EB-2005-0551

ONTARIO ENERGY BOARD

IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine whether it should order new rates for the provision of natural gas, transmission, distribution and storage services to gas-fired generators (and other eligible customers) and whether the Board should refrain from regulating the rates for storage of gas.

EVIDENCE OF THE INDUSTRIAL GAS USERS ASSOCIATION ("IGUA")

and

THE ASSOCIATION OF MAJOR POWER CONSUMERS IN ONTARIO ("AMPCO")

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BORDEN LADNER GERVAIS LLP
Barristers & Solicitors
World Exchange Plaza
100 Queen Street
Suite 1100
Ottawa, ON K1P 1J9

Peter C.P. Thompson, Q.C.
Telephone (613) 237-5160
Facsimile (613) 230-8842
Counsel for IGUA & AMPCO

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I. INTRODUCTION

1. The following evidence is submitted on behalf of the Industrial Gas Users Association ("IGUA") and The Association of Major Power Consumers in Ontario ("AMPCO"). The member companies of IGUA & AMPCO are listed in the documents attached at ***Tab 1***.

2. AMPCO's mandate includes representing the interests of its Ontario member companies. IGUA represents the interests of its Ontario and Quebec member companies. The Ontario facilities of the member companies of IGUA & AMPCO who use gas are served by either Union Gas Limited ("Union") or Enbridge Gas Distribution Inc. ("EGD").

3. With the exception of Bowater's Gatineau Plant, which is served by Gazifère Inc., IGUA's Quebec based members are all served by Gaz Métropolitain inc. ("GMi" or "Gaz Métro"). Some 65% of Gaz Métro's market is the industrial sector. GMi relies primarily on two "tools" to meet its peak day requirements. One is its storage at Dawn and STS service on TCPL. GMi draws upon its Ontario storage on peak days. GMi's other tool is to curtail interruptible customers to meet peak day requirements. IGUA regards it as imperative that Gaz Métro's Ontario storage contracts be protected for as long as the Quebec market is dependent on Western Canadian gas supplies. If the LNG projects proposed for the lower St. Lawrence come on stream by 2010, then the dynamics of Gaz Métro's gas supply and peak demand arrangements might change. But until that time at least, GMi will continue to rely upon its Ontario storage contracts to meet its system requirements.

4. Most of the IGUA & AMPCO member companies are natural gas and electricity users. A priority objective of these companies is to obtain results in these proceedings which mitigate and eliminate the risk of increases in the total delivered price of gas and electricity at their plants.

5. Peter Fournier, the President of IGUA, and Adam White, the President of AMPCO, will testify at the Hearing to support this Pre-Filed Evidence. They will be joined by John Butler who will provide advisory support for certain matters pertaining primarily to storage. Mr. Butler prepared the discussion paper found at ***Tab 2*** entitled "Analysis of the Impact of Storage Deregulation on Industrial Gas Users". These witnesses may be accompanied by one or more representatives of IGUA & AMPCO member companies. *Curriculum vitae* of these witnesses will be provided shortly before they testify.

6. IGUA & AMPCO have also joined with the Consumers Council of Canada ("CCC"), the Vulnerable Energy Consumers Coalition ("VECC"), the City of Kitchener ("Kitchener"), the Schools Energy Coalition ("SEC") and the Canadian Manufacturers and Exporters Inc. ("CME") to retain Mark Stauft to provide evidence with respect to matters pertaining to the issue of Storage Regulation.

II. BACKGROUND

7. The background to these proceedings includes the following:

(a) <u>Current Regulatory Policies Applicable to Natural Gas Storage in Ontario</u>

8. Currently, Union and EGD provide cost-based storage services to in-franchise customers for their allocated share of the utility-owned storage facilities. Storage services provided to in-franchise customers, in excess of their allocated space entitlements, and storage for ex-franchise customers is provided at market rates, with the premium (market-over-actual) shared by the utility providing the services and its ratepayers. The Board has authorized storage developers, independent of EGD and Union, to sell their storage services under the auspices of market-based rates. Excerpts from some of the prior decisions of the Board pertaining to the current regulatory policies applicable to natural gas storage service in Ontario, are appended at ***Tabs 3, 4, 5 and 6*** of this evidence.

(b) Gas-Fired Power Generation

9. The growth in gas-fired power generation in Ontario, higher natural gas prices, greater price volatility, and the anticipated emergence of power generation as a significant source of natural gas demand growth in North America, prompted the Board to place storage and related transportation issues on the agenda for its Natural Gas Forum ("NGF"). The NGF was a policy initiative adopted by the Board as a means of investigating key structural components of the natural gas regulatory system, including rate regulation, storage and transportation, and regulated gas supply.

(c) NGF Report

10. On March 30, 2005, the Board issued its NGF Report which set as an important and immediate priority the need to ensure that Ontario's natural gas infrastructure could "meet the demands created by new gas-fired generators".

