

December 11, 2014

RESS, EMAIL & COURIER

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: Union Gas Limited - Application for Authority to Expropriate (EB-2014-0335) - Response to Letter of Comment

We are counsel to Union Gas Limited (“Union”) in the above-referenced proceeding. We are writing to the Board in response to the letter of comment filed by Manuel and Valentina Fagundes on December 3, 2014. In their letter of comment, Mr. and Mrs. Fagundes request that the hearing process be dismissed or delayed for 30 days to enable Union and the referenced lienholders to pursue settlement as to the treatment of compensation for the easement that Union has sought to expropriate.

As noted in Union’s pre-filed evidence, Union has been and continues in its efforts to reach a negotiated agreement with the landowner for approximately 18 months. During this period, Union and its representatives have had a number of discussions with the relevant lienholders and other encumbrancers. Although the landowners state in their letter of comment that they do not oppose the granting of an easement or the terms of such easement, and that they are in agreement with Union as to the amount of compensation that would be payable for the easement, the landowners have not expressed any willingness to permit funds payable as compensation for that easement, in whole or in part, to be distributed to the registered lienholders or other encumbrancers. As a result, it is highly unlikely that the registered lienholders would be prepared to postpone their interests in favour of Union’s proposed easement. Accordingly, Union does not see any reasonable prospect that a negotiated settlement would be reached if the Board were to provide for a 30-day delay in the proceeding as requested by the landowners.

In Union’s view, the issue of compensation and, in particular, how compensation for an expropriated easement is to be distributed among a landowner and lienholders or other encumbrancers with registered interests in the subject property, is entirely outside the scope of the Board’s jurisdiction in considering an application under Section 99 of the *Ontario Energy Board Act*. The letter of comment does not raise any concerns that are relevant to the Board’s jurisdiction in the proceeding and, as such, the Board should not dismiss or delay the proceeding as requested in the letter of comment. Rather, in light of there being no intervenors

and no relevant issues raised to date, the Board should proceed expeditiously in its administration of the proceeding. Issues relating to compensation and the disbursement among the relevant parties can and will be addressed outside of the Board's processes.

Yours truly,



Jonathan Myers

Tel 416.865.7532
jmyers@torys.com

cc: Mr. M. Murray, Union Gas
Mr. C. Smith, Torys LLP