



DECISION

IN THE MATTER OF an Application by New Brunswick Power Corporation pursuant to subsection 113(3) of the *Electricity Act*, S.N.B. 2013, c. 7, for approval of its 2018/19 Transmission Revenue Requirements.

(Matter No. 415)

December 13, 2018

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

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NEW BRUNSWICK ENERGY AND UTILITIES BOARD:

Chairperson: Raymond Gorman, Q.C.

Vice Chairperson: François Beaulieu

Member: John Patrick Herron

Counsel: Ellen Desmond, Q.C.

Chief Clerk: Kathleen Mitchell

APPLICANT:

New Brunswick Power Corporation: John Furey

INTERVENERS:

Algonquin Tinker GenCo:

Robert Blank

Brookfield Energy Marketing LP:

Julien Wu

Enbridge Gas New Brunswick:

Jeffery J. Callaghan

Houlton Water Company:

G. Peter Hyslop

HQ Energy Marketing Inc.:

Hélène Cossette

Maritime Electric Company, Limited:

Robert Younker

Northern Maine Independent System Administrator:

Kenneth Belcher

WKM Energy Consultants Inc.:

William Marshall

Public Intervener:

Heather Black

A. Introduction

- [1] Pursuant to subsection 113(3) of the *Electricity Act*, S.N.B. 2013, c. 7 (Act), the New Brunswick Power Corporation (NB Power) is required to apply at least once every three years to the New Brunswick Energy and Utilities Board (Board) for approval of its transmission revenue requirements.
- [2] The Board last approved NB Power's transmission revenue requirements and the resulting transmission rates under the Open Access Transmission Tariff (OATT) by decision dated May 13, 2015 followed by an Order dated July 8, 2015 (Matter 256). These rates were updated on May 6, 2016 to include an adjustment to the Algonquin Tinker GenCo (Algonquin) revenue requirements.
- [3] On July 6, 2018, NB Power filed an application and supporting evidence (Application), seeking an order approving its transmission revenue requirements and for approval of various rates under the OATT.
- [4] In accordance with a Board Order dated July 11, 2018, notice of this Application was provided by NB Power to existing transmission customers, interconnection customers, neighboring transmission providers and other interested parties. Notice of this Application was also placed on the NB Power and Board websites.
- [5] A pre-hearing conference was held on July 31, 2018, at which time eight parties were approved as interveners in addition to the Public Intervenor. A filing schedule was also approved by the Board, establishing a hearing date commencing on November 6, 2018.

B. Legislative Framework

- [6] This is the second application by NB Power for approval of its transmission revenue requirements since the Act came into force in 2013. The Board's mandate governing transmission can be found under Part 6, Division D of the Act.
- [7] This Application is different than the previous application in that NB Power is not requesting approval for any changes to the provisions of the OATT pursuant to subsection 113(2) of the Act. It is only seeking approval of changes to its transmission revenue requirements and rates.

During the course of the hearing, NB Power did commit to making an application in 2019 to address certain provisions of the OATT.

[8] While NB Power is responsible for the OATT, it is important to note that a “transmitter” is defined in the Act as NB Power and any other person who, at the time of the Act coming into force, owned a transmission system within the Province (or a subsequent owner). Algonquin currently is the only transmitter in the Province, other than NB Power, that has an approved revenue requirement.

[9] Subsection 113(14) of the Act provides as follows:

113(14) In the case of an application under this section in which a transmitter applies for approval of its transmission revenue requirements, the Board shall, at the conclusion of the hearing, approve or fix just and reasonable rates pertaining to the provision of transmission service and ancillary services and set the time at which any change in the approved transmission tariff is to take effect, and the Board shall base its decision on the following:

(a) if only one transmitter is a party to the proceedings before the Board,

(i) that transmitter’s transmission revenue requirements as approved or fixed by the Board, and

(ii) the other transmitters’ transmission revenue requirements that were last approved or fixed by the Board; and

(b) if more than one transmitter is a party to the proceedings before the Board, all those transmitters’ transmission revenue requirements as approved or fixed by the Board.

[10] The only transmitter in this proceeding seeking approval of its revenue requirements is NB Power. When approving or fixing new rates under the tariff, the Board must however consider both the revenue requirements of NB Power and the revenue requirements of Algonquin, as they were last fixed by the Board.

[11] The Board approved the Algonquin revenue requirements in its Decision of August 8, 2018 in the amount of \$3,213,024. This includes a generation connection fee of \$220,441, that is deducted, leaving a net revenue requirement of \$2,992,583.

[12] Subsection 113(15) also provides guidance on the factors for consideration in an application of this nature. This subsection provides as follows:

113(15) Subject to subsection (16), in making any order or decision in respect of an application under this section, the Board shall take into consideration

- (a) the policy set out in section 68,
- (b) the most recent integrated resource plan approved or deemed to be approved by the Executive Council under section 100,
- (c) the most recent strategic, financial and capital investment plan filed with the Board under section 101,
- (d) any requirements imposed by law on the Corporation that may be relevant to the application, including, without limitation, requirements regarding demand-side management and energy efficiency plans and renewable energy requirements,
- (e) any directive issued by the Executive Council under section 69 that may be relevant to the application,
- (f) any policy established by a regulation made under paragraph 142(1)(f) that may be relevant to the application, and
- (g) any other factors that the Board considers relevant.

C. Issues and Analysis

1. Revenue Requirements

[13] This decision will deal first with the request for approval of the transmission revenue requirements.

[14] In its revised evidence, NB Power has requested that the Board approve total revenue requirements of \$116.8 million. These costs reflect the amounts required to operate the transmission system in order to cover projected operation, maintenance and administrative expenses, amortization expenses, taxes, interest and other financing expenses and an allowable return on equity. NB Power sets out the particulars of its revenue requirements as follows:

NB Power Transmission & System Operator Division Revenue Requirements Fiscal Year Ending March 31, 2019 (in millions \$)	
Component	Amount*
Operations, maintenance and administration	\$ 49.6
Depreciation and amortization	23.4
Taxes	10.4
Finance charges	13.3
Allowable return on equity (net earnings)	20.2
Total Revenue Requirement	\$ 116.8

* Numbers may not total due to rounding.

[15] NB Power included its transmission revenue requirements in its 2018/19 General Rate Application (Matter 375). In the current filing, NB Power has proposed minor revisions to those revenue requirements and has provided evidence to support those revisions. No party challenged these revisions.

[16] There was general agreement amongst the parties that most of the forecasted expenses were prudent, with a couple of small exceptions. No party took issue with the expenses relating to Taxes, Finance charges and Allowable return on equity. The only areas that generated any challenge related to Operations, maintenance and administration (OM&A) and Depreciation and amortization.

a. Operations, maintenance and administration

[17] There were only two areas where OM&A expenses have materially increased since they were approved in Matter 256, being Labour and benefits and Hired services. There was no challenge to the increase to Hired services and the Board finds that the explanation for the variance properly justifies the increase.

[18] With respect to Labour and benefits, an issue arose during cross-examination involving two new positions relating to the Advance Metering Infrastructure (AMI) application. These positions are not required as the Board denied the AMI capital project approval request in the application in Matter 375. The Board finds that it would not be prudent to allow the cost of these additional positions and will therefore disallow an amount to reflect that cost.

[19] There was little evidence, however, as to the forecasted expense for the new budgeted positions related to AMI. Mr. Jeff Good, Director of Finance, Operations at NB Power, testified that, although he did not have the actual amount, he would estimate it to be between \$170,000 and \$200,000 annually. There is no other evidence to rely on with respect to the cost of these two specific jobs. It is known that the best available evidence indicates that the amount is at least \$170,000. The Board finds it reasonable to use that amount and disallows \$170,000 of the OM&A expenses from the revenue requirements.

b. Depreciation and amortization

[20] The second area that was challenged related to Depreciation and amortization. NB Power included \$2.97 million of costs for unassigned projects which were challenged by the Public Intervener's witness.

[21] Mr. Marc Montalvo, witness for the Public Intervener, was declared an expert in the areas of the U.S. Federal Energy Regulatory Commission pro-forma Open Access Transmission Tariff and the development of utility revenue requirements. His report stated those costs for unassigned capital projects should be disallowed. He further stated that there is no known or measurable basis provided in the evidence to include those costs in the revenue requirements and recommended their removal. He estimated that removal of this capital expenditure would result in a revenue requirement reduction of approximately \$94,000 (based on average balance of \$1,482,672 multiplied by the proposed weighted average cost of capital of 6.34 percent).

