



Regulatory Agenda

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

Public Hearing Applications

Hearing Completed

1. *TransCanada PipeLines Limited (TCPL) – North Bay Junction – RH-3-2004 (File 4775-T001-12)*

The Board held a public hearing from 16 August to 10 September 2004 in Montréal, Quebec and Calgary, Alberta on an application from TCPL for approval to establish a new receipt and delivery point at North Bay, Ontario, corresponding tolls and services, and to remove North Bay from the existing Northern Delivery Area.

Hearing Scheduled

1. *TransCanada PipeLines Limited (TCPL) – 2004 Tolls – Phase II - RH-2-2004 (File 4200-T001-19)*

The Board will hold Phase II of a public hearing, commencing on 29 November 2004 in Calgary, Alberta, 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 II of the hearing will deal with cost of capital matters.

Phase I of the hearing was held from 14 to 25 June 2004 in Ottawa, Ontario and the Reasons for Decision were issued on 10 September 2004. During Phase I, the Board considered all issues raised by the 2004 Tolls Application, with the exception of cost of capital.

Hearing Application Filed

1. *Imperial Oil Resources Ventures Limited, Aboriginal Pipeline Group, ConocoPhillips (North) Limited, Shell Canada Limited and ExxonMobil Canada Properties – Mackenzie Gas Project (Files 200-J205-1, 2520-C-19-4, 2620-C-19-7, 2620-C-12-7 and 2620-C-20-7)*

On 7 October 2004, Imperial, on behalf of the above-noted companies, applied for approval to construct and operate a natural gas pipeline and related facilities through the Mackenzie Valley in Canada's Northwest Territories (NWT) to an interconnect point just south of the border with Alberta.

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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The Mackenzie Gas Project would be anchored by three onshore natural gas fields known as Taglu, Parsons Lake and Niglintgak, operated by Imperial, ConocoPhillips, and Shell, respectively. Imperial also applied for approval to construct and operate a 176 kilometre (109 mile) gas gathering system to collect the gas from the three fields and deliver it to a processing facility near Inuvik. At the processing facility, natural gas liquids would be separated out. The natural gas would enter the proposed 1 220 kilometre (758 mile) pipeline and the liquids would enter a smaller, parallel pipeline of approximately 475 kilometres (295 miles) that would connect to the Enbridge Pipelines (NW) Inc. pipeline at Norman Wells.

The 762 millimetre (30 inch) natural gas transmission pipeline is planned to transport 34 million cubic metres (1.2 billion cubic feet) per day. The capital cost of the Mackenzie Gas Project is estimated at over \$7 billion. It is planned to be in operation by 2009.

The Environmental Impact Assessment for the Mackenzie Gas Project is being reviewed by the Joint Review Panel. The NEB is coordinating its regulatory review of Imperial's applications with that of the Joint Review Panel in accordance with the *Cooperation Plan for the Assessment and Regulatory Review of a Northern Gas Pipeline Project through the NWT*, dated June 2002.

The Joint Review Panel for the Mackenzie Gas Project, the Northern Gas Project Secretariat and the National Energy Board will be conducting public information sessions at the following locations:

- Inuvik: Monday, 15 November 2004
- Norman Wells: Tuesday, 16 November 2004
- Yellowknife: Wednesday, 17 November 2004.

The Northern Gas Project Secretariat will give an overview of the review process. The staff of the Joint Review Panel will give a presentation on the environmental assessment process of the project, and the staff of the National Energy Board will give a presentation on its regulatory review process. Staff will not be able to discuss the specific details of the project, as that will be the subject of the public hearings.

Project Description Filed

1. *Gaz Métro Limited Partnership, Gaz de France and Enbridge Inc. (Proponents) – Rabaska Liquefied Natural Gas (LNG) Project (File 3200-G070-1)*

On 11 August 2004, the public was invited to comment on the draft environmental assessment scoping document that the Proponents filed to construct a liquefied natural gas (LNG) terminal in the Ville Guay/Beaumont area, located at the limits of the cities of Lévis and Beaumont, Quebec. The project is known as the Rabaska Project.

The Rabaska Project is subject to the federal environmental assessment process pursuant to the *Canadian Environmental Assessment Act*. The National Energy Board, the Department of Fisheries and Oceans Canada, and Transport Canada are responsible authorities (RAs) for the Rabaska Project and will ensure that an environmental assessment is undertaken.

