

**NEW BRUNSWICK  
ENERGY AND UTILITIES BOARD**

**IN THE MATTER OF an Application by the  
New Brunswick System Operator for  
Changes to the Open Access  
Transmission Tariff (the "Tariff")**

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**EVIDENCE**

**October 18, 2010**

**Volume 1 of 2**

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**NEW BRUNSWICK ENERGY AND UTILITIES BOARD**

**IN THE MATTER OF the *Energy and Utilities Board Act*, Chapter E-9.18, R.S.N.B., 1973, as amended.**

**- and -**

**IN THE MATTER OF an Application by the New Brunswick System Operator (NBSO) for the Approval of Changes to the Open Access Transmission Tariff.**

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**NEW BRUNSWICK  
ENERGY AND UTILITIES BOARD**

**IN THE MATTER OF** an Application by the  
New Brunswick System Operator (NBSO)  
for the Approval of Changes to the Open  
Access Transmission Tariff

**A P P L I C A T I O N**

**WHEREAS:**

1. New Brunswick System Operator ("NBSO") is required pursuant to section 111 of the *Electricity Act*, Chapter E-4.6, R.S.N.B., 1973, (the "Act") as amended to make application to the New Brunswick Energy and Utilities Board (the "Board") for approval of changes to the Open Access Transmission Tariff (the "Tariff"); and
2. NBSO has filed supporting Evidence with this Application.

**NOW THEREFORE** NBSO applies to the Board for the following:

- a) an Order approving changes to the Tariff pursuant to section 111 of the *Electricity Act*;
- b) directions with respect to a Schedule for the full Hearing of this Application including any preliminary or procedural matters; and
- c) Orders and / or directives with respect to such other matters as the Board sees fit.

**DATED** at the City of Fredericton, New Brunswick this 7th day of October, 2010.

**NEW BRUNSWICK SYSTEM OPERATOR**

**(Original signed by)**

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**Kevin C. Roherty**  
Secretary and General Counsel

## 1 EXECUTIVE SUMMARY

---

2  
3 The New Brunswick System Operator (the "NBSO") is seeking approval  
4 from the New Brunswick Energy and Utilities Board (the "EUB") for  
5 changes to the Open Access Transmission Tariff (the "Tariff") pursuant to  
6 s. 111 of the *Electricity Act* (the "Act"), Chapter E-4.6, R.S.N.B., 1973 as  
7 amended.

8  
9 In accordance with the Act, changes to the Tariff must be approved by the  
10 New Brunswick Energy and Utilities Board (the "EUB"). NBSO proposes  
11 changes to the Terms and Conditions of the Tariff in its role as the tariff  
12 administrator and in keeping with its legislated object to facilitate a  
13 competitive market.

14  
15 The proposed changes are categorized into three topic areas within this  
16 Evidence. The first category consists of a number of changes arising from  
17 a goal of **establishing compatibility** with the Federal Energy Regulatory  
18 Commission ("FERC") Order 890 *pro forma* standard. Establishing  
19 compatibility with that *de facto* North American standard supports on-  
20 going access to external markets for users of the transmission system in  
21 New Brunswick.

22  
23 The proposed changes within the second category are intended to better  
24 **align the contents of the Tariff and the Market Rules**. The Tariff  
25 establishes the foundation for access to the transmission system while the  
26 Market Rules provide additional detail and address market-specific topics.  
27 Market Participants can benefit from this improved alignment. For  
28 example, removing overlap between the two reduces the potential for

1 inconsistencies and the confusion that could arise from such  
2 inconsistencies.

3

4 Additional changes are proposed as a third category and these items  
5 include wording changes for **clarification**, as well as some miscellaneous  
6 changes. These changes are intended to improve the ease of use of the  
7 document for Transmission Customers and to further support open access.

8

9 An explanation and rationale for the proposed changes in each category is  
10 provided in the Evidence (NBSO Evidence, October 18, 2010, Volume 1 of  
11 2, Tab 4). A detailed list of the proposed changes is included in the  
12 Evidence as Appendix A, Summary Table of Proposed Changes to the Tariff  
13 (NBSO Evidence, October 18, 2010, Volume 1 of 2, Tab 5). To  
14 demonstrate the impact of the proposed changes to the Tariff, a redlined  
15 version of the Tariff is provided in the Evidence as Appendix D (NBSO  
16 Evidence, Volume 2 of 2).

17

18 Additionally, as this Application is the most comprehensive since the  
19 original NB Power Tariff application in 2002, the NBSO has provided an  
20 expanded Background in the Evidence (Volume 1 of 2, Tab 3) containing  
21 detailed information about the Tariff and the Market Rules, and the  
22 relationship between the two.

23

24 **In this application, NBSO is not making modifications to the rates**  
25 **for any of the services that are provided through the Tariff.**  
26 Accordingly, no revenue requirement, cost allocation, or rate design  
27 elements have been included in the Evidence.

28

1 The proposed changes have been reviewed in consultation with  
2 stakeholders and have been the subject of a Technical Session. This  
3 Session was open to all interested parties and was held on September 9,  
4 2010. In addition, the NBSO Board of Directors has approved this  
5 Application.

1 **BACKGROUND**

---

2  
3 The NBSO is a not-for-profit statutory corporation whose primary  
4 responsibilities are to maintain and ensure the adequacy and reliability of  
5 the integrated electricity system and to facilitate the efficient operation of  
6 a competitive electricity market in New Brunswick. The Act requires that  
7 Market Participants be given open and non-discriminatory access to electric  
8 transmission facilities in the Province of New Brunswick by virtue of a  
9 regulated tariff. Open and non-discriminatory access to the transmission  
10 system is a consequence of the Province of New Brunswick's desire to  
11 support access to external markets by users of the Province's transmission  
12 system and its desire to provide choice of supply to the Province's  
13 industrial and wholesale customers that are connected to the transmission  
14 system. The NBSO is mandated to administer the Tariff and the New  
15 Brunswick Electricity Market Rules.

16  
17 The original regulated Tariff in New Brunswick was applied for by New  
18 Brunswick Power Corporation on June 21, 2002 and went into effect on  
19 September 30, 2003 in accordance with the New Brunswick Board of  
20 Commissioners of Public Utilities (the "PUB") Decision of March 13, 2003.  
21 The Tariff was further revised effective June 15, 2004 in accordance with a  
22 PUB Decision of April 14, 2004. Responsibility for the Tariff was  
23 transferred to the newly created NBSO on October 1, 2004 upon  
24 proclamation of the Act. At the same time, the New Brunswick Market  
25 Rules were implemented pursuant to s. 58 of the Act and made the  
26 responsibility of the NBSO. Subsequent revisions to the Tariff came into  
27 effect in accordance with regulatory Decisions, including those of April 26,  
28 2005, February 14, 2006, and November 26, 2008.

1 This evolution of open access in New Brunswick has taken place at the  
2 same time that other Canadian provinces and FERC were evolving their  
3 respective implementations of open access. Throughout this evolution, the  
4 FERC standards for open access have had a significant influence on several  
5 Canadian jurisdictions. The FERC standards have, from the outset,  
6 included reciprocity provisions. The reciprocity provision indicates that  
7 parties competing in markets that are under FERC jurisdiction must not be  
8 using transmission that is not subject to open access. Consequently, many  
9 Canadian provinces with significant exports to FERC regulated markets  
10 have chosen to adopt the FERC standards for open access (e.g. Orders 888  
11 and 889 in the late 1990's, and Order 890 more recently). Closely  
12 following those standards provides assurance that FERC would accept that  
13 open access is being provided on a non-discriminatory basis and thereby  
14 confirm that the reciprocity conditions for market access have been met.

15

16 While influenced by FERC policy, Canadian provinces do not fall under  
17 FERC jurisdiction and thus the decision to implement open access has been  
18 made by each province. Similarly, the specifics of open access  
19 implementation in most Canadian provinces, including New Brunswick, are  
20 a direct product of various provincial regulatory decisions, not those of  
21 FERC.

22

23 When the Tariff was first approved, neither the NBSO nor the New  
24 Brunswick Electricity Market Rules existed. As a result, the Tariff contains  
25 details that are not directly related to the foundational terms and  
26 conditions associated with, or the rates for, services provided by the  
27 NBSO.

28

## 1 **NBSO Open Access Transmission Tariff (the “Tariff”)**<sup>1</sup>

2  
3 The Transmission system in New Brunswick is comprised of facilities that  
4 transfer electricity at voltages of 69 kV or greater. These facilities are  
5 owned by the NB Power Transmission Corporation and WPS Canada  
6 Generation Inc. (the “Transmitters”).

7  
8 The Tariff defines the terms and conditions for customers to use the  
9 transmission services that are offered through the Tariff. The NBSO is the  
10 party that administers the Tariff (the “Transmission Provider”). The Tariff  
11 contains three main parts, as well as a number of Schedules and  
12 Attachments.

13  
14 The first part describes the **general terms and conditions** including  
15 Ancillary Services, Open Access Same-Time Information System  
16 (“OASIS”), Payment Procedures and Dispute Resolution. The remaining  
17 two parts describe the types of services; Point-to-Point and Network  
18 Integration.

19  
20 Point-to-Point service refers to transmission service that is taken on a  
21 specific transmission path, whereas Network Integration service can  
22 accommodate multiple suppliers and loads. Point-to-Point service is  
23 available in hourly, weekly, monthly and one-year or longer increments.  
24 However, network service is only offered on an annual basis.

25  
26 The **Schedules** attached to the Tariff provide the rates to be charged for  
27 the various transmission services. Schedules 1 through 6 describe  
28 ancillary services. Schedule 1 (Scheduling, System Control and Dispatch)

---

<sup>1</sup> The NBSO Open Access Transmission Tariff: <http://www.nbso.ca/Public/en/op/transmission/tariff.aspx>.

1 is a mandatory ancillary service that is provided directly by the  
2 Transmission Provider. Schedules 2 through 6 represent ancillary services  
3 that are acquired from generators and are cost-based. These include  
4 reactive supply, regulation, energy imbalance and reserves. Reactive  
5 supply is also a mandatory service that must be purchased from the  
6 Transmission Provider. The customer can self-provide or purchase the  
7 remaining ancillary services from a third party. Specific details of each  
8 service are provided in the schedule. Schedules 7 and 8 outline the rates  
9 for firm and non-firm transmission service. Schedule 9 (Non-Capital  
10 Support Charge Rate) is an OM&A related carrying charge and includes,  
11 without limitation, both direct and indirect OM&A expense. Schedule 10  
12 (Residual Uplift) provides a periodic settlement of Transmission Provider  
13 expenses and revenues that are not reflected in other Schedules in the  
14 Tariff.

15

16 The **Attachments** include service agreement forms, methodologies for  
17 determining the amount of available transmission capacity and performing  
18 impact studies when transmission capacity is insufficient and a  
19 Transmission Expansion Policy. The Attachments include the connection  
20 agreement for generators (Attached J, Generation Connection Agreement)  
21 and the operating agreement required for network loads (Attachment G,  
22 Network Operating Agreement).

23

24 The Tariff provides for firm and non-firm transmission service to eligible  
25 transmission customers. In essence, this service, relates to the right to  
26 use the capacity of the transmission system. The rules governing the  
27 assignment and prioritization of transmission services are included in the  
28 Tariff. Reservations for transmission service are made on the OASIS.

29

1 The wording of the NBSO Tariff is compatible with the FERC Order 888 *pro*  
2 *forma* tariff and updates to that Order, and is generally accepted as the  
3 industry standard throughout North America. This compatibility strategy  
4 helps provide assurance to Transmission Customers that reciprocity  
5 requirements are met, thereby supporting market access for users of the  
6 transmission system. Following a common standard reduces the burden  
7 for designing, administering and using the Tariff for Transmission  
8 Customers and NBSO.

9

10 NBSO's mandate includes a responsibility to administer and maintain the  
11 Tariff. Any changes to the Tariff proposed by NBSO must be approved by  
12 the EUB in accordance with the Act.

13

## 14 **New Brunswick Electricity Market Rules<sup>2</sup>**

15

16 The New Brunswick Electricity Market Rules govern the rights and  
17 obligations of entities participating in the electricity market (Market  
18 Participants). The Act outlines the establishment, organization and powers  
19 of the NBSO, as well as the authority under which the Market Rules are  
20 made and amended. Other documentation, such as regulations, licenses  
21 and agreements complete the framework.

22

23 The contents of the Market Rules which are comprised of Chapters 1 to 10  
24 fall within two classifications:

25

- 26 **1.** The roles and responsibilities of the NBSO in facilitating and of Market  
27 Participants in participating in a bilateral contract market.

---

<sup>2</sup> New Brunswick Electricity Market Rules  
<http://www.nbso.ca/Public/en/op/market/rules/default.aspx>

1 **2.** The roles and responsibilities of each of the NBSO, Market Participants  
2 and Transmitters in respect of maintaining the reliability of the  
3 integrated electrical power system and ensuring a secure supply of  
4 electricity for New Brunswick consumers.

5  
6 Certain general principles or themes that underlie and run through the  
7 Market Rules include:

8  
9 **SO Directing Transmission Operations:** the SO directs the operation of  
10 the New Brunswick Transmission System. This will be done under the  
11 authority of contract(s) entered into between the SO and Transmitter(s).  
12 The Transmission Systems that are thus under the SO's operational control  
13 together comprise the "SO-controlled Grid".

14  
15 **Contractual Force:** the Market Rules have the effect of a contract  
16 between each Market Participant and the SO by virtue of the execution by  
17 the SO and each Market Participant of a Participation Agreement. Giving  
18 the Market Rules the force of a contract enables the SO and a Market  
19 Participant to take action against one another in the event that the actions  
20 or omissions of one (under the Market Rules) cause damage to the other.

21  
22 **Market Procedures:** the Market Rules are supplemented by "Market  
23 Procedures" that are binding on the SO, Market Participants and, where  
24 applicable, Transmitters. Market Procedures generally contain lower-level  
25 detail as to the manner in which obligations under the Market Rules are to  
26 be performed, including matters relating to forms to be used, and methods  
27 of communication. The manner in which Market Procedures are adopted  
28 and amended from time-to-time is deliberately designed to be more  
29 flexible and to involve less formality than is the case with the Market

1 Rules; recognizing that the content of the Market Procedures is both  
2 subordinate to the Market Rules and more likely to require revision from  
3 time-to-time, largely for practical reasons.

4

5 The Market Procedures are documents that describe the detailed  
6 procedures, processes and forms to be used by the NBSO, Transmitters  
7 and Market Participants in fulfilling their respective obligations under the  
8 Market Rules. Market Procedures provide more detailed descriptions of the  
9 requirements for various activities than is specified in the Market Rules.

10

11 The Market Procedures are binding on the NBSO, Transmitters and Market  
12 Participants. As such, compliance with Market Procedures is mandatory in  
13 the same way as is compliance with the Market Rules.

14

15 The Market Rules represent the principal document governing the  
16 facilitation by the SO of the Bilateral Contract Market, including by means  
17 of the centralized procurement and supply of Ancillary Services. As such,  
18 the Market Rules contain sufficient detail so as to permit the SO, Market  
19 Participants and Transmitters to know what their respective rights and  
20 obligations are. Against this has been balanced the need to provide for a  
21 regime that is not so overly prescriptive as to eliminate elements of  
22 discretion that may be necessary or desirable to enable the SO to fulfill its  
23 responsibilities. Provisions have been included to ensure that the SO  
24 operates in a manner that is fair, non-discriminatory and transparent.

25

26 The Market Rules are comprised of ten chapters, each of which is briefly  
27 described as follows:

28

1 **Chapter 1 (Introduction):** This chapter contains an introduction to the  
2 Market Rules, as well as administrative rules of general application. These  
3 cover matters such as the computation of time; notice, service and filing;  
4 and currency. Substantive provisions relating to liability and force majeure  
5 are also included.

6  
7 **Chapter 2 (Market Participation and Use of the SO-controlled Grid):**  
8 This chapter deals with the manner in which persons are Accredited by the  
9 SO as Market Participants and become eligible to use the SO-controlled  
10 grid for energy and ancillary Service transactions. The chapter also  
11 contains rules relating to the process by which persons become Market  
12 Participants; the process by which facilities are registered with the SO  
13 facility registration is a condition for use of the transmission system in  
14 certain cases so that the SO can have sufficient technical information on  
15 facilities that intend to provide ancillary services or schedule energy  
16 transactions; and the credit support requirements to be met by Market  
17 Participants. Appended to this chapter is the "Participation Agreement"  
18 that must be signed by each person that is proposing to become a Market  
19 Participant.

20 **Chapter 3 (Market Administration):** This chapter addresses issues  
21 relating to the administration of the Market Rules, the supervision of the  
22 market by the SO and market-related disputes. It includes provisions  
23 relating to the composition, establishment and roles of the Market Advisory  
24 Committee; the process for adopting and amending Market Procedures and  
25 for amending the Market Rules; compliance monitoring and enforcement  
26 by the SO; market monitoring by the SO; dispute resolution;  
27 confidentiality obligations; and waivers.

1 **Chapter 4 (Technical and Connection Requirements, Testing and**  
2 **Commissioning):** This chapter contains the technical requirements that  
3 registered facilities must meet, including communications, monitoring and  
4 revenue metering standards. Most of these technical requirements reflect  
5 or refer to the Tariff, or to existing facility design and capabilities. The  
6 chapter also contains provisions relating to the testing and commissioning  
7 of facilities and to the requirement for Connection Agreements

8 **Chapter 5 (System Reliability):** This chapter deals with the obligations  
9 of the SO, Market Participants and Transmitters in maintaining the  
10 adequacy and reliability of the integrated electricity system. It addresses  
11 the SO's role as a participant in the work of reliability-related organizations  
12 such as North American Electric Reliability Corporation ("NERC") and  
13 Northeast Power Coordinating Council ("NPCC").

