



LETTER DECISION

File OF-Tolls-Group1-T211-2013-05 01
28 November 2014

To: All parties to RH-001-2014

**TransCanada PipeLines Limited (TransCanada)
Application for Approval of 2015 to 2030 Tolls (application)
RH-001-2014 Decision with Reasons to Follow**

On 20 December 2013, TransCanada filed an application for approval of a settlement agreement (Settlement) for its Mainline System (Mainline). The existing tolls and tariff for the TransCanada Mainline were determined by the RH-003-2011 Decision rendered in March 2013. The present application was filed pursuant to Parts I and IV of the *National Energy Board Act*, the 2002 *National Energy Board Guidelines for Negotiated Settlements of Traffic, Tolls and Tariffs* (Settlement Guidelines) and certain directives in the RH-003-2011 Decision. Specifically the application asked the National Energy Board (NEB or Board) to:

- approve the negotiated settlement;
- set Mainline tolls in accordance with the Second Amended Appendix D to the settlement for services for 2015 to 2020 and for approval of a methodology for setting tolls to 2030;
- revise the tariff in accordance with Attachment 3 to the application; and
- grant such further and other relief as TransCanada may request or the Board may consider appropriate.

The Settlement was reached between TransCanada and the three largest Mainline customers and largest Canadian local distribution companies – Enbridge Gas Distribution Inc., Union Gas Limited and Gaz Métro Limited Partnership.

Following receipt of the application, the Board initiated a comment process among TransCanada shippers and stakeholders. At the conclusion of the comment process, the Board found that it could not approve the Settlement as a contested settlement under the Board's Settlement Guidelines.

The Board indicated its willingness to treat the Settlement as a common position of the parties to it in a contested tolls application, which TransCanada agreed to on 14 April 2014.

The Board issued a Hearing Order on 9 May 2014, setting the application down for an oral public hearing. The oral portion of the hearing took place in Calgary over 12 days in September 2014.

There were 33 intervenors and 4 commenters that were granted standing in the process.

The Board has decided to release its decision on the application with reasons to follow. It is the Board's view that there is a benefit to the market by having a timely decision. Reasons for the decision will be released on or before 18 December 2014. The Board's decisions on the components of the application follow.

Need for the application

The Board recognizes that off-ramps were included in the RH-003-2011 Decision to account for material changes affecting the Mainline. In the Board's view, such a material change in the financial position of the Mainline, as well as in its market circumstances since the implementation of the RH-003-2011 tolls, have occurred.

The Board has considered the relevant evidence placed on the record, including the contractual commitments made by the settling parties, in reaching its decision that the resulting tolls are just and reasonable and not unjustly discriminatory.

New services

The Board approves the following service amendments that TransCanada proposed:

- the 15-year minimum contract term requirement for expansion facilities;
- the introduction of an option and process for shippers to convert their long-haul firm transportation contracts to short-haul firm service contracts;
- minor amendments to diversion and alternate receipt point rights;
- modifications to certain distributor delivery areas and the establishment of new delivery locations;
- the new summer storage service; and
- the new enhanced market balancing service.

Renewal provisions

The Board approves TransCanada's proposed term-up provision. The term-up provision will come into effect on 30 March 2015.

Pricing discretion

The Board approves maintaining pricing discretion as established in the RH-003-2011 Decision. As discussed in Toll Design below, the Board will review the continued appropriateness of the existing pricing discretion for the 2018 to 2020 time period in a future TransCanada Mainline tolls application.

During the oral hearing, TransCanada submitted that its pricing desk employees have access to non-public information, including path-specific shippers' nominations. The Board is concerned that access to non-public information available to TransCanada's pricing desk employees could be construed to offer an unfair advantage to TransCanada over secondary market participants.

The Board directs TransCanada to initiate a comprehensive review of the non-public, shipper-specific information that TransCanada's pricing desk has access to, including non-public information on TransCanada's affiliates, and how this non-public information could, in theory and practice, influence the setting of bid floors for interruptible transportation and short-term firm transportation. The Board is primarily concerned about access of pricing desk employees to shippers' transactions, including volumes and transportation paths, real time and historic.

TransCanada is directed to provide remedies on how it will prevent access to and use of non-public information in the setting of bid floors for discretionary services. Potential remedies may include the implementation of firewalls between the pricing desk and the regulated Mainline entity, inclusive of communications and access to information; a separate code of ethics for pricing desk employees; and/or an update to the Mainline's Code of Conduct, amongst others. Given the concerns expressed by participants in this proceeding, the Board is of the view that TransCanada's review will benefit from consulting with Mainline stakeholders on this matter. TransCanada is directed to provide the results of its internal review and consultations with stakeholders to the Board by 31 March 2015.

