

BEFORE

The Board of Commissioners of Public Utilities
of New Brunswick

Procedural Hearing to determine amongst counsel the
Working Group Issues IN THE MATTER OF Rules and
Regulations Regarding the Conduct of Natural Gas
Distributors and Marketers in the Province of New
Brunswick

April 12th 2000

9:30 a.m.

Public Utilities Boardroom, Saint John, N.B.

Chairman: David C. Nicholson, Esq., Q.C.

Commissioners: Robert Richardson

Monika Zauhar

Leonard Larocque

R. J. Lutes

Secretary: Lorraine Legere

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CHAIRMAN: Good morning. I think this is in the marketers
hearing, I'm not sure. But we will have a transcript made
and decide later.

The Board asked you to come this morning in an attempt
for the Board to get a handle on some drop dead dates and
when we might possibly hear matters that the Consensus
Committee cannot arrive at a consensus at, et cetera.

Is there a spokesman for the group? Mr. Hoyt?

MR. HOYT: Thank you, Mr. Chairman. The members of the

Working Group were notified by fax by Mr. Maclure following their comments at the opening of the hearing about the comments that you had made and the suggestion that the group get together and deal with some of these issues.

We have really looked at it in terms of three components. I know it is set out in terms of two bullets. But there seems to be three items. One is the identification of issues that are outstanding.

The second one being the last date for a Board decision to facilitate a proper startup for the market. And the third thing is the appropriate forum in which to deal with these issues.

The Working Group had previously written to the Board suggesting a process whereby a report would be provided by May 31st and then a Board decision by June 30th in terms of a drop dead date.

We were advised that that wasn't acceptable to the Board. It wouldn't -- timewise it wouldn't work. So based on that we revisited or took stock of where we are.

In terms of the issues, we have identified four that the group feels warrant further discussion among the members.

The first is M & NP, the pipeline. And there are two components to that, dealing both with arrangements that M

& NP and Enbridge Gas New Brunswick make, together with a possible assignment of capacity issue.

Secondly the rates handbook including things such as nominations, scheduling, cost, penalties and customer hookup guidelines.

And the second component under the rates handbook is the text of that handbook itself.

The third issue is load balancing with components such as who does it, how it is done and price.

And the fourth issue is the concept of a wholesaler rate, or a wholesale rate for marketers.

In terms of those issues, leaving aside the first component of M & NP, because it is something that members present will speak to separately, that being -- well, actually I guess the entire -- the entire M & NP issue should be set aside. The remaining comments on which there is agreement among the parties apply to items 2 through 4.

The Working Group is confident that it can resolve most if not all of those issues and propose to work toward that end and provide a report to the Board by May 26th.

If there are issues that are unresolved or if we are able to reach consensus on all of the issues, the report itself will go to what we would suggest would be a reconvened marketers hearing.

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CHAIRMAN: That's for 2, 3 and 4?

MR. HOYT: 2, 3 and 4. And then as well possibly one or parts of one depending on the discussion that we will have in a moment. But 2, 3 and 4 there is agreement of the members that they would all go.

We understand that there may be a window in June when that reconvened marketers hearing might be held. And if that works then hopefully it could be followed by an oral decision similar to what was done in the original marketers hearing.

CHAIRMAN: We do have a window that -- and of course I have forgotten my day timer in my office, which I may go back and get in a minute. But I think it is the week of the -- the third week of June.

MR. HOYT: That is in the 19th?

CHAIRMAN: Actually back to the Wednesday of the second week, I think, is the time there. But if the report comes in on the 26th of May, then does that give the parties sufficient time to put in writing their positions et cetera and then come together in a normal hearing?

MR. HOYT: Well, on that issue, again I guess I would just refer back to the marketers hearing that was held in January, where essentially the Consensus Committee report was finalized on December 17th and then we were into a hearing by January 10th. And then in the middle of that

was Christmas and so on.

So I would -- I would envision a procedure that would follow similar kind of time lines, and as opposed to any IR process, that it might be an exchange of evidence and very similar to the way things proceeded in December and January.

