



NEW BRUNSWICK
ENERGY & UTILITIES BOARD

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

ORAL DECISION

IN THE MATTER OF an application by the New Brunswick Power Corporation requesting a variance of the decisions in Matter 430 and in Matter 541, in accordance with section 43 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18 and rules 8.1.1 and 1.2.5 of the Rules of Procedure.

AND IN THE MATTER OF a stay of the Board's Decision of July 16, 2019, in accordance with sections 32 and 41 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18.

AND IN THE MATTER OF the New Brunswick Power Corporation General Rate Application under subsection 103(1) of the *Electricity Act*, S.N.B. 2013, c. 7

(Matter No. 552)

October 30, 2023

Matter 552 – NB Power 2024-2025 General Rate Application

IN THE MATTER OF an application by the New Brunswick Power Corporation requesting a variance of the decisions in Matter 430 and in Matter 541, in accordance with section 43 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18 and rules 8.1.1 and 1.2.5 of the Rules of Procedure.

AND IN THE MATTER OF a stay of the Board’s Decision of July 16, 2019, in accordance with sections 32 and 41 of the *Energy and Utilities Board Act*, S.N.B. 2006, c. E-9.18.

AND IN THE MATTER OF the New Brunswick Power Corporation General Rate Application under subsection 103(1) of the *Electricity Act*, S.N.B. 2013, c. 7.

APPLICATION: October 25, 2023

ORAL HEARING: October 30, 2023

BEFORE:

Heather Black
Member
Christopher Stewart
Member
Stephanie Wilson
Vice-Chairperson

APPLICANT:

New Brunswick Power Corporation (NB Power) John G. Furey

PUBLIC INTERVENER: Alain Chiasson

Matter 552 – NB Power 2024-2025 General Rate Application

In the Matter 552, an application by NB Power requesting a variance of the decisions in Matter 430 and in Matter 541, a stay of the Board’s Decision of July 16, 2019, and the 2024-2025 General Rate Application, Presiding Member Stewart delivered the following oral decision on October 30, 2023:

- [1] This decision arises from an application by NB Power filed on October 25, 2023 and supported by the affidavit of Darren Murphy, Chief Financial Officer and Senior Vice-President Corporate Services and Major Projects, sworn October 25, 2023 which seeks a variance of the Board’s decision in Matter 430 by granting an extension of the time within which NB Power is to file its 2024-2025 General Rate Application or GRA to December 15th, 2023. In addition, NB Power seeks a variance of the direction of the Board in its decision in Matter 541 to allow NB Power to base its 2024-2025 GRA on the second quarter PROMOD forecast for the test year and to grant an extension of the time within which NB Power is required to file the third quarter PROMOD forecast from January 21, 2024 to February 29, 2024.
- [2] In its decision in Matter 430, the Board directed NB Power to file its GRA no later than the first Wednesday of October. Following a receipt of correspondence from NB Power dated September 28, 2023 advising the Board that it would not be in a position to file its GRA by October 4, 2023 as required because of its receipt on September 27, 2023 of a directive from the Executive Council issued pursuant to section 69 of the *Electricity Act*. The Board issued an Order on September 29, 2023 staying NB Power’s requirement to file until October 31, 2023, or further Order of the Board and directed NB Power to file any application to extend the deadline by October 25, 2023.
- [3] In addition to the direct delay resulting from the consequence of the issuance of the directive, NB Power submits that the second quarter PROMOD forecast would be more up to date and would reflect then current assumptions and facts. NB Power also submits that the creation of the third quarter PROMOD forecast for filing by January 21st will be very challenging in view of the changed circumstances in relation to the GRA.
- [4] For the following reasons, the Board will vary its decisions in Matters 430 and 541 as requested by NB Power for the purpose of the upcoming GRA only.
- [5] In his affidavit filed in support of this application, Mr. Murphy recounted the efforts of NB Power to adjust the evidentiary package in support of the pending GRA in the light of the directive and estimates that NB Power will be able to file the 2024-2025 GRA no later than December 15, 2023.

Matter 552 – NB Power 2024-2025 General Rate Application

- [6] NB Power submits that “a two year extension of the date by which NB Power is directed to achieve the equity target is both a new fact and a change in circumstance that justifies the variance of the Board’s previous direction”.
- [7] Concerning the Board directions for filing PROMOD forecasts, NB Power submits that the delay in filing the GRA constitutes a change in circumstance that justifies a variance of the Board’s previous direction.
- [8] Section 43 of the *Energy and Utilities Board Act* gives the Board jurisdiction to vary any order made by it if it considers it advisable to do so. In making a determination concerning a variance, the Board considers the criteria set out under Rule 8.1.1 of the Board’s Rules of Procedure.
- [9] J.D. Irving, Limited, Utilities Municipal, the Public Intervener and, indeed, Mr. Amos raised no particular concerns or objections to the relief sought by NB Power. The Board finds that the issuance of the directive from the Executive Council and the resulting consequences on NB Power’s pending GRA, constitutes new facts and changed circumstances, which have arisen since the close of the original proceedings in Matters 430 and 541, and that based on the information contained in Mr. Murphy's affidavit, December 15, 2023 is a reasonable filing deadline.
- [10] The Board concludes that NB Power has raised sufficient grounds to support the variances requested. The Board accepts that change in circumstance constitutes sufficient ground to vary the Board's decisions in Matters 430 and 541 by permitting NB Power to file its 2024 or 2025 GRA no later than December 15, 2023 by allowing NB Power to base that GRA on the second quarter PROMOD forecast for the test year and by granting an extension of time within which NB Power is required to file its third quarter PROMOD forecast from January 21, 2024 to February 29, 2024.
- [11] The Board, however, wishes to be clear that these are one time variances and apply only to the upcoming 2024 and 2025 GRA.
- [12] Accordingly, solely for the purposes of the upcoming 2024-2025 GRA, NB Power is directed to file its application by no later than 4:00 p.m. December 15, 2023. Given the extension in the filing date, the Board also permits NB Power to base its GRA on the second quarter PROMOD forecast for the test year and directs NB Power to file the third quarter PROMOD forecast no later than 4:00 p.m. February 29, 2024. That concludes the Board’s decision.