
REASONS FOR DECISION

E.B.R.O. 410
E.B.R.O. 411
E.B.R.O. 412

IN THE MATTER OF the Ontario Energy Board
Act, R.S.O. 1980, Chapter 332;

AND IN THE MATTER OF subsection 13(5) and
section 19 of the said Act;

AND IN THE MATTER OF a hearing to inquire
into, hear and determine certain matters
relating to interim contract carriage
arrangements on The Consumers' Gas Company
Ltd.'s, Northern and Central Gas Corporation
Limited's and Union Gas Limited's Ontario
distribution systems.

BEFORE: R. W. Macaulay, Q.C.
Chairman and Presiding Member

J. C. Butler
Vice Chairman

D. A. Dean
Member

April 4, 1986

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CHAPTER 1 - INTRODUCTION

Background

- 1.1 In the Western Accord of March 28, 1985 on Energy Pricing and Taxation, the governments of Canada, Alberta, British Columbia and Saskatchewan agreed that a more flexible and market-orientated pricing structure for natural gas was required for commercial, industrial and residential users. To accomplish this goal, an agreement between these governments was signed on October 31, 1985 and was referred to as the Agreement on Natural Gas Markets and Prices (Agreement). (attached Appendix A and the Back-grounder Appendix B).
- 1.2 The Agreement is the first step toward a partially deregulated natural gas industry in Canada. The terms provide for a transition or

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interim period (the interim period), from November 1, 1985 to October 31, 1986 during which prices will continue to be prescribed by governments but end-use customers will have the opportunity to purchase gas directly from producers. Such a system will require some changes at both the Federal and Provincial levels of regulation.

- 1.3 Paragraph 5 of the Agreement, in particular, has implications for provincial jurisdictions and states:

Effective November 1, 1985, consumers may purchase natural gas from producers at negotiated prices, either directly or under buy-sell arrangements with distributors, provided distributor contract carriage arrangements are available in respect of such purchases. This provision is in no sense intended to interfere with provincial jurisdiction in regard to regulation of gas distribution utilities.

- 1.4 The Ontario Minister of Energy (the Minister), in response to the Agreement, made a statement outlining Ontario's position on contract carriage (transportation service or T-service) of natural gas. He stated, among other things:

First, in view of the significant potential economic benefit to large gas users, Ontario supports the introduction of interim contract

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carriage, for the transitional period ending October 31, 1986.

Second, our intention during this interim period is that rates to other customers of the gas distributors will not be affected by the introduction of contract carriage for direct purchasers. Essentially this would mean that an interim contract carriage rate would be approximately equal to the current rates -- adjusted for the distributor's added or avoided costs, including such items as the cost of gas.

I have, therefore, requested the Board to move expeditiously so that there can be no question regarding Ontario's commitment to implement a viable direct purchase option.

1.5 On December 9, 1985 the Ontario Energy Board (OEB or the Board) called hearings on its own motions to inquire into certain matters relating to interim contract carriage arrangements on The Consumers' Gas Company Ltd.'s (Consumers'), Northern and Central Gas Corporation Limited's (Northern) and Union Gas Limited's (Union), Ontario distribution systems. The hearings were combined in an effort to expedite the process and the common hearing is the subject matter of this Decision.

1.6 Due to the nature of the current regulatory environment in Canada and the extensive contractual relationships between TransCanada

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PipeLines Limited (TCPL or TransCanada) and the Ontario distributors, certain matters to be decided at the Federal level will impact on contract carriage arrangements in Ontario. Such matters include the possible duplication of demand charges levied by TCPL, commonly referred to as the 'double-demand charge' issue.

- 1.7 These potential problems were recognized in the Agreement and paragraph 7 stated:

To enable the market-responsive pricing system to operate within the intent of this Agreement, the affected governments requested the National Energy Board (NEB) to review the following concerns:

- i) whether inappropriate duplication of demand charges will result from possible displacement of one volume of gas by another; and
- ii) whether the policy regarding the availability of T-Service, as outlined in the NEB's latest TransCanada PipeLines Limited toll decision is still appropriate, taking into account, among other things, interested parties' views on the fair and equitable sharing of take-or-pay charges.

- 1.8 The NEB is currently conducting hearing RH5-85 to decide these matters. The Board is cognizant of the inter-relationships between its

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hearing and the NEB hearing and will address any accommodations in its findings.

Regulation of the Natural Gas Industry

1.9 For many years the natural gas industry in Ontario has been regulated by the OEB. By virtue of the Ontario Energy Board Act, R.S.O. 1980, Chapter 332 (the Act), the OEB has the responsibility and authority to ensure the reasonably priced supply of natural gas for Ontario consumers. The Board conducts public hearings to approve or fix natural gas rates that are fair and reasonable to the customer and allow the shareholders of the utility the opportunity to earn a fair return on their investment.

1.10 For all natural gas utilities operating in Ontario (except those municipally owned and operated by the cities of Kingston and Kitchener), section 19 of the Act requires the Board to determine rates and charges for the transmission, storage, distribution and sale of natural gas. The Act allows the Board to designate and authorize natural gas storage areas; to authorize the construction of and expropriations for natural gas pipelines; and to approve franchise agreements between utilities and municipalities to serve designated areas.

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1.11 Prior to the Agreement all end-use customers in Ontario purchased their gas from Ontario distributors at rates approved by the Board. No contract carriage or transportation rates (T-Rates) were in place to provide for the transportation of gas purchased directly from the producer by an end-user. The Agreement now provides for direct purchases, envisages utilities providing T-services, and anticipates the Board approving or fixing just and reasonable interim T-rates. This has prompted the hearing, which is the subject matter of this Decision.

1.12 The Agreement has already produced several methods whereby gas can be acquired by end-users in Ontario at a lower cost. These include:

Direct Purchase: An arrangement whereby an end-user of natural gas purchases gas directly from a producer or broker. The gas is transported to Ontario by TCPL and can be handled by the local utility in one of two ways:

i) Buy/Sell: Wherein the Ontario utility would purchase the direct purchaser's volumes, commingle it with the balance of the utility's supplies, and then sell to the direct purchaser as a sales customer under the appropriate rate schedule.

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ii) Contract Carriage: Wherein the Ontario utility does not take title to the direct purchaser's supply but the volumes of gas would be transported from the point of receipt through the utility's system (under contract with the end-user) to the direct purchaser's plant.

Competitive Marketing Program (CMP): Whereby system-producers (i.e. those producers from whom TCPL purchases gas) provide specific discounts to individual end-users of gas. The contractual gas supply arrangements between the system-producers, TCPL, and the utilities are unaffected. TCPL delivers and sells all volumes to the utility at approved prices. The utility delivers and sells all volumes to specific customers at its approved sales rates. The utility provides TCPL with details each month of the sales made to each customer. TCPL rebates to the utility the discount for those volumes sold and the utility flows the rebate to the customer through a credit on the following month's invoice.

1.13 The Minister's statement also requested that during the interim period the Board conduct an intensive study into the potential impact of T-rates in Ontario over the long run. This is expected to result in a hearing either in late August or September which could confirm or change the interim rates that will be approved

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as a result of this decision.

General Outline of The Natural Gas Industry in Ontario

- 1.14 There are three major gas distributors in Ontario which together serve approximately 1,475,000 customers.
- 1.15 Each gas distributor was granted franchises to operate a monopoly within a given area: Union operates within south-western Ontario, Consumers' operates in southern, central, and eastern Ontario, and Northern operates in north-western, northern and eastern Ontario.
- 1.16 Without a guaranteed share of the market, the utilities would not have attracted the private sector investment needed to finance expensive pipeline construction. In exchange for freedom from competition from other companies, the utilities, in effect, gave up their freedom to set their own rates.
- 1.17 The three major gas distributors in Ontario each have different systems. The unique aspects of each distributor will have some bearing on the types of T-services that can be offered and the form of the T-rates themselves.

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- 1.18 Consumers' is Canada's largest natural gas distribution utility. In 1985, it distributed 8.7 billion cubic metres (10^9m^3) of gas to over 800,000 customers in Ontario through its network of approximately 18,000 kilometres of pipeline (map attached Appendix J). In 1985, it had a net utility plant investment in Ontario of about \$1 billion .
- 1.19 Consumers' does not have any storage facilities of its own but it does have contracts for storage with Union and with Tecumseh Gas Storage Ltd, (of which Consumers' and Imperial Oil each own 50 per cent). The combined capacity of storage available to Consumers' through both Tecumseh and Union is in excess of $2.0 \times 10^9 \text{m}^3$.
- 1.20 Northern operates a natural gas distribution system in northern, northwestern and eastern Ontario serving 120 communities by way of approximately 5,500 kilometers of pipeline originating at 84 delivery points on the TCPL transmission system (map attached Appendix K). Northern's net utility plant is expected to have an average value of approximately \$313 million in 1986. Northern projects that in 1986 it will have sales volumes of approximately $3.1 \times 10^9 \text{m}^3$ and will serve an average of about 154,000 customers.

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- 1.21 The storage available to Northern is very limited. It contracts with Union for approximately 3.5 Bcf of gas and has its own Liquefied Natural Gas (LNG) facility with a capacity of about 0.5 Bcf. The LNG facility is used for winter peaking purposes.
- 1.22 Union operates a fully integrated gas distribution system encompassing the use of storage, transmission and distribution facilities. In its 1987 fiscal year it expects to sell over $7.3 \times 10^9 \text{ m}^3$. In addition, Union transports and stores some $5.7 \times 10^9 \text{ m}^3$ of gas annually, for the account of other utilities. In providing such services, Union receives delivery of gas from TransCanada at both its Dawn and Oakville delivery points.
- 1.23 The Company's assets totalled approximately 1.3 billion as at March 31, 1985 (A map showing the Union Gas system is attached as Appendix L). Its net utility plant investment as at March 31, 1985 was approximately \$771 million.
- 1.24 The storage made available by Union plays a critical role in enabling TCPL to maximize the efficient use of its delivery system. Union is the largest operator of underground storage pools in Ontario, with a developed working capacity of $2.7 \times 10^9 \text{ m}^3$. In the summer period, a major portion of the gas delivered to

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Union is received at Oakville and is transported westerly to Union's storage. In the winter period, the movement of gas is easterly from Union's storage.

The Hearing

- 1.25 The hearing commenced on January 27, 1986 and continued for thirteen days concluding on February 12, 1986.

Participants

- 1.26 The following is a list of the participants in the hearing:

Special Counsel on behalf of Board staff

J.A. Campion

Distributors

The Consumers' Gas Company Ltd.

R.S. Paddon, Q.C.

Northern and Central Gas Corporation Limited

J.M. Roland, Q.C., D. Hodgson

Union Gas Limited

J.B. Jolley, Q.C.

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Associations

Industrial Gas Users Associations (IGUA)

P.C.P. Thompson, Q.C., P. Doody

Independent Petroleum Association of Canada (IPAC)

G. Shields

Canadian Petroleum Association (CPA)

A.L. McLarty, Q.C.

Canadian Chemical Producers' Association (CCPA)

G. Addy

Other Intervenors

Algoma Steel Corporation, Limited

F. Oswin

Allied Chemical (Allied)

G. Willcocks, M. Peterson

Anschutz Resources Limited (Anschutz)

J. Leon

Brenda Mines Limited (Brenda Mines)

J. Balaban

C-I-L Inc (C-I-L)

P. Jackson

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City of Kitchener (Kitchener)

J.A. Ryder, Q.C.

Consoligas Management Ltd

S. McAllister

Cyanamid Canada Inc. and Cyanamid Canada Pipelines Inc.
(Cyanamid)

A. Leibel

J. Ryan

Domtar Inc. (Domtar)

W. Zboroluk

Dow Chemical Canada Inc.

L. Ricchetti, J. Sibley

Federation of Northern Ontario Municipalities (FONOM)

B. Cameron

Gulf Canada

M. Jackson, J. Nozick

Imperial Oil Limited-Esso Resources Canada

J. Hughes

Inco Limited (Inco)

T.G. Andrews

Nitrochem Inc. (Nitrochem)

R. Van Banning

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Northern Petroleum Marketing Inc. (Northridge)

M. Kay, L. Smith

Ontario Association of Physical Plant Administrators
(OAPPA)

H. Arndt

Polysar Limited

J.H. Francis, Q.C., G.P. Sadvvari

Rio Algom Limited

S. Koskie

Shell Canada Limited

L. Zaidler

Suncor Inc. (Suncor)

G. Willcocks, M. Peterson

TransCanada PipeLines Limited

M. Brown

Urban Development Institute-Apartment Group and Certain
Named Industrial Gas Users (UDI)

S. Kawalec

Witnesses:

1.27 The following is a list of witnesses who

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appeared at the hearing:

Consumers'

J.R. Hamilton Manager, Gas Supply
N.D. Loberg Vice-President, Marketing
F.D. Rewbotham Director, Rates

Union

G.D. Black Manager, Gas Supply
J.C. Hunter Vice-President, Gas Supply
D.G. Korbin Manager, Rate Design

Northern

R.B. Callow Vice-President and General Manager
D.E. Gibbons Director, Rate Administration
R.T. Rhodes Vice-President, Gas Supply and
 Planning

Nitrochem

J.C. Ride Director of Energy and Supply

Northridge

R.D. Hall Vice-President of D.W. Minion
 Consultants
D.W. Minion Chairman
D.G. Snyder Vice-President, Natural Gas

C-I-L

C.W. Darling Energy Planning Manager, Agriculture
G.R. Tye Manager, Oil and Gas

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CHAPTER 2 - FORM OF THE TRANSPORTATION RATE

Introduction

- 2.1 Exempting the utilities' other customers and shareholders from gains or losses is fundamental to the Board's position with respect to interim contract carriage arrangements. Thus, neither the utilities' other customers nor the utilities' shareholders should be affected by the introduction of transportation service options. The Board also considers simplicity, expediency, certainty and accessibility to be important criteria.
- 2.2 The next five sub-headings deal with those issues which the Board considers vital in setting the form of the transportation rate (T-rate).

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Existing Rate Forms as a Basis for T-Rates

- 2.3 The issue is whether or not the utilities should utilize the rate forms that are currently used for their existing sales customers as the basis for their transportation rates.

Positions of the Parties

- 2.4 Consumers' proposed a transportation rate based on the existing rate forms established for its firm and interruptible sales customers. The existing firm rates have both demand and commodity components and the existing interruptible rates have only a commodity component. Use of these existing rate forms as a basis for T-rates was considered by Consumers' to be simple.
- 2.5 Union's proposed transportation rate is also based on its existing firm and interruptible rate forms which are similar in nature to Consumers' rates except that Union's industrial rates are negotiable within a specified range. Union believed that its proposal to use existing rate forms as the basis for its T-rates is practical and easily implemented.
- 2.6 Northern did not propose to use its existing firm and interruptible commodity range rate

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forms for its transportation rates. Instead it proposed a monthly fixed charge specific to each customer to recover Northern's gross margin.

- 2.7 Northern proposed to convert the gross margin currently forecast to be earned from the customer on a sales rate basis over the contract period, together with the TCPL demand charge and other added costs, into a monthly fixed charge by dividing the total amount by the number of months in the contract period. It was proposed that the volume forecasts for its 1986 fiscal year be used.
- 2.8 Northern contended that this proposal was consistent with the Minister's statement that there should be no gains or losses to the distributor or its other customers as a result of a sales customer taking advantage of the direct purchase option and becoming a transportation customer. Northern will no longer be responsible for the gas supply of the transportation customer and thus Northern submitted that the transportation customer is essentially contracting for space on Northern's system and should pay for this space whether or not it is used.
- 2.9 IGUA accepted, for the interim period, Union

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and Consumers' proposals to use their existing rate forms which have a commodity charge and a minimum bill. It was submitted that this rate form would provide the necessary recovery of fixed costs and a proper incentive for the customer to continue its traditional load profile. IGUA also accepted Northern's proposal to apply a monthly fixed charge since it would also recover the utility's fixed costs and provide the incentive for the customer to continue its traditional load profile.

- 2.10 CPA and IPAC recommended that interim contract carriage rates parallel existing rates. CPA cited the practicality and ease of implementation of this approach to interim rate design and the fact that the utility's costs will be recovered in the same manner as they would be through existing margins.
- 2.11 Nitrochem submitted that it is unable to agree or disagree with Northern's proposed monthly fixed charge because the method for calculating such a charge is too general. Nitrochem noted that it was not aware of the forecast 1986 volumes used by Northern for it and that, if a monthly fixed charge is used, its concurrence with such volumes should be required.

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- 2.12 Special Counsel submitted that all three of the utilities should use their existing rate forms for their transportation rates. The use of such rate forms would allow the risk of forecast error to remain with the utilities and would simplify and speed up the negotiation process. Northern's proposal was rejected by Special Counsel because the proposed monthly fixed charge would guarantee the rate of return for transportation customers and would delay negotiations because of the requirement that the parties agree upon the forecast volumes to be used in the rate design.

The Board's Findings

- 2.13 The Board finds that all three utilities shall utilize existing rate forms as a basis for the establishment of transportation rates. Therefore, the Board accepts Consumers' and Union's proposals in this area and rejects Northern's monthly fixed charge proposal. The utilities should be willing to accept the same risk of under-recovery of return they now accept with respect to their sales customers. The existing rate forms currently provide for recovery of fixed costs through minimum annual volume requirements (to be discussed below). Furthermore, the use of existing rate forms is simple, practical and will facilitate the

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negotiation process.

Bundled vs. Unbundled Rates

- 2.14 A bundled rate is a single charge for services such as storage, transportation and load balancing. These are currently part of the distributors' services in Ontario although not all the utilities offer the same services. Unbundled rates would consist of separate rates for each of these services thereby allowing a customer to contract and pay for only those services desired.

Positions of the Parties

- 2.15 Consumers' proposed a bundled rate for the interim period. Unbundled rates were rejected by Consumers' because it has no experience in selling unbundled services; the customers have no experience in purchasing unbundled services; this lack of experience leads to uncertainty as to whether or not income neutrality would result if unbundled services were offered; and the unbundling of rates would be a lengthy process resulting in a delay in the introduction of T-rates.
- 2.16 Union also proposed a "bundled transportation

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storage service that can be expeditiously implemented in the short term and will ensure that the operating efficiencies of its system are maintained." The utility stated that it would consider an unbundled rate design for the long term but an unbundled design in the interim would not accomplish the interim objective of leaving the distributors and their customers financially unaffected by the introduction of T-service. Furthermore, unbundled rates would not be compatible with the use of existing sales rates as a starting point for the design of T-rates.

2.17 Northern submitted that its proposed T-rate is effectively unbundled because it originates from its negotiable sales rate. In any event, Northern did not consider it to be reasonable or practical to unbundle services for rate-making purposes.

2.18 Northern also submitted that because its transportation rate is effectively unbundled it should not be required to prepare any cost allocation studies for the determination of future unbundled rates.

2.19 IGUA submitted that in the interim, although not vital, unbundling of services is preferable and ought to be considered if the Board believes unbundled rates can be reasonably

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estimated. Unbundled rates in the interim were considered by IGUA to be of potential significance on Union and Consumers' systems due to their large amounts of storage. Such rates were seen to be important for incremental volumes and as a "consistent and logical first step towards long-term unbundled cost-based transportation services and storage services." IGUA suggested the use of current sales rate cost allocation information for the unbundling of services and pricing of such services.

2.20 CPA and Northridge argued that it is extremely important that the customer receives all of the services for which it is paying. CPA was especially concerned with Consumers' proposal in which the customer is paying a bundled rate including storage, but is not entitled to the same service opportunities available to a sales customer.

2.21 CCPA did not support contract carriage service which would consist of bundled transportation and storage components for either the interim period or subsequent periods. It argued that the ability to contract for transportation and storage separately is more consistent with the nature of the flexible and market-oriented pricing regime that is contemplated by the Agreement.

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- 2.22 IPAC supported the use of the bundled service concept for interim T-service tolls. It argued that "bundled services will provide the least disruption to distributor gas supply load balancing and delivery allocations from the comingled gas streams."
- 2.23 C-I-L proposed an unbundled contract carriage service. It did not support bundled services because they are more compatible with a buy/-sell arrangement. Furthermore, if the customer wishes to obtain load balancing and storage services, they can do so on the basis of a specific contract and rate assigned to such services. C-I-L suggested that the unabsorbed demand charges that an industrial customer would incur in order to do its load balancing on the TransCanada system could serve as an estimate of load balancing costs.
- 2.24 Other Intervenors, for the most part, either implicitly or explicitly accepted the need for bundled rates in the interim period with proper consideration being given to unbundled final rates. The main reason behind this acceptance was expediency.
- 2.25 Special Counsel also pointed out that, in order to maintain income neutrality, the fixed costs of storage and load balancing, etc. must

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be recovered in the interim period. Bundled rates will allow such fixed costs to be recovered from the customers in the same manner they are currently recovered.

The Board's Findings

- 2.26 The Board agrees that unbundling utility services and rates will give customers greater flexibility in choosing a mix of services and in tightening the relationship between the cost of service and the specific services received. However, the Board finds expediency and simplicity to be compelling criteria for the interim period and finds that transportation rates and services for the interim period will be bundled. The Board also agrees that the fixed costs associated with storage and load balancing must not be shifted to non-transportation rate customers in the interim period. This supports the use of bundled transportation rates for this time frame. Therefore, the Board approves bundled transportation services and rates in the interim period without prejudice to its future consideration of unbundled rates.

Application of the T-Rate Formula

- 2.27 In the Minister's statement of December 3, 1985, the following formula was proposed as a starting point for the design of transportation

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rates in Ontario:

T-rate = current selling price - avoided costs
+ added costs

Positions of the Parties

2.28 Consumers', Union and Northern accepted the use of the formula as the basis for the determination of transportation rates. However, they differed in the application of the formula. As discussed above under existing rate forms, all utilities proposed to use their existing rates in defining the current selling price but proposed different definitions of avoided and added costs which are discussed in Chapter 3.

2.29 Intervenors did not find the formula to be controversial and it was seldom mentioned in argument. However, Northridge noted that any difficulty with the formula stems from its application and recommended that it be simple and straight-forward.

The Board's Findings

2.30 The Board believes that the use of this formula for developing interim contract carriage rates will produce rates which keep non-transportation service customers and utility shareholders indifferent to the utility offering

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transportation service. Therefore, the formula for designing interim transportation rates is accepted by the Board.

Separate Rate Schedule vs. Rider

- 2.31 The issue is whether the transportation rate should be offered as a separate rate schedule or accommodated through the use of a rider appended to an existing sales rate schedule.

Positions of the Parties

- 2.32 Consumers' proposed a rider which will be used in conjunction with existing rate schedules. The rider would refer to the appropriate rate schedule as the companion rate schedule. A customer qualifying for service under rates 100, 110, 130 or 145 would refer to both the appropriate rate schedule and the rider. All provisions in the rider would override the provisions in the existing rate schedules. If a provision in an existing rate schedule clearly has no application it will not be adopted. Consumers' submitted that the use of a rider is simple and comprehensible because customers are familiar with the basic form of the existing rate schedules.

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- 2.33 Union proposed to use a separate rate schedule, referred to as rate schedule T1, under which Union would offer firm, interruptible, combination or seasonal T-service. General terms and conditions applicable to transportation customers would be set out in the rate schedule. The rates as previously mentioned would be based on existing rate forms and the T-rate formula.
- 2.34 Northern also proposed the use of a separate T-rate schedule, referred to as interim rate T-50.
- 2.35 CPA and IPAC expressed a preference for riders to existing rate schedules. CPA argued that this would provide a means of ensuring that transportation rates closely mirror existing sales service rate schedules. IPAC described the rider approach taken by Consumers' as a simple, straight-forward means of establishing interim transportation rates pending more detailed rate-making efforts.
- 2.36 Special Counsel submitted that as a practical matter, the use of a rider or a separate rate schedule makes little difference. However, he recommended the use of separate rate schedules for two reasons. First, the terms and conditions that apply to transportation rates may

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not apply to existing sales rate customers and vice versa making the rider format less desirable. Second, the use of a separate rate schedule indicates that transportation service is fundamentally different from existing sales rate service.

The Board's Findings

- 2.37 The Board is not convinced that the separate toll schedule is superior to the rider approach proposed by Consumers'. Both methods appear to be simple and straightforward. Therefore, the Board finds that Union and Northern may utilize their proposed separate T-rate schedules and that Consumers' may utilize its proposed rider to existing rate schedules.

Minimum Annual Volume (Minimum Bill) Requirement

- 2.38 The utilities' relevant existing rate schedules permit a minimum annual volume for purposes of a minimum bill which provides protection for the utility for recovery of fixed costs. This protection is required in that Consumers' and Union's demand charges are not sufficient to recover all fixed costs. In other words, the commodity charge in the existing rate schedules includes some fixed costs. As Northern's rates generally consist of commodity charges, its

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fixed costs for these customers are recovered through the commodity charge. Therefore, if a regular industrial sales customer's actual volumes are less than the volumes forecast for that customer the utility must protect itself against lack of recovery of the fixed costs that are included in the commodity charge. This protection is provided through the minimum annual volume requirement.

Positions of the Parties

- 2.39 Consumers' proposed a minimum annual volume requirement for its transportation customers which will be the same as exists in the companion rate schedule. Consumers' argued that this minimum annual volume which translates into a minimum bill is necessary to maintain the status quo during the interim period. The company also stressed that the minimum bill is as appropriate for transportation customers as it is for sales rate customers because it will cover fixed costs incurred by the T-rate customer which has, in effect, reserved distribution capacity for its use. Regardless of whether the gas flows or not, the customer must still pay for the availability of this distribution capacity.

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- 2.40 Union's transportation proposal also contained a minimum annual volume requirement which Union refers to as a minimum annual transportation activity level. This level would be equivalent to the minimum annual volume requirement in the companion sales rate schedule. Again, Union claimed that it should be provided with the same revenue protection from its transportation customers as it currently receives from its sales rate customers.
- 2.41 Northern also proposed a minimum annual volume requirement for its transportation customers. It argued however, that if its fixed monthly demand charge is not accepted the minimum annual volume requirements in its existing sales rate schedules will not be sufficient to protect its revenues.
- 2.42 IGUA supported Union and Consumers' proposals to impose minimum annual volume requirements (minimum bill) on their transportation customers as such requirements would provide for recovery of fixed costs and an incentive for the customer to continue its traditional load pattern.
- 2.43 CPA argued that a minimum annual volume requirement and minimum monthly charge would

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wholly protect all the utilities for the recovery of their fixed costs and allow the utilities the opportunity to earn their allowed return without guaranteeing their return.

2.44 Cyanamid opposed the minimum bill concept which flows from a minimum annual volume requirement. It argued that the requirement provides for the recovery of amounts which are much larger than the fixed costs of the few kilometres of pipeline which serves Cyanamid and a few other customers. Cyanamid submitted that the minimum bill concept is inconsistent with a market-driven pricing environment and that a volumetric rate would provide the necessary incentive for the distributor to fill its unused capacity by adding new loads.

2.45 Special Counsel submitted that there should be a minimum annual volume requirement for T-customers at the same level as the current requirement in the companion sales rate schedules. He argued that "since existing rate forms are to be used for contract carriage customers, this approach is recommended to protect the utilities from non-recovery of fixed costs due to volume declines."

The Board's Findings

2.46 The Board recognizes that minimum annual volume

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requirements protect the recovery of fixed costs. The Board does not, however, agree with Northern's contention that the minimum annual volumes required of its transportation customers should be greater than those required of its sales customers. The fixed costs of service for transportation customers are no greater than those for sales customers.

- 2.47 For these reasons the Board finds that minimum annual volume (minimum bill) requirements for transportation customers are acceptable and directs that the minimum volume requirement for T-service be the same as the requirement for a sales customer served under a companion rate schedule.

CHAPTER 3 - ADDED/AVOIDED COSTS

Introduction

- 3.1 The use of the T-rate Formula (i.e. $T\text{-Rate} = \text{Current Selling Price} - \text{Avoided Costs} + \text{Added Costs}$) requires that avoided and added costs be defined. These are costs that are either avoided or incurred as a result of an end-user choosing transportation service rather than sales service.

Positions of the Parties

- 3.2 Consumers' initially submitted that, during the interim period, the only avoided cost would be the CD and ACQ commodity cost of gas purchased from TCPL. It also submitted that there would be no significant added costs in the

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interim. In response to Special Counsel's argument, however, Consumers' revised its position somewhat and agreed to define its avoided cost as the cost of CD gas (including both demand and commodity components) and to recognize CD demand as an added cost component. This does not change the proposed T-rate but merely provides for the separation and identification of the demand charge. The net effect is that the only avoided cost of gas is the CD commodity cost pending the disposition of the double demand charge issue by the NEB.

3.3 Union submitted that its added and avoided costs must be customer specific. It was proposed, by way of a rather elaborate calculation, to use the cost of CD-100 gas (CD gas at 100 per cent load factor which includes both the demand and commodity components) as the major avoided cost. The demand charge is then considered to be an added cost. The net effect is, as with Consumers', that the CD commodity cost is treated as the avoided cost of gas pending disposition of the double demand charge issue by the NEB.

3.4 Union also proposed to negotiate other added and avoided costs with each individual customer and argued that any uncertainty surrounding the amount of such costs will be removed through

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the negotiation process. Upon negotiation the added and avoided costs will be included on the customer's bill or credited to the customer in order that Union's shareholders and its other customers neither gain nor lose from the introduction of T-Service. The other added costs proposed by Union include the costs associated with the carrying or disposition of gas stored for customers that switch to transportation service and any additional legal, consulting and administrative costs.

3.5 In response to Special Counsel's argument, Union submitted that legal and administrative costs will not be assessed against CMP customers because they are insignificant but that such costs will be assigned to buy/sell customers. Furthermore Union argued that the initial high legal and administrative costs of the early T-service contracts "will be spread among subsequent contract carriage participants and even partly absorbed by the shareholders". It was not shown how this might be done.

3.6 Northern proposed the commodity cost of CD gas as its only avoided cost, in the interim period, subject to the NEB's decision with respect to double demand charges. Added costs that may be incurred because of T-service as proposed by Northern include gas dispatching

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and electronic metering expenses; administrative and general expenses; legal and consulting expenses; and lost or reduced rights to CD diversions and AOI. Northern estimated that electronic metering expenses could be \$12,000 plus per customer and loss of CD diversion and AOI rights could be as high as \$25,000 per customer. However, because the magnitude of the proposed added costs is not certain and because these costs will be customer specific, Northern intends to negotiate them on an individual customer basis.

