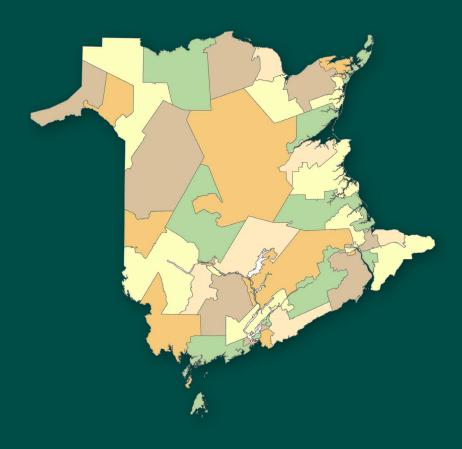


Amended Final Report

Response to objections



NEW BRUNSWICK

AMENDED FINAL REPORT RESPONSE TO OBJECTIONS

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ISBN 978-1-4605-3455-7 (Bilingual print edition) ISBN 978-1-4605-3456-4 (PDF: English edition) ISBN 978-1-4605-3457-1 (PDF: French edition)

22-00345 | 2023.04 | Printed in New Brunswick

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Amended Final Report

Response to objections

This document represents the unanimous response of the New Brunswick Electoral Boundaries and Representation Commission to objections submitted in response to the commission's final report which was filed with the Clerk of the legislative assembly on March 12, 2023. In combination with the final report, this document also represents the amended final report of the commission as required by section 19(4) of the Act.

Section 19 of the *Electoral Boundaries and Representation Act* establishes the procedure to be followed by the commission after the filing of its final report. The Act states:

Objections to final report

19 (1) Within 14 days after the final report of a Commission is filed with the Clerk of the Legislative Assembly under paragraph 18(3)(a), a written objection to the report may be submitted to the Commission stating the following:

- (a) the recommendation in the final report that is being objected to;
- (b) the reason for the objection; and
- (c) the manner in which it is proposed that the recommendation be amended.
- 19(2) An objection under subsection (1) shall be signed by at least 2 members of the Legislative Assembly.
- 19(3) A Commission shall consider and dispose of the objections submitted under subsection (1).
- 19(4) Within 30 days after the expiration of the time period referred to in subsection (1), the Commission's final report, with or without amendments in accordance with its disposition of the objections submitted under subsection (1),
- (a) shall be filed with the Clerk of the Legislative Assembly, and
- (b) shall be forwarded to the Chief Electoral Officer.
- 19(5) If no objections are submitted under subsection (1), the Clerk of the Legislative Assembly shall immediately forward to the Chief Electoral Officer the final report of a Commission.
- 19(6) The Clerk of the Legislative Assembly shall forward to each member of the Legislative Assembly a copy of the final report of a Commission under subsection (4) or (5).

The commission received eight objections in response to its final report. Of these, the commission deemed that all eight constituted objections as contemplated by s. 19 of the Act. The commission considered and disposed of each objection. It has ordered them in this report in sequence based upon the number of the electoral district to which they relate.

This amended final report constitutes the commission's response to the objections and sets out a summary of the objections, the commission's analysis, and comments, as well as its disposition of each.

The commission notes that in the process of adopting the final report, pursuant to s. 20(5)(a), amendments may be made by the Legislative Administration Committee pursuant to amending the proposed names of the electoral districts.

Section 11(6) and "Extraordinary Circumstances" – ED #16 - Tantramar

The commission has sought throughout its mandate to carefully consider each submission and design electoral districts which best provide for effective representation. However, as the commission has explained, that work must be done within the confines of the law.

Section 11(6) allows for a +/- 25% deviation from the electoral quotient in the setting of electoral riding boundaries if, in the opinion of the commission, an extraordinary circumstance exists that requires such a deviation from the principle of voter parity. As presented in the final report, the commission's opinion is that such a circumstance exists in the proposed electoral district #16 – Tantramar.