CHAIRMAN: All right. What about M & NP?

MR. HOYT: Okay. I guess I should begin that by saying I'm no longer speaking --

CHAIRMAN: Right.

MR. HOYT: -- as the spokesmen for the group, but only as the first person to speak to the issue.

As the Board may know, Enbridge Gas New Brunswick is continuing to negotiate with M & NP and hopes to resolve that or at least sign an agreement with them next week. There is obviously a tight deadline for them at the N.E.B. and any kind of approvals that they might get.

There are a couple of different scenarios still being discussed. But under either of them, whichever ends up in the contract, Enbridge Gas New Brunswick would plan to submit the agreement to the Board, that you reach.

And that agreement will have an impact on the construction application. There are really two things being considered. One would involve a situation where M & NP would build the necessary custody transfer stations and

Enbridge Gas New Brunswick would make a capital contribution to those -- to have those constructed.

If that is the course that is followed, it would be necessary for Enbridge to advise the Board, as part of the construction application, that its costs of construction were going to be higher.

Because in the application that is before the Board now, those custody transfer stations, that expense isn't there. So we would have to advise -- we would have to advise the Board of that.

Under the other scenario it would involve entering a firm service agreement with M & NP which would result in M & NP constructing a couple of laterals to Moncton and St. George under the lateral's policy.

And again if that scenario were followed, when the agreement was delivered, we would have to inform the Board that part of the pipe that we are currently asking to be constructed, we would no longer be constructing because it would be constructed by M & NP.

So to that extent we feel that it would have to at least be brought into the construction application.

CHAIRMAN: And that would reduce the cost of construction?

MR. HOYT: Well, yes. I mean, that would be part of the argument. But the issue though in terms of the prudence of the cost under the first scenario is something that if

the proposal that Enbridge has made in connection with the rates and how that would work is something that at the end of the year those costs would come back to the Board to be determined whether or not they had been prudently incurred and so on, if the capital contribution route were followed.

Under the FSA option we believe that that approach or that FSA will require Board approval because of the additional costs that would be incurred in doing that.

With the second option there is an additional issue. Because there is a firm service agreement, Enbridge Gas New Brunswick would be contracting for capacity on the main line and its capacity that over time they would want to reassign.

That is an issue that has been before the Working Group for some time, and Enbridge Gas New Brunswick believes would be appropriate for determination at this reconvened marketers hearing.

The process in terms of -- so that is one element. And again, the reason I will focus more on the second option is because it is the direction that we are leaning in at the moment, the FSA approach.

But the FSA itself we envisioned requiring a separate proceeding, possibly as part of the construction application, if it could be done, taking into account that

the IR process really ends this Friday.

So there would have to be an adjustment to the schedule, whether it involved Enbridge Gas New Brunswick waiving its right to respond to interrogatories or something to speed up the process, or more likely a separate -- a separate proceeding to deal just with this issue, to deal just with the FSA which would involve the entire IR process, a chance for parties to intervene, present evidence and a hearing to deal with the issue.

But again, that reassignment issue seems more appropriate for a discussion at a reconvened marketers hearing.

I guess one other point that I should make in terms of if it were in fact done in a separate proceeding, it also would involve N.E.B. approval. Because it would be construction of a lateral under the lateral's policy.

So simultaneously there would be a procedure going before the National Energy Board where Maritimes and Northeast Pipeline would be seeking approval to construct these laterals.

CHAIRMAN: Mr. Hoyt, do you have any idea when you will know which route it is that Enbridge wants to follow?

MR. HOYT: We hope by the end of next week.

CHAIRMAN: Any other comments? Let me see. Mr. Zed?

MR. ZED: Mr. Chairman, firstly we would concur that with

respect to items 2, 3 and 4 we agree with the disposition as indicated by Mr. Hoyt.

With respect to the M & NP issue, we have some difficulty with the suggestion that it be rolled into the pipeline hearing. We are not presently Intervenors.

