National Energy Board

Reasons for Decision

In the Matter of

TransCanada PipeLines Limited

Application dated 21 December 1990 for Tolls

RH-1-91

September 1991

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Regulatory Support Office
National Energy Board
311 6th Avenue S.W.
Calgary, Alberta
Canada
T2P 3H2
(403)292-4800

Bureau du soutien de la réglementation
Office national de l'énergie
311, 6e Avenue s.-o.
Calgary (Alberta)
Canada
T2P 3H2
(403) 292-4800

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Recital 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-1-91;

HEARD at Calgary, Alberta on 14, 15, 16, 17, 21, 22, 23, 24, 27, and 28 May 1991 and at Ottawa, Ontario on 10, 11, 12, 13, 18, 19, 20 June 1991 and 16, 17, and 18 July 1991.

BEFORE:

D.B. Smith	Presiding Member
R.B. Horner, Q.C.	Member
A. Côté-Verhaaf	Member

APPEARANCES:

N.D.D. Patterson J. Lutes P.J. Jeffrey	TransCanada PipeLines Limited
C.K. Yates	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
J.D. Brett	Centra Gas Manitoba Inc.
J.H. Smellie D.K. Wilson	Centra Gas Ontario Inc.
R.J. Harrison	Champlain Pipeline Company
J.H. Smellie	CNG Transmission Corporation
J.H. Farrell H.T. Soudek	The Consumers' Gas Company Ltd.
D.W. Rowbotham	Encogen Four Partners, L.P.
H.N.E. Hobbs	Foothills Pipe Lines Ltd.
S.H. Lockwood	FSC Resources Limited

J.T. Horte	KannGaz Producers Ltd.
R. Lassonde F.G. Hébert	Gaz Métropolitain, inc.
R.B. Hillary	Hillary & Associates
J.T. Brett	Natural Gas Pipeline Company of America

L. Keough L.E. Smith	Northeast Group (Alberta Northeast Gas, Limited; Boundary Gas, Inc.; Ocean State Power/ Ocean State Power II; MASSPOWER Joint Venture; and Selkirk Cogen Partners. L.P.)
J.J. Hopwood, Q.C.	NOVA Corporation of Alberta
G. Giesbrecht	Pan-Alberta Gas Ltd.
M. Grant	ProGas Ltd.
N.J. Schultz	Tennessee Gas Pipeline Company and Viking Gas Transmission Company
L.A. Leclerc	Trans Québec & Maritimes Pipeline Inc.
G.K. Cameron	Union Gas Limited
M.J. Samuel	Western Gas Marketing Limited
W.M. Moreland	Alberta Petroleum Marketing Commission
V.J. Black	Minister of Energy for Ontario
J. Robitaille	Le Procureur général du Québec
R. Graw	National Energy Board

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Abbreviations

A&G	administrative & general
ACQ	Annual Contract Quantity
they Act	the National Energy Board Act
AFUDC	allowance for funds used during construction
APMC	Alberta Petroleum Marketing Commission
CAPM	capital asset pricing model
CCA	capital cost allowance
Consumers’	The Consumers’ Gas Company Ltd.
CPA	Canadian Petroleum Association
CPA et al	Canadian Petroleum Association, Independent Petroleum Association of Canada, Industrial Gas Users Association, and Alberta Petroleum Marketing Commission
	EITenergy in transit
FDPS	first devoted to public service
FS	Firm Service
FST	Firm Service Tendered
FTE	full time equivalents
GAAP	generally accepted accounting principles
GJ	gigajoule
GMi	Gaz Métropolitain, inc.
GPIS	gas plant in service
GPUC	gas plant under construction
Great Lakes or GLGT	Great Lakes Gas Transmission Company
GST	goods and services tax

IGUA	Industrial Gas Users Association
IPAC	Independent Petroleum Association of Canada

IS	Interruptible Service
kPa	kilopascal
LCT	Large Corporations Tax
long-Canada	long-term Government of Canada bond
Mcf	thousand cubic feet
Mcfdthousand cubic feet per day	
MichCon	Michigan Consolidated Gas Company
MMcfd	million cubic feet per day
NEB or the Board	National Energy Board
Ontario	Minister of Energy for Ontario
STS	Storage Transportation Service
Task Force	Joint Industry Task Force initiated by TCPL
TCPL or the Company	TransCanada PipeLines Limited
Tennessee	Tennessee Gas Pipeline Company
10^3m^3	thousand cubic metres
$10^3m^3/d$	thousand cubic metres per day
10^6m^3	metres
TQM	Trans Québec & Maritimes Inc.
Union	Union Gas Limited
Viking	Viking Gas Transmission Company

WGML	Western Gas Marketing 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 21 December 1990, TCPL applied to the Board for new tolls to be effective 1 January 1991. The application dealt with the issues of rate base, cost of service, rate of return, toll design and tariff matters.

The Hearing

The hearing, which lasted 20 days, opened in Calgary on 14 May 1991 and continued until 28 May 1991. The proceedings reconvened in Ottawa from 10 June until 20 June 1991 and then from 16 July to 18 July 1991. The hearing was preceded by a Pre-hearing Conference which commenced on 3 April 1991 in Ottawa.

Corporate Relocation Deferral Account

In its RH-3-89 Decision, the Board authorized a Corporate Relocation deferral account in which to record the costs and savings related to the move of TCPL's corporate offices from Toronto to Calgary. TCPL sought to recover the balance in that deferral account of approximately $48.4 million, including carrying charges, in the 1991 revenue requirement. Taking the view that a greater portion of the relocation costs should be borne by the shareholders, the Board decided to disallow five percent (approximately $2.1 million) of the portion of the relocation costs which TCPL had allocated to the utility. The Board also decided to reduce the balance of the deferral account eligible for carrying charges to reflect the income tax savings available to TCPL resulting from the incurrence of these relocation costs. Finally, the Board decided to amortize the recovery of the approved amount over a two-year period ending 31 December 1992.

Revenue Requirement

The approved 1991 revenue requirement, net of miscellaneous revenue, is $1,196.1 million, or $21.9 million less than the 1991 revenue requirement applied for by TCPL. The main factors contributing to this reduction are a lower approved rate of return on common equity, lower associated income taxes, the five percent disallowance of the deferred corporate relocation costs, and the two-year amortization of those deferred relocation costs. The reduction was offset somewhat by the adjustment necessary to make up for the revenue deficiency experienced by TCPL during the 1 January to 30 June 1991 interim period.

Rate of Return

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

Decision on Tolls

The approved tolls effective 1 July 1991 to the Eastern Zone are 19.6 percent higher than the tolls in effect in 1990. The average tolls in effect for 1991 are 16.0 percent higher than the tolls in effect in 1990.

In calculating 1991 tolls for FST, the Board accepted a TCPL proposal to value 50 percent of the stored volumes in the downstream differential using Michigan storage rates, while valuing the remaining 50 percent using Ontario storage rates.

The Board found it appropriate to allocate 50 percent of the NEB Cost Recovery charges on the basis of fixed volume allocation units and 50 percent on the basis of fixed volume-distance allocation units

The Board rejected a proposal by Consumers' to reflect the shorter distance of haul associated with Saskatchewan-sourced versus Alberta-sourced gas in the calculation of domestic load centers.

Operating Costs

The Board approved TCPL's proposal to account for lost and unaccounted-for gas in its fuel ratios on a volumetric basis. The Board also required TCPL to identify actual losses and gains monthly and to publish those statistics in its Shipper News.

The Board denied TCPL's request for both a $1 million allowance and a deferral account for doubtful accounts.

Interim Revenue Adjustment

The Board has estimated that the 1991 test-year revenue deficiency is approximately $15.9 million for the period 1 January to 30 June 1991 while TCPL was on interim tolls. An interim revenue adjustment of approximately $16.7 million, which includes the revenue deficiency together with carrying charges, has been added to the revenue requirement for the period 1 July to 31 December 1991.

Chapter 1

Background and Application

Following the Board's decision in RH-3-89, TransCanada PipeLines Limited ("TCPL" or "the Company") initiated the formation of a Joint Industry Task Force ("the Task Force") for the stated purpose:

"To identify and attempt to resolve issues raised by individual Task Force members, including issues brought forward by the National Energy Board from prior decisions, which relate to the tolls, tariffs and operations of the Applicant's pipeline system within the context of its Tolls Application."

The Task Force was composed of various shippers, producers, industry associations, distributors, government representatives and other interested parties. The first meeting was held on 25 October 1990.

On 20 December 1990, TCPL filed an application pursuant to Part IV of the National Energy Board Act ("the Act") for new tolls for 1991. As part of its application, TCPL filed a Task Force report containing various recommendations to the Board on issues considered by the Task Force members. With respect to each issue, the recommendation indicated whether the Task Force had reached a unanimous or partial consensus or whether it considered that the issue required further study and should, therefore, be referred to a future tolls case. Subsequently, by letter dated 11 February 1991, TCPL advised the Board that two additional issues should be added to the Task Force report and that the Board should now consider the report as final.

On 25 February 1991, the Board issued Hearing Order RH-1-91 setting down the application for a public hearing to commence on 14 May 1991 in Calgary. As part of its Directions on Procedure, the Board scheduled a Pre-hearing Conference to be held in Ottawa on 3 April 1991, at which time the Board would consider, inter alia, the Task Force report and invited interested parties to comment on what effect the Board should ascribe to it in these proceedings. The Pre-hearing Conference was to be presided over by the hearing panel.

Prior to the Pre-hearing Conference and at the Conference itself, various parties, most notably the American pipeline companies, objected to the Board receiving the Task Force report as a form of negotiated settlement because they had been excluded from the process. In their view, the process was flawed because they were prevented from participating in the Task Force deliberation and preparation of the report. As a result, TCPL abandoned its intention to present the Task Force report as a negotiated settlement and proffered it instead as part of its own evidence in support of its tolls application. This view was generally acceptable to other parties for the purposes of this proceeding on the condition that membership in future task force meetings would not be restricted.

On 16 April 1991, the Board issued its report respecting the Pre-hearing Conference, detailing the scope of the hearing and itemizing the particular issues to be examined during the course of the hearing. One of the issues relating to Firm Service Tendered ("FST") was deferred until 11

June 1991 for the filing of evidence in order to allow TCPL, Union Gas Limited ("Union") and The Consumers’ Gas Company Ltd. ("Consumers"’) time to complete their negotiations concerning the FST service to be provided by TCPL. The Board intended to examine the issue in the light of whatever agreement was reached among the parties.

The public hearing pursuant to Order RH-1-91 commenced in Calgary on 14 May 1991 and continued for 10 hearing days until 28 May 1991 at which time the hearing was adjourned and scheduled to reconvene in Ottawa on 10 June 1991. Because the hearing had progressed so rapidly, parties were not in a position to deal with the FST issue at the completion of the evidentiary portion Board heard final argument on all matters except FST, and on 20 June 1991 adjourned the hearing until 16 July to deal specifically with FST. The hearing concluded on 18 July 1991.

To avoid the continuation of interim tolls with regard to July 1991 deliveries, the Board issued its final toll order TG-6-91, on 2 August 1991 for tolls effective 1 July 1991, with its Decision and Reasons for Decision to follow. Subsequent to issuing TG-6-91, the Board began relocating its offices and personnel from Ottawa to Calgary which resulted in a delay in issuing its Decision and Reasons for Decision. By letter dated 12 September 1991, TCPL requested that the Board issue its Decision immediately on the various issues examined in the RH-1-91 hearing, with its Reasons for Decision to follow, in order to facilitate its current Task Force deliberation which TCPL stated had reached a critical stage in relation to the preparation of TCPL’s 1992 tolls application. The Board agreed to TCPL’s request and, on 4 October 1991, released the decisions portion only on the various issues in the RH-1-91 proceeding. This document now sets out the reasons for those decisions.

The Board, however, would first like to comment on the Task Force process as this was the first occasion that TCPL has attempted to incorporate such a process into the preparation of a tolls application. The Board recognizes that this process is in its infancy in proceedings before the Board and is encouraged by the initial efforts of interested parties to develop a pre-hearing settlement process. The Board expects that, if interested parties find it beneficial and cost effective, this process will continue to evolve as a means of streamlining proceedings before the Board.

Chapter 2

Revenue Requirement for 1991

The revenue requirement authorized by the Board for the 1991 test year is $1,196,063,677. 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 I to these Reasons for Decision.

Chapter 3

Rate Base and Depreciation

The Board’s adjustments to rate base for the 1991 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 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 gas plant in service ("GPIS") account balances. The dollar amount to be recorded in the deferral account is determined monthly for each capital-related cost of service component.

TCPL applied to continue this deferral account for the 1991 test year because of the large forecast capital additions and the uncertainty as to the timing of transfers from gas plant under construction ("GPUC") to GPIS.

TCPL further applied to recover, in the 1991 revenue requirement, the capital costs deferred in 1990 in the amount of $3,080,914. This deferred amount is the net of the following three components: the return on rate base on the difference between the approved and actual transmission plant in rate base; the difference between the approved and actual depreciation expense; and, the difference between the approved and actual income tax expenses.

The Canadian Petroleum Association ("CPA") was concerned that this deferral account was awarded to TCPL when TCPL had not asked for it and when there was no evidence in the RH-3-89 hearing relating to such a deferral account. CPA argued that there was no evidence in the RH-3-89 hearing that capital costs were beyond the Company’s ability to control or forecast. CPA further argued that the evidence indicated that TCPL’s accuracy in forecasting capital expenditures was 99.75 percent in recent years, but with the deferral account in place, during the past year, it had been reduced to 99.07 percent. In CPA’s view, this was clear evidence that the presence of the deferral account had reduced TCPL’s incentive to accurately forecast and control costs. On this basis, CPA submitted that the deferral account should be terminated.

The Independent Petroleum Association of Canada ("IPAC") submitted that the deferral account should be discontinued as capital costs are within TCPL’s control and ability to forecast accurately.

IPAC stated that TCPL should have an incentive to keep capital costs within budget and a deferral account for transmission plant expenses does not accomplish this.

CPA stated that TCPL overestimated its capital expenditures for 1990, which resulted in a credit of approximately $5.0 million being recorded in the deferral account. However, the balance in the account was a debit of approximately $3.0 million. The difference of approximately $8.0

million between the $5.0 million credit and the $3.0 million debit applied for was the income tax component.

CPA submitted that the $8.0 million difference was related to capitalized allowance for funds used during construction ("AFUDC") which is not a cost of service component and should not be included in this account. CPA further argued that AFUDC does not relate to differences between forecast and actual GPIS, but rather to differences between forecast and actual GPUC. However, CPA admitted that AFUDC does affect the cost of service indirectly through the income tax calculation.

CPA submitted that if AFUDC is approved, TCPL will get to recover the effects of timing differences not just from year to year but within the year. CPA argued that the deferral account should be disposed of by applying a $5.0 million credit to the cost of service instead of the applied-for $3.0 million debit.

Views of the Board

In the RH-3-89 Decision, the Board was concerned with the magnitude of the forecast capital additions and that a small variance between the estimated and actual capital costs would result in a substantial difference to net transmission plant in service. The Board notes that TCPL is again forecasting large capital additions in 1991. The Board does not agree with CPA that the small reduction in TCPL's accuracy in forecasting capital expenditures is evidence of a reduction in TCPL's incentive to control costs. In view of this, the Board believes that the deferral account should be continued at this time, but that its appropriateness should be reconsidered when TCPL's current period of heavy construction is over.

The Board agrees that the income tax variance of approximately $8.0 million that TCPL debited to the deferral account resulted largely from AFUDC being lower than expected and this in turn resulted from GPUC being lower than expected. Until the continued appropriateness of the deferral account is reconsidered, the Board is of the opinion that the income tax component should be included in the account.

Decision

The Board approves the continuation of the Transmission Plant in Service deferral account for the test year. The Board will reconsider the continued appropriateness of this account once TCPL's period of heavy construction is over.

The Board is not persuaded that the income tax component should be excluded from the deferred amounts.

3.1.2 Forecast of Plant Additions

CPA expressed concern about the magnitude of the increase in GPIS by 1991 year end ($1.366 billion) and the Company's attitude toward its rate base filings. CPA pointed out that TCPL had, in this proceeding, filed updates which indicated that First Devoted to Public Service ("FDPS") dates in July, August, September, October and November of 1989 had not been correctly described in the Final Revision to the previous hearing, RH-3-89, and that the same situation occurred in the tolls hearing before that. CPA submitted that the Board should direct TCPL to make sure that the FDPS dates are not five months out of date, as was evident in the previous two tolls hearings.

CPA also had concerns with the lack of information provided by TCPL in respect of its construction costs performance. CPA stated that it is critical for the Board and Intervenors to be able to compare the costs which were estimated by TCPL in its facilities applications with the actual costs incurred to construct the facilities. CPA submitted that TCPL should provide information that is accurate and timely on this matter.

In conclusion, the CPA took the position that TCPL should be encouraged by the Board to deal with the evidence on rate base in a more diligent and comprehensive fashion in the future.

With respect to CPA's comment that TCPL did not include in its Final Revision the most current forecast of FDPS dates, TCPL submitted that, in fact, it had adjusted the forecast for all projects which had been forecast to be devoted to public service by May 31, 1991.

Decision

The Board would encourage CPA and others to pursue concerns they may have with TCPL's rate base filings at future Task Force meetings. In view of the Board's decision to disallow construction of the Blackhorse Extension, the forecast cost of $5,091,231 associated with this project has been disallowed from TCPL's 1991 rate base.

3.1.3 Allocation of General Plant between Utility and Non-Utility

In RH-3-89 the Board directed TCPL to address, in the cost allocation review that TCPL agreed to perform, the appropriateness of the procedures used to allocate general plant between utility and nonutility activities, and to assess alternatives to the procedures currently in use.

TCPL proposed to allocate general plant using its Full Time Equivalents ("FTE") procedure. An FTE is a measure of labour content that represents the minimum number of employees required if exclusively assigned to a given cost objective. A departmental time activity analysis is used to determine the FTEs.

None of the parties commented on the Company's proposal.

Views of the Board

The Board is satisfied that TCPL has conducted a review of the various methodologies available for allocating costs between utility and non-utility activities and that its proposed FTE procedure is appropriate for allocating general plant between these two functions.

Decision

The Board accepts the allocation of general plant between utility and non-utility activities on the same basis as that proposed by TCPL for the allocation of administrative and general expenses which cannot be directly charged (see section 5.1.5).

3.1.4 Timing for Calculating AFUDC

TCPL proposed to record the transfer of plant additions from GPUC to GPIS in the month that the plant is first devoted to public service effective 1 January 1991. Previously, TCPL had recorded transfers of plant additions from GPUC to GPIS in the month after the asset was first devoted to public service, as it was unable to record the transfers on the proposed basis because of accounting system limitations. The Company has recently made changes to its accounting systems and is now able to record transactions on the proposed basis.

TCPL explained that one of the reasons that it reviewed the matter was that changes to income tax legislation relating to the calculation of Capital Cost Allowance ("CCA") require it to maintain the information using the proposed methodology for income tax reporting purposes. TCPL has calculated the CCA for 1990 and 1991 using the new methodology.

CPA supported TCPL's proposal. None of the other interested parties commented on this matter.

Views of the Board

The Board is of the view that the accounts should accurately reflect transactions as soon as possible after they occur. Therefore, the Board believes that TCPL's proposal to record the transfer of plant additions from GPUC to GPIS in the month that the plant is first devoted to public service is appropriate.

Decision

The Board accepts the change proposed by TCPL to record the transfer of plant additions from GPUC to GPIS in the month that the plant is first devoted to public service.

3.1.5 Cost Base for Calculating AFUDC

In previous test years, the AFUDC for each month was calculated on a cost base that included the direct cost and overhead capitalized components of the GPUC balance at the end of the previous month. AFUDC was not included in the cost base.

