

Ontario Energy Board

EB-2010-0199

Staff Report to the Board

on the 2010 Natural Gas Market Review

January 31, 2011

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Executive Summary

In 2010, the Ontario Energy Board (“Board” or “OEB”) initiated a consultative process to assist the Board in reviewing and examining recent developments in North American natural gas supply markets to consider any potential implications for the Ontario natural gas market. The consultative process began in July 2010 and has culminated in this Staff Report to the Board. All materials in relation to this consultation are available on the Board’s web site.

In general, all participants in the consultation commented that there appears to be a significant amount of uncertainty surrounding Marcellus shale production. Consequently, all participants generally expressed the view, and staff agrees, that the Board should take a cautious and incremental approach to any regulatory response given the uncertainties.

Board staff (“staff”) has analyzed submissions, discussions at the consultation and the final written comments of participants and generally agrees that the Board should take a cautious and incremental approach to any regulatory response. In light of the information and analysis provided in consultation with stakeholders, staff recommends that the Board consider further exploring the following action.

1. The Board should carry out a review of the criteria in its [E.B.O. 134 Report of the Board](#) in the matter of the Ontario Energy Board Act, R.S.O. 1980, Chapter 332; and in the matter of a Review by the Ontario Energy Board of the Expansion of the Natural Gas System in Ontario (“E.B.O. 134 Report”), dated June 1, 1987:
- to determine whether criteria related to the public interest as discussed in that report could be refined; and
 - to examine the need for alignment with the Board’s more recent Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation

Contracts (“LTC Filing Guidelines”) to consider potential impacts on existing pipeline facilities in the market and the effects on Ontario customers.

Staff believes there is merit in aligning the E.B.O.134 Report criteria with the Board’s LTC Filing Guidelines. The review and approval of applications from Ontario’s gas utilities to build and maintain long-term capital assets serving Ontario should require no less rigour than the review and approval of long-term contracts supporting the build of long-term capital assets by others to serve the province. The objective of such a review would be to examine need for consistency to ensure fair treatment of economically prudent investment – whether made by the Ontario gas utilities or by companies not directly regulated by the Board – in natural gas infrastructure which is needed to support existing and potentially new services in the natural gas market.

2. On-going monitoring of developments in North American natural gas supply markets.

- Continued Outreach: In light of market uncertainties and concerns of participants identified in this report, staff will continue to monitor the natural gas market through regular interaction between staff and key market participants, other regulators, and Energy Ministry staff on gas matters.
- Tri-annual Gas Market Review Conferences: Staff recommends that the Board should participate in regular gas market review conferences. If, as the Board continues to monitor developments in the North American natural gas supply market, conditions arise that, in the view of the Board, raise concern that the natural gas market has encountered a significant change, the Board may then use its discretion to begin a consultative process. However, in the absence of such conditions, staff recommends that a review period of three years is appropriate. In that period of time, a greater certainty in market trends and dynamics will likely be known. Accordingly, the staff recommends that the Board conduct its next regular review conference in 2013.

The remainder of this Report documents the consultation and sets out staff’s recommendations as summarized above.

1 Introduction

The Ontario Energy Board (“Board” or “OEB”) has a long history of reviewing trends in the natural gas market. In the past, the Board has undertaken initiatives such as the Ten Year Market Review and the Market Design Task Force, in order to explore options for better regulation of the evolving natural gas market. In 2003, the Board undertook a comprehensive sector review to further improve the efficiency and effectiveness of natural gas regulation in Ontario. The result of that review was a report [Natural Gas Regulation in Ontario: A Renewed Policy Framework](#), which led to the Natural Gas Electricity Interface Review Issues and the Storage Regulation hearing, Multi-Year Incentive Rate Regulation for Natural Gas Utilities and most recently the Storage and Transportation Access Rule (the “STAR”).¹

On July 13, 2010, the Board issued a letter announcing the launch of the 2010 Natural Gas Market Review (the “Review”) to help the Board to review and examine recent developments in North American natural gas supply markets to consider any potential implications for the Ontario natural gas market.

In the July 13, 2010 letter describing the consultation process, the Board identified that an *overall objective* of the Review is to assess how natural gas markets in Ontario are responding or adapting to changing market conditions. The Board indicated that it intends to assess the impact of changing dynamics in North American natural gas supply markets, particularly due to increased shale gas production at Marcellus, on the Ontario energy sector. The Board further indicated that the Review will look at impacts over the next 3-5 years, including the potential impact on prices, services and transportation infrastructure utilization. Also in that letter, the Board identified that a *specific objective* of this initiative is to determine the need for regulatory changes, if necessary, in response to potential impacts identified.

¹ All materials in relation to these initiatives and proceedings are available on the Board’s web site.

On August 20, 2010, the Board posted on its web site a report prepared for Board staff by ICF International Inc. (“ICF International”) entitled “2010 Natural Gas Market Review” (the “ICF Report”). The purpose of this report was to help identify emerging market trends and to provide context for the consideration of the identified objectives at a stakeholder conference. Board staff (“staff”) also identified specific topics, detailed in Chapter 2, for stakeholder comment at the conference. In brief, given the changes identified in the ICF Report, what might be the opportunities and/or challenges for Ontario gas market participants? Are there any regulatory implications? Is there a need for greater inter-jurisdictional regulatory alignment?

The following interested stakeholders participated in the 2010 Natural Gas Market Review consultation process:

- Association of Power Producers of Ontario (“APPrO”);
- Canadian Gas Association (“CGA”);
- Canadian Manufacturers & Exporters (“CME”);
- City of Kitchener (“Kitchener”);
- City of Timmins (“Timmins”);
- Consumers Council of Canada (“CCC”);
- Council of Canadians (“CoC”);
- Direct Energy Marketing Limited (“DEM”);
- Enbridge Gas Distribution (“Enbridge”);
- Energy Probe (“EP”);
- Federation of Rental Housing Providers of Ontario (“FRHPO”);
- Industrial Gas Users Association (“IGUA”);
- Just Energy Ontario L.P. (“JEO”);
- London Property Management Association (“LPMA”);
- School Energy Coalition (“SEC”);
- TransCanada PipeLines (“TCPL”);
- Union Gas (“Union”); and
- Vulnerable Energy Consumers Coalition (“VECC”).

Following the Stakeholder Conference held on October 7 and 8, 2010, the Board received written comments from 15 of these interested stakeholders, identified in Appendix A. A summary of the written comments is provided in Appendix B.

The consultative process began in July 2010 and has culminated in this Staff Report to the Board. All materials in relation to this consultation are available on the Board’s web site.

This Report documents the consultation process and, in light of stakeholder comments in that process, sets out Board staff's recommendations to the Board on the need, if any, for further regulatory initiatives as a result of the Review.

As stated in the Board's July 13, 2010 letter, any action that the Board decides to take as a result of the Review will be addressed separately in appropriate regulatory processes.

Organization of this Report

This report is organized as follows: The consultative process is detailed in Chapter 2. A discussion of opportunities and challenges and associated issues, options and impacts raised in consultations to the changing dynamics in the North American natural gas supply markets is set out in Chapter 3. Chapter 3 also contains staff's recommendations on the need, if any, for further regulatory initiatives in response to the impacts identified. Summary consultation materials are contained in the Appendices.

2 Consultative Process

In 2010, the Board initiated a consultative process to assist the Board in reviewing and examining recent developments in North American natural gas supply markets to consider any potential implications for the Ontario natural gas market. The consultative process began in July 2010 and has culminated in this Staff Report to the Board. All materials in relation to this consultation are available on the Board's web site.

2.1 The 2010 Natural Gas Market Review Report by ICF International

To provide context for the consideration of the identified objectives at the Stakeholder Conference, Board staff commissioned ICF International to prepare a review of the North American natural gas market. The ICF Report was issued on August 20, 2010. Highlights of the ICF Report are summarized in Section 3 of this report.

Participants in the consultation were invited to attend an informal question and answer session with the authors of the ICF Report. The purpose of this informal session was to give participants an opportunity to better understand the ICF Report. Attended by over 60 participants, that session was held on September 29, 2010.

2.2 List of Topics and Questions for Discussion

On August 20, 2010, with the posting of the ICF Report, the Board issued a list of topics and questions for discussion prepared by Board staff to help participants prepare for the Stakeholder Conference. The list was provided as a guide only, and participants were encouraged to raise additional topics or questions as they considered appropriate.

1. Given the changes identified in the ICF Report, what might be the opportunities for Ontario gas market participants (i.e., producers, storage providers, transmitters, distributors, wholesale and retail gas marketers, gas generators, and industrial, commercial and retail users)?

For example, will new gas supply from the Marcellus shale play provide opportunities for innovative and new pipeline and storage services in Ontario? If so, what opportunities might emerge over the next 3 to 5 years and in the longer term?

2. What might be the challenges for Ontario gas market participants?

For example, the ICF Report identifies that “[o]ne of the principal concerns about [TransCanada Pipelines Limited]’s declining throughput is whether the resulting higher per unit cost of transportation would lead to continued de-contracting of TCPL capacity...” What are the possible consequences of this? Such as:

- a. to Ontario customers in terms of adequacy and quality of service and price;
- b. to Ontario storage providers, transmitters and distributors in terms of the cost of and access to equity and debt capital; and
- c. to others?

Are there other issues and/or concerns that might pose challenges for Ontario energy sector participants?

3. In the Board’s last natural gas review, the Board identified a need to offer utilities the opportunity to apply for pre-approval of long-term supply and/or transportation contracts. On April 23, 2009, the Board issued its Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts (Board File No.: EB-2008-0280). In those guidelines, one of the Board’s requests is that applicants provide “[a]n assessment of retail competition impacts and potential impacts on existing transportation pipeline facilities in the market (in terms of Ontario customers)”.

If, as a result of new gas supply from the Marcellus, new or an expansion of Ontario natural gas pipelines under the jurisdiction of the OEB are proposed, should potential impacts on existing pipeline facilities in the market (in terms of Ontario customers) be considered? If so, why, and what are the implications and/or risks of doing so? If not, why, and what are the implications and/or risks of not doing so?

4. What further action, if any, might the Board undertake on its own or in conjunction with others? Are there areas in which there is need for alignment between the work of the Board and other regulatory agencies? If so, how might that alignment be achieved?

2.3 The Stakeholder Conference

The Stakeholder Conference was held on October 7 and 8, 2010. The purpose of the Stakeholder Conference was to provide a forum for discussion of the recent developments

in North American natural gas supply markets and the implications for the Ontario natural gas sector.

The following individuals provided presentations to participants and the Board at the Stakeholder Conference:

- Ms. Lisa Sumi and Mr. Stephen Shrybman (The Council of Canadians);
- Mr. John A. Rosenkranz (consultant for the Consumers Council of Canada, Canadian Manufacturers and Exporters, City of Kitchener, Federation of Rental-housing Providers of Ontario, London Property Management Association, School Energy Coalition, and Vulnerable Energy Consumer's Coalition (the "Collaborative"));
- Mr. John Wolnik and Mr. David Butters (The Association of Power Producers of Ontario);
- Ms. Malini Giridhar and Mr. Norm Ryckman (Enbridge Gas Distribution Inc.);
- Mr. Steve Pohlod, Mr. Don Bell and Mr. John Reed (TransCanada PipeLines Limited); and
- Ms. Emily Kirkpatrick and Mr. Mark Kitchen (Union Gas Limited).

The conference helped participants, including Board staff, gain through the presentations and an interactive exchange with participants and their respective experts a clearer understanding of the positions of participants and of significant issues and areas of concern.

2.4 Written Comment

Subsequent to the Stakeholder Conference and in light of the presentations and discussions at the conference, the Board received written comments from participants in November, 2010.

The Board indicated in its August 20, 2010 letter that the written comments and the discussion at the Stakeholder Conference would assist Board staff in the preparation of a Staff Report to the Board – this Report. As indicated previously, this Report sets out Board staff's recommendations regarding what further actions or proceedings, if any, the Board should consider.

