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January 9, 2015

VIA COURIER, EMAIL AND RESS

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

Dear Ms. Walli:

Re: Natural Resource Gas
Board File No. EB-2014-0274

We are counsel to Integrated Grain Processors Co-operative Inc. ("**IGPC**").

Pursuant to Procedural Order No. 3 dated December 3, 2014, please find attached the Submissions of IGPC.

If there are any questions, please contact the undersigned.

Yours very truly,

AIRD & BERLIS LLP

Scott Stoll

Scott Stoll

SAS/bm

cc: Applicant and Applicant's Counsel *(via email)*
Case Manager, Khalil Viraney *(via email)*
Board Counsel, Michael Miller *(via email)*

Attach

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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 an Application by Natural Resource Gas Limited for an Order or Orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas effective October 1, 2014.

SUBMISSIONS OF INTEGRATED GRAIN PROCESSORS CO-OPERATIVE INC. ("IGPC")

PART I. Introduction

1. Pursuant to the Board's procedural order, IGPC is making its submissions regarding the following two issues (a) the appropriate formula for the incentive regulation mechanism; and (b) the Foregone Distribution Revenue. NRG has requested use of the IRM formula which results in 1.2% increase in distribution rates.[1] IGPC is of the view that NRG's Application is not supported by its evidence and should be rejected.

2. IGPC submits that NRG's proposed IRM is overly generous to NRG and should be rejected for a stretch factor of 2.8% or at most a rate freeze. NRG is seeking an additional $18,116 from Rate 6 when the evidence indicates that NRG will over-recover more than $70,000 per year from IGPC[2] as a result of the overstated rate base in respect of Rate 6 not to mention the $90,000 of regulatory costs embedded in NRG's rates. In addition to the $160,000 in over-earning for the two identified costs, NRG will over-earn as a result of its over-stated rate base and its inflated cost of capital. These excess revenues would eliminate any incentive to gain efficiencies which is a significant objective of the IRM process.

3. IGPC further submits the delay in bringing forward the Application and seeking recovery of the rates was solely within NRG's control and therefore, the Board should deny NRG recovery of any foregone distribution revenue.

PART II. IRM Formula

4. NRG has requested the Board apply its typical IRM formula for electricity distributors and that the Board assign a stretch factor of 0.4%. NRG is requesting a stretch factor that is

[1] 1.2% = Inflation Factor (1.6%) minus the stretch factor (0.4%).
[2] EB-2014-0274, Exhibit C, Tab 5, Schedule 1, page 3, line 3 to 5.

less than the 0.5% that is currently being used by NRG. IGPC submits that utilizing a 0.4% is rewarding NRG for poor performance. IGPC would suggest that a stretch factor of 2.8% is more appropriate. IGPC recognizes that this is not normal and results in reduction in rates but IGPC submits that in the circumstances, this approach is appropriate given the admitted over-earning by NRG.

5. The EB-2010-0018 Settlement Agreement[3] included the use of a stretch factor of 0.5% until the Board decided to adjust the mid-range stretch factor applied to electricity distributors. In November 2011, the mid-range stretch factor for electricity distributors was 0.4% so the Parties had agreed that the applicable stretch factor for the Settlement Agreement was a 25% increase over the mid-range. However, at that time the IRM period was only to apply for 3 years – not the current 5 year period – a length specifically rejected in EB-2010-0018.

6. The onus is on the Applicant, NRG, to bring forward credible evidence to support its request. NRG not only failed to provide any evidence regarding its achievements in gaining efficiencies but NRG failed to provide appropriate explanations for its exorbitant increases in operating expenses and did not provide other readily available evidence that would help the Board understand why NRG will not over-earn in the future – even with current rates. NRG had the opportunity to provide such evidence and chose to avoid proper responses. IGPC would suggest that the Board should draw an adverse inference from NRG's lack of evidence in this regard.

7. IGPC would note that NRG's operating expenses have increased by 21.4% from 2010 to 2013 which translates to an annualized increase of 5.35%, more than triple the inflation rate of 1.6%. IGPC has reproduced the operating expenses included in NRG's evidence below.

