CANADA

National Energy Board

Reasons for Decision

Westcoast Transmission Company Limited

RH-1-87

April 1987

Application Dated 12 February 1987 with Respect to the Export Interruptible Sales Toll

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In the Matter of

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Abbreviations

APMC	Alberta Petroleum Marketing Commission
B.C. Hydro	British Columbia Hydro and Power Authority
BCPC	British Columbia Petroleum Corporation
CPA	Canadian Petroleum Association
EIST	Export Interruptible Sales Toll
FERC	U.S. Federal Energy Regulatory Commission
Inland	Inland Natural Gas Co. Ltd.
IPAC	Independent Petroleum Association of Canada
MMcfd	Million cubic feet per day
NEB or the Board	National Energy Board
Northwest Pipeline	Northwest Pipeline Corporation
Poco	Poco Petroleums Ltd.
Province	Province of British Columbia
Westcoast or the Company	Westcoast Transmission Company Limited

Definitions

Commodity Charge	A charge payable by a gas purchaser in a gas sales contract for each unit of gas purchased. The unit charge generally covers the commodity component of the applicable toll and the cost of gas, and may include a portion of the fixed costs of the pipeline.
Commodity Component of the Toll	That part of the toll charged in respect of each unit of gas shipped.
Contract Demand Toll/ Daily Demand Toll	The demand component of the toll charged to firm sales/service stomers.
Contract Demand Volume	The maximum daily demand quantity as specified in a firm sales/service contract.
Demand Charge	The fixed or monthly obligation of a gas purchaser in a sales contract. A demand charge may cover some or all of a pipeline's fixed costs and is payable regardless of volumes actually taken.
Demand Component of the Toll	That part of the toll charged monthly and payable regardless of the volume actually shipped, and designed to recover all or a portion of the fixed costs of a pipeline.
System Gas Suppliers	BCPC in British Columbia, Amoco Canada Petroleum Company (Amoco) in the Northwest Territories, Pan-Alberta Gas Ltd. and other individual producers in Alberta.

Recital and Appearances

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

IN THE MATTER OF an Application dated 12 February 1987 by Westcoast Transmission Company Limited with respect to its Export Interruptible Sales Toll; and

IN THE MATTER OF the National Energy Board Directions on Procedure Hearing Order No.RH-1-87 made under file No. 1562-W5-10.

HEARD in Vancouver, British Columbia on 10, 11, 12 and 13 March 1987

BEFORE:

R. Priddle	Presiding Member
R.F. Brooks	Member
A.B. Gilmour	Member

APPEARANCES:

J. Lutes	Westcoast Transmission Company Limited
J.B. Ballem, Q.C.	Canadian Petroleum Association
A.S. Hollingworth	Independent Petroleum Association of Canada Authority
L.F. Hindle M.F. Shoemaker	British Columbia Hydro and Power
J. Lutes	Foothills Pipe Lines (Yukon) Ltd.
D.M. Masuhara	Inland Natural Gas Co. Ltd.
D.K Watkiss C.R. Rich	Northwest Pipeline Corporation
P. McIntyre K.S. Strickland	Poco Petroleums Ltd.
D.A. Dawson	Pan-Alberta Gas Ltd.
M.A Brown	TransCanada PipeLines Limited
D.C. Edie	Alberta Petroleum Marketing Commission
J.M. Pelrine	British Columbia Petroleum Corporation
P.G. Jarman	Ministry of Energy, Mines and Petroleum Resources of the Province of British Columbia

L. Keough D. Bursey	National Energy Board

Chapter 1
Introduction

1.1 Background

During the 1986 toll proceeding (RH-6-85), Westcoast indicated that it had entered into a contract to sell system gas on an interruptible basis to Northwest Natural Gas Company in the United States. The Company stated that, although the sale contributed to its export revenue, there was no identifiable toll charged with respect to these volumes.

In its August 1986 Decision, the Board decided that system gas shipped into the export market on an interruptible basis should bear an export interruptible toll in the same manner as other interruptible gas shipped under a service agreement. Westcoast was directed to file such a toll as part of its final tariff and to include any revenues from the application of this toll in a deferral account for final disposition at the next toll proceeding. In its final tariff, effective 1 November 1986, Westcoast included an Export Interruptible Sales Toll (EIST) of $23.550 per thousand cubic metres.

