EB-2012-0074

ONTARIO ENERGY BOARD

IN THE MATTER OF The Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, S. 36 thereof;

AND IN THE MATTER OF The Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, S.90.(1) thereof;

AND IN THE MATTER OF The Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, S.91 thereof

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 Brantford-Kirkwall/Parkway D Compressor Station project;

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders for pre-approval of the cost consequences of two long term short haul transportation contracts;

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the City of Cambridge and City of Hamilton.

FINAL SUBMISSIONS OF
ENERGY PROBE RESEARCH FOUNDATION
(“ENERGY PROBE”)

November 15, 2013

EB-2013-0074 UNION GAS LIMITED

ENERGY PROBE RESEARCH FOUNDATION

FINAL ARGUMENT

SUMMARY

For the reasons outlined in Energy Probe's Submissions herein, we recommend that:

i. Union's Section 90 Application for leave to construct a NPS48 pipeline from the existing Brantford Valve Site to the Kirkwall Custody Transfer Station ("Proposed Pipeline" or "B-K Project") should be approved *conditional upon Union being responsible for all cost consequences that result from any failure of the NEB to approve the Settlement Agreement;*

ii. Union's Section 91 Application for leave to construct the Parkway D compressor, including measurement, and associated facilities ("Proposed Parkway D Compressor") should be approved to provide compression for EGD's in-franchise distribution requirements related to the GTA Project;

iii. Union's Section 36 Application for pre-approval for recovery of the cost consequences of all facilities associated with the development of the B-K Project from ratepayers, effective January 1, 2015 should be denied, due to the contingent nature of the project;

iv. Union's Section 36 Application for pre-approval for recovery of the cost consequences of all facilities associated with the development of the Compressor D Project from ratepayers, effective January 1, 2015 should be approved;

v. Union's Section 36 Application for approval of an accounting order to establish the Brantford-Kirkwall/Parkway D Deferral Account should be approved, *except that the Board should condition that approval on no recovery of B-K Project costs incurred prior to the NEB approval of the Settlement Agreement*; and

vi. Union's Section 36 Application for pre-approval of the cost consequences of two long term short haul transportation contracts on the TransCanada Pipelines Limited ("TCPL") Mainline should be approved, *contingent upon NEB Approval of the Settlement Agreement*.

HOW THESE MATTERS CAME BEFORE THE BOARD

1. Union Gas Limited Filed an Application dated April 2, 2013 under Docket number EB-2013-0074 for Approval of the Brantford-Kirkwall and Parkway D Compressor Project.

2. The Board issued a Notice of Application for Union Brantford-Kirkwall and Parkway D Compressor Project, on April 12, 2013.

3. 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.

4. 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.

5. On May 8, 2013 The Board Issued Procedural Order #2 in which the Board determined it will combine the EB-2012-0451, EB-2012-0433 and EB-2013-0074 proceedings. The Order established the dates for filing Interrogatories on the Applicants evidence.

6. On Wednesday, June 12, 2013 a Technical Conference was held.

7. On, June 21, 2013 Union and Gaz Metro filed a motion with the Board requesting inter alia:
   - A declaration that the Board's Storage and Transportation Access Rule ("STAR") applies to Segment A of the Enbridge Gas Distribution Inc.'s ("Enbridge") GTA Project,
   - An order staying the GTA Project until such time as Enbridge has initiated an open season pursuant to STAR in respect of the new capacity on Segment A of the GTA Project.

8. On Monday, July 22, 2013 Enbridge filed an update to its evidence in relation to Segment A of the GTA Project. Amongst other things, Segment A is now proposed to begin at the Parkway West Station as opposed to Bram West interconnect.

9. On July 23, 2013 In Procedural Order #6 the Board established a new Notice Period and new Schedule including a second round of IRs on the updated Evidence.