[22] NB Power filed rebuttal evidence explaining the \$2.97 million in costs challenged by Mr. Montalvo. The evidence stated that the total capital expenditures reflected the impact of changes in a number of capital projects resulting from competitive bid processes and newer information on site conditions. NB Power provided details of all positive and negative variances that exceeded \$500,000 on capital projects and those variances exceeded the \$2.97 million of costs in question.

[23] During cross-examination Mr. Montalvo withdrew his recommendation to remove those costs from the revenue requirements stating that the additional information in the rebuttal evidence explained them. The Board has considered the explanation provided in the rebuttal evidence and finds that it properly justifies those costs.

c. Allowable Return on Equity

[24] In this Application, NB Power requested a return on equity (ROE) of 10%, which is the same amount that was approved by the Board in Matter 256. The Public Intervener did not challenge the requested 10% ROE, but argued that subsection 113(15) requires the Board to take into consideration a number of factors when making an order or decision under section 113. She noted that Mr. Good confirmed that NB Power did not take any of these factors into consideration when requesting a 10% ROE in this proceeding.

[25] The Public Intervener recommended that future applications for approval of transmission revenue requirements include an explanation of the basis for the proposed ROE with a view to incorporating those factors that are set out in subsection 113(15), even if the application doesn't include a requested increase to the ROE percentage.

[26] In Matter 256, the Board addressed the issue of the acceptable range for the ROE and the nature of the evidence that would be required to establish a ROE "above" the lower end of the prescribed range. The Board stated:

[75] The issue of ROE was of significant concern, and was the subject of extensive cross examination. Subsections 113(10) and 113(11) direct the Board, for the purposes of fixing NB Power's transmission revenue requirements, to permit a ROE within a range prescribed by regulation, and to use a capital structure prescribed by regulation. The *General Regulation – Electricity Act* (N.B. Reg. 2013-67) prescribes a ROE range of 10% to 12%, and a deemed capital structure of 65% debt and 35% equity.

[104] In providing for a prescribed range of ROE and capital structure for the purposes of approving or fixing NB Power's transmission revenue requirements, the Legislative Assembly did not prescribe any other modifications or constraints to how the Board would determine a reasonable ROE. In the absence of a prescribed range, it would normally be incumbent upon the applicant to provide evidence, based on standard regulatory practice such as a CAPM model, as evidence of reasonableness.

[105] In this sense, the Board considers the prescribed ROE range as a floor and ceiling to what the Board would otherwise determine to be a reasonable ROE. If the Board were to find that a reasonable ROE were over the prescribed range, the Board would be inclined to set the ROE to 12%, and not below. Conversely, if a reasonable ROE were found to be under 10%, a corresponding result would be likely.

[27] In the absence of any evidence based on standard regulatory practice such as a Capital Asset Pricing Model (CAPM), the Board will approve the requested ROE of 10%. As noted above in Matter 256 decision, the Board finds that a 10% ROE is a floor, and as such, does not require any supporting evidence. If NB Power applies for a ROE in excess of the floor, it must provide evidence-based standard regulatory practice such as a CAPM or Discounted Cash Flow analysis.

d. Revenue Requirements Conclusion

[28] The Board approves the revenue requirements applied for, less the \$170,000 reduction that is detailed above. In addition, the most recent approved revenue requirements of Algonquin must be added to the approved amount to arrive at the final revenue requirements.

2. Ancillary Services

[29] NB Power is also seeking approval from the Board for the revenue requirements and rates associated with the Ancillary Services that are found in Schedules 1, 2, 3, 5 and 6 of the OATT. The requested rates are as follows:

Ancillary Services	Schedule in OATT	Proposed Rates
Scheduling, System Control and Dispatch	Schedule 1	Network: \$0.2035/kW-month Point-to-Point: \$0.234/kW-month
Reactive Supply and Voltage Control	Schedule 2	Network: \$0.132/kW-month Point-to-Point: \$0.151/kW-month
Automatic Generation Control (AGC)	Schedule 3(a)	\$8.211/kW-month
Load Following (LF)	Schedule 3(b)	\$8.176/kW-month
AGC and LF for Wind Power Generators	Schedule 3(c)	\$0.44/MWh
Operating Reserve – Spinning	Schedule 5	\$8.164/kW-month
Operating Reserve – Supplemental (10 min.)	Schedule 6(a)	\$3.908/kW-month
Operating Reserve – Supplemental (30 min.)	Schedule 6(b)	\$3.908/kW-month

