

June 25, 2014

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Dear Ms. Walli:

Re: EB-2014-0154

We are the solicitors for TransAlta Corporation, TransAlta Generation Partnership and TransAlta Cogeneration L.P. ("TransAlta") in the above mentioned matter.

Attached please find the Written Submissions and materials in support of TransAlta's June 20, 2014 motion for responses to interrogatories pursuant to Rule 27 of the Board's Rules of Practice and Procedure. The attached has also been filed on the Board's RESS portal as of the date of this letter

Sincerely,



Elisabeth L. DeMarco

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 a hearing of the Ontario Energy Board on its own motion in order to determine the Application by Union Gas Limited for an order or orders approving a one-time exemption from Union Gas Limited's approved rate schedules to reduce certain penalty charges applied to direct purchase customers who did not meet their contractual obligations;

AND IN THE MATTER OF a motion brought by TransAlta Corporation, TransAlta Generation Partnership and TransAlta Cogeneration L.P. seeking an order of the Ontario Energy Board requiring Union Gas Limited to provide full and adequate responses to certain interrogatories.

WRITTEN SUBMISSIONS OF TRANSALTA

JUNE 25, 2014

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1. We are counsel to TransAlta Corporation, TransAlta Generation Partnership and TransAlta Cogeneration L.P. ("**TransAlta**") in the Ontario Energy Board's (the "**Board's**") EB-2014-0154 proceeding relating to the calculation and application of certain gas costs and charges imposed by Union Gas Limited ("**Union**") under approved rate schedules on direct purchase customers that did, and did not, meet their contractual obligations during the extreme weather conditions of winter 2014.
2. The following submissions are filed by TransAlta in accordance with Procedural Order No. 2, and in support of TransAlta's Notice of Motion dated June 20, 2014, seeking an order of the Board (the "**Requested Order**") requiring Union to provide a full and adequate response to each of the following interrogatories:
 - (i) Exhibit B.TransAlta.1 to 12, inclusive;
 - (ii) Exhibit B.TCE.4
 - (iii) Exhibit B.LPMA.4
 - (iv) Exhibit B.CESI.1
 - (v) Exhibit B.Kitchener.2

collectively, the "**Subject Interrogatories**".

3. These submissions are accompanied by TransAlta's Book of Authorities and are organized into four (4) main points supporting TransAlta's Requested Order:
 - (a) First, the Board's Rules of Practice and Procedure, as amended, (the "**Board Rules**"), the Board's stipulated procedure in EB-2014-0154, the conduct of the parties, and the Board's objectives all support the relevance of the Subject Interrogatories, and TransAlta's legitimate expectation that they would be answered, and the Requested Order;
 - (b) Second, the response to the Subject Interrogatories and the Requested Order are necessary and required to allow TransAlta, one of Union's most significantly and negatively impacted customers, to fully participate in this proceeding and exercise its common law and Board granted rights to be heard;
 - (c) Third, the information requested and the responses to the Subject Interrogatories are likely to be material to the Board in determining the impacts on all customers affected by Union's exercise of discretion and decision-making in and around gas costs under approved tariffs, and deciding upon the appropriate remedy for Union's proposed treatment of certain gas costs and the many significant charges it imposed on direct purchase customers that did or did not meet their

contractual obligations during the extreme weather conditions of winter 2014; and

- (d) Fourth, the Requested Order is likely to assist the Board in achieving efficiency and expediency in its current and future procedures.

I. The Board's Rules, procedures, and objectives all support the relevance of the Subject Interrogatories, TransAlta's legitimate expectation that they would be answered, and the Requested Order.

- 4. TransAlta submits that the procedural history of this matter, the Board's objectives, the Board's Notice of Application, TransAlta's Notice of Intervention, the conduct of the parties, and Procedural Order No. 1, all support the relevance of the Subject Interrogatories, and TransAlta's legitimate expectation that they would be fully and adequately answered by Union.
- 5. The procedural history of this matter clearly indicates that, by letters to the Board dated April 3, 2014 and April 10, 2014, Union:
 - (a) acknowledged that its decision-making and exercise of discretion in the calculation and application of certain gas costs in the implementation of its Board approved rate tariffs for T1/T2, Rate 25, and Bundled T-service customers over the exceptional weather conditions in winter 2014 caused very significant customer cost impacts – estimated by Union to be in the range of \$3.2 M for the months of February and March, 2014, alone - and caused certain customers to fail to meet their alleged contractual obligations as determined and applied by Union; and
 - (b) sought a limited one-time exemption to address the customer impacts resulting from Union's initial discretion and decision-making under existing rate schedules, without a hearing, by proposed changes to the gas costs to be applied only to the calculation of supplementary inventory, banked gas account, and unauthorized overrun gas supply commodity charges.
- 6. The Board clearly rejected Union's proposed approach in light of its heightened customer focus and the significant and material customer impacts and issued a Letter of Direction to Union dated May 6, 2014 (the "**Letter of Direction**"), regarding the "*Reduction of Certain Charges Applied to Direct Purchase Customers*", broadly, and without limitation to those charges and the limited exemption proposed by Union. Specifically, in the Letter of Direction the Board: (i) found that the test for a one-time exemption was not met given that "*some customers may be materially affected by the*

