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October 20, 2008

Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E5

Dear Ms. Walli:

Re: EB-2008-0275: Enbridge Gas Distribution Inc. (EGD) ARC Exemption Application.

Industrial Gas Users Association (IGUA) Letter of Intervention and Comment.

We write as legal counsel to IGUA.

Application for Intervenor Status.

IGUA is in receipt of the Board's Notice of Application in the captioned proceeding dated October 2, 2008, which EGD served on us electronically on October 3, 2008. The Notice of Application required letters of intervention to be filed within 7 calendar days of the date of service, that is on or before October 10. We have now has an opportunity to review and consider the application materials, and obtain instructions from our client, and we respectfully request, on behalf of IGUA, that the Board accept this late application for intervenor status along with IGUA's brief comment on the substance of the Application.

Description of IGUA.

IGUA is an association of industrial companies located in the Canadian provinces of Manitoba, Ontario and Québec who use natural gas in their industrial operations. IGUA was first organized in 1973 and it provides a coordinated and effective public policy and regulatory voice for those

industrial firms depending on natural gas as a fuel or feedstock. It has become the recognized voice representing the industrial user of natural gas before regulatory boards and governments at both the provincial and national levels.

Nature and Scope of IGUA's Intended Participation.

The Board is considering disposing of this Application without a hearing. IGUA has reviewed the Application materials, and offers its comments thereon below.

In the result, IGUA does not oppose the proposal to dispose of the Application without a hearing. However:

1. IGUA recommends that the exemption in respect of section 2.2.2 of the ARC (the "Gazifere exemption") be for a prescribed time period, and subject to the Board satisfying itself regarding the apparent justification for continuing breach of the ARC resulting from the provision of "*shared emergency on-call services*".
2. IGUA takes no position on the exemption requested in respect of section 2.2.4 of the ARC (the "Windpower exemption"), but does note EGD's advice that, absent a market comparator for the costs of the services to be provided to Wind Power LLP, the transfer price for these services will be based on fully allocated costs as required by ARC section 2.3.11. This approach should ensure that there is no cross-subsidy of Wind Power LLP by EGD ratepayers.

Further comment on the Gazifere exemption request is provided below.

Intention to Seek an Award of Costs.

IGUA also hereby requests that it be determined eligible for recovery of its reasonably incurred costs of its limited intervention herein.

As a party primarily representing the direct interests of industrial consumers (i.e. ratepayers) in relation to regulated services, IGUA has in the past been determined to be eligible for cost awards pursuant to section 3.03(a) of the Board's *Practice Direction on Cost Awards*. In particular in respect of this proceeding, according to the Application the customer interests engaged by the Gazifere exemption are those of certain high volume EGD customers; i.e. IGUA's constituency. [Application paragraph 14]

Request for Materials and Contact Information.

IGUA requests that copies of any materials circulated related to this matter be directed to it as follows:

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Comments on the Gazifere exemption.

EGD requests exemption from section 2.2.2 of the ARC in respect of the potential for access by Gazifere employees to "confidential information". "Confidential information" is defined in the ARC to mean *"information relating to a specific consumer, marketer or other customer of a utility service, which information the utility has obtained in the process of providing current or prospective utility services"*.

Specifically, it appears from the Application material that Gazifere personnel who use the CIS, EnMar or EnVision system based services provided by Customer Works LP to both EGD and Gazifere could have access to information regarding EGD high volume customers. [Application paragraphs 12 through 15]. It further appears that Gazifere personnel would have access to EGD confidential customer information in the course of providing *"shared emergency on-call services"* to such customers. [Application paragraph 18]

The foregoing facts raise two discrete issues.

First, in respect of the potential for access to large volume EGD customer information by Gazifere personnel through access to CIS, EnMar to EnVision system based services used to provide care to Gazifere's own customers, EGD's Application materials indicate that this breach of the ARC will be rectified once new CIS systems are in place, within 2 years of CIS system replacement. [Application paragraph 20] EGD also advises that, in the interim, *"Gazifere's access to Enbridge's customer information is limited to certain employees, who are obligated to keep the information confidential pursuant to the terms of the services agreement"*. [Application paragraph 21]. EGD's Application states that: *"Gazifere is a distribution utility that does not offer any competitive energy services in Ontario"*. [Application paragraph 21] On condition that these Gazifere employee protocols remain in force and enforced, that Gazifere continues to engage only in the distribution of gas within its service territory, and pending replacement of the CIS systems, IGUA sees no immediate cause to object to EGD's Application.

Second, in respect of planned access to EGD customer information by Gazifere personnel providing *"shared emergency on-call services"* in the Ottawa region, IGUA finds it difficult to comment on the appropriateness of an ARC exemption without further information on the nature and scope of these services, and the "need" to provide them through an arrangement that results in the planned sharing with Gazifere personnel of confidential EGD large volume customer information. IGUA does not, however, feel that it would be acting responsibly in suggesting that a hearing process be engaged simply to further elucidate this gap in the Application. Rather, IGUA suggests that the Board satisfy itself of the justification for this apparently planned,

continuing breach of section 2.2.2 of the *ARC* in respect of the provision of shared emergency services.

Costs.

IGUA requests an award of its costs incurred for review and comment on EGD's *ARC* exemption application.

Your truly,

MACLEOD DIXON LLP



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Norm Ryckman, EGD
Tania H. Persad, EGD (counsel)