

**NB Power and Historical Institutionalism: Why the People of New
Brunswick Could Not Accept the Sale**

by

Angelle Bourque

Submitted in partial fulfilment of the requirements
for the degree of Master of Arts

at

Dalhousie University
Halifax, Nova Scotia
August 2011

© Copyright by Angelle Bourque, 2011

DALHOUSIE UNIVERSITY
DEPARTMENT OF POLITICAL SCIENCE

The undersigned hereby certify that they have read and recommend to the Faculty of Graduate Studies for acceptance a thesis entitled “NB Power and Historical Institutionalism: Why the People of New Brunswick Could Not Accept the Sale” by Angelle Bourque in partial fulfilment of the requirements for the degree of Master of Arts.

Dated: August 25, 2011

Supervisor: _____

Readers: _____

DALHOUSIE UNIVERSITY

DATE: August 25, 2011

AUTHOR: Angelle Bourque

TITLE: NB Power and Historical Institutionalism: Why the People of New Brunswick Could Not Accept the Sale

DEPARTMENT OR SCHOOL: Department of Political Science

DEGREE: MA CONVOCATION: October YEAR: 2011

Permission is herewith granted to Dalhousie University to circulate and to have copied for non-commercial purposes, at its discretion, the above title upon the request of individuals or institutions. I understand that my thesis will be electronically available to the public.

The author reserves other publication rights, and neither the thesis nor extensive extracts from it may be printed or otherwise reproduced without the author's written permission.

The author attests that permission has been obtained for the use of any copyrighted material appearing in the thesis (other than the brief excerpts requiring only proper acknowledgement in scholarly writing), and that all such use is clearly acknowledged.

Signature of Author

Table of Contents

Abstract.....	vi
List of Abbreviations Used	vii
Chapter 1: Introduction	1
The Data	2
Hypothesis.....	4
Outline.....	4
Chapter 2: Electricity Comes to New Brunswick.....	7
Énergie NB/ NB Power	8
Chapter 3: The NB Power – Hydro-Québec deal	18
Public Opponents and Proponents	25
Public Opinion Polls.....	28
Reports and Public Panels.....	31
The End of Negotiations.....	33
Point Lepreau	34
Chapter 4: Methodology.....	36
Historical Institutionalism	40
Path Dependency	42
Critical Junctures	45
Chapter 5: Analysis.....	49

Path Dependency	49
Critical Juncture.....	59
The Major Issues against the NB Power deal.....	62
The Language Question	62
The Sovereignty Argument.....	66
NB Power employees and Historical Institutionalism	72
The “Democracy” debate	77
The Five Years Freeze Backfires.....	82
The Facebook Groups.....	83
Overall Analysis and summary	85
Chapter 6: Conclusion	96
Appendix – Interviews	100
Bibliography	101

Abstract

Why did the people of New Brunswick fail to accept the agreement between the governments of New Brunswick and Québec to sell NB Power to Hydro-Québec? This research seeks to answer that question by examining the arguments both for and against the proposed sale of NB Power using historical institutionalism. It determines that NB Power is on two concurrent paths that are linked, yet distinct. This research then determines that the agreement to sell NB Power was a critical juncture that failed, since it was never finalized, but succeeded in creating a new momentum for change in New Brunswick.

List of Abbreviations Used

Advisory Panel on the Proposed New Brunswick-Québec Electricity

Transaction – Ganong Report

Canadian Broadcasting Corporation – CBC

Chief Executive Officer – CEO

Consumer Price Index – CPI

Demand Side Management – DSM

Distribution and Customer Service Company – Disco

Energy and Utilities Board – EUB

Federal Energy Regulatory Commission – FERC

Generation Company – Genco

Gigawatt hour – GWh

Grand Falls Hydro Project – GFHP

Heritage Pool Supply – HPS

Holding Company – Holdco

International Brotherhood of Electrical Workers – IBEW

Kilowatt hour – kWh

Member of Legislative Assembly – MLA

Memorandum of Understanding – MOU

New Brunswick Electric Power Commission – NBEPCC

New Brunswick System Operator – NBSO

New Democratic Party – NDP

Nuclear Company – Nuclearco

People's Alliance of New Brunswick – PANB

Progressive Conservative – PC

Public Utilities Board – PUB

Terawatt hour – TWh

Transmission Company – Transco

United States of America – USA or US

University of New Brunswick – UNB

Chapter 1: Introduction

Why did the people of New Brunswick fail to believe that the sale of NB Power to Hydro-Québec was a beneficial agreement? This research seeks to answer that question.

The proposed sale of NB Power was a controversial agreement negotiated between the provinces of New Brunswick and Québec. According to interviews that I have conducted, the process began in December 2008 at a First Ministers meeting during which Premier Shawn Graham of New Brunswick approached Premier Jean Charest of Québec to discuss the future of NB Power.

Traditionally, interprovincial agreements are not the focus of much of the academic literature on executive federalism. Rather, the academic literature is focused on the relationship between the federal and provincial governments, and recently there has been an increasing emphasis on municipal governments. However, this leaves a gap in the study of Canadian politics. That is why it is important to study interprovincial agreements when opportunities present themselves. The agreement between New Brunswick and Québec provides an interesting example case study of interprovincial relations.

Additionally, the sale of NB Power to Hydro-Québec presents a multifaceted opportunity for study. First, it is a fascinating case study in its own right, due to the controversy over the sale. Over half of New Brunswickers opposed the agreement, despite the government's best efforts to convince them of the merits of the deal. Second, it is the first time a public utility from one province seriously intended to purchase a public utility from a second province. The legalities and constitutionality of the agreement were in question in the hearings in the Senate because of the powers granted to

the provinces by Canada's constitution. Finally, the subject vastly fascinates me on several levels, as a New Brunswicker, and a student of Canadian politics.

The Data

Researching the NB Power sale to Hydro-Québec proved interesting. First, the agreement was announced on October 29 2009, and the ordeal was over by March 24 2010. Since it has been about eighteen months since the end of discussions, very little has been published as secondary literature. Therefore, the vast majority of my research material was primary literature.

The newspapers based in New Brunswick provided enough information to conduct my research, using online articles, including letters to the editor and opinion papers. While few opinion papers discussed the public's opposition to the agreement, some raised interesting questions on a national level. However, I must disclaim that most of the news articles were either published on the Canadian Broadcasting Corporation (CBC) website, or on CanadaEast.com. The CBC is a nationally based corporation, whose self-proclaimed mission in New Brunswick is to provide an independent view of events. CanadaEast.com is a website that publishes articles from the various publications owned by Brunswick News Inc, a subsidiary of Irving Ltd. Some of these publications are the three biggest daily newspapers in New Brunswick, the *Times & Transcript* based in Moncton; the *Telegraph Journal* based in Saint John; and the *Daily Gleaner* based in Fredericton. Additionally, it owns several weekly and semi-weekly publications, often with several editions (*L'Étoile* for example has nine separate editions throughout the province).

In addition to media sources, I was also given various public opinion polls concerning the agreement. These proved to be imperative in my research as they proved undoubtedly New Brunswickers' opposition to the agreement with Hydro-Québec, and provided some hints as to the reasons why. In addition, I also reviewed the various reports and analyses published about the agreement, which I consider as primary data because they were used by New Brunswickers to prove their arguments.

I conducted interviews with government officials to supplement the primary data already collected. These helped to focus the conclusions into a coherent hypothesis. Without the interviews, it would have been difficult to come to a single conclusion as to why New Brunswickers opposed the sale of NB Power to Hydro-Québec. The interviews were conducted by myself throughout the month of June 2011. Once the transcripts were completed, I sent the government officials interviewed their transcript via email, and each approved the interview in its entirety. Also, since those interviewed were government officials, I ensured their anonymity in the final research project by never attributing the comments used in the research to the person who made the statement. Unfortunately, I was unable to interview current or former NB Power employees. This includes David Hay, the former Chief Executive Officer (CEO) of NB Power, which is truly unfortunate, as he could have provided insightful information. However, Gaëtan Thomas, the current CEO of NB Power, gave a public interview to the Standing Committee on Crown Corporations. The purpose of this interview was to discuss the 2008/2009 and 2009/2010 Sustainability Reports, but he answered questions about the agreement to sell NB Power to Hydro-Québec.

Hypothesis

When the review of primary data first began, I believed that New Brunswickers opposed the agreement because of an attachment they felt for NB Power. While this proved correct in my analysis, it was an incomplete conclusion. Throughout the analysis of primary data, I began to see that New Brunswickers were in fact afraid of the agreement. This does not necessarily mean that New Brunswickers were afraid of Québec or Hydro-Québec, although distrust does exist, but rather that they were afraid of the changes that the agreement included. Thus, in the case of New Brunswick, path dependency as a Crown Corporation was the preferred route, while the critical juncture that was the sale of NB Power caused a fear of change. It became evident that all the other arguments opposing the sale of NB Power masked the fear of the unknown for New Brunswickers.

Outline

Before proceeding to the analysis of all this data, however, Chapter 2 will provide a brief summary of NB Power's history since its creation in 1920. In order to understand the controversy and the arguments made both in favour and against the deal with Hydro-Québec, it is important to understand NB Power's foundation, and purpose. This chapter uses mostly information found on NB Power's website, as well as some secondary literature on the Crown Corporation. Additionally, the chapter explains a previous critical juncture in NB Power's history, when the utility became more autonomous in the 1950s.

Chapter 3 discusses the agreement in detail. It explains the main articles of the Memorandum of Understanding (MOU) that are discussed in this research. The chapter then discusses the proponents and opponents of the sale of NB Power, the various public opinion polls taken in New Brunswick, and finally summarizes the reports and panels

concerning the agreement. This is a crucial chapter for this research, as it provides the information required about the MOU.

In order to answer the research question, I will use historical institutionalism as a theoretical framework. Part of the neo-institutionalism revolution in political science literature, it focuses primarily on the historical factors that cause the path dependency of an institution. Classical institutionalism focuses on the formal institutions in which the conduct of political life is undertaken, such as the legislature, the cabinet or the courts. Neo-institutionalism takes a broader point of view than the classical position. First, it includes as well the informal institutions of political life, that is, ways of doing things not necessarily mandated by the constitution, like first ministers' conferences. Second, it also includes longstanding institutions that are not necessarily at the centre of political life, but are important components of it, like crown corporations. NB Power is a crown corporation and therefore an appropriate case study for historical institutionalism. Chapter 4 explains in detail the theoretical and methodological components in historical institutionalism. It begins with a discussion of intergovernmental and interprovincial relations, including a definition of regionalism. This is important, as the people of New Brunswick have conflicting sentiments when it comes to Québec, which is discussed in Chapter 5. Interprovincial relations inherently include formal institutions, but are themselves informal institutions. That is why it is my belief that it is important to study interprovincial relations using historical institutionalism, especially in the context of the sale of NB Power. Therefore, Chapter 4 also includes a review of historical institutionalism, beginning with a definition of "institution". Additionally, the chapter

includes a discussion of path dependency and critical junctures, both important to historical institutionalism.

Chapter 5 analyzes the proposed sale of NB Power to Hydro-Québec using the information found in the previous chapters. It also includes added information from interviews I conducted with several government officials. It begins with an analysis demonstrating that NB Power is on two distinct path dependent courses. The first is the perception of the corporation's increasing debt and its perceived inability to regain control over it. The second is that it is a Crown Corporation, somewhat dependent on the government. Once NB Power's path is established, the chapter discusses why the sale of NB Power was a critical juncture in its history. It explains the government's rationale for approaching Québec and why the government of New Brunswick believed Québec was interested in the purchase. Chapter 5 analyses the various arguments against the deal, and the issues that it raised in New Brunswick, followed by a general analysis of all the issues put together. Finally, Chapter 6 concludes the research and sums up my thoughts on the subject.

Chapter 2: Electricity Comes to New Brunswick

The New Brunswick Electric Power Commission (NBEPCC) is a publicly owned utility that was established in 1920. Prior to this, many other companies, each independent of the others, distributed electric power in New Brunswick, beginning in 1884 in the city of Saint John. The Saint John Electric Light Company built New Brunswick's first generation and distribution plant. Ten years later, Saint John could boast not only of electric power, but also the first electric-powered transit system in the province (NB Power, 5-6).

Although Saint John, as the port city of New Brunswick, was important to the province, it was not the only site of electric power. The City of Moncton also had its own utility, the Moncton Gas, Light and Water Company, which began operating in the mid 1880s as well. Since the railway crosses Moncton, the existence there of electric power was a valuable asset to fuel the city's many industries, including a sugar refinery (NB Power, 7-8).

Fredericton, as the capital of the province, was not to be outdone by Moncton and Saint John. In the capital itself, two electrical companies vied with each other to supply electrical demands until 1889, when they merged in the face of a public outcry against the maze of poles and wires in the downtown area (NB Power, 8-9). In the event, the three major cities and industrial centers in New Brunswick each had electrical power by the mid 1880s. The rural areas of the province were not long in following the cities' example, although the installation of electrical power there was irregular at best (NB Power, 9-12).

It appears that each city, town, or village in New Brunswick was responsible to generate, supply, and maintain the electrical power needs of their respective citizens. The result was a large number of power companies. According to NB Power's own history of record, by 1918 there were some 20 organizations in the business of producing power in the province (NB Power, 12). It would be an understatement to claim that the industry was unregulated in New Brunswick. In the absence of government oversight, each company had the right to set its own rates.

The end of the First World War marked a change in how the New Brunswick government dealt with electrical power. A major government policy initiative was to build hydroelectric power plants to provide cheap electricity to New Brunswick citizens, businesses and industries. Indirectly, this initiative was an attempt to boost the lagging economy of the province. It would also change the level of the government's involvement with the industry. In addition, interwar governments felt the need to provide, or at least regulate, needs deemed to be "necessities". Electric power quickly became one of them.

Énergie NB/ NB Power

Although the NBEPCC was incorporated in 1920 by the government of Premier Walter Foster (NB Power, 14), it began life as a small power company that was independent of the other outfits in the province. According to the legislation that established the utility, it was to be led by a committee of three appointed members. Out of the three, at least one had to be a "Member of the Executive Council". The fifth section of the act further established that "every person appointed to be a Member of the Commission shall hold office during pleasure". In other words, three elected officials led the NBEPCC from 1920 until the appointment of the first general manager in 1957.

Interestingly, the *Electrical Power Act 1920* indirectly gave the NBEPC various powers to acquire land, and materials with the purpose of generating and distributing electrical power. Three sections of the legislation specifically refer to these powers. The first is that the NBEPC may recommend the Lieutenant-Governor of the need to acquire “the land, water, water privileges or water powers, or the land, works, machinery and plant, or portion thereof... which in the opinion of the Commission should be purchased, acquired, leased, taken, expropriated, developed, operated or used...” (*Electrical Power Act 1920*, section 8(1)). The following section grants the Lieutenant Governor the opportunity to authorize the action recommended by the NBEPC. Although no data confirms or denies whether these sections were in use, it is vastly possible that the NBEPC did expropriate land, or materials for the purpose of generating and distributing electricity in New Brunswick. Lastly, the legislation also discusses the process used by the NBEPC to acquire the land and materials necessary for its purposes.

The NBEPC’s first project was a hydroelectric dam on the Musquash River, completed on time in 1922. However, the dam did not survive its inaugural year. By the spring of 1923, it collapsed due to an inability to withstand the pressures of rain and melting snow (NB Power, 14-15). Prior to the Musquash dam’s collapse, the NBEPC started looking to develop a second hydroelectric project on the Saint John River, located at the Grand Falls site. After the 1925 election, where NBEPC was, for the first time, an election issue, an American owned company built the hydroelectric dam with the consent of the Conservative government.

The 1925 provincial election demonstrated the ideological differences between the political parties on the subject of power. The Liberals under Pierre Veniot’s

leadership wanted NBEPC to develop the Grand Falls hydroelectric dam project, while John Baxter's Conservatives preferred private development with no government support, or political interference (Woodward, 49-50). The Conservative platform proved more compelling than did the platform of the Liberals, since New Brunswick voters elected the Conservatives with a majority. Notwithstanding this result, it is important to stress that the NBEPC had featured as part of the political landscape in New Brunswick a mere five years after its establishment, and it remains a key political issue today.

During the next three decades, NBEPC was part of political platforms three other times. In 1930, the Grand Falls Hydro Project (GFHP), the development and management of which was given to an American company after the 1925 provincial election, became the target of a political attack by the Liberals. The Conservative government backed the move, saying that it promised a "plentiful supply of electricity for light, heat and power" (Woodward, 53), while the Liberal opposition, now under Wendell Jones, claimed the government had given the project away to private business. However, the next four elections did not feature the NBEPC. Meanwhile, it grew steadily in these years through mergers and acquisitions.

Throughout this period, the NBEPC began to diversify its assets. In the 1930s the company brought the first coal-fuelled generation to the province. Located in Grand Lake, the plant originally was meant to supply Fredericton and surrounding areas (such as Nackawic and Marysville), but the plant produced enough surplus that NBEPC was able to purchase distribution lines in north-western New Brunswick which, once connected to NBEPC's grid, made the area part of the NBEPC family. By the end of the decade, the

NBEPC's customer base extended throughout the province, although not all areas were yet consolidated under its banner (NB Power, 19-23).

Throughout World War Two, the Canadian government trained air force personnel. This proved to be a lucrative development for NBEPC, as many of the bases were located in New Brunswick, and each needed power supplies as well as an individual infrastructure to accommodate its demands. NBEPC had no choice but to construct the infrastructure in the winter in order for the training to begin as soon as possible for the war effort, therefore premium rates were charged due to the harsh conditions (NB Power, 24-25). After the war, the rest of the decade proved even more lucrative for NBEPC due to the expansive burst of industries in the province. By this time, most of the province had access to electrical power, although many isolated farms remained off the grid. Since some farmers were reluctant to return to manual work after the war, the government provided an enticement to them to remain on the farms by promising electrical supply, and increased infrastructure to mitigate the isolation. It was also during the second half of the 1940s that NBEPC moved its headquarters from Saint John to Fredericton in order to be near the seat of government (NB Power, 26-28).

The 1940s also saw changes in the generation of power, since diesel plants were cheap and effective generation systems. It was during this time that NBEPC's customer base grew to include the north-western communities as well as the south-western ones (NB Power, 25-26). In other words, by the 1950s, NBEPC had customers throughout the province - from Saint John, Moncton and Fredericton to Dalhousie, Bathurst, Edmundston, St Quentin, St Stephen and St Andrews (NB Power). The general feeling in

the immediate post-war era was one of hope and expectations, as expressed by Chief Engineer Reginald Tweeddale in 1951:

[...] We have raw materials, we have transportation with the other provinces of Canada and the United States, we have water communication with all parts of the world at all times of the year and we have some of the best labour in Canada. All that is needed is reasonably cheap power, the initiative to do something and a local patriotism or provincial pride which will demand that surplus funds be invested in industrial and other developments within the province instead of outside... The economic salvation of the Province depends in large measure on greater production, total and per man, and this will only come from the more extensive use of electric power as applied to our industrial life and the development of our resources (Young, 79).

However, this also meant that NBEPCC had to make changes in its operation and structure. According to R.A. Young, structural changes reflected the desire of NBEPCC engineers for efficiency and cohesiveness through a generation and distribution monopoly (Young, 90-96). Prior to the mid 1950s, all the decisions concerning NBEPCC were made politically as the Commission featured three Members of the Legislative Assembly (MLA), and were responsible for the utility. Since the MLAs were accountable to the government, and ultimately to the public, this meant the utility was essentially an “instrument of patronage and... electorally beneficial capital spending” (Young, 75). However, by 1957 the government decided to distinguish between Engineering – the generation and distribution side of the utility, now considered the ‘Operations’ side, and Operations – which is the routine, day-to-day side of the corporation, and is now called ‘Business’ (Young, 78). Although a consultant recommended the hiring of a general manager to run the corporation, the recommendation was rejected in favour of the distinction between Engineering and Operations. Still, the result reflected the consultant’s recommendation. In 1957 Reginald Tweeddale, cited above, became the first general manager of the company – Chief Executive Officer (CEO) in today’s terms.

