DECISION **2025 NSEB 13**
M12339

NOVA SCOTIA ENERGY BOARD

IN THE MATTER OF THE ELECTRICITY ACT

- and -

IN THE MATTER OF AN APPLICATION by **Renewall Energy Inc.** for directions for an expedited process to amend existing Renewable to Retail tariffs or create new tariffs to enable distribution-connected generation and net billing

BEFORE:	Stephen T. McGrath, K.C., Chair Roland A. Deveau, K.C., Vice Chair Jennifer L. Nicholson, CPA, CA, Member
APPLICANT:	**RENEWALL ENERGY INC.** Nancy G. Rubin, K.C., Counsel Brianne Rudderham, Counsel
RESPONDENT:	**NOVA SCOTIA POWER INCORPORATED** Jennifer Power, Senior Regulatory Counsel
INTERVENOR:	**CONSUMER ADVOCATE** David J. Roberts, Counsel Michael Murphy, Counsel **SMALL BUSINESS ADVOCATE** Melissa P. MacAdam, Counsel Rebekah Powel, Counsel
BOARD COUNSEL:	William L. Mahody, K.C.
FINAL SUBMISSIONS:	August 22, 2025

DECISION DATE: **November 19, 2025**

DECISION: **The Board finds it has the jurisdiction to approve tariffs, procedures and standards of conduct for the renewable to retail market relating to distribution-connected generation and net billing and directs NS Power to engage with interested parties to file an application for the approval of necessary tariffs, procedures or standards of conduct by April 1, 2026.**

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1.0 INTRODUCTION

[1] Renewall Energy Inc. is a licensed retail supplier under the renewable to retail provisions in the *Electricity Act*, SNS 2025, c 18, Schedule. These provisions were added to the *Electricity Act* in 2013 and came into force in 2014. The Nova Scotia Utility and Review Board (NSUARB) approved tariffs to facilitate sales in this market in 2016. Renewall is the first, and currently the only, retail supplier to enter this market. It was issued a licence by the NSUARB in 2021. It is not currently serving customers under its licence but has continued to take steps to do so. These steps include developing and obtaining approval for documentation to be used when marketing to small-volume customers, making efforts to secure a Crown lease, municipal, environmental and interconnection approvals, and financing for the Mersey River Wind project. It has also participated in regulatory proceedings before the Board related to its activities under its licence.

[2] In June, Renewall asked the Board to direct an expedited process to amend existing renewable to retail tariffs or create a new tariff to enable distribution-connected generation and net billing. NS Power took the position that the Board did not have the jurisdiction to consider Renewall's request because the legislative and regulatory framework for the renewable to retail market does not allow what Renewall contemplates. The Board invited interventions in this matter and received submissions from the parties about its jurisdiction.

[3] Under the *Electricity Act*, the Board has the power and authority necessary to implement the statutory framework allowing a licensed retail supplier to sell renewable low-impact electricity generated in the province to retail customers. The Board finds it has the jurisdiction to approve tariffs, procedures and standards of conduct related to

distribution-connected resources to supply retail suppliers with renewable low-impact electricity to sell to their customers and net billing arrangements between a retail supplier and its customers.

[4] The Board directs NS Power to engage with interested parties, as contemplated under s. 22(1) of the *Electricity Act*, for this purpose, while adhering to the requirements of s. 22(2). NS Power is directed to file an application for the approval of the necessary tariffs, procedures or standards of conduct by April 1, 2026.

2.0 BACKGROUND

[5] On June 19, 2025, Renewall sought directions from the Board and requested an expedited process to amend the existing renewable to retail tariffs or create a new tariff to enable distribution-connected generation and net billing. It based this request on NS Power's obligation to develop tariffs, procedures and standards of conduct necessary to facilitate the purchase of renewable low-impact electricity by retail customers from retail suppliers.

[6] Alternatively, Renewall submitted that the Board could consider its request as a complaint under the *Public Utilities Act*, RSNS 1989, c 380, that service under the existing renewable to retail tariffs was "unreasonable or unjustly discriminatory" or "unobtainable". Renewall submitted that the tariffs do not address the issue of spilled excess electricity onto NS Power's distribution system or enable small distribution generation.

[7] In response to Renewall's request, NS Power submitted that net metering/billing was not available in the renewable to retail market under the current legislative and regulatory framework.

[8] In a letter dated July 25, 2025, the Board advised the parties that, before engaging in a process to consider the adequacy or appropriateness of the existing tariff structure for the renewable to retail market, the jurisdictional issue should be determined. The Board also invited the parties to make submissions about whether the *Board Electricity Retailers Regulations (Nova Scotia)* and the *Code of Conduct for Renewable Low-Impact Electricity Sales in Nova Scotia* could or should be amended to accommodate Renewall's request. The Board established a timeline for interventions in this proceeding and the filing of submissions.

[9] This decision only addresses the Board's jurisdiction to consider Renewall's requests.

3.0 DISCUSSION AND ANALYSYS

3.1 Statutory Interpretation

[10] The interpretation of legislation is guided by well recognized principles applied by courts and tribunals throughout the country. In *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, a majority of the court summarized these principles and noted the assumption that legislators intend that administrative decision makers such as this Board will interpret the law consistent with these principles:

> [117] A court interpreting a statutory provision does so by applying the "modern principle" of statutory interpretation, that is, that the words of a statute must be read "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament": *Rizzo & Rizzo Shoes Ltd. (Re)*, 1998 CanLII 837 (SCC), [1998] 1 S.C.R. 27, at para. 21, and *Bell ExpressVu Limited*

> *Partnership v. Rex*, 2002 SCC 42, [2002] 2 S.C.R. 559, at para. 26, both quoting E. Driedger, Construction of Statutes (2nd ed. 1983), at p. 87. Parliament and the provincial legislatures have also provided guidance by way of statutory rules that explicitly govern the interpretation of statutes and regulations: see, e.g., *Interpretation Act*, R.S.C. 1985, c. I-21.
>
> [118] This Court has adopted the "modern principle" as the proper approach to statutory interpretation, because legislative intent can be understood only by reading the language chosen by the legislature in light of the purpose of the provision and the entire relevant context: Sullivan, at pp. 7-8. Those who draft and enact statutes expect that questions about their meaning will be resolved by an analysis that has regard to the text, context and purpose, regardless of whether the entity tasked with interpreting the law is a court or an administrative decision maker. An approach to reasonableness review that respects legislative intent must therefore assume that those who interpret the law — whether courts or administrative decision makers — will do so in a manner consistent with this principle of interpretation.