14 **Chapter 6 (Operational Requirements):** This chapter contains the  
15 provisions that govern the manner in which energy and ancillary service  
16 transactions are scheduled and facilities are dispatched by the SO.

17 **Chapter 7 (Settlement):** This chapter addresses the manner in which  
18 financial obligations arising under the Market Rules or the Tariff will be  
19 settled. It provides specifically for the calculation of settlement amounts  
20 relating to ancillary services, energy imbalance, congestion management  
21 re-dispatch, transmission service and residual monthly amounts pertaining  
22 to miscellaneous costs, etc. The chapter also contains the administrative  
23 rules relating to settlement, as well as rules relating to the ownership,  
24 collection and adjustment of metering data.

25 **Chapter 8 (Connection of New or Modified Facilities):** This chapter  
26 empowers the SO to approve the connection to the SO-controlled grid of  
27 new or modified facilities with a view to ensuring that such connections do

1 not adversely affect the reliability of the SO-controlled grid or give rise to  
2 additional congestion. The chapter describes the process for applying for  
3 approval, the manner in which applications are assessed by the SO and the  
4 allocation of costs for changes to the SO-controlled grid that may be  
5 triggered by the connection of a new or modified Facility.

6 **Chapter 9 (Transmission System Planning, Investment and**  
7 **Operation):** This chapter outlines the responsibilities of the SO and  
8 Transmitters in respect of transmission system planning and investment,  
9 including system adequacy assessments and investment option evaluation  
10 and implementation. The chapter thus describes the means by which the  
11 SO will identify existing and emerging transmission system inadequacies  
12 and the options that could be implemented to address those inadequacies.

13 **Chapter 10 (Definitions and Interpretation):** This chapter contains  
14 definitions of the terms used in the Market Rules, as well as rules for the  
15 interpretation of the Market Rules. It also contains a list of the acronyms  
16 used in the Market Rules.

17

18 The NBSO's mandate includes a responsibility to administer and maintain  
19 the Market Rules. The process for changes to the Market Rules includes  
20 extensive stakeholder consultation, publication of notices, and  
21 opportunities for intervention by any person.

22

23 Additionally, the EUB provides a regulatory option as a backstop to the  
24 NBSO's process for market rule changes. Upon application by any person  
25 within thirty days of an amendment to the Market Rules, the EUB shall  
26 review the amendment in accordance with the Act. The EUB can then  
27 revoke the amendment and require the NBSO to review that amendment  
28 (*Electricity Act*, s. 61(6)). Furthermore, upon application by any person,

1 the EUB may review any market rule created by NBSO. If the EUB finds  
2 the rule is inconsistent with the purposes of the Act, is discriminatory, or  
3 conflicts with a tariff approved by the Board, the Board shall order NBSO to  
4 amend the rule (*Electricity Act* s. 62 (6)).

1 **DIRECT EVIDENCE**

---

2  
3 **PROPOSED CHANGES TO THE TARIFF**

4  
5 The NBSO proposes changes to the Tariff to enhance its compatibility with  
6 industry trends, optimize its scope, and increase its usability. A  
7 description for each of the proposed changes is provided within the  
8 following three subsections:

- 9
- 10 • **FERC Order 890**  
11 Changes to maintain compatibility with FERC Order 890  
12
  - 13 • **Alignment**  
14 Changes to align certain components of the Tariff with the  
15 New Brunswick Electricity Market Rules  
16
  - 17 • **Clarification**  
18 Tariff clarifications and miscellaneous changes  
19

20 The “FERC Order 890” changes are proposed in order to establish  
21 compatibility with an enhanced version of the standard that was used in  
22 the design of the current New Brunswick Tariff. Compatibility with this  
23 recognized standard enhances certainty that reciprocity requirements are  
24 met and thus provides greater assurance of market access for users of the  
25 New Brunswick transmission system. The proposed “Alignment” changes  
26 improve both the Tariff and the Market Rules by removing some  
27 duplication and by **moving** some technical details from the Tariff to the  
28 Market Rules. The “Clarification” changes are intended to make the Tariff  
29 easier to use, understand, and administer.  
30

1 Each explanation includes a reference to specific sections of the Tariff  
2 which are affected by proposed changes. Appendix A, Summary Table of  
3 Proposed Changes to the Tariff (NBSO Evidence, Volume 1 of 2, Tab 5)  
4 provides a summary of all proposed changes. The exact wording of all  
5 proposed changes is provided in Appendix D, Redlined NBSO Tariff (NBSO  
6 Evidence, Volume 2 of 2).

1 **FERC ORDER 890**

2  
3 **Changes to the Tariff to Maintain Compatibility with Order 890**

4  
5 **Relevance of FERC Order 890 to New Brunswick**

6  
7 The NBSO Tariff was originally designed to be compatible with the FERC  
8 *pro forma* tariff. To maintain this compatibility and to ensure that the  
9 NBSO continues to provide Transmission Customers with a non-  
10 discriminatory, open access transmission tariff, the NBSO proposes that  
11 the Tariff be revised to reflect the changes outlined in FERC Order 890<sup>3</sup>.

12  
13 Although the Tariff was introduced in New Brunswick in 2003, the notion of  
14 open access transmission began in 1996 when FERC issued Order 888.  
15 The premise was, and continues to be, that Transmission Providers should  
16 offer transmission services on a non-discriminatory basis to all wholesale  
17 Transmission Customers regardless of corporate affiliation. This was  
18 achieved by developing a *pro forma* tariff based on the following four  
19 relevant core elements as noted by FERC: comparability, protection of  
20 native load, functional unbundling to address undue discrimination, and  
21 reciprocity (NBSO Evidence, Appendix B, FERC Order 890 Fact Sheet,  
22 Volume 1 of 2, Tab 5). Comparability is the principle whereby others are  
23 provided access to the transmission system on a basis that is comparable  
24 to the access that is provided to one's own customers. Native load is the  
25 term that is used for a transmission owner's bundled service customers.  
26 Functional unbundling refers to the separation of common carrier type  
27 functions from Transmission Customer functions. Reciprocity is the  
28 principle of allowing market access only to those entities that are offering  
29 open access on their own transmission systems.

---

<sup>3</sup> Reference to FERC Order 890 includes subsequent FERC Orders 890A, 890B, and 890C. FERC Order 890 (Full Rule): <http://www.ferc.gov/whats-new/comm-meet/2007/021507/E-1.pdf>

1 These principles were subsequently adopted by Transmission Providers in  
2 most Canadian provinces to provide open access within their respective  
3 jurisdictions and to guarantee continued access to adjacent markets  
4 regulated by FERC. The key driver was, and continues to be, reciprocity.

5  
6 Over time, FERC determined that certain parts of Order 888 needed  
7 revisiting. In reviewing and evaluating Order 888, FERC wanted to:

- 8
- 9 • Address various ambiguities in the open access transmission tariffs  
10 that every Transmission Provider had to file as part of Order 888;
  - 11 • Provide greater transparency and certainty to Transmission  
12 Customers and Providers;
  - 13 • Give greater impetus and standardization to regional transmission  
14 planning; and
  - 15 • Institute conditional firm and planning redispatch provisions.
- 16

17 In 2007, a decade after the historic Order 888 creating open access  
18 transmission as the industry standard in North America, the FERC  
19 completed a thorough review that resulted in Order 890. This order is a  
20 complete review of the *pro forma* tariff and has three main purposes:

- 21
- 22 1. To strengthen the *pro forma* Tariff to ensure that it achieves its  
23 original purpose of remedying undue discrimination.
  - 24
  - 25 2. To provide greater specificity in the *pro forma* tariff to reduce  
26 opportunities for the exercise of undue discrimination, make  
27 undue discrimination easier to detect, and facilitate FERC's  
28 enforcement.
- 29

1           3. To increase transparency in the rules applicable to the planning  
2                   and use of the transmission system.

3  
4           The NBSO views the FERC *pro forma* tariff as the *de facto* industry  
5           standard for tariff terms and conditions. However, the NBSO also  
6           recognizes that it is the EUB and not FERC that exercises regulatory  
7           oversight of the NBSO, the Tariff, and the Market Rules.

8  
9           For this reason, the NBSO holds the position that the Tariff's terms and  
10          conditions should be consistent with or superior to those outlined in the  
11          FERC standard, while acknowledging that deviations from Order 890 may  
12          be warranted in order to better serve Transmission Customers and the  
13          public interest in New Brunswick. The current Tariff has few deviations  
14          from the Order 888 *pro forma* Tariff. Similarly, the changes proposed in  
15          this Application are largely identical to the Order 890 *pro forma* wording.

