



By electronic filing and e-mail

October 9, 2009

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

Dear Ms Walli,

Union Gas Limited ("Union")
Dawn Gateway Limited Partnership ("Dawn Gateway LP")
Board File No.: EB-2008-0411
Our File No.: 339583-000036

This letter is further to Ms. Wong's letter to the Board earlier today requesting that Union be exempted from the provisions of Procedural Order No. 4. For reasons which follow, we urge the Board to refrain from granting the exemption Union seeks.

The record in this case clearly reveals that, for the purposes of their testimony in this proceeding, Union witnesses had access to the contracts that the Board requires Union and/or Dawn Gateway to produce.

The contracts are mentioned in several places in the pre-filed evidence and the testimony of witnesses, including the following:

- Tab Pre-Filed Evidence, page 7, paragraph 37;
- Transcript, Volume 1, page 22, line 27 to page 23, line 11;
- Transcript, Volume 1, page 61, line 27 to page 63, line 21;
- Exhibit K1.8, Tab 15, pages 55 and 56; and
- Transcript, Volume 1, page 169, line 28 to page 172, line 23.

The access of Union personnel to these contracts, for the purposes of their testimony in these proceedings, has obviously been with the consent of Dawn Gateway.

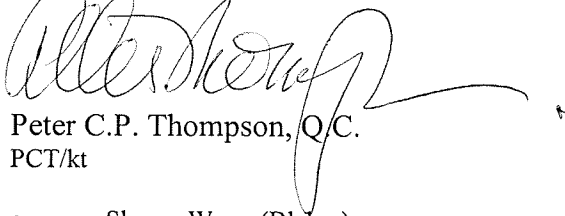
In these circumstances, we submit that, for the purposes of the Production Order in Procedural Order No. 4, these documents are in Union's "possession". We submit that Union is obliged to produce copies of the documents to which its witnesses have had access for the purposes of testifying in these proceedings.

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The exemption relief Union seeks ought not to be granted.

Yours very truly,

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

Peter C.P. Thompson, Q.C.
PCT/kt

c. Sharon Wong (Blakes)
All Intervenors – EB-2008-0411
Paul Clipsham (CME)

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