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DECISIONS

REGULATORY

ENERGY REGULATORY REPORT

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*This monthly report summarizes energy decisions or resulting proceedings from applications before the Alberta Energy Regulator ("**AER**"), the Alberta Utilities Commission ("**AUC**") and the National Energy Board ("**NEB**"). For further information, please contact Rosa Twyman at Rosa.Twyman@RLChambers.ca or 403-930-7991 or Lynn McRae at Lynn.McRae@RLChambers.ca or 403-930-7995.*

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ALBERTA ENERGY REGULATOR

Report of Recommendations on Odours and Emissions in the Peace River Area (Decision 2014 ABAER 005)
Odours and Emissions – Venting – Flaring – Health effects

As reported in the January 2014 edition of this Energy Regulatory Report, a hearing commenced on January 21, 2014 in respect of concerns from residents related to odours and emissions from heavy oil operations in the Peace River area identified in the report (the "Peace River Area"). In the resulting report ("Report") the AER hearing panel found that the source of the odours and emissions was the naturally elevated levels of sulphur and aromatic compounds of the Gordondale-sourced bitumen. The AER hearing panel also found that those bitumen deposits are significant and are now economic, but that the odours and emissions have potential to cause some health effects.

Based upon the above findings, the AER hearing panel recommended the following for operations in the Peace River Area:

1. Geology

- That the AER conduct or require geochemical analysis of the volatile compounds of heavy oil from the Gordondale-sourced bitumen.

2. Operations

- That the AER require that all produced gas be captured;
- That the AER require that tank top gas be captured using a vapour recovery unit (VRU):
  - Within four months from the issuance of this report in the Reno and Three Creeks areas, and within a time to be designated in the Seal Lake and Walrus areas; and
  - Immediately with respect to all new operations in the Peace River Area;
- That following implementation of gas capture measures contemplated in the Report, the AER prohibit venting from all facilities. In the event of an emergency or upset situation and where flaring is not available, the well must be immediately shut in;
- That the AER require, where upsets and/or emergencies occur, that flaring be limited to a maximum of three percent of the annual operational time;
- That the AER require that where sources of fugitive emissions are identified, these be repaired within 12 hours of being detected or the facility be shut down until such repairs are completed; and
- That the AER require that operators implement measures (such as scrubbing or recovering displaced truck tank emissions) to minimize odours from truck loading and unloading.

3. Regulatory

- That the AER establish localized, "play-based" regulatory requirements for all heavy oil operations that are producing or will produce Gordondale-sourced bitumen;
- That the AER release the current draft edition of Directive 060 as soon as possible, with any additional changes arising in response to the recommendations of this Report; and
- That Alberta Environment and Sustainable Resource Development assesses feasibility of defining an ambient odour objective for Alberta based on a perception threshold.

4. Monitoring and Modelling

- That the AER engage stakeholders to establish a regional air quality monitoring program as outlined in the Report.

5. Health

- That the Government of Alberta encourage the research community to conduct studies to better understand potential linkages between odours and emissions from heavy oil operations and health effects, including long-term exposures to individual chemicals and chemical mixtures; and
- That Alberta Health link local physicians with specialists to assist in diagnosing symptoms associated with odours and emissions and to enable physicians to provide appropriate treatment to residents.

6. Stakeholder Engagement

- That the AER provide support to allow stakeholders to work together; and
- That the AER enhance its operational and enforcement presence in the Peace River Area.

Brion Energy Corporation Approval to Construct and Operate a Bitumen Recovery Scheme (Decision 2013 ABAER 014 Update)

Conditioned on Cabinet Approval – Appeal re: Constitutional Questions

As reported in the January 2014 edition of this Energy Regulatory Report, the AER approval was issued conditional upon Cabinet approval and the AER's decision was appealed on AER jurisdictional constitutional law issues.

The Fort MacKay First Nation discontinued its appeal of Decision 2013 ABAER 014 on February 28, 2014. Cabinet approval was issued on March 13, 2014.

