



ONTARIO ENERGY BOARD

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

VOLUME: 2

DATE: September 16, 2013

BEFORE: Cynthia Chaplin Presiding Member and Vice-Chair
Marika Hare Member
Peter Noonan Member

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

THE ONTARIO ENERGY BOARD

IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for: an order or orders granting leave to construct a natural gas pipeline and ancillary facilities in the Town of Milton, City of Markham, Town of Richmond Hill, City of Brampton, City of Toronto, City of Vaughan and the Region of Halton, the Region of Peel and the Region of York; and an order or orders approving the methodology to establish a rate for transportation services for TransCanada Pipelines Limited;

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; an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the Town of Milton; an Order or Orders for pre-approval of recovery of the cost consequences of all facilities associated with the development of the proposed Brantford-Kirkwall/Parkway D Compressor Station project; an Order or Orders for preapproval of the cost consequences of two long term short haul transportation contracts; and an Order or Orders granting leave to construct natural gas pipelines and ancillary facilities in the City of Cambridge and City of Hamilton.

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario,
on Monday, September 16th, 2013,
commencing at 8:36 a.m.

VOLUME 2

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
JOSH WASYLYK	Board Staff
ZORA CRNOJACKI	
FRED CASS	Enbridge Gas Distribution Ltd.
CRAWFORD SMITH	Union Gas
MYRIAM SEERS	
ELISABETH DeMARCO	Association of Power Producers of
JOHN WOLNIK	Ontario (APPrO)
TOM BRETT	Building Owners and Managers
	Association (BOMA)
VINCE DeROSE	Canadian Manufacturers & Exporters
	(CME)
JULIE GIRVAN	Consumers Council of Canada (CCC)
STEVEN SHRYBMAN	Council of Canadians
ROGER HIGGIN	Energy Probe Research Foundation
DWAYNE QUINN	Federation of Rental-housing
	Providers of Ontario (FRPO)
MARK CRANE	Industrial Gas Users' Association
	(IGUA)
DAVID POCH	Green Energy Coalition (GEC)
RANDY AIKEN	London Property Management
	Association (LPMA)
DAVID GERMAIN	Markham Gateway
MARK RUBENSTEIN	School Energy Coalition (SEC)

A P P E A R A N C E S

GORDON CAMERON

TransCanada Pipelines Ltd.

MICHAEL JANIGAN

Vulnerable Energy Consumers'
Coalition (VECC)

ALSO PRESENT:

KAREN HOCKIN

Union Gas

MARK KITCHEN

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1 Monday, September 16, 2013

2 --- On commencing at 8:37 a.m.

3 MS. CHAPLIN: Good morning. Please be seated.

4 Good morning, everyone. I believe we are ready today
5 to begin testimony in this proceeding. Before we begin I
6 will take appearances, please, starting with the
7 applicants.

8 **APPEARANCES:**

9 MR. SMITH: Good morning, members of the Board.
10 Crawford Smith, and my colleague Myriam Seers, on behalf of
11 Union Gas, and with me from Union are Karen Hockin and Mark
12 Kitchen.

13 MS. CHAPLIN: Thank you.

14 MR. CASS: Good morning. Fred Cass for Enbridge Gas
15 Distribution.

16 MS. CHAPLIN: Thank you. We'll just go down the row,
17 Mr. Cameron.

18 MR. CAMERON: Good morning. Gordon Cameron for
19 TransCanada Pipelines.

20 MS. CHAPLIN: Thank you.

21 MR. BRETT: Good morning. Tom Brett for BOMA.

22 MS. CHAPLIN: Thank you.

23 MR. POCH: Good morning. David Poch for Green Energy
24 Coalition, GEC.

25 MR. SHRYBMAN: Good morning. Steven Shrybman for the
26 Council of Canadians.

27 MS. CHAPLIN: Thank you, Mr. Shrybman.

28 MS. GIRVAN: Julie Girvan, Consumers Council of

1 Canada.

2 MS. CHAPLIN: Thank you.

3 MR. DeROSE: Good morning, Panel. Vince DeRose on
4 behalf of CME.

5 MS. CHAPLIN: Thank you.

6 MR. RUBENSTEIN: Mark Rubenstein for the School Energy
7 Coalition. I've been asked to put in an appearance for
8 Michael Janigan for the Vulnerable Energy Consumers
9 Coalition.

10 MS. CHAPLIN: Thank you.

11 MR. QUINN: Good morning, Panel. Dwayne Quinn on
12 behalf of FRPO.

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

14 MR. CRANE: Good morning, Panel. Mark Crane on behalf
15 of Industrial Gas Users' Association.

16 MS. CHAPLIN: Thank you, Mr. Crane.

17 DR. HIGGIN: Good morning. Roger Higgin for Energy
18 Probe.

19 MS. CHAPLIN: Thank you.

20 MR. AIKEN: Good morning. Randy Aiken for the LPMA.

21 MS. DeMARCO: Good morning. Lisa DeMarco and John
22 Wolnik on behalf of the Association of Power Producers of
23 Ontario.

24 MS. CHAPLIN: Thank you.

25 MR. MILLAR: Good morning, Panel. Michael Millar on
26 behalf of Board Staff. I'm joined by Josh Wasylyk and Zora
27 Crnojacki.

28 MS. CHAPLIN: Thank you. We're also joined today by a

1 group of students from Seneca College, so we welcome them
2 as well.

3 Do we have any preliminary matters before we begin the
4 testimony? Oh, sorry.

5 MR. GERMAIN: David Germain for Markham Gateway.

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

7 **PRELIMINARY MATTERS:**

8 **SUBMISSIONS BY MS. DEMARCO:**

9 MS. DeMARCO: Madam Chair, we do. It's Elisabeth
10 DeMarco on behalf of the Association of Power Producers of
11 Ontario. And my client finds itself in a bit of a
12 quagmire.

13 MR. NOONAN: Can you speak up a bit? I can't hear
14 you.

15 MS. DeMARCO: I'm sorry, my mic isn't working at the
16 other station, so John and I will be very cozy over here.

17 My client finds itself in a bit of a quagmire, in
18 terms of the confidential nature of the settlement
19 agreement that has been filed and its ability to get
20 instructions from its instructional committee in the first
21 instance.

22 And while APPrO is very congratulatory and supportive
23 of the parties for proceeding to negotiate what appears to
24 be a commercial-based agreement to what was a real can of
25 worms in the Ontario gas transportation sector, it's having
26 challenges assessing the actual impacts of that agreement.
27 And in particular, at a number of points in the transcript
28 that was issued on Friday, it's clear that that financial

1 information is not yet there.

2 So somewhere between the timing of where we're at and
3 the absence of that impact information, and the
4 confidentiality that the agreement is subject to, they are
5 quite challenged in ensuring that they can participate in a
6 procedurally fair manner fully with the instruction of
7 their instructional committee.

8 So I'm wondering if there are other parties who find
9 themselves in a similar quagmire, and whether or not the
10 Board had any specific direction on how we might resolve
11 this.

12 MS. CHAPLIN: Do you have a proposal, Ms. DeMarco?

13 MS. DeMARCO: I do have instructions to potentially
14 seek an adjournment at this point, but ultimately I think,
15 again, APPrO is very congratulatory of where the parties
16 have got to at this point, and it may very well be a great
17 commercial agreement. They simply need to have their full
18 procedural rights to understand the rate impacts of that
19 proposal reflected and exercised.

20 And if it would assist the Board and the Panel, I'm
21 happy to point to a number of instances in the transcript
22 where we are challenged with that lacuna in the information
23 at this point. Would that be helpful?

24 MR. MILLAR: Madam Chair, I'd observe we probably
25 can't do that unless we go in camera, because, of course,
26 the transcript is --

27 MS. CHAPLIN: Oh, I guess I thought she was going to
28 just refer us to particular page numbers, as opposed to the

1 specific information. Can you do it that way briefly?

2 MS. DeMARCO: I can.

3 MS. CHAPLIN: Okay.

4 MS. DeMARCO: I'm starting first at page 17 and 18, a
5 question from Mr. DeRose to Ms. Giridhar.

6 MS. CHAPLIN: Okay.

7 MS. DeMARCO: Next would be starting at page 20, a
8 question from Mr. DeRose and response from Mr. Cabana.

9 MS. CHAPLIN: Okay.

10 MS. DeMARCO: And then again starting at page 27 and
11 28, some discussions in relation to what I would call the
12 lacuna in the impact evidence.

13 MS. CHAPLIN: All right.

14 MS. DeMARCO: I'd like to emphasize that certainly
15 APPrO is very pragmatic, and as long as its procedural
16 rights can be protected and it can appropriately seek
17 instructions from its instructional committee on a
18 disclosable agreement and/or otherwise find another way to
19 ensure that the ultimate decision is rendered in accordance
20 with its legitimate expectation that it would have the
21 right to fully know the evidence and the impacts of the
22 agreement.

23 So certainly, again, Mr. Butters in particular is
24 particularly congratulatory of where we've gotten to. He
25 just needs to fully understand where we're at.

26 MS. CHAPLIN: All right. Thank you. Are there other
27 counsel -- I'll hear from the intervenors first on this
28 subject, and then the applicants. Mr. Rubenstein?

1 confidentiality has been removed, which from my
2 understanding from the applicants will not be until the
3 final document is negotiated.

4 MS. CHAPLIN: Thank you. Mr. Poch?

5 **SUBMISSIONS BY MR. POCH:**

6 MR. POCH: Thank you, Madam Chair.

7 I can certainly sequence my questions so that a
8 portion of them that are referred to or are likely to
9 elicit responses that refer to the details of the term
10 sheet could be handled in a -- hopefully handled in a
11 chunk. And that might simplify somewhat the problem. It
12 would be cumbersome for sure.

13 Of course that doesn't address some of the concerns, I
14 think, shared more by my friends than by GEC, which is that
15 the ultimate impact of the term sheet on tolls remains
16 outstanding.

17 That said, I guess I'm struggling more with the
18 rationale for the need for confidentiality. It seems to me
19 -- and maybe this is something that the LDCs can speak to,
20 counsel for the LDCs can speak to -- it seems to me if the
21 term sheet is a deal, and the -- within the four corners of
22 that term sheet it's not going to move around -- obviously
23 the details are yet to be defined. I'm not entirely sure
24 how public disclosure of that, the structure of that deal,
25 which is a deal which is -- to the extent it specifies
26 things -- finalized, I'm not sure how disclosing that
27 creates any great difficulty.

28 Now, I appreciate it will precipitate more press

1 coverage and more -- you know, for the utilities, and
2 they'll have to manage that. But frankly, I have -- I'm at
3 a loss to understand why it's so crippling for that to be
4 made public. And I have some sympathy for Ms. DeMarco's
5 position, which is to the extent that the highest level
6 disclosure of that deal is not sufficient to gain
7 instructions, it's a problem.

8 I actually don't have that problem in particular
9 circumstances of the theory of my case, but I respect that
10 others might.

11 Those are my submissions.

12 MS. CHAPLIN: Thank you. Mr. DeRose?

13 **SUBMISSIONS BY MR. DEROSE:**

14 MR. DEROSE: Yeah, Madam Chair, just I guess to put
15 our position on, with respect to the confidentiality, we
16 can proceed in camera, but I can warn you that, for
17 instance, my cross-examination today, 75 percent of it, I
18 think out of an abundance of caution, will be in camera.

19 And so long as it is dealt with by the time that -- I
20 mean, ideally, when we submit our written submissions,
21 although we can just submit our written submissions
22 entirely in confidential form, or by the time that you
23 release your decision.

24 I mean, we've done this before, and it is always a
25 little bit awkward when you're trying to figure out what
26 parts of your argument are or are not confidential, or what
27 parts of a decision are or are not confidential. I think
28 that's just a pragmatic -- it's what is easier for the

1 Board.

2 In terms of the issues which were dealt with in the
3 technical conference -- and I understand that you have the
4 transcripts and Ms. DeMarco has taken you through some
5 issues -- there is, I think, I would describe it as "toll
6 uncertainty." And which, in the near future -- I don't
7 even know whether the timing of when it's going to be known
8 is, but it's not far off. And if you like that, I think
9 Board Staff can tell you when the anticipated date that
10 there would be more toll certainty would be available to
11 you. It's not far off.

12 And so, if we start today, I can tell you one of the
13 things that I will be advocating for, and I think I'll
14 demonstrate it in my cross, is that this is information
15 that you need to consider and that you're going to have to
16 come back and consider. And it's not that far off.

17 Alternatively, if you think it's in the interest of
18 your process and more efficient, you may want to consider
19 hearing that evidence once the toll uncertainty no longer
20 exists. It's a short gap.

21 So I'm ready to proceed today, but it's more of a
22 heads-up that I think there are issues that you will
23 probably have to come back and consider in the very near
24 future if we proceed today. So it's more of a pragmatic
25 efficiency issue from my perspective.

26 MS. CHAPLIN: Thank you. Ms. Girvan?

27 **SUBMISSIONS BY MS. GIRVAN:**

28 MS. GIRVAN: Thank you. I guess I'd just like to add

1 I agree with the submissions of Mr. DeRose.

2 I'm not so sure it's a short gap. I think -- at the
3 end of the day, I think the Board really has to assess
4 whether it can assess the economics of this projects in the
5 absence of final tolls, and I think that is subject to
6 approval by the National Energy Board.

7 So I'm not sure, and perhaps the utilities could help
8 us with that, but in terms of assessing the real economics
9 of those projects, I think you need those final tolls in
10 hand. Thank you.

11 MS. CHAPLIN: Thank you. Mr. Brett?

12 **SUBMISSIONS BY MR. BRETT:**

13 MR. BRETT: Thank you, Madam Chair, Panel. Three
14 points, really, from our point of view.

15 First, the document, the settlement agreement, in our
16 view, should be made public immediately. I think it should
17 never have been confidential in the first instance. I
18 agree with Mr. Poch; I can see no real reason why this
19 document warrants confidential treatment. I think it's, in
20 a sense, almost an abuse of the Board's confidentiality
21 provisions to maintain this in confidence, especially since
22 you, I'm sure, had the pleasure, as I did, of reading two
23 newspaper accounts of the substance of this agreement on
24 the weekend.

25 Mr. Johansson of TransCanada has obviously given an
26 interview to reporters. Mr. McCarthy of the Globe & Mail,
27 a comparable writer for the business -- for the Post,
28 substantial articles dealing with the essence of this deal.

1 It's in the public domain already, which is another
2 reason why it should be made public.

3 Secondly, I agree with Mr. DeRose -- almost agree with
4 him -- that the alternative is that the hearing will
5 proceed entirely in confidence, on a confidential basis.
6 The only disagreement I'd had with him is he said about 75
7 percent of it; I would say a hundred percent. I would say
8 the entire hearing will be -- have to be on a confidential
9 basis, after hearing the six or seven hours of discussion
10 at the technical conference on Friday.

11 Now, my third point -- and I don't think those points
12 are particularly, myself, contentious. My third point is a
13 bit more contentious. I understand Mr. DeRose said the
14 data on the tolls should be available shortly. What he
15 meant was, I think, that the data, the computer runs
16 necessary to compute the tolls are being done as we speak,
17 and should be available very soon, in a matter of a few
18 days.

19 That would give a much greater degree of precision to
20 the predicted consequences of the agreement on a number of
21 the issues that we are debating here, not least a
22 measurement of the so-called energy savings that would
23 accrue from the Enbridge proposal, and in a slightly lesser
24 way from the Union two proposals.

25 I do take Ms. Girvan's point that there won't be
26 finality until the National Energy Board has pronounced on
27 these, and God knows when that will be. I would think it's
28 going to be, obviously, in 2014, maybe first quarter or

1 perhaps second quarter.

2 But there will be more clarity once these -- if we
3 have a combination of the -- of this document being made
4 public, the settlement agreement, and the initial computer
5 calculations on the impact of the settlement on tolls.

6 And as was mentioned, and as I think -- you know,
7 we're not talking de minimus impacts here to. Let's put it
8 that way. I can't go much further without going in camera,
9 but we're not talking something that's de minimus by any
10 stretch of the imagination.

11 Those are my comments. Thank you.

12 MS. CHAPLIN: Thank you. Mr. Quinn?

13 **SUBMISSIONS BY MR. QUINN:**

14 MR. QUINN: Thank you. I'll try not to repeat some of
15 the submissions by other parties.

16 We are also in a camp of intervenors that are happy
17 with the level of collaboration that is evident in the
18 utilities coming forward with TransCanada with this deal.
19 At the same time we are trying to ensure that we understand
20 the mechanics. We have some respect for the fact that
21 there will not be finality of the tolls, but it would be, I
22 think, important, certainly to us and I believe to the
23 Board, to know how the deal actually works.

24 And I'm taking a cue from Ms. DeMarco. If I could
25 just refer you for later reference to pages 99 to 102 of
26 the transcript from Friday. We have put forth ideas on how
27 the utilities could provide at least an illustrative
28 calculation for us to understand the range of potential

1 impacts, using information that's already on the public
2 record, and potentially -- and this is adding to the record
3 from Friday -- if TransCanada would update its forecast for
4 utilization using those parameters which are available
5 publicly a calculation could be done and parties in this
6 room would have an understanding of the potential impact of
7 this deal.

8 We believe that that information could be made
9 available and could be made available publicly, but again,
10 I defer to the utilities. If they feel that there is some
11 compromise to their ability to finalize the deal if this
12 information is made public and therefore they want it
13 confidential, at the very least we want the numbers. If
14 they're in confidence, that's fine. But I support those
15 who would say that the evidentiary portion of this
16 proceeding should not conclude until such time as final
17 numbers have been presented so that people know exactly
18 what they may be signing up to.

19 MS. CHAPLIN: Final approval ones or the final sort of
20 proposed ones?

21 MR. QUINN: Final proposed ones that are submitted to
22 the NEB for its approval, and which would potentially allow
23 a parallel process. I'm sensitive to the projects moving
24 as expeditiously as possible, but the first question is,
25 should they be built, and secondly then, how that will
26 impact Ontario ratepayers.

27 MS. CHAPLIN: Thank you.

28 MR. QUINN: Thank you.

1 MS. CHAPLIN: Mr. Shrybman?

2 **SUBMISSIONS BY MR. SHRYBMAN:**

3 MR. SHRYBMAN: What I haven't heard is an explanation
4 for why confidentiality is required. I mean, you've heard
5 from many of us here that it's not very practical or in
6 principle not warranted.

7 And I have to admit that I'm not familiar with the
8 Board's confidentiality procedures, but I do know how a
9 court would handle this, and that would be to require
10 someone seeking confidentiality to establish why the public
11 interest in confidentiality outweighs the public interest
12 in transparency and disclosure, not the private interests
13 in keeping confidential information confidential, but -- or
14 information with respect to which there is a
15 confidentiality claim under seal, but rather why the public
16 interest in a sealing order is warranted.

17 And so from my perspective we kind of have this
18 backwards, because I haven't heard anything other than a
19 very perfunctory explanation -- I'm not even sure that's on
20 the record -- of why confidentiality is being sought with
21 respect to this information. I'd like to hear that
22 explanation and then have the opportunity to respond to it,
23 if I have a response.

24 MS. CHAPLIN: Thank you.

25 **SUBMISSIONS BY MR. CRANE:**

26 MR. CRANE: Mark Crane on behalf of IGUA.

27 I would echo some of the comments I just heard. I
28 mean, if we look at the Board's practice direction with

1 respect to confidentiality, it talks about -- the starting
2 point is the Board's general policy is that "all records
3 should be open for inspection by any person unless
4 disclosure is prohibited by law".

5 And I appreciate you go into the balancing of the
6 general public interest for transparency and openness and
7 balancing that against the protection of confidential
8 information, but I don't think we've heard to date evidence
9 or submissions relating to IGUA's satisfaction that the
10 applicants have discharged that onus.

11 And I would, as a proposal, invite the applicants to
12 do so. And then we can have an opportunity to consider
13 whether, in our view, that onus has been met, and that
14 will, in our view, assist your deliberations on this issue.

15 MS. CHAPLIN: Thank you. Mr. Higgin?

16 **SUBMISSIONS BY DR. HIGGIN:**

17 DR. HIGGIN: Roger Higgin for Energy Probe.

18 I won't cover any of the previous submissions, but
19 just to add a couple things. To parse this, we believe
20 that the need for the critical data is more important for
21 the Enbridge application than to the Union applications, so
22 that would be the first thing.

23 And the second one is that, just to apprise the Board
24 that since segment A of the application from Enbridge has
25 now morphed into a transmission line, we believe that the
26 applicable guidelines for evaluating the economics of that
27 should be EBO-134 and, importantly, the guidelines for
28 filing for transmission.

1 Therefore, the different type of analysis is required
2 for a 134 application. That's our belief. We'll hear what
3 counsel has to say about that, and I'm sure they will
4 disagree with me. But that's what I think, in reading the
5 requirements for transmission lines.

6 Thank you.

7 MS. CHAPLIN: Thank you.

8 **CONTINUED SUBMISSIONS BY MR. RUBENSTEIN:**

9 MR. RUBENSTEIN: If I may -- it's Mark Rubenstein. If
10 I just may add one quick comment. Many of the parties were
11 discussing that the toll numbers are important. But I
12 would just, for the Board, understand -- actually, there
13 are some more issues contained in the terms sheet that may
14 be of importance to the Board in reaching its final
15 decision, and parties. And I would just reference a page
16 and paragraph. This would be page 9, the first paragraph.

17 And I just leave that to the Board, that the
18 information then that would be important to understanding
19 further implications going down the line and how it may
20 affect these sorts of project. That's just an example of
21 that.

22 And I would also just like to state that we do support
23 the position of parties with respect to confidentiality,
24 that it's not clear that it's warranted, in our view.

25 Thank you.

26 MS. CHAPLIN: Thank you. Any other intervenors?

27 All right. So we'll start with, who would like to go
28 first, Mr. Cass or Mr. Smith? It seems to me we sort of

1 have two issues. One, the confidentiality clearly is not
2 on consent, so if -- we will probably do a round of
3 submissions on that. And then second of all, the need for
4 further technical data in order to progress with this
5 proceeding. That's the two...

6 **SUBMISSIONS BY MR. SMITH:**

7 MR. SMITH: Let me break it up if I can into three,
8 and I'll start, and then Mr. Cass can pick up with respect
9 to confidentiality.

10 I think that there are, broadly speaking, there's the
11 issue that Ms. DeMarco asked about, and perhaps that is
12 just generally a confidentiality issue. There's a request
13 for further information or, I think, a request for some
14 sort of a delay, or that the matter remain open for some
15 period of time, and then there's the confidentiality
16 request.

17 Let me take the first two, and then Mr. Cass will
18 address confidentiality, and if I have anything to add, I
19 will briefly.

20 I'm somewhat surprised by Ms. DeMarco's request from
21 this perspective. It's the first I've heard of it. We had
22 an information session, as the Board will know, on Thursday
23 which lasted some hour and a half, two hours, to discuss
24 the terms sheet. We had a technical conference that lasted
25 almost the entire day on Friday. Following that we
26 developed a hearing plan.

27 There were no communications that I'm aware of
28 following the hearing plan, or at the time of the

1 development of the hearing plan, in which any party
2 expressed any concern about proceeding today.

3 Nobody at that point expressed any concern, then or
4 over the weekend, about getting instructions. A request
5 was made by APPrO, a similar request was made by IGUA,
6 about the utilities waiving the Board's usual direction
7 that the undertaking not be signed by an officer or
8 director of the underlying organization.

9 As the Board will be aware, in its practice direction
10 the usual rule is that that not be the case, unless the
11 Board makes an exception, which it obviously can.
12 Exceptions were made in respect of Mr. Butters and the
13 representative on behalf of IGUA.

14 So I'm not aware of any basis upon which a request
15 would be made that a party was hamstrung in its ability to
16 prepare itself for the hearing today. My understanding
17 that all of the cross-examination estimates, in particular
18 APPrO's cross-examination, remains valid. It's 20 minutes
19 for this first panel.

20 I would observe that to the extent cross-examination
21 is planned of the joint panel, that is not going to take
22 place until October 1st. So there is a fair amount of time
23 for parties to organize themselves with respect to that.
24 That's issue one.

25 Issue two, with respect to information that's being
26 sought, as the Board will be aware from the --

27 MS. CHAPLIN: Sorry, just before you go on, Mr. Smith,
28 perhaps I should know this, and I don't, that the Board

1 accepted undertakings from some additional representatives
2 of --

3 MR. SMITH: I gather undertakings were signed by Mr.
4 Butters and Ms. Shahrzad on behalf of IGUA. I expect those
5 have been filed, but on the basis of those undertakings
6 being assigned and provided to us, we provided a clean
7 copy, unredacted copy, of the term sheet.

8 In order to facilitate preparing for the technical
9 conference and indeed for the hearing on Thursday, we took
10 the unusual step of e-mailing the term sheet, which we
11 wouldn't normally do. But in order to move matters along,
12 we did e-mail it and people undertook to destroy the e-mail
13 after they printed out a hard copy. And that seemed
14 satisfactory to parties.

15 So we have tried to be responsive to people's request,
16 and a reasonable request at that, to provide the
17 information to representatives of their organization.