We really have no interest in participating in the construction hearing. And therefore the suggestion of Mr. Hoyt's that it be dealt with by way of a separate proceeding, I guess would be most agreeable to us.

There are certainly significant issues that will impact on the marketers' deliberations. But really, until we know what their plan is, it is very hard to comment on what our position is.

And so I guess we would support the issue of a -- or pardon me, the Board authorizing a separate proceeding to deal with this issue once the facts are known.

CHAIRMAN: Any problem with the dates that Mr. Hoyt has proposed, as I hear them, that window of opportunity in June would be, if we were able to get all four if necessary into that slot and do the oral decision route, that appears to be okay with Enbridge.

Do you have any problem with that?

MR. ZED: Subject to there being some flexibility, if IR's are necessary, because of the compressed time, we don't have any trouble with that, Mr. Chair.

CHAIRMAN: Okay. Mr. Stewart, I see a chair there with an umbrella on the floor and other things scattered around. Perhaps you could persuade whoever owns those, if you haven't got a mike, to sit up there, Mr. Stewart.

MR. STEWART: A couple of things, Mr. Chairman. First off, Irving Oil Limited is a party that has a problem. I mean, maybe there are others. But at least one who has a problem with Mr. Hoyt's proposal.

First off, I think we should all sort of just turn the clock back to Monday or prior to Monday when Enbridge asked that the issue -- this issue be removed from the rates hearing. That was their motion.

And in fairness to them, it was difficult for them to deal with the potential rate consequences of what they are going to do here, because they don't know what they are doing yet. And I understand that.

And to that extent, because we felt that there was not much point in chasing shadows, we consented to the motion to that extent. That is where we are. That is the status quo now.

Now Mr. Hoyt says well, as early as next week we may know at least what our proposal is. And we want to put off, you know, considering the rate consequences of all that until June, until after our construction hearing, as I understand the proposal. The concern -- and so that is

the proposal.

I think Mr. Hoyt and I are in agreement in that there are really sort of two issues or two subissues on the pipeline issue.

First off, the propriety of having M & NP build the pipeline rather than Enbridge, or taking advantage of the lateral policy, whereas Mr. Hoyt said there are two basic possibilities how this might proceed, even if the pipeline does do the building, which is a capital contribution, that is, they just pay to have it done, or the pipeline builds them on the basis that there is a firm capacity agreement signed by Enbridge which Enbridge can't use and will then have to somehow divvy amongst the marketers or work another cost to rates.

So we are asked to be -- we are asked to figure out how we are going to deal with this situation when we still don't even know what the proposal is.

It may be that whatever the proposal is, Irving Oil supports completely. And we will be in there waving the flag with them. But we don't know what that is yet.

And the concern that I have is that if we go forward with the construction hearing on the basis that Enbridge is going to build something this big, because they have now signed an agreement with the pipeline for the pipeline to build the rest, without resolving how all of that is

going to work into their rates and whether or not they have had to sign capacity, and that is being forced on the marketers to be dealt with in June, then -- and I would use the analogy with Mr. Hoyt this morning, if I don't agree with his proposal or think he should have done one of the two options he has described for you this morning, you have already approved a construction program this big.

And that has me in a situation where I'm arguing -- I use the example, I'm arguing against a building permit after the building is built. And it is not fair to the Board. It is not fair to the participants.

And I know that Mr. Hoyt is probably going to say to you in a minute well, yes, don't worry, but if we sign any deal with M & NP it will be on the basis that -- you know, subject to Board approval.

But I will be in a situation, if I don't agree with their proposal, whatever it is -- and in fairness they don't know what it is today, in order for me to be successful in that argument, you are going to have to reopen your construction hearing potentially and say oh, you are now going to have to build something this big.

But that is the position I adopt or the position I advocate at the construction -- or at this subsequent proceeding.

So our position is simply this, that this whole

pipeline issue, whatever the proposal is, has to be dealt with in its entirety at once.

