NEW BRUNSWICK
ENERGY & UTILITIES BOARD

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

DECISION

IN THE MATTER OF an application by New Brunswick Power Corporation pursuant to subsection 103(1) of the *Electricity Act*, S.N.B. 2013, c. 7 for approval of the schedules of the rates for the fiscal year commencing April 1, 2023.

(Matter No. 541)

June 7, 2023

IN THE MATTER OF an application by New Brunswick Power Corporation pursuant to subsection 103(1) of the *Electricity Act*, S.N.B. 2013, c. 7 for approval of the schedules of the rates for the fiscal year commencing April 1, 2023 (Matter No. 541)

APPLICATION:	October 5, 2022
ORAL HEARING:	February 13 to 24, 2023
PARTIAL DECISION:	March 16, 2023
ORDER:	March 31, 2023

NEW BRUNSWICK ENERGY AND UTILITIES BOARD (Board):

Chairperson	François Beaulieu
Members	Heather Black
	Stephanie Wilson
APPLICANT:	
New Brunswick Power Corporation (NB Power)	John Furey
INTERVENERS:	
David Amos	per se
Canadian Federation of Independent Business	Louis-Philippe Gauthier
Gerard Daly	per se
Liberty Utilities (Gas New Brunswick) LP	Brandy Gellner
J.D. Irving, Limited	Nancy Rubin, K.C.
Twin Rivers Paper Company Inc.	Len Hoyt, K.C.
Utilities Municipal	Scott Stoll
ACTING PUBLIC INTERVENER:	Richard Williams, K.C.

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1 Introduction and Summary Conclusions

[1] The *Electricity Act* (Act) requires NB Power to apply to the Board for approval of the rates it proposes to charge customers for its services.

[2] NB Power is asking the Board to approve an 8.9% rate increase across all rate classes, significantly higher than any increase in the past several years. NB Power says it needs this increase because economic factors and policy changes are driving up its costs. The utility also seeks to increase its water heater rental rates and service call fee and asks the Board to approve changes to its Financial Risk Management Policies.

[3] For the reasons in this Decision, the Board has determined that:

A rate increase of 5.7% across all rate classes, exclusive of any rate riders, is just and reasonable. This is lower than NB Power's proposed increase of 8.9% because:

1. **NB Power is forecast to earn more revenue from in-province and out-of-province energy sales due to unexpected export sales contracts and lower cost of fuel compared to its expectations at the time the rate application was filed;**
2. **NB Power is forecast to incur higher financing costs compared to its expectations at the time the rate application was filed; and**
3. **NB Power proposes including depreciation expense related to an ongoing capital project that the Board still needs to approve.**

Subject to these exceptions, NB Power has demonstrated that its proposed revenue requirement is reasonable.

NB Power's proposed water heater rental rates and service call fee are just and reasonable, and the changes to its Financial Risk Management Policies are approved.

NB Power's significant debt and considerable forecast losses in 2022-2023 will heavily burden future ratepayers. The Board expects NB Power to pursue performance improvement opportunities aggressively. The Board will implement measures to give ratepayers a more transparent understanding of the utility's performance.

2 Overview

[4] One of the Board's primary goals is to ensure that NB Power delivers cost-effective, efficient, reliable, and responsive services to customers. At the same time, the Board must give the utility a reasonable opportunity to recover its prudently incurred costs. NB Power's application should demonstrate the alignment of the utility's strategic objectives

with its current and future customers' expectations for reliable and reasonably priced service.

[5] The utility is expected to integrate its business challenges and its customers' needs to create a compelling business plan that directly links its general rate application to key performance outcomes. In reviewing NB Power's application, the Board analyses past performance but is even more concerned with future performance.

[6] The Board's primary obligation in this matter is to fix just and reasonable rates for 2023-2024, as required by section 103 of the Act. The Board fixes rates based on NB Power's revenue requirement.

[7] NB Power's proposed revenue requirement for the test year is based on a model that simulates the operation and generation costs and revenues the utility needs to serve in-province and export load at the lowest cost to in-province customers. NB Power uses a modelling program called PROMOD for this purpose.

[8] Key assumptions within the model include the load forecast, long-term median hydro flows, contracted and forecast export sales, planned outages and availability factors, and commodity prices for heavy fuel oil, natural gas, coal, pet-coke, purchased power and foreign exchange based on forward prices and market conditions at the time the modelling is done. Forecast forward prices and market conditions expose NB Power to market price risk that the utility has not mitigated through financial transactions in accordance with its Financial Risk Management Policies.

[9] The model output provides NB Power with the forecast cost of fuel and purchased power to meet in-province and export load for the test year. Based on the model results and other assumptions and planning processes, NB Power quantifies each component of the revenue requirement.

[10] To calculate its proposed rates for the test year, NB Power deducts its forecast export sales revenue and other miscellaneous revenues to determine the total revenue requirement it proposes to collect from ratepayers. The total revenue requirement is then allocated among rate classes following the Board approved methodology. Rates are then set to allow NB Power to recover its expected revenue requirement for the test year. In this proceeding, NB Power proposes a uniform rate increase for in-province electricity sales.

[11] The Board evaluates the reasonableness of each component of the revenue requirement by considering the factors in subsections 103(7) and 103(8) of the Act and applying the

law and regulatory principles to the evidentiary record. Subsection 103(7) prescribes specific factors for the Board to consider when fixing just and reasonable rates. These factors include the government's policy for NB Power, expressed in section 68, along with NB Power's longer-term plans, Executive Council directives, and relevant legal requirements and policies. Subsection 103(8) allows the Board to consider any other relevant factors in setting just and reasonable rates.

[12] The policy in section 68 of the Act sets an expectation that the utility will be managed and operated in a way that, among other things, provides safe and reliable service that results in the lowest cost of service for in-province customers. According to the same policy, rates should allow NB Power to reduce the percentage of debt in its capital structure while, to the extent practicable, remaining low and stable.

[13] In this proceeding, the Board is required to consider many factors, including the policy in section 68, NB Power's Three-Year Plan 2024-2026, its 2020 Integrated Resource Plan, and statutory requirements related to demand side management, energy efficiency, and renewable energy.

3 The Hearing Process and Public Participation

[14] Appendix A lists the parties to this proceeding and describes each witness who gave written and oral testimony. NB Power, the Acting Public Intervener and Board staff made witnesses available for cross-examination during the oral hearing.

[15] Before the oral hearing, the Board heard 7 presentations from members of the public who participated in public sessions held virtually and in-person in Caraquet. The Board also received 23 letters of comment. Senior NB Power executives attended the public sessions and all letters of comment were reviewed by Ms. Lori Clark, President and Chief Executive Officer of NB Power.

[16] Submissions from the public are not treated as evidence under the Board's Rules of Procedure, which would otherwise be subject to interrogatory inquiries and cross-examination. However, they form part of the public record and the Board takes them into consideration in its deliberations. The Board appreciates the efforts of those who made submissions or presentations.

4 The Issues

[17] The Board must decide whether to depart from its general approach of evaluating the revenue requirement as of the time the application was filed to consider subsequent

changes in the forecasts underlying the proposed revenue requirement. This issue must be resolved first because it may broadly impact the revenue requirement. The Board must determine:

a. whether significant changes in the test year forecasts for fuel and purchased power costs and export sales due to unprecedented changes in underlying economic factors and previously unknown export opportunities constitute material or exceptional circumstances that warrant consideration by the Board; and

b. whether, in the context of the new regulatory variance accounts, changes that may occur between the time NB Power prepares its forecasts and the final stages of the rate hearing are sufficiently material to warrant requiring NB Power to update its energy supply cost and electricity sales forecasts in future proceedings.

These issues are discussed in Section 5 of this Decision.

[18] The Board must evaluate the reasonableness of NB Power's revenue requirement and set just and reasonable rates for the test year. Sections 6 and 7 of this Decision discuss the Board's evaluation.

[19] The Board must consider certain changes to the Financial Risk Management Policies established for NB Power and New Brunswick Energy Marketing Corporation. These policies govern the financial transactions NB Power engages in to mitigate commodity price exposure and foreign exchange risk associated with fuel and purchased power costs, export sales and the trade of renewable energy credits. This issue is discussed in Section 8 of this Decision.

[20] Beyond fixing just and reasonable rates, the Board must determine whether it is in the public interest to implement measures to monitor NB Power's efforts to improve performance and give ratepayers a more transparent understanding of the utility's operations. This issue is discussed in Section 9 of this Decision.

5 Material changes in forecasts warrant the Board's consideration

[21] The Board must decide whether to consider changes in the forecasts underlying the proposed revenue requirement that occur after NB Power has filed its application. This issue must be resolved first because it may broadly impact the revenue requirement.

[22] The evidence demonstrates a material change in the test year revenue requirement caused by unprecedented changes in underlying economic factors and previously

unknown export opportunities. The Board concludes that these changes constitute material or exceptional circumstances that warrant the Board's consideration in this proceeding. This issue is discussed in Section 5.2 of this Decision.

[23] The Board also concludes that, in the context of the new regulatory variance accounts, changes that may occur between the time NB Power prepares its forecasts and the final stages of the hearing are sufficiently material to warrant requiring NB Power to update its forecasts for energy supply costs and electricity sales in future proceedings. This issue is discussed in Section 5.4 of this Decision.