TCPL proposed to change the cost base for calculating AFUDC as follows:

(i) include the previous month's AFUDC in the cost base;

(ii) for all months except January 1991, include the average of the monthly opening and closing balances of direct costs and overhead in the cost base; and

(iii) for the month of January 1991 include the 31 December 1990 balances of direct costs and overhead plus one half the 31 January 1991 balances of direct costs and overhead in the cost base.

TCPL stated that recent changes to its accounting system have allowed it to include the average of the opening and closing balances of direct costs and overhead in the cost base. TCPL argued that inclusion of the previous month's AFUDC in the cost base, which has the effect of compounding AFUDC monthly, is justified because TCPL incurs interest costs to finance both direct and indirect costs. TCPL further argued that its proposal to include the 31 December 1990 balances of direct costs and overhead in the cost base for January 1991 was justified because it was a transition period.

CPA was opposed to including AFUDC in the cost base as this would allow TCPL to compound AFUDC. The compounding of AFUDC was not addressed by other parties.

Views of the Board

In the Board's view, TCPL's proposal to include the average of the opening and closing balances of direct costs and overhead in the cost base more accurately reflects the cost of plant under construction than the previous method of calculating AFUDC. The Board further believes that the inclusion of the previous month's AFUDC in the cost base, which has the effect of allowing the Company to compound AFUDC, is appropriate as it provides a reasonably close approximation of TCPL's borrowing costs. However, the Board is of the view that TCPL did not provide convincing evidence that its proposal for determining the cost base for January 1991 was justified.

The calculation of the test-year AFUDC related to capital additions should be adjusted to reflect the approved rate of return on rate base (see section 4.7) and the disallowance of the costs associated with the Blackhorse Extension (see section 3.1.2).

Decision

The Board accepts TCPL's proposals to:

(i) expand the cost base for the calculation of AFUDC by including the previous month's AFUDC in the cost base; and

(ii) use the average of the monthly opening and closing balances for direct costs and miscellaneous overhead in the AFUDC calculations.

The Board rejects TCPL's proposal regarding the calculation of AFUDC for the month of January 1991.

The Board has reduced the test-year AFUDC by $397,000 and the accumulated depreciation

by $5,000 as a result of the Board's decisions herein.

3.1.6 Retirements Related to Relocation

As a result of the relocation of TCPL's head office from Toronto to Calgary, certain general plant, primarily leasehold improvements, furniture and office equipment, were retired. The retirement resulted in a net loss of $2,706,539. TCPL proposed to account for this retirement as an extraordinary retirement. TCPL further proposed to include in its 1991 revenue requirement 82 percent of the net loss resulting from the retirement or $2,219,362.

TCPL's proposal to account for this retirement as an extraordinary retirement was not discussed by the parties. The views of the parties on the allocation of the net loss on retirement between utility and non-utility are summarized in section 6.2.1.2.

Views of the Board

The Board considers TCPL's proposal to account for this retirement as an extraordinary retirement to be appropriate. The Board further considers that the percentage of the net loss on retirement allocated to the utility, and the period of amortization for the amount so allocated, should be the same as for the relocation costs (see sections 6.2.1.2 and 6.2.1.3).

Decision

In accordance with the decision taken in section 6.2.1.2, five percent of the $2,219,362 allocated to the utility operations has been disallowed in calculating the allowable recovery of relocation expenses.

3.2 Working Capital

3.2.1 Cash Working Capital

TCPL proposed to include the NEB Cost Recovery charges of $10,499,934 as a cash expense item for the calculation of the cash working capital allowance. TCPL stated that this expense should be included in the determination of cash working capital because it is similar to other operation and maintenance expenses.

CPA argued that cash working capital is overstated by the utilization of 47 days instead of 16 days in the lead-lag study and recommended that the cash working capital allowance be reduced to take account of a 31-day reduction in the number of days used to calculate that allowance.

Views of the Board

The NEB Cost Recovery charges can be characterized as an expense of operating a pipeline and therefore it is not unreasonable for it to be treated as an operating and maintenance expense for purposes of calculating the cash working capital allowance.

The Board was not persuaded that a 31-day reduction in the number of days used to calculate the cash working allowance is justified.

Decision

The Board accepts TCPL's proposal to include the NEB Cost Recovery charges in the determination of cash working capital.

The Board encourages CPA to pursue any concerns it has with TCPL's lead-lag analysis at future Task Force meetings.

3.2.2 Valuation of Linepack

In RH-1-88, TCPL was directed to review its accounting treatment of linepack gas. In response to that directive, TCPL proposed to account for linepack as a fixed asset rather than as inventory that could fluctuate subject to revaluation. TCPL proposed to value linepack at 31 December 1990 at $1.90 per gigajoule ("GJ") and purchases of additional linepack after 1990, required to fill new line which will be placed in service, would be priced at $1.508 /GJ.

Under TCPL's proposal, linepack would be treated in the same way TCPL treats land in that it would be valued at historical cost and the value would change only with changes in volume. The procedure is similar to the treatment approved by the Board in its RH-1-90 Westcoast Reasons for Decision.

CPA submitted that the current method of valuing linepack should be retained, while IPAC supported TCPL's proposal.

Views of the Board

In view of the changed circumstances surrounding the gas industry, including the separation of TCPL's merchant and transportation functions, the Board is of the view that TCPL's proposal for the valuation of linepack is appropriate.

Decision

The Board accepts TCPL's proposal to account for linepack as a fixed asset rather than as inventory. The Board also accepts TCPL's proposal to value the linepack at 31 December 1990 at $1.90 /GJ with additions to linepack during the test year valued at $1.508 /GJ.

3.3 Depreciation Expense

In the RH-3-86 Decision, the Board was concerned that the asset groups used for depreciation purposes may include assets having a range of life expectancies which is too broad to be included in one group. Therefore, the Board directed TCPL to propose groupings at a more segregated level and to evaluate the appropriateness of adopting the Equal Life Group method of depreciation in the next depreciation study.

In the RH-3-89 hearing, TCPL stated that it had engaged a firm of consultants to conduct a depreciation study, including a review of the Equal Life Group method of depreciation. It expected that the study would be completed by the end of 1990.

In the current hearing, TCPL indicated that no substantive work has been done to evaluate the Equal Life Group method of depreciation beyond discussions with the consulting firm engaged. No work has been done on the study since 1989. Although work will commence in 1991, TCPL does not have an expected date for filing the study.

None of the interested parties commented on this matter.

Views of the Board

The Board is concerned that TCPL has not given this matter higher priority. The Board believes that depreciation rates should be reviewed periodically to ensure that the rates will appropriately allocate the cost of the pipeline assets to the cost of service. The Board notes that the last TCPL depreciation study was filed with the Board in December 1983. In view of this, the Board is of the opinion that a new study is warranted without further delay.

Decision

The Board has reduced depreciation expense by $174,184 to reflect the adjustments to the AFUDC rate and the disallowance of the costs associated with the Blackhorse Extension. The approved depreciation expense is $138,962,816.

The Board directs TCPL to file a depreciation study by 30 June 1992.

Chapter 4

Cost of Capital

TCPL applied for a rate of return on common equity of 14.25 percent for the 1991 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 13.25 percent. Details of the applied-for capital structure and requested rates of return are shown in Table 4-1 and discussed in detail in sections 4.1 to 4.6.

4.1 Funded Debt

TCPL's applied-for capitalization included a funded debt component of $2,630,772,000, costed at a rate of 11.84 percent. The dollar amount of funded debt and the associated cost rate were determined using a gross proceeds approach approved by the Board in its RH-2-85 TCPL Reasons for Decision.

No intervenor objected to either the applied-for amount of funded debt or the cost rate of 11.84 percent.

Decision

The Board approves the Company's funded debt amount of $2,630,772,000 for the 1991 test year, costed at a rate of 11.84 percent.

4.2 Prefunded Debt

TCPL's applied-for capitalization included amounts for both prefunded debt and unfunded debt (see section 4.3 for a detailed discussion related to unfunded debt). Such residual debt amounts result from the use of a deemed, rather than actual, capitalization for tollmaking purposes. A company's deemed capitalization normally would not include both types of residual debt; however, TCPL chose to present its capitalization in this fashion because it expects to be in a prefunded debt position for the better part of the test year and anticipates that it will require long-term debt financing in the last quarter of 1991. TCPL contended that its presentation of the two residual debt components was appropriate, noting that combining the unfunded debt and prefunded debt components (which would show an average prefunded debt amount in the test-year capitalization) might give parties the wrong impression as to the Company's long-term financing requirements in the latter part of the test year.

The only comments from interested parties concerning the Company's approach of showing the prefunded and unfunded debt components separately (as opposed to combining the two residual debt components) came from the expert witness representing the Minister of Energy for Ontario ("Ontario"), and the expert witness appearing on behalf of the CPA, IPAC, the Industrial Gas Users Association ("IGUA") and the Alberta Petroleum Marketing Commission ("APMC"). (For ease of presentation, the latter intervenors, as a group, will hereinafter be referred to as "CPA et al".) While not performing a detailed analysis on the matter, Ontario's witness was of the opinion that the net effect to the Company's revenue requirement would be about the same using either method of presentation. The witness for CPA et al supported the Company's approach of showing the two residual debt components of the capitalization separately.

The applied-for capitalization included an amount of prefunded debt of $267,913,000. In calculating this amount (as well as the amount of unfunded debt), TCPL determined the amount of residual debt[1] in its capitalization as at 1 January 1991 and as at the end of each of the months in the test year. If the residual debt amount was negative, it was included as part of the 13-month average calculation of the prefunded debt component (conversely, if the residual amount of debt for any month was positive, it was included as part of the 13-month average calculation of the unfunded debt component). No intervenor commented on the methodology used by the Company to determine the prefunded debt component.

The cost rate associated with the Company's prefunded debt was 9.64 percent. In calculating this rate, TCPL was of the view that it could reasonably expect to invest the excess funds available to it while in a prefunded debt position at a rate of about 25 basis points above the short-term Treasury Bill rate. The applied-for cost rate was determined using a weighted-average of the Company's forecast investment rates (in both Canadian and U.S. currencies) for the test year. Only the witness representing CPA et al commented on the applied-for rate; he was of the view that it did not seem unreasonable for the test year.

Views of the Board

The Board notes that it would be simpler, for tollmaking purposes, if the two residual debt components were combined, especially in the case where the Board makes an adjustment to rate base (and thus the Company's capitalization). However, the Board finds some merit in TCPL's argument that the netting together of these two debt components, in the Company's current circumstances, might send the wrong signal to parties. Separate disclosure of the two residual debt components will indicate to interested parties that, while the Company has excess funds available to it for short-term investment for a portion of the test year, it must raise long-term debt capital in the last part of the test year to finance its rate base investments. The Board is prepared to accept, in this case, TCPL's proposal to show its prefunded debt and unfunded debt components separately in its capitalization.

1 Residual debt is calculated by subtracting funded debt, preferred share capital and common equity from total capitalization (see Exhibit B-84 for schedules outlining the calculation of the applied-for amounts of prefunded debt and unfunded debt, as well as the cost rate associated with the prefunded debt component).

The Board notes that there was no dispute over the applied-for cost rate associated with the prefunded debt component. The Board finds the use of the Company's short-term investment rate to be appropriate and the test-year estimate of such a rate to be reasonable for the purpose of this proceeding.

As a result of the Board's decisions in sections 3.1.2 and 3.1.5, the Company's total test-year capitalization has been adjusted downwards from the applied-for amount. Accordingly, the Board has adjusted the prefunded debt component of TCPL’s approved capitalization to a level of $282,939,000. In arriving at this amount, the Board used the applied-for amounts of residual debt as the basis for pro-rating the adjustment to the prefunded debt component of the Company’s capitalization.

Decision

The Board approves a prefunded debt amount of $282,939,000 for the 1991 test year, costed at a rate of 9.64 percent.

4.3 Unfunded Debt

As noted in section 4.2, TCPL’s applied-for capitalization included an unfunded debt component in recognition of its expected need for additional longterm debt financing in the last quarter of the test year. The applied-for amount of unfunded debt was $14,581,000, costed at a forecast long-term corporate rate of 11.375 percent. This rate was comprised of a forecast average long-term Government of Canada bond ("long-Canada") rate of 10 percent and a corporate issuance spread of 135 to 140 basis points.

With respect to the long-Canada forecast, one of TCPL’s expert witnesses stated during crossexamination that he was still relying on his original forecast of 9.75 to 10.25 percent, or a midpoint of 10 percent; however, given (i) that long-Canada bonds had averaged about 10 percent so far in 1991 and (ii) his interest rate expectations for the remainder of the test year, he viewed it as more likely that the average long-Canada rate for the test year would be above the 10 percent level. It was also noted during cross-examination that corporate issuance spreads had narrowed to about 115 to 120 basis points in recent months, but that there was an expectation that such spreads would widen by the end of the test year. The Company’s expert witnesses were of the view that an average corporate spread of approximately 130 basis points would be reasonable to use in the context of determining the unfunded debt rate for 1991.

In his original evidence, the witness for CPA et al utilized a long-Canada rate of 9.75 percent, noting that participants in futures markets viewed current long-term yields as being only slightly below anticipated yield levels over the next 21 months. During the hearing, he continued to rely on this long-Canada rate, and suggested that a corporate issuance spread of 125 basis points would be reasonable in this context.

The expert witness representing Ontario presented evidence in support of an unfunded debt rate of 10.6 percent, comprised of an average longCanada rate of 9.5 percent and a corporate issuance spread of 110 basis points. The witness found these forecasts to be reasonable in light of, among other things, the observed length of term of the Company’s last several long-term debt issues. TCPL countered by arguing that it was highly unlikely that the long-Canada forecast put forward by Ontario’s witness would materialize in the test year. Further, TCPL argued that the issuance spread assumed by the witness was on the low side given the length of term of the Company’s recent long-term debt issues, as well as the likely length of term of future debt issues.

Views of the Board

There was no disagreement amongst the witnesses as to the use of a long-term corporate rate to cost the forecast unfunded debt balance. Given the Company's intention to issue long-term debt during the latter part of the test year in order to finance its unfunded debt component, the Board agrees that a forecast long-term corporate bond rate should be utilized in this case.

With respect to the appropriate long-Canada rate to use in determining the unfunded debt rate, the

Board took into account the rates experienced to date and gave weight to the evidence that suggested that long-term rates would, on balance, be slightly higher than the rates prevailing at the time of the hearing. The Board does not believe that long-Canada rates will average the level suggested by Ontario's witness. Based on the evidence presented in this case, the Board finds that a longCanada rate of 10 percent is reasonable for the 1991 test year. In reaching this conclusion, the Board also took into account the length of term of the Company's recent long-term debt issues. With respect to the appropriate issuance spread to be added to the long-Canada forecast, the Board viewed 125 basis points as being reasonable.

As a result of the Board's decisions in sections 3.1.2 and 3.1.5, the unfunded debt component of the Company's capitalization must be adjusted. This component has been adjusted, as described in section 4.2, to a level of $13,763,000.

Decision

The Board approves an unfunded debt amount of $13,763,000 for the test year, and an associated cost rate of 11.25 percent.

4.4 Preferred Share Capital

TCPL applied for a preferred share capital balance of $435,453,000 for the 1991 test year. This dollar amount of preferred share capital and the appliedfor cost rate of 8.28 percent were also determined using a gross proceeds methodology approved by the Board in its RH-2-85 TCPL Reasons for Decision. No party objected to the methodology used by the Company.

An issue raised during the hearing related to the appropriate rate at which to cost TCPL's anticipated Series O preferred share issue, expected to take place at the end of the third quarter of 1991. While rates for such an issue would have been about 8.5 percent at the time of the hearing, a Company witness was of the view that the original forecast rate for the issue of 8.75 percent remained appropriate for later in the test year. Ontario's witness was of the view that a rate in the range of 8.4 to 8.45 percent was more reasonable, based on a review of historical and anticipated preferred share yields. It was noted during the hearing that, given the expected timing of issue, the difference in the revenue requirement by using the rate suggested by Ontario's witness would be about $130,000.

During the hearing, the Company addressed the issue of possibly issuing subordinated debentures, in limited amounts, as an alternative to preferred share financing. While noting that the issuance of subordinated debt would be a cost-efficient alternative to preferred shares, a Company witness stated that there would be a limit as to how much of this type of debt could be raised without an increase in the utility’s common equity component. In noting that currently about 10 percent of TCPL’s capitalization is composed of preferred share capital, and without performing a detailed analysis on the subject, the witness viewed as reasonable an eventual split of about 7.5 percent in the form of subordinated debentures and 2.5 percent common equity. In final argument, CPA stated that it was not prepared to express a position on the matter at this time, noting that the concept emerged for the first time during this proceeding. CPA noted that its questioning on this issue was intended to solicit additional information from the Company’s witnesses.

Views of the Board

In contrast to the evidence presented during the hearing concerning long-term interest rates, the Board finds that neither TCPL nor Ontario provided extensive and/or compelling evidence to support their respective forecasts for the yield to be associated with the proposed Series O preferred share issue. However, given the relative size of the potential impact on the Company’s test-year revenue requirement, the Board is prepared to accept TCPL’s forecast for tollmaking purposes.

With respect to the issue of substituting subordinated debentures (with an "appropriate" amount of common equity financing) for preferred share financing, the Board is of the view that the idea may have some merit. However, the Board notes that this issue emerged for the first time in this proceeding and that it was not fully explored by the expert rate of return witnesses representing the intervenors. The Board would encourage all of the expert rate of return witnesses (and any other party that wishes to do so) to provide testimony arguing both the pros and cons of such a reconfiguration of the Company’s capitalization at a future TCPL tolls proceeding.

Decision

The Board approves a preferred share capital amount of $435,453,000 for inclusion in the Company’s test-year capitalization. The Board also approves the applied-for cost rate of 8.28 percent.

4.5 Common Equity Ratio

TCPL applied for a deemed common equity ratio of 30 percent, consistent with the level awarded in the past several toll proceedings. In this regard, TCPL's expert witnesses cited little change in the utility's level of risk since the time of the RH-3-89 proceeding. Further, while these witnesses were of the view that a higher common equity ratio would be desirable in order to make TCPL's utility capital structure more comparable with other Canadian utilities, they noted that TCPL had not encountered serious difficulties in financing its large capital expenditure program; given this fact, they were of the view that an increased deemed common equity ratio did not appear to be necessary at this time.

The expert witnesses representing Ontario and CPA et al accepted the Company's request for a deemed common equity component of 30 percent; however, the witness for CPA et al voiced concern over the level of TCPL's consolidated common equity ratio. In his opinion, deeming a common equity ratio of 30 percent for TCPL's utility operations would leave insufficient common equity underpinning the Company's non-jurisdictional assets. Given his views as to the inadequacy of the Company's common equity level, the witness recommended that the approved rate of return on common equity be set at a level some 40 to 55 basis points below what would normally be allowed.

Views of the Board

The Board finds some merit in the position of the witness for CPA et al that the consolidated common equity ratio of TCPL currently may be somewhat on the low side; however, this factor in and of itself does not appear to have curtailed TCPL's ability to raise a significant amount of debt and equity funds in the capital markets on reasonable terms. Further, the recent upgrades of the Company's debt by the Canadian and Dominion Bond Rating Services suggests that these agencies are not concerned about the level of TCPL's consolidated common equity ratio. The Board is also cognizant of the fact that TCPL's non-jurisdictional assets now comprise a much smaller portion of the Company's asset base as compared to previous years. Absent a significant change in business risk since the time of the RH-3-89 proceeding, and in the light of the Board's view that the evidence presented during this hearing concerning the issue of possible cross-subsidization was not persuasive, the Board has decided to maintain the deemed common equity ratio at the current level. The Board finds no justification for awarding a lower rate of return on common equity than would otherwise be the case.

Decision

The Board approves a deemed common equity ratio of 30 percent for the test year.

4.6 Rate of Return on Common Equity

TCPL applied for a rate of return on common equity of 14.25 percent for the test year. Support for this rate came from the evidence submitted by the Company's expert witnesses, who relied on comparable earnings, equity risk premium and discounted cash flow ("DCF") techniques in arriving at their recommended range of 14 to 14.25 percent. (See Appendix V for a summary of the test results and final recommendation of TCPL's expert witnesses, as well as those of the other expert witnesses in this proceeding.)

