CANADA

National Energy Board

Reasons for Decision

Westcoast Energy Inc.

MH-2-96

July 1996

Facilities and Toll Methodology

National Energy Board

Reasons for Decision

In the Matter of

Westcoast Energy Inc.

Application dated 15 January 1996, as amended, for the acquisition of facilities and a certificate to operate and toll methodology for such facilities.

MH-2-96

July 1996

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Abbreviations and Definitions

the Act	*National Energy Board Act*
B.C.	British Columbia
BC Gas	BC Gas Utility Ltd.
BC Ministry	Ministry of Employment and Investment for the Province of British Columbia
Bcf	billion cubic feet
Canadian Hunter	Canadian Hunter Exploration Ltd.
CanWest	CanWest Gas Supply Inc.
CAPP	Canadian Association of Petroleum Producers
CEAA	*Canadian Environmental Assessment Act*
COFI et al	Council of Forest Industries, Methanex Corporation and Cominco Ltd.
Company	Westcoast Energy Inc.
CSA	Canadian Standards Association
Czar	Czar Resources Ltd.
EUG	Export Users Group
Facilities	Collectively, as the Helmet/Peggo Facilities and the Hunter Facilities.
GH-1-96	Hearing Order GH-1-96 in respect of Novagas's application for the Pesh Creek Pipeline
GH-5-94	Hearing Order GH-5-94 in respect of Westcoast's application, as amended, for the Fort St. John Expansion Project
Helmet/Peggo Facilities	Certain natural gas pipelines and associated facilities in the Helmet North, Midwinter and Peggo gas producing areas in Northeast British Columbia.
HPG	Helmet Producers Group
Hunter Facilities	Three pipeline segments built by Canadian Hunter that connect to Helmet/Peggo Facilities at the inlet of the a-71-G compressor station.
km	kilometre(s)

kPa	kiloPascal
kW	kiloWatt
LEL	lower explosive limit
m^3	cubic metre(s)
m^3/d	cubic metre(s) per day
MELP	Ministry of Environment, Lands and Parks for the Province of British Columbia
mm	millimetre(s)
MMcfd	million cubic feet per day
MOP	maximum operating pressure
NCL	Novagas Clearinghouse Limited
NCLP	Novagas Clearinghouse Limited Partnership
NEB or the Board	National Energy Board
NOVA	NOVA Gas Transmission Ltd.
Novagas	Novagas Clearinghouse Pipelines Ltd.
O.D.	outside diameter
OPR	*Onshore Pipeline Regulations*
Orbit	Orbit Oil & Gas Ltd.
psi	pounds per square inch
Ranger	Ranger Oil Limited
RGT	raw gas transmission
RGT Facility Expansion Policy	A policy approved by the Board in its RH-1-90 Decision, whereby Westcoast will determine the requirement for a toll surcharge on new raw gas gathering facilities by comparing the revenues and costs of providing service over the lesser of (1) the term of the contract and (2) the life of the reserves.

TBO Agreement	Transportation by Others Agreement between Westcoast and 3181782 to enable Westcoast to provide transportation services for the period commencing 1 January 1996 and effective until the Board renders a decision on this application.
TCA	Transportation Commitment Agreement entered into between 3181782 and each of the working interest vendors.
Vendors	The working interest holders who tendered their working interests in the Facilities to 3181782
Westcoast	Westcoast Energy Inc.
3181782	3181782 Canada Inc.

Recital and Appearances

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

IN THE MATTER OF an application dated 15 January 1996, as amended, by Westcoast Energy Inc., for leave to acquire certain natural gas pipelines and associated facilities in the Helmet North, Midwinter and Peggo gas producing areas in Northeast British Columbia, a certificate to operate such Facilities, and the recovery of costs related to such facilities as part of its Zone 1 cost of service and tolls; and

IN THE MATTER OF the National Energy Board Hearing Order MH-2-96.

HEARD at Vancouver, British Columbia, 17, 18, 19 and 24 of June 1996.

BEFORE:

R. Illing	Presiding Member
R.L. Andrew	Member
J.A. Snider	Member

APPEARANCES:

J. Lutes I. Binnie R. Sirett	Westcoast Energy Inc.
N.J. Schultz	Canadian Association of Petroleum Producers
R.B. Wallace	Council of Forest Industries, Methanex Corporation and Cominco Ltd.
A.K. Fung	BC Gas Utility Ltd.
D.G. Davies	Canadian Hunter Exploration Ltd. and Ranger Oil Limited
R.C. Beattie	CanWest Gas Supply Inc.
F.J. Weisberg	Export Users Group
N. Mills	NOVA Gas Transmission Ltd.
D.A. Holgate	Novagas Clearinghouse Ltd.
H.D. Williamson	Orbit Oil & Gas Ltd.
S.R. Miller R. Cameron	Petro-Canada
A. Reid	Alberta Department of Energy

J.J. Camp P. Pearlman	Ministry of Employment and Investment for the Province of British Columbia
B. de Jonge	Board Counsel

Overview

In an application dated 15 January 1996, Westcoast applied pursuant to subsection 74(1) of the *National Energy Board Act* ("the Act") for leave to acquire from 3181782 Canada Inc. ("3181782") certain natural gas pipelines and associated facilities in the Helmet North, Midwinter and Peggo gas producing areas in Northeast British Columbia ("the Helmet/Peggo Facilities") and under section 52 of the Act, for a certificate to operate the Helmet/Peggo Facilities.

On 16 February 1996, Westcoast filed an amendment to its Helmet/Peggo Facilities Application and requested the Board to determine, under Part IV of the Act, whether all or any portion of Westcoast's costs related to such facilities should be recovered as part of its Zone 1 cost of service and tolls.

On 4 June 1996, Westcoast filed an amendment to include the acquisition of the Hunter Facilities from 3181782 and to roll-in the cost of the facilities into its Zone 1 tolls in the same manner as the cost of the Helmet/Peggo Facilities.

The hearing was convened in Vancouver, British Columbia, on 17, 18, 19 and 24 June 1996.

Westcoast's application was supported during the hearing by the Helmet Producers Group (Canadian Hunter Exploration Ltd., Orbit Oil and Gas Ltd., and Ranger Oil Limited). The application was opposed by the Council of Forest Industries of British Columbia, Methanex Corporation, Cominco Ltd., BC Gas Utility Ltd., Export Users Group, Novagas Clearinghouse Ltd., and the Ministry of Employment and Investment for the Province of British Columbia.

The Board approves Westcoast's application to acquire the Helmet/Peggo Facilities and Hunter Facilities. Accordingly, the Board has issued Order MO-6-96, as shown in Appendix III of these Reasons for Decision.

The Board approves Westcoast's application for the replacement of coalescing filter and compressor bolts at the Helmet/Peggo compressor stations.

The Board is satisfied that the evidence indicates that the facilities will be used at a reasonable level and are and will be required by the present and future public convenience and necessity. Therefore, the Board will recommend to the Governor-in-Council that a certificate be issued. The certificate will be subject to the conditions outlined in Appendix II of these Reasons for Decision.

With regard to Part IV matters, the Board approves a roll-in of 46.7 percent of the costs associated with the Helmet/Peggo and Hunter Facilities. Westcoast shall recover the remaining 53.3 percent of the costs in accordance with the contractual arrangements that were negotiated with the Helmet/Peggo shippers. In that respect, the Board directs Westcoast to file, pursuant to subsection 60(1) of the Act, the applicable tolls of the Helmet/Peggo and Hunter shippers. The Board considers that this decision is case specific and parties should not view it as a Board policy that could be applied to future applications.

The Board has considered the Environmental Screening Report and the comments received on the report and is of the view that, taking into account the implementation of the proposed mitigative measures and the conditions set out in the Screening Report, the operation of the Helmet/Peggo

Facilities is not likely to cause significant adverse environmental effects. This represents a decision pursuant to paragraph 20(1)(a) of the CEAA.

Chapter 1

Introduction

1.1 The Application

Westcoast Energy Inc. ("Westcoast") filed an application dated 15 January 1996, as amended on 16 February 1996, with the National Energy Board (the "Board" or "NEB") pursuant to:

(a) subsection 74(1) of the *National Energy Board Act* (the "Act") for leave of the Board to acquire from 3181782 Canada Inc. ("3181782") certain natural gas pipelines and associated facilities in the Helmet North, Midwinter and Peggo gas producing areas in Northeast British Columbia (the "Helmet/Peggo Facilities");

(b) section 52 of the Act for a certificate to operate the Helmet/Peggo Facilities; and

(c) Part IV of the Act to request that the Board determine whether all or any portion of Westcoast's costs related to such facilities should be recovered as part of its Zone 1 cost of service and tolls.