The reasoning behind the decision to invoke extraordinary circumstances has been previously presented in the final report. However, the commission continues to have concerns with the impact of the invocation of extraordinary circumstances in ED #16 – Tantramar on the adjacent riding ED #15 – Shediac-Cap-Acadie. To keep Tantramar within the allowable +/- 25% variance, the commission was required to include electors that reside in the municipality of Cap-Acadie, the vast portion of which is located in the riding of Shediac-Cap-Acadie. Furthermore, this grouping of electors are a majority francophone population and the riding of Tantramar is predominately anglophone, leading to concerns about effective representation of this linguistic community. Final analysis by the commission determined that there were 839 electors from Cap-Acadie located within ED #16 – Tantramar.

At the time of preparation of its final report, the commission was required to make recommendations that were compliant with the legislation as it existed at that time. The maximum deviation from the electoral quotient was +/- 25% and the commission received a legal opinion that it had no legal authority to exceed this allowable deviation.

However, in its final report the commission also recommended that the legislature consider an amendment to the Act that would permit a deviation of greater than +/- 25% in the unique situation that exists in this one region of New Brunswick.

On March 28, 2023, Bill 36 *An Act Respecting the Proposed Electoral District of Tantramar* was introduced in the legislative assembly to enable electoral district #16 to exceed the electoral quotient by more than 25%. This legislation received Royal Assent on March 30, 2023. This change allows the commission to accept the objection that was received with respect to ED #15 and ED #16. The commission has amended its final report to recommend that the riding boundaries of ED #15 - Shediac-Cap-Acadie and ED #16 - Tantramar be defined as shown in the electoral boundary maps as displayed in Appendix A of this document.

The portions of the City of Campbellton that have been placed in electoral district #2 Restigouche East be placed in electoral district #1 Restigouche West.

- (a) The interveners object to the placement of two portions of the City of Campbellton in electoral district #2 Restigouche East based on the principle of respecting the integrity of local government boundaries. The proposed solution is to transfer these portions of the City of Campbellton to electoral district #1 Restigouche West and if required, to use the provision of 'extraordinary circumstances' to allow a variance from the electoral quotient more than +/- 15%.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. There are 1,436 electors that reside within the portions of Campbellton that are currently part of ED #2 Restigouche East. Moving 1,436 electors from ED #2 to ED #1 Restigouche West would place the number of electors in ED #1 at 11,883 and the number of electors in ED #2 at 8,572. Transferring 1,436 electors from ED #2 would result in Restigouche East being below the minimum threshold of electors allowed under the Act unless the commission deemed that 'extraordinary circumstances' exist.

The City of Campbellton is a significant population centre located entirely within Restigouche County. In its preliminary report, the commission proposed keeping Campbellton almost entirely within one, urban based, riding. However, submissions made to the commission during the second round indicated that the preliminary proposals should be reconsidered to have a boundary between ED #1 and ED #2 divide the region along an east/west split. Accordingly, the commission adjusted its proposals in its final report to its currently recommended configuration.

Due to the requirement to distribute the population of electors as equally as possible and because cities exist as significant population centres, all existing New Brunswick cities, regardless of size, are divided amongst two or more electoral districts. The circumstances in Campbellton are not exceptional in this regard. The commission does not deem that the use of the 'extraordinary circumstances' provision of the Act is warranted in this case.

Decision

The objection is denied. The commission confirms its decision to have portions of the City of Campbellton included in electoral district #2 Restigouche East as described in its final report.

The portion of the City of Miramichi north of the Miramichi River be placed in ED #10 Miramichi East, that the portion of ED #10 west of highway 126 including Barnaby River and 'lower highway 118' be placed in ED #11 Miramichi West and that Baie-Ste.-Anne, Escuminac and the entirety of Hardwicke be placed in ED #10.

