DECISION | **2023 NSUARB 166**
M10960

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE GAS DISTRIBUTION ACT

- and -

IN THE MATTER OF A GENERAL RATE APPLICATION by **EASTWARD ENERGY INCORPORATED (formerly Heritage Gas)** for the approval of amendments to its Schedule of Rates, Tolls and Charges

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

APPLICANT: **EASTWARD ENERGY INC.**
David MacDougall, Counsel
Melanie Gillis, Counsel

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

EFFICIENCYONE
James R. Gogan, Counsel

NOVA SCOTIA POWER INC.
Blake Williams, Counsel

NOVA SCOTIA DEPARTMENT OF NATURAL RESOURCES AND RENEWABLES
Jeremy P. Smith, Counsel
Daniel Boyle, Counsel
Michael Bird

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

HEARING DATE: June 12, 2023

FINAL SUBMISSIONS: June 26, 2023

DECISION DATE: **September 21, 2023**

DECISION: **The application, as modified by Eastward Energy in its Settlement Agreement with the Consumer Advocate and in its Closing Submission, is approved subject to the findings in this decision and a compliance filing. Eastward Energy's new rate class structure, rates, distribution service rules and charges will come into effect on January 1, 2024, with additional rate changes on January 1, 2025, and January 1, 2026.**

TABLE OF CONTENTS

1.0 SUMMARY

[1] Eastward Energy Incorporated (formerly named Heritage Gas Ltd.) applied to the Board for approval of amendments to its Schedule of Rates, Tolls and Charges for the test years 2024, 2025 and 2026. This is Eastward Energy's first general rate application for an increase to its rates since the Board's decision setting 2012-2014 rates.

[2] Eastward Energy requests approval to restructure its rate classes to create a Residential Service Class, a combined commercial General Service Class and maintain Rate Class 3. The average impact of the proposed rate increases on customers in the Residential Service Class would be 36.2% (2024), 15.3% (2025) and 9.9% (2026). For the General Service Class, the average impact would be 0.5% (2024), 5.0% (2025) and 0.6% (2026). The Board does not regulate the cost of the natural gas commodity nor the cost of carbon. The requested rate increases only apply to the distribution portion of the customer bills.

[3] The application includes a request for approval of a return on equity of 10.8%, cost of debt of 7.25% and a debt/equity ratio of 55/45, as well as a new Incentive Program for new Multi-Unit Residential Buildings and single-family homes.

[4] The Board held the public hearing on June 12, 2023. The evidentiary record contained about 100 exhibits filed by Eastward Energy and the Intervenors.

[5] On June 7, 2023, Eastward and the Consumer Advocate filed a Settlement Agreement with the Board proposing to resolve many of the issues in this proceeding. Among other things, the Settlement Agreement reduced the proposed rate increases for the Residential Service Class to 15.0% (2024), 10.0% (2025) and 10.0% (2026), in part by reducing the residential fixed monthly customer charge from the proposed $35/month to $26.00 (2024), $27.50 (2025) and $29.00 (2026).

[6] Having reviewed the evidence and submissions, the Board finds that the Settlement Agreement is in the public interest and should be approved, subject to Board findings outlined in this decision (mostly about matters Eastward must address by its next general rate application). The approved rate increases will be confirmed in a compliance filing by Eastward.

[7] As noted by the Board in this decision, Eastward finds itself at somewhat of a crossroads. In the 20 years since the Board granted the Company its natural gas distribution franchise, concerns about the effects of greenhouse gas emissions have intensified and the impacts of climate change are clearer. Nova Scotia has legislated goals to reduce greenhouse gas emissions from the province by 53% (below 2005 levels) by 2030 and to have net-zero emissions by 2050. Consultants for the Consumer Advocate and Board Counsel questioned whether incentives proposed in the application and Eastward's proposed approach to addressing decarbonization targets were consistent with government policy. These consultants questioned Eastward's role in the energy transition and recommended further study of the future of natural gas. In the Settlement Agreement, Eastward agreed to immediately engage with the Provincial Government about the evolving energy landscape in Nova Scotia, with the aim of achieving environmental goals and providing safe, reliable and affordable energy sources for the Province. In its written submissions, the Department of Natural Resources and Renewables indicated it would be continuing its discussions with Eastward. From the evidence in this proceeding, it is clear that Eastward has already engaged extensively with the Provincial Government about the issues Eastward is facing, and it is encouraging that it intends to continue to do so.

2.0 BACKGROUND

2.1 The Application

[8] This decision is about an application filed on January 16, 2023, by Eastward Energy Incorporated (Eastward, Eastward Energy, Company, Utility) for approval of revisions to its Rates, Tolls and Charges (application or GRA). This is Eastward's first general rate application for an increase to its rates since the Board's decision setting 2012-2014 rates. The application is made under s. 21 of the *Gas Distribution Act*.

[9] On February 7, 2023, the Board granted Eastward a full regulation class franchise to construct and operate a gas delivery system for a period of 25 years in the counties of Cumberland, Colchester, Pictou and Halifax, the Municipality of the District of East Hants and the Goldboro area of Guysborough County [2003 NSUARB 8], subject to the approval of the Governor-in-Council. Governor-in-Council approval was provided on February 21, 2003. On June 3, 2003, the Company formally accepted the franchise. In its application, the Company stated it intends to apply to extend its franchise before it expires in 2028.

[10] The Board does not regulate the cost of the natural gas commodity nor the cost of carbon. The requested rate increases only apply to the distribution portion of customer bills.

[11] Eastward Energy proposed that residential customers be removed from the existing Rate Class 1 to form a new Residential Service Class and the remaining Rate Class 1 commercial customers and what are known as Rate Class 1A customers be combined with the existing Rate Class 2 commercial customers to form a combined General Service Class. There are no changes to the makeup of Rate Class 3 and Rate Class 4. While a subsequent settlement agreement between Eastward and the Consumer

Advocate revised the proposed rates and rate structure, the average impact of the proposed rate increases on customers in the original application, in each rate class, is summarized in the following table:

Impact of Distribution Rate Design on Rate Classes			
Year	**Residential Service Class**	**General Service Class**	**Rate Class 3**
2024	36.2%	0.5%	0.4%
2025	15.3%	5.0%	0.0%
2026	9.9%	0.6%	0.0%

[12] The proposed monthly average distribution related bill increases in the original application are summarized in the following table:

Year	**Residential Service Class**	**General Service Class**	**Rate Class 3**
2024	$25.63	$ 3.60	$127.17
2025	$14.44	$37.48	- -
2026	$10.46	$ 4.36	- -

[13] If approved, the originally proposed rate increases would have been as follows:

	Fixed monthly customer charge ($ per month)				
Year	**Rate class 1**		**Rate class 1**	**Rate class 1A**	**Rate class 2**
2023 Approved Rates	21.865		21.865	21.865	562.880
	Residential Service		**General Service**		
Requested 2024	35.00		65.00		
Requested 2025	35.00		65.00		
Requested 2026	35.00		65.00		
	Base energy charge ($ per gigajoule)				
Year	**Rate class 1**		**Rate class 1**	**Rate class 1A**	**Rate class 2**
2023 Approved Rates	8.685		8.685	8.685	2.606
	Residential Service		**General Service**		
	First 10GJ/Month	**Additional**	**First 15 GJs/Month**	**Next 400 GJs/Month**	**Additional**
Requested 2024	11.157	9.824	8.554	5.447	5.197
Requested 2025	14.230	10.551	9.317	5.720	5.470
Requested 2026	16.399	11.637	9.525	5.760	5.510

[14] For Rate Class 3, the application proposed no changes to the fixed monthly customer charge of $1,995.54. However, the Base Energy Charge (BEC) for Rate Class 3 was proposed to increase from $0.158 to $0.167 per gigajoule.

[15] Eastward Energy requested the following:

- Approval of the proposed new rate class structure, including the creation of a Residential Service Class and a combined commercial General Service Class;

- Approval of proposed rates for the new rate class structure, including declining block rates for the Residential Service Class and a combined commercial General Service Class, to take effect January 1, 2024, for a three-year test period from January 1, 2024 to December 31, 2026;

- A reduction of the return on equity from 11.0% to 10.8%, and maintaining the cost of debt of 7.25% and a debt/equity ratio of 55/45;

- Continuing the deferrals for the Revenue Deficiency Account (RDA) and the Customer Retention Program (the latter program ending December 31, 2023);

- Approval of its capitalization policy and depreciation rates;

- Establishment of a new Incentive Program for new multi-unit residential buildings and single-family homes; and

- Amendments to its Distribution Service Rules, including revisions to the Rules and to the Special Charges Schedule (including a new proposed annual Consumer Price Index (CPI) adjustment).

[16] A number of formal Intervenors responded to Eastward's application and participated in the hearing, including the Consumer Advocate (CA), EfficiencyOne, Nova Scotia Power Incorporated (NS Power), and the Nova Scotia Department of Natural Resources and Renewables (NRR).

[17] On June 7, 2023, Eastward filed a Settlement Agreement with the Board proposing to resolve many of the issues in the general rate application. The signatories to the Minutes of Settlement are the Utility and the CA. The other intervenors in the matter,

NS Power, EfficiencyOne and NRR did not sign the agreement, but in their submissions did not oppose it. Among other things, the Settlement Agreement:

- reduced the proposed rate increases for the residential service class (RSC) from 36.2% in 2024, 15.3% in 2025 and 9.9% in 2026 to 15.0% in 2024, 10.0% in 2025, and 10.0% in 2026;

- reduced the residential fixed monthly customer charge (FMCC) from the proposed $35/month to $26.00 for 2024, $27.50 for 2025 and $29 for 2026. Also, it reduced the difference between the BEC Tier 1 and BEC Tier 2 in the residential class;

- made adjustments to the GSC BEC tiers, including reducing BEC 1, thus benefiting small businesses;

- further reduced Eastward's proposed return on equity from 10.8% to 10.65%, and its cost of debt from 7.25% to 6.95%;

- addressed cost of service allocation issues, whereby Eastward agreed to evaluate other options for allocating mains and marketing costs prior to its next general rate application;

- proposed modifications to Eastward's Mains Feasibility Test (MFT) and its distribution service rules; and

- provided for Eastward's immediate engagement with the Provincial Government regarding an energy policy review.

[18] Eastward and the CA agreed on further points after the hearing. They agreed to revise the Settlement Agreement to include that the RSC declining block rate structure be revised to a single flat BEC and that the annual value of the incentives be capped at $1.3 million/year, down from the proposed $1.6 million/year, a reduction of $900,000 over the test period.

[19] The Notice of Public Hearing advised members of the public that they could file letters of comment with the Board about Eastward's application, or request to speak at an evening session. The Board received five letters of comment from Clayton Developments, Shaughnessy Homes Ltd., Maritime Paper Products LP, the Canadian

Manufacturers and Exporters (CME), and Scotia Investments. The letters all supported the application and desired the "continued availability and expansion of Eastward Energy's natural gas distribution system in Nova Scotia". Most noted the environmental benefits of natural gas and its importance in their respective businesses. Clayton Developments and Shaughnessy Homes noted that natural gas continues to offer a practical and affordable option with lower emissions than furnace oil or propane. Maritime Paper and the CME noted the potential benefit of developing green hydrogen in the future.

2.2 The Energy Transition

[20] This application finds Eastward at somewhat of a crossroads. In the 20 years since the Board granted the Company its natural gas distribution franchise, concerns about the effects of greenhouse gas (GHG) emissions have intensified and the impacts of climate change have become clearer. Nova Scotia has legislated goals to reduce GHG emissions from the province by 53% (below 2005 levels) by 2030 and to have net-zero emissions by 2050. However, the product Eastward's customers consume emits GHGs and the ongoing viability of Eastward's distribution system in Nova Scotia may depend upon growth and an expansion of its customer base.

[21] The effects of climate change are already having a profound impact on the lives of Nova Scotians. While this decision was being prepared, the province experienced torrential downpours and flooding, which caused significant damage to homes and other buildings, and threatened, disrupted, and damaged public infrastructure such as roads, bridges, dams, railways, and utilities. Some Nova Scotians had to evacuate their homes and, tragically, lives were lost. It was reported to have been the heaviest rainfall in more than half a century. Earlier in the year, wildfires the likes of which Nova Scotians have not seen in this province also resulted in evacuations as well as catastrophic property

damage, including the loss of many homes. Several months before that, it was Hurricane Fiona. As this decision is being released many Nova Scotians have just been impacted by Hurriane Lee.

[22] Statutory goals for reducing provincial GHG emissions have existed in Nova Scotia since at least 2007 (*Environmental Goals and Sustainable Prosperity Act*, S.N.S. 2007, c. 7). Most recently, the *Environmental Goals and Climate Change Reduction Act*, S.N.S. 2021, c. 20 (*EGCCRA*) set out 28 goals aimed at reducing GHG emissions, active transportation, land protection, water and air quality, environmental assessment, sustainable procurement, aquaculture and food, circular economy growth, and business, training and education support. The *EGCCRA* also required the creation of a strategic plan addressing the achievement of GHG emission reduction targets; climate change adaptation and resiliency; the integration of sustainable and innovative technologies and approaches; and clean inclusive growth. In December 2022, the Province released its plan: "*Our Climate, OUR FUTURE: Nova Scotia's Climate Change Plan for Clean Growth*" (*Climate Change Plan*).

[23] There are no explicit references to gas distribution in the *EGCCR*. The climate change response and GHG emissions reductions goals in s. 7 include references to energy efficiency programming, building code changes, government buildings and leased space, zero-emission vehicles, a requirement for 80% of electricity in the province to be supplied by renewable energy, and the phasing out of coal-fired electricity generation by 2030.

[24] The *Climate Change Plan* is also largely silent on the future of natural gas distribution in Nova Scotia. It notes that electricity generation made up 43% of Nova Scotia's greenhouse gas emissions in 2020 and states that ending coal-fired generation

and requiring that 80% of electricity come from renewable sources by 2030 will have the greatest impact on the province's GHG emissions. Beyond that, it contemplates that a cleaner electric grid will reduce GHG emissions in other sectors through electrification:

> We are taking action to move to a clean electricity system. Renewable energy, such as wind, tidal, and solar, is our future. Moving away from coal and toward a clean, reliable, and efficient electricity system is essential if we are to meet our greenhouse gas emissions reduction targets. As we move away from fossil fuels for home heating and transportation, we need to know that the electricity that is being used instead has come from a renewable source and is not still contributing to climate change. A clean electricity system is also important to advance our standing in the clean economy. Having a reliable and clean source of electricity is important to help Nova Scotia respond to the demand for alternative sources of energy like green hydrogen.
>
> [Exhibit E-41, p. 18]

[25] The *Climate Change Plan* does contemplate support for "low-carbon and renewable fuels such as green hydrogen, renewable natural gas, biofuels, and sustainable biomass" [Exhibit 41, p. 27]. It also discusses the opportunities that could arise from the development of green hydrogen in Nova Scotia, including delivery through the existing natural gas distribution system:

> Hydrogen is a clean-burning fuel that industrial processes, heavy transportation, and the marine sector can use to get off fossil fuels faster. There is also a global demand for green hydrogen as countries shift to clean energy alternatives to coal, natural gas, and oil. Nova Scotia is well positioned to meet this demand and become a global producer and exporter of green hydrogen.
>
> Compared to the rest of Canada, our natural gas system is well positioned to carry green hydrogen. We also have access to large amounts of offshore wind to help provide the electricity needed to produce green hydrogen.
>
> [Exhibit E-41, p. 23]

[26] In the face of the imperative to reduce GHG emissions, Eastward seeks growth. This follows from the fact that the Utility has not fully matured and, despite operating for 20 years, has not demonstrated a sustained ability to fully recover its costs.

[27] In its first general rate application to the Board in 2004, Eastward (then known as Heritage Gas) proposed a five-year test period through which it would accumulate deferred revenue in an RDA in the early years of the test period for recovery in the later years. In its decision in that matter (2004 NSUARB 72), the Board considered

the purpose of the RDA, as described by Kathleen McShane, a consultant Eastward retained for the application:

> [10] Ms. McShane explained the rationale for a five-year test period:
>
> In the early years of operation, Heritage Gas does not expect to be able to set rates which will be adequate to recover a full cost of service as measured by the traditional rate base/rate of return approach. Full cost of service rates using the traditional rate base/rate of return rate making methodology would be higher than what would be necessary to induce potential customers to convert to natural gas. In order to arrive at rates that will be competitive with alternative fuels, Heritage is proposing to levelize its forecast cost of service over a five year test period. During that five year period, the annual differences between actual revenues and the actual cost of service will be accrued in a revenue deficiency account. The accumulated amount of the revenue deficiency account, which represents amounts owed by customers, will be included in rate base. Heritage forecasts that the deferral account will be cleared at the end of the five-year test period.
>
> [Exhibit H-1, Section 17, pp. 81-82]

[28] Clearing the balance accumulated in the RDA proved to be optimistic. Indeed, the RDA continued to grow, eventually leading the Board to order a $50 million cap in 2010 (Order dated September 10, 2010 (M02874)). In its current application, Eastward projects the balance in the RDA will grow through the proposed test period to a balance of $33.9 million in 2026.

