



2004-2005

Annual Report

New Brunswick Board of Commissioners of Public Utilities

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2004 - 2005 ANNUAL REPORT

Commission des Entreprises de service Public du Nouveau Brunswick

2004 - 2005-10-14 RAPPORT ANNUEL

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The Board obtains its general regulatory authority pursuant to the provisions of the Public Utilities Act, Chapter P.27, R.S.N.B. 1973. Under that legislation, the Board of Commissioners of Public Utilities is mandated with the regulation of public utilities in the Province of New Brunswick.

The Electricity Act, Chapter XX R.S.N.B 2005, now defines the role of the Board in reference to the electricity market.

The Board regulates the natural gas industry pursuant to the Gas Distribution Act, 1999 Chapter G-2.11 RSNB and as well 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.

The Board's regulation of public motorbuses is pursuant to the Motor Carrier Act, Chapter M-16, R.S.N.B. and the Motor Vehicle Transport Act, R.S.C. 1987. 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 motorbus industry, where it carries out its responsibilities with a budget from the Provincial Department of Transportation.

All of which is respectfully submitted this 7th of December 2005,

A handwritten signature in black ink, appearing to read "David C. Nicholson". The signature is fluid and cursive, with a large initial "D" and "N".

David C. Nicholson

Chairman

The New Brunswick Board of Commissioners of Public Utilities (the Board) is comprised of the following individuals:

Chairman

David C. Nicholson

Vice-Chairman

David Nelson

Commissioners

James E. Bateman

Randy Bell

Jacques A. Dumont

Diana Ferguson Sonier

Patricia LeBlanc-Bird

Kenneth F. Sollows

Brian H. Tingley

Message from the Chairman, David C. Nicholson

I am pleased to submit this annual report of activities of the New Brunswick Board of Commissioners of Public Utilities (the Board) for the fiscal year April 1, 2004 to March 31, 2005.

This was a year of tremendous change for the Board with the addition of three new members and a number of changes in legislative authority.

The government's new Electricity Act introduced a partially open electricity market to the Province of New Brunswick. The Board's role in this new market is integral to its efficient and equitable operation. The Board recognizes the importance of this role and looks forward to the challenges it presents.

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David C. Nicholson
Chairman

ELECTRICITY

In October of 2004, the Board's mandate and authority with respect to electricity were altered with the proclamation of the Electricity Act. This introduced a partially open electricity market to New Brunswick. The Act also separated the various business units of NB Power into NB Power Holding company (HOLDCO) and a series of separate subsidiaries. For the new market, the Board's role is to regulate the Open Access Transmission Tariff administered by the New Brunswick System Operator, license market participants as defined by the Act, and approve the rates charged by both the NB Power Transmission Company (TRANSCO) and the NB Power Distribution and Customer Service Company (DISCO). The Board no longer has jurisdiction over the generation of electricity by NB Power Generation (GENCO) or its subsidiaries Coleson Cove Generation (COLESONCO) or Point Lepreau Nuclear Generating Company (NUCLEARCO).

On March 21, 2005 the Board received an application for a rate increase from the New Brunswick Power Distribution and Customer Service Corporation. The company requested an increase in its rates, as well, as the introduction of a fuel surcharge to be added to consumer's bills beginning April 1, 2005. A public hearing on this matter will be held in 2005/06.

In June of 2004, WPS Canada Generation Inc. (WPS) filed an application for approval of its transmission service revenue requirement and rates for the provision of transmission service to be effective January 1, 2005. This transmission company supplies the Village of Perth-Andover in Northwestern New Brunswick.

WPS, NB Power Corporation, the Northern Maine System Administrator and the Perth-Andover Electric Power Commission attended a public hearing on September 17, 2004 and made representations.

The Board approved the WPS revenue requirement and the rates for transmission service as requested. All affected parties agreed with this decision which has the effect of avoiding the "pancaking" of transmission rates for the Perth-Andover Electric Power Commission.

The New Brunswick System Operator applied on January 18, 2005 for changes to the Open Access Transmission Tariff (OATT). A review of the market rules had identified a number of recommended changes to the OATT.

A pre-hearing conference was held on February 16, 2005 and the hearing commenced on March 21, 2005.

NATURAL GAS

The Board, on April 30, 2004 approved an application by Enbridge Gas New Brunswick Inc. (EGNB), holder of the general distribution franchise in the province, to increase distribution service rates. While the board regulates the rates the company charges to transport natural gas to customers, the Board does not regulate the price for the natural gas itself, it being set in a competitive marketplace. This was the first application by EGNB to increase its distribution service rates since the June 2000 application.

