



DECISION ON MOTION

IN THE MATTER OF an application dated January 15, 2010 by Enbridge Gas New Brunswick Inc., for approval of the Cost of Service Study.

JULY 13, 2010

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

REGISTERED PARTIES:

Enbridge Gas New Brunswick Limited Partnership -----
Atlantic Wallboard Ltd -----
Department of Energy-----
Flakeboard Company Limited-----
Public Intervenor-----
NB Energy and Utilities Board – Counsel-----

REPRESENTED BY:

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

Panel:

Chairman: Ray Gorman, Q.C.
Vice-Chairman: Cyril Johnston
Members: Don Barnett
Robert Radford, Q.C.

Board Secretary: Lorraine Légère

Background

The New Brunswick Energy and Utilities Board (Board) has scheduled a hearing into the Cost of Service for Enbridge Gas New Brunswick Limited Partnership (EGNB) to determine how to allocate the costs between different customer classes. The hearing is part of a series of hearings that the Board has scheduled in connection with EGNB. As directed, EGNB filed a Cost of Service Study along with proposed customer classes and rate design on January 15, 2010.

Atlantic Wallboard Limited (AWL) and Flakeboard Company Limited (FCL) as intervenors in this proceeding have jointly filed the evidence of Mr. John Reed to be used at the hearing.

By Notice of Motion dated June 17, 2010, EGNB requested that portions of Mr. Reed's report not form part of the record for this proceeding. Specifically, EGNB requested that the Board remove Q&A 32, 34, 35-42 and the corresponding conclusions in Q&A 43 under the headings "Deferral Account Recommendations" and "Overall Policy Recommendations." The motion was heard on July 6, 2010.

EGNB argues that the Board has already determined that issues related to the Recovery Period for the Deferral Account (Q&A 32, 34) and issues related to the transition from Market-Based to Cost-Based rates (Q&A 40, 41, 42) will be dealt with in separate hearings. They also assert that other issues (Q&A 35, 36, 37,38, 39) are beyond the scope of the hearing.

Decision

The Board has dealt with motions of this nature in the past. As indicated in a ruling dated April 3, 2009:

The Board is extremely reluctant to rule on the relevance of evidence in advance of a hearing. The present case is a rare instance where the evidence in question is not only clearly outside the scope of the hearing in question, but also falls squarely within a topic upon which the Board has stated it will deal with in a subsequent proceeding.

Evidence is only admissible if it is relevant and will be of assistance to the Board. The Board must balance the potential for assistance with any potential harm. It is clear that, in this case, the harm to be considered is that the hearing will be expanded beyond the intended scope of the Cost of Service. The result of such an expansion is that EGNB will be forced to prepare evidence to counter the assertions made by Mr. Reed in his evidence. Associated with this expansion is also the potential to waste time and resources.

Mr. Reed summarizes his recommendations under three headings: Recommended Changes to the Cost of Service Study; Deferral Account Recommendations; and Overall Policy Recommendations.

EGNB asks the Board to not admit as evidence the Deferral Account Recommendations, the Overall Policy Recommendations and the preceding questions and answers detailing Mr. Reed's views on these subjects.

The issue is one of relevance. Mr. Reed recommends that the Cost of Service Study be split into two parts, one for current costs and one for deferred costs. His recommendations relating to the deferral account may provide rationale for his recommended changes to the Cost of Service Study. At the very least, parties should be permitted to argue at the hearing that his deferral account recommendations do provide such rationale.

The Board will permit Mr. Reed's Deferral Account Recommendations and the questions and answers in support of these recommendations to be entered as evidence.

The Board cannot perceive any connection between Mr. Reed's Overall Policy Recommendations and the Cost of Service Study. These opinions may be valuable to the Board at some point in the future, but they are not relevant to the proceeding relating to the Cost of Service Study.

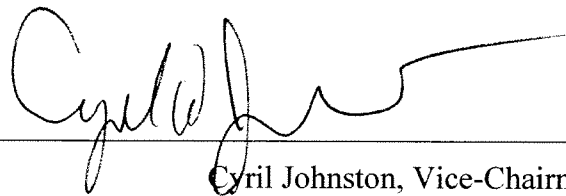
Mr. Reed's section headed "Overall Policy Recommendations" together with the Questions and Answers 35 to 42 will not be admitted as evidence.

The Board wishes to make it clear that the Deferral Account Recommendations and the sections in support of these recommendations are being admitted only for the purpose of supporting Mr. Reed's views on the Cost of Service Study. The Board will not make any rulings relating to the deferral account recommendations in this proceeding and EGNB need address them only if they so choose and only in the context of whatever support they may provide for Mr. Reed's opinions on the Cost of Service Study.

Dated at the City of Saint John, New Brunswick this 13th day of July, 2010.



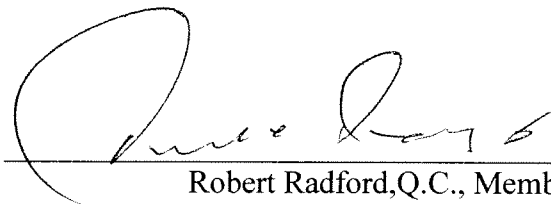
Raymond Gorman, Q.C., Chairman



Cyril Johnston, Vice-Chairman



Don Barnett, Member



Robert Radford, Q.C., Member