[29] In addition to the RDA, the Board also allowed Eastward to defer the recovery of some depreciation and operating, maintenance and administration (OMA) costs under the Company's Customer Retention Program (CRP). The Board approved this program in 2016 due to competitive pricing pressures from other energy commodity products, notably from propane. The CRP will end after 2023. Eastward forecasts the balance in the CRP deferral account will be $50.2 million at the end of 2023 and proposes to carry this balance through to the end of the test period in 2026.

[30] In its response to NSUARB IR-19 [Exhibit E-11], Eastward said with the rate increases requested in this application and continued growth, it intends to move "closer to full cost recovery." In responding to John Wilson, Resource Insight, Inc., a consultant

retained by the CA who recommended that the Board reject new distribution system extensions, Eastward suggests dire consequences if it could not invest in new mains extensions during the three-year test period:

> Since beginning operations in 2003, Eastward has continued to expand its infrastructure adding new residential, commercial, and industrial customers across Nova Scotia each year. Mr. Wilson's suggestion for the Board to reject all new investments for mains extensions during the three-year test period would assure that Eastward is never able to reach cost-of-service recovery which would lead to the ultimate demise of the natural gas utility in Nova Scotia. Throughout rural and urban areas of Nova Scotia, the investments in capital and mains extensions by Eastward have assisted customers by allowing them to have a competitively priced energy option and allowed them to lower their emissions by switching from fuel oil and propane energy sources in the province.
>
> Utilities require growth to not only protect existing customer bases, but also to ensure future customers are protected as well. In order to achieve full cost recovery Eastward must increase its customer base and increase its rates to generate enough revenue to recover these costs. Increasing the customer base is an imperative component of this plan; increasing rates alone would undoubtedly put competitive pressure on natural gas as an energy source and will not allow Eastward to achieve full cost recovery.
>
> [Exhibit E-32, p. 44]

[31] Eastward emphasized the role it could play in the transition to a net-zero carbon economy. Since the beginning of its franchise, it has helped its customers switch from higher GHG emitting energy sources and could continue to do so. The Company submitted that it could supply a backup source of energy for electric heat pumps and offered the potential to reduce peak electricity demand through "dual-fuel solutions." Eastward also noted it was exploring the potential development and introduction of gas absorption heat pumps into the market.

[32] Eastward also highlighted the possibility of decarbonizing the product flowing through its distribution system, through blending with renewable natural gas or hydrogen. The Utility said, "natural gas and low-carbon gases including hydrogen and renewable natural gas remain the most technically feasible and affordable solution for hard to abate sectors including institutional buildings, industrial applications as well as heavy transportation."

[33] Eastward “believes that it has one of the most hydrogen-compatible gas distribution systems in North America” [Exhibit E-10, CA IR-16(g)]. It noted its plastic pipes are compatible with hydrogen and the modern alloys in its steel pipelines are compatible with hydrogen blends up to 30%. It is currently assessing the feasibility of other components in its distribution system and believes that most current natural gas appliances are compatible with blends of up to 20% hydrogen.

[34] Mr. Wilson questioned the role that Eastward could play in the energy transition. While he accepted that natural gas is generally cleaner and cheaper than other fossil fuels, he did not believe natural gas heating was cheaper than electric heat pump technology or cleaner over the expected lifetime of the equipment. Mr. Wilson indicated that Eastward’s system expansion plan was not consistent with federal and provincial government electrification policies. He also raised a concern about the prospect of Eastward significantly decarbonizing the fuel it delivers and considered this aspect of the submission aspirational and lacking detail.

[35] Still, Mr. Wilson acknowledged Eastward may have a role in Nova Scotia’s future energy landscape. He noted that a key challenge in Nova Scotia Power’s decarbonization strategy was meeting peak winter heating load. He said the electric utility was pursuing options such as demand response, battery storage, gas-fueled peaking plants and transmission interconnections. He said the solution might involve some or all these options, but noted this would not necessarily resolve questions around the role for retail gas use in the future. Mr. Wilson recommended that the Board convene a new proceeding “to investigate the options for meeting customers’ needs for heating, hot water, and other related needs. Such a proceeding should seek submissions from

Eastward, NS Power, Efficiency Nova Scotia, and other parties such as businesses that install or supply propane and fuel oil systems."

[36] Board Counsel consultant, Eric Borden, Synapse Energy Economics, raised similar concerns. Like Mr. Wilson, Mr. Borden questioned whether Eastward's proposed approach to addressing decarbonization targets was consistent with government policy. Likewise, Mr. Borden recommended further study of the future of gas in the energy transition:

> The exact impacts of the energy transition in Nova Scotia remain unclear and unquantified particularly as it relates to gas-specific issues. Furthermore, Eastward is not the only utility facing the impacts of transitioning to lower carbon fuels; the policies to increase the cost of carbon and drive building electrification affects all utilities. I believe there is currently a dearth of information on which the Board can rely to ensure sound policies that allow the utility to remain viable while meeting least-cost, least-regrets pathways to decarbonization. A study of these issues, specific to Nova Scotia, could provide a set of scenarios that allow policymakers to reasonably ensure decarbonization goals are met and that gas is available and affordable for the uses for which it is necessary and required over the medium-to-long term.
>
> …
>
> Given the uncertainties and lack of clear policy guidance and analysis specific to the implications of decarbonization policy on gas utilities, I recommend that the Board require further analysis and study of how to ensure an orderly, just, equitable, and least cost approach to decarbonization and the implications this has for gas utilities. The analysis and assumptions should be specific to the Nova Scotia province.
>
> This could be accomplished by the Board itself, in coordination with the provincial government, or some other means. This is a complex topic that requires prospective thinking and planning—not short-term solutions that do not adequately consider long term impacts and the broader policy context.
>
> [Exhibit E-22, pp. 23-24]

[37] While it did not agree with many of their comments, Eastward acknowledged that Mr. Wilson and Mr. Borden raised important considerations requiring further consideration. However, Eastward submitted that the provincial government should address these issues rather than the Board. It elaborated on the reasons for this in its submissions about the concerns raised by Mr. Wilson:

> Although Eastward is not opposed to the general recommendations of Mr. Wilson on a broad investigation of an energy policy inquiry (i.e., strategies with respect to space and water heating in the province), the Company is concerned with the regulatory authority of

> the Board to conduct such an expansive inquiry and, more importantly, the issue being part of Eastward's current rate case. As Mr. Wilson himself noted "*this question requires a broader investigation than is practical in a GRA proceeding*."
>
> …
>
> With respect, Eastward believes any such recommendation should fall under the direction of the Provincial Government and not the Board. The recommendation for an inquiry of the nature proposed by Mr. Wilson would in Eastward's view clearly require significant public policy considerations, and Eastward does not understand the Board's regulatory power to extend to an instrument of policymaking. In addition, the Board does not directly have jurisdiction over unregulated activities in the province.
>
> In conclusion, Eastward is not opposed to the general concept within Mr. Wilson's recommendation but such an inquiry should not be addressed as an element of this rate application. Eastward does however believe such an inquiry could have significant benefit, and if the Board concurs, it is open as part of its decision in this proceeding to encourage the Provincial government to conduct such an overarching energy policy review and to offer to provide its experience or assistance to such a process as the Board considers appropriate.
>
> [Exhibit E-32, p. 46-48]

[38] After Eastward filed its Rebuttal Evidence, it concluded a settlement of the issues arising in this proceeding with the CA. In s. 5 of the Settlement Agreement, Eastward and the CA contemplate further engagement with the Province to discuss the energy landscape in Nova Scotia and the achievement of environmental goals:

> **5. Encouragement by Eastward Energy of a Province-wide Energy Policy Review**
>
> Eastward will proceed immediately to engage with the Provincial Government, and the NSUARB staff as they consider appropriate, on the recommendation to evaluate the evolving energy landscape in Nova Scotia, with the aim of achieving environmental goals and providing safe, reliable and affordable energy sources for the Province.
>
> [Exhibit E-33, p. 3]

[39] After the Settlement Agreement was filed with the Board, Mr. Borden filed an Opening Statement for his testimony at the hearing that addressed, in part, the proposed energy policy engagement with the Province and what he referred to as "the future of gas issues." Mr. Borden listed criteria he recommended for the study and

analysis relating to these issues. Mr. Borden urged the completion of this process by the end of 2024, well in advance of Eastward's proposed rate application in 2026.

[40] Eastward agreed that it would be best if the proposed policy discussions could set policy direction in time to allow it to address policy impacts in the general rate application it expects to file in 2026. In the Company's response to Undertaking U-1, Eastward canvassed each of the criteria for the policy review recommended by Mr. Borden to identify which ones it agreed should be in the scope of the proposed review and which required clarification:

Mr. Borden's recommendation:	**Eastward's Comments on recommendation:**
A study design and process that evaluate scenarios that are complete, consistent, and feasible, and avoid anchoring the analysis in unrealistic "straw" scenarios that would bias readers toward solutions preferred by specific stakeholders, including industry groups and utilities.	Eastward generally agrees that the policy review should not include unrealistic scenarios, or ones biased by specific stakeholders. Any policy review should include stakeholder input from a broad cross-section of knowledgeable energy industry stakeholders. The policy review should use energy models that are widely accepted as best-in-class.
Placing equity and justice at the front and center of policies and pathways to achieve Nova Scotia's goals, ameliorating the disproportionate burdens on frontline communities, and developing partnerships with these communities so they can lead the transition to clean heating at affordable prices.	During cross-examination with Vice-Chair Deveau, Mr. Borden provided examples of what this item referred to as "*particularly low-income customers…*" and "*… how to mitigate those effects of those communities kind of being the hardest and last to being able to get over to lower carbon technologies*." Eastward supports social justice concepts, but as an energy distribution company, Eastward cannot solely incorporate social policy objectives in energy policy. After consultations with stakeholders, the Provincial government would need to determine how to incorporate this recommendation in the Terms of Reference for the Energy Policy review.

Mr. Borden's recommendation:	**Eastward's Comments on recommendation:**
Accounting for the full costs and benefits of energy system infrastructure; this includes both electric and gas generation, transmission, and distribution systems (and systems developed for any other fuel or energy carriers) as well as end- use building systems.	Eastward agrees that the Terms of Reference for an Energy Policy review should include both the direct costs and benefits of energy system infrastructure.
Transparent accounting for greenhouse gas emissions from the full lifecycle of energy production, transmission, distribution, and use, including leaks and losses.	During cross-examination with Vice-Chair Deveau, Mr. Borden stated: "*I guess I'm thinking the analysis goes beyond even just what the Board necessarily regulates. So, for example, if we're analyzing, let's say, hydrogen which came up earlier you'd want to understand how the hydrogen is made even if that's not, you know -- or where the hydrogen comes from, or how much there is, and all that. And so, you know, I think the results of the analysis will impact how and what the Board -- you know, how the Board regulates the utility, but not all of it may be under direct regulation by the utility, if that makes sense.*" Eastward believes significant further discussion would be required with stakeholders on the scope of any life cycle analysis. For example only: • What standard would apply in accounting for life cycle GHG emissions associated with the base and rare earth minerals mining and processing in the production of batteries and solar panels? • What CO2 equivalent will be applied to methane emissions? • What scenarios would be used in determining the decarbonization pathways and timelines for the gas and electric grids? Eastward also notes that in the context of its rates and charges as approved by the Board, the Board does not regulate the commodity.

Mr. Borden's recommendation:	Eastward's Comments on recommendation:
Respect for customer-facing economics presented in each scenario considered, and explicit identification of policies or programs to change those economics where necessary to achieve policy outcomes.	Eastward would need additional context and clarification on what this recommendation is referencing.
A keen sense of the timescale of market transformation and stock turnover, as well as the timescale of utility infrastructure lifetimes and depreciation rates.	During cross-examination with Vice-Chair Deveau, Mr. Borden stated: "*So to make it a little bit more concrete, let's say you're looking at electrification and even let's say hydrogen appliances, right? Well, what does that mean for electric loads on the system? When you're adding to electric loads, what does that mean to gas losses on that system and subsequently rising rates? And then, you know, the last part of the sentence is about specifically, you know -- and this is a very utility-specific question, what is in rate base; how long is it in rate base; what are the amortization and depreciation periods over which that's there? Because as you contend with, you know, the cost implications to ratepayers, you have to think about all those things.*" Eastward generally agrees with this recommendation. Information on stock turnover and depreciable assets and rates should be generally available. Stakeholder input as well as consideration of legislative timeframes would be required to develop appropriate assumptions on the timescale of market transformation.
Careful consideration of the risk of failure along different pathways, as well as the path dependence which limits the ability to change course in the event of failure.	Eastward would need additional context and clarification on what this recommendation is referencing.
Connecting utility business and financial models with utilities' potential roles to enable and accelerate the pursuit of decarbonization goals of the federal and provincial governments.	Eastward generally agrees with this recommendation.

Mr. Borden's recommendation:	**Eastward's Comments on recommendation:**
Clear understanding and planning for the interaction between gas and electric utilities.	Eastward generally agrees with this recommendation.
Avoiding unplanned catastrophic reduction in gas use and the associated stranded costs.	Eastward agrees that unplanned catastrophic reductions in gas use should be avoided. Consideration of stranded asset costs should not be limited to gas assets.

[Exhibit E-42, U-1]

[41] While not a party to the Settlement Agreement, NRR accepted that there were issues raised in the proceeding beyond the Board's authority and properly left to the Minister to address:

> During the hearing of this proceeding, the Board rightly signaled its role as a regulator, not a policy maker. In addition to matters within the Board's regulatory authority to determine, this proceeding raised policy issues which are properly the role of the Minister of Natural Resources and Renewables.
>
> Although the Board cannot direct a process for development of a comprehensive energy policy within Nova Scotia, NRR has heard Eastward Energy's concerns about their place within such policy. The Department continues discussions with Eastward Energy to address these concerns, recognizing and appreciating that Eastward Energy anticipates its next GRA to take place in 2026, and that its franchise must be renewed in 2028.
>
> [Natural Resources and Renewables, Submissions, p. 2]

[42] Ultimately, setting signposts that might help Eastward navigate the crossroads it has reached will require a balancing of public policies more appropriately made by elected officials and will involve the interests of sectors not regulated by the Board. The record in this proceeding is clear that Eastward has engaged extensively with the provincial government about the issues it is facing, and it is encouraging that it intends to continue to do so. However, the Board has no authority to direct that the engagement contemplated by the Settlement Agreement occur or to dictate its scope. If it does occur, and those involved believe the Board's involvement might facilitate the process, the Board will help in any way it can.

[43] Eastward is urging the Board to exercise its authority over the entities it regulates to ensure collaboration and cooperation in planning for the energy transition, specifically about the potential for hybrid options to mitigate peak electricity demand in the province. The Board agrees that there is a benefit to coordinated planning for the energy transition, although any policy discussions with the provincial government could affect that planning. That said, the Board will direct its staff to engage with regulated entities to explore whether there are opportunities for more efficient and effective coordination of the long-term planning processes of regulated entities.

3.0 SETTLEMENT AGREEMENT

3.1 Settlement Agreement between Eastward and CA

[44] The only signatories to the Minutes of Settlement filed with the Board on June 7, 2023, are the Utility and the CA. The other intervenors in the matter, NS Power, EfficiencyOne and NRR did not sign the agreement, but, in their submissions, did not oppose it. The terms of the settlement were set out in a schedule to the agreement which provided as follows:

APPENDIX A

2023 GTA SETTLEMENT AGREEMENT

1. Proposed rates, tolls, and charges / Revenue-to-Cost Ratios

Eastward will lower the annual proposed rate increases for the residential service class (RSC) from 36.2% in 2024, 15.3% in 2025 and 9.9% in 2026 to 15.0% in 2024, 10.0% in 2025, and 10.0% in 2026. These reductions reflect the adjustments detailed below to the cost of capital, residential FMCC, residential tiers, GSC tiers and penetration rates all of which flow to the residential class.

Year	Application % Increase (RSC)	Proposal % Increase (RSC)
2024	36.2%	15.0%
2025	15.3%	10.0%
2026	9.9%	10.0%

As per Application:

Average Impact of Rate Increases - Monthly Customer Bill						
Year	**RSC**		**GSC**		**RC3**	
2024	$	25.63	$	3.60	$	127.17
2025	$	14.44	$	37.48	$	-
2026	$	10.46	$	4.36	$	-

As per Settlement:

Average Impact of Rate Increases - Monthly Customer Bill						
Year	**RSC**		**GSC**		**RC3**	
2024	$	10.61	$	7.20	$	127.17
2025	$	8.01	$	46.46	$	-
2026	$	8.68	$	7.71	$	-

Average annual rate increases for Rate Class 3 will remain unchanged from the Application. There are suggested adjustments to the GSC BEC tiers, including reducing BEC 1, thus benefiting small businesses as shown in Appendix 1, which details the rates by rate class from the Application compared to this proposal.

As suggested by Mr. Chernick in intervenor evidence, Eastward will lower the residential fixed monthly customer charge (FMCC) from the proposed $35/month to $26.00 for 2024, $27.50 for 2025 and $29 for 2026. In addition, as suggested by Mr. Chernick, Eastward has reduced the difference between BEC Tier 1 and BEC Tier 2 in the residential class, as shown in Appendix 1.

Year	Application FMCC	Proposal FMCC
2024	$35.00	$26.00
2025	$35.00	$27.50
2026	$35.00	$29.00

The Eastward revised Revenue Requirement and the year-over-year Rate Increases and Revenue to Cost Ratios are shown in Appendix 2.

2. Mains & Marketing Allocators

Eastward will explore other options than proposed in the Application for allocating mains and marketing costs, including consideration of non-coincident peak allocations, for the next general rate application, proposed to occur in 2026. Prior to the proposed application in 2026, Eastward will offer a technical conference on the allocation methodologies.

3. Feasibility Test

Eastward has proposed modifications to the MFT in its Rebuttal Evidence which is already before parties.

Eastward's current intention is not to use the CFT during the test period. To the extent application of the CFT is required, Eastward would apply separately for approval to the Board.

4. Distribution Service Rules

Eastward has proposed modifications to the Distribution Service Rules in its Rebuttal Evidence which is already before parties.

5. Encouragement by Eastward Energy of a Province-wide Energy Policy Review

Eastward will proceed immediately to engage with the Provincial Government, and the NSUARB staff as they consider appropriate, on the recommendation to evaluate the evolving energy landscape in Nova Scotia, with the aim of achieving environmental goals and providing safe, reliable and affordable energy sources for the Province.

6. Customer Retention Program Deferral Recovery

As provided in the Application, the amortization of the CRP deferrals will begin following the 2024-2026 test period. The proposed treatment to recover the CRP deferral balance will be addressed in the next general rate application, proposed to occur in 2026.

7. Capital Structure

For the test period, the Company will have the following capital structure:

Rate of Return	10.65%
Cost of Debt	6.95%
Debt/Equity Ratio	55:45

8. All other matters are as set forth in the Application as modified by Eastward's responses to information requests and its Rebuttal Evidence.

9. This settlement is for Matter M10960 only and is without prejudice to any parties freshly addressing any of the issues in a future application.

Appendix 1: Revised Rates 2024-2026

Rates as Proposed

Class	Rate	2024	2025	2026
RSC	FMCC	35.00	35.00	35.00
	BEC1	11.157	14.230	16.399
	BEC2	9.824	10.551	11.637
GSC	FMCC	65.00	65.00	65.00
	BEC1	8.554	9.317	9.525
	BEC2	5.447	5.720	5.760
	BEC3	5.197	5.470	5.510
RC3	FMCC	1,995.54	1,995.54	1,995.54
	BEC	0.167	0.167	0.167
	Demand	30.85	30.85	30.85

Rates per Settlement Offer

Class	Rate	2024	2025	2026
RSC	FMCC	26.00	27.50	29.00
	BEC1	9.899	11.090	12.433
	BEC2	9.555	10.704	12.001
GSC	FMCC	65.00	65.00	65.00
	BEC1	8.220	8.948	9.142
	BEC2	5.513	5.870	5.943
	BEC3	5.263	5.620	5.693
RC3	FMCC	1,995.54	1,995.54	1,995.54
	BEC	0.167	0.167	0.167
	Demand	30.85	30.85	30.85

Change

Class	Rate	2024	2025	2026
RSC	FMCC	(9.00)	(7.50)	(6.00)
	BEC1	(1.258)	(3.141)	(3.967)
	BEC2	(0.269)	0.154	0.364
GSC	FMCC	-	-	-
	BEC1	(0.334)	(0.369)	(0.383)
	BEC2	0.066	0.150	0.183
	BEC3	0.066	0.150	0.183
RC3	FMCC	-	-	-
	BEC	-	-	-
	Demand	-	-	-

Appendix 2: Revised Revenues, Revenue-to-Cost Ratios, and Percent Increases for 2024-2026

Revenue from Proposed Rates

Class	2024	2025	2026
RSC	6,591	8,018	9,336
GSC	33,993	36,575	37,698
RC3	6,266	6,266	6,290
Total	46,851	50,858	53,324

R/C Ratios from Proposed Rates

Class	2024	2025	2026
RSC	57.5%	62.5%	67.5%
GSC	104.6%	104.4%	104.3%
RC3	123.9%	120.2%	121.7%
Total	95.6%	95.8%	96.7%

Percent Increase - Proposed

Class	2024	2025	2026
RSC	36.2%	15.3%	9.9%
GSC	0.5%	5.0%	0.6%
RC3	0.4%	0.0%	0.0%
Total	4.3%	5.9%	2.2%

Revenue from Settlement Offer Rates

Class	2024	2025	2026
RSC	5,565	6,459	7,532
GSC	34,155	37,154	38,452
RC3	6,266	6,266	6,290
Total	45,986	49,878	52,274

R/C Ratios from Settlement Offer Rates

Class	2024	2025	2026
RSC	49.5%	51.3%	55.6%
GSC	107.0%	108.0%	108.5%
RC3	126.0%	122.3%	124.1%
Total	95.5%	95.7%	96.7%

Percent Increase - Settlement Offer

Class	2024	2025	2026
RSC	15.0%	10.0%	10.0%
GSC	1.0%	6.1%	1.0%
RC3	0.4%	0.0%	0.0%
Total	2.4%	5.8%	2.2%

Change

Class	2024	2025	2026
RSC	(1,026)	(1,559)	(1,804)
GSC	161	579	754
RC3	0	0	0
Total	(865)	(980)	(1,050)

Change

Class	2024	2025	2026
RSC	-8.0%	-11.2%	-12.0%
GSC	2.4%	3.6%	4.1%
RC3	2.1%	2.2%	2.4%
Total	-0.1%	-0.1%	-0.1%

Change

Class	2024	2025	2026
RSC	-21.2%	-5.3%	0.2%
GSC	0.5%	1.2%	0.4%
RC3	0.0%	0.0%	0.0%
Total	-1.9%	-0.1%	0.0%

[Exhibit E-33, pp. 2-5]

[45] Further negotiations between Eastward and the CA, after the hearing, resulted in revisions to the previously filed Settlement Agreement. These revisions were described by Eastward in its Closing Submission:

> …Eastward and the CA took note of two areas of apparent concern raised by the Board Chair, the declining block in the Residential Service Class ("RSC") and the proposed incentives. As such, the parties to the Settlement Agreement, Eastward and the CA, have agreed to modifications to the Settlement Agreement on both these issues. They have agreed that the RSC declining block rate structure be revised to a single flat base energy charge ("BEC"), and that the annual value of the incentives be capped at $1.3 million/year, down from the proposed $1.6 million/year, a reduction of $900,000 over the test period. These changes have no impact on the average rate increases proposed in the Settlement Agreement, …
>
> [Eastward Closing Submission, p. 10]

[46] For the purposes of this decision, any reference to the Settlement Agreement includes the revisions on these two points.

3.2 The Board's approach to settlement agreements

[47] In its previous decisions, the Board has set out the principles it applies in its consideration of settlement agreements. Those principles bear repeating. In its decision dated November 5, 2008, about a NS Power general rate application, the Board outlined its general approach to settlement agreements submitted to it for approval:

> [12] The Board's *Regulatory Rules* facilitate settlement discussions. The Board welcomes and appreciates the efforts of parties to, in good faith, settle issues, even where, as sometimes happens, a settlement cannot be ultimately achieved.
>
> [13] Where, as here, the Agreement is supported by representatives of all of the customer classes, the Board can have confidence that the Agreement is in the public interest.
>
> [14] Customers of NSPI and members of the public are, perhaps understandably, wary of the settlement process. Many of those customers and members of the public may not appreciate that by the time the hearing commences 80% of the rate hearing process has already happened. NSPI filed extensive evidence, as required by the Board, to support its rate request. Interested parties and Board Staff asked NSPI many hundreds of written questions (Information Requests), to which responses were filed.
>
> [15] All of the parties who chose to do so filed evidence, including expert evidence. Written questions (Information Requests) have been asked of and answered by interested parties who filed evidence. NSPI filed reply evidence. As noted, all of this happened before the hearing was scheduled to begin so that the parties and the Board are well informed about the case in advance of any oral public hearing.

> [16] The public can rest assured that the Board Members hearing the matter have also thoroughly reviewed all of the material in advance of coming to a decision as to whether to approve the Agreement as being in the public interest.
>
> [17] Settlement agreements, while relatively new in regulatory matters before the Board, are common in the litigation process. Within the Board's adjudicative mandate, for example, assessment appeals, planning appeals and other matters are often settled. In the civil courts of Nova Scotia, a much higher percentage of cases are settled than go to trial.
>
> [18] That is not to say that the Board would hesitate to reject a settlement agreement it did not consider to be in the public interest, however, it should be understood that a properly supported settlement is a success of the regulatory process, not a failure.
>
> [2008 NSUARB 140]

[48] The Board remains mindful that, in its consideration of settlement agreements, its ultimate duty is to ensure that the terms of agreement are just, reasonable and in the public interest:

> [23] …Settlement agreements do not, however, diminish the Board's duty and obligation to ensure that the terms of any such agreement result in approval of only those costs which are fair, justifiable and prudently incurred by the Utility. Further, the Board must ensure that these costs result in customer rates that are just, reasonable and in the public interest. In addition, when deciding whether to approve a settlement agreement, the Board must be satisfied that the outstanding concerns of all intervenors are adequately considered by the Board and the terms and conditions under which they consent to a settlement agreement are honoured.
>
> [*NS Power 2007 GRA* decision, 2007 NSUARB 8]

3.3 Board's approval of Settlement Agreement

[49] In its Opening Statement at the hearing, Eastward submitted that the Settlement Agreement should be approved:

> …Eastward Energy believes the Settlement Agreement, together with the commitments it made in its Rebuttal evidence, provides a fair and balanced resolution to the matters arising in this proceeding, and that it is in the public interest. Eastward therefore seeks Board approval of the Settlement Agreement.
>
> …
>
> Eastward Energy is encouraged by the Settlement Agreement and the approach taken by the Consumer Advocate in coming to a balanced agreement on how all parties should move forward.
>
> Eastward Energy looks forward to collaborating with all interested parties to develop solutions to address the evolving and challenging issues that are facing the energy sector in the Province, both now and in the future.

> Eastward Energy also notes that all of the letters of comment received were supportive of the continuation of Eastward Energy's business, and emphasized the continued importance of the Company to the success of many businesses in the Province. Eastward Energy believes that approval of the Settlement Agreement will go a long way towards ensuring this success continues for years to come.
>
> [Exhibit E-34, pp. 1-3]

[50] In its Closing Submission, Eastward stated that the Settlement Agreement, and the further refinements negotiated between the Utility and the CA immediately before the hearing, "achieved a global settlement between them, and have presented it as a full resolution to the matters in this proceeding". Eastward urged approval by the Board:

> Eastward submits that the principles noted by the Board in its prior decisions on settlement agreements are equally applicable to the present case. The only customer class representative who formally participated in this process was the CA, with whom Eastward reached a settlement. The CA filed evidence and actively participated in all phases of the Application process on behalf of the residential customer class. Letters of comment received from non-residential customers were supportive of the continued development of the natural gas sector in the Province, and no formal Intervenors objected to the Settlement Agreement.
>
> …
>
> Eastward submits … that the Settlement Agreement provides for just and reasonable, non-discriminatory rates that are in the public interest. Not only will approval of the Settlement Agreement provide for just and reasonable rates, but it will also provide Eastward an opportunity to earn a reasonable return on capital, will encourage an ongoing collaborative approach between Eastward and its customers on ratemaking and related matters, and provide an opportunity for all stakeholders to further address the challenging issues arising out of the energy transition in the Province.
>
> [Eastward Closing Submission, pp. 7-10]

[51] The CA, the only other signatory to the agreement, likewise supported the Board's approval of the Settlement Agreement:

> The Consumer Advocate is pleased to confirm its endorsement of the Settlement, and to recommend this Settlement to the Board.
>
> The Settlement was achieved after Eastward, the Consumer Advocate, and Board counsel consultants and other participants and interested parties had a full opportunity to assess the Application and submit evidence and respond to questions. The only parties to submit evidence in this matter were Eastward, the Consumer Advocate, and Board Counsel. The terms of settlement were concluded after review of the factual and expert evidence filed, and following discussions between Eastward and the Consumer Advocate regarding the Application.
>
> …
>
> The Consumer Advocate is satisfied that after an analysis of all of the pre-filed evidence and issues raised in the Application, the terms contemplated in the Minutes of Settlement

> are reasonable and justified, and the Consumer Advocate supports their acceptance by the Board as being in the best interests of Eastward's residential customers and the public interest more generally.
>
> [Exhibit E-37, pp. 1-2]

[52] There were only three other intervenors in this proceeding. EfficiencyOne, by letter dated June 9, 2023, advised that it did not object to the Settlement Agreement. NS Power did not comment on the Settlement Agreement, did not file any evidence, and did not cross-examine the Eastward witness panel. In its Opening Statement, NRR stated:

> NRR submits that a reasonable balance must be struck between ensuring that Eastward Energy can continue to mature as a utility and recognizing that affordability of service for Nova Scotians must always be of paramount importance. NRR is pleased that Eastward Energy and the Consumer Advocate have reached a settlement which satisfies both parties that these ends have been achieved.
>
> Although the settlement agreement addresses the most important aspects of Eastward Energy's application, NRR is not a signatory to the agreement. There are certain aspects of the application with which NRR has some concerns which are not resolved by the settlement agreement. However, NRR appreciates that the settlement agreement contemplates discussions with the Province and a return to the Board for a further GRA in 2026. NRR will work with Eastward Energy to resolve its concerns, with the assurance that any unresolved issues may be raised in 2026.
>
> [Exhibit E-38, p. 2]

3.3.1 Findings

[53] The Board's overarching consideration in its review of the proposed rates and all other issues covered by the Settlement Agreement is whether approving it results in rates that are just and reasonable, non-discriminatory and in the public interest. The agreement represents a comprehensive resolution of many issues raised by intervenors (particularly the CA and Board Counsel consultants) in their Information Requests (IRs) and their evidence. In the Board's view, there are various aspects of the Settlement Agreement that support its approval.

[54] In his Post Hearing Submissions, the CA summarized the issues resolved by the agreement:

> The Settlement is a global settlement, with terms that cover all of the issues that were put before the Board in the course of this Application. To briefly summarize, the Settlement:

1. Provides for a resolution on rate increases for the residential service class

2. Addresses concerns raised by the Consumer Advocate regarding cost of service allocation methodologies used by Eastward

3. Includes proposed modifications to Eastward's Mains Feasibility Test (MFT)

4. Provides for modifications to Eastward's distribution service rules

5. Requires Eastward to immediately engage with the Provincial Government regarding an energy policy review

6. Confirms that Eastward will address recovery of the Customer Retention Program deferral recovery in the next general rate application in 2026

7. Provides for a resolution on Eastward's capital structure

8. Confirms that all other matters set forth in the Application will be maintained as modified by Eastward's responses to Information Requests and its rebuttal evidence

[CA Post Hearing Submission, pp. 3-4]

[55] On the issue of rates, the CA summarized the impact of the agreement:

Under the Settlement, Eastward has agreed to a substantial reduction in rate increases for customers in the Residential class from those initially proposed. In 2024, instead of a 36.2% increase in rates, residential rates will increase by 15% and in 2025 the proposed 15.3% increase has been cut to 10%. The proposed increase for 2026 is basically unchanged.

In addition, Eastward has accepted the recommendation of Paul Chernick, consultant to the Consumer Advocate, to lower the residential fixed monthly customer charge (FMCC) from the proposed $35/month to $26/month for 2024, $27.50/month for 2025, and $29/month for 2026.

The Settlement will substantially reduce the increase in the average monthly bill for the residential customers of Eastward over the three year test period, to just over half of what it would have been based on the increases sought in the Application. The rate increases as set out in the Settlement also fairly and reasonably respond to Eastward's concerns regarding the revenue-to-cost ratio for the Residential Class. The Consumer Advocate is pleased to recommend this agreement to the Board.

The Consumer Advocate further understands that these adjusted rate increases for the RSC should not result in any further growth in the forecast additions to the deferral accounts over the test period, the recovery of which Eastward has committed to addressing in the next general rate application. Notably, the Settlement also resulted in a reduced Return on Equity for Eastward (from a proposed 10.8% to 10.65%) as well as a moderate increase in rates for GSC customers.

The Consumer Advocate believes that while RSC customers will still experience increases in rates, the proposed Settlement strikes an appropriate balance, and constitutes a fair and reasonable resolution of this important issue.

