
Nova Scotia Energy Board

IN THE MATTER OF

*The Public Utilities Act, R.S.N.S 1989, c. 380, as amended
and the*

*The Maritime Link Act, S.N.S 2012 c.9
and the*

Maritime Link Cost Recovery Process Regulations, N.S. Reg. 189/2012

NSPML

Application to Review the Holdback Mechanism (M12696)

Submission of the Applicant

July 9, 2026

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1 **1.0 INTRODUCTION**

2
3 NSP Maritime Link Incorporated (NSPML) has made this Application to end the Holdback
4 mechanism. NSPML repeats and relies upon all evidence it has filed in this matter. Unless
5 indicated otherwise herein, defined terms are used consistently with NSPML’s evidence.
6

7 NSPML submits that the evidence demonstrates that, as of May 1, 2024, NSPML had
8 satisfied conditions set by the Nova Scotia Energy Board (NSEB or Board) to end the
9 Holdback. Indeed, this is confirmed not only by NSPML’s evidence, but also the evidence
10 filed by the Consumer Advocate.
11

12 Further, the evidence demonstrates that the circumstances that led to the introduction of
13 the Holdback no longer exist. The Maritime Link is performing to a world-class standard,
14 and customers are receiving the “original bargain” of energy contemplated when the
15 Maritime Link was approved.¹
16

17 Accordingly, NSPML respectfully requests that the Holdback be deemed at an end on May
18 1, 2024, and that all Holdback amounts withheld since that time be distributed to NSPML
19 with WACC.

¹ Refer to NSPML’s response to NSEB IR-10 for details about how customers are receiving the “original bargain”.

2.0 ARGUMENT

2.1 Overview of NSPML's Position

In its decision in M11009, the Board held that the Holdback will continue until the following conditions are satisfied:

- a) at least 90% of the NS Block, measured in MWh (excluding Make-up Energy), is received during each of 12 consecutive months, and
- b) the net outstanding balance of undelivered energy is less than 10% of the contracted annual amount of the NS Block.²

With respect to condition (a) set out above, the Board further clarified:

NSPML/NS Power may apply to the Board for relief if it considers that good utility practice or exceptional circumstances caused it to fail to meet the consecutive 12-month requirement. If the Board is satisfied that good utility practice or exceptional circumstances existed, it may provide relief and may attach any terms and conditions it deems appropriate at that time.³

As set out in the Application, the outstanding balance of undelivered energy fell below 10% of the contracted amount of the NS Block at the end of March 2024. It does not appear that there is any dispute over this fact. Accordingly, condition (b) was satisfied by the end of March 2024.

The Application also sets forth NSPML's compliance with condition (a) for ending the Holdback. With this, there does not appear to be any dispute that for the 12-month Compliance Period ending May 1, 2024, at least 90% of the NS Block, measured in MWh (excluding Make-up Energy), was delivered in the following months:

- May 2023
- June 2023
- August 2023

² [M11009, 2023 NSUARB 175](#) at para. 94

³ [M11009, 2023 NSUARB 175](#) at para. 95

- October 2023
- November 2023
- December 2023
- January 2024
- February 2024

In each of July and September 2023 and March and April 2024, deliveries were under 90% of the contracted NS Block amounts, ranging from 60% to 87%⁴. For each of these four months, NSPML applies for relief from the 90% threshold based on good utility practice and/or exceptional circumstances. To this point, no evidence has been filed to contest this Application, though Bates White has raised some questions, which were addressed in Concentric’s rebuttal evidence and will be further addressed below. NSPML maintains that the evidence demonstrates such relief should be granted and therefore requests a declaration that the conditions for ending the Holdback have been met as of May 1, 2024.

⁴ Except for September 2023, all months exceeded 100 percent of NS Block contractual amounts when including make-up deliveries, with September 2023 being followed by a month (October 2023) with 185 percent NS Block deliveries. Also, the value of redelivered energy since the start of the Compliance Period (whether redelivered in month or shortly thereafter) provided greater financial value to customers than if such energy was delivered as a perfectly flat NS Block amount.

