

NEW BRUNSWICK BOARD OF COMMISSIONERS OF PUBLIC UTILITIES
IN THE MATTER OF An Application dated August 11, 2003 by Enbridge Gas New
Brunswick Inc. in respect to consideration of a Rate Reinstatement Mechanism

Held at Board Premises, Saint John, N.B.

October 16th 2003, 10:00 a.m.

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

COMMISSIONER: J. Cowan-McGuigan

COMMISSIONER: Jacques A. Dumont

COMMISSIONER: Ken F. Sollows

..... CHAIRMAN: Good morning, ladies and
gentlemen. This is a discussion day that was commenced by an application of
Enbridge Gas New Brunswick in reference to a rate reinstatement mechanism.

The pre-hearing conference was held on the 26th of September of this year. And
we have had a paper hearing since then. And the parties are together today just to add
a little oral argument if it is deemed to be necessary to what has been set forth on
paper.

So could we have appearances please for Enbridge Gas New Brunswick?

MR. HOYT: Len Hoyt from McInnes Cooper for Enbridge Gas New Brunswick. I'm joined by Tim Walker who is the Manager of Corporate Affairs at Enbridge Gas New Brunswick.

CHAIRMAN: Thank you, Mr. Hoyt. Competitive Energy Services?

MR. SORENSON: John Sorenson with Competitive Energy Services.

CHAIRMAN: Thank you. Province of New Brunswick as represented by?

MR. BARNETT: Don Barnett representing the Department of Energy, Province of New Brunswick, Mr. Chairman. And we are all back off vacation.

CHAIRMAN: I'm glad you preempted me on that one,

Mr. Barnett.

Irving Energy Services Inc. is not represented. We do however have a letter from Messrs. Stewart McKelvey Stirling Scales. Mr. Stewart, have all the parties gotten a copy of that? I believe he did copy people.

And Mr. O'Connell is here as Board Counsel.

Mr. Hoyt, do you have anything you wish to say?

MR. HOYT: We are open in terms of how the Board would like to proceed. We can address points raised in the letter from Mr. Stewart and Competitive Energy's submission, if that would --

CHAIRMAN: Let me try and truncate it a little bit, if I could. Because in my reading of the documents in front of us, why I sense that subject to a couple of caveats the parties are in favor of what Enbridge has applied for.

Is that a fair assessment, subject to a number of caveats --

MR. SORENSON: Yes.

CHAIRMAN: -- Mr. Sorenson?

MR. SORENSON: Yes, from Competitive Energy Services.

CHAIRMAN: Mr. Barnett, we haven't heard anything from you folks. But is that fair, from your point of view?

MR. BARNETT: That is from our point of view too,

Mr. Chairman.

CHAIRMAN: And my reading -- and anybody who disagrees -- I think that is what Mr. Stewart was saying as well. So the question is really just to deal with what those caveats may be.

And in deference to Mr. Sorenson, who has chosen to come today, perhaps we could ask him to address first what caveats or restrictions should be made if we were to grant the application as applied for.

Go ahead, Mr. Sorenson.

MR. SORENSON: Thank you, Mr. Chairman.

Competitive Energy Services continues to support the

ability to have a rate flexibility and the ability for a rate mechanism to go up and down. We clearly believe that it benefits the marketplace, will continue to help stimulate the market with natural gas conversions.

Our only issue is the notification period of which the ability to raise or decrease rates up and down. For example, what has been requested is seven days where Enbridge has the ability to raise rates up whether albeit it 25 percent or up to the full maximum tariff.

That will probably translate into approximately 30 days. Because Tim (Mr. Walker) was kind enough to walk me through the whole process.

But again, our clients -- we have polled our clients. And again, they all support the ability to increase -- excuse me, decrease rates or have that flexibility. However, again an extended time frame, more in the 90-day period, our customers feel is more adequate.

CHAIRMAN: Okay. Mr. Sorenson, Mr. Walker has not walked the Board through the time frame. But let me just try and be practical here.

Does every seven-day period equal 30 days or -- I mean, if we wanted to get to the 90 days you are talking about, what sort of notice would be required? Would it be two months or --

MR. SORENSON: Yes. I think it would be 45 to 60 days, sir.

CHAIRMAN: 45 to 60. I'm sure Mr. Hoyt will have something to say about that.

Any other comments you wish to make?

MR. SORENSON: Again the only other -- in closing again we support the ability to decrease rates or move them up according to the market.

So that would be it. It is just the timing. The notification period is the only issue we have.

CHAIRMAN: Mr. Barnett, do you have any comments?

MR. BARNETT: No, sir. Only -- well, one I guess. In terms of the period for notification, some extended period from the seven days may be appropriate, sir.

But people -- I think the key part is the rates will never exceed the rates approved by the Board. And the rates can in fact go down with the rate rider.

And I was somewhat surprised that we hadn't already addressed this issue of returning it back to the rate established by the Board or some closer to that at some period of time after that.

But the whole idea that an adequate period of time, we support that. But we would leave that up to the industry to determine what is appropriate.

People are budgeting their energy requirements on an

annual basis, I would suggest, and particularly in the case of the Province of New Brunswick.

Therefore, if they budget that on the basis of what is the rate approved the Board, if there is any rate rider on the downward shift, it is to the benefit of the budget. But it cannot exceed the budget, I would suggest, sir, because it can't exceed the rate as approved by the Board.

MR. SORENSON: Mr. Chairman --

CHAIRMAN: Yes.

MR. SORENSON: -- may I respond?

CHAIRMAN: To that?

MR. SORENSON: To one comment that he made. I concur with Mr. Barnett's comments regarding budgeting. And again

Mr. Walker was kind enough to walk me through his process, which again I apologize that he has not done to the Board.

But one of the concerns with our customers was just that. If the rates do go down and they start to change or re-reflect their budgets, again if they take into consideration a decreased rate, it then goes back up, hence then again there is a cost structure that they have to explain to somebody higher up in the food chain, if you will.

Mr. Walker was kind enough to say to me that all our budgeting should be done based on the maximum rates, and

view any type of decrease in those rates as a bonus or an improvement against their budget. And hence I guess that actually can be considered.

But again I will go back to our original point. And that is just the timing on notification. We believe the seven days is just too short.

CHAIRMAN: Thanks, Mr. Sorenson, again. Mr. Hoyt, would you and/or Mr. Walker, would you also address -- let me see. I'm just trying to find out from this letter what Irving --

MR. HOYT: We would propose to address the five conditions that Mr. Stewart suggests.

CHAIRMAN: Yes. Please go ahead.

MR. WALKER: I can start with the letter, Mr. Chairman.

CHAIRMAN: Yes. Go ahead.

MR. WALKER: And the first point that they raised was that the rate reinstatement mechanism be approved only for the remainder of the development period.

Enbridge Gas New Brunswick agrees with this point but wishes to clarify that the development period as laid out by Mr. Stewart does in fact end on December 31st 2005 subject to EGNB coming to the Board with a possible extension and the Board approving that extension. That date isn't firm and fast. But at this point we don't have

a problem with the statement itself.

The second point Mr. Stewart raises basically deals with controls to ensure that our commodity marketing arm doesn't have any more or less knowledge of a pending rate change than any of the independent marketers.

I would submit that in a volatile marketplace, which is what this is trying to address, any such advantage could only be perceived to be very short in any event. We are dealing with a month-to-month evaluation.

We would make a decision within a month on whether we are going to go forward or not. We would make that decision very quickly and have to submit that two weeks before the end of the month for a billing proposal. So in fact there would be very little chance of any significant timing advantage.

However, to put I think the independent marketers at rest, I think we would be willing to commit that Enbridge Gas New Brunswick staff, whether in the commodity or the distribution arms of the business, wouldn't disclose publicly to any customer or potential customer a potential rate rider or rate reinstatement until we have submitted it to the Board and to the gas marketers themselves. That way we would be putting everybody on the same footing. And there would be no --

CHAIRMAN: Let me stop you there, Mr. Walker.

MR. WALKER: Sure.

CHAIRMAN: Are you saying that you would suggest the procedure be that when you inform the Board that you -- and coincident with that, at the same time you inform the marketers?

MR. WALKER: Not only -- the answer is yes. That would give them the additional two-week notification period. And that is entirely consistent with the existing revenue adjustment rate rider condition that was actually put on us in the Board decision of June 23rd 2000. It is completely consistent.

I will move on to the third point raised by Mr. Stewart, which is that he wants the principal postage stamp rates to be maintained. There is no other way to say it. EGNB agrees with that point. We are not proposing anything to change that.

