



EB-2012-0451
EB-2012-0433
EB-2013-0074

IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for: an order or orders granting leave to construct a natural gas pipeline and ancillary facilities in the Town of Milton, City of Markham, Town of Richmond Hill, City of Brampton, City of Toronto, City of Vaughan and the Region of Halton, the Region of Peel and the Region of York; and an order or orders approving the methodology to establish a rate for transportation services for TransCanada Pipelines Limited;

AND IN THE MATTER OF an application by Union Gas Limited for: an Order or Orders for pre-approval of recovery of the cost consequences of all facilities associated with the development of the proposed Parkway West site; an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the Town of Milton; an Order or Orders for pre-approval of recovery of the cost consequences of all facilities associated with the development of the proposed Brantford-Kirkwall/Parkway D Compressor Station project; an Order or Orders for pre-approval of the cost consequences of two long term short haul transportation contracts; and an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the City of Cambridge and City of Hamilton.

PROCEDURAL ORDER NO. 5
June 28, 2013

The Ontario Energy Board has received three related applications requesting approval for the Applicants to undertake system expansion projects: one filed by Enbridge Gas Distribution Inc. (“Enbridge”) and two filed by Union Gas Limited (“Union”).

A record of all procedural matters that have been dealt with up to this point in this combined proceeding is available on the Board's web site.

Motion

On, June 21, 2013 Union Gas Limited ("Union") and Gaz Metro Limited Partnership ("Gaz Metro") filed a motion with the Board requesting the following:

- 1) A declaration that the Board's Storage and Transportation Access Rule ("STAR") applies to Segment A of the Enbridge Gas Distribution Inc.'s ("Enbridge") GTA Project, as defined in Enbridge's application for leave to construct in EB-2012-0451.
- 2) An order declaring the Memorandum of Understanding between Enbridge and TransCanada dated January 28, 2013, as amended, fails to comply with STAR and is unenforceable and of no effect.
- 3) An order requiring that Enbridge hold an open season in respect of the new capacity on Segment A of the GTA Project, in accordance with STAR, as soon as commercially possible, and in any event no later than June 30, 2013.
- 4) An order staying the GTA Project until such time as Enbridge has initiated an open season pursuant to STAR in respect of the new capacity on Segment A of the GTA Project.
- 5) An order that this motion be heard and disposed of an expedited basis.
- 6) Such further relief as the Board may deem just.

On June 26, 2013, Union and Gaz Metro filed their motion record in support of their motion.

Union and Gaz Metro note in the motion that they require access to expanded pipeline capacity between Union's Parkway Station and TransCanada's Maple Compressor Station in order to ensure diversity and security of supply in their gas supply portfolios

and to deliver estimated gas cost savings between \$103 and \$138 million annually to their customers. Union and Gaz Metro further note that Enbridge and TransCanada are currently constraining access to the path in three ways, which they discuss in detail in the motion record. Union and Gaz Metro have requested that the motion be heard orally.

The Board will hold an oral hearing to consider the portion of the motion seeking a declaration regarding the applicability of STAR to Segment A prior to hearing any other portions of the motion. The Board regards the applicability of STAR to Segment A as a “threshold” issue for the other components of the motion. The Board asks that parties be prepared to make submissions on the threshold issue, and also to make submissions on what process should follow the hearing of the threshold issue in the event of either outcome, i.e. how should the Board proceed if STAR is found to apply, and how should the Board proceed if STAR is found not to apply.

Parties should be aware that the hearing panel cannot hear or decide matters that fall under Part VII.1 of the Act (Compliance) as part of this proceeding as currently constituted. Part VII.1 mandates a different process for compliance matters, and compliance proceedings can only be initiated by the Board on its own motion.

Confidentiality Request

Within Union’s updated filing of interrogatory responses on June 19, 2013 and June 20, 2013 it requested confidential treatment of the interrogatory responses. The interrogatory responses include correspondence between Union and both Enbridge and TCPL. Union notes that the discussions between the parties were carried out under a signed confidentiality agreement.

The Board will grant the request on an interim basis. Parties who wish to view the full documents but have not executed the Board’s Declaration and Undertaking must do so. Union will provide the unredacted materials to any party that requests the materials and has executed the Declaration and Undertaking. The Board will make a final determination on the confidentiality request after receipt of submissions.

The Board considers it necessary to make provisions for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. Union Gas and Gaz Metro shall file any additional documentation in support of the motion and serve it on all parties on or before **Wednesday, July 3, 2013**.
2. Parties and Board Staff may file written submissions on Union Gas' request for confidentiality with the Board and serve it on all parties on or before **Friday, July 5, 2013**.
3. Union Gas may file a written reply submission with the Board and serve it on all parties on or before **Tuesday, July 9, 2013**.
4. Parties and Board Staff intending to make submissions at the oral hearing in response to Union Gas and Gaz Metro's motion record shall file motion materials and/or written submissions with the Board and serve it on all parties on or before **Tuesday, July 9, 2013**.
5. An Oral Hearing will be held at the Board's offices located at 2300 Yonge Street, Toronto, ON on the 25th Floor in the **North Hearing Room** on **Thursday, July 11, 2013 at 9:00 a.m.**

All filings to the Board must quote the file number, EB-2012-0451/EB-2012-0433/EB-2013-0074, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available, parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:00 p.m. on the required date.

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Board Secretary
Filings:
<https://www.pes.ontarioenergyboard.ca/eservice/>
E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, June 28, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

**ENBRIDGE GAS DISTRIBUTION INC.
EB-2012-0451**

**UNION GAS LIMITED
EB-2012-0433
EB-2013-0074**

Case Timetable

APPENDIX A

Enbridge Gas Distribution Inc. - GTA Project (EB-2012-0451)
Union Gas Limited - Parkway West (EB-2012-0433)
Union Gas Limited - Brantford-Kirkwall / Parkway D (EB-2013-0074)

Case Timetable
Date: June 28, 2013

	Event	Date
1.	Interrogatories filed	May 21
2.	Interrogatory responses	June 7
3.	Technical Conference	June 12
4.	Undertakings from Technical Conference filed	June 18
5.	Intervenor evidence	June 28
6.	Motion Record Supporting Evidence – Union Gas and Gaz Metro	July 3
7.	TCPL evidence	July 5
8.	Submissions on Union's confidentiality request	July 5
9.	Interrogatories on Intervenor evidence, excluding TCPL evidence	July 5
10.	Reply Submission on Union's confidentiality Request	July 9
11.	Response to Motion Record by all parties	July 9
12.	Oral Hearing on Motion	July 11
13.	Interrogatories on TCPL evidence	July 12
14.	Interrogatory responses on Intervenor evidence, including TCPL	July 19
15.	Settlement Conference	July 29
16.	File Settlement Proposal	August 6
17.	Pre-Hearing Conference	August 8
18.	Oral Hearing	August 12