

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
BUILDING OWNERS AND MANAGERS ASSOCIATION, GREATER TORONTO
("BOMA")

September 12, 2014

**UNION GAS LIMITED
EB-2014-0154**

**BOMA
WRITTEN SUBMISSIONS**

1. BOMA supports the concept of a penalty charge as outlined by the Board in RP-2001-0029.
2. BOMA supports Union's proposal to reduce the penalty charges otherwise payable because of some direct purchase customers' failure to meet the contractual February 28th threshold, given the exceptionally cold weather in January, February, and March of 2014. BOMA also agrees with Union that the amount of the penalty clause should not be linked to the actual costs Union incurred to purchase the gas, other than the provision that the penalty amount, as calculated by the current formula, cannot be less than Union's WACOG. The basic principle here is the penalty rate is a penalty; it is not meant to simply reimburse Union, and its system gas customers, for any gas costs incurred due to the failure of some customers to deliver.
3. BOMA agrees that the revenue collected from the penalties should be returned to those parties that were compliant, as directed by the Board in RP-2001-0029.
4. In that case, the Board stated, at section 2.90:

"There appears to be no strategic advantage to be gained by a defaulting direct purchaser. The amounts imposed as penalties would, as now, be applied to gas supply deferral accounts so as to benefit compliant customers" (our emphasis).

BOMA is of the view that, for the purposes of allocation to ratepayers, the penalty revenue should be divided into two parts. An amount representing the additional gas costs Union incurred should be allocated exclusively to system gas customers, since that group did bear the additional costs. The remaining amount, that part of the penalty revenue in excess of the actual cost of the incremental purchases, should be returned to both system and compliant direct purchase customers pro rata, in recognition of their mutual compliance. In order to achieve this result, Union may have to utilize a combination of deferral accounts, or other methods, in either Union North or Union South. BOMA does not make a specific recommendation on how to achieve the above result.