DECISION **2024 NSUARB 199**
M11791 & M11902

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF the **PUBLIC UTILITIES ACT** and the **MARITIME LINK ACT** and the **MARITIME LINK COST RECOVERY PROCESS REGULATIONS**

- and -

IN THE MATTER OF AN APPLICATION by **NSP MARITIME LINK INCORPORATED** for approval of its 2025 revenue requirement and cost assessment

- and -

IN THE MATTER OF AN APPLICATION by **NSP MARITIME LINK INCORPORATED** for a $42.4 million supplemental assessment

BEFORE: Stephen T. McGrath, K.C., Chair
Roland A. Deveau, K.C., Vice Chair
Steven M. Murphy, MBA, P.Eng., Member

APPLICANT: **NSP MARITIME LINK INC.**
Colin J. Clarke, K.C.
David Landrigan, Counsel

INTERVENORS: **CONSUMER ADVOCATE**
David J. Roberts, Counsel
Michael Murphy, Counsel

SMALL BUSINESS ADVOCATE
Melissa MacAdam, Counsel
Rebekah Powell

INDUSTRIAL GROUP
Nancy G. Rubin, K.C.
Dylan MacDonald, Counsel

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES AND RENEWABLES
Daniel Boyle, Counsel

PORT HAWKESBURY PAPER LP
James MacDuff, Counsel
Alexandra Gosse

EFFICIENCYONE
James Gogan, Counsel

MUNICIPAL ELECTRIC UTILITIES
James MacDuff, Counsel

RENEWALL ENERGY INC.
Daniel Roscoe

BOARD COUNSEL: William L. Mahody, K.C.

FINAL ARGUMENT: October 30, 2024

DECISION DATE: **November 29, 2024**

DECISION: **The Board approves NSPML's application for its 2025 revenue requirement and cost assessment of $158.2 million and its supplemental assessment of $42.4 million for a total cost assessment of $200.6 million. The $4 million monthly holdback will continue.**

TABLE OF CONTENTS

1.0 SUMMARY

[1] On July 4, 2024, NSP Maritime Link Incorporated (NSPML) applied to the Nova Scotia Utility and Review Board under s. 64 of the *Public Utilities Act* and s. 8 of the *Maritime Link Cost Recovery Process Regulations* for approval of its 2025 revenue requirement and its recovery through a cost assessment against Nova Scotia Power Inc., effective January 1, 2025. The cost assessment is the amount that NS Power will pay to NSPML to finance the Maritime Link (ML) and pay for 2025 depreciation, sustaining capital costs, operating and maintenance expenses.

[2] NSPML requested approval to:

- set the 2025 annual cost assessment, effective January 1, 2025, at $158.2 million, which is lower than the 2024 annual assessment of $163.5 million set by the Board.

[3] NSPML's cost assessment request is broken down as follows:

Table 1: Components of the 2025 Assessment

Description	***$M***
Operating & Maintenance	$20.4
Depreciation	$56.6
Debt Financing Costs	
• **Interest (Net)**	$38.0
• **Amortization of Deferred Financing Costs**	$1.4
Equity Financing Costs	$41.8
Total Costs	**$158.2**

[Exhibit N-1, p. 5]

[4] On September 25, 2024, NSPML applied to the Board for a supplemental assessment of $42.4 million, in addition to the initial application for $158.2 million, which would result in a revised total cost assessment of $200.6 million against NS Power.

[5] This subsequent application to amend the total cost assessment resulted from a commercial arrangement proposed by NS Power and NSPML to take advantage of relief secured by these utilities from the Government of Canada. This would see NSPML issue $500 million of new debt supported by a Federal Loan Guarantee (FLG). NSPML would then refund the $500 million (less financing fees) to NS Power to be applied against its Fuel Adjustment Mechanism (FAM) balance, which is expected to reach about $412 million by December 31, 2024.

[6] The $42.4 million supplemental assessment is for the first year of the repayment of the amortized debt by NSPML, which is to be recovered from NS Power's ratepayers. The debt will be paid by NSPML (and recovered by NSPML from NS Power's ratepayers) over 28 years (until 2052). The $42.4 million supplemental assessment will cause an overall average increase of about 2.4% on power rates for NS Power's residential customers.

[7] NS Power includes the NSPML assessment amount in its revenue requirement and recovers it through the rates paid by its customers. The initial request for the $158.2 million cost assessment was less than the amount already included in the Base Cost of Fuel.

[8] NSPML's revised total cost assessment is broken down as follows:

Description	$M
Operating & Maintenance	$20.4
Depreciation	$56.6
Debt Financing Costs	
• Interest (Net)	$38.0
• Amortization of Deferred Financing Costs	$1.4
• Supplemental Assessment (Interest and Principal on $500M)	$42.4
Equity Financing Costs	$41.8
Total Costs	**$200.6**
Original 2025 Assessment	**$158.2**
Difference	**$42.4**

[Exhibit N-1, p. 7]

[9] This proceeding was conducted by way of a paper hearing, including Information Requests (IRs) to NSPML. Oral submissions from the parties were heard at the Board's offices on October 30, 2024.

[10] The Board approves NSPML's application for its $158.2 million 2025 cost assessment against NS Power. The Board also approves NSPML's application for its supplemental assessment of $42.4 million to start repayment of the $500 million debt amortized over 28 years. As previously directed by the Board, a $4 million monthly holdback will continue. The Board also directs NSPML's continued reporting.

2.0 RATE BASE

[11] In its Order dated February 25, 2022, following the *Final Project Costs* decision [2022 NSUARB 18 (M10206)], the Board confirmed NSPML's opening rate base, after adjustments, of $1,752.4 million. In its response to NSUARB IR-8 in its 2023 annual cost assessment application (M10708), NSPML stated that no further reconciliation or adjustments had been made to rate base for the 2023 cost assessment for outstanding insurance, warranty, expropriation and contract claims. It stated any such adjustments would be made after the claims have been settled. Further, NSPML stated it would address the rate base treatment of any 2023 sustaining capital expenditures when it files its rate base reconciliation for outstanding insurance, warranty, expropriation and contract claims.

[12] In the present application, NSPML stated its proposed equity financing costs were based on a forecast 2025 average rate base of $1,548.9 million, but it provided no further reconciliation from its opening rate base amount in its 2024 and 2025 applications.

Findings

[13] NSPML said it would address the rate base treatment of any 2025 sustaining capital expenditures when it files its rate base reconciliation for outstanding insurance, warranty, expropriation and contract claims, which is now expected in late 2024 or early 2025. It said the same in the last two years' applications for 2023 and 2024 sustaining capital costs and prior adjustments to its opening rate base. NSPML has not filed a reconciliation of its rate base since its opening rate base of $1,752.4 million was approved by the Board in its Order dated February 25, 2022, following the Board's *Final*

Project Costs decision. In response to NSUARB IR-11 in this application, NSPML provided an estimated rate base continuity schedule for closing year-end amounts.

