

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SEMCANADA CRUDE COMPANY, SEMCAMS ULC, SEMCANADA ENERGY
COMPANY, A.E. SHARP LTD., CEG ENERGY OPTIONS, INC., and 1380331
ALBERTA ULC**

APPLICANTS


BEFORE THE HONOURABLE) AT THE LAW COURTS, IN THE CITY
JUSTICE B.E.C. ROMAINE) OF CALGARY, IN THE PROVINCE OF
IN CHAMBERS) ALBERTA, ON WEDNESDAY, THE 29TH
) DAY OF APRIL, 2009

CROSS-BORDER PROTOCOL ORDER


UPON the application of the Applicants for an order approving and implementing an insolvency protocol governing cross-border matters and issues (the "**Protocol**") relating to the reorganization proceedings of the Applicants pursuant to the provisions of the *Companies' Creditors Arrangement Act* (the "**CCAA**") and the further related proceedings under Chapter 11 of Title 11 of the *United States Code* in the United States Bankruptcy Court for the District of Delaware; **AND UPON** having read (i) the Notice of Motion, filed, and (ii) the Eleventh Report of the court-appointed monitor, Ernst & Young Inc. (the "**Monitor**"), filed; **AND UPON** hearing counsel for the Applicants, the Monitor, and counsel present for other parties; **AND UPON** being satisfied that the Applicants have acted and continue to act in good faith and with due diligence and that the circumstances exist that make this Order appropriate; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. The time for service of the Notice of Motion dated February 12, 2009 and materials in support thereof is hereby abridged, if necessary, and this application is properly returnable today and further service of the Notice of Motion, other than to those listed on the Service List attached to the Notice of Motion, is hereby dispensed with.

2. The Protocol, a copy of which is attached hereto as Schedule "A", is hereby approved in its entirety.
3. The Protocol shall become effective upon its approval by the United States Bankruptcy Court for the District of Delaware, and the parties to these proceedings and any other person shall be governed by it and shall comply with the same.
4. This Court hereby requests the aid and recognition (including the assistance of any court in Canada pursuant to section 17 of the CCAA) of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or any court or any judicial, regulatory or administrative body of the United States, including the United States Bankruptcy Court for the District of Delaware, and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.



J.C.Q.B.A.

ENTERED THIS ²²29th
day of ~~April~~ ^{May}, 2009.
V.A. BRANDT 
CLERK OF THE COURT

SCHEDULE "A": PROTOCOL

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
SEMCRUDE, L.P. <i>et al.</i>)	Case No. 08-11525 (BLS)
)	(Jointly Administered)
)	
)	
Debtors.)	
)	

Action No. 0801-08510

**COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEMCANADA CRUDE COMPANY,
SEMCAMS ULC, SEMCANADA ENERGY COMPANY, A.E.
SHARP LTD., CEG ENERGY OPTIONS, INC., 3191278 NOVA
SCOTIA COMPANY and 1380331 ALBERTA ULC

APPLICANTS

INSOLVENCY PROTOCOL GOVERNING

CROSS-BORDER MATTERS AND ISSUES

RELATING TO THE PLENARY REORGANIZATION PROCEEDINGS

OF THE ABOVE DEBTORS AND APPLICANTS

This cross-border insolvency protocol (the “**Protocol**”) shall govern the conduct of all parties having an interest in the Insolvency Proceedings (as such term is defined herein).

The Guidelines Applicable to Court-to-Court Communications in Cross-Border Cases (the “**Guidelines**”) attached as Schedule “A” hereto, shall be incorporated by reference and form part of this Protocol. Where there is any discrepancy between the Protocol and the Guidelines, this Protocol shall prevail.

A. Background

1. SemGroup, L.P. (“**SemGroup**”) and certain of its direct and indirect subsidiaries in the U.S. listed in Schedule “B” hereto (collectively, SemGroup or the “**U.S. Debtors**”) filed voluntary petitions for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et. seq.* (the “**Bankruptcy Code**”) in the U.S. Bankruptcy Court for the District of Delaware (the “**U.S. Court**”) on July 22, 2008 and October 22, 2008 (the “**U.S. Proceedings**”). With the exception of the chapter 11 case filed by SemGroup Holdings L.P., the chapter 11 cases of the U.S. Debtors have been consolidated (for procedural purposes only) under case No. 08-11525 (BLS). The U.S. Debtors are continuing in possession of their respective properties and are operating and managing their businesses, as debtors in possession, pursuant to sections 1107 and 1108 of the Bankruptcy Code. The office of the United States Trustee (the “**U.S. Trustee**”) has appointed official committees of unsecured creditors (the “**Creditors Committee**”) and oil and gas producers and suppliers (the “**Producers Committee**”, and collectively with the Creditors Committee, the “**Committees**”) in the U.S. Proceedings.
2. SemCanada Crude Company (“**SemCanada Crude**”) and SemCAMS ULC (“**SemCAMS**”) both sought and obtained protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) pursuant to two orders of the Court of Queen’s Bench of Alberta (the “**Canadian Court**”) made July 22, 2008.
3. Pursuant to an Amended and Restated Initial Order made July 30, 2008 (the “**CCAA Order**”): (i) the CCAA proceedings of SemCanada Crude and SemCAMS were consolidated; (ii) the proceedings of SemCanada Energy Company (“**SemEnergy**”), A.E. Sharp Ltd. (“**AES**”) and CEG Energy Options, Inc. (“**CEG**”) which had been

