

VIA E-MAIL

September 9, 2008

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

Re: FRPO COMMENTS – BOARD STAFF DISCUSSION PAPER REPORT

On behalf of the Federation of Rental-housing Providers of Ontario (FRPO), DR QUINN & ASSOCIATES LTD. (DRQ) is pleased to provide comments on the Staff Discussion Paper (Paper) on a Storage and Transportation Access Rule Board File No.: EB-2008-0052.

Background

The Ontario Energy Board (Board) was granted significant rule-making powers in the Ontario Energy Board Act, 1998 (Act) to meet the objectives of the Board. One of the Board's first exercises in Rule-making was called the Distributor Access Rule in January 2000. At that time, it was contemplated that the Distributor Access Rule would provide a means to meet the Board objectives as they related to the Storage, Transmission and Distribution of natural gas in Ontario.

The Board convened a task force of representatives from many sectors of the market to provide input into the Rule. However, near the outset of that task group process, the then Director responsible, Ms. Anne Powell, conveyed that the Board had decided to narrow the rule-making exercise to Distribution. Ms. Powell articulated that this narrowing would be done so as not to compromise the Unbundling/PBR hearing of Union Gas that was happening concurrently. The resulting Gas Distribution Access Rule provided standards and protocol to distribution services but did not assist in securing non-discriminatory access to the distributor's storage and transportation services.

As a member of that original task force, I believe that the intervening time frame has resulted in significant evolution of the monopoly distributor's role and the position of its shareholder in the market and it is essential for the public interest to establish the Storage and Transportation Access Rule (STAR) at this time. Without the standards, reporting and monitoring of a STAR, as Economic Agency Theory would predict, utility managers will be incented to improve outcomes for the shareholder as is their first responsibility to the corporation. With the increased opportunities of forbearance and a black box as a system, the non-independent system operator must be kept accountable to their responsibilities of their social compact as the monopoly utility. A well-developed STAR would allow for a more balanced and rational market development which address the objectives of the Board under the Act.

Comments

As an active participant in the proceeding, DRQ has studied the jurisdictional review and attended the individual stakeholder group and all-stakeholder meetings. DRQ has reviewed and considered the Staff Discussion Paper and will provide comment herein. These submissions will be structured chronologically consistent with the Paper with the exception of an opening comment. DRQ has engaged other intervenors in dialogue toward building a better understanding of the possibilities of STAR. In addition, DRQ has collaborated directly with Kitchener for efficiency in developing comments to the Paper and therefore will simply state specific endorsement of Kitchener's position in some sections where staff had asked for stakeholder comment.

As an over-arching statement, it is the submission of DRQ that Staff is on the right track and has provided a very well thought-out foundation to an effective rule. The discussion paper addresses many of the gaps in the current environment relative to access and providing disclosure to market participants to make more informed decisions with respect to their needs and those of their customers. An interesting point on this matter came out a couple of times in the all-stakeholder meeting that was convened by staff. In answer to why some information was not available from Union Gas Ltd. (UGL), they submitted that if that information was made available, "it would move the market". With respect, is that not the point? If UGL has information about operating conditions, how can the Board be assured that the information is sufficiently closely held that it does not allow for opportunism from those who may find access? If that information were made available to the market, then participants can transact with more confidence with third parties and the market can find the appropriate price. In the view of DRQ, the level of disclosure contemplated by the Staff Discussion Paper contributes significantly to the rational economic evolution of the market for the benefit of stakeholders.

Section 2 – Non-Discriminatory Access to Transportation Services

Section 2.1 Allocation of Transportation Capacity

DRQ endorses Kitchener's position of using TCPL and ANR methods.

Section 2.1.1 Minimum Standards for Transportation Open Seasons

DRQ endorses Kitchener's position on the standards.

