



Regulatory Agenda

The period covered in this *Regulatory Agenda* is the month of October 2003

National Energy Board Workshop 2003

The NEB will be holding a Workshop at the Telus Convention Centre in Calgary, Alberta, from 2 to 4 December 2003. Session development is underway and discussion topics will include NEB regulatory initiatives, pipeline integrity, environmental protection and safety.

Goals of the Workshop

Communicate - The workshop will encourage direct interaction between NEB staff and attendees.

Refine Initiatives - The workshop will be structured to provide clear deliverables where practical.

Consult - The workshop will be structured as such that discussions between NEB staff and

representatives from targeted attendee stakeholder groups are meaningful and constructive.

Inform - The workshop will include sessions designed to improve working relationships by explaining NEB expectations, processes and procedures.

Registration Information

Registration is free and commenced in mid-October. Space is limited to 300 attendees. For further information, please contact Kym Hopper-Smith at (403) 299-3890 or by e-mail at khoppersmith@neb-one.gc.ca or visit our Website at www.neb-one.gc.ca.

Public Hearing Applications

Hearings Completed

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

On 30 July, the Joint Review Panel for the GSX Canada Pipeline released its report and recommended that the GSX Canada Pipeline project proceed to the next level of decision making. The

Panel concluded that the project is not likely to result in significant adverse environmental effects provided its recommendations are implemented and appropriate mitigation identified during the course of the review is applied.

The report describes the results of the Panel's review of an application by Georgia Strait Crossing

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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Pipeline Limited to construct and operate the Canadian portion of the Georgia Strait Crossing Project, a new natural gas pipeline from Sumas, Washington to Vancouver Island. The proposed pipeline is a joint undertaking by BC Hydro and Williams Gas Pipeline Company.

The Government of Canada is considering the Panel's recommendations on the GSX Canada Pipeline project and will prepare a response.

The joint panel review was conducted under the *Canadian Environmental Assessment Act* and the *National Energy Board Act*. The review was carried out in accordance with an agreement between the federal Minister of the Environment and the Board. The review included a public hearing that was held in Sidney, British Columbia from 24 February to 19 March.

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

The Board has completed a public hearing on an application from SE2 to construct a proposed 230 kilovolt IPL originating in the United States and crossing the international boundary near Abbotsford.

The Board considered the application at a public hearing held from 18 January 2001 to 23 September 2003 (39 days) in Abbotsford, British Columbia. Sequence of events from January 2001 to September 2003:

- 18 to 20 January 2001 – Public hearing on preliminary matters and motions

- 19 February 2001 – Public hearing was scheduled to commence. At the request of SE2, the Board adjourned the hearing
- 4 June 2002 – SE2 requested that the Board reconvene the public hearing
- 18 to 23 October 2002 – Public hearing on preliminary motions
- 26 May to 11 July 2003 – Hearing of evidence, oral presentations and some arguments
- 11 July 2003 – Hearing adjourned until 15 September
- 15 to 23 September 2003 – Hearing of final arguments and reply argument
- 23 September 2003 – Hearing closed

Hearing in Progress

1. *Trans-Northern Pipeline Inc. (TNPI) – Pipeline Replacement and Lowering in Hamilton, Ontario – OHW-1-2003 (File 3400-T002-57)*

The Board is holding a public hearing, by way of written submissions, on an application from TNPI to relocate one section and lower two other sections of its 406.4 millimetre (16 inch) refined petroleum products pipeline. This application is made in order to accommodate the construction of the Red Hill Creek Expressway in King's Forest Park in Hamilton, Ontario.

(Also refer to item 3 under *Appeal and Reviews*)

Non Hearing Applications

Electricity Matters

Matter Completed

1. *Direct Commodities Trading (DCT) Inc. (DCT) – Electricity Export (File 6200-D069-1)*

On 8 October, the Board approved an application dated 24 July from DCT for a permit to export up to 600 gigawatt hours of interruptible energy per year for a period of 10 years.

Matters Pending

2. *PPL EnergyPlus, LCC (PPL) – Electricity Export (File 6200-P121-1)*

On 14 October, PPL applied for permits to export up to 1000 megawatts hours of combined firm and interruptible electricity for a period of 10 years.

3. *New York Power Authority (NYPA) – Electricity Export (File 6200-N100-1)*

On 24 September, NYPA applied for permits to export electricity, for a period of 10 years, on a firm or interruptible basis up to the interchange capability on the connection between the electric grid operated by Ontario's Independent Market Operator and the grid operated by the New York Independent System Operator, Inc.

4. *Teck Cominco Metals Ltd (Teck) – Electricity Export (File 6200-T096-2)*

On 24 October, Teck applied for permits for export transfers of up to 3 500 gigawatt hours of firm and interruptible energy per year and up to 250 gigawatt hours of firm carrier transfer energy per year for a period of 10 years.