5.1 Some forecasts have changed significantly since the application was filed

[24] NB Power's application included an in-province revenue forecast, export sales and gross margin forecast, and fuel and purchased power forecast, all established using production modelling results based on June 2022 commodity prices and other inputs (2022 PROMOD Results).

[25] During the oral hearing, J.D. Irving, Limited asked NB Power for an undertaking to produce its January 2023 production modelling results because more recent modelling may disclose a material change in NB Power's forecast test year costs. NB Power responded to the undertaking by filing evidence using production modelling results based on January 2023 commodity prices and other updated inputs (2023 PROMOD Update). The 2023 PROMOD Update showed a $106.5 million increase in Total Gross Margin and a $788.7 million increase in Fuel and Purchased Power expense for the test year compared to the forecast used in the application.

[26] NB Power explained that the increase was caused by several "major changes" that were unknown when the budget was prepared. These changes include higher standard offer service load awards in export sales contracts and a lower in-province load forecast.

[27] Fuel and purchased power prices also dropped significantly since the 2022 PROMOD Results. Ms. Powers testified that natural gas prices were at their highest level since 2008 in the months around the time the 2022 PROMOD Results were modelled. Other evidence filed during the hearing shows that some other commodity prices have fallen since that time.

[28] The Board acknowledges that NB Power's financial risk management activities mitigate the effect of changes in commodity prices on NB Power's fuel and purchased power costs.

5.2 The updated forecasts disclose material or exceptional circumstances

[29] For the reasons below, the Board concludes that the $106.5 million increase in forecast Total Gross Margin and $788.7 million increase in forecast fuel and purchased power costs disclosed in the 2023 PROMOD Update constitute material or exceptional circumstances because they have a material impact on the revenue requirement and material implications for the new regulatory variance accounts and rate rider mechanism.

[30] The Board has confronted this issue in the past, most recently in Matter 458, and has decided against requiring forecasts to be updated late in the hearing process except in material or exceptional circumstances. Requiring updated forecasts may be impractical and potentially unfair to the utility because of the complexity and interdependency of the calculations and the time and effort needed to test the evidence thoroughly. The Board determined in Matter 458 that the circumstances would be evaluated on a case-by-case basis to avoid hearing delays and other potential prejudice. The Board also determined that NB Power must advise the Board if a material or exceptional change or an external event impacts its filed evidence.

[31] Mr. Furey submitted that the Board should evaluate the reasonableness of the proposed revenue requirement at the time the application was filed. He distinguished these circumstances from those in Matter 375, where the Board granted NB Power's request during the oral hearing to introduce new evidence that had a material, known and certain impact on the revenue requirement. In Mr. Furey's view, the consequential changes to the revenue requirement are not sufficiently material in this case to justify departing from the Board's general approach.

[32] The Board does not accept this argument. The 2023 PROMOD Update has a significant impact on the revenue requirement because of the magnitude of differences in the test year forecasts for in-province revenue, out-of-province sales and gross margin, and fuel and purchased power costs.

[33] Fuel and Purchased Power expense represents 47% of NB Power's revenue requirement. Moreover, according to NB Power, "unprecedented challenges due to never before seen increases in fuel and purchased power costs and volatility" and "significant increases in commodity prices" are responsible for the requested rate increase. This explanation is consistent with Ms. Clark's testimony that the increased cost of fuel and purchased power necessary to supply customers in New Brunswick "drives the need for a rate increase of nearly 7 percent."

[34] Mr. Musco characterized the significant changes in fuel and purchased power prices since the 2022 PROMOD Results as "a material change that can have a material impact on NB Power's overall revenue requirement." He recommended that NB Power update its forecast fuel and purchased power expense "[t]o minimize forecast error that can drive differences between NB Power's rates (based on a forecasted revenue requirement) and its actual costs […]."

[35] Mr. Furey disputed Mr. Musco's premise that a recent forecast is more accurate than one completed several months ago, pointing to market volatility as a reason to question the usefulness of a more recent forecast.

[36] The Board considers that the 2023 PROMOD Update adds certainty to the revenue requirement because, in addition to being more recent, the forecast changes relate primarily to known and certain export sales and the consequential impacts of those sales on fuel and purchased power costs. The Board, therefore, finds that the 2023 PROMOD Update is likely to materially reduce test year forecast error, despite any continuing market volatility.

[37] Consequently, the Board concludes that the $106.5 million increase in the forecast Total Gross Margin and $788.7 million increase in forecast fuel and purchased power cost has a material impact on the revenue requirement. These differences also have material implications for the regulatory variance accounts, described in Section 5.4 of this Decision. The Board considers these to constitute material and exceptional circumstances due to the magnitude of the increases and because the introduction of the regulatory variance accounts and rate rider mechanism is an extraordinary external event that has shifted the consequences of certain components of revenue requirement forecast error wholly onto ratepayers.

[38] Utilities Municipal and the Acting Public Intervener did not dispute the material or exceptional nature of the circumstances. Still, they did not support the requests of the other interveners for the Board to consider the 2023 PROMOD Update.

[39] Mr. Stoll expressed concern about the potential delay in implementing new rates. The Board concludes that the impact of a delay in implementing new rates outweighs the benefit of reflecting more recent commodity costs in the revenue requirement. Accordingly, the Board will not require NB Power to conduct additional production modelling for this proceeding based on commodity prices that are more recent than those in the 2023 PROMOD Update.

[40] Mr. Williams suggested that the Board should not consider the 2023 PROMOD Update because doing so will not reduce the net variance accounts balance, as further described in Section 5.4 of this Decision. He cited Mr. Knecht's testimony that the regulatory benefit of updated forecasts is to minimize the net variance accounts balance and that, in this case, ignoring the updated forecast will have that effect. The Board does not accept this suggested approach of assessing the materiality of the evidence in reference to its directional impact because it could pose a risk of procedural unfairness to NB Power.

[41] For these reasons, the Board will consider the 2023 PROMOD Update.

5.3 The Board will mitigate any prejudice to NB Power

[42] Mr. Furey submitted that requiring NB Power to update budget forecasts introduces asymmetric risk to the utility. He stated that this risk arises from two sources: the requirement to notify affected persons of the potential for a higher rate increase and the reality that interveners typically request updates only on matters they perceive will lower the revenue requirement.

[43] Ms. Rubin submitted that the regulatory variance accounts moderate any asymmetric risk to NB Power, eliminating the concern. Mr. Hoyt made a similar submission, noting Mr. Knecht's testimony that "[…] in this case, because those variance accounts exist, there is, first, no real threat that the company isn't going to be able to recover those costs […]."

[44] The Board finds that the regulatory variance accounts change the nature of the risk by transferring the implications from certain components of the revenue requirement to the variance account balances. However, for the reasons discussed in Section 5.4 of this Decision, the Board is not persuaded that the asymmetric risk is eliminated.

[45] For these reasons, the Board concludes that NB Power may be exposed to asymmetric risk when the Board considers updated forecasts introduced at the request of interveners during the oral hearing. The Board will mitigate the risk in this proceeding by considering all available updated evidence. This approach is consistent with the recommendations of the expert witnesses who testified before the Board. Mr. Madsen and Mr. Musco recommended that any forecast update include all relevant inputs to the revenue requirement. Mr. Knecht agreed that this is generally true, though he opined that the need is "less obvious" in this case for factors not subject to the regulatory variance accounts.

[46] To the extent that this approach does not fully mitigate any asymmetric risk to NB Power, the Board concludes that NB Power is not unduly prejudiced because the utility bears

some responsibility for the late revelation of the updated evidence. NB Power specifically confirmed in response to an interrogatory that it "[t]o date, NB Power is not aware of any material or exceptional change to the evidence and, accordingly, does not intend to file any updates to any of the forecasts contained in the revenue requirement presented." While the Board accepts the veracity of this statement at the time it was prepared in early December, NB Power was aware of its obligation to inform the Board of any material or exceptional circumstances and should have told the Board of the changes described in the 2023 PROMOD Update and other material or exceptional changes upon becoming aware of them.

5.4 The Board will require NB Power to file updated forecasts in future proceedings

[47] NB Power is vulnerable to significant variances between actual and forecast energy supply costs and electricity sales because forecasts are prepared long before NB Power incurs the costs or makes the sales.

[48] Amendments to the Act in 2021 require that these variances be tracked and reimbursed to or repaid by customers through a rate rider mechanism. Since the actual results are compared against NB Power's approved revenue requirement, overestimating or underestimating the revenue requirement directly impacts the variance account balances and the rate rider.

5.4.1 Forecast error impacts regulatory variance accounts balances

[49] The Board heard expert evidence that forecast error had been a root cause of NB Power's inability to achieve its net earnings targets because it resulted in underestimated revenue requirements.

[50] Mr. Knecht opined that NB Power's unfavourable income variances were caused by unduly optimistic forecasts over the past decade, relative to actual generation operations and fuel costs. He testified that this forecasting optimism might cause the net variance accounts balance to grow. Mr. Knecht and Mr. Madsen observed that the utility tends to under-forecast Export Gross Margin compared to historical results.

[51] The Board finds that forecast error has, historically, resulted in the approved revenue requirement being underestimated and that the regulatory variance accounts are less likely to balance out over time if similar patterns of forecast error continue.

