

**DEMANDE DE RECONDUCTION DU
MÉCANISME D'AJUSTEMENT
AUTOMATIQUE DU TAUX DE RENDEMENT**

1 **INTRODUCTION**

2 Dans sa décision D-99-11, la Régie approuvait un mécanisme d'ajustement automatique du
3 taux de rendement basé sur les variations des taux obligataires sans risque. Le taux de
4 rendement autorisé pour l'année tarifaire 1998-1999, qui a servi de base pour l'établissement de
5 celui des années subséquentes, était de 9,64 %¹.

6

7 SCGM s'était montrée insatisfaite de ce taux de rendement en 1999 et demeure toujours du
8 même avis aujourd'hui. Force est de constater toutefois que le taux de rendement qui résulte de
9 l'application du mécanisme ne peut, malgré que l'on puisse dire qu'il est légèrement moins
10 favorable que dans d'autres juridictions pour un risque comparable, être qualifié de
11 déraisonnable. La Régie notait d'ailleurs dans sa décision D-99-11, et nous sommes d'accord
12 avec cela, que l'estimation d'un taux de rendement raisonnable comporte un certain caractère
13 de subjectivité. De plus, malgré que l'ensemble de l'industrie gazière canadienne, dont SCGM,
14 soit insatisfaite des taux de rendement accordés au Canada, nous devons aussi constater que
15 leurs tentatives de révision ont jusqu'ici été infructueuses.

16

17 SCGM reconnaît que le mécanisme incitatif en vigueur depuis l'année 2000 lui a fourni
18 l'occasion de générer un taux de rendement supérieur au taux de rendement de base établi en
19 vertu du mécanisme d'ajustement automatique. Toutefois, l'évaluation de la formule
20 d'ajustement automatique du taux de rendement de base doit être faite sans tenir compte des
21 résultats du mécanisme incitatif. Par définition, on ne peut parler de rendement incitatif ou de
22 bonification que par rapport à un taux de rendement de base juste et raisonnable.

23

24 Ceci dit, et pour les raisons explicitées plus bas, SCGM demande à la Régie de reconduire à
25 nouveau le mécanisme d'ajustement automatique du taux de rendement (tel qu'établi dans sa

¹ La décision D-99-11 approuve un taux de rendement de 9,60 %. Celle-ci fut révisée par la décision D-99-150 qui autorisait un taux de rendement de 9,64 %.

1 décision D-99-11 et reconduit pour l'année 2003-2004 par la décision D-2003-180) pour une
2 période de trois ans, soit jusqu'à l'année tarifaire 2006-2007.

3
4 Dans le présent témoignage, nous ne visons pas à justifier la formule elle-même, ce qui a déjà
5 été fait dans le dossier R-3397-98 ayant mené à la décision D-99-11. Notre approche consiste
6 plutôt à nous limiter à reprendre les différents éléments sur lesquels repose cette décision et à
7 en démontrer l'évolution depuis 1999 de façon à ce que la Régie puisse conclure que ces
8 éléments n'ont pas, globalement, changé de façon significative, et qu'elle puisse donc se
9 convaincre que la formule pourrait encore une fois être qualifiée de raisonnable.

10 **Décision D-99-11**

11 Dans sa décision D-99-11, la Régie dit tenir compte de plusieurs facteurs pour en arriver à son
12 verdict :

13 *« Pour rendre sa décision sur le taux de rendement raisonnable à octroyer sur l'avoir*
14 *ordinaire des sociétaires, en conformité avec l'article 49 de la loi, la Régie prend en*
15 *considération, entre autres, les éléments suivants : le contexte financier de l'entreprise,*
16 *son risque d'entreprise, le contexte économique général, les taux d'intérêt et le*
17 *rendement des obligations de long terme, les méthodes d'estimation du taux de*
18 *rendement présentées par les experts, le contexte réglementaire dans les juridictions*
19 *voisines, et le maintien de l'intégrité financière de l'entreprise. »*
20

21 C'est donc sur cette base que SCGM présente sa demande pour l'année 2004-2005 et les
22 suivantes.

23 **CONTEXTE FINANCIER DE L'ENTREPRISE ET RISQUE D'ENTREPRISE**

24 Les principaux paramètres de risque de l'entreprise ont peu varié depuis 1999. Bien que les
25 composantes individuelles du risque aient pu varier durant cette période, le risque global de
26 SCGM est demeuré à peu de choses près inchangé.

27

1 Les agences DBRS et CBRS (devenue S&P suite à l'acquisition de CBRS par cette dernière)
2 estimaient en 1999 que SCGM méritait une cote de "A" et "A" (élevé)². Aujourd'hui, les deux
3 agences attribuent une cote de "A³" à SCGM, montrant que les agences perçoivent une très
4 légère augmentation du risque de SCGM.

5

6 Dans sa décision D-99-11, la Régie comparait le risque de SCGM à celui des distributeurs
7 ontariens. Or, les distributeurs ontariens ont aussi subi une légère détérioration de leurs cotes
8 de crédit. À la lumière de ce qui précède, nous jugeons que ces points de repère sont toujours
9 valables dans la détermination du taux de rendement de SCGM puisque le risque relatif de
10 SCGM par rapport à Enbridge et Union semble avoir peu changé.

11

12 Ceci étant dit, nous constatons une légère hausse du risque perçu par les agences de notation
13 de crédit depuis 1999. Toutefois, les cotes accordées par les agences sont stables depuis
14 quelques années. Cette conclusion nous permet de croire que malgré certaines variations
15 temporaires du risque de l'entreprise, les estimations du risque global de SCGM faites par la
16 Régie en 1999 sont toujours valables, la situation n'ayant que très peu changé depuis.

17 **CONTEXTE ÉCONOMIQUE GÉNÉRAL**

18 Plusieurs indicateurs nous indiquent que la situation économique générale au Canada est
19 assez similaire à celle qui prévalait en 1999, exception faite du climat d'euphorie qui régnait à
20 cette époque sur les marchés boursiers qui a mené au dénouement avec lequel nous sommes
21 aujourd'hui tous familiers.

22

23 Le tableau qui suit présente l'historique depuis 1998 pour certaines données financières
24 repères permettant de juger du contexte économique général au Canada :

25

² Voir les pièces SCGM-14, documents 9 et 10.1 du dossier R-3397-98 pour les rapports des agences de notation de crédit.

³ Pièces SCGM-7, documents 11 et 12.

1 Tableau 1

	Croissance du PIB⁴ %	Indice des prix à la consommation⁵ %	Taux de chômage⁵
1998	4,1	1,0	8,3
1999	5,5	2,6	7,9
2000	5,3	3,2	6,7
2001	1,9	0,7	7,0
2002	3,3	3,9	7,7
2003	1,7	2,0	7,9
2004 (prévision)	2,8	1,5	7,4
2005 (prévision)	3,3	1,9	7,2
2006 (prévision)	3,1	1,9	N.D.
2007 (prévision)	3,1	2,0	N.D.

2

3 L'un des indicateurs les plus importants et les plus significatifs de l'activité économique d'un
4 pays est la croissance du produit intérieur brut (PIB). Ainsi, le PIB réel a cru de 1,7 % durant
5 l'année 2003, alors qu'il connaissait une croissance plus forte en 1998, à 4,1 %. Toutefois,
6 l'année 2003 a été affectée par une série de chocs imprévus (SRAS, vache folle, etc) qui ont eu
7 un impact négatif sur l'économie du pays. La croissance du PIB prévue pour l'année 2004 se
8 situe à 2,8 % selon le Consensus Forecast, ou à l'intérieur d'une plage variant entre 2,7 % et
9 3,3 %⁶ selon le plus récent budget fédéral. Cette donnée est selon SCGM plus comparable à
10 celle de 1998, et, selon nous, plus pertinente que celle de 2003 en raison de tous les biais qui
11 ont affecté cette dernière.

12

13 Le taux de chômage désaisonnalisé quant à lui se situait en mars 2004 à 7,5 %, une mesure
14 comparable à celle du mois de mai 1998, date du dépôt de la preuve du dossier R-3397-98, qui
15 se situait à 8,3 %.

⁴ Sources : 1998 à 2003 : Conference Board du Canada; 2004 : Consensus Forecast, mars 2004; 2005 à 2007 : Consensus Forecast Global Outlook 2003-2013, octobre 2003.

⁵ Sources : 1998 à 2003 : Statistique Canada; 2004 : Consensus Forecast, mars 2004; 2005 à 2007 : Consensus Forecast Global Outlook 2003-2013, octobre 2003.

⁶ Source : Budget fédéral 2004.

1
2 L'indice des prix à la consommation mesuré en mars 2004 montrait une croissance de 0,7 %
3 sur une base annuelle, soit un peu moins que la prévision pour l'année que se situe à 1,5 %. En
4 comparaison, cette croissance a été de 1,0 % en 1998, une mesure somme toute assez
5 semblable à celle anticipée et mesurée jusqu'à maintenant pour 2004.

6
7 Ainsi, en comparant les indicateurs statistiques récents à ceux qui témoignent de la situation qui
8 prévalait en 1998, période qui a servi de repère à la Régie dans sa décision D-99-11, il y a tout
9 lieu de croire qu'aucun changement significatif du contexte économique général n'est survenu
10 entre 1998 et 2004.

11
12 Le contexte économique étant généralement le même qu'en 1999, il n'y a pas lieu de revoir le
13 taux de rendement sur cette base.

14 **LES TAUX D'INTÉRÊTS ET LE RENDEMENT DES OBLIGATIONS LONG**
15 **TERME**

16 Le rendement prévisionnel des obligations long terme qui avait été utilisé par la Régie dans sa
17 décision D-99-11 était de 5,76 %. En comparaison, celui utilisé pour le mécanisme d'ajustement
18 automatique du taux de rendement en 2005 se situait à 5,65 %, pour une variation de 0,11 %.

19
20 Or, l'une des critiques les plus souvent rencontrées de la formule d'ajustement automatique est
21 qu'elle présume d'une relation linéaire entre les taux sans risque et le rendement sur l'avoir
22 propre. Il a maintes fois été démontré qu'une telle relation ne peut être valable qu'à l'intérieur
23 d'une plage relativement restreinte de taux sans risque.

24
25 La Régie s'était d'ailleurs prononcée à ce sujet dans sa décision D-99-11 :

26

1 « ... la Régie conclut que le présent mécanisme d'ajustement du taux de rendement
2 devra être revu, et au besoin ajusté, advenant une hausse du taux d'intérêt des
3 obligations long terme du Canada au-dessus de 8 % pour une période consécutive de six
4 moins. »
5

6 En raison de la faible variation des taux long terme, qui ont oscillé entre 5,51 % et 6,10 %
7 depuis 1999, alors qu'ils étaient à 5,76 %, SCGM juge que les paramètres utilisés lors de
8 l'établissement initial du mécanisme d'ajustement automatique du taux de rendement sont
9 toujours valides et ne justifient pas, pour le moment, une révision de celui-ci.

10 **MÉTHODES D'ESTIMATION DU TAUX DE RENDEMENT PRÉSENTÉES PAR**
11 **LES EXPERTS ET CONTEXTE RÉGLEMENTAIRE DANS LES JURIDICTIONS**
12 **VOISINES**

13 Voici un échantillon des rendements autorisés dans les autres juridictions canadiennes :

14 Tableau 2

	Année d'adoption	Taux L.T. sans risque %	Prime de risque du marché %	Bêta	Flotation costs %	Prime de risque (incl f.c.) %	Rendement %
SCGM	1999	5,76	6,50	0,55	0,30	3,88	9,64
HQT	2002	6,00	6,44	0,53	0,25	3,66	9,66
HQD	2003	6,00	6,19	0,55	0,00	3,40	9,40
Gazifère	2000*	5,87	6,50	N.D.	N.D.	4,26	10,13
Union Gas	2004	6,00	5,00 - 5,50	0,62**	0,50	3,86	9,86
Enbridge	2004	6,00	5,00 - 5,50	0,62	0,50	3,71	9,71
ATCO Gas	2001	6,00	N.D.	N.D.	N.D.	3,75	9,75
Terasen	2003	5,92	N.D.	N.D.	N.D.	3,50	9,42
TCPL	2002	5,63	5,50 - 6,00	N.D.	N.D.	3,90	9,53

15 * Les données concernant Gazifère sont issues de la décision D-99-09 qui établissait les standards et de la
16 décision D-2000-48 qui venait les modifier. Toutefois, aucune des deux décisions ne précisait la façon avec
17 laquelle la Régie arrivait à la prime de risque autorisée.

18 ** Le bêta de Union n'est établi qu'à titre indicatif puisque son rendement a été établi en fonction de celui
19 d'Enbridge et non pas en fonction de paramètres du marché.

20 Pour faciliter la comparaison entre les rendements autorisés présentés au tableau 2, nous
21 avons utilisé les différents mécanismes automatiques d'ajustement du taux de rendement pour

1 montrer les données sur une base commune, soit un rendement de 6 % sur les obligations
2 gouvernementales canadiennes de trente ans.

3 Tableau 3

	Taux L.T. sans risque %	Rendement %
SCGM	6,00	9,82
HQT	6,00	9,66
HQD	6,00	9,40
Gazifère	6,00	10,23
Union Gas	6,00	9,86
Enbridge	6,00	9,71
ATCO	6,00	9,75
Terasen	6,00	9,50
TCPL	6,00	9,81

4

5 Les tableaux 2 et 3 nous montrent que le rendement de SCGM se situe près de la moyenne de
6 ceux accordés aux autres distributeurs ou transporteurs gaziers au Canada.

7

8 De plus, il est à noter que les autres régulateurs canadiens utilisent tous des méthodologies
9 semblables à celle qu'avait utilisé la Régie en 1999, et ce depuis plusieurs années. Plus
10 spécifiquement, ils utilisent la méthode prime de risque ou des variantes proches de celle-ci et
11 des mécanismes d'ajustement automatique sont utilisés en Ontario et en Colombie-Britannique
12 ainsi qu'à l'Office national de l'énergie, alors que l'Alberta Energy and Utilities Board étudie
13 présentement la possibilité de mettre sur pied un tel mécanisme pour les utilités albertaines.

14

15 Les dernières causes entendues au Canada pour faire réviser les taux de rendement visaient
16 TCPL ainsi que les distributeurs ontariens et albertains lors de causes génériques.

17

18 Dans le cas de TCPL, une requête avait été déposée en 2002 afin de faire réviser la décision
19 RH-4-2001 qui fixait les balises pour le taux de rendement. Certains principes ont été établis
20 dans la décision de l'Office national de l'énergie (ONE) qui sont pertinents pour le présent
21 dossier. Entre autres, l'ONE ainsi que TCPL ont convenu que la méthode prime de risque, qui

1 avait été utilisée par la Régie en 1999, pouvait produire un rendement juste et raisonnable au
2 sens de la loi et que le rendement en découlant peut rencontrer les standards de comparaison à
3 des investissements similaires, d'intégrité financière et d'attraction du capital.

4
5 L'ONE a donc opté pour la statu quo et a confirmé sa décision rendue en 2002 par la décision
6 RH-R-1-2002. L'ONE mentionne que la formule d'ajustement automatique du taux de
7 rendement, qui est identique à celle de SCGM, doit continuer de s'appliquer tant que personne
8 n'a prouvé qu'elle ne rendait plus des résultats justes et raisonnables, ce que TCPL n'a pas fait
9 à la satisfaction de l'ONE.

10

11 De plus, TCPL a récemment vu la Cour fédérale d'appel rejeter son appel de la décision
12 RH-R-1-2002 de l'ONE. Dans sa décision, la Cour juge que TCPL n'a pas réussi à démontrer
13 que la formule d'ajustement automatique ne devrait plus s'appliquer.

14

15 En Ontario, les requérantes demandaient une révision du taux de rendement et basaient leurs
16 demandes sur des changements majeurs survenus au niveau des marchés. À ce sujet,
17 soulignons les lignes directrices ontariennes qui indiquent à quel moment l'OEB juge une
18 révision du mécanisme automatique d'ajustement du taux de rendement nécessaire :

19

20 *« The Board believes that the rate of return formula should be reviewed as conditions*
21 *arise that may call into question its validity (e.g., a change in the relative taxation of the*
22 *income from debt and equity investments, or a fundamental change in business or*
23 *financial market conditions). »⁷*
24

25 Les experts des distributeurs ont en général fait valoir qu'une réduction du poids de la méthode
26 MPR, qui est devenue inapplicable sur des données réelles en raison de la volatilité des
27 marchés boursiers, était nécessaire. De plus, cette méthode n'aurait jamais dû être appliquée
28 uniquement sur le marché boursier puisque ses fondements théoriques s'appuient sur un
29 marché parfaitement diversifié et efficace, qui contient donc en plus de la bourse, l'immobilier,
30 les biens précieux ou de collection, les compagnies privées, etc. Les méthodes AFM et des

⁷ RP-2002-0158, Decision and Order (DocID: OEB: 13162-0), par. 49.

1 bénéfiques comparables sont privilégiées par la plupart des experts, y compris ceux représentant
2 certains groupes de clients et les régulateurs.

3

4 La demande de Enbridge et de Union a été vaine, l'OEB optant pour le statu quo, jugeant que la
5 formule d'ajustement automatique du taux de rendement de Enbridge et Union produisait
6 toujours des résultats justes et raisonnables. La formule actuellement en application, qui utilise
7 un facteur d'élasticité de 75 %, a donc été reconduite pour une période indéfinie.

8

9 En Alberta, la cause visait à produire une formule applicable à l'ensemble des distributeurs
10 albertains et à établir les bases pour l'utilisation de cette formule. Les arguments produits en
11 Alberta par les experts sont très semblables à ceux qui avaient été émis en Ontario. La décision
12 albertaine est attendue cet été.

13

14 Il y a aussi lieu de noter les dernières décisions rendues par la Régie dans les dossiers de
15 Hydro-Québec Distribution et TransÉnergie. Dans ses décisions, la Régie utilisait des méthodes
16 et des données similaires à celles qui avaient été à la base des décisions D-99-11 et D-99-150
17 de la Régie au sujet du taux de rendement du SCGM.

18

19 À la lumière des différentes causes récentes entendues au Québec et au Canada, on peut
20 conclure que la tendance est au statu quo, et ce tant au niveau des méthodologies acceptées
21 par les régulateurs qu'au niveau de l'utilisation de mécanismes d'ajustement automatique du
22 taux de rendement et des résultats qui en découlent. De plus, la récente volonté des autorités
23 albertaines d'implanter un tel mécanisme nous montre que cette pratique demeurera
24 probablement répandue au Canada au cours des prochaines années.

25

26 On peut aussi conclure que le coût des procédures devant l'ONE et l'OEB a de beaucoup
27 surpassé leurs bénéfices tout en alourdissant grandement le processus réglementaire. Or, l'un
28 des objectifs principaux de la Régie au moment d'établir ce mécanisme était justement d'alléger
29 le processus réglementaire.

1

2 Il semble donc qu'au niveau canadien, rien ne justifie pour l'instant une révision en profondeur
3 des paramètres utilisés dans l'établissement du taux de rendement de SCGM. Au contraire, les
4 dernières révisions en profondeur des paramètres entrant dans la détermination du taux de
5 rendement réalisées en Ontario et à l'ONE nous auront permis de confirmer que les méthodes
6 utilisées et les données de référence sont toujours valides et que leur utilisation demeure, de
7 l'avis des régulateurs, désirable.

8

9 Au niveau américain, il y a tout d'abord lieu de noter que la majorité des régulateurs n'accordent
10 que peu ou pas de poids à la méthode MPR qui est généralement utilisée au Canada. Les
11 formules d'ajustement automatique basées sur les taux des obligations gouvernementales long
12 terme, telles que celles en vigueur au Canada, sont aussi rares, voire inexistantes.

13

14 Pour ce qui est de la tendance des taux de rendement autorisés, l'une des sources
15 d'informations les plus fiables est le Regulatory Research Associates qui recense l'ensemble
16 des décisions rendues aux États-Unis. L'organisme évalue que le taux de rendement autorisé
17 moyen pour les utilités gazières était en hausse pour les deux premiers trimestres de l'année
18 2003, se situant à 11,37 % par rapport à 11,03 % pour l'année 2002. De plus, il est à noter que
19 les structures de capital autorisées sont beaucoup plus généreuses qu'au Canada, se situant
20 normalement entre 45 et 50 % d'avoir propre.

21

22 Cependant, l'écart de rendement entre les utilités à risque faible et les autres semble s'agrandir;
23 en effet, depuis la débâcle de Enron, les agences de notation de crédit sont devenues
24 beaucoup plus sévères et baissent les cotes de crédit au moindre signe de faiblesse. Certains
25 régulateurs semblent avoir réagi à cette menace en augmentant les rendements des
26 distributeurs plus risqués pour éviter les problèmes financiers et pour assurer que des capitaux
27 seraient disponibles pour le maintien et l'amélioration des réseaux. À l'inverse, les distributeurs
28 plus solides financièrement ont vu leurs taux de rendement réduits et se voient de plus en plus
29 souvent accorder des taux avoisinant les 10 %.

30

1 Le retour des utilités vers leurs activités de base depuis la chute de Enron a probablement joué
2 un rôle important dans la diminution du risque d'affaires de ces distributeurs en solidifiant leur
3 structure financière et en réduisant la volatilité de leurs flux monétaires.

4
5 Il est donc difficile de conclure quoi que ce soit de la situation aux États-Unis en raison de la
6 multitude de facteurs qui entrent en ligne de compte et des tendances divergentes du taux de
7 rendement des utilités publiques.

8
9 Notre principale conclusion est qu'encore une fois, rien ne justifie une révision du mécanisme
10 automatique du taux de rendement de SCGM.

11 **MAINTIEN DE L'INTÉGRITÉ FINANCIÈRE DE L'ENTREPRISE**

12 L'accès à de nouveaux capitaux à un prix raisonnable est primordial pour les clients d'une
13 compagnie de services publics qui souhaitent voir cette dernière maintenir et étendre son
14 réseau. À ce sujet, la plus récente émission de parts et d'obligations de SCGM, qui a eu lieu à
15 la fin de l'année 2003, tend à confirmer que la santé financière de l'entreprise est intacte et que
16 de nouveaux capitaux sont pour le moment accessibles à un prix raisonnable.

17
18 Bien que plusieurs facteurs ponctuels aient été influents dans le succès de cette émission, tels
19 que le fait que SCGM soit une valeur refuge dans un marché hautement volatil et la faiblesse
20 des taux d'intérêts, force est d'admettre qu'une telle émission n'aurait pas été réussie si
21 l'intégrité financière de l'entreprise était remise en question par les analystes et les
22 investisseurs.

23
24 Toutefois, nous n'avons pas à reculer loin dans le passé pour comprendre que l'équilibre
25 financier dans lequel se retrouve SCGM aujourd'hui est fragile; en effet, l'émission de parts
26 réalisée en 1999 a été plus difficile. SCGM n'avait à ce moment pu écouler la totalité des parts

1 offertes au marché. Les parts avaient par la suite perdu une grande partie de leur valeur pour
2 se retrouver à leur niveau le plus bas depuis 1996.

3

4 On peut aussi mentionner la situation dans laquelle Transalta Utilities Corp. s'était retrouvée à
5 la fin de l'année 1999 suite à une décision défavorable de l'Alberta Energy and Utilities Board
6 au sujet de son taux de rendement. Les actions de la compagnie avaient alors chuté d'environ
7 30 % en quelques semaines, et les cotes de crédit avaient été revues à la baisse autant par
8 DBRS que par CBRS, passant de "AA (bas)" à "A (élevé)" dans le premier cas, et de "A+" à "A"
9 dans le deuxième cas. Dans ces circonstances, on peut affirmer que l'intégrité financière de
10 l'entreprise n'avait pas été préservée et que l'accès à de nouveaux capitaux devenait forcément
11 plus coûteux pour Transalta.

12

13 Une autre indication que la santé financière de SCGM ne s'est pas détériorée depuis
14 l'instauration du mécanisme d'ajustement automatique du taux de rendement nous provient des
15 agences de notation de crédit. Comme nous le mentionnions plus haut, les cotes demeurent à
16 "A", ce qui est indicatif de la perception des agences sur lesquelles les investisseurs appuient
17 de plus en plus leurs décisions d'investissements. Il est cependant important de noter que les
18 agences accordent beaucoup d'importance au mécanisme incitatif en place et à la possibilité de
19 bonifier notre rendement.

20

21 Les ratios de couverture d'intérêts de SCGM, qui sont aussi un bon indicateur de l'intégrité
22 financière d'une entreprise, ont connu au cours des dernières années une légère hausse. Cette
23 tendance a certainement aidé SCGM à préserver sa cote de crédit dans la conjoncture actuelle.
24 En effet, les agences de notation, et plus particulièrement S&P, se sont montré moins
25 indulgentes depuis la débâcle de Enron, comme le démontre le commentaire suivant au sujet
26 des compagnies de services publics canadiennes :

27

28 *« For many years, Standard & Poor's Ratings Services has maintained strong*
29 *investment-grade ratings on a large number of Canadian utility companies, despite*
30 *balance-sheet and profitability metrics that are significantly weaker than those exhibited*
31 *by highly rated utilities in other countries or jurisdictions. The justification frequently cited*
32 *by Standard & Poor's was that the supportive nature of Canadian utility regulation would*
33 *sustain a high level of credit quality, notwithstanding what might be considered to be*

1 *aggressive financial profiles... Standard & Poor's is now questioning the appropriateness*
2 *of placing exceptional analytical reliance on the positive influence of regulatory factors in*
3 *its analysis of Canadian utilities. »*
4

5 *« Investor-owned Canadian utilities are among the most highly levered utilities in*
6 *Standard & Poor's global ratings universe, with financial profiles that are noticeably*
7 *weaker than those of their global peers... the question becomes whether or not other*
8 *aspects of these utilities' risk profiles compensate for their more aggressive financial*
9 *profiles, providing justification for high investment-grade ratings. »⁸*
10

11 Il devient donc important pour SCGM et ses clients, dans le but d'éviter une décote et la hausse
12 des frais financiers en résultant, de préserver le niveau actuel de couverture.

13
14 Le taux de rendement actuel, combiné aux résultats positifs générés par le mécanisme incitatif,
15 produit pour l'instant des résultats suffisants pour rencontrer cet objectif. Il permet également à
16 SCGM de lever les capitaux nécessaires à la croissance de ses opérations à un coût
17 raisonnable. Il n'y a donc pas lieu de revoir les paramètres du mécanisme d'ajustement
18 automatique du taux de rendement pour le moment.

19 **STRUCTURE DE CAPITAL**

20 Tout comme elle le demande pour le mécanisme automatique, SCGM souhaite voir sa structure
21 de capital reconduite. Pour appuyer notre demande, nous référons à la décision D-96-31 de la
22 Régie de l'énergie :

23
24 *« La Régie est d'avis également qu'on ne peut modifier fréquemment ou subitement la*
25 *structure de capital d'une entreprise car cela pourrait créer une instabilité financière qui*
26 *pourrait inquiéter les investisseurs.*

27
28 *D'autre part, on sait pertinemment qu'une crédibilité financière auprès des investisseurs*
29 *se bâtit à long terme. SCGM en a fait la preuve manifeste puisqu'elle a pris plusieurs*
30 *années pour passer de la cote triple B à celles de A et A élevé.*

31
32 *Il faut donc maintenir une cote de crédit se situant entre A et A élevé car cette évaluation*
33 *des maisons de notation a permis à SCGM de réduire ses coûts financiers de façon*
34 *importante et d'avoir accès à un plus grand marché financier. »*
35

⁸ Canadian Utility Regulation Reassessed as a Ratings Factor, Standard & Poor's, 6 mars, 2003.

1 À ce sujet, SCGM tient à mentionner que ses coûts financiers demeurent toujours
2 avantageusement situés par rapport à la moyenne canadienne. Le tableau qui suit tend à le
3 démontrer :

4 Tableau 4

	Période	Rendement sur la base de tarification (excluant mécanismes incitatifs) %	Taux long terme utilisé %
SCGM	Oct 03 – Sep 04	8,29	5,51
HQT	Jan 01 – Déc 01	9,72	6,00
HQD	Avr 04 – Mar 05	7,99	5,65
Gazifère	Oct 03 – Sep 04	8,34	5,51
Union Gas	Jan 04 – Déc 04	8,92	6,00
Enbridge	Oct 03 – Sep 04	8,32	5,96
ATCO	Jan 01 – Déc 02	8,47	6,00
Terasen	Jan 04 – Déc 04	7,56	5,65
TCPL (mainline)	Jan 03 – Déc 03	9,28	5,98

5
6 Dans la même décision, la Régie soulignait aussi :

7
8 *«... à moins de circonstances exceptionnelles qui le justifieraient, on ne remettra pas en*
9 *cause à chaque année cette structure que la Régie juge optimale, et qui respecte les*
10 *principes qui l'ont guidée dans sa décision, à savoir : assurer à long terme un coût de*
11 *capital le plus bas possible, et maintenir la santé financière du distributeur. »*
12

13 Or, la preuve présentée sur le taux de rendement est transposable à la structure de capital et la
14 conclusion sera aussi similaire : aucune circonstance exceptionnelle n'est survenue depuis
15 1999 qui justifierait la remise en question de la structure de capital de SCGM. Au contraire,
16 seuls des changements mineurs sont survenus, et SCGM juge que ceux-ci ne devraient avoir
17 aucune incidence sur sa structure de capital.

1 **CONCLUSION**

2 Depuis l'instauration du mécanisme automatique d'ajustement du taux de rendement en 1999,
3 aucun des éléments pris en considération par la Régie pour en arriver à sa décision D-99-11 ne
4 semble avoir varié de façon significative.

5

6 Il est évident que certains éléments individuels ont varié dans une direction indiquant que le
7 taux de rendement de SCGM pourrait actuellement être trop élevé ou trop bas. Nous croyons
8 que de façon globale, le contexte général dans lequel la présente audience se tient est similaire
9 à celui de 1998. Aucun changement majeur n'est survenu, de l'opinion de SCGM, qui pourrait
10 remettre en question la validité des résultats obtenus du mécanisme d'ajustement automatique
11 du taux de rendement depuis son implantation.

12

13 Bien qu'elle soit toujours d'avis que le taux de rendement sur son avoir propre soit insuffisant,
14 SCGM demande donc à la Régie de reconduire une nouvelle fois le mécanisme d'ajustement
15 automatique du taux de rendement et ce, pour une période de trois ans.

16

17 Cette reconduction permettra de préserver la stabilité et la prévisibilité des rendements de
18 SCGM pour une période satisfaisante et la fin de celle-ci coïncidera avec la prochaine
19 renégociation du mécanisme incitatif, prévue en 2007.

20

21 SCGM tient à rappeler que l'évaluation des résultats produits par le mécanisme d'ajustement
22 automatique du taux de rendement doit être faite sans tenir compte des résultats du mécanisme
23 incitatif. En effet, les paramètres qui ont servi à l'établissement du taux de rendement de SCGM
24 en 1999 ne tenaient compte d'aucun incitatif et les données relatives aux distributeurs avec
25 lesquels SCGM est comparée dans ce témoignage excluent toute bonification provenant d'un
26 mécanisme incitatif, et ce pour la simple et bonne raison qu'il est impossible de quantifier les
27 efforts d'un distributeur de façon à rendre les bonifications obtenues par chacun comparables.
28 De plus, le mécanisme incitatif fait l'objet d'un suivi qui lui est spécifique et a récemment été
29 reconduit pour un nouveau terme de cinq années.

1
2 Finalement, nous souhaitons que dans l'éventualité où la Régie accepte la demande de SCGM
3 au sujet du taux de rendement, elle reconduira également sa structure de capital, les deux
4 éléments étant étroitement reliés et devant, de l'opinion de SCGM, être évalués comme un tout
5 et non comme des composantes individuelles.

**NOTATIONS DE CRÉDIT
DES PRINCIPAUX DISTRIBUTEURS
ET TRANSPORTEURS CANADIENS**

	CBRS	CBRS	DBRS	DBRS
	Obligations	Papier commercial	Obligations	Papier commercial
Gaz Métropolitain	A (high)	A-1	A	R-1 (low)
Alberta Natural Gas	A (low)	n/a	A (low)	n/a
BC Gas	BBB	A-1	A	R-1 (low)
Canadian Utilities	AA	A-1 (high)	AA (low)	R-1 (mid)
Centra Gas Ontario	BBB (high)	N/A	A	N/A
Consumers' Gas	A (high)	A-1	A	R-1 (mid)
Union Gas	A (low)	A-1	A	R-1 (low)
Nova Gas Transmission	A (low)	A-1 (low)	A (low)	R-1 (low)
TransCanada PipeLines	A (high)	A-1 (low)	A (high)	R-1 (mid)
Westcoast Energy	A (low)	A-1	A (low)	R-1 (low)
Trans Québec & Maritimes	A (low)	N/A	A (low)	N/A

NOTATION DE CRÉDIT

DBRS

Gaz Metropolitan, Inc.

(Rating and report based on the Guarantor,
Gaz Metropolitan and Company, Limited Partnership)

Current Report: June 23, 1997
Previous Report: June 12, 1996

RATING

<u>Rating</u>	<u>Trend</u>	<u>Rating Action</u>	<u>Debt Rated</u>
'A'	Stable	Confirmed	First Mortgage Bonds
'A'	Stable	Confirmed	Other Secured Term Debt

Tim Crocker
(514) 297-4474

RATING HISTORY (as at December 31)

	<u>Current</u>	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>
First Mtge. Bonds & Other Sec. Term Debt	'A'	'A'	'A'	'A'	'A'	'A'

RATING UPDATE

The mainline gas distribution system of Gaz Metropolitan and Company, Limited Partnership ("GMCLP") is mature, and the rate base has experienced only modest growth over the past several years, which we expect will continue to be the case in the context of a relatively slow growth Quebec economy. Through joint ventures, GMCLP is involved in two large pipeline projects seeking approval to build pipelines to deliver natural gas from Quebec to the New England States in the first case, and Sable Island natural gas from Nova Scotia to Quebec, Ontario and the New England States in the second case. The first project will likely proceed irrespective of whether the second project proceeds. The potential equity contributions by GMCLP would be

\$50 million and \$125 million respectively. There is a competing proposal for the second project. GMCLP's policy has been to finance equity investments with equity, which we expect will continue to be the case. The regulatory climate for GMCLP's mainline gas distribution operations, which account for about 85% of earnings, has been generally supportive. Most major uncontrollable revenue and expense items are covered by stabilization accounts, which adds a great deal of stability to earnings, which typically come in close to authorized levels on the mainline. Also, rate base capitalization ratios adequately compensate for GMCLP's risk profile.

