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July 3, 2014

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Our Matter Number: 1144688

Sent By Registered Mail and Electronic Mail and filed on RESS

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
27-2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

EB-2014-0207: Franchise Renewal Application with Norfolk County by Natural Resource Gas Limited (“NRG”)

On June 30, 2014, counsel for NRG received a Letter of Comment from Union Gas Limited (“Union”) regarding NRG’s Application to renew a Franchise Agreement with Norfolk County in the above proceeding. In its Letter, Union requested that the Ontario Energy Board (the “Board”) issue revised Certificates of Public Convenience and Necessity (“CPCN”) if the Board approves NRG’s Application, in order to “avoid any confusion going forward.” In support of its request, Union provided the Board with draft CPCNs for both Union and NRG.

In previous NRG franchise renewal applications involving municipalities where both NRG and Union have franchise rights, Union has filed comment letters advising the Board that Union also possesses franchise rights and requesting that the Board note this in its decision. NRG takes no issue with that. However, Union’s Letter of June 30 goes further and requests new CPCNs be issued. NRG does take issue with this.

NRG respectfully submits that there is no need at this time to issue revised CPCNs, and to do so otherwise would be inappropriate in this proceeding and potentially prejudicial to NRG’s ability to serve additional areas in Norfolk that may not currently be served by either Union or NRG. This is because:

1. NRG’s CPCN (E.B.C. 111 and 119, dated May 5, 1982) is, and remains, completely valid. The Board has approved NRG’s franchise renewals in areas under the very same CPCN without any issue (see EB-2012-0447 and EB-2012-0475). There is no confusion on NRG’s part with respect to its CPCN rights. Furthermore, the Board does not need to make a decision on the need to reissue any CPCN in order to approve NRG’s Franchise Renewal Application.

2. NRG did not request a revised CPCN in its Application. As such, there is no issue regarding any CPCNs that is properly before the Board. Union's suggestion to issue revised CPCNs was expressed by way of a Letter of Comment, and as such, Union does not have any standing to broaden the scope of the current Application. Union chose not to intervene in this proceeding (and the deadline to seek intervenor status has since passed), and a request to significantly alter the scope of an Application before the Board cannot and should not be made by a non-party.
3. The draft CPCNs as prepared by Union purport to grant Union a CPCN over all of Norfolk County with the exception of specific "carve outs" in favour of NRG. This may, subject to further diligence by NRG, expand the geographic area covered by Union's current CPCN. If so, such a request is entirely improper.

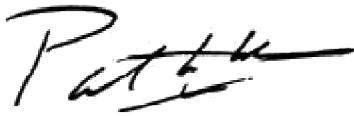
A similar scenario occurred in Union's application for a revised CPCN (in addition to a Franchise Renewal Application) in EB-2007-0809 and EB-2007-0810, wherein Union applied for a new CPCN to cover all of the Municipality of Central Elgin. NRG became involved in these proceedings because it discovered that there were small portions of Central Elgin not covered by either Union's CPCN or NRG's CPCN.

A fair amount of effort was expended by NRG to determine that Union's CPCN request in that case would give it previously "uncertified" areas, without any consideration as to which utility might most economically serve any customers in such areas. Ultimately, Union agreed to file a revised application and those "uncertified" areas were left "open" (i.e., either utility is able to apply for a CPCN in these areas once there is a concrete proposal to serve the areas).

The Central Elgin experience is a useful reminder that issuing revised CPCNs should not be done in a hasty, *ad hoc* manner. If the Board wishes to issue revised CPCNs, then NRG submits that it should only do so only after a full hearing on the matter, including the opportunity to tender detailed maps and, if necessary, expert evidence as to who can most efficiently serve any "open" or "uncertified" areas.

NRG respectfully requests that the Board proceed to evaluate NRG's Franchise Renewal Application without unnecessarily expanding the scope of issues before the Board.

Yours very truly,

A handwritten signature in black ink, appearing to read "Patrick", with a stylized flourish extending to the right.

Patrick G. Welsh
PW:fd

c: Patrick McMahon, *Union Gas Limited*
Richard King, *Osler*
Laurie O'Meara, *NRG*
Keith Robicheau, *Norfolk County*