



Regulatory Agenda

The period covered in this *Regulatory Agenda* is the month of March 2004

Energy Market Assessment Natural Gas Prices In The Maritimes

On 29 March, the Board issued an Energy Market Assessment (EMA) report entitled *Natural Gas Prices in the Maritimes*.

The EMA provides pricing information in this developing market and a comparative analysis between domestic and export prices to assess the pricing and access of natural gas in the Canadian market. The EMA was developed as a result of a survey of wholesale natural gas prices carried out by the Board during December 2003 and includes information received from the domestic purchasers of natural gas in the region.

The comparison of the domestic and export prices found a very close linkage and consistency in pricing between domestic and export markets, and that Canadian buyers have historically had access

to gas at prices similar to export customers. The report also finds that reported prices for exports at St. Stephen, New Brunswick and other pricing information for United States pricing points can provide a reasonable indication of the average wholesale price in the domestic market.

The EMA is the result of commitments made by the Board to enhance its monitoring of the Maritimes natural gas market following a Board hearing held in Fredericton in the summer of 2002. While acknowledging that some natural gas buyers will continue to face considerable challenges in this market, the Board remains satisfied that the Maritime natural gas market continues to function well given its stage of development.

Public Awareness Workshop 2004

The Board will be holding its fifth Public Awareness Workshop for Buried Pipelines at the Queen Elizabeth Hotel in Montreal, Quebec from 26 to 28 September 2004. The Awareness Workshop

is a forum for industry to share its best public awareness practices related to damage prevention and emergency response.

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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A key goal of the Board is to ensure the safety of NEB regulated pipelines. These workshops are critical in achieving this goal and ensuring that Canadians are well prepared to live and work safely around pipelines.

Previous workshops were held in Calgary (1997), in Vancouver (1998), in Niagara Falls (2000) and in

Halifax (2002). For further information on those workshops visit the Board's Web site at www.neb-one.gc.ca under Safety and Environment.

For further information on the 2004 Workshop, please contact Stella Hiebert (shiebert@neb-one.gc.ca). Awareness 2004 Project Administrator or call (403) 299-2787 or call toll free: 1-800-899-1265.

Public Hearing Applications

Hearings Scheduled

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

The Board will hold a public hearing commencing on 17 May in Calgary, Alberta on an application by WEI for approval of 2004 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 to be approximately \$257.3 million, compared to the forecast of the 2003 cost of service of approximately \$247.3 million, reflecting an increase of approximately \$10.0 million. The typical 2004 toll for long haul service in Zone 3 would decrease by 2.2 percent over that of 2003 whereas the typical toll for Zone 4 would increase by 8.2 percent.

2. *TransCanada Pipelines Limited (TCPL) – 2004 Tolls (File 4200-T001-19)*

The Board will hold a two-phase public hearing on an application from TCPL for approval of new tolls it may charge on its Mainline system for the period 1 January to 31 December 2004. Phase I of the hearing will consider all issues raised by the 2004 Tolls Application, with the exception of Cost of Capital.

Phase I of the public hearing will commence on 14 June in Ottawa, Ontario. Procedures for Phase II of the hearing will be announced at a later date.

TCPL has forecasted a 2004 average rate base of \$8,203 million and a net revenue requirement of \$1,781 million, a decrease of approximately \$92 million over the 2003 net revenue requirement. The Eastern Zone Toll calculated in the application effective 1 January 2004 is \$1.211 per gigajoule,

which compares with the 2003 toll of \$1.195 per gigajoule and the 2004 interim toll of \$1.222 per gigajoule.

TCPL has also proposed a Fuel Gas Incentive Program, the establishment of a new Non-Renewable Firm Transportation Service and modifications to its existing Short-term Firm Transportation Service.

Expected Application

1. *Proposed Mackenzie Gas Project*

On 11 March, the Environmental Assessment and Regulatory Chairs' Executive Committee has formalized the next steps in a process to review the proposed Mackenzie Gas Project. By confirming established timelines now to process an application, the committee members are setting a firm foundation to meet expectations for a thorough, timely and transparent processing of an application once it is filed. The commitments made by Chairs will ensure that the various boards and agencies are prepared to process an application by July 2004.

