David I. Poch Barrister tel. (613) 264-0055 fax (613) 264-2878

11 January 2013

Ontario Energy Board
2300 Yonge St., 27th Floor
Toronto, ON
M4P 1E4

Attn: Ms Kirsten Walli
Board Secretary

By electronic filing and e-mail

Dear Ms Walli:

Re: EB-2012-0337 Union Gas Industrial DSM 2013-14 – GEC Notice of Motion

Attached please find our Notice of Motion in this matter seeking further and better interrogatory responses from APPrO. Given that the hearing of this case is scheduled for January 31st and ADR is to begin next Tuesday, in an effort to expedite this matter, GEC has proposed a written motion and that GEC will rely on the content of the Notice as our submission, subject to our right to reply to any submissions made by other parties.

Sincerely,

David Poch

All parties

1649 Old Brooke Road, Maberly, Ontario K0H 2B0 e-mail: dpoch@eelaw.ca

EB-2012-0337

BEFORE THE ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an application by Union Gas Limited pursuant to Section 36(1) of the *Ontario Energy Board Act*, 1998, for an Order or Orders approving the 2013-2014 Large Volume Demand Side Management Plan.

NOTICE OF MOTION
(GEC Motion to compel further and better interrogatory responses from APPrO)

THE INTERVENOR, GREEN ENERGY COALTION (GEC), will make a motion to the Board on a date and time to be determined by the Board, at the Board's Hearing Room, 25 Floor, 2300 Yonge Street, Toronto, Ontario or in such other manner as the Board shall determine.

PROPOSED METHOD OF HEARING: GEC proposes that the motion be heard in writing. GEC proposes to rely on the content of this Notice as its submission in chief and reserves the right to file reply submissions.

THE MOTION IS FOR:

1. An Order that the intervenor, APPrO provide further and better responses to GEC interrogatories numbered: D5-18-d, 29,30,31 and 32.

THE GROUNDS FOR THIS MOTION ARE:

2. In all cases the interrogatories are relevant to the issues before the Board, concern the matters which the witnesses purport to address in their evidence and for which the answers are unresponsive.

3. IR D5-18-d asks for the summary of responses to the survey prepared by Navigant to be presented for companies (as opposed to respondents) served by Union Gas (as opposed to those served by all gas providers). Navigant has limited its presentation of findings to 'respondents' which in some cases includes multiple responses for any one company and includes companies not served by Union Gas. Navigant's evidence (Exh. C2) at page 1 recites its task as: "A survey of Union's large gas customers who are APPrO members to explore their recent and projected energy efficiency spending vis-à-vis any DSM funding provided by Union." The information GEC seeks is clearly available and would better inform a discussion of the issues and the impact of any Board decision for the province, for Union Gas and for its various customers. APPrO's answer is non-responsive.

4. IRs D5-29 and 30 request information on the economic and non-economic screens that LDE uses for DSM investment. The APPrO's witness from LDE has suggested that an opt-out regime would not reduce conservation investment. To test that GEC seeks to compare the investment tests and relative economic incentives that come into play in the opt-out versus DSM cases. The answers, which refer to D1-5 are non-responsive.

5. IRs D5-31 and 32 seek information about LDE's opportunities and practices in regard to capturing conservation potential. The witness has suggested that companies such as LDE are "self-motivated to seek out efficiencies" and GEC wishes to understand the extent and impact of that motivation in practice and its adequacy in comparison to the potential of a utility run program – the very issues before the Board and which the witness purports to address. The answers are argumentative and non-responsive.

THE FOLLOWING DOCUMENTARY EVIDENCE is relied upon:

Exhibits D-5-18, 29,30,31,32 and D-1-5.

11 January 2013

David Poch, Barrister
1649 Old Brooke Rd.
Maberly, ON, K0H 2B0
613-264-0055

Counsel for GEC

To: All Parties

Interrogatories for Sean Russell (Commercial Manager/Interim Plant Manager of London District Energy Inc., subsidiary of Veresen Inc.)

INTERROGATORY #5

Has Veresen pursued all of its energy savings opportunities with a TRC benefit/cost ratio of 1.0 or better? If "no", please explain why not.

