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BY EMAIL and RESS

July 9, 2013

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2012-0433/EB-2012-0451/EB-2013-0074 – SEC Submissions

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No.5, enclosed please find SEC's written submissions on the motion filed by Union and Gaz Métro.

Yours very truly,
Jay Shepherd P.C.

Original signed by

Mark Rubenstein

cc: Applicants and Intervenors (by email)

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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.

WRITTEN SUBMISSIONS OF THE SCHOOL ENERGY COALITION

1. On June 21, 2013, Union Gas Limited ("Union") and Gaz Métro Limited Partnership ("Gaz Métro") filed a motion with the Board requesting certain relief regarding the application of the Storage and Transportation Access Rule ("STAR" or the "Rule") to Enbridge Gas Distribution Inc's ("Enbridge") proposed pipeline between the Bram West Interconnect and its Albion Road Station ("Segment A" of its GTA Project EB-2012-0451).

2. Pursuant to Procedural Order No. 5, the Ontario Energy Board (the "Board") has sought submissions on the application of STAR to Segment A(the threshold issue), and also on what process should follow the hearing of the threshold issue in the event of either outcome.

3. These are the written submissions of the School Energy Coalition ("SEC").

4. SEC submits that STAR does apply to Segment A of the GTA project, that currently Enbridge is not in conformity with STAR, and the Board should either formally stay the entire proceeding pending the outcome of an open season, or restructure the process to accommodate the holding of one.

A) Does STAR apply to Segment A?

i) Purpose and Benefits of STAR

5. STAR is a binding rule made pursuant to the Board's authority under section 44 of the *Ontario Energy Board Act*, *1998* ("*OEB Act*").[1] The purpose of the Rule, in part, is to ensure open and non-discriminatory access to natural gas transportation services.[2] While the initial impetus for the development of the rule was to ensure that natural gas transmitters or their affiliates did not discriminate in favor of their own storage operations to the detriment of third-party storage providers, STAR does not make such a distinction.[3] In fact, Enbridge itself during the STAR consultation took the position that "all customers must have non-discriminatory access to transportation services regardless of whether they purchase storage services".[4]

6. The benefit of non-discriminatory transportation services is clear. It prevents transmitters from abusing their monopoly over transmission paths and protects ratepayers from anti-competitive activities. More importantly, it furthers the Board's objectives pursuant to section 2 of the *OEB Act*: to protect the interests of consumers with respect to price, facilitate competition in the sale of gas to users, and facilitate the rational expansion of the transmission system.[5]

7. Section 2.1.2 of STAR requires that any "firm transportation services that becomes available as a result of facility expansion (i.e. new capacity) shall be offered through an open season".[6] The benefits of this section of STAR is that it helps the Board not just determine if there is requisite demand for the construction of a new facility, but also to ensure that the expansion of the transmission system is undertaken rationally and in the most cost-effective manner.[7]

ii) STAR Applies to Segment A and Enbridge is Not in Conformity

8. SEC submits that STAR applies to Segment A. Segment A is a transmission pipeline undertaken by a natural gas transmitter, Enbridge.

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[1] *Ontario Energy Board Act, 1998*, s.44. Appendix A
[2] *Storage and Transportation Access Rule* ("*STAR*"), s.1.1.1 Union/Gaz Métro Motion Record, Tab 2, p. 14
[3] Board Staff Discussion Paper (EB-2008-0052), dated July 29, 2008 at p.7. Union/Gaz Métro Supplementary Motion Record, Tab 6
[4] Enbridge's Comment's on the Board Staff Discussion Paper (EB-2008-0052) at p.3. Union/Gaz Métro Supplementary Motion Record, Tab 8
[5] *Ontario Energy Board Act,* 1998, s.2. Appendix A
[6] *STAR*, s.2.1.2. Union/Gaz Métro Motion Record, Tab 2, at p.16
[7] To grant leave-to-construct the Board must ensure that the proposed project is in the public interest pursuant to section 96 of the *Ontario Energy Board, 1998*. This determination includes a variety of other factors in addition to their being requisite demand for the increased capacity.

9. At the technical conference, Enbridge confirmed that Segment A is a transmission pipeline.[8] Enbridge is a natural gas transmitter for the purposes of Segment A since it provides transportation services other than gas distribution services, and because of that it falls within the jurisdiction of STAR.[9]

10. STAR requires that an open season for firm transmission services be undertaken if it relates to new capacity.[10] The new transmission capacities between TransCanada Pipelines' ("TCPL") Bram West and Enbridge's Albion facilities have been offered exclusively to TCPL pursuant to a Memorandum of Understanding ("MoU") between the parties.[11] Enbridge has not held an open season for Segment A, nor does the MoU appear to permit one to be undertaken.[12]

11. STAR does permit the Board to grant an exemption to any provision of the Rule in whole or in part and subject to any conditions or restrictions. Enbridge has not sought an exemption from the Board.[13]

B) Should the Board Stay the GTA Project Pending an Open Season?

12. Regardless, of whether the Board finds that STAR is applicable to Segment A, or that Enbridge is non-compliant with STAR, SEC submits the Board should either formally stay the combined proceeding pending the completion of an open season, or accommodate in the process the holding of one. The Board has the authority to do so, and should exercise that discretion, for both public interest and process-related reasons as outlined below.

i) The Board's authority

13. SEC is not seeking that the Board exercise its authority pursuant to its compliance powers under Part VII.1 of the *OEB Act*. The Board has the authority to stay a leave to construct proceeding pending the holding of an open season pursuant its power to control its own process.[14] It may also order a stay pursuant to its broad discretion in granting leave to construct natural gas facilities. Specifically, it has the

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[8] Technical Conference, Tr.1.23. Union Gas Motion Record, Tab 18, p.276-77
[9] *STAR*, s.1.2.1 and 1.5.1. Union/Gaz Métro Motion Record, Tab 2, p.14-16, 17
[10] *STAR*, s.2.1.2 and 2.2.1. Union/Gaz Métro Motion Record, Tab 2, p.18
[11] Memorandum of Understanding between Enbridge and TCPL, including amendments Union/Gaz Métro Motion Record, Tab 25-27
[12] Memorandum of Understanding between Enbridge and TCPL, Schedule D. Union/Gaz Métro Motion Record, Tab 25, p.456.
[13] *STAR*, s.1.7.1. Union/Gaz Métro Motion Record, Tab 2, at p.17
Technical Conference Tr.1:15-16,18. Union/Gaz Métro Motion Record, Tab 18p.268-69, 271. Undertaking JT1.2.Union/Gaz Métro Motion Record, Tab 21, p.387-88
[14] Ontario Energy Board, *Rules of Practice and Procedure*, Rule 4.01, 5.01

power to determine that it would not be in the public interest to grant leave to construct for Enbridge's Segment A without their first being an open season held first.

14. The Board may determine that it is best not to formally stay the proceedings, but instead to revise the process set out in Procedural Order No.2 to provide for the time necessary for Enbridge to hold an open season and to amend its application accordingly.[15]

15. Additionally, the Board has the authority pursuant to section 21(1) of the *OEB Act* to issue directions or require the preparation of evidence incidental to the exercise of the powers conferred upon it.[16] In this case, it should require Enbridge to present the results of open season for capacity on its planned Segment A pipeline, and hold all further steps in this proceeding in abeyance until that happens.

ii) Entire Proceeding Must Be Stayed

16. If the Board does believe that a formal stay or revision of the procedural timelines is required so that Enbridge may hold an open season for its Segment A pipeline, SEC submits it must do so for the entire proceeding, not just the GTA application as sought by Union and Gaz Métro. The three applications which comprise this combined proceeding are related and interdependent. As the Board recognized by combining the applications:

> From a substantive perspective, the <u>Board finds that combining the proceedings is appropriate in light of the related and interdependent nature of the applications</u>. The Board believes that it is important to consider the related issues in a cohesive and rational manner. That is best accomplished through a combined proceeding. [17] [emphasis added]

17. The evidence is clear that there is a wholly contingent relationship between Enbridge's GTA project, specifically Segment A, and Union's Brantford-Kirkwall/Parkway D application (EB-2013-0074). Union has stated that if the GTA project is not approved it will not undertake construction of either the Parkway D compressor or the Brantford-Kirkwall pipeline.[18]

18. While Union has stated that rejection or delay in the proposed GTA project would have no impact on its Parkway West Project, SEC does not agree. The need for LCU coverage for Parkway will change

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[15] *Procedural Order No. 2 and Decision on the Issues List and Cost Eligibility*, dated May 8 2013 at p.7-8. Appendix B

[16] Section 21(1) of the *Ontario Energy Board Act, 1998* "The Board may at any time on its own motion and without a hearing give directions or require the preparation of evidence incidental to the exercise of the powers conferred upon the Board by this or any other Act." Appendix A

[17] *Procedural Order No.2 and Decision on Issues List and Cost Eligibility*, dated May 8 2013 at p.4. Appendix B

[18] Union Response to Staff Interrogatory #8, I.A1.UGL.Staff.8. Appendix C

depending on the volumes that flow through Parkway as a result of increased demand arising from the GTA project, and incremental volumes as result of Brantford-Kirkwall pipeline.

iii) A Stay Should be Granted

19. SEC submits that the Board should either grant a stay until Enbridge conducts an open season for its Segment A pipeline or revise the process to allow for one to be held, for three reasons. First, an open season is required to properly determine what the actual demand is for capacity on the pipeline, and if so, what the proper size of the pipe should be. Second, it is clear that leave to construct should not be granted for a project which is non-compliant with the Board's rules. Where the proponent has not complied with STAR or, more generally, does not provide a non-discriminatory transmission service, it is non-compliant with the Board's binding rules. Third, Enbridge, Union and TCPL have not adequately pursued and implemented the principles set out in the Board's EB-2011-0210 decision.

Need for Further Information

20. While Enbridge originally sought to build a NPS 42″ pipeline for Segment A, it now seeks to build a NPS 36″ pipeline.[19] The Board will ultimately have to determine if any pipeline should be built. If it determines one should be built, it will also need to decide on its appropriate size.

21. The capacity bottleneck between Parkway and Maple is an issue that the Board has been aware of for some time.[20] It has had the effect of constraining supply sourced upstream of Parkway destined for eastern and northern Ontario. This issue will likely only be exacerbated in the future. There is significant potential gas supply and system savings if capacity is expanded between Parkway and Maple in a rational and cost-effective manner.

22. Originally TCPL had planned on using Segment A as part of its expansion plans. New incremental capacity would be accommodated on Enbridge's planned Segment A pipeline to Albion. TCPL planned to then build a new pipeline between Albion and Maple (or, more specifically, King North).[21] After the release of the National Energy Board's RH-003-2011 decision, TCPL's Board of Directors' cancelled the expansion.[22] During the Technical Conference, Union stated that it was

[19] Amendment to the Memorandum of Understanding between Enbridge and TCPL. Union Motion/Gaz Métro Record, Tab 26, p.478.
[20] Written Evidence of TransCanada Pipelines at p.4. Appendix D
[21] *Ibid.*
[22] Letter from TCPL to Union, Gaz Métro and Enbridge. Union/ Gaz Métro Motion Record, Tab 18, p.312

committed to building increased capacity between Parkway and Maple.[23] SEC believes it makes little sense for additional pipelines to have to be built because Union, Gaz Métro or any other shippers, cannot utilize Segment A.

23. To properly determine if there is a legitimate need for Segment A, the Board will require accurate information about the potential incremental capacity sought by Union, Gaz Métro and any other shipper. Union and Gaz Métro providing evidence of certain volumes they require is not an adequate substitute. Other shippers who may want to utilize any incremental capacity need to be given the opportunity to indicate their interest. An open season is the fairest, most transparent, and most reliable way for that to occur. The Board has in the past stated that negotiations with shippers to allocate capacity should only occur if *after* an open season there is residual capacity.[24] An open season also provides for increased protection for both ratepayers and the constructing transmitter, since an accepted bid creates legally binding commitments from both parties.

24. The Board also requires this information to determine the optimal size of pipe. While the MoU (as amended) between TCPL and Enbridge limits the pipeline to NPS 36″, an open season will allow the Board and all parties to have the required information to determine that is the optimal or even adequate size.[25] There is clear dispute between Union/Gaz Métro and Enbridge on the sufficiency of NPS 36″ pipe.[26]

25. An open season provides the Board with information necessary for it to make a proper determination on Enbridge's application.

Current Situation Not In The Public Interest

26. The Board should grant a either grant a formal stay, or revise the schedule to require an open season, on the basis that leave to construct should not be granted for facilities that do not conform to the provisions of STAR.

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[23] Technical Conference Tr.1:116. Union/Gaz Métro Motion Record, Tab 18, p.311.
[24] *Notice of Issuance of a New Rule: Storage and Transportation Access Rule* (EB-2008-0052), dated December 9, 2009 at p.3. Union/Gaz Métro Supplementary Motion Record, Tab 10, p.232
[25] Amendment to the Memorandum of Understanding between Enbridge and TCPL. Union/Gaz Métro Motion Record, Tab 26, p.478
[26] Union and Gaz Métro state that a NPS 36″ pipe will not be sufficient to accommodate incremental short haul demands of 110,000 GJ/day and 258,000 GJ/day. See Union/Gaz Métro Written Submissions para 42. Enbridge has stated that it "is of the view that the NPS 36 pipe size will provide significant incremental market access. See JT 1.2 p.3 Union/Gaz Métro Motion Record, Tab 21, p.387-88

27. Under the *OEB Act*, the Board is tasked with determining if leave to construct should be granted for the construction of certain natural gas facilities. In making that determination, the Board is required to consider if the proposed facilities are in the public interest.[27] The public interest test is broad, and usually takes into account, among other factors: need, ratepayer impact, and environmental and landowner concerns.[28] SEC submits that the Board cannot and should not grant leave to construct a facility that does not comply with a binding Board rule such as STAR. Doing so would never be in the public interest, unless at the same time the Board granted an exemption from the rule. If it did, it would harm the credibility of the Board's regulatory regime. Regardless, considering the evidence on the record in this proceeding, SEC does not believe it would be in the public interest for the Board to grant an exemption to the open seasons requirements of STAR.

