



Dossier Ad-GA-RG-CR-03e

Le 18 mars 2011

Destinataires : Compagnies de gazoducs réglementées par l'Office national de l'énergie,
Association canadienne des producteurs pétroliers,
Association canadienne de pipelines d'énergie et
Association canadienne du gaz selon la liste d'envoi ci-jointe

***Demande de modification du Règlement sur le recouvrement des frais de
l'Office national de l'énergie (le Règlement)***

Madame, Monsieur,

L'Office national de l'énergie a reçu une lettre d'ExxonMobil Canada et d'Encana Corporation datée du 1^{er} juin 2010, lesquelles demandaient une modification au *Règlement*. La modification en question vise les valeurs-seuils des compagnies de gazoducs de grande importance et des compagnies de gazoducs de moyenne importance. Vous trouverez ci-joint une copie de la lettre.

D'après le *Règlement*, une « compagnie de gazoduc de faible importance » est une personne ou une compagnie dont le coût de service annuel total (coût annuel) est inférieur à 1 000 000 \$; une « compagnie de gazoduc de moyenne importance » celle dont le coût annuel est égal ou supérieur à 1 000 000 \$ mais inférieur à 10 000 000 \$ et une « compagnie de gazoduc de grande importance » celle dont le coût annuel est égal ou supérieur à 10 000 000 \$.

L'Office a été prié de modifier le *Règlement* de sorte que la valeur-seuil d'une « compagnie de gazoduc de moyenne importance » soit de 1 000 000 \$ ou plus mais inférieure à 60 000 000 \$ et celle d'une « compagnie de gazoduc de grande importance » soit égale ou supérieure à 60 000 000 \$.

L'ONÉ demande l'opinion des intéressés sur cette question, notamment sur ce qui suit :

- les valeurs-seuils des compagnies de moyenne et de grande importance établies dans le *Règlement* devraient-elles être modifiées?
- si ces valeurs étaient modifiées, celles qui sont proposées par ExxonMobil Canada et Encana Corporation conviennent-elles?

Veillez faire parvenir vos commentaires par écrit au plus tard le 1^{er} juin 2011 à :

.../2

Anne-Marie Erickson
Secrétaire de l'Office
Office national de l'énergie
444, Septième Avenue, S.-O.
Calgary (Alberta) T2P 0X8
Facsimile 403-292-5503 ou 1-877-288-8803

Prière d'indiquer *Règlement sur le recouvrement des frais de l'Office national de l'énergie* en objet. L'Office décidera de la marche à suivre une fois qu'il aura examiné les commentaires.

Veillez agréer, Madame, Monsieur, mes salutations distinguées.

La secrétaire de l'Office,



Anne-Marie Erickson

P. j.

- c. c. Monsieur Ron Moore, Directeur, Affaires réglementaires. ExxonMobil Canada
facsimile 403-232-5867
Madame Rinde K. Powell, Directeur, Services de réglementation, Encana Corporation
facsimile 403-645-3938

Liste de distribution

Compagnies de gazoducs réglementées par l'Office national de l'énergie

1057533 Alberta Ltd.
c/o Harvest Energy Trust
330 5th Avenue SW, Suite 2100
Calgary, AB T2P 0L4

2193914 Canada Limited
c/o Enbridge Gas Distribution Inc.
500 Consumers Road
North York, ON M2J 1P8

6720471 Canada Ltd. c/o ATCO Midstream Ltd.
240 4th Avenue SW, Suite 900
Calgary, AB T2P 4H4

Alliance Pipeline Ltd.
605 5th Avenue SW, Suite 600
Calgary, AB T2P 3H5

AltaGas Holdings Inc.
for and on behalf of AltaGas Pipeline Partnership
355 4th Avenue SW, Suite 1700
Calgary, AB T2P 0J1

Apache Canada Ltd.
700 9th Avenue SW
Calgary, AB T2P 3V4

ARC Resources Ltd.
308 4th Avenue SW, Suite 1200
Calgary, AB T2P 0H7

Bear Paw Processing Company (Canada) Ltd.
c/o ONEOK Partners, L.P., Bear Paw Energy, LLC
100 West 5th Street
Tulsa, OK 74103
USA

Bonavista Petroleum Ltd.
on behalf of Bonavista Energy LP
311 6th Avenue SW, Suite 700
Calgary, AB T2P 3H2

BP Canada Energy Company
PO Box 200
Calgary, AB T2P 2H8

BP Canada Energy Enterprises
240 4 Ave SW
Calgary, AB T2P 4H4

Burlington Resources Canada (Hunter) Ltd.
c/o Operator: ConocoPhillips Canada Resources Corp.
2100 Bow Valley Square IV, 250 6th Avenue SW
Calgary, AB T2P 3H7

Canadian Natural Resources Limited
855 2nd Street SW, Suite 2500
Calgary, AB T2P 4J8

Canadian-Montana Pipe Line Company
c/o NorthWestern Energy Montana
40 East Broadway
Butte, MT 59701
USA

Cenovus Border Pipelines Limited
P.O. Box 766
Calgary, AB T2P 4K9

Centra Transmission Holdings Inc.
2324 Main Street
London, ON N6P 1A9

Champion Pipe Line Corporation Limited
a/s de l'exploitant : la Société Gaz Métro
1717, du Havre
Montréal, QC H2K 2X3

Crescent Point Resources Ltd.
111 5th Avenue SW, Suite 2800
Calgary, AB T2P 3Y6

Devon Canada Corporation
400 3rd Avenue SW, Suite 2000
Calgary, AB T2P 4H2

DR Four Beat Energy Corp.
707 Iowa Avenue
Whitefish, MT 59937
USA

Echoex Energy Inc.
150 6th Avenue SW, Suite 5050
Calgary, AB T2P 3Y7

Emera Brunswick Pipeline Company Ltd.
1 Germain Street, Suite 1204
Saint John, NB E2L 4V1

EnCana Corporation
P.O. Box 2850
Calgary, AB T2P 4Z5

EnCana Ekwan Pipeline Inc.
P.O. Box 2850
Calgary, AB T2P 4Z5

Enermark Inc. c/o Enerplus Resources Fund
333 7th Avenue SW, Suite 3000
Calgary, AB T2P 2Z1

ExxonMobil Canada Properties
1701 Hollis Street
Halifax, NS B3J 3M8

FET Energy Ltd.
c/o Enerplus Resources Fund
The Dome Tower, 333 7th Avenue SW, Suite 3000
Calgary, AB T2P 2Z1

Foothills Pipe Lines Ltd.
P.O. Box 1000, Station M
Calgary, AB T2P 4K5

Fortress Energy Inc.
P.O. Box 1917, Station M
Calgary, AB T2P 2M2

Husky Oil Operations Limited
P.O. Box 6525, Station D

Calgary, AB T2P 3G7

Kaiser Exploration Ltd.
700 4th Avenue SW, Suite 850
Calgary, AB T2P 3J4

KEYERA Energy Ltd.
Sun Life Plaza West Tower
144 4th Avenue SW, Suite 600
Calgary, AB T2P 3N4

Many Islands Pipe Lines (Canada) Limited
c/o TransGas Limited
1777 Victoria Avenue, Suite 500
Regina, SK S4P 4K5

Maritimes & Northeast Pipeline Management Ltd.
1801 Hollis Street, Suite 1600
Halifax, NS B3J 3N4

Mid-Continent Pipelines Limited c/o Operator:
Many Islands Pipe Lines (Canada) Limited
1777 Victoria Avenue, Suite 500
Regina, SK S4P 4K5

Minell Pipeline Limited c/o Manitoba Hydro
360 Portage Avenue, 11th Floor
Winnipeg, MB R3C 0G8

Murphy Oil Company Ltd.
P.O. Box 2721, Station M
Calgary, AB T2P 3Y3

Niagara Gas Transmission Limited
c/o Enbridge Gas Distribution Inc.
500 Consumers Road
North York, ON M2J 1P8

Northern Blizzard Resources Inc.
440 2nd Avenue SW, Suite 2100
Calgary, AB T2P 5E9

NOVA Gas Transmission Ltd.
P.O. Box 1000, Station M
Calgary, AB T2P 4K5

NuVista Energy Ltd.
700 2nd Street SW, Suite 3500
Calgary, AB T2P 2W2

Omimex Canada, Ltd.
2001 Beach Street, Suite 810
Fort Worth, TX 76103
USA

Paramount Transmission Ltd.
c/o Paramount Resources Ltd.
888 3rd Street SW, 4700 Bankers Hall West
Calgary, AB T2P 5C5

