



**DECISION**

**IN THE MATTER OF an Application dated October 8, 2004 to Request Extension of the Development Period and the Deferral Account Recovery Period**

**January 21, 2005**

**New Brunswick**

**Board of Commissioners of Public Utilities**

THE NEW BRUNSWICK  
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

IN THE MATTER OF an application by Enbridge Gas New Brunswick Inc. to extend the  
Development Period and the Deferral Account Recovery Period.

Board:	David C. Nicholson – Chairman David S. Nelson – Vice-Chairman Jacques A. Dumont – Commissioner Kenneth F. Sollows – Commissioner  Lorraine Legere – Secretary M. Douglas Goss – Senior Advisor John Lawton – Advisor Ellen C. Desmond – Board Counsel James Easson – Financial Consultant
Enbridge Gas New Brunswick Inc.	Andrew J. Harrington – General Manager Shelley L. Black – Manager, Regulatory Affairs & Upstream Len Hoyt - Counsel
Maritime Natural Gas Pipeline Contractors Association Inc.	James Martin - Chairman David Ross - Secretary
Province of New Brunswick	William Anderson, Agent for the Attorney General James Knight – Senior Policy Advisor
Union of New Brunswick Indians	Darrell Paul – Executive Director Ron Perley

## Introduction

Enbridge Gas New Brunswick Inc. (Enbridge) filed an application with the New Brunswick Board of Commissioners of Public Utilities (the Board) dated October 8, 2004, for approval to extend the development period and the deferral account recovery period. Enbridge applied to the Board for the following orders:

- (a) approval of the extension of the Development Period to December 31, 2010 and thereafter the onus will be on Enbridge to annually prove that the Development Period should be extended for a further year;
- (b) that Enbridge establish an amortization schedule, at the end of the Development Period, that will clear the balance in the Deferral Account over a period of 40 years or, alternatively, by 2040;

A public notice of the application, dated October 16, 2004, advised parties who intended to intervene, that they must register with the Board by noon, November 5, 2004. Enbridge had filed its evidence with its application. A pre-hearing conference was held on November 10, 2004 to review the requests for intervenor status and to determine the type and nature of the proceeding to hear the application.

Three parties had written to the Board requesting intervenor status. Formal intervenor status was granted to the Province of New Brunswick as represented by the Agent for the Attorney General and to the Maritime Natural Gas Pipeline Contractors Association Inc. (the Pipeline Contractors). Informal intervenor status was granted to the Union of New Brunswick Indians, who did not attend the pre-hearing conference. The Pipeline Contractors advised they would be submitting intervenor evidence.

The Board decided to proceed by means of a written hearing process reserving the right to move to an oral hearing. No intervenor evidence was filed.

The development period is a time during which a utility cannot be expected to operate in a mature manner while its infrastructure and customer base are being developed. Characteristics of this period may be low market share and product awareness, high fixed costs, immature customer service support and low revenues. Enbridge had received the Board's approval to use market-based rates to promote customer growth. Market-based rates are lower than cost of service rates and may result in a revenue shortfall.

Enbridge's deferral account records the shortfall of revenues to its actual cost of service. When a utility reaches the point where it can move to cost of service rates, it can then begin to recover amounts recorded in the deferral account. This point is also referred to as the cross-over point. The recovery of the deferral account can be completed over a long period of time to soften its impact on rates and not impact customer additions negatively.

The Board, in a decision issued in 2000, stated that the development period should end on December 31, 2005. Thereafter, the onus would be on Enbridge to annually prove that the

development period should be extended for a further year. In the same decision, the Board stated that Enbridge must establish an amortization schedule to clear the balance of the deferral account. The schedule would begin at the end of the development period and extend over the remaining 20-year term of its initial General Franchise Agreement.

Enbridge stated in its evidence that if it reached the end of the development period earlier than December 31, 2010 it would apply to the Board to end the period. However, the evidence indicated that it did not expect to reach the end of the development period until after 2010.