[14] As noted in last year's *2024 Cost Assessment* decision, the Board considers it important to monitor sustaining capital expenses and other capital projects to ensure its impact on rate base does not unduly cause rate pressures or raise intergenerational equity concerns.

[15] The Board repeats its direction that NSPML provide a rate base continuity schedule in its future applications for Board approval of its revenue requirement and cost assessment applications.

[16] The Board will consider any of the above adjustments (i.e., outstanding claims and sustaining capital) to NSPML's rate base in later proceedings, including any adjustments made in 2022-2025.

3.0 OPERATING AND MAINTENANCE COSTS

[17] NSPML projected its 2025 operating and maintenance (O&M) costs would be $20.4 million, as described in the following table:

Table 2: Operations and Maintenance Forecast – 2025 vs 2024 ($ millions)

Operating & Maintenance Costs (Amounts in $millions)	2025	2024 approved
Maintenance & Inspections (Note 1)	6.8	8.5
Labour and Administration	8.6	8.6
Insurance	4.6	4.6
Independent Engineer	0.3	0.3
Environmental Assessment	0.1	0.2
Total	**20.4**	**22.2**

[Exhibit N-1, p. 6]

[18] This is a decrease of $1.8 million compared to NSPML's approved 2024 O&M costs.

[19] Respecting the O&M costs generally, the CA asked that the Board consider reducing NSPML's proposed O&M costs. He submitted that NSPML appears to be overestimating its costs because the utility's actual annual O&M costs have finished below budget. The CA noted that NSPML confirmed in response to CA IR-4 that it was projecting cost savings of $2.3 million for vegetation management, transmission line inspections and the HVDC converter long-term service agreement. The CA stated these savings did not carry over to the proposed 2025 O&M costs, which are only projected to decrease by less than that amount.

[20] However, NSPML noted in its reply submissions that the CA only focused on three operating cost categories that are offset by increased O&M costs in other categories. NSPML added that the use of drones for inspections does not eliminate labour costs for ground inspections and reviewing drone video. Further, it noted in its response to CA IR-4 that vegetation management and inspections remain in the pilot phase.

[21] NSPML said that it is not planning to conduct a full marine survey in 2025 covering the full length of the cables and cable protection elements. In its decision approving NSPML's 2024 cost assessment, the Board allowed NSPML to accrue the cost of a planned marine survey in 2024 to a deferral account for recovery in 2024, 2025 and 2026. NSPML advised the Board that these surveys are expected to be cyclical in nature (required every few years) and submitted that recovering these costs over a three-year period would smooth them out, compared to the full recovery of the estimated cost in 2024. NSPML noted the next survey is expected to occur in 2027.

[22] While the Board accepted the benefit of smoothing these costs, it expressed concern over the method for accomplishing this, which would result in NSPML earning a return on the deferred costs:

> [22] … the Board has some concern about the proposal to collect the costs for the marine survey to be conducted in 2024 over a three-year period. In the normal course, these costs would be expensed in 2024. As proposed, unrecovered costs in 2024 would be deferred and NSPML would earn a return on the outstanding balance. The Board questions whether the smoothing of this amount warrants the additional payment to NSPML but is prepared to approve it in this instance. If the full amount was included in the 2024 assessment, this cost would flow to NS Power's fuel costs and given the current amount of NS Power's outstanding fuel costs, would potentially attract a similar return in the near term. <u>If NSPML believes it is appropriate to smooth this expense over a regularly recurring period, the Board expects the company to explore other options, such as normalizing the survey costs in its expenses, rather than an option that would attract a rate of return. NSPML should not interpret the approval of its request in this application as any precedent for the treatment of this cost in future applications</u>. As an aside, the Board is also concerned that had the Board determined that the full amount of the survey costs should be included in the 2024 assessment, the final assessment amount would have been public and could have been used to estimate the confidential survey costs. In the future, NSPML must take better care to ensure that information it believes to be confidential would not be put in jeopardy if the Board declines to accept one of the company's proposals. [Emphasis added]
>
> [*NSPML 2025 Cost Assessment* Decision, 2023 NSUARB 231, para. 22]

[23] The issue was not addressed in NSPML's application in this proceeding. In response to NSUARB IR-6 [Exhibit N-6 (M11791)], NSPML said that although circumstances could arise that either accelerate or delay future surveys, the next survey was still expected to occur in 2027, and it anticipated addressing the concerns raised by the Board about the recovery of these costs in its application for an assessment next year. In closing submissions, NSPML noted that one potential option may be to recover costs the year before, the year of, and the year after a survey (assuming a three-year cycle).

[24] In its response to NSUARB IR-6, NSPML also said it was "comfortable providing customers the ability to request, as part of this process, that 2026 costs related to the 2024 marine survey be included in this 2025 Assessment – therefore requiring earlier payment but avoiding weighted average cost of capital expenditures for 2026." In closing submissions, the Industrial Group suggested that the 2024 marine survey costs

deferred for recovery to the 2026 cost assessment could be advanced to the 2025 assessment without an adjustment to the O&M costs in this proceeding, given the Consumer Advocate's (CA) closing submissions about NSPML's tendency to overestimate its O&M costs and concerns related to labour and vegetation management costs.

Findings

[25] NSPML is now entering its eighth year with the Maritime Link being in service and it has previously said it continues to refine its O&M costs as it gains experience operating and maintaining the Maritime Link.

[26] Over the past several assessment applications, NSPML's actual O&M costs have fluctuated (2021: $19.7 million; 2022: $20.2 million; 2023: $18.0 million; 2024: forecast $21.6 million; 2025: budgeted $20.4 million). While there have been offsetting cost increases in some categories, NSPML has tried to find cost efficiencies in its maintenance and inspection activities. In the past two full years, the difference between NSPML's approved and actual O&M costs has been relatively minor: $500,000 in 2023 and $200,000 in 2022. NSPML is required to maintain its O&M costs at a just and reasonable level and must demonstrate its ability to do so in each of its applications.

[27] The Board recognizes the CA's comments about O&M costs, but notes that NSPML has adapted its operational activities to assess new technologies such as LIDAR and drones. The Board encourages NSPML to continue to refine its O&M costs, particularly as it considers future multi-year assessment applications, which are discussed later in this decision.

[28] With respect to marine survey costs, the Board does not interpret NSPML's comments in closing submissions as a commitment to proceed with any specific proposal for the recovery of survey costs and notes that there may be other options, including the normalization of these costs in O&M expenses in a multi-year assessment. The Board understands that NSPML expects to address this in its application next year and directs it to do so.

[29] As noted earlier, the Industrial Group referred to the CA's concerns about the level of O&M costs, suggesting that the 2026 portion of the 2024 marine survey costs could be advanced to 2025 without adjusting the assessment amount. The Board is not satisfied that it is appropriate for the 2026 component of the 2024 survey costs to be absorbed in the 2025 assessment amount without an adjustment to the estimated O&M costs. The 2026 component of the 2024 marine survey costs should be recovered in 2026 as approved in last year's proceeding.

[30] The Board is satisfied that NSPML's proposed total O&M costs are reasonable and approves this component of the cost assessment application.

4.0 LONG-TERM ASSET MANAGEMENT PLAN (LTAMP)

[31] NSPML's LTAMP aims to identify and document appropriate asset management strategies and techniques to adequately maintain NSPML's assets over the long-term. The LTAMP is specifically defined in the "Nalcor Energy and Emera Inc. Amended and Restated Joint Operations Agreement":

> "**Long Term Asset Management Plan**" or "**LTAMP**" means, for each of the Defined Assets, a plan describing and quantifying the O&M Activities, in the case of the Transmission Assets, or the MFP Operating and Maintenance Activities, in the case of the MFP, for the Defined Asset for each year of its Initial Service Life in sufficient detail to determine the estimated annual Operating and Maintenance Costs, including:

(a) a description of each activity, including at a minimum routine annual O&M Activities and major asset component inspections, overhauls, retirements and replacements which do not occur annually; and

(b) the expected year of the occurrence of each such activity;

[Matter M10206, Exhibit N-6, Response to Industrial Group IR-1, Attachment 2]

[32] In addition, Section 2.1(b) of the Agreement states that from and after the date of First Commercial Power, which was August 15, 2021, Emera shall, with respect to the Maritime Link, develop and maintain an LTAMP for the service life of the Maritime Link. Section 5.2(b) of the Agreement states:

5.2(b): Emera In-Service LTAMPs - Not more than 30 days before or 60 days after the date of First Commercial Power, as defined in the NLDA, as regards the last of the Defined Assets to achieve First Commercial Power, as defined in the NLDA, Emera shall prepare and submit to Nalcor an In-Service LTAMP and In-Service LTAMP Cost Estimate for the Maritime Link. Within 90 days after receipt of Emera's In-Service LTAMP and In-Service LTAMP Cost Estimate, Nalcor shall give Notice to Emera of the particulars of any disagreement Nalcor may have with the Emera In-Service LTAMP or In-Service LTAMP Cost Estimate. If Nalcor gives such Notice and the Parties are unable to resolve any disagreement within 30 days thereafter, or such extended period as may be agreed in writing by the Parties, the matter will constitute a Dispute and shall be submitted by the Parties for resolution pursuant to the Dispute Resolution Procedure. The Parties are deemed to have agreed pursuant to Section 5.1 of the Dispute Resolution Procedure to resolve any such Dispute by arbitration. [Emphasis added]

[Matter M10206, Exhibit N-6, Response to Industrial Group IR-1, Attachment 2]

[33] Notwithstanding the provisions of Section 5.2(b) of the Nalcor Energy and Emera Inc. Amended and Restated Joint Operations Agreement, NSPML's LTAMP remains a work in progress. During the December 7, 2021, hearing for the 2022 NSPML cost assessment (M10206), NSPML indicated that it expected the plan to be complete by the end of 2022. In its decision for that Matter, dated February 9, 2022, the Board directed NSPML to file the LTAMP once complete. The LTAMP was not filed with the Board in 2022.

[34] On September 6, 2023, in response to NSUARB IR-4 in the 2024 NSPML cost assessment matter (M11285), NSPML stated:

The Lower Churchill Project Commercial Agreements provide for resolution of the Long Term Asset Management Plan once all the defined assets are commissioned. NSPML and

> Nalcor have been engaged in discussions post commissioning of the LIL and are committed to regular engagement over the course of 2023. It is not possible to predict a specific conclusion date at this time, but NSPML anticipates resolution in 2024.
>
> [Matter M11285, Exhibit N-5, NSUARB IR-4]

As such, the LTAMP was not filed with the Board in 2023.

[35] In the current proceeding, in response to NSUARB IR-10, NSPML stated that it continues to develop the LTAMP, with a targeted completion date in 2024. However, NSPML also noted that this date could potentially slip into 2025 "as LTAMP resolution is a complex commercial process and may require additional time to review all pertinent information in conjunction with obtaining alignment between NSPML and NLH." During the hearing, NSPML provided a further update, indicating that completion of the LTAMP could possibly slip into Q2 of 2025.

Findings

[36] In Matter M10206, NSPML stated that its cost estimates for future Maritime Link sustaining capital needs are under development as part of the establishment of the LTAMP. Board Counsel consultant, Grant Thornton, recommended that once the LTAMP is complete, the Board should monitor NSPML sustaining capital expenditures and retirement activity like the processes currently in place for NS Power. Grant Thornton noted that this would include the filing of the annual ACE plan and the use of retirement work orders and associated approval limits that are in place which require Board approval. In addition, Grant Thornton stated that the need for regular depreciation studies will become important to determine any revisions to the depreciation rates based on actual capital expenditure and retirement experience. Grant Thornton recommended the completion of a depreciation study every five to seven years with a more frequent study pattern as the end of the 35-year ML recovery period draws closer.

[37] Beyond the LTAMP's importance to establishing expected NSPML capital needs, the LTAMP can also be used to establish a foundation for multi-year Maritime Link cost assessments. In the current matter, the CA asked NSPML why it had not filed a multi-year cost assessment as it had previously planned. In response to CA IR-2, NSPML indicated that in the Board's *NSPML 2024 Maritime Link Cost Assessment* decision, the Board directed that single-year assessments continue until there is more certainty on operational matters, including the LTAMP and sustaining capital needs. NSPML then noted that matters are still in progress, and, therefore, it filed a single-year assessment.

[38] One of the Board's primary roles related to the Maritime Link is oversight of asset additions and sustaining capital, and oversight of O&M expenses. In particular, s. 35 of the *Public Utilities Act* governs NSMPL's capital additions and improvements. Further, in its decisions for the 2023 and 2024 NSPML annual cost assessments, the Board indicated that there should be certainty about NSPML's operational matters and sustaining capital needs before a multi-year cost assessment could be considered, but it did not specifically direct single year assessments. The completion of the LTAMP is important to the Board's oversight role and the certainty needed to proceed with multi-year assessments.

[39] The Board agrees with the Small Business Advocate's (SBA) oral arguments in the current proceeding, when she stated:

> It is recognized that NSPML is working on a long-term asset management plan, but this has been in progress for a number of years. As it appears - as appears to be referenced by NSPML in response to Industrial Group IR-2, there is a benefit from having certainty with respect to the plan, and other sustaining capital needs, prior to having multi-year plans. As such, it is important that the long-term asset management plan is completed in a timely manner to allow NSPML to create a multiyear plan in sufficient time for filing and approval prior to 2026.
>
> The SBA notes that in response to the Board's IR-10, where NSPML states the long-term asset management plan was intended to be completed by the end of 2024, it may be slipping into 2025, and we heard this morning it is in fact slipping into 2025, perhaps even into Q2.