A news release on the next steps can be found on Natural Gas Project Secretariat's Web site at www.ngps.nt.ca.

The Chairs meet regularly to share information and ensure that decisions within their mandates are made in a timely and coordinated manner. They represent the Inuvialuit Game Council, Mackenzie Valley Environmental Impact Review Board, Mackenzie Valley Land and Water Board, NWT Water Board, Canadian Environmental Assessment Agency and the National Energy Board.

Non Hearing Applications

Electricity Matters

1. *Reporting of incidents on international power lines*

The Board has regulatory responsibility for the safety, and the impact of the construction and operation of international power lines on the environment, including the ability to inquire into any incident on those facilities. The Board would like to work with its stakeholders to clarify its expectations with respect to the reporting of incidents which occur on these facilities.

On 8 March, the Board issued its “Interim Expectations on the Reporting of Incidents on International Power Lines” to all international power lines companies for comments.

Until the Board finalizes its expectations through the comment process, the Board expects companies to report international power line incidents in accordance with the “Interim Expectations on the Reporting of Incidents on International Power Lines”.

Matters Pending

2. *Black Oak Capital, LLC (BOC) – Electricity Export (File 6200-B070-1)*

On 19 March, BOC applied for permits to export up to 4 380 gigawatt-hours of firm energy and up to 4 380 gigawatt-hours of interruptible energy per year for a period of 10 years.

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

On 24 September and 3 December, NYPA applied for permits to export up to 500 megawatts and 2 000 gigawatt-hours of combined firm and interruptible energy per year for a period of 10 years.

4. *SESCO Enterprises, LLC (SESCO) – Electricity Export (File 6200-S175 -1)*

On 27 February, SESCO applied for permits to export up to 200 megawatts of firm power and 600 gigawatt-hours of firm energy per year for a period of 10 years.

5. *WPS Energy Services, Inc. (WPS) – Electricity Export (File 6200-W058-1)*

On 25 March, WPS applied for permits to export up to 1 800 gigawatts of interruptible power per year for a period of five years.

Frontier Matters

1. *Anadarko Canada Corporation (Anadarko) – Commercial Discovery Declaration Netla Area, NWT – Application dated 10 July 2003*

On 1 April, the Board issued to Anadarko a declaration of “Commercial Discovery” pursuant to Part II.1, subsection 28.2(4) of the *National Energy Board Act* and to Part IV, subsection 35(1) of the *Canada Petroleum Resources Act* with respect to frontier lands in the Netla Area, NWT comprising grid areas:

Latitude	Longitude	Sections
60° 50'	122° 30'W	67, 68, 75, 76, 77 and 78
60° 50'	122° 45'W	4, 5, 6, 7, 8, 14, 15 and 16

2. *Paramount Resources Ltd. (Paramount) – Significant Discovery Declaration Fort Liard Area, NWT – Application dated 8 April 2003*

On 1 April, the Board issued to Paramount a declaration of “Significant Discovery” pursuant to Part II.1, subsection 28.2(4) of the *National Energy Board Act* and to Part III, subsection 28(1) of the *Canada Petroleum Resources Act* with respect to frontier lands in the Fort Liard Area, NWT comprising grid areas:

