

New Brunswick Board of Commissioners of Public Utilities

In the Matter of an application by Enbridge Gas New Brunswick for approval of proposal changes to rates for its Small General Service, General Service and Contract Service, Contract General Large General Service LFO, Off Peak Service, Contract Large Volume Off Peak Service and Natural Gas Vehicle Fueling

PUB Premises, Saint John, N.B.

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Henneberry Reporting Service

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CHAIRMAN: David C. Nicholson, Q.C.

COMMISSIONERS: Jacques A. Dumont
Diana Ferguson Sonier

BOARD STAFF: Doug Goss
John Lawton

BOARD SECRETARY: Lorraine Légère

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CHAIRMAN: Good morning, ladies and gentlemen. Could I have -- this is in reference to an application by Enbridge Gas New Brunswick for approval of changes to its rates for Small General Service, General Service and Contract Service, Contract General Large Service LFO, Off Peak Service, Contract Large Volume Off Peak Service and Natural Gas Vehicle Fueling.

Is there anything left out, Mr. Hoyt.

MR. HOYT: HFO.

CHAIRMAN: All rates except HFO. That would have been easier.

Could I have appearances please for the applicant Enbridge Gas New Brunswick?

MR. HOYT: Len Hoyt from McInnes Cooper. I'm joined by Shelley Black who is the Manager of Regulatory and Upstream. And at the back somewhere is Andrew Harrington, the General Manager of EGNB.

CHAIRMAN: Thanks, Mr. Hoyt. And those parties that have requested Formal Intervenor status. Competitive Energy Services, Mr. Sorenson. And Flakeboard Company Limited?

MR. LAWSON: Gary Lawson appearing with Barry Gallant from Flakeboard.

CHAIRMAN: Thanks, Mr. Lawson.

Now we have -- we think we have two parties that are requesting Informal status.

And the only reason is that the terminology used in Mr. Stewart's letter to us. One is Atlantic Health Services Corp. And did you want Informal?

MS. THOMPSON-PRICE: No. Formal.

CHAIRMAN: You want Formal?

MS. BLACK: Please.

CHAIRMAN: Okay. For Atlantic Health Services then, your name, ma'am?

MS. THOMPSON-PRICE: Janet Thompson-Price.

CHAIRMAN: Janet Thompson-Price. Just a sec'. And Province of New Brunswick, Department of Energy, Mr. Duncan wanted Informal status. Okay.

And Mr. Goss is here today with Mr. Lawton, two advisers for the Board.

And we see no difficulty in granting Intervenor status for Competitive Energy Services, Flakeboard Company Limited and the Atlantic Health Services Corp.

Mr. Sorenson, what parties are you representing here who are customers of Enbridge?

MR. SORENSON: As stated in the letter, sir, City of Saint John, Canadian Games Aquatic Centre, Lafarge, Chipreit Hotels, Saint John Condominiums.

CHAIRMAN: That is Brentwood Tower, I presume?

MR. SORENSON: Correct.

CHAIRMAN: Madam Secretary, there is one there that I don't think I have a letter.

MRS. LEGERE: That is all that came in.

MR. SORENSON: Three of the letters have come in.

CHAIRMAN: Yes.

MR. SORENSON: And those were forwarded to Shelley and to Lorraine.

CHAIRMAN: And what was the fourth, that we don't have a

letter on yet?

MR. SORENSON: Canadian Aquatic Centre, Canadian Games and Aquatic Centre, he is on holiday. And Chipreit Hotels, he is on medical leave.

CHAIRMAN: Chipreit Hotels?

MR. SORENSON: Delta in Fredericton.

CHAIRMAN: Okay. Thank you.

MR. HOYT: Mr. Chairman, in terms of the letter from Brentwood or the Saint John County Condominium Corporation, although at the end of it it talks about confirming the engagement of CES, the earlier part of it sounds a lot more like a letter of comment. Should it be treated like that?

CHAIRMAN: Well, I just wanted Mr. Sorenson to have some status here in front of us and to be representing the customers.

And therefore it doesn't -- how it is worded in there, as long as Mr. Sorenson has got one customer who says we want Mr. Sorenson to represent us. And as far as the Board is concerned, Mr. Hoyt, that is fine, okay.

MR. HOYT: We have no difficulty with that. It is only that that letter goes into a lot of other things that perhaps we might want to address at some point in the proceeding.

