

New Brunswick Board of Commissioners of Public Utilities

In the Matter of a Hearing to review Section 2.3 of the Open Access Transmission Tariff (OATT) approved by the Board on June 19, 2003 and to Review the Board's "Open Season" direction contained in its March 13, 2003 Decision with respect to the said Tariff

Hilton Hotel, Saint John, N.B.  
October 22nd 2003, 10:00 a.m.

CHAIRMAN: David C. Nicholson, Q.C.

COMMISSIONERS: Ken F. Sollows  
Robert Richardson Leon C. Bremner

BOARD COUNSEL: Peter MacNutt, Q.C.

BOARD SECRETARY: Lorraine Légère

..... CHAIRMAN: Good morning. This is in the matter of a hearing to review Section 2.1 of the Open Access Transmission Tariff approved which was by the Board on June 19, 2003 and to review the Board's Open Season direction contained in its March 13th 2003 decision with respect to the tariff.

First of all I will call for appearances from NB Power Corporation, the applicant.

MR. HASHEY: Thank you, Mr. Chairman. Appearing this morning, myself David Hashey accompanied by Mr. Morrison,

Mr. Little and Mr. Snowdon of the front row.

And behind us the support of Ms. Tracy, Pine and Lockhart. And Mr. Larlee of course is here for potential intervenor.

CHAIRMAN: Thank you, Mr. Hashey. And just a housekeeping note. Again, you should push the button on your speaker and get the red, so that the translators will hear it and the shorthand reporter.

We have a request for formal intervention from Bayside Power LP.

MR. HAYES: Matthew Hayes on behalf of Bayside Power LP.

CHAIRMAN: Thank you. Canadian Manufacturers and Exporters, New Brunswick Division? I think this is a good time for me to indicate that the Board, within formal intervenors we provide the informal intervenors with all of the documentation in reference to a hearing. And in fact we allow them as well to address the Board in a particular day.

But if their intention is not to attend the hearing and participate by way of examination of witnesses or providing evidence, then our intention would be to have them as informal intervenors rather than formal intervenors.

So we will just put Canadian Manufacturers and

Exporters aside for the time being. And the Secretary will be in touch.

Now with the Department of Energy we have received a fax that Mr. Barnett, who had filed an intervention earlier as intervening on behalf of the Department of Energy and the Province withdraws that intervention.

And the Attorney General is to be a formal intervenor. And I will ask Mr. Barnett to address that. And he is designated as the agent for the hearing.

My recollection of the Public Utilities Act, Mr. Barnett, is that the Attorney General has a right to appoint an agent for any hearing to appear before the Board and to pursue whatever course the Attorney General believes to be in the public interest.

Now is that the nature of your appearance here today?

MR. BARNETT: Yes, sir. That is.

CHAIRMAN: Okay. Thanks. So you are the agent of the Attorney General. Thank you.

Energie Edmundston?

MR. GORMAN: Mr. Chairman, the Municipal Utilities are I guess together here this morning represented by myself Raymond Gorman and Dana Young. And we will be representing Energie Edmundston, Perth-Andover Electric Light Commission and Saint John Energy.

CHAIRMAN: Thank you, Mr. Gorman.

Emera Energy Inc.?

MR. ZED: Thank you, sir. Peter Zed and Serena Newman representing Emera Energy.

And we are joined by Mr. Don Jessome.

CHAIRMAN: Thank you, Mr. Zed.

J.D. Irving Limited? Mme. Secretary, did we have a letter from J.D. Irving indicating that they wouldn't be here this morning?

MRS. LEGERE: Not that I recall.

CHAIRMAN: No. Okay. Again we will speak about that later.

Maritime Electric Limited?

MS. GARRETT: Crystal Garrett appearing on behalf of William Lea for Maritime Electric.

And I'm accompanied by Ron LeBlanc from Maritime Electric.

CHAIRMAN: Okay. I'm sorry. I can't pick you out. Oh, there you are, behind Mr.

Gorman. Thank you.

Now the first knotty problem of our day. The next on the list was New Brunswick Power Corporation, Customer Service.

Mr. Hashey, could you address that?

