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ONTARIO ENERGY BOARD

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BORDEN
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GERVAIS

By Lettermail

September 4, 2007

PETER C.P. THOMPSON, Q.C.
direct tel.: (613) 787-3528
e-mail: pthompson@blgcanada.com

ccw sent 5/10/7
Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th floor
2300 Yonge Street
Toronto, ON M4P 1E4

File 4

Dear Ms Walli

**Union Gas Limited and LANXESS Inc. - Five Year Contract Extension
(the "LANXESS Application")**

**Union Gas Limited and St. Clair Power LP - 20 Year Contract
(the "St. Clair Power Application")**

**Board File Nos.: EB-2007-0717 (Union/LANXESS)
EB-2007-0718 (Union/St. Clair Power)**

Our File No.: 302701-000420

On behalf of the Industrial Gas Users Association ("IGUA"), please find enclosed the following:

- our letter to the Board dated September 4, 2007, submitted through the OEB's Regulatory Electronic Submissions System ("RESS"), and
- two (2) confirmation screen prints indicating reference nos. 287 and 290 for these filings.

Please contact the undersigned if the Board requires any further information.

Yours very truly

P. Thompson
Peter C.P. Thompson, Q.C.

\slc
enclosures

OTT01\3282756\1

EB-2007-0717

OEB BOARD SECRETARY	
File No:	SubFile: <i>4</i>
Panel	
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By E-mail

September 4, 2007



**BORDEN
LADNER
GERVAIS**

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

Dear Ms Walli

**Union Gas Limited and LANXESS Inc. - Five Year Contract Extension
(the "LANXESS Application")**

**Union Gas Limited and St. Clair Power LP - 20 Year Contract
(the "St. Clair Power Application")**

**Board File Nos.: EB-2007-0717 (Union/LANXESS)
EB-2007-0718 (Union/St. Clair Power)**

Our File No.: 302701-000420

We are writing on behalf of our client, the Industrial Gas Users Association ("IGUA") with respect to the Notices of Application in the above-noted matters issued on August 24, 2007.

In the LANXESS Application, Union seeks approval of the parties to, the period of, and the space for storage that is the subject of a five year T1 Gas Storage Contract Amendment Agreement expiring October 31, 2012. In the St. Clair Power Application, Union seeks approval of the parties to, the period of, and the space for storage that is the subject of a 20 year T1 Gas Storage Contract expiring October 31, 2027. Distribution Services ("DS") are to be provided under each of the contracts.

There is no evidence to show the impacts that these two contracts will have on Union's ability to continue to meet the distribution and storage services needs of its existing in-franchise customers under the auspices of cost-based rates. In the absence of such evidence, there is a possibility that Board approvals of these contracts could have an adverse effect on Union's existing in-franchise customers and, in particular, on some or all of Union's existing T1 customers.

A matter of particular concern to IGUA is Union's attempt within the last several weeks to impose on some of its existing T1 customers so called market-based rates for a portion

Vancouver
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of the storage injection and withdrawal services these T1 customers are currently receiving from Union under the auspices of cost-based rates.

The City of Kitchener and IGUA initially raised this matter with the Board several months ago. The City of Kitchener's letter to the Board dated December 20, 2006, raised the question of deliverability rights. The Board responded on January 10, 2007, indicating that this topic would be addressed in the yet to be scheduled proceeding pertaining to storage allocation matters. IGUA raised the matters of space and deliverability in its counsel's letter to the Board dated February 14, 2007. In that letter, IGUA also requested confirmation that Union would adhere to the status quo until proceedings with respect to the allocation of cost-based storage services were completed. The Board responded by indicating that these matters would be addressed in the "allocation proceeding" to be scheduled as a result of the NGEIR Decision. For your reference, the relevant correspondence is attached to this letter.

We have just received this morning the Board's Notice of Proceeding on Natural Gas Storage Allocation Policies.

What is before the Board for approval in these particular proceedings are two T1 Contracts for both storage space and DS. The redacted contracts which Union has provided do not reveal the manner in which the space injection and withdrawal features of the contracts have been derived. Board approval of the space allocation and the injection and withdrawal features of these arrangements could adversely affect the rights and interests of existing T1 customers in the upcoming Proceeding on Natural Gas Storage Allocation Policies.

