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April 23, 2010

Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor.  
Toronto, Ontario  
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Filed electronically

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Notice of Application by Union Gas Limited ("Union") Tariff Approval  
OEB File No. EB-2010-0155  
Comments of TransCanada PipeLines Limited ("TransCanada")

This letter is in response to the Ontario Energy Board's ("Board" or "OEB") April 9, 2010 *Notice of Application and Procedural Order No. 1* in which the Board invited participants to provide written comments on Union's Application seeking Board approval for tariffs for its M12, C1 and M16 transportation services that have been revised to comply with the *Storage and Transportation Access Rule* ("STAR").

TransCanada is providing comments on five sections of Union's proposed *STAR* compliant tariffs.

## **1. ALLOCATION OF TRANSPORTATION CAPACITY**

Union's General Terms and Conditions ("GT&C") for M12 and C1 service in its proposed tariffs contain the following provisions under the heading, *Allocation of Capacity*<sup>1</sup>:

...If Shippers request firm Transportation Services where the firm Transportation Services requested were previously offered in an open season but were not awarded, then the allocation of such capacity shall be carried out by one of Union's methods for allocation of such capacity, which methods include, but are not limited to, "first come, first served" basis, open season, or direct negotiations, provided any such requesting Shipper meets all conditions in Article XXI herein, subject to the remaining Available Capacity."

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<sup>1</sup> Attachment A, Union *STAR* Compliant M12 and C1 Tariffs dated 2010 06 16, Section XVI, GT&C.

...If Shippers request Transportation Services where (a) the Transportation Services requested were previously offered in an open season but were not awarded, or (b) the requests for Transportation Services may be served on existing facilities for a term no greater than one year, then the allocation of such capacity shall be carried out by one of Union's methods for allocation of such capacity, which methods include, but are not limited to, "first come, first served" basis, open season, or direct negotiations, provided any such requesting Shipper meets all conditions in Article XXI herein, subject to the remaining Available Capacity."

TransCanada has concerns that these provisions may not comply with the *STAR*. A main objective of the *STAR*, as stated in section 1.1.1(i) is to, "Establish operating requirements to ensure open and non-discriminatory access to transportation services for shippers and storage companies...." Furthermore, section 2 of the *STAR* prescribes non-discriminatory access to transportation services:

## **2. NON-DISCRIMINATORY ACCESS TO TRANSPORTATION SERVICES**

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

- 2.1.1 A transmitter's methods for allocating transportation capacity shall be defined in its tariff. The tariff, including the allocation methodology, shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.1.2 Firm transportation service that becomes available as a result of a facility expansion (i.e. new capacity) shall be offered through an open season. Existing capacity that is available or will become available for long-term firm transportation service shall be offered through an open season.
- 2.1.3 Firm transportation service that has been offered in an open season, but not awarded in that open season, may be allocated by other methods as defined in the transmitter's tariff as per section 2.1.1.
- 2.1.4 If a transmitter makes any amendments to the tariff referred to in sections 2.1.1 to 2.1.3, the amended tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.1.5 Notwithstanding Section 2.1, Section 2.1.2 does not apply to transportation services for an embedded storage company as outlined in Section 2.4."

Sections 2.1.1 and 2.1.3 of the *STAR* are of particular relevance in reviewing the two referenced provisions from Union's proposed GT&C for M12 and C1 service. Union proposes that, "...the

allocation of such capacity shall be carried out by one of Union's methods for allocation of such capacity, which methods include, but are not limited to, "first come, first served" basis, open season, or direct negotiations, ..."<sup>2</sup>.

TransCanada submits that Union's proposed methodology for allocating this capacity is not clearly defined. For example the phrase "one of Union's methods for allocation of such capacity" is ambiguous and is not described anywhere in Union's proposed tariff. In addition, Union's statement that "...methods include, but are not limited to, "first come, first served" basis, open season, or direct negotiations," is also ambiguous and fails to provide shippers with any certainty on the allocation methodology that will be employed. TransCanada believes that, in order to have an open, transparent and non-discriminatory market for firm transportation service, the method of allocation of capacity set out in Union's proposed tariff must be stated and clearly defined. Any proposed change to the method of allocation must have Board approval before taking effect.

### **3. RENEWAL RIGHTS ASSOCIATED WITH C1 CONTRACTS**

Union includes the following renewal provision in its proposed GT&C for C1 transportation service:

For contracts with an initial term of five (5) years, with (a) a Receipt Point of Parkway or Kirkwall and a Delivery Point of Dawn (Facilities), or (b) a Receipt Point of Dawn (Facilities) and a Delivery Point of Parkway or Kirkwall, the Contract will continue in full force and effect beyond the Initial Term, automatically renewing for a period of one (1) year, and every one (1) year thereafter, subject to notice in writing by Shipper of termination at least two (2) years prior to the expiration thereof .

For all other contracts, the Contract will continue in full force and effect until the end of the Initial Term, but shall not renew..<sup>3</sup>

TransCanada notes that Union has omitted contracts that contain a Receipt Point at Parkway and a Delivery Point at Kirkwall from its list of contracts with renewal rights. TransCanada, however, currently holds a C1 contract on this path that contains a renewal provision. As part of Union's *STAR* compliance process, the C1 renewal provision is being moved from individual contracts to the GT&C of the proposed Union tariff. The provision that now appears in the proposed *STAR* compliant C1 GT&C omits listing the TransCanada C1 contract. It is TransCanada's view that its C1 contract, or any other C1 contract with a path of Parkway to Kirkwall, should be treated in a similar manner as other C1 contracts with a 5 year Initial Term, and should be included on the list of contracts with renewal rights.