outcome of the application"; (ii) rejected Union's proposed approach to remedy significant customer impacts over the winter of 2014, and instead (iii) required a broader hearing in light of all of the customers that may be materially affected by the application.

7. This decision of the Board rejecting Union's proposed approach is consistent with the Board's ongoing objectives under sections 2(2) and 1(1)1 of the Ontario Energy Board Act, 1998, as amended, pursuant to which the Board is required to protect the interests of all customers with respect to prices and the reliability and quality of gas service, and with respect to the prices and the adequacy, reliability and quality of electricity service.
8. The Board then issued its Notice of the full hearing of the matter (the "**Board Notice**") indicating, among other things, that: (i) Union applied to the Board for approval of a one-time exemption to reduce certain penalty charges applied to direct purchase customers who did not meet their contractual obligations during the months of February and March, 2014; and (ii) "*We will also hear arguments from individuals and groups that represent Union Gas Limited's customers and that choose to participate in the OEB's hearing*". The Board Notice also makes specific reference to intervenors' rights to be informed and heard by the Board and the ability for intervenors to seek relevant information and material from Union that is in addition to the evidence filed with the application, through interrogatories.
9. TransAlta is a direct purchase customer of Union, taking service under the T1/T2 rate schedule. TransAlta was very materially impacted by Union's exercise of discretion and decision-making in its calculation and application of certain gas costs and charges, resulting in an effective penalty to TransAlta under the approved rate schedules. TransAlta estimates that it incurred well over \$1M in additional costs as a result of Union's discretionary and discriminatory conduct, even after all reasonable mitigation measures were taken by TransAlta¹. This is effectively one third (1/3) or 33% of the entire cost differential applicable to all customers that Union reports in its April 10, 2014 letter to the Board. TransAlta, like other materially impacted Union customers, did not meet the alleged contractual obligations imposed by Union at all times during the extreme weather conditions of winter 2014.

¹ TransAlta Notice of Intervention, para 7.

10. TransAlta intervened in this proceeding with the reasonable and legitimate expectation of the right to have its issues and impacts heard by the Board on the basis of the Letter of Direction and the Board Notice. To this end, TransAlta issued a very detailed Notice of Intervention dated May 22, 2014, pursuant to Rule 22 of the Board Rules (the "**Notice of Intervention**").
11. TransAlta's Notice of Intervention clearly set out TransAlta's interest in the EB-2014-0154 application indicating that TransAlta: (i) was "*significantly impacted by Union's decision-making and potential discretion in the implementation of its approved tariffs*";² (ii) sought to intervene in the proceeding to address issues arising from "*Union's exercise of discretionary and potentially discriminatory decision-making related to the calculation and obligations of gas costs under its approved tariffs and related customer contracts*";³ and (iii) had been "*materially and negatively impacted by Union's exercise of discretion in and around its tariffs and contracts. Specifically, that Union has exercised discretion to impose unsupported interpretations of key provisions of approved tariffs and contracts between TransAlta and Union. Union's decision-making had resulted in significant financial harm to TransAlta over the 2014 winter season, to the potential benefit of Union and others on Union's system.*"⁴
12. The Notice of Intervention also expressly stated that TransAlta intended to, among other things, "*submit written interrogatories*" on the above-mentioned matters to Union if it was afforded the right to intervene by the Board.⁵
13. Following receipt of TransAlta's detailed Notice of Intervention and pursuant to Procedural Order No. 1, dated May 27, 2014, the Board granted TransAlta full intervenor status. TransAlta's rights as an intervenor - including the right to ask interrogatories on the subject matter outlined in its Notice of Intervention and legitimately expect full answer and information in response - was, in no way, limited or conditioned by the Board within its Rule 22.09 jurisdiction to do so.
14. Similarly, TransAlta's rights as an intervenor - including the right to ask interrogatories on the subject matter outlined in its Notice of Intervention and legitimately expect full

² TransAlta Notice of intervention, para 4.

