A. RELATED ISSUES

Issue A1. Are the proposed facilities needed? Considerations may include but are not limited to demand, reliability, security of supply, flexibility, constraints, operational risk, cost savings and diversity as well as the Board's statutory objectives.

The evolution of these projects over the last year has resulted in a significant amount of challenge and complexity to assess the fundamental question: Are these projects in the public interest? When the economics of the changing dynamics of the North American market are overlaid on issues of security of supply and operational risk, there is a need to understand and assess how the respective components of the project come together to enhance the effectiveness of the Ontario natural gas market. The development of the resulting projects was encumbered by the impact on the organization that is arguably most challenged by the changes in the supply basins in North America, TransCanada Pipelines ("TCPL"). The record of the hearing captures this phenomenon and we will not try to summarize it here.

With the challenge and complexity described above, in our view, it was of critical importance to test the evidence from an economic and technical perspective. In our submission, the amount of evidence, interrogatory responses, testimony and undertaking was a worthwhile investment in testing the proposals that include $1 billion of investment in Ontario natural gas infrastructure. We thank the Board, its staff and the utilities for the effort expended in producing a robust record upon which to determine the appropriateness of these projects.

After a significant review of the record and further analysis of some components, the following submissions of the Federation of Rental-housing Providers of Ontario ("FRPO") represent qualified support of these projects in the public interest. These submissions are structured along the lines of the respective components of the projects with the economics included with each project component submission. Our submissions on pre-approvals and conditions attached are contained in the respective issues that follow. As an introduction to the projects, we address the TransCanada Pipelines Mainline Settlement Agreement[1] ("the Agreement").

The Agreement

The road to establishing an agreeable arrangement by the parties to the Agreement was clearly rocky with some twists and turns. In 2010, the Board initiated the Natural Gas Market Review in response to the changing North American Gas market[2]. While that proceeding did not result in specific determinations, the issues of moving Marcellus Gas into Ontario and the "bottle-neck" between Parkway and Maple were discussed and debated. In Union's rebasing proceeding, it became clear that parties to the Agreement had different ideas on how these issues would be addressed. The resulting Decision encouraged Union to enter into consultations with TCPL, Enbridge and ***shippers to explore reasonable alternatives in order to maximize the benefit to Ontario ratepayers*** [3] ***(emphasis added).*** This part of the objective, emphasized above, in our view, got lost in the process and is absent from the Recitals to the Agreement[4].

[1] TransCanada Pipelines Mainline Settlement Agreement among TransCanada Pipelines Limited, Enbridge Gas Distribution Inc., Union Gas Ltd., and Gaz Metro Limited Partnership filed October 31, 2013.
[2] EB-2010-0199 Natural Gas Market Review
[3] EB-2011-0210 Decision with Reasons dated October 24, 2012, page 126
[4] Agreement filed October 31, 2013, page 1.

While we heartened that the parties had come to a settlement, from our initial awareness of the Settlement Term Sheet[5] ("Settlement"), we had been striving to understand the resulting rate impacts and their effect on the economics of the respective projects[6]. The Settlement Agreement[7] provided the initial rate impacts that preserved the differential between Long-haul and Short-haul rates for the Eastern Ontario Triangle ("EOT") as contemplated in the Settlement Term Sheet. However, what was unclear, at least to FRPO, was the utilities acceptance, on behalf of its ratepayers, of 100% responsibility for the Long Term Adjustment Account (LTAA) starting in 2021 and how it would be applied to rates. In response to a number of inquiries including FRPO's letter to the Board[8], both Union and Enbridge filed updated Undertaking responses on November 8, 2013.

A review of the numbers produced by the utilities provides an understanding that the disposition of the LTAA will be allocated to both Long Haul and Short Haul tolls to maintain a constant differential. Further the account will be disposed of over the life of the assets, not the life of the agreement as expected by FRPO. The result of this approach is the utilities claim that the Settlement will not have a significant impact on the economics provided in evidence and undertaking is validated[9].

As a result, FRPO will be providing its qualified support for the applications which we will outline in the following sections for each project.

[5] Settlement Term Sheet emailed September 11, 2013
[6] Transcript Technical Conference, September 13, 2013 pages 25-29
[7] Settlement Agreement filed October 31, 2013
[8] FRPO Letter to the Board filed November 6, 2013
[9] Union and Enbridge Updated Undertaking Responses filed November 7, 2013

However, FRPO would like to express its concern over the acceptance of liability for the LTAA by the Ontario utilities on behalf of ratepayers. While we understand that there was a need for give and take to overcome the litigious impasses to these projects, we are concerned that customers' interests were under-represented in the negotiations. Through the course of the hearing, intervenors grappled to understand the Settlement and the resulting impact for Ontario. With the joint panel being provided at the end of the hearing, it was clear that TCPL and the utilities were still calculating the expected impacts[10]. However, the NEB awarded TCPL with a return on equity of 11.5% based upon the risks in the RH-003-2011 decision[11]. This level was substantially higher than the previous rate of 8.07%[12]. While the targeted rate in the Settlement is 10.1%, in our view the Settlement significantly reduces the risk for TCPL. In addition, it will be received, from the Eastern Ontario Triangle a deferred payment of the LTAA during this period which increases the effective return achieved by TCPL. This effect was not quantified by the parties to the Settlement. Further, the utilities presented revised undertakings that provided short haul increases of 55%.[13] However, we point out that this number still may be indicative, it is not TCPL's evidence for its application and while the target for short haul rate increases was no more than 50%, there is nothing in the agreement precludes increases above that level[14].

Given the nature of the process at the NEB, it is clear that the utilities will be supportive of the deal which will present an uphill battle for under-resourced ratepayer groups to seek a more

[10] Transcript Volume 8, October 9, 2013, page 103, line 10 to page 104, line 4
[11] Transcript Volume 8, October 9, 2013, page 124, line 26-28.
[12] Undertaking J9.4
[13] Union and Enbridge Updated Undertaking Responses filed November 7, 2013
[14] Transcript Volume 8, October 9, 2013, page 137, line 24 to page 138, line 5

equitable decision from the NEB. Having previewed the submissions of the Industrial Gas Users Association, we endorse and adopt their approach[15].

Beyond the implications of this agreement in accepting long-term burden as described above, there is an acknowledged short term risk that the parties did not address in the Settlement and that is TCPL's Energy East project that is projected to occur early in the term of the Settlement. From the content of our discussions with the Joint Panel on this matter[16], that it is clear there is significant uncertainty surrounding the impact of this project. However, we are encouraged with the recent announcement by the Minister of Energy[17] in asking the Board to review Energy East so we have defer further submissions in respect of that process.

<u>EB-2013-0074 Brantford to Kirkwall and Parkway D</u>

In our view, the evidence in this proceeding, on balance, supports this project as being in the public interest. The pipeline portion facilitates the provision of additional volumes to Enbridge, Gaz Metro and Union's Northern increased demands from Dawn. The economics of these projects were tested extensively throughout this proceeding at Stage 1 and forecasted gas cost reductions are reliant on the applied for project.

[15] IGUA Submissions page 3.
[16] Transcript, Volume 8, October 9, 2013, pages 120, line 7 to page 123, line 16
[17] Ministry of Energy, " Ensuring Energy East Pipeline Benefits Ontario", released November 13, 2013

Issue A4. What are the alternatives to the proposed facilities? Are any alternatives to the proposed facilities preferable to the proposed facilities?

During the proceeding FRPO was concerned with the risk of this project as it was on the Dawn to Kirkwall path as opposed to Kirkwall to Parkway path which is in greater demand. Throughout the hearing, culminating with the provision of J4.2, we wanted to compare the Brantford to Kirkwall loop with a loop downstream of Kirkwall. We were disappointed, however, with the chosen comparator of Milton to Hamilton in Union's undertaking[18] . In our view, any additional looping east of Kirkwall should initiate at that point. Given the information provided by Union its previous IR responses compared with J4.2, we were able to assess that the Brantford to Kirkwall loop was still marginally better than a similar length and size of loop initiated at Kirkwall. Therefore, FRPO will support this application with the appropriate conditions provided later in these submissions. We would encourage Union to confirm that it would be looking carefully at the Kirkwall starting point for future Dawn-Parkway expansion.

We understand that the Parkway D compressor is required for Enbridge Segment A and we accept Union's evidence that the compressor is best alternative.

[18] Undertaking J4.2

Issue C5. Should the request for pre-approval to recover the cost consequences of the proposed facilities be granted?

We respect that these projects are amongst the largest ever undertaken by Union. However, in our view, the timing of the development of this issue list was prior to the submission of the Incentive Regulation Mechanism Agreement[19] that included this project as a Y factor if the facilities were approved by the Board. In our submission, we believe that pre-approval would not be necessary and the utility and ratepayers are both comforted by the assurance of a deferral account to capture variances between forecast and actual costs.

Issue C6. Should pre-approval of the cost consequences of two long term transportation contracts be granted?

While we understand Union's goals for diversity of supply and access to new supply basins[20] and are satisfied with the resulting economics, we submit that these contracts do not meet the criteria of greenfield or frontier as laid out in the Board's Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts[21]. We would respectfully submit that this request ought to be denied consistent with the Board's denial of a similar request by the utilities in EB-2010-0300/0333.[22]

[19] EB-2013-0202 – Union Gas Limited. 2014-2018 Incentive Regulation Application submitted July 31, 2013
[20] EB-2013-0074 Evidence, Section 11
[21] EB-2008-0280
[22] EB-2010-0300/0333 Decision dated January 27, 2011

Issue C7. If the Board approves the proposed facilities, what conditions, if any, are appropriate?

It is clear that the pipeline is only needed if the additional volumes can be out through Parkway and therefore reliant on the approval and construction of Segment A and TCPL's King's North project. We support and adopt Board staff submissions for the conditions[23] to be attached to this approval.

<u>EB-2012-0433 Union Parkway West Project</u>

Issue A4. What are the alternatives to the proposed facilities? Are any alternatives to the proposed facilities preferable to the proposed facilities?

A considerable amount of time was invested in reviewing the need for and alternatives to the Loss of Critical Unit ("LCU") compressor. Given the additional reliance of the GTA and eastern Ontario on moving gas through the West GTA, we support the construction of the LCU as applied for.

[23] Board Staff Submission dated November 13, 2013 pages 24 and 25 and Appendix C.

Issue B5. Should the request for pre-approval to recover the cost consequences of the proposed facilities be granted?

As noted in our submissions above in C5, we do not believe pre-approval is needed nor warranted.

Issue B6. If the Board approves the proposed facilities, what conditions, if any, are appropriate?

FRPO supports Board staff's submissions on conditions[24].

<u>EB-2012-0451 Enbridge GTA Project</u>

<u>Segment A</u>

FRPO submits that the evidence is clear that Segment A will have a benefit to the GTA and in conjunction with TCPL's King's North project, Northern and Eastern Ontario. This is especially true with the projected Energy East project on the horizon. In our submission, the incremental cost of 42" is clearly warranted and a good investment but support Board staff's submissions on the risks of proceeding without certainty on the King's North project[25].

[24] Board Staff Submission dated November 13, 2013 page 16 and Appendix B
[25] Board Staff Submission dated November 13, 2013 pages 7 and 8

Issue D5: Should approval of Enbridge's proposed rate methodology for the service to be provided to TransCanada be granted?

FRPO supports the allocation methodology that is aligned with capacity entitlement (i.e., 40% distribution and 60% transmission). However, we believe an adjustment ought to be made before those costs are allocated to recognize the transportation benefit created by extending the starting point of Segment A from Bram West back to Parkway. In questioning Enbridge witnesses it is clear that the service that receives the benefit of this additional cost is the transmission service[26]. The witnesses confirmed that moving the starting point from Parkway back to Bram West would reduce the capacity on the vital Parkway to Maple path. That path is clearly transmission.

In the resulting undertaking J6.12, Enbridge argues that having transmission customers pay for 100% of the pipe when they are only receiving 60% of the capacity offends cost causality. In our respectful submission, this position offends the underlying cost causality principle of " those customers who cause us to incur the cost to provide service would pay for those costs"[27]. In subsequent testimony[28], Enbridge witnesses confirmed that move to Parkway was purely for transmission reasons, reducing transmission costs and creating more transmission capacity.

