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By electronic filing

June 27, 2014

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

Union Gas Limited (“Union”)
Application to Reduce Certain Penalty Charges Applied to its Direct Purchase Customers
Board File No.: EB-2014-0154
Our File No.: 339583-000176

We are writing on behalf of our client, Canadian Manufacturers & Exporters (“CME”), with respect to the Motion by TransAlta Corporation (“TransAlta”) requiring Union to respond to certain Interrogatories and extending the time for TransAlta to file its evidence in this proceeding.

In this application, Union proposes to reduce certain penalty charges from about \$78.13/GJ to \$50.50/GJ for February and \$52.04/GJ for March 2014. In this proceeding, the Board is also considering a separate application by Natural Resources Gas Limited (“NRG”) for an order reducing the penalty charge to \$12.31/GJ. On the basis of these two applications, questions pertaining to the appropriateness of the current penalty regime and the level of penalties it prescribes fall within the ambit of this proceeding.

The penalty charges, which form the subject matter of this proceeding, are a consequence of Union’s administration of the Daily Contract Quantity (“DCQ”) based balancing obligations of direct purchasers who operate under the auspices of obligated DCQ delivery contracts. The penalty regime linked to Union’s administration of these DCQ based balancing obligations presumes that Union will treat all of its customers operating under the auspices of these arrangements in a non-discriminatory manner. Questions pertaining to the manner in which Union administers these obligations are accordingly relevant to matters pertaining to the appropriateness of the penalty regime linked thereto.

The questions which TransAlta and others have posed and Union has refused to answer suggest that TransAlta and others complied with Union’s DCQ based balancing requirements at great expense. TransAlta’s questions imply that it wishes to establish that Union actually administers the DCQ based balancing obligations of direct purchasers in different ways. TransAlta’s questions suggest that requests for relief made by customers who did comply with DCQ based balancing demands made by Union, but in a discriminatory manner, should be eligible to seek relief at the same time that the Board is considering requests for relief from penalties made by customers who did not comply with such balancing requirements.

This case appears to us to be the appropriate proceeding for a consideration of allegations related to each of these scenarios. Union's administration of the DCQ based balancing obligations of direct purchasers is a common element of each of the compliance and non-compliance scenarios which are in issue.

We submit that any customer who wishes to attempt to establish that the DCQ based balancing demands which Union made of it were discriminatory should be able to obtain information from Union pertaining to the issue. We assume that TransAlta will decide whether to file any further evidence to support its position once it has evaluated the information which it seeks to obtain from Union.

For these reasons, we support the issuance of an order of the type requested by TransAlta. Union should be required to provide responses to the unanswered questions. The information requested is relevant to matters in issue.

We wish to emphasize that our support for the relief requested by TransAlta is not to be construed as an endorsement of any particular position with respect to Union's administration of the DCQ based balancing obligations in its direct purchase contracts. At this time, all we are saying is that Union should be required to respond to the unanswered Interrogatories. We will assess the impact of those responses on the position to be taken on matters in issue in this proceeding once the information has been made available.

Yours very truly,



Peter C.P. Thompson

PCT\slc

- c. Chris Ripley (Union)
- Intervenors EB-2014-0154
- Paul Clipsham and Ian Shaw (CME)
- Vince DeRose Emma Blanchard (BLG)

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