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Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Enbridge Gas Distribution Inc. (EGD) and Union Gas Limited (Union) Application for Amalgamation and Rate-Setting Mechanism OEB File Nos. EB-2017-0306 & EB-2017-0307 TransCanada PipeLines Limited (TransCanada) Argument

Enclosed is the argument of TransCanada PipeLines Limited. Should you have any questions, please contact the undersigned.

Yours truly,
TransCanada PipeLines Limited

Original signed by

Matthew D. Ducharme
Senior Legal Counsel
Canadian Law, Natural Gas Pipelines

cc: Andrew Mandyam, Enbridge Gas Distribution Inc. (electronic only)
Mark Kitchen, Union Gas Limited (electronic only)
Fred Cass, Aird & Berlis LLP (electronic only)
All Intervenors EB-2017-0306 & EB-2017-0307 (electronic only)

Enclosure

ONTARIO ENERGY BOARD
EB-2017-0306 & EB-2017-0307

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

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. and Union Gas Limited, pursuant to section 43(1) of the Ontario Energy Board Act, 1998, for an order or orders granting leave to amalgamate as of January 1, 2019.

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. and Union Gas Limited, pursuant to section 36 of the Ontario Energy Board Act, 1998, for an order or orders approving a rate setting mechanism and associated parameters during the deferred rebasing period, effective January 1, 2019.

Written Argument of

TransCanada PipeLines Limited

June 15, 2018

I. INTRODUCTION

Union Gas Limited (Union) and Enbridge Gas Distribution Inc. (Enbridge) have filed applications with the Ontario Energy Board (OEB or Board) for an order or orders to approve their proposed amalgamation and a rate setting mechanism under which the amalgamated entity (Amalco) will operate.

It is the position of TransCanada PipeLines Limited (TransCanada) that for the resulting rates of the applicants' proposal to be considered just and reasonable, modifications are required to parts of the proposed rate setting mechanism and the amalgamation application.

TransCanada's submissions are on three issues: (1) the rates associated with Union's Dawn to Dawn-TCPL Rate C1 service, (2) service changes Enbridge customers will receive as they move from ex-franchise to in-franchise status, and (3) the appropriateness of Amalco's proposed gas supply plan disclosure process. TransCanada takes no position on the other issues in this proceeding.

II. RATE C1 DAWN TO DAWN-TCPL SERVICE DOES NOT REFLECT COST CAUSATION

In EB-2010-0207, the Board approved the C1 Dawn to Dawn-TCPL transportation rate, effective November 1, 2010. The service required modifications to existing Union facilities at Dawn at an estimated cost of $3.3 million to allow for custody transfer metering.[1] Union specifically proposed that the firm monthly C1 Dawn to Dawn-TCPL transportation demand charge comprise two parts[2]:

1. Dawn transmission compression-related costs included in the firm rate for transportation service on the Ojibway/St. Clair transmission system, adjusted for the estimated number of days of compression required; and,
2. recovery of the costs associated with the capital investment.

The Board approved the two-part rate design proposed by Union, as well as Union's request that the capital costs be recovered entirely over the five-year term of TransCanada's initial underlying contract. TransCanada is currently contracted for the Dawn to Dawn service until October 31, 2020, with another renewal decision due at the end of October 2018. In the absence of C1 Dawn to Dawn-TCPL service, to meet its contractual requirements in the Dawn area,

[1] EB-2010-0207 Decision and Order, page 2.
[2] EB-2010-0207 Application, Exhibit A, page 7 of 10, Lines 11-12.

TransCanada would likely have to expand its system downstream of Parkway by the 500,000 GJ/d under contract.

Union has confirmed that the C1 Dawn to Dawn-TCPL facilities were fully depreciated in 2015.[3] Union has also shown that the tolls it currently charges for this service continue to reflect annual depreciation expense and a return on rate base of $460,000 and $87,000 respectively.[4] The result is that a total of $547,000 of capital-related costs are recovered annually from TransCanada, and indirectly, TransCanada's customers, despite the specific assets used by Union to provide this service being fully depreciated.

The current C1 Dawn to Dawn-TCPL rate is $0.139/GJ/d/month. Of this, $0.095/GJ/d/month is charged as a result of depreciation and return on rate base, amounting to 68% of the current rate.[5] Considering the depreciated status of the facilities, TransCanada submits that the rate should be significantly lower than that currently charged.

The rate design for C1 Dawn to Dawn service is subject to special circumstances and consists of a unique methodology established in EB-2010-0207. The service is unique in that its only customer is TransCanada and the recovery of capital costs over an accelerated five-year time period was recognized by Board Staff as "not typical".[6] TransCanada submits that given the unique circumstances of this service, including the service-specific facilities required to provide it, it would not be appropriate to continue the current C1 Dawn to Dawn-TCPL tolls beyond 2019.

The remedy TransCanada proposes is simple to implement, and accords with rate setting principles. In this case, reducing the revenue requirement of the C1 Dawn to Dawn-TCPL service does not have any cost consequence for other shippers, as the asset is fully depreciated. Union's two-part rate design for the service, where capital specific to the service is recovered only from the shippers utilizing the service would allow removal of costs from the Amalco revenue requirement without prejudice to other shippers. Therefore, although Union has stated that it does not intend to file a system-wide full cost allocation study as part of its 2019 rates proceeding[7], TransCanada's position is that a system-wide cost allocation study is not required to make the change.

[3] EB-2017-0306/EB-2017-0307, Exhibit C.TCPL.1 c).
[4] Ibid., TCPL.1 d)-e).
[5] Ibid., TCPL.1 f).
[6] EB-2010-0207 Decision and Order, page 6, paragraph 27.
[7] EB-2017-0306/EB-2017-0307, Exhibit C.TCPL.1 a).

It is understood that rates under a price cap methodology may not necessarily reflect actual costs on an annual basis between rebasing periods. Accordingly, TransCanada does not challenge Union's use of the current C1 rate up to 2019. However, TransCanada submits that maintaining the existing rate would result in tolls that are not just and reasonable beyond 2019, and requests that the Board order Union to substantially reduce the rate charged to C1 Dawn to Dawn-TCPL shippers. Should the Board determine that this proceeding is not the appropriate forum for such action, TransCanada requests that this issue be considered in the 2019 Rates proceeding.

III. IN-FRANCHISE AND EX-FRANCHISE SERVICES: IMPACTS OF AMALGAMATION

Should the Amalgamation be approved, the Applicants have stated that Enbridge's contracts with Union will cease to have effect as they will be contracts between the same party[8] (and a party cannot contract with itself). As a result, Enbridge will transition from an ex-franchise customer of Union, to an in-franchise user of the Dawn Parkway system. This transition will exacerbate an existing inequity in Union's cost allocation/rate design. Namely, in-franchise customers receive higher quality service in respect to nomination policy and expansion capacity allocation compared to ex-franchise customers, but do not pay for these benefits.

Enbridge's shift from ex-franchise to in-franchise represents a significant change in the use of the Dawn Parkway system. For 2017/18, 27.9% of the system capacity was reserved for Union's in-franchise use. Based on the same years' figures, in-franchise use of the Dawn Parkway system will rise to 65.7% as a result of the movement of Enbridge volumes from ex-franchise to in-franchise, should the amalgamation be approved.[9] This is a material change for the operation and use of the system. TransCanada submits that the change in use of the system to one predominantly serving in-franchise customers should result in a review of service attributes to ensure fair competition, fair and equal access, non-discrimination, and adherence with the principles of user-pay/cost-causation.

TransCanada notes two specific transportation service attributes where ex-franchise customers face discrimination compared to in-franchise users and for which tolls are not consistent with the cost causation/user pay principle:

[8] EB-2017-0306, Exhibit B, Tab 1, page 40 of 44.
[9] EB-2017-0306/EB-2017-0307, Exhibit C.TCPL.3 e).

Amalco in-franchise customers in effect receive a no-notice transportation service for the same price as ex-franchise customers that are not provided with the same service flexibility.

First, the difference in service quality between in-franchise and ex-franchise transportation service is illustrated in Amalco's undertaking response to JT3.12. Union states that M12 and C1 transportation customers are entitled to nominate firm transportation contracts at the Timely North American Energy Standards Board (NAESB) nomination window, and that adjustments to those quantities can be made on an interruptible basis at intraday nomination windows as provided in the contracts. In contrast, Amalco in-franchise customer transportation requirements are entered directly into the CARE nomination system and are considered a proxy for nominations. Adjustments are made within the CARE system throughout the gas day based on in-franchise demand. The Operationally Available Transport Capacity is calculated within the CARE system at each standard NAESB nomination window based on scheduled in-franchise requirements, firm quantities and interruptible quantities.[10]

In-franchise customers are able to adjust volumes on a firm basis throughout the day, whereas C1 and M12 transportation customers may only adjust their nominations on an interruptible basis.[11] Amalco in-franchise transportation customers in effect receive a highly valuable no-notice service for the same cost as C1 and M12 customers which receive no such service flexibility. Post amalgamation, this advantage would apply to two-thirds of system volumes at the expense of ex-franchise customers.

Amalco in-franchise customers receive preferential access to expansion capacity

Secondly, Amalco stated that in a scenario where it is uneconomic to expand facilities to fully accommodate the entirety of a capacity expansion requested by shippers, Amalco's in-franchise customer needs would not be subject to proration, whereas all ex-franchise bids would be prorated based on remaining capacity.[12]

TransCanada submits that C1 and M12 shippers face discrimination in the provision of transportation service due to the free no-notice service option and preferential access to expansion capacity provided to Amalco in-franchise transportation customers. This provides Amalco's customers an undue advantage over TransCanada and its shippers, including those utilizing transportation to and from Quebec and the northeast US trying to access transportation back to one of North America's most liquid natural gas trading hubs at Dawn.