IGUA has no desire to prevent the LANXESS and St. Clair Power Contracts from commencing to operate on November 1, 2007, provided that the rights of IGUA members are protected and issues with respect to storage space allocation and deliverability access are not pre-judged in any way.

In all of these circumstances, IGUA submits that any approval which the Board grants of the LANXESS and St. Clair Power Contracts be subject to the following conditions:

- (a) The approvals will be without prejudice to the rights of the parties in the upcoming Proceeding on Natural Gas Storage Allocation Policies;
- (b) Union confirms that the LANXESS and St. Clair Power Contracts will not have an adverse effect on Union's existing in-franchise customers and, in particular, on Union's existing T1 customers;
- (c) Union will disclose to interested parties the manner in which the storage space and deliverability features of the LANXESS and St. Clair Power Contracts have been determined with respect to both quantities and price; and
- (d) Until such time as the Proceeding on Natural Gas Storage Allocation Policies has been completed, the space and deliverability features of all the T1 Contracts

existing as of the date of the NGEIR Decision will continue in full force and effect.

IGUA's ability to participate in proceedings before the Board depends on the Cost Awards it receives. IGUA urges the Board to find that its participation in these proceedings is deserving of an award of 100% of its reasonably incurred costs.

Yours very truly

A handwritten signature in blue ink that reads "P. Thompson / per lc". The signature is written in a cursive style.

Peter C.P. Thompson, Q.C.

PCT\VJD\slc
enclosure

c. Chris Ripley (Union Gas Limited)
Murray Newton (Industrial Gas Users Association)

OTT01\3282057\1

APPENDIX A

1

RWBH

NGEIR

Ryder Wright Blair & Holmes LLP 333 Adelaide Street West, 3rd Floor Toronto ON M5V 1R5
T. 416-340-9070 F. 416-340-9250

December 20, 2006

VIA SAME DAY COURIER

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

Attention: Ms. Kirsten Walli, Board Secretary

Re: EB-2005-0551 NGEIR RATES ORDER

We act for the gas utility of the City of Kitchener in this matter. It has recently come to our attention that in a meeting with its T1 customers to discuss its proposals with respect to its storage allocation policy, Union Gas Ltd. is interpreting the Board's decision in NGEIR as:

- a. Fixing the level of cost based deliverability from storage to in-franchise customers at 1.2%;
- b. Authorizing market pricing for deliverability above 1.2%.

I am enclosing slides excerpted from a presentation to T1 customers on December 13, 2006 which illustrates Union's position.

It is submitted that Union's position on deliverability and its interpretation of the NGEIR decision are wrong. For the integrity of the Board's orders and for the benefit of clarity among Union's contract customers in their dealings with the utility it is submitted that the rates order in NGEIR should expressly state that it does not cover the allocation of storage deliverability for existing in-franchise customers.

The following background on the deliverability issue may be appropriate.

1. Deliverability is the maximum rate of withdrawal from storage. It is expressed as a percentage of the allocated space so that, for example, deliverability of 1.5% means that the customer can withdraw gas from storage equal to 1.5% of its space in any 24 hour period. If the deliverability from storage is insufficient in any 24 hour period to meet actual demand when combined with supply based on average forecast demand, then the deficit will likely be covered by the purchase of expensive winter gas. Otherwise the customer is exposed to penalties payable to Union. It will be seen that deliverability has a significant financial impact on customers.

2. Currently, all in-franchise customers receive their deliverability needs at cost. There is no standard level of deliverability applicable to Union's customers. The range is indicated by Exhibit J5.87 from RP-2003-0063 which I have taken the liberty of enclosing. As of that case, it shows a range running through T3 (1.5%) M2 (2.18%), M7 (2.52%) and SPS at 10%. The only Board approval that exists on deliverability relates to the allocation of deliverability costs (see Exhibit N19.6 also from RP-2003-0063). In NGEIR, the Board's approval of a standard 1.2% deliverability was the subject of agreement between Union and new power generation customers which have very different storage requirements from existing customers (see NGEIR decision at pp. 69-70). No Board approval for a level of cost based deliverability was either proposed or given by the Board in NGEIR for existing in-franchise rates customers.

3. Currently, among contract customers served under T1 and T3, deliverability is treated as a contract parameter to be negotiated. Charges for deliverability are applied on a cost-of-service basis under the approved Rate Schedule. No existing rate class, including T1 and T3 was faced with an application by Union for any alteration in their levels of deliverability in NGEIR or in the recent rates case of EB-2005-0520.

4. It will be seen from the current range of deliverability needs of Union's customers that market prices above 1.2% will significantly increase their deliverability costs. The excerpted slides from Union's recent meeting with T1 customers shows the intention to immediately implement its "1.2% cost based deliverability methodology" for all new T1 customers and non-grandfathered T1 renewals.

In the circumstances, it is submitted that a clarification by the Board by inserting in the NGEIR Rates Order a clause expressly stating that the Order does not address the allocation of deliverability as an asset to existing in-franchise

customers would avoid confusion and assist those customers in their subsequent dealings with the Utility. Given the relationship with EB-2005-0520 it may also be necessary to amend the Order in that proceeding as well.

Finally it is submitted that the Board should address the question of an appropriate level of deliverability for in-franchise customers so that the question can be determined in an orderly way and not through unilateral initiatives of Union. In this respect, Kitchener respectfully submits that the Board issue a Procedural Order at its convenience to set out the process and timeline to address the question. Due to the potential financial impact on affected customers, including intervenors in NGEIR such as Kitchener, it is submitted that the Board provide in this process full opportunity for these parties to participate in the decision making process. Further, and to ensure that the issue and its rate-making consequences will be controlled by the Board, it is asked that Union be directed to continue the pre-NGEIR practice of negotiating deliverability with contract customers and to terminate the practice of asserting that deliverability has been determined in NGEIR.

Yours truly,

RYDER WRIGHT BLAIR & HOLMES LLP

"Alick Ryder"

J. Alick Ryder, Q.C.

Encls.

cc: All Participants of NGEIR, via email
Dwayne Quinn, City of Kitchener, via email
Jim Gruenbauer, City of Kitchener, via email
Glenn Leslie, Blake, Cassels & Graydon LLP, counsel to Union Gas Ltd,
via email



Iniongas

A Duke Energy Company

T1 Customer Meeting

Cost-Based Storage Allocation Responding to OEB NGEIR Directive

**Sheraton Four Points
London Ontario
December 13th 2006**

people
POWER

14

Deliverability



- The Board recognizes that Union's standard cost-based storage service has 1.2% deliverability attached
- Deliverability among existing T1 customers today is quite varied
- Pursuant to the OEB's NGEIR Decision:
 - Deliverability up to 1.2 % of allocated space is available at cost based rates (firm and interruptible)
 - Anything greater than 1.2% at market price
 - Price to be determined annually
 - T1 customers will enjoy greater flexibility with market priced deliverability

people

Implementation



people

- Adjustments to Grandfathered T1 customers will be made upon renewal - after the Board's decision is received
- Adjustments to existing long term contracts will be made upon contract renewal
- During the transition period between now and a Board decision
 - The 1.2% cost-based deliverability methodology will be implemented for all new T1 customers and non-grandfathered T1 renewals

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Exhibit J5.87
Page 1 of 2

UNION GAS LIMITED

Answer to Interrogatory
from the City of Kitchener

Reference: Issue H.5.6

Question

- a) Please provide a table showing the amounts of storage deliverability historically underpinning service at EBRO 494, EBRO 499 and since EBRO 499
 - i) To the City of Kitchener
 - ii) To rates M-2, M-4, M-9, M-7 and T-3
- b) What was Union's proposed level of storage deliverability for contract unbundled customers in RP-1999-0017? (U-2, U-7, and U-9)
- c) Please describe how SPS contributes to the deliverability of U-2. Please include in your explanation the allocations and deliverabilities attached to SSS and SPS.
- d) Please also provide a table showing the storage space historically underpinning service to the City of Kitchener at and since EBRO 494.

