



NEW BRUNSWICK
ENERGY & UTILITIES BOARD

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

DECISION

IN THE MATTER OF a review of the petroleum product price reports pursuant to section 2 of the *General Regulation – Petroleum Products Pricing Act*, N.B. Reg. 2006-41.

(Matter No. 567)

March 7, 2024

Matter 567 – Petroleum Products Reports

IN THE MATTER OF a review of petroleum product price reports, pursuant to section 2 of the *General Regulation – Petroleum Products Pricing Act*, N.B. Reg. 2006-41. (Matter No. 567)

ORAL HEARING: December 5, 2023

NEW BRUNSWICK ENERGY AND UTILITIES BOARD:

Presiding Chair Christopher Stewart

Vice-Chairperson Stephanie Wilson

Member Heather Black

PARTICIPANTS:

Canadian Fuels Association Bill Simpkins

The Canadian Energy Marketers Association Jennifer Stewart

The Convenience Industry Council of Canada David Knight

The Oil Heat Association of New Brunswick Matthew LeRoy

The Scholten Group Jerry Scholten

PUBLIC INTERVENER: Alain Chiasson

Table of Contents

1 Introduction and Summary Conclusion 1

2 Overview 1

3 Published benchmark prices should reasonably reflect the market 1

4 Argus is more reflective of the market than Platts..... 2

5 The Board selects Argus for all petroleum products 4

1 Introduction and Summary Conclusion

- [1] This decision arises out of a need for the Board to select one or more petroleum product price reports for the purpose of calculating a benchmark price for each regulated petroleum product, as required by section 2 of the *General Regulation – Petroleum Products Pricing Act* (the “Regulation”). The Board uses benchmark prices to calculate maximum retail prices for these fuels.
- [2] For the following reasons, the Board selects the reports published by Argus Media for all types of petroleum products regulated by the Board.

2 Overview

- [3] Reporting services publish price assessments for energy commodities based on market data. Three leading price reporting agencies publish prices for the petroleum products regulated by the Board: Argus Media, Platts and the Oil Price Information Service (OPIS).
- [4] The Board uses published prices to calculate benchmark prices for regulated petroleum products. Benchmark prices are used to set maximum retail prices for these fuels.
- [5] The Regulation was amended in December 2022 to require the Board to select the reports on which its benchmark prices are based. At that time, the Board issued an Order selecting Platts US Marketscan for gasoline and diesel prices, Platts Biofuelscan for ethanol prices, Argus Americans Biofuels for biodiesel prices and OPIS for propane prices.
- [6] The Board engaged R Cube Economic Consulting Inc. to make recommendations as to which reporting service the Board should use. R Cube filed a report with the Board recommending that the Board consider using Argus reporting to set the benchmark prices for all regulated petroleum products in New Brunswick.
- [7] The Canadian Energy Marketers Association, the Convenience Industry Council of Canada, the Oil Heat Association of New Brunswick, the Scholten Group and the Public Intervener participated in this proceeding.

3 Published benchmark prices should reasonably reflect the market

- [8] The Act requires the Board to consider the fact that consumers should benefit from the lowest price possible without jeopardizing the continuity of supply of petroleum products.

Matter 567 – Petroleum Products Reports

- [9] The Board considers that selecting sources that reasonably reflect the market is the most effective way to satisfy this requirement because it will produce benchmark prices that reasonably reflect market prices. Benchmark prices that are materially higher than market prices may deny consumers the benefit of low prices, whereas benchmark prices that are materially lower than market prices may pose a threat to the continuity of supply by causing suppliers to exit the market.

