

## **FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA**

### **RE: ENBRIDGE GAS DISTRIBUTION INC. AND UNION GAS LIMITED LEAVE TO CONSTRUCT APPLICATIONS**

**EB- 2012-0433**

**EB-2012-0451**

**EB-2013- 0074**

**November 15, 2013**

#### **I. INTRODUCTION:**

This is the final argument of the Consumers Council of Canada ("Council") regarding three applications to the Ontario Energy Board ("Board") for approval to construct a number of new natural gas facilities in Ontario. Enbridge Gas Distribution Inc. ("EGD") has applied to the Board for approval of its Greater Toronto Area Project ("GTA Project"). Union Gas Limited ("Union") has applied for approval of two major projects: the Brantford to Kirkwall Pipeline and Parkway D Compressor Project ("Brantford-Kirkwall/Parkway D"); and the Parkway West Project.

The three applications were filed separately. The Board, on May 8, 2013, decided to combine the proceedings. The Board determined that from a substantive perspective, combining the proceedings would be appropriate in light of the related and interdependent nature of the projects.

EGD's project which includes two Segments, A and B, as well as facilities at the proposed Parkway West site, are estimated to cost \$686.5 million. Union's proposed facilities are currently expected to cost approximately \$423 million. Together these projects represent an investment of over \$1 billion. In addition, TransCanada PipeLines Limited intends to construct related facilities at a cost that is not yet known.

These investments are significant. From the Council's perspective, as a matter of principle, if they are approved by the Board, it will be important for the Board to ensure that the interests of Ontario natural gas ratepayers are sufficiently protected in granting that approval. Although the Council is in large measure supportive of these investments, we will be recommending to the Board that the approvals be subject to a number of conditions.

As set out below the "lay of the land" with respect to the Ontario natural gas market, and more broadly the North American natural gas markets has been changing dramatically over the last few years, and it will continue to evolve, potentially in unexpected ways. Some aspects of these projects are inter-dependent and some uncertainty remains with respect to the approval of facilities and tolls being

proposed by TransCanada PipeLines Limited (“TCPL”). In addition, there have been developments over the past six months, that have changed to some degree the economics of these projects, the design of the projects, the ownership of the various projects and the potential projected savings to Ontario natural gas consumers.

The Council will make submissions regarding each of the three applications in separate sections below. Before setting out those submissions we believe it is important to highlight some of the events and amendments to the evidence that have occurred since the applications have been filed. This is important in order to provide the relevant context within which these applications should be considered by the Board.

The Council has no submissions with respect to the projects regarding the Board’s Environmental Guidelines, landowner matters, technical and safety matters, and First Nations and Metis consultations.

## **II. CONTEXT FOR THE APPLICATIONS:**

Union filed its application for the Parkway West Project on January 29, 2013. It filed its application for the Brantford-Kirkwall/Parkway D facilities on April 2, 2013. EGD filed its GTA project application on December 21, 2012.

Since the original applications were filed the following developments and updates impacted the evidence filed in support of the applications:

1. On February 12, 2013, EGD filed an update in which it indicated that the proposal for Segment A had been shortened with the interconnection changed to Bram West. The diameter of the pipeline was increased from NPS 36 to NPS 42. EGD also indicated that it was in discussions with TCPL regarding shared usage of the pipeline from Bram West to Albion;
2. In March 2013, the NEB issued its decision on TCPLs mainline tolls application fixing all of the firm service tolls for five years and establishing a deferral account to track variations between TCPL’s actual net revenue and the estimated net revenue for each of the five years (the “Toll Stabilization Account”). This impacted the ability of TCPL to alleviate the Parkway to Maple bottleneck, causing them to back out of their proposed expansion;
3. On April 15, 2013, EGD filed a further update was filed setting out new cost estimates and economic feasibility calculations based on the shorter and larger (NPS 42) pipeline. The update also included updated gas supply savings, and a request for approval of a rate methodology for transportation service to be provided to TCPL;