28. Even if the Board finds that STAR is not applicable, the principle of non-discriminatory access to transportation services, which furthers a number of Board objectives, requires that the Board issue a stay pending the completion of an open season. The public interest cannot be met by restricting open access to Segment A as currently proposed by Enbridge and TCPL.[29]

29. The interest of shippers having access to Segment A is not simply a hypothetical. Both Union and Gaz Métro have provided evidence of their need for additional capacity downstream from Parkway.[30] Both have stated they are ready and willing to bid into an open season for Segment A, as they had done previously in TCPL's 2012 open season.[31]

Lack of Consultation and Cooperation

30. The benefit of a formal stay of the entire proceeding is that it would also allow for time for Enbridge, Union and TCPL to work together to reach some form of a coordinated plan on system expansion. The Board voiced its concerns in Union's 2013 cost of service proceeding (EB-2011-0210) about the lack of cooperation and consultation between the three utilities, which may lead to adverse consequences for ratepayers.

> The Board is concerned with the apparent lack of cooperation and consultation between Union, Enbridge and TCPL that came to light in this proceeding. The Board is concerned that this may

[27] *Ontario Energy Board Act, 1998* s.90, 91 and 96(1). Appendix A
[28] EB-2009-0187, *Decision and Order*, dated April 5, 2010 at p.3-4. Appendix E
[29] *Ontario Energy Board Act, 1998*, 96(1). Appendix A
[30] Evidence of Gaz Métro Limited Partnership at p.13. see Appendix X, Technical Conference Tr.1:133, Union/Gaz Métro Motion Record Tab 18, p.328. Technical Conference Tr.2:4. , Union/Gaz Métro Motion Record Tab 19, p.345.
[31] Technical Conference Tr.1:122-123, Tr.2:23, Correspondence between Union and TCPL. Union/Gaz Métro Motion Record Tab 18-19,23. Evidence of Gaz Métro Limited Partnership at p.13. Appendix F

> have adverse consequences for Ontario ratepayers – result in higher rates and costs than would otherwise be the case, contribute to the uneconomic bypass of existing natural gas infrastructure, create asset stranding, encourage the proliferation of natural gas infrastructure, and lead to the underutilization of existing natural gas infrastructure. [32]

31. It has encouraged the utilities to engage in consultations with its shippers to maximize benefits to Ontario ratepayers.

> The Board agrees that the consideration of the Parkway West facilities requires a wider perspective. The Board therefore encourages Union to engage TCPL, Enbridge and shippers in a consultative process, the purpose of which is to jointly consider the need for the Parkway West project, explore reasonable alternatives (including the repurposing of existing facilities) in order to maximize the benefit to Ontario ratepayers. The result of this process would then be filed with Union's Leave to Construct application for the Parkway West facilities. [33]

32. While the Board made its comment in regards to the proposed Parkway West facilities, the same principle applies to the remaining facilities being considered in this application. The necessity of cooperation and consultation is only enhanced by their interdependency, and the effect they will have on future facility needs. As an example, while not a formal part of this proceeding, there is a significant dispute between Union and TCPL about the latter's willingness to build the necessary facilities to connect Albion to Maple. Union has stated that it is willing to build and will bring forward its own application to construct those facilities itself or in conjunction with Gaz Métro.[34] TCPL in its evidence has stated that it still plans to build the facilities and will seek NEB approval later this year.[35]

33. Enbridge itself has recognized that there needs to be additional discussions. In its response to Undertaking JT1.2, it stated that the "best course of action in the circumstances is for consultations between TransCanada and the Eastern LDCs to continue and for the parties to report back prior to the settlement conference."[36]

34. A coordinated expansion will maximize the benefit for all of Ontario. A stay would provide each utility the opportunity to cooperate and resolve these important issues.

Summary

35. SEC submits that the Board should declare that STAR applies to Segment A, and that Enbridge is required to hold an open season. Regardless of whether it finds that STAR applies, the Board should

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[32] EB-2011-0120, *Decision and Order*, dated October 25, 2012 at p.126. Appendix G
[33] *Ibid.*
[34] Technical Conference Tr:1.11. Union/Gaz Métro Motion Record, Tab 18, p.312-313. Board Staff Interrogatory No. 7, Union/Gaz Métro Motion Record, Tab 12, p.182.
[35] Written Evidence of TransCanada Pipeline Limited, at p. 6. Appendix D
[36] Undertaking JT1.2. Union/Gaz Métro Motion Record, Tab 21, p.387-88

either formally stay the entire combined proceeding until an open season is held or revise its schedule to require and accommodate the holding of one.

ALL OF WHICH IS RESPECFULLY SUBMITTED

Original signed by

Mark Rubenstein
Counsel for the School Energy Coalition

A

***Ontario Energy Board Act, 1998*, SO 1998, c 15, Sch B**

Board objectives, gas

2. The Board, in carrying out its responsibilities under this or any other Act in relation to gas, shall be guided by the following objectives:

1. To facilitate competition in the sale of gas to users.
2. To protect the interests of consumers with respect to prices and the reliability and quality of gas service.
3. To facilitate rational expansion of transmission and distribution systems.
4. To facilitate rational development and safe operation of gas storage.
5. To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.

5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.

6. To promote communication within the gas industry and the education of consumers. 1998, c. 15, Sched. B, s. 2; 2002, c. 23, s. 4 (2); 2003, c. 3, s. 3; 2004, c. 23, Sched. B, s. 2; 2009, c. 12, Sched. D, s. 2.

Board's powers, miscellaneous

21. (1) The Board may at any time on its own motion and without a hearing give directions or require the preparation of evidence incidental to the exercise of the powers conferred upon the Board by this or any other Act. 1998, c. 15, Sched. B, s. 21 (1).

Rules

44. (1) The Board may make rules,

(a) governing the conduct of a gas transmitter, gas distributor or storage company as such conduct relates to its affiliates;

(b) governing the conduct of a gas distributor as such conduct relates to any person,

(i) selling or offering to sell gas to a consumer,

(ii) acting as agent or broker for a seller of gas to a consumer, or

(iii) acting or offering to act as the agent or broker of a consumer in the purchase of gas;

(b.1) subject to subsections 42 (5) to (14), governing the conduct of a gas distributor as the conduct relates to,

(i) stopping the distribution of gas to a property, including the manner in which and the time within which the distribution stops or is to stop,

(ii) the manner, timing and form in which the notice under subsection 42 (6) is to be provided to the person, and

(iii) the information to be included in the notice to the person;

(b.2) subject to the regulations, governing the manner and circumstances in which security is to be provided, including where security is to be provided or not to be provided by a gas consumer to a gas distributor and,

(i) the interest rate to be applied to amounts held on deposit and payable by the gas distributor to the consumer for the amounts,

(ii) the manner and time or times by which the amounts held on deposit may or must be paid or set-off against amounts otherwise due or payable by the consumer,

(iii) the circumstances in which security need not be provided or in which specific arrangements in respect of security may or must be provided by the gas distributor to the consumer, and
(iv) such other matters as the Board may determine in respect of security;
(b.3) relating to any matter in respect of invoices issued in respect of gas to consumers, including meeting such requirements as may be provided for by the Board or being in a form approved by the Board;
(c) governing the conduct of persons holding a licence issued under Part IV;
(c.1) relating to any matter, prescribed by regulation, in respect of gas marketers in relation to gas marketing, subject to any regulations made under this Act or under the *Energy Consumer Protection Act, 2010*;
(d) establishing conditions of access to transmission, distribution and storage services provided by a gas transmitter, gas distributor or storage company;
(e) establishing classes of gas transmitters, gas distributors and storage companies;
(f) requiring and providing for the making of returns, statements or reports by any class of gas transmitters, gas distributors or storage companies relating to the transmission, distribution, storage or sale of gas, in such form and containing such matters and verified in such manner as the rule may provide;
(g) requiring and providing for an affiliate of a gas transmitter, gas distributor or storage company to make returns, statements or reports relating to the transmission, distribution, storage or sale of gas by the gas transmitter, gas distributor or storage company of which it is the affiliate, in such form and containing such matters and verified in such manner as the rule may provide;
(h) establishing a uniform system of accounts applicable to any class of gas transmitters, gas distributors or storage companies;
(i) respecting any other matter prescribed by regulation. 1998, c. 15, Sched. B, s. 44 (1); 2010, c. 8, s. 38 (5).

Quorum

(1.1) For the purposes of this section and section 45, two members of the Board constitute a quorum. 2003, c. 3, s. 34 (1).

Approval, etc., of Board

(2) A rule may require an approval, consent or determination of the Board, with or without a hearing, for any of the matters provided for in the rule. 2003, c. 3, s. 34 (2).

Incorporation by reference

(3) A rule authorized by this section may incorporate by reference, in whole or in part, any standard, procedure or guideline and may require compliance with any standard, procedure or guideline adopted. 1998, c. 15, Sched. B, s. 44 (3).

Scope

(4) A rule may be general or particular in its application and may be limited as to time or place or both. 1998, c. 15, Sched. B, s. 44 (4).

Exemption

(5) A rule may authorize the Board to grant an exemption to it. 2000, c. 26, Sched. D, s. 2 (3).

Same

(6) An exemption or a removal of an exemption,
(a) may be granted or made in whole or in part; and
(b) may be granted or made subject to conditions or restrictions. 2000, c. 26, Sched. D, s. 2 (3).

Non-application

(7) Part III (Regulations) of the *Legislation Act, 2006* does not apply to the rules made by the Board. 1998, c. 15, Sched. B, s. 44 (7); 2006, c. 21, Sched. F, s. 136 (1).

Leave to construct hydrocarbon line

90. (1) No person shall construct a hydrocarbon line without first obtaining from the Board an order granting leave to construct the hydrocarbon line if,

(a) the proposed hydrocarbon line is more than 20 kilometres in length;

(b) the proposed hydrocarbon line is projected to cost more than the amount prescribed by the regulations;

(c) any part of the proposed hydrocarbon line,

(i) uses pipe that has a nominal pipe size of 12 inches or more, and

(ii) has an operating pressure of 2,000 kilopascals or more; or

(d) criteria prescribed by the regulations are met. 2003, c. 3, s. 63 (1).

Exception

(2) Subsection (1) does not apply to the relocation or reconstruction of a hydrocarbon line unless the size of the line is changed or unless the acquisition of additional land or authority to use additional land is necessary. 1998, c. 15, Sched. B, s. 90 (2); 2003, c. 3, s. 63 (2).

Application for leave to construct hydrocarbon line or station

91. Any person may, before constructing a hydrocarbon line to which section 90 does not apply or a station, apply to the Board f

Order allowing work to be carried out

96. (1) If, after considering an application under section 90, 91 or 92 the Board is of the opinion that the construction, expansion or reinforcement of the proposed work is in the public interest, it shall make an order granting leave to carry out the work. 1998, c. 15, Sched. B, s. 96.

B

Ontario Energy Board

Commission de l'énergie de l'Ontario

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.

BEFORE:

Cynthia Chaplin
Presiding Member & Vice Chair

Marika Hare
Member

Peter Noonan
Member

PROCEDURAL ORDER NO. 2 and
DECISION ON ISSUES LIST AND COST ELIGIBILITY
May 8, 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").

Enbridge is seeking approval for the following:

<u>Enbridge GTA Project (EB-2012-0451)</u>

- Leave to construct two segments of pipeline and associated facilities:
  - Segment A - approximately 21 km long and located in the Town of Milton, the City of Mississauga and the City of Toronto, and
  - Segment B - approximate 23 km long and located in the City of Vaughan, the City of Markham, the City of Toronto and the Town of Richmond Hill.
  - The approximate total cost of the project is $623 million.
- Approval of the methodology that will be applied to develop Rate 322 for transportation services on the proposed Segment A pipeline.

Union Gas is seeking approval for the following:

<u>Union Parkway West Project (EB-2012-0433)</u>

- Leave to construct 750 meters of pipeline and associated facilities, including a standby compressor in the Town of Milton.
  - The approximate total cost of the Parkway West Project is $200 million.

<u>Union Brantford-Kirkwall Parkway D (EB-2013-0074)</u>

- Leave to construct 13.9 kilometers of pipeline and associated facilities from the City of Cambridge to the City of Hamilton.
- Leave to construct compressor facilities in the Town of Milton at the proposed Parkway West Compressor Station.
- Pre-approval of the cost consequences of two long term short haul transportation contracts on the TransCanada Pipelines Limited Mainline.
  - The approximate total cost of the project is $204 million.

The Board issued a Notice of Application for both the Enbridge GTA Project and Union Parkway West Project on March 5, 2013. The Board issued a Notice of Application for the Union Brantford-Kirkwall/Parkway D Project on April 12, 2013.

On April 17, 2013, the Board issued Procedural Order No. 1 and its Cost Eligibility Decision for both the Enbridge GTA Project and Union Parkway West Project. Within Procedural Order No. 1 the Board provided dates for both an Issues and Process Conference and an Issues and Process Day.

On April 26, 2013, the Board held an Issues and Process Conference for parties to discuss the Draft Issues List and the process the Board should follow when hearing these applications.

Issues List

On April 30, 2013, the Board held an Issues and Process Day to hear submissions on the draft Issues List and the hearing process. The Board heard submissions on a disputed issue and rendered its decision orally. The Issues List approved by the Board at the hearing is attached at Appendix A.

After the conclusion of the Issues and Process Day, the Board received an intervention request in the Enbridge GTA Project proceeding from the Mississaugas of the New Credit First Nation ("MNCFN"). As MNCFN did not have an opportunity to comment on the Issues List, the Board will allow MNCFN to make submissions on any additional issues it feels should be added to the Issues List. Enbridge and Union Gas will be given an opportunity to respond to any proposed amendments to the Issues List.

Process

At the Issues and Process Day, the Board also heard submissions on the process that should be used to hear the applications. Union Gas and Enbridge proposed that the applications remain separate but that certain process steps be combined, including parts of the oral hearing. The intervenors were generally content with this proposal, but some objected to the proposed timing for intervenor evidence. Their concern was that the time between receiving interrogatory responses and conducting the technical conference and submitting evidence was too short.

The Board will combine the proceedings. The Board concludes that there are administrative and substantive benefits to combining the proceedings which outweigh any advantage in addressing them separately.

From the Board's perspective a combined proceeding is less cumbersome than three concurrent but separate proceedings. One of the arguments against combining was that there are a number of issues which are unique to each application and do not necessarily engage all of the intervenors. The Board finds that combining the proceedings will not preclude effective scheduling of the oral hearing to ensure that parties need only attend when their issues are to be addressed. This will be done through a Hearing Plan which will be developed in due course.

From a substantive perspective, the Board finds that combining the proceedings is appropriate in light of the related and interdependent nature of the applications. The Board believes that it is important to consider the related issues in a cohesive and rational manner. That is best accomplished through a combined proceeding. The Board further finds that any party that has been accepted as an intervenor in any one of the three proceedings is automatically considered to be an intervenor in all three proceedings.

With respect to timing, Union Gas and Enbridge proposed a schedule which concludes with an oral hearing in July. GEC, on behalf of itself and Environmental Defence, objected to the scheduled date for intervenor evidence and proposed that there be a month between the Technical Conference and the deadline for intervenor evidence. BOMA and the Council of Canadians supported these submissions.

The Board will establish the dates for the process steps at this time, up to the start of the oral hearing. The Board understands the applicants' desire for an expeditious hearing. However, the Board is also mindful of the requirements to conduct a fair proceeding. The hearing schedule balances those requirements. GEC and

Environmental Defence have requested a month from the date of the Technical Conference to prepare their evidence. The Board finds this requested time to be excessive. The Board concludes that three weeks from the date of the interrogatory answers (two weeks from the Technical Conference) is sufficient. This is comparable to the timelines in other large infrastructure proceedings. Intervenors may file interrogatories in advance of the deadline and identify if the responses are necessary for the preparation of evidence. The Board will require the applicants to make reasonable efforts to respond to such interrogatories within 17 days.

CCC proposed that Board staff file its interrogatories first. Union submitted that in its experience the advance filing of interrogatories by Board staff did not reduce the number of intervenor interrogatories. The Board concludes that in this proceeding, staggered interrogatory filings are not the most efficient use of time. Accordingly, Board staff will not file its interrogatories in advance.
The Board will also make provision for a Settlement Conference and then a Pre-Hearing Conference in advance of the oral hearing. The purpose of the Settlement Conference will be to identify whether any issues can be agreed to by all parties. This could result in a settlement of some, or all, of the issues. The conference will also be used to identify issues which do not require further evidence and are therefore suitable for written submissions. The Settlement Conference will not be transcribed and it will not be attended by the panel members. The purpose of the Pre-Hearing conference will be to finalize the Hearing Plan and address any disputes regarding the scope and timing for cross-examination. The Pre-Hearing Conference will be conducted with one or more of the panel members and will not be transcribed.

With respect to intervenor costs, the Board accepts the applicants' proposals, namely that intervenors will track their costs for the related issues separately from the costs for the project-specific issues. The applicants will share the costs for the related issues equally and be responsible for their own project-specific issue costs.

As MNCFN did not have an opportunity to present its views on process at the Issues and Process Day, the Board will allow it to make submissions on the appropriate process, Enbridge and Union Gas will be given an opportunity to respond.

Decision on Intervenor Status and Cost Eligibility

As noted above, the Board finds that any party that has been accepted as an intervenor in any one of the three proceedings is automatically considered to be an intervenor in all three proceedings. The Board has included a combined list of intervenors at Appendix C.

Enbridge GTA Project (EB-2012-0451)

On May 6, 2013 the Board received a request for intervenor status and cost eligibility from the Mississaugas of the New Credit First Nation ("MNCFN"). MNCFN was directly served with the amended Notice on April 26, 2013, and is therefore within the time limit set for interventions.

The Board approves MNCFN's request for intervenor status and cost eligibility. All parties are reminded that only costs that are directly related to the proceeding, and within the scope of the proceeding, will be recoverable.

Union Brantford-Kirkwall/Parkway D Project (EB-2013-0074)

The Board received a number of requests for intervenor and cost eligibility status for the Union Brantford-Kirkwall/Parkway D Project. The Board notes that all parties requesting intervenor status and/or cost eligibility in EB-2013-0074 have already been approved as intervenors in either EB-2012-0451 and/or EB-2012-0433 and therefore are accepted as intervenors in all three proceedings as noted above.

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. The Board will combine the three related applications: Enbridge Gas Distribution Inc.'s GTA Project (EB-2012-0451) and Union Gas Limited's Parkway West (EB-2012-0433) and Brantford-Kirkwall/Parkway D (EB-2013-0074).

2. MNCFN may file written submissions on the Issues List found in Appendix A, and the process outlined within this Procedural Order, with the Board and serve all parties on or before **Monday, May 13, 2013**.

3. Enbridge Gas Distribution Inc. and Union Gas Limited may respond to any submissions received from MNCFN by **Thursday, May 16, 2013**.

4. Parties and Board Staff wishing to seek further information that is in addition to the pre-filed evidence filed by Union Gas Limited and Enbridge Gas Distribution Inc. shall request it by written interrogatories filed with the Board and served to all parties on or before **Tuesday, May 21, 2013**.

5. The Board requires that interrogatories reference the pre-filed evidence and be filed by issue. Interrogatories should be numbered consecutively throughout and not have new starting points for each issue, or section of issues.

6. Union Gas Limited and Enbridge Gas Distribution Inc. shall file written responses to all interrogatories received from parties and Board Staff on or before **Friday, June 7, 2013**.

7. The Board directs that Union Gas Limited and Enbridge Gas Distribution Inc. to file the responses to interrogatories by issue (instead of by intervenor). Interrogatory responses for each issue shall be grouped by intervenor within each issue.

8. The Board requires that Union Gas Limited and Enbridge Gas Distribution Inc. use reasonable efforts to provide responses to interrogatories received in advance of the deadline within 17 days.

9. A Technical Conference will be held on **Wednesday, June 12, 2013** beginning at 9:00 a.m. in the Board's North Hearing Room on the 25th Floor at 2300 Yonge Street, Toronto, ON. The Technical Conference will continue on Thursday, June 13, 2013 if necessary.

10. Union Gas Limited and Enbridge Gas Distribution Inc. will file complete undertaking responses, arising from the Technical Conference, to all parties and Board Staff on or before **Tuesday, June 18, 2013**.

11. Intervenors who wish to file evidence shall do so on or before **Friday, June 28, 2013**.

12. Parties and Board Staff wishing to seek further information from the intervenors who filed evidence shall request it by written interrogatories filed with the Board and served on all parties on or before **Friday, July 5, 2013**.

13. Intervenors who have filed evidence shall file complete responses to all interrogatories and serve them on all parties on or before **Friday, July 19, 2013**.

14. A Settlement Conference will be held on **Monday, July 29, 2013** beginning **at 9:30 a.m**. in the Board's North Hearing Room on the 25th Floor at 2300 Yonge Street, Toronto, ON and may continue on Tuesday, July 30, 2013 if necessary.

15. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than 4:45 p.m. on **Tuesday, August 6, 2013**.

16. A Pre-Hearing Conference will be held on **Thursday, August 8, 2013** beginning **at 9:30 a.m**. in the Board's North Hearing Room on the 25th Floor at 2300 Yonge Street, Toronto, ON.

17. 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** commencing on **Monday, August 12, 2013 at 8:30 a.m**., and will continue as necessary.

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 4:45 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, May 8, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

C

UNION GAS LIMITED

Answer to Interrogatory from
Board Staff

Ref: EB-2013-0074, Section 8 – Proposed Facilities, General Questions

a) Please discuss the effects of either the Board rejecting Enbridge's proposed GTA Project facilities and/or TCPL's system expansion projects not proceeding.

b) In the event that Enbridge's GTA Project is denied and/or TCPL's system expansion does not proceed please discuss if Union will still require the facilities it has requested in this application in order to adequately serve its in-franchise and ex-franchise customers. Please discuss if the project would be scaled back with regard to pipeline size, contract length, compressor size, etc.

Response:

a) and b)

1. Effects of Rejection or Delayed Approval of the Proposed Enbridge GTA Project

Impact to Union's Parkway West Project
A rejection of the proposed Enbridge GTA Project or a delay in the proposed Enbridge GTA Project does not impact the facilities or timing of Union's proposed Parkway West Project. As provided in Exhibit I.A1.UGL.CCC.26, Union expects that Enbridge would build its proposed Parkway West Gate Station for November 2014 to connect to Parkway West and provide security of supply for current Parkway(Consumers) and Lisgar deliveries.

Impact to Union's Brantford-Kirkwall Pipeline and Parkway D Compressor

Board Rejects Proposed Enbridge GTA Project
If the Board rejects all or a portion of the proposed Enbridge GTA Project then Union assumes that:

- Enbridge could not shift natural gas supply to the Dawn Hub as planned and would not require its incremental 400 TJ/d of Dawn-Parkway capacity
- Enbridge would no longer require the shift of 400 TJ/d of current Dawn-Parkway demand from Parkway(Consumers) deliveries to Parkway(TCPL) deliveries

In this case, Union would not build either the Parkway D Compressor or the Brantford-Kirkwall pipeline.

Without the construction of the proposed Enbridge GTA Project then the expansion of the Parkway-Maple pipeline capacity required by Gaz Métro and Union will also be impacted. Specifically, the efficiencies of sharing usage of Segment A of the proposed GTA Project would be lost resulting in no pipeline build from the Enbridge Albion Road Station to Maple or a point along the Parkway-Maple corridor. TransCanada or third parties would be forced to look at other alternatives to expand the Parkway-Maple corridor.
Once the Parkway-Maple corridor was expanded by TransCanada or a third party, Union would be able to flow the Gaz Métro and Union volumes without either the Brantford to Kirkwall pipeline or the Parkway D Compressor.

Board Delays Approval of Proposed Enbridge GTA Project
If the Board delays the approval of the proposed Enbridge GTA Project, then the Parkway D Compressor and the Brantford-Kirkwall pipeline projects would be delayed as well.

2. Effects of Suspension of TCPL System Expansion

The effects of TCPL's system expansion projects not proceeding is discussed in Exhibit I.A1.UGL.Staff.7.

D

ENBRIDGE GAS DISTRIBUTION INC.
UNION GAS LIMITED

Greater Toronto Area Project
Parkway West Project
Brantford-Kirkwall / Parkway D

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

WRITTEN EVIDENCE

Of

TRANSCANADA PIPELINES LIMITED

July 5, 2013

1.0 Introduction

This evidence will address TransCanada's involvement in Segment A of the Enbridge Gas Distribution (Enbridge) GTA Project. The evidence begins with a brief review of the evolution of the role of TransCanada's Mainline in natural gas transportation in Ontario and the impact of recent regulatory and commercial changes on that role. The evidence then discusses TransCanada's discussions with Enbridge and Union Gas Limited (Union) regarding the efficient development of natural gas transportation infrastructure in Ontario, and the Memorandum of Understanding (MOU) between TransCanada and Enbridge that resulted from those discussions. Finally, the evidence speaks to the potential impacts of Union's proposed facilities on the existing transportation pipeline infrastructure in Ontario.

2.0 The Evolution of Natural Gas Transportation on the TransCanada Mainline

The TransCanada Mainline was originally conceived as a pipeline to transport Western Canadian Sedimentary Basin natural gas from Empress, Alberta to eastern markets. With the advent of the Alliance and Vector pipelines in 2001 came increased market interest in sourcing gas supply at Union's Dawn Hub and transporting it on the Union and TransCanada systems.

Since 2003, TransCanada has worked to provide eastern market customers with short-haul transportation (e.g. from Dawn) in the most cost effective manner possible. Beginning in 2003 and continuing until 2006, TransCanada was able to provide service away from the Dawn area with a combination of Union Gas M12 service and the exchange of Mainline long-haul service to the Dawn area. By serving these contracts using exchanges, TransCanada was able to provide firm service without adding new facilities to the Mainline, and thus provide the service at a lower cost to all Mainline shippers. There was no required expansion of the Union system for these requests.