TCPL's witnesses applied the comparable earnings technique to a sample of 33 low-risk industrials, and based their findings on achieved and expected returns for these companies for the period 1983 to 1991. The sample companies earned returns averaging 15.2 percent over the historical portion of the business cycle (1983 to 1989). This result, together with a preliminary return level of 10.9 percent for 1990 and a projected level of 10.7 percent for 1991, produced an average return for the entire business cycle of 14.2 percent. This rate was reduced by 50 basis points in order to reflect the witnesses' finding that a high-grade utility such as TCPL was of lower risk than the companies in their industrial sample. They found no evidence to suggest that some companies' rates of return have been excessive as a result of monopolistic elements inherent in their operations. and thus made no downward adjustment for this factor. The witnesses gave their final comparable earnings result of 13.7 percent a weighting of 50 percent in arriving at their final rate of return on equity recommendation.

TCPL's expert witnesses also applied the DCF technique to their sample of low-risk industrials, citing the difficulties inherent in applying this test directly to TCPL. Their analysis suggested that investors' growth expectations for these companies was in the range of 10 to 11.25 percent, or approximately 10.625 percent. This growth rate, together with a dividend yield of 2.8 percent, produced a basic cost of equity of about 13.4 percent. This rate was also reduced by 50 basis points for the lower risk of TCPL relative to the sample companies. The resultant rate of 12.9 percent was adjusted upwards to the level of 14.1 percent in order to allow for a market-to-book ratio of 1.15. The witnesses continued their past practice of giving their DCF result 20 percent weight.

With respect to the equity risk premium approach, their analysis suggested that the equity risk premium was in the range of 3.1 to 4 percentage points; however, they estimated the required risk premium for TCPL in 1991 to be about 3.25 percentage points. One of the factors taken into account in reaching this decision was their view that their estimated market risk premium over long-Canada bonds of 4.5 percentage points should be reduced by a risk adjustment factor of 25 to 30 percent for the lower risk of utilities relative to the market as a whole. The estimated risk premium for TCPL of 3.25 percentage points, together with a long-Canada rate of 10 percent, produced a basic cost of 13.25 percent. Adjusting this rate for market-to-book ratio considerations led the witnesses to conclude that the required return, as measured by the equity risk premium approach, was 14.5 percent. This result was given 30 percent weight by the witnesses in reaching their final recommendation.

Based on the results emanating from the DCF and equity risk premium cost estimation techniques, the expert witness representing CPA et al initially recommended a rate of return on equity in the range of 12.25 to 12.75 percent. However, given his concerns about the level of the Company's consolidated common equity ratio, he recommended that the return level be set some 40 to 55 basis points below this range. (See section 4.5 for a more detailed discussion of this issue.)

With respect to the DCF approach, he determined the investors' required rate of return for a sample of 20 low-risk non-utilities to currently be no more than 12 percent. This rate was adjusted downwards by 60 to 80 basis points in order to reflect the lower risk of pure utilities relative to his sample companies, resulting in an investors' required rate of return of approximately 11.25 to 11.5 percent.

In contrast to previous Board proceedings, the witness for CPA et al gave primary weight to the tenyear growth data of his sample companies. In so doing, he was of the opinion that the historical 10year inflation rate provides the closest match to prospective longer-term rates.

The second market-based test employed by this witness was the equity risk premium approach. His analysis led him to the conclusion that the market risk premium over long-Canada bonds was in the range of 3.6 to 4.8 percentage points. This range was reduced to 1.8 to 2.4 percentage points, in the light of his view that the risk exposure of low-risk utilities is no more than one-half that of the equity market as a whole. To this range the witness added a long-Canada rate of 9.75 percent; the resultant risk premium range was 11.6 to 12.2 percent.

The witness for CPA et al decided to place greater emphasis on his risk premium results, citing concerns with the results he observed from his DCF analysis. He also placed greater weight on the risk premium test given the unsettled conditions currently prevailing in financial markets and his contention that this test reflects current market conditions to a greater degree than does the DCF approach. He concluded that the investors' required rate of return for TCPL was in the range of 11.75 to 12.25 percent. To this range he added a cushion of 50 basis points in light of the high level of uncertainty currently prevailing in financial markets and the size of the Company's financing program.

Ontario recommended that TCPL's rate of return on common equity for the test year be set within the range of 12.7 to 12.95 percent. Ontario's expert witness developed this range through application of the comparable earnings, equity risk premium and capital asset pricing model ("CAPM") techniques.

Ontario's witness applied the comparable earnings approach to a sample of 26 low-risk industrials. His first analysis focussed on the historical period 1982 to 1990; his finding relative to this time period was a rate of 13.6 percent. His second comparable earnings analysis was for the period 1983 to 1991. The historical data for the years 1983 to 1990 produced a return value of 13.8 percent. Combining this rate with his projected return level for low-risk industrials in 1991 of 10.1 to 10.7 percent resulted in a return range of 13.35 to 13.45 percent for the entire 1983 to 1991 business cycle. The witness reduced his two comparable earnings findings by (i) 50 basis points for the lower risk of TCPL relative to his sample companies and (ii) 20 to 25 basis points for the higher-than-required market-to-book ratios of his sample companies. The two resulting ranges, namely 12.85 to 12.9 percent and 12.6 to 12.75 percent, were each given 25 percent weight by the witness in arriving at his final recommendation.

Ontario's witness performed two equity risk premium analyses, the first measuring the historical differential between allowed equity returns for Canadian utilities and actual long-Canada yields. He found that the equity risk premium measured on this basis was 3.48 percentage points. The second equity risk premium result of 3.75 percentage points was determined given the witness' estimation of the historical differential between allowed equity returns for Canadian utilities and expected long-Canada yields. This second version of the equity risk premium approach was first introduced by the witness during the RH-1-90 Westcoast toll proceeding. These risk premiums were then adjusted downwards by 15 basis points for risk considerations, resulting in estimated equity risk premiums of 3.33 and 3.6 percentage points. These risk premium levels, when combined with the witness' long-Canada forecast of 9.5 percent, provided final risk premium results of 12.83 and 13.1 percent. Each of these results was given 20 percent weight in the witness' deliberations.

Despite the shortcomings inherent in the approach, Ontario's witness decided to use results determined from the application of the CAPM approach to assess the reasonableness of the data obtained from the other cost estimation techniques. In the context of this approach, he utilized a market risk premium of 5 to 6 percentage points. Applying a beta value of .44 (i.e. a risk adjustment factor of .56) to this range in order to take into account his view as to the risk of TCPL relative to the market as a whole reduced the risk premium to a range of about 2.2 to 2.65 percentage points. This range, when combined with an estimated risk-free rate of 8.75 percent, produced cost of equity values of 10.95 to 11.4 percent. Adjusting this range for market-to-book ratio considerations produced an equity return result of 12 to 12.45 percent.

Views of the Board

Both the comparable earnings and equity risk premium techniques provided the Board with useful information in its deliberations on the matter of the appropriate rate of return to be allowed on TCPL's deemed common equity component. However, the Board remains of the view that the results emanating from the risk premium approach should be given somewhat more weight than those determined by applying the comparable earnings approach. The Board shares the concerns expressed by the witness for CPA et al as to the usefulness of the DCF test results in this case and has therefore given these results relatively less weight.

As noted in section 4.3 of this Decision, the Board found that an average long-Canada rate of 10 percent was reasonable for the test year. A comparison of this rate with the long-Canada rate relied on by the Board in the RH-3-89 TCPL toll proceeding suggests that the cost of equity capital, as measured by the risk premium approach, has increased somewhat since the Company's last hearing.

With respect to the specific applications of the risk premium approach, there was general agreement that there has been a decline in the risk premium over recent years; the Board was persuaded by the evidence presented in this regard. In terms of the market risk premium over long-Canadas, the Board notes that there is only a 30 basis point difference between the level relied upon by the Company's witnesses (4.5 percentage points) and the upper end of the range relied upon by the witness representing CPA et al (4.8 percentage points). The major area of dispute in this matter centers on the lower end of the market risk premium relied upon by the latter party, namely 3.6 percentage points. In arriving at this market risk premium, the witness for CPA et al reduced the historical risk premium of stocks over bonds for the period 1950 to 1987 (5.9 percentage points) by 1.4 percentage points for the historical differential between achieved and expected bond returns and by about 90 basis points for the "lock-in" premium inherent in long-term interest rates. While being of the view that some adjustment for these factors is warranted, the Board was not convinced that the total magnitude of these downward adjustments, and thus the lower end of the market risk premium range, is at the level suggested by the witness for CPA et al.

With respect to the appropriate downward adjustment to the market risk premium for the lower risk of utilities, the Board finds the risk adjustment factor (.56) suggested by Ontario’s expert witness, in the context of the CAPM approach, to be too large and believes the adjustment factor for market risk premiums lies between the levels suggested by the other expert witnesses in this proceeding. In this regard, the Board is of the view that several factors other than, but including, beta values should be considered in determining the appropriate downward adjustment. The Board gave the CAPM results presented by Ontario’s witness little weight in its deliberations, noting (i) the difficulties inherent in arriving at a reasonable estimate of the average risk-free rate expected to prevail during the test year and (ii) the return level suggested by this technique. Moreover, the Board shares a number of the concerns raised during the hearing by the Company’s witnesses as to this witness’ application of the equity risk premium approach in reference to the differential between allowed equity returns for Canadian utilities and long-Canada yields.

With respect to the comparable earnings evidence presented during the hearing, the Board notes that the witnesses for both TCPL and Ontario made downward adjustments of 50 basis points for the lower risk of the Company relative to their respective samples. The Board continues to believe an adjustment of this nature is warranted and accepts as reasonable the magnitude of the adjustment. However, the Board is somewhat concerned by the evidence presented in the hearing pertaining to the methodology used by the Company’s witnesses in determining the requisite adjustment; in particular, the inherent potential for significant swings in the required risk adjustment from one proceeding to the next. The Board expects the Company’s witnesses to address this issue at the next toll proceeding.

Three additional areas were addressed in the context of the comparable earnings approach. First, the application of this approach called for the estimation of the corporate profit levels for low-risk industrials for 1991 by TCPL’s and Ontario’s witnesses and the use of preliminary return data by the Company’s witnesses for 1990. Based on the evidence presented, the Board was persuaded that the preliminary and forecast return levels relied upon by the Company’s witnesses were somewhat overstated; this, in effect, would mean that their final comparable earnings result would be overstated slightly. The second area focussed on during the hearing was whether the basic comparable earnings data presented by the witnesses should be adjusted downwards to reflect the extent to which certain companies have earned returns in prior periods that even for a monopoly would be considered excessive. Based on the level of returns earned by the companies in question and those of the other companies in the witnesses respective samples, the Board was not convinced that such returns were excessive and finds that the comparable earnings results of Ontario’s witness are understated. The Board still believes that such an adjustment would be warranted if there is clear and conclusive evidence that companies have earned, because of monopolistic elements in their operations, returns that would be considered to be excessive. The third issue relates to whether the earnings data relied upon should be prior to, or after, "unusual items". The Board found both propositions to have merit and was not convinced either way on the matter. The Board expects the expert witnesses to address this issue in the next toll proceeding.

The Board notes the comments made by the witnesses for TCPL and Ontario that there is no longer a need to adjust comparable earnings results downwards for the distorting effects of past high and volatile levels of inflation, essentially because the impact of such inflation rates on comparable earnings data has been ameliorated with the passage of time. However, the Board still believes that inherent distortions remain in comparable earnings data, albeit to a lesser degree than in previous years. Based on the data presented during the hearing, the Board was unable to ascertain the amount of the required adjustment.

As noted earlier, the Board shares the concerns voiced during the hearing by the witness for CPA et al as to the validity of the DCF results presented in the circumstances of this case, and thus gave the results emanating from this test relatively less weight in this proceeding. Having said that, the Board is of the view that the growth rate relied upon by TCPL’s witnesses (10.625 percent) is excessive.

In summary, the Board placed primary reliance on the results of the equity risk premium and comparable earnings tests, with the former being given somewhat greater weight. After taking into account its concerns about these results and the evidence presented, the Board finds that a moderate increase in the currently-allowed rate of return on common equity is warranted. In the context of the equity risk premium approach, the Board took into account that the long-Canada rate relied upon by it in this proceeding is over 50 basis points higher than the rate it employed in the RH-3-89 proceeding and recognized that rates of return do not necessarily move in lock-step with interest rate
levels. Further, the Board found that the comparable earnings data suggested a slight increase from the rate of return on common equity awarded in RH-3-89. On balance, the Board was persuaded that an increase in the rate of return on common equity of 25 basis points is warranted. Accordingly, the Board finds that a rate of return on common equity of 13.5 percent is fair and reasonable for the test year.

Decision

The Board approves a rate of return on common equity of 13.5 percent for the 1991 test year.

4.7 Rate of Return on Rate Base

Decision

The Board approves a rate of return on rate base of 12.11 percent for the 1991 test year. The approved capital structure and overall rate of return are shown in Table 4-2.

4.8 Income Taxes

4.8.1 Large Corporations Tax

Part I.3 of the Income Tax Act imposes a capital tax on corporations whose taxable capital in Canada at the end of a taxation year exceeds $10 million. In determining the taxable capital employed in Canada, a corporation together with its related companies as a group are entitled to share in a $10 million capital deduction. TCPL determined its taxable capital for purposes of calculating the Large Corporations Tax ("LCT") at $5,005 million for 1991 with LCT thereon of about $10 million. However, in determining the amount of LCT payable, TCPL used only a $5 million capital deduction. For 1991 the Board allowed Trans Québec & Maritimes Pipeline Inc. ("TQM"), which is equally owned by TCPL and NOVA, a $10 million capital deduction. Accordingly, TCPL assumed based on its 50 percent ownership of TQM that only a $5 million capital deduction remained to reduce its own capital base. TCPL also argued that as the sole shipper on TQM, its tollpayers would enjoy a capital deduction benefit of $5 million more than should be available because TCPL's tollpayers would have the benefit of the $ 10 million deduction for TQM's taxable capital base, plus $5 million from TCPL.

As in the RH-3-89 TCPL toll hearing, CPA objected to the allocation between utility and nonutility assets used in the calculation of the LCT. Evidence provided by the witnesses showed a variance of about $164 million in TCPL's utility capital ($5,000,013,000 vs $4,840,601,000). An undertaking by TCPL to establish the correct LCT taxable capital base confirmed the lower amount attributable to the Company's utility capital and a concurrent reduction in the LCT of $339,000.

CPA also opposed TCPL's reasoning which provided for a $5 million rather than a $10 million capital deduction in the calculation of the LCT. CPA argued that the $10 million capital deduction should not be shared with TQM because for utility purposes both TCPL and TQM should be treated as stand-alone companies. Secondly, CPA asserted that because TQM is a partnership it is not subject to the LCT.

Views of the Board

The Board finds TCPL's revised utility capital of $4,841 million for purposes of calculating the LCT to be reasonable. However, the Board does not accept the Company's position concerning the utilization of only a $5 million capital deduction. It also does not agree with the assertion that TCPL's tollpayers were benefiting from an additional $5 million capital deduction. In the RH-2-90 TQM Reasons for Decision, the Board treated TQM's utility operations on a stand-alone basis in calculating the utility income tax allowance. Accordingly, a $10 million capital deduction was used in determining the LCT. Similarly, the Board concurs with CPA's argument that for toll purposes TCPL is recognized as a separate corporate entity and thus, should be treated on a standalone basis in calculating the LCT. Therefore, no allocation of the $10 million capital deduction should be allowed between TCPL and TQM.

Decision

The Board has decided that the full $10 million basic exception for the LCT should be applied to TCPL's utility capital tax calculations. The Board has reduced TCPL's LCT estimate for 1991 from $9,671,000 to $9,661,000. The derivation of the approved amount is

shown in Table 4-3.

Table 4-3

Large Corporations Tax for 1991

($000)

Taxable Capital per TCPL		4,840,601
Less: Capital Deduction		10,000
	4,830,601	
Tax thereon at 0.200%		9,661

4.8.2 Carrying Charges on Income Tax Reassessment Deferral Account

The Board in its RH-3-89 Decision decided that the tollpayers should receive the benefit of the deduction associated with the interest expense portion of the carrying charges on the Income Tax Reassessment deferral account in the calculation of the utility income tax requirement. Approximately 81 percent of outstanding appeals relating to the 1956 to 1980 Income Tax Reassessment deferral account have since been settled with Revenue Canada in favour of TCPL. A refund of taxes, penalty interest, and interest income was issued in July 1990 to the Company. TCPL sought to recover, through regulatory amortizations in the 1991 revenue requirement an amount of $11,849,995 with respect to the Deferred Income Tax Reassessment. The Company, subsequently, revised this amount to $10,339,925 to reflect tax rate changes on deferral balances based on split taxation years for 1984-8586 and evidence submitted by CPA.

CPA contended that TCPL had paid tax on the income from deferral account balances at a rate which was higher than the rate at which the deduction was obtained when the deferral account balances were returned to the tollpayers. CPA also indicated that the Board, in the RH-1-88 Decision, allowed TCPL to include the income tax costs of tax rate changes on deferrals in its revenue requirement because such costs arose from factors beyond the Company's control.

Views of the Board

The Board believes that income tax costs of tax rate changes on deferrals remain a factor beyond TCPL's control. The Board maintains that the tollpayers should continue to receive the benefit of the deduction associated with the interest expense portion of the carrying charges on the Income Tax Reassessment deferral account.

Decision

The Board accepts TCPL's determination of the amount ($10,339,925) TCPL proposes to recover with respect to the Income Tax Reassessment deferral account as a result of the

partial settlement with the Appeals Section of Revenue Canada.

4.8.3 Flow-Through Tax Calculation

Decision

The Board has adjusted the 1991 flow-through income tax provision from $82,229,000 to $77,766,506, a reduction of $4,462,494, as a consequence of the Board's decisions herein (see Table 4-4).

Chapter 5

Operating Costs

5.1 Operation and Maintenance

5.1.1 Salaries

TCPL estimated gross salaries of $83,135,216 for the 1991 test year, comprised of regular salaries (92.1 percent of the total), temporary salaries (4.7 percent) and overtime (3.2 percent). The appliedfor amount was about 4.6 percent above the 1990 actual gross salaries and provided for year-overyear escalation of salary ranges, in-range progression, promotion and other changes, an amount for management incentive compensation, changes in permanent and temporary person-years, and overtime.

The Company did not introduce any new employee benefits in the test year.

5.1.1.1 Number of Employees

For the 1991 test year, TCPL applied for a regular staff complement of 1,434 positions. This compared to the actual number of regular positions in 1989 and 1990 of 1,460 and 1,431, respectively. In estimating the test-year salaries, TCPL allowed for a vacancy credit of 4.2 percent, or 60 personyears. The allowance for the vacancy credit was based on the average of percentage vacancies experienced in the five-year period 1985 to 1989. This methodology was previously accepted by the Board.

TCPL also applied for a contingent of 156 temporary person-years for 1991, compared to the 132 and 130 it had in 1989 and 1990, respectively. The 24 person-year increase in temporary staff over and above the 1989 level is comprised of an increase of 30 person-years in transmission, partly offset by a 6 person-year reduction in administration and general.

In addition to regular salaries, TCPL estimated an amount for overtime of $2,692,102 for the test year. The evidence showed that this amount was lower than the actual overtime pay for 1989 and 1990 by about 3 Percent and 17 percent, respectively.

None of the intervenors commented on this issue.

Decision

The Board finds TCPL's estimates of the permanent and temporary person-years for the test year to be reasonable.

5.1.1.2 Annual Rate of Increase

TCPL applied for a year-over-year salary adjustment of 5.21 percent, thus providing for a 5.0 percent escalation of salary ranges and a further adjustment for merit and progression averaging

0.21 percent. In addition, TCPL proposed an additional provision of 0.5 percent for promotion and other salary changes for salaried employees. The Company stated that the applied-for salary escalation was implemented on 1 January 1991.

