DIRECT ENERGY MARKETING LIMITED

Information Request Responses to Enbridge Gas Distribution Inc. re: Enbridge 2009 Rates Adjustment Application, EB-2008-0219, Phase 2

EGDI Interrogatory #1

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, Quantifying the Risk, paragraph 2 p.3 of 8.

The evidence states that 'Enbridge has the ability to impose financial penalties on direct shippers for non-deliveries, as well as the ability to terminate a Gas Delivery Agreement for events of default. Should the current financial penalties be insufficient to provide EGD with a level of comfort that direct shippers will continue to act appropriately, EGD and the Board should consider increasing these penalties.'

1. Please explain what factors should be considered by EGD and the Board in increasing current penalties for non delivery of gas supply.

2. Please also indicate Direct Energy's recommended level of penalties.

3. Does DE agree to the inclusion of a clause in the Gas Delivery Agreement that require agents or brokers to be held financially responsible for consequential damages to EGD and its customers from non-delivery of gas supply, in the event of a failure of non firm upstream transportation? If not, please explain.

Response:

1. The factors that should be considered by EGD and the Board are:

    a. Frequency of default by suppliers.

    b. Magnitude of non-performance.

    c. Levels of penalties for non-delivery in other jurisdictions, with an emphasis placed on jurisdictions with similar market operations.

    d. Reason for non-performance.

2. Direct Energy believes that current penalties are adequate, evidenced by the fact that all direct shippers delivered as required during the peak period from January 13-15, 2009. If EGD and the Board decide that the penalties should be increased, operationally similar jurisdictions could be looked to for examples of more punitive penalties.

3. While Direct Energy believes that a most severe penalty is already in place, which allows Enbridge the ability to terminate Gas Delivery Agreements for non-performance, the Board may determine that additional penalties are required. If such a penalty as described above is imposed by the Board, it should only be done so if the following can be demonstrated:

    a. That any outage as a result of failure of delivery by a direct shipper can unequivocally be attributed to the direct shipper in question;

    b. That Enbridge can demonstrate that it acted responsibly and took every measure within its means to ensure system reliability; and

    c. That Enbridge curtailed all Interruptible Rate customers, and did not allow such customers to bring in additional gas to offset their curtailment requirements.

EGDI Interrogatory #2

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, No Evidence of a Future Security of Supply Issue, paragraph 3, p.3 of 8.

The evidence states that 'DE submits that even a 100% FT requirement will not solve a system security issue of this nature.'

1. Please explain the above statement.

2. EGD understands that upstream pipelines provide additional assurance of service under peak demand conditions for firm service through "loss of critical unit" protection and that facilities are not built or reserved to provide interruptible or discretionary services. Does DE agree with EGD? If not, please explain.

3. Does DE agree that as a result of (2) above, discretionary service deliveries have a higher probability of being restricted in the event of a system issue on TCPL. If not, please explain.

Response:

1. This statement means that the proposed FT requirement would not increase the physical capacity of the pipeline infrastructure that connects with EGD CDA and EDA. This was based on Enbridge's evidence which stated during the peak period from January 13-15, 2009 that demand exceeded capacity. Considering that only enforced curtailment of Interruptible Rate customers and/or an increase in physical capacity can address an excess demand issue, it is reasonable that "even a 100% FT requirement will not solve a system security issue of this nature."

2. Direct Energy agrees that TCPL states this in the TCPL evidence.

3. Direct Energy agrees that discretionary services are a lower priority than Firm. Direct Energy also notes that during the peak period from January 13-15, 2009, direct shippers not only met their obligations, but that Interruptible Rate customers were able to bring in an additional 439,235 GJ into the EGD franchise through Curtailed Service Delivery.

EGDI Interrogatory #3

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7 No Evidence of a Future Security of Supply Issue, paragraph 3 p. 3 of 8.

The evidence states that 'EGD agrees that firm transport does not lead to more operational capacity, in that it does not create additional pipelines. Furthermore, as market participants including EGD are unaware of any Open Season for additional TCPL capacity to the EGD franchise area, it would seem that EGD has not in fact requested any additional build. As such, if an operational problem exists, it is not being addressed by this proposal.'

