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July 24, 2013

VIA RESS

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

Re: EB-2012-0451, EB-2012-0333 and EB2013-074

Dear Ms. Walli:

Further to Procedural Order No. 6 in the above-captioned matters, TransCanada is writing to advise that, in light of the revisions to Enbridge's application, TransCanada intends to revise its written evidence. TransCanada also wishes to address the impact on it, and perhaps other parties, of the revised hearing schedule that is set out in Procedural Order No. 6. Finally, TransCanada wishes to update the Board on the status of the MOU between TransCanada and Enbridge.

Revised evidence

TransCanada's revised evidence will be directed to the impacts of Enbridge's revised facilities plans on Ontario gas users. TransCanada intends to ask Enbridge interrogatories in relation to the revised application, and TransCanada will need to review Enbridge's responses before completing its revised evidence. TransCanada will commence work on its revised evidence now, and believes that it can review Enbridge's interrogatory responses and complete the revised evidence within a week of receiving the responses.

Parties may wish to ask TransCanada interrogatories on the revised evidence, and TransCanada is of course prepared to respond to same. While TransCanada understands that a technical conference can sometimes be completed in fewer days than an exchange of interrogatories and responses, there are two difficulties with this potential approach in this case. First, the hearing of a TransCanada application to the National Energy Board (NEB) is scheduled to start on September 3, 2013. Some of the same witnesses who would appear at an OEB technical conference will be tied-up with the NEB hearing. Second, TransCanada anticipates that many of the questions it would be asked at a technical conference would likely have to be answered by way of undertaking, to be completed by personnel in Calgary. Accordingly, TransCanada is doubtful that the time savings that might otherwise be achieved with a technical conference would be realized in this case.

Revised hearing schedule

Procedural Order No. 6 sets the start date for these proceedings as September 12th, with a pre-hearing conference on September 5th. As noted, the NEB has scheduled a TransCanada's application to be heard commencing on September 3rd. It is difficult to estimate the duration of this hearing but it appears likely to run through to the end of the following week (September 13th) and perhaps beyond.

TransCanada's application is for proposed tariff revisions. This application is one of the grounds cited by Enbridge in the letter by which it purported to terminate the MOU.¹ Several of the witnesses and support personnel that will be appearing at the NEB hearing will be TransCanada's witnesses and support personnel at the OEB hearing. TransCanada does not believe that it will be possible for these witnesses to prepare for the OEB hearing while they are participating in the NEB hearing nor, of course, to participate in both hearings at once.

Accordingly, TransCanada requests that the Board reconsider the revised schedule so that the proceeding does not commence until approximately two weeks after the estimated conclusion of the NEB proceeding (September 13th); that is, about September 23rd. This would also allow for a more orderly development of the record by allowing more time for Enbridge to answer interrogatories, TransCanada to file revised evidence, and for an exchange of interrogatories and responses on same.

The status of the MOU

TransCanada has considered Enbridge's letter of July 10th, in which Enbridge cited the alleged grounds for its position that it had the right to terminate the MOU. TransCanada does not believe that any of the grounds there cited, or elsewhere mentioned in the correspondence between the parties, constitute grounds for termination of the MOU.

Accordingly, TransCanada considers the MOU to be a valid and binding contract and TransCanada intends to seek enforcement of that contract. Needless to say, Enbridge's GTA Project application as it was revised on July 22nd is entirely inconsistent with the terms of the MOU.

* * *

TransCanada appreciates the Board's consideration of these submissions. If there are any questions, please contact the undersigned at your convenience.

Yours very truly,



Gordon Cameron

cc: All parties via RESS

¹ Enbridge letter of July 10, 2013 to TransCanada, Attachment B to Enbridge's letter of the same date to the Board.