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May 25, 2010

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

Dear Ms. Walli:

Re: EB-2010-0060: Consultation on Distribution Revenue Decoupling.

Industrial Gas Users Association (IGUA) Preliminary Comments.

On behalf of IGUA, we have had the benefit of reviewing the Pacific Economics Group's (PEG) thoughtful March 19, 2010 report commissioned in this matter (the Report), and of attending and participating in the stakeholder meeting with PEG and Board Staff held on April 19, 2010.

IGUA will continue to consider the issues raised by the Report in the subsequent phases contemplated for this process, the next of which is the anticipated release of a staff discussion paper. IGUA will also be informed by the Report in the parallel process underway to consider the Demand Side Management (DSM) framework for natural gas distributors (resumed under docket EB-2008-0346). We are also aware that a number of stakeholders have filed detailed comments on the issues raised in the Report, which we will consider.

In the interim, we would offer the following brief comments on the Report, for the consideration of OEB Staff in development of the anticipated discussion paper.

With respect to the current situation in Ontario, the report raises two primary issues. The first of these two issues relates to how to effectively deal with disincentives for, and impacts of, utility conservation initiatives on more than 80 electricity distributors. Many of these electricity distributors are relatively small, and use of a Lost Revenue Adjustment Mechanism (LRAM) approach to removing conservation disincentives for these distributors might not be efficient or practical. In respect of gas conservation, IGUA observes that LRAM has generally been working, and that as long as detailed demand side management (DSM) program conservation impact assumptions and calculations are required to derive shareholder DSM incentives, the use of a similarly determined LRAM to adjust for lost revenues resulting from distributor DSM programs does not present a significant incremental administrative or regulatory burden. As noted above, the broader review of gas DSM underway will benefit from the information and perspectives provided by the Report herein. That review includes consideration of the potential for, and benefits of, a shift away from the use of detailed input assumptions and gas savings calculations and towards a more metric, perhaps market penetration type, approach to evaluation of DSM programs. Such a shift might commend reevaluation of gas DSM LRAMs.

The second primary issue that the Report raises with respect to the current situation in Ontario is the issue of addressing distribution utility earnings attrition from external sources, beyond the impacts on a particular utility's distribution volumes arising directly from that distribution utility's conservation programs. In respect of the gas distributors' circumstances, as noted in the Report Enbridge Gas Distribution and Union Gas Limited have; i) forward test years; ii) relatively high fixed customer charges; and iii) gas usage adjustment mechanisms already imbedded in their current incentive regulation frameworks. Going beyond these mechanisms to expressly decouple distribution revenues from external forces such as weather and economic activity levels engages the issue of where risks associated with such external forces should lie. Consideration of the allocation of risk between the distributor's shareholder and its ratepayers should be informed by consideration of whether the particular risk is reasonably subject to mitigation by a distributor, and whether such mitigation should be incented. PEG has also noted, as does IGUA, that decoupling revenues from volume risks results in a reduction in utility risk profile, and should result in downward adjustment to utility earnings (i.e. ROE and/or capital structure).

The Report also comments on the prospect of a revenue true-up decoupling mechanism "freeing" utilities and regulators to design rates aimed at facilitating certain social objectives, including conservation. IGUA's general view is that rate structure should reflect cost causality, and social programs are properly the purview of elected representatives (i.e. governments) rather than economic regulators.

The Report also notes that decoupling may necessitate considering mechanisms to allocate costs and revenue requirement in a manner that avoids inter-rate class subsidies. For example, if weather risk is to be shifted from shareholders to ratepayers, the focus for recovering volume variances resulting from weather may properly be placed on heat sensitive customers. Shifting the risk of changes in economic circumstances to ratepayers, on the other hand, may not require such a rate class specific focus.

IGUA appreciates the opportunity to participate in this review, and looks forward to further consideration of proposals and positions as the Board's work continues.

Yours truly,
MACLEOD DIXON LLP

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