1 **3.0 GOOD UTILITY PRACTICE AND EXCEPTIONAL CIRCUMSTANCES**

2
3 **3.1 Appropriate Standards**

4
5 As set out above, NSPML submits that good utility practice and/or exceptional
6 circumstances necessitated or caused downtime resulting in NS Block deliveries falling
7 below 90% in July and September 2023 and March and April 2024.

8
9 It is recognized that the Board intentionally did not specifically define “good utility
10 practice” or “exceptional circumstances” for purposes of this process in its prior
11 Decision and has left these determinations open for argument and evidence.⁵

12
13 That being the case, there are established definitions and understandings to these terms
14 that NSPML submits provide appropriate guidance for this matter.

15
16 With respect to “good utility practice”, this is a term specifically defined in the Nova
17 Scotia *Wholesale Market Rules and Regulations* made under section 5 of the *Electricity*
18 *Act*. In these regulations, the term is defined as follows:

19
20 “good utility practices” means the practices, methods or acts, including
21 practices, methods and acts engaged in or approved by a significant portion
22 of the electric utility industry in North America, that at a particular time, in
23 the exercise of reasonable judgment, would have been expected to
24 accomplish the desired result in a manner consistent with regulations,
25 reliability, safety, environmental protection, economy and expedition as
26 applied and ~~practiced~~ [practised] in the utility industry with respect to power
27 generation, delivery, purchase and sale⁶

28
29 Concentrics’s evidence also points to a more aptly specific definition of good utility
30 practice under the Joint Operating Agreement governing operation of the overall assets
31 responsible for delivering the NS Block. This definition, which Concentric has

⁵ [M11009, 2024 NSUARB 17](#) at para. 19

⁶ [Wholesale Market Rules and Regulations made under section 5 o the Electricity Act, section 2\(h\)](#)

1 confirmed to be consistent with the definition applied by the United States Federal
2 Energy Regulatory Commission is as follows:

3
4 “Good Utility Practice” means those project management, design,
5 procurement, construction, operation, maintenance, repair, removal and
6 disposal practices, methods, and acts that are engaged in by a significant
7 portion of the electric utility industry in Canada during the relevant time
8 period, or any other practices, methods or acts that, in the exercise of
9 reasonable judgment in light of the facts known at the time a decision is
10 made, could have been expected to accomplish a desired result at a
11 reasonable cost consistent with good business practices, reliability, safety
12 and expedition. Good Utility Practice is not intended to be the optimum
13 practice, method or act to the exclusion of others, but rather to be a spectrum
14 of acceptable practices, methods or acts generally accepted in such electric
15 utility industry for the project management, design, procurement,
16 construction, operation, maintenance, repair, removal and disposal of
17 electric utility facilities in Canada. Notwithstanding the foregoing references
18 to the electric utility industry in Canada, in respect solely of Good Utility
19 Practice regarding subsea HVdc transmission cables, the standards
20 referenced shall be the internationally recognized standards for such
21 practices, methods and acts generally accepted with respect to subsea HVdc
22 transmission cables. Good Utility Practice shall not be determined after the
23 fact in light of the results achieved by the practices, methods or acts
24 undertaken but rather shall be determined based upon the consistency of the
25 practices, methods or acts when undertaken with the standard set forth in the
26 first two sentences of this definition at such time.
27

28 These definitions are consistent with the well-established standard of prudence that the
29 Board has long applied as the standard public utility must meet to recover costs:

30
31 ...prudence is that standard of care which a reasonable person would be
32 expected to exercise under the same circumstances encountered by utility
33 management at the time decisions had to be made....Hindsight is not applied
34 in assessing prudence....A utility’s decision is prudent if it was within the
35 range of decisions reasonable persons might have made. ... The prudence
36 standard recognizes that reasonable persons can have honest differences of
37 opinion without one or the other necessarily being imprudent.⁷

