

Reply Evidence
Submitted to the Ontario Energy Board
on behalf of Market Hub Partners Canada L.P.

File No. EB-2005-0551



May 26, 2006

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I. Introduction

The purpose of this reply evidence, prepared by Concentric Energy Advisors, Inc. ("CEA") on behalf of Market Hub Partners Canada L.P. ("MHP Canada"), is to address specific issues raised in the direct written evidence submitted on behalf of the Ontario Energy Board ("OEB" or "Board") - Board Hearing Team by Ms. Bruce McConihe ("BHT Evidence")¹ and submitted on behalf of various parties by Mr. Mark Stauff ("Stauff Evidence").² In addition to the written direct evidence, this reply evidence will also address issues associated with the positions of Ms. McConihe, Mr. Stauff and the City of Kitchener that were raised at the Technical Conference proceedings conducted on May 17 through 19, 2006 relating to Issue 2 in this proceeding (i.e., EB-2005-0551).

II. Rebuttal of BHT Evidence

One of the primary recommendations of the BHT Evidence is that all storage services sold by Union Gas Limited ("Union") and Enbridge Gas Distribution ("Enbridge") should be cost-based. In addition, while not addressed in the BHT written evidence, Ms. McConihe stated at the Technical Conference that it is also her position that MHP Canada should not be permitted market-based rates since it is an affiliate of Union.³ As outlined in the written evidence, these recommendations are premised entirely on the position that, due to the limited availability of pipeline capacity into Ontario,⁴ the relevant geographic market for storage services should be defined solely as Ontario, without any consideration of storage located in neighboring regions. As a result, the BHT Evidence concludes that the Ontario storage market is concentrated and that Union and Enbridge (and due to

¹ OEB, File No. EB-2005-0551, "Economic Regulation of Natural Gas Storage in Ontario", Bruce M. McConihe, May 1, 2006.

² OEB, File No. EB-2005-0551, Direct Evidence of Mark P. Stauff, May 1, 2006. The Stauff Evidence was submitted on behalf of the Industrial Gas Users Association, the Association of Major Power Consumers in Ontario, the Consumers Council in Canada, the Vulnerable Energy Consumers Coalition, the Schools Energy Coalition, the City of Kitchener and the Canadian Manufacturers & Exporters Inc.

³ OEB, File No. EB-2005-0551, Technical Conference transcript, May 17, 2006, pp. 168-170.

⁴ The McConihe Evidence relies upon a study conducted by Ben Schlesinger Associates to support the position that there is limited pipeline capacity currently available in the market into Ontario.

its affiliation, MHP Canada) have market power and should not be permitted market-based rate authority.⁵

Simply put, the premise upon which the BHT's recommendation against market-based rates is based, i.e., limited available transportation capacity into Ontario, is by no means an appropriate rationale for denying market-based rates or for not refraining from regulating rates for storage services in Ontario. CEA does not dispute the fact that there is currently limited available pipeline capacity into Ontario. However, the fact that there is currently limited available pipeline capacity into Ontario is not determinative of the extent of the geographic market for storage services in Ontario. The fact that there is limited available pipeline capacity is, in certain circumstances, one factor to consider in determining whether market power can be exercised, but it is not the only factor that should be considered in those circumstances, and most importantly, it is not a determinant of the relevant geographic market for storage services. The reliance of the BHT Evidence on the position that limited available pipeline capacity is the basis for prohibiting market-based rates is misplaced for the following reasons:

- 1) This position is inconsistent with FERC's traditional market power reviews for market area storage;
- 2) This position is inconsistent with Ms. McConihe's previous market-based rate evaluations in the United States; and
- 3) The evidence portrays a misunderstanding of the actual operations of the natural gas industry.

Each of these issues are addressed in detail below.

A. The BHT's Evidence is Inconsistent with FERC's Traditional Storage Market-Based Rate Reviews

First, the recommendation that limited available pipeline capacity into Ontario should be relied upon by the Board for limiting the geographic market to Ontario and accordingly denying market-based storage rates in Ontario is completely counter to the position that the FERC has taken in granting market-based rate authority in the United States, including the granting of market-based rates for

⁵ For purposes of this reply evidence, "market-based" rates as the term is used in reference to storage rates in Ontario means "range rates", or those rates that are provided over a relatively wide range, albeit subject to a cap. In CEA's experience, market-based rates have no cap, and when reference is being made in this reply evidence to market-based rates in the context of the United States, CEA is referring to rates that are not subject to a cap. It should be noted, however, that MHP Canada is seeking market-based rate authority and proposes to simply base its rate range on the Union Gas C1 rate range as approved by the Board.

market area storage projects in the regions neighboring Ontario. The position advocated in the BHT evidence is inconsistent with the fact that the FERC recently approved the market-based rate application of WPS-ESI Gas Storage, a small storage facility located in Michigan near the Ontario border.⁶ In the order in that case, the FERC noted that the relevant geographic market was broadly defined as western Ontario, Michigan, northern Illinois, eastern Iowa and northern Indiana. In addition, neither the market power analysis submitted on behalf of WPS-ESI Gas Storage⁷ nor the Commission's order approving market-based rates addressed the issue of available transportation capacity in that market. This is clear and undeniable evidence that available pipeline capacity was not relevant in determining the extent of the geographic market or the appropriateness of market-based rates for storage services. The fact that available pipeline capacity was not addressed in the FERC's order approving market-based rates is not a recent occurrence, but rather long-standing precedent for FERC approvals of market-based storage rates for projects in the northeastern United States.⁸

Rather than as a means of determining the extent of the relevant geographic market as suggested by the BHT Evidence, the FERC has considered pipeline capacity in the context of whether the applicant can utilize pipeline capacity in the relevant geographic market to exercise market power. In the case of small, new storage entrants that do not own or control any pipeline transportation assets other than the limited facilities that interconnect their projects to the interstate pipeline network, the FERC has approved market-based rates, presumably concluding that such storage developers are reliant upon independent third-parties operating the pipeline network to transport their gas to the end-user.⁹ In other words, the issue of whether there is available pipeline capacity to and/or from the storage facility is irrelevant for purposes of determining whether the storage provider can exercise market power because the storage provider has no control or rights to the transportation capacity held by either the pipeline or its shippers.

⁶ *WPS-ESI Gas Storage*, 108 FERC ¶ 61,061 (2004).

⁷ Federal Energy Regulatory Commission, *WPS-ESI Gas Storage, LLC, Application for Section 284.224 Blanket Certificate*, Docket No. CP04-080, March 11, 2004.

⁸ See, e.g., *Avoca Natural Gas Storage*, 68 FERC ¶ 61,045 (1994); *Stenben Gas Storage Company*, 72 FERC ¶ 61,102 (1995) and 74 FERC ¶ 61,060 (1996); *New York State Electric & Gas Corp.*, 81 FERC ¶ 61,020 (1997); *NE Hub Partners, L.P.*; 83 FERC ¶ 61,043 (1998); *Honeoye Storage Corp.*, 91 FERC ¶ 62,165 (2000); *Central New York Oil And Gas Co.*, 94 FERC ¶ 61,194 (2001); *Seneca Lake Storage, Inc.*, 98 FERC ¶ 61,163 (2002); *Wyckoff Gas Storage Company, LLC*, 105 FERC ¶ 61,027 (2003).

