



## **RULING**

IN THE MATTER OF an application by Enbridge Gas New Brunswick to change its Small General Service Residential Oil, Small General Service Commercial, General Service, Contract General Service, Off Peak Service, Contract Large Volume Off Peak Service and Natural Gas Vehicle Fueling distribution rates.

(Motion)

**February 15, 2008**

On December 19, 2007 Enbridge Gas New Brunswick (“EGNB”) applied to the New Brunswick Energy and Utilities Board (“the Board”) to change its distribution rates for the SGSRO, SGSC, GS, CGS, OPS, CLVOPS and NGBF classes. Notice of the application was published on January 14, 2008 in conformity with the Board Order. The Notice stated inter alia:

*“a pre-hearing conference shall be held at the Board’s offices, 15 Market Square, Suite 1400, Saint John, NB, on Tuesday, February 5, 2008 commencing at 10 in the forenoon, when and where interested parties may attend and make representations as to the procedure to be followed, the reasoning for an oral hearing and as to any other relevant matters.”*

Competitive Energy Services (“CES”) applied for formal intervenor status by letter dated January 21, 2008. CES did not attend the pre-hearing conference on February 5, 2008, but was granted formal intervenor status at that time. No submissions were received from CES relating to any of the matters to be dealt with at the pre-hearing conference.

The filing schedule was discussed at length during the pre-hearing conference. The parties and the Board worked collaboratively to achieve a schedule that accommodated everyone. In order to achieve this schedule, compromises were necessary. The filing schedule was distributed to all parties by the Board following the hearing. By letters dated February 11 and February 12, 2008, CES advised the Board that it could not meet the schedule and requested that it be revised.

The Board also received correspondence on this issue from Daniel R. Thériault, the Public Intervenor and from EGNB. Mr. Thériault pointed out that there was no set time for which the Board would give a decision in the LFO matter and to delay the hearing on that basis would make no sense. Mr. Hoyt objected to the request for a revision to the schedule stating:

“EGNB’s application requests a rate increase effective April 1, 2008. Given March Break and various other challenges, it was difficult to come up with a schedule. EGNB and the public intervenor worked cooperatively to accommodate everyone and agreed on a schedule culminating in a hearing at the end of March”.

Although CES notified the Board on January 21<sup>st</sup> that it intended to be a formal intervenor, Mr. Sorenson failed to attend the pre-hearing or advise the Board or EGNB that he would not be in attendance. In addition, Mr. Sorenson did not make anyone aware of any scheduling concerns or constraints.

The Board treated the February 11<sup>th</sup> and 12<sup>th</sup> correspondence from CES as a Notice of Motion and a hearing of the Motion was held on Thursday, February 14, 2008 at 1 p.m. Counsels for EGNB and the Public Intervenor attended in person. Mr. John Sorenson participated by telephone on behalf of CES.

Mr. Sorenson submitted that the entire schedule should be pushed forward by at least two weeks, citing a number of reasons, including his busy work schedule. The public intervenor and counsel for EGNB basically repeated the submissions made in their letters of February 12<sup>th</sup>.

The Board notes that CES requested in its correspondence of January 21, 2008 that their preference was for a written hearing rather than an oral hearing. The Board ruled at the Motions Day that the application would proceed by way of an oral hearing.

The Board also notes that the time for intervenors to submit interrogatories to EGNB expired on the date of this Motion.

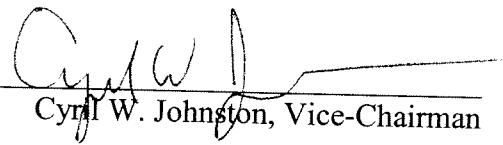
Considering arguments of all parties and the documents referred to in this decision, the Board will not grant CES’s request to move the filing schedule forward two weeks. The Board will grant the Motion in part by altering the filing schedule as follows:

1. CES will be permitted to submit interrogatories to EGNB until noon, Atlantic Time, on February 20, 2008. EGNB shall respond to the interrogatories on or before 4:00 o'clock on February 26, 2008.
2. CES shall remain as a formal intervenor in this proceeding but is not required to attend the oral hearing scheduled to commence on March 26. CES may, in lieu of attending the hearing, submit written argument to the Board, with copies to all parties, no later than 4:00 p.m., Atlantic Time, on March 25, 2008.

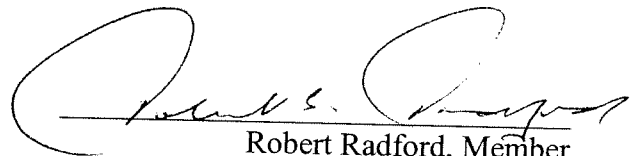
Dated at the City of Saint John, New Brunswick this 15<sup>th</sup> day of February, 2008.



Raymond Gorman, Q.C., Chairman



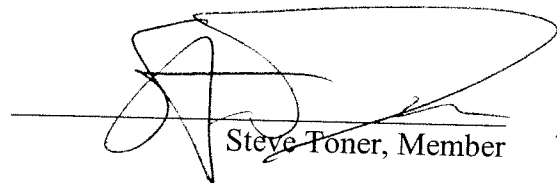
Cyril W. Johnston, Vice-Chairman



Robert Radford, Member



Ed McLean, Member



Steve Toner, Member