⁷ [*Nova Scotia Power Inc., Re, 2005 NSUARB 27*](#) at para. 84 and 90

1 Each of these definitions demonstrate common attributes to assessing whether a public
2 utility has acted in accordance with good utility practice or prudently, specifically:

- 3
- 4 1. Acting consistent with applicable practice for a similarly situated utility.
 - 5 2. Action is assessed based on information at the time, not in hindsight.
 - 6 3. The standard is to have acted reasonably, not with perfection.
- 7

8 As for “exceptional circumstances”, NSPML submits that the appropriate definition lies
9 within the word “exceptional” itself. That word is commonly defined as indicating a
10 deviation from the norm, either positively or negatively, and could also be deemed to
11 mean that an occurrence is rare.⁸

12

13 As to whether these questions should be considered “objective” or “subjective”, there
14 appears to be some confusion in Bates Whites’ evidence in suggesting that a subjective
15 analysis applies. It is true that the actual circumstances faced by NSPML at the time of
16 relevant incidents should be considered. However, these tests should not be considered
17 subjective, a concept largely arising in criminal law and which involves an inquiry into
18 what was actually in an accused’s mind, not what a reasonable person might have
19 appreciated.⁹ For purposes of this proceeding, the good utility practice and exceptional
20 circumstance questions should be framed as objective, i.e.:

21

- 22 1. In the case of “good utility practice”, did NSPML act consistently with a reasonable
23 utility in the circumstances?
- 24 2. In the case of “exceptional circumstances”, can one reasonably consider the
25 circumstances exceptional in the context in which they occurred?

⁸ See, for example, [Merriam-Webster definition of “Exceptional”](#)

⁹ [R. v. Creighton, 1993 CanLII 61 \(SCC\)](#)

1 This is consistent with the well-established concept of a due diligence defence, applied
2 in administrative proceedings and in consideration of strict liability offences, which
3 inquires as to what the “reasonable person” would do in the circumstances.¹⁰
4

5 **3.2 All Down-Time was Consistent with “Good Utility Practice” and/or “Exceptional**
6 **Circumstances”**
7

8 The sub-90% NS Block performance in the four months of the Compliance Period was
9 due to temporary Labrador Island Link (LIL) and Labrador Transmission Assets (LTA)
10 outages. NSPML submits that the LIL outages were in accordance with good utility
11 practice and that a 13-day outage relating to the LTA in March and April 2024 was also
12 caused by exceptional circumstances. More specifically, as set out in NSPML’s
13 evidence, the following outages are responsible for sub-90% performance in the four
14 months at issue:
15

- 16 • **July 2023:** Planned outage to prepare for the deployment of updates of LIL
17 software, which has always been planned to arrive post commissioning, to correct
18 emerging deficiencies with the electrode line fault locator, and to test SCADA
19 indication points and allow greater operator visibility and control of the LIL. All of
20 these serve to enhance asset reliability, were prudently coordinated with system
21 operators, and necessary. Such work is also consistent with Maritime Link outages
22 undertaken post-commissioning of that asset (by comparison, more than 370
23 software updates have been completed at the Maritime Link since commissioning in
24 2018).
25

26 Absent the 5-day July planned outage, Base NS Block delivery levels (excluding
27 Make-up Energy) exceeded 97%, with most of the remaining 3% shortfall resulting
28 from the wildfires in Quebec and Labrador that impacted regional operations.

¹⁰ [R. v. Sault Ste. Marie, 1978 CanLII 11 \(SCC\)](#) at pg. 1326

- **September 2023:** Planned outage that can be expected to occur on an annual basis, as is typical with any utility asset. In the month of September 2023, there were 10 days of LIL bipole outages relating to regularly scheduled planned maintenance of Pole 1, Pole 2, and bipole area assets. These outages were coordinated by regional system operators for over a year prior to execution.

The Maritime Link monopole outage work in September was for regularly scheduled planned maintenance of Pole 1 and Pole 2 assets and timed to occur in conjunction with NLH's LIL planned outage. The Maritime Link maintenance included Insulated Gate Bipolar Transistor and Gate Unit replacements and circuit breaker, voltage divider, and capacitor testing and inspections. Opportunistic punch list and warranty related work was also completed by the Original Equipment Manufacturer (OEM) on the Maritime Link during this period.