RATING CONSIDERATIONSStrengths:

- Regulation is supportive
- Earnings stability is protected by deferral accounts
- Balance sheet has large equity component
- Normalized taxation helps coverage ratios
- Majority ownership by government agencies

Challenges:

- Future regulatory environment
- Competing energy sources, particularly electricity
- Industrial concentration of customers
- System maturity: growth is slow
- Quebec economy is sluggish and uncertain.

FINANCIAL INFORMATION

Year ended September 30

Consolidated (\$ millions)	<u>1996</u>	<u>1995</u>	<u>1994</u>	<u>1993</u>	<u>1992</u>	<u>1991</u>	<u>1990</u>
GMCLP rate base	1,340	1,316	1,229	1,178	1,165	1,152	1,109
% debt in capital structure	55.83%	56.11%	57.65%	53.32%	52.46%	54.70%	51.42%
Interest coverage	2.52X	2.44X	2.43X	2.52X	2.45X	2.46X	2.59X
Authorized common equity return	12.00%	12.00%	12.00%	12.50%	14.00%	14.25%	14.25%
Return on common equity	11.66%	12.88%	12.13%	12.00%	13.78%	14.45%	14.49%

COMPANY

Gaz Metropolitan Inc. ('Gaz Met') is the general partner in GMCLP and currently owns 80% of the partnership units. Its shares are indirectly owned approximately 38% by Hydro Quebec, which has an option on an additional 8%, 36% by the Caisse de Depot and 18% by Gaz de France. Its only investment is in the units of GMCLP, and its function is to act as a financing vehicle for GMCLP. It raises debt financing for GMCLP, when required, and on-lends funds to GMCLP on a back-to-back basis on similar terms and conditions.

Gaz Metropolitan and Company, Limited Partnership GMCLP distributes natural gas throughout Quebec in its exclusive service area which includes all major population areas, and is engaged in related activities. It also owns 50% of the TQM Pipeline Partnership and 100% of Northern New England Gas Corporation, which in turn owns 100% of Vermont Gas Systems Inc.

Natural Gas Distribution**DOMINION BOND RATING SERVICE LIMITED**

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RATING CONSIDERATIONS

Strengths: (1) The regulatory environment has been stable supportive to date with respect to business, financial and regulatory risks facing the partnership, and in supporting programs to promote the use of natural gas in heating applications within the Province of Quebec. Other than factors below, GMCLP has from time to time been allowed the flexibility to adjust its rates to counter competitive pricing threats from competing energy sources to retain customers, the cost of which is covered in deferral accounts, and to offer conversion grants to selected potential customers. (2) All of the major non-controllable revenue and cost variables, weather and gas prices in particular, are covered by stabilization accounts, which adds a great deal of stability to earnings. (3) Balance sheet capitalization ratios have a moderately higher equity component than GMCLP's peer group which takes into account the somewhat unique competition from low cost hydro electricity, customers with dual fuel use capacity, and high industrial concentration. (4) 80% of GMCLP's equity is controlled by Hydro Quebec, the Caisse de Depot, and Gaz de France, a French state agency.

Challenges: (1) A new regulatory body has been established to regulate natural gas and electricity in Quebec. This could result in a more level playing field between competing forms of energy than is currently the case which could benefit GMCLP. (2) Natural gas competes against electricity and #6 and #2 fuel oil in heating applications. In the residential market, Gaz Met has a low penetration where hydro is favoured due to lower up front or conversion costs. For customers who have dual energy capacity, on a regular rate basis, gas is competitive with electricity. However, from time to time, Quebec Hydro has resorted to price discounting to gain customers. (3) Over 60% of gas deliveries are to industrial markets whose performance varies with fluctuations in the level of economic activity. (4) The gas distribution market in Quebec is mature with only moderate upside potential. (5) The Quebec economy has partially recovered from the recession. However, growth potential is somewhat limited and the political uncertainty is not helpful.

EARNINGS

Due to the weather sensitive nature of the gas distribution business, earnings are seasonal. Typically, earnings in the first six months of the year, October to March, approximate annual results. Earnings for the first six months of 1997, before provision for deemed income taxes were \$147 million, virtually unchanged from earnings recorded in the first six months and full year in 1996. Demand growth in the industrial sector this year more than offset the negative impact of a 50 basis point decline in the allowed rate of return on the mainline pipeline system, which accounts for about 85% of earnings. As noted earlier, most earnings

variables compared to forecast are covered by stabilization accounts, the most significant of which are related to fluctuations in weather temperatures and the impact of gas prices on storage inventories. As a result, annual earnings normally approximate authorized returns. Although the Gaz Met and TQM partnerships are not taxable, they are allowed to collect normalized deemed income taxes in tolls. Due to changes in the timing of the deductibility of certain items, this resulted in a temporary uplift in 1995 earnings, which accounted for the slight decline in 1996 earnings on an after-tax basis.

BALANCE SHEET

The authorized capitalization ratios for the regulated mainline are 54% debt and 46% equity. The equity portion is represented by partnership units, which for regulatory purposes are deemed to consist of 7.5% preferred shares and 38.5% common shares. All of the unconsolidated debt of GMCLP (84% of total consolidated debt) represents back to back loans from Gaz Met. Historically, capitalization ratios for the mainline have been maintained close to regulated guidelines. Virtually all of GMCLP's earnings are distributed annually to unit holders. In 1996, retained cash flow was sufficient to finance virtually all of a much lower amount of outlays for capital expenditures and deferred charges and other items, which is expected to be the case this year. As a result, no equity issues were necessary in 1996, and none are planned this year. Subsequent to the year end, all of GMCLP's secured debentures were classified as first mortgage bonds as a result of a trust

indenture amendment. In November 1996, Gaz Met filed a short term prospectus to issue up to \$150 million of first mortgage bonds to repay an equivalent amount of borrowings under a credit facility. \$50 million of the authorized amount was issued in November. GMCLP is a member of a consortium seeking approval to build a natural gas pipeline from New Hampshire to Boston. The connecting pipeline from a point near Montreal will be built, subject to NEB approval, by TQM. Through joint ventures, GMCLP is involved in a proposal to build a pipeline to deliver natural gas from the Sable Island project to markets in the Maritimes, Quebec, Ontario, and the New England States through PNGTS. The former project will likely proceed whether or not the latter project, for which there is a competing proposal, is approved and proceeds. The potential equity investment would be about \$50 million in the first case, and \$125 million in the second case.

Gaz Metropolitan and Company, Limited Partnership

Balance Sheet

(\$ millions)

	September 30			Liabilities & Equity	September 30		
	1996	1995	1994		1996	1995	1994
Assets							
Cash	0	7.0	7.3	Bank borrowings (1)	75.0	84.9	95.5
Receivables (1)	82.1	101.5	89.9	Other current debt	12.1	81.3	56.2
Inventories	75.7	81.6	115.6	Payables & accruals	139.4	143.1	152.3
Prepaid exp & other	24.8	19.9	16.3	Current liabilities	226.5	309.3	304.0
Current assets	182.6	210.0	229.1	Long term debt	842.0	767.5	739.0
Fixed assets	1,419.3	1,372.8	1,300.5	Partners' equity	734.9	730.3	654.4
Deferred items	166.5	196.3	137.5				
Goodwill	21.4	19.7	20.5				
Other assets	13.6	8.3	9.8				
	1,803.4	1,807.1	1,697.4		1,803.4	1,807.1	1,697.4

Balance Sheet &

Liquidity Ratios

	September 30							
	1996	1995	1994	1993	1992	1991	1990	1989
Working capital ratio	0.81X	0.68X	0.75X	0.91X	0.74X	1.10X	0.68X	0.82X
% Debt in capital structure	55.83%	56.11%	57.65%	53.32%	52.46%	54.70%	51.42%	54.19%
% Net debt in capital structure	55.83%	55.93%	57.44%	52.96%	52.46%	54.70%	51.42%	54.19%
Debt to cash generation	3.37X	3.76X	3.52X	3.10X	2.91X	3.43X	3.04X	3.58X
Partners' distributions/income	97.14%	98.43%	97.83%	154.84%	66.16%	113.85%	89.01%	95.79%
Retained cash flow/ net invest	107.72%	49.92%	42.92%	23.75%	161.17%	22.96%	145.23%	84.93%
Capex/Y/E Gross fixed assets	5.10%	7.17%	5.77%	6.66%	4.22%	5.13%	4.55%	4.72%
Capital expenditures/depn.	1.58X	2.26X	1.82X	2.00X	1.22X	1.69X	1.54X	1.58X
Average depreciation rate	3.48%	3.49%	3.61%	3.62%	3.57%	3.27%	3.16%	3.25%
Revenue/Avg net fixed assets	0.82X	0.85X	1.02X	1.02X	1.09X	1.02X	1.03X	1.00X
Interest coverage	2.52X	2.44X	2.43X	2.52X	2.45X	2.46X	2.59X	2.50X
Fixed charge coverage	2.28X	2.22X	2.23X	2.27X	2.20X	2.16X	2.23X	2.13X

Income Statements

(\$ millions)

	For the year ended September 30							
	1996	1995	1994	1993	1992	1991	1990	1989
Sales	1,149.5	1,134.8	1,228.4	1,065.9	1,091.1	1,015.9	987.5	928.2
Operating income	241.5	228.5	210.0	184.4	187.5	188.5	184.0	165.6
Reported income (2)	145.8	135.0	123.6	111.4	111.0	111.9	108.2	97.0
Net income (3)	80.1	83.1	71.4	66.1	69.4	73.2	73.3	68.3
Common share earnings (3)	73.5	77.3	66.2	60.7	63.2	65.5	65.9	60.7
Cash generation	275.7	248.5	252.8	220.5	210.7	196.1	190.9	165.7

Profitability Ratios

Profit margin	6.39%	6.82%	5.39%	5.69%	5.79%	6.45%	6.67%	6.54%
Operating and maintenance expenses to gross margin	30.61%	32.49%	33.38%	36.21%	33.01%	31.40%	31.54%	32.73%
Return on equity (3)	10.93%	11.91%	11.23%	11.12%	12.75%	13.55%	13.53%	12.70%
Return on common equity (3)	11.66%	12.88%	12.13%	12.00%	13.78%	14.45%	14.49%	13.62%
Return on capital (3)	8.44%	8.84%	8.98%	9.23%	10.03%	10.33%	10.39%	9.84%

Selected Data

GMCLP Rate base (\$ millions)	\$1,340.1	\$1,316.4	\$1,228.9	\$1,178.0	\$1,164.8	\$1,152.8	\$1,108.7	\$1,092.4
Common equity component	38.14%	37.99%	38.26%	39.13%	38.48%	38.61%	39.83%	39.48%
Common equity return	12.00%	12.00%	12.00%	12.50%	14.00%	14.25%	14.25%	13.50%

(1) Receivables and debt have been adjusted to include sold receivables. (2) Pre-tax. The partnership is not taxable.

(3) After imputed income taxes, as if the partnership were taxable.

Societe en Commandite Gaz Metropolitan

Unconsolidated financial results

Balance Sheet

(\$ millions)

	September 30				September 30		
	1996	1995	1994		1996	1995	1994
Assets				Liabilities & Equity			
Cash	0	4.3	4.5	Short term debt (1)	60.4	81.0	95.5
Receivables (1)	74.0	94.8	81.7	Maturing term debt	24.8	90.1	59.3
Inventories	71.3	77.4	113.1	Payables & accruals	115.6	125.4	130.7
Prepaid expenses	21.2	16.2	11.4	Current liabilities	200.8	296.5	285.5
Current assets	166.5	192.7	210.7	Long term debt	691.4	608.1	580.8
Fixed assets	1,183.3	1,155.5	1,084.7	Partners' equity	734.9	730.3	654.4
Deferred items	153.2	177.1	132.1				
Stabilization accounts	6.4	11.8	1.0				
Investments & advances							
- TQM	58.8	54.3	50.3				
- Northern NE Gas	31.1	28.8	26.1				
- Other	27.8	14.7	15.8				
	117.7	97.8	92.2				
	1,627.1	1,634.9	1,520.7		1,627.1	1,634.9	1,520.7

Balance Sheet &

Liquidity Ratios

	September 30				
	1996	1995	1994	1993	1992
Working capital ratio	0.83X	0.65X	0.74X	0.97X	0.79X
% Debt in capital structure	51.38%	51.62%	52.92%	52.34%	52.49%
% Adj. debt in cap structure *	55.43%	55.09%	56.47%	53.43%	52.58%
% Net debt in capital structure	51.38%	51.48%	52.77%	52.08%	52.49%
Debt to cash generation **	3.18X	3.56X	3.18X	3.03X	2.92X
Partners' distributions/income	97.14%	98.43%	97.81%	154.75%	66.22%
Maintained cash flow/ net invest	0.93X	0.39X	0.34X	0.22X	1.62X
Capex/Y/E gross fixed assets	5.06%	7.96%	6.73%	4.04%	4.23%
Capital expenditures/deprec.	1.55X	2.52X	2.04X	1.97X	1.22X
Average depreciation rate	3.52%	3.54%	3.60%	3.62%	3.57%
Imputed effective tax rate ***	46.13%	38.60%	42.94%	40.78%	37.04%
Interest coverage	2.66X	2.56X	2.59X	2.54X	2.45X
Fixed charge coverage	2.34X	2.28X	2.31X	2.27X	2.17X

Income Statement

(\$ millions)

	Year ended September 30				
	1996	1995	1994	1993	1992
Sales	1,041.3	1,025.8	1,126.0	1,027.7	1,088.8
Operating income	205.3	192.8	181.3	181.1	187.1
SCGM earnings after tax	69.0	72.1	63.5	65.1	69.6
SCGM common share earnings after tax	62.5	66.3	58.3	59.7	63.5
Equity earnings after tax	11.1	11.0	7.9	1.0	(0.3)
Total common share earnings after tax	73.5	77.3	66.2	60.7	63.2
SCGM cash generation	244.3	218.7	230.9	216.9	210.2

Profitability Ratios

Gross margin	37.93%	37.47%	32.73%	36.82%	34.71%
Operating margin	19.71%	18.79%	16.10%	17.62%	17.18%
Net margin	6.00%	6.46%	5.18%	5.81%	5.83%
Return on SCGM equity	12.22%	13.26%	12.40%	12.92%	14.17%
Authorized rate of return	12.00%	12.00%	12.00%	12.50%	14.00%

(1) Adjusted to include sold receivables.

* Equity and partnership investments are deemed to be financed 100% with equity. For purposes of this calculation, the equity component in the capital structure is reduced by the equity equivalent on the asset side of the balance sheet. **Due to the fact that virtually 100% of pre-tax earnings are paid out to shareholders, this ratio is not meaningful. ***The partnership is not taxable. Imputed taxes are calculated at the statutory tax rate of 36.9% applicable to Quebec companies. Variations from this rate are due to timing differences, which are covered by deferral accounts.

NOTATION DE CRÉDIT

C B R S

(PUBLIÉE LE 10 SEPTEMBRE 1998)

September 10, 1998

Volume II – Utilities – Gas & Electrical

	Current Ratings	Rating Outlook	Rating Status
Commercial Paper	A-1	Stable	Reaffirmed
First Mortgage Bonds	A(High)	Stable	Reaffirmed

Filing Instructions: Replaces all previous reports.

RATING OPINION

CBRS has assigned a rating of **A(High)** to Gaz Metropolitan and Company, Limited Partnership's (GMCLP) recently filed \$200 million First Mortgage Bonds Shelf Registration. At the same time, CBRS has reaffirmed the rating on the Company's \$300 million Commercial Paper program and \$527 million of outstanding First Mortgage Bonds (includes \$54.5 million Australian Note) at A-1 and A(High), respectively. The outlook for the company's securities remains **Stable**.

The company's recent growth has been primarily generated by the regulated distribution activities in Quebec. Although this is a mature business, the relatively untapped residential market continues to prove a challenge for the company. Meanwhile, future growth will likely depend mostly on the gas transmission side of the business and other expansion opportunities in Quebec or northeastern U.S. (i.e. acquiring a LDC). The company's strategy remains to finance its equity interest in affiliated companies with equity and possible debt financing in the interim.

The company has demonstrated an ability to maintain a stable capital structure, sound coverage ratios and good cash flow generating capabilities. This is mainly attributable to good management, stabilization accounts and a regulated capital structure. The company's debt leverage of 55% and interest coverage ratio of 2.5X continues to measure within the parameters of its current rating category. Approximately 90% of the company's revenues are derived from its regulated natural gas distribution activities, which will naturally decline over time as the company diversifies its activities.

The historical price advantage natural gas holds vs. most alternative energy sources help reduce GMi's overall business risk. However, recent price volatility in energy markets combined with the flexibility of large load customers to

Key Ratios

	1997	1996	1995	1994
Interest coverage	2.5x	2.5x	2.4x	2.4x
EBITDA int. cov.	3.4x	3.4x	3.3x	3.3x
Cashflow/total debt	28.9%	31.5%	28.0%	30.1%
Total debt : equity	55:45%	54:46%	55:45%	56:44%

switch energy sources highlights how quickly competitive conditions can change. The plunge in the price of crude oil and low electric rates in Quebec, remain major competitive concerns to the company. Crude oil prices declined to the US\$13.00 level in March 1998 and have averaged US\$16.00 in the first half of calendar 1998. This combined with a 10% increase in natural gas prices compared to the same period in 1997 has altered the price advantage to oil and compromised the company's competitive position. The company has mitigated part of this risk by engaging industrial customers to long term contracts (3-5 years).

In the near term, GMi remains affected by Hydro Quebec's cross-subsidization of residential electricity rates, which makes for an uneven playing field. However, GMi is confident that market pressures will correct this practice over the mid-term. In addition, profitability objectives at Hydro Quebec and the general move towards energy deregulation in North America should result in Quebec electricity rates, residential in particular, to better reflect the actual cost of production. As electricity rates begin to rise, residential space heating with natural gas will become increasingly viable. However, with the deregulation of North American energy markets and the continued build out of pipeline capacity into the US market, Canadian natural gas prices could drift upwards as they converge with US prices which are currently higher. This would add to the company's business risk.

CREDIT INFORMATION

Commercial Paper Program & Liquidity

- Authorized Amount: \$300 million
- Most Frequent Maturity Term: 30-60-90-120 days
- Activity: Regularly active issuer
- Dealers: National Bank Securities, RBC Dominion Securities, Scotia McLeod, Wood Gundy, TD Bank Securities, Bank of Montreal Securities
- Bank Support: Total short term debt cannot exceed \$300 million revolving line of credit supported by National Bank, Royal Bank, TD Bank and Chase Manhattan Bank

Long Term Debt

- FMB Shelf Registration: \$200M in aggregate
- Effective: Aug. 1998 to Aug. 2000
- Debt Maturities: F 1999 - \$75M
F 2000 - \$54M

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RATING OUTLOOK - STABLE

The company's growth strategy moving forward will center on improving its competitive position in Quebec, improving the quality of services and products offered, developing the residential market, increasing the share of natural gas in Quebec's energy balance, and possibly seek acquisition opportunities in the northeastern US. With respect to the transmission business, GMi plans to improve the integration of GMCLP to the continental supply basins as well as to other transmission and storage infrastructures. Also, the company is searching other business opportunities such as an investment in water supply and water treatment facilities.

The economic situation in Quebec has had a negative effect on the growth of the rate base, but it continues to grow, albeit at a slower pace. The company's share of Quebec's energy market remains in the 16-17% range (compared to Ontario at 39% and Canada at 33%) where it is expected to remain until GMi can successfully penetrate the nearly untapped residential market and/or extend its system into new communities. In the near to mid term, abundant natural gas reserves insures the security of supply, but the emergence of new pipeline capacity to the US market, could result in Canadian gas prices to become more uniform with higher US gas prices thereby increasing GMi's market risk.

The price of network gas averaged \$2.24/GJ during the third quarter, up roughly 25% in relation to the price in the same quarter the preceding year. The prices obtained by natural gas suppliers for one-month and 12-month contracts underwent similar increases. During the same period, crude oil, No.6 fuel oil and No.2 fuel oil prices dropped by over .0%, which exacerbated an already unfavorable competitive position, notably in the large industrial market. However, given that the transmission and distribution service is provided to large industrial users under long-term contracts, the impact on deliveries of a temporarily unfavorable competitive position is confined to the portion of volumes sold under interruptible service that exceeds the contractual level agreed upon with customers. Moreover, the company took steps to reduce the cost of sales and to avoid, as far as possible, any future reductions in deliveries at a time when natural gas prices remain relatively high. In relation to electricity, subject to a 1.6% rate increase on May 1, 1998, natural gas is maintaining a favorable competitive position in most markets.

PERFORMANCE

Net Income for the nine month period ended June 30, 1998 increased 0.9% to \$157.5 million, on sales of \$1,039.6 million, up 1.9% from the corresponding period in 1997. Natural gas deliveries to customers were 5,094 million cubic metres since the beginning of the year, down 4.4% from the corresponding period in F1997 due to the impact of oil competition in the large industrial market in the last quarter, and to much warmer than normal temperatures during the winter.

1999 Rate Case: On May 8, 1998, GMCLP filed with the Regie a rate request in order to have approved an overall

Rating History

1st Mortgage Bonds	
1985 - present.....	A(High)
1984.....	A
1982 - 83.....	B++
1973 - 81.....	B+
General Mortgage Bonds	
1989.....	Withdrawn
1985 - 89.....	A(High)
1984.....	A
1982 - 83.....	B++
1973 - 81.....	B+
Unsecured Debentures	
Sept. 1991: Unsecured debentures became secured	
1985 - Sept. 1991.....	A
1984.....	B++
1982 - 83.....	B+
1973 - 81.....	B
Secured Debentures	
Nov. 1996: Secured Debenture became First Mortgage Bonds upon the maturity of the old FMB	
Sept. 1991 - Nov. 1996.....	A(High)
Preferred Shares	
Sept. 1991.....	Withdrawn
1985 - Sept. 1991.....	P-2
1982 - 84.....	P-3
Commercial Paper	
1988 - present.....	A-1

increase of 1.7% in transmission and distribution rates, which would generate an additional \$12 million in revenues. The key financial factors supporting the request are an average rate base of \$1,404 million and a capital cost of 9.20%. This cost reflects, in particular, the requested basic rate of return of 10.57% on deemed average partners' common equity of \$538 million attributable to distribution operations in Quebec. This rate stems from an application of a formula that GMCLP is proposing to use from now on. Specifically, the formula comprises the forecast of long-term interest rates, to which is added a risk premium specific to the utility's operations. Moreover, at the Regie's request, GMCLP is proposing a new incentive program to ensure the ongoing enhancement of performance, which would apply for the next five years. Considering that the Regie is unable to hear the Partnership's rate case before the beginning of the next fiscal year, the Partnership requested and obtained on July 31, 1998 an interim rate adjustment effective October 1, 1998. This uniform increase of 1.4% in the rates will enable the Partnership to cover the net increase in the rates charged by TransCanada Pipelines, which brings natural gas from Alberta to Quebec. The Regie will set final rates, retroactive to October 1, following hearings that are slated to begin on October 21, 1998.

CREDIT STRENGTHS AND CONCERNS

- The company's business is currently weighted towards industrial and commercial customers marking the company more susceptible to economic fluctuations. In addition, the company's location at the end of the TCPL/TQM pipeline forces the company into longer term contracts thereby increasing the company's exposure to price fluctuations. These vulnerabilities are partially mitigated by regulatory measures, which allow GMI to use long-term contracts and/or use flexible rates to reduce distribution rates in order to retain existing customers and to continue developing its customer base.
- GMI continues to benefit from the strong export sector, which is driving the activity of its industrial customer base. However, domestic consumption and growth remains weak as Quebec's economic situation continue to lag Canadian and North American averages. Commercial and industrial vacancies remain high, especially in Montreal, and the growth potential from new large industrial customers remains limited. Unemployment also remains high and the province is experiencing net population losses. As a result, GMI's customer base has remained relatively flat over the past five years. Although new housing statistics show considerable improvement on a percentage basis, the actual number of new housing starts remains quite low. In addition, weak housing starts combined with the comparatively high installation costs of natural gas heating for new construction, versus baseboard electric heating, is having a negative effect on residential customer growth. As a result, most of GMI's growth will be limited to growth in demand from existing customers and the potential along the existing gas systems.
- GMI's long-term prospects will be primarily driven by the company's success in developing the Quebec residential market, growth in the cogeneration industry and US expansion opportunities. Development of the residential market, which has largely been ignored over the past 5-10 years, will offer GMI strong growth opportunities combined with the risk reducing attributes associated with a more diversified customer base. Management's view is that natural gas will play an increasing role within Quebec's energy market as Hydro Quebec increases its local rates to provide a better return on its investment and explores alternatives allowing its to shift a larger percentage of its production to the more lucrative US market. In addition, the days of hydro-electric "mega-projects" appear to be over and there is a marked trend towards smaller, on-site, gas fired generating plants (cogens) which are financially more viable and environmentally friendly as opposed to larger projects.

- The company has acquired and developed a number of pipelines and distribution systems in Quebec and the US Northeast. These initiatives form part of the company's efforts to become a natural gas transportation and storage hub for Northeastern North America and outline the company's plans to expand its franchise area. The company has a 19.1% interest in the 300-mile Portland Natural Gas Transmission System (PNGTS), which will transport natural gas to markets in New Hampshire, Maine and Massachusetts. Construction on the PNGTS started in the spring of 1998 and the pipeline is slated to go into service in the fall of 1998. TQM Pipeline (50% owned) is currently involved in a major expansion of its pipeline extending it from Lachenaie to East Hereford in the Eastern Townships and interconnecting with PNGTS. Another major investment is Vermont Gas, which continues to grow its customer base (29,000 customers at YE97) and net income (1997 - \$3.4 million). GMI is also involved in non-regulated activities complementary to the gas distribution business such as the sale, rental, financing and maintenance of natural gas equipment. In 1997 this sector represented 5% of total assets and 3% of net income. GMI's expansion plans did suffer a set-back in 1997 when the NEB approved a competing bid over TQM's proposed Sable Island Pipeline project which would have seen Sable Island natural gas piped into the Quebec market.

CORPORATE PROFILE

GMCLP operates as its core business an integrated system for the distribution, storage and transportation of natural gas. GMCLP serves over 147,000 residential, commercial and industrial customers over 265 municipalities across the Province of Quebec. This includes substantially all the current and potential industrial natural gas users in the Province. GMCLP is also involved in natural gas distribution in the State of Vermont through Northern New England Gas Corporation, which owns Vermont Gas Systems, Inc., the sole gas distributor in the State of Vermont, servicing over 29,000 customers. GMCLP has a 50% ownership interest in TQM Pipeline, which operates a gas pipeline in Quebec supplying about 62% of the natural gas distributed by the Partnership in the service area. GMCLP is managed by Gaz Metropolitan, inc. which holds 80% of its Units, with public investors holding the remaining 20%. GMI is a wholly owned subsidiary of Noverco, which in turn is majority owned by Hydro-Quebec (41%), IPL Energy (32%) and Gaz de France (18%). **CBRS**

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First Mortgage Bonds (At Sept. 30, 1997)

SER	TYPE	CUSIP	CPN	MATURITY	CRNCY	FREQ	DAY CNT	ISSUED	Q/S(\$MM)	OPTION	LEAD	RATING
-	FMB	368271AK8	11.25	01-Dec-97	C\$	SEMI	ACT/ACT	1987	50	NC	CIBC	A(High)
E	FMB	368271AP7	9.900	01-Feb-99	C\$	SEMI	ACT/ACT	1995	25	NC	TD	A(High)
E	FMB	368271AM4	9.250	05-Aug-99	C\$	SEMI	ACT/ACT	1994	50	NC	NB	A(High)
-	FMB	368271AG7	11.75	15-Nov-2005	C\$	SEMI	ACT/ACT	1985	51	SF	LBG	A(High)
-	FMB	368271AJ1	10.75	15-Dec-2006	C\$	SEMI	ACT/ACT	1986	75	NC	LBG	A(High)
D	FMB	368271AL6	10.45	31-Oct-2016	C\$	SEMI	ACT/ACT	1991	125	CALL D+35	WG	A(High)
E	FMB	368271AQ5	9.000	16-May-2025	C\$	SEMI	ACT/ACT	1995	100	CALL D+20	LBG	A(High)
F	FMB	368271AR3	7.200	19-Nov-2027	C\$	SEMI	ACT/ACT	1996	50	CALL D+12	LBG	A(High)

GAZ METROPOLITAIN & COMPANY, LIMITED PARTNERSHIP

(CAD\$ millions)

Year ended September 31

	1997	1996	1995	1994	1993	3 Year Trend
Abbreviated Financial Statements						
Revenues	\$1,205.4	\$1,149.5	\$1,134.8	\$1,228.4	\$1,065.9	-1%
Cost of goods sold	729.7	675.2	674.8	795.5	670.4	-3%
EBITDA	325.6	329.2	310.5	288.4	251.5	+4%
EBIT	233.2	241.5	228.5	210.0	183.6	+4%
Interest expense	94.5	95.7	93.5	86.4	73.4	+3%
Net earnings before unusual items	138.7	145.8	135.0	123.6	110.2	+4%
Net earnings after unusual items	138.7	145.8	135.0	123.6	110.2	+4%
Current assets	152.2	128.6	163.5	179.1	143.6	-5%
less current liabilities	223.0	172.4	262.8	254.0	163.0	-4%
Net current assets	(70.8)	(43.9)	(99.3)	(74.9)	(19.3)	+2%
Fixed + other assets	1,623.1	1,620.8	1,597.1	1,468.3	1,233.4	+3%
Total net assets	1,552.3	1,576.9	1,497.8	1,393.4	1,214.0	+4%
less other liabilities	0.3	0.1	0.0	0.0	0.0	+93%
less long-term debt	819.8	841.9	767.5	739.0	615.1	+4%
Equity: share capital	732.1	734.9	730.3	654.4	598.9	+4%
retained earnings	732.1	734.9	730.3	654.4	598.9	+4%
Total assets	1,775.3	1,749.4	1,760.6	1,647.4	1,377.0	+3%
Cash flow from operations	257.9	275.7	248.5	252.8	219.3	+1%
Proceeds from LT debt	50.9	163.6	239.9	90.6	103.7	-17%
Proceeds from equity issues	0.0	0.0	74.0	52.7	102.8	-100%
Sales of investments/assets	0.0	0.0	0.0	0.0	0.0	N/A
Capital expenditure (net)	69.4	97.4	129.7	97.7	91.3	-11%
Investments/acquisitions	11.7	10.5	(2.6)	56.4	29.2	-41%
Repayment of debt	59.0	164.4	181.9	31.4	56.0	+23%
Distributions paid	142.2	141.7	132.9	120.9	172.4	+6%
Capitalization (\$ - %)						
Short term debt	71.8- 4	33.1- 2	119.7- 7	101.7- 7	19.0- 2	74.9- 5
Long term debt	819.8- 50	841.9- 52	767.5- 47	739.0- 49	615.1- 50	809.7- 50
Deferred taxes	0.0- 0	0.0- 0	0.0- 0	0.0- 0	0.0- 0	0.0- 0
Minority interest	0.3- 0	0.1- 0	0.0- 0	0.0- 0	0.0- 0	0.2- 0
Equity - Preferred	N/A	N/A	N/A	N/A	N/A	0.0- 0
- Common	732.1- 45	734.9- 46	730.3- 45	654.4- 44	598.9- 49	732.5- 45
Total capitalization	1,624.1-100	1,610.0-100	1,617.6-100	1,495.1-100	1,233.1-100	1,617.2- 100
Coverage & Liquidity Ratios						
Net tangible assets	1.7x	1.6x	1.6x	1.6x	1.8x	1.6x
Total debt:equity	55:45%	54:46%	55:45%	56:44%	51:49%	55:45%
Total debt:EBITDA	2.7x	2.7x	2.9x	2.9x	2.5x	2.8x
Interest coverage	2.5x	2.5x	2.4x	2.4x	2.5x	2.5x
EBITDA interest coverage	3.4x	3.4x	3.3x	3.3x	3.4x	3.4x
Cashflow / total debt	28.9%	31.5%	28.0%	30.1%	34.6%	29.5%
All fixed charges coverage	2.5x	2.5x	2.4x	2.4x	2.5x	2.5x
Current ratio	0.68-1	0.75-1	0.62-1	0.71-1	0.88-1	0.68-1
Profitability Ratios						
Net margin	11.5%	12.7%	11.9%	10.1%	10.3%	12.0%
Asset turnover	67.9%	65.7%	64.5%	74.6%	77.4%	0.7x
EBIT % total assets	13.1%	13.8%	13.0%	12.7%	13.3%	13.3%
Return on average common equity	18.9%	19.9%	19.5%	19.7%	19.1%	19.4%
Selected Statistics						
Rate base (\$000)	1,352	1,340	1,316	1,229	1,178	+3%
Regulated ROE	11.5%	12.0%	12.0%	12.0%	12.5%	-1%
Total gas deliveries (10 ⁶ m ³)	6,432	6,211	5,903	5,790	5,758	+4%
Total active customers (000)	176	175	174	173	172	+1%
Gross operating margin (\$ / 10 ³ m ³)	63.96	63.98	64.49	69.14	65.86	-3%

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Table 1 - Key Economic Indicators

	Series ID
GDP at Market Prices (Millions \$ 1997)	YGDPK
Implicit Price Deflator - GDP at Market Prices (1997=1.0)	PGDPMP
U.S. Gross Domestic Product at Market Prices (Billions \$ 1997)	USGDPK
Consumer Price Index (1992=1.0)	PCPI
Total Employment ('000s)	E
Unemployment Rate	UR
Private Non-Farm Average Hourly Earnings	WRHIC
Real Personal Disposable Income (Millions \$ 1997)	YPAK
Private Non-Farm Productivity (Thousands \$ 1997)	PRODPNF
Federal Government Balance (Millions \$ 1997)	GBALF
Corporate Profits Before Taxes (Millions \$)	YPROFBT
Housing Starts ('000s)	IHS
Prime Rate	RPRIME
Canada - 3 Month Treasury Bill	RTB90
United States - 3 Month Treasury Bill	USRTB90
Exchange Rate (Canada/U.S.)	PFX
Exchange Rate (U.S./Canada)	PFXI
United States Federal Funds Rate	USRFUND
Merchandise Terms of Trade	MERCHTOT
Current Account Balance (Millions \$)	BPCA

Sources: Statistics Canada, CMHC, The Bank of Canada, The Conference Board of Canada.

