DECISION **2024 NSUARB 217**
M11877

NOVA SCOTIA UTILITY AND REVIEW BOARD

IN THE MATTER OF THE GAS DISTRIBUTION ACT AND REGULATIONS

- and -

IN THE MATTER OF AN APPLICATION by **EASTWARD ENERGY INCORPORATED** for the approval of a **Customer Retention Program Recovery Rate**

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 Alexandra Gosse, Counsel
INTERVENORS:	**CONSUMER ADVOCATE** David J. Roberts, Counsel Michael Murphy, Counsel **DALHOUSIE UNIVERSITY** Nancy G. Rubin, K.C. **MICHELIN NORTH AMERICA (CANADA) INC.** Nancy G. Rubin, K.C. **KILLAM APARTMENT REIT** Dale Noseworthy
BOARD COUNSEL:	William L. Mahody, K.C.
HEARING DATE:	November 27, 2024
DECISION DATE:	**December 23, 2024**
DECISION:	**Recovery Rate approved, as amended by the Board.**

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1.0 INTRODUCTION

[1] On September 5, 2024, Eastward Energy (Eastward or Company) applied to the Board for approval of a Customer Retention Program (CRP) Recovery Rate. The CRP Recovery Rate is intended to start recovery of a deferral balance of $49,925,720 accrued under Eastward's CRP between 2016 and December 31, 2023.

[2] The CRP was approved in 2016 to address competitive market pressures Eastward was experiencing when regional natural gas prices increased while propane prices significantly decreased. The CRP's main feature was Eastward's flexibility to reduce the Base Energy Charge (BEC) for commercial Rate Class 1A (RC1A) customers using between 500 GJs and 4,999 GJs annually. This flexible BEC pricing continued for these customers until December 31, 2023. There was also a $0.50 reduction of the BEC for the 2017 and 2018 winter seasons for Rate Class 1 (RC1) residential and small commercial customers using less than 500 GJ.

[3] Under the current proposal, Eastward would apply the CRP Recovery Rate to its current General Service Class (GSC) and Rate Class 3 (RC3) customers, but not to residential customers. Eastward requests flexibility to adjust the Recovery Rate within a band from $0.00/GJ up to $2.00/GJ, based on the current and forecasted commodity pricing for the period January 1, 2025, to December 31, 2026. If the application is approved by the Board, Eastward intends to implement an initial CRP Recovery Rate of $2.00/GJ effective January 1, 2025.

[4] After receiving submissions from Eastward and intervenors in a hearing held on November 27, 2024, the Board has concluded that a Recovery Rate should be approved, but that it apply to the GSC, RC3 and residential customers; that it be capped at $1.00/GJ; and that the recovered funds be applied to Eastward's Revenue Deficiency

Account (RDA) (another deferral account previously approved by the Board) rather than to the CRP deferral. The Recovery Rate, as amended in this decision, may start as early as January 1, 2025, subject to providing tariff language for the approved Recovery Rate rider in a compliance filing.

2.0 BACKGROUND

[5] The CRP was approved in 2016. The background leading to the program was described in the current application:

> On March 2, 2016, Eastward (formerly Heritage Gas Ltd) applied to the Board for approval of a CRP (NSUARB Matter No. M07346) as the Company was dealing with competitive market pressures. At that time, with the recently declining offshore gas supply, regional natural gas prices in the Maritimes were elevated, while the regional market was experiencing a significant decrease in propane prices coupled with a world-wide collapse of oil prices. During this timespan, Eastward was experiencing losses of some commercial customers and determined that the ability to offer flexible pricing to commercial Rate Class 1A customers whose usage was between 500 GJs – 4,999 GJs annually was critical to retaining these customers against competing fuel sources. The Company also wanted to retain those key customers to ensure the long-term sustainability and growth of the natural gas system for all current and future customers in Nova Scotia.
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> Eastward requested the ability to reduce the Base Energy Charge (“BEC”) from the then current rate of $8.685/GJ to as low as $3.10/GJ.
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> [Exhibit E-1, PDF pp. 6-7]

[6] In its decision dated September 8, 2016, the Board approved the CRP [2016 NSUARB 161], including a settlement between Eastward and the Consumer Advocate for a $0.50 reduction for RC1 (residential and small commercial) customers utilizing less than 500 GJ for bills issued between November 1, 2016, and April 30, 2017, and from November 1, 2017, to April 30, 2018. The Board’s approval included the suspension of the depreciation of Eastward’s plant-in-service and the capitalization of 50% of its operating, maintenance and administrative (OM&A) expenses while the CRP was in effect. The Board approved an extension to the CRP in 2020 [2020 NSUARB 40], and a reduction to the annual amounts deferred to match them to the annual foregone revenue.