On the Operations side, NBEPC had to diversify and grow in order to keep pace with the growing demand for power. For example, low rainfall diminished the capacity of the existing hydroelectric dams, and increases in demand meant that NBEPC had to ask its customers to ration, or reduce, electric use. The company identified the Tobique River as an ideal site to construct another hydroelectric dam. By 1953, the plant was built and online (NB Power, 30), and although the generation of power was thereby increased, it still was not enough to supply the province's demand.

Furthermore, the realization that current demand was insufficient led to debates between NBEPC engineers and the government over how to increase production - through hydro or thermal power? To add to this, the government's attempts to entice industry to the province through cheaper electricity rates meant that current generation was insufficient to supply large industries (Young, 87-88). In the end, the decision to integrate the hydroelectric and thermal plants led to the beginning of a diversified generation capacity. In addition, NBEPC was the first corporation to interconnect its grid and system with other jurisdictions, more specifically with two small utilities in Maine, USA (NB Power, 32). Finally, the discovery of ore in Bathurst substantiated the case for a hydroelectric dam in Beechwood, in addition to other arguments for the plant (Young, 80).

Young argues that the 1950s saw substantial changes for NBEPC, but possibly the most enduring was the separation of NBEPC from political influences. This does not mean that governments left the corporation alone by any means, but the corporation became more autonomous from the government during the 1950s. Rather than think of itself as a tool to benefit New Brunswick citizens, NBEPC began thinking of itself as a

corporation, which translates to a corporate identity, the purpose of which is to grow. As Young concludes: “[to] the extent that corporate drives towards security and growth influenced... policies, and deflected the NBEPC from its explicit goals of cheap and efficient power supply, one can argue that its actions have coincided less than completely with the larger interests of New Brunswickers” (Young, 99).

Throughout the next two decades, NBEPC continued on the path toward higher generation capabilities and increases in demand. In the 1960s, for example, interconnectedness became the catchphrase of all electric utility companies. Once connected to other jurisdictions, NBEPC could purchase electricity to meet demands exceeding its generation capacity, while surpluses could be sold in those same jurisdictions during low peak times. Throughout the 1970s, however, the energy crisis demonstrated just how dependent NBEPC was on foreign oil¹. Another source of energy was needed, and NBEPC turned to nuclear energy. Although the idea had been floating around since the 1950s, nuclear energy only became a viable idea during the instability triggered by the energy crisis. Construction began in 1975, and the plant built at Point Lepreau, which is close to the Bay of Fundy in order to guarantee cool water supply and remains somewhat isolated from the main city centers of the province, was ready by 1981.

Operationally, the corporation grew in diversification with the inclusion of nuclear energy. In addition, an emphasis on conservation and environmentally friendly policies prompted the NBEPC to consider alternative energy sources, such as solar and wind. However, it has to be said that alternative energy sources were not a high priority for the corporation. Structural changes from the 1950s led to changes in how NBEPC

¹ ‘Foreign oil’ refers to oil that is not native to New Brunswick, which is all the oil used by NBEPC.

identified itself to the public. In the 1970s, the corporation adopted a new name, “Énergie NB / NB Power” (NB Power hereafter), and a logo of two orange revolving arrows that conveyed many symbolic references: generation and distribution; the link between the corporation and the public; the corporation and government working together to supply electricity to the public, etc (NB Power, 34-44).

Environmental concerns in the 1970s continued in the 1980s, when conservation was the key word. A second environmental concern in the 1980s was acid rain, which NB Power managed to avoid by using limestone to capture the gases responsible for this destructive phenomenon (NB Power, 48). This was important for NB Power’s growth, as advances in technology permitted NB Power to experiment with lower grade fuels, which in turn released nefarious gases into the atmosphere.

In addition to a diversification of fuels, the nuclear plant at Point Lepreau also began operating after over a year of phased testing. According to the company, by February 1983 it was using the world’s first Candu 600 to supply energy to the NB Power grid (NB Power, 46). In addition to guaranteeing domestic supply, Point Lepreau also provided surplus energy that was sold to other jurisdictions, which led to an increase in export revenues for NB Power (NB Power, 46).

Structural changes in the 1980s included the computerization of the corporation. This not only allowed information to be available to employees across the province, but it also helped to connect head office, located in Fredericton, to the plants and district offices strategically located around the province (NB Power, 50).

The twentieth century saw many changes in NB Power. Beginning as a small company with no assets, it ended the century with a total of twenty-four generation

plants, eight of which are fully- or semi- retired (NB Power, 55). As a Crown Corporation, NB Power had access to provincially guaranteed loans beginning in the 1950s due to its increased autonomy, but it also managed to pay down some of its loans and debt at various points in its history. For example, the 1999-2000 Annual Report claims that “NB Power completed the sale of two 100 [megawatt (mw)] combustion turbines to Enron Canada for (US) \$26 million... and the proceeds from the sale were applied to debt reduction” (NB Power 2000, 9).

From 2000 onwards, NB Power has seen other changes, such as the implementation of newer technologies to increase customer service levels. However, the main focal point of the corporation is to provide electrical service at the cheapest rates possible, while maintaining safety standards. In 2002, NB Power began the refurbishment of the Coleson Cove plant to burn Orimulsion oil imported from BITOR, a subsidiary of PDVSA, the Venezuelan state owned oil company. At first, there were no problems with the refurbishment since NB Power had a good faith agreement with the South American country to purchase Orimulsion oil. However, despite the successful refurbishment, there was no formal agreement between Venezuela and NB Power, and Venezuela decided not to sell its fuel to NB Power. Such a setback did not prevent NB Power from seeking legal action. A 2005 press release from the New Brunswick government announced that NB Power filed legal suits against Venezuela in New Brunswick and New York. Although the utility really wanted a legal order to purchase Orimulsion according to the agreement, it also sought an alternative and sued for the damages caused by the breach of good faith, and a final alternative, for restitution. The lawsuit was settled out of court in August 2007, with NB Power receiving \$338 million in compensation. Despite this and other

similar setbacks, the corporation has maintained its goal, and kept its rates lower than most utilities in the area.

It was also during the 2000s that the government under Bernard Lord decided to separate the corporation into four companies, in order to entice capital from private investors. Instead of one NB Power, there were now four separate companies being held together by a fifth: Disco (Distribution and Customer Service), Genco (Generation), Transco (Transmission), and Nuclearco (Point Lepreau nuclear plant), all held by a holding company called Holdco. The government hoped that by separating NB Power into its individual components, prospective investors would want to invest in a particular field. However, such investment failed to materialize.

Throughout its history, NB Power always overcame challenges. In the 1950s, the rudimentary elements of today's organizational charts began to take shape, while the rest of the century saw growth in the diversification of the company's fuel sources and an increase in the number of customers served. Obviously, NB Power is one of the best known corporations in New Brunswick. It currently employs over 2,300 New Brunswickers with various skills. NB Power combines several departments and employees, from trades-people, and business types, to lawyers, and communications experts. Currently, the challenge is to find a way to deal with the growing debt, which is what Shawn Graham's government attempted to do in 2009.

Chapter 3: The NB Power – Hydro-Québec deal

On October 29 2009, a joint announcement between the New Brunswick and Québec governments featured the sale of NB Power to Hydro-Québec. This agreement was the culmination of negotiations begun earlier that year. Despite the jurisdictional challenges involved in the sale, both governments were fully prepared to sign the agreement after a due-diligence investigation conducted by Hydro-Québec. According to the original timeline established by both governments, the final agreement would be signed on March 31 2010 at the end of NB Power’s fiscal year.

The agreement immediately became a contentious issue. However, before going into the details of how the public reacted, it is first necessary to understand the components of the deal, as well as the government’s arguments in favour of it.

According to the terms agreed between the two governments, Hydro-Québec would purchase NB Power for the sum of \$4.75 billion. It is difficult to assess correctly the total amount of NB Power’s debt due to many fluctuating variables: the owned assets and their life spans, NB Power rates and arrears owed to NB Power, the interest value on the debt itself, Point Lepreau’s refurbishment project and replacement power costs, etc. However, the New Brunswick government believed NB Power’s debt to be \$4.75 billion in total, and wanted to have this debt removed from the province’s financial books.

A second major consideration for the New Brunswick government was the relief from liabilities on the province. The Memorandum of Understanding (MOU) clearly states that “[... Hydro-Québec] will... assume all liabilities associated with NB Power, Disco, Transco, Genco and Nuclearco and the assets so acquired...” (MOU, 3). However,

a sub-section laid out the liabilities that Hydro-Québec would *not* assume upon the finalization of the agreement, such as the debt between the companies within NB Power; the liabilities associated with the assets owned by NB Power, but not purchased by Hydro-Québec; and environmental and other liabilities that are not associated with NB Power operations (MOU, 3).

Debt and liability relief were the New Brunswick government's main goals when negotiating the agreement. This is evident in the placement of these two conditions within the first section of the MOU. However, the closing of the agreement depended on the government's ability to "sell" it to the public. In order for the government to make a compelling case, it had to appeal to the public's frustrations that NB Power rates kept increasing. For this, Hydro-Québec agreed to freeze NB Power rates for a period of five years. This meant no rate increase for residential customers, but also no decreases in rates. This, the government argued, would increase the benefits to New Brunswickers by approximately \$5.25 billion, making the agreement a \$10 billion deal. According to the MOU, rate increases after the first five years would follow the Consumer Price Index (CPI) of New Brunswick, as established by Statistics Canada (MOU, 6).

In addition, the agreement also included a decrease in industrial rates, so that the rates would match those of industrial customers in Québec (MOU, 5). There were a number of benefits flowing from this provision. First, it would provide industry in New Brunswick with relief from power rates, thus allowing industry the chance to remain in New Brunswick and to compete. Second, by ensuring industry remained in New Brunswick, there was hope for employment for New Brunswickers. Finally, lower

industrial rates would enable New Brunswick to attract new industry with its comparatively cheap labour and low power rates.

However, current industrial customers in New Brunswick have an advantage over residential customers: they have the right to choose their power suppliers. In other words, large industrial customers can have the same rates as Hydro-Québec industrial customers, regardless of the MOU. According to sections 77 to 79 of the *Electricity Act Chapter E-4.6*, industrial and municipal customers have the right to purchase electricity from other providers or to generate their own electrical power needs. Government officials explained in interviews why industrial customer did not, or could not, benefit from that right. “There were some road blocks in doing that because of NB Power’s monopoly, put up hurdles and that wouldn’t happen. NB Power [did not] want to lose their large industrial companies because that would put NB Power in a worse financial situation. And so, they put up hurdles so that wouldn’t happen” (Interview 1). Some municipalities, such as Edmundston and Saint John, choose to exercise this right.

A complication of the MOU is the “Heritage Pool Supply” (HPS), which is essentially the annual electrical demand of New Brunswick. This means that Hydro-Québec had to guarantee a certain supply to New Brunswick, totalling 14 terawatts hour (TWh)² - 4.5 TWh for industrial and wholesale customers; and 9.5 TWh for residential customers (MOU, 5). Since the MOU does not indicate how the governments of New Brunswick and Québec agreed to these numbers, one must assume it equals the electricity use within the province. According to Statistics Canada’s 2009 *Report on Energy Supply and Demand in Canada*, New Brunswick’s total demand was 13,409.4 Gigawatt hours

² One terawatt is equal to one trillion watts. Just as a kilowatt-hour is the use of one kilowatt in one hour, so the terawatt-hour is the use of one terawatt in one hour.

(GWh) (Statistics Canada, 18), and since one gigawatt is equal to one billion watts, New Brunswick's total demand in 2009 was approximately 13.4 TWh. Therefore, the allocation of 14 TWh for the province exceeded the total demand in 2009, which also ensured electricity supply in the event of growth in the province. Despite the seemingly modest 0.6 difference allocated for growth, we must remember that one TWh equals one trillion watts. Therefore, 0.6 TWh is equivalent to 6 billion watt hours. Furthermore, consider that NB Power's rates are based on kilowatt hours, so 6 billion watt hours is 6,000,000 kWh.

By itself, the HPS is not a complication. However, the agreement also had to consider the consequences of going over the allotted 14 TWh. Considering that residential rates were to be frozen for the first five years once the agreement was finalized, what would happen if New Brunswick's electrical demands exceeded 14 TWh? Several questions derive from such a situation. First, would it mean a loss of supply? In other words, would black-outs or brown-outs be necessary to contain the demand within a reasonable margin? Secondly, on the business side of the HPS, what if industrial customers exceeded their allotted supply of 4.5 TWh, but residential customers remained at or under 9.5 TWh? Would residential customers be responsible to cover the costs of industrial over-usage? The MOU is not silent on the potential of over-usage: section 2.4 states that all "electricity needs beyond the Heritage Pool Supply will be supplied through a market-based competitive process... The costs of such supplies of electricity will be averaged into each New Brunswick generation rate category" (MOU, 6). The terms "generation rate category" refer to the rate category of industrial versus residential. In

addition, sections 2.2(a)(iii) and 2.2(b)(ii) specify that each category will be financially responsible for usage above its allotted wattage.

In other words, the five years rate freeze would both help and hinder residential customers. It would help those customers struggling due to increasing electricity rates for the first five years of the agreement, but then the rates might increase dramatically precisely because of the HPS. In addition, despite the MOU's assertion that the New Brunswick Energy & Utilities Board (EUB) must approve rate increases, it does not mean that Hydro-Québec would not have had the right to increase rates to recover all the extra costs within the sixth year after the finalization of the agreement. It could potentially mean a rate increase exceeding the CPI. In addition, NB Power's diversified generation is cited as the cause of rate increases: as the price of oil and gas increases, so do NB Power's rates (Standing Committee). Although Hydro-Québec is known for its use of hydroelectric dams, current NB Power assets would remain in use by Hydro-Québec. What happens if NB Power's generation costs were to increase due to the rising price of oil and gas? Is Hydro-Québec responsible to swallow the difference in costs? According to the MOU, it is: section 4.1(g) claims that "[Hydro-Québec] will directly manage and pay for all fuel and emission allowance procurement required in connection with the operation of [the purchased] facilities" (MOU, 9).

There are two final points that are important to understand in the agreement: first, provincial sovereignty; and second, New Brunswick's *Official Languages Act*. The MOU specifically states in section 7.5 that:

Nothing in this MOU or in the Proposed Transactions is intended to limit the exercise by each of New Brunswick and Québec of its sovereignty or constrain its ability to establish or modify independent energy and industrial policies and regulations, provided that each of the Parties will comply with those

commitments specifically agreed as part of this MOU and the Definitive Agreements (MOU, 12).

According to this section, Hydro-Québec must comply with New Brunswick regulations and policies as far as they relate to NB Power and electricity. Therefore, if the government of New Brunswick were to legislate a policy that, for example, 30% of electric generation must use renewable energy sources, Hydro-Québec had to ensure it reached a generation of 30% renewable in New Brunswick, despite any policies of the government of Québec.

Finally, section 7.2 clearly specifies that Hydro-Québec had to comply with New Brunswick's *Official Languages Act* (MOU, 11). This is very important to understand, as New Brunswick is a bilingual province, and Québec is a unilingual province known for its aggressive stance on French preservation. Although New Brunswick's bilingualism is over half a century old, deep cleavages between English and French extremists remain. One only needs to look at NB Power's official Facebook page to notice these cleavages. On May 3 2011, a poster writer asked whether it was legal for government-owned utility poles to be painted, as he claimed offence. He specifically states that "in places like [Cap] Pele and Memramcook over 70% of the [t]elephone poles are painted as Acadian flags. This is insulting and offensive to the English speaking..." (NB Power Group, Facebook). He then goes on to claim that the Anglo Society of New Brunswick will go and paint the remaining utility poles with the Union Jack, which is a symbol of British ancestry. Not surprisingly, the Anglo Society of New Brunswick was a vocal opponent of the idea of Hydro-Quebec buying NB Power.

Although the MOU contains much more information, these are the highlights of the agreement for New Brunswickers. For NB Power employees, one of the most

important sections was 1.6, which ensured their continued employment after the closing of the agreement. Furthermore, Hydro-Québec was to honour existing collective agreements, pension plans, and benefits to existing employees. In other words, existing employees would see no changes after the closing of the agreement. It is therefore perplexing why so many employees opposed the agreement. Some believe the implied opposition to the deal of NB Power's former Chief Executive Officer (CEO) David Hay led the employees to oppose it as well. The corporation itself, upon the announcement of the deal, decided to remain neutral about it. The deal was a government decision, and NB Power would operate as usual. In January 2010, David Hay announced his retirement from CEO of NB Power, and Gaëtan Thomas was subsequently named the interim CEO of the corporation. He was appointed permanent CEO in May 2010.

Throughout the following three months, Hydro-Québec proceeded with its due diligence investigation. Although little information is available concerning this process, it is presumed that NB Power would have made its financial books available to Hydro-Québec. In addition to evaluating the financial status of NB Power, Hydro-Québec would also have had access to all the asset risks, liabilities, and internal functions of the company. In January 2010, the governments issued another joint press release announcing a revised agreement. Under the new agreement, NB Power would remain a New Brunswick owned corporation. However, Hydro-Québec would purchase most of NB Power's generation assets. Since the agreement no longer meant the sale of NB Power as a whole, the price changed from \$4.75 billion to \$3.2 billion. Furthermore, NB Power would retain its transmission and distribution assets, contradicting Premiers

Dexter and Williams' opinions concerning Hydro-Québec's motives, which are explained in the next section of this chapter.

Public Opponents and Proponents

For five months, and in the face of growing public opposition to the proposal, the Québec and New Brunswick governments continued with their plan to sell NB Power to Hydro-Québec. First, Newfoundland and Labrador Premier Danny Williams and Nova Scotia Premier Darrell Dexter both vocally opposed the deal. Premier Williams warned New Brunswickers that any deal with Hydro-Québec would never benefit New Brunswick. He pointed to Newfoundland and Labrador's experience with Hydro-Québec in the Churchill Falls region as evidence of Hydro-Québec's duplicity. In a letter he wrote to Premier Shawn Graham, published in the *Telegraph Journal's* "opinions" page on the same day as the announcement, Premier Williams advocated a partnership between the four Atlantic provinces in developing the Lower Churchill Falls project. He threatened to end preliminary discussions with New Brunswick if Hydro-Québec purchased NB Power. In addition, he painted a grim picture of Hydro-Québec and the province of Québec in general, implying that both the province and the crown corporation worked together against Newfoundland and Labrador and Nalcor Energy to ensure that neither achieved prosperity. One paragraph in particular is interesting due to its many levels of insinuations and accusations:

It is somewhat ironic when you [Premier Graham] consider that in an indirect way the profits from a Newfoundland and Labrador project will help finance Hydro-Québec's purchase of any New Brunswick assets. Let us hope that future profits on the backs of New Brunswick ratepayers will not see history repeat itself with Hydro-Québec. I caution you, based on our experience with Hydro-Québec, that a short-term opportunity can turn into a long-term loss of significant magnitude, as they will most definitely find ways to recoup their

investment and more from New Brunswickers who no longer control their energy destiny (Williams).

Despite acknowledging Premier Graham's assertion that New Brunswick's transmission grid would remain open and accessible for electricity exports, Williams still claimed that Hydro-Québec would have full control. Premier Dexter also believed this, as his concern revolved around Nova Scotia's ability to export electricity through New Brunswick's transmission grid. Interestingly, this was an error on the part of both premiers, as the New Brunswick System Operator (NBSO), the corporation that controls the transmission grid and determines tolling agreements between jurisdictions, is an independent body. In other words, all jurisdictions wanting access to the transmission lines must go through the NBSO. This includes NB Power, who has to work with NBSO to ensure it can supply electricity to its customers, and can export to other jurisdictions, as it deems appropriate. Therefore, the NB Power deal could not have changed current and future electricity exports.