³ TransAlta Notice of intervention, para 5.

⁴ Notice of intervention para 6.

⁵ Notice of intervention para 8.

answer and information in response - was, in no way, challenged or objected to by Union within the 5 business days that it is afforded the right to do so pursuant to Rule 22.07 of the Board Rules. TransAlta therefore submits that by choosing not to object, Union tacitly consented to respond to the issues and areas that TransAlta clearly indicated it would raise in its interrogatories if granted intervenor status.

15. TransAlta therefore submits that the combined effect of the procedural history, the Board's objectives, the Board's Notice, TransAlta's detailed Notice of Intervention, Procedural Order No. 1 granting TransAlta full and unconditioned intervenor status, and the conduct of Union all support the relevance of the Subject Interrogatories and TransAlta's legitimate expectation that they would be fully and adequately answered by Union. TransAlta submits that its legitimate expectation of a response to its Subject Interrogatories is a central element of the procedural fairness that is owed to TransAlta and its right to participate fully and efficiently in the EB-2014-0154 proceeding.

II. Union's response to the Subject Interrogatories is necessary and required to allow TransAlta, as one of Union's most significantly and negatively impacted customers, to fully participate in this proceeding.

16. The issues and impacts outlined in TransAlta's Notice of Intervention directly track the information requests that were subsequently submitted by TransAlta to Union in the Subject Interrogatories. Indeed, a review of each of the Subject Interrogatories submitted by TransAlta indicates that each of these Interrogatories was carefully directed at ascertaining: Union's ability to exercise discretion under its rate schedules in various circumstances;⁶ Union's method for calculating DCQ under various forms of contracts, particularly in the extreme weather conditions giving rise to the gas costs and charges in the winter of 2014;⁷ Union's process for exercising decision-making in and around these factors;⁸ and the related financial impacts of Union's conduct in and around certain gas costs and related charges which imposed an effective, discriminatory penalty on TransAlta during the winter of 2014.⁹
17. Similarly, the following Subject Interrogatories are relevant to TransAlta in effectively participating and bringing evidence in the proceeding:

⁶ Exhibit B. TransAlta. 1, 3, 5, 6, 8, 9, 10, 12.

⁷ Exhibit B. TransAlta. 1, 2, 3, 5, 7, 8, 9, 11, 12.

⁸ Exhibit B. TransAlta. 2, 3, 4, 5, 6, 8, 9, 10, 11, 12.

⁹ Exhibit B. TransAlta. 1, 2, 3, 5, 7, 8, 9, 10, 11, 12.

- (i) Exhibit B.TCE.4, as it provides a comparative measure of relativity and reasonableness of the proposed Union gas costs and related charges;
 - (ii) Exhibit B.LPMA.4, as it speaks to the potential differential and/or discriminatory impact of the proposed gas costs and charges on different classes of customers;
 - (iii) Exhibit B.CESI.1, as it may provide insight into the calculation of the gas costs and charges that were applied in this extreme weather of winter 2014; and
 - (iv) Exhibit B.Kitchener.2, as a full answer may provide a better understanding of the discretion, decision-making and calculation of certain gas costs and charges creating an effective penalty for certain, T1/T2 customers like TransAlta.
18. TransAlta therefore submits that the responses to the Subject Interrogatories are necessary and required to allow TransAlta, one of Union's most significantly and negatively impacted customers during the winter of 2014, to fully test and present evidence, and probe and participate in the issues outlined in the Board's Notice and TransAlta's Notice of Intervention in this proceeding.
19. TransAlta requires the information requested in each Subject Interrogatory in order to participate in a meaningful way in this proceeding and to exercise its common law and Board-stipulated rights to be heard.
20. TransAlta submits that the Board must determine whether, considering all the circumstances, entities whose interests were affected by Union's exercise of discretion and decision making had a meaningful opportunity to present their case fully and fairly. TransAlta submits that its right to present its case fully and fairly in this proceeding depends not just on whether it is permitted to make representations in the form of formal submissions, but also through pre-hearing procedures stipulated by the Board, including the receipt of full and adequate responses to its Subject Interrogatories.
21. In light of the foregoing submissions, TransAlta respectfully requests that the Board order Union to provide full and adequate responses to each of TransAlta's Subject Interrogatories without delay.

