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24 February 2017

To: All Group 2 Pipeline Companies under the Jurisdiction of the National Energy Board (Board) and Interested Parties

Financial Regulation of Group 2 Pipeline Companies

The financial regulatory requirements of Group 2 companies are outlined in this letter, on the [Board's website](#), and in the Board's [Filing Manual](#).

Pipeline companies regulated by the Board are divided into two groups for financial regulation purposes. Group 1 companies, identified in Appendix A of this letter, are generally those with extensive systems under the Board's jurisdiction. Any pipeline company regulated by the Board which is not a Group 1 company is a Group 2 company.

Overview of Requirements

Unless otherwise exempted by the Board, the ongoing financial regulatory requirements that Group 2 companies must meet include, but are not limited to, the following:

- Tolls and Tariffs
 - File tolls and tariffs with the Board before charging tolls to any shippers.
 - Provide current and potential shippers with enough information regarding tolls and tariffs to enable them to determine whether a complaint is warranted.
- Accounting & Financial Reporting
 - Maintain separate books of account in Canada in a manner consistent with generally accepted accounting principles.
 - File annual audited financial statements with the Board within 120 days of the end of the fiscal year.
- Abandonment Funding
 - File an abandonment cost estimate with the Board for approval, and apply to the Board for any changes to an abandonment cost estimate.
 - File a set-aside mechanism (letter of credit, surety bond, or trust) with the Board for approval to address abandonment funding obligations.
 - File an annual abandonment funding reporting form with the Board.
- Change in Ownership
 - File an application with the Board for approval prior to any amalgamation, or the sale, purchase, lease, or transfer of a pipeline, in whole or in part.
 - File an application with the Board for approval of a name change.

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- Change in Service
 - File an application with the Board for approval when a pipeline, or part of one, has been deactivated, or not in operation, for 12 months or more, or when a pipeline is being returned to service after being deactivated under Board order.
 - File an application with the Board for approval prior to decommissioning or abandoning a pipeline, in whole or in part.
- Financial Regulatory Audits
 - Make its books, accounts and records readily accessible for examination by Board staff during a financial regulatory audit.

Tolls and Tariffs

All companies may only charge tolls specified in a tariff that has been filed with the Board and is in effect, or that have been approved by an order of the Board. The tolls and tariffs filing requirements for Group 2 companies are set out in section P.6 in [Guide P](#) of the *Filing Manual*. The Board regulates the traffic, tolls and tariffs of Group 2 companies on a complaint basis.

Group 2 companies are required to include in their tariffs the following explanatory note:

The tolls of the Company are regulated by the National Energy Board on a complaint basis. The Company is required to make copies of tariffs and supporting financial information readily available to interested persons. Persons who cannot resolve traffic, toll and tariff issues with the Company may file a complaint with the Board. In the absence of a complaint, the Board does not normally undertake a detailed examination of the Company's tolls.

It is the responsibility of a Group 2 company to provide its shippers and interested parties with sufficient information to enable them to determine whether a complaint is warranted. Upon receipt of a written complaint, an application under Part IV of the *National Energy Board Act* (NEB Act), or on its own initiative, the Board may decide to examine a toll. In this circumstance, the Board may request additional information including some or all of the information specified in sections P.1 through P.5 in [Guide P](#) of the Board's *Filing Manual*.

Accounting and Financial Reporting

The Board requires that Group 2 companies maintain separate books of account in Canada in a manner consistent with generally accepted accounting principles, and file audited financial statements within 120 days after the end of each fiscal year. Such statements should provide details of revenue and costs associated with the regulated pipeline. Where a Group 2 company operates a joint venture pipeline, it is required to disclose in its audited financial statements its beneficial share of revenue and costs associated with the regulated pipeline and to file a gross operating statement for the joint venture pipeline indicating whether, and if so by whom, this statement has been audited.

Abandonment Funding

Companies are required to file their abandonment cost estimates for Board approval. Any changes to an abandonment cost estimate must also be approved by the Board. Companies'

filings should include the Tables A-1 through A-4 from the Board's [MH-001-2012 Reasons for Decision](#), found on PDF pages 84-90 in Appendices II, III, IV, and V, along with a description of the methodology and assumptions used to estimate costs. A level of detail and technical description should be provided to allow a person to form a reasonable understanding of the estimate. The Board will regularly review abandonment cost estimates (at least every five years) to verify that material changes to a pipeline are reflected in the abandonment cost estimate and an appropriate level of funds is being set aside.

Pipeline companies are required to have a set-aside mechanism in place that will provide adequate funds to pay for pipeline abandonment. The set-aside mechanism must be filed with, and approved by the Board.

Pipeline companies may choose to file a letter of credit, surety bond, or trust as their set-aside mechanism.

- Letters of Credit and Surety Bonds
 - In its [MH-001-2013 Reasons for Decision](#) the Board provided a model letter of credit in Appendix XI, PDF page 168, and a model surety bond in Appendix XII, PDF page 170.
 - The Board provided additional guidance in its 17 October 2014 letter [Guidance on Filing a Letter of Credit or Surety Bond](#)
 - Companies must file an abandonment reporting form each year by 31 January. The form can be found on the Board's website here ([link](#)).
- Trusts
 - In its [MH-001-2013](#) Decision the Board set out Indicative Terms for companies proposing trusts in Appendix VI, PDF pages 135-139
 - Companies using trusts must file a statement of investment policies and procedures with the Board for approval, the minimum requirements for which can be found in Section 3.4.1 on PDF page 61 of [MH-001-2013](#).
 - Companies proposing to collect abandonment funds from shippers must file a tariff application, which includes their annual contribution amount, with the Board for approval. The requirements are set out in Section 6.1.2 of [MH-001-2013](#) on PDF page 118.
 - Companies must file an abandonment reporting form each year by 30 April along with audited trust financial statements. The form can be found on the Board's website here ([link](#)).

More information on abandonment funding can be found in [Guide B](#) of the *Filing Manual*.

Change in Ownership

The Board wishes to remind companies that, pursuant to section 74 of the NEB Act, a company shall not, without leave of the Board:

- sell, transfer or lease to any person its pipeline, in whole or in part;
- purchase or lease any pipeline from any person; or
- enter into an agreement for amalgamation with any other company.

More information, including filing requirements, can be found in [Guide R](#) of the Board's *Filing Manual*. The NEB created a [template](#), located on the [Board's website](#), for change in ownership applications.

Companies are also reminded that an application pursuant to section 21 is required when there is a change to the name of the holder of a certificate or an order. Further information can be found in [Guide O](#) of the Board's *Filing Manual*.

Change in Service

Deactivation & Reactivation: If a company has maintained a pipeline or part of one in a deactivated state for 12 months or more, or if the pipeline has not operated for 12 months or more, the company must file an application for the deactivation of the pipeline with the Board.

Deactivated facilities may be reactivated in the future, but an application to reactivate must be filed with the Board prior to reactivation. Filing requirements and guidance on filing an application to deactivate or reactivate can be found in [Guide G](#) and [Guide H](#) of the *Filing Manual*, respectively.

Decommissioning: A company must file an application with the Board prior to decommissioning a pipeline or part of one. More information on the filing requirements and guidance for filing an application to decommission can be found in [Guide K](#) of the *Filing Manual*.

Abandonment: A company must apply to abandon facilities prior to abandonment. An abandonment application should include the reasons for the abandonment as well as the procedures to be used for the abandonment. More information can be found in [Guide B](#) of the *Filing Manual*.

For decommissioning and abandonment, the Board must grant leave to the company to proceed prior to any decommissioning or abandonment work taking place.

Financial Regulatory Audits

As circumstances dictate, the Board may perform a financial regulatory audit of the company's records. When identifying companies to audit, the Board follows a risk-based approach that takes into account, among other things, the relationship between the company and its shippers, and the availability to the Board of current financial information. The final audit report is placed on the public record and served on interested parties. Companies are advised to consult the [Financial Regulatory Audit Policy](#) for details regarding audit objectives, confidentiality, approach, and procedure.

Documentation

The Board encourages all companies to document their key toll and tariff processes and procedures, including clearly defined roles and responsibilities for each function and a training program for new employees. The goal of this documentation is to ensure that regulatory requirements are fully understood and complied with on an ongoing basis.

Companies are advised to refer to the applicable legislation, and Board decisions, policies, and guidelines for more detailed guidance, and to gain an understanding of their full legal obligations.

Filing Documents with the Board

Companies can file documents with the Board in one of three ways: electronically; in hard-copy (in person, by mail, or courier); or by facsimile.

Electronic Document Submission: The Board encourages parties to file documents utilizing the Electronic Filing System as it reduces costs, improves efficiency, improves access to information, and increases the ease with which documents and information can be searched and retrieved.

To file documents electronically with the Board visit its [Applications and Filings website](#). Further guidance can be found in the Board's [Filer's Guide to Electronic Submission](#).

The Board would like to remind companies that for letters of credit and surety bonds, original, hard-copy, signed documents must be filed with the Board.

Hard Copy Document Submission: Documents can be filed with the Board in person, by mail, or courier at the below address. Be sure to include your contact information, the file number, and a brief description of the filing.

National Energy Board
Suite 210, 517 Tenth Avenue SW
Calgary, AB T2R 0A8

Documents Submitted by Facsimile: Documents can be filed with the Board by fax at (403) 292-5503. Be sure to include your contact information, the file number, and a brief description of the filing.

Pipeline Safety Act Amendments

The *Pipeline Safety Act* amendments to the *National Energy Board Act* establish absolute liability and financial resource requirements for all companies. These amendments require companies operating pipelines to carry a minimum level of financial resources to cover the costs of an unintended or uncontrolled release from a pipeline. Companies will be required to demonstrate and maintain financial resources that match, at a minimum, the amount of absolute liability applicable to them. A portion of the financial resources must be readily accessible to the company.

NEB-regulated companies operating pipelines that individually or in the aggregate have the capacity to transport at least 250,000 barrels of oil per day (major oil pipelines) are subject to an absolute liability limit of \$1 billion. Absolute liability limits for companies other than those operating major oil pipelines will be established in regulations to be enacted by the Governor in Council. Further information on the development of the regulations and the Board's process

regarding the financial responsibility of pipeline companies can be found in the Board's [13 May 2016 letter](#), and in the [Canada Gazette posting](#) from 8 October 2016.

For additional information, please contact Board staff at financial.regulation@neb-one.gc.ca or by calling the Board toll-free at 1-800-899-1265.

The Board directs all NEB-regulated Group 2 companies to serve a copy of this letter on all shippers and interested persons.

Yours truly,

Original signed by L. George for

Sheri Young
Secretary of the Board

APPENDIX A

List of Group 1 Companies

Group 1 Natural Gas Pipeline Companies

Alliance Pipeline Ltd.
Foothills Pipe Lines Ltd.
Gazoduc Trans Québec & Maritimes Inc.
Maritimes & Northeast Pipeline Management Ltd.
NOVA Gas Transmission Ltd.
TransCanada PipeLines Limited
Westcoast Energy Inc.

Group 1 Oil and Products Pipeline Companies

Enbridge Pipelines Inc.
Enbridge Pipelines (NW) Inc.
Kinder Morgan Cochin ULC
TransCanada Keystone Pipeline GP Ltd.
Trans Mountain Pipeline ULC
Trans-Northern Pipelines Inc.

Group 2 Companies

Any pipeline company regulated by the Board that is not listed above is a Group 2 company.