



**Ontario Energy Board  
EB-2008-0052**

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**Staff Discussion Paper**  
**On a Storage and Transportation Access Rule**  
**(STAR)**

July 29, 2008

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## EXECUTIVE SUMMARY

The Ontario Energy Board's Decision with Reasons, Natural Gas Electricity Interface Review EB-2005-0551 ("NGEIR"), released on November 7, 2006 outlined the key requirements that need to be addressed in a Storage and Transportation Access Rule ("STAR").

Staff has undertaken research, commissioned expert advice and consulted with stakeholders on the development of a STAR.

This staff discussion paper outlines potential options that would apply to Union Gas Limited, Enbridge Gas Distribution Inc. and other storage providers including Market Hub Partners Canada L.P. and Tipperary Gas Corporation. The key requirements of the options are:

- Open, fair and non-discriminatory access to transportation services for customers and storage providers. This includes ensuring that:
  - The allocation of transportation capacity is done in a manner that is consistent, transparent and predictable.
  - There is a level playing field so that customers receive the same price, reliability and quality of service for the equivalent transportation service.
  - A transporter cannot discriminate unduly between different storage providers.
- Following the general principles for competitive storage access (such as transparency, non-discriminatory practices and fairness);
- Limiting access to non-public transportation and storage operating information;
- Detailed reporting parameters; and
- A complaint mechanism for customers (or other market participants).

# 1 INTRODUCTION

This discussion paper sets out staff's initial thoughts on a Storage and Transportation Access Rule ("STAR") that would apply to Union Gas Limited ("Union"), Enbridge Gas Distribution Inc. ("Enbridge"), and other storage providers including Market Hub Partners Canada L.P. ("MHP Canada") and Tipperary Gas Corporation ("Tipperary"). The purpose of this staff discussion paper is to raise questions and invite comments from stakeholders to assist staff in developing a STAR.

In developing the concepts set out in this paper staff was informed by:

1. The Ontario Energy Board's Decision with Reasons, Natural Gas Electricity Interface Review EB-2005-0551 ("NGEIR"), released on November 7, 2006;
2. The views of stakeholders expressed in consultations with staff; and
3. Concentric Energy Advisors, Inc. ("CEA")<sup>1</sup>, staff's technical expert. CEA conducted research regarding the rules of conduct and reporting related to storage implemented in other jurisdictions.

In the NGEIR decision, the Ontario Energy Board (the "Board" or "OEB") stated that it was necessary to ensure consumer protection within the competitive storage market and ensure non-discriminatory access to transportation services for storage operators 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.

Further to the NGEIR decision, the Board in a letter dated March 5, 2008, stated that STAR would address the following:

- operating requirements to ensure that Union and 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).

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<sup>1</sup> The jurisdictional review was posted on the Board's website on April 14, 2008. At that time, the report was prepared by Zinder Companies Inc. However, on May 1, 2008, Zinder Companies Inc. was acquired by Concentric Energy Advisors, Inc.

This discussion paper addresses the operating and reporting requirements discussed above. It has been developed with the benefit of stakeholder consultation and reflects staff's current views on the issues associated with a STAR.

Upon the receipt of stakeholder comments, the first phase of the STAR process will be completed. In the second phase, the Board will initiate a process to make STAR into a Rule as per section 44(1) of the *Ontario Energy Board Act, 1988*. At that time, a Notice of Proposed Rule will be issued and all interested parties will have an opportunity to comment on the proposal.

### **1.1 Process and Stakeholder Meetings**

In April 2008, staff held a number of meetings with stakeholders, as shown in Appendix I. At these meetings, staff and its technical expert presented material to initiate discussion on STAR. Staff outlined an initial list of options for STAR and stakeholders were asked to review the material to confirm accuracy and completeness. CEA prepared material on other jurisdictions that have considered and implemented rules of conduct and reporting related to storage. CEA also prepared a report entitled *Competition in Natural Gas Storage Markets, A Review of Gas Storage and Transportation Regulations*. This report was distributed to all interested parties.

Based on the NGEIR decision, staff proposed three key objectives for STAR. These objectives were discussed at the April 2008 meetings. The objectives are as follows:

- Non-discriminatory access to transportation services;
- Ensure consumer protection within the competitive storage market; and
- Support a transparent transportation and storage market.

On May 20, 2008, an all-stakeholder meeting was held where stakeholders presented their views and issues. In their presentations, stakeholders were asked to address general questions prepared by staff. A general discussion on the specific issues also took place allowing staff and stakeholders to gain a clearer understanding of the areas of concern.

All materials related to these consultations are available on the Board's website.

## **1.2 *Structure of the Discussion Paper***

This discussion paper is organized as follows. Section 2 addresses non-discriminatory access to transportation services; section 3 addresses consumer protection in the competitive storage market; section 4 outlines the reporting requirements; and section 5 describes the complaint process.

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

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

To ensure that Union, Enbridge or their affiliates cannot discriminate in favour of their own storage operations or to the detriment of third-party storage providers, staff believes that all potential customers must have non-discriminatory access to transportation services regardless of whether they purchase storage services from Union, Enbridge or a third-party storage provider. Therefore, it is essential to allocate transportation capacity to all potential customers in an open, fair and non-discriminatory basis.

At present, there are three transportation services – Enbridge’s rate 331 and Union’s M12 and C1 tariffs. Enbridge’s rate 331 is a service that provides transportation from the Niagara Link Pipeline termination point, across the Enbridge storage system to the Union Dawn Station. Union’s rate M12 is a service that provides transportation on Union’s Dawn – Oakville facilities. Union’s rate C1 is a cross-franchise transportation service between any two points where Union interconnects with another transporter and these points are Dawn, Ojibway, Bluewater, St. Clair, Parkway, and Kirkwall.

Currently, Union and Enbridge use open seasons and/or other methods to allocate transportation capacity. However, staff notes that for some of the transportation services there is a lack of specific schedules and detailed procedures regarding open seasons and other allocation methods in the tariffs.