III. The information referenced and the responses to the Subject Interrogatories are also likely to be material to the Board in its consideration and determination of the appropriate remedy for customers impacted by Union's discretion and decision making

relating to gas costs and charges under the alleged contractual obligations imposed by Union during the extreme weather conditions of winter 2014.

22. TransAlta submits that the information and responses to the Subject Interrogatories are likely to be material to the Board in deciding the customer impacts resulting from Union's conduct, and the appropriateness of any proposed remedy to address the many and significant costs and charges that Union imposed on direct purchase customers, which did or did not meet their alleged contractual obligations imposed by Union during the extreme weather conditions of winter 2014.
23. Specifically, TransAlta submits that Union's discretionary and unsupported interpretation of the express terms of the approved rates and posted contracts is very relevant to the Board in assessing the genesis of the significant customer costs and charges, the veracity of Union's discretion and decision-making under the Board approved contracts, and the appropriate remedy for all impacted customers in light of the foregoing.

IV. The Requested Order is likely to assist the Board in achieving efficiency and expediency in its current and future procedures.

24. TransAlta submits that the significant customer impacts and proposed remedy(ies) that are the subject matter(s) of this proceeding all result from Union's exercise of discretion and decision-making, and its calculation and application of certain gas costs and charges that are imposed under Board approved rate schedules on direct purchase customers, which both did, and did not, meet their contractual obligations during the extreme weather conditions of winter 2014.
25. Section 9.1 of the *Ontario Statutory Powers Procedures Act* supports hearing all of the customer issues resulting from Union's conduct, and all of the related evidence pertaining to each customer or customer group's impact and the proposed remedy(ies) in the same proceeding.
26. TransAlta submits that proceeding in such a coordinated manner best allows the Board to control its procedures and use the Board's resources in the most efficient and effective manner, and thereby dispose of all related issues pertaining to Union's actions and proposed remedies most expeditiously.

V. Relief Requested.

27. TransAlta requests the following relief. An order or order(s) of the Board:
- (a) requiring Union to provide a full and adequate response providing the requested information to each of the following Subject Interrogatories:
 - (i) Exhibit B.TransAlta.1 to 12, inclusive;
 - (ii) Exhibit B.TCE.4
 - (iii) Exhibit B.LPMA.4
 - (iv) Exhibit B.CESI.1
 - (v) Exhibit B.Kitchener.2
 - (b) providing TransAlta with an extension of time to file its evidence in this matter in order to accommodate any information arising out of this Motion; and
 - (c) such further and other relief as counsel may request and the Board deems appropriate.
28. In the alternative, if the Board determines that the Subject Interrogatories do not fall within the scope of the current proceeding, TransAlta hereby requests an order or order(s) of the Board establishing a separate proceeding to ensure that all customers, like TransAlta, which have been materially and negatively impacted by Union's exercise of discretion, decision making and unsupported calculation and implementation of Board approved rates and contracts during the extreme weather conditions of winter 2014, are provided with the right to be heard and potential redress for such harm.

All of this is respectfully submitted by TransAlta, this 25th day of June, 2014.

TRANSALTA BOOK OF AUTHORITIES

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 a hearing of the Ontario Energy Board on its own motion in order to determine the Application by Union Gas Limited for an order or orders approving a one-time exemption from Union Gas Limited's approved rate schedules to reduce certain penalty charges applied to direct purchase customers who did not meet their contractual obligations;

AND IN THE MATTER OF a motion brought by TransAlta Corporation, TransAlta Generation Partnership and TransAlta Cogeneration L.P. seeking an order of the Ontario Energy Board requiring Union Gas Limited to provide full and adequate responses to certain interrogatories.

TRANSALTA BOOK OF AUTHORITIES

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Manager

AND

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AND

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AND

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AND

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AND

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Attention: Ms. Justine Taylor
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AND

the Board

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Attention: Ms. Kirsten Walli

TRANSALTA BOOK OF AUTHORITIES

INDEX

	Tab #
Sections 1 (1) and 2 (2) of the <i>Ontario Energy Board Act</i> , SO 1998, c. 15 (Schedule B), as amended.	1
Ontario Energy Board <i>Rules of Practice and Procedure</i> , Rules 4.03, 8, 22.02, 27.01 and 27.03.	2
Section 9.1 of the <i>Statutory Powers and Procedures Act</i> , RSO 1990 c. S. 22.	3

TAB 1

Ontario Energy Board Act, 1998

S.O. 1998, CHAPTER 15 Schedule B

Consolidation Period: From December 31, 2012 to the e-Laws currency date.

Last amendment: See Table of Public Statute Provisions Repealed Under Section 10.1 of the *Legislation Act, 2006*
– December 31, 2011.

PART I
GENERAL

Board objectives, electricity

1. (1) The Board, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To protect the interests of consumers with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.
3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
4. To facilitate the implementation of a smart grid in Ontario.
5. To promote the use and generation of electricity from renewable energy sources in a manner consistent with the policies of the Government of Ontario, including the timely expansion or reinforcement of transmission systems and distribution systems to accommodate the connection of renewable energy generation facilities. 2004, c. 23, Sched. B, s. 1; 2009, c. 12, Sched. D, s. 1.

Board objectives, gas

2. The Board, in carrying out its responsibilities under this or any other Act in relation to gas, shall be guided by the following objectives:

1. To facilitate competition in the sale of gas to users.
2. To protect the interests of consumers with respect to prices and the reliability and quality of gas service.
3. To facilitate rational expansion of transmission and distribution systems.
4. To facilitate rational development and safe operation of gas storage.
5. To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
- 5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.
6. To promote communication within the gas industry and the education of consumers. 1998, c. 15, Sched. B, s. 2; 2002, c. 23, s. 4 (2); 2003, c. 3, s. 3; 2004, c. 23, Sched. B, s. 2; 2009, c. 12, Sched. D, s. 2.

TAB 2

ONTARIO ENERGY BOARD

Rules of Practice and Procedure

**(Revised November 16, 2006, July 14, 2008, October 13, 2011, January 9, 2012,
January 17, 2013 and April 24, 2014)**

4. Procedural Orders and Practice Directions

4.01 The Board may at any time in a proceeding make orders with respect to the procedure and practices that apply in the proceeding. Every party shall comply with all applicable procedural orders.

4.02 The Board may set time limits for doing anything provided in these Rules.

4.03 The Board may at any time amend any procedural order.

4.04 Where a provision of these Rules is inconsistent with a provision of a procedural order, the procedural order shall prevail to the extent of the inconsistency.

4.05 The Board may from time to time issue Practice Directions in relation to the preparation, filing and service of documents or in relation to participation in a proceeding. Every party shall comply with all applicable Practice Directions, whether or not specifically referred to in these Rules.

8. Motions

8.01 Unless the Board directs otherwise, any party requiring a decision or order of the Board on any matter arising during a proceeding shall do so by serving and filing a notice of motion.

8.02 The notice of motion and any supporting documents shall be filed and served within such a time period as the Board shall direct.

8.03 Unless the Board directs otherwise, a party who wishes to respond to the notice of motion shall file and serve, at least two calendar days prior to the motion's hearing date, a written response, an indication of any oral evidence the party seeks to present, and any evidence the party relies on, in appropriate affidavit form.

8.04 The Board, in hearing a motion, may permit oral or other evidence in addition to the supporting documents accompanying the notice, response or reply.

22. Intervenor Status

22.01 Subject to Rule 22.05 and except as otherwise provided in a notice or procedural order issued by the Board, a person who wishes to actively participate in the proceeding shall apply for intervenor status by filing and serving a letter of intervention by the date provided in the notice of the proceeding.

22.02 The person applying for intervenor status must satisfy the Board that he or she has a substantial interest and intends to participate actively and responsibly in the proceeding by submitting evidence, argument or interrogatories, or by cross-examining a witness.

22.03 Every letter of intervention shall contain the following information:

- (a) a description of the intervenor, its membership, if any, the interest of the intervenor in the proceeding and the grounds for the intervention;
- (b) in the case of a frequent intervenor, an attached document describing the intervenor, its mandate and objectives, membership, if any, the constituency represented, the types of programs or activities carried out, and the identity of their authorized representative in Board proceedings, unless such a document was otherwise filed within the previous 12 month period;
- (c) subject to Rule 22.04, a concise statement of the nature and scope of the intervenor's intended participation;
- (d) a request for the written evidence, if it is desired;
- (e) an indication as to whether the intervenor intends to seek an award of costs;
- (f) if applicable, the intervenor's intention to participate in the hearing using the French language; and
- (g) the full name, address, telephone number, and email address, of no more than two representatives of the intervenor, including counsel, for the purposes of service and delivery of documents in the proceeding.

Subsection (b) applies to letters of intervention filed after June 1, 2014.

