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Sept. 19, 2007

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto, ON
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Dear Ms. Walli:

Re: EB-2007-0606 & 0615 – BOMA & LPMA & WGSPG Comments on CCC Motion

Pursuant to Procedural Order No. 7 the following comment are presented on the matters arising from the Consumers Council of Canada (“CCC”) amended Notice of Motion dated August 23, 2007. These comments are presented on behalf of the Building Owners and Managers Association of the Greater Toronto Area (“BOMA”), the London Property Management Association (“LPMA”) and the Wholesale Gas Service Purchasers Group (“WGSPG”).

Parties that rely solely on cost awards in order to participate in OEB proceedings are at a disadvantage in obtaining and retaining expert counsel, consultants and/or experts because of the significant delays between when work is done and when payment through a cost award is received. Each of BOMA, LPMA and WGSPG are not for profit organizations that have no funds of their own to support their participation in the current proceeding. They each rely on cost awards to participate.

BOMA & LPMA & WGSPG are generally supportive of the CCC request for an interim cost schedule, or at a minimum, a periodic basis for submitting and recovering reasonably incurred disbursement costs according to a schedule to be determined by the Board. However, the CCC motion only asks that interim cost awards or disbursements be made to the CCC. It is our submission that any interim cost awards or disbursements should be made to all parties that have been found to be eligible for a cost award in this process.

Given the position in the current schedule, it is submitted that an appropriate timeframe for interim costs would be the time up to the settlement process phase, the end of settlement process phase, the end of the oral argument phase and the conclusion of the argument phase. If the Board believes that this constitutes too many interim phases and would place an administrative burden on the Board, then it is recommended that the

Board consider a two phase approach, with the first phase ending immediately before the start of the intervenor conference and the settlement conference phase of the proceeding. The second phase would then consist of the intervenor conference, settlement conference, the oral hearing and argument.

BOMA & LPMA & WGSPG have also had the opportunity to read Mr. Thompson's submissions on behalf of his client, the Industrial Gas Users Association ("IGUA"). We find merit in Mr. Thompson's suggestion of the introduction of a metric which requires Cost Claims of eligible intervenors to be considered, awarded, assessed and paid within a fixed period of time following the release of a Board Decision resolving matters in issue. However, we disagree with the 90 day period suggested by IGUA after which interest would accrue. As Mr. Thompson indicates, the utilities that are regulated by this Board can claim and recover interest on their accounts receivable long before the 90 days have elapsed from the date the claim arose. We suggest a more appropriate time period would 60 days.

With regard to the CCC request that interim and final cost awards be calculated using a scale of remuneration allowing an hourly rate of \$300 for senior counsel, consultants and experts, we make the following comments. It may be appropriate, at this time, to declare that the rates in the Boards Practice Direction on Cost Awards are interim for this proceeding. The interim cost award(s) could then be based on the current interim rates in place, with the understanding that if the Board changes these rates through the EB-2007-0683 Consultation, they would be applied to all time spent on the proceeding, including time covered by the interim cost award(s).

Finally, we suggest that the Board may want to include the issue and timing of interim cost awards in the EB-2007-0683 Consultation process so that its applicability could be extended beyond the current proceeding and made applicable to proceedings and consultations and other processes before the Board where there are parties that are deemed eligible for a cost award.

Please contact me if the Board requires any further information related to these comments.

Sincerely,

Randy Aiken

Randy Aiken
Aiken & Associates