



RULING ON MOTION

IN THE MATTER OF a Notice of Motion
filed by the New Brunswick Power
Corporation pursuant to Rule 1.2.5 of the
Rules of Procedure.

(Matter No. 477)

October 2, 2020

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER OF a Notice of Motion filed by the New Brunswick Power Corporation pursuant to Rule 1.2.5 of the *Rules of Procedure*.

(Matter No. 477)

NEW BRUNSWICK ENERGY AND UTILITIES BOARD:

Acting Chairperson: François Beaulieu

Members: Michael Costello
John Patrick Herron
Patrick Ervin

Counsel: Matthew Letson

Chief Clerk: Kathleen Mitchell

APPLICANT:

New Brunswick Power Corporation: John Furey

PARTICIPANTS:

J.D. Irving, Limited: Christopher Stewart

Dr. Roger Richard: Per se

Utilities Municipal: Scott Stoll

PUBLIC INTERVENER: Heather Black

Ruling on Motion

- [1] This ruling arises out of a Notice of Motion (Motion) filed by New Brunswick Power Corporation (NB Power) on August 5, 2020 pursuant to Rule 1.2.5 of the *Rules of Procedure* of the New Brunswick Energy and Utilities Board (Board). The Motion requests that the Board extend the time for NB Power to file the 2021-2022 General Rate Application (GRA - now Matter 477) to a date no later than March 31, 2021. The Motion applies only to the 2021- 2022 fiscal year.
- [2] In its Decision of July 16, 2019 (Matter 430), the Board directed NB Power as follows:
- ... NB Power is directed to file its annual rate application no later than the first Wednesday of October, each and every year. This should give sufficient time for the Board to hold a hearing in early February. It is anticipated that this fixed schedule will assist all parties in planning for the annual rate application and result in rates being approved in a timely fashion.
- [3] The filing deadline for the 2021-2022 fiscal year would accordingly be October 7, 2020. If approved by the Board, the Motion would extend this deadline up to six months.
- [4] By letter dated August 7, the Board invited parties who participated in Matters 430 and 458 to submit a written response to the Notice of Motion by August 21. Mr. Furey confirmed that these parties were also served with the Notice of Motion. The Board also published the Notice of Motion in newspapers, seeking responses from the general public.
- [5] Written responses which indicated no objections to the Motion were received from J.D. Irving, Limited, Utilities Municipal and the Public Intervener.
- [6] In support of the Motion, the Public Intervener submitted that an extension of time to file the 2021-2022 GRA may avoid harm to ratepayers by ensuring that the application materials more fully reflect the impacts of the COVID-19 pandemic. In her view, this would allow for a more valuable evaluation of the evidence in a hearing and would assist the Board in fixing just and reasonable rates.
- [7] A motion hearing was held via web conference on September 11.
- [8] NB Power outlined three principal reasons for the Motion. First is the uncertainty about the economic impacts of the evolving pandemic. In its submission, NB Power believes that it would be prudent to wait until it is in a better position to assess these impacts and provide the Board with more reliable evidence with respect to the 2021-2022 budget.

[9] Second, because NB Power's operations were limited to mission critical work as of March, it submits that its ability to conduct its work on budget items and more importantly, the required load forecast based on the most recent data available, were impacted. In response to a question from the Board panel, Mr. Furey indicated that NB Power did not plan to finalize its 2021-2022 budget until late fall.

[10] The third reason which was cited by NB Power is the absence of a decision in Matter 458 (the 2020-2021 GRA), which was deferred at the request of NB Power. NB Power suggests that it needs an understanding of the potential resulting rates and the timing of the implementation on of 2020-2021 rates in order to proceed with the 2021-2022 GRA.

[11] A written response from Dr. Roger Richard questioned whether the economy will be improved several months from now, and based on this, whether a future government would adjust rates. He reaffirmed this position at the hearing, indicating that the GRA should be filed in the first week of October.

[12] Section 43 of the *Energy and Utilities Board Act* states:

43 The Board may review, rescind or vary any order made by it.

[13] Rule 1.2.5 of the Board's *Rules of Procedure* states:

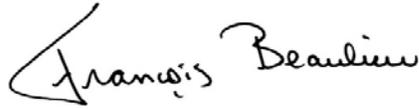
1.2.5 The Board may in its discretion extend or abridge the time fixed by these Rules or by the Board, on its own initiative or in response to a request by a party, either before or after the time so fixed has expired.

[14] Accordingly, the Board can vary or rescind its July 16, 2019 directive to NB Power.

[15] The Board accepts the reasons advanced by NB Power. In essence, the degree of uncertainty and lack of information caused by the COVID-19 pandemic pose a significant impediment to NB Power's ability to assess the impacts of the pandemic and to provide a reliable load forecast and other factors to be considered by the Board in an application.

[16] The Board grants the Motion, which, as indicted by NB Power, applies only to the 2021-2022 fiscal year.

Dated in Saint John, New Brunswick, this 2nd day of October, 2020.



François Beaulieu
Acting Chairperson



Michael Costello
Member



John P. Herron
Member



Patrick Ervin
Member