

1 New Brunswick Board of Commissioners of Public Utilities
2
3 In the Matter of an application by the Atlantic Wallboard
4 Limited, for a Single End Use Franchise (SEUF)
5
6 Board Premises, Saint John, N.B.
7 April 4th 2006

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

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15 COMMISSIONERS: Jacques A. Dumont
16 James E. Bateman
17 H. Brian Tingley

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19 BOARD COUNSEL: Ellen Desmond

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21 BOARD STAFF: Doug Goss
22 John Lawton

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25 BOARD SECRETARY: Lorraine Légère

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28 CHAIRMAN: Good morning, ladies and gentlemen. This is in
29 the matter of an application by Atlantic Wallboard Limited
30 for an approval of a single end use franchise.

31 Could I have appearances please, first for the applicant?

32 MR. STEWART: Christopher Stewart for the applicant,
33 Mr. Chairman.

34 CHAIRMAN: Thank you, Mr. Stewart. You don't need to stand
35 up.

36 And we have one intervention. And that is from Enbridge Gas
37 New Brunswick. And who is appearing today?

1 - 2 -

2 MR. HOYT: Len Hoyt from McInnes Cooper on behalf of
3 Enbridge Gas New Brunswick.

4 CHAIRMAN: Thanks, Mr. Hoyt. I see a watching brief at the
5 back of the room.

6 MR. ZED: I'm in the public gallery today.

7 CHAIRMAN: There was a mumbling from the public gallery.
8 You can put that on the record.

9 Okay. Any preliminary matters, gentlemen?

10 MR. STEWART: Just a couple, Mr. Chairman. Just I wanted to
11 confirm in support of the application I think we had filed
12 an affidavit confirming compliance with the publication
13 order. And I just wanted to confirm that is in the
14 Board's record.

15 And as well, as referenced in the application, I believe that
16 we had filed the letter from the financing institution and
17 a letter of support from J.D. Irving which I --

18 CHAIRMAN: Is that a letter of support, Mr. Stewart,
19 frankly?

20 MR. STEWART: It is, Mr. Chairman.

21 CHAIRMAN: Well, okay. We will have a fulsome discussion.

22 The way I read it is that there is no guarantee by J.D.
23 Irving or warranty or anything. They support the
24 application. But you know, it is a financial thing. And

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- 3 -

2 that is why I bring that up. It is like somebody saying well
3 if you are in the Nicholson clan and you are a cousin and
4 those Nicholsons are all great fellows, why therefore yes,
5 sure, you can get that public franchise.

6 MR. STEWART: Well, I think, Mr. Chairman -- I don't think
7 there was an intention for there to be direct financial
8 support. I think that the financial circumstance is --
9 that is why there is a letter from the lending
10 institution.

11 So there is a clear confirmation of, you know, the ability to
12 finance, run, insure the facility. And there is a letter
13 from J.D. Irving Limited in support. And there is
14 confirmation of the gas bill.

15 CHAIRMAN: All right. I'm sorry. We will get into that
16 later on.

17 MR. HOYT: Mr. Chairman, just on that, we are a bit in the
18 dark. Because we don't have either of whatever it is you
19 are referring to.

20 CHAIRMAN: Yes.

21 MR. HOYT: So I would just ask that Mr. Stewart provide us
22 with copies.

23 CHAIRMAN: Well, yes. That is certainly part of the record.

24 And the Board -- the applicant has no argument against

1 Enbridge Gas New Brunswick being an intervenor, I presume.

2 - 4 -

3 MR. STEWART: Not being an intervenor per se. We do have
4 issues with the request in terms of how this application
5 should be processed or handled, but not with them being
6 granted intervenor status per se.

7 CHAIRMAN: Well, you know, I mean, Enbridge Gas New
8 Brunswick, the Board will simply say fine, you have
9 intervenor status in reference to this matter. And then
10 you can have whatever arguments you want about what role,
11 et cetera they should or shouldn't play.

12 Certainly, Mr. Hoyt, you get all of that of course. And I'm
13 sorry. It was here and when it is filed it is public
14 knowledge. You know, just pick up the phone and we will
15 send it to you. Because it is public knowledge.

16 MR. HOYT: Oh, yes. No. It is just we weren't aware of
17 anything. And we would always expect that the Board would
18 provide to us immediately.

19 CHAIRMAN: Okay.

20 MR. STEWART: Mr. Chairman, just for the record, I will
21 ensure that Mr. Hoyt is given a copy of the affidavit and
22 the letters.

23 CHAIRMAN: Yes. We have a copy of the affidavit of
24 publication in compliance, do we, Mr. Stewart?

1 MR. STEWART: You do. I actually have a photocopy here.

2 CHAIRMAN: Well, the Secretary will get it. I would just

3 - 5 -

4 like to check it and initial it and put it on and be part of
5 the record. And that is all.

6 That's fine, Mr. Stewart, We will put that on the record.

7 MR. STEWART: Are you going to mark that as an exhibit, Mr.
8 Chairman?

9 CHAIRMAN: No. I don't do that because it's part of the
10 formal documentation and it goes in a different file and I
11 don't have to lug it around.

12 MR. STEWART: Fair enough.

13 CHAIRMAN: April 4, isn't it. Okay. Anything else, Mr.
14 Stewart, on a preliminary basis?

15 MR. STEWART: No.

16 CHAIRMAN: No. Okay. Mr. Hoyt, from your -- all right. I
17 asked -- for instance, as I read what has been filed with
18 us, there is no difficulty with proceeding in a written
19 hearing fashion except for Enbridge would like to have
20 oral argument at the end, and that has been useful in the
21 past and, Mr. Stewart, do you have any problem with that?

22 MR. STEWART: Well with respect, Mr. Chairman, I do, I
23 guess. The concern -- and I have some comments or
24 submissions to make on the point generally, but the

1 concern from my client's perspective is whether there
2 needs to be any further process at all, be it further

3 - 6 -

4 written evidence or oral submissions on the point. I mean, I
5 appreciate that Enbridge has sought intervenor status, but
6 given the -- and I don't want to -- I can either embark on
7 my submissions now or not, but given how these -- the
8 legislation directs the Board to deal with these
9 applications, I query whether this process that is being
10 suggested is warranted or appropriate.

11 CHAIRMAN: Well I think you had better probably give your
12 submission.

13 MR. STEWART: Okay. Fair enough. And it will only take a
14 moment or two, Mr. Chairman.

15 This is an application for single end use franchise. The
16 application is, as applications go, reasonably detailed.
17 Section 13 -- or subsection 13(1) of the Gas Distribution
18 Act directs the Board in its process in dealing with an
19 application of this type, that it shall be decided by the
20 Board in a summary manner. And that's a directive of the
21 legislation. So the mandate imposed upon you is to deal
22 with this application in a summary manner.

23 Now the Board has not -- or there is no further guidance in
24 the legislation as to what a summary manner may mean, but

1 I would submit, and in fact do request this morning the
2 Board to grant this application without the need for any
3 further formal submissions or process beyond

4 - 7 -

5 what is said to the Board today. And I will just give you a
6 few reasons as to why I think that's appropriate.

7 First off, there is a precedent for proceeding in that fashion
8 and that is the grant of a single end use franchise to
9 TransCanada Energy. In that particular context, as I
10 recall, Enbridge Gas New Brunswick filed a letter of
11 comment but did not seek formal intervenor status. So
12 there is a precedent for proceeding in that way. That's
13 not new ground we are ploughing here.

14 The only one requesting this additional process at least at
15 this point is, as I understand it, Enbridge Gas New
16 Brunswick. So I look at the notice of intervention that
17 Enbridge has filed with the Board and in paragraph 4
18 particularly thereof, Enbridge says, a single end use
19 franchise would negatively impact on Enbridge Gas New
20 Brunswick's general franchise. So that's the only comment
21 made.

22 Well I'm not sure I understand exactly what negative impact
23 might mean. The only one, quite frankly, that we can
24 envision is that it might negatively affect some revenue

1 that they might receive from distribution fees if a single
2 end use franchise isn't granted. But with respect, that's
3 not revenue lost. That's revenue that Enbridge never had.

