



ONTARIO ENERGY BOARD

FILE NO.: EB 2013-0074
EB-2012-0433
EB-2012-0451

VOLUME: Issues/Process Day

DATE: April 30, 2013

BEFORE: Cynthia Chaplin Presiding Member
Marika Hare Member
Peter Noonan Member

EB-2013-0074
EB-2012-0433
EB-2012-0451

THE ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act 1998, S.O. 1998, c.15, (Schedule B), and in particular, S. 36 thereof;

AND IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, S.90.(1) thereof;

AND IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c.15, Schedule B, and in particular, S.91 thereof;

AND IN THE MATTER OF an application by Union Gas Limited for an order or orders for pre-approval of recovery of the cost consequences of all facilities associated with the development of the proposed Parkway West site;

AND IN THE MATTER OF an application by Union Gas Limited for an order or orders granting leave to construct natural gas pipelines and ancillary facilities in the Town of Milton.

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario,
on Tuesday, April 30th, 2013,
commencing at 9:44 a.m.

ISSUES/PROCESS DAY

BEFORE:

CYNTHIA CHAPLIN	Presiding Member and Vice Chair
MARIKA HARE	Member
PETER NOONAN	Member

A P P E A R A N C E S

MICHAEL MILLAR	Board Counsel
COLIN SCHUCH JOSH WASYLYK	Board Staff
FRED CASS SCOTT STOLL	Enbridge Gas Distribution Inc.
CRAWFORD SMITH	Union Gas
ELISABETH DeMARCO	Association of Power Producers of Ontario (APPrO)
ROBERT MILLER	Beaver Valley Stone and 8081 Investments
TOM BRETT	Building Owners and Managers Association (BOMA)
PETER THOMPSON	Canadian Manufacturers & Exporters (CME)
JULIE GIRVAN	Consumers Council of Canada (CCC)
STEVEN SHRYBMAN	Council of Canadians
IAN MONDROW	Industrial Gas Users' Association (IGUA)
ROGER HIGGIN SHELLEY GRICE	Energy Probe Research Foundation
KENT ELSON	Environmental Defence (ED)
DWAYNE QUINN	Federation of Rental-housing Providers of Ontario (FRPO)
PAUL DEMELO	Frontenac Forest Estates Inc.
DAVID POCH	Green Energy Coalition (GEC)

A P P E A R A N C E S

IAN MONDROW	Industrial Gas Users' Association (IGUA)
RANDY AIKEN	London Property Management Association (LPMA)
JAMES SIDLOFSKY	Metrolinx
MARK RUBENSTEIN	School Energy Coalition (SEC)
MURRAY ROSS	TransCanada Pipelines Ltd. (TCPL)
MICHAEL JANIGAN	Vulnerable Energy Consumers' Coalition (VECC)
ALSO PRESENT:	
MARK KITCHEN	Union Gas
KAREN HOCKIN	

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NO UNDERTAKINGS WERE FILED IN THIS PROCEEDING.

1 Tuesday, April 30, 2013

2 --- On commencing at 9:44 a.m.

3 MS. CHAPLIN: Please be seated.

4 Good morning, everyone. The Board is sitting today in
5 the matter of three applications, one application by
6 Enbridge Gas Distribution, which is EB-2012-0451, and two
7 applications by Union Gas Limited, EB-2012-0433 and EB-
8 2013-0074.

9 The Enbridge application is for leave to construct two
10 segments of pipeline totalling about 44 kilometres, at an
11 approximate cost of \$605 million. The pipelines will be
12 located in the towns of Milton and Richmond Hill and in the
13 cities of Brampton, Toronto, Vaughan and Markham. Enbridge
14 also seeks approval for a rate methodology for services on
15 one of the pipeline segments.

16 The Union applications are for leave to construct 750
17 metres of pipeline and a standby compressor at the proposed
18 Parkway West compressor station in the Town of Milton, and
19 for leave to construct a further 13.9 kilometres of
20 pipeline from Cambridge to Hamilton, and a Parkway D
21 compressor at the proposed Parkway West compression
22 station.

23 Union also seeks approval to recover the total
24 estimated costs of about 407 million and approval for the
25 cost consequences of two long-term contracts.

26 An issues and process conference involving the
27 companies, intervenors and Board Staff was held last
28 Friday, April 26th, and the purpose of that conference was

1 for parties to attempt to reach agreement on an issues list
2 and an appropriate process for the applications to be
3 heard.

4 We are sitting today to hear submissions related to
5 the issues list and the process by which these applications
6 will be heard, and we are also going to deal with some
7 confidentiality requests from Enbridge.

8 My name is Cynthia Chaplin. I will be the presiding
9 member on these applications, and joining me on the Panel
10 are Board members Marika Hare and Peter Noonan.

11 May I start with appearances, please?

12 **APPEARANCES:**

13 MR. CASS: Good morning. Fred Cass and Scott Stoll
14 for Enbridge. Mr. Stoll may be a little difficult for the
15 Panel to see, but he is among the faces here.

16 MS. CHAPLIN: Good morning. Thank you, Mr. Cass.

17 MR. SMITH: Good morning. Crawford Smith, counsel to
18 Union Gas, and with me are Mark Kitchen and Karen Hockin
19 from Union Gas.

20 MS. CHAPLIN: Thank you.

21 MR. BRETT: Good morning, Madam Chair, Panel. Tom
22 Brett, counsel for BOMA.

23 MS. CHAPLIN: Good morning, Mr. Brett.

24 MR. THOMPSON: Peter Thompson for Canadian
25 Manufacturers & Exporters. It went out. Peter Thompson
26 for Canadian Manufacturers & Exporters.

27 MS. CHAPLIN: Good morning, Mr. Thompson.

28 MR. ELSON: Kent Elson for Environmental Defence.

1 Good morning.

2 MS. CHAPLIN: Good morning.

3 MR. MONDROW: Good morning, Madam Chair, Panel
4 members. Ian Mondrow, counsel for the Industrial Gas Users
5 Association, also known as IGUA.

6 MS. CHAPLIN: Thank you, Mr. Mondrow.

7 MR. POCH: Good morning, Panel. Good morning, Madam
8 Chair. David Poch for Green Energy Coalition, also known
9 as GEC.

10 MS. CHAPLIN: Thank you.

11 MR. ROSS: Good morning. Murray Ross for TransCanada.

12 MS. CHAPLIN: Good morning, Mr. Ross.

13 MS. GIRVAN: Good morning. Julie Girvan for the
14 Consumers Council of Canada.

15 MS. CHAPLIN: Thank you.

16 MR. RUBENSTEIN: Mark Rubenstein, counsel to the
17 School Energy Coalition.

18 MS. CHAPLIN: Thank you.

19 MR. SHRYBMAN: I can't find the button. I will speak
20 up.

21 MS. CHAPLIN: That's good.

22 MR. SHRYBMAN: Good morning. I'm Steven Shrybman. I
23 represent the Council of Canadians.

24 MS. CHAPLIN: Thank you very much.

25 MR. JANIGAN: Michael Janigan for the Vulnerable
26 Energy Consumers Coalition.

27 MS. CHAPLIN: Thank you.

28 DR. HIGGIN: Good morning. Roger Higgin for Energy

1 Probe, and with me today is Shelley Grice for Energy Probe.

2 MS. CHAPLIN: Thank you.

3 MR. AIKEN: Good morning. Randy Aiken for the London
4 Property Management Association.

5 MS. CHAPLIN: Good morning, Mr. Aiken.

6 MR. QUINN: Good morning, Madam Chair and Panel
7 members. Dwayne Quinn on behalf of the Federation of
8 Rental-housing Providers of Ontario.

9 MS. CHAPLIN: Thank you, Mr. Quinn.

10 MS. DeMARCO: Good morning. Elisabeth DeMarco on
11 behalf of the Association of Power Producers of Ontario, or
12 APPrO.

13 MS. CHAPLIN: Thank you.

14 MR. SIDLOFSKY: Good morning, Madam Chair, Panel.
15 James Sidlofsky for Metrolinx.

16 MS. CHAPLIN: Thank you. Mr. Stoll?

17 MR. STOLL: Mr. Cass got it already.

18 MS. CHAPLIN: Yes. Anybody else? Staff? Oh, sorry.
19 Sorry, good morning, Madam Chair.

20 MS. CHAPLIN: If someone will give you a mic.

21 MR. DEMELO: Thank you. I appreciate that. Good
22 morning, Madam Chair and Panel. Paul Demelo, D-E-M-E-L-O,
23 and I am counsel for Frontenac Forest Estates Inc.

24 MS. CHAPLIN: Thank you, Mr. Demelo.

25 MR. MILLER: Good morning, Madam Chair.

26 MS. CHAPLIN: If you could step up to a mike, please,
27 it helps for our transcription.

28 MR. MILLER: Robert Miller for the intervenors Beaver

1 Valley Stone and 8081 Investments.

2 MS. CHAPLIN: Okay, thank you.

3 MR. MILLAR: Good morning, Madam Chair, members of the
4 Panel. Michael Millar, counsel for Board Staff. I am
5 joined by Josh Wasylyk and Colin Schuch.

6 MS. CHAPLIN: Thank you. All right.

7 So I understand that Union and Enbridge each have a
8 presentation, an introductory presentation about the
9 applications, but in order to accommodate some scheduling
10 requests, we will deal with the issues list first. I trust
11 there are no objections to that.

12 We have received a proposed issue list, which was
13 filed by the parties at the conclusion of the conference.
14 The Board accepts the negotiated modifications to the draft
15 issue list, and we note that there is one issue that has
16 been added which is disputed. So we propose to take
17 submissions on that issue at this point.

18 The disputed issue reads:

19 "Are the proposed facilities consistent with the
20 Government of Ontario's greenhouse gas reduction
21 policies?"

22 We understand that this has been proposed by
23 Environmental Defence, so we propose to hear submissions
24 from you first, Mr. Elson, and then any other parties that
25 are in support of that issue, and then to be followed by
26 those who have concerns or are opposed.

27 **SUBMISSIONS BY MR. ELSON:**

28 MR. ELSON: Well, thank you, and thank you for the

1 Board's indulgence regarding the schedule.

2 There is also a minor issue that came up yesterday in
3 the Enbridge DSM proceedings which, in our submission,
4 doesn't require a change to the issues list, but I will
5 address it very, very briefly, as that panel had requested
6 that we do so in this proceeding.

7 But first I would like to start with our primary
8 request, which is the addition of the following issue,
9 which appears as issue 6 in the draft issue list, which is:

10 "Are the proposed facilities consistent with the
11 Government of Ontario's greenhouse gas reduction
12 policies?"

13 So I will explain what ED is getting at with respect
14 to this issue, why in our submission it is within the
15 jurisdiction of the Board and why it is relevant, and also
16 why it doesn't appear to us to have already been addressed
17 in the current issues list.

18 From our perspective, there are significant
19 indications that this project as proposed is inconsistent,
20 or I could say completely inconsistent, with Ontario's
21 greenhouse gas reduction targets. The GTA pipeline is
22 predicated on a steady increase in the usage of gas in
23 Enbridge's service area, and, in our submission, this
24 increase is inconsistent with the reduction targets set out
25 in Ontario's greenhouse gas emission reduction policy or
26 their targets.

27 The Government of Ontario plans to decrease greenhouse
28 gas emissions by 15 percent below 1990 levels by 2020 and

1 by 80 percent below 1990 levels by 2050. However, the
2 utilities' plan to build more supply-side infrastructure so
3 that more gas can be burned is inconsistent with these
4 targets, in our submission, and this is the issue we're
5 trying to raise under this proposed issue 6.

6 For example, the Enbridge project is justified on a
7 load forecast. It shows steadily increasing gas usage up
8 to 2025. The reference there is Exhibit A, tab 3,
9 schedule 4, page 9. Similarly, the economic case is
10 justified based on a 40-year horizon. That is Exhibit E,
11 tab 1, schedule 1, attachment Economic Feasibility 40-Year
12 Horizon.

13 And, again, the project assumes and allows for
14 business-as-usual growth in gas, which we will submit is
15 inconsistent with the Government of Ontario's greenhouse
16 gas emission reduction targets.

17 We also submit that this issue, as I said, is both
18 relevant and within the Board's jurisdiction. This issue
19 relates, in particular, to section 2(5) of the OEB Act.

20 This is the list of objectives that the Board is to be
21 guided by in carrying out its responsibilities with respect
22 to gas, and objective number 5 reads as follows:

23 "To promote energy conservation and energy
24 efficiency in accordance with the policies of the
25 Government of Ontario, including having regard to
26 the consumers' economic circumstances."

27 And we propose and submit that this issue fits
28 squarely within that statutorily mandated objective.

1 We also submit that this issue does not appear to be
2 covered by the current draft issues list. There is no
3 reference in the list to the issue of consistency with
4 government policies, whereas other objectives listed in
5 section 2 of the OEB Act, such as the rational expansion of
6 transmission and distribution systems or the impacts on
7 consumers, in terms of rates or prices, are explicitly
8 included in the draft issues list.

9 In my mind, this issue is not necessarily subsumed
10 under issue 5 in the draft list, which is the issue of
11 alternatives, although it may be, and the Board may find as
12 such, in which case that would satisfy our concerns.

13 But we would like to potentially argue that one reason
14 for seriously questioning or rejecting this project is that
15 it appears to be inconsistent with the Government of
16 Ontario's GHG reduction policies.

17 The issue of alternatives is related, but not the
18 same, in my mind, necessarily. Comparing a number of
19 alternatives is different than saying that the project
20 itself is inconsistent with government policies and the
21 specific objectives set out in section 2(5) of the OEB Act.

22 So it appears to us that the proposed issue is
23 different, but of course if this Board finds that the issue
24 that we wish to raise is within the scope of the other
25 issues, as already drafted, then that would, of course,
26 suffice for the purposes of Environmental Defence.

27 And again, ED's position is that this project appears
28 to be inconsistent with the Government of Ontario's GHG

1 reduction policies, and therefore we're proposing that this
2 be added as an issue in this proceeding.

3 Unless there is any questions on that point, I would
4 like to move on briefly to this issue of the 2014 DSM
5 budget.

6 MS. CHAPLIN: Sure, go ahead to the DSM part.

7 MR. ELSON: This issue arose yesterday, as I said, in
8 the Enbridge DSM case. In essence, it appears that
9 Enbridge wishes to argue in this case that this Panel will
10 be in a sense bound by the decision in the DSM case and
11 will not be able to make an order or will not have the
12 jurisdiction to make an order that relates to DSM in 2014.

13 In other words, it will not be able to make findings
14 or directions about additional DSM commencing in 2014 as a
15 possible alternative to the proposed \$600 million pipeline.

16 The Panel in the DSM case asked that this issue be put
17 before the Panel today, which is why I am just briefly
18 outlining Environmental Defence's position. Our position
19 is that no amendment is needed to the issues list, and that
20 it is our understanding that this case will be looking at
21 all of the alternatives, and that the Board will have the
22 jurisdiction to look at, as the potential alternatives, a
23 potential increase in conservation starting in 2014.

24 It appears that the Panel hearing the DSM case does
25 not wish or intend to tie the hands of this Panel, in terms
26 of what alternatives can or cannot be considered.

27 And also, from a public-interest perspective and a
28 planning perspective, in our submission, it would be very

1 problematic if -- that the possibility of additional
2 conservation in 2014 as an alternative to this pipeline
3 could somehow be taken off the table at this early stage
4 and prior to evidence on that topic being put forward in
5 this proceeding.

6 So again, it is our understanding that issue 4,
7 relating to alternatives, includes consideration of
8 potential increased conservation in 2014 as a potential
9 alternative, without presupposing whether that actually is
10 or isn't an alternative, of course.

11 We would appreciate confirmation of this by the Board
12 in its procedural order, although that may not be necessary
13 because, in our submission, we are not requesting an
14 amendment to the issues list, as we would submit that this
15 issue is subsumed under issue 4, relating to alternatives.

16 So those are our submissions on the issues in
17 particular. We have some comments about the schedule that
18 I believe Mr. Poch can advise the Board of, or I can advise
19 the Board now, if that is your preference. They're very
20 brief.

21 MS. CHAPLIN: Well, we will let you convey that to Mr.
22 Poch, and that way we can keep our record straight for
23 today, if you are content with that approach.

24 MR. ELSON: Thank you.

25 MS. CHAPLIN: Ms. Hare has a question for you.

26 MS. HARE: Could you just remind me? The DSM is an
27 issue only for Enbridge, not Union. Is that because their
28 DSM plan has been fixed for '12, '13, and '14?

1 MR. ELSON: The issue, in my mind, is that the
2 purported demand growth that is driving this project is in
3 Toronto and potentially in downtown Toronto, which is in
4 Enbridge territory. Also, Environmental Defence itself has
5 only intervened in the Enbridge case and not in the Union
6 case.

7 So other intervenors may have comments to make with
8 respect to Union in more specifics, but my understanding is
9 that the primary driver is in Enbridge territory. But
10 other intervenors may have comments on that as well.

11 MS. HARE: Okay. Thank you.

12 MS. CHAPLIN: So we will now take submissions from any
13 parties who are in support of either the proposed issue or
14 I guess have supporting comments with respect to the DSM
15 issue.

16 Mr. Poch, do you...

17 **SUBMISSIONS BY MR. POCH:**

18 MR. POCH: Thank you, Madam Chair.

19 I would adopt the submissions of my friend, although
20 we take a somewhat softer position, I think. Our initial
21 assumption was that, indeed, issue 6 was subsumed under
22 issue 4. I just want to be sure that it is implicitly or
23 explicitly on the list somewhere.

24 So we have no problem at all if the Board finds that
25 it need not be broken out separately, although I do note
26 Mr. Elson's observation that for some reason we -- everyone
27 feels it is important to break out other objectives of the
28 Board from section 2 separately, and somehow this one gets

1 short shrift, and I think that is kind of symbolic of a way
2 that the, at least the utilities have come to the case, but
3 that's -- it is neither here nor there.

4 On the other matter that arose yesterday, there are a
5 couple of complications that I would just like to highlight
6 for the Board. I don't disagree with my friend's
7 conclusion that you don't need to amend the issues list
8 today because of it.

9 One is, there is a proposed -- there is a proposed
10 settlement agreement in that case that purports to cover --
11 that covers DSM in 2014. Our position yesterday -- and I
12 think I can speak for my friend for IGUA, his position on
13 the record yesterday -- was that that is about DSM under
14 the -- general DSM, widespread application, under the --
15 consistent with the Board's DSM guidelines.

16 And we took the position yesterday that the type of
17 conservation we're concerned about in this case is
18 geographically focused conservation, driven by local IRP,
19 local integrated resource planning, considerations.

20 I won't get into a lengthy argument about it, but
21 basically the drivers for the conservation are different.
22 Certainly the rate impacts are different in the other --
23 under the guidelines the Board has expressed concern about
24 the possibility of non-participants feeling rate impacts
25 that are unacceptable at a point, whereas in the case of
26 local IRP-driven conservation everybody -- presumably, if
27 it is done right and amortized appropriately, everybody's
28 rates go down. So these concerns and constraints would not

1 be at play in any way near the same way.

2 As the company itself has pointed out in its evidence,
3 the -- and I will just quote -- the issues with -- this is
4 from Exhibit A^, tab 3, schedule 7, at page 2.

5 "The issues with the distribution system are
6 related to peak demand system loading, whereas
7 conservation programs are typically targeted at
8 lower overall consumption."

9 So we're targeting -- in this case we want to talk
10 about conservation efforts, including, perhaps, rate
11 structures, which are focused on peak and are focused
12 geographically.

13 And in answer to the Panel's question about why
14 Enbridge and not Consumers, we agree that the problem --
15 the bulk of the facilities' investments appear to be driven
16 by needs in the GTA area, pipeline over-pressures or under-
17 pressures at different places in the system, and so on. So
18 that is why the focus is on GTA, in particular.

19 But the difficulty is, first of all, that settlement
20 agreement isn't yet accepted by the Board. GEC is a
21 signatory to that settlement conference. We at the time of
22 our involvement weren't aware of the GTA project.

23 The Board held yesterday that despite that -- and they
24 accepted we weren't aware. Despite that, in the interests
25 of giving parties confidence in settlement agreements, they
26 weren't prepared to allow us to withdraw from the
27 settlement agreement.

28 The question then becomes whether I, as counsel for

1 GEC, can take any position in this case which is in any way
2 contrary to the settlement agreement, assuming the
3 settlement agreement is adopted by the Board and doesn't
4 dissolve.

5 Given the position I have taken yesterday - and I
6 think it is my read of yesterday's decision is that the
7 Board did not rule on the point - is that IRP-driven local
8 conservation is distinct from DSM generally under the
9 guidelines.

10 I took the position it is not -- not a matter that is
11 covered by the settlement agreement. So our position is
12 that we are in a position to both advocate, and the Board
13 is in a position to hear and rule, if it so chooses, with
14 respect to IRP-driven local conservation in this case.

15 I appreciate that some parties -- Schools I know spoke
16 -- had a different perspective, as did Enbridge, and their
17 position is simply that DSM is DSM and it's precluded --
18 either I am precluded just simply by being a member of the
19 party to the agreement, and the Board, this Panel, may be
20 precluded as a jurisdictional matter. I think it went so
21 far in Enbridge's submissions, but I don't need to put
22 words in my friend's mouth.

23 I would think that at some point that challenge may be
24 made, but it would be premature to deal with it today. I
25 agree with my friend this is something that may best be
26 dealt with if and when it is -- first of all, when we know
27 the disposition of the Board in the other case, and,
28 secondly, after the Board has had evidence here to know

1 whether, in fact, 2014 DSM is part of a preferred
2 alternative or may be part of a preferred alternative,
3 whether the question is moot or critical to your
4 considerations.

5 We will hear evidence about the nature of such
6 proposals. We will have evidence about the public -- it
7 may be the public interest, even if this Board was
8 persuaded that the settlement agreement covers such DSM,
9 the Board might be persuaded, if the public interest is
10 serious enough, that you might choose to make a decision,
11 including components which, in the face of that settlement
12 agreement, would result in greater DSM in 2014.

13 Even if the Board felt that you couldn't do that, the
14 Board may nevertheless want to know whether Enbridge's
15 planning in consideration of alternatives was sufficient in
16 its consideration of 2014. And there may be -- for
17 example, there could be cost consequences for the utility
18 if it came out -- if its proposal here is not the most
19 preferred, most cost-effective proposal, but it may be the
20 only proposal that can be proceeded with nevertheless.

21 So for all of those reasons, I think it would be
22 premature for the Board to rule on it, and we're content
23 with the issues list as it stands, but we are in the
24 Board's hands.

25 MS. CHAPLIN: Thank you, Mr. Poch.

26 Thank you. Yes. So I will take any more submissions
27 in support of the proposed issue. Go ahead.

28 MS. CHAPLIN: Sorry, Mr. Shrybman, you don't have your

1 microphone on.

2 **SUBMISSIONS BY MR. SHRYBMAN:**

3 MR. SHRYBMAN: It is not that I can't push my finger
4 hard enough; it is that the panel here is a little flimsy.

5 MS. CHAPLIN: We know.

6 MR. SHRYBMAN: Steven Shrybman for the Council of
7 Canadians. I just want to speak in favour of the issue
8 identified by issue number 6. My familiarity with
9 administrative law is a little rusty.

10 MS. CHAPLIN: It is not just the mics we're having
11 trouble with here.

12 MS. HARE: It's the Panel members.

13 --- Laughter

14 MS. CHAPLIN: Go ahead.

15 MR. SHRYBMAN: No doubt there will be an argument as
16 to whether or not the Board is bound to follow Ontario
17 policy with respect to greenhouse gas emission reductions,
18 but it seems to me essential it have regard to the policies
19 and address the question of whether or not the proposal
20 before it is consistent with that policy direction.

21 It seems to me that that should be beyond debate, that
22 the Board has an obligation to apprise itself of provincial
23 government policy and take that policy into account in
24 rendering its decision. So whether that is made explicit
25 as a distinct issue or whether the Board makes it clear
26 that that indeed would be its approach, we're agnostic.

27 But we support that proposition as presented by
28 Environmental Defence's counsel. Thank you.

1 MS. CHAPLIN: Thank you, Mr. Shrybman. Any other
2 counsel in support? Mr. Janigan.

3 **SUBMISSIONS BY MR. JANIGAN:**

4 MR. JANIGAN: Thank you, Madam Chair. We also support
5 the concept that the issue is alive for the purpose of this
6 proceeding.

7 We don't believe it is necessary to have a particular
8 item added to the list. We find it hard to conceive of the
9 consideration of the issues that are set out in paragraph
10 A.1 of the draft issues list without giving consideration
11 to the Government of Ontario's greenhouse gas reduction
12 policies, certainly in the area of whether or not the
13 proposed facilities are needed and whether or not this is a
14 rational expansion of the transmission and distribution
15 network.

16 We also note that we believe that the alternatives --
17 under the alternatives for the proposed facilities, there
18 will be consideration of whether or not there is a
19 conservation alternative that is available.

20 For VECC, as we are signatories to the 2013/2014
21 Enbridge DSM agreement, we believe we are bound by the
22 terms of that agreement and will not be making
23 recommendations with respect to the 2014 budget.

24 However, we may be making recommendations with respect
25 to alternatives that might be available to the proposed
26 facilities expansion in the event that the evidence
27 indicates that that is so warranted. Thank you.

28 MS. CHAPLIN: Thank you, Mr. Janigan.

1 Mr. Brett.

2 **SUBMISSIONS BY MR. BRETT:**

3 MR. BRETT: Yes, good morning. Thank you.

4 On the question of the DSM measures in 2014, first of
5 all, BOMA is a signatory to the agreement. We -- it is a
6 matter of agreement -- well, let me start this way.

7 In our view, integrated resource planning, as such,
8 and CDM measures that are done in the context of integrated
9 resource planning has not been the subject of the DSM
10 collaborative and is not the subject of the DSM settlement
11 agreement.

12 That has been true for the last number of several
13 cases. Those cases have looked at DSM in a broad-based
14 way, in a certain way, general across-the-board programs
15 that apply everywhere in the province and that are not
16 particularly linked in any way to any geographic --
17 specific geographic initiatives, specific capital cost
18 initiative of the utility, either transmission or
19 distribution.

20 So in our view, those are quite different animals.
21 And in our view, integrated resource -- CDM measures used
22 in the context of integrated resource planning should be an
23 important part of what the utility does.

24 The parties to the agreement -- to last week's
25 conference on the issues all agreed that DSM was an
26 alternative. It was caught up and it was part of the issue
27 that dealt with alternatives to capital expenditure. That
28 was agreed by everyone.

1 If that is agreed by everyone, then I think it
2 follows, given the fact that Enbridge -- and I think it is
3 for both utilities, in my view. It applies to both Union
4 and Enbridge.

5 If that is the case, given that that is the case, then
6 it makes sense, in my view, given the deadlines that the
7 utilities have placed or have asked in respect of their
8 capital projects, that these CDM or integrated resource
9 planning measures start as soon as possible.

10 It wouldn't make a lot of sense to say, well, we will
11 wait until 2015 or 2016 to start these, given the fact that
12 they're supposed to be -- they're agreed to be -- that they
13 should be considered at least as an alternative to some --
14 to a part of all of -- in my view, more likely a part of
15 the proposed capital expenditures. So that is the second
16 point.

17 And finally, I also would endorse Mr. Poch's comments
18 that these measures -- that IRP-driven CDM as an
19 alternative to a capital expenditure on transmission or
20 distribution could very well lower customer rates, all
21 customers' rates, and so on and so forth.

22 So from that -- for those reasons we would support the
23 proposal put forward by Environmental Defence, except that
24 we would apply it both to Enbridge and Union. We don't see
25 any reason to restrict it to Enbridge.

26 And with respect to the CO2 issue, we think that it is
27 included probably now in the existing policy that deals
28 with alternatives. I also would agree with the previous

1 speaker that in the normal course the Board would take into
2 account policies of the Government of Ontario.

3 The cited -- the provision of, I think it is objective
4 5 of the objectives for the Board for gas regulation do
5 talk about energy efficiency and conservation. They don't
6 talk about CO2 reduction as such.

7 And as you know as well or better than I, CO2
8 reduction can come from a number of different measures,
9 some of which involve -- a lot of which involve
10 conservation and energy efficiency, but not all. So there
11 is quite an overlap there.

12 So from that point of view, I think you could say
13 that, you know, that you have a specific objective that
14 relates to energy efficiency and conservation, and it is
15 not much of a stretch to say that that also means that you
16 have a specific objective that relates to CO2 reduction.

17 But whether you do or not, it is a general policy of
18 the government. The question of what that policy is is
19 something else. And some other folks may want to speak to
20 that, but whatever it is, I think it should be something
21 that the Board has regard to.

22 Thank you.

23 MS. CHAPLIN: Thank you, Mr. Brett.

24 If that concludes those -- oh, Mr. Mondrow, yes.

25 **SUBMISSIONS BY MR. MONDROW:**

26 MR. MONDROW: Thank you, Madam Chair. I held off a
27 little bit because we're not necessarily supporting the
28 issue nor opposing it, but I wanted to express on behalf of

1 IGUA a concern about the way the issue as it currently
2 appears on the list is before you.

3 IGUA recognizes that the relationship between
4 Ontario's GHG policy and this Board's mandate in these
5 applications is a legitimate issue to explore during the
6 proceeding.

7 Our concern with the way the issue's currently worded
8 is it could be read to presuppose a relationship and
9 influence or perhaps even a determinative position in
10 respect of the Board's mandate in these applications.

11 We think that the extent to which the policy should be
12 applied to the evaluations is a matter to be debated in the
13 context of the record as it is developed, and we would just
14 urge the Board, if it sees fit to express this issue
15 separately, to recognize that both the consistency of the
16 applications with the policy and the applicability of the
17 policy in this context be issues for review.

18 So there'd be no presupposition about its
19 applicability and the extent to which it is a criteria for
20 evaluation of the applications before the Board.

21 Thank you.

22 MS. CHAPLIN: Thank you, Mr. Mondrow.

23 **SUBMISSIONS BY MR. MILLAR:**

24 MR. MILLAR: Madam Chair, Michael Millar. I have a
25 very brief submission that I should probably give before
26 the utilities. I am not sure it is in support or not, but
27 just very quickly, the test for approving a leave-to-
28 construct application is set out in section 96. It's

1 simply the public interest.

2 And I think everyone would agree that in considering
3 the public interest the Board has to be guided by its
4 objectives. In fact, as a matter of law it is.

5 So people have taken you to objective number 5 under
6 section 2:

7 "To promote energy conservation and energy
8 efficiency in accordance with the policies of the
9 Government of Ontario, including having regard to
10 the consumers' economic circumstances.

11 I think, as Mr. Brett pointed out, it doesn't
12 specifically say "greenhouse gases". There is some
13 argument as to whether or not it would be included in that.

14 I seem to recall from the biogas case that at least
15 Enbridge is of the view that it does include greenhouse gas
16 emissions, but I will let them speak to that.

17 So all I will say is that obviously an issues list
18 can't be inconsistent with the act, and the substance of
19 objective number 5 has to be within scope of this
20 proceeding.

21 It may well be that it is already included in issue 4,
22 and as I say, it is not -- it may not be agreed by all that
23 it includes greenhouse gas emissions, but objective number
24 5 has to be within scope.

25 That is my submission. Thank you.

26 MS. CHAPLIN: Thank you, Mr. Millar.

27 Mr. Cass, Mr. Smith? Oh, sorry, Mr. Rubenstein, are
28 you...

1 **SUBMISSIONS BY MR. RUBENSTEIN:**

2 MR. RUBENSTEIN: Sorry, I want to -- before the
3 utilities speak --

4 MS. CHAPLIN: Okay.

5 MR. RUBENSTEIN: -- I want to put our position on the
6 record with respect to the second issue that was raised by
7 Environmental Defence, and that is the DSM issue.

8 It's School Energy's -- well, I will back up and say
9 the Board is put in an interesting position, because the
10 settlement agreement still has not been approved in that
11 proceeding. So the Board is somewhat -- would be left in a
12 limbo until that settlement agreement is approved or not
13 approved to answer the question of, can the issue of 2014
14 DSM spending be -- or could the utilities make an argument
15 that it would be -- that parties would be estopped from
16 making that argument in this proceeding.

17 With respect to Green Energy Coalition making the
18 arguments, until that point, we would say that they cannot,
19 because they are a signatory to that settlement agreement.
20 And we would not agree with Mr. Poch's interpretation of
21 what the scope of that agreement is. It is our belief --
22 and as we stated on the record yesterday -- that the DSM
23 settlement agreement includes all DSM. There is no carve-
24 out in that agreement for IRP or any other sorts of DSM
25 proceedings.