⁹ *Id.*

The only instance in which available pipeline capacity would be germane to a market power analysis for storage services would be if the storage developer also owned, controlled and/or was affiliated with the owner of significant transmission assets in the relevant geographic market. In such instances, absent sufficient mitigation measures, the potential exists for that storage provider to exercise market power through transportation/storage tying arrangements, restricting access to certain shippers, providing preferential treatment to certain shippers, or other such types of anti-competitive behavior. However, without the ability for affiliated parties to engage in anti-competitive behavior through their combined transportation and storage assets, the fact that there is limited uncontracted pipeline capacity in and around Ontario at present is irrelevant for determining whether a storage provider could exercise market power. Rather, *it would be an indication of the potential for transportation services providers to exercise market power, not storage service providers*.

Even in such instances where affiliated storage and transmission providers operate in the same market, the FERC has approved market-based storage rates. As noted in CEA's direct written evidence in this proceeding ("CEA Evidence"), the FERC approved market-based rates for Avoca storage even though Avoca was affiliated with Equitrans, and Equitrans' pipeline system was in the same market as Avoca.

MHP Canada, like Avoca, is affiliated with a major transmission provider in the relevant market, i.e., Union. MHP Canada clearly can not use Union's position with respect to transmission services to exercise market power in the storage market. As noted in the MHP Canada and CEA Evidence, there are already several structural mechanisms in place, e.g., the Affiliate Relationships Code, Duke Energy Corporation codes of conduct, ongoing oversight by the Board, Union's open access interconnect procedures that provide open, non-discriminatory access to all potential storage providers, and the functional separation between Union and MHP Canada with regard to marketing, all of which will prohibit MHP Canada from exercising market power due to its affiliation with Union. In addition, MHP Canada has proposed the implementation of a formal complaint procedure where parties can raise market power abuse concerns and such instances can be investigated by the Board or other relevant authorities (e.g., Competition Bureau Canada).

It is also important to point out that, if one were to assume that limited availability of pipeline capacity should be a criteria for restricting the relevant geographic market and in turn denying market-based rates, then one would also expect that there would be no market-based rate storage providers in Michigan, New York or Pennsylvania, or the locations where the BHT Evidence concluded that there was limited available pipeline capacity. However, this is simply not the case, as there are many small storage providers in these areas that have been granted market-based rate authority by the FERC in the past decade.

B. Ms. McConihe's Current Position is Inconsistent with Her Previously-Filed Evidence

In addition to being inconsistent with FERC methodology, Ms. McConihe's recommendations in this proceeding are also inconsistent with her own previously-filed evidence before the FERC. Ms. McConihe's curriculum vitae indicates that she submitted market power analyses on behalf of two market area storage providers in the northeastern United States, i.e., Honeoye Storage Corp. and NE Hub Partners, that were seeking market-based rate authority. In both of those cases, there was no mention in Ms. McConihe's analysis whether there was pipeline capacity available in the relevant geographic market, whether it should be a limiting factor in determining the extent of the relevant geographic market, or whether the lack of pipeline capacity in that market should be a cause of concern for the FERC.¹⁰ Quite to the contrary, Ms. McConihe's findings in both of those cases recommended that FERC grant market-based rates for her clients, regardless of whether there was available pipeline capacity in the relevant geographic market. In addition, it is important to note that, at the time of Ms. McConihe's market power analysis, Honeoye was affiliated with and controlled by two of the largest pipeline capacity holders in the northeastern United States, i.e., KeySpan Corporation and Consolidated Edison Company of New York, Inc., yet this point was not addressed as a potential concern by Ms. McConihe in her analysis either.¹¹ Moreover, not only did Ms. McConihe's analyses in these cases not address the availability of pipeline capacity, neither did the FERC orders approving market-based rates for NE Hub Partners and Honeoye.¹² Thus, neither Ms. McConihe nor the FERC considered whether there was available pipeline capacity in the

¹⁰ FERC, NE Hub Partners, L.P., Docket No. CP96-53, Prepared Statement of Bruce M. Sloan, February 3, 1997; and FERC, Honeoye Storage Corp., Docket No. CP00-93, et. al., Prepared Statement of Bruce M. McConihe, February 22, 2000.

¹¹ Pursuant to the FERC's order approving Honeoye Storage's market-based rate application (*Honeoye Storage Corp.*, 91 FERC ¶ 62,165 at 64,285), KeySpan was a majority owner of Honeoye Storage, with an ownership interest of 52.14%, and Consolidated Edison had a 28.81% ownership interest..

¹² *NE Hub Partners, L.P.*, 83 FERC ¶ 61,043 (1998); *Honeoye Storage Corp.*, 91 FERC ¶ 62,165 (2000).

geographic market to be relevant to the question of whether market-based rates for storage services should be approved. As such, it is inappropriate for Ms. McConihe to recommend to the Board in this proceeding that the absence of available pipeline capacity is a basis for limiting the relevant geographic market to Ontario and denying market-based rates (or not refraining from regulating rates) for storage providers in Ontario, particularly for small storage providers such as MHP Canada.

C. The BHT Evidence Portrays a Misunderstanding of the Natural Gas Market

In attempting to support the position that there is limited available transportation capacity on the pipelines serving Ontario, the BHT Evidence portrays the pipeline capacity market in an overly simplistic manner that demonstrates a lack of understanding of how the natural gas market actually operates. As a result, it again highlights that BHT Evidence's recommendations regarding storage pricing in Ontario are unsupported.

First, the fact that available pipeline capacity is currently limited in and around Ontario is typical of most markets as a result of the nature of pipeline economics. Due to its high capital costs, pipeline capacity is generally not constructed on speculation in the hopes that demand will materialize, but rather is constructed after demand has been identified through open season processes, and discussions and negotiations with potential shippers have occurred. It is true that the potential for market power abuse in *transmission* markets could exist in instances where (i) the demand for pipeline capacity exceeds the supply of pipeline capacity in a particular market; and (ii) the time period for additional pipeline capacity to enter the market is significant. In addition, it is also true that pipeline capacity can take two or more years to develop from start to finish, including permitting, regulatory approvals and construction. However, demand for additional capacity is generally also identified in advance of when it is required in order to allow for the pipeline capacity to be developed. For example, LDCs and other parties plan for their future need, not current need, through the pipeline capacity open season processes. In other words, there is generally alignment between when additional capacity is required and when the capacity becomes operational, eliminating the potential gap between demand for pipeline capacity and supply of pipeline capacity. Notwithstanding the above discussion, even if there was not alignment between the demand for pipeline capacity and the availability of pipeline capacity, *this situation would represent the potential for market power to be exercised by pipeline capacity holders, not storage operators* acting independently from the transmission system.

Furthermore, the BHT Evidence fails to recognize that the real opportunity exists for additional transportation capacity to be constructed into Ontario that would provide parties in Ontario with the opportunity to purchase additional storage services should additional storage be developed. Both Union and TransCanada PipeLines (“TCPL”) are in the process of significantly expanding their capacity in Ontario to meet incremental demand effective November 1, 2006, and will also be expanding their systems to meet additional demand effective November 1, 2007. Specifically, Union’s 2006 expansion would increase the capacity on its Dawn-Trafalgar system by over 681,000 GJ/day, while the 2007 expansion would increase the capacity by an additional 509,000 GJ/day.¹³ In addition, Vector Pipeline L.P. (“Vector”) has also recently filed for an expansion of its pipeline system between Chicago and Dawn.¹⁴ Many of the same shippers that have subscribed for capacity on the Vector expansion are also shippers on the Dawn-Trafalgar expansion (as well as existing shippers on the Iroquois Gas Transmission system into the northeastern United States). In fact, the Vector expansion includes over 235,000 Dth/day of additional capacity contracted by a combination of LDCs and marketers to move gas from DTE Energy’s Washington 10 storage facility in Michigan to Dawn. The LDC shippers contracting for incremental storage are located in Connecticut, and thus have to transport their gas from Michigan, through Ontario, and into the northeastern United States, highlighting the fact that storage in Michigan is cost competitive with storage in Ontario considering that, all other things being equal, transportation costs for Ontario storage would be less expensive than storage in Michigan for customers in the northeastern United States. The specifics of these precedent agreements are shown on Attachment B.

Even though existing forward-haul pipeline capacity may be fully subscribed, this does not limit shippers from taking advantage of storage opportunities in the market as they become available. Shippers holding firm pipeline capacity have numerous flexible contracting tools that allow for the purchase of storage from multiple sources even within an existing capacity portfolio. For example, in the United States, pipeline shippers have numerous tools to structure their pipeline and storage capacity to meet their particular needs, including flexible receipt and delivery points, capacity

¹³ OEB, File No. EB-2005-0520, Union Gas Limited, Exhibit C1, Tab 3, Attachment, pp. 2-3 (attached as Attachment A).

¹⁴ Federal Energy Regulatory Commission, Vector Pipeline L.P., “Request for Clarification, or in the Alternative, Application to Amend Certificate and Abbreviated Application for a Certificate of Public Convenience and Necessity and for Construction Authorization”, Docket CP06-29, et. al., November 30, 2005, p. 6.

segmentation, capacity release, displacement, and capacity exchanges. It is CEA's understanding that many flexible contracting options are available on the pipelines serving Ontario as well. Therefore, through the use of such tools, either individually or in combination with one another, shippers are not simply limited to their existing storage options, but rather can access storage options anywhere along their capacity routes, as well as storage that may not be directly connected to their existing capacity routes (i.e., through capacity exchanges). Considering that some of the largest purchasers of storage are large LDCs and marketers, both of which typically have extensive pipeline and storage portfolios, such shippers in particular can utilize these flexible contracting tools to take advantage of storage alternatives in a broad geographic market.

The BHT Evidence also fails to understand the opportunity for shippers to utilize backhaul pipeline transportation to transport storage into and out of Ontario. The BHT Evidence makes the statement that natural gas from storage in the northeastern United States is not available to serve Ontario customers "because Kirkwall is not a delivery point on the TCPL system."¹⁵ Again, this demonstrates a lack of understanding of the Ontario pipeline system. Although Kirkwall is not a delivery point on the TCPL system, natural gas can be back-hauled on pipelines in the northeastern United States and similarly be delivered in Ontario by TCPL through a back-haul contract. In fact, gas from either Niagara, Chippawa or Waddington (i.e., the primary TCPL interconnection points in Ontario to the northeastern United States) could be backhauled to any point on the TCPL system in Ontario.¹⁶ Furthermore, as part of its proposed expansion, Vector has a contract for 25,000 Dth/day that is a backhaul from Dawn to Chicago. Therefore, while there may be limited forward-haul pipeline transportation capacity available, backhaul capacity, as well as flexible contracting tools such as displacement and exchanges described earlier, are available and can allow both Ontario storage to compete in other markets and storage from other markets to compete in Ontario.

The BHT Evidence also demonstrates a misunderstanding of the natural gas market in its specific recommendation with regard to MHP Canada. In particular, Ms. McConihe recommends that MHP

¹⁵ McConihe Evidence, p. 26.

¹⁶ See, e.g. TransCanada PipeLines Limited, Canadian and Export Transportation Tolls – Approved 2006 Final Tolls. As noted in the tariff, TransCanada provides short-haul transportation on its system from Niagara, Chippawa and Waddington to all locations on the TransCanada system in Ontario. In addition, Niagara, Chippawa and Waddington are all identified as receipt and delivery points on the TransCanada system (see TransCanada PipeLines Limited, Transportation Tariff, Receipt and Delivery Points).

Canada not be permitted market-based rates since (i) there is no storage price discovery in Ontario; and (ii) MHP Canada is affiliated with Union and there are no strict codes of conduct.¹⁷ As discussed above, CEA, and MHP Canada, agree that affiliate codes of conduct are an important and integral part of mitigating potential market power. In fact, it is CEA's understanding that MHP Canada is currently abiding by the spirit of the Board's affiliate code of conduct, its own internal code of conduct, and has suggested additional measures of surety for market participants and the Board in this proceeding to alleviate concerns of any potential for affiliate abuse. However, Ms. McConihe asserts that since there is no storage price discovery in Ontario, market-based rates should be denied. This approach is unfounded and inconsistent with natural gas reporting practices in the United States. In the United States, all pipeline and storage operators are required by FERC to operate and maintain an electronic, web-based bulletin board that conforms to the standards of the North American Energy Standards Board. These bulletin boards contain a variety of information, including an index of customers specifying the name, rate schedule and term of the contract; a complete copy of the current tariff; transactional data; operational data; and affiliate information, among other items. While these electronic bulletin boards provide a reasonable level of market information, the only pricing data that are provided are either the cost-based or negotiated rates reflected in the tariff. Where market-based rate authority has been granted by the FERC, actual pricing data are **not** provided on the electronic bulletin board, nor made publicly available in any manner.

That does not mean, however, that there is no storage price discovery in the United States or Ontario. There are numerous market-based rate storage providers, as well as numerous marketers providing storage services, and parties can obtain offers for storage service from numerous parties at any given time. In fact, Dawn is recognized as one of the most liquid natural gas market centers in North America. As Mr. Reed stated at the Technical Conference on May 18, 2006:

Transparency, as it's used most often in the States with regard to secondary markets, is the posting of pricing so that it's out there for everyone to see. There is sufficiency of information in these markets without posting of all of the relevant prices for transactions, through a sufficiency of offers. If a buyer wants to go to the market and secure pipeline capacity, for example, or bundled sales service or storage service, if they have a sufficiency of offers, they gain transparency on prices that are being offered in the marketplace. You don't need to have a publication or an electronic bulletin board to be able to achieve transparency. (OEB, File No. EB-

¹⁷ OEB, File No. EB-2005-0551, Technical Conference transcript, May 17, 2006, pp. 168-170.