16  
17          The NBSO proposes to incorporate these changes into the Tariff because  
18          adherence to the concept of open access transmission continues to be of  
19          value in New Brunswick especially in terms of meeting the principle of  
20          reciprocity and eliminating the potential for undue discrimination for  
21          Transmission Customers that are in a position to participate in electricity  
22          markets outside of New Brunswick. The proposed changes will increase  
23          transparency and comparability in a fashion that supports the reliable  
24          operation of the transmission system and the continued development of  
25          the electricity market in New Brunswick.

26  
27  
28  
29

1 **Proposed Changes to the Tariff to Maintain Compatibility**

2 The NBSO proposes that the following changes that were developed as  
3 part of FERC Order 890, be incorporated into the Tariff for three reasons.  
4 First, the core elements are fundamental to providing open access  
5 transmission. In particular, adherence to the principles of comparability  
6 and reciprocity allow Transmission Customers and their affiliates the ability  
7 to access electricity markets in other jurisdictions. Second, because it is in  
8 the form of an industry standard, the Tariff is more readily interpreted by  
9 Transmission Customers as users and by the NBSO as the administrator of  
10 the Tariff. Third, these changes offer improvements to the Tariff's terms  
11 and conditions, including the services provided, the designation of  
12 resources, the determination of transfer capability, as well as aspects of  
13 System Impact Studies and transmission planning. Taken together, these  
14 proposed changes support the NBSO's mandate to provide transmission  
15 services through an open access transmission tariff.

16  
17 FERC made changes to the *pro forma* tariff to address the following five  
18 significant reforms as outlined in FERC Order 890:

- 19 1. Available Transfer Capability (ATC)
- 20 2. Coordinated, Open and Transparent Transmission Planning
- 21 3. Requests for Firm Point-to-Point Service
- 22 4. Rollover Rights
- 23 5. Pricing of Imbalances

24  
25 NBSO proposes changes to the Tariff to address four of the five reforms.  
26 In the case of Item Number 5, Pricing of Imbalances, the Tariff already  
27 meets FERC's goal of mitigating discrimination in the pricing of imbalances.

28  
29 In addition to this, there are other, less significant, changes developed by  
30 FERC in Order 890 that the NBSO proposes for the Tariff.

1 **Methodology to Assess Available Transfer Capability (ATC)**

2 The NBSO proposes to modify Attachment C of the Tariff (Methodology for  
3 Calculating Transfer Capabilities for the Transmission Provider’s Interfaces  
4 With Neighboring Utilities) in order to address FERC Order 890  
5 compatibility and to update the ATC calculation methodology to reflect  
6 current industry practices. FERC Order 890 calls for more information  
7 about the inputs to the calculations than is currently provided in the Tariff.  
8 Current industry practices apply different terminology than the Tariff  
9 currently uses. In addition to the benefits of compatibility with FERC Order  
10 890, this proposed change provides more information to transmission  
11 customers about how ATC is calculated.

12  
13 ATC is the transfer capability on a Transmission Provider’s transmission  
14 system that is not already committed and is therefore available for  
15 commercial use. The methodology for calculating ATC is already found in  
16 Attachment C of the Tariff. The primary reason for examining the ATC  
17 methodology is to ensure that the methodology is being applied  
18 consistently at all interfaces and to ensure that there is transparency with  
19 respect to the calculation of the ATC.

20  
21 The proposed revisions to Attachment C of the Tariff clearly define all of  
22 the components required for the calculation of the ATC. This includes the  
23 data inputs, and the assumptions used by the NBSO. It is also proposed  
24 that the name of this attachment be simplified to “Methodology to Assess  
25 Available Transmission Capability”. This change only affects Attachment C  
26 of the Tariff.

27  
28 

NBSO Tariff Reference: 29 This change will affect Attachment C
---

  
30

1 **Coordinated, Open and Transparent Transmission Planning**

2 Planning the transmission system is an increasingly complex, technical  
3 process that requires coordination on the part of the NBSO, as the  
4 Transmission Provider, and the Transmitters. For example, increased  
5 opportunity for non-utility generation and a trend towards regional  
6 solutions for energy needs are increasing the emphasis on appropriate  
7 transmission planning processes. It is fundamental to first establish  
8 principles and then ensure that the detailed practices and procedures  
9 adhere to these principles.

10  
11 FERC Order 890 requires that transmission providers' planning processes  
12 meet nine planning principles.<sup>4</sup> The emphasis is on having Transmission  
13 Providers, like the NBSO, participate in a coordinated, open and  
14 transparent planning process on both a local and regional level. Although  
15 the NBSO's current transmission planning process embraces the spirit and  
16 intent of these principles, the adherence of the transmission planning  
17 process to the principles would be solidified by the addition of the nine  
18 planning principles to Attachment K (Transmission Expansion Policy) of the  
19 Tariff. The NBSO proposes that the following principles, as summarized  
20 from FERC Order 890, will form a solid foundation upon which a more  
21 detailed transmission planning process can evolve to the ongoing benefit of  
22 Transmitters and Transmission Customers.

23  
24 The nine principles are:

25  
26 **Coordination** - develop transmission plans with all customers and  
27 interconnected entities.

---

<sup>4</sup> FERC Order 890 Fact Sheet (Appendix B).

1 **Openness** - planning meetings will be open to all transmission and  
2 interconnection customers, government authorities, and other  
3 stakeholders.

4 **Transparency** - the basic methodology, criteria, and processes used to  
5 develop transmission plans and the status of upgrades identified in the  
6 transmission plan will be made available to stakeholders.

7 **Information Exchange** - Network Customers will be required to  
8 submit information on their projected loads and resources on a  
9 comparable basis.

10 **Comparability** – the transmission system plan will be developed for  
11 specific service requests comparable to native load.

12 **Dispute Resolution** – a process will be developed to manage disputes  
13 that arise from the planning process.

14 **Regional Participation** - coordinate with interconnected systems,  
15 share system plans, and identify system enhancements that could  
16 relieve congestion or integrate new resources.

17 **Economic Planning Studies** - account for economic, as well as  
18 reliability, considerations.

19 **Cost Allocation** - requires that Transmission Providers address the  
20 allocation of costs of new facilities.

21

22 These principles are consistent with many of the current processes  
23 employed by the NBSO and Transmitters in New Brunswick. Incorporating  
24 these principles into the Tariff is consistent with NBSO's mandate to  
25 facilitate a competitive market.

26

27 Given that NBSO proposes that these planning principles be incorporated  
28 into Attachment K of the Tariff, NBSO also proposes to rename Attachment  
29 K from "Transmission Expansion Policy" to "Transmission Planning and  
30 Expansion".

1 The NBSO submits that by incorporating these principles into the Tariff,  
2 stakeholders will be provided with an opportunity for input to the  
3 transmission planning process, and assurance of a level of transparency  
4 that will mitigate the potential for undue discrimination. Equally  
5 important, this change to the Tariff will support the NBSO and the  
6 Transmitters in their collective efforts to plan the transmission system in a  
7 technically and economically efficient manner.

8  
9 In addition to making changes to Attachment K, this revision to the Tariff  
10 requires that a reference to Attachment K be inserted into nine locations  
11 within the terms and conditions.

12  
13 **NBSO Tariff Reference:**  
14 This change will affect s. 15.4, 16.1, 17.2, 19.4, 28.2, 29.2, 31.2, 31.6, 32.4,  
15 and Attachment K.

16  
17 **Requests for Firm Point-to-Point Service (“Conditional Firm”)**

18 FERC Order 890 states that the existing methods for evaluating requests  
19 for Long-Term Firm Point-to-Point Service may not be just, reasonable,  
20 and non-discriminatory. This is because a Transmission Customer may be  
21 denied service when its transaction is not deliverable during as little as one  
22 hour of the service period. The NBSO agrees with this perspective and  
23 recognizes that adopting a “conditional firm” component to Long-Term  
24 Firm Point-to-Point Service may produce beneficial opportunities for some  
25 Transmission Customers such as the potential new opportunity to acquire  
26 previously unavailable transfer capability.

27  
28 Therefore, the NBSO proposes that the opportunity for Transmission  
29 Customers to acquire “conditional” firm transmission service be  
30 incorporated into the Tariff. This requires changes to s. 15 (Service  
31 Availability), as well as minor modifications to Service Agreements (s.

1 13.4), and Curtailment (s. 14.7). There are also changes associated with  
2 “conditional firm” proposed in Attachment C Methodology for Calculating  
3 Transfer Capabilities for the Transmission Provider’s Interfaces with  
4 Neighbouring Utilities (NBSO Evidence, Volume 2 of 2, Appendix D,  
5 Redlined NBSO Tariff).

6  
7 Currently the method for evaluating the availability of firm transmission  
8 service is tied to an evaluation methodology that states that if there is one  
9 hour that the service within the period for which the service is requested  
10 would not be available due to system constraints then the service is not  
11 available at all.

