



RULING ON MOTION

**IN THE MATTER OF a Review of the
Development Period for Enbridge Gas New
Brunswick Inc.**

Motions Day

October 7, 2009

NEW BRUNSWICK ENERGY AND UTILITIES BOARD

By letter dated September 29th, 2009, EGNB filed a Motion with the Board requesting that portions of the evidence prepared by Mr. Reed not be permitted to form part of the record in this proceeding. The Motion was heard on October 6th, 2009.

At the outset, it should be noted that the Board is reluctant to exclude pre-filed evidence. The Board prefers to determine the relevance and weight that should be given to any particular evidence after such evidence has been subject to cross-examination.

In this instance, the Board previously stated that parties could use the preliminary cost of service study to “frame the issues”. There was no explicit prohibition on an expert using information from the preliminary study for this purpose; therefore, the Board is not prepared to exclude portions of Mr. Reed’s report and as such the Motion is denied.

However, the Board takes note of Mr. Reed’s statement at lines 23 and 24 of page 10 of his evidence:

“I understand that the Board does not want to have to delve into the details of EGNB’s cost of service yet.”

Mr. Reed is correct.

The purpose of this hearing is not to rule on specific costs or their allocation or to establish new rates; nor is it for the purpose of determining whether the development period is over. The purpose of this hearing, as previously stated, is to address the following issues:

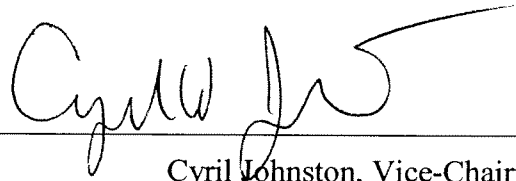
- What are the essential elements that define the development period?
- Can the approved Return on Equity be altered prior to the end of the development period?
- Can the development period end for one customer class without it ending for all customer classes?
- What are the criteria for ending the development period and how should those criteria be measured?

The specific costs and allocations in the preliminary cost of service study are preliminary, have not been offered as evidence or represented to be accurate, nor ruled on by the Board. In addition, the parties have been advised that EGNB need not defend the preliminary cost of service study during this proceeding. Such costs and allocations, as the Board has stated in previous decisions, are to be the subject of future proceedings. At that time all interested parties will have the full opportunity to present their views regarding specific costs and rates.

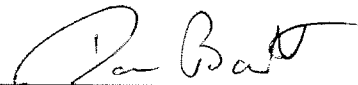
Dated at the City of Saint John, New Brunswick this 7th day of October, 2009.



Raymond Gorman, Q.C., Chairman



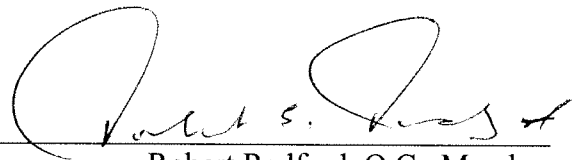
Cyril Johnston, Vice-Chairman



Don Barnett, Member



Edward McLean, Member



Robert Radford, Q.C., Member