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By electronic filing and by e-mail

November 30, 2010

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
27<sup>th</sup> floor – 2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms Walli,

**Union Gas Limited (“Union”)**

**Motion to Adjourn**

**Board File No.: EB-2010-0039**

**Our File No.: 339583-000070**

In reviewing the materials that we filed electronically yesterday, we noted that we inadvertently included the incorrect letter at Exhibit 23 of Mr. Hughes’ Affidavit. The letter that should be attached as Exhibit 23 is one dated November 25, 2010, a copy of which is enclosed herewith. Would you please substitute this letter for the copy of the letter of November 19, 2010, that was incorrectly marked as Exhibit 23.

Please contact us if further information is required to rectify this error.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Peter Thompson', with a long, sweeping flourish extending to the right.

Peter C.P. Thompson, Q.C.

PCT\slc  
enclosure

c. Mark Kitchen and Chris Ripley (Union)  
Crawford Smith (Torys)  
EB-2010-0039 Intervenors  
Paul Clipsham (CME)

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**By E-mail**

November 25, 2010

Crawford Smith  
Torys LLP  
Suite 3000, Maritime Life Tower  
P.O. Box 270  
Toronto Dominion Centre  
Toronto, ON M5K 1N2

Dear Mr. Smith

**Union Gas Limited**  
**Motion to Adjourn**  
**Board File No.: EB-2010-0039**  
**Our File No.: 339583-000070**

We are in the midst of preparing a Cross-Motion and supporting Affidavit opposing Union's adjournment motion and seeking the relief described in our letter to Mr. Kitchen of November 19, 2010.

In preparing these materials, some questions have arisen pertaining to Mr. Kitchen's Affidavit and the status of documents referenced in the Settlement Agreement attached as Exhibit "E". The Settlement Agreement states that these documents were produced by Union in confidence.

We are writing to seek clarification of the following matters:

- (a) In paragraph 5 of his Affidavit, Mr. Kitchen refers to specific provisions of the Purchase & Sale Agreement between DGLP and Union. This is one of the confidential documents listed in paragraph 15 of the Settlement Agreement. Are we now to assume that this document and the others described in paragraph 15 of the Settlement Agreement are no longer to be held in confidence? We need to know this because some of the contents of these documents are of relevance to our Cross-Motion.
- (b) Under paragraph 15 of the Settlement Agreement, Union was to provide copies of the Agreements between DGLP and its shippers that had been filed, confidentially, in the EB-2008-0411 proceedings. On checking the copies of the confidential documents that were sent to us by courier, we note that information has been redacted from them that was not redacted from the materials filed in the EB-2008-0411 proceedings. Volumes and reservation rates were not redacted in

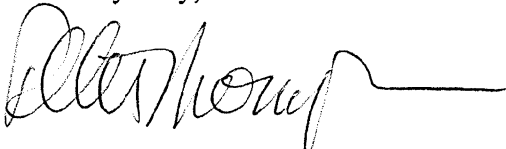
the materials produced, in the prior proceedings, and I do not think that any "Shipper's Conditions Precedent" were redacted. My recollection is that only the names of the shippers were to be redacted from the documents filed, confidentially, in the prior proceedings. We note as well that the "Agreement and Amendment to Precedent Agreement" materials you have provided contain redactions that go beyond the name of the shipper. Would you please send us, by courier, copies of the documents that were filed in the EB-2008-0411 proceedings, and copies of the amending agreements with redactions confined to the names of the shippers only.

- (c) Two documents that were enclosed in the package of confidential materials that were sent to us by courier pertain to communications between DGLP and its shippers. They relate to the sequence of events that are described in the response Union provided to us in Exhibit B3.17, being CME Interrogatory No. 17. Attached to the response provided in the public record are two email communications. Can you explain why the two documents that were forwarded to us by courier are to be held in confidence when the email communications attached to Exhibit B3.17 form part of the public record?
- (d) Paragraph 6 of Mr. Kitchen's Affidavit refers to the Board's Decision and Order dated November 27, 2009. However, attached at Exhibit "A" of the material forwarded to us, is a copy of the Board's Decision and Order dated May 11, 2010. It appears that whoever put the materials together inadvertently attached the May 11, 2010 Decision at both Exhibits "A" and "B". This should be corrected if others received what we received.

Finally, for the purposes of our Cross-Motion, would Union be good enough to provide us with the balance that will be recorded in deferral Account 179-121 with interest to December 31, 2010, and a schedule that shows how that amount will be allocated to the rate classes in the event that the Board requires that amount to be forthwith cleared to ratepayers and reflected in Union's rates that the Board approves for an effective date of January 1, 2011.

Please call me if you have any questions about the contents of this letter.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT/kt

- c. Mark Kitchen and Chris Ripley (Union)  
EB-2010-0039 Intervenor  
Paul Clipsham (CME)

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