Enbridge stated that the deferral account is an asset to the company that earns the approved weighted average cost of capital and is an integral element in its business model. It claimed that the viable recovery of the account is a critical consideration for existing and future prospective investors. The deferral account is viewed as an asset similar to plant, containing expenditures for start-up, plant installation and ensuring plant usage that are recognized over a long period of time.

Three reasons were provided by Enbridge to support its request for an extension to the deferral account recovery period.

1. Complying with the Board's original decision would require significant rate increases that would violate the framework of Enbridge's existing business/rates model and be greater than those that would be applied for under its market-based approach
2. Enbridge does not believe that such rate increases are realistic and would likely drive customers to alternate energy choices
3. The risk profile of Enbridge as an investment would not be acceptable to existing or future investors

Enbridge had, in 2000, forecasted that the deferral account would peak at \$13 million. Actual market development has been slower than Enbridge's forecasts resulting in substantially lower numbers of customer additions and gas through-put. The deferral account is now forecasted to peak at \$132.9 million in 2011.

The Attorney General acting on behalf of the Province of New Brunswick supported the applicant's request for the extension of the development period. The Attorney General also supported amortizing the deferral account over a significant period beyond the year 2020, but did not comment on what the length of an appropriate period should be.

The Pipeline Contractors took issue with the application. They argued for a more thorough examination of all factors that have lead to the current status in the industry and a clear plan to address them. The Pipeline Contractors requested the Board to apply its

full regulatory authority to matters relating to the development of the natural gas market in New Brunswick.

### **Decision**

The application requested approval of extensions to the development period and the deferral account recovery period. Enbridge was the only party that submitted evidence.

The Board has carefully considered the evidence submitted by Enbridge as well as the interrogatory responses and the submissions of all parties. The Board has also carefully considered the requests of the Pipeline Contractors in their submission.

The Board finds that the matters relevant to this application have been thoroughly and carefully examined. The Board rejects the Pipeline Contractor's request for a further examination of the subject.

In a decision dated April 30, 2004, the Board had advised the Pipeline Contractors that to be awarded intervenor status in the future, they must demonstrate that their intervention would be based on relevant matters. The Board stated that some issues raised at that hearing were relevant to future proceedings.

At the pre-hearing conference, the Pipeline Contractors were directed to ensure that their intervention focused on the subject of the hearing. However, the Board finds again that many issues raised by the Pipeline Contractors were not relevant. Some issues would be more appropriately raised at a future hearing to be held to review Enbridge's compliance with its franchise agreement. Other issues raised are more appropriately related to the Board's annual review of Enbridge's financial results. The Board notes that the Pipeline Contractors have participated in these annual reviews and therefore are aware of the subject matter covered by such reviews. The Board is concerned that the Pipeline Contractors continue to raise issues that are not relevant to the hearing in question.

### **Development Period:**

The Board finds it appropriate to extend the development period to December 31, 2010. Should Enbridge find that the full extension to the development period is not required, it must apply to the Board for approval of an earlier end date to the development period. Any further request to extend the development period beyond 2010 must be done by application to the Board and demonstrate the need for the extension.

**Deferral Account Recovery Period:**

The Board considers that both the ultimate amount at which the deferral account will peak and the precise date at which the development period will end cannot be known with certainty at this time. This application is based on a number of assumptions used to forecast results many years into the future. Actual results most likely will vary significantly from the forecasts.

The Board approves the deferral account being recovered through rates between the end of the development period and a date no sooner than December 31, 2040. However, the Board does not believe it would be appropriate to determine a specific recovery period for the deferral account at this time. Enbridge is directed to apply to the Board for approval of a specific amortization schedule for the recovery of the deferral account when circumstances provide more certainty concerning the actual date at which the development period will end.

Dated at the City of Saint John, this 21st day of January, 2005.

By Order of the Board

Lorraine Légère  
Secretary to the Board