

May 26, 2026

michelle@rgda.ca

Michelle Veinot
Executive Director
Retail Gasoline Dealers Association
Automotive Sector Council
PO Box 25, RPO Superstore Mall
Lower Sackville, NS B4C 2S8

Dear Ms. Veinot:

M12800 – RGDA – Emergency Application for Interim Retail Mark-up Adjustment, Review and Update of Credit Card Adjustor

On April 10, 2026, the Retail Gasoline Dealers Association (RGDA) applied to the Nova Scotia Energy Board (Board), on behalf of independent fuel retailers, for an emergency interim adjustment to the regulated retail mark-up and asking that the Board conduct a comprehensive review of the “current margin framework”. The application requested a permanent increase to the retail mark-up, as well as a review and update of the credit card adjuster.

The current Board-approved retail mark-up is 5.4 cents per litre (cpl), plus the credit card adjustment. The RGDA seeks an increase of 4.8 cpl from the retail mark-up of 5.4 cpl to 10.2 cpl. It also seeks an adjustment to the assumptions and calculation of the credit card adjuster, which would add an additional 0.38 cpl for the adjuster, for a total new retail mark-up of 10.58 cpl (at current gasoline and diesel prices).

On April 13, 2026, the Board requested additional information from the RGDA that would support the requested amount of the interim increase. The RGDA filed its responses on May 11, 2026. The RGDA’s analysis was conducted on information provided by member retailers - 19 retailers responding with complete surveys, representing 23 retail outlets.

The Board panel considering this matter is Stephen T. McGrath, K.C., Chair; Roland A. Deveau, K.C., Vice Chair; and Richard J. Melanson, LL.B., Member.

The existing retail mark-up and credit card adjuster were set by the Nova Scotia Utility and Review Board (NSUARB). On April 1, 2025, on proclamation of the *Energy and Regulatory Boards Act*, SNS 2024, c 2, Sch A, the Board succeeded the NSUARB in all matters relating to the *Petroleum Products Pricing Act*, SNS 2005, c 11, and the *Petroleum Products Pricing Regulations*.

Reasons for application

The RGDA stated that the application is based on the following:

This application responds to rapidly rising fuel prices and escalating operating costs, which are creating immediate and unsustainable financial pressure on retailers. The current regulatory structure is not keeping pace with these changes. Without timely intervention, the viability of independent fuel retailers and the stability of fuel supply in some regions are at risk.

...

2. COST PRESSURES AND MARGIN EROSION

The urgency of this matter is due to the rapid increase in fuel prices. Retailers are compensated on a fixed cents-per-litre basis, while key operating costs, especially credit card processing fees, are calculated as a percentage of the transaction value. As fuel prices rise, these costs increase, but the regulated margin does not. This has steadily eroded net margins and, in many cases, eliminated profitability on fuel sales.

Recent data from retailers across the province show that merchant fees now consume a significant, and in some cases the majority, of the regulated margin. Credit card usage has also increased beyond what the current regulatory framework assumed. As a result, both the rate and volume of these costs have risen without any corresponding adjustment to margins.

This financial pressure is now a reality. Retailers report declining profitability, increased reliance on non-fuel business to subsidize fuel operations, and growing concern about the viability of continuing fuel sales. Some operators are considering reducing or ceasing fuel operations. These developments are especially concerning in rural and underserved communities where independent retailers are essential for fuel access.

[Exhibit R-1, pp. 1-2]

Analysis and Findings

(a) Retail mark-up increase

The RGDA applied for an increase of 4.8 cpl in the retail mark-up from 5.4 cpl to 10.2 cpl (excluding the revised credit card adjuster discussed below). The increased retail mark-up also incorporates a credit card adjustment, with part of the updated credit card adjuster embedded in the retail mark-up itself and a separate smaller adjuster added to the updated 2025 base price of the petroleum product (i.e., the 10.2 cpl revised mark-up would incorporate a 1.02 cpl component for increased merchant fees, plus 0.38 cpl would be added for the credit card adjuster over and above the base mark-up), resulting in a total revised retail mark-up of 10.58 cpl, at current prices.

The RGDA based its application on its analysis of operating cost increases since the current 5.4 cpl retail mark-up was established. The NSUARB last set retail mark-ups in its Decision, 2021 NSUARB 50, based on 2019 data. The calculations at that time were applied to a 2019 base price of 114.1 cpl for gasoline and 118.2 cpl diesel. The RGDA stated that petroleum product prices have increased since 2019. Thus, the RGDA proposed updating the base prices to 160 cpl for gasoline and 170 cpl for diesel. It said these “figures are intentionally conservative”, noting that the 24-month simple average across 2024 and 2025, using historical Board-regulated prices, was about 155 cpl for gasoline and 170.5 cpl for diesel. It stated that the average for gasoline was “significantly suppressed by an



anomalous mid-2025 price collapse driven by global oil market conditions, during which Halifax gasoline prices fell as low as 131.9¢/L before recovering sharply in early 2026”.

In the RGDA’s submission, operating expenses have also increased, and the retail mark-up should be adjusted accordingly as a reflection of the updated 2025 gasoline and diesel base prices. In its application, it broke down costs into four components to determine the change required in mark-ups. These categories were:

1. Credit card merchant fees
2. Wage cost allocation
3. Utilities, property insurance
4. Equipment maintenance, environmental compliance, and other fees

For each of these categories, the RGDA used the survey results to determine the 2019 costs per litre and the 2025 costs per litre, then it asked for the change in those costs, as well as what it called “unallocated operating costs and sustainability floor” to be added to the existing mark-up. It also asked to reset the credit card adjuster’s base price to the 2025 price of 168 cpl for gasoline. Using this methodology, the components of the retail mark-up were proposed to be adjusted as follows:

- 1.02 cpl added for credit cards (1.82-0.80);
- 0.8 cpl for wages (2.0-1.2);
- 0.4 cpl for utilities, etc. (1.2-0.8);
- 0.78 cpl for equipment maintenance, etc. (1.58-0.80); and
- 1.80 cpl for the unallocated costs.

The RGDA pegged the “unallocated costs” at 1.8 cpl in 2019 and did not adjust these for inflation to 2026, as it did for the other components, adding the above components together, the RGDA submitted that the retail mark-up should increase by 4.8 cpl, from 5.4 cpl to 10.2 cpl (excluding the additional revised credit card adjuster of 0.38 cpl discussed below).

Based on the Board’s review, it appears that the RGDA has calculated a cost per litre for each cost category, as opposed to determining the percentage of total operating cost each line item accounted for and applying the changes over time for those categories as a percentage being applied to the current mark-ups, consistent with Gardner Pinfold Consultants Inc.’s methodology approved by the NSUARB.

Findings

The first issue to be decided by the Board is whether an emergency situation exists in the province that warrants a Board Order approving an interim increase in the retail mark-up pending a full investigation of the matter.

In s. 24A(1) of the *Regulations*, an “emergency situation” means a situation that in the Board’s opinion threatens the security of the petroleum supply, including (b) a shortage of supply of a petroleum product to wholesalers and wholesaler-retailers that affects one or more zones. Further, s. 2 outlines the purpose of the *Regulations* as being “to ensure just and reasonable prices for specified petroleum products”, taking into consideration, among other objectives: (a) preserving availability of specified petroleum products in rural areas.



Under s. 24(2), after an application is made to change the retail mark-up, the Board must carry out an investigation. Following an investigation, the Board may make any order it considers necessary to ensure any matter within its jurisdiction under these *Regulations* is just and reasonable, but no order may be made by the Board until a public hearing or inquiry is held about the matter (s. 24(3)). However, s. 24A(2) provides that in an emergency situation the Board may make an interim order to temporarily prescribe interim minimum and maximum retail mark-ups until the public hearing or inquiry required by subsection 24(3) can be held.

The Board accepts the information provided by the RGDA, subject to a full investigation and conducting a hearing, that operating costs (including costs related to credit card transactions) have increased since the retail mark-up was last set based upon 2019 data. The Board agrees that the increase in operating costs may have eroded some of the retail mark-up in regulated prices, which could impact the viability of fuel sales in retail outlets and the operation of some outlets, particularly in rural areas.

Having considered the information provided by the RGDA, the Board is satisfied that an emergency situation may exist in the province which could threaten the security of the petroleum supply, including a shortage of supply of a petroleum product to wholesalers and wholesaler-retailers that affects one or more zones, including the retailers in such zones. The Board finds that an increase in the retail mark-up is warranted on an interim basis pending the completion of a full investigation by the Board.

The Board concludes that the Gardner methodology should be applied to determine the interim adjustment to the retail mark-up, at least until the methodology is reviewed in the Board’s investigation in this matter and the issue is canvassed in a hearing. The Board accepts the RGDA’s information that there has been a 45% increase in minimum wages since 2019 and that the non-wage costs should be adjusted for inflation based on the consumer price index. The Board has applied these adjustments in the table below, including the amount of the credit card fees embedded in the current 5.4 cent mark-up. The Board notes that Gardner’s original model only added up to 94% of total expenses. The Board based the cost categories and percentage of total costs on the revised version of Table 5 as found in Exhibit H-20 in Matter M09727, which provides the following results:

Expense category	% change	% of total expenses	Weighted % change	Retail margin Min	Retail margin Max	Margin Impact Min	Margin Impact Max
Wages and Salaries	0.45	0.389	0.17505	5.4	7.4	0.9453	1.2954
Other	0.23	0.611	0.14053	5.4	7.4	0.7588	1.0399
Total		1.00				1.7041	2.335
New						7.1	9.7

Accordingly, the Board finds that, on an interim basis, the minimum self-service and full-service retail mark-up should be increased by 1.7 cpl, which results in a minimum mark-up of 7.1 cpl (up from 5.4 cpl), and the maximum self-service retail mark-up should be increased by 2.3 cpl, which results in a maximum mark-up of 9.7 cpl (up from 7.4 cpl). The Board observes that by using the full 100% of costs, this may have addressed what the RGDA considered to be “unallocated costs”.



The Board also notes that Gardner's data was developed from a much larger sample size and was likely more representative of the industry as a whole than the 23 independent outlets used by the RGDA.

Finally, in the section below, the Board has considered the credit card costs separately from other operating costs. Thus, this compares the changes to operating costs using Gardner's method, compared to the 3.8 cpl (2.0 cpl plus the 1.8 cpl of unallocated costs) from the RGDA.

(b) Credit card adjustment

The RGDA asserts that there are "structural deficiencies" in the existing model used to calculate the credit card adjuster, which relies on 2019 assumptions when the model was developed.

The NSUARB issued an Order on September 12, 2022 [2022 NSUARB 140], approving an adjustment mechanism to retail mark-ups to account for the impact of credit card fees charged to retailers. The NSUARB approved the adjustment mechanism developed in a report by Gardner. For gasoline, a positive adjustment is applied when the current price is above the 2019 average of 114.1 cpl and is negative if prices fall below 114.1 cpl. For diesel, a positive adjustment is applied when the current price is above the 2019 average of 118.2 cpl and is negative if prices fall below 118.2 cpl. The model also assumed credit card usage at 40% and the credit card merchant fee is 1.75%.

In response to Question #6 from the Board, the RGDA noted that "Reported merchant fee rates ranged from 1.75% to 2.00% and remained consistent between 2019 and 2025." In response to Question #5, the RGDA noted that credit card usage was between 55% and 65% in 2025. The RGDA submitted that the credit card adjuster should be changed by increasing the usage percentage from 40% to 57% and increasing the merchant fee from 1.75% to 1.90%. The RGDA also suggested that the base price should be updated from \$114.1 cpl (2019) to \$1.68 cpl (2025).

Findings

The Board is also satisfied that any changes to the credit card adjuster should be applied on an interim basis, subject to review in the Board's full investigation into the retail mark-up.

As noted above, the Board finds it appropriate for its analysis to maintain the 2019 base prices of 114.1 cpl and 118.2 cpl for gasoline and diesel, respectively. The Board accepts the RGDA's evidence that credit card usage has increased since 2019 and it has adopted the proposed increase from 40% usage to 57%. As noted by the RGDA, the merchant fee rates ranged from 1.75% to 2.00% and remained consistent between 2019 and 2025. Based on this evidence, the Board finds that the 1.75% merchant fee remains a reasonable assumption given the limited number of retail outlets reporting, subject to the issue being reviewed in the forthcoming hearing.

Based on the increased usage at 57% and maintaining the base price and merchant fee, the credit card adjustment, based on this week's pricing, would increase from 0.6 cpl to 1.0 cpl, a 0.4 cpl increase for gasoline (0.2 cpl of the increase attributed to the % increase above the 2019 base price and 0.2 cpl to cover the additional 17% usage in the base price, not covered by the 23% general inflation), and from 0.7 cpl to 1.2 cpl for diesel, a 0.5 cpl increase (0.3



cpl for the amount above the base price and 0.2 cpl on the change applied to increased usage, not covered by the 23% general inflation).

The Board notes that the credit card adjustment could be implemented in one of three different ways: the existing adjuster could be updated; the amount could be placed in the general mark-ups; or the full amount related to credit cards could be treated outside of the mark-ups. All three methods would yield the same results if the same assumptions are used. Either the mark-up would increase and the adjuster would decrease, or vice versa. The methodology ultimately applied can be canvassed in the full hearing on the merits.

Conclusion

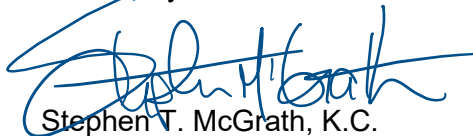
Having reviewed the evidence and submissions of the RGDA, the Board is satisfied that an interim increase to the retail mark-up and an adjustment to the credit card usage rates are warranted. As a result of its findings, the Board will issue an Interim Order implementing the following:

1. The minimum self-service and full-service retail mark-up is increased by 1.7 cpl, which results in a minimum mark-up of 7.1 cpl (up from 5.4 cpl), and the maximum self-service retail mark-up is increased by 2.3 cpl, which results in a maximum mark-up of 9.7 cpl (up from 7.4 cpl).
2. The methodology and assumptions for calculating the credit card adjuster remain the same, except that the assumption for credit card usage is increased from 40% to 57%.
3. The increase to the retail mark-up and the credit card adjuster approved in this Interim Order shall be incorporated into the Board's weekly setting of regulated petroleum product prices, effective 12:01 a.m. on May 29, 2026.

The above interim adjustments will remain in effect pending the Board's full investigation of the application and the conduct of the Board hearing.

The Board will commence an investigation under s. 24(2)(a) of the *Regulations* and shortly issue a Hearing Order setting out the timeline for the hearing process. Board Counsel will engage a consultant to prepare a report on this matter, which may include a review of the methodology for calculating the retail mark-up and the credit card adjuster. The consultant will conduct a survey process on a confidential basis to allow the retail industry to provide information to assist the Board in its review of the retail mark-up.

Yours truly,



Stephen T. McGrath, K.C.
Chair



Roland A. Deveau, K.C.
Vice Chair



Richard J. Melanson, LL.B.
Member

c. William Mahody, K.C., Board Counsel

