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September 9, 2008

VIA COURIER AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: EB-2008-0052 - STAR
EGDI's Comments on Board Staff Discussion Paper

Enclosed please find Enbridge Gas Distribution's comments on the Board Staff Discussion Paper.

Three paper copies is being sent to the Board via overnight courier.

Sincerely,

[original signed by]

Lorraine Chiasson

encl.

cc: All Interested Parties EB-2008-0052

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF the Ontario Energy Board's Consultation on a Storage and Transportation Access Rule (STAR)

**SUBMISSIONS OF
ENBRIDGE GAS DISTRIBUTION INC.**

1. Enbridge Gas Distribution Inc. ("EGD") is pleased to provide its comments in response to the Discussion Paper authored by Staff of the Ontario Energy Board (the "OEB" or the "Board") in respect of a Storage and Transportation Access Rule ("STAR").

A. OVERVIEW

2. The OEB Staff Discussion Paper sets out OEB Staff's "initial thoughts" about what should be included in a STAR that would apply to EGD, as well as to Union Gas Limited ("Union") and other storage providers. While EGD supports, or does not object to, many of the items proposed in the Discussion Paper, there are a number of proposals or suggestions in the Discussion Paper which are not necessary to ensure non-discriminatory access to transportation services and/or are inconsistent with the notion of a competitive market for storage. Moreover, several of the items proposed for a STAR go beyond the reporting requirements envisaged by the Board when it issued its Decision with Reasons in the Natural Gas Electricity Interface Review (the "NGEIR Decision") mandating the development of a STAR.

3. The NGEIR Decision determined that the OEB would refrain from regulating new storage development in Ontario (as well as the existing ex-franchise market). It also recognized, though, that there is a potential for abuse where the transportation that connects this storage is a monopoly service offered, for the most part, by the same utility who will own the storage. The OEB determined, therefore, that rules (a STAR) should be put in place to prevent any such abuse, thereby protecting the interests of customers.

4. EGD advocates an approach to STAR that imposes additional regulation and reporting obligations only as necessary to give effect to the NGEIR Decision. As set out in the detailed comments below, there are a number of places where Board Staff's proposals go well beyond the content and intent of the NGEIR Decision. Most notably, the proposal that storage operators in the OEB-sanctioned competitive market must disclose pricing information is completely at odds with the NGEIR Decision. It is contradictory to, on the one hand, recognize the existence of a competitive market, and then, on the other hand, require market players to disclose the privately negotiated prices paid in that competitive market.

B. CONTEXT FOR EGD'S COMMENTS

5. The starting point for this consultation is the OEB's NGEIR Decision. It is the NGEIR Decision that concluded that a process should be initiated to develop rules of conduct and reporting related to storage and transportation. It follows, of course, that a STAR should be consistent with the NGEIR Decision.¹

6. In the NGEIR Decision, the OEB concluded that new storage services are needed and that the best way to ensure that new innovative storage services are developed and offered into the market is "to refrain from regulating these services" and that "competition in these services will be sufficient to protect the public interest"². The OEB reached a similar conclusion in respect of storage sold to ex-franchise customers.

7. At the same time as the OEB decided to refrain from regulating storage rates, it also noted that it wished to ensure that its Decision resulted in new services being offered, and that access to Union's transportation system would be offered on a non-discriminatory basis to new and existing storage operators.³ To accomplish this, the OEB decided that it would initiate a process to develop a STAR, and the process would address three items⁴:

- (a) Requirements to ensure that Union cannot discriminate in favour of its own (or its affiliates') storage operations, and cannot discriminate to the detriment of third-party storage providers;
- (b) Reporting requirements for all storage providers, which may include terms and conditions, system operating data and customer information; and

¹ A STAR should also be consistent with other regulatory instruments, such as the GDAR.

² NGEIR Decision (EB-2005-0551), at pp. 69-70.

³ *Ibid.*, at p. 76.

⁴ *Ibid.*

(c) A complaint mechanism.

8. In terms of the reporting requirements for storage providers, the Board noted that while pricing considerations “are relevant”, “the development of competitive options will provide appropriate price protection”.⁵

9. EGD’s view is that the items to be included within a STAR must be consistent with the findings and directions of the NGEIR Decision. Put another way, to the extent that the Board Staff proposals for a STAR go beyond, or are inconsistent with, the NGEIR Decision, then EGD objects to those proposals.

10. In the Discussion Paper (at page 5), Board Staff set out three “key objectives” for STAR. The first and second of these objectives are consistent with the OEB’s findings in NGEIR, as set out above. The third objective, “support a transparent transportation and storage market”, appears to go beyond the mandate provided in the NGEIR Decision. The concerns expressed in the NGEIR Decision related to potential discrimination by storage providers who also control transportation assets. Addressing that concern, particularly in the context of a competitive storage market, does not require the level of disclosure and regulation proposed by Board Staff.

C. EGD’S RESPONSE TO SPECIFIC ISSUES FROM THE DISCUSSION PAPER

a. Non-Discriminatory Access to Transportation Services

11. EGD agrees with the starting premise of the Discussion Paper that all potential customers must have non-discriminatory access to transportation services regardless of whether they purchase storage services.⁶ In that context, EGD supports the inclusion within a STAR of disclosure and operational requirements that ensure that this goal of non-discriminatory access is met. EGD accepts that there may be a need for some reporting and access rules related to transportation, which, unlike new and ex-franchise storage activities, is a regulated monopoly service.

12. EGD’s comments about access to transportation services are made from two different perspectives. First, as the owner of a transportation system from the Niagara Link Pipeline termination point to Dawn, EGD is a transportation operator under its Rate 331. Second, as the

⁵ NGEIR Decision, at p. 70.

⁶ Discussion Paper, at p. 7.

largest customer on Union's transportation system, and as a storage customer of Union, EGD has an interest in rules related to access to transportation services.

i. Transportation Open Seasons

13. The Board Staff Discussion Paper appears to suggest that all transportation service capacity should be offered through open season processes, unless there is a reason to exempt a transporter from that requirement.

14. Starting from its perspective as a transporter, offering service on Rate 331, EGD agrees with Board Staff that an exemption should exist from any requirement to hold open seasons for transportation capacity in circumstances where the cost and burden of that requirement outweigh the benefit. Stated differently, if there is no real potential for concerns about discriminatory access to a particular transportation service, then there is no reason to require capacity for that service to be offered through an open season process. EGD suggests that a STAR should confer exemption status as of right for small transporters from this open season requirement, rather than including a need for such parties to apply and get approval for an exemption.

15. As Board Staff recognizes in the Discussion Paper, EGD has very few customers (actually only one) for its Rate 331 service.⁷ EGD is not aware of other customers being interested in this very specific service in the foreseeable future. EGD has not encountered any complaints or difficulties with its current approach to the offering of capacity for Rate 331 service. In these circumstances, it is appropriate that EGD be exempted from any open season requirements that would otherwise apply to the offering of capacity for Rate 331 service.

16. In general, and as a transportation customer of Union, EGD does not object to the notion that capacity for new and existing transportation that is being offered for a period of more than one year should be offered through open seasons.

17. In terms of short term capacity, EGD's experience is that this is often offered through less formal methods, in order to enable transportation sellers to have the flexibility required to obtain the best terms for the sale of these short term assets. EGD's expectation is that its own short-term transactions governed by applicable "transactional services" rules (which, in EGD's

⁷ Discussion Paper, at p. 8.

case, include disclosure requirements⁸) will not be subject to a STAR. This expectation is also based on the fact that EGD's sales of short-term transportation assets are in essence the re-sale of assets acquired from third-party transporters, and are therefore substantially similar to transactions undertaken by gas marketers which, of course, would not be subject to a STAR.

18. EGD supports Board Staff's proposal that notice be provided to all parties within a reasonable time in advance of the commencement of open seasons for new and existing transportation that is being offered for a period of more than one year.⁹ While EGD does not believe that Union should be obligated to provide a schedule for when its open seasons would be held, as Board Staff proposes¹⁰, it does believe that a level playing field would be established and all parties would benefit if Union were to provide at least one year's notice of its intention to hold an open season, along with details of what is being offered through the open season. This would provide EGD, as a large transportation customer of Union, the opportunity to assess its interest in the pending offering, as part of its gas supply planning analysis.