5.4.2 Forecast error is a relevant factor to consider

[52] Utilities Municipal and the Acting Public Intervener argued that minimizing the net variance accounts balance is a valuable regulatory objective. Mr. Stoll submitted that the need for the most accurate forecast takes on increased importance in light of the regulatory variance accounts. Mr. Williams referred to Mr. Knecht's testimony confirming that the regulatory benefit of updating those revenues and costs is to minimize the size of those accounts.

[53] The Board considers that the regulatory variance accounts have an impact on the debt-to-equity ratio. Reducing forecast error in the approved revenue requirement to minimize the net variance accounts balance is a relevant factor for the Board to consider under paragraph 103(8)(e) of the Act.

5.4.3 Updating forecast evidence will reduce forecast error

[54] The Board is concerned that the obligation imposed on NB Power in Matter 458 is insufficient to reduce the magnitude of the forecast error, particularly for components that flow through the regulatory variance accounts. As discussed in Section 9 of this Decision, NB Power's significant debt and the potential for a skyrocketing net regulatory variance account balance in 2024-2025 suggest that this concern is well placed.

[55] Several interveners submitted that NB Power should be required to file updated PROMOD modelling in future rate proceedings.

[56] Ms. Powers testified that the appropriate way to consider updated evidence regarding fuel and purchased power costs would be to look at the data underlying the PROMOD modelling results. The Board heard evidence that NB Power conducts several PROMOD modelling analyses throughout the year, including one at the end of each fiscal quarter.

[57] The Board directs NB Power to file its third quarter PROMOD forecast no later than January 21st each year as a Minimum Filing Requirement for future general rate applications. If January 21st is not a business day, then the filing is to be made on the next business day. The filing is to be presented in the format provided in Undertaking #22 in this proceeding, including the updated PROMOD output, all updated tables, and any related explanations. For additional clarity, the Board directs NB Power to continue using its first quarter PROMOD forecast for the purpose of filing a comprehensive general rate application on or before the first Wednesday of October.

[58] This additional filing requirement does not relieve NB Power of its ongoing obligation to inform the Board of any material or exceptional change in its evidentiary package or if an external event has occurred that will impact its filing.

6 Evaluation of the Revenue Requirement

[59] For the reasons below, the Board will increase the revenue requirement by $847.3 million, primarily to reflect the impact of the 2023 PROMOD Update. As noted in Section 5.1 of this Decision, the 2023 PROMOD Update showed a $106.5 million increase in Total Gross Margin for the test year compared to the forecast used in the application. The 2023 PROMOD Update has a material impact on the revenue requirement because it changes test year forecasts for in-province revenue and export sales and impacts several components of the revenue requirement, specifically Fuel and Purchased Power expense, Net Change in Regulatory Balances, and Rate Rider Adjustment Factor. These adjustments are addressed in Sections 6.1 and 6.6 of this Decision and shown in the table below.

[60] The Board will make other adjustments addressed in Sections 6.3 and 6.4 of this Decision.

[61] The results of the Board's evaluation of the revenue requirement are set out in the following table:

2023-2024 REVENUE REQUIREMENT (in millions $)			
Component	**NB Power Application**	**Adjustment**	**Approved Amount**
Fuel and Purchased Power	1,092.0	833.7	1,925.7
Operations, Maintenance and Administration (OM&A)	594.0	--	594.0
Depreciation and Amortization	368.7	(3.3)	365.4
Taxes	54.0	--	54.0
Finance Costs and Other Income	213.3	30	243.3
Net change in Regulatory Balances	(15.8)	(36.1)	(51.9)
Rate Rider Adjustment Factor	(7.9)	23.0	15.1
Net Earnings	16.3	--	16.3
Total	**2,314.6**	**847.3**	**3,161.9**

[62] Each component of the revenue requirement is evaluated in more detail below.

6.1 Fuel and Purchased Power Expense increases by $833.7 million

[63] The 2023 PROMOD Update increases the Fuel and Purchased Power expense by $833.7 million. The increase is the sum of the $788.7 million increase described in Section 5.1 of this Decision, the $13.5 million increase described in Section 6.4 of this Decision, and the $31.5 million increase reflecting the adjustment to the forecast Export Gross Margin discussed in Section 6.7.2 of this Decision, all of which appear in the revenue requirement as increases in Fuel and Purchased Power expense. These adjustments cause consequential changes to other components of the revenue requirement, as described in Section 6.6 of this Decision.

[64] For the reasons below, the Board will make no other adjustments to the revenue requirement related to the updated evidence and will not adjust to reflect compliance with the Renewable Portfolio Standard.

6.1.1 No adjustment for updated PLNGS capacity factor

[65] The Board will not adjust the revenue requirement to reflect updated evidence related to the Point Lepreau Nuclear Generating Station (PLNGS) capacity factor.

[66] Mr. Furey urged the Board to recognize the “significant change in circumstances” in the 2022-2023 forecast PLNGS capacity factor because of the recent unplanned outage. He submitted that the Board should account for this in the revenue requirement by notionally increasing Fuel and Purchased Power expense by $30.5 million, following Mr. Knecht’s estimate of the cost impact of PLNGS achieving test year production levels consistent with its five-year average.

[67] The Board considered this updated evidence of the PLNGS outage but will not adjust the revenue requirement to reflect a lower capacity factor. Mr. Furey stated that the recent outage has caused NB Power to agree with Mr. Knecht that the PLNGS capacity factor forecast is overly optimistic. The Board observes, however, that the updated evidence does not support this submission. The 2023 PROMOD Update showed that, for planning purposes, NB Power has maintained its assumption of an 88.9% capacity factor for the test year, despite the outage.

6.1.2 No adjustment for updated population growth

[68] The Board will not adjust the revenue requirement to reflect updated evidence related to changes in population growth in New Brunswick.

[69] Ms. Rubin and Mr. Stoll submitted that the Board should consider evidence filed during the oral hearing showing that population growth in New Brunswick will increase the Total Gross Margin by approximately $2.3 million in the test year. The Board considered this updated evidence but will not adjust the revenue requirement because its impact on Total Gross Margin is uncertain in relation to the 2023 PROMOD Update. The Board notes that the 2023 PROMOD Update was modelled using a more recent load forecast than the one filed as part of the application.

6.1.3 No adjustment to reflect the Renewable Portfolio Standard

[70] The Board will not increase the revenue requirement to reflect compliance with the Renewable Portfolio Standard (RPS).

[71] The RPS requires 40% of NB Power's total in-province electricity sales in each fiscal year to be sourced from qualifying renewable resources. NB Power typically derives its estimated fuel and purchased power costs from production models that apply a constraint to ensure the RPS requirement is achieved in the fiscal year. This adds costs to the revenue requirement compared to an unconstrained economic dispatch. NB Power proposes to budget its Fuel and Purchased Power expense using the unconstrained economic dispatch to avoid adding an estimated $14.2 million to the revenue requirement.

[72] The Board is satisfied that this proposal is reasonable. While the Fuel and Purchased Power budget contemplates less than 40% qualifying renewable energy, Ms. Clark testified that NB Power's board of directors expects the utility to comply with the RPS requirement and that NB Power plans to do so. Mr. Coady explained that NB Power has committed to finding ways to meet the RPS requirement through its New Brunswick Energy Marketing team, which he testified is "ready to pounce on" market opportunities to import renewable energy without adding costs to New Brunswickers. He also testified that, by taking advantage of these market opportunities, NB Power had achieved an average of 44% renewable energy over the past four fiscal years and is forecasting 51% renewable energy for the 2022-2023 fiscal year.

[73] The testimony of Ms. Clark and Mr. Coady regarding NB Power's intention to comply with the RPS requirement, together with NB Power's history of exceeding its budgeted renewable energy targets, allows the Board to conclude that NB Power's ability to achieve the RPS requirement is not materially dependent on whether $14.2 million is added to the revenue requirement.

[74] The Board expects NB Power to comply with the Renewable Portfolio Standard but will not increase the revenue requirement by $14.2 million to reflect such compliance.

6.2 Operations, Maintenance and Administration (OM&A) expense is approved

[75] NB Power divides OM&A expenditures into two categories: "base OM&A costs" required to run the day-to-day activities of the utility, and "initiative OM&A costs" that are outside of daily operations, finite in duration and expended to improve performance or solve a problem. NB Power applies its investment governance framework to prioritize OM&A initiatives for the test year. This is the same work planning and resource allocation process NB Power uses for its capital project spending.

[76] Most of the OM&A initiatives planned for the test year relate to improving the performance of the Point Lepreau Nuclear Generating Station. Mr. Murphy emphasized the importance of improving the station's performance in light of the financial consequences of the unplanned PLNGS outage in 2022-2023. Demand Side Management programs are another major OM&A initiative, primarily driven by the new regulatory requirements discussed in Section 6.2.4 of this Decision. Other OM&A initiatives planned for the test year will reduce the maintenance backlog at other generating stations to maintain reliability and improve performance, facilitate the Mactaquac Life Achievement Project, upgrade critical business systems and execute the Advanced Metering Infrastructure project.

[77] Base OM&A costs and initiative OM&A costs budgeted for the test year are embedded within various expense categories, including those addressed explicitly in Section 6.2 of this Decision. For the reasons below, the Board will not adjust the revenue requirement in relation to NB Power's proposed OM&A budget.

