



# Regulatory Agenda

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

## Short-Term Natural Gas Deliverability For Western Canada Sedimentary Basin 2003-2005

On 8 December, the Board issued an Energy Market Assessment (EMA) entitled *Short-term Natural Gas Deliverability from the Western Canada Sedimentary Basin 2003-2005*. The report reviews historical production and drilling activity and also provides an outlook for the period 2003-2005. The Board projects that, with the expected high levels

of drilling activity, deliverability from the Western Canada Sedimentary Basin will be maintained near current levels at approximately 450 million cubic metres (16 billion cubic feet) per day over the next two years. The EMA is available on the Board's Web site at [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

## Future Report On Canada's Oil Sands: Opportunities And Challenges To 2015

In October 2000, the Board released an Energy Market Assessment (EMA) entitled *Canada's Oil Sands: A Supply and Market Outlook to 2015*. In the course of carrying out its analyses in the 2003 supply and demand report entitled *Canada's Energy Future: Scenarios for Supply and Demand to 2025*, a number of important opportunities and issues surrounding the oils sands were identified. As a result, the Board has decided to embark on a

subsequent report entitled *Canada's Oil Sands: Opportunities and Challenges to 2015*. The key objectives of this report are to update the supply and market aspects contained in the first EMA and to provide a comprehensive assessment of some of the opportunities and issues facing the oil sands. The Board will consult with stakeholders in the course of developing the report which is expected to be released in the spring of 2004.

### 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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## Public Hearing Applications

### Hearing Completed

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

The Board held a public hearing on an application from SE2 to construct a 230 kilovolt IPL originating in the United States and crossing the international boundary near Abbotsford, British Columbia. The public hearing was held from 18 January 2001 to 23 September 2003 (39 days) in Abbotsford. 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 commence. At the request of SE2, the Hearing was adjourned
- 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.

On 30 December, the Board issued, pursuant to the *Canadian Environmental Assessment Act*, its Environmental Screening Report for public examination and comments.

### Hearing Application Filed

#### 1. *Westcoast Energy Inc. (WEI) – 2004 Interim and Final Tolls (File 4200-W005-16)*

On 1 December, WEI applied for approval of interim and final tolls for mainline transmission service in Zones 3 and 4 for the period 1 January to 31 December 2004. WEI estimates the cost of service for 2004 at approximately \$264.8 million which compares to the forecast of the 2003 cost of service of approximately \$245.7, an increase of approximately \$19.1 million. WEI also forecasts an average rate base for 2004 at \$1.105 million which

compares with the forecast rate base for 2003 at \$1.026 million, an estimated increase of \$79.4 million.

On 11 December, the Board decided that the current tolls for 2003 will apply on an interim basis effective 1 January 2004 until such time as the Board has obtained and considered the comments of interested parties regarding the interim tolls application. Interested person had until 23 December to comment and WEI had until 6 January to file reply comments.

On 23 December, the Board informed WEI that it was in receipt of WEI's letter dated 18 December and the Natural Gas Steering Committee's letter dated 17 November both of which requested that the Board set the application down for a hearing. Once the Board has determined that the application is complete, the Board will set the application down for a hearing and issue a hearing order.

As part of its consideration of the application, the Board has decided to hold a pre-hearing conference, led by Board staff, to discuss:

- which issues need to be addressed to dispose of the application and why, and
- the appropriate process and timing to deal with these issues.

Among other things, the Board is interested in determining whether parties believe that all the issues are best addressed through a public hearing, or whether some issues may be addressed through an alternative process with the involvement of the Board staff.

# Non Hearing Applications

## Electricity Matters

### Matter Completed

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

On 9 December, the Board approved an application dated 14 October from PPL for permits to export up to 500 megawatts and 4 380 gigawatt hours of combined firm power and energy per year and 4 380 gigawatt hours of interruptible energy per year for a period of 10 years.

### Matters Pending

2. *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.