Specifically, Union sells new transportation capacity through an open season and has posted open season procedures for M12 transportation services but not for C1 transportation services. Also, existing transportation capacity for M12 and C1 transportation services may or may not be allocated through an open season.

Enbridge’s approach is to allocate transportation capacity for rate 331 on a first-come, first-served basis and capacity is allocated until it is fully subscribed. The current requests and agreements for service on rate 331 are generally for three years or less.

Staff sees merit in establishing a consistent, transparent and predictable approach to the allocation of transportation capacity. This will ensure market transparency and consumer protection, two of the key objectives of STAR. Based on the current practices of TransCanada PipeLines Limited (“TCPL”) and TransCanada ANR Pipeline Company (“ANR”), staff has found that transportation capacity is typically allocated by the following methods:

- New: firm capacity is offered through open season;
- Existing: long-term firm capacity (greater than one year<sup>2</sup>) is offered through open seasons; and
- Existing: short-term firm capacity (one year or less) and interruptible capacity are offered through open season and/or other methods developed by the transporter.

Staff invites comments from parties on whether these allocation methods may also be applied to Union.

Staff recognizes that Enbridge does not have many shippers on rate 331 and an open season might not be practical. Therefore, staff believes that a transporter should have the opportunity to apply to the Board for an exemption if holding an open season is too burdensome.

In addition, staff is of the view that the allocation methods and associated processes (i.e., open season or first-come, first-served) for each of the transportation services should be outlined in detail in the company's tariffs. This is also consistent with the current practices of National Energy Board ("NEB") and Federal Energy Regulatory Commission ("FERC") regulated pipelines.

Also, staff suggests that Union provide a schedule for open seasons for existing long-term and short-term firm transportation ("FT") capacity. For example, for existing long-term FT capacity, the open season could be held on or about May 5<sup>th</sup> of each year.

### **2.1.1 Minimum Standards for Transportation Open Seasons**

To initiate discussion at the stakeholder meetings, staff proposed minimum standards that would apply to all firm transportation open seasons. Most of these standards are based on FERC's general principles such as an open season should be open to all potential bidders on a non-discriminatory basis, transparent, fair and user-friendly. Based on discussions at the meetings, staff has refined the standards as follows:

**Minimum Notice and Open Season Period** – There should be enough notice provided to allow potential bidders to evaluate the service offering and develop bids.

**Bid Package** – The open season materials should include the following information to support bidders in making informed decisions:

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<sup>2</sup> Staff has defined short-term and long-term to be consistent with Union's C1 tariff and recognizes that ANR defines long-term and short-term differently.

- the amount of capacity being offered,
- the date capacity will become available,
- any potential transportation constraints,
- any minimum term requirements, and
- the methodology that will be used to evaluate bids.

**Reverse Open Season** – To prevent overbuilding, existing customers should have an opportunity to turn back existing capacity rights before companies are allowed to build expansion facilities.

**Bid Results** – Transaction information (such as prices, volumes, and receipt and delivery points) should be disclosed so that shippers can ascertain the value of transportation.

**Criteria and Timing of Open Seasons** – To prevent a company from giving undue preference to its in-house competitive storage function, a company should post information concerning plans for future facilities expansions or the timing of upcoming open seasons as soon as this information is available.

Most stakeholders generally agreed with the minimum standards for an open season proposed by staff. In particular, TCPL and ANR stated that the majority of their transportation capacity is offered through open seasons and the minimum standards are similar. Furthermore, TCPL in its Transportation Access Procedure outlines specific schedules and detailed procedures for all their open seasons.

Staff notes that FERC does not require the use of open seasons/auctions. However, FERC requires that transportation (and storage) capacity be allocated in a manner that is not unduly discriminatory (i.e., open and fair access) and open seasons are widely accepted as one method to fulfill this requirement.

One stakeholder suggested that STAR should be consistent with FERC and NEB requirements for regulated pipelines so the Board does not create a regulatory advantage or disadvantage in the market. Staff sees the merit of adopting this approach.

Union stated that its open season package already meets most of the criteria proposed by staff with some exceptions. These exceptions are as follows:

- For the bid package, Union does not provide the amount of capacity being offered since this information could influence the market.

- For bid results, Union does not post the results for C1 FT service. It appears that Union could start posting results for C1 long-term FT service in an index of customers but not for C1 short-term FT service (i.e., one year or less).
- Union does not provide the criteria and timing of open seasons because the timing of future open seasons is not known and could change depending on market conditions.

Staff's comments on these concerns are discussed below.

First, in relation to the bid package, staff is of the view that information concerning the amount of capacity being offered would contribute to an open, fair and transparent process. Staff notes that this information is typically provided in other transportation open seasons such as the ones used by TCPL and ANR. Staff does not see how this information could negatively impact the competitive storage market but invites comments from parties on this issue and the bid package information generally.

With regard to bid results, staff sees merit in disclosing the bid results of both short-term and long-term C1 FT service. Staff notes that the C1 FT service is a monopoly service where transparency is essential. This information would allow the Board and customers to monitor the market to ensure that open, fair and non-discriminatory access requirements have been met. Specifically, it would provide evidence that the determination of the winning bid and the allocation of capacity was done fairly. Staff believes that open access to transportation services is essential to support a competitive storage market. Staff invites comments on other ways (besides disclosing bid results) in which the objectives of open access and transparency are met.

Staff also notes the importance of the C1 transportation paths for accessing the Michigan and Ontario market (i.e., the C1 paths pertain to all of Union's pipelines that are upstream of Dawn) and that interest in these paths will most likely increase over time. It follows, staff believes, that the availability of capacity and the price of this capacity will begin to play a greater role. Since the C1 short-term FT service is a negotiated rate, staff is concerned that the lack of price transparency could create uncertainty in the marketplace. Therefore, staff has identified two potential options to assist market participants in their purchasing decisions:

- Union provides a minimum bid price (or reserve price) in the bid package and identifies how the price was developed; and
- The Board establishes a recourse rate for this service. This would be a cost-of-service based rate that is on file in a transporter's tariff and would be available to customers who do not want to negotiate a rate with the transporter.

