



DECISION

**IN THE MATTER OF a Hearing to Review the
Distribution of Energy Imbalance Funds Collected
during the period October 1, 2003 to April 30, 2005 in
regards to a Complaint dated August 5, 2005 by WPS
Energy Services Inc. (“WPS”)**

July 12, 2006

New Brunswick

Board of Commissioners of Public Utilities

This decision by the Board of Commissioners of Public Utilities (“Board”) is a consequence of the Board’s earlier decision of November 1, 2005 on the same matter and should be read in conjunction with that decision. In the November decision, the Board ordered the New Brunswick System Operator (“NBSO”) to recover the “net funds”, that it had distributed in the period October 1, 2004 to April 30, 2005 (Period Two”), from those parties who received such payments. The Board also ordered NBSO to develop a proposal for what to do if the recovery of such funds resulted in a surplus on NBSO’s books in excess of \$300,000.

NBSO complied with these orders and as a result identified the total amount of funds that had been improperly distributed in Period Two as \$7,829,316.27. NBSO also identified the amount in excess of a \$300,000 surplus on its books as \$7,415,612.27 (excess surplus). NBSO proposed to credit the excess surplus to those transmission customers who existed in Period Two in proportion to their respective transmission usage in each month of Period Two. NBSO also proposed that, rather than recovering the entire \$7, 829,316.27 and then returning \$7,415,412.27, they be permitted to recover only the net amount of \$413,704.00.

WPS Energy Services Inc. (“WPS”) and the Northern Maine Independent System Administrator (“NMISA”) wrote to the Board requesting an opportunity to be heard with respect to the NBSO proposal. The Board requested additional information from NBSO and allowed NBSO and interested parties to provide further comments. After receipt of these comments, the Board directed NBSO to provide further information. A technical conference was held subsequent to NBSO providing this information. After the

conference, Board staff prepared a summary of the agreements, scheduling and billing events that existed or occurred during Period Two. All parties agreed with the facts contained in that summary and it is attached to this decision as Schedule A.

At the end of the technical conference certain parties requested the opportunity to appear before the Board and make a final submission on the issues. The Board agreed with this request and following circulation of Schedule A to all the parties the Board conducted a hearing on June 28, 2006. Schedule A was admitted as Exhibit PUB-1.

Schedule A identifies that, during Period Two, NBSO billed NMISA for energy imbalances related to Northern Maine that were within a specified band and billed the New Brunswick Power Generation Corporation (Genco”) for energy imbalances related to Northern Maine that were outside this band. This band was referred to as a deviation band. The deviation band, during Period Two, was plus or minus 1.5% of the scheduled amount of energy with a minimum amount of 2 MW.

Parties agreed that the amount of money in dispute with respect to the Northern Maine market in Period Two was \$674,745.92. WPS/NMISA requested that this amount be returned to them in the same proportion as the net funds are proposed by NBSO to be paid to the NB Power group of companies.

WPS/NMISA stated that the Open Access Transmission Tariff (“OATT”) clearly provided, during Period Two, that energy imbalance, both inside and outside the band, was a Schedule 4 service. WPS/NMISA further stated that because of this it was inappropriate to say that NMISA was responsible for energy imbalances up to a certain

threshold and that Genco was responsible for energy imbalances above that threshold. WPS/NMISA stated that nowhere in the OATT was this distinction made. NMISA submitted that all ancillary services related to it, including energy imbalance, should have been cleared through NBSO. NMISA argued that the relevant penalty adjustment should now flow back to it and eventually to WPS, as they were the parties directly responsible for the acquisition and cost of the ancillary services.

NBSO stated that NMISA was billed for energy imbalances within the band at their request. NBSO agreed that both NMISA and Genco were transmission customers during Period Two. NBSO stated that the important consideration is who was the transmission customer in respect to a particular transaction. NBSO claimed that Genco was the transmission customer with respect to energy imbalances in Northern Maine.

The NB Power group of companies supported the NBSO proposal.

Energy imbalances that occur may be small enough to be within the specified band or they may exceed the band. If the imbalance exceeds the band then clearly part of the total imbalance is the amount that is within the band. To state, in this situation, that Genco is the only transmission customer is inconsistent with the way that the parties were actually billed. The OATT, during Period Two, provides no support for this approach. The Board considers that, during Period Two, NMISA was a transmission customer with respect to energy imbalances related to Northern Maine.

The Board believes that with respect to the distribution of the net funds of Period Two, both NMISA and the NB Power group of companies must be treated the same. Each party

should receive the same proportionate refund. The table below identifies the amounts in question.

	<u>NB Power Group of Companies</u>	<u>NMISA</u>	<u>Total</u>
Net Funds paid by	\$7,154,570.35	\$674,745.92	\$7,829,316.27
Less: Amount to be Retained by NBSO	<u>\$378,050.17</u>	<u>\$35,653.83</u>	\$413,704.00
Share of Excess Funds	\$6,776,520.18	\$639,092.09	

NMISA is entitled to receive \$639,092.09 from the NBSO as its share of the distribution of the net funds collected in Period Two.

