

March 12, 2014

COURIER, EMAIL AND RESS

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Natural Gas Supply to Greenfield South Power Generation Facility
(EB-2013-0424)**

This letter is in response to the correspondence of McMillian LLP, dated March 7, 2014 filed on behalf of Greenfield South Power Corporation ("Greenfield South") in respect of: (a) concerns raised by Union Gas Limited ("Union") with respect to Greenfield South's intentions for a natural gas connection and (b) Union's request for intervention status in EB-2013-0424 set out in correspondence from Union to the Ontario Energy Board dated February 28, 2014 ("Union's letter"). In its March 7, 2014 letter Greenfield South alleged that Union had no substantial interest in the licensing proceeding; Union's letter was a baseless attempt to raise the issue of a requirement for a certificate of public convenience and necessity by Greenfield South; and Union's letter was an abuse of the Board's process with the intent to manipulate the Board.

As indicated in its letter, Union currently has the Certificate of Public Convenience and Necessity to construct works and supply gas in all of the Township of St. Clair, which Union considers to be exclusive. Greenfield South proposes to change the location of its generation facility to the Township of St. Clair and, being a gas-fuelled electricity generation facility, is planning its natural gas connections. Anything that could affect Union's certificate rights and its distribution system is of significant concern to Union. As a result, Union does have a direct interest in the location of the Greenfield South generation facility and its resulting connections.

In its letter, Union also raised the issue that Greenfield South will need to apply to the Ontario Energy Board for a Certificate of Public Convenience and Necessity under the *Municipal Franchises Act* with respect to any gas pipeline connection between the Greenfield South facilities and the Vector Pipeline. Greenfield South made repeated statements in its letter that any such assertion was without merit and that a certificate was not required as any and all gas works would be located entirely on Greenfield South's property. However, Union notes that in its January 6, 2006 Decision and Order in EB-2005-0473, the Board stated that (on page 39):

"The amendment reduced the scope of section 8 of the MFA such that it is the construction of works that is addressed by the section. The Board finds that a

purposive interpretation of the MFA suggests that all persons who wish to construct pipelines to supply natural gas need a Certificate, unless such persons are exempted by the words in the section that relate to supply before 1933.

The Board is of the view that the section applies even where the recipient of the gas is identical with the constructor of the pipeline. ***We find that the word “supply” should be interpreted to include supplying oneself.*** It is important that the Board retain oversight of the construction of hydrocarbon pipelines in Ontario for reasons including safety, regulatory policy and the avoidance of the unnecessary proliferation of gas works. As pointed out in the hearing, not every gas pipeline is subject to approval under the leave to construct provisions of the OEB Act. The need for a Certificate under the MFA provides the Board with the opportunity to assess the need for a gas pipeline and the competency of the proponent to construct the line safely.” (*emphasis added*)

Based upon the foregoing, Union has a true interest in the licensed proceeding with respect to the location of the generation facility and also has a genuine concern with respect to the requirement for a certificate of public convenience and necessity. Union’s correspondence and the request made therein is neither an abuse of process or an attempt to manipulate the Board. As a regulated utility Union has an obligation to ensure the appropriate administration of its Certificate of Public Convenience and Necessity and to deal with any potential impacts on its distribution system for the benefit and protection of rate payers and its shareholders.

Union also has the greatest respect for the Ontario Energy Board and understands that it is fully within the discretion of the Board to decide how to administer its process and whether to consider concerns with respect to the natural gas connection of the Greenfield South’s facility in the context of the licensed proceeding or in a separate proceeding. Union notes however, that it would be appropriate to deal with the matter within the context of the licensed proceeding by way of an added license condition with respect to a requirement to seek any certificate of public convenience and necessity in the event that Greenfield South pursues a bypass pipeline connection and a leave to construct application, if necessary.

Yours truly,

ORIGINAL SIGNED BY:

Charles Keizer

CK/ed

cc (by email): Mike Richmond, McMillan LLP
 Greg Vogt, Eastern Power Limited
 Matthew Malinowski, Vector Pipeline
 Mary Anne Aldred, Ontario Energy Board
 Lynne Anderson, Ontario Energy Board
 Vince Mazzone, Ontario Energy Board