



450 – 1 Street SW  
Calgary, Alberta T2P 5H1

Tel: (403) 920-2563  
Fax: (403) 920-2308  
Email: matthew\_ducharme@transcanada.com

February 10, 2016

Filed Electronically  
Original by Courier

British Columbia Utilities Commission  
6th Floor, 900 Howe Street  
Vancouver, BC V6Z 2N3

**Attention: Ms. Erica Hamilton, Commission Secretary**

Dear Ms. Hamilton:

**Re: FortisBC Midstream Inc. (FMI) Application for Approval of the Acquisition of the Shares of Aitken Creek Gas Storage ULC, Project No. 3698861 (Application)  
NOVA Gas Transmission Ltd. (NGTL) Written Submission**

In accordance with the Regulatory Timetable set by the Commission in Order G-210-15, please find attached NGTL's Written Submission for this proceeding.

Yours truly,  
**NOVA Gas Transmission Ltd.**

*Original signed by*

Matthew D. Ducharme  
Legal Counsel, Canadian Law  
Natural Gas Pipelines

**British Columbia Utilities Commission**

**Application for Approval of the Acquisition of the Shares of  
Aitken Creek Gas Storage ULC**

**Written Submission of NOVA Gas Transmission Ltd.**

Project No. 3698861  
February 10, 2016

## 1.0 INTRODUCTION

NGTL is not opposed to the application of FortisBC Midstream Inc. (FMI) to acquire Aitken Creek Gas Storage ULC from Chevron Canada Properties Limited (CCPL) (the Transfer), and, consequently, to acquire control of the Aitken Creek Gas Storage facility (ACGS).

However, NGTL is concerned about the potential of the Transfer to negatively impact NGTL or its customers, due to the contemplated change in the ownership of ACGS. NGTL observes that CCPL is not affiliated with FMI or FortisBC Energy Inc. (FEI). On Transfer, circumstances would change. FMI is an affiliate of FEI, a local distribution company (LDC) and an important existing customer of ACGS, holding a significant portion of ACGS storage capacity. This change in ownership creates the potential for inter-affiliate bias that may warrant additional regulatory oversight or requirements.

As noted in NGTL's application to participate, NGTL has received approval from its regulator to build facilities that NGTL plans to connect to ACGS. NGTL is concerned about its continued ability to connect to ACGS on appropriate terms, and the terms and conditions of services to be offered to NGTL's customers. As a future interconnecting party to ACGS, NGTL seeks to ensure it and its customers will receive treatment, regarding both access and service offering, similar to other interconnecting transmission pipelines.

In NGTL's view, safeguarding against potential inter-affiliate issues merits consideration by the Commission, and may be addressed in a variety of ways while granting FMI's Application. Below, NGTL notes some potential areas where inter-affiliate issues arise in, and are not currently fully addressed by, the record in this proceeding. NGTL also notes various measures that might be used to ensure continued fairness of access to ACGS.

## 2.0 CONCERNS REGARDING LDC AFFILIATE OWNERSHIP OF STORAGE

NGTL observes that a non-arm's length relationship between commercial parties inherently raises an apprehension of preferential treatment, unless sufficient safeguards are in place.

As described in the FMI application, FMI proposes a post-Transfer corporate structure in which FMI and FEI are affiliates.<sup>1</sup> FMI plans to provide ACGS service to FEI over the long term, and recognizes that the value of contracting with its affiliate is based both on market conditions and "other benefits the parties realize from the terms and conditions related to the use of the capacity and injection and withdrawal

---

<sup>1</sup> Exhibit B-1, FMI Application, Figure 1, page 3.

rights.”<sup>2</sup> This arrangement is fundamentally different than the current situation in which the party that controls ACGS, CCPL, is at arm’s length to FEI. This change raises the apprehension that, absent appropriate safeguards, ACGS could be managed to provide preferential treatment to an affiliate or discriminatory treatment to others to benefit affiliate interests. The procedures and regulatory requirements now in place may be insufficient to address the change in ownership and the resulting inter-affiliate relationship.

### 3.0 POTENTIAL SAFEGUARDS AGAINST UNFAIR INTER-AFFILIATE TRANSACTIONS

Various methods may be used to protect against inappropriate inter-affiliate interactions. These include, but are not limited to: a robust inter-affiliate code of conduct that specifically addresses interactions between regulated and unregulated affiliates; separation of commercial decision making between interacting affiliates; and, imposition of disclosure requirements that enable market participants to objectively assess fairness of service arrangements. Each of these is addressed below.

#### 3.1 Code of Conduct

NGTL observes that the FEI Code of Conduct does not directly and substantively address FEI transacting with a non-regulated affiliate. FMI has noted the Commission’s direction to FEI to file for approval, by April 27, 2016, a new Code of Conduct and Transfer Pricing Policy, but the substance of this Code is not on record in this proceeding.

