



Blake, Cassels & Graydon LLP
Barristers & Solicitors
Patent & Trade-mark Agents
45 O'Connor Street
Suite 2000, World Exchange Plaza
Ottawa ON K1P 1A4 Canada
Tel: 613-788-2200 Fax: 613-788-2247

June 08, 2012

Gordon Cameron
Partner

VIA Electronic Filing

Dir: 613-788-2222
gord.cameron@blakes.com

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON
M4P 1E4

Re: EB-2011-0210 - Union 2013 Rates Application

Dear Ms. Walli:

Further to the Board's letter dated May 18, 2012, these are the reply submissions of TransCanada PipeLines Limited (TransCanada) in response to the submission of Union Gas Limited (Union) on TransCanada's motion for an order requiring Union to provide proper responses to several of TransCanada's interrogatories.

To parallel the submissions of Union, these submissions are divided between the interrogatories that Union addresses as "Parkway West Project Interrogatories" and "Other Interrogatories".

Parkway West Project Interrogatories

It is respectfully submitted that Union's submissions confuse the Board's review of the appropriateness of Union's Capital Budget – which occurs in this proceeding – with the Board's assessment of the prudence of the Parkway West Project, which will occur when leave to construct is sought and when the project closes to rate base.

TransCanada agrees with Union (citing EB-2010-0008) that this proceeding is not the one in which the prudence of the Parkway West Project is assessed. However, the fact that there is not a prudence review of the Parkway West Project in this proceeding does not mean that there is not a review of the appropriateness of Union's Capital Budget, as there has been in every other Union rate case.

It has been the Board's long practice to require Union (and other utilities) to apply for approval of its test year Capital Budget in its rate application for the test year. The Board has stipulated a rigorous process for the creation of utility Capital Budgets and Union's evidence states in considerable detail that Union followed

that process in this case. The creation of Capital Budgets is an important part of utility rate applications and their review is an important part of the Board's mandate.

In this context it should be noted that it was Union that proposed, in the Application, that Rate Base Issue #1 should be "Does the evidence support Union's forecast level of capital spending in 2013?" This is entirely consistent with the Board's long-established practice of reviewing Union's Capital Budget, including the bridge and test year Capital Budgets, in the rate hearing for the test year. (The wording of this issue was modified at the Issues Conference, at the request of an intervener but without a change in meaning, to "Is Union's forecast level of capital spending in 2013 appropriate?")

The Application is replete with evidence on Union's Capital Budget, including the budgeting of \$15 million of capital expenditures in 2012 and \$80 million of capital expenditures in 2013 for the Parkway West Project. In the very submissions that Union makes on this motion, Union states (citing EB-2009-0139): "The purpose of all evidence adduced in a hearing before the Board is to assist the Board in making a decision." (Union submission paragraph 12). The Application contains detailed evidence on the Parkway West Project (Exhibit B, Tab 9). That evidence is in the Application – as Union's own submissions would have it – in order to assist the Board in making a decision: whether or not to approve the Capital Budget contained in the Application.

The Board's consideration of the appropriateness of Union's Capital Budget involves exactly what went on in the interrogatory process: Board Staff and parties tested Union's pre-filed evidence on the appropriateness of including expenditures of \$15 million in 2012 and \$80 million in the Capital Budget in relation to the Parkway West Project.

Indeed many other Interveners, including APPRO, BOMA, Energy Probe, FRPO, IGUA and LPMA asked interrogatories of Union regarding the proposed Parkway West Project. Union responded to numerous interrogatories from the parties mentioned above in addition to those asked by TransCanada. This was part of the Board's process of assessing the reasonableness of the Capital Budget for the proposed expenditures on the Parkway West Project. Union cannot tenably argue that it can file a Capital Budget and supporting evidence, but that this evidence is immune from being tested by the Board and parties because this proceeding is not a prudence review.

Union has not provided any objection to providing proper answers to the interrogatories that are the subject of TransCanada's motion other than the assertion that it was never applying for the "approval" of the Parkway West Project.

Of course it was not, it was applying for the approval of its 2013 Capital Budget. This does not make the disputed interrogatories irrelevant. To the contrary, the Capital Budget is a fair and traditionally rigorous part of the Board's review of a utility rate case. The interrogatories in dispute on this motion are no different than the dozens of other interrogatories that Union did answer on this topic, from TransCanada and other parties.

Accordingly, TransCanada's detailed submissions on the relevance of the disputed interrogatories were not responded to by Union and stand unchallenged by Union's blanket response. Union has provided no reason why it cannot answer the disputed interrogatories.

In conclusion of the Parkway West Project interrogatories, TransCanada agrees with Union that the Board is not deciding the prudence of the Parkway West Project in this proceeding. However, it will decide on the appropriateness of Union's Capital Budget. The disputed interrogatories, as with all of the other interrogatories that TransCanada and other interveners posed to Union and Union answered on this topic, are relevant to that decision.

It is respectfully submitted, therefore, that the order requested by TransCanada, requiring Union to file proper answers to the disputed interrogatories, should be granted.

Other Interrogatories

Union addressed three other disputed interrogatory responses individually. There is one disputed interrogatory response that Union did not address (presentations to Enbridge Gas Distribution Inc. or Enbridge Inc. (EGD) regarding the Parkway West Project) that TransCanada will comment on in this section of its submissions.

1. Exhibits J.B-4-7-1(a) and Exhibit J.B-4-7-1 (b)(v)

TransCanada accepts Union's position regarding the answers that Union will provide to augment or replace Exhibits J.B-4-7-1(a) and Exhibit J.B-4-7-1 (b)(v).

2. Exhibit J.G-1-7-11

In paragraph 17 of its submissions, Union addresses the disputed interrogatory response Exhibit J.G-1-7-11. Union states that "it does not have the information" to answer the interrogatory, which asked for the 2012/13 available Dawn-to-Dawn TCPL capacity. Presumably the submission that Union "does not have the information" is a reference to the statement in the interrogatory response that the capacity is dependent on supplies and demands entering Dawn.

TransCanada cannot understand this position. TransCanada contracted with Union for 500 TJ/d of this capacity. Union had to know how to calculate available capacity in order to enter into this contract.

It is submitted that merely stating that the answer to this interrogatory is contingent on a forecast of 2012/13 supplies and demands at Dawn – which Union easily can do, if it has not already – is not a sufficient reason to decline to answer this interrogatory with a reasonable and informed estimate of the available capacity. The notion that Union cannot estimate capacity on its own system does not bear serious scrutiny, and it is submitted that the Board should require Union to provide the requested information.

3. Exhibit J.B-1-7-8(e)

Union responded to this interrogatory for presentations related to the Parkway West Project by providing “representative” presentations. TransCanada did not object to Union’s economy in providing “representative” presentations, but the representative presentations did not include any presentations made to EGD.

Given that EGD was a central player in the ostensible need for the Parkway West Project, TransCanada assumes that there were presentations to EGD about the project. On its motion, TransCanada requested that the Board require Union to provide the presentations that Union made to EGD in which the Parkway West Project is among the topics discussed, or that Union advise, if this is the case, that there never were any such presentations to EGD.

Inasmuch as Union did not respond to TransCanada’s motion on this point, TransCanada submits that the Board should require Union to provide the presentations that it made to EGD in which the Parkway West Project is among the topics discussed, or require that Union advise, if this is the case, that there never were any such presentations to EGD.

Yours very truly,



Gordon Cameron

c: -Chris Ripley – Union Gas Limited
-Crawford Smith – Torys
-Intervenors