



## **DECISION**

IN THE MATTER OF a hearing to  
Review the New Brunswick System  
Operator's 2010 / 2011 Revenue  
Requirement.

**July 16, 2010**

**NEW BRUNSWICK ENERGY AND UTILITIES BOARD**

New Brunswick Energy and Utilities Board

IN THE MATTER OF a hearing to Review the New Brunswick System Operator's  
2010/11 Revenue Requirement.

**PARTICIPANTS**

**REPRESENTED BY**

**BOARD**

Chairman

Mr. Raymond Gorman, Q.C.

Vice-Chairman

Mr. Cyril Johnston

Member

Ms. Constance Morrison

Member

Mr. Roger McKenzie

Board Counsel

Ms. Ellen Desmond, Counsel

**APPLICANT**

New Brunswick System Operator

Mr. Kevin Roherty

**REGISTERED PARTIES**

Algonquin Energy Services Inc.

Mr. David MacDougall

Department of Energy

Mr. Stephen Waycott

Emera Energy

Mr. Matthew Hayes

HQ Energy Marketing Inc.

Ms. Hélène Cossette

J. D. Irving Limited

Mr. Mark Mosher

New Brunswick Power Holding Corp.

Mr. John Furey

Public Intervenor

Mr. Daniel Theriault, Q.C.

## **INTRODUCTION AND PROCESS**

The New Brunswick Energy and Utilities Board (the Board) in a decision dated November 26, 2008, ordered the New Brunswick System Operator (the NBSO) to annually apply for approval of its revenue requirement for Schedules 1 and 2 service of the Open Access Transmission Tariff (the Tariff). The NBSO was also ordered in the decision to file information on its actual and forecast revenues and expenses for Schedule 3 (c) service and to provide information on whether or not there should be a limit for this service. This information was to be provided with the filing for the 2010/11 revenue requirement.

A Notice published on September 17, 2009, advised the public that a review of the NBSO's 2010/11 revenue requirement would be held and that a Process Hearing to consider preliminary matters was scheduled for October 7<sup>th</sup>. On October 5<sup>th</sup>, the NBSO sent a copy of the proposed Minimum Filing Requirements (the MFR) to all registered participants. At the hearing the Board approved the MFR and a filing schedule for the review process, beginning with the NBSO filing evidence in support of its proposed revenue requirements on November 17<sup>th</sup>.

On October 29<sup>th</sup>, the Governments of New Brunswick and Quebec signed a Memorandum of Understanding (the MOU) regarding a proposed sale of many of the assets of the New Brunswick Power Group of companies (the NBP Group). The MOU also proposed a change to the structural independence of the NBSO. As a result the NBSO filed a motion with the Board on November 6<sup>th</sup>, requesting that the review process be adjourned sine-die. No party objected to the motion and the Board granted the adjournment on November 13<sup>th</sup>.

In January 2010, the Governments agreed to changes in the MOU. One of those changes was to maintain the NBSO in its current independent structure. The NBSO wrote the Board on January 29<sup>th</sup> requesting that the review of its

2010/11 revenue requirements be re-commenced. The request was approved and the NBSO filed evidence on March 15<sup>th</sup> seeking approval of:

1. A Schedule 1 revenue requirement for 2010/11 of \$11.787 million;
2. A Schedule 2 revenue requirement for 2010/11 of \$5.709 million; and
3. An increase in the Schedule 3(c) rate from \$0.25/MWh to \$0.50/MWh as of April 1, 2010.

Included with the evidentiary filing was a request for an order for interim approval of the revenue requirements for Schedules 1 and 2 and the Schedule 3(c) rate increase, to take effect on April 1<sup>st</sup>. At a hearing on March 24<sup>th</sup>, the Board heard the NBSO's request and granted the interim order. A revised filing schedule was also approved and the Board ordered that a public hearing of the application would be held on June 1-2, 2010.

