

4.7 Electronic Filing Policy - Proceedings

Table of Contents:

Introduction	1
Definitions	1
General Principles	1
General Requirements – Electronic Documents	2
Consistency	2
Electronic File Formats	2
Complex Documents	3
Large Electronic Files	3
Filing Process	3
General	3
Acknowledgement of Filing	4
Paper Copies	4
Filing Deadlines	4
Delivery to Other Parties	4
Special Requirements – Confidential Information	5
Filing a document in confidence	5
Confidential document requirements	5
Redacted versions of Confidential Documents	5
Delivery of Confidential Documents to other Parties	6
Public Availability of Information	6
Technology Failure	7
Conflict with Rules, Regulations or Statutes	7
Questions	7
Authority	7
Revisions	7
APPENDIX "A" - Definitions	8
APPENDIX "B" - Guidelines for Preparing Electronic Documents in PDF Format	9
APPENDIX "C" - "Send Files to the Board" Service	11
APPENDIX "D" - Confidential Documents - Secure File Transfer and Storage Service	12
APPENDIX "E" - Extracts of Rules – Confidential Filings	13

Introduction

1. This policy describes the process and requirements for electronically submitting documents to the Board that are part of a proceeding (i.e., a matter number has been or will be assigned). "Documents" is intended to be broadly construed to include, but is not limited to: applications, appeals, evidence and other types of information.

Definitions

2. Definitions of various terms used in this policy can be found in Appendix A.

General Principles

3. This policy is based on the following key principles:

- a. **Documents filed in electronic form must, in all material respects, exactly match the paper version, including pagination.**
- b. At the discretion of the Board:
 - i. electronic files may be deemed to be the official record; and,
 - ii. the requirement to file paper copies of documents may be waived.
- c. The party filing an electronic document is responsible for its preparation. For redacted documents that includes ensuring redactions are properly applied.
- d. Where multiple electronic files are consolidated to prepare a paper document for filing, the filing party is responsible for assembling a consolidated electronic version to match the paper version.
- e. The party filing a document electronically is responsible for distributing it to the other parties electronically. This includes ensuring compliance with any filing deadlines set out by the Board.
- f. Confidential information will be protected from public access.
- g. The party filing a confidential electronic document is responsible for ensuring it is clearly marked as confidential and transmitted by an appropriately secure means.
- h. Where a confidential document is filed a “public” redacted version is also to be prepared with the confidential information redacted in such a way that it cannot be retrieved or reconstructed.

General Requirements – Electronic Documents

Consistency

4. Consistency between the electronic and paper versions is extremely important as both versions may be used in hearings. The text and format of electronic versions of documents **must match the paper versions in all material respects**. In the event the documents do not match, the electronic copy will be considered to be correct.

Electronic File Formats

5. Unless otherwise authorized by the Board, text files are to be provided in **searchable PDF** format. Some guidelines for preparing PDF text documents are included at Appendix B. Note: Board staff are not responsible for assembling electronic files to match the paper version or for making them searchable (e.g., running OCR programs).
6. Spreadsheet files (e.g., .xls or .xlsx format) can be filed without providing searchable PDF or paper versions in addition to the spreadsheet. However, when a party requests a PDF or paper version in addition to the spreadsheet it must be provided unless otherwise directed by the Board.

7. Graphic files are to be provided to the Board in PDF, JPEG¹, or TIFF² formats unless otherwise approved by the Board.
8. Audio files are to be provided to the Board in WAV³, MP2⁴ or MP3 formats unless otherwise approved by the Board.
9. Any party wishing to submit a video file should contact the Clerk in advance and provide information on the preferred format. The Board will review the information and give appropriate direction.
10. Any party wishing to use a format other than those listed above must contact the Clerk and obtain permission from the Board in advance of filing.

Complex Documents

11. Subject to the following condition for large files, where a document being filed is assembled from more than one electronic file the filing party is responsible for assembly of all of the electronic files into one searchable PDF that matches the paper document in all material respects.

Large Electronic Files

12. Where an electronic file has a size greater than 150 MB it must be separated into parts to allow for ease of transmission and display. The parts must be clearly marked to allow parties, the Board, and the public to understand the sequence of reading and assembly.
13. For larger, more complex documents, or where no common reference points exist, it may be desirable to use “Bates numbering”. The Board may also direct the use of the numbering at its discretion. Use of such numbering greatly facilitates locating information during hearings and aids in comparison of confidential and redacted versions. (See Appendix A for more information on Bates Numbering.)

