

February 18, 2010

Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E5

Dear Ms. Walli:

**Re: EB-2009-0422: Dawn Gateway Pipeline Limited Partnership (Dawn Gateway) Application
for Leave to Construct and Approval of A Regulatory Model**

Industrial Gas Users Association (IGUA) - Interrogatories

Attached please find interrogatories for the applicant filed on behalf of IGUA.

We apologize for the late delivery of these interrogatories. Conflicting travel schedules delayed our ability to confirm final filing instructions. We would appreciate the applicant's effort to provide responses as close to the response timeline specified by the Board as reasonably possible.

Your truly,
MACLEOD DIXON LLP



Ian A. Mondrow

- c. Murray Newton, IGUA
Mary Jane Patrick, DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP
Sharon Wong, BLAKES (Counsel for the Applicant)
All Intervenors (EB-2009-0422)

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP (DAWN GATEWAY)
APPLICATION FOR LEAVE TO CONSTRUCT AND APPROVAL OF A
REGULATORY MODEL**

Interrogatories of Industrial Gas Users Association (IGUA)

1. **Reference: Section 1, paragraph 7.** Dawn Gateway indicates that it will contract with Union to oversee the construction of the proposed pipeline. Union is an affiliate of the applicant. Please indicate what steps Dawn Gateway has taken to ensure compliance with the Ontario Energy Board's *Affiliate Relationships Code for Gas Utilities* in respect of this construction arrangement.
2. **Reference: Section 1, paragraph 8.** Dawn Gateway indicates that it requires approvals to construct and of its proposed regulatory framework by February 28th, 2010. This timeframe will not be met.
 - (a) Please indicate the impact on the project of a 6 month delay in receipt of the approvals requested.
 - (b) Please provide an update of the status of landowner negotiations and contracting progress (relative to the time line filed as Section 6, Schedule 2, page 1 and referenced at Section 8, paragraph 96).
3. **Reference: Section 3, paragraph 15.** The evidence indicates that the project will provide shippers with a greatly enhanced connection between Michigan storage and Dawn, creating approximately 380,000 GJ/day of gas transportation capacity and enhancing access to various U.S. supply basins.
 - (a) Is it likely, in the applicant's view, that the proposed pipeline would displace some volumes currently flowing on TCPL's mainline?
 - (b) Has the applicant done any analysis of the impact of the proposed project on the volumes currently flowing, and the tolls currently charged, on Trans Canada Pipelines Inc.'s (TCPL) main line? If so, please indicate the findings of such analysis and the potential impact on TCPL shippers of approval of the proposed project.

4. **Reference: Section 3, paragraphs 16 through 18; Section 4, paragraph 36.** The evidence indicates that 5 shippers have entered in to binding Precedent Agreements, providing for the execution of multi-year transportation contracts, for terms of "several years, for a total of approximately 295,000 GJ/day of firm transportation capacity on the proposed line.
- (a) What is the length of the term of the multi-year transportation contracts contemplated anticipated by the Precedent Agreements? (The evidence, at paragraph 36, refers to "several years". Please be more specific.)
 - (b) Are any of the 5 counterparties affiliates of Dawn Gateway? If so, please identify the affiliate(s), the capacity contracted for by each affiliate, and the length of the term of each such contract. In each such case please indicate how Dawn Gateway has ensured compliance with the OEB's *Affiliate Relationships Code for Gas Utilities*.
 - (c) Please file the Precedent Agreements in this proceeding. (The evidence indicates that the Precedent Agreements were previously filed, in confidence, in EB-2008-0411. If confidentiality is still being claimed in respect of these agreements, please address the conditions for such filings required by section 5 of the OEB's *Practice Direction on Confidential Filings*.)
5. **Reference: Section 1, paragraph 4; Section 4, paragraphs 28 through 31 and 33.** The evidence indicates that the regulatory framework proposed by Dawn Gateway is "*based on and consistent with Group 2 regulation as practiced by the NEB*".
- (a) Dawn Gateway proposes that it make confidential annual financial filings with the OEB. Please confirm that this is not consistent with Group 2 regulation as practiced by the NEB, for example in respect of the Vector pipeline. Please provide further justification, with reference to specific NEB regulated pipelines, for this aspect of Dawn Gateway's proposal, including justification of why Dawn Gateway should be treated in the same fashion by the OEB as the specific referenced pipelines are treated by the NEB.
 - (b) Dawn Gateway proposes that complaints by shippers should form the basis for the OEB's regulatory oversight. Please confirm that Group 2 regulation as practiced by the NEB does not necessarily limit complaint entitlement to shippers on the subject pipeline. Please provide further justification, with reference to specific NEB regulated pipelines, for this aspect of Dawn Gateway's proposal, including justification of why Dawn Gateway should be treated in the same fashion by the OEB as the specific referenced pipelines are treated by the NEB.

