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February 13, 2012

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

Dear Ms. Walli,

RE: EB-2011-0038 - Additional Comments of London Property Management Association on Draft Rate Order

These are the additional comments of the London Property Management Association ("LPMA") on the EB-2011-0038 Draft Rate Order related to the amount that should be shared with ratepayers in Account No. 179-70 (the "Short-term Storage Account"). As per Procedural Order No. 5 dated February 13, 2012, the Board indicated that any intervenors that wished to make additional comments on the Draft Rate Order should do so before Tuesday February 14, 2012.

In the EB-2005-0551 Natural Gas Electricity Interface Review ("NGEIR") Decision with Reasons dated November 7, 2006, the Board found, at page 101-102 that:

"The decision to require Union to notionally divide its existing storage into two pieces – a "utility asset" (maximum of 100 PJ) and a "non-utility asset" (the balance of Union's capacity) is set out in Chapter 6. Union's storage facilities will not be physically split into two pieces and Union is likely to continue operating its storage assets in much the same way as it does today. Union presumably will determine its ability to execute short-term deals based on the amount of temporarily surplus space in the entire storage facility. As long as the utility and non-utility storage is operated as an integrated asset, it will not be possible to determine that any particular short-term transaction physically utilizes space from either the "utility asset" or the "non-utility asset."

Given the impossibility of physically linking a short-term transaction to a specific slice of storage space, the Board considered other methods of

determining the amount of storage margins that should accrue to Union's ratepayers. The Board has decided that the calculation should be based on how the costs of the storage facilities are split between the utility and non-utility businesses. Specifically, Union's revenues in any year from short-term storage transactions, less any incremental costs incurred by Union to earn those revenues, should be shared by Union and ratepayers in proportion to Union's allocation of rate base between utility and non-utility assets." (emphasis added).

The 79%/21% split that the Board directed Union to use to split margins on short-term storage transactions between in-franchise customers and the non-utility storage business was based on evidence at the time of the NGEIR proceeding that indicated Union could not and would not be able to link a short-term transaction to a specific slice of the storage space.

LPMA submits that based on the Board's Decision in the current proceeding, along with Union's own testimony, the rationale for the 79%/21% split used by the Board in the NGEIR Decision is no longer appropriate.

In this proceeding, the Board has found that the intent of the NGEIR Decision was to effect the one time separation of plant assets between Union's utility and non-utility businesses (page 6); that Union plans resource optimization activities around non-utility storage assets only and tracks the use of its non-utility storage space for ex-franchise transactions (page 16); and that the entire amount of utility storage above in-franchise customer needs is sold as short-term storage service and that all of the cost of this space are to be paid by in-franchise customers (page 20).

LPMA submits that it is no longer impossible to link a short-term transaction to a specific slice of storage space (i.e. utility or non-utility). As noted in the highlighted sections of the NGEIR Decision reproduced above, the Board assumed Union would determine its ability to execute short-term deals based on the amount of temporary surplus space in the entire storage facility and that it would not be possible to determine that any particular short-term transaction utilizes space from either the "utility asset" or the "non-utility asset".

LPMA submits that the Board Decision in the current proceeding recognizes that this is no longer the case. Ms. Cameron, on behalf of Union, clearly acknowledged that Union only sells any additional storage space within the 100 PJs (utility assets) not used for in-franchise customers on a short-term basis and that Union utilizes all of the non-utility assets (over the 100 PJ) for long-term deals and that none of that non-utility asset would be sold short term (Tr. Vol. 1, page 148) in the following exchange:

MR. AIKEN: Now, my final question had to do with some of the discussion earlier with Mr. Thompson on short-term and long-term storage transactions. My understanding that anything under the 100 PJs not used or not needed for Union's in-franchise customers Union would sell short-term, but not long-term; is that correct?

MS. CAMERON: That is correct.

MR. AIKEN: And then anything over the 100 petaJoules which the Board has deemed to be a non-utility asset, does Union always sell that, along with the resource optimization, but in terms of the physical capacity, the 60-some petaJoules over the 100, does Union always sell that as long-term storage, or are there times when you sell some of that as short-term as well?

MS. CAMERON: We sell that all long-term.

MR. AIKEN: Is there a possibility in the future that some of that could be sold short-term, or that's not in your plans?

MS. CAMERON: Not under the current regulatory framework. We won't change. (emphasis added)

It is apparent that Union has made a significant change in the way that it operates its storage assets. The evidence on the record in this proceeding indicates that utility assets are used for short-term transactions and not for long-term transactions, while non-utility assets are used for long-term transactions and not for short-term transactions. In other words, there is a clear link between short-term transactions and utility assets and between long-term transactions and non-utility assets. At the same time there is no link between short-term transactions and non-utility assets. This is a clear change from the way Union told the Board how its storage operations operated in the NGEIR proceeding.

As a result, LPMA submits that all short term transactions are based on utility assets and the 79%/21% split is no longer justified. 100% of the margins generated from short-term transactions are now demonstrably linked to the use of only utility assets.

If the Board were to leave the current sharing in place despite the clear evidence on this issue in this proceeding, Union could contract out all of their non-utility storage space through long-term transactions and claim an additional 21% of the margins associated with short-term transactions which do not use those non-utility assets. In other words, Union would be earning two sets of revenues from the non-utility assets, while ratepayers only share in 79% of the revenue generated by the utility assets. LPMA submits that this result is clearly wrong and needs to be corrected immediately.

Yours very truly,

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