

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 NATURAL
RESOURCE GAS LTD. ("NRG")**

June 27, 2014

FASKEN MARTINEAU DuMOULIN LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, Ontario M5H 2T6

John A. Champion
Tel: 416.865.4357
Fax: 416.364.7813
e-mail: jcampion@fasken.com

1. This submission is made on behalf of National Resource Gas Limited (“NRG”) in the Ontario Energy Board’s (the “Board”) EB-2014-0154 proceeding.
2. This submission is being filed in support of a motion brought by TransAlta Corporation, TransAlta Generation Partnership and TransAlta Cogeneration LP (“TransAlta”) made by Notice of Motion on June 20, 2014. The TransAlta motion seeks further full and adequate responses to certain written interrogatories sent by TransAlta to Union.
3. NRG accepts the chronology put forward in TransAlta’s Notice of Motion in paragraphs 3 to 8 and the chronology and submissions made in TransAlta’s written submissions in paragraphs 4 to 8.
4. NRG accepts the characterization of Union’s legal and regulatory obligation to fully answer all questions put to it by TransAlta and other intervenors, as characterized by TransAlta in paragraph 3 of its written submission dated June 25, 2014.
5. NRG accepts the proposition made in paragraph 15 of TransAlta’s written submissions that it had a legitimate expectation that its interrogatories would be fully answered by Union.
6. NRG accepts the submission made by TransAlta that the answers to the interrogatories are necessary both for TransAlta and for NRG being significantly and negatively impacted (although differently) by the imposition of the penalty charges arising from the extreme weather conditions in the winter of 2014.
7. In order to understand the impact of the extreme weather conditions in the winter of 2013/2014, NRG refers to an article and an editorial written in the *Financial Times* on Thursday June 26, 2014 dealing with the extreme weather conditions of 2013/2014 in North America. The article states that the US economy suffered serious economic damage due to, *inter alia*, the “country’s worst winters on record”. It is reported that the extreme winter conditions helped “push first-quarter gross domestic product figures down and annualized 3 percentage points more than original estimates”. The article quotes Paul Dales, Senior US Economist at Capital Economics in London, England as saying “... the larger contraction in GDP [USA] in the first quarter is not a sign that the US is suffering from a fundamental slow-down – it is largely due to extreme weather”. The article further stated as follows: “The first-quarter figures confirm the previous picture of a terrible winter, as Arctic conditions closed factories, shut transportation units, kept consumers away from the shops and deterred homebuyers. There was also a huge rundown in inventories which knocked 1.7 percentage points off growth.” In an editorial in the same newspaper James Mackintosh opined that “The US economy shrank far more in the first quarter than anyone imagined, dropping 2.9 percent on an annualized basis according to the latest revision, yesterday. As this plunge took place in a single quarter, it does not meet the standard definition of a recession, which requires two quarterly successive drops.”

8. The extreme weather conditions extant in Ontario are one of the fundamental underpinnings of Union's application and the positions variously taken by the intervenors.
9. The second proposition put forward by NRG in support of TransAlta's request for further and better answers to interrogatories arises from the history of and the philosophical underpinnings of monopoly regulation of natural gas utilities in the province of Ontario. In 1985, the Prime Minister of Canada directed that the natural gas industry as a whole be made subject to increased market forces. The Ontario Energy Board conducted a hearing in order to change the regulatory framework of ratemaking in the province of Ontario, and indirectly affected all industry players from wellhead to burner tip in Canada. There remained a mixed series of philosophical perspectives at work in the regulatory function before the Ontario Energy Board. The first is the usual monopoly responsibilities of the major natural gas pipeline utilities in Ontario to the public interest. The second is a shifting of obligations through contracts and regulation to make purchasers and consumer industry participants variously responsible for their own purchase and supply of natural gas and other related features.
10. This hearing commenced by Union by *ex parte* application on April 3, 2014 sought two changes: "... in recognition of the exceptional weather conditions in 2014 ...". Union sought to reduce the stated penalty charge from \$78.73/GJ to \$52.04/GJ.
11. This request raises a conflicting series of practical and philosophical debates that must be determined in order for the Board to fairly understand and decide the issues raised by Union and the intervenors. Without wishing to raise all of the philosophical and regulatory debates in this submission, NRG notes that a fundamental concern is Union's ability and public and regulatory obligations to alleviate the results of the harsh winter conditions for the supply and cost of natural gas so that the residential consumers and industries of Ontario are not forced to pay extraordinary and unique prices based on short-term spot market costs. Union has unique storage facilities in Canada which permitted it to alleviate all of the extraordinary costs imposed upon NRG and NRG's customers and other natural gas purchasers in the province of Ontario. Union failed to use those facilities and the gas stored in them to protect Ontario consumers and NRG from the winter conditions which Union itself says were extraordinary. The question is whether Union was free to act as a free market agent or was required in the emergency conditions extant in the winter of 2013/2014 to use its monopoly facilities and power to protect customers directly and indirectly served by it.
12. In the context of these two issues, and the matters raised by TransAlta in its written submissions, NRG agrees as follows:
 - (a) the answers to the interrogatories are necessary as set out in paragraphs 16 to 21 of TransAlta's written submissions;
 - (b) the information referenced and Union's full responses to the interrogatories put by TransAlta are material to the Board in its consideration and determination of the appropriate remedy for consumers impacted by Union's actions and non-action

and attempted imposition of penalty charges under certain alleged contractual provisions and rate provisions;

- (c) the Board Order directing Union to answer the questions put by TransAlta in a full and fair manner will achieve efficiency and be expedient for the current proceeding and future procedures that may arise from the present proceeding;
- 13. NRG submits that the full answers give to the interrogatories put by TransAlta will assist NRG in its evidence and submissions in its own intervention in this proceeding.
- 14. NRG therefore respectfully requests that the Board grant the relief requested in paragraphs 27 and 28 of TransAlta's written submissions filed with the Board on June 25, 2014.

All of this is respectfully submitted by NRG this 27th day of June, 2014.

John A. Champion

FASKEN MARTINEAU DuMOULIN LLP

333 Bay Street, Suite 2400

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Tel: 416.865.4357

Fax: 416 364.7813

Email: jcampion@fasken.com

Counsel to National Energy Resource Ltd.

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