3. *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. *Geophysical Service Incorporated (GSI) – Western Gulf of St. Lawrence Marine Seismic Program (File 9180-G705-38)*

On 5 December, the Board requested the Minister of the Environment to refer an application from GSI to gather up to 2 500 linear kilometres of 2D marine seismic data in the western Gulf of St.

Lawrence to a review panel.

In accordance with the *Canadian Environmental Assessment Act*, the Board sought and received comments from other federal departments and the public in respect of the project. The Board has determined that, taking into account the implementation of mitigation measures that are appropriate, the project may cause significant adverse environmental effects. The Board also determined that public concerns warrant a reference to a review panel.

2. *Chevron Texaco* was given approval on 4 and 23 December to drill the wells Ellice I-48 and Liard 3K-29 pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations (COGDR)*.
3. *Apache Canada Ltd.* was given approval on 12 December to drill the wells Nogha B-23 and Lac Maunoir C-34 pursuant to section 83.(1) of the COGDR for.
4. *Encana Corporation* was given approval on 16 and 23 December to drill the wells Begadéh J-66, Begadéh B-76 and Umiak N-16 pursuant to section 83.(1) of them COGDR.
5. *Northrock Resources Ltd.* was given approval on 23 December to drill the well Summit Creek B-44 pursuant to section 83.(1) of the COGDR.
6. *Geological, geophysical or geotechnical operations*: two applications were approved pursuant to section 5(1)(b) of the *Canada Oil*

Company	Area	Operation ID	Date
Chevron Canada Resources	Mackenzie Delta NWT	9329-C143-003E	5 December
Chevron Canada Resources	Mackenzie Delta NWT	9329-C143-001DA (Data Purchase)	11 December

*and Gas Operations Act.*

## Pipeline Matters

### 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.

### 2. Safety Advisory (File 3750-A000-8)

On 3 December, the Board issued Safety Advisory NEB SA03-1 regarding several incidents attributed to vibration fatigues failure of piping within compressor stations and pump stations.

## Traffic, Tolls and Tariffs Matters

### Matters Completed

#### 1. Enbridge Pipelines Inc. (Enbridge) – Depreciation Rates (File 4200-E101-1-2)

On 23 December, the Board approved an application dated 24 November from Enbridge for approval of new depreciation rates and the Technical Update to the 1999 Depreciation Study.

#### 2. Gazoduc Trans Québec & Maritimes Inc. (TQM) – 2004 Interim Tolls (File 4200-T028-8)

On 24 December, the Board approved an application dated 19 December from TQM requesting to maintain and continue the current transportation tolls approved by Order TG-1-2003 as interim tolls effective 1 January 2004.

#### 3. TransCanada PipeLines Limited (TCPL) – 2004 Interim Tolls – (File 4400-T001-23)

On 18 December, the Board approved an application dated 12 November from TCPL for interim tolls to be effective 1 January 2004 pending the filing and disposition of its 2004 Tolls Application. TCPL had requested approval of an interim Eastern Zone toll of \$1.222 per gigajoule, which compares to the current Eastern Zone toll of \$1.195 per gigajoule.

#### 4. TransCanada PipeLines Limited, BC System (TCPL) – Statement of Interim Rates and Charges Effective 1 January 2004 and Amendments to the Gas Transportation Services Documents Tariff (GTSD) (File 4775-T054-2004-1)

On 15 December, TCPL applied for Interim Rates and Charges effective 1 January 2004 and amendments to the GTSD. TCPL proposed Firm Service Rates for 2004 to be 6.484 cents per gigajoule compared to 7.251 cents per gigajoule in 2003. The amendments to the GTSD are for a new Short-Term Firm Service when capacity is available.

On 30 December, the Board decided that the BC System Interim Rates and Charges should reflect a reduction in the revenue requirement of \$558 000 from the applied-for level pending the Board's approval of the final Effective Rates and Charges for 2004.

