

February 22, 2010

BY Courier & RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

Dear Ms. Walli:

**Re: Dawn Gateway Pipeline Limited Partnership  
Application for Leave to Construct and Regulatory Framework  
Board File # EB-2009-0422**

Please find enclosed our responses to Board Staff Interrogatories. Hard copies of same will follow by courier.

In the event you have any questions on the above or would like to discuss in more detail, please do not hesitate to contact me at (519) 436-4601.

Sincerely,



Dawn Gateway Pipeline Limited Partnership, by  
Mark Murray  
Manager Regulatory Projects, Union Gas Limited  
:mjp  
Encl.

cc: Neil McKay, Manager Facilities Applications  
Zora Crnojacki, Project Advisor  
All intervenors

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Question:**

1. Is the Applicant prepared to adopt the evidentiary record in EB-2008-0411 in this proceeding? If the Applicant objects to the entire record being adopted in this proceeding, are there portions of the record in the earlier proceeding that it is prepared to adopt in this proceeding?

**Response:**

Dawn Gateway LP is willing to have the Board adopt all of the evidence from Union Gas Limited in EB-2008-0411 if the following conditions are met:

1. Union's evidence to be adopted includes any revisions or corrections that Union subsequently filed with the Board in EB-2008-0411 and any revisions or corrections that Dawn Gateway LP files as part of these proceedings in EB-2009-0422.
2. That the Board issue an order specifically stating the areas that are of specific interest to this proceeding so that the witnesses can properly prepare for Hearing.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

2. Prefiled Evidence/Sec 3/page 6 of 29/Parag. 16

Paragraph 16 states that subsequent to a non-binding open season in September /October 2008, five shippers entered into binding Precedent Agreements to subscribe for a total of 280,000 Dthd (295,459 GJ/d, 7,932 103m3/d) of firm transportation service on the Dawn Gateway Pipeline (subject to regulatory approval).

Please file unredacted copies of the above five binding Precedent Agreements in this proceeding.

**Response:**

In Procedural Order No. 4 in EB-2008-0411, the Board ordered the production of the Precedent Agreements in confidence in accordance with the Board's Practice Direction on Confidential Filings, and the Board allowed the redaction of the names of the shippers. If ordered by the Board, Dawn Gateway LP is willing to file its Precedent Agreements in this proceeding on the same basis.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

3. Prefiled Evidence/Sec 3/page 7 of 29/Parag. 17

Paragraph 17 states that the Precedent Agreements provided for the execution of multi-year transportation contracts at a fixed price for the entire term of their respective transportation contracts.

If the Ontario Energy Board (“OEB”) grants the alternative regulatory regime requested in this application, will Dawn Gateway LP file with the OEB the five binding Precedent Agreements (including the terms of service and actual tolls; not the maximum rate of \$1.00 USD per Dth per day), consistent with the National Energy Board’s (“NEB”) requirements, to ensure transparency for all market participants?

**Response:**

The NEB does not generally require Group 2 companies to file customer contracts with the NEB.

If the OEB determines that the Precedent Agreements are relevant in this proceeding, then Dawn Gateway LP is willing to file them on a confidential basis as stated in the response to Board Staff Interrogatory 2.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

4. If not, how will Dawn Gateway LP assure the Board and market participants that it will not discriminate in terms of price and/or terms of service?

**Response:**

As explained more fully in the response to Board Staff Interrogatory 13, Dawn Gateway LP is not seeking to be generally exempted from the requirements of STAR (subject to the requested exemptions noted in response to Board Staff Interrogatory 13.)

After extensive public consultation, the OEB implemented STAR for the express purpose of ensuring non-discriminatory access to transportation services. Dawn Gateway LP will be complying with STAR, including providing an index of customers and posting non-standard contracts. Dawn Gateway LP will revise the proposed Tariff (Pre-filed Evidence, Section 4, Schedule 3) as needed to ensure that it complies with STAR. In addition, Dawn Gateway LP will replace the existing Precedent Agreements with the standard Transportation Contracts once the Tariff is approved by the Board.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

5. What information will Dawn Gateway LP provide to market participants and the Board so that market participants and the Board are able to determine that: a) the terms of service for transportation services are just and reasonable, and b) the tolls for transportation services are just and reasonable?

**Response:**

- a) Please see Dawn Gateway's response to Board Staff Interrogatory 13.
- b) The Board does not need to find the individual rates negotiated by customers are just and reasonable. The customers are sophisticated market participants that negotiate price for service. The value of the transportation service being offered is directly related to the differential between the price for gas in Michigan and the price at Dawn. The customers have all the market information they need to determine if the price is just and reasonable. Because this is an at risk pipeline the Board need not make any determination as to whether the negotiated rates are just and reasonable.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

6. In EB-2008-0411, Union's interrogatory #7, (v) on page 2 of 2, Union Gas Limited ("Union") stated *"that it expects to contract for both transportation on Dawn Gateway and Michigan storage with MichCon to support its unregulated storage operations. It is not anticipated that Union will contract capacity on Dawn Gateway to support regulated services to any of Union's customers"*.
- a) Please explain how the transportation contract for Dawn Gateway Line capacity and the expected storage contracts with Michigan Consolidated Gas Company ("MichCon") will support Union's unregulated storage operations.
  - b) Is Union contracting for transportation services on the Dawn Gateway Line for ex-franchise shippers? Please explain.
  - c) Is Union contracting for competitive storage services with MichCon for ex-franchise shippers? Please explain.

**Response:**

Union has provided the following response:

Union has contracted with DTE for a storage service at Belle River Mills and with Dawn Gateway for a transportation service from Belle River Mills to Dawn. The costs of both services will be to the account of Union's unregulated business. Union will add this new storage capacity into its unregulated storage portfolio and sell a Dawn based storage service into the competitive market. Any revenues on the sale of the Dawn based storage service will be for the account of Union's unregulated business. Union's shareholder is not at risk for all costs and Union's regulated customers will not be impacted in any way.

Union is not contracting with DTE or Dawn Gateway on behalf of any specific exfranchise customer for either the storage capacity or Dawn Gateway capacity. Rather, Union is selling a Dawn based storage service into the competitive market. It is possible that the actual service created through these transactions will benefit multiple customers over the term of the contracts. By buying its storage capacity and the Dawn Gateway capacity, Union is able to bring incremental Dawn based storage to the Dawn market which is of value to Ontario and consistent with the Board's NGEIR Decision

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

7. Prefiled Evidence/Section 2/page 3 of 29/Parag. 10  
Prefiled Evidence/Section 2/page 4 of 29/Parags. 12-14

Please explain how Dawn Gateway LP would ensure that Union Gas Limited (“Union”), DTE, Spectra and MichCon do not receive preferential treatment with regards to transportation services on the Dawn Gateway Line?

**Response:**

Dawn Gateway LP is part of a 50:50 joint venture between DTE and Spectra. Because neither party has a controlling ownership or operating interest in Dawn Gateway LP, both parties must agree to any contract that Dawn Gateway LP makes. Spectra will not agree to a contract between Dawn Gateway LP and MichCon that provides MichCon with preferential terms. Similarly, DTE will not agree to a contract between Dawn Gateway LP and Union that provides Union with preferential terms.

In addition, Dawn Gateway LP will be complying with the requirements of STAR, which include parties signing standard contracts (as submitted in the Pre-Filed Evidence, Section 4, Schedule 3) and any non-standard contracts would be posted. With this level of transparency, all market participants can be assured that all parties are being treated fairly.



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

8. Prefiled Evidence/Sec 4/page 12 of 29/Parag. 34

Paragraph 34 states that under the open season methodology, all shippers were afforded an equal opportunity to bid on available capacity at prices they believed to be fair.

Dawn Gateway LP, Union, and MichCon may have access to non-public transportation and storage information that may enhance their position in the transportation and storage markets.

- a) Please outline any specific policies and/or practices that Dawn Gateway LP, Union and MichCon have put in place to prevent the potential abuse of non-public information.
- b) Do you have policies and/or practices in place to prevent the situation where the same personnel are both submitting open season bids for Dawn Gateway Line transportation capacity and evaluating these bids?
- c) Do you have policies and/or practices in place to prevent the situation where the personnel that is submitting open season bids for Dawn Gateway Line transportation capacity, also have access to other shippers' bids?
- d) Do you have policies and/or practices in place to prevent the situation where the same personnel is both developing the transportation services (with the associated market price) and are directly negotiating with Dawn Gateway LP for transportation services on the Dawn Gateway Line?

