



**BY E-MAIL AND WEB POSTING**

**NOTICE OF REVISED PROPOSAL TO MAKE A RULE  
STORAGE AND TRANSPORTATION ACCESS RULE (STAR)**

**BOARD FILE NO: EB-2008-0052**

To: All Participants in Consultation Process (Phase I of STAR) EB-2008-0052  
All Other Interested Parties

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The Ontario Energy Board (the “Board” or “OEB”) is giving notice in accordance with the requirements of section 45 of the *Ontario Energy Board Act, 1998* (the “Act”) of its revised proposal to issue a Storage and Transportation Access Rule (“STAR”) made pursuant to section 44(1) of the Act.

**1) Background**

On November 7, 2006, the Board issued a Decision with Reasons in the Natural Gas Electricity Interface Review EB-2005-0551 (“NGEIR Decision”) proceeding. As part of the NGEIR Decision the Board stated that it was necessary to ensure consumer protection within the competitive storage market and to ensure non-discriminatory access to transportation services for storage providers and customers. The Board concluded that it would initiate a process to develop rules of conduct and reporting related to storage and noted that there was merit to the development of a STAR.

In a letter dated March 5, 2008, the Board stated that a STAR would address the following:

- Operating requirements to ensure that Union Gas Limited (“Union”) and Enbridge Gas Distribution Inc. (“Enbridge”) cannot discriminate in favour of their own storage operations or those of their affiliates and cannot discriminate to the detriment of third-party storage providers;

- Reporting requirements for all storage providers, although the requirements may vary as between utility and non-utility storage providers, and which may include: terms and conditions, system operating data, and customer information; and
- A complaint mechanism for customers (or other market participants).

Also, in its letter dated March 5, 2008, the Board stated that the development of the STAR would be conducted in two phases. In the first phase, Board staff (“staff”) would conduct stakeholder meetings with interested parties. This process would lead to the development of a Staff Discussion Paper. In the second phase, the Board would initiate a process to make the STAR into a Rule as per section 44(1) of the Act.

In April and May 2008, staff held a number of meetings with stakeholders. The list of participants is provided in Appendix A. Staff’s technical expert<sup>1</sup> also prepared a jurisdictional review entitled “Competition in Natural Gas Storage Markets, A Review of Gas Storage and Transportation Regulations”.

On July 29, 2008, staff released a discussion paper on a STAR (the “Discussion Paper”) for stakeholder comment. The purpose of the Discussion Paper was to identify issues and invite comments from stakeholders to assist the Board in developing the STAR. Eleven comments were received from fifteen stakeholders.

On April 9, 2009, the Board issued a Notice of Proposal to Make a Rule on STAR for stakeholder comment. Sixteen comments were received from nineteen stakeholders.

All materials related to the STAR are available on the Board’s website.

## **2) Revised Proposed STAR**

The Board has considered all of the comments received and has determined that changes are necessary to certain Rule requirements. The Board has also made changes to correct omissions and clarify some of the Rule requirements.

Material changes are discussed below.

The text of the revised proposed STAR (“revised STAR”) is set out in Appendix B to this Notice.

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<sup>1</sup> Zinder Companies Inc. (subsequently acquired by Concentric Energy Advisors, Inc.)

## **a) Definitions**

As suggested by one stakeholder, the Board has revised the STAR to include definitions for receipt point, delivery point and embedded storage as per section 1.2.1 of the revised STAR. The definitions for receipt and delivery points are different from the stakeholder's suggestions to ensure that Union's M16 transportation services continue to be captured in the reporting requirements under section 4.3 (Operationally-Available Transportation Capacity) of the revised STAR.

The definition of long-term has been clarified as per section 1.2.1 of the revised STAR. It now refers to a transportation service that has a term of one year or greater.

The Board has also modified the definition of a storage company and a gas transmitter to reflect comments made by stakeholders as per section 1.2.1 of the revised STAR. This modification would ensure that the transportation and storage services referred to in the STAR do not apply to the services in the secondary market.

To clarify Rule requirements, the Board has included three new definitions – existing capacity, existing contracts and tariff – as per section 1.2.1 of the revised STAR.

In addition, the Board does not agree that a definition on “market failure” needs to be included in STAR as proposed by one stakeholder. The Board, on a case-by case basis, would determine the test for market failure and whether this test has been met. The Board believes that establishing a definition for market failure in the revised STAR may limit its flexibility and pre-determine the definition without evidence or context.

## **b) General and Administrative Provisions**

The natural gas utilities (“utilities”) requested that the Board allow grandfathering of existing contracts in the Rule. Further, one of these stakeholders stated that upon renewal, such contracts could be standardized to the extent required by the revised Rule.

The Board is concerned about grandfathering existing contracts as contracts that have been identified as negotiated would not be in the public domain. The Board believes this is essential to meet two of the key objectives of STAR – customer protection and transparency. The Board will grandfather executed transportation contracts as they currently exist, but some of the provisions of STAR will apply. The Board has included a Rule requirement that allows existing transportation contracts (under Union's rate M12 and rate C1, and Enbridge's rate 331) to be standardized with regard to their terms of service, upon renewal as per section 1.6.2 of the revised STAR. However, grandfathered contracts that have been identified as negotiated will be subject to the STAR's posting requirements (see sections c) ii) and c) iii) of this Notice).