MR. HASHEY: What would you like me to directly address? The intent, and we felt that as a result of any direction that came from the last hearing way back, that there might

have been an intervenor that might have had an interest and could indicate what the effect of things might be on another branch of NB Power --

CHAIRMAN: Well, I guess --

MR. HASHEY: -- which will be --

CHAIRMAN: Excuse me. In reference to this hearing,

Mr. Hashey, the Board's approach is that you are -- well, we have named you the applicant. And you are still New Brunswick Power Corporation.

There has been no proclamation of the Electricity Act. You are one corporation and one corporation alone. That is our approach to this matter. And you know, you can refer to your generation unit. But it is still New Brunswick Power Corporation.

So I guess where I'm coming from and why I asked you that question is that consumer -- Customer Service may be a unit within -- a business unit within New Brunswick Power Corporation. But it is still New Brunswick Power Corporation, sir. And I can't see one Customer Service unit asking to be an intervenor when it is part of the applicant.

MR. HASHEY: Well, that has been -- that was a problem we faced on the last hearing, as you well know.

CHAIRMAN: I hope we don't repeat some of those problems

again.

MR. HASHEY: Well, that is the unfortunate part, is that we looked at it. We had to look at the new Act. And things were done in relation to it in the last hearing, assuming certain things might be happening. And I guess we still are on nothing but assumptions at the moment.

CHAIRMAN: Well, certainly the last time not only NB Power but this Board was under time constraints based upon the Electricity Act. But now it appears to the Board that you are applying as the one corporation to us.

MR. HASHEY: I think we respect a ruling on that. The intent was really merely to -- I guess this unit would have shown what the effect could be on the individual customer. But that is fine.

CHAIRMAN: Yes. Well, I mean, you can still call that individual as a witness of NB Power Corporation. There is no restriction on that at all.

MR. HASHEY: We will have to take that one under advisement. But I agree.

CHAIRMAN: Yes.

MR. HASHEY: Thank you.

CHAIRMAN: Well, I will -- for the time being I will strike Customer Service as a formal intervenor.

And Mr. Zed, you are appearing for Nova Scotia Power

Inc.?

MR. ZED: Serena Newman and I are appearing on behalf of Nova Scotia Power Inc., yes.

CHAIRMAN: Thank you, sir. Again representing two clients, the restrictions that we put on you the last time are still applicable this time. If you are interested in what they are, read the transcript.

MR. ZED: Those restrictions are agreeable.

CHAIRMAN: Thank you. Perth-Andover Electric Light, again that would be Mr. Gorman?

MR. GORMAN: That is correct. And Mr. Young.

CHAIRMAN: Okay. Thank you. And Prince Edward Island Energy Corp. We have an e-mail that has been sent to us to advise they won't be in attendance to the pre-hearing meeting today.

They want to receive documentation relating to the meeting and have made contact with Jen Feron of Emera. She will be providing us with details of tomorrow's meeting, meaning today.

Mr. Zed, are you able to speak as to what it is that PEI Energy Corp. will be doing in reference to the whole hearing in light of what I said about interventions?

MR. ZED: Apparently Mr. Jessome had some conversation with them. But it only related to putting in the actual

intervention. And we are unaware of what they intend to do long-term in terms of actual participation.

CHAIRMAN: All right. Would you and/or Mr. Jessome get in touch with the reps of PEI Energy Corporation, find out what it is that they -- how they wish to participate in this hearing and let them know what the Board has indicated is their preference.

If they simply want to be copied with all of the documentation, et cetera we would be pleased to make them an informal intervenor. We want to reserve formal intervenors to those who wish to actually attend the hearing and participate.

MR. ZED: We will contact them and report back.

CHAIRMAN: Thank you. And of course we have already dealt with Saint John Energy.

And WPS Energy Services?

MR. HAYES: Matthew Hayes on behalf of WPS Energy Services.

CHAIRMAN: You are back behind Mr. MacNutt and Mr. Goss, I guess?

MR. HAYES: Yes.

CHAIRMAN: Yes. Thank you. And it was Mr. Bates?

MR. HAYES: Hayes.

CHAIRMAN: Hayes. Sorry. All right. We have had an application for informal intervention from HQ Energy Marketing Inc. Is there anybody representing them today?

No.

And Hydro Quebec Trans-Energie? Nobody representing them. Okay.

Now my review of the interventions leads me -- of the formal intervenors leads me to believe that there has been no one who has requested other than the English language to be the language of the hearing.

If in fact there is anybody who wishes to have the French language, would they indicate that to me now? Otherwise we will proceed on the basis that the language of the hearing is French -- sorry, is English.

And for the Board, Mr. MacNutt?

MR. MACNUTT: Yes, Mr. Chairman. I have Doug Goss, Gaye Drescher and Isabel Fagan on behalf of the Board. If I may, while I have got control of the communication system --

c CHAIRMAN: I can't let him have the floor at all or he will just take right away.

Yes, Mr. MacNutt. Go ahead, sir.

MR. MACNUTT: You went up to but did not declare what the language of the hearing would be.

CHAIRMAN: Well, I mistakenly said French. But then I corrected it and said it shall be English. So thank you.

MR. MACNUTT: Thank you, Mr. Chairman.

CHAIRMAN: All right. Thanks, Mr. MacNutt.

Mr. MacNutt brought to our attention that it might prove useful if the full tariff were made an exhibit in this hearing. If anybody has any contrary opinion let us know. But it is the subject of interpretation on our specific sections, interpretation and change.

So maybe it would be a good idea to have the entire tariff marked at the hearing before pre-hearing is finished. Anybody any problems with that? Okay.

MR. ZED: Mr. Chairman --

CHAIRMAN: Yes, Mr. Zed?

MR. ZED: -- I assume it is understood that only the sections that are subject to the order will be in issue?

CHAIRMAN: Well, I would hope so. But that doesn't mean that we won't refer to others if in fact it is necessary to do so. I have no idea.

But no, we are not here to revise any other parts of the tariff. But there may well be another section that modifies the section that we are looking at. I don't know.

MR. ZED: I understand. And for that reason --

CHAIRMAN: All right. The exhibits and exhibit marking we will do as we have previously.

It has also been brought to my attention that it is of

value that before the pre-hearing conference is concluded that we mark the evidence, et cetera so that it can be handily referred to in our interrogatory process. So that will occur.

Also this time we have spoken with the shorthand reporting service. And they will providing each day with the transcript lists of undertakings, which we found convenient before.

The transcripts are -- there is an arrangement between Henneberry Reporting and the Board that transcripts will be available. And how they are available to all the parties is set forth in our procedural policy document that is available from the Secretary of the Board, if you don't already have one.

Again we will ask Mr. Hashey before the pre-hearing conference is over to address the possibility of an applicant slide presentation at the commencement of their evidence, which has been their past practice.

Cross examination order will be as previously which will be in the order of -- alphabetical order.

We indicated in the document that was sent out from the Board on Friday the 17th of October that we the Board view that there will be changes in the tentative schedule that we had set forth back in -- I think it was on the

15th of September, simply because of the contents of our correspondence of Friday the 17th of October.

At a later date we will set a time for any informal intervention presentations. At the conclusion of the evidence we will make a decision as to whether or not there will be written submissions and argument and/or oral and/or written.

And I believe from Board counsel, Mr. Zed, you had a number of matters that are possibly in the form of motions rather than to proceed immediately with them, perhaps we can go back and deal with what the Board has raised in its correspondence of last Friday and see what we are going to do from then.

MR. ZED: Fine. Thank you.

MR. BARNETT: Mr, Chairman, Don Barnett. You refer to correspondence of October the 17th, which is Friday. Has that been made available to the parties?

CHAIRMAN: Yes. It went out to all the parties,

Mr. Barnett. If you want a copy, why the Board can -- the Secretary can provide you with one. You probably would like it now, wouldn't you?

MR. BARNETT: Yes, please, sir.

MR. MACNUTT: Mr. Chairman, you might mention as well the October 21 response to that correspondence by NB Power.

CHAIRMAN: Did you get that, Mr. Barnett?

MR. BARNETT: No, sir.

CHAIRMAN: Mme. Secretary, do you have both? Have you given Mr. Barnett both of those? Good. Thank you.

I'm going to give Mr. Barnett just a moment to read that.

Mr. Hashey, our letter of the 17th of October is very -- worded in a very general fashion. And Mr. Little's response of the 20th as well has been circulated. I wonder -- this is kind of a difficult procedural matter to deal with it.

And I would propose that if you want to address what the Board has said in its letter of the 17th of October or if you want me to be a little more specific, then I would be glad to start the debate off by doing that.

Would you prefer that?

MR. HASHEY: I think that would be a good idea,

Mr. Chairman. And Mr. Morrison will direct the remarks to this part of it.

CHAIRMAN: All right.

