

November 24, 2022

Crystal Henwood
Regulatory Affairs Officer/Clerk
Nova Scotia Utility and Review Board
1601 Lower Water Street, 3rd Floor
P.O. Box 1692, Unit "M"
Halifax, NS B3J 3S3

Re: M10431 – Nova Scotia Power Inc – General Rate Application (2022-2024) – Settlement Agreement

Dear Ms. Henwood:

Further to the Nova Scotia Utility and Review Board's (Board) prior correspondence extending the deadline for Nova Scotia Power Incorporated (NS Power) to file its General Rate Application (GRA) Closing Submission, NS Power is pleased to advise that it has reached a comprehensive Settlement Agreement of the GRA with the Consumer Advocate, the Small Business Advocate, Industrial Group, Dalhousie University, Ecology Action Centre, Affordable Energy Coalition, and the Municipal Electric Utilities (MEUs) regarding the GRA. This Settlement Agreement was made possible by the considerable efforts of these parties, which NS Power wishes to acknowledge and thank them for.

Attached hereto is the Settlement Agreement executed in counterpart.

NS Power has also provided Port Hawkesbury Paper LP (PHP) and Freeman Lumber with copies of the Settlement Agreement terms. PHP indicated "that it was not in a position to note its support for a settlement agreement to which it was not a party", while Freeman Lumber has indicated it "takes no position" on the Settlement Agreement.

In addition to the foregoing, NS Power has provided the Settlement Agreement terms to Eastward Energy and EfficiencyOne. EfficiencyOne has advised that given the discrete nature of its intervention in the GRA, it does not feel it is appropriate to sign on to the broad-based Settlement Agreement, but that it does not have an intention to file any position contrary to the terms of the Settlement Agreement. Likewise, Eastward Energy has advised that it takes no position with regard to the Settlement Agreement.

As part of the Settlement Agreement, the parties have agreed that the MEUs will have the

opportunity to provide a narrowly scoped closing argument on the Open Access Transmission Tariff capacity-based ancillary services matters raised by Mr. Marshall in his evidence and the Wholesale Market Backup/Top-up Service Tariff GHG credit matter raised by Mr. Dominie in his evidence. In response to these submissions, it has been agreed that NS Power and other parties will have the opportunity to provide reply submissions. Following such submissions, the parties ask that the Board provide a determination of those matters.

In furtherance of this, NS Power requests that the Board establish a schedule for the remaining process in as expeditious a manner as reasonably possible and in any event, so that rates may be put in place by January 1, 2023.

If you have any questions or require any additional information with respect to this request, please contact the undersigned.

Yours truly,



Blake Williams,
Senior Regulatory Counsel

c: Brian Curry, Senior Director Regulatory and Corporate Secretary
Judith Ferguson, EVP Legal, Regulatory and Government Relations
Chris Smith, EVP Finance
Parties to NSUARB Matter M10431

Nova Scotia Utility and Review Board

IN THE MATTER OF A GENERAL RATE APPLICATION by NOVA SCOTIA POWER INCORPORATED for approval of certain revisions to its Rates, Charges, and Regulations – M10431

Settlement Agreement

WHEREAS:

