

TransCanada PipeLines Limited
Mainline 2013-2030 Settlement Agreement Application

Attachment 1: Mainline Settlement Agreement

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TRANSCANADA PIPELINES LIMITED

MAINLINE SETTLEMENT AGREEMENT

THIS AGREEMENT made as of the 31st day of October, 2013.

AMONG:

TRANSCANADA PIPELINES LIMITED, a corporation incorporated under the laws of the Province of Alberta ("**TransCanada**")

- and -

ENBRIDGE GAS DISTRIBUTION INC., a corporation incorporated under the laws of the Province of Ontario ("**Enbridge**")

- and -

UNION GAS LIMITED, a corporation incorporated under the laws of the Province of Ontario ("**Union**")

- and -

GAZ METRO LIMITED PARTNERSHIP, a limited partnership formed under the laws of the Province of Quebec ("**Gaz Metro**")

RECITALS:

WHEREAS TransCanada owns and operates a natural gas pipeline system extending from a point near the Alberta/Saskatchewan border where TransCanada's facilities interconnect with the facilities of NOVA Gas Transmission Ltd. easterly to the Province of Quebec with branch lines extending to various points on the international border and including its firm transportation contracts on other pipelines ("**TBO**") such as Great Lakes Gas Transmission Limited Partnership, Trans Quebec and Maritimes Pipeline Inc., Union and Enbridge (the "**Mainline System**");

WHEREAS Enbridge owns and operates a natural gas distribution system in the Province of Ontario (the "**Enbridge System**");

WHEREAS Union owns and operates a natural gas transmission system in the Province of Ontario ("**Union's Dawn Parkway System**") and a natural gas distribution system in the Province of Ontario (collectively the "**Union System**");

WHEREAS Gaz Metro owns and operates a natural gas distribution system in the Province of Quebec (the "**Gaz Metro System**");

WHEREAS TransCanada and Enbridge terminated the MOU (as defined below) effective September 11, 2013, and the MOU is of no further force and effect;

WHEREAS the Ontario Energy Board has encouraged the Parties to cooperate and consult on the efficient development of natural gas infrastructure at or near Parkway; and

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WHEREAS the Parties wish to enter into this Agreement to resolve matters related to, among other things, the efficient development of natural gas infrastructure in Canada, specifically in the Provinces of Ontario and Quebec, in accordance with the terms and conditions set out herein.

NOW THEREFORE, in consideration of the premises and the covenants and agreements set forth herein, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

The words and phrases set forth below shall have the respective meaning ascribed to them below. Any capitalized terms not defined in this Agreement will have the definitions ascribed to them in the Tariff.

- (a) "**2015 NCOS**" has the meaning as set out in subsection 11.1(a).
- (b) "**2016 NCOS**" has the meaning as set out in subsection 11.1(b).
- (c) "**Acceptable Regulatory Approval**" has the meaning as set out in Section 6.1.
- (d) "**Agreement**" means this Mainline Settlement Agreement and includes the recitals and all annexes, exhibits, appendices and schedules hereto as the same may be amended, restated or supplemented from time to time.
- (e) "**Albion Pipeline**" means the proposed gas pipeline to be owned and operated jointly by Union and Gaz Metro extending from Enbridge's Albion meter station to a new interconnect with TransCanada at or near Vaughan, Ontario and then a proposed pipeline from Vaughan to a new interconnect with TransCanada at or near Maple, Ontario.
- (f) "**Amended Union CDA**" means the amended distributor delivery area containing TransCanada's Hamilton Gate meter station and TransCanada's Nanticoke meter station located on the Mainline System.
- (g) "**Annual Bridging Amount**" means the amount to be included in the Revenue Requirement each year for that year's Bridging Contribution which includes associated income tax and return.
- (h) "**Average Unit Cost**" means the sum of the annual contract demand multiplied by the applicable FT toll for each FT Contract held by an LDC on the Mainline System divided by the sum of the annual contract demand held by such LDC on the Mainline System.
- (i) "**Bridging Amortization Account**" has the meaning as set out in subsection 12.4(a).
- (j) "**Bridging Contribution**" has the meaning as set out in subsection 13.2(c)(ii).
- (k) "**Delivery Point**" means a delivery point on the Mainline System.
- (l) "**Delivery Pressure Toll**" means the toll designed to recover on an incremental basis the average costs associated with guaranteeing minimum delivery pressures that are higher than the Mainline System's minimum pressure set out in the Tariff.