1. Please explain the statement 'Furthermore, as market participants including EGD are unaware of any Open Season for additional TCPL capacity to the EGD franchise area, it would seem that EGD has not in fact requested any additional build.'

2. Is DE referring to long haul or short haul transportation to EGD's franchise area?

3. Please provide a review of the period a shipper can contract for TransCanada's long haul, short haul and short term firm transport (STFT).

4. Please provide in detail TransCanada's requirements for new pipeline capacity requests?

5. Please detail DE's position on who should be the signatory for new TransCanada pipeline capacity to EGD's franchise area.

Response:

1. Please see EGD's response to Direct Energy IR#14, Exhibit I, Tab 9, Schedule 14.

2. DE is referring to long haul transportation to EGD's franchise area.

3. TransCanada's long haul can be contracted for 1 year, short haul for 1 year and short term firm transport (STFT) for 7 to 364 days.

4. Please see TransCanada PipeLines evidence, Exhibit L, Tab 21, Page 11, Question 10.

5. LDC's should be the signatory for new pipeline capacity as long as they have the provider of last resort (POLR) responsibility. There is only one utility in the North America, Atlanta Gas & Light ("AGL"), where the utility does not hold the POLR as it has exited the merchant function. In this situation, there is a joint stakeholder group of suppliers and the utility that review system delivery needs and share joint responsibility in determining needs for increased upstream pipeline deliverability.

EGDI Interrogatory #4

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, Impact of approving this request on competitive markets, paragraph 1, p. 5 of 8.

The gravity of the EGD security of supply argument is further called into question by the fact that EGD just held an open season for Tecumseh storage in February of this year for 2,600,600 GJ with 1.6% firm withdrawal capacity available which equates to 31,200 GJ/d. Yet in response to DE IR#6 (Exhibit I, Tab 9, Schedule 6) EGD explains that Tecumseh storage could not be used as a backstop for any non-deliveries required for system balancing as Tecumseh storage is assumed to be used at maximum deliverability on peak days. If EGD is offering firm storage delivery of 31,200 GJ/d, it would seem there is operational capacity available on peak days.

1. Please confirm that DE is aware of the OEB's Decision with Reasons in EB-2005-0551 (Natural Gas Electricity Interface Review).

2. Please explain DE's understanding as to whether the storage services offered in the Tecumseh open season are regulated or unregulated services pursuant to the Board's decision in the NGEIR case. Please explain in detail how any such services offered by Tecumseh address or bear on the firm transportation issue raised by EGD in this proceeding.

3. Does DE agree that Tecumseh storage is not located within EGD's franchise area? If not, please explain.

4. Does DE agree with EGD's statement in Board Staff #16 (c) "However, EGD is unlikely to have excess unutilized firm transport capacity to bring these supplies to the franchise on peak day."

Response:

1. Confirmed.

2. DE understands that these are unregulated services. If EGD has a security of supply issue, then the allocation of Tecumseh storage to unregulated services may need to be re-examined.

3. Confirmed.

4. DE does not have the information necessary to confirm or deny this EGD statement.

EGDI Interrogatory #5

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, Impact of approving this request on competitive markets, paragraph 4, p. 5 of 8.

"Centra has reduced its TCPL DCQ to the MDA to 160,000 GJ/day (formerly 200,000 GJ/day) primarily in response to a trend of declining load in Manitoba. The reduction in TCPL capacity is also projected to return Interruptible customers to levels of curtailment which are more reasonably reflective of this lower priority service, which has not been the case in recent years. The toll increases experienced by shippers on TCPL's Mainline in 2008, and the ongoing toll risk due to throughput uncertainty on the Mainline made reducing TCPL capacity an attractive option."

1. Does DE agree that based on the above statement that Centra's reduction in TCPL DCQ to the MDA was based on the trend of declining load in Manitoba? If not, please explain.

2. Does DE agree with EGD's interpretation of the above statement that Centra intends to manage its system through a reduction in TCPL DCQ and any incremental requirement to meet its system requirements will be met through an increase in curtailment of Interruptible customers? If not, please explain.

