

1 NEW BRUNSWICK ENERGY and UTILITIES BOARD
2 COMMISSION DE L'ÉNERGIE ET DES SERVICES PUBLICS N.-B.
3
4 Matter EL-002-2025 - NB Power's Renewables Integration and Grid
5 Security ("RIGS") Project

6
7 IN THE MATTER OF an application by New Brunswick Power
8 Corporation in accordance with subsection 107(2) of the
9 *Electricity Act*

10

11 Heard virtually on May 28, 2026.

12

13 Members of the Board:

14 Mr. Christopher Stewart - Presiding Member

15 Mr. John Logan

16 Mr. Kenneth McCulloch, K.C.

17 Counsel to Board Staff: Ms. Mara Mallory

18

19

20

21

22

23

Eunota Court Reporting Inc.

Oral Decision by the Chairperson

1 CHAIRPERSON: All right. Good afternoon. So as I indicated earlier,
2 the sole purpose of this afternoon's session is for the
3 provision of the Board's decision in this Matter, and I will
4 proceed with that decision immediately, now.

5

6 Introduction and Summary Conclusion

7 This Matter concerns NB Power's Application for an order
8 pursuant to subsection 107(9) of the *Electricity Act*
9 approving its entry into an Amended and Restated Tolling
10 Agreement, or the Tolling Agreement, with RIGS Atlantic
11 Limited Partnership, or RIGS LP, for the development,
12 construction, and operation of a dual-fuel combustion turbine
13 electric generating facility at Centre Village, New
14 Brunswick, which I will refer to, collectively, in this
15 decision as simply the Project. When completed, the Project
16 would consist of eight refurbished aero-derivative gas
17 turbines, or ADGTs, capable of operating on natural gas or
18 diesel fuel, with a combined maximum nameplate capacity of
19 400 MW. NB Power also seeks approval of an Expansion Tolling
20 Agreement with RIGS LP to add two additional ADGTs to the
21 Project, in order to provide a further 100 MW of capacity for
22 sale to the Nova Scotia independent energy system operator,
23 or the Nova Scotia IESO. NB Power characterizes this as the

Oral Decision by the Chairperson

1 expansion opportunity. The capital cost of the Project will
2 be above \$1 billion. To the extent that NB Power is permitted
3 to include the costs of the Project in future revenue
4 requirements, it will result in higher electricity rates for
5 NB Power customers over the 25-year design life of the
6 facility.

7 The *Electricity Act* prohibits NB Power from incurring
8 more than 10% of the costs of the capital project which is
9 estimated to cost more than \$50 million or more before the
10 project has been approved by the Board. The Project here is
11 a capital project within the meaning of that term in the *Act*.
12 Because its projected costs exceed \$50 million, Board
13 approval is required before NB Power may incur expenditures
14 beyond the 10% threshold. The *Act* requires the Board to
15 approve a capital project if it finds the project prudent,
16 having regard to the factors set out in subsection 107(11).

17 For the reasons given below, the Board finds that the
18 Tolling Agreement and the proposed Expansion Tolling
19 Agreement are prudent and approves them.

20
21 Context

22 It is common ground among all the participants in this
23 matter that NB Power has a statutory duty to maintain the

Oral Decision by the Chairperson

1 adequacy and reliability of the integrated electricity system
2 in New Brunswick. In that regard, it is required to comply
3 with reliability standards approved by the Board. The current
4 approved reliability standard with which NB Power is required
5 to comply is the NERC Reliability Standard BAL-002-3, which
6 requires NB Power to demonstrate that it has preparations to
7 have a contingency electricity reserve equal to or greater
8 than its most single – excuse me – most severe single
9 unplanned source loss contingency available to maintain
10 system reliability. For NB Power, that contingency is the
11 unplanned shutdown of the Point Lepreau Generating Station at
12 a time of peak demand. As a Regional Coordinator for the NPCC
13 Maritimes Assessment Area, or NPCC-Maritimes, which
14 encompasses New Brunswick, Nova Scotia, Prince Edward Island,
15 and Northern Maine, NB Power is required to demonstrate that
16 the loss of load expectation, or LOLE, for NPCC-Maritimes due
17 to a resource deficiency is no more than one day in ten years
18 or 0.1 days per year and that there is adequate resource
19 reserve to cover 100% of the largest source loss contingency
20 plus 50% of the largest contingency, and compliance with the
21 NERC/NPCC reliability planning standard requires NB Power to
22 plan for a reserve margin of no less than 20% of peak season
23 demand for NPCC-Maritimes, on the coldest day of the year.

Oral Decision by the Chairperson

1 Dispatchable power is power from a source that can be
2 turned on, off, or ramped up and down to match fluctuating
3 and peak demands. NB Power contends that it will require
4 additional capacity of more than 400 MW of dispatchable power
5 by 2028 to meet the reasonable reserve for which it is
6 required to plan; that the addition of a new combustion
7 turbine generation facility located in southeastern New
8 Brunswick is a prudent way to secure that capacity; and that
9 it is – and that its chosen commercial model for delivery of
10 the facility is prudent.

11

12 Test for Prudence

13 On a Section 107 application, the onus is on NB Power to
14 establish either that the proposed project is likely to result
15 in a positive net financial benefit for the utility and its
16 ratepayers or that it is necessary for assuring the adequacy,
17 safety, and reliability of the electric power system. In
18 simple terms, NB Power must demonstrate that its decision to
19 proceed with the Project is the result of considered and sound
20 judgement.

21 In assessing the prudence of a proposed project, the
22 Board must consider the factors set out in subsection 107(11)
23 of the *Electricity Act*. It also considers the rigour and

Oral Decision by the Chairperson

1 quality of NB Power's planning, governance, and procurement
2 processes, and whether NB Power's decision was based on
3 information that was known, or ought reasonably to have been
4 known, when it applied for approval. The Board must be
5 satisfied that plausible alternative ways of achieving the
6 proposed project's objectives have been properly considered
7 and rejected. NB Power is not required to show that the
8 proposed project is the only reasonable solution. It must,
9 however, provide sufficient evidence to satisfy the Board
10 that, after careful consideration of plausible alternatives,
11 the chosen project is reasonable.

12
13 NERC, NPCC, NPCC-Maritimes, and NB Power

14 The North American Electric Reliability Corporation, or
15 NERC, is a not-for-profit regulatory authority that promotes
16 reliability and adequacy of bulk power transmission in
17 interconnected electric utility systems in most of North
18 America with the objection (sic) of reducing the risk of power
19 blackouts. In consultation with a wide range of stakeholders,
20 it develops standards for power system operators, and
21 monitors and enforces compliance with those standards.

