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October 2, 2026

VIA EMAIL

Rory Francis, Commissioner
Independent Commission
Review of the Island Regulatory and Appeals Commission
commission@iracreview.ca

Dear Commissioner Francis:

Re: Interim Report

Attached you will find a response from the Island Regulatory and Appeals Commission to the Interim Report released by the Review Commission on September 18, 2026.

The Commission remains committed to providing accurate and helpful information to the Review Commission as it completes its important work. Please note that our response was prepared in the two-week timeline set by the Review for public feedback. However, given the breadth of the Interim Report, it may be necessary to supplement this response as we continue to review and consider the Interim Report and its recommendations over the next four weeks.

We intend to share this response publicly on the Commission's website on Wednesday, October 8, 2026.

Sincerely,

Pamela J. Williams, K.C.
Chair, Island Regulatory and Appeals Commission

cc. Dawn Binns, Executive Director – dbinns@iracreview.ca



PUBLIC SUBMISSION OF THE ISLAND REGULATORY AND APPEALS COMMISSION IN RESPONSE TO THE INTERIM REPORT

October 2, 2026

This submission is made to the Review Commission (the “Review”) on behalf of the Island Regulatory and Appeals Commission (the “Commission” or “IRAC”) in response to your Interim Report dated September 18, 2026.

At the outset, the Commission acknowledges the amount of work that you and your team completed in order to get to the Interim Report. We see this process as an opportunity to make improvements in the organization to better serve the needs of the Commission’s stakeholders and those who participate in our proceedings. The Commission is aware of how it can be publicly perceived – the Commission makes difficult and often unpopular decisions every day that impact the lives of Islanders across a spectrum of important issues. In many of those decisions, the very nature of a matter or dispute means that at least one party will be left unsatisfied with the result. The Commission works in the public interest, sometimes at the expense of public opinion. We are hopeful that this public review process can help to bridge that gap and we are committed to continually improving the service we provide to Islanders.

After reviewing the Interim Report, we feel compelled to record identified concerns and clarifications for your consideration. Our response was prepared by the Commission and its staff in the two-week timeline set by the Review for public feedback. Therefore, given the breadth of the Interim Report, we may supplement this response as we continue to review and consider the Interim Report and its recommendations over the next four weeks.

The Interim Report invites readers to:

- understand how IRAC currently works;
- consider the issues and challenges identified through the Review;
- identify matters, perspectives, or impacts that may have been overlooked; and
- provide feedback and constructive critique on the proposed directions for change.

The Commission intends to provide further clarity on how the Commission currently works, our perspective on the issues and challenges we face, and feedback on the proposed directions for change. We will use your Interim Report as a roadmap for this response and have ordered our comments in a similar fashion to your Interim Report.

Preliminary Comments

Despite being the single largest stakeholder with respect to the work of the Review Commission as the subject matter of that work, the Commission was not afforded an opportunity to provide comments or corrections to the Interim Report before it was released publicly. Therefore, we can only hope that the Review Commission will consider this public submission as it finalizes its report.

The Commission was provided notice at 1:57 p.m. on September 17, 2026, that an Interim Report would be released publicly the next morning. This was the first time the Commission was advised as to how this process would unfold. This was disappointing as we were unable to provide notice to our dedicated staff about the process or the contents of the Interim Report. Nor were we offered a chance to ask questions about the Interim Report in order to clarify what the recommendations may mean for our staff. Media was given the opportunity to ask the Review Commission clarifying questions about the Interim Report; however, as the main stakeholder of the Review's work, the Commission and its staff were not afforded that same respect.

Commission staff have worked hard to support the work of the Review over the last four months while continuing with daily operations. The Interim Report states that the Commission and its staff will continue to work as usual; however, with the obvious uncertainty surrounding the Interim Report and the corresponding public press announcement by the Government of Prince Edward Island, this has caused significant unease within the small, hardworking team at the Commission described in your own Interim Report as being "professional" and "committed to public service". The way this process has unfolded over the last two weeks has created uncertainty and disappointment with the process that we have helped to support.

The Government announcements since the release of this Interim Report bring into question the integrity and independence of the Review's important work. No single stakeholder greater than the Commission wants this Review to be thorough and productive. It is important to Islanders and the Commission that this Review be unbiased and results in educated and informed recommendations. We hope that remains the case and that the Commission's comments which follow will be seriously considered by the Review, especially noting that the Commission was not afforded a direct opportunity to respond to the Interim Report.

Finally, one comment that will permeate throughout this submission is that the Commission has not had the benefit of hearing the public feedback that the Review received during its important public engagement. At page 3 of your Interim Report, you note that 20 presentations and 63 submissions were made. The Commission was not provided an opportunity to respond to the 63 submissions and 20 public presentations given to the Review Commission, but it also has not received an opportunity to even see those submissions so it can understand what the Review has heard. The Commission requested the submissions for review, but as of the date of this submission we have not received same.

Hearing directly from the people and parties the Commission serves is an important step for the Commission to understand stakeholders' experiences and we are disappointed those submissions were not shared with us, nor were we provided an opportunity to offer clarity or context related to the submissions.

We wish to make two final comments with respect to the public engagement. First, the Interim Report notes hearing from 20 presenters and 63 written submissions. This seems to represent a very small fraction of persons who interact with the Commission on a daily basis, and certainly of Islanders overall. The Commission is also aware that three of the planned public sessions were cancelled due to low attendance. Second, at page 44 of the Interim Report the Review says that it received "a substantial volume of submissions and presentations concerning the procedures of the Residential Tenancy Office". If this is the case, it begs the question whether there was sufficient public interest and feedback on the Commission's existing operations to justify the expensive, substantial recommendations contemplated in the Interim Report.

1.0 Introduction

As a starting point, we wish to clarify the introductory section of the Interim Report, which reads as though the Commission sets the terms by which a regulated sector operates (at page 6).

The Commission is created by statute and, at law, is required to work within the jurisdiction extended to it by its enabling and operating legislation. In particular, the Commission is authorized by the *Island Regulatory and Appeals Commission Act* and other pieces of legislation (e.g. the *Electric Power Act*, the *Water and Sewerage Act*, the *Petroleum Products Act*) to carry out specific mandates. Each of those specific pieces of legislation sets the framework for the Commission's regulatory functions.

The Interim Report is correct in saying that in its regulatory role the Commission sets rates and supervises on a continuing basis for some industries; however, it is an important clarification that such supervision must be within the parameters of the enabling and operating legislation. The Commission cannot operate outside the scope of the powers granted to it by legislation.

2.0 IRAC Overview

Much of the content in this section goes without comment from the Commission at this time; however, we do clarify that the Commission Clerk supports all hearings before the Commission. The Commission Clerk is currently allocated for budgetary purposes in the Commission's appellate functions, but does support regulatory hearings as well – the Commission's recent hearing of Maritime Electric's On-Island Capacity application is an example. While the position's day-to-day work consists of assisting parties to an appeal, the position supports the Commission across its mandate.

In the interest of accuracy, we note that page 8 of the Interim Report references a Senior Financial Advisor as a new, vacant position – correct reference to this position is [Senior Regulatory Advisor](#).

Financing

Page 11 of the Interim Report indicates that the Review Commission heard no complaints about what the Commission charges for its regulatory functions. We believe it important context to share with the public that regulatory costs are passed along to ratepayers. The costs are not absorbed by the utilities or other regulated entity. The cost of regulation is a benefit to ratepayers and utilities may recover such costs from ratepayers. To be clear, the Commission issues an assessment to the Government of PEI for the costs associated with the operations of the Residential Tenancy Office and the Commission's appellate functions.

3.0 Review Principles – Public Policy Objectives

At page 13 of the Interim Report, the Review indicates that the regulator's role in rate setting is to give utilities the opportunity to earn a fair return on their investment while keeping the cost of their monopoly services "affordable". Affordability is not within the mandate of the Commission to manage. Rather, regulation is meant to ensure *fair* rates to customers, while allowing the utility an opportunity to earn a fair return on investment. This important distinction will be discussed in the context of electricity regulation later in this submission, but we encourage the Review

Commission to clarify this for the benefit of all Islanders so they can understand that regulation is not in place to keep rates affordable – it is in place to keep rates fair.

4.0 Structure and Governance

Perhaps the most impactful recommendation in the Interim Report is that found at section 4.1 on page 19. The Interim Report recommends that the provincial government should legislate a complete restructuring of the Commission and create two new boards to report through the Minister of Justice and Public Safety. We wish to point out that, currently, the Commission hears appeals under the *Financial and Consumer Services Statutes Amendment Act*. The Minister responsible for these statutes is the Minister of Justice and Public Safety. This may create an appearance of conflict.

The Interim Report further recommends that each new board have three full-time Commissioners; however, one matter that was not addressed in the Interim Report is that the *Island Regulatory and Appeals Commission Act* (“IRAC Act”) currently requires a decision of the Commission to be made by at least two Commissioners, one of whom must be a full-time Commissioner.¹ In practice, when hearing appeals, the Commission typically sits as a panel of two or three members, one of whom will be a full-time commissioner. The Commission encourages the Review Commission to consider whether this same structure is necessary into the future. The legislative requirement to have two Commissioners hear and decide every appeal contributes to delay and resource strains.

The Commission itself should be authorized to determine the number of Commissioners required on any given matter. Simple proceedings may require only one Commissioner, and others may require a full panel of Commissioners; however, the Commission is best equipped to make that determination. This would decrease Commissioner workloads which would allow the Commission to implement new processes to help streamline and expedite matters, where appropriate. Balancing multiple schedules and workloads can, at times, cause delays.

4.3 Commissioner Appointments and Evaluation

With respect to Commissioner appointments and evaluation, while the Commission is encouraged by the recommendation to move to a more transparent appointment process, it would also welcome the opportunity to participate in the Commissioner selection process, as is the case in Nova Scotia.

