DECISION **2024 NSUARB 71**
M11393

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 2024 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 Michael Murphy, Counsel
	SMALL BUSINESS ADVOCATE E.A. Nelson Blackburn, K.C. Melissa MacAdam, Counsel
	EFFICIENCYONE James R. Gogan, Counsel
	INDUSTRIAL GROUP Nancy G. Rubin, K.C. Brianne Rudderham, Counsel
	MUNICIPAL ELECTRIC UTILITIES James MacDuff, Counsel
	NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES AND RENEWABLES Daniel Boyle, Counsel
	RENEWALL ENERGY INC. Daniel Roscoe

BOARD COUNSEL: William Mahody, K.C.

FINAL SUBMISSIONS: March 26, 2024

DECISION DATE: **April 17, 2024**

DECISION: **The 2024 FAM AA/BA Rider is approved.**

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1.0 INTRODUCTION

[1] Fuel prices have increased significantly in the last few years, beginning with Russia's invasion of Ukraine. In its last general rate application (M10431), NS Power and customer representatives agreed to defer some of the Company's fuel costs to make power rates more affordable for customers in the short term.

[2] 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 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.

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

[4] On January 29, 2024, NS Power applied to the Board to approve its 2024 FAM AA/BA Rider. NS Power is carrying a considerable amount of unrecovered fuel costs. If these were to be recovered from customers in one year, in the fashion in which the FAM AA/BA Rider normally works, it would mean an average 20.9% increase in customer rates, on top of the previously approved average increase of 6.7% in 2024. Given the significant increase that would be required to fully recover the outstanding fuel balance, NS Power is applying to recover only part of the current balance of fuel costs owed to it by its customers. NS Power is also seeking approval of an agreement with the Province under which Invest Nova Scotia would buy $117 million of the $395 million outstanding balance of fuel costs owed to NS Power by customers as of December 31,

2023. NS Power asserts that the agreement will improve the financial strength of the utility and simultaneously benefit ratepayers by collecting the fuel costs amount sold to Invest Nova Scotia over a ten year period, as well as reducing the annual financing costs on this amount, which are ultimately borne by ratepayers. The AA/BA Rider NS Power proposes would increase customer rates by an average of 1.1%, on top of the previously approved average increase of 6.7% for 2024.

[5] Based on the evidence and submissions, the Board approves the proposed 2024 FAM AA/BA Rider. While the Board considers the sale of $117 million of the outstanding FAM regulatory asset to be the sale of an asset, it is not part of the utility's undertaking requiring approval under the *Public Utilities Act*.

2.0 BACKGROUND

[6] During its 2022-2024 general rate application (GRA), NS Power filed a fuel forecast update that showed a substantial increase in its estimated fuel costs for the years 2022-2024. The updated forecast increased total fuel costs by $681.5 million over the original forecast for the GRA period (which was approximately one third higher). NS Power and many of the parties who participated in that proceeding considered that setting rates at the level needed to collect the full amount of the forecast fuel costs would not be tenable for many customers and agreed to defer part of the costs for future collection.

[7] On November 9, 2022, amendments to the *Public Utilities Act*, R.S.N.S. 1989, c. 380 came into effect, limiting NS Power's allowable rate increases for 2022-2024 to 1.8%, except for fuel cost and demand side management cost increases, which were not limited. On November 21, 2022, S&P Global Ratings downgraded NS Power's credit

rating from BBB+ to BBB-, one level above non-investment grade status. DBRS Morningstar similarly downgraded NS Power shortly thereafter. NS Power stated that this rating places it in the bottom 10% of North American regulated utilities that S&P rates. It also stated that a drop to a non-investment grade rating would be unprecedented for a Canadian utility and would “significantly magnify the access to, and cost of, capital issues resulting from the 2022 credit downgrades”.

[8] By the end of 2023, the FAM balance had grown to $395 million. In this application, NS Power stated that a further increase to this balance (above approximately $400 million) would endanger the financial health of the utility by reducing its cash flow to debt metric. Credit metrics are a measure of the perceived financial strength of a utility in the markets. Utilities perceived to be financially stronger can obtain lower cost debt than those perceived to be financially weaker, due to a lower perceived risk by investors.

[9] NS Power asserts that the measure of a Company’s cash flow to debt is the key credit metric considered by both S&P Global and DBRS Morningstar, and that its cash flow to debt metric falling below 10% would “put NS Power at significant risk of additional credit rating downgrades”. In NSUARB IR-1, NS Power calculated its current cash flow to debt metric as 9.9%.

[10] NS Power was scheduled to apply for the AA/BA Rider for 2024 in October 2023, but on October 17, 2023, requested an extension until November 20, 2023, to allow “time to further explore all options concerning recovery of the outstanding AA/BA amount.” NS Power requested a further extension to December 4, 2023, citing productive ongoing discussions about solutions to reduce the rate pressure on customers that may arise from the 2024 AA/BA Rider application. NS Power asked for a final extension to January 29,

2024, noting that a viable solution had been identified, but additional time was needed to confirm the details. In the application NS Power eventually filed with the Board, it submitted that the Company must recover at least $117 million of the outstanding fuel balance owing under the FAM to reduce the risk of a further credit rating downgrade, which would place upward pressure on the costs of debt included in its customer rates.

[11] NS Power explained in its application that it had come to an agreement with the Province whereby Invest Nova Scotia had agreed to purchase $117 million of the outstanding FAM balance, and NS Power customers would repay this balance to Invest Nova Scotia within 10 years, financed at the Province's more favourable interest rate (currently 4.85%). The $117 million is the forecasted increase to the FAM balance expected in 2024 that would result if rates were left as is. Divesting the $117 million amount should, therefore, allow NS Power to maintain its current cash flow to debt metric (as it allows NS Power to correspondingly reduce its debt).

[12] The FAM AA/BA Rider NS Power seeks in this application is set to collect 1/10th of the $117 million balance, plus interest, in 2024. It would result in an average 1.1% increase in customer rates, in addition to the previously approved average increase of 6.7%. 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 3 – Increases in Class Revenues inclusive of FAM Riders under Minimum Partial Recovery with Provincial Assistance

	2024 Approved Rate (Base Cost and DSM Rider	2024 FAM Riders Percentage Increase			Total %
		AA	BA	Total	
Domestic Service Tariff	6.5	0.0	0.9	0.9	7.4
Small General Tariff	8.3	0.0	0.9	0.9	9.2
General Tariff	6.9	0.0	1.4	1.4	8.3
Large General Tariff	8.4	0.0	1.2	1.2	9.6
Small Industrial Tariff	8.6	0.0	1.0	1.0	9.6
Medium Industrial Tariff	8.0	0.0	1.5	1.5	9.5
Large Industrial Tariff	4.9	0.0	2.0	2.0	6.9
Municipal Tariff[1]	5.9	0.0	0.8	0.8	6.7
Unmetered	0.2	0.0	0.6	0.6	0.8
Total FAM Classes	6.7	0.0	1.1	1.1	7.7

[Exhibit N-1, p.10]

The proposed average 1.1% increase is in comparison to an average additional increase of 20.9% if the AA/BA Rider was set as usual, to recover the full balance, or an average additional increase of 7.2% if the rider was set to collect the $117 million NS Power asserts is the minimum it needs to collect in 2024, absent its agreement with Invest Nova Scotia.

[13] NS Power stated in its application that the Province requires express recognition from the Board that the $117 million amount proposed to be sold to Invest Nova Scotia "is an asset, which is fully recoverable with fixed interest for a period not exceeding 10 years via collection by NS Power in rates, and that will continue to be subject to and collected through the existing FAM processes for the term of the Agreement". NS Power suggested that approval be granted under section 62 of the *Public Utilities Act* as the transfer of a part of the utility's undertaking because the amount forms part of its rate base.

[14] Lastly, NS Power requested Board approval for the recovery of amounts owing from Municipal Electric Utilities outside of the FAM Rider. These customers returned to taking service under the Municipal tariff in 2023. Figure 8 of the application shows a total of $2,132,962, plus interest; however, this was corrected, based on the errors noted by Board Counsel consultants, Bates White Economic Consulting, to be a total of $2,125,264, plus interest.

3.0 DISCUSSION AND ANALYSIS

3.1 Outstanding FAM Balances

[15] As of September 30, 2023, the balance owing from customers to NS Power for unrecovered fuel costs was $343.2 million. By December 31, 2023, the outstanding amount increased to $395.4 million.

[16] The Board requested that Bates White review NS Power's calculations of its AA and BA balances. NS Power provided details for these calculations in spreadsheets attached to its response to BW IR-1 (Exhibit N-3). 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 files held on Emera's or NS Power's own network that were not provided in the information request response. As such, it was not able to verify the accuracy of that data (which is verified through the bi-annual FAM audit)

[17] Bates White identified errors in NS Power's AA calculations. Bates White said that, while the impact of the errors it found was not large, the errors did affect cost

allocation between customer classes. NS Power provided updated calculations on March 11, 2024.

3.1.1 Findings

[18] Although the calculation errors appear to have been corrected, similar spreadsheet errors were observed by Bates White during the most recently completed FAM audit proceeding that resulted in several unnecessary reviews by Bates White and refiled exhibits. The Board understands that many of the calculations performed by NS Power and presented to the Board are complex and data intensive. While it is not reasonable to expect that human error can be eliminated entirely, the Board reiterates the expectation it expressed in that proceeding, that NS Power more rigorously review data submitted to the Boad and parties in the future.

[19] The Board notes that in its closing submissions, the Industrial Group recommended that NS Power include the spreadsheets requested by Bates White in BW IR-1 as part of its standard AA/BA filing and implement another layer of checks or reviews to reduce the likelihood for errors. NS Power agreed to both recommendations in its reply submissions.

[20] The Board also notes that the FAM AA/BA balances include costs incurred since October 2019, due to the deferral of fuel cost imbalances approved as part of NS Power's 2020-2022 Fuel Stability Plan. The last FAM audit covered costs to the end of December 2021. As noted in NS Power's response to NSUARB IR-2, most of the outstanding fuel costs were incurred after 2021; therefore, they are subject to review in the next FAM audit (currently underway).

3.2 Approval of the Sale of Part of the FAM Balance

[21] NS Power noted that its agreement with the Province and Invest Nova Scotia requires the Board to expressly recognize that the $117 million portion of the FAM balance being purchased is an asset. NS Power therefore seeks approval of the sale of this asset under s. 62 of the *Public Utilities Act*. That section states:

> 62 Notwithstanding the provisions of any Act of the Legislature, no public utility shall sell, assign or transfer the whole of its undertaking or any part thereof to any person or corporation except with the approval of the Board first had and obtained.

[22] NS Power submitted that since the FAM balance is a regulatory asset that is held as part of NS Power's rate base, the proposed sale of a part of it may therefore be viewed and considered as a part of its "utility undertaking" and, as such, it is a sale subject to approval under s. 62. In response to NSUARB IR-9, NS Power said its reference to "utility undertaking" referred to "the undertaking of NS Power, which includes assets and property that have been used or are useful in furnishing, rendering, or supplying a service to NS Power's customers."

[23] In the alternative, NS Power asked the Board to "expressly recognize in its decision that the $117 million being acquired by Invest Nova Scotia represents the transfer of an asset from NS Power to Invest Nova Scotia, which is fully recoverable with fixed interest for a period not exceeding 10 years via collection by NS Power in rates, and that will continue to be subject to and collected through the existing FAM processes for the term of the Agreement".

[24] No intervenor in this proceeding expressly supported NS Power's interpretation of s. 62. The Nova Scotia Department of Natural Resources and Renewables intervened in this proceeding but did not file any submissions and the Small Business Advocate took no position on this request.

[25] The Consumer Advocate submitted:

> The Consumer Advocate acknowledges that in certain contexts a reference to an "undertaking" of a business could be interpreted generally to mean any aspect of the business as a going concern, including assets and liabilities. However, in the context of the *Public Utilities Act*, and this particular provision of the *Act*, the Consumer Advocate submits that "undertaking" should be interpreted more narrowly to refer to only those physical assets and real property of a public utility that are relied upon for the provision of service, i.e. the physical components of the power system. For this reason, the Consumer Advocate is of the view that it would be inappropriate to view and consider this transfer as falling under s. 62 of the *Act*.
>
> Nevertheless, the Consumer Advocate is supportive of NS Power's alternative request for the Board to expressly recognize in its decision that the $117 million being acquired by Invest Nova Scotia represents the transfer of an asset from NS Power to Invest Nova Scotia. The Consumer Advocate also confirms NS Power's acknowledgement that the Board's recognition of the $117 million being purchased as an asset would not affect, in any way, the Board's discretion to impose disallowances of any amount on FAM costs incurred prior to the Effective Date of the proposed Agreement during a future FAM Audit proceeding.
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> [Consumer Advocate, Closing Submissions, p. 5]