**Response:**

Because DTE and Spectra are equal 50:50 partners, they each have an interest in ensuring that the other partner does not have preferential access to non-public information in order to advantage itself. In addition, both DTE and Spectra respect the need to keep open season bids confidential. In the case of Dawn Gateway's initial open season, the rules of the open season required all bids to be submitted by a specified deadline, and Union was not allowed to bid after that deadline. Accordingly, Union could not have access to the bids of other shippers before it bid because Union's bid had to be submitted before the other shippers' bids were open. Spectra and DTE operate under a Code of Business Ethics that would operate to prevent the potential abuse suggested in these questions. Dawn Gateway will be developing a similar code. Dawn Gateway, Union and DTE would never risk their reputation by operating in the manner suggested in these questions.

In addition, Dawn Gateway is a new pipeline with unsold capacity, the joint venture partners bear all the risk if that capacity is not sold. Therefore, it is in the best interest of both DTE and Spectra for the line to sell as much capacity to third parties as possible at the best price available. There is no business reason why either Spectra or DTE would want to use non-public information to out bid third parties.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

9. Prefiled Evidence Sec. 4 paragraphs 37

Paragraph 37 states that the Dawn Gateway Pipeline is similar in size and operating characteristics to many NEB pipelines regulated as Group 2 companies. Please provide evidence to support this claim.

Please explain how the complaints process would be expected to operate and under what legislative authority the Board would determine any issues/complaints brought before it?

**Response:**

Gateway is comparable to other pipelines currently regulated by the NEB as Group 2 in terms of its size, transportation of commodities for third parties and alternative to cost of service regulation. A list of the NEB Group 2 Regulated Companies can be found on the NEB's website:

<https://www.neb-one.gc.ca/ll-eng/livelink.exe?func=ll&objId=92837>

The chart below provides a sample of Group 2 regulated companies for comparative purposes. Vector and St. Clair Pipeline LP are included as relevant comparables due to their size and geographic proximity. SemCAM's Redwillow Pipeline (sour gas pipeline approved March 2009), TCPL's Keystone Pipeline (an oil pipeline, approved September 2007) and Emera New Brunswick (gas pipeline, approved May 2007) are noteworthy as companies which the NEB recently approved for Group 2 Regulation.

<b>Pipeline</b>	<b>Dawn Gateway</b>	<b>Vector</b>	<b>St. Clair Pipeline LP</b>	<b>SemCAMs Redwillow ULC</b>	<b>TCPL Keystone</b>	<b>Emera New Brunswick</b>
Length (km)	34	24	0.7	150	1,235	145
Operational Capacity	360,000 Dthd 380,000 GJ/d 10,198 10 <sup>3</sup> m <sup>3</sup> /d	1 Bcf/d	214,000 GJ/d 2,830 - 5,660 10 <sup>3</sup> m <sup>3</sup> /d	2,295 10 <sup>3</sup> m <sup>3</sup> /d	69,200 m <sup>3</sup> /d	900,000 GJ/d
Number of Customers (supporting original facilities application)	5	4	1	4	2 disclosed (possibly others undisclosed)	1 (Repsol)
% Initial Subscribed Capacity	78%	83%	100%	88%	78%	88%
Transportation for 3 <sup>rd</sup> Parties	Yes	Yes	Yes	Yes	Yes	Yes
Avg Contract Term	7	10-15 years	20 years	10 years	18 years	25
Negotiated Tolls	Yes –	Yes: 15 year FT Service Reservation Charge cap derived from the allocation of Vector Canada's portion of the total miles of Vector's pipeline applied to the combined US/Cdn negotiated rate	Originally cost of service based; subsequently negotiated	Yes – at risk pipeline supported by use-or pay contracts	Yes – 5; 10; 15 and 20 year terms	Yes – incl. obligation for Repsol to pay 25 year monthly fixed toll for transport of 791,292 GJ/d regardless of actual throughput
Source Docket:		GH-5-98  October 16 2009 Revised Toll Calculation	GH-3-88	GH-2-2008	OH-1-2007	GH-1-2006

The Ontario portion of the “Vector Pipeline is the closest comparable to the Ontario portion of the Dawn Gateway Pipeline, including the geographic footprint/pipeline path.

Dawn Gateway LP expects that the following complaint process that is already in place at the OEB would also apply to Dawn Gateway LP.

If a shipper or prospective shipper on the Dawn Gateway Pipeline had a complaint that they could not resolve with Dawn Gateway LP, the complainant would first approach the Board’s compliance staff, by making contact through the Board’s Market Operations Hotline or by contacting the Board’s Regulatory Policy & Compliance unit. Board staff would work with the parties to try to resolve the issues. Board staff could seek further information from Dawn Gateway LP on a voluntary basis or, if necessary, information could be compelled by an inspector pursuant to Part VII of the *Ontario Energy Board Act, 1998* (the “Act”).

If the parties are still unable to resolve the complaint despite the involvement of Board Staff, then Board Staff or the complainant could refer the matter to the Board. The Board’s legislative authority to determine an issue would depend on the nature of the specific complaint.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

10. Prefiled Evidence Sec. 4 paragraph 26

Paragraph 26 refers to Group 2 companies who operate pipelines that do not transport commodities for many third parties.

- a) Please provide some context to the word “many”.
- b) What is the average number of shippers on other Group 2 company pipelines?
- c) Does Dawn-Gateway have a threshold of third parties beyond which would trigger some other – presumably greater – form of regulatory oversight?
- d) It appears that the NEB makes a specific determination of the companies that will be Group 1 regulated (Section 4 – Schedule 1 p. 2). All other companies then are considered as Group 2. In the absence of a Group 1 listing by the OEB please describe how the Board would decide on eligibility for Group 2 type regulation. What criteria is Dawn Gateway LP requesting that the Board apply in determining whether a company should be considered for Group 2 type regulatory oversight?

**Response:**

- a) The concept of not transporting commodities for “many third parties” arises from the following statements by the NEB.

In November 2009, the NEB issued new guidelines in a letter entitled "Financial Regulation of Pipelines under the Board's Jurisdiction" ("Group 2 Guidelines"), a copy of which is attached to Dawn Gateway LP Pre-Filed Evidence at Section 4 - Schedule 2. The Group 2 Guidelines state:

Pipeline companies regulated by the Board are divided into two groups for financial regulation purposes. Group 1 companies are generally identified as those with extensive systems under the Board's jurisdiction, whereas those with lesser operations are designated as Group 2 companies.

Prior to the issue of the Group 2 Guidelines, the NEB had issued decisions which indicated that the NEB had considered the following factors for determining whether a company should be designated as Group 1 or Group 2: the size of the facilities, whether the pipeline transports commodities for third parties and whether the pipeline is regulated under traditional cost of service methodology. (see for example, TransCanada Keystone Pipeline, OH-1-2007 at p. 21 and Vector Pipeline, GH-5-98 at para. 5.2)

In other decisions, the NEB indicated that the fact there were only a few shippers was a relevant consideration to Group 2 designation – see for example Emera Brunswick Pipeline where there was only one shipper (GH-1-2006, at para. 7.3) and SemCAMS RedWillow ULC where there were four anchor shippers and the possibility of a few more (GH-2-2008, at p. 48).

- b) Dawn Gateway does not know the average number of shippers taking service on other Group 2 pipelines. The table provided in Dawn Gateway's response to Board Staff Interrogatory 9 shows that for the customers included in the table, the number of customers range from 1 to 5.
- c) No. Dawn Gateway LP is unable to operate with such a threshold since it is an at risk pipeline.
- d) Dawn Gateway LP suggests that complaint based regulation (i.e. Group 2 type regulation) should apply to those companies that apply for and are granted that status by the OEB. Dawn Gateway LP is not requesting that the Board develop a checklist of hard and fast criteria for applying complaint based regulation; rather Dawn Gateway LP submits that the Board should consider all relevant factors and determine whether complaint based regulation is in the public interest on a case by case basis. The relevant factors would include the three factors identified by the NEB in the past: the size of the facilities, whether the pipeline transports commodities for only a few third parties and whether the pipeline is regulated under traditional cost of service methodology.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

11. Prefiled Evidence/Sec 4/Page 11 of 29/Parag. 28

Paragraph 28 states that Dawn Gateway LP is seeking OEB approval of a regulatory framework that is equivalent to the NEB's Group 2 regulation.