Further, in our experience the initial term of a commissioner should be 10 years, rather than the five years suggested by the Review for at least three reasons. First, as your Interim Report acknowledges, the work of a commissioner is varied and technical; often times a commissioner has just developed a firm grasp of the complexity across all files at the five-year mark. Second, longer terms of appointment help to preserve independence and protect commissioners from political pressures and public opinions stemming from unpopular decisions. Finally, the Interim Report’s recommendations to create two boards is similar to the approach adopted in Nova Scotia – moving to a 10-year initial appointment would mirror Nova Scotia’s legislation as well.

¹ *Island Regulatory and Appeals Commission Act*, RSPEI 1988, I-11, s. 3(6).

The Interim Report mentions the Commission's conflict-of-interest practices in only a cursory manner. But we wish to make clear, that despite any identified "deficiency" in the provisions in the IRAC Act, Commissioners currently swear an oath before a justice of the Supreme Court of Prince Edward Island upon being appointed that they will "faithfully, truly and impartially" perform the office of Commissioner. Further, the Commissioners follow the conflict-of-interest rules set by the Canadian Judicial Council Ethical Principles for Judges, and the Commission expects that commissioners appointed to the new boards would continue to follow those principles. Finally, each of the current full-time Commissioners are members of the Law Society of PEI and are bound by the Law Society's Code of Professional Conduct.

4.5 Mandatory External Review

The Interim Report recommends a legislated, mandatory external review of the organization every six years. The Commission welcomes this recommendation and makes no comment on the suggested review period; however, having a legislated, mandatory review – rather than a last minute order in council directing a review – would allow the Commission to appropriately prepare its resources to participate in such a review, while ensuring its day to day work continues. This would help minimize distractions in such a small organization.

As you can appreciate, the current (unexpected) review has demanded a significant amount of staff work hours to assist in briefing the Review Commission, preparing data and information to assist the Review Commission, as well as answering follow up questions. The time spent on this review has pulled staff away from other important initiatives and workloads that were planned for this fiscal year. This does not assist in advancing the Commission's strategic and business plans, nor does it promote efficiency in an organization. Being able to prepare resources and staff allocations for an upcoming, legislated review would help manage the Commission's operations.

4.6 Communications Between IRAC and Government

As was explained to the Review Commission, the primary way an administrative and regulatory tribunal speaks to government and other stakeholders is through its orders. This is no different for the Commission. In speaking with our counterparts in other jurisdictions, they note that they too speak through their orders, but at times, when a decision is being issued that they feel is important to bring to a department's attention, they will send a cover letter to the department advising of same. The Commission has exercised this practice on an intermittent basis in the past, but is prepared to review similar processes in other jurisdictions to ensure we follow best practices when communicating with Government.

That said, the Commission's Former Chair also met with the Clerk of Executive Council every two months to discuss systemic issues arising from its experience. For example, the Commission played a large part in amendments to the *Lands Protection Act* as a result of the discussions between the Former Chair and the then clerk. It is our understanding that this practice stopped in 2020.

4.7 Accountability

With respect to the recommendations about expanded annual reporting from the Commission, we agree that these are good suggestions. However, for context, we note that the Commission's Annual Report follows the Treasury Board Policy 10.01 Annual Reporting Framework which sets out the direction and guidelines on the principles, content and process which must be addressed in the preparation and presentation of annual reports. The Interim Report's suggestions for additions to the Commission's annual report would, therefore, hold the Commission to a higher reporting standard than other similar organizations.

The Interim Report, at this section, also speaks to delays in the movement of files. The Commission acknowledges that goals related to service standards and timelines are important, and has started work to formalize these goals.

Finally, as it relates to the Interim Report's recommendation on including data as to whether unresolved matters are accumulating in its annual reports, the Commission does report the number of files that have carried over from the previous fiscal year. The Commission also reports on ongoing files at time of reporting and provides information about their status. For example, some files may be going through mediation, held in abeyance, or a preliminary issue may be under consideration.

5.0 Appeals Tribunal

The Commission functions as an appellate body under 24 pieces of legislation, though as noted in the Interim Report, the majority of appeals heard by the Commission are under the *Residential Tenancy Act* and the *Planning Act*.

The comments that follow respond primarily to the identified "directions for change" with respect to the Commission's appellate functions.

As a preliminary comment, much of this section of the Interim Report appears to be informed by public engagement. Again, the Commission has not had the benefit of hearing those issues either first or second-hand. Therefore, this response is based on the Commission's experience. However, we would greatly appreciate the opportunity to hear what participants and stakeholders have said about their experiences with the Commission in an effort to better inform our processes.

5.1 Clarity and Efficiency of Appeals Processes

The Interim Report indicates that participants in IRAC's appeal processes have raised issues around the length of time it takes to deal with preliminary issues. To that end, one of the suggested recommendations for change is that:

IRAC should establish a process that proceeds in writing for quickly dismissing appeals where it is plain and obvious that the appellant lacks standing or that IRAC otherwise lacks jurisdiction.