3.7 Should the two parties be unable to agree on the added costs, Northern submitted that the Board review such costs and if they are found to be significant they should be taken into account.

3.8 IGUA submitted that the commodity and demand costs of CD gas should be treated as avoidable, as proposed by Union and eventually Consumers', but that the demand charge should not be treated as an added cost unless "the distributor has done everything necessary to achieve avoidance of these costs". It was also proposed by IGUA that other gas supply-related costs be considered to be avoidable. IGUA argued that any added costs, other than the demand charge referred to above, will be negligible and that

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in any event the Board should determine any such added costs in its customer-specific orders. IGUA rejected Union's suggestion of open-ended added costs.

3.9 CPA argued that the demand charge should be treated as an added cost, as proposed by Union, in order that such charges be readily identifiable. It was also submitted that other avoided and added costs be clearly identified; based on forecasts rather than subject to fluctuation throughout the period; and that added costs be kept to a minimum. It argued that otherwise uncertainty and/or onerous costs will prevail which will serve as discouragements to transportation service.

3.10 IPAC was also concerned that unnecessary or inflated added costs could render T-service non-competitive and recommended that the Board either specifically identify items allowable as added costs or accept Consumers' proposal that for the interim period there will be no significant added costs. Should added costs be allowed they must be spread over all T-service customers rather than applied to the first few and should be billed as a separate item.

3.11 Allied and Suncor agreed with Union's definitions of added and avoided costs. In

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addition they submitted that the distributor should clearly identify and provide full accounting of such costs.

3.12 C-I-L accepted Union's definition of avoided costs but, because C-I-L also proposed unbundled rates, submitted that load balancing and storage services not provided should also be treated as avoided costs. Due to the uncertainties surrounding the significance or existence of Union's proposed added costs, C-I-L submitted that Union not be allowed to negotiate these costs. Rather it was proposed that Union keep track of any such costs and charge them to the transportation customers at the end of the interim period. If there is no agreement between the parties at that time the Board should intervene.

3.13 Cyanamid was not generally opposed to Consumers' proposed definitions of added and avoided costs. It submitted, however, that if TCPL demand charges are allowed to be collected from the customer they should be separately identified and the Board should ensure that they are not already accounted for in the existing Rate 110 monthly demand charge.

3.14 Cyanamid also argued that, if the NEB relieves

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Consumers' of its demand charge obligation in respect of gas taken by Cyanamid on a direct purchase contract, the interim rate should be reduced to reflect the concomitant transfer of risk from Consumers' to Cyanamid.

3.15 Cyanamid also submitted that any benefits derived by the distributor due to the avoidance of purchasing AOI gas as a result of direct purchase should be passed on to the transportation customers.

3.16 FONOM agreed with Northern's definition of avoided and added costs but disagreed with leaving the quantification of added costs subject to negotiation and uncertain prediction. It proposed that, to maintain the status quo in the interim, an estimate of added costs should be allowed in the T-rate with a mechanism for readjustment at the end of the interim period should unanticipated added costs be incurred.

3.17 Nitrochem argued that Northern's definition of avoided costs is deficient in that storage costs, financial inventory carrying costs, the reduction in financial risk related to non-payment of gas supply bills, load balancing costs and backstop costs will no longer be incurred for the sales customer that switches to transportation service. Nitrochem recommended that these costs should be included as

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avoided costs. It was suggested by Nitrochem that these avoided costs be equal to the amount which a particular sales customer pays in excess of the minimum permitted in its rate schedule.

- 3.18 With respect to electronic metering costs, Nitrochem argued that the need for telemetering has not been proven (monitoring could be handled by telephone) and therefore "at the very least Northern should be required to prove on a customer specific basis the need for the added costs it claims from that customer". It also argued that Northern's administrative, general, legal and consulting expenses arising solely from the introduction of contract carriage do not warrant an "added cost" because they are regular business expenses. If, however, the Board feels that a specific charge for these expenses is warranted, Nitrochem submitted that a fixed amount should be charged to all transportation and CMP customers to ensure equality among the options. Nitrochem rejected Northern's claim for an added cost in respect of reduced rights to CD diversion and AOI because, during this and the NEB hearing, Northern's witnesses testified that the distributor has enough gas supply under contract to meet its requirements, almost all of which is CD gas.

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- 3.19 Northridge also submitted that the TCPL demand charge should be treated as an added cost in that it would then be easily identified pending the NEB decision on the double demand charge issue. The avoided cost for a specific customer is defined by Northridge as the cost of the same volume of gas to the utility.
- 3.20 OAPPA accepted the utilities' proposals with respect to added and avoided costs but considered Northern's added costs to be questionable. It submitted that allowed added costs should be directly identifiable with contract carriage arrangements.
- 3.21 Kitchener submitted that the T-service contract does not need to deal with other added and avoided costs in the interim. Because the distributors were unable to specifically identify and quantify such costs, their inclusion could lead to protracted negotiations and furthermore such costs will be largely offsetting.
- 3.22 Special Counsel submitted that the avoided cost of gas will be the utility's CD cost of gas, including the demand and commodity components, and that the TCPL demand charge should be treated as an added cost that is separately identified on the customer's bill.

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3.23 Special Counsel was concerned that the inclusion of a number of added costs may result in the contract carriage option being more onerous than other available options, especially when these added costs are not assessed against the buy/sell and CMP options. He expressed other concerns including the difficulties involved in identifying and quantifying the avoided and added costs; the open-ended nature of the added costs and hence the uncertainty of the rate level; how the initial start-up costs, such as administrative and legal costs, will be spread across all transportation customers; and finally that the cost of computing the added and avoided costs may exceed the benefits of this computation.

3.24 Given these concerns Special Counsel recommended that the Board not allow any avoided and added costs other than the avoided cost of gas (both demand and commodity components) and the TCPL demand charge as an added cost. To avoid any substantial disruption of the status quo, Special Counsel also submitted that there be a mechanism of appeal "if the customer or the utility can demonstrate that the net difference between the avoided and added costs exceeds two percent of the total transportation revenues expected from the customer (excluding the recovery of the TCPL demand charge)".

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The Board's Findings

3.25 The Board notes the almost unanimous acceptance of Union's proposal and Consumers' final position with respect to the definition of the avoided cost of gas as the cost of CD gas (i.e. both the demand and commodity components) and with respect to the inclusion of the TCPL demand charge as an added cost pending the NEB decision with respect to the double demand charge issue. The Board agrees that this method allows the separate identification of the amount of the TCPL demand charge paid by each customer. Such identification will facilitate the process of refund should the NEB decide that a refund is warranted. The Board notes that Northern indicated during the hearing that it could separately identify the TCPL demand charge quite easily.

3.26 Therefore, the Board finds that the avoided cost of gas will be defined as the CD-100 cost of gas for Union and Consumers' and the appropriate CD cost of gas, including the demand and commodity components, for Northern. The TCPL demand charge will be an added cost that will be identified separately on each customer's monthly invoice. The TCPL demand charge will be discussed in greater detail in Chapter 4.

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3.27 With respect to other avoided and added costs the Board agrees with Special Counsel that "keeping the utility and its other customers whole requires the determination of each and every avoided and added cost element. However, administrative simplicity, speed and certainty requires that all insignificant avoided and added costs be ignored or considered as offsetting in the interim." The Board is not convinced that the other avoided and added costs anticipated by Union and Northern will necessarily arise or, if they do, that they will be significant during the interim period. The Board is also concerned that the open-ended nature of Union and Northern's proposals and the resulting uncertainty may lead to onerous conditions and will unnecessarily protract negotiations. Furthermore, the Board has not been satisfied that administrative, legal and consulting fees can be allocated equitably to all transportation customers. In addition, the imposition of these costs on transportation customers but not on CMP customers would be discriminatory.

3.28 For the above reasons, the Board finds that no avoided and added costs shall be included in the interim rates approved herein, other than the above defined avoided cost of gas defined in paragraph 3.26 and the TCPL demand charge

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added cost. In the event that a utility or customer can demonstrate that the net difference between other avoided and added costs is significant it can request the Board to examine such costs when the agreement is before the Board for approval. The order may or may not be made without a hearing.

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CHAPTER 4 - TCPL DEMAND CHARGES

Introduction

- 4.1 When an Ontario end-user purchases its gas directly from a producer, broker or agent in Alberta or Saskatchewan, the gas must be transported on TransCanada's system to the Ontario delivery point. Part of TransCanada's charge to the end-user for firm transportation is a demand charge to reserve the necessary pipeline capacity. Prior to the introduction of the direct purchase option customers bought their gas from the distribution utility. To supply their customers the utilities entered into long-term gas supply contracts with TransCanada. These long-term contracts also include

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demand charge commitments to reserve pipeline capacity.

4.2 Therefore, an end-user purchasing gas directly becomes responsible to TransCanada for a demand charge and the utility continues to be contractually obligated to pay the demand charge associated with the pipeline capacity reserved to serve that customer. This has resulted in allegations that there is a "double demand charge" and as discussed in Chapter 1 the NEB is currently conducting a hearing to look into this matter.

4.3 The issue that must be resolved in this Decision is who should pay the TCPL demand charges currently being paid by the utility when an end-user elects to purchase its gas supply directly. If it is determined that the end-user must pay these demand charges, the appropriate amount of such charges must be decided by the Board.

Positions of the Parties

4.4 Consumers' argued that it should be entitled to collect the relevant TCPL demand charges from its transportation customers because it continues to be contractually responsible for these commitments. If any refund is found to

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be necessary by reason of the NEB's decision with respect to the double demand charge issue, Consumers' will refund such amounts as the Board decides are appropriate. Consumers' agreed in its reply argument to bill the TCPL demand charge to each customer on a separate item basis.

- 4.5 Consumers' proposed to bill the customer monthly for the TCPL demand charge obligations associated with 1/365th of the T-service customer's annual direct purchase volumes. (This is deemed to be the customer's daily demand). It submitted that it "will nominate on a daily basis to purchase 100 per cent of its CD entitlement less the volume to be delivered by the T-service customer(s)." With respect to this position Consumers' applied to TCPL for relief from the demand charges which it is imposing on its two existing transportation customers. Consumers' noted, however, that it may be forced to use some of this CD commitment that is being paid for by the transportation customers.

- 4.6 Union proposed that any TCPL demand charges, that relate to contractual capacity that becomes redundant to Union due to the introduction of transportation service, be paid for by the appropriate end-user. It argued that

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should the end-user not pay these demand charges and no relief be granted to Union, unabsorbed demand charges would arise.

- 4.7 The demand charge will be billed monthly as a separate added cost and will be equivalent to the TCPL demand charge obligations associated with 1/365th of the expected annual volume providing the customer is capable of delivering gas at 100 percent load factor. In the event that the NEB decision results in relief of this charge, Union will cease to bill this item as an added cost. Should a refund be involved, Union will return any amount including interest, refunded to it.
- 4.8 Union disagreed with some intervenors' recommendations that the utilities be obligated to request relief from TCPL in respect of the contractual obligations that will be incurred by transportation customers. However, Union submitted that it would cooperate with its customers in this respect. Union also agreed with Consumers' that should it be required to utilize its CD entitlements that are being paid for by the transportation customer in order to gain access to its discretionary purchase rights, it should not be required to refund the related demand charges to the transportation customers.

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- 4.9 Northern's position with respect to TCPL demand charges was similar to that of Consumers' and Union. Again, Northern is required to pay such demand charges associated with volumes displaced by transportation service. Therefore, unless and until any relief is provided to Northern, the transportation customer will be required to pay the TCPL demand charges. Northern submitted that if relief is granted it will provide the appropriate relief to its transportation customers and the records that it will maintain for these customers will allow the proper relief to be granted.
- 4.10 Although Northern does not believe it necessary to treat the TCPL demand charge as part of the avoided cost of gas and then as an added cost, it submitted that it would be able to do so. "Northern would identify the demand charge component of the sales contract price as TransCanada's unit demand charge in the applicable rate zone multiplied by the customer's contracted daily demand."
- 4.11 Northern objected to any proposed obligation on Northern to request relief but is prepared to do so and has requested such relief from TransCanada with respect to its transportation contract with Nitrochem. Northern also submitted that the transportation customer would be

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relieved of the relevant TCPL demand charges on any day that Northern intentionally uses that CD entitlement. However, Northern would not provide such relief if the use of the CD entitlement was accidental and will not provide such relief for the entire contract period.

4.12 IGUA submitted that the TCPL demand charges should be "separately identified and quantified in the customer specific rate order." However, the customer ought not to be responsible for any TCPL demand charges "until the utility has identified the extent to which the customer has displaced capacity entitlements and until the utility has presented a request to be relieved from paying for the capacity." Furthermore, IGUA submitted that if any of the CD entitlement that is being paid for by a transportation customer is used by the utility then the demand charge obligation to the customer should cease at least for the period during which the utility uses the entitlements.

4.13 CPA submitted, as noted previously, that the TCPL demand charges be separately identified. The Board was urged, in the event relief is granted by the NEB, to ensure that such relief is effected as a customer specific credit.

4.14 With respect to the amount of the TCPL demand

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charge that ought to be assigned to a transportation customer, CPA recommended that the demand charges associated with the volumes contracted for, be allowed.

4.15 CCPA recommended that contract carriage customers not be responsible for duplicate demand charges.

4.16 IPAC advocated the collection of the TCPL demand charge from displacement transportation customers, pending the NEB decision. It recommended a retroactive reallocation of these charges be directed by the Board should relief be granted. IPAC submitted that the amount of the TCPL demand charges, paid for by the transportation customers, "must reflect the distributors actual avoided costs of gas purchased including consideration of AOI volumes costs."

4.17 Allied and Suncor recommended that the contract carriage customer pay the TCPL demand charge as a separate added charge to the extent that the utility is willing to give up its associated CD entitlement. Should the distributor use any part of this entitlement it must then pay the related TCPL demand charge.

4.18 With respect to any relief that is granted by the NEB, Allied and Suncor submitted that, to

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avoid problems with the amount of relief, Union should be bound by the NEB's definition of incremental and displacement loads. It also recommended that relief be given with interest.

4.19 C-I-L, given that Union proposed to transfer the demand charge obligations associated with 1/365th of the expected annual volume to be used by the customer, submitted that this volume be agreed upon between Union or Consumers' and the customer. The appropriate amount of CD service that should be assigned to Northern's customers, C-I-L recommended, is the amount of the customer's contract demand with Northern.

4.20 C-I-L argued that the utilities should not be allowed to collect the TCPL demand charges, associated with the above defined CD service transfers, pending the NEB decision. If, however, the Board allows this "upfront" collection, C-I-L submitted that the utilities should be allowed to do so only on compliance with IGUA's recommendations in this area.

4.21 Cyanamid submitted that Consumers' should not be allowed to charge its contract carriage customers for its TCPL demand charge obligations. The "upfront" collection of the full amount of demand charges was particularly objected to

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because Consumers' may itself choose to use the pipeline, that the transportation customer has paid for; if there is no relief from the NEB there will be no incentive for Consumers' to seek ways of reducing such charges; and such an allowance will effectively eliminate direct purchase and hence market-oriented gas pricing. In addition, because the customers were not parties to Consumers' contractual commitments to TCPL, it was submitted they should not be required to bear such commitments. The customers would not be required to do so if they left the system.

4.22 If the Board allows the utilities to include the TCPL demand charges in their transportation rates, Cyanamid recommended that Consumers':

- a) identify the extent to which it is prepared to seek the reduction of its demand charge obligations from TransCanada and be required to seek such relief;
- b) apply to the NEB for such relief if it is denied by TransCanada;
- c) hold demand charge payments in a deferral account;
- d) refund such demand charges with interest if relief is granted; and

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- e) undertake mitigation efforts if relief is not granted.
- 4.23 FONOM supported the collection of the relevant TCPL demand charges from transportation customers on an easily identifiable basis.
- 4.24 Nitrochem submitted that any TCPL demand charges included in Northern's fixed monthly charge should be separately identified and that no such charges should be permitted unless the utilities seek relief of these charges and pass on any relief granted to their customers. It was also submitted that the TCPL demand charges paid by the customers ought to be set aside in a deferral account pending the NEB decision.
- 4.25 Northridge recommended separate accounting for any TCPL demand charges paid by transportation customers. It was also submitted that there should be no double demand charge component in interruptible rates because TransCanada's interruptible rates do not have a demand charge component. Northridge also urged the Board to oversee any relief arrangements made by the utilities.
- 4.26 OAPPA supported the proposals of Northern and Union with respect to the TCPL demand charge issue.

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4.27 Inco submitted that TCPL demand charges should not be included in T-rates because T-customers are not parties to the agreements under which the utilities are obliged to pay these charges.

4.28 Brenda Mines was opposed to the inclusion of TCPL demand charges in T-rates. It argued that if T-customers pay these charges the utilities will be able to reap a benefit by purchasing CD gas rather than AOI gas. Because the T-customer will have paid the CD demand charge the utilities will be able to pay only the CD commodity cost which is less than the cost of AOI gas.

4.29 Special Counsel recommended that the Board allow the utilities to treat the relevant TCPL demand charges as an added cost to transportation rates pending the NEB decision. He, however, recommended that the Board impose the following limits:

- a) the maximum amount of the TCPL demand charge to be collected from Union and Consumers' customers monthly be limited to that amount associated with 1/365th of the customer's annual volume;
- b) the maximum amount of the TCPL demand

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charge to be collected from Northern's customers be TransCanada's unit demand charge multiplied by the customer's contract daily demand;

- c) the amount allowed be limited to the amount of the contract obligation from which the utility requests relief;
- d) the transportation customer be relieved of the associated TCPL demand charge for the entire contract period should the distributor use the pipeline space being paid for by the customer; and
- e) any adjustments required, due to the utility using available pipeline capacity or due to less than 100 per cent relief being granted, be made on a pro-rata basis to all transportation customers entitled to relief.

The Board's Findings

4.30 The Board finds that exempting the utilities' other customers and shareholders from gains or losses requires that transportation customers must pay the demand charges relating to the utilities' contractual capacity with TCPL that becomes redundant due to these customers electing to purchase their gas directly. The

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utilities continue to be contractually obligated for these TCPL demand charges and must recover them pending the NEB's decision with respect to the double demand charge issue. As noted in Chapter 3, the Board finds that such demand charges must be accounted for separately.

4.31 The Board recognizes that the amount of the TCPL demand charges that should be collected from each transportation customer is difficult to determine and is complicated further by the uncertainty surrounding the NEB decision. The Board directs therefore that the amount charged each customer must be clearly identified and must be determined in accordance with the following:

1. The maximum amount of the TCPL demand charge to be collected monthly from Union and Consumers' customers will be calculated on the basis of 1/365th of the expected annual volume that the customer contracts to deliver to the utility. This amount will not be subject to the customer being able to deliver at 100 per cent load factor. The expected annual volume will be agreed to by both parties.
2. The maximum amount of the TCPL demand charge to be collected from Northern's

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transportation customers will be TransCanada's unit demand charge multiplied by the customer's contract daily demand.

3. Subject to the above maximum limits the amount of TCPL demand charges to be collected from each transportation customer will be limited to the amount of the contractual obligation from which the utility seeks relief from TCPL. The imposition of this limitation is not considered by the Board to be an undue burden on the utilities and is considered to provide some comfort for the customers.

4. In the event that a distributor intentionally uses pipeline capacity that is being paid for by its transportation customers, such customers will be relieved of the associated TCPL demand charges for the entire contract period on a pro-rata basis. However, should the utility be forced to use the pipeline capacity under protest in order to prevent unreasonable curtailment of its interruptible customers or to protect its firm customers, the utility will only be required to reimburse its transportation customers for the amount of the CD entitlement used, and

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only for the periods during which it was used. The utility must document the conditions under which it uses the pipeline capacity that is being paid for by its transportation customers, for presentation to the Board in a future hearing.

- 4.32 The Board also finds that in the event relief is granted to the utilities for contractual obligations that are being paid for by transportation customers such relief, including interest if any, shall be passed on to the customers forthwith. The pass through of such relief including any refund that may be required must be approved by the Board.

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CHAPTER 5 - ELIGIBILITY CRITERIA

Introduction

- 5.1 This chapter deals with certain criteria suggested by the utilities as eligibility requirements for transportation service during the interim period. The proposed criteria include minimum volumes, contract applicability, supply support and broker/producer versus end-user contracts. These are dealt with individually below.

Minimum Volumes

Positions of the Parties

- 5.2 Consumers', Union and Northern each proposed a minimum consumption level as an eligibility criterion for transportation service during the

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interim period. Consumers' and Northern specified daily volume levels of 40,000 m³ and 30,000 m³ respectively. Union specified an annual volume of 28,000 10³ m³ as its qualifying level of consumption. This is approximately equivalent to 76,000 m³ per day.

- 5.3 Consumers' stated that the 40,000 m³ per day qualifying minimum was an arbitrary level that would restrict the number of applicants for T-service. It does not wish to discourage potential customers and is not married to the 40,000 m³/day level; nevertheless some restriction is considered desirable because of the limited staff available to handle potential T-customers. Consumers' indicated that 40 customers from rate classes 110 and 145 would qualify at the above level, of whom approximately 20 would be eligible during the interim period, consuming approximately 10-15 Bcf. No enquiry had been received by Consumers' from a potential T-customer requiring less than 40,000 m³ per day but Consumers' acknowledged that it would be prepared to apply to the Board for an order to vary the level if experience shows that a lower level is more appropriate in the interim.

- 5.4 Consumers' proposed that a transportation customer would be allowed to contract up to the

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average daily requirement, based upon estimated consumption in the interim period, not its peak day requirement. Consumers' said that if a T-customer contracted for more than its average daily requirement, the customer would become a purveyor of gas to the system to the detriment of Consumers' purchasers of system gas.

5.5 Union's position is similar to Consumers' in that the threshold is seen as an appropriate means to limit the number of applicants to manageable levels, with the limited number of trained staff available. The proposed level of $28 \times 10^6 \text{m}^3$ per year would, according to Union, limit the number of potential T-customers to about 20, most of whom would be from the M7 Rate class.

5.6 Union claimed that it will reduce its minimum threshold and expand the availability of T-service as rapidly as possible; this will depend on the number of applications and the staff resources available.

5.7 Northern's views were similar to both Consumers' and Union insofar as the proposed minimum level of $30,000 \text{m}^3$ per day was arbitrarily chosen as a threshold which will keep the number of potential customers to an administratively feasible level. Northern

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stated that approximately 51 customers would qualify from rates classes 20 and 25 of which four or five may take advantage of T-service in the interim period.

- 5.8 While Northern's proposed T-service level is available only if there is sufficient capacity in its system to provide the service without affecting adversely the service extended to its other customers, Northern stated that it did not anticipate capacity problems on its system. Northern indicated that it was not tied to the 30,000 m³ per day figure and it would apply to the Board if a lower level appeared appropriate where a prospective T-customer had made arrangements for a supply of gas, and its carriage, to Northern's system.
- 5.9 Kitchener argued that the setting of a minimum threshold level is inconsistent with the purposes of the Agreement and that one should not be permitted.
- 5.10 CPA expressed concern that arbitrary limits may preclude T-service for some customers and raised the issue of discrimination. CPA believed that distributors' concerns regarding administrative difficulties in the interim period had not been substantiated, but took comfort that each of the distributors had indicated flexibility toward administering the eligibility requirement.

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- 5.11 UDI argued that the concerns expressed by the distributors were "excuses ... to deny Ontario gas users the immediate opportunity to obtain lower priced gas supplies." UDI argued that proposed limits create discrimination and submitted that all utility contract rates should be considered as reasonable qualifying levels in the interim.
- 5.12 IGUA argued that there should be no eligibility limits or exclusions in any interim T-rate schedule. Minimum volumes could be determined, if necessary, on a case-by-case basis.
- 5.13 Cyanamid submitted that contract carriage should be open to any customer or group of customers that wish such service, regardless of volume requirements. However, recognizing that there there may be problems in coping with a large number of customers in the interim, Cyanamid did not object to Consumers' proposed minimum requirements in the interim period provided that customers which do not automatically qualify may apply to the Board on a case-by-case basis. Cyanamid made no specific reference, in argument, to Union's or Northern's proposed eligibility levels.
- 5.14 Allied and Suncor, with particular reference to Union, argued against any minimum level

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being set since this would arbitrarily exclude potential direct purchasers. According to Allied, the practicalities of the market place will set the de facto entry level.

- 5.15 OAPPA objected to the high volume levels required by utilities for customers to be eligible for interim T-service and proposed that they be reduced. The OAPPA submitted that, at best, about one-half of the 16 member universities would qualify for T-service.
- 5.16 FONOM submitted that because of the relatively short interim period, some minimum eligibility requirements are an administrative necessity. However, it stated that the combination of a minimum volume and exclusion until existing contracts expire, may preclude a number of industrial customers from T-service in this period.
- 5.17 CCPA submitted that, in the market responsive environment anticipated by the Agreement, artificial restrictions such as minimum volume requirements or minimum annual transportation volumes should not receive this Board's endorsement. The CCPA believed that the economics of a particular transaction will determine the appropriate volumes.

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- 5.18 C-I-L argued against limiting, in advance, the access of customers to contract carriage arrangements and stated that there is no need to raise arbitrary barriers. C-I-L stated that the market realities that make such arrangements attractive to large volume customers will likely limit contract carriage to a reasonable level. C-I-L also pointed out the unjustness of having different eligibility requirements for each of the three distribution systems.
- 5.19 IPAC stated that, for each distributor, the minimum volume requirements are substantially in excess of those required for comparable sales service in existing rate schedules. IPAC did not agree with the utilities' contentions that T-service will cause a significant increase in administrative workload, since the potential T-customers are already on the distributors' systems and known to them. IPAC argued that the minimum eligibility volumes should be no higher than the levels required for sales service and, preferably, should be substantially lower.
- 5.20 Northridge argued against imposing minimum volume requirements, pointing out that low load factor customers would be unable to justify the costs of arranging such sales. Stating that no justification for such limitation had been

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shown, Northridge believed that the market itself will resolve the matter.

- 5.21 Special Counsel submitted that eligibility requirements in the form of minimum volumes are unnecessary and discriminatory and ought to be rejected. In his opinion it was more appropriate to let the market determine eligibility for contract carriage in the interim period.

The Board's Findings

- 5.22 The Board is not persuaded by the submissions of Consumers', Union and Northern that, in the interim period, minimum eligibility volumes of the levels proposed by these utilities are necessary in order to control, for administrative purposes, the numbers of potential applicants for transportation service.
- 5.23 The Board finds that for the interim period, the minimum volumes eligible for T-service shall be no higher than the volumes stipulated in the companion sales rate schedules. The companion sales rates schedules shall be Rates 100, 110, 130, and 145 for Consumers'; Rates 20 and 25 for Northern; and Rates M4, M5A, M7, and M9 for Union.

Contract Applicability

Positions of the Parties

- 5.24 Consumers' submitted that its customers will not be eligible for transportation, nor buy/-sell, services unless current sales contracts have expired. As current contracts expire in the interim period, customers which meet Consumers' eligibility levels could obtain transportation service under Rate 100 and/or Rate 110, and seasonal requirements under Rate 130. Interruptible transportation service will be available under Rate 145. During the hearing however, Consumers' said that if a customer required T-service before expiry of the current contract, Consumers' would be prepared to discuss it.
- 5.25 Union, in a similar fashion to Consumers', will accept contract carriage requests from existing customers as sales contracts expire. Union believed that expiry of a current contract as a pre-requirement of T-service is inherent in the Agreement. However, Union stated that if this were shown not to be the case, it would be prepared to consider re-negotiation of the contract in the interim. Union proposed to offer firm and interruptible T-service to customers currently being served, mostly under Rate M7.

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5.26 Northern did not specifically state that expiry of current contracts was a prior requirement for negotiating T-service in the interim period. However, its position can be inferred as being similar to Consumers' and Union's. Northern proposed to offer only firm T-service to potential customers currently being served under Rates 20 and 25.

5.27 Intervenors did not refer in argument to the proposals of the three utilities to offer T-service only on expiry of current sales contracts. However, most expressed the view that transportation service should be introduced as quickly as possible.

The Board's Findings

5.28 The Board finds that since the utilities and other customers are being kept whole, the utilities should not wait for expiry of a gas sales contract before negotiating interim T-service. The utilities are directed therefore to consider any request for renegotiation of a customer's contract, before normal expiry, to provide for T-service, or buy/sell service.

Supply Support

Positions of the Parties

- 5.29 Consumers' and Union, in particular, expressed concern regarding the non-arrival of a T-service customer's gas, and the possible adverse impact on other customers. To satisfy their obligations to other customers, the utilities claim they should be entitled to verify T-customers' upstream arrangements including their suppliers' gas reserves, and the adequacy of T-customers' arrangements with TCPL. Union and Northern proposed to negotiate a general indemnification clause whereby sales customers would not be adversely affected by the provision of T-service.
- 5.30 Northern stated that the utility should not be required to protect the T-customer from the results of supply failure.
- 5.31 Kitchener submitted that the utility should not have the right to satisfy itself as to the ability of the T-customer to effect delivery of contracted volumes, and that the distributors had not established in the hearing that failure to supply would affect other customers.

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- 5.32 CPA considered that the review and evaluation of a customers' gas supply is immaterial in a carriage arrangement. If carried out, the cost should be borne by the utility, not the customer.
- 5.33 IGUA argued that an obligation upon the T-customer to deliver and his liability for failure to deliver are matters more akin to a buy/sell arrangement than a transportation arrangement. The obligation to deliver is not properly part of a transportation service arrangement, but if such an obligation were imposed, it should not, according to IGUA, also impose and quantify in advance a fixed penalty for failure to deliver. IGUA also took issue with the proposed broadly-worded indemnification clauses. In IGUA's view, the matter of the adequacy of gas supplies could be determined, if necessary, on a case-by-case basis. Basically, IGUA argued that the increased risks envisaged by the utilities as the result of T-service, could be largely avoided by using the buy/sell alternative.
- 5.34 Cyanamid opposed the requirement that T-customers deliver their average daily volume at 100 percent load factor each day. In Cyanamid's view, direct purchase customers should bear their own supply risks: an

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inadequate gas supply is a concern of the T-customer, not the distributor.

