



EB-2009-0422

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an Application by Dawn Gateway Pipeline Limited Partnership for an Order or Orders granting leave to construct a natural gas pipeline and ancillary facilities in the Townships of St. Clair and Dawn-Euphemia, all in the County of Lambton, and approving the regulatory framework and the tariff for the transmission of gas on the Ontario portion of the Dawn Gateway Pipeline.

BEFORE: Gordon Kaiser
Vice Chair and Presiding Member

Cynthia Chaplin
Vice Chair

Cathy Spoel
Member

RATE ORDER

Introduction

On December 23, 2009, Dawn Gateway Pipeline Limited Partnership (“Dawn Gateway” or “Applicant”) filed an application with the Ontario Energy Board under sections 36(1) and 90(1) of the *Ontario Energy Board Act, 1998* for approval of a regulatory framework for the Ontario portion of the Dawn Gateway Pipeline, including charging tolls at negotiated prices, and for leave to construct approximately 17 kilometers of 24 inch diameter steel natural gas pipeline in the County of Lambton.

On March 9, 2010, the Board issued its Decision and Order (the “Decision”) approving a regulatory framework for Dawn Gateway and granting leave to construct.

The Regulatory Framework and the Tariff were approved subject to a certain conditions as set out in the Decision. The Decision required Dawn Gateway to file a Draft Rate Order and allowed the intervenors an opportunity to comment and the Applicant to reply to intervenors' comments, if any. Industrial Gas Users Association ("IGUA") and Canadian Manufacturers and Exporters ("CME") filed written submissions objecting to certain wording in the Draft Rate Order and Dawn Gateway replied to the objections.

Submissions with respect to the Draft Rate Order identified two issues in dispute between intervenors and the Applicant: (i) the filing of contracts between Dawn Gateway and shippers on Dawn Gateway Pipeline; and (ii) the posting of operationally available capacity as required by the Board's Storage and Transportation Access Rule ("STAR").

With respect to the issue of filing of long-term contracts only, as proposed by Dawn Gateway, CME submitted that Dawn Gateway should file in confidence all individual contracts including short-term contracts with terms less than a year. Dawn Gateway responded that it would not be meaningful or practical to file with the Board short-term contracts.

With respect to the second issue, IGUA submitted that the wording proposed by Dawn Gateway did not accurately reflect the Board's findings and condition of approval in the Decision. IGUA submitted that Dawn Gateway should apply for review of the exemption from the STAR requirements to post operationally available capacity. In Dawn Gateway's view, "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."

Board Findings

With respect to the filing of contracts between Dawn Gateway and shippers on Dawn Gateway Pipeline, Dawn Gateway has proposed to file contracts over one year in term only. However, the Board notes that paragraph 51 of the Decision states:

*[51] The Board will not require that the individual negotiated tolls be published. The Board does not require this in relation to Union's negotiated C1 tolls and the publication of negotiated tolls does not form part of the Board's STAR. Wholesale shippers and marketers, the parties which have or are likely to contract for service on Dawn Gateway, have not requested that this information be made public. However, given the unsatisfactory nature of the evidentiary record, **the***

Board will require Dawn Gateway to file individual contracts with the Board on a confidential basis. That will allow the Board to monitor the situation. Given that this is a new regulatory procedure that is likely a prudent step in any event. Shippers making a complaint can then make a motion that the contracts should be put on the public record or at least disclosed to them for the purpose of arguing the complaint. The Board will also be able to determine at that point whether any further information is required. (emphasis added)

It is clear that the Decision is not limited to contracts over one year and the Board's concerns were not limited to long term arrangements. The Board finds that all contracts should be filed and that the Rate Order will reflect this finding.

With respect to the posting of operationally available capacity as required by the STAR, Dawn Gateway has drafted the Rate Order so that the exemption continues until such time as the Board initiates a review. The Board notes that Paragraph 30 of the Decision states:

*[30] The Board is of the view that Dawn Gateway should comply with STAR. In particular, the Board concludes that Dawn Gateway should post operationally-available capacity as provided for in Section 4.3.1. **The Board will, however, grant a limited exemption from the relevant sections for a period of one year.** For that period, the company will only be required to post operationally-available capacity after its first nomination window. The Board will review this exemption a year from now to examine the extent to which capacity is being made available in subsequent windows and to determine whether the limited exemption is still warranted. This requirement is reflected in the Conditions of Approval. (emphasis added)*

It is clear from the excerpt above that the exemption is to be in place for one year.

The Board finds that the Rate Order should be worded so that it is clear the exemption is in place for one year. This would require Dawn Gateway to apply to have the exemption extended. The Board would then review the request and determine whether an extension of the exemption is desirable.

In light of these findings and in accordance with the Decision the details of the approved regulatory framework are set out below.

THE BOARD THEREFORE ORDERS THAT:

1. The Tariff set out in Appendix "A" is approved effective November 1, 2010.
2. Dawn Gateway will comply with the Code of Conduct as set out in Appendix "B".
3. Union Gas Limited will provide written assurance to the Board that Union will treat Dawn Gateway as an affiliate for purposes of the Board's Affiliate Relationships Code.
4. Dawn Gateway will comply with the STAR. For a period of one year, Dawn Gateway is exempt from the requirements of section 4.1.1(ii) and related sections 4.1.4, 4.1.6, and 4.3.1 of the STAR and is only required to post the operationally-available transportation capacity once each day. Dawn Gateway is required to apply to the Board if it intends to seek an extension of this exemption.
5. Dawn Gateway will maintain separate books of account in Canada in a manner consistent with Generally Accepted Accounting Principles and will file with the Board and post on the company's website audited financial statements for the preceding financial year within 120 days after the financial year end. Such statements will provide details of revenues and costs associated with the regulated pipeline.
6. Dawn Gateway's Rate Order, its audited financial statements, its Code of Conduct, and the Board's STAR will be posted on Dawn Gateway's website.
7. Dawn Gateway is required to file individual long-term and short-term contracts with the Board on a confidential basis upon execution with its customers.

DATED at Toronto June 03, 2010

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX A

EB-2009-0422

The Tariff including the following schedules:

Schedule 1: The Toll Schedule Firm Transportation Service

Schedule 2: Statement of Tolls Firm Transportation Service

Schedule 3: Interruptible Transportation Agreement

Schedule 4: Toll Schedule Interruptible Transportation Service

Schedule 5: Statement of Tolls Interruptible Transportation Service

Schedule 6: General Terms and Conditions of the Tariff

Schedule 7: Firm Transportation Agreement

Schedule 1

The Toll Schedule Firm Transportation Service

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP

TOLL SCHEDULE

FIRM TRANSPORTATION SERVICE

(the “**Toll Schedule**”)

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.

ARTICLE II: AVAILABILITY AND CHARACTER OF SERVICE

2.1 Firm Transportation service under this Toll Schedule is subject to:

- (a) the availability of capacity on Transporter’s pipeline system;
- (b) the provisions of an effective Firm Transportation Agreement; and
- (c) the General Terms and Conditions of the Tariff.

2.2 On each Day during the term of Shipper’s Firm Transportation Agreement, the Shipper shall be entitled to request service hereunder subject to this Toll Schedule and the General Terms and Conditions of the Tariff. Nominations for Transportation service shall be made pursuant to Article 5 of the General Terms and Conditions of the Tariff. Transportation service hereunder shall not be subject to curtailment or interruption except as provided for herein and in Articles 6, 7 and 15 of the General Terms and Conditions of the Tariff.

2.3 Transporter may refuse to render Transportation service hereunder if and for so long as Shipper is in default under any Transportation Agreement or the General Terms and Conditions of the Tariff.

2.4 Transporter will receive for Shipper’s account for Transportation service hereunder, daily quantities of Gas up to Shipper’s Maximum Daily Quantity, plus an amount reflecting a Fuel Requirement, as determined in Article 8 of the General Terms and Conditions of the Tariff, at the Receipt Point on Transporter’s pipeline system available to Shipper pursuant to Shipper’s Firm Transportation Agreement and the General Terms and Conditions of the Tariff. Such Maximum Daily Quantity shall be specified in Shipper’s Firm Transportation Agreement. Transporter will deliver for Shipper’s account at the Delivery Point Nominated by Shipper from the Delivery Point(s) listed in Shipper’s Firm Transportation Agreement, less the Fuel Requirement.

2.5 Transporter shall not be obligated to add any facilities or expand the capacity of its pipeline system in any manner in order to provide Transportation service to Shipper pursuant to this Toll Schedule.

ARTICLE III: TOLLS AND CHARGES

3.1 The applicable tolls for Firm Transportation service hereunder are set forth in the Statement of Tolls as found in the Tariff and are incorporated herein.

3.2 The applicable Transportation Agreement will specify a Demand Charge for Firm Transportation service provided hereunder. The Demand Charge applicable to Shipper for Firm Transportation service hereunder shall be no more than the maximum toll set forth in the Statement of Tolls as found in the Tariff and incorporated herein.

3.3 Effective as of the Commencement Date, as provided for in the Firm Transportation Agreement, Transporter shall charge and Shipper shall pay for Firm Transportation service under this Toll Schedule each Month, or part thereof, if applicable, the sum of the following:

- (a) the applicable Reservation Rate multiplied by Shipper's Maximum Daily Quantity;
- (b) the applicable Usage Rate multiplied by the Shipper's Scheduled Quantity;
- (c) the applicable Authorized Overrun Charge multiplied by all Authorized Overrun Schedule Quantities; and
- (d) the applicable Fuel Requirement as set out in the General Terms and Conditions of the Tariff.

3.4 Nothing in this Article III shall be construed as in any way relieving Shipper from its obligation to pay any adjustments or other charges calculated in accordance with the General Terms and Conditions of the Tariff.

ARTICLE IV: RECEIPT POINTS AND DELIVERY POINTS

4.1 The Receipt Point(s) at which Transporter shall receive Gas for Shipper's account under this Toll Schedule shall be the Receipt Point(s) listed in Shipper's Firm Transportation Agreement.

4.2 The Delivery Point(s) at which Transporter shall deliver Gas for Shipper's account under this Toll Schedule shall be the Delivery Point(s) listed in Shipper's Firm Transportation Agreement.

ARTICLE V: ASSIGNMENT

5.1 Permanent Assignment: Shipper may assign to a third party ("**Assignee**"), the Maximum Daily Quantity contracted by Shipper and for which Shipper has agreed to pay a Demand Charge in accordance with the terms and conditions of the Firm Transportation Agreement (the "**Capacity Assigned**"). Such assignment shall require the prior written consent of Transporter. Such consent shall not be unreasonably withheld and shall be conditional upon the Assignee providing, amongst other things, financial assurances as per Article 23 of the General Terms and Conditions of the Tariff and an agreement to be responsible for the full rights, obligations and remaining term of the applicable Firm Transportation Agreement as it relates to the Capacity Assigned.