## **FACTS**

### Schedule 1 - Scheduling, System Control and Dispatch:

Schedule 1 is a mandatory Tariff service provided by the NBSO. The Board annually reviews the NBSO's budget of its operating costs. Those costs (called the revenue requirement) as approved by the Board, are recovered monthly through the application of a formula for Schedule 1 service. The Board approved the use of this formulaic approach in the November 26, 2008 decision.

The NBSO filed evidence in support of its revenue requirement in compliance with the MFR and responded to written interrogatories and cross-examination by the parties. Table 1-1 found in evidence in Exhibit A-4, Tab 4, Page 10, provided a breakdown of the revenue requirement into major cost and revenue categories as well as comparative figures for the prior two years.

In 2009/10, the NBSO delayed implementing part of its business plan due to the anticipated changes resulting from the MOU. Some of its initiatives were delayed during the year and others were deferred to 2010/11. This resulted in the NBSO's forecast of its actual costs for 2009/10, being substantially lower than budget.

At the commencement of the hearing, the NBSO amended its revenue requirement, reducing it by \$74 thousand to \$11.713 million. The reason for the amendment was a reduction in the forecast cost for benefits that reduced the budget for Labour and Benefits to \$7.697 million.

The amended budget for 2010/11, is \$1.448 million higher (14.1 percent) than the budget for the previous year. Significant year over year changes include Labour and Benefits forecast to increase by \$865 thousand; Consulting Services forecast to increase by \$125 thousand; EUB Assessments forecast to increase by \$180 thousand; Hearing Costs forecast to increase by \$150 thousand; and Connection Studies revenue forecast to decrease by \$160 thousand. The decrease in revenue from Connection Studies was forecast due to a decrease in requests for this service.

#### Schedule 2 – Reactive Supply and Voltage Control Service:

Schedule 2 is a mandatory Tariff service provided by generators or loads through contracts with the NBSO. The NBSO's budget for this service is based on expenses that the NBSO will incur in accordance with the terms and conditions of its contracts for the supply of these ancillary services. These costs escalate annually based on the New Brunswick Consumer Price Index. The NBSO recovers these costs monthly through the application of a formula for

Schedule 2 service. The Board approved the use of this formulaic approach in the November 26, 2008 decision.

The NBSO applied for approval of a \$5.709 million revenue requirement for this Schedule.

#### Schedule 3(c) – Automatic Generation Control and Load Following:

Schedule 3(c) service is provided to non-dispatchable wind power generators at the rate of \$0.25 per MWh. In an application filed in 2008, the NBSO had sought approval of a 4 year rate structure which proposed annual increases of \$0.25 per MWh for this service. The Board approved the initial rate and directed the NBSO to file, as part of the annual revenue requirement, information on the NBSO's actual costs and expenses, beginning with the 2010/11 year. In this application the NBSO filed information on costs and expenses and requested approval to increase the rate to \$0.50 per MWh.

### **SCHEDULE 1 REVENUE REQUIREMENT – ANALYSIS AND DECISION**

#### Labour and Benefits - \$7.697 Million

The NBSO had stated that the increase in Schedule 1 costs was largely driven by its need for additional staff. Labour and Benefits is forecast to increase by \$865 thousand (12.7 percent) over the prior year's forecast. This increase represents approximately 60 percent of the total budget increase sought by the NBSO.

For 2010/11, the NBSO proposed adding 7 employees at a cost of \$315 thousand. For 2009/10, the NBSO had planned to add 6 new employees during the year. This initiative was delayed but was resumed in January 2010 and the full year's cost for those positions was included for 2010/11.

During 2009/10, the NBSO had undertaken a review of its organizational structure in concert with the implementation of its migration strategy for seconded employees. The NBSO's Board of Directors approved a new organizational structure on March 5, 2010, that included a number of salary adjustments. The cost for these adjustments had not been identified during the 2009/10 review.

