

# NEW BRUNSWICK ENERGY AND UTILITIES BOARD



Annual Report 2006-2007

# **New Brunswick Energy and Utilities Board**

## **Message from the Chairman**

I am pleased to present the annual report of New Brunswick Energy and Utilities Board for the period of April 1<sup>st</sup> 2006 to March 31, 2007.

By any measure, this past year at the EUB has been one of significant change and challenge for the Board and its employees.

Not only has the Board seen the conclusion of a lengthy rate hearing into rates charged by NB Power Distribution and Customer Service Corporation, but it has also taken on new responsibilities.

In July of 2006 the NBEUB began setting maximum prices for petroleum products under the Petroleum Products Pricing Act. This has been a process that has resulted in new challenges.

Perhaps the most significant change was the introduction of the Energy and Utilities Board Act to replace the Public Utilities Board with the Energy and Utilities Board. The change resulted not only in a change in name but also the appointment of an entirely new Board, including a new chair and the creation of a full-time position of vice-chair.

Change always creates uncertainty for those involved. The employees of the Board have accepted this change, risen to the challenge and responded professionally. I would like to thank them for their efforts and assistance during this time of transition.

I would also like to thank those people who have helped lead the Board in the last twelve months. David Nicholson, the long-time C.E.O. and Chair of the Public Utilities Board, has chosen to take a well-deserved retirement. Donne W. Smith stepped in as Acting Chair during the introduction of petroleum products pricing. Mr. Smith's performed this role in addition to his duties as Chair of the New Brunswick Security Commission. And finally David Nelson, who, after serving as vice-chair, took over as chair and led the Public Utilities Board through its final hearings and into the transition as a new Board.

The Board thanks each of them and is grateful for their dedication and service.

While the past year has presented a number of challenges for the Energy and Utilities Board, it has also meant satisfaction in addressing those challenges. I

know I speak for the entire organization when I say we look forward to serving the people of New Brunswick and meeting new challenges in the coming year.

A handwritten signature in black ink on a light gray rectangular background. The signature is stylized and appears to read 'Raymond Gorman'.

Raymond Gorman Q.C.  
Chair  
New Brunswick Energy and Utilities Board.

**Board of Commissioners of Public Utilities** (dissolved January 31, 2007)

**Chairman**

David C. Nicholson

**Acting Chairman**

Donne W. Smith (June 2006  
October 2006)

**Vice-Chair and Acting Chairman**

David S. Nelson (October 2006 to  
February 2007)

**Commissioners** (until February  
2007)

James E. Bateman

Randy Bell

Jacques A. Dumont

Diana Ferguson Sonier

Patricia Leblanc-Bird

Kenneth F. Sollows

Brian H. Tingley

**New Brunswick Energy and Utilities Board**

**Chairman**

Raymond Gorman Q.C.

**Vice-Chair**

Cyril W. Johnston

**Members**

Donald Barnett

Edward McLean

Roger McKenzie

Wanita McGraw

Connie Morrison

Yvon Normandeau

Robert Radford

Steven Toner

## **Introduction**

The New Brunswick Energy and Utilities Board serves the people of this province by carrying out its responsibilities in a just, reasonable and open manner.

The Board is committed to achieving a fair balance between the needs of regulated utilities and the customers they serve.

Our goal is to provide innovative and comprehensive solutions to regulatory issues and to do so in an efficient and effective manner.

While fulfilling its responsibilities, the Board endeavours to create a workplace that embodies respect of employees, promotes their development and motivates them to achieve success.

The New Brunswick Energy and Utilities Board derives its general regulatory authority from the provisions of the Energy and Utilities Act. Under that legislation the NBEUB is mandated with the regulation of utilities in New Brunswick.

The Board's jurisdiction is further refined by the acts listed below dealing with Electricity, Natural Gas, Pipelines, Gasoline and other fuels products as well as buses.

- Electricity Act, Chapter E-46 R.S.N.B 2005
- Gas Distribution Act, Chapter G-2.11 R.S.N.B. 1999
- Pipeline Act, Chapter P-8.5 R.S.N.B 2005.
- Petroleum Products Pricing Act, Chapter P-8.05 RSNB 2006
- Motor Carrier Act Chapter M-16 R.S.N.B 1990
- Motor Vehicle Transport Act R.S.C 1987.

The Board finances these activities through levies paid by the regulated industries. Common costs are apportioned based on an assessment of activity for the coming year. Direct costs, such as those associated with a hearing or application, are paid for by the applicant.