18 With respect to the second request, I had intended, I
19 suppose, last Thursday to make a brief opening remark to
20 the term sheet, and it may be appropriate just to summarize
21 that at this point.

22 It is important to remember what these applications
23 are and what they are not. And it's particularly
24 important, having regard to the request for information
25 about the tolls. These are facilities applications. Now,
26 they are significant facilities applications, but they're
27 facilities applications nonetheless.

28 The tolls which are set in relation to TransCanada,

1 transportation on TransCanada system, are of course
2 governed by the National Energy Board. The settlement
3 agreement, accordingly, because it concerns TransCanada's
4 tolls and other matters, is going to be approved by the
5 National Energy Board.

6 It will not be placed before this Board for approval,
7 nor would the tolls arising from this settlement agreement
8 be subject to NEB approval.

9 As reflected in my correspondence from last week, one
10 thing -- and this is not confidential -- one thing that
11 does happen under the term sheet is that the relative
12 differential between short-haul and long-haul tolls is
13 going to be maintained.

14 That's important, because it means that Union is not
15 updating its evidence in any way for the anticipated gas
16 cost savings arising from these facilities applications.

17 It is always the case, any time the Board considers a
18 facilities application, to the extent it is looking at
19 economics, that tolls may change in the future, which may
20 impact on the economics of a particular project.

21 But to my knowledge, the Board has never adjourned a
22 facilities application or kept open a facilities
23 application for some period of time to wait for a result of
24 a proceeding in a different jurisdiction. Doing so, in my
25 submission, would be entirely impractical.

26 In this case, the consequence of leaving the matter
27 open or, worse, adjourning it until some point of time in
28 2014 would mean that the gas cost savings in 2015 would be

1 gone.

2 MS. CHAPLIN: Sorry, Mr. Smith, I didn't interpret
3 that to be the proposal. I thought it was to potentially
4 adjourn until at least the proposal was firm, not that it
5 was necessarily approved by the NEB.

6 MR. SMITH: Well, I mean, that may be. I suppose
7 ultimately it's for the applicants to make out their case.
8 If the argument is at some later point that further
9 information is needed by this Board, and we have not either
10 satisfied you that that's not necessary or can't provide
11 the information, that's on us. And my friends will make
12 the argument.

13 It's very difficult to respond in the abstract to a
14 request that more information is needed before you make
15 that determination until the questions have been asked and
16 an explanation offered by the witness as to what
17 information there is, whether that information is relevant,
18 or when it could be provided.

19 None of those questions have been asked on the record
20 of the witness panel in this proceeding, and in my
21 submission, any request that something needs to be provided
22 needs to be heard in the normal course, in the same way you
23 would hear a request during cross-examination and the Board
24 would make a determination as to whether or not an
25 undertaking is necessary, capable of being filled, or seeks
26 relevant information.

27 It may be that we submit that the information isn't
28 relevant. It may be that you are persuaded that

1 information, even if it's of a back of the envelope nature,
2 should be provided. Very difficult for us to respond to
3 that sort of request at this time. And in my submission,
4 the Board, in the normal course, would hear the cross-
5 examination and make a determination and we would move on
6 from there.

7 I think it would be extremely dangerous to -- I don't
8 know. If the request is let's wait until things are
9 finalized in the form of the settlement agreement,
10 obviously parties are working hard for an early October
11 date, but if that doesn't happen for whatever reason, I
12 don't know. So we'll have to take the questions as they
13 come, and we'll provide answers as best we can.

14 Those would be my submissions in response, and then I
15 expect I will be adopting Mr. Cass's submissions with
16 respect to confidentiality.

17 MS. CHAPLIN: Thank you. Mr. Cass?

18 **SUBMISSIONS BY MR. CASS:**

19 MR. CASS: Thank you, Madam Chair.

20 Madam Chair, before I come directly to the submissions
21 on confidentiality, I would like to, if I may, just set a
22 couple of background points, particularly from the point of
23 view of Enbridge Gas Distribution.

24 First, and I say this because I heard in some of the
25 submissions by intervenors a suggestion, if not the
26 explicit statement, that there's a need to know more about
27 tolling methodology in relation to the benefits of the
28 projects.

1 As the Board would be aware, Enbridge Gas Distribution
2 in fact filed an evidence update as a result of the term
3 sheet that had been agreed upon and filed in confidence.

4 I won't go through the evidence update in great
5 detail. However, the gist of it is, first, with respect to
6 the impact on Enbridge's GTA application of the agreement
7 on the term sheet, the primary impact is to take away a
8 number of areas of uncertainty that seem to be clouding the
9 applications, and that's discussed starting at page --
10 sorry, paragraph 5 of this evidence update, which is
11 Exhibit A, tab 3, schedule 10, updated on September 11th of
12 2013.

13 The document, the evidence update, goes through a
14 number of areas of uncertainty that have been removed by
15 the existence of the term sheet.

16 More specifically with respect to the benefits and the
17 suggestion that more needs to be known from the point of
18 view of the benefits of the project, the benefits of
19 Enbridge's GTA project essentially flow from a differential
20 between long-haul and short-haul costs. And as stated in
21 paragraph 9 of this evidence update, that differential is
22 not going to change in any material way.

23 So in effect, there may be lots of interest in the
24 term sheet for other reasons not directly relevant to this
25 proceeding, but as far as this proceeding is concerned, the
26 benefits are something that remain the same notwithstanding
27 the term sheet, because the differential that is the driver
28 of the benefits remains essentially the same.

1 The second point that I wanted to make, Madam Chair --
2 and I apologize for all of this background, but it is very
3 important from Enbridge's point of view -- is that as the
4 Board will remember, Enbridge Gas Distribution is here with
5 a project that it primary sees as one serving important
6 distribution needs. And there's a timing behind that that
7 drives the desire on Enbridge's point of view and in fact
8 the need from Enbridge's point of view to proceed with the
9 hearing and have construction in a timely manner to meet
10 these important distribution purposes.

11 So whenever I hear these words about "adjournment" I
12 immediately start to get concern, particularly in relation
13 to the distribution needs that Enbridge is trying to
14 fulfil.

15 So I urge the Board, whatever the discussion may be of
16 an adjournment, to allow the hearing to get on so that
17 Enbridge's distribution needs can be brought to the Board
18 and heard by the Board and the Board can assess for itself
19 how important and urgent and timely these needs are.

20 So that's just by way of background, and then I do
21 have a series of submissions on confidentiality, if you
22 don't mind. I think I have about nine points here, but
23 I'll try to go through them quickly.

24 I start, Madam Chair, from the Board's confidentiality
25 -- practice direction on confidential filings. Appendix A,
26 as the Board would know, of that document sets out
27 considerations in determining requests for confidentiality.

28 Without reading it in great detail, one of the

1 considerations, and the one that in my submission is
2 relevant here, is "whether the information could interfere
3 significantly with negotiations being carried out by a
4 party".

5 That is the position that we are in at this point in
6 time, Madam Chair. There are negotiations going on amongst
7 the three LDCs the Board has heard about, and TransCanada,
8 to try to come to a final settlement agreement.

9 In my submission, that consideration set out in
10 Appendix A of the practice direction is something that the
11 Board is respectful of, that where there are negotiations
12 going on, that is a valid ground for confidentiality.

13 This brings me to my second point. It sounds to me
14 like the reason for an exception -- or the reason given why
15 that ground does not have the same bearing in this case, as
16 it might in other cases, is parties are saying, well, there
17 already is a binding agreement.

18 Madam Chair, speaking for myself, I'm not sure why
19 that matters. I'm not sure why it matters that the fact
20 that the parties have a general terms sheet that is a
21 binding agreement in itself matters, insofar as
22 confidentiality is concerned, when I don't think there's
23 any dispute in this room that those parties are still
24 negotiating towards a settlement agreement.

25 There's nothing in Appendix A that says or suggests
26 that the existence of a binding agreement takes away from
27 the importance of the negotiations. It's in fact
28 negotiations that are referred to in what I read to the

1 Board, "whether the information could interfere
2 significantly with negotiations".

3 Again, I don't think there's any dispute in this room
4 that those negotiations are happening within the meaning of
5 those words.

6 MS. CHAPLIN: But perhaps on that point, Mr. Cass --

7 MR. CASS: Yes?

8 MS. CHAPLIN: -- you could help us understand how it
9 is that disclosure of the terms sheet would undermine those
10 negotiations.

11 MR. CASS: Yes, these are some of the points that I
12 will be --

13 MS. CHAPLIN: You're coming on to.

14 MR. CASS: -- going through. Yeah, I will come to
15 that. I do have them in a certain order.

16 MS. CHAPLIN: Certainly.

17 MR. CASS: And just for my coherence, which isn't
18 always the best, it might be best if I could follow them in
19 the order that I've laid them out. So that was my...

20 And my second point was that the existence of a
21 binding agreement does not take away from what the
22 guidelines say, because the guidelines are referring to
23 negotiations.

24 And my third point is I don't think that anybody in
25 this room is disputing that there are ongoing negotiations.

26 And my next point, Madam Chair, is this. But for the
27 way this terms sheet has come together and the fact that --
28 its timing in relation to this proceeding, I would suggest

1 that again no one in this room would dispute that the
2 negotiations that are still going on would normally happen
3 in complete privacy and complete confidence.

4 It's the -- it's the timing that it has overlapped
5 with this proceeding that has thrown any doubt around that
6 at all. In my submission, I don't think anyone in this
7 room would question that otherwise these negotiations would
8 be going on in confidence and privately.

9 Now, my next point, Madam Chair, is this. There's a
10 reason why negotiations like this, like those that are
11 still going on, normally occur in confidence and privacy.
12 In a difficult and tricky negotiation, if that negotiation
13 has to become a matter of public record, the media become
14 involved, other people become involved in expressing their
15 opinions and it becomes a matter of debate, it's
16 potentially to the prejudice of the negotiations, and that
17 is precisely the concern in this case.

18 People have already referred in the submissions this
19 morning to the media play that has occurred. Well, this --
20 the amount of attention that has been given to this issue
21 in the media already is based only on the bare type of
22 information that could be released publicly as set out in
23 Enbridge's evidence update. That was the basis for the
24 update, was the amount of information that could be
25 released publicly. And that is consistent with what has
26 occurred in the press releases.

27 So just taking the amount of attention that that has
28 received, I ask the Board to consider if the entire terms

1 sheet and all the parameters of this negotiation were to be
2 given that same public play, I hesitate to use the word
3 "circus", but it would become at the very least a major
4 distraction from the negotiations and potentially a
5 hindrance to the negotiation to have all of this discussion
6 going on in the media and publicly when the parties
7 themselves are trying to work their way through a tricky
8 negotiation.

9 And my next point, Madam Chair, is in relation to what
10 I said about a tricky negotiation.

11 Again, the concern is that the parties have something
12 to work their way through that is not an easy matter and is
13 something that they would normally do privately and
14 confidentially.

15 And in my submission, in this case it's heightened,
16 really, by the difficult nature of this negotiation. And I
17 think that all I need to do to emphasize the difficult
18 nature of this negotiation is just to remind everybody in
19 the room of the time and effort and history that lies
20 behind the parties getting to where they were -- are as of
21 the time of the terms sheet. I think we all know the up-
22 and-down history and the amount of time and effort that has
23 gone into that.

24 So of all negotiations that the Board might be
25 thinking about in terms of a confidentiality claim during a
26 proceeding, this has got to be at an extreme, in terms of
27 how difficult and tricky this negotiation is.

28 So again, in my submission, that underlines the

1 importance of not allowing it to be distracted or
2 potentially derailed by public play of the many, many
3 issues that remain to be worked out for a settlement
4 agreement.

5 And then my next point, Madam Chair, also picks up on
6 what parties were saying. There seems to be a general
7 congratulatory sense with respect to this, the agreement to
8 arrive at the terms sheet and what has been accomplished by
9 the four negotiating parties.

10 Again, in my submission, that emphasizes how difficult
11 and time-consuming and how much effort it took to reach
12 that point. And in my submission, it also emphasizes how
13 much care we should take to be very careful not to do
14 something that might cause that to be derailed or
15 distracted from as it continues forward to a settlement
16 agreement.

17 It is a big accomplishment, and the reason it's a big
18 accomplishment is it was so hard to get to that point, and
19 it's not the endpoint. The endpoint remains in the form of
20 a settlement agreement that requires further negotiations.

21 And my next point, Madam Chair -- I was going to go
22 through with numbers, but I've kind of lost my numbering,
23 but I think I'm retaining all the points -- was just to
24 emphasize what has already been said, that this is not an
25 issue of things remaining confidential permanently. This
26 is an issue of matters that, in order for a negotiation to
27 proceed forward to its successful conclusion, the
28 applicants are asking for confidentiality until that time.

1 At the time of the successful conclusion of the
2 negotiation, all of the confidential information can go on
3 the public record.

4 So we're not talking about any permanent gap on the
5 public record. At the most, what we're talking about is
6 the mechanics of doing a proceeding where there needs to be
7 an in camera part of the proceeding. You've heard
8 different submissions about how much of this would be in
9 camera. I don't necessarily agree with what you've heard,
10 but then I don't know the questions that are going to be
11 asked, and I think, as Mr. Smith said, it's important to
12 hear those questions.

13 But my point, Madam Chair, is that really, given that
14 it's not permanent confidentiality, it's a question of the
15 mechanics of the hearing -- and from what I heard this
16 morning, many, if not most, of the counsel here with
17 questions have prepared themselves to do it mechanically.
18 It's not that it can't be done. It's just, there seems to
19 be a sense that perhaps it's cumbersome or more difficult
20 than it would otherwise be, or perhaps more in camera than
21 all of us would like.

22 I think I can speak for the other applicant, and on
23 behalf of my client, to say that we certainly understand
24 the Board's desire to have things on the public record.
25 However, for the reasons I've already stated, I believe
26 that there are very strong reasons to allow this difficult
27 negotiation to come to its conclusion. And that is to be
28 balanced against a concern expressed this morning, which in

1 my submission is really more a question of mechanics than
2 any issue, because there is no long-term confidentiality
3 that's being requested.

4 I think that covers all of my points, Madam Chair.
5 And I hope I answered your question during the course of
6 that.

7 MS. CHAPLIN: Yes, partially, but I do have a couple
8 of questions.

9 You've spoken of the fact that it's not a long-term
10 confidentiality, but I think it would be quite
11 extraordinary for this Board to conduct potentially the
12 bulk of a proceeding in camera. And therefore I would
13 think that there would need to be compelling -- especially
14 because there appears to be an alternative, and the
15 alternative appears to be to wait until the settlement
16 agreement has been negotiated. And then that would be
17 public and the whole thing could be public.

18 And you know, we keep receiving assurances that the
19 work is going along diligently on that. So I guess I would
20 ask why wouldn't the public interest be better served by
21 one of two alternatives; either you make the term sheet
22 public, the proceeding is conducted publicly in the normal
23 course, as we always have our proceedings, or we wait until
24 the settlement agreement is negotiated and that's public,
25 and then we proceed on that basis.

26 MR. CASS: Well, yes, speaking from the point of view
27 of Enbridge Gas Distribution, Madam Chair, there would be
28 several concerns. And I think I am repeating myself, but I

1 will express the concerns in this context.

2 The first concern, again, is the issue of timing.
3 Enbridge is very concerned about getting on with its
4 distribution project, and having the Board hear the need
5 for its distribution project and rule on that.

6 So to wait for this, a final settlement agreement, to
7 then have a new discussion about a hearing plan and find
8 time to accommodate a hearing is just of tremendous concern
9 to me, on behalf of Enbridge, from a timing point of view.
10 It took a lot of effort to arrive at the hearing plan we've
11 got here now. And we do have a plan, and Enbridge would
12 very much like the Board to proceed with the plan and at
13 least hear its case on the importance of its project from a
14 distribution point of view.

15 So a very large concern relates to timing, from
16 Enbridge's point of view.

17 The other point I'm trying to make is --

18 MS. CHAPLIN: Well, I guess, Mr. Cass, which is more
19 important to you? That's what I'm trying to understand.

20 MR. CASS: Absolutely the timing, getting on with --

21 MS. CHAPLIN: Perhaps we will -- bear with me.

22 Perhaps we will grant the request, we will keep it
23 confidential, we will proceed in camera. Perhaps that's a
24 course of action, but I'm saying there's at least two
25 others.

26 One is that the information that we have in camera now
27 is put on the public record and so that we can proceed. My
28 understanding from the parties is that that is one course

1 of action.

2 Another course of action is that we adjourn until the
3 settlement agreement is reached, and again we can then
4 proceed publicly.

5 Between those -- I understand your first option. Your
6 preference is, as you proposed, that we continue and we do
7 it in camera. I'm saying if that one is set aside, which
8 of the other two do you prefer?

9 MR. CASS: Madam Chair, I have no instructions on
10 that, but without instructions I would surmise the timing
11 of Enbridge's project is so important that if there was
12 anything that would jeopardize the timing of the project,
13 that would be the lesser choice.

14 But that's without instructions; that's just speaking
15 off the top of my head in response to your question.

16 The other point I wanted to make, Madam Chair, is, you
17 know, I appreciate that there is a term sheet out there and
18 parties have lots and lots of questions about it. From the
19 point of view of Enbridge Gas Distribution, as I tried to
20 emphasize when I laid some background for my submissions on
21 confidentiality, Enbridge believes that the impact of that
22 on this -- on its project is not really that great in the
23 scheme of things. The main impact is to remove
24 uncertainty. And again, Enbridge would like the
25 opportunity to proceed and present that case, but we have
26 to hear the questions and we have to hear the answers to
27 the questions before the Board can judge whether that is
28 correct or not.

1 So we're talking about losing, potentially losing
2 confidentiality on a negotiation that I'm trying to stress
3 to the Board is a very difficult and important and tricky
4 negotiation, losing the confidentiality on that, or
5 jeopardizing the timing of Enbridge's project for issues
6 that, in my submission, while of great importance to the
7 parties -- I don't dispute that for a minute -- do not
8 directly impact Enbridge's project in that many ways.

9 So that's my other concern that I'm trying to convey
10 to the Board.

11 And again, I don't know how the Board can see that
12 without hearing the questions and hearing the answers, or
13 at least getting started. And, you know, if at some point
14 things were to bog down and not proceed in a manner to the
15 satisfaction of the Board, I'm sure that the proceeding
16 could be stopped and this issue could be addressed, but we
17 haven't heard the questions or the answers.

18 MS. CHAPLIN: Okay. Thank you.

19 MR. MILLAR: Madam Chair, I should just --

20 MS. CHAPLIN: One moment, please.

21 MS. HARE: I had just a couple of questions, and
22 actually it's something that Mr. Smith said. You mentioned
23 that both Mr. Butters and Dr. Rahbar had signed, and so
24 they are aware of the term sheet.

25 Is your concern then, Mr. Crane and Ms. DeMarco, that
26 the rest of your board doesn't know anything about it so
27 you're getting instructions only from the association
28 president, where normally you would get it from the board?

1 Is that what you're saying?

2 MS. DeMARCO: Thank you, Ms. Hare. In relation to
3 APPrO-specific and to protect the veracity of the record,
4 my friend Mr. Crawford appeared to indicate that we hadn't
5 raised this. In fact, the Thursday transcript at
6 page 10 --

7 MS. CHAPLIN: Sorry. Sorry, I don't mean to
8 interrupt, Ms. DeMarco. You will have an opportunity to
9 make further submissions generally. If we could perhaps
10 just directly answer Ms. Hare's question as briefly as you
11 can? I'm conscious of the time this is taking, and I do
12 want to try to reach a conclusion, so...

13 But you will have another opportunity.

14 MS. HARE: Sorry, to repeat the question, it's whether
15 the concern is that the rest of your board doesn't see the
16 agreement.

17 MS. DeMARCO: Not the board, but his instructional
18 committee. And that was raised on Thursday.

19 MR. CRANE: And Ms. Rebar did receive a copy of the
20 term sheet on Friday afternoon, and we appreciate that.
21 The issue is that she is not able to canvass the issues
22 with IGUA's constituent base. And my point, I think, more
23 specifically was I didn't think, IGUA didn't think, that
24 the applicants had discharged the onus with respect to
25 confidentiality.

26 MS. HARE: A very different question, Mr. Cass. Do
27 you have any comments on Dr. Higgin's suggestion that EBO-
28 134 applies? And if it does apply, does that make any

1 change to what has to be filed? Or do you want to think
2 about that?

3 MR. CASS: Perhaps I need to think about that. I
4 think I was probably writing my notes when Dr. Higgin made
5 that point. My apologies.

6 MR. SMITH: And just, members of the Board, if I may
7 just respond, I similarly have to think about Dr. Higgin's
8 question because I was absolutely writing at the time. But
9 I adopt Mr. Cass's submissions.

10 But if the Board is ultimately persuaded that this
11 comes down a question as to confidentiality or an
12 adjournment, there is no question from Union's perspective
13 where it falls on that. It believes firmly in the
14 settlement agreement, in the term sheet, and it wants to
15 proceed, because it believes firmly that these are in the
16 public interest.

17 And if the Board is satisfied that that is the choice,
18 then we would absolutely support putting the matter on the
19 public record and getting on with it. No hesitations in
20 that respect.

21 I adopt Mr. Cass's submission in that, in the various
22 questions about the tolls, other aspects of the term sheet,
23 those are all very good questions for the National Energy
24 Board, that it will have to resolve. They're not questions
25 for this Board, I say respectfully.

26 And with that in mind, I think the underlying premise
27 for the request, I think, is somewhat misplaced.

28 But if the Board is not persuaded in that respect, I

1 would far prefer to plough ahead and make the matters
2 public.

3 MS. CHAPLIN: Mr. Cameron?

4 **SUBMISSIONS BY MR. CAMERON:**

5 MR. CAMERON: As someone who has for the past several
6 years been actively involved in the disputes that were
7 resolved by this term sheet, I don't want to lightly use
8 the word "miraculous" but the fact that the parties came to
9 the settlement that they did in the term sheet was at least
10 truly unexpected.

11 And we learned during the technical conference,
12 there's a lot of work still to be done. Some of the
13 answers to the questions put to the witnesses during the
14 technical conference -- especially from APPrO, who had some
15 very insightful questions about the implications of a
16 possible settlement -- some of the answers were: We
17 haven't come to a conclusion on that yet. We haven't
18 settled that settled that point. We didn't even think of
19 that point. Good question. We're going to have to
20 negotiate that point.

21 So we have this history of several years of virtual
22 war between these parties, and they've come to this fragile
23 agreement as timely as they could specifically so that
24 these proceedings could go ahead, so that there wouldn't be
25 uncertainty about these facilities applications.

26 And then there has been, between the parties, a very
27 careful -- notwithstanding Mr. Brett's comments about
28 newspaper articles -- there has been a very careful

1 decision about what can safely be made public without
2 interfering with the negotiations and what should be kept
3 confidential, to preserve the possibility that this terms
4 sheet actually gets negotiated into a final agreement
5 without it having to be done under the glare of the public
6 spotlight, which is not how you negotiate a commercially
7 critical agreement.

8 And for those reasons, I adopt the very thorough
9 submissions of Mr. Cass on the need to at least get started
10 and maintain confidentiality and see if this hearing can
11 proceed in that manner.

12 Thank you.

13 MS. CHAPLIN: Thank you.

14 Actually, just before we proceed with further
15 submissions, Mr. Smith, Mr. Cass, if we were to proceed
16 now, in camera or otherwise, there have been numerous
17 comments to the effect that there are still quite a number
18 of items to be negotiated.

19 What is your expectation that, once that settlement
20 agreement is completed and public, are you assuming that
21 there would be no need for any further hearing process
22 before us? Is it your view that none of those details that
23 are yet to be worked out have any relevance for our
24 decision-making?

25 MR. CASS: No relevance for these applications before
26 the Board right now, Madam Chair.

27 MS. CHAPLIN: Mr. Smith? Are you going to be as
28 unequivocal?

1 MR. SMITH: Well, that's certainly my initial
2 reaction. I'd have to obviously hear the questions. But
3 as Mr. --

4 MS. CHAPLIN: Well, from what you basic --

5 MR. SMITH: From what I understand, the answer is,
6 absolutely, yes. And there are -- well, the answer is yes.
7 The answer is yes. There are huge parts of the settlement
8 agreement that absolutely have nothing to do with these
9 applications by any stretch of anyone's imagination, and I
10 believe, to the extent there are questions, they can be
11 dealt with as we go along.

12 MS. CHAPLIN: Thank you. Okay. So we've heard the
13 submissions from the applicants on why they believe the
14 material should be -- remain confidential and why we should
15 also proceed on that basis. And so I will take submissions
16 from the intervenors on these questions.

17 To the extent that your submissions -- you don't have
18 anything new to say from what you said initially, that
19 would be fine. We obviously have those. So -

20 **SUBMISSIONS BY MR. POCH:**

21 MR. POCH: Madam Chair, I just wanted to pipe up
22 first, because I find myself being in the position of
23 sharing a concern with most intervenors about
24 confidentiality, but agreeing with the companies on the
25 question of adjournment. You will be aware that GEC's
26 evidence proposes an alternative for the -- at least to the
27 extent of addressing the problem Enbridge has identified of
28 low pressures at Station B, and that's the conservation

1 alternative.

