



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 section 107 of the *Electricity Act*, SNB 2013, c. 7, for approval of the PLNGS Generator Rewind Capital Project

(Matter No. EL-001-2026)

October 16, 2026

Matter EL-001-2026 – PLNGS Generator Rewind Capital Project

IN THE MATTER OF an application by New Brunswick Power Corporation pursuant to section 107 of the *Electricity Act*, SNB 2013, c. 7, for approval of the PLNGS Generator Rewind Capital Project (Matter EL-001-2026)

ORAL HEARING: June 11 to 12, 2026

NEW BRUNSWICK ENERGY AND UTILITIES BOARD:

Chairperson	Christopher J. Stewart
Member	John Logan
Member	Michael Pickup

PARTICIPANTS

New Brunswick Power Corporation	John Furey
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Table of Contents

1	Introduction and Summary Conclusions	1
1.1	Overview	1
1.2	Project Summary.....	1
1.3	Summary of Legal Issues and Conclusions.....	2
2	The Hearing Process and Public Participation	3
3	The Issues	4
4	Overview of Section 107 and Retroactive Approval	4
5	A Statutory Precondition Was Met	6
6	The Decision to Rewind was Prudent.....	7
6.1	The Test for Prudence.....	7
6.2	The Decision to Rewind was Prudent	7
6.3	The Selection of Option 2 was Prudent	8
7	The Board Exercises its Discretion to Give Retroactive Approval	12
7.1	The Test for Retroactive Approval.....	12
7.2	Approval with Retroactive Effect is Warranted.....	12
7.2.1	Length and Reasons for Delay	12
7.2.2	Optional vs Necessary Projects.....	13
7.2.3	Impact of Delay	14
7.2.4	Good Faith by NB Power	14
7.2.5	Conclusion.....	15
8	Depreciation and Deferral Account.....	15
9	Conclusion, Orders and Directions	16

1 Introduction and Summary Conclusions

1.1 Overview

- [1] This matter is an application by NB Power for retroactive approval of its Point Lepreau Nuclear Generating Station Generator Rewind Capital Project (the “Rewind Project”) under subsection 107(4) of the *Electricity Act* (the “Act”). NB Power correctly acknowledges that the Rewind Project is a capital project within the meaning of section 107 of the Act. NB Power also concedes that it was required to obtain Board approval of the Rewind Project before incurring more than 10% of the expected capital costs. Lastly, NB Power acknowledges that despite the requirement to obtain Board approval, it incurred more than 10% of the expected costs and had completed the Rewind Project before filing an Application to the Board. NB Power therefore seeks retroactive approval of the Rewind Project under paragraph 107(4)(a). NB Power agrees that retroactive approval is a matter of the Board’s discretion.
- [2] This decision requires the Board to determine:
- (a) whether the Rewind Project was prudent,
 - (b) whether NB Power has met one of the two statutory preconditions for retroactive approval under subsection 107(4) of the Act, and
 - (c) if so, whether the Board should exercise its discretion to retroactively approve the Rewind Project under paragraph 107(4)(a) of the Act.
- [3] For the reasons set out below, the Board approves the Rewind Project with retroactive effect.
- [4] Because the Rewind Project is approved, the Board must also decide whether to approve the requested deferral account for recovery of depreciation expense in fiscal years 2025/26 and 2026/27.
- [5] The Board denies the requested deferral account for reasons set out below.

1.2 Project Summary

- [6] In essence, the Rewind Project consisted of the rewinding of the main generator, including the replacement of 144 stator bars, at the Point Lepreau Nuclear Generating Station (“PLNGS”).

