M12663

NOVA SCOTIA ENERGY BOARD

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

\- and -

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

TRANSCRIPT

HEARD BEFORE: Mr. Stephen T. McGrath, K.C., Chair
Ms. Jennifer L. Nicholson, CPA, CA, Member

PLACE HEARD: Offices of the Nova Scotia Energy Board
1601 Lower Water Street, 3rd Floor
Halifax, Nova Scotia

DATE HEARD: Thursday, June 25, 2026

APPEARANCES:

APPLICANT: **Nova Scotia Independent Energy System Operator**
Mr. John G. Furey, Counsel
Ms. David Luther, General Counsel
Mr. Mark Peachey, Director, Regulatory Affairs

INTERVENORS: **Consumer Advocate**
Mr. Michael Murphy, Counsel

Small Business Advocate
Ms. Melissa P. MacAdam, Counsel
Ms. Rebekah L. Powell, Counsel

Industrial Group
Ms. Nancy G. Rubin, K.C., Counsel
Ms. Brianne Rudderham, Counsel

Nova Scotia Department of Energy
Mr. Thomas Kayter, Counsel

Nova Scotia Power Inc.
Ms. Jennifer Power, Counsel

Port Hawkesbury Paper LP
Mr. James MacDuff, Counsel

BOARD COUNSEL: Mr. William L. Mahody, K.C.

BOARD STAFF: Ms. Libby McNamara, Director, Risk and Financial Advisory Services
Mr. Robert Norwood, Public Proceeding Assistant
Ms. Kimberly Painting-MacLean, Public Proceeding Assistant
Mr. Jeff Goodine, Information Systems Technician

RECORDED and TRANSCRIBED BY: **INTERNATIONAL REPORTING INC.**
Ottawa, Ontario

I N D E X   O F   P R O C E E D I N G S

I N D E X   O F   P R O C E E D I N G S

PAGE NO.

June 25, 2026

ANGIE BROWN, Solemnly Affirmed:

LIST OF EXHIBITS

EXHIBIT NO.	DESCRIPTION	PAGE NO.
	June 17, 2026	
	(None entered)	
	June 25, 2026	
N-17	Transition Plan and IT, OT & Cybersecurity Roadmap-IESO	364

LIST OF UNDERTAKINGS

NO.		PAGE NO.
	June 17, 2026	
U-1	To provide any work product from any consultant hired to support the development of the benefits package, including compensation ranges and the benefits package	75
U-2	To provide Hugessen’s work product	82
U-3	To explain the difference between the 5.05 and 5.48	175
U-4	To advise which expenses are included in the “Other Expense” category	227
U-5	To provide a copy of the unaudited financial Statement	231
U-6	To provide the confirmed WACC that the $5 million is being carried at	244
U-7	To provide draft accounting policies	253
	June 25, 2026	
U-8	To provide a copy of the objectives that are used to determine the eligibility for bonuses and incentive payments for the CEO	415

LIST OF UNDERTAKINGS

NO.	June 25, 2026	PAGE NO.
U-9	To file in confidence what percent of the CEO compensation cost built into the 2026/2027 revenue requirement is a base and what is at risk as well as confirmation of what the quantum or maximum amount of the bonus is depending on how the bonus structure is created	425
U-10	To explore and produce documentation relating to any work done to assess CEO compensation	428
U-11	To file the Interregional Transfer Capability Study Canadian Analysis from April 2025	489

Halifax, Nova Scotia

--- Upon commencing on Thursday, June 25, 2026 at 9:00 a.m.

THE CHAIR: Good morning.

This is the continuation of a hearing of the Nova Scotia Energy Board for an Application by the Nova Scotia Independent Energy System Operator to approve its proposed expenditure and revenue requirements for the fiscal year 2026/2027.

Before we resume, are there any preliminary matters, Mr. Furey?

MR. FUREY: I believe Mr. Murphy may have a preliminary matter.

THE CHAIR: Mr. Murphy?

MR. MURPHY: Yes, good morning, Mr. Chair.

On review of the transcript and the list of undertakings, it appears that U-1 was framed more narrowly than the request at the hearing. It refers to providing any work product from any consultant hired to support the development of the benefits package. And the request was broader and would have included compensation ranges and the benefits package.

I've discussed that with Mr. Furey who agrees that that was the nature of the request. So I just wanted to put that clarification on the record.

THE CHAIR: Any issues, Mr. Furey?

MR. FUREY: No, I would confirm that, Mr. Chair.

THE CHAIR: Okay. Thank you. Thank you very much, Mr. Murphy.

Anything else?

Okay. Ms. Rudderham?

(SHORT PAUSE)

MS. RUDDERHAM: I should have introduced my colleague here is Kaitlyn Clarke. Ms. Rubin is currently in B.C. watching a FIFA game. Well, yesterday actually.

CHRIS MILLIGAN, Previously Affirmed:

JOHNNY JOHNSTON, Previously Affirmed:

MIKE McFETERS, Previously Affirmed:

CROSS-EXAMINATION BY MS. RUDDERHAM, (Cont'd)

Q. Good morning, panel. I'd like to start my questioning this morning with a few points from last week's testimony that weren't entirely clear when I reviewed the transcript. So I'm going to start with the deferral account topic.

Last week we discussed in detail about the prudency review of the deferral account, and when I reviewed the transcript it wasn't entirely clear. So I wanted to clarify what IESO NS's final position was, or final evidence was on that issue.

And we had talked about the Board decision from matter M12412, which is the 2025/2026 Revenue Requirement. If you want that decision brought up -- I don't feel we need to, but I wanted to clarify, so it's ISEO NS's understanding that in that decision the prudency review for the actual expenditure for 2025/2026 would be at the cost category level, not the total; correct?

A. (Johnston) Perhaps it would be helpful to pull up what you're referring to.

Q. Oh, okay.

MS. RUDDERHAM: Mr. Norwood, I had sent you the decision, and I'm looking specifically at paragraphs 48 and 49.

MR. JOHNSTON: And what N number was that as part of the proceeding?

BY MS. RUDDERHAM:

Q. It's not an exhibit in this proceeding; it's the decision from the prior 2025/2026 Revenue Requirement, which you had ---

A. (Johnston) Are we allowed to refer to exhibits that aren't in the proceeding?

Q. Pardon me?

A. (Johnston) Is that -- I don't ---

Q. No, no. You had referred to it during your testimony last week.

A. (Johnston) Okay.

Q. Paragraph 49. I had sent it to Mr. Norwood just in case we needed to refer to it.

A. (Johnston) Okay.

Q. So this is the decision, and I can give you a second to orient yourself. We were looking at paragraphs 48 and 49.

MS. RUDDERHAM: Mr. Norwood, if you don't mind. Thank you so much.

(SHORT PAUSE)

BY MS. RUDDERHAM:

Q. I won't read both paragraphs into the record, but in paragraph 49, the last two sentences there say:

> Therefore, IESO Nova Scotia must, in its applications, provide an explanation for cost category variances exceeding [plus or minus] 10 [percent]. For cost overruns, the burden will be on the IESO to demonstrate that the expenditures were prudent.

You see that there?

A. (Johnston) M'hm.

Q. So I just want to confirm IESO's understanding is that for the actual expenditure for 2025/2026, the prudency review is at the cost category level; correct?

(SHORT PAUSE)

MR. JOHNSTON: Sorry for the delay there. Much discussion of this. I think we would say probably it's not 100 percent clear from what we read here, but 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 that those expenditures were prudent.

BY MS. RUDDERHAM:

Q. Okay. Thanks for that clarification. Now, last week, Mr. Johnston, your evidence was for the deferral account that the IESO NS is currently applying for, IESO's understanding of what the prudency review would be, or the reporting would be, would be as outlined in Table 5 of the Application, which would be a tracking of the total budget and then the total actual. And I just wanted to clarify that IESO's understanding is that would be different than what would be done for the 2025/2026 revenue requirement and the deferral account from that proceeding that was approved?

A. (Johnston) So I think where we were getting to last time, and clearly there was a good discussion back and forth on this but was -- obviously this decision came out before we filed our revenue Application. I think there was a confusion between reporting on variances and the deferral account. And 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.

[9:10:20] **Q.** So just to be clear, your -- IESO's understanding is that the same prudency review, whatever that might look like, would be -- it would be the same for the 2025/2026 revenue requirement or deferral account, and then for what is currently being applied for?

A. (Johnston) I can't give comment on the Board's decision on what prudency review they'd want to put in. Clearly our Application stands as the deferral account we put forwards.

Q. What I'm trying to understand, and what was not abundantly clear last week, is ISEO currently trying to change that approach in the current Application or will it continue to comply with what the Board's order was from the 2025/2026 revenue requirement decision?

A. (Johnston) I think I'm struggling to understand the question or the point that you're making. Clearly the IESO will follow the direction of the Board from -- for our 2025/'26 Application, and of course we will follow whatever decision we get in the '26/'27 Application.

Q. Okay. So your understanding is that it doesn't flow through to the current requirements for the next ---

A. (Johnston) They're two different applications with different things that have been proposed. So ---

Q. So the deferral ---

A. (Johnston) So it's different.

Q. Sorry. The deferral account that you're currently applying for would change the prudency review, then? If you totalled the total, rather than cost category ---

A. (Johnston) No, we're not ---

Q. --- variance?

A. (Johnston) No, that's not what we're suggesting.

Q. Okay. So it's going to flow through? You're going to be reporting on the cost category variances?

A. (Johnston) We will be happy to report on the cost category variances if that's what the Board would require.

Q. Okay. I'm going to follow up on another topic we discussed last week, was the transition to the IESO. So last week we covered some ground on that, and I just wanted to orient us as to where the evidence was before I move on to some different topic.

So currently, IESO NS is in the planning phase of Phase II, not the operational phase; correct?

A. (Johnston) That is correct.

Q. And as I believe, Mr. Johnston,

you said last week, IESO NS continues to believe that the initiation phase of Phase II will start as of April 2027, based on the best information you currently have today, is that right? And when I say, "Initiation" I mean "Operation".

A. (Johnston) So I think I tried to be clear that our Application had the aspirational timeline of April 2027; that we are ongoing in the analysis of what the options are and there is a range of timelines, of which some of the options would sit within that April 2027 timeline. That has to go to the IESO Board in its first instance, and then will be shared more broadly with stakeholders, and certainly we'll provide an update when we have that. So that's the best planning date at this point in time, but it certainly could change.

Q. Okay. And that April 2027, I understand you're saying it's aspirational, it's based on the best information you have today. Am I correct that that means that would be the beginning of the transfer of the real-time dispatch operations, that timeline?

A. (Johnston) So the go light for Phase II, because it is real-time operations, will essentially have to be pretty much an overnight sort of one day we're not doing it, the next day we are, so yes.

Q. Okay. Now, I want to understand how this Phase II is supposed to work under the *More Access to Energy Act,* and how those legal steps are being factored into this April 2027 date per planning.

Now, I'm correct that before Phase II can occur there are a number of sections of the *More Access to Energy Act* that must be proclaimed in order to enable IESO NS to take over control; correct?

A. (Johnston) That would be my understanding, yes.

Q. And that decision to proclaim those entirely rest with the government and it's not something that IESO can compel or schedule. Fair?

A. (Johnston) Correct.

Q. And even once those sections are proclaimed, it looks like IESO NS would need to wait until there's an additional government decision for the Minister to grant a transition order; is that correct?

MR. FUREY: Mr. Chair, I think that's a legal question. Whether that is required under the Act, I think, strictly speaking, is a legal conclusion.

THE CHAIR: Ms. Rudderham.

MS. RUDDERHAM: Oh, I'm not asking for a legal -- I'm asking for the planning of how we're getting to this April 2027 date and what IESO's currently planning to happen in that timeline between now and April 2027.

So my understanding, as confirmed by Mr. Johnston is, first, they need to be proclaimed. And then I assume that the IESO understands they also need to wait for an Order before they can actually take operations. So it would need to be worked into their timing.

THE CHAIR: So I guess the difficulty with the question the way it was framed, is you are -- seem to be asking them to confirm that there was a requirement in the legislation for something in particular, which I think is a legal question. If you're asking about what they have in line for their planning that might be a different matter.

But I think Mr. Furey is right. The way it was framed, it seemed to be looking for a legal answer.

MS. RUDDERHAM: Okay. And I'll rephrase.

BY MS. RUDDERHAM:

Q. So in planning for this April 2027 timeline, is IESO NS currently planning on waiting until an Order, a transition order, is released before that transition can actually happen to the operation phase?

A. (Johnston) So I think it's really important for me to be clear because you're -- I feel like there's an inference that's coming in your questions that there's a firm plan that is in place to get us to April 2027.

That has not been my evidence today. My evidence today has been we're working on a planning approach. We've looked at a range of operations. We don't have a firm approved plan yet and, therefore, I don't have a firm date and, therefore, I don't have what are all the things that would need to happen before we would get to that date. We're currently in planning.

Q. You'd agree with me, though, that part of the Application has costs that would lead up to this transition happening on or around April 2027, because that's the best information available; correct?

A. (Johnston) I would agree that there are costs in the Application that would be required, to the extent under whatever timeline of the plan was implemented.

Q. And the best information you have today is that that transition of the operations is going to occur in April 2027?

A. (Johnston) The April '27 date is the aspirational date that we have until we've got an approved plan, yes.

Q. So you're asking the Board to rely on that as the date and as the timeline for approving the revenue requirement and the expenses currently scheduled for the 2026/2027 fiscal year; correct?

A. (Johnston) So I think we would be asking the Board to rely on the requirements of the *More Access to Energy Act* that Phase II needs to happen, that there are critical activities that need to take place to enable that to happen, including, you know, the largest majority of the funds for Phase II within the plan is really looking at what the financial and market arrangements would need to look like in Phase II, that is a no-regrets piece of work that needs to be done, whether the go light was earlier than April '27 or later than April '27.

[9:20:03] **Q.** Okay. And I guess I'm just trying to understand what assumptions have been made within that April 2027 timeline. So what's the assumption for when this order is granted? What's the assumption for when these provisions are proclaimed?

I just want to understand how this April 2027 deadline -- or not deadline, sorry; timeline was established. Is it simply just two years from the time the Board was initiated or is there some analysis that went into why this April 2027 date was established?

A. (Johnston) I think I gave some of the history and context last time, but if not, I apologize.

It is pretty much as simple as you've laid out, Ms. Rudderham. It was two years from when the Board was put in place, a date as an aspirational goal to see if we could get done by then. And from, certainly, when I joined the IESO it was very clear that that's great to have targets, but we then need to do the work. This is too important, in terms of making sure that we keep the lights on for the province that we do a proper plan.

Q. Okay. And to the best of the information the IESO currently has, that April 2027 date is still attainable; is that correct?

A. (Johnston) Depending on what implementation option is chosen and agreed by the Board, we believe that there certainly is a path that would be achievable by April 2027.

Q. Okay. Now, my friend, Mr. Murphy, on behalf of the Consumer Advocate, had asked a number of questions last week about just the proclamation of those provisions that need to be put into place before the IESO can take control. And I believe your evidence was that the IESO NS has not had any discussions with the government about proclaiming those provisions.

Am I correct on your evidence on that?

A. (Johnston) Yeah, that would be correct.

Q. Now, in the Act, there's a reference to an "Energy modernization transition team"; are you aware of that?

A. (Johnston) Perhaps we could bring it up.

Q. All right.

MS. RUDDERHAM: Mr. Norwood, I had sent you the *More Access to Energy Act*, and it's section 86.

BY MS. RUDDERHAM:

Q. Mr. Johnston, I can give you a second to familiarize yourself with this, but as you can see, 86 establishes an "Energy modernization transition team," and then at 87 outlines what the objects of the team are.

A. (Johnston) And can I just confirm, has that been proclaimed?

Q. I believe so but either way it doesn't -- I'm wondering if you have any -- the IESO has any knowledge as to the status of this energy modernization transition team that involves -- that is chaired by the Deputy Minister of Energy.

A. (Johnston) I believe that still has to be established.

Q. Okay. And does the IESO NS have any knowledge as to when that would occur, as it appears to relate to an orderly transition to the IESO?

A. (Johnston) That will need to be included as part of the plan.

Q. Sorry; what plan? The plan that you're proposing to your own Board or...?

A. (Johnston) Well, the Phase II Implementation Plan, yeah.

Q. Okay. And when we're discussing the Phase II Implementation Plan -- and maybe I'll just clarify the evidence on this. First, IBM is completing their recommendations and you're putting forward a recommendation to the IESO Board; correct?

A. (Johnston) That is correct.

Q. And then from that, whatever decision comes out of that the IESO is going to plan an Implementation Plan for the transition; correct?

A. (Johnston) That's correct.

Q. And that's going to also have input from NSPI; correct?

A. (Johnston) That would be correct.

Q. Would there also be input from the government into that plan, the Implementation Plan?

A. (Johnston) They would certainly be informed.

Q. So they wouldn't involved in developing it, is that what you're saying? They would just be informed after the fact?

A. (Johnston) So I think the obligation on developing the transition very clearly sort of sits with the IESO to work its way through.

Q. Okay. And so I guess there will have to be assumptions made as to when those sections are proclaimed, when the Order is anticipated from the Minister; correct?

A. (Johnston) Yes, there would need to be.

Q. And would you -- would the IESO -- does the IESO have plans to have those discussions with a representative of the government to more accurately inform their Implementation Plan?

A. (Johnston) For sure once we've got a plan in place that we know the timelines, of course we'd need to have coordination conversations with the government so that we'll understand what needs to happen by when to enable a successful and smooth transition.

Q. Okay. And I know that the IESO currently has quarterly reporting to the Board, and stakeholders have access to that; correct?

A. (Johnston) That is correct.

Q. Does the IESONS intend to include updates on the discussions with government and with NSPI and the status of the Implementation Plan as part of that quarterly reporting?

A. (Johnston) So, you know, the intention, as ordered by the Board, will be to provide timely updates on the status of both Phase I, which we've talked about is now complete, and then Phase II of the transition. I wouldn't be anticipating us putting individual conversations in as part of that reporting but more one of status and how we're progressing along.

Q. Also under the *More Access to Energy Act* -- and I don't think we need to pull it up. The sections I'm just going to put to you are not yet proclaimed but they discuss a transmission tariff. And these sections are 75 through to 85, which outline the IESO's recovery of transmission-related costs from ratepayers through this framework, okay. Are you aware of that?

MR. FUREY: Mr. Chair, I haven't objected up until now. I concede that there being some costs in the current Application, with respect to the matters that are being cross-examined on, there is a semblance of relevance. But none of the questions have related to the costs. They are future looking, now extending into sections of the Act that have yet to be proclaimed. I challenge the relevance of those questions to either determination of the revenue requirement or appropriate management of the deferral account that has been requested.