[26] The Industrial Group said:

> NSPI has sought the Board's approval to transfer part of its "undertaking" pursuant to Section 62 of the ***Public Utilities Act*** ("***PUA***"). It provided no authority, either within or outside the jurisdiction whereby a debt built up by a utility was itself an "undertaking" within the meaning of this section or any comparable section. Prior cases which have considered this section of the *PUA*, contemplated the transfer of physical assets.
>
> The Industrial Group respectfully submits that the purchase and sale of the FAM regulatory asset is not an "undertaking" and that approval under s.62 is not required. This does not diminish the Board's power to approve the transaction and purchase of a portion of the FAM regulatory asset as otherwise proposed.
>
> [Industrial Group, Closing Submissions, p. 3]

3.2.1 Findings

[27] As acknowledged by NS Power, there is no precedent in this jurisdiction for an approval under s. 62 of the *Public Utilities Act* of the nature that it seeks in this proceeding. None of the submissions filed by the parties engaged in any interpretive analysis of s. 62, nor did they consider any comparable authority or law in other jurisdictions. In the absence of a more robust analysis, the Board finds that the sale of

part of NS Power's outstanding FAM balance is not the sale of an undertaking that needs an approval under s. 62.

[28] In the Board's view, a utility's undertaking must be rooted in what defines it as a public utility. Under s. 2 of the *Public Utilities Act*, a "public utility" includes (in the context of electric utilities) a person who owns, operates, manages or controls "any plant or equipment for the production, transmission, delivery or furnishing of electric power or energy."

[29] While there may very well be elements of subjectivity and materiality in determining what parts of a utility's rate base constitutes parts of its undertaking, the Board considers that the proposed sale of the regulatory asset in this case is not part of NS Power's undertaking. The degree of connection between this regulatory asset, which exists to allow for the deferred recovery of fuel costs, and NS Power's plant or equipment, or the electric service that it provides, is quite remote. This regulatory asset is not and has never been used to provide a utility service. It is simply a vehicle to allow NS Power to recover its fuel costs.

[30] That said, the Board considers that the fuel costs deferred for recovery under the FAM are a regulatory asset. This balance is also classified as an asset for accounting purposes under US GAAP. As such, the Board considers the sale of $117 million of the outstanding FAM balance to be the sale of an asset.

3.3 The 2024 FAM AA/BA Rider

[31] NS Power submitted that the collection of the $117 million sold to Invest Nova Scotia through rates paid to NS Power, accords with the framework established by s. 44 of the *Public Utilities Act*, which states:

> 44 The Board may make from time to time such orders as it deems just in respect to the tolls, rates and charges to be paid to any public utility for services rendered or facilities provided, and amend or rescind such orders or make new orders in substitution therefor.

[32] NS Power assessed its proposal against the requirements of s. 44 as follows:

> In effect, section 44 of the PUA establishes a three-part test for orders of the Board related to rates:
>
> 1. The Board may make an order respecting rates if it deems that order to be just;
>
> 2. The rates must be paid to the utility; and
>
> 3. The rates paid must be for services rendered, or facilities provided, by the utility.
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> The proposed rate increase will meet this test. The associated order is just, as it mitigates the short-term rate impact on customers and provides for a lower financing rate than could otherwise be obtained by NS Power, while also preserving the financial health of the utility and therefore reducing long-term impacts and costs on customers. Furthermore, the associated rate will be paid directly to the utility in accordance with an established FAM process. Finally, the costs associated with the rate increase relate directly to eligible FAM costs, which are clearly linked to services provided by the utility. The section 44 three-part test is therefore satisfied.
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> [Exhibit N-1, p. 11]

[33] The Industrial Group, Consumer Advocate, and Small Business Advocate all support the agreement between NS Power and the Province.

[34] The Industrial Group stated:

> Overall, the Industrial Group supports all efforts being made by NSPI to reduce the significant rate impacts – arising from delays in delivery of energy from Muskrat Falls, changes in worldwide commodity prices and decarbonization - and is encouraged by the cooperation between NSPI and the Province to reach an agreement to moderate rate impacts for the benefit of NSPI's customers. The Industrial Group supports the Invest NS Proposal.
>
> [Industrial Group, Closing Submission, p. 2]

[35] The Industrial Group also noted that it considered if more of the balance should be paid down in 2024 to reduce interest, but ultimately decided not to pursue that in this proceeding. The Industrial Group urged NS Power and provincial and federal government representatives "to take all reasonable steps to mitigate the significant rate impacts projected" and that, if these discussions are not fruitful, said it would "not

necessarily support continued deferral of this significant regulatory asset at NSPI's [weighted average cost of capital]."

