



DECISION

IN THE MATTER OF a formal complaint
by the Northern Maine Independent System
Administrator, Inc. pursuant to section 12.5
of the New Brunswick Open Access
Transmission Tariff.

March 15, 2017

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A. Introduction

- [1] The Northern Maine Independent System Administrator, Inc. (NMISA) submitted a formal complaint dated August 9, 2016 to the New Brunswick Energy and Utilities Board (Board). NMISA alleges that New Brunswick Power Corporation (NB Power) has violated the terms of the NB Power Open Access Transmission Tariff (OATT) and the reciprocity requirements of the United States Federal Energy Regulatory Commission (FERC).
- [2] NMISA contends that NB Power, in its capacity as Transmission Provider under the OATT, failed to hold an open season to allocate 24 megawatts (MW) of new available transfer capability (ATC) across the New Brunswick – Maine transmission interface. NB Power allocated the prospective incremental capacity to New Brunswick Energy Marketing Corporation (NBEM). NBEM is constituted under the *Electricity Act* (Act), with the mandate to carry out the business of importing and exporting energy.
- [3] The 24 MW of ATC will become available as a result of replacing an aging transformer with an upgraded one, owned and operated by Algonquin Tinker GenCo (ATG). The additional capacity also depends upon a rebuild or upgrade of two transmission lines.
- [4] The issue before the Board is whether the 24 MW of ATC was properly allocated under the terms of the OATT to NBEM by NB Power, or whether NB Power should hold an open season to allocate the ATC.

B. Factual Background

- [5] On July 4, 2014, NBEM submitted a request to NB Power for up to 95 MW of firm point-to-point transmission service. This was to serve various loads in the Northern Maine region. There were subsequent service requests received by NB Power, but ultimately, the NBEM request remained as the first and only request for firm point-to-point transmission service.
- [6] On December 2, 2014, ATG applied to the Board under section 108 of the Act for pre-approval of a capital project. Section 108 is permissive in nature and does not require ATG to seek pre-

approval. The proposed project was to replace its aging transformer with an upgraded transformer that would provide an additional 24 MW of transmission capability, according to a system impact study conducted in relation to the NBEM service request.

- [7] The Board approved ATG's application in its decision dated September 25, 2015, and issued reasons for decision on October 9, 2015. Shortly following the Board's decision, NB Power awarded the 24 MW of ATC to NBEM.
- [8] During the period between NBEM's request for service in July 2014 and NB Power's allocation to NBEM, NB Power followed a process prescribed by sections 17 and 19 of the OATT to assess NBEM's request. This included the following:
- preliminary assessment by NB Power of the request (23 April 2015),
 - System Impact Study Agreement with NBEM (8 May, 2015),
 - System Impact Study (29 May 2015),
 - Facilities Study Agreement with NBEM (7 July 2015), and
 - Facilities Study (12 September 2015).

C. Board Analysis

- [9] The issue to be decided is whether NB Power should have allocated the 24 MW of ATC following an open season under section 2.1 of the OATT, instead of its award of the ATC to NBEM under section 13.2.
- [10] The Act requires that the OATT shall provide for open and non-discriminatory access to transmission service. The OATT prescribes two principal methods for allocating ATC. The first is by an open season process under section 2.1. The second is by priority allocation under section 13.2.
- [11] Section 2.1 provides that for the initial 60 days following the implementation of the OATT, all service requests are deemed to have been filed simultaneously. An open season is held to determine the initial allocations. As the Transmission Provider, NB Power evaluates applications in accordance with that section.

[12] Subsequent to this initial 60 day period, when new available transfer capability is identified that is not a direct consequence of a request or requests for transmission service or that is in excess of the requested service that resulted in the increased capability, the above noted open season process will be repeated.

[13] The relevant portion of section 2.1 reads as follows:

Subsequent to this initial sixty (60) day period, when new available transfer capability is identified that is not a direct consequence of a request or requests for Transmission Service or that is in excess of the requested service that resulted in the increased capability the above noted open season process will be repeated.

All Completed Applications for firm transmission service received after the initial sixty (60) day period and that are not subject to a subsequent open season shall be assigned a priority pursuant to Section 13.2.

[14] Subsection 13.2(i) reads as follows:

Long-Term Firm Point-To-Point Transmission Service shall be available on a first-come, first-served basis, i.e., in the chronological sequence in which each Transmission Customer has requested service.

[15] The request for transmission service by NBEM was received five months before ATG's application to the Board for approval to replace and upgrade the Tinker Transformer. Between the time of the service request and the date of the Board's approval, the process of evaluating the NBEM request proceeded.

[16] The Board's hearing of the ATG project considered both the prudence of a replacement in kind of the Tinker Transformer, and the prudence of such replacement being an upgrade of the transformer capacity. In relation to the second aspect, the outstanding service requests at that time, including that of NBEM, were a significant factor in ATG's advocating an upgraded transformer. In its final argument, ATG justified the need for the upgraded transformer as follows:

There are currently three service requests that are in the queue that justify the probability that there will be reservations placed on the system that will materialize and result in the upgrade being the least cost upgrade to the system. Tinker will be part of the solution, without question.

- [17] As stated above, the NBEM service request was the first and only service request remaining at the time that NB Power awarded the ATC. The Board finds nothing in the circumstances described above that would lead to the conclusion that the ATC was not a direct consequence of the NBEM service request.
- [18] The Board therefore concludes that the 24 MW of ATC was a direct consequence of the NBEM service request and was properly made available to NBEM in accordance with the OATT.
- [19] NMISA also submitted that the allocation to NBEM violated FERC's reciprocity requirements. In Matter Number 256, the Board approved the OATT, which is based upon the FERC *pro forma* OATT, and which incorporates FERC's reciprocity policies. The Board therefore finds that NB Power's allocation of the ATC according to the terms of the OATT is not in violation of FERC's reciprocity requirements.
- [20] For the reasons set out above, the complaint is dismissed.

DATED at the City of Saint John, Province of New Brunswick, this 15th day of March, 2017.



Raymond Gorman, Q.C.
Chairperson



Patrick Ervin
Member



John Patrick Herron
Member