EB-2015-0166 / EB-2015-0175

Ontario Energy Board

Union Gas Limited / Enbridge Gas Distribution

Pre-Approval of the Cost Consequences of Long-Term Transportation Contracts with NEXUS Gas Transmission

OEB STAFF COMPENDIUM

Union Panel

November 13, 2015

Tab 1

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Ontario

BY E-MAIL AND WEB POSTING

April 23, 2009

To: All Participants in EB-2008-0280

Re: Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts
Board File No.: EB-2008-0280

The purpose of this letter is to notify participants of the release of the final filing guidelines for the pre-approval of the cost consequences of long-term natural gas supply and/or upstream transportation contracts ("LTC filing guidelines"), which have been posted on the Board's website at www.oeb.gov.on.ca.

Background

In the Natural Gas Forum ("NGF") report, the Board concluded that it will:

- offer natural gas utilities the opportunity to apply for pre-approval of long-term natural gas supply and/or upstream transportation contracts; and
- consult on the development of guidelines that will inform all stakeholders of the principles and issues the Board will consider when evaluating an application for contract pre-approval.

In a letter, dated August 22, 2008, the Board outlined the issues to be addressed when developing a pre-approval process for long-term natural gas supply and/or upstream transportation contracts. The Board indicated that it would hold a consultation to discuss the needs, benefits and risks of entering into long-term contracts, the impact on competition and the filing guidelines.

Also, in its letter dated August 22, 2008, the Board stated that it planned to conduct the consultation in two phases. In the first phase, staff would hold stakeholder meetings which would lead to the development of a staff discussion paper. In the second phase, the Board would consider whether it is appropriate to develop filing guidelines for the pre-approval of long-term contracts.

On October 15-17, 2008, staff held a number of meetings with stakeholders. At these meetings, staff and its technical expert presented material to initiate discussion on whether: (i) it is appropriate for natural gas utilities to enter into long-term natural gas supply and/or upstream transportation contracts; and (ii) the Board should develop guidelines for the pre-approval of long-term contracts, and if so, what should be included in these guidelines.

At these meetings, no substantive issues were raised and stakeholders generally agreed to a pre-approval process for long-term contracts that support the development of new natural gas infrastructure (e.g., new pipeline facilities to access new natural gas supply sources such as Liquefied Natural Gas plants and frontier production). As a result, a staff discussion paper, as originally contemplated in Phase I of the consultation, was not necessary. The Board decided to proceed directly to Phase II and release its draft LTC filing guidelines for stakeholder comment. On February 11, 2009, the Board issued the draft LTC filing guidelines for stakeholder comment and the Report of the Board entitled Draft Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts ("the Report").

Ten stakeholders submitted comments on the draft LTC filing guidelines. The majority of these stakeholders supported the draft LTC filing guidelines and commented on the following matters:

- the actual contract itself should be filed as part of this process;
- this process should also include renewals of long-term contracts;
- this process should include any long-term contracts that involve an affiliate of the natural gas utility; and
- the Board should define what is meant by long-term.

One stakeholder, however, submitted that there is no need to determine at this time whether long-term contracts are appropriate since there are no current issues with security of supply or upstream transportation constraints. Therefore, it would be best for the Board to make a determination in the future if and when these concerns arise.

All materials related to these consultations (including stakeholders' comments) are available on the Board's website.

Final Filing Guidelines

The Board has decided to proceed with the finalization of the filing guidelines for the pre-approval of the cost consequences of long-term natural gas supply and/or upstream transportation contracts.

The filing guidelines in Attachment A reflect the comments by stakeholders, as appropriate. In response to the comments raised, the Board reiterates its policy as set out in the Report.

The Board believes that applications for pre-approval of the cost consequences of long-term contracts should be limited to those that support the development of new natural gas infrastructure. The Board does not believe that the pre-approval process should be used for the natural gas utility's ("utility") normal day-to-day contracting, renewals of existing contracts and other long-term contracts that are not related to new natural gas infrastructure. These contracts should continue to be addressed in the utility's rate proceedings.

Further, the Board is of the view that this pre-approval process should be an option available to the utility and not a requirement (even if the long-term contract involves an affiliate). As a consequence, the Board offers utilities the opportunity to apply on a case-by-case basis for pre-approval of these long-term contracts that support new natural gas infrastructure.

In its Report, the Board stated that it would pre-approve the costs associated with these contracts, not the contract itself. However, based on stakeholder comments, the Board believes that the contract should be filed as part of this process to allow for an appropriate review. The Board notes that the utility may request confidential treatment of its contract in accordance with the Ontario Energy Board's *Practice Direction on Confidential Filings*.

For additional clarity, the Board is of the view that defining long-term is not necessary since the pre-approval process is limited to projects that would support the development of new natural gas infrastructure. It is expected that the length of the contract will vary with, amongst other things, the nature and magnitude of the new natural gas infrastructure.

For any questions regarding the final LTC filing guidelines please contact Laurie Klein at laurie.klein@oeb.gov.on.ca or (416) 440-7661. The Board's toll free number is 1-888-632-6273.

Yours truly,

Original signed by

Kirsten Walli
Board Secretary

Attachment A

Attachment A

Filing Guidelines for Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts

This form applies to all applicants who are requesting pre-approval of the cost consequences of long-term natural gas supply and/or upstream transportation contracts that support the development of new natural gas infrastructure.

"Long-term" has not been defined since this pre-approval process is limited to projects that would support the development of new natural gas infrastructure. It is expected that the length of the contract will vary with, amongst other things, the nature and magnitude of the new natural gas infrastructure.

All applicants must complete and file the information requested in Part I, II, III, IV, V and VI.

Part I – Identification of Applicant

Name of Applicant:	File No: (OEB Use Only)
Address of Head Office:	Telephone Number:
	Facsimile Number:
	E-mail Address:
Name of Individual to Contact:	Telephone Number:
	Facsimile Number:
	E-mail Address:

Part II – Needs, Costs and Benefits

2.1	A description of the proposed project that includes need, costs, benefits (such as this project improves the security of supply and the diversity of supply sources) and timelines.
2.2	An assessment of the landed costs (supply costs + transportation costs including fuel costs) for the newly contracted capacity and/or natural gas supply compared to the landed costs of the possible alternatives.

Part III – Contract Diversity

3.1	A description of all the relevant contract parameters such as transportation/supply provider, contract length, conditions of service, price, volume, and receipt and delivery points.
3.2	An assessment on how the contract fits into the applicant's overall transportation and natural gas supply portfolio in terms of contract length, volume and services.

Part IV - Risk Assessment

4.1	Identification of all the risks (such as forecasting risks, construction and operational risks, commercial risks and regulatory risks) and plans on how these risks are to be minimized and allocated between ratepayers, parties to the contract and/or the applicant's shareholders. For example, forecasting risks include future demand, prices, actual landed costs and performance of basin; commercial risks include competitive and credit-worthiness of provider/operator; construction and operational risks include costs escalations, delays or reliability issues pertaining to new construction, and gas interchangeability and quality issues; and regulatory risks include changes in laws or regulations.

Part V – Other Considerations

5.1	A description of the relationship and any other conditions, rights or obligations between the parties to the contract and the applicant's parent company and/or affiliates.
5.2	An assessment of retail competition impacts and potential impacts on existing transportation pipeline facilities in the market (in terms of Ontario customers).

Part VI – Contract

6.1	The contract for which the utility is seeking pre-approval for is filed in this application. The utility may request confidential treatment of its contract in accordance with the Ontario Energy Board's *Practice Direction on Confidential Filings.*

Tab 2

Attachment B

Ontario Energy Board

Report of the Board

Draft Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts

EB-2008-0280

February 11, 2009

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1 Introduction

This report sets out the Board's draft filing requirements that should be used by a natural gas utility seeking pre-approval for long-term natural gas supply and/or upstream transportation contracts. The draft filing guidelines for long-term contracts ("LTC") are outlined in Appendix A.

1.1 Background

In the Natural Gas Forum ("NGF") report, the Board concluded that it will:

- offer natural gas utilities the opportunity to apply for pre-approval of long-term natural gas supply and/or upstream transportation contracts; and
- consult on the development of guidelines that will inform all stakeholders of the principles and issues the Board will consider when evaluating an application for contract pre-approval.

Further to the NGF report, the Board in a letter dated August 22, 2008 outlined the issues to be addressed when developing a pre-approval process for long-term natural gas supply and/or upstream transportation contracts. The Board indicated that it would hold a consultation to discuss the needs, benefits and risks of entering into long-term contracts, the impact on competition and the filing guidelines.

Also, in its letter dated August 22, 2008, the Board stated that it planned to conduct the consultation in two phases. In the first phase, staff would hold stakeholder meetings which would lead to the development of a staff discussion paper. In the second phase, the Board would consider whether it is appropriate to develop filing guidelines for the pre-approval of long-term contracts.

On October 15-17, 2008, staff held a number of meetings with stakeholders, as shown in Appendix B. At these meetings, staff and its technical expert presented material to initiate discussion on whether: (i) it is appropriate for natural gas utilities to enter into long-term natural gas supply and/or upstream transportation contracts; and (ii) the Board should develop guidelines for the pre-approval of long-term contracts, and if so, what should be included in these guidelines.

At these meetings, no substantive issues were raised and stakeholders generally agreed to a pre-approval process for long-term contracts that support the development of new natural gas infrastructure (e.g., new pipeline facilities to access new natural gas supply sources such as Liquefied Natural Gas ("LNG") plants and frontier production).

As a result, a staff discussion paper, as originally contemplated in Phase I of the consultation, is not necessary. The Board has decided to proceed directly to Phase II and release its draft LTC filing guidelines for stakeholder comment.

All materials related to this consultation are on the Board's website.

1.2 Structure of the Report

This report is organized into three sections and each section includes the issues and options raised by stakeholders at the consultation as summarized by staff and the Board's conclusions.

2 Are long-term contracts appropriate?

2.1 Consultation Highlights

Stakeholders stated that long-term upstream transportation contracts ("long-term transportation contracts") may be justified to support new pipeline facilities and some of these stakeholders suggested that this could also support access to new natural gas sources.

Many stakeholders did not support long-term natural gas supply contracts ("long-term supply contracts") except when these contracts are linked to long-term transportation contracts that access new resources such as LNG, United States Rockies and Canadian frontier production. Others supported long-term supply contracts to increase price stability.

2.2 The Board's Conclusions

The Board agrees with stakeholders that long-term supply contracts may be justified in limited circumstances such as supporting the development of new natural gas infrastructure.

With regards to long-term transportation contracts, the Board notes that the natural gas utilities ("utilities") currently have a portfolio of contract lengths. This reflects an upstream transmitter's market requirement to have long-term contracts to support new large infrastructure investments while contracts for existing capacity are generally shorter. Also, the Board is of the view that long-term transportation contracts may help to ensure an adequate natural gas supply in the Ontario market from a diverse portfolio of sources. This may increase supply reliability and reduce price volatility, which would benefit all market participants. Consequently, long-term transportation contracts may be justified.

3 What approach should be used to pre-approve long-term contracts?

3.1 Consultation Highlights

Stakeholders discussed two approaches to a pre-approval process for long-term contracts. The first approach would be a process in which the cost implications of the long-term contracts would be pre-approved by the Board provided that the long-term contracts met a pre-defined set of criteria. The second approach would be an application reviewed by the Board on a case-by-case basis. Stakeholders supported the second approach which is in essence the status quo.

Also, stakeholders generally agreed to a pre-approval process for long-term contracts (where the utility applies on a case-by-case basis) that support the development of new natural gas infrastructure (e.g., new pipeline facilities to access new natural gas supply sources such as LNG plants and frontier production).

A number of stakeholders wanted the Board to require pre-approval for all long-term contracts that meet certain defined criteria, while others supported having the pre-approval process as an option available to the utility.

3.2 The Board's Conclusions

It is recognized that a utility may file an application to the Board at any time. However, in the case of long-term contracts, the Board agrees with stakeholders and concludes that a pre-approval process is appropriate for specific types of long-term contracts. The Board is of the view that filing guidelines need to be developed to assist a utility when it makes an application to the Board for the pre-approval of long-term contracts. The Board believes that these applications should be limited to those that support the development of new natural gas infrastructure (e.g., new transportation facilities to access new natural gas supply sources). The Board does not believe that the pre-approval process for long-term contracts should be used for the utility's normal day-to-day contracting, renewals of existing contracts and other long-term contracts. These contracts should continue to be addressed in the utility's rate application.

The Board also agrees with stakeholders that the process should allow a utility to apply to the Board on a case-by-case basis to pre-approve the cost implications of the long-term contracts (as per section 36(2) of the *Ontario Energy Board Act, 1988*). The utility is to file its application with the Board either prior to contract execution, or after execution (with a condition precedent regarding Board approval), but before it incurs costs under the long-term contracts. The Board will approve the costs associated with these contracts, not the contracts themselves.

In addition, the Board believes that the pre-approval process for long-term contracts can be used at the discretion of the utility.

4 What should be included in the filing guidelines?

4.1 Consultation Highlights

Several stakeholders thought that it was necessary to examine how the proposed long-term contracts fit into the utility's overall natural gas supply and transportation portfolio. Stakeholders also emphasized the importance of considering affiliate relationships or other related transactions.

In the 2007 rates proceeding (EB-2005-0520) Union Gas Limited ("Union") agreed to prepare an Incremental Transportation Contracting Analysis for each new upstream transportation contract with a term of one year or longer. Enbridge Gas Distribution Ltd ("Enbridge") and Union suggested using this analysis as the basis for the filing guidelines, with the appropriate changes for long-term supply contracts.

In addition, stakeholders stated that the pre-approval process would reduce (but not eliminate) the need for after-the-fact prudence reviews and therefore would decrease the regulatory risk for the utilities. Some of these stakeholders also noted that there are risks, separate and apart from regulatory risk, associated with long-term contracts. For example, large infrastructure projects with long lead times may increase the risk of cost overruns and forecasting errors. Therefore, the risks should be identified in the application.

4.2 The Board's Conclusions

Based on stakeholders' comments, the Board believes that the utilities should file the following information:

- **Need, costs and benefits** – a description of the proposed project that includes need, costs, benefits (such as this project improves the security of supply and the diversity of supply sources) and timelines.
- **Cost effectiveness** in comparison to other alternatives – an assessment of the landed costs (supply costs + transportation costs including fuel costs) for the newly contracted capacity and/or gas supply to the landed costs of the possible alternatives.
- **Contract term, volume and services diversity** – an assessment on how this contract fits into the utility's overall transportation and natural gas supply portfolio.
- **Risk mitigation plan and risk allocation** – identification of all the risks (such as forecasting risks, construction and operational risks, and commercial risks[1]) and plans on how these risks are to be minimized and allocated between ratepayers, parties to the contract and/or shareholders.
- All relevant **contract parameters** such as transportation/supply provider, term, conditions of service, price, volume, and receipt and delivery points.
- **Affiliate relationships** – a description of the relationship between parties to the contract and the utility's parent company and/or affiliates.
- **Other Considerations** – retail competition impacts and potential impacts on existing transportation pipeline facilities in the market (in terms of Ontario customers).

[1] Forecasting risks include future demand, prices, actual landed costs and performance of basin. Commercial risks include competitive and credit-worthiness of provider/operator. Construction and operational risks include costs escalations, delays or reliability issues pertaining to new construction; and gas interchangeability and quality issues.

The Board recognizes that the pre-approval process needs to allow for timely decision making, especially in the situation where the utility includes the Board's approval as a condition precedent in its long-term contract. The Board notes that the process must also allow for evidence, discovery and argument.

5 Next Steps

The Board concludes that the draft LTC filing guidelines be issued for stakeholder comment. Stakeholders can file submissions within six weeks of the draft LTC filing guidelines being released. After stakeholder submissions are received, it is expected that the Board will issue the final LTC filing guidelines.

Appendix A

Draft Filing Guidelines for Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts

This form applies to all applicants who are requesting pre-approval of long-term natural gas supply and/or upstream transportation contracts that support the development of new natural gas infrastructure.

All applicants must complete and file the information requested in Part I, II, III, IV and V.

Part I – Identification of Applicant

Name of Applicant:	File No: (OEB Use Only)
Address of Head Office:	Telephone Number:
	Facsimile Number:
	E-mail Address:
Name of Individual to Contact:	Telephone Number:
	Facsimile Number:
	E-mail Address:

Part II – Needs, Costs and Benefits

2.1	A description of the proposed project that includes need, costs, benefits (such as this project improves the security of supply and the diversity of supply sources) and timelines.
2.2	An assessment of the landed costs (supply costs + transportation costs including fuel costs) for the newly contracted capacity and/or natural gas supply to the landed costs of the possible alternatives.

Part III – Contract Diversity

3.1	A description of all the relevant contract parameters such as transportation/supply provider, contract length, conditions of service, price, volume, and receipt and delivery points.
3.2	An assessment on how the contract fits into the applicant's overall transportation and natural gas supply portfolio in terms of contract length, volume and services.

Part IV - Risk Assessment

4.1	Identification of all the risks (such as forecasting risks, construction and operational risks, and commercial risks) and plans on how these risks are to be minimized and allocated between ratepayers, parties to the contract and/or the applicant's shareholders. For example, forecasting risks include future demand, prices, actual landed costs and performance of basin; commercial risks include competitive and credit-worthiness of provider/operator; and construction and operational risks include costs escalations, delays or reliability issues pertaining to new construction; and gas interchangeability and quality issues.

Part V – Other Considerations

5.1	A description of the relationship between parties to the contract and the applicant's parent company and/or affiliates.
5.2	An assessment of retail competition impacts and potential impacts on existing transportation pipeline facilities in the market (in terms of Ontario customers).

Appendix B

List of Participants in EB-2008-0280
Alliance Pipeline Ltd.
Association of Power Producers of Ontario
BP Canada Energy Company Ltd.
Building Owners and Managers Association of The Greater Toronto Area
Canadian Manufacturers & Exporters
City of Kitchener
Consumers Council of Canada
Direct Energy Marketing Ltd.
ECNG Energy L.P.
Enbridge Gas Distribution Inc.
Federation of Rental-Housing Providers of Ontario
Gazprom Marketing and Trading USA, Inc.
Industrial Gas Users Association
London Property Management Association
Natural Resource Gas Ltd.
Ontario Energy Savings L.P.
Ontario Power Generation
Shell Energy North America (Canada) Inc.
Superior Energy Management
TransAlta Cogeneration L.P. and TransAlta Energy Corp.
TransCanada PipeLines Limited
Union Gas Limited
Vulnerable Energy Consumers Coalition

Tab 3

Ontario Energy Board

Commission de l'énergie de l'Ontario

EB-2010-0300
EB-2010-0333

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Union Gas Limited for an order or orders pre-approving the cost consequences associated with three long-term natural gas transportation contracts;

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.