10. On Monday, August 28, 2013 a Settlement Conference was held. No Settlement was reached.

11. On September 11, 2013 Union, EGD, Gaz Metro and TCPL filed a Settlement Term Sheet that set out collaborative approach to resolving matters in dispute between TCPL and the LDCs

12. On Thursday, September 13, 2013 A Technical Conference was held on the Term Sheet.

13. On September 16 2013 the Oral hearing commenced. It was completed on October 9, 2013.

THE APPLICATION

14. The Application consists of the following five requests:

(1) Section 90 Application for leave to construct a NPS48 pipeline from the existing Brantford Valve Site to the Kirkwall Custody Transfer Station ("Proposed Pipeline" or "B-K Project");

(2) Section 91 Application for leave to construct the Parkway D compressor, including measurement, and associated facilities ("Proposed Parkway D Compressor");

Together, the "Project" or "B-K Parkway Project";

(3) Section 36 Application for pre-approval for recovery of the cost consequences of all facilities associated with the development of the Project from ratepayers, effective January 1, 2015;

(4) Section 36 Application for approval of an accounting order to establish the Brantford-Kirkwall/Parkway D Deferral Account; and

(5) Section 36 Application for pre-approval of the cost consequences of two long term short haul transportation contracts on the TransCanada Pipelines Limited ("TCPL") Mainline.

15. Union indicates the Project is required for Union to deliver new contracted volumes to EGD, Gaz Métro, the U.S. Northeast and to provide Dawn-based natural gas supply to Union customers in a cost effective and reliable manner.

BACKGROUND

16. Union indicates it provides transportation services on the Dawn-Parkway System to ex-franchise customers, including Enbridge, TCPL, Gaz Métro and U.S. Northeast natural gas utilities. Union also uses its Dawn-Parkway System (and also TCPL services from Parkway) to ship natural gas from storage at the Dawn Hub to Union North. Union is accountable to its in-franchise customers and its ex-franchise firm transportation customers for the reliable delivery of natural gas under firm transportation contracts. [1]

17. Union's evidence is that as a result of recent changes, market participants in Ontario, Québec, Manitoba and the U.S. Northeast have restructured their natural gas supply portfolios, purchasing less WCSB natural gas supply and more supply from production basins and liquid market centres located closer to their end-use markets. Consequently, less long haul transportation from the Western Canadian Sedimentary Basin (WCSB) is being held and more short haul transportation to the markets has been contracted. This trend has been occurring in the natural gas markets since the mid 2000's.[2]

18. In the result, Union has experienced increased demand for transportation on the Dawn-Parkway System. Enbridge, Gaz Métro and Vermont Gas have all contracted for new transportation capacity to provide increased diversity of supply and competitive energy options for Ontario, Quebec and the U.S. Northeast. Union cites as evidence the 930 TJ/d of interest expressed in Enbridge's recent Segment A Open Season.

19. The Brantford-Kirkwall Section of the Parkway System is the only section without an NPS48 pipeline.[3]

---

[1] Union Evidence, Section 3, p. 4
[2] Union Evidence, Section 5
[3] Transcript Volume 9, October 10, 2013 p. 17

20. The facilities proposed by Union were determined in consultation with Enbridge, TCPL and Gaz Métro and are reflected in the Settlement Term Sheet between the parties. The proposed facilities complement the projects being developed by Enbridge and TCPL; specifically, Segment A of the GTA Project and the King's North Project, respectively.

Shipper	Start Date	Term (years)	Path	Awarded Quantity (GJ/d)
Vermont Gas	01-Nov-2014	10	Dawn to Parkway	8,100
Enbridge	01-Nov-2015	10	Dawn to Parkway	400,000
Gaz Métro	01-Nov-2015	10	Dawn to Parkway	257,784
Union Gas	01-Nov-2015	N/A	Dawn to Parkway	70,157
Total				736,041

21. The further claimed benefits of the Project include diversity and security of supply for Enbridge and Gaz Métro and an affordable source of natural gas for the proposed Enbridge and TCPL expansions. Between Union, Enbridge, and Gaz Métro gas supply cost savings in the hundreds of millions are potentially possible between 2015 and 2030 should the Project proceed.

22. The Project also pro-actively addresses the impacts of any future turn back. Union claims it will be better positioned to re-purpose or re-sell turn back capacity provided market opportunities exist. The ability to re-purpose or re-sell turn back capacity helps mitigate future rate risk for Union's customers.

23. The total estimated capital cost of the Project is $204 million. The largest revenue requirement associated with the Project increases to approximately $15.9 million over the 2015 to 2018 period. The Project will result in the following annual impacts:

- an increase of costs of approximately $1.6 million, allocated to Union North in-franchise rate classes,
- a reduction in costs of approximately $1.7 million, allocated to Union South in-franchise rate classes,
- an increase of costs of approximately $16.0 million allocated to ex-franchise rate classes.

According to Union, the ex-franchise customers that will bear the majority of the costs associated with the Project and, have expressed their unqualified support.

RELATED ISSUES

ISSUE A1: ARE THE PROPOSED FACILITIES NEEDED?

24. Unions Evidence is that to a significant degree, the B-K Project is needed based on the new LDC demands associated with the shift from Long Haul to Short Haul transportation. However Union acknowledges that except for Compressor D, the facilities are contingent on approval of the LDC/TCPL Settlement Agreement and the associated build of downstream facilities.

25. The EGD requirement to shift from Long Haul TCPL to Short Haul Dawn–Parkway transportation volumes (400 tj/d) for its in franchise customers can be accommodated by the Project. However, the volumes required by Union (70 tj/d) and Gaz Metro (258 tj/d) and Vermont Gas (8.1tj/d) are, as noted above, dependent on OEB approval of the EGD Parkway-Albion Pipeline (Segment A). It is also dependent on NEB approval of the Settlement Agreement and also TCPL building the connecting downstream Kings North facilities.

26. While the proposed B-K Pipeline is dependent on the GTA EGD Albion Pipeline (Segment A *transmission*) and TCPL Kings North (TCPL Albion Pipeline) proceeding, the proposed Parkway D Compressor is not. Union's position is that in order to meet Enbridge's contracted ***distribution*** demands, incremental compression at Parkway West is required. This need is above and beyond the need for the Loss of Critical Unit Compressor (Parkway C) discussed in EB-2012-0433.[4]

27. Enbridge currently holds a 1.7 PJ/d Dawn to Parkway transportation contract as part of their Dawn-Parkway System transportation portfolio. This represents approximately 25% of the total Dawn-Parkway transportation capacity. The primary term of EGD's contract expires March 31, 2014. Union and Enbridge have negotiated an extension of the primary term to October 31, 2022 and increased the termination notice period from the standard two years to five years.[5]

28. In addition to the new Dawn to Parkway transportation capacity of 400 tj/d from Union, Enbridge has also requested a shift of 400 tj/d of Dawn to Parkway capacity from a delivery point on the suction side of Parkway (i.e. at prevailing line pressure) to a delivery point on the discharge side (i.e. flows through compression). Thus a total 800,000 GJ/d will flow through Parkway, driving an increase in horsepower (i.e. compression) required at Parkway.

29. If the Settlement Agreement is approved it provides for:

(1) Market Access to Dawn and Niagara for gas consumers in Ontario and Quebec. TCPL will work with Union, Enbridge and Gaz Métro to reinstate the short haul volumes awarded by TCPL as a result of its May 2012 new capacity open season for an in-service date of November 1, 2015. TransCanada will also begin work immediately on its King's North Project which, in conjunction with Segment A of

[4] Union Evidence, Section 9, p. 1, Exhibit K8.1
[5] Union Evidence, Section 7, p. 12.

Enbridge's GTA Project and the Project will relieve the present constraint between Parkway and Maple. Further expansions on this path are expected in 2016 and beyond.