ALBERTA UTILITIES COMMISSION

Direct Energy Regulated Services, ENMAX Energy Corporation and EPCOR Energy Alberta Inc. – Regulated Rate Tariff and Energy Price Setting Plans – Generic Proceeding: Part A – Transition Period (Decision 2014-051)
Regulated Rate – Energy Price Setting Plans – Interim Toll

The AUC has initiated a generic proceeding to determine the elements of upcoming energy price setting plans, including reasonable return, for Direct Energy Regulated Services, ENMAX Energy Corporation and EPCOR Energy Alberta Inc. (collectively, the "RRO Providers"). The existing energy price setting plans expire on July 1, 2014. Accordingly, the initial part of the generic proceeding considered whether an interim transitional mechanism was necessary for the period between July 1, 2014 and the approval of new energy price setting plans.

The RRO Providers stated that, since the *Regulated Rate Option Regulation* expressly forbids tolls and tariffs with true-ups, deferral accounts or other rate riders, interim tariffs could not be collected on a refundable basis. The RRO Providers therefore applied for increases to risk premiums or for a 50% increase between approved and applied for amounts for the transition period.

The AUC rejected the proposals for interim tolls, and directed the RRO Providers to adhere to their current respective energy price setting plans until otherwise directed. The AUC held that it would not make changes to energy price setting plans without evidence that a change is required. The AUC emphasized the fact that the energy price setting plans were negotiated settlements between the RRO Providers and their customers, and therefore represented a reasonable tariff that represented and served the interests of all parties.

ATCO Electric Ltd. 2012 Transmission Deferral Accounts and Annual Filing for Adjustment Balances – Advance Funding Request from the Consumers' Coalition of Alberta (Decision 2014-054)
Interveners – Advance Funding – Scale of Costs

ATCO Electric Ltd. ("ATCO") has applied to the AUC for approval of its 2012 Transmission Deferral Accounts and Annual Filing for Adjustment Balances. The resulting oral hearing is scheduled for April 22 to May 2, 2014. The Consumers' Coalition of Alberta (the "CCA") applied for advance costs in the proceeding.

The AUC approved advance funding on the basis that the CCA would not be able to retain the necessary experts without advance funding. The AUC noted that the public interest is served by approval of the advance funds because the proposed expert evidence is relevant and because of significant dollar amounts involved in the ATCO accounts being reviewed.

The AUC approved 60% of the advance funding budget. No reduction was made to reflect that portion of the budget that exceeds the Scale of Costs under *AUC Rule 22*, but the AUC noted that all costs are subject to review.

Alberta Electric System Operator – ENMAX Corporation Objection to ISO Operating Reserve Rules (Decision 2014-055)
ISO Rule changes

ENMAX Corporation ("ENMAX") filed an objection to the proposed rule changes filed by the Alberta Electric System Operator ("AESO") in respect of Independent System Operator ("ISO") Rules sections 203.4, 205.4, 205.5, and 205.6.

Both the proposed ISO Rule revisions and the objection by ENMAX were withdrawn. The AESO indicated it would continue consultations with ENMAX and other interested entities.

Alberta Electric System Operator Strome 223S Substation Needs Identification Document; AltaLink Management Ltd. Strome 223S Substation Facility Application (Decision 2014-060)

The Alberta Electric System Operator ("AESO") applied for approval of the need to alter the Strome 223S Substation. AltaLink Management Ltd. ("AltaLink") submitted a corresponding facility application.

The proposed alterations consisted of expansion of the substation fence (39m x 36m) and the following additions to the Strome 223S Substation:

(a) One 138/6.9-kilovolt (kV) transformer; and

(b) One 138-kV circuit breaker.

The applications were supported by Enbridge Pipelines Athabasca Inc. who would utilize power from the upgraded substation. No outstanding objections or concerns were raised by stakeholders near the Strome 223S Substation. Accordingly, the AUC held that both the AESO need application and the AltaLink facility application met all requirements, and approved each application.

