

# Regulatory Agenda

The period covered in this *Regulatory Agenda* is the month of September 2002

## Proposed Dispute Resolution Program

On 27 September, the Board issued for comment from interested parties a discussion paper outlining its proposed Appropriate Dispute Resolution (ADR) program. The document describes options for settling disputes as an addition to the Board's traditional regulatory process. The discussion paper was developed following consultation with industry and the public over the past several months.

The Board is welcoming the public's input, comments and questions on all aspects of the design of the program and the contents of the ADR document. Comments are due by 5 November 2002. The Board intends to introduce program guidelines by the end of this year.

The ADR document is available on the Board's Internet site at [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

## Public Hearing Applications

### Hearing Decision Rendered

**1. Province of New Brunswick - Short-term Orders to Export Natural Gas - MH-2-2002 (7500-M093-3)**

On 19 September, the Board has denied an application from the Province of New Brunswick in which it requested that the Board establish rules which would apply when it considers applications for short-term export orders for incremental

supplies of Scotian offshore natural gas if those supplies cannot meet both domestic and export requests for service. The Board decided, however, that it must enhance its monitoring efforts of gas markets in Maritime Canada.

The Board held a public hearing on New Brunswick's application from 15 to 30 July in Fredericton, New Brunswick.

## 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"*

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## Hearing Decision Pending

### **1. Westcoast Energy Inc. (WEI) - Pipeline Construction - Grizzly Raw Gas Transmission System Expansion and Construct the the Weejay Lateral - GH-2-2002 (File 3200-W005-11)**

The Board held a public hearing from 25 to 27 June in Chetwynd, British Columbia on an application by WEI to extend the Grizzly Raw Gas Transmission System and to construct the Weejay Lateral in British Columbia and Alberta.

On 20 September, the Board provided to the Minister of Environment Canada and the Canadian Environmental Assessment Agency (CEAA) the Comprehensive Study Report (CSR) as required under the **Canadian Environmental Assessment Act**. On 27 September, the CEAA invited the public to comment on the conclusions, recommendations, and any other aspect of the CSR. Comments are to be received by CEAA by 27 October.

## Hearings in Progress

### **1. Westcoast Energy Inc. (WEI) - Southern Mainline Expansion - GH-1-2002 (File 3200-W005-12)**

The Board is holding a public hearing in two phases on an application by WEI to expand its Southern Mainline natural gas pipeline system in British Columbia. Phase 1 of the public hearing was held on 8 and 9 July in Abbotsford, British Columbia. Phase 2 of the hearing commenced on 30 September in Chilliwack, British Columbia and will continue in Williams Lake, British Columbia on 3 October and will then reconvene in Chilliwack on 7 October.

Phase 1 of the hearing dealt with the need for the proposed facilities, including markets, supply and economic feasibility. Phase 2 of the hearing deals with, design, safety, operation, environmental and socio-economic effects, route selection, land requirements, land rights acquisition process and the appropriate terms and conditions to be included in any approval that may be granted.

### **2. Maritimes & Northeast Pipelines Management Ltd. (M&NP) - Construct Additional Facilities - GH-3-2002 (File 3400-M124-4)**

The Board commenced a public hearing on 30 September in Saint John, New Brunswick on an application from M&NP to construct additional facilities on its natural gas pipeline system in Nova Scotia and New Brunswick. M&NP proposes to construct one custody transfer meter station and four compressor stations on its mainline.

M&NP stated that these facilities are required to provide transmission service to EnCana Corporation of 11.3 million cubic metres (400 million cubic feet) per day of natural gas commencing in 2005. The estimated cost of the facilities is \$190.8 million.

## Hearing Scheduled

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

The Board will hold a public hearing commencing on 18 October in Abbotsford, British Columbia to consider three motions concerning the application of SE2 to construct an international power line near Abbotsford.

The motions seek:

1. A determination of whether the Board should hear evidence concerning the environmental effects in Canada of SE2's proposed power plant to be located in Sumas, Washington.
2. A discontinuance of the NEB hearing of the SE2 application on the basis that it is the unanimous opinion of all Canadians so involved in the process that the SE2 application to proceed within the jurisdiction of Canada not be approved.
3. a) a review by the NEB of the SE2 application for potential prejudice, at this time of proceeding, arising from the absence of full detail of an alleged verbal agreement between SE2 and Canadian Pacific Railway for use of C.P.R. right of way in Canada;  
b) a review by the NEB of the SE2 application for any fundamental deficiency in the application arising from absence of full detail of an alleged verbal agreement between SE2 and Canadian Pacific Railway.

The hearing on the SE2 application to construct an international power line will not proceed until the Board has ruled on these motions. A revised schedule will be released at that time.

At the request of SE2, on 19 February 2001 the Board adjourned the public hearing relating to the SE2's request for approval to construct an 8.5 kilometre IPL. On 19 February 2001 the Board was to hear argument on a motion on whether the Board should consider the environmental effects in

Canada of the proposed power plant to be located in Sumas, Washington.

SE2 applied to construct a 230 kilovolt IPL originating in the United States and crossing the international boundary near Abbotsford. The proposed IPL would extend approximately 8.5 kilometres (5.3 miles) from the border northward on the existing rights of way of Canadian Pacific Railway, the City of Abbotsford and BC Hydro to BC Hydro's Clayburn substation in Abbotsford.

### Hearing Applications Filed

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

On 31 May 2001, 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. 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.

**2. EnCana Corporation (EnCana) - Natural Gas Pipeline (File 3200-P022-1)**

On 1 March, EnCana applied for approval to construct a 610 millimetre (24 inch) natural gas pipeline of

approximately 179 kilometres (111 miles) in length, extending from the Deep Panuke production platform to a point of interconnection with the facilities of Maritimes & Northeast Pipeline Limited Partnership (M&NP) near Goldboro, Nova Scotia. EnCana anticipates to deliver approximately 11.3 million cubic metres (400 million cubic feet) per day of natural gas to M&NP for a period of approximately 11.5 years commencing sometime in 2005. The estimated cost of the proposed pipeline and associated facilities is \$1.1 billion.

### Hearings Adjourned or Postponed

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

The Joint Review Panel for the Georgia Strait Crossing Pipeline Project has postponed commencement of its public hearing scheduled for 17 June. A new date will be announced at a later time.

**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 Completed

**1. Advantage Energy Inc. (Advantage) - Electricity Export (File 6200-A101-1)**

On 11 September, the Board approved an application dated 15 July from Advantage for permits to export up to 100 megawatts and 600 gigawatt hours of firm power and energy and up to 150 megawatts and 900 gigawatt hours of interruptible power and energy per year for a period of 10 years.

**2. Consumers Energy Company (Consumers) - Electricity Export (File 6200-C209-1)**

On 20 September, the Board approved an application dated 24 May from Consumers for permits to export up to 3 000 megawatts and 24 000 gigawatt hours of interruptible power and energy and up to 2 000 megawatts and 16 000 gigawatt hours of interruptible power and energy per year for a period of 10 years.

**3. Emera Energy Inc. (Emera) - Electricity Export (File 6200-E115-1)**

On 20 September, the Board approved an application dated 23 May from Emera for permits to export up to 1 000 megawatts of firm or

interruptible power and up to 4 800 gigawatt hours of firm or interruptible energy per year for a period of 10 years.

## Matters Under Consideration

### 4. **Hydro One Delivery Services, Inc. (HODS) - Lake Erie Link (File 2200-H026-1)**

On 26 July, the Board invited public comments on the scope of the environmental assessment on a proposal by HODS to construct and operate an international power line between Canada and the United States across Lake Erie.

The proposed Lake Erie Link would consist of an onshore converter station near the Hydro One Networks Inc.'s 230 kilovolt switch yard near Nanticoke, Ontario; one, two or three pairs of 150 kilovolt buried submarine electricity cables and fibre optic cables between the onshore converter site and the American Transmission Systems, Inc.'s transmission system in Ohio and/or the PJM Interconnection operated transmission system in Pennsylvania; and approximately 3.5 kilometres of onshore power line. The length of power line within Canada would be approximately 60 kilometres, depending on the route chosen.

In April, HODS filed a preliminary information package with the Board regarding the Canadian portion of the proposed Lake Erie Link which initiated early co-ordination and scoping for the federal environmental assessment process under the Canadian Environmental Assessment Act in advance of a formal application.

## Pipeline Matters

### Matters Completed

#### 1. **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.

#### 2. **Alliance Pipeline Ltd. (Alliance) - Wapiti Looping Lateral Project (File 3400-A159-10)**

On 13 September, the Board approved an application dated 21 June from Alliance to construct approximately a 6.3 kilometre (3.8 mile), 610 millimetre (24 inch), natural gas loop approximately 35 kilometres (21.7 miles) southeast

of Grande Prairie, Alberta. The Wapiti Lateral has consistently flowed at or near its capacity of 1.84 million cubic metre (65 million cubic feet) per day. The pipeline looping will increase the total capacity to about 9.78 million cubic metres (345 million cubic feet) per day. The estimated cost of the project is \$7.3 million and the proposed in-service date is September 2002.

#### 3. **Alliance Pipeline Ltd. (Alliance) - Kaybob North Lateral Project (File 3400-A159-9)**

On 19 September, the Board approved an application dated 7 June from Alliance to construct approximately a 26.4 kilometre (16.4 mile), 610 millimetre (24 inch), natural gas lateral in west-central Alberta from Alliance's AB45 Meter Station in NW 10-59-18 W5M to a point of interconnection with the Alliance Mainline in NE 26-61-18-W5M. The lateral will have an initial capacity of 8.5 million cubic metres (300 million cubic feet) per day. The estimated cost of the project is \$21.2 million and the proposed in-service date is 1 January 2003.

## Traffic, Tolls And Tariff Matters

### Matters Completed

#### 1. **TransCanada Pipelines Limited (TCPL) - Facilities Deactivation, Accounting Treatment (File 3400-T001-192)**

On 29 August, the Board approved the accounting treatment for any Category B compressor units that TCPL intends to deactivate and hold for possible reuse. In addition, the Board decided that it would be prepared to approve any Category B units that TCPL decides to immediately retire as "ordinary" retirements in accordance with the Gas Pipeline Uniform Accounting Regulations.

On 10 January, the Board convened a conference of interested parties to discuss issues surrounding TCPL's application to deactivate 36 compressors on its Mainline that had not been operated for more than 12 months. TCPL divided the compressor units into two categories. Twenty-two of the units (Category A) were to be retired immediately for accounting purposes and physically decommissioned over the next 3 to 4 years. The fourteen other compressors (Category B), pending further review by TCPL, will be either retired and physically decommissioned or held for possible reactivation. As a result of the conference, it was agreed that the Board would provide guidance on what an appropriate accounting treatment might be for those

Category B compressors that TCPL plans to deactivate and hold for possible reactivation.

On 18 July, the Board issued a letter providing a proposal, for comment by interested parties, which represented the Board's initial views as to what an appropriate accounting treatment might be in this instance and that would be fair to both TCPL as well as its shippers.

**2. TransCanada PipeLines Limited (TCPL) - Reports of the 2002 Tolls Task Force (File 4775-T001-1/02-6)**

The Board has approved the following resolution of the 2002 Toll Task Force:

Resolution No.	Date approved	Subject
06.2002	26 September	Balancing Service Changes - Emergency Operating Conditions

**Matters Under Consideration**

**3. Maritimes & Northeast Pipeline Management Ltd. (M&NP) - Toll Settlement and 2003 Tolls (File 4775-M124-1-2)**

On 11 July, M&NP advised the Board that it had reached a settlement with members of its Toll and Tariff Working Group relating to tolls for the test period 2003. On 10 September, M&NP applied for approval of final tolls for the period 1 January to 31 December 2003.