4 - 8 -

5 And let's be clear that the franchise -- the general franchise
6 for local distribution that Enbridge Gas New Brunswick has
7 has always been subject to the existing single end use
8 franchises, and the potential for new ones to be granted
9 by the Board. So there are no rule changes here. This is
10 a very routine application and even if it could somehow be
11 seen as a negative impact on the Enbridge general
12 franchise, it's an impact that has long since been
13 envisioned and should come as no surprise.

14 In this particular application, unlike some others, there is
15 also no issue of the potential load of gas consumption
16 that is being considered in the single end use franchise
17 being used to anchor new local distribution. And the
18 classic example is the Flakeboard mill in St. Stephen.
19 Arguably in that context the issue about whether the
20 Flakeboard mill did or did not get a single end use
21 franchise and whether or not Enbridge had the ability to
22 serve that customer to anchor load to facilitate gas
23 distribution in St. Stephen. That's not in issue here.
24 There has been local gas distribution in Saint John for

1 years now. So that's not an issue.

2 And I'm not sure that the consideration of the Board should
3 necessarily turn on this fact, but it is a fact that what
4 we are talking about here is so-called old gas.

5 - 9 -

6 The gas that will be consumed at Atlantic Wallboard's proposed
7 gypsum plant is gas that is already covered under the
8 auspices of the Irving paper mills single end use
9 franchise.

10 So Irving paper has the existing right to take that gas
11 directly off Maritimes Northeast pipeline and burn it at
12 the paper mill. As it turns out, the paper mill is
13 consuming all the gas that it technically has the right to
14 use. This gas is not going to be -- it's not going to be
15 consumed at the paper mill, it's going to flow someplace
16 else. It's not going to flow into local distribution.

17 MR. HOYT: Mr. Chairman, with respect, there is a whole lot
18 of evidentiary information that Mr. Stewart is putting
19 forward here that hasn't been tested or no opportunity has
20 been given to test it.

21 CHAIRMAN: Let him finish, Mr. Hoyt.

22 MR. STEWART: It's all in the application. I mean the gas
23 supply is clearly going to come from J.D. Irving, both
24 from its contract for its existing supply and its

1 transportation on Maritimes Northeast pipeline. And that
2 is spelled out in some detail in the first couple of pages
3 of the application and in Section 9 of the application on
4 the bottom of page 7.

5 So once again it comes back to the theme that this

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2 isn't with respect gas or gas distribution that in our
3 submission Enbridge has any interest in or had any
4 interest in.

5 Now the Act for the most part is silent upon what the Board is
6 to consider when it grants a single end use franchise.

7 The Act says you may grant it and you are to grant it in a
8 summary manner.

9 And I suppose we can read into that the Board's overall
10 responsibility to consider the public interest as to
11 whether or not it is a good thing to grant the
12 application. That seems to be, I would submit, a fair
13 conclusion.

14 Well, if this application is granted it is going to facilitate
15 the use of an existing big industrial facility. And the
16 proposal here is to, as the application spells out, there
17 is a program in place to turn the old Saint John
18 Shipbuilding property into a so-called green industrial
19 park.

20 The proposal, as the application confirms, is to take waste
21 gypsum from the Coleson Cove electrical power facility,
22 which will normally go in a big hole in the ground, and
23 make wallboard out of it, and to do that in a most
24 environmentally friendly way by using natural gas as a

1 fuel. But that is only economic if you can transfer the

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- 11 -

2 gas under the basis from Irving Paper single end use franchise
3 to a new one granted Atlantic Wallboard.

4 So there is going to be jobs created, part of the green
5 industrial park, using the waste gypsum from the Coleson
6 Cove facility.

7 And I guess my next to final comment, Board members, is there
8 are no secrets here. And we are all aware that Bill 28 is
9 before the Legislature. Bill 28 is a proposed amendment
10 to the Gas Distribution Act of 1999 which would eliminate
11 my client's right to apply for a new single end use
12 franchise.

13 Now that is not law yet. But the bill has received second
14 reading. And the house is now sitting. I don't know when
15 that bill is going to come into effect. All I know is
16 that it is not in effect today. And our application was
17 filed in January.

18 So the reality is that while normally -- I mean, my client --
19 we have nothing to hide. We are prepared in a typical
20 case to embark on a process if need be. But the situation
21 you have this morning is you have an Act which directs you
22 to deal with the application in a summary manner in the
23 context of having legislation or a proposed legislative
24 amendment which would eliminate our right potentially to

1 have this application.

- 12 -

2 So the effect of, you know, approving this proposed schedule
3 might very well be to deny the application. And I
4 appreciate that neither my client nor the Board can affect
5 what the Legislature is going to do in Fredericton. But
6 that is a fact.

7 So the Act directs you to deal with it summarily. The effect
8 of putting in place a process, we would normally say what
9 is the harm, will be to potentially kill the application.

10 That is the context in which you decide whether or not
11 you grant our motion to grant the application on the basis
12 of what is before the Board already.

13 The final piece to the puzzle is what has Enbridge said? What
14 is Enbridge going to do with this process? They could
15 potentially string it out. And I'm not necessarily
16 suggesting anything untoward. But that could be the
17 practical consequence of this.

18 And furthermore they have not indicated -- and perhaps Mr.
19 Hoyt can enlighten us in a few minutes. But they have not
20 indicated what it is they are going to say.

21 And quite frankly, I can't envision or fathom anything that
22 they are going to say during this process other than well,
23 if you don't get the franchise we can make a little more
24 money. And with respect, that is no basis upon which

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- 13 -

2 to deny the application.

3 The requirements set out to grant the application in my view

4 are met by what has already been filed with the Board. I

5 think the application is clear. If the Board has any

6 questions please feel free. We are prepared to deal with

7 it.

8 The Board has the ability, and I'm sure will, impose whatever

9 terms and conditions it wants on the grant of a franchise.

10 We are obviously prepared to accept whatever appropriate

11 or reasonable terms and conditions that you impose in the

12 public interest.

13 But to embark on a process for no, I would submit, for no good

14 reason, other than to potentially delay us to kill the

15 application, or to run contrary to the directive that is

16 imposed in the legislation, in my view is not. It is a

17 waste of time and money. And the consequences could be

18 significant, consequences to this application and to the

19 plan as a whole.

20 So if it is necessary to make a formal motion then do so, that

21 the Board not establish a more drawn-out process and

22 consider the application as filed as directed by the

23 legislation and I would submit grant the application as

24 requested.

1 CHAIRMAN: Mr. Stewart, you are I guess fortunate in that

2 - 14 -

3 you were only a casual visitor at the hearing that we just

4 concluded that went on for 55 days. And with seriousness,

5 this Board has to ascertain what is in the public

6 interest, that there is no test.

7 I mean, once again, it is like the old legislation that was in

8 place under auto insurance that we had to administer. It

9 just simply said the Board shall regulate auto insurance

10 rates period.

11 MR. STEWART: Yes.

12 CHAIRMAN: So we had to come up with a reasonable thing.

13 But I sat through a great deal of discussion about what

14 the public interest was in this province in today's world

15 vis-a-vis energy. So I just say that to you. And believe

16 me, if you had been there, why you would know of which I

17 speak.

18 Mr. Hoyt?

19 MR. HOYT: Thank you, Mr. Chairman. I guess I would like to

20 begin by just noting the cover letter from Mr. Stewart

21 that accompanied the application where he indicated that

22 he wanted to proceed as a paper proceeding and in as

23 timely a fashion as possible.

24 So I would suggest that the submission that things be dealt

1 with immediately is quite different than what accompanied
2 the application. - 15 -

3 I would like to refer to our intervention where we did in fact
4 indicate that we would leave it to the Board to determine
5 whether or not there would be an oral or written hearing.
6 But we did indicate following that that in doing so we asked
7 the Board to consider the uniqueness of the application
8 and the seriousness of the issues being addressed.

9 There hasn't actually been a full procedure involving a single
10 end use franchise. As you know, the Flakeboard matter
11 began but was then settled.