Matter EL-001-2026 – PLNGS Generator Rewind Capital Project

- [7] The Rewind Project was necessitated by a fault in the main generator discovered by NB Power during a maintenance outage in 2024. Engineering analysis concluded that the fault was caused by a leak in various stator bars which form part of the main generator. NB Power was able to bring PLNGS back into service using a temporary repair. However, NB Power concluded that the temporary repair was not sufficient and that all the stator bars needed to be replaced, i.e., the Rewind Project.
- [8] Before proceeding with the Rewind Project, NB Power staff developed four project options which were presented for internal decision. With each option, the work to complete the rewind was the same and the only difference between the project options was timing. The timing of the project, both in terms of scheduling and duration, was the primary cost driver behind the replacement power costs associated with each option. The replacement power costs were the most significant cost of the Rewind Project. For example, the total capital cost of the Rewind Project, i.e. the replacement of the stator bars, was approximately \$67 million. At the time that the selected option was chosen, the estimated replacement power costs were \$324 million over two years (2025 and 2026).
- [9] NB Power ultimately selected the option that would complete the Rewind Project by August 2025. This option was the most expensive of the four options but allowed for a return to service with complete replacement of the stator bars before winter of 2025. A driving consideration for NB Power in prioritizing an earlier completion of the Rewind Project was ensuring the availability of PLNGS during the winter. NB Power wanted to avoid running the main generator during a second winter with only the temporary repair in place, which was considered a known risk to the unit. It also wanted to ensure that the Rewind Project was completed in time for PLNGS to be back online for the winter.
- [10] PLNGS returned to service on November 29, 2025. The total capital cost of the Rewind Project was \$66.36 million and the replacement power costs were \$156 million for 2025. The replacement power costs for 2026 are not yet known.

1.3 Summary of Legal Issues and Conclusions

- [11] An application for approval of a capital project under section 107 of the Act calls on the Board to decide whether the project at issue was prudent. Section 5 sets out the Board's analysis of the prudence of the Rewind Project. Ultimately, the Board concludes that the decision to replace the stator bars was prudent and that the selected option for the Rewind Project was a prudent one.
- [12] This is also an application for approval with retroactive effect. The Board must therefore determine whether NB Power meets the preconditions for retroactive approval under

subsection 107(4). If not, the Board lacks the authority to approve the project. This analysis is contained in Section 6. The Board concludes that NB Power has satisfied the preconditions of paragraph 107(4)(a), rendering the Rewind Project eligible for retroactive approval. The Board is satisfied that the availability of PLNGS during the winter season was necessary for reliability, adequacy and safety of the integrated electricity system.

- [13] If those preconditions are met, the Board must then decide whether to exercise its discretion to approve the project retroactively. This analysis is contained in Section 7. Although the Board considers NB Power’s decision not to seek preapproval unreasonable, the Board concludes that the circumstances nevertheless favour the exercise of its discretion to approve the project with retroactive effect. Those circumstances include:

- (a) the fact that the rewind itself (replacement of the stator bars) was clearly necessary;
- (b) the fact that the primary decision related only to timing of the rewind;
- (c) the importance of PLNGS to the overall reliability of the integrated electricity system, particularly in winter months; and
- (d) the fact that any concerns about cost are effectively rendered moot by the *Regulatory Variance and Deferral Account Regulation – Electricity Act* (the “*Variance Account Regulation*”) (as explained below).

- [14] Finally, in addition to approval of the Rewind Project, NB Power applied for Board approval of a deferral account to recover the depreciation cost of the Rewind Project from fiscal years 25/26 and 26/27. Because the decision not to seek preapproval of the Rewind Project was unreasonable, the Board denies NB Power’s request for a deferral account to recover the depreciation costs of the Rewind Project incurred in 2025/26 and 2026/27. The reasons for this decision are found in Section 8.

- [15] The Board’s ultimate conclusions, orders and directions are contained in Section 9.

2 The Hearing Process and Public Participation

- [16] There were no interveners in this proceeding. The parties consisted of NB Power, the Public Intervener and Board Staff. The Board had the benefit of hearing testimony from witnesses at NB Power as well as the expert testimony of three qualified witnesses.
- [17] The oral hearing took place over the course of two days at the Board’s premises. The Board heard oral arguments from NB Power and the Public Intervener.

3 The Issues

[18] As noted above, NB Power acknowledges that:

- (a) the Rewind Project is a capital project within the meaning of section 107 of the Act,
- (b) Board approval of the project is required before incurring 10% of the expected capital costs, and
- (c) it did not apply for such approval prior to incurring those costs.

[19] The Board agrees with NB Power on each of these points. The remaining issues to be decided in this application are therefore as follows:

- (a) Was the Rewind Project prudent?
- (b) Are the statutory preconditions for retroactive approval met?
- (c) Should the Board exercise its discretion to give approval with retroactive effect?
- (d) Should the Board approve a deferral account to recover depreciation expense for fiscal years 2025/26 and 2026/27?

4 Overview of Section 107 and Retroactive Approval

[20] This is an application for approval of a capital project in excess of \$50 million under section 107 of the Act. The Act prohibits NB Power from incurring more than 10% of the costs of a capital project which is estimated to cost \$50 million or more before the project has been approved by the Board. NB Power is therefore under a statutory duty to apply to the Board for approval of any capital project estimated to cost more than \$50 million and to do so *before* it incurs more than 10% of the costs. The Act requires the Board to approve a capital project if it finds the project prudent, having regard to the factors set out in subsection 107(11).

[21] An application for approval of a capital project under section 107 is therefore a prudence review for the purpose of determining whether the project can proceed. It is not a review of the costs of the project for recovery in rates. However, the total cost of the project compared to the costs of other potential options to complete the same work is a factor for the Board to consider in assessing the prudence of the project.

Matter EL-001-2026 – PLNGS Generator Rewind Capital Project

[22] In this case, the prudence review is somewhat clouded by the fact that NB Power had already completed the Rewind Project before applying for approval. However, the Act specifically allows for retroactive approvals in certain circumstances.

[23] Where no application for prior approval is made, subsection 107(4) permits the Board to grant retroactive approval of a project in certain circumstances. Specifically:

...the Board may give retroactive effect to the approval if the Board is satisfied that

(a) the expenditures were necessary for the reliability, adequacy or safety of the integrated electricity system, of the Corporation's generation facilities or of the Corporation's distribution system, or

(b) the expenditures were necessary to relieve the Corporation of undue financial hardship and arose due to

(i) circumstances beyond the reasonable control of the Corporation acting in accordance with good utility practice, or

(ii) circumstances that were unforeseeable by the Corporation acting in accordance with good utility practice."

[Emphasis added]

[24] NB Power relies only on paragraph 107(4)(a) in support of this Application. It seeks retroactive approval on the basis that the expenditures were necessary for the reliability, adequacy or safety of the integrated electricity system, of the Corporation's generation facilities or of the Corporation's distribution system.

[25] The power to give retroactive effect to the approval is discretionary.

[26] It is a precondition to the exercise of this discretion that one of the conditions in subsection 107(4) be met. In this case, if the Board is not satisfied that the expenditures were necessary for the reliability, adequacy or safety of the integrated electricity system, NB Power's generation facilities or of its distribution system, then the Board has no jurisdiction to give retroactive effect to the approval.

5 A Statutory Precondition Was Met

- [27] The Board finds that NB Power has established that the Rewind Project was necessary for the reliability, adequacy or safety of the integrated electricity system.
- [28] The Board accepts the submission of NB Power that PLNGS is necessary from a resource adequacy perspective, particularly in the winter months. In support of this position, NB Power provided expert evidence from Mr. T. Bruce Tsuchida, who was qualified as an expert in the regulation of electric utilities with particular expertise in resource adequacy and capacity expansion analysis, the design of wholesale electricity markets, including capacity markets, and cost allocation.
- [29] Mr. Tsuchida's evidence was that PLNGS is a baseload generating facility essential for meeting New Brunswick's current electricity demand. Should PLNGS become unavailable, Mr. Tsuchida concluded that NB Power would need to secure replacement capacity immediately. Mr. Tsuchida also concluded that replacement power for PLNGS is difficult to find and that the loss of PLNGS would jeopardize NB Power's ability to maintain reliability.
- [30] This conclusion was also supported by the expert evidence of Mr. Michael Zajmalowski, who was retained by the Public Intervener to provide an expert opinion on the application. Mr. Zajmalowski concluded that the Rewind Project represented a reasonable balance of reliability, risk and cost considerations. The necessity of the Rewind Project from a reliability perspective was also not challenged by the Public Intervener in his submissions. There was some cross-examination by Board Staff regarding whether the potential outage of PLNGS was an economic or financial concern as opposed to a reliability issue, since NB Power could purchase replacement power.
- [31] In his closing argument, counsel for NB Power submitted that an outage at PLNGS was not simply an economic issue. The Board agrees. The evidence establishes on a balance of probabilities that the availability of PLNGS is necessary for the reliability, adequacy or safety of the integrated electricity system. It was not solely an economic issue because the evidence demonstrated that replacement power would be difficult to find. The Board therefore concludes that the Rewind Project was necessary for this purpose.
- [32] Having satisfied one of the statutory preconditions, the Board will go on to consider whether the Rewind Project was prudent.

6 The Decision to Rewind was Prudent

6.1 The Test for Prudence

- [33] On a Section 107 application, the onus is on NB Power to establish either that the proposed project is likely to result in a positive net financial benefit for the utility and its ratepayers or that it is necessary for ensuring the adequacy, safety and reliability of the electric power system. Subsection 107(11) sets out a list of factors for the Board to consider on such an application, including any other factors the Board considers relevant.
- [34] The Board will consider a project to be prudent where it is within the range of solutions that a reasonable utility in the position of NB Power could have selected based on the circumstances known to it at the time it made the decision to proceed. Even though this is an application for retroactive approval, the “no hindsight rule” means that the test should not be applied retrospectively with the benefit of hindsight. NB Power is also not necessarily required to demonstrate that the project was the only reasonable option. The prudence standard recognizes that reasonable people can have honest differences of opinion.
- [35] However, the test is still a rigorous one. NB Power must demonstrate that plausible alternative ways of achieving the proposed project’s objectives were properly considered, rejected, and weighed against the chosen option. The Board will consider the rigour and quality of NB Power’s planning, governance and procurement processes, including whether NB Power followed its own internal governance processes. Of course, the Board will also consider the factors set out in subsection 107(11).

6.2 The Decision to Rewind was Prudent

- [36] The Board accepts the submission of NB Power that the Rewind Project was necessary from both a technical perspective and a resource adequacy perspective. The resource adequacy considerations have been summarized in Section 5 of this decision.
- [37] The technical need for the Rewind Project was supported by the evidence of Mr. Ian Thompson. He was qualified as an expert entitled to give evidence as a professional engineer with expertise in nuclear, thermal, and hydroelectric power plants in the areas of forensic failure analysis, identifying root cause, run, repair, and replace recommendations, and managing asset management programs.
- [38] NB Power completed what it calls “Complex Troubleshooting” which revealed that the condition of the stator bars had been poor since the time of original installation between 2008 and 2012. Mr. Thompson testified, and his report confirms, that there was one

millimeter of pressure boundary on the stator bars when the design was for ten millimeters. Mr. Thompson also testified that there were crevices and porosity in the braze material, which allowed pockets of corrosion to form. He testified that it was “a miracle” that the stator bars lasted as long as they did.

- [39] Upon investigation, six of the 144 stator bars were found to be actively leaking, and the entire population of stator bars was found to be suffering from the same known degradation in the pressure boundary. The leaking bars were replaced and the remaining bars were treated by applying a product called Loctite 290. Although NB Power had confidence that Loctite 290 was effective in repairing known leaks, NB Power had no operational experience either internally or externally confirming whether Loctite 290 could be used to prevent future leaks. Accordingly, while NB Power approved returning PLNGS to service, NB Power understood and believed that PLNGS was going online with a known risk.
- [40] While the existence of the risk was known, the probability of it materializing was unknown to NB Power.
- [41] While the Board accepts that the probability of the risk materializing was an unknown, the evidence is not clear that NB Power made fulsome efforts to compare the risks between options. On cross-examination, Mr. Thompson acknowledged that he was not asked to give an opinion on how long the temporary repair might be effective without a risk materializing. In particular, he testified that he was not asked whether the temporary repair might have been effective beyond August 2025. If the temporary repair could have safely remained in place until April 2026, NB Power could have proceeded with ‘Option 3’ or ‘Option 4’ with associated costs savings of up to \$158 million. Instead, Mr. Thompson was only asked to opine on the Option that NB Power had already chosen, which was to complete the Rewind Project by August 2025. The lack of fulsome analysis on this point has caused the Board concern, which is addressed in the following section.

6.3 The Selection of Option 2 was Prudent

- [42] NB Power considered four options for the Rewind Project. In each option, the capital work to be performed was identical – replacement of the stator bars and rewinding the generator. As above, the only difference between project options was related to timing.
- [43] However, decisions on timing were significant because the timing of the project was the primary cost driver for the replacement power costs associated with the Rewind Project. As can be seen in the chart below, from Exhibit NBP 3.10, at page 9, the replacement power costs were two to four times the capital cost of the generator rewind itself:

Cost Profiles for Options Considered

	Option 1	Option 2	Option 3*	Option 4
Timing				
Outage 25	April 2025	August 2025	August 2025*	April 2026
Outage 26	April 2026	April 2026	April 2026	April 2026
Generator Rewind	Outage 25	Outage 25	Outage 26	Outage 26
Duration (days)				
Outage 25	150	150	35*	N/A
Outage 26	140	140	150	161
Costs (\$ million)				
Replacement Power	300	324	192	166
Outage	192	192	192	172
Generator Rewind	72	72	72	72
OMA			1	
Total Costs	\$564	\$588	\$457*	\$410
Delta	\$123	\$147	\$16*	\$(32)

* O25 Repeat generator testing that was completed in O24 – rewind contingency is carried (not considered in days or cost)

9

- [44] At the hearing, NB Power’s staff witness panel confirmed that this chart summarized the general cost profiles of the four potential options. The Board acknowledges that this chart was not the only information considered in deciding on options.
- [45] Of the options considered, Option 2 was the most expensive option and was the option selected by NB Power. Option 1 was ruled out because NB Power was unable to obtain the necessary parts and expertise to complete the Rewind Project by April 2025. Delaying the Rewind until the Outage 2026 timeframe was expected as of the date of this presentation to result in \$132 to \$158 million in replacement power savings compared to Option 2, although the witness panel indicated that there were additional costs associated with Option 3 which were not included in this chart. Options 3 and 4 were ruled out on the basis that they would not have permitted PLNGS to be back online with a full rewind before August 2025.
- [46] NB Power’s evidence was that Option 2 was selected because it was the quickest timeframe in which the Rewind Project could realistically be completed. It concluded that it was important to have the Rewind Project completed before the next winter, if at all possible.
- [47] Although the Board ultimately accepts NB Power’s decision to prioritize returning PLNGS online before winter 2025 as a prudent option, the Board has concern about the rigour with which each option was assessed. The Board has particular concern in light of Mr. Thompson’s testimony that he was not asked whether the temporary repair would have lasted beyond August 2025. If NB Power had been able to safely and reliably keep PLNGS online using the temporary repair through Winter 2025 and into Spring 2026, with cost savings of up to \$158 million, it is not clear that Option 2 would have been a prudent option

considering the significant additional expected costs. NB Power’s failure to ask its expert, Mr. Thompson, whether this was possible shows a lack of rigour in its decision-making.

- [48] Adding to this concern, Mr. Thompson testified that his colleague, who was involved in co-authoring his report, did not believe that there was ever a real risk of catastrophic failure to the generator. He also opined that returning the unit online with the temporary repair in place was a very low risk with respect to safety and economic risk. When asked whether he provided any opinion or analysis on whether the temporary repair would be safe for an additional eight months (i.e. to April 2026), Mr. Thompson stated that he was not asked to do so.
- [49] By failing to obtain an expert opinion on the critical issue of how long the temporary repair might be effective, NB Power deprived the Board of the ability to meaningfully assess whether the selected option was prudent compared to the others. While the Board accepts that returning PLNGS to service with a full rewind before a second winter season was a legitimate consideration in planning the Rewind Project, the Board does not accept that this option would have been acceptable at all costs. Although NB Power testified that it considered Options 3 and 4, it is not clear how those options were assessed. For example, it appears to the Board that timing may have been the sole criterion applied to the decision. The Board expects a more rigorous analysis of project options, including, without limitation, in many cases, a standardized scoring process, formal risk assessment, and, where expert advice is appropriate, advice on all project options as opposed to only evaluating NB Power’s preferred option to confirm its acceptability.
- [50] The Board finds that it was particularly incumbent on NB Power to be rigorous in its decision-making process in this case for two reasons. First, NB Power had already decided by April 2025 that it would not be applying to the Board for pre-approval of the project. Second, NB Power knew or ought to have known that the *Variance Account Regulation* would operate to guarantee complete recovery of its replacement power costs regardless of any decision from the Board. By waiting until the Rewind Project was complete and those replacement power costs had already been incurred to seek Board approval, NB Power deprived the Board of a meaningful ability to assess the prudence of the selected option, to the potential detriment of ratepayers. If NB Power had applied for approval in advance, the Board and ratepayers would have at least had the opportunity to avoid potentially imprudent replacement power costs.
- [51] Nevertheless, the Board must assess the prudence of the Rewind Project based on the evidence that is available to it now and within the statutory framework provided by the Act

and its Regulations. Overall, the Board cannot conclude that proceeding with Option 2 was imprudent based on the evidence available to it.

- [52] The Board finds that there is evidence from NB Power and Mr. Thompson sufficient to persuade the Board that the decision to proceed on an accelerated basis by way of Option 2 was a prudent decision.
- [53] First, NB Power conducted an internal risk assessment of the Options based on the general principle that the risk of damage to the generator would increase the longer the temporary repair was in place. This was referred to as the concept of “time at risk”. Ms. Lennox was consistent throughout her testimony that Option 2 was considered the most prudent option because it resulted in the least time at risk (other than Option 1, which was ruled out as not being feasible). Ms. Lennox was also consistent in her evidence that the risk to the generator with the temporary repair in place could not be quantified beyond this general principle.
- [54] Although this principle is somewhat inconsistent with Mr. Thompson’s findings in his report that the overall risk of the temporary repair was very low and that there was no real risk of catastrophic failure to the generator, the Board accepts as a general principle that the greater time at risk for the unit weighed in favour of Option 2. This is because Option 2 had the least time at risk compared to Options 3 and 4.
- [55] Second, Mr. Thompson’s evidence supported the earlier completion of the Rewind. Mr. Thompson stated that he recommended replacing the stator bars as soon as possible even though he was not asked to opine on how long they could safely remain in operation. The Board accepts that there was some urgency to the replacement of the stator bars in the circumstances of this case because, as Mr. Thompson noted, it was not a case where there was only one stator bar or even a handful of stator bars compromised. In this case, the entire population of stator bars was apparently compromised by poor manufacturing.
- [56] The Board finds that these circumstances support the decision by NB Power to proceed with Option 2 because Option 2 resulted in the earliest completion of the full rewind and therefore the least time at risk to the generator.
- [57] In light of the uncontested evidence of Ms. Lennox that the precise risk to the unit over time could not be quantified and Mr. Thompson’s general recommendation to replace the bars as soon as possible, the Board accepts that Option 2 was a reasonable option based on the information known to NB Power at the time.

- [58] The Board expects NB Power to lead evidence demonstrating a serious consideration of all project options in future capital project applications, and not only its preferred option.
- [59] In conclusion, the Board finds the Rewind Project and the decision to proceed with Option 2 to be prudent.

7 The Board Exercises its Discretion to Give Retroactive Approval

7.1 The Test for Retroactive Approval

- [60] This application provides an opportunity for the Board to elaborate on the test for retroactive approval of capital projects to aid future decision-making.
- [61] The Board does not consider it appropriate to give a fixed list of factors to be considered. Each capital project will be different, and each application for approval will need to be decided on the facts of that particular case. However, the Board considers that the following factors may be relevant:
- (a) the length of the delay;
 - (b) the reasons for the delay, including whether the delay was caused by factors within NB Power's control;
 - (c) whether the project is an 'optional' project or required for the reliability, adequacy, or safety of the integrated electricity system;
 - (d) the impact of the delay or the potential retroactive approval on ratepayers; and
 - (e) whether the applicant was acting in good faith in choosing not to seek Board approval in advance.

7.2 Approval with Retroactive Effect is Warranted

7.2.1 Length and Reasons for Delay

- [62] In this instance, the length of the delay in applying for Board approval was at least nine months. On April 22, 2025, NB Power wrote to the Board notifying it of its decision to seek retroactive approval of the Rewind Project as opposed to prior approval. By at least that date, NB Power had identified the need for the Rewind Project and the fact that it would require Board approval under section 107. It did not apply to the Board for approval until January 22, 2026.

Matter EL-001-2026 – PLNGS Generator Rewind Capital Project

- [63] NB Power identified the reasons for the delay as staffing deficiencies and potential impacts on NB Power’s relationship with a third-party business partner. At the hearing, NB Power was consistent in its evidence that, although both reasons were cited as factors, staffing deficiencies were the primary consideration. The evidence of Mr. Nouwens was clear and consistent on this point.
- [64] The Board does not accept competing demands on staff working on both an application for approval and the project for which approval is required as a sufficient reason to delay filing an application, absent very unusual circumstances. This would set the threshold for retroactive approval too low. Many capital projects requiring Board approval will have substantial overlap between the staff needed to complete the capital work and the staff needed to provide technical support to prepare the application.
- [65] NB Power first identified the fault with the generator in June 2024. It received an initial assessment from Kinetrics in September 2024. By April 22, 2025, it had convened its Complex Troubleshooting Team, executed the stator bar supply contract, and completed its EDM/ODM process. Still, NB Power decided to notify the Board of its intention not to seek pre-approval and did not apply for a further nine months.
- [66] The Board expects that over the course of 19 months from June 2024 to January 2026, NB Power should have met its obligations with respect to the reliable supply of electricity and its statutory obligation to seek Board approval of capital projects in excess of \$50 million. NB Power is generally expected to manage its operations so that it can comply with its statutory obligations.
- [67] Overall, the length of the delay and the inadequate reasons for it mitigate against granting retroactive approval.

7.2.2 Optional vs Necessary Projects

- [68] On the other hand, this was not an optional project. The Board accepts that the Rewind Project was required for the reliability, adequacy or safety of the integrated electricity system. It also accepts that the Rewind Project was necessary from a technical perspective in terms of being a technically appropriate response to the malfunction with the generator.
- [69] The Board finds that there is a compelling case that the Rewind Project was required based on the information known to NB Power at the time.
- [70] These findings mitigate in favour of granting retroactive approval.

7.2.3 Impact of Delay

- [71] This project interacts with the *Variance Account Regulation*. It guarantees the recovery of any variances between forecast fuel and purchase power costs and actual fuel and purchase power costs, meaning that recovery of the replacement power costs associated with the Rewind Project was always guaranteed.
- [72] The effect of the *Variance Account Regulation* in the context of this application is significant. The replacement power costs were the primary cost variable between the different project options considered by NB Power. This means that the *Variance Account Regulation* deprives the Board of jurisdiction to disallow any replacement power costs it might have considered imprudent. Although the Board is ultimately satisfied that the selected option was a prudent one, the effect of the *Variance Account Regulation* rendered the decision by NB Power not to seek prior Board approval of this project more serious.
- [73] There is no evidence to suggest that the delay had any impact on the overall capital cost of the Rewind Project, which came in under budget. However, the delay in seeking Board approval had the negative impact of depriving ratepayers of the opportunity to avoid additional replacement power costs which become guaranteed upon being incurred by NB Power by virtue of the *Variance Account Regulation*.
- [74] By the time NB Power applied to the Board for approval, it had already incurred significant replacement power costs. These costs were an estimated \$324 million, and the actual costs in 2025 were \$156 million. The costs for 2026 are not yet known.
- [75] If NB Power had applied to the Board in advance, and had the Board determined that Option 2 was not prudent and another option ought to have been selected, there would still have been an opportunity to avoid the additional replacement power costs associated with Option 2 compared to other options
- [76] Because of the *Variance Account Regulations*, the decision to seek retroactive approval had the potential to have a significant negative impact on ratepayers. However, the Board has concluded that Option 2 was a prudent option and acknowledges that this potential negative impact has not in fact materialized.
- [77] Overall, this factor weighs against granting retroactive approval.

7.2.4 Good Faith by NB Power

- [78] In closing argument, counsel for NB Power indicated that whether the utility acted in good faith was a factor to be considered in deciding whether to grant retroactive approval. The Board agrees.

- [79] There is no evidence on the record to suggest that NB Power was not acting in good faith in its decision to delay seeking approval of the Rewind Project. Although the Board does not accept the staffing issues as a sufficient reason to delay seeking approval, the Board accepts that the utility was acting in good faith and in accordance with an honestly held belief that it could not realistically accomplish the Rewind Project and the necessary regulatory filing in time to apply prior to completing the project.
- [80] This factor weighs in favour of granting retroactive approval.

7.2.5 Conclusion

- [81] The need for the Rewind Project was clear, and the timing selected was a prudent option. The Board accepts that there was good reason for proceeding with the project sooner in order to be finished before the winter, but believes there should have been a more fulsome analysis conducted by NB Power.
- [82] Overall, the Board decides to exercise its discretion in favour of granting retroactive approval. The Rewind Project is therefore approved with retroactive effect.

8 Depreciation and Deferral Account

- [83] As part of an Amended Notice of Application, NB Power sought Board approval of a deferral account entitled the PLNGS Generator Rewind Deferral Account (the “Deferral Account”) in the amount of \$5,801,659.00. That figure represents the depreciation amounts of the Rewind Project for the 2025/26 and 2026/27 fiscal years. NB Power is not currently recovering those amounts because the Rewind Project had not been approved at the time that the Board approved rates for those fiscal years. This is the natural consequence of NB Power not seeking Board approval at an earlier date.
- [84] Section 117.5 of the Act gives the Board jurisdiction to permit the creation of regulatory deferral accounts to recover prudently incurred costs. The approval of a regulatory deferral account is discretionary.
- [85] The Board declines to exercise its discretion to permit the creation of a regulatory deferral account to recover the depreciation expense of the Rewind Project for 2025/25 and 2026/27. NB Power has been unable to recover that expense in the fiscal years in which they were incurred because of its own decisions with respect to the timing of filing this application.

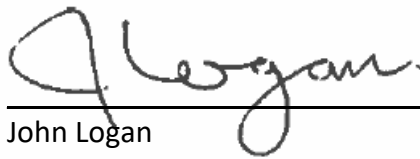
9 Conclusion, Orders and Directions

- [86] Accordingly, the Rewind Project is approved with retroactive effect, and the PLNGS Generator Rewind Deferral Account is denied.

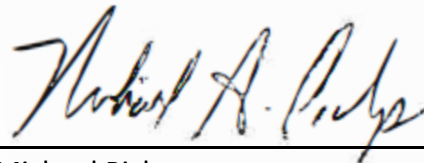
Dated at Saint John, New Brunswick, this 16th day of October, 2026.



Christopher J. Stewart
Chairperson



John Logan
Member



Michael Pickup
Member