In 2006, 2007 and 2010 both TransCanada and Union coordinated the addition of facilities to their respective systems to meet new short-haul requests sourced at Dawn that were destined for markets at Iroquois, the GMi EDA and the Union EDA. In addition, where possible, TransCanada continued to use its existing capacity away from Parkway to meet short-haul requests.

In the winter of 2008/2009, TransCanada determined that it could no longer rely on long-haul nominations to the Dawn/Niagara/Chippawa area to effect the exchanges required to meet some of its short-haul requirements. As a result TransCanada, after discussion with its stakeholders (including Union Gas and Enbridge) at the Tolls Task Force, implemented use of a temporary "must-nominate" service to Dawn ("DOS-MN") and then eventually contracted for firm capacity between St. Clair and Emerson on the Great Lakes Gas Transmission ("GLGT") system along with additional "Dawn to Dawn" service with Union Gas to ensure physical transportation of gas away from Dawn when required. TransCanada's goal—which was achieved with these arrangements—continued to be to provide the service at the lowest possible cost to shippers.

In 2010, TransCanada and Union Gas worked together to facilitate the transportation of Marcellus shale gas sourced at the Niagara receipt point on the TransCanada system to Eastern Canadian markets. TransCanada contracted for Union M12 capacity between Kirkwall and Parkway to transport some of this gas, which began to flow in November 2012.

3.0 Events in 2012

In 2012, while TransCanada was preparing for a new open season to test interest in transporting additional Marcellus shale volumes to market via Niagara and Chippawa, Union Gas and Enbridge Gas Distribution ("EGD") proposed their "Parkway Extension" project to bypass the TransCanada Mainline between Parkway and the Maple compressor station. The Parkway Extension project came as a surprise to TransCanada. Union was aware that TransCanada was preparing an open season to attract Marcellus shale volumes and that TransCanada wanted to coordinate that open season with Union. However, TransCanada proceeded with its open season as originally planned and offered expansion capacity away from Parkway. Union and Gaz Metropolitain (Gaz Métro) bid successfully into TransCanada's open season.

TransCanada initially proposed to have the facilities to provide this service available for a 2014 in-service date, but subsequently amended the in-service date in the Precedent Agreements to 2015 because TransCanada was in discussions with Enbridge to coordinate our respective expansions, and Enbridge had delayed the in-service date of its facilities. Also, the revised in-service date of the TransCanada expansion was realistic in light of TransCanada's experience (with its 2012 expansion) with the challenges of adding pipeline infrastructure in built-up areas of Ontario.

At the same time, TransCanada participated in Union's EB-2011-0210 proceeding. The purpose of TransCanada's intervention was to explore the necessity of Union's proposed Parkway West compressor, which Union indicated was to provide Loss of Critical Unit (LCU) protection to M12 shippers delivering gas through Parkway. TransCanada stated in its evidence that more dialogue was needed with Union in this regard so that the best solution for Ontario gas consumers could be found. The OEB concurred with TransCanada in its Reasons for Decision, and suggested that Union, Enbridge and TransCanada should all be having more coordinated discussion with regards to infrastructure in Ontario:

> *The Board is concerned with the apparent lack of cooperation and consultation between Union, Enbridge and TCPL that came to light in this proceeding. The Board is concerned that this may have adverse consequences for Ontario ratepayers – result in higher rates and costs than would otherwise be the case, contribute to the uneconomic bypass of existing natural gas infrastructure, create asset stranding, encourage the proliferation of natural gas infrastructure, and lead to the underutilization of existing natural gas infrastructure.*
>
> *The Board agrees that the consideration of the Parkway West facilities requires a wider perspective. The Board therefore encourages Union to engage TCPL, Enbridge and shippers in a consultative process, the purpose of which is to jointly consider the need for the Parkway West project, explore reasonable alternatives (including the repurposing of existing facilities) in order to maximize the benefit to Ontario ratepayers. The result of this*

process would then be filed with Union's Leave to Construct application for the Parkway West facilities.

4.0 TransCanada and Ontario LDC coordination

Subsequent to the EB-2011-0210 proceeding, TransCanada, Enbridge and Union met several times to discuss the optimal infrastructure requirements to serve the Greater Toronto Area ("GTA") market and eastern markets downstream of Parkway.

Enbridge's intention prior to discussions with TransCanada was to build Segment A directly from its connection with Union at Parkway and into the Enbridge franchise area. Prior to discussions with Enbridge, TransCanada's intention had been to expand for the requests received in its May 2012 new capacity open season by building facilities between Parkway and Maple. In an effort to collaborate and build the most efficient expansion to meet market needs, TransCanada and Enbridge came together to discuss joint ownership of Segment A to provide both economic and environmental benefits. Union also had discussions with TransCanada and Enbridge and all three companies subsequently met to coordinate the expansion of this infrastructure.

Through those discussions, it was agreed that TransCanada and Enbridge would collaborate on the infrastructure to serve the GTA and markets downstream of Parkway, which led to the development and execution of the MOU. It was also agreed that Union would construct the Parkway West compressor for loss of critical unit protection and such further compression as might be needed to meet new firm contractual requirements.

TransCanada intended to utilize its share of capacity on the new Segment A and new TransCanada facilities from Albion to west of Maple (TransCanada's King's North project) to satisfy the capacity requirements in the precedent agreements with Union and Gaz Métro.

TransCanada and Enbridge intended to have joint ownership of Segment A. Ultimately, however, it was decided that the same result could be achieved more practically if Enbridge built and owned Segment A and charged TransCanada an amount equal to what would have been TransCanada's ownership equity contribution, but in the form of a long term transportation contract. This avoided the complication of having two regulators responsible for the same facilities. The intention remained that this would be an Enbridge / TransCanada project, with access to the facilities being provided by TransCanada using its portion of the capacity on Segment A to serve eastern markets in a fair, non-discriminatory way. As noted in Schedule D of the MOU, the contractual arrangement between TransCanada and Enbridge was to replicate as much as was commercially practicable, the same commercial effect as if Segment A was jointly owned by the parties.

It was never the intention of the parties for Enbridge to become a transmission provider in the normal sense. Enbridge will use its space on the line solely for local distribution purposes. The TransCanada portion of capacity on Segment A will be used by TransCanada to meet its contractual obligations to transport gas for its customers.

In this regard it is important to note the following distinction between the contractual and operational features of the MOU. Contractually, TransCanada will deliver gas to Enbridge at Bram West (the inlet to Segment A). However, operationally, Segment A will act as a loop of the TransCanada Mainline between Parkway and Maple, with a physical delivery to Enbridge at Albion. The flows onto Segment A will be controlled by TransCanada.

As noted above, TransCanada was initially proposing to construct facilities in the Parkway to Maple corridor (looping around Brampton and / or Vaughan) to meet its contractual and operational requirements. Through the MOU, the same operational benefits accrue to TransCanada without the need for duplication of facilities. That is, TransCanada's capacity on Segment A, when combined with the Albion to Maple (King's North) TransCanada expansion, acts as a loop of the TransCanada system.

Through the construction and normal operation of Segment A and TransCanada's King's North expansion, Segment A will act as an integrated portion of the TransCanada system with no requirement for nomination, flow measurement or other methods of control, of the TransCanada portion of the flow. The pipeline flow on Segment A will vary based on Enbridge's daily nominated requirements at Bramwest and the operation of other portions of the TransCanada system and will be as a result of a hydraulic balance between TransCanada's existing Parkway to Maple Line and Segment A. Under design day conditions,TransCanada will be utilizing its full allotment of the capacity (50%) to meet its contractual obligations. Notwithstanding the above, for maintenance requirements and safety circumstances Enbridge will have the ability to interrupt the flow on Segment A through valves, while communicating and working with TransCanada as the specific circumstance requires.

TransCanada will not be able to "nominate" service as it would, for example, with Great Lakes or Union TBO. Gas will simply flow on Segment A past Albion, depending on flows and pressures, as if Segment A were a loop of the Mainline's Parkway to Maple line (or part of such a loop, as it will be when TransCanada builds north from Albion in its King's North expansion).

5.0 The National Energy Board's RH-003-2011 Decision

In March of 2013 the National Energy Board ("NEB") issued its decision on TransCanada's 2012-2013 Mainline tolls application (the "RH-003-2011 Decision"). The RH-003-2011 Decision, which was issued after the MOU was entered into, was not expected by TransCanada, and made it important to TransCanada and its shippers that TransCanada achieve the long term net revenue projections on which the tolls set in the RH-003-2011 Decision are based.

The RH-003-2011 Decision fixed all of the Mainline firm service tolls for the (approximately five year) period from 2013 to 2017 (the "Fixed Tolls Period"). The tolls were fixed at levels that will not recover the costs that TransCanada incurs during the Fixed Tolls Period. Instead, TransCanada was ordered to defer approximately $700 million of Fixed Tolls Period costs by adding them to rate base.

The RH-003-2011 Decision also established a deferral account (the "Toll Stabilization Account" or "TSA") to track variations between TransCanada's actual net revenue and the estimated net revenue for each year of the Fixed Tolls Period. A positive balance in the TSA at the end of the Fixed Tolls Period will be applied to reduce future tolls. A negative balance in the TSA will be recovered from TransCanada's shippers unless this would cause a realization of "fundamental risk" on the Mainline. In this latter case, TransCanada's ability to recover any of the Mainline revenue requirement (from existing rate base or post-RH-003-2011 Decision capital investment) will come under review by the NEB.

The TSA relies on a forecast of throughput on the Mainline for the Fixed Tolls Period. Long term throughput forecasts come with a substantial possibility of variances between the forecasts and actual throughput, and if there is a negative variance in throughput there could be a negative balance in the TSA when the time comes for its disposition.

The RH-003-2011 Decision has had a major impact on the terms under which TransCanada is able to invest in new facilities on the Mainline, for several reasons.

First, the NEB held that TransCanada's investments in the Mainline were not protected by a "regulatory compact" or other regulatory principle that entitled TransCanada to a reasonable opportunity to recover the Mainline's costs. The NEB said that it had the authority to, and would if appropriate, disallow TransCanada's recovery of its prudently incurred costs. As noted, this would apply to future investments as well as existing rate base.

Second, tolls will be fixed from 2013 to 2017, so (absent an exception being made by the NEB) there will be no way to adjust tolls during that period so as to recover any costs associated with new facilities. The estimates that the NEB used to set the benchmark net revenues for the period did not include any amount for new facilities. Accordingly, any costs not recovered in tolls that are incurred constructing new facilities during this period would have a negative impact on the TSA balance and thus increase the possibility that the NEB will disallow some part of TransCanada's future revenue requirements.

As a result of the RH-003-2011 Decision: (1) TransCanada requires greater assurances than it has had in the past that it will recover its investment in any new facilities and its existing rate base from customers; and (2) TransCanada must recover its investment in the Mainline in a way that does not exert a negative pressure on the TSA balance and, by doing so, put the recovery of the entire Mainline revenue requirement in issue.

One consequence of the RH-003-2011 Decision is that TransCanada decided not to build facilities to serve the 2012 open season precedent agreement with Gaz Métro or the service request from Union, given that those arrangements were entered into under the pre-RH-003-2011 Decision regime, when TransCanada believed that the National Energy Board would at least give TransCanada a reasonable opportunity to recover its prudently incurred costs.

Despite the disincentives to invest in new capacity on the Mainline that arise from the RH-003-2011 Decision, TransCanada is in discussions with the eastern LDCs to find a way to expand TransCanada's capacity in the Eastern Triangle in a manner that meets the incremental requirements of the LDCs while providing TransCanada with a reasonable expectation that it will recover its existing and future investments. In addition to discussions with the eastern LDCs, TransCanada has recently posted a new capacity open season for short-haul and long-haul capacity to eastern markets. TransCanada will invest capital in the Mainline as long as doing so does not expose the company to increased risk that it will not recover its revenue requirement.

TransCanada intends to apply to the NEB by the end of 2013 for approval to construct the interconnections required to accommodate Segment A of Enbridge's GTA Project and the facilities associated with TransCanada's King's North Project.

6.0 Item 14 of the OEB Filing Guidelines

Item 14 of the OEB Filing Guidelines on the Economic Tests for Transmission Pipeline Applications states:

> "Any project brought before the Board for approval should be supported by an assessment of the potential impacts of the proposed natural gas pipelines on the existing transportation pipeline infrastructure in Ontario, including an assessment of the impacts on Ontario consumers in terms of cost, rates, reliability, and access to supplies."

TransCanada is providing the following comment in support of this guideline.

> The decision of Union and Gaz Métro to decontract TransCanada long-haul capacity and replace it with short-haul capacity has two major impacts on Ontario gas users. The first major impact is that TransCanada loses substantial long-haul revenue—approximately $150 million—with a potential consequential impact long-term on all TransCanada tolls paid by Ontario gas users. The second major impact is that Ontario gas users incur additional costs as a result of constructing facilities to accommodate the new short-haul capacity. TransCanada will continue to analyze these impacts in comparison to the savings that Ontario gas consumers could realize by sourcing more gas through short-haul transportation services.

E

Ontario Energy Board

Commission de l'Énergie de l'Ontario

Ontario

EB-2009-0187

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

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an Order pursuant to Section 90(1) of the *Ontario Energy Board Act, 1998,* granting leave to construct a natural gas pipeline in the Region of York.

