



**FINANCIAL SERVICES DEPARTMENT  
KITCHENER UTILITIES**

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**BY E-MAIL & COURIER**

March 26, 2009

Ontario Energy Board  
Attn: Ms. Kirsten Walli, Board Secretary  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

**Re: EB-2008-0280 – Draft Filing Guidelines for the Pre-Approval of Long-Term Natural Gas Supply and/or Upstream Transportation Contracts – Comments by City of Kitchener**

Pursuant to the Ontario Energy Board's ("Board's") notice dated February 11, 2009 inviting parties to provide written comments on the Draft LTC Guidelines, the City of Kitchener ("Kitchener") respectfully offers the following comments for consideration:

1. Kitchener commends the Board for striking the right balance in the Draft LTC Guidelines between protecting the interests of ratepayers and allowing the utilities to manage their business. The lighter-handed approach to regulation here is appropriate.
2. The discretion afforded the utilities to apply for pre-approval of long term natural gas supply or upstream transportation contracts in limited circumstances is appropriate. By choosing not to apply for pre-approval, the utilities presumably put their shareholders at risk for subsequent disallowance by the Board of some or all of the cost consequences of the contract.
3. On this latter point, Kitchener submits that the Draft LTC Guidelines, as currently titled in Attachment A, may be clarified by inserting the phrase "the Cost Consequences of" between the word "of" and "Long-Term". The Board clearly makes this point in its Conclusions at section 3.2 of its Report.
4. Kitchener suggests that adding a very brief "Definitions" section to the Draft LTC Guidelines may be helpful. For example, the phrase "Long-Term" should be defined. There was some discussion and debate around the definition of "long-term contract" at the consultation session which Kitchener attended last October.
5. Achieving clarity of the applicability of the LTC Guidelines to long term renewal of contracts that directly or indirectly support the development of new natural gas infrastructure may be helpful. As it stands, the Draft LTC Guidelines seem to imply that only new long term contracts would be subject to them. It may be appropriate to include the renewal of long term contracts, particularly where renewal of an existing contract is subject to a long notice period.

6. With respect to Part III – Contract Diversity of the Draft LTC Guidelines, Kitchener notes that concerns may arise with breaching confidentiality of certain contract parameters or conditions of service. Presumably, these concerns could be addressed by the utilities filing the long term contract pursuant to the Board's Practice Direction on Confidential Filings. The point here is to ensure that the contracts are indeed filed with the Board in an appropriate and timely manner. This aligns with the Board's Conclusions in its Report at the end of section 4.2.
7. With respect to Part IV – Risk Assessment of the Draft LTC Guidelines, Kitchener respectfully suggests that regulatory risks be noted. Such risks could arise outside the Board's jurisdiction.

Kitchener appreciates the opportunity to provide these brief comments on the Draft LTC Guidelines and hopes they are helpful to the Board and the parties.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Gruenbauer', is written over a faint, circular official stamp.

James A. Gruenbauer, CMA  
Manager, Regulatory Affairs and Supply

Cc: W. Malcolm (Kitchener)  
J. Alick Ryder, Q.C. (RWBH)