



EB-2008-0411

IN THE MATTER OF the *Ontario Energy Board Act 1998*,
S.O.1998, c.15, (Schedule B) (the “Act”);

AND IN THE MATTER OF an Application by Union Gas Limited pursuant to section 43(1) of the Act, for an Order or Orders granting leave to sell 11.7 kilometers of natural gas pipeline between the St. Clair Valve Site and Bickford Compressor Site in the Township of St. Clair, all in the Province of Ontario.

PROCEDURAL ORDER NO. 6

On December 23, 2008, Union Gas Limited (“Union”) filed an application with the Ontario Energy Board (the “OEB”) under section 43(1) of the *Ontario Energy Board Act, 1998* seeking an order from the Board granting leave to sell 11.7 kilometers of 24 inch diameter steel natural gas pipeline running between the St. Clair Valve Site and the Bickford Compressor Site in the Township of St. Clair.

The Board issued its Decision and Order regarding the sale of the St. Clair Line on November 27, 2009 (the “Decision”). The Board directed that Union file, within 30 days of the Decision, its calculation of the cumulative under-recovery of the St. Clair Line from 2003 to the current time and its estimate as of the closing date of the transaction. The Decision allowed intervenors to make submissions regarding the accuracy of the estimate within 10 days of receiving the information from Union. The Decision also provided Union with the opportunity to reply to the submissions of the intervenors provided the reply submissions were made within 7 days of receipt of the intervenors’ submissions.

Union filed its calculation of the cumulative under-recovery of the St. Clair Line on December 23, 2009. Board staff, CME and FRPO all filed submissions on Union's calculation. Union filed a reply submission on January 15, 2010. Union's reply submission included evidence on the estimated cost of replacing the St. Clair Line.

CME and FRPO filed letters on January 18, 2010 which stated that the evidence in Union's reply submission regarding the estimated cost of replacing the St. Clair Line is new evidence and not proper reply. CME and FRPO noted that intervenors have been given no opportunity to respond to this new material. CME and FRPO requested that the Board strike the evidence related to the estimated cost of replacing the St. Clair Line from the record. Union filed a letter on January 19, 2010 responding to the January 18, 2010 letters of CME and FRPO. Union submitted that there was nothing improper or unfair about its reply submission and requested that the Board dismiss the intervenors' request that the evidence be stricken from the record.

The Board has decided that the evidence filed by Union regarding the estimated cost of replacing the St. Clair Line shall remain on the record. The Board believes that this evidence is a relevant consideration in this proceeding. However, the Board believes that the intervenors should have an opportunity to comment on the evidence. Therefore, the Board considers it necessary to make provision for the following procedural matters.

Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

- 1) Board staff and intervenors wishing to make comments on Union's Reply Submission may do so by filing such submissions with the Board Secretary and serving a copy on Union by **January 29, 2010**.
- 2) Union shall file reply to any comments received by filing such replies with the Board Secretary and serving a copy on all parties by **February 3, 2010**.

All filings with the Board must quote the file number **EB-2008-0411**, and be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper

copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to BoardSec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file seven (7) paper copies.

DATED at Toronto, January 22, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary