



DECISION

**IN THE MATTER OF an application
dated February 18, 2004 by Enbridge Gas New
Brunswick Inc. for changes to its Small General
Service, General Service, Contract General Service,
Off Peak Service, Contract Large Volume Off Peak
Service and Natural Gas Vehicle Fueling Rates**

April 30, 2004

NEW BRUNSWICK

BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

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

Board:

David C. Nicholson – Chairman
Alyre Boucher – Vice-Chairman
James Bateman – Commissioner
Brian Tingley – Commissioner

Lorraine Legere – Secretary to the Board
M. Douglas Goss – Senior Advisor
John Lawton – Advisor

Competitive Energy Services

Jon F. Sorenson – Partner

Enbridge Gas New Brunswick Inc.

Len Hoyt – Counsel
Shelley Black – Manager Regulatory Affairs
& Upstream

Irving Energy Services Limited

Mark Brown – Director, Natural Gas

Maritime Natural Gas Pipeline
Contractors Association Inc.

James Martin – President
David Ross – Secretary

Enbridge Gas New Brunswick Inc. (Enbridge) filed an application with the New Brunswick Board of Commissioners of Public Utilities (the Board) dated February 18, 2004, for approval of changes to its Small General Service (SGS), General Service (GS) and Contract General Service (CGS) Distribution Rates. Enbridge amended the application on March 4, 2004, to include a request for approval of changes to its Off Peak Service (OPS), Contract Large Volume Off Peak Service (CLVOPS) and Natural Gas Vehicle Fueling (NGVF) Distribution Rates.

Enbridge applied to the Board for an Order, under Section 52 of the Gas Distribution Act, 1999 (the Act), to change the Distribution Rates that had been approved on July 19, 2000. Section 52 provides the Board with the authority to make an order approving or fixing just and reasonable rates for the distribution of gas. The application requested that the new rates be effective as of April 1, 2004.

The application also requested an Order under Section 56 of the Act, to the extent necessary or appropriate, to ensure an expeditious determination of the application. Section 56 provides the Board with the authority to determine the method to be used in proceeding with an application. Further, the application requested under Section 77 of the Act, an interim order and such further directions in that regard as may be necessary or appropriate. Section 77 provides the Board with the authority to make an interim order and give further directions for completing the matter before it.

A public notice of the application, dated February 18, 2004, advised parties who intended to intervene, that they must register with the Board by noon, March 12, 2004. The notice stated that the Board intended to proceed by way of a written proceeding. Any party that considered that the public interest would be better served by an oral hearing, was directed to provide their reasons in writing to the Board and Enbridge with their notice of intervention. Enbridge was permitted to respond in writing to requests for an oral hearing by noon, March 16, 2004.

On March 1, 2004, Enbridge filed its evidence in support of the Application. No reasons were provided to support Enbridge's request for an interim order under Section 77 and the Board did not grant the order.

The Board met on March 18, 2004 to review the requests for intervenor status and the comments received from the parties and Enbridge. Intervenor status was granted to the following parties.

- Competitive Energy Services
- Irving Energy Services Limited
- Maritime Natural Gas Pipeline Contractors Association

No party requested that the hearing proceed by way of an oral proceeding. The Board advised the intervenors and Enbridge on March 19, 2004, that the proceeding would go forward on a written basis. The proposed filing schedule and the parties' list with their coordinates were distributed on that date. The Board gave parties until noon, March 23, 2004 to provide reasons why the timing in the proposed schedule should be modified.

The Maritime Natural Gas Pipeline Contractors Association (the Contractors) contacted the Board on March 19, 2004 and requested an amendment to the filing schedule. The Contractors stated that the majority of its review committee was out of the country until March 29, 2004. The filing schedule had established noon, March 30, 2004 as the deadline for filing interrogatories. An extension until April 2 or April 6, 2004 was requested.

Enbridge filed an objection to the Contractors request on March 23, 2004. It stated that the evidence had been available since February 27, 2004 and that the Contractors had 11 days to submit interrogatories. Additionally, Enbridge questioned what were the interests of the Contractors in the rate application.

The Board reviewed the comments received concerning the Contractor's request to amend the filing schedule. The request was granted and the Board advised the parties that

the interrogatories put to the Applicant must be relevant to the proceeding and if not relevant, they need not be answered.

Following is the amended schedule for the written proceeding.

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| - 1 st set of Interrogatories submitted by | Noon, April 2, 2004 |
| - Responses to the Interrogatories by the Applicant | Noon, April 13, 2004 |
| - 2 nd set of Interrogatories submitted by | Noon, April 15, 2004 |
| - Responses to the Interrogatories by the Applicant | Noon, April 19, 2004 |
| - Final Comments by the Parties and the Applicant | April 22, 2004 |
| - Responses to the Final Comments by the Parties
and the Applicant | April 26, 2004 |

No additional evidence either in support of or opposing the Application, was filed.

INTRODUCTION

In a decision dated June 23, 2000, the Board approved an application by Enbridge to use a market-based approach for setting its distribution rates during the development period. Enbridge's current rates were approved in a decision dated July 19, 2000.