In November 2010, former New Brunswick Premier Frank McKenna also published a commentary in the *Telegraph Journal's* "Opinions" section. However, unlike Premier Williams, McKenna wrote in favour of the agreement. He claimed that Premier Graham saw a "once-in-a-lifetime opportunity" that he simply could not refuse and still claim to want the best for New Brunswickers. McKenna made many arguments for the agreement, including debt relief, lower electricity rates for New Brunswickers, a chance for economic growth, and the removal of risk burdens from New Brunswickers. McKenna also warned against other jurisdictions meddling in New Brunswick decisions when he wrote that "it also requires standing up to defend New Brunswick against outside forces who seek to shape our own destiny for us. When our neighbouring

Provinces negotiated lucrative resource agreements with Ottawa, they did not negotiate for New Brunswick's interest" (McKenna). By publishing his opinion in the media, McKenna evidently hoped to neutralize the effect of the opinions of Premiers Dexter and Williams' by pointing out that they were not looking out for New Brunswick' interests.

Many others also spoke out about the agreement. Gordon Weil of Standard Energy Co. in Maine expressed concerns with the agreement. Weil's report claimed ambiguity over the advantages of the deal: first, New Brunswick seemed to keep all the liabilities. According to interviews with government officials, this contradicts the purpose of the agreement, since the government of New Brunswick sought to remove risks and liabilities associated with NB Power from the province (Interview 2). Second, Hydro-Québec's control over New Brunswick's transmission grid could cause problems with the US' Federal Energy Regulatory Commission (FERC). However, this once again discounts the NBSO's role in the province of New Brunswick. Additionally, he expressed concerns that the rate freeze would only apply to the allotted 9.5 TWh, while any surplus would be charged at the rates after the fifth year (3). Finally, Weil also showed a concern for New Brunswick's sovereignty, claiming that

The MOU provides for one provincially owned utility to acquire another. The owners are thus able to agree on the form of regulation that will apply to the merged entity. As a result, New Brunswick does considerably more than cede control of its electric utility. As part of the consideration it gives to [Hydro-Québec] for the transaction, it also permanently cedes some important government authority (Weil, 9).

However, the MOU specifies that the sovereignty of New Brunswick will not be affected by the transaction. Weil claims that New Brunswick will no longer have any control over energy policy or electricity regulation. Yet, both the government of New Brunswick and Québec ensured that section 7.5, the sovereignty clause, was in the MOU. Its purpose is

to guarantee that Weil's concerns over control are nonexistent. Additionally, the Ganong Report, which is discussed shortly, recommends a stronger Energy and Utilities Board (EUB) in order to protect New Brunswick's sovereignty, and the regulations on electricity.

Three Canadian credit rating agencies, Moody's, DBRS, and Standard & Poor's, all claimed the deal would not change New Brunswick's credit rating since NB Power's debt is self-supporting. In other words, the revenues NB Power takes in help to support the expenses and debts accumulated over the years.

The *Telegraph Journal* published remarks made to the Senate by Senator Lowell Murray from Ontario, in which he questioned the constitutionality of the MOU. Similar to Weil, he claimed that New Brunswick would lose its sovereignty over electricity regulations to Hydro-Québec's regulations. Therefore, he foresaw constitutional challenges to the deal by neighbouring jurisdictions. In addition, he said that although electricity regulations are provincial powers, interprovincial and international trade regulations are federal powers, and therefore the agreement between Hydro-Québec and NB Power should be a federal concern.

Public Opinion Polls

Finally, New Brunswickers themselves had divergent opinions about the deal. According to a Léger Marketing poll, based out of Montréal, taken online in mid November 2009, just under two thirds of New Brunswickers opposed the deal, while over half of Québeckers were in favour of it. The same poll also asked those opposed why. The three most cited answers among French New Brunswickers revolved around interesting fears: Hydro-Québec would not take New Brunswick electrical needs into consideration; the

province of Québec was taking over an important component of New Brunswick's economy; and finally losing a part of New Brunswick's identity. Of the three answers English New Brunswickers selected most, only the fear that Hydro-Québec would not take New Brunswick's electrical needs into consideration corresponded with the French respondents. English New Brunswickers also feared loss of strategic advantage in the New England States markets, and cited the answer vaguely described as "another reason."

Another marketing group, Corporate Research Associates (CRA), conducted two separate polls in New Brunswick. The first questioned New Brunswickers on the performance of the Liberal government under Shawn Graham. Taken throughout the month of February 2010, the poll revealed dramatic changes in public opinion polls from February 2009 to February 2010. At the start of 2009, just over two thirds of New Brunswickers were satisfied with the government's performance, while only one third remained satisfied by February 2010. This thirty point drop in satisfaction directly affected the dissatisfied camp, where less than one third were dissatisfied in February 2009, increasing to over half of respondents by February 2010. Even more telling are the August 2009 and November 2009 results, where approval and dissatisfaction rates reversed. Over half of respondents were satisfied in August 2009, but that number dropped to just over one-third in November 2009. The same proportion of point difference was evident in the dissatisfied levels - one-third of respondents in August 2009 versus over half in November 2009. Evidently, something happened between August 2009 and November 2009 that changed how New Brunswickers felt about the Liberal government. It was the NB Power deal.

Throughout the last half of February 2010, CRA conducted a second poll asking New Brunswickers about the merits of the agreement. From the results shown, the highest benefit, at one quarter of the respondents, was the promise of a five years rate freeze. However, very few respondents believed the deal would improve the financial status of New Brunswick. The mean on a scale of 1 (worsen) to 10 (improve) was 4.9. However, a mean of 5.9 believed the agreement would improve the position of commercial and industrial customers. In addition, an Omnifacts poll reported in the *Telegraph Journal* claimed that up to three quarters of New Brunswickers opposed the agreement announced in January 2010.

Evidently, New Brunswickers opposed the deal from the day of the first announcement in October 2009. In addition to this, opponents organized many protests throughout the province, two of which were in front of the legislature in Fredericton. The first occurred on November 17 2009, which approximately one thousand New Brunswickers attended. The second was on March 20 2010, where attendance doubled from November. Although many NB Power employees and union leaders attended both protests, a vast majority of attendees were opponents with no direct ties to the corporation according to news reports from November 17 2009 and March 20 2010

Finally, social media played a large part in organizing both opponents and proponents of the deal. Facebook had many ‘official’ sites promoting the creators’ viewpoints. One of the most vocal of these was a group called “NO to NB Power Sale”. At its peak, the group boasted more than twenty thousand members, and many regional chapter sites. In addition to a posting on Facebook, the government created a website called lowerratesnb.com, where the public had the opportunity to view the MOU, and

question the government directly on the merits of the agreement. This site featured video recordings of Premier Graham responding to questions and concerns, while also featuring a live ‘chat’ between the public and government. As with the some of the Facebook groups, this website is no longer available.

Reports and Public Panels

Although the government was confident about the merits of the agreement with Hydro-Québec, Premier Graham had to convince the rest of the province of them. Thus, he established an independent panel to investigate the benefits of the agreement. The Ganong Report’s introductory remarks clearly explain the mandate: “[because] of the complexity of the transaction, the high degree of uncertainty and the wide range of questions by the public, an independent advisory panel was requested on November 20 2009 to examine the proposal” (Ganong Report, 8). Evidently, the protest on November 17 led the government to take this step, in addition to the consultations over the internet.

Published on February 1 2010, the report of the Advisory Panel on the Proposed New Brunswick-Québec Electricity Transaction, or the Ganong Report as it was called after the chair of the panel, supported the government’s decision to go forward with the agreement. The main reasons behind its conclusions are: lower electricity rates, future risks and liabilities that would affect future rates, a fair purchase price, a significant portion of NB Power’s generation debt would be serviceable by Hydro-Québec rather than NB Power, environmental improvements, and New Brunswick’s continued sovereignty over energy policy and regulations (Ganong Report, 6).

In addition to agreeing with the government, the report also made several recommendations. First was that the province “strengthen the regulatory framework as

soon as possible” in order to ensure the EUB’s broader authority and oversight, *without government interference*. This is important to ensure the independence of the board, as is common in other jurisdictions (Ganong Report, 6). Second was that the new regulations should “require... greatly expanded investment by all distribution utilities... with aggressive targets to avoid purchasing electricity supply beyond the [HPS]” (Ganong Report, 6). These targets would ensure efficiency and demand side management (DSM). The third recommendation was that the government should “fully support” innovative technologies for system improvements (Ganong Report, 6). In other words, the panel believed that the energy policy after the completion of the agreement should include government investments and subsidies for technological and efficiency improvements. The final recommendation featured a comprehensive energy policy that included not only electricity, but also economic development, and human and institutional resources found in New Brunswick.

The point of the Ganong Report was to have an independent panel review the agreement and report its findings and its recommendations for future consideration. However, many believed the panel was biased in favour of the report, since David Ganong’s company, Ganong Bros Ltd, would benefit from the lower electricity rates after the finalization of the deal. However, other panel members included John McLaughlin, president emeritus of the University of New Brunswick (UNB); Elizabeth Weir, the then current CEO of Efficiency NB and former New Democratic Party (NDP) Leader for fourteen years; and Louis LaPierre, professor emeritus at Université de Moncton. Out of the panel of six, Elizabeth Weir would unlikely be following corporate interests due to her previous association with the social democratic NDP. In addition, the panel received

expert advice independent of the parties involved: the governments of New Brunswick and Québec, Hydro-Québec, and NB Power.

Independently from the government, St Thomas University hosted a public forum on the NB Power deal on January 19 2010. Chaired by Dr. Thomas Bateman, the forum included three energy experts: William Marshall, president of WKM Energy Consultants; Gordon Weil, president of Standard Energy Company in Main; and Yves Gagnon, the KC Irving Chair in Sustainable Development at Université de Moncton. Although widely successful in the number of attendees, the forum's main contribution was to enhance the debate in New Brunswick, and was an attempt to explain the intricacies of the agreement to the public.

Finally, the Atlantic Institute for Market Studies released several analytical reports on the MOU. The first, written by Gordon Weil and published December 3 2009, featured an in depth analysis of the agreement in which Weil criticized the agreement, as already discussed. The second report is Weil's analysis of the modified agreement. Although he approved of NB Power's transmission grid remaining an asset of New Brunswick, he believed that Hydro-Québec would "nonetheless have control over transmission access similar to ownership". In addition, he believed that the five years rate freeze would generate higher rate increases in the future in order for NB Power to recover its costs (Weil 2010, 6).

The End of Negotiations

Almost on the heels of the second protest, Premier Graham announced on March 24 2010 that the government was no longer in discussions with the province of Québec concerning the sale of NB Power. According to the media, Québec had had concerns over

civil liabilities since early that month, mostly over decommissioning costs at the Mactaquac Dam and Point Lepreau Nuclear plants. When Québec asked New Brunswick to keep the risks on these two plants after the completion of the deal, New Brunswick had no choice but to walk away from it. Its two main goals behind the deal were to pay off NB Power's debt, and to remove the risks and liabilities from New Brunswick. Therefore, when the second agreement came out, with a lower purchase price and Québec's increasing insistence that New Brunswick keep the risks and liabilities, the government could not justify going forward with the agreement, and thus ended the discussions.

Point Lepreau

Although the agreement did include the sale of the Point Lepreau Nuclear plant, I have so far ignored this important aspect of it. The reason for my doing so is that the NB Power sale to Hydro-Québec was actually two separate sales: first, Hydro-Québec would purchase NB Power *sans* Point Lepreau since it is currently offline for refurbishment; and second, Hydro-Québec would purchase Point Lepreau upon the successful completion of the refurbishment. It is important to remember that in 2009, the refurbishment was on schedule and on budget, and the estimated date of completion was January 2011.

Therefore, according to the terms of the deal, once the nuclear reactor returned online, Hydro-Québec would complete the sale of Point Lepreau and take ownership of the plant.

In sum, the NB Power deal included the sale of NB Power to Hydro-Québec in two parts: first, Transco, Genco, Disco, and Holdco would all be sold effective upon the final agreement. Nuclearco, however, would only be sold after the nuclear reactor's successful refurbishment. If it was unsuccessful, New Brunswick would have no choice but to decommission the plant, and accept the risks and liabilities inherently involved in

the process. After the announcement of the revised agreement where Hydro-Québec would purchase NB Power's generation assets, the conditions of the sale of Point Lepreau remained the same. In other words, Hydro-Québec would purchase Genco upon the finalization of the agreement, and would purchase Point Lepreau upon the successful completion of the refurbishment.

Chapter 4: Methodology

The research question focuses on why the New Brunswick public did not or could not accept the sale of NB Power to Hydro-Québec. Part of the reason why New Brunswickers could not accept the agreement was that NB Power has become a fundamental institution in New Brunswick. What were the reasons? And what about the role of the relevant institutions in New Brunswick in the negotiation process? To answer these questions, one must first examine current literature on interprovincial agreements and regionalism before turning to the insights afforded by the approach of historical institutionalism.

Interprovincial agreements concerning particular policy issues, other than trade, are rare. Because of this, they are not much discussed in the literature specifically. Rather, scholars prefer to focus on intergovernmental agreements, which include the federal and provincial governments. As such, discussions concerning interprovincial agreements feature as side notes to intergovernmental relations. In addition to answering the question of why the public opposed the agreement, a purpose of this study is to contribute to the literature on interprovincial agreements, and their importance to regional development.

Interprovincial agreements are regional in scope, and it is therefore important to define “region”. Peter McCormick proposes four (4) dimensions to regionalism, each with its own definition. The first and most simplistic definition he proposes is distributional: each province differs from the others due to its unique demographic composition (McCormick, 152-155). According to McCormick, this includes cultural, linguistic, religious, and ethnic diversity. Despite its simplicity, distributional regionalism cannot be discounted considering Canada’s bicultural turned multicultural history. The

second dimension proposed by McCormick is the economic – or occupational – aspect of regionalism. Since Canada’s geography features a wide diversity of resources, distributed unevenly across the provinces, each province has different ‘traditional’ occupations that focus on the natural resources specific to that province. For example, Alberta has oil, and most of the occupations within the province revolve around the extraction and refinement of oil; traditional Newfoundland occupations focus on the fisheries; finally, New Brunswick occupations revolve around lumber due to its large forest reserves and diversity of trees (McCormick, 155-157). The third dimension is perceptual regionalism. This refers to “the extent to which a region is subjectively perceived as such by its inhabitants” (McCormick, 157). Although the Atlantic region consists of four provinces, citizens’ perception of themselves as part of a larger geographical area creates the region (McCormick, 157-159). Finally, McCormick’s last dimension grew out of province-building: political regionalism is the “outcome... of provincial government action”, where an “awareness of the region defined by... provincial boundaries, and that provincial governments are the beneficiaries of that feeling because they are the natural focus of such province-regionalism” (McCormick, 159). Evidently, regionalism is not a concept easy to define, as many factors combine in order to explicate regionalism. For the purposes of this research, regionalism is a merger of all four of McCormick’s definitions: a region is a geographical area with a unique demographic composition and geography that determines the economy and occupations available to its population. As well, the geographic area also perceives itself to be a region, at the popular and political levels.

Regionalism is a phenomenon often alluded to and studied in Canada. As McCormick discussed, Canada is a geographically large and diverse nation. It is therefore

only natural that students of Canadian politics prefer to breakdown the nation into areas of study, also known as regionalism. Most scholars who study the Atlantic Provinces – the collective name for New Brunswick, Nova Scotia, Newfoundland and Labrador, and Prince Edward Island, focus on the problems in the region, mostly underdevelopment and dependency on the federal government.

These factors combined with fiscal crises may lead to a political union between the Atlantic provinces in the future, but it is currently not an option, as none of the provinces want to relinquish their separate sovereignties in favour of a unified Atlantic province. Robert Finbow examines this exact question in the context of the new millennium. He admits that union would benefit the region in the long run, as it would allow a concentrated focus to develop one region rather than four provinces (164). Also, it would allow for one provincial government for the region, which means that there would be less spending on government administration, and a sharp focus on solving the issues in the Atlantic provinces.

However, Finbow discusses the constitutional difficulties of provincial unification. The amendment process is based on a country with ten provinces. What happens if instead of ten provinces, Canada has seven? Additionally to the constitutional questions, unification means less national representation for each province, since it may translate into fewer Members of Parliament and Senators. Rather than focus on political unification, however, the Atlantic provinces focus more on synchronization of policies, which includes interprovincial agreements.

In the case of the NB Power sale to Hydro-Québec, New Brunswick sought an interprovincial agreement outside of the Atlantic provinces. Premier Danny Williams of

Newfoundland and Labrador claimed the four Atlantic provinces were already in discussions concerning the development of the Lower Churchill Falls area of Labrador for green energy purposes. In a letter he wrote to Premier Shawn Graham, and subsequently published in the *Telegraph Journal* on October 29 2009, he threatened to shut New Brunswick out from these discussions if Hydro-Québec purchased NB Power.

Implicitly involved in intergovernmental and interprovincial agreements are institutions. According to Hall and Taylor, institutions are the “formal and informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy... [Historical] institutionalists associate institutions with organizations and the rules or conventions promulgated by formal organization” (Hall and Taylor, 938; see also Ma; and Lecours). Without both the formal and informal institutions, there are no intergovernmental relations. Richard Simeon claims in his 1971 *Federal-Provincial Diplomacy* that the spill-over effect in federal systems creates the need for one of two options. First, governments can adapt their policies to accommodate relevant policies in surrounding jurisdictions; or the second option is to coordinate policies, resolve disagreements, and reach mutually beneficial goals through direct relations (4). Historical institutionalism, applied to political science, implicitly studies the result of these relations: agreements, policy outcomes, and even the lack thereof.

Most of the literature on the Atlantic provinces is focused on their ‘have not’ dimension, and attempts to explain why and how they are unable to shift their paths from dependency on the federal government (Adamson, Matthews) to a more robust and varied economy. However, interprovincial agreements such as the energy agreement signed between Newfoundland, Labrador, and Nova Scotia attempt to not only increase stability

in particular policy areas, but also attempt to mitigate the ‘have not’ perception of the Atlantic provinces. The agreement between the New Brunswick and Québec governments also attempted to mitigate New Brunswick’s ‘have not’ status. Although such agreements require fiscal commitments from the provinces, in the case of NB Power, Hydro-Québec was to pay the New Brunswick government a substantial price so that New Brunswick would be able to erase a certain percentage of its total debt. However, as three prominent credit agencies pointed out, this would not affect the province’s debt or credit rating for two reasons. First, NB Power’s debt is serviceable, meaning that NB Power’s revenues help to sustain the payments; second, NB Power’s debt is not directly linked to the province’s debt. Therefore, the NB Power deal was not *the* answer to the province’s problems, but it was *a* solution allowing the province debt relief for a period.

The study of interprovincial agreements is difficult at best. Their paucity and their very nature force researchers to examine a wide selection of data, which ranges from public opinion polls, social media, and elite interviews to academic literature. In order to link all this data together, one requires a specific methodology. For this research, historical institutionalism allows the researcher to gather and analyse this data to determine why the New Brunswick public viciously opposed the sale of NB Power.

Historical Institutionalism

The study of institutions is not a new area in political sciences. However, the behavioural revolution in the 1960s and 1970s shifted the focus from political institutions to behavioural and empirical analysis. The 1980s saw another revolution of sorts, as it became evident that the State no longer featured prominently in political science studies.

Hence, academes began re-analyzing State apparatus' such as institutions. This revolution created three different yet linked analytic tools within the neo-institutional paradigm. Rational institutionalism, historical institutionalism, and sociological institutionalism each focus on institutions, but ask different questions that in turn generate different answers. Rational institutionalism is focused primarily on individuals and institutions as attempting to maximize policies and goals they perceive to increase the most returns. Sociological institutionalism examines how institutions impact sociological forces, and vice versa (see Lecours, Thelen).