As part of its application for review dated 24 October 1986 pursuant to subsection 17(l) of the NEB Act, Westcoast requested that the EIST be deleted. The Board, after considering the views of Westcoast and interested parties, denied this element of Westcoast's application.

1.2 The Application

By an application dated 12 February 1987, as amended, Westcoast requested the Board to issue:

(i) a final order pursuant to Section 54 of the NEB Act suspending the Export Interruptible Sales Toll for the period commencing 1 January 1987 and ending on a date to be specified in the Board's Decision with respect to Westcoast's 1987 toll application or, alternatively, a final order rescinding such toll; or

(ii) a final order pursuant to Section 50 of the Act approving Westcoast's application to distribute, in the month received, all revenue from the Export Interruptible Sales Toll to its system suppliers.

In support of its application, Westcoast cited changed circumstances in the U.S. Pacific northwest market served by Northwest Pipeline. For the period 4 February 1987 to 1 May 1987, Northwest Pipeline had obtained a waiver of certain sections of FERC Order 436 which permitted Northwest Pipeline's customers to obtain up to ten percent of their annual requirements from sources other than Northwest Pipeline. As a result of this development, the sales of system gas into the export market, on an interruptible basis, increased dramatically.

Based on the temporary open access of Northwest Pipeline, Westcoast forecast that EIST revenues in 1987 would amount to $26.5 million, as Northwest's customers appeared likely to take their entire ten percent entitlement during the three month window of February through April. For the same reason, Westcoast expected interruptible sales of non-system gas to increase. Westcoast indicated that, during this same period, firm sales of system gas to Northwest Pipeline had fallen to 10-15 MMcfd.

Westcoast, BCPC and the Province requested an early decision to remove the uncertainty of whether the toll should be suspended or eliminated and how the revenue collected from the toll should be distributed. In response, the Board decided that a public hearing should be held in Vancouver, B.C., starting on 10 March 1987. The hearing lasted four days.

Chapter 2
Positions of the Parties

Westcoast's position was that the EIST should be eliminated since it requires system suppliers, who already bear the burden of the toll for firm export sales, to bear the additional burden of the EIST for interruptible export sales made by Westcoast on their behalf.

Westcoast explained that, in the domestic market, the tolls for the gas which it sells to the Canadian distributors are paid by those customers in accordance with tolls fixed by the Board. In the export market, Westcoast took the position that the tolls for the gas which is sold to Northwest Pipeline are effectively paid by the system gas suppliers. These suppliers, in their respective contracts, have agreed to a netback pricing mechanism whereby Westcoast, in calculating its gas purchase price, withholds from the sales proceeds of such gas an amount to cover the tolls approved by the Board. Therefore, Westcoast argued that system suppliers should be able to make interruptible export sales without payment of a further toll such as the EIST, so long as the daily contract demand volume of Northwest Pipeline was not exceeded.

In cross-examination, Westcoast agreed that the Northwest Pipeline annual demand charge of U.S. $72 million made a contribution towards Westcoast's fixed costs allocated to the export market, but was of the view that this did not give Northwest Pipeline any entitlement to pipeline capacity. Westcoast, in support of its position, cited what it regarded as significant differences between its contracts with domestic distributors and that with Northwest Pipeline.

In addition, Westcoast argued that the EIST put Westcoast's system suppliers at a competitive disadvantage vis-à-vis other firm service customers. Other firm customers could utilize their firm service agreements to ship to interruptible end-users without the payment of an additional toll. During cross-examination, Westcoast stated that it was not disputing the right of a firm service customer to take gas up to its contract demand regardless of its end use. However, it suggested that the imposition of the EIST prevented system suppliers from making similar sales without incurring an additional toll.

Westcoast believed that, in the event that the Board did not suspend or rescind the EIST, the revenues from the toll should be distributed to its system suppliers in the month received. Westcoast agreed that the practical effect of this proposal would be to make it pointless to charge the EIST in the first place.