While FEI and FMI are guided by the FortisBC Code of Business Conduct and Ethics Policy, NGTL notes that this code in fact permits proprietary information sharing between FMI and FEI, if for the benefit of the business of their common parent, or internally permitted:

*5.1 Employees shall not disclose any confidential or proprietary information about the Corporation, or any person or organization with which the Corporation has a current or potential business relationship, to any person or entity, either during or after service with the corporation, except (i) in furtherance of the business of FortisBC, (ii) with the written authorization of a member of senior management or (iii) as may be required by law.*<sup>3</sup>  
[Emphasis added]

In the experience of NGTL, where a regulated and un-regulated company are affiliates, there is often an inter-affiliate code of conduct that expressly and substantively regulates inter-affiliate conduct. Such rules may be especially important

---

<sup>2</sup> Exhibit B-1, FMI Application, pages 8-9, 15.

<sup>3</sup> Exhibit B-8, FMI Response to NGTL IR 1.2 b), page 6.

where there is not a separation of commercial decision making between the regulated and un-regulated businesses.

### **3.2 Separation of Commercial Decision Making Roles**

FMI has stated that it intends to maintain separation of employees where potential conflicts of interest exist. However, NGTL observes that at present the same person is proposed to occupy the positions of FEI Vice-President of Energy Supply and Resource Development, and President of FMI.<sup>4</sup> Under this structure, the position that is responsible for commercial decisions related to purchasing gas storage for the regulated LDC will also be responsible for commercial decisions related to selling that service on behalf of the affiliate. This structure appears to create an inherent conflict and may create structural pressure for FMI to offer or withhold storage services on terms and conditions that further the interests of its affiliate. These concerns may be addressed, in whole or in part, by safeguards such as: an applicable code of conduct containing relevant prohibitions and requiring separation of commercial decision-making roles; and, public disclosure requirements sufficient for an objective assessment of fairness to be made by arm's length commercially interested parties.

### **3.3 Public Disclosure and the Ontario Model**

FMI has stated in this proceeding that it does not see additional reporting requirements as necessary.<sup>5</sup> However, in light of the change in ownership of ACGS, from an operator at arm's length to its customers, to an operator affiliated with a regulated LDC that is a significant customer,<sup>6</sup> greater public disclosure may be warranted.

Without adequate information, a commercially interested party cannot determine whether storage service is being offered to it on comparable terms and conditions to what is being offered to another party. Disclosure could take any number of forms, so long as sufficient information is made publicly available for a reasoned and objective assessment of fairness. NGTL notes that such disclosure is required in similar circumstances in other jurisdictions, and it often includes periodic submission and publication of both pricing information and contextual information (e.g. a list of storage contracts completed within a similar period of time and their basic terms).

The issue of regulatory oversight of storage services has arisen elsewhere in Canada. The appropriate regulation of competitive storage assets has been explored in depth by the Ontario Energy Board (OEB).<sup>7</sup> After determining that the Ontario storage

---

<sup>4</sup> Exhibit B-8, FMI Response to NGTL IR 1 a), pages 1-2.

<sup>5</sup> Exhibit B-8, FMI Response to NGTL IR 1.6 a), page 19.

<sup>6</sup> FEI contracts for approximately one third of the service that FMI applies to provide. Exhibit B-6, FMI Responses BCSEA IR No. 1, IR 1.2 at page 1.

<sup>7</sup> Ontario Energy Board Natural Gas Electricity Interface Review, Decision EB-2005-0551.

market was competitive, the OEB deregulated storage service for LDCs' ex-franchise customers, who made up approximately one third of the Ontario storage service market. Ontario ex-franchise storage service is no longer provided under a cost-of-service model. Competitive ex-franchise service providers are subject to market risk and reward, just as FortisBC would be on acquisition of ACGS.

To ensure non-discrimination, the OEB implemented the Storage and Transportation Access Rules (STAR), which, among other things, imposed reporting requirements on Ontario's competitive storage industry. The STAR regulates utility-owned transmission to and from storage, as well as the competitive portion of the Ontario storage market. Under the STAR, the one third of storage that is provided at market based rates is subject to reporting requirements. For ease of reference, NGTL has attached a copy of the STAR as Attachment 1.

NGTL encourages the Commission to consider rules similar to the STAR. NGTL's view is that they may be appropriate as a result of the proposed change in ownership.

#### **4.0 CONCLUSION**

NGTL is not opposed to the Application. However, it is concerned that the change in the ownership of ACGS from an arm's length service provider to one that provides service to a regulated affiliate has the potential to negatively impact NGTL or its customers, absent appropriate safeguards. NGTL encourages the Commission to consider instituting additional requirements to govern the proposed inter-affiliate relationship and proposed activities and transactions.