Latitude	Longitude	Sections
60° 10'	123° 15'W	21, 22 and 32

3. *Anadarko* was given approval on 3 March to alter the condition of the well Arrowhead River F-56 pursuant to the *Canada Oil and Gas Drilling Regulations* (COGDR).
4. *Anadarko* was given approval on 16 March to alter the condition of the well Arrowhead River C-55 pursuant to the COGDR.
5. *Anadarko* was given approval on 2 March to conduct flaring for the wells K-35, F-56, C-55 and A-77 pursuant to the GOGDR.
6. *Chevron Resources (Chevron)* was given approval on 2 March to drill the well *Chevron et al* Liard 2M-25 pursuant to the COGDR.
7. *Chevron* was given approval on 9 March to conduct a well tie-in for the well *Chevron et al* Liard 3K-29 pursuant to the *Canada Oil and Gas Operations Act* (COGOA).
8. *Paramount* was given approval on 1 March to alter the condition of the well *Para et al* Cameron F-19 pursuant to the COGDR.
9. *Paramount* was given approval on 4 March to alter the condition of the well *Paramount et al* Cameron C-19 well for the well pursuant to the COGDR.
10. *Paramount* was given approval on 4 March to construct gathering facilities pursuant to the COGOA.
11. *Paramount* was given approval on 8 March to alter the condition of the well *Paramount et al* Fort Liard F-36 pursuant to the COGDR.
12. *Paramount* was given approval on 9 March to alter the condition of the well *Para et al* Cameron K-19 pursuant to the COGDR.
13. *Paramount* was given approval on 10 March to alter the condition of the well *Para et al* Cameron C-74 pursuant to the COGDR.
14. *Paramount* was given approval on 17 March to alter the condition of the well *Para et al* Cameron B-38 pursuant to the COGDR.
15. *Paramount* was given approval on 23 March to alter the condition of the well *Paramount et al* Cameron A-05 to the COGDR.
16. *Petro-Canada's* "Well Termination Record" for the well *PCI et al* Tweed Lake M-47 was approved on 26 March pursuant to the GOGDR.

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.

Matter Under Consideration

2. Express Pipeline Ltd. (Express) – Capacity Expansion (File 3400-T092-7)

On 23 December, Express applied for approval to construct three intermediate pump stations and two barrel tanks. Express also proposes the change-out of impellers at existing pump stations.

The expansion would increase capacity of the Express pipeline by approximately 17 600 cubic metres (108 000 barrels) per day to a capacity of approximately 44 900 cubic metres (280 000 barrels) per day, depending on the characteristics of the petroleum transported.

Each of the two tanks, to be constructed at the Hardisty Terminal, would be sized at 24 000 cubic metres (150 000 barrels). The pump stations would be located at Station 2 (Ribstone Creek), Station 4 (Jenner) and Station 6 (Peace Butte). Express proposes to start construction in June 2004 and the proposed in-service date is March of 2005. The estimated cost of the Expansion is \$45.6 million.

Traffic, Tolls and Tariffs Matters

Matter Completed

1. Trans-Northern Pipelines Inc.(TNPI) – 2004 Tolls (File 4200-T002-11)

On 23 March, the Board approved an application dated 26 February from TNPI for approvals of final tolls for 2004 pursuant to the approved incentive toll settlement between TNPI and its shippers.

Matters Pending

2. ***Foothills Pipe Lines Ltd. (Foothills) on behalf of Foothills Pipe Lines (Alta.) Ltd., Zones 6 and 7 Foothills Pipe Lines (South B.C.) , Zone 8 and Foothills Pipe Lines (Sask.) Ltd., Zone 9 - Year 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 percent of the budgets submitted.

3. ***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.

4. ***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 offers 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.

On 17 February, TCPL informed the Board that it was continuing its work on the additional evidence necessary to address the hearing issues the Board has established and to update commercial and tolling information submitted with the original application on September 15, 2003. TCPL filed its additional evidence on 31 March 2004.

Appeals and Reviews

Appeals

Appeals Pending

**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.

The Court heard the Appeal from 16 to 18 February in Toronto, Ontario.

**2. *Natural Gas Steering Committee (NGSC)* –
*Application for Leave to Appeal the 2003 NEB Decision Relating to Westcoast Energy Inc.'s (WEI) Final 2003 Tolls***

The NGSC has applied to the Federal Court of Appeal for leave to appeal the Board's Decision dated 27 November 2003 regarding an application from WEI for approval of final tolls for 2003. The NGSC asked the Federal Court for a stay of the application pending the determination of the review application discussed below in item 4.

Reviews

Reviews Pending

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.

**4. *Natural Gas Steering Committee (NGSC)*
– *Application to Review the Board's Decision Relating to Westcoast Energy Inc.'s (WEI) Final 2003 Tolls***

On 26 February, the Board granted a request from NGSC to review, grounds (b) and (c) below, a previous WEI tolls decision. On 15 January, the Board had solicited the comments from interested parties on whether a review should be conducted. The Board will conduct the review through a written process.