[Exhibit E-37, p. 2]

[56] The CA only represents residential customers. At the hearing, the Board asked the Eastward witness panel about the impact of the settlement on other customers, who were not formally represented at the hearing:

> **A.** (Estabrook) Thank you.
>
> Yeah, so you're referring to the General Service Class of customers, which includes all commercial customers who utilize between 500 and 50,000 gigajoules of natural gas per year. So it's a very, very, very large Rate Class.
>
> Looking at a small General Service Class customer, the customer within our current rate structure would be called a Rate Class C-1 customer who uses up to 500 gigajoules per year.
>
> In our proposed rates, on average, a customer in that class would have seen their overall distribution charges decline by 0.3 percent. And in the Settlement Agreement, their rates were declined by 0.5 percent. So their overall rate impact is actually about 0.2 percent lower than in our Application.
>
> Moving over to a Rate Class 1-A customer, which are customers that use between 500 and 5,000 gigajoules per year, looking at an average customer in that class that utilizes about 2,500 gigajoules per year, the rates that were proposed in our Application, their overall rates would have declined by approximately 11 percent per year, and in the Settlement Agreement, they declined by 10.9 percent. So their rates are only 0.1 percent higher than in our original Application.
>
> And then finally, a Rate Class 2 customer who uses between 5,000 and 50,000 gigajoules per year, our average customer in that rate class uses approximately 9,000 gigajoules per year. They would have seen a 10.6 percent increase in rates in our original Application, and in the Settlement Agreement, their average rates will increase by 10.8 percent, so only an increase of 0.2.
>
> So overall across those three segments of GSC customers, the overall rate impact between our proposed agreement and -- sorry; our proposed rates and our Settlement Agreement range from only 0.1 to 0.3 percent higher. And again, for those smaller customers, their average rates will actually decline by a further 0.5 percent.
>
> **Q.** Do I take it, Mr. Estabrook, that based on that analysis that the company has undertaken, that the company does not anticipate, for instance, requiring any type of customer retention program down the road that would need to make up for any changes in rates that have been agreed to in this settlement?
>
> **A.** (Estabrook) Correct. Based on our analysis of current and forecasted rates, we anticipate that our rates will be competitive throughout the GSC class.
>
> [Transcript, pp. 51-53]

[57] Accordingly, the Board is satisfied that the Settlement Agreement will have minimal impact on non-residential customers not represented by the CA. The settlement will materially decrease rates for residential customers, from those proposed in the

application, while moving towards Eastward's objective of bringing the residential rate class closer to full cost-of-service rates. The issue of rates and rate design is canvassed in greater detail later in this decision. However, the Board concludes that the proposed rates set out in the Settlement Agreement are reasonable and appropriate, and support approval of the agreement.

[58] The Settlement Agreement also addresses return on equity and cost of debt. Eastward initially proposed a reduction in its current return on equity from 11% to 10.8%. The Settlement Agreement provides for a further reduction to 10.65%, and a reduction in Eastward's cost of debt from 7.25% to 6.95%. This effectively reduces Eastward's revenue requirement and eases any additions to the RDA, which is beneficial to ratepayers. The reductions still allow Eastward the opportunity to earn a reasonable return, as the figures fall between the ranges outlined in the experts' evidence on cost of capital filed in this proceeding.

[59] The Settlement Agreement also addresses cost of service allocation issues, particularly those raised by Mr. Chernick on behalf of the CA. Eastward has agreed to evaluate other options for allocating mains and marketing costs before its next general rate application, including a technical conference to specifically deal with these issues.

[60] Finally, as canvassed in greater detail earlier in this decision, Eastward has agreed to engage with the Province to discuss the evolving energy landscape in Nova Scotia and the achievement of environmental goals. In its Opening Statement, NRR stated that it appreciates that the Settlement Agreement contemplates discussions with the Province and said it will work with Eastward to resolve its concerns. The Board is encouraged that Eastward is committing to continuing its ongoing engagement with the

Province on the energy transition and the role that this utility can assume to further the environmental objectives.

[61] Taking into account the evidence and the submissions, the Board is satisfied that, considered in its totality, the Settlement Agreement (along with the subsequent refinements agreed to between Eastward and the CA) is in the public interest and it should be approved. The terms of settlement provide for rates that are just and reasonable and are an appropriate resolution of many issues identified in this matter.

4.0 ANALYSIS AND FINDINGS

4.1 OMA Costs, Rate Base and Revenue Requirement

[62] In its application, Eastward presented revenue requirements ranging from $46.9 million in 2024 to $53.3 million in 2026. These amounts were reduced by approximately $1 million/year in the Settlement Agreement. Eastward forecasted its rate base to be $342.8 million in 2024 increasing to $365.7 million in 2026.

[63] There were two errors impacting test year revenue requirement and rate base that Quantiv Advisory LLC, Board Counsel consultant, recommended Eastward update: $480,000 of gas cost supply expense mistakenly coded to professional fees expense, and an overstatement of the deferred charges balance included in rate base (ranging from $57,000 in 2024 to $229,000 in 2026). Eastward agreed to make these corrections in its compliance filing. Aside from these corrections, no party challenged the revenue requirements or rate base presented by Eastward in its application (including OMA expenses, working capital and the lead/lag study, net plant in service, depreciation, and income taxes).

[64] Quantiv also recommended several items for follow-up by Eastward in its next general rate application, including: an inter-affiliate study, investigation of a more appropriate overhead allocation and time-tracking method, and provision of scenarios for transition to full cost recovery. Eastward agreed to these recommendations and committed to providing these items in its next general rate application.

4.1.1 Findings

[65] The revenue requirements and rate base presented appear reasonable. The Board directs Eastward to include the corrections noted above in its compliance filing. The Board also directs Eastward to include an inter-affiliate study in its next general rate application.

4.2 Cost of Service Study, including Class Allocation

[66] Eastward's application noted that most of the cost allocation methodologies it used were identical to those used in earlier proceedings. Differences in this proceeding included the method for functionalizing land and lands rights costs and CRP deferrals, and changes to the classification and allocation of mains costs.

[67] In the cost of service evidence filed by Eastward's consultant, Arthur Simpson, SME Professional Consulting (SME), Mr. Simpson noted that the Utility had manually attributed land and land rights costs in earlier applications. However, these have become more complicated, so he attributed these assets to elevated pressure because most relate to steel mains and metering stations. None of the intervenors raised any concerns about this in this proceeding.

[68] Mr. Simpson noted that the CRP deferral was introduced since the last cost of service study. Mr. Simpson chose to allocate revenue requirement related to CRP

deferrals based on an average of the gross OMA costs allocator and the accumulated depreciation allocator. In the test period, Eastward's 4% return on the CRP balance is the only cost related to the CRP deferrals included in the revenue requirement. Eastward proposed to not begin to recover the balance until after the test period using an amortization period to be determined in the future.

[69] Board Counsel consultant, Mr. Borden, said the CRP deferrals should be allocated no more than 1.5% to residential customers with the balance to commercial customers. He considered that 98.8% of the monetary benefits of the CRP went to commercial customers but, under Eastward's proposal, 22% of the costs would be allocated to the residential class. He said cost allocation should be based on cost causality or benefits.

[70] In its Rebuttal evidence, Eastward argued that all customers benefitted from keeping more customers on the system. If anything, it said, "small customers benefitted more since the retained customers pay more than their full cost of service thereby providing continued subsidies to their smaller counterparts" [Exhibit E-32, p. 35].

[71] For mains cost allocation, Mr. Simpson used a method based on actual customer use of Eastward's system on the highest volume day of the year. He said this method, which he called the "demand weighted actual length" (DWAL) method considered both the length of the pipes used by each customer and their peak demand.

[72] The CA's consultant, Paul Chernick, Resource Insight, Inc., noted that the mains cost category was particularly important because mains are over 45% of Eastward's claimed revenue requirement. Mr. Chernick considered that the proposed DWAL method used to allocate these costs lacked detail about how Eastward conducted the DWAL analysis and he had three concerns about this allocator. First, the allocator

implicitly assumes that the length of each main is equally driven by each unit of peak load of the customers on the main. Mr. Chernick considered that mains extensions were driven by large anchor customers, not residential customers who would not warrant a mains extension in their own right. Second, Mr. Chernick felt the allocation of some mains costs was arbitrary because customers could be served from multiple mains. He also felt it was inappropriate to allocate looping costs to smaller customers if they were aimed at supplying a high level of reliability to larger customers. Third, Mr. Chernick considered that the DWAL method does not reflect the diameter of the mains, which is one of the drivers of mains cost, and which is in turn driven by expected peak load. Mr. Chernick said the simplest approach would be to allocate mains costs based on class contribution to peak load.

[73] In response to Mr. Chernick's concerns about the mains allocator, Eastward said it proposed the DWAL method because it better accounts for density than standard approaches, such as diameter-length, minimum system and zero-intercept. Eastward does not believe Mr. Chernick's concerns are justified. Eastward conceded that the hydraulic modelling software that performs its DWAL analysis is complex and results in large volumes of data but said it was subject to review by the Board's certifying authority. Eastward offered to run Board and Intervenor consultants through a session showing the analysis of outputs from the hydraulic modeling software in the DWAL method to calculate the proposed allocations, which it said could be completed as part of an ultimate compliance process in this proceeding.

[74] Mr. Chernick also expressed concern about the marketing allocator, which Eastward equally weighted to energy-related and site-related costs. Mr. Chernick recommended using the demand allocator because he felt that the costs of marketing to

increase sales would (if the expansion is cost-effective) primarily help existing customers, by spreading sunk and fixed shared costs over more sales. He considered that this benefit flows roughly in proportion to the allocation of shared costs (excluding site-specific costs), which for Eastward is about 96% on demand.

[75] In its Rebuttal Evidence, Eastward noted that it made no changes to the marketing allocator in this application compared to prior applications. It said it believed there was justification for allocating these costs on an energy and site (or customer) basis. It also said the allocator applies to accounting costs, which are driven by the number of customers.

[76] Under the Settlement Agreement, Eastward and the CA agreed that the Utility would evaluate other options for allocating mains and marketing costs in its next general rate application, including allocations using non-coincident peaks. Eastward committed to holding a technical conference to discuss the allocation methodologies before the application.

[77] The parties also agreed that Eastward would further address the proposed treatment of the amortization of the CRP deferrals in the Utility's next general rate application. As noted above, Eastward has not proposed to begin amortizing the CRP balance until after the 2024-2026 test period and only Eastward's 4% return is included in the test year revenue requirements. This issue will be revisited in the next general rate application.

[78] In its Closing Submission, Eastward noted that the Board did not decide certain controversial cost of service issues in NS Power's recent general rate application. Instead, the Board recognized that these issues raised complex questions that would benefit from examination by the parties and deferred consideration of these matters

pending a stakeholder engagement process before the Utility's next general rate application. Eastward said the same considerations applied in this proceeding.

4.2.1 Findings

[79] The Board accepts the proposal to further consider the allocation of mains and marketing costs, and the amortization and allocation of the CRP deferrals in Eastward's next general rate application.

4.3 Rate Design, including a New Rate Class Structure

[80] Eastward currently has a simple rate class structure, based on annual amounts of natural gas consumed by a customer. Customers who consume less than 500 GJ of natural gas per year are classified as Rate Class 1 (RC1) customers. Since the adoption of the CRP, commercial customers who consume 500 to 4,999 GJ/year have been referenced as RC1A customers. Customers who consume between 5,000 and 50,000 GJ/year are considered as RC2 customers. The RC3 class includes all customers who consume more that 50,000 GJ of natural gas per year. Rate Class 4 includes extra-large customers whose contract demand is a minimum of 7,000 GJ/day per site, and who are subject to specific negotiated rates.

[81] Under the current rate structure, Eastward is not recovering its full cost of service. Further, residential customers (generally the RC1 class) receive significant subsidization from other customer classes. As the Company moves toward full cost of service recovery, it will face evolving competitive challenges from other energy alternatives. Eastward believes it needs to respond to maintain its competitive position and to ensure retention of its current customers and its ability to grow for the benefit of all

customers. As such, as part of its current rate application, Eastward proposed changes to its rate classes and rate structure.

[82] The proposed new rate structure is described as follows:

- The previous RC1 residential customers are now proposed to be in their own separate rate class (i.e., RSC);
- The previous RC1 commercial (who consume less than 500 GJ/year), RC1A and RC2 customers are proposed to be in a new combined rate class (i.e., General Service Class (GSC)); and
- The previous RC3 and RC4 customers remain in their own separate rate classes as currently defined.

[83] SME performed a comprehensive cost of service report and provided a proposal for rate design to support Eastward's application. SME's work relied on standard cost allocation methodologies to develop "Pure Rates". Pure Rates are the result of dividing the unadjusted allocated revenue requirement by the forecast billing determinants for a given period. However, SME also considered Bonbright rate-making principles to develop a set of Recommended Rates. As it relates to these rate-making principles, SME noted:

> Transforming these Pure Rates into a set of Recommended Rates is an intricate balancing act that considers the needs of existing customers, future customers and the utility as a whole. To achieve rates that work best for a utility during a given test period, the ratemakers must consider each of the following ratemaking principles and how they impact the specific utility they are working with:
>
> …
>
> *Ability to recover Revenue Requirement*
> *Cross Subsidies*
> *Price Signals*
> *Competitiveness*
> *Rate Shock*
> *Simplicity*
> *Stability and Predictability*

> *User-pay*
> …
>
> While some of the principles outlined above are complementary, many require ratemakers to make choices that significantly impact the final rates. For Eastward, recent experience and current forecasts indicate that Competitiveness will play a very significant role in the coming years. However, adjusting rates to achieve competitive results while also recovering current Revenue Requirement may necessarily introduce the need for Cross Subsidization and significant rate increases (especially where some customer classes are not yet recovering their costs of service).
>
> [Exhibit E-1, Appendix 6, pp. 11-12]

[84] Eastward argued that full cost recovery in the residential-only class is not currently achievable given its current customer composition and required infrastructure investment. The Company, therefore, proposed new rates over the test period that do not fully recover residential costs of service. The under-recovery in the test period is specific to Eastward's desire to avoid some of the rate impact that the residential class would otherwise face if full cost of service rates were proposed to be in effect for the 2024-2026 test period.

[85] While the new rate design structure will reduce current levels of cross-subsidization from other customer classes, Eastward expects its proposed RSC rates to recover only 68% of the cost to serve residential customers by 2026. Eastward expects the proposed rates for its other customer classes to achieve full cost of service throughout the test period. The resultant shortfall in the recovery of the residential revenue requirement will be partially subsidized by other rates classes and will also result in modest growth in the RDA over the 2024-2026 test period.

[86] Like its current rate design structure, Eastward's test period revenues will be generated through fixed monthly customer charges (FMCC), variable natural gas delivery charges (also known as the BEC) and monthly demand charges (for Rate Class 3 and Rate Class 4 customers). However, under the new rate design structure, the BEC for the RSC and GSC will change from a fixed dollar amount per GJ of natural gas

consumed to a tiered system with declining block rates (although the proposal for the RSC was changed in final argument). Using this rate design, as each of these customers consumes more natural gas, their incremental cost will decline. This results in a lower BEC for these customers as more natural gas is consumed. For the RSC, the application initially proposed one BEC charge for the first 10 GJ of natural gas consumed per customer per month, with a lower BEC beyond this level of consumption. This was later modified by Eastward with the agreement of the CA, as discussed in more detail later. For the GSC, the application proposed one BEC charge for the first 15 GJ of natural gas consumed per customer per month, a second lower BEC for the next 400 GJ consumed per month, and a third lower BEC beyond this level of consumption.

[87] Eastward stated that the proposed declining BEC rate design for the RSC and GSC would allow it to better match billed revenue to cost of service, while continuing to expand its gas distribution infrastructure and customer base in its franchise area. The Company's application also stated that proposed declining block rates would allow it to remain competitive with other energy providers, and better reflect the actual costs to serve customers, given that the marginal cost to deliver higher volumes is minimal once a service line has been installed. Nonetheless, following the hearing, and in agreement with the CA, Eastward proposed to eliminate the declining block structure for the RSC.

[88] Tables 16.2 and 16.4 of the application summarize the impact of Eastward's proposed new rate design on each of the proposed customer rate classes:

Table 16.2 – Average Rate Increase by Rate Class

Impact of Rate Design on Rate Classes				
Year	**RSC**	**GSC**	**RC3**	**Total**
2024	36.2%	0.5%	0.4%	4.3%
2025	15.3%	5.0%	0.0%	5.9%
2026	9.9%	0.6%	0.0%	2.2%

[Exhibit E-1, p. 124]

Table 16.4 – Impact of Rate Design on Rate Classes Resulting Revenue to Cost Ratios

Revenue to Cost Ratios Resulting from Proposed Rates				
Year	**RSC**	**GSC**	**RC3**	**Total**
2024	57%	105%	124%	96%
2025	62%	104%	120%	96%
2026	68%	104%	122%	97%

[Exhibit E-1, p. 125]

The proposed GSC and RC3 rates more closely match cost of service but also include certain equity adjustments and intentionally subsidize RSC rates. Eastward stated that this continued subsidization will allow a bridge from the current state of not recouping its full cost of service, towards each rate class eventually achieving full recovery of its true cost service.

