have no historical data to put that data into our Application. And so this
403 assumption sort of gave room from a total employee cost perspective to cover the cost
404 of employees.¹⁷
405

406 Accordingly, the third-party consultant data and analysis on employee compensation served two
407 functions: 1) to inform compensation targets for Administration employees, and 2) to inform
408 staffing budgeting for the purpose of this Application. Administration employees' salaries are
409 reasonable based on the best information and market research made available to IESO Nova Scotia
410 through its compensation consultants.

411
412 With respect to budgeting, IESO Nova Scotia included the 50th percentile salary at the top end of
413 each salary banding group as noted, for the purpose of simplifying the budgeting process and to
414 account for additional indirect employee costs — such as travel, training, and professional
415 development — that are not specifically broken out in the Application, due to the absence of
416 historical data. This approach reflects the practical reality of budgeting for a newly-established
417 organization and ensures that the total employee cost forecast is reasonable on a per-employee
418 basis.

419

¹⁷ M12633 Transcript, June 25, 2026, pages 223 - 226.

Closing Submission

As such, IESO Nova Scotia submits that the compensation ranges and budgeting approach are prudent and reasonable.

IESO Nova Scotia continues to work towards improving the evidentiary basis of its compensation approach. To that end, IESO Nova Scotia has recently selected a third-party expert consultant to conduct a formal and fulsome compensation benchmarking exercise. The resulting report will be included in and used to inform IESO Nova Scotia's 2027/2028 Revenue Requirement and Fees application.

2.3 Operational Procurement Costs

IESO Nova Scotia's Application provided, in part, the following with respect to operational procurement costs:

As for the operating category, this cost category primarily consists of costs incurred to fulfill its statutory object of carrying out competitive energy and capacity procurements, including for developing and implementing procurement initiatives.

...

The goal is that if the RFP and subsequent procurement are successful and result in awarding a contract or contracts, the costs of managing these procurement processes, included in this revenue application, would be passed on to the successful proponents, and IESO Nova Scotia would be reimbursed for those costs. If this occurs, then the reimbursed costs would be accounted for via the Net Revenue Requirement Deferral and Variance Mechanism. Until such a time that reimbursement is received, IESO Nova Scotia has included the procurement costs in the budget within the 2026/2027 revenue application.¹⁸

These costs are included in, and being applied for approval under, section 29 of the MAEA.

However, section 30 (1) of the MAEA provides as follows:

¹⁸ IESO Nova Scotia, 2026/27 Revenue Requirement and Fees Application, M12663, p.21.

Closing Submission

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.¹⁹

The classification of operational procurement costs was questioned during the hearing, given they have the appearance of costs falling under section 30 of the MAEA, but were included in the Application for approval as revenue requirement falling under section 29 of the MAEA. Mr. Milligan provided the following related testimony:

Q. Okay. The procurement costs that we're going over here, can you explain to me why they are included under the section 29 of the *More Access to Energy Act* expenses, the revenue requirement, rather than section 30, which includes the process for costs for the energy resource supply contracts and along with the administrative cost of those contracts?

A. (Milligan) ... I think the position of IESO Nova Scotia is that the costs that have been included in this Application are all consistent with section 29 of the Act and that's why they're included in this Application.²⁰

And:

Q. Okay. So if the procurement costs are recovered through the revenue requirement, I believe you said the capital costs and direct costs are recovered directly from the Proponent. What would this separate cost recovery mechanism include, then? What costs are contemplated there, then?

(SHORT PAUSE)

[11:01:39] **A.** (Milligan) So Ms. Rudderham, IESO Nova Scotia's position on section 30 in the *More Access to Energy Act* would be that it -- as it notes and as you read into the record, it's costs for energy resource supply contracts. And so an example would be costs under a tolling agreement, such as the one being contemplated for the current procurement, would be an example of a cost that would be recovered under that section.

Q. And it also includes the -- the costs associated with the administration of that contract; correct?

A. (Milligan) So I note that that's there in the reading of section 30.

Q. So why, then, does the 70,000 that you've included in the revenue requirement for the New Brunswick Power contract and the operating costs for that, why is that included in the revenue requirement and not under section 30?

A. (Milligan) So the position of our reading of that section would be that that is a distinction between the cost to put that contract in place, a one-time cost, versus an

¹⁹ More Access to Energy Act, 2025, c. 18, Sch., s. 44; 2026, c. 5, s. 6, Section 30(1).

²⁰ M12633 Transcript, June 25, 2026, pages 383 - 226.

Closing Submission

ongoing administration cost, which would appear to be included in section 30 in the way that read it into the record.²¹

And:

Q. So -- okay.

And so then the IESO is taking the position that none of the RFP costs would be included under section 30 for the procurement or the execution -- the costs leading up to the execution of the contract.

A. (Milligan) So I want to make sure I'm providing you with a clear answer because you asked about the RFP, but you've also been discussing the New Brunswick contract.

Q. Yeah. I'm just trying to understand.

I think the line you're drawing is that this section only comes into play once a contract is executed. Is that what I'm understanding?

A. (Milligan) So I would -- I believe we've been consistent in our view that those one-time procurement costs we've discussed, we haven't discussed that any of those would be recovered by IESO Nova Scotia through a section 30 application specifically. Our interpretation or our position on reading that section is that it's intended to refer to ongoing or operational-type costs, ongoing costs once there is an energy supply contract in place, that those shall be recovered from customers under that section.²²

The operational procurement costs included in the Application are those costs incurred by IESO Nova Scotia in the run-up to entering into a formal energy resource supply contract with a third party, and are appropriately recovered in the revenue requirement under section 29 of the MAEA. In contrast, section 30 of the MAEA pertains to costs incurred under an energy resources supply contract once it has been executed and entered into — notably, payments to counterparties for energy resource services and for the ongoing administration of those executed contracts.

Further, it is the intent of IESO Nova Scotia that applicable costs related to procurement included in this section 29 revenue requirement application will be reimbursed from successful energy resource procurement proponents, consistent with the Application. Mr. Johnston confirmed this in his testimony as well:

²¹ M12633 Transcript, June 25, 2026, pages 391 – 393.

²² M12633 Transcript, June 25, 2026, pages 394 - 395.

Closing Submission

Q. Okay. So those procurement costs is kind of what I'm looking for. You've indicated that you're looking for the proponent to pay directly and then also, as I understand your evidence, is they would reimburse those operating expenses from the RFP process as well along with the capital costs we've talked about; correct?

A. (Johnston) Yes.²³

In light of the confusion around this cost category, IESO Nova Scotia has committed to develop documentation regarding the distinction between section 29 and section 30 eligible costs, as provided by Mr. Milligan in his testimony:

Q. And there's an intention to prepare some sort of document to articulate that, I assume?

A. (Milligan) Yes. So again, as we've discussed and as the IESO continues to develop as an organization and address its mandate, that documentation will necessarily continue to evolve.²⁴

In light of the foregoing, IESO Nova Scotia submits that operational procurement costs are appropriately recovered under section 29 of the MAEA, and should be approved by the NSEB.

3 DEFERRAL AND VARIANCE MECHANISM

IESO Nova Scotia is requesting NSEB approval of an update to the Board-approved Net OM&A Deferral and Variance Account, named the Net Revenue Requirement Deferral and Variance Mechanism (DVM). No evidence was led by any party suggesting the DVM should be amended or not approved by the Board, and Board Counsel Consultant DGT's submission in this proceeding identified no material concerns with IESO Nova Scotia's proposed DVM. However, issues regarding various aspects of the DVM were raised during cross-examination, specifically with respect to the particulars of how it will operate. These issues are addressed in the sub-sections that follow.

²³ M12633 Transcript, June 25, 2026, page 386.

²⁴ M12633 Transcript, June 25, 2026, pages 396.

Closing Submission

544

545 In principle, the DVM is merely an extension of the Board-approved Net OM&A Deferral and
546 Variance Account under M12412, which was revised in order to achieve two main objectives:

- 547 • Simplify its calculation and presentation; and
548 • Capture all aspects of IESO Nova Scotia's revenue requirements.

549

550 With respect to simplifying the DVM, Industrial Group ("IG") IR-5 to DGT in M12412 asked
551 "Does DGT agree with the reasoning to bifurcate costs into multiple accounts? Is this the most
552 efficient and transparent or would a single account be simpler and yield the same transparency?"
553 and "Does DGT have an opinion on the need for a sub-account having regard 25 to the stated
554 reasons? Can these objectives be achieved in any other way?"²⁵

555

556 In response, DGT provided as follows:

557 (a)...these are sub-accounts within the one deferral account as opposed to entirely
558 individual accounts. Therefore, the overall account total will be presented consistently
559 with how it would appear if a single account with no sub-accounts were to be used.
560 We see no specific issue with bifurcating costs into sub-accounts for tracking purposes.
561 However, it ultimately will have no impact on the overall efficiency or transparency
562 for readers of the financial statements.

563

564 (b) The use of sub-accounts will have no impact on the end result to the reader. So
565 long as the approved forecast amounts and any actual expense activity are
566 appropriately monitored and recorded, the resulting difference will track any variance
567 amount in the deferral account. Therefore, the use of sub-accounts for tracking
568 purposes is ultimately based upon management preference.²⁶

569

570 In light of the question raised by the IG and the response by DGT, IESO Nova Scotia recognized
571 an opportunity for clarity on how the DVM would function overall, and so produced the simplified

²⁵ IG IR-5 to DGT, M12663, April 21, 2026.

²⁶ DGT response to IG IR-5, M12663, May 12, 2026.

Closing Submission

presentation as provided in the Application. DGT found in its report in this proceeding that “The modified calculation of the Deferral Mechanism fosters simplicity for tracking purposes and appears appropriate based upon the information available as at the date of this report.”²⁷

Subsequent to the submission of the Application to the NSEB, the Board provided its Decision regarding M12412. The Board’s Decision in that matter provided direction to develop guidelines for the OM&A Deferral and Variance Account and established a +/- 10% threshold on variances for further NSEB review and approval. Given the submission of the Application occurred before NSEB issuance of its Decision under M12412 and corresponding direction, IESO Nova Scotia had not intended, and of course could not have intended, that the new DVM revise Board direction from a Decision that had not yet been made available. This issue was raised during the hearing and Mr. Johnston provided clarification in his corresponding testimony, including the following with respect to variance thresholds:

A. (Johnston) At least my reading of the Board’s decision was that:
...IESO...must, in its applications, provide an explanation for cost category variances [plus or minus 10 percent]. For cost overruns, the burden will be on...IESO to demonstrate that the expenditures were prudent.
That’s not inconsistent with what we’ve proposed in our Application.²⁸

For additional clarity, IESO Nova Scotia assumes that direction regarding the Net OM&A Deferral and Variance Mechanism provided by the NSEB in its Decision under M12412 would naturally extend to the DVM proposed in this Application, including the prudence review thresholds, by virtue of the fact that the DVM, as noted, is an extension of the Net OM&A Deferral and Variance Account before it. However, IESO Nova Scotia acknowledges that the decision to apply that

²⁷ DGT Report, Review of Revenue Requirement Application by the Nova Scotia Independent Energy System Operator (M12663), March 31, 2026, page 6.

²⁸ M12633 Transcript, June 17, 2026, page 287-288.

Closing Submission

direction to the new DVM, along with any other new direction, is ultimately at the discretion of the NSEB in this proceeding.

IESO Nova Scotia submits that further details regarding the operation of the DVM proposed in this Application will be clarified in the guidelines directed by the Board, to be submitted no later than IESO Nova Scotia's next revenue requirement application. The issues raised during the hearing will help inform the details and clarity provided in those forthcoming guidelines. Nevertheless, IESO Nova Scotia addresses several related issues raised during the hearing below.

Capital Costs

The issue of the treatment of capital costs and their inclusion and treatment of the DVM was raised during the hearing. Prior to the hearing, IESO Nova Scotia provided information regarding capital cost treatment in its application and in response to IRs.

IESO Nova Scotia's application provided the following with respect to the purpose of the DVM:

The Net OM&A Deferral and Variance Account **may be used** to account for additional cost categories such as capital and costs associated with energy resource procurements, and is therefore being renamed the Net Revenue Requirement Deferral and Variance Mechanism to reflect **its potential use** in truing up various other cost categories in the future.²⁹ [emphasis added]

IESO Nova Scotia's response to DGT IR-1 provided the following additional clarification:

- Purpose – tracking and deferring any variance from the approved revenue requirement.
- Scope – to include all spending of IESO Nova Scotia that has gone through an approval process with the NSEB.

²⁹ IESO Nova Scotia 2026/27 Revenue Requirement Application (M12663), January 20, 2026, p.37.

