

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 9<sup>th</sup>, 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.