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September 30, 2013

Via RESS Electronic Filing and Regular Mail

Attention: Kirsten Walli, Board Secretary

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, ON M4P 1E4

Dear Madam Secretary:

**RE: Review of Framework Governing the Participation of Intervenors in Board Proceedings
 Consultation and Stakeholder Conference – EB-2013-0301
 GAPLO/LCSA – Presentation Materials**

I am counsel to the Gas Pipeline Landowners of Ontario (GAPLO) and to the Lambton County Storage Association (LCSA). Please find enclosed presentation slides that I intend to use during the stakeholder conference next week.

I trust this is satisfactory. If the Board requires any additional information, please do not hesitate to email me or call me at 519-433-5310, ext. 236.

Yours truly,

SCOTT PETRIE LLP
LAW FIRM



John D. Goudy

Encl.

GAPLO/LCSA

EB-2013-0301

Stakeholder Conference - October 8, 2013

Intervenor Status

23.02

The person applying for intervenor status must satisfy the Board that he or she has a substantial interest and intends to participate actively and responsibly in the proceeding by submitting evidence, argument or interrogatories, or by crossexamining a witness.

23.03 Every letter of intervention shall contain the following information:

- (a) a description of the intervenor, its membership, if any, the interest of the intervenor in the proceeding and the grounds for the intervention;
- (b) subject to **Rule 23.04**, a concise statement of the nature and scope of the intervenor's intended participation;

3.2 AFFECTED PARTIES

Landowners, whose property will be encroached upon by pipeline, station or well drilling construction, are directly affected by the disturbances created by construction, operation and maintenance of pipelines and related facilities. Consequently, their involvement in the planning of the route or site on their property is essential. Such persons are referred to as "directly affected landowners".

- OEB Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 6th Ed., 2011, at p. 17.

3.2 AFFECTED PARTIES

Other landowners whose property lies adjacent to, or close to a proposed pipeline or designated gas storage area, may be affected by proposed construction activities due to noise, dust, and impediment to traffic flows, or the operation of a nearby facility such as a compressor station. In addition, there may be landowners who are restricted from building structures in proximity to certain facilities. Since the intent of the Guidelines is to encourage consultation, these landowners should also be involved in the planning of the route or site adjacent to their property. Such landowners will be referred to as "indirectly affected landowners".

- OEB Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, 6th Ed., 2011, at p. 17.

NOTICE OF APPLICATION AND HEARING

How to Participate

You may request intervenor status if you wish to actively participate in the proceeding. Your request must be made by letter of intervention received no later than **10 days** from the publication date of this notice, or, if you have been served personally, no later than **10 days** from the date of service.

Rule 21. Notice

21.01 Any notices required by these Rules or a Board order shall be given in writing, unless the Board directs otherwise.

21.02 The Board may direct a party to give notice of a proceeding or hearing to any person or class of persons, and the Board may direct the method of providing the notice.

21.02.1 An applicant shall give notice of a proceeding or hearing to a person with an interest in land that is affected by the application being considered in the proceeding or hearing.

21.03 Where a party has been directed to serve a notice under this Rule, the party shall file an affidavit or statement of service that indicates how, when, and to whom service was made.

Rule 23. Intervenor Status

23.01 Subject to **Rules 23.05** and except as otherwise provided in a notice or procedural order issued by the Board, a person who wishes to actively participate in the proceeding shall apply for intervenor status by filing and serving a letter of intervention by the date provided in the notice of the proceeding.

Rule 23. Intervenor Status

23.01.1 Notwithstanding Rule 23.01, a person with an interest in land that is affected by the proceeding shall not be required to apply for intervenor status and shall be deemed to be an intervenor in the proceeding unless such person notifies the Board in writing that he or she waives his or her intervenor status.

Cost Eligibility

3. COST ELIGIBILITY

3.03 A party in a Board process is eligible to apply for a cost award where the party:

- (a) primarily represents the direct interests of consumers (e.g. ratepayers) in relation to regulated services;
- (b) primarily represents a public interest relevant to the Board's mandate; or
- (c) is a person with an interest in land that is affected by the process.

3.04 In making a determination whether a party is eligible or ineligible, the Board may also consider any other factor the Board considers to be relevant to the public interest.

“In this proceeding, our group asked for and received a cost eligibility order from the Board that gave us the confidence needed to get involved in a regulatory proceeding that would directly affect our interests. This is not our application and we do not stand to profit from the sale of the St. Clair line in the way Union Gas and the participants in Dawn Gateway LP stand to profit. Therefore, the availability of cost awards to cover our costs of participating in the Board process is extremely important to us.”

- GAPLO–Union (Dawn Gateway), Written Evidence Statement, EB–2008–0411, at para. 33.

“Transfer to the NEB jurisdiction will put landowners at a severe disadvantage when it comes to responding to company applications. The OEB has in place a cost recovery mechanism that recognizes that directly affected landowners, whose lands have been encumbered with easements taken by expropriation or by agreement under threat of expropriation, may have concerns that should be addressed in the consideration of a company application. With the exception of the detailed route hearing process, the NEB has no such mechanism.”

- GAPLO–Union (Dawn Gateway), Written Evidence Statement, EB–2008–0411, at para. 33.

“With respect to the landowners along the St. Clair Line, the Board concludes that there would be some harm to landowners arising from the proposed transaction. This harm relates to the greater restrictions placed on land use, the extended scope of land affected, and the limited ability to recover regulatory costs.”

- OEB Decision dated November 27, 2009, EB-2008-0411, Application for leave to sell by Union Gas Limited, at para. 142.

“The Board expects that further negotiation will be required and will therefore also require that Union compensate landowners for their reasonably incurred costs for negotiating a final blanket approval which is acceptable to the parties and the NEB. The landowners will submit their cost claim to the OEB as part of this proceeding.”

- OEB Decision dated November 27, 2009, EB-2008-0411, Application for leave to sell by Union Gas Limited, at para. 146.

Rule 41. Cost Eligibility and Awards

41.01 Any person may apply to the Board for eligibility to receive cost awards in Board proceedings in accordance with the *Practice Directions*.

41.01.1 A person is eligible to receive a cost award in any Board proceeding in which he or she is deemed to be in an intervenor under Rule 23.01.1 and is not required to apply for eligibility under Rule 41.01.

Rule 41. Cost Eligibility and Awards

41.02 Any person in a proceeding whom the Board has determined to be eligible for cost awards under Rule 41.01 or a person in a proceeding eligible for cost awards under Rule 41.01.1 may apply for costs in the proceeding in accordance with the *Practice Directions*.

Submitted to the Ontario Energy Board on behalf of the **Gas Pipeline Landowners of Ontario (GAPLO)** and the **Lambton County Storage Association (LCSA)**.

October 8, 2013