

# Regulatory Agenda

The period covered in this *Regulatory Agenda* is the month of December 2001

## Public Hearing Applications

### Hearing Decision Rendered

#### 1. Petro-Canada - Medicine Hat Pipeline GH-3-2001 (File 3200-P100-1)

Reasons for Decision issued on 20 December.

The Board approved an application by Petro-Canada to construct approximately 71 kilometres (44 miles) of mostly 273.1 millimetre (10 inch) natural gas pipeline from its existing natural gas production properties located in the Medicine Hat area to TransCanada Pipelines Limited's system near Burstall, Saskatchewan. The pipeline will have a design capacity to transport 1.5 million cubic metres (53 million cubic feet) per day of natural gas. The proposed pipeline route begins near the southeastern side of the Suffield Military Block in Alberta and extends northeast to Burstall. Approximately 57 kilometres (35 miles) of the pipeline route follows existing corridors. The Medicine Hat Pipeline is proposed to be in-service in January 2003 with an estimated capital cost of \$10.1 million.

The Board considered the application at a public hearing held in Calgary, Alberta, on 19 November.

### Hearings Scheduled

#### 1. TransCanada PipeLines Limited (TCPL or Company) - Cost of Capital for the Years 2001 and 2002 - RH-4-2001 (File 4200-T001-15)

The Board will hold a public hearing commencing on 18 February in Calgary, Alberta concerning an application from TCPL for approval of the cost of capital to be included in the calculation of the Company's mainline tolls for the years 2001 and 2002. The Board held a procedural conference on 19 September in Calgary to receive views of parties on certain procedural matters.

The Board last considered the cost of capital of TCPL in a Multi-Pipeline Cost of Capital hearing held in 1994 (RH-2-94). Following that hearing, the Board decided that a deemed common equity ratio of 30 per cent was appropriate for TCPL. The Board also decided that the allowed rates of return on common equity for all pipelines would be subsequently adjusted annually based on the equity risk premium method. Using that formula, a rate of return on common equity of 9.53 per cent was established for 2002.

## In This Issue

### Preface

The purpose of this agenda is to provide information on the Board's activities. Except where otherwise noted, jurisdiction over the items listed in the agenda is exercised pursuant to the National Energy Board Act, R.S.C. 1985, c.N-7, as amended.

*"We promote Safety,  
Environmental Protection and  
Economic Efficiency"*

<b>Public Hearing Applications</b> . . . . .	1
<b>Non Hearing Applications</b> . . . . .	3
<b>Appeal and Reviews</b> . . . . .	8
<b>Amendments to Regulations</b> . . . . .	9
<b>Administrative Matters</b> . . . . .	10
<b>Appendix I - Section 58 Applications</b> . . . . .	11
<b>Profile</b> . . . . .	12

In this application, TCPL submitted that the deemed capital structure of 30 per cent on common equity and the rate of return on equity formula underestimates the fair return for TCPL and should therefore not be applied to the Company effective 1 January 2001.

TCPL is seeking approval of an after-tax weighted-average cost of capital (ATWACC) of 7.5 per cent for 2001 and 2002, adjusted for the difference between the market cost of debt and embedded cost of debt of the Company. TCPL stated that an ATWACC of 7.5 per cent equates to a rate of return of 12.5 per cent on a deemed common equity of 40 per cent. TCPL further stated that, in the event the Board declines the proposed methodology, it would request that the Board establish a rate of return of 12.50 per cent on a deemed common equity ratio of 40 per cent for the years 2001 and 2002.

## **2. Georgia Strait Crossing Pipeline Limited (GSCPL) - GSX Canada Pipeline Project - GH-4-2001 (File 3200-G049-1)**

The Joint Review Panel for the GSX Canada Pipeline Project has set down for public hearing commencing on 17 June 2002 in British Columbia, with locations and times to be announced later, an application from GSCPL to construct and operate a natural gas pipeline in British Columbia.

The Panel will conduct public consultation sessions from 11 to 19 January 2002 to assist it in the formulation of issues that should be considered at the public hearing and to receive comments on the information to be requested of the applicant. The public consultation sessions will be held in Vancouver, Sidney, Duncan, Cobble Hill, Saltspring Island, Victoria, Saturna Island and North Pender Island, British Columbia.

The proposed GSX Canada Pipeline Project is a joint undertaking by BC Hydro and Williams Gas Pipeline Company. It is the Canadian portion of the project that would transport natural gas from Sumas, Washington to Vancouver Island.