12 The TransCanada Energy application which Mr. Stewart referred
13 to, there was an application. There were in fact at the
14 prehearing no active intervenors.

15 CHAIRMAN: How long ago was that?

16 MR. HOYT: That was in January of '05 I think. January of
17 '05 or '04. January '04.

18 CHAIRMAN: Yes.

19 MR. HOYT: And we would suggest that given the uniqueness
20 and the seriousness and the long-term consequences to
21 EGNB, based on the information that is provided, that
22 Atlantic Wallboard may in fact be Enbridge's largest
23 customer.

24 So this is a very significant matter for Enbridge.

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- 16 -

2 And we would suggest that at the end of the interrogatory and
3 evidential phase, that there may be more questions.

4 And we would suggest, as the Board has done in the past, that
5 they should leave it open for the parties to make
6 submissions following that phase of the proceeding, to
7 make submissions as to whether or not an oral proceeding
8 is in fact required.

9 We are not suggesting that it would be. And a completely
10 written process may be fine subject of course to a request
11 that it end with oral argument.

12 But the Board has in the past allowed parties at the end of
13 the interrogatory evidence to make submissions as to
14 whether an oral hearing is required. And I would suggest
15 that given the importance of this issue, that the Board
16 consider that.

17 With respect to the schedule that was circulated this morning
18 for the parties' comments, what really is missing from
19 that is the opportunity for Enbridge to submit evidence.

20 Again I guess the only analogous proceeding is the Flakeboard
21 application where in fact the Board without a prehearing
22 set a schedule which did involve the applicant's evidence
23 and a series of interrogatories.

24 The intervenors were then given the opportunity to

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- 17 -

2 submit their evidence on which they were asked

3 interrogatories. And then it led to an oral hearing. And

4 we would suggest that a proceeding similar to that should

5 in fact be used in this case.

6 So Mr. Stewart suggesting that this is all an effort to delay

7 their application, I would suggest that it is the -- the

8 request that is being made is that it be treated -- that

9 it be done exactly in the same way that it was done with

10 that Flakeboard application.

11 Subject to one point. He mentioned the pending amendments

12 before the Legislature to in effect make an amendment to

13 the Gas Distribution Act that would fundamentally affect

14 the granting of single end use franchises. It doesn't

15 take them away. But it certainly would affect them.

16 That bill was introduced in December. It was given first and

17 second reading. The Legislature is now in session and can

18 be expected to deal with that bill. It seems odd to go

19 ahead with this application in the face of that

20 legislation.

21 We are not suggesting that the proceedings shouldn't begin.

22 But for the ultimate disposition, whether it is the oral

23 hearing or a final argument to take place while that bill

24 is still before the Legislature does seem odd to

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- 18 -

2 us.

3 And so we would suggest that the final disposition date
4 actually not be set until mid June when the Legislature,
5 over the past couple of years, has risen. From the
6 application there is no projected in-service date. As far
7 as we can tell, Atlantic Wallboard is still in the
8 environmental phase.

9 And it would seem somewhat analogous to the Board's delay in
10 the OATT hearing, when you wanted to see what the
11 Electricity Act was in fact going to say. I have got an
12 excerpt from the decision in that case where in fact you
13 adjourned the proceeding for a month or a month and a half
14 until you at least knew what the legislation was --

15 CHAIRMAN: I have no intention of going through that again,
16 Mr. Hoyt.

17 MR. HOYT: Going through what?

18 CHAIRMAN: Starting a hearing which was totally based upon a
19 piece of legislation that hadn't even been tabled in the
20 house, but that it was coming, and we had to get ready. I
21 mean it's ridiculous because we were dancing with
22 windmills for about four months there. So that's not a
23 good example.

24 MR. HOYT: Well in this case though we actually have what

1 the amendments will provide for.

- 19 -

2 CHAIRMAN: Yes. But they brought the changes in and it was
3 read at least the first time in June of a year ago, if my
4 memory serves me correctly. And then they let that die on
5 the order paper. And then they come back again. But the
6 exact provisions have changed slightly.

