



ONTARIO ENERGY BOARD

**STORAGE AND TRANSPORTATION ACCESS
RULE**

December 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;

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

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

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

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

“existing contracts” means contracts that have been executed prior to June 16, 2010;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“related agreements” means all the contracts and/or agreements that an embedded storage company enters into with a transmitter for transportation services;

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

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

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

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

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

1.3 Interpretation

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

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

1.4 Determinations by the Board

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

1.5 To Whom this Rule Applies

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

1.6 Coming into Force

- 1.6.1 This Rule shall come into force on June 16, 2010.
- 1.6.2 For a transportation contract with a shipper, which was in place before June 16, 2010, section 2.3.4 of the Rule will not apply until the end of the initial term of the transportation contract.
- 1.6.3 Any amendment to this Rule shall come into force on the date that the Board publishes the amendment by placing it on the Board's website after it has been made by the Board, except where expressly provided otherwise.

1.7 Exemptions and Exceptions

- 1.7.1 The Board may grant an exemption to any provision of this Rule. An exemption may be made in whole or in part and may be subject to conditions or restrictions. In determining whether to grant an exemption, the Board may proceed without a hearing or by way of an oral, written or electronic hearing.
- 1.7.2 Section 3.1.4 does not apply to an existing contract until such time as the existing contract is renewed, extended or amended.

2. NON-DISCRIMINATORY ACCESS TO TRANSPORTATION SERVICES

2.1 Allocation of Transportation Capacity

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

2.2 Standards for Transportation Open Seasons

- 2.2.1 A transmitter shall ensure that the following requirements are met when conducting open seasons for firm transportation services:
- i) Notification and Timing:
 - (a) A transmitter shall place a notice of open season for new capacity (the "Open Season Notice") on its website, provide the Open Season Notice to existing shippers and issue a press release advising that it is conducting an open season;
 - (b) A transmitter shall place a notice of open season for existing capacity (the "Open Season Notice") on its website advising that it is conducting an open season;
 - (c) A transmitter shall allow a minimum period of 10 business days between the time the transmitter provides an Open Season

Notice for existing capacity and the close of the open season period; and

(d) A transmitter shall allow a minimum period of 30 business days between the time a transmitter provides an Open Season Notice for new capacity and the close of the open season period.

ii) Content of the Open Season Notice. The Open Season Notice shall identify:

(a) The amount of firm transportation service that will be available for each applicable transportation segment. For a new capacity open season, the transmitter may specify a range;

(b) The minimum term, if any for new capacity. If a minimum or maximum term is imposed for an existing capacity open season, a transmitter shall provide an explanation for that minimum or maximum term;

(c) The closing date and time of open season bidding;

(d) The expected in-service date of the expansion;

(e) The applicable receipt and delivery points;

(f) The date by which a transmitter will respond to bids received in the open season;

(g) A reference to the standard transportation contract (and any other applicable agreements);

(h) The time period by which successful open season participants are expected to execute the standard transportation contract (and any other applicable agreements);

(i) The manner in which an open season participant may make a bid;

(j) Other conditions precedent such as credit support agreements or other prerequisites that a bidder needs to qualify or to execute a contract;

(k) The methodology used to evaluate the bids;

(l) The minimum bid (or reserve price) if a transmitter uses a reserve price to evaluate the bids; and

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

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

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

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

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

2.5 Other

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

3. CUSTOMER PROTECTION WITHIN THE COMPETITIVE STORAGE MARKET

3.1 Posting and Protocol Requirements

- 3.1.1. A storage company shall post its standard form of contract and its standard terms of service for each of its competitive storage services on its website.
- 3.1.2. A storage company shall retain its executed contracts for competitive storage services for a period of no less than five (5) years after the termination of the contract. These contracts shall be provided to the Board as required from time to time.
- 3.1.3. An integrated utility shall develop and maintain protocols to limit access to non-public transportation information concerning plans for future facility expansions or timing of upcoming transportation open seasons and transportation operating conditions of shippers, storage companies and consumers to personnel that require this information only. The protocols shall be posted on the integrated utility's website. The integrated utility shall update its protocols immediately when revisions are made.
- 3.1.4. A storage company shall post on a semi-annual basis its pricing and revenue information for competitive storage services on its website. This information shall be posted on April 1 and October 1 of each year and shall remain on the company's website until the date of the next posting. The identity of the shipper, the pricing information and the revenue information to be posted shall be based on firm storage contracts with terms of one year or greater. The information to be posted on the storage company's website shall include:
- i) Identity of each shipper (full legal name of the shipper);
 - ii) The unit charge which is the annual cost per GJ of storage capacity received from each shipper; and
 - iii) The total revenue received during the previous six month period from each shipper.
- 3.1.5. Notwithstanding section 3.1, section 3.1.4 does not apply to existing storage contracts.

4. REPORTING REQUIREMENTS

4.1 Information Requirements

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

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

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

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

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

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

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

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

4.2 Index of Customers

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

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

4.2.3 The Index of Customers shall include:

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

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

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

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

- i) Full legal name of shipper (Customer Name);
- ii) Contract Identifier;
- iii) Receipt/Delivery Point(s);
- iv) Maximum Storage Quantity (in GJ);
- v) Maximum Firm Daily Withdrawal Quantity (in GJ);
- vi) Maximum Firm Daily Injection Quantity (in GJ);
- vii) The effective and expiration dates of the contract; and

- viii) Affiliate (yes/no).

4.3 Operationally-Available Transportation Capacity

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

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

4.4 Storage Inventory

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

4.5 Design Capacity

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

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

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

5. COMPLAINT MECHANISM

5.1 Dispute Resolution

5.1.1 A storage company, a transmitter and an integrated utility shall develop a dispute resolution process and post this process on its website. The storage company, the transmitter and the integrated utility shall update its dispute resolution process immediately when revisions are made.

5.1.2 As part of the dispute resolution process as required by section 5.1.1, a storage company, a transmitter and an integrated utility shall designate at least one employee for the purposes of dealing with disputes relating to this Rule. The name and contact information for this employee shall be provided to the Board and posted on the transmitter's, the storage company's and the integrated utility's website. If the designated employee changes, the name and contact information of the new employee shall be immediately provided to the Board and posted on the transmitter's, the storage company's or the integrated utility's website.

5.1.3 If a complaint has not been resolved to the satisfaction of the complainant, the transmitter, the storage company or the integrated utility shall provide to the complainant the telephone number of the Ontario Energy Board Market Operation Hotline.