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August 11, 2015

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Our File No. 153783

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street
Suite 2701
Toronto Ontario
M4P 1E4

Attention: Kirsten Walli,
Board Secretary

Dear Ms. Walli:

Re: Board File Nos. EB-2015-0166 and EB-2015-0175

Please find attached the Interrogatories of BOMA, in the above noted proceeding.

Two hard copies will be delivered via courier to the Board.

Yours truly,

FOGLER, RUBINOFF LLP

A handwritten signature in black ink, appearing to read "Thomas Brett", written over the printed name.

Thomas Brett
TB/dd
Encls.

cc: All Parties (*via email*)

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Sched. B, as amended;

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders Pre-approving the Cost Consequences associated with a Long-Term Natural Gas Transportation Contract.

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an Order or Orders Pre-Approving the Cost Consequences associated with a Long-Term Natural Gas Transportation Contract.

**INTERROGATORIES OF
BUILDING OWNERS AND MANAGERS ASSOCIATION, GREATER TORONTO
("BOMA")**

August 11, 2015

BOMA Interrogatories

T1.EGD.UNION.BOMA.1

Interrogatory #1

Ref: General

Please provide a list of proceedings since the Guidelines were put in place in which Union and EGD applied for pre-approval of long-term contracts, and for each case, whether the Board approved or did not approve the request.

T1.EGD.UNION.BOMA.2

Interrogatory #2

Ref: Tab 1

What percentage of the NEXUS pipeline's total planned capacity do Union and EGD initial commitment constitute? Please provide a list of shippers that have signed Precedent Agreements for the project, in each case indicating whether they are an LDC, or producer (agent for producer) the volumes, the receipt and delivery points. If there are confidentiality issues (for non-LDC shippers only), shipper can be identified as A, B, C.

T1.EGD.UNION.BOMA.3

Interrogatory #3

Please provide copies of, or links to, the most recent annual and six-month reports of the publicly listed parent companies of the two lead developers of the NEXUS pipeline, Spectra Inc. and DTE Inc.

T1.EGD.UNION.BOMA.4

Interrogatory #4

Please provide the projected annual expenditures on the NEXUS project tolls (assuming equal annual volumes purchased over the fifteen year contract term), and show that as a percentage of the total projected pipeline tariffs paid by each utility over each of the years 2017, 2018, 2019, 2020, 2021.

T1.UNION.BOMA.5

Interrogatory #5

Given that Union is a wholly-owned subsidiary of Spectra, and that Spectra is one of the two lead developers of NEXUS, is it not reasonable to believe that Union will ultimately contract for capacity on NEXUS even if the Board does not pre-approve the cost consequences of the contract?

T1.UNION.BOMA.6

Interrogatory #6

Union states that the Affiliate Relationship Code does not apply to the relationship between Union Gas and NEXUS because NEXUS is a 50-50 Partnership between affiliates of Spectra Inc. and DTE Inc., under which neither party has control.

T1.UNION.BOMA.7

Interrogatory #7

- (a) Please provide a copy of the joint venture agreement between Spectra and DTE Energy.

- (b) Please confirm that Spectra Inc. or its affiliates will operate the pipeline.
- (c) Please provide a copy of the operating agreement.
- (d) Please confirm that if Spectra is found to control the joint venture operation by contract or otherwise, the joint venture would be an affiliate of Union even if each of Spectra and DTE owned fifty percent of the common shares of the venture. Please discuss fully.
- (e) Please provide a status report on US pipelines that are in operation or in development to transport gas from the Marcellus basin to the Canadian border.

T1.EGD.UNION.BOMA.8**Interrogatory #8**

Do Union and EGD agree that Dawn is now a liquid hub, and will remain a liquid hub regardless of whether either company contracts with NEXUS transmission? If not, please explain. Please discuss fully.

T1.UNION.BOMA.9**Interrogatory #9**

Ref: Exhibit A, Tab 3, Schedule 2, Page 35

You state that "currently, Ontario LDCs do not have direct access to the Marcellus/Utica supply". How is this statement correct, in light of the fact, as stated by EGD at Exhibit A, Tab 3, Schedule 1, Page 50: "Absent NEXUS, Enbridge's only natural gas supply from the Appalachian basin will be purchased at Niagara", that EGD currently (November 1, 2016) purchases gas from

the Marcellus basin and brings it directly to its service area (Parkdale/Consumers receipt point) via the TCPL domestic line?

