



# Regulatory Agenda

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

## Energy Market Assessment – Canada’s Conventional Natural Gas Resources, A Status Report

On 15 April, the Board released a report on the current status of its estimates of ultimate potential for conventional natural gas in Canada. The report

is entitled *Canada’s Natural Gas Resources: A Status Report*.

## National Energy Board 2003 Annual Report

On 20 April, the Minister of Natural Resources Canada tabled in Parliament the Board’s 2003

Annual Report.

## National Energy Board Filing Manual

On 29 April, the Board released a new *Filing Manual* that provides guidance to companies preparing applications for review by the Board. This document replaces the *Guidelines for Filing*

*Requirements* (GFR), developed in 1995. Companies are expected to immediately begin using the *Filing Manual* in place of the GFR.

## Energy Market Assessment – The British Columbia Natural Gas Market: An Overview and Assessment

On 29 April, the Board released a report on the overview and assessment of the natural gas market in British Columbia. The report is entitled *The*

*British Columbia Natural Gas Market: An Overview and Assessment*.

**The above four documents are available on the Board’s Web site, [www.neb-one.gc.ca](http://www.neb-one.gc.ca), or by contacting the Board’s Publications**

**Office at (403) 299-3562 or 1-800-899-1265, or in the Board’s Library.**

### 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 Awareness Workshop 2004

The Board will be holding its fifth Public Awareness Workshop for Buried Pipelines at the Queen Elizabeth Hotel in Montréal, Quebec from 26 to 28 September. The Awareness Workshop is a forum for industry to share its best public awareness practices related to damage prevention and emergency response.

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.

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

## Public Hearing Applications

### Hearings Scheduled

#### 1. *TransCanada Pipelines Limited (TCPL) – 2004 Tolls – RH-2-2004 (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.

#### 2. *TransCanada Pipelines Limited (TCPL) – North Bay Junction – RH-3-2004 (File 4775-T001-12)*

The Board will hold a public hearing commencing on 9 August, in Montréal, Québec, on an application from TCPL for approval to establish a new receipt and delivery point and corresponding tolls for service at North Bay, Ontario.

On 14 November 2003, the Board identified a number of broader toll design issues that should be considered jointly with the North Bay Junction application. The Board then decided to stay the processing of the North Bay Junction application until such time as TCPL filed sufficient information to address the broader toll design issues.

On 31 March, TCPL updated its North Bay Junction application and applied for approval of the new receipt and delivery point, corresponding tolls and services, and to remove North Bay from the existing Northern Delivery Area.

### Hearing Suspended

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

The Board has suspended a public hearing that was scheduled to commence 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.

By letter dated 1 April, WEI informed the Board that it has reached an agreement in principle with certain groups and companies on the terms of a transmission toll settlement covering a two year period commencing 1 January 2004. In light of the settlement, WEI requested that the RH-1-2004 timetable of events and hearing schedule be suspended pending the filing of WEI's application for approval of the settlement.

The Board approved WEI's request and suspended the hearing schedule for RH-1-2004 pending filing of the settlement agreement.

# Non Hearing Applications

## Electricity Matters

### Matters Pending

**1. 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.

**2. Citadel Financial Products S.a.r.l. (Citadel) – Electricity Export (File 6200-C228-1)**

On 28 April, Citadel applied for permits to export up to 100 megawatts of firm and interruptible power and 876 gigawatt-hours of firm and 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 2003, 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 five 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. Shell Canada Limited (Shell) – Declaration of Commercial Discovery**

On 2 April, Shell applied for a Declaration of Commercial Discovery pursuant to section 35 of the *Canada Petroleum Resources Act* in respect of the Niglintgak H-30 well, SDL-019 and the following applied-for lands:

Latitude	Longitude	Sections
69° 20' N	135° 00' W	57, 58
69° 20' N	135° 15' W	7, 8, 9, 10, 19, 20, 29, 30, 40

On 8 April, the Board published a Notice to Potential Directly Affected Person(s) by the application seeking views and submissions on whether a person should be considered a Directly Affected Person.

