
Nova Scotia Utility and Review Board

IN THE MATTER OF The Public Utilities Act, R.S.N.S. 1989, c.380, as amended

-and-

IN THE MATTER OF A Proceeding Concerning Sales of Renewable Low Impact Electricity Generated within Nova Scotia by a Retail Seller to a Retail Customer pursuant to the Electricity Act (M06214)

Renewable to Retail

Reply to Closing

February 26, 2016

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1 **1.0 INTRODUCTION**

2

3 On February 12, 2016, Nova Scotia Power Inc. (NS Power or the Company) filed its
4 Closing Submission in this matter with the Nova Scotia Utility and Review Board (Board
5 or UARB). Closing Submissions were also filed by the Consumer Advocate (CA), the
6 Small Business Advocate (SBA), the Nova Scotia Department of Energy (DOE), the
7 Industrial Group (IG), SWEB Development Inc. (SWEB), Cape Breton Explorations
8 (CBEX) and Scotian Windfields, Inc. (SWFI).

9

10 Please accept this Reply to Closing Submissions on behalf of NS Power. In this
11 submission, the Company will focus on the key issues raised by Intervenors in their
12 Closing Submissions. The absence of a reply to a specific issue raised by an Intervenor
13 should not be construed as acceptance on the part of NS Power. If a matter is not
14 addressed, the Company relies upon its Closing Submission as well as its testimony and
15 written evidence in support of its position. The Company submitted its Application dated
16 September 1, 2015, responses to information requests on October 9, 2015 and November
17 9, 2015 and Rebuttal Evidence on January 8, 2016.

1 **2.0 PARTICIPATION AND MARKET ANALYSIS**

2
3 In its Closing Submission, the CA notes what it characterizes as “limited participation” in
4 the hearing itself by potential Licensed Retail Suppliers (LRS) and suggests it was “the
5 result of a lack of confidence that the proposal submitted by NSPI would result in a
6 viable market.”¹ There has been no evidence presented in this proceeding with respect to
7 motivation behind the participation of potential LRSs. What the Board does have,
8 however, is evidence of an extensive stakeholder engagement process carried out by NS
9 Power.² This was acknowledged by the SBA’s consultant. At page 11 of his evidence,
10 Mr. Athas stated:

11
12 **Q. What is your overall conclusion about the stakeholder process?**

13 A. I felt that the information presented was excellent in both the
14 production of the material and the quality of the presenters. I believe that
15 NSPI invited comment, discussion and diverse opinions during these
16 sessions for their consideration in the ultimate NSPI proposal for all the
17 aspects of design of the RtR market. **It is evident from the Application**
18 **filed by NSPI that the stakeholder sessions influenced the ultimate**
19 **content of their market design and tariffs.**³

20
21 [emphasis added]
22

23 Indeed, notwithstanding the CA’s speculation, the Company submits that the more likely
24 explanation is that the extensive stakeholder consultation process carried out by NS
25 Power, including the Settlement Conference held by the Company prior to the
26 commencement of the hearing, served to clarify concerns and limit issues of contention,
27 and thus mitigated the need for many potential parties to have to engage in the time and
28 other costs of the regulatory hearing.

29
30 Similarly, the CA also asserts that LRSs are to be “attracted” or else the “market will
31 fail”. With respect, attraction per se is not the object of the RtR provisions within the

¹ Closing Submission of the Consumer Advocate, February 12, 2016, page 1, lines 39-40.

² Exhibit N-16, NS Power Application, s. 3 and Appendices 3-15.

³ Exhibit N-33, Evidence of the Small Business Advocate (Athas), page 11, lines 163-169.

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1 Electricity Act (Act), but rather enablement of a market for those potential LRSs who can
2 make competitive offers while using RtR tariffs that satisfy the guiding principles set out
3 in the Act. Any suggestion, direct or indirect, that the RtR tariffs should be subsidized so
4 as to encourage market development by LRS participants serves to contradict the guiding
5 principles from the Act, and is incorrect.