MR. BARNETT: Mr. Chairman, I hate to interrupt again. But I'm in receipt of a handout that was given to me by Board staff when I came here this morning.

It looks like it is somewhat in context of a sort of

part 1 of the Board's letter of October the 17th, is that correct?

CHAIRMAN: That is correct.

MR. BARNETT: Thank you.

CHAIRMAN: Everybody has received that. All right. I don't intend to go into the first part of the Board's direction -- or sorry, the Board's letter of the 17th of October in any detail.

In our review of the evidence, et cetera it was the Commissioners' opinion on the basis of what we reviewed that the requested information was either to provide the contracts that were outstanding in reference to the MEPCO tie line or alternatively to provide other information which would give the Board a quick, easy and comprehensive view of what exactly was tied up and backed up by separate contracts. It didn't appear to the Board that that in fact had been done.

And staff has put forth this one-pager with eight different itemized numbers or itemized sentences on it which would completely satisfy that requirement. It is the second part of the letter of the 17th of October, Mr. Morrison, I would like to spend a little time addressing.

If you refer to the order-in-council, the

order-in-council states among other things that they request the Board to review Section 2.1 of the Open Access Transmission Tariff (OATT) and our direction in -- our decision of the 13th of March, 2003.

Subsection (b) says "In conducting such a review to determine if it is in the public interest to preserve the transmission reservations which are not subject to a firm contract involving a third party who is not affiliated with NB Power."

So we have been directed to determine the public interest. And we define what the public interest is presumably. It is a discretion which has been delegated to us in particular in reference to this.

And a general reading of the prefiled evidence and as well the letter application which was dated the 29th of July, received by us on the 30th, the last paragraph says "NB Power is prepared to establish that Section 2.1 of the Open Access Transmission Tariff as approved on June 19th 2003 would have a significant adverse financial impact on its generation business unit and thus on the ratepayers of New Brunswick."

So certainly from where I sit, the public interest is, at least by NB Power in that letter application, the implication that there will be a financial impact if our

direction is followed. And that will be adverse to the ratepayers of the province of New Brunswick.

Therefore, from where I look at it, and I'm subject to being arraigned up short by my Commissioners either now or later, but we have to ascertain if in fact there is a cross-subsidy that flows from the sale of power into the export market that is used by NB Power Corporation to keep our domestic, i.e. in-province rates lower than they would be otherwise.

It is the Board's belief that the evidence that has been filed to this date does not complete a record which would be sufficient for us to operate our judgment and discretion on to find out whether that is correct or it is not.

I don't need to point out to you, Mr. Morrison or Mr. Hashey, that the section of the Public Utilities Act says that the onus is upon the applicant or the public utility to prove its case. And there are statements contained in the evidence but there is no detail concerning that at all that the Board can operate on.

Now having said that in a general fashion, I think I would ask you, Mr. Morrison, to address it, and then the other intervenors. And we may go back and forth two or three times here.

Go ahead, sir.

MR. MORRISON: Okay. Mr. Chairman, I guess I will deal with the first issue. And I won't spend a lot of time on it, the first aspect of your letter.

The handout that was provided this morning, the information that -- the specific information which is requested, we have no problem with that. The only clarification is on paragraph 3 when it refers to the number of megawatts in paragraph 2 that are supported by a firm contract.

And I'm assuming what you are looking at there is an energy contract, not a transmission reservation but an energy contract with a third party. And if that is the case, again that is not a problem.

CHAIRMAN: Yes. That is the indication that staff gives me now. And they have prepared that. That is correct.

MR. MORRISON: Just for the record, our response with respect to -- and I guess it is the same with number 7. You are looking at energy contracts. I think we are in agreement on that.

CHAIRMAN: Yes. That is the case.

MR. MORRISON: Just in response, our response on October 20th, it may have been a misunderstanding as to whether we were talking apples and apples and apples and oranges in

the Board's order.

We just didn't want the Board to be left with the impression that NB Power for any reason ignored the Board's order.

I think it was a question of interpretation, Mr. Chairman. But this certainly clarifies that we know what we have to do. And we will do it.

CHAIRMAN: Good. Thanks on that, Mr. Morrison.

MR. MORRISON: With respect to the second issue, again this may be -- and our response deals with this PROMOD model that we were referring to.

When we looked at the Board's letter of October 17th what we thought the Board was looking at was look, there is certain financial information or financial evidence in the evidence of Mr. Darrell Bishop which gives sort of big numbers as to what the impact the generation will be in the event of losing -- I think there are three scenarios, if reservations are lost on the MEPCO tie.

What we thought the Board was looking for was what is the background information as to how those numbers were developed. And that is in the PROMOD model, which is a different issue.

But I think, if I may, Mr. Chairman, what I think you are saying to us is that is not what you are really

looking for.

What you are really looking for is to connect the dots as to, okay, this is the financial impact to generation. How does that relate to a financial impact on the ratepayers of New Brunswick? Is that --

CHAIRMAN: No, Mr. Morrison, PROMOD with frankness, in my opinion and where I'm coming from now, with my brief knowledge and having gone through both Coleson Cove Refurbishment and Point Lepreau, it doesn't impact.

What we are looking for are the inputs that might go into PROMOD. In other words, sufficient information to show what it costs NB Power to produce a kilowatt-hour of electricity and then the past, perhaps some past history of what they have been able to market.

But more particularly with the PROMOD run, as I recollected, you would be feeding in such things as that we think that we can sell X number of megawatt-hours in the year 2006 at a price of 8 1/2 cents a kilowatt-hour.

Well, on what do you base that, you know, et cetera? In other words, you have got to complete the record which would prove to us that in fact that your inputs to PROMOD are reasonable.

Because we are asked to operate our discretion to say that it is in the public interest because there is a

cross-subsidy that flows, that we review the tariff provision based on that.

We have to have sufficient clarity in the record as to whether or not those things that Mr. Snowdon in his testimony has testified to are correct or they aren't.

That is not that I doubt Mr. Snowdon. But we have been charged with operating our discretion. And we have to have a complete record to do that.

MR. MORRISON: With your permission, Mr. Chairman,

Mr. Little is much more familiar with the inputs in the PROMOD modeling than I am.

And perhaps he can address those concerns, with your permission.

CHAIRMAN: Your choice. Fine. Yes.

MR. LITTLE: Mr. Chairman, we would have no trouble providing information as you have just requested it. I think we could further provide summary level, additional summary level information that would indicate the magnitude of sales, the price of the sales, the margins on the sales in aggregate.

So we can do all of what you have asked for, the input assumptions and produce further information on the aggregate results.

CHAIRMAN: All right. What I'm going to do is I'm going to go around the room.

Because my description may not meet

with those who have a greater technical knowledge in this matter than I.

And one of the things that the Board considered before we started this hearing this morning was to adjourn the pre-hearing conference over and give NB Power the opportunity to come back with a description of what they are able to provide in light of the Board's concern and also dealing with the confidentiality aspects of information that we may require.

I don't know. And I will turn to staff and ask staff, do you think a break right now with you able to discuss off the record with the folks in the room might be in order as to what it is the Board really wants to have?

MR. MACNUTT: Yes. That would be appropriate, Mr. Chairman.

CHAIRMAN: Good. Okay.

MR. MACNUTT: Mr. Goss says that he will do that.

CHAIRMAN: Rather than me thrashing away, I will let them. And Mr. Goss and Mr.

MacNutt will let us know when you have had that opportunity? Okay.

(Recess - 10:45 a.m. - 11:10 a.m.)

CHAIRMAN: Thank you. The staff has just given us an update on what has occurred.

And my understanding of it is that NB Power is certainly able to come back in a week or whatever and talk about -- very specifically about the

marginal pricing information that they would be able to provide.

The panel's need is not to have just marginal pricing, but also a full cost pricing. Then when the record is complete as to that, then the applicant can argue as to what is the appropriate way in which to calculate whether or not there is a profit from export sales that is used to cross-subsidize domestic rates.

Or it can be a combination of the two or just one or the other. But we do believe that we need on the record the full cost of production of power.

Now having that -- bearing that in mind, do you wish to proceed by way of taking another break and talking further about it, or the applicant being able to think about it for a few minutes and then go back into a meeting with staff again? Or alternatively do you want to go around the room now?

What is your preference, Mr. Morrison?

MR. MORRISON: Can I have a moment?

CHAIRMAN: You can have more than that if you want it, sir.

MR. MORRISON: Can we have a few minutes, Mr. Chairman? Because I think there is a debate here.

CHAIRMAN: Why don't you take as much time as you need,

Mr. Morrison, and just let us know. And we will come back

in then.

MR. MORRISON: Okay. Thank you.

(Recess - 11:15 a.m. - 11:40 a.m.)

CHAIRMAN: Board counsel informs me that Mr. Morrison, the applicant has something that they want to propose and put on the record.

MR. MORRISON: Yes, Mr. Chairman. Thank you.

We initially indicated earlier that we would file the evidence that we were talking about then by Monday. But now that this total cost pricing issue has come up, we are probably going to need a little bit more time.

And what we are proposing to do is that NB Power will file additional evidence, let's say next Thursday, which will deal with the issues, the contracts issues and the underlying financial issues that we talked about earlier and also the total cost pricing issue.

How that is going to be dealt with, we don't quite know at this -- I have just gotten a note if we could have that Friday. How we are going to handle the total cost pricing issue, we don't know yet. So there may be issues of confidentiality that may be raised and so on, when we file the evidence.

But what we are proposing to do is NB Power will file its evidence for what its worth. And then if there are

issues that are raised by Emera or others as to the form of that evidence, then perhaps we can reconvene this pre-hearing or a Motions Day to deal with any other issues.

I'm not presupposing that there is going to be a confidentiality issue. But that may be. Because we haven't formulated how we are going to address the total cost pricing issue yet.

CHAIRMAN: Okay. Let me tell you this, that the next time that the Board is available would be either November 10 or November 12. So that Mr. Little might be able to have slightly more time than Friday.

But anyhow, that proposition -- I'm going to ask the intervenors if there is anybody that has a comment on what Mr. Morrison has proposed to do. If you have any comment on it raise your hand.

Mr. Zed?

MR. ZED: Mr. Chairman, no objection to what he is proposing, presuming of course the schedule will change with respect to IR's.

But I do think it is a good idea to schedule a Motions Day. And if we end up not meeting it, well then we end up not meeting it. But it would be certainly expeditious to do so now.

CHAIRMAN: I will just roll this by you, Mr. Zed. My

intention would be is that we would adjourn and reconvene on either the 10th or the 12th of November, which date could be to establish the remaining procedure that normally is done in the pre-hearing conference, plus hear your motions and any other ones that might be.

In other words, let's see what it is that NB Power will file. And then we will reconvene the hearing and use it in whatever way seems to be most expeditious at that time.

MR. ZED: My only comment would be that the 10th would be imminently preferable to me personally. I have something on the 12th that I would have great difficulty changing.

CHAIRMAN: Isn't that golf course closed yet? Anybody else any comments at all?

MR. GORMAN: Mr. Chairman --

CHAIRMAN: Mr. Gorman?

MR. GORMAN: -- what is that going to do to the date for interrogatories?

CHAIRMAN: Everything is now put on hold. We will have to either -- on the 10th, if that is when we adjourn to, establish a new tentative -- or a schedule. And we will hear input at that time.

It may well be that as a result of what NB Power files that there will be more evidence, in addition to what they

do file, that the Board believes is necessary. And therefore we will have to adjourn over again. But we will revisit our scheduling whenever these things have been dealt with.

Mr. Barnett?

MR. BARNETT: Mr. Chairman, in terms of motions, am I right in presuming these motions would be provided ahead of Motions Day?

CHAIRMAN: Well, I think that they should, yes. Yet there may be some things, Mr. Barnett that arise out of what is filed that will take the form of a motion too. So I'm not going to -- I'm not going to exclude something that arises at the last minute.

MR. BARNETT: No, sir, I'm not seeking that. It is just that I guess the basic motions that would be the cause for a Motions Day. In our particular case it would be useful to have them ahead of time so that I can seek the legal advice that I may in regards to the motion, sir.

What comes up during the course of the hearing of course is --

CHAIRMAN: Well, I do concur with you on that. And I don't -- I have noticed that Mr. Zed had nodded his agreement with that, that at least four days prior to our reconvening, if someone intends to propose a motion on

that date, that they circulate that motion to all the parties opposite.

MR. ZED: That is quite acceptable.

CHAIRMAN: Okay. Anybody else any comments?

Okay. All right. We are going to adjourn therefore to the 10th. And I have outlined what it is we propose to do hopefully on that date.

Where we reconvene, the Board Secretary will be sending an e-mail to all participants hopefully this afternoon, if not tomorrow morning, as to what the site of our hearing will be.

And we do request -- what we will do is we will put half of NB Power's tables in our breakout rooms to the back which now have speakers, if we have to go into our own premises. But hopefully either the Convention Centre or the Delta will have space available.

Mr. Barnett? I won't have it in Fredericton.

MR. BARNETT: Mr. Chairman, before we adjourn, the two letters, and particularly the one-page or a half-page typed that was circulated at this meeting, will they be given exhibit numbers, sir?

CHAIRMAN: Yes. And we will do that on the 10th. But they will be given exhibit numbers. I don't want to get them out of a logical sequence.

And I know that Board Counsel and Board Secretary, I had indicated to them before we adjourn our pre-hearing conference, which will be reconvened again on the 10th, we will give exhibit numbers.

So we will put that into the mill, Mr. Barnett. And we will preassign numbers to those.

MR. BARNETT: Thank you.

CHAIRMAN: Any other -- sorry, Mr. Morrison?

MR. MORRISON: Yes, Mr. Chairman. We talked about the date for filing of the NB Power additional evidence. And I had proposed next Friday, the 31st. And you indicated we may have a little bit of additional time.

If we are going to reconvene on the 10th, might I propose that we have until Monday, which would be the week before, to file.

And if anybody has any issues with the evidence, whether it be the Board or other intervenors, perhaps they could let us know by Friday the 7th, so that when we come back here on Monday, we know at least what the issues might be?

CHAIRMAN: As to the first part of that, I think that -- my staff had asked me to say the 3rd really is no problem, if you try and do it by 12:00 noon.

And on the second part I will ask for comments.

MR. MACNUTT: Mr. Chairman, if my mental arithmetic is right, that would mean NB Power would be filing at noon on the day before the reconvening of the hearing.

MR. MORRISON: A week before.

CHAIRMAN: He was suggesting that the filing be extended from -- I guess it would be Friday the 30th or the 1st -- 31st to Monday the 3rd of November, therefore one week prior to the 10th, Mr. MacNutt.

MR. MACNUTT: That clarifies it. Thank you.

CHAIRMAN: Okay. Now Mr. Morrison, would you reemphasize what you had said as to the second part of your request?

MR. MORRISON: Well, it just seems to make sense, since we are going to be reconvening here on the 10th, that if there are issues that arise out of our additional evidence -- it is basically to give everybody a heads-up so that when we come in here we are prepared to deal with whatever issues there may be.

Now I appreciate that there may be issues that will come up in the course of the meeting -- the hearing on the 10th. But it just would make for a more efficient process I think, Mr. Chairman.

So if any intervenors or the Board have issues that arise out of the additional evidence, if they could notify NB Power or circulate, as is the practice, by Friday the

issues that they believe are relevant to be discussed on the 10th.

CHAIRMAN: Okay. I personally see nothing wrong with that. But I will say that this panel will not have an opportunity to meet.

Staff will be reviewing. But there may be something as a result of staff briefing us that this panel wants. And we would not be able to give you much heads-up on that.

But certainly I think all the parties here should, if they know by Friday that they have difficulty or comments in reference to it, they should give a heads-up and circulate all other parties.

Mr. MacNutt, you were moving to the mic'?

MR. MACNUTT: Yes. If we could just revisit the four days before the reconvening of the hearing is the date by which the motions should be submitted.

I wonder if we could make that a date certain and that it be noon hour of the date.

That avoids the question of whether it is four clear days or inclusive.

CHAIRMAN: Mr. Morrison, do you want to make a proposal on that?

MR. MORRISON: Well, Thursday the 6th at noon would be as good as any, I suppose.

That is four days before the

hearing.

MR. SOLLOWS: And what happens on Friday?

CHAIRMAN: That gives three days to review that evidence. And I'm going to suggest that any party that does have something, that they try and give a heads-up by Friday the 7th at 12:00 noon, which gives four full days to review what it is that NB Power has done. That may save us a lot of time in the hearing itself.

MR. MACNUTT: That sounds reasonable, Mr. Chairman.

CHAIRMAN: Thank you. Any other?

All right. We will adjourn with the site to be conveyed to all the parties. And we will make it 11:00 in the morning on the 10th. And that will give staff an opportunity to brief the panel and for us to discuss what it is that NB Power has filed.

Thank you for your cooperation this morning.

(Adjourned)

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

Reporter