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July 9, 2013

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

Dear Ms Walli,

Enbridge Gas Distribution Inc. – GTA Project (EB-2012-0451)
Union Gas Limited – Parkway West Project (EB-2012-0433)
Union Gas Limited - Brantford-Kirkwall/Parkway D (EB-2013-0074)
Our File No.: 339583-000146

These are the submissions of Canadian Manufacturers & Exporters (“CME”) with respect to the motion brought by Union Gas Limited (“Union”) and Gaz Metro seeking relief in connection with Enbridge Gas Distribution Inc.’s (“EGD”) proposed pipeline between the planned Bram West Interconnect and EGD’s Albion Road Station (hereinafter referred to as “Segment A”). Union and Gaz Metro seek, amongst other things, a declaration that the Board’s Storage and Transportation Access Rule (“STAR”) applies to Segment A.

In Procedural Order No. 5, the Board established that an oral hearing would be held on July 11, 2013 to consider the portion of the motion which seeks a declaration regarding the applicability of STAR to Segment A. The applicability of STAR to Segment A has been identified as a “threshold” issue.

The Board further directed parties intending to make submissions at the oral hearing to file written submissions with the Board. Please consider these as CME’s submissions in response to that Procedural Order.

It is CME’s position that regardless of whether or not STAR applies, the Board should determine on this motion whether the facilities that EGD proposes to construct, in conjunction with any other alternatives which the Board may approve, must be capable of satisfying the transportation needs of Union and Gaz Metro.

Does STAR Apply to Segment A?

The Motion Record and Submissions of Union and Gaz Metro have already addressed, in detail, the evidence applicable to this issue. CME intends to rely upon that evidence at the oral hearing scheduled for July 11, 2013.

That said, in determining whether STAR applies, CME considers the following evidence to be of particular relevance:

1. EGD has acknowledged that a portion of Segment A is a “transmission line”.¹
2. Pursuant to Section 1.5.1, STAR applies to all natural gas transmitters, integrated utilities and storage companies that are legally permitted to do business in Ontario.
3. EGD has not conducted an open season in respect of Segment A.²
4. Pursuant to Section 2.1.2 of STAR, all firm transportation service that becomes available as a result of the facility expansion (i.e. new capacity) shall be offered through an open season.
5. EGD has not applied for an exemption of any provision of STAR.³
6. Pursuant to the MOU between EGD and TransCanada, filed in response to CME IR #6, EGD has granted TransCanada “exclusive access” to Segment A.⁴
7. Pursuant to the MOU, and amendments to the MOU, EGD and TransCanada have agreed to reduce the size of Segment A from 42 NPS to 36 NPS.⁵
8. Union and Gaz Metro were not aware of the MOU until it was provided in response to CME IR #6.⁶
9. Union requires expansion of the pipeline capacity between Parkway and Maple to carry incremental short-haul volumes of 110,000 GJ/day.⁷
10. Gaz Metro requires expansion of the pipeline capacity between Parkway and Maple to carry incremental short-haul volumes of 258,000 GJ/day.⁸
11. Both Union and Gaz Metro require access to Segment A in order to connect Parkway and Maple.⁹
12. If Union is not granted access to Segment A, and then builds a pipeline from Parkway to Maple, that new pipeline would need to run parallel to Segment A.¹⁰

These facts support a finding by the Board that (i) STAR applies to Segment A, and (ii) that EGD has not complied with STAR.

¹ Technical Conference, Day 1, pages 23-24.

² Technical Conference, Day 1, pages 15-18.

³ Exhibit JT1.2.

⁴ CME IR #6; and Exhibit JT1.2.

⁵ CME IR#6.

⁶ Technical Conference, Day 1, pages 23 and 132.

⁷ Technical Conference, Day 1, pages 134 and 138.

⁸ Technical Conference, Day 1, pages 134 and 138.

⁹ Technical Conference, Day 1, pages 116 and 120.

¹⁰ Technical Conference, Day 1, pages 123-124; Technical Conference, Day 2, pages 38-39.