On 27 September, the Board decided to seek comments of interested parties on the application.

**4. TransCanada PipeLines Limited (TCPL) - 2003 Tolls (File 4200-T001-18)**

On 16 September, TCPL filed an application for the approval of new tolls it may charge for the period 1 January to 31 December 2003 on its mainline system. On the same day, TCPL also filed an application for review and variance of the Board's June 2002 Reasons for Decision (RH-4-2001) regarding TCPL's 2001 and 2002 Fair Return Application.

In its tolls application, TCPL has forecasted a 2003 Average Rate Base of \$8,564 million and a Net Revenue Requirement of \$2,192 million, an increase of \$268 million over the 2002 net revenue requirement. TCPL has, for illustrative purposes, pending resolution of the application for review and variance of RH-4-2001 Decision, included in the calculation of the 2003 Net Revenue Requirement an estimated rate of return on common equity of

9.94 per cent on a deemed common equity ratio of 33 per cent. This calculation of rate of return on common equity is in accordance with the adjustment mechanism approved in the Multi-Pipeline Cost of Capital Decision (RH-2-94) and the Board's decision in RH-4-2001.

TCPL is proposing to establish a new Southwest tolling zone from the Alberta border to Dawn, Ontario to enhance the competitiveness of tolls to that market area. TCPL is further proposing to increase the existing minimum bid floor price for interruptible transportation service from 80 to 110 percent of the 100 per cent load factor firm transportation toll.

**5. Trans Québec & Maritimes Pipeline Inc. (TQM) - 2002 Tolls (File 4200-T28)**

On 25 September, TQM applied for approval of final 2002 tolls. TQM is requesting approval of a rate of return on equity of 9.53 per cent on a deemed common equity ratio of 30 per cent, as determined by the Board in accordance with Reasons for Decision RH-2-94. TQM also applied for approval of a net revenue requirement of \$88,618,000.

**Frontier Matters**

**1. Geological, geophysical or geotechnical operation:** No applications were approved in September, however, modifications were made to applications approved in July and August and they are listed below.

Company	Area	Operation ID	Date
EOG Resources Canada Inc.	Mackenzie Valley	9227-E035-001E	3 July
Devon ARL Corporation	Mackenzie Delta	9337-D030-001E	5 July
Devon ARL Corporation	Beaufort Sea	9424-D030-001E	5 July
TGS-NOPEC Geophysical Company	Davis Strait	9724-T063-002P	11 July
Petrel Robertson Consulting Ltd.	Mackenzie Valley	9233-P062-001E	12 July
EXPLOR DATA Ltd.	Mackenzie Valley	9229-E034-008P	16 July
TGS-NOPEC Geophysical Company	Davis Strait	9724-T063-002P	17 July
Western Geco*	Mackenzie River	9229-W030-002P	19 July
Western Geco*	Mackenzie Delta	9329-W030-002P	2 August
Devon ARL	Mackenzie Delta	9327-D030-001E	9 August

# Reviews

## Review Pending

### **1. TransCanada PipeLines Limited (TCPL) - Review and Variance of Reasons for Decision RH-4-2001 (File 4200-T001-18)**

On 16 September, TCPL filed an application for review and variance of the Board's June 2002 Reasons for Decision (RH-4-2001) regarding TCPL's 2001 and 2002 Fair Return Application (Refer to item 2 under Traffic, Tolls And Tariff Matters above).

## Review Completed

### **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 7 August, RSC informed the Board that it did not wish to pursue the cancelling of electricity export permits currently held by BC Hydro and Powerex.

On 17 October 2000, RSC has 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 travelling 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.

# Amendments to Regulations, Rules and Guidelines

## **1. Guidance Notes for the Onshore Pipeline Regulations**

The Board has sought comments from the public on proposed amendments to the **Guidance Notes for the Onshore Pipeline Regulations, 1999**.