commenced under the *Bankruptcy and Insolvency Act* (Canada), were continued under the CCAA and consolidated within the proceeding; (iii) 3191278 Nova Scotia Company (“319”) and 1380331 Alberta ULC (“138”) were granted CCAA protection; and (iv) Ernst & Young Inc. was appointed monitor (the “**Monitor**”) of SemCanada Crude, SemCAMS, SemEnergy, AES, CEG, 138 and 139 (collectively, the “**Canadian Debtors**”) with the rights, powers, duties and limitations upon liabilities set forth in the CCAA and the CCAA Order including the power to serve as a “foreign representative” in any proceedings outside of Canada. The consolidated proceedings of the Canadian Debtors are referred to herein as the “**Canadian Proceedings**”.

4. It is the intention of the U.S. Debtors to file a plan of compromise and settlement under the Bankruptcy Code (the “**U.S. Plan**”).
5. It is the intention of SemCAMS and SemCanada Crude to each present a plan of arrangement and reorganization under the CCAA to their creditors (the “**SemCAMS Plan**” and the “**SemCanada Crude Plan**”, respectively, and together, the “**Canadian Plans**”).
6. The U.S. Proceedings and the Canadian Proceedings are separate and distinct and neither the U.S. Debtors nor the Canadian Debtors have sought to have their proceedings recognized in the other jurisdiction. None of the Canadian Debtors are applicants in the U.S. Proceedings and none of the U.S. Debtors are applicants in the Canadian Proceedings.
7. For convenience, (a) the U.S. Debtors and the Canadian Debtors shall be referred to herein collectively as the “**Debtors**”, (b) the U.S. Proceedings and the Canadian Proceedings shall be referred to herein collectively as the “**Insolvency Proceedings**”, (c) the U.S. Court and the Canadian Court shall be referred to herein collectively as the “**Courts**”, and each individually as a “**Court**”, and (d) the Canadian Representatives (as defined herein) and the Chapter 11 Representatives (as defined herein) shall be referred to herein collectively as the “**Estate Representatives**”.

B. Purpose and Goals

8. Though full and separate plenary proceedings are pending in the United States for the U.S. Debtors and in Canada for the Canadian Debtors, the implementation of basic administrative procedures and cross-border guidelines is both necessary and desirable to coordinate certain activities in the Insolvency Proceedings, protect the rights of the parties thereto, ensure the maintenance of the Courts' respective independent jurisdiction and give effect to the doctrines of comity. Accordingly, this Protocol has been developed to promote the following mutually desirable goals and objectives in the Insolvency Proceedings:

- (a) harmonize and coordinate activities in the Insolvency Proceedings before the Courts;
- (b) promote the orderly and efficient administration of the Insolvency Proceedings to, among other things, maximize the efficiency of the Insolvency Proceedings, reduce the costs associated therewith and avoid duplication of effort;
- (c) coordinate the steps required to finalize, seek required approvals and implement the US Plan in conjunction with the Canadian Plans, including with respect to identifying creditors; calling and holding the required meetings of creditors of the Debtors; and recording, and calculating the value attributed to, the votes cast by those creditors who are creditors of both the U.S. Debtors and the Canadian Debtors;
- (d) honour the independence and integrity of the Courts and other courts and tribunals of Canada and the United States, respectively;
- (e) promote international cooperation and respect for comity among the Courts, the Debtors, the Committees, the Estate Representatives and other creditors and interested parties in the Insolvency Proceedings;
- (f) facilitate the fair, open and efficient administration of the Insolvency Proceedings for the benefit of all of the Debtors' creditors and other interested parties, wherever located; and

- (g) implement a framework of general principles to address basic administrative issues arising out of the cross-border nature of the Insolvency Proceedings.

As the Insolvency Proceedings progress, the Courts may also jointly determine that other cross-border matters that may arise in the Insolvency Proceedings should be dealt with under and in accordance with the principles of this Protocol. Where an issue is to be addressed only to one Court, in rendering a determination in any cross-border matter, such Court may: (a) to the extent practical or advisable, consult with the other Court; and (b) in its sole discretion and bearing in mind the principles of comity, either (i) render a binding decision after such consultation; (ii) defer to the determination of the other Court by transferring the matter, in whole or in part to the other Court; or (iii) seek a joint hearing of both Courts.

C. Comity and Independence of the Courts

- 9. The approval and implementation of this Protocol shall not divest or diminish the Canadian Court's and the U.S. Court's independent jurisdiction over the subject matter of the Canadian Proceedings and the U.S. Proceedings, respectively. By approving and implementing this Protocol, neither the Canadian Court, the U.S. Court, the Debtors nor any creditors or interested parties shall be deemed to have approved or engaged in any infringement on the sovereignty of Canada or the United States.
- 10. The Canadian Court shall have the sole and exclusive jurisdiction and power over the conduct of the Canadian Proceedings and the hearing and determination of matters arising in the Canadian Proceedings. The U.S. Court shall have the sole and exclusive jurisdiction and power over the conduct of the U.S. Proceedings and the hearing and determination of matters arising in the U.S. Proceedings.
- 11. In accordance with the principles of comity and independence recognized herein, nothing contained herein shall be construed to:
 - (a) increase, decrease or otherwise modify the independence, sovereignty or jurisdiction of the Canadian Court, the U.S. Court or any other court or tribunal in Canada or the United States, including the ability of any such court or tribunal to provide appropriate relief under applicable law on an *ex parte* or "limited notice" basis;

- (b) require the Canadian Court to take any action that is inconsistent with its obligations under the laws of Canada;
 - (c) require the U.S. Court to take any action that is inconsistent with its obligations under the laws of the United States;
 - (d) require the Debtors, the Committees, the Estate Representatives or the U.S. Trustee to take any action or refrain from taking any action that would result in a breach of any duty imposed on them by any applicable law;
 - (e) authorize any action that requires the specific approval of one or both of the Courts under the CCAA or the Bankruptcy Code after appropriate notice and a hearing (except to the extent that such action is specifically described in this Protocol); or
 - (f) preclude the Debtors, the Committees, the U.S. Trustee, or any creditor or other interested party from asserting such party's substantive rights under the applicable laws of Canada, the United States or any other relevant jurisdiction including, without limitation, the rights of parties in interest to appeal from decisions taken by one or both of the Courts.
12. The Debtors, the Committees, the Estate Representatives and their respective employees, members, agents and professionals shall respect and comply with the independent, non-delegable duties imposed on them, if any, by the Bankruptcy Code, the CCAA, the CCAA Order and other applicable laws.

D. Cooperation

13. To assist in the efficient administration of the Insolvency Proceedings and in recognizing that the U.S. Debtors and Canadian Debtors may be creditors of the others' estates, the Debtors, the Committees, and the Estate Representatives shall, where appropriate: (a) cooperate with each other in connection with actions taken in both the Canadian Court and the U.S. Court; (b) cooperate with each other in connection with coordinating the steps required to finalize, seek required approvals and implement the US Plan in conjunction with the Canadian Plans and (c) take any other appropriate steps to

coordinate the administration of the Insolvency Proceedings for the benefit of the Debtors' respective estates.

14. To harmonize and coordinate the administration of the Insolvency Proceedings, the Canadian Court and the U.S. Court each may coordinate activities and consider whether it is appropriate to defer to the judgment of the other Court. In furtherance of the foregoing:
 - (a) The Canadian Court and the U.S. Court may communicate with one another with respect to any procedural matter relating to the Insolvency Proceedings.
 - (b) Where the issue of the proper jurisdiction or Court to determine an issue is raised by an interested party in either of the Insolvency Proceedings with respect to a motion or application filed in either Court, the Court before which such motion or application was initially filed may contact the other Court to determine an appropriate process by which the issue of jurisdiction will be determined; which process shall be subject to submissions by the Debtors, the U.S. Trustee, the Committees, the Monitor and any interested party prior to any determination on this issue of jurisdiction being made by either Court.
 - (c) The Courts may, but are not obligated to, coordinate activities in the Insolvency Proceedings such that the subject matter of any particular action, suit, request, application, contested matter or other proceeding is determined in a single Court.
 - (d) The Canadian Court and the U.S. Court may conduct joint hearings with respect to any cross-border matter or the interpretation or implementation of this Protocol where both the Canadian Court and the U.S. Court consider such a joint hearing to be necessary or advisable. With respect to any joint hearings, unless otherwise ordered by both Courts, the following procedures will be followed:
 - (i) A telephone or video link shall be established so that both the Canadian Court and the U.S. Court shall be able to simultaneously hear the proceedings in the other Court.

- (ii) Submissions or applications by any party that are or become the subject of a joint hearing of the Courts (collectively, “**Pleadings**”) shall be made or filed initially only with the Court in which such party is appearing and seeking relief. Promptly after the scheduling of any joint hearing, the party submitting such Pleadings to one Court shall file courtesy copies with the other Court. In any event, Pleadings seeking relief from both Courts must be filed with both Courts.
- (iii) Any party intending to rely on written evidentiary materials in support of a submission to the Canadian Court or the U.S. Court in connection with any joint hearing or application (collectively, “**Evidentiary Materials**”) shall file or otherwise submit such materials to both Courts in advance of the joint hearing. To the fullest extent possible, the Evidentiary Materials filed in each Court shall be identical and shall be consistent with the procedural and evidentiary rules and requirements of each Court.
- (iv) If a party has not previously appeared in or attorned or does not wish to attorn to the jurisdiction of a Court, it shall be entitled to file Pleadings or Evidentiary Materials in connection with the joint hearing without, by the mere act of such filings, being deemed to have attorned to the jurisdiction of the Court in which such material is filed, so long as it does not request in its materials or submissions any affirmative relief from such Court.
- (v) The Justice of the Canadian Court and the Judge of the U.S. Court who will preside over the joint hearing shall be entitled to communicate with each other in advance of any joint hearing, with or without counsel present, to establish guidelines for the orderly submission of Pleadings, Evidentiary Materials and other papers and for the rendering of decisions by the Courts, and to address any related procedural, administrative or preliminary matters.
- (vi) The Justice of the Canadian Court and the Judge of the U.S. Court shall be entitled to communicate with each other during or after any joint hearing, with or without counsel present, for the purposes of determining whether