These outages limited the amount of Make-up Energy that could be reliably integrated by NS Power. Absent the impact of the planned outages, NS Block delivery (absent Make-up Energy) in September was more than 99%.

- **March 2024:** Planned in accordance with NS Power's minimum 30-day outage coordination period requirements. The LIL took a planned two-day bipole outage from March 26 to 27 to facilitate corrective maintenance repairs on a variety of systems including Optical Ground Wire (OPGW) damaged in an ice storm on the island of Newfoundland, electromagnetic interference mitigations on several DC current transformers, and installation of ground potential rise mitigations that have affected the cable switching sequence and have left the overload capability of the LIL out of service.

Also, on March 11 and 12, 2024 the Maritime Link was de-rated by the Nova Scotia Power System Operator due to inclement weather in Newfoundland that could have resulted in a reliability impact to Nova Scotia customers. The Maritime Link was

only approved for operation up to 170 MW during this period. Although this limited the ability for the full Supplemental Energy amount to be imported off-peak and limited the amount of Make-up Energy that could have been delivered during the period, it was deemed necessary by the System Operator to ensure reliability of supply for NS Power's customers.

Absent the impact of either the planned outage or the impact of the ice event (see April below), NS Block delivery (absent Make-up Energy) was greater than the 90% threshold. Absent the impact of both, NS Block delivery (absent Make-up Energy) was greater than 99%.

- **April 2024:** Both poles of the LIL tripped offline on March 30, 2024, because of extraordinary damage to a small section of the LTA caused by a significant ice accumulation event which saw ice accumulation and wind speeds nearly double the maximum capacity of the lines, a rare meteorological occurrence.

NLH acted quickly and restored the LIL to service in monopole metallic return configuration on Monday April 8, 2024.

Separately, on April 30, 2024, a planned bipole outage was taken to correct a software deficiency relating to cable switching.

Absent the impact of the icing event and an unrelated planned outage on April 30th, NS Block delivery (absent Make-up Energy) was ~98%.

NSPML submits that all the outages, including NSPML's coordination of the Maritime Link maintenance with NLH's planned outage in September 2023, were in accordance with good utility practice (while Bates White mentioned there was no overlap between the LIL outage and the Maritime Link outage in September 2023, additional evidence

1 was provided by Concentric in their rebuttal to show that these outages were indeed
2 scheduled at the same time).

3
4 For purposes of “good utility practice” the question is: Were the actions taken consistent
5 with a reasonable utility acting on the same information presented. NSPML submits that
6 it is clear that, during the Compliance Period, NSPML was acting consistent with good
7 utility practice in its operation and maintenance of the Maritime Link and in
8 coordination with NLH and other parties. NSPML submits that the evidence further
9 demonstrates that NLH acted consistent with good utility practice in undertaking the
10 work noted above that caused sub-90% delivery levels in certain months. This is well-
11 explained in Concentric’s evidence. Good utility practice in the context of both the LIL
12 and the Maritime Link, like any complex asset, will require downtime from time-to-
13 time.

14
15 Further, the March 30, 2024, trip that caused a LIL outage into April 2024 resulted from
16 extreme wind and ice, as noted above. While it is true that the LIL operates in a region
17 that can experience harsh conditions, this storm was particularly harsh and well beyond
18 the “norm” of what is experienced in the region or what the LIL was designed for. As
19 noted in the rebuttal evidence of Concentric, the fact that severe weather can and even
20 does occur in a region does not mean it is un-exceptional.

21
22 NSPML submits that there is virtually no jurisdiction that is immune to material
23 weather- related outages and the fact of there being an outage under these conditions
24 cannot be considered imprudence in design or maintenance. Also, when these incidents
25 occur, a responsible utility promptly dispatches the necessary resources to remedy the
26 outage, which is exactly what happened here.