For 2010/11, the cost increase resulting from salary adjustments and merit increases for non-bargaining employees was forecast to be \$134 thousand. Wage increases for bargaining employees were forecast to increase costs by an additional \$105 thousand. Seconded non-bargaining employees had been awarded a three percent wage increase in February and the full year effect of that wage adjustment would also result in increased labour costs for 2010/11.

Additionally, the NBSO included a \$200 thousand allowance for possible wage increases that may result from the as yet uncompleted Compensation Study. During a hearing in 2008, the NBSO had stated that a compensation study would be completed within a few months. The NBSO was ordered in a decision dated November 26, 2008, to file a copy of that study with the Board.

The evidence (Exhibit A-4, Tab 4, Page 14) indicated that this same compensation study was to have been completed in late fiscal 2009/10. The NBSO provided no other evidence in support of any wage increases that may result from the study.

The Public Intervenor (the PI) had requested that the Board disallow the allowance.

The Board has reviewed the evidence filed in support of the proposed labour and benefits costs for 2010/11. The Board finds that the NBSO has provided reasonable justification for hiring of 7 new employees.

Since January 2008, the NBSO's labour costs have increased due to new hires, salary evaluations, job re-classifications, merit increases, retention payments and organizational restructuring. Salary increases awarded to the NBSO's non-bargaining employees contributed significantly to the increase in labour costs.

As previously noted, the NBSO, in 2008, stated that the Compensation Study would be completed within a few months. The evidence for this hearing indicated that the study would be completed in late fiscal 2009/10. This is the same period in which the NBSO approved an organizational restructuring plan which implemented wage adjustments for many of the NBSO's non-bargaining employees. To date, no Compensation Study has been filed with the Board.

In light of the fact that wage adjustments were implemented prior to the completion of the Compensation Study, it is reasonable to conclude that a number of the adjustments that may be recommended by the study have already been implemented. The NBSO has not filed any evidence demonstrating a need for any additional funding for wage increases for its non-bargaining unit employees for 2010/11.

Recommendations and costs that may result from the study cannot be reviewed until such time as the study has been filed and given due consideration. The Board disallows the NBSO's funding request for 2010/11, for a \$200 thousand allowance for possible wage increases that may be recommended by the Compensation Study and will reduce the revenue requirement accordingly.

The Board approves an amount for Labour and Benefits of \$7.497 million for 2010/11.

#### Consulting - \$723 Thousand

Consulting costs were forecast to increase by \$125 thousand (20.9 percent) over the prior year's forecast. Consulting costs were described as being for either recurring consulting services or for specific consulting assignments. For 2010/11, recurring consulting services were forecast to decrease by \$30 thousand to \$228 thousand (11.6 percent) from the prior year's budget. Specific consulting assignments were forecast to increase by \$155 thousand to \$495 thousand (45.6 percent) over the prior year's budget.

Interrogatory Response NBEUB IR-32 provided a breakdown of the recurring and specific consulting items for 2010/11, with comparative budget and forecast amounts for 2009/10. The evidence indicated that four specific consulting assignments proposed for 2009/10, were not initiated.

For 2010/11, the budget identified 7 specific consulting assignments being the:

- Review and Re-design of the Tariff and Market Rules - \$40 thousand;
- Explore Market Integration and Energy Market Issues - \$60 thousand;
- Engage Expertise on New Industry Initiatives - \$40 thousand;
- Analysis and Report of Maritime wind data - \$20 thousand;
- Consulting associated with CIPS - \$75 thousand;
- Expertise to assist with specifications for Market Optimization System Upgrade - \$75 thousand; and
- Organizational Self-Sufficiency and Development - \$185 thousand.

Recurring consulting assignments included such items as audit assignments, legal, financial and audit services and consultation with the benefit service provider.

The NBSO described the “Explore Market Integration and Energy Market Issues” and “Engage Expertise on New Industry Initiatives” assignments as budgeted amounts for non-specific projects that could arise during the year. The NBSO stated that funding for these projects was necessary as every year, projects of a similar nature arose.