THE CHAIR: Ms. Rudderham.

MS. RUDDERHAM: Currently I'm not asking about the deferral account. I'm asking about the implications of this transition tariff that's outlined in the Act as the mode for recovering costs from ratepayers, where there's been quite a bit of discussion about this Section 29 cost recovery mechanism that I believe the evidence is it’s imminent, it’s coming. My questioning was are these two things related. Are we waiting until the transition tariff -- these provisions are proclaimed in order for IESO to be able to recover under a tariff. I’m just -- and I’m not clear how the mechanism is meant to work, and I want to understand how IESO has taken into consideration the provisions under the Act for the tariff to recover its revenue requirement. I’m just -- I’m not clear on how that works, and perhaps the panel doesn’t know, but I find it difficult, for planning reasons, as to how these costs recovery mechanisms are meant to work and what the planning is going into that. And I don’t know if I can reword a question as to ---

[9:30:20] **THE CHAIR:** Mr. Furey?

MR. FUREY: If the question is are any of those costs included in the current Application I think that would be a relevant question. How those mechanisms might work in the future I think is well outside either aspect of what’s before the Board today.

THE CHAIR: I can tell you that was a question that I had planned on asking as well, Mr. Furey. There's a particular IR response in Exhibit N-6 I was going to refer to when there's a focus of the discussion on sort of the main costs that the IESO expects and how they fall into the buckets in 29 and 30, and there seems to be an absence of a discussion on section 79, which is the transmission tariff. So I concede that it doesn't really relate to the revenue requirement either, but these provisions are new and the Board is being asked to implement various costs. I think just a general sense of how costs might go into the various buckets would be helpful at this stage.

MR. FUREY: Certainly, Mr. Chair.

THE CHAIR: Thank you.

BY MS. RUDDERHAM:

Q. I can ---

A. (Johnston) I think you might need to repeat the question, sorry.

Q. So first I was just establishing that IESO NS is aware of the provisions and the requirement for a transmission tariff under the *More Access to Energy Act*.

A. (Johnston) Yeah, we are.

Q. So are you able to clarify for me how the transmission tariff would work alongside the -- or in place of the section 29 cost recovery mechanism or revenue requirement? I just want to understand what cost would be put under that transmission tariff versus a section 30 cost recovery mechanism and it appears a section 29 cost recovery mechanism.

(SHORT PAUSE)

MR. JOHNSTON: So there's lots, first, to figure out through this transition. Clearly the Application today is through section 29, and then we're looking to recover those costs through the mechanism that we said that we'll come forwards back and forth to the Board for.

In terms of exactly what costs get covered under the transmission tariff in future I think is a work in progress or will be a future workstream for us to work through as part of Phase II.

The transmission tariff today continues to sit with Nova Scotia Power and that would look to move across to the IESO in Phase II and there'll be opportunities for them to look at what makes the most sense for all parties at that point.

BY MS. RUDDERHAM:

Q. So there isn't -- is that going to be worked into this Implementation Plan that will be coming shortly that you've indicated how the transmission tariff is intended to work and what costs it's intended to recover?

A. (Johnston) So I think the Phase II Implementation Plan will include work streams looking in this phase absolutely.

Q. So in the current revenue

requirement there are -- and we went over this last week -- $1.77 million forecast for -- in relation to the Phase II transition costs; correct?

A. (Johnston) That would be correct.

Q. And this 1.77 doesn't include any implementation costs. Am I correct on that?

A. (Johnston) Yes, that's what we discussed last week.

Q. Okay. Does the 1.77 million, or any other cost category under the revenue requirement, include any budget for regulatory processes that are required for Phase II?

(SHORT PAUSE)

MR. JOHNSTON: So I think when we pulled the budget together, going all the way back to this being an organization of really one at the time when we pulled that together, I don't think there was a lot of understanding necessarily of what regulatory or legal costs might be for Phase II that were specifically put into the budget so no.

BY MS. RUDDERHAM:

Q. So is that an expense, then, that the ISEO NS is anticipating to put into the deferral account over the current fiscal year?

A. So we'll need to consider those costs as they arise and whether they would be part of project implementation costs that would be separate to the implementation budget that we need to bring forwards. Otherwise, if there was incremental legal or regulatory costs incurred through the year, like on any other topic, they would be captured under our legal and regulatory line items in the budget.

And then depending on where the overall spend for the year came through, of course there may be a need for them to go into the deferral account. But they're going to sort sit as part of the overall cost to the organization.

Q. So I guess currently under the

budget there's no forecasted amount for the preparation and filing of a licence application for the Board under section 94 of the Act; correct?

A. (Johnston) Sorry; I'm just going to check what you're referring to under 94 of the Act. Sorry; can you -- 94 seems to be prohibited activities for that licence.

[9:39:58] **Q.** I might have misquoted. It's the sections regarding the licence that the Energy Board needs to grant before the transition can be completed. Let my just pull up the Act on my page here.

Oh, yeah. So this -- 94 is, "No person shall, unless licenced to do so, operate a transmission system." And then 95 is requiring a licence in order to do the activity. And then 95 grants the Energy Board the -- I mean, this is my interpretation of this -- is how the licence is granted.

So what I was asking is whether there's any costs currently built into the budget related to the preparation and filing and perhaps hearing of a licence application with the Energy Board.

A. (Johnston) So I can certainly confirm that no detailed costs were put in for this at that point in time. It's not clear from my reading once a licence needs to be issued, what the application process might be and how easy or onerous that might be.

Q. Fair. I'm just looking for the costs, whether they're built in. And I believe what you said is that if the costs exceed the current budget, it'll flow through to the deferral account as currently applied for; correct?

A. (Johnston) So I said there was two pathways for the costs. I think one was either part of the implementation project, and that would be a separate accounting. Or if not through there, then it would land in the regulatory and legal line item of our costs. And then depending on what other legal and regulatory items come through the year, there is certainly the possibility it could end up in the deferral account.

Q. And sorry ---

__THE CHAIR:__ Sorry; can I just -- I'm a little unclear in terms of the distinction there with the implementation budget. That's not -- it's not ultimately going to be part of your revenue requirement, potentially subject to going into the deferral account, or are there funds being paid from somewhere else to cover that?

__MR. JOHNSTON:__ So the expectation, I think, from the ISEO as we work our way through this is that as we get a firm understanding of what Phase II needs to look like in terms of costs, that we would be bringing an application before the Board for those future costs, and there would be a budget associated with that.

And no different than capital projects that the Board would be used to from other entities, once that project becomes used and useful we would be bringing forwards in future revenue applications for depreciation and interest expense as part of our future revenue requirement for when that project is used and useful.

THE CHAIR: So you're saying you're intending to capitalize your implementation costs?

MR. JOHNSTON: We believe that there'll be capital elements to the implementation, yes.

THE CHAIR: Okay.

BY MS. RUDDERHAM:

Q. So when is ISEO NS anticipating to bring this implementation budget application before the Board?

A. So I think I would have to go back and look at the record. But I think last week we said that the intent is for me to bring this before the ISEO Board by the end of July. And subject to successful approval there, we would look to sort of bring that in front of the Board within the next quarter from that, so in the next three months.

Of course, if there's more work to be done and it's not approved, then we would need to sort of factor that in before we could bring it forwards. So within three months of an approval.

Q. So then this ---

THE CHAIR: Sorry; just on that, in terms of the approval of capital costs by this Board, I understand there's a provision in the *Public Utilities Act* for the approval of capital costs by a public utility, which you say you're not, I guess subject to future determination. I'm not aware that there's a provision in the *More Access to Energy Act* that requires or obliges the Board to approve capital costs for the ISEO except to the extent that they're being flowed through in a section 29 application? Am I mistaken?

MR. JOHNSTON: This is feeling like a legal question that's beyond my jurisdiction.

THE CHAIR: Perhaps it is.

MR. FUREY: And I think I can safely say, Mr. Chair, that the position of the IESO is that you are correct, that there is no provision in the *More Access* *to Energy Act* that gives the Board jurisdiction to approve capital, but of course, as part of the revenue requirement, if that flows through as either depreciation or interest expense, that is within the Board's powers under section 29.

THE CHAIR: So it would be on one of these applications ---

MR. FUREY: Correct.

THE CHAIR: --- after the fact?

MR. FUREY: Correct.

THE CHAIR: Okay. Thank you.

BY MS. RUDDERHAM:

Q. Where the deferral account, as currently proposed, is intended to expand to cover capital costs, is it IESO NS's intention to include those capitalized implementation costs as part of the deferral account?

A. (Johnston) So we did talk about this last week, and the intent would be that it would be used for variances in depreciation and interest expense, versus what had been filed in front of the Board.

Q. So the answer is no, since it's not before the Board?

A. (Johnston) And we wouldn't be putting directly capital costs, and it would be the depreciation and interest expense associated with a project after it's gone live.

Q. So we're looking at over the next fiscal year, then?

A. (Johnston) That would be correct.

Q. So the IESO NS will be seeking approval of those implementation -- the implementation budget before it puts any amounts in the deferral account; correct?

A. (Johnston) That would be correct.

Q. Okay. Back to the current budget, I believe -- I just want to be clear, there's currently no forecasted budget for the cost of a transmission tariff application or drafting in the current revenue requirement; correct?

A. (Johnston) That is correct.

Q. In the current budget, or revenue requirement, is there any forecasted budget for discussions or consultation with the government in relation to the transfer or proclamation of the provisions of the Act?

A. (Johnston) No.

Q. Okay. I'm going to switch topics to procurement. So I wanted to follow up on a few questions that were asked by my friend, Ms. MacAdam, the Small Business Advocate, in relation to the procurement guidelines.

MS. RUDDERHAM: Mr. Norwood, if you don't mind bringing up Exhibit N-3? And that is the Consumer Advocate's IR-1. And I'm looking specifically at subsection (b).

BY MS. RUDDERHAM:

Q. I can give you a moment to read over that, but essentially the Consumer Advocate was asking for particulars on the competitive solicitation process, and if possible, to provide a copy of the procurement policy. And in response, the ISEO provided, at Attachment 1, a copy of the procurement process.

MS. RUDDERHAM: Do you mind just scrolling down to Attachment 1 there? It should be right after the questions. Just Attachment 1. I think it's the next page. Sorry; one more. Right here.

BY MS. RUDDERHAM:

[9:50:00] **Q.** So just to confirm, these are the procurement guidelines that the IESO NS currently uses in relation to its procurement activities; correct?

A. (Johnston) That is correct.

Q. And I believe the evidence last week, but correct me if I'm wrong, is that these were created by Barrington Consulting Group and that IESO NS has not conducted a formal review or approval of the guidelines internally, is that right?

A. (Johnston) That’s correct.

Q. And are there any other procurement guidelines that are currently being used by IESO NS, aside from these interim guidelines provided by Barrington Consulting Group?

A. (Johnston) I’m not aware of any, no.

Q. Okay. Now, Mr. Johnston, you had indicated last week that the preparation of comprehensive procurement policy was on the to-do list and estimated that a policy will be completed before March 2027. Is IESO NS committed to providing that -- or to completing the comprehensive procurement policy by that deadline or by that timeline that you had indicated?

A. (Johnston) That’s certainly our intent, yes.

Q. Okay.

MS. RUDDERHAM: Mr. Norwood, if you

don’t mind scrolling down to, I believe it’s PDF page 7?

BY MS. RUDDERHAM:

Q. So I’m looking under the section labelled “Scope” and the last sentence there says, “These guidelines do not apply to NSIESO’s procurement of energy capacity for the bulk power system.” Do you see that there?

A. (Johnston) I do.

Q. Does this mean that this procurement guideline does not apply for fast-acting generation or capacity and energy storage resources that are currently contemplated in the current fiscal year?

A. (Milligan) Ms. Rudderham, I can address that, and the answer is yes, these do not apply to those referenced procurements.

Q. So what process or policy is the IESO using in relation to those procurement activities?

A. (Milligan) So Ms. Rudderham, the nature of that procurement being substantially different than those contemplated here necessitates a different process and the development of a procurement process for that has been conducted by the IESO using our internal staff and external resources. The draft of that process was shared publicly to ensure we could receive feedback from participants. It was invited from both the regulatory stakeholders and other participants in the process to help design exactly the procurement process you're asking about.

Q. Are you referring to the RFP?

A. (Milligan) Yes, I am.

Q. Is there an internal policy or procedure for the IESO on how it will operate its procurement in regards to the fast-acting generation or energy source resources, or is it simply just the RFP?

A. (Milligan) The request for proposal document lays out how IESO Nova Scotia will conduct the procurement for fast-acting generation resources.

Q. So there's no internal policy or procedure, then?

A. (Milligan) There are no other documents that govern that procurement.

Q. And when -- oh.

__THE CHAIR:__ Sorry; just in terms of -- I appreciate what you're saying about that procurement. Is there an internal policy that IESO Nova Scotia has that says you have to go for an RFP for those sorts of procurements?

__MR. MILLIGAN:__ Mr. Chair, so the position of IESO Nova Scotia would be that it's aligned with the *More Access to Energy Act* that competitive procurements would be undertaken. And there are sections in the Act that would lay that out, but there's no separate policy, if that's what you're requesting. It's aligned completely to the *More Access to Energy Act*.

__THE CHAIR:__ And are you intending on developing an internal policy that would ensure that your internal processes are fully aligned with *More Access to Energy Act*?

MR. MILLIGAN: So certainly the organization does and will operate in compliance with the *More Access to Energy Act*, and in its developmental phase, it could be beneficial to develop such a policy. It doesn't exist today, as I mentioned. Today we refer to the provisions of the Act in how we undertake those activities.

THE CHAIR: So you say could be beneficial, but you're not prepared to commit now to developing one of those?

MR. MILLIGAN: So again, as I -- Mr. Chair, thanks for the question. As I mentioned, certainly as the organization develops, there are additional policies to put in place, and we agree it would be one that we would put in place, is this. We agree that is appropriate.

THE CHAIR: Thanks, Mr. Milligan.

Sorry, Ms. Rudderham.

BY MS. RUDDERHAM:

Q. So the comprehensive procurement policy that we were discussing, that's only in relation to internal procurements? It's not in relation to -- what's going to be developed, it's not in relation, or won't apply, to the fast-acting generation and capacity and storage? That will be something separate?

A. (Milligan) Ms. Rudderham, I think it's appropriate to have separate policies for those two very different categories of procurement activities.

Q. Yes, and I was just clarifying that there will be two separate policies, then?

A. (Milligan) Yes.

Q. Okay. In responding to that same IR from the Consumer Advocate, the IESO NS provided a link to an RFP for the Phase II Transition Plan IT/OT Cybersecurity Road Map. I don't believe we need to pull that up, but the links didn't actually work for me.

MS. RUDDERHAM: So Mr. Norwood, if you don't mind pulling up that RFP document I sent to you yesterday?

MR. NORWOOD: Which document?

MS. RUDDERHAM: It was the -- it should be labelled, "Phase II Transition Plan IT/OT Cybersecurity Road Map." There it is.

BY MS. RUDDERHAM:

Q. Can you just confirm that this is the document that was linked for the response to the IR, to IR(b) -- 1(b)?

A. (Johnston) Yes.

MS. RUDDERHAM: Mr. Norwood, do you mind jumping forward to PDF page 16 of 22?

BY MS. RUDDERHAM:

[10:00:00] **Q.** So here's the section on the evaluation process and controls. And if you look at the last sentence in the first paragraph there, it says, "This RFP and the procurement process are governed by the Nova

Scotia Procurement Act." Can you clarify for me, is the IESO NS adopting the process from the *Procurement Act* as part of all of their procurement processes going forward?

A. (Johnston) That's not in our policy today, no.

Q. Sorry; what policy are you referring to? You're referring to the one -- the interim policy that we were just going over?

A. (Johnston) That is our current policy, yes.

Q. Okay. So in this particular RFP, the IESO adopted the procedure from the *Procurement Act*, but is not intending on adopting it moving forward?

A. (Johnston) I feel like you're trying to put words into my mouth. The -- I'm saying that it's not within the current policy, and clearly we have put it into this RFP.

Q. So I kind of want to understand how the procurement process is going to be working going forward. Is IESO NS adopting the procurement -- the process from the *Procurement Act*?

A. (Johnston) So I think we've committed to review our procurement policy and update it by the end of the year, and it would be too early for me to commit to what's going to be in that review. That's the whole point of doing the review.

Q. And the draft RFP for the fast-acting generation capacity does not adopt -- or the version that I had seen, does not adopt the *Procurement Act*; correct?

A. (Milligan) That's correct.

Q. Okay. Does it have any intention on adopting the -- does the IESO have any intention on adopting the *Procurement Act* process as part of its procurement activity?

A. (Milligan) I think, Ms. Rudderham, that Mr. Johnston just indicated that that would be reviewed as part of the ongoing review of procurement policy. So that seems like the same question.

Q. Well, I thought there was two separate policies.

A. (Milligan) So you're asking specifically on energy resource procurements?

Q. Yes.

A. (Milligan) Okay. And I think the conversation we had a few moments ago would have been that putting a policy in place for that would be something that the IESO would undertake.

Q. And I'm asking for the RFP that is currently or anticipated to be underway imminently that's been drafted. Can you just confirm for me, has the IESO adopted the *Procurement Act* as part of that process?

A. (Milligan) It has not.

Q. Does it intend to?

A. (Milligan) Not at this time.

Q. And I know you've alluded to the fast-acting generation RFP being currently in draft form;

the IESO received comments from various interested parties. And I'd looked online to see if there was, like, a synthesized summary of those comments, and I couldn't locate it. Has the IESO NS released the synthesized summary of those comments?

A. (Milligan) No.

Q. Does it intend to?

A. (Milligan) Yes.

Q. Could you tell me timeline for that?

A. (Milligan) I don't have a firm date for you on that, Ms. Rudderham, but it's certainly something that's in progress.

Q. Okay. In terms of how the IESO NS is treating the procurement costs as they appear in the Application, I wanted to ask some questions about that as well.

MS. RUDDERHAM: Mr. Norwood, if you don't mind pulling up Exhibit N-1(i)? And it's page 20 or

PDF page 21.

MR. FUREY: Mr. Chair, I apologize. Before we move on, I wondered -- and I don't know the practice here, I wondered if the document that was referred to would be marked for identification in some way?

I think it was confirmed as being the document in the link, but I don't think the document is on the record at this point.

THE CHAIR: My understanding it is through the link, although the link may be broken, I guess. So it might make some sense to have it marked, I guess, in this particular case.

