STEWART McKELVEY
LAWYERS • AVOCATS

Queen's Marque, 600-1741 Lower Water Street, P.O. Box 997
Halifax NS B3J 2X2 Canada tel: 902.420.3200 fax: 902.420.1417 stewartmckelvey.com

File No: SM002557-00259

Nancy G. Rubin, K.C.
Direct Dial: 902.420-3337
nrubin@stewartmckelvey.com

June 1, 2026

Delivered by E-mail

Crystal Henwood
Regulatory Affairs Officer/Clerk
Nova Scotia Energy Board
3rd Floor, 1601 Lower Water Street
PO Box 1692, Unit "M"
Halifax NS B3J 3S3

Dear Ms. Henwood:

Re: M12768 - NSPI - 2025 ELIADC Tariff Report

These comments are filed on behalf of the Industrial Group. They are submitted with the understanding that the ELIADC expires at the end of 2026. If the ELID is not approved in M12661 and/or taken up by PHP, then NSPI/PHP will have to reapply for either a new below-the-line tariff or a refreshed ELIADC with financial evidence. Accordingly, these comments are largely observational rather than for specific recommended changes or improvements to the ELIADC. There are however operational similarities between the ELIADC and the ELID, which the Board may use to inform its decision-making in that matter.

1. Actual Benefits to Other Customers Remain Below the Original Forecast

It bears repeating that NSPI's 2019 ELIADC Tariff Application forecast annual benefits to other customers ranging from $6 to $13 million over the initial term, with an average of $10 million per year,[1] based on an assumed PHP annual load of approximately 1,000 GWh. The 2025 actual benefit of $4.4 million falls below this forecast average range, as does the actual 2025 PHP load of 691 GWh, which is 63 percent of the load assumed in the 2019 Application. On a per-MWh basis, the 2025 benefit of $6.37/MWh represents approximately 69 percent of the 2019 forecast benefit of $9.23/MWh.

Over the six-year history of the tariff, annual benefits to other customers have been approximately $4.2 million per year, or less than half the forecast average of $10 million.

The ELIADC has not delivered what was represented at the time of approval and the IG submits that this should be borne in mind when evaluating expectations under the applied-for ELID tariff in M12661.

---

[1] *Nova Scotia Power Inc. (Re),* 2020 NSUARB 44, at para.31.

2. The Load Shifting Differential — Negative in Four of Six Years

The ADC Load Shifting Differential was positive in only two of the six years of tariff operation: 2020 ($6.6M) and 2025 ($1.5M). It was negative in 2021 (−$16.7M), 2022 (−$48.9M), 2023 (−$33.6M), and 2024 (−$0.8M).

Of the $4.4 million benefit reported for 2025, approximately $2.8 million is associated with fixed cost recovery. The load shifting differential accounts for the remaining $1.5 million. This means the core economic justification for the tariff, i.e., that PHP's flexible load reduces system dispatch costs for other customers, produced a positive result in only two years out of six, and the 2025 positive result is modest.

3. The Fixed Cost Minimum May Still Be Insufficient

In the prior review, all intervenors and Board counsel consultant Bates White had recommended increasing the minimum fixed cost contribution above $4/MWh. The Board directed that the $4/MWh minimum payment be increased to $5/MWh in 2026.

The $5/MWh minimum payment establishes a floor, not an assured meaningful benefit. As noted above, of the $4.4 million total 2025 benefit, approximately $2.8 million was attributable to fixed cost recovery. At a $5/MWh rate on 691 GWh, the annual fixed cost floor would be approximately $3.5 million. The load shifting differential must therefore be positive for the tariff to deliver any benefit above the fixed cost floor.

The IG continues to view the $5/MWh floor as providing insufficient protection for other ratepayers against continued underperformance.

4. PHP Load Revisions — Unlimited in Number and Frequency

PHP's initial 2025 forecast totalled 811 GWh. There were revisions to PHP's load forecast throughout the year, with a final actual demand requirement of 691 GWh. This represents a reduction of 120 GWh, or approximately 15 percent, from the initial forecast.

NSPI confirmed that the ELIADC Tariff does not require that PHP adhere to its forecast load each year, nor does it limit the number of revisions to PHP's load forecast.[2] Second, if PHP were to have run 120 GWh more over the course of 2025 as compared to its original forecast load, on average, it would have been served by more expensive generation and imports, and this would have decreased the ADC Load Shifting Differential.[3]

PHP's ability to revise its load downward without limit and to capture the dispatch optimization benefits that flow from running at lower-than-forecast levels is a structural advantage that is not shared by other ratepayers. The IG submits that the absence of any constraint on load forecast revisions is a gap in the tariff. The IG recommends this be considered in the context of the ELID tariff design.