Market-based rates are rates that are based upon conditions that exist in a local market. The objective of those rates is to provide potential end-use customers with an economic incentive to convert to natural gas from their current energy choice. Market-based rates are not based upon the cost of service.

Enbridge's market-based approach was based upon the total delivered price of natural gas to a customer being less than the equivalent price for fuel oil. Target rates for distribution were proposed and approved. Those rates were premised upon the burner tip cost of gas on an annual basis to a customer, being lower in general by a "targeted percentage" than

the burner tip cost of fuel oil. Savings achieved through the use of target rates were intended to act as an incentive for customers to switch to natural gas.

The Board approved distribution rate for residential customers (SGS class) was intended to provide a saving of 30% below the delivered cost of fuel oil. In the current application, Enbridge proposed to reduce the target savings for the SGS Class to 20%. Target savings for the GS and CGS Classes remain unchanged at 15%. Rates for the OPS, CLVOPS and NGVF classes, all of which currently have no customers, are derived from the rates for the GS and CGS classes.

Enbridge proposed to continue using its existing market-based approach in setting distribution rates, consistent with the methodology approved by the Board in 2000. Enbridge would continue to use oil as the benchmark against which rates are set. The evidence indicated that values for the delivered cost of oil had changed and the application reflected those changes. Enbridge stated that it was attempting to strike a balance between providing sufficient incentive to convert to natural gas while recovering as much of its costs as possible during the development period.

Distribution rates can be changed on an annual basis based on approval of a general rate application by Enbridge. Rates can also be reduced by an application to the Board by Enbridge for the approval of a rate rider that reduces the rate for a specific customer class. A rate reduced by approval of a rate rider application, can be increased up to the rate approved by the Board for that customer class, upon the approval of a rate reinstatement application by Enbridge.

Written comments were received from all intervenors. Concern was expressed about the volatility of natural gas prices combined with higher distribution rates. It was stated that the effect of higher prices would erode the targeted customers savings and hurt the development of the market. It was also stated that any move to increase rates would inevitably decrease the competitiveness of marketers in the energy market, as customers would be forced to pay higher distribution costs.

Enbridge stated in its final comments that if the competitive advantage of natural gas deteriorated to where it negatively impacted customer attachments, Enbridge could apply to the Board to adjust rates either through a full rate application or by use of the rate rider mechanism. Enbridge stated that the proposed distribution rates are just and reasonable given the current market conditions.

DECISION

The Board has carefully considered the evidence submitted by Enbridge, the interrogatories and the submissions of all parties. Consideration has also been given to the effects of the proposed rate changes.

The Board is concerned with the nature of the intervention of the contractors. During a hearing on a construction permit amendment for EGNB on August 19, 2002, the contractors and other parties raised issues concerning financial matters, lack of the ability to lien pipe as it lay beneath the streets of municipalities and other matters. The Board clearly stated, at that time, that it had no authority to deal with matters of that nature, yet in this proceeding, similar arguments have been made by the contractors and other matters irrelevant to this proceeding have been argued.

The Board is of the opinion that the intervention of the Contractors was of little value. The Board considers that intervenor status should only be granted to parties that respect the process and raise issues that are relevant. Therefore in future proceedings, the Board will require the Contractors to demonstrate that their intervention would be based on relevant matters. If this cannot be established the Board will not grant intervenor status to the Contractors.

The proposed reduction to the target savings for the SGS, GS and CGS classes would increase costs to the end-use customer. The additional revenue received by Enbridge

would contribute towards offsetting its cost for distribution service. This is an important factor as the rates for the development period are not cost based but rather are market-based rates. The objective of those rates is to provide an economic incentive to customers to switch to natural gas from their existing energy choice.

The Board is aware that the distribution operations of Enbridge are not currently profitable. The amount of the Deferral account at December 31, 2001 was \$ 9.3 million. The account was forecasted to increase to \$22 million in 2002 and to continue to increase throughout the development period. The Board considers that it is very important that every effort be made to limit any increase in the amount of the deferral account.

There is always the concern that any increase in costs will affect the competitiveness of the natural gas sector against other energy choices. The price of gas and price volatility has increased significantly since 2000. The evidence indicates this has also occurred with oil, which is used as the benchmark in setting the target rates.

Enbridge may apply to the Board yearly by means of a general application for a change in the distribution rates. This has been the first application to change rates for the SGS, GS and CGS classes since 2000. Rates may also be lowered through the use of rate riders, which can be used if costs for natural gas make it non-competitive.

The Board approves the changes in rates in the application by Enbridge, to be effective as of May 1, 2004. The Board will monitor customer attachments for 2004 to see if the rate change has affected customer attachments and will compare market growth against prior years. The Board encourages all parties to report any market effects that may be encountered as a result of the rate change.

Dated at the City of Saint John this 30th day of April 2004.

BY ORDER OF THE BOARD

Lorraine R. Légère
Secretary to the Board