26 So until he is relieved of that obligation by that
27 Panel or a rejection of that settlement agreement, he's
28 bound by that agreement. We think the sanctity of those

1 settlement agreements and parties being bound by them is a
2 very important consideration for the Board.

3 MS. CHAPLIN: Thank you.

4 Mr. Smith, Mr. Cass?

5 MR. SMITH: I think Mr. Cass is going to lead off.

6 MS. CHAPLIN: Thank you.

7 **SUBMISSIONS BY MR. CASS:**

8 MR. CASS: Thank you, Madam Chair.

9 I will deal first with the disputed issue that has
10 been addressed by Environmental Defence, Madam Chair.

11 First, looking at the issue, as has been alluded to by
12 others, including, I think, Mr. Brett, one could even
13 question what it means, insofar as it refers to the
14 Government of Ontario's greenhouse gas reduction policies.
15 One could certainly have a debate as to whether that is
16 sufficiently clear and whether there is something that can
17 be -- at this point in time that can be seen as the
18 Government of Ontario's greenhouse gas reduction policies.

19 I won't address that. In my submission, regardless of
20 the answer to that point, this is not an issue that needs
21 to be on the issues list.

22 In my submission, this may be or could be a
23 consideration by the Board under other issues, but it is
24 certainly not a stand-alone issue for the issues list.

25 In particular, again, to the extent that it is seen as
26 appropriate as the case goes ahead, given the vagueness of
27 the way in which it is worded, it could be relevant under
28 "need". More particularly, it could be relevant under

1 "alternatives".

2 The second issue under "alternatives" is, are any
3 alternatives to the proposed facilities preferable to the
4 proposed facilities? Now, that brings into play
5 potentially a number of considerations, and it is open to
6 parties to bring forward what they think are appropriate
7 considerations, and they can be addressed as they come
8 forward.

9 In that context, in considering whether any
10 alternatives are proposed facilities -- to the proposed
11 facilities are preferable, this -- I understand that
12 parties will bring forward this as a consideration for the
13 Board and it can be addressed at that time.

14 In my submission, though, again, it is not a stand-
15 alone issue. It's not different from any of a multitude of
16 considerations that might be brought to the Board as it
17 compares alternatives.

18 You have heard a lot already about objective 5, and so
19 I hesitate to go back to it again, but I do want to
20 emphasize that objective 5 says:

21 "To promote energy conservation and energy
22 efficiency in accordance with the policies of the
23 Government of Ontario."

24 It does not actually say what policies. It doesn't
25 say energy conservation and energy efficiency policies; it
26 just says "with the policies".

27 So just as well as it might be a consideration for the
28 Board to think about energy conservation and energy

1 efficiency in accordance with greenhouse gas reduction
2 policies, to the extent that there is such a thing, it
3 could just as well be relevant for the Board to consider
4 energy conservation and energy efficiency in accordance
5 with the policies of the Government of Ontario regarding
6 economic development, or policies of the Government of
7 Ontario regarding the GTA.

8 So, again, even to the extent that this is a relevant
9 consideration, it is just a consideration, one of many, one
10 of a multitude. It is not a stand-alone issue.

11 If the Board were to determine that the need exists,
12 that there are no preferable alternatives, having regard to
13 all appropriate considerations, this would not then pop up
14 as a stand-alone issue that would need to be addressed by
15 the Board before it can approve the project.

16 So, in summary, even to the extent that it is a
17 relevant consideration, it is a consideration under other
18 issues, together with potentially a multitude of
19 considerations, and it is not a stand-alone^ issue.

20 Now, the second point that has been raised and that I
21 need to address is with respect to DSM and the comments
22 that have been made by a number of people in that regard.

23 For today's purposes, I come back to the reason that
24 we're here, as I understand it, and the reason for our
25 discussion right at this point. That reason is to
26 determine whether we have an appropriate issues list.

27 We have one disputed issue, which I have now addressed
28 and many other people have addressed. Aside from that,

1 then, the question is: Do we have an appropriate issues
2 list?

3 In the comments that have been made about DSM and
4 various perspectives that have been offered to the Board, I
5 haven't actually heard anyone say that there is a
6 difficulty with the issues list as it stands.

7 On the contrary, the most common comment from people
8 was that the issues list does seem to be appropriate as it
9 stands in relation to DSM.

10 It may well be, and it sounds likely, that as the case
11 goes forward there will be dispute between Enbridge and the
12 other parties who have spoken about the things that they've
13 said. That to me does not appear to be a dispute about the
14 issues list. That appears to me to be a dispute about
15 evidence that they may potentially seek to bring forward.

16 At this point in time, again, there is an issue about
17 -- there are two issues about alternatives. They are very
18 broadly worded. To the extent that DSM becomes an issue in
19 a leave to construct case, that's the place for it, under
20 alternatives. There is no need to change the wording. It
21 is broad enough to encompass the issue. It is broad enough
22 to encompass the debate.

23 It certainly does sound like there is going to be some
24 debate as we go forward, but, again, in my understanding of
25 today's purpose, it is not to resolve that debate. It is
26 to decide: Is this issues list appropriate?

27 In my view, with the comments I have made about the
28 disputed issue, the issues list is appropriate for the

1 cases to go forward.

2 Thank you, Madam Chair.

3 MS. CHAPLIN: Thank you, Mr. Cass.

4 **SUBMISSIONS BY MR. SMITH:**

5 MR. SMITH: Thank you, members of the Board.

6 Let me begin by saying the issue appears to come a bit
7 obliquely to Union, in that Environmental Defence is not an
8 intervenor in Union's proceeding, and the issue is proposed
9 under the issues list as a related issue.

10 I would say, to the extent the submissions are or were
11 predicated on the GTA project, that is obviously separate
12 from Union's application, and I would say it misconceives,
13 to a great extent, the actual applications that Union has
14 before this Board, one of which is a reliability project,
15 being Parkway West, and the second of which, Brantford-
16 Kirkwall, is intended to meet incremental already-
17 contracted demand.

18 So it is not a question of avoided demand. This is
19 demand that is already contracted, including in Quebec
20 which, of course would not have regard to Ontario's
21 policies, whatever they may be, and I will come to that.

22 To the extent the issue is proposed to be included as
23 it relates to Union, let me just say three things.

24 First, I do adopt Mr. Cass's submissions, and I would
25 make this observation. I do not see it as a stand-alone
26 issue. I do have concern with it being a stand-alone
27 issue, in that I accept Mr. Mondrow's comments that it does
28 presuppose a relationship or an applicability of a

1 particular policy. And objective number 5 of the Board's
2 objectives does not specify any particular policy.

3 I would observe, to the extent parties intend, as I am
4 sure some will, to suggest that there are alternatives to
5 the proposed facilities, they will make in support of that
6 argument an additional argument that the alternative is
7 preferable for a reason, such as it has environmental
8 benefits.

9 So I say that it is not a stand-alone issue. I would
10 observe, as well, that the very first issue under Parkway
11 West, and the very first issue under the Brantford-Kirkwall
12 application, and the very first issue under the GTA deal
13 with the OEB's environmental guidelines for hydrocarbon
14 pipelines as applicable.

15 The Board has, in my respectful submission, issued
16 guidelines which deal with a wide-ranging number of
17 potential effects, environmental being natural environment
18 on residential impacts. They're quite wide ranging, and
19 Union has already filed a comprehensive effects analysis
20 from Stantec. So to the extent parties want to challenge
21 that, obviously they would be open to do that.

22 I would also observe I have a concern with respect to
23 the issue as phrased, because it presupposes there are, in
24 fact, GHG reduction policies which have been promulgated by
25 the Government of Ontario. And I suspect Ms. DeMarco will
26 address this at some length, so I won't get into it in any
27 detail, but it is my understanding that there is, in fact,
28 no policy which has been passed by the government.

1 There was a discussion paper that was issued. The
2 comment period in respect of that paper recently closed,
3 but what will happen with that policy and to whom or which
4 industries it is intended to cover is very much an open
5 question.

6 So those would be my submissions with respect to the
7 issue. And to sum it up, we don't see it as an appropriate
8 issue.

9 Let me just turn to the DSM debate, and, again, I come
10 to this a bit sideways, in that it arose yesterday, as I
11 understand it, in the context of an Enbridge proceeding.

12 Union has, as the Board will be aware, a Board-
13 approved DSM agreement with respect to the period 2012 --

14 MS. CHAPLIN: One moment, Mr. Smith. Sorry, if you
15 gentlemen need to discuss something, it would be more
16 helpful for us if you took it outside the room. It is
17 quite distracting for us. Thank you. Please continue, Mr.
18 Smith.

19 MR. SMITH: Yes. Union has a Board-approved DSM plan
20 with respect to all segments of its customer groups,
21 residential, commercial and industrial, the industrial plan
22 being approved very recently by this Board, covering the
23 years 2012 through to 2014.

24 In my submission, it would be wrong and it would be
25 inappropriate for the Board to permit parties to resile
26 from that agreement at this stage, but I would say this. I
27 don't think that that is a live issue for consideration by
28 the Board today.

1 I don't know what it is that my friends intend to file
2 by way of intervenor evidence in this proceeding. If and
3 when that evidence is filed, we will have to consider the
4 appropriate response to it, which may be a motion to strike
5 that evidence. It may not. I don't know.

6 I have serious doubt as to whether or not a localized
7 IRP plan is different than demand-side management, given
8 that one of the stated benefits of demand-side management
9 is avoided facilities costs.

10 So it strikes me as improbable that they could be
11 different considerations, but until I see the evidence, I
12 am just not in a position to know what position, if any, we
13 will take. So I don't think you need to make any decision
14 with respect to it, and I certainly think that it would be
15 inappropriate to make a decision as it relates to Union,
16 given the prior Board approvals in respect to its DSM plan.

17 Thank you.

18 MS. CHAPLIN: Thank you, Mr. Smith. Are there any
19 other parties? Ms. Girvan.

20 **SUBMISSIONS BY MS. GIRVAN:**

21 MS. GIRVAN: Thank you. My comments are quite
22 consistent with the last few comments.

23 We don't see a need to include a consideration of the
24 government's policy with respect to greenhouse gas
25 emissions as an explicit issue. We accept the Board will
26 take into account all of its objectives.

27 We just want to reiterate that from a customer
28 perspective, our view is that the first and foremost

1 consideration for the Board will be to determine if these
2 facilities are required to provide reliable gas services to
3 Enbridge's customers. And if parties want to argue for
4 alternatives, they have every right to do so.

5 Again, I am somewhat confused about the interplay
6 between the proceeding yesterday and the proceeding today,
7 which I think a lot of people are, and I just wanted to
8 make the comment that we are signatories to the Enbridge
9 agreement, and we acknowledge the agreement was the result
10 of comprehensive negotiations. And it was arrived at as a
11 result of I would call it a delicate balancing of
12 interests. So we certainly won't be advocating a change to
13 that agreement.

14 Thank you.

15 MS. CHAPLIN: Thank you.

16 **SUBMISSIONS BY MS. DEMARCO:**

17 MS. DeMARCO: Madam Chair, I also will be supporting
18 the utility's position in around the inclusion of issue
19 A.6. In order to do so, I have provided you with a
20 compendium of materials on this issue. I just want to
21 confirm that the Panel has that.

22 MS. CHAPLIN: We do have that. Mr. Millar, can we
23 give that a number?

24 MR. MILLAR: Yes. It's Issues Day, so let's call this
25 KI1.1, and that is APPRO's compendium.

26 **EXHIBIT NO. KI1.1: APPRO'S COMPENDIUM.**

27 MS. DeMARCO: And very briefly, I will be making three
28 main submissions in support of exclusion of issue A.6 as

1 currently constituted.

2 The first is that the draft issue as constituted is
3 ultra vires the OEB. The second is that the issues
4 regarding the OEB's legitimate environmental jurisdiction
5 are already covered in relation to issue A.4, purporting to
6 cover alternatives, and the specific issues in B1, C1, D1
7 relating to the OEB's environmental guidelines for
8 hydrocarbon pipelines.

9 And then finally, my last submission will be in
10 relation to the notice. If in fact the Board does intend
11 to consider Ontario's greenhouse gas policy within the
12 ambit of this proceeding, it would be APPrO's submissions
13 that the notice was improperly constituted and did not give
14 full and fair notice to all very interested stakeholders in
15 this really critical national issue at this point in time.

16 So first let me start with the issues regarding the
17 jurisdiction of the Board. And you have heard much about
18 objective - section 2, objective number 5. And if I can
19 just ask you to turn to tab 3A of that compendium of
20 materials. Section 2(5) does in fact provide the Board
21 with proper and appropriate jurisdiction to promote energy
22 conservation and energy efficiency, in accordance with the
23 policies of the Government in Ontario, having regard to
24 consumers' economic interest.

25 Certainly the words "environmental policies" are not
26 included in this objective, and using the maxim of
27 *expressio unius est exclusio alterius*, should the
28 government have wished you to specifically consider

1 greenhouse gas policies, we would have seen similar wording
2 in the objective. Not to say that it doesn't come up in
3 the context of other issues, particularly relating to two
4 alternatives being considered; but certainly there it does
5 not.

6 And my friend Mr. Brett argued that there is a
7 necessary implicit overlap between energy conservation,
8 energy efficiency, and greenhouse gas policy.

9 If I can ask you now to turn to tab 4 and tab 5. I
10 have got outlined for you there the current status and
11 state of Ontario's, in quotes, "greenhouse gas policy",
12 with the central issue being there is no defined policy.
13 The Ministries of Environment, of Energy, the Ontario Power
14 Authority, the IESO, and the Ministry of Finance are
15 currently involved in a very elaborate, involved process to
16 determine precisely what that policy is going to be.

17 At tab 5 there has been a very elaborate discussion
18 paper that has been released for stakeholder comment with
19 many open-ended issues for consideration around a very
20 broad cap-and-trade carbon-trading policy for the sector.

21 It is our submission that certainly this Board is not
22 the appropriate venue to consider cap-and-trade carbon-
23 trading-related policies in the context of this pipeline
24 application, and certainly that goes well beyond the energy
25 efficiency and energy conservation objectives set out in
26 section 2 of 2(5) of the act.

27 Secondly, the issue as constituted in A.6 is not
28 capable of determination at this point. Should there be a

1 defined policy related to GHGs, it is possible to
2 potentially consider the issue, but as you see, currently
3 the entire greenhouse gas policy and the associated system
4 to implement any semblance of a policy is in flux.

5 We certainly wouldn't want to see the OEB put itself
6 in the position of an environmental regulator rather than
7 an energy regulator and usurp the very elaborate and
8 ongoing policy initiatives of the Ministry of Environment
9 in and around this issue at this critical time.

10 Just to highlight the time lines, January 21st of this
11 year the draft discussion paper was released. Stakeholder
12 consultations and written comments were accepted until a
13 week ago, April 21st. There's ongoing consultation with
14 each of the relevant stakeholder groups and the relevant
15 energy agencies at this point in time for policy
16 determination and ultimate regulation promulgation
17 anticipated in and around 2015 or 2016.

18 So we would say in the vernacular, does the OEB want
19 to open this can of worms at this time in this context?

20 Secondly, moving on to my second submission, that is
21 the Board's appropriate and legitimate environmental
22 jurisdiction, and its exercise of that jurisdiction is
23 already included in the issues list without the inclusion
24 of section -- or, sorry, issue A.6.

25 Specifically, issue A.4, B.1, C.1, and D1 as outlined
26 in tab 1 would allow for a full consideration of
27 alternatives to the pipeline, which may very well include
28 conservation and other measures, and specific issues

1 regarding the application of the OEB environmental
2 guidelines for hydrocarbon pipelines outline a very defined
3 process for the Ontario Pipeline Coordinating Committee to
4 consider those issues. We wouldn't want to, again, usurp
5 the Board's own guidelines and processes by including this
6 as a separate issue on the issues list.

7 And if I could ask you to turn to tab 9, which sets
8 out those environmental guidelines, and very specifically,
9 section 4.3.9. There is very specific mandate for the
10 OPCC, the Ontario Pipeline Coordinating Committee, to
11 consider error-omissions-related issues, and we anticipate
12 that those procedures have been followed and complied with
13 and can be discussed appropriately in the context of B1,
14 C1, and D1, without the necessity of the inclusion of a
15 broad-reaching issue that could cover everything under the
16 sun relating to carbon trading.

17 Finally, last, but certainly not least, if I can ask
18 you to turn up the notice of applications in these
19 proceedings. These are at tabs 6, 7, 8 of my materials.
20 In no way, shape, or form do any of these notices mention
21 the consideration of greenhouse gases in relation to these
22 hydrocarbon pipeline and related compressor-station
23 applications.