The proposed GSX Canada Pipeline Project would originate at a point on the international border in Boundary Pass, west of the Strait of Georgia, to an interconnection with the existing Centra Gas British Columbia Inc. pipeline on Vancouver Island, south of Duncan. The Canadian portion of the pipeline would be approximately 60 kilometres (37.5 miles) in length, with approximately 44 kilometres (27.5 miles) being offshore and 16 kilometres (10 miles) onshore.

The 406.4 millimetre (16 inch) diameter pipeline would be designed to initially transport 2.71 million cubic metres (96 million cubic feet) per day of natural gas. The company is proposing an in-service date of October 2003 and the estimated cost of the Canadian portion of the project is \$100 million.

## **Hearing Applications Filed**

### **1. Westcoast Energy Inc. (WEI) - Pipeline Construction - Grizzly Raw Gas Transmission System Expansion and the Weejay Lateral (File 3200-W005-11)**

On 18 May, the Board invited public comments on the environmental aspects of an application by WEI to extend the Grizzly Raw Gas Transmission System and to construct the Weejay Lateral in British Columbia and Alberta.

On 31 January, WEI applied to construct approximately 108.5 kilometres (67 miles) of 406.4 millimetre (16 inch) pipeline extending the Grizzly Raw Gas Transmission System from a point in northeast British Columbia, approximately 30 kilometres (19 miles) southeast of Tumbler Ridge, to a proposed receipt point in Alberta approximately 110 kilometres (68 miles) southwest of Grande Prairie. WEI also proposes to construct approximately 6.3 kilometres (4 miles) of 273 millimetre (10 inch) pipeline, to be known as the Weejay Lateral, from a well site in British Columbia to a tie-in point on the proposed Grizzly Extension Pipeline.

The proposed facilities will permit WEI to connect additional gas reserves in the Ojay/Weejay area of British Columbia and the Naraway area of Alberta. The estimated cost of the proposed facilities is \$64.5 million.

As part of its application, WEI had prepared an environmental assessment document. To satisfy the requirements of the **Canadian Environmental Assessment Act**, the Board has determined that a comprehensive study must also be conducted for the project. The Board has delegated the responsibility for completing this study and preparing a comprehensive study report to WEI. On 20 July, WEI filed a draft Comprehensive Study Report for review by the Board and the Department of Fisheries and Oceans.

### **2. New Brunswick Power Corporation (NB Power) - Construct an International Power Line (IPL) (File 2200-N088-1)**

On 31 May, NB Power applied to construct and

operate a 345 kilovolt IPL of approximately 95 kilometres (59 miles) in length running west from the Point Lepreau Peninsula through the counties of Saint John and Charlotte in New Brunswick to the international boundary near Woodland, Maine. The estimated cost of the IPL is \$40 million and NB Power expects to commence construction in the Spring of 2002. The United States portion of the project will consist of approximately 135 kilometres (84 miles) of power line running from Woodland to Orrington in Maine. Bango Hydro Electric Company is seeking state and federal approvals for the U.S. portion of the project.

On 9 July, the Board issued for public comment a draft scope of an environmental assessment under the **Canadian Environmental Assessment Act** of the proposal by NB Power. The Board, the Department of Fisheries and Oceans and the federal Minister of the Environment have identified the scope of the proposed project and the factors to be considered during the environmental assessment. These factors, along with other details of the assessment, can be found in a document entitled **Draft Scope of**

the **Environmental Assessment, New Brunswick Power Corporation International Power Line.**

## Hearings Adjourned and Postponed

### 1. **Sumas Energy 2, Inc.(SE2) - International Power Line - EH-1-2000 (File 2200-S040-1)**

For more information on this matter, refer to item 1 under **Hearing Applications, Hearing Scheduled** in the February 2001 issue of the **Regulatory Agenda.**

### 2. **Mr. Robert A. Milne, 3336101 Ontario Limited, c.o.b. as Milne Crushing & Screening - MH-1-97**

For more information on this matter, refer to item 1 under **Hearing Applications, Hearings Postponed** in issue No. 62 of the **Regulatory Agenda** dated 1 October 1997.

### 3. **Crowsnest Pipeline Project - Natural Gas Pipeline**

For more information on this matter, refer to item 1 under **Hearing Applications, Hearing Application Suspended** of issue No. 63 of the **Regulatory Agenda** dated 1 January 1998.

## Non Hearing Applications

### Electricity Matters

#### Matters Under Consideration

#### 1. **Aquila Canada Capital and Trade Corp. (Aquila Canada) - Electricity Export (File 6200-A090-1)**

On 7 June, Aquila Canada applied for permits to export up to 1 142 megawatts of firm power and up to 10 000 gigawatt hours of firm and interruptible energy annually for a period of 10 years.

On 22 June and 18 December, the Board sent letters to Aquila Canada requesting additional information.

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On 22 June and 18 December, the Board sent letters to Aquila requesting additional information.

#### 3. **Cedars Rapids Transmission Co. (Cedars) - Reconstruction of an International Power Line (IPL) - (File 2200-C019-1)**

On 20 July, Cedars applied for a permit to replace

71 kilometres (44 miles) of an existing 72.8 kilometre (45 mile) IPL from Les Cèdres generating station in Quebec to a connecting point located in Cornwall, Ontario. The last 1.8 kilometres of the IPL from Cornwall to the U.S. border was previously rebuilt. The existing IPL will be dismantled once the reconstructed IPL is in service. Cedars also applied to reconstruct the IPL at 230 kilovolts and to operate the line at 120 kilovolts.

#### 4. **Encore Energy Solutions Inc. (Encore) - Electricity Export (File 6200-E050-1)**

On 4 June, Encore applied for permits to export up to 10 541 gigawatt hours of interruptible energy and up to 750 megawatts and 6 588 gigawatt hours of short-term firm power and energy annually for a period of 10 years.

On 22 June and 18 December, the Board sent letters to Encore requesting additional information.

#### 5. **Hudson Energy Company (Hudson) - Nova Scotia to New York Power Project - (File 2200-H044-1)**

On 19 December, Hudson filed documents entitled **Project Description and Draft Scope of the Environmental Assessment** as a preliminary submission for the proposed Nova Scotia to New York Power Project (the Power Project). The

preliminary submission initiates the environmental assessment of the Power Project under the **Canadian Environmental Assessment Act (CEAA)**. The draft scoping document outlines, in general way, the requirements under the CEAA with respect to the scope of the assessment and Hudson's proposed approach to conduct the assessment.

Hudson proposes to construct a 832 megawatt combined-cycle natural gas-fired power generation facility in Goldboro, Nova Scotia and to transport the power to New York City through a subsea 500 kilovolt high voltage direct current cable. The total length of cable to be used in the Power Project is estimated to be between 1 300 and 1 450 kilometres (806 to 900 miles). Hudson proposes to start transmitting electricity to New York City by mid-2005. In its submission, Hudson stated that two potential marine corridors are being considered:

- the preferred alternative corridor extends from the Northeast Chanel area to Great South Channel, via a southeastern route around Georges Bank; and
- an alternative corridor extends from the Northeast Channel area to Great South Channel via a northwestern route around Georges Bank.

From the Great South Channel and the area west of Georges Bank, the corridor extends from the western terminus of the Ambrose shipping channel into New York Harbor, through the Narrows in the Upper Bay and the Lower Hudson River to a terminus in the vicinity of West 49th Street, New York City.

#### **6. The Manitoba Hydro Electric Board (Manitoba Hydro) - Construct an International Power Line (IPL) (File 2200-M020-4)**

On 7 September, Manitoba Hydro applied for approval to construct a 230 kilovolt IPL from its Glenboro Station located in southwestern Manitoba to the international boundary near Killarney, Manitoba.

Manitoba Hydro has entered into an agreement with Northern States Power Company and Otter Tail Power Company, both located in the United States, for the construction of an IPL from the existing Glenboro Station to a proposed new Rugby East Station to be located to the east of Rugby, North Dakota. The Canadian portion of the IPL would be approximately 80 kilometres (50 miles) in length and the U.S. portion would be

approximately 85 kilometres (53 miles) in length running from Rugby to the north of Rolla, North Dakota. The estimated cost of the Canadian portion of the IPL is \$22 million Canadian and the estimated cost of the U.S. portion of the project is \$30 million U.S. The proposed in-service date of the IPL is 31 October 2002.

On 25 October, 16 and 23 November and 21 December, the Board sent letters to Manitoba Hydro requesting additional information.

#### **7. The Manitoba Hydro Electric Board (Manitoba Hydro) - Electricity Export (file 6200-M020-12)**

On 14 November, Manitoba Hydro applied for permits to export up to 100 megawatts of power per year and up to 514 gigawatt hours (GW.h) in 2002, 878 GW.h in 2003 - 2006, and 362 GW.h in 2007 for a period of five years.

#### **8. Morgan Stanley Capital Group Inc. (Morgan) - Electricity Export (File 6200-M136-1)**

On 1 May, Morgan applied for permits to export up to 2 336 000 megawatts of firm and interruptible power and up to 2 336 gigawatt hours per year of firm and interruptible energy for a period of 20 years.

On 22 June, the Board sent a letter to Morgan requesting additional information.

#### **9. Nexen Marketing, an Alberta general partnership (Nexen) - Electricity Export (File 6200-N086-1)**

On 24 August, Nexen applied for permits to export up to 5 000 gigawatt hours of interruptible energy and up to 1 000 megawatts and 5 000 gigawatt hours of firm and interruptible power and energy per year for a period of 10 years.

On 1 October and 18 December, the Board sent letters to Nexen requesting additional information.

#### **10. TransCanada Power Marketing Ltd. (TransCanada) - Electricity Export (File 6200-T074-1)**

On 13 March, TransCanada applied for permits to export up to 500 megawatts of firm and interruptible power per month, and 2 terawatt hours of interruptible and firm energy per year for a period of 10 years.

On 22 June and 27 November, the Board sent letters to TransCanada requesting additional information.

## Pipeline Matters

### Matters Completed

#### **1. Safety Performance Indicators Initiative (File 320-A000-027)**

Last spring the Board launched the Safety Performance Indicators initiative. The primary objective of this initiative is to obtain benchmark data for the purpose of trending analysis and to compare how the pipeline companies regulated by the Board are doing in comparison to companies regulated by other agencies. The information compiled should provide reliable evidence that facilities regulated by the Board are safe for workers and the public.

On 14 December, the Board, in order to provide more clarity and ensure consistent information is being collected, has clarified the definitions for the 2001 data. The Board sent a letter to all companies under its jurisdiction advising them of the changes. The definitions, along with examples, can be found on the Board's internet site at [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

#### **2. Canadian Natural Resources Limited (CNRL) - Ladyfern Pipeline (File 3400-C298-11)**

On 18 December, the Board approved an application dated 20 July from CNRL to construct the Ladyfern Pipeline which will consist of approximately 11.8 kilometres (7.3 miles) of 508 millimetre (20 inch) pipeline that will parallel the recently constructed Ricks Ladyfern Pipeline. The pipeline route begins at d-87-H/94-H1 in northeastern British Columbia and extends generally east to the existing TransCanada PipeLines Limited Owl Lake South Meter Station in northwestern Alberta. The estimated cost of the project is \$8.6 million and the proposed in-service date is 15 March 2002.

#### **3. Nova Scotia Resources Ventures Limited (NSRVL), ExxonMobil Canada Properties (ExxonMobil), Imperial Oil Resources (Imperial), Shell Canada Limited (Shell) and Mosbacher Operating Ltd. (Mosbacher) - Sale and Purchase of the Sable Offshore Energy Project (SOEP) Facilities - (Files 3400-E039-1; 3400-N174-1; 3200-E086-1 and 3200-S165-2)**

On 14 December, the Board approved a joint application dated 21 November from NSRVL, as vendor, and ExxonMobil, Imperial, Shell and Mosbacher, as purchasers, for the sale and purchase of certain SOEP facilities. The purchasers will

purchase NSRVL's entire undivided 8.4 per cent working interest in the the offshore gathering pipeline from the Thebaud Central Production Platform located on the Scotian Shelf, offshore Nova Scotia, to the gas processing plant at Goldboro, Nova Scotia and the Gas Processing Plant located at Goldboro.

The purchasers own the entire remaining undivided 91.6 per cent working interest of the SOEP. The transaction does not introduce any new owners in relation to the facilities.

#### **4. Pipestone Pipelines Ltd. (Pipestone); Wapella Pipelines Ltd; Wapella Pipelines Manitoba Inc.; PMC (Nova Scotia) Company, on behalf of Plains Marketing Canada, L.P. - Sale and Purchase of a Pipeline (Files 3400-P176-3 and 3400-P102-1)**

On 19 December, the Board approved an application dated 16 November from Pipestone, filed jointly with the above-noted companies, for approval to sell the Pipestone Pipeline System to PMC (Nova Scotia) Company.

The Pipestone Pipeline System is a 70 kilometre (43 mile) oil pipeline which extends from Moosomin, Saskatchewan to Enbridge Pipelines Inc.'s system at Virden, Manitoba. The only shipper on the pipeline is Plains Marketing Canada, LP (Plains) and, in order to ship on the pipeline, producers and consignees are required to sell their crude oil to Plains. The Board had sought comments of interested parties on the application.

#### **5. Sable Offshore Energy Inc. (SOEI) and ExxonMobil Canada Ltd., on behalf of Mobil Canada Properties - Transfer of Certificate of Public Convenience and Necessity GC-94 - (Files 3200-S165-2 and 3200-E086-1)**

On 14 December, the Board approved a joint application dated 22 November from SOEI and ExxonMobil to transfer Certificate GC-94 from SOEI to ExxoMobil Canada Ltd. The Board approved Certificate GC-94 in December 1997 for the Sable Offshore Energy Project and associated facilities to transport raw gas from drilling platforms on the Scotian Shelf, in the vicinity of Sable island. The facilities include approximately 208 kilometres (129 miles) of pipeline of 660 millimetre (26 inch) diameter, a slugcatcher and the Goldboro Gas Processing Plant.