Closing Submission

- Specific types of costs to be included or excluded – at this time, the only costs to be included are OM&A cost variances resulting from the 2025-2026 revenue application and 2026-2027 revenue application. In future, capital costs and costs associated with energy resource procurements **may also be included**. Costs that would be excluded are any costs that were not submitted to the NSEB for approval.³⁰
[emphasis added]

IESO Nova Scotia's position with respect to the DVM capturing revenue requirements broadly is related to the need for IESO Nova Scotia to recover all its actual costs, irrespective of the type of cost, given its not-for-profit status. Nevertheless, given that capital costs have not yet been submitted for recovery in a revenue requirement application to date, and the early state of the DVM absent detailed guidelines, the specific treatment of capital costs was not elaborated on, subject to further consideration in the guidelines and, importantly, Board approval. This was reflected, in part, in IESO Nova Scotia's response to DGT IR-2 which provided the following:

IESO Nova Scotia does not intend to record capital costs in the deferral mechanism prior to NSEB approval. Once NSEB approval of capital costs is received, actual capital costs would then be tracked and compared against the approved budget with any variance included in the deferral mechanism as described in DGT IR-01.³¹

Further clarification was sought on cross examination during the hearing. Mr. Johnston provided the related following testimony:

Q. The main one being you're proposing that it includes capital costs; correct?

A. ... were we to spend capital in future, the way that we would think about that is that once the -- that capital spent was used and useful, it would then have a depreciation expense and interest expense associated with it. And that that would fit within our Revenue Application coming forward towards the Board.

But if we, for example, were to have included in this Revenue Application that we had assumed that a project was going to go live on the 1st of September and, therefore, had the depreciation and interest expense from the 1st of September but, for whatever reason, it ended up going in on the 1st of July, there would be incremental depreciation and interest expense in that year that would need to be caught somewhere. And so what we're proposing is that that delta will be picked up in the deferral account.³²

³⁰ IESO Nova Scotia response to DGT IR-1, M12663, March 10, 2026.

³¹ IESO Nova Scotia response to DGT IR-2, M12663, March 10, 2026.

³² M12633 Transcript, June 17, 2026, pages 234 - 235.

Closing Submission

654

655 And:

656 Q. And as I understand the evidence as it's come in in this hearing, the request that
657 categories such as capital would be included, you've modified that in your testimony, as
658 I understand it, with the anticipation that what would be sought for recovery would be
659 depreciation and interest-related expenses associated with the capital that you have, as
660 opposed to a deferring capital itself?

661 A. (Johnston) That is correct. Yeah. Apologies. I mean, that was definitely not clear in
662 our Application and we acknowledge that.

663 Q. And so in Doane Grant Thornton's report when they make a specific reference to
664 various categories of information that ISEO would need to understand before it's
665 assessing whether or not capital can be deferred, there's no -- you're not addressing that
666 from the perspective that, oh, you're intention is to limit the request for depreciation
667 interest expense?

668 A. (Johnston) That is correct.³³

669

670 Consistent with Mr. Johnston's testimony, IESO Nova Scotia clarifies that capital costs subject to
671 the DVM would relate to depreciation and interest expense once the associated capital assets are
672 in service (used and useful). Further clarity on capital cost treatment will be provided in both IESO
673 Nova Scotia's final accounting policies (draft policies have been provided in response Undertaking
674 U-7 Attachment 1, see in particular Accounting Policy — Property, Plant and Equipment and
675 Intangible Assets) and the DVM guidelines, both of which will be submitted to the NSEB in
676 accordance with its direction under M12412.

677

678 Otherwise, capital work in progress prior to an asset being placed in service, and therefore prior to
679 the depreciation and interest expense being eligible for recovery through revenue requirement and
680 the DVM, is being considered for inclusion in future section 29 applications as "proposed
681 expenditures" for each fiscal year. This would support full transparency for the NSEB and

³³ M12633 Transcript, June 25, 2026, pages 483 - 484.

Closing Submission

stakeholders regarding IESO Nova Scotia's full expected expenditures, inclusive of both OM&A and capital.

Recovery of All Costs Incurred

A fundamental purpose of the DVM was raised during the hearing, and encapsulated in the following exchange between Board Chair McGrath and Mr. Johnston:

Q. ...Often when we see deferral accounts come forward it's to address costs that are subject to a significant degree of variability that would be impactful and that are outside of the control of the entity that's requesting the deferral account. And my sense is that the justification for the deferral account in this case is really not for those reasons, it's because you're a not-for-profit organization and the idea is that basically you should flow through -- all your costs should flow through actual costs to customers.

A. (Johnston) That is correct.³⁴

IESO Nova Scotia is a not-for-profit organization established under the MAEA. As has been discussed elsewhere in this closing submission and alluded to by the Board Chair in the excerpt above, as a not-for-profit, IESO Nova Scotia has no other source of revenue outside of what is applied for in its revenue requirement applications and through direct cost recovery from Interconnection Customers for work related to Interconnection Requests. Accordingly, a fundamental purpose of the DVM is to allow IESO Nova Scotia recovery of its actual incurred costs. (A related fundamental purpose of the DVM is to ensure that only the actual costs of IESO Nova Scotia are passed onto market participants and ultimately ratepayers.)

This in turn gives rise to related issues, including the limits of what the DVM might reasonably be expected to pass through for recovery in revenue requirement applications. Mr. Johnston noted

³⁴ M12633 Transcript, June 25, 2026, pages 502-503.

Closing Submission

that, consistent with the necessity that IESO Nova Scotia recover all its costs, any arbitrary hard cap on recovery of costs incurred would be difficult for IESO Nova Scotia to bear:

Q. Would IESO NS agree to the imposition of a hard cap on the proposed variance account?

A. (Johnston) So I think the view of the IESO that we've tried to come across is we believe that it will become much clearer as time goes on. One of our concerns, I think, in these early first couple of years was really just not knowing exactly where things were going to land.

To the example that I gave earlier, I think the risk or the challenge that the IESO has, unlike other organizations, if something unplanned or unexpected of materiality happens that we can't foresee or justify -- can't foresee, we may find ourselves with significant costs that we do need to bring forward and, of course, explain what the variance is and why going through the deferral process, but it's very difficult to put a cap on not knowing what comes in the future.³⁵

IESO Nova Scotia is not aware of any hard caps applied to ISOs jurisdictionally. In DGT's report provided under M12412, it detailed deferral and variance mechanism accounts for the Ontario IESO and Alberta IESO. Neither appears to have a hard cap on over-expenditures, establishing instead procedures similar to the one directed by the NSEB under M12412. Notably, IESO Ontario's Forecast Variance Deferral Account ("FVDA") appears to allow for an over-recovery reserve of \$15,000,000, the excess of which is only rebated to market participants once it exceeds that amount. By comparison, IESO Nova Scotia's Net OM&A Deferral and Variance Account and the revised DVM is designed to return all over-recovered revenue requirement to market participants on an annual basis, reflecting only the actual costs of IESO Nova Scotia. A hard cap would threaten IESO Nova Scotia's ability to carry out its mandate under the MAEA.

³⁵ M12633 Transcript, June 17, 2026, pages 254-255.

Closing Submission

This, however, does not give IESO Nova Scotia license to automatically pass through costs for recovery via the DVM. Mr. Johnston provided clarity on this as well in the following testimony:

Q. Maybe I'll just clarify your evidence.

You've -- I guess it's IESO NS's position that it's more appropriate to have this deferral account to capture any unforeseen material cost changes rather than applying to the Board.

A. (Johnston) No, I don't think that's our position at all, actually. Like I think our position is that we're an independent not-for-profit organization that looks to prudently put together a plan and a budget, but reality may happen and may be different than the plan and budget, and that we would then, of course, have to come back to the Board to go through an appropriate review before that gets passed through to customers.

Q. So is it IESO NS's position that it's more appropriate to come after those costs have been incurred rather than before?

A. (Johnston) IESO's position is that we should plan prudently and bring our costs before, but it's not impossible that something may come up that requires a response and in which case we then need to come back and explain our actions afterwards.³⁶

And:

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 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.³⁷

³⁶ M12633 Transcript, June 17, 2026, pages 257 - 258.

³⁷ M12633 Transcript, June 25, 2026, pages 503 - 505.

Closing Submission

773
774 IESO Nova Scotia will produce a revenue requirement application each year developed based on
775 the best available evidence, demonstrating the prudence of the proposed expenditures and the
776 reasonableness of the forecast. The NSEB and stakeholders may review at the outset of the fiscal
777 year via the revenue requirement application the proposed expenditures on the same basis. On the
778 assumption that the Board approves those proposed expenditures, their recovery through revenue
779 and corresponding fees to market participants is permitted within the boundaries of the NSEB
780 directed variance thresholds of +/- 10% by cost category. Expenditures beyond the threshold would
781 require additional reasonableness review – there is no simple pass-through of costs in the DVM
782 without first going through NSEB review and approval. (This issue is explored in further detail in
783 the sub-section that follows.)

784
785 Notwithstanding the procedural review protections in place as described above, IESO Nova Scotia
786 acknowledges that more work is to be done regarding documenting controls in place to limit
787 potential variations in spend and thereby reducing risk of substantial variances being applied to
788 the DVM for future recovery or refund. To that end, IESO Nova Scotia is in the process of
789 compiling those controls, as well as guidelines for the DVM, in compliance with Board direction
790 from M12412. Mr. Johnston provided the following related testimony:

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

794 **A.** (Johnston) Certainly that would be our intent as part of the -- on the current path that
795 we were on -- and of course, the Board may direct us in a different direction, but of
796 providing those guidelines as part of our '27/'28 Application, I think it's a really important
797 part of that Application, is to update the Board on the maturity of the organization and
798 the things that we've now got in place.³⁸

³⁸ M12633 Transcript, June 25, 2026, page 507-508.

Closing Submission

799

800 *Reasonableness Review Thresholds*

801 The nature of a reasonableness (or prudence) review for costs proposed for recovery through the

802 DVM was raised during the hearing. Mr. Johnston provided the following testimony:

803 **Q.** The Board asked in 28(f):

804 Please confirm or explain otherwise, that the proposed Net Revenue Requirement

805 Deferral and Variance Mechanism will transfer 100% of the risk relating to

806 budgeting under or over-estimation to customers.

807 In response, on page 70, you said:

808 Not confirmed. Please refer to part e). The Board established a +/-10% threshold for

809 variances, above or below which further prudence review must occur for Board

810 approval and IESO Nova Scotia's recovery/refund of those costs.

811 So are you saying in this there could be financial penalties against IESO which would

812 reduce the risk to Nova Scotia ratepayers?

813 **A.** (Johnston) So I think the "Not confirmed" here was really just highlighting the

814 difference between the less than 10 percent and over 10 percent point, and I think we still

815 end up in a place if over 10 percent and for whatever reason deemed imprudent, how we

816 would manage our way through that is going to be, you know, something that we're going

817 to have to work out.

818 **Q.** So you're not saying necessarily that Nova Scotia ratepayers would not be 100 percent

819 at risk. You're saying that that's undetermined at this point?

820 **A.** (Johnston) I think that's correct.³⁹

821

822 Board Chair McGrath sought clarity on this issue:

823 **Q.** ... The statement that I wanted to ask you about is on line 25. It says, "Prudence review

824 is limited to over- and 26 under-expenditures greater than +/- 10%." Are you suggesting

825 that if costs were incurred imprudently that the Board couldn't address those unless it fell

826 outside of the +/- 10% ban?

827 **A.** (Johnston) I would certainly never want to lay out how the Board intends to undertake

828 its role.

829 I think what we were, in some ways, trying to play back here was our interpretation of

830 what we had read in the '25/'26 Order, which was to provide incremental details if we were

831 plus or minus 10 percent with the assumption that it was intended that there would be

832 further prudence reviews from those incremental details provided.

833 **Q.** Right, okay. But if there was a -- I know you don't like hypotheticals, I'm going to give

834 you one, anyway.

835 You know, you come forward with a revenue requirement Application, and you have a

836 need for a contract to undertake some sort of activity during the course of the year that's an

837 operating cost. And you estimate an amount for that contract and that gets approved by the

³⁹ M12633 Transcript, June 17, 2026, pages 204-205.

Closing Submission

Board, and then, going forward, it becomes apparent that another contractor is able to provide the same service at half the cost, but you instead go with the original contractor. You're not suggesting that the Board couldn't review that decision and allow a disallowance if they thought that was an imprudent choice, even if it was still within the same budget amount?

A. (Johnston) So I think my expectation would be that the Board always maintains its right to deem a cost imprudent, I think, because we have spent some time talking about today. The challenge, of course, will be what to do with that. Has that cost already been incurred? Clearly, to the extent that we're putting something in our future revenue application, and those costs haven't been incurred, it's very easy for us to change our plans. As the money has already been spent, and I think it will leave us with a difficult situation to address if we get to that point.⁴⁰

The NSEB's Decision in M12412 provided the following:

In the context of IESO Nova Scotia's revenue requirement applications, **the Board considers it appropriate that any variance exceeding a set threshold from those forecast costs sought to be recovered from the Deferral and Variance Account, should trigger a Board regulatory review process to determine reasonableness.** That process should include appropriate intervenor participation. The development of reasonable thresholds for any cost variances can facilitate the regulatory review process.

Doane Grant Thornton recommended that the IESO develop clearly defined thresholds to limit amounts recoverable from ratepayers. The consultant stated that such thresholds and specific approval requirements were key features it observed from its jurisdictional review and that they would "create accountability and minimize excess and uncontrolled cost overruns".

Accordingly, the Board concludes that it is appropriate to establish the Net OM&A Deferral and Variance Account. However, the Board directs that specific guidelines and accounting policies must be developed and approved before there is a recovery of Net Ongoing OM&A amounts from the Deferral and Variance Account. Further, **the guidelines should reflect that any variance that exceeds +/-10% will trigger a review process established by the Board.**⁴¹ [emphasis added]

Consistent with Mr. Johnston's testimony, IESO Nova Scotia's interpretation of the Board's direction in M12412 is that an automatic review is triggered in circumstances in which a cost category incurs a variance which exceeds +/- 10% of the Board approved revenue requirement. In

⁴⁰ M12633 Transcript, June 25, 2026, pages 512-515.