BEFORE: Gordon Kaiser
Vice Chair and Presiding Member

Paul Sommerville
Member

Ken Quesnelle
Member

DECISION AND ORDER

Enbridge Gas Distribution Inc. ("Enbridge") filed an application with the Ontario Energy Board (the "Board") on September 3, 2009, under section 90 of the *Ontario Energy Board Act*, *1998*, S.O. 1998, c. 15, Schedule B, (the "Act") for an order granting leave to construct approximately 16.7 kilometres of 406 millimetre (16 inch) diameter Extra High Pressure steel pipeline to deliver natural gas to the York Energy Centre LP, a proposed natural gas generating facility. The Board has assigned the application file number EB-2009-0187.

For the reasons set out below, the Board finds the construction of the proposed pipeline to be in the public interest and grants the leave to construct on the terms and conditions

(Conditions of Approval) set out in this Decision. The Board's Conditions of Approval are attached as Appendix A.

The Proposed Pipeline

The proposed pipeline route begins at Enbridge's Schomberg Gate Station located at 4955 Lloydtown-Aurora Road and proceeds east along the road allowance of Lloydtown-Aurora Road for approximately 5.5 kilometres to Jane Street. The pipeline then proceeds north along Jane Street for 3.0 kilometres to Highway 9. The pipeline follows Highway 9 eastwards for 4.2 kilometres to Dufferin Street. It then proceeds north along Dufferin Street for 3.6 kilometres and then proceeds east for approximately 0.4 kilometres to the proposed York Energy Centre, located at 18781 Dufferin Street. Construction is scheduled to start in the spring of 2010 with a planned commissioning during the second quarter of 2011 and in-service date in the last quarter of 2011.

A map showing the location of the proposed pipeline is attached as Appendix B.

The Proceeding

The Board issued a Notice of Application and Hearing dated September 22, 2009. The Board proceeded by way of a written hearing.

Intervenor status was granted to the York Region District School Board ("YRDSB") on behalf of Kettleby Public School, York Energy Centre LP ("YEC"), a customer supporting the pipeline approval and Hunter's Green Rate Payers Association, represented by Harten a Division of Harten Group ("Harten"). Harten was the only intervenor who requested and was granted cost award eligibility status and is the only intervenor who actively participated in the proceeding and opposed the approval of the application.

The Board granted Observer status to the Ontario Greenbelt Alliance and to the Global Environmental Action Group, both not-for-profit environmental organizations.

The Board also received letters of comment from Indian and Northern Affairs Canada ("INAC"), York Region Environmental Services Department ("York Region") and Save the Oak Ridges Moraine Coalition ("STORM").

On November 5, 2009 the Board issued Procedural Order No. 1 setting out a schedule for a written proceeding.

On November 27, 2009 the Board issued Procedural Order No.2 with an approved Issues List which set the scope of the proceeding.

Board Staff and Harten filed written interrogatories to Enbridge on December 11 and December 16, 2009 respectively and Enbridge responded on December 21, 2009. Harten filed intervenor evidence on January 8, 2010. Enbridge asked interrogatories on Harten's evidence on January 18, 2010 and Harten responded on January 25, 2010.

Enbridge filed its argument-in-chief on February 8, 2010. Board Staff and Harten filed their respective written submissions on February 12, 2010. Enbridge's reply argument was filed on February 22, 2010. This completed the record of the proceeding.
As part of its submissions, Harten claimed that there exists a conflict of interest among legal representatives of Enbridge in this proceeding. It asserts the conflict arises because members of the same law firm acted for the Ontario Power Authority ("OPA") in its generation procurement process, which resulted in YEC's agreement with the OPA.

Enbridge responded that, in its view, there is no conflict of interest. It argued that the fact that members from the same firm acted for different parties in the two processes does not result in a conflict of interest.

The Board agrees. The two processes referred to have very different elements and there is no inherent conflict. The OPA process was directed to the identification of an appropriate generation solution for York region. The Board's process, that is this proceeding, concerns itself with the leave to construct facilities by the local gas distribution to support the generation solution selected. These are very different regulatory processes, which are merely tangentially related.

The Public Interest Test

This is an application under section 90 of the Act seeking an order for leave to construct a natural gas pipeline. Section 96 of the Act provides that the Board shall make an Order granting leave if the Board finds that "the construction, expansion or reinforcement of the proposed work is in the public interest". When determining whether a project is in the public interest, the Board typically examines the need for the project, the economics of the project, the impact on the ratepayers, environmental impact and the impact on land owners.

The Board set out the following four issues as defining the scope of the proceeding:

- Is there a need for the proposed pipeline?
- Are there any undue negative rate implications for Enbridge's rate payers caused by the construction and operation of the proposed pipeline?
- What are the environmental impacts associated with construction of the proposed pipeline and are they acceptable?
- Are there any outstanding landowner matters for the proposed pipeline routing and construction?

Each of these issues is addressed below.

The Need for the Project

The need for the proposed pipeline is based on the requirement to provide a dedicated gas supply to the YEC generating peaking facility. The YEC has a 20 year Gas Delivery Agreement ("GDA") with Enbridge which supports that need.

YEC has entered into a 20-year agreement with the Ontario Power Authority ("OPA") to generate and supply electricity to Ontario. This agreement was the result of an OPA-administered competitive procurement process as per a directive of the Ontario Ministry of Energy. YEC is an intervenor in this proceeding and as the customer receiving natural gas on the proposed pipeline. YEC supports the need for the project and the approval of the application.

Harten pointed that the Council of the Township of King opposes the location of the YEC within the municipality. Harten provided, in written submissions and as part of its written evidence, a history of the Township's opposition. Specifically, Harten noted that the Township passed an Interim Control By-Law #2010-05 per section 38 of the

Planning Act, R.S.O. 1990 ("Interim By-Law")[1]which allows the Township to conduct a review of land use policies with respect to power generation facilities. Harten posited that the Township's unwillingness to host the generating plant was relevant because the pipeline was "an integral component of the generator project" and therefore could not be treated separately when reviewing the leave to construct by the Board.

Enbridge replied that in its view the "…Board's jurisdiction is limited to the pipeline" and that the generating plant location approvals are outside the scope of EB-2009-1087 proceeding.

The Board noted at the outset of this proceeding, in Procedural Order No. 1, that its jurisdiction in this case is restricted to the review of matters related to the construction and operation of Enbridge's proposed pipelines. Matters related to the location, construction, operation or impacts of the generating station are not within the scope of the Board review.

Board Staff submitted that there are no outstanding issues related to the need for the pipeline.

The Board finds that Enbridge has adequately addressed the need for the pipeline.

Project Economics and Ratepayers Protection

The estimated capital cost of the pipeline is about $ 39 million. An economic evaluation of the project was conducted using the Discounted Cash Flow methodology as set out in the "OEB Guidelines for Assessing and Reporting on Natural Gas System Expansion in Ontario" part of the "EBO 188 Report of the Board" dated January 1998. The Profitability Index ("PI") of the project is 1.0 over a 20 year customer horizon. This PI is achieved with the inclusion of a Contribution in Aid of Construction ("CIAC") to be paid by the YEC.

Enbridge's evidence is that its ratepayers would be protected from financial risks occurring prior to pipeline construction, upon construction and during the operation of the YEC.

[1] The Interim By-Law allows the Township of King to conduct a review of land use policies with respect to power generation facilities (EB-2009-0187 "Harten Consulting-Final Submission" February 15, 2010, page 3, paragraph 5)

Harten outlined concerns with the economics of the project and that the "…ultimate cost of course is borne by ratepayers".[2] Enbridge responded that other Enbridge ratepayers were protected and would not be subsidizing the YEC with regard to capital cost recovery. Enbridge submitted that there would be no residual depreciation after the 20-year GDA had been completed and there would be no impact on ratepayers. In addition, Enbridge replied that Board approved Rate 125 parameters were such that the revenue from the YEC would be received even if no gas is used by the generating plant.

The YEC also provided financial assurance to Enbridge in the form of an irrevocable Letter of Credit. The economic feasibility of the project is achieved by establishing the CIAC to be paid by the YEC in an estimated amount of $12.3 million, which amount will be adjusted after the actual cost of construction is determined.

Enbridge also provided evidence that the revenues from the YEC are in accordance with Board approved Enbridge's Extra Large Firm Distribution Service Rate 125 which is the rate in the GDA. This rate is independent of the volume of gas YEC would consume. It protects the ratepayers during the operation of the YEC, because the revenues are based on the billing Contract Demand specified in the GDA. The Contract Demand is a maximum volume contracted that a customer has a right to receive each day. Monthly revenue consists of Monthly Customer Charge ($500.00), plus Demand Charge (fixed at 9.0093 cents per cubic metre of the Contract Demand per month), plus Direct Purchase Administration Charge ($50), plus Forecast Unaccounted for Gas Percentage (0.3%)).

Board Staff submitted that there are no outstanding issues relative to the ratepayers protection and economics as long as Enbridge adheres to the Conditions of Approval.

The Board finds Enbridge's position to be acceptable and concludes that there is no identified risk to Enbridge's ratepayers related to construction and operation of the proposed pipeline.

The financial protections established for the ratepayers are specified in the GDA. The Board has included in the Conditions of Approval a requirement for Board approval of alterations and amendments to the GDA as follows:

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[2] EB-2009-0187 "Harten Consulting Evidence", January 4, 2010, page 10.

5.2 *Enbridge shall not, without prior approval of the Board, consent to any alteration or amendment to the Gas Delivery Agreement dated and executed on August 28, 2009 where such alteration or amendment has or may have any material impact on Enbridge's ratepayers.*

With respect to the Board's monitoring of any changes to the letter of credit related to the costs of construction and CIAC calculation, the Board has included the following as a condition of approval:

5.3 *Enbridge shall file with the Board, copies of changes to the York Energy Centre LP's irrevocable bank letter of credit and Contribution in Aid of Construction payments. This filing shall take place not later than 14 days after receipt of change or payment and shall be in place until the end of construction.*

The Board finds that the GDA contains all the necessary terms to protect Enbridge and its ratepayers from the financial harm should the pipeline construction be postponed or cancelled if the YEC is not built.

Environmental Assessment

The proposed route is located entirely within the road allowance. It is located in the area covered by "Oak Ridges Moraine Plan" and the "Greenbelt Plan". The routing and environmental assessment, including proposed mitigation for potential environmental impacts have been completed and filed as evidence in the Environmental Report ("ER"). The ER was prepared by Jacques Whitford Stantec Limited ("Stantec") an independent environmental consultant, retained by Enbridge. The ER and supporting evidence filed in the proceeding relating to the proposed pipeline have been produced in accordance with the *"OEB Environmental Guidelines for Hydrocarbon Pipelines and Facilities in Ontario" (2003).* The ER was reviewed by the Ontario Pipeline Coordinating Committee ("OPCC") and Enbridge confirmed that it would address any concerns raised in this review. This is addressed in Conditions of Approval-Condition 1.3.

The STORM, in a letter of comment dated October 15, 2009, stated that in their view the assessment of the different parts of the project, such as generating plant and the pipeline should be coordinated under an "umbrella assessment of the need for and potential impacts…"of the pipeline. STORM also noted that it participated in the generating plant selection process and that it continues to support the position of Concerned Citizens of King Township ("CCKT") in questioning the "…the need for the project and the ability of the process to conform to both the Oak Ridges Moraine Conservation Plan and the Greenbelt Plan."

INAC, in a letter of comment dated September 21, 2009, stated that it would not be reviewing the project but provided sources of information to assist the applicant with "… inviting interested First Nation communities to participate…" .

York Region, Water Resources Business Unit, in a letter of comment dated October 21, 2009 did not oppose the proposed project but noted that the pipeline must conform to the requirements of the Oak Ridges Moraine Conservation Plan (2001) and the York Regional Plan.

The Board finds that Enbridge has addressed the comments of INAC, STORM and York Region appropriately. The Board also notes that comments of STORM are not directly related to the pipeline approval proceeding but rather comments on the way provincial legislation deals with approvals of all aspects of the generating plant project.

Harten submitted that the Board should not grant its approval until all permits "from third party agencies" are obtained by Enbridge. In particular, Harten addressed the approvals and permits required from: the Lake Simcoe Conservation Authority ("LSCA") and the Regional Municipality of York ("York Region").

Harten maintained that environmental studies undertaken for the proposed pipeline project are inadequate. Harten submitted that the potential impacts and mitigation of the proposed pipeline on water resources, fisheries, and wildlife were not adequately addressed. Harten also argued that the application is deficient in that it does not meet many of the legal requirements related to environmental assessment and protection including the *Environmental Assessment Act*.

Enbridge replied that the environmental assessment under the *Environmental Assessment Act* is not applicable to the pipeline project. Enbridge maintains that the ER by Stantec is prepared in accordance with the *"OEB Environmental Guidelines for Hydrocarbon Pipelines and Facilities in Ontario" (2003).* Enbridge updated the pre-filed evidence to include a hydrogeologic assessment[3]. Enbridge submitted that it has

[3] On January 29, 2010 Enbridge filed new evidence-"Hydrogeologic Investigation, Final Report" (Exhibit B, Tab 2, Schedule 5).

undertaken the environmental assessment, the archaeological assessment, hydrological assessment, and the hydrogeological assessment. Enbridge indicated that there has been no specific evidence that Enbridge has failed to meet any of the applicable requirements.

