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**NOTICE OF 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**

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 proposal to issue a Storage and Transportation Access Rule (“STAR”) made under 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 2008, staff held a number of meetings with stakeholders. The list of stakeholders is provided in Appendix A. At these meetings, staff and its technical expert¹ presented material to initiate discussion on a STAR. Staff’s technical expert also prepared a jurisdictional review entitled “Competition in Natural Gas Storage Markets, A Review of Gas Storage and Transportation Regulations”.

On May 20, 2008, an all-stakeholder meeting was held. Stakeholders were asked to make presentations to address general questions prepared by staff on non-discriminatory access to transportation services, consumer protection in the competitive storage market and reporting requirements. This allowed staff and stakeholders to gain a clearer understanding of the areas of concern.

On July 29, 2008, staff released a discussion paper on a STAR (the “Discussion Paper”) for stakeholder comment. The paper set out staff’s initial thoughts on a STAR that would apply to Union, Enbridge, and other storage providers including Market Hub Partners Canada L.P. (“MHP Canada”) and Tipperary Gas Corporation (“Tipperary”). 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.

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

With this Notice, the Board is initiating Phase II of the STAR process. The first phase of the STAR process has now been completed.

¹ Zinder Companies Inc. (subsequently acquired by Concentric Energy Advisors, Inc.)

2) Proposed STAR

This section is organized as follows. For each of the rule requirements a brief summary of the Discussion Paper is provided, followed by stakeholder comments and then the Board's policy and rationale for the proposed STAR. The text of the proposed STAR is set out in Appendix B to this Notice.

a) Purpose of STAR

Background

In the Discussion Paper, three key objectives for a STAR were proposed:

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

Stakeholder Comments

Most stakeholders generally agreed with these objectives. However, one stakeholder argued that the focus of a STAR should be on transportation access for new and existing storage providers only (and therefore should not apply to customers of the C1 and M12 transportation services). Another stakeholder stated that the approach to support transparent markets (through a requirement for price disclosure for competitive storage services) appeared to go beyond the mandate provided by the NGEIR Decision.

Board's Policy and Rationale

The "Purpose" section of the proposed STAR is the expression of the Board's objectives in establishing the provisions of the proposed STAR.

The purpose for the proposed STAR is to establish rules of conduct and reporting requirements to meet the Board's objectives. Based on stakeholder comments, the Board has refined the objectives as follows:

- Ensure open, fair and non-discriminatory access to transportation services for customers² and storage providers;
- Provide customer protection within the competitive storage market; and
- Support transparent transportation and storage markets.

² The terms "customers" and "shippers" are used interchangeably.

The Board believes that the proposed STAR should focus on transportation access for both customers and storage providers. This ensures that all potential customers have non-discriminatory access to transportation services regardless of where or from whom they purchase storage services. The Board is concerned that limiting the scope of the proposed STAR may allow an integrated utility to enhance its position in the competitive storage market by using its transportation system to discriminate to the detriment of other competitive storage providers. The Board believes that one of the ways to protect customers within the competitive storage market is to ensure that all potential customers have non-discriminatory access to transportation services. This will allow all potential customers to have the opportunity to purchase storage services from competitive storage providers in Ontario, Michigan and other states in the relevant geographic market³. The Board will use the proposed STAR to ensure that a transmitter cannot give undue preference to its own or its affiliate's competitive storage services.

With respect to the third objective, the Board in the NGEIR Decision established the principle that it was important to have a transparent storage/transmission market so market participants can make informed purchasing decisions. However, the Board has decided that it is not appropriate to require standard terms of service for competitive storage contracts or to disclose pricing information on competitive storage (see section 2) c) of this Notice).

b) Non-Discriminatory Access to Transportation Services

i) Allocation of Transportation Capacity

Background

In its Discussion Paper, staff saw the merit in establishing a consistent, transparent and predictable approach to the allocation of transportation capacity. Based on the current practices of TransCanada PipeLines Limited ("TCPL") and TransCanada ANR Pipeline Company ("ANR"), staff found that transportation capacity is typically allocated using the following methods:

- New firm capacity is offered through open season;
- Existing long-term firm capacity (greater than one year) 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 transmitter.

³ Relevant market as defined in the NGEIR Decision, p 38.

Staff invited comments from parties on whether these allocation methods should also be applied to Union.

Stakeholder Comments

Most stakeholders agreed that the allocation methods for transportation capacity should be consistent, transparent and predictable, and that these methods should be defined in the tariff. These stakeholders proposed the following allocation methods for transportation capacity;

- Open seasons are appropriate for firm capacity with terms of one year and longer; and
- Less formal methods are appropriate for short-term firm and interruptible services to obtain the best terms of sale.

In addition, one of the consumer groups proposed that short-term firm and interruptible transportation services could be offered through a daily open season or bidding process and exemptions for an open season should only be applied to short-term firm capacity. Another stakeholder suggested that short-term firm transportation services could be allocated on a first-come, first-served basis and that interruptible services are currently allocated appropriately.

One stakeholder did not support the allocation methods proposed in the Discussion Paper. This stakeholder stated that it requires the ability to directly negotiate with customers because standardized transportation products offered through open seasons do not work for all customers. Another stakeholder proposed that the STAR should exempt small transmitters from the open season requirements, but did not define small.

