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Please Reply to the TORONTO OFFICE

BY EMAIL

November 26, 2007
Our File No. 2060604

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Gas IRM Applications – EB-2007-0606/615 – Procedural Order #10

On November 7, 2007, the Board issued Procedural Order #10 in this proceeding, ordering production by Union Gas on a confidential basis of certain evidence in this proceeding. The wording of the Board's order is as follows:

“The Board therefore orders that:

...3. Union is to provide its last annual and last two quarterly RRR filings to parties that sign the Board's Form of Declaration and Undertaking with respect to confidentiality.”

The undersigned has signed the Board's Form of Declaration and Undertaking and provided it to the Board and to Union Gas. After a series of letters and emails in which we have repeatedly requested compliance with the Board's order, Union Gas has continually refused to provide the RRR filings on the basis that they are entitled to require the execution of an additional confidentiality undertaking drafted by them. Their position appears to be that they asked for execution of this additional document in their letter requesting confidentiality, and the Board did not expressly say no, so by implication the execution of that additional document must be “read into” the Board's order above.

We seek the Board's guidance in what steps should be taken in this regard to enforce compliance with the Board's order. While we are aware that the normal course would be to initiate a motion for compliance, we are conscious of the time pressures in this proceeding, and are loathe to generate any further delay given the many delays that have already arisen. If it is the Board's preference that we do so, we will of course proceed with an order. On the other hand, if the Board would prefer that this be dealt with in another way, we would appreciate the Board's direction on what procedure would be preferred.

Counsel for Union Gas has asked that we include in any motion copies of all of their correspondence in this regard. Rather than include any material with this letter, and run the risk of missing something, we invite them, in responding to this letter, to include whatever past correspondence they feel is appropriate.

All of which is respectfully submitted.

Yours very truly,

SHIBLEY RIGHTON LLP

A handwritten signature in dark ink, appearing to read 'Jay Shepherd', is written over a light blue rectangular background.

Jay Shepherd

cc: Michael Penny, Torys (email)
Michael Millar, OEB (email)
Interested Parties (email)