



Office of the Public Intervener

A Unit of the Office of the Attorney General

Annual Report 2024-2025

OFFICE OF THE PUBLIC INTERVENER

Annual Report 2024-2025

Province of New Brunswick
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The Honourable Louise Imbeault
Lieutenant-Governor of New Brunswick

May it please your Honour:

It is my privilege to submit the Annual Report of the Office of the Public Intervener, Province of New Brunswick, for the fiscal year ended March 31, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'R. McKee', with a stylized flourish at the end.

Hon. Robert K. McKee, K.C.
Attorney General

The Honourable Robert K. McKee, K.C.
Office of the Attorney General

Sir:

Pursuant to subsection 13(1) of *An Act Respecting a Public Intervener for the Energy Sector*, I am pleased to submit this report with respect to the activities of the Public Intervener for the period ended March 31, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'J.M. Chiasson', with a long, sweeping horizontal line extending to the right.

J.M. Alain Chiasson
Public Intervener for the Energy Sector

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The Role of the Public Intervener

The Public Intervener is required by law to intervene in proceedings of the New Brunswick Energy and Utilities Board (the “Board”) initiated under certain provincial statutes governing participants in New Brunswick’s energy sector, specifically the *Electricity Act*; the *Gas Distribution Act, 1999*; the *Petroleum Products Pricing Act* and the *Pipeline Act, 2005*. Legislation also empowers the Public Intervener to intervene in proceedings initiated under other provincial statutes at his discretion and requires the Public Intervener to intervene in any other proceeding of the Board as instructed by the Lieutenant-Governor in Council.

Activities of the Public Intervener for the 2024-2025 Year

Overview

Section 6 of *An Act Respecting a Public Intervener for the Energy Sector* requires the Public Intervener to intervene in certain proceedings of the Board. Decisions, filed materials and other documents and information related to proceedings of the Board are catalogued on the Board’s website at www.nbeub.ca.

The Public Intervener also participated in stakeholder processes undertaken pursuant to orders of the Board in connection with previous Board proceedings or initiated by utilities in order to facilitate hearing efficiency.

For financial information relating to the Office of the Public Intervener, please see the Annual Report of the Office of the Attorney General.

Electricity Proceedings

Proceedings of the Board relating to electricity are held pursuant to the *Electricity Act* and the *Energy and Utilities Board Act*.

Beginning with an application with respect to the fiscal year commencing April 1, 2023, the *Electricity Act* requires the New Brunswick Power Corporation (“NB Power”) to apply to the Board for approval of its proposed rates for each fiscal year. NB Power may apply for approval of its proposed rates for a longer period, up to a maximum of three fiscal years.

The *Electricity Act* requires NB Power to apply for approval of its transmission revenue requirements at least once every three years and to apply to the Board for approval of any capital projects with a projected capital cost of \$50 million or more.

The *Electricity Act* also allows a transmitter other than NB Power to apply to the Board for approval of its transmission revenue requirements, which form part of the approved transmission tariff, and to seek the Board's pre-approval of its capital projects.

Authority to approve reliability standards for the bulk power system is granted to the Board by the *Electricity Act*. The Board is also responsible for ensuring compliance with those standards through auditing and other measures.

Between April 1, 2024 and March 31, 2025, the Public Intervener participated in the following proceedings of the Board that were initiated in accordance with the requirements of the *Electricity Act*:

- **Matter 552 – NB Power 2024-2025 and 2025-2026 General Rate Application.** On December 15, 2023, NB Power filed an application seeking approval as follows:
 - (a) the approval of a schedule of rates for the fiscal years 2024/2025 and 2025/2026 with differential increases reflecting a nine and one quarter percent (9.25%) average increase across all customer classes, to be effective April 1, 2024 and April 1, 2025 respectively;
 - (b) approval of the revenue requirements of \$2.5929 billion for Fiscal Year 2025 and \$2.7522 billion for Fiscal Year 2026;
 - (c) the approval of spending of \$29.1 million for the Enterprise Resource Planning ("ERP") Upgrade;
 - (d) an order approving the wind balancing charges;
 - (e) an order approving the Rate Design Learning Sandbox Procedure;
 - (f) an order approving NB Power's plan for the elimination of the General Service II rate class;
 - (g) an order approving NB Power's proposal to merge the rural and urban monthly service charge rate;
 - (h) changes to prices within the Customer Energy Solutions ("CES") portfolio to better reflect costs and market conditions;
 - (i) a multi-year single purpose regulatory account for the cloud-based ERP upgrade;

- (j) an enduring regulatory account to level the expected replacement energy costs associated with major planned outages at Point Lepreau Nuclear Generating Station (“PLNGS”) over recurring two-year periods;
- (k) a rate smoothing regulatory account of finite duration (two years) to level the average rate increases in fiscal years 2024/2025 and 2025/2026 and avoid an anomalous high increase in 2024/2025;
- (l) a 16-month extension of the amortization period associated with the existing PLNGS regulatory account which was established during the plant refurbishment period based on actual and forecasted operations;
- (m) approval of the Bayside Gas Turbine Capital Project expenditure.

The sixteen-day hearing took place in Fredericton, New Brunswick from June 24, 2024 to August 23, 2024. In an oral decision dated October 30, 2024 and the reasons for decision dated March 31, 2025, the Board found that the rates, as applied for, were mostly just and reasonable, and allowed an average rate increase of 9.14% applied differentially across all customer classes each year for Fiscal Year 2025 and Fiscal Year 2026. The Board further approved a revenue requirement of \$2.586 billions for Fiscal Year 2025 and a revenue requirement of \$2.748 billion for Fiscal Year 2026. The Board approved the spending of \$29.1 million for the ERP upgrade. The Board further approved a wind balancing charge of 0.227 cents per kWh for Fiscal Years 2025 and 2026. The Board accepted NB Power’s proposal for a Rate Design Learning Sandbox Procedure as a general framework but failed to adopt it in its proposed form as the approval process would benefit from further development. The Board approved the elimination of the General Service II rate class by April 1, 2025, with appropriate bill protection measures. The Board rejected the proposal to merge the rural, urban and seasonal monthly services charges into a combined residential service charge and stated that the Board would consider any future proposal to merge the service charges as part of an upcoming phase of the rate design proceeding. The Board approves the prices as proposed by NB Power for the Customer Energy Solutions Portfolio and found that the proposed prices to be market-based. The Board further approved the following variance accounts: a multi-year single purpose regulatory account for the cloud-based ERP upgrade; an enduring regulatory account to level the expected replacement energy costs associated with major planned outages at PLNGS over recurring two year periods; a two-year rate smoothing regulatory account to level the average rate increase in fiscal years 2024/2025 and 2025/2026 and avoid an anomalous high increase in 2024/2025; and a 16-month extension of the amortization period associated with the existing PLNGS regulatory account which was established during the plant refurbishment period based on actual and forecasted

operations. The Board retroactively approved the Bayside Gas Turbine Replacement Capital Project and concluded that the capital expenditure of \$66.8 million was prudent.

The application, evidence, other documents and Decisions/Orders of the Board can be found at www.nbeub.ca under Matter 552.

- **Matter 554 – Review of NB Power’s Class Cost Allocation Study (“CCAS”) Methodology.** On December 15, 2023, NB Power filed evidence about a review of different methods of allocating generation costs in its CCAS as directed by the Board in a verbal decision on June 28, 2023, in matter 554. The following methodologies were reviewed by NB Power:
 - (a) Current Method of Average and Peak;
 - (b) Average and Peak with Time of Use;
 - (c) Probability of Dispatch Method;
 - (d) Marginal Cost Method.

The class cost allocation study is a method by which a utility’s revenue requirement is assigned to rate classes in accordance with the costs caused by each class. A four-day hearing took place in Fredericton, NB between October 22-24, 2024 and November 7, 2024. In an oral decision dated December 19, 2024 and the reasons for decision dated April 2, 2025, the Board concluded that the Method of Average and Peak methodology and its Seasonal Sensitivities should be used as the proper Class Cost Allocation Methodology.

The application, evidence, other documents and Decisions/Orders of the Board can be found at www.nbeub.ca under Matter 554.

- **Matter 589 – 2024-25 Variance Account Recovery Filing.** On December 12, 2024, NB Power filed an application pursuant to the Regulatory Variance Accounts and Deferral Account Regulation – Electricity Act, N.B. Regulation 2022-17 (the “Regulation”), for the period ending October 31, 2024. The online one-day hearing took place on February 11, 2025 and the Board issued its decision on March 18, 2025.

Subsection 117.4(8) of the *Electricity Act* provides that the Board shall ensure that the balances in each of the regulatory variance accounts, namely, the Energy Supply Cost Variance Account and the Electricity Sales and Margin Variance Account (“Variance Accounts”) are: (a) Recovered by NB Power or reimbursed to customers in accordance with the Regulation; and (b) Reflected in rate riders established under the Regulation for each rate class. Under sections 11 and 12 of the Regulation, the Board shall determine if there is a recovery or

reimbursement of balances

I'M INTERESTED IN MY UTILITY. HOW CAN I LEARN MORE ABOUT WHAT IT DOES AND HOW IT IS REGULATED?

The Board website provides information on each regulated industry, copies of relevant legislation, the Board's rules and procedures and information about the hearing process.

Most applications to the Board by a utility are supported by a significant amount of evidence filed by the utility. Other participants in the proceeding may also file evidence. Evidence typically consists of financial and operational information about the utility, expert evaluations of the utility's data and other detailed information. The board posts most of this evidence on its website, where it is freely available to the public. The Board also posts written reasons for its decisions and transcripts of its proceedings.

A utility's application, the evidence filed in a proceeding, the Board's decisions and other documents and information published on the Board's website provide a rich source of information for anyone interested in learning about their utility. The Board's website is available at www.nbeub.ca.

regarding the Variance Accounts and determine the rate riders for each rate class for the next fiscal year.

In accordance with subsection 12(7) of the Regulation and 117.4(6) of the Act, the Board accepted NB Power's calculations of the variances in each of the accounts for the period ending October 31, 2024. Accordingly, the Board accepted the net balance of the Variance Accounts to be \$245.5 million to be recovered over the next six fiscal years. This resulted in a rate increase of three percent through a rate rider to be collected in fiscal year 2025-2026. The Board further allowed a maximum aggregate recovery permissible in the Fiscal Year beginning April 1, 2025 of \$54.7 million.

The application, evidence, other documents and Decisions/Orders of the Board can be found at www.nbeub.ca under Matter 589.

Natural Gas Proceedings

Proceedings of the Board relating to natural gas are held pursuant to the *Gas Distribution Act, 1999* and the *Energy and Utilities Board Act*.

The *Gas Distribution Act, 1999* requires Liberty Utilities (Gas New Brunswick) LP (“Liberty”) to apply to the Board for approval of its proposed distribution rates and, in combination with the *Gas Distributor Marketing Regulation*, allows the Board to periodically review the sale of gas by Liberty and make orders or give direction to Liberty in relation to those sales.

The Board is also responsible for the issuance of gas marketer certificates in accordance with the provisions of the *Gas Distribution Act, 1999* and the *Gas Marketers’ Filing Regulation*.

Between April 1, 2024 and March 31, 2025, the Public Intervener participated in the following proceedings of the Board that were initiated in accordance with the requirements of the *Gas Distribution Act, 1999*:

- ***Matter 551 – Proceedings arising from an Application by Liberty for approval to change its distribution rates effective September 1, 2024, for approval of its 2022 Regulatory Financial Statements, approval of a Weather Normalization Adjustment, approval of and full inclusion of Corporate Allocations, approval of amounts related to Liberty’s SEUF Fees Variance Account, approval of amounts related to the Revenue Requirement True-Up Variance Account for 2023, as well as approval for the use of this account for the 2024 test year.***

On April 15, 2024, Liberty applied to the Board for approval of its proposed distribution rates, effective September 1, 2024 and for approval of its 2022 Regulatory Financial Statements among other things. The 3-day hearing was held from October 4, 2024 to October 8, 2024.