19. The Board Staff Discussion Paper proposes certain information to be included in the "bid package" published in respect of open seasons for transportation capacity, but makes no distinction between open seasons for new and existing capacity¹¹. While all of the items listed in the Discussion Paper for bid packages for open seasons for existing capacity are appropriate, that is not the case for new capacity open seasons. Many aspects of what will be available in terms of new capacity (such as amount, date and potential constraints) cannot be determined until after an open season process has determined what demand exists for that capacity. It is only after the bids into the open season process are known that a service provider will determine the size, other characteristics and timing of the new build, based in large part on apparent market demand.

20. EGD supports the proposal that before transportation companies are allowed to proceed to build new or expansion facilities, existing customers should have the opportunity to "turn

⁸ The current form of the transactional services rules that govern EGD's transactional services dealings is set out in EB-2007-0932 and is referred to as the "TS Methodology".

⁹ Discussion Paper, at p. 8.

¹⁰ Ibid.

¹¹ Ibid., at pp. 8-9.

back” existing capacity rights (“reverse open season”).¹² This will help prevent overbuilding of new facilities.

21. The Board Staff Discussion Paper advocates disclosure of “bid results”, which is defined as “transaction results”.¹³ EGD takes this to refer to information about only the successful bidders and would object to any suggestion that information about unsuccessful bids and bidders would be made public. In any event, EGD questions why it is necessary for bid results to be disclosed and notes that this is not a requirement followed by TransCanada PipeLines Limited who expressly represent that information on bid forms from interested shippers will be kept confidential unless it is required by the National Energy Board.¹⁴ Moreover, if bid results are to be disclosed, a distinction needs to be drawn between transportation services where the price is set, and those which have negotiated rates.

22. In the case of services like Union’s C1, where there is a negotiated rate, it is not necessary or appropriate for the prices associated with winning bids to be posted. Union is already incented to choose the highest or best bids, since that will maximize revenues, so there ought to be no concern about abuse that needs to be monitored. To require information about winning bids to be made public has the potential to distort price negotiations in future open seasons. EGD’s view is that, so long as the identities of the successful bidders are disclosed, then market participants can be satisfied that Union is not unduly favouring its affiliates or others. In the event that market participants believe that Union is not properly and fairly conducting its open seasons, then a complaint can be made to the Board, who has the ability to fully investigate activities in this regulated market.

23. In the case of transportation services where there is a set rate, like Union’s M12, there is no benefit to posting the prices of winning bids, since that information is already known. Again, EGD’s view is that, so long as the identities of the successful bidders are disclosed, then market participants can be satisfied that Union is not unduly favouring its affiliates or others. In the case of open seasons for new facilities, the disclosure of the identity of the successful bidders should be done at the time that the bidders are selected, rather than at the time that the new build is completed.

¹² Discussion Paper, at p. 9.

¹³ Ibid., at pp. 9-10.

¹⁴ TransCanada PipeLines Limited “Transportation Access Procedure”, at sections 4.2(e) and 5.2(c); found at http://www.transcanada.com/Mainline/info_postings/tariff/TransAccessProc.pdf

ii. Standard Form of Contracts

24. The Discussion Paper proposes that each company's transportation service should have a standard form of contract and these contracts should be included in the Board approved tariffs.¹⁵ The Discussion Paper acknowledges that these contracts need not be standard between the two Ontario gas utilities.¹⁶

25. EGD does not agree that any change is required to the way that transportation contracts are currently prepared and negotiated. As a major transportation customer of Union, EGD is content with Union's current approach to contracting. Also, as previously noted, EGD has only one customer for its Rate 331 service. No issues have been raised by that customer.

26. In any event, EGD believes that the OEB's goal of ensuring non-discriminatory access to transportation services can be met by establishing minimum terms and conditions to be contained in each different type of transportation contract (Rate 331, C1, M12). In that regard, EGD does not object to the list of items set out by Board Staff that would be the subject matter of these minimum terms and conditions.¹⁷ Unlike a scenario where all parties would be required to use standardized contracts, the use of minimum terms and conditions would allow parties to have some flexibility in their contracting. To the extent that parties to these contracts wish to negotiate for additional attributes to these contracts, such as additional nomination windows or financial assurances, then they should be free to do so.

iii. Storage Connection Agreement

27. EGD generally agrees with the comments in the Discussion Paper about requirements to be included in a STAR in respect of storage connection agreements to ensure that a transporter cannot discriminate unduly between different storage providers that are connected to its system.

28. EGD does not see the need or benefit for standard contracts to be developed for storage connection agreements (because different circumstances may demand different agreements), but it does see the benefit in having some standard terms and conditions. In this regard, EGD accepts most of the suggestions from Board Staff about standards to be included

¹⁵ Discussion Paper, at pp. 11-13.

¹⁶ Ibid, at p. 11.

¹⁷ Ibid.

in the agreements, except for the requirement that firm transportation must be provided 365 days per year.¹⁸ In EGD's experience, this requirement is not realistic or necessary.

29. EGD agrees with Board Staff that disclosure of the storage connection agreements is appropriate, and favours a process where each such agreement is approved by the Board.¹⁹ This would provide interested parties with the opportunity to understand, and if necessary challenge, agreements that appeared to unduly favour affiliates or other storage providers.

iv. New Transportation Services

30. EGD agrees with Board Staff's suggestion that new competitive storage services should not be tied to transportation services.²⁰

b. Consumer Protection in the Competitive Storage Market

31. EGD believes that any reporting and complaint mechanism that is adopted in the competitive storage market must be designed so that it does not undermine the OEB's determination in the NGEIR Decision that this market is to be unregulated. To the extent that Board Staff are proposing provisions for a STAR that would mandate disclosure of the commercial arrangements between competitive storage providers and their customers, EGD objects. This is both inconsistent with the NGEIR Decision (and the basic operations of competitive markets for other products and services), and unnecessary.

32. As the OEB noted in the NGEIR Decision, customers will be protected in the competitive storage market by the fact that competitive options exist for the storage services they seek.²¹ Customers are therefore able to take steps in the market to obtain the service and contractual provisions they require, at the best available terms. This can be done by participating in open seasons offered by storage operators, by conducting their own request for proposal ("RFP") processes to solicit interest from storage operators and others or by contracting with gas marketers to find the best possible options. In addition, it should be noted that the purchasers of storage in the competitive market generally are sophisticated entities who are able to protect their own interests, with the benefit of expert assistance from consultants, marketers, lawyers

¹⁸ Discussion Paper, at pp. 13-14.

¹⁹ *Ibid.*, at p. 14.

²⁰ *Ibid.*, at p. 15.

²¹ NGEIR Decision, at p. 70.

and others. EGD suggests, therefore, that Board Staff's suggestion that customers need more assistance, in terms of price disclosure, to assist them in making purchasing decisions is not based on any real evidence, and is unfounded in the context of the competitive storage market. Indeed, EGD's own experience as one of the largest purchasers of storage in Ontario is that such information is unnecessary.

33. Indeed, EGD expects that many customers in the unregulated storage market would not want to have the details of their arrangements made public. That would provide a customer's competitors with insight into that customer's costs and operations, something that may be unwelcome.

34. During the course of the NGEIR proceeding, EGD did make certain concessions as to the information that it would be prepared to disclose about its competitive storage dealings. While EGD certainly does not believe that the provision of this information is necessary, or consistent with the notion of an unregulated environment, it made its concessions in order to address the concern raised during the NGEIR hearing that the OEB may wish to be able to monitor the consequences of a decision to forbear.²² The specific information that EGD has offered to provide is discussed below, under the "Reporting Requirements" heading. It should be emphasized, though, that EGD made it very clear that it was not prepared to disclose any pricing information, because that information is commercially sensitive, nor any rate schedules, because rate schedules will not exist for services in a forbearance environment.²³

35. As EGD noted in response to Undertaking K7.7 in the NGEIR Proceeding²⁴, the provision of the information it offered to disclose "will provide significant insight into the level of activity that is occurring in the market", and would provide "an indicator as to how the market has responded to the forbearance decision". In other words, this level of reporting will provide comfort to parties, and the Board, that the interests of consumers are protected in terms of the availability, reliability and quality of unregulated storage services. To the extent that the reporting identifies problems or issues, then the Board's complaint and compliance procedures are available in response.