2005-0551, Technical Conference transcript, May 18, 2006, p. 27).

CEA disagrees with Ms. McConihe's position that price discovery is a requisite component of a secondary market in the natural gas industry. Specifically, at the Technical Conference, Ms. Conihe indicated that "[t]here can't be a secondary market without price discovery" and that "[o]ne of the characteristics of a secondary market is that there be price discovery. And knowledge of available capacity, which does not exist now."¹⁸ As noted above, price discovery and knowledge of available capacity can be obtained in a secondary market, just as they can in a primary market, through a sufficiency of offers by third-parties without the posting of pricing/capacity information. The fact that the average daily trading volume at Dawn far exceeds the take away capacity at Dawn is an indication that there is a robust secondary natural gas market in Ontario and that price/information discovery is not a concern in Ontario as Ms. McConihe has suggested.¹⁹

The BHT Evidence's position that MHP Canada should not be permitted market-based rates on the grounds that there is no storage price transparency in Ontario is simply unfounded and not consistent with the actual operations of the marketplace. Additionally, the affiliate concerns cited in the BHT Evidence are also not appropriate, particularly considering the affiliate provisions that are already in place and have been suggested by MHP Canada.

D. The BHT Evidence Fails To Offer A Solution To The Need For Additional Storage

The recommendation set forth in the BHT Evidence to return nearly all of the existing Ontario storage services to cost-based rates is inappropriate from a public policy perspective. It is generally recognized throughout the natural gas industry that storage plays an important role in the overall natural gas infrastructure, including making the natural gas pipeline network more efficient from a pricing and operational perspective, as well as dampening price volatility. As noted in the CEA Evidence, the Board has indicated that a substantial amount of additional storage in Ontario is likely

¹⁸ Id., p. 159, l. 22 through p. 160, l. 10.

¹⁹ See CEA Evidence, pp. 18 and 19 (also footnote 22).

to be required in the near future due strictly to the incremental demands of electric generation.²⁰ The U.S. Congress' concerns about increased storage development is also the genesis of the FERC's current storage Notice of Proposed Rulemaking proceeding. As such, both regulatory bodies have provided an indication that it is important for public policy to provide an incentive for storage development. Although this is the case, the BHT Evidence provided no support that the recommendation for cost-based storage pricing will provide an incentive for incremental storage development, particularly in market areas. In fact, evidence from two parties directly involved in the Ontario storage market, i.e., MHP Canada and Enbridge Inc., have stated that they require market-based storage rates for their developments to go forward.²¹ In other words, under the storage pricing regime proposed by the BHT Evidence, it is unlikely that such additional storage will be developed. In fact, in previous evidence filed in the United States on behalf of Red Lake Gas Storage, L.P. ("Red Lake"), Ms. McConihe specifically noted that without market-based rate authority, Red Lake would not be constructed:

I am informed by the Applicant that Red Lake Storage, L.P. will not be built without market-based rate authority. Given the business risks generally inherent in developing stand-alone gas storage facilities, market-based rates will be necessary to increase the likelihood of recovering sufficient revenues to result in a compensatory return on a risky investment. If at-risk facilities cannot receive market-based rate authority, it is unlikely that new natural gas storage facilities will be developed in the future. Merchant storage developers need market-based rates to make their projects viable. By denying Red Lake market-based rates, the Commission will send the wrong signal to the marketplace in connection with future development of the natural gas infrastructure. (FERC, Red Lake Gas Storage, L.P., Docket Nos. CP02-420 et. al., Affidavit of Bruce M. McConihe, March 3, 2003, p. 13, para. 41).

While Red Lake was not affiliated with any storage or transmission providers in the region, it is important for the Board to understand that there are provisions in place to mitigate any potential exercise of market power due to MHP Canada's affiliation with Union. In addition, since there would be limited or no incentive for additional storage to be developed in Ontario under the BHT Evidence's proposal, this recommendation could also have a detrimental effect on the liquidity at

²⁰ Ontario Energy Board, "Natural Gas Electricity Interface Review – A Report by Ontario Energy Board Staff", p. 22.

²¹ See, e.g., OEB, File No. EB-2005-0551, direct written evidence of Enbridge Inc. Inc., p. 1 "EEDI believes that market rates will be required to support the costs of any such new storage development and believes that it is appropriate that competitive market forces be the determinant as to if, or when, any such new storage development is undertaken."; also MHP Canada response to Board Hearing Team on May 18, 2006 Technical Conference ("I think it's fair to say that we'd be looking for a rate of return higher than the utility cost-of-service return), OEB, File No. EB-2005-0551, Technical Conference transcript, May 18, 2006, p. 12.

Dawn, which would have ramifications not only in Ontario, but well beyond Ontario as well. The Board should take great care to avoid taking any action that might impair the attractiveness of Dawn as one of the largest natural gas market hubs in North America.

As discussed in the CEA Evidence, a significant portion of the Ontario storage market is already tolled at market-based rates: (i) storage sales by Ontario providers to ex-Ontario customers; (ii) sales to Ontario customers (including LDCs and gas marketers as well as end use consumers for demand exceeding their allocated capacity); (iii) transactional services such as park and loans, which act as substitutes for storage services; (iv) storage services requiring daily deliverability greater than 1.2% of the storage capacity; and (v) storage services provided by independent storage developers (i.e., storage generators that are not affiliated with distributors and transmitters). It is CEA's understanding that sales of storage services to ex-franchise customers have been subject to market-based rates since 1989.²² Although the existing storage pricing structure has been in place for nearly two decades, neither the BHT nor any other interested party in this proceeding, have provided evidence of market abuse in the Ontario storage market. Nor is there even any evidence of claims of market abuse registered with the Board or with federal competition authorities. It should also be pointed out that the BHT Evidence's proposed storage pricing for Ontario is not even supported by the largest single purchaser of Union's Ontario storage, i.e., Gaz Metro, which supports market-based rates for storage.²³ Therefore, there is no basis for the regressive steps proposed in the BHT Evidence for the Ontario storage market, and such a proposal does not represent sound public policy. These recommendations restrict rather than enhance choice, and preclude the development of infrastructure that can dampen price volatility in the market.

E. CEA Conclusions Regarding the BHT Evidence

As described in detail above, there are numerous reasons why the BHT Evidence fails to demonstrate that the relevant geographic market for storage should be narrowly defined to include just Ontario. The fact that there is limited available pipeline capacity in the market is not determinative of the extent of the geographic market for storage services, and even though it is relevant in certain instances for determining the potential to exercise market power, it is not a concern with regard to MHP Canada. It should also be noted that, *but for* the BHT Evidence's

²² OEB, File No. EB-2005-0551, direct written evidence of Union Gas Limited, Exhibit C, Tab 1, p. 5.

