



LETTER DECISION

File OF-Tolls-Group1-T211-2011-04 03
10 October 2013

To: Parties to the RH-001-2013 Proceeding

**TransCanada PipeLines Limited (TransCanada)
Application for Approval of Tariff Amendments (Tariff Amendment Application)
RH-001-2013 Decision with Reasons to Follow**

On 17 June 2013, TransCanada filed the Tariff Amendment Application under Part I and Part IV of the *National Energy Board Act*¹ (NEB Act). In the Tariff Amendment Application, TransCanada sought National Energy Board (Board) approval to amend its Canadian Mainline Gas Transportation Tariff (Tariff) as follows:

- to modify provisions applicable to Diversions and Alternate Receipt Points (ARPs);
- to eliminate the overrun feature of Storage Transportation Service (STS);
- to eliminate provisions that establish requirements for the timing and duration of open seasons for Short-Term Firm Transportation (STFT) service and Short-Term Short Notice (ST-SN) service; and
- to modify renewal provisions for Firm Mainline Services.²

The Board set the Tariff Amendment Application down for an oral public hearing. A number of parties participated in the hearing and opposed the Tariff Amendment Application in whole or in part. The oral portion of the hearing, consisting of cross-examination and reply argument, took place in Calgary, Alberta in September 2013 over nine days.

The Board has decided to release its decision on the Tariff Amendment Application with reasons to follow. It is the Board's view that there is market uncertainty surrounding the terms and conditions of access to transportation services on the Mainline. Releasing the decision, in advance of the reasons, provides shippers with information that may affect their contracting decisions for the upcoming Gas Year.³

¹*National Energy Board Act*, R.S.C. 1985, c. N-7.

² In this letter and Appendix A, "Firm Mainline Service" or "Firm Mainline Services" refers to any one or more of the following services: Firm Transportation; Storage Transportation Service; Storage Transportation Service Linked, Firm Transportation - Short Notice; and Short Notice Balancing.

³ In this letter, "Gas Year" refers to the annual period between 1 November of a year and 31 October of the following year.

Filing Deadline

The Board directs TransCanada to file, pursuant to paragraph 60(1)(a) of the NEB Act, amendments to the Tariff to reflect this decision (the Filing). The Board directs TransCanada to make the Filing by **15 November 2013**.

Diversions and ARPs

The Board has decided to deny the proposed amendments to the Tariff in respect of alternate receipt points and diversions.

STS Overrun

The Board has decided to deny the proposed amendments to eliminate the overrun feature of STS service.

STFT and ST-SN Open Season Requirements

The Board has decided to maintain the current timing of the open seasons for STFT and ST-SN. However, the Board has decided to amend the Tariff provisions so that the minimum duration TransCanada is required to hold these open seasons is reduced to 48 hours.

Renewal Provisions

The Board has decided to amend renewal provisions for Firm Mainline Services to require contract holders to provide TransCanada with two years' notice of their intention to renew (instead of the six month renewal notice provision in existence prior to this decision), and to require a renewal term to be one or more full years (the Amended Renewal Provisions).

The Board directs TransCanada, as part of the Filing, to amend the Tariff to reflect the Amended Renewal Provisions. TransCanada may, as part of the Filing, amend the Tariff to give contract holders for Firm Mainline Services the choice to align their renewal terms with the Gas Year, provided that the renewal term exceeds one year.

Other aspects of the renewal provisions for Firm Mainline Services, for example, provisions prescribing the form and content of a renewal notice, and how that notice is to be provided to TransCanada, are unchanged by this decision. The Board rescinds the suspension of the renewal provisions set out in its 22 May 2013 letter.

Renewal Notice Transition Mechanism

The Amended Renewal Provisions are in effect immediately with one exception. The Board recognizes that many Existing Contracts⁴ have terms of less than two years. It is impossible for these contract holders to provide TransCanada two years notice of their intention to renew the contracts. Applying the Amended Renewal Provisions immediately to these contracts would effectively make them non-renewable. Therefore, the Board has decided to establish the transition mechanism set out in Appendix A to this letter and apply that mechanism to the Existing Contracts as indicated in that Appendix.

⁴ In this letter and Appendix A, "Existing Contracts" refers to contracts for Firm Mainline Services that are made on or before the date of this letter decision.

The transition mechanism is in effect immediately until 31 January 2014. The transition mechanism provides Firm Mainline Service contract holders with at least 90 days' notice to decide whether to renew their Existing Contracts and maintain the option of retaining their renewal rights. The Amended Renewal Provisions will come into effect on 1 February 2014 for the Existing Contracts set out in Appendix A.

Under the transition mechanism, a contract that is renewed for a total of two or more years will maintain renewal rights in accordance with the Amended Renewal Provisions. A contract holder may renew a contract for only one year, but the contract holder would not maintain renewal rights in accordance with the Amended Renewal Provisions. For greater clarity, as of 31 January 2014, contracts must have a termination date in 2016 or later to retain renewal rights.

Decision on Union Renewals

The Board's decision on Union's "expiring shipper evidence" was pronounced on the bench. It can be found at Transcript Volume 9, paragraphs 10128 to 10131.

Disposition

The foregoing constitutes our Decision in respect of TransCanada's Application for Approval of Tariff Amendments heard by the Board in the RH-001-2013 proceeding.



L. Mercier
Presiding Member



R.R. George
Member



J. Gauthier
Member

Calgary, Alberta
October 2013

Appendix A

Transition Mechanism

This Appendix applies to contracts for Firm Mainline Services that expire between 11 April 2014 and 31 December 2015 and sets notice and term requirements for renewing these contracts. Other aspects of the renewal provisions for Mainline Firm Services, for example, provisions prescribing the form and content of a renewal notice, and how that notice is to be provided to TransCanada, are unchanged by the transition mechanism.

STEP 1: Applicable to Existing Contracts that expire between 11 April 2014 and 30 July 2014, inclusive

A contract holder has the option of extending the term of its contract for a period of one or more full years, provided that the contract holder provides TransCanada six months' notice of its intention to renew the contract before the contract termination date. If the new termination date of the contract falls between the dates set out in Step 2, then the contract holder has an additional opportunity to extend the term of its contract in accordance with Step 2.

STEP 2: Applicable to Existing Contracts that expire between 31 July 2014 and 31 December 2015, inclusive

A contract holder has the option of extending the term of its contract for a period of one or more full years, provided that the contract holder provides TransCanada notice of its intention to extend the term of the contract by 31 January 2014.