

July 12, 2010

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

Dear Ms. Walli:

Re: EB-2010-0184: Consumers Council of Canada (CCC) and Aubrey LeBlanc motion in relation to section 26.1 of the *Ontario Energy Board Act, 1998*.

Industrial Gas Users Association (IGUA) Position on the Preliminary Questions.

By letter dated June 9, 2010, and in accord with Procedural Order No. 1 herein, IGUA provided brief submissions related to the preliminary issues that the Board has determined it will consider in respect of the captioned motion. IGUA will not be appearing at the oral hearing before the Board on these preliminary issues scheduled for Tuesday July 13, but wishes through this letter to confirm its support for the moving parties. We would appreciate it if you could bring this letter to the attention of the Hearing Panel for the motion.

In particular, IGUA wishes to:

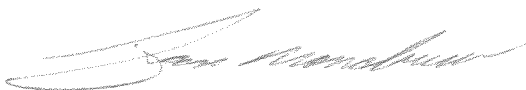
1. Reiterate its interest in the issues that have been brought before the Board and its support for the motion.
2. Confirm its support for the positions that the Board has the jurisdiction to hear the motion, and that the moving parties have, or in the alternative should be granted, standing to bring the motion forward.
3. Support the moving parties' entitlement to an efficient review and determination of the facts and law related to the constitutional validity of *Ontario Energy Board Act, 1998*

section 26.1, and of the regulations promulgated and the regulatory instruments issued thereunder.

IGUA has a particular perspective on the substance of the matters in issue. While the section 26.1 assessments do not currently apply to natural gas distribution ratepayers, it is IGUA's understanding that they will in future. As set out in the Written Argument of the Attorney General of Ontario (Ontario), there are two programs which are now funded by the special purpose charge (Ontario Written Argument, paragraph 9). Neither of these programs are targeted at industrial energy consumers, and to IGUA's knowledge no industrial energy consumer has availed itself of either of these programs. Notwithstanding these facts, industrial electricity consumers are subject to the current special purpose charge assessment.

The foregoing facts speak to who benefits from the programs in issue and who pays the costs of those programs under the legislative scheme, which all goes to the legitimacy of characterization of the section 26 assessments as a "regulatory charge". IGUA agrees with those parties who highlight that the Board requires a complete evidentiary base in respect of the matters in issue on the motion, and submits that the Board should establish a procedure to ensure that the factual record before it when turning to consideration of the merits of the motion is complete.

Your truly,
MACLEOD DIXON LLP



Ian A. Mondrow

- c. Murray Newton, IGUA
Robert G. Warren (WeirFoulds LLP)
Catherine Powell (WeirFoulds LLP)
Julie Girvan (CCC)
Janet E. Minor (Ministry of the Attorney General of Ontario)
Intervenors