²³ OEB, File No. EB-2005-0551, direct written evidence of Gaz Metro Limited Partnership.

reliance on the fact that there is limited available transmission capacity into Ontario to recommend a small relevant geographic market, all of the other findings of the BHT Evidence suggest that market-based rates for Ontario storage would be appropriate. Specifically, the BHT Evidence noted that storage in neighboring regions does have Canadian customers.²⁴ In addition, the BHT Evidence found that the storage located in neighboring regions is cost competitive in Ontario.²⁵ Moreover, the BHT Evidence found that an initial relevant geographic market would include storage in Michigan, New York, Pennsylvania, West Virginia, Iowa, Illinois and Ohio. It appears that, absent the existence of limited available transmission capacity into Ontario, the BHT Evidence would suggest this broader market as appropriate.²⁶ Therefore, since the existence of limited available pipeline capacity is not germane to the determination of market-based rates for new entrants and small storage providers such as MHP Canada, the BHT Evidence would suggest that a broader geographic market is indeed appropriate and that market-based storage rates are reasonable for Ontario.

III. Rebuttal of Stauff Evidence

Similar to the BHT Evidence, the Stauff Evidence also recommends that Union and Enbridge should be required to sell storage at cost-based rates. Specifically, the Stauff Evidence defines market power as the ability to profitably maintain prices at 10% or greater above the existing cost-based rates. Based on this definition, the Stauff Evidence finds that existing storage sales in Ontario to ex-franchise customers are sold at rates well in excess of 10% above the cost-based rates. In addition, the Stauff Evidence concludes that the price of storage from neighboring regions is greater than 10% above the existing cost-based rates, and thus not able to compete in Ontario. Furthermore, the Stauff Evidence finds that there is limited available pipeline capacity into Ontario, thus restricting the ability of neighboring storage to compete in Ontario. As a result of these findings, the Stauff Evidence concludes that the relevant geographic market for Ontario storage should be limited solely to Ontario, and thus, the Ontario market is concentrated and Union and Enbridge can exercise market power.

²⁴ OEB, File No. EB-2005-0551, “Economic Regulation of Natural Gas Storage in Ontario”, Bruce M. McConihe, May 1, 2006, pp. 21-22.

²⁵ Id., pp. 22-23.

²⁶ Id., p. 21.

While the focus of the Stauff Evidence is almost entirely on the potential for Union and Enbridge to exercise market power, it does not take issue with small, independent storage providers continuing to provide storage services at market-based rates.²⁷ However, with regard to smaller, affiliated storage developers such as MHP Canada, the Stauff Evidence only states that “if an affiliate of Union or EGDI wished to independently develop and operate a new storage facility, it would have the same right to seek approval of market rates as any other storage developer.”²⁸ It is unclear what this evidence proposes with regard to storage pricing for affiliates of Union and Enbridge, as there is no explanation as to what is meant by “the same right to seek approval of market rates.”

At the Technical Conference on May 18, 2006, one of Mr. Stauff’s clients, i.e., the Industrial Gas Users Association (“IGUA”), indicated that it was their position that market-based rates for MHP Canada would be appropriate, but noting if MHP Canada’s storage was sold to Union or Enbridge, appropriate prudence reviews would have to be conducted in either of those utilities’ rate proceedings:

IGUA does not object to MHP Canada's proposal that it be able to contract for its storage capacity at market-based pricing and have contract flexibility. At the same time, it is IGUA's position, as stated in paragraph 29 of its evidence, is that Enbridge and Union should be required to provide storage services to Ontario users under the auspices of cost-based rates. If MHP Canada sells storage to Union, then Union will have to demonstrate that the costs it has agreed to pay to MHP have been prudently incurred and satisfy the requirements of the affiliates code in Ontario. Service providers' costs and return may become an issue at that time. Similarly, if EGD acquires storage from MHP, it will have to demonstrate that the costs it agreed to pay have been prudently incurred, and, once again, service providers' costs and return may become an issue at that time. It is the only prudently incurred costs that can be rolled in to the Union and EGD rates. (File No. EB-2005-0551, Technical Conference transcript, May 18, 2006, pp. 122-123)

In addition, Mr. Stauff indicated at the Technical Conference that he was not sure if all of his clients agreed with his position that market-based rates were appropriate for third-parties, but that the situation for affiliated storage developers was more complicated.²⁹ He agreed, however, that there should be no objection to the use of market-based rates if an affiliated storage developer like MHP Canada was not contracting with its affiliate at market-based rates. He also acknowledged that the

²⁷ OEB, File No. EB-2005-0551, Direct Evidence of Mark P. Stauff, May 1, 2006, p. 80, ll. 2-7.

²⁸ Id., p. 80, ll. 20-22.

²⁹ OEB, File No. EB-2005-0551, Technical Conference transcript, May 18, 2006, p. 143, l. 11 through p. 145, l. 21.

prudence review process identified by two of his clients (i.e., IGUA and AMPCO) would protect against abuse of ratepayers by Union and/or Enbridge.³⁰

Based on the conclusions in the Stauff Evidence that the Ontario storage market is not workably competitive, including the potential that MHP Canada could exercise market power, CEA respectfully offers the following rebuttal of the Stauff Evidence.

A. Stauff Evidence Reliance on an Incorrect Market Power Definition

There is a fundamental problem with the Stauff Evidence's framework for analyzing market power. Specifically, as noted above, this evidence is premised on the view that market power should be defined as the ability to profitably maintain prices at a level 10% or greater above the existing cost-based rates. Specifically, the Stauff Evidence states:

In its Rate Design Policy Statement the FERC established a 10% threshold for expected price increases in cases where a pipeline is seeking market based rate authority, stating that "[t]he Commission believes that if a company can sustain an increase in its rates in the order of 10 percent or more without losing significant market share, the company is in a position to exercise market power to the detriment of the public interest." It is clear from the discussion leading to that conclusion that the maximum permissible price increase that the Commission has in mind is an increase *relative to* the company's cost based regulated maximum rates. (Stauff Evidence, p. 17, l. 20 through p. 18, l. 8).

The Stauff Evidence continues by stating that:

The major premise of forbearing from regulation in any given case is that regulation is *unnecessary* in that case because competition will be effective in constraining utility prices to roughly the same level as the just and reasonable regulated level. A policy that allowed expected price increases with forbearance of 30%, 50%, or 100%, relative to the cost-based level, would be inconsistent with that premise. (Stauff Evidence, p. 19, ll. 10-15).

