ONTARIO ENERGY BOARD

EB-2014-0182

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. 36 thereof;

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 Town of Milton and the Town of Oakville.

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders for approval of recovery of the cost consequences of all facilities associated with the development of the proposed Burlington Oakville Project

FINAL ARGUMENT

OF

THE FEDERATION OF RENTAL-HOUSING PROVIDERS OF ONTARIO

OCTOBER 16, 2015

Introduction

In this application, Union Gas has identified that Burlington-Oakville is the fastest growing community in the Union South territory. FRPO does not take issue with Union's growth projections. Union has further identified that meeting this increased requirement for peak day distribution capacity has been complicated by an evolving market and structural changes inhibiting historic solutions from being effective. As a result, Union asserts that a $120M distribution pipeline is best option to meet this growth and respond to the changes. FRPO does have serious concerns about the proposed approach to meet these distribution requirements.

Throughout the course of the proceeding, the record is littered with questions and undertaking requests that were declined as outside the scope of this proceeding. In parallel, Union has submitted applications for the pre-approval of the cost consequences for the Nexus pipeline to supply additional gas to Union's system[1] and for a leave to construct for additional Dawn-Parkway capacity[2]

While Union is on the record in this proceeding and elsewhere with this Board[3] asserting that these applications are not connected, we will provide the submissions that demonstrate the linkage of these applications and, when seen in totality, that there are more economical alternatives which minimize risk as laid out in Union's Gas Supply Planning Principles. As a result, we respectfully submit that Union has not met its onus to demonstrate that this project is the best alternative in the public interest as measured by the Primary Objectives of the Board in the OEB Act.

Our submissions are organized as follows:

1) The Role of the Economic Regulator in a Facilities Application
2) Meeting the Pipeline Capacity requirements for the Burlington-Oakville system

[1] EB-2015-0166
[2] EB-2015-0200
[3] Union response to FRPO intervention in Nexus, Nexus transcript with Union's refusals on undertakings

3) Correcting the Assertions in the Reply Evidence
4) Timing and Need for the Proposed Pipeline
5) Need for Further Evaluation
6) The Gas Supply Issue
7) Inter-relationship of capacity requirements and gas supply
8) Conclusion

1) <u>The Role of the Economic Regulator in a Facilities Application</u>

A natural gas distribution utility needs to ensure that it gets gas to all its customers on a peak design day. While this process can be a complex engineering analysis to determine the best approach to that end, the assessment of the viable alternatives is in the discretion of the utility. However, when other factors beyond the objective of seeking the lowest cost solution contribute to the decision-making, the factors must be considered by a party independent from the consequential benefits, including shareholder return, of one alternative over another.

From an Agency Cost Theory[4] perspective, as Agent, organizational management is primarily contracted to allocate resources in such a way as to serve the shareholders' interests first. Due to competition for capital and other resources, management in a private corporation must allocate and utilize resources and develop strategy with the shareholders' interests as their primary objective. In fact, their continued employment can be dependent upon how successful they are in meeting shareholders' expectations. In a monopoly franchise environment, an economic regulator is established to ensure that the social contract elements of the franchise rights are carried out with a balance created for the consumer interest and the overall public interest.

[4] Jensen, Michael C. and Meckling, William H. *Theory of the Firm: Managerial Behaviour, Agency Costs and Ownership Structure,* Journal of Financial Economics, October, 1976, V. 3, No. 4, pp. 305-360.

As the economic regulator, the Ontario Energy Board ("the Board") is guided by the objectives in the OEB Act[5] to provide this balance. In our view, this balance is even more important in times of significant market change when long-term strategic investments and choices are being made on behalf of ratepayers. In its capacity as the approving authority for Leave to Construct applications, the Board reviews proposals mindful of these objectives and the fact that the applicant is not financially indifferent to the outcome[6]. Union Gas shareholders would earn a return on the Burlington-Oakville pipeline along with Dawn-Parkway infrastructure necessitated initially or over time, to feed the Burlington-Oakville pipe from Dawn. Further, Union Gas' shareholder is a 50% partner in the proposed Nexus pipeline that would bring Marcellus gas to Dawn[7]. Attempts have been made to get additional evidence on the record on Union's considerations of alternatives to address the Burlington-Oakville system and the broader implications of the feeding a new pipeline from Dawn to Parkway. With the evidence currently on the record, we respectfully submit that Union has not demonstrated that this proposal in the public interest as the proposed pipeline does **<u>not</u>**:

1) Represent the most economically rational approach to meeting the customer needs
2) Protect ratepayers from incremental landed gas costs that could otherwise be avoided through balanced, prudent gas supply planning

2) <u>Meeting the Pipeline Capacity Requirements of Burlington-Oakville</u>

A fundamental aspect of ensuring all customers' needs are met is peak day capacity. In the case of Burlington-Oakville system, the needs are currently met with a combination of physical capacity from Union transmission and distribution facilities and capacity from TCPL contracts. Union's proposal would serve to eliminate the TCPL capacity while increasing the amount served from Union owned assets including a new pipeline which parallels both:

[5] OEB Act 1998, CHAPTER 15, Schedule B Clause 2: Subsections 2. To protect the interests of consumers with respect to prices and the reliability and quality of gas service and 3. To facilitate rational expansion of transmission and distribution systems.