6.2.1 Labour and Benefits expense

[78] NB Power is seeking approval of $402.5 million in Labour and Benefits expense in the test year revenue requirement, representing almost 60% of its OM&A budget. The utility's budgeted labour and benefits costs have increased by $14.6 million compared to the 2022-2023 budget. The Board considered the reasonableness of NB Power's proposed salaries and wages, number of positions, and vacancy credit and will not adjust the proposed budget.

6.2.1.1 Salaries and Positions

[79] Mr. Madsen disagreed with NB Power's proposed increase of $10.7million in the test year for salaries and wages. Instead, he recommended multiplying the current average per-position labour cost by the current number of positions and applying a 1% escalation of labour costs. This approach would reduce the revenue requirement by $18.5 million before accounting for vacancies. His recommendation is based on wage mandates issued by the Province to NB Power since 2015 generally directing NB Power to operate within parameters limiting compensation increases for union and non-union employees to 1% per year.

[80] The Board declines to adopt Mr. Madsen's recommendation concerning salaries and benefits expense. Budgeted wage increases for unionized employees comply with the wage mandate letters or exceptions approved by the Lieutenant-Governor in Council. The increases are also consistent with cumulative Consumer Price Index and income growth in New Brunswick. Given that more than 90% of employees are unionized and their wages are negotiated through a collective bargaining process, the Board considers NB Power's proposed wage increases to be reasonable.

[81] Mr. Madsen's approach presumes no additional work is being done and no net new positions are required to complete that work, but the evidence does not support this presumption. NB Power identified the OM&A initiatives described above and other project work as critical drivers of additional spending to leverage existing staff and new positions. Mr. Madsen did not investigate the efficiency of NB Power's proposed use of additional resources assigned to the OM&A initiatives or other planned projects or contradict NB Power's evidence regarding the work planning and resource allocation processes used to select the initiatives.

[82] NB Power's evidence supports the reasonableness of its budgeted number of positions based on expected work requirements. The Board observes that the overall Labour and Benefits budget has increased less than 4% from 2022-2023, generally within the boundaries of recent inflation.

[83] However, the Board shares Mr. Madsen's concern that the evidence describing NB Power's work planning and resource allocation processes does not explicitly explain whether and how the utility exhausted options to complete the newly identified work by redeploying existing staff and reallocating or centralizing work. As discussed in Section 9 of this Decision, the Board expects NB Power to make all reasonable efforts to control

costs. This effort should include completing new work requirements efficiently and, where possible, within existing budgets.

[84] For example, the Board observes that 100 of the 292 new positions added since 2020-2021 are succession positions. Ms. Hachey testified that years of training are required to backfill many of these positions. The Board is concerned that escalating retirements due to NB Power's aging workforce will put upward pressure on the Labour and Benefits budget. The Board expects NB Power to explore innovative ways to manage succession planning costs and directs NB Power to report on these efforts in the next general rate application.

6.2.1.2 Vacancy Credit

[85] NB Power includes a credit in its Labour and Benefits budget to recognize that it saves labour and benefit costs when budgeted positions are vacant. To calculate this vacancy credit, NB Power assumes that 5% of positions are vacant at any time during the year and that incremental costs incurred to backfill vacancies will reduce those savings by two-thirds.

[86] Mr. Madsen challenged this approach. In his view, backfill costs are already accounted for within the test year budgets for overtime, casual labour and hired services and, therefore, NB Power's approach double counts those costs. He asserted that his opinion is supported by stable or increasing overtime and Hired Services budgets. NB Power submitted rebuttal evidence explaining that these incremental costs are not budgeted because the budget is established long before the backfill requirements are understood.

[87] The Board concludes that NB Power's approach to calculating the vacancy credit is reasonable. The assumed 5% vacancy rate is supported by evidence demonstrating NB Power's historical and current vacancies, and Mr. Madsen's conclusion about double-counted backfill costs is not observable in the evidence. NB Power's historical results indicate that overtime, casual labour and hired services costs often exceed budget. While the Board does not consider this to be determinative of the issue, it contradicts the conclusion that backfill costs are included in those budgets.

6.2.2 Hired Services expense

[88] Hired Services expense is the second largest component of OM&A. These contracted services provide outage support, fulfil specialized, technical or one-time work requirements, meet seasonal and peak period work requirements, and add flexibility to NB Power's workforce. NB Power proposes to include $120.5 million in the revenue

requirement for hired services, including the unspecified "improvement credit" of $27.5 million.

[89] Mr. Madsen recommended that the Board disallow $16.3 million from NB Power's proposed Hired Services budget. He noted in his report that NB Power plans to spend over $26 million more in the test year than in 2022-2023 if the "improvement credit" is not considered. He recommends applying a Consumer Price Index escalation to the 2022-2023 forecast costs to calculate a reasonable budget because, in his opinion, the evidence does not demonstrate changes in forecast activity levels to support this increase.

[90] The Board will not adopt Mr. Madsen's recommendation because NB Power's evidence demonstrates changes in its forecast activity levels. NB Power filed evidence identifying each component of its Hired Services budget and explaining that variances from 2022-2023 spending relate to planned activities, as well as evidence related to the OM&A initiatives, Mactaquac reallocation and information technology/digital technology services addressed in Section 6.2 of this Decision. The Board finds that the utility's evidence demonstrates changes in forecast activity levels due to planned OM&A initiatives and other projects expected to require the services that contribute most significantly to the Hired Services budget.

[91] For these reasons and the following reasons, the Board concludes that the proposed Hired Services budget is reasonable.

6.2.2.1 $27.5 million "improvement credit"

[92] For the reasons in Section 6.5 of this Decision, the Board concludes that the proposed $27.5 million "improvement credit" in its Hired Services budget is reasonable.

6.2.2.2 Mactaquac Reclassification

[93] The Hired Services budget includes an expense of $8.8 million, representing prior expenditures being reclassified from capital. These expenditures are related to the Mactaquac Generating Station major capital project.

[94] NB Power developed four possible solutions to the alkali-aggregate reaction problem affecting the Mactaquac Generating Station and, in December 2016, recommended the life achievement solution as the preferred option. The utility is now reclassifying prior project expenditures that were categorized as directly attributable to one of the discarded options.

[95] Mr. Madsen's opinion is that the proposed reclassification is not reasonable. In his view, those costs were incurred partly to validate the reasonableness and ability to proceed with the selected option and, therefore, expenses incurred to assess the discarded options are directly attributable to the overall project. On this basis, he concludes that the proposed reclassification is not permitted from an accounting perspective.

[96] NB Power disputes that these costs are directly attributable to the Mactaquac Life Achievement Project, specifying that they were incurred primarily for engineering services specific to the discarded options. Ms. Hicks Gesner testified that NB Power used professional judgment to form an opinion that it is inappropriate for those costs to remain capitalized. She stated that NB Power's auditor agreed with its policies, procedures and practices and agreed with NB Power's professional judgment on this issue. She noted that this issue was unique regarding the work required to determine the appropriate accounting for the reclassified costs.

[97] Mr. Madsen acknowledged that "[t]he accounting issue being addressed by NB Power is complex" and reiterated in cross-examination that it is "a complex assessment" and "is not a black and white answer."

[98] The Board will not adjust the revenue requirement for the reclassification of these expenditures. Given the acknowledged complexity of the accounting issue, the Board has no basis to find that NB Power's proposed accounting treatment of these costs is improper. The Board concludes that including $8.8 million in the revenue requirement is reasonable.

6.2.2.3 Vegetation Management expense

[99] NB Power proposes to spend $5.4 million for vegetation management, a decrease of $2.2 million from the 2022-2023 budget. The Board concludes that the proposed budget is reasonable.

[100] NB Power explains that this "one-time" reduction is part of NB Power's effort to relieve upward pressure on test year rates. $5.4 million is generally consistent with recent actual spending. NB Power is also pursuing opportunities to improve vegetation management. The Board expects NB Power to budget sufficient funds to implement its vegetation management programs in the future.

6.2.3 Information Technology/Digital Technology expense

[101] Mr. Madsen noted in his report that NB Power's planned IT spending, of which $47.1 million is OM&A, is materially higher per user than reported IT operational spending across all industry sectors for 2022. In his opinion, this difference supports the need for an IT benchmarking study. In response, NB Power filed a benchmarking study recently completed by ScottMadden. That study concluded that NB Power's IT costs, measured on a per-revenue and per-user basis, are below the utility industry standard and have improved since 2018-2019.

[102] Mr. Madsen also recommended that the Board disallow $3.2 million of the IT OM&A budget because the proposed spending in the test year is unsustainable and not well understood. He testified that no activity-based information supports the increase, and the business has not fundamentally changed.

[103] The Board will not adjust the revenue requirement to disallow the proposed IT spending because the evidence does not support a conclusion that there has been no change in information technology-related business requirements or activity levels.

[104] NB Power indicated in its application that $4.2 million of the requested increase relates to staffing requirements for the digital technology group, while another $1.8 million relates to hired services. The evidence, including Ms. Hachey's testimony, supports a finding that more human resources are required to support OM&A initiatives and other projects in the test year and to realize the efficiencies identified in the cost optimization review described in Section 6.5.2 of this Decision. NB Power explained in its application that higher costs are also being driven by inflation-related escalations in software licensing fees, equipment leasing, and hardware requirements, and the ongoing need to protect the security of network infrastructure

[105] Based on this evidence and the benchmarking results, the Board finds that NB Power's IT-related activity levels and business requirements have changed. The Board concludes that the proposed Information Technology/Digital Technology budget is reasonable.