6
7 The CA also refers to a lack of “market analysis”, and suggests that the Board might
8 consider “reconvening the hearing process and requesting further information from NSPI
9 or any of the participants.”⁴ With respect, the CA’s suggestion should be rejected. Each
10 of the Intervenors, including potential LRSs, had an opportunity to ask IRs, file evidence
11 and otherwise bring forward evidence in this proceeding. Indeed, the CA filed expert
12 evidence based on the Company’s Application and responses to Information Requests.
13 While Mr. Chernick made recommendations for changes to the RtR framework proposed
14 by the Company, nowhere in his evidence did he suggest there was insufficient
15 information in this proceeding on which the Board could make its determination.
16 Similarly, NS Power notes that the Board’s Consultant, Multeese Consulting
17 Incorporated (Multeese), was generally supportive of the Company’s proposed
18 framework based on the evidence filed, subject to certain changes. Mr. Whalen noted:

19
20 While competitive retail markets exist in other jurisdictions, the
21 establishment of such a market in Nova Scotia is unique in that potential
22 suppliers (other than NS Power) are restricted to those who produce
23 renewable electric power and energy in Nova Scotia. At this stage, there is
24 no way of knowing the extent of participation in the market once it is open.
25 NS Power’s approach, therefore, has been to use existing tariffs,
26 regulations, procedures and cost of service principles as much as possible;
27 to incorporate competitive retail market experience from other
28 jurisdictions as appropriate; to design rates which have some components
29 that adjust annually to reflect changes in fuel and administration costs; and
30 to provide annual reports to the Board and stakeholders on the status of the
31 market development.⁵

⁴ Closing Submission of the Consumer Advocate, February 12, 2016, page 3, lines 28-29.

⁵ Exhibit N-31, Evidence of Multeese Consulting, page 2, lines 20-29.

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1 With respect, market analysis cannot supersede and replace the application by the Board
2 of the guiding principles prescribed for the RtR tariffs by the legislation. Whether the
3 cost structure of any generation used by an LRS, or the potential demand by Retail
4 Customers for renewable electricity supply from an LRS, causes the RtR market to grow
5 or not, is a matter for the market itself.

6
7 SWFI offers observations regarding the absence of “commercial testing of the rates being
8 proposed.”⁶ Clearly, the guiding principles in the Act against which the Board is required
9 to assess the RtR tariffs do not anticipate such an approach. If LRS’ costs and the
10 purchasing perspectives of Retail Customers enable any particular offering by an LRS to
11 be agreed, the RtR tariffs required by the legislation and proposed by NS Power will do
12 their assigned job – to enable, but not to subsidize or otherwise assure the development
13 of, the RtR market. As the SBA noted in its stakeholder submission dated October 24,
14 2014 (and referenced by Mr. Athas in his evidence⁷):

15
16 If Renewables to Retail results in increased development of renewable
17 energy resources AND does not create any subsidizations the legislation
18 will be a great success. If the RtR transaction process is set up correctly,
19 i.e. without subsidization and little to no additional renewable energy is
20 developed the legislation and its implementation is also a success. If RtR
21 subsidization is necessary to stimulate the renewable market, the
22 implementation has not complied with the legislation.⁸

⁶ Closing Submission of Scotian Windfields, Inc., February 12, 2016, page 1.

⁷ Exhibit N-33, Evidence of the Small Business Advocate (Athas), page 10, lines 147-153.

⁸ Exhibit N-16, NS Power Application, Appendix 6, page 93 of 95.

1 **3.0 REAL TIME PRICING FOR THE EBS TARIFF**

2
3 The Company submits that the Closing Submission of the SBA succinctly demonstrates
4 why NS Power’s proposed approach to pricing of top-up and spill energy in the EBS
5 tariff is the appropriate one.

6
7 The SBA quotes from Mr. Athas’ evidence, where, in explaining how he thinks the costs
8 of top-up and spill energy should be calculated, Mr. Athas states that NS Power should be
9 seeking an “estimate of the **upcoming** month(s) marginal costs or credits for EBS or spill
10 energy purchases” involving “a specific real time estimate of actual marginal costs **for**
11 **each hour that a specific LRS** utilizes EBS purchasing or provides spill energy”⁹
12 (emphasis added).

