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May 25, 2009

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> floor  
Toronto ON M4P 1E4

Dear Ms Walli

**Staff Discussion Paper on a Storage and Transportation Access Rule**

**Board File No.: EB-2008-0052**

**Our File No.: 339583-000006**

As solicitors for Canadian Manufacturers & Exporters ("CME"), we have reviewed the April 9, 2009 Notice of Proposal ("Notice") to Make A Storage and Transportation Access Rule ("STAR"), including the text of the Proposed Rule. This letter contains CME's comments on the Proposed Rule.

The first area of the Proposed Rule which we urge the Board to strengthen is Section 3 entitled "Consumer Protection Within the Competitive Storage Market". We support the Board's policy and rationale for concluding, at page 17 of the "Notice", that a storage provider's general terms and conditions for competitive storage services should be posted on its website, along with its standard form of contract for such services. The Board notes that the posting of this information will allow market participants to use it as a reference point in making informed decisions, while recognizing that the posted information will not reduce a storage provider's flexibility to develop or negotiate individual contracts with customers.

We submit that this rationale should prompt the Board to require competitive storage services providers to post, on a daily basis, their quoted prices for a menu of the services most frequently requested by purchasers of competitive storage services. This menu of prevailing prices for the most frequently utilized services is required to provide storage services consumers with sufficient price discovery.

Without this required daily posting of the prevailing prices for the menu of services offered, the price discovery mechanisms available to competitive storage services consumers are, we submit, inadequate. Ontario storage services providers should be required to post the prices which apply to the menu of services they offer just as restaurants post the prices for the menu of services that they offer.

Accordingly, we urge the Board to add a provision to Section 3 of the Proposed Rule to compel competitive storage services providers to post, on their websites, on a daily basis, the prices for the menu of services they are offering to storage services consumers. We

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believe that consumer protection within the competitive storage market will be inadequate without this further pricing information.



The "Complaint Mechanism" is the other area of the Proposed Rule which we suggest should be strengthened. At page 24 of the "Notice", the Board concludes that the Complaint Process should provide customers with an opportunity to have their concerns about matters pertaining the compliance with the STAR, market failures, and other issues, dealt with by the Board in a fair, timely and effective manner.

However, the language of Section 5 of the Proposed Rule makes no reference to "market failures" or "other issues". As well, there is currently nothing in Section 5 which permits a complaint to be initiated with a Board filing and which calls for the prompt disposition of complaints.

We suggest that for the "Complaint Mechanism" to meaningfully protect consumers, this portion of the Proposed Rule should be broadened and strengthened to specify that complaints with respect to non-compliance with STAR, market failures or other issues shall be filed concurrently with the Board and the affected storage company, transmitter and/or integrated utility. The phrase "market failures" should be added to the "Definitions" Section of the Proposed Rule and defined so that consumers will be able to appreciate the kinds of issues which are to be dealt with in a fair, timely and effective manner under the auspices of the "Complaint Mechanism". The Rule should specify that if the complaint is not resolved within a specific time limit, such as 30 days, then the Board will determine the matter.

We hope these comments will be of assistance to the Board when it finalizes the provisions of the Proposed Rule.

We respectfully request that CME be awarded 100% of its reasonably incurred costs in reviewing the Notice and the Proposed Rule.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Peter C.P. Thompson', with a long horizontal flourish extending to the right.

Peter C.P. Thompson, Q.C.

PCT\slc

c. Participants EB-2008-0052  
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