**2. Devon Canada Corporation (Devon) - Beaufort Sea Exploration Drilling Program**

On 30 May 2002, Devon notified the Board of its proposal to conduct its Beaufort Sea Exploration Drilling Program. The proposal involves up to three bottom-founded drilling platforms for winter drilling in Devon's exploration licence area located in the landfast ice regime of the Beaufort Sea north and west of Tuktoyaktuk, Northwest Territories. Pending regulatory approvals, drilling operations would start in the winter of 2005/2006.

This proposal requires an environmental assessment in the form of a comprehensive study under the *Canadian Environmental Assessment Act* (CEAA) and an Environmental Impact Screening and Review under the Inuvialuit Final Agreement. The Board delegated the responsibility for conducting the comprehensive study and preparing a comprehensive study report (CSR) to Devon in accordance with the CEAA.

The Board has invited public comments on issues associated with the environmental assessment of Devon's Drilling Program. More information on this application is available on the Board's Web site under *Newsroom, News Releases*.

**3. Anadarko Canada Corporation's "Well Termination Record" for the well Arrowhead River K-35 was approved on 22 April pursuant to sub-section 203(1) of the *Canada Oil and Gas Drilling Regulations* (COGDR).**

**4. EnCana Corporation's "Well Termination Record" for the well Begadéh J-66 was approved on 22 April pursuant to sub-section 203(1) of the COGDR.**

## Gas Matter

### Matter Completed

1. *ProGas Limited (ProGas) – Amend a Gas Purchase Contract and Gas Export Licence GL-129 (File 7200-P038-5-2)*

On 29 April, the Board approved an application dated 7 January from ProGas for approval of an Amending Agreement with Northeast Energy Associates, A Limited Partnership (NEA) underpinning exports under Licence GL-129. The Amending Agreement consists of reducing the daily contract quantities. The Board also approved an application dated 12 April from ProGas to revoke and substitute condition 2 of Licence GL-129 to reflect volumes that are consistent with that of the associated gas purchase contract.

Under Licence GL-129, ProGas was authorized to export natural gas to serve two cogeneration plants, one operated by NEA and one operated by North Jersey Energy Associates, A Limited Partnership, and to meet a portion of Texas Eastern Transmission Corporation's system supply requirements. Over the years the contracted volumes have been adjusted between the two cogeneration plants in accordance with prevailing market condition. Today the underpinning contract provides for delivery solely to NEA.

## Pipeline Matters

### Matter 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 and the proposed in-service date is March 2005. The estimated cost of the Expansion is \$45.6 million.

## Traffic, Tolls and Tariffs Matters

### Matters Completed

1. *Enbridge Pipelines Inc. (Enbridge) – 2004 Final Tolls (File 4200-E101-5)*

On 1 April, the Board approved an application dated 19 March from Enbridge for approval of final tolls for the year 2004. The Board was satisfied that the proposed tolls are just and reasonable and consistent with the approved multi-year toll settlement.

2. *Foothills Pipe Lines Ltd. (Foothills) on behalf of Foothills Pipe Lines (Alta.) Ltd., Zones 6 and 7, Foothills Pipe Lines (South B.C.) Ltd., Zone 8 and Foothills Pipe Lines (Sask.) Ltd., Zone 9 - Year 2004 Operating and Maintenance Expense Budgets (File 4750-F006-1)*

On 22 April, the Board approved an application from Foothills, 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. The Board also approved an application dated 27 February from Foothills for a change to its accounting policy from capitalizing to fully expensing in-line inspection runs.

# Appeals and Reviews

## Appeals

### Appeal Completed

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

On 6 April, the Federal Court of Appeal dismissed TCPL's appeal of the Board's RH-R-1-2002 Decision issued on 20 February 2003. In the 20 February Decision, the Board dismissed TCPL's September 2002 application for a Review and Variance of the Board's June 2002 RH-4-2001 Decision on the company's Fair Return application.

