

2
3 NOVA SCOTIA ENERGY BOARD

4
5
6 IN THE MATTER OF: MORE ACCESS TO ENERGY ACT

7
8 -and-

9
10 IN THE MATTER OF: AN APPLICATION by the NOVA SCOTIA INDEPENDENT
11 ENERGY SYSTEM OPERATOR for approval of its proposed
12 expenditure and revenue requirement for the test year ending
13 March 31, 2027
14

15
16 REPLY SUBMISSIONS OF THE CONSUMER ADVOCATE

17
18 August 7, 2026
19

20 The Consumer Advocate (the “CA”) has reviewed the submissions filed by IESO Nova Scotia and
21 other parties in this matter.

22 The CA generally agrees with and supports the submissions made by the Small Business Advocate
23 (“SBA”), the Industrial Group (“IG”), and Port Hawkesbury Paper (“PHP”) concerning IESO
24 Nova Scotia’s application. It is apparent on review that the Intervenor all have serious concerns
25 regarding IESO Nova Scotia’s application, which will need to be addressed by the Board.

26 The CA does not intend to address the various points raised in the submissions of the Intervenor,
27 or in IESO Nova Scotia’s closing submission, other than to note that the CA maintains its position
28 as set out in our closing submissions, dated July 24, 2026. The CA also wishes to briefly address
29 some of IESO Nova Scotia’s submissions concerning the appropriate interpretation of s. 29 of the
30 *More Access to Energy Act*. In particular:

- 31
- 32 • The CA does not agree that IESO Nova Scotia’s not-for-profit status and public interest
33 means the typical “regulatory company” framework does not apply in its traditional form.
34 If anything, the lack of any shareholder who could absorb imprudent costs would support
35 an interpretation of more Board oversight in the interests of ratepayers, not less.
 - 36 • IESO Nova Scotia indicates that its not-for-profit status “creates a practical issue with
37 respect to the potential for the Board to disallow costs.” Specifically, IESO Nova Scotia
38 suggests that the timing between IESO Nova Scotia’s application and the Board’s decision
39 could result in the organization experiencing a disallowance after the costs have already
40 been incurred. This potential outcome is something that IESO Nova Scotia could and
41 should avoid by filing its applications in a timely manner, to ensure that the Board’s
42 consideration and approval of its revenue requirement occurs before those projected costs
43 are incurred. Section 29(1) of the *Act* states that such an application must be filed “at least

1 90 days before the beginning of each fiscal year.” It remains open to IESO Nova Scotia to
2 file even earlier than that, if it wishes to mitigate the potential risk of certain costs being
3 disapproved.
4

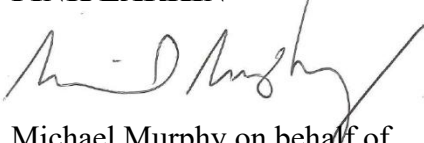
- 5 • To support its interpretation of s. 29(4), IESO Nova Scotia refers to a single decision from
6 the Ontario Energy Board concerning a 2016 application filed by the Ontario IESO for
7 approval of its 2016 revenue requirement, expenditures, and fees, where the Board referred
8 a specific issue back to the Ontario IESO for further consideration. Respectfully, it is not
9 in dispute that s. 29(4) allows the Board to impose a similar measure in reviewing an
10 application filed pursuant to s. 29(1). However, this does not rule out the possibility of the
11 Board also disapproving certain proposals or aspects of an application outright, if
12 reasonable to do so. Indeed, other decisions from the OEB would suggest that the OEB
13 does not view its authority as being so limited. Specifically, in EB-2024-0004, the OEB
14 considered the Ontario IESO’s application for an incremental increase to its approved
15 revenue requirement. The OEB stated that while the Ontario IESO was permitted under s.
16 25(1) to make such an application, the “OEB’s intervention to adjust fees in line with
17 differences in the forecast of expenditures is not simply an automatic exercise.” The OEB
18 then referred to a prior decision concerning an application filed by Ontario Power
19 Generation, which provided the following conclusion:
20

21 However, the Board’s power to consider and set what makes a just and reasonable
22 rate is very broad and allows significant flexibility. The obligation to ensure that
23 rates are always just and reasonable does not mean that the Board must examine
24 and adjust a utility’s rates on a constant basis. Most utility’s rates are set on a
25 forecast basis, for example, and invariably these forecasts turn out to be inaccurate
26 to some extent. Absent extraordinary circumstances, the Board does not intervene
27 to adjust rates simply because actual costs or revenues are different from what was
28 forecast – even though the Board has the power to do so. In other words, there is a
29 measure of “wiggle room” in a just and reasonable rate. (Referenced in *Enbridge*
30 *Gas Inc v. Ontario Energy Board*, 2020 ONSC 3616 (Divisional Court).)

31 While the Board did not directly consider the scope of its authority pursuant to s. 25(4) of
32 the Ontario *Electricity Act*, this reference would suggest that the OEB views its authority
33 over approval of rates for the Ontario IESO as being more in line with its approach to other
34 regulated utilities, and therefore would allow the OEB, in certain circumstances, to either
35 approve such an adjustment, or deny it.

36 The Consumer Advocate thanks the Board for the opportunity to provide these reply submissions.

37 **PINK LARKIN**

38 
39
40

41 Michael Murphy on behalf of
42 Consumer Advocate