Filing Process

General

14. A participant may file documents with the Board in any of the following ways:
 - a. E-mail or attachment thereto (for non-confidential and redacted documents);
 - b. transfer through the Internet using the Board's “Send Files to the Board” website feature;
 - c. transfer through the Board’s secure file transfer⁵ site (for confidential documents);
 - d. using a compact disc (CD), digital video disc (DVD), USB flash drive or similar media;

¹ Joint Photographic Experts Group (format)

² Tagged Image File Format

³ Waveform Audio Format

⁴ Moving Picture Experts Group Audio Format as defined in 130/EC 138/8-3

⁵ See Appendix D for information on how to use this site.

- e. any other method agreed to by a Clerk or directed by a Member.

Acknowledgement of Filing

- 15. The Clerk will acknowledge, by email, receipt of an electronic filing.
- 16. Where an email acknowledgement is not received for an electronic filing within 3 business days the party should contact the Board to rule out the possibility of a transmission failure.

Paper Copies

- 17. The Board may waive the need to file paper copies of documents that have been filed electronically. Where no waiver or other instruction has been issued by the Board:
 - a. paper copy(ies) must subsequently be filed with the Clerk within one (1) business day.
 - b. if additional paper copies have been directed by the Board, then those copies must also be provided within one (1) business day unless otherwise directed.
- 18. Unless otherwise directed, the requirement to file a paper copy of documents has been waived in the following types of proceedings:
 - a. appeals from decisions of the Dispute Resolution Officer (DRO) involving Nova Scotia Power Inc. or the Halifax Regional Water Commission;
 - b. complaints of all types;
 - c. residential property assessment appeals; and
 - d. all automobile insurance applications, except a 155G mandatory filing.

Filing Deadlines

- 19. Electronic filings are to be received at the Board:
 - a. where filings are ordered by the Board, by not later than 2:00 PM (Atlantic Time) on the day they are due unless otherwise directed by the Board.
 - b. where filings are made pursuant to a statute, by not later than midnight (12:00 AM) on the day they are due unless the statute sets some other time.
 - c. filings received after the times above are subject to review as late filings and may be rejected.

Delivery to Other Parties

- 20. Any filing(s) with the Board should also be copied to all other parties in the proceeding at the same time. (See also Special Requirements - Confidential Information section below.)
- 21. A Member or Clerk may give additional direction on sharing of documents between parties in electronic form, paper form, or both.
- 22. Where documents are exchanged between parties electronically there is no need to provide those parties with a paper copy as well unless otherwise requested, directed by a

Member, or required for compliance with a Rule or Order. Where it is directed, the paper copy must be provided within the time specified or, if not specified, within 5 business days.

23. Where a party has not been provided with a document and feels their interests have been prejudiced they may apply to the Board for relief. Any such application should set out the particulars and relief sought, and be directed to the appropriate Clerk of the Board.

Special Requirements – Confidential Information

Filing a document in confidence

24. The Board *Rules* relating to filing documents in confidence apply to electronic documents. A copy of the [Rules](#) can be found at [NSEB Rules Regulations Statutes](#).
25. For information to be classified as confidential the party filing such documents **must request the Board hold it in confidence**. Information will be held in confidence until the Board issues its decision on the confidentiality request. If confidentiality is approved, the existence of the confidential information is included on the Board's website without disclosing the confidential information. If confidentiality is not approved the party filing such documents can either allow the information to be included as non-confidential, or they may ask the Board for permission to withdraw the documents. If the Board does not order that the document be withdrawn, the party may withdraw from the application or appeal, in which case the document will be returned without being made public.

Confidential document requirements

26. Confidential documents must comply with the usual general requirements for documents set out above with the following additions:
 - a. Confidential documents must be clearly marked as such in both the electronic file name and in the body of the document itself. Where confidential documents are filed, a redacted public version must also be filed. (See separate notes relating to redacting documents at paragraph 15).
 - b. Confidential information must be highlighted in grey. The grey highlight must exactly match the blacked out or removed information in the redacted version of the document.

Redacted versions of Confidential Documents

27. Unless otherwise approved by the Board, a redacted (public) version must be filed in addition to the confidential document.
28. Special care must be taken when preparing electronic versions of redacted documents. Word processors will sometimes mask redacted sections but leave the underlying text intact. A sophisticated user can remove the redaction revealing the confidential information. Those preparing and submitting redacted documents should consult with their technical staff for assistance in preparing secure versions.
29. The party filing a redacted document is responsible for the redactions. Board staff is not responsible for checking or ensuring proper redaction of documents.
30. Electronic versions of redacted files must be, in all material respects, identical to the confidential file except for the redactions. That includes page numbering. However, it is

recognized that where a large block of information is redacted it may be more useful to remove the affected pages. In these cases the PDF page counts will obviously differ between the redacted and confidential electronic versions. To provide a common point of reference it is permissible to “Bates number” the document and include a page in the redacted version noting the Bates numbers for the redacted and removed pages.