2 And there is obviously a delivery time involved in
3 that, and so to the extent that Enbridge feels there's
4 criticality of timing there, we're in the same position, in
5 terms of wanting that alternative to have a fair
6 opportunity.

7 And I should say from our perspective the burden is on
8 the utilities. If they want to proceed and they can't make
9 their case in the end without providing more detail,
10 they'll have to elect and take their chances.

11 The theory of our case is that the terms sheet, you
12 know, moves the chairs around, but ultimately the logic of
13 TCPL's supplementary evidence persists. And, you know, and
14 the mechanism by which in the past there would have been a
15 risk of the claimed gas-supply benefits being clawed back,
16 all, in our view, the terms sheet does is move that
17 mechanism forward.

18 So for the theory of our case we won't need, you know,
19 greater detail. Our concern is just generally with the
20 difficulty of confidentiality.

21 MS. CHAPLIN: Thank you. Mr. Rubenstein?

22 **SUBMISSIONS BY MR. RUBENSTEIN:**

23 MR. RUBENSTEIN: Well, I'll just start by saying this.
24 The comments by Mr. Cameron and Mr. Cass demonstrate the
25 predicament, because their position that there is still
26 much to be negotiated and the terms sheet is not, you know,
27 not going to be the final product and there's difficult
28 questions explains the situation that we find ourselves in,

1 because then we do need to see that final settlement
2 agreement, because it contains many important aspects that
3 haven't been negotiated, and the terms sheet itself is not
4 enough.

5 I would also say that, while Mr. Cass and Mr. Smith
6 have taken the position that the -- there are most issues,
7 if not all the issues, in the terms sheet have no relevance
8 to these applications, well, that's their position, I would
9 say. The intervenors would take a different position,
10 clearly, and we would need to test the veracity of that
11 statement by reviewing, well, the terms of that settlement,
12 but as well, as has been discussed earlier, the numbers
13 that flow from it with respect to gas-savings costs. We
14 think that was important.

15 With respect to what was said about the application of
16 EBO-134, I just take the Board to issue A2, which
17 specifically talks about does the proposed facilities meet
18 the Board's economic test outlined in the filing guidelines
19 on the economic test for transmission pipeline
20 applications, dated February 21, 2013. That is, the
21 guidelines that have essentially overridden or replaced or
22 incorporated EBO-134, so that's clearly an issue that's
23 relevant.

24 And finally, I would just say this. While SEC can't
25 take the position at this time that we are -- we do --
26 there is a benefit of having the parties to come together
27 with a negotiated settlement, I'm not as -- I don't think
28 we can take the position that we're as enthusiastic by the

1 agreement without a testing of the agreement, clearly.

2 But, I mean, we're in a situation where it's the
3 applicants' own doing. They brought, the day before the
4 hearing was supposed to take place, this terms sheet. So
5 that does cause inherent complications that the applicants
6 need to bear. And if that means a delay or means that the
7 terms sheet can't be confidential or some solution to these
8 issues that allows for all the parties and the Board to be
9 satisfied, then that's a situation that they've brought
10 upon themselves because of the coming to this agreement,
11 not two weeks ago, but the day before the hearing.

12 MR. DeROSE: Sorry. Madam Chair, very briefly, the
13 comment was made by both Mr. Cass and Mr. Smith that
14 there's no relevance to the cost consequences that will
15 flow from the terms sheet. I just simply bring you --
16 reference Union's own evidence, Section 11 of the Kirkwall
17 application, starting at page 28.

18 They provide the overall projected gas-cost savings,
19 base case, based on the approved 2012 TCPL tolls. They
20 then go on at page 29, providing projected gas-cost savings
21 based on 2013 TCPL tolls. They then go on to provide,
22 starting at page 36, they talk about TCPL toll volatility
23 risk.

24 I think if you look at that evidence -- and I
25 appreciate there's always TCPL toll volatility risk, the
26 difference is that this is not some sort of an unknown,
27 contingent, possible risk at some point in the future. We
28 now know, after last week, that TCPL tolls are going to

1 change if this terms sheet is accepted. And we also know
2 that very shortly the potential toll changes, while they
3 will not be approved with finality, will at least be
4 estimated.

5 And so I would just simply say -- and if you go on to
6 page 38 of section 11, there's a whole section called "TCPL
7 toll impact." I think to suggest that the known toll or
8 the toll impacts that are about to be known are irrelevant
9 to this Board's analysis or assessment of the situation is,
10 quite frankly, inconsistent with Union's evidence.

11 So I just simply leave it at that. Thank you.

12 MS. CHAPLIN: Thank you. Mr. Quinn?

13 **SUBMISSIONS BY MR. QUINN:**

14 MR. QUINN: Yes. Thank you. Very briefly, Mr. DeRose
15 has gone through the impact to Union. And again,
16 respecting confidentiality, I'd draw the Board's attention
17 to issue D5, which is:

18 "Should approval of Enbridge's proposed rate
19 methodology for service to be provided to
20 TransCanada be granted?"

21 A review of the transcript from last Friday, I think
22 it would become very evident about who pays for segment A
23 will have a significant effect on issue D5, and therefore
24 the final results of the settlement agreement will have
25 direct impact on the issues in this proceeding.

26 Thank you.

27 MS. CHAPLIN: Thank you. Mr. Crane?

28 **SUBMISSIONS BY MR. CRANE:**

1 MR. CRANE: Yes. Very briefly, IGUA's certainly
2 sympathetic to some of the issues raised, particularly by
3 Mr. Cameron, who I thought raised good points about it
4 being a fragile settlement and you don't normally negotiate
5 under the spotlight of the public at large.

6 But having said that, you also, you know, have to
7 consider whether it's in the public interest to have a
8 hearing with respect to facilities applications of this
9 magnitude held -- to your point -- where the balance may be
10 in camera. And I don't think it is.

11 And so for those reasons, IGUA maintains that the term
12 sheet should not be cloaked in confidentiality.

13 With respect to the need for additional information,
14 IGUA is of the view that it would be helpful both to IGUA
15 and, in our view, to your Board in arriving at its
16 deliberations to have the final settlement agreement with
17 the proposed numbers so that submissions can be made and
18 your decision can be informed by those submissions.

19 Having said that, if the applicants wish to proceed,
20 then it's their application. I would just raise the point
21 -- but at the end of the day, the onus is on them to
22 satisfy that these projects are in the public's interest.
23 And frankly, if IGUA's constituents don't have this
24 information, then that may very well be reflected in our
25 submissions at the end of the day.

26 MS. CHAPLIN: Thank you. Mr. Brett?

27 **SUBMISSIONS BY MR. BRETT:**

28 MR. BRETT: Just one or two quick points.

1 I agree with Mr. DeRose's comments on the relevance of
2 the material in the settlement agreement to this case.

3 Second, my reading of the settlement agreement is that
4 it's a pretty substantial agreement. I mean, this is not a
5 one-page letter agreement; this is an eight- or nine- or
6 10-page document with a lot of substance to it.

7 So yes, there are still discussions to be had amongst
8 the parties to make it into a final, binding document, but
9 it's not -- it shouldn't be characterized as somehow the
10 beginning of a lengthy, arduous negotiation. The lengthy,
11 arduous negotiation has taken place, in my view.

12 What remains is a cleaning up, not just legal clauses
13 but a general cleaning up.

14 And my final point is perhaps the parties would be
15 slightly disadvantaged by the release of -- making this
16 information public, but if they are, they're equally
17 slightly disadvantaged. This is not a case where Enbridge
18 is negotiating with a non-regulated third party for a
19 procurement of something of that sort, where they will be
20 compromised because of the release of a piece of
21 information, which is sort of the normal type of
22 application you get. This is a very different situation.
23 And so I would -- that's my second comment.

24 Thank you.

25 MS. CHAPLIN: Thank you, Mr. Brett. Ms. DeMarco?

26 **SUBMISSIONS BY MS. DEMARCO:**

27 MS. DeMARCO: Madam Chair, I have to start by, please,
28 also really appreciating Mr. Cameron's position. And

1 certainly APPrO was of the view that there was effectively
2 a war going on, and is very appreciative that the parties
3 have come together to attempt to negotiate a commercial-
4 based path out of this.

5 The issue lies, particularly for gas-fired electricity
6 generators, in assessing the impacts of that and being able
7 to do so in accordance with full instruction of its
8 representative membership committee that is instructing on
9 this.

10 So in relation to confidentiality, let me correct the
11 record at this point: This issue was raised on Thursday,
12 and specifically Mr. Butters' instructional pathway and his
13 committee was raised on Thursday. And we did reserve our
14 procedural rights around that.

15 In relation to the Board's confidentiality guidelines,
16 specifically appendix A, the Board is to consider the
17 potential harm that could result from disclosure of the
18 information, and we would argue implicit in that is also
19 the potential harm in non-disclosure of the information.

20 And certainly APPrO finds itself in this position
21 where it needs to get appropriate instructions from this
22 membership instructional committee, and it needs to do so
23 in a way that allows it to discuss the information.

24 I do have with me in yet-to-be organized format the
25 press releases issued by the three parties, the three LDCs,
26 as well as TransCanada separately.

27 So certainly I feel what is in these press releases is
28 more than what Mr. Butters can discuss with his

1 instructional committee based on the strict terms of the
2 undertaking that was signed.

3 So that's a tricky position. And there are specific
4 avenues for the Board to consider, including summaries or
5 some other form of document that can be used to disclose
6 publicly to allow for cross-examination; that might be a
7 remedy that you may wish to also consider.

8 Also under -- I believe it's Rule 516 of the practice
9 direction or section 5.1.6, sorry, of the practice
10 direction. So there is --

11 MS. CHAPLIN: So, Ms. DeMarco, you're suggesting that
12 there might be some further level of information, but short
13 of the full term sheet, that might be satisfactory for
14 APPrO's requirements?

15 MS. DeMARCO: Certainly that's within the jurisdiction
16 of the Board to award by way of relief. So trying to be
17 very constructive, and appreciative of Mr. Cameron's
18 concern that these negotiations -- I'll put them in plural
19 -- are sensitive and are ongoing and don't want to be
20 occurring -- he does not want them to be occurring under
21 the public spotlight.

22 My view -- and the parties can correct me if I'm wrong
23 -- it's effectively as though there were two negotiations,
24 one to reach the signed settlement agreement that we now
25 have before us in a confidential manner, and then the
26 subsequent negotiations that are now ongoing to what I
27 would call "paper," in legal format, the precise details of
28 that.

1 And it may be that -- what I'm hearing from the
2 parties is that disclosure of the finalized, principal
3 settlement agreement is potentially prejudicial to the
4 papering negotiations that are now ongoing.

5 We can't speak to that; we're not at the table. But
6 certainly there are alternatives that facilitate, I think,
7 greater, enhanced participation that the Board has in its
8 quiver of arrows, so to speak.

9 In relation to the adjournment and the relevance
10 issue, again, APPrO is very much a pragmatist here. It
11 simply wants to have the ability to exercise its procedural
12 rights to make full answer and have full audi alteram
13 partem rights reflected in this proceeding.

14 And that includes knowing the case, including the
15 impacts, and the evidence, including each of the specific
16 answers to the questions that I pointed out in the lacuna
17 to the transcript. I think Mr. DeRose has also pointed out
18 further information that might be required.

19 So from that perspective, the issue is one of, again,
20 pragmatism. We're very appreciative of the parties getting
21 here. We just simply need to know and be able to get
22 instructions on how to proceed with the impacts going
23 forward, and the agreement.

24 MS. CHAPLIN: Thank you. Mr. Shrybman?

25 **SUBMISSIONS BY MR. SHRYBMAN:**

26 MR. SHRYBMAN: I don't have a comment on the rationale
27 that's been proffered for keeping the information in
28 confidence, but I do want to comment on the public interest

1 in disclosure, though I'll qualify that by saying it's not
2 clear to me where the lines, in terms of confidentiality,
3 would be drawn in respect of the type of questions that we
4 would want to ask that speak to the reliability and
5 security of gas supply to Ontario. That's our client's --
6 my client's foremost concern.

7 And one aspect of that concern had to do with the
8 risks to the supply on the main line. And we asked
9 interrogatories to the proponents and to TCPL, and we got
10 very different answers. TCPL was concerned that there was
11 serious risk in the proposals before you to security of
12 supply on the main line. As a result of negotiating the
13 terms sheet, TCPL's withdrawn its evidence in these
14 proceedings.

15 So I -- and we have an agreement with TCPL that they
16 will produce a witness that will be able to speak to the
17 answers to the interrogatories that we asked, and with
18 respect to which we got very different answers from the
19 proponents and TCPL, on this quintessential issue for us,
20 which is security of supply to Ontario within a
21 sustainability framework. That's also paramount for my
22 client.

23 And so just to identify the importance of that issue
24 for us and the apparent relevance of the terms sheet to the
25 answers that we've asked about security and reliability,
26 supply on the main line.

27 So if the answer to my questions about that is, well,
28 now we have to go in camera to provide you with full

1 answer, that would be problematic for us, in terms of our
2 view of the Board's mandate to protect the public interest
3 and ensure transparency of an issue of that importance in
4 this proceeding.

5 MS. CHAPLIN: Thank you, Mr. Shrybman.

6 Anything else before we hear from Mr. Cass and Mr.
7 Smith? Do you have anything in reply?

8 **REPLY SUBMISSIONS BY MR. SMITH:**

9 MR. SMITH: No, I have nothing to add. I'm in the
10 very unusual position of, well, just wanting to get on with
11 the applications, in that we believe firmly that the
12 applications and the terms sheet are in the public interest
13 and satisfied with, you know, whatever outcome the Board
14 determination. We're just very keen to get moving.

15 MS. CHAPLIN: Okay. Mr. Cass, anything further?

16 MR. CASS: No, thank you, Madam Chair. I'm afraid I
17 would just be repeating myself.

18 MS. CHAPLIN: All right. Well, we will take our
19 morning break now a bit early. We'll break for half an
20 hour.

21 --- Recess taken at 10:00 a.m.

22 --- On resuming at 10:54 a.m.

23 MS. CHAPLIN: Thank you. Please be seated.

24 **RULING:**

25 MS. CHAPLIN: Today we have heard the submissions of
26 Enbridge, Union and TCPL as to why the term sheet amongst
27 them and GMI should remain confidential.

28 The Board is of course aware of the recent history

1 between TCPL and its eastern distributors, and so we agree
2 with Mr. Cameron's assessment that the agreement is
3 potentially fragile.

4 However, the consequence of keeping the term sheet
5 confidential is that some significant portion of the
6 hearing will need to be conducted in camera, if not all of
7 it, then certainly some large portion, with the attendant
8 logistical complications and the risk of disclosure.

9 These applications are significant, with a combined
10 total investment of about \$1 billion, and it would be truly
11 extraordinary for the Board to conduct such a proceeding in
12 camera, particularly because we are given to understand
13 that once the settlement agreement is reached it can be
14 made public, and the expectation is that the settlement
15 agreement will be finalized shortly.

16 As most parties have pointed out, it is the
17 applicants' case to make, and we will therefore give the
18 applicants the choice as to how to proceed.

19 There are two choices. The first choice is to make
20 the term sheet and the technical conference transcript
21 public now, and to proceed now with the hearing on the
22 public record.

23 The alternative is to adjourn the proceeding until the
24 settlement agreement is complete and can be filed on the
25 public record, in which case Staff can work with the
26 parties to set hearing dates in the second half of October.

27 We will give the applicants until the end of today to
28 provide their answer, to give them an opportunity to

1 discuss the matter amongst themselves.

2 Are there any questions?

3 MR. SMITH: I have a brief question, just in order to
4 be able to seek instructions. Does the Board have
5 available its regulatory calendar sufficient days in the
6 second half of October to hear the matters?

7 We have nine days set aside. I guess we've lost two,
8 so we were back to a hearing schedule with seven days. Are
9 there seven days available?

10 MS. CHAPLIN: We believe there are amongst the
11 Panellists.

12 We didn't have an opportunity to check regarding the
13 availability of a hearing room. But we would certainly
14 make every effort -- it is certainly our expectation that
15 we can make it work for that second half, beginning the --
16 what did we say? The 21st of October?

17 MR. SMITH: Okay. Thank you.

18 MS. CHAPLIN: Any other questions?

19 MR. SMITH: Just one final thing. I suppose we could
20 canvass this off the record, but if people do -- are aware
21 of limitations that they might otherwise have themselves, I
22 suppose we should -- we don't need this on the record,
23 but --

24 MS. CHAPLIN: No, we're happy to make -- this room is
25 available today. So if parties wish to remain to discuss
26 any matters, that's certainly open to them.

27 Anything further?

28 MR. POCH: Madam Chair, I just just while I have you

1 here -- at least one good news story. You may have noticed
2 from the record Friday that Mr. Cameron made an offer to
3 have a witness available to address -- I think it was the
4 security of supply issues, which I think is more Mr.
5 Shrybman's issue than mine.

6 We have had conversations since then, and he's assured
7 me that his witness will be able to speak to the sort of --
8 I'll call it the zero-sum game theory that we're bringing
9 forward.

10 MS. CHAPLIN: Okay.

11 MR. POCH: And on that basis, we think we can let that
12 matter rest for the moment.

13 MS. CHAPLIN: Okay. Thank you.

14 MR. SMITH: Members of the Panel, it may be possible
15 -- you'd offered the LDCs the position to make the decision
16 for the entire day. I'm not sure we need that much time or
17 it would be desirable for us to have that much time,
18 because if we -- if we were --

19 MS. CHAPLIN: How much time would you like?

20 MR. SMITH: Well, half an hour.

21 MS. CHAPLIN: Certainly. We will come back in half an
22 hour.

23 --- Recess taken at 10:58 a.m.

24 --- On resuming at 12:02 p.m.

25 MS. CHAPLIN: Thank you. Please be seated.

26 Mr. Smith? Mr. Cass?

27 MR. SMITH: We've had an opportunity to speak, and we
28 appreciate the Board's indulgence in providing us with a

1 bit of extra time.

2 Having spoken collectively as a group, the utilities
3 and Mr. Cameron's client, we would prefer to proceed today,
4 and we are prepared to make the terms sheet and the
5 technical conference public.

6 I do have a request that I would like to make at this
7 time. There are certain people, bodies, that need to be --
8 --- Technical interruption.

9 MS. CHAPLIN: I don't know what that sound is.

10 MR. SMITH: Ironically, that's consistent with my
11 request.

12 [Laughter]

13 There are certain individuals and bodies that need to
14 be advised of the decision, and we would appreciate it if
15 possible if the Board could not broadcast for about the
16 next hour.

17 My understanding is that we will be sitting until
18 lunch and then resuming. The transcripts would be made
19 available. I don't have any concerns about picking up in
20 the afternoon and making the transcripts available publicly
21 at the end of the day. But if people could refrain from e-
22 mailing or if we could otherwise not be on the air until
23 after the lunch break, if possible, we'd appreciate that
24 accommodation.

25 [Board Panel confers]

26 MR. SMITH: The alternative is to break for lunch now,
27 I suppose. It's up to the Board.

28 MS. CHAPLIN: All right. So if we broke for lunch

1 now, so at one o'clock we could proceed?

2 MR. CASS: I thought the notion was more like two
3 o'clock, so the idea would be to go for an hour now, but
4 not broadcast publicly, an hour for lunch, and then at two
5 o'clock I think --

6 MS. CHAPLIN: Everything would be ready to go at two
7 o'clock?

8 MR. CASS: -- things would be in order. I believe
9 that was the sense.

10 MR. CAMERON: To echo Mr. Smith's comments, it's just
11 out of respect to certain tribunals and people who
12 shouldn't be hearing about this in the newspaper. So if we
13 could just have that time.

14 MS. CHAPLIN: All right. We think that request is
15 reasonable. So we will -- so it is not in camera, so
16 nobody needs to leave the room, but we will not broadcast.

17 So I will do this. I wonder if that affects -- and so
18 I would just ask a member of staff to confirm, in fact,
19 that we are not broadcasting, because occasionally, even
20 though the light's off, it's still doing it.

21 So in the meantime, are there any other preliminary
22 matters?

23 MR. SMITH: Just a few preliminary matters by way of
24 filing, if I may, before we call our first witness.

25 I think it's appropriate at this time. I had provided
26 a letter on behalf of Union and Enbridge dated September
27 11th, attached to which was the terms sheet, and I would
28 ask that that now be marked as an exhibit.

1 MR. MILLAR: It will be Exhibit K1.1.

2 **EXHIBIT NO. K1.1: LETTER DATED 11 SEPTEMBER WITH**
3 **ATTACHED TERMS SHEET**

4 MR. SMITH: Similarly, there were provided to the
5 National Energy Board letters on behalf of Gaz Métro and
6 Union withdrawing their Section 71 application to the
7 National Energy Board, correspondence from TransCanada
8 agreeing with that request, and a decision from the
9 National Energy Board accepting that withdrawal. And I
10 would ask that that be marked as an exhibit.

11 MR. MILLAR: Madam Chair, those letters have all been
12 provided to me as a single package, so I'd suggest they all
13 be marked as K1.1.

14 MS. CHAPLIN: Didn't we just... Sorry.

15 MR. SMITH: K1.2.

16 MS. CHAPLIN: I think that would be K1.2.

17 MR. MILLAR: No, sorry, the September 11th letter is
18 included in that.

19 MS. CHAPLIN: Okay. Well, let's keep the September
20 11th letter along with the terms sheet a separate exhibit
21 number, and let's just give the NEB correspondence as a
22 package its own exhibit number.

23 MR. MILLAR: Okay. It will take me some time to get
24 that up, but we'll mark that as K1.2.

25 MS. CHAPLIN: I think that will -- for reference
26 purposes I think that that will work better.

27 **EXHIBIT NO. K1.2: NEB BUNDLE OF CORRESPONDENCE**

28 MR. SMITH: Okay. Third, we had distributed colour

1 copies of the storyboards or demonstratives that are before
2 the Board, as well as a third, which is a drawing of the
3 proposed Parkway West site. I will be having the witnesses
4 identify that, and I'd ask that that be marked as an
5 exhibit as well.

6 MS. CHAPLIN: So this is a package of --

7 MR. SMITH: Yes.

8 MS. CHAPLIN: Okay.

9 MR. MILLAR: K1.3.

10 **EXHIBIT NO. K1.3: PACKAGE OF DRAWINGS**

11 MR. SMITH: And then the final exhibit, Madam Chair,
12 is the package of curriculum vitae, which has been provided
13 in respect of all of the witnesses Union intends to call as
14 part of this proceeding.

15 MR. MILLAR: K1.4.

16 **EXHIBIT NO. K1.4: PACKAGE OF CURRICULUM VITAE**

17 MS. CHAPLIN: All right. Does that conclude the --

18 MR. SMITH: Yes, it does.

19 MS. CHAPLIN: -- preliminary matters? All right.

20 Have your witnesses sworn or affirmed.

21 **UNION GAS - PANEL 1**

22 **Paul Rietdyk, Sworn**

23 **Rick Birmingham, Sworn**

24 **Mark Isherwood, Sworn**

25 **Chris Shorts, Sworn**

26 **Jim Redford, Sworn**

27 **Bruce B. Henning, Sworn**

28 MR. NOONAN: Thank you, gentlemen.

1 **EXAMINATION-IN-CHIEF BY MR. SMITH:**

2 MR. SMITH: Mr. Rietdyk, starting with you, I
3 understand that you are the vice-president engineering,
4 construction, and storage and transmission operations for
5 Union Gas Limited?

6 MR. RIETDYK: Yes, that is correct.

7 MR. SMITH: And that is a position that you have held
8 since 2012?

9 MR. RIETDYK: Yes, that's correct.

10 MR. SMITH: And I understand, sir, that you have been
11 employed by Union Gas in positions of increasing
12 responsibility dating back to 1982.

13 MR. RIETDYK: That's correct.

14 MR. SMITH: And you have a Bachelor of Commerce degree
15 from the University of Windsor?

16 MR. RIETDYK: Yes, I do.

17 MR. SMITH: And a Bachelor of Engineering Science,
18 Civil from the University of Western Ontario.

19 MR. RIETDYK: That's correct.

20 MR. SMITH: And you are a professional engineer?

21 MR. RIETDYK: I am.

22 MR. SMITH: Mr. Birmingham, I understand that you are
23 the vice-president, regulatory, lands and public affairs of
24 Union Gas Limited.

25 MR. BIRMINGHAM: That's correct.

26 MR. SMITH: And that is a title that you have held
27 since June of this year?

28 MR. BIRMINGHAM: That's right.

1 MR. SMITH: And you have been responsible for the
2 regulatory affairs department at Union Gas for some period
3 of time, dating back to about 1997?

4 MR. BIRMINGHAM: It's hard to even recall. Yes.

5 MR. SMITH: I have the benefit of it being written
6 down.

7 I understand, sir, that you are a chartered
8 accountant?

9 MR. BIRMINGHAM: That's correct.

10 MR. SMITH: And you have a bachelor of mathematics
11 degree from the University of Waterloo?

12 MR. BIRMINGHAM: That's right.

13 MR. SMITH: You are a member of the Canadian Institute
14 of Chartered Accountants?

15 MR. BIRMINGHAM: I am.

16 MR. SMITH: And you have testified before this Board
17 on roughly nine to 10 occasions?

18 MR. BIRMINGHAM: That's true.

19 MR. SMITH: Mr. Isherwood, I understand that you are
20 the vice-president, business development, storage and
21 transmission?