Table 1. NRG Operating Expenses

Year	2013[4]	2012[5]	2011[6]	2010[7]
Operating Expenses	$5,185,734	$4,551,101	$4,453,068	$4,270,764

8. Historically, the Board has used an analysis of operating and maintenance costs to evaluate the efficiency of electricity distributors through the publication of the "PEG Report". Such information does not exist for gas distributors but we do have the historical operating expenses from NRG summarized in Table 1.

9. IGPC had requested information from NRG about any efficiency improvements that would warrant a smaller stretch factor. NRG did not respond directly to the question but

[3] See NRG response to Board Staff I.R. #3.
[4] EB-2014-0274, Exhibit A, Tab 3, Schedule 1, Audited Financial Statements, page 18.
[5] EB-2014-0274, Exhibit A, Tab 3, Schedule 2, Audited Financial Statements, page 20.
[6] EB-2014-0274, Exhibit A, Tab 3, Schedule 3, Audited Financial Statements, page 21.
[7] EB-2014-0274, Exhibit A, Tab 3, Schedule 3, Audited Financial Statements, page 21.

pointed to the operating costs listed above. NRG has not provided any information regarding extraordinary expenses or any meaningful explanation regarding such increases. As such, the only reasonable conclusion is that there have not been any efficiency gains but rather negative efficiency changes.

10. In addition to the absence of evidence regarding NRG's lack of efficiency gains described above, there are several areas where NRG will over-earn during the IRM period including:

    (a) $71,000 per year from IGPC in respect of the reduced capital deployed in providing distribution service to IGPC; and

    (b) $90,000 per year in regulatory costs.

11. Therefore, on those two issues alone, NRG is recovering $160,000 per year or approximately 2.84%[8] of its annual revenue. The 2.8% stretch factor roughly accords with these two items.

12. NRG's evidence is that its rate base is in decline - having been reduced from $11,805,728 [2011] to $11,487,504 [2013].[9] NRG's evidence is its normal capital spend is more than 15% below the rate necessary to maintain its rate base. As such, the rate base will continue to decline through 2014, 2015 and 2016. Therefore, the rate base amount that is incorporated into NRG's rates is dramatically overstated.

13. Further, IGPC would note that both debt instruments were renegotiated by NRG during 2014 and NRG failed to provide any evidence regarding the rate of the replacement debt. In EB-2010-0018, the Board approved a debt rate of 7.67% which in all likelihood is much larger than the current debt held by NRG. IGPC would note that electricity distributors are currently receiving long-term debt in the range of 4% to 5%.

14. Finally, EB-2010-0018 had included a return on equity rate of 9.85% and current returns for electricity distributors are 9.36% so it is earning a premium rate of return on an overstated rate base. NRG is double dipping.

15. Again, all of these factors contribute NRG's over-recovery through existing rates. Such over-recovery eliminates the need to gain efficiencies in providing distribution services.

16. The Board will recall that NRG has based its Application upon the process used by electricity distributors so it is useful to consider the goals and objectives used in the electricity sector. The Board's Report, dated October 18, 2012, "Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach" describes the

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[8] This is equal to $160,000 divided by NRG's claimed Revenue Requirement from Rates, EB-2014-0274, 2014 IRM Application, page 4 of 31.
[9] EB-2014-0274, Exhibit C, Tab 1, Schedule 2

following outcome at page 2: "*Operational effectiveness : continuous improvement in productivity and cost performance is achieved; and utilities deliver on system reliability and quality objectives.*"

17. The evidence on the record is that there has been negative productivity (increased costs with no increase services) and that NRG will significantly over-earn. NRG has failed to meet the Operational effectiveness objective of IRM. Therefore, the proper remedy is to depart from NRG's proposal and use a stretch factor that will require NRG to become more efficient.

