



**PUBLIC INTEREST ADVOCACY CENTRE**  
**LE CENTRE POUR LA DEFENSE DE L'INTERET PUBLIC**

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Michael Buonaguro  
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November 1, 2007

VIA EMAIL and COURIER

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
26<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: Union Gas / Enbridge Gas Distribution Inc. - Incentive Rate Regulation for  
Natural Gas Utilities B-2007-0606 / EB-2007-0615**

Please find enclosed the factum of VECC with respect to the motion returnable  
November 6, 2007.

Yours truly,

Michael Buonaguro  
Counsel for VECC  
Encl.

**IN THE MATTER OF** the *Ontario Energy Board Act*, 1998,  
S.O. 1998, c. 15 (Sched. B);

**AND IN THE MATTER OF** an Application by Union Gas  
Limited for an Order or Orders approving a multi-year  
incentive rate mechanism to determine rates for the regulated  
distribution, transmission and storage of natural gas, effective  
January 1, 2008;

**AND IN THE MATTER OF** an Application by Enbridge  
Gas Distribution Inc. for an Order or Orders approving or  
fixing rates for the distribution, transmission and storage of  
natural gas, effective January 1, 2008;

**AND IN THE MATTER OF** a combined proceeding Board  
pursuant to section 21(1) of the *Ontario Energy Board Act*,  
1998.

**FACTUM OF THE VULNERABLE ENERGY CONSUMERS COALITION  
MOTION RETURNABLE NOVEMBER 6, 2007**

**INTERIM RATES EFFECTIVE JANUARY 1, 2008**

1. VECC has no objection to Union's request for an order making their rates interim effective January 1, 2008. VECC does object, however, to Union's request that interim rates include an increase based on its application.

**INTERIM RATE INCREASES EFFECTIVE JANUARY 1, 2008**

2. In addition to seeking an order making their rates interim, Union seeks two categories of interim rate increases:
  - a) interim rate increases related to items previously approved by the Board in other proceedings, and
  - b) rate increases related to issues to be determined in this proceeding.
3. With respect to Union's request that the Board implement an interim rate increase related to items previously approved by the Board in other proceedings, VECC does not object to the relief requested. Specifically, VECC does not object to an interim rate order effective January 1, 2008 that includes rate adjustments to Union's current rates related to

- a) implementation of the new Rate M1 and the new Rate M2 classes,
- b) gas distribution access rule implementation,
- c) treatment of demand side management costs,
- d) NGEIR implementation, and
- e) the Lost Revenue Adjustment Mechanism,

insofar as there are rate adjustments pending related to previous Board decisions on these matters. To the extent that the impact of those decisions are in dispute, VECC does not support such adjustments.

4. With respect to Union's request that the Board order interim rate increases related to issues to be determined in this proceeding, VECC objects to the requested relief. Specifically, VECC objects to an order that interim rates effective January 1, 2008 reflect
  - a) the application of Union's proposed price cap index,
  - b) Union's proposed weather methodology change, and
  - c) Union's proposed treatment of forecast storage and transportation margin.
5. VECC respectfully submits that as these three items are specifically at issue in this proceeding, it would be inappropriate for the Board to allow Union to recover rates related to these three issues before the Board has determined whether the items result in just and reasonable rates.
6. VECC respectfully submits that the Board should not put itself in the position of appearing to pre-approve, to any degree, the utility's position on issues that are before the Board by approving a change in current rates based on items that the Board has not considered in a full and fair hearing.
7. VECC submits that the Board, on the motion for interim rates, should avoid a precedent that suggests that simply applying for a rate increase is sufficient grounds for that increase on an interim basis.
8. VECC submits that it is entirely plausible that parties other than the utility may argue that there should ultimately be a rate decrease, and that on that basis the Board should order an interim rate decrease on a motion for interim rates. Under such a scenario, where the Board is of the mind to consider interim rates grounded on something other than existing rates and issues already decided in other proceedings, the Board would be confronted with deciding between the utility's application and the submissions of other parties without having properly considered the evidence in support of each position. VECC respectfully submits that undergoing such a process, absent extraordinary circumstances, could undermine the decision making process as a whole.

9. VECC also notes that the proceeding is entering into an ADR commencing November 14, 2007. VECC respectfully submits that any order of the Board that approves the utility's application with respect to issues in dispute in this proceeding may prejudice the intervenors ability to effectively negotiate within the ADR process.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 1<sup>st</sup> DAY OF  
NOVEMBER, 2007**