[11] The majority in *Vavilov* noted that the application of these principles by administrative decision makers may look different than the interpretive exercises undertaken by courts. They emphasized that regardless of the form of analysis, the interpretation must be consistent with the text, context, and purpose of the provision:

> [119] Administrative decision makers are not required to engage in a formalistic statutory interpretation exercise in every case. As discussed above, formal reasons for a decision will not always be necessary and may, where required, take different forms. And even where the interpretive exercise conducted by the administrative decision maker is set out in written reasons, it may look quite different from that of a court. The specialized expertise and experience of administrative decision makers may sometimes lead them to rely, in interpreting a provision, on considerations that a court would not have thought to employ but that actually enrich and elevate the interpretive exercise.
>
> [120] <u>But whatever form the interpretive exercise takes, the merits of an administrative decision maker's interpretation of a statutory provision must be consistent with the text, context and purpose of the provision.</u> In this sense, the usual principles of statutory interpretation apply equally when an administrative decision maker interprets a provision. Where, for example, the words used are "precise and unequivocal", their ordinary meaning will usually play a more significant role in the interpretive exercise: *Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54, [2005] 2 S.C.R. 601, at para. 10. Where the meaning of a statutory provision is disputed in administrative proceedings, the decision maker must demonstrate in its reasons that it was alive to these essential elements.
>
> [121] <u>The administrative decision maker's task is to interpret the contested provision in a manner consistent with the text, context and purpose, applying its particular insight into the statutory scheme at issue.</u> It cannot adopt an interpretation it knows to be inferior — albeit plausible — merely because the interpretation in question appears to be available and is expedient. The decision maker's responsibility is to discern meaning and legislative intent, not to "reverse-engineer" a desired outcome. [Emphasis added]

[12] As noted in the passages from *Vavilov* cited above, the Parliament of Canada and the provincial legislatures have also provided guidance by way of statutory

rules that explicitly govern the interpretation of statutes and regulations. In Nova Scotia, this guidance is in the *Interpretation Act*, RSNS 1989, c 235, including ss. 9(1) and 9(5):

> **9** **(1)** The law shall be considered as always speaking and, whenever any matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to each enactment, and every part thereof, according to its spirit, true intent, and meaning
>
> …
>
> **(5)** Every enactment shall be deemed remedial and interpreted to insure the attainment of its objects by considering among other matters
>
> (a) the occasion and necessity for the enactment;
>
> (b) the circumstances existing at the time it was passed;
>
> (c) the mischief to be remedied;
>
> (d) the object to be attained;
>
> (e) the former law, including other enactments upon the same or similar subjects;
>
> (f) the consequences of a particular interpretation; and
>
> (g) the history of legislation on the subject.

[13] The Board must consider the text, context and purpose of the statutory provisions in the *Electricity Act* relating to what is understood to be the “renewable to retail” regime and the establishment of net metering programs. The Board pauses to note that, since this matter was opened in June 2025, the *Electricity Act*, SNS 2004, c 25, was repealed and replaced by the *Electricity Act*, SNS 2025, c 18, Schedule. Most of the new statute came into effect upon Royal Assent, on October 3, 2025. Many of the provisions in the former statute were carried into the new statute in the same or substantially similar form. References to the *Electricity Act* in this decision are to the new statute, unless explicitly stated to be to the former statute, or necessarily implied from the context. As the issues considered in this decision relate to the Board’s ongoing authority to implement

the renewable to retail regime, the Board finds that the current statute is the more appropriate point of reference.

3.2 Renewable to Retail

[14] Section 18 of the *Electricity Act* establishes the renewable retail regime in Nova Scotia:

> **Retail customer and renewable low-impact electricity**
> **18 (1)** A retail supplier who meets the requirements in Section 19 may sell renewable low-impact electricity generated within the Province and a retail customer, other than a customer of a municipal utility, may purchase that electricity from that supplier.
>
> **(2)** In any sale pursuant to subsection (1), the retail supplier shall transfer or assign all emission credits or allowances arising from the use of renewable energy sources to the retail customer.
>
> **(3)** Nova Scotia Power shall not refuse to provide service to a retail customer on the basis that the customer purchases renewable low-impact electricity from a retail supplier.
>
> **(4)** The Board has all the power and authority necessary to implement this Section.

[15] The terms “retail customer” and "retail supplier” are defined in s. 2:

> **2 (1)** In this Act,
>
> …
>
> “retail customer” means a person who uses, for the person’s own consumption in the Province, electricity that the person did not generate;
>
> “retail supplier” means a person who is authorized to sell renewable low-impact electricity in accordance with this Act and the regulations, but does not include a wholesale customer;

[16] The product or service that may be sold by a retail supplier to a retail customer is renewable low-impact electricity that is generated within the province. “Renewable low-impact electricity” is not defined in the *Electricity Act*, but it is defined in s. 3(1) of the *Renewable Electricity Regulations*, NS Reg 155/2010:

> “renewable low-impact electricity” means electricity produced from any of the following:
>
> (i) solar energy,
>
> (ii) wind energy,

(iii) run-of-the-river hydroelectric energy,

(iv) ocean-powered energy,

(iv) tidal energy,

(v) wave energy,

(vi) biomass that has been harvested in a sustainable manner,

(vii) landfill gas,

(viii) any resource that, in the opinion of the Minister and consistent with Canadian standards, is able to be replenished through natural processes or through sustainable management practices so that the resource is not depleted at current levels of consumption;

[17] For context, it is generally understood that a public utility with an obligation to serve customers in a particular area generally expects a degree of exclusivity, or monopoly, over the provision of its services to customers in that service territory. This principle is reflected in s. 54 of the *Public Utilities Act*, which prohibits a public utility from constructing facilities in an area already served by a public utility of like character without Board approval.

[18] A retail supplier is not a public utility unless deemed to be so by the regulations (*Electricity Act*, s. 17). However, the effect of s. 18 is to create an exception to a public utility's expectation of exclusively providing service to customers in its service territory. Given that this exception has explicitly not been extended to customers of a municipal utility, it must necessarily be understood to only apply to NS Power's customers. Further, while NS Power's customers may have the option to purchase renewable low-impact electricity from retail suppliers, NS Power retains an underlying obligation to serve those customers, even when they obtain service from a retail supplier (s. 18(3)).

[19] Sections 19 and 20 of the *Electricity Act* require a retail supplier to be licensed by the Board unless they are exempted from this requirement by the regulations. A licence may not be transferred or assigned without Board approval (s. 21). Because a retail supplier, by default, is not a public utility, the Board's authority over retail suppliers is limited to these licensing requirements. The Board's authority over retail suppliers is fundamentally different from its authority over public utilities, and was described by the Nova Scotia Utility and Review Board as follows:

> [4] The Board's authority over retail suppliers is quite different from its authority over public utilities, such as NS Power, under the *Public Utilities Act*, R.S.N.S. 1989, c. 380. The Board licenses retail suppliers and oversees their marketing and sales activities. Significantly, the Board's role in regulating retail suppliers is not that of an economic regulator. The Board does not approve the electricity rates charged by retail suppliers.
>
> [5] Retail supplier rights, responsibilities and obligations are set out in the *Electricity Act*, the *Board Electricity Retailers Regulations*, N.S. Reg. 246/2016 and the Board-approved *Code of Conduct for Renewable Low-Impact Electricity Sales in Nova Scotia*. The *Retailers Regulations* and the *Code of Conduct* include provisions that apply specifically to small-volume customers.
>
> [6] Retail suppliers must use a Board-approved form of contract for sales to small-volume customers. Small-volume customer contracts must be verified following certain procedures set out in the *Retailers Regulations*. A retail supplier must also provide Board-approved disclosure statements and rate comparisons to small-volume customers.
>
> [2024 NSUARB 66]

[20] The Board has the power and authority necessary to implement the renewable to retail regime established under s. 18(4). This is important because although s. 18 establishes the framework for the renewable to retail regime, the legislation is largely silent on how it is to be implemented. Subsection 18(4) therefore provides the Board with the authority, and the flexibility, to make things work as appropriate, consistent with the intent of the statute.

[21] Section 22 of the *Electricity Act* also imposes an obligation on NS Power (or the Nova Scotia Independent Energy System Operator (IESO)) to facilitate the purchase of renewable low-impact electricity under the renewable to retail regime:

Nova Scotia Power obligations

22 **(1)** Notwithstanding Section 77 of the *Public Utilities Act*, Nova Scotia Power, or IESO in relation to matters falling under its scope of authority pursuant to the *More Access to Energy Act*, shall maintain in consultation with stakeholders, and file with the Board for approval, any tariffs, procedures and standards of conduct and any amendments to existing tariffs, procedures and standards of conduct that are necessary to facilitate the purchase of renewable low-impact electricity as provided for in Section 18, including

(a) a new or amended open access transmission tariff;

(b) a distribution tariff;

(c) a new or amended backup or top-up service tariff;

(d) a new or amended non-dispatchable supplier spill tariff;

(e) new or amended interconnection procedures;

(f) new or amended market rules; and

(g) any other tariffs, procedures or standards of conduct prescribed by the regulations or that the Board requires Nova Scotia Power to develop or amend in order to facilitate the purchase of renewable low-impact electricity as provided for in Section 18.

(2) In reviewing and approving the tariffs, procedures and standards of conduct required to be maintained or amended pursuant to this Section, the Board must be guided by the following principles:

(a) customers of Nova Scotia Power and persons who, as of March 18, 2014, were independent power producers or hold feed-in tariff approvals within the meaning of the regulations are not to be negatively affected if some retail customers choose to purchase renewable low-impact electricity from a retail supplier; and

(b) retail suppliers and their customers are to be responsible for all costs related to the provision of service by retail suppliers to their customers that would otherwise be the responsibility of Nova Scotia Power and its customers.

[22] While it is not explicitly addressed in the legislation, it is understood that retail suppliers must be able to secure a supply of renewable low-impact electricity generated in the province to sell to their customers. A retail supplier's access to such

resources is not regulated by the Board other than indirectly through its approval of tariffs, procedures, and standards of conduct to facilitate the renewable to retail regime under s. 22(1).

[23] Clauses 22(1)(a) and (b) recognize that retail suppliers would use NS Power's transmission and distribution systems to deliver low-impact electricity to their retail customers and require that tariffs be established for the use of this infrastructure. Clauses 22(1)(c) and (d) recognize that, since the renewable low-impact electricity that retail suppliers would be providing to their retail customers may be from renewable resources that are intermittent in nature and cannot be dispatched to meet demand in real time, it is necessary for NS Power to backstop a retail supplier's arrangements to ensure that retail customers have an uninterrupted supply of electricity. This is also consistent with s. 18(3). As such, tariffs are necessary for the facilities and energy to supply these customers when the retail supplier's availability of renewable low-impact electricity is not enough, at that moment, to supply its customers (i.e., backup or top-up tariffs). Similarly, when a retail supplier has too much electricity at any given time, a mechanism is required to allow it to be absorbed into NS Power's electrical system (i.e., spill tariff). Clauses 22(1)(e) and (f) recognize that, in making their arrangements for their own sources of renewable low-impact electricity, retail suppliers need procedures to allow them to interconnect resources to NS Power's grid and market rules to facilitate renewable low-impact electricity purchases by retail suppliers.

[24] Clause 22(1)(g) puts an obligation on NS Power (or the IESO) to maintain any other tariffs, procedures, or standards of conduct that may be prescribed in the regulations, or that the Board may require, to facilitate the purchase of renewable low-

impact electricity under the renewable to retail regime established in s. 18. This is consistent with the Board's authority and flexibility under s. 18(4) to implement the details necessary to allow the renewable to retail market to function as intended.

[25] As noted by Renewall in its reply submissions, the renewable to retail provisions were originally introduced in the *Electricity Reform (2013) Act*, SNS 2013, c 34. Renewall's submissions quoted statements by the Minister of Energy when the bill was introduced at second reading in the Legislature, about creating competition and choice for electricity ratepayers:

> Our government brought this bill forward because we are committed to improving Nova Scotia's electricity system for the benefit of ratepayers. We are also committed to an electricity market that is rapidly adaptable to changing world conditions, and with this bill we are delivering on our promise to open and improve the electricity market while creating new local investment opportunities for renewable electricity providers.
>
> This legislation will permit greater competition and choice for electricity ratepayers. [footnotes omitted]
>
> [Renewall Reply Submissions, August 22, 2025, p. 2]

3.3 Net Metering

[26] The net metering provisions in the *Electricity Act* are found in s. 6 and s. 7:

> **Program for customer to generate electricity**
> **6** **(1)** In this Section, "customer" means all metered accounts registered to the same person or entity under the same rate code in the same distribution zone.
>
> **(2)** A public utility may develop and maintain a program that permits any customer to generate electricity for the customer's own use and to sell any excess electricity to the public utility at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by the public utility.
>
> **(3)** Notwithstanding subsection (2), Nova Scotia Power shall develop and maintain a program that permits a customer to generate electricity for the customer's own use and to sell electricity to Nova Scotia Power at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by Nova Scotia Power.
>
> **(4)** A program developed under subsection (3) only applies
>
> (a) to a customer who installs a generator with a nameplate capacity of more than 27 kilowatts;
>
> (b) if the generator and the customer's load are not connected to the same meter; or

(c) to other customer classes as prescribed by the regulations.

(5) Only electricity generated by a customer that is renewable low-impact electricity qualifies for the program referred to in subsection (3).

(6) In any calendar year, Nova Scotia Power may not compensate a customer for electricity generated in excess of that customer's consumption in that calendar year.

(7) A program developed and maintained pursuant to subsection (2) or (3) must receive the approval of the Board before it is implemented by the public utility.

(8) The public utility shall collect the data as prescribed by the regulations and provide the Minister with information derived from the data at such times and in such form as the Minister may determine.

(9) The Governor in Council may make regulations respecting any aspect of a program developed or maintained under subsection (2) or (3), including

(a) program requirements and conditions, including customer classes;

(b) participant eligibility requirements;

(c) the application process;

(d) duties of the public utility with respect to the program;

(e) project limitations, including limitations with respect to generator nameplate capacities;

(f) the identification of and conditions respecting equipment to be used to

(i) measure the amount of electricity produced by a generator and the time it is supplied,

(ii) measure the amount of electricity supplied to the customer by the public utility and the time it is supplied, and

(iii) measure the amount of electricity supplied to the public utility by the customer's generator and the time it is supplied;

(g) standards that must be adhered to;

(h) enforcement measures and mechanisms;

(i) costs, fees and penalties;

(j) obligations relating to data collection, reporting and the sharing of information;

(k) the sale of renewable low-impact electricity to the public utility;

(l) oversight of the program by the Board;

(m) requirements or conditions with respect to any agreement between a customer and the public utility;

(n) any other matter the Governor in Council considers necessary or advisable for the proper administration of the program.

Customer may generate and sell electricity

7 **(1)** A Nova Scotia Power customer may, as of right, with no requirement to participate in a Nova Scotia Power program, install a renewable low-impact generator or energy storage device with a total nameplate capacity of 27 kilowatts or less.

(2) A customer who generates the customer's own electricity shall ensure the equipment meets the standards prescribed by the regulations.

(3) Subject to subsection (4), Nova Scotia Power shall purchase excess electricity from a customer who has installed a renewable low-impact generator or energy storage device with a nameplate capacity of 27 kilowatts or less to generate electricity for the customer's own use.

(4) Nova Scotia Power shall purchase electricity under subsection (3) up to a maximum of the customer's total usage per calendar year at a rate equivalent to the rate paid by the customer, but is not required to compensate a customer for electricity generated by the customer in excess of the customer's total consumption in a calendar year.

(5) Customers who generate their own electricity are not required to enter into a contractual agreement with Nova Scotia Power for the sale of their generated electricity if the nameplate capacity of the customer's generator is 27 kilowatts or less.

(6) Nova Scotia Power shall transition all existing net-metering customers who were issued contracts for the purchase of their generated electricity to the program referred to in subsection (3), but shall continue to abide by the terms of those contracts, including payment for excess energy generated by the customer, until those contracts are terminated pursuant to subsection (7).

(7) A contract between Nova Scotia Power and a net-metering customer in effect as of April 22, 2022, may be terminated when

(a) the customer's electrical service is disconnected;

(b) the customer has not generated any electricity for a period of 12 calendar months; or

(c) the customer's generating facility is not in compliance with the terms of the contract.

[27] Additionally, s. 8 restricts public utilities from adopting fees or charges that discourage customers from developing, installing and using their own renewable low-impact electricity generators:

> **Prohibition on system access charges and standard terms and conditions**
>
> **8** **(1)** A public utility may not create a fee structure, nor impose system access charges, that discourage customers from developing, installing and using their own renewable low-impact energy generators or energy storage devices.
>
> **(2)** Nova Scotia Power shall develop standard terms and conditions for all customers, including customers who generate their own electricity.

[28] Section 6 deals with the development and maintenance of programs by a public utility to allow its customers to generate electricity for their own use and sell excess electricity to the public utility at a rate that is equal to the rate that they pay the utility for electricity that is supplied to them. The development and maintenance of such programs is discretionary for electric utilities other than NS Power (s. 6(1)-(2)). NS Power is required to maintain such a program for customers who install generators greater than 27 kW, in situations where the generator is not connected to the same meter as the customer's load, or in other circumstances as prescribed by the regulations. These programs must be approved by the Board (s. 6(7)). Further, NS Power may not compensate the customer for more electricity than they consumed in the calendar year (s. 6(6)).

[29] In NS Power's case, the program must be for renewable low-impact electricity (s. 6(5)).

[30] Section 7 of the *Electricity Act* applies only to NS Power and allows its customers to install a renewable low-impact generator or energy storage device with a total nameplate capacity of 27 kW or less. This may be done by a customer as of right; there is no obligation on the customer to participate in a specific NS Power program or enter a contract to do so. Under s. 7(4), NS Power must buy electricity from such customers at a rate equal to the rate that they pay NS Power for electricity, but the utility does not have to pay customers for more electricity than the customer's total consumption in a calendar year.

[31] Sections 37A to 37F of the *Renewable Electricity Regulations*, NS Reg 155/2010, outline further requirements for net metering programs under s. 6 of the *Electricity Act*. These provisions establish eligibility requirements for customers, application requirements, duties of public utilities, additional program requirements, data collection and reporting requirements, and the provision of renewable electricity certificates. Section 37G of the regulations prescribes standards for connecting equipment to NS Power's electrical grid under s. 7 of the *Electricity Act*.

[32] The net metering provisions in the *Electricity Act* originated, in substantially the same form as they presently exist, in amendments to the former *Electricity Act* in 2022. The corresponding provisions in the *Renewable Electricity Regulations* were made later that year. However, net metering has existed in the province for much longer.

[33] Renewall noted in its reply submissions that NS Power has had some form of net metering since 1989. Net metering provisions have been included in service-related regulations approved by the NSUARB for NS Power since 2005. Net metering provisions were not included in legislation until 2010, when the former *Electricity Act* was amended following the release of Nova Scotia's *Renewable Electricity Plan* that year. Under these amendments NS Power had to submit an enhanced net metering regulation for approval by the NSUARB by November 1, 2010.

[34] In its decision about that application, the NSUARB noted that one of the initiatives in the *Renewable Electricity Plan* was to provide individuals and small businesses with an opportunity to participate in green energy projects through an expanded and enhanced net metering program, freed from some of the restrictions under

the NS Power program that existed at that time. The NSUARB provided the following description of NS Power's existing net metering regulation:

> [7] Under the existing Regulation 3.6, net metering service is available to all NSPI customers who:
>
> a) are served from NSPI's distribution system of 24,940 volts or less,
>
> b) are billed under one of NSPI's metered service rates,
>
> c) install a qualifying generator of less than 100 kW.
>
> [8] Other restrictions include:
>
> a) the service is applicable to any accounts which are located on the same parcel of land as the generator, and which are owned by the same single customer,
>
> b) the service is available on a first-come, first served basis and the total rated generation of all subscribed customers is limited to 0.5% of NSPI's historical annual peak demand (approximately 12 MW),
>
> c) excess self-generation will be "banked" as energy credits to be applied against future bills over a period not exceeding 12 calendar months, and
>
> i) banked energy credits will carry over until the customer's anniversary date at which time the credit will be set to zero without compensation to the customer,
>
> ii) if service is discontinued, banked energy credits will be forfeited,
>
> iii) any energy credit balance on a customer-generator's account will have no cash value or be convertible to cash.
>
> [2011 NSUARB 44]

[35] The amendments proposed in that application were described by the NSUARB as follows:

> [12] In its Application, NSPI proposed the following amendments to Regulation 3.6:
>
> a) Increase the existing limit for customer generating capacity from 100 kW to 1 MW.
>
> b) Increase the existing net metering program's peak demand capacity limit from approximately 12 MW (i.e. 0.5% of NSPI's historical annual capacity) to 20 MW.
>
> c) Establish two classes of service for net metering customers as follows:
>
> Class 1: up to and including 100 kW

Class 2: greater than 100 kW up to 1 MW

NSPI further proposed to limit all Class 1 participants to a total of 5 MW and all Class 2 participants to a total of 15 MW, with the stipulation that:

> …The system-wide 20 MW allocation for net-metering is subject to any distribution level capacity constraints within a distribution zone and does not provide an absolute guarantee that capacity will be available wherever and whenever requested by a customer.
>
> [Exhibit N-1, page 7 of 14]