#### **6. Section 58 Applications**

The Board has approved applications under section

58 of the National Energy Board Act involving routine pipeline facilities or the construction of Pipelines not exceeding 40 kilometres in length. See Appendix I for details of the applications approved.

## Matters Under Consideration

### **7. Pressure Vessels and Pressure Piping - Transfer of Federal Regulatory Authority (Files 9720-A000-10 and 185-A000-8)**

On 30 November, the Board issued for comment by regulated companies under its jurisdiction and boilers and pressure vessel authorities draft conditions that deal with the transfer of regulatory authority over pressure vessels and pressure piping under federal jurisdiction.

On 15 August, the amended part V of the Canada Occupational Health and Safety Regulations (COHSR) entitled **Boilers and Pressure Vessels SOR/2001-284** (Part V) was published in the *Canada Gazette Part II*. One of the amendment in Part V was the exemption of pressure vessels and pressure piping which are part of interprovincial and international pipeline from the COHSR. The effect of that exemption was to transfer regulatory authority over pressure vessels and pressure piping from Human Resources Development Canada to the Board.

Until such time as the **National Energy Board Onshore Pipeline Regulations** can be amended, the specific requirements for design, construction, operation and abandonment of pressure vessels and pressure piping could be provided in the form of a general order that would include the conditions to which the Board is seeking comments on.

### **8. Husky Oil Operations Limited (Husky) - Pipeline Construction (File 3400-H012-10)**

On 29 November, Husky applied for approval to construct a 8.9 kilometre (5.5 mile) natural gas pipeline from approximately 175 kilometres (108 miles) east of Fort Nelson, British Columbia to approximately 40 kilometres (25 miles) west of Rainbow Lake, Alberta. The estimated cost of the pipeline is \$1.8 million and the construction is proposed to be completed by mid-March 2002.

On 21 December, the Board sent a letter to Husky requesting additional information.

### **9. Paramount Transmission Ltd. (Paramount) - Cameron Hills Transborder Pipeline Project (File 3400-P097-1)**

On 29 June, Paramount applied for approval to construct two pipelines, the first is a 15 kilometre

(9.3 mile), 323.8 millimetre (12 inch) two phase raw sour oil, gas condensate and natural gas pipeline and, the second is a 15 kilometre, 88.9 millimetre (3 inch) fuel gas pipeline. The pipelines would be constructed in the same trench. The pipelines would extend from the Cameron Hills central battery located in the Northwest Territories to LSD 05-14-126-22 W5M in Alberta. The estimated cost of the project is \$3.6 million and the proposed in-service date is April 2002.

### **10. Pouce Coupe Pipe Line Ltd. (Pouce Coupe) - Sale of Oil Pipelines (Files 3400-P123-2 and 3400-F72-1)**

On 25 July 2000, Pouce Coupe applied for approval of the following: i) sell the Pouce Coupe pipeline to Pembina Partnership; ii) sell the Federated Pipe Lines (Northern) Ltd. (Federated) pipeline to Pembina Partnership; iii) sell both these newly acquired pipelines by Pembina Partnership to Pembina Northern LP; iv) replace the name Pouce Coupe in Board Order XO-1-89 with "Pouce Coupe as agent and general partner of Pembina Northern LP"; and v) transfer Certificate OC-42 from Federated Pipe Lines (Northern) Ltd. to "Pouce Coupe as agent and general partner of Pembina Northern LP". Pouce Coupe is a wholly-owned subsidiary of Pembina Corporation.

The Pouce Coupe facilities consists of 26 kilometres (16 miles) of 219 millimetre (eight inch) of oil pipeline extending from Dawson Creek, British Columbia to Bay Tree, Alberta. The Federated system consists of 172 kilometres (107 miles) of 273 millimetre (10 inch) of oil pipeline extending from Taylor, British Columbia to Belloy, Alberta.

On 2 November 2001, the Board sent a letter to Pouce Coupe requesting additional information.

### **11. Star Oil & Gas Ltd. (Star) - Pipeline Construction (3400-S168-2)**

On 20 December, Star applied for approval to construct two pipelines as follows:

- 13.5 kilometres (8.3 miles) of 168.3 millimetre (6 inch) high pressure sour natural gas production pipeline from 01-34-79-14W6 in British Columbia to the Duke Pouce Coupe Gas Plant at 05-23-80-13W6 in Alberta; and
- 13.5 kilometres (8.3 miles) 60 millimetre (2 inch) high pressure fuel gas supply pipeline from the Duke Pouce Coupe Gas Plant at 05-23-80-13W6 in Alberta to 01-34-79-14W6 in British Columbia.