Canadian directory index

Table 2 - Gross Domestic Product, Expenditure Based (Millions \$ 1997)

	Series ID
Consumer Expenditures	CK
Net Government Spending (Goods and Services)	GGSNK
Gross Fixed Capital Formation (GFCF)	IGFCK
Government	GFINK

Business	IBK
Residential Construction	IRCBK
Non-Residential Construction	INRBK
Machinery and Equipment	IMEBK
Final Domestic Demand	YFDDK
Exports	XK
Merchandise	XMK
Imports	MK
Merchandise	MMK
Net Exports	XNETK
Final Demand	YFDK
Value of Physical Change in Inventories	IJK
Government	GIJK
Business	IIBK
Residual Error	YREEYK
Gross Domestic Product at Market Prices	YGDPK

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 3 - Gross Domestic Product, Income Based (Millions \$)	Series ID
Wages, Salaries and Supplementary Labour Income	YL
Corporate Profits Before Taxes	YPROFBT
Profits of Government Enterprises, Before Taxes	YPROFGBT
Interest and Miscellaneous Investment Income	YINTMI
Interest and Miscellaneous Investment Income: Persons	YINTMIP
Accrued Net Income, Farm Operators	YFO
Net Income, Non-Farm Unincorporated Business	YNFUBR
Inventory Valuation Adjustment	YIVA
Net Domestic Income at Factor Cost	YND
Indirect Taxes Less Subsidies	TISUB
Capital Consumption Allowance	YCCA
Residual Error	YREEY
Gross Domestic Product at Market Prices	YGDPMP

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 4 - Sources and Disposition of Income: Households (Millions \$)	Series ID
Personal Income Excluding Transfers*	YPZT
Transfers to Persons*	YTP
Government	GTP
Corporations	YTBP
Non-Residents	YTNRP
Personal Income	YP
Transfers to Government	YTG
Income Taxes	TPY
Personal Disposable Income	YPD
Real Disposable Income	YPAK
Transfers to Corporations	YTPB
Transfers to Non-Residents	YTPNR
Consumer Expenditures	CONS
Personal Savings	YPS
Personal Savings Rate	YPSR

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 5 - Sources and Disposition of Income: Business (Millions \$)	Series ID
Corporate Profits Before Taxes	YPROFBT
Profit Share in NDI	YPROFBT/YND*100
Direct Taxes Corporate, Business	TDBZG
Corporate Profits After Taxes	YPROFAT
Dividends	YDIV
Residents	YDIVR
Non-Residents	YDIVNR
Transfers From Persons	YTPB
Capital Consumption Allowance, Business	YCCAB
Inventory Valuation Adjustment	YIVA

Government Capital Assistance to Business	GCASB
Retained Earnings	YRE
Corporate Business	YRECB
Government Business	YREGB

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 6 - Consumer Expenditures (Millions \$ 1997)

	Series ID
Total Expenditures	CK
Durable Goods	CDK
Automobiles	CAPK
Other Durable	CDOK
Semi-Durable Goods	CSDK
Non-Durable Goods	CNDK
Food, Beverages and Tobacco	CFBTK
Energy	CENERGK
Other Non-Durable Goods	CNDOK
Services	CSK
Rent	CRENTK
Other Services	CSOK
Retail Sales (Millions \$)	NRT

Sources: Statistics Canada, The Conference Board of Canada.

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Table 7 - Housing Starts and Residential Construction Expenditures

	Series ID
Housing Starts ('000)	IHS
Singles	IHSS
Multiples	IHMS
Housing Completions ('000)	IHC
Singles	IHSC
Multiples	IHMC

Business Residential Construction (Millions \$ 1997)	IRCBK
New Housing	IRCNHBK
Other	IRCOBK
Business Residential Construction (Millions \$)	IRCB

Sources: Statistics Canada, CMHC, The Conference Board of Canada.

Canadian directory index

Table 8 - Business Non-Residential Gross Capital Formation (Millions \$ 1997)	Series ID
Plant, Equipment and Inventories	IPEIBK
Plant and Equipment	IPEBK
Construction	INRBK
Non-Energy	INRZEK
Energy	INREK
Other Primary	INROPEK
Manufacturing	INRMEK
Commercial Services	INRSEK
Machinery and Equipment	IMEBK
Non-Energy	IMEZEK
Energy	IMEEK
Other Primary	IMEOPEK
Manufacturing	IMEMEK
Commercial Services	IMESEK
Value of Physical Change in Inventories	IIBK
Non-Farm	IIBNFK
Farm	IIBFK

Sources: Statistics Canada, The Conference Board of Canada.

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Table 9 - Balance of Payments (Millions \$)	Series ID
Exports	X
Merchandise	XM

Non-Merchandise	XS
Imports	M
Merchandise	MM
Non-Merchandise	MS
Net Exports	XNET
Merchandise	XMNET
Non-Merchandise	XSNET
Net Investment Income Paid to Non-Residents	YNPNR
Net Current Transfers	BOPTRANS
Temporary Balance of Payments Adjustment Term	BPADJTMP
Current Account Balance	BPCA
Current Account Balance/GDP	RBPCA
Exchange Rate (U.S./CANADA)	PFXI
Interest Differential: T-Bill (CANADA/U.S.)	RDTP90
Interest Differential: Corp. (CANADA/U.S.)	RDCP90

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 10 - Merchandise Exports Commodities (Millions \$ 1997)	Series ID
Total Exports	XMK
Wheat and Barley	XWBK
Other Agricultural Commodities	XOAGK
Food, Beverage and Tobacco	XFBTK
Crude Oil	XOILK
Natural Gas	XNGASK
Coal	XCOALK
Electricity	XELECK
Crude Metals and Minerals (Excluding Mineral Fuels)	XCMMZMFK
Primary Metals	XPMK
Wood	XWOODK
Paper and Allied Products	XPAK
Chemicals	XCHEMK
Machinery and Equipment	XMEK
Automobiles and Parts	XAPK

Office Equipment	XOFFK
Other Manufactured Goods	XOMANK
Special Transactions	XSPECK
Other Balance of Payments Adjustments	XOBPADJK

Sources: Statistics Canada, The Conference Board of Canada.

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Table 11 - Merchandise Imports (Millions \$ 1997)

	Series ID
Total Merchandise Imports	MMK
Agricultural Commodities	MAGK
Food Beverages and Tobacco	MFBTK
Crude Oil	MOILK
Coal	MCOALK
Crude Metals and Minerals (Excluding Mineral Fuels)	MCMMZMFK
Primary Metals	MPMK
Petroleum and Coal Products	MPCPK
Chemicals	MCHEMK
Machinery and Equipment	MMEK
Automobiles and Parts	MAPK
Textiles and Clothing	MTKCK
Other Manufacturing Goods	MOMANK
Special Transactions	MSPECK
Other Balance of Payment Adjustments	MOBPADJK

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 12 - Non-Merchandise Trade (Millions \$)

	Series ID
Non-Merchandise Exports	XS
Travel	XTRAV
Transport	XFS
Other Services	XOS
Non-Merchandise Imports	MS

Travel	MTRAV
Transportation	MFS
Other Services	MOS
Exports of Interests and Dividends	XID
Imports of Interests and Dividends	MID
Interests	MINT
Dividends	MDIV
Other	MIDOTH
Balances	
Travel	XNTRAV
Transportation	XNFS
Other Services	XNOS
Investment Income (BOP)	XNID
Financial Services (NIA)	XFIS-MFIS
Total Balance	XSNET

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 13 - International Capital Flows (Millions \$)

	Series ID
Net Direct Investment Abroad	FIDROW
Net Trade in Foreign Securities	FISECROW
Other Canadian Loans and Deposits	FIELD
Net Direct Investment in Canada	FIDCAN
Net Trade in Canadian Stocks	FISEC
Trade in Outstanding Canadian Bonds	FIBCO
Net New Government of Canada Bonds	FIBCAN
Net New Provincial and Municipal Bonds	FIBPM
Net New Corporate Bonds	FIBCORP
Total Long-Term Capital	FIL
Total Short-Term Capital	FIS
International Reserves	FIRES
Other Net Capital Flows	FIONK
Total Net Capital Movements	FITOTAL
Statistical Discrepancy	FISD

Sources: Statistics Canada, The Bank of Canada, The Conference Board of Canada.

Canadian directory index

Table 14 - GDP At Basic Prices By Industry	Series ID
Current (Millions \$)	
Gross National Product at Market Prices	YGNP
Net Investment Income Paid to Non-Residents	YNPNR
Gross Domestic Product at Market Prices	YGDMP
Indirect Taxes Less Subsidies	TISUB
Gross Domestic Product at Basic Prices	QGDP
Constant (Millions \$ 1997)	
Gross Domestic Product at Basic Prices	QRDP
Agriculture	QAG
Other Primary	QOP
Forestry	QFO
Fishing and Trapping	QFT
Mining	QMINING
Metal Mining	QMT
Non-Metal Mining (Incl. Quarries and Sand Pits)	QNM
Mineral Fuels	QMF
Services Incidental to Mining	QMSV

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 15 - GDP At Basic Prices By Industry	Series ID
Manufacturing (Millions \$ 1997)	QMAN
Food, Beverages and Tobacco	QFBT
Rubber	QRUB
Textile	QTEX
Apparel	QAPP
Wood	QWD
Furniture	QFUR

Paper	QPA
Printing	QPRT
Primary Metals	QPM
Fabricated Metal	QMTF
Machinery	QME
Autos and Parts	QAP
Other Transportation Equipment	QOTE

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 16 - GDP At Basic Prices By Industry	Series ID
Manufacturing (Millions \$ 1997)	
Electrical	QELE
Non-Metal Minerals	QNMM
Petroleum and Coal	QPC
Chemicals	QCH
Miscellaneous	QMIS
Construction (Millions \$ 1997)	QC
Services (Millions \$ 1997)	QS
Commercial Services	QCS
Transportation, Storage and Communication	QTSC
Transportation and Storage	QTRA
Communication	QCOM
Utilities	QUT
Trade	QWRT
Retail	QRT
Wholesale	QWT

Sources: Statistics Canada, The Bank of Canada, The Conference Board of Canada.

Canadian directory index

Table 17 - GDP At Basic Prices By Industry	Series ID
Commercial Services (Millions \$ 1997)	

Finance, Insurance and Real Estate	QFIR
Imputed Rent	QIRE
Other	QOFIR
Commercial Community, Business and Personal Services	QCBP
Amusement and Recreation	QAMR
Business Services	QBSV
Accommodations and Food	QACF
Personal and Miscellaneous	QPSV
Non-Commercial Services (Millions \$ 1997)	QNCS
Public Administration and Defense	QPAD
Other Industry Measures	
Capacity Utilization Rates	
All Industries Excluding Energy	CURZE
Energy Industry	CURE
Related Indicators	
Industrial Production Index	QIP

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Table 18 - Labour Market

	Series ID
Employment	E
Agriculture	EAG
Other Primary	EOP
Manufacturing	EMAN
Construction	EC
Services	ES
Commercial	ECS
Non-Commercial	ENCS
Public Administration and Defence	EPAD
Part-Time Employment	EPART
Total Population	HP
Source Population	LP
Participation Rate	LPR
Labour Force	LF

Unemployment Rate

UR

Sources: Statistics Canada, The Conference Board of Canada.

Canadian directory index

Croissance du produit intérieur brut

	YGDPK		
	Trimestriel	Annuel	Croissance annuelle
1995.1	832472	833456	
1995.2	832450		
1995.3	832615		
1995.4	836287		
1996.1	837371	846952	1,016
1996.2	840715		
1996.3	850624		
1996.4	859097		
1997.1	867450	882733	1,042
1997.2	877456		
1997.3	889168		
1997.4	896858		
1998.1	908309	918910	1,041
1998.2	910677		
1998.3	920725		
1998.4	935930		
1999.1	950590	969750	1,055
1999.2	961693		
1999.3	975314		
1999.4	991403		
2000.1	1005299	1020786	1,053
2000.2	1015691		
2000.3	1028877		
2000.4	1033275		
2001.1	1036654	1040388	1,019
2001.2	1039560		
2001.3	1037748		
2001.4	1047588		
2002.1	1062382	1074516	1,033
2002.2	1072315		
2002.3	1079490		
2002.4	1083875		
2003.1	1090657	1092891	1,017
2003.2	1087947		
2003.3	1091396		
2003.4	1101564		
YGDPK			No Description Available

Source : Conference Board du Canada

CANADA

MARCH 2004

	Average % Change on Previous Calendar Year														Annual Total	
	Gross Domestic Product		Personal Expenditure		Machinery & Equipment Investment		Pre - Tax Profits		Industrial Production		Consumer Prices		Industrial Product Prices		Housing Starts (thousand units)	
	<i>Produit Intérieur Brut</i>		<i>Dépenses de Consommation des Ménages</i>		<i>Investissement Productif</i>		<i>Bénéfices des Sociétés avant impôts</i>		<i>Production Industrielle</i>		<i>Prix à la Consommation</i>		<i>Prix des Produits Industriels</i>		<i>Construction de Logements mises en chantier, milliers</i>	
Economic Forecasters	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005	2004	2005
EDC Economics	3.3	3.3	3.3	3.2	12.0	7.6	7.5	4.5	na	na	1.8	2.1	na	na	202	195
Royal Bank of Canada	3.2	3.6	3.0	4.0	12.0	10.6	1.1	2.9	na	na	1.1	1.6	na	na	209	195
National Bank Financial	3.1	2.9	2.9	2.6	10.0	10.0	6.3	7.0	na	na	1.2	2.0	na	na	210	205
Bank of Montreal	3.0	3.3	3.2	3.1	6.8	7.8	6.1	4.1	na	na	1.6	1.3	na	na	200	180
BMO Nesbitt Burns	3.0	3.2	2.9	3.5	10.2	9.8	7.0	3.8	3.4	2.5	1.7	2.0	-0.5	1.0	203	190
Conf Board of Canada	3.0	3.6	3.5	3.4	9.5	8.1	8.4	2.8	na	na	1.7	2.2	1.4	3.3	194	173
Global Insight	3.0	3.6	3.3	3.3	8.1	10.5	3.2	3.6	2.6	2.7	1.1	1.3	-1.3	0.5	210	204
Economap	2.9	3.1	2.8	3.0	9.0	7.5	7.0	5.0	2.1	2.5	1.7	1.9	0.6	3.0	200	190
Infometrica	2.8	3.5	2.6	3.1	10.7	15.0	9.5	15.0	4.7	5.0	1.8	2.2	na	na	202	189
Merrill Lynch Canada	2.7	3.2	2.4	3.1	na	na	na	na	3.1	3.2	1.2	1.8	na	na	190	170
Toronto Dominion Bank	2.7	3.4	2.5	3.4	7.9	9.5	6.0	6.8	na	na	1.4	1.8	na	na	200	185
CIBC World Markets	2.6	3.4	2.6	2.9	7.0	7.6	5.8	7.2	na	na	1.3	1.6	na	na	200	191
JP Morgan	2.5	4.3	2.2	3.5	5.4	10.4	5.0	8.0	4.3	6.1	1.3	2.0	-0.7	3.2	210	195
Caisse de Depot	2.3	2.8	3.0	3.2	6.2	6.5	na	na	na	na	1.6	2.0	na	na	195	185
University of Toronto	2.3	3.2	2.6	3.1	7.9	5.3	5.3	3.3	na	na	1.5	2.0	na	na	197	180
Scotia Economics	2.2	3.0	2.4	3.1	7.9	7.6	8.0	7.0	2.5	3.0	1.5	1.9	na	na	205	180
Consensus (Mean)	2.8	3.3	2.8	3.2	8.7	8.9	6.2	5.8	3.2	3.6	1.5	1.9	-0.1	2.2	202	188
Last Month's Mean	2.9	3.3	3.2	3.3	10.0	9.2	5.5	6.3	2.6	3.6	1.5	1.8	-0.1	1.8	201	190
3 Months Ago	3.0		3.4		9.5		6.8		2.7		1.6		1.6		199	
High	3.3	4.3	3.5	4.0	12.0	15.0	9.5	15.0	4.7	6.1	1.8	2.2	1.4	3.3	210	205
Low	2.2	2.8	2.2	2.6	5.4	5.3	1.1	2.8	2.1	2.5	1.1	1.3	-1.3	0.5	190	170
Standard Deviation	0.3	0.4	0.4	0.3	2.0	2.3	2.1	3.2	1.0	1.4	0.2	0.3	1.1	1.3	6	10
Comparison Forecasts																
IMF (Sep. '03)	3.0		3.6								1.7					
OECD (Nov. '03)	2.8	3.2	3.1	3.0												

Government and Background Data

Prime Minister - Mr. Paul Martin (Liberal). Government - The Liberals hold 172 of the 301 seats in parliament. **Next Election** - By 2005 (general election). **Nominal GDP** - C\$1,155bn (2002). **Population** - 31.3mn (mid-year, 2002). **C\$/S Exchange Rate** - 1.57 (average, 2002).

Quarterly Consensus Forecasts

Historical Data and Forecasts (bold italics) From Survey of March 8, 2004

	2003		2004				2005			
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Gross Domestic Product	1.1	1.6	2.2	3.0	3.4	3.2	3.3	3.3	3.4	3.3
Personal	3.9	2.8	2.9	3.0	2.7	3.2	3.2	3.2	3.3	3.2

Historical Data

* % change on previous year	2000	2001	2002	2003
Gross Domestic Product*	5.3	1.9	3.3	1.7
Personal Expenditure*	4.0	2.6	3.4	3.3
Machinery & Eqpt Investment*	7.1	0.3	-3.2	5.0
Pre - Tax Profits*	22.5	-6.0	4.3	10.1
Industrial Production*	7.2	-2.3	2.4	0.3
Consumer Prices*	2.7	2.5	2.3	2.8
Industrial Product Prices*	4.3	1.0	0.0	-1.3
Housing Starts, '000 units	152	163	205	218
Unemployment Rate, %	6.8	7.3	7.7	7.7
Current Account, C\$ bn	30.7	26.9	23.4	25.8
Federal Govt Budget Balance, fiscal years, C\$ bn	20.2	7.0	7.0	4.0 e

		Annual Total		Fiscal Years (Apr-Mar)		Rates on Survey Date			
						2.1%		4.3%	
Unemployment Rate (%)		Current Account (C\$ bn)		Federal Govt Budget Balance (C\$ bn)		3 month Treasury Bill Rate (%)		10 Year Government Bond Yield (%)	
Taux de Chômage (%)		Balance Courante (C\$ md)		Balance Budgétaire (C\$ md)		Rendement sur les Bons du Trésor de 3 mois %		Rendement des Obligations d'Etat de 10 ans %	
2004	2005	2004	2005	FY 04-05	FY 05-06	End Jun'04	End Mar'05	End Jun'04	End Mar'05
7.5	7.2	21.0	20.0	3.7	3.9	2.2	3.1	5.3	6.2
7.3	7.1	27.2	20.9	na	na	2.3	2.6	4.5	5.5
7.6	7.4	15.0	15.0	3.0	5.0	2.2	2.3	4.6	5.2
7.5	7.5	20.0	15.2	na	na	2.2	3.0	4.8	5.5
7.2	7.0	21.5	12.8	4.0	5.0	2.2	2.9	4.6	5.2
7.1	6.5	23.1	19.6	12.1	16.3	2.5	3.4	5.7	6.0
7.4	7.2	20.8	14.2	4.5	4.5	2.3	3.0	4.7	5.2
7.3	7.0	18.0	10.0	4.0	5.0	2.0	2.6	4.7	5.2
7.2	7.0	30.0	25.0	8.0	8.0	2.1	2.5	4.4	4.8
7.5	7.4	20.7	19.8	na	na	na	na	na	na
7.4	7.3	28.6	30.0	na	na	2.3	3.3	4.6	5.2
7.5	7.3	20.4	17.4	3.0	4.0	1.9	1.7	4.3	4.0
7.4	6.7	16.6	14.2	3.0	3.0	2.0	2.5	4.6	5.6
8.0	8.0	16.0	8.0	2.0	2.0	2.0	2.2	4.4	4.4
7.6	7.4	24.6	30.3	na	na	1.6	2.2	4.7	5.4
7.5	7.4	22.0	10.0	3.0	3.0	2.0	2.0	4.7	5.1
7.4	7.2	21.6	17.7	4.6	5.4	2.1	2.6	4.7	5.2
7.5	7.2	18.3	15.6	4.7	5.3				
7.5		18.5		4.6					
8.0	8.0	30.0	30.3	12.1	16.3	2.5	3.4	5.7	6.2
7.1	6.5	15.0	8.0	2.0	2.0	1.6	1.7	4.3	4.0
0.2	0.3	4.3	6.6	2.9	3.9	0.2	0.5	0.4	0.6
7.7									
7.8	7.4								

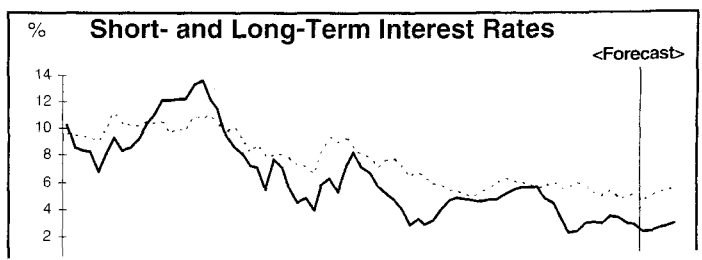
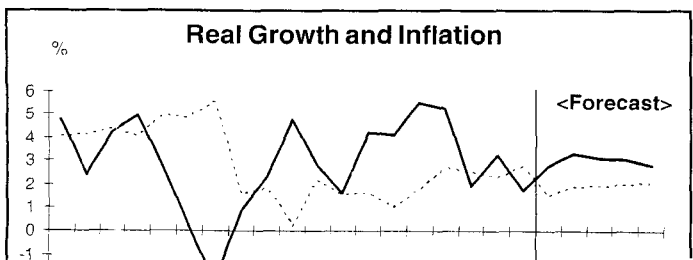
Another Rate Cut Follows Signs of Waning Momentum

The Bank of Canada followed its 25 basis-point interest rate cut on January 30 with another one of the same magnitude on March 2, bringing the overnight lending rate down to 2.25%. The move was widely anticipated in light of the low inflation environment, appreciating C\$ and waning momentum in GDP growth. Moreover, the Bank of Canada signalled that further rate cuts could be forthcoming. These monetary policy changes come on the heels of a disappointing fourth quarter national accounts report. At first glance, the data was rather positive, with GDP accelerating by 0.9% q-o-q, following 0.3% growth in the previous quarter. However, GDP was buoyed mainly by inventory accumulation which is not expected to continue at its current robust pace in 2004. Indeed, quarterly GDP growth was expected to be stronger than the actual outturn. Activity was reined in by a negative contribution from net trade, while machinery and equipment investment managed only 0.3% growth q-o-q, slowing substantially from the third quarter's soaring 4.5% expansion. Consensus forecasts for GDP growth this year have edged downwards as a result. In spite of strong commodity prices and the ongoing US expansion, the Canadian economy also has to balance the more adverse effects of an appreciating currency, which are hurting export prospects. There is some hope, however. After months of little momentum in the sector, industrial activity could finally be turning a corner. GDP growth may have disappointed on a quarter-by-quarter basis, but monthly output-based GDP ended December on a relatively positive note, rising by 0.5% m-o-m and bringing the y-o-y trend up from 1.8% in November to 2.1%. Moreover, December's manufacturing report showed a firmer rebound in shipments and new orders m-o-m. Industrial production forecasts for 2004 have improved significantly.

Analysts are concerned by the current state of consumer spending. A slowing housing market and flagging labour market indicators point to less support for personal expenditure this year. Indeed, fourth quarter data showed zero growth in personal spending (q-o-q), while December retail sales fell in m-o-m terms, led by a collapse in motor vehicle sales. With employment growth faltering, our panel's forecasts for personal expenditure have fallen.

Direction of Trade First Half 2003			
Major Export Markets (% of Total)		Major Import Suppliers (% of Total)	
United States	86.7	United States	62.1
Japan	2.2	China	4.9
United Kingdom	1.5	Japan	4.2
Asia (ex. Japan)	3.1	Asia (ex. Japan)	10.3
Latin America	1.3	Latin America	5.5
Middle East	0.4	Africa	1.1

Likelihood of a Bank of Canada Interest Rate Change				
Our panel's estimated average probability of a change in the overnight lending rate at or before the next key policy meeting following the survey date was:				
INCREASE		NO CHANGE		DECREASE
0.5	+	49.1	+	50.4
				= 100 %
Most likely rate change mentioned:				-0.25 %



Indicateurs principaux

Taux d'inflation

Taux moyen de hausse des prix. Quand les économistes traitent de l'inflation comme d'un problème économique, ils font généralement allusion à une hausse constante du niveau général des prix au cours d'une période donnée — qui donne lieu à une diminution du pouvoir d'achat de la monnaie nationale. La plupart du temps, l'inflation est mesurée par l'augmentation, exprimée en pourcentage, de l'Indice des prix à la consommation (IPC). La politique en matière d'inflation — telle qu'établie par le gouvernement fédéral et la Banque du Canada — vise à maintenir une fourchette entre 1 % et 3 %. Si, pour une année donnée, le taux d'inflation est de 10 %, il en coûtera 110 \$ cette année-là pour acheter ce qui, l'année précédente, coûtait 100 \$. Au même taux d'inflation, il faudra déboursier 121 \$ l'année suivante et ainsi de suite.

Indice des prix à la consommation (IPC)
Contenu du panier de 1996
Variation en pourcentage sur 12 mois

ANNÉE	JANV	FÉV	MARS	AVR	MAI	JUIN	JUIL	AOÛT	SEPT	OCT	NOV	DÉC
1994				0,2	-0,2	0,0	0,1	0,1	0,2	-0,2	-0,1	0,2
1995	0,6	1,9	2,2	2,5	3,0	2,8	2,5	2,3	2,3	2,4	2,0	1,8
1996	1,6	1,3	1,4	1,4	1,4	1,4	1,2	1,4	1,5	1,8	2,0	2,2
1997	2,1	2,2	2,0	1,7	1,5	1,7	1,7	1,9	1,6	1,5	0,8	0,7
1998	1,1	1,0	0,9	0,8	1,1	1,0	1,0	0,8	0,7	1,0	1,2	1,0
1999	0,6	0,7	1,0	1,7	1,6	1,6	1,8	2,1	2,6	2,3	2,2	2,6
2000	2,3	2,7	3,0	2,1	2,4	2,9	3,0	2,5	2,7	2,8	3,2	3,2
2001	3,0	2,9	2,5	3,6	3,9	3,3	2,6	2,8	2,6	1,9	0,7	0,7
2002	1,3	1,5	1,8	1,7	1,0	1,3	2,1	2,6	2,3	3,2	4,3	3,9
2003	4,5	4,6	4,3	3,0	2,9	2,6	2,2	2,0	2,2	1,6	1,6	2,0
2004	1,2	0,7	0,7									

Source : Statistique Canada
www.statcan.ca

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Ferme

Indicateurs principaux

Taux de chômage

Le taux de chômage représente le nombre de chômeurs exprimé en pourcentage de la population active. Le taux de chômage d'un groupe d'âge-sexe particulier constitue le nombre de chômeurs de ce groupe, exprimé en pourcentage de la population active dans le même groupe.

Les deux sexes, 15 ans et plus

Données désaisonnalisées

%

ANNÉE	JANV	FÉV	MARS	AVR	MAI	JUIN	JUIL	AOÛT	SEPT	OCT	NOV	DÉC
1994	11,4	11,0	10,5	10,9	10,6	10,4	10,1	10,2	10,0	9,9	9,6	9,5
1995	9,5	9,5	9,6	9,5	9,5	9,4	9,8	9,6	9,1	9,2	9,2	9,4
1996	9,5	9,5	9,5	9,3	9,3	9,7	9,7	9,5	9,9	10,1	9,9	9,7
1997	9,5	9,5	9,3	9,4	9,3	9,2	8,9	8,9	8,8	8,9	8,9	8,5
1998	8,8	8,6	8,4	8,3	8,3	8,4	8,3	8,1	8,1	8,0	8,0	8,1
1999	7,9	7,9	7,9	8,1	7,9	7,5	7,6	7,6	7,4	7,2	6,9	6,8
2000	6,7	6,8	6,8	6,7	6,7	6,7	6,8	7,0	6,9	6,9	6,9	6,8
2001	6,9	6,9	7,1	7,1	7,0	7,1	7,1	7,2	7,2	7,4	7,6	8,0
2002	7,9	7,9	7,8	7,7	7,7	7,5	7,6	7,4	7,6	7,6	7,6	7,5
2003	7,5	7,5	7,4	7,6	7,9	7,7	7,7	8,0	7,9	7,6	7,5	7,4
2004	7,4	7,4	7,5									

Source : Statistique Canada
www.statcan.ca

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Ferme

World Economic Growth Outlook

<i>Real GDP, Average % Change on Previous Calendar Year</i>	Actual	Consensus Forecasts						
	2002	2003	2004	2005	2006	2007	2008	2009-2013 (average)
Australia	3.6	2.5	3.8	3.7	3.5	3.4	3.4	3.6
China	8.0	8.1	7.8	7.6	7.6	8.0	8.0	7.6
Hong Kong	2.3	2.2	4.5	4.6	4.2	3.8	4.1	4.0
India	4.3	6.6	6.3	6.6	6.6	6.8	7.0	6.9
Indonesia	3.7	3.8	4.4	4.5	4.8	5.0	4.7	4.7
Japan	0.2	2.4	1.3	0.9	1.9	1.8	2.1	1.9
Malaysia	4.1	4.6	5.4	5.5	5.6	5.5	5.7	5.4
New Zealand	4.4	2.8	2.8	3.2	3.0	3.0	2.9	2.9
Philippines	4.4	3.8	4.1	4.2	4.6	4.6	4.6	4.9
Singapore	2.2	0.8	4.9	4.4	4.8	4.0	3.8	3.5
South Korea	6.3	2.8	5.1	5.5	5.1	4.3	4.8	4.4
Taiwan	3.6	2.9	4.3	4.7	4.6	4.5	4.5	4.3
Thailand	5.3	5.8	5.9	5.6	5.0	5.2	5.8	4.8
Czech Republic	2.0	2.5	3.1	3.5	3.6	3.5	3.5	3.6
Hungary	3.3	2.8	3.1	3.9	4.1	4.2	4.5	4.3
Poland	1.4	3.1	4.1	4.8	4.6	4.7	4.7	4.5
Romania	4.9	4.7	5.0	5.1	4.9	4.8	4.7	4.0
Russia	4.3	6.2	4.9	4.9	5.0	5.1	5.1	4.8
Slovakia	4.4	3.9	4.4	4.6	4.8	5.1	5.3	4.8
Turkey	7.8	5.0	4.4	4.6	4.4	4.5	4.7	4.4
Ukraine	4.8	6.0	5.1	5.0	5.1	5.0	5.0	4.7
Argentina	-10.9	6.6	4.5	4.2	3.8	3.3	3.5	3.3
Brazil	1.5	0.5	3.1	3.4	3.4	3.7	3.6	3.7
Chile	2.1	3.2	4.4	5.0	5.0	4.9	5.1	4.8
Colombia	1.7	2.6	3.2	3.6	3.7	4.1	4.2	4.0
Mexico	0.9	1.5	3.5	4.0	4.3	3.9	4.3	4.2
Peru	5.3	3.8	3.8	4.1	3.9	3.6	3.9	3.9
Venezuela	-8.9	-11.6	5.8	4.8	5.1	2.3	4.2	4.0
Canada	3.3	2.0	3.0	3.4	3.1	3.1	2.8	2.8
United States	2.4	2.7	4.0	3.5	3.3	3.3	3.2	3.2
Austria	1.1	0.8	1.8	2.3	2.3	2.1	2.1	2.1
Belgium	0.7	0.6	1.6	2.4	2.2	2.2	2.1	2.1
Denmark	2.1	1.1	2.0	2.3	2.1	2.1	2.2	2.2
Finland	2.2	1.4	2.7	3.2	3.0	2.8	2.9	2.8
France	1.3	0.2	1.6	2.4	2.6	2.5	2.3	2.3
Germany	0.2	0.0	1.6	1.7	1.8	1.6	1.6	1.7
Greece	3.9	3.7	3.9	2.6	3.0	3.0	3.0	3.0
Ireland	6.9	2.7	3.9	4.6	4.2	4.1	3.9	3.9
Italy	0.4	0.4	1.5	2.2	2.2	2.2	2.2	2.2
Netherlands	0.2	-0.7	1.1	2.0	2.2	2.2	2.4	2.2
Norway	1.3	0.6	2.7	2.4	2.3	2.2	2.3	2.3
Portugal	0.4	-0.2	1.7	2.6	2.6	2.4	2.4	2.5
Spain	2.0	2.4	2.9	3.2	3.2	3.1	3.1	2.9
Sweden	1.9	1.6	2.4	2.5	2.5	2.3	2.2	2.3
Switzerland	0.2	-0.3	1.5	1.7	2.0	1.8	1.8	1.7
United Kingdom	1.7	2.0	2.6	2.2	2.1	2.1	2.1	2.3
Asia Pacific	2.4	3.5	3.2	3.0	3.5	3.4	3.7	3.5
Eastern Europe	4.5	4.7	4.4	4.7	4.6	4.7	4.8	4.5
Latin America	-1.2	1.3	3.7	3.9	4.0	3.7	4.0	3.9
North America	2.5	2.6	3.9	3.5	3.3	3.3	3.2	3.1
Western Europe	1.1	0.8	2.0	2.2	2.3	2.2	2.2	2.2
World	1.9	2.3	3.2	3.0	3.1	3.1	3.1	3.1
Asia ex Japan	5.5	5.1	5.8	5.9	5.8	5.8	5.9	5.6
European Union†	1.1	0.8	2.0	2.2	2.3	2.2	2.2	2.2
Euro Zone	0.8	0.5	1.7	2.2	2.3	2.2	2.1	2.1
G-7	1.5	2.0	2.8	2.5	2.7	2.6	2.6	2.6
NAFTA	2.4	2.6	3.9	3.5	3.3	3.3	3.2	3.2
North East Asia	6.5	5.6	6.4	6.4	6.3	6.3	6.4	6.1
South East Asia	4.0	3.9	5.0	4.9	5.0	4.9	5.0	4.7