3 Issues & Options Raised in Consultations

As noted previously, to provide context for the consideration of the identified objectives at the Stakeholder Conference, Board staff commissioned ICF International to prepare a review of the North American natural gas market. The ICF Report was issued on August 20, 2010.

In the ICF Report, ICF International identifies and describes emerging trends in the North American market and their implications for the Ontario market. The ICF Report emphasizes the importance of the growth in unconventional gas supplies, expectations for gas demand growth, changes to gas pipelines and storage, the impacts of supply and demand changes on natural gas price, and how all these market changes may impact the Ontario natural gas market. The ICF Report includes, among other matters:

- an overview of the recent history of the North American and Ontario gas markets;
- a forward looking analysis of the changes that are continuing to occur in the North American and Ontario gas markets; and
- the identification of emerging North American trends in natural gas supply and demand, utilization of gas pipelines and storage, and ICF International's projected expectation for future gas prices and basis, in light of ICF International's projected changes in the market.

A summary of the key findings set out in the executive summary of the ICF Report (pp. 11-12) is reproduced below.

Table 1: Summary of ICF International's Key Findings

<p><i>Demand for Natural Gas is Expected to Continue Growing, Led by Growth in the Power Sector</i></p> <ul style="list-style-type: none"> • Total North American demand for natural gas is projected to continue growing, led by growth in the power sector. • Ontario's power sector gas use is also expected to continue growing, climbing to nearly one-third of total demand by 2020. • As power generation becomes a large part of natural gas demand, seasonal and daily use patterns will change. These changes could place stresses on Ontario's pipeline and storage infrastructure. <p><i>Supply Sources and Inter-regional Pipeline Flow Patterns are Changing</i></p> <ul style="list-style-type: none"> • Unconventional gas resources, including shale gas, are expected to make up over 50 percent of total gas supply by 2020. • Shale gas is expected to be the principle source of growth in North American gas supplies. • Many shale resources, such as the Marcellus Shale, are located in geographically different regions than historic supplies. These shifts in supply sources will impact pipeline flows and the development of new pipeline capacity. • Conventional gas production in Western Canada is expected to continue declining, and gas demand in Alberta for oil sands projects is expected to continue increasing. This is expected to cause TCPL's mainline flows to continue decreasing. • While Western Canadian gas (delivered via TCPL) is expected to remain the largest single supply source for Ontario, it is expected to decline both in absolute terms and as a share of the total supply. • As a result of the decline in Western Canadian production, an increasing share of Ontario's gas supplies is expected to be met by gas from the U.S., especially shale gas. • While Marcellus Shale production is not projected to be a major direct supply source for Ontario, it is projected to displace some exports of gas from Ontario to the Northeast U.S., allowing a greater share of gas transported on TCPL to remain in Ontario. <p><i>Natural Gas Prices are Projected to Increase</i></p> <ul style="list-style-type: none"> • Projected demand growth, principally from growth in the power sector, will drive North American gas prices higher. • While gas prices are not expected to reach the very high levels seen in the mid- to late-2000s, average annual Henry Hub prices are projected to rebound to \$5 to \$6 per MMBtu. • Given the ample North American resource base, the projected gas prices are adequate to support continued development of the supplies necessary to satisfy the projected demand growth. • While changes in supply and demand conditions are important in the determination of Ontario's gas prices, so are policies that impact TCPL's rate structure. The response to projected reductions in TCPL mainline flows is a critical issue for Ontario gas consumers. <p><i>Key Uncertainties Which Could Affect the Projection</i></p> <ul style="list-style-type: none"> • As environmental concerns grow and policy initiatives in both Canada and the U.S. gain traction, coal-fired power plants may be retired more quickly. In that case, gas use in the power sector may increase more rapidly than projected. • A more aggressive approach to promoting the use of renewable energy resources to replace existing fossil fuel generation may decrease projected growth in gas-fired generation. However, gas will likely still play an important role in the power sector by providing firm generation to support intermittent renewable sources such as wind. • Concerns have been raised about the environmental impacts of hydraulic fracturing, a technique used to produce shale gas. If regulation of hydraulic fracturing becomes more stringent, this could slow the growth of shale gas production. • If economic growth in the U.S. and Canada is slower than projected, this would have negative impacts on gas demand growth, particularly in the industrial and power sectors. If industrial output continues to decline, this would reduce gas consumption. Likewise, reduced economic growth would imply less growth in demand for electricity, which would lead to less gas-fired generation.
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In general, participants agreed with ICF International’s key findings, however, some participants expressed belief that there is greater potential, both in terms of volumes and timing, for moving gas from the Marcellus Shale into Ontario. In addition, there was general agreement that there were some key uncertainties which could affect these key market projections – in particular, the environmental concerns associated with shale gas production.

Figure 1 provides a view of how gas from the Marcellus Shale may flow into Ontario.

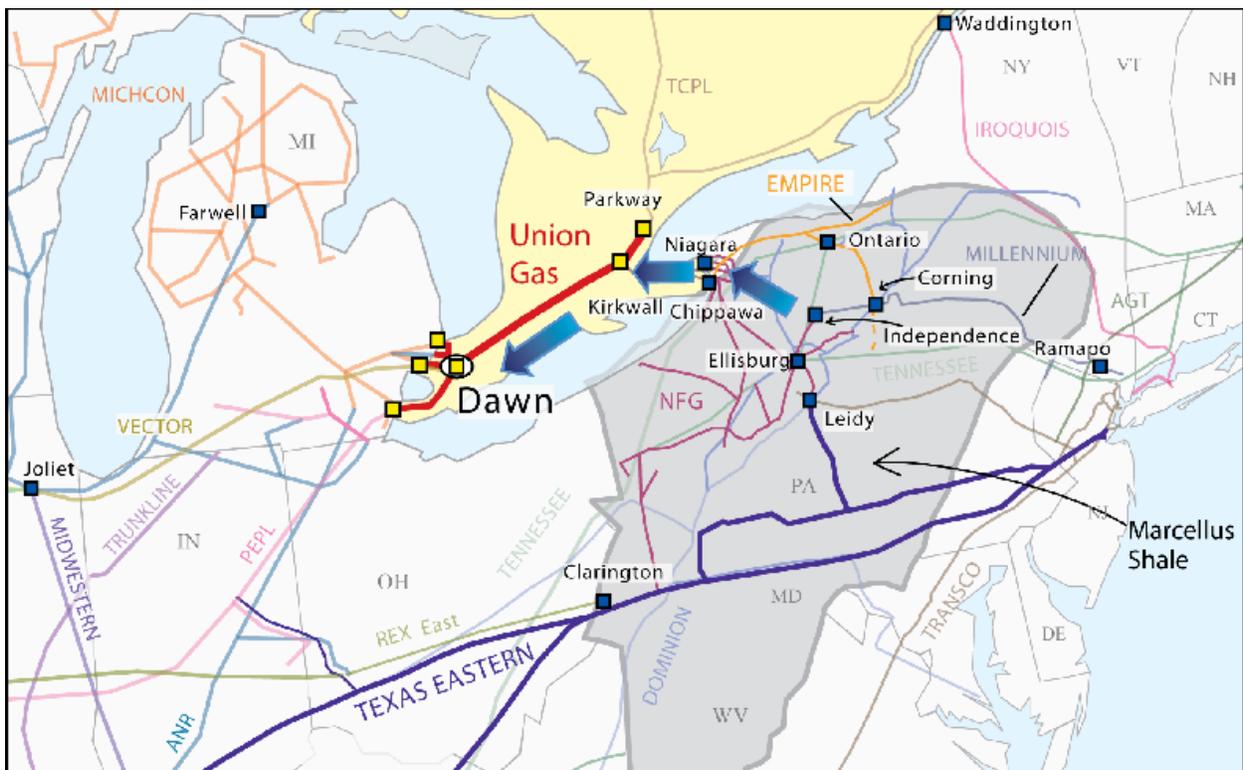


Figure 1: “Marcellus Shale Supplies to Dawn” map from Union Gas web site

3.1 Opportunities & Challenges for Ontario Natural Gas Market Participants

Items 1 and 2 in the list of topics and questions issued by the Board asked participants, given the changes identified in the ICF Market Report, what might be the opportunities for Ontario gas market participants (i.e., producers, storage providers, transmitters, distributors, wholesale and retail gas marketers, gas generators, and industrial, commercial and retail users)? What might be the challenges?

Stakeholders identified a number of potential opportunities and challenges in relation to transportation services, supply diversification, expansion of natural gas pipelines in Ontario, liquidity at the Dawn Market Hub, customer captivity, and tolls and landed costs.

Transportation Services

TCPL and Union indicated that they are already responding to the changing supply dynamics in their development and provision of transportation service offerings. For example, Union has applied to the Board for approval of a firm C1 transportation service that will allow gas to move from Kirkwall to Dawn. Union has also stated that it applied for approval of a multi-directional M12 transportation service (M12-X) that will allow shippers to move gas between any two of Dawn, Kirkwall and Parkway, in any direction on any day. This service was approved by the Board on November 30, 2010 in its EB-2010-0296 Decision and Order. Also, TCPL has provided short-haul services to facilitate greater access to Dawn and other market locations.

TCPL commented that its integrated system serves most Ontario demand centers and provides an economically efficient option to provide access to many of the new developing gas plays while avoiding the need to build costly new infrastructure. In contrast, Union expressed concern that if the Ontario market is not allowed to effectively develop needed transportation options (including new build), then the market will move the new gas supply sources to the most economical alternative, whether it involves the Ontario gas market or not.

Supply Diversification

Enbridge noted that proximity to a major supply source (Marcellus Shale) results in benefits and opportunities for the Ontario gas market, because it has the potential to improve deliverability and lower winter price spreads. In addition, Enbridge predicted that as production from the Marcellus Shale continues to expand, the effect of increased activity by producers should reduce gas prices. This, Enbridge concluded, gives rise to an opportunity for Ontario gas customers to benefit from such lower gas prices.

TCPL expressed its belief that the recent and anticipated market changes present Ontario gas market participants with the opportunity to benefit from new gas supply options on a broad scale including rapidly expanding shale production in British Columbia, the Marcellus, the major United States of America (“U.S.”) Midcontinent areas and potentially Eastern Canada (Utica). However, Ontario’s supply optionality, TCPL commented, is not limited to the new shale plays. TCPL stated that it continues to provide Ontario with direct access to the Western Canadian Sedimentary Basin (“WCSB”), where TCPL expects total production to increase to 15.8 Bcf/day by 2015, a level similar to recent peak supply levels reached in 2006 - 2008.

Expansion of Natural Gas Pipelines in Ontario

Figure 2 provides an overview of pipeline and interconnects downstream of Dawn and routes to markets in Eastern Canada and North-eastern U.S.

