

ANNUAL REPORT BOARD OF COMMISSIONERS OF PUBLIC UTILITIES FOR THE YEAR ENDED MAR 31/2002

The Board is comprised of the following members:

Chairman	David C. Nicholson
Vice-Chairman	James Bateman
Commissioner	J. Alyre Boucher
Commissioner	Leon C. Bremner
Commissioner	John Chenier
Commissioner	Joanne Cowan-McGuigan
Commissioner	Jacques Dumont
Commissioner	Leonard Larocque
Commissioner	Emilien LeBreton
Commissioner	R. J. Lutes
Commissioner	Robert Richardson
Commissioner	Kenneth Sollows
Commissioner	H. Brian Tingley
Commissioner	Monika Zauhar
Secretary	Lorraine Légère

The Board is a quasi-judicial body that reports to the Legislative Assembly through the Minister of the Department of Natural Resources and Energy. The Board operates with 13 full time staff positions, a full time Chairman and Secretary as well as part time Commissioners appointed on a term basis by the Lieutenant Governor in council.

During this year, the Board experienced a number of changes in part-time Commissioners. The Board was saddened by the sudden passing of Commissioner Lutes on February 8, 2002. Commissioner Lutes had played an extremely active role in the Board's business since his appointment on December 1, 1999. His breadth of business experience and knowledge of not only New Brunswick, but also Canada, was a tremendous asset to this Board in the performance of its statutory responsibilities. In particular, Commissioner Lutes contributed his knowledge of business to assisting the Board's establishment of a regulatory regime for the local natural gas distributor and the licensing of gas marketers.

During the year, the terms of Commissioner Chenier and Larocque were concluded and Commissioner Zauhar found it necessary to resign her appointment because of the perceived possibility of a conflict of interest in that her law partner had been retained to act for a frequent applicant before the Board.

Pursuant to the provisions of the Public Utilities Act, Chapter P.27, R.S.N.B. 1973, the Board of Commissioners of Public Utilities is charged with the regulation of public utilities in the Province of New Brunswick. The Board is also charged with the regulation of automobile insurance rates for the Facility Association and the monitoring of rates for all insurers that underwrite automobile insurance business in the Province pursuant to certain provisions of the Insurance Act, Chapter I-12, R.S.N.B. In Addition, the Board is charged with regulation of the

natural gas industry pursuant to the Gas Distribution Act, 1999. The Board issues permits for the construction and repair of non-natural gas pipe lines pursuant to the Pipe Line Act, Chapter P-8.1, R.S.N.B. It regulates public motor buses pursuant to the Motor Carrier Act, Chapter M-16, R.S.N.B. and the Motor Vehicle Transport Act, R.S.C. 1987 and also hears appeals of decisions of the Registrar of Motor Vehicles regarding motor vehicle dealers' licenses.

The Board operates with funds received from assessment of the industries that it regulates, with the exception of the public motor bus industry, where it carries out its responsibilities with a budget from the Provincial Department of Transportation.

ELECTRICITY

In 2000, NB Power made the Board aware that in the near future, they would be applying for recommendations on the refurbishment of two of its major generating facilities, Coleson Cove and Point Lepreau. To prepare for these applications, the Board identified three questions:

1. Is it reasonable to believe that NB Power will require the electricity presently generated by Coleson Cove and/or Point Lepreau or replacement facilities in the future?
2. What are the relevant issues to be reviewed during any subsequent specific generating facility upgrading and/or maintenance hearing?
3. What is the nature and scope of the evidence that NB Power should provide for those hearings?

In June, 2001, the Board conducted a generic hearing, based on these three questions, on whether the electrical generation capacity of the Coleson Cove thermal generating facility (1000 MW) and the Point Lepreau nuclear generating facility (635 MW) was required to meet in-province demand.

The Board issued its decision on the Generic Hearing, July 11, 2001, stating that the capacity provided by Coleson Cove would be required to service in-province demand. However, the Board felt that a further analysis of the requirement for the capacity from Point Lepreau was needed. For this reason the Board required that NB Power provide an updated load forecast, taking into consideration the potential for demand side management (DSM), prior to conducting a specific hearing on the Point Lepreau generating station.

Following the generic decision, the New Brunswick Power Corporation (NB Power) submitted an application for the refurbishment of the Coleson Cove Generating Station on July 12, 2001. This application was made pursuant to Section 40.1 (1.1) of the *Public Utilities Act*. The hearing for the application was held in January 2002 and the decision was issued January 28, 2002. In keeping with the requirements of the Act, the Board issued its recommendation to the Board of Directors of NB Power that Coleson Cove be refurbished, thereby converting the station from burning oil to Orimulsion. Orimulsion is a emulsion of bitumen (70%) in water (30%). Bitumen is a naturally occurring hydrocarbon.