The exceptions to this method of financing are in petroleum products pricing and in motor coach regulations. The Board's work to set and regulate maximum prices for petroleum products is paid for through a levy paid for by petroleum wholesalers in the province. The levy is calculated based on the number of litres the company sells each year.

Motor coach operations are partially offset by a minimal contribution from the N.B. Department of Transportation.

## **Electricity**

WPS Energy Services filed a complaint with the Board in August of 2005 that dealt with the distribution of energy imbalance funds collected by the New Brunswick System Operator (NBSO) between Oct. 1 2003 and April 30, 2005. The Board ruled on November 1, 2005 that the NBSO had improperly distributed the money. The Board ordered the System Operator to recollect of the money and develop a new plan to distribute the funds. A technical conference on a new proposal was held in May of 2006. The Board issued a decision in July of 2006 and subsequently issued a decision with further instructions on November 24, 2006.

In March of 2006 the New Brunswick System Operator applied to the Board for approval of a mechanism to limit the self-supply of ancillary services. The Board dealt with this matter by way of a written proceeding and in August of 2006 issued its decision to limit capacity-based ancillary services at 90 per cent effective November 2006.

On June 19, 2006 the Board issued a decision on the rate application by the NB Power Distribution and Customer Service Corporation (Disco). The decision ordered a number of changes in the rates and resulted in an average rate increase of 9.6 per cent. In the decision, the Board also ordered the company to keep separate the two different rate classes for General Service customers. Disco was also ordered to allow those General Service customers to choose which class they would prefer to be in. As well as setting the rates, the Board decision ordered the company to undertake a number of studies in preparation of future rate applications.

By Order-In-Council, dated June 23, 2006, the provincial cabinet altered the rates approved by the Board by capping the rate increase at 8 per cent. The cabinet also ordered the company to close the General Service 2 customer class to new customers.

A technical conference was held in September to discuss issues related to Disco's load forecast. The hearing was held on November 27<sup>th</sup> and 28<sup>th</sup> in Saint John. Written argument was submitted on December 15, 2006. In January of 2007 the Board issued a decision regarding the load forecast methodology and ordered changes into the way in which Disco prepares its long-term forecast of the load.

A hearing into the Customer Service Policies of the company was held on December 4<sup>th</sup> and 5<sup>th</sup> in Fredericton. In addition to the two days of hearings, the Board held two evening sessions to hear from members of the public who were not party to the hearing. The decision was issued in January 29, 2007.

In the decision, the Board ordered changes to Disco's Rate Schedule and Policy manual. The Board also made a number of recommendations for improvement in the company's customer service policies.

In March of 2007, Disco wrote the Energy and Utilities Board requesting direction on how to deal with the studies it had been directed to complete. The Board dealt with this matter in the months following this reporting period.

## **Natural Gas**

The Natural Gas sector in New Brunswick is in its development period. In the past year the General Franchise holder Enbridge Gas New Brunswick (Enbridge) added more than 1300 new customers to its system. As of December 31, 2006 the company served 5,700 customers in eight municipalities. Expansion of the natural gas distribution system into Sackville is being considered for 2007.

The Board approves rates for the delivery of natural gas to customers served by the Enbridge distribution system. To assist in attracting customers, the Board had approved Enbridge's proposal for a "market-based" rate making methodology in 2000. Under this methodology, rather than the rates being set to recover projected expenses for the coming year, the rates are set to provide customers with an incentive to switch to natural gas. Enbridge's distribution rates are set by adding the proposed distribution rate to its forecast of the future natural gas prices for the coming year to provide a discount to a customer's forecast cost of heating with oil.

While in the development period, Enbridge will not recover all of its expenses through rates and tracks those losses in a Deferral Account. The company may recover the amounts in the deferral account, which include its approved rate of return on its capital investment at the end of the development period. The deferral account and the period for its recovery are subject to Board approval. At the end of 2006 the amount in the deferral account stood at \$109 million dollars.

In 2006 natural gas commodity prices fluctuated significantly and, in order to keep rates below the equivalent cost of heating with oil, the company was forced to lower its distribution rate through a series of rate riders. As the price for natural gas lowered the company gradually increased its distribution rates up to the board approved amount through a rate re-instatement application.

In October of 2006, EGNB filed an application with the Board asking for approval to separate the Small General Service Class, which serves residential costumers and small business, into three classes: one for small business, one for residential customers who were heating with oil and another for customers previously heating with electricity.

The Board approved the changes effective January 1, 2007.

The Board reviews and approves the annual financial statements of the company. There was an outstanding issue concerning the accounting of funds used during construction. This had delayed the approval of financial statements. The Board issued its final ruling on the dispute on October 17, 2006 and approved the financial statements for the years 2002 and 2003. Later that same month the company filed its financial statements 2004 and 2005 which the Board reviewed and approved.



## **Pipeline Division**

The Pipeline Safety Division's mandate is to promote safety and to ensure that companies design, construct, operate and abandon pipelines under the Board's jurisdiction in a manner that provides for the safety of the public and company employees, as well as the protection of property and the environment.

This is accomplished through the Pipeline Safety Division's use of inspection, education, compliance audits and damage prevention programs.

This year, to date, Enbridge Gas New Brunswick who was awarded the provincial gas distribution franchise in 1999 has installed approximately 65 km of pipeline. Inspectors from the Pipeline Safety Division inspected the installation of this pipe.

Corridor Resources applied for and was issued a permit in October 2006 to construct a pipeline and gathering system to transport natural gas from the gas field in Penobsquis to the US markets. This was accomplished by constructing an approximately 50 km pipeline from Penobsquis to the existing Maritimes and Northeast Pipeline near Havelock. A license to operate this system was expected to be issued in 2007.

Enbridge Gas New Brunswick has applied for a pipeline construction permit for Sackville. A hearing will be held in 2007. Enbridge's distribution network currently serves Fredericton, Oromocto, Moncton, Riverview, Saint John, and St. Stephen.

## **Petroleum Products Regulation**

Effective July 1, 2006, the Board assumed responsibility for administering the Petroleum Products Pricing Act (PPPA). Under the PPPA, the Board's role is to set maximum prices for specified petroleum products (as per the General Regulation), inform industry and the public of changes to the maximum price regime, investigate complaints of non-compliance with the PPPA, and review margins and maximum delivery costs through the process described in the General Regulation.

At the introduction of the PPPA, the petroleum products under regulation were: automotive gasoline (all-grades), low-sulphur diesel fuel, No. 2 furnace oil, and propane for heating purposes. Due to fuel standards changes under the Canadian Environmental Protection Act, the Board began setting maximum prices for ultra-low sulphur diesel fuel effective November 30, 2006.

The maximum prices that came into effect on July 1, 2006 were initially set by the Minister of Energy, as called for in the PPPA. Accordingly, the first price setting by the Board took effect July 13<sup>th</sup>. Between July 13, 2006 and March 31, 2007 the Board initiated 19 bi-weekly price changes (to all regulated products). Additionally, the Board initiated six off-week changes to maximum prices (for individual products), as required by Section 5 of the General Regulation; as well as an adjustment to prices to reflect rate changes to the Gasoline and Motive Tax, effective October 4, 2006.

However, in addition to the above-mentioned adjustments to maximum prices, the Board was also required to implement seven additional price changes, under Section 6 of the General Regulation. These maximum price adjustments occurred whenever the daily benchmark price for a petroleum product varied from the regulated benchmark by an amount specified in the regulation (e.g. the threshold for gasoline was eight cents per litre). These Section 6 price interruptions were most frequent during periods of price volatility at the New York Harbour spot market, particularly in August and September 2006.

As a consequence of the retail market volatility caused by the Section 6 price interruptions, as well as concerns from the industry, the minister announced proposed changes to the legislation and regulations. The changes had not been implemented by the close of this reporting period.

The Board initiated three investigations as a result of complaints of over-charging and/or non-compliance with the Act. One investigation concluded without action after the complaint was withdrawn. A second investigation was concluded without further action after it was determined that there had been no violation of the Act. The third investigation was still open at the end of this reporting period.

## Bus Service

The Board's activities with regards to motor coach regulation are predominately related to the licensing of Charter bus services. The board insures that all charter buses operating in the province are licenced and with proper safety certificates and insurance. A summary of this activity is presented below. The Board also regulates intercity schedule service, operated by Acadien Coachlines limited. Under the Motor Carrier Act the Board has jurisdiction over the schedules and fares.

On June 2, 2006 the Board met concurrently with the Nova Scotia Utilities and Review Board to jointly hear an application by Acadien Coachlines to restructure it rates in Nova Scotia and New Brunswick to create 52 rates based on distance travelled. The Board approved the change effective June 2006.

The company applied again in March of 2007 to increase its fares by 2.9 per cent and to reduce its service St. Stephen to Saint John from two trips a day to one trip a day. The Board schedule hearings for these matters in 2007.

### Charter Applications 2006-2007

Received:	6	
Opposed:	0	
Granted as advertised:	6	
Granted with amendments:	0	
Abandoned, withdrawn, dismissed:		0

### Scheduled Services Applications

Received:	1
Opposed:	0
Granted as advertised:	0
Granted with amendments:	0
Abandoned, withdrawn, dismissed:	1

### Licences

Denied:	0
Cancelled or Revoked:	0
Active at Year End:	43
Motor Carrier Plates issued	253
Temporary Permits Issued:	12
to unlicensed carriers	

Total Revenues: \$23,827

## CONSOLIDATED SECTOR TOTALS

### 2006-2007 Budget vs. Actual Figures

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	1,388,941	1,182,753 (note 1)	206,188
Training	115,650	85,128 (note 2)	30,522
Office & Administration	393,198	449,707 (note 3)	(56,509)
<b>COMMON EXPENSES</b>	1,897,789	1,717,588	180,201
<b><u>DIRECT EXPENSES</u></b>	751,500	480,248 (note 4)	271,252
<b>TOTAL EXPENSES</b>	2,649,289	2,197,836	451,453

- Notes:
1. Two vacant senior staff positions were not filled during the year and the new position of Board Counsel was filled part way through the year resulting in the variance from budget.
  2. Changes at the Board and the addition of the petroleum products sector prevented staff from undertaking all the planned training.
  3. An employee settlement and associated legal costs were the cause of the variance.
  4. Actual hearing costs were lower as there were fewer hearings than anticipated.

## ELECTRICITY SECTOR

### 2006-2007 Budget vs. Actual Figures

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	759,155	436,266 (note 1)	322,889
Training	69,390	40,096 (note 2)	29,294
<u>Office &amp; Administration</u>	<u>213,380</u>	<u>198,377 (note 3)</u>	<u>15,003</u>
<b>COMMON EXPENSES</b>	1,041,925	674,739	367,186
<b><u>DIRECT EXPENSES</u></b>	<u>652,000</u>	<u>334,899 (note 4)</u>	<u>317,101</u>
<b>TOTAL EXPENSES</b>	1,693,925	1,009,638	684,287

Notes:

1. Two vacant senior staff positions were not filled during the year and the new position of Board Counsel was filled part way through the year. The petroleum sector mandate was given to the Board after the budget had been approved and the actual allocation for staff costs differed from budget.

2. Changes at the Board and the addition of the petroleum products sector prevented staff from undertaking all the planned training.

3. An employee settlement and associated legal costs and the addition of the petroleum products sector resulted in the variance.

4. Actual hearing costs were lower as there were fewer hearings than anticipated.

## NATURAL GAS and PIPELINE SECTORS

### 2006-2007 Budget vs. Actual Figures

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	629,786	421,186 (note 1)	208,600
Training	46,260	32,627 (note 2)	(13,633)
<u>Office &amp; Administration</u>	<u>179,818</u>	<u>207,032 (note 3)</u>	<u>(27,214)</u>
<b>COMMON EXPENSES</b>	855,864	660,845	195,019
<b><u>DIRECT EXPENSES</u></b>	<u>99,500</u>	<u>145,349 (note 4)</u>	<u>(45,849)</u>
<b>TOTAL EXPENSES</b>	955,364	806,194	149,170

Notes:

1. Two vacant senior staff positions were not filled during the year and the new position of Board Counsel was filled part way through the year. The petroleum sector mandate was given to the Board after the budget had been approved and the actual allocation for staff costs differed from budget.
2. Changes at the Board and the addition of the petroleum products sector prevented staff from undertaking all the planned training.
3. An employee settlement and associated legal costs and the addition of the petroleum products sector resulted in the variance.
4. Direct expenses were higher than budget due to higher than expected consultants' fees.

## PETROLEUM PRODUCTS SECTOR

### 2006-2007 Budget vs. Actual Figures

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	n/a	325,301	
Training	n/a	12,405	
Office & Administration	n/a	44,298	
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<b>COMMON EXPENSES</b>	n/a	382,004	
<b><u>DIRECT EXPENSES</u></b>	n/a	0	
<b>TOTAL EXPENSES</b>	n/a	382,004	

Notes: The Board began regulation of petroleum products pricing on July 1, 2006. At the time of the budget process in February 2006, the Board was unaware of the extent of its regulatory role and did not establish a budget for the sector.