In the 2000 decision the Board stated that it considered it appropriate to establish a development period for the general distribution franchise. The development period was scheduled to end on December 31, 2005 with the onus on EGNB to annually prove that it should be extended for a further year. The development period may be described as the period of time required for the natural gas market to evolve from a "*greenfield*" situation to a mature gas market. Due to slower than expected growth of the natural gas market, EGNB applied to the Board in October 2004, to extend the development period until 2010, at the same time the company applied to extend the recovery period for its deferral account.

The deferral account is a mechanism by which the company accounts for losses incurred during the development period. The account is considered an asset. At the end of the development period, the company may, with the Board's approval, increase its rates to recover the amount in the deferral account, plus any interest accrued.

The Board held a proceeding to consider the extension of the development period and to extend EGNB's recovery period for its deferral account. In January 2005, the Board approved extending the development period until 2010.

On March 24, 2005 the Board issued its decision on the reviews of EGNB's financial results for the years 2002 and 2003. A significant issue in the reviews was the regulatory reporting for the "*Allowance for Funds Used in Construction.*"

In November of 2004, EGNB applied to the Board for an increase in its general service rates to be effective February 1, 2005. The company also requested an interim increase until the Board issued its final decision. After considering both the public interest and the potential for financial harm to the company the Board denied the request for an interim increase. In considering the EGNB application, the Board decided that that it was an appropriate time to hear from interested parties about how the natural gas market is developing and the proposed rates themselves. Therefore the Board decided to hear the application by way of an oral hearing process and not a written proceeding as is the norm. During the hearing the Board heard representations from Flakeboard Company Ltd., the City of Saint John and Direct Energy Services on behalf of its customers. On March 31, 2005 the board approved the increase as requested to be effective April 1, 2005.

Among other developments in the natural gas market, the gas distribution system was extended into the Town of St. Stephen during the year and the provincial market continued its growth with the addition of almost 900 customer attachments in the year.

PIPELINE SAFETY

The Pipeline Safety Division's mandate is to ensure that the operators of distribution systems provide safe and reliable delivery of natural gas within the Province of New Brunswick by the 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 mandate is expected to be expanded when the Pipeline Act is revised and entered into legislation in 2005. It is expected that the Board's responsibilities will be increased to include pipelines transporting oil and minerals as well as fluids from oil or gas wells and water or effluent used in connection with a oil or gas well.

This year, to date, Enbridge Gas New Brunswick installed approximately 65 km of pipeline. Inspectors from the Pipeline safety Division inspected the installation of this pipe in the communities of Fredericton, Moncton, Saint John, St. Stephen and Oromocto.

The Pipeline Safety Division carried out a general safety compliance audit of Enbridge Gas New Brunswick and Potash Corporation of America in May 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.

AUTOMOBILE INSURANCE

The year saw major changes in the regulation of the automobile insurance industry. In June of 2004 the government introduced legislation to allow the creation of "no-frills" insurance policies and "first-chance policies" for first-time drivers. The government also transferred the regulation of the automobile insurance industry to a separate New Brunswick Insurance Board. The new Insurance Board was established as of October 1, 2004 and regulated all automobile insurance products beginning in January 1, 2005. In an effort to achieve a smooth transition, the Board continued to handle those applications that had already been filed. At the same time, the Board facilitated the transfer of some staff together with all files to the new authority. The transfer was completed in the last quarter of the year. As a part of the transfer the Board will remit surplus funds as of March 31, 2004 to the new board.

During the year the New Brunswick Court of Appeal upheld a Board decision requiring filings from Co-operators Insurance be available for public viewing.

The Board dealt with a significant number of filings summarized in the following tables:

2004 Filings - All Classes

Private Passenger

	<u>Approved</u>	<u>Pending</u>
Class I Filing (2003 IAO)	2	0
Approved	16-Jul-04	Chubb
Approved	16-Jul-04	Mitsui Sumitomo
	<u>Approved</u>	<u>Pending</u>
Class II Filing (2003 Bench)	3	0
<i>(These companies will have to re-file with 2004 Bench)</i>		
Approved	18-May-04	Axa
Approved	15-Sep-04	Cumis General
Approved	5-Aug-04	Zenith
	<u>Approved</u>	<u>Pending</u>
Class III Filing (Independent)	7	0
Decision	7-Jan-05	Allianz
Decision	7-Nov-04	Allstate Insurance Company
Decision	20-Oct-04	Co-operators General Insurance
Decision	22-Jul-04	Economical Insurance
Decision	16-Jul-04	ING Insurance
Decision	16-Jul-04	ING Novex Insurance
Decision	21-Jul-04	PAFCO Insurance
Decision	22-Jul-04	Perth Insurance
Decision	16-Jul-04	State Farm Mutual Insurance
Decision	7-Jan-05	Trafalgar Insurance
Decision	2-Sep-04	United General Insurance
Decision	22-Jul-04	Waterloo Insurance

