

**National Energy Board**

Reasons for Decision

In the Matter of

**TransCanada PipeLines Limited**

Application dated 4 July 1991, as amended,  
for Tolls

**RH-4-91**

**March 1992**

Minister of Supply and Services Canada 1992

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**Recitals and Appearances**

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

IN THE MATTER OF an application by TransCanada PipeLines Limited for certain orders respecting its tolls pursuant to Part IV of the National Energy Board Act; and

IN THE MATTER OF the National Energy Board Hearing Order RH-4-91;

HEARD at Calgary, Alberta on 18, 19, 20, and 21 February 1992.

BEFORE:

A. Côté-Verhaaf	Presiding Member
W.G. Stewart	Member
C. Bélanger	Member

APPEARANCES:

R.B. Cohen	TransCanada PipeLines Limited
P.R. Jeffrey	
G.R. Bennett	
P.L. Fournier	Canadian Petroleum Association
A.S. Hollingworth	Independent Petroleum Association of Canada
P.C.P. Thompson, Q.C.	Industrial Gas Users Association
T.G. Kane	ANR Pipeline Company
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P.J. McIntyre	
H.T. Soudek	The Consumers' Gas Company Ltd.
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D.G. Hart, Q.C.	Natural Gas Pipeline Company of America
D.G. Davies	



(ii)

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C.G. Worthy	North Canadian Oils Limited
C. Havers	NOVA Corporation of Alberta
R.B. Hillary	Paramount Resources Ltd.
K. Puls	Poco Petroleums Limited
M. Grant K.J. MacDonald	ProGas Ltd.
A.J. Wells	Suncor Inc.
G. Cameron	Union Gas Limited
M.J. Samuel G.W. Toews	Western Gas Marketing Limited
W.M. Moreland	Alberta Petroleum Marketing Commission
V.J. Black A. Stortchak	Minister of Energy for Ontario
J. Robitaille	Le Procureur général du Québec
R. Graw P. Noonan	National Energy Board

**Table of Contents**

Recitals and Appearances  
.....  
.....(i)

Abbreviations  
.....  
.....(vi)

Overview .....(vii)

1. Background and Application .....1

2. Revenue Requirement for 1992  
.....2

3. Rate Base  
and Depreciation .....3

3.1 Gross  
Plant .....3

3.1.1  
Unauthorized Capital Projects .....3

3.1.2 Transmission Plant in Service Deferral Account ...4

4. Cost of Capital .....6

4.1 Unfunded Debt ..... 6

4.2 Rate of Return on Common Equity .....7

4.3 Rate of Return on Rate Base .....8

4.4 Income Taxes .....8

4.4.1 Flow-Through Tax Calculation .....8

6. Operating Costs .....10

5.1 Operation and Maintenance .....10

5.1.1 Salaries .....10

5.1.1.2 Annual Rate of Increase ..... 10

5.1.2 Departmental and General Expenses  
.....10

5.2 Regulatory Amortizations  
.....11

5.2.1 Transmission Plant in Service  
.....11

6. Deferral Accounts

.....	12
6.1 Accounts to be Continued .....	12
6.1.1 Transmission Plant in Service .....	12
6.1.2 Other Accounts to be Continued .....	12
6.2 New Accounts .....	12
6.2.1 CCA Variances on Compressors	
.....	12
6.2.2 Test-Year Revenue Surplus .....	14
7. Interim Revenue Adjustment .....	15
7.1 1992 Revenue Surplus .....	15
7.2 Carrying Charges . . . . .	15
7.3 Allocation of Interim Revenue Adjustment .....	16
8. Toll Design .....	17
8.1 Throughput Forecast . . . . .	17
8.2 Backhaul Tolls .....	17
8.3 IS Tolls . . . . .	17
8.4 Point-to-Point Tolls	
.....	20

9. Tariff Matters .....	21
9.1 IS Toll Schedule .....	21
9.2 Nomination Deadline .....	21
10. February 1992 Update .....	23
11. Disposition .....	27



**Tables**

2-1 Transportation Revenue Requirement for the 1992 Test Year  
.....2

3-1 Rate Base for the 1992 Test Year  
.....3

3-2 NEB Adjustments to Net Plant and Depreciation for the 1992 Test  
Year .4

4-1 Applied-for Deemed Average Capital Structure and Rates of Return  
for the 1992 Test Year  
.....6

4-2 Approved Deemed Average Capital Structure and Rates of Return  
for the 1992 Test Year ... 8  
.....

4-3 Approved Utility Income Tax Allowance for the 1992 Test Year  
.....9

7-1 NEB Determination of the Revenue Surplus for the 1992 Test Year  
..... 15

**List of Appendices**

I Order No. TG-4-92

II Functional Distribution and Classification of Revenue Requirement for  
the 1992 Test Year

III System Average Unit Cost of Transportation

IV Zone Differential Tolls

V Order No. RH-4-91

VI Order No. AO-1-RH-4-91

VII Order No. AO-2-RH-4-91

VIII Order No. TGI-3-91

**Abbreviations**

Act	National Energy Board Act
AFUDC construction	allowance for funds used during
ANR	ANR Pipeline Company
CCA	capital cost allowance
Centra	Centra Gas Ontario Inc.
Consumers'	The Consumers' Gas Company Ltd.
CPA	ESTEastern Standard Time
FS	Firm Service
FST	Firm Service Tendered
GJ	gigajoule
GMI	Gaz Métropolitain, inc.
GPUC	gas plant under construction
Great Lakes or GLGT	Great Lakes Gas Transmission Company
IGUA	Industrial Gas Users Association
IPAC	Independent Petroleum Association of Canada
IS	Interruptible Service
NEB or the Board	National Energy Board
Ontario	Minister of Energy for Ontario
ProGas	ProGas Ltd.
Task Force	Joint Industry Task Force initiated by TCPL
TCPL or the Company	TransCanada PipeLines Limited
10 <sup>3</sup> m <sup>3</sup>	thousand cubic metres
10 <sup>6</sup> m <sup>3</sup>	million cubic metres
Union	Union Gas Limited

## **Overview**

(Note: This overview is provided solely for the convenience of the reader and does not constitute part of this Decision or the Reasons, to which readers are referred for the detailed text and tables.)

### **The Application**

On 4 July 1991, TCPL applied to the Board for new tolls to be effective 1 January 1992. TCPL updated its application on 22 November 1991 and 4 February 1992. The application dealt with a limited number of issues due to an agreement of the Task Force deferring most toll design and tariff issues to the 1993 proceeding and resolving other issues, such as the rate of return on common equity and the forecast for departmental and general expenses.

### **The Hearing**

The hearing, which lasted four days, opened in Calgary on 18 February 1992 and continued until 21 February 1992.

### **Revenue Requirement**

The approved 1992 revenue requirement, net of miscellaneous revenue, is \$1,439.6 million, or \$1.7 million less than the 1992 revenue requirement applied for by TCPL. See Table 2-1 for a summary of the Board's adjustments.

### **Rate of Return**

The Board approved a rate of return on common equity of 13.25 percent, a decrease of one-quarter of one percentage point over the previously-approved rate of 13.5 percent.

### **Decision on Tolls**

The approved tolls effective 1 April 1992 to the Eastern Zone are 2.9 percent higher than the average tolls in effect in 1991.

### **Operating Costs**

The Board approved an increase of two percent in departmental and general expenses over those approved in the RH-1-91 Decision.

### **Interim Revenue Adjustment**

The Board has estimated that the 1992 test-year revenue surplus is approximately \$2.5 million for the period 1 January to 31 March 1992 during which TCPL was on interim tolls. An interim revenue adjustment of approximately \$2.6 million, which includes the revenue surplus together

with carrying charges, has been subtracted from the revenue requirement for the period 1 April to 31 December 1992.

## **Chapter 1**

### **Background and Application**

On 4 July 1991, TransCanada PipeLines Limited ("TCPL" or "the Company") filed an application with the National Energy Board ("the Board") pursuant to Part IV of the National Energy Board Act ("the Act") for approval of 1992 tolls for pipeline transportation services. TCPL updated its application on 22 November 1991 and 4 February 1992. As in the previous application filed in respect of 1991 tolls, TCPL convened a Joint Industry Task Force ("the Task Force") to resolve issues arising from the application. Task Force membership was open to the public and was advertised to elicit participation. Ultimately, the Task Force was composed of various shippers, producers, industry associations, distributors, provincial government representatives and other interested parties. The Task Force held several meetings between July and November 1991 in Toronto, Calgary and Montreal. The process adopted by the Task Force resulted in the deferral of most toll design and tariff issues to the 1993 proceeding and the settlement of other issues, such as the rate of return on common equity and the forecast for departmental and general expenses, and thus facilitated an expeditious hearing of TCPL's application by the Board.

On 21 November 1991, TCPL filed an application for interim tolls in order to ensure that a legal foundation would exist for exacting transportation charges from shippers for the period beginning on 1 January 1992 and ending on the day prior to the coming into force of final tolls for 1992 approved by the Board. After due consideration, the Board granted the application for interim tolls on 3 December 1991 and issued Order No. TGI-3-91.