3. Does DE agree that Centra's toll risk comment is in the context of retaining a higher quality service for interruptible customers than what the service is designed for, in an environment of rising tolls? If not, please explain.

Response:

1. Direct Energy agrees that this was but one of Centra's reasons for reduction in TCPL DCQ to the MDA. Centra's reduction in TCPL capacity was also due to the return of Interruptible customers to levels of curtailment which reflect lower priority service, the toll increases on TCPL's Mainline in 2008, and the ongoing toll risk associated with TCPL's Mainline.

2. Centra indicates that Interruptible customers will likely be curtailed more often due to this change. Centra has also entered into arrangements with a counterparty to deliver 20,000 G/Js per day from Empress to the MDA on the TCPL system.

3. No. DE believes that Centra does not want to hold uneconomical transport, on a declining supply basin, due to future toll risk uncertainty.

EGDI Interrogatory #6

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, Impact of approving this request on competitive markets, paragraph 6,
p. 5 of 8.

If the competitive market is allowed to progress naturally, beneficial results can be experienced by all participants. For example, NGX is currently canvassing market participants for interest in adding Enbridge CDA to the trading screen for both the term and cash markets. By creating a cash market, more liquidity and the opportunity for price discovery will be possible in these market areas. If demand for these new hubs is artificially reduced by the dictated use of fixed TransCanada Mainline assets, then the development of further liquidity will be curtailed by arbitrary and unfounded utility requests.

1. Please provide a definition of a hub in the above context.
2. Please identify all the pipelines that connect to the Enbridge CDA.
3. Please identify other hubs in Ontario and the pipelines that connect at the other hubs?
4. Is DE aware of other parties who facilitate trading at hubs that have approached DE in the past other than NGX to explore the option of establishing hubs in Ontario? If so, please provide the names of and dates when DE has met with these parties.
5. Please explain why liquidity is diminished when suppliers hold firm transportation and why liquidity is enhanced when suppliers hold interruptible transport.
6. Is it DE's position that in order to support competition and the evolution of the marketplace that system reliability issues are of a lesser concern? Please explain.

Response:

1. A hub is a point where buyers and sellers of commodities meet.
2. EGD CDA is connected by TCPL.
3. The pipelines that are connected into Ontario are:
    a. Great Lakes interconnect at St. Clair
    b. Panhandle Eastern interconnect at Ojibway
    c. Tennessee interconnect at Niagara
    d. Waddington interconnect at Iroquois
    e. Vector interconnect at Dawn

f. TCPL Mainline at Union Gas WDA

g. Empire State interconnect at Chippawa

h. Michcon interconnect at St.Clair.

4. No other parties have approached DE on the establishment of natural gas hubs in Ontario.

5. Liquidity is diminished when there are less buyers and sellers at various Ontario hubs.

6. Direct Energy understands that system reliability is of utmost importance and is not of any lesser concern to Direct Energy than it is to Enbridge. Direct Energy also believes that Enbridge has not demonstrated that a risk to system reliability exists, and is using its position as an LDC to impede competition in transportation and supply sources through its 90% FT proposal in this proceeding. In instances where a utility believes there is deliverability risk as a result of direct shippers on its system not holding firm upstream capacity contracts, the utility should move to initiate a pro-rata allocation of system assets held by the utility, including storage, based on customer peak day requirements. With the utility being in direct competition with shippers/ Marketers on its system, a requirement mandated by the utility for competitors to hold the highest cost upstream capacity route(s) in percentages that are multiples beyond that of the utility clearly creates a setting for anti-competitive practice.

EGDI Interrogatory #7

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, Impact of approving this request on competitive markets, paragraph 2, p. 6 of 8.

Should EGD find TCPL Mainline transport uneconomical, EGD should turn back the firm capacity that it holds, and not shift the problem onto direct shippers. According to the EGD response to DE IR#2, 246,000 GJ of Empress to CDA or EDA expires in October of 2009. The annual cost of this transport is $107 million. EGD has the option to turn back this transport and find alternatives, such as IT arrangements, shipping on other pipelines, or the purchase of Ontario landed gas. When transport is "out of the money", there is a market reason for this, and holding the transport is a choice that must be made by each market participant and not forced upon small volume DP customers under the guise of a system reliability problem.