13
14 With respect to setting prospective, time-of-day or seasonally differentiated rates or
15 estimates of marginal costs/credits for EBS energy, NS Power was clear in its evidence as
16 to the impact of the uncertain production of the Nova Scotia wind generation fleet (to
17 which RtR wind generation output will be strongly correlated) and lack of modeling
18 precision, particularly on small load changes.

19
20 It is important to note that incremental fuel costs are dependent on, among
21 other factors, the amount of wind generation on the system and this cannot
22 be known in advance. For that reason, application of the same
23 predetermined rates to the spill and top-up services, whether differentiated
24 by time of day and/or season, would not be appropriate.

25
26 Differentiation by time of day and/or seasons of separate cost-based rates
27 for each of top up and spill would also likely suffer from anomalous
28 results because of a lack of modelling precision to do such calculations on
29 small load changes.¹⁰
30

⁹ Closing Submission of the Small Business Advocate, February 12, 2015, page 1, lines 20-25.

¹⁰ Exhibit N-42, NS Power Rebuttal Evidence, page 9, lines 6-12.

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1 In the Company's view, these factors prevent the production of such time-based rates or
2 accurate estimates of the upcoming months' marginal costs for EBS energy, as
3 recommended by Mr. Athas.

4
5 The SBA states that NS Power asserted that adopting a real time pricing approach would
6 be contentious but provided no evidence to show why it would be contentious. In fact,
7 Mr. Grus testified as to the complexity involved with real time pricing during the
8 hearing.¹¹ He notes that such an exercise would include consideration of many variables
9 and assumptions for each of the 8,760 hours in a year.

10
11 These variables and assumptions would include which of the LRS generators was, in each
12 hour, online or offline or perhaps only provided part of their Retail Customers' load, and
13 if so what part; what the levels of wind generation and imports were; which of NS
14 Power's generation fleet was in service, and to what extent, in each of the 8,760 hours;
15 and what the fuel-cost driven and load level-dependent dispatch of that fleet was in each
16 hour.

17
18 In the Company's experience, pricing that cannot be proven to a precise level and which
19 could involve differentiation by time of day or seasons would be contentious and
20 controversial amongst market participants and stakeholders, regardless of the level of
21 materiality involved. As noted by Mr. Ferguson in his testimony:

22
23 We are trying to balance, I guess, administrative simplicity and
24 predictability. The benefit of a prospective number and a single tariff set
25 for the top-up in [*sic: and*] the spill portion benefit from the giving the
26 LRS a year-long perspective on what the charge and what the payment rate
27 will be. As well, it -- **when you start segregating on a real time basis, I**
28 **think you get into controversial areas with respect to the cost**
29 **causation associated with that load and the real time basis.** So
30 basically, trying to maintain as simple a process as possible, providing
31 predictability, at least until the market opening gets to a larger point where

¹¹ Transcript, January 18, 2016, pages 267-268.

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1 we can more effectively measure the actual costs associated with the
2 opening.¹²
3 [emphasis added]

¹² Transcript, January 18, 2016, pages 115-116, lines 22 and 1-9.

1 **4.0 EBS TARIFF - FUEL COST ADDER**

2
3 SWEB supports the removal of the 1.38 cents/kWh fuel cost adder from top-up.¹³ NS
4 Power submits that SWEB's position ignores the evidence in this proceeding, as
5 summarized in the Company's Closing Submission,¹⁴ which demonstrates the need for
6 such an adder if the costs incurred in providing RtR service are not to be subsidized by
7 other customers.

8
9 Whether an RtR generator is wind or is some other source of qualifying renewable low-
10 emission electricity is not the question. The question is whether the avoided cost of RtR
11 spill energy (however generated) is reasonably expected to be less than the cost of
12 supplying system energy from NS Power when required for LRS top-up needs. On that
13 question, the evidence is clear – based on how the system has been observed and
14 measured to operate, top-up energy is expected to be more costly when needed as
15 compared to the avoided cost of spill when provided.