On 11 December 1991, the Board issued Hearing Order RH-4-91 setting down the application for a public hearing. The Hearing Order was subsequently amended, by Amending Orders AO-1-RH-4-91 and AO-2-RH-4-91, to alter the date and venue of the hearing.

The public hearing convened at the Chateau Airport hotel in Calgary on 18 February 1992 and continued for four hearing days, ending on 21 February 1992.



**Chapter 2**  
**Revenue Requirement for 1992**

The revenue requirement authorized by the Board for the 1992 test year is \$1,439,672,230. A summary of this approved revenue requirement together with the Board's adjustments is shown in Table 2-1. In addition, the functional distribution and classification of the approved revenue requirement is set out in Appendix II to these Reasons for Decision.





## **Chapter 3**

### **Rate Base and Depreciation**

The Board's adjustments to rate base for the 1992 test year are summarized in Table 3-1. The details of the adjustments are explained in the sections following the table.

#### **3.1 Gross Plant**

##### **3.1.1 Unauthorized Capital Projects**

TCPL forecast its average gross plant for the 1992 test year to be \$6,275,914,934. Included in this forecast were projects which have not yet received the Board's approval under Part III of the Act. Consequently, those projects should be removed from rate base with the corresponding adjustments to gross plant, average accumulated depreciation and the test-year depreciation expense.

#### **Decision**

The Board has removed from the test-year rate base the weighted average cost of \$3,146,308 for the construction of a 20 km loop in Saskatchewan, \$448,769 for the relocation of a 5.7 MW portable unit and \$384,692 for a field communication system. See Table 3-2 for all the adjustments associated with the removal of these projects from rate base.

### **3.1.2 Transmission Plant in Service Deferral Account**

In the RH-3-89 Decision the Board directed TCPL to record in a deferral account the capital-related cost of service variances that result from differences between actual and forecast transmission plant in service account balances. The dollar amount to be recorded in the deferral account is to be determined monthly for each capital related cost of service component.

In its RH-1-91 Decision the Board continued the account for the 1991 test year, but stated that it would reconsider the continued appropriateness of this account once TCPL's period of heavy construction is over.

TCPL applied to continue the account in 1992 because, in its view, TCPL's period of heavy construction is not over. The Company anticipates capital spending of approximately \$1.47 billion during the test year. Actual rate base may differ from the approved one due to differences in the cost or timing of projects, or because some projects applied for may not be constructed in 1992. The Company considered its estimates to be accurate, but a variance of only five percent would represent \$73.0 million.

The Canadian Petroleum Association ("CPA") recalled its strong objections to the deferral account in the RH-1-91 hearing. None of the other parties expressed opposition to the continuation of the deferral account.

#### **Views of the Board**

The Board agrees with TCPL that, because the Company's period of heavy construction is not over, the account should be continued for the test year.

## Decision

The Board approves the continuation of the Transmission Plant in Service deferral account for the 1992 test year.



## **Chapter 4 Cost of Capital**

TCPL applied for a rate of return on common equity of 13.25 percent for the 1992 test year on a deemed common equity component of 30 percent. The applied-for rate of return on equity compares to the currently-approved rate of 13.50 percent. Details of the applied-for capital structure and requested rates of return are shown in Table 4-1 and discussed in sections 4.1 and 4.2.

### **4.1 Unfunded Debt**

TCPL's applied-for amount of unfunded debt was \$499,297,000, costed at a rate of 9.85 percent. This rate is a forecasted blend of the cost of short-term borrowing prior to completing long-term financing and the long-term financing costs once such financings have been completed during 1992. This change in methodology from the use of a long-term corporate rate is similar to the method put forward on the prefunded balances by TCPL and approved by the Board in RH-1-91 Decision.

No intervenor objected to the new methodology nor to the applied-for cost rate for unfunded debt.

### **Views of the Board**

The Board notes that no party disputed the applied-for cost rate nor the change in methodology for unfunded debt. Based on the evidence filed in support of this rate, the Board finds the applied-for rate to be reasonable for the test year.

As a result of the Board's decisions in section 3.1.1, an adjustment to the unfunded debt component of the Company's capitalization is required. This component has been adjusted to \$489,430,593.

## **Decision**

**The Board approves an unfunded debt amount of \$489,430,593 at a cost rate of 9.85 percent for the 1992 test year.**

### **4.2 Rate of Return on Common Equity**

One goal of the Task Force was to shorten the hearing time in respect of TCPL's 1992 application. With this goal in mind, TCPL, the Province of Ontario ("Ontario"), CPA, and the Industrial Gas Users Association ("IGUA") met to explore whether an agreement could be reached on certain cost of service issues, including the rate of return on common equity. After discussions, the four parties listed above agreed that TCPL would reduce its original request for rate of return on common equity from 14.25 percent to 13.25 percent on a 30 percent common equity ratio, plus an appropriate adjustment to income taxes. Following this agreement, the group reported back to the full Task Force. The Task Force agreed that TCPL should revise its application, based on the group's agreement, and that no member of the Task Force would oppose the agreement.

TCPL requested an opinion from its expert witnesses as to what would be a fair return for 1992 on the equity portion of its rate base investments subject to NEB jurisdiction. It was the TCPL's witnesses' opinion based on economic and statistical studies that the fair equity return for TCPL for 1992 was in the range of 13.5 percent to 13.75 percent on a 30 percent common equity ratio. Regarding the apparent discrepancy between the statements of TCPL and its expert witnesses as to what was considered a fair return on equity, TCPL's expert witnesses explained that there was a 25 basis points latitude at the low and upper end of the range of their estimate which would then situate the requested rate by TCPL at the lower end of the range. On that basis, the Company's expert witnesses were comfortable with TCPL's proposed 13.25 percent.

No intervenor objected to the applied-for rate of return on common equity.

### **Views of the Board**

The Board recognizes that the proposed rate of return on common equity was the result of a negotiated settlement between TCPL, Ontario, CPA and IGUA and was concluded in October 1991. The Board also notes that no interested party opposed the proposed rate of return on common equity nor adduced any evidence on the record to counter the proposed rate. In view of the foregoing, the Board finds the proposed rate of return to be reasonable and approves it for the 1992 test Year.

## **Decision**

**The Board approves a rate of return on common equity of 13.25 percent for the 1992 test year.**

#### 4.3 Rate of Return on Rate Base

##### Decision

The Board approves a rate of return on rate base of 11.56 percent for the 1992 test year. The approved capital structure and overall rate of return are shown in Table 4-2.

#### 4.4 Income Taxes

##### 4.4.1 Flow-Through Tax Calculation

##### Decision

The Board has adjusted the 1992 flow-through income tax provision from \$97,713,000 to \$99,105,592, an increase of \$1,392,592, as a consequence of the Board's decisions in Chapter 3 (see Table 4-3).





## **Chapter 5 Operating Costs**

### **5.1 Operation and Maintenance**

#### **5.1.1 Salaries**

##### **5.1.1.2 Annual Rate of Increase**

TCPL revised its initial request for a company-wide annual salary rate increase from 4.66 percent to 3.8 percent to be effective 1 January 1992. The revision was instituted in consideration of the current economic conditions and TCPL's support of industry-wide restraint. As a result of the revised company-wide increase, the 1992 transmission salaries for salaried and fixed rate employees reflect a 3.3 percent increase.

No intervenor objected to the applied-for salary increase for transmission employees.

#### **Views of the Board**

In light of TCPL's agreement to limit the increase in departmental and general expenses to two percent (see section 5.1.2), the Board is of the opinion that the current request for a transmission salary increase of 3.3 percent is acceptable at this time.

#### **Decision**

**The Board approves the requested general salary increase for transmission salaries of 3.3 percent.**

##### **5.1.2 Departmental and General Expenses**

TCPL proposed to increase departmental and general expenses by two percent over that approved by the Board in its RH-1-91 Reasons for Decision.

This proposal was the result of negotiations between TCPL, CPA, Ontario and IGUA. Documentation filed in support of the proposal revealed that TCPL initially forecast increases of nine percent for departmental expenses and six percent for general expenses. The Company attributed the increase in departmental expenses mainly to higher costs for salaries, contracted services, aircraft maintenance and rents. The increase in general expenses was due, in part, to increased employee benefits and legal expenses.

TCPL, in consultation with the Task Force, decided that there should be a serious effort at cost containment; that wages and salary increases should be minimized and that non-essential projects should be postponed

until a later date. In accordance with this approach, TCPL revised its projected costs downward to a two percent increase over that approved in the RH-1-91 Decision. The Company did not allocate the two percent increase by expense type, preferring instead to make an adjustment to the total amount.

As a result of this proposal, TCPL requested that the Board approve an amount of \$58,653,079 for departmental expenses and an amount of \$32,092,991 for general expenses.

### **Decision**

**The Board approves an increase of two percent in departmental and general expenses over those approved in RH-1-91.**

## **5.2 Regulatory Amortizations**

### **5.2.1 Transmission Plant in Service**

TCPL applied to recover in its 1992 revenue requirement, capital-related costs deferred in 1991 in the amount of \$15,608,757. This deferred amount is composed of the following components: the return on rate base on the difference between the approved and actual transmission plant in rate base (a credit of \$2,376,326); the difference between the approved and actual depreciation expense (a credit of \$24,773); the difference between the approved and actual income tax expense (a debit of \$17,020,590); and carrying charges of \$989,266.

The debit of \$17,020,590 for income taxes was, in major part, due to a reduction in claimable Capital Cost Allowance ("CCA"). The decrease in the CCA claimed for 1991 resulted from three factors: actual construction costs were lower than forecast; delays to in-service dates, deferring additions to rate base to early 1992; and the actual opening balance of undepreciated capital cost, as at 1 January 1991, was lower than forecast because the forecast was made prior to finalization of the 1990 CCA Schedules.

IGUA argued that to the extent the account is being used to recover income taxes in a prospective test year that should properly have been recorded in prior test periods, had proper forecasts of in-service dates been made, the account is operating to allow the recovery of out-of-period costs. IGUA submitted that this is inappropriate and should be prevented.

### **Views of the Board**

The Board is of the view that all components of the \$15,608,757 deferred balance including the income tax component of \$17,020,590 were properly recorded in the account and should be recovered in the test year.

### **Decision**

**The Board approves the recovery of the 1991 deferred balance of \$15,608,757 in the 1992 test year.**





## **Chapter 6 Deferral Accounts**

### **6.1 Accounts to be Continued**

#### **6.1.1 Transmission Plant in Service**

##### **Decision**

**As described in section 3.1.2, the Board approves the continuation of the Transmission Plant in Service deferral account for the 1992 test year.**

#### **6.1.2 Other Accounts to be Continued**

TCPL requested that the following deferral accounts be continued without change.

- Great Lakes Rates
- Great Lakes Demand
- Great Lakes Exchange
- Great Lakes Refund
- Fixed Costs in the Great Lakes Commodity Charge
- Union Rates
- Trans Québec & Maritimes Pipeline Inc. Toll
- Debt Service
- Future Legislative Changes to Various Taxes
- Income Tax Reassessment
- Compressor Fuel
- Demand Revenue
- Fixed Cost Variance from Interruptible Service
- Union Demand Volume
- Union Commodity Volume
- Municipal Taxes
- Gas Related Costs and Purchase Price

##### **Decision**

**The Board approves the continuation of these deferral accounts without change.**

### **6.2 New Accounts**

#### **6.2.1 CCA Variance on Compressors**

Prior to 23 December 1991, in accordance with the applicable Income Tax Regulations, TCPL included the cost of its compression facilities as Class 8 assets for CCA purposes. Class 8 assets are entitled to a maximum 20 percent CCA rate. On 23 December 1991, the Department of

Finance issued a news release announcing changes to the Income Tax Regulations that will require compression facilities to be

included in Class 1. Class 1 assets are entitled to a maximum four percent CCA rate. Although these draft regulations have yet to be approved by the Governor in Council, their effective date is still 23 December 1991. The news release also contained transitional provisions whereby compression facilities already contracted for by means of an Agreement in Writing and not yet installed would qualify as Class 8 assets if put into service in 1992.

For a large portion of its planned 1992 compression additions, TCPL had entered into contracts prior to 23 December 1991. These costs will clearly be categorized as Class 8 assets. However, \$142,317,000 of compression additions have not yet been contracted for and the eligibility of these expenditures for class 8 will be a matter of legal interpretation.

TCPL received a legal opinion from its tax counsel to the effect that TCPL should be able to include these costs in Class 8. However, Revenue Canada may take a different view, which will not be known until the 1992 tax year undergoes an income tax audit, probably not before 1995. As classification of these costs is uncertain, TCPL will seek a Technical Interpretation from Revenue Canada as to the proper asset class in which to include these costs.

TCPL applied for approval to record in the income tax component of the Transmission Plant in Service deferral account, the additional income tax costs which may be incurred by TCPL as a result of the possible categorization by Revenue Canada in a Technical Interpretation of all or any portion of the amount of \$142,317,000 as Class 1 assets rather than Class 8 assets.

TCPL further requested, if the Board does not continue the Transmission Plant in Service deferral account, that the Board order TCPL to record these potential additional income tax costs in a separate deferral account, together with carrying charges.

None of the parties was opposed to the deferral of these potential income tax costs.

### **Views of the Board**

The Board believes that a deferral account should be approved in this case because TCPL will be unable to determine whether the additions to compression facilities in the amount of \$142,317,000 should be classified as Class 1 or Class 8 assets until it receives a Technical Interpretation from Revenue Canada. Notwithstanding TCPL's proposal to defer these potential income tax costs in the Transmission Plant in Service deferral account, should that deferral account be retained, the Board is of the view that these potential cost should be recorded in a separate deferral account so that they may be readily identifiable.

### **Decision**

**The Board authorizes TCPL to record in a separate deferral account**



any additional income tax costs incurred by TCPL as a result of the categorization by Revenue Canada in a Technical Interpretation of all or any portion of the amount of \$142,317,000 as Class 1 assets rather than Class 8 assets.

### **6.2.2 Test Year Revenue Surplus**

The Board has determined that the interim tolls will result in a revenue surplus for the period 1 January to 31 March 1992. The Board has reflected this estimate in the 1992 test-year revenue requirement to be allocated in the nine-month period 1 April to 31 December 1992.

Since the actual revenue surplus cannot be determined until the actual volumes for the period 1 January to 31 March 1992 are known, it is reasonable to defer any variances from the Board's estimate. This is consistent with the Board's past practice.

#### **Decision**

**The Board approves a deferral account to record any variances between the actual revenue adjustment for the interim period and the amount estimated by the Board.**



## **Chapter 7 Interim Revenue Adjustment**

### **7.1 1992 Revenue Surplus**

The estimated 1992 test-year revenue surplus is \$2,452,137 for the period 1 January 1992 to 31 March 1992. This amount represents the difference between the projected transportation revenue from the interim tolls, and the approved test year revenue requirement, as shown in Table 7-1. The Board's decision with respect to a deferral account for the 1992 interim period revenue variance is provided in section 6.2.2

### **7.2 Carrying Charges**

The Board is of the view that the Test-Year Revenue Surplus deferral account is a special deferral account and hence carrying charges should be calculated at the rate that approximates the Company's probable cost of financing the deferred balance. Based on the evidence filed in regard to the unfunded debt rate, the Board considers a short-term rate of eight percent to be appropriate for this purpose.

#### **Decision**

**The Board approves the use of a short-term rate of eight percent for the determination of carrying charges with respect to the Test-Year Revenue Surplus deferral account.**

### **7.3 Allocation of Interim Revenue Adjustment**

Carrying charges of \$100,289 have been added to the revenue surplus to arrive at the interim revenue adjustment of \$2,552,426. As the new tolls will be in effect for only nine months (or three-quarters) of the test year, the amount of the adjustment should be multiplied by four-thirds to permit the full amount of the adjustment to be reflected in the tolls.

#### **Decision**

The tolls, effective 1 April 1992, have been set based on the allocation of the interim revenue adjustment over the last nine months of the 1992 test year. For the purposes of calculating tolls, the interim revenue adjustment of \$2,552,426 has been multiplied by four-thirds to reflect the allocation over nine months of the test period.



## **Chapter 8 Toll Design**

### **8.1 Throughput Forecast**

TCPL's 1992 test-year throughput forecast is 53,782 million cubic metres ( $10^6\text{m}^3$ ), of which 31,266  $10^6\text{m}^3$  is forecast for the domestic market and 22,516  $10^6\text{m}^3$  is forecast for the export market. This forecast includes 1,121  $10^6\text{m}^3$  of storage transportation service.

TCPL submitted that its throughput forecast is reasonable. TCPL added that the forecast was not challenged by the other interested parties and should therefore be accepted.

#### **Decision**

**The Board accepts TCPL's throughput forecast for cost allocation and toll design purposes as reasonable.**

### **8.2 Backhaul Tolls**

The Task Force agreed that the backhaul toll design would not be contested for the 1992 test year but may be contested for the 1993 test year. On this basis, the Task Force agreed that no party would oppose the following toll design for 1992:

(i) Summer: No fuel or average variable costs. A demand charge equivalent toll consisting of 50 percent of the demand charge for forward haul service on a point-to-point basis calculated at 100% load factor.

(ii) Winter: No fuel or average variable costs. A demand charge equivalent toll consisting of 100 percent of the demand charge for forward haul service on a point-to-point basis calculated at 100% load factor.

This toll design is consistent with the toll design utilized for backhaul service in 1991.

#### **Decision**

**The Board approves the proposed toll design for backhaul tolls for the 1992 test year.**

### **8.3 IS Tolls**

The current interruptible service ("IS") toll design consists of two tiers of service, IS1 and IS-2. The IS-1 service, which has a higher priority than IS-2, is based on the equivalent firm service ("FS") toll at a 80% load factor, while the IS-2 service is based on a 90% load factor. In other words, the IS tolls were set at a level above the equivalent FS tolls, even though interruptible service is a lower quality service.



This IS toll structure was implemented effective 1 July 1987 pursuant to the Board's RH-3-86 Reasons for Decision. The IS tolls were set at a higher level at that time because the western section of TCPL's system was under-utilized and interruptible customers were receiving the equivalent of a firm service under an IS toll which was much less than the firm service toll.