## **c) Non-Discriminatory Access to Transportation Services**

### **i) Allocation of Transportation Capacity**

The utilities did not support the exclusive use of open seasons for long-term existing firm transportation capacity. These stakeholders were of the view that a transmitter should have the option to hold an open season, based on the level of demand for the transportation service. Also, open seasons are less flexible and more cumbersome for parties to execute.

In determining the appropriate methodology for allocating existing long-term firm transportation capacity, the Board must consider the trade-off between a methodology that may be less flexible and the need for transparency and customer protection. The Board believes that due to the integrated structure of the utilities in Ontario, open seasons are the best means of ensuring that all potential customers have the opportunity to purchase existing long-term firm transportation capacity in an open and transparent manner. This would ensure that all potential customers would have non-discriminatory access to transportation services regardless of whether they purchase storage services from Union, Enbridge or a third-party storage provider.

To address stakeholder concerns, the Board however has modified the Rule requirement as per section 2.1.3 of the revised STAR. In the event that a transmitter holds an open season and is unable to allocate all of its long-term existing firm transportation capacity through that process, the transmitter may offer the residual capacity to shippers<sup>2</sup> by other allocation methods as outlined in its tariff.

In addition, some of the stakeholders argued that open season requirements should not apply to Union's M16 transportation services as discussed in the Notice dated April 9, 2009. The Board recognizes that this transportation service is site-specific and an open season requirement is not appropriate for this particular transportation service. Therefore, the Board has modified the Rule as per section 2.1.5 of the revised STAR so that this requirement does not apply to Union's M16 transportation services.

### **ii) Standards for Transportation Open Seasons**

To clarify, the requirements in section 2.2 of the revised STAR apply to all transportation open seasons, whether or not the open season is required by section 2.1 of the revised STAR.

Some stakeholders proposed shorter time response periods for open seasons. The Board has considered these comments and has reduced the response time in the Rule. The Board notes that other transmitters provide schedules for their upcoming open seasons and as a result, their minimum periods of response time tend to be shorter.

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<sup>2</sup> The terms "shippers" and "customers" are used interchangeably.

Therefore, to ensure that all potential customers have the opportunity to participate in open seasons, the prescribed response times for open seasons are longer than what was proposed by these stakeholders.

One stakeholder commented that it could not publish bid results within seven (7) days because the transportation agreements are not binding until the last Condition Precedent in the contract has been satisfied. The Board believes that the transportation agreements do not have to be binding before the successful bids can be posted. Prompt feedback is required by the market on the amount of capacity that was awarded and what capacity continues to be available. This information is necessary to demonstrate that the allocation of capacity was done fairly. The Board also notes that for new capacity, it may be years before Conditions Precedent are satisfied. The Board has extended the number of days in which the transmitter is required to post the open season results as outlined in section 2.2.1 iv) of the revised STAR. This will provide the transmitter with sufficient time to assess the bid information before it is posted.

Another stakeholder suggested that the bid result information should be expanded to include the market price. This stakeholder mentioned that this information is important when assessing whether the open season process was fair especially in the situation where price was the deciding factor. As stated in the Notice dated April 9, 2009, the Board believes that the price for C1 short-term firm transportation service should not be disclosed in the bid results. The Board however has revised the requirement to include all the bid information (such as shipper name, price, volumes, term and receipt / delivery points) that must be retained as outlined in section 2.2.1 v) of the revised STAR. Therefore, at a later date, the bid results may be examined for potential discriminatory practice.

In terms of the requirement to post information about plans for future open seasons, the primary objective is to ensure that a competitive storage provider does not have preferential access to information regarding the transportation capacity plans of its integrated transportation business. The Board is of the view that this requirement can be addressed in section 3.1.3 of the revised STAR.

### **iii) Shipper – Standard Terms of Service and Standard Forms of Contracts for Transportation Services**

The utilities raised concerns that the standard form of contract was to be included in the tariff and that it must be approved by the Board. While the utilities expressed the view that this would add unnecessary regulatory oversight they agreed that the standard terms of service as outlined in the revised Rule should be included in the tariff for all transportation services. In addition, one of the utilities did not support having negotiated contracts approved by the Board. This stakeholder proposed that the Board follow the process outlined in the settlement agreement for Union's 2007 rates (EB-2005-0520), where the transmitter provides shippers six months notification of any changes to the standard form of contract and posts the revised contract on its website.

The Board agrees that the standard form of contract does not need to be included in the tariff and has modified the Rule as per section 2.3.3 in the revised STAR.

The Board also agrees that a standard form of contract with negotiated provisions (“negotiated contract”) does not need to be approved by the Board. The Board has modified the Rule to reflect Union’s settlement agreement as per section 2.3.5 of the revised STAR. The Board however has set a specific deadline for the prompt posting of all negotiated contracts as per section 2.3.6 of the revised STAR. The Board believes that these modifications to the revised Rule will not impact the objectives of non-discriminatory access, customer protection and transparency.

The Board is concerned about “grandfathering” existing contracts (e.g., the C1 contracts as suggested by one stakeholder) as contracts that have been identified as negotiated would not be in the public domain. The Board believes this is essential to meet two of the key objectives of STAR – customer protection and transparency. The Board is of the view that changes to a contract may impact the transportation service. The prospect of customers being treated differently will not ensure a level playing field and the Board believes this is essential. Therefore, existing contracts that have been identified as negotiated should be posted on the transmitter’s website as per section 2.3.7 of the revised STAR.