The Company's salaries and benefits consultant testified that, for the majority of job classes included in his 1990 survey, TCPL's salary levels were competitive within 10 percent of the market median rate. Regarding the year-over-year salary range escalation of 5.0 percent, the consultant noted that, with a slowdown in the economy, a number of employers in very hard hit sectors have awarded salary increases lower than this level; however, he stated that the 5 percent rate was predominantly being maintained.

A witness for the Company explained that the 0.21 percent adjustment for merit and progression results from the averaging of a 0.5 percent merit increase to salaried employees and no increase to fixed rate employees not on a merit program. The Company explained that the additional provision of 0.5 percent was to provide for promotions and other salary changes for regular employees made through the year.

IPAC was the only intervenor to comment on TCPL's salaries. IPAC suggested that given the current poor economic performance in Canada generally, and within the oil and gas industry in particular, and recognizing government restraint, the Board should consider allowing a lower salary increase.

Views of the Board

In view of the evidence presented at the hearing relating to the forecasts of the inflation rate for 1991 and salary and wage settlements, the Board is prepared to accept TCPL's applied-for year-overyear salary adjustment of 5.21 percent, as well as the 0.5 percent provision for promotion and other salary changes for salaried employees.

Decision

The Board accepts TCPL's applied-for year-over-year salary adjustment of 5.21 percent.

5.1.1.3 Management Incentive Program

In 1987, TCPL introduced a Management Incentive Program such that the total cash compensation to an eligible employee includes, in addition to a base salary, an incentive amount which may vary from zero to 20 percent of the base salary dependent on corporate performance and the management category and performance of the employee. In its RH-3-89 TCPL Reasons for Decision, the Board stated its intention to examine, in this proceeding, the continued appropriateness of including the cost of the Management Incentive Program in the TCPL's revenue requirement in view of the general, merit, promotion, and progression increases awarded by the Company.

The Company explained that the basic salaries for management employees are set such that the maximum potential level is capped at 20 percent below what TCPL's regular salary administration system would normally allow; the 20 percent is put at risk. Potentially, the total compensation to a management employee could be equal to the market if the employee was awarded the maximum incentive compensation of 20 percent. In reality, most management employees earned less than the market. A Company witness stated that if the Management Incentive Program were to be eliminated, the salaries of management categories would have to be adjusted upward by as much as 20 percent to remain competitive in the market.

The applied-for salaries for the 1991 test year include a forecast amount of $1,630,476 for the management incentive compensation to be awarded to 151 eligible employees. The incentive award was about 10.3 percent of the total basic salaries of the eligible employees. For comparison, in the years 1988 to 1990, actual incentive compensations expressed as a percentage of base salaries were 11.4 percent (1988), 11.7 percent (1989) and 12.3 percent (1990). The Company stated that, in making the test-year estimate, the performance levels of the individuals were based on historical information and the performance of the corporation was forecast to be average.

The evidence also showed that the incentive compensation actually paid in 1989 and 1990 ($1,790,300 and $1,785,900, respectively) exceeded the forecast amounts ($1,339,500 and $1,529,020, respectively) included in the Company's revenue requirement. A Company witness stated that in each instance the loss was borne by the shareholders.

None of the intervenors commented on this issue.

Views of the Board

Based on the evidence adduced on this issue, the Board concludes that the Company's Management Incentive Program is designed in such a manner as to not create any additional cost burden for the tollpayers. The Board believes that it has the potential for cost savings. The Board is of the view that the applied-for amount of management incentive compensation is reasonable and should be included in the test-year revenue requirement.

Decision

The Board accepts the inclusion in the revenue requirement of the applied-for amount of $1,630,476 for TCPL's Management Incentive Program.

5.1.2 Test-Year Departmental and General Expenses

TCPL requested approval of a departmental and general expense forecast of $88,966,476 for the 1991 test year.

IPAC argued that TCPL should be put to the strict proof of establishing the increases it seeks in the revenue requirement. In IPAC's view, TCPL makes its forecasts by taking a base year amount, adding an amount for inflation, and then adding on any additional expense to be incurred in the test year.

No other party commented on departmental and general expenses.

Views of the Board

In the Board's view, TCPL has provided sufficient support for its 1991 departmental and general expense forecast and, therefore, the Board believes that the forecast should be approved. However, the Board notes IPAC's concerns and suggests that this would be an appropriate topic for future Task Force discussions.

Decision

The Board approves TCPL's forecast 1991 departmental and general expenses of $88,966,736.

5.1.3 Purchase Price of Company-Use Gas

In its RH-3-89 Decision the Board decided to examine the valuation of compressor fuel and company-use gas along with linepack at the next toll hearing. Construction gas is now the only type of company-use gas that is still subject to purchase by TCPL.

TCPL proposed to value construction gas at $1.508/GJ in the 1991 revenue requirement. TCPL provided evidence during the hearing that it will acquire construction gas in 1991 under a firm contract with WGML. It argued that a firm contract is necessary to ensure security of supply.

None of the intervenors were opposed to TCPL's proposal.

Views of the Board

The Board considers TCPL's proposal to value construction gas at $1.508 /GJ to be appropriate as it is reasonable in relation to the current market price.

Decision

The Board accepts TCPL's proposal for the valuation of construction gas at $1.508 /GJ.

5.1.4 Lost and Unaccounted-for Gas

TCPL proposed that instead of including a threeyear historical average provision for unaccountedfor gas in its revenue requirement, it will include in its monthly fuel ratio a component, on a percentage basis, which will reflect the average of the last available calendar year's monthly level of actual unaccounted-for gas. This percentage will be converted to a volumetric component which will be allocated on a variable volume basis for all fuel ratios throughout the TCPL system and will be unaffected by the location to which the gas is transported. In each succeeding month the fuel ratio will be adjusted to reflect the difference between the level of unaccounted-for gas collected from customers in the fuel ratio and the actual level of unaccounted-for gas experienced by TCPL.

TCPL argued that to include a forecast of unaccounted-for gas in the revenue requirement is now inappropriate since TCPL no longer has a contract with WGML or any other gas supplier, which allows it to balance its unaccounted-for gas gains and losses monthly by buying or selling gas. TCPL further argued that its proposed methodology should be adopted since it would have the following benefits:

(i) It will not force TCPL to enter into a contract to buy or sell unaccounted-for gas.

(ii) It will eliminate the need for the Company to make a forecast of either volumes or price.

(iii) It will allow TCPL to recover only its actual gains or losses thereby resulting in an improvement in intergenerational equity.

(iv) It follows the approach of United States pipeline companies with which TCPL competes.

TCPL further stated that its proposal is not like a deferral account as suggested by CPA because it deals only with volumes, and the recovery lag is only two months rather than a year. TCPL also disagreed with CPA's contention that the proposed methodology would reduce TCPL's risks and incentives to investigate and correct metering errors. TCPL maintained that it has operational, contractual and competitive reasons to ensure proper metering procedures and that under the traditional procedures it was at little risk for variations in actual unaccounted-for gas volumes or prices from those forecast.

TCPL further proposed that it be authorized to include in the revenue requirement an amount of $269,698 which is the Company's gas cost experience for those years which have not yet been included in the determination of unaccounted-for gas in the revenue requirement

CPA, IPAC, GMi and APMC opposed TCPL's proposal because they said it would have the effect of allowing TCPL a de facto deferral account for unaccounted-for gas. Approval of the proposal would remove some of the incentive for TCPL to investigate and correct metering errors. It would also be another step toward a cost-of-service type of regulation and would eliminate some of the risk for which TCPL is compensated in its return on equity.

TCPL's contention that it is unable to find a buyer for its excess gas was discounted by CPA who stated that in such a case TCPL could simply reduce its purchases of construction gas and linepack.

Several parties were opposed to the inclusion of the unaccounted-for gas dollar balance as at 31 December 1990 of $269,698 in TCPL's 1991 revenue requirement. They argued that if TCPL is allowed to recover this sum it would effectively mean that TCPL would recover actual unaccounted-for gas losses, a situation which would be tantamount to TCPL having a deferral account over the past three years.

Views of the Board

The Board considers TCPL's proposed treatment of unaccounted-for gas gains and losses to be acceptable, as it is more consistent with the Company's present operating and contractual arrangements, although the Board is not persuaded that TCPL would be unable to find a buyer for its excess gas. However, the Board wishes to ensure that there continues to be an incentive for the Company to investigate and correct metering errors. The Board believes that the proposal should be approved, but that provision should be made for the levels of unaccounted-for gas to be monitored so that the continued appropriateness of this approach may be reviewed.

The Board further considers that the inclusion of the $269,698 balance of lost and unaccounted-for gas in the revenue requirement is appropriate in view of the change in the method of accounting for unaccounted-for gas.

Decision

The Board approves TCPL's proposal to account for lost and unaccounted-for gas in its fuel ratios on a volumetric basis. As a result of this decision, TCPL will be required to identify actual losses and gains monthly, and publish those statistics in its Shipper News. Should there be evidence that the levels of lost and unaccounted-for gas have increased subsequent to this decision, the matter of the continued appropriateness of this approach may be reviewed.

The Board approves the recovery of the balance as at 31 December 1990 of the lost and unaccounted-for gas account ($269,698) in the 1991 revenue requirement.

5.1.5 Allocation of Costs Between Utility and Non-Utility Activities

In its RH-3-89 Decision the Board directed TCPL to review all commonly used methods of allocating costs between utility and non-utility activities and to bring forward a proposal for examination in its next tolls proceeding.

During 1990 TCPL conducted an internal study which resulted in a paper entitled "Allocation of Costs Between Regulated and Non-regulated Operations".

TCPL engaged Price Waterhouse to prepare an independent review of the proposed allocation methodology as detailed in its internal paper and provide suggestions for any improvements in the methodology. The findings of Price Waterhouse are detailed in a report entitled "TransCanada PipeLines - Cost Allocation Study" by R.J. Hull.

The Price Waterhouse review generally agreed with the analysis and conclusions presented by TCPL, but did suggest modifications or refinements to TCPL's methodology in a number of areas. The main theme of these modifications was to use the monthly work analysis distribution of full time equivalents as the allocation basis in lieu of either a salary base or forecasted head count.

After the Price Waterhouse study was completed, TCPL modified its proposed allocation procedures and established a corporate policy. The modified procedures were introduced into the Company effective 1 January 1991.

None of the interested parties were opposed to the modified procedures proposed by TCPL.

Views of the Board

The Board is satisfied that TCPL has conducted an adequate review of the various methodologies available for allocating costs between its regulated and non-regulated activities and that its proposed allocation procedures are appropriate for its various types of expenses and general plant.

Decision

The Board accepts TCPL’s proposed procedures for allocating costs, which cannot otherwise be directly charged, between its utility and non-utility activities, which resulted in an 82 percent allocation to utility and an 18 percent allocation to non-utility for the 1991 test year.

5.2 Regulatory Amortizations

5.2.1 Municipal Taxes

Decision

As noted in section 6.3.1, the Board approves the recovery of the 1990 deferred balance of $4,091,445 in the 1991 revenue requirement.

5.3 Allowance for Doubtful Accounts

TCPL applied to include in its test-year revenue requirement a provision for doubtful accounts, totaling $1 million. In conjunction with that provision, TCPL proposed that a deferral account for doubtful accounts be established, which would defer to a subsequent test year any variance between its actual bad debt expense and the $1 million forecast.

A recent court order required TCPL to continue service to Algoma Steel Corporation, Limited ("Algoma") even though Algoma was in default of TCPL’s receivable. On 13 March 1991 the Board denied TCPL’s request for a deferral account for Algoma’s doubtful debt. In the current application, the Company stated that the requested $1 million provision represented the estimated Algoma loss of approximately $250,000 plus three more losses of approximately the same size.

TCPL argued that the $1 million provision is required because TCPL has been exposed to greater credit risk as-a result of the change in its business flowing from deregulation since 1985 and as a result of the current recession. TCPL further argued that the risk of bad debts is not compensated for in its return on equity.

TCPL stated that its right to assess credit applications, obtain letters of credit, obtain parental guarantees, and to terminate service, are designed to minimize the need for a provision for doubtful accounts. These policies, however, do not eliminate the need for an allowance for doubtful accounts.

Since this is the first time TCPL has forecast a provision for doubtful accounts and there was no historical basis for it, TCPL proposed a deferral account to be fair to tollpayers.

CPA, IPAC and Ontario were opposed to approval of a $1 million dollar allowance for doubtful accounts. They argued that such an allowance was unnecessary since TCPL already had all the powers it needed (the right to require financial assurances and terminate service) to control its doubtful debts. Consumers' and Union on the other hand supported a reasonable allowance. Consumers' stated that an allowance of $675.000 would cover Algoma's debt as well as the two other doubtful accounts. Union was of the opinion that only the 1991 Algoma debt for which adequate evidence was presented should be provided for.

CPA and other intervenors were opposed to the establishment of a deferral account for doubtful accounts. In general, they felt that a deferral account would remove some of the incentive for TCPL to control its doubtful accounts. IPAC argued that if a deferral account was approved, TCPL would be able to grant credit extensions and continue shipments of which it would be one of the main beneficiaries. However, if things were to go wrong it could shift the risk to the deferral account and ultimately to tollpayers.

Centra Gas Ontario Inc. ("Centra") contended that if the Board were to approve a deferral account for doubtful accounts the account should be established to deal only with particular customer situations, such as that of Algoma. However, none of the other interested parties supported approval of a deferral account for doubtful accounts.

Views of the Board

The Board believes that TCPL's right to require financial assurances and terminate service gives it the necessary power to control its doubtful accounts. Therefore, the Board does not consider either a provision for doubtful accounts or a deferral account for doubtful accounts to be necessary in the circumstances.

Decision

The Board disallows TCPL's application for both an allowance and a deferral account for doubtful accounts.

Chapter 6

Deferral Accounts

6.1 Carrying Charges on Deferral Accounts

Board orders establishing deferral accounts permit TCPL to earn or pay monthly compounded interest on the deferral account balances. This results in TCPL earning or paying an effective rate of return on deferral account balances that is higher than the stipulated rate.

TCPL's application included monthly compound interest in accordance with the Board's orders. TCPL argued that it incurred compound carrying costs on the sums that it borrowed to finance the deferred balances and that it should be allowed to recover these costs. TCPL further argued that it earns one-twelfth of its return on rate base each month; once it gets that cash, what it does with it, whether it invests it, or uses it to pay dividends, is its business. TCPL submitted that, in that sense, monthly compounding of interest is no different. TCPL pointed out that it compounds interest on deferral accounts whether they have debit or credit balances. TCPL further pointed out that interested parties did not complain in respect of the $76 million credit refunded to tollpayers in 1987-88 that had compound interest included in its determination.

CPA and IPAC both argued that TCPL should only be allowed to collect the stipulated interest rate for each deferral account without compounding. Union, however, argued that TCPL should not be allowed to compound the carrying charges on deferral account balances more often than every 120 days. In Union's view, a compounding period of 120 days more accurately reflects the amount of compounding in TCPL's financing costs.

Views of the Board

The Board believes that TCPL should be allowed to recover or pay interest compounded monthly on deferral accounts as this provides a reasonably close approximation of TCPL's estimated borrowing costs.

Decision

The Board has decided not to deviate from the existing practice of allowing carrying charges on deferral accounts to be compounded monthly.

6.2 Accounts to be Discontinued

6.2.1 Corporate Relocation

In its RH-3-89 Decision, the Board approved a deferral account methodology for the recording of all costs relating to TCPL's relocation to Calgary in the summer of 1990.

Based on the approved methodology TCPL sought to recover costs as summarized in Table 6-1.

6.2.1.1 Reasonableness of Amounts Claimed

TCPL maintained that the relocation expense package offered to employees who moved and the severance benefits offered to employees who chose not to relocate, were consistent with the level of benefits normally offered by industry. TCPL testified that the benefit packages were designed with the objective of retaining a large percentage of the staff through the move and retaining staff who were not relocating until they were no longer needed.

No party argued that the overall actual expense incurred was not reasonable. The APMC submitted that the record did not disclose compelling evidence that the costs involved in relocation were
other than prudently incurred. The CPA stated that it did not oppose the amount of the expenses.

Decision

The Board accepts the reasonableness of the actual relocation expenses incurred.

6.2.1.2 Cost Allocation Between Utility and Non-Utility

The major part of the evidence and crossexamination on the topic of the relocation centered on the reasons for the move and the prudence of the Company's decision to locate in Calgary.

It was TCPL's evidence that the principal factors considered in making the decision to relocate in Calgary were, long-term strategic benefits, cost savings and managerial or organizational benefits.

In terms of long-term strategic benefits, TCPL expressed the view that a Calgary location would contribute to keeping the pipeline full over the long term. Mr. Gerald J. Maier, TCPL's President and Chief Executive Officer, testified that TCPL had not been satisfied with the level of communication which had existed between itself and the producing sector. The Company believed that the geographic separation of itself from the producing sector had, in the past, caused a lack of understanding and co-operation between them. He described a perceived preference by some parties for a counter-clockwise flow of gas as a long-term threat to keeping the pipeline full. Under such a counter-clockwise flow, western Canadian gas would flow south to California markets and Texas and Southeastern U.S. gas would flow to northeast U.S. and Canadian markets. It was Mr. Maier's view that better communications with the producing sector would aid in ensuring that gas continued to flow on TCPL's pipeline. In a similar vein he also argued that completion of the northern pipeline would also help ensure supply for the pipeline.

TCPL estimated the savings to the cost of service resulting from the move to exceed $240 million over twenty years. The Company presented a relocation differential cost study demonstrating that the costs of the relocation would be recovered over five years through cost savings. Based on a discount rate of 11.95 percent they estimated that the cost savings over twenty years would have a present value of approximately $55 million on a cost of service basis or $37 million on a cash flow basis.

The Company also placed considerable emphasis on the organizational benefits achieved by having its major offices in the same business center. TCPL cited better communications, unification of its economics and planning groups and the coordination of the purchase and transportation of gas supplies for their co-generation projects, as examples of the organizational benefits achieved.

The CPA made only a brief comment on the relocation expenses in argument stating that it did not oppose either the amount of those expenses or TCPL's proposal to recover those expenses in the test year.

Centra argued that it was not fully persuaded that TCPL's proposed allocation of 82 percent to the utility and 18 percent to non-utility activities was a relevant or equitable methodology. Centra pointed to the fact that this cost sharing ratio was intended for the allocation of ongoing, everyday expenses and suggested that it may not be relevant to the non-recurring relocation costs. While acknowledging that tollpayers may benefit from cost savings or cost avoidance by virtue of TCPL's location in Calgary, Centra questioned whether tollpayers would receive 41/2 times as much benefit as TCPL's shareholders. Centra submitted that if the Board determined, in its judgement, to reject TCPL's proposal, or to vary it, the evidence would clearly justify such an exercise of discretion.

Ontario presented a study prepared by Coopers & Lybrand which concluded that a relocation out of the core of Toronto to an alternative Metropolitan Toronto location would have been more cost effective if cost savings had been TCPL's only objective. Based on an analysis of four alternative locations, North York, Scarborough, Mississauga and Burlington, Ontario's consultants recommended that 82 percent of $15 million be disallowed from the amount to be recovered from tollpayers. This amount represents an average of the cost savings, on a net present value basis, before and after the 1991 Federal budget, which would have been achieved if TCPL had selected a Burlington or Mississauga location. TCPL was critical of several assumptions made in the Ontario study including Coopers's evidence that 208,000 square feet of space would be adequate for TCPL, the availability of space in the proposed alternate Ontario locations, the probable relocation costs within metropolitan Toronto, and the recognition of tax changes in the 1991 Federal budget. Ontario argued that the Company's analysis improperly included the tax changes for 1991 announced in the budget.