Because while there are marketers' elements to it, if in fact the proposal is that marketers be forced to take capacity whether they need it or not, if there is a rates application -- or excuse me, there are rates elements to it to the extent that there will be expenses, potentially huge expenses which will be rolled into deferral accounts and all the costs of service that you are going to approve at the end of this hearing will be changed.

And there is obviously the construction element of it in terms of how big of a program is Enbridge going to have? Is it going to be this big or this big?

And if the practical reality is that this issue has to be resolved at the time of or during the construction hearing, then that is what it has got to be. And maybe we could parcel it out to make a little -- sort of almost like a voir dire or a minihearing within a hearing.

But you can't put it off. The things are too interrelated. And that proposal creates some practical consequences. Because for the construction proceeding we are supposed to file our information requests with the Board and serve them on Enbridge by Friday.

And not only do I not have any evidence to ask information about, they couldn't give it to me now if they

wanted to.

And so I appreciate that we are going to have to make some sort of -- if we have a hearing within a hearing, we are going to have to make some special arrangements.

And I know that the gentlemen from Enbridge have been cooperative so far. And we will do it somehow, you know, parcel it and make a separate schedule for it.

But we have to deal with it in advance. You can't put it off. It is not fair. And it is inappropriate. And you shouldn't consider this construction program until you know what the whole picture is including how Enbridge intends to deal with the cost, the capacity if there is any, et cetera.

There is a reason the rates hearing is before the construction hearing. And all we are asking is that we make some special procedural -- now I'm lost for a word -- program, something, to allow us to be able to deal with it in advance and deal with it in that form.

Or the alternative is put it all off till June. And I don't think anybody wants that. We don't want it.

Those are my submissions.

CHAIRMAN: Can you come up, Mr. Blue, so that it will pick up on the mike? Thank you.

MR. BLUE: Mr. Chairman, members of the Board, the Province's interest in all these proceedings is to ensure

that the company approvals are determined by the Board in time that if they are approved the construction of the system can proceed in accordance with the company schedule, so that we have gas service in New Brunswick to everyone by November the 1st 2000.

The issue that Mr. Hoyt and Mr. Stewart are raising is not an unfamiliar issue. Invariably when a pipeline company goes to construct new facilities in Ontario or federally, in the ones that I have seen and in British Columbia, the argument always is we have to see how we are going to pay for it before we make a decision about whether it should be built.

And usually the resolution of that matter is a compromise. Obviously the company cannot do a detailed rate submission on a proposal that is still inchoate and incomplete.

Obviously Intervenors like Irving Oil have to know something about it so they can say whether they approve it or not, but not the full detail.

In the Province's submission, the suggestion Mr. Hoyt is making has a great deal of merit. I take him to be saying that in the construction hearing we will put in this information and that we will talk directionally about some of these issues, but we can't talk in final detail simply because the final details do not exist.

But simply because the final details do not exist, in the Province's submission, is no reason to delay a decision on whether the matter should be constructed.

I take Mr. Stewart's point that he feels that the toothpaste is out of the tube once you grant the approval to build the facilities. But that is not necessarily so either.

If the Board expressly lets Enbridge know that it will be reserving its final decision on the cost consequences and rate issues of the matters that Irving Oil is involved in, then that should be sufficient assurance.

Then when Enbridge has its final negotiations complete and final position to place before the Board for approval, then that is still an open issue. But meanwhile the system is up and built.

But the Province is very concerned that we proceed on a timely way to determine whether or not these facilities should be constructed.

The Province's policy is to maximize penetration of gas within the province in accordance with Enbridge's plan. And we do not want to see -- the Province does not want to see, I should say, that any procedural wrangles delaying that, when the Board has the means to reserve those issues and Enbridge has the means to give a great deal of insight into those issues in the construction

hearing.

So we support Enbridge's position, but urge them to give as much information about how they are going to ask people to pay for this at the time of the construction case, so that can be factored into the submissions made about whether the facility should be constructed.