4 Argus is more reflective of the market than Platts

- [10] For the reasons below, the Board has concluded that the benchmark prices published by Argus more reasonably reflect the market than the published prices reported by Platts.
- [11] R Cube’s analysis of historical published prices revealed that while, on average, there were minimal New York Harbour price deviations for regular gasoline and diesel among the reporting agencies for most of the 2018 to 2022 evaluation period, some exceptions occurred. Argus and OPIS prices for regular gasoline were materially lower than Platts in parts of 2020 and were materially higher than Platts in 2021 and parts of 2022 for regular gasoline and diesel. In each case, Argus and OPIS maintained alignment with each other, despite minor methodological differences between them. Argus and OPIS diesel prices diverged in 2022, however, when Argus prices were higher than Platts and OPIS prices were lower than Platts. R Cube characterized this divergence as “unexpected” and reached no conclusion about its cause.
- [12] R Cube observed that wholesalers operating in Atlantic Canada currently use either Argus or OPIS as the basis for setting rack and wholesale transaction pricing. To understand which reporting agencies may be used by the wholesalers who operate in New Brunswick, R Cube compared New York Harbour prices for gasoline and diesel published by the three reporting agencies and the terminal rack prices at Saint John for the same evaluation period. R Cube observed that the price difference between New York Harbour and Saint John rack is growing and the difference is lower for Argus and OPIS relative to Platts, which may indicate that market participants are more likely to be using Argus pricing as a basis for setting local rack prices.
- [13] Based on these factors and a recent decision by the Nova Scotia Utility and Review Board to switch from Platts to Argus reporting, R Cube recommended that the Board consider switching to Argus reporting to set the benchmark prices for all regulated petroleum products.

Matter 567 – Petroleum Products Reports

- [14] The Canadian Energy Marketers Association and the Convenience Industry Council of Canada concurred with R Cube’s recommendation on the basis that switching to Argus would align regulators and industry to a common pricing source. The Canadian Fuels Association also supported R Cube’s recommendation.
- [15] While the Scholten Group agreed with R Cube’s rationale, it urged the Board to exercise caution before accepting R Cube’s recommendation by confirming that R Cube’s findings hold true in 2023. The Scholten Group submitted that selecting Argus instead of Platts could negatively impact retail margins if Platts prices are higher than Argus prices in 2023 and if Argus is not used as the benchmark for the majority of business conducted in New Brunswick. The Oil Heat Association of New Brunswick raised a similar concern, opposing any changes in the use of reporting agencies that would or could affect fuel retailers negatively.
- [16] While using a published benchmark price that is lower than the price used by local suppliers may negatively impact retail margins, the Board is satisfied that accepting R Cube’s recommendation would not increase this risk. Local suppliers’ use of Platts instead of Argus in 2023 would not negatively impact margins unless Argus prices are also lower than Platts prices in 2023. The evidence indicates that Argus and Platts prices were generally aligned over the evaluation period, and where they have diverged, Argus prices have sometimes been lower than Platts prices. Therefore, a scenario in which Argus prices are lower than Platts prices in 2023 would not be inconsistent with the evaluation period data and would not demonstrate an asymmetrically negative risk to retail margins.
- [17] The Public Intervener expressed concern that selecting Argus will result in higher benchmark prices and, therefore, higher prices for consumers. The evidence in R Cube’s report does not indicate an enduring pattern by which Argus prices are higher than Platts prices, but rather that Argus and Platts are generally aligned and where they have diverged, published Argus prices have sometimes been higher and sometimes lower than published Platts prices. Further, selecting a reporting service based solely on the lowest price criterion would be contrary to the Board’s objective described in Section 3 of this Decision.
- [18] Based on R Cube’s evidence, the Board finds Argus and OPIS are more closely aligned with each other than with Platts. R Cube’s observation that Argus diesel prices diverged from OPIS diesel prices in 2022 does not demonstrate a sustained difference between them. Some divergence is to be expected due to methodological differences and other factors.
- [19] The Board also finds that Argus and OPIS are more methodologically similar than Platts and that local suppliers may be using Argus to set local rack prices. The Board, therefore,

Matter 567 – Petroleum Products Reports

concludes that benchmark prices published by Argus more closely reflect the local market than benchmark prices published by Platts.

5 The Board selects Argus for all petroleum products

[20] For these reasons, the Board accepts R Cube’s recommendation and selects the Argus Media reporting service as the Board’s source of published product prices. For each base product set out in the Regulation, the Board will identify a representative product for which a price is indicated in an Argus report. The Board will set benchmark prices using the published prices for those representative products commencing on a date to be set by Order of the Board.

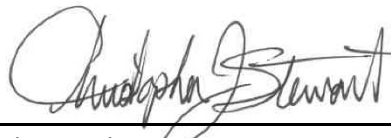
[21] The Board will continue to monitor the benchmark prices published by the three leading reporting services.

Matter 567 – Petroleum Products Reports

Dated at Saint John, New Brunswick, this 7th day of March, 2024.



Stephanie Wilson
Vice-Chairperson



Christopher Stewart
Member



Heather Black
Member