⁴¹ NSEB Decision, M12412, February 25, 2026, p.20.

Closing Submission

that circumstance, the variance is subject to a further reasonableness review by the NSEB. IESO Nova Scotia submits that the threshold balances operational flexibility for IESO Nova Scotia while promoting fiscal responsibility and budget control where possible. IESO Nova Scotia acknowledges that it must make best efforts to maintain revenue requirement expenditures within the Board-approved budgets, but notes that actual expenditures will always vary from forecast to some extent, and therefore the recovery of costs within those thresholds is a reasonable reflection of that reality.

The hypothetical scenario that Board Chair McGrath raised does highlight an issue related to exceptional circumstances that may arise during the course of an IESO Nova Scotia fiscal year. IESO Nova Scotia acknowledges that the Board retains authority to review individual expenditure decisions for prudence, independent of the DVM variance thresholds. However, IESO Nova Scotia respectfully submits that such exceptional circumstances do not undermine the purpose or reasonableness of the DVM thresholds themselves, which are designed to establish a practical framework for routine variance management. Such exceptional circumstances should be dealt with as they arise, and their treatment determined on a case-by-case basis.

Cost Category True-ups

In its Decision under M12412, the NSEB provided the following regarding variances and applicable to cost categories:

IESO Nova Scotia must, in its applications, provide an explanation for cost category variances exceeding +/-10%. For cost overruns, the burden will be on the IESO to demonstrate that the expenditures were prudent.⁴²

⁴² NSEB Decision, M12412, February 25, 2026, p.21.

Closing Submission

Whether cost categories should be subject to individual variance explanations and prudence review at the cost categories level was raised during the hearing. Mr. Johnston provided the following related testimony:

MR. JOHNSTON: ... our takeaway would be, for sure, that we have to report variances by cost category, and certainly for anything that's got an exceedance of plus or minus 10 percent, that we would have to provide an explanation. And as per the last sentence there, cost overruns, there's a burden on us to demonstrate that those expenditures were prudent.

...

A. (Johnston) ... so we understand from the last Application, an expectation to report by cost category and plus or minus 10 percent, but ultimately that's still next to a single number that would be part of the deferral account, which would be consistent with the Board's decision on the last Application and what we've put in our Application for this time.⁴³

In alignment with Mr. Johnston's testimony, IESO Nova Scotia submits that variance explanations and corresponding prudency review of expenditures less than or greater than 10% apply at the cost category level. Accordingly, IESO Nova Scotia will provide corresponding information in its future revenue requirement applications where applicable.

For further clarity, the overall revenue requirement delta will be calculated by the DVM, which will in turn be applied to that next fiscal year's revenue requirement forecast in order to calculate fees for market participants via a fee recovery mechanism. IESO Nova Scotia's proposed fee recovery mechanism will be submitted to the NSEB in July 2026.

4 JURISDICTION OF THE BOARD - MAEA SECTION 29

⁴³ M12633 Transcript, June 25, 2026, pages 318-319.

Closing Submission

The nature and scope of the Board’s jurisdiction under section 29 of the MAEA was raised by counsel for the Province of Nova Scotia in cross-examination. To IESO Nova Scotia’s concern, it appeared that disallowance of costs was being contemplated by parties to the hearing notwithstanding the clear language of subsection 29(4) of the MAEA. IESO Nova Scotia believes that, given the potential impact of disallowance of costs on its financial status, it is appropriate and necessary for the Board to determine that jurisdiction early in the regulatory process. Suffice it to say, understanding whether the Board believes it has authority to disallow costs will have a material and profound impact on the ongoing and future operations of the IESO Nova Scotia. Accordingly, IESO Nova Scotia addresses the issue for the Board’s consideration.

4.1 Jurisdiction of Statutory Tribunals and Principles of Statutory Interpretation

It is well settled that a regulatory tribunal such as the Board is a creature of statute, and its jurisdiction must be found in its governing legislation, either expressly, or by necessary implication. In the leading Canadian case on this point, the Supreme Court of Canada stated:

Administrative tribunals or agencies are statutory creations: they cannot exceed the powers that were granted to them by their enabling statute; they must “adhere to the confines of their statutory authority or ‘jurisdiction’ [and t]hey cannot trespass in areas where the legislature has not assigned them authority”.

....

But more specifically in the area of administrative law, tribunals and boards obtain their jurisdiction over matters from two sources; 1) express grants of jurisdiction under various statutes (explicit powers); and 2) the common law, by application of the doctrine of necessary implication (implicit powers).⁴⁴

⁴⁴ *ATCO Gas & Pipelines Ltd. v. Alberta (Energy and Utilities Board)* [2006] 1 SCR 140 (“*ATCO, 2006*”), at paras. 35 and 38.

Closing Submission

IESO Nova Scotia submits that *ATCO, 2006* has been consistently followed by Courts and regulatory tribunals since 2006, and continues to be referenced without reservation by the Supreme Court.⁴⁵

In *ATCO, 2006*, the Supreme Court also confirmed that determination of jurisdiction is an exercise in statutory interpretation, in which the so called “modern approach” to interpretation governs.⁴⁶

That “modern approach” has been described by the Supreme Court as follows, in *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 S.C.R. 27, at para. 21:

Although much has been written about the interpretation of legislation (see, e.g., Ruth Sullivan, *Statutory Interpretation* (1997); Ruth Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994) (hereinafter “*Construction of Statutes*”); Pierre-André Côté, *The Interpretation of Legislation in Canada* (2nd ed. 1991)), Elmer Driedger in *Construction of Statutes* (2nd ed. 1983) best encapsulates the approach upon which I prefer to rely. He recognizes that statutory interpretation cannot be founded on the wording of the legislation alone. At p. 87 he states:

Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament. ...

