



# Regulatory Agenda

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

## 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 2004. 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 registration forms or to register on line, visit our Web site at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) under *Safety and Environment, Awareness*. For further information on the Workshop, please contact Stella Hiebert ([shiebert@neb-one.gc.ca](mailto:shiebert@neb-one.gc.ca)), Awareness 2004 Project Administrator or call (403) 299-2787 or call toll free: 1-800-899-1265.

## NEB and U.S. Federal Energy Regulatory Commission Memorandum of Understanding

On 10 May 2004, the Board and the Federal Energy Regulatory Commission (FERC) signed a Memorandum of Understanding (MOU) to enhance interagency coordination.

The Board's Chairman and FERC's Chairman signed the MOU in Halifax, Nova Scotia where they were attending the annual conference of the Canadian Association of Members of Public Utility Tribunals.

Recognizing that the two agencies oversee interconnecting facilities or activities, the MOU will assist both parties in coordinating their responsibilities. It is another step in Canada's commitment to smart regulation and the development of regulatory strategies that protect the health and safety of Canadians and of the environment, while contributing to economic efficiency.

### 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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# Canada's Oil Sands, an Energy Market Assessment

On 27 May 2004, the Board released an Energy Market Assessment report entitled *Canada's Oil Sands: Opportunities and Challenges to 2015*. The report provides an update on the supply and demand aspects of an Energy Market Assessment prepared in 2000 entitled *Canada's*

*Oil Sands: A Supply and Market Outlook to 2015* and provides a comprehensive assessment of the key opportunities and issues facing the oil sands. A copy of the report is available on the Board's Web site at [www.neb-one.gc.ca](http://www.neb-one.gc.ca).

## 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 2004 in Ottawa, Ontario. Phase II of the hearing will commence on 25 October 2004 in Calgary, Alberta.

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

The Board will hold a public hearing commencing on 9 August 2004, in Montréal, Quebec, 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 Suspended

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

The Board has suspended a public hearing that was scheduled to commence on 17 May 2004 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.

On 1 April 2004, 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

### Matter Completed

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

On 7 May 2004, the Board approved an application dated 27 February 2004 from SESCO for permits to export up to 200 megawatts of firm power and 600 gigawatt-hours of firm and interruptible energy per year for a period of five years.

### Matters Pending

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

On 19 March 2004, BOC applied for permits to export up to 4 380 gigawatt-hours of combined firm and interruptible energy per year for a period of 10 years.

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

On 28 April 2004, 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.

4. *MAG ENERGY SOLUTIONS Inc. (MAG) – Electricity Export (File 6200-M144-1)*

On 11 May 2004, MAG applied for permits to export up to 500 megawatts of combined firm and interruptible power and 4 380 gigawatt-hours of combined firm and interruptible energy per year for a period of 10 years.

5. *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 power and energy per year for a period of 10 years.

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

On 25 March 2004, WPS applied for permits to export up to 1 800 gigawatt-hours of interruptible energy per year for a period of five years.

## Frontier Matters

1. *Paramount Resources Ltd.’s “Well Termination Record” for the well Cameron O-19 was approved on 12 May 2004 pursuant to the Canada Oil and Gas Drilling Regulations (GOGDR).*
2. *Chevron Canada Resources was given approval on 12 May 2004 to alter the condition of a well for the well Liard 2M-25 pursuant to the COGDR.*

## 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.

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

On 11 May 2004, the Board approved an application dated 23 December 2003 from Express to construct three intermediate pump stations and two barrel tanks. Express also proposed the change-out of impellers at existing pump stations.

The expansion will 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, will be sized at 24 000 cubic metres (150 000 barrels). The pump stations will be located at Station 2 (Ribstone Creek), Station 4 (Jenner) and Station 6 (Peace Butte). Express proposed 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.

## Security Matter

### 1. Pipeline Security Management Assessments (File 3000-A000-24)

The events of 11 September 2001, combined with terrorist activity worldwide and recent threats directed at Canada, have prompted the Government of Canada and the Board to take a prudent and expedient approach in addressing the security of Canada's energy infrastructure.

On 6 May 2004, the *Public Safety Act* received Royal Assent. Once proclaimed, this act will amend the *National Energy Board Act* to explicitly include "security" within the Board's mandate and provide the Board with a clear statutory basis for regulating security of energy infrastructure under its jurisdiction.

In this regard, the Board intends to conduct Pipeline Security Management Assessments

(PSMAs) on all Group 1 companies and two Group 2 companies within the next 12 months to gain a better understanding of how Board regulated companies are managing pipeline security, to establish a baseline of current security management programs, and to assist the Board in the development and implementation of security management regulations and guidance, and security related regulatory initiatives. The information obtained by the Board will be kept confidential under the provisions of sections 16 and 17 of the *Access to Information Act*.

These PSMAs will focus on management systems as they pertain to security of companies' operations. This focus will allow regulated companies to retain flexibility in how they manage security while meeting the Board's goals. The Board assessment team will verify applicability, effectiveness and implementation of the programs through selected site visits.

## Appeal and Reviews

### Appeal

#### Appeal Pending

### 1. 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 3.

### Reviews

#### Reviews 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 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.

### 3. 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 2004, the Board granted a request from NGSC to review, grounds (b) and (c) below, a previous WEI tolls decision. On 15 January 2004, 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 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 and Guidelines**

### **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 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*).

### **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 the 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 Report

*Looking Ahead to 2010 - Natural Gas Markets in Transition (to be published in July 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](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  
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# Appendix I

## Section 58 Applications

### Gas Pipelines

Applicant	File/Order	Application	Est. Cost
TransCanada PipeLines Limited	File: 3400-T001-231 Order: XG-T001-22-2004	Application dated 28 April 2004; approved on 12 May 2004. Contaminant sampling and remediation program.	440 000
Westcoast Energy Inc.	File: 3400-W005-325 Order: XG-W005-21-2004	Application dated 16 March 2004; approved on 6 May 2004. Class upgrade of pipelines on the Skeetchestn Reserve south of Savona, B.C.	2 054 000
	File: 3400-W005-326 Order: XC-W005-01-2004	Application dated 29 March 2004; approved on 21 May 2004. Sulphur pipeline preventative maintenance projects.	200 000

### Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Berens Energy Ltd.	Files: 3400-B071-1 and 3400-R042-2 Order: AO-1-XO-R042-02-2003	Application dated 6 April 2004; approved on 13 May 2004. Amend Order XO-R042-2-2003 to change the name of the holder from Resolution Resources Ltd. to Berens Energy Ltd.	N/A
Enbridge Pipelines Inc.	File: 3400-E101-64 Order: XO-E101-06-2004	Application dated 16 April 2004; approved on 10 May 2004. Install a pipeline interface detector at KP 691.657.	630 000
	File: 3400-E101-65 Order: XO-E101-09-2004	Application dated 27 April 2004; approved on 27 May 2004. Replace and dismantle switchgears at the Edmonton and Regina Terminals.	4 820 900
Express Pipeline Ltd.	File: 3400-E092-7 Order: XO-E092-07-2004	Application dated 23 December 2003; approved on 11 May 2004. Capacity expansion.	45 600 000
Trans-Northern Pipelines Inc.	File: 3400-T002-62 Order: XG-T002-08-2004	Application dated 29 April 2004; approved on 20 May 2004. Pipeline replacements in the Municipality of Clarington and the Townships of Cramahe, Haldimand and Hamilton, Ontario.	1 250 000

## 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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