The two-class proposal is intended to reflect the current break point for generation interconnection standards. Generators with a capacity greater than 100 kW are subjected to more complex assessment and interconnection procedures than those that are 100 kW or less.

d) Expand allowable meter aggregation to include all metered accounts owned by the same customer and located within the same distribution zone (i.e. substation feeder) as the customer generator.

e) Provide customer-generators with cash payment, priced at an appropriate retail rate, for any banked excess self-generation remaining at the end of a twelve-month period:

  i) where the customer rate structure includes only one energy charge, the surplus credit will be priced at that energy charge;

  ii) where the customer rate structure includes declining block energy charges, the surplus energy will be priced only at the energy charge applicable to the additional kilowatt hours;

  iii) where accounts are billed under domestic time-of-day service, surplus generation will be compensated in accordance with the distinct time-of-use period when it was generated at the associated time-of-use energy charges

  iv) compensation for surplus generation will include the AA and BA FAM charges but will not include the DSM Cost Recovery Rider ("DCRR") since NSPI collects those charges on behalf of a third party and the excess generation does not affect determination of the DCRR.

[36] The NSUARB approved the application except for the system-wide and class capacity limits. The NSUARB found there was no compelling evidence to justify these limits and observed that they seemed inconsistent with the intended objective of encouraging various levels of renewable energy from various participants. The form of regulation approved in 2011 is substantially the same as the version in NS Power’s current regulations. Notably, Regulation 3.6 was amended in the NSUARB proceeding

approving tariffs for the renewable to retail program (M06214). In essence, these amendments clarified that NS Power's net metering service was available to its bundled customers and explicitly excluded customers receiving service from a retail supplier.

[37] The 2022 amendments to the *Electricity Act* and the *Renewable Electricity Regulations* have largely overtaken the net metering program under Regulation 3.6 for new installations, but the legacy arrangements under Regulations 3.6 were continued under what is now s. 7(7) of the *Electricity Act*.

3.4 Analysis

[38] Renewall submits that s. 22(1) of the *Electricity Act* requires NS Power to facilitate the purchase of renewable low-impact electricity for the renewable to retail market and that s. 18(4) gives the Board the power and authority necessary to implement the sale of renewable low-impact electricity in the renewable to retail market.

[39] NS Power submits that its obligations under s. 22 are not open-ended and it has no duty to facilitate "any and all" aspects of Renewall's business plans. It says neither s. 18 nor s. 22 of the *Electricity Act* expressly contemplate net billing arrangements or the aggregation of surplus generation from retail customers by a retail supplier using NS Power's distribution infrastructure. It argues the intent of the original design of the renewable to retail market "was to facilitate access to renewable low-impact electricity through wholesale market mechanisms - primarily from transmission-connected generation". NS Power adds:

> The framework does not establish, nor has it been interpreted to establish, a right for [retail suppliers] to use NS Power's distribution infrastructure to procure and redistribute energy from either distribution-connected generation or customer spill. Any such use would involve fundamental changes to system operations, cost allocation, metering, settlement, and reliability protocols.
>
> [NS Power Submissions, August 15, 2025, p. 2]

[40] Renewall disagrees that a retail supplier's access to renewable low-impact electricity resources was limited to either the wholesale market or transmission-connected generation. It notes there are no words in the *Electricity Act* limiting a retail supplier to generating or purchasing its supply of renewable low-impact electricity at the transmission level, or that its supply cannot include spilled energy from retail customers.

[41] As noted earlier, the *Electricity Act* does not explicitly address the procurement of renewable low-impact electricity by retail suppliers. On this point, Renewall comments:

> The *Electricity Act* does not, and need not, address every aspect of the [renewable to retail] Market, or mandate specific programs and billing. The [retail supplier] may be a generator itself or may purchase renewable low-impact electricity. It is axiomatic that to transmit the generation to the retail customer, that electricity must be transported across the wires of NSPI as the monopoly provider of transmission and distribution services. The legislation does not frame the specific programs in which [a retail suppler] is able to purchase renewable low-impact electricity.
>
> [Renewall Submissions, August 8, 2025, p. 3]

[42] Renewall also points out that NS Power's application to the NSUARB for the approval of the renewable to retail tariffs in 2016 specifically contemplated distribution connected generation:

Figure 1: Disaggregated Market Design

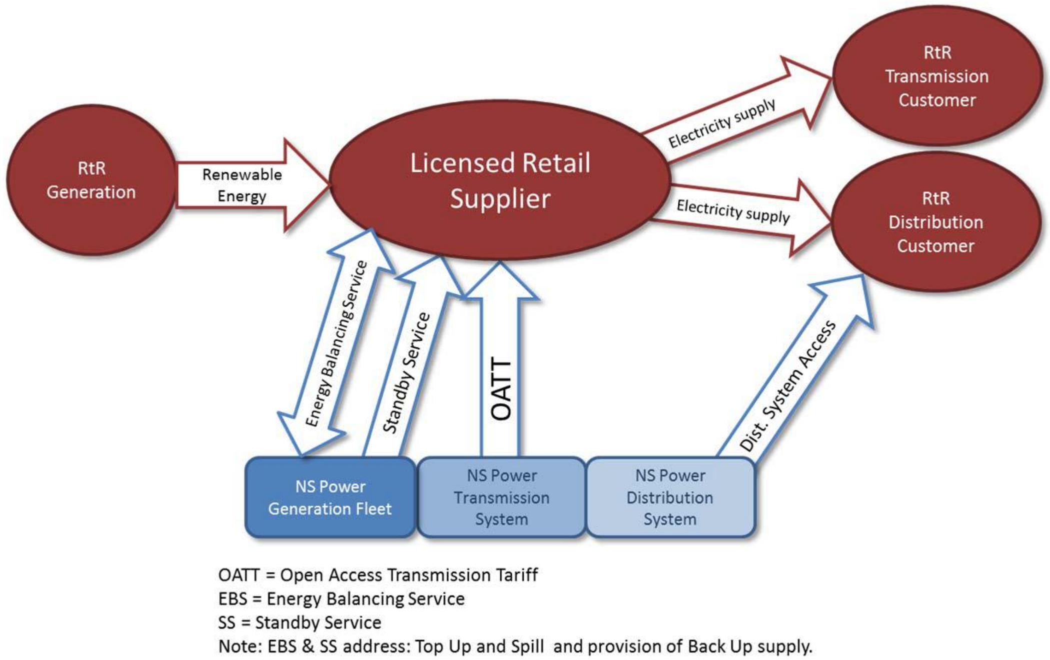

Figure 1 above depicts the elements of the disaggregated [renewable to retail] tariff approach. In this model, the [retail supplier's] electricity is supplied from certified renewable low-impact generators that are owned by the [retail supplier], or a third-party independent generator. In the diagram, the [renewable to retail] Generation is shown connected to the NS Power transmission system; it could also be connected to the NS Power distribution system. [Emphasis in original]

[M06214, NS Power Application, Exhibit N-16, pp. 41-42]

As described in **Section 6.3**, for both transmission and distribution connected generators, the full suite of [renewable to retail] tariffs apply, including the OATT and the Renewable to Retail Market Transition Tariff. [Emphasis in original]

[M06214, NS Power Application, Exhibit N-16, p. 43]

[43] Similarly, Renewall referenced s. 2.1.2.1 of the *Nova Scotia Wholesale and Renewable to Retail Electricity Market Rules* as specifically contemplating generation at the distribution level:

2.1.2.1, An eligible person may be a Market Participant in one or more of the following classes:

a) Generation Market Participant: A Generation Market Participant is a Market Participant in respect of

i) a Generating Facility connected to the Transmission System; or

ii) a Generating Facility <u>connected to a Distribution System</u> and registered with the NSPSO.

b) Load Market Participant: A Load Market Participant is a Market Participant in respect of

i) a Load Facility connected to the Transmission System; or

ii) <u>a Distribution System connected to the Transmission System</u>.

c) Licenced Retail Supplier Market Participant: A Licenced Retail Supplier Market Participant is a Market Participant in respect of the aggregate of the Retail Customer load subscribed to the Licenced Retail Supplier. [Emphasis added]

[Renewal Submissions, August 8, 2025, p. 6]

[44] Renewall also noted that compliance plans it submitted to the NSUARB in 2023 and 2024 referred to arrangements Renewall was making for a distribution-connected supply or renewable low-impact electricity from a facility under an interconnection agreement that NS Power approved and executed:

> As part of its license, REI is required to submit an annual compliance plan to the Board of its forecasted sales to customers, purchases from generators and its own generation. Attached are copies of the public versions of REI's 2023 and 2024 Annual Report to the Board. In those Reports, Section C, REI included reference to its first distribution-connected project which was approved. REI contracted to purchase all of the output of a small solar project. This project has been delayed due to the owner of the facility, but at the time, NSPI approved and executed the Standard Small Generator Interconnection Agreement, and the Board did not take issue with the counting of this renewable electricity as part of REI's filing.

[Renewall Submissions, August 8, 2025, p. 7]

[45] Another point raised by NS Power, supported by the Small Business Advocate in their closing submissions, is that Renewall's proposed net billing arrangements are not allowed. It submits ss. 6 and 7 of the *Electricity Act* (ss. 3A and 3AA in the former statute) strictly limit who may connect to and export power to the grid:

Returning to the initial point, currently, only generators that fall under Section 3AA of the *Electricity Act*, "Customer may generate and sell electricity," or generators participating in a NS Power program (legacy Net Metering under Regulation 3.6 and Commercial Net Metering under Section 3A of the *Electricity Act*) can connect and export to the grid. Section 3AA explicitly directs NS Power to be the buyer of excess generation:

> (3) Subject to subsection (4), Nova Scotia Power Incorporated shall purchase excess electricity from a customer who has installed a renewable low-impact generator or energy storage device with a nameplate capacity of twenty-seven kilowatts or less to generate electricity for the customer's own use.
>
> (4) Nova Scotia Power Incorporated shall purchase electricity under subsection (3) up to a maximum of the customer's total usage per calendar year at a rate equivalent to the rate paid by the customer, but is not required to compensate a customer for electricity generated by the customer in excess of the customer's total consumption in a calendar year.

Section 3A states:

> Program for customer to generate electricity
> 3A (1) In this Section, "customer" means all metered accounts registered to the same person or entity under the same rate code in a distribution zone.
>
> (2) A public utility may develop and maintain a program that permits any customer to generate electricity for the customer's own use and to sell any excess electricity to the public utility at a rate equivalent to the rate paid by the customer for electricity supplied to the customer by the public utility

There is no authority granted here for third-party purchasers or the ability to direct sales to other customers. Unless there are amendments to the *Electricity Act* or regulations to provide for retail arrangements, these clauses do not open the door for others to purchase that energy. The sale relationship is strictly between the customer-generator and NS Power. As stated in NS Power's Reply Evidence under M06214, filed January 8, 2016, "net metering arrangements under s. 3A of the *Electricity Act* would not have any bearing on [renewable to retail] service as the net metering provisions of section 3A apply only to a customer generating electricity for its own consumption".

[NS Power Submissions, July 23, 2025, pp. 2-3]

[46] NS Power reiterates this in further submissions in this matter:

While [Renewall] asserts that the *absence* of a prohibition implies permissibility, NS Power respectfully disagrees, as such an interpretation would be contrary to basic principles of statutory interpretation. The legislature amended the *Electricity Act* to specifically permit "a public utility" to develop self-generation and excess sale programs for those customers identified by [s 6]. It also amended the *Electricity Act* at [s 7] to specifically grant the "right" to NS Power customers to self-generate and sell excess energy to NS Power. In this instance, the only reasonable interpretation is that the legislature's intent in making these amendments was to permit something that otherwise was not permitted. Any other interpretation, such as that offered by [Renewall], would mean the amendments were unnecessary and serve no purpose. To adopt such an interpretation of results in an absurd

> or unreasonable outcome, which the well-established principles of statutory interpretation dictate, is to be avoided.
>
> The only reasonable interpretation is that it was the legislature's intent that, under the current legal and regulatory structure, explicit authority is required to create the ability or the right for self-generation and excess sale arrangements to exist. Not only is this interpretation consistent with basic statutory interpretation principles, but such an approach also aligns with established regulatory principles, aimed at safeguarding reliability, system integrity, and customer equity. [Emphasis in original]
>
> [NS Power Submissions, August 15, 2025, p. 2]

[47] Noting that NS Power had some form of net metering decades before the net metering provisions were legislated in 2010, Renewall argues that ss. 6 and 7 of the *Electricity Act* do not create a new right of self-generation. Rather, Renewall submits these provisions were enacted to mandate NS Power to develop an expanded and enhanced net metering program. Likewise, in 2022, these provisions were amended to remove a 100 kW cap and also to allow customers to install generators up to 27 kW without NS Power's approval or the requirement to participate in a net metering program or enter a specific contract.

[48] Renewall, in its submissions, goes on to discuss how the legislation dictates how NS Power must treat excess generation for the benefit of its customers:

> Under the *Electricity Act* at s 3AA NSPI must purchase "excess electricity" from its customer up to a maximum of the customer's total usage per calendar year (ss. 3AA (3) and (4)). This does not give NSPI the permission to purchase this excess electricity; it requires it. This requirement is only to a certain amount. NSPI *could* purchase excess electricity beyond the customer's yearly total usage, but it is not mandated to do so. NSPI has the ability to purchase excess electricity spilled by its customers, regardless of this obligation. These provisions mandate that NSPI purchase this energy, to a certain extent, and at a specific price. It is now ensured that customers of NSPI are compensated for the energy they produce in excess of their usage.
>
> Sections 3A and 3AA can be given meaning without being interpreted as the converse legislative intent to restrict the sale of excess renewable electricity from a retail customer to an LRS.
>
> NSPI has no choice but to buy back the excess electricity spilled onto the distribution system from its customers at a rate dictated by the legislation. With respect, these provisions protect the interests of NSPI's customers and do not create a separate right to self-generate or sell/purchase excess electricity. This interpretation is further supported by the statements made by Premier Tim Houston leading up to the 2022 amendments to the net metering program:

> *"We agree that it is time for changes to the enhanced net-metering program but the changes we seek will support the greening of the grid, not discourage it," said Premier Houston. "Our government will bring forward the necessary legislative and regulatory framework that will protect ratepayers and the solar industry in Nova Scotia and help achieve our environment and climate change reduction goals."* [Emphasis in original; footnote omitted]
>
> [Renewall Reply Submissions, August 22, 2025, p. 4]

[49] Renewall argues that there is no need for mandatory legislation to require the retail suppliers to credit their customers for spilled energy as NS Power has been directed to do in the *Electricity Act*. It says this is a matter of contract between the retail supplier and its customer.