#### **iv) Storage Provider – Standard Terms of Service and Standard Forms of Contracts for Transportation Services**

One stakeholder did not agree that the standard form of contract should be included in the tariff and approved by the Board. Also, this stakeholder did not support Board approval for negotiated transportation contracts and the posting requirement for these existing contracts.

The Board agrees that the standard form of contract should not be included in the tariff. The Rule has been modified as per section 2.4.3 of the revised STAR.

The Board also agrees that a standard form of contract with negotiated provisions does not need to be approved by the Board. The Board has modified the Rule as per section 2.4.4 of the revised STAR to reflect the process outlined in the settlement agreement for Union’s 2007 rates (EB-2005-0520).

As stated in the Notice dated April 9, 2009, the Board believes that these transportation contracts (and all related agreements) should be in the public domain. This will allow the Board and the market to monitor for potential discriminatory practices. The Board concludes that these contracts and all related agreements should be posted on the transmitter’s website. To clarify the Rule requirement, the posting will include any existing contracts and any new contracts as per sections 2.4.5 and 2.4.6 of the revised STAR.

One stakeholder disagreed with the standards (i.e., a transmitter shall respond to interconnection requests on a timely basis and shall not impose operating and financial requirements that discriminate between storage providers) and argued that there is no evidence or even a suggestion that such discrimination has taken place. On the other hand, another stakeholder commented that these standards should remain as a Rule requirement but not form part of the transmitter's standard terms of service. This stakeholder was of the view that these standards would be best expressed as a general regulatory obligation rather than commercial terms between contracting parties.

The Board has modified the Rule requirement as per section 2.4.8 in the revised STAR and these standards are now a regulatory obligation. The Board believes that a storage provider should be able to interconnect with a transmitter's facilities on reasonable terms, without discrimination and that this should be ensured through provisions in the STAR. This will also ensure that there are no transportation barriers to entry for independent storage providers. This is of particular importance especially in the situation where a transmitter owns and operates competitive storage.

The Board notes that when a transmitter has not received any requests from an embedded storage provider to provide transportation services, it does not need to develop a standard form of contract and a standard terms of service for these services.

#### **d) Consumer Protection within the Competitive Storage Market**

Many stakeholders raised concerns about the lack of price disclosure for competitive storage services. These stakeholders, however, expressed a variety of views about the type of pricing information that should be posted. Specifically,

- Some stakeholders wanted aggregated pricing information on competitive storage services and commented that without price disclosure the objectives of customer protection and transparency could not be fully accomplished;
- Another stakeholder suggested that competitive storage service providers post on a daily basis, their quoted prices for a menu of services most frequently requested by purchasers of competitive storage services; and
- Other stakeholders suggested that the Index of Customers should include pricing information and stated that the FERC-regulated competitive storage providers are required to post pricing information for each storage transaction. These stakeholders expressed the view that the lack of information on storage contracts would prevent a transparent storage market from developing and may facilitate discrimination on the basis of price. Also, the reporting requirements should not put Ontario storage providers at an advantage and/or disadvantage relative to competing storage providers in other jurisdictions.

The Board agrees that price disclosure for competitive storage services would assist customers in their purchasing decisions and would not put Ontario storage providers at a disadvantage relative to competing storage providers in other jurisdictions. The Board believes that price disclosure will meet two of the key objectives of STAR – customer protection and transparency.

The Board notes that in the relevant geographic market<sup>3</sup> there are price disclosure requirements for both interstate storage providers and intrastate storage providers. Specifically, an interstate provider is required to post daily pricing information for each storage contract while an intrastate provider that sells interstate storage services is required to file a semi-annual storage report that details unit charge and total revenue for each shipper. Therefore, the Board is of the view that a storage provider should provide pricing and revenue information semi-annually (on April 1 and October 1) on its website. The pricing and revenue information to be posted must include the following:

- Identity of shipper; and
- The unit charge (annual cost per GJ of storage capacity) and total revenue received from each shipper.

The Board believes that storage contracts with terms less than a year may be driven by specific customer requirements and pricing information for such contracts may provide limited benefit to the market. Therefore, the information to be posted on the storage provider's website on April 1 and October 1 must be based on firm storage contracts with terms of one year or greater. The Board's new Rule requirement is provided in section 3.1.4 of the revised STAR.

In addition, the Board has included a recordkeeping requirement as per section 3.1.2 of the revised STAR. The Board will require a storage provider to retain a record of all the executed contracts related to competitive storage services.

As previously discussed in section 2 c) ii) of this Notice, the Board has modified section 3.1.3 of the revised STAR to include plans for future open seasons. This will ensure that a competitive storage provider does not have preferential access to information regarding the transportation capacity plans of its integrated transportation business.

### **e) Reporting Requirements**

Omissions and clarifications were identified and changes have been made to sections 4.1.2, 4.2.2, 4.2.3 iii), 4.2.4 iii), 4.2.5, 4.2.5 v), 4.2.5 vi), 4.3.1, 4.5.1 and 4.5.2 of the revised STAR.

New recordkeeping requirements have been included in sections 4.1.3 to 4.1.6 of the revised STAR.

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<sup>3</sup> Relevant market as defined in the NGEIR Decision, p 38.



