

# ELECTRICITY MANDATE – SMALL BUSINESS ADVOCATE

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## **What is a Small Business Advocate?**

A Small Business Advocate (“SBA”) is a person or organization appointed to represent the interests of small businesses as defined in the *Small Business Advocate Regulations* made under the *Public Utilities Act*. They are the voice of small businesses in complex utility matters.

## **Who is included in the definition of a Small Business?**

The regulations define a small business as any of:

1. A limited or incorporated company;
2. A partnership;
3. A sole proprietorship; or
4. A co-operative

who purchase less than 150,000 kWh (kilowatt hours) of power in any of the following rate classes:

1. Rate code 10 – small commercial rate class;
2. Rate code 11 – commercial rate class; or
3. Rate code 21 – small industrial rate class

## **Why have a Small Business Advocate?**

Electricity matters (cases) can be quite complex, have thousands of pages of information, and require lots of time to participate in. The utility, larger businesses, industrial, and institutional customers can hire experts and commit staff to analyzing information and preparing their cases. Most small businesses do not have the time or resources to do so. To ensure small business customers are fairly represented a SBA is appointed and provided with sufficient resources to put them on equal footing and properly make a case.

## **Can a small business still represent itself?**

Yes. Appointing a SBA does not prevent a business from representing themselves in a matter before the Board. Depending on the instructions set out in the Notice of Hearing, there can be various ways to do that including:

1. Sending a letter of comment.
2. Speaking at an open public session.
3. Being an “intervenor” who can receive all documents, participate in setting the list of issues to be decided, submit evidence, and examine evidence submitted by others.

### **Who appoints the SBA?**

The *Public Utilities Act* sets out who can appoint a SBA. That Act allows the Board to appoint a SBA on a case by case basis for electricity matters. The Act also allows the Governor in Council to direct the Board to appoint a SBA in a matter if the Board has not already done so. In appointing a SBA the Board ensures that they are free from any conflict of interest. For example, if the SBA is a law firm they cannot be associated with any of the other parties in the matter.

### **Are there specific conditions for a SBA?**

Yes. To qualify to become a SBA they must be independent of any public utilities that are parties in a hearing. That means a SBA must not:

1. Be directly or indirectly employed by, or have an interest in, a public utility that is a party to the hearing; or
2. Have an interest in a stock, bond, mortgage, security or contract of a public utility that is a party to the hearing.

Also, the SBA and the Consumer Advocate cannot be the same person.

While not permitted to have any interest in a public utility, the SBA is still allowed to purchase power like any other customer.

### **Is a SBA appointed for all matters?**

No. There are a large number of routine matters that do not require a SBA. The Board typically appoints a SBA for any matter where there could be a significant impact on rates or terms for providing electrical service. This typically includes all larger Nova Scotia Power Inc. matters and those that would normally result in a public hearing.

### **What status and powers does the SBA have?**

When appointed and requested to participate a SBA is granted full rights as a party. This is often referred to as “formal intervenor” status. They are included in all aspects of a matter. The SBA operates independently and is free to plan their own work to allow them to best represent small businesses. They can hire experts to provide or examine evidence, cross examine witnesses, negotiate settlement agreements, and do anything else any other party can.

### **Who pays for the SBA?**

The SBA’s time and expenses are paid by the Board. The Board recovers any costs from the utility making the application or through a general assessment against the industry. Recovered costs are included in a utility’s allowable expenses and, while they can be recovered through rates, are small enough in the overall scheme that they do not significantly affect rates.

**Who is the current SBA?**

The SBA is currently Mr. E. A. Nelson Blackburn, Q.C., of the law firm Blackburn English. More information on Mr. Blackburn and his firm can be found on the Internet at:

[http://www.blackburnenglish.com/pro\\_bedford1.html](http://www.blackburnenglish.com/pro_bedford1.html)

**Need more information?**

If you would like more information on the SBA please feel free to contact the Board. Our contact information is as follows:

Nova Scotia Utility and Review Board

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