Pengrowth Corporation
222 3rd Avenue SW, Suite 2100
Calgary, AB T2P 0B4

Penn West Petroleum Ltd.
207 9th Avenue SW, Suite 200
Calgary, AB T2P 1K3

Pioneer Natural Resources Canada Inc.
c/o Operator: TAQA North Ltd.
308 4th Avenue SW, Suite 2100
Calgary, AB T2P 0H7

Renaissance Energy Ltd.
c/o Husky Energy Inc.
P.O. Box 6525, Station D
Calgary, AB T2P 3G7

Seaview Energy Inc.
444 5th Avenue SW, Suite 1500
Calgary, AB T2P 2T8

SemCAMS Redwillow ULC
TransCanada PipeLines Tower
450 1st Street SW, Suite 2000
Calgary, AB T2P 5H1

Shiha Energy Transmission Ltd.
c/o Paramount Resources Ltd.
888 3rd Street SW, 4700 Bankers Hall West

Calgary, AB T2P 5C5

Spectra Energy Midstream Canada L.P.
425 - 1st Street SW, Suite 2200
Calgary, AB T2P 3L8

St. Clair Pipelines Management Inc.
c/o Union Gas Limited – A Spectra Energy Company
P.O. Box 2001
Chatham, ON N7M 5M1

Talisman Energy Inc.
888 3rd Street SW, Suite 2000
Calgary, AB T2P 5C5

Trans Québec and Maritimes Pipeline Inc.
P.O. Box 1000, Station M
Calgary, AB T2P 4K5

TransCanada PipeLines Limited
P.O. Box 1000, Station M
Calgary, AB T2P 4K5

True Energy Inc. c/o Bellatrix Exploration Ltd.
530 8th Avenue SW, Suite 2300
Calgary, AB T2P 3S8

Union Gas Limited c/o Spectra Energy Company
P.O. Box 2001
Chatham, ON N7M 5M1

Vector Pipeline Limited Partnership
38705 Seven Mile Road, Suite 490
Livonia, MI 48152
USA

Westcoast Energy Inc.,
carrying on business as Spectra Energy Transmission
425 1st Street SW, Suite 2600 - Fifth Avenue Place, East Tower
Calgary, AB T2P 3L8

Wild Stream Exploration Inc.
400 5th Avenue SW, Suite 710
Calgary, AB T2P 0L6

Yoho Resources Inc.
736 6th Avenue SW, Suite 750
Calgary, AB T2P 3T7

Associations

Canadian Association of Petroleum Producers
Mr. Barry Jardine
Manager Regulated Transportation
2100, 350 - 7 Avenue SW
Calgary, AB T2P 3N9
Facsimile 403-261-4622

Canadian Energy Pipeline Association
Ms. Ranjana Martin
Director Regulatory & Financial
1860, 205 - 5 Avenue S.W.
Calgary, AB T2P 2V7
Facsimile 403-221-8760

Canadian Gas Association
Mr. Bryan Gormley
Director Policy and Economics
809, 350 - Sparks Street
Ottawa, ON K1R 7S8
Facsimile 613-748-9078

ExxonMobil Canada Ltd.
237 - 4 Ave SW
PO Box 2480 Stn M
Calgary AB T2P 3M9
Tel: (403) 237-3552
Fax: (403) 232-5870

Dee A Brandes
Manager
Canada Gas Power & NGL Marketing

ExxonMobil

June 01, 2010

Anne-Marie Erickson
Secretary of the Board
National Energy Board
444 Seventh Avenue SW
Calgary, Alberta T2P 0X8

Re: Amendment to National Energy Board Cost Recovery Regulations

Dear Madam:

ExxonMobil Canada and Encana Corporation submit the attached Joint Application for an amendment to the National Energy Board Cost Recovery Regulations.