Staff invites comments from parties on the two potential options or other options which should be considered.

Finally, staff proposes that the timing and criteria of open seasons should be disclosed. Although this information could change depending on market conditions, staff is concerned that failure to disclose this information could put market participants (such as other storage providers) at a disadvantage compared to Union's in-house competitive storage function. Also, staff is concerned that this information might be used to enhance Union's position in the competitive storage market. Staff believes that a level playing field for all market participants is essential. Staff invites parties to outline other ways to achieve staff's objective of a level playing field.

### **2.1.2 Standard Form of Contracts**

Staff notes that standard forms of contracts with standard terms and conditions usually go hand-in-hand with an open season because customers need to know what they are bidding on. Also, standard terms of service should prevent a company from discriminating unduly between different customers. This ensures a level playing field since all customers receive the same price, reliability and quality of service for an equivalent transportation service.

Standard terms of service are also used extensively in other jurisdictions (such as the NEB, FERC and California).

At the stakeholder meetings, staff suggested that each company's transportation service (whether the capacity is offered through an open season or some other allocation method) should have a standard form of contract and that these contracts should be included in the Board approved tariffs. Staff is not proposing to have a standard form of contract (with standard terms of service) across companies, although this would be another option.

Based on current practices in Ontario and stakeholder comments, staff suggests that the standard form of contracts include the following minimum terms and conditions:

- Nomination and scheduling procedures (and at a minimum to include provision for NAESB nomination windows)
- Service priority and allocation rules (service interruption)
- Balancing requirements and imbalance charges and penalties
- Billing and payment
- Financial assurances
- Measurement

- Gas Quality

Staff invites comments from parties on these minimum terms and conditions.

Most stakeholders agreed that Union and Enbridge should have a standard form of contract (with standard terms and conditions as listed above) and that these contracts should be included in the Board approved tariffs. In particular, the consumer groups and marketers advocated for service priority rules and nominations and scheduling procedures to be included in the standard form of contracts. Others stated that standard terms of service allow market participants to ascertain the value of the service.

TCPL and ANR use a standard contract (with standard terms of service) and when a contract varies from the version in the tariff, the contract is posted on the company's website and filed with the NEB or FERC, respectively.

Enbridge stated that its rate handbook (that outlines the standard terms of service) is posted on the company's website. Union also stated that the standard M12 contract is posted on its website and that the general terms and conditions are part of the approved rate schedule. Therefore, Union proposed that a standard form of contract for the M12 transportation service is not necessary. However, the M12 contract may be negotiated with individual customers and therefore, changes to the posted contract may occur. Staff is concerned that the changes to the contract may impact the attributes of the service and therefore, it is not certain that all customers would receive uniform service. The prospect of customers being treated differently will not ensure a level playing field and staff believes this is essential.

Also, Union indicated that it does not post a C1 contract on its website. As noted previously, staff sees merit in having standard forms of contracts with standard terms of service for all transportation services irrespective of whether capacity is being offered through an open season or some other allocation method. This includes Union rates M12 and C1, and Enbridge rate 331. Also, the minimum terms and conditions as proposed by staff should be included in the Board approved tariffs and not in a company's policies or guidelines. Standard forms of contracts with standard terms of service will ensure that all customers are treated fairly. It will also protect the transporter since it may reduce disputes and the need for regulatory involvement. Staff invites comments from parties on whether standard forms of contracts with standard terms of service for all transportation services are necessary or are there other ways to achieve staff's objective of a level playing field.

Staff also suggests that negotiated transportation contracts be posted on the company's website (i.e., when the negotiated contracts vary from the standard form of contract and the standard terms of service, the contracts should be posted). This information would allow the Board and customers to monitor the market to ensure that open access requirements have been met. Specifically, it

would provide evidence that all customers were treated fairly (i.e., the transporter was not discriminating unduly between different customers). The posting of negotiated contracts would include the situation where a transporter enters into a contract with a customer outside the open season and the contract varies from the most recent open season.

Board staff notes that in Union's EB-2005-0520 Settlement Agreement<sup>3</sup>, Union agreed to post on its website all variations between the standard M12 contract and new contracts before such new contracts came into effect.

## **2.2 Storage Connection Agreement**

In section 2.1, staff focused on options to ensure customers have access to transportation capacity on an open, fair and non-discriminatory basis. In this section, staff is proposing options to ensure a transporter cannot discriminate unduly between different storage providers that are connected to its transportation system (i.e., a storage provider has access to transportation capacity on an open, fair and non-discriminatory basis).

Staff sees merit in a transporter using a standard form of contract (with standard terms of service) when a storage provider wants to interconnect to its facilities. This storage connection agreement would allow storage providers to interconnect to a transporter's facilities on reasonable terms, without undue discrimination. Also, this will ensure that there are no transportation barriers to entry for independent storage providers. This was a concern raised by some stakeholders.

Staff notes that Union's posted M16 rate contract could provide the basis for the development of a storage connection agreement. The current M16 service covers storage customer metering and other interconnection facilities as well as firm and interruptible transportation between the embedded storage pool and Dawn. However, staff suggests that the storage connection agreement should also meet the following standards:

- The transporter must respond to requests for interconnection facilities and transportation services in a timely manner;
- The transporter must not impose operating requirements and financial requirements that discriminate unduly between different storage providers;
- The transporter must offer firm transportation to and from storage provider's meter 365 days per year;
- The transporter must respond to requests for additional nomination windows and capacity so customers have access to third-party storage

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<sup>3</sup> EB-2005-0520 Settlement, Issue 6.10

and balancing services with the same flexibility as the transporter's own competitive storage services; and

- The transporter must include all related balancing services and overrun provisions in the storage connection agreement.

