

The Board of Commissioners
of Public Utilities of New Brunswick

IN THE MATTER OF a Hearing to review section 2.1 of the Open Access Transmission Tariff approved by the Board on June 19, 2003 and to review the Board's "open season" direction contained in its March 13, 2003 decision with respect to the said Tariff.

ORDER

WHEREAS the Board of Commissioners of Public Utilities of the Province of New Brunswick ("Board"), in response to an application by the New Brunswick Power Corporation ("NB Power") for approval of an open access transmission tariff, approved an Open Access Transmission Tariff pursuant to a decision of the Board dated March 13, 2003 ("Decision") and an Order of the Board dated June 19, 2003 which set the effective date thereof to be September 30, 2003 ("OATT");

WHEREAS NB Power filed an application by way of a letter, dated July 29, 2003, with the Board on July 30, 2003 in which NB Power requested the Board approve a revised section 2.1 of the OATT ("Letter Application");

AND WHEREAS, before the Board had an opportunity to respond to the Letter Application, a Certified Copy of Order in Council 2003-255 dated August 19, 2003 made pursuant to section 61 of the *Public Utilities Act* ("Order in Council") was filed with the Board on August 26, 2003;

AND WHEREAS the Order in Council requests the Board to review section 2.1 of the OATT and to review the Board's direction contained in the Decision that all transmission capacity that is not subject to a firm contract involving a party who is not affiliated with NB Power be subject to open season bidding no later than the fourth quarter of calendar year 2003 ("Open Season Direction");

AND WHEREAS The Board considers it to be in the public interest to consider suspending the requirements of the Open Season Direction and section 2.1 of the OATT until it has issued a decision on the review requested by the Order in Council.

NOW THEREFORE IT IS ORDERED THAT:

- (a) Pursuant to section 61 of the *Public Utilities Act*:
 - (i) NB Power shall forthwith file an application with the Board (“Application”), and
 - (ii) A public hearing on the Application shall be held commencing on December 1, 2003.
- (b) A public hearing shall be held on Monday, September 15, 2003 at which time the Board will consider the suspension of the requirements of
 - (i) the Open Season Direction, and
 - (ii) section 2.1 of the OATT,until such time as the Board further directs.
- (c) NB Power, on or before September 5, 2003, shall:
 - (i) serve on all participants in the OATT hearing,
 - (a) a copy of the Letter Application, and
 - (b) a copy of the Notice attached to this Order as Appendix 1, and
 - (ii) publish the notice, as shown in Appendix 1, in both official languages in each of the daily newspapers as identified in section (g) of this Order.
- (d) The Board shall hold a Pre-Hearing Conference in the Montague Room of the Saint John Trade and Convention Centre in Saint John, New Brunswick commencing at 10:00 o'clock on Wednesday, October 22, 2003, in the forenoon and continuing from day to day as necessary, where and when Intervenors and NB Power should attend and make representations as to the procedure to be followed prior to and during the hearing and as to any other relevant matters.
- (e) NB Power shall file with the Board on or before noon, Monday, September 29, 2003 its evidence in support of the Application, which shall include, as a minimum:
 - (i) A copy of each existing reservation contract or arrangement for transmission capacity, or

(ii) A summary of all existing reservation contracts or arrangements for transmission capacity, broken down so as to show, for each of the following four categories,

- (1) firm reservation contracts or arrangements with parties not affiliated with NB Power,
- (2) non firm reservation contracts or arrangements with parties not affiliated with NB Power,
- (3) firm reservation contracts or arrangements with parties affiliated with NB Power, and
- (4) non firm reservation contracts or arrangements with parties affiliated with NB Power,

including the number of reservation contracts or arrangements in each category, the date of expiry of each reservation contract or arrangement, and the volume of transmission capacity reserved in each reservation contract or arrangement.

(f) The Letter Application shall be considered at and form a part of the Application.

(g) NB Power shall publish the notice, in the form or substantially in the form attached hereto as Appendix 2, in both official languages twice in each of the following daily newspapers:

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|-----------------------|-------------|
| Times-Transcript | Moncton |
| L'Acadie Nouvelle | Caraquet |
| The Telegraph Journal | Saint John |
| Daily Gleaner | Fredericton |

And once in each of the following weekly newspapers:

| | |
|-----------------------------------|---------------|
| The Observer | Hartland |
| Le Madawaska | Edmundston |
| The/La Cataracte | Grand Falls |
| Kings County Record | Sussex |
| Sackville Tribune-Post | Sackville |
| Bugle (Henley Publishing Limited) | Woodstock |
| Saint Croix Courier | St. Stephen |
| Tribune | Campbellton |
| L'Aviron | Campbellton |
| Victoria County Record | Perth-Andover |
| Miramichi Leader | Miramichi |
| Northern Light | Bathurst |

The first date of publication shall be on or before September 29, 2003 in each of the daily newspapers and in the week of September 29, 2003 for each of the weekly newspapers.

- (h) A copy of the documents mentioned in this Order will be placed on file, for examination by interested parties during normal business hours, on September 29, 2003 in the offices of this Board and in all of NB Power's business offices in New Brunswick.
- (i) A copy of the Board's full order may be obtained by calling the Board at 506-658-2504 or by visiting the Board's website at www.pub.nb.ca.
- (j) Copies of the documents filed in respect of this matter may be obtained by calling Regulatory Affairs, NB Power at (506) 458-4050 or in writing to:

Regulatory Affairs
NB Power
P.O. Box 2000
515 King Street
Fredericton, NB E3B 4X1

- (k) Anyone intending to intervene must notify the Board, in writing on or before noon October 20, 2003, stating whether they wish to have formal or informal status, the choice of language for the hearing, and indicating the nature of their proposed intervention by sending such notice to the Board by email to general@pub.nb.ca, by fax to (506) 643-7300 or by mailing to:

Board of Commissioners of Public Utilities
PO Box 5001
15 Market Square
Suite 1400
Saint John, NB
E2L 4Y9

DATED at the City of Saint John this 26th day of August 2003.

BY THE BOARD

Lorraine R. Légère
Secretary
New Brunswick Board of Commissioners
of Public Utilities