1.2 General Interpretation

Unless otherwise expressly specified herein:

- (a) terms defined in the singular will also include the plural and vice versa;
- (b) the words "hereof", "herein", "hereunder" and other similar words refer to this Agreement as a whole;
- (c) Article, Section and Appendix references in this Agreement are to Articles or Sections of or Appendices to this Agreement;
- (d) words of any gender (masculine, feminine, neuter) mean and include correlative words of the other genders;
- (e) "shall" and "will" have equal force and effect; and
- (f) the words "include," "including," or "includes" shall be read to be followed by the words "without limitation" or words having similar import.

1.3 Appendices

The following Appendices are attached hereto and form part of this Agreement:

- Appendix A - January 1, 2015 to December 31, 2020 Revenue Requirement
- Appendix B - January 1, 2015 to December 31, 2020 Billing Determinants and Revenues
- Appendix C - Methodology to Allocate Revenue Requirement to Segments
- Appendix D - January 1, 2015 to December 31, 2020 Tolls
- Appendix E - Summer Storage Service
- Appendix F - Enhanced Market Balancing Service
- Appendix G - Diversions
- Appendix H - Map
- Appendix I - Incentive Mechanism Illustration

ARTICLE 2 OVERVIEW, PURPOSES AND HIGH LEVEL PRINCIPLES

2.1 Overview

This Agreement is the result of broad discussions and negotiations and represents a balance of interests and compromises among the Parties. Subject to Section 16.2, the Parties agree that no single component of this Agreement can be said to be acceptable independent of the entire Agreement. In the event of any ambiguity regarding the interpretation of any provision of this Agreement, such ambiguity shall be resolved in favour of the interpretation that best reflects the purposes set out in Section 2.2 and the high level principles set out in Section 2.3.

2.2 Purposes

The Parties have entered into the Agreement for the following purposes:

- (a) to provide greater certainty with respect to the efficient development of natural gas infrastructure in Canada, specifically in Ontario and Quebec, acknowledging that

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TransCanada and the LDCs, as the largest shippers on the Mainline System, have agreed to cooperate to ensure the interests of the LDCs' customers and all other Mainline Shippers are served in an equitable manner;

- (b) to provide for the development of future infrastructure on the Mainline System, the Enbridge System, the Gaz Metro System and the Union System to meet their evolving gas market and customer needs in a coordinated, reliable and cost effective manner;
- (c) to optimize use of existing natural gas transmission infrastructure of the Mainline System, Enbridge System, the Gaz Metro System and the Union System to meet the capacity and reliability needs of current and future shippers and customers in a reliable and cost effective manner;
- (d) to provide a reasonable opportunity for TransCanada to recover its existing and future cost of service on the entire Mainline System while providing just and reasonable tolls for Mainline Shippers; and
- (e) based upon gas transportation requests from market participants, to use best efforts, subject to TransCanada determining the project is economical and not being obligated to deviate from the utilization of prudent cost management practices during project execution to facilitate the natural gas market's desire for supply diversity and the ability of such markets to access supply of natural gas located close to their markets on a timely basis while continuing to contribute to ensure reliability and the recovery of costs for existing natural gas pipeline infrastructure by the Parties.

2.3 High Level Principles

The Parties agree to the following high level principles:

- (a) The Mainline System will be segmented for tolling purposes so that the EOT rate base and cost of service are separated from the NOL and the Prairies Line rate base and cost of service;
- (b) Capital expansions in the EOT will be promptly pursued to meet market needs and will be added to the EOT rate base and tolled on a rolled-in basis;
- (c) TransCanada will use best efforts, subject to TransCanada determining the project is economical and not being obligated to deviate from the utilization of prudent cost management practices during project execution to accommodate the requests of Mainline Shippers for additional SH Contracts on a timely basis, subject to Section 9.2, during the Term of this Agreement;
- (d) A temporary transitional Bridging Contribution will be paid by all Mainline Shippers to support a reasonable opportunity for TransCanada to recover its Mainline System prudently incurred costs over the period January 1, 2015 to December 31, 2020 (adjusted accordingly to reflect TransCanada's contribution set out in subsection 12.1(a)(iii));
- (e) The Prairies Line and NOL will be tolled independent of the EOT after December 31, 2020 and, other than the Bridging Contribution, Mainline Shippers using the EOT will thereafter have no continuing obligation with respect to the Prairies Line and NOL unless they use those portions of the Mainline System; and

- (f) The Parties agree to file in a timely manner and support any regulatory applications required to implement the terms of this Agreement even if the Agreement is contested by third parties, including representations in front of Provincial regulators, if requested by a Party or otherwise if required.