> MR. WIKANT: Mr. Quinn, my recall of the evidence from the earlier panel was that in addition to the approximately $26 million savings on the toll, an incremental benefit

[26] Transcript Volume 6, September 26 2013 page 130 line 24 to page 134 line 12.
[27] Transcript Volume 9, October 10, 2013, page 160, lines 4 to 6
[28] Transcript Volume 9, October 10, 2013, page 162, line 15 to page 163, line 9

would be that additional capacity would be freed up on TransCanada's system, that may actually defray some of the cost on their build from Vaughan to Maple.

That was my recollection of the earlier testimony. I think we indicated that in terms of what that defrayal might be, TransCanada would have to perhaps answer that. But that would be an offset, is the expectation.

MR. QUINN: I would be satisfied with that answer. I just want to make sure that Enbridge is satisfied that you have identified the benefits.

MR. WIKANT: Would you like an undertaking for me to confirm that so that's on the record?

MR. QUINN: No, I just –– if you can ––

MR. WIKANT: I'm comfortable that that was the evidence of Ms. Giridhar and Mr. Fernandes, and that is our evidence.

MR. QUINN: So we have two benefits, then. You forego a $26 million payment, and it adds transportation capacity and defrays some costs that TCPL might incur?

MR. WIKANT: Correct

Enbridge distribution customers are receiving 800 TJ of service whether the pipeline starts at Parkway or Bram West. However, Enbridge is expecting those customers to pick up 40% of the incremental cost of this extension when this choice only serves to eliminate a $26 million transmission charge and reduces investment by TCPL to ensure that it can flow the remaining capacity it needs. In our submission, this additional cost is clearly created by transmission services and should be borne in the transmission allocation of costs. The remaining costs would be apportioned 40% to distribution and 60% to transmission. The cost impact is provided in the aforementioned undertaking J6.12.

Issue A4. What are the alternatives to the proposed facilities? Are any alternatives to the proposed facilities preferable to the proposed facilities?

<u>Segment B</u>

In the course of the proceeding, it became clear to FRPO that Enbridge proposals for Segment B were more about operational integrity than about managing growth. Enbridge's desire to reduce the pressure in some of its older and more critical lines seemed paramount over incremental facilities for incremental growth. As the Board would recognize, we tested Enbridge's evidence from alternatives[29] to timing to try to find lower cost solutions to Enbridge's operational challenges. We have come to accept that Segment B is in the public interest over time.

The need to reduce the pressure in these lines is important but the weight of evidence would suggest that it is not urgent. Of all of the projects in this combined proceeding, we would view Segment B as being least critical from a strict time point of view. One factor that was insufficiently canvassed in this proceeding is the inflationary effect that would be caused if all of the proposed projects were being constructed simultaneously. Both utilities have evidenced that these are the biggest projects that they have undertaken. Combining these projects along with TCPL's King's North would put enormous pressure on the costs to deliver these projects, especially the cost of skilled labour. In our view, one possible constructive recommendation at

[29] Exhibit JT2.25 and J6.13

this juncture would be a condition added to Segment B that indicates if the quoted prices for construction more than 20% above the estimated costs for the project that the company re-tender for the next year of construction possibly phasing in a two to three year construction project to spread the scarce resources. This approach would allow a staged reduction of pressure in the lines reaching their desired goal over a multiple year period. While we do not support DSM as an alternative to Segment B as we have not seen economic support for it, targeted DSM in the downtown area could support a deferral.

Issue D6. If the Board approves the proposed facilities, what conditions, if any, are appropriate?

Therefore, as laid out above, as condition of approval of Segment B, we would encourage the Board to require Enbridge to prioritize its projects in conjunction with the timing on Segment A and other pipeline projects in a way that the results of the bids on Segment B would dictate the time and duration of the project for a staged implementation while exploring the most viable peak load reduction DSM programs as part of the deferral strategy. If the Board accepted this approach, the Leave to Construct termination would need to be extended.

In addition to this condition, we support Board staff's Conditions as laid out in Appendix A of their submission.[30]

[30] Board Staff Submission dated November 13, 2013, Appendix A