22 The Northeast Power Coordinating Council, or NPCC, is a
23 not-for-profit organization responsible for promoting and

Oral Decision by the Chairperson

1 enhancing the reliability of international interconnected
2 bulk power systems in northeastern North America. In
3 collaboration with NERC, NPCC monitors and enforces bulk
4 power system reliability standards in four assessment areas;
5 among these is NPCC-Maritimes area. Each assessment area has
6 a regional coordinator. NB Power is a member of NPCC and is
7 the Regional Coordinator for NPCC-Maritimes.

8 The *Reliability Standards Regulation* under the *New*
9 *Brunswick Electricity Act* designates NERC as the standards-
10 setting entity, NPCC as the compliance monitoring entity, and
11 the Board as the enforcement authority for New Brunswick.

12 The NERC/NPCC reliability planning standard requires NB
13 Power as Reliability Coordinator for NPCC-Maritimes to
14 demonstrate that the loss of load expectation, or LOLE, in
15 NPCC-Maritimes is no more than one day in 10 years. A loss of
16 load event is a circumstance, or a combination of
17 circumstances, that results in an involuntary load-shedding
18 or, in other words, unplanned electrical blackouts. In
19 calculating LOLE for NPCC-Maritimes, NB Power is required to
20 perform a probabilistic evaluation of area resource adequacy
21 making due allowances for demand uncertainty, resource
22 availability, scheduled outages – scheduled outages and
23 deratings – excuse me – assistance over interconnections with

Oral Decision by the Chairperson

1 neighbouring areas, transmission transfer capabilities,
2 and/or load relief from available operating procedures.

3 The results of NB Power's area resource area adequacy
4 assessments are provided to NPCC, vetted by NERC, and reported
5 in the latter's January Long-Term Reliability Assessment for
6 North America. The most recent of these is the NERC January
7 2026 Long-Term Reliability Assessment, or the NERC LTRA,
8 which reports its – its assessment of NPCC-Martimes area
9 reliability for 2025 through 2036 as of 2025.

10
11 Requirement for Additional Capacity

12 The results of NB Power's most recent resource adequacy
13 assessment are reported in its report (sic) – Adequacy Report
14 dated March 18th, 2024, which I will refer to in this Decision
15 simply as 'the RAR'. The RAR assessment used two different
16 methods represented in Table 1 thereof as the 'Load and
17 Resource Balance Calculation' on the left side of the table
18 and the 'Operational Requirement Calculation' on the right
19 side. The Load and Resource Calculation is a probabilistic
20 risk-based assessment as prescribed by NERC. It applies the
21 20% reference reserve margin adopted by NERC/NPCC for NPCC-
22 Maritimes to the New Brunswick case. It also assumes a wind
23 resource contribution of 162 MW. The Operational Requirement

Oral Decision by the Chairperson

1 Calculation is an operational resource analysis using single
2 inputs based on set rules to produce a single predictable
3 output. In place of a reference reserve margin of 20%, it
4 assumes that the largest single source loss of 715 MW that
5 would result from an unplanned outage at the Point Lepreau
6 Generating Station. It also values the contribution of wind
7 using its effective load carrying capacity, or ELCC, and makes
8 an allowance for 200 MW of other unplanned outages. Neither
9 scenario includes capacity available through load-sharing
10 with neighbouring provinces or states.

11 The 200 MW allowance for additional unplanned outages
12 was derived from NB Power's experience. The evidence confirms
13 that over the years 2021 through 2025, NB Power experienced
14 unplanned outages averaging 279.2 MW per year. For balancing
15 purposes, NB Power has for many years assumed unplanned
16 outages of 200 MW a year which amounts to roughly 5% of its
17 total generation capacity, less wind.

18 For the following reasons, reliance on neighbouring
19 jurisdictions for additional capacity is not a viable
20 planning option for NB Power. Like New Brunswick, Prince
21 Edward Island, Nova Scotia, Northern Maine, and Québec are
22 all winter-peaking systems. Prince Edward Island is a net
23 purchaser of capacity and there is no opportunity for adding

Oral Decision by the Chairperson

1 capacity from there. The capacity of the interface between
2 Hydro Québec and New Brunswick is constrained by two high-
3 voltage DC stations near the border. The evidence established
4 that only significant and expensive upgrades to the
5 transmission systems in both provinces could make Québec a
6 viable source of additional capacity in the future. No such
7 upgrades are currently planned.

8 Nova Scotia is not a viable option for adding capacity
9 in the foreseeable future either. It currently plans to add
10 significant renewable resources with new wind projects, but
11 that wind generation will have to be matched by new
12 dispatchable generation capacity in the form of conventional
13 thermal, hydro, and battery generation. The evidence before
14 the Board demonstrates that Nova Scotia is currently planning
15 to add 300 MW of combustion turbine capacity to its system
16 with an option to add a further 300 MW. Furthermore, the Nova
17 Scotia IESO is attempting to secure an additional 100 MW of
18 capacity from New Brunswick for ten years from the proposed
19 Expansion Opportunity.

20 Like Prince Edward Island, Northern Maine is a net
21 purchaser of capacity. It is not connected to the New England
22 market, so primarily relies on New Brunswick for both energy

Oral Decision by the Chairperson

1 and capacity. It will be very unlikely to provide additional
2 capacity to New Brunswick in the foreseeable future.

3 New Brunswick – New Brunswick Power’s evidence was that
4 it has never been successful in acquiring capacity from the
5 New England system operator. Historically, there have been
6 frequent curtailments of energy at the New England-New
7 Brunswick interface. The Board accepts that New England
8 cannot be relied upon to provide additional capacity to NB
9 Power in the foreseeable future.

10 The Board also considered whether the possibility of
11 curtailment of export capacity contract sales should be
12 included in NB Power’s reliability planning. While NB Power
13 would have the right to curtail export sales for reasons of
14 safety in event of an emergency, it would not be commercially
15 responsible to plan on curtailing sales to produce – to –
16 excuse me – to preserve a regulatory reserve margin. NB
17 Power’s evidence was that historically, capacity export sales
18 have benefited New Brunswick ratepayers because revenues from
19 those sales have exceeded the cost of providing that capacity.
20 With growing electrification, the capacity market is expected
21 to remain strong throughout 2028 and 2029, and even beyond.

22 As neighbouring system operators seek to increase
23 capacity to maintain reliability, new dispatchable generation

Oral Decision by the Chairperson

1 assets will be required, and rising construction costs are
2 likely to put upward pressure on capacity prices. NB Power's
3 analysis that, even taking into account the projected costs
4 of the Project, the margin between the cost of capacity and
5 the price of capacity would benefit NB Power and its
6 ratepayers.