The Board has considered NBSO's proposal to only recover the net amount of money related to Period Two and will accept this approach. NMISA did not receive any of the net funds of Period Two that were previously distributed and therefore is entitled to receive the full amount of \$639,092.09 from NBSO.

NBSO noted on June 28, 2006 that recent events have affected the need for it to retain \$413,704 of the net funds in Period Two. NBSO stated that, as of March 31, 2006, it had an accumulated surplus of some \$610,000.

The Board considers that, in light of this development, the most appropriate way to proceed is as follows. The Board orders NBSO to credit to NMISA an amount equivalent to the amount of accumulated surplus, as at March 31, 2006, that is in excess of the Board authorized amount of \$300,000. This amount of credit is to be subtracted from the total amount owing to NMISA of \$639,092.09 to determine the amount that must be recovered from the NB Power group of companies. This recovery is to be

done on the same proportionate basis as NBSO used to distribute the net funds in Period Two. Once the amount is recovered, NBSO is to make a payment of \$639,092.09 to NMISA.

DATED AT THE CITY OF SAINT JOHN, NB THIS 12th Day of July, 2006.



David S. Nelson, Vice-Chairman



Ken F. Sollows, Commissioner



Diana Ferguson Sonier, Commissioner

SCHEDULE A

Activities related to the Northern Maine Market

Period Two – Oct. 1, 2004 – April 30, 2005

WPS submits day ahead schedule to Genco and NMISA

Genco submits day ahead schedule to NBSO

NBSO reconciles day ahead schedules with NMISA and approves them

WPS submits updates to NMISA and to Genco (up to 30 minutes before hour)

Genco submits updates to NBSO (up to 30 minutes before hour)

NBSO approves the updated schedule which becomes the Final Hourly Balanced Schedule (FHBS)

During the actual hour, generation automatically adjusts to meet the actual load and the actual flows are metered

NBSO compares the metered data to the FHBS and energy imbalance quantities are calculated (these quantities are reconciled with NMISA)

NBSO applies the appropriate prices to the energy imbalance quantities and settles with:

NMISA for imbalances within the band

And

Genco for imbalances outside the band

NMISA settles with:

NBSO for imbalances within the band

And

Genco for imbalances outside the band.

(NMISA sends a combined statement to Genco for imbalances plus other services arranged directly between NMISA and Genco. If Genco owes NMISA it wires the amount. If NMISA owes Genco then Genco invoices NMISA.)

NMISA settles with WPS for energy imbalances in accordance with the market rules for Northern Maine

FINANCIAL ARRANGEMENTS IN PERIOD TWO

WPS pays Genco for the amount of energy that it has scheduled

If scheduled amount is below the actual load:

NBSO automatically acquires the necessary energy and pays the supplier based on bid prices

NBSO bills NMISA for the shortfall within the band at the Final Hourly Marginal Cost (FHMC) and bills Genco the Tariff rate for the shortfall outside the band

Genco bills NMISA the same amount it paid to NBSO

NMISA bills the competitive service providers (“CEPs”), principally WPS, based on a clearing price from the amounts paid to Genco and to NBSO

If scheduled amount is greater than the load:

NBSO uses the energy to offset energy shortfall in New Brunswick or dispatches down a generator assigned to provide load following. If there is an offset shortfall, the party responsible pays the appropriate Tariff rate to NBSO. If a generator is dispatched down, it pays NBSO its bid price. Genco is paid by WPS for the scheduled production, including that which was greater than the load

NBSO pays NMISA for the surplus within the band at the
FHMC

NBSO pays Genco for the surplus outside the band at the Tariff
rate

Genco pays NMISA the same amount it received from NBSO

NMISA pays the CEPs the same amounts that it received from
Genco and NBSO

The net result of these payments is that for Period Two the NBSO collected \$674,745.92 more than it paid out with respect to the Northern Maine market.

AGREEMENTS EXISTING DURING PERIOD TWO

WPS had an umbrella transaction agreement and associated confirmations with Genco for the delivery of energy and capacity to the US border. This agreement did not include the provision of energy imbalance service.

Genco had a transmission service agreement with NBSO under the OATT

NMISA had a transmission service agreement with NBSO under the OATT

NMISA administered the Products and Services Agreement with Genco on behalf of the Northern Maine market for services not included in the OATT

NMISA and WPS operated under the market rules for Northern Maine

WPS had the standard service contracts for energy supply for Northern Maine

ISSUES

1. NBSO billed NMISA for energy imbalances within the band and billed Genco for energy imbalances outside the band. The appropriateness of this approach is a matter on which parties will be given an opportunity to comment.
2. The method to be used in disbursing the entire “net funds” for Period Two (an amount of \$7,828,907.82) is a matter on which parties will have an opportunity to provide further comment.