MOTOR CARRIER

An application was received from S.M.T. (Eastern) Limited dated December 9, 2003 to transfer existing license # 582 to Acadian Coach Lines LP. The application was advertised in the February 4, 2004 edition of the Royal Gazette together with all provincial print media, but no objections were received. Since SMT provided the main line-run service for the Province, a public hearing was held on March 2, 2004 to determine whether the Board would grant the transfer application. The Board approved the request as applied for and the license for Acadian Coach Lines LP was transferred on April 20, 2004.

The following is a summary of activities of the Board's jurisdiction pursuant to the Motor Carrier Act.

Charter Applications 2003-2004

Received 6

Opposed 1

Granted as Advertised 6

Granted with Amendments 0

Abandoned, Withdrawn or Dismissed 0

Scheduled Services Applications

Received 4

Opposed 2

Granted as Advertised 2

Granted with Amendments 0

Abandoned, Withdrawn or Dismissed 1

Licenses

Denied 1

Cancelled or Revoked 4

Active at Year End 46

No. Motor Carrier Plates Issued 214

No. Temporary Permits Issued to Unlicensed Carriers 2

Total Revenues \$16,463.50

Financial Statements Summary – 2004/2005 Budget vs Actual

Automobile Insurance Sector

	Budget	Actual	Difference	
Salaries and Benefits	\$321,963	\$369,271	(\$47,308)	<i>Note 1</i>
Training	\$8,000	\$2,299	\$5,701	
<u>Office and Administration</u>	<u>\$91,508</u>	<u>\$82,891</u>	<u>\$8,617</u>	
Total Common Costs	\$421,471	\$454,461	(\$32,990)	
<u>Direct Expenses</u>	<u>\$385,000</u>	<u>\$205,119</u>	<u>\$179,881</u>	
Total Costs	\$806,471	\$659,580	\$146,891	

Notes:

1. Due to changes in legislation, the Board's regulatory role expanded in 2003. The result was an inability to accurately forecast workloads and salaries costs. This was partially offset by salary reductions resulting from the transfer of staff to the New Brunswick Insurance Board.

Financial Statements Summary – 2004/2005 Budget vs Actual

ELECTRICITY SECTOR

	BUDGET	ACTUAL	DIFFERENCE
Salaries and Benefits	\$450,713	\$485,450	(\$34,737) <i>Note1</i>
Training	\$43,100	\$31,496	\$11,604
Office and Administration	<u>\$91,508</u>	<u>\$79,949</u>	<u>\$11,559</u>
<u>Total Common Expenses</u>	\$585,321	\$596,895	(\$11,574)
<u>Direct Expense</u>	<u>\$780,000</u>	<u>\$169,466</u>	<u>\$610,534</u> <i>Note2</i>
Total Expenses	\$1,365,321	\$766,361	\$598,960

Notes:

1. This change was the result of a reallocation of resources to accommodate increased activity in this sector. The increase was the result of changes in legislation and restructuring of the electricity market.
2. Expected hearings into proposed rate increases for NB Power Distribution and Customer Service Company did not begin until late in the fiscal year.

Financial Statements Summary – 2004/2005 Budget vs Actual

NATURAL GAS SECTOR

	BUDGET	ACTUAL	DIFFERENCE
Salaries and Benefits	\$515,101	\$518,644	(\$3543)
Training	\$56,600	\$26,255	\$30,345
Office and Administration	<u>\$153,846</u>	<u>\$116,961</u>	<u>\$36,885</u>
Total Common Expenses	\$725,547	\$661,860	\$63,687
<u>Direct Expenses</u>	<u>\$87,500</u>	<u>\$222,498</u>	<u>(\$134,998)</u> <i>Note 1</i>
Total Expenses	\$813,047	\$884,358	(\$71,331)

Notes

1. The Board was required to hold hearings than originally predicted. This was the result of the beginning of an oral hearing in EGNB's rate application at the end of the reporting period. As well as hearings into EGNB's financial results.