7 Securing capacity with the Tolling Agreement would
8 shield NB Power from further inflation risks while
9 potentially increasing the margin between its cost of
10 capacity and market prices, to the benefit of NB Power and
11 its ratepayers. NB Power's Operational Requirement
12 Calculation produces a significantly larger anticipated
13 reserve deficits than the Load and Resource Balance
14 Calculation. The Load and Resource Balance Calculation shows
15 a planning reserve deficit of 32 MW in 2025, increasing to
16 264 MW in 2030. The Operational Requirement Calculation shows
17 that, without additional generating assets, there is expected
18 to be a reserve deficit of 294 MW in 2025, increasing to 523
19 MW in 2030. In either case, the RAR indicates that NB Power
20 will have to increase its access to dispatchable resources by
21 between 264 MW and 523 MW by 2030 to meet the NERC/NPCC
22 reserve requirements for NPCC-Maritimes.

Oral Decision by the Chairperson

1 NB Power engaged the independent consulting firm, The
2 Brattle Group, to assess whether the Project is justifiable
3 based on system reliability and operational considerations.
4 Brattle reviewed NB Power's overall analytical approach and
5 confirmed that its methodology aligns with acceptable
6 industry standards. Brattle did not conduct independent
7 reliability modeling, but did review the assumptions made by
8 NB Power in its own modeling and considered them to be
9 reasonable for planning purposes.

10 The NERC LTRA demonstrates that in the fiscal years
11 ending in 2027 and 2028, the NPCC-Maritimes planned reserve
12 falls below the target 20% reserve margin by nearly 3% and
13 1.5% respectively. Assuming the addition of 400 MW capacity
14 in 2028, the anticipated reserve jumps to 25.6% then decreases
15 to 21.7% by 2030. It is now known that the 400 MW of capacity
16 from the project would not be expected to come online until
17 the summer of 2028, so anticipated reserve for NPCC-Maritimes
18 for 2028 would also fall below the 20% reserve margin.

19 The NERC LTRA also demonstrates that from 2029 onward,
20 the anticipated reserve margin only stays above the required
21 20% reference margin level if the 400 MW of capacity from the
22 Project, or some other source, is available.

Oral Decision by the Chairperson

1 Jeffrey Palermo, an expert in the field of generation
2 and transmission planning, reliability analysis, blackout
3 investigations, and the effects of restructuring and markets,
4 was engaged by the Public Intervener. On cross-examination,
5 he testified that, without the addition of the 400 MW of
6 capacity, the anticipated annual reserve adequacies
7 identified in Table 2 of the NERC LTRA would drop below 20%.
8 It follows that anticipated reserves in every year through
9 2031 and beyond would be below the 20% reserve margin, as
10 well. If that is the case, in 2030-'31, the anticipated
11 reserve margin would be only 15.7%. The greater the deficit
12 margin, the greater the risk of unplanned blackouts during
13 periods when electricity is needed the most.

14 The Interveners, the Conservation Council of New
15 Brunswick and Doctor Secord, did not challenge the conclusion
16 that NB Power will have to add at least 400 MW of reserve
17 capacity in the coming years.

18 The Public Intervener acknowledged that there is a real
19 risk to reliability without an added 400 MW of capacity but
20 pointed to discrepancies between the various NPCC reliability
21 assessments, which indicate that NPCC-Maritimes will have
22 sufficient reserves, and the NERC LTRA, or LTRA, which clearly
23 identifies reserve deficiencies without the addition of the

Oral Decision by the Chairperson

1 400 MW of capacity by 2028. He contended that until those
2 discrepancies are explained, approval of the Tolling
3 Agreement would be premature.

4 The Intervener, the Protect the Chignecto Isthmus
5 Coalition, which I will refer to in the Decision as simply
6 the Coalition, took exception to NB Power's RAR. It pointed
7 out that successive NPCC reviews of NPCC-Maritimes resource
8 adequacy from 2023, 2024, and 2025 reported that the area
9 will be consistently better than the one day in 10 target
10 LOLE from 2028 through 2030. It submitted that the – in the
11 absence of an explanation for the differences between the
12 NPCC assessments and the NERC LTRA, the latter should be
13 disregarded. However, as counsel for NB Power noted, it is
14 apparent that the NERC LTRA anticipated reserve margins
15 relying only on Tier 1 resources – that is resources with a
16 high confidence of being realized – generally, those already
17 under construction or with signed interconnection agreements,
18 such as the Project. It is a more conservative assessment
19 than the NPCC one that also assumes Tier 2, or more
20 speculative potential resources in early development stages.
21 Furthermore, the NPCC assessment did not use the effective
22 load carrying capacity, or ELCC, for wind resources. NB Power
23 contends – and the Public Intervener's expert witness, Mr.

Oral Decision by the Chairperson

1 Palermo agreed – that in assessing the contribution of wind
2 to total resources, the ELCC of wind is the proper measure.
3 Wind does not blow constantly or consistently, and current
4 wind turbines do not operate efficiently in extreme cold
5 conditions.

6 In the Board's view, the long-term reliability
7 assessment for NPCC-Maritimes as reported in the NERC LTRA is
8 the most relevant and reasonable reference for determining
9 how reserve margins between now and 2030-'31 are likely to
10 compare to the 20% reference reserve margin necessary to
11 achieve the one-day-in-10-year LOLE planning target.

12 NB Power contends that its statutory mandate to maintain
13 the adequacy and reliability of the integrated electricity
14 system in New Brunswick does not end with satisfying the
15 NERC/NPCC reliability planning standards for NPCC-Maritimes.
16 It says that conditions unique to New Brunswick make it
17 particularly vulnerable to loss of load events at times of
18 peak demand. NB Power contends that, for planning purposes,
19 it must take into account contingencies particularly peculiar
20 to the New Brunswick system. Among these are: NB Power's heavy
21 reliance on the single generation unit, the Point Lepreau
22 Generating Station, while the Point Lepreau Generating
23 Station comprises less than 10% of NPCC-Maritimes' capacity,

Oral Decision by the Chairperson

1 it accounts for over 17% of NB Power's in-province resources,
2 more than 20% of its net peak load; the possibility that
3 emergent issues during the planned refurbishment of the
4 Mactaquac Generating Station could lead to the shut down of
5 two of its six turbines rather than the one-at-a-time shut
6 down planned for; the possibility that the planned repowering
7 of the Belledune Generating Station is unsuccessful or
8 delayed leading to a loss of the 375 MW of planned capacity
9 beginning in 2028; and the significant unlikelihood that NB
10 Power could take advantages – take advantage, excuse me, of
11 load sharing from neighbouring systems during periods of peak
12 demand.

13 Mr. Coady of NB Power testified about four Energy
14 Emergency Alerts that it, as the New Brunswick system
15 operator, has been forced to issue since February 2023. Energy
16 Emergency Alerts are issued to request customers to curtail
17 interruptible loads due to unexpectedly high system loads and
18 generation limitations. The most serious of these occurred
19 between February 3 and February 5, 2023, caused by extreme
20 cold weather, unplanned generator output reductions, and
21 curtailed purchases from neighbouring interconnections due to
22 contemporaneous Emergency Alerts in Québec and Nova Scotia.

