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By Electronic Filing and By Email

January 7, 2008

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th floor
Toronto, ON M4P 1E4

Dear Ms Walli

**Combined Proceeding
Incentive Regulation ("IR")**

Enbridge Gas Distribution Inc. ("EGD")

Board File No.: EB-2007-0615

Union Gas Limited ("Union")

Board File No.: EB-2007-0606

Our File No.: 302701-000411

We are writing on behalf of the Industrial Gas Users Association ("IGUA").

On January 4, 2008, Union's legal counsel sent to the Board a letter along with new evidence addressing the issue of whether tax changes during the IR term should be treated as Z factor adjustments. The filing of this new evidence is not in accordance with the existing proceeding timetable as amended by Procedural Order No. 11. If accepted, the additional procedural requirements demanded by natural justice will necessarily cause delays in the proceeding.

On June 27, 2007, the Board issued Procedural Order No. 1 which set out the Combined Proceeding timetable. The timetable anticipated the filing of Union's Written Evidence by July 9, 2007. That timetable was revised by Procedural Order No. 3 dated July 16, 2007, in which Union was provided until August 2, 2007, to file its evidence. Since that time, the parties have exchanged Interrogatories, attended Technical Conferences, filed responding evidence and have completed the Settlement Conference.

In these circumstances, Union should not be permitted to file new evidence without filing a motion to obtain leave of the Board to file late evidence. In seeking such leave, Union should be required to address the procedures necessary to ensure that other parties are not prejudiced. I note that in its correspondence of January 4, 2008, Union's legal counsel recognizes that all parties must have the opportunity to retain consultants to address this

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question and have this issue resolved on the basis of a full evidentiary record. Given Union's recognition of the need for parties to seek expert advice, we would anticipate that the appropriate procedures include an opportunity for parties to consult with other experts, an interrogatory process or Technical Conference, and an opportunity to file further evidence. These additional steps will require a postponement of the commencement of the hearing currently set for January 17, 2008.

IGUA remains committed to the Settlement Agreement filed with the Board. That said, parties were not informed by Union that it was going to file additional evidence until after finalization of the Settlement Agreement. Under these circumstances, IGUA's approval of the Settlement Agreement is conditional upon the Board establishing an appropriate process to deal with this new evidence.

Yours very truly

Vincent J. DeRose

VJD

c. Interested Parties EB-2007-0606 and EB-2007-0615
Murray Newton (Industrial Gas Users Association)

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