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January 29, 2009

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

Attention: Board Secretary

Dear Ms. Walli:

**RE: Natural Resource Gas Limited ("NRG")
Application for Renewal of Franchise Agreement (EB-2008-0413)
Reply to Aylmer Request for Cost Award Eligibility**

We are counsel to NRG. We have received the January 9, 2009 letter from the Town of Aylmer ("Aylmer") requesting intervenor status and noting that Aylmer "may wish to seek an award of costs." We have also received the January 19, 2009 letter from Board Staff indicating that the Board grants Aylmer intervenor status and eligibility to receive a cost award, subject to NRG's reply to Aylmer's requests.

Obviously, NRG has no objection to Aylmer's request for intervenor status. However, NRG does object to the conditional granting of cost award eligibility at this juncture in the proceeding. NRG is requesting, by way of this letter, that all issues related to cost should be dealt with at the conclusion of the oral phase of the hearing.

Unlike a rate proceeding in which applicants pay for the reasonable costs incurred by qualifying intervenors, a contested franchise renewal application arises because a utility and its host municipality cannot agree on contractual terms to govern the relationship going forward. In such circumstances, section 10 of the *Municipal Franchises Act* (Ontario) permits either the franchise holder or the municipality to bring an application to the Board. It does not much matter who brings the application, but an application must nevertheless be brought. As such, it is NRG's submission that the fact that NRG is the applicant in this proceeding should not be determinative of cost responsibility. As a result, NRG submits that the Board should determine cost responsibility at the conclusion of the proceeding and base its determination on all of the relevant

factors that emerge during the course of the proceeding, including the reasonableness of the parties' positions, relevance of evidence, etc.

Yours very truly,



per Richard J. King

c.c. Mr. Mark Bristoll, President, NRG
Mr. Philip Tunley, Stockwoods LLP
Ms. Heather Adams, Town of Aylmer
Mr. Patrick McMahon, Union Gas Limited
Mr. Scott Stoll, Aird & Berlis