

New Brunswick Board of Commissioners of Public Utilities

Pre-hearing May 10th 2001

14th floor, City Hall, Saint John, N.B.

IN THE MATTER OF a generic hearing to establish the need for
and the evidence to be provided in connection with any
specific hearing held to review the maintenance or upgrading
of a generating facility of New Brunswick Power Corporation

Henneberry Reporting Service

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CHAIRMAN: David C. Nicholson, Q.C.

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BOARD COUNSEL Peter MacNutt, Q.C.

BOARD ADVISOR: M. Douglas Goss

BOARD SECRETARY Lorraine Légère

APPEARANCES: David T. Hashey, Q.C. }
Terrence Morrison, Esq.} for
New Brunswick Power Corporation

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CHAIRMAN: Good morning, ladies and gentlemen. This hearing was called by the Board by a letter which was distributed to all parties on May the 1st. And it resulted from the fact that there are a number of interrogatories that the Applicant or NB Power indicated that it was not prepared to answer in full.

And as a result, the Conservation Council of New Brunswick received that notification and indicated to the Board they would like to have the Board rule on the refusal to answer, I believe it was two of their

questions.

Now before we do anything further, I would like to have appearances so it will show on the record what parties were represented. The Applicant?

MR. HASHEY: Mr. Chairman, David Hashey, with me Ken Little and Terry Morrison.

MR. MORRISON: Mr. Chairman.

CHAIRMAN: Thank you, Mr. Hashey. Mr. Morrison, you don't have to stand up.

MR. MORRISON: Thank you, Mr. Chairman.

CHAIRMAN: Conservation Council?

MR. COON: Mr. Chairman, David Coon for the Conservation Council.

CHAIRMAN: Thank you. Any other parties represented here today?

MR. BARNETT: Mr. Chairman, Natural Resources and Energy Department, Don Barnett and I'm joined by Marion Rigby.

CHAIRMAN: And?

MR. STEWART: Christopher Stewart for Irving Oil, Mr. Chairman.

CHAIRMAN: Thank you.

MS. WOOD: Shelley Wood for Rodney J. Gillis.

MR. WALLACE: William Wallace for Nova Scotia Power.

CHAIRMAN: I see Saint John Energy here.

MR. FURNESS: Tony Furness, Saint John Energy with Richard

Burpee, our general manager, and Jennifer Coughlan.

CHAIRMAN: And Board counsel?

MR. MACNUTT: Yes. Peter MacNutt as counsel for the Board,
Mr. Chairman.

CHAIRMAN: The Board reviewed the documents that were filed.

And as a result of that we asked the Board counsel to speak to the two parties, NB Power and Conservation Council, to see if there was a possibility of the parties sitting down and having a discussion on the matter before we opened up the hearing. And I believe that there has been some agreement reached. And would either one of you care to address that?

MR. HASHEY: I would be pleased to. There were two outstanding questions from the Conservation Council that they were not satisfied with the answer. One was the question 12 which dealt with 150,000 megawatt issue. We have reached an agreement on that, that without disclosing individual names, that there will be further information provided on that to the Conservation Council and circulated in the normal way of the interrogatories. That will be done within a week and it will deal with the other factors that have brought, considered in that issue and be more complete on that answer. And I think that is something that the Board probably would wish anyway as well, and we are happy to comply.

On 19, was a question that was dealing with the future matter with respect to the analysis of increasing potential purchases. And our discussion this morning led to the point that really this is an issue that will be and can be explored in the Project Specific hearings if they proceed. And that it was more appropriate to those hearings, and Mr. Coon has agreed with us that he will raise that again probably in the future on those hearings.

So we believe -- is that a fair comment?

MR. COON: Well I would have a word to say about it.

MR. HASHEY: Yes. Please do.

MR. COON: In the first instance that is the case, that NB Power has agreed to provide further details to describe the extent of their sort of survey of industrial customers in terms of potential for self generation and to provide the various factors that went into their analysis without providing any confidential information concerning specific parties. And that is acceptable to us. It has to be provided before the end of next week.

With respect to our -- question number 19, my understanding was that NB Power has made an undertaking to provide greater detail on this particular issue in the context of a specific hearing if it should go ahead.

MR. HASHEY: That's fair.

CHAIRMAN: Is that fair, Mr. Hashey?

MR. HASHEY: Yes, thank you.

CHAIRMAN: Do I hear in that that NB Power is prepared to discuss openly the methodology that they would use in looking at the results of your confidential conversations with customers. In other words, as a result of having had interviews with your customers, you came up with a number and if there were any adjustments made to that, then NB Power would say well we know from past experience that they have told us that they will be using X megawatts of power but we also know the probabilities are that will increase because this is what happened in the past. Bring that experience to bear.

Perhaps I'm not making myself too clear, but the Board is interested in the methodology that -- or the way in which NB Power will receive information and then look at it from their experience point of view and then come out with a projected number into the future. I don't think that sort of process is a confidential matter, would it be?