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

### Appeal Pending

#### 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 2003, 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* (CEAA) 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 CEAA 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 2003, 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 comments from interested parties on whether a review should be conducted. The Board will conduct the review through a written process.

On 24 December 2003, 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**

### **Regulatory Initiative Pursuant to the National Energy Board Act**

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

On 14 November 2003, 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.

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*).

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

#### **2. 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*.

#### **3. 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*.

#### **4. 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**

#### **5. 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 Guidelines* in the February 2003 issue of the *Regulatory Agenda*.

# Administrative Matters

## R. Harrison – Re-appointment

Mr. Rowland Harrison has been re-appointed as a Board Member for a further term of seven years. Mr. Harrison was first appointed to the Board in 1997. Since that time, he has handled some of our most difficult cases at the Board and has developed a reputation for his thorough understanding of energy issues and administrative law.

Prior to joining the Board in 1997, Mr. Harrison had a diversified career which included: teaching Law at various Canadian universities; holding senior management positions with a number of organizations including the Canada Oil and Gas Lands Administration, the Canadian Institute of Resources Law, the Institute for Research on Public Policy and the Dalhousie Institute of Environmental Studies; and practicing law as a partner in the Calgary office of Stikeman Elliott, a national and international Canadian law firm.

## 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 Oil Sands: Opportunities and Challenges to 2015 (to be published in May)*

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.

### 2. *Looking Ahead to 2010 - Natural Gas Markets in Transition (to be published in July)*

The report will summarize the Board's findings following a series of Roundtable discussions held

in February. 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 - Telecopier: (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)

### Internet 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  
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# Appendix I

## Section 58 Applications

### Gas Pipelines

Applicant	File/Order	Application	Est. Cost
County of Vermilion River No. 24 Gas Utility	File: 3400-V008-1 Order: XG-V008-16-2004	Application dated 5 September 2002; approved on 13 April. Construct a service line that will tie in to an operating service line that originates in LSD 16-1-52-1W4 across the Alberta/Saskatchewan border to LSD 1-12-52-1W3.	1 500
	File: 3400-V008-1 Order: XG-V008-17-2004	Application dated 5 September 2002; approved on 13 April. Construct a new service line at SW 12-52-28-W3M.	2 500
TransCanada PipeLines Limited	File: 3400-T001-229 Order: XG-T001-19-2004	Application dated 3 March; approved on 20 April. Replace 2.1km of pipeline in the City of Vaughan, Ontario.	2 897 000
Westcoast Energy Inc.	File: 3400-W005-324 Order: XG-W005-18-2004	Application dated 11 March; approved on 15 April. Upgrade pipe casings on the Sahtaneh and Yoyo pipelines and replace corrosion inhibitor storage tanks on the Yoyo pigging facility.	180 000
	File: 3400-W005-323 Order: XG-W005-20-2004	Application dated 11 March; approved on 26 April. Construct a meter station near Fort St. John, B.C.	460 000
806026 Alberta Ltd., a wholly owned subsidiary of Duke Energy Midstream Services Canada Ltd.	File: 3400-Z007-3 Order: XG-Z007-15-2004	Application dated 9 March; approved on 14 April. Tie-in installation on the West Doe Pipeline north of Dawson Creek, B.C.	79 000

### Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Terasen Pipelines (Trans Mountain) Inc.	File: 3400-T099-7 Order: XG-T099-04-2004	Application dated 5 January; approved on 29 April. Capacity upgrade program.	17 000 000
Trans-Northern Pipelines Inc.	File: 3400-T002-60 Order: XO-T002-04-2004	Application dated 25 March; approved on 28 April. Pipeline replacements in Clarington, Oshawa, Whitby, Ajax and Pickering, Ontario.	900 000



## 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 interprovincial and designated 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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