[6] Transcript, Volume 1, page 133, line 26 to page 134, line 10
[7] EB-2015-0166 Exhibit A, pages 1and 2. Since Spectra is only a 50% partner, the Affiliate Relationship Code does not apply.

- Union's existing pipeline feed connected to Parkway and
- TCPL's pipeline that provided feed that connects Parkway to Niagara via Oakville and Burlington

But because Union is proposing a change to the capacity contracted, it does not change the existing pipeline infrastructure and its available capacity. Historically, natural gas fed from Dawn-Parkway system toward and through Niagara to feed customers in Western New York and beyond. One line moved gas from Kirkwall to Niagara feeding Union Gas customers along the way through gate stations at Hamilton Gate 3 and Kirkwall Dominion. A second pipe flowed gas from Parkway to Niagara feeding Union Gas customers through gate stations in Burlington and Oakville. The push of new supply source from Marcellus and Utica has resulted in a reversal of flow on those pipelines that is scheduled to increase. However, while the flow direction has changed, these pipes are still sources of feed to the communities along the path.

In its application submitted on December 12, 2014, Union proposes to construct 12 km of NPS 20 pipeline from the Parkway West Compressor Station to the Bronte Gate Station on its existing system. The total cost of the proposed pipeline is estimated at $119.5 million with an in-service date of November 1, 2016. Union claims that the proposed pipeline is more cost effective than commercial services alternatives to provide continued reliable and secure delivery of natural gas and to serve increasing demand in the rapidly expanding Oakville, Burlington and the southern portion of Milton.

In the alternate proposal, the Cheung evidence offers the potential for the Burlington and Oakville communities to benefit from the evolving sources of supply in the gas market and increases in flow available on existing assets. The proposed pipeline and the commercial services alternatives considered by Union in its application were all premised upon transporting the natural gas in a southerly direction from Parkway to Oakville and Burlington[8]. On June 29, 2015, on behalf of Ontario Greenhouse Vegetable Growers ("**OGVG**") and Canadian Manufacturers & Exporters ("**CME**"), Ms. Cheung provided evidence that concludes a no build alternative consisting of contracting on TransCanada PipeLines' Mainline System ("**TransCanada**") is both technically and economically viable.

The transportation service contemplated in the no build alternative ("Alternative" or "Alternative Proposal") is premised upon transporting the gas in a northerly direction from Niagara/Douglastown ("**Niagara**") to Burlington and Oakville in the Central Delivery Area ("**CDA**"). The high level assessment indicates that the no build alternative is technically feasible and could provide significant savings to Union's customers as compared to the proposed pipeline[9].

One of the major benefits of the Alternate Proposal is contracting for the amount needed in increments over the 20 year period. This approach allows for costs to be incurred on an as-needed basis versus a build project where most of the capital costs are incurred at the outset. This incremental contracting at separate intervals is fundamental to building a portfolio of contracts that diversify term in a risk-mitigated portfolio. To be clear, it would be imprudent to contract for 15 years an amount of capacity that would only be fully utilized in 20 years so it is not a reasonable comparison.[10]

The economic feasibility is premised upon Union obtaining incremental gas supplies at Niagara and/or Douglastown[11] and the most significant risk with the Alternative is Union's willingness and ability to displace existing supplies with Appalachian supplies at Niagara and/or

[8] Transcript Volume 1, page 18.
[9] CME_OGVG Evidence, paragraph 23.
[10] Union IRR
[11] CME_OGVG IRR to OEB Staff #1(a).

Douglastown[12]. FRPO submits that Union's interpretation of the Alternative as presented in its Reply Evidence, subsequent responses to information requests and testimonies during the oral hearing is demonstration of its unwillingness to implement the Alternative.

3) Correcting the Assertions in the Reply Evidence

On July 31, Union submitted its Reply Evidence noting three fundamental issues with the Alternative and provided a variation which would "operationalize" the Alternative. Based on the evaluation provided in Reply Evidence, Union concluded that the proposed pipeline is more economic than to contract third party services. Union interprets the Alternative as something that would require it to (i) commit to transportation and gas supply arrangements in 2016 to meet the forecast requirements in 2035; (ii) disconnect the Burlington Oakville system from Union's Dawn Parkway system; (iii) requires additional assets to "operationalize" the Alternative; and (iv) decrease diversity and security of Union's upstream transportation and supply portfolio. Furthermore, Union suggests that the Alternative should include the costs related to a new Kirkwall to the amended CDA FT contract estimated at $8.25 million per year.