First, the Commission understands concerns around delays and works to keep matters moving as efficiently and fairly as possible. The Commission's current practice is that preliminary matters proceed in writing via an abridged process.

However, we also wish to provide context that IRAC is an administrative tribunal without any discretion to extend a limitation period or a party's standing to appeal. Nevertheless, these matters are determinative of whether a party's right to appeal can continue and for that reason IRAC considers these threshold issues carefully. In some cases, determining these matters may require more information and more time to fully consider the issue, keeping in mind it may dispose of the right to appeal altogether.

We appreciate that any delay can be frustrating to the participants and the Commission is always striving to improve its timelines. That said, the matters that the Commission considers on appeals are very important to the parties, often involving their property or security of housing. Appearing before the Commission may be a person's first or only time participating in a hearing, and the Commission takes seriously its obligation to provide a fair process to all parties. As noted in the Interim Report at page 14, the quality of an appellate body's work is also measured by how the people affected by decisions perceive the delivery of justice.

The Interim Report also raises concerns from participants about the "associated cost" with preliminary matters. First, we wish to clarify that there is no cost to participate in an IRAC proceeding. Therefore, we have assumed this to be with respect to a party's choice to engage legal counsel, which is completely discretionary and not required to participate in an appeal hearing.

A second direction for change is:

IRAC should create a mechanism for expediting proceedings where cases have dragged on beyond acceptable timelines.

Later in the Interim Report, at page 37, the Review says, "[t]he picture that emerges is not one of files sitting unattended" and goes on to acknowledge that the "largest single cause" of an appeal remaining open is the parties themselves. Yet, the Review concludes that "a file that has been open for eighteen months is experienced as delay whatever its cause".

In response to this recommendation and commentary from the Review, the Commission reiterates that often older matters remain open at the request of the parties who are exploring resolution. The Commission respects the attempts of parties to reach a resolution that satisfies the interests of all parties without resorting to a win or lose hearing. That said, Commission staff are engaged in regular case management and status calls on these matters to ensure they continue to progress. In the event the Commission determines that resolution efforts have stalled and the matter must proceed, it will give direction to parties to set the matter down for a hearing. The Commission will continue to employ this practice in the best interests of all parties.

Further, the length of time it takes to reach a hearing or a resolution can be dependent upon a number of factors often unique to a particular file. For example, planning authorities often request extensions to timelines to deliver an appeal record, parties may choose to participate in mediation or request abeyances to explore resolutions, and accommodating parties' (and their legal counsel's) schedules for status calls or hearing dates can contribute to dates being pushed out.

The Commission has considered standardizing these timelines and has worked toward that in 2026. Though in our experience, keeping the process flexible to suit the particular parties has been working well this year. That said, in the event a party requests a matter to be expedited to a hearing, the Commission accommodates the request as best it can.

5.2 Scope of the Appeal Processes

The Interim Report comments on the standard of a rental appeal being a “re-hearing”, the result being “parties can effectively not participate in proceedings before the RTO Director, knowing they are entitled to a second hearing before IRAC.” We wish to clarify that regardless of whether the Commission accepts new evidence from a party at an appeal hearing, it is the scheme set up by the *Residential Tenancy Act* that permits a party to appeal to the Commission. As the Interim Report points out, this is a change from the former legislation.

One of the recommendations for change in the Interim Report is that IRAC should establish rules concerning when it will hear fresh evidence on appeals. The Interim Report goes on:

Where there is no reason an argument or a piece of evidence was not before the first-instance decisionmaker, IRAC should consider whether it is fair to hear the new issue or evidence.

First of all, as an appellate body, the Commission does not consider a “new issue” on an appeal. All new issues must first be adjudicated by the Director as the first-instance decision-maker. Second, and importantly, the Commission is always mindful of the fairness to the parties and exercises that fairness equally to both appellants and respondents, to both landlords and tenants.

The matters the Commission considers in any appeal, but in rental appeals in particular, are of great importance to the parties. A rental appeal will often determine whether someone loses housing, which is reflected in the scheme created by the *Residential Tenancy Act*. The Commission does not take this role lightly. As an administrative tribunal, the Commission retains inherent control over its own process and procedures, and will continue to prioritize balancing the fairness afforded to parties with an efficient process, absent legislative amendments.

Other recommendations in this section relate to the standard of appeals to the Commission and suggestions for legislative amendments in that respect. The Commission takes no position on these amendments other than to note that they are currently prescribed by legislation and endorsed by the Court of Appeal. Until either of those change, the Commission will carry on.

5.3 Mediation

The Commission appreciates the positive comments in the Interim Report with respect to its efforts in mediating appeals.

The Interim Report recommends that the Commission publish a short mediation policy or practice direction. Currently, some background information about the mediation process can be found on the Commission’s website under the Planning Appeals FAQs. The Commission’s Rules speak briefly to mediation at Rule 35. Further, the letter that goes to parties when a new appeal is opened

also includes some information about the option of mediation for parties to consider. The Commission can consolidate this information into a policy or practice direction.

The Interim Report also recommends that the Commission report annually on mediation so that its contribution is visible rather than inferred. The Commission notes that its annual reports have reported on mediation statistics, in particular how many matters were resolved using mediation, dating back to 2020-2021.

As the Interim Report notes, Commission staff raise the option of mediation with all parties on every appeal (with the exception of those under the *Residential Tenancy Act*). The Commission can consider whether further reporting is necessary to achieve the purpose stated in the Interim Report, but to date we have not experienced any reluctance of parties to mediate because of a perceived ineffectiveness. For additional context, the Commission facilitates mediation for some matters where the options for resolution may be outside of the Commission's own jurisdiction to order or enforce. In these cases, while efforts to resolve a matter via mediation may not always be successful, they can sometimes streamline the issues parties need to resolve in the hearing room.

5.4 Planning Act Appeals

As noted above, the Commission is working diligently in 2026 to improve its timelines across all its appellate functions. With respect to planning appeals, in particular, the Commission currently has 24 open appeal dockets. This is down from 35 dockets as of January 1, 2026. Further, the Commission received 14 new appeals filed in 2026. When we do the math, this means that the Commission has cleared a total of 25 planning matters from its docket since January 1, 2026.

Of the 24 open dockets, seven are in abeyance at the request of the parties who are exploring resolution, six are either scheduled or waiting to be scheduled for a hearing, and three are awaiting orders following hearings earlier this year. The remaining matters are currently in the document exchange or case management stage or are scheduled for mediation.

This is not to say that some matters have not experienced delay in the past, nor is it to say that the Commission is entirely timely with respect to all open appeal dockets. Rather, we present this data to demonstrate that the Commission has employed practices and processes in the 2026 calendar year to expedite planning matters in the interests of all parties to a timely resolution.

The Interim Report also comments on the expertise of decision-makers and says that several submissions proposed that any panel hearing a planning appeal include a Registered Professional Planner. As previously stated, the Commission has not had the benefit of hearing the public feedback; however, with respect to this suggestion, the Commission adds the context that planning appeals are private disputes and the Commission's planning appeal budget is funded by taxpayers. Therefore, in considering this suggestion, Government may wish to consider whether it makes good public policy sense that taxpayers should pay for planning expertise at IRAC in order to resolve a private dispute between landowners and/or private developers.

5.4.1 Aggrieved Person Standing

For context, In November 2023, section 28 of the *Planning Act* was amended to change who has standing to make an appeal to the Commission. Formerly, the *Planning Act* authorized a "person

who is dissatisfied” to appeal certain decisions of the Minister or a council of a municipality to the Commission. The November 2023 amendments introduced a requirement that prospective appellants be “aggrieved person[s]” (rather than dissatisfied). The *Act* was also amended to include a definition of “aggrieved person” at section 27.1.

Since that time, the Commission has started to develop a body of precedent around its interpretation and application of the definition found at section 27.1. In doing so, the Commission has looked to prior precedent of the Nova Scotia Regulatory and Appeals Board (NSRAB), which has considered a very similar definition of “aggrieved person” in that province.² Though the NSRAB’s interpretation is not binding on the Commission, we have nevertheless found it helpful to reflect on Nova Scotia’s established precedent.

The Interim Report make three recommendations with respect to the aggrieved person standard. The first is that:

IRAC should put the question of standing expressly to the parties at the outset of every planning appeal, rather than only where a difficulty is apparent on the face of the notice of appeal or where a party raises it.

The matter of an appellant’s standing as an aggrieved person is unique in each appeal and the Commission’s current practice generally involves dealing with the matter at the outset of every planning appeal, whether it is raised by the Commission or by a party. The Commission’s jurisdiction to hear any appeal is contingent on the appeal meeting the statutory requirements of being filed on time and by an “aggrieved person”; therefore, the Commission will continue to address this preliminary matter at the early stages of the appeal process.

The Interim Report also recommends:

IRAC should publish plain-language guidance on the “aggrieved person” standard, together with its decisions applying it, so that a prospective appellant can understand before filing.

The Commission has issued four orders specifically on the matter of “aggrieved person”. All four are publicly available on the Commission’s website. The Commission is prepared to publish plain-language guidance with reference to its findings in those previous orders. However, in any particular matter, the Commission must consider whether a prospective appellant is an “aggrieved person” in light of the application and interpretation of the definition found at section 27.1 of the *Planning Act*. Whether any prospective appellant will meet this statutory definition is necessarily a factual determination in each case.

The Interim Report’s final recommendation with respect to the “aggrieved person” standard is that where standing is raised only after the record has been filed, IRAC should consider determining it together with the substantive appeal rather than sequentially. In the Commission’s experience, this approach is generally not preferred by the majority of parties. First, it is inconsistent with the recommendation above to deal with the matter at the outset. Second, in instances where the Commission has suggested it hear a preliminary matter at the same time as the substantive merits of an appeal, parties often requested a bifurcated process as they do not want to spend the time

² *Municipal Government Act*, SNS 1998, c. 18, s. 191.

and money preparing for a substantive hearing if the matter can be determined at the preliminary stage.