[30] Mr. Marshall, representing WKM Energy Consultants Inc. (WKM), stated that he had concerns about certain capacity based ancillary services (CBAS) rates and the use of the ISO-New England forward-market to reduce the cost of the proxy units. He believes that the current rate should not change because there could be unintended consequences resulting from the proposed rates. In his view, those unintended consequences are going to be harmful to different parties in the market. He concluded that the current rates are adequate and that they should continue. No other party took issue with the proposed rates.

[31] The Board notes that neither WKM nor any other intervenor filed evidence on this issue, nor did WKM propose an alternative methodology. The proxy analysis used in this Application was approved by the Board in Matter 256. The Board finds that the methodology used by NB Power in this Application continues to be appropriate and accordingly will approve the rates applied for.

3. AGC and LF for Wind Power Generators – Schedule 3(c)

[32] Schedule 3(c) of the OATT sets the rate for the ancillary service of AGC and LF for non-dispatchable wind power generators.

- [33] In this Application, NB Power is proposing a rate of \$0.44/megawatt hour (MWh) for Schedule 3(c) services. NB Power states that this is based on costs incurred in 2017/18 and reflects the System Operator's total cost of ancillary services capacity less the cost that the System Operator would have incurred if there had not been wind farms purchasing Schedule 3(c) services.
- [34] Mr. Scott Brown, Senior Engineer II, Transmission & System Operator for NB Power, testified that the expense for this service is simply a differential energy cost from a system dispatch with and without the wind. The cost differential is then divided by the MWh of wind energy to get a cost per MWh of produced wind.
- [35] The Board approves the proposed rate and finds it to be just and reasonable.
- [36] The rate charged under Schedule 3(c) has been the subject of debate in previous hearings. In Matter 256, NB Power had indicated that, in its view, the reported costs do not capture the full cost of service and that a different costing mechanism may be required. At that time, NB Power suggested that a cost study for Schedule 3(c) would be completed by the end of 2015. To date, the cost of service study has not yet been completed.
- [37] As indicated by Mr. Montalvo, it is in the interest of customers in New Brunswick that intermittent resources be treated fairly and that the rate for Schedule 3(c) services actually reflect the costs that are incurred.
- [38] The Board notes that the use of Schedule 3(c) services has generally been declining from a high of approximately 171,000 MWh to last year's 75,000 MWh. Historical data indicates that the actual cost of providing ancillary services has varied. The total revenue last year was \$22,360. Given the decreasing use of these services and the low amount of revenue, the Board will not require a study regarding Schedule 3(c) services until NB Power's next application for approval of its revenue requirements. Accordingly, NB Power is ordered to file the study with, or prior to, its next application under subsection 113(3) of the Act.

4. Small Generator Interconnection Agreement

- [39] In Matter 256, the issue arose as to whether NB Power should adopt the Federal Energy Regulatory Commission (FERC) standard Small Generator Interconnection Agreement (SGIA) into the OATT. As a result, NB Power was ordered to assess the need for SGIA and file a report with its findings.

- [40] NB Power did provide a report, stating that a SGIA was not required at this time. NB Power suggested that while there may be requests for generation connection under what is referred to as the LORESS (Locally Owned Renewable Energy Projects that are Small Scale), these projects do not require a separate SGIA. Moreover, it is not expected that there will be other generation projects outside of LORESS in the immediate future, and as a result, there is minimum need for a SGIA at this time.
- [41] No party took issue with NB Power's position on the SGIA. The Board is satisfied that the inclusion of a FERC standard Small Generator Interconnection Agreement is not required as the current connection agreement addresses the needs of generators at this time.