The Board is aware that other approvals will be required for Enbridge to construct the pipeline. The Board finds that Enbridge's compliance with the Conditions of Approval would ensure that issues around other permits, approvals and pipeline related environmental impacts and mitigation are fully addressed. The Board is satisfied that the environmental assessment followed the requirements of the Board's Environmental Guidelines. The Board finds that the location, mitigation and monitoring programs associated with the proposed pipeline by Enbridge are acceptable. The pipeline location, mitigation and restoration programs are consistent with the requirements of the Oak Ridges Moraine Conservation Plan (2001) and the York Regional Plan.

Regarding other approvals and permits, including applicable land use and environmental protection approvals for construction and operation of the proposed pipeline, the Board finds that condition 5.1, addresses the matter appropriately:

5.1 Enbridge shall obtain all other approvals, permits, licences, and certificates required to construct, operate and maintain the proposed project, shall provide a list thereof, and shall provide copies of all such written approvals, permits, licences, and certificates upon the Board's request.

The Board finds that the evidence supports the appropriate mitigation and restoration programs required to construct the pipeline. To ensure mitigation of impacts, restoration of land and protection of endangered species, land and water resources Board imposed monitoring and reporting requirements in the Conditions of Approval.

Land Issues

The proposed route is located in the road allowances. Enbridge needs permission from the Ministry of Transportation, the Region of York and the Township of King for the location of the pipeline. Enbridge stated that the approvals by the Region of York have to be acquired from the Engineer/Road Superintendent and that this process has been started and will be completed in time for construction. Also, Enbridge stated that an Encroachment Permit to cross Hwy 400 is required from the Ministry of Transportation and that it also needs to meet the Township of King's requirements for project construction.

The Board's condition 5.1, that requires that all other approvals be obtained by Enbridge, includes the permits to locate the pipeline within municipal road allowances.

Enbridge submits that temporary easements may be required during the construction if the road allowance is not sufficient to complete construction. For these locations Enbridge stated it would obtain temporary easement agreements in the form approved by the Board.

YRDSB expressed a concern regarding the safe construction and access in the proximity of Kettleby Public School. These concerns were addressed by Enbridge in its submission. Enbridge stated that the pipeline would be located across the road from the Kettleby Public School and that traffic management during construction would be in accordance with the requirements of the Ministry of Transportation.

Harten submitted that the operational safety risk of the proposed pipeline is higher than for other pipelines operated by Enbridge. Harten proposed that a comprehensive disaster contingency plan "…should be prepared by Enbridge and Regulators and made available for public scrutiny and comment before any leave to construct is granted."[4]

Enbridge's evidence is that the proposed pipeline is designed in accordance with requirements of Ontario Regulation 210/01, Oil and Gas Pipeline Systems, under the *Technical Standards and Safety Act, 2008* and the CSA Z662-07 Oil and Gas Pipeline Systems standard. Enbridge also noted that the Technical Standards and Safety Authority ("TSSA") reviewed the pipeline design specification and did not raise any issues regarding the safe operation of the pipeline.

The Board finds that the proposed pipeline adheres to the regulatory requirements for safe operation. Also, the TSSA, as the agency overseeing the operation of the pipelines in Ontario, has the authority to implement all of the applicable standards and regulatory requirements.

[4] EB-2009-0187 "Harten Consulting-Final Submission", February 15, 2010, page 7 paragraph 14.

Orders Granted

For the reasons set out above, the Board finds that the pipeline project being proposed by Enbridge in this proceeding is in the public interest and grants Enbridge leave to construct subject to the conditions set out in Appendix A.

THE BOARD ORDERS THAT:

1. Enbridge Gas Distribution Inc. is granted leave, pursuant to subsection 90 (1) of the Act, to construct approximately 16.7 kilometres of 406 millimetre (16 inch) diameter Extra High Pressure steel pipeline, subject to the conditions of approval set forth in Appendix A.

2. Enbridge Gas Distribution Inc. shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

DATED at Toronto, April 5, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

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ONTARIO ENERGY BOARD

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.

EVIDENCE OF GAZ MÉTRO LIMITED PARTNERSHIP

I- INTRODUCTORY COMMENTS

Firm secure supply of natural gas at competitive prices is one of the cornerstones of success for any gas distributor. One of Gaz Métro's particularities, however, is that the territory it serves is located thousands of kilometres from the quasi-unique production basins that has always served it. The recent emergence of new shale gas reserves near Quebec, and elsewhere in North America, has however shaken up the gas dynamic in Canada.

Most of the classic production basins exploited in Canada and the United States have matured and show significant signs of petering out. On the other hand, non-classic gas that comes particularly from reserves in low-permeability wells and shale gas offer very strong growth perspectives. Already, on a continental basis, their development more than offsets the decline in the production of classic gas. In fact, the exploitation of this non-conventional gas resource is revolutionizing the North American market right now.

As being one of the largest shippers on the TransCanada Mainline, Gaz Métro holds contracts for firm transportation services and is directly impacted by these recent changing supply dynamics. Which is why, the main concern of Gaz Métro is to ensure an access point to secure firm, diverse and affordable natural gas supply. To this end, in the current context, Gaz Métro is considering all possible alternatives, including applying for leave to construct additional facilities to transport gas from Dawn to its franchise.

II- GAZ MÉTRO IN ITS GAS DISTRIBUTION ACTIVITIES

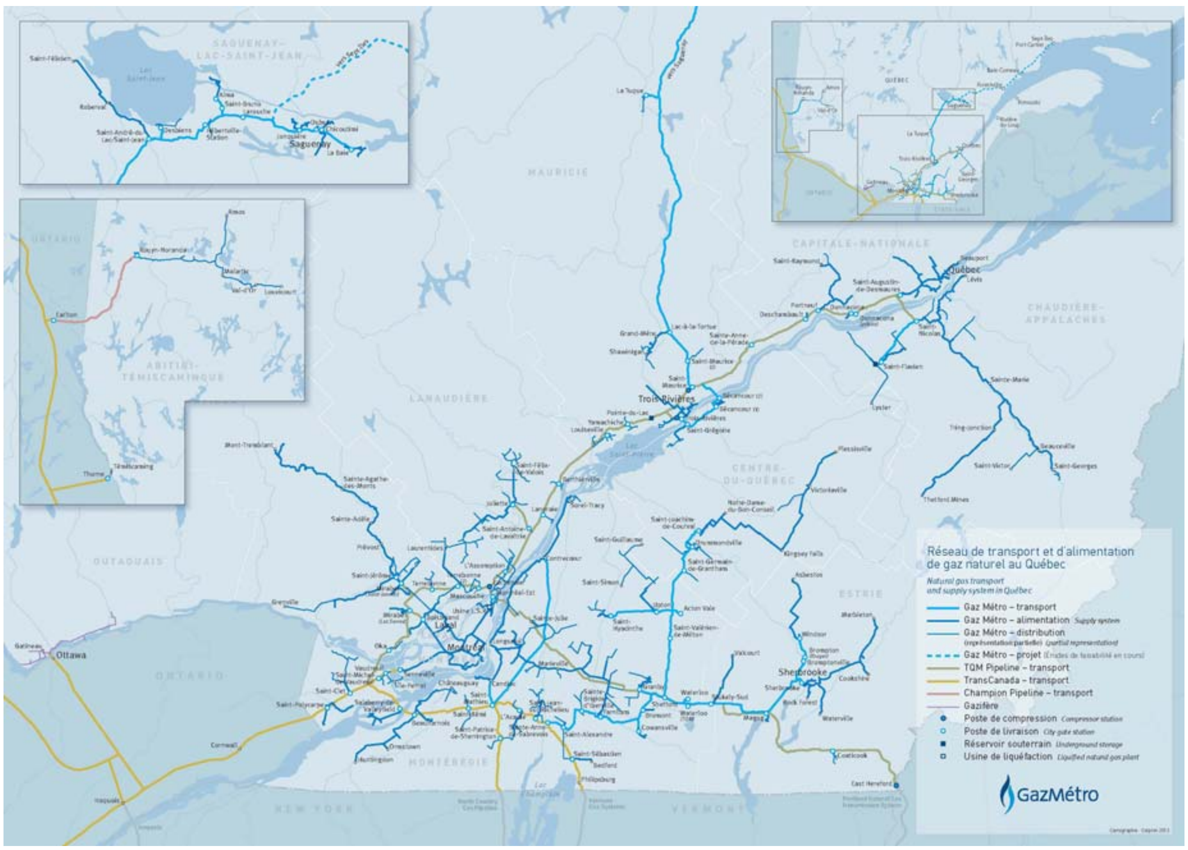
A. PLEASE DESCRIBE GAZ MÉTRO'S FRANCHISE AND ITS DISTRIBUTION SERVICES

Gaz Métro's distribution system serves about 300 municipalities in Québec and is comprised of over 10 000 km of pipeline of various dimensions. The distribution system is divided into two main zones being either, the Northern zone which includes the Abitibi Temiscaminque region and the Southern zone which comprises the remainder of the province of Québec with the exclusion of the Outaouais region. The Southern zone, designated as the GMI Eastern Delivery Area zone (EDA) by TransCanada, is supplied using TransCanada's integrated network including the Gazoduc TQM installations linked through 40 points of interconnection between the TransCanada integrated system and Gaz Métro's installations.

The Northern zone, designated the GMI Northern Delivery Area (NDA), is supplied using the TransCanada system linked through two physical transfer points named Earlton and Thorne.

For both the Northern and Southern Zone, Gaz Métro's distribution network can exclusively be supplied by facilities wholly owned by TransCanada. In addition, a large portion of Gaz Métro's distribution network is only connected to TQM facilities and must absolutely be supplied through the TQM system. Of course, in order to get the gas supply to these locations, it's the integrated system of both TransCanada and TQM that is required. Without new investments allowing Gaz Métro to access new sources of supply , and unless production inside Gaz Métro's franchise becomes sufficient to fully supply all of its customers' demand, Gaz Métro will remain a captive shipper of TransCanada's system.

The map below shows a graphic representation of the Gaz Métro system and its interconnection with TransCanada's integrated system.



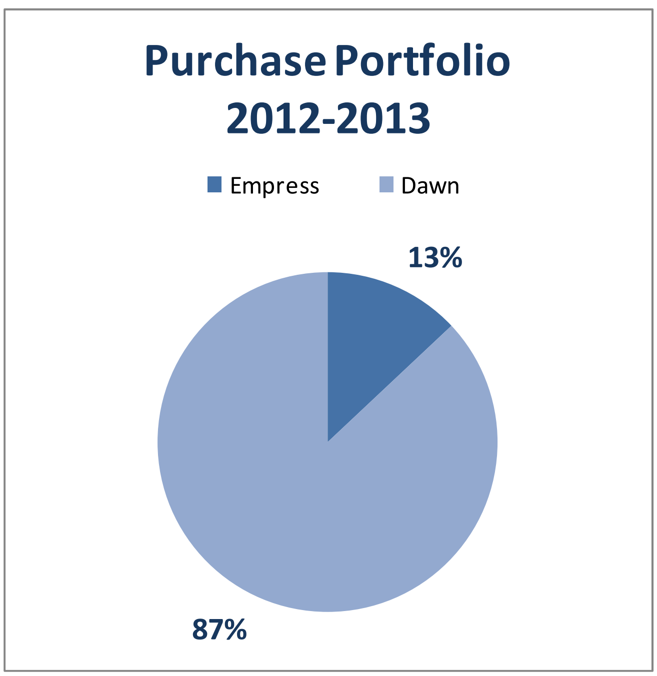
Gaz Métro presently serves approximately 190 000 customers, comprised of over 2 000 industrial customers, over 50 000 commercial customers and more than 130 000 residential customers who consume more than 5 400 million m³ of natural gas per year.