The two pipelines will be constructed in the same trench. The estimated cost of the project is \$1 509 500 and the proposed in-service date is mid-March 2002 .

**12. TransCanada PipeLines Limited, B.C. System (TCPL) - 2002 Westpath Expansion (File 3400-T054-3)**

On 20 December, TCPL applied for approval to construct approximately 24.4 kilometres (15 miles) of 1219 millimetre (48 inch) pipeline on its B.C. System and for modification to its Elko and Moyie Compressor Stations. The contract design capacity of the applied-for facilities would be 11.9 million cubic metres (420 million cubic feet) per day. The estimated cost of the project is \$48.3 million and the proposed in-service date is 1 November 2002.

**13. TransCanada PipeLines Limited (TCPL) - Deactivation of Facilities (File 3200-T001-192)**

On 5 July, TCPL applied for approval to deactivate certain compression facilities at 16 stations on its mainline system. The estimated cost of the project is \$3,788,000.

On 19 July, the Canadian Association of Petroleum Producers (CAPP) requested that the Board convene a conference for the purpose of expeditiously establishing the facts surrounding TCPL's application. CAPP identified a number of concerns regarding TCPL's application; namely, the maintenance of used and useful plant, the retirement of plant no longer used and useful, and the maintenance and availability of suitable levels of plant.

On 13 August, the Board invited interested parties to provide comments on the following: i) the need for such a conference, ii) the timing for such a conference, and iii) the issues that should be addressed.

On 11 September, the Board decided to convene a conference for an exchange of views on the issues raised in respect to TCPL's application to seek an understanding on a possible resolution of some or all of those issues and to determine if there will be a need for a further Board process. The Board will announce at a later date the timing and location of the conference.

## Traffic, Tolls And Tariff Matters

### Matters Completed

**1. Rate of Return on Common Equity (ROE) for 2001 (File 4750-A000-11)**

On 6 December, the Board approved a rate of return on common equity for some Group 1 companies of 9.53 per cent for the year 2002, pursuant to the ROE adjustment mechanism approved in the Multi-Pipeline Cost of Capital Decision (RH-2-94), revised on 14 March 1997.

**2. Foothills Pipe Lines Ltd. (Foothills) on behalf of Foothills Pipe Lines (Alta.) Ltd., Zones 6 and 7 Foothills Pipe Lines (South B.C.) , Zone 8 and Foothills Pipe Lines (Sask.) Ltd., Zone 9 - Year 2002 Operating and Maintenance Expense Budgets (File 4750-F6-2)**

On 30 November, Foothills applied, on behalf of the above noted subsidiaries, for approval of Operating and Maintenance Expense Budgets for the 12-month period ending on 31 December 2002.

On 19 December, the Board advised Foothills that, before making a final decision on the applied-for budgets, it wished to consider Foothills' actual 2001 costs and any variances from the amounts approved for 2001, both due to be filed with the Board by the end of February 2002. Therefore, the Board decided to issue an interim order approving interim budgets for the year ending 31 December 2002 equal to 50 per cent of the budgets submitted.

**3. Trans Québec & Maritimes Pipeline Inc. (TQM) 2001 and 2002 Tolls (Files 4200-T028-6 and 4200-T028-12)**

On 20 December, the Board approved an application dated 8 November from TQM for approval of final 2001 tolls and for interim tolls effective 1 January 2002. The Board also approved a five year extension to the 1997 Multi-Year Tolls Agreement. The Board considered the comments of interested parties on the application.

### Matter Under Consideration

**4. Westcoast Energy Inc. (WEI) - 2002 Interim and Final Tolls for Transmission (Files 4200-W005-14 and 4400-W005-9)**

On 13 December, WEI applied for interim and final tolls for mainline transmission services to be in effect commencing 1 January 2002. WEI, in its application, indicated that it remained hopeful that a negotiated agreement with regarding final tolls will be reached.

On 20 December, the Board decided that, given WEI's intention to update the Board in regards of the status of a negotiated agreement in the new year, to

defer setting a process for consideration of the final 2002 tolls until WEI files further information. The Board noted that WEI had not indicated in its application that interested parties had been consulted on or agreed to the interim tolls. Therefore, the Board decided to approve the interim tolls at the applied-for levels effective 1 January 2002 until such time as it has obtained and considered the

comments of interested parties. Interested parties have until 10 January to comment on the appropriateness of the applied-for interim tolls and WEI has until 15 January to reply to any comments received. Upon consideration of the comments received, the Board will determine the continued appropriateness of the approved interim tolls.

