

Regulatory Agenda

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

NEB Meets With Key Players in the Maritime Natural Gas Market

In December, the Board started consulting with key players in the Maritime natural gas market to gather information for its first public report on the functioning of that market. Other interested parties will also be invited to share their views in early 2003 on specific issues pertaining to the market for natural gas in the Maritimes.

The Board decided to take this action following a hearing in Fredericton last summer held to consider an application by the Province of New Brunswick to establish new rules for short-term exports of incremental Scotian offshore natural gas. The Board decided that it would be inappropriate to implement procedures that would unduly interfere with the normal operation of the natural gas market but that it would enhance its monitoring efforts of gas markets in Maritime Canada.

The Board has mobilized a team of technical specialists who will be responsible for the ongoing monitoring of the Maritime natural gas market. These initial meetings with buyers, sellers, producers, pipelines and government representatives are designed to discuss access to supply, market and transportation issues and to gather additional market data and information.

The Board expects to release its first report on the state of the Maritime gas market in the spring of 2003.

Over the medium term, the Board intends to improve price transparency in Maritime Canada by publishing additional data gathered from the reports it receives on a monthly basis from export order holders. It will also collect data on domestic and export prices through surveys and publish the results in an aggregate format.

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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Energy Market Assessment (EMA)

On 12 December, the Board issued an EMA report entitled *Short-term Natural Gas Deliverability from the Western Canada Sedimentary, 2002 - 2004*. The report examines the factors which affect gas supply in the short-term and presents an outlook for deliverability to the year 2004. The main objective of the report is to advance the understanding of the short-term gas supply situation by examining recent trends in the production characteristics of

the Western Canada Sedimentary Basin (WCSB) and applying these trends to provide an outlook for short-term deliverability from the WCSB. Further, this report is an update to the Board's December 2000 EMA, titled *Short-term Natural Gas Deliverability from the Western Canada Sedimentary Basin, 2000-2002*.

Public Hearing Applications

Hearing Decision Rendered

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

Reasons for Decision dated November; issued on 5 December.

The Board approved an application from M&NP to construct additional facilities on its natural gas pipeline system in Nova Scotia and New Brunswick, however, the Board has suspended the date at which the approval will come into effect. The approval will come into effect upon the later of: a) 31 July 2003, or b) when M&NP makes certain filings, one of which is the filing for approval of a revised engineering/hydraulic design for the facilities proposed to support the contracted volumes if those end up being less than 400,000 MMBtu/d.

The Board found the suspension of the approval to be in the public interest because of the unique nature of the supply arrangements between EnCana Corporation and M&NP. EnCana has a one-time right, by 31 July 2003, under its Firm Service Agreement to decrease its contract volume of 400,000 MMBtu/d by any quantity up to a maximum of 200,000 MMBtu/d. The Board also noted EnCana's evidence that it is continuing to negotiate with potential domestic customers of natural gas. Therefore, the condition was added in case revisions to the applied-for facilities are required as a result of proposed domestic deliveries or if EnCana exercises its one-time right to decrease its contract volumes for some other reason.

M&NP applied to construct one custody transfer meter station and two compressor stations in Nova Scotia and two compressor stations in New Brunswick. The facilities are required to provide transmission service to EnCana of

400,000 MMBtu/d of natural gas produced from the Deep Panuke Project between Goldboro, Nova Scotia and the St. Stephen, New Brunswick export point commencing in 2005. The estimated cost of the facilities is \$190.8 million.

The Board considered the application at a public hearing held from 30 September to 7 October in Saint John, New Brunswick.

Hearing Decision Pending

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

The Board held a public hearing on an application by WEI to expand its Southern Mainline natural gas pipeline system in British Columbia. The hearing was held on 8 and 9 July in Abbotsford, British Columbia and from 30 September to 9 October in Chilliwack and Williams Lake, British Columbia.

Hearing in Progress

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

On 9 December, the Board decided that it will consider the environmental effects in Canada of the proposed gas-fired power plant to be constructed by SE2 in Sumas, Washington. The Board considered that there is a direct connection between the proposed Power Plant and the proposed IPL that SE2 wants to construct through Abbotsford, British Columbia and for which it has applied to the Board for approval under *the National Energy Board Act*.

