

Emma Blanchard
T 613.369.4755
eblanchard@blg.com

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen St, Suite 1300
Ottawa, ON, Canada K1P 1J9
T 613.237.5160
F 613.230.8842
F 613.787.3558 (IP)
blg.com



Our File No. 339583-196

January 20, 2015

By electronic filing

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

Dear Ms. Walli

**Re: Natural Resource Gas Limited ("NRG")
Oral Hearing – Threshold Question
Notice of Motion to Vary and Review Decision and Order (the "Notice of Motion")**
Board File #: EB-2014-0375

We are solicitors for Canadian Manufacturers & Exporters ("CME"), an intervenor in the above referenced proceeding. We are writing in response to the Board's Procedural Order No. 1 dated January 9, 2015, with respect to the Notice of Motion, wherein the Board ordered any party seeking to make argument regarding the threshold question of whether the Motion should proceed and be heard on its merits to so advise the Board no later than January 20, 2015.

The matter in issue on the Motion for Review and Variance relates to the penalty amounts payable by NRG as a non-compliant direct purchaser. Inextricably intertwined with that issue is the question of the appropriate allocation of the differential between the penalty amounts recovered by Union Gas Limited ("Union") from all non-compliant direct purchasers and the actual gas costs Union incurred to remedy their defaults.

The actual gas costs Union incurred to remedy the defaults by NRG and other direct purchasers were far less than the penalty amounts determined by the Board to be appropriate. The Board allocated this differential to Union's system gas customers on the grounds that they were the source from which Union acquired the gas to remedy the defaults.

We submit that, as a matter of fact, the source from which Union acquired the gas to remedy direct purchaser defaults is irrelevant to the allocation of the differential. The differential should be allocated to the constituency for whose benefit the penalty regime exists. This constituency is either all direct purchasers or all distribution customers.

Union could have acquired the gas it needed from a third party and not touched the system gas it held in inventory. In that scenario, the differential between the penalty revenues and the actual gas costs would clearly flow back to all direct purchasers for whom Union is the system operator.

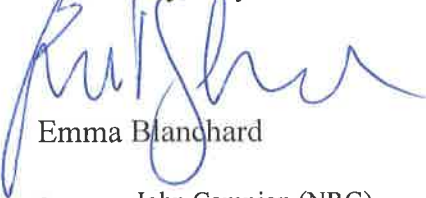
Similarly, in a scenario where Union had no system gas users, the differential would be credited to all direct purchasers for whom Union is the system operator, whether it acquired the gas to remedy the defaults from a third party, or used gas held in inventory to produce that outcome.

We submit that it is an error to credit this differential to any constituency other than either the direct purchase constituency or the entire distribution customer constituency for which Union is the system administrator. We reiterate that the source from which Union acquires the gas to remedy the defaults is irrelevant to the allocation of the differential between the penalty amounts and the actual gas costs Union incurs.

Accordingly, while we do not support NRG's request for a Review and Variance to further reduce the penalty amounts, we do support a review and variance of the Board's Order with respect to the allocation of these amounts. We also submit that any relief to which NRG is entitled with respect to its penalty exposure should be limited to an allocation of its proportionate share of this differential.

If the Board accepts that the allocation of this differential is inextricably intertwined with NRG's Motion to Review and Vary the penalty amounts and is therefore a component of the threshold issue, then we will have submissions to make on that component of the threshold issue.

Yours very truly



Emma Blanchard

c. John Campion (NRG)
EB-2014-0375 Intervenor
Paul Clipsham (CME)

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