- (a) The interveners object to the recommended configuration of ED #10 Miramichi East in three ways: on the principles of community of interest, effective representation of rural areas and geographic features. They propose to place the portion of the City of Miramichi lying north of the Miramichi River in ED #9 Miramichi Bay-Neguac to recognize the importance of the river as a geographic feature. They propose to place a portion of the Greater Miramichi rural district that lies west of highway 126 in ED #11 Miramichi West to provide more effective representation of this rural area. They propose to return the portion of the Kent rural district containing Baie-Ste.-Anne, Escuminac and Hardwicke from ED #12 Kent North to recognize the existing community of interest. Finally, they propose to change the name of ED #10 Miramichi East to 'North and Southwest Miramichi'.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the *Act*.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. The objection and the amendments as proposed, taken as a whole, would not result in any of the affected electoral districts exceeding the upper or lower +/- 15% limits as allowed by the Act.

The objection would return a portion of ED #12 Kent North to ED #10. The areas concerned are Baie-Ste.-Anne, Escuminac and Hardwicke. Although the objection does not clearly provide the details of the change proposed, the commission has deemed that the intent was to include the portion of the Kent rural district that lies within Northumberland County. The population of electors identified in this area is 1,398. Removing these electors from ED #12 would bring the number of electors in this riding to 11,502. This would decrease the variance from the electoral quotient in ED #12 from +10.57% to -1.41%. Decreasing the variance is consistent with the concept of voter parity. As well, there were representations made during the second round of consultations that requested the commission reconsider the electoral district configuration that was proposed in the preliminary report. However, the commission responded to these submissions in its final report.

The objection would place a portion of the Greater Miramichi rural district in ED #11 to provide more effective representation of this rural area. Although the objection does not clearly provide the details of the change proposed, the commission has deemed that the intent was to include the portion of the Greater Miramichi rural district that lies south and west of the City of Miramichi boundaries, west of highway 126. This would include the Barnaby River area and the population of electors living along highway 118 towards Renous. The population of electors identified in this area is 461. Placing these electors in ED #11 Miramichi West would bring the number of electors in this riding to 10,477. This would decrease the variance from the electoral quotient in this riding from -14.15% to -10.20%. Decreasing the variance is consistent with the concept of voter parity. However, no representations were made during the second round of consultations to indicate that this issue, as presented in the preliminary report, was of significant concern.

The objection would place the portion of the City of Miramichi that lies north of the Miramichi River in ED #10 to recognize the importance of the river as a geographic feature. Making this change would require placing 608 additional electors in ED #9 Miramichi Bay-Neguac and bringing the total number of electors in this riding to 13,040. Although this is below the maximum allowable number of electors, this change would result in a larger deviance from the electoral quotient of 11,667. The variance from the electoral quotient in ED #9 would go from +6.56% to +11.8%. Increasing the variance is contrary to the principle of voter parity. Further, no representations were made during the second round of consultations to indicate that this issue, as presented in the preliminary report, was of significant concern.

The net impact of making all these adjustments on ED #10 would be to increase the number of electors to 10,556 (-9.52%) from the current 10,227 (-12.34%). This would reduce the variance from the electoral quotient.

The commission has deemed that, with respect to multiple proposed electoral boundary changes included within one objection, it must consider all the proposed changes as part of a complete objection. Consequently, the commission deems that, overall, the evidence presented to support making all three changes simultaneously, as proposed in this objection, does not rise to the standard required to accept this objection.

The objection proposes to change the name of ED #10 Miramichi East to ED #10 North and Southwest Miramichi. The proposed name does not have a sound geographic basis and does not describe the electoral district more fully or accurately. There is a possibility that the intent was to apply the revised name to ED #11 Miramichi West. The proposed name could be adopted using the process described at the beginning of this report.

Decision

The objection is denied. The boundaries of ED #10 Miramichi East will remain the same as recommended in the Final Report of the commission. The recommended name of the riding will remain Miramichi East.

The electoral districts containing the various portions of Kent County be amended from the recommended configuration to prevent the municipality of Champdoré from being included in electoral district #22 Champdoré-Irishtown.