Oral Decision by the Chairperson

1 The Public Intervener contends that any resort to the
2 Operational Requirement Calculation in the RAR would be
3 inappropriate for assessing whether, or the extent to which,
4 additional capacity is required. He says that doing so would
5 impose different planning standards than that imposed
6 pursuant to the *Reliability Standards Regulation*. The Board
7 does not agree. The largest single source loss of 715 MW that
8 would result in an unplanned outage at the Point Lepreau
9 Generating Station test more closely aligns with the
10 applicable of NERC Reliability Standard BAL-002-3 than the
11 20% reference reserve margin stipulated for NPCC-Maritimes.

12 In his direct testimony, Mr. Palermo expressed the
13 opinion that the Project could not be justified by regional
14 planning criteria, that is, the 20% refence margin level
15 agreed to for NPCC-Maritimes. He said that operating-type
16 analyses are not appropriate for determining capacity
17 expansion plans. On the other hand, NB Power's expert –
18 independent expert, Brattle's rebuttal evidence, was that the
19 assumptions baked into the NPCC assessments for the NPCC-
20 Maritimes area should not be relied upon when planning New
21 Brunswick capacity reserves given limitations on New
22 Brunswick's access to imported power, transmission
23 constraints within the area, and reliance on – excuse me, and

Oral Decision by the Chairperson

1 reliance on time-specific resource availability. Brattle
2 pointed out that other jurisdictions in North America,
3 including Ontario and California, already supplement
4 traditional planning assessments such as those adopted for
5 NPCC-Maritimes with operational analyses, intra-day and
6 multi-day reliability risks, ramping constraints, and energy
7 limitations.

8 Mr. Palermo testified that, generally, utilities should
9 avoid being dependent on a single generating unit comprising
10 more of 10% of load. He acknowledged that, looking at the New
11 Brunswick system in isolation, the heavy reliance on the Point
12 Lepreau Generating Station would probably dictate a reserve
13 margin as high as 25 or 27%. He also accepted that for
14 planning purposes, use of the ELCC of wind as is done by NB
15 Power in its Operational Requirement Calculation, is more
16 appropriate than the use of forecast wind on a single peak
17 day as was used in the NPCC reviews.

18 The Coalition argued that the RAR was inadequate and
19 outdated. The Board acknowledges that the RAR was concise,
20 was about two years old at the time of the Hearing, and had
21 not been updated. Despite being concise, the analysis behind
22 the RAR was in evidence and was available to all Interveners
23 before the Hearing. The Coalition also pointed out that

Oral Decision by the Chairperson

1 between the time the RAR was completed and the Hearing in
2 this Matter, NB Power has entered into agreement for an
3 additional 500 MW of wind generation that it says will provide
4 an additional 100 MW of capacity for which the RAR fails to
5 account.

6 Jonathan Pollock, NB Power's Executive Director of
7 System Operations, referred to NB Power's relatively recent
8 experience during an event of extremely cold weather in
9 February of 2023 when a significant portion of the wind
10 generation fleet could not operate. Mr. Pollock was the
11 individual ultimately responsible for keeping the lights on
12 during that crisis. And Mr. Palermo had testified that in his
13 opinion, "Mr. Pollock and his [...]" – "Mr. Pollock and his
14 team, I think, are competent system operators." Based on the
15 evidence of the February 2023 operational experience, the
16 Board does not consider the failure to include an additional
17 100 MW of wind in the Operational Requirement Calculation to
18 be unreasonable.

19 The Act requires NB Power to submit an integrated
20 resource plan covering a planning horizon of at least 20 years
21 to the Executive Council for approval once every three years.
22 The most recent plan approved by the Executive Council is NB
23 Power's 2023 Integrated Resource Plan which contemplates

Oral Decision by the Chairperson

1 adding 600 MW of dual-fuel combustion turbine generation by
2 2020 (sic) – excuse me, 2041. NB Power’s evidence is that the
3 modelling used for the RAR showed peak-load values that were
4 higher than those assumed in the IRP. In addition, there is
5 a greater spread in the range of that forecast than previously
6 understood. NB Power’s peak load forecasts include a lower
7 forecast that the utility is 90% sure it will exceed for the
8 so-called P90 forecast, as well as a high peak forecast that
9 the company is only 10% confident that it will exceed in any
10 given year, or the P10 forecast.

11 In the Board’s view, planning on the P10 forecast may be
12 conservative, but the consequences of under-planning by
13 relying on a P90 forecast are more severe. Planning based on
14 P90 forecast would reduce cost, but increase blackout risk.
15 Planning to add 400 MW by 2028-’29 may accelerate expenditures
16 compared with what was contemplated in the IRP, but it is not
17 inconsistent with it. Taking all of the foregoing into
18 consideration, the Board concludes that an electric utility
19 in the position of NB Power would reasonably plan to add 400
20 MW of additional capacity by 2028-’29.

21
22 In-province Capacity Resource Options

Oral Decision by the Chairperson

1 NB Power contends that securing 400 MW of capacity from
2 the Project by '28 – 2028-2029 is a reasonable solution to
3 the requirement for additional capacity to meet its capacity
4 reserve needs. All Interveners contended that NB Power failed
5 to adequately evaluate or consider alternative technologies
6 or strategies that might reasonably solve NB Power's
7 perceived requirement for at least an additional 400 MW of
8 capacity at a lower cost, and more in harmony with
9 considerations enumerated in Subsection 107(11) of the
10 *Electricity Act*. Instead, the Interveners suggested that NB
11 Power defaulted to an old, familiar technology and, after
12 making that decision, cobbled together a rationale to justify
13 it.

14 During the course of the Hearing, Interveners focused
15 particularly on battery electric storage systems, or BESS, as
16 an alternative to the proposed combustion turbines. The IRP
17 demonstrates that NB Power considered the ELCC of BESS when
18 assessing its viability. It also assumed that as the number
19 of batteries in BESS installations increases, the incremental
20 capacity benefit declines, resulting in diminished returns.
21 Accordingly, BESS was not expected to provide – excuse me.
22 Accordingly, BESS was not expected to provide significant

Oral Decision by the Chairperson

1 capacity contribution under any of the scenarios considered
2 in the IRP.

3 Although NB Power anticipates adding some BESS resources
4 going forward, it did not consider BESS to be a viable
5 solution to the need to add 400 MW of dispatchable resources
6 by 2028-'29. In the course of preparing the IRP, NB Power
7 commissioned the consulting firm E3 to report on the capacity
8 benefits of wind, solar, and batteries. E3 determined that,
9 while BESS can assist in spreading out peak demand by charging
10 during adjacent hours and discharging during peak hours, as
11 more BESS is installed, adjacent hours begin to equal peak
12 hours, resulting in diminishing ELCC values. E3 concluded
13 that approximately 1,000 MW of four-hour battery storage, or
14 4,000 MW, would be needed to achieve an ELCC of 400 MW. Taking
15 into account BESS pricing derived from responses to a 2023
16 Renewable Request for Expressions of Interest, NB Power
17 concluded that a BESS solution to the 400 MW capacity need
18 would be 78% more expensive than the Project. However, BESS
19 is an evolving technology. There is no evidence that any new,
20 thorough modelling and analysis of a BESS capacity option was
21 undertaken by NB Power after the RAR revealed the pressing
22 need for additional capacity and before the decision to rely
23 on combustion turbines was made.

Oral Decision by the Chairperson

1 Over the objection of NB Power, Toby Couture was
2 qualified as an expert witness in battery storage systems and
3 renewable electricity – excuse me, renewable energy
4 generation, integration of battery storage systems, and
5 renewable energy generation and electrical systems, and the
6 comparative costs of battery energy storage systems,
7 renewable energy generation, and fossil fuel energy
8 generation for electricity systems. Mr. Couture’s central
9 opinion was that BESS technology is evolving rapidly and that
10 declining costs may make it a preferable option for meeting
11 NB Power’s additional capacity requirements. Mr. Couture’s
12 costing for BESS was broad and did not specifically address
13 New Brunswick’s circumstances. Although he discussed the
14 Canadian market, the pricing he cited was largely anecdotal
15 and drawn from press reports. In his opinion, global BESS
16 costs declined by 93% between 2010 and 2024, and by 2024 had
17 fallen from about C\$388 to C\$161/kWh. He acknowledged,
18 however, that the Canadian – the Canadian market lags well
19 behind global developments. He referred to four Canadian BESS
20 projects expected to enter service between 2025 and 2027, for
21 which he estimated costs ranging from C\$448 to C\$750/kWh. His
22 research also suggested that, in Canada, cost per kWh tends
23 to decline as project size increases. He acknowledged that

Oral Decision by the Chairperson

1 BESS costs are likely dependent on the specific circumstances
2 of each project.

3 NB Power contends, and Mr. Couture agreed, that the ELCC
4 of BESS declines as installed capacity increases. NB Power
5 submitted, based on the E3 study, that approximately 1,000 MW
6 of battery capacity would be required to provide the
7 equivalent of 400 MW of firm capacity, reflecting an ELCC of
8 40%. Mr. Couture disagreed with the E3 conclusion and
9 attributed it to an error in the application of ELCC
10 methodology, but he did not offer an alternative estimate. He
11 also acknowledged that battery cells degrade over time and
12 generally require repowering between years 10 and 15. The
13 cost assumptions underlying his opinion did not include the
14 cost of that repowering, nor was he able to say whether the
15 pricing – the pricing on which he relied included necessary
16 switchyard, transmission, or other associated project costs.

17 As previously mentioned above, the evidence presented by
18 the Interveners regarding BESS was general in nature and did
19 not address the specific conditions, costs, and system
20 requirements in New Brunswick. Based on all of the foregoing,
21 the Board is satisfied that meeting the need for at least an
22 additional 400 MW of capacity by 2028-2029 with a combined
23 turbine facility in southeastern New Brunswick is technically

Oral Decision by the Chairperson

1 sound and likely less costly than an adequately sized BESS
2 solution.

3

4 Project Delivery Model

5 The Tolling Agreement resulted from a procurement
6 process that began in early 2024, when NB Power identified
7 three equipment manufacturers from whom it sought technical
8 and cost information for simple-cycle combustion turbines and
9 synchronous condensers. In June of 2024, NB Power issued a
10 Request for Expressions of Interest. Although framed as a
11 Request for Expression of Interest, the process conducted by
12 NB Power was similar in manner to a tender. NB Power first
13 evaluated the four responses against technical criteria,
14 including power output, performance, synchronous condenser
15 capability, maintenance schedules and strategies, dual-fuel
16 capability including biofuel/biodiesel, nitrous oxide
17 emissions, and maintenance requirements. It then scored the
18 responses using the following weighted criteria: 30% for
19 price, 30% for schedule and experience, 20% for ownership and
20 operating experience, and 20% for configuration. Only three
21 proponents provided enough information to be scored on price.
22 Of those, the consortium which became RIGS LP received 26.3
23 points out of 30. The highest score for pricing was 27.3 out

Oral Decision by the Chairperson

1 of 30. In the schedule and experience category, the consortium
2 that became RIGS LP received the highest score. It was
3 assessed as offering the shortest timeline from permitting to
4 commissioning and a demonstrated ability to deliver. It
5 received 27.5 points out of 30; three points higher than the
6 next-ranked proponent. In the ownership and operating
7 experience category, the consortium that became RIGS LP
8 ranked second. Although it demonstrated a substantial
9 portfolio, it was smaller than that of the highest-scoring
10 proponent, which owned a larger portfolio but had no
11 facilities in Canada. RIGS LP received 17.5 points out of 20.
12 In the configuration category, all proponents received the
13 same score: 12.5 points out of 20. On the combined scoring,
14 the consortium that became RIGS LP ranked first overall,
15 marginally above the score of the proponent that scored the
16 second highest.

17 Based on its review of the confidential record of the
18 evaluation process NB Power followed, the Board is satisfied
19 that the process was thorough and fair. NB Power then
20 negotiated with the two highest scoring proponents and
21 ultimately determined that the preferred "bid" was that from
22 the consortium that became RIGS LP. NB Power then pursued

Oral Decision by the Chairperson

1 negotiations with that proponent and ultimately agreed to the
2 Tolling Agreement with RIGS LP.

