

NATIONAL ENERGY BOARD

Mr. Gordon Churchill, the Minister of Trade and Commerce, introduced a bill on May 18 in the House of Commons, to provide for the establishment of a National Energy Board.

Mr. Churchill said in part:

"It is proposed that this Board have most of the powers now held by the Board of Transport Commissioners under the Pipe Lines Act, and those parts of the Railway Act incorporated in the Pipe Lines Act by reference.

"Whereas under the Pipe Lines Act the Board of Transport Commissioners has power to grant or withhold leave to construct pipe lines under the jurisdiction of the Parliament of Canada, the new Board in respect of applications for the construction of pipe lines would have the power to grant or withhold, subject to the approval of the Governor in Council, certificates of public convenience and necessity. It is proposed that the new measure supersede the Pipe Lines Act, and also the Exportation of Power and Fluids and Importation of Gas Act.

"The Board would exercise certain broad advisory functions ranging over the whole field of energy and sources of energy in so far as the Parliament of Canada has jurisdiction over such matters. The Board would have jurisdiction over tolls charged by all pipeline companies subject to the act, and over prices at which gas and power might be exported.

"The bill will set out, in much the same way as the present Pipe Lines Act, the general powers of pipe line companies subject to the jurisdiction of the Parliament of Canada. The bill will contain provisions for transition from arrangements under the existing statutes to corresponding new arrangements.

"These are the main elements of the proposed bill. I come now to certain points of policy which underlie the bill and which will guide the administration of the measure if approved by Parliament.

POLICY UNDERLYING BILL

"We recognize the need for and welcome capital, whether domestic or foreign, for investment in the energy and associated industries, and we believe such capital, wisely invested, should enjoy a fair and reasonable rate of return. As to what is a fair return, it is not our intention to incorporate any fixed formula in the statute. Rather, our first premise is that returns on successful investment must be sufficient to attract capital for replacement and expansion, and our second premise is that the public interest requires that no pipe line company should exploit its monopoly or quasi-monopoly position to secure returns higher than are fair and reasonable. Certain general criteria will be set forth in the bill, and their applica-

tion will be left to the fair and impartial judgement of the well-qualified men whose services on the Board we hope to obtain.

"We recognize that gas pipe lines are different from oil pipe lines, and that both are different from public utilities such as electric light and water service. Both oil and gas are subject to competition from other fuels and sources of energy, and an oil pipe line may be subject to competition in its markets by oil from other sources. There are elements of risk for both kinds of pipe line, and perhaps more risk for oil pipe lines than for gas pipe lines.

"The customer of the gas pipe line is more nearly captive in that he cannot readily turn to another source of gas. The consumer of the gas in order to use an alternative fuel must convert his equipment or replace it if his gas supply becomes uneconomic or otherwise unsatisfactory. There is therefore a clear case for regulating the returns of gas pipe line companies.

"The oil pipe line may not have the same sort of captive market. However, for some refineries one oil pipe line may be the only practical source of supply, and for many oil producers one oil pipe line is the only practical outlet to market. Therefore for practical purposes an oil pipe line is a carrier in a monopoly or quasi-monopoly position, and should be regulated as much. For somewhat different reasons, therefore, we have come to the conclusion that the returns of both oil pipe lines and gas pipe lines should be regulated, though not necessarily on the same terms or at the same level.

"While we have reached the conclusion that in the public interest there should be appropriate regulation of the returns of gas and oil pipe line companies, it is not the intention of the Government in so doing to discourage in any way the healthy and beneficial development of such companies.

"As regards the exportation of electric power and gas, the key principle will be that quantities proposed to be exported must be surplus to present and reasonably foreseeable Canadian requirements.

"In the case of electricity, it has been the policy in the past to grant only annual licences for export, so as to prevent permanent alienation of power. This remains our general policy, although some exceptions may be made in very special circumstances where the national interest would not be prejudiced by a longer term of export.

"With regard to gas, we accept the recommendation of the Borden Commission, which reads as follows:

"Having regard to the proven reserves of natural gas in Canada and to trends in the discovery and growth of reserves, the ex-

(Over)