ARTICLE 3 TERM AND TERMINATION

3.1 Term

This Agreement shall commence on the date first written above and shall terminate on December 31, 2030 or earlier in accordance with Section 7.2 ("**Term**").

ARTICLE 4 LITIGATION MATTERS

4.1 Obligations

The Parties acknowledge and agree that all of the obligations of Parties set out under the heading "Litigation Issues" of the Term Sheet have been satisfied except for the obligations set out in subsection 8.1(f).

4.2 Future Matters

- (a) Each of the Parties acknowledges and agrees that, in recognition of its desire to work co-operatively on behalf of its customers, any new future complaint or claim that may be filed against another Party in respect of the matters set out in this Agreement shall be based solely on actions, events and agreements that have occurred after September 10, 2013. Each of the Parties agrees that, in respect of the matters set out in this Agreement, it will not take any action or commence any proceeding against another Party with respect to any action, claim or dispute that arose prior to September 10, 2013.
- (b) Other than as set forth in subsection 4.2(a) above, nothing in this Agreement shall restrict the ability of any Party to take any action or commence any proceeding or to take any position with any governmental authority or third party at a regulatory proceeding or otherwise against another Party in respect of any action, claim or dispute irrespective of when such action, claim or dispute arose, whether prior to or after September 10, 2013, including without limitation in respect of:
 - (i) TransCanada's proposed Energy East Project; and
 - (ii) the NEB's land matters consultation initiative ("**LMCI**").

ARTICLE 5 THE MOU

5.1 The MOU

Notwithstanding this Agreement and irrespective of any termination of this Agreement, TransCanada and Enbridge acknowledge that, prior to the execution of this Agreement, they consented to the immediate termination of the MOU effective September 11, 2013, and they acknowledge and agree that, from and

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after such date, the MOU is of no further force and effect. This acknowledgement shall survive any termination of this Agreement.

ARTICLE 6 REGULATORY APPROVALS

6.1 Regulatory Approvals

To the extent that any obligation to be performed by a Party pursuant to the terms of this Agreement is subject to a Regulatory Approval, the fulfillment of such obligation shall be subject to such Party obtaining such Regulatory Approval. Each Party shall proceed with due diligence, in good faith and on a best efforts basis to seek to obtain all Regulatory Approvals that such Party, acting reasonably, determines are necessary in order to perform its obligations herein. A Regulatory Approval shall only be considered acceptable for the purposes of this Agreement ("**Acceptable Regulatory Approval**") if it is entirely consistent with the terms and conditions of this Agreement or if each of the Parties accepts in its sole discretion, acting reasonably and in good faith, any terms and conditions imposed by a Regulator that are inconsistent with or beyond those expressly set forth in this Agreement and so informs the other Parties in writing within 30 days of the date of such Regulatory Approval.

6.2 Appeals and Review and Variance

- (a) Each Party acknowledges and agrees that the Party seeking Regulatory Approval shall not seek to appeal or request a review and variance of any decision that any of the Parties determine is inconsistent with this Agreement, unless all Parties agree otherwise. If all Parties agree that a Party should appeal or request a review and variance of any decision, the Parties agree to support such appeal or request for review and variance.
- (b) The Party seeking Regulatory Approval may, with the consent of all Parties, which consent shall not be unreasonably withheld, file a request for review and variance or appeal of a decision that the Parties determine is an Acceptable Regulatory Approval, however such request for review and variance or appeal shall be limited to discrete findings or requirements in the Regulatory Approval decision that are either:
 - (i) inconsistent with this Agreement; or
 - (ii) relate to matters beyond the scope of this Agreement.

6.3 Covenant to Cooperate with Regulatory Approvals

Provided that the Regulatory Approval being sought by a Party is consistent with the obligations contained in this Agreement, each Party agrees to:

- (a) cooperate with the other Parties to obtain the Regulatory Approvals and provide all reasonable support as may be necessary in connection with the applications, including contested applications, for the Regulatory Approvals; and
- (b) not oppose, intervene against, or seek to delay, any Party's application for Regulatory Approvals, including by initiating or participating in any proceeding that may adversely impact any application for such Regulatory Approvals.

assignment of capacity from Union and Gaz Metro (or any other prospective shipper), subject to any required OEB approval.

