

August 26, 2014

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

Dear Ms Walli:

Re: EB-2014-0012 – Union Gas Limited – Hagar Liquefaction Service Rate

We are legal counsel to Union Gas Limited in the above noted matter. This letter is in response to the correspondence filed by Goodmans LLP, legal counsel to Northeast Midstream LP (“Northeast”), wherein Northeast has advised the Ontario Energy Board (the “Board”) that it intends to bring a motion to dismiss Union’s application and requests that the Board, as part of considering next steps, take into account a lengthy period that Northeast claims it requires to prepare evidence in support of the motion.

The Board should decline to hear the motion by Northeast, if brought, and should not delay the next procedural steps for hearing Union’s application on the basis of Northeast’s timing to prepare supporting evidence for the motion.

In effect, Northeast intends to seek in its motion an end of the proceeding before all the evidence (both Union’s and potentially any other intervenor’s) is fully heard and considered and before any other interested and affected party has an opportunity to cross-examine Union’s witnesses if desired. This would be a Board decision made on an incomplete record without the benefit of hearing from the applicant and would be manifestly unfair to Union and to other parties. Northeast is free to file whatever submissions it chooses at the completion of this proceeding including a submission on the basis as asserted in Goodmans letter. Completion of the proceeding in the normal course as typically undertaken by the Board will not and does not prejudice Northeast with respect to its position in this proceeding.

Northeast is attempting to assert a motion similar to a summary judgment motion contemplated by the Rules of Court. There is no such comparable provision in the Board’s Rules of Practice and Procedure and such relief should not be granted by the Board in a proceeding brought for the purpose of establishing a rate in accordance with the public interest.

With respect to Northeast's request for the Board to be mindful of Northeast's inability to file expert evidence until November 30, Union submits that the Board should not delay the hearing of this matter on this basis. Northeast filed its letter of intervention on June 26, 2014 and in its interrogatories to Union, Northeast referred to a report prepared by a third party related to cost allocation. Northeast clearly turned its mind to the issues in this proceeding and has had a significant amount of time to review the issues related to this proceeding and to seek third party assistance. There is no apparent or justifiable reason why the hearing of this matter should be delayed for over three months to accommodate Northeast.

Furthermore, the Board typically provides sufficient time within its procedural order to allow for preparation of evidence by intervenors. The Board should not deviate from its normal course. Union requests that the Board proceed with this matter in the normal course by issuing a procedural order providing an allowance for intervenors to file evidence, if they so desire, within time periods typically established by the Board.

Yours truly,

"Original signed by"

Charles Keizer

CK/dh

cc: EB-2014-0012 intervenors
Robert Malcolmson (Goodmans LLP)
Karen Hockin (Union Gas)
Michael Millar (Legal Counsel, OEB)