**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** an Application by Union Gas Limited for pre-approval of the recovery of the cost consequences associated with the installation of three new compressors along Union's Dawn to Parkway pipeline transmission system.

**EB-2015-0200**

**Interrogatories From**

**The Association of Power Producers of Ontario (APPrO)**

**To**

**Union Gas Limited**

**September 8, 2015**

**Question 1:**

Reference: i) Exhibit A Tab 6 pages 12-14
ii) Exhibit A Tab 6 page 3
iii) Exhibit A Tab 11 page 8

Preamble: In Reference i) Union notes that the proposed TransCanada Vaughan Mainline Extension will be required by TransCanada to support Union's proposed expansion. Union also notes that TransCanada will make the necessary applications to the National Energy Board (NEB) and an approval would be expected in 2016. Union further notes that Union's proposed construction activities for 2017 "cannot be linked to downstream project approvals without significantly impacting the in-service date of Union's proposed facilities" … "and would result in a minimum one year delay in the construction of Union's proposed facilities". APPrO would like to understand this potential concern.

a) Please provide the status of TransCanada's approvals.
b) Please confirm that Union is not asking for approval to construct the proposed facilities under section 91 of the *Ontario Energy Board Act, 1998* and as such does not require the Board's approval to commence construction. If not confirmed, please explain.
c) Please confirm that the primary purpose of the application is to seek approval of the cost consequences of the application to adjust rates.
d) Please explain why it was not possible for Union and TransCanada to coordinate the development of their respective and dependent facilities such that it puts the Board in the position of having to approve Union's facilities (for cost recovery purposes) without conditioning their approval on the approval of any necessary downstream facilities.
e) Please provide a monthly and cumulative expenditure profile of the proposed facilities commencing as of August 2015 and extending to the project completion date. Please also include all previous expenditures as a 'project-to-date' entry.
f) Regarding Union's proposed new transportation agreements, Union notes in Reference ii) that it has entered into Precedent Agreements, Financial Backstopping Agreements and Transportation Contracts:
    i. Please file a generic version of each of these agreements.
    ii. Are any of Union's new transportation agreements or precedent agreements with its shippers conditional on coming on the downstream transportation arrangements in any way? If so please provide all the relevant details.
    iii. Please describe the purpose of the Financial Backstopping Agreement and who bears the risk of a Union project delay or termination.
    iv. In the event that the TransCanada facilities are not constructed, but Union constructs its facilities and adjusts rates as proposed, please confirm that all M12 shippers and in-franchise customers bear the costs of such facilities going into service prematurely.
g) Union requires some work to be competed in 2016 (Reference iii) and further that Union is expecting TransCanada to receive approval of its facilities sometime in 2016 (Reference i), but such NEB approvals are not guaranteed. Please describe the consequences if the Board were to approve cost recovery of Union's facilities only for Union's 2016 facilities (described in Reference iii), but

conditioned the cost recovery of the balance of Union's facilities until such time as the NEB approval is received and further that TransCanada commits to its construction of such facilities pursuant to such approval.

h) Does Union foresee greater coordination with TransCanada and other infrastructure parties in the future, to coordinate the development of assets that will reduce the development risk among parties which would protect customers from one project proceeding in advance of all necessary approvals being received? If so, please explain.

**Question 2:**

Reference: i) Exhibit A Tab 10 page 2 Table Criterion iv)

*The project must be needed to serve customers and/or to maintain system safety, reliability or integrity, and cannot reasonably be delayed, and is demonstrated to be the most cost effective manner of achieving the project's objective relative to the reasonably available alternatives.*

Preamble: APPrO would like to better understand this criterion of the capital pass-through mechanism.

a) Most of the proposed facilities depend on Union's shippers also using TransCanada's proposed transportation facilities downstream of Parkway. In the event that Union receives the approvals requested, proceeds with construction and is ready to put its facilities into service as of November 1, 2017, please comment if Union believes that the above criterion will have been met as a pre-condition of a rate adjustment if:
   i. The TransCanada facilities have not been approved?
   ii. TransCanada is not prepared to proceed under the conditions of approval they have received from the National Energy Board?
   iii. TransCanada's facility approval has been rejected?

