DECISION | **2025 NSUARB 33**
M11791 and M11902

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF the **PUBLIC UTILITIES ACT**

- and -

IN THE MATTER OF an application by **NOVA SCOTIA POWER INCORPORATED** for approval of its 2025 Fuel Adjustment Mechanism (FAM) AA/BA Rider

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

APPLICANT: **NOVA SCOTIA POWER INCORPORATED**
Blake Williams, Counsel

INTERVENORS: **CONSUMER ADVOCATE**
David J. Roberts, Counsel
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SMALL BUSINESS ADVOCATE
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RENEWALL ENERGY INC.
Daniel Roscoe

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

FINAL SUBMISSIONS: January 27, 2025

DECISION DATE: **February 18, 2025**

DECISION: **The Board approves the proposed 2025 AA/BA Rider.**

TABLE OF CONTENTS

1.0 SUMMARY 4
2.0 BACKGROUND 5
3.0 ANALYSIS 9
3.1 Allocation of NSP Maritime Link Refund 9
3.1.1 Findings 14
3.2 Allocation of NSP Maritime Link Supplemental Assessment 18
3.2.1 Findings 19
3.3 Amount of Supplemental Assessment Included in the Actual Adjustment 20
3.3.1 Findings 21
3.4 Letter of Credit Costs 22
3.4.1 Findings 23
3.5 Errors and Corrections in Application 24
3.5.1 Findings 25
3.6 Municipal Electric Utility Responsibility for Repayment of Refund Amounts for Costs Previously Assessed between 2020-2022 25
3.6.1 Findings 26
4.0 CONCLUSION 26

1.0 SUMMARY

[1] NS Power recovers the fuel costs it incurs to generate electricity for its customers under a Fuel Adjustment Mechanism (FAM). Under this mechanism, NS Power includes a base cost of fuel in the rates it charges to its customers, based on its estimated fuel costs. A separate rider (also called a tariff) is used to adjust customer rates for the difference between the costs estimated in the base cost of fuel and the costs NS Power actually incurs. This mechanism results in customers paying no more and no less than NS Power's actual fuel costs.

[2] The FAM Rider has two components: an actual adjustment (AA) and a balancing adjustment (BA) (AA/BA Rider). Normally, this rider is set once a year to true-up prior years' fuel costs.

[3] On September 25, 2024, NS Power applied for its 2025 FAM AA/BA Rider. NS Power's application was filed concurrently with an application by NSP Maritime Link Incorporated (NSPML) for approval of a supplemental assessment of $42.4 million recoverable from NS Power. This supplemental assessment was in addition to NSPML's initial application on July 4, 2024, for its 2025 revenue requirement of $158.2 million, which would result in a revised total cost assessment of $200.6 million against NS Power, effective January 1, 2025. NSPML's assessments are recovered from NS Power's customers as a fuel cost through the FAM.

[4] At the time of its application, NS Power was carrying a considerable amount of unrecovered fuel costs, which was expected to reach about $412 million by December 31, 2024. If these costs were to be recovered from customers in one year, as the FAM AA/BA Rider normally works, it would have resulted in a significant rate increase for customers. However, NS Power and NSPML negotiated a commercial arrangement with

the Government of Canada to provide relief to customers. Under the arrangement, NSPML would issue $500 million of new debt supported by a federal loan guarantee (FLG2). The arrangement is similar to the loan guarantee provided by the Federal Government to support the construction of the Maritime Link (FLG1). NSPML would then refund the $500 million (less financing fees) to NS Power for the benefit of its customers. The $42.4 million supplemental assessment was for the first year of the repayment of the amortized debt by NSPML, to be recovered from NS Power's ratepayers over 28 years.

[5] In November 2024, the Board approved NSPML's application for its revised total cost assessment of $200.6 million, including the $42.4 million supplemental assessment. The supplemental assessment would result in an overall average power rate increase of about 2.4% for NS Power's residential customers, assuming an effective date of January 1, 2025. NS Power proposed collecting the 2025 supplemental assessment through the 2025 FAM AA Rider.

[6] Based on the evidence and submissions, the Board approves the proposed 2025 FAM AA/BA Rider, effective February 18, 2025, which reflects the approximate 2.4% overall average increase for NS Power's residential customers from NSPML's $42.4 million supplemental assessment.

2.0 BACKGROUND

[7] In light of the commercial arrangements with the Government of Canada, NS Power's application for its 2025 FAM AA/BA Rider only proposed an overall average incremental increase of 2.4% for the payment of NSPML's supplemental assessment of $42.4 million, which is recoverable from NS Power and charged to NS Power's customers as a fuel cost through the FAM. The proposed $42.4 million supplemental assessment

reflects the cost of the first year of the repayment of the amortized debt by NSPML, supported by the FLG2. The debt was proposed to be paid by NSPML (and recovered by NSPML from NS Power's ratepayers) over 28 years, to match the term of the FLG1, which ends December 1, 2052. Amortizing the new debt over 28 years would avoid an immediate average rate increase of 19.2% on January 1, 2025, if the outstanding FAM balance was recovered in one year.

[8] NSPML requested that the Board approve the supplemental assessment application by November 30, 2024. It said this would 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. NSPML stated that, after the terms of the bond financing were completed, if the actual 2025 supplemental assessment was different than the estimated 2025 supplemental assessment, an updated actual schedule of principal and interest would be provided to the Board in a compliance filing. NS Power stated that any changes to the amortization schedule of principal and interest payments will be reflected in future FAM AA/BA proceedings.

[9] In a decision dated November 29, 2024, [2024 NSUARB 199 (M11791)], the Board approved NSPML's application for its revised total cost assessment of $200.6 million, including the $42.4 million supplemental assessment to start repayment of the $500 million debt amortized over 28 years. The allocation of the approximately $500 million refund among customer classes was addressed in NS Power's present AA/BA application. In response to CA IR-2 in the NSPML cost assessment in Matter M11791, NS Power confirmed that the supplemental assessment will be allocated following the Maritime Link cost allocation methodology and each customer class' projected usage in effect during the applicable FAM AA/BA or base cost of fuel proceeding. NS Power also

confirmed that any future changes to the cost-of-service methodology for Maritime Link costs will apply to future cost assessments.

[10] On January 23, 2025, NS Power filed its compliance filing reporting on the successful debt issuance:

> On December 16th, 2024, NSPML completed the $500M federally guaranteed bond offering and secured an interest rate of 4.048% as compared to the Supplemental Assessment Application which included an interest rate of 4.50%; this resulted in approximately $21.9 million (in 2025 dollars, not net present valued) in savings over the life of the debt, a positive result for Nova Scotia Customers. A refund of $485,900,000 was immediately transferred to NS Power upon the transaction closing. The total cost of the 2025 Supplemental Assessment as a result of the lower financing cost is now $39.0 million as opposed to $42.4 million estimated in the Filing, for a total 2025 Assessment of $197.2 million as compared to $200.6 million in the Applications, a decrease of $3.4 million.
>
> [Exhibit N-22, p. 3]

[11] Accordingly, the refund of $485.9 million was applied to NS Power's FAM balance to the benefit of customers. There will be a subsequent refund of the remaining funds of about $14.1 million on June 1, 2025 (less financing fees).

[12] NS Power's FAM AA/BA application addresses the 2025 portion of the newly issued amortized debt, amounting to 1/28 of the amortized debt. As noted above, the 2025 AA Rider is required to pay the NSPML supplemental assessment, which is intended to represent the amortization, financing costs and guarantee fee for the debt issuance.

[13] The change to the rider would result in an average 2.4% rate increase for residential customers. The specific impacts on the various FAM customer classes (excluding certain municipal electric utility customers for reasons discussed in more detail later in this decision) would be as follows:

Figure 2 – 2025 FAM AA Percentage Increases in Class Revenues with Revised NSPML Assessment Amounts

Rate Class	AA Percentage Increase
Domestic Service Tariff	2.4
Small General Tariff	2.1
General Tariff	2.4
Large General Tariff	2.5
Small Industrial Tariff	2.4
Medium Industrial Tariff	2.4
Large Industrial Tariff	3.0
Municipal Tariff (excluding OATT MEUs)	2.9
Unmetered	1.6
Total FAM Classes	2.4

[Exhibit N-1, Figure 2, p. 10]

[14] NS Power is proposing to implement this rate increase solely by way of the AA Rider at this time. At the next base cost of fuel update it intends to include, in the base cost of fuel calculation, the required revenue to fund the principal and interest payments of the $500 million. The Board observes that, in November 2024, at NS Power's request (which was not opposed by intervenors), it approved the utility's proposal 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. Any required adjustments will be made when the Board finalizes the AA/BA Rider in the present phase of this proceeding.

[15] NS Power also requests that the Board approve the continuation of the current base cost of fuel. NS Power's most recent 2025 fuel forecast indicates that the remaining amounts from the $500 million can be applied to the difference between the base cost of fuel and actual fuel costs in 2025. However, the FAM balance is forecast to be under-recovered by the end of 2025 and it is anticipated that an adjustment to the

base cost of fuel would be required for rates effective January 1, 2026. NS Power stated it would apply to make the necessary adjustment to the base cost of fuel in advance of that date.

[16] This proceeding was conducted by way of a paper hearing process, including Information Requests (IRs) to NS Power, NSPML and Bates White, Board Counsel's consultants. Written submissions from the parties were completed on January 27, 2025.