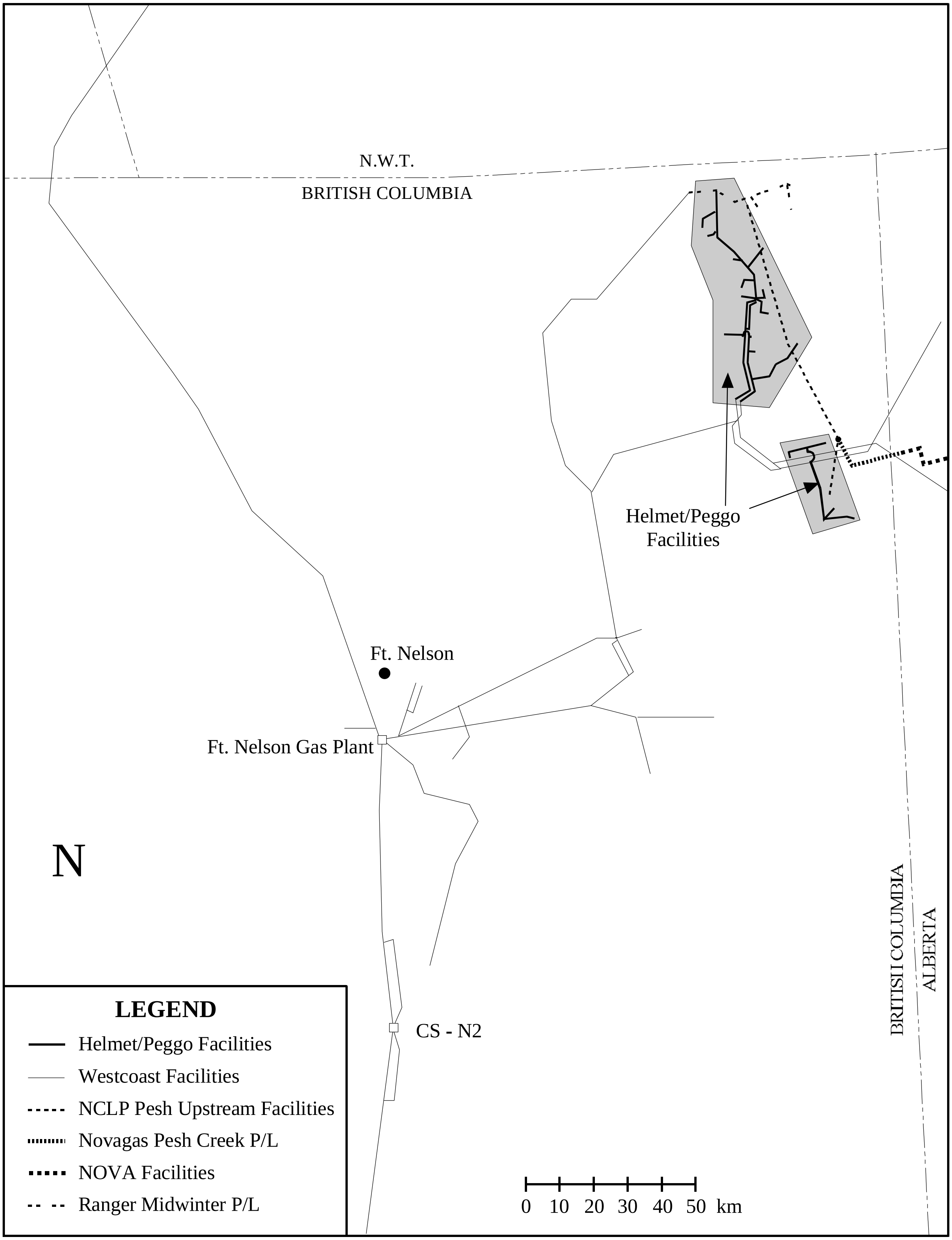
Westcoast filed an amendment dated 4 June 1996 to include the acquisition of three pipeline segments ("Hunter Facilities") totalling 8.8 km in length and that connect to the Helmet/Peggo Facilities at the inlet of the a-71-G compressor station.

Figure 1-1 illustrates the location of the Helmet/Peggo Facilities in relation to Westcoast's Fort Nelson raw gas transmission ("RGT") system.

1.2 Environmental Screening

The Board conducted an environmental screening in respect of the operation of the Facilities in compliance with the *Canadian Environmental Assessment Act* ("CEAA"). The Board ensured there was no duplication in requirements under the CEAA and the Board's own regulatory process.

Figure 1-1
Fort Nelson RGT System



Chapter 2

Facilities and Environmental Matters

2.1 Description

2.1.1 Pipelines

The Helmet/Peggo Facilities consist of 45 pipeline segments totalling 173 km ranging in size from 88.9 mm to 219.1 mm outside diameter ("O.D."). These facilities are located approximately 150 km northeast of Fort Nelson, B.C. The facilities collect gas from wells in the North Helmet, Midwinter and Peggo areas. This gas is delivered to existing Westcoast raw gas transmission pipelines for transportation to the Fort Nelson Gas Plant. The Helmet/Peggo Facilities were constructed between 1981 and 1995 and were designed for sour gas service.

The Helmet/Peggo Facilities consist of three components, namely, the Helmet North and Helmet East legs (comprising the Helmet Pipeline) and the Peggo Pipeline. Refer to Figure 2-1 for an illustration of the facilities.

The Helmet North leg comprises 25 pipeline segments, including a dual 168.3 mm O.D. crossing of the Petitot River. The Helmet North leg brings gas from the Midwinter area and points south to compressor station, c-35-K where the gas is compressed and delivered to Westcoast's existing 219.1 mm O.D. Northwest Helmet Extension and 406.4 mm O.D. North Helmet Loop Pipelines.

The Helmet East leg comprises 13 pipeline segments. The Helmet East leg commences northwest of compressor station c-96-B and runs parallel to the North Helmet leg from station c-96-B to the vicinity of station c-35-K where it connects directly to Westcoast's existing raw gas transmission system.

The Peggo Pipeline comprises seven segments that tie into the existing Westcoast 273.1 mm O.D. Helmet Pipeline and 406.4 mm O.D. Southeast Helmet Loop Pipeline.

The pipeline facilities were designed, constructed and tested in accordance with the Canadian Standards Association CAN/CSA-Z184 for a maximum operating pressure ("MOP") of 9930 kPa (1440 psi). Westcoast indicated that the pipelines comply with the requirements of CSA-Z662-M94 for sour gas pipelines. Westcoast stated that each pipeline segment is documented on a PL102 Form (Declaration of Pipeline "As-Constructed" Specifications) and that these forms have been approved by provincial authorities.

Westcoast filed an amendment dated 4 June 1996 to include in the application three additional pipeline segments ("the Hunter Facilities") totalling 8.8 km in length, connecting to the Helmet/Peggo Facilities at the inlet of the a-71-G compressor station. The Hunter Facilities were constructed during 1995 and were designed for sweet gas service.

The Hunter Facilities were inspected by Westcoast and found to be in compliance with the *Onshore Pipeline Regulations* ("OPR") and CAN/CSA-Z184-M92 for pipelines in sweet gas service.

2.1.2 Compressor Stations

Compression on the Helmet/Peggo Facilities is provided by six compressor stations, as described in Table 2-1.

Westcoast stated that the compressor stations were inspected for compliance with the OPR and CAN/CSA-Z184-M92 for pipelines in sour service. Westcoast noted several deficiencies and proposed the following minor capital projects to upgrade the Helmet/Peggo Facilities from sweet service to sour service:

- Coalescing filter replacement.

- Compressor bolt replacement.

In addition, Westcoast noted several fire and gas detection deficiencies, as listed below. Westcoast stated that the equipment required is of a non-capital nature and would be installed during 1996 in conjunction with other operating and maintenance work:

- LEL gas detection equipment at the b-30-B compressor building, the meter building at c-35-K, and the dehydration buildings at c-96-B, b-30-B and a-84-J.

