

## UNDERTAKING JT1.1

### UNDERTAKING

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To confirm whether TransCanada is obligated under the MOU to build from Albion to Maple in order to retain capacity to Enbridge pipeline.

### RESPONSE

The undertaking appears to contain a grammatical error and we assume it to be, “to confirm whether TransCanada is obligated under the MOU to build from Albion to Maple in order to retain capacity on the Enbridge Pipeline.”

In Schedule “D” of the MOU, under “Impact of Elections”, certain provisions of the applicable election (in this case, election #2) are to be incorporated into the terms of the TBO Agreement, also known as the Transportation Service Agreement (“TSA”); included is section 7 of Schedule “B” which states that “TransCanada will construct, own, operate and maintain the TransCanada Maple Pipeline.” Further, the TSA will contain the provision, as set out in Section 4(l) of Amending Agreement #2:

TransCanada agrees to work with the Eastern local distribution companies and the market in a cooperative and timely manner, to establish terms and conditions, to be brought to the NEB for approval, under which TransCanada could expand the TransCanada System for short haul service requests on a commercially reasonable basis.

The MOU also requires TransCanada (and Enbridge) to diligently and expeditiously pursue to the regulatory approvals necessary to enable the parties to meet their obligations under the MOU.

TransCanada and Enbridge have not yet concluded negotiating the definitive terms of the TSA. Currently, Enbridge has proposed a term which states that TransCanada shall utilize the gas transportation services provided hereunder only to provide gas transportation services pursuant to the TransCanada Tariff or for its own operational purposes. Also, TransCanada would be paying for service under the TSA whether or not TransCanada was using the service. These terms combined with the obligations in the MOU stated above have the effect of obligating TransCanada to build the Albion to Maple pipeline in connection with its use of the GTA pipeline.

Witness: M. Giridhar