Yours very truly,



R. R. (Ron) Moore
ExxonMobil Canada
Tel: (403) 237-4478



Rinde K. Powell
Encana Corporation

IN THE MATTER OF the *National Energy Board Act*, R.S.C. 1985, c. N-7, as amended, and the Regulations made thereunder; and

IN THE MATTER OF the National Energy Board Cost Recovery Regulations, S.C. 1990, c. 7, s. 13 (the "Regulations"); and

IN THE MATTER OF an application by ExxonMobil Canada and Encana Corporation for an amendment to the Regulations.

To: Secretary of the Board
National Energy Board
Calgary, Alberta

Joint Application of ExxonMobil Canada and Encana Corporation

ExxonMobil Canada ("EMC") and Encana Corporation ("Encana"), (collectively, the "Applicants") hereby apply to the National Energy Board (the "NEB" or "Board") for:

1. An amendment to the Regulations, specifically,
 - (a) Section 2, INTERPRETATION, for the definition of "intermediate gas pipeline company", change the amount "\$10,000,000" to "\$60,000,000"; and
 - (b) Section 2, INTERPRETATION, for the definition of "large gas pipeline company", change the amount "\$10,000,000" to "\$60,000,000".

The effect of this amendment will define a "large gas pipeline company" as one whose annual cost of service is \$60,000,000 or more.

In support of this Application, the Applicants submit the following:

1. The Regulations reflect the recommendations from the "National Energy Board Cost Recovery - Feasibility Study" of February 1988 (the "Study"). The recommendation of the study was to recover 90% of the NEB costs from regulated Group 1 Pipeline Companies and 10% from Exporters of electric power. At that time, the lowest Revenue Requirement for all the Group 1 crude oil and natural gas pipelines was \$25M ¹.

¹ National Energy Board, *National Energy Board Cost Recovery - Feasibility Study, February 1988*, Table III, page 3.6

2. The Regulations define a "large gas pipeline company" as one whose annual cost of service is \$10,000,000 or more. In 1990, when the Regulations came into force, this threshold definition included all Group 1 pipelines which became categorized as "large pipeline companies" in the Regulations². The "*Anticipated Impact*" in the Regulatory Impact Analysis Statement for these Regulations states: "It is expected that the cost of the Board's operation, some \$26.5 million per year, would be passed on by the regulated industries."³

3. In its current form, the Applicants respectfully submit, the threshold definition in the Regulations now includes facilities that are not aligned with the original intent, nor can be reasonably included relative to their respective regulatory oversight, for cost recovery as a "large gas pipeline company". The current threshold now includes upstream production facilities that are quite different in scope and nature from a "large", or otherwise designated Group 1 pipeline company. This occurs for two main reasons: the threshold was set over 20 years ago; and the capital size of major offshore, or upstream, gas production facilities.

4. EMC is an owner and operator of the Sable Offshore Energy Project ("SOEP"). SOEP is an upstream petroleum entity involved in drilling, gathering, production and processing of natural gas for delivery to a downstream transmission pipeline (Maritimes & Northeast). The SOEP facilities certificated by the NEB (GC-94) include a 26 inch subsea gathering pipeline that connects the offshore platform with the gas plant, and the Goldboro gas plant. These facilities are owned and operated as a joint venture with four other producer interests (Shell, Pengrowth, Imperial Oil, and Mosbacher). The initial investment and ongoing costs are for the account of each of the joint venture parties at their own individual risk relative to their respective working interest ownership in SOEP.

5. Encana is the owner and operator of the Deep Panuke Project ("DPP") which is an upstream petroleum entity involved in the drilling, gathering, production and processing of natural gas. The Deep Panuke Pipeline ("DPPL") which is certificated by GC-111 will consist of a NPS 22 subsea pipeline approximately 176 km in length extending from the Deep Panuke offshore production field centre and interconnecting with the Maritimes and Northeast Pipeline in Goldboro, Nova Scotia. The DPP is a proprietary upstream entity, which when completed, will be the sole user of the DPPL pipeline. The initial investment and ongoing costs are for the sole account and risk of Encana.

6. In addition to the DPPL, Encana also owns and operates four NEB regulated pipelines in British Columbia and Alberta: the Tupper-Hythe, Mid Tupper, Tupper South and Tupper South Pipeline Loop. These are similarly, proprietary upstream entities, with investment and ongoing costs at the sole risk of Encana.

