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BY E-MAIL & COURIER

October 30, 2009
File No. 014355.1060

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Notice of Revised Proposal to Make a Rule
Storage and Transportation Access Rule (STAR)
EB-2008-0052**

These are the comments of Shell Energy North America (Canada) Inc. ("Shell Energy") submitted in response to the Ontario Energy Board's Notice of a Revised Proposal to Make a Rule, Storage and Transportation Access Rule ("STAR") dated September 18, 2009.

Shell Energy strongly objects to the addition of new provisions in the latest iteration of the proposed STAR that require the disclosure of pricing information contained in a customer's transportation or storage contract. Such information is commercially sensitive and its disclosure would prejudice the competitive position of Shell Energy and other customers. Shell Energy is particularly concerned about the disclosure of pricing information contained in existing customer contracts. The Board's retroactive amendment of existing confidentiality provisions in these agreements will improperly cause Shell Energy and other customers unnecessary commercial harm.

Shell Energy's concern about the disclosure of sensitive commercial information contained in storage contracts is longstanding. The Board previously recognized in EB-2007-0724/EB-2007-0725 the importance of keeping the commercially sensitive information of storage customers confidential. In that proceeding, the Industrial Gas Users Association ("IGUA") requested the production certain information from storage customers. In its Decision and Order dated November 2, 2007, the Board acknowledged that it was "sensitive to customers' concern that this information not become public" and implemented safeguards on the parties

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receiving the information to ensure that it was not disclosed. The disclosure requirements for posting and reporting in the proposed STAR cover similar sensitive commercial information and requiring the disclosure of that information runs contrary to the legitimate concerns previously recognized, respected and enforced by the Board. For this reason, any provisions that require the disclosure of such information should be removed from the STAR.

Alternatively, if the Board continues to maintain the contested position that disclosure of non-affiliated customer pricing information is warranted in a competitive market, then Shell Energy requests that the Board limit this disclosure to pricing information contained in transportation and storage contracts executed after STAR comes into force on March 22, 2010. This will ensure that the disclosure requirements do not apply to *existing* contracts. When the existing contracts were negotiated, the parties expected that the pricing information they contained would remain confidential and relied upon those confidentiality provisions in structuring their business relationships.

Further, requiring the disclosure of information contained in existing contracts would be contrary to the parties' legitimate expectations and constitutes retroactive regulation. The Board only has the jurisdiction to require retroactivity in regulatory matters when it is clearly in the public interest. In this case, the detrimental commercial impact in a competitive marketplace of retroactively releasing pricing information far outweighs any public good given the limited analytical value. As the terms and pricing information in an existing contract were negotiated under a different regulatory regime, such information will not be of any probative value to customers operating in a future market regulated by STAR. Without the market context at the time the contracts were executed, release of this older pricing information could be easily misconstrued or abused.

For the reasons set out above, Shell Energy requests the Board make the following amendments to the proposed STAR:

- Delete the newly proposed section 2.3.7, which provides for the posting of existing transportation contracts.
- Delete the newly proposed section 3.1.4, which allows for the disclosure of a customer's pricing and revenue information.
- If the Board decides to retain section 3.1.4 in the final STAR, Shell Energy is concerned it could be construed as applying to existing contracts. An express intent is required to regulate retroactively and, as section 3.1.4 does not explicitly apply to existing contracts (in

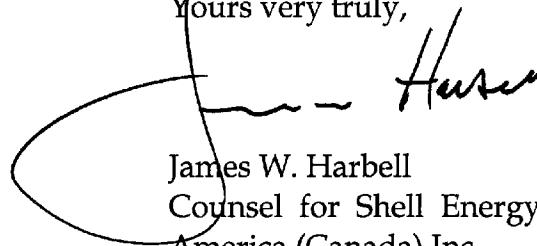
contrast to section 2.3.7), it is Shell Energy's position that section 3.1.4 as currently drafted does not require or authorize a storage company to disclose pricing information contained in existing contracts. However, Shell Energy requests that STAR be revised to more clearly express this intent and suggests that an exemption to section 3.1.4 be crafted for existing contracts.

For a storage contract with a shipper, which was in place before March 22, 2101, section 3.1.4 of the Rule will not apply.

- Shell Energy also encourages the Board to make a clear policy statement that the disclosure of pricing information is not required or permitted by either section 4.2.4 or section 4.2.5. While Shell Energy believes these provisions as currently drafted do not require the disclosure of pricing information, clearer indication of this point would ensure that transmitters and storage companies do not inadvertently disclose such information during the implementation of STAR.

Shell Energy thanks the Board for the opportunity to submit these written comments on the proposed STAR. Should you have any questions or concerns about these comments, please do not hesitate to contact the undersigned.

Yours very truly,

A handwritten signature in black ink, appearing to read "James W. Harbell". The signature is written in a cursive style with a large loop at the beginning.

James W. Harbell
Counsel for Shell Energy North
America (Canada) Inc.

cc: Paul Kerr, *Shell Energy North America (Canada) Inc.*
Patrick Duffy, *Stikeman Elliott LLP*