Staff invites comments from parties on the standards listed above, in particular whether or not there should be additions or deletions to this list (and the rationale for these).

Staff has outlined three possible options to implement a storage connection agreement between a storage provider and a transporter:

- A transporter and storage provider negotiate the storage connection agreement ("SCA") and the final SCA is not in the public domain;
- A transporter and storage provider negotiate the storage connection agreement and the final SCA is approved by the Board; or
- A transporter and storage provider negotiate the storage connection agreement and the final SCA is posted on the company's website.

The first option describes Union's current practice. Union has suggested that it does not need to post individually negotiated contracts on its website since it already posts the standard M16 contract. Also, the M16 customers pay the posted M16 toll per the rate schedule and the terms and conditions are part of the approved rate schedule.

The M16 rate schedule is a monopoly service that requires Board approval but the operational requirements within the M16 contract are not standard and must be negotiated with the individual storage provider. Therefore, staff is concerned about the lack of transparency with the first option especially in the situation where a transporter owns competitive storage.

Staff notes that with the other two options the SCA is in the public domain.<sup>4</sup> This would ensure that the Board and other storage providers have the necessary information to verify that non-discriminatory access requirements have been met. Staff is not aware of any commercially-sensitive material in the negotiated SCA since the price is a toll per the rate schedule. However, staff notes that it would be helpful to this process if Union and/or other storage providers could identify the type(s) of commercially-sensitive material contained in the contracts.

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<sup>4</sup> It is recognized that a party may request confidential treatment of its contract in accordance with the Ontario Energy Board's *Practice Direction on Confidential Filings*.

With consideration to staff's objective of non-discriminatory access to the transportation system with reasonable terms, staff invites comments on these three options.

### **2.3 *New Transportation Services***

The Dawn Hub is an important source of flexibility for gas trading and for gas customers in Ontario. Staff wants to ensure that liquidity continues to develop to benefit Ontario. One way to do this is to encourage the development of innovative services and to ensure access to these services.

Staff encourages Union and Enbridge to develop new transportation services for customers on a timely basis. For example, additional firm nomination windows on the C1 transportation paths that link Michigan storage to Dawn may be developed to match the flexibility of the M12 transportation path. This would provide a seamless path for customers accessing Michigan (or vice versa).

Staff suggests that new competitive storage services should not be tied to the transportation services. Therefore, new competitive storage services may be bundled with transportation services as long as the equivalent storage and transportation services are also offered on a stand-alone basis. Staff invites comments on this suggestion

### **3 CONSUMER PROTECTION IN THE COMPETITIVE STORAGE MARKET**

Stakeholders expressed a variety of views about what consumer protection in the competitive storage market means and how this should be accomplished. Consumer and other groups supported a role for the Board while the natural gas utilities and marketers suggested that customers have other avenues to address unfair and discriminatory practices in the competitive storage market such as the courts.

In the NGEIR decision, the Board stated that it had a duty to protect the interests of consumers using competitive services and that it would develop a reporting mechanism and complaint process to deal with any issues which arise.<sup>5</sup> Also, the Board stated that it expects that parties will bring any issues of market failure to the Board's attention.<sup>6</sup>

Staff notes that some parties wanted the Board to have a more prescriptive role in the competitive storage market. Staff is aware that FERC has similar non-discriminatory access requirements for both storage and transportation services. These requirements include open and fair access to capacity and standard terms of service with negotiated contracts posted on the company's website. Staff does not think it is necessary for the Board to have the same requirements for both competitive storage services and regulated transportation services. However, staff sees the merit of outlining general principles for competitive storage access such as:

- Transparency;
- Non-discriminatory practices; and
- Fairness.

Staff notes that these general principles are consistent with the NGEIR decision, wherein the Board stated that it “expects Union to offer these [competitive] services on an open season basis, without withholding capacity”. “These commitments would ensure a level of consumer protection”.<sup>7</sup> In addition, the Board required “Market Hub to offer its storage service to the market in a non-discriminatory fashion”.<sup>8</sup>

There are many ways in which a storage company could offer storage capacity into the market that meet these general principles. They include open seasons,

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<sup>5</sup> NGEIR Decision, p 70

<sup>6</sup> NGEIR Decision, p 70

<sup>7</sup> NGEIR Decision, p 70

<sup>8</sup> NGEIR Decision, Appendix G, p 5

bilateral contracts, leasing arrangements and other allocation methods such as first-come, first-served. Staff believes that these general principles will not harm a storage company and its shareholders in the competitive storage market. These principles will continue to allow a storage company to develop and offer different services into the market and award it to the customer who values it the most.

While the Board no longer approves contracts in the competitive storage market, the Board may prescribe standard terms of service for such contracts.<sup>9</sup> Staff thinks that this is particularly important when a company is offering competitive storage capacity in an open season. The terms and conditions in relation to the storage services being offered are typically the same (i.e., it is the same service, with the same reliability and the same quality of service) for all the potential bidders in that open season. Staff notes that this does not preclude storage companies from negotiating bilateral contracts or leasing arrangements with potential customers. Staff invites comments on whether it is necessary to have standard terms of service for competitive storage contracts. Also, if the Board finds that standard terms of service is necessary, what should be the base set of service terms and conditions for these contracts.

Furthermore, several stakeholders proposed that the actual market prices for storage services sold through a competitive open season should be disclosed so customers can make informed decisions. Disclosure of prices, after the fact, would reduce information asymmetry and increase the quality of the competitive market. Other stakeholders disagreed with this proposal because they believe it reveals commercially-sensitive information and there are other ways to obtain price discovery in the marketplace. Staff also notes that price disclosure could lead to price collusion in an energy market the Board has recently found to be competitive. One option might be for storage companies to disclose the highest price, the lowest price and the weighted average price resulting from each storage open season. This pricing information could be disclosed within a defined period of time following the open season close. Staff invites comments on this suggestion or alternative suggestions that would assist customers in their purchasing decisions while maintaining the integrity of the competitive storage market.

Where storage providers have few customers and disclosing the highest price, the lowest price and the weighted average price might reveal commercially-sensitive customer information, staff suggests that a storage provider should have the opportunity to apply to the Board for an exemption.

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<sup>9</sup> In the Board's Decision with Reasons, EB-2006-0165 (February 13, 2007), the Board stated that the NGEIR forbearance decision "does not eliminate the requirement for general terms and conditions which constrain unregulated storage activities and separate them from those which are regulated. The NGEIR decision specifically indicated that MHP Canada would not be required to seek approval for storage contracts on the condition that it operates within a base set of service terms and conditions approved in this proceeding."

Finally, at least one stakeholder suggested that a transporter's competitive storage marketing personnel should not have access to non-public transportation and storage operating information that may enhance the company's position in the competitive storage market. For example, Union's competitive storage personnel should not have access to the non-public information pertaining to transportation operating conditions or other storage providers' nominations. Staff thinks that this may be feasible. Staff recognizes that personnel could be working in both functions, however, where possible, Union should limit the access of non-public transportation and storage operating information to personnel that require this information only. Staff notes that it would be helpful to this process if Union could identify the extent to which this is already being done, and any specific policies and practices that Union has put in place to prevent the potential abuse of non-public information.

## 4 REPORTING REQUIREMENTS

### 4.1 *Principles*

Staff has identified principles to be used to guide the development of new storage and transportation reporting requirements. These include:

1. Reporting should be accessible, timely, and as streamlined as possible. This can be accomplished, for example, by using on-line postings instead of having reports filed with the Board, utilizing existing standards (where appropriate), and avoiding unnecessary reporting.
2. Companies offering competitive storage services should have similar access to information about the natural gas utilities' transportation services.
3. Market transparency should be weighed against the need to protect commercially-sensitive information.
4. Reporting requirements should not put Ontario storage operators at a disadvantage relative to competing storage operators in other jurisdictions.
5. Reporting requirements should be uniform, although there may be reasons for the Board to provide limited exemptions on a case-by-case basis.

Staff invites comments on these principles.

### 4.2 *NGEIR Reporting Commitments*

In response to intervenor questions during NGEIR, Union and Enbridge offered to provide certain information required under Section 284.13 of the FERC regulations.<sup>10</sup> The FERC reporting requirements are summarized in Appendix II.

**Index of Customers** - Union and Enbridge offered to post most of the information included in the FERC Index of Customers report. Union stated that it would post this information for firm M12 transportation contracts, and firm C1 storage contracts that are one year or longer. Enbridge would provide this information for customers of its competitive storage services with firm contracts that are one year or longer. The natural gas utilities said they would not include the identity of the agent or asset manager because they do not always have this information.

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<sup>10</sup> UGL Undertaking K.3.3 and Enbridge Undertaking K.7.7.

Union began posting its Index of Customers reports for transportation and storage services in 2007. The reports list all firm M12 transportation contracts and firm storage contracts with terms two years or longer (and not contracts that are one year or longer as proposed in the NGEIR proceeding). Enbridge has not yet commenced its competitive storage services, so it has not done any new reporting.

**Peak Day Capacity Report** - Union and Enbridge offered to file with the Board the same peak day transportation capacity, storage capacity and maximum daily delivery capability information specified by FERC.

**Semi-Annual Storage Report** - Union and Enbridge would file with the Board contract and quantity information for all firm contracts that are one year in length or longer. The utilities would not report unit price or revenue because they consider this information to be commercially sensitive.

**Available Capacity Report** - Union stated that the “stop light” icons currently posted on its website communicate the system status information. The green light indicates no constraints, a yellow light indicates that constraints are possible and requests for interruptible services may be rejected, and a red light indicates that interruptible services are likely to be rejected. Stop lights are posted for transportation paths linking the following points:

- Parkway/Kirkwall and Dawn
- Ojibway and Dawn
- St. Clair and Dawn
- Bluewater and Dawn
- Vector and Dawn

There are also separate stop lights for storage injections and storage withdrawals.

### **4.3 Reporting Options**

At the stakeholder meetings there was general agreement to use FERC reporting requirements as a starting point for the development of transportation and storage reporting rules for Ontario companies. This has certain advantages:

- The FERC regulations were already considered by participants in the NGEIR proceeding.
- The North American Energy Standards Board (“NAESB”) has developed detailed standards for implementing these reporting requirements.

- Using FERC reporting guidelines as a starting point is consistent with the principle of having similar reporting requirements across different regulatory jurisdictions within the same market area.

Staff also observes that both Union and Enbridge have affiliates that already comply with these reporting requirements.

One stakeholder cautioned that because FERC regulations have been revised over the years, there are some inconsistencies and overlaps in the reporting. The FERC also has other related reporting requirements that are not included in Section 284.13, such as the negotiated rate report and the discount posting. Finally, since some FERC reporting pre-dates the widespread use of the internet, some information is posted, some is filed with the Commission and some reports are both posted and filed.

While still using the FERC regulations as a starting point, staff has considered what transportation and storage reporting are needed for the Ontario marketplace in the current forbearance environment. Key considerations are:

**Scope:** What information should be reported?

**Format:** How should the information be reported?

**Timing:** How frequently should the information be updated?

These considerations are discussed in the following sections.

#### **4.3.1 Index of Customers**

An index of customers allows market participants to identify how capacity is allocated and to identify counterparties for secondary market transactions. Union and Enbridge have agreed to post an index of customers for certain transportation and storage services. During the STAR stakeholder meetings, Union agreed to expand the index of customers to include firm transportation contracts under rate C1 that are two years or longer, and Enbridge indicated that it would consider posting an index of customers for the rate 331 transportation service.