²² See page 3 of EGD's response to Undertaking K7.7 in the NGEIR Proceeding, found at http://www.oeb.gov.on.ca/documents/cases/EB-2005-0551/undertakings_oralhear/enbridge/k72-k74_k76-k710_310706.pdf

²³ EGD's response to Undertaking K7.7 in the NGEIR Proceeding.

²⁴ Ibid.

36. In response to Board Staff's specific proposals, EGD has several comments:
- (a) First, the suggestion that the OEB's role in the competitive storage market should be substantially similar to the role played by the Federal Energy Regulatory Commission (the "FERC")²⁵ glosses over the fact that even with market-based rates for storage in the United States, the storage operators are still subject to other aspects of FERC regulation. By way of contrast, the OEB has determined that it will "refrain from regulating" certain storage activities in Ontario. Given the distinction between the OEB and the FERC in this regard, EGD does not believe that there is any basis for a STAR to adopt the approach taken by the FERC to the disclosure of information from storage operators under its jurisdiction.
 - (b) Second, if the intention of the Board Staff's proposals is to restrict a competitive storage operator from selling storage except through open seasons, then EGD objects. To serve its in-franchise storage needs, EGD must acquire substantial amounts of storage on the open market. To do so, EGD generally undertakes an RFP process where it solicits offerings from a variety of storage providers, so that it can obtain the best terms, including price. EGD does not believe that it would be in the interests of its ratepayers (who ultimately pay for the storage that EGD acquires) if Union and other Ontario storage providers were precluded from participating in these RFP processes. In addition, there may be times where a storage operator has a small amount of available storage to sell, perhaps for a short period of time, and it would not be practical to require an open season process in each such circumstance.
 - (c) Third, it is not appropriate to use standard terms of service for unregulated storage contracts.²⁶ While it may be that there are standard terms of service offered as part of particular open season processes, there is no reason to make those terms of service standard for every offering. Indeed, to require this flies in the face of the notion of a competitive market where market participants are free to negotiate the terms and conditions of the service being offered. One of the attributes of the new high deliverability storage that will be offered in a forbearance environment is that the service can be tailored to the needs of particular customers. For this to happen though, the

²⁵ Discussion Paper, at p. 16.

²⁶ *Ibid.*, at p. 17.

terms of the contracts with customers will necessarily vary, and customers will not want to be restricted to a standard form contract.

(d) Fourth, EGD strongly objects to the suggestion that it is appropriate or necessary for any pricing information about competitive storage dealings to be disclosed²⁷ for the following reasons:

- (i) As already discussed, this is inconsistent with forbearance, and inconsistent with the NGEIR Decision, which stated that the development of competitive options will provide adequate price protection.
- (ii) There is no indication that the customers of these services favour disclosure. To the contrary, EGD expects that many customers will want to keep their contractual and pricing arrangements private from competitors and other market players.
- (iii) The suggestion that pricing information, on its own, would be useful to those who seek to monitor the competitive storage market is misguided. The fact is that the storage market is fluid and prices at one point in time are not necessarily indicative of what will happen in the future. Other conditions of the service, such as deliverability, ratchets and renewal rights substantially affect the value of the service. Moreover, a storage provider will always be looking to optimize total revenue from its operation, meaning that different terms may be agreed upon for different tranches of the storage, to ensure optimization. Disclosure of the prices paid for these different tranches of storage would not assist market participants who are not aware of the circumstances behind each transaction.

c. Reporting Requirements

37. Just as the same non-discriminatory access rules need not apply to both regulated transportation and unregulated storage services, there is no basis to conclude that the same reporting requirements should apply to each. EGD accepts that it is appropriate to require some level of reporting for regulated monopoly transportation services, in particular to ensure that the goal of non-discriminatory access is being met. On the other hand, much less reporting is required for unregulated storage services, where the Board's stated concern is simply to ensure

²⁷ Discussion Paper, at pp. 17-18.

that the interests of consumers are protected in terms of the availability, reliability and quality of the service.²⁸ Consistent with these comments, EGD will address reporting requirements for transportation and storage separately.

i. Reporting on Transportation Services

38. As noted above, EGD approaches issues related to transportation from two perspectives, as the operator of a discrete transportation service (Rate 331), and as a major customer of Union's transportation services.

