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July 9, 2026

VIA WEB PORTAL

Crystal Henwood, Clerk of the Board
Nova Scotia Energy Board
1601 Lower Water Street, 3rd Floor
P.O. Box 1692, Unit "M"
Halifax, NS B3J 3S3

Dear Ms. Henwood:

Re: M12696 - NSP Maritime Link Inc. - 2026 Application to Review the Holdback Mechanism

Please accept the following submissions on behalf of the Consumer Advocate (the "CA") in respect of the above-noted matter.

Background

On February 3, 2026, NSP Maritime Link Inc ("NSPML") filed this Application seeking to end the holdback mechanism (the "Holdback") in accordance with the parameters set by the Nova Scotia Utility and Review Board (now the Nova Scotia Energy Board) (the "Board") in Matter M11009. As stated by NSPML in its Application:

> In its October 2023 Decision in that matter, the Board ordered that the Holdback would continue until (i) at least 90% of the NS Block (excluding Make-up Energy) is received during each of twelve consecutive months (with flexibility to account for Good Utility Practice (as defined in Concentric Evidence, Attachment 1, A24) outages and/or exceptional circumstances) and (ii) the net outstanding balance of undelivered energy is less than 10% of the NS Block annual contracted amount.
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> As described below, NSPML submits the first condition was achieved in the first twelve months following Newfoundland and Labrador Hydro's (NLH) commissioning of the Labrador-Island Link (LIL), that being May 2023 through April 2024 (Compliance Period). The second condition was achieved in March 2024 when the outstanding balance

> dropped below the 10 percent threshold. A detailed summary of energy deliveries and the associated percentages for comparison to the Board-directed conditions for the applicable period is included as Appendix A.
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> …
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> NSPML understands the initial rationale for the Holdback given the disappointing early energy deliveries (despite the Maritime Link being fully available to receive deliveries) and the corresponding need for Nova Scotians to purchase replacement energy while also paying NSPML's assessments. However, since the LIL's commissioning in April 2023, NLH has been delivering the NS Block consistent with the negotiated terms of the Energy & Capacity Agreement (ECA). The energy delivered over the Maritime Link in 2023 through 2025 has served approximately 19 percent of NS Power's customer sales, having an estimated value in the 2023/2024 period of ~$495 million (exceeding NSPML's assessment costs of ~$325 million over the same period by over $165 million), with the added benefit of the energy being renewable. Continuation of the Holdback could result in disallowances despite there being no continuing harm to customers, which the Holdback was implemented to address.[1]

NSPML's Application was supported by evidence from Concentric Energy Advisors.[2] Information Requests were filed by the Board and by the intervenors, including the CA. Evidence was also filed on May 7, 2026 by the CA's consultant, John Wilson (Grid Strategies)[3] and by Board Consultant, Bates White.[4] In response to the evidence of Bates White, NSPML filed Rebuttal Evidence from Concentric Energy Advisors on June 25, 2026.[5]

Submissions

The CA has reviewed the Application as filed by NSPML, as well as the responses to Information Requests and responding evidence.

On review of the evidence filed, the CA confirms its support for the findings and recommendations made by Mr. Wilson in his evidence filed on behalf of the CA.

First, there is no dispute that NSPML met the requirement to ensure that the net outstanding balance of undelivered energy was less than 10%.[6] A determination regarding NSPML's request for relief would therefore primarily turn on whether the Board agrees that the second condition

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[1] NSPML Application, Exhibit N-1, p. 3-6
[2] NSPML Application, Exhibit N-1, Attachment 1
[3] Evidence of John Wilson (Grid Strategies), Exhibit N-8
[4] Evidence of Vincent Musco (Bates White), Exhibit N-7
[5] NSPML Rebuttal Evidence, Exhibit N-11
[6] Evidence of John Wilson (Grid Strategies), Exhibit N-8, p. 4; see also Evidence of Vincent Musco (Bates White), Exhibit N-7, p. 10-18 and 37

requiring 90% delivery of the NS Block in each of 12 consecutive months has been met, either directly or with some allowance for "good utility practice" and/or "exceptional circumstances." In his report, Mr. Wilson concluded that NSPML did not directly meet the requirement to receive "at least 90% of the NS Block, measured in MWh (excluding Make-up Energy) … during each of 12 consecutive months." However, the Board contemplated some margin for interruptions. In this regard, the Board's decision allowed NSPML to apply for relief "if it considers that good utility practice or exceptional circumstances caused it to fail to meet the consecutive 12-month requirement."[7] Mr. Wilson notes that the four events identified by NSPML as contributing to NSPML's failure to reach the 90% minimum threshold in July 2023, September 2023, March 2024, and April 2024, all meet "the Board's standard for relief as they represent good utility practice (events 1-3) or exceptional circumstances (event 4)."[8] Mr. Wilson expressed some concerns about NSPML's subsequent performance following the end of the "Compliance Period" (i.e. the 12-month period beginning May 2023 and ending April 2024). Specifically, he notes that the NS Block was not delivered 14% of the time from April 2024 to December 2025. Nevertheless, he remained supportive of NSPML's request to end the Holdback based on its performance during the Compliance Period.[9]

