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By Email and Courier

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

Dear Ms. Walli:

**Re: Integrated Grain Processors Co-operative Inc. ("IGPC")
Response to Reply Submissions of Natural Resource Gas Limited
("NRG") re Costs
Board File No.: EB-2008-0273 Union Gas Limited Application**

This letter responds to the submissions of NRG in respect of the cost submissions of IGPC.

IGPC completely disagrees with the entire submissions of NRG. The Board, at page 6 of the Decision and Order, acknowledged that ordering a party other than the Applicant to pay costs was not the common practice in proceedings before the Board. The Board then went on to address the reasons for the departure from the common practice. Essentially NRG's conduct in dealing with Union Gas was not acceptable from a regulated utility and unnecessarily caused Union Gas to bring forth the Application and proceed through an oral hearing. It is apparent from NRG's submissions that it has not heeded the message being sent by the Board as NRG continues to deal with all stakeholders, Union Gas Limited, the Town of Aylmer (the "Town") and the Board in an antagonistic manner.

NRG's submissions should be disregarded for the following reasons:

1. The need for the hearing was entirely the result of NRG's failure to negotiate with Union Gas and to discuss the appropriateness of additional financial assurance. The evidence was clear that NRG refused to meet with Union Gas to discuss the issue on several occasions. Therefore, it is clear that NRG had no intention of trying to find a negotiated resolution to this matter and left Union Gas with no alternative but to have the Board decide the matter.
2. The Board expressly recognized the seriousness of the issue in its Decision wherein it stated (at page 5):

"The Board agrees that Union's concerns are serious. Any allegation that a Utility faces financial difficulties must always be addressed carefully by the Board....."

3. Union Gas was rightfully concerned with NRG's financial status and did achieve additional financial protection as a result of the Board's Decision and Order.
4. NRG's position about its financial status was not supported by the evidence, nor the testimony of its own witness as provided in the following exchange with Board Counsel:

"MR. MILLAR: So hindsight of course being 20/20, but if you were to go back now, I take it you would have had a qualified opinion for 2004 -- since whenever these shares came into existence.

MR. PALLETT: Correct, correct."¹

NRG was relying on the prior unqualified audited financial statements as a basis for not providing any additional financial assurance. However, those financial statements should have contained similar qualifications as the most recent financial statements.

5. IGPC was, and continues to be, legitimately concerned about the financial wherewithal of NRG and, by necessary implication, the security of the supply of natural gas distribution service to IGPC's ethanol facility. Both issues are of the utmost importance to all existing and potential ratepayers. IGPC is NRG's largest ratepayer and therefore has a significant financial interest in the allocation of any costs that NRG incurs. The ethanol facility operates 24 hours a day 7 days a week and a secure supply of natural gas is of critical importance and where such supply may be threatened, IGPC has an interest.
6. IGPC's evidence was concise and focused on the very issue that NRG specifically required to be included on the "Issues List" namely, the potential ratepayer impacts of additional financial security obligations of NRG. NRG proposed an amendment to the Issues List to ensure ratepayer impact would be an issue for the hearing. At page 6 of the Issues Day Transcript, Mr. King's amendment to the Issues List, "What are the rate impacts to NRG's customers associated with Issues 4 and 5 above?" was discussed at length.

In responding to the Board Panel, NRG was adamant that ratepayer impact be an issue and NRG advised the Board that it intended to bring forth evidence on that issue. IGPC was only responding to the Issues List. Further, had NRG read IGPC's evidence with an unbiased viewpoint, it would have noted that IGPC was indicating that no deterioration in NRG's financial wherewithal could be attributed to the dealings with IGPC.

¹ Transcript, Oral Hearing October 20, 2008, page 86, ll. 15-19.

7. IGPC's evidence was relevant to the Issues List for the hearing. At Issues Day, the Board characterized the ratepayer impact as a "second order question". The first order question was the financial status of NRG and the appropriate financial assurance that NRG ought to provide to Union Gas. IGPC accepted to Board's proposal to deal with the evidence if and when the proceeding dealt with the potential impact on the ratepayer. The Board's Decision did not require dealing with the second order question at this time. However, had the evidence about the postponement granted by NRG to the bank (which was not available prior to the oral hearing) been different, the second order question may have been dealt with at the hearing.

IGPC has always maintained its evidence was relevant. By agreeing to set the evidence to the side while the Board considered the first question, IGPC merely accommodated the most expeditious consideration of the matter by the Board.

Further, it is a virtual certainty that had IGPC not filed any evidence, NRG would have used such silence as agreement with NRG's position. IGPC was successful in the hearing as IGPC established that Union Gas' financial exposure did not arise from volumes of gas related to IGPC but rather from the other NRG ratepayers.² IGPC's evidence substantiates its position that IGPC should have no responsibility to compensate NRG for any additional financial security due Union Gas. There is no relationship between the volumes delivered to IGPC and the financial exposure of Union Gas. Such knowledge was available to NRG and could have been put on the record by NRG if it was truly seeking to resolve the issue.

8. Finally, IGPC denies that it is, or was, in breach of the Pipeline Cost Recovery Agreement ("PCRA") as claimed by NRG. First, that issue was raised in a prior proceeding and dismissed by the Board Panel during an exchange between Ms. Spoel and counsel for NRG. Second, the PCRA specifically contemplated a reduction in the amount of security that was to be provided to NRG when cash was advanced by IGPC as payment for the pipe and station materials. Third, NRG had never specified an amount for security prior to its demand for \$32.9 million for the construction of the pipeline which resulted in a motion being brought to the OEB by IGPC to determine the amount of security required. Comments from NRG on this matter need not have been raised in this venue and it is NRG's litigious conduct that forces IGPC to respond to this issue at this time.

IGPC was a necessary participant in the proceeding which had the potential to either impact the security of the delivery service or the cost of such service. IGPC participated in a helpful manner by permitting the hearing to deal with the threshold issues prior to dealing with the allocation of any increased costs associated with the additional financial assurance sought.

² Transcript, Oral Hearing October 20, 2008, page 46, lines 20-28 and page 47, lines 1-7.

The costs sought by IGPC are reasonable and should be granted in their entirety.

Yours very truly,

IGPC by its Counsel
AIRD & BERLIS LLP



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