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By electronic filing

August 28, 2012

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

Dear Ms Walli,

Union Gas Limited
Motion to Review July 18, 2012 Decision and Order
Board File No.: EB-2012-0206
Our File No.: 339583-000104

We are writing on behalf of Canadian Manufacturers & Exporters ("CME") with respect to the Motion to Review filed by Union Gas Limited ("Union") on Friday, August 24, 2012.

We are writing to respectfully request that, pursuant to Rule 45.01, the Board determine, without a hearing, that, on the basis of threshold considerations, this matter should not be reviewed.

The time for bringing the Motion has expired. Moreover, for reasons that follow, we submit that threshold considerations should prompt the Board to find that the matter should not be reviewed.

The July 18, 2012 Decision and Order that Union asks the Board to review is, in substance, a statement by the Board of what it actually intended to determine in a prior Decision. Union is effectively seeking to challenge the Board's own statement as to what it intended. How can any party to proceedings before the Board credibly challenge a statement by the Board of its own intent? Such a challenge inherently lacks merit and the Board should not hesitate to refrain from hearing such challenges.

The Decision being challenged does not and did not purport to change the incentive regulation framework, as Union asserts. Rather, the Decision relates to the allocation, to ratepayers, of Actual 2010 short-term storage revenues received by Union. The Decision allocates those revenues in accordance with the Board's findings with respect to the intent of the NGEIR Decision (which Union does not challenge) and the manner in which the NGEIR Decision had been implemented within the incentive regulation framework.

Moreover, the Motion appears to assert that the financial effects of the Decision being challenged can be relied upon to justify the requested review. The effects of a Board Decision on Union cannot reasonably be relied upon as a basis for challenging the Decision. A utility that has been told by its regulator to allocate to ratepayers net revenues that the utility has received for the sale of utility services cannot credibly argue that it should, nevertheless, be permitted to keep the money because its financial position will be impacted by having to pay the money to those entitled. Such a proposition is manifestly devoid of merit.

For all of these reasons, we respectfully urge the Board to determine without a hearing that this matter should not be reviewed.

Yours very truly,

Peter C.P. Thompson, Q.C.

PCT\slc
c. Chris Ripley (Union)
Crawford Smith (Torys)
Intervenors in EB-2011-0038
Paul Clipsham (CME)

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