



By Electronic Filing and By E-mail

August 24, 2009

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> floor  
Toronto, ON M4P 1E4

Dear Ms Walli,

**Union Gas Limited ("Union")**  
**Dawn Gateway Limited Partnership ("Dawn Gateway LP")**  
**Reply Submissions re: Possible New Issue**  
**Board File No.: EB-2008-0411**  
**Our File No.: 339583-000036**

Pursuant to the Board's Decision and Order dated August 5, 2009, we are writing to provide brief submissions on behalf of Canadian Manufacturers & Exporters ("CME") in reply to those made by Union Gas Limited ("Union") and Dawn Gateway Limited Partnership ("Dawn Gateway LP") in their submissions dated August 17, 2009.

We begin by adopting and supporting the reply submissions made by counsel for GAPLO/CAEPLA in his August 24, 2009 letter to the Board.

Our reasons for urging that the Final Issues List remain unaltered differ from those urged upon you by Union and Dawn Gateway LP. We take the position that it is unnecessary to amplify the Final Issues List to receive submissions on directions that should issue, in this case, in the event of a finding in favour of provincial jurisdiction over the St. Clair Line and its proposed extension to Dawn. The process directions that we urge the Board to issue, if that contingency materializes, are described in paragraphs 133 to 138 of the Written Argument we filed on behalf of CME on Friday, August 21, 2009.

We reiterate that the issuance of such directions is not a "jurisdictional experiment" as suggested by counsel for Dawn Gateway LP in his August 17 2009 letter to the Board. Rather, as we say in paragraph 135 of the August 21, 2009 Written Argument on behalf of CME, the issuance of such directions is a constructive response to the jurisdictional facts which do not oust provincial regulatory jurisdiction over the St. Clair Line and its extension to Dawn.

Borden Ladner Gervais LLP  
Lawyers • Patent & Trade-mark Agents  
World Exchange Plaza  
100 Queen Street, Suite 1100  
Ottawa ON K1P 1J9  
tel.: (613) 237-5160 fax: (613) 230-8842  
www.blgcanada.com

**PETER C.P. THOMPSON, Q.C.**  
direct tel.: (613) 787-3528  
e-mail: pthompson@blgcanada.com

The Board's consideration of the process implications of a finding in favour of provincial jurisdiction does not hinder and delay the project as Union and Dawn Gateway LP argue. On the contrary, we submit that considering the process implications of this contingency now, rather than later, should expedite the completion of the project in a scenario where provincial jurisdiction prevails over the St. Clair Line and its extension to Dawn.

The notion advanced by Dawn Gateway LP to the effect that the Board should turn a "blind eye" to the transportation services the JV proposes to provide because Union will use those services to transport gas for storage in its unregulated storage assets lacks merit for the reasons we describe in paragraph 92 of CME's Written Argument filed on August 21, 2009. If it is found that the JV's ownership and operation of the St. Clair Line and its extension to Dawn is subject to provincial jurisdiction, then the services the JV provides to multiple shippers as a regulated transmission services utility should be viewed in the same manner as the transportation services Union provides under its M16 Rate Schedule. The use that Union proposes to make of the services the JV provides should have no bearing on the manner in which the JV's ownership and operation of the St. Clair Line and its extension to Dawn is regulated by the OEB.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Peter C.P. Thompson', with a long horizontal flourish extending to the right.

Peter C.P. Thompson, Q.C.

PCT\slc

c. Intervenor EB-2008-0411  
Paul Clipsham (CME)  
Vince DeRose & Vanessa MacDonnell (BLG)

OTT01\3803870\1