(2) Maintenance of the toll differential. The current tolling framework results in a substantial disincentive to TCPL to improve market access to Dawn and Niagara. In order to overcome this disincentive, the LDCs have agreed to a tolling framework which will ensure market access and supply flexibility, while providing cost recovery for TCPL. Relevant to the Project, the framework will substantially maintain the current differential between short haul and long haul tolls. By maintaining this differential, the gas cost savings projected by each of Union, Enbridge and Gaz Métro will be maintained. Union's calculation of these savings is more particularly described in J4.5. There, Union has calculated the savings based, in part, on a $0.125 increase in short haul tolls arising from the Settlement Agreement.[6]

ISSUE A2: DO THE PROPOSED FACILITIES MEET THE BOARD'S ECONOMIC TESTS?

PROJECT ECONOMICS

30. The Capital Cost of the B_K and Parkway D facilities is $204 million and is comprised of:

(1) The Brantford-Kirkwall pipeline at a cost of $96 million (Schedule 9-1).

(2) Parkway D Compressor Station at a capital cost of $108 million (Schedule 9-2).

Economic Feasibility Tests

31. Union employs the Board-approved three-stage analysis framework to assess the economic feasibility of projects in accordance with the Board's E.B.O. 134 Report on

[6] J4.5

System Expansion and the EB-2012-0062 Filing Guidelines. This methodology is consistent with Union's past facilities applications.[7]

Stage 1 Analysis

32. The critical input assumptions in the Stage One DCF analysis include capital cost, operating costs, revenues and tangible direct savings (e.g. gas transportation and commodity savings) to Union's customers.

33. Union's Analyses includes two Scenarios:

    9-3A -excluding net gas cost savings

    9-3B -including net gas cost savings

34. We have two major concerns with Union's Economic Evaluation input assumptions:

a) In Scenario 9-3-B as filed, the gas cost savings estimates are not based on the Settlement Agreement tolls and also rely on mid-range landed gas price analysis prepared by ICF[8].

b) In both scenarios, inappropriate exclusion of any of the $103 million Parkway West site development Capital Costs.

Gas Cost Savings

35. Currently the base case Scenario 9-3B includes in its input assumptions $15.3 millon/yr of net in-franchise gas cost savings from 2015-2012. The term "net" relates to the increase in TCPL tolls estimated in the term sheet and gas cost savings based on ICF analysis including assumptions on differentials between Empress and Dawn. Union's update indicates savings of $9.6 million/yr these assumptions[9].

[7] Evidence Section 9
[8] Undertaking J 3.5
[9] J4.5 update 2013-11-07 page 3

Parkway Site Development Costs

36. The Parkway West Compressor D costs of $108 million, as noted above, do not include any of the Parkway West site acquisition and development costs totaling $103 million. Union has allocated all of these costs to the Parkway West LCU Compressor C. as part of the EB-2012-0433 Application.

37. In our submission in EB-2012-0433, we have discussed an appropriate allocation of Parkway West Site Acquisition and development costs. There we suggested that a fair allocation of Parkway West Site development costs should be 50% of the $103 million, i.e. $51.5 million to **each** of the LCU Compressor C and Compressor D.

38. The implications of Union not using an appropriate Site capital allocation to the B-K and Parkway Compressor D Project economics are:
    - The Capital cost of the Parkway D compressor and overall Project is now understated.
    - The base Stage 1 project DCF analysis which currently indicates an NPV of $1.8 million and PI of 1.01 is also overstated.
    - The PI should be reduced to reflect the additional $51.5 million in capital.
    - The resulting Stage 1 DCF analysis will be less than 1.00.

    Union notes that "In Union's experience, most of its pipeline expansions have, historically, had a PI less than 1.0".[10]

39. Energy Probe's assessment is that Union's Stage 1 DCF analysis as filed is not appropriate due to:
    - Inclusion of higher net transportation and gas cost savings than presently estimated, and

[10] Union Evidence Section 9-2 page 5

- Exclusion of $51.5 million of Parkway West site development costs

As a result, the proper PI is significantly less than 1. This places much greater additional onus on Union's Stage 2 and 3 analyses.