7. As upstream petroleum entities, whether by joint venture or proprietary investments (no third party interests), there is no regulatory requirement for tolls or tariffs for these facilities. The investment and risk in these entities is for the sole account of the

² *Canada Gazette Part I, September 15, 1990*, page 3403, Schedule II, Part I lists large gas pipeline companies as Alberta Natural Gas Ltd., Foothills Pipe Lines Ltd., TransCanada PipeLines Limited, Trans Quebec & Maritimes Pipeline Inc., and Westcoast Energy Inc.

³ *Canada Gazette Part I, September 15, 1990*, page 3391.

owners. Even if there were third party shippers, the financial oversight would be minimal in comparison to the financially regulated "large gas pipeline" companies that have much broader third party interests.

8. Further, through the Memorandum of Understanding between the NEB and the Canada-Nova Scotia Offshore Petroleum Board ("CNSOPB"), dated November 4 2008 ("MOU"), the CNSOPB has the lead role in monitoring regulatory compliance of offshore pipelines that are under the jurisdiction of both the NEB and the CNSOPB in accordance with the terms of the MOU. The stated purpose of the MOU is to cooperate and collaborate on elements of their respective mandates to provide greater efficiency and effectiveness in the delivery of regulatory programs. Under the Cost Recovery Guidelines of the CNSOPB, SOEP and DPP contribute a significant portion to the annual revenues of the CNSOPB.

9. Attachment I summarizes the revenue requirements for the "large gas pipeline" companies as reflected in the Study and listed in the *Canada Gazette I, September 15, 2010*⁴, as well as the 2008 - 2010 period. In reviewing the revenue requirements at the time of the Study, one could reasonably conclude the current \$10M threshold for a "large gas pipeline company" was selected to effect recovery of costs from the then "large" or otherwise designated as the Group 1 gas pipeline companies.

10. Currently, the companies classified as "large gas pipeline companies" pursuant to the Regulations, are essentially the same companies as in the initial Study plus the addition of three new "large gas pipeline" companies: Alliance, Maritimes & Northeast and TransCanada Alberta System (NGTL). It is no surprise these three new gas pipeline companies are also designated as Group 1 pipelines as they are similar in scope and nature to the initial "large gas pipeline" companies; they transport gas for a multiplicity of third party shippers; have published tolls and tariffs; and attract a reasonable degree of financial regulatory oversight.

11. There are two other new companies, however, currently categorized as "large gas pipeline" companies that are distinctly different in scope and nature from the others in this category: AltaGas Holdings (AltaGas PL LP) and ExxonMobil Canada (the Sable Joint Venture).

12. As noted above, upstream entities such as SOEP and DPP are distinct in scope and nature from the other "large gas pipeline" companies: they are proprietary or joint venture upstream entities; single shipper; no tolls or tariffs; investment and risk is for the sole account of the owners.

13. In order to address the differences noted above for SOEP and DPP, the Applicants submit the current threshold level for a "large gas pipeline company" of \$10,000,000 should be increased to a threshold level of \$60,000,000. This new threshold level would result in a cost recovery for a "large gas pipeline company" that is more commensurate with the regulatory oversight of upstream petroleum entities without compromise to the original intent of the Regulations.

14. The Applicants recognize this threshold would also exclude AltaGas Holdings, however, such is not inconsistent or unreasonable. The Applicants

⁴ *Canada Gazette Part I, September 15, 1990, page 3391.*

note AltaGas Holdings⁵ include the Suffield system (few shippers), Kahntah transmission (single confidential shipper) and various small field gathering systems. While there may be a toll and tariff component for some of these facilities, they affect a limited number of potential third party users.⁶ As such, it is not unreasonable to consider AltaGas Holdings as essentially upstream in scope and nature with minimal financial regulatory oversight relative to the others in this category.

15. The circumstances of this Application may raise questions as to whether it is timely to consider a comprehensive reassessment of the cost allocation principles for oil and gas pipelines under the Regulations. While such a conclusion may be reasonable, the Applicants encourage the NEB to proceed with this specific, single numerical amendment for gas pipelines on a stand-alone basis, on its own merits and in as timely a manner as possible. This would address, in the opinion of the Applicants, the unintended consequence of the current threshold without impacting the initial intent of the Regulations. A full government and industry reassessment, using the recent power related amendments as an example, could well exceed 5 years and continue the unintended result relative to regulatory oversight for an extended period of time. At some future point in time, the Applicants would be pleased to participate in a broader assessment of the Regulations should the Board consider undertaking such an initiative.