6.2.4 Energy Efficiency and Demand Side Management expense

[106] Demand Side Management (DSM) seeks to modify the demand for electricity by encouraging consumers to change their level and pattern of electricity usage. DSM spending is budgeted at $33.2 million for the test year, an increase of $16.1 million from the 2022-2023 budget. The growth is primarily due to recent amendments to the Act,

which require NB Power to obtain minimum energy efficiency targets for electricity prescribed by regulation.

[107] NB Power plans to spend $30.5 million in the test year to administer and deliver a portfolio of selected energy efficiency programs using the DSM Potential Study and the DSM Model. These programs, in combination with all-fuels programs funded from other sources, are expected to yield the required energy savings. The utility has budgeted $0.2 million to continue its commercial demand response Peak Rebate program and $2.5 million to offset unearned federal funding claimed in 2020-2021.

[108] To support its request, NB Power filed reports on its DSM activities and cost-effectiveness, the underlying energy and demand savings calculations, and third-party program evaluations.

[109] Mr. Leopkey testified that recent residential participation rates were lower than forecast because of the COVID-19 pandemic and are not indicative of NB Power's expectations for 2022-2023 or the test year. He stated that participation in NB Power's "Total Home Program" doubled after June 2022 with the launch of a new federal program that allowed New Brunswickers to receive federal funding once they complete NB Power's program. Mr. Leopkey confirmed that over 6,000 participants had completed the program, and another 17,000 had not yet completed it.

[110] The Board finds that participation in the "Total Home Program" is likely to meet or exceed forecast for the test year. Based on the DSM reports filed in this proceeding, Mr. Leopkey's testimony, and the legislated energy efficiency targets, the Board concludes that the $33.2 million budget is reasonable.

[111] The recent amendments to the Act also created the energy efficiency and demand response deferral account, to which qualifying costs will be added annually and amortized over ten years. For the test year, $29.9 million of the approved $33.2 million will be added to the account.

[112] The Board observes that prescribed minimum energy efficiency targets for electricity will increase annually for the next five years. The Board is concerned about the impact on future ratepayers from adding annually increasing amounts to the deferral account. Mr. Knecht noted that the deferral account will accumulate a balance of $165 million over the next ten years, accounting for annual amortization.

[113] Therefore, the Board concludes that a detailed review of NB Power's energy efficiency and DSM programs is timely. The Board directs NB Power to file a new three-year DSM

Plan in the next general rate application, together with an evaluation that includes budget and actual participants, expenditures and energy and peak demand savings.

6.2.5 OM&A allocations to capital

[114] Mr. Madsen asserted that NB Power's overhead capitalization approach is unduly conservative compared to other Canadian utilities. He recommended that NB Power commission an independent overhead study to be filed in the next general rate application that compares the utility's capitalization rates with those in other Canadian jurisdictions. He also recommended that the Board disallow all proposed test year OM&A costs that should be capitalized according to the accounting concept of direct attribution.

[115] NB Power disputed the value of comparing capitalization rates among utilities. Concerning labour capitalization, NB Power maintained that such comparisons have limited value due to variations in the type of utility, the magnitude and type of work and the level of hired services and specialized skills required.

[116] Ms. Hicks Gesner testified that NB Power is currently finalizing an overhead study examining each group's work and whether it is capital in nature as the basis for developing an overhead rate. She also clarified that NB Power capitalizes costs for administrative functions based on the accounting concept of direct attribution.

[117] The Board will not adjust the revenue requirement to capitalize OM&A costs. Given that an overhead study is currently underway, the Board has no basis for finding that NB Power's proposed capitalization of these costs is improper.

[118] The Board accepts Mr. Madsen's recommendation that an independent expert examine NB Power's capitalization practices. The Board directs NB Power to work with Board staff to develop the scope of such a study and to file the completed study in the next general rate application.

6.2.6 Other OM&A expense items not explicitly addressed

[119] The Board is satisfied that NB Power has met its burden of proof concerning OM&A expense items not explicitly addressed in this Decision and concludes that the proposed costs are reasonable.

[120] For these reasons, NB Power's proposed OM&A budget is approved.

6.3 Depreciation and Amortization expense decreases by $3.3 million

[121] The Board is disallowing $3.3 million in Depreciation and Amortization expense related to upgrading the Bayside gas turbine. The evidence supports the remainder of NB Power's proposed Depreciation and Amortization expense and the Board concludes that it is reasonable.

6.3.1 $3.3 million decrease for Bayside gas turbine upgrade

[122] NB Power has budgeted $368.7 million in Depreciation and Amortization expense, an increase of $27.5 million from the 2022-2023 budget. The increase is due to recent and upcoming outages at its generation facilities and the Bayside Generating Station gas turbine upgrade. NB Power has kept its depreciation and amortization policies the same for the test year.

[123] In January 2022, the Bayside Generating Station experienced an equipment failure that damaged its gas turbine and caused a prolonged outage. The failure prompted NB Power to advance its previous plans to replace and upgrade the turbine. Mr. Landry testified that the project's actual costs were $54.6 million as of December 2022. This exceeds the $50 million threshold for Board pre-approval of capital projects required under section 107 of the Act. Mr. Furey explained that NB Power plans to apply for pre-approval in 2023.

[124] The approval process under subsection 107(4) requires the Board to retroactively assess past project expenditures' prudence. The Board considers whether past expenditures were necessary for the reliability, adequacy, or safety of the integrated electricity system or to relieve NB Power of undue financial hardship where the expenditures arose due to circumstances that were unforeseeable or out of the utility's control.

[125] The proposed revenue requirement includes $6.8 million of depreciation expense associated with the Bayside Generating Station, of which $3.3 million relates to the gas turbine project. The Board does not have sufficient evidence to be satisfied as to the prudence of project expenditures to date and will, therefore, disallow $3.3 million in test year depreciation expense related to the project. This adjustment is shown in the table in Section 6 of this Decision.

6.3.2 No adjustment for emissions reduction policy risk to generation stations

[126] Belledune Generating Station is a coal-fired facility, and Coleson Cove Generating Station burns heavy fuel oil. The proposed Depreciation and Amortization expense related to these facilities is based on asset lives that extend to 2041, despite the statutory

prohibition on coal-fired generation after 2030 and NB Power's goal of being a net-zero utility by 2035.

[127] Mr. Knecht expressed concern about the incremental depreciation and amortization expense that NB Power would incur in relation to these stations if they were unable to continue operating until 2041. At a high level, NB Power estimated the depreciation and amortization expense would be $44 million each year if Belledune was unable to operate past 2030. Mr. Knecht recommended that the Board consider this issue subjectively in relation to NB Power's test year income requirement and the potential impact on its equity ratio if it is forced to write off these plants. Mr. Furey asked the Board to accept Mr. Knecht's recommendation.

[128] NB Power is evaluating fuel-switching alternatives to allow Belledune to operate past 2030. Ms. Hicks Gesner confirmed that the estimated economic life of the station extends to 2041 while the utility explores options and will change once a decision is made regarding the facility's future.

[129] The Board finds that the utility is exploring fuel-switching options for Belledune. Without an accounting determination of the end of life for the Belledune and Coleson Cove Generating Stations, the Board concludes that the proposed Depreciation and Amortization expense related to those facilities is reasonable.

6.3.3 NB Power is ordered to add to the IRP and file depreciation studies

[130] The Board shares Mr. Knecht's concern about the continuing uncertainty surrounding the future of Belledune and Coleson Cove and the potential consequences for NB Power's debt-to-equity ratio.

[131] The Board heard testimony indicating that NB Power intends to evaluate planning options incorporating the federal ban on the use of coal power after 2030 and the goal of achieving net-zero carbon by 2035 in its strategic plan and its upcoming Integrated Resource Plan. The Board orders NB Power to incorporate the federal ban on the use of coal power after 2030 and the goal of achieving net-zero carbon by 2035 in its 2023 Integrated Resource Plan.

[132] Ms. Hicks Gesner testified that depreciation studies of NB Power's generation assets are underway and will be completed in 2023-2024. Given the potential magnitude of the impact of forced write-downs on NB Power's debt-to-equity ratio, the Board wishes to ensure that these studies will allow NB Power to assess possible depreciation expenses

over time if emission reduction policies require some generation assets to be recovered through depreciation more quickly.

[133] The 2023 Integrated Resource Plan will set out assumptions and long-term plans for the utility's generation assets. The Board directs NB Power to include those assumptions and long-term plans in the depreciation studies that are underway.

[134] The Board orders NB Power to file the completed studies in its next general rate application. The Board will review the depreciation rates and asset lives of NB Power's generation assets in the next general rate application.

6.4 Finance Costs and Other Income increases by $30 million

[135] The Board will apply an upward adjustment to the revenue requirement of $30 million in recognition of the impact of higher forecast interest rates and level of debt for the test year.

[136] Mr. Good testified that based on current interest rates and the fact that NB Power has incurred more debt than expected in recent months because of the unplanned outage at the Point Lepreau Nuclear Generating Station, finance costs for the test year will be approximately $30 million higher than NB Power's original evidence indicated.