In this application TCPL proposed to change the design of the IS tolls. TCPL submitted that the situation respecting excess capacity has changed significantly since 1987. TCPL is now fully contracted on a firm service basis throughout the entire system, there is a queue for FS, and most FS contracts are operating at high load factors throughout the year. As a result, there is very little interruptible service available on the TCPL system, especially during the winter months.

TCPL stated that the current price of IS, given the low availability and quality of the service, is much higher than shippers are willing to pay in certain market conditions. TCPL was of the view that flexible pricing of interruptible services based on market demands would promote more efficient use of the TCPL system, would send the correct market signals to interruptible shippers, and would allocate interruptible peak capacity to those who value it the most. For these reasons, and based on discussions with the Task Force, TCPL proposed that a more flexible, market-sensitive toll design be implemented for interruptible service.

Under the proposal, potential IS shippers would bid and nominate volumes based upon multiple service tiers at multiple toll levels within certain load factor ranges. In the winter, TCPL proposed that the load factor range be 80% to 110% with 31 bid tiers while, in the summer, TCPL proposed that the load factor range be 90% to 140% with 26 bid tiers. Shippers bidding at the highest bid tiers would get the highest priority of IS, while shippers bidding at the lowest bid tiers would get the lowest priority of IS. If IS capacity was limited, shippers bidding at the lowest bid tiers may not receive any of their IS requirements.

Each month, the available IS capacity would be split 50/50 between two pools; one for monthly bids and the other for weekly bids. TCPL explained that utilizing two pools was a compromise between those shippers serving the domestic market which preferred a weekly pool and those shippers serving the export market which preferred a monthly pool.

During the hearing, TCPL submitted that, after approximately 15 months of meetings, the Task Force was unable to reach an agreement on many issues dealing with the tolling of IS service. Some of those outstanding issues included the appropriate maximum and minimum toll levels, the penalty provisions, and the seasonality aspect of the tolls.

TCPL argued that the proposed maximum and minimum levels for winter and summer periods represent a reasonable compromise of the conflicting views of interested parties on this matter. With respect to the penalty provisions, TCPL amended its proposal during the hearing such that the penalty would be triggered when nominations were below 75 percent of bid levels on an aggregate weekly or monthly basis rather than on a daily

basis as originally proposed.

In response to a concern that once the proposal was in place TCPL would not be receptive to recommendations for improvement, TCPL stated it is prepared to, and in fact expects to, adjust the toll design once experience with its use is gained. TCPL submitted that it is interested in getting the toll design up and running to see how it operates and to permit the marketplace itself to indicate where adjustment may be needed.

TCPL's proposal was supported by The Consumers' Gas Company Ltd. ("Consumers'"), Gaz Métropolitain, inc. ("GMi"), and IGUA. These parties were of the opinion that the proposal is an acceptable "first step" in the development of market-responsive interruptible service. Consumers' submitted that the IS proposal can only be improved after parties have gathered experience with the practical workings of the proposal. To that end, Consumers' requested that the Board approve the proposal on an interim basis and direct TCPL to prepare a "performance appraisal" of its IS toll design for consideration at a future toll proceeding, so that an assessment can be made of whether the proposal is achieving its stated objectives. GMi also requested that the IS proposal be re-examined at the next hearing in the light of experience so that possible improvements to the toll design may be brought forward.

The proposal was not supported by the Independent Petroleum Association of Canada ("IPAC"), ANR Pipeline Company ("ANR"), Centra Gas Ontario Inc. ("Centra"), and ProGas Ltd. ("ProGas"). IPAC urged the Board to deny the IS proposal at this time so that it may be considered at the next tolls hearing. IPAC argued that this proposal should be referred back to the Task Force for further discussion. The proposal, including any resolution of the Task Force, could be reexamined in the 1993 tolls hearing since TCPL is forecasting that little, if any, interruptible gas will move in 1992. Secondly, IPAC was of the view that it would be easier for parties to suggest changes to a proposed toll design before it was implemented, because after it was implemented the onus would shift to the parties suggesting the change. Thirdly, IPAC argued that the proposal is far more complex than is necessary. To make this point, IPAC pointed to the use of both weekly and monthly bid pools, the use of seasonal rates, and the proposed penalty provisions.

ANR agreed that the current IS tolls are too high and should be reduced but submitted that the proposal put forward by TCPL is unnecessarily complex and leads to tolls that have the potential to be too low. ANR advocated a winter toll set equal to the firm toll at 80% load factor and a summer toll set equal to the firm toll at 100% load factor. Centra argued that the proposal was premature because TCPL had not established the need for change in 1992. Centra also argued that TCPL had not properly reviewed the impact of its proposal on all other shippers on the system and failed to justify the need for a complex toll. ProGas argued that the IS tolls should not be available for less than the firm toll at 100% load factor and stated that it was concerned that the proposal would harm FS shippers, particularly exporters.

#### **Views of the Board**

The Board endorses the stated objective of this proposal to implement marketresponsive IS tolls in order to promote a more efficient use of the TCPL system. In the Board's view, the proposed methodology will help ensure that available interruptible capacity will be used by those shippers who place the highest value on this capacity, as well as ensuring that the price paid for IS service reflects the value of service to each shipper. Further, as long as the IS tolls recover at least the incremental cost of providing the service, the potentially higher IS throughput should result in FS shippers receiving a benefit in the form of lower tolls.

The Board recognizes that the Task Force process was not able to resolve many of the conflicting views expressed by parties on this proposal. It was for this reason, as stated in the Task Force Report, that the proposal was brought before the Board to be resolved in this hearing. Therefore, the Board is of the view that it would not be appropriate to defer this proposal to a future tolls hearing.

The Board agrees with those parties which stated that this proposal is an acceptable "first step" in the development of market-responsive IS tolls. Until more experience is gained, it is difficult to determine what specific elements of the proposal, if any, will need to be adjusted and improved. Consequently, the Board is of the opinion that the IS toll design proposal should be approved, as amended by TCPL during the hearing, and that TCPL should prepare an assessment of the operation of the new toll design following its use in one summer and one winter period. The assessment should be filed with the Board for consideration at a future toll proceeding.

#### **Decision**

**The Board approves TCPL's IS toll design proposal, as amended, and directs TCPL to prepare an assessment of the operation of the new toll design for consideration at a future toll proceeding following its use in one summer and one winter period.**

#### **8.4 Point-to-Point Tolls**

In this application, TCPL proposed a change to the methodology used to calculate the FS and IS point-to-point tolls. TCPL referred to section 8.2.2 of the Board's RH1-88 Phase II Decision wherein the Board decided that: "the total Firm Service Tendered ("FST") differential dollars should be allocated to all FS and FST users across the system." TCPL explained that since the IS tolls are generally based on the zone FS tolls, the IS tolls also pay a portion of the FST differential dollars, which are then included in the IS deferral account and credited to the revenue requirement.

TCPL also pointed out that for IS point-to-point tolls that may not have a corresponding FS toll, and FS and IS tolls that do not have cost allocation units assigned to them, no FST differential dollars are being allocated to these services. Therefore, TCPL proposed to allocate the FST differential dollars to all FS, IS and backhaul point-to-point services. TCPL submitted that the objective of this proposal is to ensure that all FS and IS point-to-point tolls are calculated based on system average unit costs. TCPL also submitted that this proposal will eliminate the current inequity where IS services that have similar distances may have different tolls because one service pays the FST differential dollars while another service may not make such payment.

No party to the hearing challenged TCPL's proposal.

## Decision

The Board approves TCPL's proposal to allocate the FST differential dollars to all FS, IS and backhaul point-to-point services.



## Chapter 9 Tariff Matters

### 9.1 IS Toll Schedule

TCPL filed a proposed IS Toll Schedule, containing the terms and conditions associated with the IS bid proposal. During the hearing, TCPL revised the penalty provision such that a penalty would be triggered when a shipper failed to nominate for 75 percent of its bid volume on an aggregate weekly or monthly basis for each bid pool rather than on a daily basis.

IPAC recommended that a change be made to subsection 2.9(b) of the proposed IS Toll Schedule dealing with the requirement for the shipper to forecast its IS requirements. Subsection 2.9(b) of the proposed IS Toll Schedule, like subsection 2.4 (ii) of the existing IS Toll Schedule, reads as follows:

"Any Shipper that fails to provide a Shipper Forecast by the date required shall not be entitled to receive service hereunder during the Service Month."

IPAC submitted that the word "shall" should be replaced with the word "may" to recognize TCPL's historical flexibility in enforcing this provision. During the hearing, TCPL indicated that this change would be acceptable.

#### Views of the Board

A revision is needed to section 3 of the proposed toll schedule to reflect the change made by TCPL during the hearing. With respect to IPAC's suggested change, the Board agrees that the wording in the tariff should be changed in order to reflect TCPL's actual practice.

