

1 New Brunswick Board of Commissioners of Public Utilities

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3 In the Matter of an application by the NBP Distribution &

4 Customer Service Corporation (DISCO) for changes to its

5 Charges, Rates and Tolls - Revenue Requirement

6

7 Delta Hotel, Saint John, N.B.

8 January 11th 2006

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13 CHAIRMAN: David C. Nicholson, Q.C.

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16 COMMISSIONERS: Jacques A. Dumont
17 Patricia LeBlanc-Bird
18 H. Brian Tingley
19 Diane Ferguson Sonier
20 Ken F. Sollows
21 Randy Bell

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23 BOARD COUNSEL: Peter MacNutt, Q.C.

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25 BOARD STAFF: Doug Goss
26 John Lawton

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29 BOARD SECRETARY: Lorraine Légère

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32 CHAIRMAN: Good morning, ladies and gentlemen. Sorry about
33 the length of time it has taken us. If I could have
34 appearances for the record this morning for the
35 Distribution company?

36 MR. MORRISON: Good morning, Mr. Chairman, Commissioners.
37 Terry Morrison. And with me is Lori Clarke, Mike Gorman,
38 Vice-president Legal and Brian Duplessis, Vice-president
39 Communications and of course Lillian Gilbert.

40 CHAIRMAN: Thanks, Mr. Morrison. Canadian Manufacturers and

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Exporters? Mr. Plante is not here this morning. Conservation Council is not represented. Eastern Wind is not represented.

Irving Group? Not represented. Jolly Farmer is not represented. Mr. Gillis is not here. Rogers Cable not here. Self-represented individuals not here.

Mr. Gorman, you are here.

MR. GORMAN: Good morning, Mr. Chairman. Raymond Gorman and Dana Young on behalf of the Municipal Utilities.

CHAIRMAN: Thank you. And Mr. Peacock was here. I guess he is -- there he is.

MR. PEACOCK: Good morning, Mr. Chair.

CHAIRMAN: Yes. Well, good morning. You were also here yesterday. But as you pointed out to me, you are quite often late. That is all right. And the Public Intervenor?

MR. HYSLOP: Peter Hyslop. And Ms. Power is here as well, Mr. Chair.

CHAIRMAN: Thank you, Mr. Hyslop. Now first of all, a housekeeping item. Well, not really. But there was a draft order that was handed around yesterday with Schedules A and B, et cetera attached, dealing with the PROMOD information. And that has been tidied up. And Mr. Goss I believe has run that by the various

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2 parties' noses. And they are in agreement with it. And this
3 is just to indicate to you that it will be executed by the
4 Board this afternoon and will be available from the
5 Secretary.

6 For your information, the Board has ruled pursuant to the
7 argument that we heard yesterday that it is not necessary
8 for Disco to supply information from the -- I can't tell
9 you whether it is the 30th of September, 2004 or the 1st
10 of October.

11 But the opening of the market on that is recited in there
12 and I believe was in the schedule that Mr. Hyslop had
13 filed with an e-mail. Anyhow we will not require that
14 information to be filed.

15 Having said that, are there any preliminary matters? We
16 are going to mark exhibits after we make our ruling and
17 that sort of thing. So is there anything else any of the
18 parties -- Mr. MacNutt?

19 MR. MACNUTT: Yes. I just wish to note, Mr. Chairman, for
20 purposes of the record that I'm appearing on behalf of the
21 Board. And I have with me Doug Goss and John Lawton.

22 CHAIRMAN: Mr. MacNutt, I do apologize. That is
23 unforgivable, two days in a row. And who is with you, Mr.
24 MacNutt?

25 MR. MACNUTT: I believe I just said. But I will repeat.

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Doug Goss, Senior Adviser and John Lawton, Adviser. Thank you, Mr. Chairman.

CHAIRMAN: Thank you. Uncharacteristically your voice dropped off. Mr. Hyslop?

MR. HYSLOP: One preliminary point. And I did mention this to Board Counsel. I had a conversation on Monday late in the day at the time I received some interrogatories from Mr. MacDougall and EGNB.