MS. RUDDERHAM: That's fair. It is the linked document, but I couldn't get the link to work. I don't know if that was a problem on my part, but I'm happy to mark that if that makes more sense, Mr. Chair.

THE CHAIR: Yeah. So why don't we mark it in any event?

So that was the IT, OT Cybersecurity Roadmap, which will marked as Exhibit N-17.

--- EXHIBIT NO. N-17:

Transition Plan and IT, OT & Cybersecurity Roadmap-IESO

THE CHAIR: Thank you, Mr. Furey.

MS. RUDDERHAM: Mr. Norwood, if you don't mind scrolling down to the bottom of that page? Oh, yeah, there.

BY MS. RUDDERHAM:

Q. So section (e) here is entitled "Procurement," and I'll just walk through some of this because it wasn't abundantly clear to me.

The Application confirms that IESO NS's procurement budget is classified with two categories, capital and operating; correct?

A. (McFeters) Yes, that's correct.

Q. And in the current Application there are no capital costs included for approval in the revenue requirement; correct?

A. (McFeters) That's correct.

MS. RUDDERHAM: Now, Mr. Norwood, if you don't mind scrolling down to the next page, the second paragraph there.

BY MS. RUDDERHAM:

Q. It's a longer paragraph and I won't read it into the record. I can give you a moment to familiarize yourself with it.

But I think it's fair to say that it addresses the operating category of procurement costs that are included in the revenue requirement; correct?

A. (McFeters) Yes, that's what the paragraph is describing.

Q. And the past categories for the operating expenses are the ongoing capacity contract project for additional capacity along with the cost for managing multiple RFPs for additional capacity. Is that fair?

A. (McFeters) Yes, that's correct.

MS. RUDDERHAM: Mr. Norwood, if you don't mind scrolling down to Table 9, which just appears at the bottom of that page.

Right there.

BY MS. RUDDERHAM:

Q. So the total budget in the Application is $890,000.

A. (McFeters) Yes.

Q. And the first category has to do with the capacity contract. And just confirm for me that's the NB Power Agreement, is that right, the management costs for that?

A. (McFeters) Yes, that is the -- for that project.

Q. Can you explain to me why that's not capitalized?

A. (McFeters) So those are our estimate -- at the time the budget was drafted, our estimate of the operating costs that would be needed to see that contract through to completion.

Our assessment -- and again, remember when this budget was drafted, it was very early in the process. But the assessment at the time, and continues to be, that those costs wouldn't meet the accounting criteria for capitalization.

Q. Has that changed?

A. (McFeters) No, that's what I just said.

Q. Okay.

A. (McFeters) It continues to be. That's the case.

Q. You had said that this was the estimate when the budget was created. Are you saying that it's changed?

A. (McFeters) No. I'm just pointing out that the budget was created last fall, which is a while ago, so it is an estimate.

Q. But you don't have information today to say that it has changed, or it has increased. I guess I'm just trying to understand the significance of having it being created in the fall.

A. (McFeters) No, I don't. No.

Q. Okay. The Application also indicates that these costs -- I assume all $890,000 or -- sorry, the two procurement costs are expected to be passed on to the successful proponent and reimbursed to the IESO NS. Is that correct?

(SHORT PAUSE)

[10:10:40] **Q.** No, it's the $820,000 estimated here.

A. (Milligan) Thanks, Ms. Rudderham.

Yes, we were just looking to do that math as well. So it's not inclusive of that New Brunswick portion.

Q. And that's only to be reimbursed if the RFP and subsequent procurement is successful and results in a contract; correct?

A. (Milligan) Correct.

Q. But if there's no successful proponent, the ratepayers are expected to pick up that cost. Is that correct?

A. (Milligan) It would be a cost included, not a revenue requirement.

Q. To be ultimately recovered from ratepayers; correct?

A. (Milligan) Correct.

Q. And if that amount was to be reimbursed, do I understand correctly that that would flow through the deferral account whenever that was successful and reimbursed?

A. (Milligan) So that's correct, Ms. Rudderham. It would create a negative variance against this cost category which would then flow into the deferral account, as was discussed earlier.

Q. And I know that the process isn't complete. I'm just trying to understand. Would that reimbursement come upon the contract being awarded or once the generation is operational?

A. (Milligan) So there are -- there were details in the draft RFP as it was posted at that time that that would be a closing payment at the time of the execution of the contract.

MS. RUDDERHAM: Now, Mr. Norwood, if you don't mind pulling up Exhibit N-10, which is the revised responses to Consumer Advocate IR-10. And I'm looking specifically at (a)(i).

So this IR was asking about the Application for interim relief, and in response the IESO NS provided a table of categories of spend by month between January and April 2026.

Do you mind just scrolling down to the response there? It should be a table.

Keep going. There.

BY MS. RUDDERHAM:

Q. So this is a table of spending by category for January through April 2026 that IESO NS filed in conjunction with the interim relief application. And I am looking specifically at the row for "Procurement" which is about the middle.

Do you see that there?

A. (Milligan) Yes.

Q. So it says for January 2026 it was $316,000, give or take, February it was $735,000, give or take, March is 419,000, and April is 520,000. Correct?

A. (Milligan) Yes.

Q. Now, are the January and February numbers actuals?

(SHORT PAUSE)

MR. MILLIGAN: This was a cashflow forecast, Ms. Rudderham, that was prepared as part of the response to this IR.

BY MS. RUDDERHAM:

Q. Okay. So those are the

anticipated, I guess, forecasted costs in relation to procurement over that four-month period. Is that fair?

A. (Milligan) Yes.

Q. And I assume that when we get the unaudited financials we'd be able to see that monthly amount or the total amount over that period, or...?

THE CHAIR: And just while they're getting their response, any time within the next 15 minutes or so, if you find a convenient place to stop for a midmorning break, we'll probably do that.

MS. RUDDERHAM: Yeah, I have a few more questions on this and then I switch topics. Thank you, Mr. Chair.

MR. MILLIGAN: So Ms. Rudderham, you were referencing an undertaking, I believe, from the previous day in the hearing, and that would not have this level of detail in it.

BY MS. RUDDERHAM:

Q. Is the IESO NS able to provide

the actuals as an undertaking for the -- I'm only looking at the procurement expenses.

A. (Johnston) I feel like we -- we spent a fair bit of time talking around audited financials last time, so we -- we don't have our audited financials to be able to share.

Q. I'm not looking for audited financials. I'm simply looking for these -- you said that these amounts are forecasted amounts, and I'm just looking for the actuals of what was actually spent on procurement.

A. (Johnston) On a cashflow basis for those four months?

Q. Yes.

A. (Johnston) So we don't have month-by-month numbers that would be readily available. They would have to be created.

Q. Okay. Is it fair to say, assuming the forecast is relatively accurate, that the IESO would have spent approximately $2 million on procurement expenses over those four-month period?

A. (Milligan) Yes, that's correct.

Q. Okay. Now, having ---

A. (Milligan) Well, I'll refrain -- I'll revise that answer, Ms. Rudderham. It's correct that the forecast would be approximately 2 million as presented here.

Q. Do you have any reason to believe that it was significantly less or significantly more than what's been forecasted here?

A. (Milligan) No, not at this time. I just wanted to refer that back to the exhibit.

Q. So it's fair to make an assumption that IESO NS would have spent roughly around $2 million over that period on procurement expenses; fair?

A. (Milligan) Fair.

Q. Now, where that's more than twice of the budget currently in the revenue requirement of $820,000, can you clarify for me whether the IESO NS anticipates that that budget is too low currently in the revenue requirement?

[10:20:14] **A.** (Milligan) I think -- so the answer to your question would be no, and there's a couple of factors that would inform that answer. So one would be that this table does cross two fiscal years, and so actually the majority of it is in the previous fiscal year, which doesn't align to the budget that you were referring to.

And the second would be that this is a cashflow statement, so different from the portion of funds that have been included in the revenue requirement for -- being applied for here today.

Q. Just to clarify, the $520,000 there from April, that's for the current fiscal year; correct?

A. (Milligan) That's the forecast in this IR response for a portion of this fiscal year.

Q. So if the budget is correct,

there'd be about $300,000 left in that budget for the remainder of the year. Am I right on that?

I can see you shaking your head "No".

A. (Milligan) So I think, again, there's -- this is -- being a cashflow forecast will be different from accrual accounting and how those costs are then accrued into the fiscal year would be one potential reason for variance between this cashflow forecast and the budget figure that you're referring to from the Application.

And the second would be that there are a portion of costs in here that would be capital cost items that are not in that operating expense budget that you've referenced in the Application.

Q. So if there's capital costs in here, I assume you're saying that whatever's capital's not going to be recovered in the current fiscal year budget or in the deferral account; correct?

A. (Milligan) That's correct.

Q. Okay. And I'm not an accountant, so that cashflow that you're describing there, it looks like it's a full negative amount, so that's how much has been spent. Is that right? Or anticipated to be spent?

Q. (Milligan) This represents a forecast of spending.

Q. Yes. And I guess what you're telling me is that that 520 that's anticipated, and assuming it's accurate, includes both capital and operating?

A. (Milligan) That's correct.

Q. And you're only looking for recovery of the operating expenses; correct?

A. (Milligan) In the current application, that's correct.

Q. Okay. Are you able to tell me whether the IESO NS is currently on track on the $820,000?

Is it 20? Yeah.

A. (Milligan) So I have no

information that that would have changed materially, Ms. Rudderham.

Q. Okay. And what policy or procedure are you using to categorize these costs as between capital and operating?

A. (McFeters) Our capital accounting policy follows accounting standards set under IFRS. We have chosen IFRS accounting standards as the accounting framework for the IESO.

Q. So do you have a separate capitalization policy?

I know that there was a draft capitalization policy provided in response to an IG IR. Is there something separate that you're referring to, or is it that?

A. (McFeters) I believe last week there was an undertaking for us to provide our accounting policies.

Q. Okay. So it would be under that.

We'd be able ---

A. (McFeters) Correct.

Q. --- to see that under there.

All right. That's helpful.

THE CHAIR: Mr. McFeters, are you able to give in broad strokes sort of a high-level overview of how you're dividing those, in terms of capital and operating, procurement?

MR. McFETERS: I think really -- in really broad strokes, I guess it's really the -- under the accounting standard, the definition of an asset with future value is required for it to be capital to be on the balance sheet versus operating expenses would be determined to not meet that standard.

THE CHAIR: So on the ground, though, here you're saying that that includes capital -- that those numbers include capital in operating. And can you provide a "for example" context for me to explain how you've actually allocated your costs between capital and operating?

(SHORT PAUSE)

MR. McFETERS: In, I guess, very broad strokes, the costs that can be directly attributable to the projects and have value that can be transferred to a proponent as part of this RFP process would meet that requirement.

So there are costs associated -- directly associated with obtaining permits and environmental approvals that have been included as capital costs of the project. Operating costs have been more when we're doing planning work with consultants. Discussions on how to proceed doesn't meet that requirement when it's really general. And those are -- that would be an example of something that would be expensed under that procurement heading.

THE CHAIR: Thank you very much.

BY MS. RUDDERHAM:

Q. So those planning expenses or

those operating expenses the IESO NS is still anticipating to be refunded that through the successful proponent. Is that right?

A. (Milligan) Yes, that's correct.

Q. Now, those capital costs that have been incurred -- and I know you're not able to tell me how much of that is in there, and it's not currently in the budget. What happens if there is no successful proponent to reimburse those capital costs that are not in the revenue requirement currently before us? What happens to those?

A. (Milligan) So I think, Ms. Rudderham, some help with context setting for that one might be that this procurement is being undertaken in alignment with the clean power plan, previously completed integrated resource plans, and reflects the urgent need for capacity in Nova Scotia that's been referred to through multiple proceedings, including as recently from this Board as the review of the cold weather event that happened in January of this year where the urgency and necessity -- you could find the decision from the Board there, but the Board reminded both Nova Scotia Power and IESO Nova Scotia of the urgent necessity to continue to meet all of the NERC and NPCC obligations for maintaining sufficient capacity on the system.

[10:30:00] That is what drives all of the work that we're doing here related to this procurement, and it's of incredible importance to be undertaken in a timely manner.

A specific note around your question, then, would be that although -- if in the eventuality that this procurement did not proceed, those costs could continue to be capitalized by the IESO to potentially be used in a future procurement because they will continue to have value as part of developing that potential project. And so a determination could be made at that time around approach.

(10:30:31) **Q.** Okay. Are those capital costs, either from the prior fiscal year or the current fiscal year -- are those being added to the deferral account?

A. (Milligan) Not at this time.

Q. And they're not anticipated to be added at all.

A. (Milligan) Correct.

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?

(SHORT PAUSE)

A. (Milligan) Thanks for the pause there, Ms. Rudderham.

Again, just being very careful around a potential legal question has come up a couple times this morning in the interpretation of legislation, but 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.

MS. RUDDERHAM: I'll have further questions on that, Mr. Chair, but I'm wondering if now would be a good time to break for the morning because I have just a couple more categories to go through.

THE CHAIR: Thank you, Ms. Rudderham.

So yes, I think it's an appropriate to take our midmorning break. So it's almost 25 to, so we'll come back at 10 to 11:00.

MS. RUDDERHAM: Sounds wonderful. Thank you, Mr. Chair.

--- Upon recessing at 10:33 a.m.

--- Upon resuming at 10:50 a.m.

CHRIS MILLIGAN, Resumed:

JOHNNY JOHNSTON, Resumed:

MIKE McFETERS, Resumed:

THE CHAIR: So when you're ready again there, Ms. Rudderham.

MS. RUDDERHAM: Thank you.

CROSS-EXAMINATION BY MS. RUDDERHAM, (cont'd)

Q. So I wanted to ask a few questions about the cost recovery mechanisms that are currently being contemplated by the IESO NS. And I know we've touched on it a little bit, so I just wanted to clarify a few things.

So currently, the IESO NS is contemplating two separate mechanisms, one under 29 of the *More Access to Energy Act*, and one under 30 of the *More Access to Energy Act*. Am I correct on that?

A. (Johnston) So there's a few different mechanisms the IESO is looking to recover its costs from, and we're trying to do that in a way that, as best can, minimizes the cost to customers.

And so as we've talked about this morning, we've talked about the recovery of procurement costs from successful proponents directly. We have talked, I think last time we met, around us directly charging customers that are doing interconnection requests, for example, where they directly pay for the costs that they're imposing on the organization. And then as you highlight, through the *More Access to Energy Act*, we also have both section 29 and section 30.

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.

MS. RUDDERHAM: Okay. Now, is it your understanding that that -- so -- okay, here. Why don't we -- Mr. Norwood, do you mind pulling up the *More Access to Energy Act*, section 30? Right there.

Oh, it -- do you mind just zooming out because subsection (1) is on one page?

BY MS. RUDDERHAM:

Q. Can the panel see that?

A. (Johnston) (Inaudible - no microphone).

Q. Why don't we just look at subsection (1) first, and then we can look at subsection (2), or give you a moment to familiarize yourself with the sections.

Can you see that better?

It's 30.

A. (Johnston) This Application's under 29.

Q. No, I know, but I'm trying to understand how they work together.

A. (Johnston) Okay.

Q. So section 30(1) says:

> The IESO shall apply to the Energy
> Board for recovery of costs for energy

resource supply contracts, and any costs incurred by the IESO for the administration of those [costs], respecting settlements or payments under contracts for energy resources obtained through procurement activities or through reassignments of existing energy supply agreements from NSPI.

That’s what that says there?

A. (Johnston) I believe you read that correctly.

Q. Okay. Can you explain to me how the IESO is interpreting what the costs associated with the administration of those -- of contracts means?

A. (Johnston) So I think the position of the IESO is that section 30 is for us to bring forward costs when we have an energy resource cost that would be providing benefit to customers and coming into service, and we don’t have that at this point in time.

Q. So are you saying that this only applies once there’s a tolling agreement?

A. (Johnston) So, I mean, I think

the -- we haven't applied for anything under this yet because we haven't seen an energy supply contract come forwards. And you know, we've -- there's still lots of things to be worked through.

THE CHAIR: Just in terms of the things to be worked through, just so that I'm clear on this, you do have some procurement costs that you're including in the application for the revenue requirement this year under section 29.

MR. JOHNSTON: That's correct.

THE CHAIR: And as I understand it that the intent is that at least some portion of those costs in future could potentially be transferred to some other proponent who is providing a resource and refunded back to customers through IESO Nova Scotia; correct?

MR. JOHNSTON: Yes. So the intent here would be to be able to defer customers having to pay those costs by the proponent picking those up so that it will benefit customers.

THE CHAIR: Right. But just in terms of the fuzziness here that I'm struggling with, and maybe Ms. Rudderham is trying to get at in her questions, you've got -- those procurement costs you're claiming under section 29 could potentially be refunded back under section 29 and then subsequently claimed by the proponent through section 30, all the same costs that we're talking about.

MR. JOHNSTON: That's true.

THE CHAIR: Okay.

BY MS. RUDDERHAM:

Q. So these additional costs for the administration of the contract or in relation to the contract itself under section 30, how is the IESO currently recording those costs versus the section 29 costs? Or are you saying they're one and the same?

A. (Johnston) So at this time, there's no section 30 costs being recorded or anticipated from the asset.

Q. Okay. So then does that mean that the IESO NS's understanding of what the administration of the costs means under section 30 does not include the procurement cost or the administration of the RFPs in relation to these contracts?

A. (Johnston) It means that the IESO is not intending to recover those costs through a 30 section application.

Q. Does the IESO currently have an internal policy or guide as to what costs fall under which section, what the meaning of these -- of this section would mean or what the meaning of administration -- the costs for administration of those contracts would mean?

A. (Johnston) Not at this time.

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

Q. I had thought that the evidence was that the amounts that are included in the current revenue requirement wasn't to put it in place because the polling agreement is in place. The amounts included in the revenue requirement was the administration.

And perhaps I'm wrong on what the evidence was. I'm just clarifying.

A. (Milligan) You'd asked about the 70,000, which I believe was relating to the New Brunswick agreement.

Q. Correct.

A. (Milligan) So that's what I'm

referring to there. That was the cost to put that agreement in place.

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.

Q. Okay. Is there some sort of policy or document internally that articulates the separate recording of these costs as you've described as between section 29 revenue requirement and the section 30, or is that something that is on the to-do list?

A. (Milligan) So I think earlier today we discussed a previous undertaking around accounting policies to be provided, and I think Mr. Johnston had indicated earlier that we weren't currently recording any costs for section 30 recovery.

Q. No, I'm wondering if there's definitions internally that are being used to ensure that there's a consistent application of these -- the understanding of the Act within IESO.

A. (Milligan) So as we've discussed this morning, we continue to account for all of our costs under our IFRS standards and, as we noted, there have been no section 30 costs yet incurred, and so that has not yet had to be addressed.

Q. So I guess the answer is no, there's no current document that would articulate what the definition is within IESO.

A. (Milligan) Not at this time.

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.

Q. Do you have a timeline on when

that would occur?

A. (Milligan) I do not.

Q. So currently, the IESO has one tolling agreement with NB Power; correct? We've discussed that, the RIGS Project.

A. (Milligan) Yes.

Q. Now, am I correct that the payments under that agreement would begin in fall 2028?

A. (Milligan) That's the anticipated timeline.

Q. Okay. So can the IESO say when they anticipate filing for this cost recovery mechanism under section 30, given that timeline?

A. (Milligan) Not at this time.

Q. Has the IESO conducted any work internally in relation to formulating this cost recovery mechanism or the definitions we discussed?

MR. FUREY: Mr. Chair, that would likely fall under litigation privilege.

MS. RUDDERHAM: I'm not sure it does fall under litigation privilege. I'm not doing it for the purposes of litigation. I'm doing it for the purposes of establishing a mechanism.

THE CHAIR: Could you repeat your question?

MS. RUDDERHAM: I was just asking -- what I'm trying to understand is what's the current state of the process for the section 30 recovery mechanism.

I've been told that there is no date as to when that would happen, and so I kind of want to understand whether any work has been completed in furtherance of this cost recovery mechanism.

THE CHAIR: Mr. Furey?

[11:09:51] **MR. FUREY:** I would say any analysis, Mr. Chair, of what the IESO may ask this Board for in the future, which is still not decided from what I've heard, the options available, the ultimate decision and recommendations of the Board of Directors on that is --

and this is a somewhat adversarial process. The plans of the IESO in making plans for what its regulatory application will be, I would submit, are always protected by litigation privilege.

THE CHAIR: Ms. Rudderham, is your intent to get into what has been analyzed or -- I'm not really sure what you're looking for.

MS. RUDDERHAM: I want to understand what the status of this section 30 cost recovery mechanism currently is, whether there has been analysis done. I'm not looking for what that was. I just want to understand what the status of this application is, especially where payments are coming due in the fall of 2028.

THE CHAIR: Right. And I thought the evidence was they haven't done any work on that yet, but I may be ---

MS. RUDDERHAM: And maybe that's -- there's no work ---

MR. MILLIGAN: That's correct, Mr.

Chair.

BY MS. RUDDERHAM:

Q. Okay. I want to skip topics to follow up on the interim financial relief that was included under this Application.

So the Board approved an interim financial relief for the IESO on February 25th, 2026 directing that the NS Power provide a monthly amount to accrue in a separate deferral account from the FAM with interest at NS Power's weighted average cost of capital. Is that a fair summary of what occurred?

A. (McFeters) Yes.

Q. And the allocation and recovery of that interim deferral account balance from customers has not yet been determined; correct?

A. (McFeters) Sorry; could you repeat that?

Q. The allocation and recovery of those interim account balance has not been determined yet?

A. (McFeters) Yes, that's correct.

Q. Are you able to advise the Board today on what the status of that work is, the allocation, the recovery?

A. (Johnston) So this would link back to the conversation we had last week, which was that we had just provided information to the parties, I think, last Tuesday. We were meeting on Thursday, the day after the first day of this hearing. With us being sworn in, I don't have an update on the exact timing of -- or discussions that were had there just in case they overlap with what we had here.

So I don't have an update, but the intention would be that as part of the bringing forwards of what the ongoing mechanism would look like, that's going to have to address how one unwinds the temporary payments.

Q. Okay. So it's all wrapped under that recovery mechanism ---

A. (Johnston) I think it’s all going to come together, yeah.

Q. Okay. Are you able to confirm what the current account balance is for those interim payments?

THE CHAIR: Ms. Rudderham, just so I’m clear on the question, we’ve got payments being made by Nova Scotia Power to IESO Nova Scotia. Nova Scotia Power, presumably, at some point is going to need to recover those costs from its customers. Are you asking about how it intends to collect and allocate or -- I’m just not sure what ---

MS. RUDDERHAM: I just want to understand how the whole mechanism is going to work.

BY MS. RUDDERHAM:

Q. And it sounds like it’s all going to be wrapped up in the application that’s coming forward under section 29. That’s what, Mr. Johnston, your evidence was?

A. (Johnston) I believe that is our intent. And so I mean, I think the way that we would -- so I think at least the way that I would think about it, and I think the team's on the same page, and apologies if I'm slight off-piste here, but is we've got an application for revenues for '25-26, we've got one pending here for '26-27, and I think, as we come forwards, we would be looking to, on one hand, deal with how those costs can be appropriately recovered from customers and then sort of tied into that is we've had essentially this prepayment from Nova Scotia Power that needs to be in some ways unwound in an appropriate way.

And so I think the way -- that's sort of the way that I sort of almost think about it, is let's keep them separate because otherwise it gets really, really confusing for everyone, and let's make sure it's sort of transparent and fair to revenue applications. And then it will be a case for us then to work with Nova Scotia Power in terms of how do we unwind the payments they've given to us in a way that doesn't cost them any money and doesn't cost customers any money.

Q. And what's the status of those discussions with NS Power as to how to unwind it?

A. (Johnston) So I don't know because I've been sworn in for the last week, but clearly, I think, to the two-stage approach, I think the important piece is landing what the ongoing recovery mechanism looks like and then there's a separate sort of conversation to be had with Nova Scotia Power in terms of how we work our way through that.

Clearly the Board's order on this was clear that there was a WACC associated interest cost to be tied with those costs. and so as we sort of think about our role, and certainly the costs that will come through the IESO, I think we talked about it last week, that because of that fee, we've been able to avoid having to go to the bank and so we've had some reduced interest costs on one hand, which is great. On the other hand, we've now got this sort of WACC payment to Nova Scotia Power that I think will more than offset that.

Q. Okay. Does the IESO intend on including an update of that progress in their quarterly reporting?

A. (Johnston) I think the intent at this time is that there will be a whole separate filing on the fee, and that's the appropriate mechanism for updating everyone on the progress.

Q. So that separate filing will come before the next quarterly report, is what I'm gathering you're saying.

A. (Johnston) I think that will depend, as we talked about last time, where we end up with our stakeholders, but that would be my hope for sure.

Q. Okay. And I know we don't have the unaudited statements before us today, but I believe your evidence was that the IESO was coming in at about five million, which is about a $300,000 reduction from what was budgeted for the 2025/2026 year; correct? Give or take.

A. (Johnston) Give or take, that’s correct.

Q. That 300,000, is that actual savings or are those amounts that are being deferred to a future year?

A. (Johnston) I fear we may get back into the conversation around the deferral account. And so the way that -- and it’s tricky because, of course, we have no income coming in yet. And so if we ignore that for a second, we’ve put in a revenue application for ’25-26 where we thought we would spend $5.3 million. What we’re saying is we actually only spent $5 million. And so ultimately, as this sort of flows its way through, we need to recover $5 million from customers, not 5.3, but that's not really a saving. It’s still -- I think, as Mr. Chair pointed out last time, it's still $5 million and so it's less than it would have been otherwise.

Q. What I'm wondering, is that 300,000 that would have been included in the first revenue requirement, has that now pushed over into the current revenue requirement, or is that actual true savings to the IESO?

A. (Johnston) So in terms of how we talked about the deferral mechanism last time, we're basically saying as we get through our audited statement process, we will firm up the exact number, but for argument's sake let's call it $300,000.

And then we would, in our next revenue application for '27/'28, be bringing forward that there is essentially a payback of $300,000 that should be offset against the '27/'28 Revenue Application, assuming that it's deemed that the rest of the costs in our '25/'26 Application or cost actuals were deemed as prudent.

[11:20:05] **Q.** Maybe I'm not being abundantly clear. That $300,000 that was not spent, presumably was intended to be allocated to some sort of expense; correct?

A. (Johnston) Correct.

Q. And that expense did not happen during that timeline.

A. (Johnston) Correct.

Q. Are those expenses coming due or are they anticipated to come up in the current revenue requirement or in a future revenue requirement?

A. (Johnston) That is not the intent. So we are very much trying to compartmentalize our application years, and so if money isn't spent in one year and we think we would need to spend it at some point in future, we would need to therefore put that in an application for why we'd need to spend it in the future. It doesn't just automatically flow through.

So the answer is there is no intent for us to be spending that 300,000 on anything else.

Q. But is it currently worked into the revenue requirement now before the Board?

A. (Johnston) No, because it comes

into the next revenue requirement.

Q. Okay. So what are those savings from?

A. (Johnston) From anticipated expenses that weren't spent.

Q. Which were what?

A. (Johnston) So all sorts of different items. I think we talked about it last time. For example, we spent less on employees than was intended.

Q. Okay.

A. (Johnston) But then we spent more on other things that offset. So there's all sorts of moving parts. That's what we've got to report back on as part of the plus or minus temps and variance.

Q. Okay. That actually leads nicely into my next line of questioning. And I want to follow up some questions that were raised by Mr. Murphy in relation to the employees and the salaries that are included in the revenue requirement currently.

And I believe IESO NS's evidence was that there's currently 31 employees hired, nine in active recruitment but not yet hired, and then four are outstanding roles not yet posted. Is that a fair summary?

A. (Johnston) I think that's a fair summary, and we spent some time on that the last meeting.

Q. Yes. And so the budget currently includes the salaries for 44 employees; correct?

A. (Johnston) That would be correct.

Q. But currently there's 13 vacancies?

A. (Johnston) Yes, that's correct.

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

(SHORT PAUSE)

MR. JOHNSTON: So I fear I'm going back over ground from last week, but really is if we wind the clock back to -- as we're pulling this budget together, as I was pulling this budget together last September, October, the focus was on what do we believe the -- at that point in time the organization we needed, in terms of head count. We put that into the budget on the basis that we need to get those resources filled and it gives good transparency to all in involved with the ongoing costs for the IESO.

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

Q. So is IESO then budgeting a different number of employees, then, for the current fiscal year, other than what's been included in the Application?

A. (Johnston) No. We've got 44

budgeted.

Q. Has that changed?

A. (Johnston) No.

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

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

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

A. (Johnston) I'm saying the maturity of the organization at this point in its growth, that that wouldn't be something that I would believe is reasonable to be putting into the organization. If we were 20 years down the line and had five years of data that show what vacancy rates looked like, then that might be a reasonable thing to have, but we're a long way from that.

Q. Okay. And terms of compensation, I'm going to skip.

Last week, we touched on responses to the Board's IR-11(e). I don't think we really need to bring it up, but it was about employees or executives were eligible for a bonus or incentive payments. And the response was that only the CEO is eligible for a bonus or incentive payments, and that the process was currently in development. That’s a fair summary of what the evidence is?

A. (Johnston) Maybe you could elaborate on what you mean by processes in development.

Q. The response to IR says, "The process and metrics to 42 determine entitlements to bonuses and incentives are currently in development," and

I believe the evidence last week was that, yes, it is still in development.

A. (Johnston) I think the evidence last week was that objectives were taken to the IESO Board for approval for the CEO and so that isn't what was the evidence last week.

Q. Okay. So there are currently objectives that are determinative of what the bonus or incentive is for the CEO?

A. (Johnston) Yes.

Q. Could we get a copy of that as an undertaking?

A. (Johnston) If it's appropriate to be getting individual's objectives, I don't see that as an issue.

Q. Ratepayers are paying for that; correct? So can we get that as an undertaking?

A. (Johnston) Sure.

Q. I didn't hear you. Sorry.

A. (Johnston) Yes, we'd be delighted.

THE CHAIR: That will be Undertaking U-8. Could you just restate, though, Ms. Rudderham, exactly what it is that you're looking for, just so we're clear?

MS. RUDDERHAM: It's a copy of the objectives, I believe is what they're being referred to as, that are used to determine the eligibility for bonuses and incentive payments for the CEO and/or any other executives. That is what the document is. I've not seen the document, but...

MR. JOHNSTON: So I think that -- we've said before that the only employee that gets a bonus is the CEO.

MS. RUDDERHAM: Okay. So then it's just for the CEO.

THE CHAIR: Okay. Thank you for that.

UNDERTAKING U-8 - To provide a copy of the objectives that are

used to determine the eligibility for bonuses and incentive payments for the CEO

THE CHAIR: Just so I'm clear, the status of that document, has that been approved by ISEO Nova Scotia's Board or is it still pending?

MR. JOHNSTON: For which financial year are we talking about?

THE CHAIR: Well, let's start with the revenue requirement that's the subject of this Application.

MR. JOHNSTON: Yes, that would be approved.

THE CHAIR: Okay.

BY MS. RUDDERHAM:

Q. Is there a different set of objectives for the 2025/2026?

A. (Johnston) Yes, because it is a different financial year.

Q. Can we get a copy of that as well?

A. (Johnston) Is that relevant to this revenue application?

Q. I think it's -- I mean, I think that's for your lawyer to indicate whether there's an objection or not.

THE CHAIR: Mr. Furey?

MR. FUREY: I object.

THE CHAIR: I'm assuming on relevance.

MR. FUREY: Yes, Mr. Chair.

THE CHAIR: Ms. Rudderham?

MS. RUDDERHAM: I mean, I think it's relevant. We're talking about the 2025/2026 actuals. We've got the unaudited statement coming in. We're talking about how bonuses and incentives are being set and paid for in the current revenue requirement, and I think it's relevant to understand how that's been evolving into the current expenses for ratepayers.

[11:30:07] **THE CHAIR:** Anything further, Mr. Furey?

MR. FUREY: Well, I guess, Mr. Chair, where it could eventually become relevant is when -- in the ’27-28 application when the prudency of any variances from forecasts for ’25-26 is before the Board, it could become relevant then. But in determination of the appropriateness of the forecast for salaries for ’26-27, it does not assist the Board in any way, nor does it assist in the Board's determination of whether it's appropriate and on what terms and conditions to approve the deferral account.

THE CHAIR: Anything further, Ms. Rudderham?

MS. RUDDERHAM: I don’t want to repeat myself.

THE CHAIR: Okay.

MS. RUDDERHAM: But I do think it's relevant in terms of progress as to how these are developed and why it's reasonable to set them at the current objectives.

THE CHAIR: I think we might be speculating a little bit. I agree with Mr. Furey. It may be relevant when it comes time to recover costs for that -- for the past year in the variance mechanism perhaps. But for the current application, I think if we're getting the current ones, I think we can stick with that.

MS. RUDDERHAM: Okay.

BY MS. RUDDERHAM:

Q. Are you able to tell me what percent is -- for the CEO salary compensation, what percent is base and what percent is at risk?

MR. FUREY: So Mr. Chair, I don't object to the question. I think my concern is one of confidentiality. And so if it's important for Ms. Rudderham to understand the answer to that question, I think it's appropriate that we go *in camera*.

THE CHAIR: Ms. Rudderham?

MS. RUDDERHAM: I'm not entirely sure what the grounds for confidentiality would be given that, I mean, when you look at any -- you know, the other ISEOs' reporting, annual reporting, they report the salaries of every single one of their executives, their bonuses, bonus structure. I'm not looking for the amount. I'm looking for what percent is at risk and what percent is his base salary.

THE CHAIR: Mr. Furey?

MR. FUREY: I would think, Mr. Chair, that absent a statutory requirement to disclose, this would actually fall under protected information under privacy legislation. It is personal information specific to an individual, specific to their employment contract.

I understand this Board operates under a different regime and relevance rules the day. But the Board does have a confidentiality process in place for a reason, and this is personal information related to a specific individual.

Again, I'm not saying it's not relevant. By all means, the question can be answered. I just don't think it should be answered on the public record.

THE CHAIR: Ms. Rudderham, my inclination, you know, forced to deal with this on the fly without getting thorough comments on confidentiality requirements, is to defer to confidentiality for this sort of thing which would be similar to how it's treated in other matters that the Board appears before, under sort of general confidentiality requirements.

So I agree with Mr. Furey. I think the questions are relevant, but we may need to go into a confidential session to deal with them, which you are welcome to do.

MS. RUDDERHAM: I'm just thinking if I can accomplish what I need to without going into a confidential session. Just give me one moment.

THE CHAIR: Sure.

BY MS. RUDDERHAM:

Q. Would the objective document that's going to be produced as an undertaking, would that outline the percentage of what is base and what is at risk?

A. (Johnston) No, it would not.

Q. Would it outline what the quantum or maximum amount of a bonus would be?

A. (Johnston) No, it won't.

Q. Is there currently a quantum or maximum amount of a bonus?

A. (Johnston) Yes, there is.

Q. Is that in an internal document?

A. (Johnston) It's in my employment contract.

Q. In the annual report that ISEO will be filing with the year as under the *More Access to Energy Act*, does the ISEO anticipate outlining the consecutive -- or the executive compensation as is done in

Ontario and Alberta?

A. (Johnston) We've not designed that document yet. So the honest answer, I don't know.

Q. What's the current status of that process?

A. (Johnston) To be kicked off.

Q. To be what?

A. (Johnston) Kicked off. We haven't started it.

Q. Okay. Do you have a timeline on when the ISEO anticipates filing its annual report?

A. It's in the Act. I think it's October, but I might be off on that.

Q. I think the Act says six months from the end of the fiscal year. So yes, October is when you're filing it.

So what's the status of that -- I guess you've said you've not started any of the process as to what it's going to look like, what it's going to include. When will ISEO be looking at that?

A. So a -- and I almost feel like I need to remind everyone that this is an organization of 30 people, most of whom are engineers, that are trying to manage the system and do system studies and the IRP and get new resources on. And so we have a very small team that sits on top of that.

And so, you know, our priority right now is getting through the audited statements and then we would look to sort of kick off the process after that to make sure we've got a report by October as required.

Q. Is the ISEO able to confirm what the percentage of the base and risk is, or the quantum or maximum amount of the bonus is, in a confidential undertaking?

A. Yes.

__THE CHAIR__: That will be Undertaking U-9.

And just could you repeat what you're

looking for? There were several elements in that, Ms. Rudderham.

MS. RUDDERHAM: I'm just looking for what percent of the CEO compensation cost built into the 2026/2027 revenue requirement is a base and what is at risk, and then confirmation of what the quantum or maximum amount of the bonus is depending on how the bonus structure is created.

THE CHAIR: Thank you.