#### Decision

**The Board approves the proposed IS Toll Schedule subject to section 3 being revised to reflect the change made by TCPL and subsection 2.9(b) being revised to reflect IPAC's suggested change.**

### 9.2 Nomination Deadline

At present, TCPL requires that nominations for IS be made by 1200 Eastern Standard Time ("EST") and all other nominations be made by 1500 EST. TCPL confirms all nominations by 1700 EST. TCPL explained that operation under the existing time frame has been possible because most firm shippers nominate ahead of the deadline; but it is becoming increasingly difficult to operate within this time frame for the following reasons:

(i) diversions and assignments are increasing;

(ii) backhauls and alternative delivery points are increasingly in demand; and

(iii) the number of interconnect points is increasing, along with Operational Balancing Agreements to go with them.



Therefore, TCPL proposed that the deadline for nominations for all services other than IS be changed from 1500 EST to 1300 EST effective 31 December 1992.

IPAC argued that, while there may be valid reasons for a change in nomination times, the matter could be deferred until the next tolls hearing for discussion at that time. IPAC stated that TCPL ought to have been more timely in notifying the Task Force of this proposed change.

#### **Views of the Board**

The Board sees no valid reason for deferring this matter to the next tolls hearing. TCPL's request appears reasonable and the effective date of 31 December 1992 gives parties ample time to adjust to the change.

#### Decision

The Board approves TCPL's request to change the nomination deadline for all services other than IS service from 1500 EST to 1300 EST effective 31 December 1992.



**Chapter 10**  
**February 1992 Update**

IGUA submitted that the Board should approve a revenue requirement for TCPL for its 1992 test year that is consistent with TCPL's November 1991 update to its application rather than approve a revenue requirement for the 1992 test year that is based on the February 1992 update to the application. IGUA stated that the difference between these two amounts of approximately \$21.2 million is approximately equal to the change in income taxes between the two updates.

As background to the issue, IGUA submitted the following:

(i) The hearing of this case was scheduled to accommodate the expedited processing of TCPL's application for 1992 tolls.

(ii) Contentious issues were, by agreement, to be postponed to the 1993 hearing.

(iii) The process contemplated was to allow full off-the-record scrutiny of cost-of

(iv) The evidence to support the application was to consist of revisions to TCPL's cost of service to reflect the agreement of the parties. It was agreed that no member to the Task Force would oppose the November 1991 update.

(v) The results of the process were bottom-lined by reference to tolls reported by TCPL and published and relied upon by other parties.

(vi) Updates were neither discussed nor contemplated.

(vii) In breach of the spirit and intent of the process, TCPL submitted an update on the eve of the hearing which materially altered the November 1991 provisions which the parties agreed not to oppose.

(viii) The major causes for the changed revenue requirement were not disclosed until TCPL's witness was under cross-examination during the course of the hearing.

(ix) The off-the-record process which was to be available to scrutinize the cost-of-service items was not available with respect to the February

1992 update.

(x) There are good reasons to question the inclusion of the whole, or any amount, claimed in the update for increased taxes as allowable items for the 1992 cost of service. But as far as IGUA was concerned, further information is needed to quantify those items.

IGUA submitted that the Board should approve an order consistent with the November 1991 filing for the following reasons:

First, the November 1991 filing was the amendment to the application which the parties agreed not to oppose. It was the result of the task force process and constituted the evidence upon which this particular case would be decided on an expedited basis. The suggestion that there was no bottom line result of the negotiations is inconsistent with the language of the Task Force Report, the publication by TCPL of the results of the process, and the reference to the bottom line. The bottom line in this case was the November 1991 filing;

Second, the Board should approve an order consistent with the November 1991 filing to preserve the integrity of the Task Force process. In order for the Task Force process to endure and flourish, the orders made must be consistent with the settlements reached. The process should include a procedure, such as deferral of the changes, so that Task Force participants will have time to consider the issues when circumstances change materially between the time of the settlement and the time of the toll order;

Third, the parties had agreed that contentious issues would be put over to 1993. The cost consequences of the tax change, in IGUA's view, is a contentious issue and it should be put over for adequate scrutiny.

IGUA suggested three alternative ways that the Board could approve a revenue requirement for the 1992 test year that is consistent with TCPL's November 1991 update to its application. The Board could defer the \$21.2 million for consideration in the 1993 hearing; disallow the \$21.2 million on the grounds that TCPL has not satisfied the Board that these are legitimate 1992 test year costs; or disallow costs in any elements of the cost of service where, in the Board's view, the costs are too high.

TCPL argued that there is no reason to defer consideration of the \$21.2 million increase included in the February 1992 update. TCPL submitted that the revised figures were made known to all intervenors on 4 February 1992 and all parties including IGUA have had the opportunity to submit information requests and to cross-examine TCPL's witnesses. In fact, several parties availed themselves of this opportunity.

TCPL disagreed with IGUA's argument that the increase in the 1992 tax requirement of approximately \$21.0 million between the November 1991 filing and the February 1992 update was due to imprudent forecasting, as TCPL's capital additions forecasting in 1991 was 97.63 percent accurate.

TCPL explained that the forecast increased tax cost of approximately 21.0

million in 1992 resulted mainly from a decrease in the available CCA claim of approximately \$32.0 million. Of the \$32.0 million, \$11.3 million was caused by a reduction of projected capital additions for 1992 of over \$280.0 million. Another \$20.0 million was caused by a delay of in-service dates. Because of the timing of the changes in inservice dates, it would not have been possible for TCPL to include the consequences of the variation in the November 1991 update.

TCPL disputed IGUA's argument that the Task Force members agreed not to oppose rate of return on common equity and departmental and general expenses and also agreed not to oppose the entire November 1991 update. TCPL submitted that the Task Force Report clearly states that the parties would not oppose those two items where agreement was reached.

TCPL took issue with IGUA's contention that there was an agreement to maintain the 84 cent per gigajoule ("GJ") Eastern Zone toll at 100 percent load factor, with no opportunity on TCPL's part to update items in its application to reflect actuals or the most current information. TCPL submitted that if there had been such an agreement to maintain an 84 cent per GJ toll, then other Task Force members would have requested a reduction in tolls. That did not happen and, in fact, some parties went out of their way to express their agreement with TCPL's view of the Task Force agreement.

TCPL also did not accept IGUA's contention that updates were not contemplated or discussed at the Task Force meetings. TCPL stated that updates were contemplated as evidenced in both the 16 October 1991 and 21 January 1992 Task Force minutes. TCPL argued that IGUA did not complain about the update filed in November, because it produced a toll IGUA wanted. However, when the February 1992 update resulted in an increased toll, IGUA complained. TCPL contended that substantial weight should be given to the fact that only IGUA seems to have misinterpreted the agreement.

CPA and IPAC opposed IGUA's proposal. These parties stated that, although there was concern with the increase in tolls and TCPL's communication with the Task Force, it was understood that TCPL's 1992 revenue requirement was subject to revision. CPA and IPAC submitted that a deferral account would only put off to the next toll hearing the disposition of the amount involved, plus interest.

Union Gas Limited ("Union") stated that the final Task Force Report accurately reflects the proposition put to Union during the Task Force meetings, and it was the proposition concerning a reduction in TCPL's cost of service which Union agreed not to oppose in the hearing. Union made no decision based on a specific toll figure.

None of the other parties supported IGUA's proposal.

### **Views of the Board**

While the Board believes that the Task Force process can shorten hearing time and conserve resources, as indeed it has for this hearing, it does not believe that the adjudication of rights by this Board depends on the

prior discussion of all issues by the Task Force. In the Board's view, there must be an opportunity to examine issues at the hearing that either have not been discussed or resolved at the Task Force, for whatever reason, and the hearing must allow for the examination of Task Force resolutions that are not supported by all parties.

In this regard, the Board believes that a full opportunity has been provided by the hearing process for any party which is adverse to the position of the Applicant to cross-examine on the evidence and express its views by way of evidence and argument.

Insofar as the main issue dividing IGUA and TCPL is concerned, the Board is of the view that in discharging its responsibilities to regulate pipeline tolls in the public interest, it must ensure that its decisions are based on the most accurate and up-to-date evidence available, consistent with the requirements of procedural fairness. In this context, the Board not only expects but requires TCPL to amend its application so that it contains the most current information available at the time of the hearing. Failure by TCPL to do so could be viewed as an attempt to mislead the Board. The February 1992 update was therefore essential and contained information that was relevant to the Board's decision-making process.

It is also noteworthy that the Board was not faced with requests for adjournment or postponement on the grounds that any party faced a particular prejudice in the presentation of their case in regard to the February 1992 update. For these reasons, the conclusion of the Board is that the most recent evidence, being both relevant and probative, should be admitted and considered in evidence.

Concerning IGUA's three alternatives for approving a revenue requirement for 1992 consistent with the November 1991 update, the Board does not find merit in any of the alternatives. It would be incorrect to disallow the \$21.2 million increase in costs between the November 1991 and February 1992 updates as the Board considers the amount to be made up of valid, non-discretionary costs. Likewise, it would be improper to disallow costs in any of the other elements of the cost of service to offset the increase because the Board considers TCPL's forecast of these costs to be reasonable and no case was made for specific areas where costs should be reduced. Finally, it would be inappropriate to defer these costs for consideration in the 1993 toll proceeding because this would only transfer the amount plus interest to the following year and this would not be in the interest of tollpayers.

Based on the foregoing, it is the Board's view that it is appropriate to include the \$21.2 increase in the 1992 revenue requirement.