**Question 3:**

Reference: i) Exhibit A Tab 6 page 15
ii) EB-2015-0166/EB-2015-0175 Exhibit B.T2.Union.FRPO.12 Attachment 1 page 5

*2) Customer Obligations.*

*a) No later than 60 days from the execution of this Precedent Agreement for Phase I and no later than November 1,2014 for Phase II, Customer will advise Pipeline in writing of: (i) any facilities which Customer must construct, or cause to be constructed, in order for Customer to utilize the firm transportation service contemplated in this Precedent Agreement; and (ii) any necessary or desirable contractual and/or governmental or regulatory authorizations having jurisdiction over the Customer which Customer determines are necessary or desirable for Customer in order to execute and deliver the Phase I Service Agreement and Phase II Service Agreement (as those* *terms are defined in Section 3 below) and to fulfill its obligations thereunder and to otherwise perform its obligations under this Precedent Agreement ("Customer's Authorizations").* [Emphasis added]

iii) EB-2015-0166/EB-2015-0175 Exhibit B.T1.Union.SEC.11 Attachment 1 slide 8

***Conditions Precedent for Bid***

*1. (a) Nexus shall have built and placed into service, and/or acquired the necessary infrastructure for the complete path from the Central Receipt Point to Dawn.*
*(b) Union shall have deemed the tolls from 1)(a) acceptable, in Union's sole discretion.*
*2. Nexus shall have agreed to provide a list of the specific facilities and the schedule (including major milestones) required at the time the Precedent Agreements are executed and shall have agreed to commit to providing ongoing quarterly updates throughout the remainder of the project.*
*3. Union shall have deemed the Final Project Receipt and Delivery points acceptable.*
*4. Union shall have granted internal management approval, in Union's sole discretion.*
*5. (a) <u>Union shall have obtained, in form and substance satisfactory to Union, and all conditions shall have been satisfied under, all governmental and regulatory approvals, consents, orders and authorizations that are required with respect to any facilities needed to be constructed by Union in order to utilize the Nexus Capacity.</u>*
*<u>(b) Trans Canada Pipelines shall have built and placed into service any facilities deemed to be needed by Union in order to utilize the Nexus Capacity, specifically including Parkway Belt to Maple.</u>*
*6. Union shall have obtained, in form and substance satisfactory to Union, approval from the Ontario Energy Board, as to the prudence and recovery of all gas related costs associated with the contract commitment resulting from this and subsequent bids (if any) into this open season.*
*7. Union shall have satisfied itself as to the availability of proven and economic reserves in the basins directly connected to Nexus and/or shall have secured sufficient supply at costs deemed acceptable by Union.*
*8. Nexus shall have demonstrated, to Union's satisfaction, the capability to support Union's Vertical Slice program.* [Emphasis added]

<u>Preamble:</u> While Union notes that its 2017 Dawn Parkway expansion approvals should not be dependent on upstream projects being constructed, APPrO would like to better understand Union's concepts of interdependency.

a) Reference ii) is an excerpt from Union's NEXUS Precedent Agreement which specifically provides that their NEXUS contract would be conditional on "*any facilities which Customer must construct, or cause to be constructed, in order for Customer to utilize the firm transportation service contemplated in this Precedent Agreement".* Furthermore Reference iii) is an excerpt from a Union senior management presentation indicating that the NEXUS agreement would be conditional upon a variety of downstream facilities including Union and TransCanada facilities.

i. The NEXUS Precedent Agreement only generally deals with the necessary downstream facilities that must be in place. Please detail what specific Union and TransCanada facilities Union will be required to fulfil the condition in Reference iii).
ii. Please explain why the principle that Union included in its NEXUS contract (i.e. conditioning the financial liability of an upstream transportation contract on other dependent facilities) should not similarly be applied to Union's 2017 proposed facility build. More particularly, Union's proposed 2017 facilities would not have rates adjusted until such time as the necessary upstream and downstream facilities are also in service to allow utilization of such facilities.