Historical institutionalism focuses on not only institutional factors, but also the history and context behind institutions and political decisions. As Ellen Immergut points out, "institutionalists" aim to analyze why these actors choose one particular definition of their interests and not some other equally plausible alternative" (7). She further adds that historical institutionalism in particular "[traces the] changing definitions of interests through time and across cultures" through which "the impact of institutions on the construction of interests can be studied without imposing arbitrary, "objective" definitions of interests" (25). In other words, historical institutionalism acknowledges and analyzes changes in political and cultural assumptions.

Although historical institutionalism is a 'new' tool of analysis, there are two main approaches to the analysis. The calculus approach is closer to rational institutionalism where "institutions provide information relevant to the behaviour of others, enforcement mechanisms for agreements, penalties for defection, and the like" (Hall and Taylor, 939). In other words, the calculus approach allows individuals to analyse and strategize their decisions based on the calculation of how others will act or react to decisions. The

cultural approach focuses less on strategy and calculations and more on an individual's worldview. Rather than analyzing how individuals will act or react based on reason, it “tends to see individuals as satisficers, rather than utility maximizers, and to emphasize the degree to which the choice of a course of action depends on the interpretation of a situation rather than on purely instrumental calculation” (Hall and Taylor, 939).

Path Dependency

Despite changing circumstances and assumptions, historical institutionalism focuses on path dependency. Paul Pierson discusses this very idea, and argues that although fundamental differences exist between path dependency in economics and in politics, both disciplines learn a great deal from it. He uses a narrow definition articulated by Margaret Levi:

Path dependence has to mean, if it is to mean anything, that once a country or region has started down a track, the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice. Perhaps the better metaphor is a tree, rather than a path. From the same trunk, there are many different branches and smaller branches. Although it is possible to turn around or to clamber from one to the other – and essential if the chosen branch dies – the branch on which a climber begins is the one she tends to follow (Pierson, 252).

For Kathleen Thelen, path dependency is defined simply as “one fork in the road, and after that, the path only narrows” (Thelen, 385). According to Pierson, path dependency is self-reinforcing. Each decision based on the current ‘path’ reinforces the previous decision, and it becomes easier to select that path with each new decision. In Pierson's words: “each step along a particular path produces consequences which make that path more attractive for the next round. As such effects begin to accumulate, they

generate a powerful virtuous (or vicious) cycle of self-reinforcing activity” (253).

However, Thelen further elaborates on two particular claims of historical institutionalism.

The first involves arguments about crucial founding moments of institutional formation that send countries along broadly different developmental paths; the second suggests that institutions continue to evolve in response to changing environmental conditions and ongoing political manoeuvring but in ways that are constrained by past trajectories (Thelen, 387).

When it comes to political decisions, there are several reasons for this, but Pierson believes that “time horizons” and the “status quo bias of institutions” are the two most fundamental reasons for path dependency (261-262). Time horizons refer to the relatively short time politicians are in office, especially compared to the persistent nature of institutions. “Many of the implications of political decisions – especially complex policy interventions or major institutional reforms – only play out in the long run. Yet, political actors... are often most interested in the short-term consequences of their actions” (Pierson, 261). This is because politicians are always looking for re-election (unless constitutionally prohibited to do so, but this is not the case in Canada), and election campaigns focus on policies affecting “now” rather than “later” (Pierson, 261). Voters as well make their decisions based on the “now” rather than “later”. David Stockman, budget advisor under the Ronald Reagan administration in the 1980s, is credited with claiming that he was not going to waste “a lot of political capital on some other guy’s problem in [the year] 2010” (Pierson, 261) when asked if he would look into Social Security reform. On the other hand, Bismarck claimed that “a statesman... is a politician who thinks about his grandchildren” (Pierson, 261), which defines the difference between a politician seeking re-election for the sake of power versus a statesman who thinks of the future.

Moreover, once on a particular path, the costs of changing course are generally immediate while the benefits are in the future. This decreases incentives for current politicians to change courses, as someone else will reap the rewards (Pierson, 262). Furthermore, path dependency is not a conscious decision on the part of politicians or citizens. It is the result of compliance with the forces creating the path. One cannot imagine past political figures, such as Frank McKenna, Walter Foster, Richard Hatfield, etc making decisions based on a conscious desire to keep New Brunswick on a trajectory toward dependency. Each figure, in his own way, attempted to change New Brunswick's path, and yet success was limited at best.

Institutions are designed to be change resistant. For Pierson, there are two reasons for this. First, political actors design institutions to constrain their opponents. Second, politicians must constrain themselves and their powers for political gain, both in the short and long runs (Pierson, 262). However, power constraints are of no use if future political actors can easily change institutions to suit their ambitions. Therefore, large obstacles are put in place to prevent, or at least impede without substantial thought and effort being expended, institutional reforms. Moreover, as Pierson points out, "this status quo bias... reinforces the already considerable difficulties of moving off an established path" (Pierson, 262). However, in the case of the NB Power sale, institutional reform is relatively easy to establish since the provincial government can amend the *Electricity Act* to reflect its wishes. However, the institution itself may resist the changes created by the government. For example, when the Lord government decided to separate NB Power into five companies, NB Power had no choice but to comply with the decision, despite any misgivings the company might have had about the decision. However, the sale of NB

Power to Hydro-Québec showed the divisive nature of the agreement, where some NB Power employees opposed the agreement, despite the corporation's official decision to remain neutral on the sale.

Critical Junctures

Although path dependency implies little to no changes in the system, there are moments where decisions change the current path. As Giovanni Capoccia and R. Daniel Kelemen state, "path dependence is a crucial causal mechanism for historical institutionalists, and critical junctures constitute the starting points for many path-dependent processes" (342). Although critical junctures are important to and for historical institutionalism, very little literature focuses primarily on them. This is what Capoccia and Kelemen seek to redress.

In institutionalism literature, a critical juncture is:

A situation in which the structural (that is, economic, cultural, ideological, organizational) influences on political actions are significantly relaxed for a relatively short period, with two main consequences: the range of plausible choices open to powerful political actors expands substantially and the consequences of their decisions for the outcome of interests are potentially much more momentous (Capoccia and Kelemen, 343).

Implicit in this definition is that politicians are aware they are in a critical juncture as it unfolds. However, this is not always the case: more often than not, political actors make decisions based on the information they have, and the ramifications of these decisions are only known in the future. To account for this lack of knowledge on the politicians' part, Capoccia and Kelemen postulate a new definition of critical junctures: "*relatively* short periods of time during which there is a *substantially* heightened probability that agents' choices will affect the outcome of interest" (Capoccia and Kelemen, 348 original emphasis). In other words, the length of the critical juncture is

shorter than the path the juncture ushers in, and during which time political actors have more options available to them. Although this still does not imply the political actors' explicit knowledge of the juncture, there is a higher probability of awareness of it, as options previously unavailable suddenly become accessible. Thelen sums and elaborates that

[...] the critical juncture literature has taught us a great deal about the politics of institutional formation and the importance of the timing, sequencing, and interaction of ongoing political processes in accounting for cross-national variation. Where many of these analyses have been somewhat less explicit, however, is in explaining what sustains the institutional arrangements that emerge from these critical junctures (Thelen, 392).

Although Thelen discusses historical institutionalism in the context of comparative politics, she does have a point in wondering what sustains the new arrangements that stem from a critical juncture. Unlike path dependency, there is no historical argument justifying the new *status quo*. However change-resistant institutions are, they *do* sometimes change, and this is absorbed into the daily routine of the institution. For example, NB Power dramatically changed its organizational structure in the 1950s (with governmental encouragement) despite its previous thirty years history of being a political tool. This first critical juncture in the corporation led NB Power down a new path of autonomy from the province, which eventually led to a struggle between the good of the province, and the good of the corporation, as R.A. Young argues. As these changes were for the betterment of the institution, they were absorbed easily.

Additionally, I must stress that the critical junctures studied in historical institutionalism are those moments where change was successful and change an institution's path. Historical institutionalists traditionally do not study critical junctures that are unsuccessful in diverting path dependency. This research, on the other hand, does

just that. It examines a moment where the government's immediate objective and solution failed. However, Chapter 6 suggests that there was a change in the public's perception of NB Power after the termination of discussions between the governments of New Brunswick and Québec.

In sum, historical institutionalism is an analytical tool designed to help determine not only historical factors that shape path dependency, but also help determine why *this* particular moment is different. In the case of the NB Power sale, using the calculus approach is inappropriate, since the New Brunswick government's decision to go forward with the agreement was not a decision based on the rationality or utility maximizer assumption of this approach. Rather, it was a decision based on the government's perception of the province's debt, and its pre-emptive decision to resolve future issues stemming from that perception. Therefore, the cultural approach is best for this particular issue.

Interprovincial agreements have the potential to usher in such critical moments in a province's development. For New Brunswick, the sale of NB Power was such a moment. Although the outcomes of the agreement were unknown, the government argued that the province would be in a better financial position since its debt would be substantially reduced, industries based in New Brunswick would expand due to lower power rates, and citizens would enjoy a decrease in electricity expenditures. According to the government, the finalization of the agreement would usher in a period of economic expansion, and help to bring self-sufficiency to the province, reflecting the government's overarching goals.

On a grander scale, the four years term of the Graham government was a deliberate critical juncture meant to derail the province's current path of economic dependence on the federal government. Within that moment of potential change, the NB Power sale was one out of several opportunities to affect provincial transformation. However, the public's aversion to change prevented the Graham government from implementing too many changes, despite academic and expert approval of certain policy options the government examined. The NB Power deal was only the last of these policy changes attempted by the Graham government. For example, they reformed the French immersion curriculum to maximize the benefits of children's education, as reports showed low scores in both English and French education for children in the immersion program. Another policy option the government considered was the creation of a polytechnic school to replace the University of New Brunswick Saint John campus. However, in both cases the government was forced to back down from its intended options due to public pressure against them. The next chapter analyses the MOU and public reaction using historical institutionalism to demonstrate how fear of change led New Brunswickers to oppose the agreement, and eventually led the government to back down from its intent to sell NB Power.

Chapter 5: Analysis

The analysis of the NB Power deal using historical institutionalism will proceed in three parts. First, I will establish that NB Power was path dependent based on decisions made in the 1950s to be politically autonomous. The second section will determine that the agreement between the governments of New Brunswick and Québec is a critical juncture, followed by a general analysis of the agreement and historical institutionalism. The general analysis section is further divided into different issues or concerns. For many New Brunswickers, all or most of the issues discussed are intertwined. Opposing the NB Power deal generally meant accepting all the arguments against it.

Path Dependency

As already discussed in the previous chapter, path dependency is the culmination of several decisions that lead an institution toward a particular path. As each decision is made, it becomes harder to change the course previously set, for a number of reasons. First, each decision leads to another decision, and it becomes easier, with time, to simply follow the previously set course. Second, the costs – economic or otherwise - are often detrimental for change. And finally, as the path itself becomes institutionalized, deviation is next to impossible to achieve. This section will examine NB Power since the 1950s to determine whether the decisions made in the 1950s set the utility on a particular path that is continuously propagated through current decisions.

As seen in Chapter 2, NB Power became more autonomous throughout the 1950s through an internal distinction between the day to day routine, and the engineering sides of the company. Once the first General Manager was appointed in 1957, this distinction

became solidified through Reginald Tweeddale's appointment of an executive committee. Together, the executive was responsible for all aspects of the company, from real estate and expropriations to rate structures (Young, 90).

It was also during this time, as Young argues, that NB Power began to make decisions based on its own interests rather than the interests of the province. It is questionable, however, whether NB Power's interests really differed from those of New Brunswick. Young claims that corporate interests, such as expansion, growth, and survival, led NB Power away from the interests of the government. Yet, NB Power could not arbitrarily raise its prices since the industry itself is highly regulated, as a government official stated simply, "the whole thing is under a regulatory framework" (Interview 3). For example, the government established a Public Utility Board (PUB) in 1973 through the *Public Utilities Act*. The PUB was responsible for many utilities and services within the province, including NB Power. Although NB Power was mostly left to its own devices internally, when it came to rate increases, the utility had to go through a PUB hearing if it required a rate increase exceeding three percent. In other words, if NB Power had to raise its rates by three percent or more, it had to go to the PUB to make its argument in order for the utility to have approval of its rate increase by the PUB

Although records are not easily available prior to the 1990s, it is evident from the number of Board decisions since 1991 that NB Power – found online on the EUB's website, has often presented its case to increase rates. From 1991 to 2009 NB Power appeared in front of the PUB (and its descendent the EUB) eight times. All but the last time it appeared in 2009 involved rate increases exceeding three percent. Therefore,

despite the fact that some argue that NB Power's policies contradict the interests of the province, the PUB (and EUB) always had the final say over electricity rates.

Although NB Power appeared eight times in front of New Brunswick's intervener in two decades, this does not mean that NB Power's interests completely diverged from those of the province. The 1990s and especially the 2000s were characterized by increasing fossil fuel costs. Since the majority of NB Power's generation consists of fossil fuels, it is no surprise that increasing costs meant higher rates for the province of New Brunswick. In addition, NB Power's awareness that it would require replacement fuel in the event of the closure of a plant for refurbishment (such as Point Lepreau, Belledune, Coleson Cove, Grand Falls, and even Mactaquac) contributed to the corporation's belief that recent rate increases are necessary. For example, recent years have shown that the Point Lepreau refurbishment will cost NB Power billions, despite the Atomic Energy of Canada Ltd (AECL)'s contractual obligation to finance the refurbishment in full. NB Power's primary costs are due to replacement costs. Therefore, and in addition to the dramatic increase in the price of oil, one of the ways NB Power attempts to mitigate its debt through rate increases, sometimes exceeding three percent. Still, the PUB (or EUB) must agree and approve the rate increase. Young argues that NB Power's autonomy from politics stemmed from the 1950s, where NB Power put its own interests and motivations ahead of the province. He is not entirely incorrect. NB Power did perceive itself as a corporation, and began an internal campaign to sow cohesiveness among employees and increase its business structure. However, the government was never far from the corporation, through such mediums as the PUB (EUB) and the Department of Energy. In addition, as a publicly owned corporation, NB Power is

obligated to publish an Annual Report every year. These reports allow the public to see NB Power's revenues, expenditures, corporate mission, and even its plans for the future. Furthermore, NB Power now actively seeks openness and transparency with the public through other mediums such as its official Facebook group, created and monitored by NB Power employees. Its official webpage allows the public access to Annual Reports (now called Sustainability Reports) from the past decade. Finally, the website allows interaction with NB Power staff through emails, and access for customers to manage their accounts online.

When NB Power became autonomous from the government, it also cut ties with the province financially, to a point. Previously, provincial bonds provided the capital NB Power required (Young, 93). As explained by a government official during an interview,

They financed everything, that was government policy. You want to build a power plant that was going to cost \$500 million? Build it, and finance all of it. There was never any thought given to the fact, let's have 30% equity into it, as the private sector would need to do to start a project. Everything was financed... (Interview 3)

As with everything else, autonomy requires responsibility, so the government amended the *Electric Power Act* in 1955 to allow NB Power some financial responsibility.

[...] the ceiling on provincial borrowing for the utility was removed, loans made by the province could be exchanged for the NBEPC's own bonds, and, with government approval, the commission could borrow for its own purposes by issuing its own debentures, which could be guaranteed by the province (Young, 93).

Although loans that are provincially guaranteed do not necessarily translate into financial autonomy, the policy did allow for *some* autonomy from the province. As Young elaborates, "the new arrangement would not constrain other departments to limit their capital spending in favour of the utility" (Young, 93), thereby allowing the government

itself to increase spending in other areas of public policy. Therefore, giving NB Power the autonomy it required, politically and financially, also furthered the government's own policy agenda.

Since the 1950s, NB Power continued its agenda toward a monopoly, firmly believing that a monopoly on electrical service would benefit the province (Young). Prior to 1920, when the government created NB Power, electrical service was sporadic and unregulated. The first thirty years since NB Power's creation were spent trying to merge various service providers and generators into one corporation to ensure steady, reliable, and cheap electricity to New Brunswickers, according to NB Power's purpose. The history of electricity up to the 1950s led NB Power executives to believe that *only* a monopoly could guarantee that service to the province of New Brunswick, and the ensuing governments shared that belief.

During the following decades, NB Power grew as the province grew. When the province required additional generation, the utility made arrangements to procure it through the construction of generation plants. Out of the total of twenty-four generation plants NB Power has owned since 1920, eight were built after the 1950s, all of which remain in operation. Another eight of the twenty-four were decommissioned between 1951 and 1976 (NB Power, 55). As a government official explained in interviews, "as soon as the plant closes, you have to pay the debt. You can't have an asset that doesn't run anymore that has debt attached to it... financial accounting rules have to show the ability to pay for it." (Interview 2) Financially, it makes sense to maintain and upkeep generation plants as long as possible. As long as a plant operates, it makes money, which in turn helps to pay the automatic debt that will follow its closure. Therefore,

refurbishment makes sense, despite the capital required for the refurbishment itself; at least the plant can make more money to help mitigate the costs of refurbishment.

As seen in Chapter 2, the second half of the twentieth century was a time of growth and organization for NB Power. It built a corporate image in the 1970s by adopting a logo, and the name *Énergie NB/ NB Power*. Young would argue this strategy was NB Power's way to become synonymous with electricity in New Brunswick, all in order to ensure its continued survival and growth. However, it was also NB Power's way to become more accessible to the public. Regardless of the motives behind the changes in corporate image, the tactic worked: the revolving orange arrows and the name *Énergie NB / NB Power* have become iconic in New Brunswick.

Organizationally, NB Power evolved from a small executive of department heads in the 1950s, to a strong executive of the President (and CEO), and five Vice-Presidents. The CEO reports to a Board of Directors, which consists of politically appointed experts. There are currently eleven Board members, plus the CEO. The Vice-Presidents, on the other hand, are today's equivalent of the 1957 head of departments, and each have a long organizational chart of employees reporting to them, directly (Directors) or indirectly (Managers, and various employees). This organization of the corporation mirrors other corporations with a large number of employees. NB Power itself employs over 2300 New Brunswickers. A structure is required to manage such a large number of employees, each with various responsibilities. Although NB Power did not have over 2000 employees in 1957, it had enough to justify implementing a distinction between the daily routine/business and the operations/generation of the utility.

Not only did NB Power grow as a corporation, but its reputation as a reliable electricity generator and distributor grew as well, through its infrastructure and its employees' dedication. As an institution, it has managed to adapt to the constraints of government oversight, while at the same time remaining as politically autonomous as possible for a Crown Corporation. However, as NB Power required more infrastructure, its debt also increased. As one government official claimed, it was always financed one hundred percent, first by the province, then by its own credit score (Interview 2). As discussed in Chapter 3, NB Power's financial books are separate from the provincial financial books. Still, NB Power's status as a Crown Corporation necessitates that its debts also belong to the Province of New Brunswick.

Path dependency, as defined in Chapter 4, means that once the path is set, the costs of reversal or of changing that path are high. Since 1950, NB Power was on a path of political and financial autonomy, while remaining linked to the province as a Crown Corporation. The costs of breaking that link are very high. Privatization, while seemingly a simple solution, is much harder to implement, since for example, NB Power does not pay corporate taxes. In order for privatization to be a valid solution, the province and the corporation would need to come to an understanding concerning these matters. A government official nixed the idea of privatization, since it went against the people of New Brunswick's wishes: "[when] people say, 'we want to keep it as a Crown Corporation', they meant that [the government] wouldn't look at disposing... the asset." (Interview 2). Therein lies the problem with NB Power. New Brunswickers want to own the asset, but at the same time, they do not want to be held responsible for the debt.

“Because people could identify owning an asset, even though they know [that with] owning NB Power, there’s huge challenges” as the same government official explained.

