



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")**

November 24, 2006

New Brunswick

Board of Commissioners of Public Utilities

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This decision is a consequence of the Board's two earlier decisions, dated November 1, 2005 and July 12, 2006 respectively, on the same matter and should be read in conjunction with those decisions. It is somewhat unusual for the Board to issue several decisions on the same topic. It has been necessary due to the complex nature of the matter at hand and the fact that this is the first time the matter has been subject to regulatory review in New Brunswick.

The Board provides the following comments in support of the specific directions to NBSO contained in this decision.

The November 1, 2005 decision clearly stated that the "net funds", which had been distributed by NBSO in Period Two without any express authority to do so, were to be recollected. It was equally clear that upon collection of the "net funds" NBSO was to retain an amount sufficient to provide it with a surplus of \$300,000. The Board had decided that it was appropriate that the "net funds" from Period Two be used to provide NBSO with a surplus that could be used in the case of an unforeseen event. If the recovery of the "net funds" were to produce a surplus greater than the allowed \$300,000 NBSO was to provide a proposal on what to do with any such excess.

Subsequent to the November 1, 2005 decision NBSO and interested parties agreed that the actual amount of "net funds" in Period Two was \$7,829,316.27. They also agreed on the amount of "net funds" that was held by each party and this information is provided in Table 1. NBSO identified that \$413,704 was the amount of money required to provide it with a surplus of \$300,000. The parties further agreed that the amount of money in dispute with respect to NMISA was \$674,745.92. However, they disagreed on whether or not NMISA should receive a credit for this amount.

The Board, in its July 12, 2006 decision, stated that NMISA was entitled to a credit of \$674,745.92 as a fair share of the "net funds" in Period Two. It was the intention of the Board that the "net funds" be recollected and used, on a pro-rata basis, to provide NMISA with the \$674,745.92. Those parties that had benefited from receipt of the "net funds" were to provide funds for NMISA in proportion to the

benefit that they had received. Table 2 shows the amount that each party should pay to provide NMISA with the approved amount.

The Board therefore orders NBSO to collect the amounts as shown in Table 2 and credit NMISA with an amount of \$674,745.92.

The intention of the Board was that, after recovery of the “net funds” had occurred, all parties, including NMISA, would pay, on a pro-rata basis, an amount sufficient to provide NBSO with the \$413,704 necessary to create a surplus of \$300,000. These payments would have been required from each party based on their share of the reallocated “net funds”.

NBSO, at the hearing on June 28, 2006 stated that it wished to amend its proposal of December 5, 2005, which had been to retain \$414,000 of the “net funds”. The six months of operation from October 1, 2005 to March 31, 2006 had produced sufficient funds to eliminate the deficit of \$114,000 that existed at the end of the first six months of the fiscal year. In fact, NBSO had a surplus of \$610,000 as of March 31, 2006 representing an excess of \$310,000 over the maximum surplus permitted by the Board. NBSO stated that it was no longer necessary to retain the \$414,000 from the “net funds”. This amendment was in fact a proposal to use funds, accrued during a period of time subsequent to Period Two, to eliminate the need to recollect “net funds” of Period Two in order to create the \$300,000 surplus as ordered by the Board. To recollect “net funds” for this purpose would simply increase the amount of the excess surplus, which would then need to be redistributed. The Board therefore decided that it would not be necessary to require payments for this purpose.

The acceptance of the NBSO proposal combined the effects of Period Two with those of a subsequent period of time. The Board, given NBSO’s proposed amendment, believed that the entire surplus of \$610,000 had arisen in a similar manner to the “net funds” of Period Two. With this understanding and a desire to simplify the administration of the process, the Board directed NBSO to credit NMISA with the excess surplus of \$310,000 and to recover the remaining amount owed to NMISA from the “net funds” of Period Two.

Subsequent to the July 12, 2006 decision NBSO wrote to the Board stating that it had a concern with the Board’s direction. NBSO explained that the surplus at March 31, 2006 had, in fact, accrued from two different sources and not arisen in a

manner similar to the “net funds” of Period Two. The letter also provided a proposal on how the excess surplus of \$309,740.86 should be disbursed.

The excess surplus involves some parties who were not involved in the “net funds” of Period Two. It also arises from the provision of two different services. Further, those parties involved in the “net funds” of Period Two did so in different proportions than they did in creating the excess surplus. With this understanding, the Board considers that its previous direction to apply the entire excess surplus to the credit of NMISA would not be appropriate. The Board believes that fairness dictates that the distribution of the excess surplus should be dealt with separately.

NBSO’s letter was provided to all interested parties and they were given an opportunity to comment. The Board notes that no party took exception to the specific amounts that NBSO proposed as rebates. ***The Board therefore approves the rebates for each company as proposed by NBSO.*** The specific amounts are shown in Table 3.

To simplify the actual collection and disbursement of funds, the Board considers it appropriate to combine the effects of the payments related to NMISA (Table 2) with the rebates of the excess surplus (Table 3). Table 4 provides this information. ***The Board directs NBSO to collect from or pay to the appropriate party the net amount shown in Table 4 at the time of its first regular monthly settlement following the date of this decision.***

DATED AT THE CITY OF SAINT JOHN, NB THIS 24th DAY OF
NOVEMBER, 2006.

Original Signed by

David S. Nelson, Chairman (Acting)

Original Signed by

Ken F. Sollows, Commissioner

Original Signed by

Diana Ferguson Sonier, Commissioner

TABLE 1

“Net Funds” Distributed to Parties by NBSO in Period Two

<u>Customer</u>	<u>Amount</u>
NBP Genco	\$1,738,838.44
NBP Disco	5,938,992.17
NBP Nuclear	65,292.61
NSPI	74,147.85
WPS Can.Gen.	9,895.13
WPS Energy	47.48
<u>HQ Energy</u>	<u>2,102.59</u>
TOTAL	\$7,829,316.27

TABLE 2

Payments due to NBSO to recover “Net Funds” owed to NMISA

<u>Customer</u>	<u>Amount</u>
NBP Genco	\$149,856.53
NBP Disco	511,834.06
NBP Nuclear	5,627.05
NSPI	6,390.21
WPS Can.Gen.	852.78
WPS Energy	4.09
HQ Energy	181.21
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TOTAL	\$674,745.92

TABLE 3

Rebate owed by NBSO to Parties to reduce Retained Surplus to \$300,000

<u>Company Name</u>	<u>Amount</u>
NBP Genco	\$31,067.18
NBP Disco	100,231.40
NBP Nuclear	204.34
NSPI	1,874.43
WPS Can.Gen.	13,003.27
WPS Energy	592.78
HQ Energy	289.25
TransEnergie	0
NMISA	132,746.91
Maritime Electric	12,469.34
Emera Energy	153.72
Eastern Maine	925.43
City of Summerside	15,788.30
<u>Boralex Fort Fairfield</u>	<u>394.51</u>
TOTAL	\$309,740.86

TABLE 4

Funds to be collected (distributed) by NBSO

<u>Company Name</u>	<u>Amount owed to/by NBSO</u>
NBP Genco	\$118,789.34
NBP Disco	411,602.66
NBP Nuclear	5,422.71
NSPI	4,515.78
WPS Can.Gen.	(12,150.49)
WPS Energy	(588.69)
HQ Energy	(108.05)
TransEnergie	0
NMISA	(807,492.83)
Maritime Electric	(12,469.34)
Emera Energy	(153.72)
Eastern Maine	(925.43)
City of Summerside	(15,788.30)
<u>Borex Fort Fiarfield</u>	<u>(394.51)</u>
TOTAL	(\$309,740.86)