- (c) Please identify all other differences between Group 2 regulation as practiced by the NEB and the regulatory framework that Dawn Gateway seeks approval for.
 - (d) Other than the differences addressed in parts (a) through (c) of this response, is Dawn Gateway prepared to abide by a regulatory framework that adopts all other aspects of Group 2 regulation as practiced by the NEB, as the NEB may amend such approach to regulation from time to time?
 - (e) Please provide a matrix listing all NEB-regulated Group 2 pipelines, and indicate for each pipeline listed:
 - (1) The number of shippers.
 - (2) Whether the rates charged are negotiated.
 - (3) Whether the rates charged are subject to an NEB set cap.
 - (4) Whether the rates are confidential.
 - (5) Whether shipper identities and/or contracted capacity are confidential.
 - (6) Whether audited financial statements are filed on a confidential basis.
 - (7) Any other key differences in commercial arrangements between Dawn Gateway and its shippers and each listed NEB-regulated Group 2 pipeline and their shippers; e.g., fully versus partially contracted, shippers who are affiliates, etc.
6. **Reference: Section 4, paragraph 32.** The evidence states that under the regulatory framework proposed by Dawn Gateway, the OEB's Storage and Transportation Access Rule (STAR) will not apply. The evidence indicates that if Dawn Gateway is not subject to STAR, then the effect is a level of monitoring and reporting comparable to that required of NEB-regulated Group 2 companies.
- (a) Is Dawn Gateway seeking exemption from any provisions of STAR other than the monitoring and reporting provisions? If so, please indicate which additional provisions Dawn Gateway is seeking exemption from, and in each case explain the basis or rationale for such exemption request.
 - (b) In light of the requested STAR exemptions, what practices and procedures does Dawn Gateway intend to put in place to ensure its conduct facilitates open and non-discriminatory access to transportation services and customer protection within the competitive storage market?
7. **Reference: Section 4, paragraph 34.** The evidence asserts that the interjection of cost of service regulation would result in the loss of shipper support for the Dawn Gateway project and the failure of the project.

- (a) Please indicate what specific information obtained from potential shippers Dawn Gateway relies on in making this assertion.
 - (b) What other aspects of the proposed regulatory framework (other than cost of service regulation versus the ability to negotiate rates) are essential for the project to proceed, and why?
8. **Reference: Section 4, Schedule 2.** With reference to the National Energy Board's November 17, 2009 letter concerning Financial Regulation of Pipeline Companies under the Board's Jurisdiction, please file a copy of Guide P referenced at page 1 and the Toll Information Regulations referenced at page 3.
9. **Reference: Section 4, Schedule 3, pages 26 and 35.** Please provide and explain the basis for each of the following proposed maximum rates and associated service components:
- (a) Reservation rate for firm transportation.
 - (b) Usage rate for firm transportation.
 - (c) Authorized overrun charge for firm transportation.
 - (d) Usage rate for interruptible transportation.
 - (e) Authorized overrun charge for interruptible transportation.

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