(i) Commit to 2035 Requirements and Separate Gas Supply Plan

The Alternative eliminates the potential for duplication of infrastructure in Ontario by not building the proposed pipeline[13]. It does not require Union to commit to transportation and gas supply arrangements in 2016 to meet the forecast requirements in 2035, nor does it require Union to create a separate gas supply plan for the Burlington Oakville demand. The intent of the Alternative is for Union to integrate and phase in new supplies from Niagara and/or Douglastown. Union could start by obtaining Niagara supplies to replace the exchange arrangement or a lesser amount and then increasing Niagara supplies to meet demand growth

[12] CME_OGVG IRR to OEB Staff #3(a).
[13] CME_OGVG IRR to OEB Staff #2(a), Transcript Volume 2, page 24.

and/or replace expiring existing supplies[14]. It is noted that the existing supplies referenced by the Alternative is the entire Union South, not just the Burlington Oakville market[15].

(ii) Disconnect from Dawn Parkway System

Union's suggestion that the Alternative would disconnect the Burlington Oakville system from its Dawn Parkway system contradicts the evidence on the record. Union's Dawn Parkway system is an integral part of the Alternative. The Alternative relies on using the excess supplies to reduce the flows from Dawn to Kirkwall when flows are from Dawn towards Parkway or for injection into storage when flows are from Parkway to Dawn[16]. The transportation of the excess supplies makes use of existing Dawn Parkway system capacity[17].

(iii) Union's Operationalized Alternative

Union's inclusion of several additional costs to "operationalize" the Alternative is inconsistent with its (i) economic evaluation of the various commercial arrangements in the application and (ii) approved rate making methodology.

To "operationalize" the Alternative, instead of one contract from Niagara to the CDA on the TransCanada system, Union asserts it would need to have two contracts on TransCanada, one from Niagara to Kirkwall and another from Parkway to the CDA, plus an allocation of the Dawn Parkway system from Kirkwall to Parkway. The rationale for the two contracts appears to be the result of two concerns: (1) there is no capacity on TransCanada's domestic line without facility expansion; and (2) Union requires firm diversion to bring the excess gas to Dawn.

[14] CME_OGVG IRR to OEB Staff #1(a), Transcript Volume 2, page 24.
[15] CME_OGVG Evidence, Attachment 3.
[16] CME_OGVG IRR to Union #3(b).
[17] Exhibit D.FRPO.8.

With respect to TransCanada's domestic line, Union asserts that the capacity is only 200 TJ/d and suggests that Enbridge has a special arrangement with TransCanada such that this line is exclusively used to serve Enbridge. While Union agrees that a prudent pipeline, such as TransCanada, would not allow a customer to dictate the physical path the gas molecules would take, Mr. Isherwood suggests that TransCanada might have made an exception with Enbridge.[18] We would respectfully submit that this is hearsay evidence that the Board should disregard for the following reasons.

Given other evidence provided in this proceeding, the existence of the alleged special arrangement that gives Enbridge an exclusive right to use the domestic line is questionable. Exhibit B.OGVG.1 Attachment 1 clearly shows that the Burlington Gate and Bronte Gate meter stations can receive gas from TransCanada's domestic line. CME_OGVG Evidence, Attachment 5, Figure 3-2 shows that the design day flow of TransCanada's domestic line, after the modifications approved in TransCanada's Greater Golden Horseshoe application are installed, is from MLV 209 near Hamilton to Parkway, not from Parkway to Hamilton. If the capacity of the domestic line is 200 TJ/d and Enbridge's Niagara to Parkway FT contract of 200 TJ/d dictates the use of the domestic line, TransCanada would not be able to offer any firm transportation to Union's Burlington Gate and Bronte Gate stations without expansion. However, this is not the case.

First of all, in Union's response to CME and OGVG Questions, dated June 19, 2015, Union confirmed that no new facilities are required on the TransCanada and Union systems to accommodate at additional 276 TJ/d commencing November 1, 2016 to Union's Burlington Gate and Bronte Gate stations. Secondly, TransCanada provided Union with a one-year, non-renewable, firm transportation contract of 61,888 GJ/d from Parkway to the CDA commencing November 1, 2015[19]. Lastly, Union currently has FT contracts with TransCanada totalling 68

[18] Transcript Volume 1, page 23.
[19] Transcript Volume 1, page 15.

TJ/d from Dawn plus 16 TJ/d from Parkway to the Burlington Gate and/or Bronte Gate stations[20].

Based on the above, FRPO submits that Union's understanding that the capacity of TransCanada's domestic line downstream of MLV 209 is 200 TJ/d and that Enbridge has a special arrangement to dictate its gas would only flow on the domestic line is flawed.