22 MR. ISHERWOOD: Yes, that's correct.

23 MR. SMITH: And you have been responsible for business
24 development, storage and transmission dating back to about
25 2005?

26 MR. ISHERWOOD: That's correct.

27 MR. SMITH: And you have held positions with Union Gas
28 dating back to approximately 1982?

1 MR. ISHERWOOD: Correct.

2 MR. SMITH: You have bachelor of commerce degree from
3 the University of Windsor?

4 MR. ISHERWOOD: I do.

5 MR. SMITH: And you have an MBA from that institute as
6 well?

7 MR. ISHERWOOD: Yes.

8 MR. SMITH: And you have an engineering degree,
9 chemical, from the University of Waterloo?

10 MR. ISHERWOOD: Correct.

11 MR. SMITH: And you are also a professional engineer?

12 MR. ISHERWOOD: Yes.

13 MR. SMITH: And you have testified before this Board
14 on many occasions?

15 MR. ISHERWOOD: I have.

16 MR. SMITH: Mr. Shorts, I understand that you are the
17 director of gas supply; is that correct?

18 MR. SHORTS: That's correct.

19 MR. SMITH: And you've held that position since 2012?

20 MR. SHORTS: Yes.

21 MR. SMITH: And you have held positions of increasing
22 responsibility with Union Gas since approximately 1986?

23 MR. SHORTS: Correct.

24 MR. SMITH: And you have an honours bachelor of
25 commerce degree from the University of Windsor?

26 MR. SHORTS: Yes.

27 MR. SMITH: And you too have testified before this
28 Board on about a half a dozen occasions?

1 MR. SHORTS: Correct.

2 MR. SMITH: Mr. Redford, you are the director,
3 business development and upstream regulation?

4 MR. REDFORD: That's correct.

5 MR. SMITH: And that is a position or a title you have
6 held since earlier this year?

7 MR. REDFORD: Correct.

8 MR. SMITH: And you have been responsible or had
9 responsibility for various aspects of business development
10 since approximately 2011?

11 MR. REDFORD: That's true.

12 MR. SMITH: And you began your career with Union Gas
13 in approximately 2001?

14 MR. REDFORD: I began my career with Union Gas in
15 1989.

16 MR. SMITH: Oh, I'm sorry, 1989.

17 MR. REDFORD: Yes. You're testing me.

18 MR. KITCHEN: That's right. You're also a
19 professional engineer?

20 MR. REDFORD: I am.

21 MR. SMITH: And you have a bachelor of applied science
22 from the University of Toronto?

23 MR. REDFORD: That is correct.

24 MR. SMITH: And you've testified before this Board and
25 before the National Energy Board?

26 MR. REDFORD: Correct.

27 MR. SMITH: Mr. Henning, it's my understanding, sir,
28 that you are a vice-president of ICF International?

1 MR. HENNING: That's correct.

2 MR. SMITH: And you have held that position since
3 approximately 1997?

4 MR. HENNING: That's correct.

5 MR. SMITH: And you have worked in the area of natural
6 gas and energy economics for over 30 years?

7 MR. HENNING: That is correct.

8 MR. SMITH: And my understanding, sir, is that you
9 have testified before the United States Senate Committee on
10 Energy and Natural Resources on the relationship between
11 gas and electricity markets in California?

12 MR. HENNING: Yes. That's correct.

13 MR. SMITH: And you've similarly testified before the
14 Senate Committee on Governmental Affairs on the impact of
15 the Enron bankruptcy on electricity and gas markets?

16 MR. HENNING: That's correct.

17 MR. SMITH: And your work has been cited with approval
18 in FERC orders 637 and 637A?

19 MR. HENNING: Yes.

20 MR. SMITH: And am I correct, sir, that you have
21 testified and been accepted as an expert before this Board
22 before?

23 MR. HENNING: Yes.

24 MR. SMITH: Including the NGEIR proceeding; is that
25 correct?

26 MR. HENNING: That's right.

27 MR. SMITH: And you've been tendered and accepted as
28 an expert in relation to various aspects of natural gas and

1 energy economics by the National Energy Board?

2 MR. HENNING: Yes. That's correct.

3 MR. SMITH: Including, most recently, last week?

4 MR. HENNING: Yes. That's correct.

5 MR. SMITH: And you have similarly been qualified and
6 accepted as an expert by the Nova Scotia and Manitoba
7 provincial regulators?

8 MR. HENNING: That's correct.

9 MR. SMITH: Various state regulatory boards?

10 MR. HENNING: Yes.

11 MR. SMITH: And FERC?

12 MR. HENNING: That's correct.

13 MR. SMITH: Madam Chair, I would ask that Mr. Henning
14 be qualified to provide opinion evidence to this Board in
15 relation to natural gas markets, including commodity,
16 transportation and storage, natural gas demand and supply,
17 and the interaction between natural gas and electricity
18 markets.

19 MS. CHAPLIN: Do any of the other parties have any
20 questions for Mr. Henning, or submissions on his
21 qualifications?

22 We accept him as such. Thank you.

23 MR. SMITH: Mr. Henning, I understand that you
24 prepared a report that can be found at tab 4-7 of EB-2012-
25 0074?

26 MR. HENNING: Yes. That's correct.

27 MR. SMITH: And the same report can be found in the
28 2012-0433 filing?

1 MR. HENNING: Yes, that's right.

2 MR. SMITH: And do you adopt that report for purposes
3 of testifying here today?

4 MR. HENNING: Yes, with the one correction that was
5 filed previously.

6 MR. SMITH: Okay. And subject to that, you adopt your
7 testimony?

8 MR. HENNING: Yes, I do.

9 MR. SMITH: And any interrogatories asked in relation
10 to that report?

11 MR. HENNING: Yes. I adopt those.

12 MR. SMITH: Members of the Panel, I'm going to direct
13 this question to Mr. Isherwood, but for broad adoption,
14 this was originally going to be two panels, which we've
15 conflated.

16 So I would ask whether you adopt the evidence, Union's
17 prefiled evidence and answers to interrogatories filed in
18 relation to issues A1, B6, C6 and C7, for the purposes of
19 testifying?

20 MR. ISHERWOOD: I do.

21 MR. SMITH: And similarly, the answers to
22 interrogatories in relation to that evidence?

23 MR. ISHERWOOD: Yes.

24 MR. SMITH: Mr. Isherwood, just one brief question for
25 you, if I may, by way of examination-in-chief.

26 Can you please for the Board just identify what we
27 have in these two storyboards, Exhibit K1.3?

28 MR. ISHERWOOD: Just to spend a minute talking about

1 the one behind Mr. Henning, which is really southern
2 Ontario but really does demonstrate the assets that are
3 before this Board for approval, I should note that it's
4 not, obviously, to scale, with the Dawn hub looking as big
5 as it really is there, but nonetheless it is an important
6 asset for us.

7 [Laughter]

8 MR. ISHERWOOD: I just want to highlight on this, you
9 can see the four lines that run from Dawn, basically,
10 almost to Kirkwall. So the first asset we're going to talk
11 about in this hearing is really the looping between
12 Brantford and Kirkwall. And that does complete the four
13 loops all the way from Dawn to Kirkwall.

14 And as the evidence has indicated, our system has
15 changed fairly dramatically with the changes in North
16 American natural gas supply changing.

17 And in the past where gas would go to Kirkwall and
18 then turn right and be exported at Niagara and Chippewa,
19 it's now being imported at those two points. So our system
20 has changed quite a bit, and the gas that was going toward
21 Niagara and Chippewa is heading, hopefully, towards
22 Parkway, with additional assets begin required there to re-
23 purpose the critical export volumes to being volumes that
24 would need now to go through Parkway.

25 You can see the red dot beside Parkway. That's
26 indicating Parkway West. It's basically across the 407 in
27 real time or real space.

28 Parkway West would be the site of the LCU compressor,

1 if it's so approved by the Board, as well as the growth
2 compressor, Parkway D, which we'll be talking about as
3 well.

4 And just finally on this one, you can see the dotted
5 purple line going to Albion. That's part of the Enbridge
6 application; that's segment A.

7 And the green line on this map is really showing an
8 extension from Albion to Vaughan, which is really the 2015
9 Kings North project that TCPL is proposing. And then it's
10 expected that based on the open season result that Enbridge
11 has gotten and will testify to, that there would be
12 additional assets required from Vaughan towards Maple on
13 the TransCanada system in 2016 and possibly beyond.

14 On this map, it shows the green from Albion to Vaughan
15 to Maple as being a Union Gas/Gaz Métropolitain facility
16 set. Obviously as a result of the settlement, that's now
17 going to be a TransCanada facility set, which is one of the
18 outcomes of the settlement.

19 So that's really this map. And we actually used it a
20 little bit even on Friday at the technical conference, so
21 hopefully we'll find it useful during this hearing.

22 And more quickly but equally important, the other map
23 included here is really just the broader TCPL system as it
24 relates to Ontario.

25 I just wanted to be able to identify for the Board and
26 intervenors the different delivery areas within
27 TransCanada, so if one of us talk about the WDA or the NDA,
28 you can get a very quick graphic in terms of where that's

1 at.

2 And equally important on this map is Eastern Triangle,
3 which -- I'm sure that would be the most repeated term over
4 the next seven days. Eastern triangle is really the
5 triangle formed by North Bay, Parkway and the point called
6 Waddington.

7 And for the purpose of -- if we start talking about
8 segmentation and tolling, it's really all points east of
9 North Bay and Parkway. So that would also include some of
10 the assets into Quebec as well.

11 So Eastern Triangle, more broadly spoken in this
12 hearing, would be all the assets kind of east of Parkway
13 and North Bay, including the TQM system in Quebec.

14 So hopefully both these will be helpful for the Board.
15 And there's one behind me, which is really just a layout of
16 the Parkway West site, which at some point when we get into
17 the technical nature of the site, we can use that as well.

18 MR. SMITH: Thank you, members of the panel. Those
19 are my questions, members of the Board, in examination-in-
20 chief, and I'd tender the panel for cross-examination.

21 MS. CHAPLIN: Thank you.

22 Mr. Brett, on my most recent list you are listed as
23 being first to cross-examine. Is that still correct?

24 MR. BRETT: Yes, that's still the case, Madam Chair,
25 Panel.

26 **CROSS-EXAMINATION BY MR. BRETT:**

27 MR. BRETT: Good morning, Panel. And --

28 MS. CHAPLIN: And, sorry, just -- and an hour,

1 correct?

2 MR. BRETT: Yes. Thank you.

3 MS. CHAPLIN: Great. Thank you.

4 MR. BRETT: Mr. Henning, you mentioned a correction to
5 your evidence. Could you just give us that, please?

6 MR. HENNING: It was an update that was filed on
7 August 23rd of 2013. It replaced pages 11 and 12 of the
8 report.

9 MR. BRETT: Okay. I see. They're here. I don't have
10 those, but I can work off this if necessary.

11 The other thing is, Mr. Henning, has your retainer
12 with Torys been filed with the Board?

13 MR. HENNING: I don't believe that it has, no.

14 MR. BRETT: Could we have that filed, please? An
15 undertaking for that?

16 MR. SMITH: Yes, we -- I mean, I don't have a concern
17 with respect to providing it. I'm just trying to think of
18 the form that it took. But, yes, we can file that.

19 MR. MILLAR: J1.1.

20 **UNDERTAKING NO. J1.1: TO PROVIDE A COPY OF MR.**
21 **HENNING'S RETAINER WITH TORYS**

22 MR. BRETT: Thank you very much.

23 As my friend Mr. Thompson would say, I have three
24 topics I'm going to deal with. First will be the market, a
25 few questions on the market in Ontario, market growth for
26 natural gas, and the various relevant markets. Second will
27 be a few questions on gas supply, the availability of
28 Western Sedimentary Basin gas supply to eastern markets.

1 And finally and most extensively, sort of the issues around
2 the additional compressors that Union is proposing to
3 construct at Parkway West. The larger part of the time
4 will be on the last issue.

5 But with respect to the first issue, the market,
6 probably the best way to start is to have you all turn up
7 what I have here as Schedule 4.1 of EB-0074. That's the
8 Henning study. And on page 9 -- I'm going to start on
9 page 9 -- there's a coloured graph there of -- and the
10 graph shows ICF's take on the growth of natural-gas
11 consumption by end-use in Ontario.

12 Do you have that, panel? Mr. Henning? Page 9.

13 MR. HENNING: I have the chart. In my copy it shows
14 as page 5. Were we looking at the same graphic?

15 MR. BRETT: Well, I have a document here that's --
16 well, all right. That's fine. That's the same chart. I
17 see it as page 9 here on my sheet on the screen. But it's
18 the same chart. At least I'm satisfied it's the same
19 chart.

20 Now, this, Mr. Henning, you show on this chart Ontario
21 natural-gas consumption by end-use from today -- actually,
22 you start at 2000, but for our purposes, from today out to
23 2025, right?

24 MR. HENNING: That's correct.

25 MR. BRETT: And you show residential and commercial
26 end-use flat from now until 2025, correct?

27 MR. HENNING: Flat in volumetric terms; that's
28 correct. There are more customers being served with the

1 same volumes.

2 MR. BRETT: I understand that. And then on industrial
3 you show it almost flat. I make that out to be a slight
4 increase, but not a very large one.

5 MR. HENNING: Well, if it might help, the value in
6 2010 there was at 212 Bcf^ per year. And by 2025 it's 307
7 Bcf per year.

8 MR. BRETT: Well, then that graph is -- doesn't really
9 show what's happened, does it? I'm speaking industrial
10 with -- outside of power generation. Are you including
11 power generation in your comment?

12 MR. HENNING: No, I'm not. No, I'm not. But if you
13 look at the graphic, you can see that at 2010 you are at
14 kind of a dip year as a result of some of the --

15 MR. BRETT: I see. I see, yeah. Okay. I'm sorry.
16 Mr. Cameron has just kindly assisted me here. You're going
17 from a 2012 base when you say that.

18 MR. HENNING: No. The number I gave you was actually
19 a 2010 base. That's the number I have before me. I can
20 double-check what it was in 2012.

21 MR. BRETT: Okay. Maybe you could give me when you
22 got get an opportunity -- what I was referring to is the
23 2013 base. And it looks to me like there was -- if you are
24 giving me a 2010, then there's a bit of substantial, as one
25 would expect, increase in industrial since 2010. But could
26 you give me a 2013 -- what that number would be in 2013,
27 please?

28 MR. HENNING: I would be happy to do that. It may

1 also help -- I do have the 2015 number in the chart, and at
2 that point it's --

3 MR. BRETT: That would be helpful.

4 MR. HENNING: -- 202 Bcf per year.

5 MR. BRETT: 202?

6 MR. HENNING: Excuse me. I'm sorry. Excuse me. 254
7 Bcf per year there, and then it grows to 307 by 2025.

8 MR. BRETT: All right. And you're going to be able to
9 give me the 2013?

10 MR. HENNING: Yes, I will.

11 MR. BRETT: That's an undertaking?

12 MR. MILLAR: J1.2, and that's to provide the volume
13 for industrial gas use for 2013.

14 **UNDERTAKING NO. J1.2: TO PROVIDE THE VOLUME FOR**
15 **INDUSTRIAL GAS USE FOR 2013**

16 MR. BRETT: Okay. Now, is it fair to say that that
17 would also represent the, for those three sections, those
18 three sectors, that would also represent the Union Gas
19 franchise experience? Or I should say forecast?

20 MR. HENNING: This particular forecast is for Ontario
21 as a whole.

22 MR. BRETT: I understand that.

23 MR. HENNING: ICF does not forecast individual service
24 territories in our modelling. This is from our October
25 2012 base case. We do not break that out by the individual
26 service franchise, so this is for the province as a whole.

27 MR. BRETT: Okay. Now, does Union have a forecast for
28 its territory going forward for the same period of time for

1 each of these sectors? I didn't see one in the evidence.

2 MR. ISHERWOOD: No, we don't forecast for our
3 franchise that far out, and it's a better number to get the
4 province-wide one, in terms of the scope of these assets,
5 so Union's forecast by itself is probably not as
6 meaningful.

7 MR. BRETT: How far do you forecast out your demand?
8 Is it three years or two years or...?

9 MR. ISHERWOOD: Typically spend most of our time
10 looking at the current year and the next year. Not to say
11 we don't do higher-level views, but it's near-term.

12 MR. BRETT: All right. Thank you. And with respect
13 to power generation -- well, let me go back. Let me go
14 over to page 8 now. I have to find page 8 here. Yes. On
15 page 8, Mr. Henning, you -- this is at the Section 3.1,
16 "Ontario natural gas demand". You say here -- you predict
17 Ontario consumption growth averaging 2.6 percent annually
18 through 2025 -- that's for gas -- and a total natural-gas
19 supply flowing to and through Ontario, 1.5.

20 Now, is the -- just so I understand what you've done,
21 is the 1.5 -- does the gas flowing to and through Ontario
22 include what's consumed in Ontario and what's exported?
23 What's the relationship between the 1.5 and the 2.6?

24 MR. HENNING: That's correct. The -- excuse me, did
25 you say it's 2.6 for the annual growth through 2025 on
26 average for the Ontario consumption? The 1.5 includes the
27 reduction in volumes that we are anticipating and
28 projecting of gas flowing back into the northeast United

1 States.

2 MR. BRETT: What is that reduction, Mr. Henning?

3 MR. HENNING: What is the source of that --

4 MR. BRETT: What is the reduction forecast to be in
5 your analysis between now and 2025 of the gas flowing back
6 into the United States?

7 MR. HENNING: The reduction can probably best be seen
8 in the graphic that's included in section -- Exhibit 3.2.

9 And if we look at that, it's going from about 53 Bcf
10 on an annual basis in 2010, down to a low point at 20 Bcf
11 in 2015, and then it comes back up slightly to 25 Bcf by
12 2025.

13 MR. BRETT: Okay. So it's the yellow piece there, but
14 from -- but, again, I guess there's a question of the base.

15 If you look at the base year being 2013, best I can
16 tell what you've got here is -- looks like sort of a flat
17 performance from now to 2025?

18 Or you see that as a decline?

19 MR. HENNING: It's a bit of a decline. With the
20 scale, it's kind of hard to see. Actually, in 2013, into
21 New England, you had -- the market conditions in 2013 in
22 New England were slightly warmer than the 20-year normal
23 average, but there were real requirements for power
24 generation in ISO New England and the New York ISO.

25 And as a result, there were increases in the flow,
26 particularly in January and February of 2013, on the P&G TS
27 pipeline system, that were required in order to balance the
28 market requirements in the northeast.

1 So although I can't see it on this particular scale
2 here, I would suspect that 2013 was up a little bit.

3 MR. BRETT: Then going back to the original
4 discussion, what would the order of the decline be, in your
5 view, from now until 2025?

6 And I include in that, and I assume you include, the
7 New England LDC volumes and the New York area volumes,
8 which some people call the mid-Atlantic, some people lump
9 it in with New England; is that right?

10 MR. HENNING: That is correct. And in this forecast
11 it's probably pretty flat.

12 MR. BRETT: I see. You're coming back to pretty flat?
13 Okay.

14 MR. HENNING: Pretty flat.

15 MR. BRETT: All right. Now, clearly the growth that
16 you're forecasting for Ontario is contingent on -- is
17 really centred on the power generation market in Ontario,
18 right?

19 MR. HENNING: That's correct. That's the predominant
20 source of the growth by volume.

21 MR. BRETT: And you seem to show that as something in
22 the order of 0.3 of a Tcf from now until 2025; is that
23 roughly right?

24 MR. HENNING: I would say that's roughly right.
25 You're looking at something that's growing from probably --
26 again, I've got the base year at 2010, but if I was
27 estimating, and subject to check for 2013, probably growing
28 from around 200 Bcf a year to 440 Bcf by 2025.

1 MR. BRETT: Now, can you tell me what is the basis of
2 your projection of the growth of gas-fired generation in
3 Ontario over the next 10 years? What did you use to arrive
4 at your number of 2.6? I'm assuming 2.6 percent's pretty
5 close to the power growth that you foresee, or do you see
6 power growth as exceeding -- I guess you see power growth
7 exceeding 2.6 on average?

8 MR. HENNING: That's correct. That's correct. It's
9 the predominant source of the growth that averages across
10 all sectors at 2.6.

11 MR. BRETT: And what is the number, what is the
12 percentage growth in power that you see?

13 MR. HENNING: I'd have to take that as an undertaking,
14 to get a percentage from that.

15 MR. BRETT: Could you please?

16 MR. HENNING: But it's higher than 2.6.

17 MR. MILLAR: J1.3, and that's to provide the annual
18 increase in consumption for power generation from what
19 years, Mr. Brett?

20 MR. BRETT: 2013 to 2025.

21 MR. MILLAR: Thank you.

22 **UNDERTAKING NO. J1.3: TO PROVIDE THE ANNUAL INCREASE**
23 **IN CONSUMPTION FOR POWER GENERATION FROM 2013 TO 2025.**

24 MR. BRETT: And can you give us a ballpark number? I
25 mean, what does it -- given those two bookends that you
26 gave me a moment ago, what are we looking at, roughly?
27 Four percent?

28 MR. HENNING: Subject to check, it's certainly in

1 excess of ^three percent per year.

2 MR. BRETT: Okay. Now, you are aware, are you, that
3 there are currently something like 29 gas plants in the
4 province?

5 MR. HENNING: That number sounds about right. I have
6 to check in -- I have an IR response that was actually in
7 the NEB proceeding, that looked at the ones particularly on
8 the TransCanada system. We can pull that out if we want
9 to.

10 MR. BRETT: And do you see -- what do you see in new
11 gas plants in the next two to three years in Ontario? Can
12 you identify specific plants that you see going into
13 operation in the next, say, three- to five-year period? Or
14 let's take two to three years first, and then three to
15 five.

16 MR. HENNING: When we're doing our modelling effort
17 within Ontario, we're not identifying individual plants
18 within the forecast. Rather, we're looking at what we
19 project to be the growth in the electricity requirements
20 and what we think the economic mix will wind up being.

21 It's also consistent with any of the announcements
22 regarding reductions in output from coal facilities, some
23 of which has already happened and some of which may happen
24 in the future.

25 MR. BRETT: So when you do your model, you do this on
26 a modelling -- kind of, if I can put it this way, sort of
27 on a macro basis?

28 MR. HENNING: The base case modelling system that

1 we're showing the results of here is done for all of North
2 America, and so --

3 MR. BRETT: And what -- you make certain assumptions
4 about growth of GNP? What are the main variables that you
5 look at when you make an assessment like that, for the
6 Ontario market?

7 MR. HENNING: Well, the variables that we're looking
8 at for the Ontario market are similar to the ones that we
9 apply to all of the other markets.

10 We look at growth in economic activity. We look at
11 growth in the number of households, general population
12 associated with it, declines in use per customer that may
13 occur because of conservation. When we're looking at
14 the -- and then the import/export balances associated with
15 that, and the change in fuel mix that's forecast on the
16 basis of relative fuel prices.

17 So all of those are assumptions that we use, applying
18 it in Ontario.

19 I also would add that we spend an awful lot of time
20 looking at other projections, projections by the NEB and
21 others. We use that to educate our own input assumption.
22 We don't necessarily always adopt or agree with all of the
23 particulars of anybody else's forecast. This is our own
24 independently produced forecast.

25 MR. BRETT: And so you use -- are you aware of the
26 recent efforts and recent agreement reached among the
27 players in the power market in Ontario, I guess reached by
28 the IESO in particular, to allow the dispatchability of

1 renewable power, and the impact that might have on natural
2 gas? Are you aware of that decision?

3 MR. HENNING: I am aware in general terms of that
4 decision. I haven't studied it in detail.

5 MR. BRETT: Are you aware that the general view seems
6 to be that that will decrease the amount of natural gas
7 generation in Ontario?

8 MR. HENNING: I'm aware that there have been some
9 analyses that wind up pointing towards that.

10 I'd also point out that, broadly in North America,
11 there are issues associated with how the integration of
12 what's termed in the United States "variable energy
13 resource" is dealt with, how much of it you can do on a
14 load-following basis, how much is going to require a
15 firming up by some other generation resource.

16 ICF did a study for the Interstate Natural Gas
17 Association of America, that was looking at those issues,
18 and concluded that there were going to be certain
19 requirements for gas dispatched from peaking units to
20 complement the variable energy resource and dispatch there.

21 So our view may not show the exact same decline that
22 some other projections have, but we think we've accounted
23 for the increases in renewables on a percentage growth term
24 in our forecast throughout North America. Renewables is
25 actually the fastest-growing.

26 MR. BRETT: Thank you. Do you agree with me that the
27 average load factor of the Ontario gas fleet is about 50
28 percent now?

1 MR. HENNING: Subject to check, I think that sounds
2 about right.

3 MR. BRETT: And you agree with me that there are a
4 number of gas-fired projects, power plants in Ontario,
5 which are duly referred to as NUG projects, non-utility
6 generation projects?