NATURAL GAS

The Board concluded a regulatory proceeding, which began in March 2001, that was held to consider an application for a local gas producer franchise by the Potash Company of Saskatchewan, Inc. (PCS). The application was to allow PCS to distribute indigenous natural gas from wells, in which PCS had an ownership interest, to its processing facilities at Penobsquis, New Brunswick. On July 31, 2001, the Board decided to grant the franchise to PCS subject to the following conditions:

- (1) PCS was authorized to distribute gas only to its processing facility.
- (2) The geographic territory of the franchise was from the gas well head up to and including the gas meter at the PCS processing facility. This included the gathering lines and the gas processing plant.
- (3) Any other party requesting gas distribution from PCS had to be referred to Enbridge Gas New Brunswick (EGNB), the holder of the gas distribution franchise for the Province.
- (4) PCS was obligated to provide any necessary pipeline connection to EGNB.

In its decision, the Board stated that the PCS application was unique and did not fit the normal reason for application for a public utility franchise. PCS applied for a franchise to serve its own needs only. The Board believed that the Legislature did not foresee this class of applicant when the Gas Distribution Act, 1999 (GDA) was passed. The Board believed that the GDA should be amended to allow for the award of a franchise of this nature.

During the Hearing, the Board heard arguments for and against including *gathering lines* in a franchise area. A gathering line transports raw unprocessed gas from a well to a processing facility. The lines do not distribute natural gas. In the New Brunswick GDA, gathering lines are not defined and therefore are determined to be a pipeline under the Act. The Board strongly urged the Province to amend the GDA and the Oil and Gas Statutes of New Brunswick, to remove gathering lines from the definition of pipeline and give the regulatory authority for them to the Minister.

In December 2001, the Board initiated a regulatory proceeding to consider the application by PCS for a Permit to Construct a Pipeline to transport natural gas to its processing facility located at Penobsquis. On March 20, 2002, the Board delivered its decision to issue the permit to construct to PCS.

The Board conducted a review of the financial results of Enbridge Gas New Brunswick, Inc. for the year ending December 31, 2000, pursuant to the Board's decision of June 23, 2000. A regulatory proceeding was held to consider the financial requirement for:

- (1) The amortization period applicable to Deferred Development Costs.
- (2) The weighted average cost of capital applicable to certain Deferred Development Costs.
- (3) The treatment of the Allowance for Funds Used During Construction for regulatory purposes.

On December 20, 2001, the Board delivered its decision.

Bill 43, "An Act to Amend The Gas Distribution Act, 1999" received Royal Assent on June 1, 2001. One of the revisions was a change in the definition of a *Gas Marketer*. Previously a person who provided a customer service for natural gas was required to obtain a gas marketer's

certificate from the Board. The amendment deleted that requirement for the provider of a customer service.

The Board remained busy throughout the year working with the gas distributors and the gas marketers on regulatory issues arising from the development of the natural gas industry. By

By November 2001, natural gas was flowing in Saint John, Fredericton, Oromocto, the Greater Moncton Area and St. George.

Gas Safety Division

The mandate of this group, comprised of the Director of Safety and two (2) Safety Inspectors, is to ensure that operators of the natural gas distribution systems provide safe and reliable delivery of natural gas within the Province of New Brunswick. This authority given to the Board under the Gas Distribution Act, 1999. This is accomplished through the Safety Division's use of inspection, education, compliance audits and damage prevention programs.

This year Enbridge Gas New Brunswick (EGNB) which was awarded the gas distribution franchise in 1999, installed approximately 54 km of pipeline or approximately 60% of what was accomplished in the previous year. This reduction was mostly due to EGNB concentrating their construction efforts on the installation of services to the customers, in order to generate maximum revenue. EGNB's 2002 construction plan is more ambitious with a capital investment approximately double that of 2001 or approximately \$13.5 million.

The Safety Division carried out a general safety compliance audit of EGNB in February 2002. Construction, operations and maintenance procedural manuals and records were reviewed and compared against the requirements of the Gas Distribution Act, 1999 and regulations including the CSA Standard - Z662 Oil and Gas Pipeline Systems.

The Saint John Damage Prevention Committee, of which the Safety Division is a member, introduced a "One-Call" utility location service to the Saint John area this spring. This allows contractors and the general public to call only one number to determine if there are any underground utilities in an area where an excavation is planned.

Damage Prevention Committees are forming in other areas of the province and eventually this "One-Call" system will be available, we hope, province wide. In the meantime, each utility has a telephone number to call and will provide the same information as the "One-Call" system.

The updated forecast was filed with the Board January 8, 2002 and the hearing is scheduled for April 29 and 30, 2002. It is anticipated that the Point Lepreau hearings will commence in late May 2002.

PIPELINES

No applications were received for the construction or repair of a non-natural gas pipeline pursuant to the Pipeline Act during the fiscal period April 1, 2001 to March 31, 2002.