16. EMC reviewed this proposed amendment and rationale with the NEB Cost Recovery Committee on December 4, 2009. The proposal was not considered unreasonable by any of the members present at that meeting.

17. In conclusion, the Applicants respectfully submit increasing the threshold limit for a "large gas pipeline company" in the Regulations from the current \$10,000,000 to \$60,000,000 will result in a cost recovery for NEB regulated gas pipelines that is more commensurate with the regulatory oversight of upstream petroleum entities, whether they are major offshore facilities or smaller onshore, without compromise to the initial intent of the Regulations. As such, it is submitted this amendment is in the public interest with no significant adverse impacts for the other large gas pipeline companies.

Wherefore the Applicants hereby apply to the Board for:

1. An amendment to the Regulations, specifically,
 - (a) Section 2, INTERPRETATION, for the definition of "intermediate gas pipeline company", change the amount "\$10,000,000" to "\$60,000,000"; and
 - (b) Section 2, INTERPRETATION, for the definition of "large gas pipeline company", change the amount "\$10,000,000" to "\$60,000,000".

⁵ Notes to the Financial Statements, AltaGas Financial Statement, December 31, 2009; and NEB letters to AltaGas Holdings Inc.

⁶ NEB letter of 9 November 2009 to AltaGas Holdings Inc.

All of which is respectfully submitted this 1st day of June, 2010.

ExxonMobil Canada

Encana Corporation



R. R. Moore
Manager, Regulatory Affairs



Rinde K. Powell
Director, Regulatory Services

All notice and communications relative to this application should be directed to:

R. R. (Ron) Moore
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Gas, Power & NGL Marketing
ExxonMobil Canada
237 Fourth Avenue, S. W.
Calgary, Alberta T2P 0H6

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Fax: (403) 232-5867
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And to:

Rinde K. Powell
Director, Regulatory Services
Encana Corporation
1800 855 2nd Street S.W.
Calgary, Alberta T2P 2S5

Phone: (403) 645-6688
Fax: (403) 645-3938
rinde.powell@encana.com

Attachment I

Revenue Requirement for "Large Gas Pipeline Companies"

Large Gas Pipeline Companies (M\$)	1988 Revenue Requirement ¹	2008 - 2010 Revenue Requirement	Tolls & Tarriffs
TransCanada - Mainline	\$1,220	\$1.816 ²	Yes
TransCanada - BC (ANG)	\$25	NA	Yes
Trans-Quebec & Maritimes	\$77	\$92 ³	Yes
Foothills	\$182	\$203 ⁴	Yes
Westcoast	\$258	\$290 ⁵	Yes
Alliance	-	\$423 ⁶	Yes
Maritimes & Northeast	-	\$140 ⁷	Yes
TransCanada - NGTL	-	\$1,206 ⁸	Yes
AltaGas Holdings (AltaGas PL LP)	-	\$25 ⁹	Yes
ExxonMobil Canada (Sable Joint Venture)	-	\$42 ¹⁰	No
Conclusion: A revised threshold of \$60M to define a "large gas pipeline company" will result in NEB cost allocation to "large" pipelines and resolve the unintended cost allocation to upstream gas facilities.			

Notes:

¹ National Energy Board Cost Recovery - Feasibility Study, February 1988, Table III, page 3.6

² 2010 Revenue Requirement, Final TransCanada Mainline Tolls Application

³ 2010 Revenue Requirement, TQ&M Interim Tolls Application

⁴ 2010 Revenue Requirement, Foothills Interim Tolls Application

⁵ Revenue, Westcoast Annual Surveillance Report, December 31, 2009

⁶ 2008 Alliance Revenue Requirement

⁷ 2010 Revenue Requirement, M&NP Final Tolls Application

⁸ 2010 Revenue Requirement, TransCanada NGTL Interim Tolls Application

⁹ AltaGas Financial Statement, December 31, 2009

¹⁰ Financial Statement, Sable Joint Venture, December 31, 2008 (ExxonMobil Canada Properties)