- Fire detection equipment at the meter building at c-35-K, and the dehydration buildings at c-96-B, b-30-B and a-84-J.

Table 2-1
Helmet/Peggo Compressor Stations

Station	Compressor	Power (kW)	Date Installed
c-35-K	Unit #1	310	1987
	Unit #2	550	1985
	Unit #3	1045	1989
	Unit #4	1045	1993
a-71-G	Unit #A	1045	1991
	Unit #B	1045	1991
	Unit #C	1045	1992
	Unit #D	1045	1991
a-84-J	Unit #1	1045	1991
b-30-B	Unit #1	150	1991
c-96-B	Unit #1	340	1991
d-A69-D	Unit #1	450	1989
	Unit #2	810	1994

Views of the Board

The Board is satisfied that the Helmet/Peggo Facilities and the Hunter Facilities were appropriately designed, constructed and tested for sweet gas service. Further, the Board is satisfied that the Helmet/Peggo Facilities, upon completion of the minor capital and non-capital projects, will be suitable for sour gas service.

2.2 Environmental and Land Matters

The Board has completed an Environmental Screening Report pursuant to the CEAA and the Board's own regulatory process. In accordance with Hearing Order MH-2-96, the Environmental Screening Report was made available to the public.

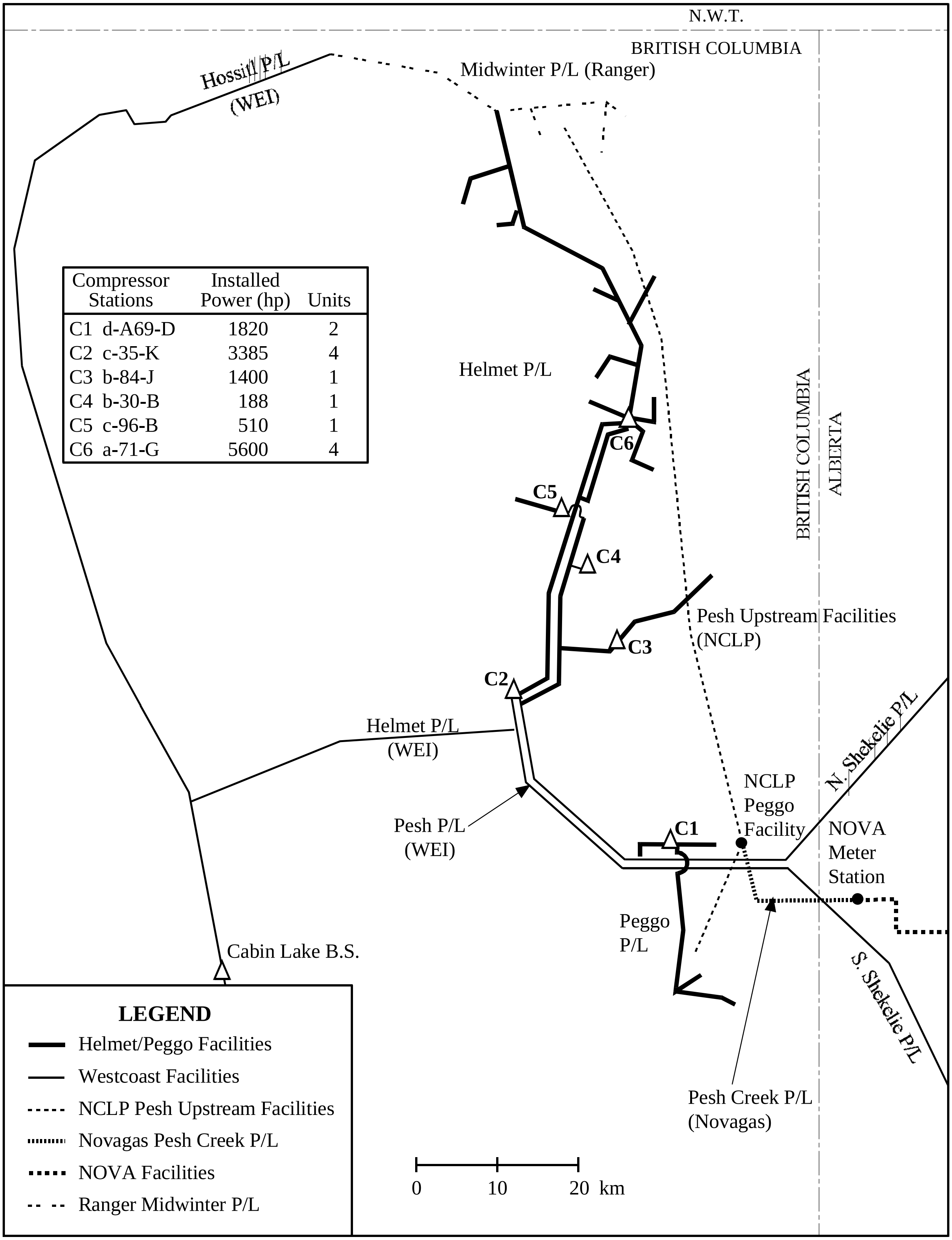
The Facilities are located entirely on provincial Crown lands. The Facilities, including compressor stations, are located within statutory rights-of-way issued by the Ministry of Environment, Lands and Parks for the Province of British Columbia ("MELP"). Westcoast submitted that an application has been made to MELP to transfer the rights-of-way to Westcoast. Westcoast further submitted that the rights-of-way would be subsequently registered in Westcoast's name at the land titles office.

Views of the Board

The Board has considered the Environmental Screening Report and is of the view that, taking into account the implementation of the proposed mitigative measures and the conditions set out in the Screening Report, the operation of the Facilities is not likely to cause significant adverse environmental effects. This represents a decision pursuant to paragraph 20(1)(a) of the CEAA.

The Board's views, have been added to the Environmental Screening Report as Appendices I and II to that report, respectively. Copies of the Environmental Screening Report are available upon request from the Board's Regulatory Support Office.

Figure 2-1
Helmet/Peggo Facilities



Compressor Stations	Installed Power (hp)	Units
C1 d-A69-D	1820	2
C2 c-35-K	3385	4
C3 b-84-J	1400	1
C4 b-30-B	188	1
C5 c-96-B	510	1
C6 a-71-G	5600	4

Chapter 3

Economic Feasibility

3.1 Alternative Purchase Offer

Westcoast became aware in the summer of 1995 of plans by Novagas Clearinghouse Limited Partnership ("NCLP") and Novagas Clearinghouse Pipelines Ltd ("Novagas") to construct a new gas pipeline from B.C. into Alberta. The new pipeline was designed to provide access to the NOVA Gas Transmission Ltd ("NOVA") pipeline system for the gas produced in the Midwinter, Helmet North, Peggo and Pesh fields, thereby, in Westcoast's view, bypassing the Westcoast system. Westcoast was also made aware of the intention of certain of the owners of the Facilities to sell their working interests.

Figure 2-1 illustrates the layout of the Facilities, and the connecting and adjacent pipeline facilities.

The northern leg of the NCLP Pesh Upstream Facilities originates in the Midwinter area, between the Helmet/Peggo Facilities and the Ranger Midwinter Pipeline, and runs south to its terminus at the NCLP Peggo Facility. The southern leg of the NCLP Pesh Upstream Facilities extends southwest from the Peggo Facility into the Peggo gas producing area. The NCLP Pesh Upstream Facilities are designed and constructed for sour gas service. The Novagas Pesh Creek Pipeline begins at the NCLP Peggo Facility, crosses the Westcoast Pesh Pipeline, and then runs east to the NOVA meter station situated at the Alberta terminus of the Novagas Pesh Creek Pipeline. The Novagas Pesh Creek Pipeline was the subject of the GH-1-96 proceeding.

Westcoast was concerned about the economic consequences of the bypass threat as Westcoast holds significant assets in the Fort Nelson catchment basin and the existing processing and transportation service agreements for these facilities are short-term in nature due to their perpetual renewal rights.[1] Westcoast's concerns were related to the perceived potential for the acquisition of the Facilities by NCL, thus creating, a bypass situation. Westcoast determined that approximately 2 125 $10^3m^3/d$ (75 MMcfd) of gas sourced through the Facilities could be diverted eastward through the bypass pipeline, and that would have significant adverse impacts on revenue and tolls for Zone 1 facilities.