[10] EB-2017-0307, Exhibit JT3.12, page 1 of 2.
[11] Ibid., pages 1&2 of 2.
[12] EB-2017-0306/EB-2017-0307, Exhibit C.TCPL.3 b) i).

TransCanada recognizes that these nomination and expansion capacity policies are presently in effect. However, should the amalgamation be approved, the magnitude of discrimination will increase dramatically, such that two-thirds of volumes on Amalco's transmission system will be advantaged relative to the remaining minority of ex-franchise customers. This hearing represents an opportunity to the OEB to not only prevent exacerbation of the current inequity but to address the issue for the future.

For these reasons TransCanada recommends that the Board direct Amalco to allocate costs incurred in the provision of higher quality in-franchise service to in-franchise customers. In addition, TransCanada requests that Amalco be directed to allow ex-franchise customers the right to contract for a M12 service with similar attributes to those provided to in-franchise customers (for example, an M12 no-notice service). These changes would provide for cost based, non-discriminatory tolls that meet the just and reasonable standard.

IV. PROPOSED CHANGES TO GAS SUPPLY PLANS

The Applicants have proposed to present and review Amalco's gas supply plan at each stakeholder meeting.[13] The stakeholder meetings are proposed to occur every other year starting in 2019. The Applicants have confirmed that the time horizon for the Amalco gas supply plan would remain the same as those provided currently, which is just for the upcoming gas year. In addition, the Applicants confirmed that the stakeholder meetings will have no interrogatory process.[14] In other words, the Applicants are proposing to provide a gas supply plan that looks forward one year, as part of a meeting closed to public scrutiny which occurs once every two years. This proposal is clearly at odds with the Board's three foundational objectives as adopted in its draft report in EB-2017-0129, which are: (1) increased accountability, (2) increased transparency, and (3) performance measurement.[15]

Setting aside the proposal's lack of merit on a stand-alone basis, it also represents a significant departure from the gas supply plan review process to date. It is not sufficient that the applicants' proposal be subject to the Board's upcoming findings in EB-2017-0129. As although the Board has released its draft report on the framework for the assessment of distributor gas supply plans, the Board report is not yet final and it is unclear when any new process requirements will come into effect. As a result, in the interim, TransCanada submits that the most prudent path will be to

[13] EB-2017-0307, Exhibit B, Tab 1, page 27 of 31.
[14] EB-2017-0306/EB-2017-0307, Exhibit C.TCPL.6 e).
[15] EB-2017-0129, Draft Report of the Ontario Energy Board, page 3.

maintain the status quo, with Amalco continuing to provide a gas supply plan as part of its annual rate filing, with the plan being subject to intervenor review and interrogatories.

V. CONCLUSION

TransCanada has focused its argument on three distinct issues: (1) the rates associated with Union's Dawn to Dawn-TCPL Rate C1 service, (2) service changes Enbridge customers will receive as they move from ex-franchise to in-franchise status, and (3) the appropriateness of Amalco's proposed gas supply plan disclosure process. TransCanada takes no position on issues outside of this scope.

With respect to the issue of C1 Dawn to Dawn-TCPL rates, it is undisputed that the current rate is significantly higher than what the cost of service rate would be if the fully depreciated status of the facilities had been taken into account. Though TransCanada does not oppose the applicants' ten-year rebasing proposal, it is TransCanada's position that leaving the Dawn to Dawn-TCPL rate unchanged for any period beyond 2019 would result in rates that are not just and reasonable. TransCanada submits that a decrease in the rate is justified, and given the unique nature of the service such a change would not unduly prejudice other shippers on the system.

The second issue is presumably of concern to all ex-franchise customers of the Dawn-Parkway system. Should the Amalgamation be approved, in excess of 65% of its capacity will be utilized for in-franchise needs. This significant shift provides an opportune time to review the in-franchise service offerings provided by Amalco to ensure they are just and reasonable. TransCanada's position is that in-franchise customers receive service features and attributes that result in a higher quality of service compared to ex-franchise customers, at no additional cost. TransCanada submits that this inequity should be remedied through an adjustment to tolls that account for the costs of providing higher quality service, as well as the provision of a similar service to M12 customers.

Lastly, TransCanada submits that the applicants' proposal in respect to the gas supply planning process severely restricts the level of transparency and participation in the process compared to the status quo, and even moreso compared to the OEB's draft report in EB-2017-0129. In light of the OEB's ongoing Gas Supply Planning Framework Review, there is no reason to change the gas supply plan publication process from the status quo as the applicants have proposed.

TransCanada requests that the Board order the applicants to maintain the gas supply planning process as it currently stands, subject to the outcome of EB-2017-0129.

All of which is respectfully submitted,

TransCanada PipeLines Limited

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