16
17 As previously noted in the Company's Rebuttal Evidence:

18
19 In general, the costs of top-up energy are expected to be higher than
20 energy savings from spill due to a high correlation of wind patterns across
21 the province of Nova Scotia (i.e. energy spill from wind generation in the
22 RtR market is expected to coincide with high wind generation on NS
23 Power's system and deliveries of top-up energy would coincide with low
24 levels of wind generation on NS Power's system). Under the economic
25 dispatch order, the Company avoids running more expensive thermal
26 generation during periods of high wind generation. Thus, the avoided cost
27 of thermal generation displaced by spill, occurring at the time of already
28 high NS Power/contract wind generation, is lower than the incremental
29 costs of thermal generation provided under top-up when NS
30 Power/contract wind generation is low.¹⁵

¹³ SWEB p. 4, lines 34-36. Closing Submission of SWEB Development Inc., February 12, 2016, page 4, lines 34-36.

¹⁴ NSPI Closing pages 11-12. Closing Submission of NS Power, February 12, 2016, pages 11-12.7.

¹⁵ Exhibit N-42, NS Power Rebuttal Evidence, pages 26-27, lines 29-33 and 1-5.

1 **5.0 LOCATIONAL LINE LOSSES**

2
3 The IG suggests that NS Power’s earlier modelling of “losses by substation for the
4 Province’s renewable energy RFP”¹⁶ indicates that the type of locational losses being
5 advocated by some of the Intervenors should be adopted. With respect, this assertion is
6 incorrect due to the fact that the loss factors used in the Province’s renewable energy RFP
7 are representative of only a single hour (peak load) on the NS Power system. As such,
8 they are not useful for application in actual RtR transactions throughout the year’s 8760
9 hours. The type of location-based line losses regime being suggested by the IG would
10 entail calculations comparable in nature to those canvassed above with respect to time-
11 based rates for the EBS tariff.

12
13 The IG refers to Mr. Whalen’s evidence on this issue and notes that he “expressed the
14 view that the OATT does not necessarily preclude the use of locational losses so long as
15 they can be appropriately determined.”¹⁷ The IG ignores, however, the overall nature of
16 Mr. Whalen’s evidence, which acknowledged the impracticality and inadvisability of
17 introducing a regime of locational losses under the RtR tariffs.

18
19 It’s always a bit of a question as to exactly how you do that calculation.
20 And we talked yesterday, when Mr. Outhouse was cross-examining the
21 company, about sometimes you could have a wind generator in Cape
22 Breton displacing a thermal plant in Cape Breton and in that hour there’s
23 no effect on losses, and there were different scenarios that were
24 considered.

25 So the question would be, how do you develop what would be the
26 appropriate adjustments that you might make, that you might apply to
27 these generators to recognize that if you put it in one location versus
28 another you ought to somehow penalize it or credit it in some way.

29 MR. DHILLON: So when you say “appropriate,” this can be calculated, a
30 rough idea of loss factors. So -- and there’s no problem that -- there’s a
31 possibility that NSP could calculate roughly what the loss factor would be,
32 I guess? Then it’s a matter of whether we agree to apply or not.

¹⁶ Closing submission of Industrial Group, February 12, 2016, page 1.

¹⁷ Closing submission of Industrial Group, February 12, 2016, page 2.

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1 MR. WHALEN: Certainly, as was indicated by Mr. Chernick earlier, that
2 has been done, some indication. What I'm not familiar with is how that
3 was done and whether that would be appropriate to apply here. Certainly
4 the calculation of losses, as the company indicated yesterday, is not a
5 straightforward thing. Losses are different in every hour, as load changes,
6 as generation changes. And so trying to calculate what that is on average
7 across the transmission system is challenging. To be able to take it to
8 another level to estimate how will it change if I put generator A at one
9 location versus another is an even more challenging piece.¹⁸
10

11 SWEB states in its Closing Submission that locational losses "need to be considered in
12 the calculation of energy provided by the LRS," and suggests that "if generation is
13 located on distribution grid, then the distribution losses should be removed."¹⁹ In the
14 Company's view, SWEB's comments on losses, and the suggestion that any RtR
15 generation located on the distribution grid will simply give rise to no losses, ignore the
16 practical consideration highlighted by Mr. Whalen in his evidence.