BEFORE: Paul Sommerville
Presiding Member

Marika Hare
Member

Karen Taylor
Member

DECISION and ORDER

January 27, 2011

INTRODUCTION

The Applications

Union Gas Limited ("Union") filed an application on October 5, 2010 with the Ontario Energy Board (the "Board") seeking approval of the cost consequences associated with three long-term natural gas transportation contracts. The three contracts make provision for transportation services on the TransCanada PipeLines Limited ("TCPL") system between Niagara and Kirkwall (the "Niagara contract"), between Parkway and Union's Eastern Delivery Area and between Parkway and Union's Northern Delivery Area. The application was assigned Board File No. EB-2010-0300. By letter dated January 17, 2011 Union amended its application, withdrawing its request for pre-approval of costs consequences of the Parkway contracts.

The Niagara contract is for firm transportation of 21,101 GJ/d on the TCPL system. The term of the contract is ten years commencing November 1, 2012. The receipt point of the contract is Niagara and the delivery point is Kirkwall. The annual demand commitment of the contract at current National Energy Board (NEB)-approved rates is $697,000 CDN per year.

Enbridge Gas Distribution Inc. ("Enbridge") filed an application dated November 9, 2010 with the Board seeking approval of the cost consequences associated with a long-term natural gas transportation contract. The contract is for transportation service on the TCPL system between Niagara and Enbridge's Central Delivery Area. The application was assigned Board File No. EB-2010-0333.

Enbridge's contract is also for a term of ten years commencing November 1, 2012. For the first year of the contract the delivery point of the contract is Kirkwall and the costs associated with the contract at currently NEB-approved rates is $991,000 CDN. The Enbridge CDA is the delivery point for the remaining nine years of the contract with an annual cost of $1,325,000 CDN, again at current rates.

Both Enbridge and Union indicated that they would require a Board decision on their respective contracts no later than January 28, 2011. After this date each would be responsible for penalties associated with termination of the respective contracts.

The Proceeding

On November 1, 2010, the Board issued a Notice of Application and Procedural Order No. 1 with respect to Union's EB-2010-0300 application setting November 17, 2010 and November 30, 2010 as the dates for filing interrogatories and filing interrogatory responses, respectively.

All parties to the EB-2008-0280 proceeding were adopted as intervenors in the EB-2010-0300 and EB-2010-0333 proceedings. Parties who intended to seek costs were required to advise the Board by dates set out in the Procedural Order of each respective application.

On December 1, 2010, the Board issued a Notice of Application and Procedural Order No. 1 with respect to Enbridge's EB-2010-0333 application setting December 10, 2010 and December 29, 2010 as the dates for filing interrogatories and filing interrogatory responses, respectively.

By letter dated December 21, 2010, the Board requested additional information from Union regarding the EB-2010-0300 application. Union responded to the Board's request by letter dated January 6, 2011.

In its Notice of Hearing and Procedural Order dated January 7, 2011, the Board stated that it would consider these applications together (the "Applications") through a consolidated oral hearing to be held at its offices on January 20 and 21, 2011.

Oral arguments, in support of their respective Applications, were made by Union and Enbridge on January 21st, 2011. The following parties also made oral submissions on January 21, 2011; TCPL, Canadian Manufacturers & Exporters (CME) and Consumers' Council of Canada (CCC).

Written submissions were filed by Board staff and the following parties on January 24, 2011; Association of Power Producers of Ontario (APPrO), Industrial Gas Users Association (IGUA), Federation of Rental-housing Providers of Ontario (FRPO) and Energy Probe Research Foundation (Energy Probe).

Written reply arguments were filed by Enbridge and Union on January 25, 2011.

Background

In the fall of 2003, the Board undertook a comprehensive sector review called the Natural Gas Forum ("NGF") in order to further improve the efficiency and effectiveness of natural gas regulation in Ontario.

The result of this review was a report, *Natural Gas Regulation in Ontario: A Renewed Policy Framework* (the "Report") which was released on March 30, 2005. The conclusions of this Report were implemented over the following years through public processes that included stakeholder participation.

As part of the NGF, the Board reviewed the role of natural gas utilities with regard to the long-term contracting of gas supply and upstream transportation. In the Report, the Board stated that it would "offer utilities the opportunity to apply for pre-approval of long-term supply and/or transportation contracts" and that it "will consult on the development of guidelines that will inform all stakeholders of the principles and issues the Board will consider when evaluating an application for contract pre-approval."

By letter dated August 22, 2008, the Board outlined the process and the issues to be addressed when developing a pre-approval process for long-term natural gas supply and/or upstream transportation contracts (EB-2008-0280). The Board indicated that it would hold a consultation to discuss the needs, benefits and risks of entering into long-term contracts, the impact of pre-approval of the cost consequences on competition, and the content of the filing guidelines. The Board stated that it planned to conduct the consultation in two phases: in the first phase, stakeholder meetings would be held by Board staff which would lead to the development of a Board staff discussion paper; and in the second phase, the Board would consider whether it was appropriate to develop filing guidelines for the pre-approval of long-term contracts.

On October 15-17, 2008, staff held a number of meetings with stakeholders. At these meetings, no substantive issues were raised and stakeholders generally agreed to a pre-approval process for long-term contracts that support the development of new natural gas infrastructure, such as new pipeline facilities to access new natural gas supply sources such as Liquefied Natural Gas ("LNG") plants and frontier production).

On February 11, 2009 by way of a letter, the Board released The Report of the Board (2009 Report of the Board) and set out Draft Filing Guidelines for the Pre-Approval of

Long-Term Natural Gas Supply and/or Upstream Transportation Contracts for comment by participants in the proceeding. In the 2009 Report of the Board, the Board stated that a pre-approval process is appropriate for specific types of long-term contracts. The Board also stated:

> The Board believes that these applications should be limited to those that support the development of new natural gas infrastructure (e.g., new transportation facilities to access new natural gas supply sources). The Board does not believe that the pre-approval process for long-term contracts should be used for the utility's normal day-to-day contracting, renewals of existing contracts and other long-term contracts. These contracts should continue to be addressed in the utility's rate application.

In its April 23, 2009 cover letter to all participants in the proceeding, the Board approved the LTC Filing Guidelines for the Pre-Approval of Cost Consequences for Long-Term Natural Gas Contracts (LTC Filing Guidelines). In that letter, the Board also reiterated its conclusions from the 2009 Report of the Board:

> The Board believes that applications for pre-approval of the cost consequences of long-term contracts should be limited to those that support the development of <u>new</u> natural gas infrastructure. The Board does not believe that the pre-approval process should be used for the natural gas utility's ("utility") normal day-to-day contracting, renewals of existing contracts and other long-term contracts that are not related to new natural gas infrastructure. These contracts should continue to be addressed in the utility's rate proceedings.

Further, the Board is of the view that this pre-approval process should be an option available to the utility and not a requirement (even if the long-term contract involves an affiliate). As a consequence, the Board offers utilities the opportunity to apply on a case-by-case basis for pre-approval of these long-term contracts that support new natural gas infrastructure

The Applications filed by Union and Enbridge are the first that have been filed pursuant to the LTC Filing Guidelines.

THE ISSUES

In considering the Applications, the Board did not establish an Issues List as the 2009 Report of the Board and the LTC Filing Guidelines dated April 23, 2009 form an adequate point of reference. Prior to determining whether all aspects of the LTC Filing Guidelines have been fulfilled, the Board will determine whether the contracts for which pre-approval is sought qualify for pre-approval pursuant to the 2009 Report of the Board.

Do the contracts for which pre-approval is sought qualify for pre-approval pursuant to the 2009 Report of the Board and the LTC Filing Guidelines?

Union submitted that its contract is an appropriate contract for pre-approval under the Board's LTC Filing Guidelines. More specifically, Union pointed out that there are new facilities required as a result of these transportation arrangements and that compression, valving and metering would be needed to meet the contract requirements. In response to the arguments put forward by intervenors that there are no "new facilities" Union countered that the types of applicable facilities for the purpose of pre-approval under the LTC Filing Guidelines should not be limited to pipe in the ground.

Enbridge also argued that "infrastructure is going to be required and facility work is going to be needed to allow for bidirectional flow on the Niagara to Kirkwall line". Enbridge pointed to Exhibit K2.1 which estimated the total cost of that work at $13 million over a ten year period.

Enbridge suggested that TCPL would also need to "add compression and looping to expand capacity between Parkway and Maple to allow delivery into Enbridge's CDA". TCPL confirmed that it is planning to spend about $110 million to expand capacity from Niagara to Kirkwall and Parkway to Maple as set out in Exhibit K2.1. In addition Union would also have to install some infrastructure to allow bidirectional flows from Kirkwall to Dawn. These costs were estimated at $5 million. Enbridge argued that given these facilities costs, "entering into this contract is not business as usual".

Board staff, APPrO, IGUA, CCC and CME argued that the Applications filed by the utilities did not qualify to be considered under the LTC Filing Guidelines for a number of reasons. The first argument put forward was that there was no security of supply issue. Second, the natural gas infrastructure underpinning the contracts was small and could not be characterized as significant. Third, the pre-approval process was not intended to eliminate normal prudence risk for normal day-to-day contracting.

Board staff submitted that the Applications filed by Union and Enbridge were not within the spirit of the Board's policy as outlined in its April 23, 2009 letter with respect to the types of contracts which are appropriate for pre-approval. The contracts should, more appropriately, be considered in the utility's normal rate proceedings.

The purpose of the pre-approval process, Board staff offered, was to address specific types of contracts such as long-term contracts that support new large infrastructure investments (i.e., new pipeline facilities) to access new natural gas supply sources. It was Board staff's submission there was no "new large infrastructure" associated with these contracts. Instead, only relatively modest modifications need to be made to existing infrastructure in order to enable bi-directional flow on existing pipelines. At the oral hearing, the utilities indicated that they did not know the exact infrastructure investments required but believed that TCPL needed to invest in metering and valving[1] to modify its existing pipeline system. Board staff concluded that the facilities required to move gas on TCPL's Niagara-Kirkwall system were minimal and could not be construed as a facilities expansion of a magnitude sufficient to support pre-approval of the cost consequences of the respective contracts.

Energy Probe supported the Enbridge application on the grounds that, in its view, the criteria set out in the LTC Filing Guidelines had been met. Energy Probe did not support Union's application as its contract had "little or no prudence risk exposure should the Board require review of the contract at its next rates application."

FRPO contended that Enbridge's contract warrants consideration due to the nature of facilities, financial commitments required and benefits to the marketplace. However, according to FRPO, Union's contract failed to meet the requirements as there was limited investment in infrastructure and limited exposure for the company.

[1] Transcript Volume 1, page 52

IGUA argued that “the types of contracts at issue do not involve material infrastructure development associated with “frontier” supply or otherwise, are not of the type envisioned by the Board’s policy on pre-approval of the cost consequences of long-term gas transportation contracts. These gas supply and transportation contracts, according to IGUA, should be subject to review in the normal course of regulatory review of such arrangements.

APPrO suggested that the nature of infrastructure required to access Marcellus shale gas may not be material enough to invoke the application of the Board’s Guidelines.

Board Findings

The Board finds that for the reasons provided below, the applied-for contracts do not qualify for pre-approval of their costs consequences.

It is the Board’s view that its process for the pre-approval of the costs consequences of long-term transportation or supply contracts was intended to serve a very specific role in the development of natural gas infrastructure in the interests of Ontario consumers. Adoption of the process was recognition by the Board that as a matter of commercial reality the developers of natural gas infrastructure must in some circumstances require long-term commitments to support large infrastructure investments. With such assurances in hand the developer can proceed with the project with confidence and can secure financing on the strength of such commitments.

The Board recognized that the enrolment of regulated utilities for such long term arrangements would be a necessary and desirable element in new infrastructure development. It considered that in order to facilitate such developments it was reasonable to make provision for an extraordinary process wherein the costs consequences of such long term arrangements could be pre-approved. This was so because regulated utilities whose sourcing decisions are typically and conventionally subject to ex post facto prudence review would be reluctant or unwilling to accept very significant long-term commitments without assurances of costs recovery. The result would be a frustration of demonstrably needed new natural gas infrastructure.

As the 2009 Report of the Board and the LTC Filing Guidelines make clear, pre-approval is an unusual regulatory instrument reserved for cases where it is genuinely needed in order to enable infrastructure development.

Do the long-term contracts support the development of new natural gas infrastructure?

Surprisingly, neither Union nor Enbridge were able to state with any degree of particularity what new natural gas infrastructure would be required to meet the relatively modest transportation volumes of 21,101 GJ/d and 30,000 GJ/d respectively as per the Precedent Agreements with TCPL. They could only provide assurances that some facilities would be required and some examples of the types of facilities that may be needed were provided. The Board notes that the Precedent Agreements signed by Enbridge and Union do not contain any description whatsoever of the facilities to be constructed. In fact, the only reference to infrastructure in the contracts allows TCPL to make efficient use of existing infrastructure to minimize the need for new facilities. Importantly, all of the facilities that may or may not be constructed would be part of a mature and well developed existing natural gas transportation infrastructure.

In short, the Applicants were not able to confirm that estimated facilities costs would result in the construction of new natural gas infrastructure as opposed to creating new capacity and/or services on existing natural gas infrastructure. It is apparent to the Board that a portion of the facilities underpinning the applied-for contracts would result in the creation of a natural gas hub at the Niagara delivery point on existing natural gas pipeline infrastructure and the remainder would support actions to expand and potentially reverse the flow on existing natural gas pipeline infrastructure. The Board believes that these types of modifications to existing natural gas pipeline transportation infrastructure are not of a nature to require the extraordinary measure of providing the utilities with the comfort of pre-approval. Conversely such development is not sufficient justification to forego the normal process of a prudence review at the next cost of service reviews for these utilities. These arrangements are consistent with a utility's day-to-day activities and should not be afforded the unusual treatment contemplated by the LTC Filing Guidelines.

Finally, a significant portion of the cost set out in the application by Enbridge relates solely to demand charges incurred by a third party pipeline on Enbridge's behalf. This third party is, in turn, contracted for long-term, firm service on an existing natural gas pipeline facility. The Board is of the view that this arrangement clearly does not constitute new natural gas infrastructure. Again, it is representative of a utility's normal, day-to-day contracting and transportation portfolio management activities.

As such, the Board finds that the contracts for which the Applicants seek pre-approval do not support the development of new natural gas infrastructure.

In so doing, the Board is in no way suggesting that the proposed contracts are not prudent, or that costs recovery should in any degree be limited or precluded. That is an issue that a subsequent panel may have to decide upon if the utilities proceed with these or analogous long term contracts for access to Marcellus or any other gas supplies. The Applicants should take some comfort in the Board's decision in EB-RP-2001-0032 which established that in making a finding of prudence the Board should not apply hindsight, but rather should be guided by what utility management knew, or can reasonably be considered to have known at the time of contracting. Much of Union's reply argument is directed to advancing the reasons why it considers the proposed contract desirable. These reasons may well be relevant in a subsequent prudence review.

Do the long-term contracts provide access to new natural gas supply sources?

Both Applicants argued that given the size of their respective contractual commitments, at Niagara a total of 51,101 GJ/d of a possible maximum contracted capacity of 800,000 GJ/d to 1,200,000 GJ/d, it was not appropriate to characterize them as "anchor" shippers on the applied-for contract path. The Applicants also indicated that even if their applied-for contracts were not approved by the Board, given the small portion of the contracted capacity, there is a reasonable chance that whatever infrastructure changes or expansion may be needed would be built anyway. This view was further reinforced by TCPL who indicated that there are other developments, as yet undisclosed, happening at this time, involving other shippers, that are directly relevant to whether the facilities will ultimately be constructed. TCPL acknowledged that these activities had not been discussed in the context of the Applications filed with the Board.

While it is true that Marcellus natural gas is a new source of supply – technological innovation having created access to otherwise non-recoverable natural gas supplies – it is important to note that it is not so new that it is not already being produced and transported - it has been integrated into the market, and it is having an effect on the market. Moreover, Pennsylvania and New York State can hardly be described as "frontier" areas, being relatively well populated with significant and mature natural gas pipeline infrastructure. As noted earlier, the purpose of the pre-approval process is to support the development of new transportation facilities to access new natural gas supply sources. This is clearly not the case.

There is no basis for the Board to conclude that the contracts for which pre-approval has been sought provide access to new natural gas supply that would not be accessible if pre-approval is not granted.

To be clear, the Board has stated as a matter of policy that there is a role for long-term transportation contracts within the utility transportation portfolio. The Board also identified the specific type of long-term contract where pre-approval of the cost consequences of the contract may be appropriate. In the normal course, the prudence of the cost associated with a long-term contract is appropriately addressed in the utility's rate application. Pre-approval of the cost consequences of a long-term transportation contract forecloses the opportunity for a future prudence review. It is a departure from the Board's conventional approach and therefore must meet a high standard. There must be a compelling case that without the reallocation of risk to the ratepayer from the shareholder arising from pre-approval, new natural gas transportation infrastructure would not be constructed and new natural gas supplies would remain beyond the reach of the market. The Applicants have not met this standard.

Finally, and as discussed in the following section, the Board is reluctant to consider pre-approval in the absence of more reliable and specific costs information.

Did the applicants fulfill the LTC Filing Guidelines?

Although the applied-for long-term contracts do not qualify for pre-approval, the Board notes that these are the first applications for pre-approval filed with the Board. Accordingly, the Board believes it may be helpful to the Applicants to understand whether the Board considers that the LTC Filing Guidelines have been met.

Part II – Needs, Costs and Benefits

Both Applicants argued that pre-approval of the cost consequences of the applied-for contracts was necessary to ensure the diversity and security of natural gas supply. The Applicants did not file evidence that diversity and security were at issue. Moreover, since the applied-for contract volumes comprise less than 5% of each respective utility's system supply and the facilities that underpin the contracts would not be in-service prior to late 2012, it is not immediately apparent that these contracts will have a consequential impact on natural gas supply diversity and security.

As it relates to the costs for which pre-approval would be granted, without being able to definitively identify the nature, type and cost of the facilities that TCPL would need to construct to fulfill the terms of the Precedent Agreements and meaningfully quantify the potential effect of changes to TCPL's rate design and cost allocation, the Applicants were not able to identify with certainty the costs of the proposed contracts, as outlined in Part 2.1 of the LTC Filing Guidelines. As such, given this uncertainty, even if the Board had found that the applied-for contracts qualified for pre-approval, in this instance pre-approval may not extend to all costs associated with the respective contracts, and some portion might still be subject to a prudence review. Where an application for pre-approval has such fundamental uncertainty, pre-approval may be limited to only reasonably discernable categories of costs.