If regulation comparable to NEB Group 2 regulation is approved by the OEB, what criteria should the OEB apply to determine whether and what conditional reporting requirements may be appropriate?

**Response:**

Dawn Gateway LP agrees to file audited financial statements with the Board since this requirement is similar to the reporting requirements of the NEB for Group 2 pipelines. As well, Dawn Gateway LP has agreed to comply with the reporting requirements in STAR.



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 1. Is the regulatory framework proposed in the Application appropriate?**

12. Prefiled Evidence/Sec 4/page 11 of 29/Parag. 29

In paragraph 29, Dawn Gateway LP indicates that there are only two transportation services - firm and interruptible.

- a) Is Dawn Gateway LP developing additional transportation services?
- b) Would Dawn Gateway LP consider developing a similar transportation service as Union's F24-T? Please explain.

**Response:**

- a) Dawn Gateway LP is not currently developing any additional services to those identified in the Tariff, which includes Firm and Interruptible transportation services. There has been no request by shippers or prospective shippers for additional services.
- b) Dawn Gateway is not considering developing a similar service to Union's F24-T. There has been no request for additional services by shippers.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

13. Ref. Prefiled Evidence Section 4, Page 12 , Paragraph 32

Paragraph 32 states that further, under the proposed alternative regulatory framework the Storage and Transportation Access Rule ("STAR") will not apply. This level of monitoring and reporting is consistent with that required of NEB Group 2 companies.

- a. Will Dawn Gateway LP apply to the Board for an exemption from the STAR? Please explain.
- b. Are there specific provisions in the STAR that Dawn Gateway LP is seeking an exemption from? Please explain.
- c. How will Dawn Gateway LP ensure that the following objectives are met: a) ensuring open and non-discriminatory access to transportation services for shippers and storage providers, b) providing customer protection within the competitive storage market, and c) supporting transparent transportation and storage markets? Please explain.
- d. How will Dawn Gateway LP assure the Board and market participants that it will not withhold or restrict services which could potentially impact the market prices for transportation services on the Dawn Gateway Line?

**Response:**

- a) No. Dawn Gateway LP is not asking for a general exemption to STAR. Dawn Gateway LP is withdrawing that portion of its Pre-Filed Evidence, at paragraph 32 that indicated that it was seeking a general exemption from STAR.
- b) Dawn Gateway LP is asking to be exempted from the following sections of STAR: s.4.1.1(ii) and related sections, 4.1.4, 4.1.6 and 4.3.1 (all dealing with the posting of operational capacity).

Rule 4.1.1 ii) (including related rules 4.1.4, 4.1.6, and 4.3.1)

MichCon, which is the upstream pipeline company interconnecting with Dawn Gateway does not follow the NAESB nomination cycles. Their long standing practice has been to accept nominations at 2pm daily with subsequent nominations being accepted on a reasonable efforts basis. As per the filed Tariff, Gateway is allowing nominations on the first nomination window (or the "Timley Window"), and on the remaining NAESB windows on a commercially reasonable basis only. Because of this upstream limitation, Dawn Gateway can not provide reporting on NAESB nomination windows. Shippers

have reviewed the Tariff and have accepted one firm nomination window. As a result, Dawn Gateway seeks an exemption to this rule.

- c) See Dawn Gateway's response to Board Staff Interrogatory 13 a).
- d) See Dawn Gateway's response to Board Staff Interrogatory 13 a).

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

14. In EB-2008-0411, Union agreed to "*a condition of approval that would prohibit Union from requiring its storage customers to contract for service on the Dawn Gateway Line as a condition of receiving storage services from Dawn*".<sup>1</sup> Such a condition prevents Union from tying its transportation services to its competitive storage services.
- a. Would Dawn Gateway LP also agree to a similar condition that would prohibit any of the entities related to Dawn Gateway LP that are indicated on Schedule 1 of Section 2 from tying their transportation services to their competitive storage services.
  - b. If Dawn Gateway LP and its related entities would not agree to such a "condition", please explain how those entities would be prevented, or if they would be prevented, from tying their transportation and competitive storage services.

**Response:**

- a. Dawn Gateway LP does not own any storage assets, nor does it offer any storage services. Dawn Gateway LP will not be tying transportation service to storage services.
- b. Please refer to Dawn Gateway's response to a. above.

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<sup>1</sup> Union's Argument in Chief, July 6, 2009, p 8, para 20

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

15. Ref. Prefiled Evidence Section 4, Page 12 , Paragraph 32

One of the provisions of the STAR limits the access of non-public transportation and storage information (s 3.1.3). Union, MichCon and Dawn Gateway LP may have access to non-public information regarding storage and transportation operating conditions of shippers and storage companies. How will Dawn Gateway LP, Union, and MichCon limit the access of non-public transportation and storage information that may enhance their position in the transportation and storage markets? Please outline any specific policies and/or practices that Dawn Gateway LP, Union and MichCon have put in place to prevent the potential abuse of non-public information.

**Response:**

Please refer to Dawn Gateway's response to Board Staff Interrogatory 8.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

16. Ref. Prefiled Evidence Section 4, Page 12, Paragraph 32

The other pipelines in and around the Dawn Hub such as Vector Pipeline and TransCanada must comply with reporting requirements similar to the Board's STAR (e.g., Index of Customers and Operationally-Available Transportation Capacity).

What are the implications, if any, to market participants if Dawn Gateway LP is exempt from reporting requirements similar to those in effect in the relevant geographic market<sup>2</sup>? Please explain.

**Response:**

As an NEB Group 2 company, there is no requirement for Vector Pipeline to report an index of customers and/or operationally-available transportation capacity. Vector Pipeline does file its standard contracts and terms of service. Dawn Gateway LP is not seeking to be generally exempted from STAR and therefore there are no implications. See Dawn Gateway's response to Board Staff Interrogatory 13.

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<sup>2</sup> Relevant market as defined in the NGEIR Decision, p 38.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

17. Ref: Prefiled Evidence/Sec 4/Page 12 of 29/Parag. 32

The other pipelines in and around the Dawn Hub such as Vector Pipeline and TransCanada must comply with requirements similar to the Board's STAR (e.g., these pipelines have standard terms of service and standard contracts for transportation services).

What are the implications, if any, to market participants if Dawn Gateway LP is exempt from providing standard terms of service and contracts similar to those in effect in the relevant geographic market<sup>3</sup>? Please explain.

**Response:**

Please see Dawn Gateway's response to Board Staff Interrogatory 13.

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<sup>3</sup> Ibid

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

18. Ref: Prefiled Evidence/Sec 4/Page 12 of 29/Parag. 32

- a) Is Dawn Gateway LP aware that the Federal Energy Regulatory Commission ("FERC") has issued a Notice of Proposed Rulemaking ("NOPR")<sup>4</sup> to revise its price disclosure requirements for intrastate pipeline providers (providing interstate services) in order to increase market transparency?
- b) What are the implications, if any, to market participants of Dawn Gateway LP's proposed exemption from reporting requirements similar to those in effect in the relevant geographic markets<sup>5</sup>? Please explain.

**Response:**

- a) Yes, Dawn Gateway LP is aware FERC has issued a Notice of Proposed Rule Making to revise price disclosure for intrastate pipelines and understands that this is currently not a rule. Dawn Gateway LLC will be regulated by the Michigan Public Service Commission ("MPSC") and will comply with all applicable rules.
- b) Please see Dawn Gateway's response to Board Staff Interrogatory 13.

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<sup>4</sup> Contract Reporting Requirements of Intrastate Natural Gas Companies, 128 FERC ¶61,029 dated July 16, 2009.

<sup>5</sup> Relevant market as defined in the NGEIR Decision, p 38.



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

19. Ref: Section 4, Pages 9-13

The evidence indicates that Dawn Gateway LP is requesting approval of a regulatory framework that is equivalent to the NEB's Group 2 regulation. Specifically, Dawn Gateway LP is requesting that the Board regulate its tariff and tolls on a complaint basis and allow Dawn Gateway LP to charge negotiated rates. The evidence further states that Dawn Gateway LP will work directly with shippers to resolve any future disputes that may arise with shippers. In the event that Dawn Gateway LP is unable to resolve a dispute to the satisfaction of an existing or prospective shipper, that shipper will have the right to file a written complaint directly with the Board.

- a) Is there a dispute resolution mechanism whereby market participants can register their disputes or complaints with Dawn Gateway LP? If so, is this mechanism clearly stated in the General Terms and Conditions?
- b) Have market participants participated in the development of this dispute resolution mechanism?
- c) Has Dawn Gateway LP provided the process for filing a written complaint with the Ontario Energy Board in their General Terms and Conditions?

**Response:**

- a) Dawn Gateway LP will develop and post a Dispute Resolution mechanism as required by Section 5 of STAR. Currently, Dawn Gateway LP's proposed Tariff, in Article 21 of the General Terms and Conditions, indicates that market participants can contact Dawn Gateway LP to discuss any concerns that they may have, and can complain to the Board if they are not able to resolve their concerns with Dawn Gateway LP:
- b) All five shippers who executed the Precedent Agreements have reviewed the proposed tariff.
- c) Article 21 of the General Terms and Conditions identifies the process for shippers to notify the board if they determine a complaint is warranted.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

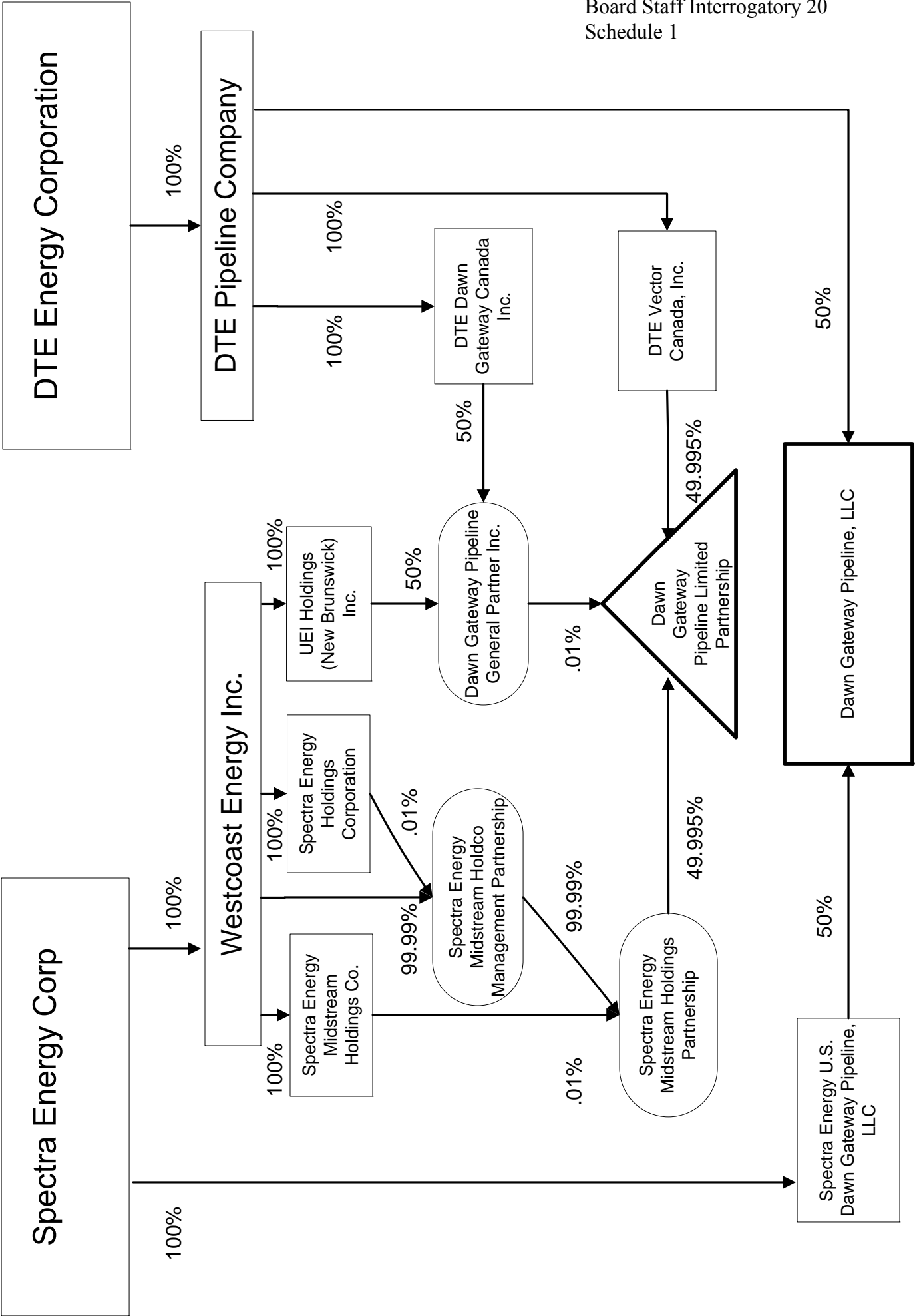
**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

20. Ref: Prefiled Evidence Section 4, Paragraphs 22 - 37  
Prefiled Evidence Section 2, Schedule 1
- a. Please provide a better copy of the chart at Schedule 1 of Section 2 that clearly shows the relationships between the various entities in the ownership structure of Dawn Gateway LP. The copy filed with the Board is too light and some of the lines are not clearly visible.
  - b. Please indicate which companies listed under the ownership structure in Section 2 – Schedule 1 own and operate pipeline systems.
  - c. Are any of these companies currently regulated as a Group 2 company under the NEB?
  - d. Please file a listing of the Group 2 companies currently under NEB jurisdiction.

**Response:**

- a. See Chart attached as Schedule 1.
- b. Spectra Energy Corp. and DTE Energy Corporation.
- c. Although none of the companies listed in Section 2, Schedule 1 are Group 2 companies under the NEB, DTE Vector Canada Inc. is a partner in an NEB Group 2 company and Westcoast Energy Inc. through its affiliates also owns NEB Group 2 companies.
- d. The answer to Board Staff Interrogatory 9 refers to the NEB website listing all Group 2 companies.

OWNERSHIP STRUCTURE OF DAWN GATEWAY PIPELINE  
(CANADA and US)



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 2. Should the Ontario Energy Board's Storage and Transmission Access Rule apply to the Ontario portion of the Dawn Gateway Pipeline?**

21. Prefiled Evidence Section 4, Paragraph 34  
Paragraph 34 states that shippers on the Dawn Gateway pipeline are sophisticated market participants who do not require the usual protection afforded by traditional cost of service regulation.
- a. What criteria will Dawn Gateway apply to determine the level of sophistication required of potential shippers?
  - b. Please provide a listing of any corporate, financial and/or experience required of prospective shippers in order to enter into contracts with Dawn Gateway LP.

**Response:**

- a. Dawn Gateway LP anticipates that those Shippers who subscribe for capacity on the Dawn Gateway Pipeline will be experienced market participations who have subscribed for transportation capacity on other pipeline systems and have knowledge of natural gas markets and market pricing.
- b. Section 1.1 of the "Dawn Gateway Pipeline Limited Partnership Toll Schedule Firm Transportation Service" on page 24 of Section 4 – Schedule 3 of the evidence states;

**"ARTICLE I: AVAILABILITY**

*1.1 Any Shipper shall be eligible to receive service hereunder provided that:*

- (a) Transporter determines it has sufficient System Capacity to render the Firm Transportation service and is able to provide said Firm Transportation service.*
- (b) Any construction, acquisition, or expansion of facilities necessary to commence and provide the Firm Transportation service has been completed.*
- (c) Shipper has executed the Firm Transportation Agreement for Firm Transportation of Natural Gas (the "**Firm Transportation Agreement**") in the form contained in the Tariff.*
- (d) Shipper has made arrangements acceptable to Transporter for service on upstream and downstream transporters if applicable.*
- (e) Shipper has satisfied the creditworthiness criteria in Article 23 of the General Terms and Conditions of the Tariff."*

Provided the conditions in this section are met, the Shipper will be provided service.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 3. How are the provisions of the Ontario Energy Board's Affiliate Relationship Code satisfied by Dawn Gateway LP and its affiliates in the proposed regulatory framework?**

22. Ref: Prefiled Evidence Section 2, Paragraphs. 12-14

- a. Which company or entity – Union, Spectra, DTE, MichCon and/or Dawn Gateway LP – is developing, marketing, and contracting the transportation services on the Dawn Gateway Line?
- b. What protocols are in place or will be in place to ensure that the management team of Dawn Gateway LP does not have access to confidential or pricing information of contracts between shippers and Union that could provide a competitive or monetary advantage to Dawn Gateway LP or Union?