UNDERTAKING U-9 - To file in confidence what percent of the CEO compensation cost built into the 2026/2027 revenue requirement is a base and what is at risk as well as confirmation of what the quantum or maximum amount of the bonus is depending on how the bonus structure is created

BY MS. RUDDERHAM:

Q. Now, the objectives that would govern the incentive payments, would the ISEO agree that the targets under those objectives should be aligned with ratepayer interests?

A. (Johnston) A hundred (100) percent. I mean, the whole ambition of the ISEO is to align with ratepayer interests, so yes.

Q. And where that hasn't been filed, I assume that that means the ISEO takes the position that it does not need Board approval?

A. That would be our current position.

Q. And my friend, Mr. Murphy, asked some questions last week on behalf of the Consumer Advocate about the compensation for the Board member compensation package which IESO relied on consultation from -- is it Hugessen? I see you nodding your head yes.

A. (Johnston) Yes, that's correct.

Q. Okay. And there was an

undertaking provided for all the -- for the materials that Hugessen would have provided you in developing the Board member compensation package. That's what the undertaking is?

A. (Johnston) That's correct.

Q. Was Hugessen's mandate simply for setting the Board compensation or was it for other members of the exec group?

A. (Johnston) This is all before my time, but my understanding is that it was purely for Board compensation.

Q. Okay. Was there any consultation done in terms of setting the compensation for CEO?

A. (Johnston) I believe there was, but obviously it was before my time.

[11:40:01] **Q.** Do you know who the consultant was?

A. (Johnston) I don't.

Q. Are you able to provide the

documentation similar to what would be produced for the Hugessen undertaking in relation to what was done for the CEO compensation?

A. (Johnston) So I honestly don't know what records the IESO would have on that, but if we have them, yes.

Q. Perhaps an undertaking to ---

A. (Johnston) At least explore what's available.

Q. To explore and produce if there's anything available.

THE CHAIR: So that's for the documentation relating to any work done to assess CEO compensation.

BY MS. RUDDERHAM:

Q. And in terms of the -- oh, sorry.

THE CHAIR: Undertaking U-10.

UNDERTAKING U-10 - To explore and produce documentation relating to

<u>any work done to assess CEO compensation</u>

<u>MS. RUDDERHAM:</u> I jumped ahead. I apologize, Mr. Chair.

<u>BY MS. RUDDERHAM:</u>

Q. And in terms of the work done by Hugessen or this other consultant, was there a benchmarking study or comparison of what the salaries are for other IESOs in Canada, say, Ontario or Alberta?

A. (Johnston) Is that with regards to the Board or with regards to the CEO salary?

Q. Both. Either/or.

A. (Johnston) So we've provided the undertakings to provide both those documents and so they'll be -- it will be what it is. I mean, clearly I don't know what work was done to create my salary.

Q. No, and I know, I'm just wondering if the undertakings that have been provided would include a benchmarking study or if there's ---

A. (Johnston) If one was done, it would be part of that report.

Q. Okay. For either Hugessen -- there wasn’t a separate benchmark and study internally done at IESO. Okay.

A. (Johnston) You expect a lot from us.

Q. I mean, yes, we do.

And I have one more area of questioning and it has to do with HST and tax exposure. I’m not sure if this is best left for McFeters or ---

A. (Johnston) Almost definitely.

Q. Okay. So in response to a Board IR, which is Board IR-29 -- I don’t think we need to bring it up -- the IESO Nova Scotia provided a written KPMG tax opinion, which is dated February 18, 2026, which expresses the position that amounts charged by IESO NS to recover its approved revenue requirement will generally be subject to HST at 14 percent. Is that your understanding as well?

THE CHAIR: Just before we get too far, is that opinion in the file confidentially?

MS. RUDDERHAM: No.

THE CHAIR: No? Okay.

MS. RUDDERHAM: I don't believe so, and if it is I ---

THE CHAIR: Mr. Furey?

MR. FUREY: I don't believe it's confidential.

THE CHAIR: Okay. Thank you.

MS. RUDDERHAM: You scared me there for a second, Mr. Chair. I thought I walked right into it.

MR. McFETERS: Yes, that's my understanding.

BY MS. RUDDERHAM:

Q. Now, in response, I believe, and correct me if I'm wrong, IESO Nova Scotia's understanding is that -- or position is that the net economic effect on customers will be neutral because Nova Scotia Power can claim input tax credits. Is that right?

A. (McFeters) That is our understanding, yes.

Q. But you don't have a concrete understanding as to whether or not the revenue requirement either from last year or for this year will in fact have an additional 14 percent on top charged to customers?

A. (McFeters) So I -- HST is complicated, and none of us are experts, but our -- and clearly in the Revenue Application we do not add HST on top of it. But our understanding is yes we would -- in recovering the revenue requirement, HST would be added. And then this is where I hesitate a little bit, because I don't know the internal workings of Nova Scotia Power, but my understanding is when they further charge -- recover on their side from ratepayers they would be adding HST to it on their side so that to Nova Scotia Power it nets to zero, but ultimately the ratepayer does pay HST on that amount. But this is really outside of our revenue requirement itself.

Q. So when the revenue requirement is recovered from a market participant, say NSPI, you're saying IESO would be seeking only the amount here, not plus 14 percent tax from NSP?

A. (McFeters) No, no. No, that wasn't what I had said, or if I -- if that's how it came across, that was a mistake. No, we would recover the revenue requirement and have to add the 14 percent to follow the tax advice that's been provided to us by the experts.

Q. Okay. And then you're saying that the revenue requirement amount that would reach a ratepayer might not be -- I just -- I guess I'm not understanding how it flows through or what is -- you're looking for approval of the revenue requirement plus 14 percent on taxes?

A. (Johnston) So I think the

language in the Application was for the revenue requirement plus applicable taxes.

Q. Okay.

A. (Johnston) I think through the IR process -- you've referenced the advice that we've received from KPMG. And so in a world where a customer was paying -- I'm making numbers up to keep them simple -- $100 on their bill for cost from Nova Scotia Power and then there became a $1 cost that needed to get added to that from the IESO, there's two paths that it could go through, I think. So one could be that we pass the $1 on to Nova Scotia Power. Nova Scotia Power passes the $101 on to customers. HST would be applied to the $101 from Nova Scotia Power. What our advice has been is as we pass on the $1 to Nova Scotia Power, HST would be added to that, so it would be $1.14. But you wouldn't then double -- customers wouldn't then be paying double. They would still be paying the same amount had we just passed on the the $1 without the HST, because Nova Scotia Power, as they passed on their cost the customers, would still be having HST on that.

Q. Okay. And has the IESO contacted NSPI or discussed this issue with NSPI or the market participants as to how this is going to be dealt with?

A. (Johnston) So this is part of the conversation all tied into the permanent fee, so yes.

Q. Okay. And in terms of the tax owing, when is that owed from the prior revenue requirement, and is there any penalties if it's filed late?

A. (McFeters) So to make sure I understand the question, are you asking -- is your question sort of assuming that we're somehow late because we haven't collected the 5.3 that's already been approved?

Q. I'm not assuming. I'm asking. I don't know. I just -- I want to know whether there's any risk here of ratepayers being charged a penalty if it were to come in late.

A. (McFeters) We would not anticipate that to be a problem. The HST becomes due when you invoice, so when a monthly amount, and then it's -- we're a monthly remitter, so it's 30 days after that point.

Q. So the amount being received from NSP currently through the interim relief, is that -- is there HST being paid on that?

[11:50:18] **A.** (McFeters) So yes, there's been HST added to the invoice for NSP for the interim fee.

MS. RUDDERHAM: Could you just give me a moment to look over my notes? I think I'm almost done.

(SHORT PAUSE)

BY MS. RUDDERHAM:

Q. Just for clarification, the IESO NS had indicated that they intend to file an application or a filing with the Board in relation to the implementation budget or the plan; correct? And I mean the Energy Board.

A. (Johnston) With regards to Phase II?

Q. Correct, yeah.

A. (Johnston) That would be our intent, yes.

Q. Are the costs in relation -- regulatory costs in relation to that built into the current revenue requirement?

A. (Johnston) No.

Q. So those would be additional.

A. (Johnston) Yes.

Q. Is it IESO's intent to include those in the deferral account?

A. (Johnston) So I think the question assumed a level of granularity in our budgeting that we didn't have, and I think we've taken sort of folks through how we built up our budgets, both in the Application and through IRs. And so as we anticipate -- or as we receive incremental costs tied to our legal and regulatory activities, they will be captured in our -- in our overall costs, and to the extent that they are greater by the end of the year than what we had budgeted, then they would be picked up by the variance account.

But there was generic high-level assumptions as a brand-new organization for making that budget. And so for example, we hadn't anticipated that we'd have two days here at oral hearings that were part of that bottoms-up build but, of course, there's costs associated with us all being here that will get tracked in that line item no different than any other revenue application and then we'll report on the variance at the end of the year.

Q. Okay. And I guess I'm just trying to understand the reasonableness of the budget.

Does the budget include the regulatory costs associated with the annual report that's required under the -- under the Act?

A. (Johnston) So that would have

been a broad activity that was anticipated, but I think to the -- the way you're asking the questions is if we sort of detailed out every activity, and we haven't.

Q. What I'm trying to understand is whether the costs for these items that we're discussing are going to be above and beyond what's currently included in the revenue requirement or what's been budgeted for.

A. (Johnston) I think it's too early to say. I mean, I think the -- there is no doubt that our actuals will vary from what we forecast. We did the best that we could when we forecast our revenue application for the year at this point in time.

We've not seen anything that would suggest that it was of a magnitude that we needed to in some way sort of submit new evidence or a new change in application, and so, you know, that should be, I guess, the view of -- that we -- you know, maybe back to my opening comments. We believe the budget in its entirety is a prudent request to cover the costs of the IESO.

Q. You've alluded to changes not of the magnitude that would warrant new evidence or things like that. What magnitude are you referring to? What dollar amount or what percentage amount compared to the overall?

A. (Johnston) So I don't think it is a percentage amount. I think, as we talked about last time, the way that the IESO has thought about itself is that we try and put in a fair and reasonable revenue application and then it will take all actions that it can to live within whatever's approved by the Board, but we all know that things move around and so there could be something that pops up in the final quarter of the year that folks didn't anticipate, but we will work hard to manage our costs very diligently within whatever's approved.

Q. So when you're saying no magnitude that would warrant it, you're not thinking of a specific number, specific amount; it's simply general?

A. (Johnston) I think it's -- as we look at the moving -- lots of moving pieces, do we think this all sits within the 14.9 million application, the answer would be yes.

Q. And I believe your evidence last week was the IESO hadn't contemplated the cost recovery mechanism application either under section 29 as in the current revenue requirement budget. Am I correct on that?

A. (Johnston) Back to the -- sort of the detailed specificity, no, that would be correct.

Q. Okay. Those are all my questions. Thank you. Thank you, panel, for being very patient.

THE CHAIR: Thank you, Ms. Rudderham.

I think, if memory serves, Mr. MacDuff, you don't -- didn't have any questions?

MR. MacDUFF: That's correct, Mr. Chair.

THE CHAIR: And Ms. Power, same for

you?

MS. POWER: That’s correct, Mr. Chair.

THE CHAIR: And Mr. Kayter, I think same for you as well?

MR. KAYTER: Mr. Chair, I do have some questions.

THE CHAIR: Okay. You’re up.

MR. KAYTER: Thank you.

Mr. Chair, I let Mr. Mahody know that I’ll have maybe five to 10 minutes of questions, so there shouldn’t be any risk of us running through lunch. Just a few narrow questions, if I may, please.

THE CHAIR: Please proceed.

CROSS-EXAMINATION BY MR. KAYTER

Q. Mr. Johnston, I'm going to direct my questions to you and Mr. Milligan. They flow from some of your answers. Please feel free whichever of you feels most appropriate to answer the question, though.

Today the Industrial Group asked you about cost recovery under both sections 29 and section 30 of the *More Access to Energy Act*, and you replied at one point that this Application is made only under section 29 of the *More Access to Energy Act*. Is that correct?

A. (Johnston) Yes, that's correct.

Q. And you confirmed that there are no cost recovery sought under section 30?

A. (Johnston) That is correct.

MR. KAYTER: Mr. Chair, I just need to grab my notes.

BY MR. KAYTER:

Q. And in fact, I quoted your evidence today as saying "No section 30 costs have been incurred yet". Is that right?

A. (Johnston) That's our current understanding, yes.

Q. Thank you.

Mr. Johnston, in this proceeding the parties, including some intervenors, have filed submissions and opening statements. Have you reviewed those filings, or have you been sufficiently briefed on them so that I can ask you a few questions?

A. (Johnston) I have read them all, yes.

Q. Okay.

MR. KAYER: I have -- Mr. Chair, I have directed Mr. Norwood on the areas, if necessary. They are pretextual in nature, so probably reference is not required.

BY MR. KAYTER:

Q. But Mr. Johnston, if reference is required, would you please let me know? We'll give Mr.

Norwood a minute to bring them up.

In addition to those submissions of the parties, Mr. Johnston, and perhaps Mr. Milligan, you were asked questions on -- you were asked questions last week and again today, and is it fair to say those questions are relatively fresh in your mind and I can ask you some of my own questions about those questions?

A. (Johnston) Yes.

Q. So my questions are mostly about the questions, rather than your answers, okay, just to narrow your focus.

First of all, on June 10th, 2026, an opening statement was filed by the Small Business Advocate, or the SBA. That opening statement, at page 2, lines 16 to 21, states in part, as follows:

> Another significant concern relates to the issue of ensuring that risks, [related] to spending, procurement, and contracts, are properly assessed and assigned. Whereas with [Nova Scotia] Power, rate classes could be assured that if there was a finding of imprudence by the Board, they would not bear the liability [of] that imprudence, the same

> has not been confirmed with respect to IESO-NS. This is a significant concern, especially with all of the upcoming changes anticipated as we move along the path to 2030.

[12:00:12] Mr. Milligan or Mr. Johnston, do you recall reading or being briefed on that submission by the Small Business Advocate?

A. (Johnston) Yes.

Q. Now, at page 202 of the transcript from last week, when you were being questioned by the Small Business Advocate, they put a Board IR to you that stated:

> Please explain how any variances would be reviewed and approved, and how IESO Nova Scotia will manage any disallowances if they occur.

Do you recall having had that IR put to you?

A. (Johnston) Yes.

Q. Mr. Johnston, the SBA then put your reply to those IRs back to you before questioning you further. Your answer, as recorded in the transcript, was from your answer to the IR number 28(e), that's echo, IR-28 echo, which was, and I quote:

> At this time there is no established methodology on how [the Nova Scotia Energy Board] disallowances might be treated, but the IESO Nova Scotia submits that should the Board deemed costs to be imprudent, an appropriate treatment of those costs can be determined at that time.

And you referred to:

> Consideration of disallowances must take into account the IESO Nova Scotia's not-for-profit status, and the particular impacts that they may have on...operations.

Do you recall providing that answer, Mr. Johnston?

A. (Johnston) Yes, I do.

Q. Now, at page 258 of the transcript, the Industrial Group put the following question to you as a follow-up to that question of the SBA. And I quote. Question of the IG:

> And I know we've talked about, you know -- or my friend [has] raised some questions about disallowances. What happens if there are

> material unforeseen costs that are applied and put into this deferral account and the Board finds imprudent? How are those costs recovered?

Do you recall that question?

A. (Johnston) Yes, I do.

Q. Your answer to that, from the transcript, was, and I quote:

> I think we're now two hypotheticals deep. And in our IR response, our view was that we would have to deal with that when we got to that point in time.

Do you recall making that response to the question?

A. (Johnston) Yes.

Q. These questions, Mr. Johnston, from both the IG quoting the SBA and the SBA, and the SBA applying that IR from the Board, would seem to suggest that the legislation permits the Nova Scotia Energy Board to disallow costs, and I'm using "costs" generically, obviously, but with respect to your proposed expenditures revenues requirements and associated costs, what is your belief that the legislation provides for under section 29, as you've framed your application? Obviously, there are approvals, we've talked a lot about approvals, but what are the legislative mechanisms that you understand to exist in that piece of legislation?

MR. MAHODY: Mr. Chair, if I could, as I understood the Applicant's position on the interpretation of legislation, it was clear about an objection. I now hear the panel being asked for a direct interpretation of legislation. I simply wanted to flag, for consistency perspective, that that's a matter that was presented as an objection to the Board when it seemed to come from a different manner.

MR. KAYTER: Mr. Chair, I thank my friend for that objection. It's a fair objection on its face, but here's the difference: I'm asking Mr. Johnston of his understanding of what the legislation provides for. Why is that relevant? This Board will have to make an assessment of the reasonableness of the prudence exercise by a decision-maker in incurring costs or proposing these costs. What his understanding of the outcomes of this hearing are are relevant to assessing the prudence exercised by this panel or the executive of the IESO. So that's different than saying, "What does this statute mean? What does this provision mean?" I'm saying to him as a decision-maker, what do you understand the outcomes to be? Because if it's -- I don't -- without giving evidence, and I want to be very careful here because the witness is listening, depending on what his understanding of the Board's authority under the legislation is, informs this Board's ability to assess the reasonable prudence that they've exercised, or haven't, in incurring these costs or proposing them.

So while on its face, the objection is a valid one, the nuance is I really want to know what his understanding is. And for example, unobjected was many questions put by the IG group around explain to me how the IESO is interpreting what the administration of -- so when they were questioned about section 29 and 30, they were asked, "What's your interpretation of..." "What's your understanding of..." That is perfectly valid to say to a witness, "What's your understanding of something?" which is different than, "What does a piece of legislation mean?" And it's for that reason and no other that I put that question to the Board, may it please the -- to the panel, may it please the Board.

THE CHAIR: So you're asking whether -- or what their understanding is of the Board's ability to disallow costs under section 29 and 30?

MR. KAYTER: I can answer. That's a good question. But to answer that question would be to potentially -- I would potentially corrupt the evidence of the witness by answering that question myself. To answer the question may be to give the evidence that I'm trying to get from the witness, so I don't know -- and forgive me, Mr. Chair, because I'm new to this environment, I don't understand procedure, are there any mechanisms to exclude the panel a moment while we discuss an objection? Or how can we deal with this so I can be candid with the Board without giving them the evidence that ---

THE CHAIR: Yeah, so we control our own process, so I think subject to the views of the parties, we could potentially look at doing that. I'd want to hear from Mr. Furey about that.

What is the question that you want to specifically ask the panel now?

MR. KAYTER: Section 29(4) provides for two possibilities. I want to know that this -- because there has been lots of reference, expressly, as I've referenced, and by implication, of all of the -- many of these submissions about disallowance. I want to know what Mr. Johnston's understanding of what the Board's legislative authority for this Application is under that legislation. Nothing more than that.

THE CHAIR: So you've got me confused a little bit, because I guess when I look at 29(3), it talks about, you know, until the Board approves the proposed expenditure and revenue requirement for the fiscal year, the fees for the past year are continued, for example. So it's contemplated that the Board is going to approve the revenue requirement for the IESO Nova Scotia.

MR. KAYTER: Yeah. This is my only question, Mr. Chair. After this, I suspect I'll be done, unless the answer necessitates some follow-up, but I would like to address the matter more candidly with the Board and I can't do that with the panel sitting there. It would only take a minute to exclude them outside, and then I can address that more head on.

THE CHAIR: Mr. Furey?

MR. FUREY: I don't have any particular objection, Mr. Chair, no.

THE CHAIR: Mr. Mahody?

MR. MAHODY: Mr. Kayter has indicated to me to have a -- to make a presentation to the Board to exclude the witness. I think it's an appropriate request to make, so I have no objection.

THE CHAIR: And just to clarify, this is still going to be on the record, ---

MR. KAYTER: Yes.

THE CHAIR: --- whatever you intend to say, ---

MR. KAYTER: Absolutely.

THE CHAIR: --- just without the witnesses being available.

So I think there's some rooms out back, if they're open, Mr. Norwood?

(WITNESS PANEL STANDS DOWN; EXITS THE HEARING ROOM)

MR. KAYTER: Mr. Chair, I apologize to the Board and to my friends. This is an inconvenience, but it's, in my view, necessary, so I can address my friend's very valid on-its-face objection about the appropriateness of that question.

Over the two days of questions that we have had, this theme has emerged that the Board has some legislative authority to disallow parts or all of this Application. That does not exist in that legislation. There are two options available to the Board. This is legislation that was drafted word for word on the Ontario legislation. I know what the mechanisms there are. The decisions are available to read.

I am trying to see if the decision-makers from this executive understand that the Board can approve or, under subsection (4), refer them back to the IESO for further consideration with the Energy Board's recommendations.

What is emerging here in this hearing is the theme that there is authority under that statute to disallow, in the sense that -- and the questioning -- of course, we've all come from these ACE hearings recently where, for Nova Scotia Power, for example, there is an authority to simply say, "Those costs are imprudent; they're being disallowed."

[12:10:03] This is a very unique statute in that

that does not -- this section does not provide for that, and I want to know whether the decision-makers understand that the available mechanism to the Board is, amongst other things, to send back recommendations.

It's not evident to me, because they've been questioned at length about the potential for disallowing these costs and nobody has said, "Well, I mean, we expect the Board's going to send back requests with recommendations as to how we can get it approved."

So that was -- I had not anticipated that, coming into the hearing, that this two-part legislative relief was not evident, but it appears not to be evident from the answers to those questions with respect to disallowing some or all of these costs.

THE CHAIR: I'm not sure it's evident to me either, Mr. Kayter. The section contemplates that the Board approves the revenue requirements and, I guess to the extent that it doesn't approve it, isn't that, in a sense, a disallowance?

MR. KAYTER: That may be a matter for argument, ultimately, at the end of the hearing, Mr. Chair, but when I look at the relief available under subsection (4) of the operative provision of that statute, it provides for approval or the alternative, meaning it hasn't been approved, send it back with recommendations.

What those recommendations are, are presumably by inference that the recommendations will assist the IESO in getting to an approval, but wholesale disallowance does not appear to be set out in that statute.

And like I say, that may be a matter for argument and ultimately the Board will rule on that, but it is not evident from those answers that the option of having the Board make recommendations, you know, none of this panel has said, well, one option, for example, you know, to the SBA's line of questioning, was, “Well, we presume that if the Board was not willing to approve, they would give us some recommendations about how we could get it approved.” That hasn't even come up.

And I just want to know if the individuals making these big decisions on behalf of ratepayers now understand that that's an option because it informs ultimately the Board when it says, "Are they acting prudently? Is the reasonableness standard expected of those decision-makers properly informed through the options available to them?”

For example, if they knew that, like Nova Scotia Power, a decision they make could be disallowed, well, that affects their decision-making process and the Board's review of their decision itself. That's why it's important that that may -- that there may be ultimately the ability of the Board to disallow, that’s one thing. But nobody has said they can -- “We can ask for recommendations. We can get help from the Board.” That's what that statute says. “We can get recommendations to help us get to an approval,” and because of that, I've asked, "What is your understanding of, you know, the possibilities here?"

THE CHAIR: So Mr. Kayter, there's two things going on in this Application. One is the approval of the revenue requirement, which the legislation absolutely does contemplate. The other is the establishment of deferral and variance account I don't really see anything in there about a deferral and variance account. Am I missing it?

MR. KAYTER: In...?

THE CHAIR: In the *More Access to Energy Act*?

MR. KAYTER: No, I don't think you're missing it.

THE CHAIR: Right. So are you -- I guess I want to know what the Province's position is. If the Board approves the deferral and variance account, is it the Province's position that when we look at whether the costs were appropriately included in that, we can't do a disallowance? Is that the Province's position?

MR. KAYTER: I think the Province's position would be, as before, if the Board was not willing to approve them, that recommendations would be given back to IESO as to how they could achieve the approval.

THE CHAIR: Sure. So we approve -- we approve the revenue requirement. A year later, we have actual costs which IESO NS has asked to flow through the deferral and variance account, if they don't come through as actually forecasted, which most likely there are going to be some variances. That's the nature of a forecast; correct?

MR. KAYTER: Correct.

THE CHAIR: Are you saying we don't -- this Board doesn't have the ability to disallow costs that it considers have been imprudently occurred on an actual basis when it reviews those?

MR. KAYTER: What I'm saying is the legislation does not expressly set that relief out. And so this is an Application made under section 29, the evidence has confirmed that there is no section 30 application.

I admit there is -- there are aspects to that statute that don't address aspects of this Application, but the relief that the legislation anticipated is spelled out in section 4 and it doesn't say "disallow, reject, refuse"; it contemplates a collaborative approach with this Independent Energy System Operator to say, "We'll either approve it or we will send recommendations to you as to how it can be approved." Is it implied in that the Board can disallow? Maybe.

I'm not saying that the Board doesn't have that authority. I'm saying the Act doesn't clearly set that out. The Board's authority will be for it to interpret its own statute and make that ruling.

And I don't want to expand my questions beyond what I intended them to be, which is to gauge this individual's understanding of what the options are for this Application under section 29 for which its brought, which is approve or return it back to the IESO for further consideration with the Board's recommendations.

THE CHAIR: So I understand what you're saying for the approval of the revenue requirement. I'm talking -- you know, my conversation with you a moment ago had shifted to the deferral and variance account.

I guess I would appreciate it if you could clear whether it's your view that we have the ability to disallow costs on that deferral and variance account, because if we are asked to approve that in this Application, you know, if the Province is going to be taking the position that we're not going to be able to disallow costs after the fact, that may be a factor we'll need to consider when we look at approving that deferral and variance account or not.

MR. KAYTER: Mr. Chair, that is a valid question. I can't answer it off the cuff. There are big implications to me answering that question on behalf of the Department at this time, but it's a fair question the Board asks, and it flows from the line of questioning that I'm raising, and I didn't contemplate it when I was framing this question.

It seemed obvious to me that both the spirit and the letter of some of these questions went to the prospect of the Board denying, wholesale, some of these proposed expenditures and revenue requirements. And looking for its authority to do that, I found none, and what does exist is, like I said, a mechanism by which the Board can assist the IESO with its recommendations to achieve that approval.

I had not turned my mind to the prospects of the deferral account, but I'm hesitant to answer that question. Can I take that question back and in closing submissions address it?

THE CHAIR: I would appreciate it if you would.

And I think, in the context of many of

the questions that you refer to, at least as I understood them, you know, if there's a disallowance, how are you going to deal with being unable to recover those costs, it seemed to be in my head, costs that were actually incurred. Maybe that was not the intent, but I was anticipating that was really going to the revenue -- sorry; the deferral and variance piece.

I mean, the legislation says what it does on terms of referring the matter back to IESO Nova Scotia on a forecasted basis and contemplates an eventual Board approval until such time the prior rate will continue to run. I think that's clear.

I'm a bit more concerned with what you're raising in the context of the deferral and variance account.

MR. KAYTER: I share your concerns. I'm just unable to answer them.

THE CHAIR: Sure.

MR. KAYTER: I'd like to take that

question back. And it may be that, and it would seem that there is not, a clear answer to that question in the Act, amongst other things that that Act doesn't speak to. And so my initial point was I'm not telling the Board it doesn't have that authority.

THE CHAIR: Understood.

MR. KAYTER: The difference is I'm saying it is not clearly addressed in the legislation.

And more nuanced is what I really want to know is what do you understand when you're making these decisions of the possibilities here, approval or -- because it has not come up in these hearings, and I'd like the evidentiary record to reflect, well, they're aware that this is -- there's a mechanism by which the Board sends back recommendations to help them get to approval.

THE CHAIR: So you simply want to ask the panel whether they're aware that when they come forward with a revenue requirement application one of the options available to the Board is to send it back to them with recommendations?

MR. KAYTER: Yes. Because through all of that questioning, you know, they were confronted with the prospect of disallowance, which is -- you know, it's fair in this environment, but at no point does any intervenor, any witness, say, "Well one possibility is the return with recommendations to achieve that approval," and it would be noteworthy to the Board if they properly understand what is set out in that statute. And that is really all I'm trying to establish.

I apologize for bringing the Board further down a rabbit hole than I intended, and it may be naturally flowing from my questions, but my intent is much more limited.

[12:20:23] **THE CHAIR:** So I guess I don't have any difficulty if you want to ask if they're aware that one of the options that the Board has is to refer the matter back to them with its recommendations. I don't think there's any harm in that question.

I don't think it raises a particular legal question, Mr. Furey or Mr. Mahody, if it's just indicating that that's an option?

MR. FUREY: Yeah, I don't ---

THE CHAIR: I appreciate it wasn't your objection.

MR. FUREY: It's not. And the only -- my only interest in it is that I don't think I agree fully with my friend Mr. Mahody that my objections were on a similar basis. I certainly did object when I felt the witness was being asked for a legal interpretation, but when the question was framed as what's your position or your understanding, I did not object. And I think in a number of my objections the Chair reframed it that way.

THE CHAIR: Yeah.

MR. FUREY: So my view is as long as it's reframed as an understanding or position of the organization, it's an appropriate question.

THE CHAIR: Yeah, and I think that's

what we're talking about here.

Mr. Mahody?

MR. MAHODY: Nothing further, Mr. Chair. I see (inaudible due to mumbling) no further comment.

THE CHAIR: Okay. If someone could maybe go get the witnesses back.

MR. KAYTER: Thank you, Mr. Chair.

(SHORT PAUSE)

CHRIS MILLIGAN, Resumed:

JOHNNY JOHNSTON, Resumed:

MIKE McFETERS, Resumed:

THE CHAIR: Thank you for that, panel.

CROSS-EXAMINATION BY MR. KAYTER, (Cont'd)

Q. Mr. Johnston, before you were excused I was asking you about what you understood the legislation provides for outcomes, and specifically your understanding of the legislation; not what any outcome could be, what's your understanding of what section 29 of the *More Access to Energy Act* provides for potential outcomes to your Application?

A. (Johnston) So everything we do is very much guided by the *More Access to Energy Act*, and I think it's felt at times that as we've gone through the hearings that the not-for-profit nature with no shareholder has been potentially missed and that we've been fully set up to focus on how do we maintain system reliability, get ourselves through an incredibly challenging energy transition, and do that in the best cost for customers.

And, you know, our understanding of the -- under section 27 was really -- I mean, I'll quote back to my opening statements, which was our Application is submitted to the Nova Scotia Energy Board under section 29 of the *More Access to Energy Act*, which provides that the Energy Board may, as a result, either approve the revenue requirement or refer it back to IESO Nova Scotia for further consideration, with the Energy Board's recommendations, which is very much a direct quote of 29(4).

Q. So having read that, in addition to approving the proposed expenditure and revenue requirements, what do you understand any other, if any, options to be for the Board in your Application?

A. (Johnston) It would be to refer the Application back to us with comments, which of course we would then take very seriously and then have to respond.

Q. Thank you. And I thank the panel. And that's my questions. Thank you.

THE CHAIR: Thank you very much.

MR. KAYTER: If I may be excused?

THE CHAIR: So it's probably a good time to break for lunch at this point in time.

I'll just canvass, in terms of Doane Grant Thornton. I think I understood from last week there were some questions maybe from the Industrial Group for

Doane -- no.

Are there any questions from intervenors for Doane Grant Thornton?

Oh, Small Business Advocate?

MS. MacADAM: Yeah, I may have one or two.

THE CHAIR: Okay.

MS. MacADAM: That would be it.

MR. MAHODY: And, Mr. Chair, I have less than five minutes.

THE CHAIR: Less than five. Okay. All right.

(SHORT PAUSE)

THE CHAIR: So we're just kind of debating how much time will actually be required for completing this panel and dealing with Doane Grant Thornton, and it's hard to predict, I guess, but it may not be -- I mean, it might be an hour, it might be less is my sense of things.

And maybe if -- unless there's significant objections, maybe we take a brief break now and rather than a lunch break and come back and try to push through and finish. Would that be acceptable to everybody? I'm seeing a bunch of nods. Staff here, is that okay? Yeah, okay. All right.

So we'll do that. Why don't we break again for 15 minutes. So it's 25 after 12:00. We'll come back at 20 to 1:00 and we'll finish at that point in time.

--- Upon recessing at 12:26 p.m.

--- Upon resuming at 12:42 p.m.

CHRIS MILLIGAN, Resumed:

JOHNNY JOHNSTON, Resumed:

MIKE McFETERS, Resumed:

THE CHAIR: So I don't see Ms. Power. Does anyone know if she's left for the day or -- she's left for the day. Okay.

All right. So I think we're good to start, Mr. Mahody.

MR. MAHODY: Thank you, Mr. Chair.

CROSS-EXAMINATION BY MR. MAHODY

Q. Panel, good afternoon. My questions, I think, are exclusively in the area of the deferral and variance account. And just by way of context, in August of 2025, IESO filed its first Revenue Requirement Application for the period ending March 31st, 2026. Mr. McFeters, is that correct?

A. (McFeters) Yes, it is.

Q. All right. And in that Application was the first time that the deferral and variance account was proposed by the IESO; correct?

A. (McFeters) Correct.

Q. okay. And as part of that application process, IESO indicated that accounting policies would be developed. It was one of the responses to an IR in that matter, that they were under development at that stage.

A. (McFeters) Yes.

Q. Okay. And the IESO is also aware that in that matter, the March 2026 revenue requirement, for the period ending there, that Doane Grant Thornton provided evidence, a report that was put before the parties and the Board; do you recall that?

A. (McFeters) Yes.

MR. MAHODY: Okay. Could I just turn briefly to the Board's decision in that matter? Mr. Norwood, this is the Board's decision in Matter 12412. It's been referred to earlier this morning.

BY MR. MAHODY:

Q. And if I could direct the witness's attention to page 15 of that decision? And at this section of the decision, the Board is addressing the deferral and variance account. And over at page 16, I'm going to refer to paragraph 37. Near the bottom of paragraph 37, the Board makes reference to, "However, it..." being Doane Grant Thornton:

...noted that the IESO's proposed Net OM&A

Deferral and Variance Account lacked cost management controls and accounting policies.

And the Board goes on to -- with a number of bullets from the Doane Grant Thornton report in that matter.

And now I'd like to turn you over to the findings over at page 18, if I could, of this same decision. And you've been referred to a number of these paragraphs already, but beginning at paragraph 42 and over to the end of paragraph 50, the Board makes certain findings regarding the deferral and variance account.

I take it that upon receipt of this decision in February of 2026, the IESO closely reviewed particularly areas of the findings in relation to that -- to all matters, particularly this one; is that correct?

A. (McFeters) Yes.

Q. Okay. And I appreciate the overlap, that the Application that brings us here today was filed in January of 2026, such that this decision that we just -- that we're looking at now on the screen came out while this process was ongoing, but I take it that the IESO understands that this decision that we're looking at currently on the screen contains a number of directions that the IESO has intention to comply with in future revenue requirement applications; is that correct?

A. (McFeters) Yes, that's correct.

Q. Okay. And in relation to the deferral and maintenance account, that involves the drafting and filing of guidelines, accounting policy, financial controls; you're familiar with those recommendations?

A. (McFeters) Yes.

Q. Okay. And just while we have this document open, could I just turn you to the minimum filing requirements, page 21 of the same decision? It's a section entitled, "Minimum Filing Requirements and Financial Controls." And over on to the next page, to the findings in relation to this matter. So I'm at page 22 of the decision.

The Board makes directions regarding all future revenue requirement applications are to include certain things. And I again appreciate that at the time this was given, this application had already been made, but in future filings for revenue requirement, the IESO understands that the Board has directed it to have certain standardized filings and your intention is to comply fully with that; is that correct?

A. (McFeters) Yes, it is.

Q. The -- in the quarterly report letter that the IESO had submitted to the Board, May 15th, 2026...

MR. MAHODY: Mr. Norwood, I think this has been referred to already. I sent you a copy I think earlier this morning. It's Matter number 12859. It's a May 15th, 2026 letter from IESO.

BY MR. MAHODY:

Q. All right. And so Mr. Johnston, this is the quarterly report that was filed by IESO on May

15th, 2026?

A. (McFeters) Yes.

Q. And over at page 5 of this document, and down, it's the second-last paragraph that I'd like to ask the witness panel about. It indicates that:

> IESO Nova Scotia also continues [to] work on regulatory compliance requirements, including drafting deferral and variance mechanism guidelines and finalizing accounting policies currently under audit review by IESO Nova Scotia's competitively procured external auditor, BDO. Additionally, financial controls have also been developed and are being reviewed as part of that same ongoing external audit.

And when reference is made here to financial controls, those include cost management controls; is that fair to say?

A. (McFeters) Yes.

Q. Okay. And so for all of those categories of policies and requirements and controls, IESO is working on those. I know there's an undertaking to provide some draft accounting policies. But from a completion perspective, the filing of the -- all of those items with the Board, is there an impediment -- any impediment for IESO committing to filing those by, say, September of 2026? These would be the DVM Guidelines, the accounting policies, and the financial controls.

[12:50:03] **A.** (Johnston) So in alignment with, I guess, the direction from the ’25/’26 Board’s findings, I think in paragraph 88, it finishes with, you know, these accounting policies and guidelines particularly tied to the DVM should be filed no later than its application for the ’27/’28 revenue requirement. And I think just from an efficiency perspective, our intention had just been to plan to file those with that revenue application.