3 The key details of the Tolling Agreement are that: the
4 facility will owned by RIGS LP and situated on land that has
5 been purchased and is owned by NB Power and will be leased to
6 RIGS LP, the land is close to both an existing 138 kV
7 transmission line and the Martimes and Northeast
8 interprovincial and natural gas pipeline, and in southeastern
9 New Brunswick where the need for generation facilities is
10 most acute; the facility will consist of eight dual-fuel
11 refurbished ADGTs, each with a maximum capacity of 50 MW;
12 each turbine will be capable of ramping up to full power in
13 six minutes; each turbine will be equipped with a synchronous
14 condenser to provide inertia for high voltage support and
15 assist renewable generation integration; RIGS LP will execute
16 all necessary switchyard construction required to integrate
17 the facility with the bulk power system and those assets which
18 will represent an approximate capital cost of NB Power worth
19 about \$70 million will be transferred to NB Power on the
20 completion of – excuse me, will be transferred to NB Power on
21 completion for a nominal price of \$1.00 – the *Electricity Act*
22 provides that only NB Power and the transmitter may own such
23 assets; the term of the Tolling Agreement is 25 years from

Oral Decision by the Chairperson

1 the "Targeted Commercial Operation Date" or the actual
2 "Commercial Operation Date" – the Targeted Commercial
3 Operation Date is August 1, 2028; NB Power will have the
4 exclusive right to schedule delivery of the energy from the
5 facility; RIGS LP will maintain and operate the facility, and
6 NB Power will make variable operation, maintenance and
7 administration, OM&A payments for each hour it requires the
8 facility to produce energy in synchronous condenser mode,
9 generation from using natural gas, generation using liquid
10 fuel, the hourly rates will be – will escalate a fixed percent
11 each year; NB Power will supply all necessary fuel to the
12 facility at its own expense and will consequently bear the
13 risk of fluctuating fossil fuel costs; NB Power commits to
14 repaying RIGS LP the capital costs of the facility which, Mr.
15 Coady testified, will exceed \$1 billion, plus OM&A costs,
16 financing costs, return on equity for RIGS LP, and insurance
17 costs; the payments to RIGS will be made monthly beginning
18 with commercial operation and over the 25-year term of the
19 Tolling Agreement.

20 NB Power contends that in addition to securing the
21 required additional 400 MW of capacity, the Tolling Agreement
22 effectively transfers risks of the proposed project from
23 itself to RIGS LP. Among other things, NB Power contends that

Oral Decision by the Chairperson

1 the chosen delivery model: secures eight combustion turbines
2 at a locked-in price in a market where such turbines are in
3 high demand and prices are not decreasing; shifts
4 responsibility for planning and managing the facility from NB
5 Power at a time when its resources are stretched and would be
6 more adequately focused on other large projects, including
7 the Mactaquac Life Achievement Project, the Belledune
8 Repowering Project, the large transmission capital projects
9 approved by the Board in Matter EL-001-2025, and the New
10 Brunswick/Nova Scotia Interprovincial Transmission Line
11 Project; and effectively provides NB Power with a 25-year
12 performance guarantee since payments to RIGS LP are based on
13 capacity availability.

14 A review of the provisions of the Tolling Agreement
15 confirms that it would transfer most construction scheduling
16 and emergent construction risks for NB Power to RIGS LP. It
17 would also allocate all the operation, and maintenance, and
18 performance risks to RIGS LP. The transfer of the risk comes
19 at a cost. NB Power – excuse me, the Board heard credible
20 evidence suggesting that, depending on assumptions made, the
21 lease/tolling model chosen by NB Power will have a net present
22 value cost of somewhere between 82 million and 221 million in
23 excess of an ownership model whereby NB Power would retain

Oral Decision by the Chairperson

1 construction, schedule, operation, and maintenance risks. Mr.
2 Madsen, an expert in the field of accounting and finance for
3 utilities, depreciation expenses, financial analyses for
4 utilities, revenue requirements and rate regulation,
5 testified that, in his opinion, the premium would be much
6 higher.

7 In making its decision to proceed with the Project, the
8 NB Power Board of Directors followed the recommendation of NB
9 Power management. The record shows that NB Power: was
10 cognizant of the additional cost of the risk to transfer to
11 a third party; recognized that there was value in having the
12 facility constructed and operated by a third party that had
13 experience with fleets of similar units compared to NB Power's
14 relatively small fleet of varied thermal generation assets;
15 appreciated that it did not have access to the priority queue
16 position for the ADGTs that the lead proponent had which was
17 important because of the requirement to secure additional
18 capacity by '28-'29; recognized that a tolling agreement
19 model offered a greater reliability than an ownership model
20 since the lead proponent had greater access to spare parts
21 because of its broader fleet of similar units; took into
22 consideration the capacity of its own in-house resources to
23 manage and coordinate the several large and challenging

Oral Decision by the Chairperson

1 projects planned in the next few years, including the
2 Mactaquac Life Achievement Project, the Belledune Coal
3 Transition Project, and the Interprovincial Transmission Line
4 Project, and several reliability improvement projects across
5 all of its generation fleet, and concluded that the competing
6 priorities could lead to an unacceptable schedule risk
7 tolerance in meeting energy security requirements for
8 customers.

9 Assuming NB Power is permitted to include all of the
10 Project costs in its revenue requirement, then in the first
11 full year of commercial operation, 2029, it estimates that
12 the Tolling Agreement will cost ratepayers approximately \$109
13 million resulting in a rate increase that year attributable
14 to the Tolling Agreement of roughly 4.98%. This is the cost
15 of securing the 400 MW of additional dispatchable capacity by
16 2028-2029.

17 In the Board's view, NB Power's consideration of the
18 relative advantages of ownership and tolling models was
19 appropriate and reasonable, and the selection of the tolling
20 model is a decision that a reasonable utility in its position
21 could have made. Locking in the cost of the risk transfer
22 was, in all of the circumstances, reasonable.

23

1 Other Considerations

2 Section 68 of the Act sets out provincial government
3 policy as it pertains to NB Power. First, it is expected that
4 rates charged for sales of electricity in New Brunswick:
5 should be based on annually forecasted costs for the supply,
6 transmission, and distribution of electricity; and should
7 provide sufficient revenue for NB Power to earn a just and
8 reasonable return in the context of the objective of achieving
9 a capital structure of 20% equity.

10 NB Power's sources and facilities for the supply,
11 transmission, and distribution of electricity in the province
12 should be managed and operated in a manner that is consistent
13 with reliable, safe, and economically sustainable service
14 that will result in the most efficient supply, transmission,
15 and distribution of electricity, will result in New Brunswick
16 consumers having equitable access to a secure supply of
17 electricity, and is consistent with the policy objectives of
18 earning a just and reasonable return sufficient to achieve an
19 equity ratio of 20%.

20 Section 68 does not speak directly to the proposed
21 addition – the proposed additions to NB Power's existing
22 resources and facilities, nor can government policy override
23 the legislative mandate set out in Section 71 of the

Oral Decision by the Chairperson

1 *Electricity Act* that requires NB Power to maintain the
2 adequacy and reliability of the integrated electricity
3 system. The evidence in this matter demonstrates that the
4 Project may exacerbate the challenges faced by NB Power in
5 working towards the 20% equity structure objective. As
6 important as that aspirational objective is, it must, if
7 necessary, be subordinated to the legislative mandate to
8 maintain the adequacy and reliability of the system.

9 The Board notes that NB Power's most recent strategic,
10 financial, and capital investment plan dated September 2025
11 does not align well with the IRP. The apparent discordance
12 between the IRP and the 2025 Strategic, Financial, and Capital
13 Investment Plan arises from load forecasts that post-dated
14 the IRP and does not affect the Board's decision.

15 The *Electricity from Renewable Resources Regulation*
16 requires NB Power to ensure that 40% of total in-province
17 electricity sales in kWh is from renewable resources. The
18 Project is not proposed as a baseload generating facility and
19 is not expected to displace renewable energy or impede NB
20 Power's transition to a net-zero system. Evidence before the
21 Board establishes that the proposed facility is designed to
22 operate only 5% of time, to provide fast-start dispatchable
23 peaking capacity that will be called on only when renewable

Oral Decision by the Chairperson

1 generation is unavailable to meet system requirements. There
2 has been no suggestion in this Matter that the Tolling
3 Agreement would contravene the 40% renewable mandate in the
4 *Electricity from Renewable Resources Regulation*.

5 The most recent directive issued by the Executive
6 Council to NB Power pursuant to Section 69 of the Act is dated
7 April 8th, 2025; it is silent on the question of new
8 generation capacity, energy security, and regulatory
9 compliance. It contains no direction as to how NB Power should
10 approach a need for additional dispatchable capacity, how
11 risks of non-compliance with the NERC/NPCC reliability
12 standards should be managed, or on the sort of procurement
13 model for new capacity acquisitions for generation capacity
14 the government favours. However, nothing in the Tolling
15 Agreement is discordant with the remaining provisions or with
16 the provisions of the mandate letter.

17 Having considered all the foregoing, the Board is
18 satisfied that the Tolling Agreement is within the range of
19 options a reasonable utility in the position of NB Power could
20 have selected based on the evidence provided in this manner
21 (sic) – excuse me, in this Matter and that, consequently, the
22 decision to enter into the Tolling Agreement is prudent.

23

Oral Decision by the Chairperson

1 The Expansion Opportunity

2 NB Power, RIGS LP, and the Nova Scotia Independent Energy
3 System Operator have agreed that if the Tolling Agreement
4 becomes operational and the necessary approvals are given,
5 two additional ADGTs will be added to the facility so that NB
6 Power can commit 100 MW of capacity to the Nova Scotia IESO
7 for a term of 10 years beginning in 2028. The Tolling
8 Agreement contemplates this addition to the RIGS Project.
9 During the 10-year term of the proposed Expansion Tolling
10 Agreement, the Nova Scotia IESO would purchase all the 100 MW
11 of additional capacity and would backstop all costs and risks
12 associated with the Expansion Tolling Agreement for its 10-
13 year term. The Expansion Tolling Agreement would result in a
14 per-unit price reduction for the initial eight ADGT over the
15 full 25-year term. NB Power would retain the option to sell
16 the 100 MW capacity to the IESO, or any other buyer, or use
17 it for its own capacity needs for the remaining 15 years of
18 the term of the Tolling Agreement. NB Power has calculated
19 that even if it does not resell the additional capacity beyond
20 the end of the 10-year term of its agreement with the IESO,
21 it would reduce the overall revenue requirements associated
22 with the Project for 12 years. The 10-year agreement with
23 Nova Scotia IESO would also give NB Power access to up to all

Oral Decision by the Chairperson

1 of Nova Scotia IESO's Project capacity at the latter's
2 discretion, and Nova Scotia IESO would have access to up to
3 100 MW of NB Power's Project capacity at NB Power's
4 discretion.

5 It is NB Power's assessment that access to the 100 MW of
6 additional capacity provided for in the Expansion Tolling
7 Agreement in 2038 will be an asset. It noted, among other
8 things, that: its 2026-2036 load forecast submitted to the
9 Board in Board Matter EL-003-2025 reveals peak loads rising
10 from 3,230 MW to 3,340 MW and its P10 or high risk forecast
11 showing even higher peaks; forecast retirements of over 1,700
12 MW of aging thermal capacity in the 2038 to 2041 period; its
13 approved IRP, which projects in every scenario a need for at
14 least 600 MW of additional combustion-turbine capacity by
15 2040, and beyond – excuse me, 2040, beyond the 400 MW provided
16 for in the Project; the RAR that concluded an immediate need
17 for added capacity of 400 MW now and a further 600 MW as soon
18 as 2030; and an increasingly intermittent electricity grid to
19 conclude that it is more prudent to retain the option of being
20 able to rely on the 100 MW capacity that will revert to it at
21 the termination of the agreement with Nova Scotia IESO in
22 2038 than to commit that capacity to Nova Scotia IESO for the
23 entire 25-year of the Expansion Opportunity.

Oral Decision by the Chairperson

1 The Conservation Council opposes the Expansion Tolling
2 Agreement on the same basis that it opposes the Tolling
3 Agreement. It contends that if the Tolling Agreement is not
4 prudent, then the Expansion Tolling Agreement that it depends
5 on it cannot be prudent either. It says that the flaws in the
6 Tolling Agreement cannot be cured by any pricing benefits
7 that could be derived from the Expansion Tolling Agreement.

8 Doctor Secord did not seek, and so did not have, access
9 to the confidential costing information in evidence. However,
10 in his view, the publicly available evidence did not establish
11 a coherent economic case for the expansion. He estimated that
12 the expansion would represent approximately two hundred – an
13 approximate \$250 million liability to NB Power. He pointed to
14 NB Power's failure to follow its own investment governance
15 framework which, if followed, would have generated investment
16 rationales that could have demonstrated whether the expansion
17 was sensible. He submitted that the only document resembling
18 an economic justification for the expansion, NB Power's
19 Financial Impact Summary, was severely deficient. Absent an
20 adequate economic evaluation for the expansion, he
21 recommended that the Application for the approval of the
22 Expansion Tolling Agreement be denied.

Oral Decision by the Chairperson

1 The Coalition argued against the approval of the
2 Expansion Tolling Agreement, as well. It noted that: the
3 Expansion Tolling Agreement would be better treated as a lease
4 liability for accounting purposes and that NB Power had
5 provided no extended financial forecast to demonstrate how it
6 would affect NB Power's mandate to achieve the 20% equity
7 target; the lack of any evidence of RIGS LP's costs relating
8 to the expansion; its conclusion that the IRP does not
9 disclose the requirement for more than 100 MW by 2030, much
10 less the 400 to 500 MW NB Power says it must now plan for;
11 the lack of evidence demonstrating that alternative
12 combinations of renewable resources could not provide the
13 capacity NB Power says it needs by 2038; Statistics Canada
14 data showing that the population of the province declined in
15 Q4 of 2025 and Q1 of 2026, which suggested the possibility
16 that NB Power's demand projections could be overstated; the
17 lack of updated load and resource balance calculations that
18 would be useful in evaluating NB Power's need for the
19 additional 100 MW of capacity that will revert to it in 2038;
20 the lack of evidence showing how the resulting shift of
21 emissions risks and liabilities from Nova Scotia to New
22 Brunswick and liabilities that could flow from that – excuse
23 me, and the liabilities that could flow from that, which could

Oral Decision by the Chairperson

1 impact NB Power; Mr. Couture's evidence on the declining costs
2 of BESS; and that it questions whether NB Power had statutory
3 authority under the Act to build generation capacity to
4 export.