The Board's decision followed a public hearing held in Abbotsford from 18 to 23 October on, among other things, a motion from SE2 that reads as follows:

Should the Board hear evidence concerning the environmental effects in Canada of Sumas' proposed power plant to be located in Sumas, Washington?

The Board also decided to schedule a public hearing on SE2's application to construct the proposed IPL through Abbotsford. The hearing will commence on 7 April in Abbotsford.

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.

Hearings Scheduled

1. *TransCanada PipeLines Limited (TCPL) - 2003 Tolls - RH-1-2002 (File 4200-T001-18)*

The Board will hold a public hearing commencing on 24 February 2003 in Calgary on an application from TCPL for approval of tolls that it may charge for transportation services on its Mainline for the year 2003.

In its application, TCPL has forecasted a 2003 Average Rate Base of \$8.56 billion and a Net Revenue Requirement of \$2.19 billion. For illustrative purposes, TCPL has 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. TCPL is proposing to establish a new Southwest tolling zone, which would include the existing Southwest Delivery Areas currently part of the Eastern Zone. TCPL is also proposing to increase the minimum bid floor price for interruptible transportation service from 80 to 110 percent of the 100 per cent load factor firm transportation toll. TCPL is further proposing revised depreciation rates, based on a new depreciation study.

On 6 December, the Board approved an application dated 13 November from TCPL for an order approving Interim Tolls for service on its Mainline effective 1 January 2003.

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

The Board will hold a public hearing commencing on 24 March in Saint John, New Brunswick to

consider an application by NB Power to construct and operate an IPL from the existing transmission terminal at the Point Lepreau Generating Station to a point on the Maine-New Brunswick border west of St. Stephen, New Brunswick. Board staff will also hold public information sessions on 15 and 16 January in Rennfield and St. Stephen, New Brunswick, respectively, so that interested individuals can obtain information on how to participate in the public hearing.

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.

In accordance with the *Canadian Environmental Assessment Act* (CEAA), the Board and Fisheries and Oceans Canada (DFO), the responsible authorities for this project, have ensured that a comprehensive study of the project was conducted, and that the comprehensive study report submitted to the Minister of the Environment and to the Canadian Environmental Assessment Agency (Agency) is complete. The Agency invited the public to comment on the conclusions, recommendations, and any other aspect of the comprehensive study report prepared for this project. On 20 December, the Minister announced that the project does not require further assessment under the CEAA and referred the project to the Board and DFO for appropriate action.

3. *EnCana Corporation (EnCana) - Deep Panuke Project - Coordinated Review - Canada-Nova Scotia Offshore Petroleum Board (CNSOPB) and National Energy Board (NEB) (File 3200-P022-1)*

The CNSOPB and the NEB will hold a joint public hearing commencing on 28 April in Halifax, Nova Scotia on an application by Encana regarding the Deep Panuke Offshore Gas Development project. The coordinated public process to hear and consider the applications will begin with initial public consultation sessions, a written information request/response process and an oral hearing. The public consultation sessions will be held in Halifax

on 9 January and in Guysborough, Nova Scotia on 11 January.

EnCana filed applications with the two Boards. The application to the CNSOPB includes a development plan, a Canada-Nova Scotia benefits plan, an environmental impact statement and a socio-economic impact statement, collectively known as the Development Application. The application to the NEB includes the construction and operation of 179 kilometres (111 miles) of 610 millimetre (24 inch) natural gas pipeline from the outlet flange of the offshore production platform to an interconnect with the Maritimes & Northeast Pipeline Management Ltd. main transmission pipeline approximately 1.1 kilometres downstream from the Goldboro, Nova Scotia gas plant.

In accordance with the Canadian Environmental Assessment Act (CEAA), the responsible authorities for this project (the CNOPB, Environment Canada, Fisheries and Oceans Canada, Industry Canada and the NEB) have ensured that a comprehensive study of the project was conducted, and that the comprehensive study report submitted to the Minister of the Environment and to the Canadian Environmental Assessment Agency (Agency) is complete. The Agency invited the public to comment on the conclusions, recommendations, and any other aspect of the comprehensive study report prepared for this project. On 20 December, the Minister of Environment announced that the project does not require further environmental assessment under the CEAA and referred the project to the responsible authorities for appropriate action.