On 27 October 2004, the Board, on behalf of the RAs, submitted the *Environmental Assessment Track Decision Report* to the Minister of the Environment. The RAs recommended that the Rabaska Project be undertaken by means of a panel review.

The proposed LNG terminal, which would be capable of delivering 14.2 million cubic metres per day of vaporized gas, would be constructed in Ville Guay/Beaumont, Quebec. LNG taken from various places in the Atlantic basin would be delivered to the proposed terminal by means of about 60 LNG tankers per year. The proposed jetty would be able to accommodate LNG tankers ranging between 138 000 to 160 000 cubic metres in capacity. A pipeline of approximately 50 kilometres from the proposed terminal would have to be constructed to connect to Trans Québec & Maritimes Inc.'s facilities in Saint Nicolas, Quebec. Construction of the facilities is proposed for 2006 to 2008.

Non Hearing Applications

Electricity Matters

Matters Pending

1. *ALLETE, Inc. d/b/a Minnesota Power (MP) – Electricity Export (File 6200-A172-1)*

On 10 June 2004, MP applied for permits to export up to 200 megawatts of firm power and up to 600 gigawatt-hours of combined firm and interruptible energy per year for a period of 10 years.

2. *Manitoba Hydro – Electricity Export (File 6200-M020-15)*

On 30 June 2004, Manitoba Hydro applied for permits to export up to 3 000 kilowatts of firm power and 26 352 megawatt-hours of firm energy per year for a period of five years.

3. *Rainbow Energy Marketing Corporation (Rainbow) – Electricity Export (File 6200-R043-1)*

On 24 September 2004, Rainbow applied for permits to export up to 1 250 megawatts of combined firm and interruptible power and 3 000 gigawatt-hours of combined firm and interruptible energy per year for a period of 10 years.

Frontier Matters

1. *Shell Canada Limited (Shell) - Application dated April 2004 for Declaration of Commercial Discovery*

On 3 November 2004, the Board issued to Shell 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* for the Niglintgak Gas Field with respect to those frontier lands in the Niglintgak area, Northwest Territories comprising grid areas:

Latitude	Longitude	Sections
69° 20'	135° 00' W	57, 58
68° 20'	135° 15' W	7-9, 18-20, 29, 30, 40
69° 30'	135° 15' W	21, 31
69° 20'	135° 15' W	17, 28, 39
69° 30'	135° 15' W	41

Pipeline Matter

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.

Traffic, Tolls and Tariffs Matters

Matters Completed

1. *Coral Canada Energy Inc. (Coral) – Service on Foothills Pipe Lines Ltd.'s (Foothills) System (File 4775-F006-1-1)*

On 21 October 2004, the Board denied an application from Coral dated 28 September 2004 for an Order of the Board to require Foothills to receive, transport and deliver two blocks of short-term firm service, both commencing on 1 November 2004 and terminating on 1 April and 1 May 2005 respectively.

The Board was not persuaded in this instance that the public interest would be served by granting an order. The Board found that although Foothills' Tariff does not specifically state its firm T-1 Service cannot be provided for periods of less than one year, it is apparent that Foothills' past practice has been consistent with its current position in that it has not provided a short term firm service. In addition, the Board noted that Foothills has continued to meet its shippers' short term requirements by providing access to all of its spare capacity through its interruptible Tier 1 and Tier 2 services.

It was the Board's view that the public interest would be better served by the consultative process outlined by Foothills including its intention to file an application on or before 15 December 2004 for approval of a short term firm service to be effective 1 January 2005. Shippers' concerns could then be fully addressed and a separate and discrete short term firm service, setting out the specifics of such a service, could be considered.

2. *Foothills Pipe Lines Ltd. (Foothills) – Tolls and Tariff Amendments (File 4200-F006-7 and 4400-F006-12)*

On 28 October 2004, the Board approved an application dated 30 September 2004 from Foothills for approval of certain modifications to the existing tolling methodology for fixing tolls and associated amendments to the Gas Transportation Tariff – Phase 1 as well as a number of other requests.

3. *Terasen Pipeline (Trans Mountain) Inc. (Terasen) – Interim Tolls (File 4775-T099)*

On 15 October 2004, the Board approved an application dated 28 September 2004 from Terasen for approval to make the current tolls interim effective 1 October 2004. Terasen will be filing an application for final tolls at a later date.