> With respect, there needs to be a clear resolution to this process to ensure that customers are not incurring unnecessary costs with respect to the regulatory costs incurred by single year assessments.
>
> [Transcript, pp. 71-72]

[40] The Board, therefore, directs NSPML to file its LTAMP with the Board by June 30, 2025.

5.0 RETURN ON EQUITY AND EQUITY FINANCING

[41] The Board approved a return on equity (ROE) of 9.0% for NSPML for ratemaking purposes in its initial Maritime Link decision, 2013 NSUARB 154 (*2013 Maritime Link* decision) (M05419). The Board observed that NSPML was a single purpose entity created to take advantage of the federal government's loan guarantee (FLG) because financing restrictions on NS Power prevented it from providing the specific charge on assets required for the FLG. The Board reasoned that, absent this requirement, NS Power would have built the Maritime Link and the 9.0% ROE set for NS Power only a few months earlier would have applied. In the circumstances, the Board concluded the same ROE was appropriate for NSPML for ratemaking purposes, within the same range of 8.75% to 9.25% used for NS Power. The Board also approved the 70:30 debt to equity capital structure requested by NSPML to take advantage of the low cost of debt and benefits associated with the FLG for the Maritime Link.

[42] Section 30(5) of the *Public Utilities Act,* an amendment passed in 2022, contemplates that different levels of return on equity may be set for NS Power's different classes of capital assets in a future rate hearing. Thus, in the future, NS Power may have different ROEs for different classes of assets. In its *NSPML 2023 Cost Assessment* decision, the Board directed NSPML to assess the impact of s. 30(5) in its 2024 cost assessment application, including whether its ROE should continue to be tied to any ROE

determined for NS Power, and if not, identify what it considers to be the appropriate ROE for NSPML.

[43] In last year's application, NSPML stated that "as this 2024 Assessment does not align with the process to determine NS Power's respective ROE, NSPML will address this matter in the 2025 Assessment". NSPML's 2025 cost assessment application was silent on this point.

[44] In response to an IR asking how it had addressed its commitment to review the ROE in this application, NSPML responded:

> NSPML understands that there has been no change to NS Power's ROE, with a single ROE for different classes of assets at NS Power still being applied. NSPML continues to align with NS Power's ROE, and as such has applied a rate of 9% to the forecasted average shareholder equity for 2025. NSPML will address any change for different rate classes in the future should NS Power's methodology change.
>
> [Exhibit N-6, NSUARB IR-8]

[45] During oral submissions, the Intervenors reiterated their prior requests for NSPML's ROE to be reviewed. The CA understood last year's commitment by NSPML as being that the utility would address whether it is appropriate to continue tying its ROE to NS Power, and if not, then to conduct its own review. The CA was "concerned that the application was silent on this point". Referring to NSPML's response to NSUARB IR-8 noted above, the CA stated:

> Respectfully, we don't see this response as addressing the Board's question in a meaningful way, and it seems to take for granted that a continued alignment with NSP's ROE is justified simply because it's been justified in the past. And so in this matter, I guess if the SBA has raised a concern and the Industrial Group has raised a concern in the past, then we can add the Consumer Advocate's voice to that as well, that we would expect NSPML to consider this issue in the future in more detail and to conduct a proper review.
>
> [Transcript, pp. 59-60]

[46] The SBA supported the Board's prior direction that NSPML review its ROE, adding that, given the introduction of s. 30(5) to consider different ROEs for different

classes of NS Power's assets, it was no longer appropriate for NSPML to simply tie its ROE to that of NS Power.

[47] The Industrial Group reiterated its request for a review of NSPML's ROE. Ms. Rubin submitted that it was not enough for NSPML to assert that its ROE should remain the same because there had been no change to NS Power's ROE. She noted that the Board's direction in the *NSPML 2023 Cost Assessment* decision was threefold: 1) to assess the impact of s. 30(5); 2) to consider whether its ROE should continue to be tied to NS Power's ROE; and 3) if not, to identify what is the appropriate ROE for NSPML. Ms. Rubin said that it appears "NSPML has no intention to proactively respond to the Board's direction".

[48] In response to Industrial Group IR-5(b), NSPML stated that the sole evidentiary support for NSPML's proposed ROE was NS Power's ROE as set in its most recent GRA. Given that response and NSPML's failure to address the Board's direction, Ms. Rubin suggested that the Board refer to the expert evidence filed in NS Power's GRA proceeding to assign an ROE to NSPML based on its risk profile.

[49] Further, Ms. Rubin noted that NS Power's ROE should not automatically apply to NSPML because the ROE in the GRA was negotiated in a settlement agreement by the parties, which was accepted by the Board. She noted that the settlement agreement was negotiated in the context of the risk introduced by the Bill 212 amendments to the *Public Utilities Act* and the resulting credit rating downgrades after those amendments. She briefly referred to the expert evidence in the GRA of Dr. Booth and Dr. Woolridge, stating that the Board could consider that evidence to set NSPML's ROE at an amount below NS Power's ROE. She suggested 8% was an appropriate ROE.

[50] David Landrigan stated it was never NSPML's intention to ignore the Board's direction. He said it would comply with the directive and file ROE evidence in the 2026 assessment application. He indicated that NSPML had misunderstood the Board's direction as requiring NSPML to review its ROE after all phases of NS Power's s. 30(5) review were completed. In hindsight, he said NSPML should have communicated that better.

[51] In response to the Industrial Group's suggestion that NSPML's ROE be set at 8%, he submitted that Ms. Rubin ignored Mr. Coyne's GRA evidence, filed on behalf of NS Power, that recommended an ROE of 10.1%. Mr. Landrigan added that averaging the recommendations of Dr. Booth (7.5%) and Dr. Woolridge (8.75%) yielded a figure above the 8.0% amount suggested by Ms. Rubin. Further, he submitted Dr. Woolridge's evidence ignored flotation costs, which would add 50 basis points to his recommendation.

Findings

[52] NSPML has resisted prior attempts by the Intervenors to review its ROE. The background about these prior attempts is summarized in last year's Board decision about the 2024 NSPML cost assessment application, see paras. 26 and 27. Further, a request by the SBA to add NSPML's ROE to the Issues List in NS Power's 2022-2024 General Rate Application (GRA) was deferred, partly based on NSPML's assertion that it was not relevant to NS Power's GRA application.

[53] Despite NSPML's commitment last year to review the issue in the present application, NSPML was silent on the point. When asked about this in IRs, NSPML deferred the issue indefinitely to some point "in the future should NS Power's methodology change".

[54] The Board accepts NSPML's commitment to conduct a review of its ROE in its 2026 cost assessment application. The Board directs this review be completed. As noted during oral submissions, NSPML bears the burden in each application of showing that its costs are just and reasonable, including the cost of equity.