However, this definition of market power is incorrect, and thus the framework used in the Stauff Evidence for evaluating potential market power in Ontario is also incorrect. Market power is appropriately defined as the ability of a party to profitably maintain prices above the competitively determined price level, i.e., at a level above which would have otherwise been established in a

³⁰ Id., pp. 183-185.

competitive market.³¹ In contrast, the Stauff Evidence postulates that market power is defined as the ability to sustain prices above the cost-based regulated rate, and that Union and Enbridge's existing embedded cost-based storage rates are the thresholds upon which all other storage in the market should be compared. The critical disconnect in the Stauff Evidence is that the embedded rates for Union's and Enbridge's legacy storage are not reflective of the competitive market. Rather, the embedded cost rates for the legacy storage represent the cost of storage that was developed, for the most part, decades ago, and that have been largely depreciated since they were put in service. Therefore, the existing cost-based storage rates in no way reflect the cost of developing and bringing new storage to market, which would be the "competitive" level that the Stauff Evidence should have relied upon as a comparative benchmark. Indeed, as Mr. Reed noted, the fact that market-based rates may be higher than cost-based rates is "...not evidence of market power at all. It's evidence of inflation as much as anything."³²

The Stauff Evidence references the correct standard for market power. For example, at page 7, Mr. Stauff states:

Market power is normally defined as the ability of a firm to profitably increase the price of its product above the competitive level for a sustained period. ...Under competitive conditions, the market price of a product is determined by the interplay of market forces at a level that reflects, roughly speaking, the cost of producing the product, including a market return on capital employed in the production process. (Stauff Evidence, p. 7, ll. 4-5, 7-10).

As can be seen above, the Stauff Evidence recognizes that market power is properly defined as requiring prices above an otherwise competitively determined level, even though a different definition of market power is used in conducting the analysis. In addition, the Stauff Evidence acknowledges that the existing storage of Union and Enbridge are likely to be less expensive than the cost associated with new storage in the market:

If, as is likely, the embedded cost of the new entrant's facilities is higher than the embedded cost of the Utilities infrastructure, the Utilities will be able to ensure the failure of the new project simply by reducing their market rates to levels that are lower than those of the new entrant. They would be able to do that since such price levels would still be profitable for the Utilities. (Stauff Evidence, p. 69, l. 22 through p. 70, l. 5).

³¹ See, e.g., *Avoca Natural Gas Storage*, 68 FERC ¶ 61,045 at 61,148 (1994) ("Avoca must demonstrate that it will not be able to exercise market power over its customers. We have defined market power as "the ability of a seller to profitably maintain prices above competitive levels for a significant period of time.")

³² *Id.*, p. 43, ll. 13-14.

Moreover, even though Mr. Stauff acknowledges that regulation is unlikely to replicate rates established in a competitive market,³³ he nevertheless relies upon the regulated cost-based rates for Union's and Enbridge's legacy storage as a proxy for the competitive level in his analysis.

Due to the misapplication of the market power definition, the Stauff Evidence's conclusion regarding the extent of the relevant geographic market is also impaired. First, the evidence finds that observed market prices for storage in Ontario are well in excess of the existing cost-based rates, ranging from 30% to 100% above the cost-based rates.³⁴ In addition, the evidence finds that the cost of alternative storage located outside of Ontario is also 50% or greater than the existing Union cost-based storage rate.³⁵ However, both of these findings are premised on the incorrect comparison between cost-based storage and market-based prices that are available elsewhere in the market. The Stauff Evidence has not identified any instances where there have been abuses of market power in the Ontario market, or even any complaints about alleged abuses. In addition, the Stauff evidence fails to consider the numerous parties located in the United States that purchase storage in Michigan, transport that storage through Ontario, and back into the northeastern United States for ultimate consumption.³⁶ These transactions demonstrate that the relevant geographic market is more broadly defined than Mr. Stauff would suggest. As such, one must conclude that the storage market in Ontario is competitive and that the rates established in the market are the benchmark against which the Stauff Evidence should have used in its market power analysis to determine whether any storage providers could increase their rates more than 10% above that competitive level.

B. Stauff Evidence Reliance on Limited Available Pipeline and Storage Capacity is Inconsistent with FERC's Traditional Storage Market-Based Rate Reviews

The Stauff Evidence also finds that there is limited available pipeline and storage capacity in the market, and that this provides further indication that market power can be exercised in Ontario. However, for the same reasons described in detail earlier regarding the rebuttal of the BHT Evidence, the lack of available pipeline capacity is not determinative of the size of the relevant

³³ Stauff Evidence, p. 10, l. 7 through p. 11, l. 8

³⁴ Id., pp. 29-32.

³⁵ Id., pp. 56-66.

³⁶ CEA Evidence, p. 41. Also, see discussion in CEA rebuttal of McConihe Evidence herein.

geographic market, and that discussion does not need to be repeated here. In terms of the lack of available storage capacity, the Stauff Evidence does not consider any storage capacity outside of Ontario because of the reliance on an incorrect market power definition to restrict the relevant geographic market. Thus, the basis of the Stauff Evidence's reliance on a lack of available storage capacity is not appropriate. In addition, it should also be noted that the FERC has previously dismissed allegations of a lack of available storage capacity in a market when determining whether market-based rates were appropriate for a market-area storage provider in the northeastern United States.³⁷

IV. Rebuttal of the City of Kitchener

In the May 18, 2006 Technical Conference in this proceeding, the City of Kitchener stated that, MHP Canada, as an affiliate of Union, should not be granted market-based rate authority, because of Union's perceived market power.³⁸ The City of Kitchener stated that it did not understand how any additional storage capacity developed by MHP Canada would become available to the City of Kitchener based on the assertion that it is not clearly defined at the current time whether the storage would be purchased by Union and then sold by Union to third-parties such as the City of Kitchener. In addition, the City of Kitchener expressed concern regarding the uncertainty of transportation access, since all additional storage that may be developed in Ontario would have to be transported on Union since the City of Kitchener is interconnected to Union.

It appears that the concerns of the City of Kitchener regarding market-based rate authority for MHP Canada are centered entirely on the future access issues surrounding any storage capacity that may be developed by MHP Canada and/or any other affiliated storage provider in Ontario. However, as described by MHP Canada in its direct written evidence in this proceeding, as well as at the Technical Conference, MHP Canada plans to sell its storage capacity through open season and negotiated rate processes, such that the storage capacity would be available to any market participant. In fact, MHP Canada has expressed an interest to market its capacity to as wide an

³⁷ *Wyckoff Gas Storage Company, LLC*, 105 FERC ¶ 61,027 (2003). In the order, the Commission stated that: "KeySpan believes that a large portion of the storage capacity and deliverability reflected in Wyckoff's analysis is currently subscribed under long term contracts and is thus unavailable. KeySpan contends that such storage services are not always interchangeable, because a storage service provider connected to specific pipeline systems may not be able to move gas to other pipeline systems, or markets downstream." However, the Commission approved market-based rates for Wyckoff despite KeySpan's concern.