31. Both the confidential and redacted versions must be filed at the same time although they may be sent separately (i.e., the confidential document should be sent by a secure transmission service).

Delivery of Confidential Documents to other Parties

32. The Board offers a secure file transfer service (TitanFile©) for transmission of confidential information to and from the Board, and to distribute documents. See Appendix D for additional details on this service. A party wishing to use this service should contact the Board in advance to register and complete the necessary confidentiality undertaking.
33. For parties using the Board’s secure file transfer service (TitanFile©) it is sufficient to transfer confidential files to the Board for posting to the appropriate matter folder on the secure site. All parties entitled to receive the confidential information will automatically be notified of the filing by email when it is posted in the matter folder (referred to as a channel).
34. For parties wishing to send appeals or applications securely to the Board the “Send Files to the Board” service is available. This service is fully secured. (See Appendix “C” for additional information.)
35. Parties sending confidential information using non-Board services are responsible for the security of the information during transmission.
36. Documents containing confidential information should not be sent by ordinary email. Free file transfer services, such as DropBox, are not considered to be secure and may be blocked from use by the Province of Nova Scotia network.
37. Distribution of documents filed in confidence will be subject to any restrictions directed by the Board.

Public Availability of Information

38. Applications, appeals, and their related documents are ordinarily included in the Board’s case management system. The public has access to the case management system through the Board’s website “Matters and Evidence” section.
39. Certain types of matters are restricted and not accessible through the website. Those matters may routinely contain significant amounts of personal information. Matters that are routinely maintained as confidential are:
 - a. Criminal Injuries Compensation appeals; and
 - b. Reinstatement applications under the *Gaming Control Act*.
40. Unless an applicant or appellant requests a matter to be confidential, and the Board has agreed, information about the matter will be accessible by the public.

41. Confidential information will **NOT** be posted to the public website or otherwise made available to the public. However, the existence of a confidential filing will ordinarily be disclosed despite the document or information itself not being publicly available.
42. Board staff may separate very large electronic files into smaller parts for posting on the website. When this occurs, the parts will be clearly marked as such by Board staff.

Technology Failure

43. Parties are generally responsible for taking all necessary steps to comply with Board *Rules* and Directives concerning deadlines for filing of documents. Where a party experiences a technology failure resulting in an inability to transmit documents to the Board or other parties they should promptly advise the appropriate Clerk.

Conflict with Rules, Regulations or Statutes

44. Where this policy conflicts with a Board rule, regulation or statute, that other rule, regulation, or statute will prevail.

Questions

45. Questions concerning application of this policy should be referred to a Clerk or the Executive Director.

Authority

46. This policy is issued on the authority of the Chair of the Board.

Revisions

47. Suggestions for revisions to this document should be sent to the Executive Director of the Board.
48. The following revisions have occurred since original issuance of this policy:
 - a. April 13, 2017 – Previous interim policy revoked and this policy issued in its place. The new policy was a substantial revision.

APPENDIX "A" - Definitions

The following are definitions of terms used in this policy:

Bates numbering	Bates numbering (also known as Bates stamping, Bates branding, Bates coding or Bates labeling) is used in the legal, medical, and business fields to place identifying numbers and/or date/time-marks on images and documents as they are scanned or processed -- for example, during the discovery stage of preparations for trial or identifying business receipts. This process provides identification, protection, and automatic consecutive numbering of the images.
Board	The collective corporate entity comprised of the Members and staff of the Regulatory and Appeals Board.
Clerk	Means a person appointed under the <i>Energy and Regulatory Boards Act</i> as Clerk of the Board and includes the Chief Clerk. The Clerk keeps a record of the proceedings, has the custody and care of all records and documents belonging to or pertaining to the Board and performs such duties as the Board requires.
FTP	File transfer protocol is a standard network protocol used to transfer files from one host or to another host over a TCP-based network, such as the Internet.
Member	A person appointed by the Governor in Council under the <i>Energy and Regulatory Boards Act</i> to be a full-time or part-time member of the Board, or a panel of two or more of such Members.
Party	Includes any participant in a proceeding before the Board. For greater clarity, "party" includes any applicant or appellant, intervenors, Board Counsel, and the Consumer and Small Business Advocates, or other representative acceptable to the Board.
Redacted	A document with confidential information blacked out where the text cannot be retrieved or recreated.
TCP	Transmission Control Protocol (TCP) is one of the core protocols of the Internet Protocol Suite. TCP is one of the two original components of the suite, complementing the Internet Protocol (IP), and therefore the entire suite is commonly referred to as TCP/IP. TCP provides reliable, ordered delivery of a stream of data from a program on one computer to another program on another computer. TCP is the protocol used by major Internet applications such as the World Wide Web, email, remote administration and file transfer.