Westcoast's basic position was supported by BCPC and the Province with some modification. The Province felt that the EIST should be applicable only if Westcoast were to make interruptible sales of non-system gas, or if daily system gas sales exceeded the contract demand volume of Northwest Pipeline. While supporting the proposal to distribute the revenues to system suppliers, both BCPC and the Province suggested that, to the extent actual volumes of system gas delivered to the export market on a monthly basis exceeded the contract demand volumes, the EIST charged on the excess volumes should be placed in a separate deferral account to be credited to the following year's overall system cost of service.

As a matter of principle, CPA favoured the continuation of the EIST. However, it supported Westcoast's proposal to distribute the EIST revenues to system suppliers. According to CPA, existence of the EIST ensured that a toll was levied whenever a service was provided. It also suggested that the competitive position of one vendor versus another should not be affected by tolling matters. CPA was of the view that, regardless of the volumes shipped to Northwest Pipeline, there would always be an under-recovery or "shortfall" of the fixed costs allocated to the export market. It estimated the shortfall to be in the order of $54 million per year.

Pan-Alberta supported elimination of the EIST, arguing that system suppliers should have the same opportunity as other firm customers to utilize unused firm capacity without payment of an additional interruptible toll. With respect to the disposition of the EIST revenues, Pan-Alberta adopted the position of CPA and Westcoast that these revenues should be distributed to system suppliers.

IPAC argued that it was Northwest Pipeline, not Westcoast, which was entitled to take delivery of up to 809 MMcfd without payment of an additional toll. Since the sale was not to Northwest Pipeline, Westcoast should be required to pay a toll for sales it made using the export sales capacity, as would anyone else using that capacity.

IPAC thought that all suppliers of gas to the export market, both system suppliers and non-system suppliers, should receive the benefit of the EIST revenues. Accordingly, it proposed that the revenues be credited only to the cost of service allocated to the export market. IPAC agreed that its proposal implied a segregation of the Westcoast system into an export component and a domestic component. Because of these implications for the overall toll design of the Westcoast system, IPAC recommended that the decision on the disposition of the EIST revenues be delayed until Phase 1 of the forthcoming Westcoast toll proceeding where these issues could be addressed more fully.

Northwest Pipeline opposed the Westcoast application on the grounds that it, rather than the system suppliers, was bearing the cost of service allocated to the export market. In the absence of an EIST, Westcoast would be able to transport gas on behalf of system suppliers through the "valley" created by Northwest’s low load factor at essentially no cost, because the cost was already being borne by Northwest Pipeline. The effect of suspending the EIST would be to give Westcoast and its system suppliers a competitive advantage over all other shippers and over Northwest Pipeline’s U.S. suppliers in selling gas into the Pacific northwest market area.

Northwest Pipeline viewed the annual demand charge of U.S. $72 million as giving it a right to capacity on the Westcoast system. It argued that this amount equated to approximately 70 percent of the fixed costs allocated to the export market, leaving the balance to be recovered in the commodity charge. Accordingly, when others used this capacity to make interruptible sales, Northwest Pipeline was entitled to a credit.

Northwest Pipeline proposed that revenues collected from the EIST should be credited against the monthly bills of Westcoast’s firm export customers in proportion to their share of the fixed costs allocated to the export market.

B.C. Hydro also supported retention of the EIST in that this was consistent with treating tolls for export and domestic markets on an equal basis. B.C. Hydro was of the view that changes in the export market had no relevance to the Board’s jurisdiction over Westcoast’s tolls and that the arguments for and against the EIST related more to a fight for market share in the export market.

With regard to the disposition of the 1987 EIST revenues, B.C. Hydro believed that the demand component of the revenues should be distributed monthly to all Westcoast tollpayers on the basis of their allocated fixed costs. B.C. Hydro acknowledged that if its proposal were adopted, the same treatment should be accorded other interruptible sales and service revenues.

Inland opposed imposition of the EIST. However, if the toll were retained, Inland proposed that the revenues be credited to the 1987 cost of service to provide similar and consistent treatment for all interruptible revenues.