To prevent this diversion, Westcoast caused 3181782, a wholly-owned subsidiary of Westcoast, to make a successful offer to purchase approximately 95 percent of the working interests from the existing owners of the Helmet/Peggo Facilities in October 1995. Westcoast is continuing negotiations to acquire the remaining working interest of approximately 5 percent. The purchase price paid to the vendors was based on a price of $30 million for 100 percent of the interests in these facilities. In February 1996, 3181782 acquired from Inland Gas & Oil Ltd. and Canadian Hunter 100 percent of the working interests in the Hunter Facilities, for a purchase price of $666,933.

[1] Firm Service Agreements on the Westcoast RGT system can be renewed annually by the shippers..

In Westcoast's submission, these facilities are a logical extension of Westcoast's existing pipeline system in the Fort Nelson resource area. Further, Westcoast submitted that, because the gas will be retained on the Westcoast system, it is therefore incremental relative to the bypass alternative.

As discussed previously, Westcoast was concerned about the impact of a bypass pipeline and the NCL offer to purchase the Facilities. Westcoast argued that the existing shippers on the Westcoast system would pay lower tolls with the purchase than they would in the bypass situation. To illustrate its position, Westcoast presented a comparison of the differential revenue requirement for two situations:

- Westcoast purchased the Facilities and rolled the costs into its existing Zone 1 tolls; and in the second situation, the facilities are not purchased and the gas is diverted.

- This comparison covered a ten-year period (1996-2006) under two scenarios: Case 1, only the gas currently flowing through the Helmet/Peggo system is diverted; and Case 2, all the Helmet/Peggo area gas is diverted.

Case 1 indicated that the purchase causes an average annual toll increase of 4.0 per cent in Zone 1, but decreases of 2.1 per cent in Zone 2 and 3.5 per cent in Zone 3, respectively. Case 2, where all the Helmet/Peggo area gas was diverted, indicated that the purchase causes an average annual toll increase of 1.3 per cent in Zone 1, but decreases of 3.6 per cent in Zone 2 and 6.1 per cent in Zone 3, respectively.

Westcoast argued that, if the Helmet/Peggo gas were lost to the bypass alternative, it would not be backfilled by other gas supply elsewhere in the Fort Nelson area. Westcoast contended that the disappointing results of the drilling program in the Fort Nelson area (other than the Jean Marie area) substantiated its argument. Westcoast described the Jean Marie area as the "bright spot" in Northeast British Columbia and suggested that the achievement of extending the supply contracts, as well as the vendors' agreement to use their best efforts to develop and produce an additional 1840 10^3 m^3/d from the Jean Marie area, is important to maintaining Westcoast RGT and gas processing facility utilization rates.

The BC Ministry and BC Gas argued against Westcoast's assertion that the Helmet/Peggo gas supply is incremental relative to the bypass alternative and that the Westcoast's diversion assumption is not realistic. They submitted that pre-existing supply contracts for supplies sourced in the area served by the Facilities would have precluded the level of decontracting contemplated by Westcoast and would prevent unilateral redirection of reserves to a new pipeline. They contended also that the sour nature of some of the resources would ultimately have required that some processing of the gas take place (either at the Fort Nelson Plant or at a new sour gas plant) before it could be directed to the NOVA system and as a result this would limit the degree of decontracting levels.

BC Gas also argued that Westcoast failed to apply the appropriate bypass economic tests as it did not do any economic analysis of the producers' alternative to determine the cost level required to keep customers on the system; nor did Westcoast include the costs of the Hossitl/Midwinter pipeline in its toll impact analysis. BC Gas stated that it is not aware of any Board tradition or policy as to the proper toll treatment of Westcoast's acquisition of RGT facilities in response to competition; and, the Board should not feel bound to give effect to this expectation of roll-in.

The Council of Forest Industries, Methanex Corporation and Cominco Ltd. ("COFI et al") and the Export Users Group ("EUG") submitted that, generally, they support the positions and the views expressed by the BC Ministry and BC Gas. COFI et al also argued that Westcoast's evidence of purchase benefits to the system is limited and not fully persuasive for the following reasons: (1) the impacts of the bypass threat are overstated by Westcoast; (2) the volumes involved are quite minor in terms of both annual production and total reserves in the Fort Nelson area; (3) Westcoast has overstated revenues and, (4) the under-utilization of facilities is also overstated. COFI et al further submitted that they support the use of bypass and load retention rates where it is clearly in the interests of all of the users to do so.

The EUG argued that the present application runs counter to the North American trend toward the deregulation of natural gas gathering and processing facilities and development of competition in that sector of the industry.

The Helmet Producers Group ("HPG") supported approval of this application and stated that they agreed with Westcoast's assertion that the threat of bypass was real and that Czar Resources Ltd (now Ranger) was not interested in a bypass rate from Westcoast. The HPG further stated that simple economics dictate that if Novagas had succeeded in the purchase, the gas would have moved eastward to avoid producers having to pay a toll to both Novagas and to Westcoast. The HPG contended that NOVA's rolled-in, postage-stamp toll was attractive, especially since no processing fee is required on NOVA for sweet gas. In response to argument by other intervenors that contractual obligations would prevent or inhibit producers from switching from the Westcoast to the Novagas/NOVA system, the HPG stated that their Helmet/Peggo area gas could have moved to Alberta and their gas sales obligations to their B.C. customers could still be satisfied from other sources.

The HPG further submitted that the Westcoast acquisition of the applied-for facilities was achieved in a competitive situation. During cross-examination, the HPG stated that NCL offered a higher purchase price than Westcoast and that tolls on the Westcoast system would be higher than on the Novagas/NOVA systems. However, the HPG stated that they considered the offer as a whole package, in particular, they considered the market price for gas at Sumas, Washington versus Empress, Alberta, (at the time of the purchase offer) and the expectation of 100 percent roll-in.

Views of the Board

The Board believes that the integration and flexibility of the North American market and economic factors would result in that Helmet/Peggo shippers diverting their gas to the NOVA system in Alberta.

The Board is of the view that the NCL purchase offer created a potential bypass situation that would have had a significant adverse impact on Westcoast's Fort Nelson system if Westcoast had not caused its subsidiary to purchase these facilities.

3.2 Utilization of Facilities

As part of the Helmet/Peggo Facilities sale transaction under the Transportation Commitment Agreement ("TCA") the vendors agreed to:

- commit all their existing and future reserves in the Helmet, Midwinter, July Lake and Peggo fields for transportation on the Westcoast system;

- use their best efforts to develop and produce, during the next two years, an additional 1840 $10^3m^3/d$ (65 MMcfd) of Jean Marie formation gas for delivery to the Westcoast system; and,

- extend their existing processing, gathering and transportation service agreements with Westcoast to the year 2001.

In order to facilitate the continued flow of gas through the Facilities into Westcoast's Helmet Pipeline, 3181782 entered into Firm Service Agreements, for RGT, with the former working interest owners of the Facilities, for service commencing 1 November 1995. The RGT Firm Service Agreements were then assigned and novated to Westcoast, effective 1 January 1996. Westcoast, in turn, entered into a transportation service agreement (the "TBO Agreement") with 3181782, effective 1 January 1996, to enable Westcoast to provide service to the shippers under the RGT Firm Service Agreements, until the Board made a decision on the subject application. The costs incurred by Westcoast under the TBO Agreement are currently accruing in a deferral account for disposition in the next Westcoast rate hearing. This deferral account was approved by the Board in its RH-1-96 Decision.

The RGT Firm Service Agreements cover a ten year term and terminate on 31 October 2005. The contractible capacity of the Facilities is 2 234 $10^3m^3/d$ (78.9 MMcfd). Based on the total volumes nominated by the shippers under the executed RGT contracts, the Facilities would operate at a utilization rate of approximately 85 percent.

As part of the TCA, Westcoast committed to:

- apply to the Board for a material reduction of the existing processing toll for Fort Nelson low acid gas;

- apply to the Board for approval to operate low pressure gathering facilities at 1380 kPa (200 psi) upstream of existing and future compressor stations in the Helmet/Peggo area;

- operate compressor station a-71-G at a suction pressure not greater than 1380 kPa ; and,

- allow shippers, who require lower suction pressure, access to pipeline nodes in the Helmet/Peggo Facilities in order to install additional compression that will be installed, owned by and operated at the shipper's expense.

