

EB-2008-0052  
STORAGE AND TRANSPORTATION ACCESS RULE

Comments of the Industrial Gas Users Association  
on the Proposed Storage and Transportation Access Rule dated April 9, 2009

## INTRODUCTION

The Industrial Gas Users Association appreciates the opportunity to comment on the Ontario Energy Board's proposed Storage and Transportation Access Rule (STAR or Rule) as set out in Appendix B to the Notice of Proposal to Make a Rule dated April 9, 2009. IGUA was a participant in Phase 1 of the STAR consultation and in September 2008, provided comments on Board Staff's July 2008 discussion paper.

IGUA agrees with the Board's refined objectives for STAR; namely,

- Ensure open, fair and non-discriminatory access to transportation services for customers and storage providers;
- Provide customer protection within the competitive storage market; and
- Support transparent transportation and storage markets.

In general, IGUA supports the provisions of the proposed Rule and believes they will serve to achieve the objectives of STAR. In IGUA's view, it is important that STAR support market surveillance by the Board and market participants. The requirements and processes defined by STAR should provide the basis for monitoring for potential unfair and discriminatory practices and resolving issues in a fair and timely manner. It may be appropriate to undertake a review of the STAR provisions at some point after the final Rule has come into force and after the Board and market participants have gained a reasonable level of experience with the implementation of the Rule requirements.

IGUA's specific comments on certain of the proposed Rule requirements are covered in the remainder of this submission. The comments are organized according to the various sections of the proposed STAR.

## COMMENTS ON PROPOSED STAR PROVISIONS

### 1. General and Administrative Provisions

#### 1.1 Purpose of This Rule

In its Notice, the Board indicates that the "Purpose" section of the proposed STAR is the expression of the Board's objectives in establishing the provisions of the Rule. To that end, IGUA suggests that point (i) under Purpose be modified slightly to read: *Establish operating requirements to ensure open, fair and non-discriminatory access to transportation services for shippers and storage companies.*

Sections 1.2 to 1.7 - No comments

## **2. Non-Discriminatory Access to Transportation Services**

### **2.1 Allocation of Transportation Capacity**

Section 2.1.3 indicates allocation methods for all other transportation services are to be defined in the transmitter's tariff, which section 2.1.1 requires be approved by the Board and then posted on the transmitter's website. It is IGUA's reading of the proposed Rule that "all other transportation services" encompasses short-term (less than one year) firm and interruptible transportation services. IGUA supports this requirement and suggests that for clarity, the provision in section 2.1.3 be modified to identify explicitly the services covered by the provision.

### **2.2 Standards for Transportation Open Seasons**

IGUA's comments on section 2.2 are focused on the requirements for disclosing bid results for transportation open seasons (section 2.2.1 iv)). Disclosure of bid results communicates the demand for regulated transportation services and other important market information. In addition, sufficient disclosure is required so that all market participants can satisfy themselves that the process was fair. For those participants who bid for capacity and are unsuccessful, the information contained in the posted results should allow bidders to confirm why they were unsuccessful. In some cases, this confirmation may require the disclosure of a rate different from the regulated rate. For example, if two bids are the same in all respects except rate and one bid is successful while the other is not, then limiting the bid result information to term, volume and receipt/delivery points does not assist the unsuccessful bidder; there is no explicit indication that the deciding factor was rate. Questions would remain about whether the process was fair.

Therefore, in IGUA's view, a key part of defining the process by which bids will be evaluated and the outcome disclosed for any given transportation open season is ensuring that the posting of bid results contains sufficient information to allow participants to fully understand why they were not the winning bidders. For some open seasons, this may require disclosing rate information.

### **2.3 Shipper – Standard Terms of Service and Standard Forms of Contracts for Transportation Services**

No comments.

### **2.4 Storage Company – Standard Terms of Service and Standard Forms of Contracts for Transportation Services**

No comments.

### **2.5 Other**

No comments.