The budget for “Organizational Self-Sufficiency and Organizational Development” was forecast to increase by \$105 thousand to \$185 thousand (131.3 percent) over the prior year. This budget included 6 separate consulting initiatives.

One of the initiatives was budgeted at \$25 thousand for a Facilities Investigation into the financial and operational benefits of having all NBSO employees secured in one location at the expiry of its leases. Currently, the NBSO has a 5 year lease for facilities at West Hills that expires on August 31, 2014, with an option for two 5 year renewal periods. A lease agreement for the Energy and Control Center (the ECC) has not been finalized.

The PI expressed concern with this business practice of occupying and using a portion of the building and making payments without having a formal lease in place. He requested the Board to order the NBSO to file a copy of the finalized lease agreement for the ECC.

An analysis of any benefits resulting from a Facilities Investigation may be difficult to assess without knowing the terms and costs of the ECC lease. The Board agrees that the NBSO should consider the benefits of operating from one

location but believes that the NBSO's staff should undertake the initial assessment.

The PI recommended that the Board disallow the amounts for the "Explore Market Integration and Energy Market Issues" (\$60 thousand) and "Engage Expertise on New Industry Initiatives" (\$40 thousand). Additionally, the PI stated that it was too early to undertake a Facilities Investigation study (\$25 thousand) and recommended that cost also be disallowed.

The most costly initiative included in the budget for the Organizational Self-Sufficiency and Organizational Development study, was an amount of \$100 thousand for "Optimization of Organizational Effectiveness by building continuous improvement mechanisms". The initiative was described as providing well-defined procedures for all NBSO activities, with the objective of increasing the efficiency of the NBSO's operations while continuously improving its regulatory compliance. This work would include a review of the NBSO's business processes and its associated documentation.

Board staff examined the NBSO on this initiative attempting to identify the specific nature, the requirements and the necessity for the proposed initiative. The NBSO responded that the initiative would involve a review of its business processes and procedures. However, the NBSO also noted that a number of its operational procedures were already well defined. It went on to state that there were processes dealing with the interaction with market participants and administration that needed to be reviewed.

Asked whether the NBSO's staff would be best suited to document those processes, it stated that staff would be involved in the exercise. However, consultants would provide assistance with the methodology, the practices for instituting change and in organizing business processes.

The Board believes that the NBSO's staff should undertake the initial assessment of its processes and clearly document those it believes need further review. The NBSO should be able to demonstrate the necessity for engaging external consultants.

Proposals for consulting assignments should identify why it is necessary to retain consultants and the goals of the assignment. Proposals should include a defined scope of work, a description of the process, the role of the NBSO's staff and a cost breakdown. Also the NBSO should demonstrate why its own staff is not undertaking the project.

The Board finds that the NBSO did not provide reasonable justification for the following consulting initiatives and disallows the amounts, \$225 thousand in total, for those assignments.

- Explore Market Integration and Energy Market Issues - \$60 thousand;
- Engage Expertise on New Energy Initiatives - \$40 thousand;
- Initiative for a Facilities Study - \$25 thousand
- Initiative for Optimization of Organizational Effectiveness - \$100 thousand

The Board approves an amount for Consulting Services of \$498 thousand for 2010/11.

Included in the NBSO's revenue requirement is an amount for contingencies. If the NBSO were required to undertake a study in 2010/11, for which funding was not approved in this decision, it could fund such a study from the Contingency account if funds were not available from elsewhere within the budget.

The PI expressed concern with costs resulting from the Service Agreements between the NBSO and Holdco and argued that there was no demonstration that the costs were prudent. No request for proposals had been initiated by the NBSO but the PI was unable to suggest that any portion of that cost category be disallowed. The NBSO had stated that it expected to undertake a service review during 2010/11 and the PI requested the Board order the NBSO to file the results of its service review.

The Board approves all other amounts for Costs and Miscellaneous Revenues as shown in Table 1-1 of the evidence for 2010/11.