BC Gas is of the view that Westcoast, through approval of this acquisition on a rolled-in basis, would have an economic advantage or preferred competitive position over others who are not able to offer roll-in of costs. The BC Ministry concluded that a roll-in of the Helmet/Peggo Facilities costs into Zone 1 cost of service would negatively impact the remaining shippers on the Westcoast system and some of the increased costs would be passed on to domestic gas consumers. The BC Ministry and BC Gas also noted Westcoast's undertaking to seek a reduced processing toll at Fort Nelson for low acid gas and argued that the potential revenue loss resulting from this reduction is not accounted-for in Westcoast's economic justification.

BC Gas further argued that a 15 percent processing discount, applied to the Case 1, would require more than 97.2 percent of the volumes to be diverted before the remaining shippers would benefit from the purchase of the facilities and that all benefits disappear if the discount is 25 percent or greater. Novagas Clearinghouse Limited ("NCL") submitted that Jean Marie gas, a sweet gas, does not require processing and if Westcoast is successful in reducing the acid gas toll, it would contribute little to processing revenue. NCL believed that, if the RGT Facility Expansion Policy test had been applied by Westcoast as required to determine economic feasibility related to facility expansions, a nil or limited processing revenue credit would have dictated a surcharge.

Views of the Board

Based on the contractual arrangements entered into by the Helmet/Peggo shippers and Westcoast, the Board is satisfied that the Facilities will be used and useful over their economic life.

The matter of Westcoast's undertaking to the vendors to seek a reduced processing toll at Fort Nelson for low acid gas is not, in the Board's view, relevant to this proceeding. Such a reduction would require an application to the Board. At this time, any possible reduction in tolls and resulting impact on Zone 1 revenues are speculation only.

3.3 Supply

Gas supply for the Facilities is primarily sweet gas from the Jean Marie Formation. Sour gas from the Slave Point and Pine Point Formations is also available for production in the area. Westcoast indicated its estimate of remaining established marketable gas reserves behind the Facilities is 5 162 10^6m^3 (182 Bcf), of which 4 209 10^6m^3 (148 Bcf) is found in the Jean Marie Formation, as of 15 December 1995.

The BC Ministry estimated remaining marketable gas reserves in the area behind the facilities, to be 7 779 10^6m^3 (275 Bcf) as of 31 December 1995.

Westcoast used Geological Survey of Canada estimates of gas-in-place for undiscovered gas potential[1] in the areas behind the Facilities to develop undiscovered raw gas estimates that range from 9 915 10^6m^3 (350 Bcf) to 24 079 10^6m^3 (850 Bcf).

Westcoast's forecast of productive capacity relied upon current production along with unconnected and undiscovered potential capacity estimates. Productive capacity from horizontal wells, both new and re-entry, are forecast to offset expected production declines from existing pools over the two-year period - 1996 to 1998. Over the forecast period from 1996 to 2005, approximately 110 wells are expected to be drilled in the Jean Marie area and connection rates of up to 75 percent are anticipated.

[1] Bulletin 452: Devonian Gas Resources of the Western Canada Sedimentary Basin, Geological Survey of Canada, 1993

Views of the Board

The Board is satisfied that Westcoast's estimates of remaining established gas reserves and undiscovered gas potential are reasonable. The Board also considers Westcoast's range of forecasts of productive capacity to be reasonable.

Chapter 4

Financial Matters and Tolling Treatment

4.1 Reasonableness of Purchase Price

As stated in Section 3.1, 3181782, a wholly-owned subsidiary of Westcoast, purchased approximately 95 per cent of the working interests in the Helmet/Peggo Facilities. The purchase price paid to the vendors was based on a price of $30 million for 100 percent of the interests in these facilities. 3181782 also acquired 100 per cent of the working interests of the Hunter Facilities for the purchase price of $666,933.

Westcoast stated that the $30 million purchase price basis for 100 percent of the Facilities was arrived at through arm's-length negotiations and reflects the original capital cost of the Facilities of $36 million, the replacement cost of the Facilities of $49 million, the vendors' opportunity to sell the Facilities to a third party, the strategic value of the Facilities and the impacts on Westcoast's existing tollpayers.

Westcoast stated that information on the book value of the Facilities was not disclosed by the vendors. However, Westcoast asserted that applying the Board's approved depreciation rate of 2.2 per cent to the original cost of the Facilities would result in a net book value, in 1996, which would not be significantly different than the purchase price basis of $30 million.

The HPG stated that the purchase price was determined by negotiation and reflected the agreed-to value for all the Helmet/Peggo Facilities; the price was not determined by negotiating values on a segment-by-segment basis. During cross-examination, the HPG testified that the cash portion of a competing purchase offer from Novagas was higher than $30 million.

BC Gas argued that the failure of Westcoast and the producers to provide the net book value of these facilities as at the date of the purchase should weigh heavily in the Board's decision in this case. In BC Gas's view, the unwillingness or inability on the part of the contracting parties to provide a true net book value of these assets at the time of sale leads BC Gas to conclude that the price paid for these assets may include a substantial premium over net book value.

The BC Ministry submitted that the reasonableness of the purchase price can only be assessed in conjunction with the tolling methodology that will apply to the Facilities. If tolled on a stand-alone basis, the purchase price can be viewed as market value and therefore reasonable. If tolled on a rolled-in basis, the reasonableness of the purchase price becomes very difficult, if not impossible, to assess. COFI et al also urged the Board to look at the total "package".

Views of the Board

In considering the reasonableness of the purchase price for the Facilities, it is important to examine the total consideration set out in the contractual arrangements. The purchase price cannot be considered separate from the other contractual provisions. Thus, the Board sees this issue as broader than an isolated review of the purchase price; rather, it is the reasonableness of the contractual arrangements as a whole, together with surrounding factors impacting on this purchase, that must be examined. Further, as submitted by the BC Ministry, the tolling methodology that will apply to these facilities should be considered in evaluating the reasonableness of the purchase price.

In this case, the following matters related to the contractual arrangements are, in the Board's view, particularly relevant to this issue:

- The contractual arrangements were arrived at through arm's length negotiations.
- The cash portion of a competing purchase offer from Novagas was higher than that offered by 3181782.
- The vendors agreed to commit all their existing and future reserves in the Helmet, Midwinter, July Lake and Peggo fields for transportation on the Westcoast system, to use their best efforts to develop further production in these areas and to extend their existing service agreements with Westcoast.
- The vendors agreed, in the event that the Facilities are not fully rolled-in with Westcoast's Raw Gas Transmission Zone 1 costs, to pay a surcharge for transportation services (discussed more fully below in section 4.2).

Certain intervenors were of the view that the Board should take notice of the fact that Westcoast failed to provide evidence of the net book value of these facilities. In the Board's view, such information is not useful. In these circumstances, the Facilities are not being acquired from another regulated utility or other entity where net book values would be kept in a manner which would allow meaningful comparison. Further, the Board accepts Westcoast's assertion that applying the Board's approved depreciation rate of 2.2 percent to the original cost of the facilities would result in a net book value in 1996 that would not be significantly different from the purchase price. This evidence is not, however, a significant factor in the Board's decisions on this issue.

Based on the foregoing, the Board is satisfied that the contractual arrangements, including the purchase price, are reasonable, particularly in light of the Board's decision on the tolling methodology which is set out in section 4.2.

4.2 Tolling Methodology

Westcoast applied for approval to roll-in the cost of the Facilities to its Zone 1 tolls. In the event that the Board denies rolled-in treatment of the full acquisition cost of these facilities, the Helmet/Peggo producers have agreed to pay a surcharge for transportation services in addition to Westcoast's Zone 1 tolls. The surcharge which they agreed to pay is calculated by a formula which includes 53.3 percent of the cost of purchasing the Facilities. Westcoast explained that the 53.3 percent was the product of negotiation and represents $16 million of the $30 million purchase price basis. Westcoast stated that the $16 million amount was not based on the costs of particular assets. It was Westcoast's opinion that the surcharges that the shippers have agreed to pay would be tolls, similar to other tolls that are the product of negotiation, such as tolls that are arrived at through a negotiated settlement.

Westcoast submitted that the general principles with respect to rolled-in toll treatment have been established in previous Board decisions and policies, and that the issue to be addressed in this proceeding is whether the roll-in of the Facilities is consistent with those policies. Westcoast believes that for a number of reasons, this is not the appropriate proceeding to review the general principles of rolled-in tolls.