- A. On January 27, 2022, Nova Scotia Power Incorporated (“NS Power” or “Company”) filed with the Nova Scotia Utility and Review Board (“Board” or “NSUARB”) its 2022-2024 General Rate Application under Matter No. M10431 (“GRA”).
- B. The GRA was subject to a full regulatory process, including NS Power’s initial application and supporting documents, 19 pieces of intervenor evidence, 700 Information Requests (IRs) with over 1900 questions to Nova Scotia Power and 157 IRs with over 270 questions to Intervenors and Board Counsel consultants, as well as NS Power’s Rebuttal Evidence and Fuel Update. The oral hearing lasted nine days and resulted in 71 undertakings, concluding on September 23, 2022
- C. On October 19, 2022, the Provincial Government introduced Bill 212 in the Legislature to amend the *Public Utilities Act* RSNS 1989, c. 380 (PUA). Bill 212 received Royal Assent and became law on November 9, 2022.
- D. The formal intervenors in the GRA are the Consumer Advocate (CA), Small Business Advocate (SBA), Affordable Energy Coalition, Dalhousie University, Ecology Action Centre, Eastlink, EfficiencyOne, Freeman Lumber, Heritage Gas Limited (now known as Eastward Energy), Industrial Group (IG), Mainland Telecom Inc., Municipal Electric Utilities of Nova Scotia (which include Berwick Electric Commission, Riverport Electric Light Commission, Town of Mahone Bay, and Town of Antigonish) (collectively, the MEUs), NCS Managed Services Inc., Nova Scotia Department of Natural Resources and Renewables, Nova Scotia Liberal Caucus, Nova Scotia NDP Caucus, Port Hawkesbury Paper LP, Rogers Communications Canada Inc. (Rogers), and Xplornet Communications Inc. (Xplornet).
- E. NS Power has previously reached a settlement agreement with Eastlink, Rogers, and Xplornet with respect to NS Power’s pole attachment rate that is included on the GRA record (Exhibit N-138).
- F. The CA, SBA, IG, Dalhousie University, Ecology Action Centre, Affordable Energy Coalition, and the MEUs (“Party” or “Parties”) desire to resolve the GRA on the terms set out herein.

NOW THEREFORE, the Parties agree as follows:

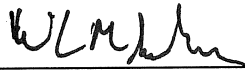
- 1. The Parties have reached agreement on matters relating to the GRA as represented by the terms set out in Schedule “A” attached hereto (“Settlement Agreement”).
- 2. Subject to the terms set out in Schedule “A” and the record before the Board, the Parties support approval of the GRA and respectfully request the Board approve this Settlement Agreement.

Settlement Agreement – Nova Scotia Utility and Review Board Matter M10431

3. The Parties agree to the terms set out in Schedule “A” to resolve the matters at issue and without prejudice to any position that may be taken by any Party in any future regulatory proceeding.
4. This Settlement Agreement may be executed by the Parties in counterparts, each of which when so executed and delivered shall be deemed to be an original and when taken together shall be deemed to be one and the same instrument. The electronic delivery, including, without limitation, by email or facsimile transmission, of any signed original of this Settlement Agreement shall be the same as the delivery of an original.

All of which is hereby agreed to by the Parties effective as of the 24th day of November, 2022.

CONSUMER ADVOCATE




Per: **WILLIAM L MAHODY**

SMALL BUSINESS ADVOCATE


Per:

INDUSTRIAL GROUP



Per: Nancy G. Rubin
Stewart McKelvey

DALHOUSIE UNIVERSITY



Per: Nancy Rubin
Stewart McKelvey

ECOLOGY ACTION CENTRE

Per:

AFFORDABLE ENERGY COALITION

Per:

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CONSUMER ADVOCATE

SMALL BUSINESS ADVOCATE

Per:

E.A. Nelson

Per:

INDUSTRIAL GROUP

DALHOUSIE UNIVERSITY

Per:

Per:

ECOLOGY ACTION CENTRE

AFFORDABLE ENERGY COALITION

Per:

Per:

Settlement Agreement – Nova Scotia Utility and Review Board Matter M10431

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CONSUMER ADVOCATE

Per:

SMALL BUSINESS ADVOCATE

Per:

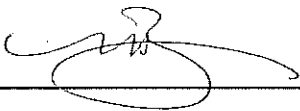
INDUSTRIAL GROUP

Per:

DALHOUSIE UNIVERSITY

Per:

ECOLOGY ACTION CENTRE



Per: Maggy Burns, Executive Director

AFFORDABLE ENERGY COALITION

Per:

Settlement Agreement – Nova Scotia Utility and Review Board Matter M10431

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CONSUMER ADVOCATE

SMALL BUSINESS ADVOCATE

Per:

Per:

INDUSTRIAL GROUP

DALHOUSIE UNIVERSITY

Per:

Per:

ECOLOGY ACTION CENTRE

AFFORDABLE ENERGY COALITION

Brian Gifford

Per:

Per: *BRIAN GIFFORD*
CHAIR

MUNICIPAL ELECTRIC UTILITIES



Per: James MacDuff, counsel

NOVA SCOTIA POWER INC.

Per:

MUNICIPAL ELECTRIC UTILITIES

NOVA SCOTIA POWER INC.

