



Reply to the Attention of Mike Richmond  
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Our File No. 211923  
Date March 17, 2014

**BY COURIER, EMAIL AND RESS**

**EB-2013-0424**

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

Dear Ms. Walli:

**Re: Letter from Torys dated March 12, 2014  
EB-2013-0424 (Application for Amendment to Electricity Generator License  
EG-2009-2013)**

We wish to respond on behalf of Greenfield South Power Corporation ("**Greenfield South**") to the March 12, 2014 correspondence from Torys LLP filed on behalf of Union Gas Limited ("**Union**").

The Torys letter further compounds Union's initial error in seeking to intervene in the wrong proceeding.

Union does not have a substantial interest in the Electricity Generation License which is the subject of the Application before the Board.

By their own admission, Union's interest relates to the construction of possible gas works, not to the capacity of Greenfield South to operate a power plant.

At present, no construction of gas works by the Applicant is underway, either in St. Clair Township or anywhere else, and no construction of gas works is before the Board. If and when it wishes to construct gas works, Greenfield South will comply with all applicable laws, including all regulatory and legislated pre-requisites in force at the time prior to commencing such construction. If any proceedings before the Board are required in respect of such gas works, Union may wish to intervene in any such proceedings at that time.

But the issuance of an amendment to the information set out in Schedule 1 of an Electricity Generation License is not a pre-requisite to constructing gas works, and the construction of gas works is not a pre-requisite to amending the information in Schedule 1 of an existing Electricity

Generation License. There are at present no proceedings before the Board related to any gas works by Greenfield South for the project and no proposal by Greenfield South to install gas works before the Board.

As we indicated in our previous correspondence, Union's attempted intervention in an informational amendment to Schedule 1 of an existing Electricity Generation License is inappropriate and premature.

While Greenfield South is certainly familiar with the Decision and Order in EB-2005-0473 (the "GEC Decision") as quoted by Torys and finds it interesting, it is simply not relevant to the Application at hand. The GEC Decision does not provide any guidance or have any precedential value in respect of an Electricity Generation License amendment application, which is the application in which Union is attempting to intervene.

If Union has any evidence that Greenfield South has breached the *Municipal Franchises Act*, then we would urge them to file a complaint with the Board in the customary manner. If Union has no evidence that Greenfield South has breached the *Municipal Franchises Act*, then their submissions are based entirely on conjecture and not on any fact or evidence. According to the *OEB Resource Guide*<sup>1</sup>, OEB decisions "are based on the evidence presented by the applicant and by other affected parties." Union should be familiar enough with the Board to know that it does not base its decisions on conjecture.

With respect to the condition which Union proposes be added to the Electricity Generation License, we have the following comments:

1. As explained above, Union has no interest in the present electricity application and therefore should not be permitted to intervene. It would be contrary to the interests of fairness and natural justice for the Board to accord any weight to the submissions and requests of a party which has not been and ought not be granted intervenor status, since the submissions of a party with no interest in the application before the Board (as opposed to the application which such party might wish were before the Board) should not form part of the record and not be considered by the Board.
2. If Union's interpretation of the *Municipal Franchises Act* is correct, then Greenfield South is already required by law to apply for a Certificate of Public Convenience and Necessity at the appropriate time (which is not now) if and when it plans to construct gas works; adding this as a license condition will not make such future application for a Certificate any more or less of a legal requirement.
3. If Union's interpretation of the *Municipal Franchises Act* is incorrect, then the requested condition would in fact impose a legal requirement on Greenfield South which does not otherwise exist, does not apply to any other Licensee, and is therefore an unfair

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<sup>1</sup>Getting to Know the Ontario Energy Board: Resource Guide for Regulated Entities, published by the OEB March 2009, page 11.

obligation on Greenfield South. There is therefore no discernible benefit to adding such a condition (if the legal requirement already exists) but there is an identifiable risk of such a condition being unfairly applied exclusively to a single Licensee.

We therefore request that the Electricity Generation License amendment be issued in a timely manner and that the Board bring the matter of the update to Schedule 1 of the Electricity Generation License to a close.

We are of course available to provide any additional information required by the Board.

Yours truly,



Mike Richmond

cc (by email): Charles Keizer, Torys LLP  
Hubert Vogt, Greenfield South Power Corporation  
Steve Baker, Union Gas Limited  
Matthew Malinowski, Vector Pipeline  
Colin Anderson, Ontario Power Authority  
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