And then the final rate treatment, the final monetary issues can be reserved for a rate type proceeding, if the marketers hearing is the appropriate place to do that, fine. But if it is another rate case, fine. But in my submission, that probably gets all the work done before the Board and protects people's positions.

Thank you, sir.

CHAIRMAN: Thank you, Mr. Blue. Any other counsel present wish to say anything? Mr. Holbrook?

MR. HOLBROOK: Dennis Holbrook representing Marico. We share the concerns that were articulated by Mr. Stewart, as a potential supplier or marketer using the system.

We are participants, Intervenors in the construction docket. So obviously we are not concerned if these issues are raised in that proceeding. But the ultimate question for Marico is the rate treatment and how these costs are going to be allocated.

Quite frankly, as we have articulated before, if we are not using this capacity and we focus our efforts on

indigenous production within the province, we are very concerned about being allocated any of the costs associated with these facilities.

So our concern, as has been articulated by Mr. Stewart, is that you get too far down the path in terms of approving the facilities and the procedures. And then the question ultimately is raised, now how do we recover the costs associated with this?

So our preference would be to have these matters taken up as early as possible. Obviously it is difficult, given the logistics of what we are dealing with today, for it to be taken up at the moment in the rate case.

But the questions that we are particularly concerned about I think lend themselves most directly to a rate proceeding.

So the question is, you know, how soon can you take up these matters? And we would be very concerned about them being taken up as late as June, after the construction docket.

Thank you.

CHAIRMAN: Thank you, Mr. Holbrook. Ms. Abouchar?

MS. ABOUCHAR: Mr. Chairman, members of the Board, the concerns of the Union of New Brunswick Indians here relate to the impacts of construction.

And I think our position is in agreement with Mr.

Stewart in that the construction needs to be dealt with in one hearing.

So all of the construction elements, from our point of view -- and Mr. Chair, my client does have its eye on the bottom line on the costs of this proceeding to them, not being a commercial applicant.

Their preference would certainly be to have the construction from -- the whole construction from the pipe from the main line of the lateral straight to the communities dealt with in one construction hearing. That is our concern.

And I understood -- actually earlier I understood Mr. Hoyt to say that that -- under his scenario that would be happening.

CHAIRMAN: Thank you.

MR. O'CONNELL: May I, Mr. Chairman?

CHAIRMAN: Of course you may, Mr. O'Connell.

MR. O'CONNELL: I'm not sure whether it is consistent with my position as Board counsel or not. But I do have something I want to say.

And I asked the Enbridge panel yesterday about what they have been doing since August the 31st. And of course the response was the norm, we have been really busy, we can't be specific, but we have been really busy, we have been doing this and we have been doing that.

And I find it slightly offensive that Enbridge tends or wants to inflict their timetable on the Board. I thoroughly agree with Mr. Stewart.

These matters have to be thoroughly and fully and completely reviewed in the context of some form of a hearing. And I don't really care which one.

But to say that well, we will have the construction hearing and we will give you the rest of these details later, is very much letting the horse out of the barn.

I would suggest to you that the Board shouldn't feel that it is bound by the Enbridge timetable. Enbridge has had what, eight or nine months since they signed the general franchise agreement.

And we find ourselves here rushing. We find the Board jumping through hoops, standing on their heads, working long hours to satisfy the Enbridge timetable. And while that may be very important to Enbridge, I don't think it should be important to the Board.

I'm disappointed in Mr. Blue when he says that the interest is to get natural gas to some portion of the province of New Brunswick by November the 1st. I don't think we need to give away the farm in the process.

I think the Board needs to structure the timetable so that before any permits for construction of anything are given, you have had a chance to look at all the costs, all

the permutations and combinations of what Enbridge is controlling.

And every time that you hear an Enbridge witness or somebody speaking on behalf of Enbridge urge you to do something else, to save that detail for later, or we will provide it to you next week or next month, that should raise a red flag. And the Board should say no, we want that detail, we want that agreement, we want those documents first, not later.