MOTOR CARRIER

A summary of the Board's activities for the fiscal year April 1, 2001 to March 31, 2002 is as follows:

Charter Applications	2001 – 2002
Received	4
Opposed	1
Granted as Advertised	3
Granted with Amendments	0
Abandoned, Withdrawn or Dismissed	1
Licenses	
Denied	0
Cancelled or Revoked	5
Active at Year End	52
No. of Motor Carrier Plates Issued	265
No. of Temporary Permits Issued to Unlicensed Carriers	2
Total Revenues	\$20,280.50

The Board held a hearing in connection with the review of the motor carrier license of Voyage Leclerc Tours Inc., a Quebec company in possession of a broad charter license that allows them to pick up or drop off passengers over all routes and between all points in New Brunswick as well as extend into other jurisdictions as authorized and return. On February 19, 2002, the Board found the company guilty of violations in the province. They called for solicitors to submit their arguments on sentencing no later than March 19, 2002 and advised that a decision would be forthcoming not later than April 12, 2002.

An application was received from S. M. T. (Eastern) Limited on June 21, 2001, to increase fares for scheduled services. A hearing was held on August 24, 2001 whereby the Board granted the applicant's request to increase fares.

An application dated March 13, 2002 was received from S. M. T. (Eastern) Limited for the implementation of additional line run services and surcharges for guaranteed next day parcel delivery, extra insurance for lost/damaged luggage, a fee for excess luggage as well as an administrative charge for refund of tickets. The Board granted this application subject to the gathering of statistical information to support the charges. This information must be included in SMT's next rate application.

Motor Vehicle License Appeals

During the fiscal period April 1, 2001 to March 31, 2002 there were no appeals of decisions of the Registrar of Motor Vehicle concerning Motor Vehicle Dealers Licenses.

AUTOMOBILE INSURANCE

With the exception of the Facility Association, New Brunswick is what is commonly known as a file and use jurisdiction. Under the file-and-use process, the Board continues a regulatory role by monitoring rates and rules for general compliance with the Insurance Act provisions that rates and rules not be excessive, inadequate nor discriminatory. Automobile insurers are required to file the rates or changes to rates that they propose to charge with the Board and may implement the rates no sooner than 30 days from the date the Board receives a complete filing for the rate change proposal.

The Board revised its filing rules and sent an information bulletin to all insurers registered to do business in New Brunswick on January 2, 2002 to assist them in making complete filings that may be processed with a minimum of delay. The revised rules contain updated profile information that insurers are required to provide with each filing submitted. The data received is entered in the Board's auto insurance monitoring program. Graphs generated by the program provide information used in determining whether increases or decreases by coverage are excessive or inadequate when compared with the New Brunswick industry as a whole.

In addition to the information bulletin, the Board generated a survey that insurers were required to complete on the underwriting and rating of mature operators (over age 55). The purpose of the survey was to assist both the Board and the Superintendent of Insurance in determining the treatment of mature operators by the industry. The survey was sent to 54 companies and the results are as follows:

- 32 companies declare they do not have an age at which they will decline to underwrite
- 31 companies declare they do not have additional underwriting rules for mature operators 55+
- 14 companies declare discounts for mature operators
- 1 company only declares a surcharge for mature operators

The Board reviewed a total of 132 automobile insurance rate filings between April 1, 2001 and March 31, 2002. It held one public hearing on February 26, 2002 to investigate the rates and charges of Cooperators General Insurance Company. The company was applying a surcharge on certain risks, in an inconsistent manner which left the door open to discrimination. The Board found that the surcharge was reasonable if it kept an insured from being rated at Facility Association premiums. It therefore ordered the company to develop specific criteria in a level of detail that would be used to apply the surcharge consistently and to file these criteria with the Board by April 30, 2002 for review and approval.

The Facility remains fully regulated and is required to make an application to the Board for approval of the rates that they proposed to charge or for any changes in their existing rates and charges.

The Board held a hearing on June 12, 2001 to review the rates and charges of the Facility Association. It found that the proposed rate changes for private passenger and commercial vehicles was justified in all respects, and the changes were approved to take effect immediately. In the case of the miscellaneous vehicles, the company had last applied for a rate increase which became effective in January of 1996. Therefore, at the date of the hearing in this matter, those rates were five and a half years old. It was noted that the Board's rules, which are still

applicable to the FA, require a rate filing every two years. The Facility Association complied with this rule in relation to the private passenger and commercial filings, but not as it concerned miscellaneous vehicles. The average rate increase for snow vehicles, motorcycles and ATV's were not excessive as a result of this non-compliance with the Board's rule. However, the average proposed rate increase for taxis at 52% was excessive. While the proposed increase was statistically justified, the Board did not believe it to be fair and reasonable to allow that large a premium increase in one year. Therefore, only half the requested increase was allowed.

