

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 IGUA 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 Industrial Gas Users Association (IGUA)

**Reference: Section 1, paragraph 7**

**Question# 1:**

1. 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.

**Response:**

Union is not an affiliate of Dawn Gateway LP. Please refer to Dawn Gateway's response to Board Staff Interrogatory 26.

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**Reference: Section 1, paragraph 8.**

**Question:**

2. Dawn Gateway indicates that it requires approvals to construct and of its proposed regulatory framework by February 28<sup>th</sup>, 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 I and referenced at Section 8, paragraph 96).

**Response:**

- (a) If there is a six month delay in receipt of the approvals requested the November 1, 2010 in-service date will not be met.
- (b) Please see Dawn Gateway's responses to Board Staff Interrogatory 38.

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**Reference: Section 3, paragraph 15.**

**Question:**

3. 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.

**Response:**

- (a) The gas flows on various pipeline paths are determined by existing contract terms and the relative economics of the different paths. These factors will determine whether volumes on Dawn Gateway will displace volumes flowing on TCPL or other pipelines connected to Dawn.
- (b) The applicant has not done any analysis on the impacts of volumes flowing on TCPL.

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**Reference: Section 3, paragraphs 16 through 18; Section 4, paragraph 36.**

**Question:**

4. 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*.)

**Response:**

- (a) 5 years.
- (b) None of the counterparties is an affiliate of Dawn Gateway LP. Union is a counterparty, but is not an affiliate of Dawn Gateway LP.
- (c) Please refer to Dawn Gateway's response to Board Staff Interrogatory 2.

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**Reference: Section 1, paragraph 4; Section 4, paragraphs 28 through 31 and 33**

**Question:**

5. 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.

**Response:**

- a) Dawn Gateway is willing to file its annual financial statements publicly and to withdraw its request that the filings be confidential
- b) If the OEB approves complaints based regulation for Dawn Gateway LP, it is expected that prospective shippers on the pipeline will also have the right to complain to the OEB, See answer to Board Staff # 9. The basic justification for complaints based regulation in this case is that Dawn Gateway is proposing to be an at risk pipeline that will not be charging cost of service rates, and there is a demand for the long term service that it is offering at negotiated rates.
- c) Dawn Gateway LP will be required to comply with STAR while NEB Group 2 companies do not have that requirement.
- d) No. Dawn Gateway LP has requested complaints based regulation *similar* to Group 2 regulation, but Dawn Gateway LP will be an OEB regulated entity, and therefore it will be bound by the OEB's orders and rules.
- e) Please refer to Dawn Gateway's response to Board Staff Interrogatory 9 and CME 3.

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**Reference: Section 4, paragraph 32**

**Question:**

6. 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?

**Response:**

- a) and b) Dawn Gateway LP is not requesting to be generally exempted from STAR. Please refer to Dawn Gateway's response to Board Staff Interrogatory 13.



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**Reference: Section 4, paragraph 34.**

**Question:**

7. 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?

**Response:**

- (a) See the testimony of Steve Baker and Mark Isherwood in EB-2008-0411 including Transcript Volume 1, June 22, 2009 at pages 11, 12, 57, 58, 61 and 169.
- (b) The ability to charge fixed negotiated tolls is essential for the project to proceed. In addition, in order for the project to proceed the two main sponsors, DTE and Spectra, must be satisfied with the overall regulatory framework. The sponsors will each make their decision as to whether they are willing to proceed based on their individual assessments of the overall framework and there are no hard and fast criteria.

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**Reference: Section 4, Schedule 2**

**Question:**

8. 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.

**Response:**

Guides P and BB are part of the NEB's filing Guidelines which can be found at the following link: <http://www.neb.gc.ca/clf-nsi/rpblctn/ctsndrgltn/flngmnl/flngmnl-eng.html>

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**Reference: Section 4, Schedule 3, pages 26 and 35.**

**Question:**

9. 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.

**Response:**

Please see Dawn Gateway's response to CME Interrogatory 5.