11. Questions and issues raised by the Board in its NGF Report with respect to storage and related transportation included the following:

(i) Questions from the Board's NGF Report at pages 46, 49 and 50:

- Whether the current pricing structure for storage is inappropriately discriminatory;
- What additional incentives (if any) are needed to ensure adequate storage and transportation development?
- How should storage services be developed for gas-fired power generators?
- Do Union's transportation rates or its operation of its system discriminate against customers, including independent storage operators?
- Are Union's incentives for operating and expanding storage aligned with the public interest?
- Would additional storage development benefit Ontario gas customers by enhancing the liquidity of trading in Ontario?
- If market-based rates are used to expand utilities' storage, should shareholders be asked to bear the associated greater risk?

(ii) Issues listed in the Board's NGF Report at page 50 as follows:

- The appropriate product and geographic market for Ontario storage for consumers in different regions of the province.
- Whether any supplier of storage services has market power in these markets;
- The associated transportation issues and the potential impact on competitive storage offerings by utilities and by independent operators;
- Whether a move to market-based rates for all or some customers is in the public interest, even if the market is competitive;
- What, if any, approvals may be required for long-term storage contracts;
- The impact of competition on rational development of storage facilities in Ontario.

(iii) Additional issues in the event the Board determines that it will refrain from regulating storage, listed at page 50 of the Board's NGF Report, including the following:

- Transitional arrangements for moving from COS to market-based rates;
- Whether changes are needed to ensure transparent, non-discriminatory access to the gas transportation system around Dawn.

These questions and issues are hereinafter referred to as the “NGF Report Questions and Issues”.

12. In its NGF Report, the Board also identified a need to ensure the adequacy of natural gas infrastructure to meet the demands of natural gas-fired power generation. The Board decided to conduct a review of this matter in the following terms:

> ***“The Board will hold a review to determine the impact of increased gas-fired power generation on storage and transportation infrastructure and services in order to ensure a reliable supply of electricity and gas. This review may lead to a formal proceeding resulting in orders setting rates, granting leave to construct or other remedies. The Board’s storage proceeding will also be informed by the gas-electricity interface review.”***

13. Issues to be considered in the Gas Electricity Interface Review included the following:

- The identification of gas-storage and transportation-network expansion needs to accommodate additional gas-fired generation
- The allocation of costs of any additional infrastructure investment
- Rate design for storage and transportation services for gas-fired generators
- Coordination mechanisms between gas and electricity system operations

14. With respect to new independent storage development, the Board concluded in its NGF Report that:

> ***“ it will not fix cost of service rates for new storage developed by independent storage operators (that is, those storage operators that have no affiliation with gas distributors or transmitters).”***

(d) <u>The Natural Gas Electricity Interface Review ("NGEIR") and the NGEIR Report</u>

15. The NGEIR process commenced on or about June 10, 2005, and resulted in the NGEIR OEB Staff Report released for stakeholder comment on November 21, 2005. The NGEIR Report identified a number of issues pertaining to the provision of services to gas-fired generators and recommended that the Board commence a hearing on its own motion to determine whether a new rate should be ordered for gas-fired generators and other qualified customers that provides greater firm deliverability, nomination entitlements, and operational flexibility. The NGEIR Report also identified the inter-relationship between a new rate for gas-fired generators and storage services provided at cost of service rates, or at market rates, or some combination of the two. The key recommendation of the NGEIR Report with respect to rates charged for the storage of gas in Ontario was whether the Board should initiate a Generic Hearing to review whether it should refrain from regulating the rates charged for gas storage services in Ontario. This question is hereinafter referred to as the "NGEIR Report Question".

(e) <u>Notice of Proceeding</u>

16. On December 29, 2005, the Board issued its Notice of Proceeding in which it notified stakeholders that it will hold a Generic Hearing to determine whether it should order new rates for the provision of natural gas transmission, distribution and storage services to gas-fired generators and other eligible customers. In its Notice of Proceeding, the Board stated that:

> ***"… it will determine … whether to refrain, in whole or in part, from exercising its power to regulate the rates charged for the storage of gas in Ontario by considering whether, as a question of fact, the storage of gas in Ontario is subject to competition sufficient to protect the public interest."***

This issue is hereinafter referred to as the "Notice of Proceeding Issue".

17. The Notice of Proceeding also stated that the Board would examine the transportation capacity bidding process and issues pertaining thereto identified in the Board's Decision regarding the Dawn Trafalgar Pipeline Transmission Expansion by Union (EB-2005-0201).

(f) Procedural Order No. 1

18. In Procedural Order No. 1, the Board listed specific questions it will address in these proceedings pertaining to three (3) subject matter topics described therein, namely:

(a) Rates for Gas-Fired Generators (and other qualified customers),

(b) Storage Regulation, and

(c) Transportation Capacity, Bidding Process and Allocation.