Poco opposed elimination of the EIST arguing that system suppliers were at risk for only 30 percent of the fixed costs allocated to the export market (i.e. that portion not included in Northwest Pipeline's demand charge). Therefore they should not be able to use, free of charge, the valley created by Northwest Pipeline's underutilization of its full contract demand volumes. Poco suggested that there were fundamental differences between the contractual obligations of system suppliers and firm service customers such as itself. It also indicated that it would not be averse to the elimination of the EIST if the system suppliers in fact paid 100 percent of the fixed costs associated with the capacity they sought to use. Regarding disposition of the EIST revenues, Poco adopted the position of IPAC that these revenues be credited to the export cost of service.

APMC opposed Westcoast's application for the elimination of the EIST. It suggested that imposition of the toll was a necessary intermediate step in the evolution toward full segregation of Westcoast's sales and transmission functions. APMC supported IPAC's proposal that the EIST revenue be credited to the export cost of service.

Chapter 3
Decision and Reasons

3.1 The Export Interruptible Sales Toll

In reaching its decision on the suspension or the retention of the EIST and the disposition of the forecast revenues from this toll, the Board was guided by the provisions of Part IV of the NEB Act and by the following general considerations applicable to the present case:

- Tolls should be cost-based and all customers should pay their fair share of the pipeline's costs.

- Service and sales customers in both the domestic and export markets should be treated equally.

- Toll design should be independent of gas pricing regimes and those elements of private contractual arrangements which are beyond the scope of Part IV of the NEB Act.

- Under Westcoast's existing toll design, the fixed costs of the whole system are allocated among Westcoast's firm customers on the basis of the contract demand volumes contained in their respective agreements with Westcoast.

- Forecast revenues from interruptible sales and service, other than the EIST, are currently credited to the overall test-year cost of service before firm tolls are struck.

After reviewing the evidence and considering the views expressed by parties, the Board continues to find that the EIST is a just and reasonable toll. The Board is not persuaded by the argument of Westcoast that the system suppliers are effectively paying a toll twice and that therefore the EIST should not be charged.

The Board recognizes that, under a netback pricing regime, a change in tolls affects the profitability of a gas sale. However, the private contracts between Westcoast and its system suppliers, whereby Westcoast will be compensated in the event that proceeds from gas sales are insufficient to cover its cost of service, are not relevant factors in the Board's determination of just and reasonable tolls.

Neither is the Board persuaded by Westcoast's argument that the imposition of the EIST gives a competitive advantage to non-system shippers. Rather, the Board finds that this toll is necessary to place all persons shipping gas to the export market on an interruptible basis on an equal footing.

Again, the Board wishes to reinforce the distinction between Westcoast, the marketer, and Westcoast, the transporter. If Westcoast is to have the same flexibility as firm sales or service customers, Westcoast, the marketer, would have to enter into a transportation agreement with Westcoast, the transporter. It would then assume responsibility for a portion of the pipeline's fixed costs. In these circumstances, Westcoast would become just another shipper, albeit of system gas, and accordingly, should pay a toll for export sales that it makes using the system capacity.

The Board has decided that the EIST should be retained. Westcoast's application to have the toll suspended or rescinded is denied.

3.2 The Disposition of EIST Revenues

The Board has considered the various proposals of parties regarding the disposition of the EIST revenues. With respect to Westcoast's proposal to distribute the EIST revenues directly to system suppliers, the Board does not find such disposition appropriate as this would have the effect of nullifying a toll which the Board has again found to be just and reasonable.

With respect to the IPAC proposal to credit the EIST revenues to the export cost of service, the Board agrees with the Applicant that Westcoast is a single integrated system. The Board is not persuaded that the system should be separated into an export component and a domestic component.

Regarding the arguments of Northwest Pipeline, the Board finds that there was very little disagreement among the various parties that the U.S. $72 million demand charge contained in the Westcoast-Northwest Pipeline agreement is intended to be a contribution to Westcoast's fixed costs. CPA continuously referred to the "shortfall" aspect of the Westcoast-Northwest Pipeline contract and the system suppliers' liability for this shortfall. The evidence also indicates that the commodity charge of gas sold to Northwest Pipeline is calculated based upon a negotiated formula and is an amount paid in addition to the demand charge. However, there was disagreement as to the degree to which this commodity charge was intended to contribute to Westcoast's fixed costs. Northwest Pipeline appeared willing to concede that it may currently be paying only 70 percent of the fixed costs allocated to the export market. It argued that it was therefore entitled to 70 percent of the EIST revenues.