[137] While no detailed calculations were filed supporting Mr. Good's estimate, it is supported by Mr. Nowak's testimony confirming that short-term interest rates have increased approximately 1.5% above the rate used in NB Power's original evidence. Further support is found in the 2023 PROMOD Update, which showed that the Total Gross Margin on electricity sales by NB Power deteriorated by $261.4 million between May and December 2022 because of unplanned and extended generation facility outages.

[138] The Board finds that NB Power's finance costs for the test year will be approximately $30 million higher than NB Power's original evidence indicated. The Board will account for these factors in the revenue requirement to reduce the potential for forecast error because they are material, known and certain. This adjustment has a consequential impact on Fuel and Purchased Power expense, namely an increase of $13.5 million related to the deferral of interest costs.

6.5 $27.5 million “improvement credit” is approved

[139] NB Power includes an “improvement credit” of $27.5 million in its Hired Services budget. It describes the credit as representing NB Power’s commitment to realize savings beyond those cost reductions otherwise embedded in the revenue requirement.

[140] The Board concludes that $27.5 million does not overestimate achievable test year improvement savings. NB Power expects to realize these savings from ongoing exercises and initiatives, including from three specific sources: a workforce optimization program, an ongoing continuous improvement program, and a cost optimization process being facilitated by PricewaterhouseCoopers (PwC). The evidence indicates that NB Power is confident in the savings estimates from the first two sources. The evidence also shows that the PwC cost optimization exercise will generate savings in the test year.

6.5.1 $22.5 million in savings from workforce optimization and continuous improvement initiatives is reasonable

[141] The Board considers NB Power’s estimate of $13 to $15 million in test year savings associated with the workforce optimization program to be reasonable. The program offers early retirement to employees 58 years of age and older with greater than two years of service. Ms. Collyer confirmed that $13 to $15 million remains NB Power’s best estimate of anticipated savings in the test year. At least 130 of the 145 employees approved to participate in the program will be retired by March 31, 2023. The remaining 10 to 15 employees will be retired by December 31, 2023, once work coverage challenges are resolved. While the savings estimate is not net of costs, costs associated with the program were recorded in the 2022-2023 year and will not affect the test year revenue requirement.

[142] The Board considers NB Power’s estimate of $7.5 million in test year savings from its continuous improvement initiatives to be reasonable. NB Power leverages the Lean Six Sigma methodology and engages in regional collaboration to identify and implement continuous improvement initiatives on an ongoing basis. NB Power’s estimate is consistent with its budgeted 2022-2023 continuous improvement savings, and the utility has demonstrated its capability to meet and exceed its continuous improvement savings targets in previous years.

[143] The Board concludes that NB Power can reasonably achieve $22.5 million in test year savings from the workforce optimization program and its continuous improvement initiatives.

6.5.2 At least $5 million in savings from the PwC cost optimization exercise is reasonable

[144] The Board also concludes that NB Power can reasonably achieve at least $5 million in test year improvement savings from the cost optimization exercise that PwC is facilitating. NB Power engaged PwC in 2022 to lead a cost optimization review that would identify areas where the utility could become more efficient. PwC has produced a set of draft “charters” listing potential savings opportunities. NB Power has not precisely estimated the savings this exercise will yield because management had not finished assessing PwC’s recommendations when this proceeding closed.

[145] Ms. Rubin characterized $5 million in test year savings as a gross underestimation of the potential savings that PwC has identified. However, this characterization fails to account for constraints on NB Power’s ability to realize all identified savings and to do so within the test year. Ms. Collyer testified that management will apply the utility’s investment governance framework to evaluate implementation costs, resource constraints, risks, and other restrictions that limit NB Power’s ability to pursue these opportunities and to realize savings in the test year. Further, not all the potential savings will be “hard” cost reductions. NB Power expects to evaluate the PwC charters once the final report is completed.

[146] PwC identified ten short-term initiatives with implementation timelines under six months and 17 medium-term projects with implementation timelines of less than a year. The potential unconstrained savings range from approximately $4.5 million to $9.7 million for short-term initiatives and over approximately $50 million for medium-term initiatives. The remaining PwC initiatives have longer implementation timelines.

[147] The Board concludes that savings from validated short-term and medium-term projects will be realized within the test year. Supporting this conclusion, the Board heard testimony confirming that four PwC charter-based initiatives are being investigated or implemented before the test year commences. Specifically:

a. The ServiceNow IT workflow management platform is being implemented. Mr. Blackier testified that this software will achieve $0.5 million in test year savings.

b. An initiative to optimize overtime resources at the Point Lepreau Nuclear Generating Station is being implemented. Ms. Bacon testified that no cost is associated with implementing this initiative and confirmed that $0.2 million to $0.5 million is a reasonable estimate of the benefits.

c. Two initiatives related to improving the running maintenance cycle and outage planning at the Point Lepreau Nuclear Generating Station are being used to inform and refine previously identified improvement opportunities. Mr. Nouwens testified that NB Power anticipates implementing these initiatives in the test year.

[148] PwC also identified several opportunities to improve overtime management at NB Power's generation facilities and to reduce overtime in its distribution division. PwC assigned implementation timelines of less than six months to all these opportunities and an aggregate, unconstrained potential savings of $2.1 to $4.1 million. Mr. Landry testified that these opportunities are being evaluated for implementation. He noted that improving overtime management has been "top of mind" at NB Power and that the charters present new opportunities to improve.

[149] Based on this testimony, it is reasonable to anticipate that most short-term and some medium-term initiatives will be implemented and generate savings during the test year. At the same time, the Board recognizes that not all potential savings identified in the PwC charters are so-called "hard" savings, and implementation costs, resource constraints, and other restrictions will limit potential savings. Therefore, the Board concludes that expecting NB Power to achieve test year savings of at least $5 million from the PwC cost optimization exercise is reasonable.

6.5.3 The Board expects NB Power to pursue improvement opportunities aggressively

[150] Ms. Rubin expressed concern that a conservative expectation of test year savings will fail to incent NB Power to "leave no stone unturned in cutting costs." The Board shares this concern.

[151] Ms. Clark and Mr. Murphy emphasized NB Power's commitment to continuous improvement and to control operating costs as much as possible. The Board expects NB Power to honour that commitment by aggressively pursuing all reasonable cost-saving opportunities. Mr. Murphy stated that the $27.5 million estimate was considered the high end of the potential test year improvement savings range, based on management's judgment when the application was prepared. The Board does not accept that assessment. Since that time, the workforce optimization plan has been developed, and the PwC exercise has neared completion with some initiatives being implemented.

[152] The Board expects NB Power to achieve all possible cost savings in the test year to improve its net earnings.

6.5.4 The Board directs NB Power to file its report on the PwC exercise

[153] Mr. Murphy stated that the final management report regarding the PwC cost optimization exercise is expected to be completed before the test year commences. The Board directs NB Power to file that report with the Board when completed.

6.6 Other revenue requirement components decrease by $13.1 million

[154] The 2023 PROMOD Update and the approved adjustment to Finance Costs and Other Income cause consequential changes to other components of the revenue requirement, specifically a decrease of $36.1 million to the Net Change in Regulatory Balances and an increase of $23.0 million to the Rate Rider Adjustment Factor, for an aggregate decrease of $13.1 million.

[155] The Board is satisfied that NB Power has met its burden of proof concerning the revenue requirement components not explicitly addressed in this Decision and concludes that the proposed costs are reasonable.

[156] Therefore, except for the adjustments discussed above in relation to the updated evidence, the Board will not make any other adjustments to the Finance Costs and Other Income, Net Change in Regulatory Balances, or Rate Rider Adjustment Factor components of the revenue requirement. The Board will not adjust the revenue requirement's Taxes or Net Earnings components.

6.7 The Revenue Forecasts based on the 2023 PROMOD Update are accepted

[157] For the reasons in Section 5.2 of this Decision, the Board accepts the updated evidence that changes NB Power’s test year forecasts for in-province revenue, export sales and gross margin.

6.7.1 Load Forecast and Revenue Forecast

[158] To support the in-province revenue forecast in its application, NB Power filed its load forecast for the ten years from 2023 to 2033. The first year of the load forecast estimates in-province energy sales volume for the test year.

[159] The 2023 PROMOD Update was based on forecast in-province energy load of 13,750.4 gigawatt-hours, 185.3 gigawatt hours less than initially forecast for the test year and forecasted peak demand for the test year of 3,120 megawatts, 10 megawatts less than initially forecast.

[160] The Board accepts the in-province revenue forecast for the test year based on the 2023 PROMOD Update.

6.7.2 Export Sales

[161] NB Power also earns out-of-province revenue, primarily through export sales. To support its proposed revenue requirement, NB Power filed export sales and gross margin forecasts as part of its application.

[162] The primary change in the 2023 PROMOD Update was the award of standard offer service contracts in ISO New England, which drove the 2022-2023 Export Gross Margin down to $92.2 million, equating to a $31.5 million reduction in 2022-2023. The remaining margin of $85.1 million is expected in the test year. Mr. Furey submitted that the $85.1 million improvement in the test year Export Gross Margin does not represent the overall impact of the changed circumstances arising from awarding those contracts.