3.0 ANALYSIS

3.1 Allocation of NSP Maritime Link Refund

[17] The Term Sheet for the new $500 million FLG2 contemplates that the funds from the guaranteed loan would be used by NSPML to refund NS Power for past principal and interest payments associated with the financing of the Maritime Link under the original FLG1 for that project:

> 3.2 Use of Proceeds
>
> In accordance with Canada's understanding of the intentions of the NS Crown and NSP, the proceeds of the ML FLG2 Debt shall (i) first, be used by NSPML to cover financing fees, (ii) second, be used by NSPML to refund to NSP for the ratepayer account the principal and interest payments associated with the ML FLG Debt made from June 1, 2018 to December 1, 2024, totaling $485,900,000 and (iii) third, be used by NSPML to refund to NSP to partly cover the principal and interest payment scheduled for June 1, 2025 with respect to ML FLG Debt. The refunded amounts would be used by NSP to defray the Fuel Adjustment Mechanism deficit, which is largely a result of unanticipated costs arising from the delays and deficiencies in the electricity contracted to be delivered by Nalcor Energy to NS (which are directly attributable to the delays encountered by the NL Projects).
>
> The funds received by NSP pursuant to the repayment of the Fuel Adjustment Mechanism deficit may only be used by NSP to reduce its indebtedness.
>
> [Exhibit N-8, Response to IR-1, Attachment 1, p. 4]

[18] The refund must be "for the ratepayer account". NS Power proposes to allocate the refund to its various rate classes based on their proportionate share of the

principal and interest payments associated with the FLG1 from January 2018 to September 2023. Class responsibility for those payments followed NS Power's approved cost-of-service methodology and FAM Plan of Administration.

[19] NS Power proposed to apply the refund in two parts, involving an initial refund of $485.9 million in December 2024 and a refund of the balance ($14.1 million less financing fees) in June 2025. NS Power notes that both refund payments occur after the reporting period for the 2025 AA/BA, which ended September 30, 2024. It said the amount of the refund would be finalized and incorporated into its next FAM AA/BA report/application for the period of October 2024 to September 2025 based on the actual refund amount.

[20] The Berwick Electric Commission, Riverport Electric Light Commission, Town of Antigonish, and Town of Mahone Bay (OATT MEUs) submit that the refund should be allocated based on each rate class' share of NS Power's outstanding FAM balance instead of the class' share of historic Maritime Link costs. They say that the FLG2 Term Sheet does not specifically direct how the refund is to be allocated amongst customer classes:

> Section 3.2 then requires that the refunded amounts be used by NS Power to defray the FAM deficit, and states that NS Power may only use these funds to reduce its indebtedness. Although Section 3.2 includes a comment suggesting that the FAM deficit is largely a result of unanticipated costs arising from the delays in the electricity contracted by Nalcor, the FLG Term Sheet does not specify or direct NS Power or the Board to allocate the funds received to customer classes on the basis of their historic responsibility for Maritime Link assessment costs. Indeed, Section 4.3 states that "…the NS Crown, the electric utilities in NS (including NSP) and the UARB have the responsibility to manage electricity rates in NS as well as any outstanding risks and costs of the Project…" In other words, the FLG leaves it to the Board to determine the appropriate allocation of the refund that has been provided to NS Power by NSPML, and there is no requirement that this be based solely or partly on potential costs associated with Maritime Link delays.
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> [OATT MEU Submission, January 20, 2025, p. 4]

[21] The OATT MEUs identify several factors that, in their view, warrant allocating the refund based on outstanding FAM balances.

[22] The OATT MEUs note that the outstanding FAM balances did not accrue because of Maritime Link delays. They emphasize that most of the outstanding FAM balance accrued after April 2021. They indicate that since that time, NS Power's reported benefits from the Maritime Link exceeded the cost of the Maritime Link assessments. The OATT MEUs argue "all of the value promised by NSPML and NS Power on account of the Acceleration Agreement that was executed on August 15, 2021 has now been delivered, at values considerably in excess of historic Maritime Link assessment costs paid during this period." The OATT MEUs submit the outstanding FAM balances are largely due to increased fuel prices since Russia's invasion of Ukraine in February 2022, which have moderated only slightly and remain at historically high levels.

[23] The OATT MEUs also submit that the proposed allocation of the refund would still leave them with an outstanding FAM balance of $2.4 million as of September 30, 2024. They say this will result in significant near-term rate pressures of roughly an 18.75% increase in their 2023 base cost of fuel if the outstanding balance was collected in one year. The OATT MEUs emphasize that this estimated impact does not include other pressures relating to the accumulation of FAM balances after September 2024, interest on outstanding balances, and "any obligation owing by the OATT MEUs with respect to the supplemental assessment of $42.4 million in 2025, and beyond."

[24] The OATT MEUs say that the size of the existing FAM balance was the impetus for the FLG2. The OATT MEUs submit that the proposed allocation would leave them with "significant rate pressures, while all other customers in Nova Scotia are

provided full relief." They argue this was not the intent of the commercial arrangement for the FLG2:

> …The proposed allocation is also not in keeping with the commercial arrangement's intent and purpose, which is to eliminate the FAM balance and benefit Nova Scotia customers by mitigating the potentially significant rate pressures in the near term that would otherwise occur absent the arrangement.
>
> [OATT MEU Submission, January 20, 2025, p. 1]

[25] They further argue that the Domestic Service class, in particular, would receive a disproportionate share of the refund using an allocation based on historic Maritime Link costs compared to an allocation based on class responsibility for the current outstanding FAM balance. The OATT MEUs submit it would be fairer and more appropriate to allocate the refund based on the percentage of the FAM balance owed by each customer class to ensure that the 2024 FAM balance is actually eliminated in its entirety, with all indebtedness currently owing to NS Power reduced for the OATT MEUs.

[26] The OATT MEUs went on to submit that repayment obligations for the refunded amounts could then be tracked by rate class and repaid commensurate with the benefits they have received.

[27] Alternatively, if historical Maritime Link costs are used to allocate the refund, the OATT MEUs submit that the period from January 2018 to December 2024 should be used to calculate historical costs, rather than only up to September 2023, as proposed. They say this better matches the period of time during which the Maritime Link payments that are being refunded were made. Even at that, the OATT MEUs say they would still be left with a residual FAM balance and resulting near term rate pressure. The OATT MEUs submit that NS Power should offset this using projected FAM balances owing to other customers at the end of 2024:

> Given that Section 3.2 of the FLG states that the Use of Proceeds shall only be used to reduce NS Power's indebtedness, the Board could order that, prior to applying any FAM

> over-recovery balance in 2025, NS Power should first ensure that the FAM balance owing from the OATT MEUs is reduced to zero. As noted above, in NS Power's response to Bates White IR-5, NS Power notes that it will receive the $485.9 million refund in 2024, resulting in a forecast FAM over-recovery balance of $70.6 million by the end of 2024, including actuals to the end of November. A small portion of this positive balance could be used to ensure that the OATT MEUs balance is reduced to zero as of December 2024. Such an approach would be consistent with the Bonbright ratemaking principles of ensuring rate stability and predictability, fairness of apportionment of total costs, avoidance of undue discrimination, public acceptability and feasibility of application. It would protect the OATT MEUs and their customers in Antigonish, Berwick, Mahone Bay, and Riverport from the significant rate pressures the commercial arrangement was designed to address at minimal impact to NS Power's other customers. It would avoid the incongruous situation of NS Power maintaining a positive FAM balance that is earning interest to be applied in the future, at the same time as additional interest is accruing on top of balances that remain outstanding from the OATT MEUs despite an overall refund to NS Power of $485.9 million. Finally, it would still leave the OATT MEUs fully responsible for the shortfall in the FAM balance for 2025, in contrast to other NS Power customer classes who will be allocated further proceeds from the refund to be applied against that balance.
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> [OATT MEUs Submission, January 20, 2025, pp. 13-14]

[28] The OATT MEUs position that the refund should be allocated based on outstanding FAM balances is supported by the Industrial Group. The Industrial Group submits, "If the ultimate objective of the $500 million bond issuance is to provide near-term rate relief for customers and eliminate the FAM balance, then it would be in the best interest of *all* customers to do so with a clean slate [emphasis in original]." The Industrial Group also submits that actual data to the end of 2024 should be used for the allocation.

[29] However, the Industrial Group disagrees with the OATT MEUs' proposed allocation of the future repayment obligation for the FLG2. The Industrial Group submits that since the recovery of funds for the FLG2 by NSPML would be achieved through its assessment against NS Power, it should be allocated in the same manner as Maritime Link assessments to ensure that costs align with benefits. The Industrial Group argues "there is no inconsistency in allocating the refund based on cost drivers to the accumulated FAM balance, and repayment based on [Maritime Link] cost allocation. The former reflects additional policy and rate objectives and the latter aligns the repayment with [Maritime Link] assessments."

3.1.1 Findings

[30] The Board finds that NS Power's allocation of the refund is appropriate. The refund is limited to the portion of NSPML annual assessments related to principal and interest payments associated with the existing FLG1 for the Maritime Link and, as noted by NS Power in its response to NSUARB IR-8, this was a requirement of the Federal Government in providing the FLG2. The Term Sheet for the new loan guarantee explicitly notes that Canada expects that the proceeds from the FLG2 loan will be used for the purposes summarized in s. 3.2 of the Term Sheet. This provision, quoted earlier in this decision, requires that the proceeds of the new federally guaranteed loan be used as follows, in order:

1. The payment of NSPML's financing fees;
2. A refund by NSPML to NS Power "for the ratepayer account the principal and interest payments associated with the [FLG1 debt] made from June 1, 2018 to December 1, 2024, totalling $485,900,000"; and
3. A refund by NSPML to NS Power to "partly cover the principal and interest payments scheduled for June 1, 2025, with respect to [the FLG1 debt]".

[31] The MEUs submission (supported by the Industrial Group) that the refund should be allocated based on a rate class's share of the outstanding FAM balance is not consistent with the overall structure of the arrangement as a refund for the ratepayer account to cover principal and interest payments related to the Maritime Link. Rather than a refund of payments by NSPML to NS Power, the arrangement under the OATT MEUs' proposal becomes, essentially, a loan from NSPML to NS Power to pay out each customer class' existing FAM balances.

[32] Moreover, the OATT MEUs' proposal does not follow appropriate cost causation principles, because, unlike NS Power's proposed method, it does not allocate the refund back to ratepayers on the same basis that they would have originally paid the costs that are now being refunded. In simple terms, the refund would not be going back to the party that paid the amount in the first place, but to somebody else.

[33] While the Board accepts the OATT MEUs' argument that the existing FAM balance accrued, at least in part, for reasons other than the delayed delivery of energy over the Maritime Link, the Board does not accept that the various references to defraying the outstanding FAM balance would drive the allocation of the refund in a different way than how the costs being refunded were originally paid.

[34] Further, the allocation proposed by NS Power defrays the outstanding FAM balance because each rate class' refund (including the refunds that will be received by the OATT MEUs and the members of the Industrial Group) is netted out against its outstanding FAM balance. The fact that outstanding FAM balances will remain for the OATT MEUs and the Large Industrial class after the application of the refund does not justify allocating the refund on a different basis than how the costs being refunded were originally paid. The Board also notes that the rate classes whose outstanding balances will not be entirely eliminated still realize significant reductions in the balances they owe before the application of the proposed refund. Depending on the actual refund amounts and when they are applied, the OATT MEUs' outstanding FAM balance is likely to be reduced by roughly 45% to 50%, and the Large Industrial Class (combined firm and interruptible) outstanding balance should be reduced by approximately 85% to 95%.

[35] Bonbright's Principles guide the Board's ratemaking function and are frequently referenced by the Board, including in NS Power's last general rate application (M10431):

> [40] In exercising its ratemaking function, following the statutory requirements and mindful of the purposes of the legislation, the Board is also guided by the following long-established, fundamental ratemaking principles, which it noted in its decision for NS Power's rate application in 2002 and a number of rate applications since:
>
>> [21] In utility regulation, there are generally accepted principles which govern the rate-making exercise. The object of rate-making under a cost-of-service-based model is that, to the extent reasonably possible, rates should reflect the cost to the utility of providing electric service to each distinct customer class. In regulating NSPI, the Board is guided by these generally accepted principles as well as by case law.
>>
>> [22] A widely-accepted publication written by Dr. James Bonbright entitled **Principles of Public Utility Rates**, sets out the following guidelines for determining appropriate rates:
>>
>> **CRITERIA OF A SOUND RATE STRUCTURE**
>>
>> 1. The related, "practical" attributes of simplicity, understandability, public acceptability, and feasibility of application.
>>
>> 2. Freedom from controversies as to proper interpretation.
>>
>> 3. Effectiveness in yielding total revenue requirements under the fair-return standard.
>>
>> 4. Revenue stability from year to year.
>>
>> 5. Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers. (Compare "The best tax is an old tax.")
>>
>> 6. Fairness of the specific rates in the apportionment of total costs of service among the different consumers.
>>
>> 7. Avoidance of "undue discrimination" in rate relationships.
>>
>> 8. Efficiency of the rate classes and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
>>   (a) in the control of the total amounts of service supplied by the company;
>>   (b) in the control of the relative uses of alternative types of service (on-peak versus off-peak electricity, Pullman travel versus coach travel, single-party telephone service versus service from a multi-party line, etc.).
>>
>> (Exhibit N-92) (James Bonbright, **Principles of Public Utility Rates**, Columbia University Press, 1961, p. 291)

> [23] These principles are well established and form the background against which the current application must be assessed.
>
> [2002 NSUARB 59, paras. 21-23]

> [41] The Board continues to make its decisions in accordance with the *PUA* and the principles noted above.

[36] The Board disagrees with the OATT MEUs that a consideration of these factors necessitates a different allocation than what NS Power proposes. Since NS Power's proposed allocation would return the refund to customers in the same proportion as the costs being refunded were paid, the Board finds it is fairer in terms of its apportionment of the total cost of service among customers. Given its stricter adherence to cost-of-service principles, it is the more predictable approach as well.

[37] While, unlike other rate classes, the OATT MEUs (and the Large Industrial class) will be left with outstanding FAM balances to be repaid, it is not uncommon for rate classes to be impacted differently when costs are allocated based on cost-of-service principles. Bonbright's principles do not prohibit differential rate impacts arising from the application of cost-of-service principles. In fact, the opposite is true.

[38] Additionally, the Board notes that NS Power has indicated that if the residual outstanding FAM balance owing by the OATT MEUs results in significant rate pressures, it is willing to discuss an appropriate and reasonable repayment approach that does not put undue rate pressure on them, but which recovers the amounts owing. The Board expects NS Power to keep that commitment.

[39] Regarding the calculation of the principal and interest costs relating to the Maritime Link used as the basis for allocating the refund, the Board agrees with the OATT MEUs and the Industrial Group that NS Power should use the period from January 2018

to December 2024 to better match the refund to the period over which the costs being refunded were incurred.

[40] In its Reply Submission, NS Power notes that this issue affects the allocation of the refund to customer classes but not the 2025 rider. NS Power says that if the Board determines it appropriate, it will update the historical Maritime Link assessment data to the end of 2024 for the allocation of the Maritime Link refund to customer classes as part of its next AA/BA report/application. The Board directs NS Power to do so.

3.2 Allocation of NSP Maritime Link Supplemental Assessment

[41] NS Power proposes to recover the first annual installment of incremental payments for the FLG2 loan through the 2025 AA Rider based on projected class usage for 2025. The Board notes that, when it filed its application, NS Power assumed that the OATT MEUs would not be taking service under its bundled service Municipal Tariff in 2025. The OATT MEUs notified NS Power shortly after it filed its application that they continued to take partial bundled service under the Municipal Tariff in 2025.

[42] In its submissions, the Industrial Group notes that NS Power's proposed method for allocating the costs for the FLG2 debt in the 2025 AA Rider differs from a conventional AA Rider adjustment, which is based on historical usage. The Industrial Group submits that NS Power should calculate the 2025 AA Rider using historical actual data for the FAM period of October 1, 2023, to September 30, 2024. The Industrial Group submits that using actual data rather than projected data would more faithfully align with the FAM Tariff. The Industrial Group submits:

> The AA rider is explicitly a true-up mechanism that uses historical data, not forecasted data and is meant to represent a true-up of costs from the prior year. It appears that NSPI is using the fiction of an “adjustment account” when NSPI is forecasting projected usage and projected ML costs analogous to a test year approach as if it were resetting the Base Cost of Fuel. However, it is explicitly not resetting the BCF and current rates and rate allocations are being carried forward.
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> [Industrial Group Submission, January 20, 2025, p. 4]

[43] In its reply submission, NS Power notes that its 2025 AA/BA application is unique, because: (1) the FLG2 loan will reduce outstanding FAM balances; and, (2) it is seeking to recover a prospective 2025 cost for the 2025 supplemental Maritime Link assessment through the AA portion of the FAM rather than to adjust the AA Rider for a variance between actual historic costs and what had been projected.

[44] NS Power submits it “is appropriate to use both the 2025 projected cost and 2025 projected usage in determination of the cost responsibility (as this is how prospective rates are calculated).” NS Power said it would true-up the amount based on actual financing costs and actual usage in future AA/BA proceedings. In this application, NS Power proposes to continue with its existing base cost of fuel amount until January 1, 2026, and it notes that, as such, the supplemental assessment would be included in the base cost of fuel calculation for 2026 and beyond.

3.2.1 Findings

[45] The proposed recovery of the 2025 supplemental assessment amount in the AA Rider is a departure from usual FAM procedures. In the circumstances, however, the Board finds it is appropriate to allow for the collection of the first year of payments relating to the new federally guaranteed loan. Since these are 2025 costs, and not an adjustment relating to actual historic over- or under-recovery of costs, the Board agrees with NS Power that it is appropriate to use projected 2025 load to set the 2025 AA Rider.

As NS Power notes, differences between actual and forecasted usage in the period will be adjusted in future AA/BA proceedings.

3.3 Amount of Supplemental Assessment Included in the Actual Adjustment

[46] In its current application, NS Power proposed collecting the 2025 supplemental assessment via the 2025 FAM AA Rider, in an amount equal to the total FLG2 first year interest, guarantee fee and bond principal repayment. The application estimated that this amount would be $42.4 million. In a filing with the Board dated January 23, 2025 [Exhibit N-22], NS Power provided an update on the final financing terms of the FLG2. The update noted that on December 16, 2024, NSPML completed the $500 million federally guaranteed bond offering and secured an interest rate of 4.048%, as compared to the assumed interest rate of 4.50% in the supplemental assessment application. This results in approximately $21.9 million (in 2025 dollars) in savings over the life of the debt. As a result, the actual cost of the 2025 supplemental assessment is now $39.0 million, for a total 2025 Maritime Link assessment of $197.2 million as compared to $200.6 million in the applications, a decrease of $3.4 million.

[47] In Matter M11791, the Board ordered that the 2025 Maritime Link cost assessment of $200.6 million (including the $42.4 million supplemental assessment) be recovered by NS Power from customers through a schedule of monthly charges commencing on January 1, 2025, and continuing thereafter on the first day of each month. The approved charge per month is approximately $16.717 million. In that Matter, NSPML stated that, after the terms of the FLG2 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. The Board directed NSPML to file the compliance filing as soon as possible after the FLG2 bond financing was complete.

[48] The update filed by NSPML on January 23, 2025, provided the compliance filing information directed by the Board in Matter M11791. In the update, NSPML proposed an amended schedule of 2025 payments for the 2025 Maritime Link assessment and supplemental assessment from NS Power to NSPML. The updated payment schedule reflects the revised 2025 Maritime Link assessment amount of $197.2 million resulting from the lower interest rate secured on the FLG2 bond. However, NS Power did not propose adjusting the 2025 Maritime Link supplemental assessment payments from customers to NS Power to be recovered in the proposed AA Rider.

[49] In its Reply Submission, the Industrial Group requested that the Board direct NS Power to update the 2025 FAM AA/BA in a compliance filing to reflect the updated 2025 Maritime Link assessment of $197.2 million.

3.3.1 Findings

[50] The Board understands that the Industrial Group's request to have the 2025 FAM AA/BA adjusted to reflect the updated 2025 Maritime Link assessment amount would result in marginally lower 2025 AA payments from customers to NS Power. However, the Board notes that NS Power is not currently recovering its actual base cost of fuel in rates. This situation is not expected to change until NS Power's base cost of fuel is reset in a subsequent FAM base cost of fuel proceeding or NS Power's next general rate application. As such, over-collection of the 2025 Maritime Link assessment from customers will be applied to the FAM balance to help lower the amount owed by customers. Additionally, the Board notes that the 2025 AA/BA adjustment is being implemented in late February rather than on the first of January. The Board, therefore,

will not direct NS Power to adjust the proposed 2025 AA Rider. The Board notes that, based on this ruling, the OATT MEUs' responsibility for the supplemental assessment in the 2025 AA Rider will also be addressed in future AA/BA adjustments. This was omitted from the proposed rider amounts because NS Power assumed they would not be taking service under the Municipal Tariff,

3.4 Letter of Credit Costs

[51] In its compliance filing following the Board's decision approving NSPML's $42.4 million supplemental assessment (M11791), NS Power described the results of the $500 million debt issuance. It reported that a lower financing cost was achieved for the commercial transaction, resulting in a lower actual supplemental assessment of $39.0 million versus $42.4 million estimated in NSPML's application.

[52] The financing fees to complete the bond issuance included $118,104 for "letter of credit fees" to be collected in 2025. NS Power explained:

> …As required by Canada in the original $1.3B financing, a Letter of Credit was required as part of the Debt Service Reserve Requirements to cover 6 months of principal and interest payments. This also applied to FLG2, and the cost has been incorporated into Schedule 1.
>
> [Exhibit N-22, p. 4]

[53] The Industrial Group submitted that NSPML should not be entitled to recover costs or fees related to the letter of credit until they are approved by the Board, adding that NSPML could ask for the recovery of such costs in a future assessment application, by demonstrating their necessity. It noted that such fees had not been raised by NSPML in its supplemental assessment application:

> …There is no clear explanation why these payments are also due when the requirement and associated costs for a Letter of Credit were not identified in the Supplemental Application. The "update" simply states that these Letter of Credit costs are required as part of the Debt Service Reserve Requirements under the FLG1, and it is "also applied to FLG2". NSPML states it will invoice NSPI additional amounts in May and November to reflect, in part those additional letter of credit fees.

> There was no Letter of Credit requirement specifically included in the FLG2 Term Sheet provided, and it was not previously incorporated into the Schedule 1 – Bond and Interest Payment Schedule. This is a change of the terms of the FLG2 previously presented to the Board and Intervenors, and results in additional costs to ratepayers, regardless that the final 2025 Assessment is less than the original placeholder as filed.
>
> [Industrial Group Reply Submission, p. 2]

3.4.1 Findings

[54] As noted earlier in this decision, the Board concluded that the 2025 FAM AA/BA would not be adjusted to reflect the updated 2025 NSPML supplemental assessment amount. The letter of credit fees are included in the lower supplemental assessment amount achieved by NSPML for the new debt issuance.

[55] The Board agrees with the Industrial Group's submission that letter of credit fees do not appear to have been identified by NSPML in its supplemental assessment application. In Matter M11791, NSPML was asked to provide a breakdown of the estimated financing fees for the debt issuance. The estimated financing fees of $4.6 million were comprised of several components, including underwriting fees, legal fees, rating agency fees and auditor fees, but costs for a letter of credit were not identified (NSUARB IR-6).

[56] However, given the Industrial Group's request appeared in its Reply Submission (because of the timing of the compliance filing), NS Power and other intervenors were unable to comment on this issue. NS Power is always required to demonstrate the prudence of costs if requested to do so by an intervenor, but this expense would have no material impact on the AA/BA Rider in this proceeding. Accordingly, the Board considers that the issue can be deferred to the next AA/BA proceeding for its consideration, if intervenors wish to pursue it. If necessary, an adjustment can be made to the FAM balance at that time.

3.5 Errors and Corrections in Application

[57] As in previous years, the Board asked Bates White to review NS Power's calculations of the AA and BA balances. The electronic spreadsheets were provided as part of NS Power's response to BW IR-2 [Exhibit N-13]. Bates White's review was consistent with past years and involved checking each attachment's calculations. Bates White noted that much of the data in these attachments is either hard-coded or pulled from external files that were not provided in the IR response. As such, it was not able to verify the accuracy of that data. Bates White noted two errors in its review, which were corrected by NS Power in its refiled response to Bates White IR-2. NS Power noted that the corrections did not result in any change to the requested AA/BA tariff.

[58] In the 2024 AA/BA proceeding, NS Power agreed to the recommendations of the Industrial Group to provide its calculations in electronic form as part of its standardized AA/BA filing, and to implement another layer of checks or reviews to reduce the likelihood of errors. In this proceeding, NS Power acknowledged that "an administrative error in the original filing resulted in some of the documents being provided in PDF format only and not Excel" and noted it had taken steps to ensure the error would not be repeated in future filings. However, NS Power noted that not all formulae can be left intact in the Excel files as some numbers pull from external spreadsheets.