Stage 2 Analysis

40. Union's Stage 2 Analysis indicates that as a direct result of the Project, substantial gas cost savings are also available to other ex-franchise customers utilizing the project facilities in Ontario, Québec and elsewhere. Enbridge has estimated that it will realize savings of approximately $49 million per year[11] while Gaz Métro has estimated savings in the range of $100 million per year[12]. These customers select transportation services on Union's system based on their own assessment of the most economical way to meet increases in energy requirements.

    These potential external savings as Union has acknowledged above are now, based on the Settlement Agreement, less than predicted. They are also contingent on the Agreement being approved by the NEB as well as obtaining Leave to Construct downstream facilities.

41. Energy Probe concludes Union's Stage 2 Analysis is of significant concern. Even if the Board finds in principle that the claimed ex-franchise customer savings are eligible to be included, the Board should note these are contingent on the Settlement Agreement and other conditions precedent.

[11] Updated J6.X, p.2
[12] Transcript Volume 8, October 9, 2013 p. 52

Stage 3 Analysis

42. Stage 3 Analysis examines other public interest matters are not readily quantifiable, such as security of supply, contribution to a competitive market and environmental benefits. Union lists the following:

    Enhanced Security

    Competitive Market Impacts

    Environmental Effects

    Employment

    Utility Taxes

    Employer Health Taxes

    Union also lists significant collateral benefits:

    Additional Project Benefits

    System Expansion

    Cost benefits for Union South and Union North

    Enbridge and Gaz Métro customers benefit

    Diversity and security of supply

    Long-term growth and rate stability

    Continued growth of the Dawn Hub

43. In our view, the gas savings benefits Union North/South are already factored into the DCF analysis and are a major component of the Stage 2 analysis claims, as are the claimed benefits to EGD and Gaz Metro.

44. Energy Probe's conclusion from Union's Stage 3 evidence is that the other benefits cannot be quantified. Therefore, Stage 3 results do not materially tilt the economic evaluation in favour of the Project.

45. Energy Probe's overall conclusion is that Union's Project Economic Evaluation falls short of E.B.O. 134 requirements on several grounds discussed above.

46. However, if the Board approves the EGD GTA Project on the basis that this is a distribution reinforcement line, it should approve Compressor D, based on EGD's requirements for increased volumes and pressures at Parkway West to provide entry point diversity for expansion its distribution system.

47. If the Board Approves Segment A of the GTA Project as a combined transmission and distribution line, on a contingent basis, then it should also make any approval of the B-K project contingent upon all relevant inter-related approvals being in place.

ISSUE A3: ARE THE COSTS AND RATE IMPACTS REASONABLE?

COST ALLOCATION

48. Union calculated its base rate impacts by adding the largest Project annual revenue requirement ($15.9 million) directly to Union's 2013 Board-approved cost allocation study. Using the allocation of Dawn-Parkway costs per the 2013 Board-approved cost allocation study, adjusted to include the increase in Union North and M12 demands described above and throughout the evidence. This results in:

(i) an increase of approximately $1.6 million, allocated to Union North in-franchise rate classes,

(ii) an increase of approximately $16.0 million allocated to ex-franchise rate classes, and

(iii) a reduction of approximately $1.7 million, allocated to Union South in-franchise rate classes.[13]

[13] Union Evidence, Section 10, p. 6

49. Energy Probe notes that this proposed overall cost allocation does not reflect the addition of $51.5 million in Capital Cost related to Parkway West Site development. Accordingly, the full 2018 revenue requirement should be $19.8 million[14] with approximately 86% allocated to ex-franchise customers and 14% to in-franchise customers.

RATE IMPACTS

50. Union calculated its base residential bill impacts to reflect the combined impact of the gas cost savings associated with Union's long term contracting proposal and from the Project. In the latter case these estimates were based on annual gas cost savings of $15.4 million.

51. For the average Rate 01 residential customer in Union North consuming 2,200 m3 per year, the total bill impact is a reduction of ($11 to $19) per year as compared to Union's current approved 2013 rates (per EB-2011-0210)[15].