12  
13 The NBSO, as the Transmission Provider, will be required to identify either  
14 specifically defined system conditions under which the service is more  
15 likely to be subject to curtailments or an annual number of hours during  
16 which service will be curtailed. The NBSO will also be obligated to evaluate  
17 the provision of redispatch from system resources and provide customers  
18 with information on the capabilities of other generators to provide  
19 redispatch. The duration of both service options is limited to a time period  
20 over which service can be reasonably provided without impairing reliability.

21  
22 The cost of redispatch will be posted on a monthly basis.

23  
24 

NBSO Tariff Reference: 25 This change will affect s. 13.4, 13.5, 13.6, 13.7, 13.9 and 14.7
---

26  
27 **Rollover Rights**

28 The NBSO proposes to revise the rollover provision in the Tariff (s. 2.2,  
29 Reservation Priority for Existing Firm Service Customers) in accordance  
30 with FERC Order 890. This section grants an ongoing right to Transmission

1 Customers to renew or “rollover” their contracts. Under the proposal,  
2 these rights would apply to contracts that have a minimum term of five  
3 years, rather than the current minimum term of one year. The benefit of  
4 this proposal is to provide the NBSO and other stakeholders involved in  
5 transmission planning with a better, long-term picture of transmission  
6 system needs.

7

8 Section 2.2 also includes a provision whereby a Transmission Customer  
9 must provide notice of whether or not it will exercise its right of first  
10 refusal to renew the contract no less than 60-days prior to the expiration  
11 date of the transmission service agreement. The proposed revision  
12 requires that advance notice of 1-year be provided, rather than the current  
13 60-day notice. The proposed revision also allows for the grandfathering of  
14 the current provisions for reservations confirmed prior to April 1, 2011,  
15 with the caveat that reservations with at least five (5) years remaining  
16 would be subject to the 1-year notice for renewal.

17

18 These reforms promote consistency between the rights of rollover  
19 customers and the resulting obligations of the NBSO to plan and upgrade  
20 the system to accommodate rollovers.

21

22 NBSO Tariff Reference:  
23 This change will affect s. 2.0

24

### 25 **Additional Changes Based on FERC Order 890**

26 NBSO also proposes to make the following, less significant, changes to the  
27 Tariff in order to maintain compatibility with FERC Order 890:

1 • **Network Resources**

2 The NBSO proposes that the changes in the *pro forma* tariff relating to  
3 network resources be incorporated into the Tariff. This will clarify a  
4 Network Customer's requirements for the designation of network  
5 resources to the benefit of both the Transmission Provider and the  
6 Network Customer. The proposed changes will include the requirement  
7 for Network Customers to use the NBSO's OASIS to request designation  
8 of a new network resource and to terminate the designation of an  
9 existing network resource.

10  
11 NBSO Tariff Reference:  
12 These changes will affect s. 30.1, 30.2, 30.3, 30.4, and 30.9  
13

14 • **Reservation Priority and Pre-Confirmed Requests**

15 This proposed change introduces "Pre-Confirmed" requests for  
16 transmission service as a process for clarifying reservation priorities and  
17 to make requests for service more efficient.

18  
19 The typical request for transmission service is a three-step process  
20 whereby the Transmission Customer requests service, the Transmission  
21 Provider evaluates the request, and advises the Transmission Customer  
22 that the request can be met (if this is the case), and the Transmission  
23 Customer decides to proceed or not.

24  
25 A Pre-Confirmed request, as it is proposed, would eliminate the final  
26 step. This means that the Transmission Customer and the Transmission  
27 Provider would both have the knowledge that the service would be  
28 taken if it is available. In the case of Non-Firm Service, pre-  
29 confirmation can be a tie-breaker in the application of priority rights for  
30 competing Non-Firm Service requests. In the case of Firm Service

1 requests, it provides an up-front commitment to purchase the service if  
2 it is available and thus provides greater certainty for both the  
3 Transmission Provider and the Transmission Customer.

4  
5 NBSO Tariff References:  
6 This change will affect s. 13.2 and 14.2, 17.2 and 18.2

7  
8 • **Capacity Reassignment**

9 For capacity reassignments by Transmission Customers, FERC Order  
10 890 eliminates the price cap (which currently is the higher of the  
11 original rate, the maximum tariff rate or the customer's opportunity  
12 cost capped at the cost of expansion) and allows negotiated rates  
13 between the transmission customer and its assignee. The proposed  
14 change enhances transparency in s. 23.0 of the Tariff (Sale or  
15 Assignment of Transmission Service) by requiring the use of the  
16 Transmission Provider's OASIS while promoting economic transactions  
17 between customers without the imposition of a non-market constraint.

18  
19 NBSO Tariff References:  
20 This change will affect s. 23.1, 23.2, 23.3

21  
22 • **Failure to Meet Study Deadlines**

23 The Tariff currently states that the NBSO will use due diligence to have  
24 System Impact Studies and Facilities Studies completed within 60 days.  
25 The Order 890 *pro forma* prescribes performance thresholds beyond  
26 which there are consequences for the Transmission Provider including  
27 notification to the regulator with explanation of any extenuating  
28 circumstances and even monetary sanctions. Since the NBSO is  
29 independent from Transmission Customers and Market Participants,  
30 FERC's concern relating to potentially discriminatory treatment is not  
31 applicable.

1 The NBSO does, however, recognize the value to the market of  
2 providing additional information about the historical study completion  
3 times, as that information may be indicative of the time required to  
4 perform similar future studies. NBSO proposes that when a System  
5 Impact Study exceeds a 60-day threshold, a posting will be made to the  
6 NBSO website that explains the rationale for exceeding the threshold.  
7 The NBSO proposes that this adaptation is needed because NBSO is a  
8 not-for-profit entity.

9

10 NBSO Tariff References:  
11 This change will affect s. 19.9 and s. 32.5

12

13 • **Procedures for Assignment or Transfer of Service**

14 A *pro forma* agreement, Attachment A-1 (Form of Service Agreement  
15 for the Resale, Reassignment, or Transfer of Long-Term Firm Point-To-  
16 Point Transmission Service) is proposed to be added to the Tariff. Rates  
17 for the transferred service will be established by agreement between  
18 the parties. However, capacity sales will be posted on the OASIS and  
19 all parties must have Service Agreements in place. This change will  
20 facilitate the assignment or transfer of service.

21

22 NBSO Tariff References:  
23 This change will affect Attachment A

24

25 • **Definitions**

26 The NBSO proposes that the following definitions be added to the Tariff  
27 as per FERC Order 890. These definitions are contained in s. 1 of the  
28 Tariff and are used throughout the Tariff as defined terms in a manner  
29 that enhances understanding.

30

1 There are four new definitions proposed as a result of FERC Order 890:

2

3 **Affiliate (s. 1.1):** With respect to a corporation, partnership or  
4 other entity, each such other corporation, partnership or other entity  
5 that directly or indirectly, through one or more intermediaries,  
6 controls, is controlled by, or is under common control with, such  
7 corporation, partnership or other entity.

8

9 **Non-Firm Sale (s. 1.32):** An energy sale for which receipt or  
10 delivery may be interrupted for any reason, or no reason, without  
11 liability on the part of either the buyer or seller.

12

13 **Pre-Confirmed Application (s. 1.43):** An Application that commits  
14 the Eligible Customer to execute a Service Agreement upon receipt  
15 of notification that the Transmission Provider can provide the  
16 requested Transmission Service.

17

18 **System Condition (s. 1.50):** A specified condition on the  
19 Transmission Provider's system or on a neighbouring system, such  
20 as a constrained transmission element or flowgate, that may trigger  
21 Curtailment of Long-Term Firm Point-to-Point Transmission Service  
22 using the curtailment priority pursuant to s. 13.6. Such conditions  
23 must be identified in the Transmission Customer's Service  
24 Agreement.

25

26 The definition of "Good Utility Practice" (s. 1.16) has been expanded to  
27 include the phrase "including those practices required by law".

28

1 The definition of "Network Resource" (s. 1.28) has been expanded to  
2 include the phrase "except for purposes of fulfilling obligations under a  
3 reserve sharing program".  
4

5 The term "transfer capability" replaces "transmission capacity"  
6 throughout the Tariff in recognition of standard industry usage.  
7

8 NBSO Tariff References: 9 These changes will affect s. 1.1, 1.16, 1.28, 1.32, 1.43 and 1.50
--

10  
11 • **Creditworthiness**

12 Although FERC Order 890 calls for a detailed revision to  
13 Creditworthiness (s. 11.0, NBSO Tariff), the NBSO has procedures in  
14 place that achieve the intended objectives. The NBSO's proposed  
15 approach is detailed further in the Evidence under Tab 4, "Alignment".  
16

17 • **Miscellaneous Edits**

18 In addition to these changes, the NBSO requests that the Board  
19 approve minor changes and edits that stem from the proposed changes  
20 that are described in the Evidence. These include, but are not limited  
21 to, the capitalization of defined terms, improvements to the wording of  
22 certain paragraphs, and the addition of phrases that improve the clarity  
23 of the Tariff without altering its intent.  
24

25 NBSO Tariff References: 26 These changes will affect s. 3.0, 4.0, 6.0, 17.7, 19.1, 19.2 and 35.2
--

27  
28 **SUMMARY – FERC Order 890**

29 FERC Order 888 was the basis for both the structure and content of the  
30 NBSO's Tariff. The NBSO holds the position that these core elements

1 continue to be fundamental to the provision of open access transmission  
2 services.

