



Regulatory Agenda

The period covered in this *Regulatory Agenda* is the month of January 2005

Public Hearing Applications

Hearing in Progress

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

On 29 November 2004, the Board commenced Phase II of a public hearing 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.

Hearing Scheduled

1. *Enbridge Pipelines Inc. (Enbridge) – Spearhead Pipeline – RH-1-2005 (File 4200-E101-6)*

The Board will hold a public hearing commencing on 29 March 2005 in Calgary, Alberta on an application from Enbridge for the implementation of a Non-Routine Adjustment to enable Enbridge to recover in its Canadian pipeline tolls US\$10 million per year for five years related to the extension of service on the Spearhead Pipeline which runs from Chicago, Illinois to Cushing, Oklahoma.

In 2003, Enbridge acquired a 90 percent interest

in the 1050 kilometre (651 mile) Cushing to Chicago oil pipeline system. The pipeline historically provided south to north service. Enbridge intends to reverse the flow of the largely idle pipeline to ship oil from Chicago to Cushing. The reversed pipeline would provide Enbridge shippers with access to new markets south of Chicago. In its application, Enbridge stated that it anticipates that 100 percent of the oil shipped on the Spearhead Pipeline will be Western Canadian produced crude petroleum although the possibility does exist that some US domestic or foreign oil could also be shipped on the pipeline.

Hearing Application Filed

1. *Imperial Oil Resources Ventures Limited (Imperial), 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

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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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 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 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.

Non Hearing Applications

Frontier Matters

1. *Paramount Resources Ltd. – Alter the Condition of a Well*

On 6 January 2005, Paramount was given approval, pursuant to subsection 19(3) of the *Canada Oil and Gas Production and Conservation Regulation* (COGPCR), to alter the condition of the well Southeast Fort Liard N-01.

2. *Northrock Resources Ltd. – Drill a Well*

On 7 January 2005, Northrock was given approval, pursuant to section 83.(1) of the *Canada Oil and Gas Drilling Regulations* (COGDR), to drill the well Sah Cho L-71.

3. *Apache Canada Ltd. – Drill a Well*

On 11 January 2005, Apache was given approval, pursuant to section 83.(1) of the COGDR, to drill the well Lac Maunoir A-67.

4. *Northrock Resources Ltd. – Alter the Condition of a Well*

On 17 January 2005, Northrock was given approval, pursuant to subsection 19(3) of the COGPCR, to alter the condition of the well Summit Creek B-44.

5. *Paramount Resources Ltd. – Construct a Tie-in*

On 24 January 2005, Paramount was given approval, pursuant to section VII of the COGPCR, to construct a four well tie-in at the Cameron Hills Field.

6. *Apache Canada Ltd. – Drill a Well*

On 26 January 2005, Apache was given approval, pursuant to section 83.(1) of the COGDR, to drill the wells Lac Maunoir E-35, East Lac Maunoir L-80, Turton Lake G-47 and Turton Lake L-23.

7. *Paramount Resources Ltd. – Alter the Condition of a Well*

On 28 January 2005, Paramount was given approval, pursuant to subsection 19(3) of the COGPCR, to alter the condition of the well Liard 2M-25.

8. *EnCana Corporation – Alter the Condition of a Well*

On 28 January 2005, EnCana was given approval, pursuant to subsection 19(3) of the COGPCR, to alter the condition of the well Umiak N-16.

9. Geological, Geophysical or Geotechnical Operation

One application for geological, geophysical or geotechnical operation was approved pursuant to section 5.1(b) of the *Canada Oil and Gas Operations Act*.

Company	Area	Operation ID	Date
Explor Data Limited	Mackenzie Delta	9329-E43-5E	28 January 2005

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 Pending

1. Chevron Canada Limited (Chevron) and Chevron Standard Limited, Neste Canada Inc. and Chevron Canada Limited (Chevron/Neste) – Priority Destination on the Terasen Pipelines (Trans Mountain) Inc. (Terasen) (Files 4775-T099-1-3 and -4)

On 7 January 2005, Chevron and Chevron/Neste applied for orders designating Chevron's refinery at Burnaby, British Columbia as a priority destination for unapportioned delivery of crude oil and isooctane, respectively, on Terasen's pipeline

system during such period of time as deliveries of crude oil and isooctane to the Burnaby refinery would otherwise be apportioned.

On 27 January 2005, the Board decided to convene a meeting, led by Board staff, to discuss:

- which issues need to be addressed to dispose of the application and why, and
- the appropriate process and timing to deal with these issues.

Among other things, the Board is interested in determining whether parties believe that the issues are best addressed through a public hearing, or whether some of the issues may be addressed effectively through an alternative process with involvement of Board staff. The meeting will be held in Calgary during the week of 14 February or 28 February 2005.

2. 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 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 2 under *Appeal and Reviews, Reviews Pending* below).

Appeal and Reviews

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.

Reviews Pending

2. *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 decisions. The errors relate to the determinations made by the Board concerning:

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

3. *Coral Energy Canada Inc. and Cogenerators Alliance (Applicants) – Review of Reasons for Decision RH-2-2004, Phase I – TransCanada Pipelines Limited's (TCPL) 2004 Tolls (File 4200-T001-19-R)*

On 11 January 2005, the Applicants applied for review and variance of the Board's Reasons for Decision RH-2-2004, Phase I with respect to TCPL's 2004 Mainline Tolls. The Applicants asked for a review and variance of the Reasons for Decision on the following issues:

- (a) the arrangements entered into by TCPL pursuant to the Waste Heat Agreements and the Compressor Operating Agreement; and,
- (b) TCPL's applied-for Operation, Maintenance and Administration costs for the 2004 test year.

The Applicants stated that the Board committed errors of law that make certain determinations in the Phase I Decision incorrect. Specifically the Board erred by:

- (a) adopting a decision-making procedure that inappropriately shifted the burden of proof onto intervenors, thereby compromising the Board's consideration of the evidence; and,
- (b) breaching the legal duty of fairness by failing to provide adequate reasons for its decisions.

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 held an all-day workshop on 9 December 2004 in Calgary, Alberta. The Board will hold further meetings with the industry in the Spring of 2005.

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 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*

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.

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*.

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Appendix I

Section 58 Applications

Gas Pipelines

Applicant	File/Order	Application	Est. Cost
Alliance Pipeline Ltd.	File: 3400-A159-19 Order: XG-A159-01-2005	Application dated 24 November 2004; approved on 17 January 2005. Install an additional aerial cooler at the Windfall Compressor Station near Whitecourt, Alberta.	5 714 000
Westcoast Energy Inc.	File: 3400-W005-340 Order: XC-W005-01-2005	Application dated 1 December 2004; approved on 25 January 2005. Replacement of valves on the Sulphur pipeline at the Pine River Gas Plant.	50 000

Oil Pipelines

Applicant	File/Order	Application	Est. Cost
Trans-Northern Pipelines Inc.	File: 3400-T002-67 Order: XO-T002-01-2005	Application dated 10 December 2004; approved on 28 January 2005. Replace pipelines in the Municipalities of Toronto and Pickering, Ontario.	850 000

Appendix II

Other Filings

<i>Company</i>	<i>Date</i>	<i>Filing</i>
Enbridge Pipelines (NW) Inc.	4 January	File 3400-E102-11 – Application for the construction of several projects for the Year 2005.
TransCanada Pipelines Limited	7 January	File 3400-T001-236 – Contaminant Sampling and Remediation Program at Station 25.
ProGas Limited	10 January	Files 7200-P038-12-1 and 7200-P038-12-2 – Amendments to the Gas Export Sales Contract underpinning exports under Gas Export Licence GL-270.
Westcoast Energy Inc.	10 January	File 3400-W005-342 – Upgrade Compressor Station 2B on the Southern Mainline.
Maritimes & Northeast Pipeline	12 January	File 4750-M124-2004-3 – Filing of quarterly surveillance report for the third quarter of 2004.
Enbridge Pipelines Inc.	13 January	File 3000-E101-3 – Advised the Board that the Company intends to begin operating Line 11, which provides crude oil transmission service from Westover, Ontario to Imperial Oil Limited's refinery at Nanticoke, Ontario, at the maximum operating pressure.
Westcoast Energy Inc.	17 January	File 3400-W005-343 – Application to reactivate 21.5 km of the 39.8 km Ekwan Pipeline located approximately 80 km east of Fort Nelson, B.C.
Westcoast Energy Inc.	19 January	File 4775-W005-1-1 – Filing of revised amendments of Toll Schedules effective 1 November 2004 and 1 January 2005.
Westcoast Energy Inc.	19 January	File 3400-W005-344 – Application to upgrade four flare sites in the Fort Nelson, B.C. area.
Westcoast Energy Inc.	20 January	File 3400-W005-345 – Application to replace the lining and increase the containment capacity of the drain pond at the Fort Nelson Gas Plant in B.C.
TransCanada Pipelines Limited	20 January	File 3400-T001-237 – 2005 Cathodic Protection Program No. 1 – Ontario.
Westcoast Energy Inc.	24 January	File 4775-W005-1-1 – Standards of Conduct for Westcoast's BC Pipeline Division.
ProGas Limited	27 January	Files 7200-P038-8-1 and 7200-P038-8-2 – Amendments to a Gas Sales Contract and to Gas Export Licence GL-161.
Westcoast Energy Inc.	28 January	File 4775-W005-1-1 – Framework for Light-handed Regulation: Revised Amendments of Toll Schedules effective 1 November 2004.
Express Pipeline Ltd.	31 January	File 4775-E092-1-1 – Express Pipeline Ltd. Proposed International ExpressChoice Uncommitted Petroleum Toll Schedule – NEB Tariff No. 51 effective 1 February 2005.

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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