5. FERC Imbalance Methodology Impact Analysis

- [42] Energy Imbalance Service (OATT Schedule 4) is provided when a difference occurs between the expected and the actual hourly injection or withdrawal from the Transmission System. As approved by the Board of Commissioners of Public Utilities (PUB) in 2006, Energy Imbalance is settled at the marginal system cost.
- [43] In Matter 256, NB Power acknowledged that this approach was a deviation from the FERC pro forma OATT. The Board directed NB Power to submit an analysis in relation to Schedule 4 of the transmission tariff to the Board by December 31, 2015.
- [44] That report was filed as directed and updated in February 2018. This proceeding is the first opportunity to address this report and generated a lot of discussion amongst the parties.
- [45] The study, titled the *FERC Imbalance Methodology Impact Analysis* indicates that the total imbalance charges collected from customers from April 2010 through March 2015 using the current NB Power methodology was \$567,630. Applying the FERC penalty bands during the same period results in an increased collection of approximately \$5.6 million in imbalance charges from customers. There appears to be a significant difference in these two approaches and this requires further consideration.
- [46] There was insufficient evidence to deal with the imbalance issue during the course of this proceeding as NB Power only applied for a change to the revenue requirements and rates. NB Power stated that it would be bringing an application before the Board in 2019 to request changes to certain provisions of the approved transmission tariff.

[47] The Board directs NB Power to include evidence with respect to the Energy Imbalance Service Methodology as part of its 2019 application, at which time the Board will be better situated to consider this issue.

6. Regular Filings

[48] In the Decision of March 13, 2003, the PUB directed Transco (transmission division of NB Power) to file, or keep available for inspection by the Board, certain reports on a monthly, quarterly and annual basis.

[49] These reports continued to be filed to the present time. NB Power is proposing to eliminate or streamline these reporting requirements by providing annual reports only. It believes this change is appropriate since the Board has the opportunity to review all OATT related matters by way of a proceeding at least once every three years pursuant to subsection 113(3) of the Act. NB Power notes that this opportunity under the Act did not exist at the time of the 2003 Decision.

[50] Circumstances have changed since the original order was made. In the past, NB Power had been allowed a rate of return that had a high and a low range. It was useful for the Board to monitor how NB Power Transmission was adhering to that range. The *Electricity Act* changed in 2013 and because of that change in legislation, and the Board's decision relating to ROE in Matter 256, the information is no longer required on a monthly or quarterly basis.

[51] As a result, NB Power will no longer be required to provide monthly and quarterly reports to the Board with respect to its T&SO Division. The Board will continue to require the annual filings.

7. Other Matters

[52] Mr. Kenneth Belcher, President and CEO of Northern Maine Independent System Administrator, stated that the rates for network service and point-to-point service are different. He argued that the two services are the same and therefore the rates should be identical. He further argued that the difference in the two rates conflict with the principles of the FERC Order No. 888.

[53] The difference in the rates stems from the billing determinants applied in the approved methodology. Based on current forecasts, both network and point to point customers will pay their allocated portion of the revenue requirement.

[54] It is noted that the methodology used by NB Power in this Application is the same one approved by the PUB on March 13, 2003 and again by this Board in Matter 256. This issue was not fully canvassed at the hearing. The Board is not satisfied that all parties have had a fair opportunity to address the issue, nor was there sufficient evidence. For these reasons, the Board will not address this issue as part of this decision.

D. Conclusion

1. Approval of Revenue Requirements and Rates

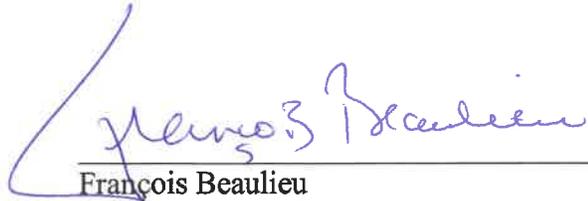
[55] NB Power is directed to file, for approval by the Board, its 2018/19 transmission revenue requirements and resulting transmission rates under the OATT in accordance with the decisions made in this proceeding. These revisions are to include the last-approved revenue requirements relating to Algonquin Tinker GenCo.

[56] Following its review of the above filing, the Board will approve the revenue requirements and fix just and reasonable rates pertaining to the provision of transmission service and ancillary services, and set the time at which the changes to the approved transmission tariff are to take effect.

Dated in Saint John, New Brunswick, this 13th day of December, 2018.



Raymond Gorman, Q.C.
Chairperson



Francois Beaulieu
Vice-Chairperson



John Patrick Herron
Member