APPENDIX "B" - Guidelines for Preparing Electronic Documents in PDF Format

1. Electronic documents in PDF are useful in that they retain their original structure and style when viewed or printed, regardless of the type of printer used.
2. Unless otherwise approved, parties will file electronic documents in **full text searchable PDF format**. That is, all pages of the document containing text must be electronically searchable.
3. There are various ways of creating a PDF file, the most common being the following:
 - a. using PDF creation or save capabilities embedded in word processing software such as Microsoft Word;
 - b. using third party software designed specifically for creating PDF files, such as Adobe®, or using internet based PDF conversion sites; and,
 - c. using scanners or imaging devices to create image files which are, essentially, pictures of document pages.
4. Most word processing software can create searchable PDF documents. However, when scanning a paper document to produce an electronic version an optical character recognition (OCR) software must also be used to convert the scanned image to text.
5. When preparing PDF files the following settings or directions are recommended:
 - a. The PDF should be Adobe® Acrobat version 5.05 or higher compatible. This ensures the documents can be viewed by users with older versions of the Adobe® Acrobat Reader or similar software.
 - b. Optimize for fast web view which will minimize file size and facilitate page-at-a-time downloading.
 - c. Embed thumbnails to allow for quick searching.
 - d. Set resolution to 300 dpi. Higher settings will increase the size of the electronic file.
 - e. Set compression for images. A setting of 600 dpi at automatic and medium compression is recommended unless another setting is preferable to optimize file size while ensuring legibility of image.
 - f. Compress text and line art.
 - g. Set color management policies to convert all colors to sRGB, unless another setting is required to ensure accurate representation.
 - h. Create bookmarks for documents that have a table of contents (TOC). The bookmarks should mirror the TOC items included in a file. In the case of a document broken into multiple files, each file would have bookmarks to reflect its content as per the TOC. For Adobe users additional information on creation of bookmarks is available using the Help function.

- i. Avoid using any of the following characters in file names:
` ~ ! @ # \$ % ^ & * () + = [] { } : ; ' , ? | " /
 - j. Do not embed fonts unless you feel it is necessary, as this will create a larger file.
 - k. Do not activate any security settings as this will interfere with systems for the visually impaired and affect accessibility.
 - l. Do not link to external internet sites or to other documents in the filing, as the Board cannot ensure link integrity. Linking within a given document is acceptable and optional.
 - m. Do not produce a PDF if it cannot be legibly output to ledger size (11" x 17") or smaller (8½" x 11" is preferred), or if it is not sufficiently legible due to resizing or low resolution (below 300 dpi).
6. While the preference is to produce a PDF from an electronic source, this is not always possible. When only a hard copy is available, scanning technology can be used to convert paper documents to PDF. As when reproducing paper copies, ensure that you are authorized to reproduce the document and there are no copyright infringements.
7. There are many software products and service providers who can help you convert a paper document into a digital format. The products used are generally called scanning or imaging software. In short, the scanner takes an electronic "photocopy" of the document while the scanning software produces an electronic image. The second step, called optical character recognition (OCR), is required to make the document searchable. OCR software creates searchable text from the image. It will not convert handwriting or graphics to recognizable and searchable text. The quality of converted text is a function of the quality of the original paper document, as well as the capabilities of the scanning and OCR software used.

APPENDIX "C" - "Send Files to the Board" Service

How to use the Energy Board Website File Transfer Protocol (FTP) Service

The Board's website has a file transfer service for the convenience of those wishing to file electronically. Some notes about the service:

- There are no technical or system limitations on size or type of file that can be transferred.
- Any number of files can be transferred at one time.