AltaGas Ltd. Installation of Five 2.055 MW Generators (Decision 2014-061)
Power Plant Alteration

AltaGas Ltd. ("AltaGas") applied to alter and operate the gas power plant operating under Approval No. U2008-92 (the "Parkland Gas Plant"). The proposed alteration consisted of the following:

(a) Construction and operation of five 2.055-megawatt (MW) gas driven power generators at the Parkland Gas Plant, with a net generation of 9.9 MW; and

(b) Removal of the three existing power generators at the Parkland Gas Plant, with a net generation of 7.2 MW.

No objections or concerns were raised by stakeholders. The AUC found that the noise impact assessments indicated the power plant would be compliant with permissible sound levels, subject to the condition that AltaGas would not operate the Parkland Gas Plant between the hours of 10:00 p.m. and 7:00 a.m. The AUC also found that no additional environmental impacts were expected, because the work would take place entirely on pre-disturbed areas.

The AUC approved the application to alter and operate the Parkland Gas Plant and issued connection order U2014-88 to connect the plant to the FortisAlberta Inc. distribution system.

ATCO Gas 2014 Transmission Service Charge (Rider T) (Decision 2014-062)
Cross-subsidization

ATCO Gas applied to change its transmission service charge for natural gas ("Rider T") effective March 1, 2014. ATCO Gas requested the changes due to increases of approved rates and tolls for service on the Nova Gas Transmission Ltd. system effective January 1, 2014.

ATCO Gas applied to have the Rider T charge approved as a province-wide rate, rather than the existing North and South rates. The AUC noted that while cross-subsidization was an issue to consider, it found that the cross-subsidy amounted to only 0.4% of the average annual bill for residential customers, and therefore held that the impact of cross-subsidization was negligible. The AUC accordingly approved the Rider T charges on a province-wide basis, effective April 1, 2014.

Encana Corporation Sexsmith Power Plant (Decision 2014-063)
Power plant for own use – Exemption

Encana Corporation ("Encana") applied for an exemption from the requirement to obtain approval to construct and operate a 1,000 kilo-watt generator (the "Sexsmith Power Plant") solely for Encana's own use that would not be connected to the Alberta Interconnected Electric System.

No objections or concerns were raised by stakeholders. The AUC found that no adverse environmental effects were expected, and that the proposed Sexsmith Power Plant would meet permissible sound levels. The AUC considered the Sexsmith Power Plant to be in the public interest and accordingly approved the application for the exemption.

Town of Stettler Franchise Agreement with ATCO Electric Ltd. (Decision 2014-064)

The Town of Stettler and ATCO Electric Ltd. ("ATCO") jointly applied for approval of an electric distribution franchise agreement with a term of 10 years with options for two five year extensions. The franchise agreement includes a franchise fee of 6.1 percent, and the collection of linear property taxes from ATCO, which would be recovered from customers in the municipality under ATCO's Rider A in its distribution tariff. No objections or concerns were raised by stakeholders. The AUC approved the franchise agreement and ATCO's Rider A in its distribution tariff.

Town of Smoky Lake Franchise Agreement with ATCO Electric Ltd. (Decision 2014-065)

The Town of Smoky Lake and ATCO Electric Ltd. ("ATCO") jointly applied for approval of an electric distribution franchise agreement with a term of 10 years with options for two five year extensions. The franchise agreement includes a franchise fee of 5.0 percent, and the collection of linear property taxes from ATCO, which would be recovered from customers in the municipality under ATCO's Rider A in its distribution tariff. No objections or concerns were raised by stakeholders. The AUC approved the franchise agreement and ATCO's Rider A in its distribution tariff.