1. Please identify the pipelines that deliver gas to Ontario and to EGD by delivery area.
2. Please provide a definition of Ontario landed gas.
3. Please identify the underlying assets that comprise the delivery of Ontario landed gas.
4. Please confirm DE's position that EGD should not contract for FT service.
5. Please confirm that on days when transport is 'in the money' parties will bid for transport over and above their own needs to allow these parties to extract market value? If not, please explain why market dynamics do not apply?
6. Please provide DE's position on whether EGD should have the responsibility for forecasting and ensuring that peak day demand of its customers is met.

Response:

1. Please see the response to EGD/DE IR#6.6.
2. Ontario landed gas is any gas that can be bought or sold at any point in Ontario.
3. Gas can arrive in Ontario from basins such as WCSB, Louisiana and South Texas, Anadarko, Permian and Rockies.
4. Direct Energy does not wish to dictate the EGD transportation portfolio and would appreciate if EGD would refrain from dictating the transportation portfolio of direct shippers to the EGD CDA and EDA.
5. The market dynamics will move the prices at different hubs to reach supply and demand equilibrium.
6. Confirmed. The utility, as system operator, is in a unique position to determine how

much gas needs to be delivered on its system based on various factors including weather, operating pressures, etc. However, this does not mean the utility is in the best position to determine the most optimal mix of upstream assets that should be used to deliver to its city gates. With the utility in the merchant function it is in a unique position of being a direct competitor with shippers/Marketers on its system. If the utility believes an increase in upstream firm capacity is necessary in meeting obligations by direct shippers on its system, it is obliged to provide a pro-rata allocation of system assets including storage, to all shippers on its system. A requirement for shippers to hold the highest cost capacity routes in multiples beyond that of the utility places the utility in the precarious position of being able to institute anti-competitive behavior.

EGDI Interrogatory #8

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7, Impact of approving this request on competitive markets, paragraph 3, p. 8 of 8.

EGD has also put forth that FT is the only viable alternative to address the perceived risk. DE believes that other options should be examined including an increase in penalties for failure to deliver; the construction of more intra-provincial pipe to utilize liquid hubs and connect storage assets more directly; and the unbundling of storage and transportation assets to allow DP customers to balance a temperature sensitive load.

1. Please explain as to how the unbundling of storage and transportation assets will address the system reliability risk posed by non firm upstream arrangements?

2. Please provide a detailed description of other options that should be examined by EGD.

3. Please identify who would have the regulatory responsibility in pursuing these option(s).

Response:

1. If the storage and transportation assets were unbundled, direct shippers would receive proportionate share of all assets and portfolio optimization could occur, including peak day planning. Direct shippers/Marketers could balance on a daily basis, utilizing these assets efficiently.

2. Direct Energy has already put forth a number of options as noted in the preamble of this interrogatory. No further work has been done on these options.

3. If the EGD franchise is not unbundled, then EGD has the regulatory responsibility to pursue these options. If the EGD franchise is unbundled, then a more creative pursuit of these options may be possible.

EGDI Interrogatory #9

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7.

1. Does DE believe that it is reasonable for an LDC to wait for a system failure to occur before attempting to manage the risk imposed on it on a peak day?

Response:

1. DE does not believe that system failure must precede peak day planning, but that the risks identified should be quantifiable; and the risk mitigation proposed should actually address the issue. This is not the case with Enbridge's proposal to require only small volume customers to demonstrate 90% FT. Furthermore, the 90% FT requirement will limit direct shippers ability to purchase Ontario landed gas, forcing direct shippers onto the TCPL Mainline; a pipeline on which Enbridge has de-contracted itself to only 5.5% of its supplies. TCPL's evidence on Page 13 supports this conclusion as there is currently no capacity from either Dawn or Parkway to the Enbridge CDA or EDA. It is Direct Energy's position that Enbridge may be putting system reliability further at risk in their proposal by limiting the procurement abilities of direct shippers to the declining WCSB, and relegating approximately 45% of the supply to the Enbridge franchise area onto a single pipeline.

