



DECISION

**IN THE MATTER OF an Application dated January 18,
2005 by New Brunswick System Operator for the Approval
of Changes to the Open Access Transmission Tariff**

April 26, 2005

New Brunswick

Board of Commissioners of Public Utilities

Introduction

The New Brunswick System Operator (NBSO) applied to the New Brunswick Board of Commissioners of Public Utilities (Board) on January 18, 2005 for changes to the Open Access Transmission Tariff (OATT). The current OATT came into effect on September 30, 2003 and the electricity market was restructured effective October 1, 2004.

The NBSO was given authority over the OATT, together with the Market Rules, upon the proclamation of the Electricity Act. A review of the Market Rules resulted in the identification of a number of changes which should be made to the OATT to bring the two documents into alignment to minimize duplication and confusion in the market place.

The application for the changes to the OATT was made pursuant to section 111 of the Electricity Act. In accordance with sub-section 111 (3), transmitters are required to appear as parties to the hearing to defend their revenue requirements. The co-applicants to the application were NB Power Transmission Corporation (Transco) and WPS Canada Generation Inc (WPS).

The pre-hearing conference was held February 16, 2005 and following the interrogatory period, the hearing commenced March 21, 2005.

Following two days of questioning, final arguments were heard March 30, 2005.

Formal intervenors were:

Canadian Manufacturers & Exporters, New Brunswick Division

Mr. Gerard Daly

Irving Paper Limited

Irving Pulp & Paper Limited

J.D. Irving Limited

NB Power Distribution and Customer Service Corporation (Disco)

Northern Main Independent System Administrator Inc. (NMISA)

Nova Scotia Power Inc.

Municipal Utilities represented by Saint John Energy

Public Intervenor

Informal intervenors were:

Hydro Quebec, TransÉnergie

NB Power Generation Corporation (Genco)

The main body of the evidence consisted of two parts: Appendix A, Proposed Revisions to the OATT Terms and Conditions and Appendix B, Proposed Revisions to OATT Rate Schedules. For ease of reference, this decision is structured in the same manner.

Proposed Revisions to the OATT Terms and Conditions

The NBSO identified 18 issues which would result in changes to the OATT. In addition, two other issues were identified and included in the evidence for information purposes. Each of these 20 issues will be addressed in the following:

Item 1 – Congestion Management: Treat Point to Point as Network

This item was indicated as having no impact on the OATT and was provided for information purposes only. No decision is required by the Board.

Item 2 – New Connections Policy

This item was indicated as having no impact on the OATT and was provided for information purposes only. No decision is required by the Board.

Item 3 – Require that Wheeling Customers be Market Participants

The Board approves this change to the OATT as filed.

Item 4 – Initiate Residual Monthly Cost (RMC) Recovery

The Board notes that the Northern Maine Independent System Administrator (NMISA) had concerns with the proposed methodology to be used in the distribution of the RMC to the Transmission Customers. The Board notes that the NMISA did not file any evidence on this matter. The Board suggests that if its concerns have not been alleviated by the time of the next hearing, that the NMISA should submit the appropriate evidence with respect to this issue.

The Board approves the RMC recovery as filed.

Item 5 – Add a Mechanism for Limiting the Quantity of Ancillaries Self-Supply

Concern was raised over the potential impact of this change given that no specific cap was proposed. The Board does not consider it appropriate to approve this change without further information. The Board directs the NBSO to determine a specific cap that it would like to implement. The NBSO will also develop the necessary supporting information and file it with the Board and the parties to this proceeding within 6 months. At that time, the Board will review the proposed cap in a written hearing. Such a hearing will only involve the participants from this hearing and no further public notice will be required.

Item 6 – Settle Variances at Market Prices Rather Than Penalty Rates

The Board is concerned that relying solely on the Final Hourly Marginal Charge (FHMC) may create a potential for improper behaviour given the immature nature of the competitive market in New Brunswick.

The Board considers it appropriate, at this point in time, to also use a benchmark that is established by a more competitive marketplace. That benchmark is the price established in the New England market at the Keswick node.

Therefore, the Board orders that the imbalances be settled as follows:

For excess energy provided – the lesser of the FMHC and the Keswick node price

For shortfalls in energy – the greater of the FMHC and the Keswick node price

The Board intends to review the details associated with imbalances on a regular basis.

Item 7 – Remove cumulative Limits from Schedule 4 Energy Imbalance

The Board approves this change to the OATT as filed.

Item 8 – Provide Automatic Sharing of Variances of Non-Dispatchable Generators

The Board recognizes that this item has been developed and proposed, in part to address the comments and concerns raised in the previous OATT Decision (March 13, 2003). As noted by the Applicant, given the current

state of the market, there are no generators who can take advantage of this option. The Board directs the NBSO to file a report with it within a year on the treatment of wind generators in other jurisdictions. The Board directs the NBSO to work with Board staff to develop the terms of reference for the study.

Item 9 – Implementation of the Self Generator Rate Proposal

The Board approves this change but recognizes that self-generators will see no difference until they decide to leave standard offer service. To better understand the implications of this proposal on other users of the transmission system, the Board directs the NBSO to monitor the consumption of ancillary services by self-generators on a monthly basis for one year and to provide the results of this monitoring to the Board monthly.