In Westcoast's submission, the Facilities do satisfy the requirements of the existing policy and, therefore, ought to be rolled-in. Westcoast argued that the Facilities will form an extension of Westcoast's gathering system in the Fort Nelson resource area. They are in all material respects similar to other facilities operated by Westcoast throughout its gathering systems. The difference in receipt point pressures for these facilities is no basis on which to distinguish them for tolling purposes because there is a wide range of receipt point pressures throughout Westcoast's gathering facilities.

Westcoast stated that all previous extensions of Westcoast's gathering facilities have been rolled-in for rate-making purposes. Westcoast further asserted that, had it constructed the Facilities to connect these reserves to maintain deliverability, then in the absence of a change in policy the costs associated with the expansion would have been rolled-in. In Westcoast's submission, the fact that it has expanded its facilities through an acquisition of existing facilities, as opposed to constructing new facilities, is no basis for departing from the existing methodology.

With reference to the GH-5-94 Decision on the Aitken Creek facilities expansion, Westcoast argued that the following factors are relevant and supportive of a finding that the Facilities should be rolled-in:

- The Facilities are operationally integrated with Westcoast's existing facilities and form part of one continuous pipeline system.

- The Facilities are an extension of Westcoast's existing Helmet Pipeline and are integral to the facilities servicing the Fort Nelson catchment area.

- The Facilities function in tandem with the Company's existing facilities in the area to further the development of the Fort Nelson supply area. They are not being acquired for the purpose of opening new, previously undeveloped supply areas or for transporting gas exclusively from new fields.

Westcoast stated that the issue of whether these costs should now be recovered from the general population of Westcoast's Zone 1 tollpayers through the roll-in mechanism is a cost allocation issue, separate and apart from the issue of competition. Had Westcoast not competed against NCL, the costs associated with the under-utilized facilities created by the bypass would have been borne by the other tollpayers.

COFI et al generally supported the positions and the views expressed by the BC Ministry and BC Gas. These intervenors support the use of bypass rates and load retention rates where it is clearly in the interests of all of the users to do so. COFI et al recommended that the application not be approved as presented. Instead, they offered three alternatives as being reasonable ways of disposing of the application: (1) deny approval; (2) approve the project as a stand-alone project; or (3) approve the project under the existing RGT Facility Expansion Policy.

BC Gas's position was that the requested roll-in should be denied and the costs of the facilities should be treated on a stand-alone basis. BC Gas submitted that the facilities should be tolled as a distinct and separate service. It cited the Sukunka Fuel Gas Pipeline and the TransCanada PipeLines toll for additional delivery pressure as precedents.

BC Gas was of the view that this gathering system is significantly different from the rest of Westcoast's existing Fort Nelson system, in that pressures on the Facilities range from about 15 per cent to a maximum of 65 per cent of the lowest pressures elsewhere on the Fort Nelson system. BC Gas argued that similar facilities on the Fort Nelson system are producer-owned and the costs are borne entirely by the producers.

The HPG supported the approval of Westcoast's application and expected full roll-in of the costs as it viewed a full roll-in to be consistent with previous Board decisions. The HPG submitted that there is no basis to differentiate the service provided by these facilities from the service provided by other Westcoast gathering facilities. The Helmet/Peggo system is a low pressure system, because of the low pressure nature of the Jean Marie gas reserves in the area. In the context of the Westcoast system, this is not an unusual situation.

The HPG submitted that no good reason had been put forward to justify changing the Board's tolling policy for Westcoast facilities. On the contrary, it argued that good reason has been shown not to make such a change, particularly as it would, in this proceeding, be on an ad hoc basis.

The EUG supported the positions of COFI et al, BC Gas and the BC Ministry. They opposed rolled-in toll treatment of the Facilities.

NCL submitted that the Board should deny the application for approval of the purchase and roll-in of the Helmet/Peggo Facilities. NCL asserted that approval of the application would be a victory for the status quo and a serious blow to competition in the gathering and processing sectors in British Columbia.

The BC Ministry submitted that the Board ought to be seen at this time to be promoting a more competitive climate in the gathering and processing of gas in British Columbia. The BC Ministry stated that it did not accept that rolling-in of these facilities would help create a more level playing field. Reform of the existing system is required to accomplish that goal. By granting approval to roll-in, the negative aspects of the current system would be exacerbated and the necessary reform would be more difficult and take longer to achieve.

The BC Ministry was of the view that the most appropriate toll arrangement for these facilities is to have them tolled on a stand-alone basis without the benefit of any roll-in to the Zone 1 cost of service and tolls. As justification for its position, the BC Ministry argued that the gathering and processing system owned by Westcoast needs change to allow for more competition. Approval of tolls on a stand-alone basis would also ensure that minority interest owners do not face discrimination by having to pay a share of the operating costs and continuing to incur the cost of their capital investments in order to transport their gas on the system.

Views of the Board

With respect to the tolling of facilities proposed to be acquired or constructed by Westcoast, the Board notes that it has consistently held that rolled-in tolling treatment is appropriate where the need for, and the economic feasibility of the facilities can be justified and where such facilities are integral to the existing Westcoast facilities. The most recent example approving roll-in was the decision of the Board in respect of the proposed expansion of facilities in the Fort St. John area (GH-5-94). Similar tolling treatment has also been accorded facilities that have been purchased by Westcoast. For example, in RH-1-92, the Board approved the roll-in of the costs of acquiring and upgrading liquid products stabilization and fractionation facilities at Taylor, B.C. Further, Westcoast's existing Raw Gas Transmission Facility Expansion Policy[1] ("RGT Policy") treats applicable facilities expansions on a rolled-in basis, with a surcharge, where appropriate.

It is important to note, however, that the circumstances surrounding each case must be examined to determine whether, and to what extent, rolled-in treatment is appropriate. Following the Board's decision in GH-1-94, for example, the Sukunka Fuel Gas Line, which operates separately from the balance of the Westcoast system, was tolled on a stand-alone basis. Even where facilities are to be rolled in, situations exist where a roll-in of 100 percent of costs is not warranted. For example, as stated above, the RGT Policy provides for a surcharge to shippers in circumstances where a full roll-in would lead to an unacceptable burden on existing tollpayers.

Some intervenors referred to negotiations currently taking place that may lead to revised tolling approaches to the gathering and processing functions of Westcoast. Accordingly, they argued that rolled-in treatment of these facilities would be inappropriate. The Board does not agree that this is a valid argument for treating these particular facilities in a manner which differs from the approach that has been consistently taken by this Board. Such a change in tolling treatment should only be taken either with the agreement of all affected parties or after the careful consideration of tolling methodology in the context of a generic proceeding before this Board. Such a generic proceeding would involve participation by all stakeholders; including not only the parties to this hearing but also a larger representation of producers and shippers.

Accordingly, the Board is of the view that it should examine these particular facilities in the context of the existing regime of regulation for Westcoast.

Concerning the purpose and function of the Facilities, the Board was convinced that the Facilities will be an extension of Westcoast's existing Helmet Pipeline and will be operationally integrated with the facilities servicing the Fort Nelson catchment area. Also, the Board agrees that these facilities will function in tandem with Westcoast's

[1] RGT Facility Expansion Policy is a policy approved by the Board in its RH-1-90 Decision, whereby Westcoast will determine the requirement for a toll surcharge on new raw gas gathering facilities by comparing the revenues and costs of providing service over the lesser of the term of the contract or the life of the reserves.

existing facilities to further the development of the Fort Nelson supply area. Further, the Board is satisfied that the lower operating pressures for some of the Facilities do not constitute a reason for denying rolled-in treatment. On that basis, the Board is of the view that some measure of rolled-in treatment for the costs is warranted. However, due to the unique circumstances of this application, the Board has difficulty approving full rolled-in treatment for these facilities.

As discussed earlier, the Board accepts that Westcoast caused 3181782 to purchase the Facilities in response to a bypass threat from NCL and that the purchase price, while a major element, was only one component of a negotiated package. The TCA and the Firm Service Agreements with shippers address the possibility of the Board not approving 100 percent rolled-in treatment and provide for a contractual surcharge arrangement relating the level of surcharge to the percentage of roll-in. Under the agreements, the Helmet/Peggo shippers were prepared to proceed with the transaction, remain committed to the Westcoast system, and to further the development of additional supply provided that Westcoast guaranteed that they would not be responsible for the payment of a surcharge in excess of 53.3 percent of the costs associated with the Helmet/Peggo Facilities.