Number 4, Mr. Stewart discusses the interplay between two rates and that it must be reviewed by the Board to ensure that customers' interests are protected.

I admit EGNB is not entirely clear as to the meaning of what Mr. Stewart's concern is. But I will try to address it as best we can.

We point out that the Board, in the existing revenue

adjustment rate rider mechanism -- and we are suggesting that the rate reinstatement be a mirror of that -- already has the ability to address potential issues through its approval subject to exceptional circumstances.

If the Board in fact finds exceptional circumstances it may take an interest in it. And it may in fact at the point not approve, and ask more questions. That is already in place. And I think that that should give the Board comfort, that it has a mechanism today that can deal with I guess an issue raised by Chris Stewart.

In addition we mustn't lose sight that the interplay of the rates -- we have an EUG, Enbridge utility gas offering that is regulated. The price is -- the calculation is entirely regulated subject to the gas distributor marketing regulation. And we have a distribution rate that is regulated by the target process that we have in front of you today.

So in fact these two things combine to protect the customers' interests, since we aren't proposing anything to put aside the target rates. The ceiling will always be the target rates. And customers' interests are therefore protected.

For number 5 I think Mr. Stewart and Irving are simply concerned that this is a first step in a longer process.

I can state for the record that EGNB at this point has no intention of seeking any changes to the target rate-setting process.

We are not proposing this be a first step in raising any rates above the target rates. And having said that, I think that would put that one to rest.

If you would like, I can move on to --

CHAIRMAN: Please.

MR. WALKER: -- I guess the point raised by Mr. Sorenson of Competitive Energy. I certainly understand Mr. Sorenson's concern. However, I do want to clarify that in the couple of pieces of correspondence, we have referred to a one-week notification period.

In fact this rate reinstatement being a mirror of the revenue adjustment rate rider, we are actually proposing a two-week notification period. It goes to the Board and to gas marketers two weeks in advance.

And the Board has agreed or has stated in its decision for the revenue adjustment rate rider that would approve one week in advance of the effective day. So in fact I think there is a bit of confusion there. So already we are dealing with about a 14-day period.

In addition to that, and I think this is where Mr. Sorenson was referring to walking through the process, if

a rate becomes effective at the beginning of a billing month, which at this time coincides with a calendar month, you will have a four-week period where a customer will not receive a bill with any new rates on it until the end of that billing month and actually a couple of days after that.

That leaves you with approximately a six to six and a half week period before a customer sees his first bill with that amount on it.

Now if a gas marketer or anybody is concerned that the customers are not being I guess notified -- and I guess we have specific customers in mind. I guess Mr. Sorenson represents City of Saint John and the Province.

I think the key here is they could be notified within that six-week period. That wouldn't be an issue. My rates and all of the clauses around my rates, rate rider, rate reinstatement are public documents. They would be on my website. We would notify in any event.

All gas marketers and all customers already know that my rates are subject to some volatility. They are market-based target rates. We have a notice of market-based rates that are already -- wording has been approved by the Board. We place that on a welcome letter. We place that on our website. And we put that in a bill insert at least

once a year.

So I think customers are aware that there is a certain amount of volatility they may be subject to. It is a large part of the gas marketer's job to go forward to potential customers especially who may attach to the system, explain to them the regulated environment that they are in, and guide them on decisions that they have to make, make sure that they understand the idea that a rate rider may be implemented and a rate reinstatement may also happen.

The target rates being set by the Board are already for customer interest protection. I think customers can bank for the next year that that is probably going to be the way the target rates are. So I think that addresses the immediate concern of how much notice we are proposing.

I guess addressing the other side of that, if something is proposed to actually extend that period beyond what we are picturing as the two-week notification period, EGNB feels that that would significantly impact its ability to address -- it would reduce its flexibility in addressing these volatile market conditions.

This whole scenario is built on the idea that during a month we assess market conditions and assess a rate rider as being necessary.

However, just after it is implemented, market has been changing quite significantly. And we have seen that in recent months and in recent years. It may come out that a forecasting error has happened and we don't need as much of that rate rider or all of that rate rider in the next month or the month after that. If we were to go through a six to eight -- even six-month period where we are trying to get the rates back up, I could be recovering that revenue back.

And unfortunately by deferring that or by foregoing that completely during that period, all that does is make my deferral account go up, which ultimately I have to collect in the next 40 years or 20 years from customers. It is just delaying the problem. And of course EGNB is ultimately at risk for collecting that from the customers.

So we see that as being a bit of an issue in addition to the fact that if an extensive or a protracted process were to happen, we would have to seriously consider whether it would be worth putting in the risky rate rider, that we may not get reversible for a longer period of time at all. And ultimately customers would not benefit from that.

We are looking for I guess an expedited process similar to what we have got today under the mandate and

under the protection of the target rates not being able to be exceeded.

Customers will net benefit for any rate rider, however short it is put in. And they are always protected by the target rates set by the Board.

And I believe that addresses all the points. Thank you.

CHAIRMAN: I have got one question for you, Mr. Walker. I know that from EGNB's point of view the ability to go ahead and do this with nothing -- only having just simply a notice that you want to have this done would be your position.

But how much of an imposition would it be upon you, when you do give the Board a notice, you give us a one-paragraph explanation as to what has driven your management decision to go with this change?

MR. WALKER: If you would like me to address that, I don't ever suggest that we would just give you the revenue adjustment rate rider form. I think there would always be a cover letter attached to that stating our intent to change rates, rate rider or rate reinstatement. I don't think we could deny you a paragraph.

But if I could be so bold, I think the reason will always be the same. And that is, and we set this out in

all of our evidence previously, that the key reasons for putting in a rate rider, and obviously the mirror rate reinstatement, will be due to customer attachment and assessing that price is the key driver in what is currently driving customer attachment.

So if we assess customer attachment targets are being met or not being met.

CHAIRMAN: Would it not -- would you not also go a couple of sentences more and say, as you will note, the rate for the molecule has varied by this since the last time we did it, and therefore we have come up with this amount of an adjustment?

MR. WALKER: I certainly -- again I can't deny that a paragraph or a couple of sentences dealing with the volatility in recent months would be easy to provide. I guess the key is level of detail would depend on the circumstances at the time.

CHAIRMAN: Mr. Sorenson or Mr. Barnett, do you have anything you want to add as a result of Mr. Walker's explanation?

MR. SORENSON: Two or three things. First with the notification I want to make sure that he actually notifies agents, brokers, consultants, marketers.

Because again we are licenced as an agent, broker, consultant. And we are not a marketer, as we do not take

title of the molecules. We actually represent customers. So the notification should include our type of companies if we could.

MR. HOYT: But isn't Competitive Energy registered as a gas marketer under the Gas Distribution Act?

MR. SORENSON: We are licenced. And we have a pseudo name, I believe. We actually are licenced as a broker, agent, consultant company.

MR. HOYT: It would seem that the only list that Enbridge could use would be the list of registered gas marketers under the Gas Distribution Act. As I say, I believe Competitive Energy is on that list and --

MR. SORENSON: We are on that list, yes.

MR. HOYT: -- would receive the notice.

MR. SORENSON: Okay. That is fine. Second issue, I thought Mr. Walker did a very good job explaining the timeliness issue. Again if -- I have made our point very clear that we would want some longer period of time. But again I do understand the utility's issues as it relates to volatility.

Lastly I agree with the Board that some form of explanation should just be put in the document regarding volatility. And they can index it towards a national market like New York Mercantile Exchange or something

saying, you know, the gas markets have increased 25 percent over the past month, hence we would like to be able to reduce our rate by 25 percent. Something like that that would justify the rate mechanism to be increased or decreased.

CHAIRMAN: Thanks, Mr. Sorenson. Mr. Barnett?

MR. BARNETT: Mr. Chairman, I think the Province would support the view of having a brief explanation as to what was the cause behind the adjustment for the rate rider. On that point -- and that is probably the only point we would like to make, in addition to what Enbridge has said.

So we believe that addressing the price volatility is critical, as we are going into another -- and we know the situation in particular in regards to gas and in terms of this heating season. Because of the supply/demand ratio we are expecting to see some considerable price volatility this coming heating season.

So a shorter period of time I believe that is reasonable would be more appropriate than an extended period of time. Because we will lose the ability to be able to address price volatility.

CHAIRMAN: Good. Thanks, Mr. Barnett.

Well, thank you very much for coming today. The Board will reserve its decision but get it out very quickly.

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