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Our File #339583/000232

June 22, 2016

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: Consultation to Develop a Regulatory Framework for Natural Gas Distributor's Cap and Trade Compliance Plans
Board File #: EB-2015-0363

We are writing on behalf of Canadian Manufacturers & Exporters ("**CME**") in response to the Staff Discussion Paper circulated on May 25, 2016 (the "**Discussion Paper**"), which considers the cap and trade regulatory framework for natural gas utilities.

The Discussion Paper addresses the OEB's proposed framework for regulation of the natural gas utility system in light of Ontario's recent "cap and trade" carbon emissions reduction regulation, *Climate Change Mitigation and Low-carbon Economy Act*, 2016, S.O. 2016, c. 7 (the "***Act***"). The Discussion Paper outlines a proposed approach for assessing the cost consequences of the natural gas utilities' plans for complying with the cap and trade program and for establishing a mechanism for recovery of these costs in rates which are passed to the utilities' customers.

CME has been advocating for effective climate change policy for the Ontario manufacturing sector for many years, and working with the Ontario Ministry of Environment and Climate Change and other government departments through countless meetings, letters and stakeholder sessions. CME's message has been clear throughout: an effective climate change policy achieves desired emission reductions, while fostering domestic economic growth. The manufacturing sector has significantly reduced emissions since 1990; however, these reductions have been achieved through investment in new technologies which can only occur where companies have capital to invest.

Despite the emissions gains made by CME's constituency in the last two decades, the manufacturing and export industry in Canada faces significant challenges. CME's membership includes over 1,400 Ontario based companies which will all be affected by a change in energy costs as a result of the cap and trade program. Of this number, a significant contingent is already struggling to stay competitive in the face of escalating energy costs. These are energy intensive businesses whose continued operation in Ontario depends on their ability to compete with counterparts in other jurisdictions where energy costs are lower. It is within this context that CME provides the following comments.

As a preliminary observation, CME notes that it will review the comments on the Discussion Paper filed by Enbridge Gas Distribution Inc. ("**Enbridge**") and Union Gas Limited ("**Union**") with great interest. CME's members would welcome the opportunity to work with the utilities to identify cost-effective approaches to implement Ontario's cap and trade program and to develop programs aimed at easing the burden currently being placed on the manufacturing sector as a result of escalating energy costs.

CME has raised with the government two concerns relating to the timing of the cap and trade program. First, the January 2017 implementation date provides insufficient time to properly operationalize cap and trade. In this regard, CME encourages Enbridge and Union to provide a detailed account of the operational challenges they face to become completely compliant by the 2017 deadline in order to allow the Board to develop interim measures which may ease the transition.

Second, there currently exists uncertainty about what happens after 2020 which, in turn, impacts the long-term investment decision-making process which is critical to the successful implementation of emissions reduction technology. CME assumes that this is a concern which is shared by the utilities and is interested in any measures which the utilities may propose to attempt to mitigate these.

With respect to the proposed framework contained in the Discussion Paper, CME makes the following additional comments:

(1) **Allocation of Costs of Customer-Related Obligations**

The rate regulated natural gas utilities will incur costs to ensure compliance with 1) their facility-related obligations, and 2) customer-related obligations. CME acknowledges that the costs of complying with facility-related obligations will have to be borne by all customers. With respect to the costs of customer-related obligations, however, Enbridge and Union must ensure that Large Final Emitters ("**LFEs**") or voluntary participants, who will assume responsibility for their own compliance under the *Act,* are not allocated any costs associated with customer-related compliance obligations.

Given that LFEs and voluntary participants may be in various rate classes, CME is concerned that this may be a difficult exercise and is seeking particulars as to the mechanisms which the utilities intend to apply to identify those customers who should not be allocated any costs associated with customer-related compliance obligations. In CME's view, confirmation that a

customer has not been allocated any such costs should also be reflected on every bill sent to such a customer.

