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December 19, 2018

**Delivered by Email, RESS & Courier**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor, Box 2319  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Application by Enbridge Gas Distribution Inc., Union Gas Limited and EPCOR Natural Gas Limited Partnership for an Order or Orders approving the disposition of Cap and Trade-Related Deferral and Variance accounts for the period 2016-2018  
Board File No. EB-2018-0331**

We are counsel to the Association of Power Producers of Ontario (“APPrO”) in the above-captioned matter. Please find attached APPrO’s Notice of Intervention in this proceeding. Paper copies of this letter and the accompanying Notice will be delivered to you by courier.

We have had an opportunity to review letters from counsel to the School Energy Coalition and the Industrial Gas Users Association both dated December 13, 2018 regarding the confidential treatment of certain evidence in this EB-2018-0331 proceeding. We agree with SEC and IGUA on this matter.

Board proceedings should be open, transparent and accessible – and all records should be open for inspection unless disclosure is prohibited by law or confidential disclosure is otherwise permitted under the Board’s *Practice Direction on Confidential Filings*. While Strictly Confidential treatment of certain information may have previously been necessary to comply with law - the *Climate Change Mitigation and Low-Carbon Economy Act, 2016* and O.Reg. 144/16 have since been repealed, and consequently there is no longer any legislative basis upon which this information must be held as “Strictly Confidential.” To the extent the applicants feel that any of the information on the record should be held in confidence, they should be required to comply with the Board’s *Practice Direction on Confidential Filings*.

Should you have any questions or require further information in this regard, please do not hesitate to contact me.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

Per:

*Original signed by John A. D. Vellone*

John A.D. Vellone

cc: David Butters, APPrO  
Andrew Mandyam, Enbridge Gas Distribution Inc.  
Fred Cass, Aird & Berlis LLP  
Vanessa Innis, Union Gas Limited  
Crawford Smith, Torys LLP

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended;

**AND IN THE MATTER OF** an Application by Enbridge Gas Distribution Inc., Union Gas Limited and EPCOR Natural Gas Limited Partnership for an Order or Orders approving the disposition of Cap and Trade-Related Deferral and Variance accounts for the period 2016-2018.

**NOTICE OF INTERVENTION OF THE  
ASSOCIATION OF POWER PRODUCERS OF ONTARIO (“APPrO”)**

**December 19, 2018**

**APPrO:**  
**David Butters**  
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## INTRODUCTION:

1. On September 11, 2018, Enbridge Gas Distribution Inc. (“Enbridge”) and Union Gas Limited (Union Gas) filed their October 2018 Quarterly Rate Adjustment Mechanism (“QRAM”) applications<sup>1</sup> with the Ontario Energy Board (“the Board”) under section 36 of the *Ontario Energy Board Act, 1998*, as amended. On September 20, 2018, EPCOR Natural Gas Limited Partnership (EPCOR) filed its October 2018 QRAM application<sup>2</sup>.
2. Within the Decisions and Interim Rate Orders in the three October 2018 QRAM applications (collectively “the QRAM Applications”), the Board eliminated the cap and trade charges and approved the interim disposition of any over-collections in the cap and trade-related variance and deferral accounts for Enbridge and Union Gas, pending a prudence review by the Board.
3. On October 23, 2018, APPrO wrote a letter to Enbridge and the Board wherein APPrO reported on concerns regarding electricity market distortions arising directly from the interim volumetric refund of cap-and-trade variances in October 2018, resulting in material adverse impacts on IESO administered contracts held by gas fired generators. APPrO explained that more active consultation with gas-fired generators is needed to avoid future unexpected impacts on Ontario’s electricity markets and pricing.
4. On December 7, 2018, the Board issued a Notice and Procedural Order No. 1 to provide procedural steps for the Board’s prudence review of the cap and trade-related variance and deferral accounts for Enbridge, Union Gas, and EPCOR (collectively “the Gas Utilities”). The Board has assigned file number EB-2018-0331 to this combined proceeding (“the Proceeding”).
5. Through the Proceeding, the Board will conduct a prudence review of the Gas Utilities’ cap and trade-related variance and deferral balances. Thereafter, the Gas Utilities are to close their cap and trade-related variance and deferral accounts.

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<sup>1</sup> EB-2018-0249 and EB-2018-0253 respectively

<sup>2</sup> EB-2018-0261

6. APPrO hereby requests intervenor status in the Proceeding.
7. APPrO previously intervened in Enbridge's October 2018 QRAM Application (EB-2018-0249), Enbridge's application for a 2017 Earnings Sharing and Deferral and Variance Account Clearances (EB-2018-0131), a 2016 ESM and Deferral or Variance Account Clearance (EB-2017-0102), Enbridge and Union 2018 Cap and Trade Compliance Plans (EB-2017-0224/EB-2017-0255), and Enbridge and Union 2017 Cap and Trade Compliance Plans (EB-2016-0296/EB-2016-0300) filing interrogatories and participating in the settlement that was ultimately approved by the Board.