To transfer a file to the Board:

1. Go to <https://nserbt.ca/NSEB> in a web browser window.
2. In the center of the home page there is a link entitled "Send files to the Board". Select that link by clicking on it.
3. You will be taken to a page entitled "Welcome to Deposit Box". On the left side of the page select "NSEB – Nova Scotia Energy Board".
4. This takes you to a page entitled "Upload files securely for NSEB ..."
5. On this page fill in your name, email address, and any other comments or notes you wish to send. Attach files by dragging them over the "Add New File" area.
6. When you have added all the files select the green button at the bottom entitled "Send files to NSEB – Nova Scotia Energy Board".
7. If the files you are sending are large please note that the upload may take some time.

If you are having difficulty sending a file please contact the Board at (902) 424-1332 for assistance.

APPENDIX "D" - Confidential Documents - Secure File Transfer and Storage Service

Confidential documents require a more secure service for transference and storage. The Board offers a special secure internet site for handling these types of files.

The secure file transfer service has the following characteristics:

1. Access to the service requires "two part" authentication. That is, you will require a password and username to initiate access. When you log in the system will send a time sensitive authentication code which must be entered to complete the log in process.
2. Files are fully encrypted during the transfer to and from the service.
3. System usage is recorded. A complete history of access to the files is kept for audit and review purposes.
4. The system automatically advises users by email when documents are added to matters they have been granted access to.
5. For applicants or appellants that are frequent users it is possible to set up special mailbox accounts or one-way file drops.

The secure service is used for:

1. Moving files to and from the Board.
2. Providing parties with a central, secure repository for confidential documents that can be accessed throughout the related proceeding.

Users are assigned individual accounts for accessing files from the system. Please note that the Board will require a signed Confidentiality Undertaking from those using the service.

For details on how to use the service or to register as a user please contact the Board for assistance.

APPENDIX "E" - Extracts of Rules – Confidential Filings

Rules for Confidential Filings

The various Board Rules must be complied with for a document to be accepted as confidential. To illustrate, the following is an extract from the Board's *Regulatory Rules*:

Confidential documents

- 12 (1)** Subject to Rule 12(2), all documents filed in respect of an application shall be placed on the public record.
- (2)** A party may request that all or any part of the document be held in confidence by the Board, which request shall be placed on the public record.
- (3)** The burden of satisfying the Board that a document should be held in confidence is on the party claiming confidentiality.
- (4)** Any request for confidentiality shall
- (a)** include a summary of the nature of the information in the document;
 - (b)** state
 - (i)** the reasons for the request, including the details of the nature and extent of the specific harm that would result if the document were publicly disclosed, and
 - (ii)** any objection to placing an abridged version of the document on the public record, and the reasons for such an objection; and
 - (c)** be filed with the Board and served on the parties.
- (5)** Where a party has made a request under Rule 12(2), the document shall be held in confidence unless the Board orders otherwise.
- (6)** A party may object to a request for confidentiality by filing an objection and serving the objection on the parties.
- (7)** An objection shall state the reasons
- (a)** why the party requires disclosure of the document; and
 - (b)** why disclosure would be in the public interest.
- (8)** The party claiming confidentiality will have an opportunity to reply to any objection.
- (9)** The Board may decide the issue with or without a hearing. Where the Board holds a hearing, the Board may direct that the hearing be held in the absence of the public.
- (10)** In ruling on a request for confidentiality the Board shall consider
- (a)** whether the document may disclose matters involving public security;

- (b) whether the document may disclose sensitive financial, commercial or personal matters in relation to which the desirability of avoiding disclosure in the interest of any person affected outweighs the desirability of adhering to the principle that documents be available to the public; or
- (c) such other matters as the Board deems appropriate.

(11) The Board may

- (a) order that the document be held in confidence by the Board;
- (b) order that the document be placed on the public record;
- (c) order that an abridged version of the document be placed on the public record;
- (d) order that the document be made available to a party to the proceeding, who has a good faith interest in accessing the confidential information and who would not otherwise be in conflict of interest, on such terms as the Board considers appropriate, including the signing of a confidentiality undertaking in a form approved by the Board;
- (e) order that the document be withdrawn; and
- (f) make any other order the Board may deem to be in the public interest.

(12) Where the Board rejects a claim for confidentiality, the party claiming confidentiality may, within seven (7) days of receiving the Board's decision, or such other time as the Board may allow, notify the Board in writing that

- (a) if the party is an applicant, the application is withdrawn; or
- (b) if the party is an intervenor, the intervention is withdrawn.

(13) Where a party provides written notice to the Board pursuant to Rule 12(12), if the document is on file with the Board, the Board shall immediately return the documents for which confidentiality was claimed.