### **Decision**

**The Board has decided not to defer or disallow the difference between TCPL's November 1991 update and its February 1992 update.**



**Chapter 11**  
**Disposition**

The foregoing chapters, together with Order No. TG-4-92, constitute our Decision and Reasons for Decision on this matter.

A. Côté-Verhaaf  
Presiding Member

W.G. Stewart  
Member

C. Bélanger  
Member

Calgary, Canada  
March, 1992



## Appendix I

### ORDER TG-4-92

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

IN THE MATTER OF an application dated 4 July 1991, as amended, by TransCanada PipeLines Limited ("TCPL") pursuant to Part IV of the Act for certain orders respecting its tolls; filed with the National Energy Board ("the Board") under File No. 4200-T001-6.

BEFORE the Board on 17 March 1992.

WHEREAS TCPL filed an application dated 4 July 1991, as amended, for an order fixing just and reasonable tolls that it may charge for or in respect of transportation services rendered effective 1 January 1992;

AND WHEREAS the Board, expecting that its final decision on TCPL's application would not be rendered until after 1 January 1992, issued Order TGI-3-91 on 3 December 1991, which authorized TCPL to charge, on an interim basis effective 1 January 1992, the tolls as set out in Appendix 1 of that Order, pending the Board's final decision on the said application.

AND WHEREAS a public hearing was held pursuant to Hearing Order RH-4-91, as amended, in the City of Calgary, in the Province of Alberta, at which the Board heard the evidence and argument presented by TCPL and all interested parties;

AND WHEREAS the Board's decisions on the application are set out in its Reasons for Decision dated March 1992 and in this Order;

IT IS ORDERED THAT:

1. TCPL shall, for accounting, tollmaking and tariff purposes, implement the decisions outlined in the Reasons for Decision dated March 1992 and in this Order:

2. Order TGI-3-91, which authorized the tolls to be charged on an interim basis pending a final decision on the said application, is revoked and the tolls that were authorized to be charged thereunder are disallowed as of the end of the day on 31 March 1992;

3. The tolls which were in effect, on an interim basis, for the period 1 January 1992 to 31 March 1992 are final;

4. TCPL shall, for service commencing 1 April 1992, charge the tolls set out in Appendix 1 to this Order;

5. TCPL shall forthwith file with the Board, and serve on all parties to the hearing of this application, new tariffs, including general terms and conditions, and tolls conforming with the decisions outlined in the Reasons for Decision dated March 1992 and with this Order; and

6. Those provisions of TCPL's tariffs and tolls, or any portion thereof, that are contrary to any provision of the Act, to the Board's Reasons for Decision dated March 1992, or to any Order of the Board including this Order, are hereby disallowed.

NATIONAL ENERGY BOARD

G.A. Laing  
Secretary



**Appendix II**

**Functional Distribution and Classification of Revenue Requirement for the 1992 Test Year**

	Total	Metering	Transmission -Fixed	Transmission -Variable	Unaccounted for Gas
Transmission by Others	\$354,021,246	0	293,919,467	60,101,779	0
Operation and Maintenance	205,144,986	53,357,597	122,228,943	29,558,446	0
Depreciation	174,933,835	2,447,017	172,486,818		
Municipal & Other Taxes	70,324,000	626,784	69,697,216		
Income Taxes	99,105,592	1,142,135	97,963,457		
Regulatory Def. & Amort.	30,975,684	11,862,069	19,113,616		
Foreign Exchange Loss	(1,312,939)		(1,312,939)		
Other Operating Income	(713,613)		(713,613)		
Return on Rate Base	558,472,929	6,436,077	552,036,852		
Revenue Requirement	\$1,490,951,720	\$75,871,679	\$1,325,419,816	\$89,660,225	\$0
Sales Meter Station Charges	(103,976)	(103,976)			
Downstream Diversion Revenue	(647,633)		(647,633)		
Temporary Winter Service	(2,697,557)	(151,002)	(2,394,882)	(151,672)	
Peaking Service	0				
Storage Transportation Service	(27,593,728)	(5,419,271)	(21,724,080)	(450,377)	
Gas Exchange Agreements	(2,172,070)	(1,906,266)	(265,703)	(101)	
Interruptible Service	(249,155)	(117,069)	(132,086)		
Delivery Pressure Revenue	(15,262,413)		(15,262,413)		
Total Miscellaneous Revenue	(48,726,532)	(7,697,585)	(40,426,797)	(602,150)	0
Interim Revenue Adjustment	(3,403,188)	(184,263)	(3,218,925)		
<b>Revenue Requirement for Toll Design Purposes</b>	<b>\$1,438,822,001</b>	<b>\$67,989,831</b>	<b>\$1,281,774,095</b>	<b>\$89,058,075</b>	<b>\$0</b>

Appendix III

System Average Unit Cost of Transportation As Per RH-4-91 Reasons for Decision

<u>Allocation Method</u>	<u>\$ Functionalized</u>	<u>Applicable Allocation Units</u>	<u>Unit Costs</u>
Fixed Volume	67,989,831	157,564	431.5061245 $\$/10^3m^3$
Fixed Volume-Distance	1,281,774,095	358,466.673	3.575713425 $\$/10^3m^3-km$
Variable Volume	0	52,417,000	0 $\$/10^3m^3$
Variable Volume-Distance	89,058,075	125,445,451,000	0.000709935 $\$/10^3m^3-km$
Fixed FST Differential	55,420,560	358,466.673	0.154604498 $\$/10^3m^3-km$
Variable FST Differential	6,231,469	125,445,451,000	0.000049675 $\$/10^3m^3-km$

Zone TWS Base Toll ( $\$/10^3m^3$ )

Parkway to Consumers' EDA Load Centre	0.494
Parkway to Centra Gas' EDA Load Centre	0.999
Parkway to GMI's EDA Load Centre	1.853



Appendix IV

Zone Differential Tolls - Applicable to Diversions (\$/10<sup>3</sup>m<sup>3</sup>)

Zones	Saskatchewan	Manitoba	Spruce	Emerson	Western	Northern	Dawn	Eastern	Niagara	Iroquois	Cornwall	Sabrevois	Philipsburg
Saskatchewan													
Manitoba	4.325												
Spruce	5.352	1.027											
Emerson	5.584	1.259	0.232										
Western	10.822	6.497	5.470	5.238									
Northern	20.526	16.201	15.174	14.942	9.704								
Dawn	23.041	18.716	17.689	17.457	12.219	2.515							
Eastern	25.644	21.319	20.292	20.060	14.822	5.118	2.603						
Niagara Falls	27.361	23.036	22.009	21.777	16.539	6.835	4.320	1.717					
Iroquois	27.838	23.513	22.486	22.254	17.016	7.312	4.797	2.194	0.477				
Cornwall	28.304	23.979	22.952	22.720	17.482	7.778	5.263	2.660	0.943	0.466			
Sabrevois	29.837	25.512	24.485	24.253	19.015	9.311	6.796	4.193	2.476	1.999	1.533		
Philipsburg	30.183	25.858	24.831	24.599	19.361	9.657	7.142	4.539	2.822	2.345	1.879	0.346	

NOTE: 100% Load Factor Tolls

**Appendix V**

File No.: 4200-T001-6

Date: 11 December 1991

**HEARING ORDER RH-4-91  
DIRECTIONS ON PROCEDURE**

**TransCanada PipeLines Limited  
Application for Tolls Effective 1 January 1992**

By application dated 4 July 1991, as revised 22 November 1991, TransCanada PipeLines Limited ("TransCanada") has applied to the National Energy Board ("the Board") for certain orders respecting tolls under Part IV of the National Energy Board Act. The application contains a Task Force Report which has been prepared by the participants of a joint industry task force.

On 3 December 1991 the Board decided to hold a public hearing commencing 17 February 1992 in Calgary, Alberta, to consider the application in accordance with the following directions on procedure:

**PUBLIC VIEWING**

1. TransCanada shall deposit and keep on file, for public inspection during normal business hours, a copy of the application in its offices at the TransCanada PipeLines Tower, 1900, 111 - Fifth Avenue S.W., Calgary, Alberta, and in its Toronto, Ontario office, 8th floor, 55 Yonge Street. A copy of the application is also available for viewing during normal business hours at the Board's Library, First floor, 311 - 6th Avenue



S.W., Calgary, Alberta.

#### **INTERVENTIONS**

2. Interventions are to be filed with the Secretary and served on TransCanada by 31 December 1991. Interventions should include all the information set out in subsection 32(1) of Part III to the Board's draft NEB Rules of Practice and Procedure. Interested parties who wish to comment on the list of issues and indicate their position on the Task Force Report (see paragraph 10) should include those comments in their interventions and, in addition to filing with the Secretary and serving TransCanada, serve a copy on all parties to RH-1-91. Once the list of intervenors is issued pursuant to paragraph 3, interested parties who have made comments are to serve their interventions on those intervenors who have not already received a copy.

3. The Secretary will issue a list of intervenors shortly after 31 December 1991.

#### **SERVICE TO PARTIES**

4. TransCanada shall serve one copy of these Directions on Procedure, including the appendices, in either official language as appropriate or as requested, forthwith on all parties to RH-1-91, on all its shippers who were not parties to RH-1-91, and on the parties listed in Appendix III of this Order. TransCanada is requested to file with the Board one copy of its list of all parties served.