- (a) The intervenors object to the recommended configuration of ED #22 Champdoré-Irishtown where the municipality of Champdoré is included in an electoral district that contains urban areas on the northern edge of the City of Moncton. They object based on the principles of effective representation of linguistic communities, communities of interest and effective representation of rural interests. The proposed solution is to reconfigure the ED #12 Kent North, ED #13 Beausoleil-Grand-Bouctouche-Kent and ED #22 Champdoré-Irishtown.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. The proposed solution reconfigures ED #12, #13 and #22 so that these three electoral districts are almost entirely within the boundaries of Kent County. ED #12 would contain 9,926 electors, ED #13 would contain 10,077 electors, and ED #22 would contain 10,032 electors. These are all within the allowable variance from the electoral quotient.

The commission notes that the proposed solution does not address or provide proposed amendments for adjacent electoral districts that would be impacted by these changes. These three electoral districts, as currently configured in the final report, contain 35,751 electors, and as proposed these electoral districts would contain 30,035 electors. The intervenors provide no proposal for how the commission should accommodate the 5,716 electors that would require placement in other adjacent electoral districts.

Further, the commission notes that contrary to its stated objective of respecting local governance boundaries when developing electoral districts, the proposed solution results in many municipalities within the three proposed electoral districts being divided into multiple ridings. Examples include Beaurivage, Five Rivers, Champdoré, Grand-Bouctouche and Beausoleil.

Decision

The objection is denied. The boundaries of ED #22 Champdoré-Irishtown will remain the same as recommended in the final report of the commission.

The recommendation of the commission to have a portion of the municipality of Cap-Acadie placed in ED #16 Tantramar for the final report to be compliant with legislation is an error and places the concept of voter parity in precedence over other guiding principles.

- (a) The interveners object to the recommended configuration of ED #16 Tantramar with the placement of a portion of the municipality of Cap-Acadie within ED #16 based on the principles of effective representation of linguistic communities, communities of interest and respect for local governance boundaries. They state that the commission erred in its final report by placing undue importance on the concept of voter parity over the principles mentioned above in producing the recommended configurations of ED #16, and by extension, ED #15 Shediac-Cap-Acadie. They propose that the commission amend its recommendations for the configurations of ED #15 and ED #16 by moving the portion of Cap-Acadie contained within ED #16 to ED #15. They propose that the commission then allow the legislature to resolve what would become a non-compliant recommendation.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

The commission reiterates that, in its opinion, it had no legal option under the Act to recommend a deviation from the electoral quotient more than +/- 25%. The importance of voter parity is a fundamental tenant of Canadian law and has been adjudicated at the highest levels of the Canadian legal system. Deviance from voter parity should be done as part of a measured process when combined with other guiding principles in the development and review of electoral boundaries. The Act provides the principles, guidelines, and processes that the commission must use to conduct its work in New Brunswick.

The commission clearly articulated its reluctance to the recommended configuration of ED #15 and ED #16 in its final report. It recommended that the legislative assembly consider using its authority to pass legislation which responds to the concerns raised by the commission.

In response to the recommendations contained in the commission's final report, the legislative assembly has enacted legislation that provides the commission the ability to recommend a deviation from the electoral quotient by an amount greater than +/- 25% in electoral district #16 Tantramar.

Decision

The objection is accepted in part. The commission does not accept that it erred in its final report for the recommendation of the boundaries of ED #16 Tantramar. However, given the enactment of Bill 36, An Act Respecting the Proposed Electoral District of Tantramar by the Legislative Assembly, the commission has amended its recommended electoral boundaries for ED #16 Tantramar and, consequently, ED #15 Shediac-Cap-Acadie as shown on the attached electoral maps displayed in Appendix A.

The portions of the City of Moncton, including the location of Moncton High School, that have been placed in electoral district #22 Champdoré-Irishtown be placed in electoral district #18 Moncton East.