39. From its perspective as a transportation operator, EGD agrees with Board Staff's observation that it is appropriate for exemptions from reporting requirements to be granted in appropriate cases.²⁹ In EGD's case, where there is only one customer for its transportation service, and no request for service from any other parties, no benefit would be served by imposing reporting requirements on its Rate 331 transportation activities. In order to implement some of the reporting proposed by Board Staff, such as a daily (or more frequent) available capacity report, EGD would be required to make changes to its systems which would impose new costs on EGD's customers. EGD does not believe that the limited (or non-existent) benefits that would flow from such reporting would justify these costs. EGD suggests that the best way to proceed is for a STAR to confer exemption status on small transporters from reporting requirements, rather than including a need for such parties to apply and get approval for an exemption.

40. EGD notes the suggestion in the Discussion Paper that the disclosure proposed as part of an "Index of Customers" would apply to all transactions with terms of three months or greater. As noted earlier, EGD assumes that this requirement does not relate to its transactional services dealings, which are governed by the TS Methodology (which contains its own reporting requirements) and which (in the case of transportation deals) are effectively secondary market transactions since EGD is re-selling assets acquired from third parties.

41. From its perspective as one of the largest customers of Union's transportation system, EGD is satisfied with Union's current reporting, and does not believe that additional reporting is needed.

²⁸ NGEIR Decision, at p. 70.

²⁹ Discussion Paper, at p. 19.

ii. Reporting on Unregulated Storage Services – Index of Customers

42. As noted above, EGD questions why any reporting is required for unregulated storage services. Notwithstanding its reservations in this regard, EGD did agree during the NGEIR proceeding to provide a substantial amount of reporting, in order to provide the OEB and stakeholders information about the level of activity in the unregulated storage market.

43. In respect of its unregulated storage services, EGD has agreed to provide the following information for firm storage contracts of one year or longer³⁰, consistent with the disclosure mandated by FERC section 284.13:

- (a) Customer name
- (b) Contract number
- (c) Effective and expiration dates of the contract
- (d) Maximum storage quantity
- (e) An indication of whether the contract includes negotiated rates (although this seems unnecessary, since all the “rates”, or at least the contract pricing, will be negotiated)

44. In response to the list of items in Board Staff’s proposed “Index of Customers”³¹, EGD is prepared to disclose the information listed in the preceding paragraph, as well as the daily withdrawal and injection capacities under each contract. EGD does not believe, though, that information about a “rate schedule” is relevant or appropriate, since no rate schedule will apply to unregulated storage services.

45. EGD is prepared to post this “Index of Customers” information about its unregulated firm storage contracts of one year or longer on a monthly basis, if that is seen to be beneficial to stakeholders. EGD does not understand the need to provide and post similar “Index of Customers” information for shorter-term unregulated storage contracts. Based on its experience in the transactional services market as a seller of short-term storage assets, EGD has learned that customers on short term storage contracts would object to disclosure of their dealings. EGD therefore objects to the proposal that short-term contracts be included within the “Index of Customers” reporting, because that requirement would impose regulatory burden with no corresponding benefit.

³⁰ See response to Undertaking K7.7 from the NGEIR Proceeding, found at http://www.oeb.gov.on.ca/documents/cases/EB-2005-0551/undertakings_oralhear/enbridge/k72-k74_k76-k710_310706.pdf

³¹ Discussion Paper, at p. 23.

46. EGD disagrees with Board Staff's suggestion that EGD should report upon the amount of its storage capacity that will be required for in-franchise purposes.³² As parties are aware, EGD uses all of its regulated storage capacity and its contracted storage capacity for in-franchise purposes, except for off-peak storage that is used for transactional services deals from time to time. As such, there appears to be no benefit from EGD reporting upon its regulated storage activities since the assets used for those activities are not made available to the market (apart from transactional services, which is governed by the TS Methodology).

iii. Reporting on Unregulated Storage Services – Available Capacity

47. EGD questions the basis for requiring disclosure of available capacity of unregulated storage.³³ While it seems reasonable to require disclosure of available capacity of transportation, which is a monopoly regulated service, that rationale does not extend to unregulated activities. So long as the "Index of Customers" is published on an ongoing basis, parties will have a long-term picture of what unregulated storage assets are already contracted, and can deduce what assets remain. If parties are interested in acquiring storage services, then they are free to take advantage of the competitive market and contact storage providers or marketers to get service.