As part of the approval of the CRP, and its extension in 2020, there is an allowed rate of return of 4% on the CRP deferral balance.

[7] The program concluded on December 31, 2023, with a deferral balance of $49,925,720. On September 5, 2024, Eastward applied to the Board for approval of a CRP Recovery Rate, which is intended to start recovering this accrued balance. Eastward proposed that the CRP Recovery Rate apply to GSC and RC3 customers, but not to residential customers. Eastward also requested flexibility to adjust the CRP Recovery Rate within a band from $0.00/GJ up to $2.00/GJ, based on the current and forecasted commodity pricing for the period January 1, 2025, to December 31, 2026. Eastward applied to implement an initial CRP Recovery Rate of $2.00/GJ effective January 1, 2025. The Company said it will include a proposal to recover the remaining December 31, 2026 CRP deferral balance in its next general rate application, expected in 2026 for new customer rates effective January 1, 2027.

[8] The application is made under s. 22 of the *Gas Distribution Act,* 1997, c. 4, (*Act*), which includes the factors to be considered on an application:

> **Approval and fixing of rates, tolls and charges**
> **22 (1)** The Board may, on its own initiative or on the application of a person having an interest, by order in writing, approve or fix just and reasonable rates, tolls or charges for the delivery of gas by a gas delivery system, including related services.
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> …
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> **(3)** In approving or fixing rates, tolls or charges, the Board shall give due regard to the following criteria and may give appropriate weight to each of them relative to the others:
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> (a) the related practical attributes of simplicity, understandability, public acceptability and feasibility of application;
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> (b) freedom from controversies as to proper interpretation;
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> (c) effectiveness in yielding total revenue requirements under the just and reasonable return standard;
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> (d) revenue stability from year to year;

(e) stability of the rates, tolls or charges themselves, with a minimum of unexpected changes seriously adverse to existing customers;

(f) competition;

(g) fairness of the specific rates, tolls or charges in the apportionment of total costs of service among the different consumers;

(h) avoidance of undue discrimination in rate relationships;

(i) efficiency of the rates, tolls or charges in discouraging wasteful use of service while promoting all justified types and amounts of use; and

(j) such other matters as the Board deems appropriate.

(4) Notwithstanding subsection (3), the Board may, by order in writing, approve or fix just and reasonable rates, tolls or charges that

(a) are intended to result in cost savings or other benefits to be allocated between the owner of the gas delivery system and its customers; and

(b) are otherwise in the public interest.

(5) The Board may specify terms and conditions that apply to an order made pursuant to subsection (1) or (4).

[9] The Board issued its Hearing Order on September 6, 2024, and an Amended Hearing Order on September 16, 2024. Information Requests (IRs) were issued to Eastward and responses were filed by Eastward on October 15, 2024. Synapse Energy Economics (Synapse), Board Counsel consultants, filed evidence on October 31, 2024, and responded to IRs by November 14, 2024. Eastward filed its Rebuttal Evidence on November 19, 2024, and the hearing was held on November 27, 2024, to receive oral submissions.

3.0 SUBMISSIONS FROM INTERVENORS

[10] The Consumer Advocate did not oppose Eastward's application. He agreed that the CRP recovery rate should apply to GSC and RC3 customers but not to residential customers. He also agreed that there was an opportunity to begin paying down the CRP deferral balance without compromising Eastward's competitive position. The Consumer

Advocate did not agree with Synapse's suggestion that revenue generated from the Recovery Rate be applied to the RDA. He noted that such a proposal was not part of Eastward's application and that it would have implications for residential customers, stating that the residential class would be responsible for covering some of the costs associated with the RDA.

[11] On questioning by the Board, the Consumer Advocate acknowledged that residential customers benefitted from the CRP to the extent that Eastward's competitive position was in some question at the time it was implemented.