24 Certainly we can hardly go through a day in the media,
25 let alone a week in the national media, without a very
26 prominent feature on the importance of greenhouse gases to
27 national policy, to pipeline applications, to the
28 associated interests of the Government of Alberta, to the

1 associated interests of the Minister of Natural Resources,
2 to the associated interests of Environmental Canada in the
3 country, without some semblance of a directed story on
4 these precise issues.

5 It would be absolutely intuitive that each and all of
6 those interests would want to have a say in this particular
7 proceeding, should the Board intend to consider this issue
8 as constructed in issue A.6, and certainly the notice as
9 constituted does not accurately reflect that.

10 So if the Board does intent to include this issue, we
11 would strongly submit that it needs to do so by way of a
12 reconstitution of the notice so all appropriate parties can
13 reflect their audi alteram partem rights to be heard in
14 this proceeding.

15 Just very briefly, I am just going to consider my
16 notes to make sure I have covered everything that my
17 friends have, in fact, raised.

18 Yes, my friend Mr. Elson, in the context of his
19 submissions regarding the objective 2(5) indicated that
20 they would argue that the project is completely
21 inconsistent and was not required pursuant to existing
22 provincial policies, and certainly in the context of the
23 Board's consideration of alternatives under issue A.4, my
24 client, the Association of Power Producers, would strongly
25 submit that natural gas infrastructure and the associated
26 pipeline and compressor stations are absolutely important
27 in and around the issues pertaining to facilitating
28 Ontario's renewable initiatives.

1 So certainly that might be something to look at quite
2 carefully in that context of alternatives, but certainly
3 does not require an open can of worms around all greenhouse
4 gas policies pertaining to issue A.6.

5 Those are my submissions.

6 MS. CHAPLIN: Thank you, Ms. DeMarco.

7 DR. HIGGIN: Thanks.

8 MS. CHAPLIN: Mr. Higgin.

9 DR. HIGGIN: Yes. Hello, it is Roger Higgin.

10 MS. CHAPLIN: Sorry. I just need to canvas. So, Mr.
11 Higgin, you have some submissions. Mr. Quinn, you have
12 some submissions? Will they be brief?

13 DR. HIGGIN: Very.

14 MS. CHAPLIN: All right. Mr. Thompson? Okay. I am
15 just conscious -- we are trying to get Mr. Elson out
16 promptly.

17 So if you could be brief, and certainly don't need to
18 reiterate submissions that have already been made. So go
19 ahead, Mr. Higgin.

20 **SUBMISSIONS BY DR. HIGGIN:**

21 DR. HIGGIN: Okay, thank you. Roger Higgin for Energy
22 Probe.

23 Just to make a point on the DSM plan, that I am not
24 the consultant involved in that for Energy Probe. However,
25 Energy Probe is a party to that agreement. But we do wish
26 to comment here that the settlement is for 2014 and that
27 the pipelines and the facilities will not be in service
28 till 2015 and going forward.

1 So that DSM is a consideration, in our view, going
2 forward. And it is covered in the issues list under issue
3 4 or issue 1. It is already covered on the issues, so --
4 that point.

5 So we do not see issue 6 as appropriate, especially as
6 worded, and we would agree with the submissions that it
7 should be excluded, but, as we would note, that as a
8 general sense greenhouse gasses and air emissions are part
9 of the planning process that goes into the pipeline
10 guidelines and the development of applications under those
11 guidelines.

12 So we still believe there are some environmental and
13 other considerations, but, as worded, we do not support
14 issue 6 being included.

15 As to the issues that have been raised about IRP and
16 the planning process, we note the Board's guidelines for
17 pipelines do not explicitly require an IRP framework.

18 On the other hand, therefore, we believe EGD and
19 Union's planning framework and the way they've developed
20 these applications is appropriate under the guidelines.

21 If, on the other hand, some parties wish to make
22 submissions under the alternatives issue that are based on
23 an IRP-type of framework, we would have no objection to
24 that. But, again, it is under the issue of alternatives.

25 So those are our submissions. Thank you.

26 MS. CHAPLIN: Thank you. Mr. Quinn.

27 **SUBMISSIONS BY MR. QUINN:**

28 MR. QUINN: Yes, thank you. Very briefly, FRPO is

1 also a signatory and would not be making submissions on
2 2014, and we would adopt the well-articulated positions of,
3 well, frankly the utilities and Ms. DeMarco on behalf of
4 APPrO in saying that the issue can be heard, but does not
5 require issue A.6.

6 Thank you.

7 MS. CHAPLIN: Thank you. Mr. Thompson?

8 MR. THOMPSON: In the interests of time, I won't add
9 anything. I support the utilities' presentation.

10 MS. CHAPLIN: Okay, thank you. Mr. Elson, do you have
11 anything in reply?

12 **REPLY SUBMISSIONS BY MR. ELSON:**

13 MR. ELSON: Thank you. Very briefly.

14 On the topic of whether further notice would be
15 required, I mean, very clearly this notice doesn't
16 incorporate everything and every issue that is being
17 addressed in this proceeding, and I can't imagine why
18 notice would be required for this and not for all of the
19 other issues that are on our issues list.

20 Secondly, there was a discussion about whether there
21 actually was a policy with respect to greenhouse gas
22 emissions or what that policy was. And there clearly is,
23 in our submission, and that is in the Climate Change Action
24 Plan that was put in place by the Ontario government in
25 2007, and there is reference to that in the APPrO
26 compendium at tab -- I believe it is 3, or perhaps it is
27 actually at tab 4.

28 This is the EBR notice, and the EBR notice is not in

1 relation to an action plan, which sets the targets that I
2 discussed before, but actually a program for implementing
3 the targets that have already been in place.

4 And reading from the second sentence, it says:

5 "To address this serious problem, Ontario
6 introduced its Climate Change Action Plan in
7 2007. The plan includes the following greenhouse
8 gas emission reduction targets..."

9 And it outlines the targets that I discussed earlier.
10 That is the policy that we're talking about. We've left it
11 somewhat more broad in the proposed issue, and it could
12 even be broadened further or altered, but I don't believe
13 there is a question that the Ontario government has set
14 these targets and that it is their policy that they're
15 working towards meeting them.

16 The fact that they are also seeking input on specific
17 programs and specific methods to meet those targets doesn't
18 mean that they don't already have a policy that they're
19 working towards, and wouldn't mean that this Board should
20 consider those targets.

21 Finally, in our submission, this Board wouldn't be
22 usurping the role of the government by looking at
23 consistency with those greenhouse gas reduction targets.
24 In fact, our submission is that the Board would be doing
25 the exact opposite and would be, in fact, fulfilling its
26 statutorily required mandate.

27 The Ontario government made a greenhouse gas or a
28 climate change action plan in 2007. That same government

1 wrote the OEB Act and enacted section 2(5), which requires
2 that this Board consider those policies.

3 So, in our submission, by considering them, this Board
4 would be simply fulfilling its statutory mandate. Those
5 are my submissions, unless the Board has any questions.
6 And I might ask that be permitted to take my leave at this
7 point.

8 MS. CHAPLIN: Sure. We have no questions for you, so,
9 yes, you may be excused. Thank you.

10 MR. ELSON: Thank you.

11 MR. POCH: Madam Chair, with your indulgence, if I
12 could have a moment of the Board's time? With respect to
13 that DSM concern that I raised and our ability to file
14 evidence and speak to matters that may touch on 2014, I
15 heard Mr. Smith's comments, which are basically he's going
16 to keep his powder dry and we will cross that bridge if and
17 when we need to.

18 However, one party - that is SEC - appeared to
19 indicate today that they object to GEC as a signatory to
20 one or both of those settlements advocating or introducing
21 evidence that touches on 2014, and they have raised that
22 objection on the record today.

23 I would simply bring the Board's attention to the
24 transcript of yesterday in the Enbridge case. At page 36
25 of that transcript, Mr. Shepherd, speaking for SEC, said:

26 "SEC will on the record today waive our right to
27 argue against evidence by GEC or by ED in the

1 facilities proceedings to show that DSM could
2 defer or reduce the scope of these projects."

3 So I think they have specifically waived their right
4 to do what their counsel purported to do today, and I would
5 like to rely on that.

6 MS. CHAPLIN: All right. Thank you, Mr. Poch.

7 MS. HARE: Can I just -- I'm sorry, I don't have the
8 transcripts with me. Was that before the decision that
9 said that GEC cannot withdraw or was that after?

10 MR. POCH: It was before the decision, yes. That was
11 in SEC's -- at page 36 of the transcript, which is in SEC's
12 submissions.

13 MS. HARE: And so then when the Board decided that GEC
14 could not withdraw - I am looking at Mr. Rubenstein - does
15 that change SEC's position?

16 MR. RUBENSTEIN: Well, I want to be clear what my
17 submissions were before. The question is not can the Green
18 Energy Coalition provide evidence with respect to its IRP
19 plan. The question is the effect on the 2014 budget.

20 And it was our position that we may be -- that the
21 Board and the utilities might rely on it. The fact that we
22 may or may not waive our objection at that time to it is
23 not the same thing as the Board in and of itself
24 determining that it would be inappropriate or not.

25 MR. POCH: Madam Chair, I will take that, if -- I want
26 to make sure my friend agrees that he doesn't have any
27 objection to us filing evidence which touches on DSM that
28 could be delivered in 2014. We'll be advocating, in fact,

1 that the mechanism be a deferral account, when it would not
2 come into rates in 2014. I guess that may be a distinction
3 that my friend might have difficulty with, but I am
4 suggesting we could safely do that.

5 In answer to your question, Madam Chair, I think Mr.
6 Shepherd's submissions were squarely on the assumption that
7 we were -- that the settlement agreement stands and that we
8 are not excused from it. Our request to withdraw wasn't
9 allowed. And he said -- in that context he's saying he
10 nevertheless waived.

11 MS. HARE: Thank you.

12 MR. RUBENSTEIN: Thank you.

13 MS. CHAPLIN: All right. Thank you. We will take a
14 morning break now, and we will resume at 11:15.

15 --- Recess taken at 10:55 a.m.

16 --- On resuming at 11:28 a.m.

17 **DECISION:**

18 MS. CHAPLIN: Please be seated.

19 The Board has a decision on the disputed issue.
20 Environmental Defence has requested the addition of the
21 following issue: Are the proposed facilities consistent
22 with the Government of Ontario's greenhouse gas reduction
23 policies?

24 Environmental Defence has requested that this issue be
25 added because it is concerned that the issue is not
26 specifically covered under the other issues, particularly
27 issues 1 and 4.

28 The Board will not add the proposed issue. However,

1 we will modify issue number 1 to read: Are the proposed
2 facilities needed? Considerations include, but are not
3 limited to, demand, reliability, security of supply,
4 flexibility, constraints, operational risk, costs savings
5 and diversity, as well as the Board's statutory objectives.

6 In this way, the Board confirms that all of its
7 statutory objectives, including that related to energy
8 efficiency, energy conservation and government policy, are
9 appropriate considerations in these proceedings.

10 The Board also confirms that considerations of energy
11 efficiency and energy conservation are appropriately
12 included in an examination of alternatives as contemplated
13 in under issue 4.

14 This approach addresses the concern of Environmental
15 Defence by confirming that government policy is a factor to
16 be considered in these proceedings, and also addresses the
17 concerns of those who were opposed to the issue being a
18 stand-alone item.

19 The Board will include the approved issues list as
20 part of its next procedural order.

21 If there are no further questions, I believe that
22 concludes the discussion of the issues list, but I see
23 hands going up. Mr. Mondrow.

24 **SUBMISSIONS BY MR. MONDROW:**

25 MR. MONDROW: Thank you, Madam Chair.

26 It appeared to me from the Panel's decision that the
27 phrase at the end of issue 1 as put before you earlier,
28 which is "and rational expansion of the transmission and

1 distribution network", has been removed.

2 MS. CHAPLIN: It has. It is included, though, because
3 it is explicitly one of the Board's statutory objectives.

4 MR. MONDROW: All right. I hesitate because IGUA,
5 among others perhaps, was relying on that phrase for
6 different reasons.

7 And we shouldn't take the Board's decision, then, to
8 negate the thoughts captured in that phrase, that it is the
9 Panel's view that those thoughts are otherwise covered in
10 the Board's statutory objectives?

11 MS. CHAPLIN: The "rational expansion of the
12 transmission and distribution network" is explicitly one of
13 the Board's statutory objectives, so it is covered.

14 MR. MONDROW: Thank you.

15 MS. CHAPLIN: Mr. Rubenstein.

16 **SUBMISSIONS BY MR. RUBENSTEIN:**

17 MR. RUBENSTEIN: We had wanted to raise an issue on
18 the issues list not about adding or removing a specific
19 issue, but a scoping of a specific issue that was in
20 disagreement with Enbridge on Friday at the issues
21 conference.

22 I apologize for not raising it earlier. I thought we
23 were only dealing with the Environmental Defence issues and
24 concerns.

25 MS. CHAPLIN: All right. Let's deal with it now,
26 then.

27 MR. RUBENSTEIN: That is with respect to issue D.5,
28 which reads:

1 "Should approval of Enbridge's proposed rate
2 methodology for service provided to TransCanada
3 be granted?"

4 It is SEC's position, and, from what we understand,
5 not the position of Enbridge, that that issue necessarily
6 includes reviewing how an impact of the proposed rate
7 methodology affects all of the other rate classes and the
8 rate methodology.

9 We understand from the proposal and Enbridge's
10 evidence that essentially it has, I would say, ring-fenced
11 the costs for the other rate classes primarily, and then
12 included incremental costs of TransCanada.

13 It may be in the end that the parties don't take issue
14 with that proposal, but if that proposal might change or
15 parties take a position that that is inappropriate, then by
16 definition other -- the allocation to the other classes in
17 the rate method -- the cost allocation becomes an issue,
18 because it is a zero-sum game, cost allocation. And we
19 would like to be able to explore that issue in this
20 proceeding.

21 MS. CHAPLIN: Sorry, Mr. Rubenstein. You are
22 contemplating the scenario where the methodology isn't
23 approved and, therefore, what are the implications of the
24 incremental costs being borne by the existing rate classes,
25 is that...

26 MR. RUBENSTEIN: It could be two things. One is to
27 explore the methodology as proposed, how it affects or
28 should affect other rate classes, and then, if it isn't

1 approved or some other proposal or something might change -
2 - we raise this as -- one example is, from our
3 understanding, TransCanada and Enbridge are still in
4 discussion. So there might be some sort of change to what
5 is proposed or something, and then that will affect the
6 cost allocation and parties will want to review them.

7 MS. CHAPLIN: Okay. So its interactions with other
8 rate classes, including if their proposal is in fact
9 modified?

10 MR. RUBENSTEIN: Yes.

11 MS. CHAPLIN: Okay. Mr. Cass?

12 **SUBMISSIONS BY MR. CASS:**

13 MR. CASS: Thank you, Madam Chair. I'm not sure
14 whether there is an issue between Enbridge and SEC or not.

15 Also, I'm not sure what the Board will do with this in
16 the context of apparently there not being a dispute about
17 the issues list, but Mr. Rubenstein asking for some
18 scoping.

19 In any event, I will offer comments. In the context
20 of a leave to construct proceeding, of course there are
21 economic feasibility guidelines that must be complied with
22 and that determine an economic feasibility presentation
23 that is offered to the Board.

24 For the purposes of feeding into that economic
25 feasibility, there needs to be some understanding of a rate
26 methodology for TransCanada, because it would feed the
27 economic feasibility calculations.

28 It's also something that TransCanada would need for

1 its approval purposes. That, then, is the reason why rate
2 methodology has been part of the amended application in
3 this proceeding, because of how it feeds into these other
4 things.

5 Enbridge does accept that as part of the consideration
6 of that rate methodology, the Board would, at a general
7 level, consider the impacts for TransCanada, the impacts
8 for other customers. That seemed to be part of what Mr.
9 Rubenstein was talking about, and I think it is accepted
10 that the Board would consider that.

11 To the extent that alternatives to the methodology are
12 brought up, then, again, looking at TransCanada as a
13 customer and looking at all other customers as a group, I
14 think the Board's consideration of alternatives would also
15 look at the relative impacts between those two sets of
16 customers, if I could put it that way, TransCanada and
17 other customers as a group.

18 Enbridge's concern would be that if this is to be
19 turned into a new cost allocation proceeding, to do -- to
20 redo the cost allocation study as amongst all customers,
21 down to the individual level of customer classes, involving
22 all customer classes, that, in my submission, would be for
23 the rate case.

24 To the extent that anything came out of this
25 proceeding where somebody wanted to propose a new cost
26 allocation methodology amongst the whole group of other
27 customers, that is something that would be brought forward
28 in a rate case.

1 I don't know if there is any difference between
2 Enbridge and Schools in what I have described, but I think
3 I have accurately described Enbridge's position, and, in my
4 submission, that is the appropriate way to consider this in
5 a leave to construct case.

6 MS. CHAPLIN: Mr. Rubenstein, do you -- can you
7 identify where the distinction lies between your two
8 positions?

9 MR. RUBENSTEIN: Well, it seems our positions have
10 come closer since Friday, so that is beneficial.

11 The reason we brought it up in this proceeding, even
12 though it is not a change to the issues list, is clearly it
13 is better to have a discussion on the scope at this point
14 than in the interrogatory stage where there is a refusal to
15 ask -- to answer an interrogatory and a motion has to be
16 brought.

17 The only thing that, by definition, by changing the
18 methodology it may -- it may appropriately have to affect
19 other rate classes.

20 Now, it might be in this proceeding the parties won't
21 have -- don't have a problem with the current methodology
22 because it doesn't, but it may be appropriate to do so.

23 I just -- to be clear, we're not seeking to redo the
24 cost allocation studies that have been -- they have taken a
25 lot of work and a lot of Board's time in other proceedings.
26 That is not what we're seeking.

27 MS. CHAPLIN: Okay. Well, I think that is probably as
28 far as we can take it today. There is nothing clear for us

1 to determine as a Panel, so we will wait and see if any
2 further disputes arise through the interrogatory phase.
3 All right.

4 All right. Sorry, yes.

5 MR. DEMELO: If I may approach from over there?

6 MS. CHAPLIN: Mr. Demelo; right?

7 **SUBMISSIONS BY MR. DEMELO:**

8 MR. DEMELO: That's correct. Thank you. We're
9 counsel, as I indicated, for Frontenac Forest Estates. My
10 partner was here on Friday seeking to have issue number 6 -
11 this is in connection with the Union Gas Parkway West
12 matter - modified slightly.

13 We're concerned about land use compatibility issues,
14 and during those discussions it was determined that was
15 inappropriate. It may have been a matter in terms of the
16 terminology.

17 Our particular concerns are -- and we would like to
18 add as a proposed modification to number 6 that the
19 language remain: Are there any outstanding landowner
20 matters relating to the proposed facilities routing and
21 construction?

22 And as an addition have: Have the appropriate
23 environmental matters been appropriately studied and
24 mitigated?

25 As part of the pre-filed evidence that Union Gas has
26 submitted, there is matters related to noise and odour, and
27 those reports speak to that. We would like to ensure the
28 ability to be able to test that information and to test

1 that, that all environmental matters have been considered,
2 including those, and have been appropriately mitigated.

3 MS. CHAPLIN: So, sorry, the list I am looking at I
4 think has different numbering than the one that you are
5 using, and so I am just slightly behind you, Mr. Demelo,
6 but I want to enquire -- so we are speaking about the
7 Parkway West --

8 MR. DEMLO: Parkway West, yes.

9 MS. CHAPLIN: -- proceeding? Okay.

10 MR. DEMLO: It's the issues -- the specific issues for
11 each application, this is under B, and it is the second one
12 that is listed. I have it as 6. It's the second one that
13 is listed: Are there outstanding landowner matters.

14 MS. CHAPLIN: So -- sorry, so issue 1 is whether or
15 not the facilities address the environmental guidelines for
16 hydrocarbon pipelines.

17 MR. DEMLO: That's correct.

18 MS. CHAPLIN: So that's quite an extensive
19 consideration of all environmental effects. So I believe
20 that covers...

21 MR. DEMLO: Well, our concern is with regards to, we
22 are -- we represent an adjoining landowner's proposing
23 residential development. So there are concerns with
24 regards to noise and odour and the impacts on that on to
25 residential development.

26 And it may be a matter in terms of the language. I'm
27 more accustomed to practicing before the OMB, not the OEB,
28 and we use the term "land compatibility", and that is an

1 issue that we properly address.

2 As I understand it, jurisdiction of this Board
3 includes to determine whether or not this is an appropriate
4 location for the facilities as proposed. And the pre-filed
5 material that's been submitted by Union Gas addresses
6 issues such as noise and odour.

7 We would like those issues to be added specifically to
8 ensure that those are properly dealt with, and we can deal
9 with them, not in the context necessarily of compatibility,
10 but ensure that, if the Board determines that it is either
11 addressed specifically in an issue, that it is within one
12 of the other issues, we would like to have that
13 clarification that those are properly addressed, or that,
14 if this is not a matter properly before the OEB, that it is
15 not predetermined.

16 We don't want to then face a situation potentially
17 that if we have to go on land-use compatibility issues at
18 the OMB that someone says the OEB has dealt with this and
19 determined this to be an appropriate location.

20 MS. CHAPLIN: Okay. Mr. Smith, do you have some
21 submissions on this question?

22 MR. SMITH: I do. The articulation of the issue is
23 the first I have heard it, but my reaction is the same as
24 the Board's. In both issue ^B-1 and ^C-1 there is an issue
25 with respect to the OEB's environmental guidelines for
26 hydrocarbon pipelines as applicable.

27 Of course, I'm not entirely sure what my friend's
28 client may wish to raise at the end of the day. I would

1 observe that, for example, at page 58 of those guidelines
2 they talk about mitigation measures for noise control,
3 including in respect of adjacent noise-sensitive land uses.

4 So I would have thought, to the extent the issue is
5 the operation of Parkway West going forward, and should
6 there be some sort of mitigation measure in the conditions
7 imposed by the Board, that that would be addressed by
8 issues B-1 and C-1.

9 Obviously from a jurisdictional perspective the
10 Municipal Board has certain statutory -- has a statutorily
11 permitted jurisdiction, and this Board has a statutorily
12 permitted jurisdiction.

13 You know, I don't see that those things are in
14 conflict, at least as my friend's articulated his client's
15 concerns. Beyond that it is difficult for me to offer
16 more.

17 MS. CHAPLIN: Mr. Demelo, do you have anything
18 further?

19 MR. DEMLO: It may be, Madam Chair, that we're simply
20 seeking clarification to ensure that those issues with
21 regards to noise and odour -- and I understand that the
22 guidelines provide for certain mitigative measures.

23 I think one of the things my partner had asked for on
24 Friday when he was in attendance -- unfortunately couldn't
25 be in attendance today -- was an issue around, what are the
26 appropriate conditions. And it may be that that is already
27 assumed within the issues list and that the Board considers
28 that.

1 We just need to have that clarification, that
2 appropriate mitigation measures and conditions are matters
3 that this Board will deal with and that are matters that we
4 can address with regards to noise and odour, if -- if it is
5 so required to address in the context of these hearings.

6 And that is why we ask that the issue be modified to
7 include, as we have indicated, have the appropriate
8 environmental matters been appropriately studied and
9 mitigated. We should be able to determine whether or not
10 the issues of noise and odour, since they are included in
11 the pre-filed materials, have been appropriately studied.
12 Is there an issue with the methodology, is there a question
13 about that, and are the mitigation measures which have been
14 proposed appropriate.

15 MS. CHAPLIN: Right. And I think we can confirm for
16 you that all of those matters are subsumed in issue B-1,
17 and then to the extent that additional conditions might be
18 proposed and be appropriate, that is now under ^B-6, which
19 speaks to conditions of approval.

20 So we can confirm that, to the extent that this Board
21 has -- those items of environmental impact over which this
22 Board has jurisdiction are covered under the issues as they
23 are articulated.

24 MR. DEMLO: Okay. And it's the jurisdiction -- to the
25 extent that this Board has jurisdiction on the
26 environmental matters, those are covered, but that doesn't
27 preclude the jurisdiction of potentially the OMB or another
28 Board, should other matters arise with regards to that.

1 MS. CHAPLIN: Exactly.

2 MR. DEMLO: Thank you.

3 MS. CHAPLIN: Thank you.

4 Anything further on the issues list?

5 Okay. I believe we are ready now to proceed with the
6 presentations by the applicants.

7 MR. SMITH: Thank you, members of the Board, for the
8 opportunity. On behalf of Union we have Mr. Jim Redford
9 here. Mr. Redford is the director of business development
10 and strategic accounts at Union Gas, and the presentation
11 that he is going to review is a presentation that is
12 contained in Union's pre-filed evidence in the Brantford
13 Kirkwall application. That is the EB-2013-0074
14 presentation at schedule 8-4.

15 And I can advise that it is a presentation that has
16 been given on a number of occasions to stakeholders,
17 including most recently by Union at a stakeholder
18 conference on March 27th of this year.

19 So I would just turn it over to Mr. Redford at this
20 time.

21 MS. CHAPLIN: So -- okay. So that's -- sorry, can you
22 just give me the evidence reference again?

23 MR. SMITH: It is Schedule 8-4, Madam Chair, in EB-
24 2013-0074.

25 MS. CHAPLIN: Thank you.

26 **UNION GAS - PANEL 1**

27 **PRESENTATION BY MR. REDFORD:**

28 MR. REDFORD: Good morning, Madam Chair and Panel

1 members. I will focus mostly today on the description of
2 the projects and the driver for Union's projects, and some
3 of the interrelations with the Enbridge GTA project, as
4 well as TCPL expansion of the Parkway-to-Maple corridor.

5 I would love to make this full-screen. Oh, there it
6 is. Thank you.

7 The Parkway projects are -- consist of two projects,
8 two separate projects, the Parkway West project, as well as
9 the Brantford Kirkwall^ looping and Parkway D compressor.

10 The Parkway projects are going to be key to ensuring
11 that Ontario continues to have competitive energy prices
12 and access to competitive energy sources.

13 We have seen increased demand for access to the Dawn
14 hub, as well as access to the Dawn Parkway system,
15 incremental demand on the Dawn Parkway system, the Dawn
16 hub, as well as the Dawn Parkway system, and these projects
17 really are a key link in the delivery chain for natural gas
18 to customers not only in Ontario, but Quebec and the U.S.
19 Northeast, and that delivery chain, in particular the Dawn
20 hub and Dawn Parkway system, provide safe, reliable, secure
21 supplies. The Dawn hub is diverse in its supply sources
22 and also is affordable.

23 These projects also provide access to new supply
24 sources, such as Marcellus shale and the Utica shale, which
25 are part of the Appalachian Basin, which are some of the
26 most competitive sources in North America right now, with
27 the best prices.

28 All told, when you look at the projects that are in

1 front of the Board, there is a significant expansion over
2 the next four years, in the range of \$1 billion, of
3 facility expansion.

4 The map shows the relative geographic position of all
5 of the projects. The Parkway West project and the Parkway
6 D compressor are proposed to be located right across the
7 407 directly west of the existing Parkway site, and the
8 existing Parkway site is space-constrained and does not
9 allow Union to expand on the site.

10 The Brantford-Kirkwall loop is located west of the
11 Parkway site in between the existing Brantford valve site
12 and the Kirkwall custody transfer station, which are part
13 of the ^Dawn-Parkway system.

14 Related to those projects -- related to these projects
15 are segment A of the proposed Enbridge GTA project, which
16 connects near Parkway and extends into Enbridge's system to
17 a point called Albion or Albion Road, as well as an
18 expansion on the TCPL mainline to move volumes between --
19 incremental volumes between Parkway and Maple.

20 The next slide really talks about these projects in
21 some measure of detail. The Parkway West project is a
22 reliability project. It is a project -- there are no
23 incremental volumes associated with the project. It is a
24 capital cost of \$203 million, and it would provide two
25 things, fundamentally two things.

26 It would provide a backup feed or a second feed for
27 the existing deliveries that are made to Enbridge at
28 Parkway, the Parkway Consumer site. Those are in the range

1 of 1.6 BCF a day, 1.5, 1.6 BCF a day. A significant volume
2 flows through that interconnection, and this would provide
3 a second connection in case of failure of that connection
4 to Enbridge.

5 It would include site development. It would include a
6 new valve site and header system within the Parkway West
7 site on the west side of the 407, with an LCU, loss of
8 critical unit, compressor. And it would be reserve horse-
9 power that is on standby to meet the firm loads.

10 And today Parkway is the only spot in Union's system
11 without loss of critical unit protection for the two
12 compressors that are located there, and it is also the only
13 spot within the major gas transmission system from Empress
14 right through into Ontario and from Dawn through without
15 loss of critical unit protection.

16 The second piece are the Parkway -- are really growth
17 projects, and they are tied to incremental demand. And I
18 will talk about the project drivers following. The first
19 is the Brantford-Kirkwall looping. It is capital cost of
20 about \$96 million, and it is about 14 kilometres of 48-inch
21 pipeline looping, and it is the final section in Union's
22 Dawn-Parkway system for the 48-inch pipeline. It is the
23 last remaining section in the 48-inch pipeline.

24 Parkway D is also a compressor. It is required at
25 Parkway to serve the growth volume, sort of the incremental
26 demand, for Dawn-Parkway, and those deliveries are into
27 TCPL's system. Today the Parkway units, Parkway A and
28 Parkway B units, are within about 100,000 gJs a day of

1 their capacity, of their working together capacity.

2 So our expansion, which is about three-quarters of a
3 BCF, will far exceed the ability of Parkway A and B to move
4 that gas into the TCPL system.

5 And it's a 44,500 horse-power, plus or minus,
6 compressor, which would be an RB 211, Rolls-Royce 211-style
7 compressor, similar to the Parkway B plant that is on the
8 existing Parkway site today.

9 There are two related projects. There are two related
10 the projects. The first is the Enbridge GTA project. We
11 show a total capital cost of \$575 million. I think that
12 was corrected this morning, that it was \$605 million.

13 And, in particular, it is segment A of the GTA project
14 that is of interest. The GTA project is proposed to
15 connect into the TCPL mainline.

16 There is an arrangement where TCPL and Enbridge were
17 looking at sharing usage of segment A, upsizing the pipe
18 size to provide capacity to move gas between Parkway and
19 Maple. Of course segment B is required to meet the needs
20 of the growth and reliability for the downtown core of
21 Toronto.

22 That is a related project. Enbridge's volumes,
23 incremental volumes, on Dawn-Parkway are destined to flow
24 on the GTA project.

25 The second related project is the TCPL eastern
26 mainline expansion, which would be -- which would take
27 volumes from Albion up to the existing Parkway-to-Maple
28 corridor and move them to downstream markets, specifically

1 for Union and for Gaz Métro.

2 That is a description of the projects, the drivers.

3 As I mentioned, there is incremental demand for Dawn-
4 Parkway transportation capacity. Enbridge has signed
5 contracts for 400,000 gJs a day, or 400 tJs a day, of new
6 Dawn-Parkway demand starting in November of 2015, and has
7 also extended an existing Dawn-Parkway contract, the
8 largest single contract on the Dawn-Parkway system, of 1.7
9 pJs a day.

10 It was rolling year to year. It had completed its
11 initial term, and we had negotiated an extension of that
12 term to 2022 to ensure that we have stability on the Dawn-
13 Parkway system.

14 As part of that, we will be moving 400,000 gJs a day,
15 or 400 tJs a day, of delivery that currently goes to the
16 Parkway consumers or the suction side at Parkway, to the
17 Parkway TCPL. So it will now go through compression into
18 the Enbridge system, which again is destined for the GTA
19 project.

20 And Enbridge, of course, will need the GTA project
21 built in 2015 to be able to utilize that capacity on the
22 Dawn-Parkway system.

23 The next two, Gaz Métro and Union Gas, are related.
24 They're seeking access to markets downstream of Parkway on
25 the TCPL system. Gaz Métro has contracted for about
26 257,000 gJs a day, or 257 tJs a day, of new Dawn Parkway
27 demand starting in 2015. They will need -- they will need
28 to transport on TCPL's system to reach the intended market

1 east, and as part of that, by virtue of how the projects
2 are arranged, but also need the GTA project to be
3 constructed to access that capacity.

4 Gaz Métro has already applied -- in 2012, they
5 actually sought approval from the Régis in Quebec for
6 approval of their long-term contracts to -- would
7 effectively shift their capacity from Empress to the Gaz
8 Métro delivery area to Dawn, to the Gaz Métro delivery
9 area, and received endorsement from and approval from the
10 Régis for that shift, for those contracts.

11 Union Gas is also seeking to serve some customers in
12 what is Union north or the northern and eastern franchise
13 areas, about 70,000 gJs a day of new capacity -- of new
14 Dawn-Parkway demand again starting in November of 2015.