Overall, the Commission would appreciate having an opportunity to see and review the public feedback with respect to the “aggrieved person” standard in order to best address and respond to the issue(s).

5.4.2 Land Use Appeals in Rural Areas

With respect to this section, the Interim Report recommends the provincial government should continue to move forward with the development of a provincial land use plan. Though this recommendation is not for the Commission to action, we nevertheless support this recommendation and encourage the provincial government to develop and adopt a provincial land use plan.

5.5 Rental Appeals and Residential Tenancy Office

The Commission provides no feedback with respect to the Interim Report’s comments directed at the Residential Tenancy Office, other than to say that having two separate bodies is likely to address the “entanglement” issues identified in the Interim Report.

5.5.4 Residential Tenancy Act Appeals

The recommendations in this section of the Interim Report largely mirror those found above at section 5.2. The Interim Report adds at page 50 that IRAC should note circumstances where it is “inappropriate to drag proceedings out for matters that could and should have been raised before the Director.”

As noted above, the scheme established by the *Residential Tenancy Act* authorizes an appeal to the Commission from a decision of the Director and the suggestion that it may be “inappropriate” to “drag proceedings out” seems to be pejorative and highly subjective.

Nevertheless, the Commission does not disagree that processes can always be improved to balance fairness with efficiency, and we will continue to improve and streamline our rental appeal processes where necessary and possible, with the best interests of the parties in mind.

The Interim Report also recommends that IRAC should develop a plan for communicating its process for dealing with confidentiality under its *Rules* to parties who have concerns about disclosure of their information. In our experience, the Commission has not heard this concern from parties to our proceedings. We would appreciate more particulars regarding this concern and recommendation in order to best respond and address the matter.

Finally, we note that the Commission is currently finalizing a plain-language rental appeal overview with the intention of having it translated into several languages.

6.1 Electrical Utilities

During the course of the Review Commission's work, IRAC had one meeting with the Review and John Todd, credited in the Interim Report as an advisor on the matters of energy and utility regulation. At the conclusion of that meeting, we were advised that John Todd would contact the Commission directly to better understand the Commission's current mandate and functions. However, that call never came. The Commission finds it unlikely that the Review Commission could fully understand the Commission's electrical regulation functions after only a few short meetings. For that reason, we remain open to meeting or discussing this function with John Todd before the Review Commission's report and recommendations are finalized.

6.1.1 IRAC's Legislative Authority (Electrical Utilities)

As an overarching comment, the Commission notes that the Interim Report twice uses the word "affordable" in relation to regulated electricity rates. It is a common misconception that the purpose of regulation is to keep costs low or "affordable". However, that is not the case. The purpose of regulation is to keep costs just and reasonable (or fair). In carrying out this mandate, the Commission can employ certain, established rate-making principles such as stability and avoiding rate-shock in order to smooth out increases.

However, the Supreme Court of Canada has commented that the impact of increased rates on consumers cannot be used as a basis to disallow recovery of such costs. The Commission, therefore, cannot disallow reasonable costs in order to make electricity rates more affordable. Instead, customer interests are accounted for in rate regulation by limiting a utility's recovery to what it reasonably – or prudently – costs the utility to efficiently provide the utility service.³ In other words, regulation ensures that consumers only pay for what is reasonably necessary.

The Commission would encourage policy-makers to consider how affordability can be achieved in fair ratemaking before importing an affordability consideration into the work of the electricity regulator.

Integrated Resource Planning

The Interim Report recommends that:

Ultimate responsibility and accountability for addressing both immediate and longer-term electricity-supply challenges should be clearly assigned to IRAC.

As appropriately noted in the Interim Report at page 60, this responsibility is often assigned to an independent system operator. Before commenting on this recommendation, the Commission requests more information about this proposal and whether it has been established in other small jurisdictions. We would encourage careful consideration of this proposed recommendation to ensure it will allow for appropriate oversight of this important system planning work.

Throughout the Interim Report's discussion on integrated resource planning, reference is made to "policy directives". At page 57, the Interim Report states that "the provincial government may also wish to use policy directives or other lawful instruments to address urgent priorities during the transition." The Commission notes that where these policy directives or guidelines are used

³ *ATCO Gas and Pipelines Ltd. [and ATCO Electric Ltd.] v. Alberta (Utilities Commission)*, 2015 SCC 45, at para 61.

in other jurisdictions, they appear to be enabled through legislation. For example, the Nova Scotia *Public Utilities Act* authorizes the Minister to approve and issue policy guidelines at section 21A. In Ontario, the *Ontario Energy Board Act, 1998* authorizes the Minister to issue policy directives that the Board must implement (see, for example, section 27).