Consumers' proposed that only one-half of the 82 percent utility share of the relocation costs should be recovered from tollpayers. Consumers' concluded that TCPL's primary reason for the move was the desire to position the utility for future growth and expansion and to protect the shareholders from the risk of future underutilization. Consumers' argued that a fair allocation of those benefits should recognize that those utility benefits will accrue to TCPL's shareholders as much, if not more than to its tollpayers. Consumers' maintained that, while the benefits to the shareholders could not be quantified, the Board could not ignore those benefits when deciding what portion of the costs to allow. In Consumers' view, TCPL's proposed cost allocation does not take account of the shareholders' share of the benefits to the utility of the move.

Union proposed that the net cost savings of approximately $18 million which, according to the evidence of Ontario, could have been realized if the move had been made within the Toronto area, should be deducted from the amount TCPL is seeking to recover from its tollpayers. Union argued that this would result in an allocation which reflects a realistic expectation of the distribution of the benefits of the move between TCPL's shareholders and tollpayers.

Views of the Board

The choice of a head office location is a decision which should be made by the Company. The Board recognizes that in selecting a head office location TCPL had to weigh many factors and balance the needs of both its utility and non-utility operations. The potential for future corporate growth in all aspects of the Company's business was a major factor in TCPL's decision to locate in Calgary.

The cost allocation proposed by the Company of 82 percent utility and 18 percent non-utility reflects how the actual ongoing costs, and cost savings, associated with being located in Calgary will be shared. However, this allocation does not take account of how the benefits of the move will be distributed. While the Company has attempted to demonstrate that the move was cost effective for the tollpayers, in terms of cost savings, it has given no recognition to the future benefits which will accrue to the shareholders relative to their investment in the regulated pipeline.

It appears to the Board that many of the benefits for the pipeline which TCPL referred to in support of the move will also be of benefit to the shareholders. For example, TCPL's argument that better communications with the producing sector and being in a better location to influence the completion of the northern pipeline would help in keeping the pipeline full can be viewed to benefit the shareholders as well as the tollpayers. The fact that the move may benefit the tollpayers should not be allowed to obscure the fact that there are shareholder benefits as well. Although these benefits are not as determinable as the cost savings attributed to the utility by TCPL the Board believes they are real and should be recognized. The Board does not agree with Union's suggestion to value the shareholder benefit in relation to the potential cost savings if the move had taken place in Ontario. Clearly cost savings were not the only criteria used by TCPL in choosing Calgary.

Decision

The Board believes that a greater portion of the relocation costs proposed to be allocated by TCPL to its utility activities should be borne by the shareholders. The Board has therefore decided to disallow five percent of the portion of such relocation costs allocated to the utility.

6.2.1.3 Amortization Period

TCPL took the position that the relocation costs should be recovered quickly. The Company held that the Board has a preference for recovery of deferred amounts as close to the period of incurrence as possible and argued that, under generally accepted accounting principles ("GAAP"), expenses such as the relocation expenses would be expensed in the year. In response to cross-examination by Union, TCPL did agree that if the Board were to set a longer recovery period that it would be within GAAP. TCPL also expressed concern about what it called the snowplow effect of pushing current costs ahead into future years. This, TCPL argued, could distort future tolls, particularly if similar large deferred amounts should arise in the future. In final argument TCPL expressed support for an amortization over the 1991 and 1992 test years in view of the probable timing of the release of the 1991 tolls by the Board.

CPA, IPAC, APMC and Natural argued for a quick recovery of the costs. While they all agreed with an amortization over the 1991 and 1992 test years, in view of the probable timing of the new tolls, there was a preference for recovery in the 1991 test year. In support of this position they argued that deferrals increase the absolute cost as carrying charges are added and that planned facilities expansions would be causing tolls to increase after the test year. Natural also argued that the relocation costs are an expense and not an asset and, therefore should be expensed in the test year. Additionally it was argued that the choice of any amortization period other than the test year would be arbitrary.

Support for a longer amortization period came primarily from the local distributors in Ontario and Quebec. Union, acting for itself, Centra and Consumers’, presented an expert witness. He took the position that the relocation costs are similar in nature to a capital asset and should therefore be amortized over a longer period. Noting the Company’s assertion that long-term benefits would result from the move and the fact that the Company’s relocation cost study indicated that the costs would be recovered over five years, he recommended a five-year amortization period.

Views of the Board

The Company justified the move, in part, on the basis that the cost savings over five years would equal the costs incurred. In terms of matching the costs to the benefits an amortization period of at least five years would appear to be reasonable. However, the Board accepts that a longer amortization period would increase the absolute costs and could, as Natural and TCPL argued, require a higher rate of carrying charges consistent with a longer-term commitment.

The currently approved and planned for facilities additions will result in future toll increases. Recovery of the deferred amount over a short period would minimize toll distortion in future periods when the new facilities come on line.

The Board also has concerns that while the relocation may offer long-term benefits to the Company, moving costs are more in the nature of an expense than an asset.

Decision

Based on the adjustments set out in sections 6.2.1.2 and 6.2.1.4, the Board has calculated the amount of relocation expenses eligible for recovery in tolls to be $43,727,586 as of 31 December 1990. The Board has decided to authorize recovery of this amount over a

two-year period ending 31 December 1992, with carrying charges at 9.5 percent. On the basis of this decision, the amount of $22,889,523 has been included in the revenue requirement for the 1991 test year, with $23,724,139 eligible for recovery in tolls in the 1992 test year.

6.2.1.4 Carrying Charges

When the Board established the Corporate Relocation deferral account in its RH-3-89 Decision, carrying charges were approved at a short-term rate for 1991 of 9.5 percent. TCPL argued that if the amortization period for the recovery of the deferred costs were to extend beyond the 1991 test year the Board should redefine the appropriate carrying charge rate to accord with the cost of capital for a longer amortization period.

TCPL did not give recognition to the deductibility of the relocation costs for income tax purposes in the calculation of carrying charges for the Corporate Relocation deferral account. The Company maintained that this was consistent with the treatment afforded carrying charges in prior years when TCPL had overcollections or credit deferral balances upon which it was required to pay income tax. TCPL noted that the income tax deductions attributable to the relocation costs incurred in 1990 were not used to reduce its monthly tax installments until the installment due December 1990.

Consumers' questioned TCPL about the possible benefit to tollpayers resulting from the deductibility of relocation costs in 1990 and an amortization of these costs for cost-of-service purposes over a longer period. During cross-examination, it was revealed that tollpayers received no benefit for the time value of money.

Views of the Board

Amortization to the end of 1992 is within the range of a short-term period. The Board also notes that over time the unrecovered amount will be reduced so that the financial exposure to interest rate fluctuations is also reduced. The relocation expenses are a one-time non-recurring expense and, as such, it is expected that TCPL will finance the unamortized portion of this expense with short-term debt.

The relocation expenses included in the deferral account will not provide TCPL with any permanent income tax savings. While the expenses are deductible when incurred, the subsequent recovery of the deferred amounts in tolls is taxable. The only benefit to the Company is the use of the tax savings until the deferred amount is recovered in tolls. TCPL testified that no amounts were deducted for tax purposes until December 1990. The available tax savings for the time the deferral is outstanding
effectively reduces the amount TCPL must finance. The Board agrees with TCPL's assertion that it has not been the Board's normal practice to take account of such tax timing differences in calculating carrying charges in the past; however, in view of the large amount involved and the onetime nature of this expense, the Board considers it appropriate that these savings be passed on to the tollpayers. The savings will reduce carrying charges by TCPL's effective income tax rate of 43.260 percent. As TCPL did not claim these expenses until December 1990, the adjustment should be made as of that date.

Decision

The Board has decided that TCPL's shortterm borrowing rate, currently 9.5 percent,

continues to be the appropriate rate for carrying charges on the Corporate Relocation deferral account balance.

The Board has also decided that the balance of the Corporate Relocation deferral account, eligible for carrying charges, should be reduced to reflect the income tax savings resulting from the incurrence of these costs.

6.2.1.5 Functionalization in Toll Design

An issue raised in connection with the relocation expense was the allocation of the relocation costs between fixed volume and fixed volume/distance units for the purpose of toll design. The Company proposed to allocate the relocation costs on the basis of 50 percent to the fixed volume and 50 percent to the fixed volume/distance allocation units.

TCPL took the position that the relocation costs were similar in nature to its administrative and general expenses and should, therefore, be allocated on the same basis. Centra supported TCPL's position and no other party offered argument on this issue.

Decision

The Board accepts TCPL's proposal to allocate the relocation costs on a 50 percent fixed volume, 50 percent fixed volume/ distance basis.

6.2.2 Maintenance Expense

TCPL proposed to discontinue deferral accounts for prime mover overhauls and repairs and mainline pipe maintenance as it believes it can accurately forecast the cost of these programs. TCPL stated that it prepares its budgets in accordance with an operational plan designed to ensure safe and efficient operation of the pipeline system. There is some uncertainty as to the costs involved in unscheduled pipeline and compressor outages. However, TCPL believes it can effectively manage its transmission expense budget by including an amount for unscheduled outages and is willing to accept the risk, if the forecast is accepted.

CPA and others were of the view that the number of deferral accounts should be kept to a minimum so as not to move TCPL closer to the cost of service type of regulation. CPA and IPAC supported TCPL's proposal and none of the parties were opposed to it.

Views of the Board

The Board established these deferral accounts because it was concerned that TCPL may have difficulty completing both its large capital program and its forecast maintenance program in the 1990 test year. In addition, the Board had concerns about the level of evidence that TCPL provided to support its 1990 forecast.

Based on the evidence filed in this proceeding, the Board's concerns have been addressed and the requirement for these deferral accounts is no longer present.

Decision

The Board approves the discontinuation of the Prime Mover Overhauls and Repairs and Mainline Pipe Maintenance deferral accounts.

6.3 Accounts to be Continued

6.3.1 Municipal Taxes

TCPL first requested this deferral account on 25 June 1990 as a result of a reassessment procedure put forward by the Province of Manitoba in 1990 relative to TCPL's existing facilities subject to municipal taxes in that province. This reassessment procedure was not known at the time of the RH-3-89 application. The Board approved the account by letter dated 26 July 1990, but stipulated that the Board intended to consider at a future tolls hearing the question of whether the amounts deferred with respect to municipal taxes should be approved for inclusion in tolls for a future test period.

TCPL applied to recover the amount of $4,091,445 deferred in 1990 in the 1991 revenue requirement, as well as continuance of the account in 1991 to cover possible increased taxes in Saskatchewan and Ontario.

The only interested party to comment on this matter was Union. Union argued that if the Board orders TCPL to establish a Municipal Tax deferral account, the account should be limited to municipal tax increases which are being disputed by TCPL at the time of its application.

None of the interested parties commented with respect to TCPL's request to recover amounts deferred in 1990 in its 1991 revenue requirement.

Views of the Board

The Board believes that municipal tax increases are beyond the Company's ability to forecast or control. In view of this, the Board considers that it is appropriate to approve the continuance of the municipal tax deferral account in 1991 and the recovery by TCPL of the amounts deferred in 1990 in its 1991 revenue requirement.

Decision

The Board approves the continuance of the deferral account established for municipal taxes and the recovery of the 1990 deferred balance of $4,091,445 in the 1991 revenue requirement.

6.3.2 Transmission Plant in Service

Decision

As described in section 3.1.1, the Board approves the continuation of the Transmission Plant in Service deferral account.

6.3.3 Gas-Related Costs and Purchase Price

The Board considers it appropriate to remove lost and unaccounted-for gas variances from the list of items included in the Gas-Related Costs and Purchase Price deferral account as the Board has decided to accept TCPL's proposal to account for lost and unaccounted-for gas in its fuel ratios (see section 5.1.4).

Decision

The Board has decided to amend the GasRelated Costs and Purchase Price deferral account to remove lost and unaccounted-for gas price variances from the list of items included in the account.

6.3.4 Other Accounts to be Continued

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

Great Lakes Rates
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

Decision

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

6.4 New Accounts

6.4.1 Doubtful Accounts

Decision

The Board denies TCPL's request for a deferral account for doubtful accounts as noted in section 5.3.

6.4.2 Goods and Services Tax

TCPL requested a deferral account to record any variance in the goods and services tax ("GST") net cash balance between the amount projected for inclusion in rate base and the actual GST net cash balance it will record on its books. The Company's rationale for the GST deferral account was the uncertainty associated with the manner in which GST might apply to its operations, services and undertakings. Some of the uncertainties were subsequently resolved and the main reason for requesting the deferral account was the delay in the timing of the refund from the government based on TCPL's experience to date.

CPA argued that the GST deferral account should not be approved as two of the three reasons given by TCPL to justify it did not exist and that there was no reason for TCPL to be in any better position than any other company in a refund position. CPA stated that the Company had not met the prerequisites for deferral account treatment with respect to GST. IPAC also recommended denial of the GST deferral account and saw no justification for it.

TCPL, in response to the interveners' position, withdrew its request for the GST deferral account and indicated that it considered this matter as a non-issue.

Decision

The Board notes that TCPL has withdrawn its request for a GST deferral account and accordingly, no decision of the Board is required.

6.4.3 Test-Year Revenue Deficiency

The Board has determined that the interim tolls will result in a revenue deficiency for the period 1 January to 30 June 1991. The Board has reflected this estimate in the 1991 test-year revenue requirement to be amortized in the period 1 July to 31 December 1991.

Since the actual revenue deficiency cannot be determined until the actual volumes for the period 1 January to 30 June 1991 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 1991 Revenue Deficiency

The estimated 1991 test-year revenue deficiency is $15,931,912 for the period 1 January 1991 to 30 June 1991. 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 1991 interim period revenue variance is provided in section 6.4.3.

7.2 Carrying Charges

Decision

The Board approves the use of the shortterm borrowing rate (9.5 percent) for the determination of carrying charges with respect to the Test-Year Revenue Deficiency deferral account.

7.3 Amortization of Interim Revenue Adjustment

Carrying charges of $775,843 have been added to the revenue deficiency to arrive at the interim revenue adjustment of $16,707,754.

The tolls, effective 1 July 1991, have been set based on the amortization of the interim revenue adjustment over the last six months of the 1991 test year. For the purposes of calculating tolls, the interim revenue credit of $ 16,707,754 has been doubled to reflect the amortization over one-half of the test period.

Chapter 8

Toll Design

8.1 Throughput Forecast

TCPL's 1991 test-year throughput forecast, as shown in its Final Revision, is 44 897 million cubic metres (10^6m^3), of which 29 023 10^6m^3 is forecast for the domestic market and 15 874 10^6m^3 is forecast for the export market.

TCPL indicated that its domestic and export forecasts continue to be based on discussions with its customers and its shippers, historical performance, and its own assessment of these and other factors.

Decision

The Board accepts TCPL's throughput forecast for cost allocation and toll design purposes, with the exception of the St. Clair to Chippawa volumes which were eliminated due to the denial of the Blackhorse Extension.

8.2 Contract Optimizations

In the RH-3-89 Reasons for Decision, section 8.1 "Throughput Forecast", the Board expressed the view that, while the reasonableness of including a forecast for contract optimization in the test-year throughput forecast had not been disputed in the RH-3-89 proceedings, the Board was concerned with including the associated volumes in the throughput forecast, given that no means existed for parties to test the basic assumptions used to derive the contract optimization forecast.

While the Board accepted TCPL's forecast for contract optimizations for inclusion in the Company's forecast, the Board directed TCPL to develop, for inclusion in its next tolls application, a methodology that would enable interested parties to examine the reasonableness of its contract optimization forecast, while still respecting the confidentiality requested by those shippers supplying the information.

TCPL submitted that contract optimizations reflect the expectation that existing TCPL shippers will use diversions and capacity assignments to maintain or improve their load factors. TCPL argued that contract optimizations should be viewed as an alternative discretionary supply source to IS deliveries and U.S. imports.

In response to the Board's directive in RH-3-89, TCPL provided a table showing a total discretionary Canadian market demand forecast, for the 1991 test year, by distributor franchise area. TCPL similarly provided a table showing contract optimizations flowing to the Canadian market for the years 1989, 1990 and the 1991 test year.

For the 1991 test year, total discretionary demand was forecast to be 1 096.0 10^6m^3, which TCPL noted exceeds the 1991 test year forecast of domestic contract optimization of 570.0

10^6m^3.

TCPL noted that the 1991 test-year forecast of domestic contract optimizations, derived through diversions, reflects, among other things:

(i) the anticipated maturation of the export markets specified in some of the transportation agreements previously used to divert gas to the Canadian market, in conjunction with alternate arrangements (including imports) made by domestic distributors and/or customers;

(ii) the expected diversion of volumes under contracts starting in 1990/91; and

(iii) the assumption that certain export shippers will increase their deliveries to Canadian customers when their contracts step up.

TCPL submitted that without linking specific shippers with specific domestic franchise areas, and thus ensuring a degree of confidentiality, it is clear that the forecast of discretionary demand in the domestic market exceeds the forecast of domestic contract optimization.

TCPL submitted that this revised methodology for forecasting contract optimization fully addresses the concern of the Board as set forth in the aforementioned Reasons for Decision.

Decision

The Board accepts the methodology proposed by TCPL with respect to the forecast of contract optimizations.

8.3 Backhaul Tolls

An issue considered by the Task Force was the appropriate toll design for backhaul service. A backhaul service is a service under which gas is delivered to a point which is upstream of the deemed receipt point. Thus the notional flow is counter to the normal flow on the pipeline. During 1991, backhaul service will only be provided on an interruptible basis.

TCPL and the Task Force agreed to the following toll design for 1991:

(i) for the 151 winter days, the toll will be set equal to 100% of the FS daily demand toll, with no commodity toll and no fuel ratio;

(ii) for the 214 summer days, the toll will be set equal to 50% of the FS daily demand toll, with no commodity toll and no fuel ratio; and

(iii) the 1991 interruptible backhaul tolls will not constitute a precedent for future toll design purposes.

Before the start of the hearing, TCPL and a number of parties, including some which were not members of the Task Force, agreed to accept the Task Force recommendation for the 1991 test year. They also agreed that the backhaul issue will be examined during the 1992 tolls hearing or earlier, by written submission, should the parties have an opportunity to discuss the issue and come forward with a joint position.

Views of the Board

In view of the agreement reached by parties to accept the Task Force recommendation, the Board does not find it unreasonable to allow the recommended toll design for backhaul service for the 1991 test year. The Board would encourage the parties involved in the Task Force process to discuss this matter further and to bring forward for examination a joint position for the 1992 test year.

Decision

The Board finds TCPL's proposed toll design for backhaul tolls for the 1991 test year to be reasonable.

8.4 STS Tolls

The Task Force considered an inconsistency between the toll design for Storage Transportation Service ("STS") and other point-to-point intrazonal Firm Service ("FS") services, even though the services are effectively the same and in fact may be between the same delivery points. The inconsistency arises because the STS toll does not include a fuel ratio whereas the toll for other point-to-point intrazonal FS services does include a fuel ratio.

TCPL proposed to add a fuel component to the STS toll and the Task Force agreed to accept this proposal. No party to the hearing was opposed to this change.

Views of the Board

The proposal to add a fuel component to the STS toll will remove the present inconsistency between the toll design for STS and the other point-to-point intrazonal FS services.

Decision

The Board accepts TCPL's proposal to add a fuel component to the STS toll.

8.5 FST Tolls

8.5.1 Sproule Study

The FST toll is calculated by subtracting an upstream and downstream differential from the FS toll in the Eastern Zone at 100% load factor. These differentials reflect the cost of transportation, storage and inventory that TCPL avoids in Alberta and Ontario by providing FST instead of FS.

In RH-1-88 Phase II, when an FST upstream differential was first approved, a reliable estimate of the cost of storage in Alberta was not available. The Board therefore used the cost of downstream storage as a surrogate for the cost of upstream storage and directed TCPL to investigate all possible storage alternatives in order that an accurate assessment of the cost of storage in Alberta could be determined for use in the calculation of the FST upstream differential.