4. On May 15, 2013, EGD filed an update setting out changed gas supply benefits and a new economic feasibility study to reflect the National Energy Board's Decision dated March 27, 2013 (RH-003-2011);
5. On June 3, 2013, the fourth update was filed proving a change to the forecast of customer additions and a slight change in the profitability index of the project. Other small corrections to the evidence were made.
6. On June 3, 2013, an update to the Post Environmental Report was filed;
7. During the interrogatory phase of this proceeding it was discovered that EGD and TCPL has entered into a Memorandum of Understanding ("MOU") with respect to Segment A which provided for all of the capacity on Segment A beyond that needed for EGD's distribution customers be for the sole and exclusive use of TCPL.
8. Union and GMi filed a Notice of Motion with the Board on June 21, 2013, seeking an order declaring, among other things that the MOU between TCPL and EGD was non-compliant with the Board's Storage and Transportation Access Rule ("STAR") and should be unenforceable. The Motion also asked that the Board require EGD to hold an open season for the capacity on Segment A pursuant to STAR and open access policies;
9. On July 10, 2013, Union GMi and EGD filed a complaint with the NEB regarding the cancellation of accepted service requests for new capacity and among other things unreasonable tolls and conditions of service for future access to short haul service;
10. On July 22, 2013, an update was filed to reflect the termination of the Memorandum of Understanding between EGD and TCPL and a change moving the Segment A initiation point back to Parkway West from Bram West;
11. On July 31, 2013, a Section 71 application was filed by Union and GMi for leave to construct the Albion to Maple path;
12. TCPL commenced legal action in the Ontario Superior Court seeking damages from EGD in the amount of \$4.5 billion for its breach of the MOU;
13. On August 16, 2013, TCPL filed revised evidence in which it stated that Segment A was oversized (should be NPS 24), and will represent a wholly unnecessary cost burden to Ontario distribution customers. The evidence also challenged the gas cost savings projected by Union and EGD arising from the projects, and claimed that the Western Canadian Supply Basin supply projections were wrong. TCPL concluded that was that EGD's amended

application was not, “in the best interests of the nation, Ontario, or Ontario’s consumers.”

14. Throughout the process the gas cost savings projections associated with the various projects have changed.
15. On September 11, 2013, Union, EGD, TCPL and GMi filed a “Settlement Term Sheet”. The term sheet would set out the terms and conditions for a comprehensive settlement yet to be negotiated between the signatories. The term sheet committed TCPL to work immediately on its King’s North project to alleviate the constraint between Parkway and Maple and proposed a tolling framework to ensure market access and supply flexibility for the LDCs, while providing cost recovery for TCPL. It also resolved the outstanding claims the various parties had against each other;
16. On October 31, 2013, the Settlement Agreement was filed with the Board.

Going through the chronology set out above demonstrates the complexity of this case. At one point TCPL and EGD were “collaborating “ on the development of a pipeline and considering joint ownership. Several months later TCPL submits evidence stating that the EGD Segment A pipeline is oversized and the benefits of the Ontario LDCs proceeding with these projects have been significantly overstated. TCPL seeks a claim against EGD for \$4.5 million. Union, EGD and GMi initiate a claim against TCPL. Several months later the parties have entered into a comprehensive Settlement Agreement that establishes long-term supply arrangements, proposed pipeline projects and tolling arrangements that are unprecedented. As stated by Counsel to TCPL:

We have this history of several years of a virtual war between the parties, and they’ve come to this fragile agreement as timely as they could specifically so that these proceedings could go ahead, so that there wouldn’t be uncertainty about these facilities applications. (Tr. Vol 2, p. 37)

This is the context in which the Board must consider these applications. As noted below, some aspects of these Applications are not interdependent, but most of them are. What was considered to be optimal for the Ontario gas consumers has changed throughout the course of this proceeding.

There has been very little evidence advanced to oppose the applications (with the exception of EGD’s Segment B). Having said that, the Council acknowledges that there are risks that remain with respect to these investments. The Union Brantford-Kirkwall project is dependent on TCPL getting approval for the NEB for its King’s North project. Parkway D depends upon Segment A. The transmission component of Segment A is reliant on the King’s North Project as well. The Council submits that in order to protect the interests of Ontario natural gas consumers, it is imperative for the Board, in approving these facilities to only do so with conditions. Ontario

ratepayers should not be saddled with the costs of projects that are not required to serve their needs.

The events related to this case over the past year demonstrate that circumstances with respect to the natural gas markets are dynamic and unpredictable. The investor owned utilities have to balance the interests of their shareholders and ratepayers accordingly. The Council hopes that the proposals currently before the Board in this proceeding are in the best interests of Union and EGD's ratepayers.

### **III. THE PROJECTS:**

#### **Union's Brantford to Kirkwall Pipeline and Parkway D Compressor (EB-2013-0074):**

By Application dated April 2, 2013 Union applied for approval to construct the Brantford-Kirkwall pipeline and the Parkway D Compressor. With respect to these projects, Union is specifically seeking approval of the following:

1. A Section 90 Application for leave to construct a NPS 48 from Union's existing Brantford Valve Site to the Kirkwall Custody Transfer Station;
2. A Section 91 Application for leave to construct the Parkway D compressor, including measurement, and the associated facilities;
3. A Section 36 Application for pre-approval for recovery for the cost consequences of both the Brantford to Kirkwall Pipeline and the Parkway D Compressor effective January 1, 2015;
4. A Section 36 Application for an accounting order to establish the Brantford-Kirkwall/Parkway D Deferral Account; and
5. A 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.

The estimated cost of the projects is \$204 million. The Brantford to Kirkwall pipeline is expected to cost \$96 million and the proposed Parkway D Compressor is expected to cost \$108 million (Ex. Schedules 9-1 and 9-2).

Union has referred to these as "growth" projects. They are required to serve increased demands on Union's Dawn-Parkway transmission system. In addition, Union has argued that the projects result in benefits arising from continued growth and liquidity at the Dawn hub, which enhances gas supply options for Ontario consumers. Union also makes the following points in support of its application:

1. The project is required for Union to deliver new contracted volumes to EGD, GMI, and the U.S. Northeast and to provide Dawn-based natural gas supply to Union's customers in a cost-effective and reliable manner. Union has executed binding contracts with EGD, GMI, and Vermont as a result of an Open Season process for transportation on the pipeline;
2. The short-haul transportation contracts in the application will produce significant benefits for Union's customers particularly those in the North;
3. The facilities were determined in consultation with EGD, TCPL and GMI;
4. The proposed facilities complement EGD's GTA project and TCPL's proposed King's North Project;

Union acknowledges that the proposed pipeline is dependent upon Segment A of the GTA Project proceeding. In addition, the Brantford/Kirkwall pipeline is dependent upon TCPL moving forward with the King's North Project. Union's evidence is that it will not undertake construction of the Brantford-Kirkwall pipeline until after TCPL is granted approval of its Kings North Project from the NEB. The Parkway D Compressor is dependent upon EGD's GTA Project going forward, but not the TCPL King's North project (Tr. Vol. 2, p. 112).

The projected Profitability Index for the project is 1.01. This reflects Union's most recent forecast of gas cost savings. With respect to alternatives Union set out in its evidence a number of alternatives, but concluded that its proposal provided the lowest capital cost per unit of capacity (Ex. Section 8, p. 8).

The viability of the Brantford-Kirkwall Pipeline depends upon the ability of EGD to obtain approval for Segment A and TCPL to obtain approval for its Kings North Project. From the Council's perspective it would be inappropriate for the Board to allow Union to proceed in the absence of these approvals. The Council supports the submissions made by Board Staff and CME in this regard. A condition of approval with respect to the Brantford-Kirkwall component of the project should be that Union cannot begin construction until TCPL has been given approval to move ahead with King's North. In addition, approval of Segment A should be required as well.