T1.EGD.UNION.BOMA.10

Interrogatory #10

Ref: Ibid, Page 42

"Sussex reviewed the landed cost analysis prepared by the Ontario LDCs to verify that: (1) the approach was reasonable and consistent with typical landed costs approaches; (2) alternative options had been identified and modeled; and (3) the decision process and analysis was documented."

Please confirm that NEXUS did not do its own landed cost analysis of the options available to the two utilities.

T1.EGD.UNION.BOMA.11

Interrogatory #11

Ref: Ibid

You have provided information on pre-approval processes and recent decisions in four states in the United States.

- (a) Are these the only four states that make provision for pre-approvals of long-term natural gas?
- (b) If not, what other states provide such pre-approval option? For each such state, please provide references for legislation/PUC guidelines/recent decisions.

T1.UNION.BOMA.12**Interrogatory #12**

Ref: Exhibit A, Schedule 1

- (a) BOMA is not clear on how Union has calculated the Reservation Rate that Union will pay to the NEXUS pipeline over the term of the Agreement, what the components of that rates are, which of those components are fixed for the duration of the contract, and which are subject to adjustment by FERC as part of its approval of the pipeline.
- (b) At Exhibit A, Schedule 1, Page 61 (Statement of Negotiated Rates), NEXUS states that the Final Estimated Reservation Rate for Union's contract shall be \$0.77, "subject to further adjustment as set forth herein and in the Restated Precedent Agreement dated May 28, 2015". At Page 66 of 68 in a letter to Union dated May 28, 2015, NEXUS stated that the portion of the Final Estimated Reservation Rate that is derived from the estimated capital costs associated with the construction of the Project is US\$0.635, and the \$0.635 is the base number to which the Capital Cost Tracking Adjustment is applicable. Is BOMA's interpretation correct? If not, please clarify.
- (c) Please list and explain each additional cost item that constitute the difference between the \$0.6325 and \$0.77 numbers. Is either of the numbers subject to modification by FERC as part of the initial approval process and decision, or at any other time during the fifteen year contract term?

- (d) Please rationalize the \$8.938 CDN/GJ number (Exhibit A, Page 40 of 54) which appears to be Union's landed cost (commodity plus transportation tariffs) from the project receipt point to Dawn via the St. Clair pipeline with the \$0.77 US. In other words, please provide an itemized breakdown or buildup of the numbers, including the detailed assumption underlying each component.
- (e) At Page 4, the Precedent Agreement states:
- "The reservation rates payable by Customer for transportation service (as set forth in the applicable Pipeline tariffs approved by the FERC, the "Reservation Rates") will be set and applied for on a commercially reasonable basis".
- (i) Please explain what this statement means.
- (ii) Please reconcile this statement with the statements made elsewhere in the evidence that, with the exception of the $\pm 15\%$ change to that portion of the Reservation Rate determined by the capital cost of the project, the rate is fixed for fifteen years. Please explain fully, including a "translation" for Ontario readers of FERC terminology.
- (f) Please provide copies of FERC's prototype gas transmission FT tariff including its General Terms and Conditions, and including a template FT service agreement. Please highlight any differences between the FERC template agreement and the "illustrative" form of transportation service agreement provided in Exhibit A.

T1.EGD.BOMA.13

Interrogatory #13

Ref: Exhibit A, Tab 3, Schedule 1, Page 2 of 46

Has EGD decided it will not proceed to sign a contract with NEXUS in the event the Board does not approve its application in this case?

Given the proposed timeline for this case, has EGD requested an extension in the October 15, 2015 date for the condition precedent of Board approval? Has it, or will it waive the condition precedent?

T1.EGD.BOMA.14

Interrogatory #14

Ref: Exhibit A, Tab 3, Schedule 1, Page 2

Please confirm that EGD has arranged to transport 200,000 GJs of natural gas from Niagara/Chippewa directly to its service area via the TCPL domestic line. What is the term of the contract? What is the current tariff? What is the forecast tariff over the term of the contract?

T1.EGD.BOMA.15

Interrogatory #15

Ref: Ibid

Please advise whether EGD has or will purchase this natural gas at the border or at an upstream hub in Marcellus/Utica shale region, and if so, which hub, and on which of the three pipeline

projects from Marcellus/Utica to the Canadian border will it (or its vendor) transport the gas. What is the term of the commodity contract? Who is the vendor? Is the commodity price fixed for the term, or is it based on an index and, if so, which index?

T1.EGD.BOMA.16**Interrogatory #16**

Ref: Ibid

Does EGD agree that the arrangements allow it to obtain natural gas "directly" from the Marcellus/Utica basins? Please discuss. If not, please explain what material disadvantages and benefits are to it of buying at Niagara versus buying at one of the Marcellus Hubs, such as Leidy or Dominion North, or at some field point.

