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**Commission de l'énergie
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BY E-MAIL

December 7, 2016

Mr. Thomas Brett
Partner
Fogler, Rubinoff LLP
77 King Street West
Toronto, ON M5K 1G8
tbrett@foglers.com

Dear Mr. Brett,

**Re: BOMA Declaration and Undertaking
Natural Gas Utility Cap and Trade Compliance Plan Applications
Ontario Energy Board File Number:
EB-2016-0296 / EB-2016-0300 / EB-2016-0330**

Thank you for your interest in the natural gas utilities' Cap and Trade Compliance Plan applications. Although BOMA has provided an executed Declaration and Undertaking, the OEB cannot provide unredacted, confidential versions of the natural gas utilities' Cap and Trade Compliance Plans for the reasons set out below.

Part of the gas utilities' Cap and Trade Compliance Plan applications contain a considerable amount of information that has been deemed confidential by the gas utilities, based on the guidance provided in the [OEB's Regulatory Cap and Trade Framework](#), and redacted from public view.

As a general rule, the OEB places materials it receives in the course of the exercise of its authority under the *Ontario Energy Board Act, 1998* and other legislation on the public record so that all interested parties can have equal access to those materials.

Despite the OEB's general approach to confidentiality, the [Climate Change Act](#) includes limitations on the disclosure of certain information that is treated as strictly confidential. These limitations are reflected in the [OEB's Regulatory Cap and Trade Framework](#).

The Cap and Trade Framework provides for two categories of "strictly confidential" Cap and Trade information which arise out of the *Climate Change Act* and regulations: auction confidential and market sensitive information.

Auction confidential information includes information related to participation at auctions for emissions allowances that is prohibited from disclosure by section 32 of the *Climate Change Act*.

Market sensitive information relates to information that is not publicly available and could result in 'selective disclosure', tipping and trading on non-public information, which is prohibited in financial markets and could be contrary to sections 28(5) and (6) of the *Climate Change Act*.

Strictly confidential information will not be made available to participants in the applications beyond OEB staff who are reviewing the applications and the panel members deciding the applications.

However, as the Cap and Trade Framework noted, a considerable amount of information in the utilities' compliance plan filings will be publicly available, including the aggregated information filed by the utilities on their Cap and Trade activities, the Minister's report at the conclusion of an auction, as well as carbon price forecasts which will be provided by the OEB.

OEB staff will be reviewing the confidential versions of the Compliance Plans filed by the gas utilities and the OEB may provide further direction to all parties related to confidential information throughout the process of reviewing the gas utilities' Compliance Plans.

Yours truly,

Original Signed By

Kirsten Walli
Board Secretary

cc:

Marion Fraser, Fraser & Company
Andrew Mandyam, Enbridge Gas Distribution Inc.
Dennis O'Leary, Aird & Berlis
Vanessa Innis, Union Gas Limited
Crawford Smith, Torys
Brian Lippold, Natural Resource Gas Ltd.
Richard J. King, Oslers