Per:

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, positioned above a horizontal line.

Per:

Schedule “A”

Terms of Settlement

It is acknowledged that, subject to Board approvals, rate increases other than those identified below may occur prior to the effective date of the next general rate application in relation to Board-approved AA/BA Riders or other deferred amounts.

GRA Element	Settlement Terms
Potential Deferral Relief	<ul style="list-style-type: none"> - The parties agree that these Terms of Settlement do not bar NS Power from applying to the Board to defer costs during the Test Years 2023 and 2024, consistent with the <i>Public Utilities Act</i> RSNS 1989, c. 380, as amended, and that all parties will be free to take any position they wish with regard to any such application. Any costs proposed to be deferred, and the allocation and amortization of such costs, would be subject to review and decision by the Board at that time.
Deferral / Regulatory Asset Financing Costs	<ul style="list-style-type: none"> - All financing costs for deferrals are to be calculated using rates equivalent to NS Power’s approved Weighted Average Cost of Capital (WACC), as approved by the Board from time to time, or as otherwise directed by the Board.
Overall Rate	<ul style="list-style-type: none"> - The average rate increase across all customer classes will be 6.9% in each of 2023 and 2024 (see anticipated revenue increase table attached as Schedule “B”) with the implementation of an AA/BA Rider in each of 2024 and 2025 to recover historical under-recovered fuel costs. - As the rate increase required to collect under-recovered fuel amounts in a 2024 AA/BA Rider is material for all or certain of the customer classes, the parties will work in a good faith manner to defer a portion of the impact of the increase and costs to 2025 or an additional period as may be reasonable and appropriate. NS Power will apply in October 2023 to set the AA/BA rider for 2024. For greater certainty, as the four Wholesale Market customers (the MEUs) were not FAM customers during the 2020-2022 period, none of the historical under-recovered fuel costs on account of 2020-2022 will be recoverable from those customers.
Non-fuel Rate	<ul style="list-style-type: none"> - The non-fuel components of the 6.9% average increase in each of 2023 and 2024 consist of the following: <ul style="list-style-type: none"> - 2023: average 5.4% (1.8% non-fuel and 3.6% DSM) - 2024: average 0.3% (DSM)
Fuel Rate	<ul style="list-style-type: none"> - The fuel component of the 6.9% average increase in each of 2023 and 2024 consists of the following: <ul style="list-style-type: none"> - 2023: average 1.5%

	<ul style="list-style-type: none"> - 2024: average 6.6% and an AA/BA Rider for historical under-recovery
Decarbonization Deferral Account (DDA)	<ul style="list-style-type: none"> - The parties agree in principle to a DDA to recover undepreciated thermal asset NBV and unrecovered decommissioning costs and further agree to engage constructively in a consultative process to confirm the practice and procedures that will be followed to establish the DDA and its scope, to effect the transfer of unrecovered costs to a regulatory asset and to recover such costs. The consultative process will be undertaken and completed in such a manner that will result in NS Power providing a report to the Board with the results of the consultative process and seek approval of the DDA by June 30, 2023. For greater certainty, the Board’s decision in 2012 NSUARB 133 with respect to the MEUs responsibility for the payment of stranded costs continues to apply and is not affected by this agreement in principle. - The parties also agree to discuss the potential for the application, approval, and implementation of the DDA, or similar mechanism, as it relates to “New Capital Assets” and “Incremental/Decremental OM&G” as those are described in Section 4.1 of NS Power’s Rebuttal Evidence (i.e. energy transition investment and costs related thereto).
Equity Ratio	<ul style="list-style-type: none"> - An equity thickness of 40% for rate setting purposes.
Return on Equity	<ul style="list-style-type: none"> - A return on equity of 9.0% for rate setting purposes.
Earnings Sharing Mechanism	<ul style="list-style-type: none"> - NS Power’s request for a revised Earnings Sharing Mechanism is withdrawn.
Earnings Band	<ul style="list-style-type: none"> - An earnings band of 8.75% to 9.25% return on equity on an actual five-quarter average equity ratio of up to 40%.
Customer Charge	<ul style="list-style-type: none"> - As applied for, but at the 2023 customer charges amount with an agreed to reduction of 25 percent of the proposed increase and no-phase in given there will only be a one-time non-fuel/non-DSM rate increase. (Per Figure 12-2, page 99 of Direct Evidence but with 25 percent reduction to the proposed increase: Domestic Tariffs \$19.17/month; Small General \$21.28/month.)
Interruptible Rider	<ul style="list-style-type: none"> - As applied for, but at the 2023 credit amount. (Per Direct Evidence PR-01 Attachment 1, page 38: \$7.486/kVa.) - The Interruptible credit will be reviewed in the next Cost of Service Study.
Distribution Adder	<ul style="list-style-type: none"> - As applied for, but at the 2023 amount. (Per Direct Evidence PR-01 Attachment 1, page 35: \$1.632/kVa.)
Storm Rider	<ul style="list-style-type: none"> - For purposes of the years 2023, 2024, and 2025 only, as applied for, per Storm Cost Recovery Rider Direct Evidence PR-01 page 106 and PR-01 Att1v, but, modified as per Section 13 of NS Power’s Rebuttal Evidence, to eliminate the volume provision of the Balance Adjustment from the Storm Rider.

