

New Brunswick Board of Commissioners of Public Utilities

Pre-Hearing Conference

In the Matter of an application by New Brunswick Power Corporation dated June 21, 2002 in connection with an Open Access Transmission Tariff

Public Utility Board Premises, Saint John, N.B.
August 20th 2002, 10:00 a.m.

CHAIRMAN: David C. Nicholson, Q.C.

COMMISSIONERS: J. Cowan-McGuigan
Ken F. Sollows
Robert Richardson
Leon C. Bremner

BOARD COUNSEL: Peter MacNutt, Q.C.

BOARD SECRETARY: Lorraine Légère

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CHAIRMAN: Good morning, ladies and gentlemen. This is the pre-hearing conference in reference to an application concerning a transmission tariff by the New Brunswick Power Corporation.

It was adjourned over from a week ago Wednesday, which would be August 12th till today for consideration of a motion that the Board received from the Intervenor, Saint John Energy. And that motion is basically set forth in the letter addressed to the Board dated July 31 of this year.

Our intention this morning would be after I get the appearances that we will call upon Saint John Energy and if they wish to say anything else in support of their motion, they can do so. We will then call upon each Formal Intervenor for their input and then finally to NB Power for its input, and then back to Saint John Energy in a rebuttal of anything that may have been brought up during the presentations of the other Intervenors and NB Power.

So the applicant, NB Power, appearances?

MR. HASHEY: Thank you, Mr. Chairman. David Hashey with Terry Morrison and Doug Bartlett.

CHAIRMAN: Thank you. Bayside Power LP?

MR. HAYES: Matt Hayes, McInnes Cooper.

CHAIRMAN: The City of Summerside, anybody here today?

MR. GAUDET: Greg Gaudet.

CHAIRMAN: Mr. Gaudet. Maybe that's what we will have to do is that when we call upon you for your participation, you can come up to this mike here.

I was kicked out of this room last night when it was being rearranged because I had ideas that other people didn't like, so I was told to leave. And I don't know when this setup came but it's there, so there you have it.

Emera Energy Inc.?

MR. ZED: Peter Zed, Mr. Chairman.

CHAIRMAN: Energie Edmundston?

MR. GUERETTE: Robert Guerette.

CHAIRMAN: And Mr. Gillis. And he is there. J.D. Irving,
Limited?

MR. MOSHER: Mark Mosher.

CHAIRMAN: Maine Public Service Company? Not represented
today. Maritime Electric? Maritime Electric who is
obviously not here today. Northern Main Independent
System Administrator? Not represented. And Mr. Zed again
for Nova Scotia Power Inc.?

MR. ZED: Yes, Mr. Chairman.

CHAIRMAN: Perth-Andover Electric Light Commission?

MR. DIONNE: Dan Dionne.

CHAIRMAN: And the Department of Natural Resources and
Energy?

MR. BARNETT: Don Barnett.

CHAIRMAN: The Province of Nova Scotia/Department of Energy?
And Saint John Energy? Mr. Young. And the Union of New
Brunswick Indians. They are Informal Intervenors. And
WPS Energy Services?

MR. HOWARD: Ed Howard.

CHAIRMAN: Mr. Howard. All right. Mr. Young, do you have
any comments that you want to make in further support of

the motion that is set forth basically in your letter to us of July 31?

MR. YOUNG: Yes, Mr. Chairman. Just to give a statement of clarification, it's not Saint John Energy's intention to delay the hearing but rather to identify a variety of assumptions being used within this hearing to arrive at the OATT, and to seek from the Board assurance that a review process will be in place if the assumptions contained within this tariff application do not become policy.

CHAIRMAN: So in effect you have changed your motion? Quite dramatically I might add, Mr. Young.

MR. YOUNG: Yes, sir.

CHAIRMAN: All right. So now all you are asking -- you are asking that -- well you stated it quite succinctly. I don't need to say anything more.

MR. YOUNG: Would you like it restated, sir?

CHAIRMAN: Well go ahead. I know what you are saying but you go ahead and restate it. Read that off again.

MR. YOUNG: It's not Saint John Energy's intention to delay the hearing but rather to identify the variety of assumptions being used within this hearing to arrive at the OATT, and to seek from the Board assurance that a review process will be in place if the assumptions

contained within the tariff application do not become policy.

CHAIRMAN: Well that's certainly very different from what is in the letter of July 31.

I'm going to call upon all of the participants to address both what Mr. Young has changed his motion to, but also those matters that are set forth in the letter of July 31, because I think there are some there that may be of interest to some of the participants.

So let's go around the room, starting off with Bayside Power?

MR. HAYES: No comment at this time.

CHAIRMAN: Mr. Zed, in your hat as Emera?

MR. ZED: No comment at this time, Mr. Chairman.

CHAIRMAN: How about Nova Scotia Power?

MR. ZED: Now that's another matter, Mr. Chairman. My only comment would be we have no comment either.

CHAIRMAN: I see. All right. Mr. Guerette, Edmundston Energie?

MR. GUERETTE: No comment at this time.

CHAIRMAN: Pardon me? No comment from Edmundston Energie? Yes?

MR. GAUDET: You said Greg Gaudet of the City of Summerside instead of Edmundston.

CHAIRMAN: Oh. Edmundston, no, I said Mr. Guerette, not Gaudet. Guerette.

MR. GAUDET: Oh, sorry.

CHAIRMAN: Guerette. Or Goody on the Island. I think I'm familiar with that. Mr. Gillis, do you have any comments?

MR. GILLIS: No.

CHAIRMAN: No. J.D. Irving?

MR. MOSHER: No comment at this time.

CHAIRMAN: Main Public Service is not represented. Maritime Electric is not here, nor is Main Northern Independent System Administrator. Perth-Andover? Mr. Dionne?

MR. DIONNE: No comment at this time.

CHAIRMAN: No comment. Mr. Barnett?

MR. BARNETT: No comment, sir.

CHAIRMAN: And Nova Scotia is not here. WPS?

MR. HOWARD: I certainly hate to break with tradition, but WPS Energy Services submitted a letter to the Board of Commissioners dated August 16th that reflects our understanding and position relative to Saint John Energy's letter of submission dated July 31. And hopefully the Board have had a chance to review that.

CHAIRMAN: I would like you to summarize your position for the purposes of the record if you would, Mr. Howard?

MR. HOWARD: WPS Energy Services are concerned that the

separation of the issues as suggested by Saint John Energy could potentially delay the implementation of an open access transmission tariff being approved by the Board for the Province of New Brunswick, and potentially affect not only internal but external wholesale and retail market activity outside of the Province of New Brunswick in which areas we are currently operating. Those are the principal concerns of WPS Energy Services.

CHAIRMAN: Thank you. Mr. Hashey?

MR. HASHEY: Yes, Mr. Chairman. I don't believe we really have very much to comment on. The comments -- we hadn't seen the WPS letter, but clearly the timing of this application is important to the opening of the market. I don't see that there is -- the tariff really was prepared in advance of any announcement and does comply with current legislation. It really can stand by itself and we believe that the hearing should proceed as scheduled.

In answer to Mr. Young's comment, the assumptions -- obviously if there are major changes, there would have to be some type of a re-application if something like that did happen, I would expect.

CHAIRMAN: Thank you, Mr. Hashey. Just to follow-up, Mr. Howard and all other Intervenors, the rules of these proceedings are that if you deliver a document be it to

the Board or whomever, then you copy all of the participants in the hearing process. So that's part of what I will cover a little later on today again.

But otherwise we can't -- the Board can't be put in a position of forwarding documentation to all of the parties and that sort of thing. So each and every one of us have the responsibility if we initiate a document then we copy everybody with it.

All right. Mr. Young, back to you. Anything further on what the Intervenors and the applicant have brought up?

MR. YOUNG: No, Mr. Chairman.

CHAIRMAN: The Board will retire and consider this matter.

(Recess)

CHAIRMAN: It's pretty obvious NBTel has been busy for the last eight days.

Anyway, the Board has taken the opportunity to review the matter set forth in Saint John Energy's letter of July 31st, together with its amended motion that it presented here today to us.

The Board considers it would be appropriate to proceed with the scheduled hearing as planned. Parties will be expected to address all aspects of NB Power's evidence which are of interest to them.

If all relevant issues have been properly addressed,

the Board will proceed to make its decision. If not, the Board may adjourn the hearing to await such justification, or it may proceed to make its decision based on those issues which have been appropriately addressed.

Now there are a number of matters of a housekeeping nature I wanted to address, that I didn't address a week ago Monday. Just -- and if you haven't -- if any Intervenors who are new to the process have any questions, then by all means ask us. We will try and deal with it.

The timetable for the hearing, you have all received a copy of that now, and it was amended just to adjust the timetable so that we could have this hearing today.

Would any -- if any Formal Intervenors are thinking that they may well call a witness or present evidence themselves, could they let us know now? Anybody have that intention at this time of calling witnesses? Is there a possibility? That's what we are looking for. All right.

MR. ZED: I would say --

CHAIRMAN: Mr. Zed?

MR. ZED: -- I would say there is a definite possibility on behalf of at least one of the two Intervenors.

CHAIRMAN: Okay. And Mr. Young?

MR. YOUNG: There is a possibility that I might submit evidence.

CHAIRMAN: Okay. That would be a witness then?

MR. YOUNG: Yes, sir.

CHAIRMAN: Yes, okay. All right. Well, in the schedule both of you gentlemen are familiar with when it is that the c.v.'s and the pre-filed testimony has to be presented to the Board. That's good.

Mr. Hashey, during the Point Lepreau Refurbishment Hearing and also Coleson Cove, NB Power decided to make a slide presentation at the beginning and gave out hard copies. But that was kind of close to the opening of the hearing and it caused us some problems. Do you know if your client's intention is to do the same thing concerning this hearing?