Ontario Energy  
Board

Commission de l'énergie  
de l'Ontario



**December 9, 2009**

**BY E-MAIL AND WEB POSTING**

**NOTICE OF ISSUANCE OF A NEW 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 under section 44(1) of the *Ontario Energy Board Act, 1998* (the "Act") of the issuance of the Storage and Transportation Access Rule ("STAR").

**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 customer<sup>1</sup> 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

---

<sup>1</sup> The terms "customer" and "shipper" are used interchangeably.

- 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. 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 in accordance with section 44(1) of the Act.

In April and May 2008, staff held a number of meetings with stakeholders. The list of stakeholders is provided in Appendix A. Staff’s technical expert<sup>2</sup> also prepared a jurisdictional review entitled “Competition in Natural Gas Storage Markets, A Review of Gas Storage and Transportation Regulations”.

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

On April 9, 2009, the Board issued a Notice of Proposal to Make a Rule on STAR for stakeholder comment. Fifteen comments were received from eighteen stakeholders. The Board considered all of the comments received and determined that changes were appropriate to the proposed Rule. The Board also made changes to correct omissions and clarify some of the Rule requirements. On September 18, 2009, the Board issued a Notice of Revised Proposal to Make a Rule on STAR (“revised STAR”) for stakeholder comment. Fifteen comments were received from nineteen stakeholders.

All materials related to the STAR are available for viewing on the Board’s website at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca).

### **The New Rule (STAR)**

The Board has considered all of the comments received from stakeholders on the revised STAR and has determined that no material changes are required.

Stakeholders commented on the revised STAR in two areas – non-discriminatory access to transportation services and customer protection within the competitive storage market.

---

<sup>2</sup> Zinder Companies Inc. (subsequently acquired by Concentric Energy Advisors, Inc.).



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

Stakeholders made the following comments in relation to non-discriminatory access.

- The natural gas utilities (“utilities”) raised concerns about the use of open seasons for existing long-term firm transportation capacity. The utilities commented that they require the flexibility to allocate existing capacity through either open seasons or direct negotiations with customers, especially on capacity segments that are not fully contracted or subscribed. Also, one ratepayer group suggested that the bid result information should be expanded to include the market price for new or existing long-term firm transportation services.
- Two natural gas wholesalers did not support the posting of shippers’ existing transportation contracts that have been identified as “negotiated contracts”. Specifically, the terms and pricing information were negotiated under a different regulatory regime and therefore this information would not be of any probative value to customers operating in a future market regulated by the STAR.

The Board wishes to address these comments.

To clarify, a transmitter does not need to wait until the capacity is unsubscribed to hold an open season, but may schedule an open season in anticipation of the long-term existing firm transportation capacity becoming available at a known later date (e.g., as a result of a contract expiration). As long as the transmitter holds an open season and is unable to allocate all of its capacity through that process, the transmitter may offer the residual capacity to shippers by other allocation methods (such as first come, first served) as outlined in its tariff. Furthermore, a transmitter is not required to conduct an open season for capacity whenever the transmitter receives a request for these services if that capacity was previously made available in an open season.

The Board notes that if the arrangements described above are not suitable, a transmitter may apply to the Board for an exemption from holding open seasons for existing long-term firm transportation services on capacity segments that are not fully subscribed or contracted. Without any substantiating information at this time, the Board cannot define when an open season would be too burdensome or otherwise not appropriate. The Board will consider exemption requests on a case-by-case basis.

The Board has considered the utilities’ comments that open seasons for existing capacity should be more flexible, and has reduced the response time and the notification requirements in the Rule.

With regards to bid results, the Board notes that the rates for long-term firm transportation services are fully regulated and that in the settlement agreement for Union’s 2007 rates (EB-2005-0520), Union agreed not to use bid premiums as a criterion for allocating long-term firm transportation capacity.

In terms of posting existing negotiated transportation contracts for shippers, the Board agrees with stakeholders that these contracts may have limited value to shippers. Just because a transmitter does not offer a shipper negotiated terms of service similar to that offered to other shippers in the past due to different market conditions, the Board thinks that this may not be evidence of discriminatory practices. Once the STAR comes into force, shippers' transportation contracts that have been identified as "negotiated contracts" will be posted on the transmitter's website. Therefore, the Board has removed section 2.3.7 from the Rule. The Board believes this will not impact the objectives of STAR – non-discriminatory access to transportation services, customer protection and transparency.

### *Customer Protection within the Competitive Storage Market*

Stakeholders made the following comments in relation to customer protection within the competitive storage market.