3

4 Compatibility with FERC Order 890 allows the NBSO's Tariff to continue to  
5 maintain reciprocity and comparability while reducing or eliminating the  
6 potential for undue discrimination. Providing reciprocity supports the  
7 legislated requirement for open non-discriminatory access and also  
8 supports continued access to external markets by users of the New  
9 Brunswick transmission system. The NBSO proposes that these changes  
10 be incorporated into the Tariff in a fashion that supports the reliable  
11 operation of the transmission system and the continued development of  
12 the electricity market in New Brunswick.

13

14 The NBSO respectfully requests that the EUB approve these changes to the  
15 Tariff.

1 **ALIGNMENT**

2 **Changes to Align Certain Components of the Tariff with the New**  
3 **Brunswick Electricity Market Rules**

---

4  
5 The NBSO proposes four alignments between the Tariff and the Market  
6 Rules with respect to the following sections of the Tariff:

- 7  
8
  - Attachment G: Network Operating Agreement
  - 9 • Attachment J: Generator Connection Agreement
  - 10 • Section 7: Billing and Payment
  - 11 • Section 11: Creditworthiness

12  
13 In addition to outlining the specific rationale for each of these changes, the  
14 Evidence addresses the relationship between the Tariff and Market Rules,  
15 thereby providing context for the proposed changes. The benefits of the  
16 alignment are reduced technical detail in the Tariff, improvements to the  
17 billing and payment section of the Tariff, and the elimination of some  
18 duplication in the two documents. This alignment facilitates use by  
19 transmission customers and NBSO.

20  
21 When the Tariff was first approved (2003), neither the NBSO nor the  
22 Market Rules existed. As a result, the Tariff contains details that are not  
23 directly related to the rates for services provided the NBSO. In proposing  
24 to transfer certain items from the Tariff to the Market Rules, the NBSO has  
25 given consideration to the regulatory framework that governs the  
26 operation of the transmission system and the electricity market. This  
27 includes the process by which each of the governing documents is  
28 changed.

1 The Act states the relationship between the Tariff and the Market Rules as  
2 follows:

- 3 (i) the Tariff always takes precedence over the Market Rules in the case  
4 of conflict (s. 2(2)); and
- 5 (ii) the EUB review of an amendment to the Market Rules can be  
6 requested by any person within 30 days of publication of the  
7 amendment and the EUB subsequently has the authority to revoke it  
8 or refer it back to NBSO for further consideration (s. 61).

9

10 The Tariff is a governance document that is approved by the EUB and  
11 administered by the NBSO. It takes precedence over the NBSO's Market  
12 Rules. In addition to outlining the terms and conditions under which  
13 transmission services are provided by the Transmission Provider, the Tariff  
14 contains rate schedules for each of the services.

15

16 The Market Rules were established by the New Brunswick Minister of  
17 Energy as of October 1, 2004 in accordance with the Act. The Market  
18 Rules govern market relationships and contain administrative and technical  
19 detail. In accordance with the Act, Market Rule changes must be approved  
20 by the NBSO Board of Directors, the EUB has the right to review all Market  
21 Rules, and Market Participants have the right to make application to the  
22 EUB to review changes to those Market Rules.

23

24 It is the NBSO's view that these four proposed changes to the Tariff  
25 respect the relationship between the Tariff and the Market Rules in a way  
26 that serves the Regulator, the Transmission Provider, Transmitters, and  
27 Market Participants in an administratively efficient manner.

28

29

1 • **Transfer Attachment G (“Network Operating Agreement”) from**  
2 **the Tariff to the Market Rules**

3 The NBSO proposes to transfer the Network Operating Agreement from the  
4 Tariff to the Market Rules (Chapter 8, Connection of New and Modified  
5 Facilities) because it is more efficient for Network Customers to have this  
6 detailed *pro forma* agreement in the Market Rules with other Market  
7 Participant *pro forma* agreements such as the Participation, Ancillary  
8 Services, and Interruptible Load Agreements.

9  
10 The Network Operating Agreement is a *pro forma* agreement for the  
11 physical connection between a load that is directly connected to the  
12 Transmission System and the respective Transmitter. This agreement is a  
13 detailed technical contract that deals with issues such as the electrical  
14 characteristics of the connection, site access rights, and respective  
15 responsibilities. This agreement does not deal with the connecting parties’  
16 use of the shared portion of the transmission system.

17  
18 Therefore, the **NBSO proposes to transfer the agreement from the**  
19 **Tariff to the Market Rules without any change to the agreement as**  
20 **it currently exists or to the current business practices surrounding**  
21 **this agreement.**

22  
23 

NBSO Tariff Reference: 24 This change will affect Attachment G
---

  
25

26 • **Transfer Attachment J (“Generator Connection Agreement”)**  
27 **from the Tariff to the Market Rules**

28 The NBSO also proposes to transfer the Generator Connection Agreement  
29 from the Tariff to the Market Rules (Chapter 8, Connection of New and  
30 Modified Facilities) so as to have it in the Market Rules with other *pro*

1 *forma* agreements. This transference will increase the efficiency with  
2 which this agreement can be developed to accommodate changes in  
3 technology, or operating practices.

4  
5 The Generator Connection Agreement is also a *pro forma* agreement  
6 governing the physical connection between a generator that is directly  
7 connected to the Transmission System and the respective Transmitter.  
8 This agreement is a 190 page, detailed technical contract template that  
9 establishes each party's obligations for connection, including the details for  
10 any transmission upgrades associated with the connection. Any payment  
11 for upgrades must be in accordance with the Tariff.

12  
13 NBSO Tariff References:  
14 This change will affect Attachment J

15  
16 • **Revise Section 7 of the Tariff (Billing and Payment) to reflect**  
17 **current needs**

18 As a not-for-profit company, the NBSO is risk averse, particularly with  
19 regards to exposure to billing and payment risk, and exchange rate risk.  
20 Accordingly, the NBSO proposes to make two changes with respect to  
21 Billing and Payment. First, the Tariff will make invoices payable in  
22 Canadian funds rather than allowing payment in either Canadian or US  
23 funds. The second proposal requires payments to be made in full pending  
24 resolution of a billing dispute, rather than payments being made into  
25 escrow. In both cases the proposed changes reduce financial risk to the  
26 NBSO and therefore to Market Participants.

27  
28 The current wording in s. 7.3 (Customer Default) of the Tariff states that  
29 payments in dispute can be paid into an escrow account pending resolution  
30 of the dispute. This approach is in conflict with the wording in the Market

1 Rules which indicates that payments in dispute are to be paid in full and  
2 adjustments made upon resolution of the dispute. Disputes are to be  
3 resolved via the Tariff's Dispute Resolution process (s. 12.0). The use of  
4 an escrow account may very well be an appropriate approach in the  
5 situation where the Transmission Provider is a vertically integrated utility.  
6 Non-payment of a bill for transmission services is unlikely to cause a  
7 problem with cash flow for a utility that is supplying full service to many  
8 customers. Transmission Tariff billings may be in the order of only 10% of  
9 the total billing of a vertically integrated utility. In the case of a not-for-  
10 profit system operator such as NBSO, closer to 100% of revenues come  
11 from Tariff billings and thus the risk of cash flow problems arising from  
12 non-payment is higher.

13  
14 Consistent with the above, the NBSO plans to pursue a Market Rule  
15 amendment to remove duplication of details from the Market Rules by  
16 simply making reference to the Billing and Payment of the Tariff.

17  
18 The NBSO proposes that this is an efficient approach that ensures the  
19 appropriate level of regulatory oversight without exposing the NBSO to risk  
20 when transmitters and generators are paid.

21  
22 NBSO Tariff References:  
23 These changes will affect s. 7.0  
24

25 • **Section 11 (Creditworthiness)**

26 The NBSO proposes that s. 11.0 of the Tariff (Creditworthiness) be  
27 changed to reference the Transmission Provider's Market Rules (Chapter 2,  
28 s. 2.5, Credit Support Requirements) in order to take advantage of the  
29 details that have been developed in s. 2.5 of the Market Rules (please also

1 refer to the NBSO Evidence, Volume 1 of 2, Appendix C, Excerpt from the  
2 NBSO Market Rules, Tab 5).

