

1
2 New Brunswick Board of Commissioners of Public Utilities

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6 In the Hearing of an application by NBP Distribution and
7 Customer Service Corporation (DISCO) for approval of a charge
8 to its Charges, Rates and Tolls - Customer Service Policies

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11 Delta Hotel, Saint John, N.B.

12 January 29th 2007

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14 CHAIRMAN: David S. Nelson

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17 COMMISSIONERS: Randy Bell
18 Diana Ferguson Sonier
19 Patricia LeBlanc-Bird
20 H. Brian Tingley
21 Ken F. Sollows

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23 BOARD COUNSEL: Ellen Desmond

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25 BOARD STAFF: Doug Goss

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27 BOARD SECRETARY: Lorraine Légère

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30 CHAIRMAN: Good morning, everyone. This is an oral decision
31 with respect to a review conducted by the Board in Disco's
32 customer service policies. This review arose from the
33 application made by Disco for approval of a change to its
34 charges, rates and tolls.

35 Before we begin, the Board wishes to clarify that this is
36 strictly an oral decision and that a written decision will
37 follow in the coming weeks.

38 As such the Board reserves the right, when finalizing

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2 its written decision, to make any minor editorial changes
3 to the written document that may differ from an oral
4 decision of this morning.

5 Before I render a decision I have a few comments to make.
6 This is the last instalment of a hearing that began in
7 March of 2005. This has been a huge undertaking, dealing
8 not only with a company that had not been before the Board
9 in years, but also with a new company, new laws and a new
10 approach to the market.

11 As a result this hearing has been the longest in memory.
12 It took 52 days of hearings as well as more than 100 days
13 of preparation and deliberation. It has been a huge
14 investment by everyone. That is a word I want to say
15 again, investment. Because that is what this has been.
16 This hearing has laid the groundwork for what we hope is a
17 regular efficient process of reviewing costs and setting
18 rates for the utility. We have established a baseline of
19 understanding on which we can build to ensure that the
20 utility and the ratepayers have power rates that are just
21 and reasonable.

22 The Board is well aware that as a regulator our role is
23 not to win a popularity contest, especially in cases like
24 this. If one group is happy, well then another group is
25 upset. It is the nature of regulation.

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2 So we know we have not always been popular. At the same
3 time we believe the role played by this Board and the ones
4 like it in other jurisdictions is crucial to the proper
5 operation of utilities.

6 The sort of regulation I'm talking about depends on its
7 independence. It depends on freedom from government
8 interference, freedom to act in the best interests of all
9 parties without concern for conflicting government
10 policies.

11 Without this independent examination on monopolies like NB
12 Power, how can customers be confident they are not being
13 gouged, mistreated or simply taken for granted? How can
14 the people of New Brunswick have faith they are not
15 subsidizing economic development projects in industries or
16 even their neighbors through their energy bill or their
17 tax dollars?

18 In short without a strong independent regulator you cannot
19 avoid the sort of political expediency that ruins
20 utilities.

21 For proper regulation there must be a sort of open
22 discussion that only comes when Intervenors, public and
23 private, agree to commit time and resources, to have an
24 open and honest discussion with the people of NB Power.

25 And I don't just mean big companies. I mean groups like
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2 Vibrant Communities Saint John and Kurt Peacock, that make
3 the commitment despite the lack of resources.

4 This Board and this province as a whole are better off
5 with the debate that has occurred in the last 22 months.
6 And for that reason I would like to thank all the
7 intervenors for their participation.

8 At the same time I would like to thank people working for
9 the applicant, both legal counsel and employees. The
10 passion that you bring to your job each day and every day
11 has been evident through this hearing.

12 I would be amiss if I did not take the time to thank past
13 Chairman David Nicholson. It was his leadership that
14 helped us make our way through the main section of this
15 hearing.

16 Which brings me to a point. The PUB has been in existence
17 since 1970 and will become a part of New Brunswick
18 history.

19 I have looked through some of the past annual reports and
20 see such family names as Logan, McNair, Riley to name just
21 a few, people who have been intertwined with the history
22 and the accomplishments of this province.

23 The present members have followed in their footsteps using
24 the same watchwords, just and reasonable, fairness and
25 common sense, unbiased and independent. I would like
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2 to thank my fellow Commissioners for their unfailing
3 commitment to making New Brunswick, our New Brunswick a
4 better place.

5 This will likely be the last act of the Public Utilities
6 Board as it currently exists. It is our understanding
7 that before too long the Board of Commissioners of Public
8 Utilities will become the Energy and Utilities Board.

9 We wish all the new Board and its members well. We hope
10 that it becomes an integral, independent player in the
11 regulation of utilities in this province.

12 With that I would like to read the decision.

13 The New Brunswick Power Distribution and Customer Service
14 Corporation ("DISCO") applied to the New Brunswick Board
15 of Commissioners of Public Utilities (the "Board") in March
16 of 2005 for an increase in its existing charges, rates and
17 tolls. During the course of the hearing, it was agreed
18 that a separate public process to review DISCO's Customer
19 Service Policies would be appropriate.

20 A formal hearing was held on December 4th, 5th and 6th,
21 2006. Formal intervenors included Vibrant Communities
22 Saint John and Mr. Peter Hyslop, the Public Intervenor.

23 The New Brunswick Municipal Electric Utility Association
24 participated as an informal intervenor.

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2 The panel of witnesses presented by DISCO consisted of:
3 Mr. Rock Marois, Vice-President Distribution and Customer
4 Service; Ms. Lynn Arsenault, Director of Retail and
5 Customer Marketing; and Mr. Neil Larlee, Manager of Load
6 Forecasts and Regulatory Studies.

7 In addition, the Board gave public notice of and held two
8 public sessions during the evenings of December 4th and
9 5th. The Board heard from various public organizations
10 and a number of important issues were raised. The
11 following parties made presentations:

12 David Ellis of the Electrical Contractors Association of
13 New Brunswick; Alex Arseneau of the New Brunswick Non-
14 Profit Housing Association; Linda McCaustlin of the Common
15 Front for Social Justice; Gay Drescher of the Town of
16 Rothesay; and Seth Asimakos of the Saint John Community
17 Loan Fund.

18 These presentations provided insightful information and
19 the Board appreciated hearing from the public on these
20 issues.

21 At the outset, the Board believes that the issue of
22 jurisdiction requires address, particularly as a number of
23 questions were raised as to the Board's ability to order
24 changes to DISCO's customer service policies.

25 The Board has carefully considered the Electricity Act
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2 and in particular section 101 which provides as follows:
3 Application for change in charges, rates and tolls.

4 Section 101, subsection (1), If a change in the charges,
5 rates or tolls for its services would exceed the amount
6 authorized under section 99, the Distribution Corporation
7 shall make an application to the Board for approval of the
8 change, and shall not make any change until it receives
9 the Board's approval.

10 101 (2), The Board shall, on receipt of an application
11 under this section, proceed under section 123.

12 101 (3), The Board shall, when considering an application
13 under this section, base its order or decision respecting
14 the charges, rates and tolls to be charged by the
15 Distribution Corporation on all of the projected revenue
16 requirements for the provision of the services referred to
17 in section 97.

18 101 (4), The Board may, when considering an application
19 under this section, take into consideration (a) accounting
20 and financial policies of the Distribution Corporation,
21 (b) proposed allocations of costs among customer classes,
22 (c) rate design matters, (d) customer service policies and
23 charges, and (e) energy programs instituted or planned by
24 the Distribution Corporation.

25 Subject to Section 99, DISCO cannot change any of its
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2 customer service policies that in turn, affect their
3 charges, rates or tolls without the approval of the Board.
4 As such, it would be appropriate for the Board to accept,
5 reject or require an amendment to a customer service
6 policy when setting a particular rate, charge or toll. In
7 fact, any policy that has a relationship to a charge, rate
8 or toll (one time or recurring) affects DISCO's rate and
9 as such, falls within the Board's jurisdiction pursuant to
10 section 101 of the Act.

11 In this case, the Board has already considered the issue
12 of rates and a comprehensive decision was issued by the
13 Board on June 19th 2006. The Board is not prepared, nor
14 would it be prudent, to issue an order to amend DISCO's
15 customer service policies that would, in turn, require
16 DISCO to now change a charge, rate or toll.

17 Nonetheless, the Board has clear authority over such
18 policies and the evidence submitted during the customer
19 service hearing provided valuable input both for DISCO,
20 for this Board and for future rate hearings.

21 However, the Board must comment on two particular matters
22 that were discussed during the course of the hearing. The
23 first is the pole attachment rate that DISCO charges to
24 Rogers and others. DISCO stated that this rate does not
25 appear in their Rate Schedules and Policies
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2 Manual ("the manual"), even though the Board has made a
3 determination as to the appropriate rate to be charged for
4 this service.

5 DISCO is obligated to include this charge in the manual in
6 order to be in compliance with the existing regulatory
7 provisions. As such, the Board orders DISCO to
8 immediately update the manual to include the appropriate
9 pole attachment rate.

10 The second is a charge that is described in the Provision
11 of Service portion of the manual. This section of the
12 manual provides that if DISCO's Facilities or Rental
13 Facilities, located on a Customer's Premises, are damaged
14 by other than ordinary wear and tear, then the Customer
15 will pay DISCO the charges associated with repairing or
16 replacing the same.