¹⁸ Transcript, January 19, 2016, page 372-373, lines 3-22 and 1-11.

¹⁹ Closing Submission of SWEB Development Inc., February 12, 2016, page 4, lines 17-31.

1 **6.0 UNBUNDLING OF RATES**

2
3 The CA incorrectly suggests in its Closing Submission that “NSPI does not explain what
4 ‘scope’ of unbundling would introduce special problems.”²⁰ NS Power has been clear in
5 the evidence that an exercise of re-setting rates to its customers based on unbundled tariff
6 structures would entail many changes from the rates structures in place today.²¹ The
7 evidence provided by NS Power in its response to Undertaking 1 (U-1) also made clear
8 that parties need to be careful and clear as to exactly what they mean when they ask the
9 Board to have NS Power “unbundle” its tariffs.²²

10
11 As noted in U-1, “unbundling” in the sense of breaking out the tariffs paid by NS Power’s
12 bundled service customers for the purpose of showing what portion of the customer’s bill
13 is attributable to generation, transmission, distribution and retail, rather than unbundling
14 for the purposes of setting prices for these different functions, was the context of the
15 discussion. NS Power confirmed that it could provide high level allocations of costs in
16 its existing tariffs, if so directed, in a period of approximately four to six weeks. The
17 Company also detailed its concerns that a simple assumption that such information would
18 be useful to customers, rather than actually misleading to them, should be considered.

19
20 The Company notes that the basis of the request was to provide unbundled
21 information, so Retail Customers in the competitive and regulated markets
22 could compare rates paid for generation, transmission and distribution.
23 While the information can be produced, the Company is concerned that
24 such information would be misleading for customers for the following
25 reasons:

- 26
27 (1) The LRS is expected to base its charges to the market on what the
28 market will bear for all of its services, other than distribution. As
29 such, there is no certainty that broken out regulated rates for
30 generation and transmission services would provide an appropriate
31 “apples to apples” comparison.

²⁰ Closing Submission of the Consumer Advocate, February 12, 2016, page 3, lines 44-45.

²¹ See Exhibit N-51, Undertaking U-1, pages 2-3, and Closing Submission of NS Power, February 12, 2016, pages 24-27.

²² See Exhibit N-51, Undertaking U-1.

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1
2 (2) Generation and Transmission costs are proposed to be recovered
3 from the LRS through the OATT and a suite of generation-related
4 tariffs (EBS, SS, RTT) applicable to the aggregated load of the
5 LRS' end-use customers. All of these tariffs have different rate
6 structures and billing determinants from those implicitly embedded
7 in the individual bundled service class rates. In addition, the
8 generation services provided in the RtR market differ markedly
9 from those in the full service market. In the RtR market, the
10 Company provides only ancillary generation services
11 complementary to the primary renewable generation services of the
12 LRS. In NS Power's view, a direct comparison of generation and
13 transmission costs, under the two markets, for individual end-use
14 customers, is not possible.²³
15

16 The suggestion by the CA that "the Board permit an LRS to select which of the services
17 it wishes to obtain from NSPI"²⁴ ignores the fact that the RtR tariffs have been carefully
18 designed as an integrated suite of tariffs. To ensure full cost recovery all of the RtR
19 tariffs would need to apply. If the LRS were permitted to select the application of some
20 of the RtR tariffs but not others, then based on the model proposed there would be a
21 likelihood of cost transfer to NS Power's remaining bundled service customers. The CA
22 has provided no evidence to suggest how such an approach could work while still
23 ensuring no such cost-transfer would occur.
24

25 The SBA also recommends that the Board "order the filing of unbundling rates within a
26 General Rate Application or special purpose matter within five years of the date of the
27 order of this matter".²⁵ The Company notes that sort of tariff unbundling is not within the
28 scope of this proceeding to establish RtR tariffs conforming to the required statutory
29 parameters.