Also, many stakeholders raised concerns with the storage inventory information being posted on a weekly basis. These stakeholders commented that this posting would provide information about the Ontario natural gas market that was not available in other competing markets in North America. As a result, this information may influence the gas commodity markets and the value of the secondary markets. These stakeholders suggested that the information should be posted on a quarterly or semi-annual basis.

The Board has modified the Rule requirement to state that this information should be posted on a monthly basis. Also, the Board will allow the information to be posted up to five (5) business days after the end of the month as per section 4.4.1 of the revised STAR. The Board believes that this revised timing would reduce compliance costs while still providing the necessary information on the availability of storage capacity. Further, this delay in reporting should avoid any concerns about these storage inventory postings having a negative impact on the commodity market.

#### **f) Complaint Mechanism**

A clarification was identified and a change has been made to section 5.1.3 of the revised STAR.

For day-to-day operational-type complaints, it is the Board's view that these issues should be resolved by having the parties work out their concerns together. To facilitate this, the Board believes that it is best to include a requirement in the STAR for a transmitter, an integrated utility and a storage provider to develop its complaint handling procedure and post the procedure on its website. The Board expects parties to negotiate resolutions in a timely manner.

The Board also concludes that customers with compliance concerns regarding the STAR should file these concerns directly with the Board.

In the NGEIR Decision, the Board stated that it had a duty to protect the interests of customers using competitive storage services and that it expects parties to bring any issues of market failure to the Board's attention<sup>4</sup>. The Board also recognizes that issues relating to unfair and discriminatory practices that are not covered by the STAR may occur in the transportation market.

To address these concerns, the Board requires that customers bring their issues directly to the Board. The Board will review and respond to these issues consistent with its jurisdictional authority.

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<sup>4</sup> NGEIR Decision, p 70.

### 3) Anticipated Costs and Benefits of the proposed Rule

Stakeholders did not raise concerns that the Rule requirements outlined in the proposed STAR dated April 9, 2009 would lead to major increases in implementing and reporting costs. The Board acknowledges that costs will be incurred to implement the reporting requirements and protocols to limit non-public transportation information, however, these requirements will assist customers, market participants and storage companies.

In the Board's view, the implementation of the revised STAR is necessary to ensure non-discriminatory access to transportation services, provide customer protection within the competitive storage market, and support transparent markets. These are concerns raised in the NGEIR Decision and the revised STAR addresses these concerns.

Overall, the Board anticipates that ratepayers will benefit from the implementation of the revised STAR because it will ensure that transmitters and storage companies comply with the Board's rules of conduct and reporting requirements. The Board also anticipates that utilities will benefit from the revised STAR as it will reduce disputes and the need for regulatory involvement. In proposing the STAR, the Board is of the view that the anticipated benefits outweigh any costs that might be incurred or borne.

#### **Coming into Force**

The Board is proposing that the STAR comes into force on **March 22, 2010**.

#### **Cost Awards**

Cost awards will be available under section 30 of the *Ontario Energy Board Act, 1998* to eligible participants in relation to the provision of comments on the amendments, **to a maximum of 21 hours**. The costs awarded will be recovered equally from Enbridge and Union.

Appendix C contains important information regarding cost awards for Phase II of the STAR process.

In its April 15, 2008 Decision on Cost Eligibility and May 2, 2008 Supplemental Decision on Cost Eligibility, the Board determined that the following eight participants would be eligible for costs in relation to the consultation on the Discussion Paper: the Association of Power Producers of Ontario; the Building Owners and Managers Association of the Greater Toronto Area; the Canadian Manufacturers & Exporters; the Consumers Council of Canada; the Federation of Rental-housing Providers of Ontario; the Industrial Gas Users Association; the London Property Management Association; and the Vulnerable Energy Consumers Coalition.

These same participants will be considered eligible for costs in relation to this notice and comment process, and need not submit a further request for cost eligibility.

### **Invitation to Comment**

All interested parties are invited to submit written comments on the Rule by **November 2, 2009**.

Three (3) paper copies of each filing must be provided, and should be sent to:

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street  
Suite 2700  
Toronto, Ontario  
M4P 1E4

The Board requests that interested parties make every effort to provide electronic copies of their filings in searchable/unrestricted Adobe Acrobat (PDF) format, and to submit their filings through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca). A user ID is required to submit documents through the Board's web portal. If you do not have a user ID, please visit the "e-filings services" webpage on the Board's website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca), and fill out a user ID password request. Additionally, interested parties are requested to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the e-filing services webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at [boardsec@oeb.gov.on.ca](mailto:boardsec@oeb.gov.on.ca).

Those that do not have internet access should provide a CD or diskette containing their filing in PDF format.

Filings to the Board must be received by the Board Secretary by **4:45 p.m.** on the required date. They must quote file number **EB-2008-0052** and include your name, address, telephone number and, where available, your e-mail address and fax number.

This Notice, including the attached revised STAR and all written comments received by the Board in response to this Notice, will be available for public viewing on the Board's web site at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) and at the office of the Board during normal business hours.

If you have any questions regarding the revised STAR described in this Notice, please contact Laurie Klein at [laurie.klein@oeb.gov.on.ca](mailto:laurie.klein@oeb.gov.on.ca) or at 416-440-7661. The Board's toll free number is 1-888-632-6273.

**DATED** at Toronto, September 18, 2009.

ONTARIO ENERGY BOARD

*Original Signed By*

Kirsten Walli  
Board Secretary

Appendix:       A – List of Participants  
                  B – Revised Proposed Storage and Transportation Access Rule  
                  C – Cost Awards

## Appendix A – List of Participants

<b>Participants in EB-2008-0052</b>
ANR Pipeline Company, ANR Storage Company and Great Lakes Gas Transmission
Association of Power Producers of Ontario
AltaGas Limited
Bluewater Gas Storage
Building Owners and Managers Association of The Greater Toronto Area
Canadian Manufacturers & Exporters
City of Kitchener
Consumers Council of Canada
Direct Energy Marketing Ltd.
Enbridge Gas Distribution Inc.
Federation of Rental-Housing Providers of Ontario
GazMetro
Industrial Gas Users Association
London Property Management Association
Market Hub Partners Canada L.P.
Nexen Marketing
Pollution Probe
Ontario Energy Savings L.P.
Ontario Power Authority

<b>Participants in EB-2008-0052</b>
Ontario Power Generation Inc.
SemCanada Energy Company
Shell Energy North America (Canada) Inc.
Superior Energy Management
TransCanada PipeLines Limited
Union Gas Limited
Vulnerable Energy Consumers' Coalition

Appendix B



**ONTARIO ENERGY BOARD**

**REVISED PROPOSED STORAGE  
TRANSPORTATION AND ACCESS RULE**

**September 18, 2009**

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## **1 GENERAL AND ADMINISTRATIVE PROVISIONS**

### **1.1 Purpose of this Rule**

1.1.1 This Rule outlines conduct and reporting requirements for natural gas transmitters, integrated utilities and storage companies. The purpose of this Rule is to:

- i) Establish operating requirements to ensure open and non-discriminatory access to transportation services for shippers and storage companies;
- ii) Establish reporting requirements for natural gas transmitters, integrated utilities and storage companies; and,
- iii) Ensure customer protection within the competitive storage market.

### **1.2 Definitions**

1.2.1 In this Rule, unless the context otherwise requires:

“Act” means the *Ontario Energy Board Act, 1998*, S.O. 1988, c. 15, Schedule B;

“Board” means the Ontario Energy Board;

“business day” means any day that is not a Saturday, a Sunday, or a legal holiday in the Province of Ontario;

“capacity segment” means any receipt point and delivery point pairing for which a gas transmitter provides transportation services;

“competitive storage services” means all the storage services that the Board has found to be competitive;

“consumer” means a person who uses gas for the person’s own consumption;

“delivery point” means the point where a transmitter receives gas from a shipper under a transportation service;

“embedded storage company” means a storage company that chooses to connect its facilities to a transmitter’s transportation system;

“existing capacity” means transportation capacity that is not new capacity;

“existing contracts” are contracts that are in effect on the date the Rule comes into force, and contracts that were executed before the date the Rule comes into force and become effective after that date;

“expected operating conditions” means all constraints (including all planned and actual service outages or reductions in service capacity) and the transportation capacity that the transmitter requires to serve in-franchise customers and/or other system operational requirements;

“firm transportation service” or “firm storage service” means service not subject to curtailment or interruption;

“in-franchise customer” means the distribution customer of the integrated utility;

“integrated utility” means a gas transmitter and/or gas distributor that also provides competitive storage services;

“interruptible transportation service” means service subject to curtailment or interruption;

“long-term” means, in the case of transportation, a service that has a term of one year or greater;

“natural gas distributor” or “gas distributor” or “distributor” means a person who delivers gas to a consumer;

“natural gas transportation services” or “gas transportation services” or “transportation services” means the services related to the transportation of gas;

“natural gas transportation system” or “gas transportation system” or “transportation system” means the transmission or distribution system used to provide gas transportation services;

“natural gas transmitter” or “gas transmitter” or “transmitter” means a person who provides transportation services pursuant to the Act, other than gas distribution services as defined in the Gas Distribution Access Rule;

“new capacity” means transportation capacity that is associated with the expansion of the transportation system;

“open season” means an open access auction or bidding process that meets the minimum standards set out in section 2.2 of this Rule;

“post” means to post information on a company’s Internet website in a readily-accessible file format (e.g., PDF);

“receipt point” means the point where a transmitter delivers gas to a shipper under a transportation service;

“related agreements” means all the documents, contracts and/or agreements that an embedded storage company requires from a transmitter for transportation services;

“Rule” means this rule entitled the “Storage and Transportation Access Rule”;

“shipper” means the holder of the transportation and/or storage contract;

“storage company” means a person engaged in the business of storing gas pursuant to the Act;

“storage service” means any service where a storage company or an integrated utility receives gas from a shipper for redelivery at a later time, and includes parking services and balancing services; and

“tariff” means for each transportation service, a transmitter’s standard terms of service, a transmitter’s allocation methods and a transmitter’s rate schedule and/or rate handbook.

### **1.3 Interpretation**

1.3.1 Unless otherwise defined in this Rule, words and phrases shall have the meanings ascribed to them in the Act. Headings are for convenience only and shall not affect the interpretation of this Rule. Words importing the singular include the plural and vice versa. Words importing a gender include any gender. A reference to a document (including a statutory instrument) or a provision of a document includes any amendment or supplement to, or any replacement of, that document or that provision of that document. The expression “including” means including without limitation.

- 1.3.2 If the time for doing any act or omitting to do any act under this Rule expires on a day that is not a business day, the act may be done or may be omitted to be done on the next day that is a business day.

#### **1.4 Determinations by the Board**

- 1.4.1 Any matter under this Rule requiring a determination by the Board:
- i) shall be determined by the Board in accordance with all applicable provisions of the Act and the regulations; and
  - ii) may, subject to the Act, be determined without a hearing, or through an oral, written or electronic hearing, at the Board's discretion.

#### **1.5 To Whom this Rule Applies**

- 1.5.1 This Rule applies to all natural gas transmitters, integrated utilities and storage companies that are legally permitted to do business in Ontario.

#### **1.6 Coming into Force**

- 1.6.1 This Rule shall come into force on March 22, 2010.
- 1.6.2 For a transportation contract with a shipper, which was in place before March 22, 2010, section 2.3.4 of the Rule will not apply until the end of the initial term of the transportation contract.
- 1.6.3 Any amendment to this Rule shall come into force on the date that the Board publishes the amendment by placing it on the Board's website after it has been made by the Board, except where expressly provided otherwise.

#### **1.7 Exemptions**

- 1.7.1 The Board may grant an exemption to any provision of this Rule. An exemption may be made in whole or in part and may be subject to conditions or restrictions. In determining whether to grant an exemption, the Board may proceed without a hearing or by way of an oral, written or electronic hearing.

## **2 NON-DISCRIMINATORY ACCESS TO TRANSPORTATION SERVICES**

### **2.1 Allocation of Transportation Capacity**

- 2.1.1 A transmitter's methods for allocating transportation capacity shall be defined in its tariff. The tariff, including the allocation methodology, shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.1.2 Firm transportation service that becomes available as a result of a facility expansion (i.e., new capacity) shall be offered through an open season. Existing capacity that is available for long-term firm transportation service shall be offered through an open season.
- 2.1.3 Firm transportation service that has been offered in an open season, but not awarded in that open season, may be allocated by other methods, as defined in the transmitter's tariff as per section 2.1.1.
- 2.1.4 If a transmitter makes any amendments to the tariff referred to in sections 2.1.1 to 2.1.3, the amended tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.1.5 Notwithstanding section 2.1, section 2.1.2 does not apply to transportation services for an embedded storage company as outlined in section 2.4.

### **2.2 Standards for Transportation Open Seasons**

- 2.2.1 A transmitter shall ensure that the following requirements are met when conducting open seasons for firm transportation services:
- i) Notification and Timing:
    - (a) A transmitter shall place a notice of open season (the "Open Season Notice") on its website, provide the Open Season Notice to existing shippers and issue a press release advising that it is conducting an open season;
    - (b) A transmitter shall allow a minimum period of 15 business days between the time the transmitter provides an Open Season Notice for existing capacity and the close of the open season period; and

- (c) A transmitter shall allow a minimum period of 30 business days between the time a transmitter provides an Open Season Notice for new capacity and the close of the open season period.
- ii) Content of the Open Season Notice. The Open Season Notice shall identify:
  - (a) The amount of firm transportation service that will be available for each applicable transportation segment. For a new capacity open season, the transmitter may specify a range;
  - (b) The minimum term, if any for new capacity. If a minimum or maximum term is imposed for an existing capacity open season, a transmitter shall provide an explanation for that minimum or maximum term;
  - (c) The closing date and time of open season bidding;
  - (d) The expected in-service date of the expansion;
  - (e) The applicable receipt and delivery points;
  - (f) The date by which a transmitter will respond to bids received in the open season;
  - (g) A reference to the standard transportation contract (and any other applicable agreements);
  - (h) The time period by which successful open season participants are expected to execute the standard transportation contract (and any other applicable agreements);
  - (i) The manner in which an open season participant may make a bid;
  - (j) Other conditions precedent such as credit support agreements or other prerequisites that a bidder needs to qualify or to execute a contract;
  - (k) The methodology used to evaluate the bids;
  - (l) The minimum bid (or reserve price) if a transmitter uses a reserve price to evaluate the bids; and
  - (m) The information that a bidder is required to include in its bid in order for the bid to be valid.

- iii) A transmitter offering new capacity shall offer a reverse open season to allow its existing firm transportation service shippers the opportunity to permanently turn back existing firm transportation capacity to avoid unnecessary expansions;
- iv) Each successful bid shall be posted on the transmitter's website within 14 business days of the transportation capacity being awarded and shall remain on the transmitter's website for a minimum of 90 days from the date of posting. The successful bid will include the following information: term, volumes, and receipt and delivery points; and
- v) A transmitter shall keep copies of all bids received in response to each transportation open season for a period of no less than five (5) years and maintain these records and provide such information as the Board may require from time to time. The bids shall include the following information: shipper name, term, volumes, price, and receipt and delivery points.