Staff sees the value in having an index of customers for all firm transportation and storage services. There is merit to including transactions in the competitive storage market since this will allow the Board and market participants to monitor for unfair and discriminatory practices. This will ensure consumer protection in the competitive storage market and transparency, two of the key objectives of STAR.

Staff is concerned that short-term contracts that pertain to the summer and winter periods may not be captured if the index only included contracts with terms two years or longer, as Union has currently implemented. Therefore, staff proposes that contracts with terms three months or greater should be captured in the index. Staff requests comments on whether contracts with terms three months or greater is sufficient to monitor the market.

As far as the frequency of reporting is concerned, stakeholders have observed that having the index of customers updated at the start of each calendar quarter, as FERC requires, means that there would be a delay in reporting contracts with standard start dates of November 1 or April 1. Union has suggested that the timing of the quarterly reports could be adjusted. Another option, which is consistent with TCPL practice, would be to update the Index of Customers each month. Staff requests comments on whether a monthly Index of Customers posting would create any significant burden when compared to a quarterly posting.

One stakeholder requested that Union report the amount of storage that will be offered to the market each storage season out of the 100 PJ of storage capacity that is reserved for in-franchise customers. This information would assist market participants in their storage purchase decisions by revealing how much storage capacity will be released to the competitive market. Staff invites comments from parties regarding disclosing this information.

If this storage information is to be disclosed, staff observes that a new reporting requirement could be avoided by having Union and Enbridge report the amount of storage capacity from their own integrated storage operations that is anticipated to be required for in-franchise purposes over the next storage withdrawal season as a separate “customer” in the index of customers report. Union could update the in-franchise storage requirement as necessary based on the results of its most recent operational planning, until such time as the in-franchise storage requirement reaches the 100 PJ allocation. By including this information in the index of customers, market participants may have a more complete picture of how the company’s total physical storage capacity is being used.

To summarize, staff proposes that the Index of Customers could include the following:

**Applicability:** All firm transportation contracts with a term three months or longer under Union M12, M16 and C1 rate schedules and Enbridge rate 331.

All firm storage contracts with a term three months or longer. In the case of Union, all storage and storage-related services would be reported, such as Union High Deliverability Service (“HDS”), F24-S, Market Price Storage Service (“MPSS”), Upstream Pipeline

Balancing Service (“UPBS”) and Downstream Pipeline Balancing Service (“DPBS”). Storage capacity and withdrawal deliverability reserved for in-franchise use would be reported on an aggregate basis as a separate internal storage customer. Enbridge, MHP Canada, Tipperary and other storage providers would also post an index of customers for their storage services.

Content: Customer name  
Contract number  
Rate schedule  
Effective date and expiry date  
Maximum capacity and maximum daily withdrawal quantity (storage transactions)  
Maximum daily transportation quantity (transportation transactions)  
Receipt point(s) and delivery point(s)  
Negotiated rate (yes/no)  
Affiliate relationship (yes/no)

Format: Web posting using NAESB standards.

Frequency: Update prior to the start of each calendar month.

#### **4.3.2 Available Capacity**

As noted above, Union currently uses the “stop light” icons on its website to communicate system status. However, several stakeholders have expressed an interest in detailed operationally available capacity reporting for transportation along the lines of FERC Section 284.13(d). Consumer groups and storage operators emphasized that it is particularly important to know what firm and interruptible services are available on the pipeline segments that connect natural gas storage facilities with the Ontario market. This includes storage located at Dawn, embedded storage facilities connected to the Ontario pipeline network at other locations, and storage operators located outside the province that could provide storage and balancing services to Ontario customers.

Operationally available capacity information is needed both to know what capacity is available today, and to be able to assess over time how the availability of transportation and storage service is affected by changes in operating conditions. Posting available capacity also allows market participants and the Board to identify potential instances of capacity withholding.

Staff considers that the best way to deal with these concerns is through timely reporting along the lines of the Operationally Available Capacity reports required by FERC. Because Union and Enbridge will continue to operate their storage and transportation facilities on an integrated basis, it is also important that these reports include all in-franchise activities that may affect the availability of competitive storage services or related transportation capacity.

Staff recognizes that for some small storage providers the cost of posting this information may be high relative to the value obtained by the market. Therefore, staff believes that a storage provider should have the opportunity to apply to the Board for a full or partial exemption from posting the Available Capacity report.

Therefore, staff suggests that the Available Capacity report include the following:

Applicability: All transportation segments for which the transporter offers firm or interruptible transportation services, including transportation paths between embedded storage facilities and Dawn (includes Union M12, C1 and M16 rate schedules, and Enbridge rate 331)

All storage facilities for which a storage operator offers firm or interruptible services.

Content: Transportation  
Design capacity of segment under expected operating conditions  
Amount scheduled  
Operationally available capacity

Storage:  
Operational storage capacity  
Operational withdrawal capacity for each withdrawal point  
Operational injection capacity for each injection point  
Storage inventory  
Amount scheduled for withdrawal  
Amount scheduled for injection  
Operationally available storage capacity  
Operationally available withdrawal capacity for each withdrawal point  
Operationally available injection capacity for each injection point

Format: Web posting using NAESB standards.

Frequency: Whenever capacity is scheduled (i.e., at each nomination cycle).

### **4.3.3 Semi-Annual Storage Report**

Union and Enbridge have agreed to file a report at the end of each injection and withdrawal season that includes a subset of the information contained in the FERC Semi-Annual Storage Report, as defined in sections 284.13(e) and 284.128(c) of the FERC regulations. Staff observes, however, that much of the information the utilities propose to file would duplicate information already contained in the Index of Customers. The FERC-mandated information that is not included in other reports includes the maximum daily withdrawal quantity for each storage contract, the unit price and revenue, and the customer deliveries to storage or receipts from storage during the injection or withdrawal cycle.