22.04 Where, by reason of an inability or insufficient time to study the document initiating the proceeding, a person is unable to include any of the information required in the letter of intervention under Rule 22.03(b), the person shall:

- (a) state this fact in the letter of intervention initially filed; and
- (b) refile and serve the letter of intervention with the information required under Rule 22.03(b) within 15 calendar days of receipt of a copy of any written evidence, or within 15 calendar days of the filing of the letter of intervention, or within 3 calendar days after a proposed issues list has been filed under Rule 28, whichever is later.

22.05 A person may apply for intervenor status after the time limit directed by the Board by filing and serving a notice of motion and a letter of intervention that, in addition to the information required under Rule 22.03, shall include reasons for the late application.

22.06 The Board may dispose of a motion under Rule 22.05 with or without a hearing.

22.07 A party may object to a person applying for intervenor status by filing and serving written submissions within 5 business days of being served with a letter of intervention.

22.08 The person applying for intervenor status may make written submissions in response to any submissions filed under Rule 22.07.

22.09 The Board may grant intervenor status on conditions it considers appropriate.

27. Responses to Interrogatories

27.01 Subject to Rule 27.02, where interrogatories have been directed and served on a party, that party shall:

- (a) provide a full and adequate response to each interrogatory;
- (b) group the responses together according to the issue to which they relate;
- (c) repeat each question at the beginning of each response;
- (d) respond to each interrogatory on a separate page or pages;
- (e) number the responses as described in Rule 28.02(e) ;
- (f) specify the intended witness, witnesses or witness panel who prepared the response, if applicable;
- (g) file and serve the response as directed by the Board; and
- (h) set out the date on which the response is filed and served.

27.02 A party who is unable or unwilling to provide a full and adequate response to an interrogatory shall file and serve a response:

- (a) where the party contends that the interrogatory seeks information that is not relevant, setting out specific reasons in support of that contention;
- (b) where the party contends that the information necessary to provide an answer is not available or cannot be provided with reasonable effort, setting out the reasons for the unavailability of such information, as well as any alternative available information in support of the response; or
- (c) otherwise explaining why such a response cannot be given.

A party may request that all or any part of a response to an interrogatory be held in confidence by the Board in accordance with Rule 10.

27.03 Where a party is not satisfied with the response provided, the party may bring a motion seeking direction from the Board.

27.04 Where a party fails to respond to an interrogatory made by Board staff, the matter may be referred to the Board.

TAB 3

Statutory Powers Procedure Act

R.S.O. 1990, CHAPTER S.22

Consolidation Period: From June 1, 2011 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 6, s. 87.

Proceedings involving similar questions

9.1 (1) If two or more proceedings before a tribunal involve the same or similar questions of fact, law or policy, the tribunal may,

- (a) combine the proceedings or any part of them, with the consent of the parties;
- (b) hear the proceedings at the same time, with the consent of the parties;
- (c) hear the proceedings one immediately after the other; or
- (d) stay one or more of the proceedings until after the determination of another one of them.

Exception

(2) Subsection (1) does not apply to proceedings to which the *Consolidated Hearings Act* applies. 1994, c. 27, s. 56 (19).

Same

- (3) Clauses (1) (a) and (b) do not apply to a proceeding if,
 - (a) any other Act or regulation that applies to the proceeding requires that it be heard in private;
 - (b) the tribunal is of the opinion that clause 9 (1) (a) or (b) applies to the proceeding. 1994, c. 27, s. 56 (19); 1997, c. 23, s. 13 (15).

Conflict, consent requirements

(4) The consent requirements of clauses (1) (a) and (b) do not apply if another Act or a regulation that applies to the proceedings allows the tribunal to combine them or hear them at the same time without the consent of the parties. 1997, c. 23, s. 13 (16).

Use of same evidence

(5) If the parties to the second-named proceeding consent, the tribunal may treat evidence that is admitted in a proceeding as if it were also admitted in another proceeding that is heard at the same time under clause (1) (b). 1994, c. 27, s. 56 (19).

EB-2014-0154

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

AND IN THE MATTER OF a hearing of the Ontario Energy Board on its own motion in order to determine the Application by Union Gas Limited for an order or orders approving a one-time exemption from Union Gas Limited's approved rate schedules to reduce certain penalty charges applied to direct purchase customers who did not meet their contractual obligations;

AND IN THE MATTER OF a motion brought by TransAlta Corporation, TransAlta Generation Partnership and TransAlta Cogeneration L.P. seeking an order of the Ontario Energy Board requiring Union Gas Limited to provide full and adequate responses to certain interrogatories.

ONTARIO ENERGY BOARD

TRANSALTA BOOK OF AUTHORITIES

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