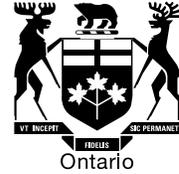


Ontario Energy Board
P.O. Box 2319
27th. Floor
2300 Yonge Street
Toronto ON M4P 1E4
Telephone: 416- 481-1967
Facsimile: 416- 440-7656
Toll free: 1-888-632-6273

Commission de l'énergie de l'Ontario
C.P. 2319
27e étage
2300, rue Yonge
Toronto ON M4P 1E4
Téléphone: 416- 481-1967
Télécopieur: 416- 440-7656
Numéro sans frais: 1-888-632-6273



BY E-MAIL

September 17, 2012

Ian Mondrow
Gowling Lafleur Henderson LLP
Suite 1600, 1 First Canadian Place
100 King Street West
Toronto, ON M5X 1G5

Dear Mr. Mondrow:

**Re: Cost Eligibility Status of Thunder Bay Terminals Limited
Union Gas Limited-Application to Construct Supply Pipeline to Thunder
Bay Generating Station (EB-2012-0226) and Application for Certificate of
Public Convenience and Necessity for the Township of Gorham (EB-2012-
0227)**

By way of Procedural Order No. 1 the Board granted Thunder Bay Terminals Limited ("TBTL") intervenor status and cost award eligibility subject to the Board's consideration of any objections raised by Union Gas Limited ("Union"). On August 22, 2012 the Board received correspondence from Union objecting to the Board's award of cost eligibility to TBTL. On August 24, 2012, TBTL filed a letter with the Board in response to Union's objection.

In its objection, Union noted that TBTL "is a commercial entity whose primary interest in the project is its own commercial interest and not the public interest." Union also argued that section 3.04 of the *Practice Direction on Cost Awards* should be read to qualify section 3.03 (which is the section setting out when a party is eligible to apply for a cost award), and specifically section 3.03 (c) which establishes that a person with an interest in land that is affected by the process is eligible to apply for a cost award. In its response to Union's objection TBTL argued that section 3.04 does not qualify eligibility for costs.

The Board has considered Union's objection and the response by TBTL and has determined that cost award eligibility status was appropriately granted to TBTL for the following reasons: TBTL leases land for its operations from Canadian Pacific Railway Company along the route of the proposed pipeline on McKellar Island; under the Board's *Practice Direction for Cost Awards*, TBTL is a "person with an interest in land

that is affected by the process”; and while TBTL is a commercial entity it does not stand to profit from the construction of the pipeline. The Board also noted that TBTL has stated that is interested in participating with respect to the execution and remediation by Union of the construction of the proposed pipeline. Based on the reasons set out above cost award eligibility status was properly granted to TBTL.

Yours truly,

Original signed by

John Pickernell
Assistant Board Secretary

c. Union Gas Limited and all participants in the EB-2012-0226 and EB-2012-0227