- (a) The interveners object to the placement of a portion of the City of Moncton in electoral district #22 Champdoré-Irishtown based on the principle of effective representation of linguistic communities, communities of interest, respecting the integrity of local government boundaries. The proposed solution is to transfer the portion of the City of Moncton to electoral district #18 Moncton East. Other electoral boundary adjustments in adjacent ridings were proposed to maintain allowable variances from the electoral quotient.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. There are 679 electors that reside within the portions of the City of Moncton described in the objection and which are contained in ED #22 Champdoré-Irishtown. This is the portion of Moncton which includes Royal Oaks subdivision, and which also contains Moncton High School. Removing 679 electors from ED #22 and placing them in ED #18 would result in a deviance from the electoral quotient for ED #22 of -19.71%. This deviation is larger than is permitted by the Act. The intervenors do not request the commission to consider the 'extraordinary circumstance' provision but rather provide proposed adjustments to other adjacent electoral boundaries to compensate for the deviation from the electoral quotient.

The intervenors propose, in addition to the change impacting 679 electors noted above, moving a portion of ED #18 to ED #19 Moncton Centre (836 electors), moving a portion of ED #19 to ED #20 Moncton South (446 electors), and moving a portion of ED #13 Beausoleil-Grand-Bouctouche-Kent to ED #22 (819 electors). The net cumulative impact of these adjustments would result in all five impacted electoral districts ending with deviations from the electoral quotient within the acceptable +/- 15%.

The commission notes that a key element in the proposed adjustments requires moving a portion of ED #13 Beausoleil-Grand-Bouctouche-Kent to ED #22 (819 electors). The portion of ED #13 identified as moving is the area along highway 115 through Irishtown toward the community of Notre-Dame. This electoral boundary adjustment would require the commission to divide the larger municipality of Beausoleil as well as the local community of Notre-Dame.

The commission is not convinced that the objection provides sufficient evidence to justify making the requested adjustments to electoral district #18. Although the reasons provided for the adjustments are valid when considered in isolation, implementation of the proposed amendments would have consequences in adjacent ridings, primarily in ED #13 with respect to the Notre-Dame region.

Decision

The objection is denied. The boundaries of ED #18 Moncton East will remain the same as recommended in the final report of the commission.

The portions of the municipality of York-Sunbury that are within ED #37 Oromocto-Sunbury be placed in ED #43 Hanwell-New Maryland and that the municipalities of Tracy and Fredericton Junction along with some adjacent rural areas be moved from ED #43 to ED #37.

- (a) The interveners object to the placement of a portion of the municipality of York-Sunbury in ED #37 Oromocto-Sunbury based on respecting local governance boundaries. The intervenors also object to the placement of the municipalities of Tracy and Fredericton Junction along with some adjacent rural areas in ED #43 Hanwell-New Maryland based on community of interest. The proposed solution is to essentially exchange these communities between ED #37 and ED #43.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. There are 2,749 electors that reside within the portions of the municipality of York-Sunbury described in the objection and which are within ED #37. There are 1,415 electors that reside in the municipalities of Tracy, Fredericton Junction, and the adjacent rural areas. The cumulative net impact of the proposed adjustments would result in 11,922 (+2.18%) electors in ED #37 and 13,964 (+19.69%) electors in ED #43. The number of electors in ED #43 would exceed the allowable maximum deviation from the electoral quotient unless the commission deemed that 'extraordinary circumstances' exist.

The commission recognizes that, as noted elsewhere, it has a stated objective to respect local governance boundaries to the greatest extent possible as part of the process of proposing revised electoral districts. In this instance York-Sunbury is clearly divided between two electoral districts. However, the commission was, on occasion, required to divide municipal entities to ensure compliance with the Act and in consideration of other guiding principles. The commission does not deem that the use of the 'extraordinary circumstances' provision of the Act is warranted in this case.

Decision

The objection is denied. The boundaries of ED #37 Oromocto-Sunbury and ED #43 Hanwell-New Maryland will remain the same as recommended in the final report of the commission.

The portions of the City of Fredericton containing the 'town plat' that are within ED #40 Fredericton South-Silverwood be placed in ED #39 Fredericton Lincoln.