CHAIRMAN: I see. We will have to go back to the Board's

Motor Carrier experience of the Black marks-a-lot rule whereby we struck out things that weren't substantiated. Is that -- I haven't read the letter frankly. But we will get to that, okay. And we will give you the opportunity. If there is something in here that you believe should be answered then you can answer it.

MR. HOYT: Thank you.

CHAIRMAN: I believe all of the parties have indicated that their parties wish to have the hearing in the English language. And if there is anyone different, please speak now.

So the second question really, and the important one for today, is whether or not this hearing will be oral or a written hearing or a combination of written and oral argument day, which is what I think we have done previously. And the Board has found that valuable.

So what is the position of the Applicant?

MR. HOYT: The Applicant supports a written proceeding,

Mr. Chairman. Would you like me to go into --

CHAIRMAN: Yes.

MR. HOYT: As the Notice of Prehearing indicated, the Board's intention was to proceed in a written fashion unless reasons, substantive reasons were given for oral. And just to put it in perspective, in response to the

public notice that was issued, out of Enbridge's 4,500 customers one Intervenor has

clearly said that they want an oral proceeding.

To Atlantic Health Sciences credit, they don't take a position on it at all and indicated they will accept the Board's decision.

In terms of CES I'm not sure what their position is. I know that it begins by indicating that a written proceeding would suffice. But it then goes on and discusses an oral one.

So Flakeboard is the Intervenor requesting the oral proceeding, who I would suggest have a narrow interest here. They are Enbridge's largest customer, which doesn't make them represent the public interest. Six months ago it was acknowledged that they had saved over \$2 million in a year from converting to gas.

So although Flakeboard's letter of intervention explains its reasoning for an oral hearing as being necessary in the public interest, they don't represent the public at all.

Neither of the two points that they raise in their intervention is tied to the public interest. Both timing and the magnitude of their proposed rate increases don't in themselves in any way require an oral hearing to be

dealt with fully.

I would also ask the Board just to keep in mind that including a public hearing, which in itself is a two-day process, actually involves a lot more time than those two days being added to the proceeding in terms of the amount of time and preparation that is necessary with an oral hearing as opposed to a written proceeding.

We have had very recently a successful written proceeding to deal with a rate application in 2004. It was fully done on a written basis.

At last year's prehearing conference the Board indicated an interest in having an oral proceeding because Enbridge was five years into the process. There hadn't been a full public hearing in five years. Wanted to hear from the marketplace, get a sense of what was going on there and have an opportunity to question the parties.

But that has now been done just six months ago. There was a full-blown public hearing process. Two of the very active Intervenors in that process were

Competitive Energy Services and Flakeboard, who are two of the three Intervenors that have indicated a willingness or a desire to take part in this process.

So I would just suggest in closing that the methodology isn't in issue here. It is a matter of

Enbridge updating the economics of the numbers and so on. And we would submit

should be able to be fully dealt with through a written process.

CHAIRMAN: Good. Thanks, Mr. Hoyt. Mr. Sorenson?

MR. SORENSON: Yes. We prefer a written hearing with one caveat, a final day of

oral presentations, not necessarily Q & A or arguments per se, but more focused on just oral presentations.

We have -- of the five or six customers that we are representing in this hearing, everybody would like that -- everybody has desired that format, if you will.

Thank you, Mr. Chairman.

CHAIRMAN: Thanks, Mr. Sorenson. Mr. Lawson?

MR. LAWSON: Well, Mr. Chairman, I guess Flakeboard's position is quite simply first

as to the issue of whether or not we represent, Flakeboard represents the public interest.

I think it is fair to say that we, although as a customer, the largest customer, are not precluded from presenting argument and issues that deal with the public at large.

So as to the question of whether an oral hearing should be held, I guess quite simply the same reason that is raised, that it is a more expedited process to do it in

written form, is the same reason why I would think it needs to be done orally.

Because an increase -- given the magnitude of the increase that is being sought here, given the absolute uncertainty, the moving target if you will that we see evolving, and there has been a very large movement in the target just since the data was filed in the application in terms of the relative price of gas, that we think that that is best heard in a public forum through oral evidence, where the evidence will be heard on a timely basis.

The difficulty with written evidence quite honestly is that it is very, very difficult to exchange back and forth one or two interrogatories and replies and to get a complete picture before this Board without an opportunity to avoid questions and answers that can be cat and mouse type answers sometimes.

CHAIRMAN: Mr. Lawson, what about if we were to expand it to have two sets of interros?

MR. LAWSON: Mr. Chairman, that was what was done in fact last time, two interrogatories. And I would say that it --

CHAIRMAN: I'm sorry. What I mean by that, Mr. Lawson, is that for instance initially there would be a set of

interrogatories go to EGNB.

MR. LAWSON: Right.

CHAIRMAN: They can respond. Then the Intervenors have the opportunity to come back with a second set of questions to EGNB. And then if Intervenors wish to call evidence they file their evidence.

And then EGNB has an opportunity to put two sets of written questions to that Intervenor. And the other Intervenor could as well.

MR. LAWSON: That would certainly be more productive. Although I do think that it is still -- the better opportunity is -- there is nothing better than getting an answer where somebody can't be -- has to be forthright on the stand, quite honestly.

CHAIRMAN: Well, the question at the oral hearing is a better vehicle if in fact the necessity to get that kind of questioning and answers back and forth are terribly important.

I guess I have a question, Mr. Lawson. In addition to the witnesses that you called last year, are there any additional witnesses that you are looking to to call this year?

MR. LAWSON: Not at the moment.

CHAIRMAN: Okay. All right. The Board will -- we will make

a decision this morning on that.

Ms. Thompson-Price, do you want to grab a mike there from Mr. Sorenson? What is your position in reference to written versus oral?

MS. THOMPSON-PRICE: Our position in essence is that they have no position, whether it be oral or written.

CHAIRMAN: Aggressively neutral.

MS. THOMPSON-PRICE: Exactly. Thank you.

CHAIRMAN: Thank you. All right. The Board will retire for just a couple of minutes.

(Recess - 10:15 a.m. - 10:25 a.m.)

CHAIRMAN: We have heard the arguments of the parties and have decided that we will proceed with a written hearing, but with two sets of interrogatories with an oral argument day. Just to explain in particular, because it was something Mr. Sorenson said. Argument day is just that, Mr. Sorenson. If there is somebody from Brentwood Towers that you want to have talk to us or whatever, you will have to do that in written form, on Intervenors' evidence time. Not to have someone come in here and make a presentation in the actual oral argument day.

So the schedule that the Board has come up with is that -- we apologize, we had a tentative one done in case we felt that written was the best, but we have had to

expand that to have two sets of interrogatories.

So the first set of interrogatories to EGNB would be on Thursday, October 20th.

And EGNB is to respond by Thursday, November 3rd. Second set of

interrogatories to EGNB is Thursday, November 10. Responses on Thursday,

November 17th. Intervenor evidence to be filed on Monday the 21st of November.

Interrogatories to the Intervenors' evidence will be on Tuesday, November 29.

Responses by the Intervenors would be on Thursday, December 8th. And the oral argument day will be Thursday, December 15th.

Now all of those dates are 12:00 noon Atlantic time. In other words, we don't want to be getting them in at 4:00 in the afternoon, because that causes chaos with staff around here. And it is incumbent upon each party that they send a copy to the Board and to all of the other Intervenors.

In other words, the Board does not have sufficient staff to be turning around and sending responses out to all of the parties and that sort of thing. So it is up to the parties to do that.

I would suggest after we are through here, if you all have e-mail, perhaps the Secretary could get a list of coordinates from you all, which she will share with you later, which will give everybody e-mail address, which

will make it easier for you folks to correspond, if that's okay. Anybody any problem with

using e-mail? Okay. Well then we will proceed that way.

And it would be the Board's intention, subject to everything that occurs in the hearing process to give an oral decision on Thursday the 15th of December, right after we are through hearing your argument, because we know Enbridge wants to bring forth it's -- any rate increases approved by the Board on the 1st of January.

So certainly if we got a decision out in oral form that day that should suffice.

Now any other matters that any of the parties want to bring up? If not, thank you very much. We will look forward to receiving all of your various e-mails and seeing you again on Thursday, the 15th of December at 10:00 in the morning would be the best, I guess. Thanks.

(Adjourned)

Certified to be a true transcript

of the proceedings of this hearing
as recorded by me, to the best
of my ability.

Reporter