On the other hand, the Standing Committee on Crown Corporations that met on March 1 2011 to discuss NB Power’s Annual Reports from 2008/2009 and 2009/2010, pointed out that NB Power’s financial troubles are not as bad as the Graham government had led the province to believe. One of the committee members claimed that,

One of the reasons I hear for selling NB Power to Hydro-Québec was the terrible financial state of NB Power. [...] I am reading this annual report late into October, and then, I am hearing the Premier of New Brunswick saying: Oh, my gosh, we have to get rid of NB Power because of the debt load. It is not making any money. I am reading, on page 35 of the financial report, that we are in good shape. Whom should I believe? Should I believe the former Premier, or should I believe this report? [...] Still, it sounds to me like a company that is in pretty decent shape, considering that this report was supposed to be presented to the Legislature by October. Then, I have a former Premier telling me, as a shareholder, that we have to get rid of NB Power because it is a strain on us. I don’t know. I am just lost. Again, is this what I should be believing? (Standing Committee, 16-17)

Gaëtan Thomas specified that although NB Power does have a debt that will need to be addressed, the corporation is not in bad shape, financially. He stated that, “[one] thing we need to be sure of is that we continue to lower the debt. I can understand why somebody would make statements that we have to match the earnings with the debt level, but it is not as bad as people might think” (Standing Committee, 17).

As a result, NB Power is on two concurrent paths. First, there is increasing costs due to the rising price of oil, the Point Lepreau refurbishment and the replacement power that that refurbishment entails, the fluctuation of the Canadian dollar and finally the future costs the current infrastructure will create, such as refurbishing the Mactaquac dam. Second, New Brunswickers are unwilling to let go of NB Power as a Crown Corporation. Fear of the unknown will always allow the *status quo* to remain untouched.

NB Power has been a Crown Corporation, under the government's "control", as the public perceives it to be, since 1920. Few New Brunswickers today, if any, were alive before NB Power was created as a Crown Corporation. For many, it is almost like a stabilizer in the face of constant changes. During interviews with government officials, the subject of NB Tel's experience was discussed, and that experience potentially fuels the reluctance of the people of New Brunswick to change NB Power's status.

We're a small province, 750,000 people. People saw NB Tel leave years ago, absorbed into Aliant, and you still hear it today, "we wish we had NB Tel here, because you don't get the same level of service now that you get with NB Tel". And that was the fear of the unknown. (Interview 2)

Although the public perceives NB Power to be under the government's "control," this is an inaccuracy. Many factors combine to give that impression. NB Power's status as a Crown Corporation is a major factor. Another is the Energy and Utilities Board (EUB). This is a government mandated board, whose purpose is to regulate various prices and rates. Electricity, and NB Power by default, is only one of the fields the EUB regulates. It also regulates industries such as motor vehicle gasoline, petroleum products, and natural gas. Although the EUB is under a governmental mandate, it is an independent board appointed by the Lieutenant-Governor of New Brunswick (*Energy and Utilities Board Act 2006, Section 4*). However, according to the Ganong Report, the EUB is not as powerful as it should be. The report recommended, as we saw in Chapter 3, that the board be strengthened through legislation in order to match its powers with those of similar boards in other jurisdictions. Still, the EUB is the only regulator that has the power to approve or deny NB Power rate increases. If the government is unhappy with NB Power's proposed rate increases, it may request a hearing in front of the EUB, but the government itself cannot force NB Power to drop a rate increase, or lower rates. Only the

EUB has that power, according to sections 64 and 65 of the *Energy and Utilities Board Act 2006*.

Accordingly, if the government is unhappy with a three percent rate increase, it may request a board hearing in order to justify the increase. This is important to understand, as NB Power is not required to apply or justify to the EUB a rate increase that is three percent or lower. However, the rate increase in April 2009 caused the government to request an investigation by the EUB, according to the March 20 2009 press release. After a two month investigation during which the EUB heard many points of view, such as NB Power's reasons, the public intervener's counter-arguments, and questions from the public, it decided that the rate increase was justifiable. Government officials explained in interviews, "the government has everything to say about the regulatory framework, and how energy policy would be in New Brunswick," (Interview 3) meaning that the government controls the legislative agenda, but once a framework is established, the government cannot interfere in decisions made by independent boards.

Additionally, the NB Power deal with Hydro-Québec was not the first time the government considered disposing of the asset. The previous government under Bernard Lord considered promoting private investment in the utility. For this, the government decided to split NB Power into five corporations so that private investors would have an option where their investments would go. For example, if a private investor wanted to invest in customer service, but not in generation, the only way to guarantee the investment would go to its intended purpose was to separate generation from customer service, within the corporation. Therefore, the government separated NB Power into five corporations: Genco, Disco, Nuclearco, Transco, and Holdco. Despite the government's

efforts, there was no interest from the private sector to invest substantially into the corporation. NB Power continued on its path as a Crown Corporation.

Critical Juncture

As seen in Chapter 4, critical junctures open options for an institution. Capoccia and Kelemen define a critical juncture as a moment where decisions made are momentous, and have the potential to change the path of an institution. The NB Power agreement with Hydro-Québec was such a moment for New Brunswick and NB Power. A government official specified in an interview why it would have been impossible for the government to attempt to make the agreement at a later date when asked if postponement was an option,

And you could raise the question, there was the, there was certainly the fear, and I think the political situation would not have proved to be right, political situations change, on a government in Québec, Charest's... were in a great position to have that discussion. A year later, Premier Charest was on the ropes, with many, many challenges, political challenges... Where quite frankly, I doubt if they would have had the appetite, not that it would have been a tough thing for them politically, but the time and effort it takes for these types of things, that they would have been hard to get their attention. So no, I don't think they would have waited. (Interview 3)

It is important to remember that the New Brunswick government was going into an election year in 2010. Postponement would have benefitted New Brunswick's government, since it would have allowed the government to "[spend] the year, framing up all the challenges of NB Power", as the same government official remarked. A second official put it slightly differently, claiming that "if we had a framed... if we had a framed the whole debate earlier, and we controlled that agenda, framing the debate" (Interview 1), then there was a potential for a successful finalization of the agreement. He further elaborates,

In hindsight, I wish we could have framed NB Power the way [Premier Alward] framed the financial situation in the province. You know, we would have taken several months to a year to explain the problems of NB Power, and what some solutions could be, possible solutions could be, and then one of them would be to sell. And maybe, we could have got by it over a longer period of time. That may have helped. The difficulty of that, why we couldn't do that, is we had a short window of opportunity to take advantage of this. (Interview 1)

In addition, Québec's election cycle ends just as New Brunswick's begins, and vice versa. Therefore, there was no chance that both governments would be starting their election cycles at the same time. Clearly, it would have been impossible for Québec to make this agreement in 2011 rather than 2009, so New Brunswick did not have the opportunity to postpone the process. Politically speaking, 2009 was the best time for both governments to attempt this agreement. Québec had a strong majority government, while the Liberal Party could use the success of the agreement in the upcoming election as part of its self-proclaimed record of working for the benefit of New Brunswick.

The primary purpose of the agreement was to relieve New Brunswick of the debt and liabilities associated with NB Power. However, the reasons why the government of New Brunswick made the agreement with Québec is that that province is able to provide electricity at lower prices and as well relies on hydro-electricity rather than fossil fuels. Québec provided an opportunity for New Brunswick to pursue a 'cleaner' energy portfolio. One government official summarized this reasoning:

What we were trying to do was marriage their generation facilities with our generation facilities so we could get a benefit. In the spring of the year, we have surplus power, and we have huge run-offs off the Saint John River, and unfortunately we take that power and sell it in the market at the most inopportune time of the year. They just turned off their heaters, and haven't turned on their air conditioners yet. So the demand for power is at a low, and yet we have surplus power which we're selling into the market at the lowest possible price. So what this deal was going to do, was going to marriage the generation of the two facilities together. So, Québec could stock pile all their water in the spring of the year, they could use our surplus power that we have

here in New Brunswick then, because we don't have storage capacity, put it into Québec and allow them to heat homes in Québec and use power in Québec. And then, when we need power here in New Brunswick, we were going to draw on their hydro-system, their cheap power, it would be a year round benefit of cheap power, versus us just having cheap hydro-power, which is the worst possible time, in the spring, to sell into the US market. So, it was trying to marry the generation, the two systems together (Interview 2).

This synopsis not only explains the purpose of the agreement, but also explains *why* the government went to Québec rather than another province. Québec has an overabundance of hydroelectric power capacity, and therefore provides cheap power to its customers. New Brunswick's own hydroelectric capacity is at its maximum in the spring, when it is of little to no use in New Brunswick itself, according to the government official. Rather, New Brunswick's highest demands are in the middle of winter when the Saint John River is frozen and the several dams along the tributary are inoperable. Therefore, merging these two systems would benefit New Brunswick.

For Québec, the advantage of the agreement was a foot in the door in Eastern Canada. One government official explained why Québec was interested, "[...] I fully believe that [Québec] believed it was a strategic advantage for them to be positioned in Eastern Canada. And because of that, they were prepared to sink a lot of money into it, where other jurisdictions wouldn't have been." (Interview 3) This also brings in another reason why other jurisdictions were not valid options for the government of New Brunswick. No other utility would pay what the government of New Brunswick wanted for the utility. In the end, however, Québec was also unwilling to pay what the province of New Brunswick wanted for NB Power. The purchase price was lowered in January 2010 when the revised agreement was announced, and Hydro-Québec kept questioning whether it wanted to take on the risks and liabilities associated with NB Power's

generation assets. When Québec asked the government of New Brunswick to keep the risks and liabilities, New Brunswick had no choice but to terminate discussions.

This critical juncture in NB Power and New Brunswick's histories had the potential to change New Brunswick's future. When Shawn Graham campaigned in the 2006 provincial election, his platform focused on changing New Brunswick to ensure prosperity and growth. Although the agreement would sell a major economic asset, the agreement would provide debt relief, and would ensure low electricity rates in New Brunswick. Those were the government's main arguments for the agreement. However, New Brunswickers disagreed for various reasons, and these are the focus of the next section in this analysis.

The Major Issues against the NB Power deal

Now that I have established that NB Power is path dependent, as both a Crown Corporation and a debt-ridden institution, and that the agreement to sell the utility to Hydro-Québec was a critical juncture in NB Power's history, I will now turn to answering the main question of this research: *why* were New Brunswickers against this agreement? Why was the New Brunswick government unsuccessful in convincing the people of New Brunswick that this agreement would benefit the province?

The Language Question

According to some government officials, one answer is because the agreement was with Québec. Despite New Brunswick's bilingual status, it is distrustful of Québec. One official interviewed claimed that distrust of Québec was evident in debates held across the province. He stated that

New Brunswickers have become tolerant of each other, and accepting in many areas, but on this issue, we faced two challenges. We face, one, first, the Acadians, who always have had a distrust of Québec, French Québec. And we faced... those New Brunswickers who have traditionally been opposed to the implementation of French second language in the province of New Brunswick. [...] And then we had a large middle ground of people who were ambivalent, but there was a distrust amongst the Francophones, because they didn't trust Québec, and then you had Anglophones, who were very opposed to Québec. So, we picked a scab. And that's the reality today in New Brunswick... New Brunswickers are able to accept, going forward at a certain level of change, but this amount of change was just too big for them to accept, especially when you brought in the issue of language around the change. (Interview 2)

“So, we picked a scab”. That sentence carries many implications concerning the language issue in New Brunswick. As he pointed out, Acadians are distrustful of French Québec, and some Anglophones are reluctant, at best, to French as a second language in New Brunswick. His statement implies that the agreement with Québec stirred many buried emotions stemming from the 1960s onward, with the adoption of the *Official Languages Act* in New Brunswick. New Brunswick has a long history where two distinct linguistic cultures lived together, yet separately until the 1960s. When the government changed that particular path, some New Brunswickers had a negative – and emotional reaction. Since then, New Brunswickers have learned to live together (“become tolerant of each other”). Arguably, recent generations of New Brunswickers may not see bilingualism as an “issue” in the province. The public reaction to the Graham government's French immersion reforms demonstrates that the vast majority of New Brunswickers value bilingualism. However, when the government announced an agreement to sell NB Power to Hydro-Québec, the “language issue” immediately became associated with the deal.

Interestingly, however, no one discussed it publicly. Yet, it was on every New Brunswicker's mind. It was almost taboo to consider *out loud* that New Brunswickers

today would have a problem with a French province owning a public utility operating in New Brunswick. A government official explained just how big this was for New Brunswickers, and how the issue played out,

Nobody talked about it... this fact that people were afraid of Québec. And this whole French thing... Everybody talked about it, you heard it everywhere. One day [the Premier] made reference to it, and he had to pull back his statements. Even though it was true. If you're from New Brunswick and you watched this debate, you know that that was discussed, at every house, at every kitchen table, everywhere. That was a big issue. (Interview 3)

As seen in Chapter 4, Hall and Taylor describe institutions, in part, as “institutions with organizations and the rules or conventions promulgated by formal organization”. NB Power is one such institution for New Brunswickers. Therefore, those New Brunswickers with ties and links to NB Power further questioned the agreement. The same government official as above explained how NB Power as an institution affected opposition to the agreement,

I think that, sort of, the power... of NB Power really was a little underestimated. In the sense that, you know you have a lot of people who work there, they're strategically all over the province, there's many, many businesses that do business with NB Power, they were concerned. What's that going to mean? Engineering groups? Would they still get work in engineering jobs? I don't know how many retirees of NB Power there are that live in New Brunswick, but thousands? So, there's this very large segment of people that were automatically opposed. And for them, you know, selling NB Power is one thing, but to the province of Québec... that was a big concern. (Interview 3)

Despite the government's assurances that nothing would change, they could not let go of that fear. The government attempted to convince the public not to react emotionally and to think rationally, but “we picked a scab”. The debate was no longer about the agreement, but about larger issues in the province of New Brunswick, such as bilingualism, identity, and sovereignty disguised as arguments against the MOU.

Public opinion polls taken in February 2010, as discussed in Chapter 3, demonstrate that French New Brunswickers who opposed the agreement did so for one of three reasons, and the fear of losing part of New Brunswick's identity was one of them. Moreover, a second reason was that Québec was taking over an important part of New Brunswick's economy, and therefore its sovereignty. Yet, English New Brunswickers had different reasons for opposing the agreement. Fear of strategic advantage, and the fear of not having New Brunswick's demands taken into consideration were the two answers provided by Anglophone opponents. On the other hand, the third highest rated reason, written as "other reason" in the poll, may indicate that the language issue was a strong consideration against the agreement for Anglophone New Brunswickers, since only one of the eight reasons listed came close to the issue (loss of identity). However, without further elaboration from English New Brunswickers, we cannot know if this is the case.

In sum, whether New Brunswickers want to admit it or not, the fact that the government of New Brunswick wanted to sell NB Power to Hydro-Québec became a debate over New Brunswick's linguistic identity. This is in spite of the MOU's section 7.2, which forces Hydro-Québec to comply with New Brunswick's *Official Languages Act*. Additionally, any business, corporation or company with offices in two or more provinces must comply with the laws and regulations of those provinces. Hydro-Québec would not be different, even though it is a Crown Corporation. If anything, it would be stringently regulated by both the province of Québec and the province of New Brunswick.

The Sovereignty Argument

The leader of the Conservative Party and the Official Opposition leader, David Alward, responded to the agreement by immediately opposing it. According to several government officials interviewed, he publicly stated that if the final agreement was signed, “we’ll be moving the department of Energy from Saint John New Brunswick to Saint Jacques Québec” (Interview 2; Interview 1). Several nuances stem from this one statement. First, it brings the language issue right up front in the debate. Second, it brings New Brunswick’s sovereignty into question. One official further elaborated,

What was that meant to do? What was that statement meant to do? It was meant to, and I must say, it was effective, it was meant to raise those fears. See, energy policy is the sovereign jurisdiction of every province. We weren’t giving up anything on energy policy. [...] This had nothing to do with energy policy, but they wanted to make people feel that we were giving up that sovereignty. And he was able to do that, right the very first day... Right instantaneously, no more than 5 minutes after the official announcement. And then, along with Danny Williams, Darryl Dexter, and others... They were able to make that argument, and people bought into it.

A report published by Gordon Weil in the *Atlantic Institute for Market Studies* did not help the government’s argument that New Brunswick’s sovereignty would not be affected by the agreement. In this report, Weil argued that the transaction would cause New Brunswick to cede an important part of its government authority (Weil, 9). However, Weil seems to believe that the NBSO would be abolished in favour of Québec’s own regulatory intervener, which was not the government of New Brunswick’s intent. Several government officials specified in interviews that the NBSO would remain the province’s “police” in electricity distribution (Interview 1; Interview 2).

Although David Alward had legitimate reasons to criticize the agreement, the Atlantic Premiers did not have reasons to meddle in New Brunswick politics. When the

MOU was announced, Premier Danny Williams of Newfoundland and Labrador immediately opposed the agreement. According to interviews with government officials, all the governments in the surrounding area (Newfoundland and Labrador, Nova Scotia, Ontario, and Prince Edward Island) were advised of the agreement prior to the official announcement. Therefore, when the announcement was made, Premier Williams had a letter ready to be published in the *Telegraph Journal* expressing his concerns. As seen in Chapter 3, he presented his argument as concern for New Brunswickers. However, why would a Premier from Newfoundland and Labrador care about policies implemented in New Brunswick? He claimed that it was because Newfoundland and Labrador had a history with Hydro-Québec and that he did not want to see the same mistake repeated in New Brunswick. As plausible as that sounds to New Brunswickers, the truth of the matter is that he was in negotiations with Nova Scotia to develop the Muskrat Falls area in Labrador, which resulted in an agreement announced in November 2010. Additionally, if NB Power had been sold to Hydro-Québec, the Nova Scotia and Newfoundland and Labrador agreement would not be as beneficial, since Hydro-Québec would be in a better position to provide cheap electricity to the New England markets. This does not prove Premiers Williams and Dexter's arguments against the MOU where Hydro-Québec would monopolize access to the transmission lines. Rather, it demonstrates the fine line between keeping access to the lines non-discriminatorily open, and being granted the access due to low rates. In his letter, Williams even presented somewhat of an ultimatum to New Brunswick, threatening to shut out New Brunswick representatives at the discussion table over options in the Lower Churchill Falls region.

Premier Darryl Dexter of Nova Scotia also expressed concerns over the sale of NB Power to Hydro-Québec. Publicly, the difference between Premier Williams and Premier Dexter is that Dexter's concerns were for Nova Scotia and the agreement's consequences for Nova Scotia's electricity exports. Premier Williams' only reference to Newfoundland and Labrador were in context of his province's prior agreement with Hydro-Québec. Premier Dexter claimed that through the agreement, Hydro-Québec would monopolize the transmission grids by claiming that it had to supply electricity for New Brunswick, and whatever space was left was already taken. In other words, his concern was that Hydro-Québec would refuse to grant Nova Scotia or any other jurisdiction access to New Brunswick's transmission lines.

In his concerns, Premier Dexter failed to account for the New Brunswick System Operator (NBSO), which is a Crown Corporation designed to regulate the transmission lines, and the traffic on them. Even if the NBSO was not an independent body from NB Power, the industry is highly regulated, and no request for access can be refused outright. Moreover, section 7.8 in the MOU specified that Hydro-Québec would work with all interested parties in maintaining New Brunswick as an "energy hub", including "merchant generation" (Section 7.8 (a)) and "transmission in the Province" (Section 7.8 (b)). Therefore, due to regulations and the MOU itself, if Hydro-Québec purchased NB Power, it would not be in a position to dictate who could have access to the transmission lines in New Brunswick.

Additionally to current regulations and the MOU, the Ganong Report had recommended a stronger "regulatory framework". Although it clearly specified the EUB, the wording may include the NBSO, since the EUB currently oversees the NBSO

(Ganong Report, 10). This makes sense, as the NBSO's sole responsibility is to control the flow of electricity in and out of New Brunswick, while the EUB's mandate is to regulate utilities independently. As the Ganong Report explained, after the sale of NB Power to Hydro-Québec, "access to the transmission system would remain open and non-discriminatory and the transmission tariff and market rules would continue to be administered by NBSO and would continue to be regulated by the EUB" (15). Therefore, a stronger EUB would necessarily mean a stronger and independent NBSO.

