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VIA RESS, EMAIL AND COURIER

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

Dear Ms. Walli:

Re: EB-2018-0105: Union Gas Limited ("Union"), 2017 Disposition of Deferral Account Balances and 2017 Utility Earnings

Union objected to BOMA's cost claim of \$20,981.59 on the ground that it was \$9,000 above the average cost claim of the nine intervenors.

BOMA urges the Board not to reduce BOMA's cost award for two reasons. First, much of BOMA's billed time was spent in the settlement process, which was particularly arduous. The issues involved were difficult, in particular the issues that eventually went to hearing.

Moreover, BOMA is of the view that disallowing part of a cost claim on the grounds that that claim is above the average cost claim of all other intervenors is not appropriate.

BOMA submits that to not allow a portion of a cost claim on the basis that the claim exceeded the average or mean cost claim is not consistent with the Board's policy on costs, namely that eligible intervenors are to receive their reasonably incurred costs of participating in the proceeding. The policy does not contemplate each intervenor claiming or receiving the same amount. A decision to deny a claim in whole or in part because of the fact that that claim was substantially in excess of the average claim, is not correct, is discriminatory, and likely an error of law. Intervenor submissions are individual in nature, reflect the intervenors' priorities, and need to be assessed on an individual basis. Intervenors have greater or lesser interests in the

various cases. Furthermore, some intervenors typically put in issue-specific submissions. For these submissions, their cost claims are relatively small. If these smaller claims are part of the determination of the mean or average cost claims and a claim was judged unreasonable only because it exceeded the average claim determined in that manner, the party with the larger claim would be denied its reasonably-incurred costs of participation, and would be treated unfairly. Moreover, the Board's costs policy, as set out at pp 5-6 of its Direction, does not speak of average or mean costs. The Board in many previous cases, including the most recent Hydro One Transmission case (EB-2016-0160), approved a wide range of cost claim amounts from different intervenors, based, at least in part, on the depth and breadth of their participation in the proceeding.

In conclusion, BOMA respectfully suggests that its claim of \$20,981.59 is reasonable and should be approved.

Yours truly,

FOGLER, RUBINOFF LLP



Thomas Brett

TB/dd

cc: All Parties (*via email*)