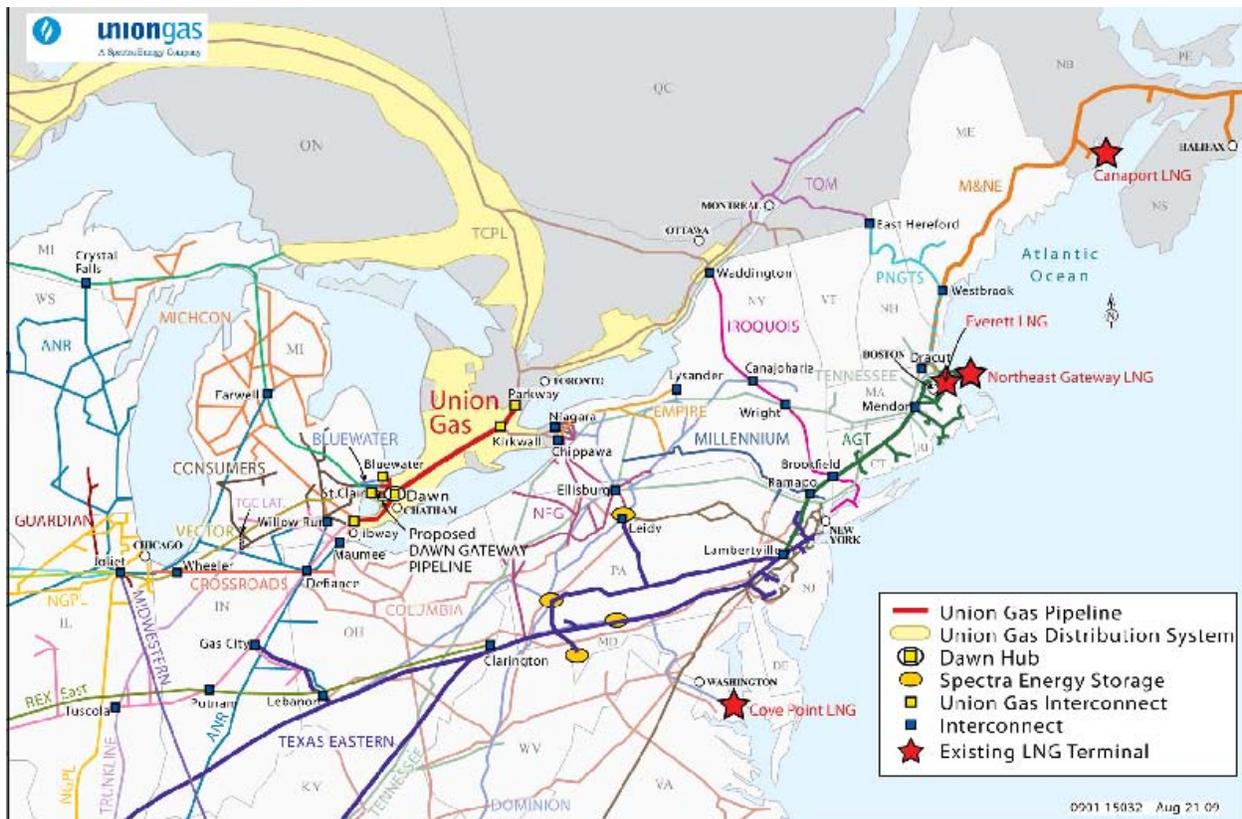


Figure 2: “Downstream of Dawn” – map from Union Gas web site

CCC commented that as the Ontario market becomes more closely tied to the U.S. gas supplies, there will be greater potential for large shifts in the natural gas flow into and through the Province. These changes, will affect the utilization of existing gas infrastructure, and may require the construction of new gas transportation capacity by Ontario gas utilities.

LPMA, EP and VECC, however, commented that the presentations and discussions throughout this consultation do not lead them to conclude that major expansion of pipeline infrastructure falling under the jurisdiction of the Board is necessary. LPMA noted that there

is already significant capacity from Michigan to Dawn. If additional capacity is required, LPMA noted that market forces will determine how and when the additional infrastructure is put into place – like the Dawn Gateway Pipeline. One potential expansion was identified by Timmins that could, by linking TCPL and Union systems, provide some access to alternative supplies for northern Ontario customers. LPMA commented that it believes this expansion should be investigated.

Customer Captivity

APPrO commented that many customers in Ontario are captive to existing systems and have limited direct access to the new supplies discussed during this consultation. A major challenge will be to ensure that captive customers do not bear the burden of both limited access to new supplies as well as being exposed to the higher cost of transportation systems that are experiencing declining throughput due to shifting supply and demand patterns. Exemplifying this, Timmins commented that Union's approach to rate design – which separates north and south – creates a great deal of increased exposure for Northern customers to TCPL rate increases.

Union noted that it has participated in a TCPL open season between Parkway and the TCPL Northern Delivery Area and this may enhance its Northern portfolio by adding new supply options.

Liquidity at Dawn Hub

Union stressed the importance of the maintenance, and growth if possible, of liquidity at Dawn. Union further commented that while other trading centres exist and may develop, they will not be as extensive as Dawn due to limited diverse pipeline infrastructure at these points, lack of storage at the transaction point, and overall volume. APPrO commented that since the structure of the new gas-fired generation power market in Ontario provides that gas be purchased at Dawn, the trading centre therefore needs to remain a viable market hub to ensure liquidity and price transparency.

In the case of the major Midcontinent and Gulf Coast shale resources, TCPL commented that it expects that a surge of shale supplies accessible to U.S. Midcontinent and Midwest pipelines will serve to enhance gas supply liquidity at downstream market locations, most significantly for Ontario gas consumers at Dawn. Further, TCPL commented that its U.S. pipelines have been active in ensuring market access for these emerging U.S. supplies. In addition, TCPL notes that through a combination of physical expansions, innovative services and the use of exchanges, it has provided unrestricted access to and from Dawn and other locations in the most cost effective manner while minimizing capital expenditures and the resulting transportation costs for Ontario consumers.

Tolls and Landed Costs

LPMA suggested that in the absence of increasing TCPL tolls, participants would be hard pressed to find anything negative about the changing dynamics of the supply to the Ontario gas markets, particularly with respect to Marcellus shale production. More gas would be sourced closer to the province and the consequent lower transportation costs and increased diversity of supply would be seen as positive developments for consumers in Ontario. However, LPMA further commented that Marcellus shale gas is likely to speed up the reduction in gas moved through the TCPL mainline to eastern markets.

Further to this point, IGUA and CCC noted that the shale gas development may not necessarily mean that Ontario landed gas costs will be lower. IGUA elaborated by commenting that market response to changing market conditions is just beginning and that one general insight that should be taken from this review is the degree to which Ontario's gas market is increasingly impacted by complex and interrelated continental gas market dynamics. For example, IGUA continued, even as shale gas resources in the North Eastern United States ("NE U.S."), geographically proximal to Ontario, enter full production, Ontario gas consumers may well be faced with higher landed gas costs rather than lower landed gas costs, as the new resources displace historical export of Canadian WCSB to NE U.S. via TCPL mainline. IGUA concluded that this upward Ontario landed gas cost pressure affects all Ontario gas consumers and the impact could be a significant deterioration in Ontario's competitive position in North America.

Staff notes that TCPL filed an application for interim 2011 Mainline tolls with the National Energy Board (“NEB”) on December 9, 2010. The proposed toll for long-haul service from Empress, Alberta to Dawn, Ontario was \$1.23 per gigajoule (GJ) - a decrease from the 2010 toll. All proposed TCPL mainline tolls are lower than or equal to what they would otherwise be under a previously approved 2007-2011 settlement. Staff also notes that this application presents a change in TCPL's business model where a decrease in throughput volume typically results in a toll increase. On December 23, 2010 the NEB issued Order TGI-04-2010 setting current Mainline tolls as interim, effective 1 January 2011. In the transmittal letter attached to the Order, the NEB states:

“With respect to the Application, the Board recognizes the current unusual circumstances and notes that there has been no indication that any party's first choice would be to set Mainline interim tolls at the ‘Alternative’ levels put forward in the Application. The Board is of the view that Mainline interim tolls set at such levels are not in the public interest at this time.

The Application proposes interim tolls and tariff changes that are associated with significant changes to the established Mainline toll design and method of allocating costs... The Board is of the view that it is not appropriate for such fundamental changes to be implemented on an interim basis in the face of significant opposition.”

Also in that letter, the NEB encouraged continued efforts to collaboratively address these matters through negotiations with all parties.

3.2 Potential Board Action

Items 3 and 4 in the list of topics and questions issued by the Board asked participants to consider if, as a result of new gas supply from the Marcellus, what potential action might the Board need to take?

Union and Enbridge expressed the view that at this time, there is no need for the Board to initiate any significant initiatives, make any changes to existing regulatory processes or increase regulatory oversight of the gas market. The gas utilities believe that the Board should let the market adapt to the changes in the North American supply dynamics. At the same time the Board should continue to support the market through timely approvals of new

services and facilities, and alternate forms of regulation, where appropriate. Regulatory support of this nature helps to facilitate innovation and efficiency, helps to strengthen the competitiveness of the Ontario gas market, and provides both price and regulatory certainty.

JEO agreed with the gas utilities and also suggested that the Board's long term focus should be on adaptability, diversity and flexibility.

All participants in the consultation commented, in one way or another, that there appears to be uncertainty surrounding Marcellus shale production. As a result, LPMA observed, the market is likely to react conservatively until more of the issues are known and at least partially resolved. Participants suggested that the Board should take a cautious and incremental approach to any regulatory response – in line with the market to the extent possible (i.e., conservatively) in the face of the current unknowns. IGUA, JEO, CoC, Kitchener, SEC, CCC and LPMA proposed that the Board should wait and see how the market continues to evolve over the next year or two while continuing to monitor and re-evaluate the market dynamics. SEC commented that during this period of market uncertainty, the Board should be cautious so as to maintain flexibility and avoid unintended consequences that could reduce future flexibility.

CCC submitted that the Board must consider how, in light of these developments, the interests of Ontario are best protected. In the short term, CCC proposed, the Board will need to monitor those developments and the way in which Ontario gas utilities are responding. In the longer term, CCC continued, the Board should look towards developing an integrated resources planning process because such a process would ensure, to the extent possible, that the most economic decisions are being made by Ontario gas utilities. This latter proposal is discussed later in this report.

Staff generally agrees that the Board should take a cautious and incremental approach to any regulatory response. While staff agrees that the Board should continue to let the market adapt to the changes in the North American supply dynamics, staff also believes it is important that the Board continue its proactive efforts to adapt its regulation in a timely way to support the market. To enhance staff's on-going monitoring efforts that support the Board, staff will investigate the availability of new sources for regularly published

independent gas market reports. Staff will continue to report market activities and highlights to the Board in regular environmental scan reports.

With respect to Timmins' concern identified in section 3.1 that Union's transmission cost allocation policies expose Northern customers more than Southern customers to TCPL rate increases, staff suggests that the Board consider examining this issue and Union's transmission cost allocation policies to ensure that costs follow benefits in light of the proposed changes to Union's supply portfolio.

3.2.1 Review & Approval of New or Expanded Natural Gas Infrastructure

If, as a result of new gas supply from the Marcellus, new or an expansion of Ontario natural gas pipelines under the jurisdiction of the OEB are proposed, should potential impacts on existing pipeline facilities in the market (in terms of Ontario customers) be considered? If so, why, and what are the implications and/or risks of doing so? If not, why, and what are the implications and/or risks of not doing so?

At the Stakeholder Conference, there was discussion as to whether or not the Board should simply rely on market forces as the determining factor, in terms of what, where, and when pipeline infrastructure is built. There was also discussion on whether or not the Board should require a more integrated approach when it is reviewing applications that would consider the economic impacts and the use of existing facilities on a provincial scale. Further, it was discussed that such a review might either be in conjunction or cooperation with other jurisdictions. Even where the market drives specific projects and investments, any applications brought forward could be considered in light of a more integrated view of the gas utilities' plans.

IGUA observed that the NEB has an urgent duty to engage in the issues in relation to increased tolls for existing service as long-haul de-contracting causes TCPL mainline throughput to fall. IGUA also submitted that the OEB can, and should, properly consider the impact of its future decisions on TCPL mainline tolls as these tolls have a significant, and increasingly negative, impact on Ontario landed gas costs.

Revise the Board's Expansion Criteria

Enbridge commented that the scope of the Long-Term Contract Guidelines is sufficiently broad to include utilization of existing facilities as one of the factors to be considered by the Board when pre-approval of a long-term contract is requested. In Enbridge's view, it is not necessary to be more specific at this time about the extent to which potential impacts on existing pipeline facilities should or will be considered when new or expanded pipelines under the Board's jurisdiction are proposed.