Changes to the MOU meant that Hydro-Québec would not own NB Power, but only part of NB Power's generation capacity – Genco and eventually Nuclearco. According to the joint press release on January 20 2010, NB Power would remain a New Brunswick owned Crown Corporation, and the "the transmission and distribution arms of NB Power... will be retained by New Brunswick". This alleviated all the fears and concerns expressed by Premiers Williams and Dexter, since Hydro-Québec would *not* own all the landed transmission lines connecting the New England States to the Canadian East Coast. Despite Williams and Dexter's opposition to the original MOU, the media failed to report how Premier Dexter reacted to the revised agreement. It can be assumed that Premier Dexter approved of the new agreement, due to his concerns with the transmission lines. Premier Williams, on the other hand, continued to oppose the agreement, since Hydro-Québec's use of the transmission lines would amount to the same as ownership.

New Brunswickers bought Premiers Dexter and Williams' arguments against the agreement. Misunderstanding both the transmission side of NB Power and how the NBSO works to regulate the electricity industry in New Brunswick caused New

Brunswickers to believe that the agreement would nullify any competitive edge NB Power currently has. Additionally, New Brunswick was not giving away its sovereignty in energy matters, since the government will always have jurisdiction over such policies, as discussed above. Finally, the MOU specified in section 7.5 that the final agreement does not compromise either of the provinces' sovereignty.

Senator Lowell Murray discussed the sovereignty argument as well, believing that the MOU would become a constitutional issue. He believed that Hydro-Québec's electricity regulations would dominate over New Brunswick's sovereignty, yet again demonstrating that the purpose of the EUB and NBSO is misunderstood. In addition to provincial sovereignty issues, Senator Murray claimed that interprovincial trade regulations are federal powers, and therefore the agreement between Québec and New Brunswick was a federal issue. He made this argument before the Senate, but no one from the federal Parliament discussed the agreement publicly. Stephen Harper, Michael Ignatieff, and Jack Layton all remained quiet, despite Senator Murray's belief that the federal government should be involved in the process.

In addition to Senator Murray, some published opinion writers questioned the national ramifications of the agreement. One letter to the editor published in the *Telegraph Journal* on November 28 2009 claimed that "[the] sale of NB Power to a company fully controlled by a potentially separatist jurisdiction is concerning enough both provincially and federally" (Letters to the editor, A10). Discounting the politically flammable implications of this comment, the author raises the same issue that Senator Murray discussed in the Senate. However, *CBC News* published an article on January 8 2010 with two interesting comments. First, Defence Minister Peter McKay, expressed

reservations about the agreement; "I think a larger view of [green energy needs in Atlantic Canada] would tell us perhaps there are better alternatives to what the Québec-New Brunswick deal has put forward". Second, Prime Minister Stephen Harper told Premier Graham that, "Ottawa was staying out of the issue". Officially, the federal government was not getting involved in the agreement to sell NB Power to Hydro-Québec, yet Peter McKay did not remain silent. Despite his profile as a senior cabinet officer, McKay responded to the issue in his capacity as the senior cabinet representative for Atlantic Canada. Still, he did not discuss the legality or constitutionality of the agreement, but rather the idea that other green energy initiatives might provide a better solution than the sale of NB Power to Hydro-Québec.

Although the MOU and the government of New Brunswick denied any sovereignty issues with the sale of NB Power to Hydro-Québec, Senator Murray's concerns raises questions. For starters, since his appointment to the Senate, he has served on many committees indirectly related to the MOU, such as the Standing Senate Committee on Banking, Trade, and Commerce, and Standing Senate Committee on Social Affairs, Science and Technology. What did Senator Murray see in the agreement that caused him concerns for New Brunswick's sovereignty? He was always an activist for Atlantic Canada, and yet opposed an opportunity that could potentially reverse New Brunswick's path dependent course. Could he have discounted the EUB and NBSO's roles in electricity regulations? Government officials in New Brunswick believed this to be the case, and those interviewed specified that, "the government has everything to say about the regulatory framework, and how energy policy would be in New Brunswick" (Interview 3).

NB Power employees and Historical Institutionalism

Historical institutionalism also explains why NB Power employees resisted the agreement. The MOU clearly stated that Hydro-Québec would honour all current pensions, benefits, and collective agreements with NB Power employees. However, the employees remained sceptical of the agreement. According to B Guy Peters, Jon Pierre, and Desmond S King, this is due to the entrenchment of the institution.

As successful as those major policy projects have been, they also may outlive their utility and then may become impediments to the success of governments in meeting their fundamental governance objectives. Because these policies and the ideas that motivate them are well institutionalized they may be difficult to change, with individuals and organizations working with these programs defending the ideas behind them against claims of their having become outmoded (Peters, Pierre & King, 1276).

According to this statement, employees who opposed the agreement believed in the original intent of the institution, where NB Power is a Crown Corporation owned by New Brunswick. To change the ownership of the institution was to change the institution itself, and employees possibly grew afraid of such a fundamental change. NB Power's identity is tied to the Province of New Brunswick, not to the province of Québec. Therefore, if the province no longer owned the corporation, its identity and pride in working for New Brunswick and New Brunswickers were under threat.

A corporation's reputation reflects the employees' pride and commitment, and NB Power is no different. The agreement directly threatened NB Power's identity, and therefore indirectly threatened the employees' identities. Gaëtan Thomas agreed with this when he told the Standing Committee that, "the large majority of employees preferred NB Power to stay as one company owned by the province of New Brunswick" (Standing Committee, 28).

In a show of solidarity with NB Power employees, the union representing most employees, the International Brotherhood of Electrical Workers (IBEW), vocally opposed the agreement as well. In addition, some employees and the union questioned whether Hydro-Québec would eventually force NB Power to lay off some of its staff. If Hydro-Québec decided to merge the corporations into one, efficiency demands that one or both of the corporations lose staff. It is plausible that NB Power employees believed this translated into a loss of jobs for them, and not Hydro-Québec. If this is the case, it would only add pressure on NB Power employees, since now they felt their employment was threatened by the sale of NB Power.

Additionally, the former CEO of NB Power, David Hay never publicly opposed the agreement, but his words and actions led everyone to believe that he opposed the sale of NB Power to Hydro-Québec. He claimed that the government never consulted with him, which the government immediately denied. One government official interviewed explained that as of May 2009, when the framework of the MOU was in place, David Hay and a few senior NB Power executives were made aware that the discussions were taking place. He even claimed that David Hay approved of the framework at that point, and that he was happy that the government was taking this route as Hay had tried to convince the previous government to do the same. However, something happened, according to the government official, between May and October 2009, as David Hay made a public announcement promoting NB Power the week before the joint announcement of the MOU (Interview 1). Although we should not doubt the government official's statement, the story cannot be verified with David Hay, as he was unavailable for an interview.

However, Hay announced his retirement from his position as CEO of NB Power on January 27 2010, effective at the end of January 2010. This led to speculation among NB Power employees, the media, and New Brunswickers. His retirement implied that he could not condone the government's pursuit of an agreement with Hydro-Québec. The suddenness of the announcement and the fact that the retirement would take place almost immediately implied that the government requested his retirement from CEO of NB Power. Additionally, since the announcement came a week after the revised agreement was announced, a further implication is that since NB Power would remain a New Brunswick owned Crown Corporation, the government could not accept David Hay as President and CEO, due to his implied opposition to the agreement.

Gaëtan Thomas, the Vice President in charge of Point Lepreau and Nuclearco, was appointed the interim President and CEO, and took over the leadership of NB Power. He was appointed permanent President and CEO in May 2010. He explained his position on the agreement in March 2011 when he appeared in front of the Standing Committee on Crown Corporations.

I had different thoughts about the sale. Obviously, when I did not have the information, my thoughts were that the process should have been that NB Power would have been more involved right from the beginning. [...] Initial thoughts were that there did not seem to be a business case for it. However, when we got into this, early on, the numbers that we saw from a query were quite compelling. The numbers indicated that there was the potential for a reduction in rates for customers. [...] When the details came out, the numbers were not really the same. The reason for that was that when you have a complex deal like that, you have all the risks that come with the assets. It is easy to make money from assets, but it is not easy to share the risks that the assets bring with them. There were some elements of risk that came through loud and clear, such as Mactaquac, the Point Lepreau decommissioning, and used fuel management. The other player was not willing to take those risks. [...] The deal, from a straight financial point of view, makes sense. However, once you put the risks into the equation, that is where whatever number you use—\$4 billion or \$4.5 billion—has to take those risks into account. Pricing those risks is what is very

difficult. That is why I say that if NB Power had been involved earlier, those risks could have been priced earlier. Maybe the decision to go ahead or not to go ahead could have been made earlier. That is all. It was a matter of not having a full appreciation of those risks. (Standing Committee, 29)

The Standing Committee on Crown Corporations met in March 2011 to question Gaëtan Thomas on the 2008/2009 and 2009/2010 Annual Reports. Evidently, since the agreement to sell NB Power was announced during the 2009/2010 fiscal year, it became part of the interview. During his interview, Thomas claimed that,

We heard rumours in the summer of 2009, and I believe that was after a meeting between the two Premiers—shortly after that, in June, I think. I was the last to find out because I was out of the office a lot at Lepreau at the time. However, people were starting to talk about what was going on. Some of us did not believe it would go through or anything like that. That was summer. We got a little more information in October, and I think the direction was clear by November. We then we had start giving information and financial records, and there was going to be a due diligence process. That is my recollection from October to November—the activity. Again, we were supplying information. (Standing Committee, 23)

When the committee further questioned him, he explained that *he* specifically was not aware of the discussions prior to October, but that it was possible that David Hay and the other executives were aware of the agreement.

One government official had a conflicting opinion on why the NB Power employees were so against the agreement:

You had all [the] senior managers, except for maybe one or two that were flowing [opposition] down, that this is terrible for NB Power; NB Power employees were enraged, I don't even know why but [they]'d be better off. But [... they] were, [they] didn't like the change. [They] saw the milk and honey [they] had and it was pretty good. It wasn't going to change. In fact, if those that were in the union had a look at union contracts with Hydro-Québec, Hydro-Québec union contracts were better than NB Power's. And so, a lot of folks at Point Lepreau saw that, and said "you know what, we're safe here. In fact, we could be better off" (Interview 1).

According to this explanation, NB Power employees were against the agreement because they feared a loss of their current privileges, such as job security, benefits, pensions, etc. However, the government official claimed that employees who actually looked at employment opportunities with Hydro-Québec realized that they were better off than with NB Power. It should be noted that this is the government official's opinion on why NB Power employees opposed the MOU. Just as New Brunswickers claimed many reasons to oppose the sale of NB Power, those NB Power employees opposing the MOU would have their reasons as well.

Gaëtan Thomas summarized that on average, NB Power employees' stress levels increased because of the agreement

We had some concerns, because there were people who were stressed. They were concerned about the transaction and whether they would have jobs or not, especially in the plants where people were told that, very soon, Hydro-Québec would not want the coal plant and especially the Dalhousie plant. People were concerned, and there were signs of stress. (Standing Committee, 26)

On the other hand, though, the government kept saying that nothing with NB Power would change. In other words, it would remain as it currently is, except ownership would be transferred to Hydro-Québec. The only explanation for the opposition is historical institutionalism's claim that NB Power is institutionalized to the point that employees would defend the *status quo*, despite its being outdated.

A government official pointed out in an interview that,

There's only about three jurisdictions in all of Canada left that own their utilities, there's New Brunswick, Québec, and Ontario, there might be British Columbia, maybe. But most, there's 6 or 7 provinces in Canada, that their utilities, the electrical generation and the delivery of electricity to the citizens is owned by the private sector (Interview 3).

Interestingly, NB Power would not have become one of those other privatized utilities. The MOU would have transferred ownership to Hydro-Québec, but it would remain a public utility. Therefore, it is questionable how much the daily routine would have changed had the sale been successful.

The “Democracy” debate

Another huge issue was that the government announced the agreement without first consulting the public. While David Alward, leader of the Conservative Party (and the Official Opposition) jumped on the language issue on the day of the original announcement, he soon turned to the democracy debate.

The government first announced it was in discussions with the province of Québec concerning NB Power in June 2009. While this was news, it was not a big concern at the time for New Brunswickers, despite the government’s assertion that everything and nothing was included in the discussions. Even with this announcement in June 2009, everyone was shocked the day the agreement was announced. As a government official explained,

It was in June 2009 that we informed the public that we were going into discussions with Québec at that time, we sent out a press release, remember, and [the Premier] was asked at that time does that include the sale of the asset, and [he] said yes. You know, everything’s included, we didn’t shy away from that, it was printed. But, I don’t think anyone ever expected us to be able to attain a principle, an agreement, a MOU. And when we announced that we had found an agreement, that’s when all of a sudden the reality set in, and we might be able to accomplish this.

In other words, the agreement came as a surprise to New Brunswickers because they did not believe anyone would be interested in purchasing NB Power. As Gaëtan Thomas explained to the Standing Committee on Crown Corporations, “[some] of us did not

believe it would go through or anything like that”. It was not the first time the government attempted this, since the Lord government tried to entice private investors to NB Power by splitting the corporation into five. Yet the Graham government achieved an agreement for the sale of NB Power, and shocked the people of New Brunswick.

The government’s plan was to consult with New Brunswickers from October 2009 to March 31 2010, the date of the closing for the final agreement. The government immediately created a website, called lowerratesnb.com (no longer available), which included an introductory message from Premier Graham, a live chat with government officials – including the Premier himself, and an electronic copy of the MOU, among other pertinent links. This website was widely used by the public. From my own recollection of the live chat section, there were over ten links available within an hour after the announcement of the MOU, and it kept growing throughout the five months that the government kept going with the discussions. There was even a toll-free number available. However, this number only directed callers to view the website according to New Brunswickers I spoke with throughout the winter of 2009-2010. Therefore, the government failed to establish a toll-free number that would permit New Brunswickers without internet access to call for information, and to have their concerns addressed. While not a major concern in urban areas since internet access is available publicly, this was a major issue in the rural areas without internet access, the residents of which felt their concerns were not acknowledged, much less addressed.

Many of the government officials interviewed discussed the government’s communication strategy throughout the consultation period. One official explained the difficulty of communicating with the public: “it was a huge challenge though, to try to

explain all [the challenges faced by NB Power]. And I guess, that comes down to people, so why didn't you communicate better? We attempted to communicate. We used every tool in our books, in our arsenal I guess, to try to [communicate with the public]".

Another official thought that if the government could have "framed the debate" earlier, taken the time to explain to the public why the government considered selling NB Power, then the public would have been more accepting of the MOU. This is debatable, however, since by February 2010 the public had yet to change its collective mind about the agreement, in spite of the government's massive efforts to explain the necessity and promote the agreement.

This is perhaps why some New Brunswickers created a fourth political party, called the People's Alliance of New Brunswick (PANB). According to the description available on the Facebook page of the party, it was "created amidst widespread opposition to the Liberal government's plan to sell NB Power to Hydro-Quebec and what was perceived as lack of credible opposition from the Progressive Conservatives (PCs)" (Facebook, Description). Additionally, the new Party's founding principles are as follows; first, free votes for Members of the Legislative Assembly (MLA); second, campaign ethics; and finally open and accountable government. Although these sound simple principles that should "improve" politics in New Brunswick, the implementation of the first two principles may pose serious challenges for the province.

The constitution of the party does not specify whether MLAs are free to vote at their will on all measures, or only some measures. The point of party discipline is to ensure that the party can implement its policies, which include confidence measures. What happens when the government loses a confidence measure? According to David

Docherty, the first condition of relaxed party discipline is a new understanding of confidence (165). As long as all MLAs, government or opposition, understand that losing a vote does not translate into a weak government, then there is a chance for free votes and relaxed party discipline in Canada. He specifies that “[separating] the results of votes on isolated pieces of legislation from the larger question of confidence in the government is the crucial first step” (165). However, this is a tough sell, since the temptation to depict the government as weak will be great when it loses a vote. If the temptation proves too strong to resist, the government will eventually lose the confidence of the House, and the public, and it may mean the Lieutenant General will call an election. Although this is not necessarily a “bad” thing, it can mean an increase in general elections and consequently a decrease in governance since political leaders will be too busy in election campaigns. The PANB believes that free MLA votes will enhance democracy in New Brunswick, and it may be the case; yet, if the price is a lack of governance and an increase in political turmoil, the price may be too high for New Brunswickers.

The party’s second principle is campaign ethics. This is a vague principle. Taken into the context of the party’s creation, however, it becomes a principle based on keeping promises. If politicians campaign and win an election based on particular and monumental promises, the PANB believes that those promises must be kept. This is a legitimate point, as politicians are elected to represent their constituency, and voters base their decisions on the promises made throughout the election campaign. However, it is always possible for the public to contact their MLA to discuss the issue of campaign promises versus political reality. Politicians who are not in government do not have all the information available on a particular issue, and therefore their original promise may

not be the best solution for the public, who in turn do not realize this reality when election promises are broken.

A relevant example is the sale of NB Power. The Liberal Party under Shawn Graham campaigned in 2006 on the basis of keeping NB Power as a Crown Corporation. Although *Our Action Plan to be Self-Sufficient in New Brunswick*, published by the Government of New Brunswick in 2007, does not promise to keep NB Power as a Crown Corporation – in fact, NB Power is not discussed once- it does promise to promote and create New Brunswick as an Energy Hub. Self-sufficiency for the government meant transforming New Brunswick into a “have” province. The public interpreted this as support for NB Power as a New Brunswick owned Crown Corporation. Self-sufficiency was the promise Shawn Graham made to New Brunswickers when he campaigned in 2006, and that included NB Power as a strong Crown Corporation. When the MOU was announced, it became a major issue for the public because of that promise. However, both the promises made during the campaign and the 2006 *Charter for Change* platform did not specify that NB Power would remain a *New Brunswick owned* Crown Corporation, which is a major distinction between how New Brunswickers interpreted the promise, and the actual promise.

The government promised to consult with New Brunswickers after the announcement of the agreement. It did so through various mediums, such as the internet, televised interviews, public speeches, debates in the Legislature, to name only a few. New Brunswickers, however, demanded a greater voice in the choice to sell NB Power. Many wanted a referendum on the issue, yet the government refused to do so. The main reason why it did not want a referendum was that a general election was scheduled for

October 2010, and the government felt that New Brunswickers could hold the government accountable through the election. According to the government's timetable, the election would be too late to stop the sale of NB Power, but the government maintained that going through with the agreement would benefit the province, even if New Brunswickers disagreed and elected a different government in September 2010. This did not stop the Conservatives and the PANB from promoting a referendum, and claiming the government was not listening to New Brunswickers. Additionally, the government argued that New Brunswickers elected the Liberal government to represent New Brunswickers and make the decisions required to strengthen the province. Therefore, according to this logic, the public should trust that the government will find the best possible solution for the province's problems. On the other hand, based on comments on the Facebook group "NO to sale of NB Power", New Brunswickers felt that the government's actions reflected an elitist perspective, where the government felt it had the right to effect changes without the consent of the public.

The Five Years Freeze Backfires

The government's attempt to "sweeten" the deal for New Brunswick quickly became a liability for the agreement. The MOU was promoted as a \$10 billion deal between the provinces of New Brunswick and Québec, yet Québec was only paying \$4.75 billion. The difference, \$5.25 billion, would go directly to New Brunswickers through the five years rate freeze. Not only would the rate freeze directly give New Brunswickers over \$5 billion, but it would also ensure that NB Power's rates would stay low. One government official explained that, "[...] it was frozen for five years, and then it was only going to

increase by inflation. [...] Which means that five years freeze was going to be built in there forever”.