Hearing Application Filed

1. *Trans-Northern Pipelines Inc. (TNPI) - Capacity Expansion and Pipeline Flow Reversal (File 3400-T002-56)*

On 24 October, TNPI applied for approval to increase the pipeline capacity on its pipeline system from Montreal, Quebec to Farran's Point, Ontario and to reverse the direction of flow in the pipeline section between Farran's Point to Toronto, Ontario.

The proposed project would include the replacement of four line segments totaling approximately 72.5 kilometres (45 miles) of 273.1 millimetre (10 inch) pipe with 406.4 millimetre (16 inch) pipe between Montreal and Farran's Point. TNPI is also proposing to upgrade four of its existing pump stations located at Montreal and Como, Quebec and Lancaster and Ingleside, Ontario

and to construct storage tanks at the Farran's Point pump station. For the reversal of the direction of flow in the pipeline section between Farran's Point to Toronto from a west-to-east direction to an east-to-west direction, TNPI proposes to construct three pump stations along the existing 273.1 millimetre (10 inch) pipeline near Iroquois, Mallorytown and Kingston, Ontario. TNPI stated that following completion of the Project, capacity from Montreal to Farran's Point will increase from 10 500 cubic metres (370 650 cubic feet) per day to 21 000 cubic metres (741 300 cubic feet) per day. The estimated cost of the project is \$82.25 million and the proposed completion date is mid-2004.

Hearing 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.

Non Hearing Applications

Electricity Matters

Matter Completed

1. *Entergy-Koch Trading Canada, ULC (EKTC) - Electricity Export (File 6200-E124-1)*

On 20 December, the Board approved an application dated 7 October from EKTC for permits to export up to 1 200 gigawatt hours of firm energy and 1 200 gigawatt hours of interruptible energy for a period of 10 years.

Matter Under Consideration

2. *Manitoba Hydro-Electric Board (MH) - Electricity Export (File 6200-M020-13)*

On 26 September, MH applied for a permit, to replace an existing permit that expires on 30 April 2005, to export up to 500 megawatts of system participation power to Northern States Power Company in Minneapolis, Minnesota for the period 1 May 2005 to 30 April 2015.

Frontier Matters

1. *Paramount Resources Ltd.* was given "Approval to drill a well" on 6 December 2002 pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations* for the following wells: Paramount et al Cameron F-75, Cameron K-74, Cameron D-49 and Cameron H-58.
2. *Devon ARL Corporation* was given approval 16 December 2002 for the "Well Termination Record" for the well Devon PC Tuk M-18 pursuant to section 203.(1) of the *Canada Oil and Gas Drilling Regulations*.
3. *Canadian Natural Resources Ltd.* was given "Approval to drill a well" on 17 December 2002 pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations* for the following wells: Belleh Dukeh D-63, Behdzia Youh N-30, and Behdzia Youh O-52.
4. *Petro-Canada* was given "Approval to drill a well" on 30 December 2002 pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations* for the well PC Devon Nuna I-30.

5. *Chevron Canada Resources Ltd.* was given "Approval to drill a well" on 31 December 2002 pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations* for the well Liard 2K-29..

Natural Gas Matter

Matter Completed

1. *Canadian Hunter Exploration Ltd. (CHEL) Revoke Natural Gas Export Licence GL-107 (Files 7200-C087-1-2 and 7425-C087)*

On 10 December, the Board approved an application dated 3 December from CHEL to revoke Natural Gas Export Licence GL-107. Under the Licence, CHEL was authorized to export up to 845 000 cubic metres (29.8 million cubic feet) per day of natural gas to Project Orange Associates L.P via export points near Iroquois and Niagara Falls, Ontario.

Pipeline Matter

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.

Traffic, Tolls And Tariff Matters

Matters Completed

1. *Rate of Return on Common Equity (ROE) for 2003 (File 4750-A000-11)*

On 5 December, the Board approved, pursuant to the ROE adjustment mechanism approved in the Multi-Pipeline Cost of Capital Decision (RH-2-94), as amended, a ROE of 9.79 per cent for the year 2003. The ROE for 2002 was 9.53 per cent.

2. *Trans Québec & Maritimes Pipeline Inc. (TQM) - Interim Tolls (File 4400-T028-7)*

On 19 December, the Board approved an application dated 10 December from TQM to maintain and continue the current transportation tolls approved for 2002 as interim tolls effective 1 January 2003.

3. *Westcoast Energy Inc. (WEI) - Interim Tolls (File 4400-W005-10)*

On 19 December, the Board approved an application dated 25 November from WEI for interim tolls for mainline transmission services effective 1 January 2003.

Matters Pending

4. *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 2003 Operating and Maintenance Expense Budgets (File 4750-F6-2-1)*

On 3 December, 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 2003.

On 19 December, the Board advised Foothills that, before making a final decision on the applied-for budgets, it wished to consider Foothills' actual 2002 costs and any variances from the amounts approved for 2001, both due to be filed with the

Board by the end of February 2003. Therefore, the Board decided to issue an interim order approving interim budgets for the year ending 31 December 2003 equal to 50 per cent of the budgets submitted.

5. *TransCanada PipeLines Limited, BC System (TCPL) - Effective Rates and Charges (File 4775-T054-2003-1)*

On 12 December, TCPL applied for approval of the Effective a Rates and Charges to be applied for service on its BC System effective 1 January 2003 and for amendments to the BC System Gas Transportation Service Documents.

On 20 December, the Canadian Association of Petroleum Producers and Chevron Canada Resources filed complaints with respect to the application.

On 27 December, the Board decided to approved the Effective Rates and Charges as proposed in the application on an interim basis effective 1 January 2003 pending a final decision on the application.

Review

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.

Amendments to Regulations and Guidelines

Regulatory Initiatives Pursuant to the National Energy Board Act

1. *Guidelines for Filing Requirements, 1995 (GFR)*

The Board has launched a project to review and revise its GFR. The goals of the project are to provide clear direction about the information required for applications, improve cycle times, and improve communication with stakeholders.

2. *Guidance Notes for the Onshore Pipeline Regulations, 1999*

Proposed amendments to the *Guidance Notes for the Onshore Pipeline Regulations, 1999* were released by the Board for comment on 28 February 2002. 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*.

3. *National Energy Board Pipeline Crossing Regulations, Part I and 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 apply to 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.

The Board has begun meeting with stakeholders and plans to continue consultation with interested Canadians by holding focus meetings and open houses at various locations across Canada.

4. *National Energy Board Processing Plant Regulations*

On 20 December, the Board approved the enactment of the *National Energy Board Processing Plant Regulations* and directed that they be forwarded to the Privy Council Office for approval of the Governor in Council and publication in the Canada Gazette Part II.

Regulatory Initiatives Pursuant to the Canada Oil and Gas Operations Act

5. *Canada Oil and Gas 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*.

6. *The Canada Oil and Gas Drilling Regulations and the Canada Oil and Gas Production and Conservation Regulations (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*.

Regulatory Initiatives Pursuant to The Canada Labour Code

7. *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

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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
Foothills Pipe Lines Ltd.	File: 3400-F006-42 Order: XG-F006-65-2002	Application dated 20 November; approved on 6 December. Install a backup sales tap assembly on the Sundre Section of Zone 7 in southwest Alberta.	61 000
Westcoast Energy Inc.	File: 3400-W005-297 Order: XG-W005-64-2002	Application dated 10 July; approved on 2 December. Replace 2300 metres of the Fort Nelson Mainline.	5 100 000

Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Enbridge Pipelines Inc.	File: 3400-E101-52 Order: XO-E101-24-2002	Application dated 16 October; approved on 20 December. Instal scraper traps near Nanticoke Junction, Ontario	700 000
Enbridge Pipelines (Westspur) Inc.	File: 3400-E103-14 Order: XO-E103-24-2002	Application dated 9 December; approved on 23 December. Maintenance of the cathodic protection of the mainline in Saskatchewan and Manitoba.	434 500

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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