The Board issued its oral decision on December 20, 2024 and its reasons for decision dated April 30, 2025, by approving Liberty’s 2022 Regulatory Financial Statements, by approving the proposed rate modifications with minor adjustments and by denying the request by Liberty to implement a Weather Normalization Adjustment for all rate classes. The Board only approved the use of the proposed Weather Normalization Adjustment for Small General Service customers beginning on January 1, 2025. The Board accepted the method to calculate Corporate Cost Allocations as proposed by Liberty, with minor adjustments. The Board further approved variance accounts related to Liberty’s SEUF Fees Variance Account and the amounts related to the Revenue Requirement True-Up Variance Account for 2023 as well as the use of this account for the 2024 test year.

The application, evidence, other documents and Decisions/Orders of the Board can be found at www.nbeub.ca under Matter 551.

Pipeline Proceedings

The *Pipeline Act, 2005* prohibits any person from constructing a pipeline unless that person holds a permit issued by the Board and

I'M INTERESTED IN PARTICIPATING IN A BOARD PROCEEDING. HOW DO I GET INVOLVED?

The Board holds public sessions as part of certain hearings. Interested members of the public are invited by the Board to comment on the application or to submit their comments in writing to the Board.

If you are interested in participating in a proceeding of the Board in a more formal way, you may request to participate as an intervener. As an intervener, you participate in all aspects of a proceeding. Proceedings typically involve submitting written interrogatories to the applicant, participating in procedural motions, filing written evidence and responding to written interrogatories on your evidence, making yourself available for cross-examination on your evidence, cross-examining other parties' witnesses and making final submissions to the Board.

Formal interveners are required to follow the Board's Rules of Procedure and are expected to participate in a responsible, civil and respectful manner. The Rules of Procedure are available on the Board's website at www.nbeub.ca.

prohibits any person from operating a pipeline unless that person holds a licence granted by the Board. Pursuant to the *Pipeline Act, 2005*, licensees are required to seek the Board's approval for the suspension and resumption of normal operations of a pipeline and the abandonment of a pipeline.

Between April 1, 2024 and March 31, 2025, there were no proceedings before the Board in which the Public Intervener participated in accordance with the *Pipeline Act, 2005*.

Petroleum Products Pricing Proceedings

Proceedings of the Board relating to petroleum products pricing are held pursuant to the *Petroleum Products Pricing Act* and the *Energy and Utilities Board Act*. The *Petroleum Products Pricing Act* provides for the Board to set maximum wholesale and retail margins for the sale of petroleum products and allows for a review of margins, delivery costs and/or full-service changes to be initiated by a wholesaler, retailer or the Board.

Between April 1, 2024 and March 31, 2025, there were no proceedings before the Board in which the Public Intervener participated in accordance with the requirements of the *Petroleum Products Pricing Act*.

List of Relevant Legislation and Regulations

- ***An Act Respecting a Public Intervener for the Energy Sector***
- ***Energy and Utilities Board Act***
General Regulation
- ***Electricity Act***
General Regulation
Transitional Transmission Tariff Regulation
Electricity from Renewable Resources Regulation
Energy Efficiency Regulation
Regulatory Variance Accounts and Deferral Account
Reliability Standards Regulation
- ***Gas Distribution Act, 1999***
Gas Distribution and Marketers' Filing Regulation
Gas Distribution and Marketers' Schedule of Fees Regulation
Gas Distributor Marketing Regulation
Single End Use Franchise Fee Adjustment Regulation
- ***Petroleum Products Pricing Act***
General Regulation
- ***Pipeline Act, 2005***
Pipeline Regulation
Pipeline Filing Regulation