52. For the average Rate M1 residential customer in Union South consuming 2,200 m3, the total bill impact is a reduction of approximately ($0.0-1.00) per year.[16]

53. Excluding gas cost savings, the change in transportation costs in comparison to the 2013 Board-approved rates, for the average Rate M1 residential customer in Union South consuming 2,200 m3 per year is a decrease of approximately ($1.12) per year. For the average Rate 01 residential customer in Union North consuming 2,200 m3 per year, the bill impact is an increase of approximately $2.80 per year.

[14] Based on comparison of Schedule 10-1 and addition of 3.7 million per J4.7
[15] J9.1 Updated 2013-11-07 page 3
[16] Union Evidence, Section 10, p. 8 and Section 11 Addendum, p. 8 and J9.1 updated 2013-11-07

54. For ex-franchise customers, and others that use the Dawn-Parkway System, the Dawn-Parkway M12 rate will increase from $0.078GJ/d to $0.091/GJ/d upon completion of the Parkway West Project and this Project.

55. Union's rate impacts both for the in-franchise and ex-franchise rates as Reflected in Schedules 10-2-10-6 , do not reflect the addition of the $51.5 million site development capital that results in an increase in 2018 Revenue requirement from $15.9 million to $19.8 million for higher Parkway Compressor D in-service capital.

56. In our view, if Leave to Construct the B-K project is granted, contingent on the Settlement Agreement being approved, then rate impacts should be revisited in Union's 2014 IRM Application. If the Board determines that the Parkway D Compressor can proceed and is approved now then the rate impacts should be updated now.

ISSUE A5: IS THE PROPOSED TIMING OF THE PROJECT APPROPRIATE?

57. With respect to facility alternatives, Union's evidence is that it considered pipeline looping and compression alternatives in developing its application. These were considered alone and in various combinations. Union further responded to interrogatories in relation to alternatives and provided further analysis in response to Exhibit J4.2. Across all pipeline and compressor scenarios, the Project ranked lowest (i.e. best) in terms of capital cost per unit of capacity.[17]

[17] Exhibit I.A1.UGL.FRPO.22 and Exhibit J4.2

58. As to the timing of the Project, both The B-K project and Compressor D are contingent on downstream facilities – the EGD GTA Project Segment A and Segment B being approved by the Board. However, as we argue in our EB-2012-0451 submissions, the portion of Segment A designated as the EGD Albion Transmission pipeline (1200tj/d) is also contingent on NEB approval of the Settlement Agreement. The portion of Segment A is not contingent on NEB approval and the 400 tj/d of distribution capacity, plus the change in Compression at Parkway from suction to discharge is required for EGD's distribution system expansion and reduction of downstream distribution pressures.

59. This leaves Union in a difficult position:

> MR. MILLAR:
>
> Sorry, just to repeat, the condition I'm suggesting or asking you to consider would be the Board says do not start construction until the NEB has approved the Kings North project.
>
> MR. ISHERWOOD:
>
> We would not start construction, but we may be incurring costs before that, in terms of buying pipe or creating easement, that type of thing, which you would have to do to be ready for a '15 in-service.[18]

In our view, Unions contingent position on the B-K project **is** reasonable and in the public interest.

[18] Tr Vol 9 Page 136

ISSUE C1: DO THE FACILITIES ADDRESS THE BOARD'S GUIDELINES FOR HYDROCARBON PIPELINES?

The Brantford-Kirkwall Pipeline

60. A Route Selection and Environmental Impact Assessment Report ("ER") for the Proposed Pipeline was first completed in 2009 by Stantec Consulting Limited. In early 2013 Stantec prepared an Addendum to the ER. Copies of the ER and the Addendum were provided to the Ontario Pipeline Coordination Committee ("OPCC"), all affected municipalities and the Grand River Conservation Authority.