With respect to the requirement of firm diversion, FRPO notes that the commercial alternatives Union provided in its application included short haul and long haul transportation services from TransCanada to the ECDA. The long haul commercial alternative involves an FT contract from Empress to ECDA. In assessing this alternative, the issue of firm diversion was not identified and Union did not split this contract up into two contracts, namely, Empress to Parkway and Parkway to the ECDA. Yet, in assessing the Alternative Proposal short haul alternative from Niagara to the ECDA, firm diversion became such a critical issue that it compelled Union to assert the need toobtain two contracts on TransCanada instead of one. Union has cited this as a concern even though there is considerably less flow on the pipelines during the low consumption periods yet they would not answer the question regarding their experience with diversions not being authorized in the summer[21]. For many decades there has been cooperation between TransCanada, Enbridge and Union for system benefit to have complimentary exchange agreements to enable facilities to not be redundant when not practically needed. Put another way, in the summer low demand months, the Niagara supplies could be used to GTA markets reducing or eliminating the surplus gas limiting the need to move gas on the Dawn Parkway system. Nevertheless, managing the perceived diversion risk can be added to the list of outstanding issues identified in CME_OGVG Evidence, paragraph 26.

[20] Transcript Volume 1, pages 34 and 35.
[21] Transcript Volume 1, pages 115-117

In addition to the contract costs on TransCanada and allocated costs from the Union system, Union's "operationalized" scenario included costs to transport excess supplies from Kirkwall to Dawn. Under the currently approved cost allocation methodology, no costs can be allocated to in-franchise customers to transport the excess supplies from Kirkwall to Dawn[22]. FRPO notes that the issue of charging for the transportation of excess supplies to Dawn was not raised in Union's own commercial alternatives evaluation.

Based on the above, FRPO submits that the Operationalized Alternative Proposal presented in Exhibit C, Page 26, Figure 5-3 included costs that are inconsistent with (i) the methodology Union used in its own evaluation of commercial alternatives and (ii) the currently approved cost allocation methodology.

(iv) Decrease Diversity and Security of Upstream Transportation and Supply

Union suggests that the Alternative would decrease diversity and security of Union's upstream transportation and supply portfolio. This is not supported by facts. Currently, the Burlington Oakville area is served by a combination of physical pipelines owned and operated by Union and FT contracts on the TransCanada system. Once the proposed Burlington Oakville pipeline is built, the area will be served 100% by physical pipelines owned and operated by Union. It will no longer be served by the TransCanada system.

Union claims that where to source natural gas supply is an independent decision and the proposed pipeline "*is simply a high pressure distribution reinforcement that supports growing local markets attached to the Burlington Oakville System and will replace contracted third party*

[22] Transcript Volume 1, page 101.

services"[23]. Evidence provided by Union contradicts this claim. The commercial alternatives Union included in the application considered transportation services from Dawn, Parkway and Empress. Obviously an Empress to CDA contract cannot be served by gas supplies from Dawn. FRPO submits that even Union's own economic analysis involved a presumption of the supply source.

New Kirkwall to Amended CDA Contract

As part of the Settlement Agreement negotiations, upon construction of the proposed Burlington Oakville pipeline, the current Union CDA will be split into 3 delivery areas. Union will contract for 135 TJ/d from Kirkwall to the amended CDA to replace the current operational exchange. The cost of this contract is estimated at $8.25 million. During the Technical Conference, Union stated that the purpose of this contract was to keep TransCanada revenue neutral and that if a commercial alternative was selected over the proposed pipeline, Union would not pay the $8.25 million. Union revised this position after the Alternative was submitted by CME_OGVG stating that Union will have to pay for the new contract because Union expects TransCanada to try to maximize its revenue[24]. FRPO agrees with Union that TransCanada will try to maximize its revenue. For this reason, TransCanada may be willing to negotiate the price of the operational exchange if Union were to contract for additional FT service from Niagara[25].

FRPO notes that the Settlement Agreement is explicit in that the separation of the CDA is contingent upon the construction of the proposed Burlington Oakville pipeline. This fact is acknowledged by Union's witness, Mr. Isherwood, who testified that if the proposed pipeline is not approved, Union expects TransCanada will wish to discuss next steps[26]. In that regard, approving the proposed pipeline is paramount to approving the new 135 TJ/d contract worth over $8 million in annual charges to Union's ratepayers. Not approving the proposed pipeline will

[23] Exhibit D.Staff.2(b).
[24] Transcript Volume 1, page 156.
[25] Transcript Volume 2, pages 34 and 35.
[26] Transcript Volume 2, pages 132-133.

require the parties to renegotiate the separation of the CDA and the new Kirkwall to amended CDA contract.

4) Timing and Need for the Proposed Pipeline

Union is seeking approval to construct the proposed pipeline by November 1, 2016. For the 2015/16 contract year, it has FT contracts totalling 68 TJ/d from Dawn to CDA[27] plus 78 TJ/d from Parkway to CDA[28] for a total of 146 TJ/d from TransCanada. Including the flows from Union's existing 8" and 12" lines of 54 TJ/d, it appears that Union has the capacity to serve a peak load of 200 TJ/d at a minimum. In addition, it currently has a 21 TJ/d of Niagara to Kirkwall contract for Union South sales service customers plus a 67 TJ/d contract from Empress of which 50 TJ/d is for Union South sales service customers[29].

Subsequent to the construction of the proposed pipeline, Union will no longer require its short haul transportation contracts. It will continue to hold the 21 TJ/d of Niagara to Kirkwall contract and the long haul contract will be changed to Empress to ECDA for 11 TJ/d. Union is not clear how it plans to use the Empress to ECDA contract given the changes on its system although they expect this contract will remain in place at least until 2017/2018[30].

