

November 6, 2008

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

Dear Ms. Walli:

Re: EB-2008-0304: Union Gas Limited (Union) Motion for Section 43(2) Approval of Share Transfer.

Industrial Gas Users Association (IGUA) Letter of Comment.

We write as legal counsel to IGUA. For the reasons set out below, IGUA did not seek intervenor status in the captioned proceeding. However, pursuant to Rule 24 (Public Comment) of the Board's *Rules of Practice and Procedure* IGUA wishes to provide to the Board this brief letter of comment on the matter.

Rule 24 requires that the person submitting a comment shall include the nature of the person's interest. 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. IGUA has become the recognized voice representing the industrial user of natural gas before regulatory boards and governments at both the provincial and national levels. IGUA is a regular intervenor before this Board in various natural gas rate setting and policy matters.

When IGUA first considered Union's application herein, including Union's evidence submitted in support of its application, IGUA determined that the matter of Spectra's intended restructuring was one for the shareholder and the Board, and that intervention by IGUA in the matter was not warranted. In coming to this determination, IGUA noted in particular, and relied on, the statements made by Union in its supporting evidence that; *"The change in ownership structure*

will have no adverse impact - tax, operational, governance, financial or otherwise - on Union or any of Union's customers." [Union's evidence, paragraph 3, and see also paragraphs 11, 13, 16 and 18]

Since the time at which IGUA made this initial determination, the Board has convened a hearing process, granted intervenor status to a number of parties, and directed an interrogatory process. IGUA has observed this matter as it has progressed.

IGUA does note Union's October 6th response to an interrogatory from Board Staff, in which Union estimates that a redemption of preferred shares resulting from its corporate continuation as a Nova Scotia unlimited liability company, and the replacement of those shares with debt, will result in what Union characterizes as "*slightly less*" utility tax expense. Union's response indicates that during the term of Union's incentive regulation plan the revenue requirement reduction associated with that reduced tax expense totals \$3.9 million (\$1.3 million in each of 2009, 2010 and 2011). IGUA's impression is that this revenue requirement impact is a relatively minor consequence of a restructuring formulated in response to entirely different drivers (i.e. in order to enhance Spectra's ability to time income distributions for U.S. tax purposes). In IGUA's view, any concerns regarding whether this financial impact requires a rate adjustment are properly raised during Union's 2009 rates proceeding, and IGUA expressly reserves its rights in this respect.

Subject to the foregoing financial impact on Union's revenue requirement, IGUA continues to rely on Union's evidence, now repeated through interrogatory responses, that the Spectra corporate restructuring which is the subject of Union's application will have no adverse impact - tax, operational, governance, financial or otherwise - on Union or any of Union's customers. On this basis, IGUA continues to be of the view that its intervention in this matter is not warranted, as it is a matter for the shareholder and the Board.

Given the timing of submission of this letter of comment, we have ourselves circulated this letter to the parties to this proceeding.

Your truly,
MACLEOD DIXON LLP



Ian A. Mondrow

- c. Murray Newton, IGUA
- Bruce Pydee, Westcoast Energy Inc.
- Mark Kitchen, Union
- Michael A. Penney, TORYS (Union counsel)
- Intervenors of Record

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