[12] Three other intervenors provided submissions at the hearing: Dalhousie University and Michelin North America (Canada) Inc., both RC3 customers, were represented by their counsel, Nancy G. Rubin, K.C., while Killam Apartment REIT (Killam) was represented by its Chief Financial Officer Dale Noseworthy, CPA. They both expressed concerns about the application.

[13] Ms. Rubin's concerns are summarized by the Board as follows:

- Eastward's application ignores two directives in the Board's recent GRA decision dated October 30, 2023, including that: 1) Eastward engage with customers and consider the allocation of the CRP deferral in its next GRA (expected to be filed in advance of 2027), and that 2) Eastward file a proposal to amortize the CRP no later than the next GRA;
- By applying for the CRP Recovery Rate as a standalone rate recovery request, with minimal supporting evidence other than comparisons to alternative energy sources, Eastward has denied customers the opportunity to consider the cost

allocation and amortization of the CRP in the context of overall revenue sufficiency as would occur in the GRA, as directed by the Board;

- Eastward's “approach to apportionment is blunt and it's unfair”. Ms. Rubin noted that GSC and RC3 customers, regardless of whether they experienced a direct financial benefit in the form of a reduced base energy charge and whether they already pay their cost of service, will be subject to the proposed $2.00/GJ surcharge simply based on Eastward's determination of what is required for natural gas to retain a competitive advantage relative to other energy sources;
- Eastward’s proposed Recovery Rate is “excessive” in that it accelerates the recovery of the CRP deferral that was accumulated over eight years; and
- The application is “untimely” in that it imposes an unexpected rate change in the middle of a three-year rate cycle, negatively impacting customers.

[14] As a result, Ms. Rubin submitted that the Board consider the following disposition of the application:

- If the Board approves the application, a maximum recovery should be set, more closely tied to the period over which the CRP was accumulated;
- The assignment to customer classes could follow Eastward's proposed GRA allocation or the Board could assign a $/GJ surcharge that differs by customer class, depending on whether the customer class received direct financial benefits. Ms. Rubin noted this point may require a compliance filing from Eastward;

- The recovery should be phased-in such that the maximum surcharge is not imposed until June 2025 to allow time for customers to adjust their budgets; and
- The amounts recovered should be applied against the RDA, which has a higher carrying cost than the CRP, providing greater financial benefits to customers.

[15] Ms. Noseworthy stated that Killam has 5,700 apartment units in Halifax, the majority of which are heated with natural gas. Last year, Killam's natural gas costs in Nova Scotia were $5.3 million, which represented 17% of its operating costs in the province. While Killam appreciates Eastward's efforts to address the CRP deferral at a time when natural gas prices are low compared to historic levels and alternative energy sources, she submitted that “the short-term timeframe of the recovery proposal does not consider today's economic realities”. She said that Eastward’s application does not properly account for the fact that its customers, who spent millions of dollars to convert to natural gas, will compare their 2025 earnings and cash-flows to their 2024 natural gas costs, not to the pricing of alternative energy sources. Killam estimated that Eastward's proposed recovery rate of $2.00/GJ would translate into an extra $500,000 of operating costs in 2025, 9% higher than its budgeted costs. She anticipated the year-over-year increase in Nova Scotia natural gas expenses to be the most significant cost increase for the upcoming year.

[16] Like Ms. Rubin, Ms. Noseworthy noted the relatively short recovery period:

> The proposed plan to recover 60 percent of the balance over the next two years is an unreasonably short recovery period and it will lead to undue financial stress and hardship to many customers. Why is there such an urgency for the recovery? A more gradual and phased-in recovery approach would allow customers to better manage the introduction of the CRP recovery.
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> [Transcript, p. 64]

[17] Ms. Noseworthy submitted that if the Board approves the application, it should adopt a phased-in approach, suggesting a possible maximum of $1.00/GJ in 2025 and $1.50/GJ in 2026, to avoid an undue cost escalation on January 1, 2025. The balance should be considered as part of the 2027 GRA with a longer-term recovery timeframe.

[18] The Board also received a letter of comment from the Dartmouth Curling Club, a GSC customer. Nathan Henderson, the Treasurer, asked that non-profit organizations such as the Club be exempted, like residential customers, from the CRP Recovery Rate, or that the Board consider reducing the rate. He noted that the proposed rate would place a "significant strain" on the Club's limited operating budget, stating that it would be difficult for the Club to absorb the new costs without impacting its programs.