	<ul style="list-style-type: none"> - The parties agree that NS Power will have the option to apply to the Board for recovery of costs through the Storm Rider in the event that Level 3 and Level 4 storm restoration expense exceeds \$10.2 million in 2023, \$10.4 million in 2024, and \$10.4 million in 2025. The Storm Rider terminates after recovery of costs from 2025.
DSM Rider	<ul style="list-style-type: none"> - Implementation of the DSM Cost Recovery Rider (DSM Rider) as it was applied for, but with the amendment set out in Section 13 of NS Power’s Rebuttal Evidence such that NS Power, rather than EfficiencyOne, will make the annual application for the DSM Rider to the Board and further amended to remove the last two bullets on page 8 of the DSM Rider, as committed to in the oral hearing and in Undertaking U-40. In addition, the DSM Rider charge will be incorporated within the class energy charges (i.e. not segregated on customer bills). For greater certainty, the DSM Rider’s allocation of costs to customers shall be consistent with E1’s approved 2023-2025 Application. For customers taking service in the Wholesale or Renewable to Retail markets, recovery of DSM costs will be through direct billing by NS Power to such customers.
Misc. Charges (incl AMI opt-out, Pole Attachment Fees, Distribution Tariff, and OATT)	<ul style="list-style-type: none"> - As applied for with the exception of Pole Attachment Fees that are to be approved as per Settlement Agreement (Exhibit N-138), and the Rates for Services in NS Power’s Open Access Transmission Tariff shall be capped at a maximum increase of 1.8% in 2023 and 0% in 2024. With respect to the CBAS recommendations proposed by WKM Energy Consultants, the parties agree that these issues will be left to the Board’s determination in this proceeding. The MEUs will file a closing argument on these issues, following which NS Power and other parties as they see fit will have the opportunity to file a reply.
ML Transmission Asset Approvals	<ul style="list-style-type: none"> - Approval of CI 43324, CI 43678, CI 45066, and CI 45067 for inclusion in rate base at their net book value as of the effective date of the Board’s decision on this matter.
GRA Deferral	<ul style="list-style-type: none"> - NS Power’s request for a GRA Deferral is withdrawn.
Line Loss Study and COSS	<ul style="list-style-type: none"> - NS Power must file a Cost of Service Study and a Line Loss Study prior to filing its next GRA or December 31, 2025, whichever is sooner. NS Power will provide for stakeholder engagement in the scoping and review of initial results, which will include consideration of bundled and unbundled services in an integrated manner as referenced in the Board’s decision at para. 142 in 2021 NSUARB 126, prior to filing the final Studies. Board approval for the use of those Studies should occur as a part of the next GRA proceeding. Costs associated with the production, stakeholder engagement, and filing of these Studies may be deferred by NS Power and, subject to Board

	approval, recovered through rates subsequent to NS Power's next general rate application.
BUTU GHG Credit	- With respect to the Wholesale Market Backup/Top-up Service Tariff GHG Credit as proposed in the evidence of Mr. Dominie, the parties agree that this issue will be left to the Board's determination in this proceeding. The MEUs will file a closing argument on this issue, following which NS Power and other parties as they see fit will have the opportunity to file a reply