Some stakeholders have objected to revealing customer-specific pricing information, and no stakeholders have expressed any interest in having storage operators report customers' actual injection and withdrawal quantities at the end of each season. Based on the reporting principles identified earlier, and the comments received from stakeholders, it is staff's view that if the maximum daily withdrawal quantity (a defining term of any storage service) is added to the Index of Customers, as proposed by staff, the semi-annual storage report may not be needed. Stakeholders are invited to comment on this assessment.

### **4.3.4 Storage Price Reporting**

FERC-regulated storage companies operating under cost-based rates, such as ANR Storage, can provide firm storage service at the tariff rate, offer the customer a discounted rate, or enter into a negotiated rate transaction. In all cases, however, Section 284.13(b) of the FERC regulations requires that the details of the transaction, including the name of the customer and the price, be posted at the time service is first nominated under the contract. The same is also true for storage operators authorized to charge market rates, such as Bluewater Gas Storage.

As noted previously, several stakeholders have proposed that actual market prices of storage services should be disclosed so customers can make informed purchasing decisions. Other stakeholders disagreed with disclosing the details of individual transactions because they believe it reveals commercially-sensitive information and there are other ways to obtain price discovery in the marketplace. Staff suggested that to assist customers in their purchasing strategies, a storage company may disclose the highest and lowest price, and a weighted average price resulting from a storage open season. Staff also invited comments from parties on this suggestion.

Staff notes that this would not apply to storage contracts that are negotiated outside a competitive open season process (e.g., bilateral contracts). An option, which one stakeholder suggested, is to have information on negotiated storage contracts filed confidentially with the Board, which could then be used to develop a weighted average price or another index that would be made publicly available.<sup>11</sup> Another possible alternative would be to require storage companies to report annually the weighted average price received for each class of storage service.<sup>12</sup> Staff invites comments on these options.

#### **4.3.5 Design Capacity**

Staff proposes that all storage operators should post information describing the physical capacities of their storage facilities on their websites and update this information whenever there is a change. Since physical construction and operation of underground storage continues to be regulated by the Board, this is information that might already be publicly available, but may not be equally accessible to all market participants.

Applicability: All storage operators.

Content: Total storage capacity for each storage pool  
Base gas quantity for each storage pool  
Working gas capacity for each storage pool and total  
Design withdrawal capacity for each storage pool and total  
Design injection capacity for each storage pool and total

Format: Web posting

Frequency: Posted by November 1 each year, and updated whenever information changes.

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<sup>11</sup> Confidential filing of storage contract information was raised in the NGEIR proceeding. MHP Canada observed in its written argument that “it would be consistent with forbearance principles for the Board to require market participants to provide their confidential market-related transactional information on a confidential basis to assist the Board in monitoring the competitive state and health of the market.”

<sup>12</sup> Union already discloses aggregate storage pricing information in the course of rate cases and other regulatory proceedings. See, for example, Table 1 on p. 20 of the NGEIR Decision.

## **5 COMPLAINT MECHANISM**

Staff believes that the complaint mechanism to be developed as part of STAR should provide customers (or other market participants) with the opportunity to have their concerns about unfair and discriminatory access to transportation services dealt with in a fair, timely and effective process.

Also, staff thinks that customers (or other market participants) should have the opportunity to have concerns related to the competitive storage market addressed by the Board consistent with its jurisdictional authority.

### **5.1 Existing Practices in Ontario**

Union has developed a customer complaint policy for customers and gas marketers. The procedures for this policy include a requirement to have the complaint presented in writing, and a commitment from Union to respond to the complaint in writing within 10 business days, or with an interim response if more time is needed.

Enbridge has developed a customer issue assistance program. The procedures for this program include a multi-step process that begins with discussions with a customer service representative, then escalating to their Customer Ombudsman, and finally forwarding the issue to the OEB if it remains unresolved.

MHP Canada has not developed a written complaint procedure.

Section 16 of OEB's Electricity Distribution License addresses the issue of customer complaint process. The License requirements state that Electricity distributors shall:

- Have a process for resolving disputes in a fair, reasonable and timely manner.
- Publish information to make its customers aware of the process.
- Make a copy of the process publicly available at no cost.
- Refer all unresolved complaints to a third party or the Board for review.

## **5.2 Rules and Practices in Other Jurisdictions**

The jurisdictional review that was completed for staff as part of this initiative indicated that all the jurisdictions examined had a complaint mechanism for customers. This review included the following jurisdictions: FERC, California Public Utilities Commission, Michigan Public Service Commission, Oklahoma Corporation Commission, British Columbia Utilities Commission and the Office of Gas and Electricity Markets (in the United Kingdom).

The common features of these complaint mechanisms are:

- Public disclosure of the complaint process.
- The use of an enforcement hotline to receive complaints.
- The encouragement of parties to try to come to a resolution of the issues before bringing the concern to the attention of the regulator.
- The option of using a dispute resolution service, assisted by regulator staff, to mediate and facilitate disputes.
- Initiating a formal complaint proceeding to be heard before an administrative law judge.

## **5.3 Options**

It is the view of staff that there are two key elements that could form the basis for the STAR complaint process for customers (or other market participants). They are: 1) resolving day-to-day operational type complaints and 2) reviewing issues of compliance with STAR.

For day-to-day operational type complaints, it is staff's view that these issues would be most effectively resolved by having the parties work out the concerns together. To facilitate this, staff believes that it would be reasonable to include in STAR a requirement that transporters and storage companies develop their complaint handling procedures and post these procedures on their website. This requirement may take a form similar to that contained within the Electricity Distribution License where the basic principles for a complaint procedure are outlined. Each company would then be able to develop specific policies that meet the company's individual circumstances.

Staff's suggestion that each company be allowed to develop their own set of complaint procedures raises the question of whether the Board should review and approve each company's procedure. Board approval of each procedure

would ensure they are consistent and meet the standards of effectiveness and fairness expected by the Board. However, the Board has chosen not to approve the individual complaint procedures of the electricity distributors, and there appears to be no reason that storage and transportation companies need closer scrutiny. The process for Board approval of revised complaint procedures in the future may also become cumbersome. Therefore, it may not be necessary to have Board approval of complaint procedures. Staff invites comments as to whether it is necessary that each company's complaint procedures be reviewed and approved by the Board.