Most importantly, one of the fundamental premises for the proposed pipeline in the original evidence was that "*firm short haul transportation services have not been available directly from TransCanada*"[31]. That position evolved over time through discovery in the Technical Conference[32]. This change in availability of firm services was confirmed in Union's June 19, 2015 in response to CME and OGVG Questions. Evidence of this fact was Union's contracting for 61,888 GJ/day of firm service for Nov.1/15 to Oct.31/16 on August 28, 2015[33]. As the transcript reference states Union contracted for one year non-renewable service to bridge to

[27] FT contract expires October 31, 2014, Transcript Volume 1, page 91.
[28] Includes 62 TJ/d one-year, non- renewable, contract Union obtained on August 28, 2015.
[29] Exhibit D.FRPO.4.
[30] Transcript Volume 1, pages 128 to 130.
[31] Exhibit A, Tab 3, page 2, lines 2-3
[32] Transcript, Technical Conference, May 21, page 62, line 17 to page 63, line 22
[33] Transcript Volume 1, page 15, lines 13-20

Nov.1/16 when they propose to build the pipeline. However, that capacity and more (up to 92,000 GJ/day)[34] was available for firm renewable service that, if contracted for by Union, could serve the needs of the community for close to a decade based upon Union's growth forecast.

Based on the above, if the proposed Burlington Oakville pipeline is not constructed by November 1, 2016, it is conceivable that Union could make arrangements to have enough capacity to meet its forecast requirement for the next year or more to defer the project to November 1, 2017 to allow the Board to evaluate a more comprehensive analysis of the solutions as identified in the Alternative proposal and/or the opportunity for DSM to contribute to reducing the size of or eliminating the pipeline[35].

We will not directly address all points Union's Argument-in-Chief as we believe we have addressed the pertinent issues in these submissions. However, we believe it essential to point out that even though Union has evidenced multiple times that capacity is available from TransCanada, their Argument-in-Chief still relies on the misconception[36] to create the apparition of risk for security of supply due to non-renewable contracts when that has been proven not to be the case.

[34] TransCanada Canadian Mainline Existing Capacity Open Season, August 25-28. http://transcanada.com/customerexpress/2860.html The Existing Capacity Open Seasons are retracted from the website upon completion but are available upon request from TCPL. To assist the Board with ease of reference for verification, we have included Document as an appendix to this submission.
[35] Transcript Volume 1, page 168, lines 9-14
[36] Union Argument-in-Chief, October 2, 2015, page 2 paragraph 3 and page 6, paragraph 18

5) <u>Need for Further Evaluation</u>

FRPO submits that additional evaluation should be conducted to further delineate the Alternative as compared to the proposed pipeline. There are questions regarding the true cost of Union's proposed pipeline. The table provides the true cost of the proposal which is approximately $8.5 million higher than that presented by Union for the 2017/18 contract year.

Transportation requirements and costs to meet 2017/18 demand					
	Rates	Cost presented by Union		True Cost of Proposal	
	<u>$/GJ</u>	<u>Volume, TJ</u>	<u>Cost, $MM</u>	<u>Volume, TJ</u>	<u>Cost, $MM</u>
TransCanada:					
Empress to ECDA	1.9388	0	0.00	11	7.78
Niagara to Kirkwall	0.2282	0	0.00	21	1.75
Kirkwall to CDA	0.1707	135	8.41	135	8.41
Total to Burlington Oakville		0	8.41	32	17.94
Union Gas:					
Dawn to Parkway (In franchise)	0.0856	210	6.56	178	5.56
Total to Burlington Oakville		210	6.56	178	5.56
Burlington Oakville Project		156	8.28	124	8.28
Total Burlington Oakville Demand		210	23.26	210	31.79
Notes:					
1. Cost presented by Union case, extracted from Ex. D.FRPO.10 Attachment 1, represents volume levels and costs Union used in its cost comparison with updated TC tolls.					
2. True Cost of Proposal case, represents volume levels and costs including Union's FT commitments on TCPL as provided in its response to Ex. D.FRPO 4(b).					

In addition, there are questions regarding the appropriateness of the operationalized scenario both in terms of the added costs and the contract volume assumptions underpinning the scenario. If one were to assume Union would contract for 94 TJ/d from CDA in 2035, the cost of the Alternative, correcting for the cost items discussed in previous sections, would be determined as follows.