[19] Eric Borden, of Synapse, filed evidence following his review of Eastward's application. He agreed that current natural gas commodity prices do provide Eastward an opportunity to start recovery of deferred costs without materially disadvantaging the Company's competitiveness relative to alternative energy sources. He noted that even with the $2.00/GJ rate, customers would pay about the same total rate for natural gas that they did in 2023. However, he submitted that the funds recovered from the Recovery Rate should be applied to the RDA instead of the CRP:

> o Based on the costs and benefits of this proposal, I believe Eastward's recommendation should be approved. However, the Commission should also consider applying additional revenues to reduce the Revenue Deficiency Account (RDA) instead of the CRP. The majority of my analysis regarding Eastward's CRP proposal applies equally to the RDA, which was created for a similar purpose as CRP. There are, however, two primary differences when considering this alternative: (1) reductions in the RDA would provide significantly higher long-term savings due to the higher carrying costs approved for these deferred costs; (2) the RDA has likely benefited residential customers to a much greater extent than CRP.
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> > o If the Board does approve reductions in the RDA from the surcharge, it should also consider implementing a process to consider appropriate cost collection from the residential class.
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> [Exhibit E-8, p. 4]

[20] Eastward opposed the suggestions that the CRP Recovery Rate apply to residential customers and that the funds be applied to the RDA, as described in greater detail later in this decision.

4.0 ANALYSIS AND FINDINGS

4.1 Would initiating a Recovery Rate benefit ratepayers?

[21] Eastward submitted that there is currently a unique opportunity to take advantage of reduced natural gas commodity prices to start recovering the CRP deferral balance. After the early stages of the Russia – Ukraine conflict caused LNG prices to spike in 2022 and 2023, warmer than average weather and increased natural gas production through 2023 and 2024 have eased demand pressures, leading to a rapid decrease in natural gas commodity prices at most major market hubs across North America. In February 2024, the NYMEX price hit the lowest level, inflation adjusted, since January 1995.

[22] The Company stated that the decrease in market prices has improved its competitive position in 2023 and 2024 relative to 2022. Eastward's Gas Cost Recovery Rate (GCRR) decreased by about 18% year over year in 2023 and 39% year over year in 2024, but was partially offset by the increase in carbon cost. It said current rates (GCRR plus Transportation Cost Recovery Rate) are at their lowest since October 2013. It expects this competitive position to continue through 2025.

[23] Eastward submitted this is a "unique opportunity" to start recovering the CRP deferral balance, which would benefit customers:

> The initial CRP program and its extension allowed Eastward to remain competitive in the energy market during a time of challenging changes in commodity pricing, which was in the long-term interest of all existing and future customers. The deferral related to the CRP

> was intended to be recovered in the future. The current commodity prices have created an early opportunity for Eastward to take a proactive approach and begin recovery of the CRP deferral, on the same basis as the original CRP.
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> Eastward believes the current competitive position offers a unique opportunity for early CRP deferral recovery, which will support customers and rate stability in the long-term. In addition to the positive long-term impacts for customers, this early recovery would support Eastward by allowing for more timely cost recovery. Eastward believes this opportunity should be taken, rather than waiting after December 31, 2026 to begin recovery of the CRP deferral amount.
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> [Exhibit E-1, PDF p. 11]

[24] Eastward noted that starting early recovery of the CRP deferral balance, even over the proposed initial two years at the $2.00/GJ cap, could lead to a reduction of the CRP deferral balance of about $30 million or 60% and a related customer savings of about $7.7 million in cost of capital, compared to delaying the full recovery until 2027 and applying a standard amortization period such as 10 years.

[25] Both the Consumer Advocate and Synapse agreed that current natural gas commodity prices provide Eastward with an opportunity to start recovery of its deferred costs (however, Synapse thought it should be applied against the RDA instead of the CRP).

4.1.1 Findings

[26] The Board accepts Eastward's evidence that the current natural gas commodity market presents a unique opportunity to start addressing the Company's deferral balances. The Company's current total GCRR plus Transportation Cost Recovery Rate is at its lowest since October 2013 and it expects this competitive position to continue through 2025. Synapse noted that even with the $2.00/GJ rate, customers would pay about the same total rate for natural gas that they did in 2023.

[27] The Board is satisfied that implementing a deferral Recovery Rate would benefit customers, while not negatively impacting Eastward's competitive position relative to alternative energy sources.

[28] The Board approves a deferral Recovery Rate, as amended below in this decision.

4.2 To which customers should the deferral Recovery Rate apply?

[29] Eastward proposed that the CRP Recovery Rate apply to GSC and RC3 customers, but not to residential customers. The Consumer Advocate and Synapse agreed with this submission.

[30] Ms. Rubin, who represented Dalhousie and Michelin, both RC3 customers, submitted that since those customers received no direct benefit from the CRP, the Recovery Rate should not apply to them. However, if the Board approved the application, the rate should apply to all customers who benefitted directly or indirectly from the CRP, including residential customers. However, she noted that there were concerns about customer class allocation of the funds recovered from the Recovery Rate, suggesting that it should be based on cost-of-service principles. She submitted that the appropriate allocation among the classes was not analyzed by Eastward or Synapse. She suggested class allocation may require a compliance filing by Eastward.

[31] Eastward proposed that the CRP Recovery Rate not apply to the residential customer class because that class does not currently recover its cost of service and the volumes associated with that class account for less than 5% of Eastward's total throughput, which would have a negligible impact on the deferral. Mr. MacDougall submitted that at lower usage levels (e.g., below 75 GJ), adding the Recovery Rate would mean it could be unlikely that Eastward would remain competitive in those classes.

4.2.1 Findings

[32] The Board accepts Ms. Rubin’s submission that the Recovery Rate should apply to all customers who benefitted from the CRP. The reasons for initiating the CRP

were summarized earlier in this decision, including the long-term sustainability and growth of the province's natural gas system for all current and future customers. The Board finds that residential customers benefitted from the CRP, as was acknowledged by the Consumer Advocate.

[33] The Board finds that the Recovery Rate should apply to residential customers. The Board does not accept Eastward's submission that the rate should not apply to residential customers because their total contribution would be minimal compared to the GSC and RC3 classes. In the interests of fairness to the other customer classes, the residential customers should contribute as well. Eastward also argued that residential customers are not currently paying their full cost of service. However, the residential customers benefitted from the CRP despite not paying their full cost of service and they should contribute to reducing both the RDA and the CRP. Respecting Eastward's view that applying the Recovery Rate would impact the Utility's competitiveness with residential customers, which the Board understood to mean attracting new customers, the Board notes that below in this decision it has approved a lower cap on the Recovery Rate which should temper that concern. Further, the Board notes that all rates will be reviewed in the next general rate application expected before 2027 so the Recovery Rate is only a temporary measure until then.

[34] The Board concludes that the Recovery Rate should apply to the Residential, GSC and RC3 customer classes. The issue of cost allocation is discussed below.

4.3 What should be the maximum amount of the Recovery Rate?

[35] Dalhousie, Michelin, Killam and the Dartmouth Curling Club expressed concerns about the amount and timing of the Recovery Rate. Ms. Rubin submitted that

the proposed Recovery Rate is "excessive" in that it accelerates the recovery of the CRP deferral that was accumulated over an eight-year period. Killam described it as "untimely" in that it imposes an unexpected rate change in the middle of a three-year rate cycle. The intervenors and the Dartmouth Curling Club all described the practical negative impacts the imposition of the rate would have on their budgeted operating costs and their ability to adjust to the increased costs. They suggested reducing the rate and phasing it in.

4.3.1 Findings

[36] The Board accepts the intervenors' submissions that the proposed Recovery Rate is excessive and untimely. It is satisfied that the Recovery Rate, in its present amount, would negatively impact some customers. Further, the Board considers that Eastward's proposed Recovery Rate amount is arbitrary in that it is based on the Company's relative competitive position compared to alternative energy sources, without regard to its impact on customers and what is just and reasonable in the circumstances. On this point, the Board was mindful of s. 22(3)(e) of the *Act*, which directs the Board while setting rates to consider the "stability of the rates, tolls or charges themselves, with a minimum of unexpected changes seriously adverse to existing customers". As noted in the submissions, the timing and magnitude of the Recovery Rate were considered both unexpected and seriously adverse to Dalhousie, Michelin, Killam and the Dartmouth Curling Club.

[37] While Ms. Rubin and Ms. Noseworthy suggested the Board consider phasing in the Recovery Rate, the Board believes that it is important to take advantage of the current market conditions while they exist. Failing to take immediate advantage of this opportunity could reduce the long-term benefit to customers from reducing the Company's deferrals.

[38] Balancing the above factors, the Board finds that the Recovery Rate should be capped at $1.00/GJ, with Eastward retaining the flexibility to adjust the Recovery Rate within a band from $0.00/GJ to $1.00/GJ, with 30 days' notice to the Board and customers of any change.

[39] The issue of cost allocation is discussed below.

4.4 Where should the funds collected from the Recovery Rate be applied?

[40] Eastward's application contemplates applying the funds collected from the Recovery Rate to the CRP deferral balance. However, Synapse, Michelin and Dalhousie submitted it should be applied to the Revenue Deficiency Account.

[41] The RDA was approved by the Board in its decision *Heritage Gas Ltd., Re,* 2004 NSUARB 72, as part of its approval of its first Schedule of Rates, Tolls and Charges and Terms of Service, one year after the Board granted Heritage Gas a full regulation class franchise for a period of 25 years, subject to the approval of the Governor-in-Council and which was approved on February 21, 2003. The RDA was intended to allow Heritage's costs for building out its new local gas distribution system to be deferred for collection in future years.

[42] Kathleen C. McShane, a consultant providing expert evidence for Heritage Gas, explained the purpose of the RDA in that initial general rate application along with a proposed 5-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.
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> …
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> …revenue deficiency account which is intended to track the difference between the weather normalized annual revenue and over or under recovery of the annual revenue requirement. The account will be debited or credited for the first five years, on an annual basis with the weather normalized actual over or under collection of annual revenue. Since Heritage's rates are designed to under recover in the early years, Heritage expects to accrue a balance in the deferred revenue deficiency account in those years but to recover the balance in later years. [Emphasis added]
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> [Board Decision, 2004 NSUARB 72, para. 10 and para. 18]

[43] While the duration of the RDA was originally contemplated to be a short-term deferral, the reality is that it still exists 20 years later. The current opportunity identified by Eastward in the natural gas commodity markets presents an opportunity to consider whether it is an appropriate time to address the RDA.

[44] Mr. MacDougall outlined several reasons why the funds collected from the Recovery Rate should not be applied to the RDA:

> Firstly, the fundamental reasons for the RDA and the CRP are very different. The RDA is a longer-term program necessary for utility development because of the significant up-front costs required to serve relatively few customers. As more customers attach to the system and throughput grows, revenues will grow to recover the cost of service and the RDA will start to be recovered.
>
> In contrast, as previously explained, the CRP was created to enable the company to retain existing RC1A large commercial customers for the benefit of the entire system due to the relative change in energy commodity prices. Thus it is appropriate to use the now-prevailing opportunity afforded again by competitive prices to recover the deferrals created by the temporary commodity related problem that the CRP was created for, rather than to apply it to the unrelated RDA long-term infrastructure investment program.
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> Secondly, the cost of capital applied to the CRP deferral balance is four percent, which was approved by the Board to ensure that shareholders did not profit from the CRP. That is, that shareholders did not profit from the temporary commodity problem facing the Utility at the time. Conversely, WACC or weighted average cost of capital is applied to the RDA just like all other long-term investments in the Utility, and this recognizes the inherent risk of long-term investments required to start and grow a young and immature utility.
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> Thirdly, as noted in Eastward's response to Dalhousie IR-6(c) found at Exhibit E-3, early recovery of the CRP balance actually has the effect of greatly reducing the future revenue requirement starting in 2027 as a result of lower amortization costs, tax impacts, and decreased shareholder earnings as the CRP deferral balance decreases year over year. This would thus lead to earlier recovery of the RDA based on current customer growth and system expansion outlook.