This lack of cost certainty also had the effect, as discussed by a number of parties, of exacerbating the difficulties that are inherent in the assessment of the landed costs of Marcellus gas delivered over the applied-for contract paths over the contract term versus the landed costs of the possible alternatives, as outlined in Part 2.2 of the LTC Filing Guidelines. As such, given this uncertainty, even if the Board had found that the applied-for contracts qualified for pre-approval, the reliance that the Board could have placed on this analysis to inform its decision process would likely have been limited.

Part IV – Risk Assessment

The issue of whether the Applicants adequately identified and analyzed the relevant risks associated with the applied-for contracts was discussed during the proceeding. Neither Application was complete from the point of view of risk identification and analysis. But for the interrogatories filed by various intervenors, including Board staff, little or no information relating to environmental risks or to the TCPL tolling risks, for example, would have been placed on the record. It is not adequate to simply produce a non-exhaustive, high level list of potential risks without adequate analysis. The discussion relating to risk in this proceeding did not support the appropriateness of shifting risk to the ratepayer from the shareholder in advance of the prudence review that would normally be conducted in the context of a rates case.

Part V – Other Considerations

As indicated by the Board's Letter to Union dated December 21, 2010, the adequacy of the record with respect to this section of the LTC Filing Guidelines has been a concern of the Board. The Board has had similar concerns with respect to the application filed by Enbridge. At a minimum, the financial impact exhibit filed by TCPL in support of the Applications by Union and Enbridge was helpful and it is this sort of analysis that the Board expects to see in applications of this type in the future. Applicants should consider the benefit of having the developer of the new infrastructure which is supported by the long term contracts, providing an authoritative and detailed presentation of the nature of the facilities contemplated to the Board and thereby forming an integral part of the evidentiary record.

Little or no information was provided that would inform the Board as to activities occurring in the Ontario market that appear to have a bearing on the facilities that would be supported by the applied-for contracts. Moreover, little context was provided to explain the relationship between the applied-for contracts and Union's recently approved C1 and M12X application. Absent meaningful information and analysis to support Part 5.2 of the Guidelines, it appears that the Board was asked to approve the applied-for contracts in isolation.

The Board is aware that the Applicants' transportation contracting activities have an impact not only on each respective utility's natural gas transportation portfolio for in-franchise customers, but also on retail competition and may have potential impacts on existing transportation pipeline facilities (in terms of Ontario customers). The current uncertainties arising from the potential changes to TCPL's rate design and cost allocation are illustrative of this point. The Applicants did not provide a reasonable assessment of these impacts upon which the Board could confidently rely to inform its decision process.

COST AWARDS

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. The Board will determine eligibility for costs in accordance with its Practice Direction on Cost Awards. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's Practice Direction on Cost Awards. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

All filings to the Board must quote the file numbers, EB-2010-0300 and EB-2010-0333, be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca/OEB/Industry. If the web portal is not available, parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

THE BOARD ORDERS THAT:

1. The application filed by Union Gas Limited (EB 2010-0300) for pre-approval of the cost consequences of a long-term natural gas transportation contract is denied.

2. The application filed by Enbridge Distribution Inc. (EB 2010-0333) for pre-approval of the cost consequences of a long-term natural gas transportation contract is denied.

3. Intervenors shall file with the Board and forward to Union Gas Limited and Enbridge Gas Distribution Inc. their respective cost claims within 21 days from the date of this Decision and Order.

4. Union Gas Limited and Enbridge Gas Distribution Inc. shall file with the Board and forward to intervenors any objections to the claimed costs within 28 days from the date of this Decision and Order.

5. Intervenors shall file with the Board and forward to Union Gas Limited and Enbridge Gas Distribution Inc. any responses to any objections for cost claims within 35 days of the date of this Decision and Order.

DATED at Toronto, January 27, 2011

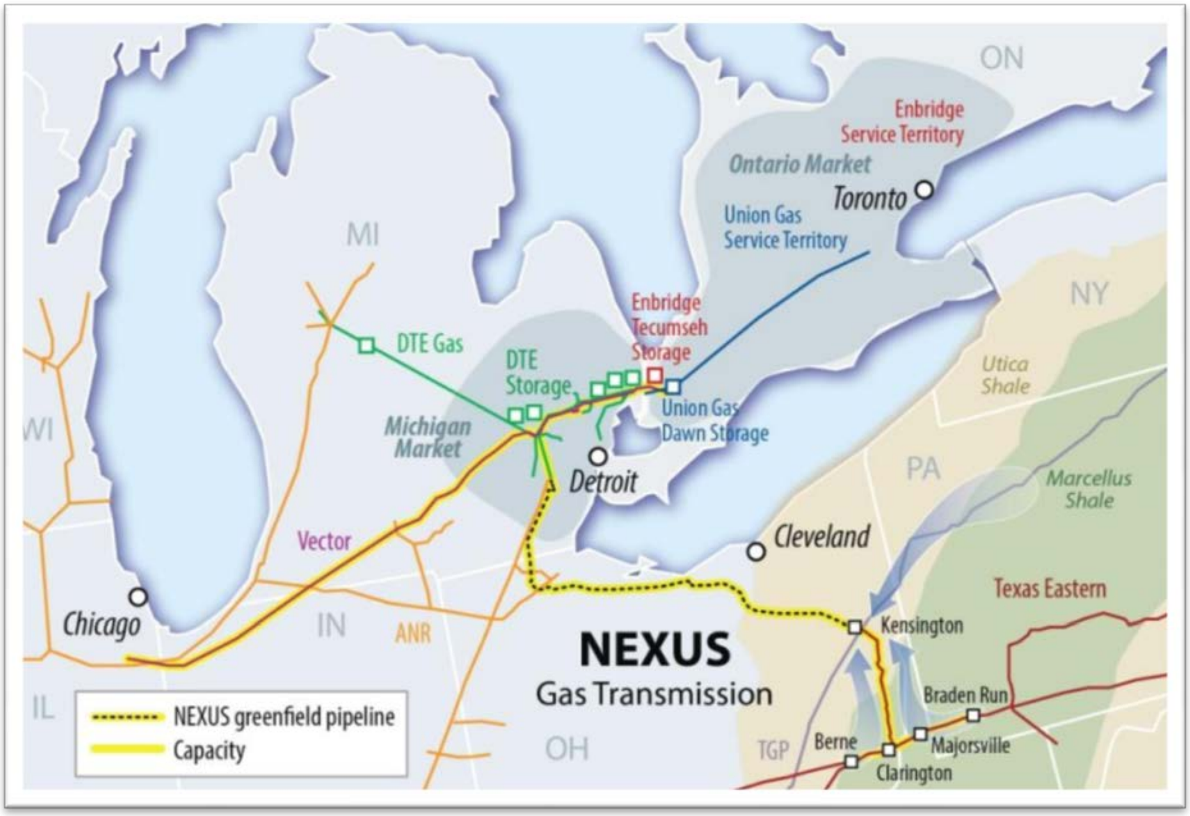
ONTARIO ENERGY BOARD

Original Signed by

Kirsten Walli
Board Secretary

Tab 4

Figure 3-1
Proposed Path of the NEXUS Pipeline

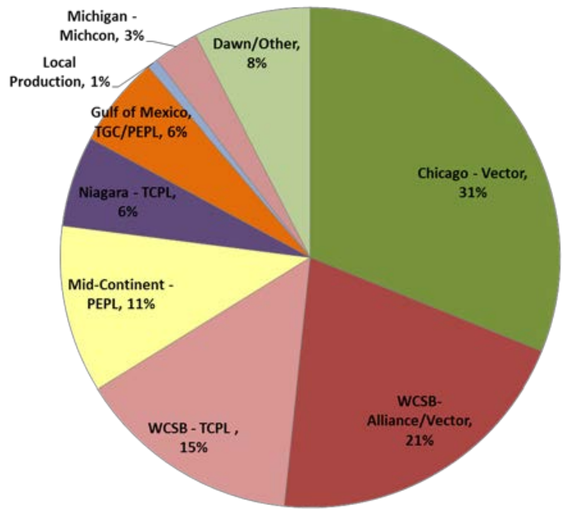


(Source: NEXUS Gas Transmission)

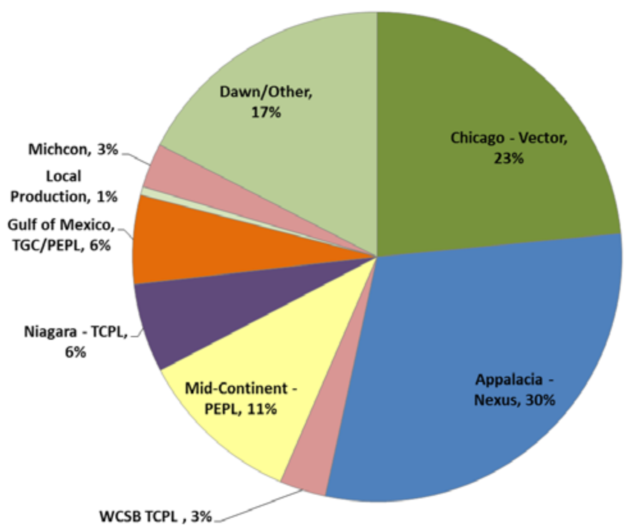
Although most of the capacity held by shippers will flow on the greenfield portion of NEXUS to the facilities of DTE, Vector, and then to Dawn, Union's arrangement will take a slightly different path as shown in Figure 3-2. For Union, the contracted volumes will still flow on the same greenfield portion of NEXUS from Ohio to DTE at Willow Run. However, instead of supplies then flowing on DTE facilities to Vector, they will flow on the DTE system to the International Border and St. Clair Pipelines to reach the Union Gas facilities. This path offers an advantage as it will allow the use of St. Clair to Dawn facilities that already exist and reduce the requirement for NEXUS to construct new pipeline infrastructure in Ontario.

Tab 5

Figure 5-2
January 2015 South Portfolio



November 2017 Projected South Portfolio



Looking at the entire Union transportation portfolio together (i.e. Union North and Union South), the NEXUS capacity will add Appalachian shale supplies and will reduce the overall reliance on

Tab 6

UNION GAS LIMITED

Answer to Interrogatory from
Building Owners and Managers Association Toronto ("BOMA")

Reference: 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.

Response:

Please see the responses at Exhibit B.T4.Union.FRPO.21 and Exhibit B.T1.APPrO.5 a) i) for the known information related to other NEXUS shippers.

Union is aware through the NEXUS FERC pre-filing that approximately 760,000 Dth/d will be contracted to Dawn. Therefore, Union and Enbridge's volumes make up approximately 35% of the capacity to Dawn ((Enbridge 110,000 + Union 150,000) divided by 760,000 Dth/d).

Tab 7

UNION GAS LIMITED

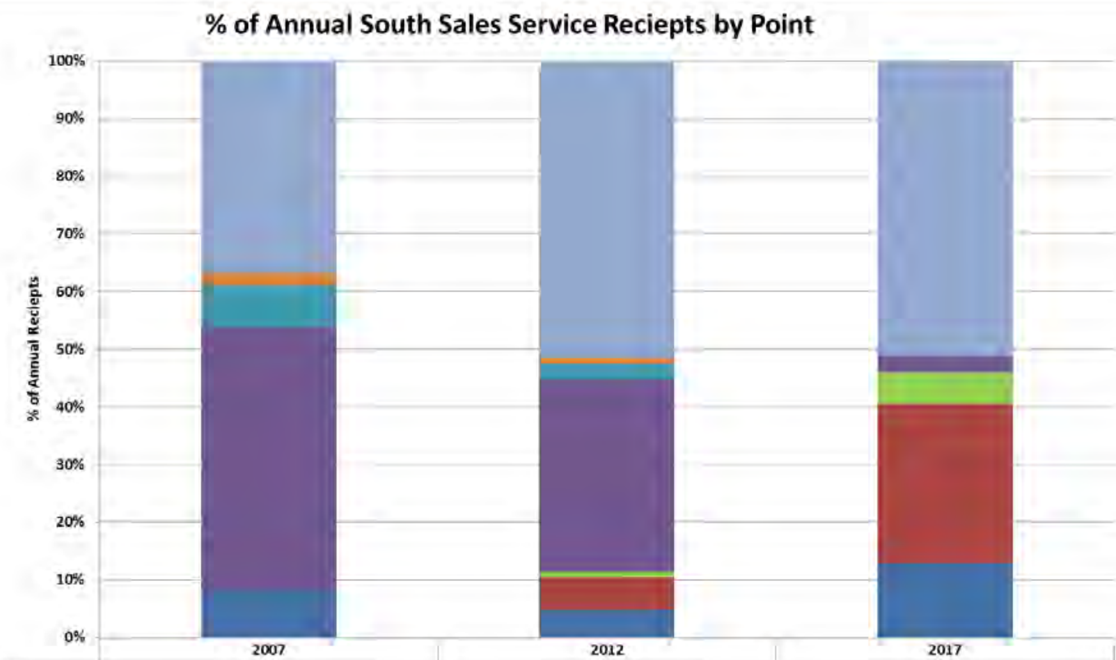
Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

Reference: Exhibit A, page 21, Figure 4-2

Please graph the percentage of annual gas received on to the Union Gas south transmission system at the various receipt points (Ojibway, St. Clair, Dawn, Kirkwall and Parkway) at five year intervals culminating in 2017 with proposed Nexus volumes added.

Response:

Please see the graph below.



	2007	2012	2017
Vector	37%	51%	51%
Bluewater	2%	1%	0%
Dawn-TCPL	7%	3%	0%
Parkway	45%	33%	3%
Niagara/Kirkwall	0%	1%	6%
St Clair MC	0%	6%	28%
Ojibway	8%	5%	13%

Tab 8

UNION GAS LIMITED

Answer to Interrogatory from
TransCanada Pipelines Limited ("TCPL")

Reference: i) Application, Exhibit A, Schedule 5, Page 1 of 1

Preamble: Union's most recently filed (January 2015) Landed Cost Analysis assumed a foreign exchange rate of $1 US = $1.1762 CDN from 2017 - 2032.

In light of significant changes to the Canadian-US exchange rate since the filing of the original application, TransCanada seeks updated information.

a) Please provide an updated Landed Cost Analysis utilizing the same format as in the reference above, and incorporating any changes that may have occurred since the most recent analysis, including - but not limited to - an updated foreign exchange assumption.

Response:

Please see Attachment 1 for the landed cost analysis, which includes updated foreign exchange rates and ICF forecasted gas prices.

Recalculated Landed Cost Analysis - Current Foreign Exchange Rate of 1.3133 and updated assumptions

Nov 2017 to Oct 2032 Transportation Contracting Analysis

	Route	Point of Supply	Basis Differential $US/mmBtu	Supply Cost $US/mmBtu	Unitized Demand Charge $US/mmBtu(1)(7)	Commodity Charge $US/mmBtu (1)	Fuel Charge $US/mmBtu (1)	100% LF Transportation Inclusive of Fuel $US/mmBtu	Landed Cost $US/mmBtu	**Landed Cost $Cdn/G**	Point of Delivery	**Comment**
	(A)	(B)	(C)	(D) = Nymex + C	(E)	(F)	(G)	(I) = E + F + G	(J) = D + I	(K)	(L)	
(6)	**TCPL Niagara to Kirkwall**	Niagara	-1.001	5.0450	0.1798	0.0000	0.0074	0.1872	$5.23	**$6.51**	Kirkwall	
(3)	**Rover****	Southwest PA	-1.582	4.4640	0.8000	0.0000	0.1076	0.9076	$5.37	**$6.69**	Dawn	
*	**NEXUS / St. Clair**	Southwest PA	-1.582	4.4640	0.7997	0.0000	0.1179	0.9176	$5.38	**$6.70**	Dawn	Includes St. Clair to Dawn costs
(5)	**NEXUS/St. Clair (Increase Upper end of toll by 15%)**	Southwest PA	-1.582	4.4640	0.8952	0.0000	0.1179	1.0130	$5.48	**$6.82**	Dawn	Toll is $ 0.77+ $ 0.635*15%. Includes St. Clair to Dawn costs
(6)	**Vector (2014 - 2017)**	Chicago	-0.385	5.6604	0.1883	0.0017	0.0560	0.2461	$5.91	**$7.35**	Dawn	
(6)	**Michcon (2014-2015)**	Michcon Generic	-0.295	5.7504	0.0630	0.0000	0.1069	0.1699	$5.92	**$7.37**	Dawn	Includes St. Clair to Dawn costs
(2)	**Dawn**	Dawn	-0.113	5.9327	0.0000	0.0000	0.0000	0.0000	$5.93	**$7.38**	Dawn	
(6)	**Vector (2012 - 2016)**	Chicago	-0.385	5.6604	0.2500	0.0990	0.0560	0.4050	$6.07	**$7.55**	Dawn	
(6)	**Alliance / Vector**	CREC	-1.437	4.6084	1.5608	-0.3405	0.2574	1.4776	$6.09	**$7.58**	Dawn	
(6)	**Panhandle (2012-2017)**	Panhandle Field Zone	-0.621	5.4243	0.3492	0.0439	0.3569	0.7500	$6.17	**$7.69**	Dawn	Includes Ojibway to Dawn costs
(6)	**Panhandle (2014-2015)**	Panhandle Field Zone	-0.621	5.4243	0.4547	0.0439	0.3569	0.8555	$6.28	**$7.82**	Dawn	Includes Ojibway to Dawn costs
(6)	**Panhandle (2010-2017)**	Panhandle Field Zone	-0.621	5.4243	0.4547	0.0439	0.3569	0.8555	$6.28	**$7.82**	Dawn	Includes Ojibway to Dawn costs
(6)	**Trunkline / Panhandle**	Trunkline Field Zone 1A	-0.104	5.9420	0.2212	0.0268	0.2402	0.4882	$6.43	**$8.00**	Dawn	Includes Ojibway to Dawn costs
(2)	**TCPL Empress to Dawn**	Empress	-1.094	4.9518	1.4550	0.0000	0.2005	1.6556	$6.61	**$8.22**	Dawn	
(6)	**TCPL Empress to Union CDA**	Empress	-1.094	4.9518	1.5790	0.0000	0.2040	1.7830	$6.73	**$8.38**	Union CDA	

(1) Unitized Demand Charges, Commodity Charges and Fuel Charges per Maximum Applicable Tariff and include capacity required to flow fuel for downstream pipeline segments
(2) For Reference Only
(3) Toll Estimates used in lieu of official toll for portion of path
(5) Sensitivity Analysis
(6) Existing Union Contract

* indicates path referenced in evidence for this analysis
** The analysis is based on an indicative rate for Rover of $0.80 USD/mmbtu. The analysis does not contemplate potential toll increases arising from factors such as capital cost overruns or pipeline undersubscription.

Assumptions used in Developing Transportation Contracting Analysis:

Annual Gas Supply & Fuel Ratio Forecasts	**Point of Supply Col (B) above**	**Nov 2017 - Oct 2018**	**Nov 2018 - Oct 2019**	**Nov 2019 - Oct 2020**	**Nov 2020 - Oct 2021**	**Nov 2021 - Oct 2022**	**Nov 2022 - Oct 2023**	**Nov 2023 - Oct 2024**	**Nov 2024 - Oct 2025**	**Nov 2025 - Oct 2026**	**Nov 2026 - Oct 2027**	**Nov 2027 - Oct 2028**	**Nov 2028 - Oct 2029**	**Nov 2029 - Oct 2030**	**Nov 2030 - Oct 2031**	**Nov 2031 - Oct 2032**	**Average Annual Gas Supply Cost $US/mmBtu Col (D) above**	**Fuel Ratio Forecasts Col (G) above**
Henry Hub (NYMEX)	Henry Hub	$3.56	$4.42	$4.89	$5.20	$5.36	$5.51	$5.66	$5.84	$6.17	$6.43	$6.73	$7.04	$7.52	$7.91	$8.46	$6.05	
TCPL Niagara to Kirkwall	Niagara	$3.52	$4.19	$4.52	$4.70	$4.74	$4.66	$4.53	$4.46	$4.60	$5.02	$5.45	$5.94	$6.08	$6.52	$6.75	$5.05	0.15%
Rover	Southwest PA	$2.88	$3.60	$3.96	$4.16	$4.25	$4.24	$4.13	$3.96	$3.97	$4.32	$4.80	$5.33	$5.48	$5.84	$6.04	$4.46	2.41%
NEXUS / St. Clair	Southwest PA	$2.88	$3.60	$3.96	$4.16	$4.25	$4.24	$4.13	$3.96	$3.97	$4.32	$4.80	$5.33	$5.48	$5.84	$6.04	$4.46	2.64%
NEXUS/St. Clair (Increase Upper end of toll by 15%)	Southwest PA	$2.88	$3.60	$3.96	$4.16	$4.25	$4.24	$4.13	$3.96	$3.97	$4.32	$4.80	$5.33	$5.48	$5.84	$6.04	$4.46	2.64%
Vector (2014 - 2017)	Chicago	$3.54	$4.28	$4.67	$4.91	$5.09	$5.23	$5.36	$5.47	$5.73	$6.03	$6.29	$6.64	$6.88	$7.31	$7.49	$5.66	0.99%
Michcon (2014-2015)	Michcon Generic	$3.60	$4.34	$4.73	$4.98	$5.17	$5.31	$5.44	$5.56	$5.82	$6.12	$6.39	$6.74	$6.99	$7.43	$7.61	$5.75	1.86%
Dawn	Dawn	$3.74	$4.48	$4.88	$5.13	$5.32	$5.47	$5.60	$5.73	$6.01	$6.32	$6.59	$6.95	$7.21	$7.67	$7.86	$5.93	0.00%
Vector (2012 - 2016)	Chicago	$3.54	$4.28	$4.67	$4.91	$5.09	$5.23	$5.36	$5.47	$5.73	$6.03	$6.29	$6.64	$6.88	$7.31	$7.49	$5.66	0.99%
Alliance / Vector	CREC	$2.61	$3.34	$3.70	$3.91	$4.10	$4.22	$4.31	$4.41	$4.67	$4.94	$5.17	$5.51	$5.76	$6.17	$6.32	$4.61	5.58%
Panhandle (2012-2017)	Panhandle Field Zone	$3.34	$4.08	$4.47	$4.71	$4.89	$5.03	$5.15	$5.26	$5.50	$5.78	$6.03	$6.36	$6.59	$7.01	$7.17	$5.42	6.58%
Panhandle (2014-2015)	Panhandle Field Zone	$3.34	$4.08	$4.47	$4.71	$4.89	$5.03	$5.15	$5.26	$5.50	$5.78	$6.03	$6.36	$6.59	$7.01	$7.17	$5.42	6.58%
Panhandle (2010-2017)	Panhandle Field Zone	$3.34	$4.08	$4.47	$4.71	$4.89	$5.03	$5.15	$5.26	$5.50	$5.78	$6.03	$6.36	$6.59	$7.01	$7.17	$5.42	6.58%
Trunkline / Panhandle	Trunkline Field Zone 1A	$3.50	$4.35	$4.81	$5.11	$5.27	$5.41	$5.55	$5.73	$6.06	$6.32	$6.62	$6.92	$7.40	$7.78	$8.32	$5.94	4.04%
TCPL Empress to Dawn	Empress	$2.97	$3.65	$4.01	$4.24	$4.42	$4.56	$4.68	$4.78	$5.01	$5.29	$5.53	$5.86	$6.10	$6.50	$6.68	$4.95	4.05%
TCPL Empress to Union CDA	Empress	$2.97	$3.65	$4.01	$4.24	$4.42	$4.56	$4.68	$4.78	$5.01	$5.29	$5.53	$5.86	$6.10	$6.50	$6.68	$4.95	4.12%

Sources for Assumptions:

Gas Supply Prices (Col D):	ICF Base Case July 2015 - Updated August 2015 for Exhibit B.T1.Union.TCPL.2			
Fuel Ratios (Col G):	Average ratio over the previous 12 months or Pipeline Forecast			
Foreign Exchange (Col K)	$1 US =	1.3133	CDN	Updated August 7, 2015 Bank of Canada Closing
Energy Conversions (Col K)	1 dth = 1 mmBtu =	1.055056		
Union's Analysis Completed:	Updated August 2015 for Exhibit B.T1.Union.TCPL.2			

* indicates path referenced in evidence for this analysis

Tab 9

TRANSCANADA INTERROGATORY #3

INTERROGATORY

Reference:

i) Application, Exhibit A, Tab 3, Schedule 1, Appendix C, Page 1 of 1

Preamble:

Enbridge's most recently filed (May 2015) Landed Cost Analysis assumed an average foreign exchange rate of $1 US = $1.248 CDN from 2017 - 2032.
In light of significant changes to the Canadian-US exchange rate since the filing of the original application, TransCanada seeks updated information.

Request:

a) Please provide an updated Landed Cost Analysis utilizing the same format as in the reference above, and incorporating any changes that may have occurred since the most recent analysis, including - but not limited to - an updated foreign exchange assumption.

RESPONSE

The updated Landed Cost Analysis is included in the tables below. Relative to the May 2015 Landed Cost Analysis Enbridge has updated the following assumptions to reflect current information as of August 2015:

- Commodity prices
- Foreign exchange rate
- TransCanada tolls
- Fuel ratios

Witnesses: J. LeBlanc
A. Welburn

August 2015 - NEXUS Landed Cost Analysis for Updated Information ($CAD/GJ)

Pipeline	Pricing Point	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average (August 2015 Update)
TCPL from Niagara	Niagara	3.98	3.72	3.80	3.97	4.28	4.46	4.66	4.87	5.05	5.22	5.41	5.64	5.88	6.12	6.36	6.56	5.00
Dawn	Dawn	4.16	3.91	3.98	4.16	4.32	4.51	4.71	4.91	5.09	5.28	5.47	5.70	5.94	6.18	6.42	6.61	5.08
Vector	Chicago	4.41	4.25	4.30	4.40	4.57	4.76	4.96	5.17	5.35	5.52	5.72	5.96	6.20	6.44	6.68	6.88	5.35
NEXUS (-15%)	Dominion South	4.32	4.16	4.37	4.49	4.68	4.87	5.07	5.26	5.47	5.64	5.84	6.08	6.32	6.57	6.81	7.01	5.43
Rover	Dominion South	4.36	4.20	4.40	4.52	4.70	4.89	5.10	5.28	5.49	5.66	5.86	6.10	6.34	6.59	6.83	7.02	5.46
NEXUS (Anchor)	Dominion South	4.42	4.26	4.47	4.59	4.77	4.97	5.17	5.36	5.56	5.74	5.94	6.18	6.42	6.67	6.91	7.11	5.53
NEXUS (Base Case)	Dominion South	4.44	4.28	4.48	4.61	4.79	4.98	5.19	5.37	5.58	5.76	5.96	6.20	6.44	6.69	6.93	7.13	5.55
NEXUS (+15%)	Dominion South	4.56	4.40	4.60	4.72	4.91	5.10	5.30	5.49	5.70	5.87	6.07	6.32	6.56	6.81	7.05	7.25	5.67
ANR East	Dominion South	4.83	4.66	4.86	4.98	5.16	5.35	5.56	5.75	5.96	6.13	6.33	6.57	6.82	7.07	7.31	7.51	5.93
Alliance	CREC	4.78	4.83	4.95	5.22	5.40	5.60	5.81	6.03	6.23	6.41	6.62	6.87	7.13	7.39	7.64	7.86	6.17
TCPL	Empress	5.34	5.38	5.50	5.77	5.94	6.14	6.35	6.56	6.75	6.92	7.12	7.36	7.61	7.86	8.11	8.31	6.69

August 2015 - Average Commodity Prices ($CAD/GJ)

Pricing Point	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average
Dawn	4.16	3.91	3.98	4.16	4.32	4.51	4.71	4.91	5.09	5.28	5.47	5.71	5.94	6.18	6.42	6.50	5.12
Chicago	4.16	3.99	4.04	4.14	4.31	4.50	4.70	4.90	5.08	5.25	5.44	5.68	5.91	6.15	6.39	6.47	5.11
Dominion South	3.30	3.15	3.36	3.48	3.67	3.86	4.06	4.24	4.44	4.61	4.80	5.03	5.26	5.50	5.74	5.83	4.45
CREC	3.26	3.29	3.41	3.66	3.83	4.02	4.22	4.42	4.60	4.77	4.96	5.19	5.43	5.67	5.91	5.99	4.60
Empress	3.41	3.45	3.57	3.82	3.99	4.18	4.37	4.58	4.76	4.93	5.12	5.35	5.58	5.82	6.06	6.14	4.76
Niagara	3.70	3.45	3.52	3.69	3.99	4.18	4.38	4.58	4.76	4.93	5.12	5.36	5.59	5.83	6.07	6.20	4.75

August 2015 - Average Foreign Exchange

	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average
CAD/USD	1.291	1.285	1.276	1.268	1.262	1.258	1.258	1.260	1.263	1.266	1.270	1.274	1.278	1.282	1.282	1.281	1.271

August 2015 - Fuel Ratio

Pipeline	Path	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average
ANR East	Leesville-to-Dawn	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%	2.60%
Rover	Leesville-to-Dawn	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%	1.80%
Vector	Milford-to-Dawn	0.27%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.42%	0.45%	0.41%
Vector	Chicago-to-Dawn	0.57%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.08%	1.18%	1.05%
NEXUS (-15%)	Kensington-to-Milford	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%
NEXUS (Base Case)	Kensington-to-Milford	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%
NEXUS (+15%)	Kensington-to-Milford	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%
NEXUS (Anchor)	Kensington-to-Milford	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%	2.10%
Alliance	CREC-to-Border	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%	4.75%
Alliance	Border-to-Chicago	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%	2.00%
TCPL	Empress-to-Enbridge SWDA	3.99%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.22%	4.27%	4.21%
TCPL	Niagara-to-Kirkwall	0.05%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.23%	0.26%	0.22%
Union	Kirkwall-to-Dawn (C1)	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%	0.16%

August 2015 - Transportation Toll ($CAD/GJ)

Pipeline	Path	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average
ANR East	Leesville-to-Dawn	1.432	1.425	1.415	1.406	1.399	1.395	1.395	1.397	1.400	1.404	1.409	1.413	1.417	1.421	1.421	1.420	1.411
Rover	Leesville-to-Dawn	0.979	0.975	0.967	0.961	0.957	0.954	0.954	0.955	0.957	0.960	0.963	0.966	0.969	0.972	0.972	0.971	0.965
Vector	Milford-to-Dawn	0.196	0.195	0.193	0.192	0.191	0.191	0.191	0.191	0.191	0.192	0.193	0.193	0.194	0.194	0.194	0.194	0.193
Vector	Chicago-to-Dawn	0.220	0.219	0.218	0.216	0.215	0.215	0.215	0.215	0.215	0.216	0.217	0.217	0.218	0.219	0.219	0.218	0.217
NEXUS (-15%)	Kensington-to-Milford	0.737	0.734	0.729	0.724	0.720	0.718	0.719	0.720	0.721	0.723	0.725	0.728	0.730	0.732	0.732	0.731	0.726
NEXUS (Base Case)	Kensington-to-Milford	0.857	0.853	0.846	0.841	0.837	0.835	0.835	0.836	0.838	0.840	0.843	0.845	0.848	0.850	0.850	0.850	0.844
NEXUS (+15%)	Kensington-to-Milford	0.976	0.972	0.964	0.958	0.954	0.951	0.951	0.952	0.954	0.957	0.960	0.963	0.966	0.969	0.969	0.968	0.962
NEXUS (Anchor)	Kensington-to-Milford	0.838	0.834	0.828	0.823	0.819	0.817	0.817	0.818	0.820	0.822	0.825	0.827	0.830	0.832	0.832	0.831	0.826
Alliance	CREC-to-Border	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560	0.560
Alliance	Border-to-Chicago	0.478	0.476	0.472	0.469	0.467	0.466	0.466	0.466	0.467	0.469	0.470	0.472	0.473	0.474	0.474	0.474	0.471
TCPL	Empress-to-Enbridge SWDA	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656	1.656
TCPL	Niagara-to-Kirkwall	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221	0.221
Union	Kirkwall-to-Dawn (C1)	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040	0.040

August 2015 - ACA ($CAD/GJ)

Pipeline	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average
Rover	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002
NEXUS	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002
ANR East	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002	0.002

August 2015 - Abandonment Surcharge ($CAD/GJ)

Pipeline	Path	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	Average
Alliance	CREC-to-Border	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211	0.0211
Vector	Michigan Border-to-Dawn	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004	0.0004
TCPL	Empress-to-Enbridge SWDA	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327	0.1327
TCPL	Niagara-to-Kirkwall	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068	0.0068

Witnesses: J. LeBlanc
A. Welburn

Tab 10

UNION GAS LIMITED

Answer to Interrogatory from
Association of Power Producers of Ontario ("APPrO")

Reference: i) Exhibit A Section 3

Preamble: In Reference i), Union describes the NEXUS project, including the Canadian portion that utilizes existing capacity on the Vector Pipeline and Union's St. Clair to Dawn facilities. APPrO would like to better understand the flow dynamics into Dawn both before and after the in-service date of the NEXUS Pipeline.

a) Please provide a map showing on all pipeline systems in and around Dawn as well as Southeast Michigan (where such pipelines are capable of flowing gas into Ontario). Please include a table on the map illustrating the expected firm capacity both into and out of Dawn as of: November 1, 2015, November 1, 2016, and November 1, 2017.

b) For each pipeline into or out of Dawn, please provide a separate graph that illustrates the daily flow during 2014.

c) Union indicates that "For most shippers, the NEXUS path will then utilize capacity on the DTE and Vector Pipeline systems from Willow Run to the Dawn Hub in Ontario". Union further notes that "The DTE and Vector facilities that NEXUS facilities will utilize will likely require reinforcement". Please provide the following:

   i. What is Union's understanding of the amount of capacity that NEXUS has committed to purchase on the Canadian portion of the Vector Pipeline?

   ii. What is Union's understanding of the amount of incremental capacity into Dawn that will result from the development of the NEXUS Pipeline as of November 1, 2017?

   iii. Please provide Union's understanding of the amount of uncontracted firm capacity that exists on the Canadian portion of the Vector Pipeline into Dawn.

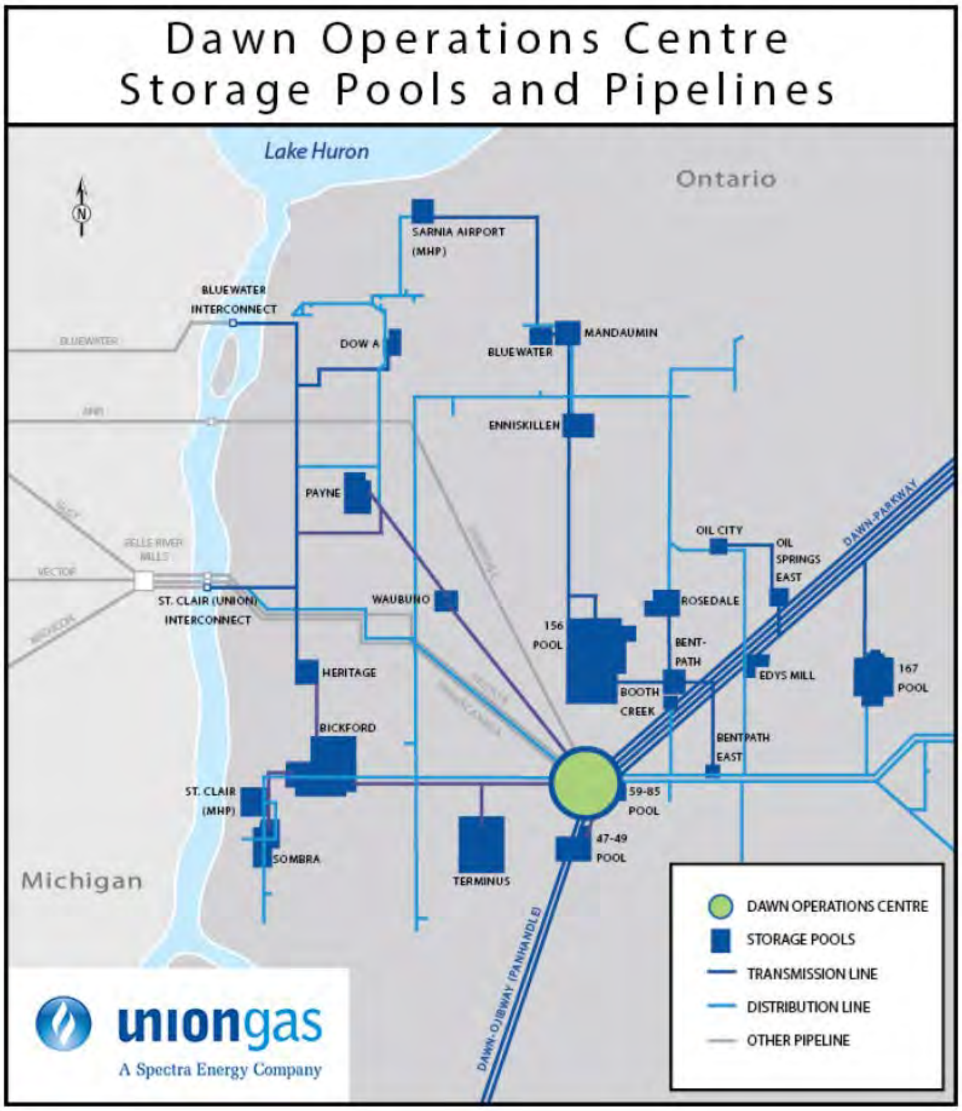
   iv. What is Union's understanding of the total level of contractual commitment on NEXUS that can be made without any physical reinforcement of the DTE and/or Vector systems?

   v. Please confirm that if NEXUS contracts with Vector for capacity to deliver to Dawn, that a similar amount of capacity is unavailable for the Ontario market to contract on Vector from Chicago. If not confirmed, please explain fully.

vi. Please confirm that with Union utilizing its capacity on the St. Clair to Dawn facilities that a similar amount of capacity is unavailable for Ontario markets to access. If not confirmed, please explain fully.

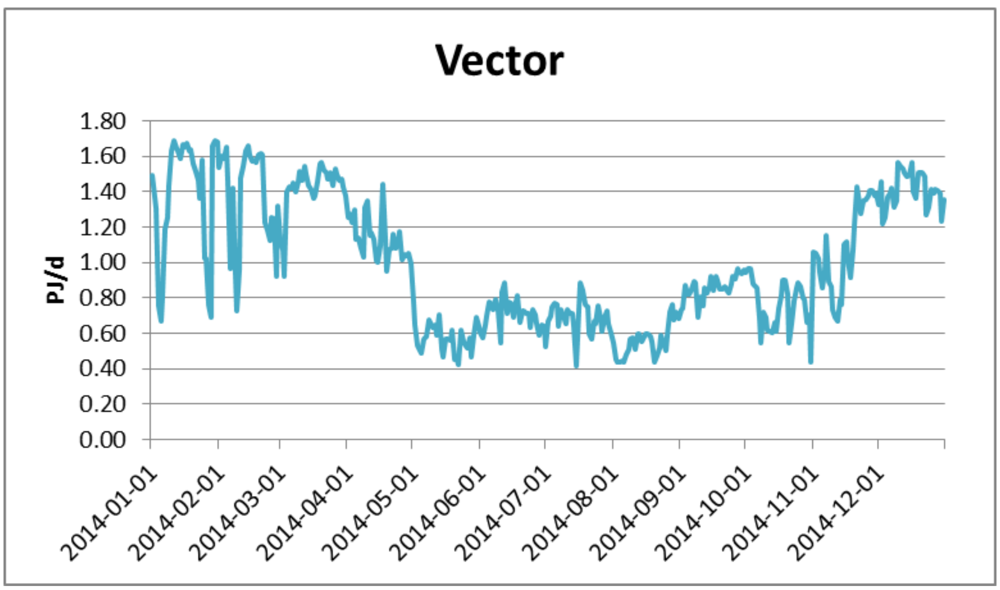
Response:

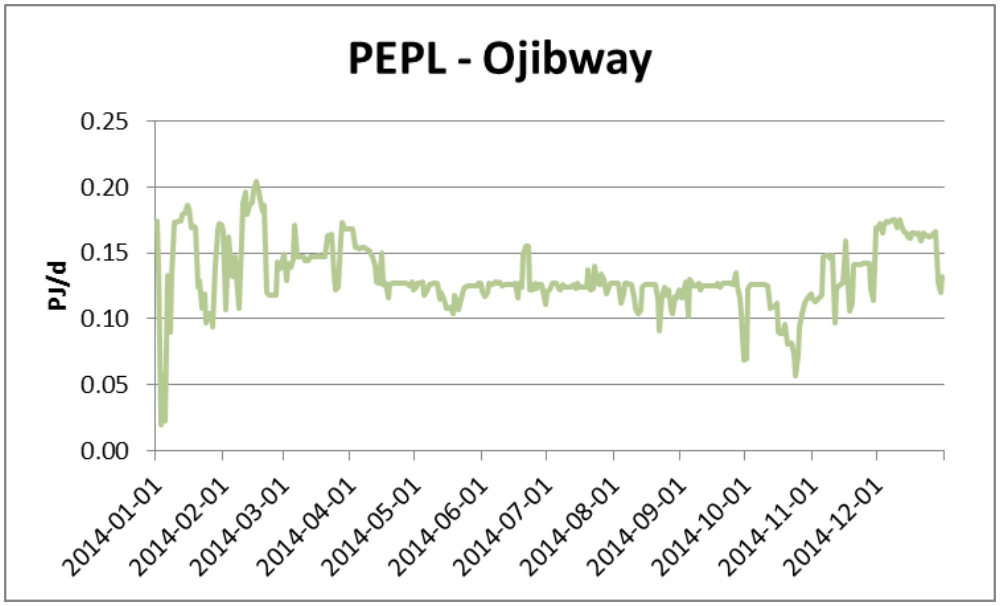
a)

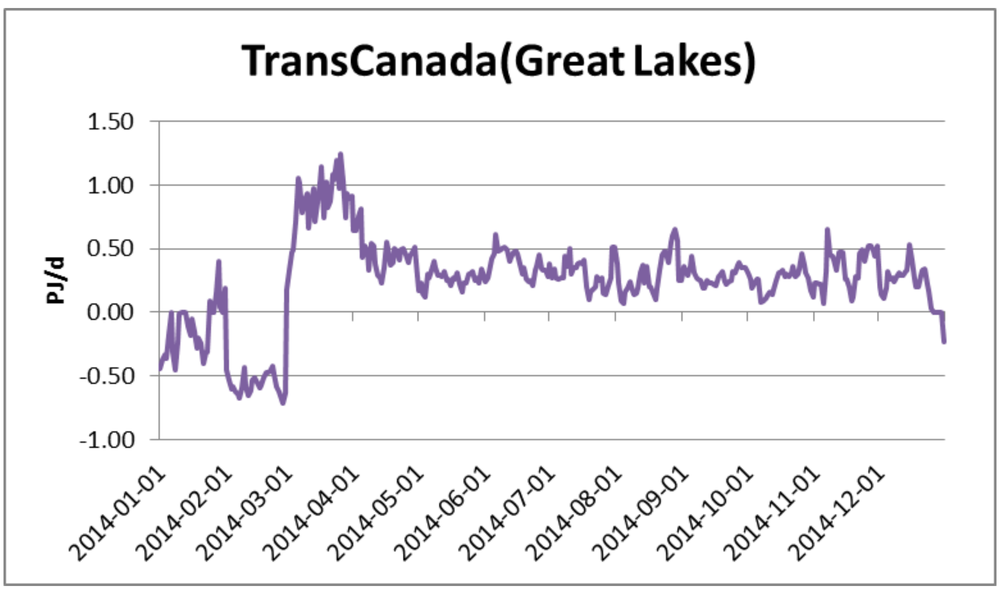


Upstream Pipelines	Peak Day Pipeline Capacity (PJ/D)		
	2015	2016	2017
Vector	1.6	1.6	1.9
Panhandle Pipelines - Ojibway	0.2	0.2	0.2
TransCanada (Great Lakes)	2.0	2.0	2.0
Bluewater	0.3	0.3	0.3
Enbridge (Tecumseh Storage)	2.7	2.7	2.7
St. Clair/Michcon	0.3	0.3	0.3

b) Daily Flow for each of the pipelines is provided in the following graphs:




PEPL - Ojibway
0.25
0.20
0.15
0.10
0.05
0.00
PJ/d
2014-01-01
2014-02-01
2014-03-01
2014-04-01
2014-05-01
2014-06-01
2014-07-01
2014-08-01
2014-09-01
2014-10-01
2014-11-01
2014-12-01


TransCanada(Great Lakes)
1.50
1.00
0.50
0.00
-0.50
-1.00
PJ/d
2014-01-01
2014-02-01
2014-03-01
2014-04-01
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2014-06-01
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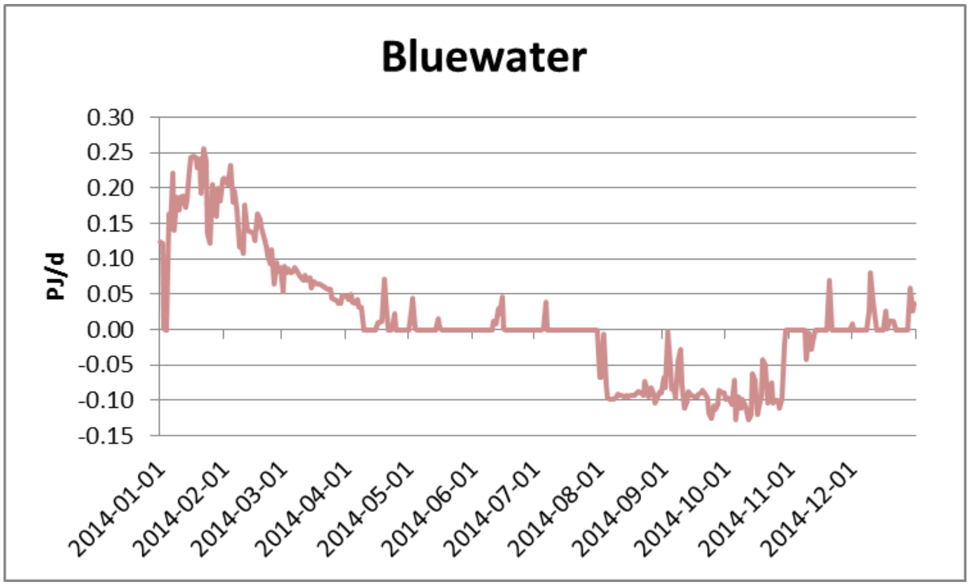
2014-08-01
2014-09-01
2014-10-01
2014-11-01
2014-12-01


Bluewater
PJ/d
0.30
0.25
0.20
0.15
0.10
0.05
0.00
-0.05
-0.10
-0.15
2014-01-01
2014-02-01
2014-03-01
2014-04-01
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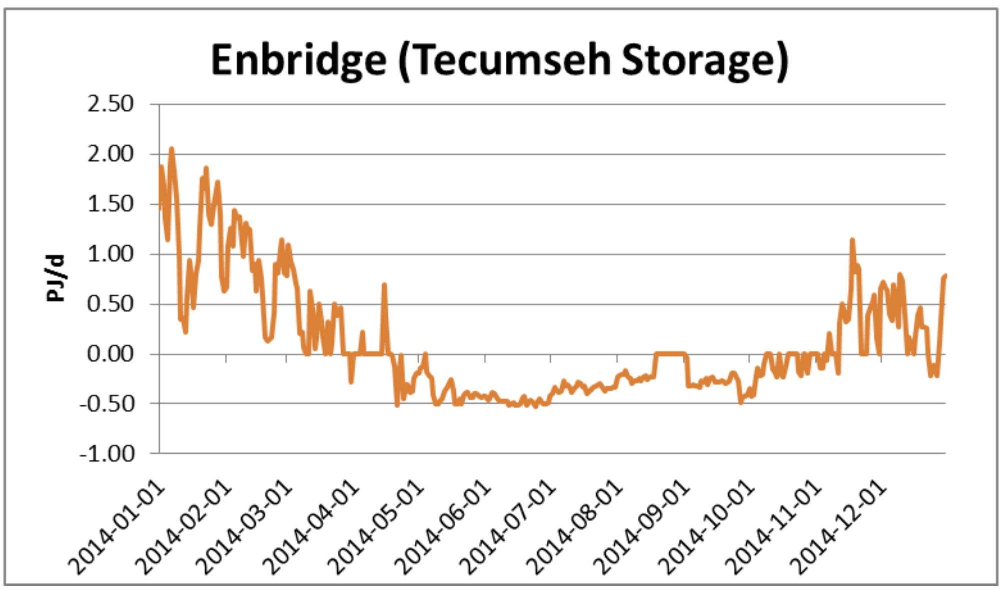
2014-11-01
2014-12-01


Enbridge (Tecumseh Storage)
PJ/d
2.50
2.00
1.50
1.00
0.50
0.00
-0.50
-1.00
2014-01-01
2014-02-01
2014-03-01
2014-04-01
2014-05-01
2014-06-01
2014-07-01
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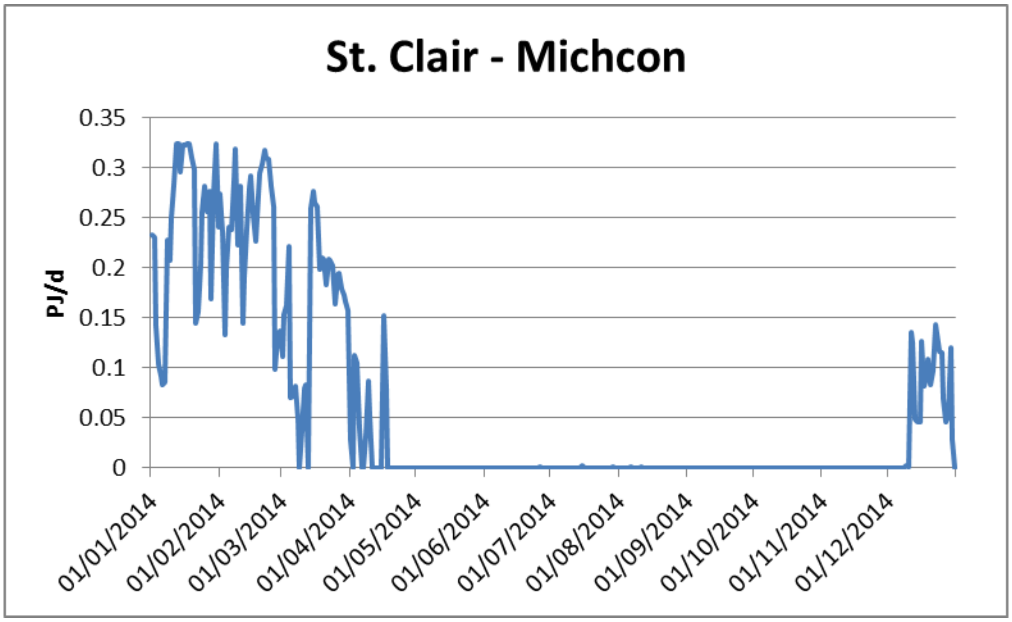
2014-11-01
2014-12-01



c)

i) Given the publicly available information, it is Union's understanding that approximately 500 Dth/d has been contracted by NEXUS.

ii) The development of the Rover and NEXUS Pipelines along with other potential changes on the Vector system will result in up to 0.3 PJ/d of incremental capacity into Dawn.

iii) Union does not know what un-contracted firm capacity on the Canadian portion of Vector exists.

iv) Union does not know that level of contractual commitment.

v) Confirmed. However given the decontracting of parties on the Alliance/Vector path, if shippers did not use the Vector path for NEXUS volumes, the un-contracted capacity may not be used at all. Using the Vector and DTE paths to transport NEXUS volumes to Dawn is an efficient use of existing infrastructure.

vi) Confirmed. Please see the response to v) above.

Tab 11

UNION GAS LIMITED

Answer to Interrogatory from
London Property Management Association ("LPMA")

Reference: Exhibit A, page 1

a) The evidence states that the NEXUS contract will maintain liquidity at Dawn (line 10). Please confirm that the NEXUS will not increase liquidity at Dawn. Please explain fully if this is not the case.

b) In the absence of the NEXUS project, would the liquidity at Dawn decrease? Please explain fully.

c) What would be the impact on Dawn liquidity if the NEXUS project volume was decreased with the reduction in volumes brought into Ontario at other points, such as Niagara? Please explain fully.

d) How much gas could be sourced through Niagara rather than as part of the NEXUS project and have no impact on Dawn liquidity? Please explain fully.

Response:

a) As outlined in Exhibit A, Schedule 6, page 7, the liquidity of the Dawn Hub is a result of the combination of a number of factors including: access to underground storage, interconnections with upstream pipelines and a large number of buyers and sellers of natural gas. Liquidity cannot be measured in absolute terms, but rather can be discussed in relative terms. Attracting a project that introduces another upstream pipeline, another supply basin, new incremental supply, and new market participants to Dawn will tend to increase liquidity at Dawn. Declining Vector volumes and the decrease in natural gas flowing from the Western Canadian Sedimentary Basin ("WCSB") to the Ontario market, had the opposite impact – tending to decrease liquidity at Dawn.

With the benefits that the NEXUS pipeline will bring to the natural gas market at the Dawn Hub, it is reasonable to expect that the current level of liquidity of Dawn will be supported. Please see the response at Exhibit B.T1.Union.LPMA.8 by Sussex, the NEXUS project is expected to enhance the liquidity of the Dawn Hub.

In the absence of the NEXUS project, there would be one less pipeline connection to Dawn, less connectivity to a new emerging supply basin, Utica, and less connectivity to the Marcellus. There is no guarantee that the other anchor shippers (producers) would continue to seek a path to Dawn versus seeking access to another market, resulting in fewer market participants at Dawn. Without the benefits that the NEXUS pipeline will bring to Dawn, liquidity would decrease affecting pricing at the Dawn Hub.

b) Please see a) above.

c) Union's support of the NEXUS project as an anchor shipper will encourage the project to be completed and therefore maintain or increase the liquidity of the Dawn Hub by attracting supply and market participants (including Appalachian shale gas producers who wish to sell their gas at Dawn) that otherwise would not have been transacting at Dawn.

   It is important to note that 150,000 Dth/d is the minimum volume required for a party to qualify as an anchor shipper on the project. Decreasing Union's NEXUS project volume and increasing by an identical amount at another point on Union's system (such as Niagara) would diminish or eliminate Union's support of the project. Please see the response at Exhibit B.T1.Union.Staff.5.

d) As is stated in the response at Exhibit B.T2.Union.Staff.17, the Niagara connection and the 1.4 PJ/d of total import capacity is already fully committed and being developed. Any new incremental needs above those already planned will require significant Greenfield pipeline infrastructure.

Tab 12

UNION GAS LIMITED

Answer to Interrogatory from
London Property Management Association ("LPMA")

Reference: Exhibit A, Schedule 3, pages 35-36

The heading at the bottom of page 35 implies that NEXUS will enhance Dawn liquidity. Given that the NEXUS contract will replace two other contracts associated with the same volumes being delivered to Dawn, please explain how this "enhances" Dawn liquidity as opposed to maintaining the current level of Dawn liquidity.