**Response:**

- a) DTE Pipeline Company, a wholly owned subsidiary of DTE Energy Corporation, will perform the sales and marketing functions for all the transportation capacity on behalf of Dawn Gateway LLC and Dawn Gateway LP pursuant to a service agreement.
- b) Please see Dawn Gateway's response to Board Staff Interrogatory 8.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 3. How are the provisions of the Ontario Energy Board's Affiliate Relationship Code satisfied by Dawn Gateway LP and its affiliates in the proposed regulatory framework?**

23. Ref: Prefiled Evidence, Section 2, Paragraphs. 12-14

Please provide all service agreements between Dawn Gateway LP, Union, Spectra, DTE, MichCon and any other entity indicated on Schedule 1 of Section 2. The service agreements should include the following:

- a. the type, quantity and quality of service;
- b. pricing mechanisms or transfer prices;
- c. cost allocation mechanisms; (question: should we provide info to this question re: union allocation of costs between reg and unreg storage business and Union agreements are then effectively between DG and Union "unregulated" business)
- d. information disclosure and confidentiality arrangements;
- e. the apportionment of risks (including risks related to under or over provision of service); and
- f. dispute resolution process for any disagreement arising over the terms or implementation of the Services Agreement(s).

**Response:**

Dawn Gateway will contract with Union for:

- 1) Corporate Services: for treasury, credit, accounting , insurance and tax related services (tri-party agreement between Dawn Gateway LP, Dawn Gateway LLC and Union)
- 2) Field Service Agreement: an agreement between Dawn Gateway LP and Union Gas for maintenance of the pipeline once the pipeline is placed in-service. This agreement will form the template which the other service agreements will follow.
- 3) Project Development Agreement: an agreement which covers the development phase of the Ontario portion of the Dawn Gateway project, including design, budgeting, regulatory, and management of the construction of the Dawn Gateway project.

The Field Services Agreement and Project Development Agreement are undergoing final review and Dawn Gateway expects to be in a position to file these agreements in advance of the Hearing.

Dawn Gateway will contract with DTE Pipeline Company for:

- 1) Project Development Management: for project management for the development of the US facilities including, regulatory oversight, land negotiations, design, construction, budgeting services during the development phase of the Dawn Gateway project
- 2) Field Services: for lands relations and maintenance of the US pipeline and facilities as well as emergency response
- 3) Marketing Services: for sales and marketing the transportation capacity of the pipeline, as well as the nominations, scheduling, billing and reporting. (tri-party agreement between Dawn Gateway LP, Dawn Gateway LLC and DTE Pipeline Company)
- 4) Gas Control and Management: for gas control and operational management of the US and Canadian facilities (tri-party agreement between Dawn Gateway LP, Dawn Gateway LLC and DTE Pipeline Company)

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 3. How are the provisions of the Ontario Energy Board's Affiliate Relationship Code satisfied by Dawn Gateway LP and its affiliates in the proposed regulatory framework?**

24. Ref: Prefiled Evidence Section 2, Page 5, Paragraphs 12-13

The evidence indicates that Dawn Gateway LP has a general partner called Dawn Gateway Partner Inc. ("Dawn Gateway GP"), whose limited partners are Spectra Energy Midstream Holdings, an affiliate of Spectra, and DTE Vector Canada Inc., an affiliate of DTE. As the general partner of Dawn Gateway LP, Dawn Gateway GP holds a 0.01% partnership interest in Dawn Gateway LP, and it manages the business of Dawn Gateway LP.

Please explain in detail the role of Dawn Gateway GP in managing the business of Dawn Gateway LP.

**Response:**

The business and affairs of the Partnership is managed by the Dawn Gateway GP as the general partner, and Dawn Gateway GP exercises control over all activities of the Partnership. The limited partners do not have any management power over the affairs of the Partnership. Dawn Gateway GP does not have authority to act contrary to the terms of a Limited Partnership Agreement and a Shareholders Agreement.



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 3. How are the provisions of the Ontario Energy Board's Affiliate Relationship Code satisfied by Dawn Gateway LP and its affiliates in the proposed regulatory framework?**

25. Ref: Prefiled Evidence, Section 2, Page 3, paragraph 10

The evidence indicates that Dawn Gateway is comprised of two new regulated entities: Dawn Gateway LP, a limited partnership pursuant to the law of the Province of Ontario and Dawn Gateway Pipeline, LLC, a U.S. limited liability company. Each of Dawn Gateway LP and Dawn Gateway Pipeline LLC are ultimately owned by Spectra Energy Corp and DTE Energy Corporation.

- a. Despite the 50/50 joint ownership structure, does Spectra or DTE have any rights, options or control that the other does not?
- b. If so, please explain and provide documents to clarify.

**Response:**

- a. No. DTE and Spectra have the same rights, and neither party can solely control the business of Dawn Gateway LP. Please refer to Board Staff Interrogatory 7.
- b. Please refer to Dawn Gateway's response to a. above.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 3. How are the provisions of the Ontario Energy Board's Affiliate Relationship Code satisfied by Dawn Gateway LP and its affiliates in the proposed regulatory framework?**

26. Ref: Prefiled Evidence, Section 2

- a. Please clarify whether the Affiliate Relationship Code applies to Dawn Gateway LP or any of the entities indicated on Schedule 1 of Section 2 as being an affiliate(s) of Union Gas.
- b. If the applicant's position is that the ARC does not apply, please provide reasons for the position taken.
- c. Would the applicant support the Board applying the Affiliate Relationship Code to Union Gas Limited for its dealings with Dawn Gateway LP or any of the entities indicated on Schedule 1 of Section 2?

**Response:**

- a) Neither Dawn Gateway LP nor its general partner, Dawn Gateway GP, are affiliates of Union, and Dawn Gateway LP and Dawn Gateway GP are not affiliates of any of the other entities shown on Schedule 1 of Section 2. As a result the Affiliate Relationship Code (ARC) does not apply to the relationship between Union and Dawn Gateway LP, nor does it apply to the relationship between Union and Dawn Gateway GP
- b) The ARC defines an affiliate as follows:

1.2 Definitions

"affiliate" with respect to a corporation, has the same meaning as in the Business Corporation Act (Ontario)

The *Business Corporations Act* uses the following definitions:

1(1) "affiliate" means an affiliated body corporate within the meaning of subsection (4)

Affiliated body corporate

1(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary

of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person.

#### Control

1(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if,

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate.

As a result of these definitions, in order to be an affiliate as defined in the ARC, one corporation must control the other, or they must both be controlled by the same corporations or the same persons. A corporation or person is deemed to control another corporation if it owns sufficient shares to elect a majority of the Board of Directors of the controlled company. Since Spectra only has 50% of the voting shares of Dawn Gateway GP, Spectra does not control Dawn Gateway GP, and Spectra and its subsidiary Union are not affiliates of Dawn Gateway GP. Similarly, since DTE also only has 50% of the voting shares of Dawn Gateway GP, DTE is not an affiliate of Dawn Gateway GP. Because DTE and Spectra have equal interests, neither DTE nor Spectra control Dawn Gateway LP and Dawn Gateway GP.

- c) Dawn Gateway's view is that the ARC should not be applied to Union dealings with Dawn Gateway because Union and Dawn Gateway are not affiliates.

Dawn Gateway, however, acknowledges that Board will want to ensure that Dawn Gateway and Union are meeting the intent of the ARC. Specifically the OEB will expect Union to minimize the potential for cross subsidization of Dawn Gateway by Union's regulated ratepayers, protect the confidentiality of customer information and ensure that there is no preferential access to regulated services. The following explains how Union and Dawn Gateway will meet the intent of ARC.