### **2.3 Shipper – Standard Terms of Service and Standard Forms of Contracts for Transportation Services**

- 2.3.1 The requirements in section 2.3 apply to a transmitter that provides transportation services for a shipper and does not include transportation services provided in section 2.4.
- 2.3.2 A transmitter shall ensure that each transportation service has its own standard form of contract and its own terms of service, and that the terms of service, at a minimum, include the standards outlined in section 2.3.4.
- 2.3.3 A transmitter shall include in its tariff the terms of service for each of its transportation services. The tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.3.4 A transmitter's tariff shall include the following standard terms of service:
  - i) Nomination and scheduling procedures (and, at a minimum, provision for the North American Energy Standards Board's nomination windows);
  - ii) Service priority rules;
  - iii) Balancing requirements and imbalance charges and penalties, if applicable;
  - iv) Point(s) of receipt and point(s) of delivery;

- v) Details of billing and payment;
  - vi) Decontracting and renewal rights;
  - vii) Force majeure;
  - viii) Alternative Dispute Resolution provisions;
  - ix) Identification of any existing preconditions;
  - x) Financial assurance requirements or preconditions; and
  - xi) Quality and measurement.
- 2.3.5 A transmitter shall post on its website the standard form of contract for each of its transportation services. The transmitter shall provide at least six (6) months advance written notice to all shippers of any changes to the standard form of contract.
- 2.3.6 A contract shall be identified as a “Negotiated Contract” when the contract varies from the standard form of contract as referred to in section 2.3.5 as a result of negotiations between the shipper and the transmitter. A clean copy and a redlined version of the “Negotiated Contract” shall be posted on the transmitter’s website within 10 business days from the date the contract is executed. The “Negotiated Contract” shall be posted on the transmitter’s website for as long as the contract remains in force.
- 2.3.7 Existing contracts that can be identified as a “Negotiated Contract” shall be posted on the transmitter’s website 10 days from the date that this Rule comes into force.
- 2.3.8 If a transmitter makes any amendments to the tariff referred to in sections 2.3.3 to 2.3.4, the amended tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter’s website.
- 2.4 Storage Company – Standard Terms of Service and Standard Forms of Contracts for Transportation Services**
- 2.4.1 The requirements in section 2.4 only apply to a transmitter that provides transportation services for an embedded storage company and does not include transportation services provided in section 2.3.
- 2.4.2 A transmitter shall ensure that each transportation service has its own standard form of contract and its own standard terms of service.



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- 2.4.3 A transmitter shall include in its tariff the standard terms of service for each of its transportation services. The tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.4.4 A transmitter shall post on its website the standard form of contract for each of its transportation services. The transmitter shall provide at least six (6) months advance written notice to all embedded storage companies of any changes to the standard form of contract.
- 2.4.5 Existing contracts, including the standard forms of contracts, the terms of services and any related agreements, between a transmitter and an embedded storage company shall be posted on the transmitter's website. The contracts shall be posted on the transmitter's website for as long as the contracts remain in force.
- 2.4.6 New and renewed contracts, including the standard forms of contracts, the terms of services and any related agreements, between a transmitter and an embedded storage company shall be posted on the transmitter's website within 10 business days from the date the contract is executed. The contracts shall be posted on the transmitter's website for as long as the contracts remain in force.
- 2.4.7 If a transmitter makes any amendments to the tariff referred to in section 2.4.3, the amended tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.
- 2.4.8 A transmitter shall ensure that the following requirements are met:
- i) A transmitter shall respond to requests for interconnection facilities and/or transportation services for an embedded storage company in a timely manner; and
  - ii) A transmitter shall not impose any operating requirements, financial requirements and/or provisions for transportation services that discriminate between different storage companies.

## **2.5 Other**

- 2.5.1 Transportation services may only be bundled with competitive storage services if the equivalent transportation services are also offered on a stand-alone basis.

### **3 CUSTOMER PROTECTION WITHIN THE COMPETITIVE STORAGE MARKET**

#### **3.1 Posting and Protocol Requirements**

- 3.1.1. A storage company shall post its standard form of contract and its standard terms of service for each of its competitive storage services on its website.
- 3.1.2. A storage company shall maintain records of its executed contracts for competitive storage services for a period of no less than five (5) years after the termination of the contract. These records shall be provided to the Board as required from time to time.
- 3.1.3. An integrated utility shall develop and maintain protocols to limit access to non-public transportation information concerning plans for future facility expansions or timing of upcoming transportation open seasons and transportation operating conditions of shippers, storage companies and consumers to personnel that require this information only. The protocols shall be posted on the integrated utility's website. The integrated utility shall update its protocols immediately when revisions are made.
- 3.1.4. A storage company shall post on a semi-annual basis its pricing and revenue information for competitive storage services on its website. This information shall be posted on April 1 and October 1 of each year and shall remain on the company's website until the date of the next posting. The identity of the shipper, the pricing information and the revenue information to be posted shall be based on firm storage contracts with terms of one year or greater. The information to be posted on the storage company's website shall include:
  - i) Identity of each shipper (full legal name of the shipper);
  - ii) The unit charge which is the annual cost per GJ of storage capacity received from each shipper; and
  - iii) The total revenue received during the previous six month period from each shipper.

## **4 REPORTING REQUIREMENTS**

### **4.1 Information Requirements**

4.1.1 A transmitter (including a transmitter that is also an integrated utility) shall post on its websites the following information:

- i) Index of Customers for transportation contracts; and
- ii) Operationally-Available Transportation Capacity;

4.1.2 A storage company or an integrated utility shall post on its website the following information:

- i) Index of Customers for storage contracts;
- ii) Storage Inventory; and
- iii) Design Capacity.

4.1.3 The information posted as per sections 4.1.1 i), 4.1.2 i) and 4.1.2 ii) shall remain on the company's website until the date of the next posting.