[55] Pending the ROE review in the 2026 application, the Industrial Group asks that NSPML's ROE be set at 8% for the 2025 cost assessment, based on evidence filed in NS Power's recent GRA. However, a complete analysis of the appropriate ROE for NS Power was never completed in the GRA proceeding because of the settlement agreement filed by the parties in the aftermath of Bill 212. As acknowledged by Ms. Rubin, the parties did not make submissions on ROE in the GRA, despite their initial desire to argue that the ROE should be set at a lower amount. Also, as noted by Mr. Landrigan, certain evidence would have been canvassed more comprehensively in the absence of a settlement agreement.

[56] Accordingly, the Board considers it inappropriate to summarily rely on the expert evidence in NS Power's GRA to assign an ROE for NSPML in the present proceeding. The Board considers it more appropriate to conduct a full review of NSPML's ROE.

[57] For the purposes of the present application, the Board finds it is appropriate to maintain the status quo pending the directed review and approves NSPML's ROE at 9.0% for ratemaking purposes for 2025, within an earnings band of 8.75% - 9.25%.

6.0 HOLDBACK

[58] The conditions for termination of the $4 million monthly holdback were outlined in the Board's decision 2023 NSUARB 175 (M11009). In a letter dated June 28,

2024, NSPML advised that deliveries of Muskrat Falls energy had normalized, the re-deliveries of energy had satisfied the conditions to end the holdback, and it would be filing an application in the fall of 2024 for the Board's approval to order its termination.

Findings

[59] Until NSPML applies to end the holdback and the Board approves the application, the $4 million monthly holdback will continue to be applied and administered as directed by the Board.

7.0 2025 SUSTAINING CAPITAL COSTS

[60] NSPML expects to incur sustaining capital expenditures of about $1.4 million in 2025 for Insulated Gate Bipolar Transistor (IGBT) replacements, asset management upgrades for converter and transition stations, various small system upgrades or additions to continue optimization of the Maritime Link HVDC facilities, as well as telecommunications and Supervisory Control and Data Acquisition (SCADA) upgrades. The largest components of these expenses will be $0.5 million for the IGBT replacements and $0.5 million for the telecommunications and SCADA upgrades. While the total sustaining capital expenses are about $1.4 million, none of the individual projects are anticipated to exceed $1 million, so no separate capital approval will be required from the Board. These additional sustaining capital costs will add depreciation expenses to the depreciation amount already approved by the Board in the *Final Project Costs* decision.

[61] In the *Final Project Costs* decision, the Board directed NSPML to provide a detailed accounting of final costs associated with close-out work for some small outstanding insurance, warranty, expropriation and contract claims, and to include in that accounting any resulting adjustment to the approved Maritime Link Project capital cost.

Like it said last year, NSPML advised that some of these close-out matters continue to remain outstanding and the timing to finalize them is dependent on third parties (e.g., land expropriation panels). NSPML expects to file its final accounting shortly after the conclusion of these matters, which it now expects to be later in 2024 or early 2025. NSPML noted these adjustments are not expected to have a material impact on its approved Maritime Link Project costs, or NSPML's rate base or 2025 revenue requirement.

[62] The Consumer Advocate repeated his concern from last year's application that NSPML was carrying too many IGBTs in its inventory. In its response to NSUARB IR-7, NSPML stated that there are 5,376 IGBTs within the Maritime Link Converter Valves. Its expected inventory level at the end of 2024 is 116 IGBTs, after replacing two failed units during the September HVDC system shutdown. During the proceeding for the 2024 assessment (M11285), NSPML stated that its target inventory for spare IGBTs is 224, which is the number of units contained in a valve arm of an IGBT. Although the actual annual failure rate has been quite low, the Board accepts NSPML's approach to gradually increase the IGBT inventory level to 224.

Findings

[63] The Board finds that it is appropriate for NSPML to include the forecast sustaining capital expenses of $1.4 million in its 2025 revenue requirement.

[64] As it said for 2023 and 2024 sustaining capital expenses, NSPML noted it would address the rate base treatment of any 2025 sustaining capital expenditures when it files its rate base reconciliation for outstanding insurance, warranty, expropriation and contract claims. The Board so directs.

8.0 SUPPLEMENTAL ASSESSMENT APPLICATION

[65] After NSPML's original application for approval of its 2025 revenue requirement and cost assessment, it applied for a supplemental assessment of $42.4 million. NS Power and NSPML have negotiated a proposed commercial arrangement with the Government of Canada whereby NSPML will issue $500 million of new debt repayable over 28 years (until 2052), supported by a Government of Canada Federal Loan Guarantee. NSPML will then refund $500 million (less financing fees) to NS Power, who will refund previous payments related to principal and interest associated with the existing FLG against its outstanding FAM balance. Going forward, it is proposed that each year until 2052, NS Power will pay NSPML 1/28 of the $500 million (plus financing and guarantee costs) through NSPML's annual cost assessment to NS Power recovered from ratepayers for the Maritime Link.

[66] NSPML requests that the Board approve the following elements to give effect to the proposed transaction:

- Creating a $500 million regulatory asset;
- NSPML collecting a 2025 supplemental assessment of $42.4 million against NS Power related to interest and principal bond repayment and the Guarantee Fee. If approved, the supplemental assessment will be included in NSPML's future annual assessments as outlined in Schedule 1 attached to the application; and
- Excluding the $500 million debt for purposes of calculating NSPML's regulated capital structure and excluding the impact of the $500 million debt repayment from NSPML's Annual Regulated Financial Statements through its treatment as "Unregulated Adjustments".

[67] The regulatory asset will be equal to the refund amount and will be amortized into earnings as the new bond principal is repaid over 28 years. NSPML adds that the debt financing costs for the $500 million bond debt are a “flow-through to NS Power customers”, because the amount collected from customers will offset the interest, principal bond repayments and Guarantee Fee. Thus, it asserts there will be no impact on NSPML’s earnings (ROE).

[68] According to the commercial arrangement for the issuance of the $500 million bond debt, NSPML must pay an annual Guarantee Fee to the Government of Canada of 0.5% of the ending principal balance of the debt. Over the course of the proposed 28-year term, the total amount of the Guarantee Fee is projected to be $33,750,000.

[69] NSPML requested that the Board approve the supplemental assessment application by November 30, 2024. It said this will provide NSPML enough time to access the market to facilitate the bond issuance and refund the $500 million (less financing fees) to NS Power’s FAM by year end. In his cover letter to the application, NS Power’s counsel submitted this will allow NS Power to reduce its debt by December 31, 2024, which is “a critical step to stabilize its 2024 credit metrics and financial position”.

[70] NSPML states that, after the terms of the bond financing are completed, if the actual 2025 supplemental assessment is different than the estimated 2025 supplemental assessment, an updated actual schedule of principal and interest will be provided to the Board in a Compliance Filing.

[71] In its application, NSPML explained why it wants to exclude the new $500 million debt when calculating the 70/30 capital structure and that its Annual Regulated Financial Statements be adjusted to remove the impact of the debt repayment:

> Adding $500 million in debt to NSPML's existing and Board-approved Regulated Capital Structure of 70 percent debt and 30 percent equity will result in a debt-to-equity ratio of approximately 78 percent debt and 22 percent equity. Primarily due to the requirement to continue to fund sustaining capital and for administrative simplicity, NSPML is proposing the debt relating to the $500 million be excluded for purposes of calculating the 70/30 capital structure. NSPML will continue to invest sustaining capital in the Maritime Link over the remaining life of the contract; therefore, maintaining a 70/30 capital structure excluding the $500 million will ensure consistency when funding any new capital investments and not require any adjustments to rate base because of the $500 million. The new debt would be excluded for the purposes of determining NSPML's regulated capital structure.
>
> …
>
> …the $500 million regulated asset and related interest and principal bond repayments will be adjusted in NSPML's Annual Regulated Financial Statements in a similar manner to Unregulated Adjustments, which are filed annually with the NSUARB. NSPML will remove the interest expense and principal bond repayment from the income statement; in addition, the $500 million and related bond principal repayments will be removed from the balance sheet (long-term debt and regulated asset) such that the NSPML statements will remain as if the $500 million were not a part of NSPML financials to ensure the capital structure remains at 70/30.
>
> [Exhibit N-1, PDF p. 8]

[72] In closing oral submissions, the intervenors supported the commercial arrangement proposed by NS Power and NSPML that would lead to the $500 million debt issuance and refund to the FAM AA/BA, along with the repayment of the debt over a 28-year term. The CA said:

> … As we understand it, the arrangement that has been arrived at, the refund to Nova Scotia Power, the bond issuance and the federal loan guarantee are a far better outcome for customers than what might otherwise occur in the form of either some shock level rate increase to deal with the FAM balance in the short term, or another decline in the credit rating of Nova Scotia Power and its ability to borrow to fund its operations.
>
> The 28-year term and the .5 percent guarantee fee were conditions imposed in negotiations with the federal government. However, it also appears that the 28-year term, at least from responses to information requests, will result in a lower annual rate increase for ratepayers than might arise for a shorter term, …
>
> [Transcript, pp. 66-67]

[73] The SBA stated "this appears to be the only reasonable resolution to what is a serious problem", adding:

> …The option in this case is the only one that provides for immediate relief with a slow and steady repay option that attempts to better align the payments for the Maritime Link to the customers who are receiving their benefits. It is not perfect, and it does mean that there will be significant amount of interest and fees that must be incurred by the ratepayers of Nova Scotia, but by spreading it out over 28 years, the hope would be that the small businesses in Nova Scotia can weather the increases and still be standing throughout the repayment period.

> The other options, including the immediate repayment by ratepayers, would likely result in small businesses leaving Nova Scotia, either voluntarily or not. These are incredibly difficult times for many reasons, and there's going to be more strain on Nova Scotia small businesses moving forward towards … 2030 and the changes to the electricity grid that are coming. We need to ensure that there is stability and that affordability is kept at the forefront of all planning.
>
> [Transcript, pp. 73-74]

[74] The Industrial Group also supported the proposal:

> From the perspective of members of the Industrial Group, the lower rate increase from the negotiated arrangement is preferable, although the significant future cost of the loan is undeniable. Based on Schedule 1 to the application, the 28-year loan comes with almost $350 million in additional interest and fees alone. So the interest rate is lower than WACC, but it's carried longer.
>
> The rate impact is not the only reason why we believe this to be in the public interest. NSPML's explanation for why the loan over 28 years does not result in intergenerational inequity appears valid to us. …
>
> By moving this forward with repayment over the term of the original federal loan guarantee, this realigns the payments for the Maritime Link with the benefits the customers will receive over the years, and provides a fairer matching between costs and benefits. This appears logical to us. …
>
> …From NSPI's perspective, approval of this application and the allocation of funds before year end will improve its financial position and cash flow to debt credit metrics. The Industrial Group and NSPI's customers want a healthy utility, and we have seen the impact of credit downgrades. We hope that this would be perceived favourably by the bond rating agencies.
>
> [Transcript, pp. 88-90]

Findings

[75] NSPML asks the Board to approve several regulatory elements of the application, including:

- creating a $500 million regulatory asset;
- approving a 2025 Supplemental Assessment of $42.4 million;
- approving accounting treatment to exclude the $500 million debt for purposes of calculating NSPML's regulated capital structure; and
- excluding the impact of the $500 million debt repayment from NSPML's Annual Regulated Financial Statements.

However, in effect, the application ultimately asks the Board, in practical terms, to find that this commercial arrangement benefits ratepayers.

[76] NS Power submitted approving this application benefits both customers and the utility itself. It stated that the proposed commercial arrangement is necessary so that

NS Power's financial position is not further compromised. NS Power indicated that after it receives the $500 million refund from NSPML (less financing fees) the credit metrics of the company will be improved and it will be able to maintain its ability to access capital at favorable rates. It also stated that it will help mitigate a significant rate increase for customers in the short term:

> …By securing this support from the Federal Government, customers will avoid incurring larger increases in the near term, which directly benefits current customers by saving them money on their bills. Additionally, the improved credit metrics resulting from the $500 million injection maintain NS Power's ability to access capital at favorable rates in the future, which directly benefits current and future generations. This allows the Company to continue serving its customers efficiently while making significant investments in transforming the grid and modernizing its infrastructure, ultimately benefiting both present and future customers by ensuring long-term reliability and affordability.
>
> The proposed solution is designed to mitigate rate impacts for current customers, and secure long-term benefit for current and future customers who, by contributing to its cost, help to ensure the continued availability and quality of energy resources. NS Power is confident that any concerns regarding intergenerational equity are alleviated when balanced with the need to address this outstanding balance while providing customers with just and reasonable rates. [Emphasis added]
>
> [(M11902) Exhibit N-1, p. 8 (NS Power Application)]

[77] However, it could be argued that financing the deferral of fuel costs over 28 years, albeit at lower debt financing costs than WACC, raises intergenerational equity concerns about future customers having to pay recent fuel costs. NS Power said that because principal and interest expenses for repayment of the project costs will be deferred to the future, the costs will be matched to the customers who will ultimately benefit from Maritime Link energy. The Intervenors accepted this explanation and did not have any intergenerational equity concerns.