[36] The Consumer Advocate said, after citing the Board's concerns in its decision about NS Power's last FAM audit, that deferring the recovery of fuel costs could potentially increase the overall costs recovered from ratepayers simply to delay the rate shock associated with the large unrecovered balance:

> The Consumer Advocate shares the Board's concerns, and is generally supportive of any solution that will allow for recovery of FAM costs in a manner that avoids rate shock, and that also does not risk further credit downgrades for NS Power (which could, in turn, result in increased costs for NS Power, which may ultimately be borne by customers). The Consumer Advocate is therefore generally supportive of NS Power's Application.
>
> [Consumer Advocate, Closing Submission, p. 3]

[37] The Small Business Advocate stated:

> The advantage of this appears straightforward - ratepayers will pay the debt over 10 years at a lower interest rate and NSPI will reduce the risk of a downgrade in its credit metrics by removing the debt from its accounts. As this represents a significant benefit to the rate classes that the SBA represents, who would otherwise be looking at rate increases in the area of 25%-33%, the SBA supports this arrangement…
>
> [Small Business Advocate, Closing Submission, p. 1]

[38] The Small Business Advocate went on to note this results in "risk of intergenerational inequality."

3.3.1 Findings

[39] In the circumstances of this case, the Board finds that the proposed recovery of the $117 million of the outstanding FAM balance sold by NS Power to Invest Nova Scotia through customer rates is reasonable and consistent with s. 44 of the *Public Utilities Act*.

[40] Although the Board finds the proposal to be just, it continues to have the concerns it expressed in its FAM audit decision earlier this year:

> [194] The growth of NS Power's unrecovered fuel costs is of considerable concern. Managing the recovery of these costs will be difficult because attempting to do so over the short term (as the normal operation of NS Power's FAM contemplates) would most certainly cause rate shock, which would be especially unwelcome at a time when electricity prices are already unaffordable for many. On the other hand, extending the recovery of these costs over a longer term may result in higher overall costs paid by ratepayers. Furthermore, it is likely that cost pressures in the future, particularly due to the energy transition, will make it less likely that the deferred costs could be more affordably recovered at that time. As such, the overall result may only be to increase costs and delay the shock. To the extent that NRR's comments seek creative solutions to this serious problem, they are well raised.
>
> [2024 NSUARB 34]

[41] In addition to the foregoing, the Board agrees with the Small Business Advocate that extending the recovery of fuel costs incurred over the past few years and requiring future customers to pay them over potentially lengthy periods of time, although helpful from an affordability perspective in the short term, risks serious harm to intergenerational equity.

[42] That said, the Board accepts that the balance struck by NS Power and the Province in their agreement benefits ratepayers. The sale of part of the FAM balance to Invest Nova Scotia will reduce the annual carrying costs associated with that balance by substituting the Province's more favourable cost of debt for NS Power's weighted average cost of capital. Further, the recovery of that balance over ten years and the continued deferral of the rest of the outstanding FAM balance means that customers will only experience an average 1.1% increase on top of the average 6.7% increase already approved for 2024. All the intervenors who filed submissions in this proceeding support this arrangement.

[43] This is by no means a permanent or adequate solution to the serious problem of managing the recovery of the outstanding fuel costs. NS Power projects its base cost of fuel to fall short of the costs it expects to incur in 2024 and 2025 by $222 million. Addressing this aspect of the problem alone (before recovering any of the $395

million outstanding costs at the end of 2023) would require a 5.6% rate increase in 2024 and another 1.2% increase in 2025 (NSUARB IR-5). As such, a day of reckoning is looming.

[44] Moving beyond the justness of the arrangement to the other requirements of s. 44, the Board is satisfied that the 2024 FAM AA/BA Rider approved by the Board is paid to NS Power for services rendered. The costs covered by the AA/BA Rider are for fuel (and related costs) used by NS Power to generate electricity for its customers. Furthermore, under its arrangements with Invest Nova Scotia, NS Power must collect the costs for Invest Nova Scotia and Invest Nova Scotia has no recourse to recover costs from customers. It is entirely reliant upon NS Power for the recovery of its investment.