5. Any additional written evidence that TransCanada wishes to present shall be filed with the Secretary and served on all parties to RH-1-91 and on all its shippers who were not parties to RH-1-91 by 23 December 1991.

6. Once the list of intervenors is issued by the Board, TransCanada is to serve its application and written evidence and one copy of these Directions on Procedure on those intervenors who have not already received a copy.

#### **INFORMATION REQUESTS TO TRANSCANADA**

7. Information requests addressed to TransCanada on the application, including the Task Force Report, and on the written evidence, are to be filed with the Secretary and served on all parties to the proceeding by 7 January 1992.

8. Responses to information requests made pursuant to paragraph 7 are to be filed with the Secretary and served on all parties to the proceeding by 17 January 1992.

#### **LETTERS OF COMMENT**

9. Letters of comment by persons who do not wish to intervene are to be filed with the Secretary and served on TransCanada by 17 January 1992.

#### **LIST OF ISSUES**

10. As part of its application, TransCanada filed a Task Force Report which has been prepared by the participants of a joint industry task force. The Task Force Report contains a description of the issues that the Task Force was able to resolve as well as those issues in which no resolution was reached.

The Board intends to examine, but does not limit itself to, the issues specified on the list of issues found in Appendix V. The Board wishes to seek the comments of interested parties with respect to any additional issues, not identified on the list of issues, which parties consider should be addressed in the public hearing. Interested parties are also invited to confirm their position on the Task Force Report by stating whether they support or contest any of the resolutions contained therein. Comments should be included in the interventions of interested parties and be served on parties as described in paragraph 2.

#### **WRITTEN EVIDENCE OF INTERVENORS**

11. Intervenor written evidence is to be filed with the Secretary and served on all other parties to the proceeding by 28 January 1992.

## **INFORMATION REQUESTS TO THE INTERVENORS**

12. Information requests with respect to the material filed pursuant to paragraph 11 are to be filed with the Secretary and served on all parties to the proceeding by 7 February 1992.

13. Responses to the information requests made pursuant to paragraph 12 are to be filed with the Secretary and served on all parties to the proceeding by 17 February 1992.

## **HEARING**

14. The hearing will commence in the 3rd floor Hearing Room of the National Energy Board, 311 - 6th Avenue S.W., Calgary, Alberta on 17 February 1992 at 1:00 p.m.

## **NOTICE OF HEARING**

15. The publications in which TransCanada is required to publish the Notice of Public Hearing (Appendix I) are listed in Appendix II.

## **PROCEDURE FOR HEARING OF EVIDENCE AND FINAL ARGUMENT**

16. With respect to the hearing of evidence, the following procedure shall apply:

(i) TransCanada shall present its evidence;

(ii) Intervenors and Board Counsel shall have the right to cross-examine TransCanada's witnesses;

(iii) Intervenors shall present their evidence in an order to be specified at the commencement of the proceedings;

(iv) after each intervenor has presented its evidence, other intervenors, TransCanada and Board Counsel shall have the right of cross-examination; and

(v) TransCanada may present reply evidence.

17. Following the evidentiary portion of the hearing, final argument shall be heard on all issues discussed at the hearing.

#### **FILING AND SERVICE REQUIREMENTS**

18. Where parties are directed by these Directions on Procedure or by the draft NEB Rules of Practice and Procedure to file or serve documents on other parties, the following number of copies shall be served or filed.

- (i) for documents to be filed with the Board, provide 35 copies;
- (ii) for documents to be served on TransCanada, provide 3 copies;
- (iii) for documents to be served on intervenors, provide 1 copy.

19. Parties filing or serving documents at the hearing shall file or serve the number of copies specified in the preceding paragraph.

20. Persons filing letters of comment should serve one copy on TransCanada and file one copy with the Board, which in turn will provide copies for all other parties.

21. Parties filing or serving documents fewer than five days prior to the commencement of the hearing shall also bring to the hearing a sufficient number of copies of the documents for use by the Board and other parties present at the hearing.

#### **SIMULTANEOUS INTERPRETATION**

22. The proceeding will be conducted in either of the two official languages and simultaneous interpretation will be provided.

#### **GENERAL**

23. Unless otherwise directed by the Board, the hours of sitting shall be from 8:30 a.m. until 1:00 p.m. except Mondays when the hours shall be from 1:00 p.m. to 5:00 p.m.

24. All parties are asked to quote Order No. RH-4-91 and File No. 4200-T001-6 when corresponding with the Board in this matter.

25. Subject to the foregoing, the procedures to be followed in this proceeding shall be governed by the draft NEB Rules of Practice and Procedure.

26. For information on this hearing, or the procedures governing the hearing, contact the Board's Regulatory Support Office at (403)299-2711.

NATIONAL ENERGY BOARD

G.A. Laing  
Secretary

**NATIONAL ENERGY BOARD  
NOTICE OF PUBLIC HEARING**

**TransCanada PipeLines Limited  
Application for Tolls Effective 1 January 1992**

The National Energy Board ("the Board") will conduct a hearing into an application dated 4 July 1991, as revised 22 November 1991, by TransCanada PipeLines Limited ("TransCanada") pursuant to Part IV of the National Energy Board Act for certain orders respecting tolls that TransCanada may charge for service rendered for the period 1 January to 31 December 1992.

As part of its application, TransCanada filed a Task Force Report which has been prepared by the participants of a joint industry task force. The Task Force Report contains a description of the issues that the Task Force was able to resolve as well as those issues in which no resolution was reached.

The hearing will commence on 17 February 1992 at 1:00 p.m. local time in the Hearing Room of the National Energy Board, 311-6th Avenue S.W., Calgary, Alberta. The hearing will be public and will be held to obtain the evidence and relevant views of the interested parties on the application.

Anyone wishing to intervene in the hearing must file a written intervention with the Secretary of the Board and serve three copies on TransCanada at the following address:

Mr. Robert B. Cohen

General Counsel, Regulatory  
TransCanada PipeLines Limited  
TransCanada PipeLines Tower  
1900, 111-Fifth Avenue S.W.  
P.O. Box 1000, Station "M"  
Calgary, Alberta  
T2P 4K5

Telephone: (403) 267-1041  
Facsimile: (403) 267-1055

TransCanada will provide a copy of the application to each intervenor.

Interested parties who wish to comment on the list of issues and indicate their position on the Task Force Report should include those comments in their interventions and serve a copy on all parties to RH-1-91. The deadline for receipt of written interventions is 31 December 1991. The Secretary will then issue a list of intervenors.

Anyone who does not wish to intervene in the hearing but who would like to file a letter of comment on the application should write to the Secretary of the Board and send a copy to TransCanada. The deadline for receipt of letters of comment is 17 January 1992.

Information on the procedures for this hearing (Hearing Order No. RH-4-91) or the draft NEB Rules of Practice and Procedure governing all hearings (both documents are available in English and French) may be obtained by writing to the Secretary or telephoning the Board's Regulatory Support Office at (403) 299-2711.

G.A. Laing  
Secretary  
National Energy Board  
311-6th Avenue S.W.  
Calgary, Alberta  
T2P 3H2

Facsimile No. (403) 292-5503



**LIST OF PUBLICATIONS**

<b>Publication</b>	<b>City</b>
NOTICE TO BE PUBLISHED IN ENGLISH	
"The Times Colonist"	Victoria, British Columbia
"The Vancouver Sun"	Vancouver, British Columbia
"Calgary Herald"	Calgary, Alberta
"The Edmonton Journal"	Edmonton, Alberta
"The Leader Post"	Regina, Saskatchewan
"The Winnipeg Free Press"	Winnipeg, Manitoba
"The Gazette"	Montreal, Québec
"Quebec Chronicle Telegraph"	Quebec, Québec
"The Globe and Mail", "Toronto Star", "The Financial Post", and "Financial Times of Canada"	Toronto, Ontario
"The Ottawa Citizen"	Ottawa, Ontario

**NOTICE TO BE PUBLISHED IN FRENCH**

"Le Soleil de Colombie"	Vancouver, British Columbia
"Le Franco"	Edmonton, Alberta
"Journal L'Eau Vive"	Regina, Saskatchewan
"La Liberté"	St. Boniface, Manitoba
"Le Devoir" and "La Presse"	Montreal, Québec
"Le Soleil"	Québec, Québec
"L'Express"	Toronto, Ontario
"Le Droit"	Ottawa, Ontario

**NOTICE TO BE PUBLISHED IN BOTH ENGLISH AND FRENCH**

the "Canada Gazette"

Ottawa, Ontario

Assistant Deputy Minister for Energy Ministry of  
Energy, Mines and Petroleum Resources Parliament  
Buildings Victoria, British Columbia V8V 1X4

Mr. Martin Kaga Senior Solicitor Legal Services  
Division Departments of Energy, Forestry, Lands and  
Wildlife 10th Floor, Petroleum Plaza South  
9915-108th Street Edmonton, Alberta T5K 2C9