TransCanada is already under the direction of the Board to consult with shippers on the content of its Quarterly Surveillance Reports and whether any amendments need to be made to reporting requirements. This is a direction which flows from the Board's response to TransCanada's Compliance Filing under RH-003-2011 in June 2013 and for which TransCanada was recently granted a time extension. The Board in this proceeding directs TransCanada to review and consult on its internal management of non-public information as it relates to its exercise of pricing discretion. The Board anticipates that TransCanada will take advantage of the connections between these issues and the consultation on reporting requirements and engage its stakeholders on both.

In addition to participating in the aforementioned consultations, the Board further invites interested parties to review TransCanada's 31 March 2015 submission and provide their comments to the Board by 30 April 2015. Upon receipt of submissions from interested parties, the Board may hold a written process or a technical conference to determine measures to address the transparency and management of discretionary services issues.

Revenue requirement and rate base

The Board approves the proposed revenue requirements for 2015 to 2020, including the return and income tax, TransCanada Contribution, Bridging Contribution and other cost of service elements.

The Board approves the proposed rate base components for 2015 to 2020, including the adjustment accounts – the Long-Term Adjustment Account (LTAA) and the Bridging Amortization Account – and the Capacity Capital Additions allocated to the Eastern Triangle rate base.

The Board approves the proposed treatment of the LTAA as an adjustment account to eliminate any and all variances between the actual and forecast revenue requirement and the actual and forecast revenue during the period 1 January 2015 to 31 December 2020, net of incentive mechanism adjustments.

The Board approves the allocation of the actual Toll Stabilization Account (TSA) balance as of 31 December 2014 to the LTAA and the subsequent elimination of the TSA.

The Board notes that TransCanada proposes to allocate the LTAA balance to the Eastern Triangle rate base in 2021. The Board determines that this proposal is appropriate in the context of the package of gives-and-takes between TransCanada and the settling parties. However, based on the circumstances when 2021 tolls are determined, the Board may determine that a different allocation of the LTAA is more appropriate.

The Board approves the recovery of the Bridging Contribution attributable to the Eastern Triangle tolls over the period 1 January 2015 to 31 December 2030 as applied for.

The Board notes that the segmentation tolling parameter relates to a future period. The Board approves the segmentation tolling parameter in principle at this time. The Board will continue to monitor the appropriateness of the segmentation tolling parameter prior to its implementation. Should the circumstances be significantly different closer to 2020, the Board would expect that the issue of segmentation post-2020 would be re-examined to determine if it remains appropriate.

Toll design

The Board approves TransCanada's proposed three step toll design for 2015 to 2020 subject to the requirement that TransCanada file the following two documents:

- 1) RH-001-2014 compliance filing – This is to be filed before 31 March 2015 and must include the following adjustments to the proposed tolls: the allocation of the actual TSA balance as of 31 December 2014 to the LTAA and, all updates to revenue requirement and firm billing determinants as of 31 December 2014.

The requirement for a compliance filing necessitates interim tolls. Therefore, the applied-for tolls are to be implemented on an interim basis on 1 January 2015. Differences recorded due to charging the interim toll from 1 January 2015 until the date of the compliance filing are to be captured in the LTAA.

2) 2018 to 2020 toll application - This application is to be filed prior to 31 December 2017 and must include the following:

- A review of revenue requirements, including return, income taxes, the annual bridging amount and the LTAA balance, for the 2018 to 2020 period;
- A review of billing determinants, including long-haul contracted quantities to the Eastern Triangle;
- A review of discretionary miscellaneous revenue forecasts for the 2018 to 2020 period; and
- A discussion of any other material changes that would impact the operation of the Mainline for the 2018 to 2020 period.

At that time, the Board may consider whether pricing discretion continues to be necessary, either on an integrated or a segmented basis. The Board expects TransCanada to file the 2018 to 2020 toll application for approval regardless of whether the application is expected to result in a toll change for the 2018 to 2020 period.

The Board approves rolled-in tolling into the Eastern Triangle rate base of the Eastern Triangle capital expansions between 2015 and 2020, and approves in principle the practice of rolling-in Mainline facilities costs in the future regime after segmentation such that the costs of facility additions in the Eastern Triangle will be reflected in Eastern Triangle tolls until 2030. The Board notes, however, that each facilities application is unique, and the reasonableness of continuing the practice of rolled-in tolling will be considered by the Board in its assessment of each application.

The Board also approves the applied-for firm service billing determinants, subject to the updates stated above, and discretionary miscellaneous revenue forecasts. In the Board's view, the implementation of the proposed toll design will result in just and reasonable tolls.

Risks and rewards

The Board finds that the 10.1 per cent return on equity and 40 per cent deemed equity ratio is a fair return for the Mainline, commensurate with its risk under the proposal, and in accordance with the fair return standard.

The Board approves the cost of debt as proposed by TransCanada and 60 per cent deemed debt ratio.

The Board approves the applied-for incentive sharing mechanism.

Disposition

The foregoing constitutes our Decision in respect of TransCanada's Application for Approval of 2015 to 2030 Tolls heard by the Board in the RH-001-2014 proceeding.



R. R. George
Presiding Member



J. Gauthier
Member



R. R. Wallace
Member

Calgary, Alberta
November 2014