Union commented that it does not support any additional regulatory requirements or process for approval of facilities projects. Union explained that any facilities application is supported with extensive evidence including a demonstration of market need. Union commented that it believes that the onus is on the existing pipeline company to bring forward any evidence that it deems relevant to the determination of whether or not a new pipeline facility should proceed. Further, Union posited that the desire to increase the utilization of existing TCPL facilities in order to reduce the impact on TCPL tolls should not be used to impede the market from acquiring gas supplies at lower costs. To do so, Union commented, would have the effect of increasing gas costs for Ontario consumers compared to the cost of the alternative source of supply.

LPMA, FRHPO, EP, CME, Kitchener and CCC commented that the Board should reassess its policies for approving gas transmission facility expansions. In particular these participants commented that if any significant new or expanded Ontario natural gas pipelines under the jurisdiction of the OEB are required, then the potential impacts on existing pipeline facilities and the corresponding impact on Ontario customers must be taken into account. Several of these participants commented that the impacts on existing pipeline facilities should be considered from the perspective of avoiding subsidies to pipeline shareholders at the expense of gas consumers. These participants expressed concern that under existing regulation, Ontario consumers may have to subsidize the costs of new gas transportation facilities that are constructed solely to provide ex-franchise services, and may then be responsible for unrecovered costs if long-term contracts with ex-franchise customers are not renewed. CME commented that the Board must ensure that it has

appropriate economic feasibility tests in place and expressed concern that the economic feasibility tests based on the Board's E.B.O. 134 Report may not be appropriate for large capital projects to provide additional gas transportation services to markets outside of Ontario.

APPPrO suggested that in limited circumstances it might be appropriate to assess the Board's expansion policies and that before new infrastructure is developed, better utilization of existing transportation routes should be fully explored (e.g., is "around the horn"² better than Parkway to Maple build?). Furthermore, APPPrO mentioned that a combination of intra-provincial pipelines, interprovincial pipelines and international pipelines transport the majority of the supply into Ontario as well as provide for transit volumes to downstream markets in Eastern Canada and the Northeast U.S. APPPrO expressed concern that if the Board were to look at impacts on other pipelines, it is not clear which pipelines would be assessed for impact, how far upstream these impacts would be considered and how the impacts would be evaluated. The market may be in a better position to assess the development of new supply basins, but risks must follow rewards.

TCPL commented that the impact on existing pipeline facilities and the ability of existing infrastructure to serve Ontario gas demand needs to be a primary consideration in the Board's determination of whether to approve new infrastructure. TCPL expressed its belief that the most economically and environmentally efficient way to facilitate access to new sources of supply such as Marcellus shale gas is through existing infrastructure and that the Board should consider both the use of and the impacts on existing infrastructure as primary considerations in determining whether to approve new facilities.

Staff recommends that the Board should carry out a review of the criteria in its E.B.O. 134 Report of the Board in the matter of the Ontario Energy Board Act, R.S.O. 1980, Chapter 332; and in the matter of a Review by the Ontario Energy Board of the

² The notional transportation of gas westerly from Dawn, into Manitoba through the Great Lakes Transmission system and back into Ontario through the TCPL mainline is referred to as "around the horn".

Expansion of the Natural Gas System in Ontario, dated June 1, 1987:

- **to determine whether criteria related to the public interest as discussed in that report could be refined; and**
- **to examine the need for alignment with the Board’s more recent Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts to consider potential impacts on existing pipeline facilities in the market and the effects on Ontario customers.**

In the E.B.O.134 Report, the Board determined that it has jurisdiction to review all matters related to the production, distribution, transmission and storage of natural gas and stated that the concept of the public interest is dynamic and it must change according to the circumstances. Further, in the E.B.O. 134 Report, the Board stated that it considers that the relevant criteria such as economic feasibility, community benefits, utility benefits, security of supply and safety, system flexibility, route/site selection and landowners’ concerns, environmental impact, government policy, and others depending on the circumstances, should be addressed as fully as possible so that the Board has complete information on which to base its determination as to whether or not a project is in the public interest (paragraphs 5.13 & 5.14). The Board also noted in the E.B.O. 134 Report that there can be no firm criteria for determining the public interest; nor can the weighting that the Board attaches to each criterion considered be fixed for all circumstances and all applications (paragraph 5.15). However, the Board stated that it had concerns with the concept of “economic feasibility” as it had been used in prior proceedings (paragraph 5.18). Consequently, tests of economic feasibility are examined in detail in the E.B.O. 134 Report.

While staff acknowledges that there can be no firm criteria for determining the public interest, staff believes there is merit in aligning the E.B.O. 134 Report criteria with the Board’s Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts (“LTC Filing Guidelines”). Staff agrees with

participant comments that the review and approval of applications from Ontario's utilities to build and maintain long-term capital assets serving Ontario should require no less rigour than the review and approval of long-term contracts supporting the build of long-term capital assets by others to serve the province. The objective of such a review would be to examine need for consistency to ensure fair treatment of economically prudent investment – whether made by the Ontario utilities or by companies not directly regulated by the Board – in natural gas infrastructure which is needed to support existing and potentially new services in the natural gas market.

3.2.2 Further Action that the Board Might Undertake

What further action, if any, might the Board undertake on its own or in conjunction with others? Are there areas in which there is need for alignment between the work of the Board and other regulatory agencies? If so, how might that alignment be achieved?

Participants offered a range of options to the Board on further action it might take, including:

- encouraging co-ordination of open seasons;
- reducing barriers to diversifying supplies through regulating terms of service governing access to supplies under utility services, requiring utilities to offer direct purchase customers firm access to alternate delivery points, and non-discriminatory allocation of available capacity;
- requiring incremental pricing for ex-franchise transportation services; and
- changing the QRAM reference price to the Dawn price.

These options are described in Appendix B.

At this time, staff does not recommend further Board action in these areas. Rather, staff agrees with participant comment that the Board should take a cautious and incremental approach to any regulatory response given the uncertainties.

Staff notes that utilities have co-ordinated open seasons where synergies exist. Staff also notes that a number of the issues raised by participants have been examined relatively

recently by the Board in previous Board processes. The Board examined certain issues for gas-fired power generators in its EB-2005-0551 Decision with Reasons on the Natural Gas Electricity Interface Review dated November 7, 2006. In the settlement agreements included in Appendices D and F to that decision provisions are made that enabled the Board to approve new services aimed at the needs of the gas-fired power generators and other qualified customers. The Board examined and refined its QRAM policies in 2008 as set out in the its EB-2008-0106 Amended Decision and Order on Methodologies for Commodity Pricing, Load Balancing and Cost Allocation for Natural Gas Distributors dated September 21, 2009.

With respect to the issue of incremental tolling on ex-franchise services, staff generally agrees with Union's comment that incremental tolling should be reserved for service that is designed to meet a specific need for a specific customer. However, **as was evident in the Dawn Gateway Pipeline decision, the Board should continue to support alternative approaches, as appropriate.**

Require Long-term Gas Planning and an Integrated Resource Planning Process

Kitchener mentioned that regulators in other jurisdictions have an interest in how the utility manages its contracts for upstream transportation services. Therefore, it is common to require a gas utility to file a long-term gas resource plan, with forecasts of requirements and a description of the utility's long-term gas supply strategy, for formal regulatory review. Kitchener further commented that a more complex and variable gas supply environment creates more choices, but also increases the risk that poor decision making will lead to the construction of new facilities, or commitments to long-term contracts, that result in unnecessary costs for Ontario consumers. As a result, it was suggested that an integrated resource planning ("IRP") process for Ontario gas utilities should also be required to help ensure that all reasonable alternatives are reviewed in a thorough and consistent manner before gas utilities make these commitments. CCC supported this view in its comments.

FRHPO, noting that change in North American gas flow has highlighted the inter-dependencies of Ontario natural gas infrastructure with that of the rest of the continent,

commented that by prior planning and evaluating Integrated Resource Plans by the gas utilities, individual market-driven or utility-driven applications can be evaluated using a context similar to the Federal Energy Regulatory Commission's ("FERC") Certificate Policy Statement on Certification of New Interstate Natural Gas Pipeline Facilities³.

TCPL submitted that the Board needs to consider the allocation of the costs and benefits associated with new gas supply options. TCPL suggested that undertaking periodic IRP may be helpful in ensuring that gas facilities are planned, developed and utilized in the most economic fashion across the Province. TCPL commented that a properly structured IRP approach will promote greater transparency in the gas supply portfolio and infrastructure investment decisions by Ontario's gas utilities and facilitate the Board's timely assessment of the full impacts of these decisions. TCPL suggested that the gas utilities should fully describe and justify all gas supply contracting practices and infrastructure investments in the context of IRP proceedings.

IGUA expressed an alternate view commenting that the Board would be well advised to examine emerging issues incrementally and in context of a specific application. IGUA commented that when future infrastructure and contracting proposals are brought forward for review and approval by Ontario's gas utilities, a detailed evaluation of the overall economic impacts of such proposals would be warranted. While the information brought forward through this review should assist in such evaluation, IGUA commented that it does not believe that time and resources would be well spent at this time evaluating utility integrated gas supply plans per se, without a live proposal for particular consideration within the context of such a plan. Further, IGUA submitted that the current LTC Filing Guidelines seem sufficiently robust to permit the Board and interested parties to include the types of issues canvassed in this review in future examination of utility long-term contract proposals.

Enbridge submitted that there is nothing in the current or anticipated market circumstances that justifies the imposition of a formalized long-term resource planning requirement for

³ Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999), order clarifying policy, 90 FERC ¶ 61,128 (2000), order clarifying policy, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement).

Ontario gas utilities, especially in light of the fact that the approach now taken by the gas utilities, and the Board, is one that has stood the test of time. Enbridge explained that it files an annual gas cost budget each year, which identifies the consequences of changes to its gas supply portfolio. Further, Enbridge explained, the annual identification of changes to the gas supply portfolio and the preapproval process under the LTC Filing Guidelines together provide appropriate opportunity for consideration of the implications of gas supply portfolio changes.

Union commented similarly that it does not believe that any new requirements related to resource or gas supply planning is required. Union reasoned that there are sufficient processes in place to ensure planning is not resulting in imprudent contracting decisions. Further, Union noted, the long-term contract review process provides evidence and analysis of alternatives. In addition to the existing regulatory processes, Union commented that its own annual gas supply planning process is guided by a set of principles that is intended to ensure that customers receive secure, diverse gas supply at a prudently incurred cost.

In response to the proposal at the Stakeholder Conference that Enbridge, Union and TCPL work together to prepare an integrated system plan, Enbridge and Union commented that these three companies have competing interests and, joint development of an integrated system plan by these companies potentially would impede the marketplace. It is not reasonable, Enbridge commented, to expect that a process based on sharing of confidential information by companies with competing interests would be effective or productive. Union commented that it does not support the development of an integrated system supply plan by TCPL, Union, and Enbridge and provided the following reasons:

- Expansion ideas are confidential and proprietary information and TCPL, Enbridge and Union, while customers of each other are also competitors – requiring competing companies to plan together would negatively impact the competitiveness of the market players within Ontario and, subsequently, the Ontario natural gas market itself;
- An integrated supply plan would require every pipeline and storage operator that is connected to Ontario to be at the table and this is not practical; and

- Even if it were possible to develop such a plan it would largely be an academic exercise of little use or value – it would not be possible to incorporate or anticipate changes impacting the Ontario gas market because of the complexity and continental scope of the changes. In Union’s view, it is more practical and useful to consider and seek approval of changes to a gas utility’s resource plans at the time changes are actually being put forward in an application to the Board by that utility.

The Board has a long history of regulating the natural gas market. The issue of gas resource planning is not new to the Board. In fact, the Board’s current leave-to-construct guidelines and demand-side management (“DSM”) guidelines have roots in a hearing which began in 1990 to examine and determine certain matters relating to Integrated Resource Planning on the distribution systems of Ontario gas utilities. The DSM guidelines have since evolved over the years.

Staff acknowledges that the natural gas market has changed since that time and, as is evident through this review, the market continues to evolve. However, staff agrees with a participant that time and resources would not be well spent at this time evaluating utility integrated gas supply plans per se, without a live proposal for particular consideration within the context of such a plan. Further, staff agrees that the current LTC Filing Guidelines are sufficiently robust to permit the Board and interested stakeholders to include the types of issues canvassed in this review in future examination of utility long-term contract proposals.