consistent rulings can be made by both Courts, coordinating the terms of the Courts' respective rulings, and addressing any other procedural or administrative matters.

15. Notwithstanding the terms of paragraph 14 above, this Protocol recognizes that the Canadian Court and the U.S. Court are independent courts. Accordingly, although the Courts will seek to cooperate and coordinate with each other in good faith, each of the Courts shall be entitled at all times to exercise its independent jurisdiction and authority with respect to: (a) matters presented to such Court; and (b) the conduct of the parties appearing in such matters.
16. Where one Court has jurisdiction over a matter which requires the application of the law of the jurisdiction of the other Court in order to determine an issue before it, the Court with jurisdiction over such matter may, among other things, hear expert evidence or seek the advice and direction of the other Court in respect of the foreign law to be applied, subject to paragraph 32 herein.

E. Retention and Compensation of Estate Representatives and Professionals

17. The Monitor, its officers, directors, employees, counsel and agents, wherever located, (collectively, the "**Monitor Parties**") and any other estate representative in the Canadian Proceedings (collectively, the "**Canadian Representatives**") shall be subject to the sole and exclusive jurisdiction of the Canadian Court with respect to all matters, including: (a) the Canadian Representatives' tenure in office; (b) the retention and compensation of the Canadian Representatives; (c) the Canadian Representatives' liability, if any, to any person or entity, including the Canadian Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the Canadian Representatives arising in the Canadian Proceedings under the CCAA or other applicable Canadian Law. The Canadian Representatives shall not be required to seek approval of their retention in the U.S. Court for services rendered to the Debtors. Additionally, the Canadian Representatives: (a) shall be compensated for their services to the Canadian Debtors solely in accordance with the CCAA, the CCAA Order and other applicable Canadian law or orders of the Canadian Court; and (b) shall not be required to seek approval of their compensation to the U.S. Court.

18. The Monitor Parties shall be entitled to the same protections and immunities in the United States as those granted to them under the CCAA and the CCAA Order. In particular, except as otherwise provided in any subsequent order entered in the Canadian Proceedings, the Monitor Parties shall incur no liability or obligations as a result of the CCAA Order, the appointment of the Monitor, the carrying out of its duties or the provisions of the CCAA and the CCAA Order by the Monitor Parties, except any such liability arising from the actions of the Monitor Parties constituting gross negligence or wilful misconduct.
19. Any estate representatives appointed in the U.S. Proceeding, including without limitation any examiners or trustees in accordance with section 1104 of the Bankruptcy Code (collectively, the "**Chapter 11 Representatives**") shall be subject to the sole and exclusive jurisdiction of the U.S. Court with respect to all matters, including: (a) the Chapter 11 Representatives' tenure in office; (b) the retention and compensation of the Chapter 11 Representatives; (c) the Chapter 11 Representatives' liability, if any, to any person or entity, including the U.S. Debtors and any third parties, in connection with the Insolvency Proceedings; and (d) the hearing and determination of any other matters relating to the Chapter 11 Representatives arising in the U.S. Proceedings under the Bankruptcy Code or other applicable laws of the United States. The Chapter 11 Representatives and their counsel and other professionals retained therefor shall not be required to seek approval of their retention in the Canadian Court. Additionally, the Chapter 11 Representatives and their counsel and such other professionals: (a) shall be compensated for their services to the Debtors solely in accordance with the Bankruptcy Code and other applicable laws of the United States or orders of the U.S. Court; and (b) shall not be required to seek approval of their compensation for services performed for the Debtors in the Canadian Court.
20. Any professional, including, without limitation, legal counsel and financial advisors, retained by the Canadian Debtors in connection with Canadian Proceedings (collectively, the "**Canadian Professionals**"), shall be subject to the sole and exclusive jurisdiction of the Canadian Court. Accordingly, the Canadian Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the Canadian Court under the CCAA, the CCAA Order and any other applicable Canadian law or

orders of the Canadian Court; and (b) shall not be required to seek approval of their retention or compensation in the U.S. Court with respect to services performed on behalf of the Canadian Debtors.

21. Any professionals retained by the U.S. Debtors, including, without limitation, legal counsel and financial advisors, and any professionals retained by the Committees, including, without limitation, legal counsel and financial advisors, (collectively, the “**Chapter 11 Professionals**”) shall be subject to the sole and exclusive jurisdiction of the U.S. Court. Accordingly, the Chapter 11 Professionals: (a) shall be subject to the procedures and standards for retention and compensation applicable in the U.S. Court under the Bankruptcy Code with respect to services performed on behalf of the U.S. Debtors and any other applicable laws of the United States or orders of the U.S. Court; and (b) shall not be required to seek approval of their retention or compensation in the Canadian Court with respect to services performed on behalf of the U.S. Debtors.

F. Court Appearances and Rights to Be Heard

22. The Debtors, their creditors and other interested parties in the Insolvency Proceedings, including the Committees, the Estate Representatives, and the U.S. Trustee shall have the right and standing to: (a) appear and be heard in either the Canadian Court or the U.S. Court in the Insolvency Proceedings to the same extent as creditors and other interested parties domiciled in the forum, subject to any local rules or regulations generally applicable to all parties appearing in the forum; and (b) file notices of appearance or other papers with the Clerk of the Canadian Court or the U.S. Court in the Insolvency Proceedings; provided, however, that nothing in this protocol shall in and of itself create such a right or standing where such right or standing does not otherwise exist; provided further, that any appearance or filing may subject a creditor or other interested party to the jurisdiction of the Court in which the appearance or filing occurs; provided further, that the appearance by the Committees in the Canadian Proceedings shall not form a basis for personal jurisdiction in Canada over members of the Committees. Notwithstanding the foregoing, and in accordance with the policies set forth in paragraphs 17 and 19 above: (a) the Canadian Court shall have jurisdiction over the U.S. Debtors, the Committees, the Chapter 11 Representatives and the U.S. Trustee solely with respect to

the particular matters as to which the U.S. Debtors, the Committees, the Chapter 11 Representatives or the U.S. Trustee appear before the Canadian Court; and (b) the U.S. Court shall have jurisdiction over the Canadian Debtors and the Canadian Representatives solely with respect to the particular matters as to which the Canadian Debtors and the Canadian Representatives appear before the U.S. Court.

G. Notice

23. Notice of any motion, application or other pleading or paper filed in one or both of the Insolvency Proceedings involving or relating to matters addressed by this Protocol and notice of any related hearings or other proceedings shall be given by appropriate means (including, where circumstances warrant, by courier, telecopier or other electronic forms of communication) to the following: (a) all creditors and other interested parties, in accordance with the practice of the jurisdiction where the papers are filed or the proceedings are to occur; and (b) to the extent not otherwise entitled to receive notice under clause (a) of this sentence, counsel to the Debtors, the U.S. Trustee, the Monitor, the Committees and any other statutory committees appointed in these cases and such other parties as may be designated by either of the Courts from time to time. Notice in accordance with this paragraph shall be given by the party otherwise responsible for effecting notice in the jurisdiction where the underlying papers are filed or the proceedings are to occur. In addition to the foregoing, upon request, the Debtors shall provide the Canadian Court or the U.S. Court, as the case may be, with copies of any orders, decisions, opinions or similar papers issued by the other Court in the Insolvency Proceedings.

24. When any cross-border issues or matters addressed by this protocol are to be addressed before a Court, notices shall be provided in the manner and to the parties referred to in paragraph 23 above.

H. Recognition of Stays of Proceedings

25. The U.S. Court hereby recognizes the validity of the stay of proceedings and actions against the Canadian Debtors and their property under the CCAA and the CCAA Order (the “Canadian Stay”). In implementing the terms of this paragraph, the U.S. Court may

consult with the Canadian Court regarding: (a) the interpretation and applicability of the Canadian Stay and any orders of the Canadian Court modifying or granting relief from the Canadian Stay; and (b) the enforcement of the Canadian Stay in the United States.

26. The Canadian Court hereby recognizes the validity of the stay of proceedings and actions against the U.S. Debtors and their property under section 362 of the Bankruptcy Code (the “U.S. Stay”). In implementing the terms of this paragraph, the Canadian Court may consult with the U.S. Court regarding: (a) the interpretation and application of the U.S. Stay and any orders of the U.S. Court modifying or granting relief from the U.S. Stay; and (b) the enforcement of the U.S. Stay in Canada.

27. Nothing contained herein shall affect or limit the Debtors’ or other parties’ rights to assert the applicability or non applicability of the Canadian Stay or the U.S. Stay to any particular proceeding, property, asset, activity or other matter, wherever pending or located.

28. Nothing contained herein shall affect or limit the ability of either Court to direct that any stay of proceedings affecting the parties before it shall not apply to applications or motions brought by such parties before the other Court or that the relief be granted to permit such parties to bring such applications or motions before the other Court on such terms and conditions as it considers appropriate.

I. Effectiveness; Modification

29. This Protocol shall become effective only upon its approval by both the Canadian Court and the U.S. Court.

30. This Protocol may not be supplemented, modified, terminated or replaced in any manner except upon the approval of both the Canadian Court and the U.S. Court after notice and a hearing. Notice of any legal proceeding to supplement, modify, terminate or replace this Protocol shall be given in accordance with the notice provisions set forth in paragraph 23 above.

J. Procedure for Resolving Disputes under this Protocol

31. Disputes relating to the terms, intent or application of this Protocol may be addressed by interested parties to the Canadian Court, the U.S. Court or both Courts upon notice in accordance with the notice provisions set forth in paragraph 23 above. In rendering a determination in any such dispute, the Court to which the issue is addressed: (a) shall consult with the other Court; and (b) may, in its sole and exclusive discretion, either: (i) render a binding decision after such consultation; (ii) defer to the determination of the other Court by transferring the matter, in whole or in part, to such other Court; or (iii) seek a joint hearing of both Courts in accordance with paragraph 14 above. Notwithstanding the foregoing, in making a determination under this paragraph, each Court shall give due consideration to the independence, comity and inherent jurisdiction of the other Court established under existing law.
32. In implementing the terms of this Protocol, the Canadian Court and the U.S. Court may, in their sole, respective discretion, provide advice or guidance to each other with respect to legal issues in accordance with the following procedures:
- (a) the Canadian Court or the U.S. Court, as applicable, may determine that such advice or guidance is appropriate under the circumstances;
 - (b) the Court issuing such advice or guidance shall provide it to the non-issuing Court in writing;
 - (c) copies of such written advice or guidance shall be served by the applicable Court in accordance with paragraph 23 hereof; and
 - (d) the Courts may jointly decide to invite the Debtors, the Committees, the Estate Representatives, the U.S. Trustee and any other affected or interested party to make submissions to the appropriate Court in response to or in connection with any written advice or guidance received from the other Court.

K. Preservation of Rights

33. Except as specifically provided herein, neither the terms of this Protocol nor any actions taken under the terms of this Protocol shall: (a) prejudice or affect the powers, rights, claims and defenses of the Debtors and their estates, the Committees, the Estate

Representatives, the U.S. Trustee or any of the Debtors' creditors under applicable law, including the CCAA and the Bankruptcy Code, and the orders of the Courts; or (b) preclude or prejudice the rights of any person to assert or pursue such person's substantive rights against any other person under the applicable laws of Canada or the United States.

SCHEDULE "A"

Guidelines

Applicable to Court-to-Court Communications in Cross-Border Cases

Introduction:

One of the most essential elements of cooperation in cross-border cases is communication among the administering authorities of the countries involved. Because of the importance of the courts in insolvency and reorganization proceedings, it is even more essential that the supervising courts be able to coordinate their activities to assure the maximum available benefit for the stakeholders of financially troubled enterprises.

These Guidelines are intended to enhance coordination and harmonization of insolvency proceedings that involve more than one country through communications among the jurisdictions involved. Communications by judges directly with judges or administrators in a foreign country, however, raise issues of credibility and proper procedures. The context alone is likely to create concern in litigants unless the process is transparent and clearly fair. Thus, communication among courts in cross-border cases is both more important and more sensitive than in domestic cases. These Guidelines encourage such communications while channeling them through transparent procedures. The Guidelines are meant to permit rapid cooperation in a developing insolvency case while ensuring due process to all concerned.

A Court intending to employ the Guidelines — in whole or part, with or without modifications — should adopt them formally before applying them. A Court may wish to make its adoption of the Guidelines contingent upon, or temporary until, their adoption by other courts concerned in the matter. The adopting

Court may want to make adoption or continuance conditional upon adoption of the Guidelines by the other Court in a substantially similar form, to ensure that judges, counsel, and parties are not subject to different standards of conduct.

The Guidelines should be adopted following such notice to the parties and counsel as would be given under local procedures with regard to any important procedural decision under similar circumstances. If communication with other courts is urgently needed, the local procedures, including notice requirements, that are used in urgent or emergency situations should be employed, including, if appropriate, an initial period of effectiveness, followed by further consideration of the Guidelines at a later time. Questions about the parties entitled to such notice (for example, all parties or representative parties or representative counsel) and the nature of the court's consideration of any objections (for example, with or without a hearing) are governed by the Rules of Procedure in each jurisdiction and are not addressed in the Guidelines.

The Guidelines are not meant to be static, but are meant to be adapted and modified to fit the circumstances of individual cases and to change and evolve as the international insolvency community gains experience from working with them. They are to apply only in a manner that is consistent with local procedures and local ethical requirements. They do not address the details of notice and procedure that depend upon the law and practice in each jurisdiction. However, the Guidelines represent approaches that are likely to be highly useful in achieving efficient and just resolutions of cross-border insolvency issues. Their use, with such modifications and under such circumstances as may be appropriate in a particular case, is therefore recommended.

Guideline 1

Except in circumstances of urgency, prior to a communication with another Court, the Court should be satisfied that such a communication is consistent with all applicable Rules of Procedure in its country. Where a Court intends to apply these Guidelines (in whole or in part and with or without modifications), the Guidelines to be employed should, wherever possible, be formally adopted before they are applied. Coordination of Guidelines between courts is desirable and officials of both courts may communicate in accordance with Guideline 8(d) with regard to the application and implementation of the Guidelines.

