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November 11, 2009

Ms. Kirsten Walli, Board Secretary **ONTARIO ENERGY BOARD** 2300 Yonge Street, 27th Floor Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: EB-2009-0084: Consultation on Cost of Capital - Post Stakeholder Conference Development.

We write as counsel to IGUA.

In the Final Written Comments submitted by a number of participants in this process, reference is made to a recent decision of the National Energy Board (dated October 8, 2009 - the "Rescission Decision"). In the Rescission Decision the NEB has determined that its earlier RH-2-94 Decision setting a formula based approach to determining Cost of Capital "will not continue to be in effect".

Given the reliance by a number of parties to this process on the *Rescission Decision*, IGUA wishes to alert the Board and interested parties that this past Monday, November 9th, the Canadian Association of Petroleum Producers (CAPP) and IGUA moved before the Federal Court of Appeal for leave to appeal the *Rescission Decision*, on a number of grounds. The Notice of Motion for Leave and supporting documents have been issued by the Court under Court File No. 09-A-36.

Yours truly, MACLEOD DIXON LLP

Ian A. Mondrow

c. Murray Newton, IGUA
Participants who filed Final Written Comments.

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