The Facility Association also filed an application on February 28, 2002 to introduce a new method of rating vehicles which impacts the insurance costs related to the vehicle driven by an insured. This new method was developed by the Vehicle Information Center of Canada and is called the Canadian Loss Experience Automobile Rating "CLEAR". Many insurers are now using this method to rate vehicles. The "CLEAR" method analyzes the historic claims of the vehicles in order to predict future losses. From statistical analyses, relationships are established between vehicle characteristics and insurance claims which when adjusted by actual experience of individual models, are used to predict future losses. "CLEAR" rewards consumers who buy vehicles with lower insurance losses with lower rates. Furthermore, these consumers no longer subsidize people who choose to drive vehicles that incur higher insurance losses. In addition to providing benefits to discerning consumers, "CLEAR" also encourages vehicle manufacturers to build vehicles that are safer, less expensive to repair and less likely to be stolen. The Board approved the FA's request to rate vehicles using this method.

FINANCIAL OVERVIEW

The audited financial statements of the Public Utilities Board are included in Volume 3 of the Public Accounts of the Province of New Brunswick.

2001-2002 Total Budget vs. Actual

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	976,597	948,787 (note 1)	-27,810
Training	62,000	53,894 (note 2)	-8,106
Office & Administration	<u>415,958</u>	<u>419,622</u>	<u>3,664</u>
Total Common Expenses	1,454,555	1,422,303	-32,252
Direct Expenses	<u>581,500</u>	<u>587,019</u>	<u>5,519</u>
Total Expenses	2,036,055	2,009,322	-26,733

- Notes:**
1. A gas pipeline inspector resigned in December and was not replaced in the fiscal year, which contributed to a lower expense amount for salaries.
 2. Due to work activities, staff was not available for some training in the period. Training for new commissioners was not completed in the year which also contributed to the expense coming in under budget.

AUTO INSURANCE SECTOR

2001-2002 Budget vs. Actual

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	160,597	183,115 (note 1)	22,518
Training	3,000	1,114	-1,886
Office & Administration	<u>155,958</u>	<u>130,853</u> (note 2)	<u>-25,105</u>
Total Common Expenses	319,555	315,082	-4,473
Direct Expenses	<u>111,500</u>	<u>143,024</u> (note 3)	<u>31,524</u>
Total Expenses	431,055	458,106	27,051

- Notes:**
1. Staff time allocation, between the three regulated sectors, was reviewed during the year. This resulted in a change in the allocation for salary expense with the insurance sector increasing.
 2. Costs for new furnishings, equipment and office relocation were lower than budgeted.
 3. Costs for the insurance actuary consultant, who advises the Board and worked on the development of new analytical software, were higher than estimated. Costs for the insurance consultant were above budget due to increased activity in the sector.

ELECTRICITY SECTOR

2001-2002 Budget vs. Actual

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	400,000	383,310 (note 1)	-16,690
Training	30,000	30,901	901
Office & Administration	<u>110,000</u>	<u>129,011</u> (note 2)	<u>19,011</u>
Total Common Expenses	540,000	543,222	3,222
Direct Expenses	<u>400,000</u>	<u>365,630</u> (note 3)	<u>-34,370</u>
Total Expenses	940,000	908,852	-31,148

- Notes:**
1. Staff time allocation, between the three regulated sectors, was reviewed during the year. This resulted in a small change in the allocation for salary expense with the electricity sector being slightly reduced.
 2. Costs for depreciation for computer equipment and office relocation were greater than estimated.
 3. Costs for public hearings were lower than estimated.

NATURAL GAS SECTOR

2001-2002 Budget vs. Actual

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	416,000	382,362 (note 1)	-33,638
Training	29,000	21,879 (note 2)	-7,121
Office & Administration	<u>150,000</u>	<u>159,758</u> (note 3)	<u>9,758</u>
Total Common Expenses	595,000	563,999	-31,001
Direct Expenses	<u>70,000</u>	<u>78,365</u> (note 4)	<u>8,365</u>
Total Expenses	665,000	642,364	-22,636

- Notes:**
1. A gas pipeline inspector resigned in December and was not replaced in the fiscal year, which contributed to a lower expense amount for salaries. Staff time allocation between the three regulated sectors was reviewed during the year. This resulted in a small change in the allocation for salary expense, with the natural gas sector being slightly reduced.
 2. Due to work activities, staff was not available for some training in the period. Training for new commissioners was not completed in the year which also contributed to the expense coming in under budget.
 3. Costs for depreciation on computer equipment, vehicles for safety inspectors and office relocation were larger than estimated.
 4. Costs for regulatory proceedings held for Enbridge Gas New Brunswick and the Potash Company of America were higher than estimated.

Respectfully submitted

David C. Nicholson
Chairman