(2) **Avoiding Duplication Between DSM and Abatement Programs Undertaken in Order to Meet Obligations under the *Act*.**

Section 5 of the Discussion Paper contemplates that the utilities will incur customer-related and facility-related obligation costs for abatement programs. Board Staff states that the utilities will likely develop targeted programs for its residential, commercial and industrial customers, as well as programs for its own facilities and that the costs for such abatement programs will be known by the utilities.

CME invites the Board to consider whether some or all of these abatement programs are already being delivered as DSM, and if so, how they should be treated for rate-making purposes. CME acknowledges Board Staff's suggestion that this issue be deferred to the DSM Framework mid-term review in 2018. CME does not oppose such a deferral of the issue provided that mechanisms are put in place to mitigate the risk of duplicative DSM and abatement costs, to identify any abatement costs which are allocated to the DSM program (resulting in shareholder incentive), and that such costs are subject to review during the DSM Framework mid-term review.

(3) **Bill Transparency**

CME's members believe that, to the greatest extent possible, the costs associated with cap and trade obligations which are to be allocated to customers should be transparent on the bill. To this end, CME does not agree with Board Staff's suggestions on Bill Presentation that facility-related costs, customer-related costs and administrative costs be included in the delivery charge. Comments received from CME members have been unanimous that such cap and trade costs should be expressly and transparently identified in the bill. The only divergence amongst members was whether there should be one line-item for all of the cap and trade costs (facility-related, customer-related and administrative) or three line-items (one for each of the categories).

It appears that the rationale for Board Staff's recommendation is that the introduction of a new line-item would create customer confusion, particularly with low-volume residential customers. CME does not see how permitting customers to understand the true costs of cap and trade by adding a separate line-item, or line-items, on the bill would lead to customer confusion. All ratepayers should be afforded the benefit of a transparent bill that separates the costs of cap and trade.

(4) **Confidentiality**

Board Staff raises the issue that certain cap and trade auction information deemed confidential by the *Act* should be subject to the Board's inspection/audit process under Part VII of the *OEB Act*. Moreover, Board Staff also identifies the possibility that the Utilities' Compliance Plans may contain "market sensitive" information.

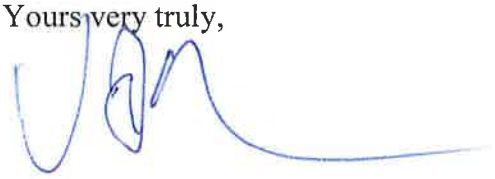
CME recognizes that certain information is deemed confidential by the *Act*. However, it appears from the Report that Board Staff is suggesting that other market sensitive information also be made available only to the Board. We submit that the Board should not pre-determine which information contained in Compliance Plans is, or is not, confidential. Instead, the Board should follow the process set out in its Practice Direction on Confidential Filings, as revised April 24, 2014. By following the Practice Direction, the Board can ensure that it properly strikes a balance between the objectives of transparency and openness with the need to protect information that has been properly designated as confidential. This approach will also permit the Board to determine whether some or all of the confidential information can be made available to those parties that require the information in order to present their cases.

(5) **Addressing Potential for Large Deferral Account Balances**

Board Staff proposes that true-ups be done on an annual basis. In this context, the true-ups for both facility-related obligations and customer-related obligations would be based upon the difference between the amount actually paid by the utilities for compliance instruments and the amount actually recovered in rates. At this stage, it is difficult for CME to predict the volatility of the actual costs compared to the amounts recovered in rates. CME is concerned, however, by Board Staff's observation that there may be a potential for large deferral account balances in relation to the customer-related obligations costs.

In light of the potential for large deferral account balances, CME questions whether customer-related obligation costs should be updated as an incremental component of the Quarterly Rate Adjustment Mechanism ("**QRAM**"). We acknowledge that at this stage we do not know how difficult it would be to include a cap and trade adjustment into the QRAM process. We nevertheless feel that this is an approach worth consideration, and invite Enbridge and Union to address whether 1) they believe the potential volatility of the customer-related obligation costs warrant quarterly adjustment, and 2) if so, how difficult it would be to adjust the obligation costs within the existing QRAM structure.

Yours very truly,



Vincent J. DeRose

c All Interested Parties EB-2015-0363
Paul Clipsham and Ian Shaw (CME)

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