Nevertheless, New Brunswickers did not agree. The big question mark in most New Brunswickers’ minds was what would happen after the five years freeze. Even though the MOU clearly specified that rates would be tied to the Consumer Price Index (CPI) of New Brunswick, most New Brunswickers remained sceptical that Hydro-Québec would not find a way to raise the rates for its benefit. This question ties in two of the other issues previously discussed, the general distrust of Québec, and Premier Williams’ assertions that Hydro-Québec would burn New Brunswick the same way it did Newfoundland and Labrador. One government official elaborated on the issue,

We put that as a benefit in there, [but] it ended up becoming a liability rather than a benefit because we wanted to give New Brunswickers the benefit of accessing that cheap hydro power, but we could have used that on any number of fronts, used that as equity on the capital. [...] It was difficult to sell, because the big question, [...] what happens after five years? [...] I guess, the fear was that someone else would own it. But, again, no matter how hard the Premier and the Minister and everyone tried to explain it to the public, well, they have to go before the Public Utility Board. [...] They have to go in front of the intervener. New Brunswick sets the rules, New Brunswick’s the regulator. They have to make a case of why it has to be increased. And, the problem Hydro-Québec had, was they were making this huge investment, and they had no way of knowing, no way of knowing, how future governments may decide to regulate the business. And that’s why we got into this discussion that after five years, they would get an increase of no more than the CPI.

The Facebook Groups

Almost immediately after the announcement, several social media outlets exploded with pages supporting the opposition to the agreement. Facebook had several groups created to oppose the MOU, and several in support of it as well. One of the biggest groups opposing the agreement was “NO to sale of NB Power”. At its peak, it had over 22,000 members.

It provided a forum for opponents to post their thoughts and ideas against the agreement, while also allowing members to organize and promote protests. Members spent many hours building the site, and many more hours debating the NB Power deal.

Interestingly, one of the most common complaints against the agreement was the democracy issue. Members frequently posted comments meant to “fight for democracy”, such as “save New Brunswick’s democracy”, “write your MLA/Premier Graham”, “get your voice heard”, etc. Members of this group did a good job promoting their views, and making sure that New Brunswickers heard their arguments. While members often posted information in favour of the MOU, they also included comments rejecting the argument. The tendency to post comments such as “liar”, and other disrespectful personal comments against proponents leads outside readers to question the credibility of the site.

Although the site provided allowed opponents a forum to voice their opinion, it was an emotional reaction. Some comments attacked members of the Liberal Party on a personal level in addition to the attacks on a professional level. For example, the release of the Ganong Report caused agitation in the group, where some questioned the panel members’ allegiances to New Brunswick, some going as far as to organize a “boycott” of products made from the three main private corporations in New Brunswick, Irving Oil, McCain Foods, and Ganong Chocolates.

In sum, opponents of the MOU used social media as a tool to organize gatherings, get the information out to New Brunswickers, and generally provided support. Despite the clear one-sided comments from members of the group, it succeeded in relaying main arguments both for and against the agreement.

Overall Analysis and summary

Chapter 3 explained the agreement, while also providing information on opponents. This section analyses all the issues and concerns discussed above, and demonstrates that they masked a fear of change in the province.

The government officials interviewed were rather candid. They freely admitted mistakes were made, and expressed what they would do differently if they had the chance to change anything. One of the common alterations discussed was communication. Given the chance, these officials would enhance communication with New Brunswickers in an attempt to explain the challenges NB Power will face in the future, explain and promote the MOU, and explain why Québec provided the best possible solution for New Brunswick.

On the other hand, the government officials interviewed and quoted throughout this research were proponents of the agreement. They each firmly believed that the MOU would benefit the province and the people of New Brunswick. Perhaps not surprisingly, they regret that the agreement was unsuccessful, and that the *status quo* did not change. While the interviews provided insightful information and comments on the process, they should be taken with some scepticism. Of course none of those interviewed would speak about the agreement with disdain.

One official had a fascinating point of view on the benefits of hindsight,

If I was turning back the clock, I would have to say that, and if you knew what we know today, I wouldn't do it. [...] You know, it didn't get accomplished. [...] The government [put]... all that they had in political capital on the line, you know, hindsight is 20/20, but if you had hindsight and if you were able to look into the future, I'm not sure anyone would tackle an issue such as that, [...] knowing what the consequences would turn out to be.

This is an interesting remark, as it demonstrates the courage it took for the government to tackle the sale of NB Power. Although other governments considered and even put out “feelers” for the partial sale of the utility, they did not come as close as this government had. This is the reason behind the people of New Brunswick’s reaction.

Despite New Brunswickers’ desire to become a “have” province through self-sufficiency, they were unwilling to accept the changes required for that transformation. Other previous changes were partially successful, such as the reforms in the French immersion curriculum, but not without the people of New Brunswick first going against the proposed reforms. While Premier Graham’s government can boast many small changes in the province, the public foiled its major initiatives. When it comes to the NB Power agreement, two thirds of New Brunswickers did not accept the MOU, and punished the Graham government in the next general election by voting for a majority Conservative government under David Alward.

Another government official gave his opinion that “New Brunswickers want things to be different, they just don’t want any change. [... They] want progress, but I’m not sure they want things to change”. While undocumented, this remark resonates with truth, as the province’s political culture is highly traditional according to Nelson Wiseman’s *In Search of Canadian Political Culture*. Traditionalism usually implies rejection of change. In the case of NB Power, New Brunswickers want a utility that is efficient and reliable while providing electricity at low rates. Selling the asset to Hydro-Québec challenged NB Power’s tradition of a New Brunswick owned Crown Corporation. Many of the flyers and posters opposing the sale used the slogan “Our Power, Our Pride”. Although at first glance it demonstrates that New Brunswickers are

proud of NB Power, a closer look at comments made by New Brunswickers since the agreement fell through shows a different picture.

It is true that the people of New Brunswick are proud of NB Power's achievements, but it is far from being a criticism-free pride. Many question the organizational structure of the utility, believing that the upper echelons are over-paid and under-worked. They appreciate all the hard work and dedication of employees working in customer care, and line-work, but fail to realize that these employees need direction. Senior management teams provide this purpose and work. Critics seem to believe that if the senior management teams were eliminated from the utility, all of NB Power's debt problems would be nonexistent, as the utility would no longer need to pay high salaries. Yet, NB Power would be like a moving car without a driver.

Still, the underlying factor behind the opposition to the sale of NB Power is fear of change. Path dependency has its problems for New Brunswick and NB Power, but at least the problems and challenges are known, even predictable. If NB Power had been sold to Hydro-Québec, this was no longer the case. The future would be unpredictable, and the problems would be unknown. Despite the potential benefits for the province, potential consequences for the province were unacceptable. Additionally, NB Power faces problems now with its debt, and will face future challenges when it needs to decide between refurbishment and decommissioning some generation assets. How does the government explain this to New Brunswickers, though? One government official explained this conundrum,

We live in the "me" generation right now, I see that everyone's comfortable, in the sense that there's two cars in the driveway, two TV sets in the house. This generation, the baby boom generation has just gone through the largest period of economic expansion the globe has ever seen. And the retirees that have come

into the system, they're comfortable, so it's difficult to implement change, because people aren't thinking what's going to be the challenges 40 years from now, because they're experiencing the most amount of wealth they've ever been able to accumulate in global history. So [...] that's the challenge, how do you educate people on the challenges over the horizon when they're very comfortable moment [...] in Canada's history.

According to Pierson, path dependency is a reluctance to change course by governments, given that the rewards will go to the future, while the costs of change go to current politicians and governments. This is why most politicians and governments are reluctant to change a path dependent course. Interestingly, Premier Graham's government did not fit that mould. In its opinion, the government was willing to stake its record on the agreement, and to put the best possible solution ahead of its political gain. In the words of one government official, "[The government] took a principled decision on that [it] wanted to do what was right for the future generations of New Brunswickers, and that [the government] was willing to pay the political price knowing [it] had brought a great benefit to the province".

The government's desire to effect transformational change to New Brunswick in order to ensure its prosperity and derail its path dependent course led to the government's fall from grace in the eyes of the public. The drop of public approval rates from two-thirds to one-third in three months demonstrates the level of fear that New Brunswickers had. The government's previous attempts to make transformational changes were somewhat accepted, in the sense that after the government announced the original change, public pressure forced it to make smaller or no change. However, changes in the MOU from October 2009 to January 2010 remained unacceptable, even though the revised agreement did not include the full sale of NB Power to Hydro-Québec.

This is interesting, as the revised agreement dramatically changed the terms of the MOU, but remained unacceptable to the public. The full sale of NB Power would mean that New Brunswick was on a new path, one that the government argued would benefit the province. However, the revised agreement changed that potential path to one that seemed more acceptable to New Brunswickers. Yet the public continued to oppose the agreement, even after the new agreement changed the terms from a full sale to a partial sale. According to the CRA public opinion poll taken in February 2010, New Brunswickers' opinions on the government's performance dramatically dropped from two-thirds to one-third in one year. Additionally, the numbers remained consistent from the November 2009 to the February 2010 public opinion polls taken. The sale of NB Power announced in October 2009 caused the numbers to decrease in November 2009; however, the new agreement announced in January 2010 did not increase the government's approval rate by February 2010. Therefore, the public remained against the agreement despite keeping ownership of NB Power (except Genco). What were the underlying reasons behind the opposition to the revised agreement?

I believe that it is a combination of several issues and fears discussed in this research. For starters, fear of change is a powerful motivator in a province that is used to traditional ways of doing things and therefore often opposes transformational changes. The sale of NB Power to Hydro-Québec was one such change, even if it was a partial sale. On top of this was the distrust that many felt for Québec. Nothing prevented Hydro-Québec from purchasing the rest of NB Power at a later date, possibly at a disadvantage for New Brunswick. Additionally, if Hydro-Québec owned all or most of New Brunswick's generation capabilities, the province could no longer be considered an

Energy Hub, as it no longer controlled its generation. Finally, the lack of consultation with the public prior to the original announcement exhausted the government's political capital with New Brunswickers, causing a general mistrust of the Graham government.

Overall, the sale of NB Power to Hydro-Québec raised many fears and issues previously buried. New Brunswick's status as a bilingual province forces the people to accept two distinct linguistic cultures. Yet, this does not mean that animosity is eradicated from the province. Some groups, such as the Anglo Society of New Brunswick, maintain that bilingualism was a mistake, and these groups in turn opposed the agreement with the province of Québec. Furthermore, the distrust Acadians feel toward French Québec caused an opposition to the agreement on principle. These groups are in the minority in New Brunswick; however, the combination of this distrust with Premier Williams' cynicism over Hydro-Québec, and the general scepticism New Brunswickers felt toward the government of New Brunswick led to the public never approving an agreement with Québec. Add the questions that the MOU posed, and it is doubtful that New Brunswickers would ever have agreed with the government's assessment that the sale of NB Power to Hydro-Québec would benefit New Brunswick.

Path dependency and critical junctures are the two fundamental ideas of historical institutionalism. NB Power is currently on two concurrent, yet distinct, paths. It is first a Crown Corporation, with New Brunswickers believing that the government, through ownership, can control the utility. However, the government can exercise control only to a certain level, due to regulations in the industry. The Energy and Utilities Board (EUB) and the New Brunswick System Operator (NBSO) are the two regulatory boards that NB Power must appeal to for its distribution of electricity, and the rates charged.

The government can control NB Power's mandate, and decisions that affect its growth as a corporation. Since the 1950s, NB Power has grown autonomous from the government, and makes its decisions based on the company's interests. However, the government must approve decisions that include NB Power's financial books. In other words, NB Power may decide to reorganize its internal structure without the government interfering, but NB Power cannot decide to refurbish a generation plant without the government's approval. For example, the government approved the Coleson Cove refurbishment to burn Orimulsion oil from Venezuela. It also had to approve the agreement between the Atomic Energy of Canada Ltd and NB Power before Point Lepreau's refurbishment could begin.

Rather than pointing fingers when decisions go wrong, the government and NB Power working together for the benefit of the province would vastly improve every aspect of NB Power, and New Brunswick in general. Decisions are made and do not always succeed. The decision to refurbish Coleson Cove in 2004, for example, led to a controversy when it was revealed that NB Power did not have a signed contract with BITOR. The government denied culpability in the decision, and although it is true strictly because NB Power had the PUB's approval and the government was not involved, New Brunswickers believe the government "controls" NB Power through the PUB. This perception, whether accurate or not, meant the government had to take action in finding a solution. This explains the government's press release announcing the lawsuit against BITOR in 2005, despite being the first press release on the issue.

NB Power's second path dependency is the debt-ridden path that it is currently trying to change. While admitting to the Standing Committee on Crown Corporations that

NB Power is 100% debt-financed, Thomas is optimistic that NB Power can change this within the next few decades for several reasons. First, once the Point Lepreau refurbishment is successfully completed, NB Power will be able to provide cheap electricity once again, without the incurred costs of replacement power. Second, NB Power is increasing efficiency, which includes forecasted retirements and decreases in workforce. Third, the MOU motivated NB Power employees to prove to New Brunswickers and the government of New Brunswick that it can service and lower its debt. Thus, the MOU caused a change in NB Power, which could prove to be akin to the changes implemented in the 1950s.

Although New Brunswickers expressed various reasons for opposing the agreement with Hydro-Québec, it is the argument of this research that the underlying reason behind the mass opposition is a fear of change. The government addressed every argument expressed in opposition to the MOU. The language issue was a main factor behind the opposition, despite the government and the MOU's section 7.2 asserting that the province of Québec could not affect the linguistic policies of New Brunswick. A related but different issue was the sovereignty argument against the agreement, where analysts and political leaders from other jurisdictions claimed that New Brunswick was allowing the province of Québec to take over its government authority in energy policy. This is not only incorrect in terms of the MOU, but also in the intentions of the government of New Brunswick. The government never intended to hand over its authority in policy matters to another jurisdiction, that is why the MOU included section 7.5, asserting the sovereignty in policy areas for both the provinces of Québec and New Brunswick, each within their jurisdictions. Although some argued that Hydro-Québec's

ownership of NB Power meant that Québec's jurisdiction extended into New Brunswick, the purpose of section 7.5 was to eliminate that possibility.

Finally, the democratic argument against the MOU claimed that the government of New Brunswick went ahead with the discussions without first consulting the people of New Brunswick and against promises made by the Liberal Party throughout the 2006 election campaign. However, as the government counter-argued, the people of New Brunswick elected the government as representatives of their interests. If the government felt that the sale of NB Power would be a benefit to the province, then as representatives, it had the authority to conduct these discussions. Additionally, the government did not conclude the discussions without a consultation period with New Brunswickers. It announced a framework under which further negotiations would continue, and where both parties could walk away without any legal ramifications (section 10). Still, New Brunswickers continued opposing the agreement, according to public opinion polls taken in February 2010. The opposition was in spite of a revised agreement where New Brunswick would keep ownership of NB Power, and only the generation capabilities of the utility would be sold to Hydro-Québec. There is only one reason that explains this, the fear of change

New Brunswickers feared the loss of control associated with change. Even though the revised agreement changed the terms of the original MOU, New Brunswickers felt they had lost control over the fate of both NB Power and the province of New Brunswick. In an attempt to regain control, a new political party was created as a result. This new party's founding principles revolved around increased accountability measures, such as free votes for MLAs, ethical campaigns that can translate into campaign promises that are

kept by the government once elected, and governments that are open, transparent, and accountable. Interestingly, the People's Alliance of New Brunswick failed to elect a single member to the Legislature in the September 2010 provincial election. Some secondary literature on third parties claims that the public does not necessarily trust new political parties to govern, and that newer parties are not perceived as legitimate competition for older, stronger political parties³, and this certainly seems the case in New Brunswick. Moreover, the Progressive Conservative party's (PC) platform included consultation with New Brunswickers before establishing policies. As a legitimate competitor to form government, the PC had a stronger claim to be able to affect changes to the province of New Brunswick. Therefore, the PANB's failure to elect a single representative is not necessarily a comment on the democracy argument against the MOU.

In sum, the agreement to sell NB Power to Hydro-Québec shocked New Brunswickers because none believed that the governments could come to a framework for such a transaction. That is why the announcement in June 2009 did not create controversy, but also why the October 29 2009 announcement sent New Brunswickers over the edge. Despite the discussions, New Brunswickers did not believe that Hydro-Québec was serious about the purchase of NB Power, or that the government of New Brunswick was serious about selling the utility; therefore, there was nothing to fear. However, once the announcement was made, that changed. Both Hydro-Québec and the government of New Brunswick were serious, and the current situation in New Brunswick

³ See Bélanger, Éric. "Third Party Success in Canada". In Canadian Parties in Transition 3rd edition. Alain-G. Gagnon and A. Brian Tanguay, eds. Peterborough: Broadview Press, 2007. 83-109.

was going to change as a result. The only control left to New Brunswickers was to oppose the agreement, and perhaps affect the changes implemented in the province.

Chapter 6: Conclusion

When the sale of NB Power to Hydro-Québec was first announced, I remember listening to the joint announcement while waiting for my seminar to start. I was excited at the news, not because I favoured or opposed the agreement, but rather so that I could observe the events as they unfolded. As the days turned into months, I remember thinking how likely the government was to finalize the agreement, in spite of the continued opposition from New Brunswickers.

New Brunswickers in general were questioning the agreement. What did it mean for New Brunswick? Why would the government of New Brunswick sell a major asset like NB Power? Is it a case of “jumping ship”? According to interviews with government officials, the main objective of the agreement was to relieve New Brunswick from the debt and liabilities associated with NB Power. However, it is questionable just how debilitating this debt actually is for the province. While the government never claimed that the debt has current negative effects on the province, several credit agencies claimed outright that the agreement would not affect the province’s credit score. Therefore, why is the government claiming the debt is a major risk for New Brunswick?

The main reason for this, according to government officials, is that the debt currently does *not* affect New Brunswick, but that it will become payable in future generations. That is what the government was trying to avoid by selling NB Power. One official confirmed Pierson’s analysis of path dependency, where it is hard to explain how current generations live on the back of future generations. In other words, the benefits from NB Power’s infrastructure are enjoyed by New Brunswickers today, but the debt accumulated by that infrastructure will be payable in the future when the utility has to

close down generation plants. Financial accounting rules dictate that once a generation plant closes and can no longer provide revenues, the amount owing must be paid.

Therefore, NB Power will have no choice but to write off the remainder of the debt and since NB Power loans are guaranteed by the government, the province of New Brunswick becomes responsible to make that payment. That is hard to explain in a twenty seconds news clip indeed.

Therefore, the government of New Brunswick decided in 2009 to approach the government of Québec to see if there was an opportunity for a partnership. Fortunately, Premier Charest of Québec saw an opportunity for Hydro-Québec to have a strategic foothold in Eastern Canada and agreed to preliminary discussions. Unfortunately, however, New Brunswickers disagreed with Premier Graham. They were unwilling to sell NB Power to Hydro-Québec. One of the government officials interviewed believes that if the agreement was with another province, it would have gone through without a problem. However, this is doubtful. Many New Brunswickers who opposed the agreement want to keep NB Power's ownership in the province. Recent rumours that Emera, the company who owns NS Power, was looking to buy NB Power caused a bit of agitation on NB Power's official Facebook group. Interestingly, those who questioned Emera's intentions are not only those who were against the MOU, but also those who criticize NB Power's organizational structure.

When New Brunswickers question NB Power's ability to manage itself, their intent is not to rid the province of the utility, but rather how it can be efficiently managed. Changing the senior management team does not pose as much risk as selling the asset to another company. This is an important distinction for New Brunswickers, as the

government will remain in control of the utility, which in turn allows New Brunswickers to feel they are in control. The agreement to sell NB Power to Hydro-Québec removed the control mechanisms that New Brunswickers have over the utility, and a loss of control feeds into the fear of change.

That said, however, it also does not mean that NB Power should go without a senior management team. The people who form this team are those who provide direction for the utility and employees. The government may “control” NB Power according to public perception, but removing the senior management team from the corporation removes the buffer between the government and NB Power employees. If NB Power *sans* management team is the solution to NB Power’s perceived debt problems, it is no longer a Crown Corporation, but a section of the Department of Energy in the government.