5.2 Temporary Assignment: Shipper may, upon notice to Transporter, assign all or a part of its daily quantity of Gas contracted by Shipper and for which Shipper has agreed to pay a Demand Charge in accordance with the terms and conditions of the Firm Transportation Agreement (the "**Assigned Quantity**") and the corresponding rights and obligations to an Assignee on a temporary basis for not less than one Month and not greater than twelve Months.

5.3 Notwithstanding any assignment, Shipper shall remain obligated to Transporter to perform and observe the covenants and obligations contained herein in regard to the Capacity Assigned or the Assigned Quantity to the extent that Assignee fails to do so.

ARTICLE VI: GENERAL TERMS AND CONDITIONS

6.1 All of the General Terms and Conditions of the Tariff, of which this Toll Schedule is a part, are applicable to this Toll Schedule.

Schedule 2

Statement of Tolls Firm Transportation Service

STATEMENT OF TOLLS

Firm Transportation Service Tolls

- Reservation Rate for Firm Transportation service:

All rates will be negotiated in \$USD per Dth per month,
up to a maximum of \$30.00 USD per Dth per month.

- Usage Rate for Firm Transportation service:

Maximum Rate \$1.00 USD per Dth per day.

- Authorized Overrun Charge for Firm Transportation service:

All rates will be negotiated in \$USD per Dth per day,
up to a maximum of \$1.00 USD per Dth per day.

Schedule 3

Interruptible Transportation Agreement

Agreement No. IT - ●

**INTERRUPTIBLE TRANSPORTATION AGREEMENT
FOR INTERRUPTIBLE TRANSPORTATION OF NATURAL GAS**

BETWEEN

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP

AND

(SHIPPER)

DATED the _____ day of _____, 20____

THIS INTERRUPTIBLE TRANSPORTATION AGREEMENT dated as of the ____ day of _____, 20 ____, (the “**Agreement**”)

BETWEEN:

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, a limited partnership existing under the laws of the Province of Ontario,
(hereinafter referred to as "**Transporter**")

- and -

_____, a company incorporated under the laws of the
(Province, State, Country) of _____,
(hereinafter referred to as "**Shipper**")

WHEREAS, Transporter is part of a joint venture which operates a natural gas transmission pipeline that runs from the Belle River point near the Belle River Mills natural gas storage facility located in China Township, Michigan to the St Clair River point (the "**U.S. Pipeline**") and from the St Clair River point to the Dawn point located near the Dawn compressor site in the township of Dawn-Euphemia, Ontario, where the pipeline terminates (the "**Canadian Pipeline**");

WHEREAS, Transporter operates the Canadian Pipeline, through which Transporter offers "Transportation Services", as defined in Article II herein;

AND WHEREAS, Shipper wishes to contract with Transporter to provide such Transportation Services, as set out herein, and Transporter has agreed, subject to the terms and conditions of this Agreement, to provide the Transportation Services requested;

NOW THEREFORE, this Agreement witnesses that, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I – TRANSPORTATION SERVICE COMMENCEMENT AND TERM

1.01 The Commencement Date shall be the _____ day of _____, 20____. This Agreement shall remain in full force and effect, pursuant to the terms of this Agreement and the Tariff until the _____ day of _____, 20____.

ARTICLE II - TRANSPORTATION SERVICES

2.01 Transporter shall perform, and Shipper shall receive, service hereunder in accordance with the provisions of Transporter's effective Toll Schedule Interruptible Transportation Service and the applicable General Terms and Conditions of the Tariff on file with the OEB as the same may be amended or superseded in accordance with the rules, regulations and legislation of the OEB.

2.02 Transporter shall, on an Interruptible basis and subject to the terms and conditions herein, transport Shipper's Gas on Canadian Pipeline (the "**Transportation Services**"). Shipper agrees to the following upon Nomination for the provision of the Transportation Services:

(a) Maximum Daily Quantity

Transporter shall transport, on an Interruptible basis, a quantity of Gas on any day, of up to _____ Dth
(_____ GJ) (the "**MDQ**").

(b) Receipt Point and Delivery Point:

i) **"Receipt Point"** shall mean the point where Transporter shall receive Gas from Shipper as listed below:

- _____

ii) **"Delivery Point"** shall mean the point where Transporter shall deliver Gas to Shipper as follows:

- _____

(c) Fuel:

Shipper shall provide the Fuel Requirement as posted on the Website and in accordance with the General Terms and Conditions.

2.03 Accounting for Transportation Services: All quantities of Gas received by or delivered to Transporter shall be accounted for on a daily basis.

ARTICLE III - CHARGES AND RATES

3.01 Except as otherwise stated herein, the charges and rates to be billed by Transporter and paid by Shipper for the Transportation Services provided under this Agreement will be in accordance with Transporter's effective Toll Schedule IT Interruptible Transportation Service.

Usage Rate: \$ _____ USD/Dth
Authorized Overrun Charge: \$ _____ USD/Dth

3.02 Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may, at its discretion, reallocate the rates between Transporter and the U.S. Pipeline as long as the total rate to Shipper does not increase.

3.03 In addition to the charges and rates, Shipper is responsible for any applicable Goods and Services Tax or other taxes, royalties, duties or levies, including charges under any form of cap and trade, carbon tax, or similar system imposed currently or subsequent to the execution of this Agreement that are payable in connection with the Transportation Services.

ARTICLE IV - NOTICES

4.01 All communications provided for or permitted hereunder shall be in writing, personally delivered to an officer or other responsible employee of the addressee or sent by registered mail, charges prepaid, or by facsimile or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner, provided that no communication shall be sent by mail pending any threatened, or during any actual, postal strike or other disruption of the postal service. Any communication personally delivered shall be deemed to have been validly and effectively received on the date of such delivery. Any communication so sent by facsimile or other means of telecommunication shall be deemed to have been validly and effectively received on the Business Day following the day on which it is sent. Any communication so sent by mail shall be deemed to have been validly and effectively received on the seventh (7th) Business Day following the day on which it is postmarked.

Communications to the parties hereto shall be directed as follows:

IF TO SHIPPER:

Address:

Nominations: Attention:

Telephone: ____ - ____ - ____

Facsimile: ____ - ____ - ____

Secondary Contact: Attention:

Telephone: ____ - ____ - ____

Facsimile: ____ - ____ - ____

IF TO TRANSPORTER:

Dawn Gateway Pipeline Limited Partnership,
c/o DTE Pipeline Company
One Energy Plaza, 2084WCB
Detroit, MI
48226

Attention: Director, Marketing & Optimization

Facsimile: (313) 235-6450

Nominations: Attention: ●

Title: ●

Telephone: ●

Facsimile: ●

Secondary Contact: Attention: ●

Title: ●

Telephone: ●

Facsimile: ●

ARTICLE V - MISCELLANEOUS

5.01 Maintenance: Transporter reserves the right to take such actions as may be required to preserve the integrity of the Canadian Pipeline, including maintenance of service, or to enhance the Canadian Pipeline.

5.02 Severability: If any provision hereof is invalid or unenforceable in any jurisdiction, to the fullest extent permitted by law; (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be construed in order to carry out the intention of the parties as nearly as possible; and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of any provision in any other jurisdiction.

5.03 Assignment: This Agreement may not be assigned by Shipper, but may be assigned by Transporter to an affiliate of Transporter.

5.04 Nothing in this Agreement shall be deemed to create any rights or obligations between the parties hereto, including renewal rights, after the expiration of the term set forth herein, except that termination of this Agreement shall not relieve either party of the obligation to correct any quantity imbalances or Shipper of the obligation to pay any amounts due hereunder to Transporter.

5.05 Capitalized terms not defined herein shall have the meaning given them in the General Terms and Conditions of the Tariff.

THIS AGREEMENT SHALL BE BINDING UPON and shall enure to the benefit of the parties hereto and their respective

successors and permitted and lawful assigns.

IN WITNESS WHEREOF this Agreement has been properly executed by the parties hereto by their duly authorized officers as of the date first above written.

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, by its general partner, DAWN GATEWAY PIPELINE GENERAL PARTNER INC.

By: _____
Peter Ciani
Co-President

By: _____
Stephen W. Baker
Co-President

SHIPPER

Title:

Title:

Schedule 4

Toll Schedule Interruptible Transportation Service

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP

TOLL SCHEDULE

INTERRUPTIBLE TRANSPORTATION SERVICE

(the "Toll Schedule")

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 Interruptible Transportation service and is able to provide said Interruptible Transportation.
- (b) Any construction, acquisition, or expansion of facilities necessary to commence and provide the Interruptible Transportation service has been completed.
- (c) Shipper has executed the Interruptible Transportation Agreement for Interruptible Transportation of Natural Gas (the "**Interruptible 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.

ARTICLE II: AVAILABILITY AND CHARACTER OF SERVICE

2.1 Interruptible Transportation service under this Toll Schedule is subject to:

- (a) the availability of capacity on Transporter's pipeline system;
- (b) the provisions of an effective Interruptible Transportation Agreement; and
- (c) the General Terms and Conditions of the Tariff.

2.2 On each Day during the term of Shipper's Interruptible Transportation Agreement, the Shipper shall be entitled to request Interruptible Transportation service hereunder subject to this Toll Schedule and the General Terms and Conditions of the Tariff. Nominations for Interruptible Transportation service shall be made pursuant to Article 5 of the General Terms and Conditions of the Tariff.

2.3 Transporter may refuse to render Transportation service hereunder if and for so long as Shipper is in default under any Transportation Agreement or the General Terms and Conditions of the Tariff.

2.4 Transporter will receive for Shipper's account for Transportation service hereunder, daily quantities of Gas up to Shipper's Maximum Daily Quantity, plus an amount reflecting a Fuel Requirement, as determined in Article 8 of the General Terms and Conditions of the Tariff, at the Receipt Point on Transporter's pipeline system available to Shipper pursuant to Shipper's Interruptible Transportation Agreement and the General Terms and Conditions of the Tariff. Such Maximum Daily Quantity shall be specified in Shipper's Interruptible Transportation Agreement. Transporter will deliver for Shipper's account, at the Delivery Point(s) Nominated by Shipper from the Delivery Point(s) listed in Shipper's Interruptible Transportation Agreement, less the Fuel Requirement.

2.5 Transporter shall not be obligated to add any facilities or expand the capacity of its pipeline system in any manner in order to provide Transportation service to Shipper pursuant to this Toll Schedule.