Thanks.

CHAIRMAN: I must say, Mr. Hoyt, I'm not necessarily totally agreeing with Board counsel, understand that. But it was I think early December that Enbridge talked to the Board about possible hearings sometime in January where we -- in reference to M & NP building the laterals, that sort of thing, in other words the same thing that you are telling us is still being negotiated now.

So that is five months ago, I guess, four and a half, five months. However that is -- that is water under the bridge, as they say.

Do you want to address the Board in reference to what counsel has --

MR. HOYT: Yes. Thank you, Mr. Chairman. And I think I will maybe do it in reverse. The comment you just made in terms of the five months is accurate.

Oh, excuse me. Ron Stitt is here from Engage Energy and hasn't had the opportunity to speak.

CHAIRMAN: I'm sorry. Mr. Stitt is not counsel so therefore did not take a mike. Mr. Stitt, would you like to address the Board?

MR. STITT: Yes. Thank you. Thank you, Mr. Chairman and the Board.

I would concur that I would agree that points 2, 3 and 4 should be referred back to a Working Group and dealt with accordingly.

I do concur with the Irving position insofar as that the FSA, or whatever form that it's going to take in some form or another, should be dealt with on a separate mini-hearing of some form. The implications for marketers are substantial if FSA capacity is assigned back to marketers from a contractual perspective. And we need to understand what those parameters are before we can even enter into this marketplace.

This is also a very important issue insofar as allowing new marketers to come into this marketplace and this could be a "showstopper" for marketers coming into this market. So I don't think it should be forced along. It should be dealt with as a separate mini-hearing as Mr. Stewart has identified.

Thank you.

CHAIRMAN: Thank you, Mr. Stitt. Thank you for pointing that out to me, Mr. Hoyt, that there was another one in the room who should be called upon. Go ahead.

MR. HOYT: Thank you, Mr. Chairman. Your comment in terms of the five months and that this issue was being discussed at that time is clearly accurate. And negotiations have been continuing with M & NP since that time.

Unfortunately Enbridge has not been able to conclude a satisfactory arrangement with them, but as I indicated in my earlier comments, their plan is to provide the Board with that agreement as soon as it has been entered.

Some of the suggestions by Board counsel and actually even some of the descriptions in terms of slightly offensive and give away the farm, I don't think leaves the impression that I have had watching Enbridge work at trying to put these processes together and be in a position to deliver gas by November 1st. Dealing with the construction application, the rates application, try to build a company, get it established and try to market and gain acceptance by the public of natural gas. I mean there are a lot of things going on and to suggest that the company has been anything but diligent I think is a stretch.

In terms of doing anything or trying to drop things on the Board, as I have said, the plan is to provide that

agreement as soon as it is available and to deal with it. And if it was possible to get that dealt with in the construction hearing then that would seem appropriate to Enbridge.

The problem that we see is because the process, the IR process, has advanced to a point I think as Mr. Stewart mentioned that their IRs are due on Friday, it is going to be very difficult I think to accomplish that. But to facilitate that kind of thing, Enbridge would be prepared to look at waiving their rights to respond to IRs or whatever might facilitate that being worked into the construction application.

It would though seem that even if that is done, that this reassignment issue among marketers is really a marketers issue that should be dealt with at the marketers proceeding.

In terms of the comments by Mr. Holbrook and his concern about allocation of costs, we are not suggesting that that won't be done. In fact, you know, we have suggested either as part of the construction hearing or as a reconvened -- or at the separate proceeding, that that in fact -- that process would in fact take place. So we are not suggesting for a minute that those costs wouldn't be fairly scrutinized by the Board.

Finally, in terms of Irving's comments and our request

to remove them from the rates hearing, that is clear. I mean, everybody is aware we made the motion and to which Irving agreed, and it was made because there was no agreement in place with M & NP. There was just no way to deal with it at that point in time.

