



DECISION

IN THE MATTER OF an Application by Enbridge Gas New Brunswick Limited Partnership, as represented by its general partner, Enbridge Gas New Brunswick Inc. for approval to change its Small General Service, Mid-General Service, Large General Service, Contract General Service, Industrial Contract General Service and Off-Peak Service distribution rates, for approval of its 2014 Regulatory Financial Statements and for a determination as to whether or not the development period is over.

(Matter No. 306)

July 7, 2016

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

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NEW BRUNSWICK ENERGY AND UTILITIES BOARD:

Chairman:	Raymond Gorman, Q.C.
Vice-Chairperson:	François Beaulieu
Member:	Michael Costello
Counsel:	Ellen Desmond, Q.C.
Chief Clerk:	Kathleen Mitchell

APPLICANT:

Enbridge Gas New Brunswick Limited Partnership:	Len Hoyt, Q.C.
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INTERVENERS:

Arauco North America:	Christopher Stewart
Public Intervener:	Heather Black

A. Introduction

- [1] Enbridge Gas New Brunswick Limited Partnership, as represented by its general partner, Enbridge Gas New Brunswick Inc. (EGNB or the utility) filed an application with the New Brunswick Energy and Utilities Board (Board) seeking changes to its distribution rates for all classes of customers. The classes of customers include Small General Service (SGS), Mid-General Service (MGS), Large General Service (LGS), Contract General Service (CGS), Industrial Contract General Service (ICGS) and Off-Peak Service (OPS).
- [2] In addition to its general rate application, EGNB seeks approval of its 2014 Regulatory Financial Statements and a determination as to whether or not the development period is over. Other miscellaneous items shall be addressed in the decision.
- [3] In a partial oral decision dated April 27, 2016 (oral decision), the Board reduced the revenue requirement by approximately \$2,500. The Board concluded that this reduction was immaterial and approved the schedules of rates and tariffs (rates) as applied for by EGNB.
- [4] This decision provides reasons for the Board's oral decision respecting the 2016 distribution rates and addresses other issues arising out of this application.

B. Issues

- [5] This decision will address the following four issues:
1. The approval of EGNB's 2014 Regulatory Financial Statements;
 2. The approval of the revenue requirement and the proposed changes to the various classes of customers' distribution rates and tariffs;
 3. The status of the development period; and
 4. Miscellaneous items.

C. Analysis

1. Regulatory Financial Statements for 2014

- [6] EGNB is required to file its annual Regulatory Financial Statements for the Board's approval. The approval of the Regulatory Financial Statements for 2014 includes a retrospective review of the prudence of spending during the year.
- [7] An issue was raised during the proceeding in connection with EGNB's interest expense, which was over budget by \$434,000. Mr. Lavigne, Manager of Corporate Services for EGNB, testified that a portion of this expense was caused by short-term borrowing which was necessary because of an unavoidable delay in securing long-term debt. The Board accepts the explanation and finds this cost to be prudent.
- [8] In previous decisions, the Board has set an Operations and Maintenance (O&M) expense target. The Board approved the 2014 budget of \$11.684 million, which resulted in an O&M expense target of \$1.83 per gigajoule (GJ). The actual O&M expense was \$1.73 per GJ. The Board is satisfied that EGNB has met the O&M expense target for 2014.
- [9] Each year, the Board also assesses the prudence of capital expenditures as part of its retrospective review process. This is carried out using a calculation referred to as the system expansion portfolio (SEP) test. In order to pass the SEP test and be considered prudent, the revenues must exceed incremental costs by at least 4%.
- [10] Mr. Knecht, who filed a report and appeared as the expert witness for the Public Intervener, reviewed the details of EGNB's calculations of the SEP test for 2014. He stated the incremental revenues "were barely sufficient" to support the capital spending in 2014. He raised a number of issues that he believed warranted further investigation.
- [11] In response to Mr. Knecht's issues, EGNB filed revised SEP test calculations, which ultimately resulted in a 19% revenue excess. Since the revised calculations exceeded the required 4% by a considerable amount, the Board finds that EGNB has passed the SEP test for 2014.
- [12] The Board is satisfied that the spending in 2014 was prudent and approves the Regulatory Financial Statements, as filed.

