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Our File # 339583-000180

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June 16, 2015

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

Dear Ms. Walli

Re: Union Gas Limited ("Union")
Hagar Liquefaction Service Rate
Board File #: EB-2014-0012

As solicitors for Canadian Manufacturers & Exporters ("CME"), we are writing with respect to the Board's Decision and Order on Cost Awards dated June 2, 2015 (the "Cost Award Decision").

In its Cost Award Decision, the Board disallowed a significant portion of the costs claimed by CME in this proceeding. It did so by using the Cost Claim of Schools Energy Coalition ("SEC") as a benchmark for evaluating CME's Cost Claim. In comparing the participation of CME and SEC in the proceeding, the Board stated that, "In both cases, a junior lawyer had main carriage of the file and was assisted by senior counsel."

Our concern is that the foregoing statement is factually incorrect. The facts disclosed in materials filed with and posted on the Board's website show that the roles played by CME senior and junior counsel in the carriage of CME's intervention materially differed from the roles played by SEC's senior and junior counsel in the management of their client's case.

SEC did not seek intervenor status in this proceeding until late October 2014, some 4 months after CME and others had become engaged in the process. It was junior counsel and not senior counsel for SEC who sought and obtained late intervenor status for SEC which the Board granted by letter dated November 13, 2014. At that time, the discovery process had been completed. According to the covering letter provided by SEC with its Cost Claim dated April 28, 2015, senior counsel's role was limited to assisting with issues analysis and argument preparation.

By contrast, the materials on the Board's website clearly demonstrate that senior counsel for CME had exclusive carriage of the matter from its outset in June 2014. He prepared the June 22, 2014 letter of intervention which identified the uniqueness of this particular case. He reviewed the Application materials, researched Board precedents for the guiding principles related to the Ontario Energy Board's

regulation of utility and non-utility business activities and prepared CME's July 22, 2014 Interrogatories to Union.

Senior counsel for CME had main carriage of the case until late September 2014 when he transitioned the matter to junior counsel who had never previously been involved in a case where the issues included matters related to forbearance and cost allocation as between utility and non-utility business activities. His role as an assistant to junior counsel commenced after the discovery process in the proceeding had been substantially completed.

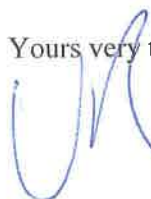
There is no factual basis for the statement in the Cost Award Decision to the effect that a junior lawyer for CME had main carriage of the file from the outset and was merely assisted by senior counsel as in the case of SEC. There is no factual basis for treating the time spent by senior counsel for CME in the months prior to transitioning the matter to junior counsel as equivalent to the role of senior counsel for SEC following its late intervention more than 4 months after this proceeding had been initiated.

As a matter of principle, the Cost Claim of a late intervenor cannot reasonably be used to benchmark the value of time spent by advisers to another intervenor in the months preceding the late intervenor's involvement in the proceeding. Disallowing all but 3 hours of the time spent by senior counsel for CME in the circumstances of this case is factually unsupportable and is very unfair and unreasonable.

We respectfully request that the Board rectify the factual errors it has made in using the Cost Claim of the late intervenor SEC to benchmark the entire CME Cost Claim. We respectfully request the Board, of its own motion, to adjust the cost award assessment for CME to reflect the 10 hours of time spent by senior counsel before October 22, 2014, when SEC became involved in the proceeding. The requested adjustment would add \$3,300 of fees, plus HST of \$429, for a total of \$3,729, to the amount of \$20,293.61 specified in paragraph 1 of the Board's Cost Award Decision for a total of \$24,022.61.

This requested adjustment reflects the Board's use of the SEC Cost Claim as a benchmark for CME's Cost Claim from the date SEC first became involved in the case but not before. The adjusted amount of \$24,022.61 remains materially less than the docketed value of the time recorded by CME counsel.

Yours very truly,



Vincent J. DeRose

c. Karen Hockin (Union)
Paul Clipsham and Ian Shaw (CME)

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