At the time that these submissions were finalized, EGD had not yet filed any submissions in response to Union and Gaz Metro's motion. The only explanation of EGD's decision to not expressly meet the provisions of STAR or formally apply for an exemption from STAR are contained at Exhibit JT1.2. In that Exhibit, EGD states that it is of the view that the MOU between itself and TransCanada can address the needs of the eastern LDCs for economic access to natural gas if all parties act reasonably to develop a solution. If the transportation needs of Union and Gaz Metro can be met by the facilities proposed by EGD, within the contractual framework of the MOU between EGD and TransCanada, then EGD should provide evidence to that effect.

That said, whether or not EGD holds an open season, the Board should consider and decide on this motion whether EGD's proposed facilities, in conjunction with any other alternatives that the Board may approve, must be capable of satisfying the transportation needs of Union and Gaz Metro. For reasons that follow, CME submits that this question should be answered in the affirmative.

The Proposed Facilities Must Satisfy Union and Gaz Metro's Transportation Needs

In September, 2008 CME submitted comments to the Board on the July 29, 2008 Staff Discussion Paper entitled "On a Storage and Transportation Access Rule (STAR)". In those submissions, CME supported the objective of the Board to "assure that access to the regulated transportation services that Ontario-based utilities provide is non-discriminatory". To this end, CME called for a process that would be "predictable and transparent". CME continues to support such an approach for access to transportation.

STAR, as approved by the Board, expressly incorporated these objectives. As set out in Section 1.1.1 of STAR, the purpose of that rule is, amongst other things, to:

Establish operating requirements to ensure open and non-discriminatory access to transportation services for shippers and storage companies.

CME submits that the broader objectives of STAR are consistent with the direction the Board provided in Union's EB-2011-0210 proceeding. In that case, the Board wrote as follows:

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 that 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 re-purposing 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.

While these directives from the Board pertained to the facilities proposed by Union in EB-2011-0210, CME submits that they were intended to equally apply to adjacent facilities constructed by EGD. It would appear, however, that in the resulting consultative process between Union, EGD and TransCanada, Union was not included to the extent envisioned by the Board. This is demonstrated most

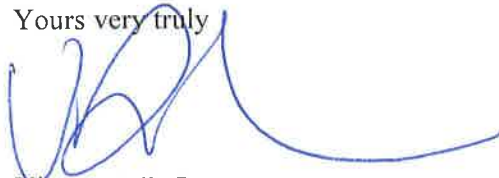
acutely by the fact that until reviewing EGD's response to CME IR #6, Union was not even aware of the MOU in which EGD granted TransCanada exclusive access to Segment A.

CME submits that regardless of whether or not STAR applies, EGD's Segment A facilities, in conjunction with any alternatives approved by the Board, must satisfy the transportation needs of Union and Gaz Metro. In determining this issue, the Board will need to consider the appropriateness of EGD's decision to offer TransCanada exclusive access to Segment A, and whether TransCanada will satisfy the needs of Union and Gaz Metro on commercially acceptable terms.

The Board confirmed in Procedural Order No. 2 that EGD's application with respect to the GTA Project and Union's applications with respect to the Parkway West Project and the Brantford-Kirkwall/Parkway D Project are to be combined. This is because there are administrative and substantive benefits that outweigh any advantage in addressing them separately. Not only are the combined proceedings considered to be less cumbersome than three concurrent but separate proceedings, but from a substantive perspective, it is important to consider the related issues in a cohesive and rational manner. The manner in which this issue has come to light, and the implications that flow from EGD's proposed Segment A facilities for Union and Gaz Metro, demonstrate the value of combining these proceedings.

On a final point, there has been minimal pre-filed evidence as to pipeline sizing alternatives. For this reason CME cannot say whether 42 NPS is or is not the appropriate size. At this time, however, the appropriate pipeline size need not be determined. Instead, CME urges the Board to address whether EGD's facilities must accommodate the needs of Union and Gaz Metro. If the answer to that question is yes, then the appropriate size for the pipeline can be determined by the Board after hearing all of the evidence on requirements and alternatives. What needs to be clear at this stage is that the Board's Decision will be premised on the requirement that Union and Gaz Metro's transportation needs be satisfied by the approved facilities.

Yours very truly



Vincent J. DeRose
VJD/kt

- c. Shari Lynn Spratt (EGD)
- Scott Stoll (Aird & Berlis LLP)
- Karen Hockin (Union Gas)
- Crawford Smith (Torys LLP)
- Intervenors in EB-2012-0451, EB-2012-0433 and EB-2013-0074
- Paul Clipsham

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