- (a) The interveners object to the placement of a portion of the City of Fredericton containing areas of the 'town plat' in ED #40 Fredericton South-Silverwood based on community of interest. The proposed solution is to move the entirety of the area defined as the 'town plat' from ED #40 to ED #39 Fredericton Lincoln. Other electoral boundary adjustments in adjacent ridings were proposed to maintain allowable variances from the electoral quotient.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. There are 3,524 electors that reside within the portion of the City of Fredericton described in the objection as part of the 'town plat' and which are within ED #40. Moving these electors from ED #40 to ED #39 would result in 8,776 (-24.78%) electors in ED #40 and 15,530 (+33.11%) electors in ED #39. This would result in both electoral districts being outside the range of allowable deviation from the electoral quotient.

The intervenors provide additional proposed solutions to maintain allowable variances from the electoral quotient. They propose to move the boundary of ED #39 to place the portions of ED #39 that lie south of Priestman Street and west of Regent Street in ED #40. This would result in 1,409 electors being moved from ED #39 to ED #40 and would increase the number of electors in ED #40 to 10,185 (-12.70%) which is within the allowable variance. However, the number of electors in ED #39 would be 14,121 (+21.03%) which is still above the maximum allowable variance.

The intervenors propose an additional solution, moving a portion of ED #40 that contains a portion of the municipality of Oromocto from ED #40 to ED #37 Oromocto-Sunbury. This portion of ED #39 contains 1,666 electors. Moving these electors from ED #39 to ED #37, combined with the previous change, would result in ED #39 containing 12,455 (+6.75%) electors and ED #37 containing 14,922 (+27.89%) electors. The variance from the electoral quotient in ED #37 would exceed the maximum allowable variance.

The proposed solutions presented by the intervenors do not allow for the proposed amendments to be implemented without resorting to the 'extraordinary circumstance' provision. The commission does not deem that the use of the 'extraordinary circumstances' provision of the Act is warranted in this case.

Decision

The objection is denied. The boundaries of ED #39 Fredericton Lincoln will remain the same as recommended in the Final Report of the commission.

The municipality of Saint-Quentin be removed from ED #47 and placed in ED #1 Restigouche West.

- (a) The interveners object to the placement of the municipality of Saint-Quentin in ED #47 Grand Falls-Saint-Quentin based on community of interest. The proposed solution is to move the municipality of Saint-Quentin from ED #47 to ED #1 Restigouche West.
- (b) The objection is signed by at least two members of the legislative assembly, as required by s. 19(2) of the Act.

Response of the Commission

The commission deems that the objection is admissible under s. 19 of the Act.

To meet the provisions of the Act, the number of electors in an electoral district must be between a low of 9,917 (-15% from electoral quotient) and a high of 13,417 (+15%), unless 'extraordinary circumstances' exist. Moving Saint-Quentin from ED #47 to ED #1 would move 2,844 electors. The number of electors in ED #47 would be 10,238 and the number of electors in ED #1 would be 13,241 which are both within the allowable variance from the electoral quotient.

The commission heard many submissions during the first and second round of consultations. During public hearings, the commission heard from those who supported and from those opposed to the idea of placing Saint-Quentin in ED #47. The commission considered the principle of local governance boundaries, community of interest and effective representation of rural areas. The evidence received by the commission prior to the final report was compelling with respect to the placement of Saint-Quentin in ED #47. The commission does not deem that the evidence received as part of the current objection is sufficient to reverse its previous decision.

Decision

The objection is denied. The boundaries of ED #47 Grand Falls-Saint-Quentin will remain the same as recommended in the final report of the commission.

APPENDIX A - REVISED ELECTORAL DISTRICTS

The maps on the following pages show the electoral boundaries for electoral district #15 Shediac-Cap-Acadie and #16 Tantramar as revised from the commission's final report. The data in the table has been revised from the final report to reflect these amended electoral boundaries.

#	NAME	ESTIMATED ELECTORS	ELECTORAL QUOTIENT	DIFFERENCE FROM ELECTORAL QUOTIENT	% DIFFERENCE	ANGLOPHONE	FRANCOPHONE	BOTH OR OTHER
15	Shediac-Cap-Acadie	13,369	11,667	1,702	+14.59%	25.66%	67.35%	6.85%
16	Tantramar	8,219	11,667	(3,448)	-29.55%	87.23%	8.31%	4.61%