ARTICLE III: TOLLS AND CHARGES

3.1 The applicable tolls for Interruptible Transportation service hereunder are set forth in the Statement of Tolls as found in the Tariff and are incorporated herein.

3.2 Effective as of the Commencement Date, as provided for in the Interruptible Transportation Agreement, Transporter shall charge and Shipper shall pay for Interruptible Transportation under this Toll Schedule each Month, or part thereof, if applicable, the sum of the following:

- (a) the applicable Usage Rate multiplied by the Scheduled Quantity;
- (b) the applicable Authorized Overrun Charge multiplied by all Authorized Overrun Schedule Quantities; and
- (c) the applicable Fuel Requirement as set out in the General Terms and Conditions of the Tariff.

3.3 Nothing in this Article III shall be construed as in any way relieving Shipper from its obligation to pay any adjustments or other charges calculated in accordance with the General Terms and Conditions of the Tariff.

ARTICLE IV: RECEIPT POINT AND DELIVERY POINT

4.1 The Receipt Point(s) at which Transporter shall receive Gas for Interruptible Transportation hereunder shall be the Receipt Point(s) listed in Shipper's Interruptible Transportation Agreement.

4.2 The Delivery Point(s) at which Transporter shall deliver Gas for Shipper's account for Interruptible Transportation hereunder shall be the Delivery Point(s) listed in Shipper's Interruptible Transportation Agreement.

ARTICLE V: GENERAL TERMS AND CONDITIONS

5.1 All of the General Terms and Conditions of the Tariff, of which this Toll Schedule is a part, are applicable to this Toll Schedule.

Schedule 5

Statement of Tolls Interruptible Transportation Service

STATEMENT OF TOLLS

Interruptible Transportation Service Tolls

- Usage Rate for Interruptible Transportation service:

Maximum Rate \$2.00 USD per Dth per day.

- Authorized Overrun Charge for Interruptible Transportation service:

All rates will be negotiated in \$USD per Dth per day,
up to a maximum of \$2.00USD per Dth per day.

Schedule 6

General Terms and Conditions of the Tariff

**DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP
GENERAL TERMS AND CONDITIONS**

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GENERAL TERMS AND CONDITIONS

DEFINITIONS

Except where the context expressly requires or states another meaning, the following terms, when used in these General Terms and Conditions and in any contract or Toll Schedule into which these General Terms and Conditions are incorporated, shall be construed to have the following meanings:

1. "Authorized Overrun" means a quantity of Gas, that is in excess of a Shipper's applicable Maximum Daily Quantity, that Transporter agrees to schedule on a day. Authorized Overrun quantities are subject to an Authorized Overrun Charge as provided for in the Statement of Tolls;
2. "Authorized Overrun Charge" shall have the meaning given to it in Article 17;
3. "Board" or "OEB" means the Ontario Energy Board, or any successors or replacements thereof;
4. "Business Day" means Monday through Friday, excluding federal banking holidays for transactions occurring in Canada and similar holidays for transactions occurring in the United States;
5. "Commencement Date" means the date the Transportation services begin pursuant to the Transportation Agreement;
6. "Cubic Foot" or "cf" shall mean the volume of Gas which occupies one cubic foot when such Gas is at a temperature of 60 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch. The term "Mcf" means one thousand (1,000) Cubic Feet. The term "MMcf" means one million (1,000,000) Cubic Feet;
7. "Cubic Metre" or "m³" shall mean the volume of Gas which occupies one cubic metre when such Gas is at a temperature of 15 degrees Celsius, and at a pressure of 101.325 kilopascals absolute. The term "10³m³" shall mean 1,000 Cubic Metres of Gas;
8. "Day" shall mean a period of twenty-four (24) consecutive hours beginning at 10:00 a.m. Eastern Clock Time. The reference date for any Day shall be the calendar date upon which the twenty-four (24) hour period shall commence;
9. "Dekatherm" or "Dth" means the quantity of heat energy which is 1,000,000 British thermal units ("MMBtu");
10. "Delivery" shall mean, in respect of Gas, the delivery by Transporter into Shipper's possession, or to the possession of Shipper's agent, pursuant to a Transportation Agreement;
11. "Delivery Point" means the point(s) where Transporter delivers Gas to Shipper, or for Shipper's account, that has been transported by Transporter as described in the applicable Transportation Agreement, delivery point(s) are indicated in the attached System Map
12. "Demand Charge" shall mean the monthly amount payable by Shipper to Transporter for the service provided. Demand Charge is calculated as Reservation Rate times MDQ;
13. "Eastern Clock Time" means Eastern Daylight Time when daylight savings time is in effect and Eastern Standard Time otherwise;
14. "Electronic Bulletin Board" or "EBB" shall mean Transporter's electronic communications system, which is available to all nominating agents;
15. "Firm" shall mean any Gas Transportation service not subject to curtailment or interruption except under Articles 6, 7 and 15 of these General Terms and Conditions;

16. "Fuel and Lost and Unaccounted for Gas" means Gas (a) used or lost in the construction, operation and maintenance of Transporter's system: and (b) variances in the measurement of quantities of Gas received and delivered on Transporter's system;
17. "Fuel Requirement" shall mean the amount of Gas required for Fuel and Lost and Unaccounted for Gas associated with rendering Transportation services to the Shipper, calculated in accordance with Article 8 of these General Terms and Conditions;
18. "Gas" shall mean methane and such other hydrocarbon constituents, or a mixture of two or more of them which, in any case, meets the quality specifications of the Tariff;
19. "*Gas Inspection Act*" means the *Electricity and Gas Inspection Act* (Canada) and the *Electricity and Gas Inspection Regulations* and any documents issued under the authority of the *Electricity and Gas Inspection Act* (Canada) and the *Electricity and Gas Inspection Regulations* and any amendments thereto;
20. "General Terms and Conditions" means these General Terms and Conditions of the Tariff, as may be amended from time to time;
21. "Gross Heating Value" shall mean the total heat expressed in British Thermal Units (Btu) per Cubic Foot (Btu/cf) produced by the complete combustion at constant pressure of one (1) Cubic Foot of Gas with air, with the Gas free of water vapour and the temperature of the Gas, air and products of combustion at standard temperature and all water formed by the combustion reaction condensed to the liquid state;
22. "Interested Person" shall mean any existing Shipper or prospective Shipper;
23. "Interruptible" shall mean any Gas Transportation service subject to curtailment or interruption;
24. "Interconnecting Pipeline" shall mean a pipeline that directly connects to Transporter's pipeline system;
25. "Joule" (J) shall mean the work done when the point of application of a force of one (1) newton is displaced a distance of one (1) metre in the direction of the force. The term "Megajoule" (MJ) shall mean 1,000,000 Joules. The term "Gigajoule" (GJ) shall mean 1,000,000,000 Joules;
26. "Material Event" shall have the meaning given to it in Article 24;
27. "Maximum Daily Quantity" or "MDQ" is the maximum daily quantity of Gas Transporter will receive or deliver at each Receipt Point or Delivery Point, as applicable, in accordance with the terms of an effective Transportation Agreement;
28. "Month" shall mean the period beginning at 10:00 a.m. Eastern Clock Time on the first day of a calendar month and ending at 10:00 a.m. Eastern Clock Time on the first day of the following calendar month;
29. "NAESB" shall mean the North American Energy Standards Board;
30. "NAESB Standards" means any and all such standards issued by NAESB and adopted by the Federal Energy Regulatory Commission;
31. "Nomination" shall have the meaning given to it in Article 5 of these General Terms and Conditions;
32. "pascal" (Pa) shall mean the pressure produced when a force of one (1) newton is applied to an area of one (1) square metre. The term "kilopascal" (kPa) shall mean 1,000 pascals;
33. "Payment Due Date" means, in respect of an invoice sent pursuant to Article 14 of these General Terms and Conditions, ten (10) calendar days after the Monthly Billing Date as defined in Article 13. If the Payment Due Date is not a Business Day, then payment must be received by Transporter or by the financial institution so designated by Transporter for payment, on or before the first Business Day immediately following the Payment Due Date;
34. "Person" means a natural person, sole proprietorship, firm, trust, trustee, executor, administrator or other legal personal representative, partnership, limited partnership, joint venture, syndicate, company or corporation with or without share

capital, unincorporated association, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

35. "Prime Rate" means, at any time, the per annum rate of interest then designated by the main branch of the Canadian Imperial Bank of Commerce in Toronto, Ontario as its reference rate of interest of Canadian dollar commercial loans in Canada and which is announced by such bank as its "Prime Rate". A rate of interest payable pursuant hereto shall change automatically without notice to any party on each occasion upon which the Prime Rate is varied;
36. "Receipt" shall mean, in respect of Gas, the delivery into Transporter's possession, or the possession of Transporter's agent;
37. "Receipt Point" means the point(s) on Transporter's system where quantities of Gas may be received by Transporter as described in the applicable Transportation Agreement, receipt point(s) are indicated in the attached System Map,;
38. "Reservation Rate" means the amount payable by Shipper per Dth of MDQ per month;
39. "Scheduled Quantity" is the quantity of Gas a Shipper nominates for Receipt by Transporter at a Receipt Point and for delivery by Transporter to Shipper or to Shipper's account at a Delivery Point, and that Transporter schedules for Transportation;
40. "Shipper" means a Person who uses the services of Transporter pursuant to the Tariff;
41. "Statement of Tolls" means the Transporter's statement of tolls as it relates to the Transportation services, which statement forms part of the Tariff;
42. "System Capacity" is the quantitative ability of Transporter's existing pipeline system to provide maximum Gas Transportation service. The ability of Transporter's pipeline system to maintain Gas Transportation service may be limited by (a) changes in prevailing operating pressures, temperatures, Gas flow rates and Gas flow directions within any portion(s) of Transporter's pipeline system, including any Receipt Point(s) or Delivery Point(s); (b) physical capacity limitations of regulators, valves, pipelines or pipeline segments, measuring facilities or appurtenances to Transporter's pipeline system; and (c) necessary testing, maintenance, repair, overhaul, alteration, modification, replacement, enlargement, or construction of pipelines, metering, regulating, and other transmission facilities and equipment appurtenant to Transporter's pipeline system;
43. "Tariff" means the Transporter's OEB gas tariff, including, but not limited to Toll Schedules, Statement of Tolls, General Terms and Conditions and forms of Transportation Agreements, which have been filed with the OEB, as amended and filed from time to time with the OEB;
44. "Toll Schedule" means the Transporter's toll schedule as it relates to the Transportation services, which toll schedule forms part of the Tariff;
45. "Transportation" means the Receipt of Gas for Shipper's account at a Receipt Point on Transporter's pipeline system that is available to Shipper pursuant to Shipper's Transportation Agreement and the Delivery to Shipper, or for Shipper's account, of Gas by Transporter at the Delivery Point set forth in Shipper's Transportation Agreement, including service as available via displacement of Gas received downstream of the Delivery Point;
46. "Transportation Agreement" means an agreement pursuant to the Tariff under which Transporter provides Transportation or other contract services to a Shipper;
47. "Transporter" means Dawn Gateway Pipeline Limited Partnership;
48. "U.S. Pipeline" means Dawn Gateway Pipeline, LLC;
49. "Unauthorized Overrun" means quantities of Gas transported by Transporter on behalf of a Shipper in excess of Shipper's Maximum Daily Quantity without Transporter's advance approval. Unauthorized Overrun quantities will be subject to the Unauthorized Overrun Charge contained in Article 17;
50. "Unauthorized Overrun Charge" shall have the meaning given to it in Article 17;

51. "Usage Rate" means the amount payable by Shipper per Dth for the Scheduled Quantity;
52. "Volume" shall mean the number of Cubic Feet adjusted for heat content in Dth;
53. "Website" means Transporter's interactive Internet website through which Transporter will post all information and conduct business electronically. Third party connections using Website shall be accomplished under the terms of an EBB. Website address is www.dawngatewaypipeline.com;
54. "Year" means a period of 365 consecutive days, except that any year which contains the date February 29 shall consist of 366 consecutive days.

