

August 22, 2012

BY RESS and COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2700, 2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

**Re: Union Gas Limited (“Union”)
Thunder Bay Pipeline Project
Board File # EB-2012-0226\EB-2012-0227**

This letter is in response to Procedural Order No. 1 for the above captioned proceeding. In Procedural Order No. 1 the Board granted Thunder Bay Terminals Limited (“TBTL”) intervenor status and cost award eligibility status, subject to Union Gas Limited’s (“Union”) right to object. This letter will address those two issues.

Union does not object to TBTL having intervenor status in the proceeding, as TBTL is a person with an interest in land that is affected by the process. It is Union’s understanding that TBTL leases land from Canadian Pacific Railway Company along the route of the proposed pipeline on McKellar Island. Union does however object to TBTL being eligible for a cost award. Section 3.04 of the practice Direction on Cost Awards states *“In making a determination whether a party is eligible or ineligible (for a cost award), the Board may...in the case of a party that is a commercial entity, have regard to whether the entity primarily represents its own commercial interest (other than as a ratepayer) rather than the public interest even if the entity may be in the business of providing services that can be said to serve a public interest relevant to the Boards mandate”*.

It is Union’s position that TBTL is a commercial entity whose primary interest in the project is its own commercial interest and not the public interest. Union refers to correspondence from TBTL’s counsel dated July 3, 2012, and specifically to the paragraph titled “Nature and Scope of TBTL’s Intended Participation”. As a result, TBTL should not be eligible for a cost award.

With respect to any issues or concerns which TBTL may have regarding the project, as it affects the pipeline route across McKellar Island, Union will follow its standard practice of negotiating land rights with the landowner (Canadian Pacific Railway Company), and after those discussions have taken place, will deal with any issues that are brought forward by the leaseholder (TBTL).

Sincerely,

[original signed by]

Mark A. Murray, LL.B
Manager, Regulatory Projects and Lands Acquisition
:mjp

cc: Intervenor
Zora Crnojacki, Ontario Energy Board