[163] While Ms. Rubin disagreed with Mr. Furey's assertion on the basis that the negative impact on the 2022-2023 Export Gross Margin arising from the new contracts is already accounted for in the 2022-2023 financial results, the Board will consider the overall net impact because it better represents the material and exceptional circumstances arising from the award of those contracts.

[164] The Board, therefore, approves a $31.5 million downward adjustment of the forecast Export Gross Margin for the test year in recognition of the effect on the overall Export Gross Margin relating to the calendar-year term of the ISO New England Standard offer service contracts. This adjustment of the forecast Export Gross Margin appears in the revenue requirement as an increase in Fuel and Purchased Power expense, as discussed in Section 6.1 of this Decision.

6.7.3 Miscellaneous Revenue – Rates and fees are approved

[165] In addition to the revenue requirement and base rates, NB Power also seeks approval of other proposed rates and fees. The Board approves these requests for the reasons below.

[166] NB Power offers its customers a water heater rental service in exchange for a monthly fee. The Board regulates the fee NB Power charges for this service using "market-based" considerations instead of electricity rate regulation principles because customers can procure a water heater from a provider other than NB Power.

[167] NB Power requests approval of a $1.00 increase to the monthly fee for all tank sizes, an average increase of 13.5%. NB Power's evidence demonstrates that supply chain constraints and labour shortages have driven the installed cost for a water heater up by 30% compared to pre-pandemic costs. These cost increases erode the excess revenues NB Power earns on this service, which are used to subsidize in-province electricity rates.

[168] The Board approves the proposed increase. Increasing the rental fee in the water heater market provides additional revenue that places downward pressure on electricity rates while maintaining the fee at a level that is substantially below market pricing within New Brunswick and across Canada.

[169] NB Power charges a Service Call Fee of $50.43 for service reconnections, changes from temporary to permanent service, and specific other service requests. NB Power seeks approval to increase the fee to $61.54, an increase of over 20%. NB Power supports its request with a detailed analysis of its labour, vehicles and overhead costs.

[170] The Board approves the proposed increase. NB Power's analysis demonstrates that the cost per work order is $62.00, slightly higher than the requested fee. The Board observes that the "crew rate" is responsible for $43.48 of cost per work order and is calculated at the "max step rate" for each crew type. Ms. Leaman testified that the labour costs were estimated to reflect that most crew members are longstanding employees who would earn the maximum salary within their salary band. The Board concludes that this approach is reasonable and finds that the cost per work order is $62.00.

[171] The Board concludes that the proposed increase of $11.11 is necessary to ensure that the cost of providing these services is recovered from the services' users and not cross-subsidized by other ratepayers.

[172] The Board also approves NB Power's proposal to maintain the current late payment charge, non-sufficient funds charge and charges for use of NB Power's eCharge Network.

6.8 A revenue requirement of $3,161.9 million is approved

[173] Taking into consideration the revenue requirement impacts associated with the 2023 PROMOD Update adjusted to account for the calendar-year term of the ISO New England standard offer service contract, the disallowance of Depreciation and Amortization expense related to the Bayside turbine upgrade, and the higher forecast finance costs, the Board approves a revenue requirement in the amount of $3,161.9 million for the test year.

[174] This revenue requirement gives NB Power a reasonable opportunity to recover its forecast costs, including spending to improve generation reliability, which NB Power identifies as being a critical component of its plan to address its past underperformance.

7 Uniform Rate Increase

[175] NB Power is seeking a uniform rate increase across all customer classes to avoid imposing a higher rate increase on some customers than the average requested rate. In the utility's view, it would be inappropriate to place an additional burden on some customers in the context of an average rate increase that is higher than customers have come to expect. NB Power also sees value in allowing interveners and the Board to become more familiar with the updated load research, changes to the cost allocation study and related consequential effects.

[176] Mr. Stoll argued in favour of a uniform rate increase. In his submission, differential rates would raise the possibility of rate shock on some customer classes, and the impact of the COVID-19 pandemic on NB Power's load research remains unclear.

[177] The Acting Public Intervener supported Mr. Knecht's recommendation for differential rate increases for consistency with NB Power's rate design proposals and regulatory principles.

[178] The Board will fix a uniform rate increase across all customer classes. While NB Power's load research has been improved, the cost allocation model is not being considered for approval in this proceeding. The Board considers that additional familiarity with NB Power's load research would benefit the rate-setting process.

[179] The Board directs NB Power to file a proposal for differential rates in the next general rate application.

8 Financial Risk Management Policies are approved

[180] NB Power is also seeking approval of changes to its Financial Risk Management Policies. The Board approves this request for the reasons below.

[181] The Board has the authority to review the financial risk management policies of NB Power as part of its jurisdiction to fix rates under section 103 of the Act. Section 66 provides that New Brunswick Energy Marketing Corporation is subject to the financial risk management policies established by NB Power and approved by the Board.

[182] In November 2021, NB Power's board of directors approved a new policy for New Brunswick Energy Marketing known as NBEMC-6: Renewable Energy Certificate Policy. As described by NB Power in its evidence, the new policy outlines requirements for managing price risk associated with purchasing and selling renewable energy certificates. NB Power asserts that the new policy is required because of the increased volume of renewable energy certificate transactions and a need to formalize the operational guidelines that were being followed by New Brunswick Energy Marketing staff.

[183] Minor changes to other Financial Risk Management Policies were made to update gender references and names, address a change in the pricing indices used in certain fuel supply agreements, and recognize the new policy NBEMC-6. Those other Financial Risk Management Policies are:

F-1:	Financial Risk Management Framework Policy
F-3:	Commodity Price & Foreign Exchange/Interest Rate Risk Policy
NBEMC-1:	Financial Risk Management Framework Policy
NBEMC-3:	Commodity Price & Foreign Exchange Risk Policy

[184] The Board approves the policies as filed. Mr. Musco reviewed NB Power's Financial Risk Management Policies and did not identify any concerns related to the new policy NBEMC-6 or the proposed changes to other policies. The Board finds that the new policy is required because of increased renewable energy certificate transactions and the need to formalize operational guidelines for staff.

9 Debt Management and Performance Monitoring

[185] NB Power's significant debt and considerable forecast losses in 2022-2023 will heavily burden future ratepayers. As discussed below, the Board expects NB Power to pursue performance improvement opportunities aggressively and will implement measures to give ratepayers a more transparent understanding of the utility's performance.

9.1 NB Power's financial health

[186] NB Power has not prioritized debt reduction and equity building over the past decade, and its net earnings have been lower than forecast. The result has been a failure to achieve meaningful progress toward improving its capital structure. The utility does not expect to make material progress on debt reduction or equity building until 2026. It will keep incurring debt until then.

[187] The percentage of debt in NB Power's capital structure has risen to 93%, and the utility expects its net debt to reach its highest-ever level of $5.077 billion by the end of the test year. NB Power's high debt level presents a risk of higher rate increases and may impair the utility's ability to manage its considerable upcoming spending. At the same time, the $261.4 million deterioration in NB Power's 2022-2023 Total Gross Margin revealed in the 2023 PROMOD Update will impact ratepayers in an immediate and lasting way by sharply increasing the balance in the regulatory variance accounts, most likely triggering the maximum regulatory rate rider on ratepayers beginning in 2024-2025 and continuing into the future.

[188] The Board considers that the more effectively NB Power is managed and operated, the more able the Board will be to fix rates that are as low as possible while allowing NB Power to reduce debt, as required under subsection 103(7) and section 68 of the Act.

[189] NB Power must place the highest priority on managing and operating the utility to control costs, meet or exceed approved net earnings targets, and keep the net regulatory variance account balances low. The Board is mindful of Mr. Murphy's testimony in this regard. He confirmed the importance of controlling the utility's costs in meeting net earnings targets, lowering debt, and keeping rates as low as possible.

[190] The Board acknowledges NB Power's efforts to limit the need for higher rates by permanently eliminating $25.1 million in test year OM&A expense and capital costs and committing to saving an additional $27.5 million. The Board notes that the utility has expressed an intention to improve its ability to meet its financial objectives by focusing on the causes of underperformance, including reliability issues with the Point Lepreau Nuclear Generating Station, and by undertaking a strategic planning process.

[191] The Board heard that NB Power's commitment to improvement must be accompanied by transparency and accountability. Section 9.2 of this Decision establishes measures to allow the Board to monitor NB Power's performance in a way that is transparent to ratepayers.

9.2 Key Performance Metrics

[192] The continued evolution of NB Power's business and service delivery requires the Board to consider how its tracking and monitoring of performance metrics must also evolve. In doing so, the Board must balance the unique nature and circumstances of the utility with the need for transparency and accountability to ratepayers.

[193] Through compliance filings and filing requirements, the Board tracks specific performance indicators and monitors NB Power's progress in achieving its strategic goals. Tracking key performance indicators allows the Board to encourage continuous improvement while informing the Board of NB Power's cost-effective planning and operation of the system and the delivery of safe and reliable service.

[194] NB Power submitted that the utility manages performance and seeks improvements by focusing on five key areas: safety, customer, organizational, reliability, and environmental excellence. This framework is intended to help improve NB Power's ability to deliver on commitments through better alignment, focus, and execution. Ms. Clark and Mr. Murphy testified that multiple levels of increasingly granular performance targets cascade down through the organization to support the achievement of corporate goals, the evaluation of results, and the identification of opportunities for continuous improvement.