³⁸ OEB, File No. EB-2005-0551, Technical Conference transcript, May 18, 2006, p. 109-110.

audience as possible, and has no intention of simply selling its storage capacity to Union.³⁹ Additionally, MHP Canada anticipates executing an interconnection agreement with Union to tie its proposed storage developments to the Union transmission system, and at that point, since Union's transmission system is open-access, MHP Canada's storage capacity would be available to any party in the marketplace. Therefore, the access concerns raised by the City of Kitchener appear unfounded, and do not represent a meaningful basis for denying market pricing or short of forbearance, market-based rate authority, to MHP Canada.

³⁹ Id., p. 33, ll. 9-13.

UNION GAS LIMITED
Capacity Awarded - Phase 1 Dawn Trafalgar (2006) Expansion

Line No.	Particulars	Receipt	Delivery	GJ	Units	Term	Start Date	End Date
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
1	Enbridge Gas Distribution Inc.	Dawn	Parkway	106,000	GJ	12	Nov 1/06	Oct 31/18
2	TransAlta Cogeneration LP	Dawn	Parkway	11,809	GJ	10	Nov 1/06	Oct 31/16
3	Connecticut Natural Gas Corp	Dawn	Parkway	18,077	GJ	11	Nov 1/06	Oct 31/17
4	Southern Connecticut Natural Gas Corp	Dawn	Parkway	34,950	GJ	11	Nov 1/06	Oct 31/17
5	Brooklyn Union Gas Company	Dawn	Parkway	12,953	GJ	11	Nov 1/06	Oct 31/17
6	Keyspan Gas East Corporation	Dawn	Parkway	17,160	GJ	11	Nov 1/06	Oct 31/17
7	Boston Gas Company	Dawn	Parkway	9,282	GJ	11	Nov 1/06	Oct 31/17
8	Colonial Gas Company	Dawn	Parkway	6,475	GJ	11	Nov 1/06	Oct 31/17
9	Essex Gas Company	Dawn	Parkway	2,158	GJ	11	Nov 1/06	Oct 31/17
10	EnergyNorth Natural Gas	Dawn	Parkway	4,317	GJ	11	Nov 1/06	Oct 31/17
11	Bay State Gas Company	Dawn	Parkway	27,803	GJ	11	Nov 1/06	Oct 31/17
12	Northern Utilities Inc	Dawn	Parkway	6,333	GJ	11	Nov 1/06	Oct 31/17
13	Yankee Gas Services Co	Dawn	Parkway	43,116	GJ	11	Nov 1/06	Oct 31/17
14	Central Hudson Gas & Electric	Dawn	Parkway	10,792	GJ	11	Nov 1/06	Oct 31/17
15	National Fuel Gas Distribution	Dawn	Kirkwall	10,791	GJ	11	Nov 1/06	Oct 31/17
16	Energy Source Canada Inc.	Dawn	Parkway	2,500	GJ	10	Nov 1/06	Oct 31/16
17	Energy Source Canada Inc.	Dawn	Parkway	2,500	GJ	15	Nov 1/06	Oct 31/21
18	UBS Energy Canada Inc.	Dawn	Parkway	10,000	GJ	10	Nov 1/06	Oct 31/16
19	Stelco Inc.	Dawn	Parkway	17,351	GJ	12	Nov 1/06	Oct 31/18
20	TransCanada Pipelines Limited	Dawn	Parkway	248,103	GJ	10	Nov 1/06	Oct 31/16
21	BP Canada Energy Company	Dawn	Parkway	20,000	GJ	16	Nov 1/06	Oct 31/22
22	City of Kitchener	Dawn	Parkway	4,000	GJ	10	Nov 1/06	Oct 31/16
23	Gaz Metro	Dawn	Parkway	35,000	GJ	10	Nov 1/06	Oct 31/16
24				661,472				
		Total 2006						

Note:

This information was previously filed in Union's response to Board Staff IR #22 in EB-2005-0201

UNION GAS LIMITED
Capacity Awarded - Phase 2 Dawn Trafalgar (2007) Expansion

Line No.	Particulars (a)	Receipt (b)	Delivery (c)	GJ's (d)	Units (e)	Term (f)	Start Date (g)	End Date (h)
1	Keyspan Utility Services LLC, as agent for Keyspan Gas East Corporation dba Keyspan Energy Delivery Long Island	Dawn	Kirkwall	138,600	GJ	11	Nov 1/07	Oct 31/18
2	Connecticut Natural Gas Corp	Dawn	Parkway	8,903	GJ	11	Nov 1/07	Oct 31/18
3	Southern Connecticut Natural Gas Corp	Dawn	Parkway	13,490	GJ	11	Nov 1/07	Oct 31/18
4	Brooklyn Union Gas Company	Dawn	Parkway	30,217	GJ	11	Nov 1/07	Oct 31/18
5	Keyspan Gas East Corporation	Dawn	Parkway	22,772	GJ	11	Nov 1/07	Oct 31/18
6	Yankee Gas Services Co	Dawn	Parkway	20,560	GJ	11	Nov 1/07	Oct 31/18
7	Enbridge Gas Distribution	Dawn	Parkway	57,100	GJ	12	Nov 1/07	Oct 31/19
8	Gaz Metro	Dawn	Parkway	65,000	GJ	20	Nov 1/07	Oct 31/27
9	Greater Toronto Airports Authority	Dawn	Parkway	7,500	GJ	11	Nov 1/07	Oct 31/18
10	Vermont Gas System	Dawn	Parkway	20,000	GJ	10	Nov 1/07	Oct 31/17
11	Sithe	Dawn	Parkway	125,000	GJ	10	Nov 1/07	Oct 31/17
12			Total 2007	<u>509,142</u>				

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

VECTOR PIPELINE L.P.

}

DOCKET NO. CP98-133-000

DOCKET NO. CP06- -000

**REQUEST FOR CLARIFICATION, OR IN THE ALTERNATIVE,
APPLICATION TO AMEND CERTIFICATE
AND
ABBREVIATED APPLICATION FOR A CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY AND FOR
CONSTRUCTION AUTHORIZATION**

Vector Pipeline L.P. (Vector) hereby files with the Federal Energy Regulatory Commission (Commission) (i) a request in Docket No. CP98-133-000 for clarification pursuant to Rules 212 and/or 207 in order to conform currently certificated zone boundary design levels to actual system operational experience (Clarification) (or, in the alternative, an amendment to its existing certificate), and (ii) an abbreviated application in Docket No. CP06- -000 pursuant to Section 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(c), and Part 157A of the Commission's Regulations, 18 C.F.R. § 157, requesting all certificate and related authorizations required to construct, own, and operate two new mainline compression facilities, with appurtenances, to be located along Vector's existing mainline system in Will County, Illinois and Macomb County, Michigan (Compression Expansion Project).¹ (The overall Vector proposal is hereinafter referred

¹ Vector is filing contemporaneously herewith an amendment to its Presidential Permit, granted in Docket No. CP98-131-000, as amended by order issued May 7, 2003, 103 FERC ¶ 61,146, to increase the maximum capacity permitted to flow through the existing facilities at the international border from 1330 MMcf per day to 2300 MMcf per day.