15 Those markets are downstream and served off the
16 TransCanada system. So they would require capacity on
17 TransCanada's system east of Parkway, including expansion.

18 It would also require the same expansion of the TCPL
19 system, as well as completion of the GTA project,
20 specifically segment A. And the long-term transportation
21 contracts were part of this -- the applications placed in
22 front of the Board for pre-approval.

23 That is a description of the drivers on the growth --
24 on the growth assets, which would really be Brantford
25 Kirkwall looping, as well as the Parkway D compressor.

26 With respect to the reliability assets or the Parkway
27 West project, Union identifies Parkway as a critical
28 facility. As I mentioned, it is the only facility in our

1 system compressor facility on the Dawn Parkway system that
2 does not have loss of critical unit protection.

3 What that would mean is on a design day or peak day,
4 that failure of plant B, which is the largest compressor
5 on-site, would mean that the market east of Parkway would
6 be short 1.1 pJs per day. And today it would mean about 1
7 pJ a day, because we're within \$100,000 of being -- 100,000
8 gJs, pardon me, of being full.

9 It serves a large area, a large portion of Quebec and
10 Ontario's population, as well as U.S. northeast customers,
11 and there are power plants about a little better than 4,000
12 megawatts located downstream of Parkway that are gas-fired.

13 Enbridge also considers Parkway to be the single
14 largest risk within their system. They serve a large
15 portion of their load out of Parkway. The GTA project, the
16 proposed GTA project, will address some flexibility and
17 diversity in how they supply their system, but Parkway will
18 still remain an important point in their system and, in
19 fact, increasing their reliance on deliveries through
20 Parkway.

21 An outage of Parkway, whether it is the loss --
22 whether it's the plant B or whether it's an outage of the
23 Parkway consumers' feed that goes directly into Enbridge's
24 distribution system, would be felt immediately in the GTA
25 and immediately by Enbridge.

26 Those deliveries are made directly in the market area.
27 So there's no line pack to rely on within Enbridge's
28 system, or there's very little to rely on, and there is not

1 much ability to serve it from other points within the
2 system. So it is important that the Parkway deliveries are
3 reliable.

4 When you look at what are the impacts, you know, 150-
5 to 225,000 customers would be lost within the -- within
6 Enbridge's system of an outage of plant B, which is the
7 largest compressor at Parkway, and a little more than that
8 if -- if the feed at Parkway consumers was lost, somewhere
9 in the range of 270,000 customers.

10 The total through-put at Parkway into the TCPL system
11 in 2005 was about half a BCF. And we talk about the
12 changing flows in North America and specifically in
13 Ontario. There is about a half a BCF on a design day that
14 was discharged in 2005 from Parkway into the TCPL system.
15 Today that number is about a little more than 2 BCF a day,
16 and in 2015, with the additional volumes on the system,
17 that number will be about 3 BCF a day.

18 So in about a ten-year period Parkway will have
19 increased its through-put into the TCPL system about six-
20 fold, while deliveries at Parkway consumers have remained
21 relatively stable.

22 If you look at it in terms of -- and we been accused
23 of having electricity envy, but we put these numbers into
24 megawatts. If you look at the through-put of about 4.6 pJs
25 a day, that is the -- on an hourly basis it is the
26 equivalent of about 50,000 megawatts flowing through
27 Parkway.

28 Our total electricity production capabilities in

1 Ontario are about 35,000 megawatts, and our peak usage was
2 about 27,000 megawatts back in the mid-2000s.

3 So it is a significant amount of energy to feed
4 Ontario, Quebec, and U.S. Northeast customers that flow
5 through one location.

6 As far as rates go, I won't spend much time on rates,
7 other than to say that there are modest rate impacts in the
8 south, for Union's south in-franchise, and those are
9 addressed in the evidence and would be addressed by our
10 manager of rate allocation and -- or, sorry, cost
11 allocation and rate design.

12 In the north, these rate impacts would also include
13 gas cost savings to our northern customers, our Union north
14 customers, both in the northern franchise and the eastern
15 franchise. And again, those are our net savings,
16 transportation costs and gas cost savings. They are
17 significant. We estimated a range of 18- to \$28 million in
18 the evidence.

19 And then finally, with respect to rate impacts, ex-
20 franchise rates, our M-12 Dawn to Parkway rate would
21 increase with the Parkway West project, as well as the
22 looping and Parkway D, would increase about 1.2 cents to
23 the 9 cent to 9.1 cent range. That's well within our
24 historical range of about 7 to 10 cents, dating right back
25 to 1990.

26 As we have expanded our system, we have been able to
27 keep our rates within a relatively tight range, and those
28 increases are supported by our M-12 shippers.

1 This was part of the standard deck. I don't think I
2 am going to spend much time on the regulatory applications.
3 I think everybody is aware of what is in front of them.
4 The only update would be that Parkway D and Brantford
5 Kirkwall was applied for on April 2nd.

6 In closing, you know, Parkway projects will provide
7 reliable natural gas delivery at what we believe is a
8 critical infrastructure point to serve downstream Ontario
9 industries, businesses, and residents.

10 It would allow northern and eastern Ontario consumers
11 to access cost-effective natural gas supplies at the Dawn
12 hub, the increase, diversity, and security of supply for
13 Ontario consumers, and it will allow those Ontario
14 consumers to access Marcellus shale and Utica shale gas
15 that can make its way into Ontario.

16 We are working with Enbridge and TCPL to find
17 efficient solutions to the energy needs here in Ontario,
18 and we believe that projects like the Parkway projects will
19 help attract new supply into Ontario from those emerging
20 Appalachian shale basins and support continued liquidity at
21 Dawn.

22 MS. CHAPLIN: Thank you, Mr. Redford. We don't have
23 any questions at this time.

24 MR. SMITH: Thank you, members of the Board.

25 MS. CHAPLIN: Mr. Cass?

26 **ENBRIDGE GAS DISTRIBUTION - PANEL 1**

27 MR. CASS: Thank you, Madam Chair. Mr. Craig
28 Fernandes of Enbridge has a presentation to make to the

1 Board. Mr. Fernandes is senior manager, regulatory for the
2 GTA project. The presentation comes from Enbridge's
3 evidence, but it's not in its entirety from a particular
4 place in the evidence. It's not possible to give a single
5 evidence reference number.

6 I would suggest, Madam Chair, that perhaps in due
7 course it could be given an exhibit number. In due course
8 we would provide a hard copy to Board Staff to -- for the
9 Board's files, if that is appropriate.

10 MS. CHAPLIN: Certainly. The Panel has hard copies,
11 and, yes, since it is not already -- since it's not
12 directly in the evidence, let's give this an exhibit
13 number.

14 MR. MILLAR: KI1.2.

15 MS. CHAPLIN: Thank you.

16 **EXHIBIT NO. KI1.2: ENBRIDGE GAS DISTRIBUTION DOCUMENT**
17 **FOR PRESENTATION BY MR. FERNANDES**

18 MR. CASS: So I will turn it over to Mr. Fernandes.

19 **PRESENTATION BY MR. FERNANDES:**

20 MR. FERNANDES: Thank you. I am trying to get set up
21 here.

22 So what we're going to be presenting -- or the purpose
23 of the presentation is really to clarify the needs and what
24 is being proposed in our application prior to any of the
25 other discussions that we have here today.

26 And what we're really proposing is a leave-to-
27 construct application, and the rate methodology required
28 for TransCanada, being a net new customer, that doesn't

1 have one for the services that are being proposed.

2 So for our agenda, we will review the current system
3 and the constraints within that system, and then talk about
4 what facilities are being proposed in the application and
5 how they meet those constraints.

6 Later on, we will have a quick review of the
7 stakeholder consultation to date, and then a review of the
8 application near the end.

9 MR. POCH: If I may, can we simply assume that when we
10 actually get into the hearing, these gentlemen will be
11 witnesses and they will adopt this under oath at that time
12 as their evidence? We don't have to worry about the
13 niceties now. I just want to be sure we can have reference
14 to these comments in the transcript later.

15 MR. SMITH: I don't have any objection. We fully
16 anticipate calling Mr. Redford as a witness.

17 MR. POCH: Thank you. That is satisfactory, Madam
18 Chair.

19 MR. FERNANDES: What is shown up on the board now is
20 what we would call a map of our vital main system. I want
21 to give you a little bit of context around that.

22 So the vital mains would be all of the large-diameter
23 high pressure mains within our system, and they form the
24 backbone of our network.

25 What is shown on the map, in terms of some of the
26 context, you can see the 400 series highways, and they are
27 simply there for geographical referencing and scale.

28 Now, some of the other items that are shown are

1 features on the map. If you look on the northern portion,
2 there is a black line. That would be TransCanada's
3 mainline system, and if you look to the southwest where the
4 box is labelled "Parkway Gate Station", that would be where
5 our main interconnection into the Dawn-to-Parkway system
6 from Union is.

7 There is a black line that goes from Parkway gate
8 station up around the northern side of Brampton and
9 connects up to the black line going east to west on the
10 northern side of the map, and that would be part of
11 TransCanada's mainline system and typically the connection
12 that would be referenced as Parkway to Maple.

13 Now, some of the major elements within our system
14 would be, you know, going from the upstream portion, which
15 is the systems that supply us, would be -- the gate
16 stations or the interconnections into our system are what
17 we would refer to as the entry points.

18 So as previously noted on the southwestern portion,
19 Parkway gate station is a connection to both TransCanada
20 and Union.

21 A little bit further east we have our Lisgar station,
22 and on the northern portion we have what is called Victoria
23 Square gate station.

24 Those are our three largest gate stations within our
25 system in the Greater Toronto Area.

26 Now, for people who aren't familiar with the system,
27 our gas distribution system, a good analogy would be the
28 highway system. So the backbone of our system would be

1 like the 400 series highways. It takes a large volume of
2 transport or a large volume of gas on that backbone, but
3 typically no customer or very few customers are actually
4 connected to that system, just like very few people
5 actually would have an address directly on the 401, for
6 instance.

7 So it does transport large volumes of gas, but
8 typically would come to what is called a regulation
9 station, and that would be very akin to an off-ramp, where
10 you would come off and go to a smaller main at a lower
11 pressure, and that would be very much like a major arterial
12 road. And typically most people would also turn onto a
13 side street, so there would be another pressure cut or
14 another regulation station, again, going to a smaller main
15 with a lower pressure before ultimate delivery to most of
16 our customers.

17 So the evidence mentions many requirements for the
18 proper operation of a large gas distribution system, such
19 as the ability to meet peak demand, but there is also one
20 of the main points or drivers behind our application, which
21 is the reliability and diversity throughout that supply
22 chain.

23 So we have to think about reliability in terms of
24 being able to deliver to our customers and meet all of our
25 firm demands throughout all of the points of that supply
26 chain.

27 So if we start to look at how the system actually
28 operates as we have growth within the system and demand,

1 what are the consequences within that system? And
2 typically what happens is we would have a point of minimum
3 system pressure, is what we would refer to it as. And
4 really what that is saying is that on that backbone of our
5 network, there is a system that sees the impact of growth
6 or a point within the system that sees the impact of that
7 growth. And it is seen as being -- dropping pressures
8 under peak demands.

9 That's typically a point which tends to be the
10 furthest away from the entry points into our system, and,
11 as you can see, as shown, our low point in our system is
12 currently at station B, which is one of our major district
13 stations that feeds the downtown core and other customers,
14 such as Portlands Energy Centre.

15 Another way of looking at it this is we have growth
16 throughout the region. The gas can be consumed before it
17 has the capability of reaching the destination or the
18 points furthest away from entry points into the system.

19 Another feature you can see on the map is you can see
20 on the western portion of the system there are many lines,
21 and many of those lines are going east-west.

22 On the eastern portion of the system, there is a
23 single line, the 30-inch Don Valley line. The east and the
24 west are connected by a 26-inch line that was built in the
25 late 1960s. So it's both a smaller diameter to the lines
26 it is connecting, but it is also operating at a lower
27 pressure.

28 So this 26-inch line is a bottleneck within our system

1 and it does prevent us, in times of heavy demand, from
2 channelling gas from one side of the metropolitan region to
3 the other on the backbone of our system.

4 So what does that mean? In times of heavy demand, for
5 all intents and purposes, the eastern portion of the GTA is
6 single-sourced. It receives its gas at Victoria Square
7 gate station, which is the second largest gate station
8 within our system, and feeds it down at Don Valley line,
9 down to station B, supporting PEC in the downtown core.

10 Now, there are only two sources where we can receive
11 that gas from. Well, we receive it from TransCanada, but
12 ultimately where is it sourced?

13 One would be short haul, and that would come through
14 Parkway, received from Union to TransCanada going through
15 the Parkway compressor set, and being transported around to
16 Victoria Square.

17 And as was mentioned in the previous presentation,
18 that is the one point on Union's system that does not have
19 loss of critical unit coverage which, to my understanding,
20 is a de facto standard for transport anywhere.

21 The second potential source would be from Empress, and
22 right now that would be utilizing STFT contracts, and those
23 contracts are currently at risk of non-renewal, or they
24 have -- they do not have guaranteed renewal rights.

25 A final point to note on this map with respect to our
26 constraints is Parkway gate station is, by far, the largest
27 gate station within Enbridge's system. It's actually the
28 largest gate station within Canada. And in cold winter

1 conditions, as per our evidence, it supplies about
2 58 percent of the gas in the Metro Toronto Area.

3 And as was mentioned previously, that was identified
4 as the single biggest point risk within our entire
5 distribution system in terms of consequences. So it would
6 be very difficult to mitigate a facility of that size if
7 there were to be an issue.

8 Next I would like to take you through the proposed
9 facilities. There's a lot in the evidence with respect to
10 the facilities, but we wanted to make sure that we could
11 kind of simplify them by grouping them together. So I am
12 going to start with the Bram West to Albion pipeline.

13 That is referenced as, number 1, being an
14 interconnection to TransCanada's mainline system, which
15 we're calling the Bram West interconnection. Then there is
16 the pipeline from Bram West to Albion that is referenced as
17 number 2 in the figure.

18 And then number 3 would be a proposed upgrade to our
19 existing Albion station in order to accommodate the
20 additional flows. So taken together, that is what is
21 sometimes commonly referred to as segment A.

22 A little bit further to the east we have, starting at
23 point 6, an upgrade or interconnection at our Keele
24 station. 7A is a pipeline that goes from east to west, to
25 point 8, where we are proposing a regulation facility that
26 we refer to as the Buttonville station. The pipeline would
27 continue south, interconnecting into an existing 36-inch
28 pipeline, and that is labelled as 7B.

1 Finally, down at point 9 we have an expansion to our
2 existing Jonesville station.

3 I want to point out a little bit what this actually
4 does for us. If you look at our Parkway gate station
5 today, and you look at the blue line coming north from
6 there, that is our existing 36-inch Parkway belt line, and
7 that 36-inch line does go through our Albion station and
8 over to Keele, where it runs into the bottleneck, the 26-
9 inch line.

10 So what is commonly referred to as segment B would
11 allow us to take our existing 36-inch line and move gas
12 over to our Don Valley line and down, extending it into as
13 far as Eglinton, where Jonesville station is located,
14 giving an alternate path or diversity of supply into the
15 downtown core, at least as far as Eglinton.

16 Finally, we have a few smaller boxes that are shown as
17 4 and 5 on the southwestern portion of this figure, but I
18 am going to take you to the next slide to try and explain
19 those a little bit more in detail.

20 Now, when we refer to the Parkway West gate station,
21 it really is made up of three components. One is the gate
22 station itself. And as Union described in their previous
23 presentation, Parkway West would be located immediately
24 across Highway 407 from the existing Parkway station. And
25 in some respects I would call it a sister site.

26 So we would have an interconnection with Union as the
27 gate station. We would have a short segment of pipeline in
28 order to tie it into our existing MPS 36 Parkway North

1 pipeline, and we would also upgrade an existing valve nest
2 between what is our 36-inch Parkway belt line and our 36-
3 inch Mississauga southern link line in order to have
4 regulation between those two pipelines.

5 And just to clarify that for you, because it is
6 probably quite an eye chart for you, I will try and point
7 for you. This line here is our Parkway North 36-inch line.
8 This line is the Mississauga southern link. When you try
9 and look at the two figures in order to fit them squarely
10 on a page, the orientation is not exactly the same, but
11 they both are the major feeds, or the only feeds, coming
12 out of our existing Parkway, but they operate at different
13 pressures.