Response:

The following response was prepared by Sussex Economic Advisors, LLC.

In aggregate, NEXUS will enhance the liquidity at the Dawn Hub as it will diversify the gas supply available to the Dawn Hub. Specifically, NEXUS will provide increased gas supply diversity due to the following:

- New, incremental pipeline to the region – NEXUS will provide an incremental 1.5 Bcf/day of capacity to the region;

- New, incremental access to the Marcellus and Utica gas supply basin – NEXUS will provide a direct connection to the Marcellus and Utica basin;

- Access to new pricing points associated with the Marcellus and Utica basin – the natural gas supply area pricing points for Marcellus and Utica gas supply will be available to NEXUS shippers; and

- Incremental counterparties at the Dawn Hub – certain of the NEXUS shippers or short-term replacement shippers may represent new counterparties at the Dawn Hub.

Tab 13

UNION GAS LIMITED

Answer to Interrogatory from
TransCanada Pipelines Limited ("TCPL")

Reference: i) Application, Exhibit A, p. 7 of 54, Line 9
ii) Application, Exhibit A, p. 47 of 54, Lines 10 – 12, 15 – 18

Preamble: In Reference i), Union states that "[e]xpansions planned for 2015 and 2016 will increase the Dawn Parkway system capacity by 875 TJ/d […] and further growth is planned for 2017. This incremental throughput capacity drives the need for additional supply at Dawn."

In Reference ii), Union states its ability to mitigate delays in construction by "leveraging the diverse upstream transportation and supply options that exist at Dawn." Union also states that should the NEXUS project be cancelled, Union would "replace the anticipated NEXUS transportation capacity with other upstream transportation options that are available at the time."

a) In the event that the Board denies Union's application for NEXUS contract cost recovery, and assuming the NEXUS project is built regardless, how would Union meet forecast demand no longer served by the applied-for NEXUS contract? Please provide any alternative supply plans and supporting documentation.

b) In the event that the NEXUS project does not proceed, how would Union meet forecast demand no longer served by NEXUS? Please provide any alternative supply plans for this scenario and supporting documentation.

c) In either of the scenarios above (i.e. (1) the application in this proceeding is denied but NEXUS is constructed, and (2) NEXUS is not constructed), could incremental supply from Niagara / Chippawa be used to meet forecast supply requirements?

Response:

a) Union would expect to have similar options to what it has today, which includes its default planning assumption to purchase additional supplies at Dawn (which could include delivered supply from Rover and/or NEXUS assuming either or both still get built). Union would continue to follow its gas supply planning principles and look at the upstream pipeline capacity options available at the time. Union does not have an alternate supply plan.

b) Please see the response to a) above.

c) Union would evaluate all options available at the time and if the gas supply and transport is readily available on reasonable terms and conditions from Niagara and/or Chippawa and meets the gas supply planning principles, it could be an option.

Tab 14

RESTATED PRECEDENT AGREEMENT

This RESTATED PRECEDENT AGREEMENT ("Restated Precedent Agreement") is made and entered into this 28th day of May, 2015 ("Effective Date"), by and between DTE Pipeline Company, a Michigan corporation ("DTE"), and Spectra Energy Transmission, LLC, a Delaware limited liability company ("Spectra") (DTE and Spectra are collectively referred to herein as "Pipeline"), and Union Gas Limited, an Ontario corporation ("Customer"). Pipeline and Customer are sometimes referred to individually as a "Party" and collectively as the "Parties."

W I T N E S S E T H:

WHEREAS, Pipeline is proposing a project that will ultimately provide up to approximately one and one half (1.5) billion cubic feet per day of firm transportation service for natural gas production from the Appalachian production areas, including but not limited to the Utica Shale and Marcellus Shale production areas in Ohio and Pennsylvania, to the international border between the United States and Canada near St. Clair, Michigan (the "International Border") and continuing from the International Border to Dawn, Ontario ("Dawn"). Pipeline will construct an approximately 250-mile greenfield pipeline extending from points expected to be located at or near Kensington, Ohio to various interconnections in the State of Michigan, utilizing subscriptions of firm pipeline capacity on existing U.S. pipeline systems to transport to the International Border, and thereafter from the International Border to point(s) of delivery in or near Dawn, utilizing one or more of: subscriptions of firm pipeline capacity on existing Canadian pipeline systems, an expansion of the existing Vector Canada and/or Customer's Canadian pipeline systems, and/or construction of greenfield pipeline facilities (the services and subscriptions contemplated herein and the facilities that Pipeline intends to construct (or use reasonable efforts to cause others to construct) and/or subscribe to provide such services are collectively referred to herein as the "Project");

WHEREAS, Pipeline is proposing to commence service for the Project on or about November 1, 2017;

WHEREAS Customer, based on its qualifying bid submitted in the Open Season conducted by Pipeline from October 15, 2012 through November 30, 2012 ("Open Season"), entered into a Precedent Agreement with Pipeline dated August 11, 2014 ("the Original Precedent Agreement");

WHEREAS, in lieu of the service contemplated in the Original Precedent Agreement, Customer now desires firm natural gas transportation service in respect of the Project from a point expected to be located at or near Kensington, OH, to a point at or near the International Border;

WHEREAS, Pipeline has secured commercial support for the Project evidenced by executed precedent agreements, including this Restated Precedent Agreement with Customer**;**

WHEREAS, the Parties contemplate that NEXUS Gas Transmission, LLC will take assignment of the rights and obligations of and be novated as the Pipeline for all purposes of this Restated Precedent Agreement;

WHEREAS, subject to the terms and conditions of this Restated Precedent Agreement, Pipeline is willing to undertake the steps necessary to provide the Project service for Customer described herein and other customers subscribing for capacity as part of the Project, to construct the Project facilities or subscribe for firm pipeline capacity that will extend from eastern Ohio to Dawn in order to provide such services, and, if necessary, to construct, or to use reasonable efforts to cause the construction of facilities on existing pipeline systems to provide service on the Project;

WHEREAS, subject to the terms and conditions of this Restated Precedent Agreement, Pipeline is willing to provide the firm transportation service to Customer described herein and Customer is willing to pay Pipeline for such service;

NOW, THEREFORE, in consideration of the mutual covenants herein assumed, and intending to be legally bound, Pipeline and Customer agree as follows:

1) Pipeline Obligations.

a) Subject to the terms and conditions of this Restated Precedent Agreement, Pipeline shall proceed with due diligence to file applications for and to obtain from all governmental and regulatory authorities having competent jurisdiction over the Project, including, but not limited to, the Federal Energy Regulatory Commission ("FERC") and the National Energy Board of Canada ("NEB"), the authorizations, approvals, certificates, permits, notices and/or exemptions (collectively, the "Governmental Authorizations") Pipeline determines are necessary: (i) for Pipeline to construct, own, operate, and maintain (and, if necessary, to use reasonable efforts to cause others to construct, own, operate, and maintain) the Project facilities necessary to provide the firm transportation service contemplated herein commencing on the Service Commencement Date (as determined in accordance with Section 4 of this Restated Precedent Agreement); and (ii) for Pipeline to otherwise perform its obligations as contemplated in this Restated Precedent Agreement, (including, without limitation, to provide firm transportation service contemplated herein and set forth in the applicable Pipeline tariff approved by the FERC). Pipeline retains full control and discretion in the filing and prosecution of any and all applications for such Governmental Authorizations and/or any supplements or amendments thereto, and, if necessary, any court review, provided it does so in a manner that is consistent with the terms of this Restated Precedent Agreement and designed to implement the firm transportation service contemplated herein in a timely manner. Pipeline agrees to promptly notify Customer in writing when each of the Governmental Authorizations are received, obtained, rejected or denied. Pipeline shall also promptly notify Customer in writing as to whether each of the Governmental Authorizations received or obtained are acceptable to Pipeline.

b) During the term of this Restated Precedent Agreement, and provided it would be reasonable and prudent for Pipeline to do so, Pipeline agrees to use reasonable efforts to support and cooperate with the efforts of Customer to obtain all Customer's Authorizations and supplements and amendments thereto, to better understand and analyze the markets for the supply of gas at the proposed initial receipt points for the Project and to otherwise perform its obligations as contemplated by this Restated Precedent Agreement.

c) 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.

2) <u>Customer Obligations.</u>

a) Prior to the Effective Date, Customer shall have advised 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 Restated 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 Service Agreement (as defined in Section 3 below) and to fulfill its obligations thereunder and to otherwise perform its obligations under this Restated Precedent Agreement ("Customer's Authorizations").

b) Subject to the terms and conditions of this Restated Precedent Agreement, Customer shall proceed with due diligence to obtain the Customer's Authorizations. Customer retains full control and discretion in the filing and prosecution of any and all applications for such Customer's Authorizations and/or any supplements or amendments thereto, and, if necessary, any court review, provided it does so in a manner that is consistent with the terms of this Restated Precedent Agreement and in a manner designed to implement the firm transportation service contemplated herein in a timely manner. Customer agrees to promptly notify Pipeline in writing when each of the Customer's Authorizations, are received, obtained, rejected or denied. Customer shall also promptly notify Pipeline in writing as to whether each of the Customer's Authorizations received or obtained are acceptable to Customer.

c) During the term of this Restated Precedent Agreement, and provided it would be reasonable and prudent for Customer to do so, Customer agrees to use reasonable efforts to support and cooperate with the efforts of Pipeline to obtain all Governmental Authorizations and supplements and amendments thereto necessary for Pipeline to provide the services contemplated hereunder and to construct, own, operate, and maintain (or, if necessary, to use reasonable efforts to cause others to construct, own, operate and maintain) the Project facilities for transportation service and to otherwise perform its obligations as contemplated by this Restated Precedent Agreement.

3) Service Agreements.

a) [RESERVED].

b) Firm Service Agreement. To effectuate the firm transportation service contemplated herein for transportation service, Customer and Pipeline agree that no later than thirty (30) days following the date on which Pipeline provides written notice to Customer that the FERC, the Michigan Public Service Commission, and any other governmental agencies or authorities having jurisdiction over the U.S. portion of the Project transportation service have all issued the necessary authorizations to Pipeline or other pipelines to construct the greenfield and expansion facilities necessary to provide the Project service, Pipeline and Customer will execute a firm transportation service agreement governing the service (the "Service Agreement"). The Service Agreement and the rights and obligations arising thereunder shall only become effective if, in addition to receipt of the aforementioned authorizations for the U.S. portion of the service, Pipeline has also provided confirmation that the NEB, Ontario Energy Board ("OEB") and any other governmental agencies or authorities having jurisdiction over the Canadian portion of the Project have all issued the necessary authorizations to Pipeline or other pipelines proposing to construct and/or provide the facilities necessary to provide the Canadian portion of the Project. For clarity, the Canadian portion of the Project service shall have no application to the transportation service that Customer is contracting for hereunder, but receipt of the Governmental Authorizations and the Customer's Authorizations for the Canadian portion of the Project are a condition precedent to the Service Agreement between Pipeline and Customer becoming effective as reflected in Section 7(b)(ii), 7(c)(ii) and 7(c)(iii). The Parties agree to consider in good faith executing the Service

Agreement at a time earlier than contemplated in the first sentence above if required to allow Pipeline to obtain the requisite notice to proceed with Project construction from any governmental agency or authority having jurisdiction. The Service Agreement will specify: (i) an MDQ of 150,000 Dth/d ("Customer's MDQ"), exclusive of fuel requirements, effective on the Service Commencement Date; (ii) a primary term of fifteen (15) years commencing on the Service Commencement Date and continuing from year to year thereafter unless terminated in accordance with the provisions thereof; (iii) a Primary Point of Receipt (as such term will be defined in the Service Agreement) at the head of the Project facilities in Ohio (such point to be designated by Pipeline at such time as Pipeline provides notice to Customer in accordance with Section 3(c) below) (MDRO of 150,000 Dth/d); (iv) a Primary Point of Delivery (as such term will be defined in the Service Agreement) at the International Border (MDDO of 150,000 Dth/d); and (v) security requirements consistent with the provisions set forth in Section 13 below. To the extent Pipeline is authorized to offer access to secondary receipt and delivery points as part of the Project service, Customer shall have the right under the Service Agreement to access secondary receipt and delivery points in accordance with such authorization(s). Attached hereto as Exhibit A is an illustrative form of transportation service agreement for the Project services. Prior to the Effective Date, the Parties acknowledge that Pipeline has provided to Customer copies of the Rate Agreement and a table of the expected contents of general terms and conditions that will be incorporated by reference into the transportation service agreement to form the applicable FERC gas tariff, as well as any changes to the illustrative form of transportation service agreement in Exhibit A (collectively, the "Forms of Commercial Agreements"). Pipeline will seek Customer's review of the Forms of Commercial Agreements and will consider in good faith any comments provided by Customer. Pipeline shall keep Customer informed of any revisions to the Forms of Commercial Agreements including revisions resulting from comments received from other Customers; provided that, for clarity, the Rate Agreement shall not be revised by Pipeline other than for the sole purpose of conforming the terms of the same with the terms of the NEXUS FERC Gas Tariff (when approved by FERC) and, to the extent not to the substantive detriment of Customer, with the terms agreed to in rate agreements of other anchor shippers for the Project. Pipeline shall apply for and seek the Governmental Authorizations in a manner consistent with the Forms of Commercial Agreements. The Parties acknowledge and agree that these Forms of Commercial Agreements may change, as required, as a result of the terms and conditions of approvals from the FERC.

c) Status of Service Commencement Date. On a quarterly basis, Pipeline will notify Customer regarding Pipeline's progress regarding the Project, and whether the Service Commencement Date (as determined in accordance with Section 4 of this Restated Precedent Agreement) is expected to occur on November 1, 2017, or some later date. No later than November 1, 2015, Pipeline shall in good faith have notified Customer of its *bona fide* estimate of the Service Commencement Date (the "Estimated Commencement Date"). In the event that Pipeline's *bona fide* estimate of the Estimated Commencement Date is a date that is after November 1, 2018, then, unless such deadline(s) are extended by mutual consent: Customer shall have no further obligation in respect of contracting for Project service and Customer shall have the right to terminate this Restated Precedent

Agreement without liability between the Parties including in respect of the Customer being required to pay any Pre-Service Costs.

d) Rates.

i) [RESERVED].

ii) The rates that will apply to the Service Agreement shall be as set forth in the rate agreement to be executed in accordance with this Section 3(d), for service under the Service Agreement. Pipeline and Customer have agreed to the following with regard to the rates for service under the Service Agreement:

(1) Subject to the terms and conditions set forth herein and in the Service Agreement and in the Rate Agreement (as defined below), upon execution of such Service Agreement and Rate Agreement, Customer shall be obligated to pay Pipeline the rates specified for service under the Service Agreement commencing on the Service Commencement Date and continuing to the end of the primary term (as set forth in the Service Agreement) thereof.

(2) The estimated Reservation Rates and fuel rates for service under the Service Agreement shall be set forth in the Rate Agreement provided in accordance with Section 3(d)(ii)(3) below. The estimated capital costs associated with the construction of the facilities necessary for Pipeline to provide Project service for Customer and all other customers subscribing Project service in the U.S. (the "Project Facilities") will be reflected in an estimate to be provided by Pipeline to Customer in accordance with Section 3(d)(ii)(3) below.

(3) Contemporaneously with the execution of this Restated Precedent Agreement, Pipeline shall deliver to Customer the following: (a) the final rate agreement for

the Service Agreement (the "Rate Agreement"), which shall include the final estimate of the Reservation Rate (the "Final Estimated Reservation Rate") (subject only to the Capital Cost Tracking Adjustment, as defined below) and estimated fuel rate; (b) a final breakdown of how Pipeline derived the Final Estimated Reservation Rate, including a breakdown of such portion of the Final Estimated Reservation Rate that is derived from the Final Capital Cost Estimate (as defined below) ("Rate Breakdown"); and (c) an estimate of the capital costs associated with the construction of the Project Facilities ("Final Capital Cost Estimate"). The Rate Agreement shall provide, consistent with Exhibit C, that the Final Estimated Reservation Rate shall be subject to an aggregate fifteen percent (+ / - 15%) capital cost tracking adjustment (as more particularly described in Exhibit C, the "Capital Cost Tracking Adjustment"). Pipeline and Customer shall hereafter execute the Rate Agreement as expeditiously as is practicable.

e) Most Favored Nations.

i) Except as provided in Section 3(e)(ii) below, in the event that Pipeline enters into firm transportation service and/or recourse, negotiated or discount rate agreements with other similarly situated customers (as to transportation path, quantity and length of term) in respect of this Project containing any rate provisions and other terms of service that are more favorable to such other customers than the negotiated rate provisions set forth in the Rate Agreement, Pipeline shall offer Customer, within ten (10) business days of entering into the rate agreements with such other customer, those same rate provisions and other terms of service. If Customer is willing to accept the offer on the same terms and conditions as such other customer(s), including provisions regarding transportation path, volume and length of term, then Customer will so notify Pipeline within thirty (30) days of its acceptance, and Pipeline will make the necessary amendments to the Rate Agreement and the Service Agreement, if applicable, and the Parties will enter into an amended agreement at the more favorable rate for the remainder of the term of the applicable agreement(s). This section will apply only to contracts Pipeline enters into for service utilizing Project capacity on or before the Service Commencement Date.

ii) *Exclusions.* Pipeline is not required to offer to Customer and Customer is not entitled to, any rate provisions provided to other customers if such rate provisions are contained in long-term firm service agreements for capacity that becomes available as a result of the breach, default or unauthorized termination of a precedent agreement or associated service agreement by a Project customer or the bankruptcy, insolvency, liquidation or other similar action affecting a Project customer. In addition, the most favored nation right set forth in this Section 3(e) will not be available to Customer in respect of any short term (i.e., less than one year) service. Further, the most favored nation right set forth in this section 3 will not apply to credit provisions.

(f) <u>Right of First Refusal</u>. Customer will, in respect of the Service Agreement, be granted a contractual Right of First Refusal ("ROFR") in accordance with the applicable Pipeline tariff approved by the FERC. Further, the Service Agreement will be considered a ROFR Agreement in accordance with, and as that term is used in, the applicable tariff.

4) <u>Commencement of Service.</u>

(a) [RESERVED].