Board's Policy and Rationale

The Board is of the view that open access to transportation services is essential to a competitive storage market. It follows that the methods for allocating transportation capacity need to be consistent, predictable and transparent and that these methods need to be outlined in the tariff. This will prevent a transmitter from discriminating between different customers.

Therefore, the proposed STAR requires that new long-term (one year or longer) firm transportation capacity be offered through an open season. Less formal methods may be used to allocate short-term existing firm and interruptible transportation capacity. These less formal methods will be transmitter-specific. The Board notes that these allocation methods are not inconsistent with Union's current practices and are consistent with procedures used by TCPL, ANR and other transmitters connecting into the Dawn hub ("Dawn"). The Board also notes that the use of less formal methods for short-term sales of transportation service

as part of Enbridge's Transactional Services ("TS") Methodology (as set out in EB-2007-0932) is consistent with such a policy.

The Board is of the view that long-term existing firm transportation capacity should be offered through an open season. The Board is aware that the Federal Energy Regulatory Commission ("FERC") does not require interstate pipelines to use open seasons to allocate existing transportation capacity (i.e., transportation services that are not dependent on new construction). However, due to the integrated structure of the natural gas utilities ("utilities") in Ontario, the Board concludes that open seasons are the best means of ensuring that all potential customers have the opportunity to purchase existing long-term transportation capacity in an open and fair manner. This is especially important for the C1 and Rate 331 transportation paths which connect the Ontario market to the competitive storage markets in Michigan (and other states in the relevant geographic market as outlined in the NGEIR Decision). The Board believes that interest in these paths is likely to increase over time. As a result, the price and the availability of capacity will begin to play a greater role.

The Board believes that these allocation methods will ensure that all potential customers have non-discriminatory access to transportation services regardless of whether they purchase storage services from Union, Enbridge or a third-party storage provider. The Board notes that this policy also meets the other two key objectives of the proposed STAR – customer protection and transparency.

The Board will also require that all negotiated transportation services be posted on the transmitters' websites and be offered to all potential customers to ensure a level playing field. This is further discussed in sections 2) b) iii) and 2) b) iv) of this Notice.

The Board recognizes that in specific situations holding an open season might not be practical for a transmitter. For example, it may not be appropriate to hold an open season for Union's M16 transportation service for embedded storage providers because the service is site-specific. Further, without any context or evidence, it is difficult for the Board to define a small transmitter or circumstances when an open season may not be appropriate. The Board will therefore allow a transmitter to apply for an exemption on the basis that an open season would be too burdensome or otherwise not appropriate. The Board will consider exemption requests on a case-by-case basis.

ii) Standards for Transportation Open Seasons

Background

In its Discussion Paper, staff proposed standards that would apply to all firm transportation open seasons. Most of these standards are based on the FERC's general principles which are that an open season should be: open to all potential

bidders on a non-discriminatory basis; transparent; fair; and user-friendly⁴. The proposed standards were the following:

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:

- 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, term, 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.

Staff invited comments from parties on the proposed open season standards.

Stakeholder Comments

The majority of stakeholders supported the open season standards. However, some of these stakeholders proposed that the bid package should also highlight any conditions precedent such as credit support agreements and other agreements that a successful bidder would need to execute.

One stakeholder suggested that the bid package information outlined in the Discussion Paper is appropriate for existing capacity but not for new capacity

⁴ Competition in Natural Gas Storage Markets, A Review of Gas Storage and Transportation Regulations, p 8.

since the amount, in-service date and potential constraints associated with new capacity cannot be determined until after the open season has determined market demand. Also, there was a suggestion that the bid result information should include the identities of the winning bids but it should not disclose the price for negotiated rates (e.g., the short-term firm C1 transportation service).

One stakeholder stated that the M12 open season procedures (which are posted on Union's website) include most of the suggested standards except in three areas. For each of these areas, the stakeholder was of the view that the proposed information was unnecessary:

- Bid package information – no need to include the amount of capacity unless it is critical to the market (i.e., a constraint exists).
- Bid results – no need to disclose bid results because M12 contracts are included in the Index of Customers. Also, price for C1 short-term firm transportation ("FT") should not be disclosed because price is determined through direct negotiations.
- Criteria and timing of future open seasons – no need to disclose this information because storage and transportation services are sold separately and independently in the market.

Board's Policy and Rationale

The Board is of the view that the open season standards should be enforced and these are outlined in section 2.2 of the proposed STAR (Appendix B). These standards will ensure that the necessary information is in the public domain to assist market participants in making informed purchasing decisions. This information also allows the market to monitor for non-discriminatory access requirements. The Board notes that these open season standards are not inconsistent with the current practices of Union, TCPL and ANR. In addition to meeting the objective of non-discriminatory access, the open season standards also meet the other two key objectives of the proposed STAR – transparency and customer protection.

The Board wishes to address the concerns raised by stakeholders.

First, the Board is of the view that the market, not the transmitter, should decide what information is critical to making an informed purchasing decision. The Board believes that disclosing the amount of capacity in the bid package contributes to an open, fair and transparent process. Also, a transmitter typically holds non-binding open seasons for new firm transportation capacity to gauge market interest before holding a binding open season. As such, the transmitter is able to estimate the amount of capacity (or a range) and any potential constraints. Therefore, the Board concludes that this information can be included as a component of the open season standards.

In terms of bid results, the Board believes that disclosing the bid results allows the market to ensure non-discriminatory access requirements have been met. Although specific contract information is eventually included in the Index of Customers, it is the Board's view that timely market information is necessary to demonstrate that the selection of the winning bid and the allocation of capacity was done fairly.

