



DECISION

**IN THE MATTER OF an application
dated August 11, 2003 by Enbridge Gas New
Brunswick Inc. for approval of a Rate
Reinstatement mechanism**

November 17, 2003

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. for an order under Section 56 of the Gas Distribution Act, 1999 for the approval of a Rate Reinstatement mechanism.

Board:

David C. Nicholson - Chairman
Joanne Cowan-McGuigan - Commissioner
Jacques Dumont - Commissioner
Kenneth Sollows - Commissioner

Lorraine R. Leger - Secretary
William F. O'Connell, Q.C. - Board Counsel
M. Douglas Goss - Senior Advisor
John F. Lawton - Advisor

Enbridge Gas New Brunswick Inc.

Len Hoyt - Solicitor
Tim J. Walker - Manager, Corporate Affairs

Competitive Energy Services

Jon Sorenson

Department of Energy

Donald Barnett

Irving Energy Services Limited

Christopher Stewart - Solicitor

Background

The Gas Distribution Act, 1999 (the Act) states that Enbridge Gas New Brunswick Inc. (EGNB) cannot change its distribution rates without approval from the Board. In a decision dated June 23, 2000, the Board approved EGNB's rates and the use of Rate Riders.

A Rate Rider is a mechanism that allows EGNB to reduce the distribution rate for a particular class of customer. EGNB must file proposed Rate Riders with the Board and all marketers at least two weeks prior to the proposed effective date. Rate Rider proposals will be reviewed and approved quickly unless there are exceptional circumstances. The Board must notify EGNB and the marketers of its approval one week before the effective date. Rate Riders are only approved for use during the development period of EGNB's franchise.

EGNB stated that Rate Riders would be used when market conditions required lower distribution rates in order to improve the overall competitive position of natural gas and increase the number of customers. Under current regulations, any increase in rates after using a rider would require a formal rate application.

Introduction

This application was filed with the Board on August 13th, 2003 and included a document entitled "Information in Support of Proposed Rate Reinstatement mechanism". Public notice of the application was given and a pre-hearing conference was scheduled for September 26th, 2003.

The application requested approval of a Rate Reinstatement mechanism that would allow EGNB to increase rates without a formal rate hearing. EGNB stated that the

current requirement for such a procedure is potentially too complex, costly and risky. The company would be far less likely to use Rate Riders to reduce distribution rates, in response to market conditions, if they had to submit a formal rate application to raise distribution rates whenever market conditions permitted such action. EGNB stated that it was important to be able to adjust rates quickly, both downwards and upwards, to maximize the number of customers and minimize losses that must be carried forward.

The application stated that the mechanism would not be used to increase rates above the level of rates approved by the Board. EGNB proposed that the Rate Reinstatement mechanism would be applied in a manner similar to a Rate Rider.

A Rate Reinstatement request would be filed with the Board and the gas marketers at least two weeks prior to its effective date. The Board would review and normally approve of a request unless there were exceptional circumstances. The Board would notify EGNB and the gas marketers at least one week prior to the effective date.

The Board was of the opinion that formal cross-examination might not be necessary and at the pre-hearing conference proposed that a discussion day be held instead. Irving Energy Services Limited (Irving), requested the right to cross-examine EGNB. The Board approved this request and said that any cross-examination and discussion of the Rate Reinstatement mechanism would occur on October 16th, 2003.

Parties were given an opportunity to submit written questions to EGNB which would provide answers in writing. Parties could then submit written comments. The Board requested Irving to notify it whether or not they would cross-examine EGNB. The Board was notified in writing on October 15th, 2003 that they did not wish to cross-examine EGNB and would not attend the hearing. Irving supported the EGNB proposal, subject to five conditions.

Competitive Energy Services and the Department of Energy attended the hearing and supported the Rate Reinstatement mechanism. EGNB addressed the conditions raised in the Irving letter and explained the process that would occur when using the proposed Rate Reinstatement mechanism.

Decision:

The Board agrees with the intervenors and EGNB that the proposed Rate Reinstatement mechanism would encourage the use of Rate Riders. Rate Riders would provide financial relief to consumers during periods of high natural gas prices. The Rate Reinstatement mechanism cannot increase rates above the level of rates that has been approved by the Board as a result of a formal public hearing process. The Board believes that it would be in the public interest for EGNB to be able to use the Rate Reinstatement mechanism. The Board therefore approves the Rate Reinstatement mechanism subject to the following conditions.

1. The Rate Reinstatement mechanism is approved for use only during the development period and cannot be used to increase rates above a level approved by the Board after a full public hearing.
2. A request for approval of a Rate Reinstatement must include written rationale and supporting market data.
3. A request for Rate Reinstatement must be submitted to the Board and the gas marketers at least two weeks prior to the proposed effective date. The Board, after review of the proposal and its supporting information, will notify EGNB and the gas marketers of its decision at least one week before the effective date.
4. This approval to permit the use of a Rate Reinstatement mechanism amends the Board's decision on EGNB's Rates and Tariffs dated June 23, 2000.

5. EGNB will submit to the Board, for its approval, a proposed wording for the notice to be given to customers with their invoice whenever there is a change in the distribution rate.

6. EGNB must post a notice on its web site that advises customers of the effective date of a Rate Reinstatement. Customers should be provided with the opportunity to register with EGNB to receive an e-mail notification of the effective date of a Rate Reinstatement.

Dated at the City of Saint John this 17th day of November, 2003.

By Order of the Board

Lorraine Légère
Secretary to the Board