Frontier Matters

1. *Anadarko Canada Corporation* received approval on 23 October for the “Well Termination Record” for the well Arrowhead River C-55 pursuant to section 203.(1) of the *Canada Oil and Gas Drilling Regulations*.
2. *Canadian Natural Resources Ltd.* received approval on 31 October for the “Well Termination Record” for the well North Liard 3P-66B pursuant to section 203.(1) of the *Canada Oil and Gas Drilling Regulations*.

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 Tariffs Matters

Matters Completed

1. *Foothills Pipe Lines Ltd. (Foothills) - Interruptible Tolls for Zone 9 for the Period 1 November 2003 to 31 October 2004 (File 4400-F006-12)*

On 30 October, the Board approved an application dated 16 October from Foothills for approval of interruptible tolls for the period 1 November 2003 to 31 October 2004. Two levels of interruptible service were offered. Tier 1 service is based on a 90 percent load factor and takes precedence over Tier 2 service, which is based on a 100 percent load factor. The interruptible toll incorporates the capital structure and rate of return approved by the Board pursuant to RH-2-94 (Cost of Capital Hearing), as well as the forecasted cost of service for the period 1 November 2003 to 31 October 2004. The approved-tolls are as follows:

- Tier 1 - \$1.194 per thousand cubic metres per 100 kilometres (for the period 1 April to 31 October the toll was \$1.209 per thousand cubic metres per 100 kilometres)
 - Tier 2 - \$1.075 per thousand cubic metres per 100 kilometres (For the period 1 April to 31 October 2003 the toll was \$1.088 per thousand cubic metres per 100 kilometres)
2. *TransCanada PipeLines Limited (TCPL) – Third and Fourth Reports of the 2003 Tolls Task Force (Files 4775-T001-1/03-3 and 4775-T001-1/03-4)*

On 9 and 17 October, the Board approved the following 2003 Tolls Task Force Resolutions:

- Resolution 04.2003 – Removal of Price Cap on Parking and Loan Service
- Resolution 05.2003 – Addition of the Shackleton Receipt Point for Transportation on the Mainline.

Matters Pending

3. *TransCanada PipeLines Limited (TCPL) – Mainline Open Season, Complaints (File 4775-T001-1-12)*

Several complaints were received by TCPL and the Board concerning TCPL's approach to its Mainline Open Season announced on 17 July. In its Open Season, TCPL offers service from receipt points that are not listed in its Tariff.

On 15 September, TCPL applied for approval to establish North Bay as a new receipt and delivery point and for approval of the associated tolls for services to and from this point. On 26 September, the Board decided to hold a facilitated workshop to discuss the issues raised in the aforementioned letters of complaint.

4. *Westcoast Energy Inc. (WEI) – Final 2003 Transmission Tolls (File 4200-W005-15)*

On 25 July, Westcoast applied for approval of final tolls for the year 2003. WEI has been on interim tolls since January 2003. On 14 August and 24 September, the Board sent letters to WEI requesting additional information.

Appeal and Reviews

Appeal

1. *TransCanada PipeLines Limited (TCPL) – NEB Decision RH-R-1-2002*

On 21 March, TCPL applied to the Federal Court of Appeal for leave to appeal the Board's RH-R-1-2002 Decision issued on 20 February 2003. In this Decision, the NEB dismissed TCPL's September 2002 request for a Review and Variance of the Board's June 2002 RH-4-2001 Decision on the company's Fair Return application. In May, the Federal Court of Appeal granted TCPL leave to appeal.

Reviews

2. *Communications, Energy and Paperworkers Union of Canada (CEP) - Trans-Northern Pipelines Inc. (TNPI) - Capacity Expansion and Pipeline Flow Reversal – OH-1-2003*

In September, CEP applied to the Board for review of its Reasons for Decision dated July, issued on 7 August, in which it approved an application from TNPI to increase the pipeline capacity on its petroleum products pipeline system from Montréal, Quebec to Farran's Point near Ingleside, Ontario and to reverse the direction of flow between Farran's Point and the Clarkson Junction in Mississauga, Ontario. CEP is asking the Board to review its decision in total and, in the interim, to stay the decision pending the outcome of the review.

CEP represents 140 people who will be put out of work when the Oakville refinery is closed by Petro Canada. The Company announced the closing of the refinery following the Board's decision allowing a reversal in the flow of oil in the TNPI's pipeline which will bring refined products into Ontario from Montreal.

On 9 October, the Board decided to solicit comments from all parties to the OH-1-2003 Hearing on whether a review should be conducted and, should the Board decide to conduct a review of the application, whether a stay of the Board's Decision in OH-1-2003 should be granted.

3. *City of Hamilton – Judicial Review - Trans-Northern Pipeline Inc. (TNPI) – Pipeline Replacement and Lowering in Hamilton, Ontario – OHW-1-2003*

On 18 August, the City of Hamilton filed a Notice of Application for Judicial Review with the Federal Court of Appeal. The Notice seeks, among other things, a declaration that the *Canadian Environmental Assessment Act* (CEA Act) does not apply to the TNPI application and that no environmental screening is or was required to be carried out by the Board under the CEA Act in respect of the application.