GAS QUALITY

1. Natural Gas: The minimum Gross Heating Value of the Gas delivered to/by Transporter hereunder, shall be nine hundred sixty-six (966) British thermal units per Cubic Foot. (36 Megajoules per Cubic Metre). The maximum Gross Heating Value of the Gas delivered to/by Transporter hereunder shall be one thousand one hundred and twenty-eight (1128) British thermal units per Cubic Foot (40.2 Megajoules per Cubic Metre). The Gas to be delivered hereunder to Transporter may be a commingled supply from Shipper's natural Gas sources of supply. The Gas to be delivered by Transporter may be a commingled supply from Transporter's sources of Gas supply; provided, however, that helium, natural gasoline, butane, propane and other hydrocarbons except methane may be removed prior to Delivery to Shipper or Shipper's agent. Further, Transporter may subject, or permit the subjection of, the Gas to compression, dehydration, cooling, cleaning and other processes.
2. Freedom from objectionable matter: The Gas to be delivered to/by Transporter hereunder:
- a. shall be commercially free from sand, dust, gums, crude oils, lubricating oils, liquids, chemicals or compounds used in the production, treatment, compression or dehydration of the Gas or any other objectionable substance in sufficient quantity so as to render the Gas toxic, unmerchantable or cause injury to or interference with the proper operation of the lines, regulators, meters or other appliances through which it flows,
 - b. shall not contain more than zero point two six (0.26) grain of hydrogen sulphide per 100 Cubic Feet of Gas (6 milligrams per Cubic Metre) nor more than five (5) grains of total sulphur per 100 Cubic Feet of Gas (115 milligrams per Cubic Meter) as determined by standard methods of testing,
 - c. shall not contain more than zero point two two (0.22) grain of mercaptan sulphur per 100 Cubic Feet of Gas (5 milligrams of per Cubic Metre),
 - d. shall not contain more than two point zero (2.0) molar percent by volume of carbon dioxide in the Gas,
 - e. shall not contain more than four point zero (4.0) molar percent by volume of carbon dioxide plus nitrogen in the Gas,
 - f. shall not contain more than zero point five (0.5) molar percent by volume of carbon monoxide in the Gas,
 - g. shall not contain more than zero point four (0.4) molar percent by volume of oxygen in the Gas,
 - h. shall not contain more than four (4) molar percent by volume of hydrogen in the Gas,
 - i. shall not contain more than four (4) pounds of water vapour per mmcf of Gas (64 milligrams per Cubic Metre),
 - j. shall not have a hydrocarbon dewpoint exceeding fourteen (14) degrees Fahrenheit at eight hundred (800) psig (minus 10°C at 5500 kPa),
 - k. shall not contain less than one point zero (1.0) molar percent by volume of ethane in the Gas,
 - l. the temperature of the Gas shall not exceed one hundred ten (110) degrees Fahrenheit (43°C).

3. The Person measuring Gas quality shall use approved standard methods in general use in the natural gas industry, and shall cause adequate tests to be made to determine the quality of the Gas delivered. Such tests shall be made at intervals frequent enough to determine that the Gas conforms to these specifications.
4. If the Gas being received by Transporter from Shipper or on behalf of Shipper fails at any time to conform to any of the specifications set forth in this Article 2, Transporter may refuse to receive the Gas, in which case Transporter shall notify the Person delivering such Gas of such deficiency in quality to allow such Person to remedy any deficiency. Upon such Person's failure to promptly remedy any deficiency in quality as specified in this Article 2, Transporter may terminate all Receipts under the Transportation Agreement, or may take Receipt of such Gas, and may make changes necessary to bring such Gas into conformity with such specifications, and the Shipper shall reimburse Transporter for any reasonable expense incurred in effecting such changes or for any injury or damages resulting from Transporter's receipt of non-conforming Gas.

MEASUREMENTS

1. The volume and the total heating value of Gas received and delivered by Transporter shall be determined as follows:
 - (a) the unit of Gas received and delivered by Transporter shall be a Dth; and
 - (b) the unit of volume, for the purpose of measurement and reporting, shall be one Cubic Foot of Gas. The readings and registrations of the measuring equipment provided for herein and determinations of Gross Heating Value shall be computed in terms of such volumes.
2. The factors required to determine the quantity of Gas received, such as pressure, temperature, specific gravity and deviations from Boyle's Law shall be calculated in accordance with the *Gas Inspection Act*, and applied in a practical manner.
3. The volume of the Gas received from Shipper shall be determined in accordance with the *Gas Inspection Act*.
4. The absolute atmospheric pressure used for volume calculations shall be assumed to be a specific pressure determined by calculations based on the actual elevation above sea level at the site of the meter, regardless of variations in actual barometric pressure. The formula used to calculate the atmospheric pressure shall be in accordance with the methodology prescribed pursuant to the *Gas Inspection Act*.
5. The determination of Gross Heating Value of Gas received or delivered shall be performed in a manner approved under the *Gas Inspection Act* or, if a manner for such determination is not set out in the *Gas Inspection Act*, in accordance with industry accepted standards, and, in any event, in a manner to ensure that the Gross Heating Value so determined is representative of the Gas received or delivered at the Receipt Point or Delivery Point.

MEASURING EQUIPMENT

1. Metering by Transporter: Transporter, or a party designated by Transporter, will install, own, maintain and operate meters and related equipment as required and in accordance with the *Gas Inspection Act*.
2. Metering by Others: In the event that all or any Gas delivered to/by Transporter hereunder is measured by a meter that is owned and operated in connection with an Interconnecting Pipeline, then Transporter and Shipper agree to accept that metering for the purpose of determining the volume and energy of Gas delivered to/by Transporter by/to Shipper or on behalf of Shipper.
3. Rights of Parties: The measuring equipment installed by either Transporter or Shipper, together with any building erected by it for such equipment, shall be and remain its property. However, Transporter and Shipper shall have the right to have representatives present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with the other party's measuring equipment used in measuring or checking the measurement of deliveries of Gas to/by Transporter under the Transportation Agreement. Either party will give the other party reasonable notice of its intention to carry out the acts herein specified. The records from such measuring equipment shall remain the property of their owner, but upon request by the other party, such party will

submit to the other its records and charts, together with calculations therefrom, for inspection and verification, subject to return within ten days after receipt thereof.

4. Calibration and Test of Measuring Equipment: The accuracy of measuring equipment shall be verified by Transporter, or a party designated by Transporter, at reasonable intervals and, if requested, in the presence of representatives of the Shipper, but Transporter shall not be required to verify the accuracy of such equipment more frequently than once in any thirty (30) day period. In the event either party notifies the other that it desires a special test of any measuring equipment, the parties shall co-operate to secure a prompt verification of the accuracy of such equipment. The expense of any such special test, if called for by Shipper, shall be borne by Shipper if the measuring equipment tested is found not to be in error, or to be in error by not more than the limits set out as follows:

- a. 2% for measuring equipment utilized to determine volume;
- b. 1% for any measuring equipment utilized to determine relative density; and
- c. 0.5% for any measuring equipment utilized to determine Gross Heating Value.

If upon test, any measuring equipment is found to be in error by not more than the limits specified above, the previous readings of such equipment shall be considered accurate in computing deliveries or receipts of Gas, but such equipment shall be adjusted at once to register accurately.

If, for the period since the last test, it is determined for a recording corresponding to the average hourly rate of flow for such period that:

- a. Any measuring equipment used to determine volumes shall be found to be inaccurate by an amount exceeding 2%;
- b. Any measuring equipment utilized to determine the relative density shall be found to be inaccurate by an amount exceeding 1%; or
- c. Any measuring equipment utilized to determine the Gross Heating Value shall be found to be inaccurate by an amount exceeding 0.5%;

then the previous readings of the measurement equipment shall be corrected to zero error for any period which can be agreed upon, but if the period is not agreed such correction shall be for a period extending over the last half of the time elapsed since the date of the last test, not exceeding a correction period of sixteen (16) days.

Notwithstanding the foregoing, when Transporter and Shipper mutually agree that a measurement instrument inaccuracy occurred at a definite point in time, an appropriate correction shall be made even though said inaccuracy is less than the limits specified in a, b or c above.

5. Preservation of Metering Records: Transporter and Shipper shall each preserve for a period of at least two (2) years all metering records, including test data and other relevant records.
6. Prior Period Measurement Adjustments: The cutoff for the closing of measurement is five (5) Business Days after the end of the Month. Prior period measurement adjustments will be effective for the production month. A meter adjustment becomes a prior period adjustment after the fifth (5th) Business Day following the end of the Month. Prior period measurement adjustments will be reported with the restated line item with new total quantity for the Day and the Month. Estimated, missing or late measurement data will be treated as a prior period adjustment, with the measuring party to provide the estimate. Measurement data corrections will be processed within six (6) Months of the production month with a three (3) Month rebuttal period. This standard shall not apply in the case of deliberate omission or misrepresentation or mutual mistake of fact. Parties' other statutory or contractual rights shall not otherwise be diminished by this standard.
7. Check Measuring Equipment: Shipper may install, maintain and operate, at the delivery point, at its own expense, such check measuring equipment as desired, provided that such equipment shall be so installed as not to interfere with the operation of Transporter's measuring equipment at or near the Delivery Point, and shall be installed, maintained and operated in conformity with the same standards and specifications applicable to Transporter's metering facilities.

NOMINATIONS

Subject to Section 8 below, for Transportation service required on any Day under each of Shipper's Transportation Agreements, Shipper shall provide Transporter with a nomination providing the Shipper's requested Receipt Point, contract numbers, the applicable service, the quantity of Gas to be transported, the requested Delivery Point, and such additional information as Transporter determines to be necessary (a "**Nomination**").

Shipper may designate a third party as agent for purposes of providing a Nomination, and for giving and receiving notices related to Nominations. Shipper shall provide Transporter with written notice of such designation, such notice to be acceptable to Transporter. Any such designation, if acceptable to Transporter, shall be effective starting the Month following the receipt of the written notice and will remain in effect until revoked in writing by Shipper.

The Transporter will accept all nominations on the Timely Nomination Cycle. All nominations during the Evening Nomination Cycle, Intra-day 1 Nomination Cycle, and Intra-day 2 Nomination Cycle will be accepted on a commercially reasonable efforts basis.

All Nominations shall be submitted through Transporter's EBB. Specific information to be included in the Nomination is posted on the EBB. Transporter, in its sole discretion, may amend or modify the nominating procedures or Nomination system at any time. Nominations shall be submitted so as to be received by Transporter in accordance with timelines established by Transporter, which reflect the NAESB Standard nomination cycles. The Transporter will accept all nominations on the Timely Nomination Cycle. Nominations made after the applicable deadline shall not be accepted except at the sole discretion of Transporter. All nominations during the Evening Nomination Cycle, Intra-day 1 Nomination Cycle, and Intra-day 2 Nomination Cycle will be accepted on a commercially reasonable efforts basis. All times are Eastern Clock Time. For greater certainty, NAESB nomination cycle timelines are as follows:

The Timely Nomination Cycle: 12:30 pm for Nominations leaving control of the nominating party; 12:45 pm for receipt of Nominations by Transporter; 1:00 pm to send quick response; 4:30 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 5:30 pm for receipt of Scheduled Quantities by Shipper, (Eastern Clock Time on the Day prior to flow).

The Evening Nomination Cycle: 7:00 pm for Nominations leaving control of the nominating party; 7:15pm for receipt of Nominations by Transporter; 7:30 pm to send quick response; 10:00 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 11:00 pm for Transporter to provide Scheduled Quantities to affected Shippers and to provide Scheduled Quantities to curtailed parties (notice to curtailed parties), (Eastern Clock Time on the Day prior to flow).

Scheduled Quantities resulting from an Evening Nomination that does not cause another Shipper on Transporter's system to receive notice that it is being curtailed should be effective at 10:00 am on Day; and when an Evening Nomination causes another Shipper on Transporter's system to receive notice that it is being curtailed, the Scheduled Quantities should be effective at 10:00 am on Day.

The Intra-day 1 Nomination Cycle: 11:00 am for Nominations leaving control of the nominating party; 11:15 am for receipt of Nominations by Transporter; 11:30 am to send quick response; 2:00 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 3:00 pm for Transporter to provide Scheduled Quantities to affected Shippers and to provide Scheduled Quantities to curtailed parties (notice to curtailed parties), (Eastern Clock Time on Day). Scheduled Quantities resulting from Intra-day 1 Nominations should be effective at 6:00 pm on Day.

The Intra-day 2 Nomination Cycle: 6:00 pm for Nominations leaving control of the nominating party; 6:15 pm for receipt of Nominations by Transporter; 6:30 pm to send quick response; 9:00 pm for receipt of completed confirmations by Transporter from upstream and downstream connected parties; 10:00 pm for Transporter to provide Scheduled Quantities to affected Shippers (Eastern Clock Time on Day). Scheduled Quantities resulting from Intra-day 2 Nominations should be effective at 10:00 pm on Day. Curtailment is not allowed during the Intra-day 2 Nomination Cycle.

Transporter shall make available to Shippers information containing Scheduled Quantities, including scheduled intra-day nominations and any other scheduling changes by 5:30pm at the end of each day. All Nominations shall include Shipper defined begin dates and end dates.

All Nominations, excluding intra-day nominations, shall have rollover options. Specifically, Shippers shall have the ability to nominate for several days, months or years, provided the Nomination begin dates and end dates are within the term of the Transportation Agreement. Nominations received after the nomination deadline shall, if accepted by Transporter, be scheduled after Nominations received before the nomination deadline. The receiver of the Nomination initiates confirmation with the caveat that the receiver of the confirmation may relieve the obligation of the sender to send. The sending party shall adhere to nomination, confirmation and scheduling deadlines. The party receiving the request has the right to waive the deadline.

All Services are required to be nominated in whole Dekatherms.

Any change in a daily Scheduled Quantity implemented during the Day shall only be recognized pro rata to the fraction of the Day remaining at the time the change is implemented. Changed daily Scheduled Quantity shall not exceed an amount equal to Shipper's Maximum Daily Quantity multiplied by the fraction of the Day remaining at the time the changes are implemented. Transporter shall be under no obligation to accept such revisions for Shipper Nominations made under an Interruptible Transportation Agreement.

To the extent Transporter is unable to complete a Nomination confirmation due to inaccurate, untimely or incomplete data involving an Interconnecting Pipeline entity, Transporter shall undertake reasonable efforts to confirm the transaction on a non-discriminatory basis until such time that the transaction is adequately verified by the parties, or Transporter determines that the Nomination is invalid at which time the Transporter rejects the Nomination.

Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may delegate the responsibility of providing the Nomination to the U.S. Pipeline, such that Shipper provides a single nomination to the U.S. Pipeline that includes the Shipper's Nomination for the Transporter's system and the Shipper's nomination for service required on the U.S. Pipeline.

SCHEDULING

Transporter shall schedule all quantities of Gas nominated for Transportation by Shipper in accordance with the following priorities:

- (a) Quantities of Gas nominated pursuant to a Firm Transportation Agreement within Shipper's Maximum Daily Quantity pursuant to the Firm Transportation Service Toll Schedule; and
- (b) Quantities of Gas nominated pursuant to an Interruptible Transportation Agreement or Nominated as Authorized Overrun. For greater certainty, all quantities of Gas scheduled pursuant to this Article 6(b) shall be scheduled by toll price from highest to lowest, except scheduling will be pro rata based on confirmed quantities among Shippers paying the same toll.

PRIORITY OF SERVICE AND CURTAILMENT

1. Transporter shall have the right to curtail or discontinue Transportation services, in whole or in part, on all or a portion of its pipeline system at any time for reasons of Force Majeure or when, in Transporter's sole discretion, capacity or operating conditions so require or it is desirable or necessary to make modifications, repairs or operating changes to its pipeline system. Transporter shall provide Shipper notice of such curtailment as required pursuant to Article 15 or as is reasonable under the circumstances. Routine repair and maintenance is not deemed an emergency situation or an unexpected loss of capacity.
2. Subject to Section 3 below, if due to any cause whatsoever, including but not limited to a reduction in System Capacity, Transporter is unable on any Day to deliver the quantities of Gas that Shippers would have received if such inability did not exist, then Transporter shall order curtailment by all Shippers affected in the following manner:
 - (a) first, Shippers whose service was scheduled pursuant to Article 6(b) above. Transporter will curtail service by toll price from lowest to highest, except curtailment will be pro rata on Scheduled Quantities among Shippers paying the same toll, and recognizing that Shippers paying the highest toll will be curtailed last. This applies

to service which was nominated for the Timely Nomination Cycle or any subsequent nomination cycle such that Firm Transportation shall always have priority over Interruptible Transportation or Authorized Overrun;

- (b) second, Shippers whose service was scheduled pursuant to Article 6(a) above. Transporter shall curtail service on a pro rata basis on Scheduled Quantities among all Shippers receiving this service.
3. If the need for curtailment is caused by an event affecting only a specific Receipt Point or Delivery Point, curtailment will be:
- (a) limited to Shippers scheduled at such Receipt Point or Delivery Point; and
 - (b) applied to those Shippers in such Receipt Point or Delivery Point in accordance with the priorities set forth in Article 7, Section 2 above.

FUEL REQUIREMENT

1. Subject to Section 5 below, Shipper shall furnish the quantity of Gas required by Transporter to satisfy the Fuel Requirement at a metered Receipt Point acceptable to Transporter. The quantity of Gas retained by Transporter to meet the Fuel Requirement shall be a percentage of the total quantity of Gas received from or for the account of Shipper (the "**Fuel Ratio**").
2. The Fuel Requirement will be rounded to the nearest Dekatherm.
3. Transporter may elect to change its Fuel Ratio at its discretion but not more frequently than monthly. The Fuel Ratio shall be an estimate of the actual Gas required to satisfy the Fuel Requirement on a prospective basis, taking into consideration the cumulative over-recovery or under-recovery of Fuel and Lost and Unaccounted for Gas to date.
4. The Fuel Ratios will be posted on Website, at least seven (7) days prior to the Month to which it applies.
5. Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may delegate the responsibility of collecting all or a portion of Shipper's Fuel Requirement to the U.S. Pipeline and require that Shipper provide at the U.S. Pipeline Receipt Point the Fuel Requirement for Transporter's system.

POSSESSION OF GAS

Unless otherwise provided in a Transportation Agreement or other service agreement or applicable Toll Schedule, as between Transporter and Shipper, Shipper shall be deemed to be in exclusive control and possession of the Gas (i) prior to Receipt by Transporter at the Receipt Point and (ii) after Delivery by Transporter at the Delivery Point; otherwise, Transporter shall be in exclusive control and possession of the Gas. The party that is in exclusive control and possession of the Gas shall be responsible for all injury or damage caused by such Gas to any third party and shall indemnify the other party from any damage, loss or costs incurred by the other party as a result of such injury or damage. But, notwithstanding the foregoing sentence, Shipper shall be responsible for all injury or damage caused by Gas provided by Shipper that fails to conform with the specifications set forth in Article 2 of these General Terms and Conditions and shall indemnify Transporter from any damage, loss or costs that Transporter incurs as a result of such injury or damage. In the absence of negligence, bad faith or wilful misconduct on the part of Transporter, Shipper waives any and all claims and demands against Transporter, its directors, officers, employees or agents, arising out of or in any way connected with (i) the quality, use or condition of the Gas after Delivery from Transporter to or for the account of such Shipper, and (ii) any losses or shrinkage of Gas during or resulting from Transportation hereunder.

WARRANTY OF TITLE

Shipper warrants that it owns or controls, has the right to deliver or have delivered for its account, the Gas that is delivered to Transporter under the applicable Transportation Agreement or service agreement and that the Gas is free and clear of any lien, mortgage, security interest or other encumbrance whatsoever. Shipper shall indemnify and hold harmless Transporter against all claims, actions or damages arising from any adverse claims by third parties claiming an ownership interest in the Gas delivered for transport to Transporter under the applicable Transportation Agreement or service agreement.

DELIVERY PRESSURE

1. All Gas delivered by or on behalf of Shipper to Transporter shall be delivered at the Receipt Point(s) at Transporter's prevailing pressure at that Receipt Point(s), or at such pressure as Transporter and the owner or operator of an Interconnecting Pipeline may agree to.
2. All Gas delivered by Transporter to Shipper or to Shipper's agent to the facilities of an Interconnecting Pipeline shall be delivered at Transporter's line pressure at the Delivery Point(s) designated in the Transportation Agreement or as agreed to by Transporter and the owner or operator of the Interconnecting Pipeline.

UNIFORM HOURLY FLOWS

Receipts and Deliveries shall be made at uniform rates over a twenty-four (24) hour period to the extent practicable, provided that Transporter shall have no obligation to receive or deliver Gas at a rate in excess of one twenty-fourth (1/24) of Shipper's MDQ. Transporter shall have the right to limit services when on any Day the cumulative hourly imbalance between Receipts and Deliveries exceeds one twenty-fourth (1/24) of the quantity handled for that Day, for each applicable Transportation Agreement or services agreement.

BILLING

1. Monthly Billing Date: Transporter shall render invoices on or before the 10th day of each Month for all services furnished during the preceding Month (the "**Monthly Billing Date**"). Such charges may be based on estimated quantities, if actual quantities are unavailable in time to prepare the billing. Transporter shall provide, in the following Month's billing, an adjustment based on any difference between actual quantities and estimated quantities, without any interest charge. If presentation of an invoice to Shipper is delayed after the 10th day of the Month, then the Payment Due Date shall be extended by an equal number of Business Days, unless Shipper is responsible for such delay.

2. Right of Examination: Both Transporter and Shipper shall have the right to examine at any reasonable time the books, records and charts of the other to the extent necessary to verify the accuracy of any statement, chart or computation made under or pursuant to the provisions of the Transportation Agreement or the applicable Toll Schedule.

PAYMENTS

1. Monthly payments: Shipper shall pay Transporter amounts as indicated on all invoices by the Payment Due Date. Unless otherwise directed by Transporter, Shipper shall pay directly into Transporter's bank account, all amounts as indicated on Transporter's invoice to Shipper, by electronic funds transfer in US Dollars, so that Transporter shall receive payment from Shipper by the Payment Due Date.
2. Remedies for non-payment: In the event that Shipper fails to pay all of the amount of any invoice as herein provided when such amount is due,
 - a. Shipper shall pay to Transporter interest on the unpaid portion of the invoice, such interest accruing at a rate per annum at the Prime Rate plus 2% until the date of payment.
 - b. If such failure to pay continues for thirty (30) days after payment is due, Transporter, in addition to any other remedy it may have under the Transportation Agreement, may, subject to Section 3 below, terminate the Transportation Agreement and/or suspend further delivery of Gas without further notice. In the event of suspension of delivery of Gas, all Demand Charges shall continue to accrue hereunder as if such suspension were not in effect.
3. If Shipper in good faith disputes the amount of any such invoice or part thereof, Shipper shall pay to Transporter such amounts as it concedes to be correct and provide Transporter with a written notice including a full description of the reasons for the dispute, together with copies of supporting documents. At any time thereafter, within twenty (20) days of a demand made by Transporter, Shipper shall furnish financial assurances satisfactory to Transporter, guaranteeing payment to Transporter of the amount ultimately found due upon such invoice after a final determination is made. Such a final determination may be reached either by agreement, arbitration decision or judgement of the courts, as may be the case. Transporter shall not be entitled to suspend service(s) because of non-payment related to the amount in dispute unless and until default occurs in the conditions of such financial assurances or default occurs in payment of any other amount due to Transporter hereunder.
4. Invoice Adjustments: If it shall be found that at any time or times Shipper has been overcharged or undercharged in any form whatsoever under the provisions of the Transportation Agreement or these General Terms and Conditions and Shipper shall have actually paid the invoices containing such overcharge or undercharge, Transporter shall refund the amount of any such overcharge and interest shall accrue from and including the first day of such overcharge as paid to the date of refund and shall be calculated but not compounded at a rate per annum determined each day during the calculation period to be equal to the Prime Rate, and the Shipper shall pay the amount of any such undercharge, but without interest. In the event an error is discovered in the amount invoiced in any statement rendered by Transporter, such error shall be adjusted by Transporter. Such overcharge, undercharge or error shall be adjusted by Transporter on the invoice next following its determination (where the term "Invoice" next following shall mean an invoice rendered at least twenty-five (25) days after the day of its determination), provided that claim therefore shall have been made within one (1) year from the date of the incorrect invoicing. In the event any refund is issued with Shipper's invoice, the aforesaid date of refund shall be deemed to be the date of the issue of invoice.
5. Set Off: Transporter, without prejudice to any other rights or remedies it may have, shall have the right to withhold and set off payment of any amounts of monies due or owing by Transporter to Shipper, against any and all amounts or monies due or owing by Shipper to Transporter for services provided.
6. Any payments received under this Article 14 shall first be applied to accrued interest, then to the previously outstanding principal, and lastly, to the most current principal due.

FORCE MAJEURE

1. The term "force majeure" as used herein shall mean acts of God, strikes, lockouts or any other industrial disturbance, acts of the public enemy, sabotage, wars, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, arrests and restraints of governments and people, civil disturbances, acts of terrorism, explosions, breakage or accident to machinery or lines of pipe, freezing of wells or lines of pipe, inability to obtain materials, supplies, permits or labour, any laws, orders, rules, regulations, acts or restraints of any governmental body or authority (civil or military), any act or omission by Transporter not controlled by Transporter and any other similar cases not within the control of Transporter which results in failure of Transporter to perform its obligations and which by the exercise of due diligence Transporter is unable to prevent or overcome. A force majeure called on an upstream pipeline will not be considered a force majeure event of Transporter's system. Notwithstanding the foregoing, a force majeure event on the U.S. Pipeline shall constitute a force majeure event on Transporter.
2. Transporter shall not be entitled to the benefit of the provisions of force majeure hereunder if any or all of the following circumstances prevail: the failure resulting in a condition of force majeure was caused by the negligence or misconduct of Transporter; the failure was caused by Transporter and Transporter failed to make all reasonable efforts to remedy the condition (short of litigation, if such remedy would require litigation); Transporter failed to resume the performance of such obligations with reasonable dispatch; the failure was caused by lack of funds; Transporter did not, as soon as possible after determining, or within a period within which it should acting reasonably have determined, that the occurrence was in the nature of force majeure and would affect its ability to observe or perform any of its conditions or obligations under the Transportation Agreement or the applicable Toll Schedule give Shipper the notice required hereunder.
3. Transporter shall give notice to Shipper as soon as possible after the force majeure condition is remedied, to the extent that the same has been remedied, and Transporter has resumed or is then in a position to resume the performance of the obligations and conditions of the Transportation Agreement.
4. If on any Day Transporter fails to accept Gas from Shipper by reason of an event of force majeure called by Transporter and fails to deliver the quantity of Gas nominated hereunder by Shipper up to the Maximum Daily Quantity, then for that Day the Demand Charge shall be reduced by an amount equal to the applicable Daily Demand Rate, as defined in this paragraph, multiplied by the difference between the quantity of Gas actually delivered by Transporter during such Day and the quantity of Gas which Shipper in good faith nominated and Transporter scheduled on such Day. For each Day subsequent to the Day on which a force majeure is called by Transporter until such force majeure is rectified, the Demand Charge shall be reduced up to an amount equal to Shipper's Maximum Daily Quantity. The term "**Daily Demand Rate**" shall mean the Demand Charge (as stipulated in the Shipper's Firm Transportation Agreement) multiplied by the number of months in Shipper's Firm Transportation Agreement and divided by the number of days in Shipper's Transportation Agreement. Shipper may instead request, with the acceptance of Transporter, to provide a make-up Transportation service for the volumes not shipped as a result of a force majeure.

LIABILITY AND INDEMNITY

1. Notwithstanding any provisions of the Tariff, including Shipper's Transportation Agreement, but subject to Section 2 below, the liability of the Transporter and/or Shipper is limited to direct damages only and all other remedies or damages are waived. In no event shall Transporter or Shipper be held liable to the other for consequential, incidental, special, punitive, exemplary or indirect damages, including, without limitation, lost profits, loss of revenues, business interruption losses, cost of capital or loss of business opportunity arising out of service provided under the Tariff and Shipper's Transportation Agreement.
2. A Shipper shall indemnify and save harmless the Transporter from any damage, loss or costs incurred by the Transporter or any other party as a result of, or arising from such Shipper's negligence or misconduct, such Shipper's breach or failure to comply with any provision of the Tariff, or as a result of such Shipper's breach or failure to comply with any provision of its Transportation Agreement. This provision shall survive the termination of, or expiration of, a Transportation Agreement or the Tariff.

AUTHORIZED AND UNAUTHORIZED OVERRUN

Authorized Overrun Charge

If Shipper requests Transporter to deliver an Authorized Overrun which Transporter agrees to schedule, Shipper shall be subject to an overrun charge as provided in the Statement of Tolls (the “**Authorized Overrun Charge**”).

Unauthorized Overrun Charge

If Shipper exceeds its Maximum Daily Quantity without the approval of Transporter, Shipper shall be subject to an overrun charge in addition to the applicable toll charges, equal to 200% of the Dawn, Ontario price as published in Gas Daily, or a successor publication acceptable to Transporter, for the applicable Day for each Dth of Gas taken in excess of Shipper's Maximum Daily Quantity (the “**Unauthorized Overrun Charge**”).

NOTICES

Unless otherwise provided in the Tariff, all communications and notices shall be as per Shipper's Transportation Agreement.

MODIFICATION

No modification of the terms and provisions of a Transportation Agreement shall be made except in writing executed by Transporter and Shipper.

NON-WAIVER AND FUTURE DEFAULT

No waiver by either Transporter or Shipper of any one or more defaults by the other in the performance of any provisions of the Transportation Agreement shall operate or be construed as a waiver of any future default or defaults, whether of a like or of a different character.