(b) Pipeline shall provide at least ninety (90) days' prior notice (the "In-Service Date Notice") to Customer of the projected service commencement date for service under the Service Agreement, which date shall be the beginning of a calendar month and cannot be earlier than the date upon which all of the conditions precedent set out in Section 7 have been satisfied, or waived by the Party having such waiver right, provided that the actual service commencement date for purposes of the Service Agreement (the "Service Commencement Date") shall be the date that is the later of: (i) November 1, 2017; (ii) the date provided in the In-Service Date Notice; (iii) the date that is the first day of the first calendar month following the date on which the Pipeline places the Project Facilities into service; or (iv) if, pursuant to Section 7(f), the Pipeline has filed an appeal or is pursuing a rehearing, reconsideration or clarification by the applicable regulatory authority of the Governmental Authorization, then 90 days from the date of receipt of a positive decision addressing Customer's concerns unless such period is waived by Customer. On and after the Service Commencement Date, Pipeline shall provide firm transportation service for Customer pursuant to the terms of the Service Agreement and Customer will pay Pipeline for all applicable charges required by the Service Agreement and the Rate Agreement.

5) <u>Design and Permitting of Project Facilities</u>. Pipeline will undertake with due diligence, or use reasonable efforts to cause others to undertake, the design of the Project Facilities and any other preparatory actions necessary for Pipeline, or Pipeline's designee(s), to complete and file application(s) related to the Project Facilities with the FERC and/or other governmental authorities as appropriate. Prior to satisfaction of the conditions precedent set forth in Section 7(b)(i) through 7(b)(vii) of this Restated Precedent Agreement, Pipeline, or Pipeline's designee(s), shall have the right, but not the obligation, to proceed with the

necessary design of facilities, acquisition of materials, supplies, properties, rights-of-way and any other necessary preparations to implement the firm transportation service under the Service Agreement as contemplated in this Restated Precedent Agreement. Additionally, Pipeline will use commercially reasonable efforts to keep Customer informed on a regular basis and respond to any of Customer's requests for information concerning Project schedule changes, status of Governmental Authorizations, service commencement dates, and/or changes to any of the rates described herein.

6) Construction of Project. Upon satisfaction of the conditions precedent set forth in Sections 7(a), 7(b)(i) through 7(b)(vii), inclusive and 7(c) of this Restated Precedent Agreement, or waiver of the same by Pipeline or Customer, as applicable, Pipeline shall proceed with due diligence to construct, or to use reasonable efforts to cause others to construct, the authorized Project Facilities and to implement the firm transportation service contemplated in this Restated Precedent Agreement for Project service on or about November 1, 2017, or such later date as may be designated by Pipeline in accordance with Section 3(c) above. If, notwithstanding Pipeline's due diligence, Pipeline, or Pipeline's designee(s), is unable to commence the Project service for Customer on November 1, 2017, or such later date as may be designated by Pipeline in accordance with Section 3(c) above, Pipeline will continue to proceed with due diligence to complete arrangements for such firm transportation service, and commence such service for Customer at the earliest practicable date thereafter. Subject to Section 9(a), Pipeline will neither be liable nor will this Restated Precedent Agreement or the Service Agreement be subject to cancellation if Pipeline, or Pipeline's designee(s), is unable to complete the construction of such authorized Project facilities and commence the

Project service for Customer by November 1, 2017 or such later date as may be designated by Pipeline in accordance with Section 3(c) above.

7) Conditions Precedent. Commencement of service under the Service Agreement, and Pipeline's and Customer's rights and obligations thereunder are expressly made subject to satisfaction or waiver, as applicable, of the following conditions precedent in Sections 7(b) and 7(c); only Pipeline shall have the right to waive the conditions precedent set forth in Section 7(b) and only Customer shall have the right to waive the conditions precedent in Section 7(c):

a) [RESERVED].

b) Pipeline's Conditions Precedent for Project Service.

i) Pipeline filing by April 1, 2016 the necessary requests with the FERC for approval to provide service as contemplated herein and in the Service Agreement;

ii) Subject to Section 7(d), Pipeline's receipt and acceptance in accordance with Section 7(f) by May 1, 2017, of all necessary Governmental Authorizations to construct, own, operate and maintain the Project facilities, all as described in Pipeline's applications as they may be amended from time to time, necessary to provide the service contemplated herein and in the Service Agreement;

iii) Pipeline (or Pipeline's owners or their respective affiliates) having received on or before May 1, 2017, a binding commitment from a financial institution(s) to provide the necessary financing of the construction of the Project Facilities;

iv) Other pipelines having received and accepted in accordance with Section 7(f) by May 1, 2017, all necessary Governmental Authorizations to construct, own, operate and maintain the Project facilities, all as described in their applications as they may be amended from time to time, necessary to provide the service contemplated herein and in the Service Agreement;

v) Pipeline receiving approval, no later than thirty (30) days after its acceptance of the certificates and authorizations specified in Section 7(b)(i), from its Management Committee, or similar governing body, to expend the capital necessary to construct the Project facilities and to proceed with the Project-related firm pipeline transportation arrangements with other pipelines for service on the Project facilities;

vi) Pipeline's receipt no later than four (4) months prior to the Service Commencement Date of all necessary authorizations required to construct the Project facilities necessary to provide the firm transportation service contemplated herein and in the Service Agreement, other than those specified in Section 7(b)(ii);

vii) Pipeline's procurement, no later than four (4) months prior to the Service Commencement Date, of all rights-of-way, easements or permits (in form and substance acceptable to Pipeline, acting reasonably) necessary for the construction and operation of the Project facilities;

viii) Pipeline's completion of construction of the Project facilities and all other facilities required to render the Project service for Customer and for other customers subscribing Project service pursuant to the Service Agreement and Pipeline being ready, able and authorized to place such facilities into gas service; and

ix) The completion of the construction of the facilities necessary to create the pipeline capacity subscribed to Pipeline as part of the Project by other pipelines, as applicable, and each such Party being ready, able and authorized to place such facilities into service.

c) <u>Customer's Conditions Precedent.</u>

i) Customer's confirmation to Pipeline, no later than 90 days following receipt of the Estimated Commencement Date, that it has completed its review and approval of regional supply necessary to support natural gas supply arrangements associated with Customer's service under the Service Agreement;

ii) Subject to Section 7(d), Customer's receipt and acceptance of the approvals from the OEB for its application related to the Project no later than October 1, 2015; and

iii) Subject to Section 7(d), Customer's receipt and acceptance no later than 30 days following satisfaction of the condition in Section 7(c)(ii), of any necessary Customer's Authorizations identified in accordance with Section 2 of this Restated Precedent Agreement.

iv) Customer acknowledges that it has received, prior to the Effective Date, the requisite internal corporate approvals for the performance of Customer's obligations under this Restated Precedent Agreement and other agreements related to the service contemplated hereunder.

d) <u>Temporary Waiver of Conditions Precedent – Governmental Authorizations</u>. Notwithstanding Sections 7(b)(ii), 7(b)(iv), and 7(c)(ii) and subject to Section 21, either Party may, in its sole discretion, temporarily waive satisfaction of its conditions precedent listed above for a period of 90 days. During such a delay, upon reasonable request by the other Party, the Party waiving its condition precedent shall use commercially reasonable efforts to provide timely notices to the other Party in writing regarding the filing of any applications for such Governmental Authorizations or Customer's Authorizations, as the context requires, and will provide periodic updates regarding the status of such applications, including notice when each of the authorizations are received, obtained, rejected or denied. The Party temporarily waiving its condition precedent shall also promptly notify the other Party in writing as to whether each of the Governmental Authorizations or Customer Authorizations, as the context requires, received or obtained are acceptable to such Party. If the Party temporarily waiving its condition precedent has not satisfied the conditions precedent associated with the receipt of all Governmental Authorizations or Customer Authorizations, as the context requires, within ninety (90) days' time, either Party may terminate this Restated Precedent Agreement on thirty (30) days' written notice and no Pre-Service Costs will be payable by Customer.

e) With respect to each condition precedent set forth in Section 7(b) of this Restated Precedent Agreement, with the exception of the conditions precedent set forth in clauses (vii) and (viii) of Section 7(b), Pipeline shall provide notice to Customer within five (5) days of the satisfaction of such condition precedent that the condition precedent has been satisfied. With respect to each condition precedent set forth in Section 7(c) of this Restated Precedent Agreement, Customer shall provide notice to Pipeline within five (5) days of the satisfaction of each such condition precedent that the condition precedent has been satisfied.

f) Unless otherwise provided for herein, the Governmental Authorization(s) contemplated in Section 1 of this Restated Precedent Agreement must be issued in form and substance satisfactory to both Parties, acting reasonably. For purposes of this Restated Precedent Agreement, such Governmental Authorization(s) shall be deemed satisfactory if issued or granted with terms and conditions which are: (i) consistent with this Restated Precedent

Agreement and all ancillary agreements and documents to be delivered pursuant to this Restated Precedent Agreement for the applicable service; and (ii) to the extent not contemplated by this Restated Precedent Agreement or any of the ancillary agreements and documents, not materially onerous on Pipeline, as determined by Pipeline, acting reasonably, and will not otherwise have a material adverse effect on Customer. Customer shall notify Pipeline in writing not later than fifteen (15) days after Pipeline notifies Customer of the issuance of the FERC certificate(s), authorization(s) and approval(s), including any order issued as a preliminary determination on non-environmental issues, contemplated in Section 1 of this Restated Precedent Agreement if Customer determines, acting reasonably, that such certificate(s), authorization(s) and approval(s) will have a material adverse effect on Customer. Customer cannot assert that any authorization will have a material adverse effect on Customer unless: (i) the governing provisions of such authorization differ materially and adversely from the provisions requested by Pipeline in its application, unless the provisions requested by Pipeline were inconsistent with the terms of this Restated Precedent Agreement; and (ii) such differences materially and adversely affect the rate to be charged pursuant to the rate agreement contemplated herein, or the terms and conditions of service pursuant to the service agreement contemplated herein, and the Parties cannot mutually agree upon a modification or alternative to such provision which preserves the relative economic positions of the Parties under the operative agreement(s). All other Governmental Authorizations that Pipeline must obtain must be issued in form and substance acceptable to Pipeline, acting reasonably. All Governmental Authorizations that Pipeline is required by this Restated Precedent Agreement to obtain must be duly granted by the FERC or other governmental agency or authority having jurisdiction, and must be final and no longer subject to rehearing or appeal; provided, however, Pipeline may waive the requirement that such Governmental Authorizations be final and no longer subject to rehearing or appeal. If any of the Governmental Authorizations are issued on material terms not acceptable to either Party, subject to the foregoing provisions of this Section 7(f), then the non-accepting Party, acting reasonably, shall give notice to the other Party, and the Parties shall promptly meet and work in good faith in an attempt to agree upon a commercially acceptable resolution for both Parties, each Party in its sole discretion, to continue forward with respect to the Project. If, after thirty (30) days, the Parties are unable to agree upon a mutually acceptable resolution, either Party shall have the right to terminate this Restated Precedent Agreement and, if executed, the applicable service agreement and rate agreement. Any termination of this Restated Precedent Agreement by a Party pursuant to this Section will be without liability between the Parties including in respect of the Customer being required to pay any Pre-Service Costs. Notwithstanding the foregoing, if the Parties cannot agree on a modification or alternate provision, Pipeline may, in its sole discretion, appeal or otherwise pursue rehearing, reconsideration or clarification by the applicable regulatory authority of any such provision(s) which Customer alleges will have a material adverse effect on it, and Customer may not terminate this Restated Precedent Agreement until a final order or decision is rendered by such regulatory authority which does not grant relief that is satisfactory to Customer, acting reasonably, to address such material adverse effect, or 180 days from the date that Pipeline makes its application for rehearing, reconsideration or clarification, whichever occurs first.

g) The Customer's Authorization(s) contemplated in Section 2 of this Restated Precedent Agreement shall be deemed satisfactory if issued or granted in form and substance substantially as requested, or if issued in a manner acceptable to Customer and such Customer's Authorization(s), as issued, will not otherwise have a material adverse effect on Pipeline. Pipeline cannot assert that any authorization will have a material adverse effect on Pipeline unless: (i) the governing provisions of such authorization differ materially and adversely from the provisions requested by Customer in its application, unless the provisions requested by Customer were inconsistent with the terms of this Restated Precedent Agreement; and (ii) such differences materially and adversely affect the rate to be charged pursuant to the rate agreement contemplated herein, or the terms and conditions of service pursuant to the service agreement contemplated herein, and the Parties cannot mutually agree upon a modification or alternative to such provision which preserves the relative economic positions of the Parties under the operative agreement(s). If any of the Customer's Authorizations are issued on terms not acceptable to either Party, subject to the foregoing provisions of this Section 7(g), then the non-accepting Party shall give notice to the other Party, and the Parties shall promptly meet and work in good faith in an attempt to agree upon a commercially acceptable resolution for both Parties, each Party in its sole discretion, to continue forward with respect to the Project. If, after thirty (30) days, the Parties are unable to agree upon a mutually acceptable resolution, either Party shall have the right to terminate this Restated Precedent Agreement and, if executed, the applicable service agreement and rate agreement. Any termination of this Restated Precedent Agreement by a Party pursuant to this Section will be without liability between the Parties including in respect of the Customer being required to pay any Pre-Service Costs.

h) In the event the Estimated Commencement Date is changed to a date later than November 1, 2017 in accordance with Section 3(c), the Parties agree that each of the dates in Sections 3(d)(ii), 7(b)(i) through 7(b)(iii), Sections 7(c)(ii) through 7(c)(iii), and Section 10 will be changed to a later date by the same amount of time as such change to the Estimated Commencement Date.

8) <u>Pre-Service Costs.</u> If: (a) Customer is in material breach of any of its material obligations arising pursuant to this Restated Precedent Agreement; and (b) such material breach is not cured within 30 days of notice to Customer by Pipeline of such material breach, or if such material breach is not capable of being cured within 30 days; and (c) Customer is not continuing thereafter in good faith and with diligence to cure such breach; and (d) as a direct result of the occurrence and continuation of Sections 8(a), 8(b) and (8c) taken collectively, the Service Commencement Date does not occur; then Customer shall, at the option and election of Pipeline, reimburse Pipeline within thirty (30) days of Pipeline's invoice, for its pro-rata share, based on Customer's MDQ for transportation service to total contracted MDQ for transportation service by all customers with executed Precedent Agreements, for the Pre-Service Costs incurred or otherwise committed to by Pipeline up to the date of the occurrence of the material breach which resulted in the Service Commencement Date to not occur. In no event shall Customer's exposure to Pre-Service Costs exceed $219 million U.S. dollars. Customer's liability for its share of the Pre-Service Costs in accordance with this Section 8 constitutes a genuine pre-estimation of Pipeline's liquidated damages and not as a penalty, and the payment by Customer of such amount, if such payment is required to be made in

accordance with this Section 8 shall constitute Pipeline’s sole remedy in such instance, with no right to claim further damages or other remedies from Customer. Customer shall make reasonable efforts to minimize and if possible eliminate the withholding tax related to the Pre-Service Costs paid to Pipeline, including but not limited to requesting from Pipeline the relevant documentation necessary to determine the appropriate withholding amount, if any, for tax purposes. In the event that taxes are withheld from the Pre-Service Costs paid by Customer, then Customer shall deduct or withhold such amount from the Pre-Service Costs and remit such withheld taxes to the applicable taxing authority and Customer will provide to Pipeline, after the applicable calendar year end, Pipeline’s U.S. Federal Form 1099, a comparable state form or Canadian Revenue Authority equivalent, if applicable, within the applicable statutory time frame. If this Restated Precedent Agreement is terminated for any reason other than a material breach by Customer, then such termination shall be without any liability on the part of Customer to Pipeline, including in respect of the Customer being required to pay any Pre-Service Costs. The term, “Pre-Service Costs” for all purposes in this Restated Precedent Agreement means only those expenditures and/or costs reasonably and prudently incurred, accrued, allocated to, or for which Pipeline is contractually obligated to pay in furtherance of Pipeline’s efforts to develop and construct the Project and to satisfy its obligations under this Restated Precedent Agreement and all other precedent agreements for service on the Project facilities, including such expenditures associated with design, testing, engineering, construction, commissioning, materials and equipment, environmental, regulatory, and/or legal activities, allowance for funds used during construction, negative salvage, internal overhead and administration and any other costs reasonably incurred in furtherance of Pipeline’s efforts to develop and construct the Project and to satisfy its obligations under this Restated Precedent Agreement and all other precedent agreements for service on the Project facilities. In the event Customer incurs liability for Pre-Service Costs, Pipeline shall use commercially reasonable efforts to mitigate the amount of Pre-Service Costs. NOTWITHSTANDING THE FOREGOING, THE PARTIES HERETO AGREE THAT NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY PUNITIVE, SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR FOR BUSINESS INTERRUPTIONS) ARISING OUT OF OR IN ANY MANNER RELATED TO THIS RESTATED PRECEDENT AGREEMENT, AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF OR THE SOLE, CONCURRENT OR CONTRIBUTORY NEGLIGENCE (WHETHER ACTIVE OR PASSIVE), STRICT LIABILITY (INCLUDING, WITHOUT LIMITATION, STRICT STATUTORY LIABILITY AND STRICT LIABILITY IN TORT) OR OTHER FAULT OF EITHER PARTY. THE IMMEDIATELY PRECEDING SENTENCE SPECIFICALLY PROTECTS EACH PARTY AGAINST SUCH PUNITIVE, EXEMPLARY, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF WITH RESPECT TO THE NEGLIGENCE, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, STRICT LIABILITY OR OTHER FAULT OR RESPONSIBILITY OF SUCH PARTY; AND ALL RIGHTS TO RECOVER SUCH DAMAGES OR PROFITS ARE HEREBY WAIVED AND RELEASED.

9) <u>Termination of Restated Precedent Agreement for Failure of Conditions Precedent.</u>

   a) If the conditions precedent set forth in Section 7 of this Restated Precedent Agreement have not been fully satisfied or waived by Pipeline or Customer, as applicable, by the earlier of the applicable dates specified therein, or within one year after the Estimated Service Commencement Date, and this Restated Precedent Agreement has not otherwise been terminated pursuant to the other terms of this Restated Precedent Agreement, including in respect of Sections 10 or 11 hereof, then this Restated Precedent Agreement (and the Service Agreement, as applicable) shall terminate effective 30 days after the date such condition precedent was to be satisfied or waived by the applicable Party and such termination shall be without liability including in respect of Customer being required to pay any Pre-Service Costs, except to the extent the failure is as a direct result of a material breach by a Party of its other obligations set forth in this Restated Precedent Agreement.

b) For any termination in accordance with Section 9(a) above, the Parties agree to promptly meet and work diligently and in good faith for a period of 30 days following the date such condition precedent was to be satisfied or waived to attempt to agree upon changes to this Restated Precedent Agreement that would allow the Restated Precedent Agreement to continue, which may include a waiver of and/or change in the deadline for any of the conditions precedent that are the subject of such termination notice, provided that if the Parties are unable to come to an agreement upon changes that would allow the Restated Precedent Agreement to continue, then this Restated Precedent Agreement (and the Service Agreement, as applicable) shall nonetheless terminate effective on the expiry of such 30 day period.

c) Any delay or failure in the performance by either Party hereunder shall be excused if and to the extent caused by the occurrence of a Force Majeure, provided that such Party claiming Force Majeure shall give written notice of the suspension of such performance for this reason as soon as reasonably possible to the other Party and stating the date and extent of such suspension and the cause thereof. The Party whose obligations have been suspended as aforesaid shall resume the performance of such obligations as soon as reasonably possible after the removal of the cause and shall so notify, in writing, the other Party that the suspension has terminated. Notwithstanding the foregoing, if any condition precedent set forth in Section 7 hereof has not been satisfied as a result of an occurrence of Force Majeure, the deadline for satisfying the condition precedent shall be extended for each day that the occurrence of Force Majeure continues up to a maximum of ninety (90) days or as mutually agreed to by the Parties. For purposes of this Precedent Agreement, “Force Majeure” as employed herein shall mean any cause, whether of the kind enumerated herein or otherwise, not within the reasonable control of the Party claiming suspension, and which by the exercise of due diligence, such Party has been unable to prevent or overcome, including without limitations acts of God, the government, or a public enemy; strikes, lockouts, or other industrial disturbances; wars, terrorism, blockades, or civil disturbances of any kind; epidemics, landslides, hurricanes, washouts, tornadoes, storms, fires, explosions, arrests, and restraints of governments or people, freezing of, breakage or accident to, or the necessity for making repairs to machinery or lines of pipe, and the inability of either the claiming Party to acquire, or the delays on the part of either of the claiming Party in acquiring, at reasonable cost and after the exercise of reasonable diligence: (a) any servitudes, rights of way, grants, permits or licenses; (b) any materials or supplies for the construction or maintenance of facilities; or (c) any Governmental Authorizations, permits or permissions form any governmental agency; if such are required to enable the claiming Party to fulfill its obligations hereunder.

10) Termination for Default. The occurrence and continuation of a material breach by a Party of any of its obligations under this Restated Precedent Agreement, unless caused by a breach by the other Party of its obligations under this Restated Precedent Agreement is referred to herein as a “Default". Upon the occurrence of a Default by a Party hereto, the non-defaulting Party may provide written notice to the defaulting Party, describing the Default in reasonable detail and requiring the defaulting Party to remedy the Default (the "Default Notice"). If the Default is not cured within 30 days of receipt by the defaulting Party of the Default Notice, or if such breach is not capable of being cured within 30 days, and the defaulting Party is not continuing thereafter in good faith and with diligence to cure such Default, the non-defaulting Party may, by termination notice to the defaulting Party, terminate this Restated Precedent Agreement effective on the tenth (10th) day following receipt of the termination notice by the defaulting Party; provided, however, that if during such ten (10) day period the defaulting Party has commenced to remedy the Default and is continuing in good faith its efforts to remedy such Default, the entitlement of the non-defaulting Party to terminate this Restated Precedent Agreement will be suspended until the earlier of the cessation by the defaulting Party of such efforts and the date which is ninety (90) days after the date of the Default Notice.

11) Other Pipeline Termination Rights. In addition to the provisions of Section 9 hereof, Pipeline may terminate this Restated Precedent Agreement at any time upon fifteen (15) days’ prior written notice to Customer, if: (i) Pipeline, in its sole and reasonable discretion, determines for any reason on or before October 1, 2016, that the Project contemplated herein

is no longer economically viable, (ii) Pipeline incurs or will incur costs which are twenty-five percent (25%) or more than the cost estimate submitted as part of Pipeline's application to the FERC for the certificate of public convenience and necessity for the Project related to the Project construction, or (iii) on or before October 1, 2016, substantially all of the other precedent agreements, service agreements or other contractual arrangements for the firm transportation service to be made available by the Project are terminated, other than by reason of commencement of service. In the event Pipeline terminates this Restated Precedent Agreement in accordance with this Section 11, Customer shall not be liable pursuant to Section 8 above for Pre-Service Costs.

12) Termination Upon Service Commencement Date; Survival. If this Restated Precedent Agreement is not terminated pursuant to Sections 9, 10 or 11 hereof, or otherwise in accordance with the terms of this Restated Precedent Agreement, then, except for those provisions herein that are stated to survive any termination of this Restated Precedent Agreement, this Restated Precedent Agreement will terminate by its express terms on the Service Commencement Date, and thereafter Pipeline's and Customer's rights and obligations related to the transportation service contemplated herein shall be determined pursuant to the terms and conditions of the Service Agreement and Rate Agreement, as applicable, and Pipeline's FERC gas tariff, as effective from time to time. Notwithstanding any termination of this Restated Precedent Agreement, each Party shall remain liable to the other Party for all losses or damages suffered, sustained or incurred by the other Party as a result of a breach of any obligations of a Party which breach arose prior to termination of this Restated Precedent Agreement, provided that Customer's liability shall only apply if and to the extent it is to be liable in accordance with Section 8 and, such liability, if any, shall not

exceed its share of Pre-Service Costs determined in accordance with Section 8. Notwithstanding any termination of this Restated Precedent Agreement pursuant to terms of this Restated Precedent Agreement, to the extent that a provision of this Restated Precedent Agreement contemplates that one or both Parties may have further rights and/or obligations hereunder following such termination, the provision shall survive such termination as necessary to give full effect to such rights and/or obligations.

13) Creditworthiness. At all times during the effectiveness of this Restated Precedent Agreement and the related Service Agreement(s), Customer, pursuant to the criteria and terms set forth in this Section 13, shall either maintain a Creditworthy status, as defined below, or furnish sufficient credit support to Pipeline.

a) Creditworthiness Standard. Customer shall at all times during the effectiveness of this Restated Precedent Agreement and the Service Agreement(s) be Creditworthy or provide the Guaranty or the Letter of Credit contemplated herein. For purposes herein, “Creditworthy” means, in respect of the applicable entity, such entity has and maintains: (i) a long-term senior unsecured debt rating from (a) Moody’s Investors Service, Inc. (“Moody’s”) of Baa3 or higher, and (b) Standard & Poor’s (“S&P”) of BBB- or higher and, with respect to each rating, not on negative credit watch or outlook, and (ii) a sufficient open line of credit as of the Effective Date. Pipeline acknowledges and agrees that, as of the effective date of this Restated Precedent Agreement, Customer has a sufficient open line of credit with Pipeline and Customer shall not at any time hereafter be required to establish any line of credit in connection with this Restated Precedent Agreement. If Customer is rated by only one of the foregoing credit rating agencies, Customer shall be creditworthy if it has the rating described in the foregoing sentence from the agency by which it is rated. If Customer is rated by both of the rating agencies described above but one such agency's rating is lower than the other agency's rating, then Customer's creditworthiness shall be determined based on the lower of the Moody's or S&P rating. Alternatively, Customer may be accepted as Creditworthy by Pipeline if Pipeline determines that, notwithstanding the absence of the rating requirements in this Section 13(a), the financial position of Customer (or an entity that guarantees all of Customer's payment obligations) is and remains acceptable to Pipeline during the term of the Restated Precedent Agreement, and the Service Agreement.

b) Failure to Meet Creditworthiness Standard. In the event Customer fails at any time or from time to time during the term of this Restated Precedent Agreement or the applicable service agreement to meet the Creditworthy standard set forth in Section 13(a) (including if its Guarantor, if applicable is no longer Creditworthy), Customer shall provide credit support to Pipeline in the form of one of the following methods set forth in this Section 13(b):

   i) Guaranty. Customer will provide, or cause to be provided, a guaranty (a "Guaranty") from Customer's parent company or from an affiliate (a "Guarantor"), provided the Guaranty shall serve to satisfy Customer's obligations under this Section 13 only if such Guarantor is Creditworthy, and only for so long as the Guarantor remains Creditworthy and for so long as it guarantees Customer's payment obligations and the Guaranty otherwise satisfies the requirements of this clause (i). The Guaranty shall: (a) guarantee all payment obligations of Customer under this Restated Precedent Agreement and the Service Agreement, (b) remain in effect until all payment obligations under this Restated Precedent Agreement, and the Service Agreement have been satisfied in full, and (c) be in a form and content substantially similar to Exhibit D hereto. Pipeline may require, at any time and from time to time, Customer to provide, or cause to be provided, an additional guaranty from a Creditworthy guarantor if the original Guarantor is, at any time, no longer Creditworthy. If Customer becomes Creditworthy after providing a Guaranty, Customer may request a discharge and return of such Guaranty, and following such request Pipeline shall promptly provide such discharge and return.

ii) <u>Letter of Credit</u>. If, at any time and from time to time, during the effectiveness of this Restated Precedent Agreement or the Service Agreement Customer fails to meet the requirements of Sections 13(a) and 13(b)(i) above, Customer shall provide, or cause to be provided, at its sole cost, a standby irrevocable letter of credit (a "Letter of Credit") from a Qualified Institution. For purposes herein, a "Qualified Institution" shall mean a major U.S. or Canadian commercial bank, or the U.S. branch offices of a foreign bank, which is not the Customer or Customer's Guarantor (or a subsidiary or affiliate of the Customer or Customer's Guarantor) and which has assets of at least $10 billion dollars and a credit rating of at least "A-" by S&P, or "A3" by Moody's. Pipeline may require Customer at Customer's cost to substitute a Qualified Institution if the Letter of Credit provided is, at any time, from a financial institution which is no longer a Qualified Institution. The Letter of Credit shall: (i) remain in effect until all payment obligations under this Restated Precedent Agreement and the Service Agreement have been satisfied in full, (ii) be in a form acceptable to Pipeline, which for purposes herein shall mean in form and content substantially similar to Exhibit E hereto, and (iii) be in the amount equal to twenty-four (24) months of reservation charges based on the MDQ and reservation rates under the Service Agreement(s). If Customer becomes Creditworthy after providing a Letter of Credit, Customer may request a discharge and return of such Letter of Credit, and following such request Pipeline shall promptly provide such discharge and return.

c) Demand for Assurances. At any time and from time to time, Pipeline shall have the right to require that Customer demonstrate Customer's, or its Guarantor's, continuing satisfaction of the creditworthiness and credit support requirements in this Section 13. Customer will have a period of five (5) business days to make such demonstration or to furnish credit support acceptable to Pipeline in accordance with this Section 13.

d) Failure to Comply. The failure of Customer to timely satisfy or maintain the requirements set forth in this Section 13 shall in no way relieve Customer of its other obligations under this Restated Precedent Agreement and/or the Service Agreement, nor shall it affect Pipeline's right to seek damages or performance under this Restated Precedent Agreement and/or the Service Agreement(s). Further, if, prior to the Service Commencement Date, Customer fails to timely satisfy or maintain the requirements set forth in this Section 13, then Pipeline may give written notice to Customer of such failure, and, if such failure has not been cured within five (5) business days following the receipt by Customer of such notice, then Pipeline may elect to suspend or terminate performance under this Restated Precedent Agreement, or to terminate this Restated Precedent Agreement and, if applicable, the Service Agreement.

e) Term of Credit Provisions and Survival. This Section 13 shall survive the termination of this Restated Precedent Agreement and shall remain in effect until all payment obligations under this Restated Precedent Agreement, and the Service Agreement, if applicable, have been satisfied in full.

f) Replacement Customer Creditworthiness. In the event Customer assigns this Restated Precedent Agreement and/or the Service Agreement in accordance with the applicable assignment provision(s), or in the event Customer permanently releases all or a portion of Customer's capacity under the Service Agreement in accordance with Pipeline's FERC Gas tariff, then the assignee and/or the permanent replacement customer, as applicable, shall be required to satisfy the requirements of this Section 13 with respect to all such assigned or replacement agreements, and upon satisfaction of the requirements of this Section 13, Pipeline shall return to Customer any Guaranty or Letter of Credit which had been furnished by Customer pursuant to this Section 13.

14) Amendments. This Restated Precedent Agreement may not be modified or amended unless the Parties execute written agreements to that effect.

15) Successors; Assignments. Any company which succeeds by purchase, merger, or consolidation of title to all or substantially all of the assets of a Party will be entitled to the rights and will be subject to the obligations of such Party in title under this Restated Precedent Agreement, and in such respect, no consent to such an assignment shall be required from the other Party. In addition, this Restated Precedent Agreement is assignable in whole or in part without the prior written consent of the Customer: (a) by Pipeline or either DTE or Spectra to NEXUS Gas Transmission, LLC;; (b) by Pipeline to any joint venture or similar collaborative entity created between DTE and Spectra, provided such entity is created for the sole purpose of advancing the Project; or (c) between DTE and Spectra, in respect of each Party's interests in the Project. Otherwise, neither Customer nor Pipeline may assign

any of its rights or obligations under this Restated Precedent Agreement without the prior written consent of the other Party hereto, such consent not to be unreasonably withheld. Notwithstanding the foregoing, Pipeline shall have the right, without obtaining Customer's consent, to pledge or assign its rights under this Restated Precedent Agreement, the Service Agreement, and/or the Rate Agreement as collateral security for indebtedness incurred by Pipeline (or by an affiliate of Pipeline) for the Project.

16) No Third-Party Rights. Except as expressly provided for in this Restated Precedent Agreement, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person not a Party hereto any rights, remedies or obligations under or by reason of this Restated Precedent Agreement.

17) Joint Efforts: No Presumptions. Each and every provision of this Restated Precedent Agreement shall be considered as prepared through the joint efforts of the Parties and shall not be construed against either Party as a result of the preparation or drafting thereof. It is expressly agreed that no consideration shall be given or presumption made on the basis of who drafted this Restated Precedent Agreement or any specific provision hereof.

18) Recitals and Representations. The recitals and representations appearing first above are hereby incorporated in and made a part of this Restated Precedent Agreement.

19) Choice of Law. This Restated Precedent Agreement shall be governed by, construed, interpreted, and performed in accordance with the laws of the State of Ohio, without recourse to any laws governing the conflict of laws.

20) Notices. Except as herein otherwise provided, any notice, request, demand, statement, or bill provided for in this Restated Precedent Agreement, or any notice which either Party desires to give to the other, must be in writing and will be considered duly delivered when mailed by

registered or certified mail or overnight courier or when provided by personal delivery or electronic mail to the other Party's address set forth below:

Pipeline: Vice President, Business Development
5400 Westheimer Court
Houston, TX 77056
brmckerlie@spectraenergy.com
Phone – (713) 627-4582
Fax – (713) 627-4727

Customer: Manager Transportation Acquisition
50 Keil Dr N, Chatham, Ontario, Canada
thodgson@uniongas.com
Phone - (519) 436-4606
Fax - (519) 436-4643

or at such other address as either Party designates by written notice. Routine communications, including monthly statements, will be considered duly delivered when mailed by registered mail, certified mail, ordinary mail, or overnight courier or when provided by electronic mail to the person and at the addresses noted above or as otherwise designated pursuant to this Section 20.

21) Waivers. The waiver by either Party of a breach or violation of any provision of this Restated Precedent Agreement will not operate as or be construed to be a waiver of any subsequent breach or violation hereof.

22) Counterparts. This Restated Precedent Agreement may be executed in any number of counterparts, each of which will be an original, but such counterparts together will constitute one and the same instrument.

23) Headings. The headings contained in this Restated Precedent Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Restated Precedent Agreement.

24) Governmental Authorizations. Notwithstanding any provision to the contrary, each provision of this Restated Precedent Agreement shall be subject to all applicable laws, statutes, ordinances, regulations, rules, court decisions and Governmental Authorizations.

25) Definitions. Capitalized terms used herein have the meanings ascribed to them in the body of this Restated Precedent Agreement, and for the purposes of reference only are listed in Exhibit F attached hereto

26) Entire Agreement. This Restated Precedent Agreement embodies the complete agreement and understanding among the Parties with respect to the subject matter hereof and supersedes and pre-empts any prior understandings, agreements (including, without limitation, the Original Precedent Agreement) or representations by or among the Parties, written or oral, which may have related to the subject matter hereof in any way.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused this Restated Precedent Agreement to be duly executed by their duly authorized officers as of the day and year first above written.

DTE PIPELINE COMPANY

By: ____________________

Title: President

UNION GAS LIMITED

By: ____________________

Title: Mark J. Isherwood
Vice-President, Business Development, Storage & Transmission

By: ____________________

Title: ____________________

SPECTRA ENERGY TRANSMISSION, LLC

By: Bill Yardley

Title: President

EXHIBIT A

Form of Service Agreement

See Attached.

Tab 15

ONTARIO ENERGY BOARD

FILE NO.:	**EB-2015-0166**	**Union Gas Limited**
	EB-2015-0175	**Enbridge Gas Distribution Inc.**

VOLUME:	**Technical Conference**
DATE:	**September 8, 2015**

Board reached the conclusion that some of the costs associated with it or that the contract itself, given the length of term or other things, were found not to be prudently incurred or otherwise, then that risk is, unfortunately, because you can't measure the degree of risk because you can't measure what the Board is actually going to say. You are truly exposed for everything because there is no way to actually understand what your exposure would be. So the only way you can do that is try to mitigate that exposure by seeking preapproval.

MR. DeROSE: And, I guess, to the panel or Charles, I guess, whoever is the right person to answer this: Are you aware of the Board ever denying recovery of all of the costs of a long-term either transportation or supply contract? I am not. But are you aware of -- first of all, let's start with the denying recovery of all of the costs.

MR. KEIZER: Just give us a moment, Vince.

MR. KITCHEN: Hi, Vince. It is Mark. Everyone seems to be looking at each other here, not knowing who is going to answer, so I think I will.

The only recollection I have -- and I think we should probably just confirm this with Enbridge -- but I believe that a portion of the Alliance Vector contract was found to be imprudent or costs to be imprudently incurred for them, but I need to confirm that with Enbridge.

MR. DeROSE: And I think it's probably easier if we just ask them the question tomorrow, and Enbridge is on notice that they will get asked about that.

Tab 16

Ontario Business Corporations Act

Section 1

“affiliate” means an affiliated body corporate within the meaning of subsection (4)

“body corporate” means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies

Interpretation: subsidiary body corporate

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if,

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other’s subsidiary. R.S.O. 1990, c. B.16, s. 1 (2).

Affiliated body corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. R.S.O. 1990, c. B.16, s. 1 (4).