[45] The Board approves the proposed 2024 FAM AA/BA Rider. The Board confirms that the $117 million amount (with interest) will be collected by NS Power on behalf of Invest Nova Scotia through the existing FAM process, as contemplated under the Agreement.

3.4 Municipal Electric Utilities

[46] As noted above, the FAM AA/BA Rider requested in this proceeding will not apply to certain municipal electric utilities. This includes the Berwick Electric Commission, the Riverport Electric Commission, the Town of Mahone Bay Electric Utility and the Town of Antigonish Electric Utility. These utilities were not customers under NS Power's municipal tariff between 2020 and 2022. This period coincides with the period covered by the BA adjustment calculated by NS Power in this proceeding. Fuel costs for the fourth quarter of 2019, which is the only other period covered by the BA in this proceeding, were previously settled between NS Power and these customers (M10469).

[47] These municipal electric customers resumed service under NS Power's municipal rate on January 1, 2023. As such, they were customers for part of the period included in the AA component of the FAM Rider (October 1, 2022, to September 30, 2023).

[48] NS Power requests Board approval for the recovery of amounts owing from these utilities under the FAM AA. Figure 8 of the application shows a total of $2,132,962, to be recovered from these customers (plus interest). However, this was corrected based on the errors noted by Bates White to be a total of $2,125,264, plus interest.

[49] NS Power's request was for the recovery of this amount "outside the FAM Rider framework, consistent with the billing provisions of special condition (3) Load Migration to non-FAM rate classes of the FAM Tariff." NS Power said that given the 2024 AA is being deferred to future periods for other customers, it will work with these municipal electric utilities on appropriate collection terms. NS Power said it consulted with these customers about its proposed approach and that they were supportive. In NSUARB IR-13, NS Power was asked if these customers agreed to the balances noted. NS Power stated that these customers have neither confirmed nor denied the balances.

[50] The Industrial Group submitted that special condition (3) applies to customers migrating out of the FAM and not for customers migrating into the FAM. The Industrial Group further recommended that the FAM tariff language be clarified.

3.4.1 Findings

[51] The Board approves NS Power's proposed approach for the recovery of FAM AA costs from the affected municipal tariff customers. The Board notes that the AA amount is fully subject to adjustment in the next FAM audit.

[52] The Board also directs NS Power to amend the FAM tariff language to account for the transition of customers both from FAM rates and back into FAM rates. These amendments should be provided to the Board for approval no later than in NS Power’s next general rate application.

3.5 Reporting

[53] NS Power proposed to track and report on the $117 million balance sold to Invest Nova Scotia separately through existing FAM reporting (the quarterly report) and to provide reporting by customer class in the annual report. NS Power provided a template for this in its response to IG IR-9.

[54] The Industrial Group recommended that NS Power be directed to report the balance broken down by customer class in the monthly FAM report. The Small Business Advocate also recommended that information be provided in the monthly FAM reports, specifically information about the payments to Invest Nova Scotia as well as steps being undertaken to address the outstanding FAM balance.

[55] NS Power maintained that the reporting it proposed in its application is more appropriate because the balances will only vary slightly from forecast due to variances in load by class. NS Power stated that it is unable to calculate a monthly breakdown by customer class. NS Power also stated that it is “open to providing regular updates on the steps being taken to address the remaining FAM balance in the quarterly FAM meeting[s] when possible,” however, it notes that some of these discussions may be confidential.

3.5.1 Findings

[56] The Board accepts NS Power’s proposed reporting is sufficient, given the expected degree of variance in the recovery of costs relating to the $117 million balance

sold to Invest Nova Scotia from actual costs recovered from customers (due to load fluctuations) and the difficulty calculating balances by customer class other than on an annual basis.

4.0 SUMMARY OF BOARD FINDINGS

[57] The Board approves the proposed FAM AA/BA Rider for 2024.

[58] The Board directs NS Power to amend the FAM tariff language to account for the transition of customers both from FAM rates and back into FAM rates. These amendments should be provided to the Board for approval no later than in NS Power's next general rate application.

[59] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 17th day of April, 2024.

Stephen T. McGrath

Roland A. Deveau

Steven M. Murphy