MR. HASHEY: The answer is probably, yes, Mr. Chairman. I don't think it would be the same type of presentation as you have seen in the other ones. But to do some summary presentation the answer is, yes. And I see that it was required to be done by November 4th according to the schedule.

CHAIRMAN: Okay. All right. Once again I'm trying to get some -- you know, as you recollect, some participants complained they didn't get a hard copy of the slides until too close to the hearing, so we will --

MR. HASHEY: I think that was Coleson. I thought Lepreau

that was more or less corrected.

CHAIRMAN: Yes. Okay. Well anyway. Mr. MacNutt has assisted me in providing me with his short memo on these matters, and that's one of the things that he put in his memo.

MR. HASHEY: Mr. Chairman, could I add one further thing?

CHAIRMAN: Yes.

MR. HASHEY: Some discussion was held yesterday, and a tour of the control centre will probably be offered to the Board and to the Intervenors if it's desirable to have, you know, a pre-tour if that would be of assistance.

CHAIRMAN: Well, if all of the Intervenors want to go, then I think the Commissioners would go as well. But we, you know --

MR. HASHEY: We will come to that and extend that. I just thought we should give you a heads up that that might be something that we would be offering fairly shortly.

CHAIRMAN: Okay. Thank you. The Board is approaching the matter of jurisdiction in reference to this, because constitutionally under the Canadian Constitution some of the transmission facilities are -- it's an international undertaking as well as an interprovincial. However, my understanding of the law is that if the Feds have not taken the jurisdiction, then the Provinces can, and that's

the approach that has been taken here. So by the fact that NB Power has applied and the Intervenors are all here, all of the parties are acquiescing in the Board's jurisdiction in reference to this matter.

Now for the transcripts, two things. We will proceed as we did before, and that is that NB Power will -- the transcript will be available the start of the next day.

Now what -- I will ask the Board Secretary in reference to that. Now let me see. This is what the memo has said to me here. The Board -- advise that a hard copy of the transcript of each hearing day will be available at the commencement of the next hearing day. And that's produced, I guess, by NB Power.

That is the responsibility of each party to make arrangements with the private reporting system to obtain a copy of the transcript. Upon the request, the private reporting service will provide a copy of each daily transcript on a computer disk at a less cost in lieu of a hard copy.

That arrangements have been made with the applicant to provide a copy of each daily transcript to all parties by e-mail attachment on or before 9:00 a.m. on the commencement of the next hearing day.

I guess -- is that still the arrangement, NB Power,

that you would receive it from the reporting service and provide a hard copy the next morning?

MR. HASHEY: I think that would work, Mr. Chairman, yes.

CHAIRMAN: Okay.

MS. LEGERE: Excuse me, Mr. Chairman, it's not a hard copy.

MR. HASHEY: No.

CHAIRMAN: No.

MR. HASHEY: Electronic, sorry, thank you.

CHAIRMAN: That's right, it's electronic. By e-mail. Okay.

And the secretary indicates to me that there -- she has received a number of calls about how things are going to happen and whatnot.

That's all in the transcript. It was all -- every question that has been asked of the secretary, if you had read your transcript, you would see that it had been covered there. Okay.

The Informal Intervenors, we will set a time when they can make an oral presentation to the Board. But we will do that after we get into the hearing, because I think it's only appropriate that a good deal of the evidence be led before the Informal Intervenors are called upon to make their presentation. So we will set that time later on in the actual hearing itself.

Those are all of the housekeeping items I have. Any

of the parties have any matters they want to bring up at this time?

MR. HASHEY: Mr. Chairman, there has been, I believe, some discussion about the sitting schedule, and the possibility of a four day week being more sensible in the long hearing that we are facing here. Has the schedule been finalized? Is there something --

CHAIRMAN: No. But that -- look, let me just run that by everybody. I -- after having gone through Point Lepreau, I think that a four day week or something of that nature is a far more humane way to go, frankly. And so anybody any comments, see any problems with that, going to a four day week? And if we go to a four day week, do you want the Friday off or the Monday? I haven't got my calendar in front of me, but I think what we will proceed to do then, is subject to the secretary -- the one -- do you have anything there?

What I'm trying to find out here is that you have just got dates, and are all the Mondays available? And then there is a couple of weeks where -- or at least one week where you don't have the Thursday, Friday or something. Is that not correct?

MS. LEGERE: All of the dates here begin on Monday, I think, except for January 6th which, I think, is a Tuesday. No,

I need January. The dates in the schedule here are all --
all begin with Monday except for December --

CHAIRMAN: Christmas Eve.

MS. LEGERE: They all begin with Monday, and they go Monday
to Friday, so --

CHAIRMAN: Okay. Well, we will -- the secretary will
communicate with the precise dates and whatnot. But they
will be Monday to Thursday rising at 5:00 -- or 4:30 on
Thursday afternoon. Taking Fridays off then. Okay.
Any other matters?

Well, we will adjourn and reconvene possibly for
Thursday, the 10th of October if required for Motions Day.
If not, we will be adjourning until Monday, November the
18th. Good. Thank you.

(Adjourned)

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

Reporter