And they also indicate a concern that we go ahead with the construction application and start building based on the application. But I would suggest, and echo Mr. Blue's comments, that we don't see why the construction application cannot proceed and with a decision that is somehow made subject in whatever way the Board feels is appropriate, to the separate proceeding and the result of it.

In terms of the pipe and getting approval and going to construct, you know, I believe -- I don't profess to be an expert on pipeline construction but to me whether M & NP builds it or Enbridge Gas New Brunswick builds it, it's going to be the same size pipe. The capacity isn't going to change depending on this issue. So I don't think that the delay of a month or two to have it dealt with in a separate proceeding will necessarily change the size of that pipe.

And I guess the last point that I will make is that under the construction plan that has been submitted to the Board, construction isn't scheduled to commence until July

1st. So again although it will result in a flurry of activities and hearings, which Enbridge is quite prepared to do whatever is necessary to bring the information that the Board requires to fulfil its mandate, we believe that through a combination of the construction hearing, a separate proceeding to deal with this FSA and a reconvened marketers hearing, that by the end of June we should be in pretty good shape in terms of having dealt with the issues that have to be dealt with to allow that construction to commence on July 1st.

CHAIRMAN: Thanks, Mr. Hoyt. We are going to take probably about half an hour and I will ask Mr. Goss, and Mr. Butler to meet us down in the safety division office downstairs, since our library is not big enough.

(Recess)

CHAIRMAN: Well I will ask for your comments in reference to what we have come up with. But as we see it, there are two issues of the four that are rate related. That doesn't mean that they don't have construction implications too.

And those are the M & NP issues, or as we call it, the stubby pipe issue. The second is the wholesale rate issue, which frankly the wholesale rate was in the proposal to the Province but when Enbridge Gas New Brunswick filed with the Board, it was no longer there.

We know that Irving has asked some interrogatories about it and what happens this afternoon, I don't know.

However, the Board's approach is that Mr. Hoyt has indicated to us that by Thursday of next week there will be an agreement, and it is Good Friday on Friday, we presume that is correct.

MR. HOYT: We hope there will be an agreement.

CHAIRMAN: We hope there will be too, when you hear what I have to say.

Basically we are going to proceed with the rate hearing that we have in front of us this week and hopefully again we will conclude that hearing per se. But what we are suggesting now is that we will continue to retain jurisdiction and adjourn the rate hearing over until the 8th, 9th and 10th of May, on the understanding that the Board will expect all argument, et cetera, in reference to what is on our platter in the rates hearing as of right now to be concluded this week just as if these other issues had not arisen.

But we will keep seized of the jurisdiction so that we can then look at the wholesale and M & NP issues in reference to rates on the 8th, 9th and 10th of May. And the schedule that we look at is that the agreement, whatever that may be, will be produced on the 20th of April and served -- or filed with the Board and all of the

participants.

Now in that regard, there are -- the Board's approach is that anybody who wishes to be involved in that continuation of the rate hearing will be allowed to intervene in that, because some of them are now just in the marketing or Working Group or whatever.

And on Thursday the 27th of April there will be interrogatories to EGNB concerning the stubby pipe and wholesale service issues. On Thursday, May 4th, the responses will come back from EGNB and on May 8th we will reconvene the rates hearing to deal with those issues.

The only difficulty that we see with that schedule is that if we in fact don't conclude the rates hearing as now structured this week. So we will all work towards that.

Then the other two issues -- our understanding is that you have all agreed that a report will be filed with the Board by May 26th. And that Working Group report will deal with the consensus that you have been able to reach. And if you have not been able to reach a consensus then we want the individual parties to file their positions on any still disputed issues.

Friday, June 2nd, there will be interrogatories to the Working Group and the individual parties, and I presume that is by the Board, Mr. Goss.

MR. GOSS: And presumably the other parties --

CHAIRMAN: The other party -- on the individual disputed issues they will go back and forth at that time as well.

On Friday, June 9th, the responses will come from the Working Group and any individual parties who have received interrogatories.

