

November 15, 2013

VIA RESS AND COURIER

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File Nos. T995813, T995814, T995820

Dear Ms. Walli:

Re: EB-2012-0451: Enbridge Gas Distribution (EGD) GTA Project Application
EB-2012-0433: Union Gas Limited (Union) Parkway West Project Application
EB-2013-0074: Union Brantford-Kirkwall Parkway D Project Application

Submissions of Industrial Gas Users Association (IGUA)

This letter provides brief submissions on behalf of IGUA in respect of the 3 captioned applications.

Support for the Projects

IGUA supports the granting of leaves to construct the facilities that are the subject of these applications. IGUA agrees with the positions of EGD and Union that, considered as a whole, the subject facilities provide cost effective diversification and security of supply to Ontario gas consumers. IGUA further agrees with EGD and Union that consideration of recent, rapid changes in the North American gas market, and in particular consideration of the implications of those changes for Ontario gas consumers, underscores the value of restructuring Ontario's gas transportation and delivery infrastructure in such a manner as to allow greater choice of gas supply source, and less dependence on TCPL's Mainline gas transportation system, in particular the long-haul portion of that system.

Other intervenors have focussed on the details of the costs and benefits of these projects, and IGUA sees little that it can add to the analysis of these issues by other parties. IGUA does agree with the position put forward in LPMA's argument that reliance on such an analysis out into the future and in the current North American gas context is an exercise to be pursued with some caution. IGUA's conclusion is that the thrust of the evidence in these proceedings indicates that the projects are not materially uneconomic, even if each is examined on a stand-alone basis and under conservative scenarios.

In the current dynamic gas market, and given current and likely continuing opportunities for Ontario gas consumers to take advantage of diverse and highly economic eastern gas supply sources, IGUA endorses the projects at the costs put forward by the utilities. IGUA endorses in particular Mr. Isherwood's comments, as repeated by Union in its Brantford-Kirkwall/Compressor D argument (paragraph 35) that:

"...it's very prudent to go back and create access to Dawn, where it has much more optionality around supply.

...if our Ontario industrials need to compete with neighbouring jurisdictions, we need access to the same gas they have and not be tied wholly to TCPL only."

Concerns Regarding the Settlement with TCPL

IGUA does have significant concerns regarding the commitments made by EGD and Union through the Settlement Agreement with TCPL. While EGD, Union, and TCPL repeatedly assert in evidence and argument that the Settlement Agreement is supported by the major eastern gas shippers, none of these major shippers will actually pay any portion of the significant costs that the agreement fixes on eastern gas consumers.¹ None of the gas customers that actually will pay these costs have declared support for the agreement now executed and filed with this Board.

This Board is not being asked to approve the Settlement Agreement. The Settlement Agreement is proffered in these proceedings to provide comfort to the Board that Union and EGD have *"consulted on a set of infrastructure additions that make sense for distribution and transmission for our customers"*.² Presumably the Board is to thereby take some comfort that the projects will proceed as proposed, and in an orderly fashion, as a basis for granting the approvals sought.

In the process of securing greater access to Dawn for eastern gas consumers, EGD and Union have agreed, on behalf of their customers – i.e. those who actually pay TCPL tolls – to support TCPL's request that the NEB essentially overturn its unprecedented March, 2013 RH-003-2011 tolls and services restructuring decision. That decision would be disregarded in that:

1. Tolls purposefully fixed by the NEB at a level determined to be at the upper range of "competitive" would be significantly increased, particularly in the Eastern Ontario Triangle.
2. A careful balancing by the NEB of Mainline underutilization risk as between TCPL and its shippers would be disregarded and the balance re-struck. The risk of Mainline underutilization, and in particular Northern Ontario Line (NOL) underutilization, would be shifted back to eastern gas consumers to the benefit of TCPL.

¹ 9 Tr. 82, lines 14 *et seq.*

² 9 Tr. 98, lines 10 *et seq.*

3. A significant portion of the risk premium awarded to TCPL in an increased ROE and in light of the NEB's tolls restructuring determinations and attendant allocation of risks would be retained by TCPL, at the same time that the risks giving rise to that considerable risk premium would be significantly reduced. TCPL's historical ROE, before the NEB's restructuring decision rebalanced risks, was 8.07%.³ TCPL was awarded an ROE of 11.5% by the NEB in recognition of the risks in today's gas market environment and in light of the NEB's RH-003-2011 tolls restructuring decision. Under the Settlement Agreement, the risk allocated to TCPL by the NEB would be largely shifted back to eastern gas consumers, while EGD and Union have agreed to allowing TCPL a 10.1% ROE, which while below the RH-003-2011 ROE is well above TCPL's pre-restructuring ROE of 8.07%.⁴

IGUA appreciates that Union and EGD have sought, through this Settlement Agreement, to rationalize Ontario gas infrastructure development. IGUA supports those efforts. IGUA's concern is at what cost to those who ultimately pay the bills this rationalization has been achieved.