In response to Staff's options for pricing C1 ST FT service, DRQ supports the allocation of this service using open season. DRQ would support a minimum bid price being developed for the package as a cost-of-service based rate. It is important to note though that, to the extent that the C1 service that is being offered is underpinned by assets that were originally functionalized and allocated to in-franchise ratepayers, the cost of service should be the variable costs associated with that service. Since it is recognized that there may be a gas cost component, it would be preferable to have Union provide the price at the time of offer including the identification of how the price was developed to demonstrate consistency with this principle.

Section 2.1.2 Standard Form of Contracts

DRQ endorses Kitchener's position in enhancing the minimum requirements proposed in the Paper and agrees with staff that the standard terms of service should be in place for all transportation services. Posting the negotiated contracts that vary from the standard form should enhance the objective of the level playing field.

Section 2.2 Storage Connection Agreement

Staff has provided some standards for the connection agreement that are effective as guiding principles. However, it would be very difficult for a storage provider to know if the level of service they are receiving is comparable to other providers unless the final SCA's are available for review and comparison. Staff option 3 of posting the final SCA on the website would reduce the risk that a provider is not afforded the same level of service as other providers.

Section 2.3 New Transportation Services

Staff has included many proposals throughout the Paper to improve the transparency in the market. In this section, staff recognizes the value of liquidity and is encouraging an innovative approach. One option suggested includes bundling storage and transportation services "as long as the equivalent storage and transportation services are also offered on a stand-alone basis". While this bundling creates risks for non-discriminatory access, if the Board adopts most of staff's recommendations for disclosure of parties and prices, the risk of this issue is reduced and innovative services may be developed.

Section 3 Consumer Protection in the Competitive Storage Market

DRQ submits that to maximize the opportunity of the potential for a competitive market, standard terms of service for competitive storage contracts would allow the potential for a secondary market to form for the storage market. If those terms were comparable to the terms for unbundled in-franchise customers, those customers may have an opportunity to meet their additional storage requirements beyond the constraining allocation of aggregate-excess or other methods. While a list of proposed base set of service terms and conditions is not provided here, it is recommended that using service terms from neighbouring jurisdictions in the geographic market area would enhance the potential of the expected benefits of competition through secondary markets.

Staff noted a concern that price disclosure could lead to collusion. It is the submission of DRQ that disclosure would allow monitoring that would reduce the potential for collusion. In fact, it is offered that non-disclosure would allow a smaller number of informed market participants to manipulate the market with reduced risk of detection. For this reason, a full disclosure of pricing should be required from the large storage providers.

As one of the few areas that DRQ disagrees with the Paper is in the area of limiting non-public information from competitive storage personnel. "Staff thinks this is feasible". It is the experienced opinion of DRQ that this level of restriction would be difficult to maintain and

almost impossible to enforce. Once again, to the extent that commercially sensitive operating information is available (e.g., capacities, planned releases, etc.), this information should be made publicly available thus eliminating the risk of leaks and need to enforce.

Section 4 Reporting Requirements

4.1 Principles

Staff has provided a sound framework of principles to guide direction of significant increases in the quantity and timeliness of information from the utilities. DRQ agrees with Kitchener's submission that the phrase "or advantage" be added to number 4. If less information is available about the Ontario market than neighbouring jurisdictions, it is likely to result in a less efficient market to the detriment of participants with the ultimate cost being visited on end-use customers. Therefore investment in the required computer functionality to disseminate the information appropriately would be worthwhile for end-use customers who would be required to fund the changes through rates. When compared to the costs incurred by ratepayers in Enabling Unbundling RP-2000-0078 with limited benefits, the web-based technologies of today should allow a substantially more effective investment.

4.2 NGEIR Reporting Requirements

A clear indication of the limitation of the current level of information is provided in the section referred to as the Available Capacity Report. The Paper presents the light system as used by Union to report status. This system is absent criteria to inform the market participant of the status in a way that provides a sense how the system is operating under current weather conditions. This type of information allows the participant to make risk-informed decisions about the value of services in the present market and project estimated values for the future. Providing quantified design capacities and regular, frequent updates of available capacity allow the participant to gauge their need and desire to act influencing the price bid or offer on services.

4.3 Reporting Options

As Staff has referenced throughout the report, FERC regulations have been used as a starting point for the good reasons that they provided. Some may argue that using FERC regulations, applicable to large interstate pipelines, may present undue requirements on a utility that may closely match a large intrastate pipeline. However, given Union's position in northeast North America and the hub that Dawn has become for natural gas traffic, Union has many characteristics of an interstate pipeline. In addition, it is important to point out the FERC is in its own consultations at the time with rulemaking aimed specifically at requiring large intrastate pipelines to provide comparable reporting on capacities, scheduled flow and actual flow (FERC Docket No. RM-08-2-000).

4.3.1 Index of Customers

DRQ supports the recommendation of reporting on contracts of three months or greater and the monthly generation of customer lists. This reporting will provide better information on a timelier basis with little additional cost.

DRQ also supports the reporting of the un-utilized storage of the in-franchise 100PJ as a separate item. Providing the market with a sense of the expected supply will assist in valuing the service. Further, reporting the quantity would provide in-franchise ratepayers with some accountability for the optimization of that storage. As Union acknowledged in slide 10 of its presentation at the all-stakeholder meeting “All revenues and costs associated with marketing and selling storage using excess in-franchise storage will flow through the Short Term Storage and Balancing deferral account which is subject to annual review and disposition”. While this is clearly a rate case issue, it is one of the unique aspects of the NGEIR decision that sets up challenges in ensuring ratepayers are afforded their benefits for the costs that they bear in rates. Reporting of the amount will provide greater assurance of appropriate utilization.

4.3.2 Available Capacity

DRQ supports Kitchener’s position on capacity.

4.3.3 Semi-Annual Storage Report

DRQ agrees with Staff that as long as maximum daily withdrawal **and injection** quantities are added to the Index of Customers the semi-annual report is not needed.

4.3.4 Storage Price Reporting

DRQ supports Kitchener’s position on capacity.

4.3.5 Design Capacity

Staff has recommended the storage operators provide design capacity and other parameters of each pool. Given the integrated nature of Union’s storage system, it may not benefit the Board or market to break out the information. In fact, it may hinder the market. What may be helpful is a snapshot of the storage allocation conditions (amounts allocated to long-term ex-franchise, short-term ex-franchise, excess in-franchise and in-franchise) as at November 1st each year. This information would again provide information to the market and, over time, trends to make risk-informed decisions.

Section 5 Complaint Mechanism

Section 5.3 Options

Staff is suggesting that each company be allowed to develop their own set of complaint procedures. DRQ believes that this suggestion may be an initial starting point. However, as an experienced participant in these matters, DRQ urges the Board to endorse Staff recommendations for full disclosure in the previous sections of the Paper and establish an on-going monitoring and repository of transactions with the utility. The monitoring would allow anomalies to be highlighted while the repository would provide a data bank to draw on in the event complaints are registered with the Board. While it may be argued that the utility does not receive many documented complaints from customers, this may have more to do with the discretionary powers held by the gatekeeper than customers’ satisfaction with how they have

been treated. Once again, an effective STAR would reduce the risks of discriminatory practices and is the Board's stated intent in this proceeding.

Section 5.4 Unfair and Discriminatory Practices

DRQ strongly supports the proposal of Staff that complaints of market failure in storage or transportation be brought directly to the Board. Given the original objectives of the Board under the Act that precipitated this proceeding, issues of market development are best addressed by the regulating authority.

Concluding Comments

The STAR is a landmark rule for the Board in its efforts to serve the public interest by creating conditions that allow for rational market development that serves all stakeholders. DRQ would like to commend the work of staff and its hired consultant in developing an effective process which garnered input from many jurisdictions and perspectives to formulate an excellent Discussion Paper.

Respectfully Submitted on Behalf of FRPO,



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Principal
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