[50] Renewall also notes that NS Power did not object when Renewall applied to the NSUARB in 2023 for the approval of materials relating to its marketing to small volume customers under the *Board Electricity Retailers Regulations* that referenced its intention to offer net billing arrangements to its customers. This proceeding involved an oral hearing that NS Power attended in December 2023 and culminated in a Board Order approving materials with these references in July 2024.

[51] NS Power submits that the NSUARB's approval of these materials simply reflected a contractual offering by Renewall to its customers and the Board's approval of these documents was not a regulatory finding about the use of a net metering mechanism under the *Electricity Act*.

[52] Finally, NS Power argues that the existing tariffs were designed to provide a generation balancing service for the renewable to retail market and did not contemplate any ability to spill behind-the-meter generation onto the grid. It further submits that the *Board Electricity Retailers Regulations* and the *Code of Conduct for Renewable Low-Impact Electricity Sales in Nova Scotia* explicitly distinguish between the procurement of

electricity by retail suppliers from renewable low-impact generators and behind-the-meter sales, which are not considered to be renewable to retail arrangements.

[53] Renewall noted that, in approving the renewable to retail tariffs in 2016, the NSUARB rejected the suggestion that renewable to retail customers could not self-generate and argued that similar reasoning should apply to reject NS Power's argument in this matter that such customers cannot spill excess energy onto the grid:

> With respect to the suggestion that retail customers cannot self-generate renewable energy, that has previously been rejected the Board. During the hearing establishing the [renewable to retail] Market in 2016, Matter M06214, NSPI had a similar argument that transactions behind the meter ("BTM") for renewable energy would be subject to regulation in the [renewable to retail] market, in contrast with un-regulated BTM sales for non-renewable energy. The Board rejected that argument outright at paras 82-87 and confirmed that an arrangement where a person generates electricity for their own use BTM is not subject to regulation by the Board under the [*Public Utilities Act*]. The decision specifically states:
>
>> *[84] The scheme of the Act was clearly to enable a retail supplier to sell electricity to a retail customer in circumstances where the supplier required services supplied by NSPI and, in particular, the use of its transmission <u>or distribution system</u> and backup energy. The Electricity Act definition of retail supplier, which includes the phrase "in accordance with this Act and the regulations", must be interpreted having regard to the purpose of the Electricity Act.*
>>
>> *[85] It seems unlikely that the framers of the legislation intended to impair the current ability of a generator to generate power and energy behind the meter. It also seems unlikely that they intended to disadvantage the sales of renewable low-impact energy by making only those sales subject to tariffs and regulation.* [Emphasis in original, footnote omitted]
>
> Similarly, it is unlikely that the drafters intended to impair a retail customer's ability to self-generate renewable energy or disadvantage the sale of renewable low impact energy by restricting the ability of a retail customer to be credited for excess electricity spilled onto the system. The very purpose of s. 3G is to ensure there are requisite tariffs and procedures in place for the fair and appropriate use of the transmission and distribution system by [a retail supplier].
>
> [Renewall Reply Submissions, August 22, 2025, p. 7]

3.4.1 Findings

[54] The Board agrees with NS Power that its obligations under s. 22 of the *Electricity Act* are not open-ended and it has no duty to facilitate "any and all" aspects of Renewall's business plans. However, NS Power must "facilitate the purchase of

renewable low-impact electricity as provided for in Section 18” through necessary tariffs, procedures and standards of conduct.

[55] The Board pauses to note that the wording in s. 22 has changed somewhat from what had previously existed in s. 3G(1) of the former statute. Most notably for the purposes of the present discussion, s. 3G(1) was changed as noted in the markup below:

> **~~3G~~ 22 (1)** Notwithstanding Section 77 of the *Public Utilities Act*, ~~on or before the applicable date prescribed by the regulations,~~ Nova Scotia Power Incorporated, or ~~the~~ IESO in relation to matters falling under its scope of authority pursuant to the *More Access to Energy Act*, shall ~~develop~~ maintain in consultation with stakeholders, and file with the Board for approval, any tariffs, procedures and standards of conduct and any amendments to existing tariffs, procedures and standards of conduct that are necessary to facilitate the purchase of renewable low-impact electricity as provided for in Section ~~3C~~ 18, including
>
> a) a new or amended open access transmission tariff;
>
> b) a distribution tariff;
>
> c) a new or amended backup/top-up service tariff;
>
> d) a new or amended non-dispatchable supplier spill tariff;
>
> e) new or amended interconnection procedures;
>
> f) new or amended market rules; and
>
> g) any other tariffs, procedures or standards of conduct prescribed by the regulations or that the Board requires Nova Scotia Power ~~Incorporated~~ to develop or amend in order to facilitate the purchase of renewable low-impact electricity as provided for in Section ~~3C~~ 18.

[56] The Board does not interpret the substitution of the word “develop” with “maintain” as intending in any way to express an intent that the existing tariffs, procedures, and standards of conduct must be frozen in time in the state they were in when the new *Electricity Act* was proclaimed. The application of subsections 9(1) and 9(5) of the *Interpretation Act* require the statute to be read in light of changing circumstances over time and, given the terms of these tariffs, procedures and standards of conduct were not specifically prescribed in the first place, but left to the approval of the Board, any suggestion that they would be locked in at a certain point in time would be unusual, and

would be expected to be addressed with more specific language to that effect. Moreover, the wording in s. 22(1)(g) directing NS Power to maintain any other tariffs, procedures or standards of conduct that the Board requires it to "develop or amend" was not modified when the provision was enacted in the new *Electricity Act*.

[57] As noted previously, the legislation is largely silent on how the renewable to retail regime framework established by s. 18 is to be implemented. Rather, the Board is vested with the power and authority necessary to implement the section (s. 18(4)) and NS Power is directed in s. 22 to develop or amend any tariffs, procedures or standards of conduct to do so. These provisions provide the authority and flexibility to the Board to make things work as appropriate. The only guiderail that explicitly constrains this authority and flexibility is s. 22(2), which requires that independent power producers and feed-in tariff approval holders not be negatively affected and that retail suppliers and their customers be responsible for all costs related to the provision of service by retail suppliers to their customers that would otherwise be the responsibility of NS Power and its customers.