MR. HASHEY: That is on question 12 you are speaking of?

CHAIRMAN: Yes.

MR. COON: Yes.

MR. HASHEY: Yes.

CHAIRMAN: That's a nod?

MR. HASHEY: Yes.

CHAIRMAN: Yes. Okay. All right then. In doing this and taking an additional week to get the information for Mr. Coon and the other participants, do any of the parties see any difficulty with proceeding on the schedule that we set at the time of the pre-hearing conference?

MR. HASHEY: No. We are pleased with that schedule. We would like to proceed. We have met the dates. In fact, I think the supplemental interrogatories are a day ahead of time. You people have them in great volume.

CHAIRMAN: Okay. I will -- just a couple of housekeeping items from the Board's perspective. And we have attended to collapse the normal times between interrogatories and that sort of thing to speed this process up, so we can go ahead with the hearing in June, et cetera, for all of the obvious reasons.

And I know that has put a great deal of pressure on all the participants to complete their interrogatory process and get things in, but we do note that certain answers, et cetera, have come forth from NB Power even before the deadlines that we set.

However, the Board as you have all realized this is the first time we have used this room and we are having some difficulties because parties are -- some parties are filing their response, for instance, by E-mail on the last day in question and they are not providing the 12 copies,

hard copies to the Board which means the staff with equipment not yet hooked up, and that sort of thing, are having to make 12 copies themselves and we had hoped that that could be overcome.

So if in the future in this process if there is any possible way you can get the hard copies that the Board has requested delivered physically to our premises, it would be greatly appreciated.

And the second thing is that immediately after we break here I will ask Board counsel, Mr. MacNutt, to get a copy of the protocol that he and counsel for NB Power have established in reference to marking exhibits, et cetera, for the hearing itself, so that all parties will be familiar with that. And those who have not gotten them because they didn't attend today, we will send copies out to them by E-mail or whatever.

Mr. Hashey?

MR. HASHEY: Yes, Mr. Chairman. On the last point, the interrogatories and the answers to the interrogatories I assume would be just received without marking as exhibits per se, but that's --

CHAIRMAN: Mr. MacNutt, did you hear that? And Mr. Goss?

MR. MACNUTT: Yes, Mr. Chairman. It was my understanding, Mr. Chairman, and I briefly discussed it with Mr. Hashey, that all the IR's together with their responses and the

supplementary IR's and responses would in fact be introduced as evidence and given evidence numbers according with that designation. For example, DNRE IR number 8 and the response would be marked as an exhibit.

CHAIRMAN: And that would be -- as I recollect the previous process, it would all be on one page, so that you -- NB Power would combine the actual question and response on the one page?

MR. MACNUTT: In fact, that is the manner in which NB Power has responded to the IR's.

CHAIRMAN: I haven't seen them yet. Great.

MR. MACNUTT: So both question and the answer are on one or more pages, stand alone.

MR. HASHEY: Any other questions I can work it out with Mr. MacNutt, I'm sure, Mr. Chairman, not to trouble you with that.

CHAIRMAN: Yes.

MR. HASHEY: Thank you.

CHAIRMAN: Thank you, Mr. Hashey. Thank you, Mr. MacNutt. Any other matters? Come up, Mr. Barnett.

MR. BARNETT: Mr. Chairman and board members, I just want to follow-up on your next to last point. We are still having some trouble with the flow of information. Some of the correspondence between some of the intervenors and the Board is not finding its way to us as an intervenor. My

understanding was that all letters or -- get copied to all intervenors, so I just -- if we can -- if that is what you understand, then perhaps we could just remind intervenors of that process. Because there is certain letters we have not received, and we found out about them. We have called the Board to get a copy, so I just urge intervenors to follow the process of all the information that's filed to ensure that each intervenor gets a copy of that.

CHAIRMAN: You don't want to point any fingers, Mr. Barnett, I guess?

MR. BARNETT: It's a general statement. I'm not pointing fingers at anybody.

CHAIRMAN: Certainly my understanding has always been is that once the coordinate list is out, then if you are doing anything in the process, you copy -- whoever originates the paper or the correspondence, they copy all the other intervenors and the Board. Anybody got any problems with that? No. Okay. Thank you, Mr. Barnett.

Any other matters? Mr. Coon.

MR. COON: Mr. Chairman, just a word of appreciation, if I could. At the pre-hearing or pre-meeting, whatever it was we had before, the Board had agreed to allow the counsel and staff, Mr. Goss, to provide a procedural briefing for intervenors who were interested. That was done and was -- is greatly appreciated and helpful. Thank you.

CHAIRMAN: I am glad you are pleased. And I -- my understanding is that -- again Mr. Goss and Mr. MacNutt provided a very useful function this morning and the Commissioners and I certainly appreciate that as well.

If there are no other matters then, we will stand adjourned until the hearing date, that I forget, June 2nd is it or 4th? June the 4th. Thank you very much.

(Adjourned)

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

Reporter