



ORDER

IN THE MATTER OF an application by the New Brunswick Power Corporation for an Order approving the abandonment of the Dalhousie Fuel Pipeline pursuant to subsection 25(1) of the *Pipeline Act*, 2005, S.N.B. 2005, c. P-8.5.

(Matter No. 509)

March 4, 2022

ORDER

WHEREAS the New Brunswick Power Corporation (NB Power) applied to the New Brunswick Energy and Utilities Board (Board) on October 29, 2021 (Application) for an Order approving the abandonment of a pipeline known as the Dalhousie Fuel Pipeline, being a pipeline located between the West Wharf at the Port of Dalhousie, through the Town of Dalhousie, to the Dalhousie Generating Station site, pursuant to subsection 25(1) of the *Pipeline Act, 2005*, S.N.B. 2005, c. P-8.5;

AND WHEREAS on March 2, 2022, NB Power filed a Notice of Motion (Motion) in accordance with section 38 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18 and Rules 4.3, 1.1 and 1.2.6 of the Board's Rules of Procedure (Rules of Procedure), for an Order:

- a) That the hearing of this Matter be adjourned to a date and time to be determined by the Board;
- b) That each of the Attorney General for Canada and the Attorney General for New Brunswick be provided a Notice of Constitutional Question, in a form to be determined by the Board following the hearing of this Motion;
- c) That each of the Attorney General for Canada and the Attorney General for New Brunswick be permitted to intervene in this Matter; and
- d) For such further directions as the Board may deem appropriate.

AND WHEREAS NB Power requested that procedural issues concerning the Motion be addressed on March 3 if the Board and parties were available;

AND WHEREAS, on March 2, the Board wrote to the parties asking them to provide submissions by March 4 on whether the hearing of this Matter scheduled for March 16 and 17 (Hearing) should be adjourned pending the outcome of the Motion;

AND WHEREAS in correspondence addressed to the Board on March 4, Mr. Derek Simon, on behalf of Mi'gmawe'l Tplu'taqnn Incorporated and the Public Intervener did not object to the adjournment of this matter pending the outcome of the Motion;

AND WHEREAS in correspondence addressed to the Board on March 4, Mr. Gerald Lawson on behalf of Board Staff advised Board Staff had no objection to the adjournment requested by NB Power in relation to this Matter;

AND WHEREAS Mr. John Furey, on behalf of NB Power, made further submissions on March 4 that it is appropriate to adjourn the hearing of this matter *sine die* pending the ruling of the Board with respect to the Motion;

AND WHEREAS the Board finds that, in this instance, an adjournment would facilitate the fair, effective and complete adjudication of this matter by allowing sufficient time to address the issues raised in the Motion;

AND WHEREAS the Board therefore finds that it is necessary to adjourn the Hearing to allow for an oral hearing of the Motion and to make a determination as to the date and time of the Hearing pending the outcome of the Motion.

NOW THEREFORE IT IS ORDERED THAT:

1. Pursuant to Rule 1.2.6. of the Rules of Procedure, the Hearing is adjourned *sine die* pending the outcome of the Motion;
2. The Motion filed by NB Power will be heard by the Board on March 16 at 9:00 a.m. via the Zoom Web Conference platform.

Dated at Saint John, New Brunswick, this 4th day of March, 2022.

BY THE BOARD



Kathleen Mitchell
Chief Clerk