



File OF-Tolls-Group1-T211-2011-04 01  
21 October 2011

Mr. Bernard Pelletier  
Manager, Tolls and Tariffs  
Regulatory Services  
TransCanada PipeLines  
Limited  
450 First Street S.W.  
Calgary, AB T2P 5H1  
Facsimile 403-920-2347

Mr. Patrick M. Keys  
Vice President, Pipelines,  
Law and Regulatory Research  
TransCanada PipeLines  
Limited  
450 First Street S.W.  
Calgary, AB T2P 5H1  
Facsimile 403-920-2347

Mr. C. Kemm Yates, Q.C.  
Blake, Cassels & Graydon LLP  
3500 Bankers Hall East  
Calgary, AB T2P 4J8  
Facsimile 403-663-2297

Dear Mr. Pelletier, Mr. Keys and Mr. Yates:

**Hearing Order RH-003-2011 - TransCanada PipeLines Limited  
NOVA Gas Transmission Ltd. and Foothills Pipe Lines Ltd. (TransCanada)  
Application for Approval of Restructuring and Mainline Final Tolls for 2012  
and 2013 (the Application) Decisions on Procedural Steps and the Hearing  
Timetable**

**Background**

On 12 October 2011, the Board held a pre-hearing planning conference (Conference) for the Application. TransCanada, several associations, companies and government organizations (Parties) attended the Conference. The Parties made submissions on the procedural steps required to hear the Application efficiently and effectively, including timing of those steps, and issues the Board should consider in hearing the Application. To assist Parties in this regard, the Board circulated a preliminary list of issues for comment in advance of the Conference. Parties' comments and suggestions are available on the Board's electronic repository accessible at [www.neb-one.gc.ca](http://www.neb-one.gc.ca) and in the transcript for the Conference.

**Procedural Steps/Hearing Timetable**

Based on the comments received, the Board has made the following decisions on procedural steps and the hearing timetable.

.../2

### ***Phasing the Hearing***

The Board will hear all of TransCanada's Application, including cost of capital, in one proceeding before issuing a decision on the Application. The Board recognizes it will be required to consider more than one cost of capital scenario as part of this proceeding. However, the Board is of the view that such an approach will enable an integrated and efficient assessment of all the evidence relevant to TransCanada's Application, whereas segregating cost of capital from other evidence would not.

### ***Information Requests/Conferences***

Given the size and complexity of TransCanada's Application, the Board will provide for two rounds of information requests to TransCanada. The Board sees no need for scheduled technical conferences or workshops during the process at this time.

### ***Intervenor Reply to Other Intervenors***

The Board has also decided to allow intervenors to file reply evidence to the evidence of other intervenors.

### ***Scheduling of Cross-examination***

The Board is considering scheduling cross-examination for the oral hearing as follows:

- 1) TransCanada's witness panel(s) speaking to matters dealing with the Alberta System Extension will be cross-examined first followed by each intervenor's Alberta System Extension witness panel(s).
- 2) TransCanada would then present its witness panels as it sees fit, with the exception of its cost of capital witness panel(s). After cross-examination of these witness panel(s) is complete, each intervenor's witness panel(s) (excluding cost of capital witness panels) would then be cross-examined.
- 3) Finally, TransCanada's cost of capital witness panel(s) would be cross-examined followed by each intervenor's cost of capital witness panel(s).

Subject to the Parties persuading the Board otherwise, the Board believes that this approach will result in a convenient, effective and efficient hearing. The Board invites comments on this proposed approach. TransCanada must comment by **21 November 2011**. Intervenors must comment by **12 December 2011**. TransCanada may reply to those intervenors by **13 January 2012**.

### ***Hearing Timetable/Locations***

The oral portion of the hearing will commence on **Monday 4 June 2012** at 1:00 p.m. in the **Board's hearing room at 444 Seventh Avenue S.W., Calgary, Alberta.**

Details on the hearing schedule and locations are set out in the following table. Unless the Board directs otherwise, sitting hours throughout the proceeding will be from 1:00 p.m. to 5:00 p.m. on the first day in a new location and 8:30 a.m. to 1:30 p.m. on all other days.

<b>Schedule</b>	<b>Location</b>
Week starting 4 June 2012 for four weeks	Calgary
Week starting 2 July 2012	No hearing
Week starting 9 July 2012 for two weeks	Toronto
Week starting 23 July 2012 for four weeks	No hearing – Summer break
Week starting 20 August 2012 for two weeks	Montreal
Week starting 3 September 2012	No hearing
Week starting 10 September 2012 for four weeks (as needed)	Calgary
Any further hearing days will be scheduled as needed	

### ***Motions and Participant Funding***

If Parties expect the Board to take specific action, such as directing TransCanada to file certain evidence, or to hold its consideration of the Application in abeyance unless certain information is filed, the Board requests that Parties make such requests by notice of motion. That procedure is set out in paragraph 23 of the hearing order and rule 35 of the *National Energy Board Rules of Practice and Procedure, 1995*.