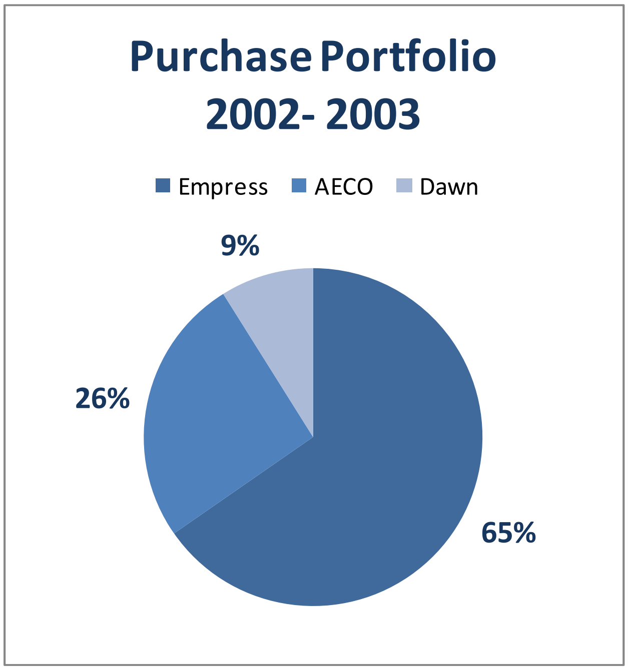
B. <u>PLEASE PROVIDE THE SOURCES OF NATURAL GAS SUPPLY FOR GAZ MÉTRO</u>

Historically Gaz Métro customers have purchased most of their gas supply from the Western Canadian Sedimentary Basin (WCSB). Gaz Métro's rate structure reflects this historical supply structure and Gaz

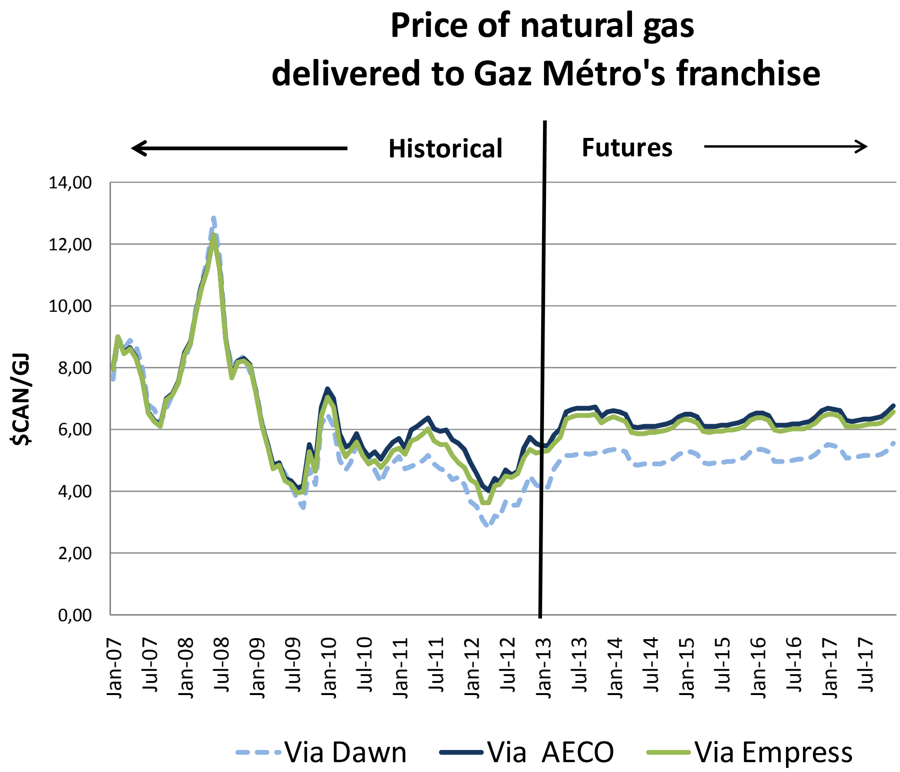
Métro's posted price for system gas is a price at Empress on the Alberta border. This supply structure reflected the market dynamics at a time when the WCSB was almost the sole supplier of gas to Eastern Canada and to a large extent, to the North-east United-States. Given the lack of local gas supply in the East, it made perfect economic sense to source our gas more than 3,000 kilometers away from our markets. Market dynamics have however evolved and it is necessary to adapt our practices to the new developments in the market.

Gaz Métro has been at the Dawn location for many years given the storage facilities located there and due to the load balancing needs of Gaz Métro's customers. In the past, Gaz Métro stored gas at Dawn that it had transported by way of its long-haul capacity on TransCanada. With the increase in the cost of storage at Dawn for ex-franchise customers of Union, it became more economical to purchase gas during the winter at Dawn rather than purchasing gas in the summer and storing that gas for the upcoming winter. Gaz Métro adapted to the changing environment and became a buyer of gas at Dawn. Given the current value of gas at Dawn when compared to the value of gas in the WCSB and associated transportation costs, the cost of purchasing gas at Dawn has decreased in the recent years. The following graphs show the relative share of Gaz Métro's natural gas purchases by geographical location in the 2012- 2013 Purchase Portfolio (forecasted) compared to the 2002-2003 Purchase Portfolio.

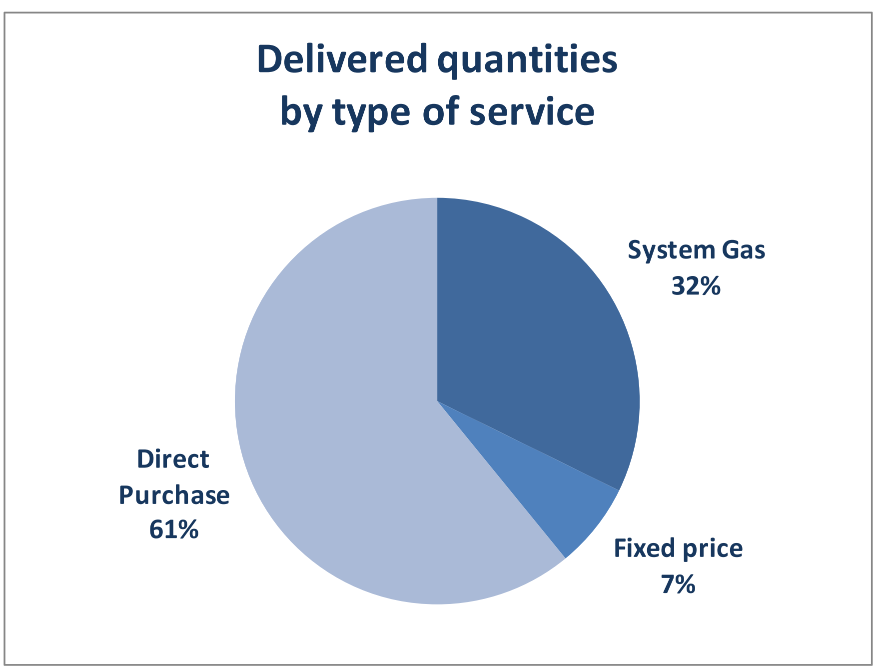




The rapid increase in production of natural gas in the United States had the effect of making gas prices very competitive. In 2012, the price of gas in Canada reached its lowest level of the past 10 years. However, even if the price of gas at AECO in Alberta has followed the same trend and decreased significantly, the current financial market indicates that it is more beneficial to purchase gas directly at Dawn rather than at AECO. The price differential between AECO and Dawn has declined substantially in recent years and the financial market predicts that this trend will pursue with a gap between AECO and Dawn of approximately $ 0.22 to $ 0.38 over the period from May 2013 to December 2017. Even if TransCanada's toll on the Empress to Dawn section of the Mainline was recently established to $ 1.42 / GJ by the NEB in its decision RH-003-2011, it is less expensive to buy directly at Dawn rather than to purchase at AECO and pay transportation tolls added to compression gas. Comparison of gas price delivered to Gaz Métro from AECO, Empress and Dawn is shown in the following graph.



Since 1986, Gaz Métro's customers have the option of choosing their natural gas suppliers leaving that option to Gaz Métro who will contract the capacity required by its customers requesting this service. While the vast majority of Gaz Métro's customers have elected to rely on Gaz Métro to provide all services, system gas customers only represent a portion of the gas consumed within Gaz Métro's service area as shown in the graphic below.



Customers that have chosen to manage their commodity purchases on their own can either deliver the gas to Gaz Métro at Empress, in which case Gaz Métro provides the transportation service for these customers or they can elect to deliver their gas directly to Gaz Métro's territory. Currently, the quantities that customers deliver directly to Gaz Métro's service area represent 8% of the total consumption in the Gaz Métro service area.

Gaz Métro therefore holds significant transportation capacity on the integrated Mainline to transport its customers' gas from Empress to its service area.

In addition to its long-haul transportation capacity with TransCanada, Gaz Métro has contracted for additional transportation services on short-haul paths between the Dawn hub and its service area. These transportation capacities are used to transport gas that was stored at the Dawn storage site and to transport gas that was bought directly at Dawn. Gaz Métro also purchases gas delivered directly to its franchise area. With the current market environment, purchases of gas at Dawn have become the lowest cost option for Gaz Métro customers. However, even with the transfer of gas supplied at Dawn instead of Empress, it is important to note that the relative share of the Quebec gas consumers of the TransCanada cost of service has kept increasing over the same period.

The integrated system of TransCanada is currently the only means of bringing supply to Gaz Métro's service area. Gaz Métro's distribution network was built around the integrated system to the extent that some sections of Gaz Métro's distribution network are not connected to each other by any other means than the integrated system of TransCanada . The existing situation is the result of past decisions that had been taken in relation to the integrated nature of the TransCanada.

C. PLEASE EXPLAIN NEW SALES AND THE EVOLUTION OF DEMAND IN QUEBEC

Since 2005, Gaz Métro has realized between 7000 and 9500 of new sales per year. More than 5000 new residential contracts have been concluded during the 2011 fiscal year. During this period, Gaz Métro has seen an increase in their proportion of market share.

For the commercial market, 2878 new contracts were concluded in 2011 of which 712 contracts represented increases in consumption for existing customers and 2166 were for new customers, representing a significant increase in sales and volumes from previous fiscal years which is explained mainly by large industrial customers converting their oil consumption to natural gas for their energy needs.

As for the industrial market, new contracts have generated total volumes of 560,4 million m³ in 2011 including 358,4 million m³ for interruptible services.

Due to the decrease in the price of supply, natural gas has continued to improve its competitive position with regards to electricity and oil as compared to previous fiscal years, and this, for all markets.

Despite the favourable competitive situation of natural gas presently in Québec, Gaz Métro remains very attentive to the fluctuations in the customer invoice. The highly competitive electricity market, as well as the mandatory contribution to the Fonds vert du gouvernement du Québec for fossil fuels, result in a fragile natural gas market in Québec. Market studies with Gaz Métro customers and non customers clearly show that the natural gas price is the predominant factor for all customers in different markets. This fact is particularly of importance for industrial customers for which the supply and transportation costs represent an important percentage of their invoices.

D. PLEASE DESCRIBE THE REGULATORY ENVIRONMENT FOR NATURAL GAS DISTRIBUTION IN QUEBEC

Transportation, distribution, supply and storage of natural gas delivered by pipeline in Québec are subject to the « Loi sur la Régie de l'énergie (Québec) and the « Loi sur le bâtiment (Québec) and to certain dispositions of the « Loi sur les compagnies de gaz, d'eau et d'électricité (Québec). » Gaz Métro's distribution activity is regulated by the Régie de l'énergie. The Régie's primary function is to fix or modify rates and applicable conditions associated with the supply, transportation and delivery of natural gas by a distributor as well as for the storage rates. The Régie also exercises other functions such as: supervise a distributor's operations, determine its rate of return, authorize investments of more than $1,5 million, examine customer complaints or establish conditions of installation for a distributor's work in municipalities. As for the cost of natural gas, this is reflected in the rates for supply invoiced to customers resulting from a mechanism calculated monthly which reflects the actual cost incurred for supplying the customers based on a rolling 12 month period.

E. Please explain the recent decision of the Régie de l'énergie on the Gaz Métro's shift from WCSB-sourced natural gas to Dawn-Hub gas.

In the fall of 2012, Gaz Métro applied to the Régie de l'énergie for approval to shift its supply source for direct purchase customers and to move its structure of supply from Empress to the Dawn Hub (R-3809-2012; D-2012-175). The position defended by Gaz Métro was to ensure secure, diverse and affordable natural gas supply. Furthermore, in its application, Gaz Métro has expressed its main concern surrounding security of supply with the declining availability of gas coming from the WSCB and the increasing tolls on the TransCanada's Mainline. In December 2012, the Régie made its decision and approved Gaz Métro's shift of natural gas supply from Empress to Dawn. The reasons alleged by the Régie were: (1) Gaz Métro's customers would remain captive to TransCanada's long-haul firm transportation tolls if it continues to purchase gas supply at Empress whereas short-haul transportation capacity from Dawn to GMI EDA would be less expensive, (2) the Dawn Hub provides Gaz Métro with more choice and flexibility to adjust to their needs, including access to the new production of shale gas from the Northeastern United States, (3) potential gas supply savings would be achieved by buying at the Dawn Hub ranging from $ 88 million and $ 120 million based on TransCanada's current and proposed tolls, should an increase in the production of natural gas of the WCSB occurs, (4) Gaz Métro could access gas supply from Empress delivered at Dawn and (5) Gaz Métro would have access to a source of supply closed to its territory versus Empress's location over 3000 km away (D-2012-175, R-3809-2012, 2012 12 18, p.13 – 14).

> *La Régie partage l'avis du distributeur et considère que le fait de demeurer à Empress et ne pas contracter des capacités additionnelles de transport sur le tronçon Dawn-GMI-EDA, laisserait la clientèle captive des tarifs FTLH de TCPL.*
>
> *La Régie est d'accord avec l'ACIG lorsqu'elle fait valoir que le déplacement à Dawn permet à Gaz Métro et à ses clients d'avoir plus de choix et de flexibilité. En effet, le déplacement à Dawn permet d'avoir accès aux nouvelles sources d'approvisionnement du nord-est américain tout en continuant de pouvoir acheter du gaz naturel à Empress, en passant par Dawn, s'il s'avérait qu'il s'agit là de la solution la plus économique.*
>
> *De plus, la Régie retient, tel que mentionné par l'ACIG, que le déplacement de la structure d'approvisionnement à Dawn permettrait de réaliser d'importantes économies annuelles. Celles-ci varient entre 88 M$ à 120 M$ sur la base des tarifs actuels et proposés par TCPL.*

> *La Régie reconnaît également la logique fondamentale à préférer un approvisionnement à proximité du territoire de Gaz Métro plutôt qu'un approvisionnement à 3000 kilomètres.*

As a public utility, Gaz Métro is under the obligation to serve Quebec's customers and has to ensure security of supply. In this new gas supply context, Gaz Métro has to manage the risks inherent in its gas supplies and to shift from Empress to the Dawn Hub to meet customer demands. Gaz Métro is responding to this supply risk by proactively seeking contracting transportation to access new supply options in its supply portfolios with natural gas sourced from other production basins and benefit from the liquid market at Dawn.