> Fourth, if the CRP recovery rate is approved but the revenue is not applied against the CRP deferrals, then revenue would exceed the revenue requirement and the surplus would be applied against the RDA, but when the CRP recovery rate ends after 2026 revenue would again fall below the revenue requirement, all else being equal, and the shortfalls would once again fall to the RDA, causing its balance to increase.
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> For the foregoing reasons it is simply not appropriate or practical to apply the CRP recovery rate to the RDA balance despite Mr. Borden's theoretical suggestion to the contrary. Rather, consistent with the regulatory compact, the CRP recovery rate should be applied to the CRP deferral balance reflective of the manner in which the CRP was initially incurred and financed. The proposed CRP recovery rate mechanism is directly correlated and consistent with the original scope of the CRP.
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> [Transcript, pp. 13-15]

4.4.1 Findings

[45] Synapse suggested that the funds recovered from customers under the Recovery Rate could be applied to any deferral account or regulatory asset, including the RDA. This view was shared by Dalhousie and Michelin, but opposed by Eastward and the Consumer Advocate.

[46] The Board finds it prudent to consider all the options for the application of the funds collected from the Recovery Rate occasioned by the “unique opportunity” in current natural gas commodity markets. For the reasons that follow, the Board finds that the funds collected from the new rate should be applied to the RDA.

[47] First, the Board does not accept Eastward's argument that the RDA and the CRP are fundamentally different. They are both deferral accounts that were approved to defer costs for collection in the future. While the circumstances leading to the approval of each deferral may have been somewhat different, they were both intended to maintain the financial viability of the utility for the long-term benefit of customers. Also, any significance attributable to the duration of both accounts is debatable. While Eastward characterized the CRP as a short-term initiative, the fact remains that by the time the CRP is extinguished under Eastward’s current proposal, over 10 years will have elapsed since the CRP was first approved. As noted above, it is doubtful that, when the RDA was

approved, parties would have expected that the deferral account would continue to exist, at least at its current balance, about 20 years later.

[48] Furthermore, the Board rejects the notion that simply because the current "opportunity" arises from inverse market conditions to those that caused Eastward (Heritage) to seek approval for its CRP, any revenue arising from the current opportunity could only possibly be applied against the CRP deferral. The characterization of the current market opportunity as creating only CRP revenue is simply the way Eastward has elected to present its application. The fact of the matter is that Eastward has never been able to fully recover its costs on a sustained basis, and the Board finds that any revenue derived from Eastward's current increased ability to recover costs should be applied in a way that most benefits customers.

[49] Second, the Board agrees with both Synapse and Ms. Rubin that the amounts recovered should be applied against the RDA, which has a higher carrying cost than the CRP. While Eastward's weighted average cost of capital applies to the RDA, the CRP has an allowed rate of return of 4% on the deferral balance. Therefore, applying the Recovery Rate to the RDA will provide greater financial benefits to customers. For comparative purposes, Board staff asked Eastward in NSUARB IR-16 to provide the cost of capital savings for customers if the $2.00/GJ adder was applied to the RDA versus the CRP. During the hearing, Eastward's counsel confirmed on clarification sought by the Board that the cost of capital savings if applied to the RDA would be about $28.7 million for the period 2025-2036 ($2.7 million for 2025-2026), assuming an amortization period of 10 years. If applied to the CRP, the cost of capital savings would be $7.7 million for the period 2025-2036 ($1.3 million for 2025-2026). Thus, as noted by Synapse, reductions in

the RDA would provide significantly higher long-term savings due to its higher carrying costs. Synapse added that the RDA has likely benefited residential customers much more than the CRP. This would also support the Board's finding to make residential customers responsible for payment of the Recovery Rate.

[50] In his submissions, Mr. MacDougall argued that the application of the weighted average cost of capital to the RDA recognizes the inherent risk of long-term investments, also citing the regulatory compact. However, the Board observes that under the Board's findings, Eastward will recover its weighted average cost of capital on the RDA. Further, as noted above, Eastward's suggestion that the two deferrals were intended to have different time horizons is overstated.