- (e) Except as provided in subsections 11.1(c) and (d), nothing in this Agreement restricts Enbridge from awarding capacity on its Segment A Pipeline.
- (f) If the Parties determine the NEB decision on either the First or Second NEB Application not to be an Acceptable Regulatory Approval, the Parties will meet prior to the termination of this Agreement to discuss possible options to construct pipeline facilities with an in-service date of November 1, 2016. The Parties intend to continue to cooperate to ensure the efficient development of natural gas infrastructure in the EOT to provide gas transportation service to the Parties' respective customers and to enable a reasonable opportunity for the Parties to recover their costs.
- (g) Union shall conduct an open season for new service between Union's Dawn and/or Kirkwall receipt points and Union's Parkway delivery point for an in-service date of November 1, 2016 to complement TransCanada's 2016 NCOS.
- (h) TransCanada will immediately start work on the King's North Connection Pipeline, and will only complete this project subject to receiving Regulatory Approvals satisfactory to TransCanada, for an in-service date commencing November 1, 2015 or as soon as possible thereafter. It is the intention of the Parties that the King's North Connection Pipeline will be utilized to provide service pursuant to the 2015 NCOS.
- (i) TransCanada and the LDCs shall use all reasonable efforts to ensure the most efficient facilities are constructed to provide the necessary interconnects at and around TransCanada's, Union's and Enbridge's Parkway facilities.

ARTICLE 12 REVENUE REQUIREMENT AND ASSOCIATED ACCOUNTS

12.1 Revenue Requirement

- (a) The Mainline System's revenue requirement ("**Revenue Requirement**") for the period January 1, 2015 to December 31, 2020 used to determine the tolls during the same period shall include all prudently incurred costs, including the following:
 - (i) a deemed debt / equity ratio of 60/40;
 - (ii) a rate of return on equity ("**ROE**") of 10.1%;
 - (iii) a \$20 million after-tax contribution from TransCanada, annually, from January 1, 2015 to December 31, 2020;
 - (iv) the Annual Bridging Amount as set forth in **Appendix A**;
 - (v) a forecast of incremental capital costs; and
 - (vi) a forecast of cost of service components.

- (b) The Parties agree that:
 - (i) all prudently incurred capital costs for facilities constructed in the EOT during the period from January 1, 2015 to December 31, 2030 shall be included in the EOT rate base and tolled on a rolled in basis;
 - (ii) all prudently incurred costs associated with the EOT, including costs associated with all new facilities constructed in the EOT during the period from January 1, 2015 to December 31, 2030, shall be recovered from all services on the Mainline System whose paths include Receipt Points and/or Delivery Points in the EOT during the period from January 1, 2015 to December 31, 2030; and
 - (iii) the LDCs are not restricted from taking any position with respect to the determination of whether such EOT costs are prudently incurred.
- (c) Allowance for funds used during construction shall be calculated using the Mainline System's approved ROE, actual cost of debt and a deemed debt/equity ratio of 60/40.
- (d) During the period January 1, 2014 to December 31, 2030, the Parties agree that any and all costs and expenses reasonably and prudently incurred by TransCanada as a result of its transportation contracts on the TQM System, Union System and Enbridge System, and costs and expenses reasonably and prudently incurred by TransCanada as a result of its long term firm transportation contracts on the GLGT System for up to 500,000 GJ/day from St. Clair Receipt Point at the interconnection of the Mainline System and GLGT System to the Emerson Delivery Point at the interconnection of the GLGT System and the Mainline System (including deliveries to Sault Ste. Marie) ("**TBO Costs**") shall be included in TransCanada's Revenue Requirement and each LDC shall actively support TransCanada in obtaining the inclusion of the TBO Costs into its Revenue Requirement provided that they are reasonably and prudently incurred.
- (e) Subject to subsections 12.1(b) and (d), all components of the Revenue Requirement for the years 2021 and beyond shall be determined in future regulatory applications. Provided however, the Bridging Contribution shall continue to be recovered from EOT Mainline Shippers for the period January 1, 2021 to December 31, 2030 in accordance with subsection 13.2(c)(iii).
- (f) Subject to subsection 13.2(b), the Revenue Requirement for the fixed-toll period from January 1, 2015 to December 31, 2020 is set out in **Appendix A**.
- (g) This Agreement does not preclude any other initiative by TransCanada designed to reduce the Mainline System's cost of service during the period from January 1, 2015 to December 31, 2030.

12.2 Adjustment Accounts and Regulatory Amortizations

The following two adjustment accounts shall be utilized during the period from January 1, 2015 to December 31, 2030:

- (a) the Long Term Adjustment Account; and
- (b) the Bridging Amortization Account.