F. WHY IS GAZ MÉTRO SUPPORTIVE OF UNION GAS'S PARKWAY WEST PROJECT?

In its application, Union Gas stated that:

> *Union continues to receive incremental requests for transportation services with deliveries at Parkway. Parkway has become a critical infrastructure point in the transportation of natural gas in Ontario and for eastern North American markets. New infrastructure will be required as a result of this fundamental shift in natural gas flow to ensure Ontario remains well connected to new emerging, abundant and economic supplies* (EB-2012-0433, Section 4, p. 15 of 121).

As mentioned above, the main concern of Gaz Métro is to ensure security of supply for its customers. The demands on the Dawn to Parkway system have increased tremendously in recent years so as the reliability on Parkway compression to provide deliveries of natural gas to Québec through the TransCanada Mainline. In addition, the market has shift its long-haul supply sourced from Empress to short-haul supply sourced from the Dawn Hub. Union Gas affirmed that:

> *Union has identified Parkway as one of the facilities within its system that meets Union's definition of a critical facility (EB-2012-0433, Section 7, p. 59 of 121)*.

Union Gas' assets do not include a Lost of Critical Unit (LCU) protection compressor to ensure that the facility is reliable and always available. A compressor outage would have significant impacts on Gaz Métro's ability to meet customer demands and would have serious consequences. Union's Dawn to Parkway system needs to be reliable as the demands from Eastern LDC and other markets will keep on increasing over the next years. Gaz Métro is supportive of the Parkway West Project since it will increase security of supply for its customers and support its efforts to shift its structure of supply from long-haul to short-haul transportation services using the Dawn to Parkway system. As Union explained:

> *For ex-franchise customers, such as Enbridge and Gaz Métro and other ex-Ontario shippers, the Project provides: i) and additional feed to Enbridge will increase security of supply for customers in the GTA; ii) security of supply from loss of critical unit coverage for volumes compressed into the TCPL system and flow to Enbridge, Gaz Métro and other ex-franchise east of Parkway (EB-2012-0433, Section 1, p. 5 of 121).*

It is Gaz Métro's belief that the construction of a LCU protection compressor will mitigate the critical operational risk of a major failure at Parkway as this critical infrastructure is essential to move gas in Ontario and to ex-franchise markets.

G. WHY IS GAZ MÉTRO SUPPORTIVE OF UNION GAS'S PARKWAY D / BRANTFORD-KIRKWALL PROJECT?

When Gaz Métro applied to the Régie in the fall of 2012 requesting a shift from its gas supply sourced from Empress to Dawn, its claim was based on two undeniable facts. The first one is the declining production of the WCSB resulting in a decline in natural gas moving from Empress to its markets and the second one is the rapid increase in production of shale gas (Marcellus and Utica) in the eastern part of the United States. Dawn is a crossroads located in the heart of a consumption center connected by several pipelines to the largest production areas of the continent and the price of natural gas at Dawn, as well as at Empress, reflects the balance of supply and demands which are also influenced by the regional market conditions. The development of shale gas production in the East has an impact on the markets of that area, while the decline in the WCSB production has repercussions on the western region, as well as on TransCanada tolls. In fact, the tolls from Empress to GMI EDA have increased from $ 0.99 / GJ to $ 2.24 / GJ between January 2007 and May 2013. Having a greater access to Dawn is important to Gaz Métro for two main reasons. First, Dawn is located closer to its service territory and second, it provides a greater security and diversity of supply to Gaz Métro' customers as it connects directly with the Marcellus and Utica productions. As stated by Union:

> *The Project is required for Union to deliver the contracted volumes to Enbridge Gas Distribution, Gaz Métro Limited Partnership, Vermont Gas Systems Inc. and provide Dawn based natural gas supply to Union North customers, in a cost effective and reliable manner (EB-2013-0074, Section 1, p. 2 of 7).*

Gaz Métro endorses the completion of the Parkway D / Brantford-Kirkwall project since it will provide incremental transportation capacity on the Dawn to Parkway system for eastern markets. Gaz Métro also believes that the Parkway Projects will open and enhance access to affordable, diverse and secure natural gas supplies and supports its shift from long-haul to short-haul transportation capacity. Union stated that:

> *For Union, this access results in savings of $ 18 million to $ 28 million per year; for Enbridge and Gaz Métro, this will save their customers as much as $ 171 million per year (EB-2013-0074, Section 1, p. 5 of 7). Significant savings would be achieved by purchasing natural gas supply at the Dawn Hub, the annual value of which would vary between $ 88 million and $ 120 million depending upon future TCPL Mainline tolls (EB-2013-0074, Section 5, p. 4 of 7).*

As being captive of TransCanada's Mainline, Gaz Métro needs to diversify its gas supply portfolios and considers that the proposed Parkway Projects will help it do so. An increased access at the Dawn Hub will benefit Gaz Métro's customers by ensuring a diverse and secure supply of natural gas, even if the WCSB production improved in the following years (as Gaz Métro will also be able to access the gas delivered from Empress to Dawn). The liquid Dawn Hub will continue to attract incremental demand for natural gas supply and transportation on the Dawn to Parkway system from downstream markets. Gaz Métro thinks that by building these new facilities, Union is addressing future growth of the Dawn Hub which increases diversity, liquidity and price competitiveness of gas supply for its customers.

H. IS GAZ MÉTRO SUPPORTIVE OF ENBRIDGE'S GTA PROJECT?

The GTA Project consists of two segments, segment A and segment B. At the technical conference held June 12 – 13, 2013, Enbridge's representatives clarified that the segment B is mainly a project to reinforce Enbridge's distribution system in the Greater Toronto area. Gaz Métro will not intervene on that portion of the Project. The segment of the GTA Project that is of interest for Gaz Métro is segment A; the pipeline Enbridge is building between the proposed Bram West Interconnect and Enbridge's Albion Road Station also known as the shared pipeline with TransCanada. As noted by Enbridge in its application:

> *In order to procure firm, short-haul capacity, infrastructure must be available. Currently, there is a constraint between Parkway and Maple, as demonstrated by the recent open seasons and new builds by TransCanada long this path. Significant new capacity along this path would require new infrastructure to be built (EB-2012-0451, Exhibit A, Tab 3, Schedule 7, p. 5 of 19).*

Currently, there is a bottleneck between Parkway and Maple where the system is constrained whereas Gaz Métro's ability to ensure security and diversity of supply depends upon opening up that path. Enbridge asserted that:

> *The project will allow access to additional supplies through Parkway from Niagara and/or Dawn to replace a potential reduction of TransCanada's Mainline capacity. As a result of the sharing arrangement with TransCanada, the project will also increase access to supplies for other consumers both in Ontario and beyond (EB-2012-0451, Exhibit E, Tab 1, Schedule 1, p. 6 of 9).*

In order to ensure security and diversity of supply in its gas supply portfolios and to deliver gas costs savings to its customers, Gaz Métro had submitted bids in a previous new capacity open season from TCPL which were accepted by TransCanada. Gaz Métro subsequently entered into Precedent Agreements with TransCanada in order to obtain a new transportation capacity of 254 475 GJ/day from Parkway to different segments of its service area. TransCanada has subsequently decided to cancel its Mainline expansion . TransCanada decisions, does not mitigate, in any way, the market need for such new facilities. In reaction to the new market environment that results from the recent TransCanada decisions, some of our customers who had previously elected to source their transportation needs from the secondary market are now requesting that the distributor provides them with transportation. Combined with an observed demand growth, these customers have increased Gaz Métro requirements for transportation to its service area by an additional 130,000, GJ/day. Gaz Métro secured that capacity through the last existing capacity open season held by TransCanada. The capacity was secured only for a period of two year in the form of Firm transportation – Non Renewable (FT-NR) as this was the only service offered by TransCanada to serve Gaz Métro's service area. The demand served by this capacity will not disappear in two years and a viable solution must be found in order to serve this market. The current market dynamics requires that the transportation capacity between Parkway and Maple be expanded in order to carry the incremental short-haul volumes of 254 475 GJ/d, for which Gaz Métro already contracted with Union Gas for transportation between Dawn and Parkway.

In its amended application dated February 12, 2013, Enbridge mentioned that the diameter of the pipe of the segment A will be increased from the originally planned NPS 36 to NPS 42 to accommodate the anticipated needs of both companies and their customers. It is Gaz Métro's understandings that the proposed expansion (NPS 42) would have provided TransCanada with a significant portion of the facilities required to meet the new transportation capacities for which parties like Gaz Métro and Union Gas had entered into Precedent Agreement with TransCanada.. These facilities would therefore allow Gaz Métro to ensure security and diversity of supply and to procure substantial gas cost savings to its customers by shifting the source of gas delivered to those customers from long-haul supply sourced from the WCSB and transported on TransCanada's Mainline to short-haul supply sourced from the Dawn Hub, located closer to Eastern markets.

On January 2013, Enbridge and TransCanada entered into a Memorandum of Understanding (MOU) in respect to the shared use of segment A. As set out in Recital E to the Amendment to their MOU dated April 26, 2013, Enbridge and TransCanada agreed to reduce the size of segment A to NPS 36. The decrease in sizing coincides with TransCanada decisions to cancel the open season for new short-haul transportation service. An NPS 36 pipeline appears to be insufficient to accommodate incremental short-haul needs of 254 475 GJ/d that was previously requested and contracted by Gaz Métro. The lack of capacity on that path is further increased by the need to find a way to serve the demand that is currently served by the 130 000 GJ/d of non-renewable capacity contracted until November 1st 2015. A failure to build the required infrastructures in a timely manner when TransCanada is withholding removing capacity from the gas market would result in an inability to serve the need of the end users. Such an outcome is not acceptable. Since Enbridge has admitted that there is nothing preventing it from constructing an NPS 42 pipeline on segment A, Gaz Métro supports the GTA Project on the condition that if built with the appropriate size of the pipeline to meet existing and incremental demands and that Enbridge provides an open access to new short-haul transportation capacity, more specifically by holding an open season in accordance with the Storage ans Transportation Access Rule (STAR). It is Gaz Métro's position that the MOU and the provisions it contained with respect to the allocation of capacity to TransCanada violates STAR and therefore, is unenforceable and of no effect. Gaz Métro agrees with Enbridge when it stated that the shared use of segment A pipeline would support the coordinated build of infrastructures for both Enbridge and TransCanada shippers, as long as it is done in conformity with STAR requirements which provide that new capacity be offered through an open season.

Section 2.1.2 of STAR provides that:

> *Firm transportation service that becomes available as a result of a facility expansion (i.e., new capacity) shall be offered through an open season. Existing capacity that is available or will become available for long-term firm transportation service shall be offered through an open season.*

In its application dated February 12, 2013, Enbridge has admitted that the shared segment A is a transmission pipeline that will provide gas transportation services other than gas distribution services. As stated by Enbridge*:*

> *A joint use pipeline would relieve the Parkway constraint on both the distribution system and the transmission system. This would allow for the shortest overall distance being constructed and*

> *maximize the use of existing infrastructure. Also, for a significant length of the new pipeline, it would allow for economies of scale through joint use of a section. This concept also has benefits for the community, as there would only be construction of one pipeline, versus two if the distribution and transmission needs were considered in isolation (EB-2012-0451, Exhibit A, Tab 3, Schedule 7, p.9 of 19)*

Therefore, Gaz Métro believes that in order to provide its customers with increased security and diversity of supply and to deliver those economies of scale, an open access to segment A is required through the holding of an open season in conformity with STAR. As declared by Enbridge:

> *Approval of the GTA Project will provide significant enhancements to the gas supply portfolios. It will improve diversity and flexibility through access to Marcellus and Dawn supply, mitigate risk associated with non-renewable long haul transport services, and reduce gas supply costs (EB-25012-0451, Exhibit A, Tab 3, Schedule 5, p. 20 of 30).*

I. CONCLUSION

Gaz Métro has an obligation to serve Quebec's customers where it operates. Being captive of TransCanada's Mainline, it is crucial for Gaz Métro to always ensure security of supply and to diversify its gas supply portfolio. The uncertainties created by the decline in production of gas from the WCSB and the attractiveness of an increased access to the liquid Dawn Hub feeds by new American production basins, have resulted in a new structure of supply for Gaz Métro based on a shift from an Empress sourced gas to Dawn Hub supplies. In its decision of December 2012, the Régie agreed with Gaz Métro that the shift from Empress to Dawn will be more beneficial for its customers, will secure Gaz Métro's supply and will provide more flexibility to adjust to their needs. Subject to the conditions expressed above, Gaz Métro believes that the completion of those three interrelated projects (EB-2012-0433 / EB-2012-0451 / EB-2013-0074) is necessary to ensure security and diversity of supply and to deliver gas cost savings to its customers.

The new infrastructures proposed by the Parkway Projects (EB-2012-0433 / EB-2013-0074) will enhance security on the Dawn to Parkway system as well as provide incremental transportation capacity.

The addition of infrastructures on the segment A of the GTA Project (EB-2012-0451) would enhance security and diversity of supply by providing access to transportation capacity between Parkway and Maple. However, it appears that an NPS 36 pipeline is insufficient to accommodate incremental short-haul needs to meet existing and incremental demands from eastern markets. Gaz Métro considers that it is essential to open this path that is currently constraining the system.

Therefore, Gaz Métro believes that a coordinated construction of those new infrastructures, to meet existing and incremental demands from eastern markets, would be in the interest of all parties impacted by those projects and would provide enormous benefits in terms of affordability, security and diversity of natural gas supplies.

GAZ MÉTRO LIMITED PARTNERSHIP