4.1.4 The information posted as per section 4.1.1 ii) shall remain on the company's website for a minimum of 90 days from the date of posting.

4.1.5 The information as per section 4.1.2 iii) shall be posted on the company's website once this Rule comes into force.

4.1.6 The company shall maintain records of the information as per section 4.1 for a period of no less than five (5) years and provide these records as the Board may require from time to time.

### **4.2 Index of Customers**

4.2.1 On the first business day of each calendar month, a transmitter, a storage company and an integrated utility shall update its Index of Customers.

4.2.2 For in-franchise customers' storage capacity requirements as per section 4.2.3 iii), the information posted shall be updated immediately based on the results of the integrated utility's most recent operational plan, but no later than October 1 of each year.

4.2.3 The Index of Customers shall include:

- i) For all firm transportation contracts with terms of one month or greater, the information required as per section 4.2.4;
- ii) For all firm storage contracts with terms of one month or greater, the information as per section 4.2.5; and
- iii) For all integrated utilities, the amount of working storage capacity, daily firm withdrawal deliverability and daily firm injection quantity that the integrated utility plans to use for in-franchise customers shall be identified as “In-franchise Customers”.

4.2.4 For all firm transportation contracts with a term of one month or greater, a transmitter (including a transmitter that is also an integrated utility) shall post the following information on the Index of Customers:

- i) Full legal name of shipper (Customer Name);
- ii) Contract Identifier;
- iii) Receipt/Delivery points (i.e., the capacity segments covered by the contract);
- iv) Contract Quantity (in GJ);
- v) The effective and expiration dates of the contract;
- vi) Negotiated Rate (yes/no); and
- vii) Affiliate (yes/no).

4.2.5 For all firm storage contracts with a term of one month or greater, a storage company or an integrated utility shall post the following information on the Index of Customers:

- i) Full legal name of shipper (Customer Name);
- ii) Contract Identifier;
- iii) Receipt/Delivery Point(s);
- iv) Maximum Storage Quantity (in GJ);
- v) Maximum Firm Daily Withdrawal Quantity (in GJ);
- vi) Maximum Firm Daily Injection Quantity (in GJ);
- vii) The effective and expiration dates of the contract; and
- viii) Affiliate (yes/no).

### **4.3 Operationally-Available Transportation Capacity**

4.3.1 A transmitter (including a transmitter that is also an integrated utility) shall at each nomination cycle post its operationally-available transportation capacity on its website for each capacity segment for which the transmitter provides transportation services as follows:

- i) the capacity available for transportation services under expected operating conditions;
- ii) the amount of capacity scheduled for firm and interruptible transportation services; and
- iii) the difference between 4.3.1i) and 4.3.1ii).

### **4.4 Storage Inventory**

4.4.1 No later than the fifth business day of each calendar month, a storage company or an integrated utility shall post its monthly working storage inventory, as of the last day of the previous month, on its website. The storage inventory shall include the amount of working gas in storage (in PJ) by individual pool or as an aggregate quantity for all pools, provided that the storage company or the integrated utility identifies the method used (i.e., individual or aggregated).

### **4.5 Design Capacity**

4.5.1 A storage company or an integrated utility shall post its design capacity on its website. A storage company or an integrated utility may post the design capacity by individual pool or as an aggregate quantity for all pools, provided that the storage company or the integrated utility identifies the method used (i.e., individual or pool). The design capacity shall include:

- i) Total storage capacity (in PJ);
- ii) Base gas quantity (in PJ);
- iii) Working gas capacity (in PJ);
- iv) Design peak withdrawal capacity (in GJ/day); and
- v) Design peak injection capacity (in GJ/day).

4.5.2 The information in section 4.5.1 shall be updated immediately whenever any of the information changes.

## **5 COMPLAINT MECHANISM**

### **5.1 Dispute Resolution**

- 5.1.1 A storage company, a transmitter and an integrated utility shall develop a dispute resolution process and post this process on its website. The storage company, the transmitter and the integrated utility shall update its dispute resolution process immediately when revisions are made.
- 5.1.2 As part of the dispute resolution process as required by section 5.1.1, a storage company, a transmitter and an integrated utility shall designate at least one employee for the purposes of dealing with disputes relating to this Rule. The name and contact information for this employee shall be provided to the Board and posted on the transmitter's, the storage company's and the integrated utility's website. If the designated employee changes, the name and contact information of the new employee shall be immediately provided to the Board and posted on the transmitter's, the storage company's or the integrated utility's website.
- 5.1.3 If a complaint has not been resolved to the satisfaction of the complainant, the transmitter, the storage company or the integrated utility shall provide to the complainant the telephone number of the Ontario Energy Board Market Operation Hotline.

## Appendix C – Cost Awards

### **Cost Award Eligibility**

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person intending to request an award of costs must file with the Board a written submission to that effect; identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs, addressing the Board's cost eligibility criteria as set out in section 3 of the *Board's Practice Direction on Cost Awards*. An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known.

### **Eligible Activities**

Cost awards will be available in relation to the following activities:

<u>Activity</u>	<u>Maximum Total Eligible Hours per Eligible Participant</u>
Written comments on revised proposed STAR	21 hours

### **Cost Awards**

When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied. The Board expects that groups representing the same interests or class of persons will make every effort to communicate and co-ordinate their participation in this process.