LAWS, REGULATIONS AND ORDERS

The Tariff and the respective obligations of the parties under a Transportation Agreement, are subject to valid laws, orders, rules, and regulations of duly constituted authorities having jurisdiction and are subject to change from time to time by addition, amendment, or substitution as provided by law. Shipper shall account for all importations of Gas and shall pay all duties and taxes thereon within the time and manner required by the *Customs Act* (Canada), the *Customs Tariff* (Canada), and the *Excise Tax Act* (Canada) and all other such applicable laws.

Subject to the paragraph immediately above, the Tariff and Shipper's Transportation Agreement shall be governed and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada and Transporter and Shipper irrevocably submit to the jurisdiction of the courts of the Province of Ontario for the interpretation and enforcement of the Tariff and Shipper's Transportation Agreement.

These General Terms and Conditions, Toll Schedules, Statement of Tolls and Service Agreements which comprise the Tariff are subject to the provisions of the *Ontario Energy Board Act, 1998*, including the Transporter's Code of Conduct, the Board's Affiliate Relationships Code for Gas Utilities and the Board's Storage and Transportation Access Rule . The tolls of the Transporter are regulated by the OEB on a complaints basis.

The Transporter is required to make copies of Tariffs and supporting financial information readily available to interested parties. Interested persons who cannot resolve traffic toll and traffic issues with the Transporter may file a complaint with the Board. In absence of a complaint, the Board does not normally undertake a detailed examination of the company's tolls.

It is the responsibility of the Transporter to provide its Shippers and interested parties with sufficient information to enable them to determine whether a complaint is warranted. Upon receipt of a written complaint, or the Board on its own initiative, the Board may decide to examine a toll and to make the toll interim, pending completion of the examination. In this circumstance, the Board may request additional information including any information that the Board would ordinarily obtain from regulated pipelines in a Cost of Service proceeding.

FACILITIES ON SHIPPER'S PROPERTY

1. Construction and Maintenance: Transporter, at its own expense may construct, maintain and operate on Shipper's property at the Delivery Point a measuring station properly equipped with a meter or meters and any other necessary measuring equipment for properly measuring the Gas delivered under the Transportation Agreement. Shipper will grant to Transporter a lease and/or rights-of-way over property of Shipper as required by Transporter to install, operate and maintain such facilities and to connect same to Transporter's pipeline.
2. Entry: Transporter, its employees, agents and each of them may at any reasonable time on notice (except in cases of emergency) to Shipper or its duly authorized representative, enter Shipper's property for the purpose of constructing, maintaining, removing, operating and/or repairing station equipment.
3. Property: The said station and equipment will be and remain the property of Transporter notwithstanding it is constructed on and attached to the realty of Shipper, and Transporter may at its own expense remove it upon termination of the Transportation Agreement and will do so if so requested by Shipper.

CREDITWORTHINESS

1. If at any time and from time to time any one of the following events occurs (each, a "**Material Event**");
 - (a) Shipper defaults on any of its obligations under its Transportation Agreement or the Tariff, or is in default of any other material contract with Transporter or another party;
 - (b) Shipper's or its Guarantor's corporate or debt rating falls below investment grade according to at least one nationally recognized rating agency;
 - (c) Shipper or its Guarantor ceases to be rated by a nationally recognized agency; or
 - (d) Shipper has exceeded credit available as determined by Transporter,then Shipper shall provide, unless otherwise agreed by both parties in writing, at its cost, within ten (10) days of Transporter's written request, either
 - (i) a standby irrevocable letter of credit (in form and substance and in an amount reasonably acceptable to Transporter) from a Qualified Institution (the "**Letter of Credit**"); or
 - (ii) a written guarantee (in form and substance and for an amount reasonably acceptable to Transporter) from the parent company or an affiliate of Shipper ("**Guarantor**") with a corporate or debt rating that is investment grade according to at least one nationally recognized rating agency ("**Guarantee**"); or
 - (iii) some other form of credit acceptable to both parties.

The credit requirement shall not exceed the monthly Demand Charges multiplied by twelve (12). "**Qualified Institution**" shall mean a major U.S. commercial bank, or the U.S. branch offices of a foreign bank which has assets of at least US\$10 Billion Dollars and a credit rating of at least "A-" by S&P, or "A3" by Moody's. Transporter may require Shipper at its cost to provide a substitute Letter of Credit ("**Substitute Letter of Credit**") if the Letter of Credit provided is, at any time, from a financial institution which is no longer a Qualified Institution. In the event that Shipper does not provide such Letter of Credit, Guarantee or Substitute Letter of Credit within ten (10) days of Transporter's written request, Shipper shall be deemed to be in default of the Transportation Agreement.

Shipper shall promptly notify Transporter of any Material Event throughout the term of the Transportation Agreement.

2. This Article 23 shall be in addition to, and not in lieu of, any requirements under the Transportation Agreement or the applicable Toll Schedule and shall remain in effect for the term requirements set forth in the Transportation Agreement.

3. Prior to the Commencement Date set out in Shipper's Transportation Agreement, the conditions under this Article 23 shall be satisfied by Shipper.

INCORPORATION IN TOLL SCHEDULES AND TRANSPORTATION AGREEMENTS

These General Terms and Conditions are incorporated in and are a part of Transporter's Toll Schedules and Transportation Agreements. Unless the context expressly requires, to the extent there is any inconsistency between these General Terms and Conditions and the Transporter's Toll Schedule or Transportation Agreements, these General Terms and Conditions shall govern.

DEFAULT AND TERMINATION

1. Except where different procedures for termination of a Transportation Agreement are expressly provided in the Transportation Agreement, including in other provisions of these General Terms and Conditions, if Transporter or Shipper shall fail to perform any of the covenants or obligations imposed upon it under any Transportation Agreement or the Tariff, or shall breach any term or condition thereof or make any misrepresentation thereunder, then in such event the other party may, at its option, terminate the Transportation Agreement by proceeding as follows: (a) the party not in default shall cause a written notice to be served on the party in default stating specifically the default and declaring it to be the intention of the party giving the notice to terminate Shipper's Transportation Agreement; (b) thereupon the party in default shall have 10 days after the service of the aforesaid notice in which to remedy or remove the default stated in the default notice; and (c) if within said 10 day period the party in default does so remove and remedy said default and fully indemnifies the party not in default for any and all consequences of such default, such default notice shall be withdrawn and the Transportation Agreement shall continue in full force and effect.
2. In the event the party in default does not so remedy and remove the default, or does not indemnify the party giving the default notice for any and all consequences of such default within the said period of 10 days, then, at the option of the party providing such default notice, the Transportation Agreement shall terminate.
3. Any termination of a Transportation Agreement pursuant to the provisions of this Article 25 shall be without prejudice to the right of Transporter to collect any amounts then due to it for Gas delivered or service provided prior to the date of termination, and shall be without prejudice to the right of Shipper to receive any Gas which it has not received but the transportation of which has been paid prior to the date of termination, and without waiver of any other remedy to which the party not in default may be entitled for breaches of the Transportation Agreement or the Tariff.

LINE PACK AND TEST GAS

Notwithstanding any other provision contained in these General Terms and Conditions or the Tariff, Transporter shall be exempt from all contracting requirements and shall not be subject to any toll or charge otherwise applicable for the transmission of Gas that is owned by the Transporter.

ALLOCATION OF CAPACITY

Capacity shall be allocated starting with those bids with the highest economic value. If the economic values of two independent bids are equal, then service shall be offered on a pro-rata basis. The economic value will be based on the Net Present Value ("NPV") using the effective rate at the time the capacity is being allocated. The Transporter reserves the right to establish minimum terms and rates for project expansions.

CONDITIONS PRECEDENT FOR EXISTING CAPACITY

The obligation of Transporter to provide Transportation Services hereunder are subject to the following conditions precedent, which are for the sole benefit of Transporter and which may be waived or extended in whole or in part in the manner provided in the contract.

- a) Transporter obtaining all organizational approvals, as Transporter deems necessary.
- b) Transporter shall have received from Shipper the requisite financial assurance as per Section 23, Creditworthiness, of this Tariff.
- c) Shipper and Transporter shall have entered into a Transportation Agreement with the Transporter.

RENEWAL RIGHTS

At least twelve (12) months prior to the expiration of a Transportation Agreement, Shipper may, by written notice to Transporter, exercise an option to negotiate an extension of the term of that Transportation Agreement at terms agreeable to Transporter. In the event that the terms of any extension cannot be agreed upon by the Parties at least twelve (12) months prior to the expiration of that Transportation Agreement, Transporter may sell the capacity provided under that Transportation Agreement to a third party in its sole discretion.

Schedule 7

Firm Transportation Agreement

Agreement No. FT - ●

**FIRM TRANSPORTATION AGREEMENT
FOR FIRM TRANSPORTATION OF NATURAL GAS**

BETWEEN

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP

AND

(SHIPPER)

DATED the _____ day of _____, 20_____

THIS FIRM TRANSPORTATION AGREEMENT dated as of the ____ day of _____, 20____, (the “**Agreement**”)

BETWEEN:

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, a limited partnership existing under the laws of the Province of Ontario,
(hereinafter referred to as “**Transporter**”)

- and -

_____, a company incorporated under the laws of the
(Province, State, Country) of _____,
(hereinafter referred to as “**Shipper**”)

(FOR EXISTING CAPACITY AND FOR EXPANSION CAPACITY)

WHEREAS, Transporter is part of a joint venture which operates a natural gas transmission pipeline that runs from the Belle River point near the Belle River Mills natural gas storage facility located in China Township, Michigan to the St Clair River point (the “**U.S. Pipeline**”) and from the St Clair River point to the Dawn point located near the Dawn compressor site in the township of Dawn-Euphemia, Ontario, where the pipeline terminates (the “**Canadian Pipeline**”);

WHEREAS, Transporter operates the Canadian Pipeline, through which Transporter offers “Transportation Services”, as defined in Article II herein;

(FOR EXPANSION CAPACITY)

WHEREAS, Transporter has proposed construction to expand the Canadian Pipeline through which Transporter offers “Transportation Services”, as defined in Article II herein;

WHEREAS, Shipper and Transporter have entered into an agreement dated _____, 20____ (the “**Precedent Agreement**”), which terms and conditions provided that, subject to the fulfilment or waiver of the conditions precedent set forth in the Precedent Agreement, the parties enter into an agreement substantially in the form of the terms and conditions described in this Agreement;

WHEREAS, the conditions precedent of the Precedent Agreement have been satisfied or waived;

WHEREAS, all condition precedents contained in Section 28 of the General Terms and Conditions having been satisfied;

AND WHEREAS, Shipper wishes to contract with Transporter to provide such Transportation Services, as set out herein, and Transporter has agreed, subject to the terms and conditions of this Agreement, to provide the Transportation Services requested;

NOW THEREFORE, this Agreement witnesses that, in consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

ARTICLE I - TRANSPORTATION SERVICE COMMENCEMENT AND TERM

(FOR EXISTING CAPACITY)

1.02 The Commencement Date shall be the _____ day of _____, 20____. This Agreement shall remain in full force and effect, pursuant to the terms of this Agreement and the Tariff until the _____ day of _____, 20____.

(FOR EXPANSION CAPACITY)

1.01 Transporter shall use reasonable efforts to construct or acquire the additional pipeline and/or facilities as may be required to effect the Transportation of Gas requested by Shipper pursuant to this Agreement (the "**Required Capacity**") by the _____ day of _____, 20____ ("**Target Date**"), or as soon as possible thereafter. The ability of Transporter to effect the Transportation of Gas by the Target Date will be affected by the timing of receipt of authorizations, approvals and easements as provided in Section 3 of the Precedent Agreement and the time required for the acquisition and construction of the pipeline and facilities required to provide the Required Capacity.

1.02 Transporter shall make reasonable efforts to provide Shipper with ten (10) days advance notice for the anticipated availability of the Required Capacity (the "**Notice**"), and Transportation Services, pursuant to this Agreement, shall not commence prior to the actual date of availability of the Required Capacity.

1.03 This Agreement shall be effective as of the date of execution hereof and shall continue in full force and effect, pursuant to the terms of this Agreement and the Tariff until the _____ day of _____, 20____. However, the Commencement Date of the Transportation Services obligations, terms and conditions hereunder shall be the earlier of:

(a) the date for which Shipper first Nominates and Transporter schedules the Transportation Services hereunder;
or

(b) the tenth (10th) day following the day on which Shipper received the Notice,

provided, however, that Shipper shall not be obligated to a Commencement Date which is earlier than the _____ day of _____, 20____, unless mutually agreed upon by the parties.

ARTICLE II – TRANSPORTATION SERVICES

2.01 Transporter shall perform, and Shipper shall receive, service hereunder in accordance with the provisions of Transporter's effective Toll Schedule Firm Transportation Service and the applicable General Terms and Conditions of the Tariff on file with the OEB as the same may be amended or superseded in accordance with the rules, regulations and legislation of the OEB.

2.02 Transporter shall, on a Firm basis and subject to the terms and conditions herein, transport Shipper's Gas on Canadian Pipeline (the "**Transportation Services**"). Shipper agrees to the following upon Nomination for the provision of the Transportation Services:

(a) Maximum Daily Quantity:

Transporter shall transport, on a Firm basis, a quantity of Gas on any day, of up to _____ Dth (_____ GJ) (the "**MDQ**").

(b) Receipt Point and Delivery Point;

i) "**Receipt Point**" shall mean the point where Transporter shall receive Gas from Shipper as listed below:

• _____

ii) **"Delivery Point"** shall mean the point where Transporter shall deliver Gas to Shipper as listed below:

• _____

(c) Gas Transported by Transporter:

(i) Transporter agrees, on any Day, and subject to Section 2.02 (c) (ii) hereunder, to receive on Shipper's behalf at the Receipt Point, any quantity of Gas which Shipper Nominates and which Transporter has authorized for Transportation Service and to deliver that quantity of Gas to Shipper at the Delivery Point; and

(ii) Under no circumstances shall Transporter be required to transport a quantity of Gas in excess of the MDQ.

(d) Fuel:

Shipper shall provide the Fuel Requirements as posted on the Website and in accordance with the General Terms and Conditions.

2.03 Accounting for Transportation Services: All quantities of Gas received by or delivered to Transporter shall be accounted for on a daily basis.

ARTICLE III: CHARGES AND RATES

3.01 Except as otherwise stated herein, the charges and rates to be billed by Transporter and paid by Shipper for the Transportation Services provided under this Agreement will be in accordance with Transporter's effective Toll Schedule Firm Transportation Service.

Reservation Rate:	\$ _____ USD/Dth
Usage Rate:	\$ _____ USD/Dth
Authorized Overrun Charge	\$ _____ USD/Dth

The Reservation Rate shall be invoiced as a monthly Demand Charge of \$ _____ USD per month

3.02 Where the U.S. Pipeline provides Shipper with upstream connecting transportation service, Transporter may, at its discretion, reallocate the rates between Transporter and the U.S. Pipeline as long as the total rate to Shipper does not increase.

3.03 In addition to the charges and rates, Shipper is responsible for any applicable Goods and Services Tax or other taxes, royalties, duties or levies, including charges under any form of cap and trade, carbon tax, or similar system imposed currently or subsequent to the execution of this Agreement that are payable in connection with the Transportation Services.

ARTICLE IV: NOTICES

4.01 All communications provided for or permitted hereunder shall be in writing, personally delivered to an officer or other responsible employee of the addressee or sent by registered mail, charges prepaid, or by facsimile or other means of recorded telecommunication, charges prepaid, to the applicable address set forth below or to such other address as either party hereto may from time to time designate to the other in such manner, provided that no communication shall be sent by mail pending any threatened, or during any actual, postal strike or other disruption of the postal service. Any communication

personally delivered shall be deemed to have been validly and effectively received on the date of such delivery. Any communication so sent by facsimile or other means of telecommunication shall be deemed to have been validly and effectively received on the Business Day following the day on which it is sent. Any communication so sent by mail shall be deemed to have been validly and effectively received on the seventh (7th) Business Day following the day on which it is postmarked.

Communications to the parties hereto shall be directed as follows:

IF TO SHIPPER:

Address:

Nominations: Attention:

Telephone: ____-____-____

Facsimile: ____-____-____

Secondary Contact: Attention:

Telephone: ____-____-____

Facsimile: ____-____-____

IF TO TRANSPORTER:

Dawn Gateway Pipeline Limited Partnership,
c/o DTE Pipeline Company
One Energy Plaza, 2084WCB
Detroit, MI
48226

Attention: Director, Marketing & Optimization

Facsimile: (313) 235-6450

Nominations: Attention: ●

Title ●

Telephone: ●

Facsimile: ●

Secondary Contact: Attention: ●

Title ●

Telephone: ●

Facsimile: ●

ARTICLE V: MISCELLANEOUS

5.01 Maintenance: Transporter reserves the right to take such actions as may be required to preserve the integrity of the Canadian Pipeline or to enhance the Canadian Pipeline.

5.02 Severability: If any provision hereof is invalid or unenforceable in any jurisdiction, to the fullest extent permitted by law, (a) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be construed in order to carry out the intention of the parties as nearly as possible and (b) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of any provision in any other jurisdiction.

5.03 Nothing in this Agreement shall be deemed to create any rights or obligations between the parties hereto, including renewal rights, after the expiration of the term set forth herein, except that termination of this Agreement shall not relieve either party of the obligation to correct any quantity imbalances or Shipper of the obligation to pay any amounts due hereunder to Transporter.

5.04 Capitalized terms not defined herein shall have the meaning given them in the General Terms and Conditions of the Tariff.

THIS AGREEMENT SHALL BE BINDING UPON and shall enure to the benefit of the parties hereto and their respective successors and permitted and lawful assigns.

IN WITNESS WHEREOF this Agreement has been properly executed by the parties hereto by their duly authorized officers as of the date first above written.

DAWN GATEWAY PIPELINE LIMITED PARTNERSHIP, by its general partner, DAWN GATEWAY PIPELINE GENERAL PARTNER INC.

By: _____
Peter Ciani
Co-President

By: _____
Stephen W. Baker
Co-President

SHIPPER

Title:

Title:

APPENDIX B

EB-2009-0422

Dawn Gateway Pipeline Limited Partnership
Code of Conduct

Dawn Gateway Pipeline Limited Partnership

Code of Conduct

General

This Code of Conduct will govern the relationship between Dawn Gateway Pipeline Limited Partnership ("DG") and all shippers or potential shippers on its transportation system ("Shippers") and each of the following parties (each being a "Related Party"): (i) any of DG's partners (a "Partner"); (ii) any corporation, company, partnership or other entity that directly or indirectly owns a majority voting interest in a Partner (a "Parent"); and (iii) any corporation, company, partnership or other entity that is controlled by a Parent including Union Gas Limited and Michigan Consolidated Gas Company. DG is committed to ensuring the long-term viability of its transportation system (the "System") through the efficient and cost effective maximization of System utilization.

No Preferential Treatment

In the administration of DG's tariff, contracts and operations and including the provision of information in a timely manner to all Shippers, DG will at all times treat its Shippers equally. DG will not give preferential access to the System to any Related Party, or to any Shipper on the System. DG will process all similar requests for service in a uniform manner.

Related Party Transactions

DG will post the names of any Related Party with whom it contracts to provide transportation services. DG will not participate in any agreement whereby the provision of transportation services on the System by DG is conditional upon Shippers entering into an agreement with a Related Party for other services.

Information Kept Confidential

DG will not use any information or data that is disclosed to DG by third parties for System purposes to advance the activities of a Related Party unless that information or data is also available generally to third parties or has been given to DG on the express written understanding that it may also be used in connection with the activities of Related Parties.

Reporting

DG shall provide to the Ontario Energy Board (OEB), annually, by the last day of the fourth month after the financial year end, a statement signed by both of its Co-Presidents certifying that they are satisfied that DG and the DG Representatives (as defined below) have complied with this Code of Conduct with any exceptions noted.

Compliance

DG will, at the commencement of employment of personnel and the engagement of any Related Party to provide services to DG (collectively, the "DG Representatives") and at least once annually, formally communicate to DG Representatives the principles set forth in this Code of Conduct and the expectation that DG Representatives conduct themselves at all times in a manner consistent with those principles. Appropriate action will be taken promptly in response to any material breach of this Code of Conduct.

Complaint Mechanism

Any complaint respecting the application of this Code of Conduct shall be referred in writing to either Co-President of Dawn Gateway Pipeline General Partner Inc. The Co-President shall respond to the complainant within 30 working days of its receipt. The response shall include a description of the complaint and DG's response to all issues of contention raised within the complaint. A record of all complaints and responses of DG shall be maintained for a period of 2 years. If a complaint is not resolved to the satisfaction of the complainant, the complaint may be referred to the OEB. DG will advise the OEB of any complaints received.

Periodic Review

This Code of Conduct shall be subject to periodic review by DG and its Shippers and modifications may be implemented as warranted.