Attorney General for the Province of Saskatchewan  
Department of Justice 8th Floor, 1874 Scarth Street  
Regina, Saskatchewan S4P 3V7

Attorney General for the Province of Manitoba  
Legislative Buildings Winnipeg, Manitoba R3C 0V8

Director Legal Branch - 12th Floor Ministry of  
Energy for Ontario 56 Wellesley Street West Toronto,  
Ontario M7A 2B7

Procureur général du Québec Édifice Delta 1200 route  
de l'église Ste Foy (Québec) G1V 4M1

Mme Christina Cantin Directrice par intérim  
Direction des affaires juridiques du Ministère de  
l'énergie et des ressources 5700, 4e avenue ouest  
(B301) Charlesbourg (Québec) G1H 6R1

Attorney General for the Province of New Brunswick  
Legislative Buildings  
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E3B 5H1

Office of the Deputy Minister  
Nova Scotia Department of Mines and Energy  
P.O. Box 1087  
1690 Hollis Street  
Halifax, Nova Scotia  
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Minister of Justice and Attorney General  
Province of Prince Edward Island  
Province House  
Charlottetown, Prince Edward Island  
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P.O. Box 2703  
Whitehorse, Yukon  
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Department of Justice & Public Services  
P.O. Box 1320  
Yellowknife, N.W.T.  
X1A 2L9

Mr. J.S. Klenavic  
Canadian Gas Association  
Suite 1101  
50 O'Connor Street  
Ottawa, Ontario  
K1P 6L2

General Counsel and Secretary  
Alberta Petroleum Marketing Commission  
1900, 250 - 6th Avenue S.W.  
Calgary, Alberta  
T2P 3H7

Manager, Regulatory Affairs Canadian  
Petroleum Association 3800, 150 - 6th Avenue  
S.W. Calgary, Alberta T2P 3Y7

Manager, Regulatory Affairs Independent  
Petroleum Association of Canada 700, 707 -  
7th Avenue S.W. Calgary, Alberta T2P 0Z2

Secretary Small Explorers and Producers  
Association of Canada 717 - 7th Avenue S.W.  
Room 1730 P.O. Box 6531, Station "D" Calgary,  
Alberta T2P 2E1

Managing Director Ontario Natural Gas  
Association Suite 1104 77 Bloor Street West  
Toronto, Ontario M5S 1M2

Executive Director Industrial Gas Users  
Association Suite 804 170 Laurier Avenue W.  
Ottawa, Ontario K1P 5V5

The Canadian Chemical Producers' Association  
805 -350 Sparks Street Ottawa, Ontario K1R  
7S8

**TIMETABLE**

A	TCPL application filed	4 July 1991
B	TCPL update to reflect RH-1-91 Decision filed	22 November 1991
C	Hearing Order issued with list of issues	11 December 1991
D	TCPL written evidence to be filed	23 December 1991
E	Interventions & comments on list of issues to be filed	31 December 1991
F	Information requests to TCPL due	7 January 1992
G	Responses by TCPL due	17 January 1992
H	Letters of comment due	17 January 1992
	Intervenor written evidence due	28 January 1992
J	Information requests to intervenors due	7 February 1992
K	Responses by intervenors due	17 February 1992
L	Hearing to begin in Calgary	17 February 1992

(1:00 p.m.)

**LIST OF ISSUES**

This list is intended to assist all parties in defining the key issues to be addressed at the hearing. This will not preclude the Board from dealing with other matters which are normally raised by virtue of the Board's mandate pursuant to Part IV of the Act.

At the hearing, the Board will consider, inter alia, the following matters:

1. The appropriate toll design for Interruptible Service ("IS") (Ref: TransCanada Application, Volume 4, Task Force Report, Tab C, Sheet 4 of 4).
2. The appropriateness of reflecting a Straight Fixed Variable rate design effective 1 April 1992 for Great Lakes' charges to TransCanada (Ref: TransCanada Application, Volume 4, Task Force Report, Tab C, Sheet 4 of 4).
3. The appropriateness of billing to all TransCanada customers on a rolled-in basis the Great Lakes charges incurred by TransCanada on the basis of an incremental rate design (Ref: TransCanada Application, Volume 4, Task Force Report, Tab C, Sheet 4 of 4).
4. The continued appropriateness of the Transmission Plant in Service deferral account.
5. The appropriateness of TransCanada's proposed change to the methodology involved in calculating the Firm Service ("FS") and IS point-to-point tolls (Ref: TransCanada Application, Volume 3, Tab 8).







Appendix VII

File: 4200-T001-6

6 February 1992

**BY FACSIMILE**

Mr. Robert B. Cohen  
General Counsel, Regulatory  
TransCanada PipeLines Limited  
TransCanada PipeLines Tower  
111-Fifth Avenue S.W.  
P.O. Box 1000, Station M  
Calgary, Alberta  
T2P 4K5

Dear Mr. Cohen:

Re: **Amendment to Hearing Order RH-4-91**

The Board wishes to advise parties of a change to the location of the hearing. The RH-4-91 proceeding will now commence in the McCall Ballroom of the Chateau Airport Hotel, 2001 Airport Road N.E., Calgary, Alberta on 18 February 1992 at 1:00 local time. Attached is a copy of Amending Order AO-2-RH-4-91 which sets out this change.

TransCanada is directed to serve a copy of this letter and the attached Amending Order on all interested parties to RH-4-91.

Yours truly,

G.A. Laing  
Secretary

4200-T001-6

File No.:

1992

Date: 6 February

**ORDER AO-2-RH-4-91  
(Amending Hearing Order RH-4-91)  
Amendment to Directions on Procedure**

**TransCanada PipeLines Limited  
Application for Tolls Effective 1 January 1992**

WHEREAS on 13 January 1992 the Board issued Amending Order AO-1-RH-4-91 to Hearing Order RH-4-91 which amended paragraph 14 concerning the commencement date of the hearing;

AND WHEREAS in the amended paragraph 14 of the Hearing Order the Board announced that the location of the hearing will be the 3rd floor Hearing Room of the National Energy Board;

AND WHEREAS the 3rd floor Hearing Room of the National Energy Board is no longer available;

THEREFORE the Board has decided to change the location of the hearing and accordingly revokes the existing paragraph 14 and replaces it with the following:

"14. The hearing will commence in the McCall Ballroom of the Chateau Airport Hotel, 2001 Airport Road N.E., Calgary, Alberta on 18 February 1992 at 1:00 p.m."

NATIONAL ENERGY BOARD

G.A. Laing  
Secretary

Appendix VIII

File: 4200-T001-6

3 December 1991

**BY FACSIMILE**

Mr. Robert B. Cohen  
General Counsel, Regulatory  
TransCanada PipeLines Limited  
TransCanada PipeLines Tower  
111-Fifth Avenue S.W.  
P.O. Box 1000, Station M  
Calgary, Alberta  
T2P 4K5

Dear Mr. Cohen:

Re: **TransCanada PipeLines Limited**  
**1992 Interim Tolls Application**

The Board has considered your application dated 22 November 1991 for interim tolls pursuant to subsection 19(2) and section 59 of the National Energy Board Act. The Board has decided to issue the attached Order No. TGI-3-91, authorizing TransCanada to charge, on an interim basis effective 1 January 1992, the tolls approved by the Board in its RH-1-91 Decision. In addition, the Board has approved the continuance of all existing deferral accounts subject to the parameters and conditions approved by the Board with respect to each.

TransCanada is directed to serve a copy of this letter and Order No. TGI-3-91 on all parties to RH-1-91, all shippers who were not parties to RH-1-91, and all prospective shippers in TransCanada's Queue.

Yours truly,

G.A. Laing  
Secretary

**ORDER TGI-3-91**

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

IN THE MATTER OF an application dated 22 November 1991 by  
TransCanada PipeLines Limited ("TransCanada") for an Order  
pursuant to subsection 19(2) and section 59 of the Act; filed  
with the Board under File No. 4200-T001-6.

BEFORE the Board on 3 December 1991.

WHEREAS TransCanada has filed an application dated 4 July 1991, as  
revised 22 November 1991, for orders fixing just and reasonable tolls  
that it may charge for or in respect of transportation services rendered  
effective 1 January 1992;

AND WHEREAS the Board expects that its final decision on TransCanada's  
application will not be rendered until after 1 January 1992;

AND WHEREAS TransCanada has filed an application dated 22 November 1991  
for an order continuing the tolls approved pursuant to Hearing Order  
RH-1-91 as interim tolls effective 1 January 1992;

AND WHEREAS TransCanada, by the same application, has also requested the  
continuance of all existing deferral accounts approved pursuant to  
Hearing Order RH-1-91;

IT IS ORDERED, PURSUANT TO SUBSECTION 19(2) AND SECTION 59 OF THE ACT,  
THAT:

1. TransCanada's existing tolls as set out in Appendix 1 to Order TG-6-91  
are to be charged on an interim basis for the period commencing 1 January  
1992 and will remain in effect only until the Board's final order on  
TransCanada's tolls application comes into effect.

2. All deferral accounts currently in effect are continued without change  
until the Board's final order on TransCanada's tolls application comes  
into effect.

NATIONAL ENERGY BOARD

G.A. Laing  
Secretary