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Vector requests that both of the listed persons be included on the Commission's official service list.

II. INTRODUCTION

Vector's exact legal name is Vector Pipeline L.P. Vector is a limited partnership organized and existing under the laws of the State of Delaware. The general partner and operator of Vector is Vector Pipeline, LLC. Vector's principal office is located at 38705 Seven Mile Road, Suite 490, Livonia, Michigan 48152.

Vector is a natural gas company within the meaning of the Natural Gas Act and is subject to the Commission's regulatory jurisdiction. Vector was authorized as an optional certificate pipeline to provide open-access transportation pursuant to a certificate issued by the Commission in Docket No. CP98-134-000⁷ and the Commission's Regulations at 18 C.F.R. Part 284. Pursuant to that authority, Vector transports natural gas on behalf of various shippers in the States of Illinois, Indiana, and Michigan.

III. BACKGROUND

The Vector system went into service on December 1, 2000 with an annual long-haul design capacity of 925,200 Dth/d. Of that amount, 700,000 Dth/d was subscribed under long-term firm negotiated rate contracts for Zone 2 service. Vector also entered into the NIPSCO

⁷ 87 FERC ¶ 61,225 (1999).

short-haul negotiated rate firm agreement, which had a five-year term at the time of the commencement of service. Further, since February, 2003 Vector has been able to sell all of its unsubscribed annual Zone 2 long-haul capacity to other firm shippers for varying terms at discounted rates, and anticipates continuing to sell this capacity in the future.

As noted earlier, the demand for additional short-haul firm service from Joliet, Illinois that was expected in 2000 has never materialized and likely never will. However, based on market interest in transportation from Joliet, Illinois to Michigan and to the international border, Vector believed there would be interest in an expansion of the Vector system to accommodate new, firm capacity commitments. To that end, Vector posted on its web site a Binding Open Season commencing on April 19, 2005 and closing on June 1, 2005 soliciting bids for expansion capacity and seeking offers of the turnback of capacity by existing shippers.⁸

In response to the Binding Open Season bids, Vector entered into Precedent Agreements for new recourse service under Rate Schedule FT-1 at rates that are lower than the applicable maximum tariff rates, as follows:

TABLE I - PRECEDENT AGREEMENTS

<u>Shipper</u>	<u>Volume</u>	<u>Term</u>	<u>Form of Service</u>
The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York	12,500	10 years	Annual capacity
KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island	12,500	10 years	Annual capacity

⁸ Vector did not receive any acceptable offers for the turnback of existing capacity.

Connecticut Natural Gas Corporation	9,700	10 years	Winter (Eastern End) capacity ⁹
Southern Connecticut Gas Company	18,300	10 years	Winter (Eastern End) capacity
BP Canada Energy Marketing Corp.	50,000 100,000	10 years	Annual capacity Winter (Eastern End) capacity
Yankee Gas Services Company	20,000 3,000 37,200	10 years	Annual capacity Winter capacity Winter (Eastern End) capacity
Peoples Energy Wholesale Marketing, LLC	25,000 25,000	10.4 years	Annual capacity Winter backhaul
DTE Energy Trading, Inc.	70,000 70,000	10 years	Annual capacity Winter (Eastern End) capacity
Nexen Marketing USA Inc.	25,000	10 years	Annual capacity

Total shipper commitments under the Precedent Agreements are as follows:

Annual Capacity	215,000 Dth/d	
Winter Capacity	3,000 Dth/d	
Winter (Eastern End) Capacity	235,200 Dth/d	[Washington 10 to Dawn]
Winter Backhaul	25,000 Dth/d	[Dawn to Northern Border]

⁹ This service involves the segment of the Vector system in Michigan, which is the eastern end of the system, and consists of receipts at the Washington 10 storage facility and deliveries to Dawn, Ontario.

As explained above, Vector determined that it could meet this market demand in the most effective and efficient manner by: (i) reducing the Zone 1 design level to 200,000 Dth/d in order to free up an additional 40,200 Dth/d of currently unavailable long-haul capacity in Zone 2 using existing facilities (*see* Exhibit Z-1), and (ii) adding two new compressor stations to increase the overall capacity of the system to deliver volumes in Zone 2 (*see* Exhibit G-I). Both of these aspects of the Expansion Project are necessary to achieve the goal of meeting the market demand demonstrated by the Precedent Agreements.

The change to the zone design levels requested in the Clarification requires no modification to existing facilities (and thus no costs will be incurred). The proposed Compression Expansion Project does involve the cost of additional compression. Combined, these design changes to the Vector mainline respond to market demand and are fully supported by new long-term firm contracts, such that the revenues derived from the expansion will exceed the estimated cost of the two compressor facilities (*see* Exhibit N). Further, with respect to the rates applicable to all additional Zone 2 capacity, Vector will continue to utilize its existing rates for the expansion service, pending filing of a general Section 4 rate case on or before February 2009, pursuant to the settlement in Docket No. RP03-489-000 that was accepted by Commission order issued January 29, 2004.¹⁰

Based on the executed Precedent Agreements, Vector has decided to go forward with a proposal that would increase its existing long-haul annual (*i.e.*, summer or every-day) capacity from 925,200 Dth/d to 1,170,600 Dth/d. The resultant seasonal winter deliverability would rise

¹⁰ *Vector Pipeline L.P.*, 106 FERC ¶ 61,071 (2004).

to 1,533,100 Dth/d.¹¹ The size of the proposed Expansion Project meets the commitments by shippers in their respective Precedent Agreements, as set forth above, and to the extent the Expansion Project produces as yet unsubscribed capacity, Vector expects to enter into additional service agreements for that capacity.¹² In any event, as an optional certificate pipeline, Vector assumes the risk of any unsubscribed capacity on its system.

IV. DESCRIPTION OF NEW FACILITIES

By this application, Vector seeks authority to construct, own, and operate two new compressor stations. Each station will be built on land owned by Vector and located at points adjacent to the existing Vector mainline. The total estimated construction cost for the Compression Expansion Project is \$70.4 million (*see* Exhibit K).

The proposed compressor stations and facilities are summarized below:

Joliet Compressor Station

This station will be situated at Milepost 0.0 in the City of Joliet, Will County, Illinois. The land for this compressor station was part of the parcel acquired by Vector in connection with its initial construction. The location chosen for the new compressor station was selected for

¹¹ Of the new shipper long-haul requirements of 215,000 Dth/d, 205,200 Dth/d would be met through capacity resulting from the expansion, and 9,800 Dth/d would be met from the changes in the Zones 1 and 2 design levels. The remaining 30,400 Dth/d (40,200 - 9,800) of capacity added due to changes to the zonal design levels would be posted on the Vector bulletin board – once the Commission gives approval for the requested change – to be sold to interested shippers at rates acceptable to Vector and in a manner consistent with the terms of the Vector Tariff.

¹² See *CenterPoint Energy Gas Transmission Co.*, 111 FERC ¶ 61,273 at 62,221 (2005).