Item 10 – Discounting by Point of Delivery

The Board approves this change to the OATT as filed.

Item 11 – Revision of the Timing Rules

The Board approves this change to the OATT as filed.

Item 12 – Generator Obligation for Special Protection Systems

The Board approves this change and orders that the following wording be included in the tariff:

“The generator will not be compensated by the System Operator for costs incurred by the generator due to a Special Protection System trip, unless the NBSO is negligent.”

The Board directs the NBSO to conduct a study of the use of SPS in other jurisdictions. Board Staff are instructed to work with the NBSO to develop appropriate terms of reference for the study. The Board will revisit this issue upon receipt of the study.

Item 13 – 60 Day Notice on Renewals of Long-Term Firm Reservations

The Board approves this change to the OATT as filed.

Item 14 – Credit Support and Deposits to be for Two Month’s Transactions

The Board approves this change to the OATT as filed.

Item 15 – Parties to Connection Agreements

The Board approves this change to the OATT as filed.

Item 16 – Intra-hour Behaviour

The Board approves this change to the OATT as filed.

Item 17 – NBSO is the Transmission Provider

The Board approves this change to the OATT as filed.

Item 18 – Standards of Conduct in Attachment L

The Board does not accept the proposal as stated. The Board orders the NBSO to revise the existing Standards of Conduct as stated in Attachment L of the OATT to reflect the particular circumstances of the NBSO and to submit the same to the Board for review and approval. The NBSO will be required to sign the Board approved Standards of Conduct. The NBSO is also ordered to file proposed wording for Standards of Conduct to be used by WPS. The Board will review and approve wording for the Standards of Conduct to be signed by WPS.

Item 19 – Reflect More Recent FERC Pro Forma Standard, Clarify, and Correct

The Board approves these changes to the OATT as filed.

Item 20 – Revisions to Attachment J Generation Interconnection Agreement

The Board approves these changes to the OATT as filed.

Proposed Revisions to the OATT Rates Schedules

Budget

The Board reviewed the NBSO 2005/06 budget in some detail. The Board is of the opinion that the level of review was appropriate given that this is the first hearing for the NBSO.

For future proceedings, the Board will require that financial information be presented in a consistent format. A chart of accounts detailing what is included in each account must be presented at the same time as the financial information is provided. The Board directs Board staff to work with the NBSO to develop a set of accounts that will serve the purposes of both the NBSO and the Board and make the hearing process more efficient.

With respect to the 2005/06 budget, the Board notes that the Annual Report is estimated to cost \$25,000. The Board recommends that the various services offered by the Provincial Government be considered in the development of the Annual Report to minimize the costs of production.

The Board directs the NBSO to file with it a detailed description of what is included in the expense item “employee benefits”. The Board expects that the NBSO Board will review the appropriateness of the “incentive program” given the non-profit nature of the NBSO. If the decision is to continue with such a program, the Board is of the opinion that it should be more appropriately referred to as a performance bonus program.

The Board directs Transco to file within 12 months an updated cost allocation study and associated revenue to cost information for each class of service contained in the OATT.

Schedule 1 Rate Escalation

This hearing is the first time that the NBSO has been subject to a public review. There is little historical information available on the operations of the NBSO. The Board does not consider it appropriate to approve any form of automatic rate adjustment until a proper “track record” has been established. Therefore, the automatic rate escalation is not approved for implementation at this time.

Retained Earnings

The Board appreciates and understands the rationale for achieving and maintaining a balance of \$300,000 for use in covering “unforeseen events”. The Board, however, is of the opinion that it is inappropriate for a non-profit organization to have a line item in its budget referred to as retained earnings. The Board directs the NBSO to discuss this with its auditors and to identify an appropriate name for this account. The Board approves the retention of funds in such an account up to a maximum of \$300,000. The Board will only approve of the use of money from this account for “unforeseen events” and not to cover any overruns for normal budget items. The Board will expect the NBSO to provide a full accounting of this account in future OATT proceedings.

Rates

The increase in rates in Schedule 1 of the OATT and the corresponding decreases in rates in Schedules 7 and 8 and Attachment H are approved. The WPS Revenue Requirement for inclusion in the revised rates of Attachment H is approved as filed on February 10, 2005.

Other Issues

The Northern Maine Independent System Administrator (NMISA) raised a concern with the current approved practice of using the net non-coincident peak (NCP) allocation methodology as a billing determinant for ancillary services for external loads. The NMISA considers that it would be more appropriate to use a 12 coincident peak allocation methodology and provided several reasons for this.

The Board notes that this issue was discussed at some length in the original OATT hearing. Specifically, the discussion focused on the types of meters required to allow for a 12 coincident peak allocation methodology. NB Power, at that time, indicated that the large industrial customers had the appropriate interval meters and that those remaining delivery points that did not have appropriate interval meters would have them installed by April 2003. The Board directs the NBSO to provide it, within 60 days of the issuance of this decision, a report outlining the current status with respect to interval meters.

This decision takes effect May 1, 2005.

DATED AT THE CITY OF SAINT JOHN, NB THIS 26TH DAY OF APRIL, 2005.

David C. Nicholson, Chairman

J. A. Dumont, Commissioner

D. Ferguson Sonier, Commissioner

D. S. Nelson, Vice-Chairman

K.F. Sollows, Commissioner