2. Distribution Rates and Tariffs for 2016

- [13] In approving or fixing just and reasonable rates, the Board is governed by the *Gas Distribution Act, 1999*, S.N.B. 1999, c. G-2.11 (Act) and associated regulations. Pursuant to subsection 4(1)

of the *Rates and Tariffs Regulation – Gas Distribution Act, 1999* (Regulation), the Board shall, when approving or fixing just and reasonable rates for each class of customers, adopt the cost of service method, provided that the rates for any class not exceed the rates that would apply to that class of customers if determined through the market based method.

[14] In recent years, with the exception of the SGS class, all rate classes have had their rates set using the cost of service methodology because the cost of service rates did not exceed the market based rates. For the purpose of this rate application, the Board will again conduct a review of both the cost of service rates and the market based rates for each class of customers.

a. Cost of Services Rates

[15] The starting point to establish cost of service rates is determining the revenue requirement for the test year. The revenue requirement should provide a reasonable opportunity for EGNB to recover its costs, including a reasonable return on prudent investments.

[16] The approved revenue requirement is then allocated among the classes of customers based on a cost allocation study. Once a revenue requirement has been allocated to various classes, rates for each class of customers are established based on forecasts of throughput.

[17] The Board has considered all of the expense items filed in the revenue requirement. A number of those expenses are reviewed below.

i. Depreciation Costs

[18] EGNB retained Gannett Fleming Canada ULC (Gannett Fleming) to conduct a depreciation study related to distribution plant and general plant accounts as of December 31, 2014. The purpose of the study was to determine the annual depreciation accrual rates and amounts for book and ratemaking objectives.

[19] The recommendations proposed by Gannett Fleming rely heavily on its broad experience and the approved average service life parameters of similar natural gas utilities. The outcome of the study is a composite depreciation rate for depreciable property of 2.52%. This is a decrease from the existing composite depreciation rate, resulting in a recommended increase in asset life. The proposed depreciation changes will reduce the revenue requirement by \$2,300,000.

[20] Mr. Kennedy, Vice President of Gannett Fleming, testified that the results of the depreciation study are expected when such studies are completed 10 to 15 years after a startup of a utility. He stated that EGNB is now entering into a period where it is appropriate for the depreciation rates to be based on attained ages and estimated average service life characteristics for each

depreciable group of assets. This generally results in longer average service estimates and reduced depreciation rates.

- [21] Mr. Knecht reviewed the depreciation study and acknowledged that Gannett Fleming has significant expertise in utilities' depreciation methods. He stated that the proposals are not outside of a range, established by Gannett Fleming, and has no basis to object to Gannett Fleming's recommendations.
- [22] Mr. Knecht did offer a cautionary note. He stated while a depreciation study will reduce rates in the short-term, "... this change simply extends the period over which the costs are recovered, and it increases the dollar returns to invested capital."
- [23] The Board is satisfied that the depreciation method and rates as recommended by Gannett Fleming are within the range used by distribution utilities and are reasonable in the circumstances. The Board approves EGNB's depreciation costs, as filed.

ii. Executive Risk Insurance

- [24] EGNB's revenue requirement includes an amount of \$97,000 allocated to it by Enbridge Inc. for executive risk insurance. EGNB is covered under a \$250 million directors & officers' liability insurance program, part of a consolidated insurance program arranged by Enbridge Inc. The allocation is based on the number of directors for each company, without regard to the size of each affiliate company.
- [25] A report from Marsh Canada Limited was filed by EGNB. It concluded that, as a standalone entity, EGNB would incur costs of approximately \$355,000 for an insurance policy similar in size to Enbridge Inc.
- [26] In the 2014 general rate proceeding, the Public Intervener opposed EGNB's proposed increase in executive risk insurance costs and continues to oppose the full allocation of corporate executive insurance costs in this proceeding. Mr. Knecht stated that Enbridge Inc.'s corporate allocation method for assigning these costs amongst its subsidiaries does not reasonably reflect the relative risk of each affiliate. He recommended that the Board scale back the recoverable costs to \$37,000 based on the amount allowed in 2015, together with a modest adjustment for inflation.
- [27] As in previous rate applications, the Board finds that allocating executive risk insurance costs based on the number of directors is not appropriate.
- [28] The Board finds that the executive risk insurance costs are to be set at \$37,000, which results in a reduction in the revenue requirement of \$60,000.

iii. NBEUB Assessment Costs

- [29] EGNB has forecasted the Board assessment costs at \$698,000 for 2016. Mr. Lavigne testified the forecasted costs were derived from amounts used in its previous four budgets.
- [30] The Public Intervener argued that recent historical actuals are a more reasonable basis to determine the forecasted costs. In Mr. Knecht's opinion, the forecasted costs should be reduced to the actual four-year average at \$616,000 or the average for the past two years at \$563,000. He recognized however that the Board is in a better position of estimating the costs for 2016.
- [31] The Board has reviewed the regulatory assessment costs and finds the forecast to be reasonable. The Board, therefore, approves the amount of \$698,000.

iv. Capitalization of Sales and Marketing Expenses

- [32] In past proceedings, the Board has considered sales and marketing expenses, as well as their capitalization rates. EGNB has budgeted sales and marketing expenses at \$1,272,000 for 2016, which represent a reduction of \$78,000 from 2015.
- [33] EGNB has filed a capitalization study in this proceeding. PricewaterhouseCoopers LLP (PWC) was retained by EGNB to review the 2015 study. PWC generally validated the capitalization study but acknowledged that it did not provide an audit or opinion on EGNB's capitalization approach.
- [34] EGNB proposes to reduce the capitalization rate for sales from 88.8% to 69.6% and for marketing from 94% to 87.6%. These numbers were verified by PWC. The capitalization rate reduction for sales is due to more time being allocated to communicating with existing customers. The reduction for marketing is due, in part, to more research on retaining existing customers.
- [35] Mr. Knecht stated that the overall capitalization rate for O&M costs has declined to 20.6% from the 25-30% range in the past four years; however, he had reservations about the capitalization strategy, in particular for marketing costs. In his view, the utility is not in growth mode.
- [36] Mr. Knecht also stated that it is very difficult to distinguish between marketing costs for the attraction of new customers and the retention of existing ones. He suggested that costs should be directly allocated to capital or expense, whenever it is possible. When it is not possible, he suggested that these costs be allocated on a 50/50 basis to capital and expense.

- [37] In the December 2014 decision, the Board approved the sales capitalization percentage at 88.8% but indicated that more robust evidence would be required to maintain this level. EGNB has subsequently reduced the percentage to 69.6% and provided accompanying justification. The Board approves the sales capitalization percentage, as filed.
- [38] The Board also addressed marketing capitalization in the December 2014 decision and excluded costs for market research, sponsorships, and other operating and administrative expenses.
- [39] In this application, market research and sponsorships expenses were once again included in capitalized amounts. Capitalization percentages of 76% for market research and 100% for sponsorships were used.
- [40] The Board finds that EGNB has not provided the evidence required to justify capitalization for both market research and sponsorships at the proposed rates. The Board finds, however, that it is reasonable to allocate some portion of these costs to future revenues because costs incurred to attract new customers are likely to provide benefits in the long term for the overall system. The Board concludes that the capitalization percentage rates for both market research and sponsorships shall be set at 25%.

v. Contract Demand Charges

- [41] The rates for CGS and ICGS customers include an amount for a contract demand charge. This represents a monthly charge to reserve capacity on the utility's pipeline.
- [42] Each October, EGNB analyzes its CGS and ICGS customers' peak day usage for the previous 12 months. The peak day usage then becomes the contract demand. An evaluation is done again in April, and customers may be assessed a "ratchet" charge if they exceed their peak contract demand. This establishes a higher contract demand charge which applies both retroactively and for the remainder of the contract year, until a new contract demand is set in November.
- [43] Mr. Knecht questioned EGNB's budgeted demand revenues for the CGS and ICGS classes. He notes, that in past years, actual/forecast contract demand has exceeded EGNB's budget. He stated that, based on the available data for 2014 and 2015, the budgeted demand revenues for the CGS class should be increased by 4.1% or \$61,000 and the ICGS class should be increased by 11.3% or \$403,000.
- [44] EGNB argued that contract demand should not be adjusted as proposed by Mr. Knecht. It submitted that the utility does not budget for "ratchets" as they are almost totally weather dependent. In addition, it argued that Mr. Knecht had not taken into account that customers can change rate classes, which could be the cause of changes in contract demand.