²³ Exhibit N-51, Undertaking U-1, page 4, lines 8-27.

²⁴ Closing Submission of the Consumer Advocate, February 12, 2016, page 4, lines 38-44.

²⁵ Closing Submission of the SBA, February 12, 2016, page 8, lines 15-16.

1 **7.0 RTR TRANSITION TARIFF**

2
3 In its Closing Submission, SWEB acknowledges that “based on the legislation in its
4 current form, or without further clarification from the Province, that the complete
5 removal of the RTT is not within the mandate of the Board.”²⁶ SWEB recommends the
6 Board consider “significant adjustment to the RTT based on the decreased value and
7 costs of operating those assets becoming surplus, and to provide a forecast of the RTT as
8 it trends to zero over time.”²⁷ Both the extent and timing of RtR market take-up and the
9 continued attractiveness to customers of the RtR market over time are unknown. The
10 RTT implements the guiding principles required under the Act. Were any existing NS
11 Power asset to become less intensively used for a period of time, this would not
12 automatically lead to a determination that the asset is becoming ‘surplus’ or its costs are
13 becoming ‘stranded,’ given NS Power has a continuing obligation to serve customers
14 who may wish to take service from it, and thereby to have the required ability to provide
15 such service.

16
17 Similarly, the CA incorrectly asserts that “NSPI is essentially claiming that it has
18 stranded generation costs, which must be recovered from RtR customers through the
19 transition tariff” and suggests the Board initiate an unbundling of what the CA
20 characterizes as stranded generation costs.²⁸ No party has suggested that NS Power has
21 any assets stranded in the course of its non-RtR market business. The suggestion to
22 unbundle generation cost characterized by the CA as stranded is therefore meaningless at
23 this time.

24
25 The Company notes the RTT design recognizes the potential for cost savings. This is the
26 function of the tariff’s annual energy/demand savings credit. To the extent that the
27 Company can identify such savings attributable to the RtR market activity, such savings
28 would be recognized in this credit. There is no evidence that any such savings would be

²⁶ Closing Submission of SWEB Development Inc., February 12, 2016, page 3, lines 34-36.

²⁷ Closing Submission of SWEB Development Inc., February 12, 2016, page 4, lines 13-15.

²⁸ Closing Submission of the Consumer Advocate, February 12, 2016, page 4, lines 4-9.

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1 significant. As stated in the Cary Report, low electricity load growth will not provide the
2 opportunity for any investment avoidance or deferral.²⁹ As such, large savings should not
3 be expected to occur in the short to medium term. Evaluation of what such savings are
4 possible depends on the actual quantity and technology of RtR generation available, and
5 thus on actual market activity.

²⁹ Exhibit N-16, NS Power Application, Appendix 16 Page 31 of 41

1 **8.0 BEHIND THE METER**

2
3 The issue of the applicability of the proposed RtR framework to “behind the meter”
4 (BtM) generation has become increasingly complex as the participants in this proceeding
5 have attempted to address specific configurations and engage in legal interpretation.
6 However, as set out in the Company’s Closing Submission, the underlying issue is that
7 for interconnected load there is no power system difference between BtM and in-front of
8 the meter installations.³⁰ NS Power will continue to need to have the equipment and
9 generation back-up for that period (even if brief) across the year when the LRS’s
10 generation is unable to satisfy demand.

11
12 With respect to the question of the proper legal interpretation of the RtR provisions in the
13 Act, the Company submits that the question for the Board in this instance is not what
14 some parties might like the legislation to say or mean, but rather what the legislation
15 actually says.

16
17 After setting out its own analysis, the SBA “concludes that BtM transactions are not, on
18 the face of the legislation, authorized in Nova Scotia.”³¹ NS Power approached its own
19 analysis in its Closing Submission from a different perspective, namely:

- 20
21 (i) What statutory parameters apply to a behind the meter transaction of the
22 type described in the RtR statutory regime? NS Power’s interpretation of
23 the Act leads it to conclude that the Act and the resultant RtR tariffs apply
24 to all RtR transactions, regardless of the physical location of the generator
25 and the customer’s NS Power meter.
26
27 (ii) In respect of statutory matters arising under the Public Utility Act (PUA),
28 when do the status and obligations of being a public utility arise? Clearly,
29 not in respect of a licensed LRS, but failing that, NS Power’s analysis
30 leads it to conclude that whether or not a BtM sale to a single customer, or
31 to more than a single customer, is subject to the PUA will depend upon a

³⁰ Closing Submission of NS Power, February 12, 2016, pages 32-39.