World Inflation Outlook

Consumer Prices, Average % Change on Previous Calendar Year	Actual	Consensus Forecasts						
	2002	2003	2004	2005	2006	2007	2008	2009-2013 (average)
Australia	3.0	2.8	2.2	2.5	2.6	2.6	2.5	2.5
China	-0.8	0.7	1.2	1.7	2.1	2.7	2.7	2.3
Hong Kong	-3.0	-2.7	-0.8	0.7	1.5	1.6	1.7	1.6
India	4.0	4.5	4.7	5.2	5.3	5.4	5.6	4.9
Indonesia	11.9	6.5	6.5	6.5	6.2	6.5	6.4	5.7
Japan	-0.9	-0.3	-0.4	-0.6	-0.2	0.5	0.5	0.5
Malaysia	1.8	1.3	1.8	2.1	2.0	2.1	2.1	2.1
New Zealand	2.7	1.8	1.9	2.2	2.4	2.3	2.1	2.2
Philippines	3.1	3.3	4.0	4.3	4.9	5.2	5.2	5.2
Singapore	-0.4	0.5	1.1	2.0	2.5	2.2	2.0	2.0
South Korea	2.7	3.3	2.8	2.8	2.6	2.3	2.4	2.3
Taiwan	-0.2	-0.2	0.4	1.1	1.1	1.3	1.4	1.2
Thailand	0.7	1.8	1.7	2.4	2.4	2.5	2.5	2.4
Czech Republic	1.8	0.2	2.7	2.6	2.3	2.2	2.0	2.1
Hungary	5.3	4.7	5.5	3.9	3.1	2.7	2.5	3.0
Poland	1.9	0.9	2.0	2.8	2.6	2.6	2.7	3.0
Romania	22.5	15.0	12.5	10.3	8.5	6.9	5.9	3.4
Russia²	15.1	13.2	11.1	9.9	8.2	7.3	7.0	6.1
Slovakia	3.3	8.4	7.0	4.7	3.7	3.8	3.4	2.8
Turkey	45.0	26.2	18.0	14.1	11.5	9.4	8.8	7.6
Ukraine	0.8	6.3	7.4	6.4	5.9	5.8	5.5	5.2
Argentina²	41.0	3.9	7.9	8.5	6.8	6.7	4.3	5.4
Brazil²	12.5	9.9	6.7	6.0	5.6	5.1	5.0	5.0
Chile²	2.8	2.7	2.8	3.0	3.0	2.9	3.0	3.0
Colombia²	7.0	6.4	5.7	5.2	4.6	4.2	3.9	4.3
Mexico²	5.7	3.7	3.6	3.4	3.5	3.4	3.4	3.6
Peru²	1.5	1.8	2.0	2.2	2.4	2.1	2.2	2.2
Venezuela²	31.2	30.7	30.8	33.2	21.7	26.4	22.5	21.0
Canada	2.3	2.7	1.6	1.8	1.9	2.0	2.0	2.0
United States	1.6	2.3	1.7	2.0	2.2	2.1	2.2	2.3
Austria	1.8	1.4	1.4	1.6	1.7	1.7	1.8	1.7
Belgium	1.6	1.5	1.4	1.7	1.7	1.7	1.8	1.8
Denmark	2.4	2.2	1.9	1.9	2.0	2.0	1.9	1.9
Finland	1.5	1.2	1.1	1.8	1.8	1.7	1.7	1.7
France	2.0	2.0	1.6	1.7	1.8	1.8	1.8	1.8
Germany	1.3	1.0	1.0	1.4	1.7	1.7	1.6	1.6
Greece	3.6	3.4	2.9	2.8	2.7	2.7	2.7	2.7
Ireland	4.7	3.9	3.1	2.7	2.5	2.5	2.6	2.5
Italy	2.5	2.7	2.1	1.9	1.9	1.8	1.8	1.8
Netherlands	3.3	2.1	1.7	1.7	1.9	1.9	2.0	1.8
Norway	1.3	2.4	1.4	2.3	2.3	2.4	2.4	2.4
Portugal	3.5	3.2	2.4	2.5	2.6	2.5	2.5	2.5
Spain	3.1	3.1	2.7	2.7	2.6	2.6	2.5	2.5
Sweden	2.4	2.1	1.5	2.1	2.1	2.1	2.0	2.0
Switzerland	0.7	0.6	0.6	1.2	1.4	1.6	1.4	1.4
United Kingdom	2.2	2.8	2.4	2.4	2.3	2.4	2.5	2.6
Asia Pacific	0.1	0.6	0.7	0.8	1.0	1.5	1.6	1.4
Eastern Europe	18.2	12.5	10.0	8.5	7.1	6.2	5.8	5.2
Latin America²	15.1	7.6	7.2	7.1	5.9	6.0	5.3	5.5
North America	1.6	2.3	1.7	1.9	2.2	2.1	2.2	2.2
Western Europe	2.1	2.1	1.7	1.9	2.0	2.0	2.0	2.0
World	2.6	2.4	2.0	2.1	2.2	2.3	2.2	2.2
<i>Asia ex Japan</i>	1.5	1.9	2.1	2.6	2.8	3.0	3.0	2.7
<i>European Union⁴</i>	2.2	2.0	1.7	1.9	2.0	2.0	2.0	2.0
<i>Euro Zone</i>	2.3	2.0	1.5	1.7	1.8	1.9	1.9	1.8
<i>G-7</i>	1.1	1.6	1.2	1.3	1.5	1.7	1.7	1.8
<i>NAFTA</i>	1.8	2.4	1.8	2.0	2.2	2.2	2.2	2.3
<i>North East Asia</i>	-0.1	0.9	1.3	1.8	2.0	2.3	2.3	2.1
<i>South East Asia</i>	4.2	3.0	3.3	3.7	3.8	3.9	3.8	3.6

Nouvel élan vers la réussite

Le budget en bref de 2004



Ministère des Finances
Canada

Department of Finance
Canada

Notes préliminaires

Dans la présente publication, les symboles suivants sont utilisés pour représenter des sommes d'argent : **M\$** pour millions de dollars et **G\$** pour milliards de dollars.

Les termes du genre masculin utilisés pour désigner des personnes englobent à la fois les femmes et les hommes.

Le passage à la comptabilité d'exercice intégrale a nécessité certains changements de terminologie. Ainsi, le terme anglais « revenues » est maintenant rendu en français par « revenus » plutôt que par « recettes ».

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Le budget de 2004 – Nouvel élan vers la réussite

Introduction

Les Canadiens croient en l'égalité des chances, un principe qui nous caractérise en tant que nation, une cause qui nous unit en tant que collectivité et un but qui distingue le présent gouvernement.

Dans le discours du Trône, le gouvernement a présenté un ambitieux programme visant à améliorer le niveau de vie et la qualité de vie de tous les Canadiens, programme qui s'articule autour de trois thèmes : renforcer l'assise sociale du pays, bâtir une économie dynamique du XXI^e siècle et rétablir l'influence du Canada dans le monde.

Ces thèmes s'appuient eux aussi sur l'égalité des chances. Pour réussir et servir de modèle dans le monde entier, le Canada doit en effet donner à tous ses citoyens l'occasion de réussir, de réaliser pleinement leur potentiel et de bâtir une meilleure vie pour eux-mêmes, leur famille et leur collectivité.

L'amélioration du niveau de vie des Canadiens passe par des politiques sociales et économiques qui se renforcent les unes les autres; c'est le principe fondamental qui est au cœur de ce budget. Tout simplement, l'économie ne saurait être vigoureuse sans une société où la sécurité de chacun est assurée, et une telle société ne saurait exister sans une économie vigoureuse. La réalisation de ces objectifs doit aller de pair avec le principe de prudence qui sous-tend des budgets équilibrés, c'est-à-dire le fait de vivre selon ses moyens.

C'est pourquoi la pierre angulaire du présent budget est la création d'occasions pour tous les citoyens. Ces occasions comportent de nombreux volets, et peuvent être définies de multiples façons.

Les mesures que préconise le présent budget visent à combler les priorités qui définissent les Canadiens en tant que nation. Elles mettent donc l'accent sur les soins de santé, l'apprentissage, les collectivités, l'économie et la place du Canada dans le monde, car chacun de ces volets est essentiel à la création d'occasions pour l'ensemble des Canadiens. Chaque mesure représente un pas de plus vers un Canada qui soit riche d'occasions et de réalisations.

Le présent budget jette les assises de ce Canada plus fort, de cette nation où les occasions offertes à chacun se traduiront en réalisations économiques et assureront la justice sociale.

Faits saillants

Évolution et perspectives économiques

- En 2003, l'activité économique au Canada a subi un ralentissement en raison d'une série de chocs imprévus. C'est ainsi que le produit intérieur brut (PIB) réel n'a augmenté que de 1,7 % pour l'ensemble de l'année, ce qui est nettement moins que la hausse de 3,2 % prévue par les économistes du secteur privé à l'époque du budget de 2003.
- Néanmoins, une demande intérieure vigoureuse pendant la majeure partie de l'année, soutenue par des taux d'intérêt bas, a aidé à compenser la faiblesse des exportations.
- Le marché du travail au Canada s'est renforcé pendant la dernière partie de 2003. Depuis décembre 2002, l'économie a créé 271 900 emplois, tous à temps plein.
- Des facteurs économiques solides, des taux d'intérêt bas et un contexte économique international plus favorable, en particulier une économie américaine plus forte, devraient appuyer une plus forte croissance économique au Canada cette année.
- Les économistes du secteur privé prévoient que l'économie canadienne croîtra de 2,7 % en moyenne en 2004, ce qui est nettement mieux que l'an dernier, mais beaucoup moins que la hausse de 3,5 % prévue à l'époque du budget de 2003.
- Les économistes du secteur privé s'attendent à une reprise de la croissance qui passera à 3,3 % en 2005.
- Deux grands risques pèsent sur les perspectives économiques du Canada :
 - L'incertitude entourant les répercussions économiques de l'appréciation rapide du dollar canadien.
 - La viabilité de la reprise de l'économie américaine.

Une saine gestion financière

- Un budget équilibré est prévu pour 2003-2004. Il s'agit du septième exercice consécutif où l'équilibre budgétaire est atteint, une première depuis la Confédération. Un budget équilibré ou excédentaire est également prévu pour 2004-2005 et 2005-2006.
- Le budget maintient la réserve pour éventualités de 3 milliards de dollars et rétablit la mesure de prudence économique de 1 milliard en 2004-2005 et en 2005-2006.
- Le ratio de la dette fédérale au PIB devrait passer à 42 % en 2003-2004, en baisse par rapport au sommet de 68,4 % enregistré en 1995-1996. Selon les prévisions, ce ratio s'établira à 38 % en 2005-2006.
- Pour être mieux en mesure de composer avec les tensions qu'exercera le vieillissement de la population, le gouvernement se fixe comme nouvel objectif de réduire le ratio de la dette fédérale au PIB pour le faire passer à 25 % d'ici 10 ans.
- Les dépenses de programmes devraient augmenter de 4,4 % en moyenne en 2004-2005 et en 2005-2006, ce qui correspond à peu près à la croissance projetée de l'économie.
- Pour aider à instaurer une nouvelle approche de gestion du gouvernement du Canada, le présent budget met en oeuvre une réaffectation annuelle de 1 milliard de dollars de dépenses courantes pour 2004-2005 et les exercices ultérieurs pour répondre aux engagements exposés dans le budget de 2003.
- En outre, le Comité du Cabinet chargé de l'examen des dépenses examine tous les programmes afin de dégager au cours des quatre prochaines années des économies d'au moins 3 milliards de dollars par année. Ces économies seront réinvesties dans les secteurs que les Canadiens jugent prioritaires, et elles amélioreront la gestion publique.
- Un nouveau plan visant à améliorer la surveillance et la gestion des dépenses a été établi sous la gouverne du président du Conseil du Trésor. Ce plan comprendra le rétablissement du Bureau du contrôleur du Canada et le renforcement du mandat des contrôleurs ministériels et des vérifications internes.
- Le gouvernement a l'intention de liquider sa participation restante dans Petro-Canada en 2004-2005.

Concrétiser les priorités des Canadiens

L'importance de la santé

- Le présent budget confirme le versement d'une somme supplémentaire de 2 milliards de dollars aux provinces et aux territoires pour la santé, ce qui porte à 36,8 milliards de dollars le financement accordé aux termes de l'Accord de 2003 des premiers ministres sur le renouvellement des soins de santé.
- Une nouvelle agence de la santé publique du Canada assumera un rôle central dans la lutte contre les maladies et dans les interventions d'urgence.
- Un financement immédiat de 665 millions de dollars répartis sur le présent exercice et les deux suivants, sera accordé pour améliorer l'état de préparation du Canada aux urgences touchant la santé publique. Ces fonds s'ajoutent au montant de 400 millions de dollars environ qui sera transféré de Santé Canada à la nouvelle agence de la santé publique du Canada.
- Le budget améliore l'équité du régime fiscal à l'égard des personnes handicapées et des aidants naturels.
- Des ressources supplémentaires de 30 millions de dollars par année permettront d'appuyer les programmes d'aide à l'emploi à l'intention des personnes handicapées, offerts par les provinces et les territoires.

L'importance de l'apprentissage

- Un nouveau Bon d'études canadien offrant jusqu'à 2 000 \$ sera accordé aux enfants de familles à faible revenu nés après 2003, pour financer leurs études postsecondaires.
- Le taux de la Subvention canadienne pour l'épargne-études sera bonifié dans le cas des familles à revenu faible ou moyen.
- Une nouvelle bourse pouvant atteindre 3 000 \$ sera établie pour la première année d'études postsecondaires des étudiants, à charge, de familles à faible revenu.
- Une nouvelle bourse pouvant atteindre 2 000 \$ par année sera offerte aux étudiants handicapés qui font des études postsecondaires.
- Le plafond hebdomadaire des prêts d'études canadiens sera porté de 165 \$ à 210 \$.
- Les plafonds de revenu servant à déterminer l'admissibilité à l'allègement des intérêts d'un prêt étudiant seront haussés.
- Le montant maximum dont pourra être amputée la dette d'études d'un étudiant en difficulté financière passera de 20 000 \$ à 26 000 \$.
- Le crédit d'impôt pour études sera étendu aux employés qui suivent à leurs frais des études en rapport avec leur emploi.
- Une somme de 125 millions de dollars sur cinq ans sera consacrée à la Stratégie de développement des ressources humaines autochtones.
- Les fonds alloués à la Stratégie pour les Autochtones vivant en milieu urbain seront doublés et passeront à 50 millions de dollars.

L'importance du savoir et de la commercialisation

- Les trois conseils subventionnaires fédéraux verront leur budget accru de 90 millions de dollars par année.
- Les mesures visant à compenser les coûts indirects de la recherche effectuée par les universités et les hôpitaux de recherche seront bonifiées de 20 millions par année.
- Génome Canada recevra 60 millions de plus pour renforcer ses activités de recherche.
- Un financement supplémentaire sera alloué à l'amélioration de la capacité de commercialisation des universités, des hôpitaux et des autres installations de recherche.
- Un nouveau financement s'élevant à 270 millions de dollars permettra de faciliter l'accès au capital de risque pour aider les entreprises à transformer les recherches prometteuses en produits et en services nouveaux.
- Le relèvement à 300 000 \$ du plafond des bénéfices donnant droit à la déduction accordée aux petites entreprises sera devancé d'un an et prendra effet en 2005 plutôt qu'en 2006.
- Le taux de la déduction pour amortissement appliqué aux ordinateurs et matériel connexe passera de 30 % à 45 %, et celui appliqué au matériel de transmission à large bande, au matériel Internet et autre matériel d'infrastructure pour réseaux de données passera de 20 % à 30 %.

L'importance des collectivités

- Les municipalités de toutes tailles recevront 7 milliards de dollars en remboursement de la TPS/TVH au cours des 10 prochaines années.
- Les dépenses de 1 milliard de dollars du Fonds sur l'infrastructure municipale rurale seront accélérées et effectuées sur cinq ans plutôt que dix.
- Les municipalités pourront mieux se faire entendre en ce qui a trait aux décisions fédérales qui les touchent.
- Un nouveau financement de 15 millions par année permettra d'améliorer la formation linguistique des immigrants afin d'atténuer les problèmes d'accès au marché du travail auxquels ils font face.
- Le financement accordé pour la Stratégie pour les Autochtones vivant en milieu urbain sera augmenté.
- De nouveaux fonds de 4 milliards de dollars sur 10 ans seront affectés à l'assainissement des sites contaminés.
- Un nouveau financement de 1 milliard de dollars sur 7 ans servira à appuyer le développement et la commercialisation de nouvelles technologies environnementales. Ces fonds proviendront de la vente des actions de Petro-Canada.
- Des règles fiscales plus efficaces s'appliqueront aux organismes de bienfaisance enregistrés, et l'Initiative du secteur bénévole recevra un appui.
- Un soutien accru sera accordé au titre du développement économique communautaire et de l'économie sociale.

L'importance des relations du Canada avec le reste du monde

- Les fonds consacrés à la participation du Canada à des missions de maintien de la paix en Afghanistan et à la lutte contre le terrorisme seront haussés de 250 millions de dollars.
- Un montant supplémentaire de 50 millions servira à financer la participation du Canada à la force de maintien de la paix déployée en Haïti.
- En 2005-2006, un financement supplémentaire sera accordé pour accélérer les investissements d'immobilisation prioritaires.
- Le personnel des Forces canadiennes et les policiers participant à des missions internationales à risque élevé bénéficieront d'une exonération d'impôt sur le revenu.
- Engagement de 605 millions de dollars supplémentaires pour répondre à des enjeux liés à la sécurité.
- Le montant du droit pour la sécurité des passagers du transport aérien sera réduit.
- L'enveloppe de l'aide internationale sera accrue de 248 millions de dollars, soit de 8 %, en 2005-2006.

Tableau 1
Mesures de dépenses et de revenus : budget de 2004

	2003-2004	2004-2005	2005-2006
	(M\$)		
L'importance de la santé			
Supplément en espèces du TCSPS	2 000		
Renforcer le système canadien de santé publique	500	80	85
Intégration des personnes handicapées		50,5	57,9
Total	2 500	131	143
L'importance de l'apprentissage			
Assurer le soin des enfants		91	93
Aider les familles à planifier les études postsecondaires		105	302
Encourager l'apprentissage permanent		25	40
Offrir des débouchés aux Canadiens autochtones		30	31
Total		251	466
L'importance du savoir et de la commercialisation			
Renforcer les assises de la recherche		170	115
Commercialisation de la recherche		20	20
Financement par capital de risque ¹		(255)	(15)
Investir dans le développement extracôtier		7	7
Petites entreprises et entrepreneuriat		1	24,5
Renforcer l'avantage fiscal canadien		95	200
Total		293	367
L'importance des collectivités			
Un nouveau pacte pour les collectivités : premières étapes	100	605	655
Secteur des organismes communautaires et sans but lucratif		15	15
Appuyer l'économie sociale		35	43
Environnement et développement durable		205	10
Autres initiatives d'aide aux collectivités		52,5	53
Total	100	913	776
L'importance des relations du Canada avec le reste du monde			
Défense		277	85
Réserve au titre de la sécurité		115	115
Aide internationale ²			248
Corps Canada		5	10
Total		397	458
Autres			
Aide au secteur agricole	1 000		
Péréquation et formule de financement des territoires		195	202
Autres		37,5	100
Total	1 000	233	302
Total : mesures de dépenses et de revenus	3 600	2 216	2 511
<i>dont :</i>			
Mesures de dépenses	3 500	1 486	1 621
Mesures de revenus	100	730	890

¹ L'aide fédérale prendra la forme d'une injection de capitaux propres, c'est-à-dire l'achat d'actions. En conséquence, cette opération n'a pas d'incidence budgétaire.

² Dans le budget de 2003, l'enveloppe de l'aide internationale a été augmentée de 8 % en 2003-2004 et en 2004-2005.

Tableau 2
État sommaire des opérations, mesures du budget de mars 2004 comprises

	Données réelles			
	2002- 2003	2003- 2004	2004- 2005	2005- 2006
	(G\$)			
Opérations budgétaires				
Revenus budgétaires	177,6	181,1	187,2	195,8
Charges				
Charges de programmes	-133,3	-143,4	-147,9	-156,1
Frais de la dette publique	-37,3	-35,8	-35,4	-35,7
Total des charges	-170,6	-179,2	-183,3	-191,8
Excédent budgétaire sous-jacent	7,0	1,9	4,0	4,0
Prudence				
Réserve pour éventualités		1,9	3,0	3,0
Mesure de prudence économique			1,0	1,0
Total	7,0	1,9	4,0	4,0
Solde budgétaire	7,0	0,0	0,0	0,0
Dette fédérale (déficit accumulé)				
Budget équilibré (aucune réduction de la dette)	510,6	510,6	510,6	510,6
Application de la réserve pour éventualités en réduction de la dette	510,6	508,7	505,7	502,7
Opérations non budgétaires	0,7	2,0	-4,5	-4,0
Ressources ou besoins financiers	7,6	2,0	-4,5	-4,0
Pourcentage du PIB				
Revenus budgétaires	15,4	14,9	14,8	14,7
Charges de programmes	11,5	11,8	11,7	11,7
Frais de la dette publique	3,2	2,9	2,8	2,7
Solde budgétaire	0,6	0,2	0,3	0,3
Dette fédérale (déficit accumulé)				
Budget équilibré (aucune réduction de la dette)	44,2	42,0	40,4	38,4
Application de la réserve pour éventualités en réduction de la dette	44,2	41,9	40,0	37,8
Autres				
Frais de la dette publique en proportion des revenus	21,0	19,8	18,9	18,2
Variation annuelle (%)				
Revenus budgétaires	3,4	2,0	3,4	4,6
Charges de programmes	6,6	7,6	3,1	5,6
Total des charges	3,6	5,0	2,3	4,7

Nota – Les chiffres ayant été arrondis, leur somme peut ne pas correspondre au total indiqué.



National Energy
Board

Office national
de l'énergie

Reasons for Decision

**TransCanada PipeLines
Limited**

RH-R-1-2002

February 2003

**Review of RH-4-2001
Cost of Capital Decision**

National Energy Board

Reasons for Decision

In the Matter of

TransCanada PipeLines Limited

Application dated 16 September 2002
requesting a Review and Variance of
National Energy Board RH-4-2001
Cost of Capital Decision

RH-R-1-2002

February 2003

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Abbreviations

Act	<i>National Energy Board Act</i>
Alliance	Alliance Pipeline Ltd.
Application or Review Application	TransCanada PipeLines Limited section 21 Application dated 16 September 2002 for Review and Variance of National Energy Board Decision RH-4-2001
ATWACC	After-Tax Weighted-Average Cost of Capital
Board	National Energy Board
CAPP	Canadian Association of Petroleum Producers
CGA	Canadian Gas Association
Coral	Coral Energy Canada Inc.
DTC	dividend tax credit
Enbridge	Enbridge Pipelines Inc.
Enbridge Gas	Enbridge Gas Distribution Inc.
M&NP	Maritimes and Northeast Pipeline Management Ltd.
Mirant	Mirant Canada Energy Marketing, Ltd.
RH-1-70	TransCanada Pipe Lines Rates Application, Phase I, National Energy Board Reasons for Decision dated December 1971
RH-2-94	Multi-Pipeline 1995 Cost of Capital Proceeding, National Energy Board Reasons for Decision dated March 1995
RH-4-2001	TransCanada PipeLines Limited Fair Return Application dated 6 June 2001 In Respect of Cost of Capital Matters, National Energy Board Reasons for Decision dated June 2002
Rules	<i>National Energy Board Rules of Practice and Procedure, 1995</i>
TransCanada or the Company	TransCanada PipeLines Limited
U.S.	United States

Glossary of Terms

capital structure	the way in which a business is financed - generally expressed as a percentage breakdown of the types of capital employed
cost of service	the total cost of providing service, including operating and maintenance expenses, depreciation, amortization, taxes, and return on rate base
deemed capital structure	a notional capital structure used for rate-making purposes that may differ from the company's actual capital structure
interest coverage ratio	the number of times that net income for a given year, before interest expense and income taxes, covers the annual interest expense - this ratio is one measure of the creditworthiness of a company
Mainline	TransCanada's Mainline natural gas transmission system
market-to-book ratio	the ratio of the market price of a common share to its book value
Part IV of the Act	the part of the <i>National Energy Board Act</i> dealing with all matters relating to traffic, tolls, and tariffs of gas and oil pipelines under the Board's jurisdiction
rate base	the amount of investment on which a return is authorized to be earned - it typically includes plant in service plus an allowance for working capital
RH-2-94 Formula	the formula for adjusting approved return on common equity set out in the RH-2-94 Decision - the formula sets approved return based on changes in forecast rates for long-term Canada bonds

Recital and Appearances

IN THE MATTER OF the *National Energy Board Act* and the regulations made thereunder;

AND IN THE MATTER OF an application dated 16 September 2002 by TransCanada PipeLines Limited pursuant to subsection 21(1) of the Act for review and variance of National Energy Board Decision RH-4-2001 dated June 2002 and Board Orders TG-3-2002, AO-1-TG-3-2002 and TG-4-2002.

BEFORE:

C. Dybwad	Presiding Member
E. Quarshie	Member
G. Caron	Member

Submitters

TransCanada PipeLines Limited
Canadian Association of Petroleum Producers
Canadian Gas Association
Centra Gas Manitoba Inc.
Coral Energy Canada Inc.
Enbridge Gas Distribution Inc.
Industrial Gas Users Association
Mirant Canada Energy Marketing, Ltd.
Ontario Minister of Energy

Chapter 1

Introduction

1.1 Background

By an application dated 6 June 2001 (Fair Return Application), TransCanada PipeLines Limited applied to the National Energy Board for, *inter alia*:

- (a) a review and variance of the RH-2-94 Decision¹;
- (b) an order approving an After-Tax Weighted Average Cost of Capital (ATWACC) of 7.5 percent (adjusted for the embedded cost of debt of the Company) as the return for TransCanada, or in the alternative, a rate of return of 12.50 percent on a deemed equity component of 40 percent; and
- (c) an order directing that such return be utilized in the determination of final tolls to be charged by TransCanada on the Mainline for the period 1 January 2001 to 31 December 2002.

The Board issued Hearing Order RH-4-2001 on 26 July 2001. Thirty-nine parties intervened in the hearing, which was held in Calgary, Alberta from February to April of 2002. The Board, comprised of a panel of five Members, issued its RH-4-2001 Reasons for Decision on TransCanada Cost of Capital in June 2002. The Board maintained its reliance on the return on equity adjustment formula established in the RH-2-94 proceeding, and rejected TransCanada's ATWACC and alternative proposals. The Board approved a deemed common equity ratio of 33 percent for the Mainline.

1.2 The Review Application

On 16 September 2002, TransCanada applied, pursuant to subsection 21(1) of the *National Energy Board Act* and section 44 of the *National Energy Board Rules of Practice and Procedure, 1995*, for review and variance of the RH-4-2001 Decision and Orders TG-3-2002, AO-1-TG-3-2002 and TG-4-2002 by which that Decision has been implemented (Application or Review Application).

The Application was made on the grounds that the Board, in rendering the RH-4-2001 Decision, committed errors that raise doubts as to the correctness of the Decision. The errors, as presented in the Review Application, include errors of law, of jurisdiction, of fact, of mixed law and fact, and of evidentiary interpretation.

TransCanada submitted that the RH-4-2001 Decision resulted in prejudice or damage to the Mainline and its investor, TransCanada, by imposing an unfair return; prejudicing the ability of the Mainline to attract capital from TransCanada; placing the Company at a competitive disadvantage; and prejudicing its ability to invest in the Canadian pipeline industry, including the Mainline and northern pipelines. In

¹ National Energy Board RH-2-94 Reasons for Decision, Multi-Pipeline Cost of Capital, dated March 1995.

addition, TransCanada argued that the Board's failure to provide adequate reasons prejudiced its ability to conduct its business, and made its right of appeal illusory.

In the Application, TransCanada sought review and variance of the RH-4-2001 Decision and implementing Orders to establish a return for the Mainline for 2001 and 2002 represented by either the ATWACC or the alternative rate of return proposals originally applied for in RH-4-2001. TransCanada also sought adequate reasons for decision relating to the return for the Mainline.

1.3 The Board's Review Procedure

Section 21 of the Act provides:

- (1) Subject to subsection (2), the Board may review, vary or rescind any decision or order made by it or rehear any application before deciding it.

The Rules set out the requirements for a review application in section 44:

- (2) An application for review or rehearing shall contain ...
 - (b) the grounds that the applicant considers sufficient, in the case of an application for review, to raise a doubt as to the correctness of the decision or order ... including
 - (i) any error of law or of jurisdiction

There is no automatic right of review of a Board decision. A decision to review is discretionary. Normally, a review entails a two-step process: first, it must be determined whether a doubt has been raised as to the correctness of the impugned decision or order, and then, if that test has been met, the review is considered on its merits. These stages are commonly referred to as phase I and II and are not dissimilar to seeking leave to appeal from a court, and subsequently having the appeal heard.

By letter dated 1 November 2002, the Board solicited comments from all parties to the RH-4-2001 hearing on whether or not TransCanada had raised a doubt as to the correctness of the Board's Decision, which would require a review. In addition, parties were invited to provide submissions on the procedure that may be followed if a review were to be held. Eight parties submitted comments with respect to TransCanada's Application: Canadian Association of Petroleum Producers (CAPP), Canadian Gas Association (CGA), Centra Gas Manitoba Inc., Coral Energy Canada Inc., Enbridge Gas Distribution Inc. (Enbridge Gas), Industrial Gas Users Association (IGUA), Mirant Canada Energy Marketing, Ltd. and the Ontario Minister of Energy. TransCanada was provided with an opportunity to respond to the comments received.

1.4 Content of these Reasons for Decision

Many parties submitting comments did not address every point raised by TransCanada in its Review Application and some raised issues outside the scope of the Review. While the Board has considered all of the submissions on relevant matters presented in this Review proceeding, it has chosen in these Reasons for Decision to summarize the evidence and positions of the parties only to the extent necessary

to explain how the main issues were addressed in the decision-making process. The main issues are set out in the Chapters that follow.

The Board expects all parties to read this Decision as a whole, as they should for all Board decisions. While it is always possible to allege errors when individual elements are taken out of context, doing so does not call the correctness of the decision into question. The Decision must be examined in its entirety.

In preparing the “Views of the Board” for each main issue in these Reasons, the Board has not addressed every paragraph and separate argument raised in the TransCanada Application, nor is it required by law to do so, as further discussed in Chapter 6. Accordingly, while the Board has fully and carefully considered all submissions, only those portions of the submissions which the Board has found to be relevant to whether TransCanada has raised a doubt as to the correctness of the Decision in RH-4-2001 will be discussed.

In certain instances, the Board has found it convenient to categorize and summarize some of the grounds raised by TransCanada, addressing them as a group. Parties should not take this to mean that the Board did not separately consider each of the issues raised. Rather, the Board finds that a number of alleged errors did not merit an extensive response.

Chapter 2

The Standard of Review

TransCanada submitted that the standard of review is correctness, citing section 44 of the Rules. According to TransCanada, tolls must be just and reasonable, and, by law, must include a fair return, which is determined by applying the judicially-articulated fair return standard. Therefore, if doubt is raised with respect to the proper application of the legal standard, then a review is warranted.

CAPP indicated that the question of a fair rate of return is largely a matter of opinion and hardly capable of being reduced to certainty by evidence. Therefore, whether the RH-4-2001 Decision is correct is a function of whether it can be demonstrated to fall outside the range of opinions that different persons might reasonably have formed. To support this view, CAPP relied upon *Northwestern Utilities Limited v. City of Edmonton*² and *Trans Mountain Pipe Line Company v. National Energy Board et al*³. CAPP stated that the Board should resist the temptation to replace the judgment of the first Panel with its own judgment. It noted that RH-4-2001 was a review decision with five out of a possible eight Board Members sitting, and therefore there should be a clear demonstration of an error that was either so serious or so obvious as to render the Decision patently unreasonable or to establish that it was made without regard to the material before it.

With respect to the standard of review, IGUA indicated that the determination of the appropriate regulatory approach to apply to determine cost of capital is a policy issue. The policy option adopted in RH-4-2001 was reasonable and fell well within the range of policy options presented.

In reply, TransCanada indicated that while a determination of just and reasonable tolls may be a matter of opinion, as indicated in the *Trans Mountain* case cited by CAPP, a right of review exists if an applicant establishes a doubt regarding the correctness of the basis for the opinion.

Views of the Board

The Board agrees with TransCanada that the standard of review in this instance is set out in the Rules and is one of correctness. However, one must ask what it is that must be correct. The Decision in RH-4-2001 was, *inter alia*, a decision as to what a fair rate of return is for the Mainline. It is clear from the case law, discussed in Chapter 3, that the determination of a fair return is a matter of balancing a number of factors and involves the application of judgment. As the Court noted in *Northwestern Utilities (1929)*⁴, such a decision is largely a matter of opinion and is hardly capable of being reduced to certainty by evidence. Accordingly, while the standard of review is correctness, the Board recognizes that what is being reviewed for correctness is largely a matter of informed judgment and opinion.

² [1929] S.C.R. 186 [hereinafter *Northwestern Utilities (1929)*].

³ [1979] 2 F.C. 118 (C.A.).

⁴ *Supra*, footnote 2, at page 199.

As can be seen from the RH-4-2001 proceeding, and as recognized in the case law, informed and reasonable people can come to different opinions, based on the application of their own judgment and the weight they assign to the various factors that must be considered in coming to a determination of a fair rate of return for the Mainline. The Board's responsibility, at this stage of the Review Application, is not to re-weigh all the evidence and make its own assessment of it. Rather, the Board is to determine three things:

1. whether a doubt has been raised as to the correctness of the Decision in RH-4-2001, recognizing that the determination of a fair return is largely a matter of informed opinion;
2. whether a doubt has been raised because of an error in the basis upon which that opinion was made, or example, by examining whether the Board in RH-4-2001 relied on irrelevant evidence, did not consider relevant evidence, applied inappropriate tests, applied appropriate tests or factors incorrectly, or made the Decision in an arbitrary manner; and
3. whether a doubt has been raised as to the correctness of the RH-4-2001 Decision on the basis that the Board did not provide adequate reasons, as may be required given the state of the law on this matter.

Chapter 3

The Fair Return Standard

One of the grounds upon which TransCanada relied to establish an error in the Board's Decision was related to what it referred to as the "fair return standard". TransCanada stated that the Board has a legal obligation to apply the fair return standard in determining the rate of return and that the Board must, by law, apply the comparable investment, financial integrity and capital attraction standards to do so. TransCanada argued that the Board erred in the RH-4-2001 Decision by breaching the obligation to apply this standard.

TransCanada cited *Northwestern Utilities (1929)* and relied on United States Supreme Court case law, in *Bluefield Waterworks & Improvement Co. v. Public Service Commission of West Virginia et. al.*⁵ and *Federal Power Commission v. Hope Natural Gas*⁶ to support the proposition that the Board must fix rates which will secure a return to the Company as large as it would receive if it invested in business undertakings with similar risks, attractiveness and stability. This requirement exists, according to TransCanada, notwithstanding the wide latitude given to the Board in determining just and reasonable tolls.

The Application stated that the Board breached the obligation to apply the fair return standard by disallowing certain evidence of TransCanada, ignoring other evidence of the Company, making findings contrary to the weight of the evidence and basing portions of the Decision on matters not in evidence.

3.1 Legal Obligation to Apply the Fair Return Standard

TransCanada argued that the Board must apply the fair return standard and "is required by law to apply the comparable investment, financial integrity and capital attraction standards *to determine* a fair return for the Mainline."⁷ [emphasis added]

The only party to specifically address the issue of a legal obligation to apply this standard was Mirant, who argued that neither the Board nor any intervenor ever stated that the standards are optional, but that any disagreement relates to the method by which the standards are applied.

Mirant submitted that TransCanada did not understand the Board's well-established approach to determining a fair or reasonable return. The RH-2-94 Decision describes the three main analytical methods used to estimate the cost of equity capital, all of which attempt to estimate the cost of equity capital for the utility by equating it to estimates, based on the empirical data, of the cost of equity capital for a sample of firms that are thought to be generally comparable to the utility in terms of business risk and other relevant variables. Therefore, Mirant submitted, by definition, the Board is determining a

⁵ 262 U.S. 679 (1923) [hereinafter *Bluefield*].

⁶ 320 U.S. 591 (1944) [hereinafter *Hope*].

⁷ Review Application, at paragraph 28.

return that is comparable to the return available from capital invested in other enterprises of like risk. Mirant stated that by setting the authorized return at a level that reflects the cost of equity capital in the market, the return will permit incremental capital to be attracted to the utility on reasonable terms and conditions and enable the financial integrity of the regulated enterprise to be maintained.

Mirant submitted that the primary issue in any rate of return case is one of arriving at the best possible estimate of the cost of capital using the alternative methodologies that are available. In RH-2-94, the Board found this to be the equity risk premium approach. Mirant suggested that in the RH-4-2001 hearing all of the financial expert witnesses took the same basic view, with disagreements relating to the details of the analyses.

In reply, TransCanada stated that the Board's Decision contains no indication that the Board relied on any intervenor evidence in respect of the fair return standard. In TransCanada's view, the Decision includes no finding as to the return achieved by investments of comparable attractiveness, stability and certainty of the Mainline which, in its view, is clearly an error of law.

Views of the Board

Canadian Jurisprudence

The case law cited by TransCanada is relevant. However, in some instances the wording surrounding the quoted sections should also be considered. In *Northwestern Utilities (1929)*, the Court said:

The duty of the Board was to fix fair and reasonable rates; rates which, under the circumstances, would be fair to the consumer on the one hand, and which, on the other hand, would secure to the company a fair return for the capital invested. By a fair return is meant that the company will be allowed as large a return on the capital invested in its enterprise (which will be net to the company) as it would receive if it were investing the same amount in other securities possessing an attractiveness, stability and certainty equal to that of the company's enterprise.⁸

The Supreme Court of Canada was not, in the Board's reading of the case, saying that the Board had to use certain tests in order to determine the tolls for the utility. Rather, the Court noted that fair and reasonable rates must balance consumer interests and the right of the company to secure a fair return.

⁸

Supra, footnote 2, at pages 192-193.

The Federal Court of Appeal, in *Trans Mountain*, found that the method to be used and the factors to be considered determining tolls:

must be left to the discretion of the Board which possesses in that field an expertise that judges do not normally have. If, as it has clearly done in this case, the Board addresses its mind to the right question, namely, the justness and reasonableness of the tolls, and does not base its decision on clearly irrelevant considerations, it does not commit an error of law merely because it assesses the justness and reasonableness of the tolls in a manner different from that which the Court would have adopted.⁹

That same Court stated in *British Columbia Hydro and Power Authority v. Westcoast Transmission Co.*:

Plainly, the Board has authority to make orders designed to ensure that the tolls to be charged by a pipeline company will be just and reasonable. But its power in that respect is not trammled or fettered by statutory rules or directions as to how that function is to be carried out or how the purpose is to be achieved. In particular, there are no statutory directions that, in considering whether tolls that a pipeline company proposes to charge are just and reasonable, the Board must adopt any particular accounting approach or device or that it must do so by determining cost of service and a rate base and fixing a fair return thereon.¹⁰

American Jurisprudence

In *Bluefield*, the U.S. Supreme Court stated:

The company contends that the rate of return is too low and confiscatory. What annual rate will constitute just compensation depends upon many circumstances, and must be determined by the exercise of a fair and enlightened judgment, having regard to all relevant facts. A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding, risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and

⁹ *Supra*, footnote 3, at paragraph 9.

¹⁰ [1981] 2 F.C. 646 at page 656 (C.A.) [hereinafter *B.C. Hydro*].

support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be reasonable at one time and become too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.¹¹

Thus, the Court listed a number of factors for consideration, but did not define these factors or prescribe tests. It said that regulatory bodies are to consider all relevant facts and to exercise enlightened judgment.

Finally, the pertinent provisions of *Hope* state:

We held in *Federal Power Commission v. Natural Gas Pipeline Co.*, [12] that the Commission was not bound to the use of any single formula or combination of formulae in determining rates. Its ratemaking function, moreover, involves the making of “pragmatic adjustments.” And when the Commission’s order is challenged in the courts, the question is whether that order “viewed in its entirety” meets the requirements of the Act. Under the statutory standard of “just and reasonable” it is the result reached not the method employed which is controlling. It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end. The fact that the method employed to reach that result may contain infirmities is not then important. ... The rate-making process under the Act, i.e., the fixing of “just and reasonable” rates, involves a balancing of the investor and the consumer interests. Thus we stated in the *Natural Gas Pipeline Co.* case that “regulation does not insure that the business shall produce net revenues”. But such considerations aside, the investor has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. The conditions under which more or less might be allowed are not important here. Nor is it important to this case to determine the various permissible ways in which any rate base on which the return is computed might be arrived at.¹³

¹¹ *Supra*, footnote 5, at page 692.

¹² 315 U.S. 575 (1942).

¹³ *Supra*, footnote 6, at pages 602-603.

RH-4-2001 Decision

In its Decision, the Board noted that it has no statutory obligation to specifically consider and establish a rate of return for companies it regulates. It noted that it must establish tolls that are “just and reasonable” and cited *B.C. Hydro* for the proposition that it is not bound to a particular approach in doing so. As pointed out by TransCanada in the Application, the Board noted that its practice is to set cost based tolls by considering, *inter alia*, the cost of capital - that is, the cost of equity and debt to the company’s regulated activities.

The RH-4-2001 Decision refers to and cites extensively from the Board’s RH-1-70 Decision, which was the first hearing under Part IV of the Act relating to tolls to be charged by TransCanada. The Board stated:

The principles referred to in the Board’s RH-1-70 Decision suggest that a fair return ought to have the following attributes. Specifically, a fair or reasonable rate of return should:

- be comparable to the return available from the application of the invested capital to other enterprises of like risk (the comparable earnings standard¹⁴);
- enable the financial integrity of the regulated enterprise to be maintained and permit incremental capital to be attracted to the enterprise on reasonable terms and conditions (the financial integrity and capital attraction standards); and
- achieve fairness both from the viewpoint of the customers and from the viewpoint of present and prospective investors (appropriate balance of customer and investor interests).

These principles are reflected in the application of the various accepted methodologies used to estimate the cost of capital, such as the Equity Risk Premium approach employed by the Board in the RH-2-94 Decision. The Board is of the view that these principles remain appropriate in the present case.

In respect of the appropriate balance of customer and investor interests, the Board notes that customer interest in rate of return matters relates most directly to the impact the approved return will have on tolls. The Board is of the view that the impact of the rate of return on tolls is a relevant factor in the determination of a fair return.

¹⁴ Although this was referred to as the comparable earnings standard in RH-4-2001, TransCanada referred to this as the “comparable investment standard”. This latter terminology will be used in this Decision to distinguish this standard from the comparable earnings test, which is a methodology which may be used to establish a rate of return; other approaches include the discounted cash flow and the equity risk premium methodologies.

The Board is of the view that the determination of a fair return in accordance with these principles will, in conjunction with other aspects of the Mainline's revenue requirement, result in tolls that are just and reasonable.¹⁵

Legal Obligation to use the Fair Return Standard

The Board is of the view that TransCanada's statement that the Board "is required by law to apply the comparable investment, financial integrity and capital attraction standards *to determine* a fair return for the Mainline"¹⁶ is an overstatement of the law on this issue.

The case law establishes that fair and reasonable rates must, *inter alia*, be fair to consumers and must secure a fair return to the company. However, the Courts do not say that a fair return to the company must be established without regard for other matters. They make it clear that this is one element to be balanced with other considerations.

In the Board's view it is clear that in determining rate of return, it must take into account factors in addition to providing a company as large a return as it would otherwise get by investing elsewhere. The Board must impose its judgment on the relevant issues and the weight to be given them; the case law makes it clear that the setting of tolls involves an exercise of judgment. One of the elements missing in the fair return standard cited by TransCanada is, as referred to in the case law discussed above, the balance of interests between consumer and investors in the utility. TransCanada acknowledged that fairness to toll payers was a relevant consideration within the context of prevention of monopolistic profits. However, the Board is of the view that a restricted use of this factor is not consistent with the jurisprudence on this matter. Consumer and pipeline interests must be balanced. To state that a tribunal must use the fair return standard (comparable investment, capital attraction, financial integrity) *to determine* the rate of return and thus provide as large a return as would be provided to similar investments would mean that the Board could not take into account other factors, including, *inter alia*, consumer interests.

The case law states that a company will be allowed a fair return but it does not establish how a fair return to the company must be determined. There is a fundamental difference between saying that certain standards must be used *to determine* the return, and stating that a return must meet certain standards or fulfill certain requirements. In the former case, those standards would be tests which could be used to establish the return. In the latter, other tests could be used but the end result would be measured against these standards to ensure that they are met. The case law is clear that there is no specific manner in which a fair return must be determined¹⁷.

¹⁵ RH-4-2001 Reasons for Decision, at pages 11-12.

¹⁶ Review Application, at paragraph 28 [emphasis added]; see also Review Application at paragraphs 24 and 29 and Appendix B at paragraph 6 and TransCanada's reply dated 17 December 2002 to IGUA's submission at paragraph 12.

¹⁷ See for eg. *Hope, supra*, footnote 6, *TransMountain, supra*, footnote 3, and *B.C. Hydro, supra*, footnote 10.

Parenthetically, if regulatory tribunals could only use the “fair return standard” to determine tolls, one must wonder about the cost and time for the extensive evidence submitted by expert witnesses in this and other hearings regarding the discounted cash flow test, capital asset pricing model, etc. If it was judicially determined by the Supreme Courts of Canada and the United States that the fair return standard must be used to determine rate of return, this other evidence would be largely, if not wholly, irrelevant.

The Board, in RH-4-2001, agreed that the three components of the fair return standard cited by TransCanada, along with the balancing of customer and investor interests, should be attributes of a fair return. It further stated that these principles are reflected in the various accepted methodologies to establish cost of equity capital, such as the equity risk premium approach, which is the basis of the RH-2-94 Formula¹⁸. No one, including TransCanada, took issue with this statement.

In the Board’s view, it is implicit that the application of a test that reflects these standards would result in a return that meets these standards. Therefore, the Board in RH-4-2001 did not have to state explicitly that the resulting return would meet the comparable investment, financial integrity and capital attraction standards. The answer to TransCanada’s question: “How can there not be doubt about the correctness of a decision that does not include an express finding that discharges the fundamental legal obligation of the regulator?”¹⁹ is simple. An express finding is not necessary when the standards which must be met are imbedded in the methodology used to determine the return and the reasons given for the decision make this clear. However, to the extent that an express finding may be necessary, the Board stated in the Disposition section of the RH-4-2001 Reasons that:

The Board is of the view that the decisions reached in RH-4-2001 are consistent with the principles set out in Chapter 2 of these Reasons for Decision and will result in a fair return for the Mainline.²⁰

There is no legal obligation to use a fair return standard (comprised of the comparable investment, financial integrity and capital attraction standards) to determine tolls. Rather, in normal circumstances, a fair return established by the Board should meet those three elements. This was accomplished in RH-4-2001 through the methodology which was used to determine the return. There has been no error by the Board in respect of any obligation to apply the fair return standard.

¹⁸ In the RH-2-94 Decision, the Board introduced a formula for calculating the allowed return on common equity. This formula is based on an equity risk premium methodology and adjusts the allowed return based on changes in forecast rates for long-term Canada bond yields.

¹⁹ TransCanada reply dated 6 December 2002, at paragraph 24.

²⁰ RH-4-2001 Reasons for Decision, at page 64.

3.2 Application of the Fair Return Standard

TransCanada submitted that the Board had made a number of errors in applying the Fair Return Standard in the RH-4-2001 Decision. These errors were presented under three main headings: improper application of the comparable investment standard; improper application of the capital attraction and financial integrity standards; and misinterpretation of the ATWACC proposal.

3.2.1 Comparable Investment Standard

Regarding the comparable investment standard, TransCanada asserted that the Board erred in three ways. First, the Board removed relevant evidence, Exhibit B-64, from the record²¹. TransCanada argued that this evidence was requested by the Board and that it was relevant to the relative risk and potential returns associated with alternative uses of capital by TransCanada. In TransCanada's submission, the second error occurred when the Board held that comparisons of the Mainline to the pipelines of Alliance Pipeline Ltd., Maritimes and Northeast Pipeline Management Ltd. (M&NP), and Enbridge Pipelines Inc. (Enbridge) were not particularly meaningful in establishing a fair return for the Mainline. TransCanada asserted that to examine the comparable investment standard the most germane comparisons are to other pipelines regulated by the Board. TransCanada went on to discuss the relevance of those comparisons. Finally, TransCanada alleged that the Board set an unattainable evidentiary standard when it suggested at page 35 that a "thorough assessment of the relative business risks of each pipeline as well as an estimation of what each pipeline's cost of capital might be absent differences in circumstances" would be more meaningful. TransCanada asserted that this kind of comparison would require insider knowledge of the comparison companies.

CAPP argued that, in its ruling on the removal of the evidence from the record, the Board concluded that the information in this exhibit was of limited probative value. In CAPP's view, striking this evidence does not raise any doubt about the reasonableness of the fair return. On refusing to consider relevant evidence on the record, CAPP argued that the Board did not ignore the evidence cited by TransCanada, it simply gave it little weight. The evidence is summarized in the Decision and later addressed in the Views of the Board. CAPP pointed out that there is a difference between ignoring and rejecting evidence. Finally, CAPP stated that the Board did not establish an unattainable evidentiary standard. The Board stated that it was seeking a meaningful comparison of the circumstances of the comparison companies, as was done by several experts in the RH-2-94 proceeding and by CAPP's witness, Mr. Kaslik, on U.S. pipelines in the RH-4-2001 proceeding.

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Prior to the commencement of the RH-4-2001 hearing, the Board asked information requests about investments of similar risk which TransCanada had claimed offer higher returns and evidence supporting the view that certain other pipelines have lower risk than the Mainline. During examination Board Counsel, and then the Panel Chairman, requested that TransCanada provide additional evidence to that provided in the information request response and information on other investments which could provide a more extensive response. This information was filed by TransCanada as Exhibit B-64.

After a motion by IGUA, the Board ruled that the exhibit should be removed from the record on the grounds that because of confidentiality concerns raised by TransCanada, the information was very general and could not be adequately tested and responded to by the parties. Further, receiving this evidence would have been unduly prejudicial to parties who had prepared and submitted their evidence and, more importantly, completed their cross-examination on TransCanada's case.

Mirant argued that retaining Exhibit B-64 on the record would have been prejudicial to intervenors. Concerning the comparisons with Alliance, MN&P and Enbridge, Mirant argued that TransCanada had not demonstrated that they were comparable with the Mainline in attractiveness, stability and certainty. Mirant stated that the comparable investment standard is met by determining an allowed return that reflects the pipeline's cost of capital. This is done using the equity risk premium, comparable earnings, and discounted cash flow methodologies. Finally, Mirant suggested that the evidentiary standard may be unattainable but that is because the whole approach of determining a fair return for the Mainline via direct comparisons is misconceived from the outset. Such comparisons are meaningless in the absence of further evidence that the Board found necessary and TransCanada failed to provide.

In reply, TransCanada noted that Mirant's concept of conventional quantitative financial market analysis appears nowhere in the RH-4-2001 Decision.

Views of the Board

The Board has the responsibility to determine whether evidence in a proceeding is relevant and to assign the appropriate weight to that evidence. With respect to the disposition of Exhibit B-64, the Board stated that, "without detailed supporting information, the filed material, even if it could be adequately tested and responded to by parties, is of limited assistance."²² It goes without saying that if evidence cannot be tested, there is a presumption against allowing it to be considered. Further, in considering the admissibility of evidence, especially that filed later in the proceeding, the Board must consider whether prejudice will be caused to other parties by its admission. The Board was entirely correct in considering these matters and, given those factors, deciding as it did on the admissibility of Exhibit B-64.

With respect to the second ground, the Board provided views along a similar vein on page 35 of the RH-4-2001 Decision, when it said it "does not consider the evidence pertaining to comparisons of the Mainline with Alliance, M&NP and Enbridge to be particularly meaningful in establishing a fair return for the Mainline." The text goes on to detail the concerns the Board had with that evidence. Again, it is the duty of the trier of fact to examine the evidence and assign the appropriate weight. The Board is of the view that the RH-4-2001 Reasons for Decision show that the Board examined the evidence and considered the appropriate factors to determine the weight to be assigned. Given that it was based on the proper foundation, such a decision need not be reviewed. TransCanada has not raised a doubt as to the correctness of this decision.

Concerning the setting of an unattainable evidentiary standard, the Board notes CAPP's reference to evidence comparing relative pipeline business risks and the attendant impacts on cost of capital submitted by several parties in the RH-2-94 proceeding and by CAPP in the RH-4-2001 proceeding. The Board does not believe that an unattainable standard was set in the RH-4-2001 Decision.

The Board is of the view that these three allegations by TransCanada are not errors. Rather, they are determinations on the appropriate evidence to be considered and the

²² RH-4-2001 proceeding, transcripts (v15), paragraph 20538.

weight to be given that evidence. The Board is therefore of the view that a doubt as to the correctness of the RH-4-2001 Decision has not been raised on these grounds.

3.2.2 Capital Attraction and Financial Integrity Standards

In the Review Application, TransCanada suggested that the Board had improperly applied the capital attraction and financial integrity standards in six ways, which are discussed below.

Ability to Attract Capital

TransCanada alleged that the Board addressed the wrong question in considering the ability of TransCanada, rather than the Mainline, to attract capital. In TransCanada's view, the unquestioned ability of the Company to access capital and the prospects for the Company's bond ratings are irrelevant to the issue of the ability of the Mainline to access capital. TransCanada argued that the Board further erred by violating the stand-alone principle when it used these parameters to conclude that the Mainline could attract capital.

CAPP stated that the Board's conclusion at page 34 of the Decision that "the Mainline's ability to attract capital on reasonable terms and conditions is not in jeopardy" shows that the Board did not err. CAPP pointed out the Board's statement on page 3 of the Decision: factors relating to TransCanada would be considered in determining return for the Mainline because the reality is that TransCanada, and not the Mainline, raises capital. CAPP noted that much of this evidence was presented by TransCanada itself.

Mirant argued that the Mainline does not raise capital, have a credit rating and generally does not have an objectively determined and independent financial position. Mirant also stated that TransCanada did not present any evidence based on market information to substantiate its view that the Mainline is not able to raise capital on reasonable terms and conditions. Further, it was submitted that it is clearly open to the Board to draw inferences about the Mainline from the information available about the consolidated entity.

Enbridge Gas stated that the Decision failed to apply the fair return standard when it concluded that the RH-2-94 Formula continues to provide returns on equity that are appropriate for the Mainline. In its view, the Application demonstrated in detail that the Board's conclusion is erroneous.

Attracting Capital on Reasonable Terms and Conditions

TransCanada submitted that it is the investor in the Mainline. In its view, the approved return at the time of the RH-4-2001 proceeding would not result in reasonable terms and conditions for its investment in the Mainline. It argued that investment on those terms would dilute the value of the investment shareholders have made in TransCanada.

CAPP's position was that the Board did consider TransCanada's evidence respecting the return that would attract investment by TransCanada in the Mainline and explained, on page 35 of the Decision, why it gave that evidence little weight. There is no basis for re-weighting this evidence in a review.

Mirant stated that, "[i]n substance, and in an economic sense, TransCanada's shareholders invest in or own all of TransCanada's businesses, including the Mainline."²³ Although the shares in TransCanada represent a blend of various businesses, the capital market's views on the Mainline have a major effect on its views of TransCanada's shares. In Mirant's view, it is completely reasonable for the Board to draw inferences about the Mainline from market indicators for the consolidated company.

Globalization of Capital Markets

TransCanada argued that the Board misunderstood its evidence on the effects of the globalization of capital markets. TransCanada stated that the U.S. capital market offered higher returns on firms with risks comparable to the Mainline, that the risk premium is lower in Canada than in the U.S. and that there has been a recent outflow of capital from Canada. Because TransCanada can invest globally, the return for the Mainline has to be competitive with the returns earned on similar risk investments in the global market. In TransCanada's view, the RH-4-2001 Decision ignores these issues and thereby is incorrect.

CAPP noted that the Board addressed TransCanada's globalization arguments on page 35 of the Decision and no error exists that would justify a review. Mirant questioned what specific wrong decision resulted from the Board's alleged error. Mirant further noted that TransCanada implied, at paragraph 75 of its submission, that the Board reduced the approved return for the Mainline because of the dividend tax credit, which, in Mirant's view, the Board did not.

Security and Safety

TransCanada submitted that the Board confused the issue of security and safety with the issue of fair return. TransCanada filed evidence that if maintenance capital for the Mainline were considered as a stand-alone incremental investment, it would not be undertaken in the present cost of capital environment. In the hearing, TransCanada assured the Board that it would maintain the standards of safety and security at least at their present levels. In TransCanada's view, this issue was irrelevant to the determination of a fair return for the Mainline.

CAPP submitted that the Board is naturally concerned about safety and security and to suggest that these comments provide a basis for the fair return opinion formed by the Board is folly. Mirant argued that the portion of the Decision quoted appears not to involve any decision by the Board.

"Going Concern Value" Return

It was alleged in the Application that in the RH-4-2001 Decision, the Board confused a going concern value return with a fair return. TransCanada described the going concern value return as the minimum return required to attract only the incremental capital required to maintain the going-concern value of the regulated investment. If TransCanada has alternative investments of similar risk to the Mainline that pay a higher level of return than approved for the Mainline, it is unfair, in TransCanada's view, to ask it to invest any capital in the Mainline.

²³ Mirant submission, dated 22 November 2002, at page 12.

CAPP cited the Board's statements on pages 11 and 34 of the Decision regarding attracting capital on reasonable terms and conditions. From this, CAPP submitted that it is clear that the Board had the correct capital attraction principle in mind.

Mirant noted that TransCanada did not identify any passage in the Decision where the Board indicated that it sought to set the Mainline's return at the minimum required to maintain the going-concern value of the pipeline. Mirant suggested that TransCanada had repudiated the capital attraction standard by suggesting that, while TransCanada could attract capital at an ATWACC of 5.95 percent (i.e., RH-2-94 Formula at 30 percent deemed common equity), it would be unfair to require TransCanada to do so.

Interest Coverage Ratios

In the RH-4-2001 Decision, the Board made statements regarding interest coverage ratios of the Mainline. TransCanada alleged that the statement that the interest coverage resulting from the approved deemed common equity ratio for the Mainline would be higher than it had been in the past, demonstrated that the Board had made part of its decision based on matters not in evidence. Further, TransCanada suggested that the Board misunderstood or misinterpreted the evidence on the relationship between interest coverage ratios and bond ratings, and thus erred.

CAPP stated that the increase in the deemed common equity ratio from the RH-4-2001 Decision will increase interest coverage ratios and this is one indication that the financial integrity of the Mainline is preserved. CAPP suggested that the difference between the wording in the Decision and the statements made by TransCanada's witness on interest coverage ratios were semantic.

Mirant argued that the statements on interest coverage ratios were not the basis for the Board's decision. Rather, the statements asserted a fact, which TransCanada could have disputed in its Review Application if it believed them to be incorrect. Mirant submitted that TransCanada summarized its witness's statement about interest coverage ratios exactly as the Board stated.

Views of the Board

Ability to Attract Capital

TransCanada alleged that the Board erred by considering TransCanada's, rather than the Mainline's, ability to attract capital. The Board notes that the Introduction of the RH-4-2001 Decision states:

In this proceeding, the Board is required to make decisions on cost of capital matters for TransCanada's Mainline, which is only one component of TransCanada's overall business enterprise. Although cost of capital is considered within the context of the Mainline as a stand-alone entity, in reality it is often necessary to consider factors which pertain to the consolidated entity. For example, many financial indicators (e.g., credit ratings, raw beta estimates) are only available for

the consolidated entity and often provide the best estimates as to what these indicators would be for the Mainline as a stand-alone entity.²⁴

This statement makes it clear that the Board did consider, as the central question, the cost of capital for the Mainline but that in doing so it found it necessary and appropriate to consider factors related to the consolidated operations of TransCanada. In the RH-4-2001 proceeding, evidence was submitted demonstrating TransCanada's overall ability to attract capital. The Board is not convinced that it is an error for this fact to be considered in assessing the ability of the Mainline to attract capital, particularly in light of the fact that the Mainline does not access capital markets as a stand-alone entity.

Attracting Capital on Reasonable Terms and Conditions

In the Review Application, TransCanada argued that the Board erred in finding, against the weight of its evidence, that the Mainline's ability to attract capital on reasonable terms and conditions was not in jeopardy. The Board notes that TransCanada's assertion that the Mainline is an unattractive investment, is very subjective and is difficult, if not impossible, to prove or test. To this end, the Board notes IGUA's comments, cited on page 33 of the Decision, that the position is self-serving and lacks the requisite degree of independence. In the Board's view, the fact that the Board, in RH-4-2001, did not rely on TransCanada's statements indicates the weight the trier of fact, who heard the evidence and was able to gauge its credibility, chose to give it. In a matter of weight, the Board will always show deference to the original Panel in the absence of evidence of an error.

The Board would also note that this finding is consistent with other findings in the RH-4-2001 Decision. The Decision states at page 28 that although the level of business risk facing the Mainline had increased since the RH-2-94 proceeding, it remained low. Further, the Board found that the RH-2-94 Formula would yield a fair return to the Mainline at page 64. Thus, there is no reason to believe that the Mainline, with a low risk level and appropriate returns, would have trouble attracting capital on reasonable terms and conditions.

Globalization of Capital Markets

The Board discussed its views on the globalization of financial markets and alternative investments at page 35 of the RH-4-2001 Decision. TransCanada asserted that these passages demonstrate a misreading of the evidence and a failure to recognize the actual issue.

The Board notes the passage in the Decision, at page 31, which states, "Mirant acknowledged that the Canadian market is influenced by global market forces, but submitted that Canadian government rates already reflect this influence." This passage, along with the rest of the evidence on globalization summarized in the Decision, indicate that the Board recognized the relevant issue. This summary shows that parties to the RH-4-2001 proceeding were of the view that there are differing risk factors faced by U.S. firms and differences in the investment climate between the two countries. The Board, after weighing this evidence, concluded that Canadian market data continued to be the

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RH-4-2001 Reasons for Decision, at page 3.

most relevant benchmarks. The Board has not been convinced by TransCanada's submission in this proceeding that this determination was in error.

Security and Safety

TransCanada submitted that the Board confused the security and safety of the Mainline with the issue of fair return in the RH-4-2001 Decision. The Board notes that TransCanada chose to place the evidence on safety and security of the Mainline on the record. It cannot expect that the Board would remain silent in the face of a statement that could undermine the public perception of the safety of the Mainline. The Board has not been convinced that this paragraph in any way demonstrates a confusion of safety and security with fair return.

"Going Concern Value" Return

With regard to TransCanada's argument that the Board confused a fair return with a "going concern value" return, the Board notes that the concept of a "going concern value" is not mentioned in the Board's views in the RH-4-2001 Decision. The Board is of the view that there is nothing in the Reasons to suggest that the Board determined anything other than a fair return. This alleged error appears to stem from TransCanada's own interpretation of the RH-4-2001 Decision and does not constitute an error which would call the correctness of the Decision into question.

Interest Coverage Ratios

In discussing its views on capital structure, at page 59 of the RH-4-2001 Decision, the Board found that the approved common equity ratio would result in "interest coverage ratios for the Mainline in 2001 and 2002 that exceed those experienced in the last 12 years." TransCanada correctly points out that interest coverage ratios resulting from the approved 33 percent deemed common equity ratio were not on the record. However, from a reading of the Reasons as a whole, it is clear that this statement was not the basis for the approved common equity ratio. It was made after the Board cited several factors it took into consideration in reaching its decision on the common equity ratio. The Board also notes that TransCanada did not question the validity of the assertion. The Board is of the view that the statement did not form a central part of the Board's decision on the appropriate deemed common equity ratio for the Mainline. Further, given that the ratios could be readily determined by a knowledgeable person, based entirely on the information on the record, there was no need to show the calculations.

TransCanada alleged that the Board made a further error when it stated that TransCanada had claimed it required a 2.0x interest coverage ratio to maintain its "A" credit rating. TransCanada quoted the evidence of its witness, Mr. Lackenbauer, who asserted that an interest coverage ratio below 2.0x would not continue to justify an "A" rating. The Board is of the view that the statement about interest coverage made by the Board is functionally equivalent to the evidence presented by Mr. Lackenbauer. The Board is not convinced that an error has been identified in this regard.

Conclusion

In conclusion, having had regard to the grounds raised by TransCanada in this matter, the Board has not found any errors which could cast doubt on the correctness of the Board's application of the capital attraction and financial integrity standards in the RH-4-2001 Decision.

3.2.3 The ATWACC Proposal

Reliance on Consolidated Book Capital Structure

TransCanada submitted that the record unambiguously shows that the overall cost of capital and risks faced by a company depend on the market-value capital structure, not the book-value capital structure. Further, because its market-to-book ratio exceeds 1.0, the market-value capital structure contains more equity than is reflected in the book-value capital structure. TransCanada asserted that the Board erred by ignoring the record and drawing an inference about the risk level of TransCanada's consolidated operations from the book-value capital structure.

CAPP and Mirant both noted that on page 59 of the RH-4-2001 Decision the Board stated that it reached its decision on the Mainline's deemed capital structure, "on the basis of the evidence presented to it with respect to the business risk faced by the Mainline." Mirant also asserted that the Board was not making any inferences about the risk level of the Mainline or TransCanada's consolidated operation, only noting that the deemed equity it approved for the Mainline was consistent with the actual book equity management felt was appropriate for the consolidated operation.

Check for Consistency

During the RH-4-2001 proceeding, TransCanada recommended that the Board adopt the ATWACC methodology as a standard and, failing that, at least make an explicit consistency check of the cost of equity and deemed capital structure using the sample companies. TransCanada submitted that the Board ignored the second recommendation despite considerable evidence on the record showing that such a check is required.

CAPP asserted that, given the Board's reservations about the ATWACC sample evidence, it was logical for the Board to decline to use this method as a check. Mirant discussed the evidence presented by TransCanada and suggested that the Board did not accept the views put forth by TransCanada's witnesses.

Dividend Tax Credit

TransCanada argued that the Board was not consistent in applying the effects of the dividend tax credit (DTC). The Application notes that the Board relied on the existence of the DTC in Canada to reject the increasing importance of globalization on the cost of capital for the Mainline but did not mention the effects of the DTC in its discussion of ATWACC. TransCanada cited evidence on the RH-4-2001 record claiming that, when debt ratios rise, the cost of equity rises faster for Canadian firms than for U.S. firms because of the DTC. TransCanada submitted that the Board erred by not explicitly mentioning this factor in relation to ATWACC.

CAPP submitted that the Board provided detailed reasons for rejecting the ATWACC proposal and that it need not have also addressed the DTC in this context. Mirant stated that relying on the existence of the DTC in one situation but not mentioning it in another does not suggest an error on the part of the Board.

ATWACC is not a Popularity Contest

TransCanada quoted from page 43 of the RH-4-2001 Decision, where the Board discussed the lack of support for the ATWACC methodology by TransCanada's stakeholders and the relevance of this factor in its determination. TransCanada asserted that the Board erred by considering stakeholder support for the ATWACC methodology in this case. The Board's legal responsibility, stated TransCanada, was to determine just and reasonable tolls and stakeholder support for the ATWACC methodology is irrelevant to this determination. TransCanada also noted a further error in that the Board ignored the evidence that the stakeholders themselves also use ATWACC, even though they objected to using this methodology for the Mainline.

CAPP asserted that it was the absence of advantages, not the absence of popularity, that caused the Board to reject the ATWACC proposal. Mirant argued that TransCanada's submission misrepresented the Board's Decision. Mirant suggested that the section of the RH-4-2001 Decision, at most, is a comment by the Board on the reliability of TransCanada's evidence.

Views of the Board

Reliance on Consolidated Book Capital Structure

With regard to reliance on consolidated book structure, the Board notes that the Mainline forms part of the overall business operations of TransCanada and, as such, does not have a market-value capital structure of its own. The Board has been setting a deemed capital structure on the book value of the Mainline's assets, based on the business risks faced by the Mainline, since 1980. The RH-4-2001 Decision does not depart from this practice. On page 59 of the RH-4-2001 Decision, the Board noted a consistency between the book-value capital structure deemed for the Mainline and the equivalent parameter chosen by TransCanada for its consolidated operation. The Board is not convinced that this comparison leads to any error in the RH-4-2001 Decision.