27
28 In their evidence, Bates White raised questions as to whether certain work or downtime
29 may not have been prudent due to potential imprudence in failing to conduct certain

1 work prior to LIL commissioning, or even in the design and construction of the LIL
2 itself.

3
4 Respectfully, there is absolutely no evidence for these propositions. As set out in
5 Concentric's rebuttal evidence, the work conducted by NLH during the planned LIL
6 outages in July and September 2023 and March 2024 were consistent with post-
7 commissioning activities of an asset of this nature. The LIL was commissioned and
8 accepted by the System Operator and Regional Coordinator for operation and also
9 reviewed and accepted as commissioned by Canada's Independent Engineer – all
10 understanding there were post commissioning punch list items as is standard for major
11 projects. The pre and post commissioning work carried out by NLH has been closely
12 monitored and scrutinized, and there is no evidence to suggest that any particular work
13 ought to have been conducted at a different point in time. What is established, however,
14 is that the work conducted was important and consistent with good utility practice in
15 maintaining the asset.

16
17 Further, questions raised regarding design of the LIL are premised in a misapprehension
18 of the Haldar Report, which identifies opportunities to improve reliability in the future,
19 but does not suggest that the original LIL design was flawed based on information
20 available at the time. The LIL was designed through a robust process that included
21 Canada and regulatory oversight, just as the Maritime Link and associated commercial
22 agreements were reviewed and approved in Nova Scotia. The fact that the Labrador
23 transmission line experienced an outage during an extreme wind and ice event, is not
24 evidence of imprudent design.

25
26 More importantly, as articulated by Ms. Powers in the Concentric Rebuttal, the test for
27 removing the Holdback is based on actual delivery performance, not on future reliability
28 whether influenced by design characteristics, maintenance or weather that has yet to
29 occur. In fact, the evidence shows that LIL reliability issues have been identified and
30 plans have been developed and implemented that have and will continue to improve

1 reliability, which indicates prudent utility management. Based on these actions,
2 reliability of the LIL and LTA has shown consistent improvement, particularly post-LIL
3 commissioning. NSPML submits, as highlighted in the Concentric evidence, that the
4 concerns raised by Bates White on the Halder report are not relevant to determining
5 whether the test for removing the Holdback has been met.

6 7 **3.3 Focus Should Remain on NSPML's Actions and Results for NS Customers**

8
9 While NSPML submits that the evidence demonstrates good utility practice and
10 exceptional circumstances as discussed above, NSPML must also express concern over
11 what appears to be slippage into who is being reviewed on this Application. NSPML
12 did not construct, nor does it operate, upstream assets beyond the Maritime Link
13 infrastructure. While NSPML has a role in coordinating and working with NLH and has
14 certain contractual rights, to suggest that NSPML should be responsible for any latent
15 design deficiencies (which NSPML does not believe there are) goes well beyond an
16 assessment of whether NSPML, or even NLH, conducted themselves appropriately
17 during the Compliance Period or since.

18
19 In its recent decision in M12394, the Board specifically commented that NSPML's risk
20 has been mitigated by its design, operation and maintenance. Just like there, NSPML
21 submits that the focus should remain on NSPML and what it has done – especially given
22 the fact that delivery levels and benefits are in accordance with the agreements. NSPML
23 submits that it has consistently demonstrated good utility practice in its management of
24 the Maritime Link. Respectfully, NSPML should not be held to a standard, as Bates
25 White seems to invite, of justifying both the prudence of NSPML's operations, as well
26 as NLH's independent conduct.

1 To this end, the fact that the LIL has not met the availability of Nalcor's original
2 projection¹¹ should not be a threat to NSPML's ability to recover prudently incurred
3 costs. The importance for Nova Scotia customers is that the LIL meet the reliability
4 necessary to deliver the "original bargain" and, for that purpose, the LIL is meeting
5 expectations both in terms of energy and capacity. In particular, NSPML submits that
6 the evidence demonstrates the "original bargain" is being delivered and there are arms-
7 length negotiated contracts that should govern any discrepancies.