IGUA asked the Board to establish a participant funding program for the Application. The Board notes that in providing the NEB with financial authority for a participant funding program, the Treasury Board of Canada approved specific terms and conditions for that program. The program is aimed at improving the regulatory review process for large energy projects. The program's terms and conditions are outlined in Budget 2010. Since the Application does not deal with a large energy project, the Board does not have funding to provide to IGUA or others for this proceeding.

### **Changes or Additions to the Preliminary List of Issues**

A number of Parties suggested the addition of sub-issues to the List of Issues. Several Parties commented that the Board's Preliminary List of Issues was broad and some of the issues raised by Parties in their submissions were likely subsumed within the Preliminary List of Issues. In addition, many Parties noted that a List of Issues for a hearing is not exclusionary and does not preclude Parties from raising new issues in the future. On this basis, the Board has decided not to amend to the Preliminary List of Issues.

## Conclusion

The Board would like to thank all Parties for their time and participation in the Conference. All comments have been helpful to the Board in its deliberations.

The List of Issues and an amended Timetable of Events are attached to this letter.

The Board directs TransCanada to serve a copy of this letter on all Parties to the RH-2-2004 proceeding, the Mainline Tolls Task Force, Mainline shippers, Alberta System shippers, the Alberta System Tolls, Tariff, Facilities and Procedures Committee, Foothills shippers, Parties to the Conference and interested persons in the official language of their choice.

Yours truly,



*for* Anne-Marie Erickson  
Secretary of the Board

Attachments

## **List of Issues for RH-003-2011 Hearing**

The Board has identified but does not limit itself to the following issues for discussion in the proceeding.

*The following strategic issues relate to the consideration of TransCanada's Restructuring proposal and any alternative proposal(s) (Proposals):*

1. Appropriateness of setting, or the obligation to set, Mainline tolls based on the historical regulatory compact, with recovery of a full traditional cost of service, in the current circumstances.
2. Effectiveness and durability of Proposals in supporting an economically sustainable Mainline.
3. Appropriate allocation of risks and rewards among TransCanada, Mainline shippers and other stakeholders and the extent to which the Proposals align with this allocation.
4. Whether it should be a goal or objective to effectively connect the Western Canada Sedimentary Basin to Eastern markets, and the extent to which the Proposals do so.
5. Alignment of Proposals with relevant tolling principles.

*The following issues relate specifically to TransCanada's application and may relate to any alternative proposal(s):*

6. Appropriateness of each of the Business and Services Restructuring Proposals and the components thereof, including:
  - a. Depreciation Proposal;
  - b. Alberta System Extension;
  - c. Toll Design Proposals;
  - d. Services and Pricing Proposals.
7. Fair Return for the Mainline for 2012 and 2013;
  - a. Business risk;
  - b. Cost of capital estimation;
  - c. Setting the rate of return and treatment of debt costs.
8. Appropriateness of the proposed Mainline rate bases, revenue requirements and components thereof for 2012 and 2013.
9. Appropriateness of the "flow through" elements of the 2011 Mainline revenue requirement, including the continuing prudence of TransCanada's Transmission by Others arrangements and the amount of "used and useful" rate base.

### Timetable of Events

<b>Actions</b>	<b>Hearing Order Reference</b>	<b>Person Responsible</b>	<b>Deadline (noon, Calgary time unless otherwise indicated)</b>
Hearing Order issued		Board	26 September 2011
Serve Hearing Order on the persons listed in Appendix V	paragraph 17(a)	TransCanada	5 October 2011
Pre-Hearing Planning Conference			12 October 2011
Publish Notice of Public Hearing	paragraph 17(b), (c) and (d)	TransCanada	12 October 2011
Application to intervene	paragraph 5	Intervenors	19 October 2011
Comments on Amendments to List of Issues	Paragraph 6	All Parties	<b>Discussed at Conference</b>
List of Parties issued	paragraph 7	Board	shortly after 19 October 2011
Application served on all Parties	paragraph 9	TransCanada	immediately after receiving the List of Parties
Interventions served	paragraph 7	Intervenors	immediately after receiving the List of Parties
Supplemental Filing	paragraph 10	TransCanada	31 October 2011
Information Requests to TransCanada	paragraph 11	Board and Intervenors	<b>22 November 2011</b>
Responses to Information Requests	paragraph 12	TransCanada	<b>13 December 2011</b>
Second Round of Information Requests to TransCanada		Board and Intervenors	<b>16 January 2012</b>
Responses to Second Round of Information Requests		TransCanada	<b>6 February 2012</b>

Letters of Comment	paragraph 4	Commenters	<b>9 March 2012</b>
Written Evidence	paragraph 13	Intervenors	<b>9 March 2012</b>
Information Requests to the Intervenors	paragraph 14	Board and other parties	<b>4 April 2012</b>
Responses to Information Requests	paragraph 15	Intervenors	<b>27 April 2012</b>
Intervenor Reply to Other Intervenors		Intervenors	<b>11 May 2012</b>
Reply Evidence	paragraph 16	TransCanada	<b>18 May 2012</b>
Begin the Hearing		Board and all parties	<b>4 June 2012</b>