With respect to the installation of Compressor D, that should be conditional upon EGD obtaining all of the necessary approvals required for Segment A.

These conditions are required in order to protect the interests of Union's ratepayers. It would be inappropriate to ultimately approve the Brantford-Kirkwall line and Compressor D without assurances that the necessary downstream facilities would be in place.

Union has applied for pre-approval of the cost consequences of two long-term short haul contracts on the TCPL Mainline. The evidence is that there are no precedent

agreements in place, there are no contracts in place and the tolls associated with the arrangements are not yet known (Tr. Vol. 2, p. 131). On this basis the Council submits that the Board should not approve “contracts” that do not exist. As noted by Board Staff, Union’s request is not consistent with the Board’s Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts. The cost consequences of any contracts can be assessed once they are entered into and the terms and conditions established.

### **Union’s Parkway West Project (EB-2012-0433)**

By Application dated January 29, 2013, Union Gas Limited (“Union”) applied to the Ontario Energy Board for approval for what has been referred to at the “Parkway West Project”. Union is seeking approval of the following:

1. A section 36 application requesting approval for rate recovery for the full cost of the Parkway West investment effective January 1, 2014, and approval of an accounting order to establish the Parkway West Cost Deferral Account;
2. A section 90 application for leave-to-construct a NPS 42 pipeline from the existing Parkway Compressor Station to the proposed Parkway West Compressor Station; and
3. A section 91 application for leave-to-construct a measurement and control station which will connect to the EGD pipeline system; for connections to Union’s Dawn-Parkway system to flow gas to the proposed Parkway West site; a loss of critical unit (“LCU”) compressor; and general infrastructure and land necessary to construct and operate the Parkway West site.

The original cost of the project was \$203 million, but was been updated to \$219.4 million on August 23, 2012 (Ex. Section 11, p. 100). The variance was explained by Union as relating to the fact that in January, when the application was filed, Union had not reviewed the pipeline in detail with its prime contractor. They have since done so and have updated the costs primarily to reflect increased complexity of the construction crossing the 407 (Tr. Vol. 4, p. 51).

The majority of the Parkway West costs are being borne by Union’s ex-franchise customers. Those ex-franchise customers have supported the project (Argument in Chief, p. 4) Using Union’s currently approved cost allocation methodology, the allocation of the costs are split between the in-franchise and ex-franchise customers on a 16%/84% basis (Section 12, p. 103)

Union proposes to begin construction of the required facilities in 2013, with the LCU compressor projected to be in-service in 2015.

Union’s evidence is that the facilities are being proposed for three reasons. The site will provide a secure feed to the existing Parkway and Lisgar connections to EGD.

The LCU will provide necessary loss of critical unit protection for compressed volumes at Parkway for delivery to TCPL, and the site will provide a land footprint to meet future growth requirements (Ex. Section 11, p. 98). Parkway is currently the only site on the Dawn-Parkway system that does not have LCU coverage.

The primary driver for the Parkway West Project is increased reliability which requires the addition of the LCU compressor and an additional connection to the EGD system from the Dawn-Parkway system where gas can be diverted in the event of a loss of throughput at the Parkway and Lisgar interconnections (Ex. Section 10, p. 82). From Union's perspective LCU coverage is important to ensure reliable service to its customers for natural gas deliveries intended for existing and growing markets in Ontario, Atlantic Canada and the U.S. Northeast.

With respect to the LCU compressor Union's evidence is that if Union suffered loss of a critical unit it could result in approximately 150,000 to 225,000 of EGD's customers losing gas service. In addition, Union's southern, northern and eastern in-franchise customers requiring 400,000 GJ/day of gas to flow through Parkway compression would be significantly impacted, through curtailment (Ex. Section 8, pp. 68-69).