Check for Consistency

TransCanada argued that the Board erred by failing to apply ATWACC as a check for consistency. The Board discussed the ATWACC methodology extensively on pages 43 to 45 of the RH-4-2001 Decision. The Board explained its reasons for rejecting the use of the ATWACC methodology to establish a fair return for the Mainline in the RH-4-2001 proceeding. The Board cited several problems with the samples proposed by TransCanada and expressed doubt as to whether the samples are actually comparable to the Mainline. Having shown serious concerns for the ATWACC samples, the Board stated, "that there would be limited value in using the ATWACC approach as a check on the appropriateness of the awarded returns."²⁵ The Board is of the view that the RH-4-2001 Decision clearly addressed TransCanada's recommendation that a

²⁵ RH-4-2001 Reasons for Decision, at page 44.

consistency check be performed using the ATWACC samples. Accordingly, the Board does not find that the correctness of the Decision is brought into question by TransCanada's assertion.

Dividend Tax Credit

The Board is of the view that TransCanada's own submissions, on the issue of reliance on the divided tax credit clearly show that Canadian and U.S. firms face different investment circumstances, due in part to the existence of the DTC in Canada. At page 44, the RH-4-2001 Decision states, "The Board also considers that sample firms should face comparable investment circumstances to ensure they face similar cost-minimizing incentives in adopting their capital structure" and goes on to question whether or not significant reliance on U.S. firms would be appropriate. The Board finds that the views expressed in the RH-4-2001 Decision demonstrate that the Board turned its mind to the issue.

ATWACC is not a Popularity Contest

With respect to the allegation of a "popularity contest", it is noted that the Board's views on the ATWACC methodology are divided into two sections in the Decision: Regulatory Precedent, and TransCanada's ATWACC Methodology. Under Regulatory Precedent, the Board stated that given the lack of support, clear benefit from the new approach must be shown. In the Board's view this goes without saying: before utilizing any new methodology clear advantages over the previously accepted approach must be found. Without benefits, there would be no reason to effect a change. At no time does the Board indicate that the ATWACC proposal was rejected on the basis of its popularity with stakeholders. In the remainder of the Views of the Board, serious methodological concerns about the ATWACC samples presented by TransCanada were discussed. Further, the Board stated that it was not persuaded that the approach offered significant advantages. The Board has not been convinced by TransCanada's submission that the Board erred by relying on an irrelevant consideration in rejecting the ATWACC methodology.

Conclusion

In the Board's view, TransCanada has not raised a doubt regarding the correctness of the Board's RH-4-2001 Decision regarding the ATWACC methodology.

Chapter 4

Continued Use of the RH-2-94 Formula

TransCanada argued that the Board did not explain why it found that the RH-2-94 Formula continued to provide a return on equity that is appropriate for the Mainline. It alleged that this determination was based on a series of decisions that were made without factual evidentiary support, addressed the wrong issue, were circular, or misinterpreted evidence. Further, in TransCanada's submission, the Board failed to address whether the RH-2-94 Formula correctly estimates the cost of equity capital, presuming as it does a specific, constant and empirically correct correlation between bond returns (long-term Canada bond yields) and the cost of equity capital for the Mainline. In addition, according to TransCanada, the Board's assertion of a "general recognition" that the cost of equity capital is influenced by expected bond returns was not supported by evidence.

TransCanada asserted that the Board also erred by considering and deciding an issue not before it, that is, the unreliability of short-term interest rates. In the Company's view, there was a misinterpretation of the evidence of Dr. Schink, who used the long-run view of short-term rates. Further, TransCanada is of the view that the Board erred by presuming a stable relationship between changes in long-term government bond yields and the cost of equity capital, which presumption was refuted by the evidence of Dr. Schink.

According to TransCanada, the RH-2-94 Formula must generate a fair return. In TransCanada's view, it is irrelevant whether it is "well established", "well understood by interested parties" and "transparent". Consequently, the Board erred when it took into account these attributes of the RH-2-94 Formula in deciding to continue its use.

Mirant's position is that it is a judgment call whether long-term government bonds are appropriate to measure the risk-free rate; but almost all applications of the equity risk premium approach in a regulated setting use this yield, and the weight of expert opinion is that this is an appropriate starting point for developing a proxy for the risk-free rate.

Mirant stated that, contrary to TransCanada's claims, the RH-2-94 Formula presumes a non-linear relationship between long-term government bond yields and cost of equity, with cost of equity changing less quickly than the forecast long-term government yield. The RH-2-94 Formula being well established and understood are other mildly desirable factors. However Mirant did not believe that these factors formed the basis of the Board's continued acceptance of the RH-2-94 Formula.

In CAPP's view, the Board found that Dr. Schink did not present "meaningful evidence" with respect to the correlation of bond yields and the cost of equity capital to justify a departure from the RH-2-94 Formula. The Board should not, at this time, re-weigh that evidence. According to CAPP, the Board understood Dr. Schink's evidence, however it rejected his use of long-run forecasts of short-term U.S. 90 day treasury rates. The Board's rejection of an adjustment to reflect increased yield spreads between government and corporate bond yields was supported by evidence of Drs. Booth, Berkowitz and Chua. Further, it is a long established practice to use long-term Canadian government bond rates as the risk-free rate.

CAPP argued that the ATWACC approach, advocated by TransCanada, is not “well established”, “well understood by interested parties” and “transparent”. However, this was not the basis for the Board’s decision to retain RH-2-94 Formula; the Board’s decision was based on all the evidence.

CGA agreed with TransCanada that long-term government bonds are no longer an appropriate benchmark for a return on equity. The RH-2-94 Formula incorrectly assumes cost of equity and Canadian bond yields move in lockstep, and is not a reliable estimate of cost of equity capital for a utility.

Views of the Board

The Fair Return Application was, among other things, an application for review of the RH-2-94 Decision and related orders, pursuant to subsection 21(1) of the Act. The onus was on TransCanada to prove to the Board in RH-4-2001 that the RH-2-94 Formula was no longer appropriate for determining the Mainline’s return on equity. Neither the intervenors nor the Board had the onus in the RH-4-2001 proceeding to justify the continued use of the Formula. The Formula was appropriate unless and until TransCanada persuaded the Board otherwise.

TransCanada failed to meet the burden and accordingly, the RH-2-94 Formula continued to apply. The Board was not required in the RH-4-2001 Decision to justify that the Formula was appropriate; that determination was made in the RH-2-94 proceeding.

TransCanada’s argument that the Board based part of its continued acceptance of the RH-2-94 Formula on irrelevant considerations, such as the fact that it is “well established”, “understood” and “transparent” is without merit. It is clear from a reading of the Decision as a whole that the Board was not convinced by TransCanada that the RH-2-94 Formula was no longer appropriate. Further, the Decision was based on the consideration of the evidence presented and not the fact that the Formula is well established, understood and transparent. As previously mentioned, it is imperative that the Reasons for Decision from any proceeding be read as a whole. Every sentence and word should not be dissected or separately analyzed in an attempt to support a meaning that is clearly contrary to a reasonable interpretation of the Decision in its entirety.

The Board finds that this allegation does not raise a doubt about the correctness of the RH-4-2001 Decision.

Chapter 5

The Stand-alone Principle

In its submissions, TransCanada suggested that the Board had erred by violating the stand-alone principle which it defined as:

Under the stand-alone principle, a utility is regulated as if the provision of the regulated service were the only activity in which the company was engaged. The cost of providing utility service and rates for provision of that service are to reflect only the expenses, capital costs, risks and required returns associated with the provision of regulated service.²⁶

In TransCanada's submission, the stand-alone principle has been accepted and applied by the Board and various other regulators. However, TransCanada alleged that in this case, the Board failed to consider the Mainline on a stand-alone basis separate and distinct from TransCanada.

TransCanada submitted that the financial indicators for TransCanada are not the best estimates of the indicators for the Mainline because the Mainline comprises only 40 percent of TransCanada on a net income basis. Share price of TransCanada is also not an indicator of the reasonableness of the return achieved by the Mainline. Further, the consolidated equity ratio of TransCanada is irrelevant to the determination of the appropriate equity ratio of the Mainline. TransCanada argued that the Board erred by focusing on the financial position, ability to raise capital, share price and credit rating of TransCanada, all to the exclusion of the regulated entity that is the Mainline.

According to TransCanada, the stand-alone principle was violated by the Board first in considering the typical investor in TransCanada rather than TransCanada as the investor in the Mainline, and second in making any conclusion about the cost of capital for the Mainline, such as giving the most relevance to Canadian market data, on the basis of the makeup of shareholders of TransCanada.

In TransCanada's opinion, the Board also erred by considering the investments of TransCanada in pipelines other than the Mainline to be relevant in determining the business risk of the Mainline.

CAPP pointed out that the Mainline does not itself raise capital, or have a stock price or a credit rating, which is why all parties, including TransCanada, referred in evidence to indicators which pertain to TransCanada. In CAPP's view, this information is relevant in determining a fair return for the Mainline. However, the Board was cognizant of, and applied, the stand-alone principle throughout its Reasons. Mirant stated the view that TransCanada confused the issue of the determination the Board was obliged to make, with the issue of what evidence the Board could use in making that determination. The Board was obliged, in Mirant's view, to determine a fair return for the Mainline alone. In making this determination, the Board considered the evidence it found relevant about the consolidated entity. Mirant submitted that the Board is entitled to draw reasonable inferences from the available evidence.

²⁶ Review Application, at paragraph 160.

There is no other evidence available with respect to the credit rating and empirical beta of the Mainline in Mirant's submission; information on the consolidated company provides the best evidence, and is therefore relevant to the Board's Decision. Mirant argued that the Board was aware that this evidence may not be completely reliable, however, that does not mean that the evidence was completely irrelevant.

Mirant also submitted that TransCanada's financial position and ability to attract capital are relevant since there is no direct objective evidence on the Mainline's credit rating and ability to attract capital. While this evidence does not strictly imply that the Mainline would be similarly situated, again that does not mean the information is completely irrelevant. In the absence of objective evidence for the Mainline, Mirant argued that the Board was entitled to draw the inference that it did.

The share price performance of TransCanada, in Mirant's view, is also indirectly relevant to the adequacy of the Mainline's return. Mirant argued that the Board found that this evidence did not support TransCanada's claim of inadequate returns.

Mirant indicated that it is relevant who the investors are, since TransCanada's investors, who are mostly Canadian, own the majority of Mainline, no matter what proportion of TransCanada the Mainline represents.

In reply, TransCanada argued that the investor in the Mainline is TransCanada; accordingly, evidence about TransCanada's debt and equity investors, capital requirements, ability to attract capital, stock price and credit rating were relevant only to TransCanada's perspective on investing in the Mainline.

Views of the Board

The Board agrees with TransCanada that the stand-alone principle is a fundamental concept of utility regulation and a concept that it should continue to apply in regulating TransCanada's Mainline. The Board does not, however, agree with the implication made by TransCanada that the stand-alone principle would prevent the Board from examining whatever evidence it found to be relevant to its decisions on those expenses, capital costs, risks and required returns associated with the provision of regulated service.

It is interesting to note TransCanada's own words in its Fair Return Application, where it requested a review of the RH-2-94 Decision to allow a "fair return for *TransCanada*"²⁷ for the years 2001 and 2002; and an order approving an ATWACC of 7.5 percent "(adjusted for the embedded cost of debt of the *Company*) as the fair return for *TransCanada*."²⁸ [emphasis added] Following the logic that TransCanada set out in its Review Application, each of these highlighted references should be to the Mainline, not TransCanada or the Company.

In making its decisions on the parameters in question in the RH-4-2001 Decision (approved return on common equity for the Mainline and the deemed capital structure for the Mainline) the Board made specific references to the applicability of the approved

²⁷ TransCanada Fair Return Application, RH-4-2001 Exhibit B-1, 6 June 2001, Tab I Application, page 3.

²⁸ *Ibid.*

parameters to the Mainline²⁹, despite the relief requested by TransCanada in that application.

The Board is not convinced that the Decision violates the stand-alone principle because certain information or opinions relating to TransCanada's consolidated operations were found to be relevant in comparison to the Mainline or in setting the business context for the Mainline. Indeed, in the section TransCanada identified as the first alleged violation, at page 3 of the RH-4-2001 Decision, the Board clearly indicated that "cost of capital is considered within the context of the Mainline as a stand-alone entity". However, the Board noted that, in reality, it is often necessary to consider factors pertaining to TransCanada, as many financial indicators are only available for the consolidated entity and often provide the best estimates as to what these indicators would be for the Mainline as a stand-alone entity. This section of the RH-4-2001 Reasons was previously discussed in Chapter 3.2.2.

The Board is of the view that this explanation, along with others through the Decision³⁰, clearly shows that the Board in RH-4-2001 addressed its mind to the Mainline as a stand-alone entity, but that in doing so it found that certain indicators pertaining to TransCanada's consolidated operations were relevant to the Board's determinations for the Mainline. As stated in RH-4-2001, for many factors this is the only and best information available.

In light of the foregoing, the Board is not convinced that there are any violations of the stand-alone principle in the RH-4-2001 Decision. Thus, there can be no question about the correctness of the Decision from this perspective.

²⁹ See for eg. page 56 of the RH-4-2001 Decision, "The Board has decided that the rate of return on common equity resulting from the RH-2-94 Decision should continue to apply to the *Mainline*." and page 59 of the Decision, "The Board approves an increase in the *Mainline*'s deemed common equity ratio from 30 percent to 33 percent" [emphasis added]

³⁰ Reasons for Decision, RH-4-2001, pages 34 and 59, concerning Investment Perspectives and relative risk.

Chapter 6

Adequacy of Reasons in RH-4-2001

TransCanada argued that, as a result of the recent case law in *Baker v. Canada (Minister of Citizenship & Immigration)*³¹, the Board has a duty to provide adequate reasons for decision in circumstances where the decision has important significance to the individual, there is a statutory right of review or in other circumstances. The reasons themselves must meet a certain standard, as set out in *Baker, Via Rail Canada Inc. v. Canada (National Transportation Agency)*³², *Monsanto Company v. Commissioner of Patents*³³, and *Northwestern Utilities Ltd. v. The City of Edmonton*³⁴.

According to TransCanada, adequate reasons serve the functions for which the duty to provide them is imposed and are required where there is a statutory right of appeal. It is insufficient to recite the fact that evidence and argument have been considered, and then state a conclusion. The Board must set out the findings upon which its decision is based with sufficient detail that the parties, and a reviewing tribunal or court, are able to determine whether the Board has acted within its jurisdiction and the law.

It is an error of law, in TransCanada's submission, if the reasons are not adequate to allow meaningful appellate review of the correctness of a decision. Further, inadequate reasons create a legitimate concern that there was not adequate analysis of the case, or important issues or evidence were overlooked.

TransCanada claimed that, in this case, the financial significance of the Decision for the Mainline and the statutory rights of review and appeal require adequate Reasons for Decision. It indicated that the lack of reasons in this case has prejudiced its ability to conduct business and exercise its right of appeal. In addition, the Application stated that the Reasons in this case do not meet, let alone exceed, the requirements of the law, contrary to the Board's policy to provide greater detail than is required by the law³⁵. According to TransCanada, in these Reasons, the Board merely recited the evidence and arguments advanced, and then stated conclusions; this manner of providing reasons is not sufficient to satisfy the current legal standard for reasons.

In TransCanada's submission, the Board erred by not providing adequate reasons for a number of conclusions that it reached in the Decision. Further, TransCanada submitted that the Reasons are inadequate to discharge the Board's duty of fairness.

³¹ [1999] 2 S.C.R. 817.

³² (2000), 193 D.L.R. (4th) 357 (F.C.A.).

³³ [1979] 2 S.C.R. 1108.

³⁴ *Northwestern Utilities Ltd. v. The City of Edmonton*, [1979] 1 S.C.R. 684 [*hereinafter* referred to as *Northwestern Utilities (1979)*].

³⁵ This policy was set out in the National Energy Board Letter Decision dated 28 June 1993, CAPP Application for Review of the RH-2-92 Decisions, File No. 4200-T001-7.

CAPP submitted that if TransCanada was of the view that it required clarification and elaboration of the RH-4-2001 Reasons, it ought properly to have posed its questions to the Panel that wrote the Decision. That Panel is in the best position to explain its Reasons. CAPP also argued that either the Reasons were adequate enough to allow TransCanada to make its allegations of errors, or the Review Application is illusory. Further, CAPP indicated that there was no post-decision market evidence of prejudice suffered by TransCanada.

The Board's policy, according to CAPP, is that reasons should show an awareness of the primary issues in the proceeding and indicate the basis upon which the decision was made. A review of the RH-4-2001 Reasons leaves no doubt but that this policy was satisfied.

Mirant agreed that the Board has a common law duty to provide adequate reasons for its decisions. However, it argued that in this case, the Reasons were consistent in terms of the nature and extent of the analysis provided, with the Board's usual practice in writing reasons for decision in significant pipeline cases, and with the legitimate expectations of TransCanada and the intervenors. Further, Mirant stated, it is not the Board's practice to go over every bit of evidence and either accept or reject it.

However, Mirant was not prepared to concede that, as a matter of law, TransCanada has a common law right to "adequate reasons" on the grounds that a failure to provide adequate reasons compromised its right to seek review of the Decision by the Board itself. In addition, Mirant found TransCanada's claim that its appeal rights were prejudiced suspect, as no appeal was sought within the time permitted, no action was taken to preserve appeal rights and no additional reasons were sought from the original Panel. Further, TransCanada did not provide evidence on how a lack of detail in the Reasons prejudiced TransCanada with respect to its business plans, negotiations or with respect to how it deals with its assets.

In Mirant's opinion, TransCanada is really seeking a review of the RH-4-2001 Decision on the merits, as TransCanada claimed that the correction of errors it identified would entitle it to a decision consistent with its Fair Return Application. In Mirant's view, requesting detailed Reasons now makes little sense given that TransCanada is seeking a review of the Decision on the merits. Mirant submitted that either there is a significant problem with the Board's Reasons, in which case TransCanada should now simply be seeking better reasons, or there are grounds for reversing the Decision on the merits, in which case TransCanada has no need for better reasons in relation to the Decision.

IGUA argued that reasons for decision are sufficient if there is evidence to reasonably support the finding, but that evidence need not be specifically referred to in the reasons for decision, nor is there an obligation to give reasons for every stated fact. It submitted that the "adequacy" of reasons must be assessed in context, and that the duty of fairness allows various types of written explanations for administrative decisions. Further, the adequacy of reasons, in IGUA's submission, goes to the duty of fairness and not to the correctness of the Board's Decision. Therefore, inadequate reasons should not be grounds to find that a doubt as to the correctness of the RH-4-2001 Decision has been raised.

Coral argued that the RH-4-2001 Decision was well-reasoned and explained, and the key factors were considered. It also noted that there has been no change in the stock price of TransCanada, which indicates that the market did not believe the Decision was negative in terms of the value of TransCanada as an investment.

In reply, TransCanada argued that the Board's policy as put forward by CAPP has been superceded by the judicial decisions in *Baker* and *Via Rail*. Showing "an awareness of the primary issues raised in the proceeding" and an "indication of the basis upon which the decision was made" as suggested by CAPP, is no longer adequate.

In TransCanada's view, adequate reasons are required to show that a decision is correct. Further, the fact that Mirant provided interpretations of the Reasons that were inconsistent with conclusions reached by TransCanada, CAPP and the Board itself is a clear indication that the Reasons are inadequate.

TransCanada also argued that there was no legal obligation to seek adequate Reasons for Decision from the original Panel before applying for review of the entire Decision on a range of errors. TransCanada suggested that the reviewing Panel could affirm or modify the original Decision and give Reasons for doing so, or it could return the matter to the original Panel with a direction to provide adequate Reasons.

Views of the Board

The Duty to Provide Reasons for Decision

TransCanada relies, in part, upon the Supreme Court case of *Baker*. This case involved a woman with Canadian-born children who was ordered to be deported. The only reasons given were the handwritten notes of the investigating immigration officer, which were used by the senior immigration officer to make his decision that insufficient humanitarian and compassionate reasons existed to allow the woman to remain in Canada. In the course of finding that these notes constituted adequate reasons, the Court indicated that procedural fairness is flexible and variable and depends on the context of the particular statute and the rights affected³⁶.

The Court outlined several purposes for giving reasons³⁷. First, the process of writing reasons may guarantee a better result by ensuring that issues and reasoning are well articulated and therefore more carefully thought out. Second, reasons allow parties to see that the applicable issues have been carefully considered. Reasons are also invaluable if a decision is to be appealed, questioned or considered on judicial review. Finally, it indicated that those affected by a decision may be more likely to feel they were treated fairly and appropriately if reasons are given.

The Court also set out a non-exhaustive list of factors to consider in determining whether a duty to give reasons exists, including the nature of the decision being made and the process followed in making it; the nature of the statutory scheme and the terms of the statute pursuant to which the body operates; the importance of the decision to the individual affected; the legitimate expectations of the person challenging the decision; and the choices of procedure made by the agency itself³⁸.

³⁶ *Supra*, at footnote 31, at page 837, per L'Heureux-Dubé, J.

³⁷ *Ibid*, at pages 845-6.

³⁸ *Ibid*, at pages 837-840.

The Board agrees with the purposes and factors to be considered in determining whether to provide reasons for decision, as set out in *Baker*. In certain instances, reasons may also serve to educate or act as precedents for the public and regulated community. However, as the Board in RH-4-2001 decided to provide written Reasons for Decision, it is not necessary to determine at this time whether the Board is always obligated to give reasons for decision, either written or oral. When reasons are given, they must be adequate.

The Standard for Reasons for Decision

Given that the Reasons must be “adequate”, the key issues before the Board in this case are what the standard of “adequacy” for Reasons for Decision is; and whether the Board in RH-4-2001 provided adequate Reasons for Decision.

Good reasons do at least two things:

1. They explain how the agency reached the decision it did. To do this, as a minimum, the reasons should set out the facts, laws and reasoning which formed the basis for the decision reached.
2. They show that due regard was had to the balance of the evidence and arguments advanced by the parties. This serves to avoid claims that the agency failed to consider some relevant evidence or argument which should have been considered.³⁹

However, this does not mean that a decision maker is required to give reasons on each and every element of an argument presented, although those elements must be considered⁴⁰. Accordingly, the Board’s reasons need not address each issue or sub-issue raised by each party in a proceeding; such reasons would be unnecessarily lengthy and time consuming to produce. The reasons must only make it clear that the Board considered and weighed all of the evidence and establish the grounds for the basis of the Board’s findings.

In the RH-2-92 Review Decision, the Board considered the principles set out in *MacDonald v. R*⁴¹, *Nova, An Alberta Corporation v. Guelph Engineering Company*⁴², and *Monsanto*, among others, and stated the following general principles:

1. the common law does not impose on decision-makers a general duty to provide reasons; and

³⁹ Macaulay, R.W., *Practice and Procedure before Administrative Tribunals*, (Toronto, Ontario: Thomson Canada, looseleaf service 2002) at page 22-74.

⁴⁰ *SEIU Local 333 v. Nipawin District Staff Nurses Association*, [1975] 1 S.C.R. 382 at page 391.

⁴¹ [1977] 2 S.C.R. 665.

⁴² [1989] 70 Alta. L.R. (2d) 97 (C.A.).

2. when an administrative tribunal does provide reasons, either by choice or because it is statutorily required to, it is not required to make an explicit written finding on each constituent element, however subordinate, leading to its final conclusion. However, the reasons should be sufficiently detailed to assure the parties that in reaching its decision, the decision-maker addressed its mind to the evidence and issues at play in the hearing and, in cases where there is a right to appeal, sufficiently detailed to enable parties to assess that option.⁴³

More often than not, the case law does not provide concrete guidance as to what constitute adequate reasons. For example, while the Supreme Court in *Baker* found that, in a case of extreme importance to the individual involved, a mere six paragraphs of handwritten notes of the investigating officer constituted adequate reasons for decision, the courts in many of the other cases cited to the Board in this proceeding only indicated what was not sufficient.

In *Northwestern Utilities (1979)*, in which the “whereas” clauses in a rate increase interim order were the only “reasons” provided, the Court found that the Public Utility Board had effectively failed to give any reasons to establish the basis upon which the rates had been determined. The reviewing tribunal was unable to determine from the order whether the Public Utility Board acted within or outside the ambit of its statutory authority or jurisdiction. In the context of these extremely limited reasons, the Court stated that a board cannot merely recite the submissions and evidence of the parties and then state a conclusion, but must set out its findings of fact and the principal evidence upon which those findings of fact were based. It must address the major points in issue and set out the reasoning process followed. The reasons must show that there was consideration of the main relevant factors.

In the *Via Rail* case, the agency stated a conclusion that one section of a tariff, concerning the attendants of disabled persons, was an obstacle to the mobility of disabled persons, and that such obstacle was undue. The Court found that, while reasons had to be looked at in light of the particular circumstances of each case, these were not adequate reasons. The railway needed sufficient guidance to formulate its tariff without running afoul of the agency⁴⁴. The agency erred by not addressing how a tariff provision created an obstacle. The Court found that the agency did not provide insight into the reasoning it followed or the factors it considered in determining whether an obstacle was undue and this constituted an error in law⁴⁵.

While there may be general guidance provided by the case law about what constitutes adequate reasons for decision, there is no template or universal standard which must be met. The Board recognizes that it has a duty of fairness and the provision of adequate reasons may be one aspect of the duty of fairness. However, what constitutes adequate

⁴³ *Supra*, footnote 35, at pages 6-7.

⁴⁴ *Supra*, footnote 32, at page 364.

⁴⁵ *Ibid*, at page 370.

reasons will vary with the nature of the decision to be made, the effect of the decision on the parties and the various other factors addressed above. The Board is of the view that a reviewing tribunal should look at the circumstances surrounding the provision of particular reasons, making a contextual analysis to determine whether the particular reasons are adequate on the facts of the case before it.

In addition, as previously mentioned, it is important in determining whether a doubt has been raised as to the correctness of the RH-4-2001 Decision to read the Decision as a whole. While there may appear to be an absence of reasoning in one section, it is possible that further reasoning on that issue may be found elsewhere in the Decision.

The Board will now consider the adequacy of the RH-4-201 Reasons in light of the above noted case law and discussion.

The Adequacy of Reasons in RH-4-2001

The Board notes that there is some appeal to the submitters' arguments that the fact that TransCanada could draft such a lengthy Review Application indicates that there were adequate reasons given and TransCanada just disagreed with those reasons. However, the Board is of the view that even lengthy reasons for decision, which allegedly contain sufficient factual errors to support a review application, may be inadequate. Therefore, TransCanada's ability to prepare its Review Application on the basis of the Reasons given in RH-4-2001 does not relieve the Board of the obligation to determine whether the Reasons for Decision are adequate.

The Board, as stated before, is of the view that reasons need not be given for each and every point made in a hearing. Therefore, in drafting this section of these Reasons for Decision, the Board has discussed only those issues which, at least on the face of the record, appeared to have merit. On a review of the entire Reasons for Decision in RH-4-2001, the Board is of the view that the other areas claimed by TransCanada as lacking adequate reasoning were sufficiently addressed in the RH-4-2001 Decision or without merit, and warrant no further response.

One issue raised by TransCanada concerns the Mainline's ability to attract capital. At page 34 of the Decision, the Board stated its view that "the Mainline's ability to attract capital on reasonable terms and conditions is not in jeopardy." TransCanada argued that this conclusion with respect to the Mainline is surrounded by comments on TransCanada as a whole, which TransCanada had previously argued are irrelevant. Therefore, in TransCanada's view, the Board did not provide any explanation for that decision.

As discussed in Chapter 5 of these Reasons, the Board does not agree that the comments it made relating to TransCanada's consolidated operations are irrelevant to its determination on the ability of the Mainline to attract capital. Further, in section 3.2.2 of these Reasons, the Board found that it was not an error for information about the consolidated operations of TransCanada to be considered in assessing that ability. Accordingly, given that the comments on the consolidated company are relevant to the determination of the Mainline's ability to attract capital, those comments in the RH-4-2001 Decision provide the reasons TransCanada is seeking on this issue.

TransCanada also argued that there were inadequate reasons concerning the alternate uses of TransCanada's capital. In the Decision, the Board found that the relative risk and potential return associated with alternative uses of capital by the corporation may be a relevant consideration when assessing the Mainline's cost of capital. The Board did not, however, specifically indicate whether or not the evidence on alternative investments presented by TransCanada was accepted or rejected. However, the Board notes the extensive discussion of alternative investments set out on page 35 of the Decision. It is clear from the RH-4-2001 Reasons as a whole that alternative uses of capital were considered in the Decision. Accordingly, the Board does not believe that the Decision contains inadequate reasons for its views relating to the alternative investment evidence presented by TransCanada.

TransCanada submitted that there were inadequate reasons surrounding the issue of reliance on U.S. firms. At page 44 of the RH-4-2001 Decision, the Board stated that it is inappropriate to simply apply Canadian parameters to U.S. firms because they "potentially face substantially dissimilar investment circumstances". TransCanada asked the Board to explain what those circumstances might be and what evidence this view is based on. In the Board's opinion, it is axiomatic that firms in foreign countries face different legal, fiscal, monetary and taxation systems than Canadian firms and thus potentially different investment circumstances. This is a general comment within the Board's, and most people's, understanding and requires no further explanation.

The Board dismissed a suggestion by Drs. Kolbe and Vilbert to adjust the return for the Mainline to reflect differences in capital structure between the Mainline and the sample group, at page 54 of the Decision, stating that the differences in leverage reflected differences in business risk or investment circumstances. TransCanada asserted that the Board gave no reasons or references to evidence supporting its view. The Board notes the statement on page 13 of the RH-4-2001 Decision where the Board said, "Business risk has traditionally been reflected in the establishment of a deemed common equity ratio in a pipeline's capital structure." The Board is of the view that the Decision clearly states that business risk factors should be reflected in deemed capital structure, not approved return on equity. The Board also notes the reference in the paragraph in the Decision where the suggestion by Drs. Kolbe and Vilbert is discussed, to section 4.3 of the RH-4-2001 Decision, where appropriate deemed capital structure is addressed. In the Board's view, when the Reasons are read as a whole, as they should be, this matter has been adequately addressed.

TransCanada argued that the Board did not give adequate reasons for its rejection of the use of several adjustments to the return on common equity for the Mainline, as recommended by Dr. Vilbert. The Decision notes, on page 54, that all of the adjustments increase the estimated cost of equity and states that the Board, "has not been persuaded that the use of all of these adjustments is simultaneously justified." The Board is of the view that there may not be reasons included in the Decision to understand the basis upon which the Board makes its statement about whether or not the adjustments are simultaneously justified. However, the Board is also of the view that, despite the lack of particulars in this instance, a question as to the correctness of the RH-4-2001 Decision has not been raised. The Board notes that the adjustments in question pertain to Dr. Vilbert's calculations of cost of equity and not to the methodology approved by the Board. The issue of simultaneous adjustments that appear in Dr. Vilbert's calculations

was not a central issue in the decision to retain the RH-2-94 Formula for determining appropriate returns for the Mainline.

In its Reply, TransCanada argued that the fact that CAPP and Mirant interpreted the Reasons in different ways is an indication that the Reasons were inadequate. It listed several instances where it claimed that CAPP and Mirant had different interpretations about what the Board said.

If there were clearly different interpretations with respect to substantial and substantive aspects of the Decision, this likely would raise a concern as to the adequacy of the Reasons. However, in the Board's view, after a careful reading of the Decision, and both CAPP and Mirant's submissions, many of the instances TransCanada set out were not different at all, were related to non-substantive issues or were irrelevant to the final Decision. For example, CAPP and Mirant, at times, addressed certain aspects of the Decision from different levels, one taking a high level approach and the other looking at the Reasons in a more detailed manner. In another instance, CAPP remained silent on issues on which Mirant provided comments. Another example concerns the different use of terminology, which in the Board's view boils down to semantics. The Board does not find that any of these instances warrant further discussion or demonstrate that the Reasons for Decision were inadequate.

There were three areas in which it appeared that CAPP and Mirant had, at least superficially, divergent interpretations of the Reasons. The first was with respect to the application of the fair return standard. TransCanada stated that Mirant's position was that the Board met its legal obligation to apply the fair return standard by conducting an equity risk premium analysis, and that the fair return standard was properly applied through the sole application of "conventional quantitative financial market analysis". TransCanada asserted that CAPP claimed that evidence removed from the record was of limited probative value and the alternative pipeline evidence was not particularly meaningful.

However, the Board finds that this is another example of different approaches taken by the submitters in addressing TransCanada's allegations. CAPP's position addressed one aspect of TransCanada's argument: the removal of Exhibit B-64 from the record and not the overall approach taken by Board, which was Mirant's approach in that portion of its submission. The Board does not find that these differing positions responding to different aspects of TransCanada's argument are an indication of inadequate reasoning in the RH-4-2001 Decision with respect to the application of the fair return standard.

The second issue on which there appears to be inconsistent interpretations is whether the Board set an "unattainable evidentiary standard" with respect to pipeline comparisons. CAPP essentially said that the provision of this type of evidence is not "an unattainable standard": this assessment was provided by other parties in previous proceedings and by CAPP in the RH-4-2001 proceeding. Mirant, however, submitted that it may be an unattainable standard but that is because the whole approach of determining a fair return for the Mainline via direct comparisons is misconceived from the outset. According to Mirant, such comparisons are meaningless in the absence of further evidence that the Board found necessary and TransCanada failed to provide.

Again, the Board views these comments as reflecting different approaches taken by the submitters in responding to TransCanada, and not as an indication of a lack of adequate Reasons. CAPP's statements indicate the type of evidence the Board suggested as being helpful is the type of evidence that can be, and has been, provided in the past. Mirant's statements critique the approach taken by TransCanada in its Fair Return Application in advocating a determination of a fair return for the Mainline on the basis of direct comparisons, and the failure of TransCanada to provide evidence which the Board found to be necessary.

The last issue on which CAPP and Mirant appear to have differing interpretations concerns the congruence of TransCanada's consolidated capital structure with the deemed capital structure for the Mainline. TransCanada indicated that CAPP stated that the Board made its capital structure decision on the basis of business risk alone. It asserted that Mirant, on the other hand, said that the Board simply stated a fact and then hypothesized about the relative risk of the Mainline and the consolidated operations of TransCanada. TransCanada argued that this disagreement as to the use of TransCanada's capital structure supports the view that inadequate reasons were given on this important issue.