Union's costs associated with providing services to Dawn Gateway are captured in the allocation of costs to its unregulated storage operations. It is through this allocation that Union will minimize any cross subsidy by its ratepayers of Dawn Gateway.

Since NGEIR, Union has been allocating the costs associated with providing and expanding its unregulated storage services to Union's unregulated storage operations. NGEIR did not require Union to physically separate its regulated distribution and transmission business from its unregulated storage business, and there are no specific requirements under ARC related to the treatment of Union's utility and non-utility businesses. Dawn Gateway, as a transmission pipeline connecting Michigan storage to

Dawn storage, is facilitating the expansion of unregulated storage services to Ontario. Accordingly, Union is treating the costs associated with providing services to Dawn Gateway in the same way that it treats the costs associated with providing unregulated storage services.

In 2009, the support for the Dawn Gateway project development was managed within the existing unregulated storage allocations/resources. To the extent that there is any increase in costs required to support Dawn Gateway, these costs will be directly assigned to Union's unregulated storage operations resulting in an increase in the allocation. Union's unregulated storage operations then manage the charges to Dawn Gateway for service. Union will be filing evidence to support its utility/non-utility allocations as part of the proceeding at the end of March to dispose of its 2009 deferral account balances

With respect to the treatment of confidential information and ensuring that there is no preferential access to services existing codes and practices will apply. See Dawn Gateway's response to Board Staff Interrogatory 8.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 4. Is the Applicant a capable prospective pipeline operator in terms of technical and financial capabilities to develop and operate the proposed pipeline facilities?**

27. Ref: Prefiled Evidence, Section 2

- a. Please identify the resources that Dawn Gateway LP or Dawn Gateway GP will share with Union Gas Limited once operational. Please include a breakdown on the types of resources shared, e.g. staff (number of employees), IT, office space, management, operations, engineering etc.
- b. Please provide the resources of Union that Dawn Gateway LP has used or will use during the set up process of Dawn Gateway.
- c. Please provide a list of all senior management including their designations that will be shared between Union and Dawn Gateway LP or Dawn Gateway GP.
- d. How does Dawn Gateway LP propose to document the resources shared or obtained from Union Gas Limited?
- e. How does Dawn Gateway LP propose to keep track of the time spent by Union Gas staff on activities related to Dawn Gateway?

**Response:**

a. and b. Dawn Gateway will contract with Union for field services and corporate services.

c. Union Gas Ltd.

Steve Baker, VP Business Development Sales and Marketing

Bruce Pydee, Director

Dawn Gateway Pipeline General Partner Inc.

Steve Baker, Co-President

Bruce Pydee, Director

Dawn Gateway Pipeline Limited Partner

Steve Baker, Co-President and member of the Board of Managers

d. and e. Please refer to Dawn Gateway's response to Board Staff Interrogatory 23.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 4. Is the Applicant a capable prospective pipeline operator in terms of technical and financial capabilities to develop and operate the proposed pipeline facilities?**

28. Ref. Prefiled Evidence Section 1, Paragraph 7, page 2

The pre-filed evidence stated that Dawn Gateway LP will contract with Union to oversee the construction of the pipeline.

- a. Will the operation of the pipeline be also contracted to Union? Please provide a form of Service Agreement that sets the terms for construction oversight and operation of the pipeline by Union.
- b. If the form of agreement is not available, please discuss the general terms and conditions of such an agreement.
- c. Please explain if there is any flexibility to pipe pre-order should the approval be granted after February 26, 2010.
- d. How will a delay in approval affect the schedule of construction?

**Response:**

- a. Dawn Gateway LP is entering into a Development Agreement with Union that sets out the terms for construction oversight. Dawn Gateway LP is also entering into a Field Services Agreement with Union. Refer to the answers to Board Staff Questions 23 for copies of the Agreements.
- b. Please see the answer to Board Staff Question 23.
- c. As provided in Paragraph 52 of the evidence update, approval is requested by March 11, 2010. Pipe has been ordered and Dawn Gateway LP has obtained an extension of the no-cost cancellation to accommodate the above date.
- d. As provided in Paragraph 51 of the evidence update, approval is requested by March 11, 2010. If the required approvals are delayed beyond March 11, 2010, the project will be unable to proceed.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 4. Is the Applicant a capable prospective pipeline operator in terms of technical and financial capabilities to develop and operate the proposed pipeline facilities?**

29. Ref. Prefiled Evidence, Section 6, Paragraphs 51-62, page 17

The Applicant requested the approval by February 2, 2010 to be able to commit to the required pipe to meet the proposed 2010 construction schedule. Please update the status of the pipeline purchase and any impact it may have on construction costs or timing.

**Response:**

Please refer to Dawn Gateway's response to Board Staff Interrogatory 28 (c) and (d).

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 4. Is the Applicant a capable prospective pipeline operator in terms of technical and financial capabilities to develop and operate the proposed pipeline facilities?**

30. How many employees does Dawn Gateway LP have and what are their qualifications for operating a pipeline?

**Response:**

Dawn Gateway LP has no direct employees.



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 4. Is the Applicant a capable prospective pipeline operator in terms of technical and financial capabilities to develop and operate the proposed pipeline facilities?**

31. Who will be responsible for maintaining the Dawn-Gateway pipeline? Under who's employ will those maintaining the pipeline be?

**Response:**

Responsibility for maintaining the Ontario portion of the Dawn Gateway pipeline will be with Dawn Gateway LP. It will satisfy its responsibilities by contracting with qualified service providers. Dawn Gateway LP is entering into a Field Services Agreement with Union and DTE.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 4. Is the Applicant a capable prospective pipeline operator in terms of technical and financial capabilities to develop and operate the proposed pipeline facilities?**

32. How will the Dawn Gateway pipeline be operated after it is put in service? Will the Dawn Gateway pipeline be controlled from Union's Dawn Operations Centre?

**Response:**

Nomination services will be performed under contract by DTE Pipeline Company.  
Primary gas control will be performed under contract by DTE Pipeline Company in Michigan.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 5. Is there a need for the proposed pipeline?**

33. Ref. Prefiled Evidence Section 3 paragraph 15

Paragraph 15 refers to the Dawn Gateway Pipeline as a new transportation service that would allow downstream customers in Ontario and Quebec access to emerging supplies in the U.S.