The Commission does not take a position on whether policy directives or guidelines may be a useful tool for the provincial government to explore with respect to energy policy or regulation; however, we simply note that legislative amendments may be required to authorize those instruments.

Legislative amendments may also be necessary for the Commission to require participation of Summerside Electric, or other entities, in resource planning.

Resource Adequacy and Short-Term Capacity

With respect to the Interim Report's findings as it relates to its assessment of the Commission's action to address short-term resource adequacy issues, we would like to provide more context.

The Commission has been engaging with Maritime Electric and the PEI Energy Corporation on this topic since January 2026; asking the utility specific questions about its plan to address the short-term energy capacity deficit, and asking PEIEC for updates on its demand-side management plan. The Commission also raised these questions during the public hearing for the On-Island Capacity for Security of Supply project in August.

The Commission agrees that a more coordinated approach between Maritime Electric and the PEI Energy Corporation is required to collaborate on short-term solutions to capacity concerns and is working to facilitate those conversations through a recently opened docket: [UE11401 - Electricity Efficiency & Conservation Plan Funding and Demand Response - Island Regulatory & Appeals Commission](#).

6.1.3 Procedural Fairness

Page 63 of the Interim Report recommends that to “enhance transparency and fairness” IRAC should have a well-understood and accessible process for considering and deciding intervenor status and cost awards.

With respect to the process for deciding intervenor status, the Commission's Rules of Practice and Procedure set out the process and factors the Commission will consider at Rules 14 through 20. The process set out is not overly cumbersome. The Commission's public notice of an application invites interested persons to apply and directs them to the Rules. That said, we would appreciate being provided the direct feedback of participants to better identify and address any pain points in the intervenor process.

With respect to “cost awards”, the Commission is not entirely certain what this is in reference to, but would point out that neither the *Island Regulatory and Appeals Commission Act* nor the *Electric Power Act* expressly authorize the Commission to award costs to any party in a proceeding.

Finally, the suggestion to have an internal staff position within the Commission that would be responsible for representing the interests of consumers presents significant challenges from an

independence and conflict perspective. This would blur the lines between a regulator and an advocate, and raises questions about whether a Commission staff member would be a party to a proceeding, have standing to appear before the Commission, and can appeal a decision of the Commission. For these, and many other practical reasons, this position is best suited to be external to the regulator and should have access to funding and resources (including experts), as needed, to be effective.

6.1.4 Procedural Efficiency and Effectiveness

The Commission acknowledges that there are always efficiencies and improvements that can be made in processing and analyzing applications, but there is an important distinction that should be made: complex applications require due diligence that cannot be rushed for the sake of timeline improvements. While there has been some backlog in the electricity file, the reality is that electricity applications can be complex and contain a high level of technical detail. The Commission works to process the applications it receives in a timely manner, however, sometimes timeline delays may be the result of competing priorities. For example, the utility may have multiple applications before the Commission that require a triaged approach based on level of priority. This may result in some files taking longer to process.

Another important distinction is that the length of time an application is open does not necessarily indicate inefficiencies in the process. Electricity applications can be large and complex in nature, with many technical details that require careful consideration by the Commission. This may result in several rounds of interrogatories between the regulator and the utility and the engagement of experts to assist in review and analysis. Larger applications often result in a large volume of evidence that must be carefully reviewed and analyzed, which is a process that cannot be rushed.

A recent example is the hearing in Docket UE20742 with respect to On-Island Capacity. MECL's original application was filed in December 2024 and the Commission retained an independent expert and issued interrogatories. Then in August 2025, MECL filed a supplemental application that substantially changed what was being proposed, which added complexity to the matter. A detailed interrogatory exchange allows for a complete evidentiary record, a more focused hearing, and transparency to the public. This also demonstrates that the date an application is filed does not necessarily have any bearing on whether the docket is complete enough to proceed to a hearing.

The Commission acknowledges that process improvements in the electricity file are required, especially as it relates to more basic or simple filings. We have self-identified the need for improvement in these areas before the Interim Report and are working towards implementing solutions to assist in those timelines, including expanding capacity within the electrical file. However, the goal of the utility regulator should not be reduced to only being concerned about the length of time that applications take to process. The goal of the utility regulator should be that every file is appropriately reviewed, with the necessary due diligence completed, resulting in a decision that is clear and fulsome in its analysis.

Outside Expertise

The Interim Report talks about the need for more specialized external expertise. As a starting point, the Commission has regularly retained external experts on electricity dockets for years. As the complexity of those dockets has increased, the Commission has self-identified this need and has been retaining outside expertise across more files over the last year. Often times, the

expertise the Commission retains tend to be more application specific and results in a third-party report to form part of the record for the Commission's consideration. More recently, the Commission has engaged an external accounting firm to supplement our internal resources to ensure matters get the level of review needed. The Commission is also continually building its internal resources, with not only technical knowledge, but also file continuity and institutional knowledge.

The Commission will continue to build capacity both internally and with external consultants, making sure we have access to the right expertise when we need it, and using those resources to help manage the growing electricity workload. But we will also add, this does come with a cost that gets passed down to ratepayers, so the Commission is also very mindful of any costs we incur.