Parkway West Compressor Station

61. The environmental and socio-economic effects of the Proposed Parkway D Compressor are detailed in Stantec's Environmental Report for the Parkway West Compressor Station. The ER for the proposed Parkway West Compressor Station was forwarded for review to the OPCC on March 18, 2013. Copies of the report were also forwarded to all affected municipalities, Conservation Halton, adjacent Landowners, First Nations and the Métis Nation of Ontario.

    Energy Probe accepts Unions evidence and has no additional submissions.

ISSUES C5 AND C6: SHOULD PRE-APPROVAL OF THE COST CONSEQUENCES OF THE PROJECT AND THE TCPL LONG TERM CONTRACTS BE GRANTED?

62. Union has requested pre-approval in this application of:
    (1) the cost consequences of all facilities associated with the development of the Project from ratepayers, effective January 1, 2015; and

(2) the cost consequences of two anticipated TCPL long term short haul transportation contracts[19].

63. Union's rationale and support for its request (1) is set out in its Argument-in-Chief in EB-2012-0433. In brief, this is based on Union's IRM framework and the treatment of Capital Projects as Y factors. The Brantford – Kirkwall Pipeline and Parkway Compressor D Project is specifically identified in the Board approved EB-2013-0109 IRM Settlement Agreement.

64. Unlike the Parkway West LCU Project, Union has not cited the cost and risks of cost recovery related to the B-K Parkway West Compressor D Project in support of its request. However it is assumed this is also the case.

65. Accordingly, we repeat our arguments why Union should be denied pre-approval of the Project.

    a) The risks of cost recovery are low. Union can charge its legitimate costs to downstream shippers including EGD and if Segment A of the GTA Project is approved, Gas Metro, TCPL and other shippers. If Union is concerned that the downstream facilities, other than EGDs GTA Project, are delayed or may not receive NEB Approval, then it is still able to charge 86% of the Project costs to existing M12 shippers, the largest of which is EGD, unless the Board finds this is not appropriate, in which event Union can decide not to proceed with the project.

    b) In our view, the regulatory efficiency argument is not well supported since as Union has testified below, Parkway West LCU and Brantford-Parkway and Parkway D compressor are both identified in the 2014 IRM Settlement Agreement as legitimate projects that will be treated as Y factors, unless unexpectedly they fail to meet the qualifying criteria. Accordingly, there will be no significant additional regulatory process.

[19] Union Evidence Section1 Page 4

Mr. Birmingham [20]

The incentive regulation framework actually contemplates this very process; that is, to the extent that it meets the criteria, Union would be required to apply for leave-to-construct and rate recovery all at the same time so that the Board could deal with all the aspects of the project and all of the impacts from the projects at a single time.

So this would be the full regulatory review, which would include the typical leave-to-construct criteria and whether the project's in the public interest, as well as the section 36 rate-recovery application.

66. With respect to request (2) -the approval of the two long-term contracts, totalling 170 tj/d peak that allows Dawn sourced gas to flow to Union North in its AIC Union cites a number of reasons for pre-approval, including:

- the contracts represent significant financial ($110 million) and term (10 years) commitments by Union; and
- the term and volume associated with the anticipated contracts are known and the remaining aspects of the contract are standard and will be comparable to other TCPL precedent agreements executed by Union.[21]

The concern is that these contracts are in part contingent upon the Settlement Agreement and the facilities that EGD and TCPL will construct pursuant to the Agreement.

67. Accordingly we suggest that the Board should condition of its approval of the contracts upon NEB approval of the Settlement Agreement.

[20] Transcript Volume 2, September 16, 2013, p. 138
[21] Union AIC paragraph 105

COSTS

Energy Probe has participated actively in the prehearing and hearing stages of this Application and has managed its time in an efficient manner in cooperation with other intervenors.

Accordingly, we request that the Board grant a Cost Award to reimburse 100% of our legitimately incurred costs.

Respectfully Submitted at Toronto this 15th Day of November 2013.

Roger Higgin, SPA Inc.

Consultant to Energy Probe Research Foundation