7 MR. HOYT: Well I think the current amendments that are
8 before the house are -- they deal with a lot of different
9 things and they propose to deal with the granting of
10 single end use franchises in a different way.

11 CHAIRMAN: But was that also not in the bill that got first
12 reading in the previous session of the Legislature?

13 MR. HOYT: Well there were previous amendments made to the
14 Gas Distribution Act, a number of which in fact actually
15 were enacted, but the single end use franchise changes
16 weren't made at that time.

17 CHAIRMAN: Maybe it was a LNG franchise

18 MR. STEWART: No, that's new.

19 CHAIRMAN: Pardon me.

20 MR. STEWART: That's new. That wasn't up before, I don't
21 believe.

22 CHAIRMAN: Okay. Well I will go look at it, find out what
23 it was. It's vague in my memory. Sorry, Mr. Hoyt. Go
24 ahead.

1 MR. HOYT: With respect to Mr. Stewart's arguments about

2 - 20 -

3 Section 13 referencing the decision by the Board in a summary
4 manner, I again refer to Mr. Stewart's cover letter where
5 it was proposing in fact a paper proceeding. And I would
6 suggest that the summary manner simply requires that the
7 proceeding be conducted as expeditiously as the Board's
8 calendar permits.

9 Section 72(d) of the Gas Distribution Act requires the Board
10 to ensure procedural fairness. We are looking for the
11 opportunity for the Board to hear both sides. And again,
12 I use the Flakeboard application for the single end use
13 franchise schedule as probably the best precedent.

14 As to the submission that the application be granted today
15 without further submissions, I just refer to the notice of
16 prehearing where, you know, the publication indicated that
17 the purpose of today's proceeding was essentially to
18 determine whether there should be an oral hearing or not.

19 We seem to be going a fair bit further now to be at
20 requesting that the application in fact be granted.

21 And again the precedent of TransCanada Energy I think is quite
22 different given the fact that there were no active
23 intervenors at the prehearing. Clearly Enbridge did file
24 a letter of comment that indicated that they wouldn't be

1 participating for reasons set out in that

2 - 21 -

3 letter of comment. So it's quite different than this

4 situation or in fact the Flakeboard application where

5 Enbridge attended fully intending to actively participate,

6 and unfortunately the parties got together, worked out a

7 deal, and things have worked out great ever since.

8 Mr. Stewart in his submission referred to a provision in our

9 notice of intervention where we talked about the negative

10 impact on the general franchise of EGNB. Well I would

11 submit that that particular provision, having written it,

12 was intended to justify the intervenor status, which in

13 fact the Board at the beginning of this proceeding has in

14 fact granted to Enbridge. So in terms of that somehow

15 being the only comment that Enbridge made in its notice of

16 intervention I think is a little off.

17 And again I refer you back to the statement in that

18 intervention that indicated that this is a unique

19 application and the issues to be addressed are quite

20 serious. So it's certainly not the routine application

21 that Mr. Stewart described.

22 And I guess the last point that I will make is again Mr.

23 Stewart can't imagine what we might have to say. I think

24 if that's actually the case he will be quite surprised

1 when he receives our evidence. You know, as a sample of
2 it, I think, you know, the Board or Mr. Stewart

3 - 22 -

4 can refer to the evidence that was submitted by Enbridge in
5 the Flakeboard proceeding. I think it was very
6 significant and in fact the Province also submitted
7 evidence at that proceeding. So I think you can see from
8 the Flakeboard proceeding that this is a very critical
9 event in EGNB's evolution. There hasn't been one of these
10 contested single end use franchises applications dealt
11 with the Board and I think it's important, without efforts
12 to delay it, that there be a whole proceeding set, but
13 that the schedule proceed expeditiously, so that Mr.
14 Stewart's client's project isn't held up.

15 CHAIRMAN: Thanks, Mr. Hoyt. Okay. Any rebuttal?

16 MR. STEWART: Just briefly, Mr. Chairman. I mean, I guess
17 our submission is things should be done here exactly as
18 they were done in the TransCanada Energy matter, and in
19 fact once again if the Board checks its files and looks at
20 the application that was filed in the TransCanada Energy
21 matter and compares it with the one that was filed by
22 Atlantic Wallboard in this particular matter, you will
23 find they look remarkably similar.

