

July 10, 2013

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Wall:

Re: EB-2012-0451/EB-2012-0433/EB-2013-0074 Union Gas Limited and Enbridge Gas Distribution Inc. Combined Leave to Construct Proceeding

These are the submissions of the Consumers Council of Canada ("Council"), pursuant to the Procedural Order No. 5, dated June 28, 2013, regarding the Motion filed by Union Gas Limited ("Union") and Gaz Metro regarding the applicability of the Ontario Energy Board's ("Board") Storage and Transportation Access Rule ("STAR") to Segment A of Enbridge Gas Distribution Inc.'s ("EGD") proposed GTA Project.

Union and Gaz Metro filed a Motion on June 21, 2013, seeking a declaration of the Board that the STAR applies to the pipeline EGD is building between the proposed Bram West Interconnect and EGD's Albion Road Station. The proposed Segment A pipeline is subject to a Memorandum of Understanding ("MOU") between EGD and TransCanada PipeLines Limited ("TCPL") in which EGD and TransCanada have agreed to restrict, for themselves, access to the Segment A pipeline.

The Council is not taking a position as to whether, from a strict legal perspective, the STAR applies to EGD in these circumstances. The Council does, however, have concerns about the arrangements between EGD and TCPL with respect to Segment A and for the following reasons questions whether those arrangements are in the public interest:

1. The Board, in the last Union rates proceeding, when commenting on Union's proposed Parkway West Project, expressed a concern about the lack of cooperation and consultation between Union, EGD and TCPL and how that may have adverse consequences for Ontario ratepayers. The Board was concerned that this lack of cooperation could result in higher rates and costs than would otherwise be the case. EGD and TCPL have chosen to enter into an arrangement that has excluded Union despite Union's evidence that in order to ensure diversity, security of supply and gas cost savings for its customers, it requires expanded pipeline capacity between Union's Parkway Station and TCPL's Maple Compressor Station. Without access to Segment A

Union's evidence is that it will be required to build duplicate facilities which will result in higher rates and costs that would otherwise be the case;

2. Open and non-discriminatory access to transportation services is in the best interests of Ontario consumers. EGD's proposals deny Union and Gaz Metro open and non-discriminatory access to Segment A;
3. The Board has combined these proceedings in light of the related and interdependent nature of the applications. To that end the Board must consider whether the proposals are in the best interests of Ontario consumers. If EGD's proposals will adversely affect the customers of Union Gas that is something the Board must consider in this proceeding. The evidence is that EGD's arrangements with TCPL will adversely affect Union's customers;
4. Although it is not entirely clear yet what the optimal size of Segment A should be, it is clear that expanding the size of the line beyond that proposed by EGD could meet the needs of EGD, TCPL, Union and Gaz Metro whereas Segment A, as proposed, would not.

From the Council's perspective the Board must consider in this combined proceeding what configuration of projects is in the best interests of Ontario consumers. It appears that if EGD goes forward with its Segment A, as currently proposed, the best interests of Ontario consumers will not be served.

From a process perspective, the EGD GTA application is currently before the Board. The MOU is in place which sets out what EGD and TCPL have agreed to, but the Council questions the extent to which the Board can in this proceeding declare it "unenforceable and of no effect". It is an agreement between TCPL and EGD regarding a pipeline proposal. Furthermore, we question the extent to which the Board can order an open season in the context of this motion.

The Council submits that in light of the evidence and submissions put forward in this proceeding by Union the Board should:

1. Confirm that open and non-discriminatory access to pipelines is an important public policy objective consistent with the Board's statutory objectives to protect the interests of consumers with respect to prices and the reliability and quality of gas service, and to facilitate the rational expansion of transmission and distribution systems;
2. Give notice to EGD that in assessing its Application for Segment A it will consider the extent to which access to the pipeline will be subject to open and non-discriminatory access. ;

3. Direct EGD to withdraw its Application for Segment A and re-file it only if it can demonstrate that Segment A will be a pipeline subject to open and non-discriminatory access. In effect, the Board should confirm that pipelines in Ontario must be compliant with the provisions of STAR.

In assessing the Applications that are the subject of this combined proceeding, the Board must consider what is best for Ontario natural gas consumers and the public interest. It is clearly not in the public interest to allow for the development of pipelines that have restricted or exclusive access. In addition, it is not in the public interest to have two large diameter, high pressure pipelines running in parallel. A more efficient and more economic approach would be to develop one pipeline from Bram West to Albion sufficient to meet the needs of the existing and incremental demand of Ontario and Quebec's customers. We encourage the Ontario LDCs to work together to develop an optimal solution.

Yours truly

Julie E. Girvan

Julie Girvan
Consultant to the Consumers Council of Canada

CC: Union Gas Limited
Enbridge Gas Distribution
All Intervenors
Joan Huzar, CCC

