

Reply to the Attention of Mike Richmond
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Our File No. 231915
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Ms. Kristen Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: EB-2015-0179 Phase II
Re-Application for Intervenor Status by
Canadian Propane Association**

With respect to Union Gas Limited's letter of April 28, 2017, objecting to the application by the Canadian Propane Association ("CPA") for continued participation in Phase II of the hearing, the CPA wishes to provide the following for the Board's consideration:

1. Pursuant to Section 21(4) of the *Ontario Energy Board Act, 1998*, the Board is mandated to hold a hearing where there are persons other than the applicant who "will be adversely affected in a material way by the outcome of the proceeding". Presumably those hearings should include as participants those who will be adversely affected in a material way by the outcome of the proceeding – otherwise there is no discernible reason to hold a hearing.

Rule 22.02 of the Board's *Rules of Practice and Procedure* similarly provide that intervenors should be those who have a "substantial interest" in the proceeding.

The CPA and its members without a doubt would be adversely affected in a material way by approval of the application, and therefore have a substantial commercial interest in the proceeding. Union, in its April 28 letter, does not dispute that the CPA will be impacted, only that "the impact on competitive fuel sources is not a consideration in this proceeding". With respect, the relevant question for the determination of intervenor status is whether there is a substantial interest or an adverse effect, not whether such interest or effect is up for consideration. The determination of the "considerations in the proceeding" – also known as the issues list – is one of the very matters upon which the Board may, in its discretion, ask intervenors to opine.

The reason that regulators like the OEB who are charged with serving the public interest hold hearings is to balance various competing interests. In order to do so, they must hear, at the very least, from those whose interests are directly affected.

Unlike BOMA, EPCOR, Energy Probe and LPMA (who may have an indirect interest in the outcome), the CPA and its members are substantially and directly affected by the outcome of this application.

2. In Phase I and the Generic Hearing, the CPA was testing the reasoning and the math behind the cross-subsidy mechanism. In Phase II, CPA intends to test the math behind the SES mechanism. This is a legitimate avenue of exploration given that the application relies on the SES mechanism and the specific values thereof to demonstrate a PI of 1.0 and therefore justify the projects.
3. Union's assertion that that the CPA should be excluded because Board Staff can address these matters misses the point. Board Staff can actually address every matter if they wish to – they could address every matter raised by every intervenor – but that has never been a reason to eliminate all intervenors.

The Panel made the cited comment in Procedural Order #7 in respect of four parties (BOMA, EPCOR, Energy Probe and LPMA) who they determined did not have a substantial and direct interest. Having failed the first part of that test, the Panel then assessed whether they should still be included in order to ensure that certain issues could be addressed. It determined that BOMA, EPCOR, Energy Probe and LPMA failed that second test as well because Board Staff could address their issues. In the case of the CPA, however, the CPA does have a substantial and direct interest. There is no need to move to the second test (although the CPA would also pass that test too based on para 4 below).

4. The CPA has relevant information about the very customers in these very communities that Union forecasts will convert. This information that will be helpful to the Board Panel in assessing the application, the accuracy of the forecasts, the accuracy of the SES value in light of the forecasts, and the accuracy of the SES Term in light of the forecasts. This is information that neither Board Staff nor any other intervenor can provide. We believe this information is directly relevant to the proposed SES value and SES Term, and the Board would be remiss in proceeding without all relevant information on the record.

On behalf of the CPA, we appreciate the Board's consideration.

Yours truly,



Mike Richmond

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