



uniongas

A Spectra Energy Company

January 15, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Certificate of Public Convenience and Necessity - City of London
Board File Number EB-2009-0068**

Further to our application and submissions of Natural Resource Gas (April 23, 2009) and Union Gas (May 15, 2009) on this application, we would like to update the Board on the discussions that have taken place between the two utilities.

Union has, among other things, completed a revised map of the relevant area, showing the locations of the Union and NRG certificate boundaries and the location of Union and NRG customers in the vicinity of those boundaries. A copy of this map is enclosed and it replaces the map forwarded to the Board as part of Union's May 15, 2009 submission.

Union also conducted a thorough search of the Board's archived files, in particular the file associated with EBC 111/119, in which the Board granted NRG a certificate in specified portions of the former Township of Westminster, now part of the City of London, in 1982. Union was able to find a copy of the Board's September 9, 1981 Reasons for Decision and the Board's May 5, 1982 Certificate of Public Convenience and Necessity.

The Reasons for Decision (at page 4) disclose that Union and NRG negotiated an agreement to resolve their differences over the former Township of Westminster and other municipalities which was approved by the Board. The "agreement" does not appear to have been reduced to writing although an agreed "metes and bounds" description, setting out the areas in the various townships which were agreed to by Union as being "properly attributable to NRG's territory" was apparently filed as Exhibit 16 in the EBC 111/119 proceeding. We were unable to locate Exhibit 16 in the Board's archive or in Union's historical files. Nevertheless, the Board's Reasons for Decision suggest that Exhibit 16, in a slightly amended form as directed by the Board, formed the basis of the delineation of NRG's certificate issued by the Board on May 5, 1982.

Based on the record of proceedings in EBC 111/119, it appears that to the extent of any conflict or overlap between Union's certificate FBC 259 dated June 10, 1958 and NRG's certificate EBC 111/119 dated May 5, 1982, the EBC 111/119 certificate should be regarded as having superceded FBC 259.

Union's application in EB-2009-0068 is consistent with this approach in that it seeks a new, consolidated Certificate for the City of London "except for those areas covered by Certificate of Public Convenience and Necessity EBC 111/119 held by Natural Resource Gas Limited".

Union proposes that the attached Schedule A be included as part of its new Certificate of Public Convenience and Necessity for the City of London. It outlines Union's understanding of the areas of the former Township of Westminster to which NRG holds the certificate rights.

In Union's view, it is in the interests of both utilities and the Board to have clarity and certainty around certificate boundaries particularly for present and future planning purposes. It also avoids the burden, perhaps decades into the future, of having to invest significant time and energy trying to reconstruct ambiguous historical (often incomplete) material.

Should you have any questions, please do not hesitate to contact me. I look forward to receipt of your instructions.

Yours truly,

[Original signed by]

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cc (by email): Richard King (Ogilvy Renault)
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 Jack Howley (NRG)
 Crawford Smith (Torys)

Schedule A
EB-2009-0068
Union Gas Limited
Certificate of Public Convenience and Necessity
City of London

Areas Excluded from Union Gas Limited's Certificate

Former Township of Westminster

- | | |
|----|---|
| W1 | The whole of Lots 5 and 6 in Concession 8. |
| W2 | The whole of Lots 5 and 6 in Concession 7. |
| W3 | The south halves of Lots 5 and 6 in Concession 6. |
| W4 | The north half of Lot 2 and the whole of Lot 3 in Concession 3. |
| W5 | Those parts of Lots 3 and 4 in Concession 2 lying south of Highway 401. |
| W6 | That part of the east half of Lot 5 in Concession 2 lying south of Highway 401. |