Schedule “B”

Anticipated Revenue Increase Table

	2023				2024			
	Base Cost Rates	FAM AA/BA Riders	DSM Rider	Total	Base Cost Rates	FAM AA/BA Riders	DSM Rider	Total
Domestic Service Tariff								
Fuel	0.7%	0.0%	0.0%	0.7%	6.4%	0.0%	0.0%	6.4%
Non-Fuel	2.7%	0.0%	3.5%	6.2%	0.0%	0.0%	0.4%	0.4%
Total	3.3%	0.0%	3.5%	6.9%	6.4%	0.0%	0.4%	6.8%
Small General Tariff								
Fuel	0.7%	0.0%	0.0%	0.7%	8.3%	0.0%	0.0%	8.3%
Non-Fuel	2.9%	0.0%	4.8%	7.7%	0.0%	0.0%	0.1%	0.1%
Total	3.6%	0.0%	4.8%	8.4%	8.3%	0.0%	0.1%	8.5%
General Tariff								
Fuel	2.8%	0.0%	0.0%	2.8%	6.8%	0.0%	0.0%	6.8%
Non-Fuel	0.3%	0.0%	4.0%	4.3%	0.0%	0.0%	0.2%	0.2%
Total	3.1%	0.0%	4.0%	7.1%	6.8%	0.0%	0.2%	7.0%
Large General Tariff								
Fuel	1.7%	0.0%	0.0%	1.7%	8.3%	0.0%	0.0%	8.3%
Non-Fuel	1.8%	0.0%	4.8%	6.6%	0.0%	0.0%	0.0%	0.0%
Total	3.5%	0.0%	4.8%	8.3%	8.3%	0.0%	0.0%	8.3%
Small Industrial Tariff								
Fuel	-0.7%	0.0%	0.0%	-0.7%	8.4%	0.0%	0.0%	8.4%
Non-Fuel	4.2%	0.0%	4.7%	8.8%	0.0%	0.0%	0.0%	0.0%
Total	3.5%	0.0%	4.7%	8.1%	8.4%	0.0%	0.0%	8.5%
Medium Industrial Tariff								
Fuel	0.7%	0.0%	0.0%	0.7%	8.0%	0.0%	0.0%	8.0%
Non-Fuel	5.0%	0.0%	2.2%	7.2%	0.0%	0.0%	0.2%	0.2%
Total	5.7%	0.0%	2.2%	7.9%	8.0%	0.0%	0.2%	8.2%
Large Industrial Tariff								
Fuel	5.2%	0.0%	0.0%	5.2%	4.8%	0.0%	0.0%	4.8%
Non-Fuel	-3.3%	0.0%	3.0%	-0.3%	0.0%	0.0%	0.0%	0.0%
Total	1.9%	0.0%	3.0%	4.9%	4.8%	0.0%	0.0%	4.8%

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Municipal Tariff								
Fuel	-3.4%	0.0%	0.0%	-3.4%	5.9%	0.0%	0.0%	5.9%
Non-Fuel	3.9%	0.0%	4.8%	8.8%	0.0%	0.0%	0.2%	0.2%
Total	0.5%	0.0%	4.8%	5.4%	5.9%	0.0%	0.2%	6.1%
Unmetered								
Fuel	3.0%	0.0%	0.0%	3.0%	0.1%	0.0%	0.0%	0.1%
Non-Fuel	-3.5%	0.0%	0.7%	-2.8%	0.0%	0.0%	0.0%	0.0%
Total	-0.5%	0.0%	0.7%	0.2%	0.1%	0.0%	0.0%	0.2%
Total FAM Classes								
Fuel	1.5%	0.0%	0.0%	1.5%	6.6%	0.0%	0.0%	6.6%
Non-Fuel	1.8%	0.0%	3.6%	5.4%	0.0%	0.0%	0.3%	0.3%
Total	3.3%	0.0%	3.6%	6.9%	6.6%	0.0%	0.3%	6.9%

NOTE: The increases identified above are subject to change as a result of the proceeding's compliance filing.