---

[2] N-4, NSPI (SBA) IR-2(a) and (c).

[3] N-4, NSPI (SBA) IR-2; N-3, NSPI (IG) IR-5(g)(iii).

5. Recommendation XV-1 — NSPI Accepted, Then Determined it Was Not Feasible

Recommendation XV-1 from the 2022-2023 FAM Audit required NSPI to develop a benefits calculation that takes into account the hourly benefits and costs of PHP load deviations based on hourly quantities and prices, by cause code type, to the extent possible.

NSPI accepted Recommendation XV-1 in September 2024, knowing that its subject matter experts had already raised feasibility concerns but did not disclose those concerns to the Board or intervenors at the time of acceptance or in any subsequent proceeding. While NSPI asserts that it did raise implementation barriers in its Reply evidence, what it stated was:

> *NS Power accepts this recommendation and will seek what accurate and feasible approaches exist that are consistent with requirements set out in the ELIADC Tariff, to account for benefits and costs by cause code, and report its findings to the FAM SWG.*[4]

The IG respectfully submits that the actual words do not convey any implementation barriers, but rather decisions to be made as to how it would be implemented. The response was Yes, <u>and…</u>, not Yes, <u>but…</u>. Accepting an Audit recommendation is a regulatory commitment. Doing so while withholding known technical concerns denies the Board and intervenors material information that could have been probed as part of the last Audit.

The IG also questions why hourly calculations are feasible for Cause Code 5 but not for other Cause Codes, when the same PortOps system underlies all dispatch decisions.

Leaving this issue unresolved is unsatisfactory. The IG enquired whether, considering its technical challenges, NSPI planned to modify or enhance cost or load tracking to enable accurate hourly load shifting benefits or costs under ELID. The response was generic:

> *NS Power intends to implement a comprehensive calculation of load shifting benefit, based largely on the existing and tested internal load shifting benefit analysis process. This commodity-price neutral calculation of the DR Credit is a comprehensive calculation of total DR benefits which is intended to be a part of the ELID Tariff process.*[5]

The IG requests that the Board: (a) direct NSPI to propose a specific alternative methodology, with a firm timeline, in lieu of the hourly Cause Code analysis; and (b) note its concern about NSPI's practice of accepting regulatory recommendations without disclosing known implementation barriers.

6. Recommendation XV-3 — Detailed Load Shifting Quantification Again Deferred

In the 2022-2023 FAM Audit, NSPI accepted the recommendations of Bates White to improve the ELIADC annual reporting. In the ELIADC 2024 Annual Report decision, Matter M12123, the Board criticized NSPI for seeming to be delaying that commitment; it directed NSPI to proceed without further delay to identify potential improvements to the tariff and to implement improvements to the

---

[4] N-3, NSPI (IG) IR-13(a)(ii).

[5] N-3, NSPI (IG) IR-13(e).

annual report, while the current tariff is still in effect.[6] Within the decision relating to the Third Term of the ELIADC, Matter M12184, the Board stated that NSPI's delay and reluctance in implementing tariff changes, which it had already accepted in the FAM Audit matter, is concerning.[7] The Board repeated the direction to proceed without further delay.

Despite this direction, the 2025 Annual Report does not contain the more detailed load shifting quantification required by Recommendation XV-3. In response to IRs, NSPI stated that, although the methodology was already developed and in place before the 2025 ELIADC Tariff Annual Report, modelling for 2025 was paused due to the cyber incident. It anticipated providing more information at the March FAM Small Working Group (SWG) meeting.[8]

The IG submits that this is inconsistent with the Board's direction to proceed "without further delay." NSPI has deferred the same deliverable across multiple annual reporting cycles. The cyber incident is a partial explanation for the 2025 delay, but the record shows that as of March 2026, no quantification was available, and the FAM SWG meeting updates for September 2025 and December 2025 provided no new information whatsoever.[9] The IG requests that the Board impose a firm deadline for delivery of this analysis.

7. No Interest on the Balance Owed by PHP

As a result of off-schedule charges exceeding the ADC benefit earned by PHP, PHP has a net balance owing of $149,304 for the 2025 tariff year.