EGDI Interrogatory #10

Interrogatory:

Reference: Direct Energy Marketing Limited Evidence Submission. EB-2008-021 9 Exhibit L, Tab 7.

1. Please acknowledge that Direct Energy participated in regulatory proceedings before the Connecticut Department of Public Utility Control (DPUC) in Docket No. 05-05-10 entitled Consolidated Investigation to Complete Connecticut's Gas Local Distribution Companies Unbundling of Gas Service to Commercial and Industrial Customers through its subsidiary Direct Energy Services, LLC.

2. Please confirm that Direct Energy sought an allocation of released firm capacity to serve its customers in that proceeding.

3. Please confirm that Direct Energy operates on LDCs "that have successful capacity assignment programs." (See the response to OCC-40, DPUC Docket No. 97-07-11 RE02 submitted May 2, 2005.)

4. Please acknowledge that in Docket No. 05-05-10 above, Direct Energy believes that the total amount of firm transportation to the market along with on system peaking supplies does need to be sufficient for the peak day requirement in the market. If not, please explain how reliability will be maintained.

5. Please confirm that Direct Energy indicated in Docket No. 05-05-10 that a risk for LDC operations is "a marketer might divert gas to serve another market." (See the response to CNG/SCG-21 dated November 21, 2005.)

Response:

1. Confirmed.

2. Confirmed. Direct Energy sought such capacity in order to ensure that Direct Energy customer needs, and LDC obligations were met in a highly constrained market where no additional capacity alternatives are present. Furthermore, it should be noted that the referenced proceeding was opened on the DPUC's own motion to investigate the unbundling of gas services, including access to storage and transportation for market participants. In its Decision summary, the DPUC concluded that unbundling "strikes an appropriate balance among fostering competition, maintaining a high degree of reliable natural gas service and protecting the public interest."

   Direct Energy does not believe that Enbridge is proposing to unbundle its storage and transportation assets to foster competition and protect the public interest, but instead seeks to limit competition and potentially increase surety of supply risks as noted in the response to EGDI Interrogatory #9 above.

3. DE agrees with capacity assignment when the assignment is part of a vertical slice of the

entire utility asset portfolio. The complete question and answer to OCC-40 follows:

Question:

Is Direct able to purchase primary firm pipeline capacity and storage assets for the five winter months only? If so, provide the MDQ, identify the resource and provide the price.

Answer:

As a retail marketer operating on LDCs that have successful capacity assignment programs, Direct Energy Services, LLC regularly receives allocations of primary pipeline capacity and storage assets. The prices for these assets are determined by each LDC based on the underlying pipeline and storage company's FERC gas tariffs.

4. Confirmed. Direct Energy is not against a proportionate share of all EGD assets on fair and reasonable terms, in proportion to the volume of customers that Direct Energy serves.

5. Confirmed. Direct Energy mentioned multiple risks that could potentially occur in the Connecticut market. To illustrate this, the complete question and answer to CNG/SCG-21 is as follows:

Question:

Reference Marketers' PFT, pages 9-10. The testimony suggests that the only risk is marketer bankruptcy. Could there also be a failure to deliver even though the marketer is solvent? If not, why not?

Answer:

Yes, there are other risks. There is a risk that a marketer might divert gas to serve another market. There is a risk that the pipeline will fail. The proper approach to risk issues is to have Tariff provisions that allow the LDC to manage its system. In some cases, these may be penalty provisions that remove incentives for failure to deliver. In others it may be the same curtailment plan that the utility would implement if the event occurred in the bundled utility world.

There are tools and financial disincentives at the disposal of the LDCs to respond to failures. Once again, it would have to happen on a design peak day, the failure would have to be of a quantity that exceeded the suggested 50% SOLR support, and the LDC would not be able to recall the capacity or use OFO restrictions to make the Marketer get its gas to the city gate.