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Our File No. 176656

VIA RESS AND EMAIL

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attention: Kirsten Walli,
Board Secretary

Dear Ms. Walli:

**Re: EB-2017-0306/0307: Enbridge Gas Distribution Inc. and Union Gas Limited
Application for Amalgamation and Rate-Setting Mechanism**

BOMA is writing to respond to the questions posed by the Board in Procedural Order No. 3.

BOMA first notes that it has never seen questions of this nature posed by the Board prior to Argument. Second, while BOMA participated in the Technical Conference, and the issues list debate, and has done substantial work in reviewing the filed evidence and interrogatories, for the last two weeks, it has been immersed in the gas utilities' Cap & Trade case, and only today has been able to refocus on the Merger case. Finally, as the Board well knows, the purpose of a Technical Conference is to obtain further information on, and explanation of, the applicant's proposal (the discovery phase), which is very different than the purpose of the oral hearing, which is to test and challenge the validity of the applicant's case before the Board. It is during the oral hearing that the greatest clarity is obtained for the Board and all non-applicant parties, on the strength and weaknesses of the applicant's case. Often surprises occur in an oral hearing and

some cases turn on such surprises. BOMA understands that the Board is grappling with the need to accommodate a relatively large number of intervenors into a four day hearing. The Board may wish to consider expansion of the hearing time, if necessary, as it did in the Cap & Trade proceeding.

That said, BOMA will attempt to answer the five questions posed by the Board.

1. *Do you plan on supporting approval of the merger?*

BOMA's position on the merger will depend to some degree to the rate plan that is ultimately decided upon. In addition, BOMA would like to probe the alleged benefits of the merger vis a vis the status quo given that the two utilities are already owned by the same parent, and the merger is, to a considerable degree, one of form rather than substance.

2. *If you plan to support the merger what, if any, conditions of approval will you propose?*

It is too soon to assess what conditions that would need to be attached to any merger. For example, the impacts of rate harmonization (or not), the implications of the Board's recent decision in the Alectra case on the applicant's ICM proposals, further testing of various earnings sharing scenarios in light of the utilities' proposed costs of implementing the merger, and further scrutiny of the validity of their alleged implementation costs, could have an impact on what merger conditions might be necessary or desirable.

3. *Do you support the 10-year deferred rebasing period?*

The length of the rebasing period is tied to the optimal timing of rebasing, the nature of the earnings sharing mechanism, and other conditions to the merger. These, and other factors, will all have an impact on the appropriate length for a rebasing period, as will the fact that under EGD's proposal, the savings generated by Union over its five-year Price Cap regime do not appear to be available to ratepayers. All of these issues are interdependent, and need to be addressed in an integrated manner. That said, a ten-year

rebasing deferment seems excessive. BOMA is also of the view that the Board's MAADs policy does not, and should not, apply to this proposed merger.

4. *Are there elements of the proposed rate setting framework that you oppose?*

BOMA finds it curious that the proposed merger contains no proposal for rate harmonization. It also recognizes that harmonization would likely mean rate increases for Union's ratepayers. BOMA will explore these interrelated issues in its cross-examination.

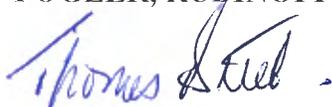
5. *Are there elements missing from the proposed rate setting framework?*

At this point, it would appear that the rate-setting formula does not include a mechanism or feature which provides ratepayers with a reasonable share of the savings claimed from the merger in a timely manner.

I hope the Board finds the comments helpful.

Yours truly,

FOGLER, RUBINOFF LLP



Thomas Brett

TB/dd

cc: All Parties *(via email)*