

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

IN THE MATTER of an application by Liberty Utilities (Gas New Brunswick), as represented by its general partner, Liberty Utilities (Gas New Brunswick) Corp. for an order varying the New Brunswick Energy and Utilities Board's Order, dated June 23, 2022 in Matter 494, and for an order staying the Order pending the outcome of a review by the Board in accordance with section 43 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18 and Rules 8.1 and 8.3 of the Rules of Procedure.

ORDER

WHEREAS, on June 23, 2022, the New Brunswick Energy and Utilities Board (Board) issued an Order in Matter 494 (Order), approving Liberty Utilities (Gas New Brunswick) LP, as represented by its general partner, Liberty Utilities (Gas New Brunswick) Corp.'s (Liberty) rates, as provided for in Appendix A attached thereto;

AND WHEREAS the Order stipulated that the rates took effect on July 1;

AND WHEREAS, on June 29, Liberty filed an application with the Board (Application) requesting an order varying the Order and for an order staying the Order pending the outcome of a review by the Board;

AND WHEREAS Liberty made their Application in accordance with section 43 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18 and Rules 8.1 and 8.3 of the Board's Rules of Procedure (Rules of Procedure);

AND WHEREAS, in its Application, Liberty stated that the rates set out in the Order were calculated based on Liberty's return on equity (ROE), as a component of its cost of capital, being 8.5%;

AND WHEREAS, on June 23, the New Brunswick Court of Appeal allowed Liberty's application for judicial review of the Board's decision on Matter 491 which had reduced Liberty's ROE from 10.9% to 8.5%;

AND WHEREAS, in its Application, Liberty stated that as of result of the New Brunswick Court of Appeal's decision, the Board-determined ROE of 8.5% is quashed, remitted to the Board for rehearing and Liberty's ROE is 10.9% until ordered otherwise by the Board;

AND WHEREAS, the Board finds that, in this circumstance, it is appropriate to grant a stay pending the outcome of a review by the Board with respect to the Application.

NOW THEREFORE IT IS ORDERED THAT:

1. Pursuant to Rule 8.3.3 of the Rules of Procedure, the Order issued by the Board in Matter 494 is stayed effective as of June 30, 2022, pending the outcome of a review by the Board with respect to the Application; and
2. Liberty's rates will, therefore, remain fixed, as set out in Appendix A to the Board's Order in Matter 478 dated December 23, 2020, until further order of the Board.

DATED at the City of Saint John, New Brunswick, this 5th day of July, 2022.

BY THE BOARD



Kathleen Mitchell
Chief Clerk

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