The Board finds that a direct credit to firm customers of revenues derived from interruptible gas sales made by third parties into those firm customers' service areas, as proposed by Northwest, is not consistent with the existing toll design for the Westcoast system. Rather, the Board is of the view that the EIST revenues should be credited to Westcoast's overall cost of service.

This will have the effect of reducing the 1987 tolls to be paid by the firm customers. In this way, the revenues from the EIST are treated in a manner consistent with revenues from the other interruptible tolls.

The Board recognizes that its decision to credit the EIST revenues to the overall cost of service will have different impacts on the parties affected. However, these consequences are not the result of the Board setting just and reasonable tolls, but rather are attributable to existing gas pricing regimes and private contractual arrangements which are outside the toll-setting process.

As set out in Board Order TG-2-87 dated 16 March 1987, Westcoast was directed to recalculate its interim tolls, effective 1 April 1987, to reflect a credit to its total cost of service of its 1987 forecast revenues of approximately $26.5 million expected from the EIST, as well as the actual EIST revenues earned during 1986.

As a result of evidence adduced at the hearing, it was learned that the revenues from the Export Interruptible Service Toll were expected to increase significantly. Westcoast was directed to similarly credit its cost of service with its forecast of revenues derived from this toll based upon open access on Northwest Pipeline for the period 4 February to 1 May 1987.

In its recalculation of tolls, Westcoast was also required to allocate fixed costs to any firm service shipper, such as Poco, on the basis of the contract demand volumes in its firm service contract.

Chapter 4
Disposition

The foregoing chapters together with Order No. TG-2-87, constitute our Reasons for Decision and our Decision on this matter.

R. Priddle
Presiding Member

R.F. Brooks
Member

A.B. Gilmour
Member

Appendix 1
Order No. TG-2-87

IN THE MATTER OF the *National Energy Board (NEB) Act* and the Regulations made thereunder; and

IN THE MATTER OF an application by Westcoast Transmission Company Limited (Westcoast) dated 12 February 1987 for certain orders pursuant to Sections 50 and 54 of the NEB Act with respect to the Export Interruptible Sales Toll (EIST), filed with the Board under File No. 1562-W5-10.

BEFORE:

R Priddle	Presiding Member
R.F. Brooks	Member
A.B. Gilmour	Member

On Monday, the 16th day of March 1987.

WHEREAS by an application dated 12 February 1987, as amended, Westcoast applied to the Board for

(i) a final Order pursuant to Section 54 of the NEB Act suspending the EIST for the period commencing 1 January 1987 and ending on a date to be specified in the Board's Decision with respect to Westcoast's 1987 toll application or rescinding such toll; or

(ii) for a final Order pursuant to Section 50 of the NEB Act approving Westcoast's application to distribute in the month received all revenue from the EIST to its system suppliers;

AND WHEREAS the Board has heard evidence and submissions of Westcoast and all interested parties with respect to the application at a public hearing held pursuant to Order No. RH-1-87, which commenced in Vancouver on 10 March 1987;

AND WHEREAS the Board's decisions on the application are set out in this Order and in its Reasons for Decision to follow;

IT IS ORDERED THAT:

1. Westcoast's application for a suspension or termination of the EIST is denied;

2. Westcoast's alternate application to distribute all revenue from the EIST to its system suppliers is denied;

3. Westcoast is to recalculate its interim tolls, effective 1 April 1987, to reflect:

   (a) a credit to its total cost of service of the following:

      (i) its forecast of revenues for 1987 of $26,482,219 derived from the Export Interruptible Sales Toll;

(ii) its forecast of revenues for 1987, derived from the Export Interruptible Service Toll, based upon open access on Northwest Pipeline for the period 4 February to 1 May 1987; and

(iii) revenues derived from the Export Interruptible Sales Toll in 1986; and

(b) an allocation of fixed costs to any firm service shipper in proportion to the ratio of that shipper's contract demand volume to the total of all firm customers contract demand volumes.

NATIONAL ENERGY BOARD

J.S. Klenavic
Secretary