3  
4 This also benefits Transmission Customers and Market Participants by  
5 having all of the relevant information in one convenient location.

6  
7 Although FERC Order 890 calls for a detailed revision to creditworthiness,  
8 the NBSO's current procedures and practices meet the intention outlined in  
9 the *pro forma* tariff.

10  
11 Creditworthiness is an operational detail with respect to how credit support  
12 can be established and reviewed. Chapter 2 of the Market Rules (Market  
13 Participation and Use of the SO-Controlled Grid) was developed to deal  
14 with this and other aspects of Market Participant Accreditation. Since the  
15 NBSO Market Rules and Market Procedures already address these issues,  
16 defining the acceptable forms of credit support is more appropriately  
17 located in the Market Rules and Market Procedures.

18  
19 This approach ensures that the likelihood of inconsistencies would be lower  
20 and fewer resources would be required to avoid inconsistencies.

21  
22 

NBSO Tariff Reference: 23 This change affects s. 11.0
--

  
24

### 25 **Transitional Aspects of the Proposed Transfers**

26 With respect to the Network Operating Agreement (Attachment G), the  
27 Generator Connection Agreement (Attachment J), and the Creditworthiness  
28 details of the Tariff (s. 11.0), **NBSO does not propose changes to the**  
29 **current practices either as part of, or in association with this**

1 **Application. The NBSO's proposal is intended to better allocate**  
2 **requirements between the Tariff and the Market Rules.**

3  
4 The NBSO acknowledges that stakeholders need a protective regulatory  
5 framework and processes that respect that framework. Accordingly the  
6 NBSO intends to adopt the contents of Attachment G (Network Operating  
7 Agreement), and Attachment J (Generator Connection Agreement) of the  
8 Tariff as components of the Market Rules in their current form. For greater  
9 certainty of continuity the NBSO proposes that the removal of these two  
10 documents be effective as of their incorporation into the Market Rules. In  
11 the case of Creditworthiness the required Market Rules are already in place  
12 so the proposed removal of text from the Tariff does not need to be  
13 conditional on a Market Rule change.

14  
15 When changes are necessary in the future, they will be made in  
16 accordance with the process for Market Rule changes. The rule change  
17 process, as described in "Market Rule Appendix 3B (Market Rule  
18 Amendment Process)", includes extensive publication of proposed changes,  
19 stakeholder consultation and an opportunity for stakeholders to request a  
20 review by the EUB of proposed changes.

21  
22 **SUMMARY – Alignment of the Tariff and the Market Rules**

23 The changes proposed as part of the alignment between the Tariff and the  
24 Market Rules are designed to clarify the differences between the two  
25 documents in terms of scope and purpose. The transfers of the *pro forma*  
26 agreements put them with other, similar types of agreements in the  
27 Market Rules and this serves to relieve the Tariff of two large, technical  
28 documents. The revisions to s. 7.0 (Billing and Payment) clarify the terms  
29 and conditions that support the Tariff as the governing document for  
30 transmission services and their associated rates. The changes to s. 11.0

1 (Creditworthiness) take advantage of existing credit support procedures  
2 and make the process more transparent for customers and easier for the  
3 NBSO to administer.

4

5 For the reasons outlined above, the NBSO respectfully requests that the  
6 EUB approve these changes to the Tariff.

1 **CLARIFICATION**

2 **Tariff Clarifications and Miscellaneous Changes**

---

3  
4 The Tariff contains the terms and conditions for providing and purchasing  
5 transmission services. It is important for the Tariff to be clear,  
6 transparent, and non-discriminatory. The following proposed revisions  
7 clarify aspects of the terms and conditions of the Tariff.

8  
9 • **Balancing Area Authority**

10 The NBSO proposes to expand on the terms and conditions of the Tariff for  
11 Capacity-Based Ancillary Services (“CBAS”) outlined in Schedules 3, 5, and  
12 6 (Regulation and Frequency Response Service, Operating Reserve –  
13 Spinning Reserve Service, and Operating Reserve – Supplemental Reserve  
14 Service) in order to support a consistent treatment of resources involved in  
15 the balancing function, including those that provide CBAS.

16  
17 As the certified Balancing Area Authority for the New Brunswick Balancing  
18 Area, the NBSO is subject to North American Electric Reliability Corporation  
19 (“NERC”) and Northeast Power Coordinating Council (“NPCC”) compliance  
20 programs related to balancing and the reliable operation of the  
21 transmission system. This requires the NBSO to perform specific  
22 reliability-centered tasks including:

- 23 • Integrating resource plans ahead of time;  
24 • Maintaining the generation-load-interconnection balance; and  
25 • Contributing to interconnection frequency in real time.

26  
27 To undertake these tasks it is necessary that the NBSO have operational  
28 control over transmission systems for which NBSO is providing balancing  
29 services. This operational control requires visibility and dispatch control of

1 generation and voltage resources within the Balancing Area and access to  
2 the associated real-time information.

3 As the Balancing Authority, the NBSO needs to be able to:

- 4 • Direct the synchronization and un-synchronization of generation  
5 facilities;
- 6 • Dispatch all generation and load resources (interruptible load or bid  
7 based demand response); and
- 8 • Direct the operation of voltage management devices as it relates to  
9 balancing (including load shed).

10  
11 Currently the Tariff obligates the NBSO to offer CBAS throughout the  
12 Balancing Area, but it does not require the participation of resources in  
13 supporting the balancing function. This means that only resources in New  
14 Brunswick are subject to the Market Rules that require registered  
15 resources to contribute to the balancing function. As a result, the status  
16 quo places higher expectations of visibility and control on resources in New  
17 Brunswick than on resources elsewhere in the Balancing Area. The NBSO  
18 proposes to make the following addition to the terms and conditions of the  
19 Tariff in each of Schedules 3, 5, and 6.

20  
21 *“The aforementioned Transmission Provider obligation to offer this*  
22 *service is conditional upon the Transmission Provider having sufficient*  
23 *visibility and control of the resources in the area in which the load is*  
24 *located to allow the Transmission Provider to perform its balancing*  
25 *function in a non-discriminatory fashion.”*  
26

1 This addition is designed to mitigate the inequity of placing higher  
2 expectations on resources in the New Brunswick Electricity Market than on  
3 those outside of the New Brunswick market when both are accessing CBAS  
4 through the same non-discriminatory tariff.

5  
6 NBSO Tariff References:  
7 This change will affect Schedules 3, 5 and 6  
8

9 • **Recognize “Incremental Reserves”**

10 The NBSO proposes to add “Incremental Reserves” as a new subsection  
11 3.7 to section 3 of the Tariff (Ancillary Services). This term is already used  
12 in the terms and conditions of service for Operating Reserves (Schedules 5  
13 and 6) and will not result in any changes to the administration of the Tariff  
14 or the operation of the transmission system.

15  
16 The NBSO Tariff requires that Operating Reserves, as defined in Schedules  
17 5 and 6, be offered by the NBSO. Transmission Customers are required to  
18 either purchase or self-supply their Operating Reserve obligations. The  
19 terms and conditions of service also reference incremental reserves.  
20 Incremental reserves represent a threshold, beyond which Transmission  
21 Customers are obligated to self-supply.

22  
23 Operating reserves are required for the reliable operation of the  
24 Transmission System. In general there are two Operating Reserves. The  
25 first requires a reserve of 100% of the single largest contingency, and the  
26 second requirement is 50% of the second largest contingency.

27  
28 With respect to the Tariff and in recognition of relatively large generators  
29 connected to the transmission system, a threshold for operating reserves  
30 for Transmission Customers was established. This threshold is posted on

1 the NBSO's website, and is currently 550 MW. Incremental Reserves are  
2 the operating reserves beyond the threshold that must be self-supplied.

3  
4 Given load growth, the nominal Maritimes Area peak load is now 5,500  
5 MW. As a consequence, the incremental reserve threshold was changed  
6 from 500 MW to 550 MW on February 1, 2008 after Market Advisory  
7 Committee review.

8  
9 For greater certainty, NBSO proposes to add wording to the Tariff  
10 indicating that 1) the incremental reserve threshold exists, 2) the basis of  
11 its calculation is based on Maritimes Area loads, and 3) the fact that it will  
12 be recalculated from time-to-time, thereby impacting reserve obligations.

13  
14 *"3.7 Incremental Reserves*

15 *The Transmission Provider has established and will update from time to*  
16 *time an incremental operating reserve threshold as 10 percent of the*  
17 *nominal peak load for the Control Area. Operating reserve*  
18 *requirements arising from contingencies in excess of the incremental*  
19 *reserve threshold, as posted on the Transmission Provider's website,*  
20 *shall be the obligation of the parties responsible for the contingency and*  
21 *such responsibility shall be shared by those parties on a pro rata basis*  
22 *as defined in the Transmission Provider's Market Rules and procedures."*

23  
24 

NBSO Tariff Reference: 25 This change will affect s. 3.7
---

- 1     • **Clarify the wording in the Tariff with respect to when there will**  
2         **be an “Open Season”**

3

4     The NBSO proposes to clarify the wording in the Tariff with respect to  
5     when an “open season” is required. This does not entail a change to  
6     current practices.