[45] The Board concludes that the variances between budget and actual for the 2015 year are not material given the difficulty associated with weather abnormalities and movement between rate classes. The Board finds that the contract demand forecasting process continues to produce the most reliable forecast.

[46] The Board approves the 2016 contract demand charges, as filed.

vi. Miscellaneous Revenues

[47] Miscellaneous revenues include a number of items, including red-lock fees, which are paid by customers who have their natural gas service locked in accordance with the utility's policy. The actual revenues associated with these fees in 2013 and 2014 were \$40,000 and \$46,000, respectively, and the forecasted revenue for 2015 was \$27,000.

[48] EGNB did not budget any revenues associated with red-lock fees for 2016. Mr. Lavigne testified that in many cases, red-lock fees end up being written off.

[49] EGNB has forecasted and, more importantly, received red-lock fees since 2013. The Board does not accept EGNB's explanation concerning the uncertainty of their collectability as a reason for not forecasting revenue from red-lock fees for 2016. Based on forecasts and previous recoveries since 2013, the Board finds \$25,000 to be an appropriate amount of revenue for red-lock fees in 2016 and directs EGNB to include this amount in its revenue requirement.

vii. Residential Incentive Program

[50] EGNB's 2016 budget included a \$100,000 expense for a residential incentive program. This program, funded by ratepayers, will only be available to the SGS class of customers. EGNB proposes a maximum incentive cost per customer of \$2,000, which may be adjusted upwards or downwards during the year. The utility believes that this program will stimulate existing infill opportunities and attract new residential customers.

[51] Arauco is the only party who opposed this program. It argued that EGNB cannot afford to spend \$100,000 to attract 50 new residential customers, as the economics of the program are not "supportable".

[52] The Board is concerned with the payback period of 20 years associated with this program; however, it finds that it is in the interest of EGNB and its customers to make investments to acquire and serve new customers. The Board approves the residential incentive program and orders EGNB to report on the success of the program in the next rate application.

viii. Commercial Customer Retention Program

[53] EGNB's 2016 budget also included a \$500,000 expense for a commercial customer retention program. This program is targeted at the MGS, LGS, and CGS customers in order to protect the utility's revenue and customer base from erosion due to competitive threats. The program is identical to the 2015 program, except that program was funded by the shareholder and not the ratepayers. According to EGNB, last year's program was successful in protecting the customer base and preventing many customers from leaving the system.

[54] No party opposed the concept but Arauco did take issue with some aspects of the program. Firstly, Mr. Stewart argued that clear parameters were required to ensure that EGNB will be providing this program within a set of transparent rules when payments are made. Secondly, he argued that the amount for this load retention initiative should be set at \$200,000 instead of \$500,000.

[55] Dealing with the first issue, the Board notes that EGNB has proposed certain qualifying conditions for customers, as follows:

1. Customers must prove that they have been offered a competitive program in writing;
2. Customers must sign a contract with EGNB for a specific period of time; and
3. Customers must continue to use natural gas for a specific period of time or they must return all funds to EGNB.

[56] When questioned if a test exists to qualify customers for this program, EGNB's expert witness, Dr. Overcast, stated that it is prudent on the part of the utility to retain the customer rather than lose the customer in terms of its impact on the overall revenue levels for the remaining customers. This will require EGNB to evaluate what level of incentive is necessary to retain a customer on a case by case basis. In his view, this makes it difficult to establish precise parameters because every situation will be different.

[57] The Public Intervener supported this program and Mr. Knecht stated that EGNB has established sensible eligibility criteria for benefits under this program. He recommended the Board adopt the proposed mechanism on a pilot basis, to be reviewed in the next rate application.