The Court in *ATCO, 2006* expressly addressed a number of aspects of the modern approach to statutory interpretation. The Court confirmed the following:

- a. the grammatical and ordinary sense of a specific section of a statute is not determinative, and courts must consider the total context of the statute, no matter how plain the disposition may seem upon initial reading;
- b. the legislature is presumed to be logical, and a statute is “considered to form a system”; and
- c. when determining the powers of a tribunal, a court is required to examine the entire context of the legislative scheme, and the ultimate goal is “to discover the

⁴⁵ *Dow Chemical Canada ULC v. Canada*, 2024 SCC 23 (CanLII), at para. 193; *Canada (Transportation Safety Board) v. Carroll-Byrne*, 2022 SCC 48 (CanLII), at para. 79; *R. v. Cunningham*, 2010 SCC 10 (CanLII), at para. 19

⁴⁶ *ATCO, 2006*, supra, at paras. 36 and 49

Closing Submission

clear intent of the legislature and the true purpose of the statute while preserving the harmony, coherence and consistency of the legislative scheme”.⁴⁷

4.2 Express Grant of Jurisdiction

Section 29 of the MAEA specifies the process by which the proposed expenditure and revenue requirements of IESO Nova Scotia, and proposed fees, are approved by the NSEB for each fiscal year. Section 29 states 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,

(b) 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. [Emphasis added]

⁴⁷ (ATCO, 2006, supra, at paras. 48 and 49)

Closing Submission

1025

1026 IESO Nova Scotia submits that, with a single exception noted below, this wording is unique in the
1027 Canadian regulatory landscape. The legislature has not granted the Board broad jurisdiction, but
1028 rather, the clear, express language of subsection 29(4) has provided the Board with two very
1029 specific options following its “review”; the Board may either approve the proposed expenditures
1030 and revenue requirements, or it may refer them back to IESO Nova Scotia for further consideration
1031 with the Board’s recommendations.

1032

1033 The power to simply disallow certain costs and fix the revenue requirements at a level different
1034 than that submitted by the IESO Nova Scotia is notably absent from the express grant of authority
1035 in the MAEA.

1036

1037 For clarity, IESO Nova Scotia does not suggest that the Board is precluded from reviewing the
1038 prudence or reasonableness of the proposed expenditures and revenue requirements. The
1039 distinction IESO Nova Scotia draws is between the Board’s power under subsection 29(4) to
1040 review those costs and, where it does not approve them, to refer them back to IESO Nova Scotia
1041 with recommendations — a power IESO Nova Scotia acknowledges and respects — and a power
1042 to unilaterally disallow costs and fix a revenue requirement different from that submitted by IESO
1043 Nova Scotia, which the MAEA does not confer. The express model in subsection 29(4) is iterative:
1044 where the Board has concerns, it returns the matter, or part thereof, to IESO Nova Scotia with its
1045 recommendations for further consideration, rather than substituting its own determination. This
1046 process is not rendered ineffective by the absence of a disallowance power; it preserves both
1047 meaningful Board oversight and IESO Nova Scotia’s statutory role.

Closing Submission

4.3 The Broader Context of the MAEA

IESO Nova Scotia submits that this absence is a deliberate choice of the Legislature, based on the unique nature of the IESO in the Nova Scotia regulatory framework. In that framework, IESO Nova Scotia is unique in several respects. First, it is a statutory body established under the MAEA, required to carry on its business and affairs without the purpose of gain (Sections 7 and 13 of the MAEA). IESO Nova Scotia is a not-for-profit organization.

Second, the objects of IESO Nova Scotia demonstrate that the IESO is mandated to act in the public interest. Those objects are set out in section 9 of the MAEA and currently include, among other things, the responsibility to:

- conduct *independent* planning for energy resources, demand-side management and transmission (subsection 9(q))
- forecast electricity demand and the adequacy and reliability of electricity resources for the Province (subsection 9(p))
- undertake and coordinate power system planning and development responsibilities to maintain and ensure the adequacy and reliability of the bulk electricity system, which is defined to include both transmission and generation systems (subsection 9(j))
- conduct procurements for energy resources (subsection 9(m)), and
- facilitate the development of a competitive electricity market.

Upon proclamation of subsections 9(b) through 9(e), IESO Nova Scotia will also become responsible for:

- maintaining the adequacy and reliability of the bulk electricity system (including both transmission and generation)
- establishing and enforcing criteria and standards related to the reliability of the integrated electricity system
- directing the operation of the IESO controlled grid

Closing Submission

1081 In addition, IESO Nova Scotia is responsible for making market rules under section 60 of the
1082 MAEA, which may authorize IESO Nova Scotia to make orders or decisions regarding access to
1083 the IESO-controlled grid (including the authority to impose administrative penalties on market
1084 participants or transmitters) subject to appeal to the Board under section 64. In this respect, IESO
1085 Nova Scotia will perform a regulatory enforcement function in the public interest.

1086

1087 The not-for-profit status and public interest mandate of IESO Nova Scotia is such that the typical
1088 “regulatory compact” framework does not apply in its traditional form. Rather, the Legislature has
1089 established a distinct cost recovery framework under section 29 of the MAEA that reflects IESO
1090 Nova Scotia’s unique statutory nature. A key principle of the regulatory compact is that the
1091 regulated utility must have a reasonable opportunity to recover its operating and capital costs, *to*
1092 *ensure that the utility can continue to operate and can earn its cost of capital to attract and retain*
1093 *investment in the utility* (See ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission) 2015
1094 SCC 45 (“*ATCO, 2015*”) and Ontario (Energy Board) v. Ontario Power Generation Inc. 2015 SCC
1095 44 (“*OEB*”).

1096

1097 IESO Nova Scotia is fundamentally different from an investor-owned regulated utility; the latter
1098 does not typically possess a statutory mandate to act in the public interest, but acts in the interests
1099 of its shareholders. IESO Nova Scotia submits that it is this divergence from the typical regulated
1100 utility which, in part, is the basis for the unique wording of section 29 (and subsection 29(4) in
1101 particular).

1102

Closing Submission

1103 Further, the potential for outright denial or disallowance of costs has the potential to interfere with
1104 the exercise of IESO Nova Scotia's public interest mandate, rather than simply being absorbed by
1105 a shareholder. As such, the typical regulatory compact is inappropriate, and not consistent with the
1106 language of section 29, or the statutory context surrounding it.

1107
1108 The not-for-profit nature of IESO Nova Scotia (and the corresponding absence of a shareholder to
1109 bear risks) also creates a practical issue with respect to the potential for the Board to disallow costs;
1110 if the disallowance takes place after the costs have been incurred (a potential which exists in the
1111 present case, as the Board will issue a decision some 5-6 months into the 2026/27 fiscal year), no
1112 shareholder exists to bear the disallowance. In that case, IESO Nova Scotia will simply have
1113 insufficient revenue to cover its costs and deliver on its mandate, and will be in a permanent deficit
1114 position funded by debt. Over time, even small disallowances will accumulate, with more
1115 significant impacts. The question of the prudence of continued interest expense on a disallowed
1116 cost creates a potential for further impact.

1117
1118 **4.3.1 The Ontario IESO**
1119
1120 As noted above, the wording of section 29 of the MAEA has one precedent. Section 25 of Ontario's
1121 *Electricity Act, 1998*, SO 1998 c. 15 Sch A. addresses the approval of the proposed expenditure
1122 and revenue requirements and proposed fees of the Ontario IESO. The relevant provisions of
1123 Section 25 of the Ontario legislation are as follows:

1124
1125 **Review of requirements and fees**
1126
1127 25(1) The IESO shall, at least 60 days before the beginning of each fiscal year, submit
1128 its proposed expenditure and revenue requirements for the fiscal year and the fees it
1129 proposes to charge during the fiscal year to the Board **for review**, but shall not do so until

Closing Submission

after the Minister approves the IESO's proposed business plan for the fiscal year under section 24.