- 5.35 Allied and Suncor argued that the distributor should not need to be independently satisfied with the deliverability of gas under the direct purchase contract. They contended that Union had not established the need for indemnity.
- 5.36 FONOM supported Northern's position that any increased risk, of supply or otherwise, to the utility or system customers should be borne by the T-customer. FONOM submitted that this should be covered by an appropriate broad indemnity clause.
- 5.37 Nitrochem argued that in a transportation arrangement there is no need for the distributors to satisfy themselves as to the adequacy of the T-customer's gas supply since the customer already has a vital interest in gas availability. Where a fixed charge is required as in Northern's proposal, Nitrochem argued that whether or not gas is actually transported should be a matter of indifference to the utility. There is therefore no need to investigate the supply and reserve position of the supplier. Nitrochem believed that such features are more appropriate to buy/sell arrangements.

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- 5.38 Northridge argued that security of supply is the T-customer's responsibility and risk. It pointed out that requiring the delivery of average daily volumes at 100 per cent load factor is not usual in a contract carriage arrangement. Northridge believed that the indemnity provisions being sought are unwarranted or, at least, much too broad.
- 5.39 IPAC stated that the responsibility for gas supply under T-service rests with the T-customer. It found unacceptable the concern of distributors that supply failure by T-customers will lead to interruption of service to sales customers, given modern metering and telecommunications. In connection with the use of brokers and producers, IPAC also stated that these entities are in a better position to provide assurance of supply than an end-user.
- 5.40 Special Counsel pointed out that contract carriage customers have a substantial stake in the continuity of their gas supplies. Verification of gas supplies is unnecessary because of the checking performed by other authorities in Alberta. Losses resulting from supply failure fall only on the contract carriage customer; consequently the requirement of checking supplies is unnecessary to protect the utilities' other customers. However, Special

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Counsel felt that due to the integrated nature of the Union system there was a risk that a supply failure on the part of a Union T-customer could impact upon other Union customers in the interim period. See "Risk" in Chapter 7 for further discussion of this issue.

The Board's Findings

5.41 In E.B.R.L.G. 26, dated February 10, 1984, the Board stated on Page 75 that

By acquiring its own gas supply, the direct purchaser would automatically assume the risk of supply failure, previously borne by the utility. A direct purchaser would have to make its own arrangements for back up supply since it would be irresponsible for it to plan to rely on the gas distributor and/or the distributor's other customers to support it if its gas supply was inadequate, and unreasonable for the utility to be obliged to serve in these circumstances.

5.42 The Board, in keeping with its views as expressed in E.B.R.L.G. 26, finds that verification of upstream supply arrangements including verification of the gas reserves shall not be a condition of providing T-service by the utility.

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Brokers vs. End-User Contracts

Positions of the Parties

- 5.43 Consumers', Union and Northern stated that they wish to deal only with end-users and that T-service would not be available to brokers or producers.
- 5.44 CPA, while accepting that verification of financial viability is reasonable, disagreed with the proposed limitation of T-service to existing end-users and pointed out that Consumers' itself had dealt with a broker in the shape of Canadian Natural Gas Clearing House. CPA regarded the intention to deal only with end-users as arbitrary. Some customers might be disadvantaged to the extent that benefits which might otherwise accrue to them from arrangements made with gas marketers or gas producers would be denied.
- 5.45 IGUA argued that to exclude brokers would negate the objective of the Agreement to introduce competition into the pricing of gas, and that such exclusion would not be in the public interest.
- 5.46 Cyanamid submitted that contract carriage should be open to any customer or group of

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customers regardless of volume requirements or ownership of the gas. Cyanamid protested against Consumers' intention to deal only with end-users.

5.47 Northridge argued that there is no sound reason to limit T-services to end-users. Credit-worthiness, if that is a concern, should be satisfied in the specific negotiations, not by excluding all but end-users.

5.48 IPAC argued that restricting T-service to end-users only is unnecessarily restrictive and limits the availability of T-service in the interim period. IPAC maintained that T-service should be available to producers and brokers, as well as end-users. In many potential T-service situations, IPAC believed producers are responsible for arranging transportation through to the end-user. In IPAC's view, the use of brokers is in keeping with the more aggressive marketing of gas, which should be welcomed.

5.49 Special Counsel argued that the use of brokers should be permissible if the minimum volume requirements are dispensed with, since brokers would be able to arrange gas supplies for several smaller customers provided each customer entered into a T-service arrangement

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with the utility. Special Counsel submitted that it is reasonable for the utility to look to the end-user for payment and, therefore, the contract. He argued that brokers should be permitted to operate in Ontario and that the utilities should cooperate with them.

The Board's Findings

- 5.50 The Board finds that the use of brokers and producers is necessary in furtherance of the objectives of transportation service and buy/-sell arrangements in Ontario.
- 5.51 While the Board wishes to encourage co-operation between utilities and brokers (and producers), it appreciates that utilities must look to end-users for performance and payment. Accordingly, the Board finds that where contracts are entered into by utilities for buy/-sell or T-service arrangements, they should be made with the gas end-users.

CHAPTER 6 - THE INTERIM CONTRACT PERIOD

Introduction

6.1 Representations were made by many parties as to the length of the term of any interim transportation service rates which might be put in place by the Board.

Positions of the Parties

6.2 Northern maintained that all contracts for interim transportation service should conclude on October 31, 1986. It was argued that this is the period that was established by the Agreement; that October 31 is the anniversary date of most of Northern's industrial sales contracts; and that there are many uncertainties beyond November 1, 1986.

6.3 Northern is, however, prepared to consider, on a case by case basis, transportation service

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contracts beyond October 31, 1986. It also indicated that it is prepared to enter into contracts for periods as brief as one month but believed that it is impractical to contract for periods less than one month.

- 6.4 Union proposed that interim T-service contracts extend to at least March 31, 1987 and commence no earlier than April 1, 1986 to coincide with Union's operating cycle.
- 6.5 Union indicated that it had qualified support for CPA's suggestion that the interim rates established by the Board continue until it is appropriate to set a permanent rate in a distributor's main case.
- 6.6 Union also said that if there is to be a further hearing by this Board in terms of long term arrangements that the hearing should be delayed until the spring of 1987.
- 6.7 Union argued that short term T-service contracts are not compatible with the purchasing and operating constraints on the utility. Plans must therefore be made over the entire operating season.
- 6.8 Union declared that a T-service customer wishing to return to the system as a sales customer

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as of November 1, 1986, could not be guaranteed service since Union may not have sufficient volumes of gas in storage to meet the customer's requirements.

- 6.9 Consumers' argued that interim transportation service should only extend to October 31, 1986.
- 6.10 IGUA's position was that permanent cost-based T-service rates should commence by October 31, 1986 or as soon after as possible. Furthermore "it is the Board, not the utility, that should determine whether an interim transportation services relationship extends beyond October 31, 1986". IGUA argued that the interim agreements should not automatically end on that date, but should, in appropriate circumstances, be extended. In any event, interim transportation agreements should not be terminated without a Board order.
- 6.11 Cyanamid proposed that the interim period should run until October 31, 1986 and continue thereafter until the Board fixes permanent rates. Cyanamid also proposed that the Board should permit customers to apply for extensions of the term to coincide with any TCPL contract term requirements.
- 6.12 CPA took the position that "what is contemplated by the current hearing is the establish-
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ment of a new utility service." It argued that for this reason the service should not be differently characterized from any other service offered by a utility.

6.13 CPA recommended that interim contracts remain in existence until changed, finalized, revised or terminated. Changes can take place and longer term arrangements considered when individual distributor specific rate applications are brought before the Board. At that time, CPA argued, the toll can be established either by a formula or on a cost allocation basis. CPA argued that any doubt about the availability of carriage service beyond October 31, 1986 will create an additional stumbling block to direct sales being effected during the interim period.

6.14 CPA pointed to a further hurdle in that interim service contracts on TCPL's system for a period of time less than one year require the approval of the NEB under Section 59 (2).

6.15 Kitchener and UDI supported the termination of the interim T-rates as of October 31, 1986.

6.16 Northridge appeared to accept October 31, 1986 as the expiry date of interim rates on the grounds it expects that there will be no unbundling of the rates until interim contracts

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expire and it is anxious to avoid any further delay since "a competitive market necessitates unbundled rates".

- 6.17 IPAC maintained that T-service should be available for any term up to ten years commencing at any time during the interim period and that only the toll may need to change after October 31, 1986. IPAC took the position that a distributor does not have justification for refusing T-service beyond October 31, 1986 on the basis that it may be exposed to some unknown and as yet unquantifiable risk or cost over the longer term.
- 6.18 IPAC argued that to have to apply under Section 59(2) of the NEB Act is an unnecessary complication and would only discourage contracts being entered into in the interim period.
- 6.19 CCPA believed that the interim period should not go beyond October 31, 1986 and that all efforts should be made to ensure a prompt transition to a more competitive environment. CCPA argued that except for special circumstances, contract carriage or buy/sell arrangements should be for a period of 12 months.
- 6.20 FONOM argued that only large industrial users can take advantage of carriage rates in the

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interim period and this discriminates against residential and commercial customers. FONOM stated "the inherent danger in introducing contract carriage arrangements is that having created a mechanism, (even on an interim basis) to flout cheaper gas to one group of customers and not to all customers, establishes a precedent which will likely never be reversed. FONOM submitted that all customers should share in the benefits of cheaper gas.

6.21 FONOM's position was that interim T-service should not extend beyond October 31, 1986 to ensure that the inherent discrimination between classes of customers, which may be tolerable on an interim basis, is not perpetuated.

6.22 Nitrochem argued that the decision of this Board dealing with the longer term may not be available by October 31, 1986 and therefore transportation service should be continued on the same terms and conditions as during the interim period, pending disposition of the long-term matter by the Board.

6.23 Allied and Suncor submitted that T-service contracts ought to be subject to amendment to reflect any changes to the interim T-rates that might be in effect after the setting of a long-term T-rate.

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- 6.24 C.I.L.'s position was "that it would be inappropriate and discriminatory to have different interim periods apply in respect to each of the three utilities and that accordingly the end of the interim period for all three should be October 31, 1986." C-I-L claimed that a customer should be allowed to enter into an interim contract for any portion of the interim period which it chooses. It pointed out that if at the end of the interim period, a customer wishes to return as a sales service customer, that it might do so subject to the same legal criteria which apply when a new customer seeks to join a distribution system.
- 6.25 Brenda Mines recommended that interim T-rates remain in effect until the Board determines permanent T-rates.
- 6.26 Special Counsel submitted that the proposals of Union and Consumers' be accepted and that Northern's contract period coincide with its fiscal year end of December 31, 1986. He noted that "any significant changes that occur on, before or after November 1, 1986 that would require adjustment of the interim contract carriage rates can be made by the Board on its own motion or on the application of the parties."
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6.27 Special Counsel recommended that the Board begin its intensive studies of long-term contract carriage arrangements as soon as possible so that consideration in a public forum can commence before November 1, 1986.

The Board's Findings

6.28 The Board finds that there are many uncertainties which may arise from events which are expected to take place before October 31, 1986 amongst which are the following:

- a) The research and assessment of the long-run implications of transportation service contracts which are now underway and which will result, in all likelihood, in a hearing of this Board later this year.
- b) The pending report of the NEB in relation to transportation service rates and in particular the problems involving "double demand charges".
- c) The report of the Pipeline Review Panel chaired by Mr. G. Edge (Former Chairman of the NEB).
- d) The re-negotiation of existing contracts between TCPL and local distributors.

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- 6.29 During the interim period to October 31, 1986 many of the uncertainties may be resolved but there is no assurance at this stage that long-term rates will be approved by that date.
- 6.30 The Board therefore will not require that all contracts for T-service should have a fixed termination date of October 31, 1986 but expects the term of each agreement to be negotiated based on the specific circumstances. Any contracts entered into prior to the Board's decision on long-term T-rates, regardless of the termination date, will reflect the principles established herein.
- 6.31 The Board directs that the Ontario utilities need not restrict direct purchase and CMP arrangements to the interim period but shall negotiate the term of the contract which will subsequently be subject to approval by this Board. The approval may be given with or without a public hearing.

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CHAPTER 7 - CONDITIONS

Introduction

7.1 This chapter addresses the conditions under which transportation service will be provided by the utilities including backstop, delivery point, storage, priority, risk, assignment and diversions.

Backstop

7.2 Backstop is an arrangement made by an end-user such that if its primary supply fails, an alternative supply is available to be delivered at the utility's normal point of receipt.

Positions of the Parties

7.3 Consumers' said that it is prepared to make every reasonable effort to provide backstop arrangements. It did not demand backstopping

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as a condition of T-service. It stated in argument that this would be on a best efforts basis where a T-customer contracts for such service, and would be classified as a general sales service pursuant to Rate 6.

7.4 Union stated that it will require the direct purchaser to backstop its gas supply in a manner satisfactory to Union. It argued that this is necessary to reduce the risk that Union will lack the gas supplies needed for sales customers and other distributors.

7.5 If, in its opinion, it can reasonably do so, Union will supply backstop service at the request of the customer at Rate M2.

7.6 Northern did not insist on backstop arrangements as a pre-condition of T-service. T-customers will be responsible for providing their own backstop supply arrangements. If Northern has gas available it may negotiate backstop arrangements with customers, but not in advance. It expects to have gas available in summer but no certainty of supplying in winter or shoulder months. If available, it would be supplied under General Firm Service Rate 08.

7.7 Kitchener argued that the utilities had not

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established that a supply failure will affect other customers; furthermore, backstop arrangements should not be a pre-condition of T-service because the risk of a supply failure falls only on the customer.

7.8 CPA argued that where the demand charge obligation has been transferred to the T-customer, it should be responsible for backstop arrangements. However, pending the decision of the NEB regarding transfer of demand charges, and also because, in the interim period, the rates are proposed to be bundled, backstopping should be provided to the T-customer by the utilities because the capacity and the service are being paid for.

7.9 IGUA's position was that because the T-customer will, in the interim period be paying the full gross margin as it would under the applicable sales rate, any backstop supply from the utility should be at that sales rate, not the general service rate. However, once the rate has been unbundled, IGUA felt that it may be reasonable for the general service rate to apply.

7.10 Cyanamid also argued against the general service rate being charged for backstop gas, submitting that this will bring a windfall for

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Consumers' compared to the sales rate for system gas. This violates the "status quo" principle, according to Cyanamid. Backstop gas, if made available, should be at the avoided cost of gas, which is the price Consumers' is willing to pay for surplus gas delivered by the T-customer. At worst, Cyanamid argued, the customer should pay no more than the rate for system gas and it should not pay any surcharge for failure to make up any supply shortfall in the following month.

- 7.11 Allied and Suncor, while accepting that the utility can only provide backstop gas if it is reasonably able to do so, argued that there is no justification for imposing a penalty for the service. The price should be the applicable sales rate, according to Allied and Suncor.
- 7.12 C-I-L referred, in argument, to Union's proposal to backstop the customer's supplies where it may consider it reasonable to do so (but without obligation). C-I-L believes that it is inappropriate for Union to charge at the proposed M2 rate for discretionary service and argued that an M7 customer should be charged a rate within the M7 range.
- 7.13 IPAC stated in argument that the responsibility for backstopping as a necessary aspect of

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T-service, rests with the customer which should make separate arrangements for it with producers, or TCPL, or with distributors. If made with the latter, IPAC stated that since it represents additional sales service, the appropriate charge for it may be a premium rate although this should be subject to negotiation. Any excess revenue from this source should, according to IPAC, either be credited to producers or held in a deferral account to be applied to reduce distributor tolls in the next rate period.

- 7.14 Northridge agreed that T-customers should be responsible for their own backstop arrangements. If the utility is able to provide this service, it is likely to be paid for in the bundled rate, according to Northridge, and the T-customer is entitled to a "proportionate share of backstop gas at no additional cost."
- 7.15 OAPPA considered that it would be appropriate for the utilities to supply backstop service on a best efforts basis, but without guarantee.
- 7.16 Special Counsel stated in argument that the determination of the need for, and the sufficiency of backstop supplies should be left to the T-customer.

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The Board's Findings

- 7.17 Reference is made to paragraph 5.41 herein, quoting E.B.R.L.G. 26 P. 75, where the Board stated that the direct purchaser must assume the risk of supply failure and make its own backstop supply arrangements. The Board finds that the T-customer shall be free to make whatever backstop supply arrangements it considers necessary, and to make those arrangements with whomever it wishes.
- 7.18 If the utility is in a position to supply on a "best efforts" or "if available" basis, the price should reflect that element of non-commitment on the part of the utility. The utility should not be required to supply that service at a rate equal to that which the customer would have enjoyed without T-service. Accordingly, the Board finds that during the interim period, a utility that supplies backstop service may charge the appropriate general sales rate (Northern - Rate 08, Consumers' - Rate 6, Union - Rate M2) for the backstop volumes delivered.

Delivery Point

Positions of the Parties

- 7.19 Consumers', Union, and Northern all claimed that they must have the sole discretion to determine delivery points on TCPL's system at which they will receive a direct purchaser's gas.
- 7.20 Consumers' said that delivery points may need to change with the seasons or operational considerations.
- 7.21 Union argued that a T-customer cannot be isolated so that it alone will bear the risks of supply failure. On Union's integrated system, curtailment of a T-customer would not necessarily prevent damage to other customers, according to Union. It stated that it will require firm deliveries by the T-customer to its Oakville delivery point during the interim period.
- 7.22 Northern stated that the delivery point will always be in the delivery zone on TCPL's system in which the customer is located; Northern claimed that this will enhance its ability to meet the T-customer's total gas requirements.

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- 7.23 Kitchener argued that the delivery point should be negotiated between the T-customer and TCPL. In the case of Union, if the customer and TCPL negotiate Dawn as the delivery point, Union should not insist on Oakville. If the Dawn delivery point impacts the transportation revenues earned by Union from TCPL, the amount can be identified and charged to the T-customer as an added cost.
- 7.24 CPA submitted that delivery should be made at the nearest TCPL delivery point, to the extent reasonably possible. However, it regarded the selection of Oakville as the mandatory delivery point on Union's system as an impediment to effective contract carriage. CPA also pointed out that the exclusion of Dawn as a delivery point appeared to negate any opportunities for direct purchases to be made from U.S. suppliers, or of western Canadian supplies being delivered via the Great Lakes system, or of the opportunity to gain access directly to Dawn storage.
- 7.25 More significantly, however, CPA, in a lengthy analysis concluded that the mandatory requirement of Oakville as a delivery point carried with it the obligation to supply gas to Union in order to meet Union's peak day requirement to indemnify Union in respect to Union's

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obligations downstream of Oakville.

7.26 CPA pointed to the inconsistency of the Oakville delivery requirement with the firm industrial loads which Union serves in southwestern Ontario. It also referred to Union's contractual obligation to Gaz Metropolitan, inc. (GMI), Consumers' and Northern, and concluded that at times of peak demand Union cannot satisfy through its own system those contractual obligations as well as meet its own need at the eastern end of the system. Therefore, according to CPA, Union must rely on firm volumes being delivered for its account by TCPL through the latter's northern system to Oakville; a portion of these nominations is actually delivered by TCPL to Dawn and nominally transported to Oakville on Union's system, although in practice it is actually used en route to supply Union's customers.

7.27 According to CPA, Union's concern is that gas under contract carriage must not displace deliveries via TCPL's northern system to Oakville. CPA questioned whether there is any doubt that existing customers would continue to be served (if deliveries were made at Dawn) and stated that the real issue relates to Union's inability to meet its contractual obligations to GMI, Consumers' and Northern unless firm

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deliveries are made through the TCPL northern system. In CPA's opinion, Union apparently intends to transfer these obligations to the T-customers.

- 7.28 IGUA argued against the specification of a particular delivery point, or points (in the case of multiple delivery). While delivery points can be negotiated, IGUA stated that delivery point(s) should be approved or fixed by the Board.
- 7.29 Cyanamid pointed out that the NEB had determined that the Black Horse Station on TCPL's system is the delivery point for the purposes of the TCPL T-rate for Cyanamid. If Consumers' proposed a different delivery point, Cyanamid suggested it should be "compatible with the NEB's determination".
- 7.30 Allied and Suncor agreed that, for the interim, Oakville is an acceptable delivery point for direct purchase gas to be delivered from TCPL to Union's system. They argued that the matter had been insufficiently examined to consider Oakville as the delivery point in the longer term. Allied and Suncor suggested that the onus should be on Union to present a detailed rationale for its position, and the costs of alternatives.

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- 7.31 CCPA argued that, in keeping with the new market environment, delivery points should not be artificially limited but should include any point where TCPL has delivery arrangements with the distributor.
- 7.32 C-I-L submitted that its plant, to the west of Dawn is served by the Great Lakes pipeline; gas from Great Lakes in the winter always exceeds the firm requirements of customers west of Dawn, and gas never flows from Oakville to Dawn in the winter. A supply failure to a contract customer west of Dawn supplied via the Great Lakes pipeline would be balanced exactly with curtailment to the customer's plant. But if the delivery point is Oakville, a customer's supply failure would result in the northern system to Oakville being cut back rather than Great Lakes, according to C-I-L. On a peak day, customers in the Oakville area would suffer. C-I-L argued that this means that it makes no sense to mandate delivery at Oakville, but rather the opposite. In a lengthy analysis, C-I-L concluded that Union's real concern is to avoid the loss of transportation revenues from TCPL.
- 7.33 IPAC accepted the position of Consumers' and Northern as outlined in para. 7.22 on the understanding that no cost penalty or

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deliverability problems will result. IPAC argued, however, that by making Oakville mandatory, Union will save costs in moving gas from the west end of the system to satisfy eastern load obligations. Furthermore, IPAC argued that it was inappropriate for Union, having specified Oakville as the single delivery point to use that as a rationale to review the security of supply of T-customers. However, IPAC is prepared to accept Oakville as the single delivery point for the interim, provided no additional costs are thereby incurred by T-customers.

- 7.34 Northridge argued in favour of flexibility in designating delivery points.
- 7.35 Anschutz argued that the Board should consider, in this case, the interconnections of Lake Erie gas producers' lines with those of Consumers' as delivery points. This would allow for the possibility of a T-service arrangement between an end-user and a producer in Lake Erie.
- 7.36 OAPPA accepted the Consumers' and Northern positions. It argued against the Union position on the basis that the selection of Oakville as the mandatory delivery point would leave revenue benefits with Union. It suggested

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these could arise from the difference between the average cost of transportation reflected in the T-rate and the lower actual cost incurred by Union.

7.37 Domtar recommended that transportation customers be allowed flexible delivery points provided that monthly notice is given for such deliveries.

7.38 Special Counsel analyzed the Union position and illustrated how a supply shortage could emerge at Oakville if a T-customer contracted for Dawn as the delivery point; alternatively, Union could suffer a loss of transportation revenues from TCPL or could contract for its own backstop supply. Special Counsel pointed to the possible long term solution of new facilities.

7.39 Special Counsel submitted that, for the interim period, the Board should agree to the utilities having the right to specify delivery points, given Union's possible supply problems and the need for all utilities to protect the quality of service to remaining customers.

The Board's Findings

7.40 The Board notes that designation of delivery

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points by each of the utilities could inhibit development of transportation services. The Board is concerned with any inhibiting of these services and is opposed to the possible entry of gas from the U.S. being excluded by unnecessarily restricting delivery points. As well, the Board believes that the possibility of Lake Erie gas being the subject of transportation service should not be rejected at this time.

7.41 The Board understands that choice of delivery points may have significant impact on utilities and their T-customers and sales customers and accepts that care must be exercised in the interim period until experience has been gained with the impact of T-service.

7.42 The Board finds the proposals of Northern and Consumers' acceptable in respect to delivery points for the interim period. The Board directs that Union not mandate Oakville as the delivery point but treat the matter on a case-by-case basis in the interim in order not to discourage potential T-service customers. In the event of a dispute, this will be resolved when the utility or the customer applies to the Board for approval of the T-Service agreement.

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7.43 Particular considerations applying to the impact of delivery points on U.S. gas imports and Lake Erie gas will be more fully examined in the hearing into longer term T-service at a later date.

Storage

Positions of the Parties

7.44 Consumers' stated that it has no storage to offer directly to T-customers. However, storage service is currently provided within the existing rate structure and this will be continued under interim T-rates. The proposed balancing provisions to be incorporated in individual T-customer contracts will recognize the customer's traditional usage pattern.

7.45 Union proposed to allow the T-customer the contractual right to place gas in storage to facilitate the customers' ability to balance daily/seasonal deliveries with daily/seasonal use. The maximum storage level will be negotiated. According to Union, this will enable the customer to use TCPL's system at 100 per cent load factor.

7.46 Northern stated that it has no storage available for T-customers.

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- 7.47 Kitchener accepted Union's proposal.
- 7.48 CPA recognized that Northern's proposed T-rate reflects the absence of storage and that Union's proposal effectively paralleled existing storage services provided in sales rates. However, CPA argued that Consumers', which has recourse to storage, should be able to negotiate storage in a manner similar to that proposed by Union.
- 7.49 IGUA argued that the storage and load balancing services currently enjoyed by a sales customer should continue for a T-customer. IGUA agreed with Union's and Consumers' proposals for the interim period. In the longer term, IGUA foresees that unbundled rates will permit separate storage arrangements to be negotiated.
- 7.50 Cyanamid argued that if Consumers' is providing storage in existing rates, any charges to T-customers for backup and peaking services should be adjusted to reflect this fact. In future, according to Cyanamid, T-customers should be entitled to obtain storage under a "cost-based" unbundled rate. If necessary, Consumers' should acquire additional storage space from Union, Cyanamid stated, to provide storage to T-customers.

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- 7.51 Allied and Suncor analyzed Union's storage proposal and concluded that under circumstances where a T-customer's delivery versus usage pattern differed from that assumed by Union, the customer could incur a substantial cost.
- 7.52 CCPA stated that all users should be treated alike with respect to storage, for both the interim and subsequent periods.
- 7.53 C-I-L argued in favour of unbundling the storage service and suggested that there is no inherent difficulty in assigning a particular rate for storage service. This would enable the T-customer to assess the economic alternatives. C-I-L argued that although the T-customer would be paying close to the full rates for existing load balancing and storage services, it would not be getting the benefits. In a lengthy analysis, C-I-L concluded that the T-customer could not, under certain circumstances, enjoy the load balancing which it did under a sales contract, and would not be ensured the benefit of 100 per cent load factor use on the TCPL system.
- 7.54 IPAC agreed that for the interim period, it would be appropriate to include in T-service tolls the storage cost component currently included in sales rate schedules. IPAC also

REASONS FOR DECISION

suggested that, in long term toll design, the Board should examine unbundling of storage costs for T-service.

7.55 Northridge submitted that to the extent that storage service is included in the bundled rate, the T-customer should be entitled to such service at no additional cost.

7.56 OAPPA submitted that, with bundled rates, the T-service customer is paying for a share of storage service which he must be able to call upon for balancing purposes.

7.57 Special Counsel argued that since the bundled rate includes a storage charge, Union and Consumers' should be required to continue to provide storage services during the interim period, subject to reasonable volumetric limits. He submitted that this should not result in an obligation upon the T-customer to use the allocated storage to take gas at 100 per cent load factor. The customer should make its own economic choice. Northern should not be required to offer storage services in the interim.

The Board's Findings

7.58 The Board believes that T-customers would usually find it advantageous to be able to move

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gas on TCPL's system at 100 per cent load factor. Consumers' proposal for load balancing and Union's proposal to make storage available would appear to facilitate this for the interim period. The Board accepts that Northern is unable to offer load balancing/storage services.

- 7.59 The Board finds that the utilities' proposals with respect to storage are acceptable.

Priority

Positions of the Parties

- 7.60 Consumers' and Union stated that they will give equal priority to sales service and T-service customers.
- 7.61 Northern stated that an existing sales customer seeking T-service will be given equal priority for the volume of gas projected in the 1986 test year. Volumes in excess will be transported within system capacity limitations. Northern proposed to negotiate the mix of services with a customer requiring multiple services and expressed its concern with the possible shift of a customer's high load factor requirements to T-service, leaving Northern to provide sales service for the remaining low load factor volumes.

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- 7.62 Kitchener accepted Union's position.
- 7.63 CPA submitted that T-customers and sales customers should have equal priority for similar service.
- 7.64 IGUA argued that services of similar type should have equal priority regardless of the supply source; thus, firm T-services would have equal priority with firm sales services, and interruptible T-services with interruptible sales services.
- 7.65 Cyanamid also argued for equal priority being given to firm T-contracts as to firm sales contracts.
- 7.66 CCPA stated that customers with similar types of service should be treated equally and the nature of the supply arrangements should not affect priority.
- 7.67 C-I-L submitted that, in the event of a gas supply shortage leading to legislative allocation of gas, it would be appropriate that T-customers be treated similarly to sales customers under the terms of the allocation. In C-I-L's view, it would be inappropriate for Union to be authorized to make the allocation.

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- 7.68 IPAC supported the acceptance of T-service on an equal basis with sales service for similar requirements.
- 7.69 Northridge submitted that since the bundled rate imposes the same costs on the T-customer as the sales customer, there is no justification for any different treatment between them.
- 7.70 Nitrochem submitted that priority of service for T-customers should be on an equitable basis relative to service for other customers of the utility and should recognize historical use of capacity on the utility's system. Nitrochem stated that utilities should not make unilateral decisions on this issue.
- 7.71 Special Counsel submitted that the Board should adopt Union's and Consumers' proposals to accord equal priority to T-customers and sales customers, for similar type services e.g. interruptible T-customers being interrupted equally with interruptible sales customers, in order to maintain service to firm T-customers and firm sales customers. Special Counsel stated that since Northern's storage capacity is limited, it cannot offer interruptible T-service, and moreover should be allowed to accord equal priority to T-service and sales customers in the manner it proposed.

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The Board's Findings

- 7.72 The Board finds that all customers shall be given equal priority for similar type services: interruptible T-customers and interruptible sales customers must be treated equally, as must firm T-customers and firm sales customers.
- 7.73 The question of allocation priorities to be given to all customers of gas utilities in times of emergency or gas supply shortage can only be dealt with, in the Board's opinion, in the circumstances then obtaining.