7 MR. HENNING: Yes, I'm aware of the non-utility
8 generation.

9 MR. BRETT: And are you aware that there is -- are you
10 assuming in your forecast in any way that those NUG
11 projects will continue in existence after their primary
12 contracts expire this year, next year, the year after? Or
13 do you have any view on that?

14 MR. HENNING: We are not assuming that those plants
15 will be taken out of service beyond the terms of the
16 current contract.

17 MR. BRETT: Sorry, you're assuming they'll continue in
18 service?

19 MR. HENNING: Yes, we are.

20 MR. BRETT: Okay. Now, just briefly with the
21 northeast markets. Would you look at Board -- BOMA No. 53,
22 please, for a moment.

23 MS. CHAPLIN: Can you give us the full reference for
24 that, please?

25 MR. BRETT: Sorry?

26 MS. CHAPLIN: Can you give us the full reference? So
27 A what?

28 MR. BRETT: Yes, 1-A-1, UGL BOMA 53. And in

1 particular, attachment 2. You have that?

2 MR. REDFORD: I have that.

3 MR. BRETT: Is it your view that -- you see -- if I
4 call your attention to the table on attachment 2, the end
5 dates of the contracts, the group of contracts, the first
6 group of contracts there, which are -- you would agree with
7 me they're mostly with U.S. utilities in the New York area;
8 is that fair? New York State?

9 MR. REDFORD: That's correct. There's a number of
10 U.S. northeast utilities included.

11 MR. BRETT: And they have end dates about of October
12 '16 -- of October of 2016 for the most part, right?

13 MR. REDFORD: Yes, a number -- October '16. Some
14 extend out. For the U.S. northeast utilities they are
15 approximately October of '16.

16 MR. BRETT: Right. And I take it you have -- these
17 are M12 contracts you have with them?

18 MR. REDFORD: They are.

19 MR. BRETT: And you have a two-year renewal period on
20 M12 contracts? You have to give a two-year notice period?

21 MR. REDFORD: Two-year notice period on M12s; that's
22 correct.

23 MR. BRETT: You haven't got to the point yet where
24 you'd be getting notices from these utilities whether they
25 wished to continue or not beyond October 31st, 2016?

26 MR. REDFORD: The notice period for those contracts
27 would be October 31st of 2014.

28 MR. BRETT: Right. Are you familiar with a U.S.

1 pipeline development called the Constitution pipeline?

2 MR. REDFORD: I am.

3 MR. BRETT: And you would agree with me that it's
4 going to run for the Marcellus shale up into New York
5 State, and it's going to intersect there with both the
6 Iroquois pipeline and the Tennessee pipeline?

7 MR. REDFORD: Yeah, Constitution is a pipeline that is
8 in plan right now, and it would connect into -- its
9 endpoint ultimately would be Iroquois --

10 MR. BRETT: Could you speak just a little more -- a
11 little loudly --

12 MR. REDFORD: Yes, sorry. The endpoint would be
13 Iroquois pipeline for Constitution.

14 MR. BRETT: That's right. And you agree that that
15 pipeline has been filed at FERC?

16 MR. REDFORD: It has been filed at FERC. It's
17 received significant opposition from landowner groups along
18 the way.

19 MR. BRETT: Would you agree with me that at the end of
20 the day it's likely that that pipeline will be constructed
21 and go into service by early 2015?

22 MR. REDFORD: I can't say that for certain. I can't
23 say for certain whether it will be in service in '15 or
24 whether it would be constructed at all.

25 MR. BRETT: Mr. Henning, do you have something to add
26 there?

27 MR. HENNING: I was going add something, that in fact
28 we within the ICF forecast do assume that it's being

1 constructed. We look at the requirements for power in New
2 England and New York, and we recognize that, particularly
3 in IESO New England, but also to a certain degree within
4 New York ISO, there is a real question regarding
5 sufficiency of gas pipeline capacity. It was a real issue
6 this past winter, and in fact I think it will be an issue
7 again this coming winter.

8 The decline in volumes, in terms of the -- that we are
9 projecting of gas coming back from Ontario into the
10 northeast United States and then going also up PNGTS and
11 down into New England is consistent with the construction
12 of that pipeline.

13 If it doesn't get built, things are going to be really
14 very, very tight. But even with that, the requirements of
15 gas generation, gas-fired generation in the northeast, we
16 have analyzed and concluded that they will be needing to
17 get locations where they can get reliable gas supply.

18 And that's part of the reason why, even though these
19 contracts may expire at that point, we do not assume that
20 those facilities will be closed.

21 MR. BRETT: You do not think that the Constitution
22 pipeline going to Iroquois and then down on Iroquois to the
23 New York area would be a significant competitor to the
24 existing route of gas from Dawn through Parkway to
25 Waddington and all -- and down to New York?

26 MR. ISHERWOOD: If I could just maybe add here, Mr.
27 Brett. I think Union Gas's forecast, in terms of the New
28 England shippers, is that they do not turn back capacity.

1 We are expecting people to turn back capacity at the
2 Kirkwall path. Clearly that path is no longer an export
3 point.

4 And in terms of gas that goes from Parkway to
5 Iroquois, which this group of customers is doing, our
6 current forecast is that it would not turn back capacity.

7 MR. BRETT: Right.

8 Can you tell me -- you had -- just a final question on
9 this, two final -- one final question. You had an open
10 season and a reverse open season in 2012 with respect to
11 capacity on the -- coming in at Niagara, as I understand
12 it.

13 MR. ISHERWOOD: Our 2012 open season was dealing with
14 volumes coming from Dawn and/or Kirkwall to Parkway.

15 MR. BRETT: Right. And in that reverse open season, I
16 think you noted in your evidence that National Fuel Gas
17 turned back its capacity. Is that -- but it was subject to
18 approval of their Board. Did the Board approve that
19 turnback?

20 MR. REDFORD: I don't believe that they have approved
21 that, their turnback, yet.

22 MR. BRETT: You don't think they have?

23 MR. REDFORD: No, I don't believe they have. I'll
24 take that subject to check.

25 MR. BRETT: All right. Would you mind confirming that
26 for me as an undertaking?

27 MR. SMITH: Yes, we'll do that.

28 MR. BRETT: Okay. I'm going move to the gas-supply

1 side now for a moment --

2 MS. CHAPLIN: Sorry, if we're going to take it as an
3 undertaking, then we need to give it a number. Are you --
4 or can we just take it subject to check? They'll just let
5 us know if that answer is incorrect? Is that --

6 MR. SMITH: Why don't we do that.

7 MS. CHAPLIN: -- satisfactory?

8 MR. BRETT: What does that mean again? Subject to
9 check?

10 MR. SMITH: You should take it as they have not turned
11 it back unless we advise you differently.

12 MR. BRETT: All right.

13 MS. CHAPLIN: Thank you.

14 MR. BRETT: Okay. Just give me a moment here. I
15 get...

16 Okay. I'd ask you, Mr. -- start with you, Mr.
17 Isherwood, on this. Have you had any difficulty over the
18 last year or two contracting for gas in Western Canada?
19 Have you been, for example, refused gas supply by shippers
20 in Western Canada?

21 MR. ISHERWOOD: We have not.

22 MR. BRETT: Mr. Henning, if we go back to page 8 of
23 your study, you state at the bottom of the first paragraph
24 -- I'm just going to quote this. It's a short sentence:

25 "As a result, Ontario's ability to meet
26 additional gas demand hinges on its ability to
27 access new sources of natural gas supply such as
28 the Utica and Marcellus shales."

1 Are you saying there that Ontario cannot meet its gas
2 demand in the future unless it has access to Marcellus and
3 Utica shales? Unless it puts itself in a position to
4 import significant amounts of gas from those shales?

5 MR. HENNING: I think the way I would characterize it
6 is that those sources of gas are the most economic sources.

7 And we can talk in a little bit of detail about the
8 western Canadian supply situation and how we conclude that,
9 if you would like, either here or at some point.

10 MR. BRETT: Well, just if I may clarify something, I'm
11 not talking about economics here. I'm talking about your
12 statement that I read to say that Ontario's got to get gas
13 from these basins or it's not going to have sufficient gas
14 to meet its needs. That's not economic; I'm going to come
15 to the economics in a few minutes.

16 But this strikes me as being a pretty strong, absolute
17 sort of statement. Do you agree with -- is that what
18 you're trying to say?

19 MR. HENNING: Well, I think the way I would describe
20 it -- and yes, I stand by the statement that I've made here
21 -- the context of this is the -- let's take it in the
22 individual pieces.

23 Unless natural gas prices in western Canada rise
24 significantly from where they are today, you won't be able
25 to buy it. Frankly, you're not going to be able to develop
26 sufficient supplies of natural gas in western Canada at the
27 prices around \$2. They're going to have to go up a lot.

28 MR. BRETT: Sorry, did you say the price is \$2?

1 MR. HENNING: Yes. That's what it's been running over
2 the last month.

3 MR. BRETT: But it has been running at a higher price
4 than that previous -- in the year previous to that, right?

5 MR. HENNING: The experience that we have now is the
6 new environment of the board decision model before the NEB
7 in RH-003-2011.

8 And that model started on July 1st of this year, and
9 since that point in time, natural gas prices in western
10 Canada have been depressed greatly as a result of that
11 model.

12 MR. BRETT: Mr. Henning, could I just -- all right.
13 Can I move along for a moment here? I think you're going
14 back into economics.

15 But your position about the importance of being able
16 to access Utica and Marcellus gas, I want to take you to --
17 in fact I'll move to western Canada with you, and I'd like
18 to take you to a statement by the NEB. I'd like you to
19 have in front of you -- first of all, let me ask you, Mr.
20 Henning: Would you consider the National Energy Board an
21 independent party in assessing gas and -- price and gas
22 forecasting?

23 MR. HENNING: Yes.

24 MR. BRETT: Was that a yes?

25 MR. SMITH: Sorry, just with respect, the National
26 Energy Board is a legal tribunal that has responsibilities
27 like this Board does.

28 MR. BRETT: We all know that, Mr. Crawford -- or Mr.

1 Smith.

2 But I'd like to read an excerpt from the board's
3 decision, RH-003-2011. Do you have those copies there?
4 Would you mind bringing them up, Mr. --

5 MR. MILLAR: Mr. Brett, these are the documents you
6 gave me previously?

7 MR. BRETT: Yes.

8 MR. MILLAR: Yes. So that will be Exhibit --

9 MR. BRETT: I gave you two passages.

10 MR. MILLAR: -- K1.5.

11 **EXHIBIT NO. K1.5: NEB DECISION IN RH-003-2011.**

12 MS. CHAPLIN: Mr. Brett, have you previously provided
13 these materials to Mr. Smith?

14 MR. BRETT: I have not, and with the sort of chaos at
15 the end of last week, I didn't have a chance. But it is an
16 excerpt from the recent board decision that's the subject
17 of the settlement agreement and so on and so forth.

18 MS. CHAPLIN: Well, we will try to proceed, but I will
19 remind all parties: If you are going to be putting
20 documents to the witnesses, the obligation is to provide
21 them in advance.

22 MR. SMITH: Madam --

23 MR. BRETT: I take your point. I'm sorry. Let me
24 just --

25 MS. CHAPLIN: Mr. Smith, are you prepared to proceed
26 with --

27 MR. SMITH: No, I'm just mindful of the time. I mean,
28 we're three minutes from the lunch break. Why don't we

1 just provide the materials? We'll come back, and then
2 we'll all have had the benefit of looking at them.

3 MS. CHAPLIN: All right. That's fine. We'll proceed
4 on that basis. We'll break now until 2:00 o'clock.

5 --- Luncheon recess taken at 12:58 p.m.

6 --- On resuming at 2:02 p.m.

7 MS. CHAPLIN: Please be seated.

8 All right. And we are on the air. I assume that
9 there's no difficulty with that at this point.

10 Mr. Brett, are you ready to continue? I believe you
11 have a half an hour remaining in your time.

12 MR. BRETT: Thank you, Madam Chair.

13 Yes. I'd like to start by asking Mr. Isherwood to
14 turn up page 162 of the NEB material.

15 MS. CHAPLIN: All right. We'll mark that for...

16 MR. MILLAR: Yes, it's K1.5, Madam Chair.

17 MS. CHAPLIN: Thank you

18 MR. BRETT: And -- yes, that's right. It's -- I'm
19 just going to ask you, Mr. Isherwood, to look with me at
20 the second and third full paragraphs on page 162. And as
21 you see in the second full paragraph, the Board is -- the
22 Board here speaks of -- gives their view:

23 "We are of the view that unconventional sources
24 of gas", my emphasis, "such as those in the
25 Montney, Horn River Basin and Cordova Embayment
26 will constitute the majority of future
27 discoveries. We accept TransCanada's submission
28 that these unconventional sources of natural gas

1 will more than offset the long-term decline in
2 conventional production from the WCSB."

3 And he goes on to talk about large volumes of gas in
4 place, and these new basins "have added significantly to
5 the resource base in the WCSB despite their early stage of
6 development".

7 And the next short paragraph is the key conclusion
8 they draw, and I'd like to read that and ask you about it.
9 The Board says:

10 "Considering all factors, we find that the risk
11 that natural gas supply will not be economically
12 available and accessible to the Mainline is lower
13 today than it was when the Board last assessed
14 the Mainline's business risk in RH-2-2004 Phase
15 II. As a result, we believe supply risk to be
16 lower than the last time it was considered for
17 the Mainline."

18 Mr. Isherwood, do you accept that proposition, or do
19 you find anything in there to disagree with?

20 MR. ISHERWOOD: I don't disagree that there's large
21 volumes of gas in place in terms of those developments,
22 potentially. What I would be concerned about is how much
23 that gas will actually get, A, produced, based on today's
24 pricing, and equally important, how much gas would be
25 available to come east to Ontario markets.

26 MR. BRETT: Right.

27 MR. ISHERWOOD: And if I just may, I guess, if I could
28 -- this is done --

1 MR. BRETT: Before you go on, if I may --

2 MR. ISHERWOOD: Actually, I think it's important to
3 stop here for a second, because the NEB, when they made the
4 statement, it was based on a June 2011 forecast that TCPL
5 had submitted. It's actually in evidence as Exhibit M,
6 TCPL.Union.15. If --

7 MR. BRETT: Yes, well, that's -- that's --

8 MR. ISHERWOOD: If I can, for a second --

9 MR. BRETT: The NEB, I think --

10 MR. SMITH: Sorry, sorry, just, can we let Mr.
11 Isherwood finish his answer?

12 MR. BRETT: I didn't realize you were still talking.
13 I apologize.

14 MR. ISHERWOOD: I'd like to have it come up on the
15 screen.

16 MR. BRETT: Were you finished?

17 MR. ISHERWOOD: I'm on page 2 of 10 on the exhibit,
18 attachment 5A, 15A. This is actually the case that the NEB
19 was making their decision based on. I think it was --
20 actually, Nicole, you had it before? Yeah. And just at
21 the very bottom, 2020.

22 So you can see on this that there is actually -- the
23 conventional supply is showing up in the first column from
24 2000 to 2020. And it shows a supply of 17 Bcf a day by
25 2020.

26 There's -- western Canadian demand, which is
27 increasing, which takes away the first part of that volume.
28 And then there's 10.4 Bcf a day available for export. The

1 next page actually shows how that export gets divided.

2 What's interesting, and a lot of people don't
3 recognize, is that although TCPL is the largest pipeline
4 leaving the basin, there's actually five other pipelines --
5 four other pipelines, I guess, that also leave the basin,
6 and you can see those pipelines are for the most part
7 relatively stable through the years.

8 The one that's being impacted by declining supply
9 throughput is actually the western -- or, sorry, the TCPL
10 western receipts, which go from 6.8 down to, by 2020, 3.6,
11 and dip a little lower in the middle. And then the new kid
12 on the block, if you want, is the LNG exports at .4 in
13 2018, growing to 1.3.

14 And I just want to go to one other IR quickly, but
15 10.4 is what was forecast by TCPL for 2020 in 2011. And if
16 you go to GMI -- sorry, TCPL.GMi.4. And can I get down
17 around the 2020 time frame?

18 But this is actually the more current TCPL forecast,
19 which is fine. You can see now that LNG has gone from what
20 was 1.3 in the 2011 forecast, in 2020 is now 2.9, and by
21 2025 grows to 4.8. So that's a good change here, but it is
22 showing LNG is attracting supply.

23 And you can see that the amount of gas available for
24 export now is down to 7.2 in 2020, and it was at 10.4, so
25 that's a significant change there, and declines further to
26 5.4.

27 So as an LDC, looking at buying supply -- and a lot of
28 our case is based around economics of going long-haul to

1 short-haul, but an equally compelling driver for us is
2 security of supply, and in fact when Gaz Métro applied to
3 the Régie, and the Régie's decision was based on not only
4 the economics of it but also the economics of it (sic).

5 So I don't disagree there's a large resource there. I
6 think ICF can talk about, will they get drilled the \$2
7 pricing? Probably not as much as expected. But if prices
8 recover it may get drilled.

9 But there's so much competition for that gas in other
10 pipelines, LNG, Alberta demand, it puts a question mark on
11 it for us. That's not to say that I won't buy western
12 supply at Dawn, you know. It's not to say that I won't be
13 buying western supply along the main line. But there's a
14 question mark.

15 So for our customers and for Ontario we think it's
16 very prudent to go back and create access to Dawn, where it
17 has much more optionality around supply. There's -- many
18 different basins come into Dawn. And if our Ontario
19 industrials need to compete with neighbouring
20 jurisdictions, we need access to the same gas they have and
21 not be tied wholly to TCPL only.

22 And again, I'm not trying to say TCPL's a bad option,
23 it's just there's question marks, and as an LDC that has
24 the prudence and a need to, an obligation to serve, we have
25 to have options, and that's why it's so important for us to
26 get through the Parkway.

27 MR. HENNING: And if I might add, Mr. Brett --

28 MR. BRETT: Just -- pardon me, I've got ten minutes of

1 my time used up by this speech, which I respect. It's a
2 good -- but I was going to ask you something in a moment,
3 Mr. Henning, but I'd like to pursue this with Mr. Isherwood
4 for a moment.

5 Mr. Isherwood, at page 151 of this same document, this
6 NEB decision, the Board defines "supply risk". And they
7 say there at 9.2.3, middle of the page:

8 ^"Supply risk is the risk that physical
9 availability of competitively priced natural gas
10 volumes could affect TransCanada's income-earning
11 capability."

12 Do you agree with that definition of "supply risk"?

13 MR. ISHERWOOD: Is that the paragraph you have an
14 underline underneath?

15 MR. BRETT: That's the one I just read to you, at
16 section 9.2.3.

17 MR. ISHERWOOD: The third paragraph down?

18 MR. BRETT: The paragraph that starts "supply risk is
19 the risk". It's just a two-line paragraph, page 151. It's
20 a short paragraph.

21 MR. ISHERWOOD: The NEB actually divided TransCanada's
22 risk into three categories. Supply risk was one of them,
23 and it was really around the Western Canadian Sedimentary
24 Basin.

25 MR. BRETT: I understand that. But the supply risk is
26 -- what they -- in the discussion of supply risk, they're
27 discussing, is there -- let me go back to -- they're
28 discussing whether or not the main line, when they assess -

1 - would you agree with me that when the NEB or any utility
2 assesses supply risk -- and supply risk is something --
3 it's always assessed as part of the business risk of a
4 pipeline, right? When they do that, what they're getting
5 at is, is there enough gas at the supply end for the
6 pipeline to operate properly and profitably, correct? Just
7 speaking just of the concept.

8 MR. ISHERWOOD: But I think you have to look at it
9 from a slightly different perspective, supply risk into the
10 pipeline, but from a market point of view it has to be the
11 cost or the price of that gas landing into the market area.

12 MR. BRETT: That's a second risk. That's market risk.

13 MR. ISHERWOOD: No, the market risk is --

14 MR. BRETT: Market risk discussed separately from
15 supply risk, typically.

16 MR. ISHERWOOD: But the market risk, Mr. Brett, is
17 more around: Is the market still there or not? So that's
18 a different risk.

19 For me, supply risk is: Does the supply exist and
20 does the supply actually land at a price that's
21 competitive?

22 MR. BRETT: Well, that's not what the Board says. But
23 let me go back to the actual paragraph I read you at the
24 beginning:

25 "Considering all factors, we find that the risk
26 that natural gas supply will not be economically
27 available and accessible to the Mainline..."

28 Let me stop there. What they're saying is, as I read

1 this, they're saying the risk of TransCanada Mainline --
2 there's only one Mainline in Canada. There's lots of
3 pipelines that access the WCSB, but there's only one
4 Mainline. What they're saying is that the risk that
5 TransCanada cannot accept, cannot access, economically, gas
6 today is less than it was -- is less than it was six years
7 ago. And that is part of their assessment of fundamental
8 risk of the pipeline, business risk of the pipeline.

9 Now, do you not agree that's what that says?

10 It says the risk has gone down, that TransCanada will
11 not be able to access gas at a competitive price. That's
12 what this is saying, is it not?

13 MR. ISHERWOOD: But again, as a buyer of natural gas,
14 my issue is not with the cost in Alberta; my issue is what
15 it costs for that Alberta gas to get to Ontario.

16 MR. BRETT: Well, I think, Mr. Isherwood, with
17 respect, when the Board says "economically available," is
18 not the inference from that that it can buy the gas at a
19 price that will enable it to deliver it into a market at a
20 rate which will allow it to be profitable?

21 MR. ISHERWOOD: The one exhibit I showed, which was
22 the Union Gas 15.A, which was it actually showed the
23 different pipelines, it showed different pipelines that
24 western Canadian gas goes into.

25 Each of the pipelines takes gas to a different market,
26 and if you start with the price of gas in Alberta being X,
27 it may be more economical to flow that gas on other
28 pipelines. In fact, that chart showed the stability of the

1 other pipelines, which meant -- to me it means those
2 pipelines can access economical gas and get it to their
3 market, because the pipelines are flat. You go down the
4 column, it's 0.8, 0.7, 0.8, 0.8, 0.8, and 1.4, 1.4. This
5 is very constant.

6 The one that's changing is the TransCanada one.

7 MR. BRETT: Could I ask you -- just switching for a
8 moment here, could you look at -- turn up BOMA -- the BOMA
9 IR. I'm not sure if you have to turn it up. I'll read you
10 the essence of it just to speed things along here, but for
11 your reference, it's BOMA -- I better get the full
12 reference here.

13 It's Exhibit I-A-1-UGL.BOMA.54(f).

14 What it says is -- if I can summarize it -- for 2015-
15 16, we see that there is -- it's saying that the existing
16 compression facilities at Parkway -- those are the two
17 existing compressors, one for 44,500 and one for 25,000,
18 so-called compressors A and B -- that they can handle
19 300,000 additional gigaJoules a day. The reason for that
20 is because they can use a surplus of Parkway compressor
21 capacity of -- and I go by memory here -- about 160,000 gJs
22 a day, carried over from 2014, '15.

23 And also it can use forecast Dawn-Kirkwall and Dawn-
24 Parkway turnback.

25 So what I just really want to confirm or otherwise:
26 Is that surplus still available? In other words, has
27 anything changed since you answered BOMA 54(f), either with
28 respect to the surplus in compression capacity carried over

1 from 2014, '15? Or your forecast turnback of capacity on
2 Dawn-Parkdale (sic)?

3 MR. ISHERWOOD: Mr. Brett, the reference you gave us
4 is up on the screen, and showing a Vermont contract
5 reference.

6 MR. BRETT: Okay. So it's the same. What I read you
7 is what it says there.

8 MR. ISHERWOOD: Okay. Do you want to --

9 MR. BRETT: It's got nothing do with Vermont beyond
10 the first sentence. Vermont's a small load at 8,000
11 gigaJoules a day. This is a big load.

12 And all I really want to do is confirm or otherwise
13 that those two things are still true.

14 MR. RIETDYK: So certainly there is some excess
15 capacity in '14, '15 of 157,800, so you're close in terms
16 of the --

17 MR. BRETT: Right. Thank you.

18 MR. RIETDYK: -- capacity in '14, '15.

19 But with the additional loads and volumes that are
20 expected, and this is including the facilities that we're
21 already proposing to build, there will be a shortfall of
22 123,000.

23 So that surplus will be used up by the forecast loads
24 that that shall --

25 MR. BRETT: Yes, and I think you're saying -- and as
26 far as the turnback, the turnback is still valid? The
27 150,000 -- there was forecast -- sorry, let me just finish
28 this off.

1 You had forecast a turnback of 150,000 in Dawn-
2 Kirkwall and Dawn-Parkway capacity in 2015-16. So that
3 would bring the quote-unquote surplus, and you would have
4 to offset that, of course, against planned increases, which
5 I'm going to get to in a minute.

6 But the starting surplus, if you like, would be
7 300,000, give or take. And --

8 MR. RIETDYK: The only point I would make, Mr. Brett,
9 is that the turnback in '15 is really a forecast turnback,
10 which we still think is valid, but we won't get notice of
11 that until October of this year. But we still think it's
12 still the right number.

13 MR. BRETT: All right. Thank you.

14 And as far as the -- all right. Let's leave that.

15 Just a couple of very quick questions just to kind of
16 set a high-level picture here, if I can, so we can move
17 into this pretty quickly.

