

**ANNUAL REPORT  
BOARD OF COMMISSIONERS  
OF PUBLIC UTILITIES FOR THE YEAR ENDED MAR 31/2003**

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**Commissioners**

**David C. Nicholson, Chairman**  
**Alyre J. Boucher, Q.C. Vice-Chairman**  
**James E. Bateman**  
**Leon C. Bremner**  
**Joanne Cowan-McGuigan**  
**Jacques A. Dumont**  
**Emilien LeBreton**  
**David Nelson**  
**Robert Richardson**  
**Kenneth F. Sollows**  
**Brian H. Tingley**

**Message from the Chairman, David C. Nicholson**

**I am pleased to submit the Board's Annual Report for the year 2002-2003. This was another eventful year for the Board of Commissioners of Public Utilities with developments in electricity, automobile insurance and natural gas.**

**During the year, Alyre J. Boucher, Q.C. was appointed Vice-Chair of the Commission, replacing James E. Bateman who retained his duties as Commissioner. As well, Joanne Cowan-McGuigan and David Nelson were appointed Commissioners.**

**In this report you will see a summary of the Board's activities in all the sectors it regulates.**

## Responsibilities

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.

It regulates the natural gas industry pursuant to the Gas Distribution Act, 1999. The Board issues permits for the construction and repair of non-natural gas pipelines pursuant to the Pipeline Act, Chapter P-8.1, R.S.N.B. Its regulation of public motor buses is pursuant to the Motor Carrier Act, Chapter M-16, R.S.N.B. and the Motor Vehicle Transport Act, R.S.C. 1987 and it 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 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 its decision on the generic hearing into electricity supply for in-province demand in 2001, the Board ordered NB Power to file information on its load forecast prior to filing its application for the refurbishment of Point Lepreau Nuclear Generating Station. For the load forecast, the Board required NB Power to evaluate the potential for Demand Side Management (DSM) as an approach to reducing in-province demand over the next ten years.

The load forecast hearing was held April 29-30, 2002 and the decision was issued May 2, 2002. The Board was able to conclude that the electricity generated by

**Point Lepreau was an important factor in the overall mix of generation assets owned and operated by NB Power.**

**With the conclusion of the load forecast hearing, the Point Lepreau refurbishment hearing started on May 27 and continued until June 19, 2002 with the decision being issued on September 24, 2002. Based on the evidence and the outcome of the hearing, the Board concluded that pursuing the refurbishment of Point Lepreau was not economically viable given the business case that was presented by NB Power. This recommendation was made to the Board of Directors of NB Power, as required by the Public Utilities Act.**

**On June 21, 2002, NB Power made application to the Board for an Open Access Transmission Tariff (OATT) The evidence was filed July 25, 2002 and the hearing began November 18, 2002. During the course of the hearing, the government tabled its proposed Electricity Act, which would be the legislation to restructure both NB Power and the electricity market. It was the intention of the government to have the market open by April 1, 2003. To meet this intent, following six weeks of hearings, the Board issued its decision on the OATT March 13, 2003. Although a number of issues have delayed the opening of the market, it is likely that the Board will establish a date on which the tariff will become effective in the near future.**

### **Natural Gas**

**The Board received an application from Enbridge Gas New Brunswick, Inc.(EGNB) in June 2002 to amend its Permit to Construct 2000-01. The applicant sought permission for the construction of high pressure steel pipelines in specified areas in Saint John and to be allowed to install high and extra-high pressure pipelines as infill in the municipalities presently listed in the existing permits. Infill allows the company to expand its distribution system without the necessity of a public hearing. A written hearing process was established to review the application.**

**The issue of pipeline safety was raised by the Maritime Natural Gas Pipeline Contractors Association Inc.. Part of the Board's mandate for natural gas is to ensure that the natural gas distribution systems provide safe and reliable delivery of gas within the Province. Evidence submitted confirmed to the Board that proper**

**safety procedures had been followed in the past. The Board's Safety Division conducts comprehensive on-site inspection and compliance audits to ensure that the requirements of the Gas Distribution Act, 1999, its regulations and the Canadian Standards Association' codes are met.**

**On October 1, 2002, the Board delivered its decision. EGNB was permitted to install high and extra-high pressure infill piping under its existing permits. Approval was also given for the installation of high-pressure pipelines in Saint John.**