48. In any event, in terms of its own unregulated storage services, EGD does not believe that there would be worthwhile benefits to requiring it to post availability information on a daily or other more frequent basis (such as at every nomination cycle). The only parties who will be able to take advantage of available capacity from EGD on a short notice basis will be those few parties who already contract with EGD for unregulated storage services. This is because those are the only parties who would have injection or withdrawal rights to the storage space. Given that these parties can already directly inquire of EGD for overrun service when they wish to have additional capacity, there is no reason why public reporting would be beneficial or necessary.

49. It is also significant that EGD's unregulated storage capacity will be small (less than 3 Bcf), meaning that the amount of available storage at any point in time will be very small. Thus, it is unlikely this information would ever be of much use to any market participants. Given that EGD does not currently have systems in place that would enable it to report capacity at each

³² Discussion Paper, at p. 22.

³³ *Ibid.*, at pp. 21-23.

nomination cycle, it would have to incur costs to implement such systems, but no real benefit would result.

50. EGD would therefore seek an exemption from compliance with any “Available Capacity Report” that is part of a STAR. EGD suggests that the best way to proceed is to confer exemption status upon small unregulated storage providers from any available capacity reporting requirement found as part of a STAR, rather than including a need for such parties to apply and get approval for an exemption.

iv. Reporting on Unregulated Storage Services – Semi-Annual Storage Report

51. EGD agrees with Board Staff that there is no incremental benefit to requiring a “Semi-Annual Storage Report” in addition to the “Index of Customers”.³⁴

v. Reporting on Unregulated Storage Services – Storage Price Reporting

52. As already discussed in detail, EGD objects to any requirement to report on pricing information related to unregulated storage services. As the Board stated in the NGEIR Decision, consumer protection in respect of pricing will be assured through the operation of the competitive market.

vi. Reporting on Unregulated Storage Services – Design Capacity

53. The Board Staff Discussion Paper does not set out any basis for why additional disclosure of the physical capacities of storage facilities is required.³⁵ EGD is not aware that any party has indicated a reason why disclosure of this information is needed, and notes that it can already be found in leave to construct and related documents. EGD is concerned that system design information that is posted on a pool-by-pool basis, as Board Staff proposes, can easily be misinterpreted because EGD’s system operates on an integrated, not segmented, basis. In other words, if someone were to simply aggregate all the information about EGD’s separate storage pools, that would not give a full picture of EGD’s overall storage system. As such, it is hard to see how the information would be of any particular use to any market participant.

³⁴ Discussion Paper, at p. 25.

³⁵ Ibid., at p. 26.

54. EGD therefore objects to any requirement in a STAR that would mandate additional disclosure of the items discussed under the “Design Capacity” heading.

d. Complaint Mechanism

55. EGD generally does not disagree with Board Staff’s proposals for the form of complaint mechanism that is appropriate as part of a STAR.

56. EGD is comfortable with the notion that operational issues with its storage and transportation activities would be dealt with through its own complaint handling procedure.³⁶ EGD is prepared to make the details of that procedure available to its customers by posting it on its website, but agrees with Board Staff that there is no need for the OEB to approve its complaint procedure.³⁷

57. EGD accepts that it is appropriate for complaints and issues related to compliance with a STAR to be dealt with by the OEB’s Compliance Office.³⁸

58. Finally, EGD does not object to the suggestion that concerns about “unfair or discriminatory practices” not covered by a STAR may be addressed by the Board. EGD notes, though, that Board Staff has correctly identified that the Board may only deal with issues in the competitive storage market that are within its jurisdictional authority.³⁹

59. EGD is grateful for the opportunity to make these comments. EGD looks forward to reviewing the submissions of other stakeholders and reserves the right to comment on such submissions as may be necessary. EGD also welcomes any follow-up questions from Board Staff to address issues set out in these submissions.

Date: September 9, 2008

³⁶ Discussion Paper, at pp. 28-29.

³⁷ Ibid., at p. 29.

³⁸ Ibid.

³⁹ Ibid.