Q. And I acknowledge, Mr. Johnston, it does say no later than. I take it IESO is interpreting that to, then that's going to be the target date, you'll file it at that time?

A. (Johnston) I think just in terms

of being efficient and balancing our workload that was what we were working towards.

Q. Okay. And so that -- and that filing under the statute would be required by December 31st, 2026. Do you anticipate any impact on your application for the variance mechanism, the collection mechanism, that would require clarity regarding the deferral and the variance account?

A. (Johnston) That's a good question. So I think I would expect us to be layering in how the deferral mechanism would sort of -- once approved, would flow through that mechanism.

But in terms of where -- if you think where we are right now talking about ‘25/’26 and ‘26/’27, the first time the deferral mechanism could have any impact on revenue requirement would be on that next application for ‘27/’28. And so I don't think it's critical, but I think we would show how, assuming it were approved, how it would sort of -- the math would hold together, I believe.

Q. You could agree though, that as much clarity as possible be provided regarding the terms and provisions of the deferral and maintenance -- deferral account, whatever detail could be provided would assist the Board in considering the collection mechanism?

A. (Johnston) So I probably think about -- rightly or wrongly, think about those two things independently. I think there's a mechanism for whatever an approved amount might be and how it flows in. And there's a question about whether an amount is approved or prudent.

And so I don't think you need to worry about -- on the basis of the separate controls for the amount being approved sort of later and separately. The mechanism, I think, can be looked at independent of that, knowing that that piece is still to come.

Q. And do I take it, though, that in the event that IESO was directed to make an earlier filing of those policies and guidelines, the IESO would comply with whatever direction is provided in that regard?

A. (Johnston) As with everything, we will do what we can to follow the Board's guidelines.

MR. MAHODY: Mr. Norwood, could we call up Exhibit N-1-(i), and it's PDF page 38, please?

So, Mr. Johnston, this is Exhibit C-1 from your Application. And right in the middle of that paragraph beginning at line 6, it says:

> The rationale for the initial request for the Net OM&A Deferral and Variance Account still exists, and IESO Nova Scotia is requesting a continuation of the Net OM&A Deferral and Variance Account for 2026/2027 and in perpetuity for the purpose of tracking and deferring any variance from the approved revenue requirement. The Net OM&A Deferral and Variance Account may be used to account for additional cost categories such as capital [costs] and costs associated with energy resource procurements...

In reference to the request that it be granted in perpetuity, you're looking to establish what you understand to be a permanent deferral and variance account; is that correct?

A. (Johnston) Yes, I think that’s -- that was the intent here and I think it was really just trying to recognize that we know that every year whatever we forecast and what we actually spend will vary by hopefully a small amount, but there will always be a variance every year. And so to the extent that we can set something up that everyone sort of understands how it works going forwards, it will be efficient and beneficial for all parties. But that was really the only intent here.

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

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

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

A. (Johnston) That is correct.

MR. MAHODY: Mr. Chair, those are all my questions. Thank you.

QUESTIONS FROM MEMBER NICHOLSON

Q. I think everyone has done a very good job of covering off pretty much all of my questions. Just one, again related to the deferral account.

Is this account an actual account on your financial statements, or is it an off-balance sheet sort of spreadsheet of accounts? How is that being accounted for?

A. (McFeters) So at the moment it's not an account, but under IFRS there is actually a new standard related to regulatory assets and liabilities that just came out. We would anticipate applying that early in, you know, the next applicable set of financial statements. And it would likely allow recognition of an asset or a liability related to this deferral account.

So that's how an amount would get recorded in the financial statements. I haven't even seen the text yet of the full standard, so it's early, but that's the expectation.

Q. And as far as your audit, I know it's ongoing, has it been going smoothly?

A. (Johnston) Yes, I would describe it as smooth.

MEMBER NICHOLSON: I think everything else has been covered off. Thanks, Mr. Chair.

(SHORT PAUSE)

<u>QUESTIONS FROM THE CHAIR</u>

Q. Okay. I'm going to start with just a bit of clarification on the opening statement that was filed.

Mr. Johnston, you referred to the NERC January 2026 long-term reliability assessment, and you stated that the report highlighted Nova Scotia's elevated electricity supply reliability risk. Then you go on to comment that:

> Nova Scotia was the only province to fail to meet the required resource adequacy needs in every year of NERC's analysis.

Do you recall that?

A. (Johnston) I do. I did slightly change my wording in my verbal update, but yes.

Q. Okay. And in terms of the risk classifications in the NERC report, my understanding is that NERC is focusing on the 2026 to 2030 period. Is that correct?

A. (Milligan) Mr. Chair, I can

address that question if you'd like.

So the NERC long-term resource adequacy report, LTRA, that covers winter seasons. This is the winter LTRA; they do a separate report for summer seasons. So this covers winter '26/'27 through winter 2030/'31. So it's a five-year outlook, five winter seasons.

Q. Okay. And if I'm not mistaken, and maybe these are more for you, Mr. Milligan, the report doesn't specifically assess Nova Scotia's resource adequacy, it assesses the NPC Maritimes area?

A. (Milligan) So that is absolutely right. And so I want to -- as I sort of like, think I gave on the record in my opening statement, the elevated risk was for the Maritimes region. But the Nova Scotia province being the only one to meet the resource adequacy needs in every year of the analysis, was not referring to the long-term resource adequacy report, it was referring to their Interregional Transfer Capability Study for

Canadian Analysis that came out in 2025, which was just for Nova Scotia.

[1:00:28] **Q.** Okay. And that was -- you anticipated my question, where I was going with that. And that study, is that something you can file in this proceeding?

A. (Johnston) Absolutely. It's public.

Q. Okay. SO that will be Undertaking U-11.

UNDERTAKING U-11 - To file the Interregional Transfer Capability Study Canadian Analysis from April 2025

BY THE CHAIR:

Q. And that was the Interregional Transfer Study?

A. (Johnston) Yes, the Interregional Transfer Capability Study Canadian Analysis, from April

2025.

Q. Okay. Thank you for that.

The categorization by NPC -- sorry, for -- by NERC for the NPCC Maritimes area as elevated risk, that puts it at higher-than-normal risk, but not in the high-risk category?

A. (Milligan) Yeah, Mr. Chair, that's correct.

Q. And what is your understanding of the difference between NERC's elevated and high-risk classifications?

A. (Milligan) So Mr. Chair, not aware here in front of us exactly if there's a specific percentage in mind where they make that determination, but I do -- I am aware that they generally would consider both the magnitude of maybe a deviation from the target reserve margin, as well as the persistence of that in a multi-year assessment in categorizing a particular region as either normal risk, elevated risk, or I believe it's high risk is the third.

Q. The opening statement goes on to refer to the cold event in around January 23rd, '26, and the statement refers to posing supply changes in Nova Scotia. It's my understanding, and just trying to indicate if you agree, or if it's also your understanding, that those conditions also pose supply challenges in other areas, including New Brunswick, Prince Edward Island, and Newfoundland and Labrador?

A. (Johnston) I would agree with that.

Q. And I'm going to turn to the summary of operating and maintenance costs in your application.

THE CHAIR: So, Mr. Norwood, just for a visual reference, if we could pull up Exhibit N-1-(i) and go to page -- PDF page 10, I believe it is. And I'm looking in particular at Table 1.

BY THE CHAIR:

Q. The evidence notes, it’s not apparent on the table, but it notes that labour costs were lumped into two particular categories: employees and operations, system planning. I was wondering why the decision was made to lump that into those particular categories, rather than allocating labour costs across these various functions?

A. (Johnston) That’s a really good question. I think the very simple answer is this is the same cost categories that we used in the ’25/’26 Application, and so just for consistency between the two applications, we sort of kept them the same. I feel like we need to change it and then try and show that mapping going forwards. I don’t think it’s the best way of laying it out, but really that was -- the rationale was really just for maintaining consistency with ’25/’26.

Q. So is it your intention to change it to allocate that across the functions? And really, I’m wondering about in the context of something like procurement, for example, if you're not allocating labour to that function and you intend to recover it from third parties under the resource contracts, you know, is that being missed?

A. (Johnston) So the good news, maybe to the last point, is costs aren't being missed, we're sort of capturing those all. I think there is -- so we absolutely need to look at what's the best way to lay our costs out. I mean, I was thinking more the other way, that's it's odd that we've got our labour costs in two places and it might make sense to bring them together into one, but we would be very happy to look at does it then actually make sense to break them out and tie them to the different costing functions as well? I haven't thought of it that way, but I -- whichever way I feel like, what we've got today is not the most rational and we're certainly happy to look at it that way, if that'd be helpful.

Q. Right. And not to introduce more

complexity, but maybe I will anyway, the -- we had talked about the various forms of cost recovery for IESO Nova Scotia in its Application under section 29, under section 30, and then there's also the transmission tariff under section 79, which is DPD, I guess. To some extent, do you think it might make sense to allocate labour across the various cost categories in case they may fall differently under those particular revenue requirement or cost recovery mechanisms?

A. (Johnston) The hesitation at this end is -- so we would -- so we clearly want to make sure that we're very clear in putting the -- if we're putting a section 29 application in, that the section 29 costs are there, but if we think about interconnection costs, as an example, there are multiple different customers that are -- we're spending time against that is then being sort of taken out and we've put that in as a -- almost like a macro adjustment, saying it -- in total we're expecting it to be this much. But I understand the concern of how do you get visibility to the total magnitude of costs and where are they sitting, in terms of putting the context of a particular application together? So let us think through how we can sort of appropriately given transparency to the total cost but also be clear on these are the costs that are in our -- whichever application it may be, whether it be 29 or 30.

Q. Yeah, so I'm also thinking on the recovery end too, though, in terms of if they're going to be recovery from customers and how they're allocated amongst customer classes may -- you know, may, in some respects, vary. And if you're not allocating labour across different functions, would that have an impact? And I'm not sure that it does. I'm just kind of raising it as a consideration.

A. (Johnston) So lots of conversation still to happen, I think, in terms of the cost recovery piece. But certainly consistent with other system operators, the current approach would be what's being pulled together is focused around costs passed on to load-serving entities based on energy usage. How those load-serving entities then pass it on to individual customers would be a separate conversation for them, I think.

THE CHAIR: Mr. Norwood, could we pull up Exhibit N-4? And I think I'm looking for page 18 in the PDF. It should be IR-10. And if you could maybe just adjust the size of that so that we see most of that page, that would be appreciated.

BY THE CHAIR:

Q. Just a question on the compensation philosophy. So just in the evidence here, line 30 refers to benchmarking against similar roles and similar-size organizations in Atlantic Canada. See that?

A. (Johnston) Yes.

Q. And then the paragraph above, it refers to other entities, such as Nova Scotia Power, Ontario Power Generation, Newfoundland Power, the Alberta

Energy System Operator, NB Power System Operator, many, if not all of those organizations, are not in the Atlantic Canada region, and not of comparable size to IESO Nova Scotia, so I'm just wondering how -- where the disconnect is in terms of those statements?

[1:10:08] **A.** (Johnston) Well, as we've done our benchmarking, you know, part of the challenge that we have from a system operator perspective is there is no -- there is not another system operator in the world that's our size. And so we're trying to get the right balance of organizations that do what we do, but also organizations that are in Atlantic Canada, and I think of the five or so organizations that you referenced, three of them would be in Atlantic Canada, the couple that aren't are linked to sort of similar activities to what we did, at least in terms of the IESO. And so I think as the team -- the consultant involved at the time was trying to do the best they could to find reasonable organizations to compare and contrast against.

Q. Which is a different statement than it was benchmarked against Atlantic Canadian companies that are the same size, and I guess that's where my issue is.

A. (Johnston) That's (inaudible due to mumbling).

Q. So that's not actually what was done, then; it's as you just described it, it's benchmarked against entities that somebody thought were reasonable comparators?

A. (Johnston) I think that would be a better way to articulate it. I mean, particularly at the time it was an organization of one person, so yeah.

Q. In terms of the ongoing integrated resource planning exercise that you have, am I correct that the capacity contract with New Brunswick and the fast-acting generation intended for Pictou County is not within the scope of that IRP; that that's assumed to be on the base or the baseline, if I can call it that,

that those projects aren't being assessed?

A. (Milligan) I can address that for you, Mr. Chair. So in the ongoing integrated resource planning process there's quite a lot of, of course, development of assumptions and scenarios, and that happens in very close collaboration with all the stakeholders that are involved. We have published drafts of assumptions, set one, and comments have been received back from participants on assumption set one. Assumption set two was also published and actually there's a stakeholder session later today to cover and review with stakeholders certain of the elements of that.

My recollection on the drafts that have been published to date would be that we indicated that resources which -- energy resources which have been contracted would be included in all scenarios. And to the two specific ones you mentioned, the New Brunswick arrangement would be included in all scenarios. The fast-acting generation would not be included as a fixed resource in all scenarios, but it will be optimized by the model in those scenarios.

Q. So in terms of the fast-acting generation, then, is it possible that the IRP might conclude that's not the most appropriate resource to acquire and that that would scuttle that plan?

A. (Milligan) So maybe a couple points on that, Mr. Chair. So I would agree with you that that may be technically possible that that would be an outcome. I would not anticipate that to be the outcome based on all of the work that's been done to date in regard to the previous integrated resource plans, the intermediate 10-year system outlook reports that I know you're familiar with, and other ongoing planning work.

And so we actually -- because the timeline as presented in the terms of reference anticipates draft results from the IRP coming over the summer, we view that as actually a very helpful way to align and continue to see that alignment of a need. So if unexpectedly there was to be a determination that that need had somehow changed we would certainly be attentive to that, and the timing allows for that, of the two processes. So I would reiterate again it's certainly not our expectation to see that, but that's the approach we've taken.

Q. Okay. So that's fair. I take your point about your expectations. I don't have any issues with that. But you will have the opportunity to course correct if something unexpected pops out of the IRP?

A. (Milligan) And we think that's helpful, yes.

Q. Some questions now on the deferral and variance account. So I know there's sort of a characterization of -- at a high level in terms of how the mechanism would work, but I want to try to simplify it, mostly for my own purposes to try to get my head around it. My understanding is that the intent of his mechanism is to basically put in place something that will allow IESO Nova Scotia to flow through, on a year-by-year basis, all of its actual costs, actual revenue requirement and O&M costs, net of actual revenue in that particular year to customers.

A. (Johnston) I think that's a fair way to characterize it. And this is trying to recognize that as a not-for-profit organization we don't have a shareholder. If we were to underspend, as it looks like we have done in '25/'26, we don't think it's appropriate for us to hold onto that money, but similarly if something was to happen the other way and for us to slightly overspend, then the funding for that needs to come from somewhere and the intent really is to have a mechanism to capture that and enable that trail to happen.

Q. Okay. And so you anticipated again my next question a little bit there. 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.

Q. Okay. And is there some sort of -- given that, is there some sort of mechanism that you intend to also implement beside this that would ensure that your costs, your actual costs that you're flowing through there, are as low as possible?

I'm asking from the context of if you've got a deferral mechanism -- deferral and variance mechanism that allows you to flow through your costs, your actual costs year-over-year, some might argue there's a disincentive for cost control there if all your costs just get flowed through and there's really no risk to the organization.

So what are the internal controls and mechanisms that are going to be in place to make sure that we have our checks and balances for that?

A. (Johnston) So I hope the record shows that we do take this very seriously and that we recognize that we are a maturing organization so we haven't been able to necessarily do all the detail and provide all the detail that might be expected, but our intention is to put forward a very thoughtful and prudent budget, assuming that that's approved by the Board, to then live within the means of that.

And, you know, whilst we've talked about this variance mechanism to allow for the true-up, I think ultimately the Board has to hold me as the CEO accountable for doing a prudent job, and so I certainly feel the burden of the organization's performance and would expect that, you know, heaven forbid, we had outrageous overspending on things that would be seen as not necessary and not in line with the *More Access to Energy Act*, I wouldn't be sat here much longer after that.

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

[1:20:00] And so I feel very -- I take the weight of the position that we play in the province very seriously. I've clearly got a board of directors that also takes that very seriously. And I'm held, in the first instance I guess, accountable to them, and then in the second instance to this Board.

And so please don't take our

application for a deferral and variance account as us asking for a blank cheque.

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

A. (Johnston) Yeah.

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

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

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

And we have an audit subcommittee of

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

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

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

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

Q. Okay. And so the details, as I understand it, about how it's been proposed as a variance to the approved revenue requirements, is there anything that would stop you from being able to provide, if the Board requested it, on a periodic basis, quarterly, monthly, whatever, that you would be able to provide updates for the Board and stakeholders on where the basically actual revenues to actual costs are at any point in time in a year? Not necessarily an end of the year variance exercise, but on a real-time basis?

(SHORT PAUSE)

MR. JOHNSTON: I'm always nervous when I commit to providing more information to the Board, because you can imagine there's a whole incremental set of work that is -- that goes in behind that.

But, conceptually, you know, particularly after each quarter, we're reporting into our Board on what our financial performance was versus budget or essentially versus revenue requirement, and so there's no reason per se why that information couldn't be provided.

Obviously, there's a bit of a time lag by the time you get to the end of the quarter for everything to get reconciled and presented up, but conceptually that certainly isn't -- with the information that we would have and would be able to provide if that was helpful.

BY THE CHAIR:

Q. Okay. And I appreciate the lag

-- the lag issue.

In terms of the Fuel Adjustment Mechanism that Nova Scotia Power operates, it does provide monthly filings for that. If that something that would be doable for your organization? I appreciate there's a burden benefit to issue there.

A. (Johnston) I would highlight the order of magnitude difference in terms of the organizational size and scale. And so everything is possible but, you know, right now we're running on an organization of two people in the finance organization. And so our preference, I think, would be, if it's needed, to go quarterly. But of course, if the Board directs monthly, then we would figure out how to do that and adjust our planning appropriately.

Q. And other difference with Nova Scotia Power in terms of -- in addition to magnitude, I guess, is if the Board were to issue a disallowance, there's shareholders there behind them to actually absorb that.

A. (Johnston) That is fair.

THE CHAIR: Just related to that point, I guess, Mr. Norwood, if you could pull up Exhibit N-7, please. Sorry, just if you pull that up -- just one more question on the deferral and variance account.

BY THE CHAIR:

Q. So Doane Grant Thornton recommended that stringent forecasting and tracking processes be implemented for the deferral and variance account. I take it you accept that recommendation?