**Question 4:**

Reference: i) Exhibit A Tab 6 pages 19-21
ii) Union's letter of September 3, 2015, increasing the term-up threshold to $50 million

Preamble: Union has proposed a Term-Up Provision to promote efficient expansion of their Dawn-Parkway system similar to the term-up provision recently implemented by TransCanada. APPrO has concerns that two independently administered term-up provisions could create significant contract risk for certain shippers.

a) Please confirm that the application of Union's Term-Up Provision is for expansion costs only.
b) Is it Union's intention to trigger the Term-Up Provision in all cases where expansion projects are above the threshold or only those projects that could be deferred in the event that transportation contracts were not renewed? An example of this might be a compressor expansion at Dawn to increase storage injections.
c) Would Union administer its Term-Up Provision independent of TransCanada's term up provision? Please explain.
d) Please confirm that Union could have projects that would trigger the application of its Term-Up Provision but would not necessarily trigger a similar downstream term-up provision by TransCanada, or vice versa.
e) Please confirm that many shippers on Union also are shippers on TransCanada and in the event that Union were to trigger a five year term-up, but TransCanada were not to also trigger a similar term-up, it could result in shippers experiencing a contract mismatch between the two pipelines.
f) Since TransCanada also uses a term-up provision, does this not substantially reduce the risk to Union, as a shipper that terms up with TransCanada is more likely to renew its transportation contract with Union even without a Term-Up Provision on Union?

**Question 5:**

Reference: i) Exhibit A Tab 6 pages 19-21
ii) Union's letter of September 3, 2015, increasing the threshold to $50 million
iii) Exhibit A Tab 10 Schedule 4

Preamble: Union has proposed a Term-Up Provision to promote efficient expansion of their Dawn-Parkway system. APPrO has concerns over whether this is the most effective means of promoting the efficiency objective.

a) What other mechanisms to promote efficient expansion of the Dawn-Parkway system did Union explore prior to proposing the Term-Up Provision? Please describe each alternative mechanism (other than the current reverse open season that allows customers to turn their capacity back to Union) and elaborate on why Union chose the Term-Up Provision to achieve the objective of efficient expansion.
b) Please provide a list of all parties that have utilized Union's reverse open season for its Dawn-Parkway system over the last 5 years and show in a table the shipper, the contract volume, the delivery point, the original contract term and the date that the capacity was actually turned back.
c) Union's unit expansion costs continue to increase, which is evidenced by the fact that M12 rates in this application are increasing by about 21% (Reference iii). Such an increase will negatively impact all existing shippers.
   i. Does Union agree that some markets that are transmission shippers on Union have increasing supply options and could source gas from locations other than Dawn?
   ii. Did Union consider a 'buy-back capacity auction' mechanism (in addition to a reverse open season) whereby Union would pay a fee to an existing shipper to encourage it to voluntarily terminate capacity in advance of its current contract term (where such maximum unit fee payable would be set by Union and be less than the equivalent unit cost of expansion)?
   iii. Does Union agree that if an existing customer was prepared to offer capacity back to Union for a fee (which could be used by such customer to offset the cost of gas sourced in an alternative fashion) that such a mechanism (subject to the appropriate regulatory treatment of such Union costs) has the potential to provide the necessary capacity at a cost less than physical expansion and promote the efficient operation of infrastructure in and around Ontario?
d) While it may be too late to consider such a mechanism as an alternative for 2017 facilities:
   i. Will Union consider the merits of such a 'buy-back capacity auction' or other innovative solutions in lieu of physical expansion to optimize facility expansions prior to requesting any further Dawn-Parkway expansions?
   ii. Will Union engage other stakeholders including TransCanada to obtain their input on such solutions?