



**EB-2011-0076**  
**EB-2011-0077**  
**EB-2011-0078**  
**EB-2011-0285**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B; and in particular sections 36.1(1), 38(1), 40(1), 90(1), thereof;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for an Order designating the areas known as the Stanley 4-7-XI Pool and the Bayfield Pool, in the County of Huron, as gas storage areas;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for authority to inject gas into, store gas in and remove gas from the areas designated as the Stanley 4-7-XI Pool and the Bayfield Pool and to enter into and upon the lands in the said areas and use the land for such purposes;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. to the Ministry of Natural Resources for a license to drill wells in the said areas;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for an Order granting leave to construct natural gas pipelines in the County of Huron and in the County of Middlesex;

**AND IN THE MATTER OF** an application by Tribute Resources Inc. for a determination in respect of the compensation payable under Section 38 of the *Ontario Energy Board Act, 1998*.

## **DECISION ON CONFIDENTIALITY REQUEST**

**August 27, 2012**

## Confidentiality Request

On July 9, 2012, in response to Board Staff interrogatories, Tribute filed two documents for which it is seeking confidentiality ("Confidentiality Request"), namely Board staff interrogatory No. 5 and No. 9. These documents are Tribute's Business Plan and Tribute's Pipeline Feasibility Assessment respectively. Tribute claims that each of the documents contains sensitive financial data and information, including internal rates of return, the disclosure of which could reasonably be expected to significantly prejudice Tribute's competitive position in the gas storage business. Tribute also claimed that public disclosure would place Tribute in breach of certain confidentiality obligations that it has under existing contracts with Market Hub Partners Canada LP ("Market Hub").

By way of Procedural Order No. 4 issued on July 13, 2012 the Board established the process for written submissions on the Confidentiality Request. McKinley Farms Ltd. and 2195002 Ontario Inc. ("McKinley") filed an Objection to the Confidentiality Request by Tribute, on July 26, 2012. Tribute filed a Reply submission to the Objection on August 3, 2012.

## Submissions

McKinley objected to the request for confidentiality stating that that the information in both documents is not commercially sensitive and Tribute's internal rates of return have already been made public. Further, McKinley claimed that all the storage pools in Huron County are controlled by Tribute and as such there is no concern about prejudice to Tribute's competitive position should the information be made public. McKinley also submitted that the confidentiality obligations by Tribute to Market Hub were not proven by Tribute. Lastly, McKinley stated that if the Confidentiality Request was granted it would prevent McKinley from being sufficiently able to present its case as the financial information contained in the documents is necessary to determine the level of compensation owed to McKinley.

In its Reply, Tribute disagreed with the arguments put forward by McKinley and stated that the rates of return previously disclosed were of a generic nature and different than those in the claimed confidential document. Further, Tribute submitted that storage was a competitive business and stated that there are other operators present in the Huron County Area including Northern Cross Energy Limited, an intervenor in this proceeding.

Tribute also noted that its confidentiality commitments to Market Hub would be breached if there was public disclosure of the confidential documents. Lastly, Tribute explained that the Confidentiality Request is not relevant to the determination of compensation at this time as the section 38 application with respect to compensation had been stayed.

## **Board Findings**

Upon review and consideration of the submissions filed, the Board grants confidential status to Tribute's Business Plan and Tribute's Pipeline Feasibility Assessment.

The Board finds that feasibility assessments and business plans of competitive businesses by their very nature are commercially sensitive documents and that the Board has in the past granted confidentiality status to these types of documents. With regard to McKinley's claim that prospective storage is not competitive in Huron County, the Board notes that other entities, such as Northern Cross Energy Limited, in addition to Tribute, own storage pools in the Huron County area and as such disclosure of the information may prejudice Tribute's competitive position. The Board has also previously found in its Natural Gas Electricity Interface Review (EB-2005-0551) that all new storage developments in Ontario operate in a competitive environment and that the economic aspects of market-based natural gas storage are not regulated by the Board. Lastly, the Board notes that counsel for McKinley, having signed the Declaration and Undertaking, has access to the confidential documents and as such there is no merit to the claim that McKinley would be unable to sufficiently present its case with respect to compensation.

**DATED** at Toronto, August 27, 2012

## **ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary