

Legislating a Net-Zero Mandate for New Brunswick

Purpose

This document outlines the need for a legislated net-zero mandate for New Brunswick's Energy and Utilities Board (EUB). It highlights the ecological, economic, and regulatory benefits of aligning the EUB's responsibilities with provincial greenhouse gas (GHG) reduction targets and recommends actions to facilitate this alignment.

Issue Summary

New Brunswick has committed to reducing GHG emissions by 46% by 2030 (compared to 2005 levels) and achieving net-zero emissions by 2050. However, the absence of a legislated net-zero mandate for the EUB is a significant barrier to meeting these targets. Decision-making remains inconsistent without a clear regulatory framework, creating uncertainty and risks that will delay New Brunswick's transition to clean energy and leave the province behind in Canada's energy transition.

Background and Challenges

Emission Reductions

- New Brunswick has made significant strides in reducing greenhouse gas (GHG) emissions, achieving a 58% decrease in the electricity sector between 2005 and 2022. Despite these efforts, the oil and gas sector, primarily petroleum refining, remains a significant contributor to GHG emissions, accounting for 23% of the province's total emissions in 2022 (Government of Canada, 2024).

Gaps in EUB's Regulatory Mandate

- The EUB is responsible for electricity regulation, focusing on affordability and reliability. However, it is not mandated to align its decisions with the GHG reduction targets outlined in New Brunswick's Climate Action Plan (Government of New Brunswick, 2022) and the Climate Change Act (Government of New Brunswick, 2018).

- Without a mandate, decisions on energy infrastructure and investments may fail to prioritize renewable energy or reduce reliance on fossil fuels, undermining provincial climate goals.

Public and Industry Confidence

- Energy producers and consumers need clear regulatory direction to support clean energy development. Projects that align with climate objectives may face unnecessary approval delays or regulatory obstacles without clear regulatory mandates.
- Uncertainty surrounding clean energy policies can weaken investor confidence and slow economic and technological progress in the province's energy sector.

Recommendations

The Canada Electricity Advisory Council report recommends embedding decarbonization objectives into policies and mandates to align regulatory frameworks with Canada's target of achieving a net-zero electricity system by 2035 (Canada Electricity Advisory Council, 2024).

- **Net-Zero Mandate for the Energy and Utilities Board (EUB):**
 - Recommend targeted amendments to existing legislation (e.g., Electricity Act or the Energy and Utilities Board Act) rather than overhauling the entire regulatory framework, making the transition manageable and effective.
 - Amend the Electricity Act or the Energy and Utilities Board Act to include the objective of achieving net-zero greenhouse gas emissions by 2050 and interim emissions reduction targets.
- **Align EUB Decision-Making with Climate Objectives:**
 - Require the EUB to consider New Brunswick's climate targets when setting electricity rates, approving transmission tariffs, and evaluating capital projects.
 - Ensure EUB decisions are guided by clear and specific legislative statements reflecting government climate goals.
- **Adopt Lessons from Other Jurisdictions:**
 - Incorporate a sustainability-focused mandate similar to Québec's Act Respecting the Régie de l'énergie, which reconciles energy regulation with sustainable development (Légis Québec, 2016).
 - Use Nova Scotia's legislative approach of integrating sustainability and prosperity considerations into energy regulatory decisions as a model (Nova Scotia Legislature, 2024).
- **Strengthen EUB Powers for Energy Transition:**
 - Empower the EUB with the authority to explore alternative regulatory approaches, such as Benefit-Cost Assessments (BCAs) that account for the social cost of carbon and the avoided costs of emissions.
 - Address potential regulatory barriers and provide resources to enable the EUB to make decisions that support innovative and sustainable energy solutions.