Risk

Positions of the Parties

- 7.74 Union and Consumers', Consumers' will require delivery everyday; Union, however, emphasized requiring delivery on peak days but appeared also to require some discretionary power to demand delivery on other days.
- 7.75 Consumers' drew attention to the potential increase in supply risk brought about by the fact that it will no longer own and control all volumes. It argued that it will be less able to direct daily supplies between interruptible and firm markets as required, particularly if

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interruptible gas sales are replaced by firm T-service. Consumers' may suffer a loss of discretionary load balancing capability within its own control. It anticipates having to exercise vigilance over individual gas streams to avoid impacting its own nominations to TCPL.

7.76 Consumers' proposed a 2¢ per m³ penalty for failure to deliver unless the deficient volume was made up in the following month, and regardless of whether the T-customer reduced its own consumption to match the reduced delivery.

7.77 Union also pointed to the potentially adverse impact of supply risk upon sales customers under the new arrangements, which it claimed would be unfair. Union proposed a general indemnification clause to ensure that its other customers are not adversely affected by T-service, and to protect Union against any additional economic penalty arising from entering into T-service contracts.

7.78 Northern argued that all additional risks arising from T-service should be borne by the T-service customer and proposed to negotiate a broad indemnification of Northern from risks consequent upon the provision of this service.

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- 7.79 Kitchener submitted that risk associated with failure to deliver resides with the T-customer, and has no implications for Union's other customers.
- 7.80 CPA stated that the risk of supply failure for a T-customer rests solely with that customer, and contract carriage should not increase risks incurred by the utility. In CPA's view the risks identified by the utilities have been self-generated in that they stem from the terms and conditions which they seek to impose. For example, an obligation for the delivery by a T-customer of fixed volumes will generate a risk to the utility arising from the utility's dependence on that supply. CPA said that if changing from interruptible to firm T-service (or firm sales service) resulted in an unacceptable risk, the new firm service ought not to be offered.
- 7.81 IGUA argued that if increased risks arise from T-service which are significant, they can be avoided by the utility offering a buy/sell arrangement. IGUA stated that onerous indemnification obligations are not imposed upon current transportation customers of TCPL and Union, and ought not to be imposed by the utilities as part of the interim arrangements. IGUA argued that the risk of non-arrival of the

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gas should rest with the T-customer.

7.82 Cyanamid noted that Consumers' claims of increased supply risk were not supported by evidence. In Cyanamid's opinion, it was inconceivable that supply constrictions could arise since Consumers' has substantial overcapacity. Cyanamid argued that Consumers' will have complete flexibility to balance supply and demand no later than November 1, 1986 when it will be able to purchase gas directly.

7.83 Allied and Suncor submitted that a direct purchaser's liability should be restricted to that flowing from its own default. They considered that Union had not established the need for an indemnity clause. With respect to Union's requirement for the mandatory delivery point of Oakville and the risk associated with the failure by a T-customer to deliver at that point, Allied and Suncor suggested this risk could be avoided. TCPL could deliver part of Union's ACQ gas to Oakville instead of to Dawn, on the day of the T-customer's failure, as an emergency backstop agreed among TCPL, Union and the T-customer. The costs of such re-direction would be borne by the T-customer; this is preferable to an indemnity, in Allied's and Suncor's view.

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- 7.84 FONOM supported the position that any increased risk to the utility or the level of service be borne by the T-customer. FONOM also supported the inclusion of a broad indemnity clause in T-service contracts and agreed with Consumers' that any loss of system flexibility may lead to higher fixed costs being borne by sales service customers. It referred to the introduction of interim T-service as carrying "the risk that reduced gas costs are passed on to one class of customer only and that this inequity may become a structural feature of gas supply". According to FONOM, this risk can only be addressed by the utilities themselves seeking market sensitive prices for all customers.
- 7.85 CCPA suggested that the market environment now envisaged implies increased risk to those participating in it. In CCPA's view, no participant should be sheltered from its share of market risk and no special case should be allowed.
- 7.86 C-I-L suggested that the risk of supply failure falls entirely on the T-customer which would be obligated to curtail its consumption to the extent of any shortfall. C-I-L submitted that there was no increase in risk to Union in respect of such a supply failure.

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- 7.87 IPAC submitted that a T-customer must accept the risk for its own gas supply. It maintained that the risk of the utility incurring overrun charges as the result of a T-customer's supply failure, is best addressed through the provision of backstopping arrangements. In the event that such overrun charges are actually incurred through a T-service supply failure, they should be borne by that customer rather than sales service customers. IPAC recognized that these are issues more properly addressed in considering the longer term.
- 7.88 Northridge submitted that the indemnity provisions being sought by the utilities are unwarranted and stem from the T-customer being forced to accept a rigid arrangement and then being held liable for occurrences arising therefrom. In Northridge's view, any indemnity should be confined to the fault of the T-customer.
- 7.89 Nitrochem submitted that in principle a T-customer should bear only the risk to itself of failure to deliver, and the risk to others of costs associated with failure to comply with its obligations. Nitrochem criticized the broad indemnification clause proposed by Northern which, it said, would shift to T-customers an unquantified risk for which they

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are not directly responsible. Nitrochem saw this as discriminatory and likely to lead a prudent customer towards a CMP, rather than a transportation arrangement, all other things being equal.

7.90 Special Counsel referred to the inter-related components of risk, the obligation to deliver and indemnification, which he submitted gave rise to perceptions of risk which the utilities are seeking to be borne by contract carriage customers. The terms suggested by the utilities create, in Special Counsel's view, an open-ended liability on the T-customer which is not in character with the nature of the new arrangement. Special Counsel suggested that remedies are available to protect the utilities from breach of contract if damages arise, and excessive added costs can be the subject of an application to the Board.

7.91 Special Counsel also considered the question of risk in the context of Union and Consumers' proposed obligation to deliver on the part of T-customers. He noted that Union proposed a broad indemnification clause and Consumers' proposed a penalty of 2¢ per m³ for failure to deliver unless the under-delivery is made up in the following month. This penalty would be imposed even if the customer reduced his take

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of gas in the month of under-delivery to compensate for non-delivery. Northern did not propose an obligation to deliver.

7.92 According to Special Counsel such obligations impose the risk on Consumers' T-customers of a penalty payment to that utility. Union's T-customer, in addition to the simple risk of having insufficient gas for its own needs, is open to the risk that its failure to deliver may lead in turn to Union's failure to provide gas to its other customers. He also pointed out that Union and Consumers' are not obligating themselves to buy gas that is delivered but not consumed by the T-customer. Special Counsel believed that the attraction of the contract carriage option may be unnecessarily limited by these risks. He recommended the elimination of the obligation to deliver and the penalty payment proposed by Consumers; he stated that loss or damage arising from non-delivery should fall only on the T-service customer.

7.93 Special Counsel recommended that Union find an alternate to obligating the T-customer to deliver. He suggested that Union may be able to arrange for its own backup supply on the days that the T-customer fails to deliver, or buy gas in the spot market, or forgo some of

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its transportation revenue from TCPL. Until the cost of such an alternative can be calculated, Special Counsel submitted that no cost should be levied against the T-customer in the interim.

7.94 Special Counsel argued that the utilities ought not to have the right in the interim to be indemnified against all direct and indirect damages attributed to a contract carriage customer, by means of an indemnification clause approved by the Board. He stated that the utilities have a remedy in the courts for failure to perform by a contract customer and the responsibility for damages ought not to be prejudged by allowing the utilities to impose an indemnification provision.

7.95 If a significant added cost is incurred by the utility, relief can be sought before the Board, Special Counsel suggested, either from T-customers generally or from a specific T-customer.

7.96 Special Counsel concluded that an indemnification clause is inconsistent with the concept of simple, certain rates and the speedy introduction of contract carriage.

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The Board's Findings

- 7.97 The Board finds that there may well be circumstances where an obligation to deliver is required to protect the other customers of the utility; on the other hand, there may be circumstances where such an obligation would not be required.
- 7.98 The Board finds that an obligation to deliver is not an essential pre-requisite to T-service and that this matter shall be left for negotiation between the parties, with the understanding that Board approval is required for each contract.
- 7.99 The Board agrees with Special Counsel that the utilities ought not to have the right to be indemnified against all direct and indirect damages attributed to a contract carriage customer. The Board agrees that the utilities have remedies in the courts for failure to perform; alternatively, if appropriate the utilities may seek to recover excess costs through a Board order. Accordingly the Board finds that it is inappropriate to include wide indemnification clauses of the type proposed by Northern and Union in T-service contracts and such clauses will not be allowed. This does not preclude the use of the standard

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indemnification clauses which are found in the existing sales contracts.

- 7.100 The Board also finds that the 2¢ per m³ penalty proposed by Consumers' is inappropriate in that Consumers' may charge the general service rate for any volumes supplied by it to offset the deficient volume.

Assignment

Positions of the Parties

- 7.101 Consumers' proposed that its contracts for T-service be site-specific and assignable to a successor-owner of the site if approved by Consumers'. Assignment of T-service to a different site will not be accommodated as this might put sales contract customers at risk.
- 7.102 Union propose that there should be no assignment without its approval.
- 7.103 Northern requested the right to approve assignments in respect of transportation contracts, in the same way that it has that right in sales contracts.
- 7.104 Intervenors in general agreed that assignment

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should be permitted by consent of the utility but that such consent should not be unreasonably withheld.

- 7.105 Special Counsel submitted that the Board should allow assignment of transportation contracts subject to the same restrictions as apply to sales contracts.

The Board's Findings

- 7.106 For the interim period, the Board finds that assignments should be subject to the consent of the utility, such consent not to be unreasonably withheld.

Diversions

Positions of the Parties

- 7.107 Consumers' submitted that it will not allow inter-plant and inter-company diversions in T-contracts for the same reasons that it opposes assignments.
- 7.108 Union submitted that it will not allow diversion of T-service to another location or customer because each contract must be site and customer-specific. Union claimed that to do otherwise would result in its losing control of

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the operating system, extra costs for others and discrimination against sales customers who have no rights to divert. Furthermore, diversion may result in the T-customer becoming a seller of gas without a certificate of public convenience and necessity.

7.109 Northern agreed to permit diversion within the system with its prior approval, subject to there being a transportation contract for both locations, and the agreement of TCPL.

7.110 Intervenors generally and Special Counsel submitted that diversions should be permitted subject to the consent of the utility, and that such consent should not be unreasonably withheld.

7.111 Nitrochem submitted that direct purchasers should be allowed to divert gas without the consent of the utility, provided diversion does not displace system gas. Nitrochem believed this to be particularly appropriate in the case of Northern, which will not provide storage or backstop services.

The Board's Findings

7.112 For the interim period, the Board finds that diversions will be permitted with the approval of the servicing utility, and that such approval shall not be unreasonably withheld.

CHAPTER 8 - SERVICES OFFERED

Introduction

8.1 During the hearing there was a broad discussion by the utilities, as well as the intervenors of various types of service to be offered. In this chapter the submissions made concerning those services are reviewed.

Contract Carriage

Positions of the Parties

8.2 Northern took the position that direct purchase is not a service offered, but a step in a series of transactions between the wellhead and the final sales meter. Northern pointed out that the service it will offer is "contract carriage" which compliments a customer's direct purchase of gas. It defined contract carriage as a transportation service provided under contract to transport gas not owned by Northern.

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- 8.3 Union argued that "direct purchase encompasses both buy/sell and contract carriage arrangements. Union offers both." We take Union's position to mean that it will convey gas which is customer owned and it will also take part in buy/sell transactions, whereby the customer buys directly from a producer, broker, or agent and arranges with TCPL for transportation to its utility. The gas is then sold to the utility at a higher price, transmitted as gas owned by the utility and resold to the customer at Board approved rates.
- 8.4 Consumers' took the position that "upon expiry of their sales agreements with Consumers', qualifying customers may negotiate with producers to purchase directly their natural gas requirements". This gas will be carried from the field to Consumers' by TCPL, at which point the customer can either opt for transportation service or a buy/sell arrangement.
- 8.5 Consumers' pointed out that during the interim period, it proposed to accept for transportation to a customer's plant, no more than a customer's expected requirements for that period. Therefore customers will not be able to build an inventory of gas over the period beyond October 31, 1986. Consumers' took this

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position because it maintained that it does not have any significant storage space available.

- 8.6 Consumers' argued that its proposed backstop and load balancing arrangements do not convert contract carriage to a buy/sell.
- 8.7 IPAC maintained that true gas-to-gas competition will only occur when buyers have a choice of supply.
- 8.8 FONOM described direct purchase arrangements as a western producer acquiring the right to supply an industrial user, which is an inhabitant of a municipality, with gas. It claimed that "accordingly, the supply of gas in a direct purchase situation, in the absence of the by-law called for under the Municipal Franchises Act, is unauthorized and illegal and such supply can be restrained by an injunction at the instance of the municipality which is admittedly unlikely, at the instance of the utility with established franchise rights in the municipality, possibly at the instance of a competitor of the industrial customer being supplied or at the instance of a disgruntled competitor of the western producer."
- 8.9 Northridge strongly supported contract carriage which, it claimed, will create diversity

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and a market value, from which will flow benefits as envisaged in the Western Accord.

- 8.10 C-I-L took the position that buy/sell arrangements should be clearly distinguishable from contract carriage arrangements.
- 8.11 IGUA considered transportation service to be a regulated relationship the terms of which are approved or fixed by the Board pursuant to sections 19 and 16 of the Act.
- 8.12 Polysar supported direct purchase with a buyer being able to choose its gas supplier and the services required such as contract carriage, buy/sell, competitive market programs, and the traditional distributor system gas.
- 8.13 CPA maintained that if market sensitive pricing is to exist, there must be the opportunity for gas-on-gas competition both at the well-head and in the market place, which cannot be achieved through either CMP or buy/sell arrangements alone. Hence, there is a need for contract carriage arrangements which will be effective and which will be utilized.
- 8.14 Kitchener submitted that the obligations of a gas sales customer should not be imposed on any party which owns gas and has arranged for its

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shipment. It also argued that the charges imposed on T-service customers for services, should be cost-based and only for services not already paid for under the T-service formula as currently devised.

8.15 Special Counsel argued that free market competition should result in lower rates for end-user customer which may require the distributors to create services additional to those currently offered.

8.16 According to Special Counsel the Board should ensure that utilities do not, either through onerous terms and conditions or unfairly high rates, limit the availability of these services or attempt to steer customers toward one service or another.

The Board's Findings

8.17 The Board believes that the free market for gas-on-gas competition will bring benefits to end-users in Ontario and therefore the Board finds that contract carriage will be offered by the Ontario utilities.

8.18 Adjustments in the marketing and transportation of gas appear necessary in Canada in the future and during the interim period contract carriage

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will be an integral component. The Board finds that they should be encouraged but should not adversely impact upon the utilities or their customers.

8.19 The Board finds that the end-user shall have a choice of services and directs each utility to structure its proposals to end-users such that the terms and conditions will not favour one type of service over another.

8.20 At this time the Board will not take a position with respect to the issue raised by FONOM (see para. 8.8).

Buy/Sell

Positions of the Parties

8.21 Northern did not anticipate that any customers will seek this kind of service in the interim period but advised that it will cooperate with customers who can assemble all the elements of a buy/sell arrangement.

8.22 Union stated that it is prepared to enter into buy/sell arrangements.

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- 8.23 Consumers' testified that it will enter into buy/sell arrangements with its customers. Consumers' pointed out that the savings which the customer achieves will be the difference between the price at which it buys the gas in the field and the price at which it sells the gas to the distributor. Consumers' will continue all the obligations of a distribution utility with respect to sales services.
- 8.24 CPA supported the availability of buy/sell arrangements and considered such arrangements to be an alternative to direct purchases using contract carriage.
- 8.25 Cyanamid submitted that the distributors must be obligated to provide buy/sell services if required by the customer.
- 8.26 IGUA supported the buy/sell mechanism for providing a direct purchaser with an unregulated delivery arrangement. It provides a mechanism for bundled transportation, storage and load balancing together with back stop supplies, through the medium of a sale of the shippers' gas to the distributor and a repurchase of that supplied by the shipper/consumer from the distributor.
- 8.27 Northridge considered that the option of

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buy/sell should be available, but that they "do not appear to have much attraction".

8.28 IPAC maintained that buy/sell arrangements are a viable alternative to T-service and that both are totally compatible. In essence, a buy/sell arrangement is an expansion or diversification of the supply base that does nothing to relieve the utility of the demand charge obligations to TCPL under the existing contracts. The same supply risks apply under buy/sell as under T-service and in fact may be greater to other customers under buy/sell arrangements.

8.29 Special Counsel supported the availability of buy/sell arrangements and recommended the purchase of gas by the utility be a separate negotiation from the sale back to the customer at Board approved rates.

The Board's Findings

8.30 The Board finds that buy/sell arrangements are in fact a viable alternative to and compatible with, T-service. The Board considers it essential that at least during the interim period Board approval of all buy/sell arrangements is required to ensure that the utility's other customers are protected and directs that all

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such agreements be the subject of an application to the Board.

- 8.31 The Board approves the proposal of the utilities that gas purchased by the utility under a buy/sell agreement will be at a rate no higher than the utility's avoided commodity cost of gas.

Competitive Marketing Programs

- 8.32 CMP's enable TCPL system producers to compete with non-system producers for the customer's business in the interim period. These programs allow TCPL producers to offer a discount from the sales rates for a particular customer.

Positions of the Parties

- 8.33 Northern has negotiated a number of CMP's for its customers, and expects to negotiate more in the future.
- 8.34 Union has entered into one or more CMP's and supports these as a method of providing access to lower priced gas for its large industrial customers.
- 8.35 Consumers' stated in its submission that although it receives no direct benefits on

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behalf of its general customers through end-user CMP's it "supports the concept of CMP's and agrees to pass on the benefit negotiated between TCPL and the end user."

- 8.36 FONOM maintained that while direct purchase arrangements may be administratively unworkable in the interim period for the smaller volumes required by residential and commercial users, the utility should exercise all possible diligence in securing a cheap supply of gas for its system customers. It considered CMP's as the sole source of market-sensitive priced gas in the interim period for residential and commercial customers.
- 8.37 Northridge submitted that CMP's provide no competition. There must be direct sales. CMP's follow the market; they do not lead it. CMP's at present enjoy an advantage over direct sales in that there is no double demand charge and Northridge charges that this may constitute unfair or unjust discrimination in the rate structure.
- 8.38 IGUA maintained that CMP's enable system gas to compete with non-system gas. It was concerned that T-service should not be such that system gas would have an advantage over non-system gas.

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- 8.39 Cyanamid supported CMP's but claimed that they will not be available at all and certainly not at as low a price, unless viable and accessible direct purchase options are in place. It argued that effective gas-on-gas competition is necessary and distributors should not be entitled to use their demand charge obligations to TCPL to undermine direct purchases and exploit their monopoly power in favour of CMP's.
- 8.40 CPA's position was that a CMP is not a direct purchase, it does not substitute for competition, and the need remains for effective contract carriage arrangements.
- 8.41 Special Counsel considered that the availability of CMP's is largely out of the Board's hands. "Since CMP's are generally offered when the producers perceive a threat that the customer will enter into a contract carriage or buy/sell arrangement, it is submitted that this lends further to all of the recommendations set out above which encourage or remove impediments to contract carriage."

The Board's Findings

- 8.42 The Board finds that CMP's are acceptable in that they provide a means whereby lower priced gas can reach customers in Ontario.

Firm and Interruptible Service

8.43 Firm service means that the customer has contracted for volumes of gas which the utility must supply if required by the customer.

8.44 Interruptible service means that the customer has agreed to purchase volumes of gas on the understanding that the gas supply can be interrupted from time to time by the distributor. The price of interruptible gas is therefore lower than the price of firm gas.

Positions of the Parties

8.45 Northern pointed out that it has adequate pipeline capacity and will not distinguish between firm and interruptible transportation service. Northern also pointed out that it has no capacity constraints which would require it to interrupt a transportation customer. Thus Northern will offer continuous transportation service of a customer's gas. Such transportation service is firm, but clearly can be interrupted at the customer's request. Northern proposed to contract with each transportation customer for space on Northern's system at the customer's peak day requirement which Northern calls the contracted daily demand. "On any given day, a customer can

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transport any amount of gas up to its contracted daily demand."

- 8.46 Northern pointed out that "the higher the customer's load factor, the lower the customer's per unit gas cost because the fixed monthly charge for the interim period will be determined by the forecast sales volumes which were displaced".
- 8.47 Northern argued that it can allocate the gas it purchases from TCPL to optimize its system use and provide interruptible gas sales service. This advantage is lost when Northern doesn't own the gas. Therefore, it claims that it cannot offer interruptible T-service.
- 8.48 Northern rejected the proposal of Special Counsel that it offer an interruptible T-service and purchase certain gas for its own use from transportation customers since it had not proposed to do so and does not want to do so.
- 8.49 Union proposed to provide both firm and interruptible transportation service on its system. It will offer service to its transportation customers similar to the sales service which customers are now receiving.

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- 8.50 Union stated that it is not anxious to encourage its present sales customers to move from interruptible to firm T-service. If its T-service arrangement encourages customers to do so, that might seriously impair Union's system operation and adversely affect its remaining sales customers.
- 8.51 Consumers' stated that it "will provide interruptible transportation service under rate 145 (pursuant to the Interim Transportation Rider) and firm service for the full interim period under rate 100 and/or rate 110 and for seasonal requirements under rate 130".
- 8.52 Consumers' however pointed out that its ability to render these transportation services is dependent upon a number of assumptions such as availability of distribution capacity, demand profile and economic viability.
- 8.53 CPA submitted that firm and interruptible service should be offered to a contract carriage customer to enable it to match its previous purchase pattern. CPA believed wherever a customer is now purchasing a combination of these services, equivalent services should be provided on a transportation basis. The only difference, according to CPA, between sales arrangements and transportation arrangements is

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the responsibility for gas supply.

- 8.54 CPA noted that the proposals of Consumers' and Union include an interruptible service, although it considers Consumers' proposal to be effectively, a firm sales service.
- 8.55 CPA noted that the transportation toll of Northern will constitute a weighted average of forecast charges under a sales schedule and therefore should reflect the existing service currently being provided.
- 8.56 CPA submitted that since Northern's interruptible service will be converted to firm T-service that overall costs should reflect the lower priced interruptible service included in the previous sales arrangement. It noted that Northern's proposal recognizes that the gas supply obligation is properly that of the direct purchaser.
- 8.57 CPA expressed concern that the requirement of both Consumers' and Union for firm deliveries at a 100 per cent load factor would preclude direct purchasers from utilizing interruptible service on the TCPL system. It considered that direct purchase customers could make effective use of the summer valley capacity in the TCPL system and thereby improve the overall system

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load factor. CPA argued that direct purchase transportation customers should be entitled to the same opportunity for interruptible service as a distributor.

8.58 Cyanamid considered that Consumers' should provide firm and interruptible service and was critical of the utilities requiring demonstration of adequate gas supply. Cyanamid submitted that the attitude of the distributors in this regard demonstrates a reluctance to abandon their paternal attitude towards customers, attitudes which have no place in the competitive environment. Cyanamid attacked what it saw as an attempt by Consumers' to place one more road block in the way of the easy access to T-service.

8.59 Polysar maintained that a direct purchaser should be able to nominate both STT and T-AOI gas in its deliveries to the distributors. It noted that the use of STT capacity on TCPL's pipeline entitles the user to nominate T-AOI gas when space is available and since the AOI transportation service has no demand charge component, it is cheaper than STT service. Since T-AOI deliveries are more flexible a direct purchaser, within the limits of its AOI entitlement, can balance its own load. Polysar submitted that a direct purchaser, should not

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be required to trade off its AOI entitlements to Union, but should have access to the cheaper gas and be able to balance its load to the best of its ability.

- 8.60 IGUA argued that since interruptible transportation services are available on TCPL, logically, therefore, such services ought to be available on the distributor system. However, to take advantage of TCPL's interruptible T-service a customer would need considerable storage.
- 8.61 Because interruptions have been infrequent for many interruptible industrial customers, those who wish to enjoy the same degree of supply continuity will probably have to commit for firm transportation on TCPL's system.
- 8.62 IGUA accepted Northern's proposal for handling interruptible customers who shift to T-service as reasonable, and relied on the Board to "fix and approve" terms and conditions for interruptible service by Union and Consumers' to parallel current services.
- 8.63 IPAC strongly supported firm and interruptible T-services in the context of market responsive pricing.

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- 8.64 IPAC claimed that Northern's reasons for not offering interruptible T-service are suspect. It argued that as long as there is unused capacity, it would appear to be in the best interest of all users of the system and the distributor to utilize that capacity.
- 8.65 IPAC maintained that if there is any justification for a minimum activity level charge for interruptible T-service, it should be lower than that required for interruptible sales service. IPAC noted that the distributor's proposals for T-service effectively require a 100 per cent load factor demand charge, with limited make-up rights and penalties for excess deliveries. IPAC argued that this will effectively thwart any attempt to utilize T-service in any form to reduce overall gas costs.
- 8.66 Special Counsel submitted that it is important to recognize that storage is needed in order to offer interruptible transportation service. He agreed that Union and Consumers' should offer such service, while Northern need not, at least in the interim period.
- 8.67 However, Special Counsel submitted that Northern should consider for the longer term, offering an interruptible service, whereby it

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could interrupt a customer's gas supply on a given day and purchase this gas for its own use.

The Board's Findings

- 8.68 The Board finds that the mixture of firm and interruptible services offered by Union and Consumers' are acceptable for the interim period. The proposal by Northern to offer only firm T-service is accepted by the Board for the interim period based on its understanding of Northern's gas supply situation and lack of storage.

Peaking Service

Positions of the Parties

- 8.69 Northern stated that it cannot contract in advance to provide peaking service to transportation service customers in the interim period. However, if the gas is available, Northern will negotiate to provide such service on a day-to-day basis.
- 8.70 Union indicated that it does not offer a "peaking service" in its sales rate that would be analogous to TCPL's winter peaking service and it will not offer such a service to T-service customers.

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- 8.71 Consumers' noted that peaking service for rate 110 sales contract customers is provided pursuant to rate 120. It also noted that "service under all other rate schedules to which the Interim Transportation Rider is proposed to apply, requires the customer to contract for his peak daily requirement." Therefore, if the customer's peak requirements are correctly forecast in the sales contract, Consumers' claims it would provide the same quality of service, assuming that the customer's supply is delivered to Consumers'.
- 8.72 IPAC took the position that peaking service should be available to T-service customers.
- 8.73 Allied and Suncor argued that under Union's proposal for a maximum T-service volume of the daily average consumption, the direct purchase customer may not have sufficient gas in storage to meet its peak-day requirements. They claimed this is a further reason for the Board to reject Union's average day requirement and delivery obligation.
- 8.74 Northridge claimed that peaking service should be available without additional cost if it is being paid for in the bundled rate.
- 8.75 IGUA expected that if gas is available the

Board will approve or fix the cost of a gas supply to be consumed by a T-service shipper in excess of its peak-day transportation service entitlement. It considered this service to be a variant of the backstop supply service.

8.76 CPA argued that Union's proposed obligation to deliver effectively imposes the requirement on the end-user to provide peaking service to Union. It considered such a requirement to be outside a reasonable contemplation of a contract carriage arrangement, unduly onerous, and providing Union with a significant benefit. It also submitted that peaking service should be contracted and charged for on a separate basis.

8.77 Special Counsel argued that the utility should provide peaking service at a rate commensurate with that being paid by other customers for the same type of service. Unanticipated requirements should, he said, be treated as unauthorized overruns with the rate being that applicable to overrun service. Special Counsel submitted that the rate for authorized peaking volumes should be as approved in the appropriate rate schedule which covers those service conditions.

The Board's Findings

8.78 The Board accepts for the interim period the

utilities' proposals with respect to peaking service.

Overrun

Positions of the Parties

- 8.79 Northern offered to supply overrun gas at its general firm service rate schedule (Rate 08) in the event that supplies are available, but only if requested and authorized. Northern noted that unauthorized overrun volumes would be subject to the penalty as set out in the transportation service contract; such provisions would be similar in nature to those in the existing contracts.
- 8.80 Union stated that it "would offer transportation overrun to T-service customers comparable to provisions of overrun to its sales customers". The charges will be calculated by deducting the weighted average cost of pipeline gas from sales overrun rates.
- 8.81 Consumers' stated that it will not offer an overrun service. Customers must contract for their maximum requirements and amounts taken in excess of those requirements would constitute unauthorized overrun and there would be penalties as set in the "companion rate schedule".

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- 8.82 CPA considered overrun and peaking service to be essentially the same service. Unauthorized overrun is the subject of contractual terms established in most distributors' sales contracts and also the subject of specific requirements provided for in the transportation tariffs of TCPL. In that regard, it seemed to CPA rather a simple matter, as reflected in the Northern proposal, to provide authorized overrun to end-use customers in the same manner as authorized overrun flexibility is provided to the distributors.
- 8.83 CPA considered Consumers' statements on overrun to be irrelevant since its customers can contract for no more than 1/365th of their average annual requirement.
- 8.84 Cyanamid did not understand why Consumers' should have any concern with respect to overruns of a customer's own gas. Cyanamid agrees that if direct purchase customers make unauthorized overruns so as to jeopardize the security of supply to Consumers' sales customers, an overrun penalty may be appropriate.
- 8.85 IGUA stated that the use of facilities for transportation of the shipper's gas beyond the contracted level of entitlement, should carry a normal overrun penalty, which the Board can

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approve or fix when establishing a transportation service relationship between the shipper and the carrier.

- 8.86 Northridge submitted that contract carriage should allow for day-to-day operational imbalances, which should be accounted for by adjustment to the subsequent daily nomination. With bundled rates, this would appear to be part of the service being paid for and as such, should be available.
- 8.87 FONOM noted a distinction in Northern's evidence between customer overrun and system overrun. FONOM endorses the position taken by Northern that there should be a penalty for unauthorized overrun. FONOM pointed out that system overrun penalties are clearly an added cost directly attributable to T-service and should be recoverable from the T-service customer which it maintains Northern does not intend to do. FONOM thereupon recommended various mechanisms by which added and other costs which may not be anticipated, could be recovered.
- 8.88 IPAC proposed that penalties imposed for overrun under sales service are appropriate for T-service, given due allowance for avoided costs. IPAC took the position that under Consumers' T-service proposal, make-up gas

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should not become subject to the imposition of overrun charges.