18 You now had two compressors, A and B, at Parkway.
19 Were the description and the size that I gave correct? One
20 is -- compressor A is 25,000 and B is 44,500?

21 MR. RIETDYK: Parkway is 20,000 horsepower.

22 MR. BRETT: Sorry?

23 MR. RIETDYK: Parkway is 20,000 horsepower, and
24 Parkway B is 44,500.

25 MR. BRETT: That's a change. So 44,5. All right.

26 The two new compressors, you're proposing to buy two
27 new compressors in this project, each of 44,500; is that
28 correct?

1 MR. RIETDYK: That is correct.

2 MR. BRETT: And are they the same, basically the same
3 machine as the existing 44,500?

4 MR. RIETDYK: It's the same vintage of compressor,
5 that Rolls-Royce, yes, the RB211 Rolls-Royce.

6 They do have different compressor configurations, but
7 it's the same engine.

8 MR. BRETT: All right. Now, just quickly on the
9 conservative -- the configuration of Parkway and Parkway
10 West. I'm right, am I, as far as you're aware, that
11 Enbridge today has a connection at -- a gate station at
12 Parkway, which they call Parkway Enbridge, which has a
13 maximum capacity of 1.42 Bcf a day. And Lisgar, another
14 gate station a couple of miles east of Parkway, has a
15 capacity of 0.8 pJs a day.

16 Is that your understanding, roughly? This is a high-
17 level exercise.

18 MR. REDFORD: That's correct. The Parkway Enbridge
19 connection we would call Parkway Consumers. And Lisgar,
20 Lisgar is about two kilometres into the Enbridge franchise
21 area from Parkway itself.

22 MR. BRETT: All right. And that connection is at the
23 suction side of the Parkway compressor, so that does not
24 use compression.

25 MR. REDFORD: Neither Parkway Consumers nor Lisgar
26 uses compression at Parkway.

27 MR. BRETT: Right. So that if there were an outage in
28 either of the two compressors, or both even at Parkway,

1 compressors A or B, Enbridge could still flow gas through
2 that gate station, on the assumption of course that the
3 whole station didn't blow up. But I'm talking about a
4 compressor outage in the conventional way. All right? Is
5 that fair?

6 MR. REDFORD: That's fair. The suction side
7 deliveries would carry forward, so you would have
8 deliveries to Parkway Consumers and Lisgar that could
9 continue.

10 MR. BRETT: Right. And am I also right that the
11 Parkway West station that you're proposing to build will
12 have another gate station for Enbridge, which is the mirror
13 image of the station that Enbridge has now at Parkway, and
14 those will be connected? In other words, Enbridge will
15 have the capacity to access 1.42 Bcf of gas at Parkway West
16 on the suction side.

17 MR. REDFORD: Enbridge's contract actually is for
18 about 1.64 pJs a day. And they split that between Parkway
19 consumers and Lisgar.

20 MR. BRETT: I under -- okay. Fair enough.

21 MR. REDFORD: So the station -- the suction side
22 station in Parkway West would do the 1.6 PJ's a day --

23 MR. BRETT: Okay. Thank --

24 MR. REDFORD: -- would do that full load.

25 MR. BRETT: -- you for that. In other words, it
26 mirrors the effective capacity of the combined --

27 MR. REDFORD: Correct.

28 MR. BRETT: Okay. But, for example, if there were a

1 problem at Parkway, God forbid, but Enbridge could also
2 maintain its flows through its new gate station at Parkway
3 West.

4 MR. REDFORD: That's correct. That is the idea.

5 MR. BRETT: Now, as I understand it, there's no law or
6 regulation or contract at the moment in place that requires
7 you to build an LCU compressor at Parkway West; is that
8 fair? No law, no contract, no regulation?

9 MR. RIETDYK: That's correct.

10 MR. BRETT: And I understand that if -- and I
11 understand this from reading your evidence -- I don't need
12 you to turn it up, but it's at page 67 of 0433. That's
13 your pre-filed -- that what you're trying to do with an LCU
14 compressor is cover about a Bcf, about 1.0 petajoules of
15 outage, if that were to occur.

16 In other words, the target is, what do we do if
17 compressor B goes out and we have to -- what we have to be
18 able to supply is the 1.0 pJs; is that fair?

19 MR. RIETDYK: Well, it's, we actually have to be able
20 to cover the full capacity of the Parkway B unit. That's
21 the --

22 MR. BRETT: That's what I just said.

23 MR. RIETDYK: Yeah, and that's actually two pJs per
24 day. The way these calculations were done is, if we lost
25 one of the compressors, either A or B, we looked at the
26 respective loss in capacity through the entire system.

27 So it doesn't equate to the exact capacity of the
28 compressor, because the less flow, increased pressure,

1 higher volumes through the remaining compressor. So if we
2 lost Parkway A, we would be short .4 pJs per day.

3 MR. BRETT: All right. 24?

4 MR. RIETDYK: .4, 0.4.

5 MR. BRETT: Yeah, okay.

6 MR. RIETDYK: If we lost Parkway B, we would reduce
7 the delivery capacity by 1.1 pJs per day, and that again is
8 covered in evidence on page 67 --

9 MR. BRETT: All right. Well, that's what I thought.
10 It was somewhere close to 1.1 or 1.1.

11 MR. RIETDYK: 1.1 is, but the actual loss of critical
12 unit compressor would have to be a 44,500-horsepower unit
13 similar to the Parkway B compressor --

14 MR. BRETT: Well, I think I understand that part. I
15 don't think we're at odds there.

16 Let me ask this question then. Is it your
17 understanding -- and of course we will have to deal with
18 this when Enbridge -- the Enbridge panel comes up. But is
19 it your understanding that Enbridge's new line, and their
20 segment A^, which has had the various receipt points over
21 the last six months, but now the most recent -- the most
22 recent constellation of that segment A is that it's going
23 to start at Parkway West, and it's going to run to Albion,
24 correct?

25 MR. ISHERWOOD: That's correct.

26 MR. BRETT: And is it your understanding that that
27 pipeline is going to be designed in such a manner that it
28 can connect either to compression in Parkway West or it can

1 connect to the suction side at Parkway West? It's going to
2 have flexibility.

3 MR. ISHERWOOD: So that -- this is again my
4 understanding, and best ask Enbridge as well, but my
5 understanding is it will have the ability to go from
6 suction or discharge, and typically, I think what Enbridge
7 needs in terms of pressure is probably -- we may be at that
8 pressure naturally on the suction side during, say, for
9 example, summer months, but on a peak winter day, when our
10 -- and the pressures go down, then they'll definitely need
11 to attach and go through the compressor to get, on a peak
12 winter day, the kind of volume they're looking for.

13 MR. BRETT: You have -- you may not have the
14 information on this. You may wish to put this to the next
15 panel. But do you know what the magnitude of the
16 difference is? You're saying that on a summer day -- I
17 mean, Enbridge's -- let's go back a half step.

18 As I understand it, Enbridge's Parkway -- Enbridge
19 gate station operates essentially at Union system pressure,
20 right?

21 MR. ISHERWOOD: That's correct. At suction pressure.

22 MR. BRETT: There's no compression there. It operates
23 at the same pressure that you're operating at coming into
24 the Parkway compressor.

25 MR. ISHERWOOD: That's correct.

26 MR. BRETT: And is it the case then -- you're telling
27 me, I think, that that would not be the same case in the
28 winter, that it would require some bump-up in compression

1 to operate properly?

2 MR. ISHERWOOD: Again, these are great questions for
3 the Enbridge panel, but the segment A Albion line from
4 Parkway to Albion is a much higher operating pipeline than
5 the pipelines leaving from the suction side. It's a
6 totally different system they're operating.

7 MR. BRETT: It's a bigger pipeline, for sure.

8 MR. ISHERWOOD: Bigger, and it's a much higher
9 pressure as well. So it's operating at -- it can operate
10 at the full discharge pressure of Parkway, which is 930
11 pounds, so it's designed to be operating much higher than
12 just minimum pressures coming into the station.

13 MR. BRETT: All right. So I'll have to ask Enbridge a
14 little bit about the details of it. But let me ask you
15 this. You should probably turn up at this point, as I'm
16 getting close to my end here, BOMA -- BOMA 3. Let me see
17 if I've got this right. Yes, BOMA -- I'm sorry. Exhibit
18 I.A1.UGL.BOMA.3. Turn that up, please.

19 Now, this table here, you said you're introducing this
20 -- on the previous page, this is in response to a question
21 (e) -- sorry, not (e). It says -- the last couple of lines
22 in the previous page says:

23 "Please find the actual peak average winter day
24 and average summer day for 2010-2012 below.
25 Union does not track additional throughput of
26 compressors."

27 But you've calculated it, apparently, to answer this
28 question. We appreciate that.

1 Now, I just want to ask you about this table here. On
2 the left-hand side, monthly peak export day. This shows a
3 three-year period, and what it's trying to get at is, what
4 is the percentage utilization of the two existing computers
5 -- sorry, two existing compressors?

6 Now, it takes us from January 2010 up to April of
7 2013. So by monthly peak export day, that is the highest
8 consumption -- or highest throughput day of the month,
9 correct? That's your top -- that's your peak day in each
10 of those months.

11 MR. RIETDYK: That's correct.

12 MR. BRETT: And so what -- so we have that. Now, if
13 you go over to the second column, it tells you what
14 capacity utilization -- how much horsepower Parkway A was
15 using of its 20,000 over the various periods.

16 And then, if you go to the next column, it shows you
17 how much percentage horsepower -- what percent of
18 horsepower Parkway B's 44,000 was in use, correct?

19 MR. RIETDYK: Yes, that's correct. So what it does is
20 it shows an increase in utilization of Parkway B over time,
21 over -- versus what A had been historically --

22 MR. BRETT: Yeah, it shows that to some degree. It
23 also shows, I would suggest to you, that for significant
24 periods of time, in fact most of the time, the two
25 compressors do not operate. One of them is at zero. Is
26 that right?

27 MR. RIETDYK: That's been the case in the past, but
28 that's not what we're projecting for this company --

1 MR. BRETT: And that is the case up to April 12th.
2 That's the case at least until April of 2013.

3 MR. RIETDYK: That's correct, but it's not what we're
4 projecting in the future. In fact, this winter we're
5 projecting that we'll be using both compressors
6 simultaneously on cold winter days, based on the flows
7 going through Parkway.

8 MR. REDFORD: We've seen significant growth --

9 MR. BRETT: Well, sorry, excuse me just a second. I
10 can't hear both of you there at once. Sorry, go ahead, Mr.
11 Redford.

12 MR. REDFORD: Thank you.

13 We've seen significant growth in the past two years
14 through Parkway. And that's as a result of the expansion
15 of TransCanada's ^main line between Parkway and Maple.
16 We've seen the volumes in about -- in 2010 we were about 2
17 pJs a day through Parkway. This winter we'll be about 2.3
18 pJs a day through Parkway, almost at capacity of the A and
19 B unit working together.

20 MR. BRETT: All right. Thank you. Those are my
21 questions.

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

23 Mr. DeRose, I believe you're next.

24 MR. DeROSE: Thank you, Madam Chair.

25 **CROSS-EXAMINATION BY MR. DEROSE:**

26 MR. DeROSE: Good morning -- or, well, it's not
27 morning anymore. Good afternoon, panel. Those of you that
28 I've not met, I am Vince DeRose. I'm here on behalf of

1 Canadian Manufacturers & Exporters.

2 Panel, I'd like to start by taking you to Exhibit
3 K1.3. I can't resist a colour map, and I think it's
4 actually going to be very useful just to make sure that the
5 panel is all on the same page with respect to the various
6 components of your two applications.

7 First of all, in terms of the green dotted line from
8 Albion to Maple, which is identified as the "Parkway
9 extension project," is that what is now being referred to
10 as the Kings North line?

11 MR. ISHERWOOD: I think TransCanada would define Kings
12 North as being the segment from Albion to Vaughan only at
13 this point. That's really their build, their planned build
14 for 2015.

15 MR. DeROSE: Okay. And from your perspective, if they
16 build the two green dots from Albion to Vaughan, does that
17 then provide Union with the downstream incremental capacity
18 that you have identified a need for?

19 MR. ISHERWOOD: Yeah, it would provide enough capacity
20 for both the Gaz Métro volumes and the Union Gas volumes
21 that were bid in the 2012 new capacity open season.

22 MR. DeROSE: Okay. Thank you.

23 MR. ISHERWOOD: On TCPL.

24 MR. DeROSE: And can we agree that in order for
25 TransCanada to build that piece, it will require some form
26 of approval from the NEB?

27 MR. ISHERWOOD: That's correct.

28 MR. DeROSE: Okay. Now, in terms of -- if I can now

1 take you to -- we'll start with the Kirkwall piece, the
2 Brantford-Kirkwall loop. That's the red dotted line right
3 in close to the middle?

4 MR. ISHERWOOD: That's correct.

5 MR. DeROSE: First of all, just in terms of the
6 capital cost, that's approximately 96 million, is your
7 estimate; is that right?

8 MR. REDFORD: That's correct.

9 MR. DeROSE: And have you -- out of that 96 million,
10 have you incurred any of those costs to date or any
11 significant costs to date?

12 MR. RIETDYK: Nothing significant. It's just some
13 preliminary work on our part.

14 MR. DeROSE: Okay. So you haven't, for instance,
15 ordered the pipe?

16 MR. RIETDYK: Not yet.

17 MR. DeROSE: Okay. And from a timing perspective, how
18 far in advance of construction do you need to order the
19 pipe?

20 MR. RIETDYK: Right now, we're estimating we would
21 need to order the pipe in February.

22 MR. DeROSE: Okay. And are there -- I'm perhaps
23 incorrectly assuming that ordering the pipe is sort of the
24 -- one of the big cost elements. Are there other elements
25 of the build that you would need to order in advance? And
26 I'm just talking about the Brantford-Kirkwall loop.

27 MR. RIETDYK: Certainly -- what I'd like to do maybe
28 is defer that to the next panel, to panel 3, actually,

1 where we can get a more detailed discussion on some of the
2 costs and facilities design.

3 MR. DeROSE: Fair enough. Now, as I understand it,
4 the Brantford-to-Kirkwall loop is -- that Union would only
5 build that pipeline if TransCanada builds the Kings North
6 explain, only if you have the downstream incremental
7 capacity; correct?

8 MR. ISHERWOOD: That's correct. We still need Parkway
9 D growth compressor for the Enbridge volumes, but we don't
10 need Brantford-Kirkwall until TCPL builds Kings North.

11 MR. DeROSE: Okay. And so I'm just dealing with the
12 Kirkwall piece at the moment, so just the Brantford-
13 Kirkwall build.

14 Is it your intention, if this Board grants leave to
15 build the Brantford-Kirkwall pipeline, are you going build
16 it before TransCanada Pipelines builds the Kings North
17 pipeline?

18 MR. ISHERWOOD: I think to the extent we get an OEB
19 decision, it will be probably in around the same time TCPL
20 gets their decision, I would think. It would be close. It
21 would be a month.

22 I don't think we'd go ahead build Brantford-Kirkwall[^]
23 without TCPL getting their approval.

24 MR. DeROSE: Okay. So would TCPL obtaining approval
25 for its Kings North be an appropriate condition for the
26 Board to put on your leave-to-construct?

27 MR. ISHERWOOD: I believe it would. I think we've
28 asked for actually the permission to build as late as 2016,

1 in case TCPL does get delayed.

2 MR. DeROSE: Okay. Thank you.

3 Now, with respect to -- now, let me turn to the
4 Parkway D compressor, which is the red dot just above it.

5 Again, just in terms of the general cost, it's about
6 108 million of capital costs; correct?

7 MR. RIETDYK: No, we said 104 million at this point in
8 time.

9 MR. DeROSE: Okay. So it's 104. And are you aware
10 of --

11 MR. RIETDYK: Sorry, it's 108. You were correct, I'm
12 sorry.

13 MR. DeROSE: It's rare that I'm correct and a panel
14 member's not, so thank you.

15 In terms of that 108, do you know if you've incurred a
16 significant portion of those costs? For instance, have you
17 ordered the compressor?

18 MR. RIETDYK: Yes, we have ordered the compressor, and
19 there's a cost build-up over time for the compressor.

20 MR. DeROSE: Okay. And if this Board were to not
21 grant you leave to construct with respect to the
22 compressor, would there be cancellation fees? Could you
23 cancel that compressor?

24 MR. RIETDYK: We could cancel the compressor. Those
25 costs do build up over time.

26 MR. DeROSE: Okay. So is it something that -- when
27 you say that "build up over time," I take it that the
28 longer the Board takes to make the decision, the higher the

1 cancellation costs are?

2 MR. RIETDYK: That's correct.

3 MR. DeROSE: And is it your position that if leave is
4 not granted for the compressor, that those costs would be
5 -- would those flow down to ratepayers, or would those be a
6 shareholder risk from your perspective?

7 MR. BIRMINGHAM: I think we'd have to consider the
8 circumstances at the time, Mr. DeRose. For the Board to
9 reject something, obviously, would come with some reasons.
10 And we'd want to have a look at those reasons, see if
11 there's a way that we could rectify it.

12 So without knowing the rationale for the Board's
13 decision, it's kind of hard for us to determine how the
14 costs might otherwise be treated.

15 MR. DeROSE: Okay. Do you know, is it possible to
16 provide the Board with a schedule or some sort of
17 explanation of the timeline and the costs associated with
18 it, so that, for instance, if the Board -- if the Board
19 holds off until, let's say, December, what are your
20 cancellation fees? If it's February or March, what are the
21 cancellation fees?

22 MR. RIETDYK: Yeah, we could take an undertaking to
23 provide the Board with those costs.

24 MR. MILLAR: J1.4.

25 **UNDERTAKING NO. J1.4: TO PROVIDE ESTIMATE OF**
26 **CANCELLATION COSTS OVER RELEVANT TIMELINE.**

27 MR. DeROSE: Okay. Now, as I understand it, if Kings
28 North is not built but segment A is built, it's your

1 position that compressor D would still be required;
2 correct?

3 MR. ISHERWOOD: That's correct.

4 MR. DeROSE: Now, if segment A is not approved, then I
5 take it that compressor D would not be required?

6 MR. ISHERWOOD: Yeah, that's correct.

7 MR. DeROSE: Okay. And again, I think this is
8 probably a moot point because the applications have been
9 combined, so you should -- assuming that you get the leave
10 at the same time, but if -- it's not your intention to
11 start to build compressor D until Enbridge has leave to
12 construct segment A; is that fair?

13 MR. RIETDYK: That's correct. Most of the actual
14 physical build is related to the Parkway West site, up to
15 that point in time.

16 MR. DeROSE: Okay. And in terms of -- then can I then
17 take you to Parkway West project? That's the square dot
18 around the big red dot.

19 As I understand it, the capital costs are about
20 203 million; is that right?

21 MR. RIETDYK: We did file an update on that, to 219.

22 MR. DeROSE: Okay. So it's 219. And of that, one
23 portion is the LCU; correct?

24 MR. RIETDYK: That's correct.

25 MR. DeROSE: And that's just over -- I think it's
26 right around 85 million. Is that...

27 MR. RIETDYK: Let me just pull up that section in the
28 updates.

1 So in the updated evidence it's 82,479,000, is what
2 the -- updated cost.

3 MR. DeROSE: And have you ordered the LCU as well?

4 MR. RIETDYK: Yes, we have.

5 MR. DeROSE: Okay. Could you provide a similar -- you
6 could have it as part of the same undertaking or you can
7 have a second undertaking, whatever the preference of the
8 Board is, but just again so that we can what are the costs
9 that are incurring, or the risks of costs occurring if
10 leave-to-construct is not granted.

11 MR. RIETDYK: So we'll take an additional undertaking,
12 just to keep those costs separate.

13 MR. DeROSE: Can I have an undertaking number for
14 that?

15 MR. MILLAR: J1.5.

16 **UNDERTAKING NO. J1.5: TO PROVIDE ESTIMATE OF CAPITAL**
17 **COSTS IF LEAVE TO CONSTRUCT IS NOT GRANTED.**

18 MR. DeROSE: Now, I'd like to just turn back to the
19 Brantford-Kirkwall-Parkway D project. And I'm going refer
20 to a number of IRs, just for reference in the transcript,
21 but Mr. Isherwood, I know that you know the numbers, so I'm
22 -- I don't think you need to turn them up. If you feel
23 like you have to, please let me know.

24 But -- I'll start with Board Staff No. 7, which is
25 Exhibit I.A1.UGL.Staff.7. And in there, the estimated
26 savings or the range of estimated savings for -- arising
27 out of the Parkway-to-Maple expansion, which includes the
28 Kirkwall-Brantford loop, and Parkway D is between 103- and

1 138 million for both Ontario and Quebec residents, correct?

2 MR. ISHERWOOD: Those were updated at least once along
3 the way, I guess, but the most current version on the
4 record for Union Gas and Gaz Métro combined was between
5 103- and 135 million.

6 MR. DeROSE: Okay. And can you break that down, out
7 of the 103- to 135-, how much of that is for Ontario? How
8 much of that is for Union customers and how much of it is
9 for GMI customers?

10 MR. ISHERWOOD: Union Gas is 15.4 million. Just one
11 number. And then Gaz Métro has a range of 88- to
12 120 million.

13 MR. DeROSE: Okay. And then if I can -- in Board
14 Staff 1, which is Exhibit I.A1.UGL.Staff 1, page 13 of 16,
15 you write that:

16 "The Brantford-to-Kirkwall and Parkway B project
17 results in significant gas cost savings for
18 Union, Enbridge, and Gaz Métro. These savings
19 are estimated to range between 273 million and
20 308 million over the next ten years annually --
21 over the next ten years."

22 Is that referring to the same numbers, and the
23 difference between the 103 to 135 is the Enbridge savings?

24 MR. ISHERWOOD: Enbridge savings, I believe, the most
25 current numbers on the record are between 276- to
26 308 million. Sorry, that's the total. The Enbridge saving
27 is 173.3 million.

28 MR. DeROSE: Okay. Thank you very much.

1 And in calculating those savings -- and I appreciate
2 it's not an easy calculation, but as I understand it, there
3 were a few factors that you looked at. One factor would be
4 the price differential between purchasing gas at Dawn
5 versus purchasing gas at Empress. Would that be one factor
6 that you look at?

7 MR. SHORTS: Yes, that's one factor.

8 MR. DeROSE: And would another factor be the tolls for
9 moving the gas from Empress to, I'm assuming it's to the
10 NDA or to your customers, compared to the tolls from Dawn
11 to the same location?

12 MR. SHORTS: Yes. The transportation costs are the
13 difference in the long-haul tolls versus the short-haul
14 tolls.

15 MR. DeROSE: Okay.

16 MS. CHAPLIN: You share a mic, so don't turn it off,
17 Mr. Henning.

18 [Laughter]

19 MR. SHORTS: This happens to me all the time, no
20 matter who.

21 MR. DeROSE: Unless you don't like what he's about to
22 say.

23 MR. SHORTS: The gas cost savings in the Union Gas
24 situation are the difference in the transportation tolls,
25 long-haul versus short-haul, versus the incremental gas
26 costs of buying the gas at Dawn versus buying the gas at
27 Empress.

28 MR. DeROSE: Okay. And I take it that -- okay. Thank

1 you very much.

2 And, I'm sorry, those savings, did you base them on
3 the 2012 TCPL tolls or the 2013 TCPL tolls?

4 MR. SHORTS: In our addendum, the updated evidence, we
5 use the 2013 approved tolls to give the \$15.4 million gas
6 cost savings.

7 MR. DeROSE: Thank you.

8 Now, if I can take you to -- and I believe it was
9 Exhibit K1.1. This is what was confidential and is now
10 public, the terms sheet. I'd like to just quickly take you
11 through it and ask you some questions about that.

12 First of all, panel, is it -- just in terms of, again,
13 for the benefit of the Panel, just to give some history,
14 when you first filed your application, it was your
15 expectation that TransCanada would be building the Albion-
16 to-Vaughan piece; is that fair?

17 MR. ISHERWOOD: Yeah, and I guess the way I look at
18 it, Mr. DeRose, is we filed the applications, one in end of
19 January for the LCU unit, and then the growth projects were
20 filed in early April of this year as well.

21 We've almost come full circle. We've had a bit of a
22 torturous path between then and now with lots of
23 litigation, et cetera, but right back to the very
24 beginning, right back to the expectation that we were
25 building Brantford-Kirkwall, Parkway D, and to your point,
26 expectation is that Enbridge would be building segment A
27 and TCPL would be building to Vaughan.

28 MR. DeROSE: Okay. But when you initially filed, this

1 terms sheet or an agreement that looked like the agreement
2 around this terms sheet did not exist.

3 MR. ISHERWOOD: That's correct.

4 MR. DeROSE: And there are some differences, and we
5 can take you through it, but I think at a high level you
6 would agree with me that the agreement that you had or the
7 understanding that you had with TransCanada when it was in
8 an MOU with Enbridge to build the ^Albion-to-Vaughan piece
9 is different, in terms of your contractual commitments that
10 you would now enter into under this term agreement.