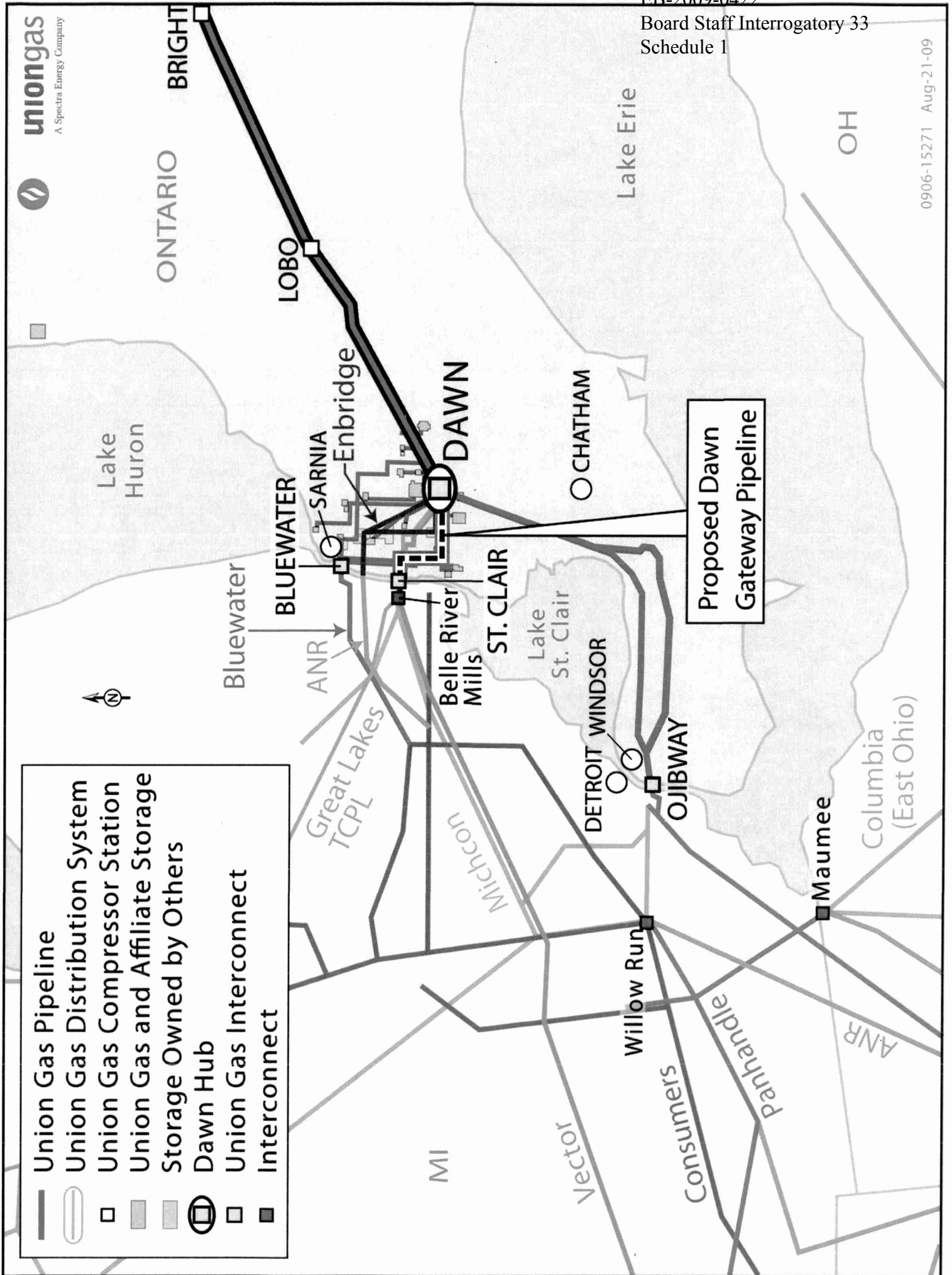
- a. Is it Dawn Gateways position that there is insufficient capacity on existing pipeline systems to provide this transportation service?
- b. Please identify all existing pipeline systems which currently connect Michigan pipelines to Dawn including ownership, size, length and capacity. Please also describe the type of regulation that each pipeline is under (i.e. cost of service or Group 2 under the NEB) as well as the reporting requirements in relation to shippers, volumes and contract pricing.

**Response:**

- a) The market need for capacity was evidenced by the fact that there were three competing open season offering for transportation service from Michigan to Dawn by Dawn Gateway, Vector and TCPL Dawn Eclipse. The market need for capacity is further supported by Dawn Gateway's open season for firm transportation capacity between Michigan and Ontario which resulted in binding Precedent Agreements to support advancing the project.

The Natural Gas Electricity Interface Review ("NGEIR") proceedings resulted from the Ontario Energy Board's Natural Gas Forum Report and the OEB staff report, Natural Gas Electricity Interface Review. These proceeding focused on resolving the rates and services for natural gas-fired regulation and storage regulation in Ontario. As part of the NGEIR hearings the competitive nature and geographic location of Ontario storage was discussed at length. It was subsequently determined by the Board *"that Ontario storage operations compete in a geographic market that includes Michigan and parts of Illinois, Indiana, New York and Pennsylvania"* (NGEIR decision, EB-2205-0551 pg. 3). In the Boards conclusion (NGEIR decision, EB-2205-0551 pg. 37) it cited *"there is a lack of uncontracted firm pipeline capacity"* connecting Michigan and Ontario. The Board also notes in the Notice of Proposal to Make a Rule, Storage and Transportation Access Rule (STAR) EB-2008-0052 pg. 6 an increase in demand for the transportation paths linking Ontario to the geographic market as outlined in the NGEIR decision *"The Board believes that interest in these paths is likely to increase over time"*.

- b) Attached as Schedule 1 is a map showing the current pipelines interconnecting at Dawn, other than TCPL, all crossing are regulated as NEB Group 2 companies. TCPL is a Group 1 regulated company.



- Union Gas Pipeline
- Union Gas Distribution System
- Union Gas Compressor Station
- Union Gas and Affiliate Storage
- Storage Owned by Others
- Dawn Hub
- Union Gas Interconnect
- Interconnect

Proposed Dawn  
Gateway Pipeline

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 5. Is there a need for the proposed pipeline?**

34. Ref. Prefiled Evidence Section 3 paragraph 16

Paragraph 16 states that non-contracted capacity will be made available to shippers through future open seasons or through direct negotiations. Please provide an update on next open bid process or direct negotiations with potential shippers for non-contracted capacity.

**Response:**

As stated in Paragraph 16, page 6 of the Pre-Filed Evidence, Dawn Gateway held an initial open season in the fall of 2008. Based on the response from 5 shippers, Dawn Gateway decided to proceed through the next stages of project development. Dawn Gateway does not expect to do another open season or enter direct negotiations until it has received regulatory approvals that are satisfactory and allow the project to proceed. Provided regulatory approval is received, and an in service date of November 1, 2010 is reasonable, Dawn Gateway would then attempt to sell the remaining capacity.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 5. Is there a need for the proposed pipeline?**

35. Ref. Prefiled Evidence Section 3 paragraph 17

Paragraph 17 states that the proposed service is conditional on timely approval of all applications necessary to complete the entire pipeline path.

- a. Please provide a list of all the necessary applications to complete the entire pipeline path. Please provide the status of each application.
- b. What is the expected date that shippers will commence service on the Dawn Gateway Pipeline?

**Response:**

The following regulatory applications are required:

a) US Segment:

- i) Dawn Gateway LLC will file a tariff with the MPSC for approval of its rates and services. Dawn Gateway LLC anticipates a filing being made early in the first quarter of 2010 with approvals to follow by 3<sup>rd</sup> quarter of 2010.
- ii) Prior to providing service to Canada, Dawn Gateway LLC will obtain a federal Presidential Permit from the U.S. Department of Energy for the exportation of gas to Canada. Dawn Gateway LLC anticipates filing for this permit early in the second quarter, 2010 and receiving approval in third quarter, 2010.

Canadian Segment:

- i) Union's application to sell its 11.7 km St. Clair Pipeline was approved November 27, 2009 by the OEB under the docket EB-2008-0411.
- ii) The construction of Dawn Gateway's proposed Bickford to Dawn facilities and a new OEB regulatory framework are subject to this application, EB-2009-0422.

b) The proposed in-service date of the pipeline is November 1, 2010.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 5. Is there a need for the proposed pipeline?**

36. Ref: Prefiled Evidence Section 3

If the Dawn Gateway pipeline is not built, how would it impact the regulated customers of Union Gas Limited?

**Response:**

Paragraph 15, page 6 of the Evidence discusses all of the benefits to customers at Dawn including Unions regulated customers. If the Dawn Gateway pipeline is not built, Union customers would have a reduced ability to access new upstream supplies and Michigan storage which would directionally reduce liquidity at Dawn.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 6. What are the environmental impacts associated with construction of the proposed pipeline and are they acceptable?**

37. Ref. Prefiled Evidence Section 7, Paragraph 83, page 24

The original archeological assessment of the Bickford dawn pipeline route completed in the early 1990's indicated the need for further investigations and archeological assessment. Please provide an update of the assessment initiated by Dawn Gateway in the fall of 2009 and outline the work to be completed in the spring of 2010.

Indicate how this assessment will comply with the Ministry of Culture requirements. Will the applicant agree to file with the Board archeological reports resulting from this assessment as soon as these are available?

**Response:**

In November and early December of 2009, D.R. Poulton & Associates Inc. (Dawn Gateway's archaeological resource management consultants) carried out an archaeological survey in areas requiring further investigation subsequent to the original archaeological assessment completed in the early 1990's along the proposed Bickford to Dawn pipeline. These areas included the Bruin site (Bruin property), Ward site (Fish property) and the Graham site (Fish property). In addition, archaeological surveys were completed on some of the lands required for temporary land use in the vicinity of Indian Creek and the North Sydenham River. Subsequent to the surveys in the fall of 2009, no additional archaeological investigation is required at the Bruin site, the Ward site and the Graham Site (a realignment of the pipeline route and the planned horizontal directional drilling of the North Sydenham River will now avoid impacting both the Ward site and the Graham site and the assessment has confirmed that the Bruin site does not represent a significant archaeological resource).