[89] Mr. Chernick expressed two concerns with Eastward's proposed RSC rate design. First, he opined that the proposed FMCC increase for the RSC was excessively large at over 60%. He recommended that it only be increased by 20% in the first test year, followed by 5% increases in each of the following two test years. Secondly, he stated that the 12% discount on the second block of the RSC BEC should not grow to a 26% and 29% discount in 2025 and 2026, respectively. He recommended that the discount remain at 12% throughout the test period, as it would maintain higher incentives for efficiency,

and would mitigate the extent to which rates would be lower in the winter, when conservation is more valuable. For the GSC, Mr. Chernick noted that adding a third BEC block may not be useful, and that using a two-block design instead would be easier to explain to customers. For the RC3 rate, he suggested that Eastward should examine the possibility of transitioning the demand charge from the customer's maximum daily usage over the course of the year to the customer's contribution to load on high-load days, or in high-load months.

[90] Mr. Borden had concerns about Eastward's proposed declining block BEC charge for the RSC and GSC. He argued that a declining block variable rate structure is not cost-based, encourages wasteful gas usage and is inconsistent with Nova Scotia's goals for energy efficiency and conservation. He recommended that BECs be set using flat rates to encourage efficiency and discourage wasteful usage. Further, he suggested that the Board order Eastward to study the effect of inclining block rates in its next general rate application.

[91] In its Rebuttal Evidence, Eastward stated that it was open to adjustments to the proposed FMCCs and recovering the difference in the BEC as suggested by Mr. Chernick. The Company also indicated that it is open to Mr. Chernick's recommendation that the 2024 differential between the two residential BEC tiers be held constant (on a percentage basis) into 2025 and 2026. With regards to the proposed GSC BEC tiers, Eastward's Rebuttal Evidence stated that the Company does not believe a 3-tier structure is significantly more difficult to explain or understand than a 2-tier structure. Further, Eastward believes there is benefit to having the third tier for commercial customers:

> Tiered (or Block) pricing structures offer "pivot-points", at the break between each tier, that allow adjustments back toward cost-based charges. A 2-tier structure only offers one pivot-point while a 3-tier structure offers two. Although, the proposed rates only make a relatively minor adjustment (in $/GJ) at the second pivot-point (between Tier 2 and Tier 3) small

> adjustments can be impactful to large customers. Also, the additional flexibility offered by the second pivot-point could serve to be useful in any future rate setting in balancing the need to provide continued subsidies to residential customers within the limits of competition.
>
> [Exhibit E-32, p. 72]

Finally, Eastward stated that only two of its RC3 customers do not peak around the same time as all other customers. As such, Eastward does not believe a transition to Mr. Chernick's proposed demand pricing for RC3 customers is appropriate.

[92] In response to Mr. Borden's concerns, Eastward's Rebuttal Evidence submitted that the declining BEC block structure would also be considered cost based if higher demand does not increase costs by more than it increases revenues. Eastward specifically noted:

> As proposed, even Eastward's lowest priced tier covers the additional costs to which Mr. Borden is referring. In fact, the lowest priced tiers (Tiers 2 and 3) more than cover these costs as small upward adjustments are made to subsidize small commercial customers ("Competitive Adjustments") and the residential customers ("Subsidy to RSC") as specifically shown in Table 13 of Appendix 6 within Eastward's Application. Finally, at least some of this additional volume will result in more revenue but at no additional cost due to available excess capacity in Eastward's system.
>
> [Exhibit E-32, p. 37]

Eastward argued that its proposed declining block rate structure is based on and rooted in costs, with any deviations from costs being fully supported on appropriate rate design principles and justified from a cost perspective.

[93] Eastward also disagreed with Mr. Borden that the proposed declining BEC block rates will encourage wasteful usage. The Company stated that no customer will ever pay less in distribution charges by wasting gas. Eastward specifically noted that this is not necessarily the case under its current rate structure where customers near the defined gas usage rate class boundaries may be encouraged to waste gas in order to qualify for a higher rate class and achieve a lower total bill. Further, even the lowest tier is priced such that it covers at least the allocated cost of delivering the next incremental

unit of gas (including incremental variable costs and allocations of shared fixed costs). Therefore, Eastward believes there is little risk of customers wasting distribution capacity under the declining block structure. The Company also regards the federal carbon tax as a more appropriate and effective way to signal energy conservation goals than eliminating the proposed declining block structure as recommended by Mr. Borden.

[94] To reduce the proposed annual increase in the RSC rates over the test period, the Settlement Agreement proposed adjustments (increases) to the subsidies from the GSC and RC3. In addition, in the Settlement Agreement, Eastward agreed to Mr. Chernick's recommendation to lower the RSC FMCC from $35/month for each test year to $26.00, $27.50 and $29.00 for 2024, 2025 and 2026, respectively. The Company also agreed to Mr. Chernick's recommendation to lower the differential between the RSC BEC Tier 1 and Tier 2 rates. While the Settlement Agreement maintained a third BEC tier for the GSC, it adjusted the rate design to modify the GSC BEC tier rates. In particular, this rate re-design resulted in a lower Tier 1 BEC rate for the GSC, which will provide a benefit to small businesses that use lower gas volumes. During the hearing and in Undertaking U-2, Eastward confirmed that these combined rate design adjustments will not result in any further increase in the RDA (beyond the increase noted in the application) over the test period.

[95] During the hearing, Eastward was questioned about the declining BEC block structure for the RSC as proposed in the Settlement Agreement. The Board asked about the benefit of the very small differential between the Tier 1 and Tier 2 RSC BEC rate. In response, Mr. Simpson noted that with the Settlement Agreement figures there is "much less justification" for the tiered pricing model to apply to the RSC class. While the pricing model still followed the applicable ratemaking policies, the balance between

simplicity and benefit changed, such that the remaining benefit of having a declining block structure for the RSC BEC was limited. As such, in its Closing Submission, Eastward noted that it and the CA have proposed that the rate structure for the RSC be revised to only one flat BEC tier. With this revision, the Company indicated the revised pricing structure will generate exactly the same amount of revenue as the Settlement Agreement's tiered prices in each test year. Therefore, the average rate increases would be the same as presented in the Settlement Agreement. However, there would be a shift within the RSC Class, as customers who consume less natural gas would pay a little less, while larger customers would pay a little more.

4.3.1 Findings

[96] Eastward's proposed new rate class structure eliminates defining residential and commercial customer classes based on thresholds for annual amounts of natural gas consumed by customer. Instead, the proposed rate class structure will have all residential and commercial customers in their own respective rate classes (i.e., RSC and GSC) regardless of amounts of gas consumed per customer. None of the parties to this proceeding took issue with Eastward's proposed new rate class structure.

[97] In addition, the Board finds that the establishment of a residential-only class partially addresses concerns expressed by the Board in previous Heritage Gas general rate application proceedings. Further, Eastward's proposed GSC will include all commercial customers that are currently included in the previous RC1 and RC2 rate classes. The Board finds that combining the two will eliminate current pricing anomalies which result from different gas consumption thresholds that currently define these classes. The Board also finds it is appropriate to eliminate the residential and commercial rate class definitions based on thresholds for the amount of natural gas consumed

annually per customer. This will remove the risk that exists in the current rate class structure where customers would be in an incorrect rate class should their actual gas consumption be below or above the threshold limits for their assigned rate class. For these reasons, the Board finds that Eastward's proposed rate class structure, as presented in its application, is appropriate.

[98] As noted in the preceding paragraph, it was raised during the hearing that customers had been billed under an existing rate class that did not match their annual gas consumption. In such cases, customers could have been billed for more or less than they otherwise would have been if they had been assigned to the proper rate class based on their actual consumption. Eastward indirectly referenced this issue in its Rebuttal Evidence where it noted that under its current rate structure, customers near the gas usage rate class definition boundaries may be encouraged to waste gas in order to qualify for a higher rate class and achieve a lower total bill. Moving forward, this issue will be non-existent with Eastward's new rate class structure for residential and commercial customers, as the new rate structure is not based on gas consumption thresholds. However, the issue is a concern to the Board, as prior period over- and/or under-billing would have an impact on the Company's RDA balance.

[99] During the hearing, Eastward was asked to provide an undertaking to provide a reconciliation of changes to the RDA balance as a result of customers being billed for a rate class that does not match their annual gas usage for 2020, 2021 and 2022 (per Eastward's response to Synapse IR-17 Attachment 1). The Company responded by providing Undertaking U-4, where it described how it determines whether customers require a rate class reclassification. It also noted specific rate class reclassification items that were required to be considered during the COVID-19 pandemic period. The

Company also provided a reconciliation of RC1, RC1A and RC2 customers whose gas consumption volumes fell outside their respective threshold range for the 2020 to 2022 period (the 2022 impact was not ready as of the date of the Undertaking). This reconciliation showed that from 2020 to 2021, revenues were under-collected by roughly $126,000 as a result of customer misclassifications for these classes. This under-collection would have increased the balance of the RDA accordingly.

[100] The Board understands Eastward's arguments related to the impact of the COVID-19 pandemic on customer gas usage and rate class reclassifications. Nonetheless, the information presented in Undertaking U-4 has not been vetted fully by the Board or other parties to this proceeding. Further, this issue has undoubtedly occurred in years prior to 2020. At this point, the related impact on Eastward's RDA balance has not been determined, nor has the prudency of the Company's reclassifications been assessed. Therefore, the Board believes that a more detailed assessment of this issue is required to determine if any disallowances to the RDA balance are warranted.

[101] The Board directs Eastward to submit a report to the Board reconciling changes to the RDA balance as a result of customers being billed under a rate class that does not match their annual gas usage for each year from 2004 to 2023. The format of the report can be similar to the format provided by Eastward in Undertaking U-4, complete with a copy of related tables in Excel spreadsheet format. The report must include explanations describing the reasons why certain customers were considered "exceptions" or "deemed temporary". As part of this report, Eastward must include an Excel spreadsheet providing annual recorded load data (GJ) for each class of customers, separately, by 50 GJ usage segments, including the number of customers in each "usage bin" for each year (like the spreadsheet provided in response to Synapse IR-17). The

report to the Board must be submitted by April 30, 2024. Following the Board's review of the report, the Board may initiate a new matter to review this issue further.

[102] As a result of the Settlement Agreement, and related adjustments to subsidies from the GSC and RC3, the revenue to cost (R/C) ratios for the various rate classes will change compared to those presented in the application. These changes are summarized as follows:

Impact of Settlement Agreement Rate Design Adjustments on Rate Classes Resulting Revenue to Cost Ratios (change compared to original application indicated in brackets)

Revenue to Cost Ratios Resulting from Settlement Agreement				
Year	**RSC**	**GSC**	**RC3**	**Total**
2024	49% (-8%)	107% (+2%)	126% (+2%)	96% (0%)
2025	51% (-11%)	108% (+4%)	122% (+2%)	96% (0%)
2026	56% (-12%)	108% (+4%)	124% (+2%)	97% (0%)

[103] The Board does not consider the lower ratios for the RSC to be ideal. However, the Board finds that they are necessary to reduce the significant rate increases that would be incurred by the RSC under the rate design put forward in the application. Further, the Board agrees with Eastward that while this class will continue to under-recover its full cost of service during the test period, the proposed increases in R/C ratios over the test years are a positive step that helps move this rate class towards full cost-of-service rates.

[104] In addition, Eastward has assured the Board that the rate design and subsidies upon which the Settlement Agreement is based will not increase the RDA balance (beyond the increase noted in the application) over the test period. The Board believes that this is a key element of the Company's revised rate design, as the Board would be concerned about any further increases in the RDA.

[105] The Settlement Agreement also results in a slight increase in GSC and RC3 R/C ratios over the test period compared to those in the application. Nevertheless, the Board finds that these increases are necessary, in part, to help offset the significant rate increases proposed for the RSC in the application. Further, Eastward expressed confidence that the proposed rates arising out of the Settlement Agreement will enable the Company to continue to provide a competitive energy choice for the GSC. The Settlement Agreement also provides a reduction to GSC BEC Tier 1 rates relative to the initial application, which will benefit smaller commercial customers in the GSC class. For these reasons, the Board finds the Settlement Agreement GSC and RC3 subsidies and R/C ratios to be appropriate.

[106] The Board finds that the reduction to the RSC FMCC, as proposed in the Settlement Agreement, is appropriate.

[107] The Board finds that the proposed declining BEC block structure for the GSC, as proposed in the Settlement Agreement, is appropriate for the test period.

[108] The Board agrees with the post-hearing proposal put forward by Eastward and the CA to revise the RSC rate structure to only have one flat BEC tier. Eastward is directed to address this revision in its compliance filing.

4.4 Three-year test period, customer growth assumptions and load forecast

[109] Most of Eastward's delivery revenue in the three-year test period is forecast to be generated through the continued service of its existing customers. The Company's revenue and load forecast for the test period assumes that its customers are retained and continue to consume gas in similar amounts and patterns as they have in the past.

[110] In terms of estimated customer growth over the test period, Eastward is forecasting growth consistent with its historical seven-year average. Over the test period

from 2024 to 2026, the number of customers is forecast to increase by 16%, for an average annual growth rate of approximately 5.4% per year. Eastward expects its new customers will be from two sources: (1) new customers from existing mains (i.e., “infill”) or short main extensions and (2) new customers from distribution mains expansion projects. The Company’s forecast of new customers on existing mains and from distribution expansion of mains was developed through review and analysis of market potential in combination with supporting construction project plans. New customers from gas main expansion projects are forecast customer additions in the new construction areas of Eastward’s service areas. Eastward noted that there are significant developments planned around HRM in the areas of Bedford West, Port Wallace, and Seton Ridge. Additions of new customers in these areas is based on detailed reviews by the Company of specific development plans for each market.

[111] The following table denotes Eastward’s forecast for new customers by customer class, as presented in the Company’s application:

	2024F	2025F	2026F
Rate Class residential	338	376	441
Rate Class general service	105	109	107
Rate Class 3	-	-	1
Total	443	485	549

[Exhibit E-1, p. 112]

The following table summarized the distribution of these new customers resulting from infill and short main extensions vs those resulting from expansion projects:

	2024	2025	2026
Infill and Short Main Extension Growth			
R1(Residential) Infill	175	200	250
R1 (Residential) New	100	100	100
General Service	101	98	98
C3 (Rate Class 3}	-	-	-
New Developments - Expansion Required			
R1 (Residential) New	60	76	91
General Service	7	11	9
C3 (Rate Class 3)	-	-	1
Total	**443**	**485**	**549**

[Exhibit E-1, p. 110]

[112] To estimate the expected gas consumption per customer over the test period, the Company performed an analysis of historical weather normalized consumption patterns for customers that were active on December 31, 2021, and had been active for a minimum of 12 months. Weather normalization is used to adjust actual historical volumes to "normal" before being used for forecasting future volumes. As weather trends are unpredictable, the forecast assumes that all future years are "normal". The analysis was conducted for each customer class and in each market area. Further, given the relatively young age of Eastward and its customers' furnaces and boiler systems, the Company is not expecting a material variance in customer gas usage over the test period. As such, the forecast of estimated consumption per customer is anticipated to remain stable over the 2024-2026 test period.

[113] The forecast consumption volumes for customers added in a test year are estimated based on the expected customer activation date and by using an estimate of the customers' consumption curve over the year. The consumption curve is based on the

historical pattern of consumption for similar customers in similar geographic markets. Most Eastward customers use natural gas predominantly for heating purposes, so consumption is weighted more heavily to the winter months. In addition, new customers are typically activated late in the year, prior to the heating season. Monthly demand for each RC3 customer is estimated based on existing contracts (for activated customers) or estimates of the demand levels and number of months active (for new customers).

[114] Quantiv's review of Eastward's annual growth percentage forecasts for the test period found that they are somewhat consistent with prior years. Further, Quantiv stated that Eastward's test period forecasts are supported by population growth forecasts in the HRM, community development plans accessible to gas, and specific development and customer class estimates based on anticipated project development timelines.

[115] However, Quantiv concluded that Eastward may have used an aggressive 100% penetration rate for forecasting new customers' homes in new developments. Quantiv, therefore, suggested that Eastward use a slightly more modest penetration rate for forecasting purposes either in line with Eastward records and experience, or a penetration rate somewhere between 91% and the forecasted 100% based on further analysis. Quantiv recommended that Eastward take a conservative view of community development schedules to calculate new activations. In particular, Quantiv stated that Eastward's calculations for forecasting purposes should strongly consider the community developer's track record for on-time developments and solicit virtually real-time and frequent progress updates for planning purposes.

[116] As it relates to consumption, Quantiv indicated that Eastward used an overall decrease in consumption per customer per year, except for Rate Class 3, into its forecasts based on more stringent energy performance requirements in the new National

Energy Code for Buildings in new construction buildings and energy retrofits in existing buildings. The RSC per-customer consumption forecast drops by between 1.0% and 1.5% each year of the test period while GSC per-customer consumption drops 1.2% in 2024 and 0.6% in each of 2025 and 2026.

[117] During the hearing, Eastward was asked by the Board if it has included any projections for customer growth in the test years resulting from the development of the Cogswell Re-Development project in Halifax. In particular, the Board noted that one of the proposed blocks for that development was scheduled to be complete in 2026 and was going to include a 32-floor building with roughly 443,000 square feet of development. In response Eastward stated that it did not include any new growth from that development in the test period, as the Company is currently unsure whether the related potential load is going to start in 2026 or in a later year.