[58] The Board is satisfied that this program is in the best interest of the utility and its ratepayers. In coming to this conclusion, the Board is aware that EGNB is facing extraordinary competitive threats from alternative fuel sources, mainly propane. The Board has also considered the fact that

last year's program was successful in protecting the customer base and preventing many customers from leaving the system. The above-mentioned conditions are reasonable and shall be applied by EGNB in its evaluation of the eligibility of a customer for the program.

[59] Dealing with the second issue and for the same reasons above, the Board is satisfied that the \$500,000 set out in the 2016 budget is reasonable and approves that amount.

[60] EGNB is directed to submit a quarterly report to the Board providing details of incentives paid under this program. This program will be reviewed in full in the next rate application.

ix. Revenue Requirement Summary

[61] The impact of the foregoing is a net reduction of the revenue requirement of approximately \$2,500, as summarized below:

1. Corporate Allocations: The expense for executive risk insurance is reduced by \$60,000;
2. Miscellaneous Revenues: Miscellaneous revenues are increased by \$25,000 in order to account for red-lock fees; and
3. Capitalization of Sales and Marketing Expenses: The capitalization rates for both research and sponsorship are reduced to 25%, resulting in an increased expense of \$82,500.

[62] As ordered in the oral decision, EGNB was directed to refile its Cost of Service Study with adjustments. The net reduction of approximately \$2,500, however, is immaterial and will not have an effect on the proposed rates.

(a) Allocation of Costs

[63] The revenue requirement must be allocated among the classes of customers, using a cost of service study. EGNB used the same principles and processes in the development of the 2016 Cost of Service Study as previously approved by the Board.

[64] The Board has reviewed the 2016 Cost of Service Study and approves the study, as filed.

(b) Forecasted Throughput for 2016

[65] Cost of service rates are calculated by dividing the total cost allocated to each class by the forecasted throughput for each class. EGNB filed its forecasted throughput of 6,002 terajoules for 2016. The Board finds the forecast to be reasonable and approves the 2016 forecasted throughput, as filed.

b. Market Based Rates

[66] Having considered the cost of services rates, the Board must now compare these rates with the market based rates. Subsection 4(1) of the Regulation directs the Board to determine the market based rate for each class of customers.

[67] EGNB has calculated the market based rates based on the Board approved methodology. The Board has reviewed EGNB’s calculations and finds them to be consistent with the approved methodology.

c. Comparison of Cost of Service and Market Based Methods

[68] In approving or fixing just and reasonable rates, the Board is required to adopt the cost of service method, provided that the rates and tariffs for any class of customers shall not exceed the rates that would apply to that class if determined by the market based method.

[69] The table below provides the comparison of methods for each class.

Classes of Customers	Market Based Rate (\$/GJ)	Cost of Service Rate (\$/GJ)
Small General Service	9.7188	24.7789
Mid-General Service	11.3094	11.9579
Large General Service	11.0883	4.9573
Contract General Service	6.7763	4.5067
Industrial Contract General Service	6.6755	2.6704
Off-Peak Service	8.4821	2.7699

[70] In proposing rates, EGNB adopted the appropriate methodology for each class of customers as set out in the Regulation. As a result, the Board agrees that rates for the SGS and MGS classes will be set on the market based method and rates for the other classes will be set using the cost of service method.

d. Rate Design

[71] In the rate design process, the rates generated by the market based formula and the cost of service study both represent the total costs per GJ to customers. These costs are allocated to customers' charges, demand charges, and delivery charges according to the rate design for each class.

i. Proposed Rate Design for 2016

[72] The rate design proposal for 2016 includes (a) retaining an existing fixed monthly customer charge rate for SGS, MGS, and ICGS classes; (b) applying a proposed rate decrease to the LGS class through the first block energy charge while increasing customer charges; (c) applying a rate decrease to the CGS and ICGS classes through the winter energy charge, leaving the demand charges unchanged; and (d) applying a reduction to MGS market based rates by implementing reductions to each of the two blocks of the energy charges, with a larger reduction for the tail block.

[73] The only rate design proposal in issue at the hearing was the appropriateness of the reduction in the MGS tail block energy charge. The Public Intervener suggested that the Board may wish to consider an alternative proposed by Mr. Knecht, which provides a larger reduction to the first block to smooth some of the discontinuity between MGS customers and smaller LGS customers with similar consumption.

[74] In response to Mr. Knecht's proposal, EGNB stated that larger MGS customers can obtain larger discounts with alternate fuels, and are therefore subject to greater competition. As a result, additional consideration was made for the second rate block.

[75] The Board accepts EGNB's explanation and finds the rate design proposal for the MGS class to be reasonable.

[76] The Board approves the rate design, as filed, and reaffirms its approval of the schedules of rates and tariffs as set out in the oral decision and that they come into effect as soon as practicable.

3. Development Period

- [77] In 2000 the Board approved the concept of the development period. A development period is a startup period for a new utility during which time it is not expected to operate in a mature manner while its infrastructure and customer base are being developed.
- [78] At that time, all rates were determined on a market based method, which generally meant that the revenues were below the utility's costs. Revenue shortfalls were allowed to be added to a regulatory deferral account.
- [79] In the December 2009 decision, the Board established a two-part test to determine if the development period was over. The first test was to determine whether or not the full costs were equal to or below the available revenue from approved rates (retrospective test). If the first test was not passed, EGNB remained in the development period. If the first test was passed, then it would be necessary to determine if revenues were sustainable in order for the utility to exit the development period (prospective test). In 2009 all rates were still determined on a market based method.
- [80] By contrast, in a mature utility, rates are usually set on a cost of service basis. In order to prepare for this eventuality, the Board ordered EGNB to develop a cost of service study for setting rates, which was approved in a decision dated December 21, 2010.
- [81] In 2012 the Regulation was amended requiring the Board to approve or fix just and reasonable rates for each class of customers by adopting the cost of service method, provided that the rates for any class does not exceed the rates if determined through the market based method. Since then, almost all classes of customers have had their rates set on a cost of service method where possible.
- [82] EGNB was ordered to address the issue of the continuation of the development period as part of this application. EGNB complied and is seeking an extension of the development period until the end of the general franchise agreement.
- [83] In determining whether or not the development period is over, the Board will consider whether the two-part test established in 2009 is still relevant in the current regulatory framework.
- [84] Dr. Overcast and Mr. Knecht both testified that the retrospective test was no longer determinative of whether or not EGNB is in the development period. No party argued for the continuation of the retrospective test.

- [85] The Board finds that the retrospective test is no longer relevant in the current regulatory framework. That test was established when rates were based entirely on the cost of competing fuels (market based method). Rates are now set prospectively using primarily a cost of service method, which is generally designed to fully recover the revenue requirement.
- [86] In contrast, most parties saw some merit in the continuation of a prospective test. In Dr. Overcast's opinion, it is unreasonable to determine that the development period is over when the potential for future earnings relies on market based rates.
- [87] Mr. Knecht agrees that it would be unreasonable to conclude that the development period is over. He stated that under the Regulation, the Board may face circumstances where it could not set rates sufficient to recover EGNB's revenue requirement. However, Mr. Knecht did conclude that, from a "practical perspective", the development period is over.
- [88] Mr. Stewart argued that the development period is over.
- [89] The Board agrees that from a "practical perspective", EGNB is no longer in the development period. The utility has modified its business strategy from significant expansion of plant, customers and load, to a strategy with minimal investment and cash generation. The utility's efforts are now focused on avoiding the loss of existing customers to new competitive threats, rather than developing new customers. In recent years, rates have been set by the Board that provided a reasonable opportunity for EGNB to recover its approved revenue requirement.
- [90] Despite the above finding that the development period is over from a "practical perspective", the Board finds merit in the perspective put forward by both experts of the potential impact of the Regulation. It creates the potential of an inability for the Board to establish rates that allow EGNB the recovery of its full approved revenue requirement.
- [91] As a result, the Board concludes that EGNB remains in the development period. The Board, however, must address changes in circumstances associated with the development period that have occurred subsequent to the establishment of the 2009 test (i.e. the use of cost based rates). As described by Mr. Stewart, the Board must also address the issue of double recovery, which refers to the possibility that EGNB gets both a reasonable opportunity to earn its revenue requirement when rates are set and an opportunity to use the regulatory deferral account in the event that there is a revenue shortfall in the same year.
- [92] In order to address these changes in circumstances, the Board establishes the following framework regarding the development period and the associated regulatory deferral account:

1. If the Board sets annual rates that allow for the recovery of the full approved revenue requirement, EGNB will not be permitted to add to the regulatory deferral account, to the extent allowed by regulation, for that year.
2. If the Board sets annual rates that do not allow for the recovery of the full approved revenue requirement, EGNB will be permitted to add to the regulatory deferral account, to the extent allowed by regulation, for that year. Any addition is not to exceed the forecasted shortfall in its revenue requirement.
3. The development period shall be over no later than the end of the current general franchise agreement.

4. Miscellaneous Issues

a. Flex Rates

- [93] In the December 2014 decision, the Board agreed that flex rates provided a potential benefit to the system. The Board stated that it would entertain an application by EGNB either before or at this proceeding to develop a process and criteria on how such a rate design would work.
- [94] In the present application, EGNB is proposing a flex rate load retention program that provides special or discounted rates to certain classes of customers exposed to competitive fuel alternatives. This program would be offered to existing non-residential customers.
- [95] Mr. Knecht supports this program, but has a concern with EGNB's proposal. The proposed mechanism does not allow a customer to take advantage of a flex rate without Board approval. In his view, this restriction will make it impossible for EGNB to grant a discount to a particular customer in mid-year, potentially losing customers to competition because they are not willing to wait for the next rate application in order to receive competitive rates.
- [96] Arauco agreed in principle with the proposed program, however, Mr. Stewart argued that there was a need to clearly establish parameters under which such a program might occur.
- [97] In the event customers leave the distribution system, the contribution to fixed costs are lost and are borne by other customers. The Board finds that this program will minimize the cost shift and lessen the risk that the utility becomes non-competitive vis-à-vis competitive fuel alternatives.
- [98] The Board approves the concept of a flex rate load retention program but concludes that clear parameters on when and how such a program would work have not been proposed to the satisfaction of the Board.

[99] The Board therefore directs EGNB to commence a process, with stakeholder input, to establish the parameters of this program. Once that process is complete, EGNB is to file the proposed details of the program for Board approval.

b. Intra-Company Transactions

[100] During the proceeding, there was extensive cross-examination associated with the proper classification of intra-company transactions. Mr. Stewart argued that attempting to assess changes in corporate allocations on a detailed basis was very confusing and that trends were unclear on a category by category basis.

[101] The Board agrees that the evidence provided in this proceeding is confusing and subject to varying interpretations. This confusion adds additional costs to the regulatory process.

[102] The Board directs EGNB to work with Board staff to establish a filing requirement to review intra company transactions on a more aggregated basis. This will enable the Board and parties to concentrate their efforts on substantive changes in real costs, rather than being concerned about items being changed, mixed, or re-described. This process is to be completed before the filing of the next rate application.

D. Conclusion

[103] The Board finds as follows:

1. EGNB's 2014 Regulatory Financial Statements are approved, as filed.
2. The 2016 Revenue Requirement is approved, subject to the adjustments in the oral decision.
3. The distribution rates are approved as applied for and have already come into effect pursuant to the oral decision.
4. The development period is continued with a new framework, as described herein, until the end of the current franchise agreement at the latest.

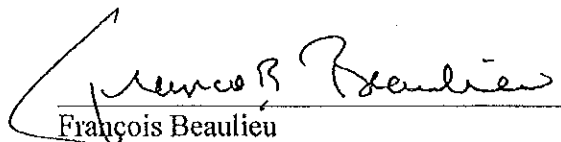
[104] The Board directs EGNB:

1. To submit a quarterly report to the Board, providing details of the incentives paid under the commercial customer retention program.
2. To commence a process, with stakeholder input, to establish the parameters of the flex rate load retention program, which will then be filed for Board approval.
3. To work with Board staff to establish a filing requirement to review intra-company transactions on a more aggregated basis.

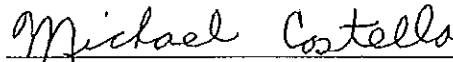
Dated in Saint John, New Brunswick, this 7th day of July 2016.



Raymond Gorman Q.C.
Chairman



François Beaulieu
Vice-Chairperson



Michael Costello
Member