The CA notes that Mr. Musco also comments upon this issue, and confirms that while NSPML did not meet the 90% minimum threshold requirement directly, the Application could still be approved if the Board determines that the under-deliveries were the result of "good utility practice" or "exceptional circumstances." In this regard, Mr. Musco does not opine that the events in question would necessarily qualify as either "good utility practice" or "exceptional circumstances," due to potentially conflicting evidence on the record, as well as the inherently subjective nature of the exercise. Mr. Musco summarizes his views on this issue as follows:

> Regarding the Board's "Consistent Deliveries" threshold that at least 90% of the NS Block, measured in MWh (excluding Make-up Energy) is received during each of 12 consecutive months, I conclude that because NSPML relied upon "good utility practice" and "exceptional circumstances" exceptions, there is a level of subjectivity and ambiguity in the assessment that prevents a definitive conclusion. I conclude there is evidence of good utility practice in certain instances, but there is also evidence of potential contradicting evidence, such as the known severity of the winter weather conditions that impact the LIL's route and LIL design concerns that impact performance during certain icing events raised by an independent third-party engineering expert firm hired by NLH. I also conclude that future LIL performance is subject to significant risk, as evidenced in NLH's filings, resource planning assumptions, and proposed capital investments. My evidence attempts to deepen the record and assist the Board in making its determination.[10]

[7] Evidence of John Wilson (Grid Strategies), Exhibit N-8, p. 4; see also Evidence of Vincent Musco (Bates White), Exhibit N-7, p. 19-20
[8] Evidence of John Wilson (Grid Strategies), Exhibit N-8, p. 5
[9] Evidence of John Wilson (Grid Strategies), Exhibit N-8, p. 5-6
[10] Evidence of Vincent Musco (Bates White), Exhibit N-7, p. 37

In response to Information Requests filed by the Industrial Group, Mr. Wilson confirms that he shares Mr. Musco's view that any determination regarding whether an event constitutes "exceptional circumstances" is "subjective." He also notes that any determination would be subject to consideration of various factors, including "the degree to which the event was foreseeable, including the practicality of being specific as opposed to general," and "whether the event was beyond design standards."[11] Mr. Wilson indicates that these factors are non-exhaustive.

In the Rebuttal Evidence filed on behalf of NSPML, Ms. Powers responds to Mr. Musco's various evidentiary concerns, and maintains her view that "NSPML has satisfied the requirements established by the Board for termination of the Holdback Mechanism," and that the "outage events at issue were either consistent with good utility practice or resulted from exceptional circumstances."[12] The Consumer Advocate does not dispute the evidence provided by Ms. Powers, but acknowledges that the issue of potentially conflicting evidence identified by Mr. Musco remains a valid concern.[13] In this regard, the Consumer Advocate supports Mr. Wilson's views on this issue, but also acknowledges that a final determination is ultimately subject to the Board's review based on the evidence provided.

While Mr. Wilson supports NSPML's request to end the Holdback for the reasons noted above, he does not agree that NSPML should receive updated WACC consideration to the date of the Board's decision. The justification provided by NSPML for payment of WACC on the outstanding amount was noted in Mr. Wilson's evidence as follows:

> WACC is a standard financing mechanism that compensates for the cost of capital. WACC is paid to customers when money is owed to them and WACC is paid to the utility when customers owe money. Should the Board agree with NSPML's request in this Application, the $15.3 million should have been paid to NSPML in 2024 and 2025.[14]

Although the Board has previously allowed for recovery of financing costs using WACC, Mr. Wilson recommends that an alternate approach be applied here, given NSPML's 21-month delay in bringing this Application forward. Due to this delay, Mr. Wilson recommends that the Board apply a carrying charge calculated at NSPML's approved cost of debt through to the date of the Board's decision in this matter. Mr. Wilson calculates that this would reduce NSPML's carrying charge from $1,148,502 through to December 2025 to $878,573 (this amount would have to be recalculated by NSPML up to the date of the Board's decision).

[11] CA (IG) RIR-1
[12] NSPML Rebuttal Evidence, Exhibit N-11, p. 23-24
[13] NSPML Rebuttal Evidence, Exhibit N-11; as an aside, the CA notes that Ms. Powers suggests that consideration of whether a shortfall may be attributable to a "fundamental limitation in the capability of the LIL or Maritime Link" is a relevant factor in determining whether an outage was due to "good utility practice." The CA states that this "fundamental limitation" criterion is not part of the Board's test, and is not a relevant consideration.
[14] Evidence of John Wilson (Grid Strategies), Exhibit N-8, p. 8

On review, the CA submits that Mr. Wilson's recommendations are reasonable, and should be adopted by the Board.

The Consumer Advocate thanks for the Board for the opportunity to participate in this matter and to provide these submissions.

Yours truly,

PINK LARKIN

Michael Murphy on behalf of
Consumer Advocate
MTM/aw