18. Using a stretch factor of 2.8% would eliminate the gain from 2 elements where NRG is over-earning and is therefore a reasonable approach to encourage NRG to achieve additional efficiencies. Further, there is no evidence such an approach would adversely impact NRG's financial viability.

PART III. Foregone Distribution Revenue

19. NRG is requesting the Board permit it to recover the foregone distribution revenue resulting from the delay from October 1, 2014 to the implementation date of the new distribution rates.

20. IGPC requests the Board deny NRG any recovery of foregone distribution revenue as the delay in this Application is solely the result of NRG's failure to make timely decisions and filings.

21. NRG has been aware of the need to file an application for rates effective October 1, 2014 for several years and so it should have been planning for such a submission. Further, NRG was aware that there was an expectation that the application would be a cost of service application and not a request to continue with an IRM process for a further 2 years.

22. NRG admitted that it takes 12 to 16 months for a small utility to prepare a cost of service application.[10] A such, it should have considered this issue the summer of 2013. However, NRG went on to state that it did not begin to consider the application until November 2013[11] and that it did not make any "final decision" until early 2014.[12] As such, if NRG was going to make a cost of service application it was already several months late.

23. However, NRG did not chose in early 2014 to make a cost of service Application – rather it chose to ask the Board to permit it to continue the IRM process. This submission was

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[10] NRG response to IGPC I.R. #1(e).
[11] NRG response to IGPC I.R. #1(d).
[12] NRG response to IGPC I.R. #1(d).

not filed with the Board until August 25, 2014. The submission of August 25, 2014 was not very detailed and possessed no information that was not available until just prior to NRG making the document public. NRG's application sought financial information from IGPC which NRG had no right to receive, had previously been rejected by the Board and had no bearing on an IRM formulaic approach to the rates.

24. Further, despite having made a final decision in early 2014, NRG only submitted a proposal to make an application using an IRM approach on August 25, 2014 – less than 5 weeks before rates were to become effective. NRG was aware that if the Board granted permission for such an application that it would still require an actual rate submission to be made. NRG should have known these events could not be completed prior to October 1, 2014.

25. Therefore, the only reasonable conclusion is that the delay in receiving the Application on a timely basis was entirely in the hands of NRG and was intended to ensure the Board had no option but to grant the IRM approach request as a cost of service application would take between 15 and 18 months. NRG effectively backed the Board into a corner through its delay.

26. The Board, in its oral decision, indicated that "delay" is a factor in determining the effective date for the rates, and thereby the need for the foregone revenue recovery.[13] NRG provided no credible explanation for the delay in making the Application. The supposed uncertainty regarding IGPC's load could have been raised earlier when a 1 year extension was still a viable option.

27. Given the number of costs which IGPC contends are overstated for NRG, see above, IGPC submits the delay was intended to benefit NRG at the expense of ratepayers.

28. NRG should not be permitted to benefit from its own delays.

29. The Board should deny NRG any recovery of foregone revenue and should reiterate its expectation for timely submissions in the future from NRG. Ratepayers should not be expected to compensate NRG for its deliberate tardiness.

30. IGPC would note where a utility was late making its application, such as the present case, the Board has routinely denied the utility to obtain any benefit from such delay and required to the utility to forego any lost revenue or return any over-earnings. As such, IGPC's request is consistent with numerous previous orders of the Board.

PART IV. Conclusion

31. IGPC requests that the Board permit an IRM formula for calculating rates using a stretch factor of 2.8% and not permit NRG to recovery any foregone revenue.

[13] EB-2014-0274, Transcript Volume 1, November 11, 2014, page 39, lines 8 to 18.

32. IGPC believes such a request is consistent with the Board's Renewed Regulatory Framework for Electricity and the determination of just and reasonable rates.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: January 9, 2015	**AIRD & BERLIS LLP** Barristers and Solicitors Brookfield Place 181 Bay Street, Suite 1800 Toronto, Ontario M5J 2T9 **Scott Stoll** (LSUC #45822G) Tel: 416.865.4703 Fax: 416.863.1515 Counsel for Integrated Grain Processors Co-operative Inc.