[59] The Industrial Group expressed concern regarding the errors found in the calculations and in responses to Industrial Group IRs. The Industrial Group requested that NS Power "review its internal process of checks and more rigorously review data to reduce the likelihood of such errors re-occurring." The Industrial Group also requested that NS Power confirm that customers had been charged correct rates for the Demand Side Management and Storm Riders and had not been charged based on the incorrect

information originally provided in response to Industrial Group IRs. NS Power confirmed that approved rates have been charged to customers and stated:

> … NS Power nonetheless appreciates the IG's comments and understands that errors in data or filings further complicate what can be already complicated matters. NS Power will be using the learnings it has gained from this proceeding and taking steps internally to identify opportunities to further improve its processes in an attempt to avoid such instances.
>
> [NS Power Reply Submission, January 27, 2025, p. 4]

3.5.1 Findings

[60] The Board directs NS Power to provide the AA/BA calculation supporting spreadsheets in Excel form in future filings. The Board further directs NS Power to include an electronic version of all linked spreadsheets with its filing to facilitate a fulsome review, unless there is a justifiable reason not to, in which case it should be explained in its next filing.

[61] Given the recurrence of this issue, the Board trusts NS Power will endeavor to correct all errors prior to filing in the future.

3.6 Municipal Electric Utility Responsibility for Repayment of Refund Amounts for Costs Previously Assessed between 2020-2022

[62] The OATT MEUs submit that the OATT municipal customers should not be responsible for future payment of the refunded amounts that relate to the under-recovered fuel costs of 2020-2022. In their closing submissions, they stated:

> Finally, the OATT MEUs also note that NS Power's Application does not include the OATT MEUs in the breakdown of the $42.4 million Supplemental Assessment by rate class. The Settlement Agreement approved as part of NS Power's 2022-2024 General Rate Application makes it clear that none of the historical under-recovered fuel costs on account of 2020-2022 will be recoverable from the OATT MEUs. If the allocation of the credit is to be based on the annual actual cost responsibilities of the Maritime Link, as opposed to the % share of the FAM balance, the Board should also confirm that the OATT MEUs will not be responsible for future payment of any of those historical under-recovered Maritime Link assessment costs incurred in 2020-2022 ($65.5 million in 2020, $84.5 million in 2021, and $83.1 million in 2022) by virtue of the Settlement Agreement.
>
> [OATT MEUs Closing Submissions, pp. 1-2]

3.6.1 Findings

[63] The issue raised by the OATT MEUs raises similar issues to those raised by Port Hawkesbury Paper LP (PHP), who requested that the Board confirm PHP will not be responsible for the repayment of any costs related to NS Power's $500 million regulatory asset associated with Muskrat Falls related energy as part of the tolls, rates and charges PHP pays to NS Power. The Board has opened a new Matter (M12004) to address that issue. The Board reserves its decision on the OATT MEUs' question about its responsibility for future payment of any historical under-recovered Maritime Link assessment costs incurred in 2020-2022 until its decision in Matter M12004.

4.0 CONCLUSION

[64] The Board approves the application and sets the 2025 FAM AA/BA Rider as proposed by NS Power in its application and set out in Exhibit N-1, Appendix E. As noted by NS Power in its response to OATT MEU IR-1, this does not provide for the recovery of the supplemental assessment from the OATT MEUs, which is deferred until the 2026 FAM AA Rider comes into effect in 2026.

[65] Amounts payable by the OATT MEUs may also be affected when the Board addresses the issue raised by the MEUs in this proceeding about Maritime Link costs incurred in 2020-2022 and the settlement agreement in NS Power's last general rate application. This issue will be reserved until the Board's decision in Matter M12004.

[66] The supplemental assessment amount approved by the Board in its Order in this proceeding (and Matter M11791), dated November 29, 2024, is revised to approximately $197.2 million, to reflect a reduction in the estimated costs for the FLG2 debt (from approximately $42.2 million to $39 million). This lower amount will be reflected in an adjustment in NS Power's 2026 FAM AA/BA application. While the 2025 FAM AA/BA

Rider remains unchanged, the Board's Order will include an adjusted schedule of payments from NS Power to NSPML to reflect the actual 2025 assessment.

[67] The funds from the FLG2 loan to be refunded to NS Power for the account of its customers will be allocated as proposed by NS Power, except that the calculation of the FLG2 debt costs used as the basis for allocating the refund must use the period from January 2018 to December 2024. This must be accounted for in NS Power's 2026 FAM AA/BA adjustments.

[68] In future FAM AA/BA applications, NS Power is directed to provide all supporting spreadsheets, and to provide all linked spreadsheets necessary to keep the formulae in its supporting spreadsheets intact. If NS Power feels there is a justifiable reason for it not to include any linked spreadsheet, this justification should be set out in detail in its future FAM AA/BA applications.

[69] The Board approves the continuation of NS Power's current base cost of fuel until January 1, 2026.

[70] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 18th day of February, 2025.

Stephen T. McGrath

Roland A. Deveau

Steven M. Murphy