The specific questions in Procedural Order No. 1 pertaining to Storage Regulation are hereinafter referred to as the "Procedural Order Issues".

(g) Storage Revenues and Utility Rates

19. In its November 10, 2004 NGF submission and its Application for 2007 Cost of Service ("COS") rates, Union notified the OEB and its stakeholders of its proposal to have the Board exclude about $33 M of storage revenues which Union expects to recover from its utility customers in 2007, being revenues attributable to the market premium for storage services which Union recovers from some of its ratepayers. Union's proposal, which will need to be considered in the event that the Board decides to refrain from regulating the rates charged by Union and EGD for the storage of gas in

Ontario, raises the question of whether, in the forbearance scenario, all or only some of the revenues Union and EGD recover from their utility customers are to be treated as utility revenue for the purposes of deriving the rates for utility services which the Board fixes and approves for Union and EGD from time to time. This question is hereinafter referred to as the "Storage Revenues Issue".

(h) Union's Response to the Bypass Threat

20. In a Decision and Order dated January 6, 2006, in response to an Application by the Greenfield Energy Centre Limited Partnership ("Greenfield") under docket no. RP-2005-0022, the Board invited Union to design rates which could better respond to the threat of bypass. As a result, Union now proposes to increase the subdivisions in its existing T1 rate class from two (2) to four (4) customer subclasses. Union's new T1 rate structure will have a very adverse impact on many smaller customers currently served under the auspices of existing rate T1.

(i) EGD's New Unbundled Rate Proposals

21. In its Decisions With Reasons dated February 9, 2006, with respect to an Application by EGD for 2006 rates under docket no. RP-2005-0001, the Board directed EGD to design and file in these proceedings new unbundled rates for large volume customers (Rate 300 Series). EGD's evidence with respect to these new unbundled rates was filed on or about April 21, 2006. At the Technical Conference held on April 27, 2006, EGD undertook to provide responses to a number of questions IGUA has with respect to these new proposals. IGUA needs responses to these questions in

order to review with its member companies the appropriateness of the rates EGD proposes.

(j) Summary of Issues

22. As a result of the foregoing events, the Board has grouped the issues to be determined in these proceedings under the following four (4) main topic headings:

Issue I - Rates for Gas-Fired Generators;

Issue II - Storage Regulation;

Issue III - Transportation Capacity Bidding Process and Allocation; and

Issue IV - Enbridge Rates for Large Volume Customers (Rate 300 Series).

(k) Intervenor Evidence re: Storage Regulation and Forbearance

23. As noted in the Introduction, IGUA & AMPCO have joined with other representatives of gas consumers in Ontario to retain Mark Stauft to provide expert evidence to assist them in addressing the NGF Report Questions and Issues, the NGEIR Report Question, the Notice of Proceeding Issue, the Procedural Order Issues and the Storage Revenues Issue. IGUA & AMPCO support and adopt Mr. Stauft's analysis and conclusions and, in particular, support Mr. Stauft's conclusion that there is insufficient competition in Ontario storage services to protect consumers of natural gas in Ontario from the significant market power EGD and Union currently have in the Ontario storage services market.

III. OVERVIEW OF IGUA & AMPCO CONCERNS

(a) <u>Gas-Fired Generation Demands and Associated Risks</u>

24. The gas demands of dispatchable or peaking gas-fired generators, individually and collectively, can be very sizable. On any given day, these demands can strain the capability of any gas delivery system. The magnitude of the daily and annual demands of such gas-fired generators pose a number of material risks to gas and electricity consumers. Such risks include the following:

(a) the risk of a material decline in the gas supply and delivery resources available to respond to the needs of existing gas users;

(b) the risk of a material increase in rates paid by existing gas users as a result of the addition of special infrastructure to respond to the unique needs of such gas-fired generators;

(c) the risk that the magnitude of the demands of these gas-fired generators on a particular peak day will materially increase the exposure of the gas delivery system to failure;

(d) without appropriate contractual and regulatory constraints, the risk that the actions of gas-fired generators can materially increase the level and volatility of the prices paid by consumers for gas and electricity. An example of the "arbitrage" risks which can materialize occurred in New England during a cold snap between January 14 and 16, 2004. The New England electricity system was pushed perilously close to its limits by the actions of gas-fired generators who, for profit motives, sold their natural gas into the gas spot market instead of using it to generate electricity.

Documents pertaining to this incident consisting of the “Report of the Office of the Attorney General for the State of Connecticut” dated January 18, 2005, entitled “Investigation of Electricity Supply Conditions in New England during the January 14-16, 2004 Cold Snap”, and two (2) FERC Decisions pertaining to the incident are attached at ***Tabs 7 and 8***.