T1.EGD.BOMA.17**Interrogatory #17**

Please confirm that in the Dawn Transport Hub proceeding, EGD agreed that if there were sufficient customer demand, it would establish a Niagara Transportation Service (which will give customers the ability to contract for gas supply on a direct purchase basis at Niagara). Has EGD taken any steps to determine the level of customer interest in such a service?

T1.EGD.BOMA.18**Interrogatory #18**

Ref: Ibid, Page 15

Please provide copies of NEXUS's original, and two supplemental open seasons documentation.

T1.EGD.BOMA.19

Interrogatory #19

Please provide the names of US LDCs that have signed Precedent Agreements with NEXUS. Which, if any, of these LDCs have applied for pre-approval from their respective regulators?

T1.EGD.BOMA.20

Interrogatory #20

Ref: Ibid, Page 24, Table 2

EGD states, in its Landed Cost Analysis, that its "TransCanada from Niagara" option is \$4.90 CDN/GJ. The figure on Page 25 shows the "Niagara Path" as a path from Niagara to Dawn. Please provide the landed costs for the existing 200,000 GJ pathway from Niagara to Parkdale/EGD, as well as the Niagara to Dawn path shown on the diagram for 2016, 2017 and beyond.

T1.EGD.BOMA.21

Interrogatory #21

Ref: March 20, 2015 NEXUS Gas Transmission LL.C. Updated Stakeholder List and Project Update, Page 2 (Exhibit A, Tab 3, Schedule 1, Page 40)

In the update, NEXUS advised FERC that it can meet the objectives of its proposed Project by using thirty-six inch diameter pipe, rather than a forty-two inch pipeline.

What will the impact on the final estimated project cost, and the reservation rate (demand charge) of this change in project scope? Please discuss fully.

T1.EGD.BOMA.22

Interrogatory #22

Ref: Exhibit A, Tab 3, Schedule 1, Appendix C

In the first table, Landed Cost of "TCPL from Niagara" is shown as CDN\$4.13/GJ in 2017, increasing to CDN\$5.77 in 2032 for an average cost of CDN\$4.90. Please provide the basis and the calculation of the escalation of that rate over time.

T2.EGD.UNION.BOMA.23

Interrogatory #23

Question on Comparison with Niagara

Please provide a comparison of the costs to ratepayers of Union making a similar fifteen year contract for the same annual volume with TCPL from Niagara via Kirkwall, and purchase the gas at Niagara/Chippewa, or at some point farther upstream in the Marcellus field with a transportation contract with one of the pipeline projects which will transport Marcellus gas to the border.

T2.UNION.BOMA.24

Interrogatory #24

Please confirm that Union can access Marcellus basin shale gas at either Kirkwall, Niagara/Chippewa as well as at Dawn. Please explain why Union has not sought to increase its purchases of Appalachian basin gas at Niagara. Does it intend to do so in the next few years? Will it provide a mechanism for direct purchasers to do so?

T2.EGD.UNION.BOMA.25

Interrogatory #25

- (a) Please provide an extension of the graph to July 31, 2015.
- (b) Please confirm that the graph uses daily Canada/US exchange rates for the three US supply basins, exchange rates. If not, please discuss what exchange rate is being used over the period covered by the graph.

T2.UNION.BOMA.26

Interrogatory #26

Please confirm that Marcellus gas accessed by Union at Niagara via Kirkwall is closer to Union's Central, Northern, and Eastern Delivery Area than gas that enters Union's system at Dawn.

T2.EGD.BOMA.27

Interrogatory #27

Ref: Ibid, Page 15

Does EGD agree that while, under its existing 200,000 GJ purchase agreement at Niagara, the vendor is not "required" to use Marcellus/Utica supply, as a practical matter, and as EGD has stated elsewhere in its evidence, the relatively low cost of gas at Marcellus/Utica Hubs, the proximity of Marcellus/Utica to EGD Central and Niagara regions, and the fact that the multiple transportation routes exist or will soon from Marcellus/Utica to Niagara, the gas is in fact coming from the Marcellus/Utica basin. Does it agree that EGD already has access to Marcellus/Utica via shorter, less costly route, than that provided by NEXUS? Please discuss.

T3.UNION.BOMA.28**Interrogatory #28**

Please provide what percentage of Union's system gas purchase pass through the Dawn Hub; and what percentage of Union's direct purchasers' gas passes through the Dawn Hub.

T3.UNION.BOMA.29**Interrogatory #29**

Please discuss whether Union offers any direct purchase options (bundled or unbundled) to customers wishing to purchase gas at Niagara. If not, why not? Please discuss separately for bundled and unbundled direct purchase options.

T3.EGD.UNION.BOMA.30**Interrogatory #30**

Please confirm that in the event an accident were to seriously diminish gas flow through the Dawn Hub, it would be advantageous to Union's and EGD's customers to have the ability to flow gas from Niagara directly to its consumers, without it having to pass through Dawn.

T3.UNION.BOMA.31**Interrogatory #31**

Please provide an account of any outages at Dawn that have materially impacted flows on Union's system since its inception, and what was the impact of those accidents.

T3.UNION.BOMA.32

Interrogatory #32

Please describe the further growth in the Dawn Parkway system planned for 2015, 2017 and 2018. When will Union be seeking approval for 2017 and 2018 additions?

T3.EGD.UNION.BOMA.33

Interrogatory #33

Please confirm that Ontario ratepayers of both companies currently have access by a direct pipeline route to the Marcellus/Utica basins through Niagara, through existing TCPL's connection with National Fuel Gas, Tennessee, Dominion North, Millennium, and perhaps other pipelines.

T3.EGD.UNION.BOMA.34

Interrogatory #34

Ref: EB-2015-0166, Exhibit A, Page 10, Lines 1-4

Please confirm that the impact of NEXUS's project on EGD will be to further concentrate their reliance on Dawn.

T3.EGD.UNION.BOMA.35

Interrogatory #35

Please confirm that Ontario's security of gas supply is enhanced by having material supplies of gas enter the Union/EGD city gates at different points without undue concentration at any one potential chokepoint.

T3.UNION.BOMA.36

Interrogatory #36

Ref: Ibid, Page 19

Two of Union's Gas Supply Planning Principles are:

- "(2) minimize risk by diversifying contract terms, supply basins, and upstream pipelines...
- (5) deliver natural gas to various receipt points on Union's system to maintain system integrity".

Union has stated that it does not intend to materially increase its capacity to purchase Marcellus/Utica gas at Niagara, the closest Ontario receipt point to Marcellus/Utica supply. Please explain how this position is consistent with the gas supply principles (2) and (5), cited above.

T3.EGD.UNION.BOMA.37

Interrogatory #37

Ref: Ibid, Page 22

Please confirm that alternative routes already exist to move Marcellus/Utica shale gas to Ontario via Niagara. Please discuss the status of each of the routes and compare the costs of using each of them to the NEXUS route.

T3.EGD.BOMA.38

Interrogatory #38

Ref: Exhibit A, Tab 2, Schedule 1

EGD states that the annual payments to the NEXUS pipeline owners will be about US\$28 million per year in 2017. Please provide a comparison of this dollar amount to EGD's currently total gas purchase for 2014, total utility revenue for 2014 and forecast for 2015, total utility assets at December 31, 2014 and forecast for December 31, 2015, and its total net worth for 2015 as at December 31, 2014, and forecast for December 31, 2015.

T4.UNION.BOMA.39

Interrogatory #39

Ref: Ibid, Page 29

Is the gas supply portfolio being referred to at pages 29-34 Union's system gas portfolio, or does it include direct purchase as well?

T4.UNION.BOMA.40

Interrogatory #40

Ref: Ibid, Page 8

Please describe the process by which Union may suggest and have implemented changes to the contract, if required. Please confirm that any proposed changes must be consistent with the NEXUS FERC gas tariff, and please explain the impact of that statement, perhaps with examples.

T4.EGD.UNION.BOMA.41

Interrogatory #41

Ref: *Exhibit A, Tab 3, Schedule 1, Appendix G, Page 3, Pro Forma Statement of Negotiated Rates*

Please provide an amended version of the above document which explains each term used in sufficient detail, to allow a Canadian reader to satisfy himself or herself of the extent to which the negotiated rate may vary over the term of the proposed transmission contracts between Union, EGD and NEXUS. EGD should provide a similar explanation for its Negotiated Rate Agreement, as well as its answer to each part of the previous two questions.

T4.EGD.BOMA.42

Interrogatory #42

What is the role of, the need for, and the proposed route of, NEXUS Transmission Pipeline Canada Ltd., which is mentioned in the EGD Agreement, but not the Union Agreement?

T4.EGD.BOMA.43

Interrogatory #43

Ref: *Exhibit A, Tab 2, Schedule 1*

Please provide a copy of the EGD gas purchase and sales agreement for the 200,000 GJs at Niagara, and the transportation contract with TCPL to the EGD Parkway/EGD city gate.