25(2) Until the 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 Board orders otherwise.

[...]

25(4) The 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 Board's recommendations.**⁴⁸

In EB-2015-0275, the Ontario Energy Board (the "OEB") considered an application by the Ontario IESO under Section 25(1) of the *Electricity Act, 1998* for the approval of its 2016 revenue requirement, expenditures and fees. The single issue of contention before the OEB was with respect to the IESO charging a single usage fee to all market participants, both domestic and export customers. The OEB, following a discussion of the single usage fee, did not approve the single usage fee sought by the IESO, stating as follows:

Recommendations

Under s. 25(4) of the *Electricity Act, 1998*, "The 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 Board's recommendations." The OEB has approved the proposed expenditure and revenue requirements, but not the proposed single usage fee. **The OEB refers the matter of the usage fee back to the IESO for further consideration, and recommends the following:**

- a) The IESO should submit a revised proposal to the OEB to recover its approved revenue requirement through two separate usage fees, one for domestic customers and one for export customers.
- b) Each usage fee should represent a revenue-to-cost ratio of 100%, based on the Elenchus cost allocation evidence.⁴⁹

⁴⁸ Section 25 of Ontario's *Electricity Act, 1998*, SO 1998 c. 15 Sch A.

⁴⁹ OEB Decision and Order, Independent Electricity System Operator - Application for approval of 2016 revenue requirement, expenditures and fees (EB-2015-0275), December 1, 2016, p.9.

Closing Submission

1166 IESO Nova Scotia submits that this decision demonstrates the appropriate interpretation of this
1167 Board's jurisdiction under subsection 29(4) of the MAEA. Notably, the OEB did not exercise a
1168 power to disallow costs or unilaterally fix the IESO's revenue requirement; rather, it approved the
1169 expenditure and revenue requirements and referred back only the fee structure with
1170 recommendations — precisely the iterative process that IESO Nova Scotia submits is
1171 contemplated by subsection 29(4).

1172 1173 **4.4 The Required Express Wording**

1174
1175 Finally, IESO Nova Scotia submits that the express wording required to grant jurisdiction to
1176 disallow or deny approval is known to the Legislature and has been used in the context of the
1177 Board's authority over reliability standards under subsection 67(1) of the MAEA, which provides:

1178
1179 67(1) Upon application by the IESO, a standards authority or a licence holder subject to
1180 a reliability standard, or as directed by the Energy Board, the Energy Board may, subject
1181 to and in accordance with the regulations and subject to subsection (2),

- 1182
1183 a) approve a reliability standard, with or without modifications;
1184 b) approve modifications to an approved reliability standard;
1185 c) **refuse to approve a reliability standard or modifications to an approved**
1186 **reliability standard;**
1187 d) remand a reliability standard or modifications to an approved reliability standard to
1188 the IESO for further consideration; or
1189 e) retire an approved reliability standard.

1190
1191 [emphasis added]

1192
1193 IESO Nova Scotia submits that the absence of such language in section 29 of the MAEA must be
1194 given meaning.

1195 1196 **4.5 Jurisdiction by Necessary Implication**

1197

Closing Submission

1198 IESO Nova Scotia submits that the overall framework of the MAEA does not grant the Board
1199 jurisdiction by necessary implication.

1200

1201 In *ATCO, 2006 the Supreme Court* placed significant restrictions on the application of the doctrine
1202 of necessary implication.

1203

1204 First, the Court has limited the application of the doctrine to those powers which are practically
1205 necessary to the exercise of the main functions of a tribunal under the relevant legislation.

1206

1207 The case before the Alberta Energy and Utilities Board (“AEUB”) was an application by ATCO
1208 Gas for approval of the sale of certain assets no longer used to provide utility services. It was
1209 common ground that ATCO Gas required AEUB approval to sell the assets; what was disputed
1210 was whether the Board possessed jurisdiction to attach a condition on the sale which required
1211 ATCO Gas to allocate a portion of the sale proceeds for the benefit of ratepayers. The AEUB Act
1212 contained no express provision related to the power to allocate sale proceeds.

1213

1214 The Court determined that the legislation did not grant the AEUB that authority, either expressly
1215 or by necessary implication, stating:

1216

1217 The Board’s seemingly broad powers to make any order and to impose any additional
1218 conditions that are necessary in the public interest has to be interpreted within the entire
1219 context of the statutes which are meant to balance the need to protect consumers as well
1220 as the property rights retained by owners, as recognized in a free market economy. **The**
1221 **limits of the powers of the Board are grounded in its main function of fixing just**
1222 **and reasonable rates (“rate setting”) and in protecting the integrity and**
1223 **dependability of the supply system.**⁵⁰ [Emphasis added]
1224

⁵⁰ (ATCO, 2006, supra, at para. 7)

Closing Submission

...the **Board's discretion is to be exercised within the confines of the statutory regime and principles generally applicable to regulatory matters**, for which the legislature is assumed to have had regard in passing that legislation...⁵¹

.....in order to impute jurisdiction to a regulatory body..... There must be evidence that the exercise of that power is a practical necessity for the regulatory body to accomplish the objects prescribed by the legislature... .

The public interest component cannot be said to be sufficient to impute to the Board the power to allocate all the profits pursuant to the sale of assets.⁵²

[Emphasis added]

In addition, the Court cited with approval the decision of the OEB in *Re Consumers' Gas Co.*, E.B.R.O. 410-II/411-II/412-II, March 23, 1987 ("*Re Consumers' Gas*"), and enumerated the circumstances under which the doctrine may be applied, as follows:

- a. the jurisdiction sought is **necessary to accomplish the objectives of the legislative scheme and is essential to the Board fulfilling its mandate**;
- b. the enabling act fails to explicitly grant the power to accomplish the legislative objective;
- c. **the mandate of the Board is sufficiently broad to suggest a legislative intention to implicitly confer jurisdiction**;
- d. the jurisdiction sought must not be one which the Board has dealt with through use of expressly granted powers, thereby showing an absence of necessity; and
- e. **the Legislature did not address its mind to the issue and decide against conferring the power upon the Board.**⁵³

[Emphasis added]

Based on this authority, IESO Nova Scotia submits that the Board does not possess implied jurisdiction to disallow costs, for the reasons that follow.

