



File 4200-T001-19  
7 June 2004

To: Parties to Hearing Order RH-2-2004

**TransCanada PipeLines Limited (TransCanada)  
2004 Tolls and Tariff Application (2004 Tolls Application)  
Order AO-1-RH-2-2004 – Procedure for Phase II (Cost of Capital)**

On 23 March 2004, the Board issued Hearing Order RH-2-2004 regarding TransCanada's 2004 Tolls Application. The Hearing Order stated that the Board would not initiate further procedural steps in relation to Phase II (Cost of Capital) of the Hearing until after the release of the Federal Court of Appeal's decision regarding the TransCanada appeal of the Board's RH-R-1-2002 Decision. On 16 April 2004, the Court issued its reasons for judgment denying TransCanada's appeal.

On 12 May 2004, TransCanada advised the Board that, in light of the Court decision, it will not seek variance from the RH-2-94 ROE Formula for 2004. TransCanada also indicated that it maintains its 2004 Tolls Application position concerning its applied-for capital structure, and it will therefore be seeking approval of the ROE Formula return (9.56 percent) on 40 percent deemed equity for 2004. TransCanada filed related changes to its 2004 Tolls Application on 28 May 2004.

Order AO-1-RH-2-2004, amending Hearing Order RH-2-2004 and setting out the procedure to be followed in Phase II of this hearing is attached. The Phase II hearing will begin at **9:00 a.m., local time, on 25 October 2004**, in the Board's hearing room, located on the second floor at 444 – 7<sup>th</sup> Avenue SW, Calgary, Alberta. Please note that as a result of TransCanada's decision not to seek variance from the RH-2-94 ROE Formula for 2004, the Board has removed "the appropriate rate of return on common equity (ROE) for the Mainline" from the Phase II List of Issues.

Yours truly,

A handwritten signature in black ink, appearing to read "Mantha".

Michel L. Mantha  
Secretary

Attachment

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File 4200-T001-19  
7 June 2004

**ORDER AO-1-RH-2-2004  
(Amending Hearing Order RH-2-2004)  
for the  
TransCanada PipeLines Limited (TransCanada)  
2004 MainlineTolls and Tariff Application (2004 Tolls Application)**

The Board is hereby announcing the Timetable of Events for Phase II of the RH-2-2004 Proceeding. Accordingly, the National Energy Board's Hearing Order RH-2-2004 is amended by the modifications to certain paragraphs appearing under the heading "Hearing", by the addition of paragraphs 27 to 33, and by modifications to paragraphs 7, 17, and to Appendices I and II of the RH-2-2004 Hearing Order for the purpose of Phase II only.

**Hearing**

The Board decided to conduct a two-phase oral public hearing to obtain the evidence and views of interested parties on the application. Phase I will consider all issues raised by the 2004 Tolls Application, with the exception of Cost of Capital. Phase II will consider Cost of Capital.

The Phase II hearing will begin at **9:00 am, local time, on 25 October 2004**, in the Board's hearing room, located on the second floor at 444 – 7<sup>th</sup> Avenue SW, Calgary, Alberta.

To facilitate public participation and in the interests of fairness and efficiency, the Board has established the following procedures and directs as follows. Please note that steps 27 to 33 pertain exclusively to Phase II of the RH-2-2004 Proceeding.

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## **Procedure for Phase II**

### **List of Issues**

7. The Board intends to examine the issues contained in the List of Issues, amended for Phase II, attached as Appendix I.

### **Timetable of Events**

17. Appendix II, amended for Phase II, lists the deadlines for filing and serving documents and the party responsible.

### **Letters of Comment (Phase II)**

27. Any interested person who does not wish to register as an intervenor and become a party in the Proceeding (see paragraph 5 of the RH-2-2004 Hearing Order), but who still wishes to comment on the application, may file a letter of comment (see paragraph 4 of the RH-2-2004 Hearing Order for further details on letters of comments). Letters of comment pertaining to Phase II of the RH-2-2004 Proceeding shall be filed with the Board and served on TransCanada and its counsel by **9 September 2004**.

### **Information Requests to TransCanada (Phase II)**

28. If intervenors have any information requests for TransCanada pertaining to Phase II of the RH-2-2004 Proceeding, they must serve them on TransCanada and its counsel, file a copy with the Board and serve a copy on all parties by **14 July 2004**.
29. TransCanada must file its responses to the information requests received by the deadline set out in paragraph 28 with the Board and serve a copy on all parties by **4 August 2004**.

### **Written Evidence of Intervenors (Phase II)**

30. Intervenors wishing to give evidence pertaining to Phase II of the RH-2-2004 Proceeding must file their written evidence with the Board and serve a copy on all parties by **9 September 2004**.

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**Information Requests to Intervenors on their Evidence (Phase II)**

31. If any party has any information requests about the evidence of intervenors pertaining to Phase II of the RH-2-2004 Proceeding, they must serve them on the intervenor, file a copy with the Board and serve a copy on all parties by **22 September 2004**.
32. Intervenors must file a copy of all responses to the information requests received by the deadline set out in paragraph 31 with the Board and serve a copy on all parties by **5 October 2004**.

**Reply Evidence of TransCanada (Phase II)**

33. Any reply evidence that TransCanada wishes to present pertaining to Phase II of the RH-2-2004 Proceeding shall be filed with the Board and served on all parties by **14 October 2004**.

NATIONAL ENERGY BOARD



Michel L. Mantha  
Secretary

## **List of Issues**

### **Phase II (Cost of Capital)**

The Board has identified, but does not limit itself to, the following issues for discussion in Phase II of this Proceeding:

1. The appropriate Capital Structure for the Mainline;
2. The appropriate cost of debt for the mainline, including any financial impact resulting from debt redemption; and
3. The appropriate effective date for any change to the Mainline's cost of capital.

*Note: For the Phase I List of Issues, see Appendix I to Hearing Order RH-2-2004*

**Timetable of Events (Phase II)**

<b>Action</b>	<b>Hearing Order Reference</b>	<b>Party Responsible</b>	<b>Deadline (noon, Calgary Time, unless otherwise indicated)</b>
<b>Actions Related Solely to Phase II (Cost of Capital Issues)</b>			
Information Requests to TransCanada	Paragraph 28	Board and Intervenors	14 July 2004
TransCanada's Response to Information Requests	Paragraph 29	TransCanada	4 August 2004
Written Evidence of Intervenors	Paragraph 30	Intervenors	9 September 2004
Letters of Comment	Paragraph 27	Interested persons	9 September 2004
Information Requests to Intervenors	Paragraph 31	Board and other parties	22 September 2004
Intervenors' Responses to Information Requests	Paragraph 32	Intervenors	5 October 2004
Reply Evidence of TransCanada	Paragraph 33	TransCanada	14 October 2004
Hearing Commences		Board and All Parties	25 October 2004

*Note: For the Phase I Timetable of Events, see Appendix II to Hearing Order RH-2-2004*