The Board filed with the Court a Notice of Appearance. The Application has been put into abeyance until 30 days after the Board's decision on the TNPI application as a result of a consent motion to the court.

Amendments to Regulations and Guidelines

Regulatory Initiatives Pursuant to the *National Energy Board Act*

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

On 5 September, the Board sought comments from the public on draft sections of the GFR. Comments were due on 3 October 2003. The final revised GFR will be released by the end of 2003.

In late 2002, the Board initiated a project to review and revise its GFR. Originally developed in 1995, the GFR were intended to help companies prepare complete applications and address components of an application. This review and resulting

modifications will ensure that information in the GFR is clear, accurate and complete so that the Board's expectations are understood and can be applied consistently by applicants.

2. *Onshore Pipeline Regulations, 1999 (OPR) - Decommissioning of Pipelines*

On 5 February, the Board solicited comments on a proposal to amend the OPR to include provisions regarding decommissioning and to establish a Decommissioning Exemption Order to exempt certain activities from the requirement to file decommissioning applications. The Board has considered the comments received.

The Board is of the view that many of the suggestions put forward could best be addressed in guidance notes to the regulations, or in an exemption order. Both of these instruments can be easily amended to adjust for changing situations, and can provide for more description and explanation than can regulations. The Board agrees with the comments by CEPA that a discussion with industry would be highly beneficial and would like to hold these discussions before proceeding any further to finalize the Decommissioning exemption order and guidance notes. Therefore, the Board is adding the matter of decommissioning to the agenda for the NEB Workshop to be held from 2 to 4 December.

The Board is proposing that the changes also apply to the *National Energy Board Processing Plant Regulations*. Given that the process for amending regulations takes a considerable amount of time, the Board will start the procedure for amending both sets of regulations by sending the amendments to the Department of Justice for its review. All parties will be given an opportunity to comment on the amendments when they are published in the *Canada Gazette, Part I*. The Board will also make amendments as needed as a result of discussions with industry.

3. *National Energy Board Pipeline Crossing Regulations, Part I and Part II - Damage Prevention Regulations*

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 Board has been held meetings with stakeholders and plans to continue consultation with interested persons by holding focus meetings and open houses at various locations across Canada.

Regulatory Initiatives Pursuant to the *Canada Oil and Gas Operations Act*

4. *Canada Oil and Gas Diving Regulations and Guidance Notes*

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 and the Canada Oil and Gas Production and Conservation Regulations*

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. *The Canada Oil and Gas Geophysical Operations Regulation (Regulations)*

The Regulations are being amended in order to satisfy concerns raised by the Standing Joint Committee for the Scrutiny of Regulations and to reflect advances in electronic data storage and communications. Some of the changes are designed to render provisions of the Regulations consistent in both official languages and to reflect changes made since the adoption of the *Department of Canadian Heritage Act*.

Regulatory Initiatives Pursuant to the *Canada Labour Code*

7. *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 February 2003 issue of the *Regulatory Agenda*.

Administrative Matters

Chief Operating Officer

On 20 October, the Chairman of the Board announced that Mr. James (Jim) Donihee will be joining the Board on 17 November as the Chief Operating Officer.

Until August of 2000, Mr. Donihee was a member of the Canadian Armed Forces. At the time of his retirement, he held the title of Wing Commander and was the Commanding Officer of the largest air force base in Canada. Since August 2000, Mr. Donihee has worked for EnCana Corporation, most recently working on the implementation of Knowledge Exchange practices throughout the organization and also reported directly to the CEO in leading a team assisting in the development of EnCana's corporate Constitution.

Mr. Donihee brings many strengths to the executive cadre at the Board, including his leadership experience with groups ranging in size up to 2500 people in performance oriented organizations. Mr. Donihee is committed to strong interpersonal relationships, which he has demonstrated throughout his career, through principled leadership, integrity, loyalty, strong work ethic and sound judgment.

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
Alliance Pipeline Ltd.	File: 3400-A159-15 Order: XG-A159-48-2003	Application dated 21 August; approved on 3 October. Relocate the Knopcik Meter Station from receipt points AB26 on the Hythe Lateral to AB25, all in Alberta.	355 000
TransCanada PipeLines Limited	File: 3400-T001-222 Order: XG-T001-47-2003	Application dated 14 July; approved on 2 October. Cathodic Protection Program No. 3 at thirteen sites in Manitoba and Ontario.	1 079 200

Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Enbridge Pipelines Inc.	File: 3400-E101-61 Order: XO-E101-18-2003	Application dated 26 September; approved on 15 October. Upgrade the Line 10 valve at milepost B1903.47.]	324 400
Enbridge Pipelines (NW) Inc.	File: 3400-E102-8 Order: XO-E102-20-2003	Application dated 1 October; approved on 30 October. Install solar panels at four valve sites in the Northwest Territories.	102 000

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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