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November 19, 2008

Kirsten Walli
Board Secretary
Ontario Energy Board
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Dear Ms Walli,

**Notice of Proposed Amendment to a Rule
The Gas Distribution Access Rule (“GDAR”)
Board File No.: EB-2008-0313
Our File No.: 339583-000024**

This letter contains the comments of Canadian Manufacturers & Exporters (“CME”) on the Proposed Amendments to the Gas Distribution Access Rule (“GDAR”) to provide a standardized regulatory framework for the collection and administration of security deposits by gas distributors.

As the Board is aware, most of CME’s 1,200 Ontario-based manufacturers are small to medium-sized business enterprises (“SMEs”) with 500 employees or less. Everyone is aware of the precarious situation in which Ontario manufacturers currently find themselves. Accordingly, while CME supports the establishment of reasonable symmetry between the security deposit policies of electricity and gas distributors, we have reviewed the amendments the Board proposes to make, which are set out in Attachment A of the “Notice of Proposed Amendment to a Rule” (the “Notice”) dated October 8, 2008, in the context of the adverse effect they may have on some gas consumers in the very difficult economic circumstances currently facing manufacturers and other gas consumers in Ontario.

Our interpretation of the amendments the Board is proposing is that, when they come into force, gas distribution customers will be exposed to a maximum security deposit in an amount equal to 2.5 times their estimated monthly bill, including the gas commodity portion thereof.¹ For larger volume gas users, the maximum security deposit requirement could be a very significant amount.

We understand that gas distributors will be able to waive the security deposit requirement for customers with a good payment history. The Proposed Amendments require a residential customer to establish a good payment history for one year. In contrast, general service customers must establish a good payment history for 5 years and other customers for 7 years.² Residential and general service customers will not be required to provide a security deposit if they obtain and provide to the utility a satisfactory credit check conducted at the customer’s expense.³

¹ Section 2.4.11 of Proposed Amendments
² Section 2.4.8 of Proposed Amendments
³ Section 2.4.10 of Proposed Amendments

The Proposed Amendments indicate that, for customers with credit ratings from a recognized credit rating agency higher than BBB-, the security deposit requirements will be either reduced or eliminated.⁴

At this time, we have no information about the number of general service or larger customers who will be adversely affected by the implementation of the Proposed Amendments. Nor do we have any information about the ability of those who will be adversely affected to cope with additional security deposit demands in the very difficult economic circumstances which currently prevail in Ontario.

We submit that the Board should be aware of the consumer impacts of the amendments it proposes before it determines the period of time that the distributors are to be allowed to impose the consequences of the amendments on their customers. The Board proposes to have the amendments come into force six months from the date on which the amendments are made by the Board and published on the Board's website.⁵ In the difficult economic circumstances currently facing manufacturers in Ontario, we suggest that for those who will be adversely affected by the new requirements, distributors should be allowed up to 2 years to bring their security deposit policies into line with the proposed new GDAR provisions.

Apart from extending the "coming into force" provision of the Proposed Amendments from 6 months to 2 years for those who will be adversely affected by the new requirements, the only other question we have with the Proposed Amendments pertains to provisions of section 2.4.8. These provisions appear to be based on the premise that a residential consumer can demonstrate a good payment history in one year, whereas it takes a general service customer 5 years and other customers 7 years to demonstrate a good payment history.

There is no information of which we are aware to support the proposition that the reliability of residential consumers, as bill payors, emerges 4 years before that of general service customers and 6 years before that of other customers. We submit that the duration that it takes to establish a good payment history should be the same for all customer classes. We submit that the current wording of section 2.4.8 of the Proposed Amendments is discriminatory.

For these reasons, we urge the Board to modify section 1.4.6 of the Proposed Amendments to extend the "coming into force" date from 6 months to 2 years for those who will be adversely affected by the new requirements and to revise section 2.4.8 of the Proposed Amendments to eliminate the discrimination inherent therein.

Please contact me if there are any questions about the contents of this letter.

Yours very truly,



Peter C.P. Thompson, Q.C.

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⁴ Section 2.4.13 of Proposed Amendments

⁵ Section 1.4.6 of Proposed Amendments