7

8     If an increase in transfer capability is a consequence of a request for  
9     service from a Transmission Customer that results in a reactive upgrade  
10    to the system, transmission service is available on a “First-come”, “First-  
11    Served” basis. In comparison, if an increase in transfer capability is the  
12    result of a pro-active upgrade to the transmission system, an “Open  
13    Season” will ensue.

14

15     NBSO Tariff Reference:  
16     This change will affect s. 2.1

17

- 18    • **Add “crediting back” for Direct Assignment Facilities**

19    The NBSO proposes to modify Attachment K (Transmission Planning and  
20    Expansion) to allow for a “crediting back” of an investment to the owner(s)  
21    of Direct Assignment Facilities when another generator is allocated  
22    capacity on a Direct Assignment Facility within the facility’s first 10 years  
23    of service. This proposed change will result in a more equitable allocation  
24    of costs and encourage development.

25

26     NBSO Tariff References:  
27     This change will affect Attachment K

28

29

30

- 1 • **Add an attachment to the Tariff for the possible addition of**  
2 **terms and conditions associated with distinct facilities in the**  
3 **future.**

4 The NBSO proposes that the EUB approve the addition of a new  
5 Attachment to the Tariff as a precursor to possible future additions of new  
6 terms and conditions for distinct or unique transmission. This addition  
7 (Attachment O, Distinct Transmission) will clarify that a separate tariff  
8 document is not required in order to accommodate that situation. As with  
9 the rest of the Tariff, any future contents including the new terms and  
10 conditions, and the facilities to which it would apply, would need to be  
11 proposed through an application to the EUB. Adding an attachment of this  
12 nature, at this time, will bring clarity to an issue that has led to  
13 stakeholder questions in the past.

14  
15 NBSO Tariff References:  
16 This change will affect Attachment O  
17

- 18 • **Modify and Add Definitions**

19 The NBSO proposes to change or add the following definitions to ensure  
20 clarity within the Tariff. All definitions are located in section 1 of the Tariff.

21  
22 **Business Day**

23 The current Tariff definition is "A Business Day is Monday to Friday,  
24 inclusive, excluding statutory holidays for the Transmission Provider.  
25 The regular business hours on a Business Day are from 08:15 hour to  
26 16:30 hour Atlantic Time."

27  
28 This definition is used in the Tariff relative to billing procedures (s. 7.1),  
29 reservation priorities (s. 13.2), scheduling (s. 13.8 and s. 14.6), timing

1 of requests for transmission (s. 18.3), and the Generator Connection  
2 Agreement (Attachment J).

3

4 The NBSO proposes that the reference to regular business hours be  
5 removed for two reasons. First, the hours of operation do not add to  
6 the clarity, interpretation, or implementation of the Tariff. Second, by  
7 specifying hours, the definition may contribute to a seams issue that  
8 can be eliminated by making the proposed change.

9

10 NBSO Tariff References:  
11 This change will affect s. 1.6, 7.1, 13.2, 13.8, 14.6, 18.3 and Attachment J

12

### 13 **Transmission Provider's Market Rules**

14 Since the NBSO has proposed that the Tariff reference the Market  
15 Rules, it is necessary to add this definition to ensure that Transmission  
16 Customers understand clearly that it is the Transmission Provider's  
17 Market Rules and not those of adjacent jurisdictions. With respect to  
18 the Tariff and transmission services in New Brunswick, the NBSO is the  
19 Transmission Provider.

20

21 NBSO Tariff References:  
22 This change will affect s. 1.27, 1.56, 3.0, 11.0, 15.4, 16.1, 17.2, 28.2, 29.1,  
23 31.6, 35.2, Schedule 10, and Attachments G, J, and K

24

### 25 **Load Ratio Share and Transmission Provider's Monthly** 26 **Transmission System Peak**

27

28 The NBSO proposes to update the definitions of "Load Ratio Share", and  
29 "Transmission Provider's Monthly Transmission System Peak". These  
30 changes are accompanied by a modification of s. 33.3 (Cost  
31 Responsibility for Relieving Transmission Constraints), and the deletion  
32 of s. 34.3 (Determination of Transmission Provider's Monthly

1 Transmission System Load). These changes to the text of the Tariff  
2 result in a clearer description of current practices.

3  
4 Congestion costs incurred during a given month are allocated to  
5 Network Integration Transmission Service Customers in proportion to  
6 their respective load ratio shares. The load ratio shares are calculated  
7 as their respective loads at the time of the monthly system peak  
8 averaged over a rolling 12-month period. This approach is non-  
9 discriminatory, relatively simple to understand, relatively easy to  
10 administer, and already in use.

11  
12 The wording that is currently in the Tariff was adopted with an  
13 emphasis on consistency with the exact wording of Order 888 pro forma  
14 tariff. However, that wording was unnecessarily complicated. As a  
15 consequence, the definitions of "Load Ratio Share" and "Transmission  
16 Provider's Monthly Transmission System Peak", and s. 33.3 (Cost  
17 Responsibility for Relieving Transmission Restraints) and s. 34.3  
18 (Determination of Transmission Provider's Monthly Transmission System  
19 Load) have all been revised to more clearly describe the treatment of  
20 congestion costs in New Brunswick.

21

22 NBSO Tariff References: 23 These changes will affect s. 1.18, 33.3 and 34.3
---

24

### 25 **Remove Waiver from Section 6 (Reciprocity)**

26 The NBSO proposes that the waiver in s. 6.0 (Reciprocity) be removed.  
27 This waiver was approved in the 2003 Decision to allow parties sufficient  
28 time to develop tariffs that are compatible with the NBSO Tariff. The  
29 waiver expired in April 1st, 2005.

30

1 The parties requiring the waiver have complied with it. Therefore, it is no  
2 longer necessary to retain this wording in the Tariff.

3  
4 NBSO Tariff References:  
5 This change will affect s. 6.0  
6

7 • **Update Attachments E, I, and N**

8 The NBSO Tariff contains a list of Transmitters (Attachment N) and two  
9 lists (indices) of Transmission Customers (Attachments E and I). As part  
10 of the Tariff, these lists must be updated to reflect additions, deletions,  
11 and name changes.

12  
13 In addition to this, the NBSO proposes that future changes to these lists be  
14 made without need for regulatory review. Specific wording changes are  
15 reflected in the Redlined NBSO Tariff (Appendix D, Volume 2 of 2).

16  
17 NBSO Tariff References:  
18 These changes will affect Attachments E, I and N  
19

20 • **Interest on Deposits**

21 The current wording in s. 17.3 relating to the interest rate associated with  
22 a deposit, does not reflect the interest earned by NBSO and, therefore,  
23 subjects the NBSO to some financial risk. NBSO proposes to revise the  
24 wording to reflect the interest rate earned by the NBSO. Specifically,  
25 "Interest shall be calculated on a daily basis at an interest rate equal to the  
26 Royal Bank of Canada Prime Rate less two percent."

27  
28 NBSO Tariff References:  
29 This change will affect s. 17.3  
30

1 • **Typographical and Formatting Changes**

2 The NBSO proposes to correct typographical errors in the Tariff and make  
3 minor changes to the formatting. Although these changes are not  
4 catalogued in this Application, they do include such things as re-numbering  
5 the definitions in s. 1.0, and a refinement to the definition of "Board" (s.  
6 1.5).

7  
8 

NBSO Tariff References: 9 These changes will affect numerous sections of the Tariff
--

10  
11  
12 **SUMMARY - (Tariff Clarifications and Miscellaneous Changes)**

13 The NBSO proposes that the Tariff Clarifications and Miscellaneous  
14 Changes improve the interpretation and application of the Tariff. They  
15 represent changes that have arisen from using the Tariff and listening to  
16 stakeholders since 2003.

17  
18 NBSO's proposed changes are outlined in Appendix A (Summary Table of  
19 Proposed Changes to the Tariff), and Appendix D (Redlined NBSO Tariff).

20  
21 The NBSO respectfully requests that the EUB approve these changes.

**NEW BRUNSWICK ENERGY AND UTILITIES BOARD**

**IN THE MATTER OF** the *Energy and Utilities Board Act*, Chapter E-9.18, R.S.N.B., 1973, as amended

- and -

**IN THE MATTER OF** an Application by New Brunswick System Operator (NBSO) for Changes to the Open Access Transmission Tariff

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**APPENDIX A**

**Summary Table of Proposed Changes to the Tariff**

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**APPENDIX B**

**FERC Order 890 Fact Sheet**

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## **APPENDIX C**

### **Excerpts from the NBSO Market Rules**

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