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VIA E-Mail and RESS

Reference: 75996/2

Ontario Energy Board
P.O. Box 2319, 26th Floor
2300 Yonge Street
Toronto, Ontario
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Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2009-0422: Dawn Gateway Pipeline Limited Partnership ("DGLP")
DGLP Response to Comments on Draft Rate Order**

The following is DGLP's response to the comments of CME and IGUA regarding the Draft Rate Order filed by DGLP pursuant to the Board's Decision and Order of March 9, 2010 herein (the "Decision").

**Paragraph 3 of the Draft Rate Order –
Compliance with ARC**

Condition 2 of the Conditions of Approval Regulatory Framework, at Appendix C of the Decision, states:

- 2) For purposes of Union Gas Limited's compliance with the Board's Affiliate Relationships Code for Gas Utilities ("ARC"), effective June 1, 2010, Dawn Gateway will be deemed to be an affiliate of Union Gas Limited. Union Gas Limited will provide written assurance to the Board that Union will treat Dawn Gateway as an affiliate for purposes of ARC.

Because this Condition starts with the phrase "For the purposes of Union Gas Limited's compliance with [ARC]", DGLP understands this Condition as requiring only Union to comply with ARC with

respect to Union's relationship to DGLP and that the condition does not require DGLP to comply with ARC with respect to DGLP's relationship to Union. For that reason, paragraph 3 of the Draft Rate Order includes only the operative part of the Condition which requires Union to assure the Board that it will comply with ARC, as follows:

3. Union Gas Limited will provide written assurance to the Board that Union will treat Dawn Gateway as an affiliate for purposes of ARC.

In its March 24, 2010 letter of comment, IGUA submitted that paragraph 3 of the Draft Rate Order should include the following sentence from Condition 2: "For purposes of Union Gas Limited's compliance with the Board's Affiliate Relationships Code for Gas Utilities ("ARC"), effective June 1, 2010, Dawn Gateway will be deemed to be an affiliate of Union Gas Limited."

IGUA submitted that this sentence is material to the Order because "this provision governs Dawn Gateway as well as Union".

It appears that IGUA interprets the Board's Decision as requiring DGLP to treat Union as an affiliate for the purpose of DGLP's compliance with ARC. DGLP submits that IGUA's interpretation is incorrect because the Board's Decision deeming DGLP to be an affiliate was expressly limited to the "purposes of Union's compliance with [ARC]", and the Condition of Approval requires only Union, and not DGLP, to provide written assurance that it will comply with ARC.

The Board expressed concern in the Decision as to how Union will be allocating costs to DGLP, but there is no reason for similar concern with respect to DGLP's costs. There is no reason to require DGLP to comply with the ARC requirements that are intended to ensure that ratepayers of a utility charging cost of service rates (like Union) do not subsidize transactions with affiliates. There is no such risk in this case because DGLP will be charging negotiated rates, and how DGLP allocates costs is of no consequence to DGLP's customers.

Accordingly, DGLP submits that there is no need to revise paragraph 3 of the Draft Rate Order because Union alone is bound by this portion of the Order, and DGLP is not required to treat Union as an affiliate for the purpose of DGLP's compliance with ARC.

**Paragraph 4 of the Draft Rate Order –
Posting of Operationally Available Transportation Capacity**

IGUA has asked that paragraph 4 of the Draft Rate Order be amended to insert the following statement:

The Board will review this provision on an annual basis and determine whether further daily postings are necessary depending on the extent to which Dawn Gateway offers those services.

IGUA says that it wants this statement included because “framing the final Order in this fashion will ensure that the Applicant retains responsibility for seeking an extension for the limited exemption granted...” .

DGLP disagrees with IGUA’s rationale for requesting the change to the draft Order because the Decision does not obligate DGLP to apply for extensions of the exemption. The Decision stated that the Board would review the issue and determine whether any further postings were needed. DGLP understands this to mean that the Board will initiate a review as it deems necessary.

Paragraph 7 of the Draft Rate Order – Filing of Transportation Contracts

CME has submitted that the Draft Rate Order should be amended to require DGLP to file confidentially with the Board all transportation contracts, including short-term contracts.

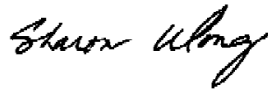
A short-term contract could be an interruptible (IT) or firm (FT) service contract with a duration from 1 day to 364 days in length. Typically, short-term services are contracted for short periods of time (measured in days) and are made at the last minute. A shipper could contract with DGLP today and purchase a one day service (FT or IT) for tomorrow. For these types of immediate contracts, the gas will usually have already been delivered before the contract would be filed with the Board.

Paragraph 51 of the Decision indicates that the intent of filing the transportation contracts was for the Board “to monitor the situation” because this is a new regulatory procedure. There is nothing new about offering short-term FT and IT services at rates negotiated within a Board approved range. Union has been offering C1 services on this basis for years. What is novel is that DGLP will be offering long-term firm contracts at rates negotiated within a Board approved range.

Short-term shippers will not be disadvantaged if short-term contracts are not filed with the Board upon execution. Because the contracts are to be filed confidentially, the shippers would have no access to the contracts in the normal course. If there was a complaint by a short-term shipper, the Board could order DGLP to file the relevant short-term contracts at that time. A short-term IT contract made a year or six months before the events giving rise to a complaint would likely have no relevance to the complaint.

While there are relatively few long-term contracts, there could be numerous short-term contracts depending on market circumstances. DGLP questions whether there is any benefit to filing confidentially with the Board all short-term contracts that may only be days in length and will be at a negotiated rate under the approved toll schedule. Accordingly, DGLP requests that the filing be limited to long-term contracts in order to eliminate the administrative burden associated with filing the short-term contracts.

Yours truly,



Sharon Wong

SW/kw

c: All Intervenors in EB-2009-0422

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