³¹ Closing Submission of the Small Business Advocate, February 12, 2016, page 11, lines 4-5.

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1 number of factors, including the particulars of the configuration, and
2 would have to be determined by the Board on a case by case basis.
3

4 The IG's comment regarding its perception of a "perverse disincentive"³² arising is
5 misplaced when the perspectives applied by NS Power, as summarized above, are
6 considered. As analyzed in the Company's Reply Evidence and summarized in its
7 Closing Submission, a plain reading of the RtR provisions in the Act suggest that the RtR
8 regime applies equally to services behind or in front of a NS Power meter. As well, what
9 is entailed in providing RtR service does not vary with the insertion of an NS Power
10 meter.
11

12 A separate analysis of the PUA, and how that might bear on any non-RtR service behind
13 the meter and what obligations or tariffs ought to pertain, is a distinct matter.
14

15 Similar considerations demonstrate that the CBEX Closing Statement provides no
16 assistance to the Board in determining the matters before it in this proceeding. The RtR
17 provisions in the Act expressly deal with a retail customer as defined and electricity that
18 person did not generate. A self-generating customer, or a customer purchasing non-
19 renewable low-impact electricity from a third party, is not part of the Act-driven RtR
20 considerations before the Board in this proceeding.
21

22 SWFI stated that it was aware of many behind the meter installations which would be
23 impacted if the Board was to find that the proposed RtR framework applied to such
24 scenarios:
25

26 Under cross examination by Mr. Outhouse, Mr. Sidebottom replied that he
27 was not aware of any current installs for behind the meter generators that
28 had been inspected and approved which are generating power while fully
29 connected to the NSPI grid. SWFI is aware of many of such installations.
30 The majority fall under the net metering program but not all. SWFI has
31 installed renewable energy generators behind the meter that provides a

³² Closing Submission of Industrial Group, February 12, 2016, page 3.

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1 portion of the user’s energy needs and there were inspections and
2 approvals by NSPI. These installs are not impacted by any of the fees and
3 tariffs as proposed by NSPI under the RtR program.³³
4

5 The Company notes that neither SWFI nor any of the other Intervenors produced any
6 evidence in this proceeding of the “many” existing BtM installations that would be
7 impacted. Indeed, Mr. Zwicker himself seems to acknowledge that this type of scenario
8 is largely directed at the Net Metering program. In any event, the issue is not relevant as
9 the issue of the application of the RtR framework to BtM sales is a question of legislative
10 interpretation.

11
12 In assessing this issue of the applicability of the RtR framework to “behind the meter”
13 scenarios, it is important for the Board to keep in mind that some potential LRSs, such as
14 CBEX, are seeking to take advantage of the benefits of the RtR market (i.e. exemption
15 from regulation under the PUA) while avoiding the obligations to which other LRSs and
16 Retail Customers will be subject (i.e. payment of the RtR tariffs).

17
18 Finally, as noted in NS Power’s Closing Submission, if the Board ultimately determines
19 that the RtR framework does not apply to all “behind the meter” scenarios, the Board
20 must find that any such transactions are still subject to scrutiny under the PUA. A
21 determination would then have to be made based on the individual circumstances as to
22 whether the behind the meter configuration was in fact precluded by the PUA or attracted
23 regulation under that Act.

³³ Closing Submission of Scotian Winfield, Inc., February 12, 2016, page 2.

1 **9.0 CONCLUSION**

2

3 NS Power respectfully requests that the Board grant the relief as set out in the Company's
4 Closing Submission.³⁴

³⁴ See the Closing Submission of NS Power, February 12, 2016, s.12, pages 41-45.