- 8.89 Special Counsel submitted that transportation customers should be treated in a fashion identical to sales customers with respect to overrun and hence, the charge for overrun gas should be the same as the charge now being charged large industrial sales customers.

The Board's Findings

- 8.90 The Board finds that to the extent that overrun charges are referred to in currently approved rate schedules, the utility shall use such rates. Any variation of such charges shall be identified and be subject to approval by the Board.

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CHAPTER 9 - THE BOARD'S JURISDICTION

Introduction

- 9.1 During the hearing there were a number of matters raised which involved the Board's operations and jurisdiction. The Board felt that it would be useful to place all of these matters together in this chapter.

Board Approval of Each Customer Contract

Positions of the Parties

- 9.2 Northern proposed that for the interim period negotiation of a contract carriage arrangement with a customer would be followed by an application to the Board for approval of the rate or rates at which the customer-owned gas would be transported. The rate would be determined in accordance with the formula in Northern's rate schedule T-50.

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- 9.3 Northern submitted that if it and the customer were able to agree on the rate, then the Board might make an Order approving the rate without a hearing under Section 19 (11). Without an agreement it acknowledged that a hearing would be required. Northern pointed out that Board approval of each contract carriage agreement is required because Northern is proposing a method for rate determination, not a specific rate.
- 9.4 Northern added "although Northern understands that the Board may require that the contract be filed with the Board for monitoring purposes, Northern submits that that is the extent to which the Board should exercise jurisdiction over terms and conditions of the contract other than those which affect the rate".
- 9.5 Northern agreed that the Board can reserve its response to "these questions" until it has specific problems which need resolution. Northern stated that "jurisprudence is probably better developed in the context of specific factual situations".
- 9.6 Union took the position that a hearing would not be necessary to approve each contract because the toll would have already been approved by the Board. It acknowledged that

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"added and avoided costs" are customer specific, but considered the Board should be satisfied with Union's explanation of its method of calculating such charges.

9.7 Union stated that the negotiations of T-service contracts would be similar to the negotiation of Rate M7 sales contracts.

9.8 Consumers' took a similar position to Union, namely, that Board approval of each T-service contract is not necessary. Consumers' added "there is no evidence before the Board in this hearing that such an approval system is required or desirable. The present large volume contract regime has worked in Ontario for many years and there is no need to change it".

9.9 Consumers' stated "as a last resort, if negotiations undertaken honestly and in good faith, cannot result in a contract being concluded, both the customer and the utility should have some access to the Board". Consumers' went on to add "competitive market pricing should not be allowed to produce regulatory drafting of contracts for T-services".

9.10 IPAC considered that a hearing for each customer would be unnecessary, particularly if

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toll schedules are set down by the Board and are publicly available. It stated that published tolls reduced the potential for disagreement and the risk of unequal application of value of service. It submitted, however, that Board approval of each contract is a necessity if the approved and published toll schedules are not clearly defined.

- 9.11 Nitrochem stated that it does not wish to be at the mercy of the utility's monopoly power or be in a position where it has to agree to what it considers to be unreasonable or onerous terms in order to obtain transportation service. Nitrochem noted that Northern acknowledged that it would like to have a contract because of "leverage in terms of discussing with the customer." Nitrochem submitted that a contract should not be required for the provision of transportation service but left to the mutual agreement of the parties. In the alternative, Nitrochem took the position that if the Board endorses Northern's request that a contract be a necessary condition for service, then at the very least, the customer should have the right to have any dispute over the terms of the contract resolved by the Board.

- 9.12 Allied and Suncor submitted that a hearing will not be required for each customer if the

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Board approves T-service rates and general terms and conditions. They argued that the Board should accept jurisdiction at the request of the distributor or customer if a contract, following bona fide negotiation, cannot be completed.

- 9.13 CCPA believed that to the extent that tolls and tariffs are published it is unnecessary to have individual customer contracts approved by the Board, except in exceptional cases.
- 9.14 C-I-L took the position that the essential parameters of the rates, terms and conditions for contract carriage will be set by the Board and that it will be unnecessary to hold a hearing for each particular customer.
- 9.15 IGUA argued that for the interim period there should be an application to the Board to approve and fix the transportation service rates and the terms and conditions essential to the transportation services relationship between the utility and the shipper.
- 9.16 It considered that the Board and not the utilities ought to control the terms and conditions appropriate to transportation services relationships.

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- 9.17 IGUA submitted that during the interim the Board should reject negotiable transportation service rates. The absence of a negotiable transportation service rate does not prevent the parties from negotiating and reaching an agreement. It simply means that the Board has not given advanced blessing to the results of any agreement that the parties might reach. Accordingly, there would need to be a Board order for each customer-specific transportation service rate in accordance with Section 19 (8) of the Act.
- 9.18 IGUA recommended that during the interim period the Board ensure consistency in the terms and conditions of T-service for each customer to avoid undue discrimination. It noted that under the Act orders for less than one year may be made without a hearing.
- 9.19 Kitchener submitted that the Board should appoint a hearing officer to arbitrate any differences between the parties that arise in the negotiation of T-service contracts.
- 9.20 CPA submitted that since there is little reason to distinguish transportation service from any other utility service offered, customer-specific hearings should not be required.

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9.21 Cyanamid took the position that if either party requests the Board to approve the contract or settle any of its terms, the Board should be available for that purpose.

9.22 FONOM stated in its submission: "Because Northern has proposed a methodology for the computation of a rate, and the actual rate will only appear in the contract negotiated between the T-service customer and Northern, it follows that OEB approval of each contract will be required."

9.23 Special Counsel submitted that the Board ought to indicate that it will entertain all applications of utilities or customers to settle individual disputes that may arise in the introduction of interim contract carriage and that the Board will decide its jurisdiction to deal with issues as they arise. Such applications may be decided with or without a hearing.

The Board's Findings

9.24 The Board finds that it has the jurisdiction to approve all contract carriage, buy/sell, and CMP agreements.

9.25 In the event of a dispute between a utility and a customer or proposed customer, either party

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may apply to the Board to fix the disputed term or terms with or without a public hearing.

- 9.26 The Board also finds that to the extent the terms and conditions impact directly on the rate or rates included in an agreement, or indirectly on the rate or rates through quality of service, its approval of terms and conditions will be required.
- 9.27 Neither the gas utilities nor the end-users in Ontario have had extensive experience with direct purchase or CMP arrangements. The Board requires that all such agreements shall be submitted for approval by this Board before they go into effect.
- 9.28 The Board may proceed with or without a public hearing. It does not, except in unusual circumstances, anticipate that any undue delay will be occasioned by this procedure.
- 9.29 By the approval process the Board can assure itself of the lack of adverse impact of such arrangements on the utility and its sales customers.
- 9.30 Applications to vary or terminate any arrangement shall be made by either party to it, under appropriate circumstances, to the Board.

Monitoring by the Board

Positions of the Parties

- 9.31 Northern submitted that the Board can be satisfied that the integrity of the utility and the rates to other customers will not be affected in the short or long term by the introduction of contract carriage without any additional monitoring. Northern also noted that since its revenue requirement for 1986 will be determined without reflecting any contract carriage agreements, other customers cannot be affected and no additional monitoring is required. For the longer-term, Northern is of the opinion that the annual rate hearing constitutes sufficient monitoring.
- 9.32 Union's position was that the existing monitoring mechanism is adequate and no additional monitoring is needed.
- 9.33 Consumers' took the same position in terms of monitoring as did Union Gas. It also objected to the detailed list of data which Special Counsel suggested should be filed on a monthly basis with the Board, and added that the suggestion that the current monitoring forms be modified to accommodate the new services being offered is acceptable.

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- 9.34 IPAC took the position that monitoring by the OEB is both appropriate and essential, particularly in the interim period. It considered it essential that the Board obtain sufficient information concerning the development and utilization of T-service on distributor systems in Ontario. It also recommended that the entire T-service contract should be filed with the Board for monitoring purposes.
- 9.35 Allied and Suncor were of the view that the current monitoring system is satisfactory and that there will be an element of self-monitoring both by the distributor and the purchasers.
- 9.36 FONOM believed that the utilities should be required to fully report to the Board towards the close of the interim period on their experience in furnishing T-service with particular regard to any problems encountered with gas supply, added costs and impact, if any, on system customers.
- 9.37 IGUA took the position that monitoring might be required when a distributor uses part of its CD entitlement that has been considered to have been displaced by a T-service shipper. The distributor ought to be required to provide periodic information showing the extent to which it has utilized its CD entitlements with

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TCPL and if an adjustment to the shipper's obligation to pay for displaced demand is indicated, such an adjustment ought to be made.

9.38 CPA indicated that monitoring should be adequately and effectively achieved through existing reporting requirements and through regular rate cases.

9.39 Kitchener saw no benefit in the ongoing monitoring of the operation of T-service contracts by the Board. However, Kitchener believes that the Board ought to monitor the steps taken by each distributor to renegotiate their supply contracts with TCPL under clause 13 of the Agreement. In addition, it felt that its proposed hearing officer should encourage parties to T-service contracts to file descriptions of difficulties encountered during the term of such contracts.

9.40 Special Counsel submitted that because the utilities constantly reminded the Board that each had no previous experience in terms of transportation arrangements, the outcome of contract carriage or transportation arrangements as they are operating should be available to the Board for monitoring purposes.

9.41 Special Counsel set out certain additional

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matters which he submitted should be monitored by the Board on a monthly basis. These were:

- a) daily CD nominations from TransCanada;
- b) daily volumes transported under the transportation arrangements separated out for each customer;
- c) daily volumes contracted under the transportation or contract carriage arrangements separated out for each customer; and
- d) TCPL demand charge and associated volumes billed to each transportation customer.

The Board's Findings

- 9.42 The Board finds that additional monitoring is required during the interim contract period because of the lack of experience in Ontario with direct purchase and CMP arrangements.
- 9.43 The Board will issue a special monitoring order with which the Ontario utilities will comply as will all customers to which the order applies.
- 9.44 Replies to the monitoring procedures shall be filed with the Board on a confidential basis until otherwise ordered.

Confidentiality

Positions of the Parties

- 9.45 Northern had no objection to filing a synopsis of a contract carriage arrangement on a confidential basis.
- 9.46 Northern was of the view that individual customers who negotiate direct purchases should have to disclose to Northern the terms of the direct purchase contract.
- 9.47 Union's position was that T-service contracts should be held confidential.
- 9.48 Consumers' submitted that the contracts should be confidential, at least during the interim period.
- 9.49 Consumers' demanded the right to examine contracts related to a customer's upstream gas supply and backstop arrangements but did not intend that these should become public.
- 9.50 Kitchener was of the view that T-service contracts should be filed with the Board and be available to the public.

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- 9.51 CPA argued that contractual terms of a competitive nature must remain confidential. However, it submitted that utility services should be public since they are regulated in the absence of competition.
- 9.52 Cyanamid submitted that direct purchase customers should have no obligation to provide Consumers' with copies of their gas purchase contracts. Among other reasons, Cyanamid claimed that if the terms of those purchase contracts are known it could enable the distributors to exploit their monopoly to the benefit of CMPs or system gas.
- 9.53 With respect to T-service contracts, Cyanamid stated "it is not enough to ask customers to take (the distributor) on faith, that the power to exploit will never be exercised. Customers, particularly ammonia producers, can only be protected by this Board. This protection entails making T-service contracts public so that ammonia producers can be assured that they are being treated fairly."
- 9.54 IGUA said that if each contract is approved by the Board, it is then available to the public; alternatively, if the terms are disclosed in the order of the Board, the terms will be public.

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- 9.55 IGUA indicated that the agreement between the shipper and the regulated carrier ought to be public so that other customers seeking the same services will be able to avoid being unduly discriminated against. IGUA took the position: "If regulated services are provided to a direct purchaser-shipper, the details of those regulated services must be disclosed."
- 9.56 IGUA's position was based upon the fact that the relationship is regulated. It added "where regulation is not applicable, namely between a direct purchaser and its gas supplier, there is no need for public disclosure of that agreement."
- 9.57 IGUA maintained that even where range rates are approved, the exact position within the range and therefore the terms of the agreement should be made available to other customers.
- 9.58 IGUA stated further: "If the utilities wish to create a delivery arrangement in Ontario that will be confidential, they have the power to do so, by entering into a buy/sell arrangement, the whole of which, the utilities will be at liberty to treat confidentially."
- 9.59 C-I-L argued that: "The rate structure proposed (and supported by C-I-L) for interim contract carriage has, as its starting point, the

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customer's existing gas sales rate. Accordingly, and to keep that number confidential, C-I-L submits that the contract of carriage should be confidential. Under C-I-L's proposal, the terms and conditions to be contained in that contract will have been set by the Board, and therefore it is not necessary that they be publicly available."

- 9.60 Northridge submitted that distributor contracts for transportation service ought to be public on the grounds that the distributors enjoy a monopoly and the users of the system need the protection. On the other hand, in a free market with gas prices and gas purchase agreements, there should be no compulsory disclosure of the price or the terms.
- 9.61 Nitrochem argued that T-service contracts, being regulated, should be made public whereas the gas purchase contracts, not being regulated, should be confidential.
- 9.62 IPAC took the position that confidentiality should be maintained by the Board in circumstances where parties to the contract request such confidentiality.
- 9.63 IPAC also said: "There is a companion issue of confidentiality, however, with respect to the

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gas purchase contracts under direct purchase arrangements. The Board may well require the filing of these gas purchase contracts as part of its broader monitoring function of natural gas supply costs to Ontario. This will be particularly important during this transitional period to market responsive pricing on November 1, 1986."

9.64 In terms of gas purchase contracts, IPAC saw no reason for disclosing these contracts to the distributors.

9.65 Special Counsel considered that the Board should treat contract carriage agreements in the same way as sales contracts. He also said that there should be no requirement for supply contracts to be made public, disclosed, or filed, particularly since these are not regulated by this Board and are confidential.

The Board's Findings

9.66 The Board finds that it does not require at this time, the filing or disclosure of the gas supply contracts. The Board also finds that it is not necessary unless otherwise ordered, for the customer to disclose to the distributor the terms of the gas purchase contract. The Board further holds that it is not necessary at this

time for the distributor or the T-customer to disclose to others the terms of the T-service contract.

Jurisdiction of the Board

9.67 The major issues raised concerning the Board's jurisdiction were as follows:

- 1) Has this Board jurisdiction to require a gas utility in Ontario to supply service to a customer which requests service?
- 2) Has this Board jurisdiction to determine the contents of a contract of service between a distributor and a customer?
- 3) Does the word "rates" as used in section 19 of the Act include anything beyond monetary terms?
- 4) Should the Board state a case to the Divisional Court as requested by Northern as to the Board's jurisdiction? (Subsequently withdrawn by Northern in its reply argument.)

Positions of the Parties

9.68 Northern declared this to be "an extremely

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important and very difficult issue". It stated that "the matter is not free from doubt and before the Board makes any pronouncement concerning its jurisdiction to force a contract between the distributor and the customer for either the sale or transportation of gas it should state a case in writing for the opinion of the Divisional Court pursuant to Section 31(1) of the Act."

9.69 Northern went on to argue that "if the Board was making contracts for the gas distributors, then the Board is really becoming involved in management and in Northern's submission that is inappropriate".

9.70 Northern took the position that this Board has no jurisdiction to require it to provide service to a customer, or to require that it enter into a contract with a customer. If it does enter into such a contract, Northern submitted that this Board has no jurisdiction to do more than set the monetary rates and may not determine the terms of any contract other than monetary terms.

9.71 Northern added that "if the parties are unable to agree to the term of a contract, the option of having the Board act as a consensual arbitrator to settle the contract remains available".

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- 9.72 Union took fundamentally the same position as Northern but added "recognizing the contract negotiations are not always successfully completed, a party should be free to approach the Board for assistance in settling terms upon which agreements cannot be reached".
- 9.73 Union drew the attention of the Board to Section 22 of the Act and concluded that "this specific reference to the setting of terms and conditions by the Board for a service required of a utility would lead to the conclusion that the Board does not have the authority to dictate terms and conditions for the other utility services of sales and transmission."
- 9.74 Consumers' supported the general position of Union and Northern and also submitted "any power of the Board to require that the distributor enter into a contract with a consumer of gas must be found in the express words of the Ontario Energy Board Act (or some other statute of the Province of Ontario).
- 9.75 Consumers' also said "there is no section of the Act which expressly deals with the subject of the Board forcing a distributor to enter into a contract with a consumer of gas" and that "such questions as to the obligation of the utility to provide service to a particular

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customer fall to be decided by the courts under the Public Utilities Act". It stated "fixing or approving the terms and conditions of service and deciding whether, in any particular case, the distributor is obliged to provide service are two very different things".

9.76 Consumers' referred to the Board's reasons for Decision E.B.R.O. 377-1 in support of its position that the Board has no authority to force a distributor to supply gas.

9.77 Reference was made by Consumers' to the decision of the Supreme Court of Ontario in Holmberg et all vs. Public Utilities Commission of Sault Ste. Marie [1966] 2 O.R.675 wherein the Court of Appeal upheld a decision of McDermott J. to issue an order of mandamus directing a public utility commission to supply water and electricity to a dwelling house. Consumers' also referred to other decisions of the courts such as Peat Marwick Ltd vs. The Consumers' Gas Co Ltd. (1977) 18 O.R.(2d) 631 and RoyNat Ltd. vs. The Consumers' Gas Company Ltd (1980) 28 O.R. (2d) 97 to support its position.

9.78 Nitrochem proposed that this Board should

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have the jurisdiction:

- a) to fix or vary any and all terms and conditions related to transportation service and
- b) to order a distribution company to provide transportation service to a customer which meets the terms and conditions laid down by the Board.

- 9.79 It proposed that the Board should proceed on the basis that it has the jurisdiction to force a contract and saw no advantage in the Board submitting a case to the Divisional Court. It submitted that this would cause uncertainty and delay and if Northern wanted to challenge the Board's authority it could take such steps as it saw fit.
- 9.80 Allied and Suncor argued that the Board has jurisdiction to force a contract.
- 9.81 CCPA believed that this Board has jurisdiction to force the distributor to accept a reasonable contract.
- 9.82 Northridge argued that the Board should have jurisdiction and that the governing legislation is capable of such interpretation.

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- 9.83 Northridge made reference to the general law relating to public utilities as reviewed in Chastain et al. vs. British Columbia Hydro and Power Authority (1973) 2 W.W.R. 481 at 490-497. It referred to the decision of Mr. Justice McIntyre at page 491 of that decision and concluded as follows "having regard to the common law duties, it seems reasonable that the governing legislation would be construed so as to confer jurisdiction upon the Board to order the provision of service, whether the sale of gas or its transportation."
- 9.84 C-I-L submitted that the Board has the authority to set just and reasonable rates for transportation service. It submitted that authority is meaningless, if the Board does not also have the authority to set the terms and conditions of transportation service and to require distribution companies to provide transportation service. It added "in the absence of the latter authority, the power to set just and reasonable rates can be rendered nugatory by the distributor refusing to provide service, or providing service on terms and conditions which are so onerous as to make the service an impossibility."
- 9.85 It also submitted "that the time at which that authority is most necessary is exactly now, at

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the outset of the provision of a new service where there is no historical set of terms and conditions traditionally attached to the service."

- 9.86 IGUA argued that the Board may impose such terms and conditions as it considers proper and an order may be general or particular. It is for the Board to decide whether any particular term and condition is rate-related.
- 9.87 It argued that the Board can approve terms of a contract which may have been agreed upon by the parties, or can fix the terms of a contract even though the parties have not reached agreement, or can fix the terms of the contract different from the terms of any agreement reached between the parties.
- 9.88 IGUA pointed out that the Board cannot force people to agree but considered that it can impose or fix the terms of a transportation service relationship between a shipper and a carrier. In exercising that jurisdiction it can fix and determine any terms and conditions related to the shipper's use of the carrier's system for transportation services, including the price to be paid by the shipper to the carrier for those services.

REASONS FOR DECISION

- 9.89 IGUA considered that the Board's Decisions in EBRO 343-II and EBRO 367-II made it clear that the Board has jurisdiction under Section 19 (1)(2) and Section 16 of the Act to approve and fix the terms of transportation services.
- 9.90 It considered an overstatement the claim made by Union that "the Board has, with reasonable consistency, held that the terms and conditions of service between a distributor and its sales customers are not a subject matter for approval by the Board."
- 9.91 IGUA contended that the previous Board Decisions cited by Union do not support the conclusion that the terms and conditions of service between a distributor and its customer are not subject matter for approval by the Board.
- 9.92 Polysar submitted that the Board may impose on the parties to a contract for the sale, transportation, distribution or storage of gas, whatever monetary or non-monetary terms and conditions it deems appropriate.
- 9.93 It also argued that the Board has authority to impose an obligation upon a gas utility to service any customer requesting transportation service.

REASONS FOR DECISION

- 9.94 Polysar further argued that the Board's jurisdiction related equally to buy/sell and contract carriage.
- 9.95 Cyanamid took the position that the Board has jurisdiction to approve all terms and conditions of a contract between a distributor and a customer and relied upon Section 19 (1) and Section 19 (8) and Section 16 of the Act.
- 9.96 Cyanamid argued that the word 'rate' has a very broad context and terms and conditions affect the rate and therefore are rate-related. It argued: "The price, therefore, is a reflection of all services provided, from reading the meter to balancing the load, from the quality of gas to the right to exercise force majeure. If any of those services change, the effective price to the customer changes. There simply are not any terms in a contract which would not have altered the effective price under the contract."
- 9.97 Cyanamid argued that Section 22 (1) offers no comfort to the argument of Northern that the Board does not have jurisdiction to fix the terms and conditions of a contract.
- 9.98 CPA maintained that the important question is whether, in establishing a toll, the Board may

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also establish the terms and conditions of service to which the toll would apply. It was the opinion of CPA that the Board has such jurisdiction.

9.99 Kitchener submitted that the Board's jurisdiction to fix rates covers all the terms and conditions of service. It also maintained that the jurisdiction of the Board under Sections 16 and 19 of the Act presumes the existence of the obligation to serve, which obligation arises from Section 54 of the Public Utilities Act.

9.100 Special Counsel noted that many experts describe the relationship between the regulator and the regulated as a social contract wherein the regulated firm agrees to charge a just and reasonable price and to forgo windfall profits or supra-normal returns. He considered that the utility further agrees to accept an obligation to serve all customers at that rate, providing that service is economically viable and in the public interest. He suggested that, in return, the regulatory authority allows a price that will permit the utility "a fair chance to earn a compensatory rate of return."

9.101 Accordingly, Special Counsel submitted that the scheme of the Act regulates monopolies such

REASONS FOR DECISION

that the obligations and benefits set out above apply to the Board and the utilities. It is therefore inherent in regulation under the Act that all of the utilities in Ontario are obliged to serve all customers who request service at rates fixed by the Board, providing that such service is economically viable and in the public interest so to do.

9.102 Special Counsel submitted that the Minister's published statements of December 3rd, 1985 gave clear support for the advancement of interim contract carriage arrangements in Ontario. Counsel also submitted that it is clear that the Minister is of the view that the Board has power to effect interim contract carriage rates in Ontario but that if the Board did not have such jurisdiction in any necessary area, the government would be prepared to introduce legislation to permit the introduction of interim contract carriage in Ontario.

9.103 Special Counsel submitted that in law, the Board is neither bound by a ministerial assessment of the Board's jurisdiction nor by statements by the Minister unless there is clear statutory authority enabling the executive branch to give binding policy directions. Counsel noted that there is no such statutory authority. He therefore submitted that it is

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up to the Board to decide what weight should be given to any such evidence and cited in support the decision sometimes known as the Barrie and Innisfil decision of the Supreme Court of Canada [1981] 2 S.C.R. 145.

- 9.104 Special Counsel argued that in setting rates, the Board has the jurisdiction and should exercise it in respect of terms and conditions pertaining to price. He referred to these terms as 'rate-related' and submitted that the Board has express jurisdiction under the Act to deal with non-monetary, rate-related, terms and conditions.
- 9.105 Special Counsel submitted that it is difficult to imagine any term and condition which is not rate-related and concluded that the Board need go no further than state its general jurisdiction at this time and reserve to individual cases arguments that a term is not rate-related.
- 9.106 He argued that the Board ought not to state a case to the Divisional Court because the Board's jurisdiction is clear. Since the Board is not required to make any specific terms and conditions and there is no indication that the utilities will not supply service to transportation customers, Counsel submitted that the Board ought not to deal with its jurisdiction

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except in general terms.

The Board's Findings

- 9.107 The Board is of the view that 'rates' include more than monetary terms and do, in fact, include many conditions of service. Special Counsel and others called these conditions rate-related. The Board will not define rate-related but, will look at each case on its merits to decide what is rate-related. As noted earlier the Board has concluded that if the matter is directly or indirectly rate-related, the Board has the jurisdiction to decide that term of the contract.
- 9.108 The Board rejects the suggestion by Northern that by settling the conditions and terms of a contract of service, the Board is improperly interfering with management.
- 9.109 The Board finds that it has the jurisdiction to require that all T-service contracts be approved by it. It is of the view that it has the jurisdiction to ensure that neither the utility nor its customers are adversely impacted by imprudent contracts or contracts not in the public interest. The practice is continent-wide that no matter what management may have decided, where the regulatory authority finds

REASONS FOR DECISION

the commitment of management is imprudent, the regulator may very well disallow the item in the cost of service.

- 9.110 The Board makes no finding on its jurisdiction to order service to a customer because there is no instance of such refusal before it. However, the Board will entertain applications by eligible customers that are refused T-service by any Ontario utility.
- 9.111 The Board sees no merit in stating a case to the Divisional Court.
- 9.112 The Board believes that the overall scheme of the legislation in Ontario implicitly confers on it the jurisdiction to require service to a customer that qualifies for such service. In any event, as stated by the Minister, legislation expressly conferring jurisdiction on the Board would be implemented if required and such amendments are currently in preparation.

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CHAPTER 10 - OTHER CONCERNS

Introduction

10.1 A number of the parties expressed concerns other than those already dealt with. The Board has, therefore, assembled these concerns under this chapter.

Concerns of the Parties

10.2 Union pointed out that the request of FONOM and IGUA with respect to an award of costs should be rejected as the same would be inappropriate, particularly for a hearing of this nature. Union maintained that the distributors are parties to the proceeding on the direction of the Board and that they have nothing to gain by their participation other than to maintain the status quo for themselves and their customers.

REASONS FOR DECISION

- 10.3 Consumers' submitted that there should be no costs awarded in respect to this hearing.
- 10.4 Allied and Suncor stated that they considered the establishment of long-term T-rates to be of very high priority in the province. They added that they believed notice of a hearing dealing with such a subject should be given well in advance and that benefit could occur by holding a preliminary meeting to identify the issues and any particular studies that might be required.
- 10.5 Allied and Suncor also stated "the unbundling of T-rates will have impacts at all levels of the gas delivery system. A careful measuring of those impacts is essential to the establishment of long-term T-rates and the Board must have the benefit of all essential information in its deliberations on this matter."
- 10.6 C-I-L pointed out that long-term direct purchase arrangements following October 31, 1986 are of critical importance to gas customers and therefore they should know as soon as possible the structure of the long-term contract carriage rates in Ontario so that they may have the necessary lead time to structure direct purchase arrangements. C-I-L pointed out that unless the nature of long-term

REASONS FOR DECISION

contract carriage is ascertained with reasonable speed, those customers who are on system gas may have no alternative but to remain so.

- 10.7 Cyanamid rejected Consumers' suggestion that value of service be a component in carriage rates. It referred to the evidence of Mr. Minion and particularly the following words: "...if the pipeline is only five miles long or two miles long and the gas only has to be moved that distance, you can't talk in terms of a whole distribution system value of service for that particular customer."
- 10.8 Cyanamid stated in its submission that "what Consumers' seeks is a continuation of the historic huge over-contribution and subsidization of the residential class by the industrial customers. Instead of proposing a fair transportation rate which will relieve the over-contribution, Consumers' proposes to load even more costs onto the industrial customers."
- 10.9 Cyanamid added: "Indeed, Mr. Minion stated that the only way a big industrial customer will ever determine the real value of service being supplied by a distributor is to find a by-pass to the distributor."

REASONS FOR DECISION

- 10.10 FONOM referred to its limited financial resources, pointing out that it had taken part recently in the generic hearing dealing with costs and also franchise agreements because of the significance of both those matters to the particular framework and organization of FONOM. FONOM added "the advent of transportation service introduces a risk of distribution system dismemberment and higher rates for residential and commercial consumers of natural gas and was perceived to be an issue of the utmost importance to FONOM."
- 10.11 FONOM requested that it be awarded costs for its participation in these proceedings.
- 10.12 Other Intervenors requested costs.

The Board's Findings

- 10.13 To the extent that the Board has not dealt with the above arguments in these Reasons for Decision, it will do so in the main hearing of this proceeding which is expected to be held later this year.
- 10.14 With respect to costs, the Board finds that an award of costs is not appropriate in this case therefore no costs will be awarded to participants. However, the three utilities

REASONS FOR DECISION

will each pay one-third of the Board's costs, which costs will be set forth in a Board Order to follow.

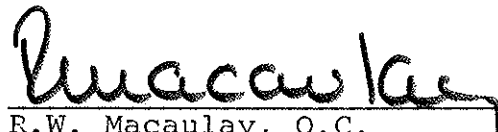
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CHAPTER 11 - COMPLETION OF THE
PROCEEDINGS

11.1 Union, Consumers' and Northern are directed to produce and submit to the Board forthwith, draft orders together with interim rate schedules or riders that reflect these Reasons for Decision.

DATED at Toronto this 4th day of April, 1986.



R.W. Macaulay, Q.C.
Chairman and Presiding Member



J.C. Butler
Vice Chairman



D.A. Dean
Member

REASONS FOR DECISION

APPENDIX A.

AGREEMENT ON NATURAL GAS
MARKETS AND PRICES

Canada

**Agreement on
Natural Gas
Markets and Prices**

AGREEMENT AMONG THE GOVERNMENTS
OF CANADA, ALBERTA, BRITISH COLUMBIA AND SASKATCHEWAN
ON NATURAL GAS MARKETS AND PRICES

INTENT

1. In the Western Accord of March 28, 1985 on Energy Pricing and Taxation, the governments of Canada, Alberta, British Columbia and Saskatchewan agreed that a more flexible and market-oriented pricing regime was required for the domestic pricing of natural gas. The present Agreement is intended to create the conditions for such a regime, including an orderly transition which is fair to consumers and producers and which will enhance the possibilities for price and other terms to be freely negotiated between buyers and sellers. This will have favourable effects on investment, employment and trade and will provide energy security for all Canadians.