**INTEREST OF THE INTERVENOR:**

8. APPrO is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators and suppliers of services, equipment and consulting services. APPrO members produce power from natural gas, as well as hydro, gas, nuclear, wind, waste wood and other sources.
9. Among APPrO's members are gas-fired generators in Enbridge's franchise area. These generators take service from Enbridge primarily under Rate 125. All customers in the Rate 125 rate class are power generators and are not represented by any other consumer group. APPrO's members have a direct and significant interest in this proceeding. Within the Union franchise, gas-fired generators contract for distribution and transportation services under several rate classes, including Rate 100 and Rate 20 in Union North and Rate T2 and Rate M12 in Union South.
10. APPrO's members have a direct and significant interest in the Proceeding. APPrO was an active participant in the 2018 QRAM proceeding. Several APPrO members were adversely affected by the approved interim disposition methodology for Enbridge as set out in the October 23, 2018 letter in EB-2018-0249. APPrO has an interest in minimizing the risk of any further adverse impacts on APPrO's gas-fired generator members and ensuring that any over-collections resulting from the QRAM Applications are in accordance with the Board's Decision.

**SCOPE OF PARTICIPATION:**

11. APPrO reserves the right to participate in all aspects of the proceeding. APPrO also reserves the right to present evidence as it may deem necessary.

**APPrO's EXPERIENCE AS A FREQUENT INTERVENOR:**

12. APPrO has a record of participating in Board proceedings as an intervenor. As required by Rule 22.03(b) of the Board's Rules of Practice and Procedure and Rule 3.03.1 of the Board's Practice Direction on Cost Awards, APPrO filed with the Board information on APPrO's mandate, objectives, membership, constituency, programs and activities and other relevant information within the previous 12 month period as part of EB-2018-0249 / EB-2018-0253, EB-2018-0131, EB-2017-0319, EB-2017-0306, EB-2017-0307, and EB-2017-0224 / EB-2017-0255 / EB-2017-0275. This document has been updated and attached as Attachment 1 to this Notice of Intervention.

**COSTS:**

13. Pursuant to s. 3.06 of the Board's Practice Direction on Cost Awards, APPrO intends to seek an award of costs from Enbridge and Union. In accordance with s. 3.03(a) of the Board's Practice Direction on Cost Awards, APPrO represents the direct interests of consumers in relation to Enbridge's regulated services (APPrO's members are the largest consumers of Enbridge and Union's services).
14. APPrO has a record of participating in Board proceedings in a responsible and efficient manner and the Board determined that APPrO was eligible for cost awards in other proceedings, including Union and Enbridge rates cases and several natural gas proceedings that had unique impacts on power generators (including, among others, cap and trade compliance plans, NGEIR and storage allocation proceedings). APPrO believes it is appropriate for the Board to do so again in the context of this proceeding and in light of the potential impacts of the disposition of the Deferral or Variance Accounts' balances on APPrO's members.

## COUNSEL/REPRESENTATIVES

15. APPrO requests that the Board, Enbridge, Union and all intervenors provide it and its counsel with copies of all written evidence and correspondence related to the proceeding, at the contact information below. APPrO asks that Enbridge and Union deliver electronic copies of its Application and all other evidence to Borden Ladner Gervais LLP and APPrO at the coordinates listed below.

**APPrO:**  
**David Butters**  
President  
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ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 19<sup>TH</sup> DAY OF DECEMBER, 2018.

**BORDEN LADNER GERVAIS LLP**

**Per:**

*Original signed by John A.D. Vellone*

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John A.D. Vellone  
Counsel to APPrO

## **Attachment 1**

### **The Association of Power Producers of Ontario**

#### **Description**

The Association of Power Producers of Ontario ("APPrO") is a not-for-profit trade and professional organization which represents Ontario-based commercial electricity generators and suppliers of services, equipment and consulting services. APPrO is the largest organization of its type in Canada. APPrO was established in 1986 as the Independent Power Producers' Society of Ontario and changed its name to APPrO in 2003.

#### **Mandate and objectives**

APPrO's principal objective is the achievement of an economically and environmentally sustainable electricity sector in Ontario that supports the business interests of electricity generators. APPrO's role in the electricity sector is to raise awareness and understanding of its members' concerns with senior decision-makers in government, regulatory bodies and the public at large.

#### **Membership and representative constituency**

APPrO currently has about 100 corporate members, who collectively produce more than 95% of the electricity made in Ontario. APPrO's members produce electricity from a range of sources, including natural gas, hydroelectricity, cogeneration, windpower, solar energy, biomass, biogas, nuclear energy and other sources. The total value of assets owned or operated by APPrO members is estimated at more than C\$50 billion, and the total annual sales of electricity by APPrO members exceeds C\$7 billion per year (wholesale value).

#### **Programs and activities**

APPrO acts as an advocate for its members. It aims to have a voice on regulatory and policy issues which affect generators in Ontario, including electricity market rules, power procurement processes, the regulation of the natural gas market (both provincially and federally), climate change rules and compliance mechanisms, approval requirements, transmission development, distributed generation, and a number of other issues. APPrO is a leading advocate for public policies and regulatory treatments that it believes will facilitate the development of power generation in the province and assist in the development of a more open and competitive market for power.

APPrO also organizes industry conferences and produces a number of publications. APPrO's magazine, IPPSO FACTO, is an authoritative periodical on the electricity business and policy issues in Canada.

#### **APPrO's authorized representative in OEB proceedings**

APPrO's principal authorized representative in proceedings before the Ontario Energy Board (the "Board") is Borden Ladner Gervais LLP ("BLG"), represented by John A.D. Vellone with support



from other BLG associates for this proceeding EB-2018-0331. BLG's representation of APPrO in proceedings before the Board is pursuant to written retainer agreements.

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