Answer

a) The tables as requested are attached below:

i)

	EBRO 494	EBRO 499	RP-2003-0063
	Level of Deliverability		
CCK	1.84% *	1.69% *	1.50%

* CCK included in Rate M9 Class

ii)

Rate Class	EBRO 494	EBRO 499	RP-2003-0063
	Level of Deliverability		
M2	2.49%	2.36%	2.18%
M4	3.01%	1.87%	2.50%
M9	1.84%	1.69%	1.71%
M7	0.08%	0.92%	2.52%
T3			1.50%

Pls see

Witness: Mark Kitchen / Pat McMahon
 Question: July 24, 2003
 Answer: August 13, 2003
 Docket: RP-2003-0063

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Exhibit J5.87
Page 2 of 2

- b) The approved Standard Storage Service (SSS) available to all unbundled rate classes includes storage deliverability of 1.2% for inventory levels greater than or equal to 20% of the allocated space.

The approved Standard Peaking Service (SPS) available to U2 customers only, includes storage deliverability of 10%.

The methodology and assumptions relating to the Standard Storage Service (SSS) and Standard Peaking Service (SPS) were discussed in RP-1999-0017, Exhibit B, Tab 1, page 55 to 60 (Attachment #1). Further discussion and amendments to Union's position related to SSS and SPS appear in RP-1999-0017 Decision with Reasons, Appendix D, pages 22 to 25 (Attachment #2). Union also provided evidence related to the rate design of the SSS and SPS at RP-1999-0017, Exhibit B, Tab 4, pages 16 to 18 (Attachment #3). The Board approved the rate design as proposed by Union in its RP-1999-0017 Decision at para. 3.35 (Attachment #4).

- c) Please see part (b) above.
- d)

	EBRO 494	EBRO 499	RP-2003-0063
	Storage Space (10 ³ m ³)		
CCK	69,000 (1)	75,922 (2)	89,300 (3)

Notes:

- (1) Estimated.
- (2) RP-1999-0017, Exhibit C19.15, Issue 1.3.3, Page 2 of 2, Line 5 (Attachment #5).
- (3) As per their T3 contract.

Witness: Mark Kitchen / Pat McMahon
 Question: July 24, 2003
 Answer: August 13, 2003
 Docket: RP-2003-0063

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BY E-MAIL ONLY

January 10, 2007

Mr. J. Alick Ryder, Q.C.
Ryder, Wright Blair & Holmes LLP
33 Adelaide Street
3rd Floor
Toronto, ON M4V 1R6

Dear Mr. Ryder:

Re: EB-2005-0551 NGEIR Rates Order

This will acknowledge receipt of your letter dated December 20, 2006 seeking a clarification on Union's interpretation of the Board's decision in this matter. The Board believes that this issue can be addressed when Union Gas submits its allocation methodology as directed in the NGEIR Decision.

Please direct any questions to Rudra Mukherji at 416-440-7608 or at Rudra.Mukherji@oeb.gov.on.ca.

Yours truly,

Original signed by

Peter H. O'Dell
Assistant Board Secretary

cc: Dwayne Quinn, City of Kitchener
Jim Gruenbauer, City of Kitchener
Glenn Leslie, Counsel to Union Gas Limited
NGEIR – All Parties

RWBH

Ryder Wright Blair & Holmes LLP 333 Adelaide Street West, 3rd Floor Toronto ON M5V 1R5
T. 416-340-9070 F. 416-340-9250

February 13, 2007

VIA FACSIMILE TRANSMISSION

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

Attention: Ms. Kirsten Walli, Board Secretary

Re: **EB-2005-0551 NGEIR RATES ORDER**

We act for the Gas Utility of the City of Kitchener. The Board will have my letter of December 20, 2006 expressing concern over the fact that Union has interpreted the decision in NGEIR as having fixed the level of cost based storage **deliverability** to in-franchise customers at 1.2% and authorized market pricing for **deliverability** above 1.2%. My letter outlined some of the existing facts from other proceedings relating to deliverability for in-franchise customers. None of these facts were addressed in company proposals or in the evidence and argument in NGEIR. My letter, therefore, sought the Board's assurances that:

- a) any Order implementing NGEIR would confirm that it is not addressing the question of storage deliverability, and;
- b) the parties would be given an opportunity to fully address the question of appropriate deliverability in a future proceeding.

