



EB-2013-0073

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 Achiel Kimpe under section 38(3) of the *Ontario Energy Board Act, 1998*, S.O. 1998 for an Order of the Board determining the quantum of compensation Mr. Kimpe is entitled to receive from Union Gas Limited.

AND IN THE MATTER OF a Motion to Review and Vary by Achiel Kimpe pursuant to the Ontario Energy Board's *Rules of Practice and Procedure* for a review of the Board's Decision and Order in proceeding EB-2012-0314.

**NOTICE OF MOTION TO REVIEW AND VARY
AND PROCEDURAL ORDER NO. 1**

April 9, 2013

By way of letter dated March 11, 2013 Achiel Kimpe ("Mr. Kimpe") filed a motion to review and vary the Ontario Energy Board's (the "Board") Decision and Order dated February 21, 2013 (EB-2012-0314) (the "Motion"). The Decision and Order was in respect of Mr. Kimpe's application for compensation for residual gas from a pressure of 50 pounds per square inch absolute ("psia") to 0 psia used in the operation of Union Gas Limited's ("Union") Bentpath Storage Pool. The Board has assigned the Motion file number EB-2013-0073.

Rule 44.01(a) of the Board's *Rules of Practice and Procedure* (the "Rules"), provides the grounds upon which a motion to review and vary may be made to the Board:

Every notice of motion made under Rule 42.01, in addition to the requirements under Rule 8.02, shall:

- (a) Set out the grounds for the motion that raise a question as to the correctness of the order or decision, which grounds may include:
- I. Error in fact;
 - II. Change in circumstances;
 - III. New facts that have arisen;
 - IV. Facts that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

Under Rule 45.01 of the Rules the Board may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits. The purpose of the threshold question is to determine whether the grounds put forward by the moving party raise a question as to the correctness of the order or the decision, and whether there is enough substance to the issues raised that a review could result in the Board varying, cancelling, or suspending the decision. The Board has determined that the most expeditious way of dealing with this Motion is to consider concurrently the threshold question of whether the matter should be reviewed (as contemplated in the Board's *Rules of Practice and Procedure*) and the merits of the Motion.

The Board will proceed by way of a written hearing.

THE BOARD ORDERS THAT:

1. Mr. Kimpe shall file with the Board and deliver to Union any additional material in support of the Motion by May 9, 2013.
2. Union and Board staff may file written submissions with the Board and deliver them to other parties by May 29, 2013.
3. Mr. Kimpe may file a written reply submission with the Board and deliver it to Union by June 7, 2013.

All filings to the Board must quote the file number, EB-2013-0073, be made through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format.

Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

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

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **April 9, 2013**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary