



**IN THE MATTER of an application by Enbridge Gas  
New Brunswick Limited Partnership to change its Small  
General Service Residential Electric, Small General  
Service Residential Oil, Small General Service  
Commercial, General Service, Contract General Service,  
Contract Large General Service Light Fuel Oil, Off Peak  
Service, Contract Large Volume Off Peak Service and  
Natural Gas Vehicle Fueling distribution rates**

**And**

**IN THE MATTER of an application by Enbridge Gas  
New Brunswick Limited Partnership to change its  
Contract Large General Service Heavy Fuel Oil  
distribution rate.**

**APRIL 30, 2010**

**NEW BRUNSWICK ENERGY AND UTILITIES BOARD**

**REGISTERED PARTIES:**

Enbridge Gas New Brunswick Limited Partnership -----  
Atlantic Wallboard Ltd -----  
Department of Energy-----  
Enterprise Charlotte -----  
Flakeboard Company Limited-----  
Ganong Bros. Limited-----  
Public Intervenor-----  
Town of St. Stephen-----  
NB Energy and Utilities Board – Counsel-----

**REPRESENTED BY:**

Len Hoyt, Q.C.  
Christopher Stewart  
Patrick Ervin  
Michael Rouse  
Gary Lawson  
Gary Lawson  
Daniel Theriault, Q.C.  
John Ferguson  
Ellen Desmond

**Panel:**

Chairman: Ray Gorman, Q.C.  
Vice-Chairman: Cyril Johnston  
Members: Edward McLean  
Connie Morrison

Board Secretary: Lorraine Légère

## **Background**

Enbridge Gas New Brunswick Limited Partnership (EGNB) is the General Franchisee under a General Franchise Agreement with the Province of New Brunswick dated August 31, 1999 (GFA). The GFA authorizes EGNB to distribute natural gas and provide customer services in the province. All distribution rates must be approved by the New Brunswick Energy and Utilities Board (Board) in accordance with the Gas Distribution Act 1999 (GDA).

On October 28, 2009 EGNB applied to the Board pursuant to Sections 52 and 56 of the GDA for an order or orders approving changes to the Small General Service Residential Electric (SGSRE), Small General Service Residential Oil (SGSRO), Small General Service Commercial (SGSC), General Service (GS), Contract General Service (CGS), Contract Large Volume Light Fuel Oil (LFO), Off-Peak Service, Contract Large Volume Off-Peak Service and Natural Gas Vehicle Fueling Distribution rates.

As part of its application EGNB requested an interim order under Section 40 of the Energy and Utilities Board Act (EUB Act), authorizing the changes in distribution rates to come into effect on January 1, 2010.

The first rate application by EGNB under the GDA was filed on Dec 31, 1999. The New Brunswick Board of Commissioners of Public Utilities, in a decision dated June 23, 2000, approved the initial distribution rates and approved a market-based approach for setting distribution rates during the Development Period. Under this non-traditional market-based approach the distribution rates are set in an attempt to provide customers with target savings as compared to an alternative fuel i.e. the burner tip cost to the customer on an annual basis would be below the competing fuel costs. The objective of the market-based approach is to provide customers with sufficient incentive to convert to, and continue to use, natural gas.

Customers of EGNB were notified of the current rate application on their bills and a notice was published in the four daily newspapers in the province advising the public of a pre-hearing conference on December 7, 2009. The notice also set out the procedure to be followed by interested parties should they wish to intervene in the proceedings.

At the pre- hearing conference the following parties were granted formal intervenor status:

Atlantic Wallboard Ltd.  
Department of Energy  
Enterprise Charlotte  
Flakeboard Company Ltd.  
Ganong Bros. Ltd.  
Killam Properties Inc.  
Town of St. Stephen  
Public Intervenor

In addition Fundy Linen Service was granted informal intervenor status.

At the pre-hearing conference the Board rejected EGNB's request for a paper hearing and determined that there would be a full oral hearing. At that time EGNB requested that the Board, pursuant to Section 40 of the EUB Act, approve the rate increases subject to the final decision. The Board heard arguments on this issue on December 21, 2009 and subsequently denied the request for the interim order.

On January 11, 2010 EGNB submitted a second rate application to the Board. In that application EGNB requested approval of a change to the distribution rate for the Contract Large Volume Heavy Fuel Oil Class (HFO). The Board determined that it would hear the two matters concurrently and issue one decision.

A public hearing was held in Fredericton on beginning on March 30, 2010.

During the hearing certain specific proposals were made which related only to the LFO class. These proposals related to the distribution rate and the size of the first block for that class. The Board has determined that it will be more efficient to issue two decisions. The present decision will deal with all classes except for the LFO class. A second decision will be issued in the near future dealing only with issues relating to the LFO class.