With regard to price disclosure, the Board agrees that the price for C1 short-term FT service should not be disclosed in the bid results. The Board believes that requiring a transmitter to define its capacity allocation methodology in the tariff and including the contract in the Index of Customers will ensure non-discriminatory access to this service.

Finally, the Board recognizes that due to unbundling, storage and transportation services are sold separately in the marketplace. However, to ensure that market information is disclosed to all market participants at the same time and to minimize information asymmetry, the Board will require that a transmitter disclose the timing of future open seasons. This will ensure that a competitive storage provider will not have preferential access to information regarding the capacity plans of its integrated transportation business.

The Board agrees, however, that a transmitter requires the flexibility to establish the criteria for each of its open seasons (i.e., volume or term). Therefore, the criteria for an open season have not been included as a requirement in the proposed STAR.

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

Background

In the Discussion Paper, staff noted 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 prevent a transmitter from discriminating unduly between different customers.

Staff also suggested that negotiated transportation contracts should be posted on the transmitter'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. Staff invited comments from parties on whether standard forms of contracts with standard terms of service for all transportation services are necessary or whether there are other ways to achieve the objective of a level playing field.

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

- Nomination and scheduling procedures (and at a minimum to include provision for North American Energy Standards Board (“NAESB”) nomination windows);
- Service priority and allocation rules (service interruption);
- Balancing requirements and imbalance charges and penalties;
- Billing and payment;
- Financial assurances;
- Measurement; and
- Gas Quality.

Staff invited comments from parties on these terms and conditions.

Stakeholder Comments

All stakeholders except for the utilities supported the notion of standard forms of contracts with standard terms of service in the tariffs. Some of these stakeholders also proposed additional standards such as renewal and decontracting rights, force majeure, Alternative Dispute Resolution (“ADR”) provisions, and the identification of existing preconditions.

The utilities commented that standardized contracts could limit their flexibility. Also, contract variations would require Board approval. One of utilities did comment, however, that the goal of ensuring non-discriminatory access could be met by using standard terms and conditions.

Board’s Policy and Rationale

In the Board’s view, the terms of service and the form of contract together define the transportation service. The Board concludes that a standard contract will prevent a transmitter from discriminating between customers and that as a result; all customers will be treated fairly. This may also benefit the transmitter since it may reduce disputes and the need for regulatory involvement. The Board will therefore require that each transportation service have its own standard form of contract and standard terms of service as provided in section 2.3 of the proposed STAR (Appendix B) and that each contract be included in the tariff.

As provided in section 2.3.4 of the proposed STAR (Appendix B), the Board has included in the standard terms of service additional terms and conditions to what was originally proposed in the Discussion Paper. These terms are as follows: renewal and decontracting rights; force majeure; ADR provisions; and the identification of existing preconditions. The Board is of the view that these are important features of the transportation service that will assist market participants in their purchasing decisions.

The Board encourages transmitters to develop new transportation services and/or to modify existing services to meet customer needs. The Board is of the view, however, 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. As a result, the Board will require that all transportation contracts containing negotiated variations from the standard form of contract and/or standard terms of service be posted on the transmitter's website. This will ensure that the objectives of customer protection, transparency and non-discriminatory access are met. Also, the Board does not believe that including the standard form of contract in the tariff will reduce a transmitter's flexibility since the transmitter can file an application with the Board to modify its tariff at anytime.

The Board is aware that in the Settlement Agreement for Union's 2007 rate case (EB-2005-0520), Union agreed to file with the Board and post on its website all negotiated contract variations from its standard M12 transportation contract. The Board notes that at this time, no negotiated contracts have been posted or filed.

iv) Storage Provider – Standard Terms of Service and Standard Forms of Contracts for Transportation Services (entitled “Storage Connection Agreement” in Discussion Paper)

Background

In the Discussion Paper, staff saw the merit in a transmitter using a standard form of contract (with standard terms of service) when a storage provider wants to interconnect to its facilities. This standard form of contract (with standard terms and conditions), referred to in the Discussion Paper as a “storage connection agreement”, would allow storage providers to interconnect to a transmitter's facilities on reasonable terms, without undue discrimination. This would also ensure that there are no transportation barriers to entry for independent storage providers.

Staff suggested that the transmitter should also meet the following standards:

- The transmitter must respond to requests for interconnection facilities and transportation services in a timely manner;

- The transmitter must not impose operating requirements and financial requirements that discriminate unduly between different storage providers;
- The transmitter must offer firm transportation to and from the storage provider's meter 365 days per year;
- The transmitter must respond to requests for additional nomination windows and capacity so customers have access to third-party storage and balancing services with the same flexibility as the transmitter's own competitive storage services; and
- The transmitter must include all related balancing services and overrun provisions in the contract⁵.

Staff invited 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).

Also, staff outlined three possible options to implement a contract⁶ between a storage provider and a transmitter:

- A transmitter and storage provider negotiate the contract and the final contract is not in the public domain;
- A transmitter and storage provider negotiate the contract and the final contract is approved by the Board; or
- A transmitter and storage provider negotiate the contract and the final contract is posted on the transmitter's website.

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

Stakeholder Comments

Stakeholders generally agreed with staff's suggested standards although some questioned the need for a transmitter to offer firm transportation to and from the storage provider's meter 365 days per year. These stakeholders felt it was unrealistic and potentially costly. One stakeholder also commented that it currently meets the majority of the standards listed in the Discussion Paper.

⁵ In section 2 b) iv), a contract is referred to in the Discussion Paper as a "storage connection agreement".

⁶ Ibid.

In response to staff's suggestion that a standard form of contract with standard terms of service may be necessary, some stakeholders agreed, while one supported standard terms of service only. Two stakeholders pointed out that the existing M16 contract and the terms of service which are outlined in the tariff are in essence the standard contract. One of these stakeholders also identified other agreements (in addition to the existing M16 contract) that a storage provider connected to Union's transportation system is required to have. These include:

- A standard Interruptible Service HUB Contract,
- An enhanced HUB balancing agreement that provides operational balancing services to manage the daily differences between the nominated and measured flow, and
- Agreements for other services such as compression and/or dehydration.

Stakeholders had different points of view regarding whether the individually negotiated contract between a storage provider and a transmitter should be in the public domain. Each of the three options outlined in the Discussion Paper was supported by one or more stakeholders. One stakeholder also proposed that public disclosure was not necessary if the contract is filed with the Board and the Board determines whether there is evidence of discriminatory practices.

Board's Policy and Rationale

The Board is of the view 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. The Board will therefore require that each transmitter use its own standard form of contract (with standard terms of service) when a storage provider wants to interconnect to its facilities.

Due to the unique operational requirements of each storage provider, the Board is aware that certain elements within each contract may be individually negotiated with the transmitter. The Board is concerned that these negotiations may unduly compromise the standard contract. This is of particular importance especially in the situation where a transmitter owns and operates competitive storage. Therefore, to ensure non-discriminatory access, the Board believes that the contract (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 notes that this transportation service is a monopoly service at a regulated rate. Detailed operating requirements related to these services are in the public domain as filed in a leave to construct application. Although some stakeholders stated that these contracts may contain commercially-sensitive material, they did not identify this material in their comments. The

Board concludes that these contracts and all related agreements should be posted on the transmitter's website.

The Board is also proposing that the contract between a transmitter and a storage provider include the standards as outlined in section 2.4.4 of the proposed STAR (Appendix B). The Board agrees with stakeholders' concerns and has therefore not included the requirement that the transmitter offer firm transportation to and from the storage provider's meter 365 days per year.

The Board believes that Union's posted M16 contract can provide the basis for the development of a contract that includes a standard terms of service and a standard form of contract with the standards as outlined in section 2.4.4 of the proposed STAR (Appendix B). This revised contract is to be included in the tariff. For the other transmitters in Ontario that receive requests from storage providers, the Board will require these transmitters to develop a standard terms of service and a standard form of contract that includes the standards as outlined in section 2.4.4 of the proposed STAR (Appendix B) and to file this standard form of contract (with the standard terms of service) for Board approval.

v) Other (entitled "New Transportation Services" in Discussion Paper)

Background

In the Discussion Paper, staff suggested 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 transportation services are also offered on a stand-alone basis.

Staff invited comments on this suggestion.

Stakeholder Comments

Stakeholders supported the suggestion that new competitive storage services should not be tied to the regulated transportation services and therefore transportation services must be offered on a stand-alone basis. Also, one of the utilities stated that it currently does not bundle transportation services with competitive storage services.

Board's Policy and Rationale

The Board will allow competitive storage services to be bundled with transportation services as long as the equivalent transportation services are also offered on a stand-alone basis. This will ensure that all potential customers are able to replicate the bundled service using the utility's unbundled transportation services and storage services provided by other competitive storage providers.

c) Consumer Protection within the Competitive Storage Market

Background

In the Discussion Paper, staff stated that it did not think it was necessary for the Board to have the same rule requirements for both competitive storage services and regulated transportation services. However, staff saw the merit of outlining general principles for competitive storage access such as:

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

Staff noted 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”.⁷ In addition, the Board required “Market Hub to offer its storage service to the market in a non-discriminatory fashion”.⁸

Staff invited comments on whether it was necessary to have standard terms of service for competitive storage contracts. If the Board was to find that standard terms of service are necessary, what should be the base set of service terms and conditions for these contracts?

Based on comments made at the stakeholder meetings, staff suggested that storage companies should disclose the highest price, the lowest price and the weighted average price resulting from each storage open season. Staff invited comments on this suggestion or alternative suggestions that would assist customers in their purchasing decisions while maintaining the integrity of the competitive storage market.

Stakeholder Comments

Many stakeholders agreed that the Board has some role in protecting customers in the competitive storage market vis-à-vis rulemaking and transparency; one did not.

⁷ NGEIR Decision, p 70

⁸ NGEIR Decision, Appendix G, p 5

Some stakeholders disagreed with staff's suggestion that aggregated pricing information should be disclosed. One stakeholder stated that price discovery is attained through the primary and secondary markets. Another stakeholder commented that since marketers are not required to post pricing information, competitive storage providers should not be required to do so. Further, this stakeholder was of the view that as the storage market evolves, there will be a variety of services and terms that will make comparisons of minimum, maximum and average prices meaningless.

All other stakeholders supported disclosing aggregated pricing information from competitive storage open seasons because this would contribute to a fair, open and transparent market. One of these stakeholders stated that historical pricing information is necessary for bidding in future open seasons or secondary transactions. Also, this stakeholder commented that the price disclosure in the primary market such as the New York Mercantile Exchange ("NYMEX") forward prices reflect the intrinsic value only, not the extrinsic value of storage. Furthermore, it was noted that a parallel situation existed in the early days of gas price deregulation and exchanges (such as the Natural Gas Exchange ("NGX")) now report these transactions.

Some stakeholders agreed with staff's suggestion that competitive storage contracts should have standard terms of service. The storage providers however did not agree, arguing that market participants should be free to negotiate all aspects of their contract. As an alternative, one storage provider proposed that the general terms and conditions for competitive storage services could be posted on the storage provider's website.

Some stakeholders agreed with staff's suggestion for limiting information access. These stakeholders, however, felt it would be extremely difficult to implement and therefore suggested that the Board maximize information in the public domain. While one stakeholder supported staff's suggestion, it also outlined information that companies should have limited access to.

Board's Policy and Rationale

The Board does not believe that it is necessary to have the same rule requirements for both competitive storage services and regulated transportation services. The Board is of the view that to provide customer protection within the competitive storage market it is best to focus on:

- Ensuring non-discriminatory access to transportation services for customers and storage providers;
- Supporting transparent storage and transportation markets through appropriate reporting requirements;

- Ensuring that the Board's complaint process deals with issues fairly, promptly and effectively; and
- Requiring the utilities to develop protocols that will limit access to non-public transportation operating information.

In the previous sections, the Board has outlined requirements to ensure that customers and storage providers have open, fair and non-discriminatory access to transportation services. In section 2) d) of this Notice, the Board is proposing specific reporting requirements to minimize information asymmetry in the market and to allow monitoring for potential discriminatory practices. Also, in section 2) e) of this Notice, the Board outlines a complaint mechanism that will ensure that market failure issues are brought directly to the Board, which is consistent with the NGEIR Decision⁹. The Board is of the view that these requirements will protect the interests of customers that are using competitive storage services.

The Board is also concerned that because the utilities provide both regulated transportation services and competitive storage services, there may be a risk that non-public transportation information is used to enhance the utilities' positions in the competitive storage market. Consequently, the Board will require utilities offering both competitive storage services and regulated transportation services to develop and maintain protocols (i.e., specific policies and/or practices) to ensure that access to non-public information concerning transportation operating conditions of shippers, storage providers and end-users is limited only to personnel that require this information. The following information would be included in the protocols: nominations, gas flows, gas inventory and current imbalances. The Board believes that these protocols should be posted on the utility's website.

The Board does not believe that it is appropriate to prescribe standard terms of service for competitive storage contracts. However, the Board agrees that a storage provider's general terms and conditions for competitive storage services should be posted on its website. The Board will also require that a storage provider post its standard form of contract (i.e., the pro forma contract) for these competitive storage services. The Board notes that important market information may be in both the terms of service and the contract. Also, this information will allow market participants to make informed decisions (i.e., market participants can use this as a reference point). The Board does not believe that this will reduce a storage provider's flexibility to develop or negotiate individual contracts with customers.

⁹ NGEIR Decision, p 70.

The Board is of the view that it is not necessary to disclose aggregated pricing information from competitive storage open seasons. The Board believes that the requirements to post firm storage contracts in the Index of Customers and to report available storage capacity will provide the appropriate customer protection and will support a competitive storage market. The Board questions the value of aggregate information given the range of potential storage services. The Board is also concerned about the challenges associated with protecting customer-specific information when there are a limited number of transactions.

d) Reporting Requirements

Background

In the Discussion Paper, staff suggested that an Index of Customers report would allow market participants to identify how capacity is allocated and to identify counterparties for secondary market transactions. This Index would include storage and transportation contract information that would be posted on a transmitter and/or storage provider's website and updated on a monthly basis. Staff noted that in the NGEIR proceeding Union and Enbridge and their affiliates offered to post an Index of Customers for certain transportation and storage services.

Also, based on comments made at the stakeholder meetings, staff proposed that the utilities report the amount of storage that would be offered to the market each storage season from the storage capacity that is reserved for in-franchise customers. It was suggested that this information be included in the Index of Customers.

Staff also proposed that an Available Capacity report is needed. This would provide information on capacity availability so that over time market participants are able to assess 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. In addition, consumer groups and storage providers 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. During the NGEIR proceeding, Union offered to provide this information using its traffic light system.

In the Discussion Paper staff suggested that the Available Capacity report include detailed operational information on the available capacity of transportation pipelines (including Union rates C1, M12 and M16; and Enbridge rate 331) and storage capacity. This information would be posted on the company's website and updated whenever capacity is scheduled (i.e., each nomination cycle). There was also a proposal that there be an exemption for storage providers if these requirements were too burdensome.

In the NGEIR proceeding, Union and Enbridge agreed to file a Semi-Annual Storage report at the end of each injection and withdrawal season that would include 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 observed, however, that much of the information the utilities proposed to file would duplicate information contained in staff's suggested Index of Customers. Therefore, it was staff's view that if the maximum daily withdrawal quantity is added to the Index of Customers, as proposed by staff, the Semi-Annual Storage report may not be needed.

Staff proposed that all storage providers should post information describing the physical capacities of their respective storage facilities on their websites and update this information whenever there is a change. The annual Design Capacity report would include information on each storage pool (i.e., the physical capacities of storage facilities on a pool-by-pool basis).

Stakeholders were invited to comment on the Index of Customers, the Available Capacity, the Semi-Annual Storage and the Design Capacity reports.

Based on comments made at the stakeholder meetings, staff suggested that pricing information on negotiated storage contracts be filed confidentially with the Board, and the Board could then develop a weighted average price or another index that would be made publicly available. Another alternative would be to require storage providers to report annually the weighted average price received for each class of storage service. Staff invited comments on these options.

Stakeholder Comments

Many stakeholders supported an Index of Customers; one did not. These stakeholders, however, expressed a variety of views about which services and contract lengths should be included in this Index. Specifically,

- Some stakeholders proposed that the Index should include contracts with terms of one year or more; and one stakeholder argued that for storage contracts, the term should be two years or more.
- One stakeholder supported an Index of Customers that includes firm transportation contracts with terms of one year or greater. However, this stakeholder noted that storage contracts should only be included in the Index to ensure a level playing field with other storage providers serving the Ontario market that must provide this information under FERC.

- Another stakeholder commented that to monitor the market effectively, all firm transportation and storage contracts should be included in the Index. This stakeholder mentioned that with an artificial term, companies would be able to avoid being captured in the Index by simply contracting, for example, for two consecutive two month contracts rather than one four month contract.
- All the stakeholders except for the utilities supported the disclosure of storage capacity required for in-franchise customers. These stakeholders stated that this is market information that contributes to a fair, open and transparent market. The information would also inform the competitive storage market of the need for future storage services.

Many of the stakeholders supported the proposed Available Capacity report, especially for available transportation capacity. They maintained that reporting transportation capacity allows market participants and regulators to identify potential instances of capacity withholding, and helps to reveal operational constraints that will affect supply and pricing. On the other hand, one stakeholder commented that this report provides no additional benefits over the current traffic light system, while other stakeholders thought it would. Some storage providers noted that a storage provider's available capacity is a function of both its storage pool and the available transportation capacity on the transportation system and that this requirement would be burdensome for small storage providers.

A number of stakeholders agreed with staff's suggestion that the Semi-Annual Storage report is not necessary if the maximum daily withdrawal quantity is added to the Index of Customers.

The storage providers disagreed with staff's proposed Design Capacity report, stating that most of this information is already contained in other Board documents. They also indicated that pool-by-pool information can be misinterpreted and the utilities stated that they operate their systems on an integrated basis. Other stakeholders supported staff's suggestion.

Several stakeholders agreed with staff's suggestion to disclose aggregated pricing information for negotiated competitive storage contracts, while others did not.

Board's Policy and Rationale

The Board notes that the utilities and their affiliates generally agreed to provide the type of reporting required by FERC for interstate pipelines (FERC Regulations §284.13) in the NGEIR proceeding. As a result, this was used as the starting point for developing the appropriate reporting requirements.

The Board generally agrees with the principles outlined in the Discussion Paper and used these principles as a guide in the development of the storage and transportation reporting requirements proposed under the STAR. The Board has refined the principles based on stakeholder comments as follows:

- Reporting should be accessible, timely and streamlined. 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;
- Companies offering competitive storage services should have the appropriate access to information about the transmitters' transportation services;
- Market transparency should be weighed against the need to protect commercially-sensitive information;
- Reporting requirements should not put Ontario storage providers at an advantage and/or disadvantage relative to competing storage providers in other jurisdictions; and
- Reporting requirements should be uniform, although there may be reasons for the Board to provide exemptions on a case-by-case basis.

The Board's proposed reporting requirements outlined in section 4 of the proposed STAR (in Appendix B) will allow the Board and the market to monitor for potential unfair and discriminatory practices. These reporting requirements will also provide information to allow market participants to identify how capacity is allocated and this will assist them in their purchasing decisions. The Board believes that these reporting requirements meet the principles outlined above. The Board also notes that the majority of the transportation paths linking the Ontario and Michigan storage markets operate under similar reporting requirements and some operate under more prescriptive requirements.

The Board has concluded that each transmitter and storage provider should post an Index of Customers report monthly. The Index should include all firm transportation and storage contracts with terms one month or greater. This term length is consistent with the transmitter and storage provider updating the Index on a monthly basis. The Board agrees with the concern that a longer term (for example, the three month term suggested by staff) may provide the opportunity for a storage provider or a transmitter to avoid having to comply with the Index requirements by contracting, for example, for two consecutive two-month contracts instead of one four-month contract.

The Board has also determined that the Index of Customers should include the maximum daily withdrawal quantity for each customer. By including this term in the Index, the reporting requirements will be reduced as the Semi-Annual Storage report that the utilities offered to provide in NGEIR will not be needed. The Board will further require that the amount of firm storage capacity and daily withdrawal deliverability allocated to in-franchise customers be reported in the Index of Customers. The Board notes that this information would most likely be filed in the next rate case and therefore, it will be in the public domain in the near future. The Board agrees with stakeholders that this is market information that will assist market participants in their purchasing decisions and will inform the competitive market of the need for future storage capacity and deliverability.

In the case of Union, the Index of Customers will therefore include all storage and storage-related services 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”). Enbridge, MHP Canada, Tipperary and other storage companies would also post an Index of Customers for their storage services. Storage capacity and withdrawal deliverability reserved for in-franchise use would also be reported on an aggregate basis as a separate internal storage customer identified as “In-franchise Customers”. For transportation contracts, the Index will include all firm transportation contracts with a term one month or longer under Union rates M12, M16 and C1 and Enbridge rate 331.

The Board has concluded that transmitters should also post an Operationally - Available Transportation Capacity report that is updated at each nomination cycle. The Board however has determined that it is not necessary to post information on the operationally-available storage capacity as originally suggested in the Discussion Paper. The Operationally-Available Transportation Capacity report should contain information on the available capacity of the following transportation paths: Union’s rate C1, M12 and M16 and Enbridge’s rate 331. The Board agrees with stakeholders that reporting the available storage capacity would be a burden for certain storage providers. The Board also notes that the available injection and withdrawal capabilities of an embedded storage provider are largely a function of the available transportation capacity on the transportation system, making the storage information redundant.

The Board also agrees with stakeholders that the current traffic light system is inadequate in terms of understanding the operating characteristics of the transportation system. The Board believes that transparency in the transportation market is important to a competitive storage market. Specifically, the Operationally-Available Transportation Capacity requirements provide information daily that will allow market participants to understand the operating characteristics of the transportation system. This will assist market participants in their purchasing decisions. It will also allow market participants and the Board to identify potential instances of capacity withholding.

Instead of the Operationally-Available Storage Capacity report as suggested by staff, the Board will require that storage providers to post a working Storage Inventory report weekly. The Storage Inventory is the amount of working gas in storage. Storage providers will only be required to post this report on a weekly basis. Therefore, the reporting requirements for the storage providers will be more limited than those for transmitters.

The Board concludes that storage providers should also post a Design Capacity report annually. As noted by stakeholders, this information may already be publicly available, but it is not equally accessible to all market participants or in one place. The Board agrees with stakeholders that pool-specific information would be burdensome to report, and would provide no additional information to the market.

It is the Board's view that it is not necessary that aggregated pricing information be disclosed from negotiated competitive storage contracts, as was suggested by staff. As discussed in section 2) c) of this Notice, the Board believes that the reporting, the non-discriminatory access requirements for transportation services and the complaint mechanism included in the proposed STAR will provide customer protection within the competitive storage market.

e) Complaint Mechanism

Background

In the Discussion Paper, it was 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 were: 1) resolving day-to-day operational-type complaints and 2) reviewing issues of compliance with the STAR.

For day-to-day operational-type complaints, it was staff's view that these issues would be most effectively resolved by having the parties work out the concerns together. To facilitate this, staff believed that it would be reasonable to include in the STAR a requirement that transmitters and storage providers develop their complaint handling procedures and post these procedures on their website.

Staff also thought that customers with compliance concerns regarding the STAR should be directed to contact the OEB Compliance Office. Staff invited parties to provide any suggested alternatives to the approach of directing parties with compliance concerns to the OEB Compliance Office.

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 attention¹⁰. Staff also

¹⁰ NGEIR Decision, p 70.

recognized 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, staff proposed that parties bring their issues directly to the Board. The Board would review and respond to these issues consistent with its jurisdictional authority. Staff invited comments from parties on this proposed process.

Stakeholder Comments

The majority of the stakeholders agreed with staff's suggestions regarding the complaint process. Two stakeholders, however, did not support staff's suggestions and stated that complaints related to a STAR issue or a day-to-day operational issue should be dealt with by the company first and the final avenue should be the Board.

Board's Policy and Rationale

The Board has concluded that the complaint process should include the following:

- Transmitters, utilities and storage providers should develop their complaint handling procedure and post the procedure on their websites;
- Transmitters, utilities and storage providers should resolve day-to-day operational type complaints;
- Issues of compliance with the STAR should be filed with the Board; and
- Market failures and other issues should be filed with the Board.

The Board believes that this will 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 manner.

Further, the Board is of the view that this will provide customers (or other market participants) with the opportunity to have concerns related to the competitive storage market and other issues addressed by the Board consistent with its jurisdictional authority.

3) Anticipated Costs and Benefits of the proposed Rule

Stakeholders did not raise concerns that the suggestions outlined in the Discussion Paper 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 providers.

The Board notes that many elements of the proposed STAR will require modifications to the utilities' contracts and tariffs and revisions to current practices and procedures to include the Board's recommended standards. The Board does not believe that these proposals will be unreasonably costly to implement. The Board notes that one of the utilities has commented that some of the Board's proposed standards have already been met. Further, the Board has taken into consideration the current practices of the North American natural gas industry in developing the proposed STAR.

In the Board's view, the implementation of the proposed 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 proposed STAR addresses these concerns.

Overall, the Board anticipates that ratepayers will benefit from the implementation of the proposed 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 proposed 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 September 11, 2009.

Invitation to Comment

All interested parties are invited to submit written comments on the proposed Rule by **May 25, 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. 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, 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.

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 proposed 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 and at the office of the Board during normal business hours.

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 28 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.

If you have any questions regarding the proposed STAR described in this Notice, please contact Laurie Klein at 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, April 9, 2009.
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

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

Appendix A

List of Participants in EB-2008-0052
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

List of Participants in EB-2008-0052
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

**PROPOSED STORAGE TRANSPORTATION AND
ACCESS RULE (STAR)**

April 9, 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;

“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;

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“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 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 system used to provide gas transportation services;

“natural gas transmitter” or “gas transmitter” or “transmitter” means a person who provides transportation services but does not include gas distribution services as defined in the Gas Distribution Access Rule;

“new capacity” means the transportation service 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);

“related agreements” means all the documents and/or agreements that a 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; and

“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.