On January 10th, 2007, the Board responded to my letter stating that the matter can be addressed when Union submits its allocation methodology as directed in the NGEIR decision. Since the Board's letter, Union's responses to the Board's direction has been received. These responses contain Union's first proposals on deliverability for non-generator customers at 1.2%. In effect, Union's proposals on deliverability and on allocation methods form an application to the Board to be considered at a hearing. Accordingly, it is submitted that it would not be

appropriate for the Board to issue an Order in NGEIR until after it has completed its hearing on Union's recent proposals.

In addition, it is noted that the Board has recently received three applications to review the decision in NGEIR. It is submitted that the need to make a determination on these applications provide an additional reason to defer the issuance of any Order in NGEIR.

I appreciate the Board's consideration of the above submissions.

Yours truly,

RYDER WRIGHT BLAIR & HOLMES LLP

"Alick Ryder"

J. Alick Ryder, Q.C.
/rg

cc: Dwayne Quinn, via email
Jim Gruenbauer, via email
Glenn Leslie, via email
NGEIR parties, via email



By E-mail

February 14, 2007

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th floor - 2300 Yonge Street
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PETER C.P. THOMPSON, Q.C.
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e-mail: pthompson@blgcanada.com

Dear Ms Walli

Storage Allocation Proposals of Union Gas Limited

Board File No.: EB-2005-0551
Our File No.: 302701-000415

We are writing to inform the Board that our client, the Industrial Gas Users Association ("IGUA"), does not yet regard the response that Union Gas Limited ("Union") has provided to the Board's NGEIR Decision directives with respect to Storage Allocation to appropriately address the different requirements of IGUA members who obtain storage services as an component part of the distribution services provided to them by Union. Although IGUA and Union have had several useful discussions, whereby Union has responded to some of the concerns of our members, IGUA would have preferred to continue these collaborative efforts before Union made its filing.

Therefore, we write to inquire whether we can safely assume that the Board will not rule on the appropriateness of Union's response to the Storage Allocation directives contained in the NGEIR Decision without first inviting comments thereon from parties adversely affected by the proposals and allowing them to file any responding information which they wish the Board to consider. In other words, can we assume that no orders will issue implementing Union's Storage Allocation proposals without first allowing those affected thereby to be heard? Can we assume that, for the time being, the status quo with respect to storage services for T1 customers will prevail?

Similarly, IGUA has questions about Union's proposals to change the deliverability access rights for T1 customers. IGUA did not understand the issue of deliverability access rights for Union's T1 customers to be a matter in issue in the NGEIR proceedings. Once again, IGUA will continue to work with Union in an attempt to find ways to fairly address this issue. Can we assume that before issuing any orders with respect to deliverability access rights for T1 customers, the Board will first allow interested parties to be heard and that the status quo will prevail for the time being?

Yours very truly

Peter C.P. Thompson, Q.C.
PCT:slc

c. NGEIR parties
Murray Newton (Industrial Gas Users Association)
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BY EMAIL

February 28, 2007

Peter C.P. Thompson, Q.C.
Counsel for IGUA
Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa, ON K1P 1J9

Dear Mr. Thompson:

Re: Storage Allocation Proposals of Union Gas Limited

We are in receipt of your letter dated February 14, 2007 in which you inquire regarding the Board's process in respect of the storage allocation proposal filed by Union Gas Limited ("Union") in accordance with the requirements of the November 7, 2006 Natural Gas Electricity Interface Review Decision.

The Board is in receipt of the proposals of both Union and Enbridge Gas Distribution Inc. ("Enbridge"), dated February 2, 2007 and February 6, 2007, respectively.

The Board is developing a process for the review and consideration of these proposals and will inform all interested parties from the EB-2005-0551 proceeding once that process is developed.

Yours truly,

Original signed by

Peter H. O'Dell
Assistant Board Secretary

cc: All Interested Parties in EB-2005-0551