

**NOVA SCOTIA ENERGY BOARD AND  
NOVA SCOTIA REGULATORY AND APPEALS BOARD**

**JOINT RULES OF PRACTICE AND PROCEDURE RESPECTING COSTS**

**1 (1)** These rules are made under **sections 20 and 34** of the *Energy and Regulatory Boards Act* and apply to all proceedings before the Nova Scotia Energy Board and the Nova Scotia Regulatory and Appeals Board except those under the *Expropriation Act*, the *Municipal Government Act* and the *Halifax Regional Municipality Charter*.

**(2)** A reference in these rules to the Board means the Nova Scotia Energy Board or the Nova Scotia Regulatory and Appeals Board, or both Boards, as the context requires.

**2** These rules may be cited as the **Costs Rules**.

**Request for costs**

**3 (1)** The Board will not normally consider an award of costs unless requested by a party to a proceeding.

**(2)** The Board may, on its own motion, ask whether a party seeks costs if the Board considers that the party may be unaware of the right to request costs and another party has acted improperly.

**Award of costs**

**4 (1)** The Board will not order a party or counsel to pay costs without providing a reasonable opportunity for the party or counsel to make representations to the Board.

**(2)** A cost award against counsel will only be made in extraordinary circumstances.

**Unreasonable, frivolous or vexatious conduct**

**5 (1)** If the Board finds a party's conduct or course of conduct is found to be clearly unreasonable, frivolous or vexatious, having regard to all the circumstances, the Board may:

- (a)** award costs against the party;
- (b)** disallow any award of costs to the party.

**(2)** Without limiting the generality of subsection (1), the Board may determine the following conduct to be clearly unreasonable, frivolous, or vexatious:

- (a)** if the actions or failure of a party to act in a timely manner results in prejudice to any other parties;
- (b)** if an applicant or appellant, without notice, fails to:

- (i) attend a hearing, or
- (ii) to send a representative to a hearing;
- (c) if a party fails to reasonably co-operate with other parties during preliminary proceedings or the hearing;
- (d) if the party's conduct unnecessarily lengthens or delays proceedings;
- (e) if a party's failure to comply with a procedural order or direction of the Board results in prejudice to another party; or
- (f) if a party continues to deal with issues that Board has advised are irrelevant.

### **Burden of proof**

**6** The burden of establishing eligibility for a cost award is on the party applying for costs.

### **Non-profit intervenor pre-approval of costs**

**7 (1)** A non-profit intervenor intending to participate in a hearing or other proceeding before the Board may apply to the Board for approval of an award of costs at any time during the proceeding.

**(2)** An application for the Board's pre-approval of non-profit intervenor costs must be filed with the Clerk and served on the other parties in the form required by the Board.

**(3)** The Board may determine a preliminary process for questions or submissions on costs from the applicant and other parties.

### **Eligibility for non-profit intervenor costs**

**8** The Board may award costs to a non-profit intervenor making a request under Section 7 if the Board finds all the following criteria are met:

- (a) the non-profit intervenor:
  - (i) represents the interests of ratepayers concerning the services that are regulated by the Board;
  - (ii) represents a specific public interest or policy perspective that is relevant to the Board's mandate and the proceeding that costs are sought for; or
  - (iii) represents an individual or group of individuals with a direct local interest in the application;
- (b) the Board is satisfied that the non-profit intervenor:

- (i) has demonstrated limited financial resources;
- (ii) will participate in the hearing in a responsible way; and
- (iii) will contribute positively to the Board's understanding of the issues to be addressed in the proceeding.

### **Factors to consider**

**9** The Board may consider any of the following factors when determining whether to pre-approve an award of costs to a non-profit intervenor:

- (a) whether the non-profit intervenor represents a public interest or policy perspective not anticipated to be otherwise provided in the matter;
- (b) the non-profit intervenor's relevant expertise and experience;
- (c) the non-profit intervenor's contributions and behaviour in past proceedings;
- (d) the efficiency of the hearing including avoiding the duplication of evidence and argument; or
- (e) other factors that the Board considers relevant and appropriate in the circumstances.

### **Ineligible groups**

**10** The following groups are not eligible for pre-approval of costs as a non-profit intervenor, unless otherwise determined by the Board:

- (a) the applicant in the matter for which costs are requested;
- (b) a utility;
- (c) a party regulated or licensed by the Board;
- (d) electricity generators including associations representing electricity generators;
- (e) electrification associations;
- (f) municipalities including associations of municipalities; and
- (f) gasoline retailers and wholesalers, including associations of those entities; and

- (g) other business, commercial, institutional or industrial entities, including associations of those entities.

### **Costs requested by non-profit intervenor after proceeding**

**11** The Board may consider the factors outlined in sections 8, 9, and 10 in any application for costs by a non-profit intervenor made at the conclusion of a proceeding.

### **Costs reasonable and necessary for participation**

**12** The Board may award to a non-profit intervenor the costs that the Board considers reasonable and necessarily related to the party's participation in all or part of a proceeding.

### **Required information**

**13** A non-profit intervenor seeking pre-approval of an award of costs must include the following information in their request;

- (a) the reasons why the party is eligible for an award of costs, addressing the cost-eligibility criteria in Section 8;
- (b) the specific issues the intervenor intends to address; and
- (c) a budget including the following information, as applicable:
  - (i) counsel fees;
  - (ii) consultant fees including supporting information such as a copy of a curriculum vitae and description of the scope of work;
  - (iii) disbursements including transcript costs, travel and accommodation directly related to the party's participation in the process; and
  - (iv) any other information the Board considers helpful about the costs claimed.

### **Costs decision**

**14** A Board order awarding costs will include the following information:

- (a) the amount to be paid;
- (b) the party to whom the costs are to be paid;
- (c) the person who must pay the costs;
- (d) if the Board determines payment must be made, when the payment is to be made and whether payments may be made in installments or in advance; and

- (e) any other terms, conditions, and directives the Board considers reasonable.

**Accounting and recovery of costs**

**15 (1)** A non-profit intervenor that receives an advance of funds for costs pre-approved under these rules must provide a full accounting to the Board for any funds paid to the intervenor within 60 days of the Board's final order in the matter, or as otherwise determined by the Board.

**(2)** On application by a party or on its own initiative, the Board may make an order for the repayment or recovery of any funds advanced to a non-profit intervenor for costs in any of the following circumstances:

- (a) the Board finds the conduct of the intervenor during the hearing or other proceedings to be clearly unreasonable, frivolous, or vexatious as defined in Section 5;
- (b) the funds were not appropriately spent or disbursed.

These **Rules of Practice and Procedure Respecting Costs** were made by the Utility and Review Board on the \_\_\_\_th day of \_\_\_\_\_, 2025

Signed  
Stephen T. McGrath, K.C., Chair