Guideline 2

A Court may communicate with another Court in connection with matters relating to proceedings before it for the purposes of coordinating and harmonizing proceedings before it with those in the other jurisdiction.

Guideline 3

A Court may communicate with an Insolvency Administrator in another jurisdiction or an authorized Representative of the Court in that jurisdiction in connection with the coordination and harmonization of the proceedings before it with the proceedings in the other jurisdiction.

Guideline 4

A Court may permit a duly authorized Insolvency Administrator to communicate with a foreign Court directly, subject to the approval of the foreign Court, or through an Insolvency Administrator in the other jurisdiction or through an autho-

rized Representative of the foreign Court on such terms as the Court considers appropriate.

Guideline 5

A Court may receive communications from a foreign Court or from an authorized Representative of the foreign Court or from a foreign Insolvency Administrator and should respond directly if the communication is from a foreign Court (subject to Guideline 7 in the case of two-way communications) and may respond directly or through an authorized Representative of the Court or through a duly authorized Insolvency Administrator if the communication is from a foreign Insolvency Administrator, subject to local rules concerning ex parte communications.

Guideline 6

Communications from a Court to another Court may take place by or through the Court:

- (a) Sending or transmitting copies of formal orders, judgments, opinions, reasons for decision, endorsements, transcripts of proceedings, or other documents directly to the other Court and providing advance notice to counsel for affected parties in such manner as the Court considers appropriate;
- (b) Directing counsel or a foreign or domestic Insolvency Administrator to transmit or deliver copies of documents, pleadings, affidavits, factums, briefs, or other documents that are filed or to be filed with the Court to the other Court in such fashion as may be appropriate and providing advance notice to counsel for affect-

ed parties in such manner as the Court considers appropriate;

- (c) Participating in two-way communications with the other Court by telephone or video conference call or other electronic means, in which case Guideline 7 should apply.

Guideline 7

In the event of communications between the Courts in accordance with Guidelines 2 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by either of the two Courts:

- (a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;
- (b) The communication between the Courts should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of both Courts, should be treated as an official transcript of the communication;
- (c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of either Court, and of any official transcript prepared from a recording should be filed as part of the record in the proceedings and made available to counsel for all parties in both

Courts subject to such Directions as to confidentiality as the Courts may consider appropriate; and

- (d) The time and place for communications between the Courts should be to the satisfaction of both Courts. Personnel other than Judges in each Court may communicate fully with each other to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by either of the Courts.

Guideline 8

In the event of communications between the Court and an authorized Representative of the foreign Court or a foreign Insolvency Administrator in accordance with Guidelines 3 and 5 by means of telephone or video conference call or other electronic means, unless otherwise directed by the Court:

- (a) Counsel for all affected parties should be entitled to participate in person during the communication and advance notice of the communication should be given to all parties in accordance with the Rules of Procedure applicable in each Court;
- (b) The communication should be recorded and may be transcribed. A written transcript may be prepared from a recording of the communication which, with the approval of the Court, can be treated as an official transcript of the communication;
- (c) Copies of any recording of the communication, of any transcript of the communication prepared pursuant to any Direction of the Court, and of any official tran-

script prepared from a recording should be filed as part of the record in the proceedings and made available to the other Court and to counsel for all parties in both Courts subject to such Directions as to confidentiality as the Court may consider appropriate; and

- (d) The time and place for the communication should be to the satisfaction of the Court. Personnel of the Court other than Judges may communicate fully with the authorized Representative of the foreign Court or the foreign Insolvency Administrator to establish appropriate arrangements for the communication without the necessity for participation by counsel unless otherwise ordered by the Court.

Guideline 9

A Court may conduct a joint hearing with another Court. In connection with any such joint hearing, the following should apply, unless otherwise ordered or unless otherwise provided in any previously approved Protocol applicable to such joint hearing:

- (a) Each Court should be able to simultaneously hear the proceedings in the other Court.
- (b) Evidentiary or written materials filed or to be filed in one Court should, in accordance with the Directions of that Court, be transmitted to the other Court or made available electronically in a publicly accessible system in advance of the hearing. Transmittal of such material to the other Court or its public availability in an electronic system should not subject the party filing the material in one Court to the jurisdiction of the other Court.

- (c) Submissions or applications by the representative of any party should be made only to the Court in which the representative making the submissions is appearing unless the representative is specifically given permission by the other Court to make submissions to it.
- (d) Subject to Guideline 7(b), the Court should be entitled to communicate with the other Court in advance of a joint hearing, with or without counsel being present, to establish Guidelines for the orderly making of submissions and rendering of decisions by the Courts, and to coordinate and resolve any procedural, administrative, or preliminary matters relating to the joint hearing.
- (e) Subject to Guideline 7(b), the Court, subsequent to the joint hearing, should be entitled to communicate with the other Court, with or without counsel present, for the purpose of determining whether coordinated orders could be made by both Courts and to coordinate and resolve any procedural or nonsubstantive matters relating to the joint hearing.