The Board does not find that there is a disagreement at all in this area. CAPP merely points to a particular section of the Reasons where the Board indicated it made its conclusion to increase the common equity component to 33 percent "on the basis of the evidence presented to it with respect to the business risk faced by the Mainline"⁴⁶. Accordingly, CAPP does not provide an interpretation with which Mirant can be in disagreement. In addition, page 58 of Reasons indicates the Board's awareness of the absence of a specific capital structure for the Mainline. As noted by CAPP, the Reasons clearly state that the conclusion was based on the evidence presented with respect to the business risk of the Mainline. Since the Board does not find a differing interpretation with respect to this point, there is no support for TransCanada's allegation that there were inadequate reasons on this point. It just demonstrates, once again, the importance of reading the Decision as a whole.

Given all of the above and considering the specific instances raised by TransCanada in its Application and reply submissions, the Board is of the view that when read as a whole, adequate reasons for the decisions set out in RH-4-2001 have been given. The Board finds that no doubt on the correctness of the RH-4-2001 Decision has been raised on these grounds.

⁴⁶ RH-4-2001 Reasons for Decision, at page 59.

Chapter 7

Final Determination

It is clear from the Review Application, and the Board's findings herein with respect to the alleged errors, that TransCanada disagrees with the Board regarding the evidence which should be considered, the weight to be given that evidence and the conclusions reached on the basis of that evidence. Disagreement does not indicate that a doubt has been raised as to the correctness of the RH-4-2001 Decision. The Board has the authority to determine the weight to be given to certain factors and what evidence to place more or less weight on. The setting of tolls requires a combination of reliance on quantitative methodologies and the use of informed judgment. It is for this reason that Parliament and the courts have assigned to administrative tribunals the responsibility of weighing evidence, exercising their expertise, applying their judgment and balancing interests. It will always be a matter of opinion, and potentially dispute, as to what the range of reasonable tolls may be and where on that range a specific toll may be found.

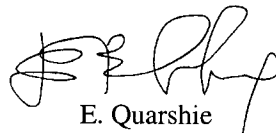
It is also clear from the Review Application and the Board's findings in this Decision that the importance of reading the Reasons for Decision as a whole cannot be over emphasized. Given the interconnectedness of the issues in a hearing such as RH-4-2001, reasons relating to a particular issue may often be found in more than one place in the Decision.

The Board has considered each element of TransCanada's Application and is of the view that the Application has not raised a doubt as to the correctness of the Board's RH-4-2001 Decision.

This and the foregoing Chapters constitute our Decision and Reasons for Decision in respect of the Application to Review and Vary Board Decision RH-4-2001 and the orders connected therewith.



C. Dybwad
Presiding Member



E. Quarshie
Member



G. Caron
Member

Calgary, Alberta
February 2003

Federal Court of Appeal



Cour d'appel fédérale

Date: 20040405

Docket: A-327-03

Citation: 2004 FCA 149

CORAM: ROTHSTEIN J.A.
NOËL J.A.
SHARLOW J.A.

BETWEEN:

TRANSCANADA PIPELINES LIMITED

Appellant

and

THE NATIONAL ENERGY BOARD, CANADIAN ASSOCIATION OF
PETROLEUM PRODUCERS, CENTRA GAS MANITOBA INC., CORAL ENERGY
CANADA INC., INDUSTRIAL GAS USERS ASSOCIATION, MIRANT
CANADA ENERGY MARKETING, LTD., and ONTARIO MINISTER OF ENERGY

Respondents

Heard at Toronto, Ontario, on February 16, 2004.

REASONS FOR JUDGMENT BY:

ROTHSTEIN J.A.

CONCURRED IN BY:

NOËL J.A.
SHARLOW J.A.

Federal Court of Appeal



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Respondents

REASONS FOR JUDGMENT

ROTHSTEIN J.A.

INTRODUCTION

[1] This is an appeal from a February 2003 decision of the National Energy Board (RH-R-1-2002), pursuant to leave granted by this Court under section 22 of the *National Energy Board Act*, R.S.C. 1985, c. -7.

[2] There are two issues in the appeal. The first is whether the National Energy Board ("Board") erred in taking customer or consumer interests into account in determining the rate of return on capital it would allow the appellant's Canadian Mainline natural gas transmission system ("the Mainline") to earn. The second is whether the Board erred by fettering its discretion by refusing to depart from an automatic adjustment mechanism it had used to establish the Mainline's rate of return on equity.

[3] In order to understand the issues under appeal, it is first necessary to provide some background and the procedural history leading to the February 2003 decision.

BACKGROUND

[4] The National Energy Board regulates interprovincial natural gas transmission pipelines. The Mainline is considered a Group 1 pipeline by the Board. Group 1 pipelines are major pipelines which are audited by the Board on a regular basis and whose operating results are continuously monitored by the Board.

[5] The tolls charged for transporting natural gas on the Mainline are regulated by the Board on a cost of service basis. That means that for a future period, referred to as a "test" year, the Board, based on the evidence before it, estimates the costs to be incurred by the Mainline. The tolls which the Board allows the Mainline to charge its customers are designed to generate sufficient revenue to recover these approved costs while at the same time fairly allocating charges to users in relation to the costs and benefits of different services. Included in the cost of

service, and indeed, the largest single component of the Mainline's costs, is the Mainline's cost of capital.

[6] The cost of capital to a utility is equivalent to the aggregate return on investment investors require in order to keep their capital invested in the utility and to invest new capital in the utility. That return will be made in the form of interest on debt and dividends and capital appreciation on equity. Usually, that return is expressed as the rate of return investors require on their debt or equity investments.

[7] The rate of return on debt is not usually controversial. It normally consists of the weighted average interest rate for the test year on the utility's outstanding long-term debt. On the other hand, the rate of return on equity is often the subject of controversy and of much debate by expert witnesses.

[8] Unlike debt, where the interest rate payable is directly observable, the rate of return on equity cannot be accurately determined in advance. There are various methods experts use to estimate the rate of return on equity required by investors. The one adopted by the Board is an Equity Risk Premium methodology whereby the Board estimates a risk-free rate based on government bond rates and adds a risk premium to account for the risk associated with equity investment in a "benchmark" pipeline.

[9] Once the separate rates of return on debt and equity are established, they are consolidated into a composite rate of return on capital, based on the relative amounts of debt and equity in the utility's capital structure. In order to account for varying levels of risk between pipelines, the Board constructs for each pipeline a capital structure, i.e. the relative portions of debt and equity capital needed to finance its prudently acquired assets plus its working capital, on the basis of expert evidence. The greater the risk attributed to each pipeline, the greater the required equity component of its capital structure. That is because bond investors, who are more risk averse than equity investors, will not lend funds to an enterprise unless there is sufficient equity capital invested in the enterprise to give them confidence that they will be able to recover their investment from the assets of the enterprise in the event of default.

[10] For example, if the required rate of return on debt is 5%, the required rate of return on equity is 10% and the utility's capital structure, as determined by the Board, consists of 60% debt and 40% equity, the composite rate of return on capital would be $5\% \times 0.60 + 10\% \times 0.40 = 7\%$.

[11] The composite rate of return on capital is then multiplied by a rate base which consists of the Board's determination, according to its accounting regulations, of the net book value of the utility's prudently acquired assets plus its working capital. Multiplying the rate of return required by investors by this rate base gives the total dollar amount of return required by investors. The product is equivalent to the utility's estimated cost of capital for the test year. That cost is added

to all other costs to get the utility's total cost of service. The total is then allocated amongst the utility's customers.

[12] Even though cost of capital may be more difficult to estimate than some other costs, it is a real cost that the utility must be able to recover through its revenues. If the Board does not permit the utility to recover its cost of capital, the utility will be unable to raise new capital or engage in refinancing as it will be unable to offer investors the same rate of return as other investments of similar risk. As well, existing shareholders will insist that retained earnings not be reinvested in the utility.

[13] In the long run, unless a regulated enterprise is allowed to earn its cost of capital, both debt and equity, it will be unable to expand its operations or even maintain existing ones. Eventually, it will go out of business. This will harm not only its shareholders, but also the customers it will no longer be able to service. The impact on customers and ultimately consumers will be even more significant where there is insufficient competition in the market to provide adequate alternative service.

PROCEDURAL HISTORY

[14] In 1994, the Board conducted a public hearing into the cost of capital of certain Group 1 pipelines including the Mainline. The purpose of the hearing was to fix the cost of capital for those pipelines for the period commencing January 1, 1995, and to establish, if possible, an

automatic mechanism to adjust the rate of return on equity in the future in order to avoid the expense of litigating annual or biennial changes to the rate of return on equity.

[15] As a result of that proceeding, the Board issued reasons for decision (RH-2-94) in March 1995 fixing the Mainline's return on equity for the 1995 test year at 12.25% based on a deemed capital structure of 70% debt and 30% equity. The Board's deemed capital structure did not provide for any explicit preferred share capital. Therefore, all references to equity refer to common equity.

[16] The Board also established an adjustment mechanism by which the rate of return on equity would be adjusted on January 1 in 1996 and each subsequent calendar year. This mechanism was based upon the Equity Risk Premium methodology whereby:

1. a risk free (Government of Canada) bond yield forecast would be forecasted for the forthcoming year;
2. this bond yield forecast would be deducted from the bond yield forecast of the immediately preceding year;
3. this difference would be multiplied by a factor of 0.75 to determine the adjustment to the rate of return on equity;
4. the product derived in step 3 would be added to or deducted from the rate of return on equity determined by the Board for the preceding year;
5. the sum resulting from step 4 would be rounded to the nearest 25 basis points (1/100th of a percent).

[17] The Mainline's rate of return on equity⁴ was adjusted according to this formula in 1996 and subsequent years, although in 1997, the Board abandoned the rounding adjustment, i.e. step 5 above.

[18] By 2001, the appellant had concluded that application of the formula was understating its required rate of return on capital. Therefore, the appellant applied, pursuant to subsection 21(1) of the *National Energy Board Act*, for "review and variance of the [1995 decision] to allow for the determination of a fair return for TransCanada for the years 2001 and 2002." Subsection 21(1) provides:

21. (1) Subject to subsection (2), the Board may review, vary or rescind any decision or order made by it or rehear any application before deciding it.

21. (1) Sous réserve du paragraphe (2), l'Office peut réviser, annuler ou modifier ses ordonnances ou décisions, ou procéder à une nouvelle audition avant de statuer sur une demande.

[19] The appellant submitted that the Board should approve a new methodology for determining the Mainline's cost of capital – the After-Tax Weighted-Average Cost of Capital (ATWACC) methodology. Alternatively, if the ATWACC methodology was not accepted, the appellant submitted that the required rate of return on equity for the Mainline should be 12.5% for 2001 and 2002 and that based on its risk, the deemed equity component of the Mainline's capital structure should be increased to 40%.

[20] As a result of the appellant's submissions, the Board conducted a hearing in February, March and April 2002. The issues at the hearing were:

1. Is the Rate of Return on Common Equity (ROE) formula, established by the Board in its RH-2-94 Decision, still appropriate for determining TransCanada's ROE?
2. Is the After Tax Weighted-Average Cost of Capital (ATWACC) methodology an appropriate regulatory approach to determining cost of capital?
3. In the event the Board decides to adopt the ATWACC methodology, what is the appropriate ATWACC for TransCanada?
4. In the event the Board declines to adopt the ATWACC methodology and it is determined that the ROE formula is no longer suitable:
 - a) What would be an appropriate methodology for determining return on capital and capital structure for TransCanada?
 - b) In applying the above-determined methodology, what would be an appropriate return on capital and capital structure for TransCanada?
5. What is the appropriate effective date for changes to TransCanada's cost of capital? (RH-4-2001 at 4).

[21] By reasons for decision (RH-4-2001) dated June 2002, the Board:

1. rejected the appellant's ATWACC proposal;
2. determined that the rate of return on equity for the Mainline should continue to be based on the adjustment formula established in its 1995 decision; and
3. increased the deemed equity component of the Mainline's capital structure from 30% to 33% to account for increased business risk.

[22] By application to the Board dated September 16, 2002, the appellant applied for a review and variance of the 2002 decision. This application was also made pursuant to subsection 21(1).

[23] Section 44 of the *National Energy Board Rules of Practice and Procedure, 1995*,

SOR/95-208 sets out the requirements for a review application. Subsection 44(2) provides:

<p>44 (2) An application for review or rehearing shall contain</p> <p>...</p> <p>(b) the grounds that the applicant considers sufficient, in the case of an application for review, to raise a doubt as to the correctness of the decision or order ... including</p> <p>(i) any error of law or of jurisdiction,</p> <p>...</p>	<p>(2) La demande de révision ou de nouvelle audition contient les éléments suivants :</p> <p>...</p> <p>b) les motifs que le demandeur juge suffisants pour mettre en doute le bien-fondé de la décision ou de l'ordonnance, s'il s'agit d'une demande de révision, ... notamment :</p> <p>(i) une erreur de droit ou de compétence,</p> <p>...</p>
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[24] In its decision on the review & variance application (RH-R-1-2002), dated February 2003, the Board found that the appellant had not raised a doubt as to the correctness of its 2002 decision and dismissed the application for review and variance.

[25] The appellant was granted leave to appeal the Board's 2003 decision to this Court.

ANALYSIS

1. Standard of Review and Approach to the Decision Being Appealed

[26] In view of my conclusion that the appeal should be dismissed, it is not necessary to conduct an extensive standard of review analysis. Even on the most intrusive standard of review (correctness), it has not been demonstrated that the Board erred in law.

[27] There is also a question of the extent to which the Court should consider the Board's 2002 decision, which itself was not appealed. Normally, the Court is to restrict itself to a consideration of the decision under appeal. However, when the question is whether the Board erred or came to an unreasonable or patently unreasonable result in finding in its 2003 decision that the appellant had not raised a doubt as to the correctness of the prior 2002 decision, it is necessary to have regard, at least to some extent, to that prior decision. Rather than becoming bogged down into the intricacies of the scope of the Court's review, I am satisfied, even on a unrestricted consideration of both the 2002 and 2003 decisions, that the Board made no error of law in either case.

2. Did the Board err in considering customer or consumer interests in determining the Mainline's rate of return on capital?

[28] As a preliminary point, the appellant drew a distinction between its customers and the ultimate consumers. For purposes of this decision, such a distinction is immaterial. The appellant's position is that the Mainline's return on capital should be determined solely from the perspective of the Mainline, without considering other interests, whether they be direct customers or ultimate consumers.

a) The Board is not required to adopt any specific methodology in determining tolls.

[29] The *National Energy Board Act* contains no provisions or directions which require the Board to determine a pipeline's rate of return on capital. The Act only requires that "all tolls be just and reasonable." Subsections 60(1) and section 62 provide:

60. (1) A company shall not charge any tolls except tolls that are

- (a) specified in a tariff that has been filed with the Board and is in effect; or
- (b) approved by an order of the Board.

62. All tolls shall be just and reasonable, and shall always, under substantially similar circumstances and conditions with respect to all traffic of the same description carried over the same route, be charged equally to all persons at the same rate.

60. (1) Les seuls droits qu'une compagnie peut imposer sont ceux qui sont :

- a) soit spécifiés dans un tarif produit auprès de l'Office et en vigueur;
- b) soit approuvés par ordonnance de l'Office.

62. Tous les droits doivent être justes et raisonnables et, dans des circonstances et conditions essentiellement similaires, être exigés de tous, au même taux, pour tous les transports de même nature sur le même parcours.

[30] The authority of the Board to determine just and reasonable tolls is not limited by any statutory directions. The broad authority of the Board was well articulated by Thurlow C.J. in *British Columbia Hydro and Power Authority v. West Coast Transmission Company Ltd. et al.*, [1981] 2 F.C. 646 at 655-56 (C.A.):

There are no like provisions in part IV of the *National Energy Board Act*. Under it, tolls are to be just and reasonable and may be charged only as specified in a tariff that has been filed with the Board and is in effect. The Board is given authority in the broadest of terms to make orders with respect to all matters relating to them. Plainly, the Board has authority to make orders designed to ensure that the tolls to be charged by a pipeline company will be just and reasonable. But its power in that respect is not trammelled or fettered by statutory rules or directions as to how that function is to be carried out or how the purpose is to be achieved. In particular, there are no statutory directions that, in considering whether tolls that a pipeline company propose to charge are just and reasonable, the Board must adopt any particular accounting approach or device or that it must do so by determining cost of service and a rate base and fixing a fair return thereon.

[31] The Board has adopted a cost of service method for determining the Mainline's tolls. Before this Court, counsel for a number of the respondents suggested different methodologies for determining just and reasonable tolls that would be open to the Board, such as:

1. tolls based on agreements between pipelines and shippers;
2. tolls based on charges of other pipelines;
3. use of base year tolls adjusted for inflation;
4. tolls based on mechanisms to encourage utilities towards greater efficiency.

As no particular methodology is required by the *National Energy Board Act*, the Board could have adopted a different methodology for determining just and reasonable tolls for the Mainline.

b) Having adopted a cost of service methodology, the costs determined by the Board must be just and reasonable to both the Mainline and its users.

[32] In the case of the Mainline, the Board has adopted a cost of service methodology whereby the Mainline is to be compensated through tolls for its prudently incurred costs, including its cost of capital, and in particular, its cost of equity capital. Once it did so, it had to faithfully determine the Mainline's costs based on the evidence and its own sound judgment.

[33] Cost of equity for a future year cannot be directly measured and therefore must be based on estimates. The Board must choose an estimate that allows the Mainline to earn what has been termed a "fair return." In *Northwestern Utilities Ltd. v. Edmonton (City)*, [1929] S.C.R. 186 at 192-93, the Supreme Court defined a fair return in the following terms:

The duty of the Board was to fix fair and reasonable rates; rates which, under the circumstances, would be fair to the consumer on the one hand, and which, on the other hand, would secure to the company a fair return for the capital invested. By a fair return is meant that the company will be allowed as large a return on the capital invested in its enterprise (which will be net to the company) as it would receive if it were investing the same amount in other securities possessing an attractiveness, stability and certainty equal to that of the company's enterprise.

Tolls which reflect a fair return on capital will be just and reasonable to both the Mainline and its users.

[34] To put the matter another way, when the cost of service methodology is used to determine just and reasonable tolls, if the Board does not permit the Mainline to recover its costs because it has understated the Mainline's cost of equity capital, the Mainline will be unable to earn a fair return on equity. The tolls will therefore not be just and reasonable from the Mainline's point of view. On the other hand, the tolls must also be just and reasonable from the point of view of the Mainline's customers and the ultimate consumers who rely on service from the Mainline. Therefore, customers and consumers have an interest in ensuring that the Mainline's costs are not overstated. As respondents' counsel pointed out, there are numerous costing issues that may be subject to challenge. Questions may arise about, among other things, the allocation of costs between the Mainline and other divisions of the appellant; whether costs have been, or are being, prudently incurred; and whether the Mainline's compensation plans are reasonable. And, specific to this appeal, customers and consumers have an interest in ensuring that the Mainline's cost of equity is not overstated.

c) The Board did not improperly consider the impact on customers or consumers of increasing tolls to reflect the appellant's costs.

[35] In oral argument, the appellant conceded that it does not object to its customers having input into the Board's cost determinations and in particular, its cost of capital determination, provided the issues in dispute are restricted to the costs of the Mainline. However, the appellant

does object to the Board taking the impact of tolls on customers and consumers into account in determining the Mainline's cost of equity capital. The appellant says that the required rate of return on equity must be determined solely on the basis of the Mainline's cost of equity capital. The impact of any resulting toll increases on customers or consumers is an irrelevant consideration in that determination. The appellant does concede that when the final tolls are being fixed, the impact on the customers and consumers may be relevant, but insists that it is irrelevant when determining the required return on equity.

[36] I think that this argument is sound and in keeping with the decision of the Supreme Court in *Northwestern Utilities*. The cost of equity capital does not change because allowing the Mainline to recover it would cause an increase in tolls. Under the Board's Equity Risk Premium methodology, the cost of equity capital is driven by the Board's estimate of the risk-free interest rate and the degree of risk investors perceive in the "benchmark" pipeline. The higher the risk, the higher their required rate of return. The degree of risk specific to the Mainline is accounted for by adjustments to its deemed capital structure. Accordingly, the cost to the Mainline of providing that rate of return on the equity component of its deemed capital structure is unaffected by the impact of tolls on customers or consumers.

[37] The appellant has not demonstrated that the Board took the impact on customers or consumers into account in making its determination of the Mainline's required rate of return on equity.

[38] It is true that in its 2002 decision, the Board did state:

In respect of the appropriate balance of customer and investor interests, the Board notes that customer interest in rate of return matters relates most directly to the impact the approved return will have on tolls. The Board is of the view that the impact of the rate of return on tolls is a relevant factor in the determination of a fair return (RH-4-2001 at 12).

[39] The appellant says it cannot tell if the Board took the impact on customers or consumers into account in making its determination of the Mainline's required rate of return on equity. There is certainly no indication in its 2002 reasons that the Board adjusted its estimate of the required rate of return on equity based upon the impact it would have on tolls. In fact, the Board simply applied the automatic adjustment formula adopted in its 1995 decision. That formula does not take into account the impact of tolls on customers or consumers.

[40] It is also true that, in relation to an adjustment the Board made in the Mainline's deemed capital structure in its 2002 decision, the Board did state:

In light of the above, the Board is of the view that it would be appropriate to increase the Mainline's deemed common equity ratio from 30% to 33%. The Board notes that this increase will raise the Mainline's annual cost of service and tolls by approximately 2%. The Board has determined that the toll increase is warranted by the prospective business risk facing the Mainline and that it will not impose an undue burden on shippers (RH-4-2001 at 59).

[41] As I understand the Board's reasons, in view of the Mainline's increased business risk, the equity component of its deemed capital structure was increased from 30% to 33%. Because the required rate of return on equity was greater than the required rate of return on debt, this

increased the overall estimate of the Mainline's required rate of return on capital, resulting in a 2% increase in tolls.

[42] While the Board observed that the increase would not be an undue burden on shippers, there is no suggestion that the increase in the equity component of the Mainline's deemed capital structure was in any way suppressed by considerations of its impact on customers or consumers. Nor, as I have said, is there any indication that the Board determined a required rate of return on equity for the Mainline and then adjusted it downward based on the impact it would have on tolls. In the absence of some indication in the Board's reasons, there is no basis for such an assumption.

d) The Board may adopt temporary measures to ameliorate "rate shock" so long as the utility eventually recovers its costs.

[43] I would add one further point. While I agree with the appellant that the impact on customers or consumers cannot be a factor in the determination of the cost of equity capital, any resulting increase in tolls may be a relevant factor for the Board to consider in determining the way in which a utility should recover its costs. It may be that an increase is so significant that it would lead to "rate shock" if implemented all at once and therefore should be phased in over time. It is quite proper for the Board to take such considerations into account, provided that there is, over a reasonable period of time, no economic loss to the utility in the process. In other words, the phased in tolls would have to compensate the utility for deferring recovery of its cost of capital. In the end, where a cost of service method is used, the utility must recover its costs

over a reasonable period of time, regardless of any impact those costs may have on customers, or consumers (see *Hemlock Valley Electrical Services Ltd. v. British Columbia Utilities Commission et al.*, [1992] 12 B.C.A.C. 1 at 20-21 (C.A.)). In this case, however, there is no suggestion that the Board sought to phase in or otherwise understate the Mainline's cost of capital.

3. Did the Board fetter its discretion?

a) Appellant's arguments

[44] The appellant's second alleged error of law is that the Board fettered its discretion. The appellant submits that the Board placed an inappropriate onus on the appellant to demonstrate that the cost of equity adjustment formula established by the Board in its 1995 decision, but not expressed in the *National Energy Board Act* or in any judicial authority, was to govern unless the appellant could persuade the Board otherwise.

[45] In its factum, the appellant states that the high onus of reversal placed on it by the Board caused the Board to act "inconsistently with its obligations of impartiality as an administrative tribunal." Some of the respondents characterised this as an allegation of bias against the Board.

[46] In oral argument, the appellant added that the Board wrongly discarded evidence of both the appellant and the respondents because the Board was not open to reviewing the adjustment formula.

b) The intended duration of the automatic adjustment mechanism.

[47] In its 1995 decision, the Board was expressly addressing "what simplified procedure should be implemented to effect an annual adjustment to the rate of return applicable to pipelines between cost of capital proceedings" (RH-2-94 at 1). The Board explained its reasons for seeking an automatic adjustment mechanism in the following words:

In setting this matter down for hearing, it was the Board's intention to put in place means of improving the efficacy of the toll setting process for the year 1995 and beyond. The Board expressed the desire to avoid annual hearings on the cost of capital and was of the view that some automatic mechanism to adjust the return on common equity could be the most appropriate way to ensure that this return continued to be fair to all parties, while avoiding the expense of litigating annual or biennial changes in the rate of return. The Board therefore included as an issue in the RH-2-94 proceeding, the design and implementation of a predetermined adjustment mechanism to the rate of return on the common equity component. The Board's objective in this regard was to conduct detailed examinations of the pipelines' cost of capital only when significant changes had occurred in financial markets, business circumstances, or in general economic conditions (RH-2-94 at 1-2).

[48] After an extensive hearing in which it considered the submissions of pipelines, shippers, governments and others, the Board established the automatic adjustment mechanism whereby the cost of equity capital would be determined. As to how long the automatic adjustment mechanism would remain in place, the Board stated:

The Board is not setting a limit on the life of the mechanism and it does not expect to reassess the rate of return on common equity in a formal hearing for at least three years. The Board has confidence that the adjustment mechanism adopted will provide an appropriate balance between the interests of pipeline company shareholders and those of shippers (RH-2-94 at 32).

[49] In its 1995 decision, the Board also established a deemed capital structure for the Group 1 pipelines. As discussed above, the Mainline was deemed to have a capital structure made up of 70% debt and 30% equity. The Board expressed the view that its capital structure determination

would endure for an extended period of years, but that the Board would be prepared to consider a re-assessment of capital structure if requested by a pipeline, its shippers or another interested party:

The Board also expects that the capital structure set in this hearing for each of the pipelines will endure for an extended period of years. The Board will be prepared to consider a reassessment of capital structures, likely on an individual basis, in the event of a significant change in business risk, in corporate structure or in corporate financial fundamentals. The Board does not favour routine reassessments of capital structure. For these reasons, the Board has not set out a specific date or any criteria for capital structure re-evaluation. Any reassessment of capital structure, for reasons such as those expressed above, must be at the request of the pipeline itself, its shippers or some other interested party. It would then be for the Board to assess the merits of such a request (RH-2-94 at 32).

[50] The Board's Order TG/TO-1-95, which implemented the 1995 decision, set the Mainline's deemed capital structure and required that the Mainline's cost of equity capital for 1996 and subsequent years be determined through the application of the adjustment formula. The Order contained no time limit and therefore continues in force until reviewed or varied by the Board.

c) The appellant did bear the burden of showing that the automatic adjustment mechanism should no longer apply.

[51] The Board applied its automatic adjustment mechanism annually until 2001 when the appellant brought its fair rate of return application, seeking a review and variance of the 1995 decision and the adoption of a new means of determining its cost of capital.

[52] The appellant's position seems to be that when it brought its fair rate of return application in 2001, the Board was required to disregard entirely the automatic adjustment mechanism and

start fresh – with a clean slate as it were – to determine the appropriate method by which to estimate the Mainline's cost of capital.

[53] However, the adjustment formula was part of an order that continued to bind the appellant. Subsection 23(1) of the *National Energy Board Act* provides:

23. (1) Except as provided in this Act, every decision or order of the Board is final and conclusive.

23. (1) Sauf exceptions prévues à la présente loi, les décisions ou ordonnances de l'Office sont définitives et sans appel.

Section 22 allows for appeals to the Federal Court of Appeal while subsection 21(1) allows the Board to review, vary and rescind its decisions and orders. Neither the Board's 1995 decision nor the order implementing it were appealed. The adjustment formula therefore continued to apply until the appellant demonstrated to the Board that it should be replaced.

[54] The hearing conducted by the Board on the appellant's fair return application was extensive. Written evidence was filed and the oral hearing proceeded for more than a month. The Board's 2002 decision was 64 pages long. The Board considered the appellant's ATWACC proposal and its alternative increased rate of return on equity proposal, reviewed the evidence of the witnesses and ultimately concluded that utilization of the automatic adjustment formula continued to yield a rate of return on equity that the Board considered to be appropriate for the Mainline.

[55] However, the Board did, to some extent, accept the appellant's argument that the Mainline's business risk had increased. In order to take account of the increased risk, the Board increased the equity component of the Mainline's deemed capital structure from 30% to 33% so that the capital structure would be 33% equity and 67% debt.

[56] I can detect no fettering of discretion or the placing of an improper onus on the appellant in the Board's reasons. In its 1995 decision, the Board stated that its automatic adjustment formula was to reflect a simplified procedure to determine annual adjustments to pipeline rates of return on common equity. It was therefore to continue indefinitely. When an affected party wishes to change the process, it has the onus to demonstrate that its proposal is preferable to the one which is the subject of a binding Board order. That is not an improper onus. Nor does it reflect a fettering of discretion by the Board. Most importantly, it does not give rise to any apprehension of impartiality or bias on the part of the Board.

[57] In reviewing the 2002 decision, the Review and Variance Panel found in its 2003 decision that the onus was on the appellant to demonstrate that the automatic adjustment formula was no longer appropriate and that the appellant had failed to do so:

The Fair Return Application was, among other things, an application for review of the RH-2-94 Decision and related orders, pursuant to subsection 21(1) of the Act. The onus was on TransCanada to prove to the Board in RH-4-2001 that the RH-2-94 Formula was no longer appropriate for determining the Mainline's return on equity. Neither the intervenors nor the Board had the onus in the RH-4-2001 proceeding to justify the continued use of the Formula. The Formula was appropriate unless and until TransCanada persuaded the Board otherwise.

TransCanada failed to meet the burden and accordingly, the RH-2-94 Formula continued to apply. The Board was not required in the RH-4-2001 Decision to

justify that the Formula was appropriate; that determination was made in the RH-2-94 proceeding (RH-R-1-2002 at 24).

I find no error on the part of the Board in that analysis or conclusion.

d) The Board did not disregard or ignore evidence.

[58] As to the appellant's argument that the Board disregarded evidence, I agree that the Board did not adopt the evidence of any particular witness for or against the appellant. But that does not mean that the evidence was discarded or ignored. In cost of capital proceedings, the Board is entitled, on the basis of the evidence before it and the use of its own judgment, to choose a methodology for determining cost of capital and to estimate the cost of capital for a forthcoming year. Very often, the Board's estimate will not reflect the precise estimates of one side or the other or of one witness or another. Having regard to all the evidence, the Board will determine its own estimate. As long as that estimate is within the range of estimates put forward in the evidence and the Board demonstrates that it considered the estimates put forward, the Board cannot be said to have ignored evidence. Indeed, even if the Board's estimate is outside that range, if the Board shows that it considered the evidence submitted and provides adequate reasons for its opinion, the Board will not be found to have ignored evidence.

[59] In this case, the estimates in the evidence of the required rate of return on equity ranged from 8.28% to 12.50%. The Board's reasons indicate that it considered the estimates put forward. Using its automatic adjustment formula, the Board calculated that the required rate of return on equity for the Mainline would be 9.61% in 2001 and 9.53% in 2002. I cannot see that

the Board disregarded or ignored evidence in deciding to continue to utilize the automatic adjustment formula to determine the required rate of return on equity for the Mainline.

CONCLUSION

[60] I would dismiss this appeal with costs.

"Marshall Rothstein"

J.A.

"I agree
Marc Noël J.A."

"I agree
K. Sharlow J.A."

Regulatory Study
July 7, 2003

MAJOR RATE CASE DECISIONS—JANUARY-JUNE 2003

For the first six months of 2003, the average electric equity return authorization by state commissions was 11.38% (10 determinations), slightly above the 11.16% average in calendar-2002. The average gas equity return authorization for the first two quarters of 2003 was 11.37% (nine determinations), up modestly from the 11.03% average in calendar-2002. During the first half of 2003, there were no telecommunications equity return authorizations.

In recent years there have been relatively few equity return determinations. The reasons include: industry restructuring/intensifying competition; more efficient utility operations; technological improvements; relatively low inflation and interest rates; accelerated depreciation/amortization programs; the increased utilization of "black box" settlements; and, the growing use of performance, or price-based, regulation. As the number of equity return determinations has declined, the average authorized return now has less of a relationship to the return that the typical electric, gas, or telecommunications company has an opportunity to earn. In addition, electric industry restructuring in many states has led to the unbundling of rates, with commissions authorizing return and revenue requirement parameters for distribution operations only, thus complicating data comparability. The tables included in this study are extensions of those contained in the January 22, 2003 Regulatory Study entitled *Major Rate Case Decisions--January 2001-December 2002--Supplemental Study*. Refer to that report for information concerning individual rate case decisions that were rendered in 2001 and 2002.

The table on page 2 shows annual average equity returns authorized since 1993, and by quarter since 1997, in major electric, gas, and telecommunications rate decisions, followed by the number of determinations during each period. The tables on page 3 present the composite industry data for items in the chronology of this and earlier reports, summarized annually since 1993, and quarterly for the most recent six quarters. The individual electric, gas, and telecommunications cases decided in the first six months of 2003 are listed on pages 4 and 5, with the decision date shown first, followed by the company name, the abbreviation for the state issuing the decision, the authorized rate of return (ROR), return on equity (ROE), and percentage of common equity in the adopted capital structure. Next we show the month and year in which the adopted test year ended, whether the commission utilized an average or a year-end rate base, and the amount of the permanent rate change authorized. The dollar amounts represent the permanent rate change ordered at the time decisions were rendered. A case is generally considered "major" if the rate change initially requested was \$5 million or greater, or the authorized rate change was at least \$3 million. Gas rate requests that are considered in conjunction with major electric requests are recorded and reported as individual cases, regardless of size.

Average Equity Returns Authorized January 1993 - June 2003

(Return Percent - No. of Observations)

	Period	Electric Utilities	Gas Utilities	Telephone Utilities
1993	Full Year	11.41 (32)	11.35 (45)	11.83 (12)
1994	Full Year	11.34 (31)	11.35 (28)	11.81 (11)
1995	Full Year	11.55 (33)	11.43 (16)	12.08 (8)
1996	Full Year	11.39 (22)	11.19 (20)	11.74 (4)
1997	1st Quarter	11.30 (4)	11.31 (7)	11.80 (1)
	2nd Quarter	11.62 (3)	11.70 (1)	11.60 (1)
	3rd Quarter	12.00 (1)	12.00 (1)	11.70 (1)
	4th Quarter	11.11 (3)	10.99 (4)	11.35 (2)
1997	Full Year	11.40 (11)	11.29 (13)	11.56 (5)
1998	1st Quarter	11.31 (4)	— (0)	11.30 (1)
	2nd Quarter	12.20 (1)	11.37 (3)	— (0)
	3rd Quarter	11.80 (2)	11.41 (3)	— (0)
	4th Quarter	11.83 (3)	11.69 (4)	— (0)
1998	Full Year	11.66 (10)	11.51 (10)	11.30 (1)
1999	1st Quarter	10.58 (4)	10.82 (3)	13.00 (1)
	2nd Quarter	10.94 (4)	10.82 (3)	— (0)
	3rd Quarter	10.63 (8)	— (0)	— (0)
	4th Quarter	11.08 (4)	10.33 (3)	— (0)
1999	Full Year	10.77 (20)	10.66 (9)	13.00 (1)
2000	1st Quarter	11.06 (5)	10.71 (1)	11.50 (1)
	2nd Quarter	11.11 (2)	11.08 (4)	— (0)
	3rd Quarter	11.68 (2)	11.33 (5)	11.25 (1)
	4th Quarter	12.08 (3)	12.50 (2)	— (0)
2000	Full Year	11.43 (12)	11.39 (12)	11.38 (2)
2001	1st Quarter	11.38 (2)	11.16 (4)	— (0)
	2nd Quarter	10.88 (2)	10.75 (1)	— (0)
	3rd Quarter	10.78 (8)	— (0)	— (0)
	4th Quarter	11.50 (6)	10.65 (2)	— (0)
2001	Full Year	11.09 (18)	10.95 (7)	— (0)
2002	1st Quarter	10.87 (5)	10.67 (3)	— (0)
	2nd Quarter	11.41 (6)	11.64 (4)	— (0)
	3rd Quarter	11.06 (4)	11.50 (3)	— (0)
	4th Quarter	11.20 (7)	10.78 (11)	— (0)
2002	Full Year	11.16 (22)	11.03 (21)	— (0)
2003	1st Quarter	11.53 (6)	11.38 (5)	— (0)
	2nd Quarter	11.16 (4)	11.36 (4)	— (0)
2003	Year-To-Date	11.38 (10)	11.37 (9)	— (0)

Electric Utilities—Summary Table*

	Period	ROR %	ROE %	Eq. as % Cap. Struc.	Amt. \$ Mil.
1993	Full Year	9.46 (30)	11.41 (32)	47.40 (30)	1,164.1 (42)
1994	Full Year	9.29 (30)	11.34 (31)	45.15 (30)	1,118.9 (40)
1995	Full Year	9.44 (30)	11.55 (33)	45.90 (30)	455.7 (43)
1996	Full Year	9.21 (20)	11.39 (22)	44.34 (20)	-5.6 (38)
1997	Full Year	9.16 (12)	11.40 (11)	48.79 (11)	-553.3 (33)
1998	Full Year	9.44 (9)	11.66 (10)	46.14 (8)	-429.3 (31)
1999	Full Year	8.81 (18)	10.77 (20)	45.08 (17)	-1,683.8 (30)
2000	Full Year	9.20 (12)	11.43 (12)	48.85 (12)	-291.4 (34)
2001	Full Year	8.93 (15)	11.09 (18)	47.20 (13)	14.2 (21)
2002	1st Quarter	8.51 (5)	10.87 (5)	46.15 (4)	-495.3 (5)
	2nd Quarter	9.05 (5)	11.41 (6)	44.35 (6)	61.0 (8)
	3rd Quarter	7.88 (3)	11.06 (4)	47.22 (3)	-81.0 (5)
	4th Quarter	9.01 (7)	11.20 (7)	47.80 (6)	39.9 (6)
2002	Full Year	8.72 (20)	11.16 (22)	46.27 (19)	-475.4 (24)
2003	1st Quarter	9.07 (8)	11.53 (6)	49.94 (5)	48.2 (7)
	2nd Quarter	9.07 (4)	11.16 (4)	49.46 (4)	116.2 (5)
2003	Year-To-Date	9.07 (10)	11.38 (10)	49.72 (9)	164.4 (12)

Gas Utilities—Summary Table*

1993	Full Year	9.44 (41)	11.35 (45)	46.15 (41)	217.8 (49)
1994	Full Year	9.51 (32)	11.35 (28)	48.12 (27)	422.9 (42)
1995	Full Year	9.84 (16)	11.43 (16)	49.98 (15)	-81.5 (31)
1996	Full Year	9.25 (23)	11.19 (20)	47.69 (19)	193.4 (34)
1997	Full Year	9.13 (13)	11.29 (13)	47.78 (11)	-82.5 (21)
1998	Full Year	9.46 (10)	11.51 (10)	49.50 (10)	93.9 (20)
1999	Full Year	8.86 (9)	10.86 (9)	49.06 (9)	51.0 (14)
2000	Full Year	9.33 (13)	11.39 (12)	48.59 (12)	135.9 (20)
2001	Full Year	8.51 (6)	10.95 (7)	43.96 (5)	114.0 (11)
2002	1st Quarter	8.55 (3)	10.67 (3)	49.10 (2)	86.7 (5)
	2nd Quarter	9.38 (3)	11.64 (4)	49.67 (3)	-9.3 (4)
	3rd Quarter	8.66 (4)	11.50 (3)	45.43 (3)	102.3 (6)
	4th Quarter	8.78 (10)	10.78 (11)	48.58 (10)	123.9 (11)
2002	Full Year	8.80 (20)	11.03 (21)	48.29 (18)	303.6 (26)
2003	1st Quarter	8.97 (4)	11.38 (5)	50.69 (4)	35.9 (6)
	2nd Quarter	9.09 (3)	11.36 (4)	50.32 (3)	14.2 (5)
2003	Year-To-Date	9.02 (7)	11.37 (9)	50.53 (7)	50.1 (11)

Telephone Utilities—Summary Table*

1993	Full Year	10.26 (12)	11.83 (12)	66.45 (12)	-198.1 (12)
1994	Full Year	9.91 (12)	11.81 (11)	57.46 (11)	-236.6 (16)
1995	Full Year	9.81 (8)	12.08 (8)	55.02 (7)	-264.0 (14)
1996	Full Year	9.65 (2)	11.74 (4)	58.00 (2)	-348.2 (11)
1997	Full Year	9.57 (5)	11.56 (5)	55.84 (5)	-154.4 (7)
1998	Full Year	9.37 (1)	11.30 (1)	52.00 (1)	-323.3 (13)
1999	Full Year	11.34 (1)	13.00 (1)	66.90 (1)	-570.1 (19)
2000	Full Year	9.52 (2)	11.38 (2)	58.59 (2)	-390.4 (14)
2001	Full Year	9.61 (1)	— (0)	— (0)	-130.0 (8)
2002	1st Quarter	— (0)	— (0)	— (0)	1.8 (1)
	2nd Quarter	— (0)	— (0)	— (0)	19.5 (2)
	3rd Quarter	— (0)	— (0)	— (0)	-13.6 (1)
	4th Quarter	— (0)	— (0)	— (0)	— (0)
2002	Full Year	— (0)	— (0)	— (0)	7.7 (4)
2003	1st Quarter	— (0)	— (0)	— (0)	— (0)
	2nd Quarter	— (0)	— (0)	— (0)	-27.6 (1)
2003	Year-To-Date	— (0)	— (0)	— (0)	-27.6 (1)

* Number of observations each period indicated in parentheses.

ELECTRIC UTILITY DECISIONS

Date	Company (State)	ROR %	ROE %	Common Eq. as % Cap. Str.	Test Year & Rate Base	Amt. \$ Mil.
1/8/03	Entergy Gulf States (LA)	---	---	---	---	-22.1 (B)
1/14/03	South Carolina Electric & Gas (SC)	9.94	12.45	52.18	3/02-YE	70.7
1/28/03	Public Service Co. of New Mexico (NM)	---	---	---	---	-35.2 (B,Z,1)
2/28/03	Madison Gas and Electric (WI)	9.71 (G)	12.30	55.42	12/03-A	20.3
3/6/03	PacifiCorp (WY)	8.45	10.75	45.70	9/01-YE	8.7
3/7/03	Rochester Gas & Electric (NY)	8.11	9.96	41.40	6/03-A	-15.8 (2)
3/20/03	Wisconsin Public Service (WI)	9.24 (G)	12.00	55.00	12/03-A	21.4
3/28/03	Commonwealth Edison (IL)	8.99	11.72	---	12/02-YE	---
						(1,B,3)
2003	1ST QUARTER AVERAGES/TOTAL OBSERVATIONS	9.07 6	11.53 6	49.94 5		48.2 7
4/4/03	Wisconsin Power & Light (WI)	9.04 (G)	12.00	51.72	12/03-A	77.1
4/15/03	Interstate Power & Light (IA)	9.08	11.15	47.20 (U)	12/01-A	25.8 (I,R)
5/15/03	Entergy New Orleans (LA)	---	---	---	---	18.4 (B)
5/29/03	Public Service of Colorado (CO)	9.08	10.75	51.40	12/01-A	-21.1 (B)
6/25/03	Aquila (CO)	9.07	10.75	47.50	6/02-A	16.0 (B)
2003	2ND QUARTER AVERAGES/TOTAL OBSERVATIONS	9.07 4	11.16 4	49.46 4		116.2 5
2003	YEAR-TO-DATE AVERAGES/TOTAL OBSERVATIONS	9.07 10	11.38 10	49.72 9		164.4 12

GAS UTILITY DECISIONS

1/6/03	Peoples Gas System (FL)	8.83	11.25	50.92 *	12/03-A	12.1 (B)
2/18/03	Aquila (IA)	---	---	---	---	4.3 (B)
2/28/03	Madison Gas and Electric (WI)	9.71 (G)	12.30	55.42	12/03-A	6.8
3/7/03	Rochester Gas & Electric (NY)	8.11	9.96	41.40	6/03-A	5.5
3/12/03	Aquila Networks-MGU (MI)	---	11.40	---	12/03	8.4 (I,B)
3/20/03	Wisconsin Public Service (WI)	9.24 (G)	12.00	55.00	12/03-A	-1.2
2003	1ST QUARTER AVERAGES/TOTAL OBSERVATIONS	8.97 4	11.38 5	50.69 4		35.9 6
4/4/03	Wisconsin Power & Light (WI)	9.04 (G)	12.00	51.72	12/03-A	3.6
5/2/03	SEMCO Energy Gas (MI)	---	11.40	---	12/03	3.3 (B)
5/15/03	Entergy New Orleans (LA)	---	---	---	---	11.8 (B)
5/15/03	Interstate Power and Light (IA)	9.03	11.05	47.84 (U)	12/01-A	13.3 (I)
5/29/03	Public Service of Colorado (CO)	9.20	11.00	51.40	12/01-A	-17.8 (B)
2003	2ND QUARTER AVERAGES/TOTAL OBSERVATIONS	9.09 3	11.36 4	50.32 3		14.2 5
2003	YEAR-TO-DATE AVERAGES/TOTAL OBSERVATIONS	9.02 7	11.37 9	50.53 7		50.1 11

TELEPHONE UTILITY DECISIONS

There were no telecommunications rate cases in the first quarter of 2003.

Date	Company (State)	ROR %	ROE %	Common Eq. as % Cap. Str.	Test Year & Rate Base	Amt. \$ MIL.
5/21/03	Verizon North/Verizon South (IL)	--	--	--	--	-27.6 (B,Z)
2003	2ND QUARTER AVERAGES/TOTAL OBSERVATIONS	-- 0	-- 0	-- 0		-27.6 1
2003	YEAR-TO-DATE AVERAGES/TOTAL OBSERVATIONS	-- 0	-- 0	-- 0		-27.6 1

FOOTNOTES

- A- Average
 - B- Order followed stipulation or settlement by the parties. Decision particulars not necessarily precedent-setting or specifically adopted by the regulatory body.
 - G- Return on capital
 - I- Interim rates implemented prior to the issuance of final order, normally under bond and subject to refund.
 - R- Revised
 - U- Double leveraged capital structures utilized.
 - YE- Year-end
 - Z- Rate change to be implemented in multiple steps.
 - * Capital structure includes cost-free items or tax credit balances at the overall rate of return.
- (1) Rates to be reduced \$21.7 million effective September 1, 2003 and an additional \$13.5 million on September 1, 2005.
 - (2) Electric revenue requirement reduction. PSC changed an accounting amortization schedule to allow electric rates to remain unchanged.
 - (3) Return parameters established in proceeding to set delivery services tariffs, which apply only to customers who select an alternative supplier of generation service.

Dennis Spurduto

TransAlta considère inacceptable la décision de l'EUB

CALGARY (Alberta) (29 novembre 1999) – Dans sa décision rendue vers la fin de la semaine dernière, l'Alberta Energy Utilities Board (l'« EUB ») a soumis TransAlta au taux de rendement le plus bas jamais fixé par une autorité de réglementation au pays. La décision établit un taux de rendement de 9,25 % pour les activités réglementées de TransAlta.

« Non seulement l'EUB fixe-t-elle un taux de rendement répressif, mais elle nous ordonne d'augmenter la cadence de nos unités de production tout en réduisant les ressources financières dont nous disposons pour leur fonctionnement », déclare M. Ian Bourne, vice-président directeur et chef des finances de TransAlta Corporation. « Cette décision aura un impact important sur nos activités ».

« Le fait que l'EUB nous ordonne de faire tourner nos usines encore plus vite alors que nous disposons de moins de moyens financiers est tout à fait déraisonnable, surtout si l'on considère que nous avons fonctionné à toute allure au cours de deux dernières années afin de contrer la pénurie d'électricité en Alberta », ajoute M. Bourne.

Bien que TransAlta explorera toutes les possibilités pour alléger l'effet de la décision, il est trop tard dans l'année pour que la société puisse rajuster ses résultats d'exploitation de 1999 afin de diminuer l'impact de celle-ci. Le moment choisi pour rendre cette décision démontre encore une fois et sans contredit qu'il faut que le gouvernement élimine le régime réglementaire en place.

TransAlta est une société énergétique qui compte des actifs de 6 milliards de dollars et exerce ses activités au Canada, en Nouvelle-Zélande, en Australie et aux États-Unis. La société est structurée en cinq segments de marché possédant chacun une stratégie clairement définie : génération, projets électriques indépendants, Energy Marketing, transmission et distribution, et New Zealand. Ces sphères d'activité sont imbriquées, créant une société énergétique à vocation régionale qui est axée sur la croissance.

- 30 -

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Transalta Corp

Wednesday, November 24, 1999

Closing Price: **17.90**
 Open: **17.55**
 High: **17.90**
 Low: **17.40**
 Volume: **155,600**



No Splits

2-Month Daily Chart of Transalta Corp


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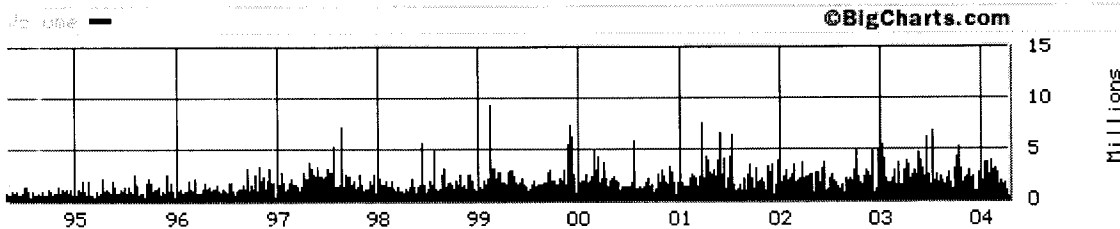
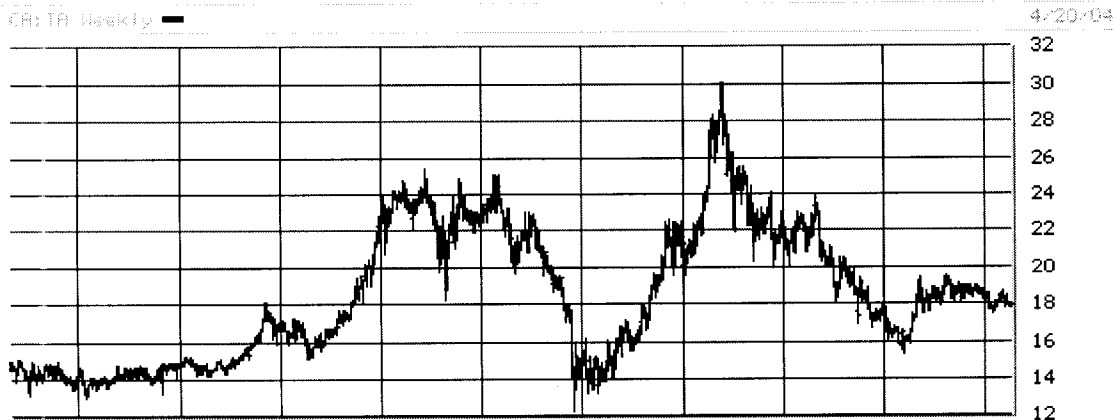
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CA:TA Transalta Corp

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Last:	Change:	Open:	High:	Low:	Volume:
17.90	▲ 0.02	17.81	17.90	17.81	46,922
	Percent Change:	Yield:	P/E Ratio:	52 Week Range:	
	0.11%	5.59	14.21	15.89 to 19.55	



Company Data

Company Name:	Transalta Corp
Dow Jones Industry:	Not Available
Exchange:	TSX
Shares Outstanding:	190,761,008
Market Cap:	3.4 Billion
Short Interest:	Exchange provides no short interest data.
52-Week EPS:	1.26
52-Week High:	19.55 on Tuesday, August 26, 2003
52-Week Low:	15.89 on Tuesday, April 22, 2003
P/E Ratio:	14.21
Yield:	5.59%
Average Price:	18.03 (50-day) 18.50 (200-day)

Average Volume: 473,700 (50-day) 492,900 (200-day)

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Intraday data provided by ComStock, a division of Interactive Data Corp. and subject to [terms of use](#).
Historical and current end-of-day data provided by FT Interactive Data.
Intraday data delayed 15 minutes for Nasdaq, and 20 minutes for other exchanges.
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Press Release: TransAlta Utilities Corporation

Date of Release: Oct 20, 2000
Downgrades to A (high)

Current Date: Wednesday, April 21, 2004

Please click on the Issuer name below to see all Research for that Issuer.
Industry Icon Legend

Issuer	Debt Rated	Rating Action	Rating	Trend	Notes	Latest Event
TransAlta Utilities Corporation	Secured Debentures	Downgraded	A (high)	Stb		Oct 20, 2000
TransAlta Utilities Corporation	Cumulative & Redeemable Preferred Shares	Downgraded	Pfd-2 (high)	Stb		Oct 20, 2000

The full text of the press release:

Walter Schroeder, CFA/Jenny Catalfo

(416) 593-5577 x242

e-mail: jcatalfo@dbrs.com

<i>Rating</i>	<i>Trend</i>	<i>Rating Action</i>	<i>Debt Rated</i>
A (high)	Stable	Downgraded	Secured Debentures
Pfd-2 (high)	Stable	Downgraded	Cumulative & Redeemable Preferred Shares

DBRS is downgrading the ratings on TransAlta Utilities Corporation's secured debentures to A (high) from AA (low) and the preferred share rating to Pfd-2 (high) from Pfd-1 (low). The trend is Stable. The previous ratings reflected the stable and certain regulatory climate that prevailed in Alberta prior to the implementation of changes in deregulation. The new environment in Alberta is expected to be more competitive and less certain. Implementation of the terms and conditions of the Power Purchase Agreements (PPAs) may, in DBRS' opinion, be challenging. The PPAs introduce elements of uncertainty including increased operating risk. However, profitability could improve given an increase in deemed equity and a higher risk premium compared to historical levels under regulation.

Present ratings continue to be supported by TransAlta Utilities' competitive cost structure, strong cash flow and relatively favourable financial risk profile. In addition, the PPAs should streamline the regulatory process for generation operations, although transmission operations will continue to be subject to a cumbersome regulatory environment. Despite the rating actions being taken, TransAlta Utilities continues to rank as one of the strongest electricity utilities in Canada.

For those interested in purchasing a copy of the report, please contact: info@dbrs.com

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Related Functions	Company Tree Ratings	CREDIT PROFILE
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TransAlta Corp

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<u>Senior Unsecured Debt</u>	<u>-CBRS</u>
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- 1) Outlook
- 2) Issuer Rating
- 3) Senior Unse
- STANDARD
- 4) Outlook
- 5) LT Foreign
- 6) LT Local Is

RATING	EFFECTIVE
WR	5/ 1/01
A	4/13/00
A+	7/30/99

- DOMINION BOND
- 7) Senior Unse
- 8) Cummulative
- 9) Short Term

- CANADIAN BOND
- 10) Senior Unse
- 11) Preferred
- 12) Short Term

UP / DOWN / NEUTRAL



to return to credit profile



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Canadian Utility Regulation Reassessed as a Ratings Factor

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(Editor's note: The original version of this report, published yesterday, misstated the rating on Oakville Hydro Corp. in Table 2. A corrected version follows.)

For many years, Standard & Poor's Ratings Services has maintained strong investment-grade ratings on a large number of Canadian utility companies, despite balance-sheet and profitability metrics that are significantly weaker than those exhibited by highly rated utilities in other countries or jurisdictions. The justification frequently cited by Standard & Poor's was that the supportive nature of Canadian utility regulation would sustain a high level of credit quality, notwithstanding what might be considered to be aggressive financial profiles. Based on a wide-ranging reassessment of business and financial risk among Canadian utilities, Standard & Poor's is now questioning the appropriateness of placing exceptional analytical reliance on the positive influence of regulatory factors in its analysis of Canadian utilities. The purpose of this report is to impart transparency to an ongoing reassessment that affects a number of utility ratings, and to define the framework within which future ratings actions will occur.

In the past two years, there has been downward pressure on Canadian utility ratings that has culminated with multiple issuers either being downgraded, assigned negative outlooks, or placed on CreditWatch with negative implications. These ratings actions have been driven by several factors. Although the general business environment and company-specific reasons have

played a large role in the ratings actions, the highly leveraged financial profiles of Canadian utilities consistently have been identified by Standard & Poor's as a material contributing factor in the downward trend of the ratings.

Why now? Is this report a reaction to specific developments that suggest regulation has become less supportive, or that utilities are taking on more business risk? In fact, the basis for this reassessment emerges from deliberations over the past year within Standard & Poor's, involving many analysts based in Canada and other countries. These discussions led to a general view that the business positions of Canadian utilities remain strong in most cases, but perhaps not exceptionally so. Nevertheless, a pattern of downward ratings pressure emerged. In the background of these discussions have been regulatory rulings, utility sector policy initiatives, and developments arising from actions by various utility companies that have triggered a closer examination of each individual utility's exposure to operational, commercial, regulatory, financial, and other risks.

For the purposes of this report, regulated utilities include natural gas and power transmission and distribution networks, and in some cases companies with power generation business units. The ratings methodology applied to regulated utilities also has direct implications for the ratings on holding companies that control both regulated and unregulated business units, because the regulated business units usually make a substantial contribution to the credit profile of the consolidated entity.

A Tradition of High Leverage

The leveraged financial profiles of Canadian utilities generally stem from regulatory directives, which essentially dictate the financial profiles for most utilities. (Admittedly, some companies have taken it upon themselves to add leverage at the unregulated parent or subsidiary company level.) The interaction of regulatory and financial risks has a critical influence on ratings in this sector.

Investor-owned Canadian utilities are among the most highly levered utilities in Standard & Poor's global ratings universe, with financial profiles that are noticeably weaker than those of their global peers. Many Canadian utilities typically have lower equity layers in their capital structures than their global peers, with total

debt in some cases representing 60% to 70% of total capital. The lower equity bases are the result of regulatory directives whereby the utility is allowed to earn only a (regulated) rate of return on the deemed equity base. There is little incentive to diverge from such a directive. The rate of return on any excess equity that a utility carries on its balance sheet is limited to the cost of debt and hence is punitive for shareholders. Operating successfully with less equity than allowed might signify to regulators that the allowed equity cushion is too thick. Thus, it is not surprising that the actual capital structures conform to the deemed regulatory or jurisdictional directives.

With debt leverage at these high levels, it follows that the cash flow interest protection measures are often conversely low and generally range between 2.0x to 3.0x for many issuers. Although Standard & Poor's credit analysis is not solely based on financial ratios, the standard credit protection metrics for many Canadian utilities are below average compared with global peers. Accordingly, the question becomes whether or not other aspects of these utilities' risk profiles compensate for their more aggressive financial profiles, providing justification for high investment-grade ratings.

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Standard & Poor's Global Framework for Utility Analysis

Standard & Poor's utility ratings methodology considers regulation to be one of five key factors in determining a utility's overall business risk profile. Consideration is given to other qualitative factors such as markets served, competitive position, operations, and management. Regulation is often the most important determinant of a utility's business risk profile, and can directly and indirectly affect the other four factors.

Standard & Poor's evaluates regulation on the basis of how supportive it is of credit quality. Although it is in society's interest to have financially stable and efficient utilities because they provide an essential service, it is not usually the priority of the regulator to protect utility creditors. The interests of bondholders and other creditors, and a firm's access to capital in general, are often considered secondary to ratepayer interests at best. For credit purposes, the analysis focuses on whether the regulatory system allows a utility to recover its costs and generate sufficient

cash in a timely manner to meet obligations, and to what degree the system exposes the utility to the combined effects of operational and financial risks. In this regard, Canadian regulation ranks quite highly. There are extensive track records of stable performance for many companies, even those carrying high leverage.

Although Canadian regulation might rank highly as a credit factor on its general merits, the issue becomes the relative degree of comfort gained from regulatory and other factors, in light of whatever degree of financial risk might be present. Standard & Poor's is reassessing the specific features of Canadian regulatory practices that might be used to justify the continuing assertion of an overall stronger business risk profile—in comparison with regulatory mechanisms and practices in other global jurisdictions—and to what extent this should offset risks arising from the capital structures and allowed returns that have been sanctioned by Canadian regulators.

Regulation in Canada typically is based on a cost of service plus regulated rate of return methodology, although some jurisdictions are starting to introduce performance-based regulation, whereby the utilities are at risk for managing their operating and administration costs in exchange for the opportunity to generate "extra" earnings. Standard & Poor's views the cost of service methodology as being quite favorable. Nevertheless, regulatory systems in which the utility enjoys rate-setting autonomy are viewed as superior with regards to creditor protection.

Financial leverage affects credit quality because it constrains the ability of a utility (or any other kind of corporation) to weather variations in business performance. For regulated utilities, the sources of variation are considerably fewer than for many other corporations, but the business risks are far from negligible. (At the same time, more limited business risk exposure is used to justify the manageability of the regulated utilities' leverage, offsetting the benefit of their limited business risk exposure.) What kinds of business risks do utilities frequently face? Several elements can lead to year-on-year variations in financial results and can eat into the degree of cushion provided by a utility's equity layer, and also can compound risks associated with liquidity management and refinancing risk, including:

- The service quality and cost impact of aging physical assets,
- The impact on revenue of demand variation arising from the economic environment, weather, demand elasticity, substitution, declining population, etcetera,
- Variations in operating costs,
- The timing uncertainty associated with commodity cost recovery deferrals,
- Uncertainties and delays in necessary rate increases,
- Wholesale customer bypass,
- The exclusion of capital investments from the rate base,
- The disallowance of certain operating costs by regulators,
- Changes in environmental or health and safety regulations,
- Adverse commodity contracting arrangements, and
- Risks arising from unsuccessful noncore business initiatives.

There are gradations of business risk exposure for utility companies. At one end of the spectrum, utilities with virtually no business risk would have rate-setting autonomy, an inelastic service area demand profile, strong financial flexibility, and a proven ability to adjust rates to counteract adverse developments of any sort. At the other end of the spectrum would be utilities that have no regulatory assurance of recovery of either invested capital or operating expenses (including commodity costs) incurred. A typical Canadian regulated network utility lies between these two end points, and likely closer to the low-risk end of the spectrum.

For the most part, Standard & Poor's view is that the various Canadian regulatory environments provide transparent and predictable foundations for solid utility credit quality (except perhaps in the Province of Ontario, where transparency has deteriorated substantially due to transitional circumstances). This reassessment of the link between regulation and credit quality has not been prompted by any perceived deficiencies associated with the various Canadian regulatory jurisdictions. Again, the issue is one of degree; how much bondholder protection is conferred by regulated capital structures in light of the operational risks borne by the companies?

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Linking Utilities' Financial Profiles to Ratings

The table below shows key global utility benchmark ratios. These reflect the general levels for certain financial indicators and how they might link to ratings for different degrees of business risk. The ratings on certain Canadian utilities currently depend on a characterization of those utilities' respective business positions as very strong, as presented in the table. The justification for this has been the supportive regulatory environment in which those companies operate. Many other Canadian utility ratings already incorporate a more conservative view of business risk, and these ratings are not likely to be affected by this criteria review. A list of the issuers with ratings that are most likely to be affected by this review is presented at the end of this report.

	FFO interest coverage (x)		FFO to total debt (%)		Debt to capital (%)	
Business risk position	A	BBB	A	BBB	A	BBB
Very strong	2.9	2	18	13.5	54	61
Strong	3.5	2.6	23	17	50	57
Moderately strong	4.1	3.3	27	21	47	53

FFO--Funds from operations.

Referring to the table, the interactions between different degrees of business and financial risk should be apparent. For example, a utility with a very strong business position with funds from operations (FFO) interest coverage just below 3.0x (and assuming a complementary alignment of other ratios) can achieve a rating in the 'A' category. In contrast, a utility with a moderately strong business position would need FFO interest coverage around 4.0x to achieve a 'A' rating. The ratio benchmarks shown are the midpoints for the respective ratings categories; thus, by extrapolation, a very strong business and FFO interest cover of 2.5x might be associated with ratings of either 'BBB+' or 'A-'. (The business risk gradations shown in the table are from the top tiers of a much broader scale, extending downward to encompass less strong business positions that derive little or no benefit from protective

Clearly, many considerations influence the proper application of financial ratio benchmarks and hence the rating on an issuer,

such as parental support or nonquantitative aspects of the financial profile, financing flexibility, liquidity measures, accounting policies, etcetera. The ratings process is not a simplistic application of financial benchmarks. Considerable judgment is involved at many stages of the process, including in the determination of the overall business risk profile of an issuer, and in arriving at a balanced characterization of the forward-looking financial strength of the company. The interaction of a range of cash flow, balance sheet, and profitability measures must be considered, along with considerations of capital expenditure funding, the company's access to capital markets, liquidity, maturity schedules, and bank financing. Financial ratio benchmarks should not be considered in isolation, nor without a strong element of judgment as to the observed riskiness of an issuer's credit profile. Accepting these caveats, financial ratio benchmarks have proven to be helpful to issuers, investors, and others (including regulators) to answer questions about at what point ratings might change in response to variations in an issuer's financial performance.

With specific reference to Canadian utility ratings, the premise of a supportive regulatory environment has led to some utilities' business profiles being assessed as particularly low risk. If a slightly more conservative business-position standing is determined, this would lead to lower ratings, assuming leverage and other financial indicators remain unchanged and there are no other offsetting analytical considerations.

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Questions for Discussion and Next Steps

In the next few months, Standard & Poor's will seek the views of various Canadian regulators and other market participants on the current and evolving nature of business risk in the Canadian utility sector. Certain questions frame the discussions Standard & Poor's will pursue with various industry players:

- What are the perceptions of current business risks that underlie the capital structures and allowed returns embedded in recent regulatory filings and decisions?
- How and to what extent do regulatory arrangements mitigate or eliminate certain elements of utility business risk?
- How does the perceived credit profile of a utility factor into

regulatory decisions, and how might regulators respond to sustain the credit profile of a particular utility company?

- How do regulators take account of noncore activities on the part of the regulated utility's parent, and, as a practical matter, how do the regulated and unregulated parts of a utility company interact?

A possible outcome of this review may be a reduction in the degree of reliance placed on regulatory protection from business risks. Such an outcome would affect all Canadian regulated utilities. Standard & Poor's expects to have the review completed in the next few months.

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Ratings That Could Be Revisited

The companies (and their subsidiaries) whose ratings are most likely to be affected negatively by this review are included in the list below. Rated utility companies not included in either list below are not expected to be affected directly by this review, because the ratings incorporate a balanced and sustainable characterization of business risks.

Although it is Standard & Poor's expectation that selected ratings downgrades will be the result of this review, some or all of the ratings listed below could end up remaining at their current levels. Standard & Poor's does not expect ratings upgrades to be prompted by this review, either for companies listed below (and their subsidiaries) or for other rated utilities or holding

Company	Corporate credit rating*
ATCO Ltd.	A+/Watch Neg/--
BC Gas Inc.	BBB+/Watch Neg/--
Borealis Infrastructure Trust (Enersource)¶	A+/Watch Neg
Emera Inc.	BBB+/Watch Neg/--
Electricity Distributors Finance Corp. (EDFIN)	A-/Watch Neg/--
Foothills Pipe Lines Ltd.§	A-1(Low)/Watch Neg
Fortis Inc.	A-/Watch Neg/--
Hamilton Utilities Corp.	A+/Watch Neg/--
Hydro Ottawa Holdings Inc.	A/Watch Neg/--

London Hydro Inc.	A-/Watch Neg/--
Oakville Hydro Corp.	A-/Watch Neg/--
Toronto Hydro Corp.	A-/Watch Neg/--
TQM Pipeline & Co. LP	BBB+/Watch Neg/--
TransCanada Pipelines Ltd.	A-/Watch Neg/--
Veridian Corp.	A-/Watch Neg/--
*Ratings at March 5, 2003. ¶Senior secured debt rating. §Canadian national scale CP rating.	

This review also will factor into Standard & Poor's assessment of other companies, notably Enbridge Inc., Westcoast Energy Inc., and Union Gas Ltd., where regulation is a factor in the ratings on the companies, albeit to a lesser extent than those listed above. Although the regulatory review could affect these ratings, there are other more salient factors contributing to the current ratings and outlooks on these companies.

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