## **3. Customer Protection within the Competitive Storage Market**

### **3.1 Posting and Protocol Requirements**

The proposed provision requiring an integrated utility to develop, maintain, and post its protocols to limit access to non-public information regarding transportation operating conditions of shippers, storage

companies, and consumers to personnel that require this information is an important element of STAR. IGUA notes that the provisions of STAR come into force six months after the issuance of the final Rule. In the context of the specific provision in section 3.1, IGUA interprets this to mean that the protocols will have to be in place and posted no later than by the time STAR comes into force. IGUA supports this timing.

#### **4. Reporting Requirements**

##### **4.1 Information Requirements**

No comments.

##### **4.2 Index of Customers**

Section 4.2.1 requires posted information on in-franchise storage capacity requirements to be updated prior to the start of each storage withdrawal season based on the results of the integrated utility's most recent operational plan. For customers to be in a position to incorporate this information into decisions about their own gas purchases and gas management, the data should be available prior to the beginning of the injection cycle on April 1. By the start of the withdrawal season on November 1, customers with an allocation of storage capacity have already taken actions to fill their allotment of storage and are starting to use it.

Section 4.2.2, point iii) proposes that an integrated utility must identify in its Index of Customers the amount of working storage capacity, daily withdrawal deliverability, and daily injection quantity reserved for in-franchise customers. Since the Index of Customers is to be updated at the start of each month, IGUA assumes it is the intent of this provision of STAR that the information on in-franchise storage capacity requirements also be updated each month as necessary. Clarification of this point in the final STAR would be helpful.

##### **4.3 Operationally-Available Transportation Capacity**

No comments.

##### **4.4 Storage Inventory**

IGUA has no comments on the specifics of section 4.4. IGUA would like to indicate that in connection with this section as well as the relevant provisions contained in 4.2 and 4.5, IGUA agrees with the Board's principle that reporting requirements should not put Ontario storage providers at an advantage and/or disadvantage relative to competing storage providers in other jurisdictions.

##### **4.5 Design Capacity**

Section 4.5.2 contemplates the design capacity information listed in section 4.5.1 being posted by November 1 of each year, and the report updated immediately whenever any information changes. Consistent with comments provided under section 4.2 on the availability of information on in-franchise storage capacity requirements, for customers to be in a position to incorporate information from the Design Capacity Report into decisions about their own gas purchases and gas management, the report should be available by the beginning of the injection cycle on April 1 of each year, rather than the start of the withdrawal season on November 1. As previously noted, by November 1 each year, customers with an allocation of storage capacity have taken actions to fill their allotment of storage and are starting to use it.

Therefore, IGUA would recommend that section 4.5.2 be modified to read: *The information in section 4.5.1 shall be posted by April 1 each year, and updated immediately whenever any of the information changes.*

## 5. Complaint Mechanism

### 5.1 Dispute Resolution

IGUA agrees with the four points concerning what a complaint process should include, as set out at page 24 of the Board's Notice; namely,

- Transmitters, utilities, and storage providers should develop their complaint handling procedure and post the procedure on their websites;
- Transmitters, utilities, and storage companies should resolve day-to-day operational type complaints;
- Issues of compliance with STAR should be filed with the Board; and
- Market failure issues and other issues should be filed with the Board.

With respect to the third point, it is not clear to IGUA from the proposed section 5.1, and in particular section 5.1.3, at what stage the filing with the Board of STAR compliance issues is contemplated. In IGUA's view, it would be helpful to have the complaint filed with the Board right at the outset, recognizing that the complainant and the transmitter, storage company or integrated utility will first work towards a resolution and involve the Board if the complaint has not been resolved satisfactorily. Clarification of this point in the final STAR would be of considerable assistance. IGUA believes that notifying the Board at the outset that a compliance issue has been raised and is being addressed by parties will contribute to effective monitoring of concerns and issues related to access to transportation services and the competitive storage market.

Concerning the timing of the development and posting of a dispute resolution process by each transmitter, storage company, and integrated utility, IGUA has comments similar to those on the protocols described in section 3.1. Specifically, in IGUA's view, it is critical that the dispute resolution process be developed and posted and the necessary contact information provided to the Board by the time STAR comes into force.