Village of Acme Franchise Agreement with ATCO Gas and Pipelines Ltd. and Amendment to Rider A (Decision 2014-066)

The Village of Acme ("Acme") and ATCO Gas and Pipelines Ltd. ("ATCO") jointly applied for approval of a natural gas distribution franchise agreement with a term of 10 years. The franchise fee of 20.0 percent includes payment in lieu of linear property taxes, and would be recovered from customers in the municipality under ATCO's Rider A in its distribution tariff. No objections or concerns were raised by stakeholders. The AUC approved the franchise agreement and ATCO's Rider A in its distribution tariff.

Shell Canada Limited Peace River In-situ Expansion Carmon Creek Project: Industrial System Designation, Power Plant, 240-kV Substation and 34.5-kV Distribution System (Decision 2014-068)
Industrial System Designation – Power Plant and Substation Permit and Licence

Shell Canada Limited ("Shell") applied for:

(a) Approval to construct and operate a 690-megawatt ("MW") cogeneration power plant consisting of three 230-MW gas fired turbines equipped with heat-recovery steam generators;

(b) An Industrial system designation ("ISD"); and

(c) Three substations within the ISD, which will include:

(i) One 240-kilovolt ("kV") substation to be designated as Brock 232S Substation;

(ii) One 34.5-kV substation to be designated as CPF Substation; and

(iii) One temporary 25/34.5-kV substation to be designated as a temporary drilling substation.

These applications were made in support of the recent approval of Shell's Carmon Creek Project, an in-situ oil sands commercial operation (the "Carmon Creek Project").

The AUC assessed the ISD application according to the factors set out in subsection 4(2) of the *Hydro and Electric Energy Act*. The AUC found that the cogeneration power plant proved to be the most economical source of generation for the Carmon Creek Project. The AUC also found that the Carmon Creek Project, without the cogeneration power plant, would add between 70 and 150 MW of load to the Northwestern portion of the Alberta Interconnected Electric System ("AIES"), which the AUC noted was generation deficient, resulting in high transmission line losses. The AUC therefore found that the proposed ISD would improve voltage stability and reduce losses and congestion on the AIES, resulting in an efficient exchange of energy with the AIES.

No outstanding objections or concerns were raised by stakeholders in the course of the proceeding. The AUC approved the ISD application, the construction and operation of the cogeneration power plant application and issued permits and licences for the substations.

Alberta Electric System Operator Monitor 774S Substation Upgrade Needs Identification Document; ATCO Electric Ltd. Monitor 774S Substation Upgrade Facility Application (Decision 2014-069)

The Alberta Electric System Operator ("AESO") applied for approval of the need to alter the Monitor 774S Substation and ATCO Electric Ltd. ("ATCO") submitted the corresponding facility application.

The proposed alterations consisted of the following changes to the Monitor 774S Substation:

(a) Removal of the existing 144/25-kilovolt ("kV"), 12/16/20-Megavolt-ampere ("MVA") transformer;

(b) Removal of two 144-kV circuit switchers;

(c) Addition of one 144/25-kV, 25/33.3/41.6 MVA transformer; and

(d) Addition of one 144-kV circuit breaker.

No expansion was necessary to complete the upgrade and no outstanding objections or concerns were raised by stakeholders. Accordingly, the AUC approved both the AESO need application and the ATCO facility application.

ATCO Electric Ltd. Permanent Connection to Wintering Hills Wind Power Project (Decision 2014-070)
Wind Energy – Permanent Connection

ATCO Electric Ltd. ("ATCO") applied for a permanent connection to the Suncor Energy Products Inc. ("Suncor") Wintering Hills Wind Power Plant to replace the temporary connection held by ATCO under Temporary Connection Order No. U2013-24 (the "TCO").

ATCO made the application pursuant to Clause 5 of the TCO, which stipulated that ATCO may apply for a permanent connection upon:

(a) Validating the actual performance of Suncor's Wintering Hills Wind Power Plant;

(b) Verifying that it meets the requirements for continuous reactive power; and

(c) Verifying its ability to ride through low-voltage system conditions.

There were no outstanding technical concerns regarding the connection. Accordingly, the AUC approved the permanent connection.

EPCOR Distribution & Transmission Inc. Fibre Optic Cable FO-82 between Clover Bar and Kennedale Substations (Decision 2014-076)
Telecommunication Cable Installation

EPCOR Distribution & Transmission Inc. ("EPCOR") applied to construct and operate a fibre-optic telecommunications cable (to be designated as "FO-82") between the Clover Bar E987S and Kennedale substations.

EPCOR stated that the installation of this second fibre-optic telecommunications cable was necessary to ensure the

reliable and dependable operation of its unstaffed substations. EPCOR stated that the need for the second cable arose from ongoing industrial development in the area, and the increased potential for an accidental break in the line, which would result in a complete loss of remote monitoring of the Clover Bar E987S substation. The route of the proposed FO-82 cable would be mostly within existing road allowances.

The AUC issued a permit and licence for the FO-82 cable. Prudency of costs for the installation of the FO-82 cable is the subject of a separate proceeding (Proceeding No. 2758).

ATCO Power Ltd. – Letter Regarding Commission Directions to AESO in Decision 2013-135 (Decision 2014-067)

Transmission Constraint – ISO Rules

ATCO Power Ltd. ("ATCO") filed a letter with the AUC submitting that the AESO had failed to comply with the AUC's directions (4) and (5) in Decision 2013-135. ATCO requested that the AUC require the AESO to comply with these directions.

In Decision 2013-153 the AUC decided that the Transmission Constraint Management Rule, AESO Rule Section 302.1 (the "TCM Rule") was technically deficient, did not support the fair, efficient and openly competitive operations of the electricity market in Alberta, and was not in the public interest. The AUC accordingly, directed the AESO to change the TCM Rule in accordance with five directions set forth in paragraph 197 of AUC Decision 2013-135 of which directions (4) and (5) are set out below:

(4) report to the AUC within sixty (60) days of the issuance of this decision a progress update regarding the status of the stakeholder consultation for managing transmission constraints at the planning phase that includes a comprehensive timeline of process steps and milestones to achieve; and

(5) report to the AUC within sixty (60) days of the issuance of this decision a comprehensive timeline and process schedule that details the process steps that the AESO will take in the revision of the TCM Rule that will be used in realtime, along with a time estimate for each process step.

Direction 4

In response to direction (4), the AESO had reported to the AUC that "the consultation process concerning the management of transmission constraints at the planning stage is complete" adding that "[t]he AESO considers that the AUC's reiteration of its position that the legislation in Alberta does not include 'explicit or implicit transmission rights' resolves the matter." The AESO also included in this submission a publication entitled "AESO Practices for System Access Service" ("System Access Document") outlining how the AESO will deal with transmission constraints at the planning stage.

ATCO submitted that the AESO had incorrectly, and unilaterally, terminated consultations. ATCO also requested that the AESO be required to file an authoritative document for transmission constraints at the planning phase that, unlike the submitted System Access Document, would be subject to AUC oversight.

The AUC held that the AESO complied with direction (4) in Decision 2013-135. The AUC found the issue of whether the System Access Document contains authoritative material and the difference between authoritative documents and information documents, to be beyond the scope of this proceeding.

The AUC found that the issues raised by ATCO and the other market participants about the AESO's compliance with direction (4), were directed more at the conduct of the AESO and not the issue of whether the information requested in direction (4) has been provided. Because there was no formal complaint about the conduct of the AESO pursuant to Section 26 of the *Electric Utilities Act* before it, the AUC found it could not address matters relating to the conduct of the AESO.

Direction 5

In response to direction (5), the AESO had provided to the AUC a report entitled "TCM Rule Revision Process: Comprehensive Timeline and Schedule", which made reference to, and included, a report entitled "Potential Implications of the AUC TCM Decision (2013-135) on the Alberta Electricity Market's Economic Efficiency".

ATCO submitted that the public interest is not served by allowing the current TCM Rule and its inherent costs to remain in place for five more years and proposed an interim TCM Rule that could be developed in a significantly reduced timeframe.