In relation to reviewing issues of compliance with STAR, some parties at the stakeholder meetings suggested that these concerns be resolved directly between the parties. The OEB, however, has established its Compliance Office with a mandate of ensuring effective compliance monitoring and enforcement of the OEB's regulatory requirements. In order to fulfill this mandate the Compliance Office anticipates that any issues relating to the implementation and compliance with the provisions of STAR would be brought to the attention of the Compliance Office for review and resolution. Therefore, staff believes that customers with compliance concerns regarding STAR should be directed to contact the OEB Compliance Office. Staff invites parties to provide any alternatives to the approach of directing parties with compliance concerns to the Compliance Office.

#### **5.4 *Unfair and Discriminatory Practices***

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. Also, staff recognizes that issues relating to unfair and discriminatory practices may occur in the transportation market that are not covered by STAR. Therefore, staff believes that customers (or other market participants) should have the opportunity to have these concerns addressed by the Board.

Staff proposes that the process for addressing these concerns is for parties to bring the issues directly to the Board. The Board would review and respond to these issues consistent with its jurisdictional authority.

Staff invites comments from parties on this proposed process.

## APPENDIX I

<b><i>List of Participants in EB-2008-0052</i></b>
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' Coalition of Canada
Direct Energy
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
Ontario Power Generation
SemCanada Energy

<b><i>List of Participants in EB-2008-0052</i></b>
Shell Energy North America (Canada) Inc.
Superior Energy Management
TransCanada ANR Pipeline Company
TransCanada PipeLines Limited
Union Gas Limited
Vulnerable Energy Consumers Coalition

## APPENDIX II

### ***FERC Section 284.13 Reporting - Transportation Services***

<b>Report</b>	<b>Regulation</b>	<b>Frequency</b>	<b>Description</b>
Index of Customers (F,P)	284.13(c)	Quarterly	<ul style="list-style-type: none"> <li>• Customer name</li> <li>• Contract number</li> <li>• Rate schedule</li> <li>• Effective date and expiry date</li> <li>• Maximum transportation quantity</li> <li>• Receipt and delivery points</li> <li>• Negotiated rate indicator (Yes/No)</li> <li>• Name of agent or asset manager</li> <li>• Affiliate relationship</li> </ul>
Report on Firm Services (P)	284.13(b)	No later than the first nomination under transaction	<ul style="list-style-type: none"> <li>• Shipper name</li> <li>• Contract number</li> <li>• Rate charged under each contract</li> <li>• Maximum rate</li> <li>• Duration of the contract</li> <li>• Receipt and delivery points</li> <li>• Contract quantity</li> <li>• Any special terms</li> <li>• Affiliate relationship</li> </ul>
Report on Interruptible Services (P)	284.13(b)	Daily	<ul style="list-style-type: none"> <li>• Shipper name</li> <li>• Rate charged under each contract</li> <li>• Maximum rate</li> <li>• Quantity allowed under contract</li> <li>• Special details</li> </ul>
Available Capacity Report (P)	284.13(d)(1)	Whenever capacity is scheduled	<ul style="list-style-type: none"> <li>• Available capacity at receipt and delivery points</li> <li>• Design capacity of point or segment</li> <li>• Amount scheduled</li> <li>• Service outages/capacity reductions</li> </ul>
Peak Day Capacity Report (F)	284.13(d)(2)	March 1 each year	<ul style="list-style-type: none"> <li>• Estimated peak capacity of the pipeline's system</li> </ul>

F – Filed with the regulator

P – Posted on the company's website

### ***FERC Section 284.13 Reporting - Storage Services***

<b>Report</b>	<b>Regulation</b>	<b>Frequency</b>	<b>Description</b>
Index of Customers (F,P)	284.13(c)	Quarterly	<ul style="list-style-type: none"> <li>• Customer name</li> <li>• Contract number</li> <li>• Rate schedule</li> <li>• Effective date and expiry date</li> <li>• Maximum storage quantity</li> <li>• Negotiated rate indicator (Yes/No)</li> <li>• Name of agent or asset manager</li> <li>• Affiliate relationship</li> </ul>
Semi-Annual Storage Report (F)	284.13(e)	Within 30 days of the end of the injection or withdrawal season	<ul style="list-style-type: none"> <li>• Customer name</li> <li>• Affiliate relationship</li> <li>• Maximum storage quantity</li> <li>• Maximum daily withdrawal quantity</li> <li>• Quantities injected and withdrawn</li> <li>• Unit charges and revenues received</li> </ul>
Report on Firm Services (P)	284.13(b)	First nomination	<ul style="list-style-type: none"> <li>• Shipper name</li> <li>• Contract number</li> <li>• Rate charged under each contract</li> <li>• Maximum rate</li> <li>• Duration of the contract</li> <li>• Contract quantity</li> <li>• Affiliate relationship</li> </ul>
Report on Interruptible Services (P)	284.13(b)	Daily	<ul style="list-style-type: none"> <li>• Shipper name</li> <li>• Rate charged under each contract</li> <li>• Maximum rate</li> <li>• Quantity allowed under contract</li> <li>• Special details</li> </ul>
Available Capacity Report (P)	284.13(d)(1)	Whenever capacity is scheduled	<ul style="list-style-type: none"> <li>• Available capacity at receipt and delivery points and in storage fields</li> <li>• Design capacity of point or segment</li> <li>• Amount scheduled</li> <li>• Service outages/capacity reductions</li> </ul>
Peak Day Capacity Report (F)	284.13(d)(2)	March 1 each year	<ul style="list-style-type: none"> <li>• Estimated storage capacity and maximum daily delivery capacity</li> </ul>

F – Filed with the regulator  
 P – Posted on the company's website