17 Despite this written policy, the DISCO panel testified
18 that DISCO does not charge a customer if DISCO's equipment
19 is damaged or destroyed for reasons beyond the customer's
20 control. As such, the Board orders DISCO to amend this
21 portion of the manual to reflect its current practice and
22 to affirm, in writing, that customers would not be
23 expected to make such payment.

24 It must be recognized that there are some customer service
25 policies that do not have a clear connection to
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2 rates, charges or tolls. The Board considers that it does
3 not have the legislative authority to make an order in
4 relation to such policies. However, these policies do
5 involve important customer issues as was made clear at the
6 hearing. The Board, therefore, provides the following
7 comments.

8 Equalized Billing. During the hearing, the Board heard
9 from intervenors about the advantage of using equalized
10 billing to help customers deal with winter electricity
11 bills.

12 The Equalized Billing program examines a customer's
13 average electricity use for the previous 12-month period
14 and establishes an equalized bill for each of the next 12
15 months. This program is available to all customers who
16 have established what the company considers a
17 "satisfactory billing history." Certain intervenors
18 pointed out that many low-income customers who have fallen
19 into arrears are not eligible for this program. It was
20 suggested that these customers would benefit from access
21 to equalized billing.

22 DISCO testified that the restrictions on access to
23 Equalized Billing are there because of the problems
24 recovering overdue accounts in the past. The company
25 stated that the vast majority of customers sign up for
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2 equalized billing in the fall of the year. Because of
3 this, in the winter, the amount a customer actually pays
4 is less than the cost of service. As a result, if a
5 customer defaults there is a potential that the amount
6 owing is great than it would be otherwise.

7 While recognizing this concern, the Board recommends that
8 the Company extend the equalized billing option to all
9 those customers who are not in arrears or who are making
10 good faith attempts to deal with arrears, regardless of
11 their payment history. It also recommends that for those
12 whom the company considers to have an unsatisfactory
13 payment history, the entry point for the program should be
14 limited to the months of April through July.

15 Energy Efficiency. Efficiency New Brunswick was created
16 to take a lead role in promoting energy efficiency.

17 However, DISCO has traditionally had a role and
18 responsibility with respect to this matter.

19 For example, the DISCO panel explained that the company
20 has energy advisors who will go to the home of customers
21 and suggest ways to reduce energy use. However, the
22 company also told the Board that energy efficiency is the
23 domain of Efficiency New Brunswick.

24 For this reason the Board recommends that the
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2 Government clarify the roles of both Efficiency New
3 Brunswick and DISCO with a view to achieving greater
4 energy efficiency. The Government should also consider
5 the consolidation of staff and programs under Efficiency
6 New Brunswick to optimize the use of resources.

7 In addition, the Board recommends that DISCO's customer
8 services representatives -- as the prime initial contact
9 with energy users -- be knowledgeable of all programs that
10 are available to Residential and General Service
11 customers.

12 Credit Card Payments. Recently, DISCO changed its policy
13 to eliminate credit card payment as an option for
14 customers. At the time the company explained the change
15 was part of an effort to reduce costs.

16 The Board heard testimony that this change has meant that
17 certain customers may be required to expend costly staff
18 resources to pay for some services in advance. The Board
19 believes that DISCO can provide options for payment that
20 are convenient, cost neutral and do not pose an undue risk
21 of increasing the costs to other ratepayers. It
22 recommends that DISCO establish such a policy.

23 Security Deposits. All customers are required to pay a
24 security deposit of at least \$100 or the equivalent of two
25 average monthly bill before service is provided,

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2 except in certain circumstances. The first exception is
3 if the customer has a satisfactory payment history with
4 DISCO. The second exception is, in the case of new
5 customers, if the customer has a letter of reference from
6 another utility.

7 The company said, in addition, there is a third way to
8 avoid a security deposit that is not in the manual. If a
9 customer consents to a credit check, and the results are
10 satisfactory to DISCO, then the customer will avoid
11 providing a security deposit. The Board recommends that
12 this option be included in the manual.

13 The company stated that it does not believe that security
14 deposits are an issue with its customers. The Board
15 understands that the issue has not been raised as a
16 significant concern in polling and customer service
17 surveys. However, the Board also understands from
18 testimony that for some low-income customers, new
19 homeowners or new residents it can be a very significant
20 concern.

21 The Board understands that the purpose of security
22 deposits is to reduce the amount of bad debt. The Board
23 questions whether a more flexible policy may achieve the
24 needs of the company and also reduce the burden on some
25 customers. The Board believes that this matter is one
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2 that can affect the charges, rates and tolls and therefore
3 it is not prepared to deal with this matter at this time
4 but believes that it is an issue over which the Board has
5 jurisdiction.