5 The question of BESS capacity and cost, and the weight
6 given to Mr. Couture's opinions have been dealt with earlier
7 in this Decision. As to the question of NB Power's authority
8 to enter into the Expansion Tolling Agreement, Part II of the
9 Act establishes NB Power as a corporation with all the powers
10 of a natural person and with the authority to carry on its
11 business, conduct its affairs, and exercise its powers
12 outside the province. The Act clearly implies NB Power's
13 authority to undertake large capital projects, including new
14 generation assets, subject to approval by the Lieutenant
15 Governor in Council and/or this Board. These broad powers,
16 read together with the provisions establishing the New
17 Brunswick Energy Marketing Corporation for the import and
18 export of energy and the open-access transmission framework
19 established in sections 85 and 111 of the *Electricity Act*,
20 make it clear that the Legislature contemplated both the sale
21 of electricity, including generation capacity, to other
22 jurisdictions, and NB Power's authority to build generation
23 capacity, and did not impose any restrictions on either.

Oral Decision by the Chairperson

1 The Public Intervener argued that if the Tolling
2 Agreement is not prudent, the Expansion Tolling Agreement
3 cannot be prudent either. He noted, among other things: NB
4 Power's failure to follow its own investment governance
5 framework in the case of either the Tolling Agreement or the
6 Expansion Tolling Agreement; evidence suggesting declining
7 combustion turbine and BESS costs by 2038; the lack of any
8 investment rationale documentation for the Expansion Tolling
9 Agreement; and the lack of any RAR for 2038 and beyond. The
10 Public Intervener concluded that further evidence would be
11 required to confirm that NB Power will need the additional
12 100 MW of combustion turbine capacity in 2038 and beyond
13 before either the Tolling Agreement or the Expansion Tolling
14 Agreement can be found to be prudent.

15 As discussed earlier, NB Power has historically derived,
16 and projects that – excuse me, has historically derived and
17 projects that, in the future, it will continue to derive
18 financial benefit from export capacity sales. Securing an
19 additional 100 MW of capacity when the Agreement with Nova
20 Scotia IESO expires would shield NB Power from further
21 inflation risks, while potentially increasing the margin
22 between its cost of capacity and market prices to the benefit
23 of NB Power and its ratepayers.

Oral Decision by the Chairperson

1 On balance, based on the limited evidence before it, the
2 Board finds that the Expansion Tolling Agreement falls within
3 the range of decisions a prudent utility in NB Power's
4 position could make and therefore approves it.

5
6 Future Minimum Filing Requirements for Section 107
7 Applications

8 In the Board's view, the summary nature of the evidence
9 initially filed by NB Power with its applications did not
10 lend itself well as to full, transparent, and rigorous a
11 process as New Brunswickers in general, and ratepayers,
12 Interveners, and the Board in particular should expect. The
13 process was rushed by deadlines imposed upon itself by NB
14 Power that were exacerbated by what the Board views as the
15 unnecessarily late filing of the Application. Key documents
16 important to the assessment of the prudence of the Project
17 were not filed until NB Power responded to interrogatories
18 from Board staff and Interveners shortly before the
19 commencement of the Hearing.

20 NB Power acknowledged that it did not subject the Project
21 to its mandatory Investment Governance Framework, which
22 ordinarily would have required Investment Rationale
23 Documentation, or IRDs, at key decision points. No IRDs were

Oral Decision by the Chairperson

1 prepared. NB Power said its leadership team considered the
2 Framework inapplicable because of the chosen procurement
3 model. The Board does not accept that view. The Framework is
4 broadly worded and clearly applies to multi-year expenditures
5 with both capital and operations, maintenance and
6 administration, or OM&A components, regardless of whether
7 they are financed through debt or lease-like arrangements.

8 NB Power's failure to apply its Investment Governance
9 Framework, and the resulting absence of IRDs at key decision
10 points, is and was regrettable. It denied both NB Power's
11 Board of Directors and this Board the structured, documented
12 analysis of need, plausible alternatives, risks, and costs
13 that all New Brunswickers and ratepayers are entitled to
14 expect before a multi-billion dollar 25-year commitment is
15 made.

16 Taking into consideration the reservations expressed by
17 the Conservation Council, Doctor Secord, the Coalition, and
18 the Public Intervener, the Board is of the view that had NB
19 Power followed its own Investment Governance Framework and
20 had it provided the updated information and analysis which
21 they have flagged as missing in this Matter, all Interveners
22 and the Board would have been in a much better position to

Oral Decision by the Chairperson

1 assess the prudence of the Tolling Agreement and the Expansion
2 Tolling Agreement.

3 But for the fact that the Board was able to satisfy
4 itself, based on the evidence that it had before it, of the
5 need for an additional 400 MW of capacity, that the combustion
6 turbine solution is technically sound and will provide the
7 required dispatchable capacity and synchronous condenser
8 capability, and will likely cost no more than a BESS project
9 with equivalent attributes, the Board could not have found
10 the current project prudent. Every effort should be made that
11 future Section 107 applications avoid the shortcomings that
12 have been revealed in this Matter. Accordingly, the Board
13 will initiate a process to identify minimum filing
14 requirements for future Section 107 applications based on the
15 lessons learned in the present Matter with input from all of
16 the relevant industry stakeholders.

17

18 Summary Decision and Approval

19 The Board finds that a prudent utility in the position
20 of NB Power: number one, would plan to add 400 MW of capacity
21 to its system by 2028-'29; number two, could reasonably select
22 combustion turbine generation facility to supply that
23 capacity; three, could reasonably choose to acquire that

Oral Decision by the Chairperson

1 generation using a 25-year tolling agreement procurement
2 model; four, could reasonably take advantage of the
3 opportunity to add 100 MW of capacity to the facility for
4 sale to the Nova Scotia IESO for 10 years, retaining the
5 option to reserve the option to sell that capacity or use it
6 for itself over the remaining 25-year tolling period; and
7 that the Tolling Agreement and the Expansion Tolling
8 Agreement are prudent.

9 Consequently, the Tolling Agreement and the Expansion
10 Tolling Agreement are approved. That concludes the Board's
11 Decision in this Matter. And the Board wishes to thank all of
12 the parties, with the least of whom are the Interveners in
13 this Application, for all of their fine work and submissions
14 to the Board. And with that, this Matter will stand adjourned.

15 (Adjourned at 2:17 p.m.)

16 ***
17
18
19