8
9 Moreover, while NSPML understands and submits that it has met the test for ending the
10 Holdback, NSPML also submits that it is necessary to consider the overall context of
11 the Holdback, including how it started.

12
13 There should be no question that the Holdback has been a novel regulatory solution for
14 a unique situation. As the Board explained in establishing the Holdback:

15
16 The fact that today's customers are paying for the Maritime Link but not
17 receiving anything close to the full benefit has caused intergenerational
18 equity concerns. This holdback, in some small way, may ameliorate those
19 concerns to the extent an imbalance continues.¹²
20

21 That is no longer true. Customers are receiving the "original bargain". This was
22 demonstrated over the compliance period, where cumulatively over 90% of the NS
23 Block (excluding Make-Up Energy) was delivered and well over 100% of contracted
24 amounts were delivered when accounting for Make-Up Energy. While there will always
25 be some month-to-month fluctuation based on various factors, which were expected
26 (and management of the same accounted for in the respective contracts), annual

¹¹ The forced outage rates for LIL in the original Maritime Link application are not comparable to the current rates. In the 2013 application, the outage rates related to the subsea cables only. At the end of the day, the LIL consists of the subsea cables, the 2 HVDC convertor stations and the 1,100 km of terrestrial overhead transmission lines in Labrador and on the island of Newfoundland. It is inconceivable that when considering the entirety of the LIL that it would be judged against only the outage expectations of the subsea cable portion of that asset.

¹² [M10206, 2022 NSUARB 18](#) at para. 32

1 performance continues to be strong, and the Make-Up Energy balance has effectively
2 been eliminated.

3
4 As it now operates, the Holdback continues to deduct \$4 million from NSPML in any
5 month where there is downtime to the LIL or Maritime Link, resulting in sub-90%
6 delivery levels in that month. Conversely, NSPML receives no credit when over 100%
7 of contracted amounts (at higher value in many cases) are delivered in the following
8 month or two, ensuring that customers are not harmed and ultimately receive all
9 contracted energy.

10
11 In this context, the Company is of the view that there is no continued reason to regulate
12 NSPML differently than other public utilities. While NSPML will always be expected
13 to act prudently, the original bargain is being delivered and the original justification for
14 the Holdback no longer exists. It is appropriate for NSPML to be regulated based on
15 management of its operations, which includes managing the negotiated contractual
16 commitments.

1 **4.0 TIMING AND WACC**

2
3 As set out in NSPML’s evidence, this Application has been brought subsequent to May
4 1, 2024 to ensure that all necessary information was in place for the Application, and in
5 part due to the practical realities in managing the regulatory calendar. The Company
6 offered additional context about the timing of this Application in response to NSEB IR-
7 01 (b):

8
9 As explained during NSPML’s 2026 Assessment Hearing, the primary
10 reason for the timing of the filing is that NSPML has a relatively small
11 contingent of employees to balance competing operational and regulatory
12 obligations. Although NSPML believes it is appropriately resourced to
13 deliver on its obligations, staffing levels occasionally present challenges,
14 such as in this case.

15
16 Additional factors included the desire to have more complete information
17 from the Compliance Period. As 100 percent of the holdback disallowances
18 relate to NLH’s performance and energy delivery information primarily sits
19 with NS Power, a significant amount of information for the Application
20 needed to be sourced from third parties. Specifically, NS Power for delivery
21 information and NLH for information relating to all outages and their asset
22 performance.

23
24 In this respect, NSPML seeks WACC on Holdback amounts held back since May 1,
25 2024. This is not intended as a benefit to NSPML, but simply the recognition of cost of
26 capital for those funds which have been withheld due to the structure of the Holdback
27 in withholding funds pending an application before the Board.

28
29 Given that WACC is the standard rate at which both NSPML and customers are
30 compensated for funds owed to each other, NSPML submits that it is appropriate and
31 consistent with established practice to add WACC to Holdback funds owing to NSPML.
32 The Board, in its Decision in M11009, explained the use of WACC:

33
34 [38] NSPML’s Compliance Filing calculations of the released holdback
35 funds included WACC on balances owing. The Industrial Group opposed

1 this aspect of the calculations because the payment of WACC was not
2 explicit in the Board's prior holdback decisions.