6 Access to an Up to Date copy of the Manual. The manual
7 defines the relationship between the customer and the
8 company. The manual should help the company meet its
9 objectives of protecting assets, achieving efficiency and
10 providing a uniform method of dealing with customers. It
11 should also define the service the customer can expect and
12 assure them that they will be treated in a manner similar
13 to other customers. The Board therefore believes that an
14 easily accessible, up-to-date copy of the manual is
15 important.

16 DISCO testified that the company distributes about 300
17 copies of the manual across the province. The manual is
18 also available to customers via the Internet and at NB
19 Power regional offices. DISCO has, in the past, sent out
20 copies to customers who requested the manual.

21 Additionally, the company will, on specific occasions,
22 send out bill inserts informing customers about specific
23 policies.

24 Despite these efforts, the Board is concerned that the
25 manual is not as widely and easily available as it should

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2 be. Nor does the Board believe access to the manual via
3 the Internet is as simple and straightforward as it should
4 be.

5 For this reason, the Board recommends that the company
6 make the manual as widely available as feasible, including
7 providing copies to all public libraries in the province.

8 In addition, the Board recommends that the manual be
9 available from a single link on the main page of the
10 company's website.

11 The Board also believes that it is not enough to simply
12 make a copy of the manual available to customers. It must
13 also be an accurate representation of the current
14 policies. At the hearing, the Board was told of cases
15 where the manual did not match the current practices of
16 the company.

17 One case, already mentioned above, is the omission of a
18 clause that states that customers may avoid a security
19 deposit if they consented to a credit check. While this
20 policy has been in place since 2000 it is not included in
21 any version of the manual.

22 In other case, the inclusion of fish farms in the same
23 rate class as other farms was not added to the manual for
24 close to seven years.

25 The Board believes that the manual should include all
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2 of the current practices in their entirety. Otherwise,
3 the customers are wholly dependent on customer service
4 representatives to inform them of the policies. The Board
5 believe this situation is inappropriate and recommends
6 that the company update the manual as soon as possible
7 after changes in policy are made.

8 Dispute Resolution. Certain parties expressed concern
9 that the company is the final arbitrator of disputes
10 involving the customer service policies. The public
11 intervenor recommended that the Board be given authority
12 to arbitrate disputes.

13 The Board considers that there should be a check to the
14 monopoly power that the company currently enjoys. However
15 such independent arbitration would involve additional cost
16 and would also require a change in legislation. The Board
17 therefore refers this matter to the Government for its
18 review.

19 Other Matters. A number of intervenors suggested that
20 there are many customers who struggle to pay their bills
21 on a regular basis. It was noted that the requirement to
22 pay a late payment charge on outstanding balances, even
23 when a payment plan has been arranged, increases the
24 problem.

25 Some of the intervenors expressed concern over the
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2 significant number of customers who are disconnected by
3 DISCO, especially during the heating season.

4 There are homeowners who do not have the financial
5 resources to make the investments that would reduce their
6 consumption of electricity. Many customers rent and are
7 responsible for the electric bills but have no control
8 over the energy efficiency of the building they live in.
9 Often in such cases, there is little or no incentive for
10 the owner of the building to make energy efficiency
11 improvements.

12 Various parties made recommendations that they believe
13 would provide assistance to many people with respect to
14 their use of electricity. These recommendations included:
15 Requiring DISCO to lower or eliminate certain charges
16 and/or security deposit requirements for particular
17 customers, having DISCO provide adequate assistance to
18 customers who are having difficulty in paying their
19 electricity bills by allowing more favourable repayment
20 arrangements, and requiring DISCO to establish a fund that
21 would be used to assist low-income customers.

22 The Board has listened carefully and recognizes that these
23 comments address important social issues. The
24 recommendations, if approved by the Board, would require
25 changes to DISCO's rates. Such changes would provide
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2 financial assistance to certain customers. The money
3 required to effect such changes would have to come from
4 other customers by way of higher rates. This would create
5 a situation where some customers would be paying more than
6 other customers for the same service.

7 The Board is cognizant of its legislative authority under
8 the Electricity Act, which requires the Board to approve
9 rates that are just and reasonable. The Board is an
10 economic regulator and its role is to establish classes of
11 services and rates for each class that are appropriate
12 having regard to the costs that each class imposes on
13 DISCO. Just and reasonable rates mean that once the
14 specific rates are established they should apply equally
15 to all customers in the same class. All customers who
16 qualify for a particular service should pay the same rate
17 for that service and there should be no undue
18 discrimination between customers.

19 In consideration of the above the Board has no legislative
20 authority to establish rates that would discriminate
21 between similarly situated customers on the basis of
22 income or ability to pay. The Board is aware of
23 jurisdictions where the relevant legislation establishes
24 policies that are clearly designed to assist certain
25 customers. The Board considers that this is the
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appropriate way for such policies to be established.
That is the end. There will be copies of it at the back
of the room after we read the final decision. We will
take a 10-minute break and come back. And we will read
the Load Forecast. 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