

July 14, 2008

Ontario Energy Board  
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ATTENTION: Ms. Kirsten Walli, Board Secretary

**RE: EB-2008-0106 PROCEEDING ON COMMODITY PRICING, LOAD BALANCING  
AND COST ALLOCATION METHODOLOGIES FOR NATURAL GAS  
DISTRIBUTORS IN RELATION TO REGULATED GAS SUPPLY**

On its own motion, the Ontario Energy Board (Board) has initiated the above proceeding stemming from its **Natural Gas Forum** report of March of 2005. The stated purpose of the proceeding is the improvement and potential harmonization of the commodity-related practices of private natural gas utilities in the public interest. Given the nature of these practices, the effects of these practices impact both direct purchase and system gas customers.

This letter, submitted by DR QUINN & ASSOCIATES LTD. (DRQ) on behalf of the Federation of Rental-housing Providers of Ontario (FRPO), addresses the main issue that has been brought up at this time: the intervention status and cost award eligibility of the FRPO and the London Property Management Association (LPMA).

In its letter of October 27, 2005, the Board provided its **Changes to the Cost Awards Process and Amendments to the Practice Direction on Cost Awards**. In the introductory paragraph to that letter, the Board stated that "...the Board is committed to using innovative processes to make regulatory decisions and it benefits from receiving the perspective of a variety of stakeholders many of whom would not be in a position to participate without a contribution towards their costs." We respectfully submit that allowing individual representation and eligibility for full cost awards for both associations is consistent with the Board's desire to make informed regulatory decisions in the public interest. The following presents our position in this matter.

FRPO submitted its request for intervention and eligibility for cost award on June 25, 2008 for reasons outlined in that letter. On July 7, 2008, Union Gas Ltd. (UGL) submitted a letter opposing the granting of intervention status to both organizations. UGL based its opposition on a number of assumed premises. While we do not believe that it is helpful to go through all of the

flawed assumptions, it is important to provide a principled response for the Board's consideration of this issue.

### **Identical Associations**

UGL's main premise is that allowing intervention and cost awards to both associations should not be approved because they are the same and would provide the same perspective. One of the points made by UGL is that FRPO and LPMA have "cross representation on their respective Board of Directors". We believe that it is clearly understood by the Board that many public and private companies have cross representation on their boards and that does not make them the same corporation. LPMA and FRPO are very different in size and scope. Respectfully, we will allow LPMA to speak to its range of membership and services and, at this time, provide additional background for the Board's knowledge of FRPO.

Beyond traditional trade association networking services, FPRO provides government advocacy and an aggregated energy purchase program. FRPO has provided input to many government ministries and agencies representing the interests of the private rental-housing market. FRPO members purchase tens of millions of dollars of natural gas and associated delivery services across Enbridge Gas Distribution and both Union Gas North and South Franchises. A substantial amount of that cost is managed through a natural gas commodity risk management program administered by the association. In this regard, FRPO initiated discussions with DRQ in April of 2008 to review its natural gas program for the benefit of its members. Through that effort, it was identified that utility load balancing practices had an effect on the benefits of the program to the association and its members. The newly initiated instant proceeding would allow FRPO to advance the interests of its members and the public interest by leveraging that learning into additional insights for the Board in determining the future direction for load balancing and cost allocation.

### **Identical Representation**

UGL asserts that the associations' interests and concerns would lead to dual representation that would run contrary to the Board's Practice Direction on Costs. Citing an Ontario Superior Court of Justice Decision, UGL asserts that the contributions of the parties to the proceeding would be "a repetition" or only "slightly different". Again, this is not the case.

FRPO and LPMA bring different expertise to the issues to be examined in these proceedings that can inform the Board. Randy Aiken of Aiken and Associates, consultant for LPMA, is well known to the Board in his expertise and submissions over the years. As an authoritative intervenor and respected submitter of natural gas utility evidence, Mr. Aiken's expertise has

proven helpful in informing the Board on complex matters in various cases. Dwayne Quinn of DRQ led the City of Kitchener's regulatory initiatives over the preceding ten years including submission of evidence and testimony in rate cases and the recent Natural Gas Electricity Interface Review. In addition, Mr. Quinn was responsible for the natural gas procurement program, load balancing and cost allocation practices for Kitchener's distribution utility. While the consultants will represent their respective associations' interests, their background should prove helpful in providing the Board assistance with finding solutions that best serve the public interest.

### **Burden of Cost**

Union's letter presumes significant increases in costs for the ratepayers due to a duplication of different components of discovery, submissions and arguments normally associated with litigation. However, if litigation is the style of proceeding chosen by the Board for this proceeding, FRPO and LPMA, along with other intervenors, would be bound by the elements of Section 5.01 of the Rules of Practice and Procedure to collaborate and reduce duplication.

On the other hand, the Board has moved away from litigation to stakeholder consultation in establishing practices over the last few years. The Board has strived to move the market forward using generic proceedings that enable informed decisions in the public interest while reducing the cost and time of litigation. In our view, the Board ought to consider the public interest impact of muting informed participants from the process due to perceived constraints on funding. If one submission from potentially like-minded participants was sufficient then it could easily be argued that private, shareholder-interested utilities should only have one participant; or at least, only one funded participant. However, the current regulatory regime of incentive based regulation ensures that the private utilities are funded for their regulatory representation by ratepayer funds embedded in their rates. In our submission, removing or reducing funding from informed, vested stakeholders like FRPO and LPMA alters the delicate balance that the Board strives to establish between shareholders and customers.

In that regard, it is interesting that Union provided its objection to intervention and cost eligibility to FRPO and LPMA. Section 4.02 of the Rules of Practice and Procedure states: "An applicant in a process will have 14 calendar days from the filing of the notice of intervention and request for cost eligibility to submit its objections to the Board". However, given that the Board initiated the proceeding on its own motion, UGL is not the applicant. Instead UGL is a financially-interested participant potentially looking to reduce the involvement of parties that may have interests contrary to its own.

## **Summary**

We appreciate the opportunity to provide input to this issue and expect that this letter is helpful to the Board in determining the intervention status and cost eligibility for FRPO and LPMA. The Board has the ongoing challenge of balancing competing interests in making just and reasonable decisions. We believe that the above submissions and those of LPMA provide the Board with facts in response to UGL's unsupported assertions. We trust that the Board will determine how the public interest would be best served in this matter.

Respectfully submitted,



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- c. V. Brescia, FRPO  
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Other Identified Intervenors