Nova Scotia Energy Board

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October 29, 2026

To Interested Parties:

M13161 - Independent Review of Performance-based Regulation in Nova Scotia

The *Performance-based Regulation Review Act* received Royal Assent on September 18, 2026, and was proclaimed on October 1, 2026. The purpose of the *Act* is to establish an independent process for the Nova Scotia Energy Board to evaluate whether and how performance-based regulation may be used in the province in a manner that is just, reasonable, and consistent with the public interest. Within 30 days of the *Act* coming into force, the Board was required to initiate a proceeding to investigate and develop performance-based regulation for NS Power.

In keeping with the *Act,* the Board conducted a review of experts in utility performance-based regulation. On October 28, 2026, it engaged the services of Dr. Mark Lowry, President of Pacific Economics Group Research LLC, to assist with the independent review process.

Dr. Lowry and his firm will consider options that link NS Power's earnings to its performance, rather than to its investments, as is done currently under the cost-of-service model. The review will include identification of potential approaches to performance-based regulation, a jurisdictional scan of performance-based regulation and its effectiveness within utilities, the conduct of technical conferences, and provide a description of how performance-based regulations could be adapted for NS Power's vertically integrated system.

Parties interested in participating in this matter are invited to register with the Board Clerk **by Monday, November 16, 2026**.

Upon completion of the review, the consultant will file a report with the Board, which will initiate a public regulatory proceeding to consider the analysis and recommendations. Following conclusion of the public proceeding, the Board will provide its report to the Province for a determination of next steps.

Included with this notice is a draft version of the Terms of Reference which includes a tentative timeline for the review process and subsequent regulatory proceeding. Registered parties are requested to provide their comments on the draft Terms of Reference **by Monday, November 16, 2026**.

The Board expects NS Power's full cooperation during this review. The Board directs NS Power to respond to data and documentation requests from Pacific Economics Group and to provide access to facilities and staff for interviews as may be requested.

Yours truly,



Crystal Henwood
Clerk of the Board

c. William Mahody, K.C., Board Counsel
Dr. Mark Lowry, PEG Research, LLC
Blake Williams, NS Power

Terms of Reference for the Review of Performance-based Regulation

On September 9, 2026, the Government of Nova Scotia introduced Bill No. 263, *An Act to Review Performance-based Regulation for Nova Scotia Power Incorporated.* Also cited as the *Performance-based Regulation Review Act*, the purpose of the *Act* is to establish an independent process for the Nova Scotia Energy Board to evaluate whether and how performance-based regulation may be used in the Province in a manner that is just, reasonable, and consistent with the public interest.

Section 4 of the *Act* states that within 30 days of the *Act* coming into force, the Board shall initiate a proceeding to investigate and develop performance-based regulation (PBR) for Nova Scotia Power Incorporated.

The investigation will consider various approaches to performance-based ratemaking, including:

a) **Multi-year Rate Plans**, in which rates are escalated for several years by some means that is not linked to the utility's contemporaneous cost growth. This is effectively a performance incentive for cost containment.
b) **Revenue Decoupling**, in which revenue growth is independent of billing determinant growth for several years.
c) **Targeted Incentives for Underused Practices**, such as pilot programs and variance accounts for the cost of underused inputs (e.g., non-wires alternatives and hosting capacity improvements).
d) **Performance Incentive Mechanisms**, in which utility earnings are linked to performance against specified metrics, outcomes, or targets.