94 TJ/d Niagara to CDA (TCPL)	$7.7 million	($0.2231*94*365/1000)
182 TJ/d Kirkwall to Parkway (Union)	$0.9 million	($0.0135*182*365/1000)
182 TJ/d Dawn to Kirkwall (Union)	$4.8 million	($0.0721*182*365/1000)
128 TJ/d Parkway to Union CDA (TCPL)	$7.4 million	($0.1594*128*365/1000)
Total, excluding Kirkwall to Union CDA	$20.8 million	
135 TJ/d Kirkwall to Union CDA (TCPL)	$8.3 million	
Total, including Kirkwall to Union CDA	$29.1 million	

Comparing the cost of the "operationalized" Alternative in 2035 to the true cost of Union's proposal in 2017/18, the Alternative is estimated to provide savings of $2.7 to $11 million depending on whether Union has to pay TransCanada for the new Kirkwall to Union CDA contract cost. The cost of the Alternative in 2017 is expected to be less than that in 2035 because the forecast demand is 66 TJ/d lower. To the extent that the 2017 "operationalized" Alternative cost is lower, the estimated savings would be increased accordingly. Based on the foregoing, FRPO submits the Alternative merits further evaluation.

6) The Gas Supply Issue

Biggest change for Ontario market is Gas Supply. Dynamics of North American market provide utilities and customers with choices that they did not have five years ago and likely more choices will evolve over the next 5 years.

Union has expressed concern about purchasing larger volumes of gas at Niagara due to lack of liquidity.[37] In addition, they have testified that the price advantage at Niagara is going to change as early as this winter[38]. However, the evidence from two sources demonstrates that this resistance to purchasing at Niagara is not grounded in facts about impact to ratepayers. The evidence comes from two sources: Enbridge and Union's own Gas Supply consultant ICF.

While Union has resisted consideration of this approach citing lack of liquidity, Enbridge has chosen to contract at Niagara starting this November for 200,000 GJ/day which is more than double what Union would require to facilitate the Alternate proposal in 2017. Enbridge has provided evidence in the Nexus proceeding that their contracted gas cost over the first 22 months has an average price that is **$0.46 less than a Dawn contract[39].**

Union has inferred that this is a short term effect. However, that is not the evidence presented provided in the Nexus proceeding[40]. What is clear from that evidence is that on a Landed Cost basis, it is anticipated that deliveries at Niagara are forecasted to be the lowest of any supply path to the Union South franchise area. Using the most up-to-date analysis provide by Union, completed using third party expert analysis, Niagara is forecasted to be at least $0.35/GJ less than gas delivered via Nexus to Dawn and $0.53/GJ than sourcing at Dawn. To put that in

[37] Union Argument-in-Chief, page 15
[38] Exhibit J1.3
[39] EB-2015-0166/0175 Transcript Volume 2, Technical Conference, September 9, 2015, page 58
[40] EB-2015-0166/0175 Exhibit B.T1.Union.LPMA.7

context, at 94 TJ/day, the forecasted savings would at least $12 million/year relative to Nexus using the most conservative forecasted differential and about $18 million/year relative to Dawn.

We respect that the gas supply issue is currently a major issue in the Nexus proceeding, however, as detailed below, there is an inextricable linkage between the capacity requirements of Burlington-Oakville and the evolution in the sourcing of gas supply for Union South

Serving Burlington-Oakville through the Alternate Proposal would rely on significant gas volumes sourced from Niagara delivered to the communities through pipe capacity on the TCPL system. Union does have a finite amount of gas that it can fit into its gas supply plan. We accept that. However, Union asserts that sourcing the 20 year maximum purchase of 276 TJ/day represents 77% of Union South's current portfolio. This is not an appropriate comparison.

In the Nexus application, Union states that 158TJ/day is one third of its total portfolio[41]. Simple math does not allow those two numbers to be correct unless Union is comparing the 158TJ to its supply portfolio for both Union South and North. Therefore, a 94TJ starting point would represent approximately 20% of Union's current South and North portfolio. In our submission, this level of contracting would demonstrate a prudent approach to balancing the sources of gas.

7) The Inter-Relationship of Capacity Requirements and Gas Supply

This application is premised on meeting the peak day requirements of the Burlington-Oakville system. As we have submitted above, the most economical path from a transmission and distribution cost perspective is to move the gas into Burlington-Oakville using a combination of existing capacities and new TCPL contracts from Niagara saving $2.7 to $11 million annually.

[41] EB-2015-0166 Exhibit B.T1.Union.Staff.2

From a gas supply cost perspective, sourcing this gas from Niagara versus Nexus saves an additional $12 million per year over the first primary term of these contracts.

The important inter-relationship that we are emphasizing is to get both the distribution rate benefit and the resulting commodity benefit, the system planner and purchasing agent of gas must work together to assess the total benefit of this approach. As an example, during cross examination of the Union witnesses, there appeared to be some confusion as to whether the contract for 11 TJ/d from Empress to ECDA would be used to serve the peak day demand of the ECDA, whether this contract should be from Parkway instead and whether there should be a contract at all[42].

Union has proposed that the Burlington and Oakville be fed predominantly from Dawn-Parkway system through a combination of the NPS 8 Milton Line, the existing NPS12 Parkway to Bronte Line and the proposed new NPS 20 Line along the same corridor from Parkway to Bronte. However, for the gas to be available at the Dawn-Parkway take-offs, Union must transport the gas from Dawn to Parkway. The incremental requirement to feed the proposed new NPS 20 Line contributes to Union's peak day requirements on the Dawn Parkway system and the capacity requirements for which Union is applying to expand in 2017[43].

