



Electricity

January 1998

Synopsis

This bulletin describes the Board's responsibilities with respect to the regulation of electricity in Canada.

THE BOARD

The National Energy Board is an independent regulatory tribunal that was created by the Parliament of Canada in 1959. Its powers and jurisdiction are based on the *National Energy Board Act*, the *Canada Oil and Gas Operations Act* and certain provisions of the *Canada Petroleum Resources Act*. The purpose of the Board is to make decisions that are fair, objective, and respected. The Board achieves this purpose by regulating in the Canadian public interest certain areas of the oil, gas, and electric utility industries. Copies of the Acts are available from the Board and from the Canada Communications Group, Public Works and Government Services Canada, 45 Sacré-Coeur Blvd., Hull, Quebec, K1A 0S7.

PUBLICATIONS

This information bulletin is one of a series that the Board publishes on its activities and procedures. Comments on this bulletin or suggestions for future topics are welcome. These bulletins provide general information only. For details of particular items, reference must be made to the relevant legislation. The *National Energy Board Act* and the regulations will prevail in the case of a conflict with information contained in this bulletin.

BULLETINS IN THIS SERIES

1. Pipeline Route Approval Procedure



Introduction

The National Energy Board (the NEB or the Board) is an independent federal regulatory agency with jurisdiction over the export of electricity from Canada and over the construction and operation of international power lines (IPLs). The Board does not have jurisdiction over interprovincial transfers of electricity, imports of electricity into Canada, or over interprovincial power lines unless the line is designated as an interprovincial power line falling under federal jurisdiction by a decision of the federal cabinet.

According to the *National Energy Board Act* (NEB Act) the Board shall issue, upon application, without a public hearing, a permit authorizing the export of electricity or the construction and operation of IPLs unless the Governor in Council (federal cabinet), upon recommendation of the Board, designates a proposed export or an IPL for a licensing or a certificate procedure.

Written comments are received by the Board in advance to decide whether an application should be recommended to the Governor in Council for licensing

or certificating procedures. If a recommendation is made by the Board, and is accepted by the Governor in Council, the application would be processed through a public hearing. If the Board makes no recommendation, a permit to construct and operate the international power line or export electricity would be issued. If within 45 days, the Governor in Council has considered the permit and decided that a public hearing would be appropriate, the permit will be revoked and a hearing will then be held, following which the NEB may issue a licence or certificate.

In determining whether to make a recommendation to the Governor in Council, the Board attempts to avoid the duplication of measures taken by the applicant and the government of the province from which the electricity is to be exported, or through which a line is to pass. The Board will examine the application according to the NEB Act, Board regulations, and other relevant considerations, including any comments submitted by interested parties.

Application Process

Notification Procedures

All applicants are required to publish a Notice of Application and Directions on Procedure (NOA/DOP), in both official languages, in the *Canada Gazette, Part I* when filing an application for either electricity exports or power lines with the Board. Examples of the Notice are included in the Board's 2 April 1997 *Memorandum of Guidance to Interested Parties Concerning Full Implementation of the September 1988 Canadian Electricity Policy* (MOG).

In addition, parties applying for authorization to construct and operate a power line must comply with Part II of the Board's 22 February 1995 *Guidelines for Filing Requirements* concerning early public notification. For applications to construct a power line of over 50 kilovolts (kV), applicants must serve their application on each directly interconnected Canadian electricity transmission owner and publish the NOA/DOP in both the

Canada Gazette, Part I and appropriate newspapers. For applications under 50 kV, applicants must still publish the NOA/DOP as above, but are not required to serve the application on directly interconnected Canadian transmission owners.

In addition, export applicants or their affiliates with service areas and/or who own generation facilities, must serve a copy of the application on directly interconnected Canadian utilities and on each utility from which exports are proposed. Applicants must also publish the NOA/DOP in English and French newspapers in the service area(s) from which the proposed exports may originate.

Exemptions or any variation from publishing requirements may be granted by requesting relief from the Board prior to filing the application. The request for exemption must include a proposed publication alternative.

Notice Of Application and Directions on Procedure

In general, the NOA/DOP briefly describes the application and how interested parties may become involved in the application process. It describes how to obtain a copy of the application, how submissions are to be made, and what issues the Board will be considering.

Processing Procedures

Following publication of the NOA/DOP, verification by the Board of all required information, and after the 30-day period allowing for comments, the Board will either:

- issue a permit if no submissions are received from interested parties and if the application conforms with the NEB Act and regulations; or,

- if submissions are received, allow a further 15 days for the applicant to respond and then a further ten days for the interested parties to reply.

Following the time allowed for filing responses, the Board, after examining the application, submissions and responses, will either issue a permit or make a recommendation to Governor in Council for designation of the application. Designation will result in a licensing or certificate procedure.

Submissions

Persons wishing to make submissions regarding the imposition of permit terms or conditions, or a recommendation requesting designation for licensing/certification procedures, must provide supporting information as part of their submission. All concerns should be raised in the initial submission. However, interested parties have the final right of reply in permit applications.

Types of Applications

Exports

Information requirements for all types of export applications are detailed in section 9 of the Board's 19 March 1997 *Electricity Regulations* except in the case of a Border Accommodation. A Border Accommodation is the transfer of electricity for the purpose of providing service to a person in a foreign country who lacks ready access to a power system in that country, or to an international work (ie. bridge, tunnel etc.), or for emergency purposes. For details on the information applicants are required to furnish for this type of export application refer to section 8 of the *Electricity Regulations*.

For export applications the Board shall consider, among other things:

- the effect on provinces other than the one from which the electricity is to be exported;
- the impact of the exportation on the environment; and

- whether the applicant has:
 - (i) informed those with a declared interest in buying electricity for consumption in Canada of the quantities and classes of service available for sale; and,
 - (ii) given an opportunity to purchase electricity on terms and conditions as favourable as those specified in the application to those who, within a reasonable time of being informed, demonstrate an intention to buy electricity for consumption in Canada.

(The process in (i) and (ii) is referred to as providing Fair Market Access)

- such considerations as may be specified in the Board's *Electricity Regulations*.

The 2 April 1997 MOG and the *Electricity Regulations* may be obtained by contacting the Board.

Terms and Conditions

The Board may include terms and conditions in a permit. For exports, details can be found in section 10 of the *Electricity Regulations*.

Construction and Operation of International Power Lines

The information an applicant is required to provide for an authorization to construct and operate a power line under 50 kV is detailed in section 4, or for over 50 kV in section 5, of the *Electricity Regulations*.

When considering an application to construct and operate an international power line the Board considers, among other things:

- the effect of the power line on provinces other than those through which the line is to pass;
- the impact of the construction or operation of the power line on the environment;
- such considerations as may be specified in the *Electricity Regulations*.

With respect to environmental considerations, the Board has obligations under the *Canadian Environmental Assessment Act* which have been incorporated into the *Electricity Regulations*. For more information on the Board's environmental responsibilities refer to Information Bulletin # 9, *Protection of the Environment*.

Terms and Conditions

The Board may include various terms and conditions in a permit. For power lines, details can be found in section 6 of the *Electricity Regulations*.

Certificate or Licence Terms and Conditions

The Board may make a certificate or licence subject to such terms and conditions as the Board may impose.

Detailed Routing of International Power Lines

Applicants who wish to have the detailed routing and land acquisition procedures of the NEB Act apply to an existing or proposed power line are required to file

an election in the form set out in the Schedule to the *Electricity Regulations*.

Power Line Crossing Regulations

Leave of the Board to construct a facility across, on, along or under a power line is not necessary providing technical standards are met, written permission from landowners and facility owners is obtained, and a written procedure for the work has been agreed upon. The Board will resolve disputes between involved parties where they cannot reach agreement among themselves.

Monitoring and Surveillance

The Board monitors export licences and permits to ensure that all terms and conditions set out in them have been met.

Publications

The Board publishes a monthly report titled *Electricity Exports and Imports*. It is available on the Board's Web site or by mail upon request. The report publishes exports by province and identifies the exporter and export authorization, as well as the U.S. state to which the energy was delivered. Imports of electricity, although not regulated by the Board, are shown by province, importer and U.S. state of origin. Both the energy and revenue are shown in this report.

Conclusion

This information bulletin provides a brief summary of how the Board carries out its electricity regulatory responsibilities. For further information, please contact the Board at:

444 Seventh Avenue S.W.
Calgary, Alberta T2P 0X8
Phone: (403) 292-4800
Fax: (403) 292-5503
Web site: <http://www.neb.gc.ca>

To order Board publications:
E-mail: orders@neb.gc.ca
Fax: (403) 292-5503
Phone: (403)299-3562