RESPONSE

Energy efficiency programs are pursued on an ongoing and planned basis, taking into account various investment criteria which depend on the nature and scope of the specific energy efficiency initiative. Project benefit-to-cost ratios will change over time as equipment ages and requires further maintenance, with the input costs of fuel and with the price of electricity. This systematic pursuit of energy efficiency is part of LDE's regular business planning because it makes good business sense. Plant management is in the best position to determine which projects are economic and which ones are not. The economic tests applied to the various energy efficiency initiatives will be the same whether or not an opt-out program is approved by the Board.

LDE has included DSM funding in the past as a benefit in the overall economics of energy efficiency projects. This makes sense once the Board has approved a DSM program and the rates are set based on recovery of these DSM costs. At this point in time, the DSM program for 2013 and 2014 has not been approved, nor are the rates approved to recover such DSM costs. An appropriate economic analysis at this time should not only reflect the DSM funding that might be received to support an energy efficiency initiative, but should also reflect the real costs of providing the DSM program. These real costs of providing the DSM program are paid for by the rate payer and are a combination of both the higher distribution rates that result from recovery of the DSM program costs as well as the one-time costs charged to rate payers by Union related to the clearing of the DSM variance accounts at the end of the year. The variance accounts include variances in actual DSM spending as well as Union incentive payments.

It is worth noting that, at Exhibit B5.7, APPrO requested certain information and received the following response:

> Question:
>
> d) Please recalculate the percentage of the 'DSM amount' that is directly allocated to supporting energy-efficiency projects if the incentive payments are included in the calculation assuming 100% payout,
>
> Answer:
>
> d) If the 100% DSM Utility Incentive is included in the calculation 67% of the DSM amount is directly allocated to supporting energy-efficiency projects.

It is clear from this response that at a 100% incentive payout (and assuming no other variances), only 67% of the total amount paid by ratepayers ends up going to support energy efficiency projects. Put another way, for each $1,000 dollars of DSM funding received by customers from Union, the customer pays $1,500 in rates and other charges. If the real costs of providing the DSM program are included in the economic tests to evaluate energy efficiency projects, then in fact the DSM program should result in fewer energy efficiency projects being economic and subsequently pursued.

INTERROGATORY #18

On p. 8, Navigant states that it surveyed all APPrO members. It further states that 15 responses were received from plant managers representing 12 different companies. Finally, it notes that not all APPrO members receive service from Union.

(a) How many of the 15 respondents representing 12 companies receive service from Union?

(b) What is the total aggregate annual gas usage (e.g. in 2011) of the respondents who receive service from Union?

(c) When Union Gas reports the number of power generator customers it has, is that number analogous to what Navigant is calling "respondents" to its survey or to what Navigant is calling the "companies" that responded to its survey?

(d) If the results in Appendix B are expressed in terms of respondents, please provide results based on companies which are Union customers, not respondents.

RESPONSE

18. (a) Navigant does not have this information. We will work with APPrO and file an updated version of these interrogatories once we have the pertinent information.

18. (b) Navigant did not ask the respondents to indicate their aggregate annual gas usage in 2011 and therefore cannot answer this question.

18. (c) In the report Navigant specifies the number of respondents to the survey and the number of unique companies represented in the response. We suggest the question of how Union Gas defines the number of power generator companies be addressed to Union.

18. (d) See response to GEC IR #18(c) above.

Evidence of Sean Russell

INTERROGATORY #29

Does LDE utilize maximum payback period, hurdle rate or other economic test to analyse energy efficiency investment choices? If so please provide.

RESPONSE

Please see response to Environmental Defence IR #5, at exhibit D1.

INTERROGATORY #30

Does LDE utilize tests other than economic return to the company to evaluate efficiency investment opportunities? If so please provide.

RESPONSE

Please see response to Environmental Defence IR #5, at exhibit D1.

INTERROGATORY #31

Has LDE ever undertaken an analysis of efficiency opportunities that finds measures that do not meet its economic investment criteria? Please provide.

<u>RESPONSE</u>

LDE continually evaluates energy efficiency opportunities and applies the same investment criteria to all proposed projects.

INTERROGATORY #32

Does LDE believe there are energy efficiency opportunities that do not meet its economic criteria for investment?

RESPONSE

LDE does not speculate on the outcome of future energy efficiency opportunities that have not yet been evaluated – we evaluate energy efficiency opportunities on a case-by-case basis and apply the same investment criteria to all projects.