The 1999 Guidance Notes were developed as a companion to the **Onshore Pipeline Regulations, 1999**. They are intended to provide additional explanation of specific sections of the Regulations and to provide examples of methods which could be used to achieve compliance. The proposed amendments of the Guidance Notes incorporate comments received from stakeholders as well as learnings from the Board's activities such as audits performed pursuant to the **Onshore Pipeline Regulations, 1999**.

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

The Board intends to replace the existing **Pipeline Crossing Regulations, Part II** with regulations targeted at damage prevention (to be known as **Damage Prevention Regulations**). The new regulations will regulate activities on or adjacent to pipeline rights of way under the Board's jurisdiction in the interest of the safety of the public and of company employees and the protection of property and the environment.

On 30 May, the Board released a document entitled **A Conceptual Draft of the Proposed National Energy Board Damage Prevention Regulations & Guidance Notes**. The document contains the framework, concepts and ideas that will eventually form the new regulations. The Board also released the results of a national survey of Canadians who own land crossed by a federally-regulated pipeline. This

survey was conducted for the Board by COMPAS between January 17 and February 2, 2002 and will be used in the development of the new regulations.

The Board held a "town hall" style meeting in New Glasgow, Nova Scotia on 18 September to discuss the proposed new regulations. The Board will hold similar meetings at numerous locations across Canada in the coming months. Details of these meetings will be announced as they become available.

## **3. 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**.

## **4. 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**.

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

The process of amending the **Canada Oil and Gas Occupational Safety and Health Regulations** pertaining to oil and gas activities, under the provisions of the **Canada Labour Code, Part II**, is continuing.

Jurisdiction over pressure vessels and pressure piping within NEB regulated companies has been transferred from Human Resources Development Canada to the NEB. The Board is developing guidance and legislation to deal with this change.

# 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 **Submit a Document**.

## Communication Numbers

### General Information:

(403) 292-4800  
1-800-899-1265

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### Telephone Numbers:

For a current list of the telephone numbers of Board Members and key staff, see our Internet site under the heading: **About Us, Our People**.

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# Appendix I

## Section 58 Applications

### Gas Pipelines

Applicant	File/Order	Application	Est. Cost
Alliance Pipeline Ltd.	File: 3400-A159-10 Order: XG-A159-47-2002	Application dated 21 June; approved on 13 September. Construct 6.3 kilometres of looping to the existing Wapiti lateral.	7 252 000
	File: 3400-A159-9 Order: XG-A159-49-2002	Application dated 7 June; approved on 19 September. Construct the 26.7 kilometre Kaybob North Lateral.	20 138 000
TransCanada PipeLines Limited	File: 3400-T054-4 Order: XG-T054-46-2002	Application dated 30 July; approved on 3 September. Install a valve shelter at the Crowsnest Compressor Station.	19 000
	File: 3400-T001-7-1 Order: XG-T001-48-2002	Application dated 24 July; approved on 17 September. Repair and replace existing cathodic protection systems at 41 locations along the mainline in Saskatchewan.	1 236 000
Westcoast Energy Inc.	File: 3400-W005-298 Order: XG-W005-45-2002	Application dated 23 July; approved on 30 August. Upgrade cathodic protection system for Transmission South.	104 000

### Oil Pipelines

Applicant	File/Order	Application	Est. Cost
BP Canada Energy Company	File: 3400-A017-2 Order: XO-A017-50-2002	Application dated 30 August; approved on 20 September. Install risers and valves on pipelines near Carway, Alberta.	420 000
Enbridge Pipeline Inc.	File: 3400-E101-49 Order: XO-E101-19-2002	Application dated 26 July; approved on 13 September. Receipt tankage additions and manifold modification at the tank terminal in Hardisty, Alberta.	11 552 500
Trans-Northern Pipelines Inc.	File: 3400-T002-53 Order: XO-T002-18-2002	Application dated 15 July; approved on 6 September. Pipe replacement in the Township of Augusta, Ontario.	390 000
	File: 3400-T002-54 Order: XO-T002-20-2002	Application dated 6 August; approved on 17 September. Pipe replacement in the Townships of Thurlow, Sydney and Murray, Ontario.	670 000

## 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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