[78] Various aspects of the commercial arrangement between the utilities and the Government of Canada are not open to further negotiation or discussion, and cannot be amended by the Board. Two important features of the proposal are the 28-year term for repayment of NSPML's new $500 million debt and the annual 0.5% Guarantee Fee

required by the Federal Government. Over the 28-year term, the Guarantee Fee is projected to total $33,750,000, which will ultimately be paid by customers. The 28-year term is also fixed and intended to match the term of the original FLG for the Maritime Link project, both ending December 1, 2052. NS Power said in closing submissions that this 28-year term will facilitate the bond debt offering to the investment market. This term was selected to mitigate the rate impacts on customers who otherwise would have faced significant rate increases if the unrecovered FAM AA/BA balance of about $412 million by December 31, 2024, was paid over the short-term as required under the FAM Plan of Administration. Instead of facing an immediate average rate increase of 19.2% on January 1, 2025, the proposal will result in an average 2.4% rate increase, although the new debt will be amortized over 28 years.

[79] As noted above, the CA, SBA, and Industrial Group all support the proposed application for the supplemental assessment. While they all recognized that the structure of the proposal, including the 28-year loan term and the guarantee fee, was effectively, as described by the Industrial Group, “a take it or leave it deal”, they indicated that the benefits outweighed any potential negative impact relating to these issues. In addition to mitigating rate impacts on customers, the proposal will allow NS Power to address its financial position by improving its credit metrics, particularly its cash flow to debt metric. This metric measures the cash the company generates from its operations as a percentage of its total debt; as this percentage decreases, the financial risk of the company increases. A key level in this metric is 10%, which is closely watched by credit rating agencies. NS Power said that if it is unable to address its unrecovered FAM costs in the near term, it will jeopardize its ability to stay over this 10% threshold and put NS Power at significant risk of additional credit rating downgrades. It is important for NS

Power to have a healthy financial position to attract investment for capital projects that will be required to meet the goals set out in the *Environmental Goals and Climate Change Reduction Act*, S.N.S. 2021, c. 20. These goals include phasing out coal-fired plants in the Province by 2030 and having 80% of electricity in the Province supplied by renewable energy by 2030.

[80] Further, NSPML noted that issuance of the new $500 million bond debt will not have an impact on NSPML's credit rating or risk profile. In response to Information Requests from Board staff, NSPML confirmed that taking on this new debt would have no impact on its ROE or its ability to finance future capital projects.

[81] Having reviewed the evidence and the submissions, the Board is satisfied that the proposal will benefit customers by mitigating the potentially significant rate pressures in the near term that would otherwise occur absent this commercial arrangement. Further, the proposal will directly benefit NS Power by improving its credit metrics. The utility's lower borrowing costs will also indirectly benefit customers as NS Power seeks significant capital investment for projects that are needed to meet its legislated climate and environmental requirements. The Board concludes that approving the application is in the public interest. Accordingly, the Board approves the following:

- Creation of a $500 million regulatory asset;
- Collection of a 2025 supplemental assessment of $42.4 million against NS Power related to interest and principal bond repayment and the guarantee fee; and
- Excluding the $500 million debt for purposes of calculating NSPML's regulated capital structure and excluding the impact of the $500 million debt repayment from NSPML's Annual Regulated Financial Statements through its treatment as "Unregulated Adjustments".

[82] The allocation of the approximately $500 million refund among customer classes is addressed in NS Power's concurrent AA/BA application, to be dealt with in the second phase of this matter.

[83] In response to CA IR-2, NS Power confirmed that the supplemental assessment will be allocated in accordance with the Maritime Link cost allocation methodology and each customer class' projected usage in effect during the applicable FAM AA/BA or BCF proceeding. NS Power also confirmed that any future changes to the cost-of-service methodology applicable to the Maritime Link will be applicable to future cost assessments.

9.0 MULTI-YEAR ASSESSMENTS

[84] In closing oral submissions, the Board and multiple interested parties raised the issue of moving to multi-year assessment applications. Mr. Landrigan responded that some of NSPML's expenses do not lend themselves to forecasting several years in advance, such as the marine survey costs. Mr. Landrigan also noted that NSPML would like to reduce the administrative burden resulting from single-year assessments.

[85] The Board notes that multi-year assessment applications could be more efficient and reduce regulatory costs for both NSPML and intervenors. The Board expects that, to the extent possible, NSPML will reduce costs where savings are possible. To that end, the Board strongly encourages NSPML to consider moving to multi-year assessment applications and expects it to provide justification for continuing with single-year assessments, should NSPML choose to do so.

10.0 REQUEST TO MAINTAIN EXISTING FAM BALANCING ADJUSTMENT (BA) AMOUNT

[86] With its application in Matter M11902, NS Power, in consultation with the CA, the SBA and counsel for the Industrial Group, proposed to delay the timeline for setting its 2025 FAM actual adjustments and balancing adjustments (AA/BA) rider. As a result, a timeline for that application was approved by the Board leading to the completion of written closing submissions at the end of January 2025.

[87] In response to NSUARB IR-4 [Exhibit N-8 (M11902)], NS Power proposed that the BA rider associated with the collection of the $117 million Invest Nova Scotia amount that the Board previously approved in Matter M11393 remain in place after January 1, 2025, with any required adjustments made when the Board finalizes the AA/BA rider in its decision in phase two of this proceeding. NSPML noted that, otherwise, customers would experience a reduction in the FAM AA/BA rider on January 1, 2025, only to see the same amount (approximately) added back into rates for the recovery of the Invest Nova Scotia amount a short time later.

[88] NS Power repeated this request at the outset of oral submissions, noting that it had discussed its proposal with the CA, SBA and counsel for the Industrial Group, who advised NS Power that they did not oppose the Board approving this request. Consistent with this submission, none of the parties who appeared before the Board for oral argument in this matter opposed this request.

Findings

[89] The circumstances of this request are somewhat unusual, but the Board finds it is appropriate to continue the existing BA rider on January 1, 2025, while this matter continues with a view to setting the formal AA/BA rider a short time later in 2025.

The amount included in the existing BA rider was already approved by the Board following a public hearing in Matter M11393, when the Board approved the collection of the $117 million FAM balance Invest Nova Scotia acquired over a ten-year period. Only charges associated with interest on the outstanding balance would change (on a predictable basis) in any year. The impact on the AA/BA rider in 2025 compared to 2024 is approximately the same. As such, extending the existing BA rider on January 1, 2025, maintains the status quo while the issues involved in the second phase of this proceeding are addressed. If the rider were not extended, the result would be a rate change that would be inconsistent with known (and approved) costs that would reduce rates by a relatively small amount for a very short term, while slightly increasing the overall amount of interest ratepayers would be required to pay on the balance of the $117 million Invest Nova Scotia amount.

11.0 RECOVERY OF THE NEW $500 MILLION LOAN FROM PORT HAWKESBURY PAPER (PHP)

[90] In PHP IR-1, NS Power was asked to confirm that:

> …since PHP pays its actual cost to serve under the ELIADC Tariff and thus did not contribute to any of the accumulated unrecovered fuel costs expected to reach approximately $412 million by the end of December 2024, NS Power shall not seek to recover from PHP any of the costs associated with the $500 million regulatory asset for which NSPML seeks approval in this Application, regardless of the form of rate PHP may take service under in the future. If not so confirmed, please explain in detail why not.
>
> [Exhibit N-9 (M11902)]

[91] In its response, NS Power referred to its answer to NSUARB IR-7(a), in which it submitted that over the 28-year amortization period, customers would be paying for the cost of the Maritime Link and not paying for replacement energy costs. NS Power went on to state in its response to PHP IR-1 that "[w]hat rate would be paid and what

costs would be recovered in that rate under a future PHP tariff will depend on the type, form, scope, and/or intent of that tariff."

[92] In closing submissions, PHP asked the Board to confirm that it will not be responsible for the repayment of any of the costs associated with the $500 million regulatory asset, due to the accounting approach being taken in relation to the revised Federal Loan Guarantee. PHP noted that when the existing FAM balances were incurred, it paid its full incremental fuel costs (which PHP said were significantly higher in those years due to the delay in receiving energy over the Maritime Link) and none of the refund of Maritime Link costs for that period will be paid to PHP. PHP also emphasized the magnitude of the fuel costs it paid during the period when FAM costs were not fully paid by other customers (resulting in the buildup of the existing FAM balance) and the fact that it is a single customer in its own rate class.

[93] PHP said its views were not canvassed when NS Power proposed to delay the timing of considering the AA/BA matter. It argued that it required certainty about this issue now because its existing tariff expires at the end of 2025 and the Board has asked that any proposed new tariff be filed by March 31, 2025. As such, it said it could not wait until the conclusion of phase two of Matter M11902 (NS Power's 2020 AA/BA rider application) for the answer to this question. PHP said its views were not canvassed when NS Power proposed to delay the timing of considering the AA/BA matter and it had proceeded on the basis that the issue it was concerned about could be addressed now.

[94] In its reply submissions, NS Power said it did not object to the Board considering PHP's request in this phase of the proceeding. In response to questions from the Board, NS Power confirmed that its comments were limited to the Board considering

the request and not that it agreed with PHP's request. It also confirmed that PHP's request could potentially impact other rate classes.

[95] Upon canvassing the Consumer Advocate, Small Business Advocate and counsel for the Industrial Group, the Board was advised that these parties wanted an opportunity to consider or speak to the issue.

Findings

[96] While the Board understands PHP's interest in an early response to its requested confirmation, this phase of this proceeding is ultimately only addressing the amount (and supplemental amount) of NSPML's 2025 assessment. It is clear to the Board that other parties are entitled to speak to the issue of how responsibility for the repayment of the additional $500 million loan related to the Maritime Link will be allocated amongst rate classes. Raised as it was for the Board's formal determination in closing submissions, the Board considers that those parties did not have appropriate time to consider and, if necessary, respond to the issue with evidence or submissions. As such, the Board finds that any ruling on this issue must be deferred so that other parties are provided with proper notice and an opportunity to respond.

12.0 TECHNICAL MARINE CABLE REQUIREMENTS

[97] In the *Final Project Costs* proceeding, Board Counsel engaged Laurence Trim of Cable Consulting International (CCI) to independently assess the integrity of the ML cables, both the submarine and land components, to ensure they met contractual design requirements.

[98] Mr. Trim's two outstanding recommendations were:

> - NSPML periodically review the cable failure rate and RAM [Reliability Availability Maintainability] study using the most up to date data; and
>
> - For planning purposes, NSPML consider adopting the CIGRE TB815 industry failure rate of 0.0029 failures/100 circuit km/year, or 1 failure every 10 years.
>
> [*Final Project Costs* decision, para. 77]

[99] The Board directed NSPML to implement Mr. Trim's recommendations and to provide an implementation schedule in its Compliance Filing. The Board also directed that NSPML continue to report on these items.

[100] For Recommendations #2 and #3, NSPML stated:

> As a component of its ongoing asset integrity management, NSPML will periodically review and, as appropriate, update the cable failure rate and RAM study using the most current industry and asset-specific data available. NSPML will identify any revisions to the cable failure rate or RAM study through its quarterly reports filed with the UARB.
>
> …
>
> For planning purposes, NSPML will include the most current CIGRE-published industry failure rate in any predictive failure rate assessments.
>
> [Compliance Filing, M10206, February 16, 2022, p. 9]

Findings

[101] There have been no updates about Recommendations 2 and 3 in NSPML's 2023 or 2024 quarterly reports. When questioned about this during closing oral arguments, Mr. Landrigan responded as follows:

> …in terms of item number two, my understanding is there is nothing to update. The last published information on that was in 2009. And when we become aware or get updated information, we will provide that once received.
>
> In terms of number three, which was consider adopting industry failure rates, my understanding is from an operational perspective, we have done so in both our conceptual and contingency planning, and will include in any formal analysis that we do.
>
> [Transcript p. 106]

[102] The Board reiterates the importance of maintaining the technical integrity of the ML submarine cables. The Board repeats its prior direction that NSPML continue to

report on the implementation of Mr. Trim's recommendations. This should be addressed annually, at a minimum, in NSMPL's reporting, even if there are no changes in status.

13.0 REPORTING

[103] NSPML's quarterly reports and NS Power's ML Benefits Reports have been useful to the Board and all participants in these proceedings. The Board directs that these reports continue as outlined in paragraph 232 of the *Final Project Costs* decision, including hour-by-hour marginal costs and other documentation described in the Board's *2023 Annual Cost Assessment* decision, at para. 40.

14.0 COMPLIANCE FILING

[104] NSPML stated that, after the terms of the bond financing are completed, if the actual 2025 supplemental assessment is different than the estimated 2025 supplemental assessment, an updated schedule of actual principal and interest payments will be provided in a Compliance Filing. In response to IRs, NS Power confirmed that the Compliance Filing would not impact the timing of the Board's Order in this NSPML matter. Any changes to the amortization schedule of principal and interest payments will be reflected in future FAM AA/BA proceedings.

[105] NSPML is directed to file its Compliance Filing as soon as possible after the bond financing is completed.

15.0 CONCLUSION

[106] Taking into account all of the evidence, the Board is satisfied that all of the components of the initial application for NSPML's 2025 revenue requirement and cost

assessment of $158.2 million are reasonable and appropriate. The Board is also satisfied that the supplemental assessment of $42.4 million is appropriate and it approves the creation of a $500 million regulatory asset.

[107] The Board approves the total 2025 cost assessment of $200.6 million against NS Power. As outlined earlier in this decision, the $4 million monthly holdback will continue into 2025.

[108] The Board notes that the 2025 cost assessment approved in this decision will only remain in effect until December 31, 2025. NSPML is to manage its regulatory calendar to ensure the Board can address any future filing before 2026, including a review of the ROE.

[109] The Board also approves the continuation of the 2024 FAM BA.

[110] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 29th day of November, 2024.

Stephen T. McGrath

Roland A. Deveau

Steven M. Murphy