Staff also agrees with the utilities that requiring competing companies to plan together could negatively impact the competitiveness of the market players within Ontario and, subsequently, the Ontario natural gas market itself. Much of the Board’s recent policy development work which stemmed from the Natural Gas Forum was intended to foster competitiveness in the natural gas market. As stakeholders have indicated the natural gas market is working well and therefore, the Board should not introduce regulation that may distort how the market adapts to the changes in the North American supply dynamics. It seems to staff that requiring formal integrated resource planning may unintentionally distort the Ontario market by allowing central planning to creep into the market. The Board will

continue to support the market through timely approvals of new services and alternate forms of regulation, where appropriate, and on-going monitoring of the market as per the STAR.

Also, staff notes that the Board's LTC Filing Guidelines require the gas utilities to file an assessment on how the long-term supply and/or transportation contract fits into the utility's overall transportation and supply portfolio; and to consider the potential impacts on existing transportation pipeline facilities in the market (in terms of Ontario customers). Furthermore, as noted previously, staff recommends that the Board carry out a review of the criteria in its E.B.O. 134 Report to examine the need for alignment with the Board's LTC Filing Guidelines. Staff believes that these filing guidelines will address the concerns raised by stakeholders.

In summary, **staff does not believe that the Board needs to introduce new regulatory requirements in relation to long-term gas planning and an IRP process.** Staff is of the view that many of the concerns raised in this consultation can be and should be addressed in the review and approval of long-term contracts and, consistent with staff's recommendation, in the review and approval of facilities applications for new and/or expansion of infrastructure. In this regard, staff agrees with the participant that recommended that such reviews be carried out in response to specific application rather than through a generic process. However, in the absence of a formal integrated resource planning process, an information gap may occur if a key objective of the Board's filing guidelines is, to provide market information on the impacts on other pipeline systems in the Province as fully as possible so that the Board has the best possible information on which to base its determination as to whether or not a project or long-term contract commitment is in the public interest. In such a case, staff notes that the Board will have to endeavour to close such an information gap by other means (e.g. monitoring of changes in the natural gas market and/or procedural options on a case-by-case basis) so that the Board will be cognizant of current natural gas market activities when making determinations on natural gas applications.

Work with Regulators in Neighbouring Jurisdictions

LPMA, Kitchener, CCC and VECC commented that the Board should work closely with the regulators in neighbouring jurisdictions, including the FERC to promote the movement of gas to Ontario and to ensure access to the gas, storage and services that may be provided. Several participants observed that Ontario markets will be dependent on deliveries from U.S. pipelines to access new sources of natural gas supply and that this means Ontario consumers and the Board will have a greater stake in the regulatory activities of other jurisdictions. Therefore, the Board may need to become more active outside Ontario to protect the interests of Ontario consumers.

CCC, FRHPO, Kitchener, LPMA and VECC encouraged the Board to consider whether Ontario consumers are being adequately represented in TCPL toll proceedings. These participants noted that in the U.S., it is common for state commissions to be active participants in the FERC processes to protect the interests of their consumers. LPMA and EP commented that this may involve the Board becoming directly involved in toll proceedings at the NEB.

With respect to harmonization of regulatory policy with other jurisdictions, TCPL commented that other jurisdictions have recognized a need to discuss and address energy policy and infrastructure development issues on a regional/multi-jurisdictional basis. For example, TCPL noted, the New England Conference of Public Utilities Commissioners, Inc. ('NECPUC') is an entity that provides an informal forum for state regulators to get together to discuss the impacts that their decisions have on each other. TCPL also noted that Ontario's decisions regarding utilization of the TCPL mainline affect other shippers both upstream and downstream and, similarly, Ontario is affected by others' decisions.

JEO commented that the Board should work in conjunction with the NEB and other regulatory bodies to ensure alignment between the work of the OEB and the other regulatory agencies on issues. JEO also commented that the harmonization of policies related to the dynamics of the market should occur where appropriate.

In light of market uncertainties and concerns of participants identified in this report, staff will continue to monitor the natural gas market through regular interaction between staff and key market participants, other regulators, and Energy Ministry staff on gas matters. Staff regularly contacts other regulators in neighbouring jurisdictions on policy development matters. Staff notes that at the time when the Board developed the STAR, the FERC was examining its reporting requirements for intra-state storage and transportation pipeline companies. During the STAR development period, staff kept the FERC informed of the Board's process and sent FERC the final STAR. With respect to TCPL toll matters, Ontario Energy Ministry staff generally participates in NEB proceedings. Staff will continue to liaise with Ontario Energy Ministry staff to, amongst other matters, facilitate common understanding of issues of concern to Ontario including the efficient use of existing pipeline infrastructure, cost effective investment (minimizing stranding) and appropriate allocation of risk (i.e., costs follow benefits).

Staff recommends that the Board should participate in regular gas market review conferences. If, as the Board continues to monitor developments in the North American natural gas supply market, conditions arise that, in the view of the Board, raise concern that the natural gas market has encountered a significant change, the Board may then use its discretion to begin a consultative process. However, in the absence of such conditions staff recommends that a review period of three years is appropriate. In that period of time, a greater certainty in market trends and dynamics will likely be known. Accordingly, the **staff recommends that the Board conduct its next regular review conference in 2013.**

Appendix A: List of Stakeholders and Filings

Interested Stakeholders and Links to Filings

Written Comments (received November, 2010)

- | | |
|--|---|
| 1. Association of Power Producers of Ontario | 8. Energy Probe |
| 2. Canadian Manufacturers & Exporters | 9. Federation of Rental Housing Providers of Ontario Industrial Gas Users Association |
| 3. City of Kitchener | 10. Just Energy Ontario L.P. |
| 4. Consumers Council of Canada | 11. London Property Management Association |
| 5. Council of Canadians | 12. School Energy Coalition |
| 6. Direct Energy Marketing Limited | 13. TransCanada PipeLines |
| 7. Enbridge Gas Distribution | 14. Union Gas |
| | 15. Vulnerable Energy Consumers Coalition |

Presentations and Reports (received September-October, 2010)

- Ms. Lisa Sumi, MS.C., Science and Research Advisor, EARTHWORKS, "[Environmental Concerns and Regulatory Initiatives Related to Hydraulic Fracturing in Shale Gas Formations: Potential Implications for North American Gas Supply](#)" and [Presentation](#)
- Report Prepared for the Council of Canadians
- Mr. John A. Rosenkranz, "[2010 Natural Gas Market Review](#)" Report and [Presentation](#)
- Report prepared for the Consumers Council of Canada, Canadian Manufacturers and Exporters, City of Kitchener, Federation of Rental-housing Providers of Ontario, London Property Management Association, School Energy Coalition, and Vulnerable Energy Consumer's Coalition (the Collaborative)
- [Association of Power Producers of Ontario \(APPrO\)](#)
- [City of Timmins](#)
- [Enbridge Gas Distribution Presentation](#)
- [TransCanada PipeLines Limited Presentation](#)
- Union Gas Limited [Presentation](#), [Overview of Presentation](#), and [Union Gas Limited Residential Bill □ Northern Zone](#)

Reference Material

- [Shale Gas in Canada - An Overview](#)
- Prepared by Canadian Society for Unconventional Gas and filed by the Canadian Gas Association

Appendix B: Summary of Stakeholder Comments

The following interested stakeholders participated in the 2010 Natural Gas Market Review consultation process:

- Association of Power Producers of Ontario (“APPrO”);
- Canadian Gas Association (“CGA”);
- Canadian Manufacturers & Exporters (“CME”);
- City of Kitchener (“Kitchener”);
- City of Timmins (“Timmins”);
- Consumers Council of Canada (“CCC”);
- Council of Canadians (“CoC”);
- Direct Energy Marketing Limited (“DEM”);
- Enbridge Gas Distribution (“Enbridge”);
- Energy Probe (“EP”);
- Federation of Rental Housing Providers of Ontario (“FRHPO”);
- Industrial Gas Users Association (“IGUA”);
- Just Energy Ontario L.P. (“JEO”);
- London Property Management Association (“LPMA”);
- School Energy Coalition (“SEC”);
- TransCanada PipeLines (“TCPL”);
- Union Gas (“Union”); and
- Vulnerable Energy Consumers Coalition (“VECC”).

Opportunities

Storage and Other Balancing Services

APPrO commented that increased access to new shale gas supplies as well as shifting load patterns for gas fired generators will increase the opportunities for the development of new storage and other balancing services.

FRHPO commented that one opportunity for consideration is the utilization of existing infrastructure – specifically, with the prospect of diminished flow requirements for the TCPL mainline, how might excess capacity be used? One thought that FRHPO explored at the Stakeholder Conference was whether excess capacity could be used to provide balancing services. FRHPO suggested that the potential shift in provider for balancing services for

northern customers that this opportunity would provide could allow more TCPL mainline utilization. In addition FRHPO suggested that any storage freed up by using the TCPL mainline in this way could be used for other short-term balancing services to minimize in-franchise rates.

Transportation Services

TCPL commented that in response to shifts in continental gas supply sources, it has provided short-haul services. While this has facilitated greater access to Dawn and other market locations, TCPL continued, it has contributed to the reduction in billing determinants and higher tolls. Higher Mainline tolls, TCPL concluded, are a cost associated with the transition to new market conditions.

To facilitate the movement of Marcellus gas back to Dawn, Union noted that it has applied to the Board for approval of a firm C1 transportation service that will allow gas to move from Kirkwall to Dawn. Union has also stated that it applied for approval of a multi-directional M12 transportation service (M12-X) that will allow shippers to move gas between any two of Dawn, Kirkwall and Parkway, in any direction on any day.

Further, Union commented that it plans to use TCPL short-haul services to increase Union's supply mix for the North. Therefore, Union expressed concern that short-haul services remain competitive. Also, Union noted that its T-service option for direct purchase customers provides them with supply options in that they can take what's delivered to them by Union or they can buy from a trading hub and arrange for transportation.

Supply Diversification

Enbridge commented that there is potential for renewable bio-methane to become a new market area source of supply. While the magnitude of this potential supply source is not yet known, Enbridge continued, the introduction of bio-methane into the supply portfolio could well offset the decline in Ontario gas production.

In relation to the development of the Marcellus Shale, Enbridge noted that proximity to a major supply source results in benefits and opportunities for the Ontario gas market, because it has the potential to improve deliverability and lower winter price spreads. In addition, Enbridge predicted that as production from the Marcellus Shale continues to expand, the effect of increased activity by producers should reduce gas prices. This, Enbridge concluded, gives rise to an opportunity for Ontario gas customers to benefit from lower prices for gas. Further, with the increased supply diversification, there is an opportunity for Enbridge to explore solutions that will allow it to realize synergies between distribution system reinforcement requirements and gas procurement activities.

TCPL expressed its belief that recent and anticipated market changes present Ontario gas market participants with the opportunity to benefit from new gas supply options including rapidly expanding shale production in British Columbia, the Marcellus, the major U.S. Midcontinent areas and Eastern Canada (Utica). Ontario's supply optionality, TCPL commented, is not limited to the new shale plays, however. TCPL stated that it continues to provide Ontario with direct access to the WCSB, where TCPL expects total production to increase to 15.8 Bcf/day by 2015, a level similar to recent peak supply levels reached in 2006 - 2008.

Expansion of Natural Gas Pipelines in Ontario

CCC commented that as the Ontario market becomes more closely tied to the U.S. gas supplies, there will be greater potential for large shifts in the natural gas flow into and through the Province. These changes, CCC continued, will affect the utilization of existing gas infrastructure, and may require the construction of new gas transmission capacity by Ontario gas utilities.

APPPrO expressed the view that changes in flow and price patterns may trigger the need for relatively minor adjustments to infrastructure to facilitate gas flow movements.