#### 5. TransCanada PipeLines Limited (TCPL) – Fifth Report of the 2003 Tolls Task Force (4775-T001-1/03-5)

The Board has approved the following resolution of the 2003 Toll Task Force:

Resolution No.	Subject	Date approved
06.2003	IT Service Penalty (Additional Waiver Provision)	19 December

### Matters Pending

#### 6. 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 2004 Operating and Maintenance Expense Budgets (File 4750-F006-1)

On 1 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 2004.

On 18 December, the Board advised Foothills that before making a final decision on the applied-for budgets, it wished to consider Foothills' actual 2003 costs and any variances from the amounts approved for 2003, both due to be filed with the Board by the end of February 2004. Therefore, the Board decided to issue an interim order approving interim budgets for the year ending 31 December 2004 equal to 50 per cent of the budgets submitted.

**7. *TransCanada PipeLines Limited (TCPL) – Mainline Open Season, Complaints – North Bay Junction (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 offered service from receipt points that are not listed in its Tariff.

On 15 September, TCPL applied for approval to establish the North Bay Junction 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. The Board held the workshop on 23 October and the Facilitator's Report was issued on 13 November.

On 14 November, the Board decided to stay the processing of the application until such time as TCPL files sufficient information to address the broader toll design issues. The Board will then determine whether to consider the application and the related information in a stand-alone proceeding or in conjunction with a future application.

## **Appeal and Review**

### **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.

### **Review Pending**

**2. *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 2 December, the Board provided an opportunity for the public to review the final draft of the *NEB Filing Manual* (formerly called the *Guidelines for Filing Requirement, 1995*). Comments must be received at the Board by 23 January 2004. The final Filing Manual will be released by the end of March 2004.

In September 2003, the Board invited comments on six draft sections of the document. The Board is currently using this input to prepare a complete draft document. Originally, the Board planned to release the final Filing Manual in December 2003. However, the Board has been very pleased with the progress of the review project and believes that public review of the draft document would strengthen the final product.

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

On 14 November, the Board sought comments from the public on the *Draft Guidance Notes for the National Energy Board Damage Prevention Regulations*. The document contains the draft legal text of the Board's proposed *Damage Prevention Regulations* and the proposed guidance. The deadline for written comments is 31 March 2004.

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*

### 3. *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*.

### 4. *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*.

### 5. *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 Initiative Pursuant to the *Canada Labour Code*

### 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 February 2003 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 *Submit a Document*.

## Communication Numbers

### *General Information:*

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

### *Publications Office:*

Telephone: (403) 299-3562  
Telecopier: (403) 292-5576  
Email: [publications@neb-one.gc.ca](mailto:publications@neb-one.gc.ca)

### *Web Site:*

[www.neb-one.gc.ca](http://www.neb-one.gc.ca)

### *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*.

National Energy Board  
Michel L. Mantha  
Secretary

### *For information:*

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# Appendix I

## Section 58 Applications

### Gas Pipelines

Applicant	File/Order	Application	Est. Cost
Canadian Hunter Exploration Ltd.	File: 3400-C087-13 Order: XG-C087-??-2003	Application dated 4 April; approved on 18 December. Construct 3.5 km of 219.1 mm pipeline from the Windsor Field in B.C. to the Elmworth gas gathering system in Alberta.	815 000
Westcoast Energy Inc.	File: 3400-W005-309 Order: XG-W005-49-2003	Application dated 26 May; approved on 18 December. Reactivate the Pesh Pipeline from km 0.0 to km 11.17.	370 000

### Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Enbridge Pipelines Inc.	File : 3400-E101-62 Order : XO-E101-22-2003	Application dated 7 November; approved on 22 December. Replace the Suncor Lateral, consisting of 1.7 km of pipeline in the City of Sarnia and deactivate 120 metres of that line beneath the confluence of Talfourd and Marsh Creeks.	3 257 000



## 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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Cat. No. NE12-4/2003-12E  
ISSN 0821-8645

This document is published separately in both official languages. For further information, please contact:

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N<sup>o</sup> de cat. NE12-4/2003-12F  
ISSN 0821-865X

Ce document est publié séparément dans les deux langues officielles. Pour de plus amples renseignements :

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