PRINCIPLES

2. Effective November 1, 1986, the prices of all natural gas in interprovincial trade will be determined by negotiation between buyers and sellers. Access will be immediately enhanced for Canadian buyers to natural gas supplies and for Canadian producers to natural gas markets while at the same time assuring that the reasonably foreseeable requirements of gas for use in Canada are protected.
3. The twelve month period commencing November 1, 1985 is the transition to a fully market sensitive pricing regime. While prices will continue to be prescribed by governments, immediate steps will be taken to enable gas consumers to enter into supply arrangements with gas producers at negotiated prices (direct sales), which prices will then promptly be endorsed by governments in the context of the administered system. After this transition period, purchase and sale of natural gas will be freely negotiated, and prices will no longer be prescribed.
4. It is the intention of the parties to the Agreement to foster a competitive market for natural gas in Canada, consistent with the regulated character of the transmission and distribution sectors of the gas industry. In this regard the governments commit, without qualification, that once the transition to the new marketing and pricing system is completed, the system will stay in place for the foreseeable future.

DOMESTIC NATURAL GAS SALES

A. Direct Sales and Competitive Market Programs

5. Effective November 1, 1985, consumers may purchase natural gas from producers at negotiated prices, either directly or under buy-sell arrangements with distributors, provided distributor contract carriage arrangements are available in respect of such purchases. This provision is in no sense intended to interfere with provincial jurisdiction in regard to regulation of gas distribution utilities.

6. For the period November 1, 1985 to October 31, 1986 consumers who seek release from existing contractual arrangements with distributors shall be eligible to purchase natural gas from producers at negotiated prices, as described in paragraph 5 above, only where the producers supplying the gas under the existing contractual arrangements have agreed to such release.
7. To enable the market-responsive pricing system to operate within the intent of this Agreement, the governments request the National Energy Board to review the following concerns:
 - i) whether inappropriate duplication of demand charges will result from possible displacement of one volume of gas by another; and
 - ii) whether the policy regarding the availability of T-Service, as outlined in the Board's latest TransCanada PipeLines toll decision is still appropriate, taking into account, among other things, interested parties' views on the fair and equitable sharing of take-or-pay charges.
8. Effective November 1, 1985, competitive marketing programs (CMP) to meet special market requirements may be negotiated between distributors, shippers and the producers who are providing the natural gas volumes associated with such programs.
9. A consumer purchasing natural gas under a direct sale or a competitive marketing program must waive eligibility for payments under the Natural Gas Market Incentive Program (NGMIP), for those volumes taken under the direct sale or CMP.

B. New Sales to Distributors

10. Effective November 1, 1985, a distributor may under new or renegotiated contracts, purchase natural gas from shippers or directly from producers at negotiated prices. Notwithstanding such an arrangement, prior to November 1, 1986, the distributor shall take the full volumes of gas committed under existing contracts before accepting the delivery of any volumes of gas under a new contract.

C. Existing Sales to Distributors

11. The price of gas delivered under existing shipper-distributor contracts shall remain at \$2.79804 per gigajoule at the Alberta border for the period November 1, 1985 to October 31, 1986.
12. The National Energy Board has approved for implementation November 1, 1985, an increase in TransCanada PipeLines' (TCPL) transportation tolls. In order to maintain the Alberta Border Price and the Toronto Wholesale Price at their current levels, and to allow TCPL to recover its approved costs for the transportation of natural gas consumed in domestic markets, the Government of Canada agrees to pay an amount equal to the value of revenues foregone over

the period November 1, 1985 to October 31, 1986. These payments will be made under a Transportation Assistance Program financed by an extension of the Market Development Incentive Program (MDIP) to October 31, 1986.

13. Prior to November 1, 1986, negotiations shall commence between distributors, shippers and the producers supplying the gas in question respecting the price to be paid for natural gas delivered under existing contracts. Prices resulting from such negotiations shall come into effect November 1, 1986 and as agreed thereafter. Where contract renegotiation between buyers and sellers, whether of price or volume, takes place in good faith and on a voluntary basis, governments will not obstruct the resulting commercial transactions.
14. In the absence of an Agreement between a shipper and a distributor, or a producer and a shipper, on the price to be paid for gas under existing contracts on November 1, 1986, and thereafter, the price shall be determined through arbitration.
15. With respect to gas produced in Alberta, the Government of Alberta intends to amend the Arbitration Act. The amendment would enable pricing disputes between producers and purchasers to be arbitrated under the act or under alternative arrangements established by contract between the parties. The amendments will ensure that the arbitration of pricing disputes is done in an impartial and equitable manner consistent with the policy of implementing a more market-responsive domestic gas pricing system. Specifically, the Government of Alberta commits to amend Section 17 of the act to permit the arbitrator to take into account all relevant factors required to arrive at a fair decision on the price of the natural gas in question.

EXPORT NATURAL GAS SALES

16. The governments anticipate that reviews of surplus tests underway or shortly to be initiated by the National Energy Board and by the appropriate provincial authorities will result in significantly freer access to domestic and export markets and thus will contribute to the achievement of the market-oriented pricing system contemplated in this Agreement.
17. Effective November 1, 1985, the Government of Canada will take appropriate steps to amend its existing policy on short term export sales of natural gas. Specifically:
 - i) the "incrementality test" shall be eliminated;
 - ii) the "competing fuels test" shall be eliminated; and
 - iii) the National Energy Board VI Regulations, Section 8 shall be amended to allow the export of natural gas by order without volume limitation for terms not exceeding 24 months.
18. Effective November 1, 1985, the Government of Canada will amend its policy in regard to the conditions exporters of natural gas must meet for gas exported under licence. To obtain approval, all licence holders must demonstrate that their negotiated contractual arrangements meet the following criteria:

- i) the price of exported gas must recover its appropriate share of costs incurred;
 - ii) the price of exported natural gas shall not be less than the price charged to Canadians for similar types of service in the area or zone adjacent to the export point;
 - iii) export contracts must contain provisions which permit adjustments to reflect changing market conditions over the life of the contract;
 - iv) exporters must demonstrate that export arrangements provide reasonable assurance that volumes contracted will be taken; and
 - v) exporters must demonstrate that producers supplying gas for an export project endorse the terms of the export arrangement and any subsequent revisions thereof.
19. The Government of Alberta agrees that the export flowback system shall continue in its current form, subject to the actions contemplated in paragraph 12, until November 1, 1986, at which time the system will be eliminated.

NATURAL GAS IMPORTS

20. There is provision for the import of natural gas in the National Energy Board Act and Regulations.

GENERAL APPLICATION

21. The Government of Canada has broad responsibilities to ensure that trade among provinces and between Canada and its foreign trading partners is conducted in a manner which will provide benefits for all Canadians. Nothing in this Agreement shall limit Canada's power or its ability to meet its responsibilities in relation to interprovincial and international trade.
22. The governments of Alberta, British Columbia and Saskatchewan have broad responsibilities with respect to the development of their natural resources. Nothing in this Agreement shall limit the producing provinces' powers or their ability to meet their responsibilities in relation to their ownership and management of their natural resources.
23. The producing provinces shall retain their right to condition the removal of natural gas from the province to protect provincial public interest. Notwithstanding this basic right of ownership, the producing provinces do not intend to use this right to frustrate the intent of this Agreement. Specifically:
- i) Alberta and British Columbia will initiate a review of their respective surplus tests to ensure that the tests will contribute to the achievement of the market-oriented pricing system contemplated in this Agreement.
 - ii) Alberta will review the wording of the Gas Resources Preservation Act, specifically Section 5(3)(c), and as necessary, intends to amend the legislation to ensure that it does not require new sales to be incremental to existing sales prior to November 1, 1986.

- iii) Saskatchewan, in order to decrease its reliance on extraprovincial sources of gas, will permit limited quantities of its gas for sale outside the province and for direct sale within the province, as a market incentive to stimulate exploration of conventional resources. So long as Saskatchewan is reliant on extraprovincial gas, the price of gas sold outside the province shall be not less than the price at which gas may be purchased in Saskatchewan.
24. Non-arm's-length sales of natural gas between producers and shippers, between producers and distributors, or between producers and consumers shall be subject to appropriate provincial legislation for purposes of determining and collecting royalty or mineral tax revenues payable to the respective provincial Crown.
25. In conjunction with the transition to a more flexible and market-oriented pricing regime for domestic natural gas sales, the governments agreed that an early and all-encompassing review of the role and operations of interprovincial and international pipelines engaged in the buying, selling and transmission of gas is in order. Towards this end, the parties agree that the review will be carried out by an impartial panel appointed by the Minister of Energy, Mines and Resources in consultation with the ministers representing the governments of Alberta, British Columbia and Saskatchewan. The review shall be completed no later than June 30, 1986 and a final report submitted to the Minister of Energy, Mines and Resources on or before July 31, 1986. The details of panel membership, mandate and reporting relationship will be made public separately.

CONSUMING PROVINCES

26. It is anticipated that the governments of the consuming provinces who are not signatories to this Agreement will make changes to ensure the effectiveness of the market-sensitive gas pricing regime, including legislative changes and the provision of direction to provincial agencies to provide consumers with alternative sources of supply through the availability of transportation services on distribution systems, and to provide distributors with greater flexibility in determining prices for gas sold by them.

MONITORING

27. To ensure that the intent and objectives of this Agreement are achieved, a senior official representing each of the parties to this Agreement shall be appointed to monitor the implementation of the provisions contained herein and, among other things, the degree to which regulatory processes have resulted in significantly freer market access. These officials shall report their findings on a quarterly basis to their respective ministers.
28. The parties to this Agreement intend to enact expeditiously the appropriate legislative and regulatory changes necessary to implement the market-oriented pricing policy contemplated herein.

Dated on this 31st day of October, 1985.

For the Government of Canada

Pat Carney
Minister of Energy, Mines and Resources

For the Government of Alberta

John Zaozirny
Minister of Energy and Natural
Resources

For the Government of British Columbia

Stephen Rogers
Minister of Energy, Mines and Resources

For the Government of Saskatchewan

Paul Schoenhals
Minister of Energy and Mines

REASONS FOR DECISION

APPENDIX B. BACKGROUNDER TO THE AGREEMENT

BACKGROUND

IMPORTANCE OF NATURAL GAS

Natural gas is one of Canada's great energy strengths. Canada is fortunate to have this fuel in abundant supply. Already approximately 3 million householders enjoy the advantages of natural gas heating. Natural gas is also a source of energy and a raw material for our major industries across the country and is developing as a transportation fuel of the future. It is also a major source of export earnings contributing \$4 billion to Canada's trade surplus, and an important contributor to economic activity.

HISTORY

Domestic Gas Pricing

Prior to November 1975, the price for natural gas in interprovincial trade was determined by negotiation between producers and TransCanada PipeLines (TCPL). TCPL was the sole purchaser and carrier of gas into interprovincial markets east of Alberta. It sold its gas to provincial distributors at the city-gate at negotiated prices. The transportation component of the price has been regulated by the National Energy Board.

The passing of the Petroleum Administration Act in 1975 provided for the federal prescription of city-gate prices and led to the negotiation of the first Canada/Alberta Gas Pricing Agreement effective November 1, 1975. Since 1975, the prices of Alberta natural gas sold in interprovincial trade have been administered under agreements between the governments of Canada and Alberta. During this period, natural gas prices were linked to crude oil prices.

Export Gas Pricing

Since 1975 export prices were set by the federal government. On November 1, 1984, the Government of Canada revised its export pricing policy to allow Canadian companies to export gas to U.S. buyers at negotiated prices. The policy also made provisions for short-term exports of natural gas by order subject to volume limitations.

In response to the policy changes of November 1984, Canada's natural gas exports increased by more than 23 per cent from the previous year. Export revenues from natural gas have been maintained despite severe downward pressure on prices in the United States. Export revenues for the period from November 1, 1984 to September 30, 1985 were \$Can 3 696 million compared with \$Can 3 674 million in the same period last year.

The Western Accord

Among its other elements, the Western Accord of March 28, 1985 committed Canada and the producing provinces to develop by November 1, 1985 a new market-responsive pricing system for domestic pricing of natural gas in

interprovincial trade. To develop this mechanism, a task force of senior officials from the federal government and the producing provinces was struck to work with all interested parties, including consuming provinces and industry.

A natural gas "summit group", including representatives of the Canadian Gas Association, the Canadian Petroleum Association, the Independent Petroleum Association of Canada and the Ontario Natural Gas Association, provided a forum for dialogue among organizations from the production, transmission and distribution sectors of the natural gas industry. The issues identified by the Summit have been used as a basis for discussion between the federal government and the producing provinces.

OBJECTIVES OF AGREEMENT

The agreement among participating governments is intended to create the conditions for a new market-responsive pricing system consistent with the regulated character of the transmission and distribution sectors of the gas industry. It signals an end to government administered prices and a return to market forces characterized by choices for buyers and sellers. While the agreement provides for a transition period of one year, access will be immediately enhanced for Canadian buyers to natural gas supplies and for Canadian producers to natural gas markets.

The new regime will provide the framework for negotiated prices between buyers and sellers. Prices will be affected by conditions in the marketplace; both supply and demand will influence the price. Competition will be fostered which should increase the industry's ability to react quickly to changing conditions.

TERMS OF AGREEMENT

Interim Prices

For a transition period, from November 1, 1985 to July 31, 1986, the governments have agreed to freeze the Alberta Border Price (ABP) of gas for existing contracts at \$2.79 per gigajoule (GJ) (\$2.9¢ per Mcf). The governments have further agreed to freeze the Toronto Wholesale Price (TWP) at its current level of \$3.79/GJ.

Consumers will not be asked to absorb the increase of 11.2¢/GJ in TCPL tolls due to take effect November 1, 1985. A new Transportation Assistance Program (TAP II) will accommodate the TCPL toll increase for all domestic zones and for all domestic TCPL services. The cost of the program will be funded from revenues provided by the Government of Alberta.

As a result of the TAP II initiative by governments and of the June 1, 1985 elimination of the Canadian Ownership Special Charge (COSC), which was effectively 8 cents per gigajoule. Canadians will enjoy lower natural gas costs this winter.

Direct Sales and Competitive Marketing Programs

After November 1, 1985, gas customers will be able to enter into supply contracts with gas producers (direct sales) at negotiated prices for new contracts or as their existing contracts expire.

Such arrangements will be possible as soon as regulatory agencies provide for availability of access to the distribution systems (contract carriage). As well, consumers who choose to renegotiate their contracts during the transition period may do so with the agreement of producers supplying the gas.

Provisions will be made for competitive marketing programs (CMPs), beginning November 1, whereby producers selling system gas can offer discounts to meet competitive situations in the marketplace.

Canada, Alberta and the consuming provinces will exclude the volume associated with direct sales and CMPs from eligibility for the Natural Gas Market Incentive Program. This program is due to expire April 30, 1986. However, direct sales and CMPs volumes will qualify to earn the export flowback revenue, until this system expires November 1, 1986.

New Sales to Distributors

Effectively immediately, and subject to the provision of contract carriage, a distributor may enter into direct purchase arrangements at negotiated prices for volumes of natural gas which are incremental to the quantity of gas committed under existing or renegotiated contracts.

Existing Sales to Distributors (System Gas)

Beginning November 1, 1986, the prices of all natural gas in interprovincial trade will be determined by negotiation between buyers and sellers.

Parties to existing contracts may in good faith and on a voluntary basis negotiate for both price and volume provisions.

Exports

Export Pricing Policy

To provide for more open access to export markets by Canadian producers, Canada will amend its export pricing policy with respect to the relationship between domestic and export prices for natural gas. The Toronto Wholesale Price floor for all exports will be replaced with a regional reference price criterion. This will ensure that any Canadian gas sold to the United States will not be priced lower than gas sold to Canadians for similar types of service in the area nearest the export point.

Export Market Access

To provide more open access by Canadian producers to export markets, Canada will amend its regulations to allow the export of natural gas by order without volume limitation for terms not exceeding 24 months.

Export Surplus Tests

The participating governments anticipate that the reviews of surplus tests currently underway by the NEB and soon to be initiated in provincial jurisdictions will result in significantly freer access for producers to domestic and export markets.

Gas Imports

There is provision for the import of natural gas in the National Energy Board Act and Regulations.

GOVERNMENT COMMITMENTS

To facilitate direct sales and CMPs the governments of Canada and Alberta will amend price legislation and regulations affecting natural gas trade in the transition period. Additionally, Alberta agrees to amend its Arbitration Act and review its removal permit process to ensure these are consistent with the overall intent of the Agreement. Canada will undertake to ensure that direct sales have equitable and open access to TCPL transmission facilities.

The Government of Canada will ask the NEB to review the pertinent issues regarding access to TCPL's transmission facilities.

PIPELINE REVIEW

The Western Accord governments agreed to initiate a comprehensive review of the role and the operation of pipelines engaged in the buying, selling and transmission of gas in interprovincial and international markets.

GLOSSARY

Alberta Arbitration Act: Provincial legislation providing the terms and conditions for contract arbitration, including pricing provisions, in gas purchase contracts.

Alberta Border Price (ABP): The price, expressed in dollars per gigajoule (GJ), at which natural gas leaves the province of Alberta for domestic markets.

Canadian Ownership Special Charge (COSC): A federal levy imposed on natural gas and oil to help defray the costs of Canadianization of the energy industry.

City-Gate Price: Price distributors pay for TCPL's gas (Alberta Border Price) plus the relevant transportation tolls.

Competitive Marketing Programs (CMP): Mechanism which allows distributors currently selling system gas to offer discounts on certain volumes to meet competition in the marketplace.

Commodity Charge: The variable component of pipeline transportation tolls designed to recover the variable costs of delivered gas.

Contract Carriage: Transportation service provided under contract to transport gas not owned by the pipeline company.

Demand Charge: The fixed component of pipeline transportation tolls designed to recover the fixed costs related to pipeline service.

Direct Sales: Natural gas supply purchase arrangements transacted between producers, including marketers, and end-users at negotiated prices for which pipeline charges must be contracted separately.

Export licence: A licence issued by the National Energy Board for a long-term (in excess of two years) export of gas.

Export order: An order issued by the National Energy Board for short-term (up to two years) export of gas.

Flowback: Revenues received from exports of Alberta-produced gas in excess of those that would have been received for similar sales in Canada.

Gigajoule: A measure of the energy content of a fuel; a typical residential consumer of natural gas might use about 130 gigajoules (GJ) per year for household heating. (One gigajoule equals .95 Mcf.)

Incremental Gas: Demand for gas in addition to that already supplied to a market area or which would be lost under existing supply conditions.

Market Development Incentive Payments (MDIP): Payments made by the Government of Alberta to the Government of Canada created to fund programs designed to facilitate the expansion of domestic gas markets for Alberta-produced gas.

Natural Gas Markets Incentive Program (NGMIP): An incentive plan for Alberta natural gas sold to large-volume users, primarily industrial, in Manitoba, Ontario and Quebec. The program went into effect on May 1, 1984 and will end on April 30, 1986. The plan provides for rebate of up to \$0.35/GJ on eligible volumes.

Regional Reference Price: A criterion by which the National Energy Board will assess export prices at the international border to ensure that domestic consumers do not pay more for Canadian gas than their U.S. neighbours.

Removal Permit/Certificate: A permit granted by a provincial government authorizing the removal from Alberta of natural gas or from the province of production.

Spot Sales: Short-term sale of natural gas generally on a best-efforts and interruptible basis.

Surplus Tests: The criteria established by provincial or federal regulations to determine the quantity of gas which may be surplus to the reasonably foreseeable provincial or Canadian requirements and therefore available for sale in interprovincial and international markets.

Take-Or-Pay (TOP): Gas supply contracts usually contain provisions that gas contracted for, but not taken, will be paid for. Weaker than expected demand for natural gas in the late 1970s and early 1980s led to large payments being made by pipeline companies to producers for gas not taken.

TOPGAS: A banking consortium was formed in 1982 to refinance the take-or-pay payments made by TransCanada PipeLines to producers for \$2.7 billion dollars of gas. The refinancing is referred to as the TOPGAS loan, and the interest on this loan is paid by TCPL gas producers.

TOPGAS Charges: The interest on the TOPGAS loan is paid by gas producers.

Toronto Wholesale Price (TWP): The cost of natural gas for resale by distributors in TransCanada PipeLine's (TCPL) eastern delivery zone equal to the sum of the Alberta Border Price and the TCPL transportation toll.

Transportation Assistance Program (TAP): A federal government subsidy program initiated February 1, 1984 to reduce the impact of rising gas transportation tolls.

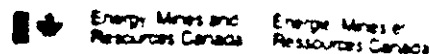
T-service: The gas transportation tariff offered by a pipeline company or distributor to transport gas owned by others. See also contract carriage.

REASONS FOR DECISION

APPENDIX C.

OCTOBER 31, 1985 - NEWS
RELEASE BY THE HONOURABLE
PAT CARNEY

COMMUNIQUE



85/162
October 31, 1985

NATURAL GAS AGREEMENT OUTLINED

OTTAWA — Canada will move from government-administered prices to a market-oriented regime for both domestic and exported natural gas during the next year with immediate benefits to both consumers and producers, the Honourable Pat Carney, Minister of Energy, Mines and Resources, announced today.

An agreement between the federal government and the gas-producing provinces of Alberta, British Columbia and Saskatchewan, which takes effect November 1, 1985, will mean lower prices for consumers and improved market access for producers.

During a one-year transition period the benchmark Alberta Border and Toronto Wholesale Prices are frozen at existing levels.

Residential consumers will pay lower gas costs this winter than last as they benefit by at least 8 cents per gigajoule from the removal of the Canadian Ownership Special Charge resulting from the Western Accord.

Domestic consumers will not pay the TransCanada PipeLines (TCPL) toll increases recently approved by the National Energy Board (NEB) totalling approximately 11 cents per gigajoule and due to be applied November 1. Under the agreement, the toll increases are to be absorbed by producers. In return, producers will have improved access to export markets.

During the transition year, customers whose contracts expire will be free to negotiate new contracts directly with producers at competitive prices provided a transportation toll service is in place. About 60 per cent of industrial contracts will expire during the year and will be able to benefit from this provision. All customers will be able to renegotiate existing contracts during the transition period providing all parties agree.

"By November 1, 1986, all natural gas buyers and sellers in Canada will be released from unnecessary government intervention in their market place," Miss Carney said. "In the transition period, the ability to voluntarily renegotiate contracts and to

- more -

Canada

increase exports will create and preserve jobs. The agreement is an excellent example of balanced regional compromise in the national interest."

The agreement provides for:

- direct sales at prices and terms freely negotiated between producers and distributors or large industrial users, provided transportation service is made available by consumer provinces' regulatory bodies;
- competitive marketing programs under which distributors will be permitted to offer discounts to meet competition;
- export floor prices based on regional price tests rather than a single Toronto price;
- an NEB review of TCPL's services in light of the new pricing system to ensure equitable access to this system;
- removal of volume restrictions on short-term natural gas exports;
- a comprehensive review of the role and operations of interprovincial and international pipelines.

Equitable access will be provided for British Columbia gas through the Alberta pipeline system to new markets in both the U.S. and eastern Canada.

The agreement anticipates that consuming provinces, through their regulatory bodies, will ensure provisions of the agreement flow through to consumers so that they can take advantage of opportunities for market pricing.

The agreement also anticipates that NEB and provincial regulatory agency reviews of surplus tests for natural gas exports will result in significantly freer access to domestic and export markets.

Although producing provinces retain the right to control removal of natural gas from their provinces, they have agreed not to use this power to frustrate the intent of the agreement on natural gas.

"The agreement completes the process begun in the Western Accord of replacing prices set by government with prices set by the market," Miss Carney said. "All Canadians will benefit."

For further information, please contact: Andrew Hutton
Press Secretary to the Minister
(613) 993-5252

REASONS FOR DECISION

APPENDIX D.

NOVEMBER 1, 1985 - STATEMENT
BY THE ONTARIO MINISTER OF
ENERGY, THE HONOURABLE
VINCENT G. KERRIO

STATEMENT BY

HONOURABLE VINCENT G. KERRIO

MINISTER OF ENERGY

ON

NATURAL GAS PRICING AGREEMENT

NOVEMBER 1, 1985

Mr. Speaker:

Yesterday, the Federal Minister of Energy, the Honourable Pat Carney, announced a new agreement for the pricing of natural gas in Canada.

As you know, even though Ontario was not at the negotiating table, I made strong representations on behalf of consumers in Ontario, both large and small.

The agreement which was announced yesterday is very complex and we are studying its implications carefully. The immediate effect of this agreement is to freeze the wholesale price of natural gas for one year. The wholesale price in Southern Ontario will remain at about \$4.07 per thousand cubic feet.

The potential price increase of 12 cents per thousand cubic feet which would have resulted from higher tolls on TransCanada Pipelines will be absorbed during that year by natural gas producers in Western Canada.

Also during that year, large natural gas consumers in Ontario will have the opportunity to negotiate direct purchases from producers in Alberta which could result in some lower prices for those customers. By November 1st, 1986, the price of natural

gas in Canada will no longer be set by government but will be determined by negotiations between buyers and sellers.

The Province will monitor very closely the practical implementation of this agreement because we are the major market, and we are very concerned that our industries remain competitive.

We will look at all the options and watch very closely price developments in the United States market where our industries have to compete. There is no doubt that during the transition year this agreement will have major implications for natural gas distributors in Ontario and we will be reviewing these effects with the distributors. The impact of this agreement on the distributors' long term contracts is not at all clear.

Our officials will be in touch with major natural gas consumer associations in Ontario, and will also be working closely with Quebec officials, as many of these implications will apply in that market. I will be making representations to my Federal counterpart on any concerns which arise during the coming months.

November 1st, 1985.

REASONS FOR DECISION

APPENDIX E.

DECEMBER 3, 1985 - NEWS
RELEASE BY THE HONOURABLE
VINCENT G. KERRIO



News release



Energy
Ontario

Ministry
of
Energy

For immediate release:
December 3, 1985

Contact:
Shirley Teasdale (416) 965-5237

**ENERGY MINISTER
STATES ONTARIO'S POSITION
ON CONTRACT CARRIAGE OF NATURAL GAS**

The following is a statement that would have been made in the Ontario Legislature today by the Honourable Vincent G. Kerrio, Ontario Minister of Energy.

However, Mr. Kerrio is not in the legislature today, since he is inspecting the damage caused by yesterday's storm in the Niagara Peninsula and southwestern Ontario.

The minister intends to be present in the legislature on Thursday, December 5, and to be available to respond to questions regarding the following statement:

"On October 31st, the Energy Ministers of Canada and the three western producing provinces announced an agreement on natural gas pricing and markets.

As I have stated in the House previously, Ontario has argued that a market-oriented pricing system should result in lower natural gas prices to Ontario.

Lower prices are needed to keep Ontario industries competitive with their American counterparts, which have access to falling natural gas prices.

The new agreement essentially freezes domestic prices for a one-year transitional period, ending October 31, 1986. However, there is an immediate opportunity for large industrial customers to obtain lower prices. This opportunity is through the direct purchase of natural gas from producers or brokers in Western Canada at a negotiated price.

A key requirement for direct purchases is that the buyer be able to arrange with his natural gas distributor for transportation service -- or contract carriage -- to his plant.

The situation today, of course, is that the distributors buy gas from TransCanada PipeLines, and resell it to the end user. The new condition of contract carriage would require distributors -- such as Consumers' Gas, Union Gas and Northern and Central Gas -- to carry natural gas owned by gas users.

Today, I want to set out Ontario's position on the important issue of contract carriage.

First, in view of the significant potential economic benefit to large gas users, Ontario supports the introduction of interim contract carriage, for the transitional period ending October 31, 1986.

Second, our intention during this interim period is that rates to other customers of the gas distributors will not be affected by the introduction of contract carriage for direct purchasers. Essentially, this would mean that an interim contract carriage rate would be approximately equal to the current rates -- adjusted for the distributor's added or avoided costs, including such items as the cost of gas.

In this way, the lower price negotiated in Alberta by a direct purchaser would be passed on through the Ontario distributor to that customer.

With contract carriage in place, alternative forms of direct purchase -- such as the buy-sell option, where the distributor takes ownership of the gas -- would become possible. I would also expect the distributors themselves to compete with direct purchases, through competitive marketing programs.

Where distributors and direct purchasers negotiate interim contract carriage arrangements, it is my expectation that they would do so in a manner that is consistent with the positions I have outlined. The distributors would then apply to the Ontario Energy Board for approval.

In the event that the parties are not able to reach agreement, the direct purchaser can apply to the Ontario Energy Board. The Board has the authority to review and approve an interim contract carriage rate for a particular customer.

I have, therefore, requested the Board to move expeditiously so that there can be no question regarding Ontario's commitment to implement a viable direct purchase option.

Should it prove necessary at any stage, the government is prepared to introduce legislation to permit the steps I have outlined to be taken. However, at this point, it is not apparent that any new legislation is required.

It is important to note that the success of direct purchase is also contingent upon the resolution of outstanding issues in other jurisdictions.

Ontario believes that lower-priced gas can be negotiated through direct purchase. It is also evident, however, that these negotiated benefits could be frustrated or eroded by developments outside Ontario -- such as constraints relating to long-term contracts.

This leads me to our third position, namely that in the spirit of the pricing agreement, all benefits negotiated by a direct purchaser must be passed on through all parts of the system, from Alberta through TransCanada PipeLines to Ontario.

As issues are resolved over the transitional year, the Ontario Energy Board will carry out intensive studies to determine whether contract carriage rates can be continued without adverse impacts on other gas customers or on the integrity of the gas distribution system.

In the meantime, the positions I have outlined will make contract carriage available to direct purchasers -- giving them the benefit of lower negotiated prices, without adversely affecting other customers.

Kerrio Statement -- 6

It is my expectation that these lower negotiated direct purchase prices, in turn, should trigger lower prices by November 1, 1986, for the much larger volumes of gas under contract by the distributors for their remaining customers."

- 30 -

REASONS FOR DECISION

APPENDIX F. PROCEDURAL ORDER - 1
 (EXAMPLE)



Ontario
Energy
Board

E.B.R.O. 411

IN THE MATTER OF the Ontario Energy Board Act,
R.S.O. 1980, Chapter 332;

AND IN THE MATTER OF subsection 13(5)
and section 19 of the said Act;

AND IN THE MATTER OF a hearing to inquire into,
hear and determine certain matters relating to
interim contract carriage arrangements on
Northern and Central Gas Corporation Limited's
Ontario distribution system.

BEFORE: R.W. Macaulay, Q.C.)
 Chairman)
) December 9, 1985
 J.C. Butler)
 Vice-Chairman)

PROCEDURAL ORDER - 1

UPON the Ontario Energy Board (the "Board") having
issued a Notice of Public Hearing dated December 9, 1985,
providing for a public hearing in which the Board will
inquire into, hear and determine certain matters relating to
interim contract carriage arrangements on Northern and
Central Gas Corporation Limited's ("Northern") Ontario
distribution system;

AND WHEREAS it is expedient to make provision for
certain matters related to the public hearing;

THE BOARD ORDERS THAT:

1. (a) Northern shall forthwith serve the Notice of Hearing, either personally or by registered mail, upon:

- i) all the intervenors in each of the company's last two main rate applications before the Board;
- ii) all Rate 20 and 25 customers of Northern; and
- iii) all Ontario municipalities served by Northern.

(b) Northern shall file with the Board affidavit evidence proving the above service immediately upon completion thereof.

2. (a) Northern shall file with the Board on or before Friday, January 10, 1986:

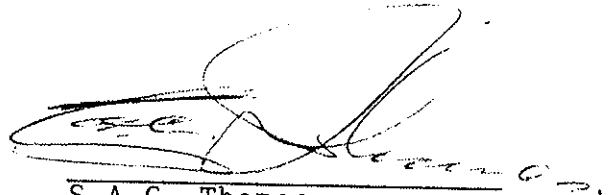
- i) fifteen (15) copies of a proposal for a just and reasonable interim contract carriage rate (or rates) to be offered on its Ontario distribution system; and
- ii) fifteen (15) copies of the evidence to be adduced in support of the proposal.

(b) For purposes of this paragraph, filing means in the hands of the Board Secretary by 5:00 p.m. Friday, January 10, 1986.

3. Northern shall distribute by courier a copy of the proposal and evidence to any intervenor requesting such material on or before Friday, January 10, 1986.

Issued at Toronto this 9th day of December, 1985.

ONTARIO ENERGY BOARD

A handwritten signature in black ink, appearing to read 'S.A.C. Thomas', is written over a horizontal line. The signature is stylized and somewhat cursive.

S.A.C. Thomas
Board Secretary

REASONS FOR DECISION

APPENDIX G. PROCEDURAL ORDER - 2



Ontario
Energy
Board

E.B.R.O. 410
E.B.R.O. 411
E.B.R.O. 412

IN THE MATTER OF the Ontario Energy Board Act,
R.S.O. 1980, Chapter 332;

AND IN THE MATTER OF subsection 13(5) and
section 19 of the said Act;

AND IN THE MATTER OF a hearing to inquire into,
hear and determine certain matters relating to
interim contract carriage arrangements on The
Consumers' Gas Company Ltd.'s, Northern and
Central Gas Corporation Limited's and Union Gas
Limited's Ontario distribution systems.

BEFORE: R.W. Macaulay, Q.C.)
Chairman)
J.C. Butler) December 9, 1985
Vice-Chairman)

PROCEDURAL ORDER - 2

UPON the Ontario Energy Board (the "Board") having
issued three Notices of Public Hearing dated December 9, 1985
for a public hearing on Monday, January 27, 1986 in which the
Board will inquire into, hear and determine certain matters
relating to interim contract carriage arrangements for The
Consumers' Gas Company Ltd. ("Consumers'") under Board Docket
No. E.B.R.O. 410, for Northern and Central Gas Corporation

Limited ("Northern") under Board Docket No. E.B.R.O. 411, and for Union Gas Limited ("Union") under Board Docket No. 412;

AND UPON the Board having issued three Procedural Orders, dated December 9, 1985 being a Procedural Order for each of Board Docket Nos. E.B.R.O. 410, E.B.R.O. 411, and E.B.R.O. 412;

AND UPON the Board being of the opinion that it is expedient to combine the three public hearings to consider the elements of interim contract carriage arrangements which are common to Consumers', Northern, and Union;

AND UPON the Board being of the opinion that it is appropriate, following the consideration of common elements of interim contract carriage arrangements as outlined above, to consider specific applications for interim contract carriage arrangements;

THE BOARD ORDERS THAT:

1. The three public hearings under Board Docket Nos. E.B.R.O. 410, E.B.R.O. 411, and E.B.R.O. 412 commencing at 10:00 a.m. on Monday, January 27, 1986 in the Board's hearing room, 8th floor, 14 Carlton Street, Toronto, Ontario be

combined to consider the elements of interim contract carriage arrangements common to Consumers', Northern and Union.

2. The directions set out in each Notice of Hearing and Procedural Order issued under Board Docket Nos. E.B.R.O. 410, E.B.R.O. 411, and E.B.R.O. 412 remain in full force and effect for the purpose of this hearing.

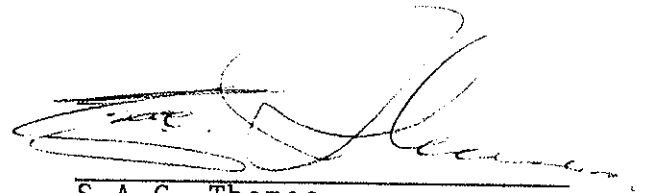
3. Consumers', Northern and Union shall:

- a) jointly have the Notice of Hearing attached to this Order as Appendix "A" published forthwith in two consecutive issues of the Globe and Mail. The Notice is to appear headed with the Ontario Government logo and the words "Ontario Energy Board";
- b) jointly have The Notice of Hearing attached to this order as Appendix "B" published forthwith in one issue of The Ontario Gazette; and
- c) file with the Board affidavit evidence proving the above publications immediately upon completion thereof.

4. Following the consideration of common elements of interim contract carriage arrangements, specific applications for interim contract carriage arrangements will be considered under the relevant Board Docket Number (being F.B.R.O. 410 or E.B.R.O. 411 or E.B.R.O. 412).

Issued at Toronto this 9th day of December, 1985.

ONTARIO ENERGY BOARD

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S.A.C. Thomas
Board Secretary



Ontario
Energy
Board

Appendix "A" to Board
Procedural Order dated
December 9, 1985.

S.A.C. Thomas
Board Secretary

E.B.R.O. 410
E.B.R.O. 411
E.B.R.O. 412

THE CONSUMERS GAS COMPANY LTD.
NORTHERN AND CENTRAL GAS CORPORATION LIMITED
UNION GAS LIMITED

NOTICE OF PUBLIC HEARING
INTERIM CONTRACT CARRIAGE ARRANGEMENTS

TAKE NOTICE that the Ontario Energy Board (the "Board") has requested The Consumers' Gas Company Ltd., ("Consumers'"), Northern and Central Gas Corporation Limited ("Northern") and Union Gas Limited ("Union") to appear before it for a hearing into certain matters relating to interim contract carriage arrangements on their respective Ontario distribution systems.

The Hearing

The hearing will commence at 10:00 a.m. on Monday, January 27, 1986 in the Board's hearing room, 8th floor, 14 Carlton Street, Toronto, Ontario.

This hearing is being held pursuant to subsection 13(5) and section 19 of the Ontario Energy Board Act.

The Purpose of the Hearing

The Governments of Canada, British Columbia, Alberta and Saskatchewan signed an Agreement on Natural Gas Markets and Prices, dated October 31, 1985. Clause 5 of the Agreement reads:

Effective November 1, 1985, consumers may purchase natural gas from producers at negotiated prices, either directly or under buy-sell arrangements with distributors, provided distributor contract carriage arrangements are available in respect of such purchases. This provision is in no sense intended to interfere with provincial jurisdiction in regard to regulation of gas distribution utilities.

The Ontario Minister of Energy (the "Minister") has announced Ontario support for contract carriage arrangements

on an interim basis. The Minister has further requested the Board to carry out intensive studies during the transitional year to determine whether contract carriage rates can be continued without adverse impacts on other gas customers or on the integrity of the gas distribution system;

The Board therefore intends to conduct a public hearing into interim contract carriage arrangements for Consumers', Northern and Union.

How To Participate

Any person wishing to make submissions to the Board or to participate in the hearing shall file with the Board, on or before Monday, January 6, 1986, a notice of intervention containing a detailed listing of what interest the intervenor has in this public hearing, the ground for intervening, a concise statement of the nature and scope of the intended participation, the name of any counsel or agent representing the intervenor, the address, telephone number and name of the intervenor, counsel or agent to whom communications may be sent and indication of whether the intervenor wishes to receive pre-filed evidence. Filing shall be effected only if the notice is in the hands of the Board Secretary on or before Monday, January 6, 1986. Failure to comply with this requirement may result in the intervention being rejected.

On Wednesday, January 8, 1986, the Board Secretary shall distribute a list of intervenors. Pre-filed evidence will be sent to all intervenors, who have requested it, by Consumers', Northern and Union on or before Friday, January 10, 1986.

Persons who have filed notices in accordance with the above directions and who wish to present evidence to the Board, shall file with the Board fifteen (15) copies of that evidence and shall distribute a copy by courier to the appropriate distributor and to all intervenors who have requested it, on or before Friday, January 17, 1986. Filing shall be effected only if the evidence is in the hands of the Board Secretary on or before Friday, January 17, 1986. Failure to comply fully with this requirement may result in the evidence being excluded.

If You Wish to Comment Only

If you wish, you may comment on issues relating to interim contract carriage arrangements without becoming a formal intervenor. Comments may be made by writing a letter to the Board Secretary, clearly stating your views and any other relevant information. You will not, however, be classed as an intervenor and thus will not receive any further communications.

Important

If you do not file a notice of intervention, the Board may proceed in your absence and you will not be entitled to further notice of these proceedings.

Procedural Orders

Procedural Orders as to how the matter will proceed were issued to each of Consumers', Northern and Union on December 9, 1985. In addition, Procedural Order No. 2, providing for the combining of the three hearings to consider the elements of interim contract carriage arrangements which are common to the three distributors, was issued on December 9, 1985. Copies of these Procedural Orders can be obtained from the Board Secretary.

ADDRESSES

Ontario Energy Board
Attn: S.A.C. Thomas
Board Secretary
14 Carlton Street
9th Floor
Toronto, Ontario
M5B 1J2

The Consumers' Gas Company Ltd.
1 First Canadian Place
Suite 4200, P.O. Box 90
Toronto, Ontario
M5X 1C5
(416) 495-5000

Northern & Central Gas
Corporation Limited
245 Yorkland Boulevard
Willowdale, Ontario
M2J 1R1
(416) 491-1880

Union Gas Limited
50 Keil Drive North
Chatham, Ontario
N7M 5M1
(519) 352-5450

Dated at Toronto this 9th day of December, 1985.

ONTARIO ENERGY BOARD

A handwritten signature in black ink, appearing to read 'S.A.C. Thomas', is written over a horizontal line. The signature is fluid and cursive.

S.A.C. Thomas
Board Secretary



Ontario
Energy
Board

Appendix "B" to Board
Procedural Order dated
December 9, 1985.


S.A.C. Thomas
Board Secretary

E.B.R.O. 410
E.B.R.O. 411
E.B.R.O. 412

THE CONSUMERS' GAS COMPANY LTD.
NORTHERN AND CENTRAL GAS CORPORATION LIMITED
UNION GAS LIMITED

NOTICE OF PUBLIC HEARING
INTERIM CONTRACT CARRIAGE ARRANGEMENTS

The Ontario Energy Board has requested The Consumers' Gas Company Limited, Northern and Central Gas Corporation Limited and Union Gas Limited to appear before it for a hearing into certain matters relating to interim contract carriage arrangements on their respective Ontario distribution systems.

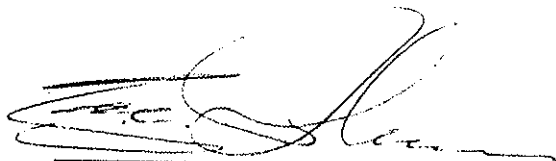
This hearing is being held pursuant to subsection 13(5) and section 19 of the Ontario Energy Board Act.

The Board has fixed Monday, January 27, 1986 for the commencement of the hearing.

This notice does not constitute service but is published as a matter of record only.

Dated at Toronto this 9th day of December, 1985.

ONTARIO ENERGY BOARD

A handwritten signature in black ink, appearing to read 'S.A.C. Thomas', written over a horizontal line.

S.A.C. Thomas
Board Secretary

REASONS FOR DECISION

APPENDIX H. PROCEDURAL ORDER - 3





Ontario
Energy
Board

E.B.R.O. 410
E.B.R.O. 411
E.B.R.O. 412

IN THE MATTER OF the Ontario Energy Board Act,
R.S.O. 1980, Chapter 332;

AND IN THE MATTER OF subsection 13(5) and
section 19 of the said Act;

AND IN THE MATTER OF a hearing to inquire into,
hear and determine certain matters relating to
interim contract carriage arrangements on The
Consumers' Gas Company Ltd.'s, Northern and
Central Gas Corporation Limited's and Union Gas
Limited's Ontario distribution systems.

BEFORE: R.W. Macaulay, Q.C.)
 Chairman)
) December 16, 1985
 J.C. Butler)
 Vice-Chairman)

PROCEDURAL ORDER - 3

UPON the Ontario Energy Board (the "Board") having
issued a Notice of Public Hearing and Procedural Order Nos. 1
and 2, all dated December 9, 1985, for each of Board Docket
Nos. E.B.R.O. 410, E.B.R.O. 411 and E.B.R.O. 412 providing
for a public hearing in which the Board will inquire into,
hear and determine certain matters relating to interim
contract carriage arrangements on The Consumers' Gas Company
Ltd.'s ("Consumers"), Northern and Central Gas Corporation
Limited's ("Northern") and Union Gas Limited's ("Union")
Ontario distribution systems;

AND WHEREAS it is expedient to make further provision for certain matters relating to the said public hearing;

THE BOARD ORDERS THAT:

1. a) Consumers', Northern and Union (the "companies") shall file evidence separately.

b) The companies shall include in their respective evidence, to be filed with the Board and with any intervenor requesting pre-filed material on or before Friday, January 10, 1986 pursuant to Procedural Order - 1 dated December 9, 1985, the following information:

i) A description of the rate design methodology to be employed with respect to an interim T-Rate design that would ensure the maintenance of the status quo during the transition period and, more particularly, would:

a) except all other customers from increases or decreases in rates; and

b) except the companies from gains or losses.

ii) A commentary on the necessity of monitoring activities to ensure that the objectives set

out in clause i) herein are achieved. Assuming that such monitoring is considered by the Board to be necessary and appropriate, provide a description of how it should be undertaken and delineate the areas of responsibility among the customer, the companies and the Board.

- iii) The following formula has been advanced for consideration in respect to the determination of T-Rates:

$$\text{T-Rate} = \text{Current Selling Price} - \text{Avoided Costs} + \text{Added Costs}$$

Comment on the appropriateness of this approach and provide definitions for each of these terms. Specific examples of each of these terms should also be provided.

- iv) A description of the mechanism which would enable the Board, in setting interim T-Rates, to accommodate the forthcoming National Energy Board decisions on matters relating to T-Service on the TransCanada PipeLines Limited pipeline system including the issue of double demand charges.

- v) A listing of, and the basis for, the criteria to be employed with respect to the issue of T-Rates availability. This list should consider such factors as:
 - a) terms and conditions of service;
 - b) length of contract;
 - c) requirement for backstop arrangements;
 - d) determination of delivery point locations;
 - e) ability of end users to engage in contract carriage, buy/sell, CMP activities, respectively, or combinations thereof, concurrently or alternately;
 - f) storage;
 - g) priority of service;
 - h) acceptance of risk;
 - i) assignability;
 - j) diversions; and
 - k) shippers' rights/pipeline operators' rights with respect to the provision of compression fuel, if applicable.

- vi) A description of the types of T-service and related types of services that might be offered, such as:

- a) storage, peaking service;
 - b) backstop gas;
 - c) firm/interruptible; and
 - d) long-term/short-term.
- vii) An identification of and commentary on company policies with respect to contract administration such as: daily dispatching, contract metering, overrun/underrun volumes, heat content and indemnification.
- viii) A discussion on the need for confidentiality of information from both the customers' and the companies' points of view.
- ix) Each company shall provide a map of its Ontario distribution system which identifies the location of all major industrial contract customers as defined in the Procedural Order in respect to service of the Notice of Hearing.
- x) A discussion on the necessity, following the combined hearing, for public hearings to consider applications from individual customers for interim T-Rates.


- xi) With respect to interim T-service, the companies' views as to whether the Board should approve:
 - a) the rate only, or
 - b) the general terms and conditions, or
 - c) the entire contract entered into between transporter/shipper, or
 - d) a combination thereof.

- xii) A listing of and commentary on any additional issues which the companies' consider to be relevant to this proceeding.

c) For purposes of this paragraph, filing means in the hands of the Board Secretary by 5:00 p.m. Friday, January 10, 1986.

Issued at Toronto this 16th day of December, 1985.

ONTARIO ENERGY BOARD



S.A.C. Thomas
Board Secretary

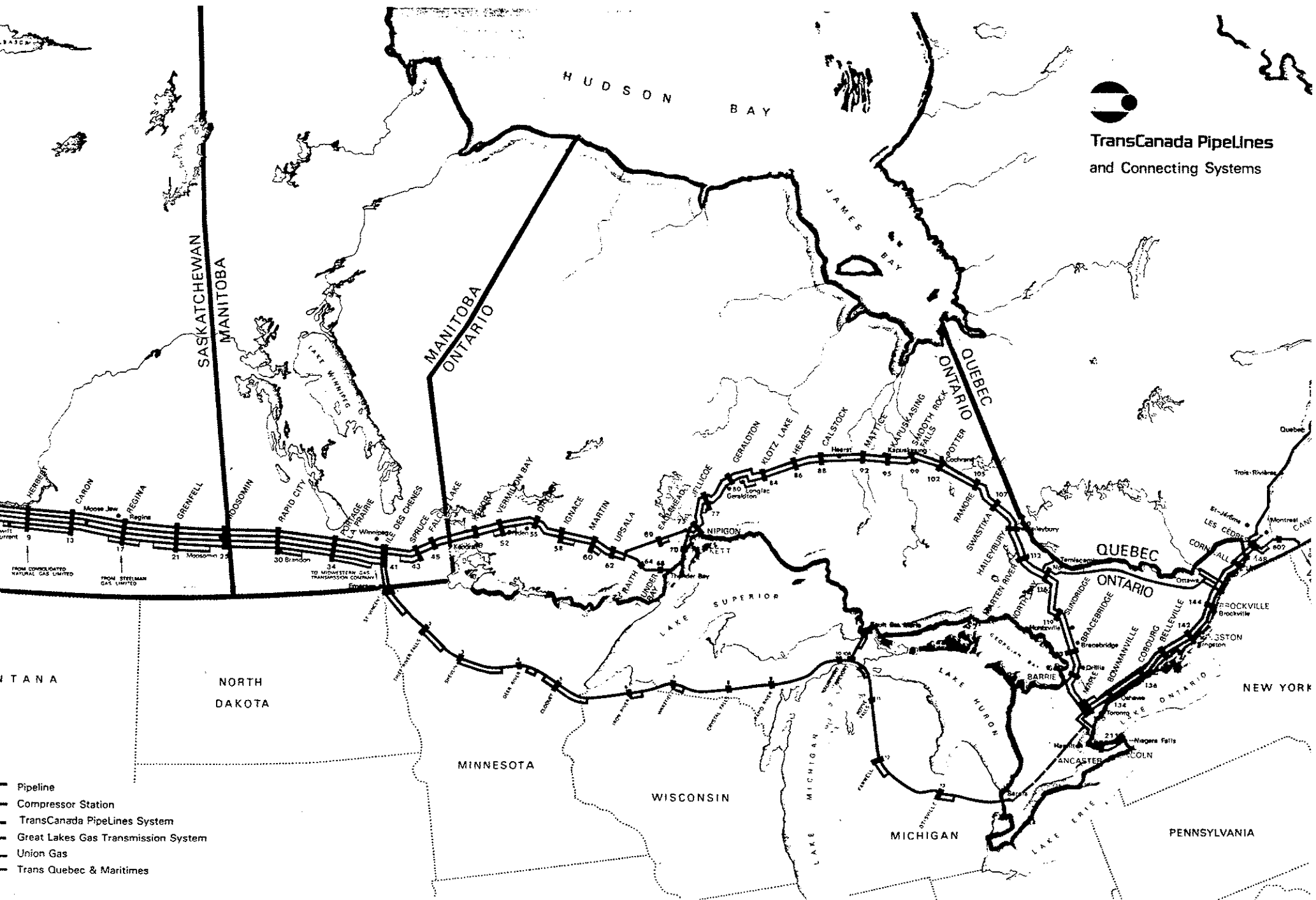
REASONS FOR DECISION

APPENDIX I. MAP OF TRANSCANADA PIPELINES





TransCanada Pipelines
and Connecting Systems



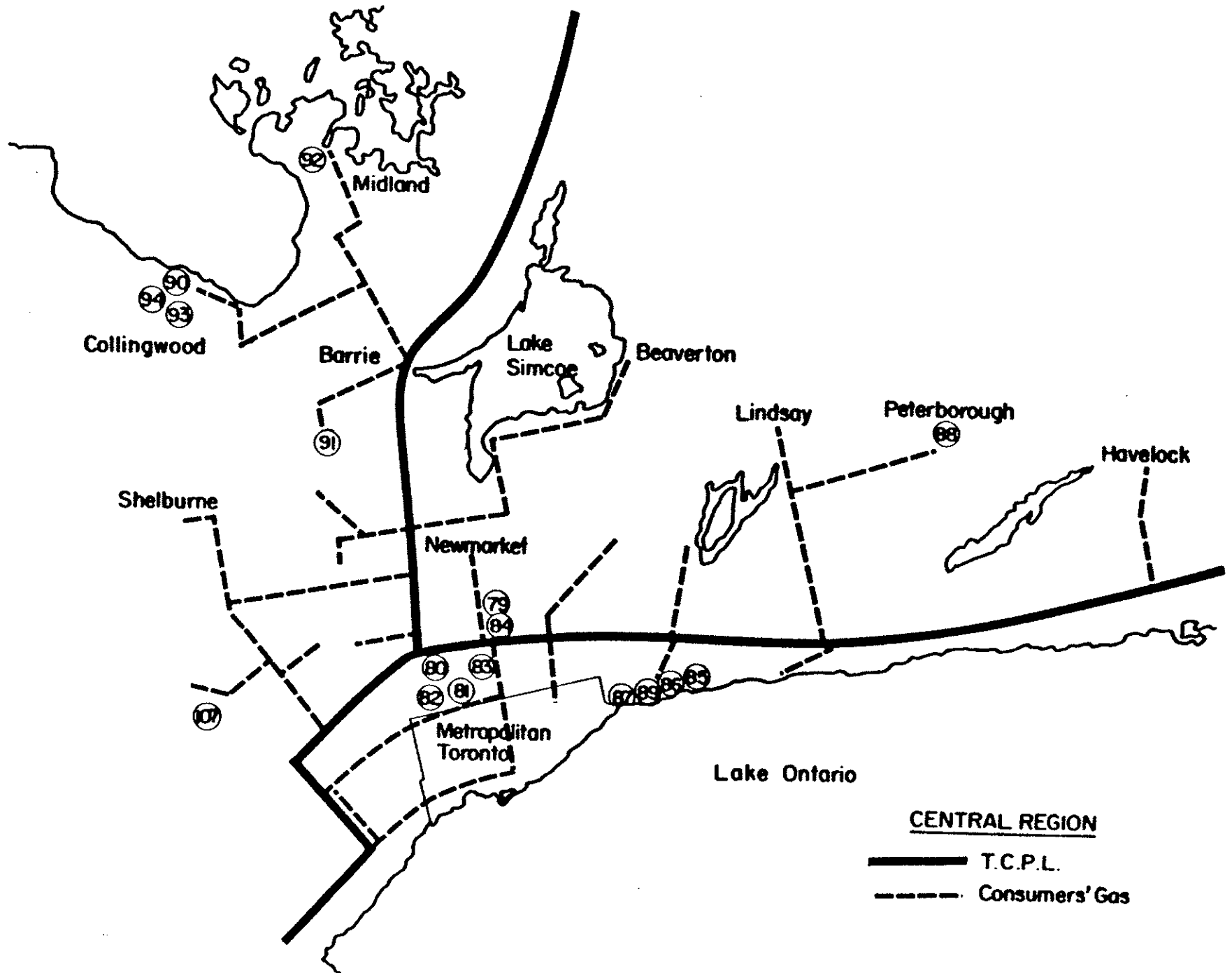


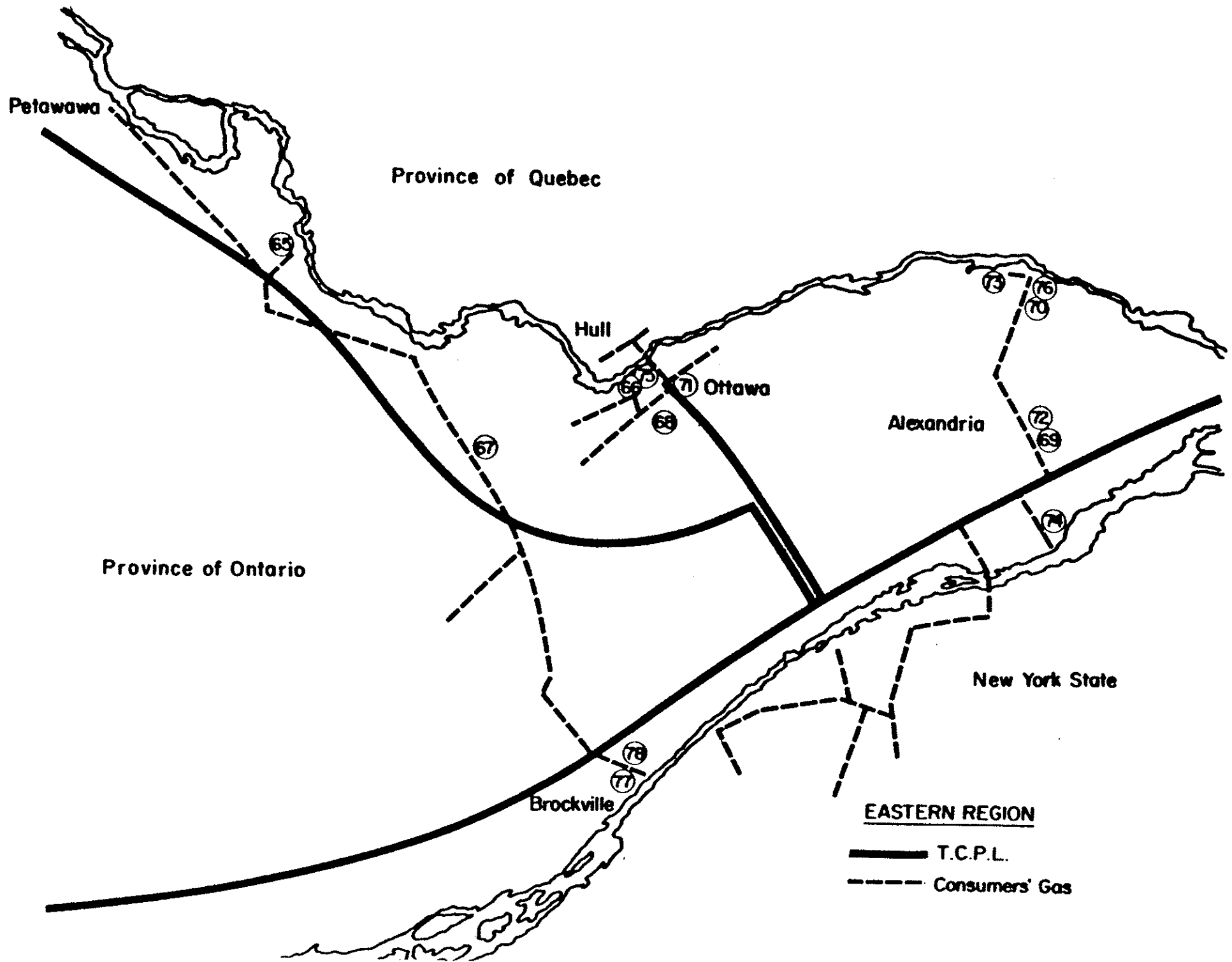
REASONS FOR DECISION

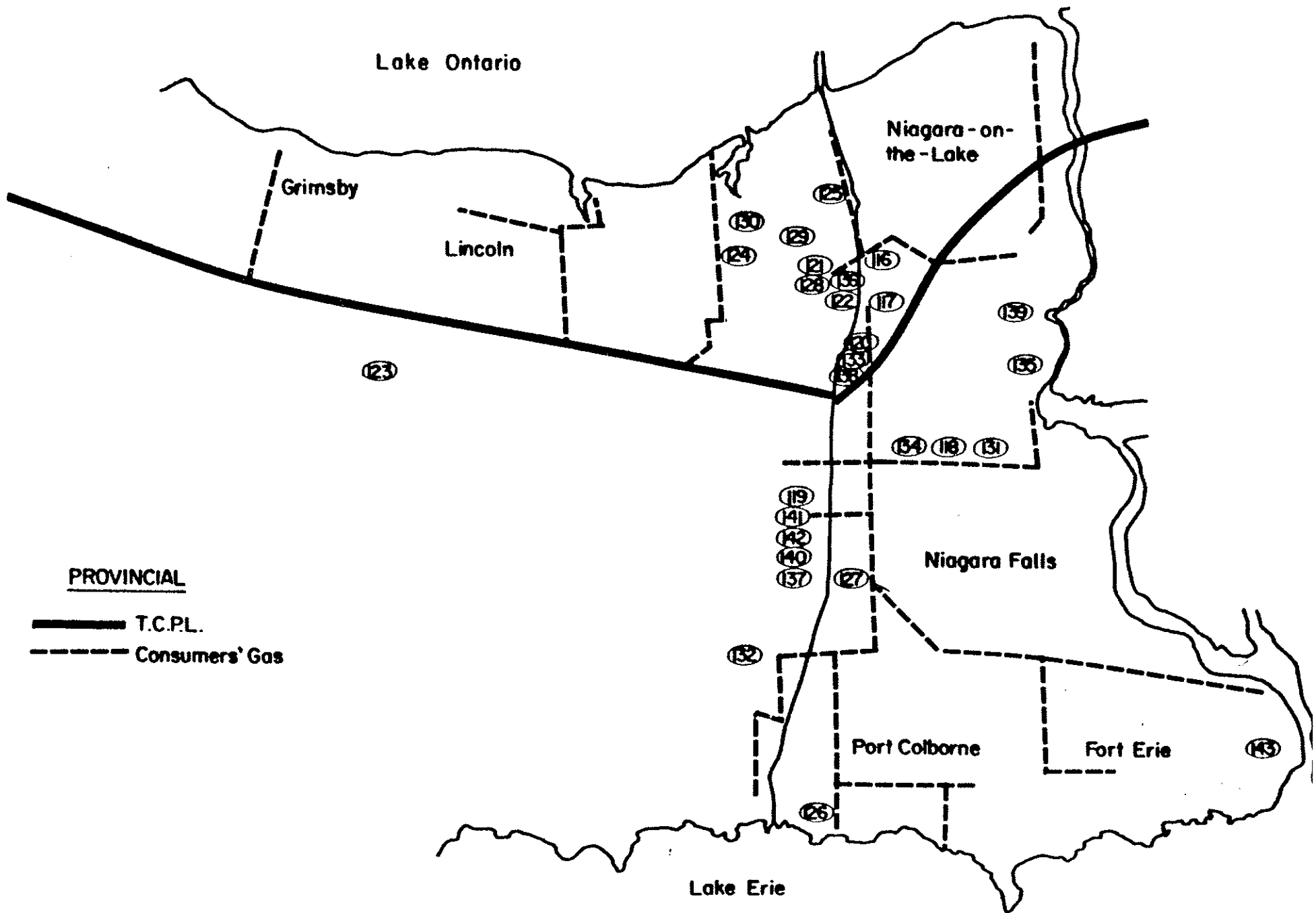
APPENDIX J.

