



RULING

IN THE MATTER OF an Investigation into the forecasted costs and revenues of the New Brunswick Power Distribution and Customer Service Corporation pursuant to section 24 of the *Energy and Utilities Board Act*

May 21, 2008

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

RULING

The New Brunswick Energy and Utilities Board has been directed by the Minister of Energy to investigate the forecasted costs and revenues of the New Brunswick Power Distribution and Customer Service Corporation (“DISCO”) pursuant to Section 24 of the *Energy and Utilities Board Act*.

As part of its investigation, the Board established a process for public participation. Within this process registered participants were permitted to put written questions to DISCO on topics within the scope of the investigation.

J.D. Irving Limited (“JDI”) registered as a participant and put the following question to DISCO:

Question: In Appendix “D”, Page 2, the combined statement of earnings shows 5 months of actual and 7 months of forecast results. On Page 1 of Appendix “D”, the last line states that the Board of Directors are updated quarterly and since the N.B. Power Fiscal year is now complete, please provide the most recent financial statements for the N.B. Power Group.

DISCO replied as follows:

Response: The information requested is not available at this time.

Pursuant to the process put in place by the Board, JDI wrote to the Board May 16, 2008 advising that it considered the response unacceptable. DISCO responded to the JDI position stating in part that “due to the requirements for the rate review, the completion of the accounting, reporting and auditing functions has been delayed therefore: the financial statements are not available at this time”.

The Board has reviewed the question posed and the response as well as the written submissions of JDI and DISCO. The Board believes that DISCO may have concluded that the JDI question was seeking year-end financial statements, since the question referred to the fact that the “N.B. Power Fiscal Year is now complete”. In fact, the question does not specifically request year-end financial statements, but does request the most recent financial statements for the N.B. Power Group.

The Board directs that DISCO file forthwith the most recent financial statements available for the N.B. Power Group. If these statements have already been filed, the Board directs DISCO to so indicate and to direct the participants to where in DISCO’s filings these statements may be found.

Dated at the City of Saint John, New Brunswick this 21st day of May 2008.

Raymond Gorman, Q.C., Chairman

Cyril W. Johnston, Vice-Chairman

Constance Morrison, Member