

November 8, 2016

**BY COURIER & RESS**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Union Gas Limited - Panhandle Reinforcement Project (EB-2016-0186)  
Response to CAEPLA-PLC Request to Reschedule Settlement Conference**

We are counsel to Union Gas Limited ("Union") in the above-referenced proceeding. On November 7, 2016, Mr. John Goudy filed with the Ontario Energy Board (the "Board") a letter on behalf of CAEPLA-PLC to request that the Settlement Conference be rescheduled. Union finds CAEPLA-PLC's request to be unreasonable and is deeply concerned that it will significantly delay completion of this proceeding, thereby potentially affecting Union's construction schedule for the Panhandle Reinforcement Project. We therefore request that the current schedule be retained and that CAEPLA-PLC be required to proceed with the resources it has available.

Procedural Order No. 3 provides for an oral hearing to deal with non-landowner issues on November 22-24, 2016. These hearing dates are unaffected by CAEPLA-PLC's request. Procedural Order No. 3 also provides for a Settlement Conference to be held in Chatham on November 21, 2016 to deal exclusively with landowner-related issues. In doing so, the Order reflects CAEPLA-PLC's October 21, 2016 request for a Settlement Conference. CAEPLA-PLC, in requesting the settlement conference, did not advise of any limitations on its availability either for an oral hearing or a Settlement Conference.

CAEPLA-PLC now advises that its negotiating committee will not be available to participate in the Settlement Conference on November 21. Instead, it asks the Board to amend Procedural Order No. 3 to schedule the Settlement Conference for one or both of December 22, 2016 and January 12, 2017, with the oral hearing in respect of landowner issues to be held January 15-16, 2017. It is unreasonable that CAEPLA-PLC cannot find any earlier dates on which it would be available.

While CAEPLA-PLC explains that members of its *witness panel* will not be available on the November 22-24 hearing dates due to prior work commitments and one individual's travel plans, this is not relevant as landowner issues will not be addressed on those dates. More importantly, CAEPLA-PLC offers no explanation whatsoever as to why members of its

*negotiating committee* will not be available on November 21 for the Settlement Conference.

Union believes that the scheduling issues described by CAEPLA-PLC are largely due to its desire to have numerous attendees at the Settlement Conference. It is unnecessary and impractical for CAEPLA-PLC to require a large contingent of its landowners to be present for the Settlement Conference. The letter indicates that both its counsel, Mr. Goudy, and CAEPLA's CEO, Mr. Core, would be available on November 21. In addition, the letter indicates that certain landowner representatives would be available on November 21. It is unreasonable that, prior to November 21, CAEPLA-PLC could not provide instructions to these available individuals so as to enable the Settlement Conference to proceed as scheduled.

Furthermore, while no explanation has been provided as to why, given available technology, the available representatives would not be able to communicate with CAEPLA-PLC's negotiating committee members on November 21, we note that there is no requirement that such "decision makers" be in the room or even available that day. Mr. Goudy references Rule 29.07 of the Board's *Rules of Practice and Procedure*, which states that where a representative attends a settlement conference without the party, the representative shall be authorized to settle issues. However, Rule 29.07 is made expressly subject to Rule 29.08, which states that any limitations on a representative's authority shall be disclosed at the outset of the settlement conference. Union would prefer to proceed with the Settlement Conference on the scheduled date even if Mr. Goudy's authority to settle issues is limited by the absence or unavailability of certain individuals. We also note that, given the availability of CAEPLA's CEO and certain of the affected landowners, it would appear that the relevant party would in fact be in attendance.

Union submits that the current schedule for the proceeding, as set out by the Board in Procedural Order No. 3, should not be amended in response to the request from CAEPLA-PLC. The request has not been adequately substantiated and would result in unreasonable delay in this proceeding, and potentially to Union's construction schedule for the Panhandle Reinforcement Project. Union is actively working with CAEPLA-PLC in an effort to settle the issues that remain outstanding, and will continue to make itself available for continued discussions, at Mr. Goudy and CAEPLA-PLC's convenience, in the period leading up to the scheduled November 21 Settlement Conference.

For these reasons, CAEPLA-PLC's request should be denied.

Yours truly,



Charles Keizer

cc: EB-2016-0186 Panhandle Intervenors  
Karen Hockin, Union Gas Limited