MAP OF CONSUMERS' AREA OF
OPERATION











REASONS FOR DECISION

APPENDIX K.

MAP OF NORTHERN'S AREA OF
OPERATION

NORTHERN ZONE

<u>LARGE INDUSTRIAL CUSTOMER</u>	<u>TOWN</u>
1. Algoma Steel Corp. Ltd.	Sault Ste. Marie
2. St. Mary's Paper Inc.	Sault Ste. Marie
3. Denison Mines Ltd.	Elliot Lake
4. Eldorado Resources Ltd.	Blind River
5. Levesque Plywood Ltd.	Hearst
6. Spruce Falls Power & Paper Co.	Kapuskasing
7. Abitibi Price Inc.	Smooth Rock Falls
8. Normick Perron Inc.	Cochrane
9. Abitibi Price Inc.	Iroquois Falls
10. Kidd Creek Mines Ltd. (Hoyle)	Timmins
11. Kidd Creek Mines Ltd. (Mine Site)	Timmins
12. Cliffs of Canada Ltd. (Adams Mine)	Englehart
13. Grant Waferboard	Englehart
14. Cliffs of Canada Ltd. (Sherman Mine)	Temagami
15. Department of National Defence	North Bay
16. Dupont Canada Inc.	North Bay
17. Nordfibre Company	North Bay
18. Ontario Northlands Trans. Comm.	North Bay
19. Ontario Psychiatric Hospital	North Bay
20. MacMillan Bloedel Ltd.	Sturgeon Falls
21. Falconbridge Ltd.	Sudbury
22. Inco Ltd.	Sudbury
23. E.B. Eddy Forest Products Ltd.	Espanola
24. Rio Algom Ltd.	Elliot Lake

EASTERN ZONE

LARGE INDUSTRIAL CUSTOMER

1. Kimberly-Clark of Canada Ltd.
2. Huronia Regional Centre
3. Eldorado Resources Ltd.
4. Borg Warner Chemicals
5. General Foods
6. Ontario Development Corp.
7. United Tire & Rubber Co. Ltd.
8. Department of National Defence
9. Domtar Packaging Ltd.
10. Trent Valley Paperboard Mills
11. Corby's Distilleries Ltd.
12. Bakelite Thermosets Ltd.
13. Belleville General Hospital
14. Mead Johnson Canada
15. Baxter Canning
16. Strathcona Paper Co. Ltd.
17. Canada Cement Lafarge Ltd.
18. C.P.S. Millhaven
19. Millhaven Fibres Ltd.
20. Dupont Canada Inc.

TOWN

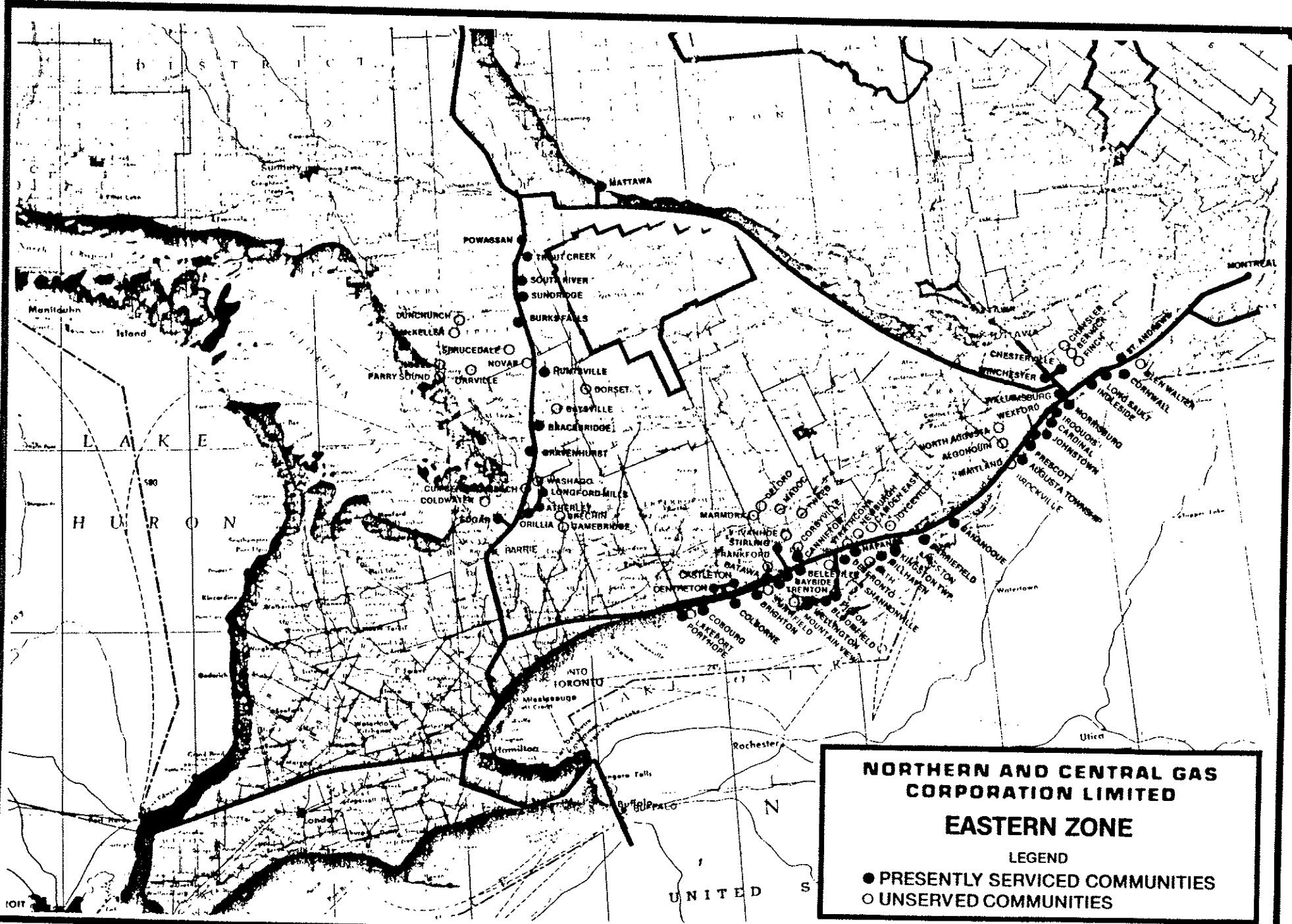
- Huntsville
Orillia
Port Hope
Cobourg
Cobourg
Cobourg
Cobourg
Trenton
Trenton
Trenton
Corbyville
Belleville
Belleville
Belleville
Bloomfield
Napanea
Bath
Millhaven
Millhaven
Kingston

LARGE INDUSTRIAL CUSTOMER

21. C.P.S. Kingston
22. Department of National Defence
23. C.P.S. Joyceville
24. Stelco Inc.
25. Dupont Canada Inc.
26. Nitrochem Inc.
27. Casco Company
28. Dominion Textile Inc.
29. Rohm & Haas
30. Ault Foods Ltd.
31. Nestle (Canada) Ltd.
32. Kraft Foods Ltd.
33. BASF Canada Ltd.
34. Champlain Industries Ltd.
35. Cornwall Chemicals Ltd.
36. Cornwall Gravel Co. Ltd.
37. Courtauld's Canada Inc.
38. Domtar Fine Papers Ltd.
39. Pfizer Co. Ltd.

TOWN

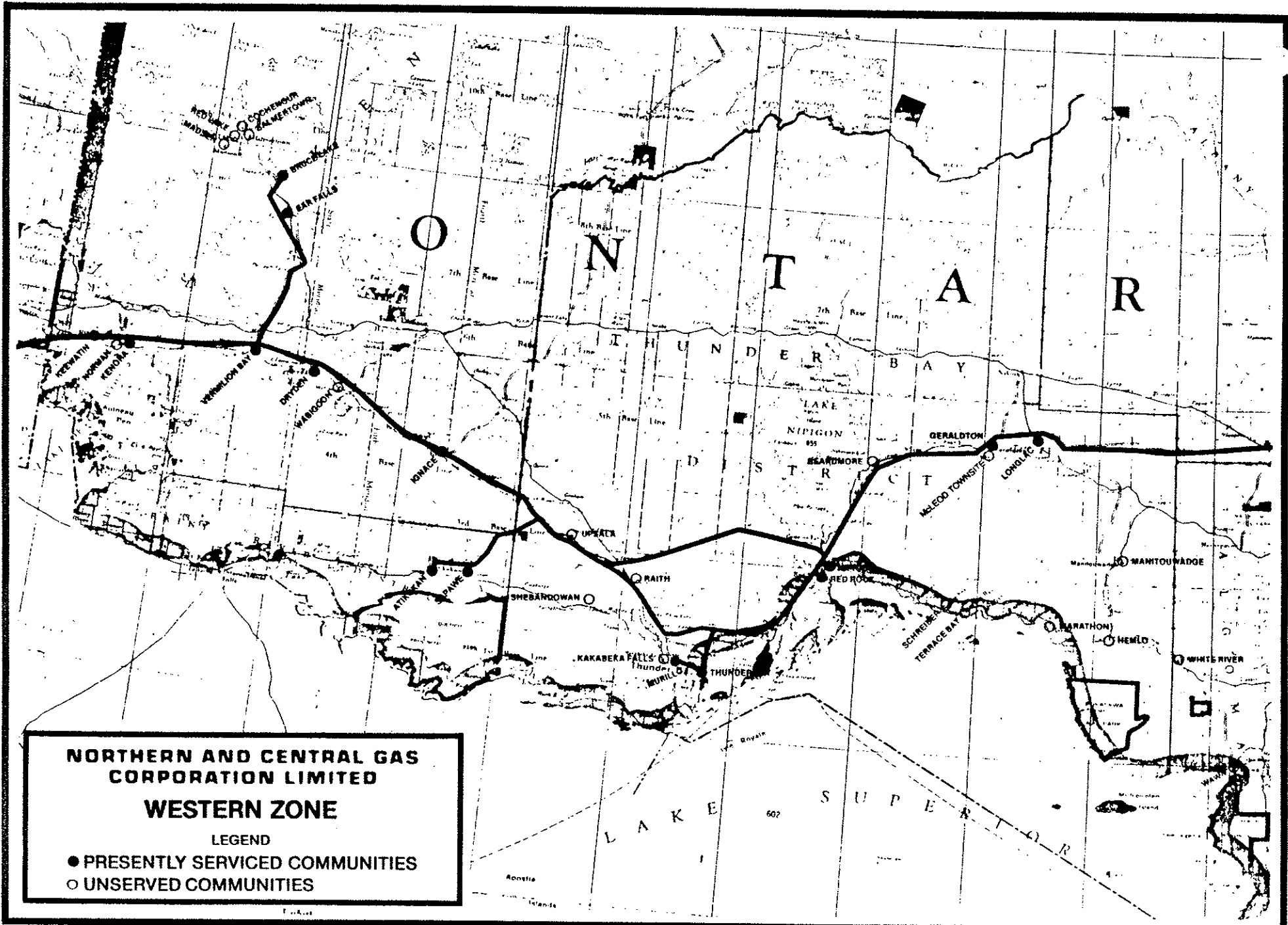
- Kingston
Kingston
Joyceville
Gananoque
Maitland
Augusta
Cardinal
Iroquois
Morrisburg
Winchester
Chesterville
Ingleside
Cornwall
Cornwall
Cornwall
Cornwall
Cornwall
Cornwall
Cornwall



NORTHERN AND CENTRAL GAS CORPORATION LIMITED
EASTERN ZONE
 LEGEND
 ● PRESENTLY SERVICED COMMUNITIES
 ○ UNSERVED COMMUNITIES

WESTERN ZONE

<u>LARGE INDUSTRIAL CUSTOMER</u>	<u>TOWN</u>
1. Boise Cascade Canada Ltd.	Kenora
2. Griffith Mines	Ear Falls
3. Great Lakes Forest Products Ltd.	Dryden
4. Abitibi Price Inc.	Thunder Bay
5. Canada Malting Co. Ltd.	Thunder Bay
6. Can-Car Rail Inc.	Thunder Bay
7. Great Lakes Forest Products Ltd.	Thunder Bay
8. Lakehead University	Thunder Bay
9. MacMillan Bloedel Ltd.	Thunder Bay
10. McKellar Hospital	Thunder Bay
11. Domtar Inc.	Red Rock
12. Weldwood of Canada Ltd.	Longlac

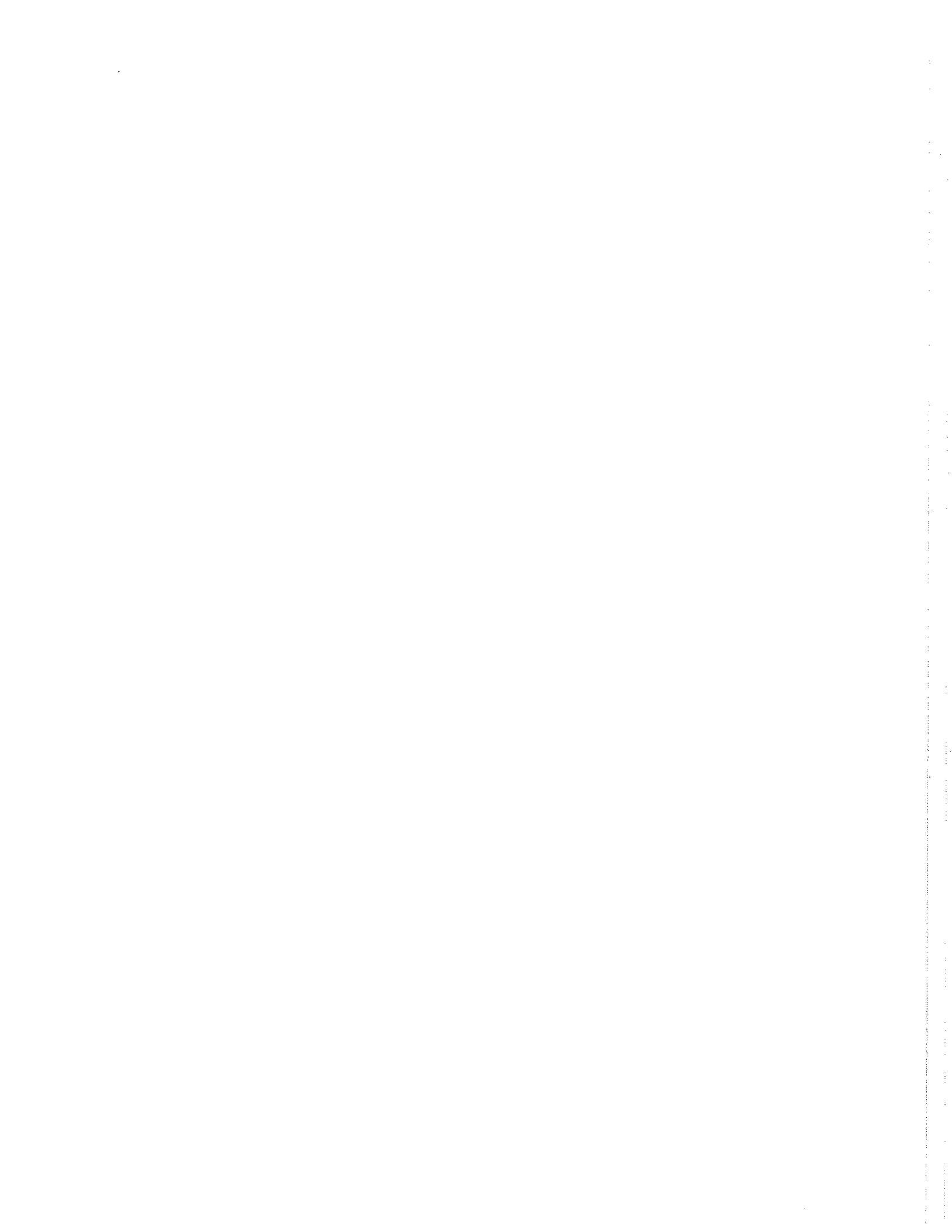




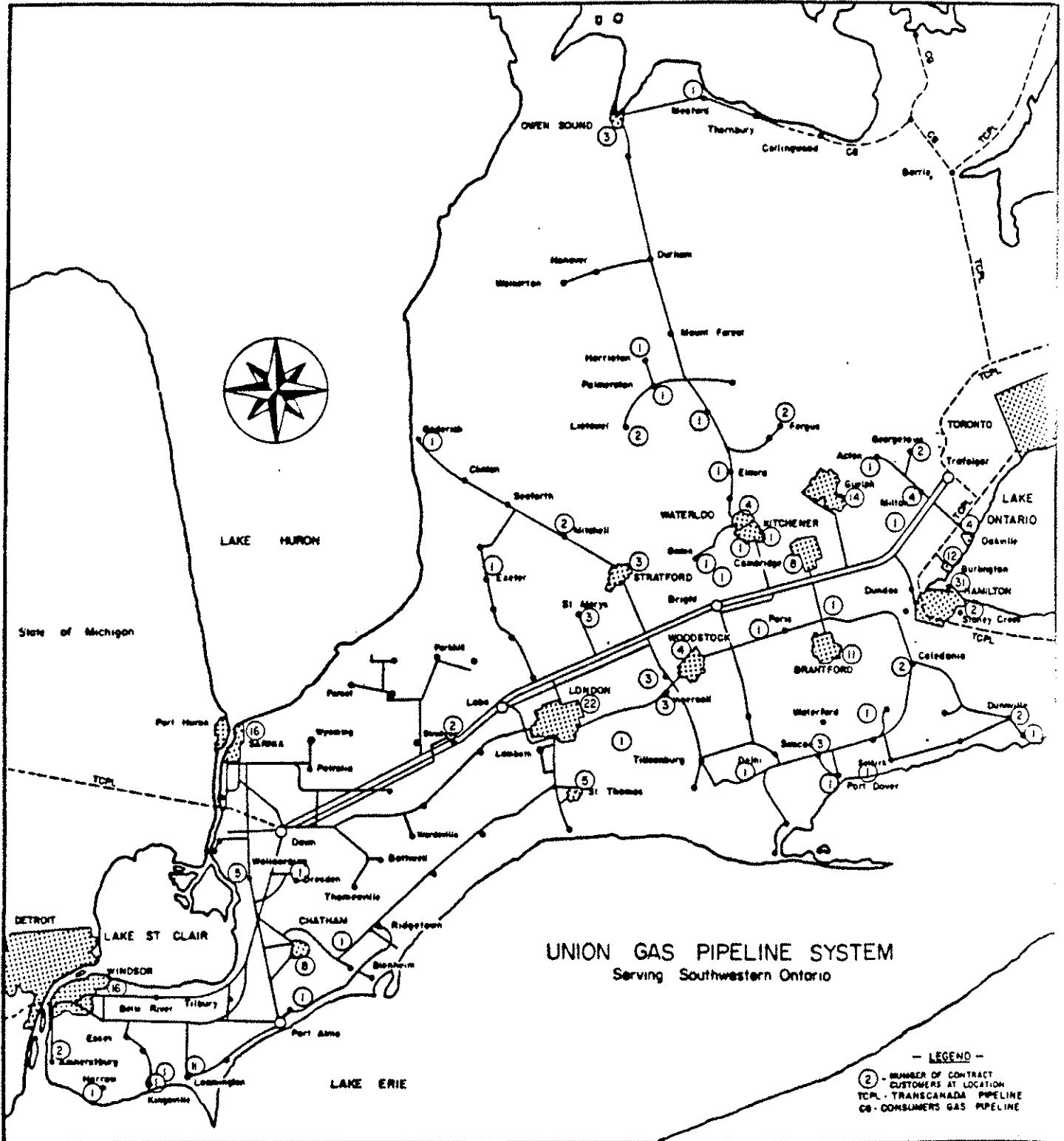
REASONS FOR DECISION

APPENDIX L.

MAP OF UNION'S AREA OF
OPERATION



CONTRACT CUSTOMER ACCOUNT MAP





REASONS FOR DECISION

APPENDIX M.

GLOSSARY OF TERMS/SHORT FORMS

REASONS FOR DECISION

APPENDIX M. GLOSSARY OF TERMS

APPLICABILITY A clause in a rate schedule which defines the
CLAUSE requirements for access to the rate.

ANNUAL CONTRACT A contracted for annual quantity of gas sold by
QUANTITY (ACQ) TCPL to a customer under a delivery schedule
GAS largely at the discretion of TCPL. Forty per
 cent is deliverable in the winter period and
 sixty per cent in the summer. The charge for
 such gas is on a volumetric basis with a provi-
 sion for a certain supplemental charge for
 volumes offered and not taken.

ANNUAL LOAD The annual load factor is a mathematical
FACTOR indicator of the way in which a customer con-
 sumes gas over the year. It is the average
 daily volume of gas consumed by a customer over
 the year expressed as a percentage of the peak
 day consumption.

REASONS FOR DECISION

AUTHORIZED
OVERRUN
INTERRUPTIBLE
(AOI) GAS

Gas which TCPL sells to a customer which is in excess of the amount contracted for by the customer and which TCPL may have available from time to time. There is a transportation charge related to the volume of gas taken.

BUNDLED
RATE

A single charge that covers a number of services provided by the distributor. Examples of such services are storage and load balancing.

BUY-SELL

In this arrangement, the end-user purchases its own supply of gas and arranges for transportation to the distributor's delivery point. The distributor purchases the gas and comingles it with the balance of its supplies, and then sells to the end-user as a sales customer under the appropriate rate schedule.

COMPETITIVE
MARKETING
PROGRAMS
(CMP)

A mechanism by which "system producers" (i.e. those who sell gas to TransCanada) provide specific discounts to individual end-users of gas. The distributor sells to the end-user under the appropriate sales rate schedule; the distributor then provides to TransCanada details of these sales; TransCanada rebates to the distributor the agreed upon discount for the preceding months volumes; and the distributor flows the rebate through to the end-user.

REASONS FOR DECISION

CONTRACT CARRIAGE A transportation service provided under contract for the transport of gas not owned by the pipeline company.

CONTRACT DEMAND GAS (CD GAS) Gas which the utility or a customer has the contractual right to demand on a daily basis from the supplier of the gas. For the transportation of the gas the customer must pay a fixed monthly demand charge regardless of volumes actually taken and also a commodity charge related to the volume taken.

COST OF GAS The utility's total cost of gas including purchases from TCPL, private local producers in Southwestern Ontario and in some cases the utility's own local production.

COST ALLOCATION The allocation of a utility's capital and operating costs among customer classes as a guide in designing rates to recover those costs in an equitable manner.

COST BASED RATES Rates designed to recover the allocated cost of service.

REASONS FOR DECISION

CUSTOMER CLASSES The division of the customers of a utility into groups with similar gas use characteristics.

CUSTOMER LOAD The total amount of gas used by a customer in a fixed period of time.

DEMAND COMMODITY RATE A rate consisting of two components - a charge based on the maximum daily demand and a commodity charge for the volumes taken. The demand portion of the rate is intended to recover these utilities costs which will be incurred whether or not gas is consumed, and the commodity portion is designed to recover those costs associated with each unit of gas consumed.

DECLINING BLOCK RATE A rate structure with two or more successive blocks with declining unit prices for each block as the level of consumption of gas increases. The total bill consists of the summation of the charges for each block.

DIRECT PURCHASE Natural gas supply purchase arrangements transacted directly between producers, brokers, or agents and end-users at negotiated prices.

REASONS FOR DECISION

DIVERSIONS A diversion occurs when gas is delivered at a different delivery point than contracted for. Such a diversion is generally undertaken to assist in the balancing of a transmission system or of supply and demand.

DOUBLE DEMAND Occurs when there is a displacement of a sale by a distributor so that the space reserved by that distributor in the TCPL system is paid for by the utility and by the direct purchaser.

DUAL FUEL CAPACITY A customer's capacity to use an alternate fuel as well as natural gas.

GIGAJOULE A measure of the energy content of a fuel. One gigajoule equals 948,213.3 Btu.

INTERRUPTIBLE CUSTOMERS Customers whose gas service is subject to interruption at the discretion of the utility. This type of customer is required to be a dual fuel customer in order and to have an alternate form of energy available in the event of interruption.

REASONS FOR DECISION

LOAD
BALANCING

The efforts of a utility to meet its sales requirements in the most economic manner. It involves balancing the gas supply to meet sales by using storage and other peak supply sources, curtailment of interruptible sales, and diversions from one delivery point to another.

MINIMUM BILL

A charge to recover a portion of the fixed and capital costs which will be incurred by the gas distributor whether or not any gas is consumed, e.g. the expenses of meter reading, billing, collecting, and customer accounting as well as those capital costs associated with the service.

PEAK DEMAND

A phrase used to describe the maximum amount of gas required over a given unit of time.

PRICE
DISCRIMINATION

Price discrimination takes place when customers that impose similar costs on the system face different prices.

REVENUE
DEFICIENCY

Revenue deficiency is the difference between the revenues required to achieve the allowed annual level of earnings established by the Board and the revenue that will be produced with current rates.

REASONS FOR DECISION

RATE BASE The amount the utility has invested in assets such as pipes, meters, compressor and regulator stations etc., minus depreciation, plus an allowance for working capital and other amounts that may be allowed by the Board.

**RATE OF
RETURN ON
RATE BASE** The amount, including interest, which the Board allows a utility to earn net of all taxes and other expenses, expressed as a percentage of rate base.

**RATE OF
RETURN ON
COMMON
EQUITY** The net income of the utility expressed as a percentage of the amount of common equity or shareholdings in the company.

RANGE RATES A rate structure which allows the gas company to negotiate prices with the customer within a range of rate levels. The final negotiated price takes into consideration various characteristics of the customer including size, load factor, supply pressure, minimum annual volume, competitive alternatives and other variables.

REASONS FOR DECISION

SINGLE BLOCK RATE	A rate with a single unit price regardless of the level of consumption.
TAKE-OR-PAY	Gas supply contracts often contain a provision so that gas contracted for, but not taken, will be paid for.
TCPL DEMAND CHARGE	A component of TCPL's CD rate, designed to recover its costs of meeting its peak gas demand, particularly the fixed costs of transmission. Demand charges are payable by the utility whether or not it takes any gas.
TOLL	A charge for service which is exclusive of the cost of gas.
TOPGAS & TOPGAS TWO	Two banking consortiums formed in 1982 and 1983 respectively which have made an aggregate of approximately \$2.65 million of take-or-pay payments to Alberta gas producers for gas contracted for but not taken by TransCanada. The payments were made on a project financing basis and are referred to as the TOPGAS and TOPGAS TWO loans. The interest on these loans is paid for by TCPL gas producers.

REASONS FOR DECISION

T-SERVICE

The gas transportation service offered by a pipeline company or distributor to transport gas owned by others for a toll. See also CONTRACT CARRIAGE.

UNBUNDLED
RATE

A series of rates where a number of the services offered by a distributor are priced separately.

UNABSORBED
DEMAND
CHARGE

Occurs when a distributor purchases its gas or receives its gas at less than its forecast load factor. The retail rates for the distributor are designed to recover gas costs calculated on the assumption that gas is purchased at the forecast load factor.

VALUE OF
SERVICE
CONCEPT

A phrase used to describe rates set on the basis of the value of service to the customer, usually in relation to alternative service or forms of energy.

REASONS FOR DECISION

SHORT FORMS

ACQ	-	Annual Contract Quantity
Act	-	Ontario Energy Board Act
Agreement	-	Agreement on Natural Gas Prices and Markets
AOI	-	Authorized Overrun Interruptible
Board	-	Ontario Energy Board
Bcf	-	Billion cubic feet (of gas)
CD	-	Contract Demand rate
ERCB	-	Energy Resources Conservation Board
LNG	-	Liquefied Natural Gas
Mcf	-	Million cubic feet (of gas)
T-Customer	-	Transportation customer
TOP	-	Take-Or-Pay
T-Rate	-	Transportation rate

REASONS FOR DECISION

- T-Service - Transportation service
 - UDC - Unabsorbed Demand Charges
 - WPS - Winter Peaking Service
-