

July 3, 2018

Ontario Energy Board
P.O. Box 2319
27th Floor, 2300 Yonge Street
Toronto, ON M4P 1E4

Attention: Ms. K. Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0013 – Kingsville Transmission Reinforcement Project – Late intervention request by City of Kitchener

We are legal counsel to Union Gas Limited (“Union”) with respect to the above-noted matter. We write regarding the City of Kitchener’s late-filed request to intervene in this matter.

In accordance with the OEB’s Notice of Hearing, which Union served in accordance with the Board’s February 27, 2018 Letter of Direction, intervention requests were due by April 9, 2018. Kitchener’s request for intervention is therefore more than 11 weeks late.

We note at the outset that Kitchener’s late request for intervention does not comply with Rules 22.05 and 22.03 of the OEB’s *Rules of Practice and Procedure*, because it (a) does not explain the reasons for the late application other than to state that it “recently became aware of direct impact of the application on its rate”; and (b) does not include a statement of the nature and scope of its intended participation.

Union takes no position as to whether the OEB should grant Kitchener intervenor status at this stage of the proceeding. However, in the event that intervenor status is granted, Union respectfully requests that (1) Kitchener’s intervention be limited to the matters at issue in this proceeding, and (2) Kitchener not be permitted to reopen the discovery process.

First, Kitchener should not be permitted to raise issues related to rates, which are not at issue in this proceeding. The nature of Kitchener’s proposed participation is unclear, because it has failed to explain the nature of its proposed participation (contrary to Rule 22.03(c)). However, it would appear based on Kitchener’s statement that the application affects its rate that Kitchener intends to raise issues relating to the rate impact of the Project.

In its February 27, 2018 letter, the OEB stated that it would “not hear Union Gas’ proposal to recover the costs associated with the Project through ICM at this time.” In its Letter of Direction dated March 21, 2018, the OEB further confirmed that its Notice of Hearing was “only with respect to the application under section 90(1) of the [*Ontario Energy Board Act, 1998*] further to the OEB’s letter of February 27, 2018.” The OEB declined to hear Union’s application for the

recovery of the revenue requirement for the period 2019 through 2028 of all facilities associated with the development of the Project from ratepayers in accordance with the OEB's Incremental Capital Module Mechanism.

Thus, any discussion of the rate impact of the Project is out of scope in this proceeding, and will instead be addressed in Union's 2019 rates application. This issue should not form part of any submissions by Kitchener.

Second, Kitchener should not be permitted to reopen the interrogatory process. Pursuant to Procedural Order No. 1, interrogatories were due on May 7, 2018, and responses were due on May 22, 2018. The interrogatory process concluded on May 22, 2018 as ordered, *i.e.* more than one month ago. In its letter, Kitchener acknowledges that it proposes to participate "without the proceedings being delayed or the schedule fixed by the Board being revised."

Union is in the process of responding to additional questions from the Board Panel and will be filing its responses on June 9th pursuant to the OEB's Procedural Order No. 2 (dated June 25, 2018). As set out in that Procedural Order, the OEB will make a determination as to what type of hearing it will conduct in this proceeding once those responses are filed. If Kitchener is permitted to participate at all, its participation should be limited to future steps in the proceeding (to be determined by the Board pursuant to Procedural Order No. 2), without reopening the discovery process.

Yours truly,

[Original signed by]

Charles Keizer

CK

cc: Intervenor in EB-2018-0013
Greg St. Louis, City of Kitchener
Jaya Chatterjee, City of Kitchener
Karen Hockin, Union Gas Limited