## Appeals and Reviews

### Appeals Pending

#### **1. Canadian Forest Oil Limited (Canadian Forest) v Chevron Canada Resources and Ranger Oil Limited (Chevron et al.)**

For more information on this matter, refer to item 1 under the heading **Appeals** of the 31 August 2000 issue of the **Regulatory Agenda**.

#### **2. TransCanada Pipelines Limited (TCPL) - Cost Recovery Regulations (CRR) - TCPL's BC System**

On 24 October, TCPL applied to the Federal Court of Appeal for leave to appeal the Board's decision of 27 September in which it reversed TCPL's entitlement to a cap under the CRR by TCPL's BC System, earlier granted by the Board on 14 March. The 27 September decision of the Board also made the change retroactive to 1 January.

In brief, TCPL is seeking leave to appeal for the following reasons:

- i) the Board erred in law and acted without jurisdiction by reversing its 14 March decision to cap the 2001 costs payable to the Board by TCPL's BC System under the CRR, without any lawful authority to do so;
- ii) the Board erred in law by reversing its 14 March contrary to the requirement in the CRR that the BC System receive the benefit of a cap on its share of Board costs payable;
- iii) the Board proceeded in a manner inconsistent with the principle of natural justice; and,
- iv) the Board erred in law by increasing retroactively the amount payable under the CRR for the first half of 2001, without there being any express authority in the CRR and the National Energy Board Act to do so.

### Reviews Pending

#### **1. Westcoast Energy Inc. (WEI) - Kwoen Facilities (File 3400-W005-265)**

On 27 September, the Board decided, on its own motion, to conduct a review of Order XG-W005-22-2001 by which the Board had approved an application by WEI to construct the Kwoen facilities.

On 19 September, WEI had informed the Board that it had identified problems with Talisman Energy Inc.'s re-injection well located at b-65-B/93-p-5 (b-65 well) and that the connection of the Kwoen facilities as approved by XG-W005-22-2001 to the b-65 well appears to be in serious doubt. The Board noted that the b-65 well is fundamental to the operation of the Kwoen facilities as approved. In the absence of a connection between the Kwoen re-injection pipeline and the b-65 well, the viability of the Kwoen project and other projects related to it may be in question.

The Kwoen Facilities, located 29 kilometres (17.4 miles) southeast of the Pine River Plant in British Columbia, consist of: (i) a booster compressor unit; (ii) an acid gas stripper facility; (iii) a 10-kilometre (6.2-mile) acid gas re-injection commodity pipeline; and, (iv) modifications to a re-injection disposal well.

The Board directed WEI, prior to establishing a process for the review, to file an update of the results of its examination of the other re-injection options referred in WEI's letter of 19 September, and its plans for the Kwoen facilities and any other projects related to, or dependent upon the Kwoen facilities. After receiving and evaluating the information to be filed, the Board will establish a procedure for the review process.

#### **2. Reservoir Safety Committee (RSC) - Review of Electricity Export Permits Issued to British Columbia Power Exchange Corporation**



**(Powerex) and British Columbia Hydro and Power Authority (BC Hydro) (File 6200-B095-4-1)**

On 17 October, RSC applied for a review of electricity export permits EPE-118 and EPE-119 issued to Powerex and permits EPE-124, EPE-125, EPE-126 and EPE-127 issued to BC Hydro. In its application, RSC stated that since 1980, 11 drownings have occurred in BC Hydro's Carpenter Reservoir. This is a consequence of BC Hydro's refusal to provide adequate protection to workers and members of the public traveling through the Bridge River Generating Facility, located within the Carpenter Reservoir. RSC further stated that widespread citizen concern with the operation of

the facility, has led to the formation of the RSC. RSC's goal is to effect significant safety related improvements to the facility. RSC requested that the Board rescind permits related to the export of electricity generated through BC Hydro's Bridge River Hydro Electric Facility until such time as the safety of workers and the traveling public can be assured.

On 19 December, the Board sent a letter to RSC advising that it will hold the application in abeyance until RSC has complied with section 44 of the **National Energy Board Rules of Practice and Procedure, 1995**, including notification to potentially interested persons.

## **Amendments to Regulations and Rules**

**1. National Energy Board Pipeline Crossing Regulations, Part II - Damage Prevention Regulations (File 185-A000-36)**

For more information on this matter, refer to item 1 under **Amendments to Regulations and Rules** in the May 2001 issue of the **Regulatory Agenda**.