Further, if the gas is sourced from Dawn, more gas must be available at Dawn above ground and below ground to be pushed up the pipeline at design pressures by Dawn compression. The result is the requirement to land more gas at Dawn. Therefore Union must continue to contract with pipelines that flow to Dawn. This need to have gas land at Dawn can be seen by Union's

[42] Transcript Volume 1, pages 128-130.
[43] EB-2015-0200

proposal to contract for an additional 158TJ/day on Nexus replacing expiring Vector capacity from Chicago amongst others[44].

However, this bias to have the gas originate at Dawn for all Dawn-Parkway loads is counter-intuitive to the design needs of the system. On a peak day, about 75% of the gas that leaves Dawn moving east on the system must exist at Parkway. Union's facilities, pipes and compression, must be designed to carry required in-franchise demands to the respective laterals along the pipe and send most of the throughput to Parkway. Therefore adding additional volumes on the very end of that system only increases the facilities requirement. This incremental demand at the end of the system increases the capacity requirements at a time when the incremental cost to add capacity is double the existing embedded cost[45]

Natural gas system planners should endeavour to reduce demands on the ends of pipes and seek ways to distribute the gas further upstream or alternatively add a source of gas at the end or near the end of the pipe. That is what the Alternate proposal does. By providing gas to the east end of the system, the Alternate proposal reduces the strain on the Dawn Parkway system thereby increasing the capacity available for other customers or decreasing capacity requirements for future builds.

Fundamentally, this approach was the major impetus for Union's requirement for Parkway delivery requirements. The system benefits of these deliveries were even acknowledged in decreased distribution rates for in-franchise customers[46]. The fact that customers who have been historically obligated at Parkway want to move to Dawn does not change the fact that there is a system design benefit with deliveries to the east end of the system. That fact is clear when it is

[44] EB-2015-0166
[45] EB-2014-0261 Reference o
[46] Cost allocation reference

understood that as part of the Parkway Delivery obligation shift originated in EB-2013-0365 results in an increased allocation of Dawn-Parkway costs to in-franchise customers.

8) Conclusion

To achieve the multiple benefits of reduced distribution rates, lower landed gas costs and increased Dawn-Parkway capacity available for other customers, there needs to be room in the Gas Supply portfolio to accommodate the necessary daily supplies from Niagara. At 94 TJ/d, annual savings from Union's distribution customers is estimate to range from $2.7 to $11 million excluding the cost of gas and $14.7 to $29 million including the cost of gas. FRPO submits that based on the estimated savings, further evaluation to integrate Niagara supplies and meeting the forecast Burlington Oakville demands is merited. With the current transportation and gas supply arrangements in place, Union should be able to meet the forecast demands of the Burlington Oakville market without undue hardship. Since there is a finite amount of gas supply arrangements available for displacement, there should be some consideration between accessing Appalachian supplies at Niagara and through NEXUS.

Given the recent system changes alluded to by Union's witnesses[47] and the developing nature of Niagara as a trading point, the additional time spent on assessing a different alternative may be beneficial. Furthermore, the approval of the proposed pipeline is paramount to approving the new 135 TJ/d contract from Kirkwall to the amended CDA worth over $8 million per year to Union's ratepayers. FRPO therefore respectfully urges the Board to reject the current application and direct Union Gas to engage an independent third party to prepare a comprehensive analysis of contracting at Niagara and/or Douglastown to serve Union's customer needs. Impacts to ratepayers should include the true cost of the proposed pipeline, an appropriate FT contracting and gas supply strategy, and the applicable landed gas cost.

[47] Transcript Volume 1, pages 65-66, pages 128-129.

In the alternative, we respectfully submit that the Board could consider initiating a gas supply review proceeding that would review the changing gas supply market and the role of the LDC in developing a comprehensive strategy. The proceeding could consider issues such as the ratepayer impact that include not only the gas supply landed cost but also the additional distribution rate impacts on consumer and the potential role of DSM in the future. This approach would reduce the risk that significant infrastructure or gas supply decisions are not made in a disjointed fashion while alternatives could be evaluated against a public interest based framework.

All of which is Respectfully Submitted on Behalf of FRPO,

Dwayne R. Quinn
Principal
DR QUINN & ASSOCIATES LTD.

APPENDIX

TO

FRPO FINAL ARGUMENT

20151016

TRANSCANADA PIPELINES LIMITED

Canadian Mainline Existing Capacity Open Season
August 25 – August 28, 2015

Canadian Mainline Existing Capacity Open Season

August 25 – August 28, 2015

TransCanada PipeLines Limited's ("**TransCanada**") Canadian Mainline pipeline system ("**Mainline**") is offering an Existing Capacity Open Season ("**ECOS**") for firm capacity as determined by a recent operational reassessment as per section 4.2 of the Transportation Access Procedures ("**TAPs**"). TransCanada will be accepting bids for the following transportation services: Firm Transportation Service ("**FT**").