Union's evidence included a section that explored alternatives to the additional connection to EGD and to the LCU protection. This included, installing reserve horsepower at the existing Parkway site, increasing compression at the Bright Compressor Station, purchasing spare components and installing reserve horsepower at the new Parkway West Site (Ex. Section 10). In Union's 2013 rates proceeding TCPL also put forward a number of alternatives to the LCU proposal.

It is Union's position that the project is needed as soon as possible and that it is not dependent upon the other projects before the Board in this combined proceeding. Union has confirmed that if the Board were to delay or defer EGD's GTA Project, the need or timing of Parkway West would not be impacted (Ex. I.A5.UGL.CCC26).

The Council is satisfied that the Parkway West Project has been sufficiently justified by Union and should be approved by the Board. The project is not contingent on other projects (unlike Union's Branford-Kirkwall project), and Union has, from the Council's perspective adequately considered alternative options.

With respect to Union's request for pre-approval of the cost consequences of the project, the Council has some concerns. Although the Council does not support pre-approval, the practical reality is that the Council's position and Union's position may not be very far apart.

Unlike in other Leave to Construct ("LTC") proceedings Union is seeking an order from the Board, pursuant to Section 36 of the Ontario Energy Board Act for pre-approval of the cost consequences of all facilities associated with the development of the project from ratepayers. The total amount, as updated is \$219.4 million. Union



is seeking pre-approval for the following reasons, elaborated on in its Argument in Chief:

1. The size of the project - It is the single largest project in Union's history;
2. Need for cost recovery - Union's position is that it is unable to proceed with the development of the project without reasonable certainty of cost recovery;
3. Regulatory efficiency - It is Union's position that determining the appropriateness of the cost consequences in this proceeding represents an efficient use of regulatory time and resources, and "will benefit future panels as they incorporate the rate and operational impacts of the project into Union's prospective rates and other applications." Union has argued that it is more efficient to address all known rate impacts from the project at once, and provide a predictable rate impact to Union's customers and other stakeholders.
4. The project meets the criteria for Y-factor treatment under Union's approved 5-year incentive rate-making mechanism ("IRM"). (Argument in Chief, pp. 8-13)

From the Council's perspective, this case is like any other LTC proceeding. The OEB Act sets out the test for an application under sections 90 and 91 of the Act. Section 96 of the Act provides the following:

If, after considering an application under section 90...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.

The Council is not aware of any case where the costs of facilities were approved, for inclusion in rates, in the LTC proceeding. Having said that the Council is not aware of any cases where LTC project costs, once the project was approved by the Board in an LTC proceeding were in whole, or in part, disallowed in a rates proceeding, unless perhaps, they were excessive and beyond the scope of the original project application.

The Council acknowledges that the Union's IRM Settlement Agreement has provisions that explicitly contemplate the inclusion in rates of the revenue requirement impact of major projects during the IRM term. We submit that the conditions in the Settlement Agreement are there to ensure that with respect to large projects Union does not have to wait until rebasing to begin recovering the costs of the project.

What the Council is concerned about is that under a pre-approval approach, as proposed by Union, a future panel would be bound by the decision of this panel with

respect to the cost of the project. Given the proposed deferral account, the Council does not believe this is the case. As noted in its Argument in Chief, Union appears to accept that cost overruns, or cost levels below the forecast would be subject to a prudence review (Argument in Chief, p. 11).

The Council submits that this panel should not “pre-approve” the cost consequences of the Parkway West project. If the Board approves the Parkway West project, the cost consequences should still be considered in the context of a rate proceeding. What will be considered in Union’s rate proceedings, during the IRM term, will be the prudence of the actual costs incurred. For example, if Union’s costs significantly exceeded the costs proposed in this proceeding, intervenors and the Board should not be precluded from examining why. Ultimately, it will be up to the Board panel approving rates during the IRM term to determine what costs should be recovered from ratepayers. At the end of the day, the Council submits, that Union should be able to recover from its customers the actual costs incurred for this project that have been prudently incurred. For the Board to now say that all costs incurred with respect to this project are prudent would not be appropriate. Before the costs go into rates, Union has an obligation to demonstrate those costs were prudently incurred. At the end of the day we are not sure to what extent this is at odds with what Union is proposing.