**2. Processing Plant Regulations (the Regulations) (File 185-A000-13)**

For more information on this matter, refer to item 2 under **Amendments to Regulations and Rules** in the May 2001 issue of the **Regulatory Agenda**.

**3. National Energy Board Rules of Practice and Procedure, 1995 (the Rules) (File 341-A000-2)**

For more information on this matter, refer to item 3 under **Amendments to Regulations and Rules** in the May 2001 issue of the **Regulatory Agenda**.

**4. Canada Oil and Gas Diving Regulations (Diving Regulations) and Guidance Notes (File 2001-1)**

For more information on this matter, refer to item 4 under **Amendments to Regulations and Rules** in the May 2001 issue of the **Regulatory Agenda**.

**5. The Canada Oil and Gas Drilling Regulations (COGDR) and the Canada Oil and Gas Production and Conservation Regulations (COGPCR) (File 0406-14)**

For more information on this matter, refer to item 5 under **Amendments to Regulations and Rules** in the May 2001 issue of the **Regulatory Agenda**.

**6. Regulations and Guidance Notes Pertaining to Canada Labour Code, Part II**

For more information on this matter, refer to item 6 under **Amendments to Regulations and Rules** in the May 2001 issue of the **Regulatory Agenda**.

# Administrative Matters

## Instructions for Filing

All correspondence with the Board should be addressed to the Secretary, National Energy Board, 444 Seventh Avenue SW, Calgary, AB T2P 0X8 - Fax (403) 292-5503.

## Applications - Copies Required to be Filed

For a list of the number of copies required for the different types of applications, see our Internet site under the heading **Regulatory Updates**.

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National Energy Board  
Michel L. Mantha  
Secretary

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# Appendix I

## Section 58 Applications

### Gas Pipelines

Applicant	File/Order	Application	Est. Cost
Canadian Natural Resources Limited	File: 3400-C298-11 Order: XG-C298-38-2001	Application dated 20 July; approved on 12 December. Construct the Ladyfern Pipeline.	8 600 000
Westcoast Energy Inc.	File: 3400-W005-280 Order: XG-W005-36-2001	Application dated 2 November; approved on 7 December. Revetement of erosion at Tasatchuka Creek and at Unnamed Tributary to McLeod Lake and install slide instrumentation downstream from Compressor Station 5.	270 000
	File: 3400-W005-265 Order: XG-W005-37-2001	Application dated 22 November; approved on 10 December. Exemption from Order MO-08-2000 in respect of the non-destructive examination of piping systems within the Kwoen compressor and Processing Facilities.	N/A

### Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Dome NGL Pipeline Ltd.	File: 3400-D007-20 Order: XO-D007-41-2001	Application dated 10 September; approved on 14 December. Install import metering facilities at the Windsor Storage Terminal.	1 000 000
Enbridge Pipelines Inc.	File: 3400-E101-40 Order: XO-E101-40-2001	Application dated 26 October; approved on 13 December. Modifications at the Edmonton Terminal and Glenboro Sation.	1 982 000
Enbridge Pipelines (Westpur) Inc.	File: 3400-E103-12 Order: XO-E103-39-2001	Application dated 5 November; approved on 10 December. Eight projects.	424 670
ISH Energy Ltd.	File: 3400-J038-5 Order: XO-J038-42-2001	Application dated 14 November; approved on 20 December. External inspection and repair program on the Desan Crude Oil Pipeline.	530 000

## Profile

The National Energy Board is a federal regulatory tribunal that was created on 2 November 1959 by an Act of Parliament.

The Board's regulatory powers under the **National Energy Board Act** include the granting of authorizations for the exportation of oil, natural gas and electricity, the certification of interprovincial and international pipelines and designated interprovincial and international power lines, and the setting of tolls and tariffs for oil and gas pipelines under federal jurisdiction.

In addition to its regulatory functions, the Board is responsible for advising the government on the development and use of energy resources.

The Act also requires that the Board keep under review the Canadian supply of all major energy commodities, with emphasis on electricity, oil,

natural gas, and the by-products derived from oil and natural gas, as well as the demand for Canadian energy in Canada and in export markets.

The Board's responsibilities under the **Canada Oil and Gas Operations Act** and certain provisions of the **Canada Petroleum Resources Act** encompass the regulation of exploration for and the development and production of oil and gas on Frontier Lands in a manner that promotes safety of the worker, protection of the environment, and conservation of hydrocarbon resources.

The Board also has specific responsibilities under the **Northern Pipeline Act** and the **Energy Administration Act**. In addition, Board inspectors have been appointed safety officers by Human Resources Development Canada to administer Part II of the **Canada Labour Code**.

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