[51] Third, Eastward submitted that, as described in its response to Dalhousie IR-6(c), early recovery of the CRP balance would actually have the effect of greatly reducing the future revenue requirement starting in 2027, which would lead to earlier recovery of the RDA based on the current customer growth and system expansion outlook. On a related note, Mr. MacDougall submitted:

> Fourth, if the CRP recovery rate is approved but the revenue is not applied against the CRP deferrals, then revenue would exceed the revenue requirement and the surplus would be applied against the RDA, but when the CRP recovery rate ends after 2026 revenue would again fall below the revenue requirement, all else being equal, and the shortfalls would once again fall to the RDA, causing its balance to increase.
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> [Transcript, p. 15]

[52] The Board concludes these concerns are likewise overstated. The RDA has fluctuated in the past. Even if this statement is technically accurate, the overall total balance of both deferral accounts will decrease as the rates collected from customers are applied. Further, the Board notes that Eastward intends to apply for a general rate application in 2026, at which time rates will be adjusted to better match the revenue

requirement. In terms of the benefit to customers, what is important is that while the RDA is reduced, there will be significant savings in carrying costs.

[53] For the foregoing reasons, the Board concludes that the funds collected from the Recovery Rate are to be applied to the RDA.

[54] Synapse noted that if the Board approves reductions in the RDA from the Recovery Rate, it should also consider implementing a process to consider appropriate cost allocation to the residential class. Eastward raised this point as a reason against applying the funds to the RDA. However, the Board notes that similar allocation and amortization issues would exist if the funds were applied to the CRP. As noted by Ms. Rubin, Eastward proceeded with the current application without addressing two directives in the Board's recent decision about Eastward's general rate application, including that: 1) Eastward engage with customers and consider the allocation of the CRP deferral in its next general rate application (expected to be filed in advance of 2027), and that 2) Eastward file a proposal to amortize the CRP no later than the next general rate application.

[55] Ms. Rubin suggested that the cost allocation could be assigned to customer classes to follow Eastward's proposed general rate application allocation or the Board could assign a $/GJ rate that differs by customer class, depending on "whether the customer class received financial benefits or not and their relative competitiveness".

[56] As noted by Ms. Rubin, the Board could direct a methodology for cost allocation to start immediately, such as assigning a $/GJ rate that differs by customer class, depending on whether the customer class received direct financial benefits and their relative competitiveness. Eastward had suggested allocating the funds collected

from the Recovery Rate to the CRP based on an energy allocator because the CRP was in response to alternative energy pricing in the market.

[57] The Board notes there has been no cost-of-service study for the issues related to either the CRP or the RDA. Eastward was directed to consider the allocation of the CRP deferral in its next general rate application, along with a proposal to amortize the CRP. Eastward proceeded with the present application based on an “energy allocator” methodology”, without completing an appropriate review of the cost allocation. While Eastward argued that parties had not had a chance to consider the cost allocation related to the RDA recovery, the same could be said about the CRP recovery.

[58] The Board finds that the Recovery Rate can be collected from customers starting as early as January 1, 2025, and applied to the RDA. Eastward is directed to track revenue under the Recovery Rate by rate class. The cost allocation will be confirmed and applied to the respective customer classes later, after a cost-of-service study is completed. If some classes have contributed under the Recovery Rate when they were not required to under cost-of-service principles, or they contributed too much, a mechanism will be implemented to either refund the amounts to those customers, with interest, or to apply the balance as otherwise directed by the Board in the next general rate application.

[59] Accordingly, the Board approves the Recovery Rate as amended in this decision, starting as early as January 1, 2025, subject to Eastward providing tariff language for the approved Recovery Rate rider in a compliance filing to be filed by January 10, 2025. The cost allocation will be confirmed and applied to the respective customer classes after a cost-of-service study is completed. In addition to the directions

given to Eastward about the CRP, the Board also directs Eastward to develop an appropriate cost allocation methodology for the RDA in its next general rate application or by the end of 2026.

5.0 CONCLUSION

[60] The Board concludes that a Recovery Rate should be approved, but that it apply to the GSC, RC3 and residential customers. The Recovery Rate will be capped at $1.00/GJ, with Eastward retaining the flexibility to adjust the rate within the band from $0.00/GJ to $1.00/GJ, with 30 days' notice to the Board and customers of any change. The Board finds that the funds collected from the Recovery Rate will be applied to the RDA. Eastward is to file a compliance filing by January 10, 2025.

[61] An Order will issue after a satisfactory compliance filing.

DATED at Halifax, Nova Scotia, this 23rd day of December, 2024.

Stephen T. McGrath

Roland A. Deveau

Steven M. Murphy