- **Clear Legislative Direction and Clarity:**
 - Ensure legislative amendments provide specificity and avoid interpretive confusion by clearly defining the EUB's role in achieving net-zero goals.
 - Connect the EUB's mandate explicitly to measurable outcomes, such as emissions reduction targets, to provide actionable guidance.
-

Significance and Impact

- **Environmental Impact:** A legislated net-zero mandate will accelerate the transition to renewable energy, reducing reliance on fossil fuels and fighting climate change. Additionally, aligning energy regulations with climate targets will help lower air and water pollution, contributing to a healthier environment for all New Brunswickers.
 - **Economic Benefits:** Strengthening the EUB's mandate to include climate considerations will attract investment in clean energy industries, support job growth in renewable energy sectors, and reduce the long-term costs associated with carbon-intensive energy sources.
 - **Social Considerations:** A clear and transparent regulatory framework will enhance public trust in New Brunswick's energy transition. Addressing climate goals through energy regulation will help mitigate environmental injustices, particularly for vulnerable and Indigenous communities disproportionately affected by fossil fuel dependence.
-

Analysis

Impact on Stakeholders and Rightsholders

- **Government of New Brunswick:** A legislated net-zero mandate would align the EUB with provincial climate commitments, enhancing policy consistency and regulatory efficiency. However, the government may face industry resistance and political opposition.
- **Energy and Utilities Board (EUB):** A clear net-zero mandate would provide regulatory certainty, improving decision-making and aligning policies with climate targets. However, the EUB will need additional resources and expertise to implement this mandate effectively.
- **NB Power, Energy Producers and Utilities:** Renewable energy producers would benefit from clearer investment signals, while fossil fuel-dependent producers may face challenges in adapting to stricter emissions regulations.
- **Indigenous Communities:** A net-zero mandate could support Indigenous-led clean energy projects and energy sovereignty, but it must ensure Indigenous rights and land-use considerations are respected.

- **Businesses and Investors:** Clean energy sectors would see increased investment opportunities, while carbon-intensive industries may need to adjust to new regulatory requirements and potential cost changes (McKinsey, 2022).
- **Consumers and Ratepayers:** Consumers could benefit from long-term energy cost stability and cleaner energy, though short-term rate adjustments may be necessary to fund infrastructure improvements. A clearer regulatory framework would also enhance public confidence in fair energy pricing and climate-conscious policies (Berkeley Lab, 2024).

Risks and Opportunities

Risks:

- **Regulatory and Legislative Delays:** The process of amending legislation can be time-consuming, and political resistance could slow or weaken the implementation of a net-zero mandate.
- **Resistance from Fossil Fuel Interests:** Existing fossil fuel industries, including petroleum refining, may lobby against stronger climate-aligned regulations, citing concerns over economic impacts and job losses.
- **Capacity and Resource Constraints:** The EUB may require additional expertise, funding, and personnel to effectively integrate climate objectives into its regulatory framework.
- **Legal Challenges:** Industries affected by stricter regulatory standards could challenge the mandate in court, delaying its implementation and creating legal uncertainties.

Opportunities:

- **Regulatory Certainty and Investment Growth:** A net-zero mandate would provide a clear regulatory direction, attracting investment in renewable energy projects and emerging clean technology industries.
- **Economic Diversification and Job Creation:** Transitioning to a low-carbon economy would stimulate job growth in renewable energy, grid modernization, and energy efficiency sectors (IRENA, 2023).
- **Alignment with Federal and International Goals:** New Brunswick would be better positioned to leverage federal funding and programs supporting net-zero initiatives, as well as strengthen its standing in national and international climate discussions (Canada Electricity Advisory Council, 2024).
- **Energy Resilience and Affordability:** Increased reliance on local renewable energy sources could reduce the province's exposure to fossil fuel price volatility, leading to greater energy security and long-term cost savings for consumers (International Monetary Fund, 2024).
- **Public and Stakeholder Confidence:** A transparent and climate-aligned regulatory framework would improve trust in the province's energy transition and encourage broader public support for sustainable policies.

Current Status

The EUB operates primarily as an economic regulator, focusing on fair pricing rather than long-term sustainability. This narrow mandate is simply not working as NB Power is in financial distress, with a debt-to-equity ratio of 94%, far exceeding the mandated 80/20 target by 2029 (CBC, 2023). A narrow mandate results in short-term fixes rather than structural solutions to energy challenges.

Key Contacts

Dr. Moe Qureshi, Director of Climate Research and Policy, Conservation Council of New Brunswick | moe.qureshi@conservationcouncil.ca | 506.458.8747