



NEW BRUNSWICK
ENERGY & UTILITIES BOARD

COMMISSION DE L'ÉNERGIE ET DES SERVICES PUBLICS
NOUVEAU-BRUNSWICK

ORAL RULING ON MOTION

IN THE MATTER OF an application by New Brunswick Power Corporation (NB Power) with respect to proposed changes to its rate structure, rates classes, and rate design.

(Matter No. 529)

April 20, 2023

A. Introduction

- [1] This oral ruling arising from a Notice of Motion filed by J.D. Irving, Limited (JDI) on April 12, 2023.
- [2] JDI is seeking leave from the New Brunswick Energy and Utilities Board (Board) to expand the scope of this proceeding pursuant to Rule 4.3 of the Board’s Rules of Procedure. It is also seeking an order approving a “methodological refinement” to N.B. Power’s customer cost allocation study by considering the seasonality and the allocation of these energy costs.

B. Expanding the Scope of this Proceeding

- [3] The Board is not concerned with the merits of the question of whether NB Power’s cost allocation methodology should be adjusted to reflect seasonal costs. The Board will not comment on the efficacy, appropriateness, or desirability of such an approach; however, there is concern whether the scope of the current matter should be broadened to consider that question.
- [4] In June 2022, NB Power filed its application and a subsequent stakeholder engagement process was completed in the fall of 2022 concerning proposed changes to its rate structure, rates classes and rate design. At this point, two interrogatories have been completed, and intervener evidence is scheduled to be filed by April 25, 2023. Further, the hearing is set to commence on June 7 and is scheduled for ten days.
- [5] During oral submissions, the parties recognized the Board’s obligation to ensure procedural fairness for current participants and those potentially affected by a proposed adjustment to NB Power’s cost allocation methodology. At a minimum, this would involve notice that seasonal cost allocation is an issue in this proceeding and that current and potential parties would need a fair opportunity to examine any proposed change and to respond accordingly.
- [6] The Board finds that the expansion of the scope requested is substantive. Given the scheduled hearing in early June, expanding the scope of this proceeding, the

consequential notice, and the opportunity to review and respond would inevitably necessitate an adjournment of the hearing.

- [7] The Board does not wish to delay further an already lengthy rate design process and the consideration of the many issues in this proceeding. The Board finds that it can fairly, appropriately consider, and determine these issues prior to any consideration of NB Power's current cost allocation methodology.
- [8] Accordingly, leave to expand the scope of this proceeding to consider potential changes to NB Power's customer cost allocation methodology to account for seasonality is denied.
- [9] The Board does, however, wish to reiterate its position in its January 9th ruling. It is confirmed that any party may continue to support, oppose, or advocate for alternatives to the various rate design proposals advanced by NB Power for conceptual approval in this proceeding as a result of the cost allocation consequences of such proposals or any potential cost allocation methodology changes which may occur, or on the basis of any other cogent or relevant consideration.

C. Further Directions

- [10] As indicated by Ms. Rubin, counsel for JDI, should the Board deny leave to expand the current scope, she submitted that the parties be given directions on when and where seasonality and any other potential cost allocation issues will be considered.
- [11] She expressed the concern that the current methodology creates inequity and does not reflect the principle of cost causation. She also expressed concerns about the potential consequences should the Board accept NB Power's proposals, particularly concerning potential future differential rate increases and the need to undo or backtrack on rate design approaches if cost allocation issues are not resolved at an early stage.
- [12] Mr. Furey, counsel for NB Power, suggested consideration of seasonality was premature and that JDI's fears of negative rate consequences were unfounded. He also submitted that opening the issue of seasonal cost allocation requires consideration of a variety of other issues to assess adjustments to the cost allocation

methodology. NB Power felt that these matters were best dealt with at some later stage of the rate design process.

[13] Cost allocation is the foundation for establishing just and reasonable rates by reflecting the principle of cost causation. It is an essential component in the rate design process.

[14] While the Board will move forward with the rate design proposals before it in the current matter, the Board considers that adjustments to NB Power's cost allocation methodology, if any, should be resolved at an early stage in the overall rate design and implementation process.

[15] The last proceeding which fully addressed NB Power's class cost allocation methodology was in 2016 (Matter 271). Since 2016, the Board has approved incremental changes as part of various general rate applications, however, the following significant changes have occurred:

1. NB Power's rate design process has advanced and reflects current circumstances and technology advancements.
2. NB Power's load research data and analysis have improved.
3. Advanced Metering Infrastructure has been approved and deployment is underway.
4. Significant legislative changes, including the establishment of the Energy Efficiency and Demand Response Deferral Account, the Energy Supply Cost Variance Account, the Electricity Sales and Margin Variance Account, and multi-year general rate applications are now permitted.
5. Significant changes to NB Power's generation mix and portfolio, as well as, its approach to out-of-province sales.

[16] Given the developments, the stage in the rate design and implementation process, and given the current cost allocation methodology may be creating inequities between rate classes, the Board concludes that a review of NB Power's cost

allocation methodology, including but not limited to any considerations of seasonal cost allocations, is appropriate.

- [17] The Board directs that a procedural conference to determine the scope of the review will take place on Wednesday, June 28, 2023, at 9:30 a.m. at a location to be determined. The Chief Clerk is directed to issue a notice accordingly.
- [18] Based on the determinations made at the procedural conference, the Board will issue an order setting out the details of a Class Cost Allocation Study and any other material that is to be filed no later than November 6, 2023.