



Regulatory Agenda

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

Short-term Canadian Natural Gas Deliverability 2004-2006

On 25 November 2004, the Board issued an Energy Market Assessment entitled *Short-term Canadian Natural Gas Deliverability 2004-2006*. The objective of the report is to provide an outlook of

natural gas deliverability from the Western Canada Sedimentary Basin and east coast offshore through to the end of 2006.

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 in Progress

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

The Board is holding Phase II of a public hearing which commenced 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 deals with cost of capital matters.

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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Hearing Application Filed

1. *Imperial Oil Resources Ventures Limited, Mackenzie Valley Aboriginal Pipeline Limited Partnership, ConocoPhillips (North) Limited, Shell Canada Limited and ExxonMobil Canada Properties – Mackenzie Gas Project (Files 3200-J205-1, 2520-C-19-4, 2620-C-19-7, 2620-C-12-7 and 2620-C-20-7)*

On 24 November 2004, the Board scheduled for public hearing five applications from Imperial Oil Resources Ventures Limited and other applicants for the Mackenzie Gas Project in Northern Canada. The proponents of the Mackenzie Gas Project are Imperial Oil Resources Ventures Limited, Mackenzie Valley Aboriginal Pipeline Limited Partnership, Imperial Oil Resources Limited, ConocoPhillips Canada (North) Limited, ExxonMobil Canada Properties and Shell Canada Limited.

The hearing will obtain evidence, including traditional knowledge, and views of interested persons with respect to the Mackenzie Gas Project. The Board's hearing process will be coordinated with the Environmental Impact Review of the Mackenzie Gas Project by the Joint Review Panel contemplated by the *Cooperation Plan for the Environmental Impact Assessment and Regulatory Review of a Northern Gas Pipeline Project through the Northwest Territories*, dated June 2002.

The deadline for filing applications for intervenor status is 21 December 2004. The Board will announce at a later time the dates and locations of its public hearing.

The Mackenzie Gas Project includes a 1 220 kilometre (758 mile) pipeline to transport natural gas to a point of interconnection with the NOVA Gas Transmission Ltd. system in northern Alberta, a 480 kilometre (298 mile) pipeline to transport natural gas liquids to a point of interconnection with the Enbridge Pipelines (NW) Inc. Norman Wells Pipeline at Norman Wells, N.W.T., three onshore natural gas fields known as Taglu, Parsons Lake and Niglintgak, a gathering system to transport production from the three fields, and a processing facility in the Inuvik, N.W.T. area where natural gas liquids would be separated from the natural gas for shipping. Other related facilities include compressor stations at Little Chicago, Norman Wells, Blackwater River and Trail River, N.W.T. and a heater station at Trout River, N.W.T.

The Joint Review Panel for the Mackenzie Gas Project, the Northern Gas Project Secretariat and the National Energy Board held public information sessions in November 2004 in Inuvik, Norman Wells, Yellowknife and Fort Simpson.

Non Hearing Applications

Electricity Matters

Matters Completed

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

On 3 November 2004, the Board approved an application dated 30 June 2004 from Manitoba Hydro for a permit to export up to 3 000 kilowatts of firm power and 26 352 megawatt-hours of firm energy per year for the period 1 December 2004 to 30 September 2009.

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

On 23 November 2004, the Board approved an application dated 24 September 2004 from Rainbow for permits to export up to 1 000 megawatts of firm power and 4 380 gigawatt-hours of combined firm and interruptible energy per year for a period of 10 years.

Matter Pending

3. *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.

Frontier Matters

1. *Paramount Resources Ltd. (Paramount) - Application dated 28 March 2003 for Significant Discovery Declaration*

On 25 November 2004, the Board issued a declaration of “Significant Discovery” to Paramount 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 those frontier lands in the Mount Coty area, N.W.T. comprising grid areas:

| Latitude | Longitude | Sections |
|-----------|------------|-----------------|
| 60° 20' N | 123° 15' W | 71, 72, 73 |
| 60° 20' N | 123° 30' W | 2, 3, 4, 13, 14 |

2. *Chevron Canada Resources (Chevron) – Drilling*

Chevron was given approval on 26 November 2004 to drill wells Olivier H-01 and Olivier 2H-01 pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations*.

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. *Rate of Return on Common Equity (ROE) for 2005 (File 4750-A000-11)*

On 25 November 2004, the Board approved, pursuant to the ROE adjustment mechanism approved in the Multi-Pipeline Cost of Capital Decision (RH-2-94), as amended, a ROE of 9.46 per cent for the year 2005. The ROE for 2004 was 9.56 per cent.

2. *Westcoast Energy Inc. (WEI) – Interim Tolls for 2005 (File 4400-W005-12)*

On 29 November 2004, the Board approved an application dated 22 November 2004 from WEI for interim tolls effective 1 January 2005 for transmission service in Zones 3 and 4.

3. *TransCanada PipeLines Limited (TCPL) – Toll Task Force Resolution 03-2004 (File 4775-T001-1/04-3)*

On 23 November 2004, the Board approved an application dated 15 November 2004 from TCPL for approval of the Toll Task Force Resolution 03-2004 for amendments to the Mainline Tariff – General Terms and Conditions, Transportation Access Procedures, Firm Transportation Service – Toll Schedule and Non Renewable Firm Transportation Service Toll Schedule.

Matters Under Review

4. *TransCanada Pipelines Limited, B.C. System (TCPL) – Final Tolls for 2004 (File 3400-T054-2004-1)*

On 27 October 2004, TCPL requested that the Board order that the 2004 interim rates authorized by Order TGI-10-2003 for the B.C. System are final tolls. On 2 November 2004, the Board decided to seek the views of interested parties on the application.

On 22 November 2004, the Board informed TCPL that it had decided to postpone its decision on the application pending the disposition of the Canadian Association of Petroleum Producers' application for review of the Board's RH-2-2004 Phase I Decision (see item 1 under *Appeal and Review, Review Pending* below).

5. *TransCanada PipeLines Limited (TCPL) – Interim Tolls for 2005 (File 4400-T001-25)*

On 22 November 2004, TCPL applied for approval of interim tolls effective 1 January 2005. TCPL is currently operating under 2004 interim tolls approved by the Board on 23 July 2004, effective

for the period 1 August to 31 December 2004. The purpose of the application is to establish new tolls effective 1 January 2005 on an interim basis pending the disposition of TCPL's 2005 Tolls and Tariff Application.

6. *Trans Québec & Maritimes Pipeline Inc. (TQM) – 2004 Tolls (File 4200-T028-15)*

On 26 November 2004, TQM applied for approval of tolls on its pipeline system for the period 1 January to 31 December 2004. TQM is seeking a net revenue requirement of \$84.2 million.

7. *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 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. On 1 November 2004, the Board extended the date for filing comments.

Appeal and Review

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.

Review Pending

1. *Canadian Association of Petroleum Producers (CAPP) – Review of Reasons for Decision RH-2-2004, Phase I – TransCanada PipeLines Limited's (TCPL) 2004 Tolls (File 4200-T001-19-R)*

On 12 November 2004, CAPP applied for a review of the Board's Reasons for Decision RH-2-2004,

Phase I with respect to TCPL's 2004 Mainline Tolls. CAPP stated that the Board committed errors that raise doubt as to the correctness of its decision. The errors relate to the determinations made by the Board concerning:

- approving tolls for Non-Renewable Firm Transportation Service to be determined on a biddable basis;
- allowing TCPL to include all forecast long-term incentive compensation costs in its 2004 cost of service;
- allowing TCPL to recover through tolls certain regulatory and legal costs relating to review and appeal proceedings.

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)*

For more information on this matter, refer to item 6 under *Amendments to Regulations* in the October 2004 issue of the *Regulatory Agenda*.

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

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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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*.

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Appendix I

Section 58 Applications

Gas Pipelines

| Applicant | File/Order | Application | Est. Cost |
|-----------------------|---|---|-----------|
| Westcoast Energy Inc. | File: 3400-W005-336 Order: XG-W005-42-2004 | Application dated 17 September 2004; approved on 18 November 2004. Replace pipeline in the La Biche River in the Yukon. | 5 700 000 |

Appendix II

Applications Filed

(Applications not usually covered in the *Regulatory Agenda*)

| Applicant | Date | Application |
|------------------------------------|-------------|--|
| Alliance Pipelines Ltd. | 29 October | File 3400-A159-18 - Construct a new receipt point called Simonette for natural gas processed at the Simonette Gas Plant approximately 100 kilometres southeast of Grande Prairie, Alberta. The project will involve the construction of a meter station and a 2.2 kilometre lateral. |
| Trans-Northern Pipelines Inc. | 2 November | File 3200-T002-1-1 - Leave to open the piping that connects the Booster Station located at Mallorytown, Ontario to the mainline. |
| Trans-Northern Pipelines Inc. | 2 November | File 3200-T002-1-1 - Leave to open the piping that connects the Booster Station located at Iroquois, Ontario to the mainline. Approved on 5 November 2005. |
| Terasen Pipelines (Trans Mountain) | 3 November | File 4200-T099-4 - Permanent Tolls to be effective 1 October 2004. |
| Westcoast Energy Inc. | 3 November | File 3400-W005-338 - Application No. 18 for project 10051368 to construct riprap revetments to prevent future undermining of the gabions and lateral erosion on the bank of the Blueberry River at km 60.7 of the 406.4 mm Silver-Dahl Pipeline. |
| Trans-Northern Pipelines Inc. | 4 November | File 3200-T002-1-1 - Leave to open the piping that connects the Pump Station located at Montréal, Quebec to the mainline. Approved on 12 November 2004. |
| Trans-Northern Pipelines Inc. | 10 November | File 3200-T002-1-1 - Leave to open the piping that connects the Pump Station located at Como, Quebec to the mainline. Approved on 17 November 2004. |
| Enbridge Pipelines Inc. | 17 November | File 4400-E101-5-1 – Amend Interim Toll Order TOI-1-2004 to extend the date to 31 March 2005 that Interim Tariff NEB No. 267 and Interim Tariff NEB No. 268 are in effect. |
| Westcoast Energy Inc. | 22 November | File 3400-W005-336 - Increase the Maximum Operating Pressure on the piping at the Kingsvale Meter Station (MS-31). |

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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