



By electronic filing and e-mail

March 22, 2010

Kirsten Walli
Board Secretary
Ontario Energy Board
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Dear Ms Walli,

**Dawn Gateway Pipeline Limited Partnership ("DGLP")
Draft Rate Order**

Board File No.: EB-2009-0422
Our File No.: 339583-000059

As solicitors for Canadian Manufacturers & Exporters ("CME"), we have reviewed the Draft Rate Order submitted by DGLP on March 18, 2010.

Subject to the comments below on paragraph 7, we believe that the Draft Rate Order complies with the Board's March 9, 2010 Decision and Order (the "Decision").

DGLP notes in its covering letter that the language in paragraph 7 of its Draft Rate Order varies from the language used by the Board in paragraph 51 of the Decision. The Board's rationale in requiring DGLP to file individual contracts with the Board on a confidential basis is stated in paragraph 51 as follows:

"However, given the unsatisfactory nature of the evidentiary record, the Board will require Dawn Gateway to file individual contracts with the Board on a confidential basis. That will allow the Board to monitor the situation. Given that this is a new regulatory procedure that is likely a prudent step in any event. Shippers making a complaint can then make a motion that the contracts should be put on the public record or at least disclosed to them for the purpose of arguing the complaint. The Board will also be able to determine at that point whether any further information is required." (emphasis added)

Short-term shippers on DGLP, being those who have executed contracts for terms less than one (1) year, have the same complaint rights as longer term shippers and will have the same interest as longer term shippers in having the right to request that provisions of shorter term contracts be put on the public record or at least disclosed to them for the purposes of arguing a complaint.

In these circumstances, we submit that it would be inappropriate to relieve DGLP from filing all individual contracts before the Board has gained some experience in monitoring the situation. If a situation emerges where the frequency of shorter term contracts becomes high, then DGLP can, at that time, seek some relief from the filing of such contracts on impracticality grounds. It is, however, premature to grant that relief now since there is no evidence to establish that the

frequency of shorter term transportation contracts is high. The evidence at the hearing was to the effect that DGLP would attempt to sell the balance of its unutilized capacity on a long term basis. If that contingency materializes, then the frequency of shorter term contracts could be quite low.

For these reasons, we suggest that the language DGLP proposes in paragraph 7 of the Draft Rate Order is inappropriate and that the paragraph should be changed to read:

"Dawn Gateway is required to file individual contracts with the Board on a confidential basis upon execution with its customers."

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. Sharon Wong (Blakes)
Mark Murray (Dawn Gateway c/o Union Gas Limited)
Intervenors in EB-2009-0422
Paul Clipsham (CME)

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