LPMA commented that it does not believe that there will be need for any significant expansion of natural gas pipelines in Ontario. Indeed, LPMA continued, the only specific expansion identified throughout the consultation is the potential expansion of the TCPL

system from Parkway to Maple. LPMA noted that there is already significant capacity from Michigan to Dawn. If additional capacity is required, LPMA commented that it believes that market forces will determine how and when the additional infrastructure is put into place – the Dawn Gateway Pipeline is such an example. One other potential expansion was identified by Timmins that LPMA believes should be investigated.

Timmins explained that the Great Lakes interconnection at Sault Ste. Marie feeds a transmission line that runs east to Elliot Lake and Union Gas operates a transmission line that runs west of the TCPL mainline at North Bay to the Espanola area. Timmins noted that this leaves a gap of approximately 40 miles and Timmins suggested that the linking of these two systems could provide some access to alternative supplies for Northern Ontario customers.

EP commented that the presentations and discussions throughout this consultation do not lead it to conclude that major expansion of pipeline infrastructure falling under the jurisdiction of the Board is necessary.

Challenges

Customer Captivity

APPPrO commented that many customers in Ontario are captive to existing systems and have limited direct access to these new supplies. A major challenge, APPPrO continued, will be to ensure that captive customers do not bear the burden of both limited access to new supplies as well as being exposed to the higher cost of transportation systems that are experiencing declining throughput due to shifting supply and demand patterns.

Timmins commented that Union's approach to rate design – which separates north and south – creates a great deal of increased exposure for Union's Northern customers to TCPL rate increases. Timmins encouraged the Board to review Union's rate design approach in Ontario and provided several rationales for doing so. Timmins explained that for rate making purposes Union divides its system as though the former Centra Gas (purchased in

1988) continues to exist as a separate company with its own gas purchasing regime and related delivery and storage access. Timmins noted that Union refers to this portion of its company as its Northern Region and separates out gas costs, transportation and storage for the Northern Region for rate making purposes.

FRHPO expressed concern that with the prospect of additional supplies from the U.S. northeast, particularly Marcellus, system reliability provisions in an existing Enbridge settlement agreement may no longer be appropriate. FRHPO explained that in EB-2008-0219, Enbridge expressed its concern for system reliability and the Board asked Enbridge to work with stakeholders on solutions. The resultant settlement agreement, FRHPO noted, requires a shift in contracting for the utility and shippers resulting in ratepayer impact. FRHPO commented that with the prospect of additional supplies from the US northeast, particularly Marcellus, the risk to system reliability of interruptible contracting on TCPL may be reduced. Therefore, FRHPO suggested that while it accepts that additional infrastructure must still be put in place, the risk mitigation measures should be reviewed when it is built.

Enbridge identified that the challenge for gas distributors like Enbridge is to consider factors such as diversification, rising TCPL mainline tolls, contractual flexibility and operational flexibility in order to arrive at an optimal gas supply portfolio [to best serve its customers].

Liquidity at Dawn Hub

Union stressed the importance of the maintenance, and growth if possible, of liquidity at Dawn. Union further commented that while other trading centres exist and may develop, they will not be as extensive as Dawn due to limited diverse pipeline infrastructure at these points, lack of storage at the transaction point, and overall volume. APPrO commented that since the structure of the new gas-fired generation power market in Ontario provides that gas be purchased at Dawn, the trading centre therefore needs to remain a viable market hub to ensure liquidity and price transparency.

In the case of the major Midcontinent and Gulf Coast shale resources, TCPL commented that it expects that a surge of shale supplies accessible to U.S. Midcontinent and Midwest pipelines will serve to enhance gas supply liquidity at downstream market locations, most

significantly for Ontario gas consumers at Dawn. Further, TCPL commented that its U.S. pipelines have been active in ensuring market access for these emerging U.S. supplies. In addition, TCPL notes that through a combination of physical expansions, innovative services and the use of exchanges, it has provided unrestricted access to and from Dawn and other locations in the most cost effective manner while minimizing capital expenditures and the resulting transportation costs for Ontario consumers.

Transportation Services

FRHPO commented that the increased supply of natural gas in NE North America will impact asset utilization inside of Ontario as well as outside of the province. FRHPO noted that the risk of de-contracting of the Dawn-Parkway corridor has been identified by the consultant for the Collaborative and by Union. FRHPO suggests that in the event this occurs, revenues from Union's new services (e.g., M12-X rate) should be allocated to the revenue requirement for the Dawn-Parkway transmission assets. This approach, FRHPO comments, would help to insulate ratepayers if the traditional Dawn-Parkway capacity is not fully utilized due to market changes.

In the absence of increasing TCPL tolls, LPMA commented that it believes that participants would be hard pressed to find anything negative about the changing dynamics of the supply to the Ontario gas markets, particularly with respect to Marcellus shale production. LPMA explained that more gas would be sourced closer to the province and the consequent lower transportation costs and increased diversity of supply would be seen as positive developments for consumers in Ontario. However, LPMA continued, as was emphasized throughout the consultation, Marcellus shale gas is likely to speed up the reduction in gas moved through the TCPL mainline.

TCPL commented that its integrated system serves most Ontario demand centers and provides an economically efficient option to provide access to many of the new developing gas plays while avoiding the need to build costly new infrastructure. TCPL noted that de-contracting and supply shifts are reducing TCPL mainline utilization and increasing tolls, but Ontario market participants have an opportunity to address these challenges and enhance the competitiveness of the TCPL mainline through on-going confidential stakeholder

discussions focused on restructuring the TCPL mainline rate design, business model and services.

Union expressed concern that the Parkway to Maple path is constraining take-away services and supply options from Dawn. Union noted that TCPL has historically used a temporary measure that notionally transported gas westerly from Dawn, into Manitoba through the Great Lakes Transmission system and back into Ontario through the TCPL mainline ('around the horn'). Given the declines in WCSB gas and reduced flows on TCPL, Union explained that it has worked with TCPL to create a physical (rather than 'notional') option where, starting November 1, 2010, gas can now physically flow 'around the horn'. Union believes that this stopgap measure, however, is not a long-term solution and physical expansion to relieve the constraint between Parkway and Maple must take place. Union commented that the 'around the horn' strategy is inefficient in that it moves that gas in a flow pattern that is ten times the length of the most efficient method that begins from Dawn to Parkway and beyond. Union concluded that Parkway to Maple needs to be addressed either by TCPL or other market participants. Union expressed concern that if the Ontario market is not allowed to effectively develop needed transportation options, then the market will move the new gas supply sources to the most economical alternative, whether it involves the Ontario gas market or not. If artificial barriers are created that slow or prevent expansions to existing infrastructure, Union continued, like the constraint between Parkway and Maple, then the market will find other markets to move the new supplies. For example, Union posited, a market solution that bypasses Dawn due to infrastructure constraints or toll uncertainty will decrease liquidity at Dawn, and would be a detriment for both Ontario gas consumers and Ontario electricity consumers.

Rising Landed Gas Costs

IGUA commented that market response to changing market conditions just beginning. One general insight that should be taken from this review, IGUA continued, is the degree to which Ontario's gas market is increasingly impacted by complex and interrelated continental gas market dynamics. For example, IGUA explained, even as shale gas resources in the North Eastern United States, geographically proximal to Ontario, enter full production, Ontario gas consumers may well be faced with higher landed gas costs rather than lower

landed gas costs, as the new resources displace historical export of Canadian WCSB to NE U.S. via TCPL mainline. This upward Ontario landed gas cost pressure affects all Ontario gas consumers and from an industrial gas consumer perspective IGUA commented, the impact could be significant deterioration in competitive position in North America.

CCC also observed that although there may well be an increase in supply as a result of shale gas development, it will not necessarily mean that Ontario landed gas costs will be lower.

Lack of Co-ordination in planning

LPMA submitted that the biggest challenge to gas market participants in Ontario may well be a lack of co-ordination in the planning process. In addition to the planning within Ontario by Union, Enbridge, TCPL and other potential storage and transmission developers, LPMA reasoned, there is planning that needs to be co-ordinated with neighbouring jurisdictions to ensure that the gas can get to Ontario when and where it is needed.

Potential Board Action

Adapt with the Market

Union commented that the market has responded to the changing supply dynamics in the past and continues to do so moving forward. Examples of market responses Union identified include the Dawn Gateway project, open seasons inside and outside of Ontario to provide a path for Marcellus gas to reach the Dawn Hub, new service offerings, and new supply options for northern Ontario. Further, Union noted, projects hold open seasons to gauge interest and in some cases commit customers to a project – competitive projects have come to market and the market response has dictated which will move forward. Union and TCPL have held open seasons (coordinated to reduce confusion in marketplace) to allow gas arriving at Niagara and Chippawa to move west into Ontario and to Dawn.

Union further commented that at this time, it does not see any need for the Board to initiate any significant initiatives, make any changes to existing regulatory processes or increase regulatory oversight of the gas market. It is Union's view that the Board should let the market adapt to the changes in the North American supply dynamics. At the same time, Union commented, the Board should continue to support the market through timely approvals of new service offerings and facilities. To that end, Union encouraged the Board to continue the timely approval of services in order to allow the market to respond to the changing market dynamics. Union commented that the continued support of alternate forms of regulation, where appropriate, helps to facilitate innovation and efficiency and helps to strengthen the competitiveness of the Ontario gas market. Further, Union continued, the continued support of market development by the Board is vitally important and the expedited review and decisions on new services introduced to the market provides both price and regulatory certainty.

JEO commented that the need exists to ensure the rules of the game are clear for all participants and that the Board will continue to be required to quickly develop policies and services to adapt to future changes. JEO posited that long term focus be on adaptability, diversity and flexibility. JEO asserted that the Board must continue to allow the market to function and adapt to changes and that the Board must maintain its timely development and approval of policies and services to adapt to these changes as they become necessary.

Enbridge commented it believes that, to date, Ontario natural gas markets have been adapting to changing market conditions and that, given the Board's existing approach to gas supply planning and pre-approval of long term contracts, no further regulatory initiatives are needed at this time. When new infrastructure projects are brought forward to the Board, to address multiple objectives (such as safety, reliability and security of supply from increased diversification) such proposals should be viewed with favour by the Board.

APPPrO commented that it believes that artificial barriers should be reduced wherever possible to help ensure that Ontario has sufficient access to competitive supplies (e.g., approval of minor expansions, avoidance of rates which prevent better utilization of existing systems, encourage operational efficiency, and/or work with other regulators where appropriate to increase efficiency of overall network).

Be Cautious

IGUA commented that given the very early stages of the significant changes emerging in these markets, it commends a cautious and incremental approach to regulatory response.

JEO commented that given the varied information revealed in consultation and the uncertainty surrounding the Marcellus shale production; it does not believe that now is the time for the Board to shift into a new direction. JEO proposed that the Board should continue to wait and see how the market continues to evolve and that over the next year or two the Board should continue to monitor and re-evaluate the market dynamics.

CoC commented that in light of uncertainties, it believes that it would be prudent for Ontario to adopt a wait-and-see approach before authorizing additions to, or a restructuring of, Ontario gas distribution infrastructure to accommodate a significant expansion of shale gas production that may not materialize.

Kitchener expressed its view that there is considerable uncertainty with respect to the Marcellus supply basin in terms of the extent and timing of its development and its impact on the gas market in Ontario, in general, and on ratepayers, such as Kitchener, in particular. These uncertainties, Kitchener commented, suggest a cautious approach be taken by the Board and stakeholders with a vested interest in the outcome. Kitchener noted that there appear to be considerable benefits arising from the development of a significant new source of gas supply relatively close to Ontario; however, there are significant risks, as well. These risks, Kitchener commented, need to be managed and balanced fairly with the benefits.

SEC expressed concern over the high level of uncertainty in the commodity, transportation and storage markets right now as a result of major changes playing out with respect to commodity prices, transportation costs, storage costs and market, and environmental and energy policy issues. In SEC's view, during this period of market uncertainty, a key goal of the Board in all of its actions should be to maintain flexibility. SEC recommends that with a few exceptions, as noted by the consultant for the Collaborative, the Board should take a cautious approach to avoid unintended consequences that reduce future flexibility.

LPMA commented that there appears to be a significant amount of uncertainty surrounding the Marcellus shale in particular. As a result, LPMA observed, the market is likely to react conservatively until more of the issues are known and at least partially resolved. LPMA expressed its belief that the Board should also react conservatively in the face of the current unknowns.

CCC commented that there remains a great deal of uncertainty regarding the impact on Ontario of the Marcellus shale gas development and other changes to the North American natural gas market. CCC submitted that the Board must consider how, in light of these developments, the interests of Ontario are best protected. In the short term, CCC proposed, the Board will need to monitor those developments and the way in which Ontario utilities are responding. In the longer term, CCC continued, the Board should look towards developing an integrated resources planning process because such a process will ensure, to the extent possible, the most economic decisions are being made by Ontario gas utilities in order to best serve their customers.

VECC commented that scenario analysis and peak requirements, which drive need for increased capacity, should be fully addressed prior to any major regulatory regime changes. VECC's view is that there is great uncertainty with respect to alternative gas supplies – and hence there is great uncertainty with respect to need for increased infrastructure capacity. VECC submitted that there does not appear to be good reason, at this time, to embark on major infrastructure expansions based mainly on speculation.

Revise the Board's Expansion Criteria

Enbridge commented that the scope of the Long Term Contract Guidelines is sufficiently broad to include utilization of existing facilities as one of the factors to be considered by the Board when pre-approval of a long term contract is requested. In Enbridge's view, it is not necessary to be more specific at this time about the extent to which potential impacts on existing pipeline facilities should or will be considered when new or expanded pipelines under the Board's jurisdiction are proposed.

Union commented that it does not support any additional regulatory requirements or process for approval of facilities projects. Union commented that it believes that the onus is on the existing pipeline to bring forward any evidence that it deems relevant to the determination of whether or not a new pipeline facility should proceed. Further, Union posited that the desire to increase the utilization of existing TCPL facilities in order to reduce the impact on TCPL tolls should not be used to impede the market from acquiring gas supplies at lower costs. To do so, Union commented, would have the effect of increasing gas costs for Ontario consumers compared to the cost of the alternative source of supply.

In response to some participant's concerns that utilities may be incented to over-build transmission facilities to the benefit of their own transmission and unregulated storage business or an affiliate, Union commented that the Board has already developed ways to mitigate the public interest concern of over-building. Union explained that any facilities application is supported with extensive evidence including a demonstration of market need. Union also noted that the Board also requires applicants to conduct a reverse open season prior to an expansion, even though valid contracts are in place.

APPrO commented that it believes that before new infrastructure is developed, better utilization of existing transportation routes should be fully explored (e.g., is around the horn better than Parkway to Maple build?). Also, APPrO commented as noted by the consultant for the Collaborative, given the changing supply dynamics it may be time to revisit the criteria to expand pipeline infrastructure under the Board's jurisdiction to ensure that the right balance exists between risks and rewards among all parties. APPrO noted that it does not see that this requirement is necessary for expansions for Ontario loads. APPrO further commented that it recognizes that the Board may not have jurisdiction directly over other inter-provincial and international pipelines to help encourage new approaches to rate making. APPrO does however believe that there are ways that the Board can have influence to create increased efficiencies either directly in its expansion policies for transportation companies under its jurisdiction or through indirect mechanisms often available.

LPMA commented that if any significant new or expansion of Ontario natural gas pipelines under the jurisdiction of the OEB are required, then the potential impacts on existing

pipeline facilities and the corresponding impact on Ontario customers must be taken into account. In the view of the LPMA, the only way that Ontario customers can be assured that the impact on them is being taken into account is if the Board requires and integrated resource planning process for not only the Ontario gas utilities, but also TCPL and neighbouring jurisdictions.

FRHPO noted that the long-term contract review process requires the applicant to show due consideration of the investment being made by utilities to meet the needs of its customers and FRHPO submitted that the decision to build and maintain long-term capital assets should require no less rigour and, in our view, must be made in the context of an integrated plan. FRHPO supported the recommendation for a long-term resource planning process as called for by the consultant for the Collaborative for the reasons identified in his report. FRHPO encouraged the Board to consider the Integrated Resource Plan (IRP) approach by the New Hampshire Public Utilities Commission. Further, FRHPO commented that facilities ought to be reviewed in a broader context with consideration of risk sharing and encouraged the Board to review applications with a view comparable to a FERC policy statement [Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999), order clarifying policy, 90 FERC ¶ 61,128 (2000), order clarifying policy, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement)].

EP commented that potential impacts on existing pipeline facilities in the market should be considered from the perspective of avoiding subsidies to pipeline shareholders at the expense of gas consumers. Further, should the situation lead to the extreme condition of stranded assets, EP commented that such costs be properly borne by shareholders and not consumers.

CME commented that the Board must ensure that it has appropriate economic feasibility tests in place and expressed concern that the economic feasibility tests based on the Board's E.B.O. 134 report may not be appropriate for large capital projects to provide additional gas transportation services to markets outside of Ontario.

IGUA expressed the view that the NEB has an urgent duty to engage in the issues plaguing the TCPL mainline. IGUA submitted that the OEB can, and should, properly consider the

impact of its future decisions on TCPL mainline tolls as these tolls have a significant, and increasingly negative, impact on Ontario landed gas costs.

IGUA commented that the Board would be well advised to examine emerging issues incrementally and in context of a specific application. With regard to the consultant for the Collaborative's suggested reconsideration of the some of the principles applicable to rate treatment of utility transmission expansion, IGUA commented that it commends further examination of those principles, and of other relevant principles, within particular, project-specific contexts. However, IGUA reiterated its recommendation for an incremental approach given the preliminary stages of the new evolution of North American gas markets, the readily apparent complexity of that evolution, and the nascent understanding of that evolution even by experts. An incremental approach, IGUA commented, would better ensure prudent choices and better avoid unintended consequences for regulated utilities and their ratepayers.

CCC commented that to protect consumers, the Board should reassess its policies for approving gas facility expansions and for the pricing of ex-franchise transportation services.

TCPL commented that it strongly suggests that the impact on existing pipeline facilities and the ability of existing infrastructure to serve Ontario gas demand needs to be a primary consideration in the Board's determination of whether to approve new infrastructure. TCPL expressed its belief that the most economically and environmentally efficient way to facilitate access to new sources of supply such as Marcellus shale gas is through existing infrastructure and that the Board should consider both the use of and the impacts on existing infrastructure as primary considerations in determining whether to approve new facilities. Doing so, TCPL reasoned, has several potential benefits: (i) lower tolls through mitigation of loss of billing determinants; (ii) minimized total cost of Ontario gas infrastructure; (iii) elimination of the risk of building underutilized new facilities; and (iv) elimination of environmental costs associated with new facilities.

Kitchener commented that under existing regulation, Ontario consumers may have to subsidize the costs of new gas transmission facilities that are constructed solely to provide ex-franchise services, and are on the hook for unrecovered costs if long-term contracts with

ex-franchise customers are not renewed. To protect consumers, Kitchener continued, the Board should reassess its policies for approving gas facility expansions and pricing of ex-franchise transportation services. Kitchener reasoned that a more complex and variable gas supply environment creates more choices, but also increases the risk that poor decision making will lead to the construction of new facilities, or commitments to long term contracts, that result in unnecessary costs for Ontario consumers. An integrated resource planning process for Ontario gas utilities, Kitchener submitted, would help ensure that all reasonable alternatives are reviewed in a thorough and consistent manner before utilities make these commitments. CCC supported this view in their comments.

Work with Regulators in Neighbouring Jurisdictions

LPMA commented that if the production of Marcellus shale gas becomes an important factor in supplying the Ontario market, then Ontario will become more dependent on deliveries from U.S. pipelines to access this new source of supply at the levels required. LPMA stated that it believes that market forces will ensure that this occurs. LPMA also commented, however, that the Board has an important role to play to ensure that Ontario customers have access to these markets (production, storage, transportation). Further, LPMA explained, not only should this access be available in the neighbouring jurisdictions, but the Board must also ensure that there is non-discriminatory access within the province to these markets.

LPMA further commented that the Board should work closely with the regulators in neighbouring jurisdictions, including FERC to promote the movement of gas to Canada and to ensure access to the gas, storage and services that may be provided.

Kitchener observed that Ontario markets will be dependent on deliveries from U.S. pipelines to access new sources of natural gas supply and that this means that Ontario consumers and regulators will have a greater stake in the regulatory activities of other jurisdictions. Therefore, Kitchener commented that the Board may need to become more active outside Ontario to protect the interests of Ontario consumers.

CCC commented in support of the consultant for the Collaborative's views, that Ontario will have a greater stake in the regulatory activities of other jurisdictions and that the Board may need to become more active outside Ontario to protect the interests of Ontario consumers.

VECC commented that given that Ontario will become more dependent on deliveries from the U.S. (in all likelihood), and VECC urged the Board in their comments to work closely and coordinate activities with other regulators to reduce artificial barriers and so that a seamless path is created between suppliers and Ontario customers.

APPRO, FRHPO, and Kitchener commented on the need to minimize artificial barriers for access to competitive gas supplies. These participants commented that the Dawn-Gateway process revealed a barrier - the fact that Michigan gas utilities do not adhere to minimum North American standards for transportation service nominations could prevent Ontario storage customers from using Dawn Gateway to gain direct access Michigan storage services that are comparable to the services offered by Union and Enbridge at the Dawn Hub. These participants suggested that communication between Ontario and Michigan regulators could assist in minimizing potential barriers to Michigan storage for the benefit of all providers and the customers they serve.

Consider How Ontario Represented in NEB Proceedings

Supporting the consultant for the Collaborative's views, CCC, FRHPO, Kitchener, LPMA and VECC encouraged the Board to consider whether Ontario consumers are being adequately represented in TCPL toll proceedings and noted that in the U.S., it is common for state commissions to be active participants in FERC Processes to protect the interests of consumers in their states.

CCC commented that the Board should consider how the interests of Ontario consumers can be best represented at the National Energy Board given that TCPL tolls are becoming an increasing burden for Ontario consumers.

LPMA expressed its belief that the Board should ensure that Ontario consumers are being adequately represented in TCPL toll proceedings and commented that this may involve the Board becoming directly involved toll proceedings at the NEB.

Similarly, EP submitted that in order to protect the interests of Ontario ratepayers in respect of gas transportation charges, the Board should intervene in the National Energy Board hearings on TCPL tolls.

In addition, VECC commented that if there are projects that could mitigate the impact of the TCPL toll increases on those customers who are presently dependent on TCPL long haul supplies, VECC submitted that such projects should be pursued if rigorous analysis indicates that they are economic and environmentally acceptable.

Union expressed concern over the potential impact of any TCPL framework redesign that would lead to short-haul tolls becoming uncompetitive due to the shifting of costs from TCPL long-haul tolls to short-haul tolls. Union explained that if short-haul tolls rise significantly, Union believes that the future of the Dawn Hub liquidity could be diminished. Union commented that it is imperative that the Board, the Ministry and all market participants support the TCPL Mainline Competitiveness Initiative, but work to ensure that short-haul tolls remain competitive.

Harmonization

With respect to harmonization of regulatory policy with other jurisdictions, TCPL commented that other jurisdictions that have recognized a need to discuss and address energy policy and infrastructure development issues on a regional/multijurisdictional basis. For example, TCPL noted, the New England Conference of Public Utilities Commissioners, Inc. ('NECPUC') is an entity that provides an informal forum for state regulators to get together to discuss the impacts that their decisions have on each other. TCPL also noted that Ontario's decisions regarding utilization of the TCPL mainline affect other shippers both upstream and downstream and, similarly, Ontario is affected by others' decisions.

JEO commented that the Board should work in conjunction with the NEB and other regulatory bodies to ensure alignment between the work of the Ontario Energy Board and the other regulatory agencies on issues. JEO also commented that the harmonization of policies related to the dynamics of the market should occur where appropriate.

Require Fully Allocated Costing of Projects

EP suggested that the Board and other regulators should: require that new shale gas production and pipeline investment proposals demonstrate positive net present values using full-cost of environmental remediation; require that proponents of shale production use either market-based costs of water or estimates thereof before approval; evaluate proposals for new transportation and distribution facilities on the basis of such fully-internalized costs; and evaluate new transportation facilities proposing to carry gas from Marcellus to northern Ontario with regard to the impact on TCPL.

Encourage Co-ordination of Open Season

TCPL, recognizing the inter-dependencies of Ontario utilities with TCPL and other pipelines, submitted that the Board can encourage the coordination of open season by Ontario utilities and TCPL.

Kitchener commented, supporting the consultant for the Collaborative, that to create a seamless path between new gas supplies and Ontario markets, contracting opportunities need to be consistent across transporters. Kitchener noted that in the Union presentation at the Stakeholder Conference, Union described its recent actions to coordinate open seasons for transportation services on its Dawn-Trafalgar system with the open seasons of TCPL and certain U.S. pipelines that proposed new transportation services to Niagara. To create a level playing field for all transportation and storage service providers, Kitchener submitted, the Board should encourage this type of co-ordination, but should also ensure that Ontario gas utilities deal with all transporters and storage suppliers on a non-discriminatory basis. CCC supported this view in their comments.

Long-term Gas Planning and IRP Process

JEO commented that it agrees with the consultant for the Collaborative that a utility long-term gas planning process should be implemented by the Board.

CoC commented that it believes that any inter-jurisdictional system planning exercise with the U.S. needs to be informed by an understanding of the constraints on public policy and law relating to the energy sector that arise due to Canada's international trade obligations, including those under NAFTA. CoC explained that Canada's international trade commitments undermine the policy and regulatory flexibility of government and the OEB but still allow considerable latitude for both to act in the public interest. However, CoC continued, it is important that these trade constraints be taken into account - particularly true in the case of additions to, or reconfiguration of, Ontario's natural gas distribution system that increase Ontario's interconnections with the U.S.

FRHPO commented that it believes that change in North American gas flow has highlighted the inter-dependencies of Ontario natural gas infrastructure with that of the rest of the continent. Further, FRHPO commented that it believes that by prior planning and evaluating Integrated Resource Plans by the utilities, individual market-driven or utility-driven applications can be evaluated in context using a context similar to the FERC Certificate Policy Statement noted previously in FRHPO's comments.

Enbridge submitted that there is nothing in the current or anticipated market circumstances that justifies the imposition of a formalized long term resource planning requirement for Ontario utilities, especially in light of the fact that the approach now taken by the gas utilities, and the Board, is one that has stood the test of time. Enbridge explained that it files an annual gas cost budget each year, which identifies the consequences of changes to its gas supply portfolio. Further, Enbridge explained, the annual identification of changes to the gas supply portfolio and the preapproval process under the Long Term Contract Guidelines together provide appropriate opportunity for consideration of the implications of gas supply portfolio changes.

Union commented that it does not believe that any new requirements related to resource or gas supply planning is required. Union reasoned that there are sufficient processes in place to ensure planning is not resulting in imprudent contracting decisions. Further, Union noted, the long-term contract review process provides evidence and analysis of alternatives. In addition to the existing regulatory processes, Union commented that its own annual gas supply planning process is guided by a set of principles that is intended to ensure that customers receive secure, diverse gas supply at a prudently incurred cost.

In response to the proposal that Enbridge, Union and TCPL work together to prepare an integrated system plan, Enbridge commented that these three gas utilities have competing interests and, joint development of an integrated system plan by these companies potentially would impede the marketplace. It is not reasonable, Enbridge commented, to expect that a process based on sharing of confidential information by companies with competing interests would be effective or productive.

Union commented that it does not support the development of an integrated system supply plan by TCPL, Union, and Enbridge and provided the following reasons: first, expansion ideas or concepts are confidential and proprietary information and TCPL, Enbridge and Union, while customers of each other are also competitors – requiring competing companies to plan together would negatively impact the competitiveness of the market players within Ontario and, subsequently, the Ontario natural gas market itself; second, an integrated supply plan would require every pipeline and storage operator that is connected to Ontario be at the table and this is not practical; and third, even if it were possible to develop such a plan it would largely be an academic exercise of little use or value – it would not be possible to incorporate or anticipate changes impacting the Ontario gas market because of the complexity and continental scope of the changes. In Union's view it is more practical and useful to consider and seek approval of changes to a gas utility's resource plans at the time changes are actually being put forward in an application to the Board by that utility.

In response to the consultant for the Collaborative's proposition of the Board initiating a review of utility integrated gas supply plans, IGUA commented that when future infrastructure and contracting proposals are brought forward for review and approval by

Ontario's gas distributors and transmitters, a detailed evaluation of the overall economic impacts of such proposals would be warranted. While the information brought forward through this review should assist in such evaluation, IGUA commented that it does not believe that time and resources would be well spent at this time evaluating utility integrated gas supply plans per se, without a live proposal for particular consideration within the context of such a plan. IGUA submitted that the current Filing Guidelines seem sufficiently robust to permit the Board and interested parties to include the types of issues canvassed in this review in future examination of utility long-term contract proposals.

DEM commented that it supports in principle the consultant for the Collaborative's proposal. In particular, DEM urged the Board in their comments to consider sections 4.2 and 4.3 of the consultant for the Collaborative's submission, requesting the implementation of a long-term resource planning process for Ontario natural gas utilities, and the elimination of barriers to diversifying natural gas supplies by requiring utilities to offer direct purchase customers firm access to alternate delivery points. DEM further submitted that any long-term plan for the utilities should be filed as an Application by the utilities, and be reviewed by industry stakeholders and approved by the Board through the normal Hearing process.

CoC noted the Board's question to participants as to whether there is a need for greater inter-jurisdictional regulatory alignment and CoC also noted that several participants in the consultation underscored the uncertainties that abound in trying to predict developments in the natural gas market in Ontario. In light of this, CoC also commented that it supports the consultant for the Collaborative's proposal that the Board adopt a more systematic approach to system planning.

TCPL submitted that the Board needs to consider the allocation of the costs and benefits associated with new gas supply options. As has been pointed out by others in this proceeding, TCPL continued, the costs and benefits resulting from access to gas supply optionality are not distributed equitably throughout Ontario. For example, TCPL explained, Northern Ontario gas consumers are reliant on TCPL mainline gas deliveries and under cost of service ratemaking, these consumers face increased tolls for existing service as long-haul de-contracting causes TCPL mainline throughput to fall. Meanwhile, TCPL continued, other consumers have the ability to avoid paying for TCPL mainline services

while enjoying the benefits associated with more competitive gas supply choices. Similarly, TCPL noted, as explained by APPrO in its presentation at the Stakeholder Conference, gas-fired power generators sell energy based on a Dawn price index, but have limited ability to recover TCPL toll increases. Thus, TCPL commented, when gas-fired generation sets the wholesale electricity price, all electricity consumers enjoy the benefits of Dawn gas pricing, but generators fail to recover fully their actual delivered cost of gas.

TCPL suggested that undertaking periodic integrated resource planning ('IRP') may be helpful in ensuring that gas facilities are planned, developed and utilized in the most economic fashion across the Province. TCPL commented that a properly structured IRP approach will promote greater transparency in the gas supply portfolio and infrastructure investment decisions by Ontario's regulated utilities and facilitate the Board's timely assessment of the full impacts of these decisions. TCPL suggested that the utilities should fully describe and justify all gas supply contracting practices and infrastructure investments in the context of IRP proceedings.

Work to Reduce Any Barriers to Diversifying Natural Gas Supplies

CME submitted that the Board's mandate requires that it work to eliminate any barriers to diversifying natural gas supplies. CME endorsed the consultant for the Collaborative's recommendations as follows on how this can be done: first, the terms of service governing access to gas supplies under utility services should avoid any bias between system supply and direct purchase options; second, the Board should require utilities to offer all direct purchase customers firm access to alternate delivery points; and third, if there are physical or contractual restrictions that limit access at certain delivery points, any available capacity should be allocated on a non-discriminatory basis.

JEO commented that the Board must ensure consumers/marketers have equal access to new sources of natural gas supply and access to new and existing storage. JEO also commented that the Board should direct utilities to review and modify their tariffs to allow consumers/marketers firm alternative delivery point access and access to excess and new storage capacity.

In response to the request from participants for delivery point choice, Union commented that providing greater flexibility vis-a-vis delivery points to direct purchase customers may have an upward impact on in-franchise delivery rates to recover costs of additional facilities needed and/or un-contracted capacity. Union does not anticipate any changes to the delivery point obligations at this time.

Require Incremental Pricing for Ex-franchise Transportation Services

VECC expressed concern over the possibility of uneconomic expansions and stranded costs; especially as such expansions are undertaken for non-utility or ex-franchise customers while the stranded costs are allocated to the detriment of in-franchise customers. VECC recommended that the following minimal economic test for a subsidy be employed: the tolls associated with assets constructed for any such project should recover an amount strictly between incremental cost and stand-alone cost, i.e., existing ratepayers should be no worse off and the new ex-franchise customers should make a contribution to the system costs.

CME expressed similar concern and commented that the Board must protect Ontario consumers from subsidizing facility expansions and shouldering the risk of unutilized transmission capacity. CME recommended that the Board should designate facilities to serve ex-franchise markets as being 'at risk' investments (i.e., hold separate). Further, CME commented that utilities could be required to use incremental rates for ex-franchise transmission services to ensure that in-franchise gas customers are not forced to subsidize ex-franchise customer.

As noted previously, FRHPO commented that facilities ought to be reviewed in a broader context with consideration of risk sharing and encouraged the Board to review applications with a view comparable to a FERC policy statement [Certification of New Interstate Natural Gas Pipeline Facilities, 88 FERC ¶ 61,227 (1999), order clarifying policy, 90 FERC ¶ 61,128 (2000), order clarifying policy, 92 FERC ¶ 61,094 (2000) (Certificate Policy Statement)]. FRHPO also commented that in assessing the benefits and risks this way, the Board would have opportunity to consider the apportionment of risks including recognizing that of utility shareholders as recommended by the consultant for the Collaborative. By considering an

application this way, FRHPO noted, the Board could determine the potential for incremental ratemaking.

In response to suggestions that the Board require incremental tolling on ex-franchise services, Union commented that to understand the impact on both in-franchise and ex-franchise rates requires undertaking detailed analysis that the consultant for the Collaborative noted he was not required to perform (TR. 1, p. 174, lines 19-21). Further, Union recommended that incremental tolling should be reserved for service that is designed to meet a specific need for a specific customer. Union commented that any mandatory move to incremental tolling could be detrimental to Ontario customers including Enbridge distribution customers and power generators. Further, Union posited, the tolling methodology could drive decisions of customers where to locate in Ontario.

Change QRAM Reference Price to Dawn

Union and DEM commented that the Board should consider a Dawn reference price for Ontario gas utilities as supplies change. DEM referenced evidence submitted by the Gas Marketer Group (“GMG”) in EB-2008-0106 (the QRAM proceeding) in relation to this matter, which submitted that “A single Ontario-wide monthly reference price that reflects the cost of gas delivered to the reference point (e.g., Dawn or city-gate) would provide consumers with pricing which reflects supply and demand in the consuming area. It is the most accurate signal in order to drive consumption behaviour. In addition, it could better reflect the increasingly diverse sources of potential supply...” DEM further suggested that if the Board does decide to change the reference price to Dawn, it should also re-examine the forecasting methodologies employed by the utilities and allow the reference price to be based on a transparent monthly marker price for the forward month.