

NEW BRUNSWICK ENERGY AND
UTILITIES BOARD

**IN THE MATTER OF an Application
by New Brunswick Power Distribution
and Customer Service Corporation for
Approval of a Change in its Charges,
Rates and Tolls - Board Reference:
2007-004**

NOTICE OF MOTION

TO: New Brunswick Energy and Utilities Board (the "Board")

AND TO: All parties registered by the Board as Intervenors in the above
noted matter

WHEREAS:

(1) On April 19, 2007 New Brunswick Power Distribution and Customer Service Corporation (the "Distribution Corporation") filed with the Board an application for approval of a change in the charges, rates and tolls for its services where such change exceeds the amount authorized under Section 99 of the *Electricity Act*.

(2) In conjunction with its Application, Distribution Corporation filed with the Board evidence in support of a request for an interim Order under section 40 of the *Energy and Utilities Act*, granting an average 9.6% rate increase to all electricity rate categories except water heater rentals and connection fees, where the increase was 3%.

(3) In its decision dated June 1, 2007 (the "Interim Rate Decision"), the Board granted the interim rate requested by Distribution Corporation.

(4) As the result of the settlement of a certain lawsuit involving Petroleos De Venezuela, S.A. (the "Lawsuit") a financial benefit accrues to Distribution Corporation which it proposes to deal with by the establishment of a deferral account (the "Deferral Account") particulars of which are set out in the affidavit filed in support hereof.

TAKE NOTICE THAT:

Distribution Corporation will apply to the Board at such time and place as the Board shall fix for the following:

- (a) approval of the establishment of the Deferral Account;
- (b) subject to and conditional upon approval of the Deferral Account, leave to amend Disco's application for a change in its charges, rates and tolls dated April 19, 2007 to request recovery of a forecasted revenue requirement shortfall of \$83.1 million;
- (c) if the Deferral Account is approved then an Order pursuant to section 43 of the *Energy and Utilities Board Act* varying the Board's Interim Rate Decision by reducing the interim rate increase to 7.1% to all electricity rate categories except water heater rentals and connection fees which will remain at the approved interim rate of 3% to be effective as of the date of the Board's decision with respect to this motion in accordance with the revised rate schedules attached to the affidavit of Sharon MacFarlane sworn to on August 8, 2007 filed in support hereof and marked Exhibit "C";
- (d) an Order that Exhibit "A" attached to the affidavit of Sharon MacFarlane sworn to on August 8, 2007 be held in confidence by the Board pursuant to section 34 of the *Energy and Utilities Board Act* and that any hearing or deliberation by the Board with respect to the establishment and approval of the Deferral Account be held *in camera* such as to preserve the confidentiality of the information set out in the said Exhibit "A".

Upon the hearing of the motion the following affidavits or other evidence will be presented:

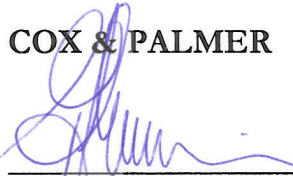
- (a) the affidavit of Sharon MacFarlane sworn to on the 8th day of August, 2007.

You are advised that:

- (a) you should attend the motion and be prepared to make representations to the Board with respect to Distribution Corporation's motion.

DATED at Fredericton, New Brunswick, this 8th day of August, 2007.

COX & PALMER



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