## **Decision**

At a public hearing in May of 2009 the Board undertook a review of the Market-Based formula which resulted in adjustments intended to make the application of the formula more transparent and consistent. As a part of that process the Board ordered that the information supporting the calculation of the natural gas commodity price, used in the formula, be submitted to the Board for independent verification.

This was done for the current applications and the Board subsequently ordered changes in the prices for Enbridge Variable Product (EVP) for both applications. The Board found that the appropriate EVP price was \$8.2796/Gigajoule for the LFO class and \$7.7984/Gigajoule for the HFO class. EGNB was ordered to adjust its application accordingly and at the commencement of the hearing did so.

An underlying principle of the Market-Based formula is that it should approximate the costs of a typical customer. These costs depend, to a large extent, on the assumptions made. Among the key assumptions are those concerning typical annual energy consumption. EGNB calculates the typical annual energy consumption by taking the most recent 12 months of consumption of those customers in the class for a full year and calculating the average. In the present application the usage data included customers who consume more energy than the maximum allowed in a class on an ongoing basis. The Board finds that including customers who consume more than the rate class allows is not appropriate for estimate the use of a typical customer. The Board therefore, orders those

customers whose consumption exceeds the class limits from the formula calculation be excluded from any calculations for future rate adjustments.

Another key assumption is the usage profile of a class. The assumption in the formula for the HFO class is that use is constant throughout the year. The evidence filed by EGNB, however, indicates a distinct seasonal effect on use. The Board therefore orders that any future calculations of the Market-Based rate for the HFO class include the usage profile of the class.

Once the Board has determined that the formula was accurately and appropriately applied, it must then determine if the resulting rates are just and reasonable. Such an evaluation is not formulaic; it is not a simple trigger above which the rates are unjust or unreasonable in all cases. Rather, it is a balance of factors. The Board must consider the magnitude of the change, changes in total costs (burner tip costs), history of rate increases, as well as the total dollar impact on the customers. This also must be combined with a consideration of external factors such as the economic climate. With this combination of factors it is possible that similar percentage increases may be just and reasonable for one customer class but not for another.

Having considered all of the evidence the Board has determined that the applied for increases, with the amendments filed by EGNB, for the SGSRE, SGSRO and SGSC, GS, CGS and HFO classes are just and reasonable and approves them effective as of the date of this decision.

In coming to the determination that the rates applied for in these classes are just and reasonable the Board has considered both the interests of the customers and EGNB. It is noteworthy that no party attended the hearing to oppose any of these rate increases and that the Public Intervenor supported them, albeit with some caveats. The Board is satisfied that the present increases will minimize additions to the deferral account, while continuing to provide the target savings to EGNB's customers. Indeed, no party at the hearing brought evidence or asserted that this was not the case.

The Public Intervenor supported the increases sought, but argued that some of them should be phased in and that the larger commercial customers should be given an opportunity to negotiate rates with EGNB. Given that over six months has passed between the date of the application and the date of the decision, customers have had an opportunity to prepare for the rate increases sought. The Board will not order that any of the increases be phased in. With respect to the Order sought by the Public Intervenor to require negotiations between EGNB and the large customers, the hearing did not provide evidence of any support for this approach from EGNB or its customers and the Board will not make such an Order.

The increase sought for the HFO class is very large on a percentage basis, but the Board has no hesitation in holding that it is just and reasonable. The HFO class pays far less than any other class, it has had no increase in its rates since its inception and in dollar terms, the increase is relatively small.

A separate decision setting out the LFO rate will be issued in the near future.

As a result of the forgoing the following rates are approved effective on this date:

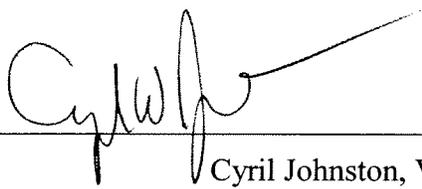
<b>Customer Class</b>	<b>RATE : \$ per Gigajoule</b>
SGSRE	\$8.3846
SGSRO	\$10.7106
SGSC	\$11.5142
GS	\$12.4158
CGS	\$11.8155
HFO	\$0.6357

Dated at the City of Saint John, New Brunswick this 30<sup>th</sup> day of April, 2010.



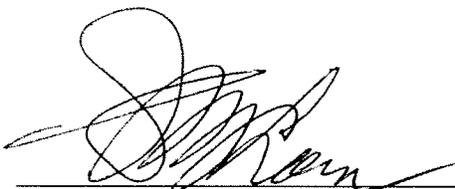
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Raymond Gorman, Q.C., Chairman



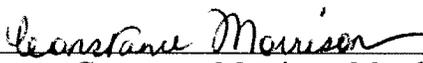
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Cyril Johnston, Vice-Chairman



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Edward McLean, Member



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Constance Morrison, Member