



**INFRASTRUCTURE SERVICES DEPARTMENT  
KITCHENER UTILITIES**

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**BY E-MAIL & COURIER**

November 5, 2012

Ontario Energy Board  
Attn: Ms. Kirsten Walli, Board Secretary  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

**Re: EB-2011-0210 – Union Gas Limited (“Union”) 2013 Rates – Decision and Order Dated October 25, 2012 (“Decision”) – Request for Clarification by the City of Kitchener (“Kitchener”)**

I am writing on behalf of Kitchener to respectfully seek clarification of a portion of the findings by the Ontario Energy Board (“Board”) found at page 104 of its Decision in Union’s Application for Rates for 2013, as reproduced below:

“In addition, the Board agrees with Union that *Kitchener has not challenged the customer-related costs and the cost allocations in the 2013 cost study*, which identified the customer-related costs and those specifically attributable to Kitchener. As such, the Board does not have a reasonable basis upon which it could direct Union to revise the T3 customer charge.” [emphasis added]

Kitchener interprets the italicized portion of these findings at page 104 not to mean that Kitchener has not challenged the customer-related costs and the cost allocations in the 2013 cost study, but rather that Kitchener did not challenge the customer-related costs and the cost allocations in the 2013 cost study by leading evidence in these proceedings.

In Kitchener’s respectful view, it clearly challenged the customer-related costs and the cost allocations in the 2013 cost study by way of written interrogatories, undertakings, cross-examination and written argument. Related evidentiary citations were included in Kitchener’s Written Argument dated August 17, 2012, for example, at paragraph 10. Kitchener acknowledges that it did not lead intervenor evidence to specifically challenge the customer-related costs and the cost allocations in the 2013 cost study.

However, if our interpretation of the Board’s findings above is correct, then it follows that the Board would have a reasonable basis upon which it could direct Union to revise the T3 customer charge if Kitchener were to present the Board with sufficiently compelling intervenor evidence on this specific cost allocation and rate design issue when Union next seeks rate relief.

November 5, 2012

*Ms. Walli*

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I would respectfully ask the Board to please confirm if our interpretation of its findings at page 104 of the Decision noted above is correct or to clarify otherwise its intent. If our interpretation is correct, then Kitchener respectfully reserves its rights to lead evidence on the customer-related costs, cost allocation and T3 customer charge for rates subsequent to 2013.

Kitchener's reservation of rights to file such evidence should respectfully not be procedurally or otherwise prejudiced by the rate-setting mechanism (cost of service, incentive regulation mechanism, etc.) that is used to set Union's rates beyond 2013. Also, given a presumed need for Kitchener to lead evidence to provide the Board with a reasonable basis upon which it could direct Union to revise the T3 customer charge, Kitchener would also respectfully reserve its rights to seek costs.

If there are any questions or concerns with this request for clarification of the Board's Decision, please contact me at your earliest convenience. Kitchener thanks the Board for its consideration of this request for clarification.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Gruenbauer", is positioned above the typed name.

James A. Gruenbauer, CMA  
Manager, Regulatory Affairs and Supply

Cc: Parties to EB-2011-0210  
W. Malcolm (Kitchener)  
J. Rosenkranz (North Side Energy LLC)