And then on Monday, June 19th, we will reconvene the marketers hearing to deal with those and any other issues that are still outstanding. We don't know for sure where the hearing on June 19th will be. However, it may well be that this room will be sufficient. We will have to check on that at a later date.

I think I have covered it all. Any comments. Mr. Hoyt?

MR. HOYT: Just one question first. I didn't get the date by which parties to the reconvened marketers hearing are to submit their evidence, or their positions.

CHAIRMAN: The same date as the Working Group files its report with us.

MR. HOYT: On May 26th.

CHAIRMAN: On May 26th.

MR. HOYT: Just one point of clarification. The M & NP portion that is dealt with in the May 8th to 10th window, will that deal both with the pipe and that reassignment of capacity issue?

CHAIRMAN: I suppose that depends, doesn't it, upon which

agreement you sign? So we are going to have to attempt to deal with everything.

MR. HOYT: So that if it does and capacity is an issue, it will be dealt with at that point in time as opposed to the marketers hearing -- the reconvened marketers hearing.

CHAIRMAN: Yes. Any comments from counsel? Mr. Stewart?

MR. STEWART: Just on that point exactly, Mr. Chairman, my comment is just in terms of what is happening next Thursday. Because it would seem to me it has to be not only the agreement filed by Enbridge but also on how they intend to deal with the agreement, whether it is assigning capacity or whatever. Because there are the two issues, you know, what do they agree to and then what are they going to do, are they going to roll it into rates, are they going to assign capacity, what approach that is? I mean we will need to know both of those things by the deadline. And maybe that is implied with what you said, I just want to clarify that.

CHAIRMAN: I am glad you did. Have you any comment on that, Mr Hoyt?

MR. HOYT: Yes. We would suggest that at the time that the agreement was made available that we would include, either in a cover letter or some other explanation, in terms of what the plan was and how it fit into the intentions of Enbridge Gas New Brunswick.

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CHAIRMAN: Okay. Yes, go ahead.

MR. STEWART: I am sorry, I was just looking at my notes, because you actually twigged me on a point. It is just a practical matter in terms of continuing the cross-examination that was adjourned. If the wholesale rate and the issues surrounding that are on for that hearing, then I just want that confirmed. Because to the extent I have any questions on that I will not ask those and we will deal with those if they are not otherwise agreed to.

CHAIRMAN: That certainly is the Board's approach and --

MR. STEWART: That's fine.

CHAIRMAN: -- unless counsel has objection, that is what we will do.

MR. STEWART: I think that is appropriate. Thank you.

CHAIRMAN: Any other comments from counsel? Mr. Hoyt, I have just one and it's my own curiosity. You are talking about -- and I call it stubby pipe -- short laterals only to Moncton and to St. George?

MR. HOYT: Yes.

CHAIRMAN: Not to Fredericton --

MR. HOYT: No.

CHAIRMAN: -- and of course not to Saint John.

MR. HOYT: No.

CHAIRMAN: And that if you went with the scenario of having M & NP construct it then you are looking at National

Energy Board approval. And just speculating on one point or the other, look at that and say, you would be really lucky if you could get NEB approval before say October.

MR. HOYT: We are aware of that, Mr. Chairman, and it is a concern. Obviously it is something that we have been pushing with M & NP to get that contract signed so that that process can get underway. Yes, the time constraint is going to be an issue.

CHAIRMAN: I thought that would bring Mr. Blue to his feet.

MR. BLUE: The only point I was going to make, Mr. Chairman, is due to the length of the pipe there is no public hearing involved. It is a matter of filing an application and it is dealt with in writing. So usually the NEB proceedings on a section 50 application take less time than if a hearing is required.

CHAIRMAN: But it still will be -- it certainly won't be ready to roll in the summer, you would be looking at the fall -- early fall maybe.

MR. HOYT: Well we still believe that it's doable.

CHAIRMAN: All right. See most of you at 1:00 o'clock this afternoon.

(Adjourned)

Certified to be a true transcript of the proceedings of this hearing as recorded by me, to the best of my ability.

Reporter□