With this situation, the Board believes that the existing system users should absorb only the costs necessary to avoid the loss to the system of the potential bypass customers. In the Board's view, the contractual arrangements negotiated between Westcoast and the Helmet/Peggo shippers, related to the surcharge in the event of only partial roll-in, represents an appropriate allocation of costs that will keep the Helmet/Peggo shippers on the Westcoast system without causing the other Zone 1 shippers to incur more costs than necessary to avoid the bypass.

With regard to Part IV matters, the Board is of the view that a roll-in of 46.7 percent of the costs associated with the Helmet/Peggo and Hunter Facilities would be appropriate. Further, Westcoast should recover the remaining 53.3 percent of the costs in accordance with the contractual arrangements that were negotiated with the Helmet/Peggo shippers. In that respect, the Board directs Westcoast to file, pursuant to subsection 60(1) of the Act, the applicable tolls. The Board considers that this decision is case specific and parties should not view it as a Board policy that could be applied to future applications.

Chapter 5

Requirement For Provincial Consent

In their interventions, the BC Ministry and BC Gas proposed that the list of issues be amended to include the status of, or requirement for, provincial approvals under the British Columbia *Utilities Commission Act* and *Pipeline Act* in respect of the proposed transfer of the Facilities by 3181782 to Westcoast. This proposal was subsequently addressed by Westcoast and the BC Ministry in letters to the Board.

The Board decided that an issue had been raised concerning the relevance of any provincial regulatory approvals that 3181782 might require before it can transfer the Facilities to Westcoast. The Board therefore amended the List of Issues attached as Appendix V to the Hearing Order to include, as Issue #6: "Other approvals required and relevance to this application."

The BC Ministry argued that the Facilities remain subject to provincial law until they are transferred from 3181782 to Westcoast. The BC Ministry stated that, among other requirements of provincial law, leave is required under section 32 of the British Columbia *Pipeline Act* before 3181782 can transfer the Facilities to Westcoast. The BC Ministry urged the Board to make any approval that it might grant conditional on 3181782 obtaining all necessary provincial approvals.

Westcoast argued that the Facilities are already functionally and operationally integral to the federal pipeline undertaking of Westcoast and therefore themselves fall under federal jurisdiction; but that even if the Facilities are currently under provincial jurisdiction, the province cannot prevent or control the expansion of a federal undertaking by withholding consent. Westcoast argued that the Board has exclusive jurisdiction to consent or not to consent to the acquisition of the Facilities by Westcoast and that a decision by the Board approving the acquisition could not be frustrated by the withholding of consent by the province.

Views of the Board

Westcoast's application does not ask the Board to give leave to 3181782 to transfer the Facilities to Westcoast; rather, the application seeks the leave of the Board for Westcoast to acquire the facilities from 3181782. If 3181782 requires provincial regulatory approvals before it can transfer the Facilities to Westcoast, these will be in addition to and separate from the approval that is required by Westcoast from the Board.

The Board is of the view that it would serve no purpose to make its approval conditional on 3181782 obtaining any necessary provincial approvals. This would beg the question of whether or not provincial approvals are in fact required by 3181782. The Board is of the view that it is neither necessary nor appropriate for it to determine this question. The applicability and enforcement of provincial laws are matters for the appropriate provincial authorities.

Chapter 6

Disposition

The foregoing constitutes our Reasons for Decision in respect of the application heard by the Board in the MH-2-96 proceeding.

The Board approves Westcoast's application to acquire the Helmet/Peggo and Hunter Facilities. Accordingly, the Board has issued Order MO-6-96, as shown in Appendix III.

With regard to Part IV matters, the Board approves a roll-in of 46.7 percent of the costs associated with the Helmet/Peggo and Hunter Facilities into Westcoast's Zone 1 cost of service and tolls. Westcoast shall recover the remaining 53.3 percent of the costs in accordance with the contractual arrangements that were negotiated with the Helmet/Peggo shippers. In that respect, the Board directs Westcoast to file, pursuant to subsection 60(1) of the Act, the applicable tolls. The Board considers that this decision is case specific and parties should not view it as a Board policy that could be applied to future applications.

The Board is satisfied that the evidence indicates that the facilities will be used at a reasonable level and are and will be required by the present and future public convenience and necessity. Therefore, the Board will recommend to the Governor-in-Council that a certificate be issued. The certificate will be subject to the conditions contained in Appendix II.

The Board approves Westcoast's application for the replacement of coalescing filters and compressor bolts at the Helmet/Peggo compressor stations.

R. Illing
Presiding Member

J.A. Snider
Member

Calgary, Alberta
July 1996

Chapter 7

Dissenting Opinion

I have had an opportunity to consider the views of my colleagues but find that I cannot join them in their disposition of this case. However, in the following reasons in dissent I have agreed with my colleagues except where my reasons state otherwise.

In my view, the central issue in this case is the establishment of ground rules for competition in the upstream gathering line business in Northeastern British Columbia. In particular, should the costs of the Helmet/Peggo system recently purchased by Westcoast be rolled into the Zone 1 tolls of Westcoast?

An examination of the transportation and commitment agreements, as well as the firm service agreements between Westcoast and the various Helmet/Peggo producers discloses that the parties anticipated three possible decisions by this Board. Those possible decisions were 1) full roll-in; 2) partial roll-in; and 3) stand-alone tolling.

Each alternative would allocate costs in a different manner to the respective interests, some of whom appeared before us at the hearing. Those interests were firstly Westcoast itself, secondly the Helmet/Peggo producers and lastly other shippers on the Westcoast system.

Table 7-1
Illustrative Allocation of the Incremental Demand Revenue Requirements for the Helmet/Peggo Facilities

	Helmet/Peggo Shippers[1,2,3,4] ($ million)	Westcoast ($ million)	Other Zone 1 Shippers[1,2,3,4] ($ million)
Full Roll-in	0.315	nil	8.182
Partial Roll-in[5]	4.676	nil	3.821
Stand Alone[6]	4.529	3.968	nil

1. The demand revenue requirements and demand allocation units used to generate this table are based on the 1997 data presented in Table 7-4 (Revised).
2. The incremental demand revenue requirement for the Helmet/Peggo Facilities is $8.497 million ($125 954 - 117 457).
3. The demand allocation units are 2 122 $10^3m^3/d$ for the Helmet/Peggo Shippers and 55 065 $10^3m^3/d$ for Westcoast's Zone 1 Shippers (excluding the Helmet/Peggo Shippers).
4. The demand revenue requirement for "Other Zone 1 Shippers" is net of the Helmet/Peggo Shippers' allocation.
5. The demand revenue requirement is distributed on the basis of 53.3 percent ($4.529 million) to the Helmet/Peggo Shippers and 46.7 percent ($3.968 million) to Westcoast's Zone 1 tolls.
6. The demand revenue requirement is distributed on the basis of 53.3 percent ($4.529 million) to the Helmet/Peggo Shippers and 46.7 percent ($3.968 million) to Westcoast.

At the outset, it should be noted that the Helmet/Peggo system has been tolled on a stand-alone basis for the past 15 years. NCL recently attempted to acquire the Helmet/Peggo system and, if successful, the Facilities would have continued to be tolled on a stand-alone basis. However, Westcoast made a counter-offer which was accepted by the previous owners of the Facilities.

In order to ensure that its acquisition of the Helmet/Peggo system would result in attractive tolls for shippers on the line, Westcoast committed itself to limit the exposure of producers shipping on the line to a toll that was approximately 53 percent of the stand-alone toll. That commitment was designed to meet the competitive toll that would have been available if NCL had acquired the system. Westcoast further undertook to apply to this Board to have the facilities rolled-in to the Zone 1 tolls. If unsuccessful either in whole or in part, Westcoast agreed to absorb all costs over and above the 53 percent that would be allocated to the shippers. Finally, Westcoast committed itself to seek Board approval to modify it's Zone 2 processing toll, in order to better accommodate sweet gas.

Westcoast and the Helmet/Peggo shippers argued that in the past the Board has allowed roll-ins almost as a matter of routine and that it would be unfair for the Board to depart from its past practices at this juncture. Westcoast acknowledged that there are broad issues of public policy concerning upstream tolling methodologies but submitted that a just solution would be to air any changes to those methodologies at a broad generic hearing, at which all affected interests could be properly represented. Indeed, Westcoast advised us that discussions are currently underway with affected parties in an attempt to reach a settlement agreement with respect to upstream tolling issues that could be submitted to the Board for its consideration. Failing such an agreement, Westcoast advised us that a broad oral hearing process would be sought by the company to resolve many of the inextricably linked issues concerning the company's upstream tolling methods and processes.

Westcoast also submitted that its failure to meet the NCL bid for the Helmet/Peggo Facilities would have inevitably resulted in a large percentage of sweet gas flowing eastward into the Nova system, bypassing Westcoast. That bypass threat would increase the under utilization on the Westcoast system, particularly at the Fort Nelson Gas Plant. For obvious reasons, the producers shipping on Helmet-Peggo supported that argument.

However, all of the intervenors at the hearing either disputed Westcoast's claims of a bypass threat or suggested that the results would not necessarily lead to an increase in tolls in the future. Notably, those intervenors were large and sophisticated entities, which collectively purchase a significant amount of the gas that flows over the Westcoast system.

It is significant, in my view, that despite the fact that the cost of transportation is a compelling factor in private sector business decisions, there was a lack of evidence from other shippers on the Westcoast system who now pay Zone 1 and Zone 2 tolls. Without such evidence, it is not possible for me to conclude, solely on the basis of the record provided in this hearing, that tolls would necessarily have to increase. I am unable to conclude, on the balance of probabilities, that it is necessary to roll-in the costs of the Helmet-Peggo Facilities in order to satisfy broad public interest concerns with respect to the viability of the Westcoast system.

Furthermore, those broad public interest concerns are best dealt with at a broad generic proceeding, at which all affected interests would be represented. Westcoast has already commenced the early stages of such a proceeding, by entering into negotiations with the stakeholders concerning upstream tolling issues. In the event those negotiations fail, Westcoast advised us that it would seek a generic regulatory hearing. In my judgment, the Board is being asked in this case to deal piecemeal with an issue that has implications which go far beyond the Helmet/Peggo system itself. I have concluded that it would be premature to deal with the roll-in issue on a segregated basis, when that issue will form part of a much broader inquiry which may soon be entertained by the Board.

For these reasons, I have concluded, on evidentiary and procedural grounds, that a roll-in of costs of the Helmet/Peggo system into the Westcoast system should not be permitted at this time. Tolling on a stand-alone basis will preserve the status-quo for the immediate future, pending changes which will arise as a consequence of a much more important process of redesigning the upstream tolling methodology of Westcoast. Should a generic hearing unfold, Westcoast would be free to once again raise the arguments it has brought before us in this proceeding concerning the Helmet/Peggo Facilities.

R.L. Andrew
Member

Calgary, Alberta
July 1996

Appendix I

List of Issues

1. The economic feasibility of the applied-for facilities.

2. The potential environmental effects of the operation of the applied-for facilities.

3. The safety of the design and operation of the applied-for facilities.

4. The reasonableness of the purchase price and cost estimates.

5. The design and elements of the tolls applied for by Westcoast, and related filing requirements and in particular, whether all or any portion of Westcoast's costs related to the applied-for facilities should be rolled into its Zone 1 cost of service and tolls.

6. Other approvals required and relevance to this application.

Appendix II

Certificate Conditions

Unless the Board otherwise directs:

1. Westcoast shall implement or cause to be implemented all of the policies, practices, recommendations and procedures for the protection of the environment included in or referred to in its application, its environmental reports filed as part of its application, its responses to the Board's information requests, and any undertakings made to the Board or otherwise adduced in the evidence before the Board in the MH-2-96 proceeding.

2. Westcoast shall provide to the Board by 31 December 1996:

   (a) an environmental report indicating the results of Westcoast's 1996 monitoring program, and including any recommendations necessary to address any unresolved environmental issues; and

   (b) the results of a noise assessment survey to be undertaken at each of the six compressor stations, identifying noise emission levels at the property line of the stations while the station is operating at its maximum level.

3. Westcoast shall, prior to commencing transportation of sour natural gas on the Helmet/Peggo Facilities, notify the Board that all work related to the coalescing filter replacement and bolt replacement at compressor stations and the provision of fire and gas detection, as described in Condition 4, has been completed.

4. Westcoast shall, prior to 31 December 1996, complete the provision of fire and gas detection, as required, at the dehydration buildings at c-96-B, b-30-B and a-84-J, the b-30-B compressor building, and the meter building at c-35-K.

Appendix III

MO-6-96

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

IN THE MATTER OF an application, as amended, pursuant to subsection 74(1)(b) of the Act, by Westcoast Energy Inc. ("Westcoast"), filed with the Board under File 3200-W005-9.

BEFORE the Board on 26 July 1996.

WHEREAS the Board has received an application from Westcoast, dated 15 January 1996, for leave of the Board to acquire from 3181782 Canada Inc. ("3181782") certain natural gas pipelines and associated facilities in the Helmet North, Midwinter and Peggo gas producing areas in Northeast British Columbia (the "Helmet/Peggo Facilities");

AND WHEREAS the Board has received an amendment to the application from Westcoast, dated 4 June 1996, to acquire from 3181782 the working interests in three pipeline segments (the "Hunter Facilities") that connect to the Helmet/Peggo Facilities;

AND WHEREAS the Board has examined the application pursuant to Hearing Order MH-2-96 and considers it in the public interest to grant the leave requested;

IT IS ORDERED THAT Westcoast is granted leave to acquire from 3181782 the Helmet/Peggo Facilities and the Hunter Facilities as described in the application, as amended.

NATIONAL ENERGY BOARD

J.S. Richardson
Secretary

Appendix IV

ORDER TGI-3-96

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

IN THE MATTER OF an application dated 15 January 1996, as amended, by Westcoast Energy Inc. ("Westcoast") for certain orders pursuant to subsection 74(1) and section 52 and Part IV of the Act; filed with the National Energy Board (the "Board") under File 3200-W005-9.

BEFORE the Board on 26 July 1996.

WHEREAS Westcoast filed an application dated 15 January 1996, pursuant to subsection 74(1) of the Act, for leave of the Board to acquire certain pipeline facilities in the Helmet North, Midwinter and Peggo gas producing areas in Northeast British Columbia ("the Helmet/Peggo Facilities") and, pursuant to section 52 of the Act, for the issuance of a Certificate in respect of such pipeline facilities;

AND WHEREAS Westcoast amended its application on 16 February 1996 to request that the Board determine, under Part IV of the Act, whether all or any portion of Westcoast's costs related to such facilities should be recovered as part of its Zone 1 cost of service and tolls;

AND WHEREAS Westcoast further amended its application on 4 June 1996 to include the acquisition of three pipeline segments from Inland Gas & Oil Ltd. and Canadian Hunter Exploration Ltd. ("the Hunter Facilities");

AND WHEREAS the Board has examined the application, as amended, pursuant to Hearing Order MH-2-96.

THEREFORE IT IS ORDERED, pursuant to subsection 19(2) and section 59 of the Act, that:

1. 46.7 percent of the purchase price and operating costs associated with the Helmet/Peggo and Hunter Facilities shall be rolled-in for the prupose of determining Westcoast's Zone 1 cost of service and tolls, with the remaining 53.3 per cent of the costs to be recovered in accordance with contractual arrangements that were negotiated with the Helmet/Peggo shippers;

2. Westcoast's existing Zone 1 tolls, approved by the Board in its RH-1-96 Decision, are to be charged on an interim basis effective 1 August 1996 and shall remain in effect until the Board issues a final order;

3. Westcoast shall calculate new Zone 1 tolls in accordance with the decision set out in the MH-2-96 Reasons for Decision and with this Order and shall forthwith file with the Board for approval, and serve on intervenors to the MH-2-96 proceeding, new tariffs implementing these new tolls;

4. Westcoast shall file with the Board, and charge on an interim basis effective 1 August 1996, tolls calculated in accordance with the contractual arrangements that were negotiated with the Helmet/Peggo shippers; and

5. The tolls authorized in paragraph 4 shall remain in effect until the Board issues a final order.

NATIONAL ENERGY BOARD

J.S. Richardson
Secretary