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

On 29 October 2004, the Board approved an application dated 26 October 2004 from TNPI for new final tolls for the period 1 November to 31 December 2004.

Matter under Review

5. *Westcoast Energy Inc. (WEI) – Southern Mainline Expansion Project (File 4775-W005-1-16)*

On 16 September 2004, WEI applied for authorization to recover certain costs associated with the Southern Mainline Expansion Project approved by the Board in the GH-1-2002 Reasons for Decision dated 28 January. On 4 October 2004, the Board decided to seek comments from interested parties on the application.

Appeal

Appeal Pending

1. *Sumas Energy 2, Inc. (SE2) – Application for Leave to Appeal a Board Decision*

SE2 applied to the Federal Court of Appeal for leave to appeal the Board's 4 March 2004 decision in which it denied an application from SE2 to

construct the Canadian portion of an 8.5 kilometre international power line originating at the Canada/United States international boundary near Sumas, Washington and running to a BC Hydro substation in Abbotsford, British Columbia.

On 16 July 2004, the Court granted SE2's application to appeal the Board's decision.

Amendments to Regulations

Regulatory Initiatives Pursuant to the National Energy Board Act

1. *Cost Recovery Regulations – Electricity – Review (File 175-A000-72-2)*

The Board has decided to undertake a review of the *National Energy Board Cost Recovery Regulations* as they relate to the allocation of costs within the electricity industry. This decision was made following a request from some of the stakeholders.

As part of the review, the Board will hold an all-day workshop on 9 December 2004 in Calgary, Alberta.

2. *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 contained 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.

The Board intends to replace the existing *Pipeline Crossing Regulations, Part II* with regulations targeted at damage prevention (to be known as the Damage Prevention Regulations).

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

Appointments

David Hamilton

On 18 October 2004, Mr. David Hamilton was appointed temporary member of the Board for a term of two years for the purpose of matters related to the Mackenzie Gas Pipeline project.

Mr. Hamilton was appointed Clerk of the Legislative Assembly of the Northwest Territories in 1983 and served in that capacity for 20 years. He was also appointed Chief Electoral Officer for the Northwest Territories. Mr. Hamilton has been involved in the electoral process in Canada for over 30 years. Born in Aberdeen, Scotland, Mr. Hamilton came to Canada in 1970 where he began a long and challenging career working in Canada's North. Mr. Hamilton's over 33 years working in the North have been dedicated to the development of people and communities through both the parliamentary and democratic processes.

Mr. Hamilton holds a Masters of Arts in Leadership and Training from Royal Roads University, Victoria, British Columbia. Mr. Hamilton brings with him many diverse strengths and experience which will prove to be a great asset to the Board.

Jean-Paul Théorêt

On 20 October 2004, Mr. Théorêt was appointed Chairman of the Régie de l'énergie du Québec. Mr. Théorêt was appointed member of the NEB in 1999 and was designated Vice-Chairman in 2002.

Performance Report 2003-2004

On 28 October 2004, the Board's Performance Report 2003-2004 was tabled in the House of Commons. A copy of the report is available on the Treasury Board of Canada Secretariat Web site at http://www.tbs-sct.gc.ca/rma/dpr/03-04/NEB-ONE/NEB-ONEd34_e.asp.

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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Appendix I

Section 58 Applications

Gas Pipelines

Applicant	File/Order	Application	Est. Cost
TransCanada PipeLines Limited	File: 3400-T001-232 Order: XG-T001-39-2004	Application dated 22 July 2004; approved on 4 October 2004. Cathodic Protection Program No. 3 in Manitoba and Ontario.	895 000
	File : 3400-T001-235 Order : XG-T001-41-2004	Application dated 16 September 2004; approved on 15 October 2004. Upgrade the pipeline at four sites near Ile des Chênes, Manitoba.	1 037 750
Westcoast Energy Inc.	File: 3400-W005-335 Order: XG-W005-40-2003	Application dated 16 September 2004; approved on 7 October 2004. Revetment at Juliet Creek in BC.	45 000

Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Enbridge Pipelines Inc.	File: 3400-E101-69 Order: XO-E101-22-2004	Application dated 3 September 2004; approved on 14 October 2004. Remove 3.2 kilometres of pipeline in Canmore, Alberta.	400 000

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 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 and Skills Development Canada to administer Part II of the *Canada Labour Code*.

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