In response to IG IR-4, NSPI confirmed that these amounts are billed to PHP after the Annual ELIADC Report is accepted by the Board; and no interest is charged on this balance.[10]

The Annual Report was filed on March 26, 2026. Acceptance by the Board will not occur until later. The $149,304 balance therefore sits outstanding without carrying any interest cost to PHP.

While this amount is small compared to the total costs, the IG observes that other customers effectively finance PHP's balance at no cost to PHP during this period. If NSPI were to carry a similar balance owed by other customers in the FAM, it would accrue interest. The IG recommends that the Board direct NSPI to account for carrying costs for outstanding post-year-end balances and consider whether interest should apply to outstanding post-year-end balances in the successor ELID.

8. Inter-Year Adjustments — Transparency and Comparability

The ELIADC Revenue Table for 2025 (Att.1, p.1/3) records a 2024 ADC Adjustment of −$1,221,077 and a 2024 VOM Adjustment of +$52,067 within the 2025 annual figures.

---

[6] Matter M12123, ELIADC 2024 Annual Report, Board Decision, September 2, 2025.

[7] Matter M12184, Board Decision Letter, September 22, 2025, pages 4-5.

[8] N-3, NSPI (IG) IR-12; N-4, NSPI (SBA) IR-4(a).

[9] N-3, NSPI (IG) IR-11.

[10] N-3, NSPI (IG) IR-4.

In response to IG IR-6, NSPI confirmed that the annual ELIADC Tariff results are not finalized until after filing the December Monthly FAM Report as well as after the release of NS Power's annual financial statements. NSPI follows US GAAP, and the inclusion of the prior period adjustment follows US GAAP ASC 606 — Revenue from Contracts with Customers.[11] NSPI further confirmed that it expects these inter-year adjustments will continue to occur.

The recording of a $1.22 million prior-year adjustment within 2025's figures makes it difficult to assess actual year-over-year tariff performance. A reader comparing Table 1 of the Annual Report to the underlying revenue data must understand and adjust for these entries to make meaningful comparisons.

The IG requests that NSPI be directed to include, as a standard feature of future annual reports, (or as part of a final ELIADC reconciliation) a table that presents annual benefits and costs both as reported under GAAP and on a "clean year" basis — that is, excluding prior-year adjustments — so that the Board and Intervenors can assess performance on a like-for-like basis across years.

9. Monthly Cost-to-Serve vs. CBL Energy Charge — Month-by-Month Cross-Subsidy

The ELIADC Report Table (Att.1, p. 1) shows that in January 2025, the incremental cost to serve PHP was $7,662,264 against a total billed charge of $5,494,114, a shortfall of approximately $2.17 million. In February 2025, the incremental cost to serve was $7,595,802 against a billed charge of $4,683,426, a shortfall of approximately $2.91 million. In December 2025, the incremental cost to serve was $7,721,416 against a billed charge of $5,842,667, a shortfall of approximately $1.88 million.

On a full-year basis, the total incremental cost to serve PHP was $63,005,244 against a total CBL Energy Charge of $63,577,556. The net positive ADC differential of $1,522,611, however, was driven by the difference between the forecasted CBL Energy Charge rate of $96.42/MWh and the actual per-MWh CBL cost components of $94.22/MWh applied across PHP's delivered energy of 690,763 MWh.

While the annual result was positive, the monthly data shows that other ratepayers bore a shortfall cost in at least the three winter months of January, February and December. PHP's billed charge fell significantly short of the actual cost to serve PHP in the months of highest energy cost, which are the same months when other ratepayers also face their highest energy bills. The annual netting of positive and negative months obscures this intra-year cross-subsidy.

Moreover, if trying to track this data in the monthly FAM reporting (M-8), the same information is not clearly provided. There is no identified line item of the “incremental cost to serve” and the “total billed charge”. Also, the information that is provided is obscured because of accruals booked and reversed.

The IG requests that NSPI be required to provide in the monthly reporting M-8, a month-by-month comparison of the total billed charge and the actual incremental cost to serve, with a clear identification of months in which the billed charge was less than the cost to serve, with an explanation of accruals, and the quantum of the resulting monthly shortfall.

---

11 N-3, NSPI (IG) IR-6.

Thank you for the opportunity to submit these comments.

Yours truly,

Nancy G. Rubin

Brianne E. Rudderham

NGR/BER/lmc

c. Participants in M12768