A. (Johnston) Yes, although I do feel like this comes back a little bit to some of the confusion that hopefully we've cleared up through this proceeding, that we very much see that as an end-of-year, one-time drop activity, not something that's happening day to day or week to week. It's really managing the budget against the revenue requirement, is the right controls that we should be having in place.

And, of course, if it becomes a position at the end of the year of how that all comes together, but there isn't a -- you know, there's isn't a weekly variance that's changing in some sort of deferral account. It would be a year-end drop.

Q. Okay. Thank you.

So we've got Exhibit N-7 up there. I'm looking for page 23 in the PDF, I believe it is. Yeah, that's it.

So this is -- this is IR-13. I'm looking in particular at the response to part (c). There's a statement there that I wanted to follow up on. It talks about the review of the costs, variances, at the end of the year and refers to the "+/- 10%" item in accordance with the Board's previous decision.

The statement that I wanted to ask you about is on line 25. It says, "Prudency review is limited to over- and 26 under-expenditures greater than +/- 10%." Are you suggesting that if costs were incurred imprudently that the Board couldn't address those unless it fell outside of the +/- 10% ban?

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

I think what we were, in some ways, trying to play back here was our interpretation of what we had read in the '25/'26 Order, which was to provide incremental details if we were plus or minus 10 percent with the assumption that it was intended that there would be further prudency reviews from those incremental details provided.

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

You know, you come forward with a revenue requirement Application, and you have a need for a contract to undertake some sort of activity during the course of the year that’s an operating cost. And you estimate an amount for that contract and that gets approved by the 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?

[1:30:05] **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.

Q. Leading me again into my next question. Thank you very much for that, Mr. Johnston. So practically speaking, the Board's remedy of imprudence, that would be a very difficult one to implement in this particular case because of the not-for-profit status; wouldn't it?

A. (Johnston) I think the way that I think about it today is we're a small growing organization which will always have opportunities to learn, and so I think there will always be opportunities to cast anything -- provide direction, guidelines, and dates for what we might need to do differently going forwards, but I agree in terms of the individual particular cast. I think that it will become a challenge to know what to do with that. And that's, I think, the weight that I feel on my shoulders, because I feel I probably carry most of that risk.

Q. So for costs, particularly of any significance, realistically, no matter how imprudent you were, while in theory the Board may have the ability to disallow a cost for imprudence, it’s not likely to be a disallowance; it’s likely to put you out of business, isn’t it?

A. (Johnston) If that was the direction that the Board wanted to head to.

Q. I wasn’t suggesting that was where the Board wanted to go. I’m just talking about the practicality of the imprudence remedy in this particular context.

A. (Johnston) I think it’s far more that you’d put me out of my job than you’d put us out of business, and that there needs to be a change in leadership and behaviour going forwards.

Q. But if we disallow a cost, particularly a significant cost, the IESO Nova Scotia has no other source of revenue. How does it pay that?

A. (Johnston) There is the crux of the challenge.

Q. So would you agree with me that from a regulatory perspective, this makes the focus on ensuring that IESO Nova Scotia has transparent, robust operational cost mitigation process policies that are fully documented, implemented, and followed all the more important?

A. (Johnston) As long as we keep those fit for purpose, absolutely.

Q. Well, fit for purpose, in the context of your size or in the context of even if you're imprudent, it's going to be difficult for us not to pass those costs along to ratepayers?

A. (Johnston) No, I think in terms of being thoughtful around the size and risk and costs of putting -- we just want to make sure that what we do is the right balance, is all I'm suggesting.

Q. Those are my questions. Thank

you very much.

THE CHAIR: I'll just go around to see if there's anything arising from the Board questions at this time, starting with the Consumer Advocate.

MR. MUPRHY: Nothing arising.

THE CHAIR: Small Business Advocate?

MS. MacADAM: No questions. Thank you.

THE CHAIR: Industrial Group?

MS. RUDDERHAM: No further questions.

THE CHAIR: Port Hawkesbury Paper?

MR. MacDUFF: No questions.

THE CHAIR: Nova Scotia Power?

MS. POWER: No thank you, Mr. Chair.

THE CHAIR: Department of Energy?

MR. KAYTER: Nothing, thank you.

THE CHAIR: Mr. Mahody?

MR. MAHODY: No, Mr. Chair. Thank

you.

THE CHAIR: Mr. Furey, then either anything arising or anything by way of re-direct at all, over to you.

MR. FUREY: No. Thank you very much, Mr. Chair.

THE CHAIR: Okay. Well, thank you very much.

Panel, thank you very much. Sorry we couldn't do this all in one shot and we had to drag you back a week later but appreciate your patience with that and for responding to the best of your ability to the questions that were asked by the intervenors and by the Board as well.

MR. JOHNSTON: Thank you very much.

MR. MILLIGAN: Thank you.

(PANEL WITHDRAWS)

THE CHAIR: Okay. So that brings us to Doane Grant Thornton.

MR. MAHODY: Thank you, Mr. Chair. Ms. Brown is joining us now on the screen.

Thank you, Ms. Brown.

And I'm set to begin, Mr. Chair. If you want to give the panel perhaps a moment to -- if they're going to move, or...?

THE CHAIR: We can take a moment if you want to get more comfortable somewhere else.

Well, while we're transitioning, and before we get into the formalities, Mr. Furey, just an indication. I often give counsel for the Applicant their choice of whether they want to ask cross-examination first or last before Board -- well, I guess it's not Board counsel in this case. Do you have a preference?

MR. FUREY: I would prefer to go last. Thank you, Mr. Chair.

THE CHAIR: All right. Mr. Mahody.

MR. MAHODY: Thank you, Mr. Chair.

So Board counsel presents Angie Brown

for Doane Grant Thornton and asks that she be affirmed.

THE CHAIR: Ms. Brown, good afternoon.

MS. BROWN: Good afternoon.

ANGIE BROWN, Solemnly Affirmed:

THE CHAIR: Thank you.

Mr. Mahody.

EXAMINATION ON QUALIFICATIONS BY MR. MAHODY

Q. Ms. Brown, could you confirm, please, that you've filed a report in this matter and it's been marked as Exhibit N-11?

A. Yes.

Q. And that you responded to IRs from the Industrial Group, and that's been marked as Exhibit N-13?

A. Yes.

Q. And attached to your report at Exhibit N-11, the last three pages of that report, beginning at page 50, is there an outline of your professional qualifications?

A. There is.

Q. And have you testified before this Board before?

A. Yes, I have.

Q. And have you testified before other regulatory tribunals?

A. Yes, I've testified in New Brunswick, and I've provided written evidence in Newfoundland and in PEI in regulatory matters, and I've also spoken in front of municipal regulatory bodies in Alberta.

MR. MAHODY: Mr. Chair, I'm going to ask that Ms. Brown be accepted as an expert qualified to give opinion evidence regarding revenue requirement, good utility practice, OM&A costs, and deferral and variance mechanisms.

THE CHAIR: Any questions on qualifications or objections from anyone?

Okay. She's so qualified, Mr. Mahody.

MR. MAHODY: Thank you.

DIRECT EXAMINATION BY MR. MAHODY

Q. Ms. Brown, are there any

corrections required to either your report at Exhibit N-11 or your IR responses at Exhibit N-13?

A. No, no clarifications or corrections.

Q. And are the facts on which your opinion is based true and accurate, to the best of your information and belief?

A. Yes, they are.

Q. And are the opinions that you've expressed your own?

A. Yes.

Q. Thank you, Ms. Brown.

MR. MAHODY: Mr. Chair, Ms. Brown is available for cross-examination.

THE CHAIR: Thank you, Mr. Mahody.

I understood there's nothing from the Consumer Advocates, so Ms. MacAdam, I think you are up.

CROSS-EXAMINATION BY MS. MacADAM

Q. Good afternoon, Ms. Brown. Have you had the opportunity to listen to the testimony that was provided by the panel both last week as well as today?

A. Yes, I did.

Q. I just have a question. There's been a lot of discussion with respect to the panel and the deferral and variance account, and the addition of the capital spend going in there, and there was a clarification that came from a question asked by Board counsel earlier today. I'm just wondering if the information that has been provided by the panel both earlier, and also with respect to the clarification they provided more recently, does that change any of your positions or any of your evidence that you provided?

A. No material changes. I think what has been clarified is that within the original Application, it wasn't as clear that the IESO wasn't intending to defer capital project, per se, and what they were describing was really the way that those capital costs come into revenue requirement over time, such as through depreciation or interest expense. So that clarification was important, but it doesn't really materially change anything that I've written in the report or my responses to questions.

[1:40:06] **Q.** So if we go to your evidence at Exhibit N-11, page 38, so that's your conclusion, section 6.4. And so at the bottom, under bullet 3, it talks about -- specifically about the deferral of capital-related costs, and you talk about:

> Additional detail [that] would be required to better understand IESO Nova Scotia's intent in regard to the deferral of capital cost into the future. Specifically, the following would need to be understood:
> The defined nature and types of capital cost eligible for deferral;
>
> Thresholds and limitations for capital cost deferral; and,
>
> Applicable capital cost approval and review requirements.

So are those specific recommendations

with respect to what needs to be understood, have those changed?

A. No. So those items would still need to be described in the internal policies pertaining to this deferral mechanism. So, as an example, if we focus on depreciation, the depreciation is the recovery of costs which would fit within these three areas, so the recommendations, so they should still outline their processes and procedures for how that particular cost is quantified and then deferred over time. So these recommendations would still stand, despite that clarification on how it's meant to be addressed in the deferral account.

Q. Okay. And so given -- appreciate that with this Application we understand that it's just the addition potentially of the depreciation of the capital cost to be included in the deferral and variance account. What is the timing with respect to understanding these three issues? You mention that they should be included in the guidelines, but can the Application that's been put forward with respect to the depreciation of capital be approved prior to this information being provided, or would you recommend that this information is required before the Board makes a decision?

A. I think the information could be provided at a later date, as long as that's within a reasonable timeframe. So what I've heard today is the intent would be that that information would be filed with the Board no later than the end of this calendar year, so December 2026. I think it is important to review this in context. To date IESO's capital assets would pertain to office equipment, you know, website development, those sorts of cost categories which are somewhat minor in nature. If there was a point in time in some future iteration that the capital assets were much more significant or more material, the Board may wish to have more detail, but I didn't have any concerns with the policies and explanation of these costs being provided later in the calendar year.

Q. Okay. Thank you. Those are my questions.

THE CHAIR: Thank you.

And there was no-one else, other than the Applicant, I think.

So Mr. Furey?

MR. FUREY: Thank you, Mr. Chair.

CROSS-EXAMINATION BY MR. FUREY

Q. Good afternoon, Ms. Brown.

MR. FUREY: Could I ask Mr. Norwood to bring up Exhibit N-13 at page 3 of the PDF? This is the response to Industry Group IR-1(c).

BY MR. FUREY:

Q. And I'm not going to ask you about your conclusions here, Ms. Brown. I just want to understand the scope of your review. So if we look at the response to IG IR-1(c) would you agree with me that the scope of your review was to review the proposed revenue requirement for reasonableness?

A. Yes.

Q. And would you agree with me that of necessity that was a prospective review, in the sense that you were reviewing the reasonableness of forecast future costs?

A. Yes.

MR. FUREY: And, Mr. Norwood, could we then go to page 5 of the PDF of that same Exhibit N-13, and we could look at the response to IG IR-3(d)?

BY MR. FUREY:

Q. And I'll let you read this for a moment, Ms. Brown. And it actually carries over onto the top of the next page, so perhaps you could let us know once you're ready to move on.

A. You can scroll down.

Q. And so my question is around the -- your reference to the Board decision in Matter M12412, and you talk about the additional information that you would expect to -- I'm not sure if that's on my end, Ms. Brown. Are you hearing that interference?

A. You are cutting in and out slightly. It almost sounds like there's a drill or some background noise.

Q. Okay. Well, let's carry on, and you let me know if you're not hearing me or there are gaps in my question.

So you're -- I guess my question here is your statement about what would be necessary for what you call a meaningful prudence opinion is related to the Board's decision in Matter M12412?

A. Yes. So if I could elaborate. I view a prudence opinion as a specific sort of fact pattern. So if something were to materialize in a particular year that caused IESO to do something different than what was contemplated in their revenue requirement, and that resulted in additional costs or could be less costs than they had anticipated, a prudence review would focus on that particular item or triggering event.

So an example could be if they were unable to hire appropriate labour resources in accordance with their budget and they chose to use consultants for a large portion of that work and it was somewhat different, you would need to look at that particular decision or category of decision specifically, and that would be different than what I undertook in this particular process.

And that's just an example, and prudence reviews could materialize for a variety of different reasons, but reviewing a forecasted revenue requirement on its face is not the same as a prudency review overall.

Q. Okay. Thank you.

And if we could just go down to the bottom of that page, there's a footnote there at the end, Ms. Brown, and the footnote is to the Board's decision; correct?

A. Yes, that's correct.

Q. And if we just go back up to the wording again and you conclude -- you know, you talk about the explanation for cost category variances exceeding plus or minus 10 percent and the burden that is on the IESO.

MR. FUREY: So, Mr. Norwood, could we go, then, to the Board's decision of, I believe it's February 25th of 2026 in that matter? And if we could go to paragraph 49?

BY MR. FUREY:

Q. And this wording struck me as fairly similar to what you were talking about, Ms. Brown. Is this the reference to the Board decision you intended to make?

A. Yes, it is.

Q. Okay. And -- but you would agree with me that the review that is being contemplated in Section 49 is a retrospective review of the sort you just described a few moments ago?

A. Yes, it is.

MR. FUREY: And finally, Mr. Norwood, could we go to Exhibit N-11 at page 9 of the PDF?

BY MR. FUREY:

Q. And I don't have any particular questions about this, Ms. Brown. I just wanted to give you an opportunity to see it as I asked you this question. Would you agree with me that your description of good utility practice is not limited to a single standard?

A. No, that's right.

Q. And in your evidence you don't reference any specific standard that you've relied upon that contains a definition of either reasonableness or prudency?

A. No, that's correct.

Q. So would you agree with me that in assessing reasonableness and prudency the Board is left with common or perhaps the common-law definitions of those terms as the courts have defined them?

A. I don't know that I would be able to say as the court has defined them. So again it would depend on the particular fact pattern for the item under review. So if it was a financial review, for example, there are definitions of reasonability, and depending on the level of assurance or opinion you're expecting that person to provide, within some of the other utility kind of guiding principles from NERC, there would be guidance around what is reasonable or expected, depending on what the particular item was that was being reviewed. So if it was a -- you know, a breakdown in a reliability standard for example, there may in fact be other definitions outside of court definitions that could be applicable.

[1:50:25] **Q.** Sure. Okay. But I guess the point is we -- you haven't put those particular definitions in your report?

A. No, I have not. This Board has itself defined prudency in previous matters as well that I can certainly point you to if that's helpful. But to summarize generally, would somebody acting with the appropriate level of care come to the same or a similar decision, given the facts that were available to them at the time? And it does have a specific limitation around using hindsight. So later on you can't have new information and expect that individual to have been held to making a different decision because of that new information. In general, that's how prudency is considered in this jurisdiction.

Q. Okay. Thank you. That is helpful.

One last question. You had mentioned some standards -- well, let me ask it this way. Because the review you've conducted here was a prospective review, you would agree that financial reporting standards wouldn't apply to this particular review?

A. Yes, that's correct. It's a forward-looking financial information package.

Q. Thank you very much.

MR. FUREY: Those are all my questions, Mr. Chair.

THE CHAIR: The Board doesn't have any questions.

Mr. Mahody, do you have anything by way of re-direct?

MR. MAHODY: I do not, Mr. Chair. Thank you.

THE CHAIR: Ms. Brown, thank you very much for your participation in this proceeding, your report, and your testimony today. Thank you.

MS. BROWN: Thank you.

(WITNESS WITHDRAWS)

THE CHAIR: Okay. So nothing further, I assume, Mr. Furey?

MR. FUREY: I think the evidentiary portion of the hearing is closed, Mr. Chair.

THE CHAIR: Okay. So discussion; I don't know if the parties have had a chance to discuss the timing around undertaking responses and closing submissions, which we kind of landed on doing written ones at the last go around.

MR. FUREY: So I can tell the Board, Mr. Chair, that we have not had discussions with other parties on those issues. So if it's helpful to the Board, we could do that now. I think if we could do it in 15 minutes, then it might be worthwhile. If it's not apparent, then perhaps we need to come back to the Board and get a direction, as opposed to a consensus decision.

THE CHAIR: Okay. So I'll let you have a chance to discuss with counsel, then, in terms of reasonable dates and timing in the circumstances. We'll just kind of hang around here and you can indicate to us when you're ready to go.

MR. FUREY: Thank you, Mr. Chair.

(SHORT PAUSE)

MR. FUREY: Mr. Chair, I think that didn't take 15 minutes. Very reasonable counsel.

THE CHAIR: And what's the result, Mr. Furey?

MR. FUREY: Subject to the Board's approval, Mr. Chair, undertakings would be provided on or before the 10th of July, the submissions of parties would be -- initial submissions of parties on the 22nd of July, and -- sorry; the 24th of July, thank you, and the reply submissions would be on the -- I want to say the 7th of

August? That is correct, 7th of August.

THE CHAIR: Okay. So that's simultaneous submissions by all parties and reply by all parties?

MR. FUREY: Correct.

THE CHAIR: Okay. That sounds good. Thank you very much, Mr. Furey.

Anything else before we break?

MR. FUREY: My only question, just from a housekeeping item, is does the Board have a time of day? Sometimes it's noon. Sometimes it's 4:00 o'clock.

THE CHAIR: For filing written ---

MR. FUREY: For filing.

THE CHAIR: Two (2:00) p.m.

MR. FUREY: Two (2:00) p.m. Thank you very much.

THE CHAIR: And I was remiss last week, I think this is your first appearance before this Board, to welcome you here, so I apologize for that. It was a pleasure having you involved in this proceeding and maybe we'll see more of you.

MR. FUREY: Thank you. I appreciate it, Mr. Chair. My first goal in all of these is not to embarrass myself, so thank you.

THE CHAIR: Well, I think you could probably set the bar a little bit higher, from what I've seen.

All right. Thank you. We're adjourned.

--- Upon adjourning at 1:58 p.m.

CERTIFICATE OF COURT TRANSCRIBER

I, Patricia Cantle, hereby certify that I have transcribed the foregoing, and it is a true and accurate transcript of the evidence given in this matter, M12663.

____
Patricia Cantle
Registration No. 2017-001
ICDR, ICDT
Certificate No. IAPRT-2142

Halifax, Nova Scotia
Thursday, June 25, 2026