Additionally, Gaëtan Thomas believes that the proposed sale of NB Power to Hydro-Québec sparked an energy within NB Power. He claimed that,

We will show our customers that we are a top-quartile company. That is why we are measuring ourselves now against the best in North America. Five years from now, we want to be able to show that we are in the top quartile of utilities. This whole thing about Hydro-Québec—all of those things—has really energized my workforce to show that we can do it. They are all positive about showing that we can manage this utility efficiently. It is not just the CEO. It is the whole team behind me (Standing Committee, 45).

Thomas believes that the corporation is in a good position to change its debt-ridden path without the need to sell the asset. He claims that the corporation is in a unique position to be able to prepare and change the future of NB Power. Thomas spoke in the context of the possibility of refurbishing the Mactaquac Dam, but with this plan, he claims that the corporation will be in a better financial situation due to decreases in staff as many will be retiring within the next decade. Despite the MOU’s failure, the agreement opened

possibilities for NB Power. Employees are aware how precarious the corporation's situation is with the public and with the government of New Brunswick, and according to Thomas, are inspired to demonstrate that they can efficiently manage the utility. Therefore, while some government officials interviewed regret beginning the process since it did not end successfully, I would argue based on Thomas' remark that the MOU's success stems from the future opportunities that it opened for NB Power. It plans efficiency, and its employees are more dedicated than ever to achieving this, even as NB Power struggles to keep its rates low for New Brunswickers.

The sale of NB Power to another public utility not only sparked vigour into the utility, but also in New Brunswickers. Although they always paid attention to the corporation, they are now vocally involved with understanding and criticizing the utility on the official Facebook group. Additionally, the Conservative government established the New Brunswick Energy Commission, whose mandate was to consult with New Brunswickers over the creation of a ten years energy policy (Final Report, 3). Therefore, New Brunswickers have more control over changes in the province. If the government and NB Power are successful in changing NB Power's debt-ridden path, the Graham government's intentions were successful, despite the methods used in the government's attempt.

Appendix - Interviews

Interview 1. Elected government official. Saint John NB, June 3 2011.

Interview 2. Elected government official. Fredericton NB, June 23 2011.

Interview 3. Senior government official. Fredericton NB, June 23 2011.

Interview 4. Elected government official. Moncton NB, June 30 2011.

Bibliography

- Adamson, Agar. "Atlantic Canada: Hope Springs Eternal in a Troubled Climate." Politics: Canada. Ed. Paul W Fox and Graham White. 7th ed. Toronto: McGraw-Hill Ryerson Limited, 1991. 171-178.
- Angus Reid Public Opinion. "Premiers Williams and Wall Still Popular; Graham Now at Bottom". Toronto, March 15 2010.
- Blake, Raymond. "Intergovernmental Relations Trumps Social Policy Change: Trudeau, Constitutionalism, and Family Allowance." Journal of the Canadian Historical Association 18.1 (2007): 207-239.
- Bolleyer, Nicole. "Federal Dynamics in Canada, the United States, and Switzerland: How Substates' Internal Organization Affects Intergovernmental Relations." Publius: The Journal of Federalism 36.4 (2006): 471-502.
- Brock, Kathy L. "The End of Executive Federalism?" New Trends in Canadian Federalism. Ed. Francois Rocher and Miriam Smith. Peterborough ON: Broadview Press, 1995. 91-108.
- Brym, Robert J. "An Introduction to the Regional Question in Canada." Regionalism in Canada. Ed. Robert J Brym. Richmond Hill ON: Irwin Publishing Inc, 1986. 1-45.
- Cairns, Alan C. "The Governments and Societies of Canadian Federalism." Canadian Journal of Political Science 10.4 (1977): 695-725.
- Cameron, David and Richard Simeon. "Intergovernmental Relations and Democracy: An Oxymoron if there ever was one?" Canadian Federalism: Performance, Effectiveness, and Legitimacy. Don Mills ON: Oxford University Press, 2002. 278-295.
- . "Intergovernmental Relations in Canada: The Emergence of Collaborative Federalism." Publius 32.2 (2002): 49-71.
- Cameron, David M. "Nova Scotia's Fiscal Challenge: Intergovernmental Relations and Structural Adjustments." Canada: The State of the Federation 1995. Ed. Douglas M. Brown and Jonathan W. Rose. Ottawa: Institute of Intergovernmental Relations, 1995. 97-113.
- Canadian Broadcasting Corporation (CBC)*. October 29 2009 – March 24 2010. Articles accessed online at <http://www.cbc.ca/nb/>
- Canadian Intergovernmental Conference Secretariat. First Ministers' Conferences 1906-2004. Ottawa, 2004.

- Canadian Institute for Research on Regional Development. The Robichaud Era, 1960-1970: Colloquium Proceedings. Ottawa: Canadian Institute for Research on Regional Development, 2001.
- Capoccia, Giovanni and R. Daniel Kelemen. "The Study of Critical Junctures: Theory, Narrative, and Counterfactuals in Historical Institutionalism." World Politics 59 (April 2007): 341-369.
- Carr, Jan. "Power Sharing: Developing Inter-Provincial Electricity Trade." CD Howe Institute. Vol. 306. July 2010.
- Chandler, Marsha A. "Constitutional Change and Public Policy: The Impact of the Resource Amendment (Section 92A)." Canadian Journal of Political Science 19.1 (Mar 1986): 103-126
- Corporate Research Associates (CRA). "While Opinions Related to the Impact of the NB Power Deal are Mixed, the Majority of New Brunswickers Recognize the Benefits of the Proposed Agreement". Halifax, March 16 2010.
- . "Atlantic Quarterly – Winter 2010. New Brunswick Political Results". Halifax, March 9 2010.
- Daily Gleaner*. October 29 2009 – March 24 2010. Articles accessed online at <http://www.canadaeast.com/>
- Docherty, David C. "Legislatures", Vancouver: University of British Columbia Press, 2005.
- Duquette, Michel. "Conflicting Trends in Canadian Federalism: The Case of Energy Policy." New Trends in Canadian Federalism. Ed. Francois Rocher and Miriam Smith. Peterborough: Broadview Press, 1995. 391-413.
- Dyck, Rand. *Provincial Politics in Canada: New Brunswick*. Scarborough: Prentice Hall Canada, 1996. 167-209
- Egbers, Adrian Kelly. "Going Nuclear: The Origins of New Brunswick's Nuclear Industry, 1950-1983", Halifax: Dalhousie University, 2008.
- Énergie NB Power (NB Power). Seventy Years of Service. Fredericton: NB Power, 1990. Available online at <http://www.nbpower.com/html/en/about/publications/history.html>
- . Annual Report. Fredericton: NB Power, 1999-2008. Each report available online at <http://www.nbpower.com/html/en/about/publications/annual/sustainability.html>

- . Sustainability Report. Fredericton: NB Power, 2008-2010. Each report available online at <http://www.nbpower.com/html/en/about/publications/annual/sustainability.html>
- Finbow, Robert. "Atlantic Canada in the Twenty-First Century: Prospects for Regional Integration". Regionalism in a global society: persistence and change in Atlantic Canada. Eds Charles S Colgan and Stephen G Tomblin. Peterborough: Broadview Press, 2004. 149-170.
- Fortin, Sarah. "From the Canadian Social Union to the Federal Social Union of Canada, 1990-2006." Contemporary Canadian Federalism: Foundations, Traditions, Institutions. Ed. Alain G Gagnon. Toronto: University of Toronto Press, 2009. 303-329.
- Gagnon, Alain G. "Taking Stock of Asymmetrical Federalism in an Era of Exacerbated Centralization." Contemporary Canadian Federalism: Foundations, Traditions, Institutions. Ed. Alain G. Gagnon. Toronto: University of Toronto Press, 2009. 255-272.
- Ganong, David A (Ganong Report). Advisory Panel on the Proposed New Brunswick-Québec Electricity Transaction. Fredericton, February 1 2010. Available online at <http://www.cbc.ca/news/pdf/final-advisory-panel-report-eng.pdf>
- Gibbins, Roger. Regionalism: Territorial Politics in Canada and the United States. Toronto: Butterworth & Co (Canada) Ltd., 1982.
- Gibbins, Roger, Antonia Maioni and Janice Gross Stein. Canada by Picasso: The Faces of Federalism. Ottawa: The Conference Board of Canada, 2006.
- Government of New Brunswick, Gouvernement du Quebec. "Memorandum of Understanding." Fredericton, 29 Oct 2009.
- . "Summary of Agreement on Energy between the Governments of Québec and New Brunswick". Fredericton, January 20 2010.
- . "Act re generation and distribution of Electric Power". Fredericton, 1920.
- Government of New Brunswick. Our Action Plan to be Self-Sufficient in New Brunswick. Fredericton: Province of New Brunswick, 2007.
- Government of Newfoundland and Labrador, Government of Nova Scotia. "Lower Churchill Project to Become a Reality; Province Signs Partnership Agreement with Emera Inc. for Development of Muskrat Falls." St. John's, Nov 2010.

- Hall, Peter A and Rosemary C.R Taylor. "Political Science and the Three New Institutionalisms." Political Studies XLIV (1996): 936-957.
- Hiller, Harry H. "Region as a Social Construction." Regionalism and Party Politics in Canada. Ed. Lisa Young and Keith Archer. Don Mills ON: Oxford University Press, 2001. 24-40.
- Howlett, Michael. "Acts of Commission and Acts of Omission: Legal-Historical Research and the Intentions of Government in a Federal State." Canadian Journal of Political Science 19.2 (Jun 1986): 363-370.
- Immergut, Ellen M. "The Theoretical Core of the New Institutionalism." Politics & Society 26.5 (1998): 5-34.
- Inwood, Gregory J., Carolyn M. Johns and Patricia L. O'Reilley. "Intergovernmental Officials in Canada." Reconsidering the Institutions of Canadian Federalism. Ed. Peter J. Meekison, Hamish Telford and Harvey Lazar. Kingston: McGill-Queen's University Press, 2002. 249-284.
- Johns, Carolyn M., Patricia L O'Reilly and Gregory J Inwood. "Formal and Informal dimensions of intergovernmental administrative relations in Canada." Canadian Public Administration 50.1 (2007): 21-41.
- Knox, Robert and Amela Karabegovic. Myths and Realities of TILMA. Fraser Institute, 2009.
- Kukucha, Christopher J. The Provinces and Canadian Foreign Trade Policy. Vancouver: University of British Columbia Press, 2008.
- Lecours, André. "L'approche néo-institutionnaliste en science politique: unité ou diversité?" Politique et Sociétés 21.3 (2002): 3-19.
- Leger Marketing. "Réaction des Néo-Brunswickois à la vente d'Énergie Nouveau-Brunswick à Hydro-Québec : Rapport d'étude". 22 novembre 2009.
- Liberal Party of New Brunswick. Charter for Change: Shawn Graham's Plan for a Better New Brunswick. September 2006. Available online at http://www.poltext.capp.ulaval.ca/upload/nb2006libeng_26122008_100755.pdf
- Lomas, A.A. "The Council of Maritime Premiers: Report and Evaluation after Five Years." Canadian Federalism: Myth or Reality? Ed. J. Peter Meekison. 3rd ed. Toronto: Methuan, 1977. 353-363.
- Ma, Shu-Yun. "Political Science at the Edge of Chaos? The Paradigmatic Implications of Historical Institutionalism." International Political Science Review 28.1 (Jan 2007): 57-78.

- MacMillan, Kathleen and Patrick Grady. Working Paper Series: Inter-Provincial Barriers to Internal Trade in Goods, Services and Flows of Capital: Policy, Knowledge Gaps and Research Issues. Ottawa, 2007.
- Malcolmson, Patrick and Richard Myers. The Canadian Regime: An Introduction to Parliamentary Government in Canada. 3rd. Peterborough ON: Broadview Press, 2005.
- Maritime Economic Initiative. From opportunity to results : an update and outlook on the Maritime economic initiative, September 1992-December 1994. . Halifax NS: Council of Maritime Premiers, 1995.
- Matthews, Ralph. The Creation of Regional Dependency. Toronto: University of Toronto Press, 1983.
- Mellon, Hugh. "New Brunswick: The Politics of Reform". The Provincial State: Politics in Canada's Provinces and Territories. Eds. Keith Brownsey and Michael Howlett. Toronto: Copp Clark Pitman Ltd, 1982. 81-112.
- McCormick, Peter. "The Different Dimensions of Regionalism in Canada." Politics: Canada. Eds. Paul W Fox and Graham White. 7th ed. Toronto: McGraw-Hill Ryerson Limited, 1991. 151-163.
- McDougall, John N. "The Canada-US Free Trade Agreement and Canada's Energy Trade." Canadian Public Policy 17.1 (1991): 1-13.
- Meekison, Peter J., Hamish Telford and Harvey Lazar. "The Institution of Executive Federalism: Myths and Realities." Canada: The State of the Federation. Reconsidering the Institutions of Canadian Federalism. Ed. Peter J. Meekison, Hamish Telford and Harvey Lazar. Montreal and Kingston: McGill-Queen's University Press, 2003. 3-31.
- National Energy Board (Canada). Reasons for decision, Trans-Northern Pipelines Inc., application dated 11 March 1987 for new tolls effective 1 February 1987. . Ottawa ON: The Board, 1987.
- Noel, S.J.R. "Consociational Democracy and Canadian Federalism." Canadian Journal of Political Science 4.1 (Mar 1971): 15-18.
- Ornstein, Michael D. "Regionalism and Canadian Political Ideology." Regionalism in Canada. Ed. Robert J Brym. Richmond Hill ON: Irwin Publishing Inc, 1986. 47-87.
- Painter, Martin. "Intergovernmental Relations in Canada: An Institutional Analysis." Canadian Journal of Political Science 24.2 (1991): 269-288.
- Papillon, Martin and Richard Simeon. "The Weakest Link? First Ministers' Conferences in Canadian intergovernmental relations." Canada: The State of the Federation.

- Reconsidering the Institutions of Canadian Federalism. Ed. Peter J. Meekison, Hamish Telford and Harvey Lazar. Montreal and Kingston: McGill-Queen's University Press, 2004. 113-137.
- Pelletier, Rejean. Discussion Paper: Intergovernmental Cooperation Mechanisms: Factors for Change? Ottawa ON: Commission on the Future of Health Care in Canada, 2002.
- Peters, B. Guy, Jon Pierre and Desmond S King. "The Politics of Path Dependency: Political Conflict in Historical Institutionalism." Journal of Politics 67.4 (November 2005): 1275-1300.
- Pierson, Paul. "Increasing Returns, Path Dependence, and the Study of Politics." American Political Science Review 94.2 (Jun 2000): 251-267.
- Poirier, Johanne. "Intergovernmental Agreements in Canada: At the Crossroads Between Law and Politics." Reconsidering the Institutions of Canadian Federalism. Ed. Peter J. Meekison, Hamish Telford and Lazar Harvey. Kingston: McGill-Queen's University Press, 2002. 425-462.
- Prince, Michael J. "A cancer control strategy and deliberative federalism: Modernizing health care and Modernizing health care and relations." Canadian Public Administration 49.4 (Winter 2006): 468-485.
- Rawlyk, G.A and Terry Campbell. "The New Brunswick Acadian Response to the Problems of Confederation: L'Évangeline, Quebec and the Francophone Problem, 1967 to 1978." The Atlantic Provinces and the Problems of Confederation. Ed. G.A Rawlyk. Atlantic Canada: Breakwater, 1979. 242-281.
- Rawlyk, G.A. "Maritime Attitudes to the Problem of the Possible Secession of Quebec, 1967-1969. How Some Opinion-dealers Reacted." The Atlantic Provinces and the Problems of Confederation. Ed. G.A Rawlyk. Atlantic Canada: Breakwater, 1979. 85-101.
- Savoie, Donald J. Federal-Provincial Collaboration The Canada-New Brunswick General Development Agreement. Montreal QC: McGill-Queens University Press, 1981.
- Savoie, Donald J. "The Atlantic Region: The Politics of Dependency." Perspectives on Canadian Federalism. Ed. R.D. Olling and M.W. Westmacott. Scarborough ON: Prentice-Hall Canada Inc, 1988. 291-303.
- Simeon, Richard and Ian Robinson. "The Dynamics of Canadian Federalism." Canadian Politics. Ed. James Bickerton and Alain G. Gagnon. 4th. Peterborough ON: Broadview Press, 2004. 101-126.
- Simeon, Richard. Federal-Provincial Diplomacy: the Making of Recent Policy in Canada. London: University of Toronto Press, 2006.

- Simeon, Richard. "Regionalism and Canadian Political Institutions." Canadian Federalism: Myth or Reality? Ed. J. Peter Meekison. 3rd ed. Toronto: Methuen, 1977. 292-304.
- Smiley, Donald V. "Federal-Provincial Conflict in Canada." Canadian Federalism: From Crisis to Constitution. Ed. Harold Waller, Filippo Sabetti and Daniel J. Elazar. London UK: University Press of America, 1988. 89-106.
- Smith, Miriam. A Civil Society? Collective Actors in Canadian Political Life. Peterborough: Broadview Press Ltd, 2005.
- Smith, Jennifer. "Atlantic Canada at the Start of the New Millennium." Canada, the state of the Federation 2001: Canadian Political Culture(s) in Transition. Ed. Hamish Telford and Harvey Lazar. Kingston ON: Institute of Intergovernmental Relations, 2001. 141-162.
- Soucoup, Dan. Historic New Brunswick. East Lawrencetown: Pottersfield Press, 1997.
- Southam, Nancy (ed). Remembering Richard: An informal portrait of Richard Hatfield by his friends, family and colleagues. Halifax: Formac Publishing Company Ltd, 1993.
- Standing Committee on Crown Corporations. "Excerpt of the 13th Meeting of the Standing Committee on Crown Corporations, March 1 2011. NB Power".
- Telegraph Journal.* October 29 2009 – March 24 2010. Articles accessed online at <http://www.canadaeast.com/>
- Thelen, Kathleen. How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States, and Japan. New York: Cambridge University Press, 2004.
- Thelen, Kathleen. "Historical Institutionalism in Comparative Politics." Annual Review of Political Science 2 (1999): 369-404.
- Thorburn, Hugh. Politics in New Brunswick. Toronto: University of Toronto Press, 1961.
- Times and Transcript.* October 29 2009 – March 24 2010. Articles accessed online at <http://www.canadaeast.com/>
- Tomblin, Stephen G. "The Atlantic Region of Canada." Tomblin, Stephen G. Ottawa and the Outer Provinces: The Challenges of Regional Integration. Toronto: James Lorimer & Company, 1995. 63-107.
- Volpé, Jeannot and William M. Thompson. "Final Report: New Brunswick Energy Commission 2010-2011". Fredericton: New Brunswick Energy Commission, 2011.

- Watts, Ronald L. Comparing Federal Systems in the 1990s. Kingston ON: Institute of Intergovernmental Relations, 1996.
- Weil, Gordon L. "An Analysis of the New Brunswick-Hydro-Québec MOU". Atlantic Institute for Market Studies, Commentary, December 3 2009.
- . "The Modified New Brunswick-Hydro-Québec Memorandum of Understanding on NB Power: An Updated Analysis". Atlantic Institute for Market Studies, Commentary, January 26 2010.
- Whalley, John. "Disciplining Canada's Interprovincial Barriers: The Subnational WTO Approach as Another Option with or beyond an Extended TILMA." Canadian Public Policy 35.3 (2009): 315-323.
- Wisman, Jon D and Joseph Rozansky. "The Methodology of Institutionalism Revisited." Journal of Economic Issues 25.3 (Sept 1991): 709-737.
- Woodward, Calvin A. The History of New Brunswick Provincial Election Campaigns and Platforms, 1866-1974. Fredericton: Micromedia Ltd, 1976.
- Young, R.A., Philippe Faucher and Andre Blais. "The Concept of Province-Building: A Critique." Canadian Journal of Political Science 17.4 (Dec 1984): 783-818.
- Young, R.A. "Planning for Power: The New Brunswick Electric Power Commission in the 1950s" Acadiensis, Vol. XII, No. 1 (Autumn 1982): 73-99.