



By E-mail

September 12, 2007

Kirsten Walli
Board Secretary
Ontario Energy Board
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Dear Ms Walli

**Notice of Applications and Combined Proceeding
Enbridge Gas Distribution Inc. and Union Gas Limited Rates for 2008**

Enbridge Gas Distribution Inc. ("EGD")	Union Gas Limited ("Union")
Board File No.: EB-2007-0615	Board File No.: EB-2007-0606
Our File No.: 302701-000411	Our File No.: 302701-000411

We are writing on behalf of our client, the Industrial Gas Users Association ("IGUA").

In accordance with Procedural Order No. 6, we enclose a Factum outlining the submissions that IGUA intends to make at the hearing of the Motion brought by Union.

The required hard copies will be sent to the Board shortly.

Yours very truly

A handwritten signature in black ink, appearing to read 'P. Thompson', is written over a horizontal line.

Peter C.P. Thompson, Q.C.

PCT\slc
enclosure

- c. Patrick Hoey (Enbridge Gas Distribution Inc.)
Mike Packer (Union Gas Limited)
All Interested Parties
Murray Newton (Industrial Gas Users Association)
Vince DeRose (Borden Ladner Gervais)

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IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an Application by Union Gas Limited for an Order or Orders approving or fixing a multi-year incentive rate mechanism to determine rates for the regulated distribution, transmission and storage of natural gas, effective January 1, 2008;

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an Order or Orders approving or fixing rates for the distribution, transmission and storage of natural gas, effective January 1, 2008;

AND IN THE MATTER OF a combined proceeding Board pursuant to section 21(1) of the *Ontario Energy Board Act, 1998*.

**FACTUM OF
THE INDUSTRIAL GAS USERS ASSOCIATION (“IGUA”)**

Introduction and Overview

1. Union Gas Limited’s (“Union”) Motion is brought under Rules 42 to 44 of the *Ontario Energy Board Rules of Practice and Procedure* (the “*OEB Rules*”) to vary the July 13, 2007 Decision and Order of the Ontario Energy Board (the “*OEB*” or “the Board”) adhering to a combined hearing format with respect to these proceedings.
2. Union does not question the correctness of the Board’s July 13 Decision and Order (the “July 13 Decision”). Rather, Union asks the Board to change it based on current circumstances with respect to the ability of parties to comply with evidence filing deadlines and the differences between the Incentive Regulation (“*IR*”) relief Union seeks compared to the *IR* relief Enbridge Gas Distribution Inc. (“*EGD*”) seeks.
3. IGUA submits that the grounds upon which Union seeks a variance of the July 13 Decision are insufficient to justify the severance relief it seeks. A combined hearing is and remains the most appropriate way to deal with the issues which the Board has listed for consideration in these proceedings.

Facts

4. From IGUA’s perspective, material omissions to the summary of the facts contained in Union’s Factum include the following:
 - (a) It can reasonably be expected that some intervenors will be filing evidence in response to Union’s Price Cap proposal and *EGD*’s Revenue Cap proposal;

- (b) It can reasonably be expected that some intervenors will propose a Price Cap model for EGD and that some intervenors may propose a Revenue Cap model for Union;
- (c) It can reasonably be expected that some intervenors will propose IR models for both Union and EGD which are neither the Price Cap model proposed by Union, nor the Revenue Cap model proposed by EGD;
- (d) In short, there will likely be a range of Price Cap, Revenue Cap, and other IR models for the Board to consider for both Union and EGD.

Argument

- 5. IGUA has had the benefit of reviewing the Factum submitted by EGD and substantially agrees with EGD's submissions to the effect that nothing relevant to the decision to adhere to a combined hearing format has materially changed since the Board issued its July 13 Decision.
- 6. IGUA submits that the range of IR options applicable to Union and EGD, including their implications for each utility, should be considered in a combined rather than in a separate proceeding. A severance order of the type requested by Union will materially increase the regulatory process burden on the Board, its Staff, and on Intervenor. This increased regulatory process burden far outweighs any dilution of the regulatory process burden which a severance order will provide for Union.
- 7. A severance order will not reduce the complexity of matters in issue in these proceedings. Because of the technical nature of much of the evidence and the large volume of material analyzed to support statistical conclusions, compliance with evidence filing deadlines is likely to be a recurring problem, whether or not the severance relief Union seeks is granted.

Conclusion

- 8. For all of these reasons, IGUA asks the Board to deny Union's Motion for severance.
- 9. IGUA requests an Order requiring Union to forthwith pay its reasonably incurred costs in connection with this Motion.

ALL OF WHICH is respectfully submitted this 12th day of September, 2007.



Peter C.P. Thompson, Q.C.
Counsel for IGUA