



DECISION

**IN THE MATTER OF a Proposal by New
Brunswick System Operator (NBSO) to Limit
the Self-Supply of Ancillary Services**

August 2, 2006

NEW BRUNSWICK

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

The Board, in a decision on the Open Access Transmission Tariff dated April 26, 2005, directed NBSO to determine a specific cap that it would like to implement with respect to limiting the quantity of ancillary services that can be self-supplied. NBSO was also directed to develop the necessary supporting information and file it within six months. The decision stated that the proposed cap would be reviewed by way of a written hearing involving only those parties that had participated in the hearing that led to the April 26, 2005 decision.

NBSO filed its proposal and the Board established a schedule whereby parties could submit written questions to NBSO, NBSO would reply, parties could provide written submissions and NBSO could reply.

NBSO proposed that the right of transmission customers to self-supply each of the capacity-based ancillary services be reduced to a set percentage. NBSO also proposed that a minimum size of load be established to which this restriction would apply. NBSO further proposed that a reciprocity policy should be invoked whereby suppliers from other jurisdictions would only be permitted to participate in the Request for Proposals (RFP) process if their respective jurisdictions were participating in the purchase of capacity-based ancillary services in proportion to the load on their systems.

NBSO proposed that the limits on self-supply be established as a range of 85% to 100% and that NBSO be permitted to determine the actual specific limits within this range. NBSO requested that the Board establish a 0MW to 200MW constraint on the load size that would be used by NBSO for each service. In other words, the maximum size of load that could be exempted would be 200MW.

New Brunswick Power Distribution and Customer Service Corporation ("DISCO") stated that it already has power purchase agreements with the New Brunswick Power Generation Corporation ("GENCO") by which it self-supplies 100% of its ancillary service requirements. It submitted that if DISCO were required to pay for ancillary services provided by a party other than GENCO then, in effect, it would be paying twice for those services. DISCO stated that a self-supply limit of 85% could potentially result in a loss of \$4.9 million.

DISCO submitted that the Board had not made any judgement approving the concept of a self-supply cap. DISCO further stated that the onus of proof was on NBSO and that NBSO had not met this burden of proof. DISCO stated that NBSO should only purchase ancillary services competitively where possible and not force the development of a competitive market for ancillary services.

DISCO submitted that without appropriate and detailed reciprocity provisions in place it is impossible for DISCO to assess the risks and opportunities that a self-supply limit would create. It contended that any cost of implementing an ancillary self-supply limit would be intolerable.

Finally, DISCO stated that the NBSO proposal was too broad and that it should be the Board that determines when and to what extent any self-supply cap will be implemented.

GENCO stated that it did not support the NBSO proposal because there is no need to create a bid market for only a portion of the ancillary services. It should be all self-supply or no self-supply. GENCO submitted that a potential loss of \$4.9 million would be too high of a price to pay solely to facilitate an unproven competitive market.

The Northern Maine Independent System Administrator submitted that NBSO's proposed reciprocity policy is not consistent with the policy of the United States federal regulator and simply cannot happen in Maine.

The Public Intervenor (PI) recommended that the range for the cap on self-supply be set at 85% to 95%. The PI supported the principle of going to a market slowly but said it is fundamental that some initiative be taken. The PI stated that, if the market is not able to provide certain of the required services, NBSO can apply to the Board for a waiver in that circumstance.

The PI submitted that the requirement for inter-jurisdictional reciprocity is an unwarranted and unreasonable restriction. The PI requested the Board to direct NBSO to file the following reports with the Board and all parties:

1. A report, including details with proper confidentiality, of the responses related to the RFP issued by NBSO for the supply of ancillary services; and
2. A report at the close of the first market-based ancillary services contract period as to the benefits and costs of the opening of the ancillary services market. The report should outline NBSO's recommendations for the issuance of further RFPs.

WPS Energy Services, Inc. (WPS) submitted that it would not be appropriate for the Board to approve NBSO's requested reciprocity requirement. WPS also stated that a more competitive market would exist if the NBSO allowed bids on a monthly basis rather than for entire capability periods. Capability periods are the 5 winter months and the 7 summer months.

NBSO, in its reply, submitted that the issue is not whether there should be a cap but rather at what level the cap should be set. NBSO also stated that the matter of monthly terms for ancillary services contracts was a matter related to the terms and conditions of the RFP. The terms and conditions were previously submitted to the Board and all parties on February 28, 2005. NBSO submitted that no parties, including WPS, filed any comments at that time and the Board has already approved that the minimum term of any contract be for a capability period.

NBSO stated that a policy of reciprocity is not essential to its proposal. NBSO also submitted that the likely cap for the initial RFP would be 95% and would only apply to 10 and 30-minute supplemental reserve. This would reduce the maximum potential cost to DISCO to \$1.15 million. For this maximum cost to occur GENCO would have to be unsuccessful in winning any part of the RFP and also unable to earn any profit from sales to other markets from the use of freed-up capacity no longer required by DISCO.

NBSO stated that it did not object to the reporting requirements proposed by the PI.

The Board has carefully reviewed all the submissions and makes the following decisions.

Cap on the Self-Supply of Ancillary Services

The Board considers that it is essential for the development of a competitive electricity market in New Brunswick that opportunities for suppliers to compete should be created whenever it is reasonable to do so. A competitive market will never develop if initiatives are not taken. The Board considers that this particular opportunity is a reasonable and appropriate initiative. The Board therefore orders that a cap on the self-supply of capacity-based ancillary services be established.

Size of the Cap

The Board considers that the initial cap should encourage bids in response to the RFP and provide certainty in the early stages of development. The cap should also minimize the potential costs to consumers in New Brunswick. The Board believes it is appropriate that the initial cap be set at a fixed amount and that the cap may be changed over time. The Board therefore orders that the limit on self-supply of capacity-based ancillary services be set at 90%. This limit is to take effect on November 1, 2006. The limit may be changed upon application to the Board, should circumstances warrant an adjustment.

Constraint on Load Size

The Board considers that the range proposed by NBSO is too broad. A maximum limit of 200MW could potentially exempt all customers except DISCO.

The development of a competitive market in New Brunswick is currently limited to the wholesale and large industrial customers of DISCO. The Board believes that it is therefore appropriate that the cap on the self-supply of capacity-based ancillary services should apply to DISCO and to any wholesale or large industrial customer who chooses to leave standard service as offered by DISCO. The Board therefore orders that the cap is to apply to DISCO and any wholesale or large industrial customer who leaves standard service, regardless of the size of their load.

Reciprocity

The Board does not consider that NBSO's proposal on reciprocity is necessary and therefore does not approve it. All potential qualified suppliers will be permitted to bid on the RFP for capacity-based ancillary services.

Potential Cost of a Cap on Self-Supply

The Board does not consider that the cost to DISCO of the cap, as ordered by the Board, will be significant. If GENCO is the successful bidder DISCO will obviously not be required to pay twice for the same ancillary services. If GENCO is not the successful bidder, the Board believes that DISCO still should not be required to pay twice. The Board considers that should such a situation arise it can and should be addressed through the power purchase agreements that exist between DISCO and GENCO. These agreements contain the following statements:

“ for as long as Genco, NB Power Holdco and Disco remain directly or indirectly wholly-owned by the Province and/or any wholly-owned Affiliates of the Province, any party may submit in writing any concerns or issues relating to the terms of this Agreement to the board of directors of the Electric Finance Corporation (the “Board”) for its consideration”; and

“ the parties acknowledge and agree that the Board may, in its sole discretion, amend the terms of this Agreement to protect the financial integrity of the parties, to prevent undue hardship for consumers”

These provisions allow DISCO to request and the government, through the Electric Finance Corporation, to approve an adjustment to the agreement that would eliminate any requirement for DISCO to pay twice.

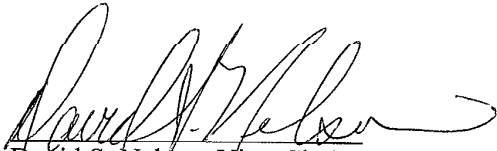
Length of Contract

The Board agrees with NBSO that this matter has been previously decided. The Board will require bids for the initial RFP to be for a minimum length of a capability period. The Board directs NBSO to review the appropriateness of allowing bids for future RFPs to be for monthly terms and to report to the Board on this matter by the end of 2006.

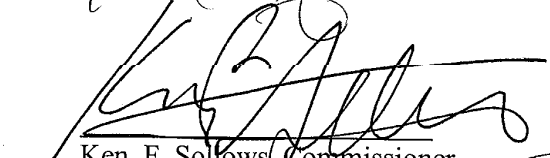
Reporting Requirements

NBSO is directed to file the reports as proposed by the PI.


DATED AT THE CITY OF SAINT JOHN, NEW BRUNSWICK THIS 2nd DAY OF
AUGUST, 2006



David S. Nelson, Vice-Chairman



Ken. F. Sollows, Commissioner



Diana Ferguson Sonier, Commissioner