Rules and Procedural Discipline

The Interim Report makes several recommendations with respect to modernizing IRAC's Rules of Practice and Procedure, expediting processes for selected matters, and developing standard operating procedures, for example. These are important priorities and we appreciate the Review's comments. The Commission has similarly self-identified these areas of improvement and has been working over the last year to develop and implement them.

Performance Based Regulation

The Commission recognizes that Performance Based Regulation is a model that the Government of Prince Edward Island has started to explore. The Commission's perspective is that we must fully understand how this regulatory model would work in this province, including the transition from the current regulatory model to a new proposed model and all benefits and drawbacks for the electricity consumer and the utility.

6.2 Water and Sewer

The Interim Report recommends one direction for change with respect to the Commission's water and sewer regulation, being that:

...an MOU be formalized between IRAC and the Department of Land and Environment defining standard operating procedures for the joint review. This should be publicly available, allowing continuity and consistency in times of changing personnel assignments or legislative changes.

The Commission struggles to understand this recommendation and the noted "joint review". We have assumed this is to mean a review with respect to construction projects, but would appreciate further details about this recommendation to consider.

6.3 Petroleum Pricing

Licensing

The Interim Report says that PEI's mandatory annual licensing of wholesalers and each retail outlet is "not aligned with many Canadian models" and is considered by the Review as an unnecessary addition to the regulatory burden of IRAC and the affected businesses. The Interim Report recommends that the provincial government should consider replacing annual licensing with a continuing license or registration, subject to an annual information return/fee and an obligation to report material changes. The Interim Report suggests that IRAC would maintain full suspension, revocation, inspection and enforcement powers.

The Commission takes no position on the removal of the annual licensing requirement, but notes that its authority to enforce may require further enhancement to enable the Commission to collect certain relevant information and data from licensees. Currently, this information is provided annually contingent on the issuance of a license. Another option may be to prescribe the information required for licensing. The Commission would be prepared to further consult on any suggested legislative amendments on this piece.

7.1 Lands Protection Act

As an overall comment with respect to the Review's comments and recommendations with respect to the *Lands Protection Act*, the Interim Report is silent on the larger transparency concerns regularly raised by the public, media and elected representatives. The Commission understands many of these concerns to be that the public, and indeed applicants themselves, are not able to understand the rationale for Executive Council decisions because Executive Council does not share reasons for their decisions. The Commission is a recommending body and is, therefore, not able to address this transparency issue because of the mandatory nature of section 20 of the *Freedom of Information and Protection of Privacy Act* respecting cabinet confidence over its recommendations to Executive Council.

The Commission would welcome recommendations and eventual legislative amendments to increase transparency on decisions made under the *Lands Protection Act*.

Application Processes

At page 79 of the Interim Report, Figure 13 depicts the "flow from application to approval". For clarity, there is currently no requirement to register the order in council with the deed as shown in the last step. From the Commission's perspective, this would be a welcome requirement and would require an amendment to the *Registry Act*.

7.1.1 Enforcement of the *Lands Protection Act*

The Interim Report, at page 87, says that due consideration should be given to balancing the need for transparency of IRAC proceedings against the confidentiality rights of the party under investigation. It goes on to say that "the report on this examination should be made public". In order to understand this recommendation, we would appreciate more details and clarity from the Review.

7.1.2 Corporate Purchases under the *Lands Protection Act*

While the Commission may support increasing the mandatory threshold from 5 acres, caution should be exercised with the proposed threshold of 2250 acres. Aggregate landholding calculations under the *LPA* can be quite complicated – parties may not realize what their aggregate landholding may be. For instance, generally speaking, those that file disclosures do so because the Commission tells them they must based on the records before the Commission – it is not triggered automatically by large landholders.

7.1.4 Applications for Non-Resident Ownership

At page 90 of the Interim Report, the Review recommends that IRAC should make the non-resident land ownership maps available publicly as general guidance to applicants. The Commission notes that the maps it uses are based on Taxation's records, and therefore Taxation would have to allow this to happen and advise when there is a delay or change in how information is entered. To this end, an MOU or information sharing agreement may be required between the Commission and government to action this recommendation.

Concluding Comments

As concluding comments, we again wish to acknowledge the amount of work that you and your team completed in order to get to the Interim Report. At 95 pages, the Interim Report is a dense summary of the Commission's operations across its broad mandate and provides many recommendations to be thoughtfully considered. The Commission's response aims to provide further clarity on how the Commission currently works, our perspective on the issues and challenges we face, and feedback on the proposed directions for change.

However, this response should not be taken as the Commission's only commentary on the Interim Report and its recommendations. As noted at the outset, this response was prepared by the Commission and its staff on a tight timeline in order to meet the Review's two-week public consultation period. As we continue to review and consider the Interim Report over the next four weeks, we may supplement this response and we trust that the Review will carefully consider that feedback as it finalizes its work.