

January 14, 2016

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

Dear Ms. Walli:

**RE: EB-2014-0182 – Burlington Oakville Project
Union Gas Limited – Comments on Cost Claims**

Union Gas Limited (“Union”) received cost claims from the Association of Power Producers of Ontario (“APPRO”), Building Owners and Managers Association of Ontario (“BOMA”), Canadian Manufacturers & Exporters (“CME”), Federation of Rental-housing Providers of Ontario (“FRPO”), London Property Management Association (“LPMA”), Ontario Greenhouse Vegetable Growers (“OGVG”), School Energy Coalition (“SEC”) and Vulnerable Energy Consumer’s Coalition (“VECC”) for the above noted proceeding.

Union has reviewed the cost claims and, with the exception of the cost claims by FRPO and OGVG, has no specific concerns. The cost claims for FRPO and OGVG were submitted by Mr. Dwayne Quinn, who was the sole consultant representing each of these two intervenors in the proceeding. As discussed below, Union’s primary concerns with the FRPO and OGVG cost claims relate to the number of hours claimed, particularly with respect to the oral hearing, relative to that of other intervenors, and the efficiency gains that should have reasonably resulted from Mr. Quinn’s representation of two intervenors who were interested in a common set of issues.

Fees claimed by Mr. Quinn on behalf of FRPO and OGVG

Union filed its application on December 12, 2014. The Notice of Application asked for intervention letters to be submitted on or before February 2, 2015. On March 10, 2015, Mr. Quinn submitted a late intervention request on behalf of OGVG, which was granted by the Board in a letter dated March 12, 2015. On August 7, 2015, Mr. Quinn submitted a late intervention request on behalf of FRPO, which was granted by the Board in Procedural Order No. 5 dated August 13, 2015. By the time FRPO obtained intervenor status, a number of key steps in the proceeding had already taken place, including the response to interrogatories in respect of Union’s pre-filed evidence, the technical conference, the filing of evidence and additional information by certain intervenors, and Union’s filing of reply evidence.

On behalf of FRPO, Mr. Quinn claims \$30,690 in fees for 93 billable hours, plus \$3,989.70 in HST, for a total of \$34,679.70. On behalf of OGVG, he claims \$32,175.00 in fees for 97.5 billable hours, plus

\$4,182.75 in HST, for a total of \$36,357.75. For the reasons set out below, it is Union's view that the hours being claimed by Mr. Quinn, and therefore the resulting fees, for FRPO and OGVG are excessive. To assist the Board in its consideration, the hours included in each of the intervenors' cost claims are summarized in the following table.

<i>Intervenor</i>	<i>Prehearing Conference/ Preparation</i>	<i>Interroga- -tories</i>	<i>Technical Conf.</i>	<i>Evidence Prep</i>	<i>Oral Hearing</i>	<i>Argument</i>	<i>Other</i>	<i>Total Hours</i>
Number of hours being claimed by Mr. Quinn on behalf of FRPO and OGVG								
FRPO	0	12	0		47.5	33.5	0	93
OGVG	0	12	38		47.5	0	0	97.5
<i>Total</i>	<i>0</i>	<i>24</i>	<i>38</i>		<i>95</i>	<i>33.5</i>	<i>0</i>	<i>190.5</i>
Number of hours being claimed on behalf of other intervenors								
APPrO	6.35	21.55	26.7		24.75	16.3	1.5	97.15
BOMA	0	37.2	16.5		0	15.2	0	68.9
CME*	4	62.6	27.0	46.3	6.1	21.8	0.2	168
LPMA	0	10.2	0		0	13.1	0	23.3
SEC	0	28.6	2.9		28.2	18.2	2	79.9
VECC	0	9.5	0		6.2	9.75	0	25.45
<i>Total</i>	<i>10.35</i>	<i>169.65</i>	<i>73.1</i>	<i>46.3</i>	<i>65.25</i>	<i>94.35</i>	<i>3.7</i>	<i>462.7</i>

*Note: not including the hours being claimed in respect of the services of the expert witness.

First, while Mr. Quinn participated in the oral hearing held on September 24 and September 25, 2015, he did so, on behalf of FRPO only. He only put in an appearance and ultimately made submissions on behalf of FRPO. He did not appear for OGVG and no submissions were made. However, the cost claim for each of FRPO and OGVG includes 47.5 hours respectively for oral hearing preparation and/or attendance for a total of 95 hours. Further, the 95 hours being claimed by Mr. Quinn in relation to the oral hearing far exceeds the 65 hours being claimed by all other intervenors combined in respect of the oral hearing.

Second, as Union previously observed in its letter to the Board dated August 11, 2015, no specific issue was unique to OGVG or FRPO in the proceeding. This is further confirmed by the fact that after FRPO obtained intervenor status, Mr. Quinn continued to pursue the same issues and arguments and appeared to work with and rely on the expert witness co-sponsored by CME and OGVG in the same way as when he represented OGVG alone. To this end, there was a clear opportunity for Mr. Quinn, as the sole consultant acting for two intervenors, to apply any knowledge gained from preparation work undertaken during the course of the proceeding in a reasonably efficient and cost-effective way. For instance, the 38 hours being claimed for services he provided to OGVG in respect of the technical conference can be reasonably expected to support and further Mr. Quinn's preparation for the oral hearing. However, in addition to those 38 hours, Mr. Quinn claims 47.5 hours for the oral hearing on behalf of each FRPO and OGVG, far exceeding the hours claimed for the same purpose by any other intervenor.

Third, despite relying on the same consultant and sharing common issues of interest in this proceeding, FRPO's and OGVG's claims for fees total \$71,037.45 (inclusive of HST), which is 45% higher than the fees claimed by CME's counsel in the amount of \$48,965.16 (inclusive of HST). CME's cost claim is a relevant comparator for the purposes of this discussion, given that its position was aligned with that of OGVG at the outset of the proceeding and that CME and Mr. Quinn worked with the same expert witness to put forward her testimony.

Based on the foregoing, the fees being claimed by Mr. Quinn on behalf of FRPO and OGVG appear to be excessive and fail to show an attempt to achieve efficiencies that should be expected when the same representative acts for two intervenors that share common issues of interest before the Board. Union submits that the Board should permit FRPO and OGVG to recover 50% of each of their fee claims. In Union's view, this approach represents an appropriate balance in the circumstances between the need to encourage participation by intervenors and the importance of achieving a rational allocation of costs to incentivize efficiency gains where multiple intervenors with aligned interests are represented by the same person. In any event, Union believes that the combined cost recovery by FRPO and OGVG with respect to Mr. Quinn's services should be no more than the amount granted to CME for the services of its counsel in this proceeding.

Yours truly,

[original signed by]

Vanessa Innis
Manager, Regulatory Initiatives

c.c.: Charles Keizer (Torys)
Intervenors EB-2014-0182