TransCanada will only accept bids for service for the paths specified in Table 1. The deadline for submitting bids in this ECOS is 8:00 a.m. MDT (Calgary time) Friday, August 28, 2015.

Table 1: Available Capacity(1)(4)

Posted System Segments	FT Capacity (GJ/d) Starting November 1, 2015
Empress(2)(3) to (Domestic)	
Union CDA	92,000
Parkway to (Domestic)	
Union CDA	92,000

[1] TransCanada is accepting bids for firm service in this ECOS, only for the locations listed in the table above or additional receipt points noted in footnote 3.

[2] Shippers and prospective shippers should be aware that TransCanada has posted firm capacity from Empress that may be in excess of the upstream delivery capacity on Nova Gas Transmission Ltd. (NGTL). It is the responsibility of shippers to ensure upstream capacity is available.

[3] Bayhurst 1, Grand Coulee, Herbert, Liebenthal, Richmound, Shackleton, Steelman, Success, Suffield 2, and Welwyn are also valid receipt points.

[4] On May 29, 2014, the NEB issued the MH-001-2013 Decision directing all pipelines to begin collecting an abandonment surcharge to fund the future cost of pipeline abandonment. The NEB Reasons for Decision for MH-001-2013 can be found here. The approved surcharges can be found here.

Open Season & Bidding Procedure Highlights

- Bids must be received by TransCanada no later than 8:00 a.m. MST (Calgary time) Friday, August 28, 2015
- Please refer to the TAPs for information on bid deposit requirements
- Term: As directed by Section 4.2 of the TAPs
- Toll: The posted capacity will be at the NEB Approved Mainline Toll
- System Segment Capacity:

  - Some posted segments share common capacity. A successful bid on one system segment may reduce the capacity on another system segment. Any bids that pertain to common capacity will be evaluated together for allocation purposes.
  - Each capacity segment requested must be on an individual bid form
- Conditional Bidding: Mainline capacity bids can be conditioned on another Mainline capacity bid
  - If an ECOS bid is conditional on another ECOS bid, if either ECOS bid requires a reduction to the maximum daily quantity, the maximum daily quantity for the other ECOS bid will be reduced by the same percentage. Please submit each set of conditional bids in a separate fax, to provide clarity on which bids are related.
- Min Acceptable Quantity: May be specified by bidder in the event that prorating capacity is necessary
- Please refer to the TAPs: Transportation Access Procedures for more information

How to Bid

Service applicants must submit a binding bid via the Paper Version or Electronic Version to TransCanada's Mainline Contracting Department by email at mainline_contracting@transcanada.com or by fax at 1.403.920.2343 and must be received by 8:00 a.m. MST (Calgary time) on Friday, August 28, 2015. All bids received each day will be evaluated together for allocation purposes and contracts will then be issued to successful Service Applicants who will then have three banking days to return the signed contract to TransCanada.

Questions

If you have any questions, please contact your Mainline Customer Account Manager.

Calgary

Gordon Betts
Phone: 1.403.920.6834
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Michael Mazier
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Lisa DeAbreu
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Catherine Young
Phone: 1.416.869.2159
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Appendix

LINKS to Additional Information:

- Existing Capacity Open Season Paper Bid Form
- Existing Capacity Open Season Electronic Bid Form
- Mainline Tariffs: Toll Schedules & Pro Forma Contracts
- TAPs: Transportation Access Procedure
- 2015 Mainline Transportation Tolls and Abandonment Surcharges Effective July 1, 2015
- Index of Customers showing recent contracts and renewals
- Other TransCanada Information: http://www.transcanada.com/customerexpress/index.html

GST Procedures for FT, FT-SN, FT-NR - FOR EXPORT POINTS ONLY

TransCanada is required to charge the Goods and Services Tax (GST) or Harmonized Sales Tax (HST), whichever is applicable, on transportation of gas that is consumed in Canada. The GST is set at 5% while HST is set at 13% in Ontario.

Shippers may provide a Declaration which notifies TransCanada that the Shipper's FT contract is intended to serve an export market and should be charged 0% GST or 0% HST, on any Unutilized Demand Charges (UDC).

The Declaration Form is available at the following link:
FT GST/HST Declaration

Shippers may also zero-rate GST or HST on the associated transportation demand, commodity and pressure charges by making a Declaration on the nomination line in NrG Highway.

Please note:

- Declarations may only take effect on the first day of a month.
- A Declaration cannot be applied retroactively.
- A Declaration supersedes previous Contract Declarations.
- A single Declaration form is used for all of a shipper's firm export contracts eligible for zero-rating of UDC.
- If a Shipper zero-rates their nomination but does not execute a Declaration the Shipper will be charged 0% GST or 0% HST on their nomination but all associated UDCs will be charged the current applicable GST or HST rate.

Please refer to the following website for additional information on GST/HST regulations and rebates http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/gnrl/txbl/trnsprttn/menu-eng.html

For more information on TransCanada's GST/HST practices, contact Mainline_Contracting@transcanada.com.