In response to this directive, TCPL filed a study prepared by Sproule Associates Limited which provided an assessment of the cost of Alberta storage and inventory. According to the study, the cost would be in the range of $0.37 to $0.42 per thousand cubic feet ("/Mcf") ($13.066 to $14.832 /10^3m^3). The average of these two numbers, i.e. $0.395 /Mcf ($13.949 /10^3m^3), has been incorporated into the calculation of the FST upstream differential. The Task Force accepted the Sproule Study and no party to the hearing challenged its findings.

Views of the Board

The Board is satisfied that TCPL, through the Sproule Study, has investigated possible storage alternatives in Alberta and that the study provides a reasonable assessment of the cost of storage in Alberta for use in the FST upstream differential.

Decision

The Board accepts the findings of the Sproule Study and approves an upstream FST differential of $4.024 /10^3m^3 for tolls effective 1 July 1991.

8.5.2 FST and Storage Study

In RH-1-88 Phase II, TCPL was directed to undertake studies that will examine both the optimal configuration of the TCPL system and the operating parameters for FST that are required for that configuration. In response to this directive, the Company completed a comprehensive study of FST which was filed in this proceeding.

TCPL determined that the optimal level of FST, given the present configuration of its system, is at least 800 million cubic feet per day ("MMcfd") (22,653 10^3m^3/day). TCPL also considered alternatives to FST such as adding mainline facilities to its own system and contracting for a Michigan-based storage service. TCPL determined that retaining FST on its system minimizes the level of facilities required, and minimizes the associated owning and operating costs. In addition, FST provides TCPL with the operating flexibility to meet planned and unplanned compressor outages, and to maintain a high operational load factor.

TCPL had discussions with both Union and Consumers’, the present FST customers, and the parties agreed to certain modifications to the FST characteristics and toll design that will provide for the continuation of FST. Subject to these changes being approved by the Board, Union agreed to withdraw its election to convert its FST volumes to FS effective 1 November 1992, pursuant to the FST contract between TCPL and Union.

The substantive change to the FST toll design concerns the valuation of the storage component in the FST downstream differential. TCPL and the FST shippers agreed that 50 percent of the stored volumes will be valued at Union’s storage rates and the remaining 50 percent will be valued at Michigan Consolidated Gas Company’s ("MichCon") storage and service rates. A firm transportation service on MichCon and a deemed storage transportation service on GLGT would also be assumed to move the Michigan storage volumes to the TCPL system.

TCPL signed letter agreements with both Consumers’ and Union which included the toll design change described above and four other changes pertaining to the tariff provisions for FST, as listed below:

(i) deferral account to record changes to NOVA, Union, MichCon and GLGT tolls;

(ii) conversion rights;

(iii) deferral of Annual Contract Quantity ("ACQ") capacity; and

(iv) daily tendering.

Union and Consumers’ agreed with TCPL’s proposal. Consumers’ argued that TCPL’s avoided costs have changed such that it would now have to contract for Michigan storage instead of relying solely on Union’s storage.

CPA stated that it is not opposed to the change in the downstream FST differential for the 1991 test year but it is opposed to the applied-for deferral account and believes that the Board must approve any election to convert FST to FS. CPA was of the view that there must be a better way to toll FST and requested that this issue be included for examination in the 1992 toll hearing and that it be discussed by the Task Force leading up to that hearing.

IPAC stated that it would leave the question of the proper valuation of the differential up to the Board. IPAC argued that any election to convert FST to FS should be subject to Board approval and it raised concerns about the interpretation given to TCPL’s queuing procedure in relation to the conversion. IPAC was of the view that the applied-for deferral account should be denied.

IGUA stated that no change should be made for 1991 since only Ontario storage would be used to support FST in the test year. Any changes should be considered at a future proceeding.

Centra suggested certain modifications to the proposal, such as (i) delay implementation until 1992, (ii) give TCPL the right to convert FST, and (iii) deny the deferral account. Centra also suggested that the 50/50 ratio of Michigan and Ontario storage rates could be tilted more in favour of Ontario.

GMi stated that FST is a valuable service that should be maintained but not at any cost. The differential should be valued somewhere less than or equal to TCPL’s avoided costs and it should not overcompensate the FST shippers. GMi expressed concerns regarding the procedures for the makeup of deferred ACQ capacity.

Tennessee argued that the increase in the FST differential should be denied and the facilities option would be a better long-term investment alternative.

APMC stated that FST is a valuable service to the system but it should not be maintained at any cost. APMC supported TCPL’s proposal for 1991 but stated that it would like the FST toll methodology considered by the Task Force and at the next toll hearing. APMC argued that the right to convert from FST to FS ought not to take effect without NEB approval and that the Board should deny the requested deferral account. APMC adopted IPAC’s submissions regarding queuing.

Ontario stated that it supported the continued use of FST and the specific proposal considered in this hearing because it would make FST more marketable and delay any conversion of FST to FS for at least three years.

Views of the Board

The Board shares the concerns of parties with respect to TCPL’s proposal to value 50 percent of the stored volumes in the downstream differential using MichCon’s storage and service rates. Some further analysis of this proposal may be justified in the future, to determine, for example, if the 50/ 50 ratio is the most appropriate or if an alternative methodology should be used. However, at this time, the Board has decided to accept TCPL’s proposal.

The Board does not consider it appropriate to approve the requested deferral account to record changes to the NOVA, Union, MichCon and Great Lakes tolls used in the differentials. These tolls represent the costs that TCPL avoids by providing FST instead of FS and therefore the precision that a deferral account would provide is unwarranted.

With respect to the issue of conversion rights from FST to FS, the Board wishes to reaffirm its decision from RH-2-85 wherein it stated the following,

"The subject of ACQ [now FST] conversion should be a matter of discussion between the parties and should not be a tariff matter."

Should additional facilities be required because of an election to convert from FST to FS, the Board will assess the appropriateness of those facilities at that time.

Decision

The Board approves a downstream FST toll differential of $8.063 per 10^3m^3 for tolls effective 1 July 1991. For the 1991 test year, the Board has accepted the proposal to value the stored volumes using a 50/50 ratio between Ontario and Michigan storage.

The Board denies TCPL’s request for a deferral account to record changes to the deemed costs used in the FST differential during the test year.

The Board approves the proposed tariff provisions for FST relating to conversion rights,

deferral of ACQ capacity, and daily tendering.

8.5.3 Other Modifications

TCPL proposed other modifications to the components of the FST upstream and downstream differentials. These modifications are in the nature of fine tuning and received little examination during the hearing.

Decision

The Board approves the various other modifications to the upstream and downstream FST differentials as proposed by TCPL.

8.6 Allocation of NEB Cost Recovery

TCPL has included $10,499,934 in its 1991 revenue requirement for its share of the NEB Cost Recovery Program. The allocation of this amount between volume and volume-distance units was the subject of some cross examination during the hearing.

It was TCPL's position that the NEB Cost Recovery charges relate to its operation as a regulated entity under the NEB's jurisdiction and do not relate to the physical operation of the pipeline system, nor do they relate to any particular department. TCPL submitted that these costs are similar in nature to its Administrative and General ("A&G") expenses and, accordingly, TCPL proposed to allocate the NEB Cost Recovery charges on the same basis, i.e. 50 percent to volume and 50 percent to volume distance.

IPAC, Centra and APMC were each of the view that the allocation based on 50 percent volume and 50 percent volume-distance represents a reasonable compromise between the two extremes and gives recognition to both factors of volume and distance.

GMi and Union were of the view that the allocation should be 100 percent to volume since the Board allocated its total costs amongst the various pipelines on the basis of throughput.

Views of the Board

The manner in which the Board chose to allocate its total costs amongst the various pipeline companies is not a relevant factor for determining how the NEB Cost Recovery charges should be allocated by the pipelines for toll purposes. It is up to each pipeline to propose to the Board an allocation method that it believes is appropriate for its own system.

With respect to the allocation of the NEB Cost Recovery charges on the TCPL system, the Board concurs with TCPL that the NEB charges can be viewed as being similar in nature to its A&G expenses and thus be allocated on the same basis. The Board notes that some Task Force members agreed to go along with the proposed 50/50 allocation of the A&G expenses for the test year, subject to it being reviewed in the near future.

Decision

The Board accepts the allocation of the NEB Cost Recovery charges on the basis proposed by TCPL for 1991; namely on a 50 percent fixed volume, 50 percent fixed volumedistance basis. The Board expects that this allocation will be reviewed by TCPL and the Task Force in conjunction with its review of the allocation of TCPL's A&G expenses.

8.7 Determination of Distance to Iroquois

In order to design tolls that are just and reasonable, TCPL must determine the distance to its various delivery points in a manner that will achieve this result. TCPL begins this determination of distance by first determining the distance of haul via the longest route. The longest route distance is then adjusted to account for any applicable shortcuts that the commingled gas stream may have used to travel to the destination; for example, through the Thunder Bay Bypass, the Great Lakes/Union route, or the North Bay Shortcut.

In the initial toll design computer run for the 1991 application, the tolls for the Iroquois export point were higher than the tolls for the Cornwall export point, even though Cornwall is located further downstream. In TCPL's view, this did not appear to be fair and equitable tollmaking.

TCPL then analyzed the volume flow on its system and determined that, during the seven summer months, gas flows from the North Bay Shortcut/Montreal Line junction both eastward and westward. Therefore, in addition to the volumes downstream of the Shortcut junction, TCPL proposed that a portion of the volumes on the Montreal Line upstream of the Shortcut junction receive the benefit of the shorter distance of haul over the North Bay Shortcut as well. This had the effect of reducing the Iroquois toll to a level below that of the Cornwall toll.

Tennessee Gas Pipeline Company ("Tennessee") stated that it does not quarrel with TCPL's proposal for the adjustment for the Iroquois export point. Tennessee argued that the Iroquois distance issue points to other aspects of TCPL's approach to distance which need to be examined. Tennessee believes that TCPL's traditional approach to toll design assigns too great a distance to the Niagara export point. This is evident by the fact that the Niagara demand toll will be virtually the same as the Iroquois demand toll even though Iroquois is more than 100 kilometers further downstream on the TCPL system.

Tennessee submitted that there are two ways to fix this problem. One way would be to adopt an approach to distance which is less complex and less subject to judgment, such as the shortest route method. The other way would be to modify the assumptions used in the traditional approach. Tennessee recommended modifying the assumptions used in the traditional approach for the present case with consideration of adopting a simpler approach to distance deferred to the 1992 hearing.

With respect to modifying the assumptions used to determine the distance to Niagara, Tennessee suggested two possible methods. One method would be based on toll and distance differentials between Iroquois and Cornwall and the other method would be to recalculate the Great Lakes/ Union adjustment to include all the gas going to Niagara rather than the one third as presently calculated. The first method would result in a reduction on the Niagara demand toll of approximately \$33 /10^3m^3/mo. while the second method would result in a reduction of the Niagara demand toll of approximately \$40 /10^3m^3/mo.

TCPL submitted that using the shortest route method may appear to be simpler and easier to understand but it would not avoid all of the complexities and would not be an improvement over the current methodology. Also, the shortest route method would imply the dedication of specific facilities to shippers, even though not all of the gas transported on behalf of such shippers could physically be transported via the dedicated route. TCPL argued that the suggestion made by Tennessee to modify the assumptions used in determining the distance to Niagara in the test year would result in a discriminatory toll since it would be calculated based on the shortest route while all other tolls would be based on the adjusted longest route.

APMC pointed out that Tennessee's intention in this hearing was not to put forward the type of evidence needed to support a toll design change in the present case. APMC submitted that it believes that TCPL has calculated tolls for the 1991 test year using the appropriate methodology.

Views of the Board

A significant change to the toll design, such as using the shortest route method of determining distance as suggested by Tennessee, should not be implemented without receiving a careful and thorough examination. The Board notes that Tennessee gave notice of its intention to pursue this matter at some future proceeding.

With respect to the Tennessee's alternative suggestion to modify the assumptions used in determining the distance to Niagara, the Board finds the suggestion to be inappropriate since it would involve the Niagara toll being calculated on a different basis than all other tolls, and it could be seen as prejudging the outcome of a future examination of the whole distance issue.

Decision

The Board does not believe that a change to TCPL's toll design as significant as the one proposed by Tennessee should be implemented without a more thorough examination.

8.8 Adjustment for Saskatchewan-Sourced Gas

TCPL calculates the load centers for the domestic toll zones on the basis of the distance of the various delivery points from Empress; that is, on the basis that all deliveries are Alberta-sourced gas. Consumers' submitted that the volume of Saskatchewan-sourced gas that is transported to the domestic toll zones has become significant in the last few years and TCPL's cost allocation and toll design procedures for domestic service do not reflect the shorter distance traveled by gas sourced in Saskatchewan.

Consumers' submitted that some adjustment to distance should be made in deriving a distributor zone load center to reflect the fact that, notionally, there is a receipt point somewhat east of Empress.

TCPL took the position that Saskatchewansourced gas should be treated in the same manner as Alberta-sourced gas for cost allocation purposes. The Company took this position for the following reasons:

(i) Almost all of the contracts which call for the carriage of Saskatchewan gas have an alternative receipt point at Empress, and accordingly facilities which are available from Empress are available to those shippers.

(ii) The Board has already decided this matter in its RH-3-86 Decision when the gas supply adjustment was eliminated.

With respect to the issue of multiple receipt points, TCPL submitted that there are facilities in the ground to permit the receipt point flexibility which is in the shippers' contracts. TCPL argued that, under the Consumers' proposal, shippers would avoid payment for this flexibility and avoid the cost responsibility which their contracts cause.

IPAC submitted that the Consumers' proposal should be denied because it must be seen as an attempt to nibble at the edges of the zone philosophy and to "cherry pick" the optimum for Consumers'. Further, IPAC endorsed the objection raised by TCPL that Consumers' and others should have to pay for the longest possible haul where shippers have multiple receipt point flexibility in their contracts. IPAC's comments were endorsed by GMi.

Centra supported TCPL's position that, for multiple receipt point flexibility, shippers should pay for the longest distance of haul. Quebec submitted that Consumers' proposal should be denied, in

part, because the gas supply adjustment was eliminated by the Board in the RH-3-86 Decision.

APMC stated that Consumers' proposal has several conceptual difficulties which militate against its approval, such as allocating costs on the basis of nominations, difficulties regarding zone methodology, and concerns about incorporating elements of pointto-point tolling into domestic rate design.

Consumers' submitted that the gas supply adjustment eliminated in RH-3-86 is not comparable to its receipt center proposal because circumstances have changed since the gas supply adjustment was eliminated. Union supported Consumers' proposal and stated that the gas supply adjustment eliminated in RH-3-86 did not distinguish between Alberta and Saskatchewan gas, but rather between system and non-system gas.

Ontario was of the view that there is merit to the proposal of Consumers' but certain methodological wrinkles may need to be addressed before it could be implemented.

Views of the Board

In considering the proposal of Consumers', the Board was required again to look at the principles of cost causation and user pay. Application of these principles has lead the Board to agree with the position of TCPL and those parties which argued that where shippers have a contractual right to have multiple receipt points, the allocation of the cost of transportation should be based on the longest distance of haul.

Shippers who have the flexibility in their contracts of receiving gas at either Empress or at any of the Saskatchewan receipt points, enjoy that flexibility because of the facilities that have been put in the ground to permit it and, accordingly, those parties should be required to pay the associated costs.

In addition, while the Board agrees that the adjustment sought by Consumers' is different in some respects from the gas-supply adjustment that was eliminated in the RH-3-86 Decision, the Board nevertheless is of the view that the effect is the same. The proposal of Consumers', if implemented, would introduce a level of precision to the toll design for volumes of gas which move over comparable distances. The Board does not believe that such precision is necessary or appropriate in this instance.

Decision

The Board rejects the proposal by Consumers' to reflect the shorter distance of haul associated with Saskatchewan-sourced versus Alberta-sourced gas in the calculation of domestic load centers.

8.9 Delivery Pressure Toll at Iroquois

The Board decided in GH-2-87 that those parties who benefit from the provision of incremental delivery pressure should pay a delivery pressure toll based on the incremental costs of providing the service. The toll treatment of the portable compressor unit at Iroquois (Station 1401) was the subject of some cross-examination during the hearing.

CPA submitted that the Iroquois shippers must bear all the costs of providing higher delivery pressure at that point; not only the cost of the thicker wall pipe on the Iroquois Extension and the permanent compressor at Station 1401, but of the portable compressor that will be temporarily installed.

The Northeast Group was concerned that the CPA was implying that the cost of the portable compressor that will be used at Station 1401 starting this November should continue to be allocated to the Iroquois shippers long after the permanent compressors are in place.

CPA replied that it was not implying such a treatment.

Decision

The Board agrees that the delivery pressure toll at Iroquois should include the owning and operating fixed costs of the portable compressor unit while it is in service to provide the higher pressure. When the portable unit has been replaced by a permanent compressor unit, the delivery pressure toll should only include the costs associated with the permanent unit.

8.10 Delivery Pressure Tolls at Emerson

TCPL has developed incremental delivery pressure tolls at a number of delivery points on its system in accordance with the Board's decisions in GH-287 and RH-1-88 Phase II. One such delivery point where a pressure charge is applicable is the Emerson export point, where TCPL delivers gas to Great Lakes and Viking Gas Transmission Company ("Viking").

At Emerson, TCPL proposed to charge two delivery pressure tolls; one for incremental pressure up to 5170 kilopascals ("kPa") and a second for incremental pressure from 5170 to 5430 kPa. The second delivery pressure toll was proposed due to a request the Company had received from Great Lakes for pressure higher than the existing level of 5170 kPa. TCPL agreed to control the pressure into Viking's system such that Viking would not be affected by the increase from 5170 to 5430 kPa requested by Great Lakes. Therefore, Viking will only pay the toll applicable for pressure up to 5170 kPa and Great Lakes and others will pay the toll applicable for pressure up to 5430 kPa.

Viking did not agree with TCPL on the appropriate amount for the pressure toll for deliveries to Viking. Viking contended that the increase in the Emerson delivery pressure toll this year over last year is primarily the result of increased volumes flowing into the Great Lakes system. Thus, Viking submitted that the principles of cost causation and user pay dictate that Great Lakes, or its shippers, should be responsible for the increased facilities costs required to provide Great Lakes with the higher pressure. Viking argued that for it to pay a higher pressure toll in this instance would mean that it would be unduly cross-subsidizing other tollpayers.

Viking submitted that there should be two delivery pressure tolls at Emerson. One would be for higher pressure for deliveries into Great Lakes up to 5430 kPa, using the cost of the actual facilities to provide the pressure. The other would be for higher pressure for deliveries into Viking up to 5170 kPa, using the deemed facilities that were in place to provide the existing pressure toll.

TCPL replied to Viking that, on an integrated system, all parties receiving the same service pay for that service on a rolled-in basis. Under such a methodology, Great Lakes and Viking should bear the costs associated with providing 5170 kPa of pressure to each of them. TCPL stated that this is no different from all system users paying for the cost of facilities for an increase in service to any one individual customer.

Views of the Board

The Board does not agree with the submission of Viking that it would be appropriate to calculate a delivery pressure toll for Viking based on the deemed facilities used to design the existing pressure toll while calculating a delivery pressure toll for Great Lakes based on the actual facilities used to now provide the higher pressure.

The Board concurs with TCPL's position that, on an integrated system, all parties receiving the same service pay for that service on a rolled-in basis. The facilities identified for raising the delivery pressure at Emerson provide a service to all shippers with deliveries at that point. The level of facilities required is related to the total volume of gas delivered to Emerson and therefore the associated costs are rightly borne by all shippers receiving incremental delivery pressure at Emerson.

The Board finds that designing tolls in this manner ensures that all parties receiving the same service, in this case incremental delivery pressure, pay the same toll, thus satisfying the requirements of section 62 of the Act.

The Board also accepts TCPL's proposal to charge one delivery pressure toll for service up to 5170 kPa and a second higher toll for service from 5170 to 5430 kPa. This proposal results in tolls being cost based and also ensures that parties receiving the same service pay the same toll.

Decision

The Board approves TCPL's proposal for the delivery pressure tolls at Emerson.

8.11 Tolls Procedure

TCPL proposed a change in the procedures for approving new tolls for transportation requests between specific points or zones on its system. TCPL stated that it believes that obtaining the NEB's approval for the underlying factors in determining these tolls prior to the requests being received will assist TCPL's shippers. TCPL proposed two exhibits which underpin a determination of the appropriate toll for interzonal or intrazonal transportation service.

The first exhibit detailed the system average unit cost of transmission for each of TCPL's major cost allocations: (a) fixed volume; (b) fixed volumedistance; (c) variable volume; and (d) variable volume-distance. The second exhibit provided the differentials between the applied-for tolls for the different zones and consisted of the various combinations of deliveries which may be considered by potential or existing shippers, in respect of diversions.

Under TCPL's proposal, the Board would approve a table containing the unit costs based on the approved revenue requirement and shippers requesting service between two particular points would be able to determine the appropriate toll for that service from the table by simply applying a distance factor as and where appropriate.

Views of the Board

TCPL's proposal will be of great assistance to the shippers on the TCPL system as it will result in requests for new tolls for transportation between specific points or zones being approved in an expeditious manner. Once TCPL has considered and contracted a new transportation request, TCPL is to inform the Board and all interested parties of the particulars of the service.

Tables showing the system average unit costs of transportation and the various zone differential tolls have been included in the appendices.

Decision

The Board finds TCPL's proposal with respect to the approval procedure for new tolls for transportation requests between specific points or zones to be reasonable.

8.12 Point-to-Point Tolls

TCPL proposed a modification to the method for determining tolls for services where the receipt point is other than Empress. TCPL explained that it currently calculates the tolls for such services using two different methods depending on the location of the receipt and delivery points. The tolls are either calculated on a point-to-point basis using the actual distance of haul or on a zone differential basis using the difference between the specified zone tolls for each of the delivery and receipt points.

TCPL stated that, in the case where a domestic customer requests service between two points in the same zone, the toll is calculated on a point-topoint basis. However, if a customer (domestic or export) requests service between zones, including specific export points, the toll is calculated on the zone differential basis.

TCPL stated that the application of the two toll design methodologies can result in substantially different tolls for similar service and hence there is potential for numerous tolling inequities. To resolve these inequities, TCPL proposed that point-to-point tolls be utilized for all intrazonal and interzonal forward haul and backhaul services which do not originate at the upstream end of its system. TCPL stated that such a toll treatment would ensure that shippers receiving the same service will be treated equitably and with greater fairness than by not utilizing point-to-point tolls.

Views of the Board

The proposal to utilize point-to-point tolls for all intrazonal and interzonal services which do not originate at the upstream end of the TCPL system will eliminate potential and existing tolling inequities among affected shippers by ensuring that shippers transporting gas over the same distance pay the same toll.

Decision

The Board approves TCPL's proposal to utilize point-to-point tolls for all intrazonal and interzonal forward haul and backhaul services which do not originate at the upstream end of TCPL's system.

Chapter 9

Tariff Matters

9.1 IS Backhaul Toll Schedule

TCPL filed a proposed toll schedule for interruptible service ("IS") backhaul service, containing the terms and conditions associated with the service. The Task Force agreed with TCPL on the provisions included in the toll schedule.

Decision

The Board approves the proposed toll schedule for IS backhaul service.

9.2 Delivery of Fuel at Points Other than Empress

The General Terms and Conditions included in TCPL’s Tariff indicate that a shipper shall nominate and make available to TCPL its own fuel gas at the receipt point. Some shippers asked if TCPL would accept fuel gas into the system at points other than Empress.

In response, the Company stated that it is prepared to accept fuel gas at other points, provided that:

(i) at least two weeks notice of election of a change in point is given; and

(ii) the election remains in effect for a minimum of one calendar month.

The Task Force agreed to this proposal and no party to the hearing was opposed.

Views of the Board

The conditions required by TCPL and agreed to by the Task Force appear reasonable. This proposal will benefit all shippers who choose to avail themselves of the change in procedure.

Decision

The Board approves TCPL’s proposal with respect to the acceptance of fuel gas at points other than Empress.

9.3 Energy-in-Transit Balances

At present, TCPL maintains for each shipper two imbalance accounts; one for energy-in-transit ("EIT") and one for fuel. EIT relates to differences between the energy content of the volumes received by TCPL for transport and the energy content of the volumes delivered. Fuel imbalances arise when a shipper provides either more or less fuel to TCPL than was required. IGUA inquired whether shippers could be permitted to work off all in-transit gas imbalances as fuel.

TCPL stated that it was prepared to offer an option effective 1 November 1991, with two months notice, to have fuel imbalances rolled into the EIT imbalances. TCPL attached the following four conditions to this offer:

(i) a shipper's election of this option would be effective on a year-to-year basis from November 1 to October 31 and continue from one year to the next unless a shipper elects to make a further change;

(ii) an election to revert back to separate accounts would be effective November 1 also;

(iii) an election must be made in writing, at least two months in advance of November; and

(iv) since fuel imbalances are recorded volumetrically and EIT is recorded as energy, conversion of fuel imbalances to EIT would be at the previous month's heating value of fuel.

TCPL stated that no tariff change is required, as this is an operating procedure.

Views of the Board

This option, if elected by shippers, will give shippers flexibility in managing their gas imbalances. The conditions required by TCPL appear to be reasonable and workable.

Decision

The Board accepts TCPL's proposal to have fuel imbalances rolled into the energy-intransit imbalances.

9.4 Diversion Charges

In the RH-1-88 Phase II Reasons for Decision, section 9.2 "Diversion Rights", the Board accepted TCPL's proposal to amend its FS Toll Schedule to permit FS shippers greater freedom to divert gas between delivery areas.

The Board noted that, while TCPL imposes an administrative charge of $0.8825 /10^3m^3 for the gas diverted, no such administrative charge is imposed for assignments. The Board found that the diversion and the gas assignment provisions of the tariff are similar mechanisms for making more effective and efficient use of TCPL's facilities. The Board expressed concern that the administrative charge was not being applied consistently to assignments and diversions.

The Board directed TCPL to present evidence at the next toll hearing justifying both the level of the administrative charge and its applicability to diversions and to assignments.

The level of administrative charge and its applicability to diversions and assignments was an issue that was resolved to the satisfaction of all members of the Task Force. Specifically, TCPL agreed that this charge should be discontinued for the following reasons:

(i) It is inappropriate and unfair to have the charge apply to certain selected services, such as diversions and backhauls, and not to other services which also cause an administrative workload

(ii) The credit to the revenue requirement for administrative charges in RH-3-89 was approximately $846,000, which represented approximately eight percent of a cent on the

Eastern Zone toll at a 100% load factor. If the dollar level of the credit remained the same in the 1991 test year, the impact on the tolls would be less since there is an increase in the 1991 test year allocation units.

TCPL testified that although there is an administrative effort and cost associated with each assignment, one of the reasons it had proposed eliminating the administrative charge was that it was too difficult to quantify precisely the cost of providing this service. As a result of the consensus reached among the Task Force members, TCPL agreed not to apply an administrative charge to diversions and assignments commencing 1 January 1991.

Tennessee noted that TCPL's reason for eliminating the diversion charge was fairness and not because such diversions do not impose a cost on the pipeline system. Tennessee similarly noted TCPL's argument that since there is no special charge for assignments, there should be no special charge for diversions.

Tennessee argued that if the Board accepts TCPL's proposal, transportation contracts will contain a bundle of rights within a bundled price, with all shippers paying the same price, whether or not all of those rights are wanted or used. Tennessee argued that TCPL's approach runs counter to the principle of unbundling which allows shippers to buy, and to pay for, only those services that they want.

Tennessee added that, more importantly, TCPL's proposal is inconsistent with the principles of cost causation and user-pay. Tennessee argued that diversions, like assignments, impose a cost on the system and that those who incur the cost should bear the responsibility for them. Tennessee submitted that it does not cause the costs incurred when shippers do assignments or diversions, or otherwise use their rights as shippers in ways that do not involve the transportation of gas to the designated export point. Tennessee objected to the payment of demand charges which incorporate such costs and argued that export customers should not be required to underwrite the marketing activities of shippers in Canada.

Tennessee argued that the diversion charge should be retained and that the Board should review the manner in which costs associated with similar services are charged to all shippers through tolls. Tennessee added that such a review should take place in the context of the review of the A&G expenses which has been deferred to a subsequent proceeding, presumably the next TCPL tolls hearing.

In reply argument, TCPL submitted that, with respect to its A&G expenses, it had fully complied with the Board's directive in RH-1-88 Phase II to provide a study of A&G expenses supporting its allocation.

Views of the Board

The Board agrees that it would be inappropriate and unfair to have the administrative charge apply to certain services, such as diversions and backhauls, while not applying it to other services, such as assignments, which also cause an administrative workload.

The Board also notes that the current administrative charge of $0.8825/10^3m^3 is not cost based. While a solution might have been to apply a cost-based administrative charge to each service which causes an administrative burden, the Board recognizes the difficulty in quantifying the precise administrative cost associated with providing these services.

Accordingly, the Board concurs that it would be appropriate to discontinue the administrative charge so that all services which cause an administrative workload are treated equally.

Decision

The Board accepts TCPL's proposal to discontinue the diversion charge effective 1 January 1991.

9.5 Unauthorized Overrun Volumes

In its RH-1-88 Phase II Reasons for Decision, section 9.9 "Billing of Unauthorized Overrun Volumes", the Board accepted TCPL's proposal to charge the IS-1 toll for all unauthorized overrun volumes.

The current tariff provision provides that all gas taken by a shipper, that is in excess of the total daily volume nominated and accepted by TCPL, shall be deemed to have been taken as IS-1 and therefore, will be charged that applicable toll.

TCPL submitted that concern had been expressed that shippers, whose contract volumes are determined on the basis of physical takes, are disadvantaged since if they try to match their nominations, they run the risk of inadvertently taking expensive unauthorized overrun. TCPL added that to avoid this, shippers tend to overnominate and to pay gas suppliers for gas they cannot immediately ship. TCPL argued that shippers should not be penalized for operating within their contracts to the best of their ability.

As a result, TCPL proposed to change the tariff provision so that the IS-1 toll would only be applied to those unauthorized volumes exceeding the contract demand specified in the shippers' contract. TCPL further proposed that it would have the discretion to determine exceptions to this charge, such as in cases of deliberate abuse or where the overrun has impaired TCPL's ability to provide the services requested by, and authorized for, other shippers.

TCPL proposed the following change to its General Terms and Conditions:

"2. (a) Gas taken by Shipper in excess of the total daily volume authorized by TransCanada shall be deemed to have been delivered under that service class last utilized in accordance with paragraph 1 hereof ("the Last Utilized Service") provided that:

(i) it is less than the difference between the maximum volume contracted by Shipper under the Last Utilized Service and the volume nominated by under that service. and

(ii) it was not the result of a deliberate attempt to take more gas for Shipper than was nominated; and

Shipper shall be charged accordingly.

(b) All gas taken in excess of the total volume authorized by TransCanada which does not qualify pursuant to paragraph 2(a) hereof shall be deemed to have been delivered as tier-one winter season IS, and Shipper shall be charged accordingly."

Decision

The Board approves TCPL's proposal to charge the IS-1 toll only to those unauthorized volumes exceeding the contract demand specified in shippers' contracts.

Chapter 10

Disposition

The foregoing chapters, together with Orders No. TG-6-91 and TG-7-91, constitute our Decision and Reasons for Decision on this matter.

D.B. Smith
Presiding Member

R.B. Horner, Q.C.
Member

A. Côté-Verhaaf
Member

Calgary, Canada September, 1991

Appendix I

ORDER TG-6-91

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

IN THE MATTER OF an application dated 21 December 1990 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-T001-5.

BEFORE the Board on the 24th day of July 1991.

WHEREAS TCPL has filed an application dated 21 December 1990 for an order fixing just and reasonable tolls that it may charge for transportation services rendered effective from 1 January 1991;

AND WHEREAS the Board, in a public hearing held pursuant to Board Order RH-1-91, heard the evidence and argument presented by the applicant and interested parties on TCPL's application;

AND WHEREAS the Board, expecting that its final decision on TCPL's application would not be rendered until after 1 January 1991, issued interim Order TGI-7-90 on 20 December 1990, which authorized TCPL to charge, on an interim basis effective 1 January 1991, the tolls as set out in Appendix 1 of that Order, pending the Board's final decision. IT IS ORDERED THAT:

1. The tolls authorized to be charged on an interim basis under interim Order TGI-7-90 are disallowed as of the end of the day on 30 June 1991;

2. The tolls that were in effect, on an interim basis, for the period 1 January 1991 to 30 June 1991 are final;

3. For service rendered by TCPL during the period 1 July 1991 to 2 August 1991, TCPL shall bill for such service as if the tolls authorized in this Order had been in effect from 1 July 1991;

4. TCPL shall, commencing 3 August 1991, charge the tolls set out in Appendix 1 to this r.

NATIONAL ENERGY BOARD

Marie Tobin Secretary

(See Table a-1)

Appendix II

ORDER NO. TG-7-91

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

IN THE MATTER OF an application dated 21 December 1990 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-T001-5.

BEFORE the Board on the 19th day of September 1991.

WHEREAS a public hearing has been held pursuant to Hearing Order RH-1-91 in the Cities of Calgary and Ottawa, in the Provinces of Alberta and Ontario, at which the Board heard TCPL and all interested parties;

AND WHEREAS the Board's decisions on the issues identified in Hearing Order RH-1-91 and the Board's letter dated 16 April 1991 are set out in its Decision dated July 1991;

IT IS ORDERED THAT:

1. TCPL shall for tollmaking and tariff purposes, implement the decisions outlined in the Board's Decision dated July 1991.

2. TCPL shall forthwith file with the Board and serve on all parties to the hearing of the application new tariffs including general terms and conditions conforming with the decisions outlined in the Board's Decision dated July 1991.

3. 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 Decision dated July 1991, or to any order of the Board including this order, are hereby disallowed.

NATIONAL ENERGY BOARD

G.A. Laing Secretary

Appendix III

System Average Unit Cost of Transportation
As Per RH-1-91 Reasons for Decision

Allocation Method	$ Functionalized	Applicable Allocation Units	Unit Costs
Fixed Volume	71,986,155	140,231	513.3398107 $/10^3m^3
Fixed Volume-Distance	1,055,360,001	301,469,638	3.500717379 $/10^3m^3-km
Variable Volume	269,698	44,827,000	0.006016419 $/10^3m^3
Variable Volume-Distance	85,155,578	102,545,731,300	0.000830416 $/10^3m^3-km

Appendix IV

Zone Differential Tolls - Applicable to Diversions ($/10^3m^3)

Zones	Saskatchewan	Manitoba	Spruce	Emerson	Western	Northern	Dawn	Eastern	Niagara	Iroquois	Cornwall	Sabrevois	Philipsburg
Saskatchewan													
Manitoba	4.508												
Spruce	5.509	1.001											
Emerson	5.740	1.232	0.231										
Western	11.137	6.629	5.628	5.397									
Northern	20.726	16.218	5.217	14.986	9.589								
Dawn	21.731	17.223	16.222	15.991	10.594	1.005							
Eastern	25.653	21.145	20.144	19.913	14.516	4.927	3.922						
Niagara Falls	27.714	23.206	22.205	21.974	16.577	6.988	5.983	2.061					
Iroquois	27.897	23.389	22.388	22.157	16.760	7.171	6.166	2.244	0.183				
Cornwall	28.364	23.856	22.855	22.624	17.227	7.638	6.633	2.711	0.650	0.467			
Sabrevois	29.897	25.389	24.388	24.157	18.760	9.171	8.166	4.244	2.183	2.000	1.533		
Philipsburg	30.243	25.735	24.734	24.503	19.106	9.517	8.512	4.590	2.529	2.346	1.879	0.346	

NOTE: 100% Load Factor Tolls

Appendix V

Summary of Various Test Results
and Final Rate of Return on Equity
Recommendations by Expert Witnesses

TCPL

		(%)
(i)	Comparable Earnings	
	Sample results for 1983-1989	15.20
	Preliminary return for 1990	10.90[1]
	Forecast return for 1991	10.70[1]
	Average return for 1983-1991	14.20
	Less: Adjustment for lower risk of TCPL relative to sample companies	.50
		13.70
(ii)	**DCF**	
	Dividend yield for sample companies	2.80[3]
	Growth component	10.625[4]
	Approximate "bare-bones" cost	13.40
	Less: Adjustment for lower risk of TCPL relative to sample companies	.50
		12.90
	Add: Adjustment for market-to-book ratio considerations	1.20
		14.10

CPA

		(%)
(i)	**Comparable Earnings**	N/A
(ii)	**DCF**	
	Investors' required rate of return for sample of low-risk industrials	12.00
	Less: Adjustment for lower risk of TCPL relative to sample companies	.60-.80
		11.25-11.50

Ontario

		1982-1990 (%)	1983-1991 (%)
(i)	**Comparable Earnings**		
	Unajusted comparable earnings results for low-risk industrials	13.60	13.35-13.45
	Less: Adjustments for		
	(a) lower risk of utilities	.50	.50
	(b) higher-than-required market-to-book ratios	.20-.25	.20-.25
		12.85-12.90	12.60-12.75
(ii)	**DCF**[5]		
	N/A		
	5		

1 Source: Tr. 1738.

2 Assumed an average rate of return on equity level of 10.1 to 10.7 percent for 1991 (Source: Tr. 2145).

3 Tr. 1739.

4 Midpoint of 10 to 11.25 percent range (Source: Exhibit B-7, Tab 21, Page 37).

5 Estimated risk premium level for low-risk non-utilities (2.4 to 3.2 percentage points) less estimated risk premium level for pure utilities (1.8 to 2.4 percentage point; Source: Exhibit C-1-6, Page 44).

Summary of Various Test Results
and Final Rate of Return on Equity
Recommendations by Expert Witnesses
(continued)

TCPL

	(%)
(iii) **Equity Risk Premium**	
Long-Canada rate	10.00
Add: Equity risk premium for TCPL	3.25[1]
	13.25
Add: Adjustment for market-to-book ratio considerations	1.25
	14.50
(iv) **CAPM**	
N/A	

CPA

	(%)
(iii) **Equity Risk Premium**	
Equity risk premium - market as a whole	3.60-4.80
Times: Factor for lower risk of TCPL	.5
Equity risk premium - utilities	1.80-2.40
Long-Canada rate	9.75
	11.60-12.20
(iv) **CAPM**	
N/A	

Ontario

	(%)
(iii) **Equity Risk Premium**	
Equity risk premium - basic data	3.48-8.75[2]
Less: Adjustment for lower risk of TCPL	.15
Equity risk premium - TCPL	3.33-3.60
Long-Canada rate	9.50
	12.83 13.10
(iv) **CAPM**	
Risk premium - market as a whole	5.00-6.00
Times: Factor for lower risk of TCPL	.44

Risk premium - TCPL	2.20-2.65
Estimated risk-free rate	8.75
	10.95-11.40
Add: Adjustment for market-to-book ratio considerations	1.05
12.00-12.45	

1 Source: Exhibit B-7, Tab 21, Page 51.

2 Ontario's witness found the equity risk premium, measured as the historical differential between allowed equity returns for Canadian utilities and actual long-Canada yields, to be 3.48 percentage points. The risk premium was found to be 3.75 percentage points when measured as the historical differential between allowed equity returns for Canadian utilities and expected long-Canada yields (Source: Exhibit C43-8, Pages 51 to 53 and 62).

Summary of Various Test Results and Final Rate of Return on Equity Recommendations by Expert Witnesses (continued)

TCPL

(v) Final ROE Recommendation

	Result (%)	Weighting (%)	Weighted Result (%)
(a) Comparable Earnings	13.70	50	6.85
(b) DCF	14.10	20	2.82
(c) Equity Risk Premium	14.50	30	4.35
			14.02
Final ROE recommendation			14.00-14.25^1

CPA

(v) Final ROE Recommendation

	(%)
Investors' required rate of return for TCPL	11.75-12.25^2
Additional add-on	.50
Final ROE recommendation	12.25-12.75^3

Ontario

(v) Final ROE Recommendation

	Result	Weighting (%)	Result (%)	Weighted (%)
(a) Comparable Earnings				
-1982-1990		12.85-12.90	25	3.21-3.23
-1983-1991		12.60-12.75	25	3.15-3.19
(b) Equity Risk Premium		12.83	20	2.57
		13.10	20	2.62
(c) CAPM		12.00-12.45	10	1.20-1.25
				12.75-12.84^4
Final ROE recommendation				12.70-12.95

1 Source: Tr. 1750.

2 The witness for CPA et al placed greater reliance on the result emanating from his equity risk premium analysis in view of "the unsettled conditions currently prevailing in financial markets" (Source: Exhibit C-1-6, Page 44).

3 The witness for CPA et al was concerned about the level of common equity implicitly underpinning TCPL's non-jurisdictional assets, assuming a deemed common equity component for the Company's utility operations of 30 percent; given his concerns, he recommended that TCPL's rate of return on common equity be set at a level 40 to 55 basis points below the range of 12.25 to 12.75 percent (Source: Tr.2129 and 2130).

4 Source Tr. 2148 (note that the upper end of the range does not add due to rounding).

Appendix VI

File No.: 4200-T001-5
Date: 25 February 1991

Hearing Order RH-1-91
Directions on Procedure

TransCanada PipeLines Limited
Application for Tolls Effective 1 January 1991

By application dated 21 December 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 represents a negotiated settlement by the participants of a joint industry task force, which includes TransCanada and the parties listed in Appendix V, on various issues as more particularly set out in the report.

On 21 February 1991 the Board decided to hold a public hearing, commencing Tuesday, 14 May 1991 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, 55 Yonge Street, 8th floor. A copy of the application is also available for viewing during normal business hours at the Board's Library, Room 962, 473 Albert Street, Ottawa, Ontario, and at the Board's Calgary office, 4500 - 16th Avenue N.W.

INTERVENTIONS

2. Interventions are to be filed with the Secretary by 8 March 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.

3. The Secretary will issue a list of intervenors shortly after 8 March 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-3-89, on all its shippers who were not parties to RH-3-89, 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 listed in paragraph 4 by 27 February 1991.

6. Once the list of intervenors is issued by the Board, TransCanada is to serve its application and evidence 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 evidence, are to be filed with the Secretary and served on all parties to the proceeding by 11 March 1991.

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 20 March 1991.

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 27 March 1991.

SCOPE OF HEARING

10. Task Force Report

TransCanada has included as part of its application a negotiated settlement by participants to a joint industry task force which includes TransCanada and the parties listed in Appendix V. The Task Force Report identifies various issues the Task Force has reached agreement upon. With respect to each of these issues, which are more particularly set out in the report, TransCanada proposes that the Board accept the Task Force resolution and, accordingly, not include these issues in the public hearing to be held to consider TransCanada’s tolls application. The Board wishes to seek the comments of interested parties, and the rationale therefor, on the Task Force proposal. Specifically, the Board expects parties to address whether, with respect to each issue identified, the recommendation contained in the Task Force Report should be:

(a) accepted without requiring further evidence or consideration at the public hearing;

(b) rejected and added to the list of issues to be considered at the public hearing; or,

(c) rejected and deferred to a future hearing.

Comments are to be filed with the Secretary and served on all parties to the proceeding by 27 March 1991.

11. **List of Issues**

The Board wishes to seek the comments of interested parties with respect to any additional issues, not identified in the Task Force Report, which parties consider should be addressed in the public hearing. Comments are to be filed with the Secretary and served on all parties to the proceeding by 27 March

A list of the additional issues the Board will examine at the public hearing will be issued after the conclusion of the pre-hearing conference to be held in accordance with paragraph 12. This list of issues will reflect the Board's decisions on the Task Force Report, as well as its decisions on any additional issues that are recommended for consideration at the hearing.

The Board advises, however, that it intends to examine, but does not limit itself to, the issues of throughput, rate base, cost of service and rate of return.

PRE-HEARING CONFERENCE

12. A pre-hearing conference presided by the Panel designated by the Board to hear this application will be held in the 9th floor Hearing Room of the National Energy Board, 473 Albert Street, Ottawa, Ontario commencing Wednesday, 3 April 1991 at 9:30 a.m.

The purpose of the pre-hearing conference will be to, among other things:

- discuss procedural matters;

- clarify responses to information requests;

- hear submissions with respect to additional issues proposed for inclusion in the public hearing; and,

- hear submissions with respect to the recommendations included in the Task Force Report.

INTERVENOR WRITTEN EVIDENCE

13. Intervenor written evidence on all issues is to be filed with the Secretary and served on all other parties to the proceeding by 29 April 1991.

INFORMATION REQUESTS TO THE INTERVENORS

14. Information requests with respect to the material filed pursuant to paragraph 13 are to be filed with the Secretary and served on all parties to the proceeding by 6 May 1991.

15. Responses to the information requests made pursuant to paragraph 14 are to be filed with the Secretary and served on all parties to the proceeding by 14 May 1991.

HEARING

16. The hearing will commence in the Ballroom of the Westward Inn, 119 - 12th Avenue S.W., Calgary, Alberta on Tuesday, 14 May 1991 at 9:30 a.m. and will continue until 31 May 1991 at which time this hearing will adjourn. The hearing will reconvene in the 9th floor Hearing Room of the National Energy Board, 473 Albert Street, Ottawa, Ontario, on Monday, 10 June 1991 at 1:00 p.m.

NOTICE OF HEARING

17. 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

18. The evidence of all parties related to the issues of throughput, rate base, cost of service and toll design and tariff matters will be heard first, followed by the evidence of all parties on rate of return.

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

(a) TransCanada shall present its evidence;

(b) intervenors and Board Counsel shall have the right to cross-examine TransCanada's

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

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

(e) TransCanada may present reply evidence.

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

FILING AND SERVICE REQUIREMENTS

20. 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:

(a) for documents to be filed with the Board, provide 35 copies;

(b) for documents to be served on TransCanada, provide 3 copies; and

(c) for documents to be served on intervenors, provide 1 copy.

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

22. 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.

23. 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

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

GENERAL

25. Unless otherwise directed by the Board, the hours of sitting shall be from 8:30 a.m. until 1:00 p.m.

26. All parties are asked to quote Order No. RH1-91 and File No. 4200-T001-5 when corresponding with the Board in this matter.

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

28. For information on this hearing, or the procedures governing the hearing, contact Diana Saunders, Regulatory Support Officer, at (613) 998-7196.

NATIONAL ENERGY BOARD

Marie Tobin Secretary

Appendix I to Order RH-1-91

NATIONAL ENERGY BOARD

NOTICE OF PUBLIC HEARING

PipeLines Limited
Application for Tolls Effective 1 January 1991

The National Energy Board ("the Board") will conduct a hearing on an application dated 21 December 1990 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 1991.

The hearing will commence on Tuesday, 14 May 1991 at 9:30 a.m. local time in the Ballroom of the

Westward Inn, 119 - 12th 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. Neil D.D. Patterson
Legal Counsel
TransCanada PipeLines Limited
TransCanada PipeLines Tower
1900, 111 - Fifth Avenue S.W.
P.O. Box 1000 Station M
Calgary, Alberta
T2P 4K5

Telephone: (403) 267-6100
Facsimile: (403) 267-1055

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

The deadline for receipt of written interventions is 8 March 1991. The Secretary will then issue a list of intervenors.

Anyone who does not wish to intervene in the hearing but would like only to comment on the application should write to the Secretary of the Board and send a copy to TransCanada. The deadline for receipt of comments is 27 March 1991.

Information on the procedures for this hearing (Hearing Order No. RH-1-91) 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 (613) 998-7204.

Marie Tobin
Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5

(Telex No. 0533791)
(Facsimile No. (613) 990-7900

Appendix II to Order RH-1-91

Notice to be Published in English

Publication	**City**
"Times Colonist"	Victoria, British Columbia
"The Vancouver Sun"	Vancouver, British Columbia
"Herald"	Alberta
"The Edmonton Journal"	Edmonton, Alberta
"The Leader Post"	Regina, Saskatchewan
"The Winnipeg Free Press"	Winnipeg, Manitoba
"The Gazette"	Montreal, Quebec
"Québec Chronicle Telegraph"	Québec, Québec
"The Globe and Mail", "Star", "The Financial Post", and "Financial Times of Canada"	Toronto, Ontario
"The Ottawa Citizen"	Ottawa, Ontario

Notice to be Published in French

Publication	City
"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

Publication	City
the "Canada Gazette"	Ottawa, Ontario

Appendix III to Order RH-1-91

Assistant Deputy Minister for Energy Ministry of Energy, Mines and Petroleum Resources Parliament Buildings Victoria, B.C. V8V 1X4

Mr. Martin Kaga Senior Solicitor Legal Services Division Department 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

Me Jean Giroux Service jurisdique du Ministere de l'énergie et des ressources 5700, 4e avenue ouest (3e étage) Charlesbourg (Québec) G1H 6R1

Attorney General for the
Province of New Brunswick

Legislative Buildings
Fredericton, New Brunswick
E3B 5H1

Office of the Deputy Minister
Nova Scotia Department of
Mines and Energy
P.O. Box 1087
1690 Hollis Street
Halifax, Nova Scotia
B3J 2X1

Minister of Justice and Attorney General
Province of Prince Edward Island
Province House
Charlottetown, Prince Edward Island
C1A 7N8

Attorney General for the Province of Newfoundland Confederation Building St. John's, Newfoundland A1C 5T7

Secretary
Department of Justice
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C9

Secretary
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

Appendix IV to Order RH-1-91

Timetable

A TCPL application filed	21 December 1990
B TCPL written evidence to be filed	27 February 1991
C Interventions to be filed	8 March 1991
D Information requests to TCPL due	11 March 1991
E Responses by TCPL due	20 March 1991
F Letters of comment due	27 March 1991
G Comments of parties on the Task Force Report and list of issues due	27 March 1991
H Pre-hearing conference to begin in Ottawa	3 April 1991 (9:30 a.m.)
I Intervenor written evidence due	29 April 1991
J Information requests to intervenors due	6 May 1991
K Responses by intervenors due	14 May 1991
L Hearing to begin in Calgary	14 May 1991 (9:30 a.m.)
M Hearing to adjourn	31 May 1991
N Hearing to reconvene in Ottawa	10 June 1991 (1:00 p.m.)

Appendix V to Order RH-1-91

Members of the Joint Industry Task Force Reviewing TransCanada's 1991 Tolls Application

Alberta Petroleum Marketing Commission

The Consumers’ Gas Company Ltd.

Canadian Petroleum Association

Canadian Chemical Producers Association

Gaz Métroplitain, inc.

Centra Gas Ontario Inc.

Centra Gas Manitoba Inc.

Independent Petroleum Association of Canada

Industrial Gas Users Association

Ministry of Energy for Ontario

PanCanadian Petroleum Limited

TransGas Limited

Union Gas Company Limited

Appendix VII

File No.: 4200-T001-5 16 April 1991

VIA FACSIMILE

To: Interested Parties RH-1-91

**Re: Hearing Order RH-1-91
Pre-hearing Conference**

Order RH-1-91 provided an opportunity for parties to raise matters associated with the scope of the Hearing, both in written form in advance of a Prehearing Conference, and orally at the Pre-Hearing Conference. The Board invited parties to provide their comments in this fashion on a joint industry task force report included in the evidence of TransCanada PipeLines Limited ("TransCanada") and on any additional issues that an interested party considered should be addressed in the proceeding that were not already identified in the Task Force Report or elsewhere in the application. The Task Force Report identifies various matters the Task Force had reached agreement on. With respect to each of these matters, TransCanada was proposing that the Board accept the Task Force resolution and, accordingly, not include these matters in the proceeding.

Written submissions on this matter were filed by 27 March 1991, and the Pre-hearing Conference was held 3 April 1991.

At the outset of the Pre-hearing Conference, TransCanada modified its proposal with respect to the Task Force Report by advising that the Task Force recommendations should not be put forth as a negotiated settlement. Rather, TransCanada informed the Board that the Task Force Report, and the responses to information requests on the matters set out therein, including the minutes of the various Task Force proceedings, should become part of the evidentiary record in the RH-1-91 proceeding. TransCanada, however, sought the deferral of matters where the Task Force agreed that either further study was required or the issue would be more appropriate for consideration in a future hearing.

The Board’s decisions stemming from its review of the written submissions and from its consideration of the views of parties expressed at the Pre-hearing Conference are set out below. The Board’s reasons for these decisions will be included in its Reasons for Decision issued with respect to RH-1-91. In addition, in those Reasons for Decision, the Board will address the merits of the joint industry task force process followed leading up to this toll proceeding.

I. Scope of Hearing

In the Task Force Report, the written submissions of parties, and the Pre-hearing Conference, forty-two (42) matters were raised in relation to the proposed scope of this proceeding. These matters include the thirty-four (34) items identified by TransCanada, in its response to the ANR Pipeline Company's information request No. 1 (Exhibit B-8, Tab 1, sheets 4 to 6), as matters discussed by the Task Force, six additional matters raised by Counsel for the Industrial Gas Users Association ("IGUA") in his letter dated 27 March 1991, a matter raised by Counsel for Tennessee Gas Pipeline Company and Viking Gas Transmission Company in his letter of 27 March 1991 and a matter raised by Counsel for The Consumers' Gas Company Ltd. ("Consumers"') in his letter of 27 March 1991.

The Board has decided to include twenty-one (21) of these matters as issues to be considered within the scope of RH-1-91. These issues fall into three categories.

Nine are matters which are already addressed in the application and on which only the confirmation of the Board is required on whether they would be included within the scope of the Hearing. These issues are set out in Appendix I attached hereto.

Seven are matters on which the Task Force reached consensus but which TransCanada conceded do not represent a negotiated settlement and should therefore be included as part of the evidentiary portion of the Hearing. TransCanada anticipates no opposition to the issues, particularly not from Task Force members. These issues are set out in Appendix II attached hereto.

Five are matters which were addressed in a more substantive manner in the written comments of parties and/or at the Pre-hearing Conference. These issues are set out in Appendix III attached hereto.

The Board has decided not to include in the scope of this proceeding the other twenty-one matters raised by parties.

II. Additional Evidence

In the Board's view, TransCanada should not need to file additional evidence with respect to the issues set out in Appendices I and II.

With respect to the items set out in Appendix III, except for the matter of Firm Service Tendered ("FST"), the Board will allow TransCanada to file any additional evidence it may consider necessary by 26 April 1991. To the extent that any intervenor wishes to file evidence on these issues, the Board will allow until 6 May 1991. With respect to FST, the Board accepts TransCanada's proposal that all parties be allowed until 10 June 1991 to file evidence on this matter.

Yours truly,

Marie Tobin
Secretary

Attach.

Appendix I to NEB
Letter Dated 16 April 1991

Page 1 of 1

The Board confirms that the following matters, addressed in the record of the RH-1-91 proceeding, are to be considered within the scope of the hearing:

Task Force Issue No. 9: Allocation of NEB Cost Recovery

Task Force Issue No. 11: Recovery and Allocation of Relocation Costs

Task Force Issue No. 21: Goods and Services Tax

Task Force Issue No. 23: Valuation of Line Pack, Fuel and Company-use Gas

Task Force Issue No. 25: Allocation of Costs Between Regulated and Non-regulated Activities

Task Force Issue No. 27: Appropriateness of Including the Management Incentive Program in Revenue Requirement

Task Force Issue No. 28: Deferral Account for Municipal Taxes

Task Force Issue No. 29: Rate of Return Matter raised by Counsel for Tennessee Gas Pipeline and Viking Gas Transmission Company:

How fairness and actual operating conditions are employed in the determination of distance in the design of TransCanada's tolls

Appendix II to NEB Letter Dated 16 April 1991

Page 1 of 1

The Board has decided that the following matters included in the Task Force Report, and described as items on which the Task Force has reached consensus, are to be included within the scope of the hearing:

Task Force Issue No. 6: Storage Transportation Service, does the rate correctly reflect the cost and service provided?

Task Force Issue No. 15: Diversion Charge

Task Force Issue No. 19: Can fuel be delivered to TransCanada at other points than Empress?

Task Force Issue No. 20: What "Other Transportation Services" will be provided in TransCanada's list of tolls?

Task Force Issue No. 22: FST differential - Sproule Study

Task Force Issue No. 26: Methodology to enable the examination of contract optimization forecasts

Task Force Issue No. 31: Tariff change in respect of Unauthorized Overrun Volumes

Appendix III to NEB Letter Dated 16 April 1991

Page 1 of 1

The following are additional issues the Board has decided to include in the scope of the RH-1-91 proceeding:

Task Force Issue No. 1: Firm Service Tendered Operating Parameters

The Board accepts the proposal of TransCanada that parties not be required to file evidence on this issue until 10 June 1991

Task Force Issue No. 4: Backhaul Toll Design and Tariff

Task Force Issue No. 33: Change in Unaccounted-for Gas

The Board acknowledges TransCanada's undertaking to revert to the traditional method of accounting for unaccounted-for gas and to amend its application accordingly. The Board also notes the Canadian Petroleum Association's agreement that, in such an event, there would be no issue in this regard. Therefore, if the application is so amended, the Board will strike this issue from the scope of RH-1-91.

Issue No. 36 Raised by Counsel for IGUA: Should shippers be permitted to work off "In transit" balances by using in transit gas credits as fuel?

Issue No. 41 Raised by Counsel for Consumers': Should an adjustment be made to reflect the shorter distance travelled by Saskatchewan-sourced gas that is transported to domestic toll zones.

Appendix VIII

File No: 4400-T001-15

20 December 1990

BY FACSIMILE

Mr. Paul R. Jeffrey Barrister & Solicitor TransCanada PipeLines Limited TransCanada PipeLines Tower 1900, 111 Fifth Avenue S.W. P.O. Box 1000, Station M Calgary, Alberta T2P 4K5

Dear Mr. Jeffrey:

Re: TransCanada PipeLines Limited
("TransCanada")
1991 Interim Toll Application

The Board has considered your application, as revised, for interim tolls pursuant to subsection 19 (2) and section 59 of the National Energy Board Act and has noted the comments submitted by Vermont Gas Systems, Inc. The Board has decided to issue the attached interim order No. TGI-7-90, authorizing TransCanada to charge, on an interim basis, effective 1 January 1991, the tolls set as set out in Appendix 1 to that Order. In addition, the Board has decided to approve the continuance of all existing deferral accounts subject to the parameters and conditions approved by the Board with respect to each.

Yours truly,

Marie Tobin
Secretary

Attach.

ORDER TGI-7-90

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

IN THE MATTER OF an application dated 29 November 1990, as revised 13 December 1990, 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. 4400-T001-15.

BEFORE the Board on 20 December 1990.

WHEREAS TransCanada filed an application dated 29 November 1990 for an Order fixing tolls to be charged on an interim basis effective 1 January 1991 and approving the continuance of existing deferral accounts approved pursuant to Hearing Order RH-3-89;

AND WHEREAS by letter dated 13 December 1990 TransCanada filed a revision to that application requesting approval on an interim basis of certain other tolls omitted from the application in error;

AND WHEREAS the Board reviewed the application, as revised, and the comments of Vermont Gas System, Inc.;

IT IS ORDERED THAT:

Pursuant to subsection 19(2) and section 59 of the Act, the tolls proposed by TransCanada, as set out in Appendix 1 to this Order, are to be charged on an interim basis for the period commencing 1 January 1991 and shall remain in effect until the day before the Board's final Order on TransCanada's tolls application comes into effect.

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

Marie Tobin
Secretary