Guideline 10

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, recognize and accept as authentic the provisions of statutes, statutory or administrative regulations, and rules of court of general application applicable to the proceedings in the other jurisdiction without the need for further proof or exemplification thereof.

Guideline 11

The Court should, except upon proper objection on valid grounds and then only to the extent of such objection, accept that Orders made in the proceedings in the other jurisdiction were duly and properly made or entered on or about their respective dates and accept that such Orders require no further proof or exemplification for purposes of the proceedings before it, subject to all such proper reservations as in the opinion of the Court are appropriate regarding proceedings by way of appeal or review that are actually pending in respect of any such Orders.

Guideline 12

The Court may coordinate proceedings before it with proceedings in another jurisdiction by establishing a Service List that may include parties that are entitled to receive notice of proceedings before the Court in the other jurisdiction ("Non-Resident Parties"). All notices, applications, motions, and other materials served for purposes of the proceedings before the Court may be ordered to also be provided to or served on the Non-Resident Parties by making such materials available electronically in a publicly accessible system or by facsimile transmission, certified or registered mail or delivery by courier, or in such other manner as may be directed by the Court in accordance with the procedures applicable in the Court.

Guideline 13

The Court may issue an Order or issue Directions permitting the foreign Insolvency Administrator or a representative of creditors in the proceedings in the other jurisdiction or an authorized

Representative of the Court in the other jurisdiction to appear and be heard by the Court without thereby becoming subject to the jurisdiction of the Court.

Guideline 14

The Court may direct that any stay of proceedings affecting the parties before it shall, subject to further order of the Court, not apply to applications or motions brought by such parties before the other Court or that relief be granted to permit such parties to bring such applications or motions before the other Court on such terms and conditions as it considers appropriate. Court-to-Court communications in accordance with Guidelines 6 and 7 hereof may take place if an application or motion brought before the Court affects or might affect issues or proceedings in the Court in the other jurisdiction.

Guideline 15

A Court may communicate with a Court in another jurisdiction or with an authorized Representative of such Court in the manner prescribed by these Guidelines for purposes of coordinating and harmonizing proceedings before it with proceedings in the other jurisdiction regardless of the form of the proceedings before it or before the other Court wherever there is commonality among the issues and/or the parties in the proceedings. The Court should, absent compelling reasons to the contrary, so communicate with the Court in the other jurisdiction where the interests of justice so require.

Guideline 16

Directions issued by the Court under these Guidelines are subject to such amendments, modifications, and extensions as

may be considered appropriate by the Court for the purposes described above and to reflect the changes and developments from time to time in the proceedings before it and before the other Court. Any Directions may be supplemented, modified, and restated from time to time and such modifications, amendments, and restatements should become effective upon being accepted by both Courts. If either Court intends to supplement, change, or abrogate Directions issued under these Guidelines in the absence of joint approval by both Courts, the Court should give the other Courts involved reasonable notice of its intention to do so.

Guideline 17

Arrangements contemplated under these Guidelines do not constitute a compromise or waiver by the Court of any powers, responsibilities, or authority and do not constitute a substantive determination of any matter in controversy before the Court or before the other Court nor a waiver by any of the parties of any of their substantive rights and claims or a diminution of the effect of any of the Orders made by the Court or the other Court.

SCHEDULE "B"

SemCrude, L.P.
Chemical Petroleum Exchange, Incorporated
Eaglwing, L.P.
Grayson Pipeline, L.L.C.
Greyhawk Gas Storage Company, L.L.C.
K.C. Asphalt L.L.C.
SemCanada II, L.P.
SemCanada L.P.
SemCrude Pipeline, L.L.C.
SemFuel Transport LLC
SemFuel, L.P.
SemGas Gathering LLC
SemGas Storage, L.L.C.
SemGas, L.P.
SemGroup Asia, L.L.C.
SemGroup Finance Corp.
SemGroup, L.P.
SemKan, L.L.C.
SemManagement, L.L.C.
SemMaterials Vietnam, L.L.C.
SemMaterials, L.P.
SemOperating GP, L.L.C.
SemStream, L.P.
SemTrucking, L.P.
Steuban Development Company, L.L.C.
SemGroup Holdings, L.P.
SemCap, L.L.C.

Action No.: 0801-08510

2009

**IN THE COURT OF QUEEN'S BENCH OF
ALBERTA
JUDICIAL DISTRICT OF CALGARY**

**IN THE MATTER OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C.
1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF
SEMCANADA CRUDE COMPANY,
SEMCAMS ULC, SEMCANADA ENERGY
COMPANY, A.E. SHARP LTD., CEG
ENERGY OPTIONS, INC., 3191278 NOVA
SCOTIA COMPANY and 1380331
ALBERTA ULC**

CROSS-BORDER PROTOCOL

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Facsimile: (403) 260-7024

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ENERGY OPTIONS, INC., and 1380331
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CROSS-BORDER PROTOCOL ORDER

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