[118] The Board also asked Eastward about its discussions with developers in the Bedford West, Port Wallace, and Seton Ridge areas. Specifically, the Board asked whether these developers had, in fact, committed to taking natural gas service:

> **Q.** (Murphy) So my question is, have – in those discussions, had the developers in fact indicated that they are going to take gas? Has there been any [EOI] signed or any Distribution Service Agreements?
>
> **A.** (Estabrook) I should clarify that in these new developments, there are property developers, and then there are purchasers, and builders of buildings on those lots. It's – it would typically be the builder of a house or of an individual building who would confirm whether or not they intend to use natural gas.
>
> The discussions that we have with the developers are their intent to – or sorry; based on who they intended to sell those lots to. And then once we have a sense of who the likely purchasers are of the lots, and we know who the builders are, then we will either have discussions with the builders, or based on their history with using natural gas, make our projections accordingly.
>
> **Q.** I suppose it's a bit early, then, to be talking about [EOIs] or Distribution Service Agreements.

> **A.** (Estabrook) Depending on the development, yes. But we would be looking again at historical rates of penetration for a natural gas usage and our understanding of who the likely builders are in those new developments.
>
> [Transcript, pp. 88-89**]**

4.4.1 Findings

[119] The Board finds that Eastward's existing customers have a reliable gas consumption history on which to base load and revenue forecasts. They therefore present a lower forecast risk for the delivery revenue and load than from new customer additions which make up the remaining portion of the Company's revenue forecast over the test period. Further, the number of Eastward's existing customers is much greater than its forecast customer additions. Having a greater proportion of forecast load and revenue from existing customers reduces the degree of potential variability for the forecasts, as a relatively small proportion of the forecast is dependent on new customer additions. In addition, the Board finds that the weather normalization process used by Eastward to estimate normalized gas consumption per customer class is appropriate. No parties in this proceeding presented any concerns related to this normalization process. The Board, therefore, finds that Eastward's load and delivery revenue forecasts for existing customers over the test period are acceptable.

[120] The Board finds that Eastward's projections over the test period for new infill or short main extension customers are supported by sound data and information. However, the Board agrees with Quantiv that Eastward's projections for new customers resulting from expansions are too aggressive based on a 100% penetration rate. In its Rebuttal Evidence, Eastward agreed, stating that developing the forecasts based on a penetration of 90-95% in new development areas would be more prudent. In the Settlement Agreement, Eastward agreed to reduce the penetration forecast in new developments down from 100% to 93%. Undertaking U-3 confirmed that this was done in

establishing Settlement Agreement rates. In establishing Settlement Agreement rates, Eastward reduced “Amortization of Plant” as a result of decreased capital assumed in new developments resulting from lowering penetration assumptions from 100% to 93%. The Board finds this to be appropriate. As such, the Board finds that Eastward’s load and delivery revenue forecasts for new customers over the test period are acceptable.

4.5 Accounting and Capitalization Policies

4.5.1 Accounting policies

[121] Eastward currently prepares its financial statements using U.S. Generally Accepted Accounting Principles (US GAAP). It proposed to continue to account for transactions for regulatory purposes based on the methods it currently uses, including the methods used to recognize regulatory assets and liabilities, including the RDA, CRP deferral and deferred depreciation, the capitalization of costs under Eastward’s existing capitalization policy, deferred regulatory costs, revenue recognition and depreciation, among other items.

[122] Eastward stated that it is monitoring the potential adoption of International Financial Reporting Standards (IFRS). In 2008, the Canadian Accounting Standards Board announced that for fiscal years beginning on or after January 1, 2011, all publicly accountable entities would be required to transition to IFRS. Many Canadian utilities transitioned to IFRS, while other utilities such as Eastward, who were afforded exemptive relief from Canadian Securities regulators, have moved to and remain on US GAAP. In response to NSUARB IR-46, Eastward indicated that its exemptive relief was extended by the Canadian Securities Administrators to continue its financial reporting on US GAAP. The exemption will expire on the earlier of (a) January 1, 2027; (b) the date on which the Company's activities are no longer subject to rate regulation; and (c) the first day of the

Company's fiscal year that begins on or after the later of (i) the effective date prescribed by the International Accounting Standards Board (IASB) for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation; and (ii) two years after the IASB publishes the final version of a mandatory rate regulated standard.

[123] It is undisputed that there are material differences between IFRS and US GAAP. IFRS does not currently recognize rate-regulated accounting and related regulatory deferral accounts from its existing accounting policies. For instance, regulatory assets and liabilities including the RDA, deferred depreciation, and deferred gas costs, are not recognized under IFRS at this time. Under IFRS, certain costs related to property, plant and equipment cannot be capitalized. There will likely also be a need for systems changes to Eastward’s accounting software which would have cost implications.

[124] In January 2021, in addition to earlier consultation with regulated entities and accounting firms, the IASB published an exposure draft outlining proposed treatment for regulated assets and regulatory liabilities. In February 2022, the IASB started redeliberating specific topics within the proposed standard. According to a February 2023 Update, the IASB continues to redeliberate proposals in the Exposure Draft Regulatory Assets and Regulatory Liabilities. The IASB has not publicly stated a timeline for the conclusion of the redeliberation period, publication of the Final standard, or the implementation of the Final standard.

[125] In the interim, Eastward stated it continues to monitor the implementation of the new IFRS standard and the deadline for exemptive relief. Given the number of variances between US GAAP and IFRS, Eastward acknowledges that its financial statements may be significantly different in the future, and the potential impacts are

currently being assessed. In its Rebuttal Evidence, Eastward asserted that it is planning and preparing for a future IFRS transition. Since 2021, TriSummit Utilities (TSU), Eastward's parent company, has been leading an internal working group (which includes participants from Eastward) to review the IASB exposure draft for potential impact to TSU and its subsidiaries. TSU also participates in an industry peer group to discuss the plan for IFRS transition. In July 2021, TSU submitted a comment letter on the exposure draft. Currently, TSU has been updating the internal working group on the tentative decisions reached by the IASB on specific redeliberation topics. Eastward noted that most respondents who commented on the exposure draft asked for a longer transition period of at least 24 to 36 months after a final standard is published and most respondents did not support the proposed requirement to apply the standard retrospectively.

[126] Roger Cathcart, CPA, CA, CBV, of Quantiv, submitted that Eastward should be treating the potential adoption of IFRS with more urgency:

> Eastward has indicated that it is monitoring IFRS developments, however, when asked in Quantiv IR-48 to provide any analysis or reports of the financial impact of changing from US GAAP to IFRS , the Corporation has indicated that it has been granted a further extension to applying US GAAP and does not appear to have started the planning process to transition, nor has it prepared or shared information with the NSUARB about the detailed implications for rate setting purposes.
>
> …
>
> Quantiv recommends the NSUARB direct Eastward to commence planning for the transition to IFRS and report on the changes in accounting policies, the impact on revenue requirement, rate base and financial reporting including changes in financial presentation and disclosures for rate setting purposes.
>
> [Exhibit E-18, pp. 58-59]

[127] In its Opening Statement, Quantiv reiterated its recommended course of action for Eastward, providing greater detail about what reporting should be made to the Board:

1. <u>IFRS Transition</u>

Eastward has committed "As required, to report back to the Board on IFRS adoption once the rate regulated standard is finalized and a confirmed adoption date is known or as directed by the Board".

Given that a pending IFRS transition may have significant implications for financial reporting and recovery of deferral accounts, Quantiv believes the Board be fully apprised of the potential IFRS transition implications. To that end, Quantiv recommends that Eastward enhance its commitment to report to the Board in the interim period prior to a final Regulatory Assets and Regulatory Liabilities standard being finalized with a confirmed adoption date. These reports should be provided on an ad-hoc if material updates present themselves, and no less than once per year starting at calendar year-end 2023.

Enhanced reporting should include:

- o Updates from the internal working group.
- o Updates from the industry peer group.
- o Progress with professional service firm support agreements.
- o Updates about extension requests (or extensions) to exemptive relief from Canadian Securities Administrators.
- o Updates to options development (eg. continued reporting under US GAAP).

In addition, Quantiv recommends that Eastward, within a reasonable time period:

- o Conduct and deliver to the Board an analysis of likely scenarios, impacts, issues and risks associated with an IFRS transition in 2027 or beyond. The analysis could include the potential effects to the Revenue Requirement and Rate Base, potential restatements during the test period and the recoverability of deferral accounts under IFRS.

- o Provide the Board with a high-level IFRS transition plan.

- o When required to transition, provide the Board with an IFRS-compliant depreciation study.

Eastward has indicated that it is considering registering with the U.S. Securities and Exchange Commission as a foreign private issuer to affect a permanent application of US GAAP instead of implementing IFRS. We do not believe that a permanent adoption of US GAAP should be done without full consideration of the implications of such an approach. We suggest that an analysis of US GAAP adoption be provided to the Board, including a jurisdictional scan of Canadian Natural Gas Local Distribution Companies and a full articulation of the benefits of this approach before it is considered.

These recommendations are intended to highlight the magnitude and complexity of potentially material changes to Eastward's business for key stakeholders.

[Exhibit E-35, pp. 1-2]

[128] Eastward, in its Opening Statement replied to Quantiv on the subject of IFRS, committing to enhanced reporting to the Board:

Regarding Quantiv's opening statement:

- Eastward very much appreciates Quantiv's analysis of requirements around an IFRS transition.
- Eastward agrees to provide Quantiv's suggested enhanced reporting to the Board around an IFRS transition. This could include additional details on internal working groups, US GAAP extension requests and all general items related to the progression of a future IFRS transition.
- Eastward also agrees to complete an IFRS compliant depreciation study once required to transition as noted in the Rebuttal evidence.
- The company suggests that Board staff, Quantiv and Eastward staff can meet sometime after this hearing to review details around the reporting requirements, cadence of reporting and the overall format.
- With regards to registering with the SEC, initial analysis has already been completed by TSU.
- Eastward suggests that the request to provide an IFRS transition plan and scenario analysis be delayed until a rate regulated standard is available and adoption date known. Eastward submits that this would be the most efficient approach, which will reduce the need to hire consultants to provide multiple iterations of analysis on the potential impacts of a IFRS transition. Earlier analysis is unlikely to have significant benefit until the actual standard for rate regulated utilities is finalized and known.
- Eastward notes that other Canadian utilities are currently reporting under US GAAP, including the Nova Scotia electric utility.

[Exhibit E-40, pp. 1-2]

[129] In his testimony, Mr. Cathcart outlined the difficulties which might present themselves if a utility adopts US GAAP instead of IFRS:

Q. …So first, is there -- are there potential negative implications of adopting US GAAP?

A. (Cathcart) From a standpoint of compatibility with other utilities, it will become much more difficult to maintain on US GAAP.

I do note that Hydro Quebec has gone on to US GAAP, and they did that in 2015. But they do a reconciliation back to International Financial Reporting Standards for government reporting.

But when you're looking at utilities that will be reporting to Canadian jurisdictions in Alberta, Ontario, Manitoba, Nova Scotia, et cetera, there should be some, in my view, some consistency in the way things are reported, relative to accounting standards. It makes it more difficult to compare utilities across jurisdictions.

And there might be some practical limitations as well. You need to get probably the approval of the regulators in the jurisdictions where you're filing the financial information, and the securities regulators. And the exemption that they receive is a temporary exemption which expires, based on rules that it's January 1st, 2027 or 24 months after the standard is issued, with other criteria.

> But from a policy you've got half of the utilities in Canada already on IFRS and some on US GAAP. So if you stay on US GAAP it makes it more difficult to compare, and if you wanted to do comparisons, for instance, in jurisdictions where they do comparisons it will make it very difficult for the regulator.
>
> [Transcript, pp. 262-264]

[130] Further, Eastward confirmed in its Closing Submission that it agrees to carry out a high-level jurisdictional scan as suggested by Quantiv before an IFRS rate-regulated standard is available and adoption date is known. Eastward suggested this could be reported to the Board as part of its annual compliance filing for financials or as a separate annual filing. Ashley MacDonald, Eastward's VP of Finance, confirmed that this would be informed by work with its parent TSU, which has already done an initial jurisdictional scan of other natural gas local distribution companies or utilities in Canada about the adoption of US GAAP or IFRS.

4.5.2 Capitalization Policy

[131] Eastward capitalizes its OMA based on a prescribed formula for departmental expenditures. The capitalization rates forecast in this 2024-2026 GRA test period are consistent with Eastward's existing capitalization policy. Eastward brought forward its capitalization policy at the 2011 GRA and it has been in effect since January 1, 2012, remaining virtually unchanged since then. It asserts that the policy complies with US GAAP.

[132] In its application, Eastward described some changes to its OMA capitalization as part of the Board's approval of the CRP:

> Under the Customer Retention Program in 2016, Eastward was granted approval to capitalize 50% of its OMA from 2016-2019, the CRP deferral mechanism was then modified to remove excess OMA capitalization. During that period, Eastward maintained its normal capitalization policy, to track capitalized operating expenses or "Cap/Op", separately from OMA deferrals arising from the CRP Order.
>
> …

> As shown in the Table 7.4, from 2015 to 2016 the Cap/Op percentage decreased substantially [45% to 24%], as Eastward's focus shifted notably from network expansion and customer acquisition (capital-related activities) to customer retention (expense related activities) under the CRP. At that time, Eastward significantly reduced its capital expenditures and staffing, and resulted in a corresponding decrease in the costs eligible for capitalization under its existing policy. Eastward requested in the CRP the additional capitalization allowance to lessen the impact on the revenue requirement as a result of operational changes.
>
> [Exhibit E-1, p. 60]

[133] With Eastward's intention to terminate the CRP at the end of 2023, Eastward's OMA capitalization will be restored to prior levels, consistent with its existing capitalization policy.

[134] Eastward's capitalization policy of OMA Expenses provides, in part:

> Policy
>
> - All OMA expenses having a reasonable causal link or relationship with capital activity shall be capitalized. An expense having a causal link is defined as an expense that is directly related to bringing a capital asset to the condition and location necessary for its intended use.
>
> - A list of expenses established as having a causal link, together with justification for the causal link and the capitalization method used, is provided in APPENDIX A for guidance.
>
> - Amortization of capitalized OMA follows the amortization of the related Property, Plant and Equipment (PPE) which commences in the year subsequent to capitalization.
>
> [Exhibit E-1, Appendix 3, p. 4]

[135] Eastward has determined that some, or all, of the following costs have a causal link to capital projects thus making them eligible for capitalization:

- Salaries and Related Expenses
- Telecommunications (internet land lines and cell phones)
- Equipment Direct (expenditures pertaining to work equipment used)
- Information Technology (other than IT Support)
- Marketing
- Office Supplies
- Professional Fees
- Rent
- Travel
- Utilities
- Vehicles
- Other Administration

[136] Eastward undertakes an annual review process to determine the level of capitalization of costs. In most cases, time is used as the driver to allocate costs to capital. Each year, the finance department interviews each manager to estimate the percentage of time each staff member is projected to dedicate to activity having a direct causal link to capital projects. Three different methods are used under the capitalization policy: the Weighted Average Departmental Rate, the Weighted Average Company Rate and the Direct Capital Rate.

[137] Quantiv expressed concerns about Eastward's capitalization policy, echoing concerns outlined by Board Counsel consultant Donna Ramas in the 2011 GRA.

[138] While acknowledging that US GAAP contemplates that "activities" used to bring a capital asset to the condition and location for its intended use should be "construed broadly", Quantiv asserted that the activities must still be directly attributable to bringing the asset to the condition and location necessary for its intended use. In its pre-filed evidence, Quantiv stated:

> …The process remains manual and relies on judgement in determining what percentage to allocate OMA cost to capital projects. Eastward has listed activities by its department to demonstrate the linkage to the capital activity. However as currently constituted, where a blanket percentage rate based on the Weighted Average Departmental Rate and the Weighted Average Company Rate applied to department costs, Eastward's current capitalization policy allows some non-labour OMA costs not directly attributable to bringing an asset to the condition and location necessary for its intended use to be capitalized. This was an issue raised previously at the 2011 GRA.
>
> …It is not clear that the current approach is capturing only directly attributable costs for capitalization. The current approach may be overstating capital expenditures.
>
> To reinforce what was previously raised at the 2011 GRA, Quantiv agrees that a simplistic methodology that applies different capitalization percentages to all OMA costs may be unsuitable in that it would result in the capitalization of non-capital costs. The capitalization policy should require that the capitalization of non-labour and non-overhead operation, maintenance, and administrative expenditures be decided with further analysis on a specific item by item basis at the time the expenditure is recorded in Eastward's accounts.
>
> [Exhibit E-18, pp. 63-64]

[139] Quantiv recommended that Eastward use the “capital module” of the software package it currently uses for its time tracking for payroll purposes. Quantiv also recommended Eastward investigate the creation of more suitable overhead allocation factors to account for relevant capital activities and that it explore the implementation of a time-carding system to track capital activities or employ a manual system which is currently used by an Eastward affiliate.

[140] Repeating the concerns expressed above about the potential transition to IFRS, Quantiv noted that under IFRS, the capitalization criteria will become more stringent than the current US GAAP-based standards and fewer costs will be capitalized. It added that Eastward could implement a capitalization policy consistent with known IFRS, however this may result in a material increase in revenue requirement and would lead to higher customer rates and rate shock, or an increase in the RDA if rates were not further adjusted. Given these potential implications, Quantiv recommended Eastward consider a gradual transition to a capitalization policy consistent with IFRS, including a study to identify which cost elements would not be capital in nature under IFRS and to phase out the capitalization of such costs before IFRS is adopted. Quantiv asserts this gradual approach would avoid rate shock from the adoption of IFRS.

4.5.3 Findings

[141] The potential transition to IFRS would undoubtedly impact Eastward’s financial reporting and its treatment of various regulatory assets and liabilities. Given its significance, it is important that Eastward carefully monitor and plan for this potential change. Indeed, it appears that there will be implications whether there is a transition to IFRS or a permanent adoption of US GAAP.

[142] Given these risks, the Board agrees that Eastward should report to the Board as outlined in its Opening Statement Reply. The Board directs that Board staff and Eastward meet and advise the Board no later than November 30, 2023, about Eastward's reporting format and content on this issue and the timing of such reports. In the Board's view, the first report should be provided by April 30, 2024, unless there are earlier developments announced by the IASB. The Board accepts Eastward's view that an IFRS transition plan and scenario analysis should be delayed until a rate regulated standard is available and adoption date known.

[143] Quantiv also outlined concerns with Eastward's tracking of labour costs for "capital" expenses. Quantiv recommended that Eastward use the "capital module" of its current software package for its time tracking for payroll purposes. It also recommended that Eastward investigate the creation of more suitable overhead allocation factors to account for relevant capital activities and that it explore the implementation of a time-carding system to track capital activities or employ a manual system which is currently used by Eastward's affiliate. The Board directs that Eastward investigate these recommendations and report no later than its next general rate application.

[144] In the meantime, the Board approves the continued use of Eastward's existing accounting and capitalization policies, as proposed.

4.6 Capital Structure (rate of return, cost of debt and debt/equity ratio)

[145] Under the 2011 Settlement Agreement, Heritage Gas and intervenors agreed to a capital structure consisting of 11.0% Return on Equity (ROE), 7.25% Cost of Debt and a 55:45 Debt-Equity ratio.

[146] In its application, Eastward proposed reducing its ROE from 11.0% to 10.8% and maintaining its Cost of Debt and Debt-Equity ratio. Under this structure,

Eastward's Weighted Average Cost of Capital is reduced to 8.84%, down from its currently approved 8.94%. Eastward suggested this structure reflects the Company's risk and investors' expected compensation.

[147] RBC Capital Markets provided Eastward with an estimated cost of long-term debt if the Company was to issue debt under current market conditions. RBC suggested that Eastward would qualify for a BB credit rating, assuming a private placement of senior unsecured debentures with an issuance amount of $25 million, as well as a non-investment grade rating. According to RBC, the long-term debt costs for Eastward would be 8.03% for 10-year bonds and 8.8% for 30-year bonds.

[148] James Coyne, of Concentric Energy Advisors, submitted an analysis to estimate a range of ROE on behalf of Eastward. Mr. Coyne's analysis included three groups of companies as proxies for Eastward, with similar business and financial risks. Mr. Coyne estimated the cost of equity for Eastward using four models: two discounted cash flow models; the capital asset pricing model; and a bond yield + risk premium model. Additionally, Mr. Coyne submitted a risk assessment of Eastward relative to his U.S. gas proxy group and other investor-owned gas utilities to assess the Company's appropriate equity ratio. Based on the four models plus the risk premium range, Mr. Coyne recommended an ROE between 10.8% and 11.3%.

[149] Mr. Coyne supported Eastward's proposed equity ratio of 45%. He considered this to be below the average of larger and lower risk U.S. gas distributors but higher than Canadian gas distributors. He felt this was justified as Eastward has a small customer base and revenue profile, reflecting higher risk.

[150] Mr. Coyne noted Eastward has $181 million in long-term debt from its parent company TSU. To assess an appropriate long-term cost of debt, he estimated a credit

rating for Eastward if it issued debt and raised its own capital. Mr. Coyne recommended a long-term debt cost of 7.5% based on Eastward's stand-alone credit profile.

[151] Board Counsel Consultant, Dr. Laurence Booth, submitted an analysis of Eastward's capital structure. Dr. Booth used a risk premium model, a capital asset pricing model and the discounted cash flow model to estimate a fair ROE.

[152] Dr. Booth countered Mr. Coyne's recommendations by noting that, due to the significant decline in interest rates since 2011, a fair ROE for a utility has fallen. Additionally, given the lower long-term bond yield in Canada than in the U.S., he said it is not correct to use U.S. estimates as a proxy for Canada without an adjustment to the interest rate. He considered a fair return for a low-risk Canadian utility is 7.75%. In addition to this return, Dr. Booth recommended a 1% premium to account for the continuing increase in deferred charges and a 0.25% premium to account for the recent political risk in Nova Scotia, ultimately arriving at a recommended ROE of 9.0%.

[153] Dr. Booth recommended a 5.25% debt cost based on Eastward's parent company, TSU. He noted that TSU does not finance as a holding company but as an operating company based on its utility assets. TSU is rated BBB (high) by credit rating agencies. Dr. Booth considered that Eastward is too small to be a long-term debt issuer and that TSU finances Eastward's rate base so that it cannot be a sole issuer. He suggested that it is less risky for a smaller issuer, like Eastward, to rely on shorter-term debt.

[154] Dr. Booth estimated that in 2023, the average cost of a seven-year debt is 3.05% with a spread of 2.25% for BBB rated firms, resulting in a cost of debt of 5.25%. He regarded Eastward as low risk because it is a fully equity financed utility.

[155] The Settlement Agreement reached with the CA resulted in Eastward's requested ROE decreasing from 10.8% to 10.65% and the cost of debt declining from 7.25% to 6.95%. In his Opening Statement, Dr. Booth estimated the Settlement Agreement provides a savings, but less than $1 million. He expressed concern that future matters will report this allowed cost of capital without acknowledging that it is the result of a Settlement Agreement.

4.6.1 Findings

[156] The Board acknowledges that the province's energy transition to net-zero presents Eastward with a considerable risk to manage. Given this background, and the consensus Eastward achieved with the CA in the Settlement Agreement, which was not specifically opposed by other intervenors in this proceeding, the Board approves the ROE of 10.65%, cost of debt of 6.95% and a 55:45 debt-equity ratio. However, in Eastward's next general rate application, it must be recognized that this approval was based on the overall reasonableness of the Settlement Agreement, considering all of its elements on balance.

4.7 Deferral Accounts, including RDA and CRP

[157] In past proceedings, the Board approved requests by Eastward to use revenue deficiency accounts to defer unrecovered revenue requirement for recovery in future periods. These are common regulatory mechanisms that were used, in Eastward's case, to allow the new utility to invest in infrastructure as it grew its customer base, to incentivize new customers by charging rates that were below full cost of service recovery (i.e., RDA), and to address significant competitive pressures from alternative energy sources by reducing rates below full cost recovery (i.e., CRP).

[158] Since the company's inception in 2003, rates have been set at levels that are less than what is required to recover the full cost of service. The Board approved the RDA as a regulatory asset to defer unrecovered amounts. The difference between actual billed revenue and revenue requirement is recognized as a revenue deficiency accrual on Eastward's income statement. The accumulated balance of the RDA is recognized on Eastward's balance sheet as a regulatory asset and is included as part of working capital for regulatory purposes. The RDA is included in Eastward's rate base and earns the allowed rate of return, giving Eastward the opportunity to recover these costs through customer rates in future periods.

[159] In 2010, the Board placed a $50 million cap on Eastward's RDA balance. As noted earlier in this decision, Eastward does not expect to achieve its full cost of service across all rate classes by the end of the proposed test period. As a result, the RDA balances during the 2024-2026 test years are forecast to increase to $29.9 million, $32.1 million and $33.9 million, respectively. This represents an average annual growth of the RDA of about $2.1 million. With the proposed rates in its application, Eastward states it expects to manage its RDA well below the $50 million cap throughout the test period as it moves towards full cost recovery. It is not applying for any adjustment to the cap, but says the RDA remains "a strategically important tool".

[160] In 2016, Eastward applied to the Board to allow it some flexibility in setting rates for certain commercial customers to allow the utility to compete with anomalous propane prices observed in the market during that period. Absent the relief, Eastward submitted it risked losing a specific sub-set of commercial customers that were essential to the utility given their size and revenues, which would have impacted all ratepayers. In its decision, 2016 NSUARB 131, the Board approved Eastward's CRP. It was originally

approved until December 31, 2020, but later extended to December 31, 2023. The Board also imposed conditions on the CRP, including limiting the rate of return on the CRP at 4%, and other conditions about depreciation and capitalization of OMA expenses.

[161] Eastward does not propose to extend the CRP when it ends on December 31, 2023. Further, Eastward states:

> Eastward proposes to begin amortization of the CRP balance only once full recovery of annual costs of service is achieved, i.e., once the RDA has ceased to increase. Eastward proposes to file a proposal for amortization of the CRP deferrals with the Board before the three-year test period concludes at December 31, 2026 and requests that the CRP balance retain the existing allowed return of 4 percent. The allowed return on the CRP balance is well below Eastward's currently approved and requested cost of debt in this Application at 7.25%. Accordingly, there is no positive shareholder return on the CRP balance. Eastward believes this is an equitable approach and is in the best interests of the Company and its customers.
>
> [Exhibit E-1, p. 106]

[162] The CRP is forecast to have a balance of $50.2 million at the end of 2023, and to remain at that level through the test period.

[163] No party objected to Eastward's proposal to file a plan to amortize the CRP by December 31, 2026, which will contemplate that amortization of the CRP balance will begin only once full recovery of annual costs of service occurs.

4.7.1 Findings

[164] As noted earlier in this decision, the Board has approved Eastward's continued use of its accounting and capitalization policies, which allow the regulatory treatment of its RDA and CRP. The CRP will continue to earn a 4% return.

[165] The Board accepts Eastward's submission that the amortization of the CRP balance will begin once full recovery of annual costs of service is achieved, i.e., once the RDA has ceased to increase. The Board notes the RDA continues to be capped at $50 million. The Board directs Eastward to file a proposal for amortizing the CRP and RDA no later than Eastward's next general rate application.

4.8 Mains Feasibility Test and Community Feasibility Test

[166] Eastward must apply feasibility tests to any proposed gas distribution network expansion. The MFT is used for projects that are contiguous to its existing system. The Community Feasibility Test (CFT) is used when evaluating expansion into a new geographic area. The Residential Retrofit Assistance Fund (RRAF) was created as a means of subsidizing projects that would otherwise not pass the MFT thresholds to allow for the addition of more residential customers throughout the service area.

[167] In its decision on Eastward's previous general rate application, the Board directed Eastward to include information about the MFT calculation parameters in its next GRA. In its application, Eastward proposes no adjustments to the MFT, CFT, or RRAF and requests they remain in place. In response to NSUARB IR-24, Eastward noted that the information on the calculation parameters had been inadvertently omitted from the application. Eastward also stated:

> Eastward believes that the 5-Year True-Up acts as a proxy for the relevancy of the MFT being reasonable through time as the Company sees actual activations five years after main expansion projects take place. Eastward proposes that the additional reporting requirements in place since 2014 address the Board directive as evidenced by the annual reporting and five-year true-up as reviewed annually by the Board.
>
> [Exhibit E-11, IR-24]

[168] Quantiv did not agree that the five-year true-up is a good proxy for the relevancy of the MFT and suggested that Eastward review all MFT calculation parameters. In its Rebuttal Evidence, Eastward stated that it had completed a detailed review of the MFT calculation parameters and process and provided findings and opportunities for improvement. In its Opening Statement, Quantiv suggested that Eastward conduct a comprehensive presentation and analysis of the MFT test as proposed.

[169] In his evidence, Mr. Wilson suggested that Eastward's authorization for the CFT be suspended. In the Settlement Agreement and its Rebuttal Evidence, Eastward noted that use of the CFT would involve a separate Board process, and that it does not forecast use of the CFT during the test period.

4.8.1 Findings

[170] The Board agrees with Quantiv that the MFT is critical in assessing investment in new assets. It may be appropriate to examine additional changes to the MFT to reflect the current energy landscape and to review proposed changes to the MFT suggested by Eastward in its Rebuttal Evidence. The Board directs Eastward to file a comprehensive presentation and analysis of the MFT including the items Quantiv suggested in its Opening Statement. Eastward is to file this report no later than April 30, 2024. The Board accepts the continuation of the RRAF of $500,000 per year as laid out in the application.

4.9 Distribution Service Rules, Regulations and Charges

[171] The application proposed several changes to Eastward's Distribution Service Rules (Rules), which are outlined in Table 18.0, pages 140 – 145 of the application. Most of the amendments address housekeeping issues or company name change corrections. Many of the changes to the Rules were to simplify the decision-making process for potential customers and provide clarity to the Rules. The Special Charges Schedule will replace the term "Residential" with "Standard". The revised schedule includes increases to the fees and charges to reflect inflation (Consumer Price Index) and revised the Service Lines costs to mirror the increase in costs during construction.

[172] One of the proposed amendments came out of a Board direction from M10451 whereby the Board requested a review of the practices concerning shared premises. Section 2.2 has been amended to clarify ultimate responsibility of service by defining the relationship between the Company and a customer.

[173] In response to NSUARB IR-130 [Exhibit E-11], Eastward indicated that the description of the budget payment plan in Item 6.9 was incorrect and should state:

> The monthly payment is calculated by dividing the estimated annual costs by twelve. The twelfth (12th) month of the plan includes your twelfth (12th) payment and any balance required to true up your account.

[174] Eastward also clarified that Item 6.10 should include the following sentence at the end of the paragraph:

> Dividing the result by the number of months remaining in the plan year equals your adjusted monthly budget payment plan amount.

[175] Mr. Borden recommended rejecting the revision to the Rules to exclude customers with past-due balances from balanced payment plans. He had concerns about the proposed change being added “to enroll in a budget plan, your account must not have a past due balance”. Customers who are unable to pay off arrears may benefit from the budget plan and not allowing them to enroll may cause them to fall deeper in arrears due to seasonal bill volatility.

[176] Eastward agreed to Mr. Borden’s recommendation and provided the following response:

> Eastward is agreeable to Mr. Borden’s recommendation to remove the clause associated with customers not having a past-due balance to enter the Budget Billing Plan in the proposed Distribution Service Rules. As such, Eastward will not restrict enrollment in the Budget Billing Plan due to past-due balances and will address any past-due balances through the Company’s Customer Service team on a case-by-case basis by increasing the monthly payments or working with the residential customer to pay off their past-due balance before starting their Budget Billing Plan.
>
> [Exhibit E-32, pp. 39-40]

[177] During the hearing, Eastward was questioned on its definition of a "customer" and clarifying who is considered a customer, the inclusion of fireplace as a complete heating system, the specific reference to Eastward's third-party excavation contractor and using the Consumer Price Index (CPI) to increase fees and charges. Eastward committed to clarifying its definition of a customer in a compliance filing and to removing the name of its third-party excavation contractor from the Rules. Eastward confirmed that fireplaces are sometimes a primary heat source for some homes and there are cases where the fireplace is the customer's first connection before installing a natural gas furnace. In response to questions about the use of CPI for increasing its fees and charges, Eastward explained the proposed changes in the Rules reflect language used in Eastward's vendor contracts, which typically contain a clause to tie increases to the CPI.

[178] In Eastward's Closing Submission, revised Rules were provided in Appendix A. The Appendix revised the definition of a customer which includes a person who is receiving or has received services. Item 4.2 removed the name of Eastward's third-party service provider for excavation.

4.9.1 Findings

[179] The Board finds that the revisions provided in Appendix A of Eastward's Closing Submission provide greater clarity and are appropriate. The Board approves the revised Rules to be included in the compliance filing.

4.10 New Residential Incentive Programs

[180] Eastward said its timeline for migrating residential customers to full cost of service rates depends on relative energy costs, the rate of residential growth and

penetration levels. As such, the Company has proposed residential heating incentives for the test period to incent residential building owners to install efficient natural gas space heating and domestic hot water systems, thereby adding new on-main customers and increasing revenue earned through the distribution of natural gas. Eastward also intends to address competition from other energy suppliers with these incentives. Eastward noted that increasing revenue by adding new customers and effectively addressing competition will benefit all its rate classes and said there were several precedents across Canada for residential heating system rebates from natural gas distribution utilities, including offerings from FortisBC, Liberty New Brunswick and Énergir in Quebec.

[181] Eastward proposed two new residential incentives, one for new construction in multi-unit residential buildings (MURB Incentive) and one for new construction and existing single-family homes (Residential Incentive). The cost of these rebates was originally proposed at approximately $1.6 million per year in the test period. However, Eastward proposed a lower amount of $1.3 million per year in its Closing Submission. The Utility requested approval to capitalize these costs for recovery over 55 years.

[182] Eastward designed the MURB Incentive to encourage developers to install natural gas-based primary space heating and domestic hot water systems in new construction MURBs. The amount of the one-time incentive is $20 for each gigajoule of the building's projected annual natural gas usage for space heating and domestic hot water (or $10 if the installation involves only a domestic hot water system).

[183] Eastward noted that since the introduction of natural gas service in Nova Scotia, most new MURBs constructed where natural gas is available have installed natural gas boilers for domestic hot water and to meet some or all the building's space heating needs. However, over the last few years several new Heating Ventilation and Air

Conditioning (HVAC) system technologies have become available for new MURBs in Nova Scotia, including electric heat pumps, water loop heat pumps, and hybrid heat pumps. Electric-based heat pumps are now the most common alternative to natural gas for primary space heat in new MURBs.

[184] Eastward also indicated that EfficiencyOne currently offers financial support to developers of eligible new construction MURBs to help reduce the capital cost of efficient electric based HVAC systems. Currently, there are no comparable incentives available for developers that choose an efficient natural gas-based space heating or domestic hot water system. Eastward said, “revenue generated from new MURB developments is important to maintain competitive rates for all current and future customers and to support the continued growth of the natural gas distribution system in Nova Scotia” [Exhibit E-1, p. 132].

[185] Eastward designed the Residential Incentive to encourage single-family homeowners to convert from furnace oil or propane to high efficiency natural gas heating equipment for space heating and domestic hot water, including high-efficiency natural gas boilers and furnaces, natural gas absorption heat pumps, domestic hot water heaters, and fireplaces. Eastward also intends to use this incentive to encourage the installation of this equipment in new construction single-family homes. The amount of each rebate depends upon the equipment installed and whether it is an existing home or new construction, up to $3,000 for the conversion of existing homes and $2,500 for installing equipment in new homes.

[186] Eastward estimates that more than 7,000 existing single-family homes located where natural gas service is available are still heated with furnace oil, electric resistance heating, propane, or other fuels. The Company noted that once these systems

fail or near the end of their useful life, the upfront capital cost of a replacement option is an important consideration for single-family homeowners.

[187] In its evidence, Quantiv noted that the proposed rebates were similar to those provided by other natural gas distribution utilities and that the program (or a similar program) was a key factor in the acquisition of new customers for Eastward to move toward full cost recovery. Quantiv noted that without a program of this type, the Utility could potentially have limited success in expanding its customer base. However, Quantiv also noted that "it could be interpreted that this rebate initiative is in contradiction to provincial programs that are already offering incentives to switch to electric" [Exhibit E-18, p. 90].

[188] Mr. Wilson did not consider the proposed incentives to be consistent with incentives for adoption of electric heat pumps. Mr. Wilson also questioned the relative merit, in terms of cost savings and GHG emissions reductions, for installing the equipment promoted by these incentives over electric alternatives. Mr. Wilson recommended that the Board deny approval of the proposed incentives.

[189] Mr. Borden also raised concerns about whether Eastward's proposed incentives were consistent with government policy goals:

> Clearly, the intention of the national and provincial governments is to rapidly decarbonize the electric sector. While natural gas will still be required for various uses, the government's direction is to phase out unnecessary uses of natural gas, as indicated by the significant carbon price enacted. Residential heating may turn out to be an end use for which natural gas is simply not required or desired due to environmental concerns in 10 years, or sooner.
>
> Installing and providing ratepayer incentives for new natural gas heating equipment, or converting buildings from oil to natural gas for heating, limits the decarbonization potential of these end uses. Customers with natural gas heating will continue to use a fuel with a carbon intensity of 183 g/kWh for the life of the equipment, instead of decarbonizing in tandem with the electric grid. While the carbon intensity of natural gas is currently lower than electricity, it will not remain so over the life of the assets installed.
>
> [Exhibit E-22, pp. 20-21]

[190] Mr. Borden also considered the proposal to be inconsistent with government policies about affordability and said it presented a stranded asset cost risk. He noted the incentives would lock customers into using natural gas, which he expects to become more expensive than electricity due to the introduction of the carbon tax. As for stranded asset costs, Mr. Borden questioned whether new infrastructure might result from the proposed incentive programs and may later be unnecessary. He also considered that treating the rebates as a capital expense for recovery over 55 years "essentially ensures that some or all of these costs are stranded when some customers switch to electricity" and "is an unnecessary and uncalled for risk given the clear policy direction provided at both the federal and provincial levels" [Exhibit E-22, p. 22]. Like Mr. Wilson, he recommended that the Board not approve the costs for a heating incentive program.

[191] Eastward did not accept the cost and GHG reduction comparisons presented by Mr. Wilson. Further, it maintained that despite the evidence presented by Mr. Wilson and Mr. Borden, its proposed incentives were consistent with government policy. Eastward's position on the latter point was based on its belief that it has a role to play in the energy transition. This was discussed earlier in this decision; however, the following passage from the Utility's Rebuttal Evidence is a useful summary in the context of the proposed incentives:

> While Eastward agrees that "*Federal and Provincial decarbonization programs include incentives to switch to electric*", natural gas offers an affordable and reliable option to significantly reduce heating costs and emissions from the one-third of residential buildings in Nova Scotia that are heated by high-emitting fuel oil. The Federal and Nova Scotia Provincial Governments understand that, in addition to electrification, other programs and actions will be needed to achieve decarbonization targets. The Federal Government's Emissions Reduction Plan acknowledges "*there is no one-size-fits-all approach for achieving net-zero emissions*". The Province of Nova Scotia's Climate Change Plan for Clean Growth (2022) outlines multiple building decarbonization pathways including installing electric heat pumps, making buildings more energy efficient, and transitioning away from higher-emitting oil-fired heating equipment. Eastward notes that the Plan does not include any policies or actions to promote or incent buildings to switch from heating with natural gas to electric. On the contrary, the Plan includes actions to support

> sustainable growth in innovative clean technologies that will leverage the continued use of the gas distribution system in Nova Scotia including green hydrogen and renewable natural gas:
>
> - Creating a green hydrogen action plan by 2023 to support the development of the green hydrogen sector in Nova Scotia.
>
> - Creating a clean fuels fund to support industries and businesses in adopting low-carbon and renewable fuels such as green hydrogen, renewable natural gas, biofuels, and sustainable biomass.
>
> Eastward submits that the proposed incentive program will help more homes to switch from higher emitting fuel oil and will allow the Company the opportunity to continue the expansion of its customer base and acquire new customers through the test period.
>
> Despite policies and incentives to promote the adoption of electric heat pumps in new residential construction, N.S. Power's 2022 Load Forecast projects only 22% of new residential customers to utilize electric heat pumps for primary space heating from 2022 to 2032 while 13.5% are projected to use non-electric heating and 65% are projected to use electric resistance heating.
>
> [Exhibit E-32, pp. 21-22 (footnotes omitted)]

[192] Eastward also highlighted that residential customers are only eligible for incentives under its proposed program if mains are already available to them or if it would be financially feasible to extend mains to serve them, as determined using the MFT. The Company said all customers benefit from capital expansion when incremental revenues are greater than incremental costs, including the cost of incentives. Eastward conceded that offering incentives increases the cost to connect the customer, and that these costs need to be considered when determining whether a customer positively contributes to the system. Eastward, therefore, recommended including the cost of any incentives in any future MFTs.

[193] Eastward and the CA did not specifically address the proposed incentives in the Settlement Agreement, so they are subject to the general provision that says that all other matters are as set forth in the Utility's application or as changed in its Information Request Responses or Rebuttal Evidence. However, the Utility advised in its Closing Submission that Eastward and the CA subsequently agreed to modify the Settlement

Agreement to cap the annual value of the proposed incentives at $1.3 million in each of the test years, for a reduction of $900,000 over the test period. As the incentives are capitalized, this change will have a minimal impact on the revenue requirement over the test period.

[194] At the hearing, the Board asked questions about rebates that Eastward gave its customers since its last general rate application. The Board had not specifically approved these rebates. In its response to Undertaking U-7 [Exhibit E-42], Eastward confirmed that between January 1, 2017, and March 31, 2020, it supplied rebates to customers amounting to $372,319 to help them convert to natural gas from alternative energy sources (mostly oil). The Utility estimated that these incentives helped in the conversion of an additional 267 residential in-fill customers, which would increase revenue and throughput on the entire system. Eastward noted that it reported these rebates in the annual Benefits Reports it files with the Board.

[195] There was some discussion during the hearing about the period of time over which the cost of the proposed incentives should be capitalized:

> **Q.** (Murphy) I just wanted to get an understanding of why it proposed that those assets be amortized over 55 years. My understanding is that those incentives are meant -- are intended to fund combination boilers, furnaces, hot water heaters, fireplaces, things like that. Those particular assets don't have a 55-year service life. So my question is why wouldn't you amortize that 1.6 million each year over, say, 20 years, which might be the average life of a boiler?
>
> **A.** (Simpson) So the assets that Eastward has that they can apply it to, the most appropriate asset to apply it to is the asset that Eastward would put in the ground, which is the service line to serve that customer, and they have a 55-year lifespan. That's the choice.
>
> **Q.** Understood. But if you amortize it over 55 years, it's fair to say that the total revenue requirement over those 55 years would be a lot more than it would be if it was over 20 years of the life of the assets that were actually provided associated with those incentives; is that correct?
>
> **A.** (Simpson) Yeah, that's true. Those assets are not on Eastward's books, so it's hard for them to relate that, but ---
>
> **Q.** Understood.

A. (Simpson) --- but it is true.

Q. Understood.

A. (Simpson) But I would like to point out that the faster you amortize it, the more impact it has up front, and therefore is harder for the customers to absorb (inaudible due to people speaking over each other).

Q. I understand that. I understand that too. But overall, ---

A. (Simpson) Yes.

Q. --- the difference in terms of revenue requirements, 55 years versus 20 years, would be a fair bit less if it was over 20 years?

A. (Simpson) Yes. Yes, it would.

[Transcript, pp. 93-95]

[196] The Board understands that a longer amortization period for the incentives results in annual amortization costs that are lower than they would be using a shorter amortization period (although total amortization costs over each amortization period would be the same). However, a longer amortization period results in a higher cost of capital associated with the incentives. As a result, the total revenue requirement for the incentives over a longer amortization period will be higher than over a shorter amortization period. Ratepayers pay these higher costs. The trade-off, as noted by Mr. Simpson, is that a shorter amortization period will increase revenue requirements, and thereby rates, in the test years.

4.10.1 Findings

[197] As discussed previously, this application finds Eastward at a crossroads because of questions about the future of natural gas use in the province, particularly for residential space heating and domestic hot water. Expanding the use of natural gas for such purposes risks locking in GHG emissions for a period and exposing more customers to the potential for higher costs as the carbon tax escalates and the economics of the gas distribution system change, and even potentially stranding their investment. On the other

hand, Eastward may be able to cost-effectively contribute to the energy transition in Nova Scotia, but to do so, it needs to remain viable and economically healthy. Limiting its opportunities for growth could, therefore, also prove to be counterproductive. Consultants in this proceeding recommended that these issues be studied, and the Settlement Agreement contemplates that Eastward would engage with the provincial government in a broadly based review of the complex public policy issues presenting in these circumstances, recognized to be beyond the Board's authority to address.

[198] Still, an application to approve incentives, which may or may not be consistent with federal and provincial electrification policies, is presently before the Board. The Board must decide based on existing legislation and the evidence before it. In this regard, the Board notes that there is no legislation prohibiting Eastward from growing its gas distribution system or from offering rebates as it has done in the past, both on its own and with government support. Moreover, one of the express purposes of the *Gas Distribution Act* is to "provide a framework for the orderly development and operation of a gas delivery system in the Province" (s. 2(a)). Part of the Board's role is to exercise its regulatory authority consistent with that purpose.

[199] Additionally, the Board notes that the Province amended the *Gas Distribution Act* less than a year ago to include "hydrogen gas intended to be used by an end user as fuel" in the definition of "gas" in s. 3(c). While policy clarity would help given the concerns raised in this proceeding, this amendment appears to the Board to be a measure intended to help Eastward move forward and contribute to the energy transition in Nova Scotia.

[200] The Board approves Eastwards proposed incentives, subject to the adjustments made by Eastward in its Closing Submissions. The Board directs Eastward to include the cost of these incentives in any future MFTs.

[201] In approving the program, the Board believes it strikes a suitable balance that provides a cautious opportunity for growth, limited to a three-year period to the end of 2026 and subject to an annual cap of $1.3 million. Additionally, it appears to be part of the balance struck in the Settlement Agreement between Eastward and the CA.

[202] To be clear, the Board's approval is that the program will end after 2026 even if Eastward has not filed another general rate application at that time. In any event, the Board expects that these issues may arise again in Eastward's next general rate application, and further public policy development might aid the review at that time.

[203] Finally, although the Board approves the proposed 55-year depreciation period for the capitalized program expenses, it has concerns about the length of recovery for these expenses.

[204] Based on the Board's own analysis of Eastward's response to Synapse IR-31 Attachment 1, the Board understands that the impact of reducing the proposed amortization of the residential heating incentives from 55 years to 20 years would only have a marginal increase in revenue requirements over the test years. However, the same analysis shows that over a 20-year amortization period, the total costs to ratepayers, as a result of lower total cost of capital, will be significantly less than if a 55-year amortization period was used. Fifty-five years is far longer than the expected life of residential gas heating equipment, the cost of which is what Eastward intends to offset with the rebates.

[205] The Board does not accept that Eastward must tie the capitalized incentive costs to the expected life of its service lines to customers. The Board directs Eastward to better justify its proposed depreciation period in its next general rate application. It should also be prepared to show why other alternatives, such as setting up a regulatory deferral or account allowing for the recovery of the costs over the life of customer heating equipment bought because of the rebates, would not be more appropriate. The Board may, at that time, adjust the recovery period approved in this proceeding.

5.0 COMPLIANCE FILING

[206] The Board issued various directives to Eastward in this decision, including:

- To include an inter-affiliate study in its next general rate application; [para. 65]
- To consider the allocation of mains and marketing costs, and the allocation of the CRP deferrals in its next general rate application; [para. 79]
- To submit a report by April 30, 2024, reconciling changes to the RDA balance as a result of customers being billed per a rate class that does not match their annual gas usage for each year from 2004 to 2023; [para. 101]
- To meet with Board staff about Eastward's reporting format, timing and content on the IFRS transition and advise the Board no later than November 30, 2023 about the reporting content; [para. 142]
- To investigate Quantiv's recommendations about using the "capital module" of its current software package for its time tracking for payroll purposes; the creation of more suitable overhead allocation factors to account for relevant capital activities; and the implementation of a time-carding system to track capital activities. Eastward must report to the Board no later than its next general rate application; [para. 143]
- To file a proposal for amortizing the CRP and RDA no later than the next general rate application; [para. 165]
- To file no later than April 30, 2024, a comprehensive presentation and analysis of the MFT including the items Quantiv suggested in its Opening Statement; [para. 170]

- To include the cost of incentives in any future MFTs; [para. 200]

- The MURB and Residential Incentive programs will end on December 31, 2026; and [para. 202]

- To better justify, in the next general rate application, its proposed depreciation period tying capitalized incentive costs to the expected life of its service lines to customers, and to show other alternatives. [para. 205]

[207] Eastward is to file a compliance filing based on the Board's findings in this decision. The compliance filing is to include, among other things:

- Its revised Schedule of Rates, Tolls and Charges, subject to the Board's findings in this decision;

- To correct two errors impacting test year revenue requirement and rate base: $480,000 of gas cost supply expense mistakenly coded to professional fees expense, and an overstatement of the deferred charges balance included in rate base (ranging from $57,000 in 2024 to $229,000 in 2026);

- A revised RSC rate structure to only have one flat BEC tier;

- Its revised Distribution Service Rules and Special Charges Schedule, including the revised definition of a customer, and removing the name of Eastward's third-party service provider for excavation; and

- To update the projected RDA balances for 2024, 2025 and 2026, as a result of any changes resulting from the Settlement Agreement (including the revised incentive cap) and the Board's findings in this decision.

[208] Eastward is directed to file a compliance filing no later than two weeks after the date of this decision. Intervenors will have two weeks from the date that Eastward files its compliance filing to provide submissions to the Board. Eastward may file a reply within one week from the date the Intervenors file submissions.

[209] The Board approves the rate increases proposed in the application for the customer classes in 2024, 2025 and 2026, subject to the Board's findings in this decision. The rate increases per customer class, in each of the test years 2024-2026, is to be

confirmed in the compliance filing. The Board approves the rates and charges effective January 1st in each of 2024, 2025, and 2026.

[210] An Order will issue following the compliance filing.

DATED at Halifax, Nova Scotia, this 21st day of September, 2023.

Stephen T. McGrath

Roland A. Deveau

Steven M. Murphy