3
4 [39] Where funds are owed but not yet paid, either between utilities, or
5 between a utility and its customers, there are financing costs for the party
6 awaiting the funds. Historically, the Board has allowed for recovery of
7 financing costs in a reciprocal manner. When funds are owed to customers,
8 they are repaid inclusive of WACC. Consistent with the calculations in the
9 Compliance Filing, the Board will allow the released holdback funds to be
10 paid to NSPML with WACC to recognize the reciprocal nature of WACC
11 on funds owing or receivable by NS Power and its customers. The Board
12 notes NSPML's statement that with funds being released prospectively on a
13 monthly basis, the necessity for WACC is removed. The Board agrees with
14 this treatment.

15
16 NSPML agrees with this approach to applying WACC.

17
18 The Company further explained in response to NSEB IR-01 (c) the impact on
19 customers, in terms of WACC, of the timing of the Application:

20
21 In allocating and prioritizing resources, NSPML was attempting to balance
22 obligations in a manner that provided the most benefit to Nova Scotians –
23 with an emphasis on reliably operating the Maritime Link. NSPML does not
24 believe that the timing of the holdback filing prejudiced the regulatory
25 process and it is reasonable (and consistent with past practice) for the
26 weighted average cost of capital to be returned if the applicable holdback
27 funds are returned.

28
29 The holdback funds (by design) were withheld from NSPML's assessment
30 payments and no WACC was attributed to customers during this period. If
31 the funds are determined to be owed to NSPML, then the impact of WACC
32 on customers is the same as if the funds were provided to NSPML in the first
33 place.

34
35 John Wilson proposed that holdback funds be released to NSPML since the end of the
36 Compliance Period, but with a carrying charge to be calculated rather than WACC:

1 I recommend that the Board direct release of the Holdback as discussed in
2 Section III plus a carrying charge calculated at NSPML's approved cost of
3 debt through the date of the Board Decision on this matter. This is primarily
4 justified based on the 21-month delay in bringing forward this application.

5 If the Board adopts my recommendation, NSPML's proposed carrying
6 charge of \$1,148,502 through December of 2025 would be reduced to
7 approximately \$878,573, as shown in Attachment 2. This amount would
8 need to be updated through the date of the Board Decision on this matter.¹³

9
10 NSPML agrees with Mr. Wilson that the holdback amounts incurred since the end of
11 the Compliance Period be released to NSPML, however, the Company believes WACC
12 is the most appropriate charge to be added to the holdback amounts.

13
14 Mr. Wilson references a number of examples in the United States where an amount
15 different than WACC was applied to recoveries. The examples provided including coal
16 combustion residuals costs, nuclear cost recovery charges and fuel cost deferrals in
17 Texas and Oklahoma post winter storm Uri which are unique/outlier examples. That is
18 not the case with NSPML's Application where the imbalance is significantly similar to
19 traditional imbalances in Nova Scotia, such as the FAM, NSPML's refunds of the
20 contingency support agreement amounts and, most recently, rebalancing required as a
21 result of the Energy Board's recent 2026 Assessment Decision. Application of WACC
22 is an established approach in Nova Scotia as noted in the reference above to the Board's
23 Decision in M11009.

¹³ Evidence of John D. Wilson on Behalf of the Consumer Advocate, submitted May 7, 2026, page 10, lines 11-18.

1 **5.0 CONCLUSION**

2
3 As set out above, NSPML submits that it has met the conditions for ending the Holdback
4 and that the original context in which the Holdback was established has passed.
5 Customers are receiving the “original bargain” and circumstances are not close to those
6 referenced by the Board in supporting the creation and continuation of the mechanism.

7
8 Therefore, NSPML respectfully requests an order directing that the Holdback is at an
9 end as of May 1, 2024 and that all funds held back from NSPML since that time be
10 delivered to NSPML with WACC.