24 CHAIRMAN: That's because you used it as a precedent,

1 correct, Mr. Stewart?

2 MR. STEWART: Precisely. And part of the reason I used it
3 as a precedent was because that was an application and

4 - 23 -

5 contained the information in detail upon which this Board had
6 -- saw fit to grant the application precisely in the way
7 that I'm submitting now.

8 And Mr. Hoyt is right. When I filed the application with the
9 Board that was our intention, that's why I requested a
10 paper proceeding. What I meant by a paper proceeding was,
11 here is the paper, we should proceed on it, with respect.

12 And that's precisely why I included all the information
13 that was included by TransCanada Energy in a very similar
14 fashion because the Board had in the past considered that
15 sufficient to warrant the grant of a single end use
16 franchise.

17 And, you know, ironically, the letter that was filed by Mr.
18 Hoyt in opposition to the TransCanada Energy single end
19 use franchise spoke grievously of impending amendment to
20 the legislation which would eliminate single end use
21 franchises which was withdrawn.

22 So I don't think his comment that we can consider things on
23 the basis of what may or may not happen in the future is
24 appropriate.

1 With respect, I think that there is sufficient information

2 before the Board and I may very well be surprised by what

3 Enbridge brings forward in this application, but I sat

4 patiently and listened to Mr. Hoyt

- 24

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6 make his submission and not once did he give us any hint about

7 what they are going to talk about. And certainly nothing

8 of any substance.

9 CHAIRMAN: Good. Thanks, Mr. Stewart. We will take a

10 break.

11 (Recess)

12 CHAIRMAN: Sorry it has taken so long. But I wanted to

13 canvass a number of subject matters.

14 The Board will set up a schedule which we have had Board staff

15 bring out and show you. Because if you read Section 13(1)

16 it says an application for single end use franchise made

17 to the Board under subsection 5(1) shall be decided by the

18 Board in a summary manner subject to such terms and

19 conditions that it considers necessary in the public

20 interest.

21 Well, frankly, we want to hear what the intervenor has to say

22 and the arguments of the applicant back to that as to what

23 does constitute the public interest at this time.

24 And Mr. Hoyt pointed out properly so that the only other time

1 that we have granted a single end use franchise there were
2 no interventions. And that was over two years ago. And
3 things have certainly changed in the energy industry in
4 that period of time.

5 So I will just read on the record what time frames we

6 - 25 -

7 have set up. And if there is any additional evidence by the
8 applicant, it will be filed and served on Enbridge on
9 Monday the 10th of April at noon.

10 Just an aside here, is electronically okay for all parties, do
11 the evidence electronically?

12 MR. STEWART: Sure.

13 MR. HOYT: That is fine with us.

14 CHAIRMAN: Okay. Well, the Secretary will be in touch with
15 you after. But she may want you to file a hard copy with
16 the Board after kind of thing. But certainly use
17 electronic form for meeting the deadlines and what not.

18 Interrogatories of all parties on Thursday the 13th by 4:30 in
19 the afternoon and then response of the applicant to IRs
20 from the party, from Enbridge that is, on Tuesday the 18th
21 at 4:30. Then written comments or any evidence that EGNB
22 wishes to file, it can be filed on Thursday the 20th. And
23 IRs by the applicant to EGNB would be Monday the 24th at
24 noon, to which Enbridge will respond on Thursday the 27th

1 at noon. And we will do oral argument just as soon as the
2 prehearing is concluded in reference to the other single
3 end use franchise that is being applied for on Friday the
4 28th of April. In other words, if that is over and done
5 with by 11:00 o'clock, why then we will start the argument
6 to ensure that we can get - 26 -

7 through on that day. And we have Commissioners here from as
8 far away as Edmundston. And they will be wanting to go
9 home on Friday night. So we will make use of that time.

10 Okay. Thank you. And we will adjourn until Friday

11 immediately after that other single end use prehearing on
12 the 28th of April.

13 (Adjourned)

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

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17 Reporter

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