And one of the things that came up in that conversation with Mr. MacDougall was a question of the admissibility of the three reports that was argued yesterday.

I did indicate to Mr. MacDougall at his request that if that issue did come up he might want to be heard on the issue, Mr. Chair. That was the extent of the undertaking or the conversation I had with Mr. MacDougall.

CHAIRMAN: Well, he is not here. So that is that. Thank you for bringing that to our attention though, Mr. Hyslop. Board would like, just before we read our ruling, to make a few statements and to put them on the record. Section 156 effectively disappears upon the conclusion of this hearing. What may not be relevant for this hearing could well be relevant for subsequent hearings.

The panel believes that part of providing an, quote

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2 "Open and transparent regulatory regime", end of quote, as

3 sanctioned in the White Paper is an educational function
4 not only for the Board and all the parties present here,
5 but also the public of New Brunswick as a whole.

6 We may allow a greater volume of information in this
7 hearing as there is no guarantee as to when Disco will
8 come before this Board and its public process again.

9 Having made those, this is the Board's ruling in reference
10 to the motion that Mr. Morrison made yesterday.

11 The Board has ordered Disco to provide detailed
12 information related to PROMOD. We did so because this
13 information will provide considerable assistance to the
14 Board in setting just and reasonable rates. Knowledge of
15 the underlying costs will help us to establish rates that
16 send the proper price signals to Disco's customers.

17 The Board does not intend to review this cost information
18 for the purpose of adjusting the amount that Disco must
19 pay for purchased power in 2006/07. We consider that the
20 Electricity Act requires the Board to accept the properly
21 verified amounts that Disco must pay pursuant to the
22 various agreements described in Section 156 as being
23 prudent for establishing Disco's revenue requirement in
24 this proceeding.

25 The Board therefore does not consider it appropriate
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to conduct an examination of the reasonableness of any of the individual costs that are included in the amounts that Disco must pay pursuant to the agreements referenced in Section 156. Such a review would serve no purpose because the Board cannot make any adjustments to that amount that must be included in Disco's revenue requirement for the test year.

The Board considers that any information, the nature of which goes to the reasonableness of the amounts that Disco must pay in 2006/07, pursuant to the agreements described in 156, would be of no assistance to it in this proceeding. Such information would not be relevant for setting rates for 2006, 2007 and therefore will not be accepted as evidence in this proceeding.

The Board also considers that it would not be appropriate for parties to conduct cross examination on the reasonableness of any individual costs that are included in the amount that Disco must pay pursuant to the agreements referenced in Section 156.

However, the Board is of the view that information on the structure of the electricity market in New Brunswick and on the matter in which the PPAs are designed and administered would be of assistance to it and to the public. Such information will be accepted as evidence.

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2 For example, information that clearly identifies the
3 specific returns on equity and the capital structures that
4 underlie the PPAs would be of value. However, information
5 as to the reasonableness of such amounts would not be of
6 assistance in this proceeding.

7 The Board directs the Public Intervenor to review his
8 filings in light of this guidance from the Board and to
9 amend his filings as he sees fit. We will then rule upon
10 any objections that any of the parties may have after they
11 have had the opportunity to review what the Public
12 Intervenor files. And that will occur in the hearing
13 proper.

14 Now I believe, Mr. Morrison, we have some exhibits to
15 mark.

16 MR. MORRISON: Yes, Mr. Chairman. The only exhibit is the
17 IR responses that were filed on Monday, January 9th. And
18 the Board Secretary has copies of those.

19 CHAIRMAN: Mr. Morrison, my records indicate that the next
20 number would be A-69. Are there any other matters?

21 MR. MORRISON: No, Mr. Chairman, not from the Applicant.

22 CHAIRMAN: Okay. We will then adjourn until Tuesday, I
23 believe it is the 24th, is it? Tuesday the 24th at 9:30.
24 We will start the first day of the hearing at 9:30 and
25 then go to the 9:15.

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Thank you for your patience this morning. And we will see you then.

(Adjourned)

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

Reporter