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 Amendments to this Rule and Determinations by the Board

1.4.1 Except where expressly stated otherwise, any amendments to this Rule shall come into force on the date on which the Board publishes the amendments by placing them on the Board’s web site after they have been made by the Board.

1.4.2 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 (six months after issuance). 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.

2 NON-DISCRIMINATORY ACCESS TO TRANSPORTATION SERVICES

2.1 Allocation of Transportation Capacity

2.1.1 A transmitter's method 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), or the termination of a long-term firm transportation contract shall be offered through an open season.

2.1.3 The allocation methods for all other transportation services shall be defined in the transmitter's tariff as set out in 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.

2.2 Standards for Transportation Open Seasons

2.2.1 A transmitter shall ensure that the following requirements are met when conducting open seasons for transportation services:

i) Notification and Timing:

(a) A transmitter shall place a notice of open season (the "Open Season Notice") on its website, provide a notice to existing shippers and issue a press release advising that it is conducting an open season;

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- (b) A transmitter shall allow a minimum period of 30 days between the time the transmitter provides notice of an open season for existing long-term available capacity and the close of the open season period; and
 - (c) A transmitter shall allow a minimum period of 60 days between the time a transmitter provides notice of an open season for new capacity (i.e., facility expansion) 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 long-term 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 must 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;

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- (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 (i.e., facility expansion) 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 winning bid for each transportation open season shall be posted on the transmitter's website within seven (7) days of the transportation capacity being awarded and shall remain on the transmitter's website for a minimum of sixty (60) days. The winning bid results will include the following information: term, volumes, and receipt and delivery points;
- 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 years; and
- vi) A transmitter shall post information concerning plans for future facility expansions or the timing of upcoming open seasons as soon as this information is available.

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.
- 2.3.2 A transmitter shall ensure that each transportation service has its own standard form of contract and that the standard form of contract includes, at a minimum, the terms of service outlined in section 2.3.4.
- 2.3.3 A transmitter shall include in its tariff the terms of service and standard form of contract for each of its transportation services. The tariff, including the terms of service and the standard form of contract, 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 terms of service shall include the following:
 - i) Nomination and scheduling procedures (and, at a minimum, provision for the North American Energy Standards Board's nomination windows);

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- ii) Service priority rules;
- iii) Balancing requirements and imbalance charges and penalties;
- iv) Point of receipt and point 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 contract shall be identified as a “Negotiated Contract” when the contract varies from the standard form of contract and/or the standard terms of service as referred to in sections 2.3.2 to 2.3.4 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 at the same time as it is filed with the Board for approval.

2.3.6 If a transmitter makes any amendments to the tariff referred to in sections 2.3.2 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 a storage company that connects to the transmitter’s transportation system.

2.4.2 A transmitter shall ensure that each transportation service has its own standard form of contract and that the standard form of contract includes, at a minimum, the standards outlined in section 2.4.4.

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- 2.4.3 A transmitter shall include in its tariff the terms of service and the standard form of contract for each of its transportation services. The tariff, including the terms of service and the standard form of contract, 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 include the following standards in its standard form of contract:
- i) A transmitter shall respond to requests for interconnection facilities and/or transportation services 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.
- 2.4.5 The contract, including the standard form of contract, the terms of service, and all related agreements, between a transmitter and a storage company shall be posted on the transmitter's website.
- 2.4.6 If a transmitter makes any amendments to the tariff referred to in sections 2.4.2 to 2.4.4, the amended tariff shall be filed with the Board for approval and the approved tariff shall be posted on the transmitter's website.

2.5 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 forms of contracts and its general terms and conditions of service for competitive storage services on its website.
- 3.1.2. An integrated utility shall develop and maintain protocols to limit access to non-public transportation information concerning 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.

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 and 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.

4.2 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. For in-franchise storage capacity requirements, the information posted shall be updated prior to the start of each storage withdrawal season based on the results of the integrated utility's most recent operational plan.

4.2.2 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 4.2.3;
- ii) For all firm storage contracts with terms of one month or greater, the information as per section 4.2.4; and
- iii) For all integrated utilities, the amount of working storage capacity, daily withdrawal deliverability and daily injection quantity reserved for in-franchise customers shall be identified as "In-franchise Customers".

4.2.3 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);

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- ii) Contract Identifier;
 - iii) Receipt/Delivery points (and the zones or segments covered by the contract in which the capacity is held);
 - iv) Contract Quantity (in GJ);
 - v) The effective and expiration dates of the contract;
 - vi) Negotiated Rate (yes/no); and
 - vii) Affiliate (yes/no).
- 4.2.4 For all 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 Daily Withdrawal Quantity (in GJ);
 - vi) Maximum 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 4.3.1 i) and 4.3.1 ii).

4.4 Storage Inventory

4.4.1 A storage company or an integrated utility shall post a weekly working Storage Inventory 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 a 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 posted by November 1 each year, and 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

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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 to which the complaint was made shall refer the complainant to the Board.

Appendix C

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 by **April 20, 2009**; 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.

The submission must be addressed to the Board Secretary at the Board's mailing address set out in this Notice.

Enbridge and Union will be provided with an opportunity to object to any of the requests for cost award eligibility by **May 1, 2009**. Any objections will be posted on the Board's website. The Board will then make a final determination on the cost eligibility of the requesting parties.

Groups representing the same interests or class of persons are expected to make every effort to communicate and co-ordinate their participation in this process. Costs may be pooled when groups with common viewpoints collaborate and pool their resources.

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 the proposed STAR	28 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.