(b) <u>Overview of the Position of IGUA & AMPCO</u>

25. The response of IGUA & AMPCO member companies to the issues which the Board has listed for determination in these proceedings is influenced by their desire to assure that the decisions with respect to these issues do not operate to reduce the access of existing customers to storage and balancing services; do not result in any material increases in the cost of delivery services to existing customers; and do not increase the extent to which existing interruptible customers are curtailed. In this context, an overview of the position of IGUA & AMPCO member companies with respect to each group of issues is as follows:

Issue I <u>Rates for Gas-Fired Generators</u>

26. Any new rates the Board approves to respond to the needs of dispatchable or peaking gas-fired generators should have no adverse impact on others. In particular, costs incurred to respond to the requirements of such gas-fired generators and others with similar requirements should be allocated to the new services or rate classes which EGD and Union have proposed. Contractual provisions between the utilities and gas-fired generators should be structured to insulate existing customers from any adverse impacts. Contractual provisions between the gas-fired generators and the Ontario

Power Authority, which the Board supervises, should be structured to assure that there will be no incentives for gas-fired generators to engage in arbitrage activities which can materially increase the level and volatility of prices to end users for electricity and/or gas.

27. The rate impacts of Union's new T1 rate structure on the smaller members of the rate class are unreasonable. The cost shifts associated with rates intended to respond to the threat of bypass should probably shared, to some degree, by all customer classes because the rates for all customer classes would increase if an existing large volume customer bypasses Union's integrated gas transmission distribution and storage system. Further, any materially adverse rate impacts on a particular class or subclass of customer should be phased-in gradually, rather than being imposed all at once.

Issue II **<u>Storage Regulation</u>**

28. The evidence of Mr. Stauft convincingly demonstrates that EGD and Union clearly dominate the market for storage services in Ontario. They have significant power in this market and there is insufficient competition in Ontario or anywhere else to prevent them from exercising that market power with respect to Ontario gas consumers. Accordingly, there is no principled basis upon which the Board can forbear from continuing to regulate the rates EGD and Union charge end-users in Ontario for storage services. The Board should continue to exercise its regulatory jurisdiction over the rates EGD and Union charge for storage services.

29. The Board should continue to require EGD and Union to provide storage services to all end-users of such services in Ontario under the auspices of cost-based rates.

30. A test analogous to the market power test applied by the Federal Energy Regulatory Commission ("FERC") should be applied to determine whether Union can continue to charge market-based rates to other Ontario users of its storage services, such as the City of Kingston and EGD. The same test should be applied to determine whether users of Union's storage services located in geographic areas other than Ontario, such as GMi located in the Province of Quebec, should continue to receive services from Union under the auspices of Board approved market-based storage rates or whether services to such users under the auspices of cost-based rates should be restored.

31. Whether or not the Board alters the status quo, it should continue to maintain regulatory supervision over all revenues realized by EGD and Union from the sale in Ontario of storage services. All of the revenues EGD and Union recover from their provision of storage services should be considered by the Board when it determines the revenue requirement and rates for both EGD and Union. The extent to which such revenues exceed the costs EGD and Union incur to provide the services should continue to be taken into account in order to prevent the shareholders of EGD and Union from earning excessive returns.

32. New storage market entrants, independent of EGD and Union, should be permitted to operate under the auspices of market-based rates because they lack sufficient market power to adversely affect the public interest.

Issue III Transportation Capacity Bidding Process and Allocation

33. If incremental transmission capacity which Union proposes to construct is to be allocated to those requiring the capacity on the basis of differences in the amounts they

are prepared to pay beyond the ambit of Union's M12 rate, then the amounts proposed should not be premiums over and above Union's M12 rates, but contributions in aid of construction.

Issue IV **<u>Enbridge Rates for Large Volume Customers (Rate 300 Series)</u>**

34. As already noted, there has been insufficient time for IGUA to obtain the information it needs in order to review with its members the appropriateness of EGD's proposals. IGUA will outline any concerns that it has with EGD's proposals when its witnesses testify at the Technical Conference later in May, 2006.

(c) <u>Important Factors of Context</u>

(A) <u>Existing Gas-Fired Generation in Ontario</u>

35. IGUA & AMPCO understand that, currently, there is about 5000 MW of installed gas-fired generation in Ontario, consisting of 2100 MW at Lennox, and 2600 MW of generation from independent power producers primarily located outside of the Greater Toronto Area ("GTA") and the Central Delivery Area ("CDA") of the TransCanada PipeLines transmission system. Existing gas-fired generation plants operate under the auspices of existing rates of EGD and Union.

(B) <u>New Gas-Fired Generation in Ontario</u>

36. IGUA & AMPCO understand that the new gas-fired generation projects which have reached agreements with the Ontario Power Authority ("OPA") include the following:

(a) The Calpine/Greenfield Project in the Union franchise area but with a favourable order from the Board permitting it to bypass the Union system,

(b) The Sithe Project for Brampton/Gorway Bay for which a leave to construct application has just been filed by EGD, and

(c) The Portland Energy Centre Facility for Toronto for which a leave to construct application has yet to be filed with the Board.

37. In view of the prerequisite approvals and construction lead times, IGUA & AMPCO regard it as unlikely that any of these new facilities will be fully up and running before 2008.

38. If it is assumed that the Calpine/Greenfield Project will be served under the auspices of a pipeline which bypasses the Union system, then it follows that, for the near term, the decision on issues that the Board has listed for determination in these proceedings will have relevance primarily to the requirements and future operations of the Sithe/Gorway Plant and the Portland Energy Centre Plant, both of which will be located in EGD's franchise area. Beyond these two projects, the pace at which additional gas-fired generation will be constructed in Ontario is largely unknown. In view of the prerequisite approvals and construction lead times required, IGUA & AMPCO suggest that any further gas-fired generation facilities are unlikely to be fully operative before 2010.

(C) <u>Adequate Time Available to Proceed Cautiously</u>

39. In the context of the foregoing, IGUA & AMPCO suggest that the Board should proceed cautiously when considering any changes designed to address the needs of gas-fired generators. At this time, IGUA & AMPCO urge the Board to focus primarily on

the needs of the two (2) particular gas-fired generators that are likely to be constructed in EGD's franchise area when considering how best to decide the many issues listed for determination in these proceedings.

(D) Board Authority Over OPA Procurement Practices

40. Further contracting between the OPA and new gas-fired generation service providers will not take place until proceedings with respect to the OPA's procurement proposals have been considered and approved. Processes with respect to OPA procurement practices are unlikely to be completed before 2007.

(E) Future Changes in Natural Gas Supply and Transmission Dynamics

41. By 2010, the natural gas market and delivery dynamics could be materially changed because, by that time, one or more LNG Terminals in Eastern Canada could be in service. The dynamics pertaining to the supply and transmission or natural gas to Ontario could be quite different by 2010 than they are currently. The adoption of conservation measures could also have a material effect.

(F) Decision Making and Board's Mandate

42. Because, in the near term, its decisions with respect to matters in issue in these proceedings will primarily have relevance to the two (2) new gas-fired generators that are likely to be constructed in EGD's franchise area, the Board can proceed cautiously in its consideration and approval of any changes to the status quo designed to meet the needs of these customers. As far as IGUA & AMPCO are concerned, there is no immediate and urgent need for a major re-structuring of the status quo.

43. Pursuant to sections 1 and 2 of the *Ontario Energy Board Act 1998*, the Board is required, in carrying out its legislative responsibilities in relation to electricity and gas, to be guided by a number of key objectives, including the protection of the interests of consumers with respect to the prices of electricity and gas and the reliability and quality of electricity and gas services. IGUA & AMPCO urge the Board to accord a high priority to these price, reliability and quality of service objectives when it considers and decides the many issues which have been listed for determination in these proceedings.

IV. RATES FOR GAS-FIRED GENERATORS

(a) <u>Distribution Issues</u>

44. The concerns of IGUA & AMPCO pertaining to the potential impacts on existing customers of the distribution features of the proposed new services for Power Generators ("PGs") submitted by EGD and Union fall within the ambit of the following:

(a) the terms and conditions of the contracts that will apply to describe the manner in which EGD and Union will provide service to the PGs, including:

 (i) the point of receipt of the PGs gas supplies,
 (ii) the gas supply conditions,
 (iii) the nomination rights,
 (iv) the potential for 'drafting" LDC system, and
 (v) the balancing requirements.

(b) the impact on industrial rates; and

(c) the treatment of any capital costs that are caused by the provision of service.

A discussion of each of these concerns follows:

- <u>Terms and Conditions</u>

1. <u>The Point of Receipt of PG Gas</u>

   To assure that the PGs pay all the costs they cause EGD and Union to incur, the contracts under which EGD and Union provide distribution services to PGs should require them to physically deliver the gas they burn to their power stations in the delivery area in which their plants are located.

2. <u>Gas Supply Conditions</u>

   The terms and conditions of service applicable to PGs should clearly specify how the volume of gas which the PG delivers to EGD or Union, and the volume of gas which EGD and Union deliver to the PG power stations, are to remain reasonably linked and balanced. As a general rule, if the PGs fail to deliver the amount of gas they are using at their plants, then their delivery services from EGD and Union should be curtailed. No gas - no service!

3. <u>Nomination Rights</u>

   The short notice nomination rights of PGs under the new tariffs proposed by EGD and Union should provide EGD and Union with sufficient advance notice to enable them to respond to the nominations without causing any disruption or services to other customers. Similar checks and balances should apply when the

PGs wish to cease receiving gas supplies in order to stop producing power.

4. Drafting the System

Drafting occurs during start-up of a PG power plant when the PG commences drawing gas from EGD and Union mains without a reasonably concurrent delivery to EGD or Union of the gas it requires in the delivery area where the PGs' plant is located. Drafting also occurs after start-up if a PG draws more gas than it delivers. Drafting reduces linepack. If linepack is not maintained, then, after a short period, line pressure will deteriorate. A deterioration in line pressure could materially affect the ability of EGD and Union to serve customers off the affected mains. Accordingly, the terms and conditions of distribution service applicable to PGs must clearly specify the volume and duration limits of their ability to draft the system and should impose heavy penalties if those limits are exceeded. The terms and conditions should include provisions enabling EGD and Union to terminate gas deliveries to the power station and high penalty charges.

5. Balancing Requirements

There should be stringent daily balancing requirements, with high penalties for failing to meet the daily balancing obligation. This is required to prevent excessive packing or drafting of the LDC system.

The foregoing provisions are required to ensure that EGD and Union can provide service to dispatchable and peaking PGs without impairing the quality of service they currently provide to their existing customers. Measures of the type described are required to ensure that interruptible industrial customers do not face increased curtailments as a result of demands made by the PGs of the distribution systems of EGD and Union.

- Impact on Industrial Rates

  As previously noted, the member companies of IGUA & AMPCO seek to minimize and avoid any adverse impact on industrial rates of the incremental costs EGD and Union incur to provide services to the PGs. Incremental costs having such an effect include capital projects costs, incremental upstream transportation capacity costs, the costs of metering and control devices, and special gas operations and/or management costs. The portion of the incremental costs that would be incurred if the incremental PG loads were traditional industrial loads should probably be allocated on a rolled-in basis and recovered from all customer classes. However, any incremental non-routine costs incurred to provide special treatment for PG customers should be allocated to and recovered entirely from the PG customer class.

- Treatment of Incremental Capital Costs Attributable to Particular PGs

  EGD and Union may need to incur some incremental capital costs which are directly attributable to a particular PG customer. For example, the costs EGD may incur if the Portland Energy Centre Power Project proceeds ("Portland") need to be carefully examined. Portland is a TransCanada Energy Project proposed to be constructed on vacant harbour lands near the mouth of the Don River. EGD currently has a large main located in the Don River Valley and extending from the Victoria Park delivery point of TCPL to the Lake Ontario waterfront. IGUA & AMPCO understand that this line is currently fully utilized to serve customers on both sides of the Don River, between 401 and Lake Ontario, including downtown Toronto. IGUA & AMPCO understand that EGD would have to install another line from Victoria Park to the Portland Plant in order to provide it with the services it requires. In these circumstances, a case might be made that the entire cost of this line should be recovered from the sponsors of the Portland Project.

(b) <u>Transportation Issues</u>

45. Neither EGD nor Union should assume the risks of providing upstream transportation services to dispatchable and peaking PG customers. More particularly, neither EGD nor Union should accept deliveries at Dawn of gas destined for PG facilities in the CDA or the EDA. This is of concern for several reasons:

(a) The PG gas flow pattern is either at 100% flow, or zero (or nearly zero). The contracts EGD has with TCPL and/or Union to move gas supplies from Dawn to the CDA are operated on a day-ahead nominating cycle, matching delivery advice from LDC customers, including T-Service customers. During a meeting held a few months ago, EGD informed IGUA & AMPCO representatives that it has sufficient flexibility in the summer between its pipeline capacity and the requirements of its “traditional” market to allow it to accommodate PG summer loads in the CDA. The same case probably applies to Union, as it receives all TCPL deliveries at Parkway. But EGD also said that it required all of its currently contracted TCPL and M12 capacity in the winter to serve its current (or traditional) market, and indeed, on peak days, must curtail interruptible customers to meet its delivery obligations. If PGs are allowed to deliver their supplies to EGD at Dawn in the winter, then one of two scenarios would likely result:

i) If EGD does not increase its contracted M12 capacity on Union to match the new PG load, then it would have to increase its curtailment of interruptible customers (industrials) in order to serve the PGs located in the CDA and EDA. The level of curtailments for existing customers will be greater than it would have been in the absence of the PG load. Such action would constitute “robbing the industrials to serve the power generators”.

ii) If EGD increased its contracted M12 capacity to match the new PG loads, then it would carry the cost of that in its rates. If the incremental cost of the M12 charges are rolled-in to EGD’s transportation portfolio, then all customers would be burdened with the cost of that capacity.

(b) Currently, the gas flows on the Dawn-Trafalgar Line are critical in the dynamics of natural gas flow management in Eastern Canada. In the winter, gas flows from west to east from Dawn. Some gas is exported at Kirkwall, Niagara and Chippawa, and the rest is delivered into the TCPL system at Parkway for onward delivery into the CDA or EDA. The Dawn-Trafalgar line is 100% contracted and, in the winter, operates at 100% load factor.

In the summer, gas may flow from Parkway westward, either for export at Kirkwall, or for injection into storage at Dawn. This east to west movement is typically "on paper" with actual receipts at Dawn for storage injection being made from gas flowing in from Vector, Great Lakes and other connecting pipelines, and replaced by TCPL delivered gas at Parkway notionally being moved east to west.

The power generation summer air-conditioning load creates a new peak period. If gas supplies of PGs located in the CDA and EDA are accepted by either EGD or Union at Dawn, then this may disrupt the traditional pattern of gas flows upon which the Eastern Canadian market relies. There are uncertainties associated with this scenario. Nevertheless, there is considerable scope for negative developments, such as :

i) In the summer, diverting gas at Parkway, normally destined for injection into storage, to the power generation market may disrupt the normal storage injection cycle, with the danger that storage inventories may not be at the desired “full” level at the start of the winter season;

ii) EGD and Union contracts for STS service on TCPL are linked to their summer storage injection volumes. If either EGD or Union accept deliveries of gas at Dawn from PGs with plants located in the CDA or the EDA, then there is a possibility that, in order to provide deliveries to those PGs during the summer, EGD and Union might be required to divert gas from Dawn to the CDA. Such diversion could affect STS entitlements.

iii) While there may be no disruption to STS entitlements caused by PGs physically delivering their gas to the LDCs at Dawn, IGUA & AMPCO cannot be sure at this stage. If, in order to meet the summer PG load, the LDCs must divert gas from Dawn to the CDA, that may affect STS entitlements.

46. All of these circumstances with respect to PG gas delivered at Dawn and destined for plant locations in the CDA or EDA with be avoided if the PGs contract for capacity on all of the transportation systems upstream of the delivery areas in which their plants are located.

47. The requirement that PGs contract for and hold such upstream transportation capacity should not pose any hardship on the PGs because TCPL is proposing to introduce services which will be responsive to their needs.

48. TCPL’s proposed services for power generators include a Firm-Short Term Notice service (“FT-SN”), and an IntraDay Balancing Service (“IBS”). These services will allow the PG to hold TCPL transportation that matches their delivery requirements.

49. TCPL’s proposed FT-SN service will allow PGs to hold capacity on TCPL, and to commence deliveries to the LDC on short notice (15 minutes). The IntraDay Balancing Service (“IBS”) allows the PG to take gas immediately under its FT-SN, for up to 2 hours or 10% of the CD, while its gas supplies are brought on for delivery into the pipeline. The PG must bring the IBS account back into balance the same day.

(c) Storage Issues

50. If the entire market for the Ontario storage services which EGD and Union provide is eventually deregulated, as they appear to be proposing, then, all of the storage services offered by EGD and Union will be sold to the highest bidder. Such a scenario will have significantly adverse cost consequences for Ontario gas consumers. For example, if PGs are entitled to pass through to electricity customers any excess costs that they incur in connection with the gas they require to generate electricity, then they could conceivably outbid and deprive EGD’s existing end-use consumers of storage services they currently acquire from EGD and Union under the auspices of cost-based rates. For the reasons described in the Storage Regulation sections of this evidence, IGUA & AMPCO urge the Board to find that neither EGD nor Union can justify, on a principled basis, a transition to the provision of storage services to end-use consumers in Ontario under the auspices of market-based rates.

(d) Union's New T1 Rate Structure

51. IGUA & AMPCO member companies question the appropriateness of the new T1 Rate Structure Union has proposed. The proposal to have four (4) subclasses of customers in Rate T1 appears to be incompatible and inconsistent with the evidence Union filed in response to the Board's Directive in its RP-2003-0063 Decision dated March 18, 2004, at page 177, as follows:

> ***"Accordingly, pursuant to Section 21, of the Act, the Board directs Union to begin immediately to prepare and submit detailed evidence respecting the reasonably anticipated load profile associated with the Brighton Beach facility, based on the extrapolation of available date, in consultation with Coral and other interested parties. It is the Board's expectation that Union will use the cost allocation methodology approved in EBRO 499. Union should determine if there is a basis, consistent with applicable ratemaking principles, for establishing a new rate class for customers with Coral's load profile and if so, apply for Board approval. Union shall do this by no later than August 1, 2004. The procedure timeline to be followed will be established in a Procedural Order, which will include provision for late intervention requests by interested parties who are not currently intervenors."***

52. IGUA & AMPCO believe that Union submitted evidence in response to this directive which indicated that no further changes to its Rate Design which were consistent with applicable rate-making principles could be made in order to establish a new rate class for power generators with dispatchable or peaking load profiles.

53. Further, in designing its new T1 Rate Structure to respond to the threat of bypass, it appears to IGUA & AMPCO that Union has not recognized that if any existing Union customers bypass the Union system, then the lost margin will be recovered from all rate classes and not only from members of the T1 Rate Class. In these circumstances, it seems reasonable to suggest that some of the cost burden associated

with a Rate Design which responds to the threat of bypass should be allocated to all customer classes.

54. In addition, the impacts of Union's proposed new T1 Rate structure on smaller customers currently served under the auspices of Rate T1 are unreasonable. If the rate class is to be subdivided, as Union proposes, then the favourable and unfavourable impacts of the proposals on existing customers should be phased-in in a manner which minimizes the adverse impact on existing customers to an amount no greater than 8% per annum.

V. STORAGE REGULATION

(a) Market Power of EGD and Union and Cost-Based Rates for Ontario Gas Consumers

55. As already noted, IGUA & AMPCO adopt and support the analysis and conclusions of Mr. Stauft to the effect that EGD and Union dominate the market for storage services in Ontario and have overwhelming market power in the provision of such services. Accordingly, IGUA & AMPCO urge the Board to find that EGD and Union clearly have market power in their provision of storage services in Ontario. As a result, gas consumers in Ontario should continue to receive storage services from EGD and Union under the auspices of cost-based rates.

(b) Unavailability of Price Competitive Storage Services Options

56. IGUA & AMPCO adopt and support the analysis and conclusions of both Mr. Stauft and Mr. Butler to the effect that there are no storage services options for Ontario gas consumers served by EGD and Union which are currently available and price-

competitive with the storage services provided by those utilities under the auspices of cost-based rates.

57. At a high level, the evidence indicates that the cheapest option, being the so-called “market-based” price Union proposes to charge EGD and its Ontario gas consumers for storage services is about double or 200% greater than the cost-based price for storage services. The evidence of Mr. Grant of EGD at the Technical Conference held on April 27, 2006, indicated that the spread between the cost-based rates for storage services EGD charges Union and the market-based rates Union charges EGD is about 50¢/Gj. Accordingly, for the approximate 90 bcf of storage that EGD provides under the auspices of cost-based rates and the 70 bcf that Union provides under the auspices of such rates, the additional cost to Ontario gas consumers of allowing EGD and Union to recover market-based rates for the storage services they currently provide under the auspices of cost-based rates is about $80 million per year more than Ontario gas consumers served by EGD and Union currently pay. There is no public interest rationale for requiring gas consumers in Ontario to pay EGD and Union a further $80 million per year for storage services. All gas consumers in Ontario should continue to receive storage services from EGD and Union under the auspices of cost-based rates.

58. Other storage services options for Ontario gas consumers served by EGD and Union are even more expensive as shown by the evidence of Mr. Stauft and the analysis prepared by Mr. Butler.

59. For these reasons, IGUA & AMPCO urge the Board to find that the evidence convincingly demonstrates that price competitive storage services options for Ontario

gas consumers are currently unavailable. As a result, cost-based storage services rates should be continued for Ontario gas consumers.

(c) Appropriateness of Market-Based Storage Services Rates for Other Market Sectors

60. For the reasons described by Mr. Stauft in his evidence, IGUA & AMPCO question whether there is a principled basis for continuing to allow Union to charge storage services to any end-use consumers in Ontario under the auspices of market-based rates. Such rates should be discontinued for these market sectors and others located in geographic areas outside Ontario if EGD and Union are unable to convincingly establish, on a principled basis, that there is sufficient competition available to these market sectors to protect them from the market power which EGD and Union exercise.

61. For these reasons, IGUA & AMPCO urge the Board to re-examine the market-based rates for storage services which EGD and Union are currently authorized to charge some of their customers and to discontinue such rates if EGD and Union cannot demonstrate that there is sufficient competition to protect each of the market sectors currently being served by EGD under the auspices of such rates.

(d) Storage Revenues

62. For the reasons already outlined, any storage revenues recovered by EGD and Union, in excess of costs, should be credited to their revenue requirements in a manner to be determined by the Board.

VI. TRANSPORTATION CAPACITY BIDDING PROCESS AND ALLOCATION

63. Any incremental transmission capacity Union constructs, with leave of the Board, is required to provide monopoly transmission services. In these circumstances, IGUA & AMPCO suggest that preferred access to the capacity should not be allocated on the basis of the extent to which some customers are prepared to pay more than Union's posted M12 Rate for transmission services. If payments to be made by customers seeking incremental capacity from Union are to be used as a basis for determining priority access thereto, then the priority access determinant should not be the amount of a premium payment over the posted M12 Rate, but the amount of the contribution in aid of construction which the company seeking priority access to the incremental transmission capacity is prepared to pay to Union.

64. If the Board finds that a new queuing mechanism needs to be adopted, then according priority access to those customers who are prepared to make the greatest contribution in aid of construction is regarded by IGUA & AMPCO to be more compatible with the regulation of public utilities than the premium bid concept which Union proposes.

VII. ENBRIDGE RATES FOR LARGE VOLUME CUSTOMERS

65. As previously noted, information yet to be provided by EGD needs to be considered before the member companies of IGUA & AMPCO can finalize their position with respect to the new rates in its Rate 300 Series, which EGD proposes.

May 1, 2006