IESO Nova Scotia submits that, in the present case, in order to find authority on the basis of the doctrine of necessary implication, the Board must find that the power to disallow costs is

⁵¹ (ATCO, 2006, supra, at para. 50)

⁵² (ATCO, 2006, supra, at para. 77)

⁵³ (ATCO, 2006, supra, at para. 73)

Closing Submission

1259 “practically necessary to accomplish the objectives” of the MAEA and “essential to the Board
1260 fulfilling its mandate” under the legislation. IESO Nova Scotia submits that the Board’s mandate
1261 under the MAEA with respect to the expenditures and revenue requirements of IESO Nova Scotia
1262 is specified in section 29. An implicit power to disallow cost is not merely unnecessary to achieve
1263 the Board’s mandate; it is inconsistent with the express power granted and would frustrate the
1264 process intended under subsection 29(4).

1265
1266 IESO Nova Scotia further submits that broad powers conferred on the Board elsewhere do not
1267 confer broad discretion outside the “main function” of the Board regarding IESO Nova Scotia’s
1268 proposed expenditures and revenue requirements. The “main function” is specified in section 29
1269 and does not include the power to disallow costs. Framed in the wording of the third principle of
1270 *Re Consumers’ Gas*, the mandate of the Board is not sufficiently broad to suggest a legislative
1271 intent to implicitly confer the jurisdiction to disallow costs.

1272
1273 Finally, applying the fifth principle of *Re Consumers’ Gas*, IESO Nova Scotia submits that the
1274 legislature did address its mind to the issue, and expressly provided a regulatory framework which
1275 did not include the power to disallow costs. As noted by the Supreme Court, the legislature is
1276 assumed to have regard for the entire statutory context and regulatory principles in passing the
1277 MAEA, and in particular, the provisions of section 29. Had the legislature intended the power to
1278 disallow costs, it could not reasonably have chosen the regulatory model outlined in section 29.

1279
1280 Two subsidiary issues raised during the course of cross-examination by counsel for the Province
1281 of Nova Scotia are worthy of mention. First, IESO Nova Scotia submits that subsection 29(3) of

Closing Submission

1282 the MAEA does not alter the conclusion regarding the Board’s jurisdiction. Subsection 29(3)
1283 merely preserves the level of fees approved by the Board in a previous fiscal year pending approval
1284 of new fees for a current fiscal year. IESO Nova Scotia submits that such wording is standard
1285 language in regulatory statutes intended to avoid an interpretation that, at the end of the fiscal year
1286 for which fees are approved, there is no authority to charge *any* fee. This legislative purpose has
1287 no impact on the process by which the Board either approves IESO Nova Scotia revenue
1288 requirements or refers them back to IESO Nova Scotia with recommendations and therefore does
1289 not imply authority to disallow costs.

1290

1291 Second, the absence of express authority in the MAEA granting the Board jurisdiction to approve
1292 the DVM similarly does not impact the conclusion respecting the authority to disallow costs.
1293 Unlike the power to disallow costs — which is inconsistent with the express iterative process in
1294 subsection 29(4) — the Board does possess jurisdiction to approve the DVM by necessary
1295 implication in the statutory framework of the MAEA. The distinction is that approving a
1296 mechanism to reconcile variances is practically necessary to give effect to the cost recovery model
1297 in section 29, whereas a power to disallow costs would contradict and render superfluous the
1298 referral process the Legislature expressly established. The DVM jurisdiction arises from the unique
1299 not-for-profit status of IESO Nova Scotia and its public interest mandate: absent the DVM, any
1300 variances of actual expenditures from the approved revenue requirements would result in either a
1301 surplus or deficit in a fiscal year, a result which is at odds with the not-for-profit requirements of
1302 the MAEA. As such, the ability to approve a mechanism to address that possibility is practically
1303 necessary for the Board. In short, the MAEA requires a mechanism of some kind to “true-up” the
1304 inevitable variances in prior fiscal years.

Closing Submission

1305

1306 5 CONCLUSION

1307 For the reasons set out in this Closing Submission, IESO Nova Scotia respectfully submits that the
1308 evidentiary record supports approval of its 2026/27 Revenue Requirement Application in its
1309 entirety. No intervenor evidence has been filed challenging the prudence or reasonableness of the
1310 proposed expenditures, and the Board's independent consultant, DGT, identified no material
1311 concerns with the OM&A, transitional cost forecasts, or the proposed DVM.

1312

1313 With respect to the Revenue Requirement, IESO Nova Scotia submits that the proposed revenue
1314 requirement of \$14,850,121 is prudent, reasonable, and necessary to enable it to fulfill its statutory
1315 mandate under the More Access to Energy Act. The staffing and compensation forecasts reflect
1316 the realities of a newly established organization building the operational capability required by
1317 legislation. The forecast is based on the best information reasonably available at this stage of
1318 organizational development, while recognizing that forecasting accuracy will continue to improve
1319 as the organization matures. IESO Nova Scotia has also demonstrated that its compensation
1320 approach is grounded in independent market research and that its procurement-related
1321 expenditures are appropriately classified as section 29 costs associated with carrying out its
1322 mandate.

1323

1324 With respect to the DVM, IESO Nova Scotia submits that the proposed mechanism is a reasonable
1325 and necessary evolution of the Board-approved OM&A Deferral and Variance Account
1326 established in M12412. The DVM promotes transparency, administrative simplicity, and
1327 alignment between approved revenue requirements and actual costs incurred. It ensures that market

Closing Submission

participants and ratepayers ultimately pay only IESO Nova Scotia's actual costs, while also recognizing the unique not-for-profit status of the organization and the absence of any shareholder to absorb variances. IESO Nova Scotia has confirmed its commitment to developing detailed accounting policies, controls, and DVM guidelines consistent with Board direction and to supporting any prudence review process required by the Board.

With respect to Section 29 of the MAEA, IESO Nova Scotia submits that the Board's jurisdiction is defined by the express language of the statute. The Act provides the Board with authority to review proposed expenditure and revenue requirements and either approve them or refer them back to IESO Nova Scotia with recommendations for further consideration. Read in its statutory context, including IESO Nova Scotia's not-for-profit status and public interest mandate, section 29 does not confer an express or implied power to unilaterally disallow costs and substitute an alternative revenue requirement. IESO Nova Scotia submits that this interpretation is consistent with the language, structure, and purpose of the MAEA and with analogous treatment of the Ontario IESO under similar statutory provisions.

Accordingly, IESO Nova Scotia respectfully requests that the Board:

1. Approve IESO Nova Scotia's 2026/27 revenue requirement in the amount of \$14,850,121;
2. Approve the proposed Net Revenue Requirement Deferral and Variance Mechanism; and
3. Make a determination on the scope of its jurisdiction under subsection 29(4) of the MAEA, as addressed in this Closing Submission, given the material significance of that question to IESO Nova Scotia's ongoing and future operations.

Closing Submission

1351 In doing so, the Board will provide IESO Nova Scotia with the stable and predictable funding
1352 framework necessary to continue building its capabilities, executing its statutory mandate, and
1353 delivering long-term value to electricity customers and market participants across Nova Scotia.