11 MR. ISHERWOOD: I think the contractual commitments,
12 in terms of facility commitments, would be the same. We'll
13 still be entering into contracts with TransCanada from
14 Parkway to NDA, Parkway to EDA. I don't know if that's
15 what -- in addition, obviously there will be an agreement
16 around the settlement, but in terms of contractually on
17 capacity, it will be the same contracts we would have
18 signed otherwise.

19 MR. DeROSE: Okay. But -- well, let me take you
20 through the agreement then. First of all, just at a high
21 level, would you agree with me that this, just again for
22 the Board, this settlement terms sheet is going to be
23 subject to negotiation, which you are hoping or intending
24 to lead to a final settlement agreement.

25 MR. ISHERWOOD: That's correct.

26 MR. DeROSE: And you are hoping to have that final
27 settlement agreement completed by sometime in October.

28 MR. ISHERWOOD: I think what we talked about on Friday

1 was early October.

2 MR. DeROSE: Okay. Thank you.

3 And if I can turn you to page 2 of the agreement. You
4 see the heading that says "rate of return and sharing
5 mechanism"?

6 MR. ISHERWOOD: Yes.

7 MR. DeROSE: When TCPL was originally going to build
8 the project, when you filed originally, there was no
9 agreement with respect to rate of return or sharing
10 mechanism, correct?

11 MR. ISHERWOOD: No, at that point in time, in sort of
12 the January-April time frames -- well, I guess in the
13 January time frame, when we filed Parkway West, it was
14 still subject to the NEB review and decision. That
15 decision came out late March, I think March 29th, if I
16 recall. So we filed the growth project. It was just a few
17 days later. And at that point the NEB had set the rate at
18 11.5 percent.

19 MR. DeROSE: Right. So this is something new.

20 MR. ISHERWOOD: This is something new.

21 MR. DeROSE: Okay. And the term "net revenue" that is
22 used in this, what I would describe as an earning sharing
23 mechanism, that is not known as of today. That's something
24 that's going to be subject to the negotiations over the
25 next few weeks.

26 MR. ISHERWOOD: That's correct.

27 MR. DeROSE: Okay. And then let me turn you to page
28 3. The last bullet above the section that says "contract

1 duration renewal notice". It says:

2 "All LDCs will commit to maintain a minimum of 13
3 percent of their system-supply transportation
4 portfolio in long-haul paths until at least the
5 end of 2020."

6 Again, in the original conception, when you filed your
7 application, you were not committing to maintain 13 percent
8 of your system supply on TCPL FT.

9 MR. ISHERWOOD: No, but I would say that in our
10 original filing we had already undertaken to commit to
11 convert from long-haul to short-haul about 100 and -- well,
12 I guess 70,000 net. Some of it is just used to replace
13 storage service.

14 But in terms of conversion, long-haul to short-haul,
15 we were about to convert 70,000 gJs per day, some to the
16 EDA, most to the EDA, a little bit to the NDA.

17 So 13 percent here is a bottom threshold. We're
18 expecting to probably stay above that. And certainly our
19 bid we made in the TCPL open season for 2015 was -- would
20 not affect that 13 percent at all. We were well above
21 that, in terms of 15 volumes.

22 MR. DeROSE: Right. But you wouldn't have been
23 contractually obligated to maintain that issue.

24 MR. ISHERWOOD: No, that's correct. But we were still
25 expecting to convert the 70,000 a day.

26 MR. DeROSE: Thank you.

27 And then if I turn you to page 4. Under the
28 agreement, you have -- again, assuming that it is

1 negotiated, settled, and then approved, you have agreed to
2 a, what is referred to as a bridging contribution, which
3 will lead to a fixed surcharge applied to all TransCanada
4 rates, correct?

5 MR. ISHERWOOD: That's correct.

6 MR. DeROSE: And as of today, you don't know what the
7 quantum or magnitude of that fixed surcharge is, do you?

8 MR. ISHERWOOD: We don't. That's actually one of the
9 issues we have in the marketplace, is there's some very
10 large deferral accounts being accumulated, and this
11 surcharge actually replaces that and gives us all much more
12 certainty.

13 MR. DeROSE: But as of today, you can't tell the Board
14 what it would be?

15 MR. ISHERWOOD: Other than it's hundreds of millions
16 of dollars.

17 MR. DeROSE: Fair enough. But, again, the hope or the
18 intention is that once you have the negotiated settlement
19 agreement, while you might not have the amount in terms of
20 finality, you're going to be able to calculate and provide
21 a reasonable estimate of what the parties believe it is?

22 MR. ISHERWOOD: In terms of bridging contribution,
23 yes, that's correct.

24 MR. DeROSE: Thank you.

25 And then if I can have you turn to page 7 --

26 MS. CHAPLIN: Sorry, just want to interrupt you for a
27 second, Mr. DeRose.

28 So, Mr. Isherwood, in terms of the level of that

1 surcharge, what's the timing for knowing what it's going to
2 be? When the settlement agreement is finalized, or some
3 future date?

4 MR. ISHERWOOD: We're hoping that when the joint panel
5 comes back before the Board on October 1st, we would have a
6 much better view of that number.

7 MS. CHAPLIN: Okay. Thank you.

8 MR. DeROSE: And just on that -- and I'm sorry, when
9 -- are you going to have a better idea of what that -- are
10 you going know what the number is before the settlement
11 agreement is finalized?

12 MR. ISHERWOOD: Well, to the extent that we're trying
13 to finalize the settlement agreement early October, I think
14 our focus in the short term is to really land on the
15 financial part of that agreement and let the lawyers worry
16 about the words and commitments, but the first step for us
17 is really going to be to get the financial side of it taken
18 care of first.

19 MR. DeROSE: All right. And so, in addition to the
20 surcharges, is it also your -- I guess maybe we should say
21 "hope" at this point, that you'll have a better idea of
22 what the resulting tolls are before the joint panel?

23 MR. ISHERWOOD: Yeah, I think -- I think to have
24 completion on the financial side of it, we will need to
25 know the toll, which includes the bridging contribution.

26 MR. DeROSE: Okay. And again, at this time you don't
27 know what the final tolls are?

28 MR. ISHERWOOD: We do not.

1 MR. DeROSE: Okay. And in the normal course, now, the
2 tolls will be subject to NEB approval of the settlement
3 agreement and approval of the tolls; correct?

4 MR. ISHERWOOD: That's correct.

5 MR. DeROSE: But what you will be in a position to
6 tell the Board, either at the time of the joint panel or
7 when the settlement agreement is finalized -- sometime
8 within the next, I would say, four to six weeks, but
9 hopefully in the next four weeks -- do you believe you'll
10 be in the position to advise the parties and the Board what
11 your best estimate of the tolls and surcharge are?

12 MR. ISHERWOOD: We're hoping to be able to do that on
13 October 1st, when that joint panel comes before the Board.

14 And if not the definitive, final number, certainly
15 some rangeability around it, for sure.

16 MR. DeROSE: Okay. Thank you for that.

17 MS. CHAPLIN: If you're going to -- sorry, Mr. DeRose.
18 If you're going to move to a new area, the Board would like
19 to take a brief break.

20 MR. DeROSE: Sure. Absolutely.

21 MS. CHAPLIN: So we'll break 10 minutes. Thank you.

22 MR. DeROSE: Thank you very much.

23 --- Recess taken at 2:55 p.m.

24 --- On resuming at 3:05 p.m.

25 MS. CHAPLIN: Please be seated.

26 MR. SMITH: Members of the Board, just one brief
27 preliminary matter that I, with apologies, I really ought
28 to have done at the very outset, but Mr. Rietdyk, in

1 preparing, noticed a small error that required correction
2 in his evidence. And as it may come up later, I just
3 thought we should put the correction on the record. I've
4 spoken to Mr. DeRose. So it will just take a minute.

5 MS. CHAPLIN: Sure.

6 MR. SMITH: Mr. Rietdyk, I understand that you had a
7 slight correction to make to page 57 of 121 of the record
8 in EB-2012-0433; is that correct?

9 MR. RIETDYK: That is correct.

10 MR. SMITH: If you could just advise the Panel of the
11 correction.

12 MR. RIETDYK: That's correct. So in preparation for
13 these proceedings, and in reviewing the material, we
14 noticed in the beginning, in the third line, in the first
15 paragraph, where it says -- on page 57 of 121, where it
16 says "in the 78 days between November 1st, 2012 and January
17 15th, 2013, Parkway B plant has operated for 58 days", that
18 should say 70 days, "or 90 percent of the time", rather
19 than the "74 percent of the time".

20 So Parkway B in fact operated more than what was
21 stated in that paragraph.

22 MR. SMITH: Thank you. Anything else?

23 MR. RIETDYK: No, that's it.

24 MR. SMITH: Thank you.

25 MS. CHAPLIN: Thank you. Mr. DeRose? And for the
26 benefit of the parties, we will sit until four o'clock
27 today.

28 MR. DeROSE: I think I'm sort of right on track in

1 terms of my estimates, so I'll keep carrying on.

2 Panel, I have just one last question with respect to
3 the terms sheet, and it actually arises out of the cover
4 letter that Mr. Smith sent along with it, where he talks
5 about "while providing cost recovery for TransCanada, the
6 framework will substantially maintain the current
7 differential between short-haul and long-haul tolls". And
8 it's the latter part, this -- the differential piece.

9 First of all, Mr. Isherwood -- and I'm assuming it's
10 Mr. Isherwood, I guess, panel -- am I right to assume that
11 by including cost recovery for TransCanada, in all
12 likelihood the tolls are going to go up when you come back
13 in a few weeks with the tolls?

14 MR. ISHERWOOD: Our expectation is both long-haul and
15 short-haul tolls would both go up.

16 MR. DeROSE: Okay. And the differential is important
17 to you from your perspective because, so long as you
18 maintain the differential, is it your position that the
19 benefits that you've calculated remain?

20 MR. ISHERWOOD: Yes. And that's exactly precisely, I
21 guess, why we didn't update our evidence. So just to help
22 the Board, on page 5, second paragraph from the top is the
23 bullet point or the paragraph that covers off that very
24 principle Mr. DeRose is referring to.

25 And one thing this settlement agreement does is it
26 actually takes TCPL's main-line system and it segments the
27 pipeline into three segments: the Prairies, the Northern
28 Ontario Line, and then what this agreement is mostly

1 concerned about is the Eastern Ontario Triangle, or EOT.

2 And so the EOT will have its own set of rates based on
3 its own rate base, its own costs, et cetera, starting
4 January 1 of 2015.

5 And the concept here, which is the most important
6 concept in the whole agreement for the purpose of this
7 proceeding, is that if you're taking long-haul volumes --
8 I'll refer to the map up on the one bulletin board -- if
9 you take volumes from Empress, Alberta to Eastern Triangle,
10 it actually enters the triangle at North Bay. And
11 likewise, if you take short-haul volumes, it would enter
12 the triangle in our case at Parkway.

13 And whether I'm taking volumes from Parkway to my EDA
14 or from North Bay on long-haul to the EDA, both long-haul
15 and short-haul will have the same cost allocation
16 principles and the same distance-based costs once it gets
17 into the Eastern Ontario Triangle.

18 So to the extent that short-haul tolls go up by 50
19 percent -- and a good example I will use is, Union's cost
20 to go from Parkway to the EDA is 25 cents. And the
21 objective of the parties is to keep that increase to 50
22 percent or less.

23 So if something is 50 percent in this case, that would
24 be a 12-cent increase. So whether I'm paying 12 cents more
25 to go from Parkway to my EDA, if I'm bringing long-haul
26 volumes in from North Bay, I'd be paying 12 cents more to
27 go to the EDA.

28 So the differential between the long-haul costs and

1 the short-haul costs stays exactly the same, which is why
2 from the three utilities' point of view there is really no
3 change in the cost calculation or the savings calculation
4 because the differential between long-haul and short-haul
5 is preserved.

6 MR. DeROSE: And, I'm sorry, just to put it into
7 something that I can understand. So the tolls could go up
8 substantially, but so long as both the FT toll and the
9 short-haul toll go up in a similar percentage so that the
10 spread between them --

11 MR. ISHERWOOD: No, it's not based on percentage, it's
12 based on absolute dollars and cents. So in my example the
13 Parkway-to-EDA toll would go from 25 to 37 cents. It would
14 increase by 12 cents. And the long-haul toll would also go
15 up by 12 cents.

16 So if I was saving -- saving 50 cents before in tolls,
17 I save 50 cents after in tolls, because both have increased
18 by 12 cents.

19 MR. DeROSE: Okay. And again, the extent to which
20 those tolls -- now, from a ratepayer perspective, though,
21 is there a scenario where, depending on the cost to be
22 recovered, that your current long-haul tolls, that you
23 would have been better off just to contract for 15 years
24 long-haul, rather than the short-haul and long-haul tolls
25 both going up substantially to build this?

26 MR. ISHERWOOD: I think as we -- as the joint panel
27 has testified to on -- or I guess at technical conference
28 spoke to on Friday, the current environment is not

1 sustainable. TCPL is not recovering their cost of service.
2 There's deferral accounts that are accumulating by
3 \$100 million a year for certain, and there's a second
4 deferral account that's going to be acquiring dollars based
5 on activity on the system.

6 In addition to that, we have multiple lawsuits
7 happening, one lawsuit happening and multiple proceedings
8 at the NEB and OEB happening over the summer. All of this,
9 as somebody has said this morning, in this kind of war
10 between the utilities and TransCanada, it's not
11 sustainable.

12 What the settlement does is bring the four parties
13 together and gets us pointed all in the same direction and
14 rowing in the same direction, so that TCPL is allowed to
15 have a fair opportunity of recovering their cost of
16 service, and for the market, including industrials, power
17 customers, utilities, we have access. We have access to --
18 through Parkway back to Niagara, or through Parkway back to
19 Dawn. And that access is so important with the uncertainty
20 happening out west and with the new supply being developed
21 just -- our neighbouring jurisdiction.

22 It's our view, the LDCs' view, that our customers need
23 access to that diversity of supply, and it's security of
24 supply that Dawn and Niagara offer.

25 MR. HENNING: And Mr. DeRose, if I could add something
26 too that may be helpful here, in terms of the market
27 dynamics that go particularly to the way you've posed the
28 question.

1 And that has to do with the nature by which base is
2 determined and how you would get very different kinds of
3 behaviour if, in fact, everyone took FT all the way back to
4 Empress.

5 The difference in the prices in the marketplace
6 between any two points in the natural-gas market is
7 determined by the transportation values there. But it's
8 not the fully allocated cost of the transportation values
9 that you're talking about, because when you're talking
10 about FT, you're talking about the demand charges being a
11 sunk charge.

12 So there, when you're flowing gas under FT, and we
13 take a hypothetical that all of the gas flowing from
14 Empress into the Eastern Triangle is on FT, the variable
15 component of that is just the variable part of the rate
16 plus fuel.

17 So the hypothetical that you have there, you would
18 have the basis, instead of being at the high values that it
19 is today, it would collapse, and it would bring it down to
20 just the fuel cost and variable cost.

21 You might be looking at basis in the order of maybe 45
22 cents, maybe even less.

23 MR. DeROSE: Thank you for that.

24 And just in terms of your ICF report, if we could just
25 confirm that the tolls that you used for your calculations
26 were the existing NEB tolls, correct?

27 MR. HENNING: Yes, that's correct. And we did -- we
28 did make a change in the update that was filed in 2013 --

1 excuse me, August 23rd of 2013, to those NEB tolls. And
2 that's correct.

3 MR. DeROSE: Fair enough. And I take it that you have
4 not been asked to update your evidence or in any way look
5 at the tolls that are currently being, I guess, estimated
6 or assessed, flowing out of the term sheet? That is not
7 part of your retainer; correct?

8 MR. HENNING: No, it isn't. However, my retainer does
9 clearly entail looking at the dynamics of the market, which
10 is really what I was speaking to.

11 MR. DeROSE: Fair enough, but in terms of the term
12 sheet, that's not part of your retainer?

13 MR. HENNING: It is not. That's correct.

14 MR. DeROSE: Thank you.

15 Let me turn to the pre-approval of -- I'm going to
16 turn to a completely different topic now, so we'll shift
17 gears.

18 This is with respect to the pre-approval of the cost
19 consequences of two long-term transportation contracts.
20 It's in section 11 of the Brantford-Kirkwall-Parkway D
21 compressor application.

22 First of all, panel, the two long-term transportation
23 contracts that you're seeking pre-approval for, are those
24 arising out of the May 2012 TCPL open season; correct? In
25 your evidence?

26 MR. SHORTS: Yes, they were.

27 MR. DeROSE: And is that the open season that
28 TransCanada subsequently announced it was not going to

1 proceed with?

2 MR. SHORTS: Correct.

3 MR. DeROSE: And so I take it that you are not seeking
4 pre-approval of those particular contracts; you're now
5 seeking pre-approval of new contracts?

6 MR. ISHERWOOD: It has the same effect.

7 MR. DeROSE: Well... it's the same effect. Is it --
8 it's not the two contracts arising out of that open season?

9 MR. ISHERWOOD: It's the same volume. So the chain of
10 events here was when we filed this back in April of '13,
11 the intent, as you had pointed out earlier, was for TCPL to
12 build the Kings North Project^.

13 When they got the NEB decision, they changed the
14 course of direction on their build, and the words actually
15 used for us was "suspend the project." I've often seen it
16 talked about being cancelled, but at least it's somewhere
17 between a suspension and cancellation.

18 And that's really when Gaz Métro and Union Gas
19 initiated a new project to build on the same path. And as
20 we said earlier in, it's kind of come full circle.

21 Part of the settlement was recognizing that Union Gas
22 and Gaz Métro were on a path to build. And one of the
23 things that we gave on the settlement was we would stop
24 activity on our build, and allow TransCanada to pick up
25 where we left off on the environmental assessment and to do
26 the build.

27 And the effect of that is to fulfill the 2012 new
28 capacity open season where they awarded capacity to both

1 Gaz Métro and to Union.

2 MR. DeROSE: Right. The agreements for that capacity,
3 though, would flow out of this term sheet and the
4 settlement agreement and the approval thereof, would it
5 not?

6 MR. SHORTS: But just to be clear, the rationale
7 behind entering into those contracts is identical, and does
8 not change going forward.

9 MR. DeROSE: The rationale may be the same. I'm
10 simply trying to establish for the Board what are the
11 contracts that you're seeking approval for. And as I
12 understand it, it is contracts for the same capacity, but
13 those contracts will flow out of the term sheet and the
14 negotiated settlement and the NEB approval thereof;
15 correct?

16 MR. SHORTS: Those contracts will flow under the NEB-
17 approved TCPL tolls when they come into effect.

18 MR. DeROSE: Okay. And so can you -- so for instance,
19 just by way of an example of some of the differences, the
20 -- if you turn to page 15 of 53 of section 11?

21 MR. SMITH: Of that 004 -- 0074?

22 MR. DeROSE: I'm sorry, 0074. After Mr. Smith's
23 question, there are no pre-approval of long-term
24 transportation contracts with respect to Parkway West, are
25 there?

26 MR. SHORTS: No.

27 MR. DeROSE: No? Okay.

28 MR. SHORTS: No.

1 MR. DeROSE: Do you have that section of the evidence?

2 MR. ISHERWOOD: We do.

3 MR. SHORTS: Yes.

4 MR. DeROSE: Okay. So when you set out in your
5 evidence for the Board the nature of the contract -- and
6 under the fifth bullet, it actually identifies what the NEB
7 -approved Mainline toll is; do you see that? Where it says
8 8.15784 gigaJoules a month?

9 MR. SHORTS: Yes, I see that.

10 MR. DeROSE: Is it fair to assume that the contract
11 which you're actually going to sign for that transportation
12 is going to have a different toll?

13 MR. SHORTS: Well, let's be clear. That was the '12
14 approved. That was the 2012 TCPL approved toll. So that
15 toll actually did change when the Board rendered their
16 decision for the '13 tolls.

17 MR. DeROSE: Okay.

18 MR. SHORTS: So that toll was no longer the toll that
19 was applicable to those contracts had they materialized.

20 MR. DeROSE: Okay. Were there precedent agreements
21 and contracts that were provided to you with respect to the
22 2012 piece?

23 MR. SHORTS: Yes, there was.

24 MR. DeROSE: And have you received precedent
25 agreements and contracts from TCPL arising out of the term
26 sheet?

27 MR. SHORTS: No, we have not.

28 MR. DeROSE: Okay. Now, just in terms of the actual

1 pre-approval of the cost consequences of two long-term
2 transportation contracts, let's start at the 10,000-foot
3 level.

4 You enter into transportation contracts from time to
5 time with TCPL? You've done it historically; correct?

6 MR. SHORTS: Correct.

7 MR. DeROSE: And is it fair to say that in the normal
8 course, you do not seek and receive pre-approval?

9 MR. SHORTS: Well, again, this is not normal course of
10 business. This is new access to a group of customers that
11 have never had the access to the supply basin.

12 And for all the reasons in regards to security of
13 supply, diversity, as well as the substantial
14 infrastructure, that is why we had sought for the pre-
15 approval of the cost consequences.

16 MR. DeROSE: Okay. How many times have you sought and
17 received pre-approval of the cost consequences of a long-
18 term transportation contract?

19 MR. SHORTS: We sought the approval for the Niagara-
20 Kirkwall contract and we did not receive that approval.
21 But we felt that these contracts, the guidelines did apply,
22 and that's why we applied here.

23 MR. DeROSE: So I take it that means that you've never
24 received pre-approval of cost consequences of long-term
25 transportation contracts?

26 MR. SHORTS: Not in advance.

27 MR. ISHERWOOD: But I would add that in the Board's
28 decision, they provided guidance in terms of why they felt

1 it was inappropriate for the Niagara-Kirkwall contract. So
2 we tried to address those concerns in this application.

3 MR. DeROSE: Okay. And in terms of the pre-approval
4 that you're seeking, if the Board were to grant pre-
5 approval, is it pre-approval to sign the contracts or is it
6 pre-approval of all of the costs that then flow from the
7 contracts?

8 MR. SHORTS: It would be pre-approval of the costs
9 that would flow from the contracts.

10 MR. DeROSE: Okay. And are you seeking that subject
11 to NEB approval, or are you simply seeking pre-approval for
12 long-term contracts for these volumes if and when you ever
13 want to execute the contract? Is there a time frame? Is
14 there any...

15 MR. ISHERWOOD: We would execute the contracts subject
16 to construction, conditions precedent, et cetera.

17 So the NEB tolls will change over time as well.
18 Obviously there's a potential change because of the
19 settlement agreement, and I would suspect during the term
20 of these contracts you'll see other changes to the tolls
21 based on NEB approvals.

22 MR. DeROSE: Okay.

23 MR. ISHERWOOD: The one point I should point out is
24 the primary term of the contracts based on the 2012 open
25 season was 10 years, from November '15 through October
26 2025.

27 TCPL's current policy for new builds is now 15 years,
28 so the end date would be 2030.

1 MR. DeROSE: So the length of time is also changing?

2 MR. ISHERWOOD: That's covered off in the settlement
3 term sheet as well.

4 MR. DeROSE: Okay. I guess -- in that case, could you
5 just explain what exactly -- if the term is subject to NEB
6 approval and the term sheet being negotiated and the tolls
7 are subject to the term sheet and the settlement agreement
8 being approved, what exactly are you asking the Board to
9 approve? Are you simply asking for the Board to approve
10 that you can enter into a long-term contract with TCPL for
11 a set volume? Is that --

12 MR. ISHERWOOD: A set volume and a set term at NEB-
13 approved tolls.

14 MR. DeROSE: Okay. And are there any other
15 contractual changes or elements that would not have been
16 contained in the 2012 -- or the contracts arising out of
17 the 2012 open season that may be included in the contract
18 as a result of the term sheet?

19 MR. ISHERWOOD: I'm not aware of any, no.

20 MR. DeROSE: Okay. Now, when you were... In section
21 11, it starts -- it's really in section -- sort of starting
22 at page 28. I don't think you have to turn it up. But you
23 have calculated overall projected gas cost savings using
24 what you call SENDOUT for two TCPL toll scenarios, correct?

25 MR. SHORTS: Yes, that's correct. And those have been
26 subsequently updated.

27 MR. DeROSE: And is it difficult or is it a long,
28 timely calculation or process to calculate TCPL toll

1 scenarios pursuant to SENDOUT?

2 MR. SHORTS: The SENDOUT model is an integrated model
3 that takes a number of -- large number of inputs and
4 creates a large number of outputs, and it probably takes a
5 couple of days to really run it, and then a few days to
6 really verify and check the numbers that come out of it.
7 So it's usually about a -- about a week-long process to
8 fully do a SENDOUT run.

9 MR. DeROSE: Okay. And is there a reason why you
10 wouldn't recalculate or do the SENDOUT run on the TCPL
11 tolls or toll scenarios if it's a range that are going to
12 come out of the terms sheet that you're hoping to have by
13 the TCPL panel?

14 MR. ISHERWOOD: It won't change. As long as the
15 differential between long-haul and short-haul changes by
16 the same absolute number, it wouldn't change.

17 MR. DeROSE: So for instance, if the tolls went up by
18 1,000 percent each, so long as they maintain the
19 differential between them, even though customers in Ontario
20 would be paying 1,000 percent more for short-haul and long-
21 haul tolls, so long as the differential is maintained, the
22 benefits calculated by SENDOUT would remain the same?