EGD and Union have advanced updated evidence to demonstrate that the projects proposed remain generally economic even in the face of the significantly increased tolls (relative to the NEB ordered "compliance tolls") arising from the Settlement Agreement. Those economics are preserved in large measure as a result of an orchestrated maintenance of a long-haul vs. short-haul toll differential that has little to do with market forces and much to do with the way that the settlement was structured by the parties.⁵

While this evidence might allow the Board to conclude that the projects should be approved, IGUA is not persuaded that the Settlement Agreement should be.

This Board does not have to approve the Settlement Agreement in order to approve the projects. Initially the Settlement Agreement will be for the NEB to consider. The evidence in these proceedings is that the cost impact of the Settlement Agreement, if approved, on Ontario gas consumers will ultimately be considered by this Board in an upcoming QRAM proceeding.⁶ IGUA reserves its position on approval of the costs to eastern gas consumers resulting from the Settlement Agreement, and the prudence of EGD and Union agreeing, on behalf of those who will pay those costs, to significant modifications to TCPL's position arising from the NEB's RH-003-2011 decision.

IGUA understands that Union's intention is to proceed with its Brantford-Kirkwall/Compressor D project only following approval by the NEB of TCPL's Kings North project. Such a condition in the Brantford-Kirkwall/Compressor D project approval would allow a clearer picture of the status of the Settlement Agreement at the NEB prior to commencement in earnest of work on this project.

³ Undertaking J9.4

⁴ 9 Tr. 104, lines 18 *et seq.*

⁵ 9 Tr. 99, lines 10 *et seq.*

⁶ 9 Tr. 97, lines 4 *et seq.*

Energy East

IGUA's counsel pursued some questions in cross-examination of the joint LDC/TCPL panel regarding the potential TCPL toll impacts of TCPL's Energy East project.⁷

IGUA remains concerned with TCPL's approach to Energy East, to the extent that such approach would entail incremental capital costs to the account of EOT gas shippers. These incremental costs would be in addition to recent increases in TCPL tolls, and in addition to the further increases that would arise pursuant to approval of the Settlement Agreement. Further, if these incremental costs were only to the account of EOT shippers as a result of the segmentation of TCPL's system envisioned in the Settlement Agreement, the long haul/short haul toll differential that the economics of these projects are said to rely on could shift, to negative effect on the economics presented by Union and EGD, and thus to the detriment of Ontario gas consumers.

Mr. Clarke's testimony on this topic concluded that there is uncertainty, at this point in time, as to whether EOT TCPL tolls would rise as a result of Energy East.⁸ IGUA also acknowledges Mr. Clarke's testimony to the effect that at some point projects, and associated approvals, need to move forward even in the face of uncertainty.⁹ The issue for this Board is whether it is prudent for Union and EGD to move forward with their respective projects at this time, given the uncertainty associated with TCPL's Energy East proposal.

On balance, IGUA's view is that it is reasonable to proceed with approvals now, but that the Board may wish to require an update on the economics of the projects when TCPL's Energy East proposal, and the potential EOT toll impacts thereof, become clearer. Delay in the start of work in earnest on Union's Brantford-Kirkwall/Compressor D project until TCPL's Kings North project is approved should afford this Board the opportunity for a clearer picture of the implications, if any, on that project of Energy East. This is particularly so given the recent initiation by this Board, at the instance of the Ontario Minister of Energy, of a review of those implications, including in particular consideration of the "[i]mpacts on Ontario natural gas consumers, in particular those in Eastern and Northern Ontario in terms of rates, reliability and access to supply".¹⁰

Conclusion

IGUA supports the proposed projects, and agrees with Union and EGD that they should be approved. Approval of Union's Brantford-Kirkwall/Compressor D project should be conditional on NEB approval of TCPL's Kings North project.

IGUA accepts that Enbridge's GTA Reinforcement project and Union's Parkway West project are primarily reinforcement and reliability projects, and it agrees that it would be

⁷ 9 Tr. 117, lines 8 *et seq.*

⁸ 9 Tr. 117, lines 16 through 18.

⁹ 9 Tr. 97, line 23 through 9 Tr. 98, line 9.

¹⁰ November 12, 2013 Letter from the Minister of Energy to Chair of the OEB, page 2.

appropriate for these projects to proceed unconditioned. The incremental cost of upsizing EGD's Segment A to facilitate future gas transmission is minimal relative to the anticipated benefits and work on this project should appropriately proceed on this basis at this time.

IGUA reserves its position in respect of the prudence of the Settlement Agreement, and the costs to EGD and Union customers arising therefrom. The Board does not have to rule on this issue at this time, and should not.

IGUA also believes that it would be prudent to review the impacts on the projects of TCPL's Energy East proposal when such impacts become clearer.

IGUA believes that it has conducted its intervention in these proceedings prudently and efficiently, and requests recovery of its reasonably incurred costs thereof.

Yours truly,



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