On 24 December, the NGSC asked the Board to review its WEI 2003 Final Tolls Decision of 27 November 2003 and to amend Order TG-7-2003 to require WEI to include the full benefit of the 2003 Overhead During Construction (ODC) tax adjustment in the 2003 tolls. The NGSC also requested that the Board establish a review process to review the treatment of indirect ODC deductions in the 1997 to 2001 toll orders.

The NGSC submits that the Board made errors in reaching its decision in that it:

- (a) erred in law when it applied the terms of the 1997-2001 Settlement to the 2003 ODC adjustments;
- (b) erred in not finding that the 2003 ODC adjustments, although not resulting in a reassessment, arose from reassessments of the taxes payable for years prior to 2003 such that either the 1997-2001 Settlement or the 2002-2003 Settlement oblige WEI to credit the full benefit to the account of shippers; and
- (c) erred in not responding to the NGSC request that the Board review the 1997 to 2001 tolling decisions to ensure the correct and current information on the 1997-2001 ODC Adjustments was taken into account by the Board or, if taken into account, in not indicating so in its decision.

Amendments to Regulations, Rules 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). The final Filing Manual will be released in April 2004.

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 was 31 March 2004.

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

Upcoming Energy Market Assessment (EMA) Reports

As part of its mandate under the NEB Act, the Board is required to study and keep under review a broad range of energy matters over which Parliament has jurisdiction. As part of that mandate, the Board publishes EMAs, which examine various facets of Canada's energy market. These reports include both long-term assessments of Canada's energy future and specific reports on current and near-term energy market issues. Below is a listing of upcoming EMAs.

1. *Canada's Conventional Natural Gas Resources: A Status Report (to be published in April 2004)*

This EMA will provide estimates of the ultimate potential of conventional natural gas for each basin in Canada and will outline a program of review for the estimates. The Alberta assessment is an interim estimate pending the results of the joint assessment with the EUB.

2. *Canada's Oil Sands: Opportunities and Challenges to 2015 (to be published in May 2004)*

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 significant issues surrounding the oil sands were identified. The key objectives of the report is to update the supply and demand aspects contained in the Board's October 2000 oil sands report and to provide a comprehensive assessment of some of the opportunities and issues facing the oil sands.

3. *British Columbia Natural Gas Market - An Overview and Assessment (to be published in May 2004)*

This EMA will provide a comprehensive overview and assessment of the functioning of the British Columbia gas market. Many aspects of the British Columbia gas market including demand, transportation, pricing and supply will be reviewed and discussed in this EMA. Issues such as rising British Columbia gas prices, increased price volatility and the market's response will be examined.

4. *Looking Ahead to 2010 - Natural Gas Markets in Transition (to be published in June 2004)*

The report will summarize the Board's findings following a series of Roundtable discussions held in February 2004. It will explore how natural gas markets may evolve to the end of the decade and will identify actions that could be taken to increase supply; to promote more efficient use of gas and to mitigate the effects of price volatility.

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

Internet Site:

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:

Denis Tremblay, Communications Officer
Telephone: (403) 299-2717
Email: dtremblay@neb-one.gc.ca

Appendix I

Section 58 Applications

Gas Pipelines

Applicant	File/Order	Application	Est. Cost
Westcoast Energy Inc.	File: 3400-W005-322 Order: XG-W005-11-2004	Application dated 9 March; approved on 23 March. Rock revetment at Grewatsch Creek at km post 15.7 of the Laprise Pipeline north of Fort St. John, B.C.	75 000
	File: 3400-W005-320 Order: XG-W005-10-2004	Application dated 30 January; approved on 17 March. Decommissioning of Booster Station 12 at the Fort Nelson Gas Plant.	250 000

Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Enbridge Pipelines Inc.	File : 3400-E101-63 Order : XO-E101-02-2004	Application dated 20 February; approved on 24 March. Six projects.	936 900

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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Communications Team
National Energy Board
444 Seventh Avenue SW
Calgary, Alberta T2P 0X8
Telephone: (403) 292-4800
Telecopier: (403) 292-5503

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Équipe des communications
Office national de l'énergie
444, Septième Avenue S.-O.
Calgary (Alberta) T2P 0X8
Téléphone : (403) 292-4800
Télécopieur : (403) 292-5503