The Board approves the Schedule I Revenue Requirement in the amount of \$11.288 Million for 2010/11.

The Board orders the NBSO to rebate the excess revenue collected from customers that resulted from use of interim rates for Schedule 1 service. The NBSO shall file a proposal for rebating the excess revenue with the Board for approval by July 30, 2010.

The Board orders the NBSO to file a copy of the lease for the ECC when it is finalized and to file the results of its Service Review when available.

## **SCHEDULE 2 REVENUE REQUIREMENT – ANALYSIS AND DECISION**

No party took issue with the amount of the Schedule 2 revenue requirement. The Board has reviewed the Ancillary Services Contracts and the support for the revenue requirement provided in the interrogatory response NBEUB IR 39.

The Board finds that the cost proposed is reasonable and approves the Schedule 2 Revenue Requirement in the amount of \$5.709 Million for 2010/11.

### **SCHEDULE 3(c) RATE – ANALYSIS AND DECISION**

The NBSO stated that the few months history of actual revenues and expenses for this service were insufficient to warrant a deviation from the original schedule of rate increases that it proposed in 2008.

The evidence indicated that the 10 months' history of actual revenues and expenses to January 31, 2010, resulted in a revenue to cost ratio of 0.595 with the cost per MWh produced of approximately \$0.41. The rate charged for this service was \$0.25 per MWh.

For 2010/11, the NBSO forecast that revenues would exceed expenses. Usage is expected to decrease by more than 40 percent and the cost per MWh was forecast to decrease to \$0.36 per MWh. A small surplus based on a rate of \$0.50 per MWh is forecast for 2010/11. Usage, based on the rate of \$0.25 per MWh is expected to result in a small deficit for 2009/10.

The PI supported the application to increase the rate for 2010/11, but stated that rate increases for 2011 and 2012 should be eliminated until supporting evidence is filed.

The rates for 2011 and 2012 are not at issue in this application. The NBSO has previously been ordered to annually file information on the costs and revenues for this service.

The Board recognizes that this is a relatively new service and that revenues and costs may change over time. Wind generation is a growing segment of the electricity market in New Brunswick and cost certainty is very important for those market participants. The cost to provide this service for 2009/10, is expected to be \$0.41 per MWh. However, the Board believes that the information on costs incurred for only a portion of a fiscal year provides

insufficient information on which to predict future costs. For 2010/11, the Board approves the rate of \$0.50 per MWh for Schedule 3(c) service.

The Board orders the NBSO to continue to closely monitor the costs incurred for this service. During the review of the 2011/12 revenue requirement, the NBSO is ordered to file detailed evidence on the costs incurred to date for providing the service. This will allow the Board the opportunity to set future rates for Schedule 3(c) service based on its delivered cost.

The NBSO had been ordered to provide information during this review, on whether or not there should be a limit on the amount of wind power energy that would be eligible to receive this service. The NBSO did state that it believed that a limit on the supply of this service was appropriate. However, no information was provided and no application was received for a specific limit on the supply of this service.

The Board orders the NBSO, at the time of its next application, to provide detailed information on whether or not there should be a specific limit on the supply of Schedule 3(c) service. If the NBSO believes that a limit should be established, then it must apply for approval for a change to the OATT.

## **CONCLUSION**

The Board approves the Schedule 1 Revenue Requirement in the amount of \$11.288 Million for 2010/11.

The Board approves the Schedule 2 Revenue Requirement in the amount of \$5.709 Million for 2010/11.

The Board approves the rate of \$0.50 per MWh for Schedule 3(c) service for 2010/11.

Dated at the City of Saint John, New Brunswick this 16<sup>th</sup> day of July, 2010.

***Original Signed By***

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Raymond Gorman, Q.C., Chairman

***Original Signed By***

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Cyril Johnston, Vice-Chairman

***Original Signed By***

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Roger McKenzie, Member

***Original Signed By***

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Constance Morrison, Member