14 So our solution is to have a gate station with a short
15 tie-in section to the higher pressure line and then put
16 some regulation between them. Collectively, this allows us
17 to effectively form a sister site that would allow us to
18 either diversify the flows between Parkway and Parkway
19 West, or completely shut down one or the other sites and
20 still maintain firm delivery to our customers.

21 Since Enbridge filed an amendment to its original
22 application, we thought it would be worthwhile to go
23 through what that amendment consisted of. We filed it in
24 two stages, collectively called update number 1 and update
25 number 2. The first one was more or less the qualitative
26 description of what we were proposing, which was ultimately
27 an agreement with TransCanada.

28 The second update was follow-on for the longer lead-

1 time items, some of the quantitative detailed costing and
2 feasibility with the impacts from that, which was filed
3 later on in April.

4 But that amendment consisted basically of three
5 changes. We shortened segment A, we had an agreement to
6 share segment A, and we shifted Parkway West.

7 So I am going to take you to -- back to the slide and
8 show you that a little bit more in detail if I can. So
9 originally we had our segment A pipeline originating at
10 Parkway West, which is this location. We agreed we could
11 interconnect to TransCanada, the Bram West interconnect,
12 and that allowed us -- or that was an agreement to utilize
13 their existing infrastructure between Parkway and the Bram
14 West interconnect. So it allowed shortening of
15 approximately 5 kilometres of pipeline.

16 The second piece was sharing. As I think Union
17 already articulated, we have an agreement to have joint use
18 of the pipeline. Effectively TransCanada will buy a
19 service from us. In order to transport the gas from Bram
20 West to Albion, there is a requirement for them to do an
21 additional leg into their mainline, and that will allow
22 them to help alleviate some of the constraints on their
23 system from Parkway to Maple.

24 And finally, there was a shift in Parkway West. This
25 was due to Union being able to ultimately secure a better
26 site. The original proposed facility would have been north
27 of Derry Road. Having a better site actually allowed for a
28 net reduction in the facilities between Union and

1 ourselves. This was a small incremental impact on us, but
2 a much larger reduction on Union's part. So we have been
3 working with both TransCanada and Union for quite some time
4 in order to make sure that we optimize the solution.

5 So all told, the project amendment doesn't materially
6 alter what we were originally proposing, but was rather an
7 optimization of the original solution.

8 Moving on quickly to the consultation process. So
9 over and above our consultations with TransCanada and
10 Union, we had a very extensive public outreach. We had two
11 full rounds of open houses across the GTA region that
12 included nine public open houses. We had over 230,000
13 direct mailings, in terms of invitations or informational
14 material, 35 newspaper ads in 13 different publications.
15 We've got over 680 contacts on our distribution list, and
16 we have had over 5,000 visits to the project website as of
17 March of this year. And those stakeholder consultations
18 are ongoing.

19 In addition, our Aboriginal consultation, we have had
20 outreach to First Nations and Metis starting early on in
21 the project, and that is ongoing.

22 We have had six First Nations express interest in
23 being informed and involved in the project planning, so we
24 continue to do that.

25 We have had stage 1 archeological assessment. Those
26 results have been communicated, and we have started our
27 stage 2 assessment, and we plan to communicate those as we
28 progress.

1 So moving on, the application. Fundamentally, the
2 application asks for two things. One is leave to construct
3 the proposed facilities, and we have asked for Board
4 approval by September of this year. And then the second
5 item is approval of the rate methodology for the shared
6 component of the project, or that portion that is agreed to
7 with TransCanada being a new customer.

8 In terms of the process discussion, we do recommend a
9 parallel but separate process, and that would allow that
10 interrelated issues, such as the purpose and benefits, can
11 be heard consecutively, and the proper discovery that is
12 required.

13 But we did want to point out that there are a lot of
14 unrelated issues, such as the growth alternatives,
15 feasibility, routing, landowner issues. Those can proceed
16 separately, and they probably should, because a point to
17 note on the bottom is that 20 out of the 36 intervenors in
18 Enbridge's application did not intervene in one of Union's
19 applications.

20 MS. CHAPLIN: Thank you, Mr. Fernandes.

21 So that concludes the presentations. The next item we
22 want to cover is the process.

23 **PROCEDURAL MATTERS:**

24 The Board received a letter yesterday from Ms. Chin
25 from Enbridge, I believe on behalf of Union and Enbridge,
26 with a proposed process, which follows on from the earlier
27 correspondence from each of the applicants proposing that
28 the applications not be combined.

1 So I think we would find it helpful for the applicants
2 to maybe take us through that a little bit. I think the
3 panel -- well, I have some questions, and I believe other
4 members of the panel have some questions, as to what is
5 intended and what the potential implications are. Does one
6 of you...

7 MR. SMITH: I'm not sure who is taking the bullet
8 here.

9 --- Laughter

10 **SUBMISSIONS BY MR. SMITH:**

11 MR. SMITH: But I will go first.

12 What the utilities have proposed, there are of course
13 three separate applications before the Board, but at least
14 from Union's perspective, the Board had indicated, I think
15 clearly - and I think it makes some sense in Union's
16 rebasing proceeding - that to the extent that there are
17 related aspects to these infrastructure projects, it makes
18 some sense to have them considered together.

19 And so with that in mind, it was thought that it would
20 make some sense to have these proceedings brought together
21 to have that evidence heard together. They have, as you
22 will now have seen, very comparable timelines.

23 There are, for lack of a better expression, related
24 issues and unrelated issues. Whether you combine the
25 proceedings or you don't combine the proceedings, I think
26 not much in substance turns on that. I think it would be
27 better, having regard to the fact that they are not
28 entirely overlapping applications, that they be kept

1 separate. It makes it, I think, administratively more
2 manageable.

3 But from Union's perspective, the main point is that
4 we have a common time line^, we have a common panel, which
5 I think benefits everybody, and we have a process or a time
6 line that provides for a decision in order to meet the - no
7 pun intended - downstream in-service dates of 2015.

8 And you will have seen from the evidence that there
9 are substantial lead times associated particularly with the
10 ordering of the compressors. Apparently these Rolls-Royce
11 compressors are a hot commodity, and Union requires
12 approvals in the time frames indicated in the application
13 in order to meet the 2015 in-service dates.

14 That is how we see it at a macro level. In terms of
15 the day-to-day conduct of the proceeding, which may be of
16 interest to the Board, fundamentally I don't see it as
17 different than when the Board hears any application and
18 decides it would be helpful to the Board to hear similar
19 evidence in a grouping.

20 So it is not uncommon for the Board to order the
21 applicants' witness or expert to testify on a particular
22 issue, followed immediately by the intervenor evidence on a
23 particular issue, and I would see this application
24 unfolding in much the same way as it relates to the related
25 issues.

26 So you would have the Enbridge panel or Union panel
27 speak to a particular issue, followed by the other
28 applicant's panel. And to the extent intervenors file

1 evidence, you would then have them speak or testify
2 immediately thereafter.

3 So that would be grouped, and then you would have the
4 unrelated issues, the environmental effects in respect of
5 the Parkway West or the Brantford-Kirkwall applications, by
6 way of example, go next, followed by the Enbridge project-
7 specific issues go thereafter, with one decision released
8 at the end of the day in order to meet the in-service time
9 lines.

10 So that is how we think it makes some sense to play
11 this out. Obviously the Enbridge letter, which Union
12 endorses, does contain a schedule through to the completion
13 of the hearing, obviously subject to the Board's
14 availability.

15 I do think given the time frames, it would be
16 preferable from the applicant's perspective and from the
17 intervenors' perspective, as well, to have a full time
18 frame, which is a little bit different than the Board has
19 done in some instances of having a staged time frame roll
20 out through the procedural orders issued throughout the
21 course of a proceeding. Here I think, to the extent
22 possible, we would be looking for a full time frame.

23 Those are the dates that obviously we have proposed,
24 subject to the Board's availability.

25 MS. CHAPLIN: Well, maybe I will pose my question to
26 you, Mr. Smith, and, Mr. Cass, you can address it, as well.

27 Since you are proposing a common time frame, common
28 concurrent witnesses or consecutive witnesses, but

1 potentially on the same days, what remains a distinction in
2 your mind? Why aren't they combined? Doesn't that
3 effectively combine them, and, if so, why your hesitancy to
4 do it officially?

5 MR. SMITH: Well, let me respond this way.

6 It is why I say in substance -- and I am sure this is
7 the genesis of the question -- why I say in substance it
8 probably doesn't matter if everything rolls out as we
9 anticipate it will.

10 The reason for the preference of the separate
11 proceedings is ultimately that the experience -- Union's
12 experience, in any event, thinking back to its initial IRM
13 applications back in 2006 I believe it was, those were a
14 joint proceeding with Enbridge just at the outset, and,
15 ultimately, the applications had to be split because Union
16 was applying for a price cap. Enbridge was applying for a
17 revenue cap.

18 They weren't exactly the same considerations. The
19 time lines didn't turn out to be exactly the same, and so
20 the proceedings ended up effectively being split.

21 I am just trying to be mindful of that experience at
22 the front end and saying, administratively, I think it is
23 easier if we start with them separate. There may be
24 different considerations. I hope things don't go off the
25 rails, obviously, for either of us and we all stick to the
26 time lines, but I don't know that to be certain today.

27 So that's the reason why, but, in substance, I don't
28 think that it matters a great deal. Our interest was in

1 making sure that there was a common decision maker and a
2 common time frame. The Board has the statutory power to
3 receive in one extent application evidence from another.

4 So it is not that big a deal jurisdictionally, either.
5 Mr. Cass could maybe comment on that, as well.

6 **SUBMISSIONS BY MR. CASS:**

7 MR. CASS: Thank you, Madam Chair.

8 First, I do agree with Mr. Smith the key factors here
9 are the common decision maker and, as much as possible, a
10 common time frame.

11 With respect to the issue about how to proceed with
12 the three different applications, perhaps I just might make
13 a few comments about that.

14 It seems to me that where that issue really hits home
15 is in respect of the oral parts of the proceeding. It
16 strikes me that to the extent that there are written
17 interrogatories or written interrogatory responses, there
18 is not a lot of issue about whether it needs to be combined
19 or not combined. It ends up effectively the same.

20 It is in relation to the oral parts of the proceeding
21 that I would see that the issue really comes home. As Mr.
22 Smith has already said, there certainly are related issues.
23 By the same token, there certainly are many unrelated
24 issues.

25 It strikes me as most efficient and actually most
26 flexible to start out for the oral parts of the proceeding
27 - that would be a technical conference and the hearing -
28 with the thought in mind that the related issues would be

1 scheduled in a manner such that they are first and
2 together. The witness panels would come up on the related
3 issues in a manner that they're together, consecutively,
4 one after the other.

5 On the unrelated issues, there is no such compelling
6 reason that all of the intervenors in Enbridge's case, for
7 example, who have issues about routing or those sorts of
8 things, would sit through a combination of Union's case --
9 I'm sorry, Enbridge's case and Union's two applications.
10 The reasons no longer apply once you get to the unrelated
11 issues.

12 In my submission, by not combining, by just having a
13 process that takes that into account, the Board has
14 retained the maximum flexibility for the Board, for all
15 parties who are participating.

16 And again, the notion would be that for the oral parts
17 of the proceeding, the technical conference and the
18 hearing, there would be an initial part that would deal
19 with related issues with consecutive witness panels, and
20 then there would be the unrelated issues dealt with
21 separately.

22 My submission is that it is most efficient for all
23 concerned and it also retains the most flexibility, as
24 opposed to today deciding you're just going to combine
25 everything, which in my submission takes away the
26 flexibility for those who don't necessarily participate on
27 all issues in all cases.

28 So that was the point I wanted to make on that.

1 I just wanted to also, if you don't mind, make a point
2 about the proposal that was set forth in Enbridge's letter
3 of April the 29th.

4 I wanted to draw a distinction if the Board doesn't
5 mind between the process steps and the dates. Others can
6 correct me if I am wrong, but the process steps, as set out
7 in this letter, represent an attempt to capture what was
8 discussed at the issues conference. That is not true of
9 the dates. The dates are a proposal for consideration.

10 So for example, interrogatories in advance of a
11 technical conference. There was a discussion of that at
12 the issues conference. There were different views. This
13 seemed to be the consensus.

14 There also was a discussion about whether a settlement
15 conference is needed. This seemed to be a consensus, well,
16 if not a settlement conference, perhaps a scoping
17 discussion.

18 My point is just to make the Board aware that the
19 left-hand side of that table, the process steps, was an
20 attempt to capture a consensus from the issues conference.
21 I hope that it did so successfully.

22 The dates are a proposal that Enbridge has put forward
23 and Union has agreed with, again with the thought in mind
24 that a common schedule is important. I hope that is
25 helpful.

26 MS. CHAPLIN: Thank you.

27 MR. SMITH: If I may make just one additional
28 observation that we forgot to make before but had been

1 asked to make. One practical consideration, I think, for
2 intervenors is the question of costs, and we have -- the
3 applicants have had discussions in that respect.

4 The proposal would be that for the related issues
5 intervenors would capture their time in respect of those,
6 and Union and Enbridge would be jointly responsible 50-50
7 for intervenor costs in respect of those issues, and then
8 for the unrelated issues intervenors would capture their
9 time in relation to the particular project or the
10 particular application, and then that would be paid for in
11 the normal course by the utilities in each of those
12 applications.

13 And, you know, that way people would be ensured of
14 getting full cost recovery, which I think is a reasonable,
15 practical consideration.

16 And other than that, I adopt Mr. Cass's submissions.

17 MS. CHAPLIN: All right. Thank you. We understand
18 your proposal.

19 Do the intervenors have submissions they wish to make
20 on the proposed process and process steps?

21 MR. POCH: Madam Chair, do you want our submissions on
22 timing as well at this time?

23 MS. CHAPLIN: We will want your submissions on timing,
24 but let's -- let's set those aside, because let's figure
25 out the process and the steps, and then we will figure out
26 timing, and it may be we will put that back into your hands
27 to see if something can be agreed, or we may not. So let's
28 set aside timing for now.

1 MR. POCH: Madam Chair, just on the process issue,
2 since I happen to have the mic, from our perspective I
3 think it is just perhaps a distinction without a difference
4 whether we keep the dockets separate or notionally combine
5 them. I appreciate Mr. Smith's suggestion of how we should
6 track our costs.

7 I would say in our case we're proposing to bring
8 forward evidence. It will be about common issues. We
9 wouldn't propose to bring forward separate evidence for the
10 two utilities.

11 So whatever the Board's -- all we ask is, whatever
12 route the Board goes, that it enables us to have a merged
13 process for the common issues, and I think then after that
14 the witnessing can be phased such that parties that don't
15 need to be here for other -- for different aspects don't
16 need to be, and that would, of course, convenience
17 everybody.

18 I have nothing further to add on that.

19 MS. CHAPLIN: Thank you.

20 MR. BRETT: Madam Chair.

21 MS. CHAPLIN: Mr. Brett.

22 MR. BRETT: Yes. I have -- BOMA has just two brief
23 comments on process.

24 One is, if we go the separate-but-parallel route, I
25 think it is important that the Board exercise its
26 jurisdiction to make the evidence in each of the cases
27 evidence in each of the other cases so there isn't any
28 problem with that or any argument about how that works, and

1 the Board can exercise its discretion as to the relevance
2 of questions so you don't have ridiculous things happening.

3 Secondly, I think if we also -- if we go the separate
4 route -- and we're agreeable to the separate parallel, but
5 I guess with these caveats, the first of which I have
6 mentioned. The second would be that it is sort of
7 understood by all parties that there won't -- that each
8 party would make an effort to deal with questions put to
9 them that might relate to, in part, to their case, but in
10 part to one of the other cases, in the sense that either
11 their decision -- effectiveness of their decision that
12 they're asking would be contingent on another -- a request
13 of another party, or that they're -- conversely, that they
14 are being constrained in some sense unless they get a
15 decision, a certain decision by another party.

16 I'm trying -- this is a little awkward, but I would
17 like to avoid a situation, and I think there is a potential
18 for this, where witnesses would say, Well, that's the other
19 -- you asked that question to the other group, and then it
20 goes back and forth. I don't think that would be helpful.

21 I guess I have made two separate points there. One is
22 sort of a -- one is sort of a style point, and the other is
23 a more substantial point. But it would have to be
24 understood that we would proceed in that manner.
25 Otherwise, I think it is clear just to have a single
26 process.

27 MS. CHAPLIN: Thank you.

28 Mr. Thompson.

1 MR. THOMPSON: Yes. We're comfortable with the
2 utilities' proposal.

3 MS. CHAPLIN: Okay.

4 MS. GIRVAN: Yes, generally, we're comfortable. The
5 only thing that I might add is that -- just a potential --
6 would be a combined panel of both the utilities. That
7 might be useful to maybe avoid what Mr. Brett was talking
8 about, at least an overview panel potentially. That is
9 just a suggestion on our part.

10 MS. CHAPLIN: Okay. Oh, sorry, yes, Mr. Ross.

11 MR. ROSS: TransCanada supports the process proposed
12 by the utilities.

13 DR. HIGGIN: Can I -- hello, it's Roger Higgin for
14 Energy Probe. We would support the company's proposal, in
15 essence the combined phase, where -- and then the separate
16 review of the separate components, and so we would be in
17 support of that. Thank you.

18 MS. CHAPLIN: All right. One moment, please.

19 [Board Panel confer]

20 MS. CHAPLIN: All right. I think what we will do is
21 we will reserve on giving you our decision on the process.
22 And so we won't break -- we won't break for that purpose,
23 but I am now recalling there is also the issue of
24 confidentiality that we need to deal with. So maybe we can
25 try and deal with that now?

26 MR. CASS: Madam Chair, if I may, just before we leave
27 the issue of process, might I add one comment in response
28 to what we heard from others?

1 I understand Ms. Girvan's point about the potential
2 that a combined panel might be useful. I would urge the
3 Board not to make that decision now, though. The
4 applicants may well ultimately agree with that. I just
5 submit to the Board it is hard to know that for sure at
6 this point in time how a combined panel would work. So I
7 suggest that maybe it is a little premature to decide the
8 actual panels.

9 MS. CHAPLIN: Okay. Thank you.

10 So the issue of confidentiality, I believe there is a
11 request by Enbridge to have a number of items remain in
12 confidence. Mr. Cass, can you give us your views on that
13 request?

14 MR. CASS: Yes, indeed, Madam Chair.

15 I will just try to bring this back to mind so I can
16 express it clearly to the Board.

17 My way of describing it would be that there are two
18 categories of information in respect of which
19 confidentiality is claimed, and one of those categories
20 might be seen as having two parts.

21 The first category is, if I can express it broadly
22 this way, I hope I don't overgeneralize and misstate it,
23 but it is information about particular landowners in
24 respect of which confidentiality is claimed.

25 The basis for that is obvious, that information that's
26 particular to the landowners should be kept confidential to
27 protect their rights, and of course it can be available to
28 parties under the usual confidentiality provisions.

1 The other category which I said one might divide into
2 two parts, again, I hope I am not overgeneralizing and mis-
3 describing it, but it has to do more with cost components
4 of the project.

5 One aspect of that is cost information that, if
6 disclosed publicly, could prejudice the bidding for the
7 actual construction work of the project. So the reason for
8 that request is that parties, of course, can have the
9 information under the usual confidentiality provisions, but
10 not so that it would be public and potential bidders would
11 have that information that they could use for the purposes
12 of bidding. It is a concern that that would prejudice the
13 bidding process.

14 The second part of that category is the same type of
15 thing in relation to amounts that might potentially be paid
16 to landowners. Again, it would be available to parties
17 under confidentiality, but the concern would be to have
18 that available publicly could potentially affect
19 negotiations with the landowners.

20 MS. CHAPLIN: All right. Do you have specific
21 evidence references for these two requests?

22 MR. CASS: I don't have -- I don't have them off the
23 top of my head, but I will try to get them for you.

24 MS. CHAPLIN: If you could provide them to us.

25 And just to ensure I understand, Enbridge has no
26 objection to these materials being made available to
27 counsel and consultants if they have executed the Board's
28 declaration and undertaking?

1 MR. CASS: That's correct. I am not sure if Mr. Stoll
2 can help more with your question than I was able to, Madam
3 Chair.

4 MR. STOLL: Yes. I was just going to say there were
5 two letters filed on December 21st, the one with respect to
6 the landowner information - I guess category 1, as Mr. Cass
7 referred to it - had four evidentiary references listed on
8 the first page. Exhibit A, tab 2, schedule 3, the
9 interested parties was the first; the second being
10 Exhibit B, tab 2, schedule 1, the GTA Project Environmental
11 Report; the third Exhibit D, tab 1, schedule 2,
12 negotiations to date; and the final one in that category
13 was Exhibit D, tab 1, schedule 4, the landowners.

14 MS. CHAPLIN: Thank you.

15 MR. STOLL: That was the first category. There is --

16 MS. CHAPLIN: Mm-hm.

17 MR. STOLL: In the second category, which was the
18 financial, Exhibit C, tab 2, schedule 1, estimated project
19 costs, and Exhibit E, tab 1, schedule 1, project benefits
20 and economics.

21 MS. CHAPLIN: And at this point on the public record
22 there are redacted versions; is that correct?

23 MR. STOLL: That is correct.

24 MS. CHAPLIN: Maybe I can make this short. Do any of
25 the intervenors have any objection to the proposal for
26 confidentiality that Enbridge has put forward?

27 MR. POCH: Madam Chair, I don't have an objection. I
28 would just ask that -- and I don't think this would be

1 difficult -- if we could just obtain some assurance from
2 the companies they will make their best efforts to,
3 wherever possible, provide consolidated data on the record,
4 as they have done to some extent already.

5 It just facilitates, for example, my experts being
6 able to refer to this without having to worry about
7 breaching confidentiality, and that would be of assistance,
8 I think, because often we can deal with things in the
9 consolidated way without giving away any secrets.

10 But, in any event, we have no objection.

11 MR. MILLAR: Madam Chair, Michael Millar. One quick
12 comment, just a point of clarification from the company.

13 With respect to the landowner information, the
14 specific landowner information, again working a bit from
15 memory here, my recollection - and it may indeed be a
16 requirement of the Freedom of Information and Protection of
17 Privacy Act - is that we don't release the personal details
18 about the landowners at all, including to people who have
19 signed the undertaking.

20 Again, I stand to be corrected on that, but I am
21 pretty sure that's been our practice in the past.

22 I may have misheard Mr. Cass, as well. I heard him
23 say that he was proposing to make that information
24 available to people who signed the undertaking.

25 If I misheard him, I apologize. If he did plan to
26 make it available to people who signed the undertaking, I
27 am not sure that is right. I don't think typically we let
28 people see that at all. So maybe first I will turn it over

1 to Mr. Cass. If he does propose to let those who have
2 signed the undertaking see it, I would suggest we don't do
3 that, because, first, I don't really see how it is
4 particularly relevant to anybody, and we are prevented from
5 releasing certain personal information through operation of
6 the statute.

7 MR. CASS: You did hear me correctly, Mr. Millar, and
8 you have corrected me. I apologize for that.

9 I was thinking, to the extent that there is anything
10 in that information that could be relevant to the
11 proceeding and could be provided, it would be done, but you
12 have corrected me.

13 MR. MILLAR: Thank you.

14 MS. CHAPLIN: So the Board is content with that
15 request for confidentiality. The information will be
16 disclosed to counsel and consultants which execute the
17 Board's declaration and undertaking, with the exclusion of
18 personal details regarding specific landowners.

19 All right. So that, I believe -- perhaps we will just
20 cover off -- I had said we would set aside timing.

21 The Board is not in a position to make its decision on
22 the process at this point, but perhaps we will just canvass
23 the parties briefly on the timing.

24 So we have the companies' proposals for the schedule.
25 Do the intervenors as a whole have a proposal for the
26 schedule, or general submissions or -- Mr. Higgin.

27 DR. HIGGIN: Before you go there, sorry, I haven't
28 read the latest application - that's the 2013-0074 - so

1 through you, can I ask if Union has any confidential
2 information in that docket?

3 I have read the other one and there isn't, but just to
4 confirm.

5 MR. SMITH: Just a minute, members of the Board.

6 [Mr. Smith confers with Mr. Kitchen]

7 MR. SMITH: I believe the answer -- the answer to the
8 question is no. There is a portion of the Parkway West
9 application in respect of which Union sought and received
10 confidential treatment, a report by ScanPower, but nothing
11 in the second application.

12 MS. CHAPLIN: Thank you.

13 Are there any specific submissions around timing, Mr.
14 Poch?

15 MR. POCH: Madam Chair, Mr. Elson, who had to leave,
16 asked me to make a submission on his behalf, and I have one
17 on behalf of GEC, as well.

18 We're trying to cooperate, by the way, I should add,
19 with Mr. Elson's client, as well as others that I am aware
20 of who are proposing to bring evidence to try to make sure
21 that we don't duplicate effort and that the issues are
22 parcelled out.

23 The specific concern is with the time between the
24 receipt of interrogatory responses, the technical
25 conference, and then the submission of intervenor evidence,
26 and right now the proposal on its face from the companies
27 is completely unworkable for us. I think they have three
28 days from the technical conference to our experts, who are

1 supposed to be able to file evidence, which is of course
2 infeasible.

3 Mr. Elson, for example, asked me to put the example
4 before you. Their evidence wants to look at quite
5 specifically what can be done, for example, in the station
6 B client area or customer area of Enbridge's franchise in
7 the way of conservation.

8 To do that, they would need -- they need at the very
9 least a delineation of the boundaries and the customers,
10 who make up the customers, and so on.

11 They informally sought information from Enbridge some
12 weeks ago and received an e-mail response back thanking
13 them for giving Enbridge a heads-up on the information they
14 will need, but declining to respond, indicating that their
15 staff wanted all inquiries to go through the formal process
16 steps.

17 Speaking for myself - I can't speak for Mr. Elson - I
18 understand the need, in a large hearing like this, for them
19 to keep things organized and for counsel to have an
20 opportunity to see responses before they're issued and so
21 on, but given that, there hasn't been any opportunity to
22 accelerate things.

23 So we really -- Mr. Elson certainly -- his expert is
24 certainly going to be in need of some very specific
25 evidence before he can really begin his work.

26 In the case of GEC, I have a more complex little
27 problem. We're proposing to bring evidence on
28 alternatives, including alternatives that encompass

1 conservation, and so the first part of our work will be our
2 experts on the gas, the supply side, if you will, gas costs
3 and so on, and the output of their work would provide
4 avoided costs to our conservation expert, who would say
5 what could be done and how fast in a general sense, given
6 those costs. That would also presumably inform Mr. Elson's
7 very specific evidence about what can be done in specific
8 hot spots.

9 And so we need a period of time to allow our first
10 experts to get interrogatory answers and do their
11 calculations to feed our second group of experts.

12 I would think we would need a minimum of a month after
13 interrogatories and a technical conference to accomplish
14 that. I think in any event, looking at my friend's
15 proposed schedule, in addition to that, their expectation
16 for how long this hearing is going to take may be
17 optimistic, as much as I would like to think it could be so
18 expedited. No one wants to be here in a hearing room in
19 July and August, but -- and they might be wise to get an
20 option on a Rolls Royce compressor.

21 MS. CHAPLIN: Thank you, Mr. Poch.

22 Mr. Rubenstein, and then Mr. Brett.

23 MR. RUBENSTEIN: I just wanted to support a comment
24 made by Mr. Smith earlier that it would be very helpful if
25 the Board, in determining the process, also set out all the
26 dates, as much as is feasible.

27 MS. CHAPLIN: Mr. Brett.

28 MR. BRETT: Yes. Thanks, Madam Chair, Panel.

1 BOMA will be co-sponsoring the evidence of
2 Environmental Defence, and it will be as Mr. Poch
3 described, and I would second his request for an
4 appropriate amount of time to prepare that evidence once
5 the interrogatory responses are in.

6 I think at the current time it is something like a
7 week or ten days. It has to be -- we would like it to be
8 significantly longer than that. Thank you.

9 MS. CHAPLIN: Okay. Ms. Girvan.

10 MS. GIRVAN: Sorry, I should have probably mentioned
11 this in the process discussion, but all I was going to
12 suggest is at times I think it is useful, particularly in
13 cases like this, for intervenors to follow Board Staff, in
14 terms of interrogatories. That way it is somewhat
15 eliminating some of the questions. So that is just an
16 addition that I was going to suggest.

17 MS. CHAPLIN: Thank you.

18 Yes, Mr. Shrybman.

19 MR. SHRYBMAN: Thank you, Madam Chair.

20 I support Mr. Poch's submissions as well. It is our
21 intention to reprise the evidence that we introduce before
22 the Board in a previous proceeding having to do with the
23 regulation of gas markets, and that evidence concerned --
24 that was expert evidence concerning the march of regulatory
25 measures in the United States which may have an impact on
26 the price and availability of gas from shale plays.

27 And it would be our intention to update and perhaps
28 complement that report with specific attention being paid

1 to the potential impact of resource exploitation in that
2 geological structure and its implications for water
3 conservation and water impacts.

4 And so the schedule is very, very tight. In any other
5 proceeding, I'd probably take the position it was
6 unworkable, but, you know, given the additional time that
7 Mr. Poch has argued he requires, we would certainly
8 endeavour to do our best to meet those time frames.

9 Without having talked to my experts and canvassed
10 their availability, I am at a disadvantage at the moment.
11 But we would certainly do our best.

12 But this proposal seems just implausibly onerous,
13 particularly given the gap between the technical conference
14 and the date that our evidence would be due on.

15 Thank you.

16 MS. CHAPLIN: Thank you.

17 Mr. Smith, Mr. Cass, do you have anything in response?

18 MR. SMITH: If I may, I would like to respond to two
19 points. The first is the time between the date for the
20 interrogatory responses and the date proposed for
21 intervenor evidence.

22 I recognize that it is a reasonably modest time frame,
23 but I would say that the focus on that time period is
24 misplaced in this respect.

25 The Parkway West application is not new. It was
26 discussed at some length in Union's rebasing proceeding.
27 The fact that Union would be coming forward with this
28 application was well-understood, as with the Brantford-to-

1 Kirkwall project as well.

2 So I fully expect -- I don't know what my friends are
3 doing, but I fully expect that they are working hard away
4 at their evidence, and if they're not, I would think that
5 the reasonable course of conduct for them to be doing would
6 be to be doing that right now.

7 And it may well be that their evidence requires some
8 sort of tailoring. But if it is the case that you are in a
9 position to argue, as others have, today for inclusion of
10 an issue on the issues list, you have thought out what it
11 is that you want to say, and you can be working on your
12 evidence now.

13 The Parkway application was filed in January, and the
14 Parkway West application -- sorry, and the Brantford
15 Kirkwall application was filed at the beginning of this
16 month.

17 So I think, more practically, intervenors will have --
18 those who wish to file evidence will have several months by
19 the time the June date rolls around to file that, to file
20 that evidence.

21 The second observation I would make is with respect to
22 Ms. Girvan's comments about the staging of the
23 interrogatories. And I appreciate the intention of having
24 Board Staff go first in a desire to narrow the scope of the
25 interrogatories.

26 Experience tells me that that isn't the case, that
27 there isn't a true narrowing. I would think that if we
28 have one interrogatory date and a proper technical

1 conference, that there can be, to the extent required,
2 clarification, and the absolute number of questions is not
3 decreased by staging.

4 MS. CHAPLIN: Okay. Mr. Cass, did you have anything
5 further?

6 MR. CASS: Well, actually, I have very little to add,
7 Madam Chair, because Mr. Smith anticipated much of what I
8 was going to say.

9 I was going to make the comment that to think of a
10 month after the conclusion of the technical conference as
11 an appropriate time for intervenors to have to prepare
12 evidence, in my submission, is really not a realistic way
13 of viewing the schedule of a case like this at all.

14 Prior to the technical conference the intervenors will
15 already have had answers to interrogatories. Prior to even
16 having answers to interrogatories, as Mr. Smith pointed
17 out, they can surely get a start on the evidence.

18 The schedule, as laid down in the letter written by
19 Enbridge, anticipated that by the time the technical
20 conference is done, surely the intervenors, with the
21 answers to interrogatories, with the time that they have
22 had, shouldn't need a lot of additional time to incorporate
23 into their evidence what comes out of the technical
24 conference.

25 That was the thinking behind this schedule. And in my
26 submission, that is entirely reasonable to expect that by
27 that stage of the proceeding they shouldn't need a lot of
28 additional time to incorporate whatever they get from the

1 technical conference.

2 Thank you, Madam Chair.

3 MS. CHAPLIN: Okay. Thank you.

4 Are there any other matters to be raised today? No?

5 Okay. Thank you. We will issue our decision on the
6 process and the schedule, along with the final version of
7 the approved issues list, shortly. Thank you very much.

8 --- Whereupon the hearing adjourned at 1:10 p.m.

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