**In July 2002, the Board initiated a regulatory proceeding to consider a Natural Gas application by Flakeboard Company Limited (Flakeboard) for a single end use franchise. A Pre-Hearing was held in St. Stephen on September 26<sup>th</sup>, 2002 with EGNB, who opposed the application, present at the hearing.**

**The Board asked the parties to consider exploring a means to allow them to achieve their goals, while providing natural gas distribution service to the Town. The parties agreed to meet and reconsider their gas distribution options and the hearing was adjourned. Flakeboard subsequently notified the Board that it did not wish to proceed with its application and had concluded an agreement to accept gas distribution service from EGNB.**

**In February 2003, the Board initiated a regulatory proceeding to consider an application by EGNB for a Permit to Construct for distribution service to the Town of St. Stephen. The application was for the proposed installation of the distribution system to service the Flakeboard manufacturing facility initially in late 2003, with further extension in the town in subsequent years.**

**The natural gas distribution system customer attachments increased by over one thousand during the year to total over 1,300 customers. Most new attachments occurred during the period from September to December 2002. The Board remained busy throughout the year working with the gas marketers and distributors on regulatory issues arising from the developing industry.**

**Automobile Insurance**

**New Brunswick is known as a 'file and use' jurisdiction with respect to the regulation of automobile insurance. Under this approach, the Board's primary function is to monitor rates for general compliance with the Insurance Act, ensuring that the rates are not excessive, inadequate or discriminatory. Automobile insurers are required to file any rates or changes to rates with the Board and can implement these no sooner than 30 days from the date the Board receives a complete filing for the rate changes.**

**For the Facility Association (FA), the Board has a broader regulatory authority, which entails conducting public reviews of any proposed rate increases. The FA filed a rate revision application with the Board on September 12, 2002. The application proposed an overall increase in average rate level of 61.2% for private passenger and 17.6% for commercial vehicles.**

**The public hearing on this application was held November 6<sup>th</sup> and 7<sup>th</sup>, 2002. During the hearing the Board heard that the number of people insured by the FA has been increasing, particularly in 2002. There are various reasons why people are placed in the FA by their brokers and the Board recognizes that the FA does not solicit business nor does it have the right to refuse anyone provided they hold a valid driver's license.**

**The Board expressed concern over the substantial increase in the cost of automobile insurance. The Board has a dual responsibility with respect to approving rates for the FA. It must ensure that the rates are just and reasonable and that they allow the FA to recover its costs. In light of this position of the Board, it approved an overall +45.9% rate change indication for the Private Passenger class and an overall +10% rate change indication for the Commercial Class.**

**During the fiscal year, the Board received 127 filings in total, comprised of 75 for private passenger vehicles, 24 for commercial vehicles and 28 for the miscellaneous class of vehicles. There were no investigations and no new information bulletins issued.**

**The Government, undertook to investigate the reasons for the rapid increases in private passenger automobile insurance in the province. A Select Committee of the Legislature was formed in January 2002 and they were given three broad objectives:**

- **Inquire into and report on the status of private passenger automobile insurance availability and pricing in New Brunswick.**
- **Make recommendations regarding legislative or regulatory changes that may be considered by government to improve upon the current system.**
- **Address the following matters among others: jurisdictional comparisons, no-fault insurance, tort-based system alternatives and refinements, territorial rating, and regulation of automobile insurance rates.**

**(Source: Final Report of the Select Committee on Private Passenger Automobile Insurance, November 2002)**

**The Select Committee held public hearings throughout the summer of 2002 and presented its final report to Government in November. The Committee made several recommendations including the need to restore the responsibilities of the Public Utilities Board to the pre-1997 regulatory regime. This recommendation, if implemented, would give the Board the authority to once again regulate the industry and establish rates that are fair and reasonable.**

## MOTOR CARRIER

### **Charter Applications 2002-2003**

**Received 3**

**Opposed 1**

**Granted as Advertised 1**

**Granted with Amendments 0**

**Abandoned, Withdrawn or Dismissed 2**

### **Scheduled Services Applications**

**Received 3**

**Opposed 3**

**Granted as Advertised 0**

**Granted with Amendments 0**

**Abandoned, Withdrawn or Dismissed 3**

### **Licenses**

**Denied 0**

**Cancelled or Revoked 5**

**Active at Year End 45**

**No. Motor Carrier Plates Issued 246**

**No. Temporary Permits Issued to Unlicensed Carriers 0**

**Total Revenues \$19,184.00**

**An application was received from S.M.T. (Eastern) Limited dated June 12, 2002 to increase fares for its inter-city scheduled services. A hearing was held on July 24, 2002 whereby the Board granted the applicant's request to increase fares approximately 5 per cent.**

**An application was received from S.M.T. (Eastern) Limited dated August 27, 2002 in connection with changes to its student discount programs and VIA Rail discount**

**programs. In a November 12, 2002 decision, the Board approved both of these requests. The student discount program allows certain discounts for students using SMT, including bulk purchasing of tickets.**

**The Via Rail discount program includes a 20 per cent discount for passengers using SMT to travel from Moncton or Fredericton to the North Shore of the province. This allows SMT to compete for passengers with Via Rail.**

**An application was received from S.M.T. (Eastern) Limited dated July 11, 2002 for a proposed Salisbury Flag Stop move. The proposal would see a Flag Stop moved from the village to the Irving Silver Fox Big Stop on the Trans Canada Highway.**

**The Board denied the application at the time but required the company to compile the total passenger count, over a five-month period for pickups and drop-offs between Salisbury and Moncton and to file that report with the Board.**



## Financial Summary

### AUTOMOBILE INSURANCE SECTOR

#### 2002-2003 Budget vs. Actual

	<u>BUDGET</u>	<u>ACTUAL</u>	<u>DIFFERENCE</u>
Salaries & Benefits	216,558	200,272 (note 1)	
16,286			
Training	3,000	4,800 (note 2)	-
1,800			
Office & Administration	<u>137,500</u>	<u>106,467 (note 3)</u>	<u>31,033</u>
Total Common Expenses	357,058	311,539	45,519
Direct Expenses	<u>143,758</u>	<u>109,800 (note 4)</u>	<u>33,958</u>
Total Expenses	500,816	421,339	79,477

#### Notes:

During the budgeting process, the Board estimates the cost and allocation of staff time for each sector. Staff time is reviewed at year-end and the allocation is adjusted to reflect the actual cost by sector.

1. Staff time actually required was less than expected.
2. Staff participated in more auto insurance training courses than forecasted.
3. Actual expenses for computers, furniture, stationary, telephones and maintenance of office equipment were significantly lower than budgeted and lower than the prior year's expense. Expenditures for the Board's hearing room recording equipment were substantially lower than the budgeted amount. The budget included an amount for the anticipated costs of replacing a copier, however that expenditure became unnecessary.
4. Direct costs were lower as the Board received one less application than forecasted.

## **ELECTRICITY SECTOR**

### **2002-2003 Budget vs. Actual**

	<b><u>BUDGET</u></b>	<b><u>ACTUAL</u></b>	<b><u>DIFFERENCE</u></b>
Salaries & Benefits	368,100	386,846 (note 1)	-
18,746			
Training	42,000	27,251 (note 2)	14,749
Office & Administration	<u>136,453</u>	<u>99,008</u> (note 3)	<u>37,445</u>
Total Common Expenses	546,553	513,105	33,448
Direct Expenses	<u>1,170,000</u>	<u>535,775</u> (note 4)	<u>634,225</u>
Total Expenses	1,716,553	1,048,880	667,673

**Notes:** see notes Automobile Insurance Sector.

## **NATURAL GAS SECTOR**

### **2002-2003 Budget vs. Actual**

	<b><u>BUDGET</u></b>	<b><u>ACTUAL</u></b>	<b><u>DIFFERENCE</u></b>
Salaries & Benefits	508,391	483,900 (note 1)	
24,491			
Training	65,000	28,156 (note 2)	36,844
Office & Administration	<u>171,453</u>	<u>129,717</u> (note 3)	<u>41,736</u>
Total Common Expenses	744,844	641,773	103,071
Direct Expenses	<u>110,000</u>	<u>138,700</u> (note 4)	<u>-28,700</u>
Total Expenses	854,844	780,473	74,371

**Notes:** ( see notes Automobile Insurance Sector.)