Additionally, s. 4(3) of the *Performance-based Regulation Review Act* notes that, in conducting that proceeding, the Board may consider:

e) the protection of ratepayers and the maintenance of just and reasonable rates;
f) performance metrics related to meeting and exceeding environmental, decarbonization and sustainability targets and which support the sustainable development, sustainable prosperity, energy efficiency and greenhouse gas emissions reduction goals of the Province articulated in the *Environmental Goals and Climate Change Reduction Act*;
g) the financial integrity of Nova Scotia Power Incorporated and the opportunity to earn a fair return;
h) performance metrics for efficiency, cost effectiveness, safety, reliability, resilience, innovation, customer service quality and engagement, quality in the generation,

transmission and distribution of electricity and management of Nova Scotia Power Incorporated;

i) the interaction of performance-based regulation with capital spending, cost recovery, risk allocation and existing regulatory frameworks;
j) the circumstances of different classes of customers, including residential, commercial and industrial;
k) performance metrics that encourage and reward growth of efficient third-party procurement, including obtaining prices below benchmark price, openness of procurement processes and speed of interconnection requests;
l) metrics that encourage and reward growth of the procurement of aggregated grid services; and
m) any other matter the Board considers relevant or that the Minister directs.

The investigation may also explore other matters the Board considers relevant or as may be directed by the Governor in Council under s. 7(1) of the *Performance-based Regulation Review Act*.

The *Act* also states that "The Board shall make such recommendations to the Minister as will, in its judgement, protect the interests of the public and Nova Scotia Power Incorporated…".

On September 18, 2026, the *Performance-based Regulation Review Act* received Royal Assent, and by Order-in-Council, it was proclaimed to come into force on October 1, 2026.

In keeping with the *Act,* the Board conducted a review of experts in utility performance-based regulation, and on October 28, 2026, it engaged the services of Dr. Mark Lowry, President of Pacific Economic Group Research LLC, to assist with the independent review process.

The scope of Dr. Lowry's engagement will consider whether and how performance-based regulation may be used in the Province in a manner that is just, reasonable and consistent with the public interest. It will encompass the items noted above and will consider options that link NS Power's earnings to its performance, rather than to its investments, as is done currently under the cost-of-service model. The review will include identification of potential approaches to performance-based regulation, a jurisdictional scan of performance-based regulation and its effectiveness within utilities in Canada, the United States, the United Kingdom, New Zealand, or elsewhere, conduct technical conferences and stakeholder consultations, and consider potential benefits, risks, and how PBR could be adapted for Nova Scotia Power's vertically integrated system. Upon conclusion of the review, a report on the above activities, including recommendations on potential design and

implementation of performance-based regulation in Nova Scotia will be filed with the Board.

Subsequent to the report being filed, the Board will establish a public regulatory proceeding to consider the analysis and recommendations. That process will provide an opportunity for intervenors, stakeholders, and interested parties to submit interrogatories, comments, or evidence for the Board's consideration. A preliminary timeline for that process is provided below. Upon completion of the public proceeding, the Board will provide its report to the Province for a determination of next steps.

Following is the tentative timeline for the review process and regulatory proceeding:

October 29 (Thursday): Board announcement and draft TOR issued
November 16 (Monday): Intervenors register and submit comments on draft TOR
November 30 (Monday): Final TOR issued
2027
January: Stakeholder sessions to explain PBR, jurisdictional scan, key issues
March 8 (Monday): Stakeholder session to review draft report and recommendations
March 15 (Monday): Written comments from intervenors
March 31 (Wednesday): Consultant files report with the Board

The regulatory proceeding will be conducted by way of a paper hearing, but the Board reserves the right to convert it to an oral hearing if circumstances warrant.

April 5 (Monday): Board issues Hearing Order

- April 12 (Monday) Intervenors register
- April 28 (Wednesday) IRs to Board Counsel Consultant
- May 19 (Wednesday) Board Counsel Consultant response to IRs
- June 2 (Wednesday) Evidence by intervenors
- June 16 (Wednesday) IRs to intervenors
- July 7 (Wednesday) Response to IRs by intervenors
- July 21 (Wednesday) Submissions by intervenors
- **August 4 (Wednesday) Final report by Board Counsel Consultant**

August 25 (Wednesday) Submissions from intervenors on Changes to Legislation or Regulatory Processes that could or should be made if PBR is to be fully implemented

Board issues recommendations to Energy Minister