- Three ratepayer groups argued that storage pricing information should not be limited to contracts that are one year or greater as prices for short-term storage contracts may provide market participants with useful information.
- Other ratepayer groups noted that the Federal Energy Regulatory Commission ("FERC") is proposing to increase price disclosure requirements for intrastate storage providers and recommended that the Board adopt the FERC's proposed pricing requirements. Another ratepayer group proposed that the price disclosure requirements should be as stringent as those required of interstate storage providers where price information for each storage contract is posted daily.
- The majority of the storage providers did not support the semi-annual storage report where price and revenue by shipper is posted. These stakeholders commented that this information may put them at a competitive disadvantage with Michigan storage providers and is not needed for customer protection, or to maintain or enhance the competitiveness of the storage market.
- Some stakeholders indicated that the Board needs to have the same requirements for storage contracts as with transportation contracts (e.g., the storage provider should post on its website negotiated contract variations from its standard storage contract). These stakeholders stated that this would ensure non-discriminatory access with respect to terms of service.

The Board wishes to address these concerns.

In terms of storage pricing information, the Board believes that storage contracts with terms less than a year may be driven by specific customer requirements and pricing information for such contracts may provide limited benefit to the market. Therefore, the semi-annual storage report will be based on firm storage contracts with terms of one

year or greater. Information on storage contracts with terms less than one year, other than price by shipper, will be included in the Index of Customers.

The Board is aware that the FERC has issued a Notice of Proposed Rulemaking (“NOPR”)<sup>3</sup> to revise its price disclosure requirements for intrastate storage providers (providing interstate services) in order to increase market transparency. The Board sees merit in inter-jurisdictional consistencies especially in the relevant geographic market<sup>4</sup>.

The Board notes that Ontario utilities are similar to intrastate storage providers in Michigan that provide interstate storage services. The Board also notes that these storage providers already post the semi-annual storage report. Therefore, the Board believes that the posting of this information would not place Ontario utilities or Ontario storage providers at a competitive disadvantage.

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 the requirements of the STAR – non-discriminatory access to transportation services, appropriate reporting requirements and a complaint mechanism – will protect the interests of customers using competitive storage services.

#### *Other*

Based on stakeholder comments, omissions and clarifications were identified and changes have been made to sections 1.2.1, 1.7.2, 2.1.2, 2.2.1 i), 2.3.6, 2.4.6, 3.1.2 and 3.1.5 of the STAR.

The text of the STAR is set out in Appendix B to this Notice.

#### **Coming into Force**

The STAR will come into force on **June 16, 2010**.

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

---

<sup>3</sup> Contract Reporting Requirements of Intrastate Natural Gas Companies, 128 FERC ¶61,029 dated July 16, 2009.

<sup>4</sup> Relevant market as defined in the NGEIR Decision, p 38.

**DATED** at Toronto, **December 9, 2009.**  
**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

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

**Appendix A – List of Participants**

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

Appendix A

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

## Appendix B



**ONTARIO ENERGY BOARD**

# **STORAGE AND TRANSPORTATION ACCESS RULE**

**December 9, 2009**

## TABLE OF CONTENTS

<b>1. GENERAL AND ADMINISTRATIVE PROVISIONS</b> .....	<b>iii</b>
1.1 Purpose of this Rule .....	iii
1.2 Definitions .....	iii
1.3 Interpretation .....	v
1.4 Determinations by the Board .....	vi
1.5 To Whom this Rule Applies .....	vi
1.6 Coming into Force .....	vi
1.7 Exemptions and Exceptions .....	vi
<b>2. NON-DISCRIMINATORY ACCESS TO TRANSPORTATION SERVICES</b> ..	<b>vii</b>
2.1 Allocation of Transportation Capacity .....	vii
2.2 Standards for Transportation Open Seasons .....	vii
2.3 Shipper – Standard Terms of Service and Standard Forms of Contracts for Transportation Services.....	ix
2.4 Storage Company – Standard Terms of Service and Standard Forms of Contracts for Transportation Services .....	x
2.5 Other.....	xi
<b>3. CUSTOMER PROTECTION WITHIN THE COMPETITIVE STORAGE     MARKET</b> .....	<b>xii</b>
3.1 Posting and Protocol Requirements .....	xii
<b>4. REPORTING REQUIREMENTS</b> .....	<b>xiii</b>
4.1 Information Requirements .....	xiii
4.2 Index of Customers .....	xiii
4.3 Operationally-Available Transportation Capacity .....	xv
4.4 Storage Inventory .....	xv
4.5 Design Capacity .....	xv
<b>5. COMPLAINT MECHANISM</b> .....	<b>xvi</b>
5.1 Dispute Resolution .....	xvi



## **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;

Storage and Transportation Access Rule

Appendix B

“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;

Storage and Transportation Access Rule

Appendix B

“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.

Storage and Transportation Access Rule

Appendix B

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

Storage and Transportation Access Rule

Appendix B

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.



Storage and Transportation Access Rule

Appendix B

- 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.

Storage and Transportation Access Rule

Appendix B

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.