The AUC held that the AESO had complied with direction (5) and found that development of a new interim TCM Rule would not be the most efficient use of resources.

AUC Comments on Findings

In addition to its findings on Direction 4 and 5 the AUC provided additional comments:

- The AUC agreed with ATCO that the public interest is not served by allowing the current TCM Rule and its inherent costs to remain in place for five more years;

- The implementation of the revised TCM Rule should not require any longer than the three year time period estimated by the AESO for it to undertake its market system replacement project;
- The purpose of consultation regarding the TCM Rule is not to reconsider the merits of the findings or directions made in Decision 2013-135, but rather to give effect to those findings and correct the TCM Rule so that it complies with the legislation and regulations; and
- The AUC expects that the AESO, until a revised TCM Rule is approved for use, increase use of Transmission Must Run / Dispatch Down Service in instances in which constraints are foreseen, in order to protect consumers from high prices caused by the current TCM Rule.

Market Surveillance Administrator Notice of Request for Hearing Pursuant to Section 51(1) and 51(2) of the Alberta Utilities Commission Act (Application No. 1610350, Proceeding ID 3110)
Anti-competitive conduct

The Market Surveillance Administrator (the "MSA") has requested a hearing pursuant to section 51(1) and 51(2) of the *Alberta Utilities Commission Act*, looking into the conduct of TransAlta Corporation, TransAlta Energy Marketing Corporation and TransAlta Generation Partnership (collectively "TransAlta") and the conduct of certain current and past employees. The MSA alleged that these parties engaged in conduct that does not support the fair, efficient and openly competitive operation of the electricity market in Alberta, in contravention of section 6 of the *Electric Utilities Act* and section 4(1) of the *Fair, Efficient and Open Competition Regulation.*

The allegations relate to the MSA finding that TransAlta scheduled discretionary outages on its power plants that are subject to Power Purchase Agreements, in periods of peak demand so as to reduce competition in the market and increase pool prices.

NaturEner Energy Canada Inc. Amendment to the Previously Approved Wild Rose 2 Wind Power Project – Ruling on Standing on Proceeding No. 3004 (Application No. 1610214, Proceeding No. 3004)
Standing

NaturEner Energy Canada Inc. ("NaturEner") has applied to amend the Wild Rose 2 Wind Power Project. The amendment application consists of the following:

- Changing the wind turbines approved from 1.5 MW Acciona Turbines to 3.0 MW Alstom Turbines;
- A reduction from an approved project area of 8,351 ha (20,640 acres) to a proposed reduced project area of 7,036 ha (17,440 acres);
- Reducing the number of turbines from 108 to 63;
- Changing the total project nameplate rated capacity from 162 MW to 189 MW;
- Amending the permitted layout of the project to the proposed layout of the project;
- Amending the permit project area; and
- Extending the construction deadline to December 31, 2016.

Six Statements of Intent to Participate ("SIP") were filed in response to the application for amendment. Two SIP's were subsequently withdrawn and standing was otherwise denied.

The AUC specifically denied standing to a party, whose property was within 2,000 metres of the project boundary, on the basis that they did not provide any evidence relative to the incremental impacts of the amendment versus the currently approved project, while the proposed amendment would reduce impact (e.g. fewer turbines, greater distance from residence and lower noise).

Revisions to AUC Rule 016 – Review of Commission Decisions (AUC Bulletin 2014-07)
Standing to Bring an Application for Review – Test for Granting Review

Following stakeholder consultation, the AUC revised *Rule 016: Review of Commission Decisions* effective March 31, 2014 ("*Rule 16*") including the following key changes:

- Only a person who is directly and adversely affected by an AUC decision may bring an application to review a decision. If such a person was not a party in the proceeding in question, the person will require leave from the AUC to bring the application, in order to justify why they did not participate in the first instance;
- All grounds for review are now consolidated in Section 6 of *Rule 16*; and
- All review applications are subject to a single filing deadline of 60 days and a page limit of 20 pages.