[58] For the renewable to retail regime to work, retail suppliers must have access to renewable low-impact electricity generated in the province. There are no limitations anywhere in ss. 18 to 22 that restrict retail suppliers to generating or purchasing electricity only at the transmission level. Such a restriction would appear to run counter to the development of an "electricity market that is rapidly adaptable to changing world conditions" and seems inconsistent with providing for "greater competition and choice for electricity ratepayers" as expressed by the Minister of Energy when the renewable to retail provisions in the *Electricity Act* were enacted. Further, it appears that until recently, the

ability of retail suppliers to access renewable low-impact electricity resources at the distribution system level was assumed by parties including Renewall, NS Power and even the NSUARB. The Board finds that it has the jurisdiction under the *Electricity Act* to approve tariffs, procedures and standards of conduct relating to distribution-connected resources for retail suppliers, provided they can satisfy the limitations in s. 22(2).

[59] Notwithstanding the submissions from NS Power and the Small Business Advocate, the Board does not interpret the *Electricity Act* as establishing that only a specific class of electricity customers may engage in net metering or net billing practices. The purpose of the 2010 amendments to the *Electricity Act* introducing net metering provisions was not to enable these practices, which already existed, but to remove NS Power's discretion to provide net metering and impose certain obligations on NS Power in doing so (and to a lesser extent on other electrical utilities, which unlike NS Power, were not required to apply to the Board for approval of a new net metering program within a specific time frame). As noted by the NSUARB in approving NS Power's program at the time, the amendments increased the capacity limit for customer generators (subject to the sizing to meet the customer's expected annual consumption), expanded allowable meter aggregation, and provided customers with a cash payment for any surplus. Likewise, the amendments to the *Electricity Act* in 2022 dictated different requirements for net metering programs (again focused mostly on NS Power).

[60] While renewable to retail customers are considered customers of NS Power under its Board-approved regulations by virtue of receiving distribution system access, they are not customers of NS Power for purposes of ss. 6 and 7 of the *Electricity Act* because they do not buy electricity from NS Power, they buy it from a retail supplier. The

Board finds it is apparent from ss. 6(2), 6(3), and 7(4), which establish that the sale price for excess electricity is the rate equivalent to the rate paid by the customer for electricity supplied to the customer by NS Power or the public utility, that the customer in question is one who buys electricity from the public utility. As such, the Board finds that ss. 6 and 7 have no application to customers of a retail supplier. This is consistent with the NSUARB's approval of amendments to NS Power's Regulation 3.6 in 2016 to clarify that its legacy net metering program only applied to its bundled customers. If a "customer" is not being sold electricity by the public utility, there is nothing for it to net out its self-generation against.

[61] Since ss. 6 and 7 only apply to NS Power and other electric utilities, these sections do not apply to arrangements between a retail supplier and its customers. As noted by Renewall, these arrangements are a matter of contract between those parties, which is largely unregulated. Net billing arrangements between these parties do not engage NS Power or oblige it to pay for spilled energy from those facilities. NS Power's obligations are to facilitate the purchase of renewable low-impact electricity for the renewable to retail market through necessary tariffs, procedures and standards of conduct.

[62] As discussed previously, implicit in the sale of renewable low-impact electricity by a retail supplier to a retail customer is the need for the retail supplier to be able to acquire renewable low-impact electricity generated in the province. There are no limitations anywhere in ss. 18 to 22 that restrict retail suppliers from acquiring such electricity from distribution-connected sources, from more than one source, or through net billing arrangements with its own customers. The NSUARB's treatment of the

renewable to retail framework as not applying to behind-the-meter generation should not be interpreted as precluding the acquisition of surplus behind-the-meter generation by a retail supplier for its own supply to serve its customers. Indeed, the definition of "behind-the-meter" in s. 2(2) of the Board-approved *Board Electricity Retailers Regulations* appears to contemplate this possibility:

> "behind-the-meter" means the sale of electricity from a renewable low-impact electricity generation facility which is directly connected to a load without using NS Power's transmission or distribution facilities, including NS Power's meter installed at the premises. For greater certainty, the electricity that is sold from a renewable low-impact electricity generation facility to a directly-connected party is behind-the-meter, while electricity that is sold from the same facility to another party through the use of NS Power's transmission or distribution facilities is not behind-the-meter; [Emphasis added]

[63] Additionally, restricting a retail supplier from aggregating surplus behind-the-meter generation for the purposes of its needed supply of renewable low-impact electricity would appear to run counter to the statute's intent of establishing a renewable to retail market. Using the net metering provisions to restrict access to net metering programs also seems inconsistent with the purpose of those provisions as well, which the NSUARB described shortly after the 2010 amendments to the *Electricity Act* as providing individuals and small business with expanded and enhanced access to green energy projects:

> [9] In April 2010, the Nova Scotia Department of Energy ("NSDOE") released its Renewable Electricity Plan (the "Plan") which set out a detailed program to move Nova Scotia away from carbon-based electricity towards greener, more local sources. That Plan includes conservation and efficiency programs as well as a transition to renewable energy sources. One of the initiatives is to provide individuals and small businesses with an opportunity to participate in green energy projects through an expanded and enhanced net metering program. Specific changes were identified which would ease some of the restrictions contained in the existing Regulation 3.6.
>
> [2011 NSUARB 44]

[64] The Board finds it has the jurisdiction to approve tariffs, procedures and standards of conduct governing net metering arrangements of a retail supplier with its customers, subject to the limitation in s. 22(2) of the *Electricity Act*.

[65] Having found that it has the jurisdiction to approve tariffs, procedures and standards of conduct relating to distribution-connected generation resources for retail suppliers, including net metering or net billing arrangements, the Board has addressed the preliminary issue raised by NS Power in response to Renewall's original request that the Board direct "an expedited process to either amend existing tariffs or to create a new tariff to enable distribution-connected generation and net billing." To this end, the Board directs NS Power to engage with interested parties, as contemplated under s. 22(1) of the *Electricity Act*, for this purpose, while adhering to the requirements of s. 22(2). NS Power is directed to file an application for the approval of necessary tariffs, procedures or standards of conduct by April 1, 2026.

3.5 Board Electricity Retailers Regulations and Code of Conduct

[66] The parties did not identify specific amendments to the *Board Electricity Retailers Regulations* or the *Code of Conduct*. Renewall recommended that if the Board determined that it had the jurisdiction to establish a process to amend existing tariffs or create new tariffs for distribution-connected generation and net billing, this issue could be reviewed concurrently in that process. The Board agrees this is a reasonable approach in the circumstances.

4.0 SUMMARY OF BOARD FINDINGS

[67] The Board finds it has the jurisdiction to approve tariffs, procedures and standards of conduct relating to distribution-connected resources to supply retail suppliers with renewable low-impact electricity to sell to their customers and net billing arrangements between a retail supplier and its customers.

[68] The Board directs NS Power to engage with interested parties, as contemplated under s. 22(1) of the *Electricity Act*, for this purpose, while adhering to the requirements of s. 22(2). NS Power is directed to file an application for the approval of necessary tariffs, procedures or standards of conduct by April 1, 2026.

[69] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 19th day of November 2025.

Stephen T. McGrath

Roland A. Deveau

Jennifer L. Nicholson