23 MR. SHORTS: The savings calculation would be the
24 same.

25 MR. ISHERWOOD: But I would just correct that
26 statement, in that the long-haul toll is much more
27 expensive, obviously, to go from Alberta to Ontario. It's
28 \$1.65 or thereabouts, compared to the 25 cents to go from

1 Parkway to the EDA.

2 So you can't have 1,000 percent on both, because the
3 long-haul toll would be much more expensive, 1,000 times
4 \$1.65 compared to 1,000 times 25 cents. That's why I keep
5 going back to not a percentage change but an absolute penny
6 or dollar change.

7 MR. DeROSE: So literally, as long as it's a buck-45
8 difference?

9 MR. ISHERWOOD: The model would produce very similar
10 results. And I'm talking about a 12-cent change here. So
11 if it was \$1 -- and I could probably go back and check it
12 -- but a 12-cent change, it would be very similar.

13 MR. DeROSE: Okay. In terms of -- now, you are also
14 seeking pre-approval of the cost consequences of the
15 pipeline and Parkway D compressor and Parkway West; is that
16 right?

17 MR. BIRMINGHAM: That's correct.

18 MR. DeROSE: Okay. And in the normal course of a
19 leave-to-construct application, you would not normally be
20 seeking and receiving pre-approval of such costs, would
21 you?

22 MR. BIRMINGHAM: Not typically, Mr. DeRose, but these
23 are anything but typical projects. They are not business
24 as usual. They are the single largest projects in Union
25 Gas's history, and explained all the reason for the
26 assurance around both timing and rate recovery during the
27 technical conference at pages 44 to 45.

28 MR. DeROSE: Mm-hmm. And in terms of the -- just in

1 sort of the -- let's start with the normal leave-to-
2 construct application. When would you normally recover
3 your costs from ratepayers in the normal course?

4 MR. BIRMINGHAM: Typically when the project comes into
5 service, assuming that we're under cost-of-service
6 regulation. Without that, during incentive regulation
7 term, it would be upon rebasing, under cost-of-service
8 regulation.

9 MR. DeROSE: Okay. Now, in terms of the current
10 situation, you're about to go into an IRM period, correct?

11 MR. BIRMINGHAM: Well, we hope so. We do have a
12 settlement agreement.

13 MR. DeROSE: Fair.

14 MR. BIRMINGHAM: The Board has not addressed that or
15 had an opportunity address it yet, but, yes, that is our --

16 MR. DeROSE: Fair enough. And this is one of those
17 awkward scenarios where there is a settlement agreement
18 that, as I understand it, does address the possibility that
19 you may want to capture these costs before you rebase. Is
20 that -- am I describing that fairly?

21 MR. BIRMINGHAM: Well, subject to certain criteria
22 that are described in the settlement agreement, Mr. DeRose.
23 The incentive regulation framework actually contemplates
24 this very process; that is, to the extent that it meets the
25 criteria, Union would be required to apply for leave-to-
26 construct and rate recovery all at the same time so that
27 the Board could deal with all the aspects of the project
28 and all of the impacts from the projects at a single time.

1 So this would be the full regulatory review, which
2 would include the typical leave-to-construct criteria and
3 whether the project's in the public interest, as well as
4 the section 36 rate-recovery application.

5 MR. DeROSE: So -- and when would you start to recover
6 the costs of this project in rates from ratepayers?

7 MR. BIRMINGHAM: When the project comes into service.
8 So if it comes into service in the fall of 2015, we would
9 begin either collecting or, in some cases, potentially
10 reducing rates if the revenue requirement was negative.
11 And then we would adjust that each and every year as we
12 move through the incentive regulation framework.

13 MR. DeROSE: So there would be no assessment of
14 prudence after the fact?

15 MR. BIRMINGHAM: The assessment of prudence is done at
16 the time of the full regulatory review, which would be the
17 combination of leave-to-construct and the rate recovery.

18 MR. DeROSE: Okay. So by way of example, if this
19 Board were to give you leave-to-construct and you went
20 ahead and constructed the Brantford-to-Kirkwall pipeline,
21 before TransCanada sought leave and TransCanada decided not
22 to build so you didn't have your downstream expansion --
23 now, I realize I'm giving you an extreme example...

24 MR. BIRMINGHAM: I think --

25 MR. DeROSE: If this Board gives pre-approval --

26 MR. BIRMINGHAM: -- to do that.

27 MR. DeROSE: Well, I'm --

28 MR. BIRMINGHAM: I said it's an extreme example,

1 because I think we've said we wouldn't do it, but I'll take
2 your question.

3 MR. DeROSE: I'm giving you an extreme example, one
4 where I think we would all agree that that's not prudent.
5 But if this Board were to give you pre-approval, if I
6 understand it right, there would be no time after the fact
7 where ratepayers or the Board could look and say the
8 decision to go ahead and build before TransCanada had its
9 leave to construct, because those two are linked, isn't
10 prudent, but because this Board gave a pre-approval,
11 prudence wouldn't be able to be assessed on the back end.
12 Is that -- that's what you're seeking.

13 MR. BIRMINGHAM: There's no after-the-fact
14 determination of prudence; that's right. There's a full
15 regulatory review done at the time of the application.

16 MR. DeROSE: Have you ever sought and received such
17 pre-approval from this Board?

18 MR. BIRMINGHAM: Pre-approval for section 36 rate
19 recovery in a leave-to-construct application?

20 MR. DeROSE: Correct.

21 MR. BIRMINGHAM: No, we have not.

22 MR. DeROSE: Okay.

23 MR. DeROSE: Again, I'm going to shift gears very
24 quickly to one more area. This is with respect to the
25 Parkway West project, so it's the 0433. It's section 13 of
26 your evidence, which is with respect to the section 90 and
27 91 applications.

28 And really, what we are seeking in this is just an

1 update on a few elements, and I suspect it's probably
2 easiest done through an undertaking, but why don't I start
3 to walk you through the questions, and then, panel, you can
4 tell me how you would best feel it's appropriate to deal
5 with.

6 First of all, at paragraph 19, at page 111 of 121, you
7 refer to "permits, approvals, and authorizations pending",
8 and that you expect to receive all approvals prior to
9 construction.

10 Is that still -- do you still expect to receive all
11 approvals prior to construction, or have there been any
12 delays that you need to inform the Board about that could
13 actually cause delays to the construction?

14 MR. RIETDYK: Certainly a lot of that is still in
15 process, but so far there's nothing that would derail the
16 project.

17 MR. DeROSE: Okay. And on page 112 of 121, in terms
18 of the construction schedule, you say that:

19 "In late 2013 Union's proposing to start yard-
20 grading and drainage on the compressor station
21 property."

22 Is that still your intention, to start that in -- are
23 we into late 2013? And if not, do you still intend to be
24 starting then?

25 MR. RIETDYK: It is. We're contemplating beginning
26 work on October 1st on some of the clean-up of the site.

27 MR. DeROSE: Okay.

28 MR. RIETDYK: And beginning some of the ^re-grading of

1 that site.

2 MR. DeROSE: And again, I take it that right now
3 you're not aware, in terms of any delays to the
4 construction schedule as set out in the evidence?

5 MR. RIETDYK: That's correct.

6 MR. DeROSE: Okay. And then in terms of page 115 of
7 121, on the land requirements for new pipeline, again, you
8 talk about new permanent and temporary land rights to
9 construct the pipelines, as well as crossing permits and
10 agreements.

11 Can you -- again, have you run into any problems? Are
12 there any delays?

13 MR. RIETDYK: No. So far everything remains on track.

14 MR. DeROSE: Okay. And then finally, in terms of your
15 First Nations and Métis consultation, have you run into any
16 issues there?

17 MR. RIETDYK: No, they're -- that type of process is
18 never complete until the project is actually complete.

19 MR. DeROSE: Right.

20 MR. RIETDYK: But so far, so good. Again, we're right
21 on track and those consultations proceed very well.

22 MR. DeROSE: Okay. And just one moment.

23 On my clock I have about three minutes left, so unless
24 the panel wants to ask me questions, I'll put that towards
25 my credit for future cross-examination.

26 [Laughter]

27 MS. CHAPLIN: Or sell it on eBay.

28 MR. DeROSE: Or sell it on eBay. There's now a gray

1 market for cross-examination minutes.

2 Thank you.

3 MS. CHAPLIN: Okay. Thank you.

4 On my list, I have the London Property Management
5 Association being the next to cross-examine. Mr. Aiken, is
6 that correct?

7 MR. AIKEN: Yes, it is.

8 MS. CHAPLIN: Okay. And I have you down for 15
9 minutes?

10 MR. AIKEN: That's correct.

11 MS. CHAPLIN: All right. Clock starts.

12 MR. AIKEN: Okay. I have a compendium of materials
13 the Board should have.

14 MR. MILLAR: Yes, Madam Chair, I've placed that in
15 front of the Panellists. We'll call that Exhibit K1.6.
16 It's the LPMA compendium.

17 **EXHIBIT NO. K1.6: LPMA COMPENDIUM.**

18 MS. CHAPLIN: Thank you.

19 **CROSS-EXAMINATION BY MR. AIKEN:**

20 MR. AIKEN: Good afternoon. My examination is going
21 to be focussed on essentially what comes first, the chicken
22 or the egg. Or in this case we have a lot of chickens and
23 a lot of eggs. They're called Parkway West, Brantford-to-
24 Kirkwall, compressor D, the GTA project, and Parkway-to-
25 Maple.

26 So first I want to deal with the Brantford-to-Kirkwall
27 and compressor D project. So if you could turn to page 1
28 of the compendium, you'll find Union's response to Staff

1 Interrogatory No. 8. The full identification is Exhibit
2 I.A1.UGL.Staff 8.

3 Now, based on the response that I've highlighted, it
4 is my understanding that if the Enbridge GTA Project is not
5 approved, then Union does not need to build either the
6 Brantford-to-Kirkwall line or compressor D; is that
7 correct?

8 MR. REDFORD: That's correct.

9 MR. AIKEN: Now, what if the Board were to approve a
10 distribution-only line for segment A that could be, for
11 example, similar to the 24-inch line recommended by
12 TransCanada in their supplemental evidence dated August
13 26th?

14 If that project were to go ahead or a distribution
15 line-only project were to go ahead for segment A, would
16 Union build Brantford-to-Kirkwall and/or compressor D?

17 MR. REDFORD: That would assume that the Union Gas and
18 Gaz Métro volumes would not move past Parkway that have
19 been contracted. We would still need -- so Brantford-
20 Kirkwall would not be required. Parkway D compressor would
21 be required.

22 MR. AIKEN: Okay. Then if you turn to the second page
23 of the compendium, which is the second page of that same
24 interrogatory response, the highlighted area there
25 indicates that the GMI and Union volumes do not require
26 either Brantford-to-Kirkwall or compressor D.

27 What is required is an expansion between Parkway to
28 Maple in order for those volumes to flow; is that correct?

1 In other words, if somebody built -- if somebody
2 didn't do segment A but did something between Parkway and
3 Vaughan or Parkway and Maple, you still wouldn't need to do
4 anything on the Brantford-to-Kirkwall line?

5 MR. REDFORD: So in this case, this would assume that
6 Enbridge's 800,000 gJs a day would not flow. It would just
7 be the Union Gas and Gaz Métro volumes, which are about
8 368,000 gJs a day, and we could serve those volumes without
9 Parkway D or Brantford-to-Kirkwall. It would certainly
10 fill the existing Parkway station.

11 MR. AIKEN: Now, I'm turning to the Parkway West
12 project. Based on your response to LPMA Interrogatory No.
13 1 -- and this is on page 8 of the compendium, Exhibit
14 I.A1.UGL.LPMA 1 -- I take it that there's no impact on this
15 project if Brantford-to-Kirkwall and compressor D do not
16 proceed? It's independent of that project?

17 MR. REDFORD: Correct. The Parkway West project,
18 which is a reliability-based project, would be required to
19 move forward regardless of Brantford-Kirkwall and Parkway D
20 approvals.

21 MR. AIKEN: And then, based on the response to Board
22 Staff Interrogatory No. 7, page 2, which is on page 5 of
23 the compendium, I.A1.UGL.Staff.7 -- again, the highlighted
24 area -- it's my understanding that the Parkway West project
25 is also not impacted by the expansion or lack thereof of
26 Parkway-to-Maple. So again, it's independent of that
27 project?

28 MR. REDFORD: Correct. Parkway is -- the Parkway

1 compression is near full today. The impact of an outage of
2 the Parkway B unit would be nearly the full 1.1 pJs a day
3 in a loss of critical unit case.

4 So Parkway West would be needed to go forward.

5 MR. AIKEN: If you go back to page 3 in the
6 compendium, this is I.A1.UGL.LPMA.2, the highlighted
7 response indicates that if the Parkway West project is not
8 approved, some of the costs included in the project would
9 be moved to the compressor D project.

10 And I just want to understand if the \$90 million that
11 is referenced in that response, whether that's -- that
12 includes any incremental costs from what has been filed, or
13 is it purely a reallocation, the movement from one project
14 to another, if the Parkway West project were not to go
15 ahead?

16 MR. RIETDYK: So if Parkway West were not to proceed,
17 there would be some slight infrastructure costs that would
18 be required in order to develop that site for Parkway A,
19 and the updated costs on that would be approximately
20 103 million. I think we covered that off as approximately
21 90 million before, but with the updated costs it's
22 103 million.

23 MS. ERICKSON: And so would all of that 103 million be
24 incurred for compressor D without Parkway West?

25 MR. RIETDYK: That's correct.

26 MR. AIKEN: Okay. Now, I want to go back to Board
27 Staff 7 on page 5 of my compendium.

28 This response indicates that the Parkway West project

1 does not depend on system growth.

2 Now, your definition of "system growth" is growth in
3 your own distribution and growth on your Dawn through
4 Parkway system; is that correct?

5 MR. ISHERWOOD: I think the reference here is really
6 around growth in terms of these facility expansions in
7 terms of Parkway D or Brantford-Kirkwall. So we need
8 Parkway West, as Mr. Redford pointed out, irrespective of
9 whether we build Parkway D or Brantford-Kirkwall.

10 MR. AIKEN: But is it also independent of growth at
11 Parkway West?

12 For example, in 2015-16, you've got new contracts
13 coming on. I take it the Parkway West project is
14 independent of that as well?

15 MR. ISHERWOOD: Parkway West is required independent
16 of that, but with those contracts added on, it makes it
17 more urgent.

18 MR. AIKEN: Yeah. Okay. Now, the response goes on to
19 indicate that:

20 "The Parkway West project is linked to providing
21 loss of critical unit coverage for the
22 compression at the existing Parkway station and
23 increased reliability for the interconnection
24 with Enbridge at Parkway."

25 Stopping there for a moment, could Union provide
26 increased reliability for the interconnection with Enbridge
27 at Parkway without the LCU protection provided by
28 compressor C? Or do they go hand in hand?

1 MR. REDFORD: It could be provided. I don't think it
2 could be provided at Parkway itself. If you look at
3 Enbridge's suction deliveries in Parkway, one of the
4 benefits of Parkway West is that it's a new takeoff. It's
5 a different spot where gas is taken off.

6 If you put a second connection in at Parkway, many of
7 the risks that you're avoiding by having a connection
8 across the road would still be there. It would take the
9 same feed off the Trafalgars. It would come off the same
10 headers. You would just have a second valve site side by
11 each, so to speak.

12 MR. AIKEN: With respect to the loss of critical unit
13 protection, did Enbridge approach Union to provide this?
14 Or did Union approach Enbridge and see if they wanted it?

15 In other words, who started the process?

16 MR. REDFORD: Well, LCU, the need for LCU really came
17 about in 2009. There were some internal discussions -- you
18 know, if you look at our throughput at Parkway, in 2005 it
19 was about a half a Bcf a day. With the changes in flows in
20 North America, with the emergence of the Marcellus shale
21 gas and some of the switch from long-haul to short-haul, we
22 saw a definite increase in flow on the Dawn-Parkway system,
23 to the point where Parkway had historically received gas
24 from TransCanada in the summer and in the winter
25 discharged, kind of an easterly peaking system.

26 What we saw was a 365 discharge. We were no longer
27 receiving gas from TransCanada in the summers. We were
28 discharging downstream on a 365 basis. And the volumes

1 that we were flowing were much, much higher. So by the
2 time 2010 came around we were in the 1.9-pJ-a-day range.

3 That fundamental shift, that fundamental shift in
4 dynamics on our system, really caught us. We started
5 looking in '09. In 2010 we did start talking with
6 Enbridge, and that's when we started to discuss more fully
7 plans around loss of critical unit protection.

8 And as time went on and we saw more contracting on the
9 Dawn-Parkway system -- and that's evidenced by the 2012 and
10 2013 expansions that TransCanada did between Parkway and
11 Maple -- those numbers continued to grow and grow.

12 So it started with the realization that fundamentally
13 things had changed for us. It was a new paradigm for the
14 Dawn-Parkway system. And that's really what triggered it.

15 As time went on we shared that information, and
16 Enbridge also expressed their concern with the amount of
17 flow-through Parkway and a need for reliability.

18 MR. ISHERWOOD: So just to add to that, I guess -- and
19 it really was a parallel track -- Enbridge is also looking
20 at reinforcing their system for 2015, which is really their
21 case before the Board as well, and when they came to us in
22 2010 or early 2011, at that point in time they were
23 concerned about Parkway and how much gas was going through
24 there. I think we used the term "45,000-megawatt
25 equivalent", which is a huge amount of energy flowing
26 through one station.

27 So I think we came to kind of a mutual agreement that
28 there would be a lot of value for the GTA and for other

1 downstream customers to have an LCU put in at the Parkway
2 site, and really, it would keep Enbridge secure on our
3 system.

4 Other alternatives could have been pursued, and we
5 really wanted to make sure we offered a secure option for
6 them by putting in the Parkway West compressor.

7 MR. AIKEN: Have any of the other shippers through
8 Parkway expressed a concern? Or now that they know what
9 you're proposing, have they provided support to you?

10 MR. ISHERWOOD: Gaz Métro has also -- supporting the
11 LCU at Parkway West. In fact, they have a small piece of
12 evidence that talks to that. TransCanada is supporting it.
13 There's a letter in the evidence from January of this year
14 where they're also supporting LCU at Parkway West as well.

15 And those are the three big shippers. There's, you
16 know, many other smaller ones. The IESO also is
17 supportive. They filed a letter indicating that the
18 interface between electricity and gas is important for them
19 as well, to have security of supply at Parkway West.

20 MR. AIKEN: And if you could turn to page 9 of my
21 compendium. This is page 56 of 121, in the 0433 evidence.
22 This talks about plants A and B, with plant A having a
23 capacity of 1.3 petajoules a day and plant B 2, and in
24 combination they would have a 2.48.

25 My question is, if your requirement at Parkway was
26 less than 1.3 petajoules a day, then would plant B be
27 considered your LCU compressor?

28 MR. RIETDYK: So just so I'm clear on the question, so

1 if hypothetically we weren't putting more than 1.3 pJs per
2 day through the system --

3 MR. AIKEN: Yes.

4 MR. RIETDYK: Yes, certainly one compressor would
5 cover off the other compressor, that's right, so plant B
6 would be adequate.

7 MR. AIKEN: And then if your requirements are greater
8 than 1.3 but less than 2 petajoules a day, then compressor
9 B is for critical unit and compressor A is too small to be
10 the LCU unit.

11 MR. RIETDYK: That's correct. We don't have
12 sufficient capacity with Parkway A to meet the LC
13 requirements for Parkway B. But even in that case, we also
14 know that we're going to be operating both units or expect
15 to be operating both units this winter.

16 So the flows, as Mark said, are changing dramatically
17 on the system, and we're just seeing increasing flows
18 through that station.

19 MR. AIKEN: Well, in the scenario I mentioned with the
20 demand somewhere between 1.3 and 2 petajoules per day,
21 could Union use compressor A in combination with some other
22 solution, such as service from TransCanada, to provide an
23 effective LCU protection at a cost less than that for
24 Parkway West?

25 MR. RIETDYK: So it's not a scenario we contemplated,
26 because that's not what we're projecting in the way of
27 flows right now. We're seeing significantly greater flows
28 than that.

1 MR. AIKEN: Okay. Well, I want to get to that, and I
2 want to put forward a worst-case scenario for Union.
3 You've got a number of new contracts that I've listed on
4 page 15 of the compendium that are driving the increase in
5 the 2015-2016 demand.

6 So my hypothetical situation is this. If you assume
7 that none of these new contracts came to fruition because
8 either the Parkway-to-Maple bottleneck stays in place or
9 the GTA project doesn't get approval, whatever, and then on
10 top of that some of your initial contracts do not renew --
11 in other words, the U.S. northeast utility that Mr. Brett
12 took you through, the Alberta northeast group, allow them
13 -- coming up for renewal in November of 2016 -- if that
14 would be the case, what could your -- what could your
15 throughput at Parkway drop to? In other words, a worst-
16 case scenario. Would it be under 2,000? Would it be under
17 1,300?

18 MR. ISHERWOOD: I think, again, that's a pretty
19 negative scenario to be discussing. But what we're looking
20 at in '14-'15 is really that 2.4 pJ number. So losing
21 either one of those compressors would require a second
22 compressor to backstop that.

23 I think the next panel is talking about alternatives,
24 and TCPL did propose some alternatives that involved a
25 service on their system. And it's probably safer for that
26 panel to talk about it, although it's probably me still
27 talking about it.

28 [Laughter]

1 But the conclusion we came to was -- and especially
2 with or without the oil line conversion -- the service
3 options just don't work, because gas is trapped on the
4 wrong side of Parkway. It's trapped at Dawn, essentially.
5 And to get it to downstream markets, you would have to do
6 either a physical movement back on Great Lakes, back-hauls,
7 up -- if you look on that map there, basically Dawn, have
8 all the way back up to Emerson, and back across northern
9 Ontario, which doesn't make a lot of sense, and could not
10 be done very cheaply for that volume or done through a
11 market exchange, which, we actually went out to open season
12 and had no interest at all from the market to provide that
13 exchange.

14 So the service on TCPL was something we did explore,
15 and I think when we came to the conclusion with TCPL at the
16 end of January, we all agreed that the best option at
17 Parkway was an LCU.

18 MR. AIKEN: I guess what I'm really asking is, is have
19 you done any sort of risk assessment on your projected
20 contracts and on your current contracts? And if you have,
21 is there any sort of possibility whatsoever that your
22 demand through Parkway would be under 1,300 in the near
23 future?

24 MR. ISHERWOOD: The Enbridge evidence, the update that
25 filed, I think, just is this week, they actually completed
26 their open season on segment A transmission capacity and
27 came in at a very strong 930,000 gJs per day of interest,
28 which is huge.

1 So that segment A has a capacity of 1,200. And they
2 got interest for '15-'16 of 930 in their first open season.
3 And I suspect that would fill up very quickly in future
4 years.

5 So my sense, looking at the market, and especially the
6 changing dynamics with Marcellus and Utica changing, that
7 this is a path that needs to be opened up, and it's a
8 combination of all these projects that does that.

9 And the amount of compression required at Parkway goes
10 from two units to three operational, which even makes more
11 importance on the need to have a second -- or to have a
12 backup LCU compressor.

13 MR. HENNING: And if I might add, the ICF analysis in
14 the base case is showing that similar pent-up demand for
15 moving gas along that path. We've been showing it for a
16 number of years now, where the market is desiring access to
17 the lower-cost gas supplies in Ontario.

18 And that's quite important. One point I'd just like
19 to make about the ICF forecast, this was not a forecast
20 that was done for Union Gas. This is our base case which
21 we release to all of our private sector clients, all of our
22 institutional clients, trade associations, and all of our
23 government clients as well.

24 And in all of those cases where we're looking at that
25 being the economic sources of gas supply going through
26 there, it's quite important to the consumers in Ontario,
27 because absent that, as I was describing before to Mr.
28 DeRose, if you're forced all the way back to Empress and

1 collecting those demand charges while you're shrinking that
2 basis, Ontario will have some of the highest gas prices in
3 all of North America. And that will affect industry in
4 Ontario, it will put upward pressure on electricity prices
5 in Ontario.

6 And the market is trying to desire to get more gas
7 supply at economic prices through that particular
8 bottleneck between Parkway and Maple.

9 MR. RIETDYK: Just a final point on that. We are
10 projecting the 2.3 pJs per day through the station this
11 coming winter, and until we can actually reinforce the
12 system with an LCU compressor.

13 And that's the same level that we looked at when we
14 reinforced the rest of the Dawn-to-Parkway system with LCU.
15 So it was about the same volumes when we put an LCU
16 compressor at Lobo and Bright, and also at Dawn.

17 And, you know, that methodology and that type of
18 philosophy was accepted by the Ontario Energy Board at the
19 time.

20 MR. AIKEN: Thank you, Madam Chair, panel members.
21 Those are my questions.

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

23 All right. We will conclude today, and we will begin
24 tomorrow at 8:30. Is there anything before we break? No?
25 Okay. Thank you very much.

26 MR. SMITH: Thank you.

27 --- Whereupon the hearing adjourned at 3:57 p.m.

28