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By electronic filing

February 1, 2011

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

Dear Ms Walli,

Ontario Energy Board
Affected Electricity Distributors
Board File No.: EB-2010-0295
Our File No.: 339583-000091

As solicitors for Canadian Manufacturers & Exporters (“CME”), we are writing to provide brief submissions with respect to the two (2) issues the Board has listed for determination in this proceeding.

We appreciate that the deadline for intervenor submissions was yesterday, January 31, 2011. My pre-occupation, yesterday, with another pressing matter is the reason for the late delivery of this submission. We respectfully request that the deadline for receiving CME’s submission in connection with this matter be extended one (1) day to today, February 1, 2011.

Issue 1 – Whether Affected Electricity Distributors should be allowed to recover from ratepayers the costs and damages incurred in the LPP Class Action

We agree with and have nothing to add to the description of the “Background to Late Payment Penalty Class Actions” contained in the Board Staff Submission dated January 28, 2011.

The circumstances pertaining to the imposition, recovery of and use of Late Payment Penalty (“LPP”) revenues by the Affected Electricity Distributors appear to us to be analogous to the factual situation that prevailed in the cases of the natural gas utilities the Board regulates.

In these circumstances, we submit that there is no principled basis upon which the Board’s approach to the recoverability of Class Action LPP Settlement amounts from the ratepayers served by the Affected Electricity Distributors could differ from the manner in which those amounts were recovered from ratepayers of Enbridge Gas Distribution Inc. (“EGD”) and Union

Gas Limited (“Union”). Accordingly, we support the issuance of an Order in favour of the Affected Electricity Distributors that is analogous to the Orders the Board has already made in favour of EGD and Union.

Issue 2 – What is the appropriate methodology to: (a) apportion costs across customer rate classes, and (b) recover such allocated costs in rates?

We submit that the Board should determine this issue in a manner that is, in its view, compatible with its decisions in the EGD and Union cases. Recovery of the LPP Class Action Settlement amounts from ratepayers should reflect the extent to which each rate class benefited from the allocation of utility LPP revenues.

We leave it to the Board to determine the nature of the information source each Affected Electricity Distributor should use to determine the appropriate allocation factor for each rate class. On principle, we suggest that the information source to be used by each distributor should be one that, in the Board’s view, is a readily available measure of the allocator determined by the Board to be appropriate.

Costs

CME requests that it be awarded 100% of its reasonably incurred costs of participating in this proceeding.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT\slc

c. Intervenor EB-2010-0295
Paul Clipsham

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