

NEW BRUNSWICK BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

Notice of Intervention Hearing - September 26th 2002

St. Stephen, N.B. 9:30 a.m.

IN THE MATTER OF an application dated

July 25, 2002 by Flakeboard Company
Limited for a Single End Use Franchise

BEFORE: David C. Nicholson, Esq., Q.C. - Chairman
James E. Bateman - Vice-Chairman
Alyre Boucher - Commissioner
H. Brian Tingley - Commissioner

BOARD STAFF: William F. O'Connell, Esq.
Ms. Ellen Desmond

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CHAIRMAN: Good morning, ladies and gentlemen. The shorthand reporter came shorthanded. She only has four mikes. So that's a bit of a problem, and as the day goes on, we will work out a better system. But at this particular point, I will repeat those names into this microphone when they give me the appearances and we will work forward from that point, because we are going to have to move mikes around is what we are going have to do.

Flakeboard Company Limited, could I have appearances, please?

MR. LAWSON: Gary Lawson and Matt Letson.

CHAIRMAN: What was the second name, Mr. Lawson?

MR. LAWSON: Matthew Letson.

CHAIRMAN: Thank you. The formal intervenors, Enbridge Gas

New Brunswick Inc.?

MR. MACDOUGALL: Yes, Mr. Chair. David MacDougall and Len Hoyt.

CHAIRMAN: The Minister of Natural Resources and Energy?

MR. BLUE: Ian Blue.

CHAIRMAN: That's Ian Blue. And with you today is?

MR. BLUE: I have Mr. Don Barnett and Mr. Jim Knight.

CHAIRMAN: Mr. Don Barnett and Mr. Jim Knight. Thank you, Mr. Blue. You are representing the department today, not the province?

MR. BLUE: That is correct.

CHAIRMAN: Yes, that's correct. Thank you. WPS Energy Services Inc.?

MR. ZED: Peter Zed, Mr. Chairman. And I am joined by Jon Sorenson and Ed Howard of WPS.

CHAIRMAN: That was Mr. Peter Zed with Jon Sorenson and Mr. Ed Howard. And do we have any informal intervenors who simply wish to address the Board at some point as to their position as represented here today? And that would be the St. Stephen Development Board Inc.?

MR. SAUNDERS: Yes, Mr. Chairman. I am Donald Saunders.

CHAIRMAN: And that's Mr. Donald Saunders. All right. Now Board counsel?

MR. O'CONNELL: William O'Connell. Appearing with me Ellen

Desmond.

CHAIRMAN: And that's Mr. William O'Connell. Appearing is Ms. Ellen Desmond, as well. Thank you.

The Board took a few moments, as you know, we are a part-time Board, we come from all over the province, and we rendezvoused in the Legion bar today. And my commissioners and I have a couple of suggestions for you.

First of all, having gone through the evidence, we wonder if there is a -- if the parties could look at it and perhaps come up with a fact situation that they can agree upon. We look at -- what we are here today to decide is whether or not the applicant will receive a single end use franchise. Not deal with technicalities in reference to construction or anything else of that nature.

Certainly the saving of money is part of what the parties are talking about here. The exact magnitude of it, to me at least, and I can be convinced otherwise, doesn't matter as much as the fact that we know that there is -- there will be savings and there will be two sets of savings that would be involved if we were to grant, or if the applicant were to be served by EGNB.

So we would like to see if -- because the statute does say try and do this in a summary fashion, and we think one

way it might be done in a more summary fashion is if the parties can agree with a set of facts, so that we don't have to spend our time testifying as to that.

The second thing is that I know that the parties have been attempting to arrive at a settlement -- come up with a compromise is a better way of saying that.

I know that Board staff has been chatting with Board counsel and I believe that they have some suggestions that they might like to share with the parties as to what might be reached by way of a compromise as well. The Board has not blessed anything and that's why I am pointing out that it is Board staff.

What I would like to do is the Board will take a break right now, give the parties, if you want to negotiate in the bar, you are welcome to take over the bar. Otherwise, you can do it here or wherever. And see if there is on the two counts, that is, one a stated set of facts that could be agreed, or number two, if there is an area of compromise that might be reached now.

So we will take a break and you let us know when you are ready to reconvene.

(Recess - 9:55 a.m. to 11:45 a.m.)

CHAIRMAN: We have had a rather lengthy break, but my understanding is that there has been some success to a

certain point. Would Mr. Lawson like to address the Board?

MR. LAWSON: Well, Mr. Chairman, all the parties have agreed that we would request that there be an adjournment of the hearing until both October 31st and Friday, November 1st, which I understand is a date available with the Board.

We would ask that in the interim period that the intention -- advise the Board the intention of the parties would be in hopes to avoid that hearing.

CHAIRMAN: All the parties in agreement with that request for an adjournment?

MR. MACDOUGALL: Yes, Mr. Chair.

CHAIRMAN: Now just dealing with adjournment, the only person that I will ask about this is Mr. Saunders, you and I spoke during the break and you said that for you to address the Board at the -- just prior to summation by counsel would be your preferred time as well.

MR. SAUNDERS: Yes, Mr. Chairman.

CHAIRMAN: So you will wait until the adjournment and you may lose your chance to address the Board, I mean if the parties come to a conclusion, but --

MR. SAUNDERS: If the parties come to a conclusion, Mr. Chairman, I would be very happy.

CHAIRMAN: Fine. Then we will go with that. The only other

matter is do you -- what do the parties feel about the Board having the adjourned date at our premises in Saint John? I am torn. This is my home town originally. However, we know that our facilities in Saint John are available.

MR. LAWSON: And the seats are more comfortable.

CHAIRMAN: So really, Mr. Lawson, your client is from here and you should talk to them.

MR. GALLANT: I am indifferent. That would be fine.

CHAIRMAN: So then we will adjourn until 9:30 on the morning of the 31st at the Board's premises on the 14th floor of the City Hall building. Thank you, very much.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to the best of my ability.

Reporter