This can be accomplished by modifying the proposed tariff language in the Renewals Section as follows:

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<sup>2</sup> Attachment A, Union *STAR* Compliant M12 and C1 Tariffs dated 2010 06 16, Section XVI, GT&C.

<sup>3</sup> Attachment A, Union *STAR* Compliant C1 Tariff dated 2010 06 16, Section XVII, GT&C

For contracts with an initial term of five (5) years, with (a) a Receipt Point of Parkway or Kirkwall and a Delivery Point of Dawn (Facilities) *or* **Kirkwall**. [emphasis added]

#### **4. M12 AND C1 SERVICE CURTAILMENT**

In Union's proposal for *STAR* compliant GT&Cs for M12 and C1 service, only four general service categories are listed in the Service Curtailment provision.<sup>4</sup> On its website, Union provides a more detailed service priority list under the heading, *Policies & Guidelines*:

##### Priority for Transport Services

1. Firm In-franchise Transportation and Distribution services and firm Ex-franchise services
2. In-franchise Interruptible Distribution services
3. C1/M12 IT Transport and IT Exchanges with Take or Pay rates
4. Balancing (Hub Activity)  $\leq 20\%$  of CD
5. C1/M12 IT Transportation and IT exchanges at premium rates
6. C1/M12 Overrun  $\leq 20\%$  of CD
7. Balancing (Direct Purchase)  $> 500$  GJ/d
8. Balancing (Hub Activity)  $> 100$  GJ/d; C1/M12 IT Transport and IT exchanges
9. C1/M12 Overrun  $> 20\%$  of CD
10. C1/M12 IT Transport and IT Exchanges at a discount
11. Late Nominations<sup>5</sup>

It is TransCanada's understanding that Union currently operates under this service priority description.

In order to efficiently operate its system, TransCanada must have clear notice of the priority level of the services it receives from Union. Union's proposal for *STAR* compliant tariffs, group several service categories in the same category. TransCanada is concerned that arbitrary changes to service priority could be made by Union without notice to a shipper and without oversight by the Board. TransCanada recommends that the current service priority list containing the 11 categories of service be included in the proposed M12 and C1 tariffs and that any changes to these service priorities require Board approval before implementation.

#### **5. M12 AND C1 DELIVERY OR RECEIPT POINT PRESSURE REQUIREMENTS**

Union's proposed *STAR* compliant Schedule "C" for Rate C1 and Schedule "D" for Rate M12,

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<sup>4</sup> Attachment A, Union *STAR* Compliant M12 Tariff dated 2010 06 16, Section XVIII, GT&C

<sup>5</sup> Policy #: 07-CM-(POS) – 015

contain the following provision pertaining to Receipt and Delivery Points and Pressures:

## 2. Receipt and Delivery Pressures

(a) All Gas tendered by or on behalf of Shipper to Union shall be tendered at the Receipt Point(s) at Union's prevailing pressure at that Receipt Point, or at such pressure as per operating agreements between Union and the applicable Interconnecting Pipeline as amended or restated from time to time.

(b) All Gas tendered by or on behalf of Union to Shipper shall be tendered at the Delivery Point(s) at Union's prevailing pressure at that Delivery Point or at such pressure as per operating agreements between Union and the applicable Interconnecting Pipeline as amended or restated from time to time.<sup>6</sup>

TransCanada notes that as per historical operating agreements, gas tendered by Union to TransCanada at the Parkway Delivery Point has been provided at TransCanada's prevailing pressure. TransCanada requires this arrangement at Parkway to continue in order to physically allow TransCanada to satisfy its downstream firm service obligations.

## 6. C1 LIST OF VALID RECEIPT AND DELIVERY POINTS

The proposed *STAR* compliant C1 tariff includes Schedule "C 2010" which lists Receipt and Delivery Points and Pressures. TransCanada notes that the Dawn (TCPL) point, is only designated as a Receipt Point. C1 interruptible shippers, however, may want to choose Dawn (TCPL) as a Delivery Point. Accordingly, Dawn (TCPL) should also be listed as a Delivery Point to provide this service choice to C1 interruptible shippers.

TransCanada also notes that Union includes both Receipt and Delivery points with all other pipeline interconnections including Vector, Tecumseh, Ojibway (Panhandle), St. Clair and Bluewater. The inclusion of Dawn (TCPL) as a Delivery Point would provide similar treatment in the proposed tariff for all similarly located pipelines and its omission would potentially be discriminatory to TransCanada.

Should the Board require additional information with respect to these comments, please contact Jim Bartlett at (403) 920-7165 or Murray Ross at (416) 869-2110.

Yours truly,

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<sup>6</sup> Attachment A, Union *STAR Compliant M12 Tariff dated 2010 06 16, Schedule D, GT&C* & Attachment A, Union *STAR Compliant C1 Tariff dated 2010 06 16, Schedule C, GT&C*.

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***Original Signed by***

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