The survey of the temporary land use areas confirmed the presence of two isolated pre-contact First Nations findspots on the Bruin property and the presence of an isolated pre-contact First Nations findspot and a lithic scatter on the Crawford property. A further and more detailed assessment of those two discoveries will be conducted in the spring of 2010. In addition, all remaining temporary land use areas not surveyed to date will be surveyed in the spring of 2010 prior to construction in these areas.

The archaeological assessment conducted to date has been carried out in accordance with the technical guidelines for archaeological assessment that the Ontario Ministry of Tourism and Culture adopted in 1993. The Ministry plans to introduce new standards and guidelines in advance of the 2010 field season; the fieldwork to be conducted in 2010 will accord with the new guidelines. Dawn Gateway agrees to file copies of all reports on the archaeological assessment with the Ministry and the Board as soon as they are available.



Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 7. Are there any outstanding landowner matters for the proposed pipeline routing and construction?**

38. Ref. Prefiled Evidence Section 8, Paragraphs 90-91, page 27

Please provide an update and prospect on status of negotiations with the directly affected landowners.

**Response:**

A comprehensive settlement has been reached with all landowners represented by GAPLO-Dawn Gateway. GAPLO-Dawn Gateway represents all but one private landowner. Minutes of Settlement were filed by counsel for GAPLO on February 12, 2010. The one private landowner requested that Dawn Gateway undertake negotiations with her after a settlement had been reached with the landowner committee. Negotiations are planned to commence in April.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 7. Are there any outstanding landowner matters for the proposed pipeline routing and construction?**

39. Ref. Prefiled Evidence Section 8, Paragraph 93, page 28

The pre-filed evidence indicates that the applicant is willing to enter into a revised Letter of Understanding with the affected landowners.

Please describe the amendments to the LOU that was previously signed by Union and the landowners and discuss the anticipated timeline for the execution of the new LOU.

**Response:**

The amendments to the LOU are described in the Minutes of settlement filed with the board on February 12, 2010.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 7. Are there any outstanding landowner matters for the proposed pipeline routing and construction?**

40. Ref. Prefiled Evidence Section 8, Paragraph 94, page 28

The pre-filed evidence indicated that negotiations for “a comprehensive settlement with the landowners along the project route” were underway and that the applicant hoped to reach the settlement by January 31, 2010.

Please discuss the status of the settlement and if it has not been reached indicate the anticipated timeline. What are the potential consequences for the construction onset if a complete settlement is not reached at all or is delayed?

**Response:**

Please refer to Dawn Gateway’s response to Board Staff Interrogatory 38.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 7. Are there any outstanding landowner matters for the proposed pipeline routing and construction?**

41. Ref. Prefiled Evidence Section 8, Paragraph 91

Paragraph 91 indicates that Union will assign the permanent easements for the entire proposed route for the Bickford Dawn Pipeline to Dawn Gateway LP. Paragraphs 92 and 93 indicate that the easements were obtained as part of the EBLO 244 proceeding in 1993 and that the landowners have received full compensation. Please indicate whether these compensation amounts were recovered from Union's rate payers. If so how is Dawn Gateway compensating Union Gas for these easement costs?

As part of the EBLO 244 proceeding, Union Gas would have spent considerable time, effort and money in engineering, legal and administrative costs in developing its plans for construction of the Bickford line.

- a. Were the costs to develop the Bickford line recovered from Union's ratepayers?
- b. If so, how is Dawn Gateway compensating Union Gas for these development costs?

**Response:**

None of the costs incurred by Union Gas as part of the EBLO 244 proceeding, nor for the acquisition of the permanent easement, were recovered from Union Gas's ratepayers.

Dawn Gateway Pipeline Limited Partnership  
Response to Interrogatory  
from Board Staff

**Issue 7. Are there any outstanding landowner matters for the proposed pipeline routing and construction?**

42. Please review and provide any concerns and/or comments on the draft conditions of approval (if leave to construct is granted) as set out below:

**Dawn Gateway Pipeline Limited Partnership**  
**EB-2009-0422**  
**Application for Leave to Construct**  
**Proposed Conditions of Approval**  
**Leave to Construct**

**1 General Requirements**

- 1.1 Dawn Gateway Limited Partnership (“Dawn Gateway LP”) shall construct the facilities and restore the land in accordance with its application and the evidence filed in EB-2009-0422 except as modified by this Order and these Conditions of Approval.
- 1.2 Unless otherwise ordered by the Board, authorization for Leave to Construct shall terminate December 31, 2010, unless construction has commenced prior to that date.
- 1.3 Except as modified by this Order, Dawn Gateway LP shall implement all the recommendations of the Environmental Report filed in the pre-filed evidence, and all the recommendations and directives identified by the Ontario Pipeline Coordinating Committee (“OPCC”) review.
- 1.4 Dawn Gateway LP shall advise the Board's designated representative of any proposed material change in construction or restoration procedures and, except in an emergency, Dawn Gateway LP shall not make such change without prior approval of the Board or its designated representative. In the event of an emergency, the Board shall be informed immediately after the fact.

**2 Project and Communications Requirements**

- 2.1 The Board's designated representative for the purpose of these Conditions of Approval shall be the Manager, Natural Gas Applications.
- 2.2 Dawn Gateway LP shall designate a person as project engineer and shall provide the name of the individual to the Board's designated representative. The project engineer will be responsible for the fulfillment of the Conditions of Approval on the construction site. Dawn Gateway LP shall provide a copy of the Order and Conditions of Approval to the project engineer, within seven days of the Board's Order being issued.

- 2.3 Dawn Gateway LP shall give the Board's designated representative and the Chair of the OPCC ten days written notice in advance of the commencement of the construction.
- 2.4 Dawn Gateway LP shall furnish the Board's designated representative with all reasonable assistance for ascertaining whether the work is being or has been performed in accordance with the Board's Order.
- 2.5 Dawn Gateway LP shall file with the Board's designated representative notice of the date on which the installed pipelines were tested, within one month after the final test date.
- 2.6 Dawn Gateway LP shall furnish the Board's designated representative with five copies of written confirmation of the completion of construction. A copy of the confirmation shall be provided to the Chair of the OPCC.

### **3 Monitoring and Reporting Requirements**

- 3.1 Both during and after construction, Dawn Gateway LP shall monitor the impacts of construction, and shall file four copies of both an interim and a final monitoring report with the Board. The interim monitoring report shall be filed within six months of the in-service date, and the final monitoring report shall be filed within fifteen months of the in-service date. Dawn Gateway LP shall attach a log of all complaints that have been received to the interim and final monitoring reports. The log shall record the times of all complaints received, the substance of each complaint, the actions taken in response, and the reasons underlying such actions.
- 3.2 The interim monitoring report shall confirm Dawn Gateway LP's adherence to Condition 1.1 and shall include a description of the impacts noted during construction and the actions taken or to be taken to prevent or mitigate the long-term effects of the impacts of construction. This report shall describe any outstanding concerns identified during construction.
- 3.3 The final monitoring report shall describe the condition of any rehabilitated land and the effectiveness of any mitigation measures undertaken. The results of the monitoring programs and analysis shall be included and recommendations made as appropriate. Any deficiency in compliance with any of the Conditions of Approval shall be explained.

**4 Easement Agreements**

- 4.1 Dawn Gateway LP shall offer the form of agreement approved by the Board to each landowner, as may be required, along the route of the proposed work.

**5 Other Approvals and Agreements**

- 5.1 Dawn Gateway LP shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

**Response:**

Dawn Gateway has no concerns and accepts the draft conditions of approval proposed by Board Staff, with the exception of Condition 1.2. Dawn Gateway requests that the Leave to Construct terminate December 31, 2011, to be consistent with the Precedent Agreements.

It should be noted in relation to Condition 1.3 that Dawn Gateway has updated Section 7 Schedule 3 of the pre filed evidence to identify and respond to OPCC issues, directives, recommendations, and concerns received to date. If additional OPCC responses are received Dawn Gateway will attempt to resolve those concerns.