The Council notes that EGD is proposing to spend over \$650 million with respect to its GTA Project, but is not seeking pre-approval of the cost consequences of its project. There is no reason, in this case, to diverge from the way in which the Board deals with the costs flowing from LTC applications.

### **Enbridge GTA Project – Segment A and Segment B**

On December 21, 2012, EGD applied for approval of its GTA Project. EGD is applying for approval of the following:

1. Pursuant to section 90 and 91 leave to construct two segments, Segment A and Segment B of the proposed project for an in-service date of November 1, 2015;
2. Approval of a rate methodology for the proposed Rate 332 for transportation service on Segment A of the pipeline
3. Pursuant to section 97 the form of land/easement agreement applicable to the project.

Segment A of the GTA project includes the installation of approximately 27 kilometers of NPS 42 pipeline located between the proposed Parkway West Station and an expanded Albion Road Station.

The total capacity proposed for Segment A is 2000 TJ/day. 800 of that will be used for EGD's distribution needs and 1200 will be available for transmission purposes.

In addition to the proposed Segment A pipeline EGD is installing facilities at Parkway West. This includes a new gate station, a pipeline connecting Parkway West to the existing Parkway North line and upgrading a valve manifold to include pressure regulation between the Parkway North line and the Mississauga South pipeline (Ex. A/T2/S1/ pp 3-4).

Segment B of the GTA project includes the installation of approximately 23 kilometers of NPS 39 pipeline that would begin at EGD's existing Keele/CNR Station and travel 15.4 kilometers to the proposed Buttonville Station. It would continue south for 7.6 kilometers where it will tie into an existing NPS pipeline. The Segment B component of the project includes expansion of the existing Jonesville Station (Argument in Chief, p. 3).

With respect to Segment A the Council makes the following observations:

1. EGD's original proposal was for a NPS 36 pipeline, and then the application was updated to request a NPS 42 for shared usage between TCPL and EGD. When EGD and TCPL entered into the MOU the proposal was for a 36 inch pipeline. In TCPL's evidence filed on August 16, 2013, TCPL claimed that if the pipeline was simply required for EGD's distribution needs the appropriate size would be NPS 24. The current proposal is for a 42 inch pipeline;
2. There are no distribution pipelines on EGD's system that are NPS 42 (Tr. Vol. 4, pp 98-109)
3. The NPS 42 proposed has a capacity of 2000 TJ/day. EGD plans to use 800 TJ/day for its distribution needs. The rest will be for transmission. In effect the pipeline is being built to provide distribution and transmission and the relative split is 40%/60%. The revenue requirement for the pipeline will be recovered on that basis assuming
4. Even if the King's North Project does not go ahead EGD intends to build its proposed NPS 42 Segment A as EGD maintains that the entire pipeline, at the proposed size is justified solely on the basis of EGD's distribution needs.
5. There is no certainty that the NEB will approve the Settlement Agreement between the parties or TCPL's proposal to build King's North.

From the Council's perspective we acknowledge that Segment A has two purposes. The first is to provide distribution services for EGD's customers, and the second is to provide transmission services to facilitate a shift from long-haul short-haul transportation through a new path.

The Council agrees with the submissions of the CME and Board Staff with respect to Segment A. In effect, the size of the pipeline is being driven by its dual purpose. Accordingly, EGD's distribution customers should only bear 40% of the revenue requirement. The remaining 60 % should be borne by the transmission customers. EGD's open season which closed on September 6, 2013, indicated significant interest in the transmission service.

EGD may well go ahead and build Segment before knowing whether the King's North Project is approved by the NEB. There is no reason why, EGD's distribution customers should bear the risk of this. Requiring EGD's distribution customers to pay the full cost of the pipeline, up until the transmission service is operational would be inappropriate. A pipeline with a capacity of 2000 TJ/day for distribution services would be oversized and beyond the capacity required to serve EGD's customers. The Council submits that the recovery of the revenue requirement of Segment A from distribution customers should be capped at 40%. This is consistent with the capacity required for distribution well into the future. The Council agrees with CME's proposal that any approval of Segment A be conditional on EGD agreeing to recover no more than 40% of the revenue requirement from its distribution customers.

With respect to Segment B, the Council had a number of concerns at the outset of this proceeding. These concerns were:

1. Although significant growth in the GTA is occurring along the Lakeshore EGD did not seriously consider the alternative of either reinforcing or replacement of the southern high pressure line;
2. EGD's track record regarding the construction of the Portlands Energy Project, its largest capital project to date, did not demonstrate an ability on the part of EGD to keep the costs within the proposed forecast. That project cost approximately 45% more than in initially proposed (Ex. I.A3.EGD.Staff.13);
3. EGD did not explore, in any significant way, using Demand Side Management as an alternative to the GTA project, or as a way of deferring the expenditures;

EGD did explore the possibility of reinforcing or replacing the Southern Line. The estimated costs ranged between \$590 and \$950 million (Ex. J.1.12.CCC). The Council is satisfied that these options do not represent viable alternatives to Segment B.

With respect to cost overrun, the Council submits that EGD is not seeking cost recovery of the projects at this time. To the extent EGD has significant cost overruns related to Segment A and/or Segment B these can be considered in the context of the rate proceeding in which the project costs flow through to rates.

In the evidence provided by Mr. Chernick, Mr. Grevatt and Mr. Neme on behalf of the Green Energy Coalition, EGD was criticized for essentially doing “no analysis of the role aggressive DSM could play in deferring or eliminating the need for any part of its pipeline project.” (Ex. L. EGD.GEC.2, p. 2) Mr. Grevatt and Mr. Neme conclude that when considering experience from other jurisdictions EGD could expand its current DSM efforts generating substantial additional gas savings , substantial peak reductions nearly offsetting all forecast load growth.

EGD has argued that DSM cannot offset the need for the GTA project, and in particular is unrealistic given the need to lower the pressure in the Don Valley line (Argument in Chief, p. 22).

The Council has continually been an advocate of cost-effective DSM. To the extent DSM can eliminate the need for new facilities, or defer those facilities they should be pursued. The Council has not seen concrete proposals from either GEC, or Environmental Defense that demonstrate EGD’s proposal Segment B can definitively be eliminated or deferred through DSM. To the extent that GEC and/or Environmental Defense provide viable proposals through argument, the Council encourages the Board to seriously consider those proposals and the extent to which they could impact the need for EGD to continue with Segment B at this time.

#### **IV. THE SETTLEMENT AGREEMENT:**

As noted above, Union, EGD, GMi and TCPL have entered into a comprehensive Settlement Agreement regarding future transportation arrangement and tolls. Although the Settlement Agreement is not before this Board for approval, the Council believes it will be incumbent on Union and EGD to keep this Board informed about the Settlement Agreement and its status going forward. That agreement has significant implications for Ontario natural gas consumers and impacts the viability of the projects before the Board in this case. If approved by the NEB, EGD and Union should be required to file a report with this Board setting out all of the implications. If it is not approve EGD and Union should indicate how they intend to proceed in terms of proving their customers with reliable gas supply for the future.

#### **V. COSTS:**

The Council requests that it be awarded 100% of its reasonably incurred costs for participating in this proceeding. The Council made all efforts to participate responsibly in this proceeding, working closely with other intervenors throughout the process .

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

November 15, 2013