NATIONAL ENERGY BOARD

Enbridge Pipelines Inc. – Line 9B Reversal and Line 9 Capacity Expansion Project
Flow reversal – Capacity Increase – Exemptions

Enbridge Pipelines Inc. ("Enbridge") applied for:

(a) Approval to reverse the flow of Line 9B to allow the pipeline to flow eastward from Westover, Ontario to Montréal, Québec;

(b) Approval to increase the capacity of the entire Line 9 from 240,000 bpd annual capacity, to 300,000 bpd annual capacity; and

(c) Exemption from the operation of sections 30(1)(b) and 47 of the *National Energy Board Act*, which require a company to obtain leave from the NEB before opening a pipeline for the transmission of hydrocarbons;

(collectively, the "Project").

The Project follows on the 2012, NEB approved reversal of flow on Line 9A, allowing Line 9A to flow eastward from Sarnia, Ontario to Westover, Ontario at Imperial Oil's Nanticoke refinery.

In the current proceeding, 60 parties participated as interveners, with 45 parties filing evidence. Due to concerns for security of participants arising from conduct during oral argument, the NEB cancelled the final day of oral argument and directed Enbridge to file its argument via written submission.

On the issue of design codes and standards, the NEB found that the design codes and standards proposed by Enbridge for the construction of facilities necessary to implement the Project were widely accepted standards. The NEB also found that the fact that existing facilities were previously built to older standards did not require a replacement of existing facilities.

In response to concerns raised about the potential increased corrosivity of heavy crudes such as diluted bitumen, the NEB found that shipments of such products can be done safely with minimal changes to Enbridge's integrity management program.

Interveners requested that Enbridge be required to conduct hydrotesting prior to bringing the Project into service. Subject to review by the NEB of Enbridge's hydrotesting program, the NEB did not at this time order hydrotesting because it has potential detrimental effects, is less effective than certain in line inspection technology and it does not identify all potential concerns.

The NEB panel split on the issue of financial capability for incident response. The majority opinion held that it is the responsibility of each pipeline company to have in place insurance coverage appropriate for their respective facilities and operations, and to make appropriate business decisions to ensure they can meet all current and potential future legal obligations. The NEB noted that it monitors the financial strength of all major pipeline companies, including Enbridge, through regular review of financial documents and periodic audits. The majority opinion confirmed that conditions for insurance requirements may be imposed by the NEB on a case by case basis, but did not impose such a condition on the Project. The majority opinion distinguished the NEB's Report of the Joint Review Panel for the Enbridge Northern Gateway Project (the "Northern Gateway Decision") that imposed financial capability conditions, on the basis that the Northern Gateway Project had a different corporate structure, defined liabilities, was a greenfield development, had no operational track record and had no financial resources or credit capacity. The majority opinion found that Enbridge provided ample evidence of the size and strength of its financial resources, including insurance, in the event of an incident.

The minority opinion found that Enbridge could not confirm that it would have access to the full spectrum of financial resources held by its parent company, Enbridge Inc., which it had referenced in the proceeding. The minority opinion was also concerned that the limited liability of Enbridge affiliates would impact access to the financial resources of affiliates. Finally, the minority opinion found that any such financial representation would not necessarily reflect future financial capability. Accordingly, the minority was of the opinion that a condition requiring a demonstration of legally enforceable access to adequate financial resources was necessary, similar to what was done in the Northern Gateway Decision.

Regarding environmental effects, the NEB found that the potential impact of Project construction and operation would be temporary and minor, given the pre-existing disturbance around the pipeline and the incremental nature of the Project.

The NEB found that the reversal of Line 9B and the increase in capacity was both economically feasible and justified. The NEB found that this was best demonstrated by the signed ship or pay contracts under which shippers were prepared to assume market risk.