[195] NB Power's annual report provides a scorecard of the utility's performance. The scorecard reports targets and results, describes key initiatives supporting the achievement of goals and sets out reasons where those goals are not achieved, and establishes benchmarks relative to other utilities. The scorecard reports the following key performance metrics:

- Safety Excellence: Total Recordable Injury Frequency
- Customer Excellence: Customer Satisfaction Index
- Organizational Excellence: Operating Earnings, Cash Available to pay down debt, OM&A, Capital Spending
- Reliability Excellence: Nuclear Equipment Index, Nuclear Capacity Factor, Generation Equivalent Availability, System Average Interruption Frequency Index (SAIFI), System Average Interruption Duration Index (SAIDI)
- Environmental Excellence: Non-emitting generation, In-province energy reduction

[196] Metrics are an integral part of NB Power's strategic development and strategy implementation. NB Power confirmed that once the new strategic plan is in place, the utility will update future business plans to ensure its initiatives and targets align with and support its long-term strategic objectives. In response to concerns relating to the visibility of tracking and reporting of performance metrics, Ms. Clark and Mr. Murphy expressed NB Power's willingness to submit additional metrics as part of its minimum filing requirements and Mr. Furey stated that NB Power would report on metrics that the Board determined appropriate.

[197] Ms. Rubin submitted that reporting performance metrics allows for transparency and accountability to the public. In her example relative to energy efficiency programs, she also stated that metrics related to a specific spending level must be coupled with desired outcomes to be relevant.

[198] Similarly, the 2021 Auditor General's report recommended that NB Power add short, medium, and long-term performance indicators related to its energy efficiency program. In response to this recommendation, NB Power committed to establishing additional performance metrics and reporting in their 2022-2023 Annual Report. The Auditor General also recommended in a 2020 report that NB Power prioritize debt reduction by developing a plan that included achievable annual key performance indicators for debt reduction amount and debt to equity ratio.

[199] The Board finds that publishing quarterly and an annual scorecard of NB Power's performance indicators and year-to-date results allows transparency and accountability to the Board and customers relative to management targets and the utility's progress toward achieving its goals. Where NB Power forms an expectation during the fiscal year that specific targets will not be met, the Board and customers expect NB Power to adjust plans and mitigate impacts through innovation and cost-efficient measures.

[200] Consequently, the Board directs NB Power to file and publish on its website a quarterly and an annual scorecard consistent with the following key performance metric indicators:

Safety Excellence:

- Total Recordable Injury Frequency

Customer Excellence:

- Customer Satisfaction Score
- # of Customers

Organizational Excellence:

- Net Earnings
- Change in Net Debt
- Net Capital Expenditures
- OM&A
- Net Debt
- Operating cash flow/total Debt
- Percent of Debt in Capital Structure
- Total MWh Delivered
- Total MWh delivered in the province

- OM&A Costs / Customer
- OM&A Costs per Total MWh delivered
- Net Earnings per MWh Delivered

Reliability Excellence:

- Nuclear Capacity Factor
- Hydro Long Term Average
- System Average Interruption Frequency Index (SAIFI)
- System Average Interruption Duration Index (SAIDI)
- Bayside capacity factor
- Mactaquac capacity factor
- List of five feeders/circuits that have the lowest annual customer average interruption duration index (CAIDI)
- List of five feeders/circuits that have the lowest annual customer average interruption frequency index (CAIFI)

Environmental Excellence:

- Non-Emitting Generation
- Green House Gas Reduction as a result of Internal Demand Reductions
- Investments in Energy Efficiency Programs
- Renewable Portfolio Supply (RPS) Percentage of Sales
- Energy efficiency Achieved from Demand Side Management programs (Actual energy efficiency achieved relative to 0.5% target)

[201] The Board considers that it may be appropriate only to report certain indicators annually. The filing and publication of the quarterly and annual results are to be no later than 60 days following the first three quarters and within the 120 days following the utility's year-end.

10 Conclusion, Orders and Directions

[202] The Act requires the Board to fix just and reasonable rates based on NB Power's revenue requirements.

[203] Taking into consideration the revenue requirement impacts associated with the 2023 PROMOD Update adjusted to account for the calendar nature of the ISO New England standard offer service contract, and the disallowance of Depreciation and Amortization

expense related to the Bayside turbine upgrade, the Board approves a revenue requirement in the amount of $3,161.9 million for the test year.

[204] This revenue requirement gives NB Power a reasonable opportunity to recover its forecast costs, including spending to improve generation reliability, which NB Power identifies as being a critical component of its plan to address its past underperformance.

[205] In compliance with the Board's Partial Decision dated March 16, 2023, NB Power refiled its 2023-2024 test year budget incorporating the Board's approved revenue requirement of $3,161.9 million and a revised cost of service study, revised proof of revenue, and the resulting rates. This compliance filing indicated that a uniform rate increase of 5.7% across all customer classes is required.

[206] By Order dated March 31, 2023, the Board concluded that the rates described in NB Power's compliance filing are just and reasonable and ordered that those rates become effective as of April 1, 2023.

[207] NB Power is directed to do the following:

1. file its third quarter PROMOD forecast no later than January 21st each year as a Minimum Filing Requirement for future general rate applications, in accordance with Section 5.4.3 of this Decision;

2. report on its efforts to manage succession planning costs in the next general rate application, in accordance with Section 6.2.1.1 of this Decision;

3. file a new three-year DSM Plan in the next general rate application, together with an evaluation that includes budget and actual participants, expenditures and energy and peak demand savings, in accordance with Section 6.2.4 of this Decision;

4. work with Board staff to develop the scope of an independent expert study examining NB Power's capitalization practices and to file the completed study in the next general rate application, in accordance with Section 6.2.5 of this Decision;

5. incorporate the federal ban on the use of coal power after 2030 and the goal of achieving net-zero carbon by 2035 in its 2023 Integrated Resource Plan, include the assumptions and long-term planning reflected in the 2023 Integrated Resource Plan in the depreciation studies that are underway, and file the depreciation studies in the next general rate application, in accordance with Section 6.3.3 of this Decision;

6. file the final management report regarding the PwC cost optimization exercise when it is completed, in accordance with Section 6.5.4 of this Decision;

7. file a proposal for differential rates in the next general rate application, in accordance with Section 7 of this Decision); and

8. file and publish on NB Power's website quarterly and an annual scorecard consistent with the specified key performance metric indicators, in accordance with Section 9.2 of this Decision.

Dated at Saint John, New Brunswick, this 7th day of June, 2023.

Heather Black
Member

Stephanie Wilson
Member

APPENDIX A

Participant	Counsel/ Representative	Witnesses	Expert Witness & Area of Expertise
APPLICANT:			
NB Power	John Furey	Panel A – Strategy and Policy Lori Clark, President and CEO Darren Murphy, Chief Financial Officer and Senior Vice President, Corporate Services Brad Coady, Executive Director, Business Development & Strategic Planning	
		Panel B – Concentric Energy Advisors, Inc. Danielle S. Powers, Executive Vice President Joshua C. Nowak, Assistant Vice President	Wholesale power market design and operations and in power market assessment and forecasts Financial markets
		Panel C – Corporate/Finance/Accounting/HR Caroline Collyer, Executive Director, Finance Diane Fraser, Director, Financial Planning Janice Hicks Gesner, Director, Financial Reporting Vicki Hachey, Senior HR Advisor, Workforce Planning & Organizational Design David Blackier, Sr. Manager, Business Relationships	

		Panel D – Nuclear Operations Jason Nouwens, Director, Regulatory and External Affairs Katie Bacon, Manager, Nuclear Business Services Vicki Hachey, Senior HR Advisor, Workforce Planning & Organizational Design Diane Fraser, Director, Financial Planning	
		Panel E – Non-Nuclear Operations Angela Leaman, Director, Finance Operations Phil Landry, Executive Director, PMO and Engineering Darren Baxter, Director, Asset Management Vicki Hachey, Senior HR Advisor, Workforce Planning & Organizational Design	
		Panel F – Risk/Load/Fuel & PP/DSM Jeff Good, Director, Treasury & Risk Management Darren Clark, Senior System Planning Engineer, Corporate Planning Craig Church, Senior Corporate Modeler Ted Leopkey, Manager, Demand Side Management	
		Panel G – CCAS & Load Research George Porter, Director, Rates Modernization Veronique Stevenson, Rate Design Specialist	

INTERVERNERS:			
Canadian Federation of Independent Business	Louis-Philippe Gauthier		
David Amos	Per se		
Gerard Daly	Per se		
Liberty Utilities (Gas New Brunswick) LP	Brandy Gellner		
J.D. Irving, Limited	Nancy Rubin, K.C.		
Twin Rivers Paper Company Inc.	Len Hoyt, K.C.		
Utilities Municipal	Scott Stoll		
Acting Public	Richard Williams, K.C.	Robert Knecht	Regulatory economics and ratemaking
Board Staff	Abigail Herrington	Dustin Madsen, President of Emrydia Consulting Corporation Vincent Musco, Partner at Bates White LLC	Financial and regulatory analysis in the North American electric utility industry with respect to areas of cost of service, rate design, finance, depreciation, debt matters, taxes, and economic analysis Fuel and purchased power expense analysis