Enbridge's application requested approval of the tolling methodology and capacity allocation but not the actual tolls. The NEB approved the proposed tolling methodology including premiums of 8% and 21% for medium and heavy grade crudes, respectively, over light crude tolls for committed shippers with the premium for uncommitted

shipments not to exceed 22% over committed shippers` tolls. Enbridge proposed 8.3% of annual capacity for spot or uncommitted volumes on Line 9B which the NEB found to be lower than for other common carriers but which the NEB approved on the basis that no participants objected.

The NEB granted the application to reverse the flow and to increase the operating capacity, subject to Order XO-E101-002-2014 setting out the conditions of approval, and Order TO-002-2014 setting out the approval of the tolling methodology. The NEB also granted exemptions from the requirements to keep the prescribed system of accounts and to file certain prescribed statements not consistent with Enbridge's system.

The NEB denied Enbridge's application for exemption from application for leave to open the pipeline, and instead included conditions that Enbridge must satisfy first, before it can apply to the NEB for leave to open the pipeline. Those conditions include a requirement to update the engineering assessment and complete any repairs identified by any assessments undertaken as a result of this proceeding.

Nova Gas Transmission Ltd. – NEB Order SG-N081-001-2014

Safety - Reduction of Pipeline Operating Pressure

Further to the NEB's recent audit of TransCanada PipeLine Ltd.'s ("TransCanada") integrity management program, the NEB noted potential safety concerns for pipelines in the NOVA Gas Transmission Ltd. ("NGTL") system, that either have not or cannot be inspected using in-line tools. Since August 2013, there have been three ruptures and four leaks on TransCanada's NGTL system. As a result, on March 5, 2014, the NEB ordered TransCanada to reduce its maximum operating pressure on certain pipelines previously identified by TransCanada to have the highest risk (the "Pipelines"). Order SG-N081-001-2014 (the "Order") directs TransCanada to operate the Pipelines in the NGTL system at 20% of the 90 day highest pressure prior to the date of the Order ("90 Day High"). The Order requires such pressure reductions to be completed within 30 days of the Order (by April 4, 2014).

The Order requires NGTL to advise the NEB within 30 days of any Pipelines for which natural gas supply diminishment resulting from the pressure reductions ordered are anticipated to result in a significant impact to public safety.

On March 26, 2014, NGTL filed with the NEB a request for an extension of time for compliance with the Order to a date that is the later of April 10, 2014 or 10 days following the NEB's decision on the TransCanada application for review and variance. The NEB amended the Order extending the time for NGTL to comply with the Order to April 24, 2014.

On March 28, 2014 NGTL filed a letter with the NEB:

1. Identifying the Pipelines for which natural gas supply diminishment resulting from the pressure reductions are anticipated to result in a significant impact to public safety; and
2. Requesting review and variance of the Order.

The request for review and variance seeks relief from the amount of pressure reduction on some of the Pipelines as follows:

1. TransCanada requested no relief for 10 of the 25 Pipelines;
2. For one pipeline that was currently operating as a low pressure pipeline, TransCanada requested that no further pressure reduction be required;
3. For one pipeline that was currently out of service for repair, TransCanada requested that it be permitted to return to the maximum allowable operating pressure upon completion of the repairs and the engineering assessment;
4. TransCanada submitted that reductions on two pipelines would result in the following risks to public safety and accordingly requested that those pipelines be allowed to operate at or below the 90 Day High:
   (a) In one case the impact of the pressure reductions ordered would prevent the electrical utility in a city from operating one of its generators thereby preventing the utility from meeting demand for electricity at peak demand times; and
   (b) In another case, the impact would be a shortfall of gas supply that could not be mitigated resulting in curtailment to the gas and electric utilities in the area.
5. For the remaining 11 pipelines, TransCanada submitted that the 20% pressure reduction would result in those pipelines being shut in with total loss of service to receipt customers. TransCanada requested the Order be varied to limit the pressure reduction to an amount that would avoid shut in (5% on nine pipelines and 10% on two pipelines).

The Order requires that pressure restrictions remain in effect until a plan and program to assess the integrity of the Pipelines is approved by the NEB and implemented by TransCanada.