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October 27, 2006

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, ON M4P 1E4

Dear Ms Walli

Cost of Capital and 2nd Generation
Board File No.: EB-2006-0088/89
Our File No.: 302701-000408

This letter contains the submissions of our client, the Industrial Gas Users Association (“IGUA”), regarding the Ontario Energy Board’s review of the Cost of Capital and the development of a 2nd Generation Incentive Regulation Mechanism as set out in the Board’s correspondence of April 27, 2006.

IGUA has participated in this review because it appears that the outcome of this proceeding could influence Cost of Capital and Incentive Regulation Plan matters pertaining to the gas distribution utilities which the Board regulates. During this review process, however, the Board announced a consultation process in relation to the development of an Incentive Regulation Plan for the Natural Gas Utility Sector. In these circumstances, IGUA limits its comments in this proceeding to the Cost of Capital issue.

IGUA, along with the Vulnerable Energy Consumers Coalition, the Consumers Council of Canada and the London Property Management Association, co-sponsored expert evidence submitted by Dr. Laurence Booth. Dr. Booth was not asked to provide an independent assessment of the reasonableness of Board Staff’s Cost of Capital recommendations contained in their July 25, 2006 Discussion Paper.

Dr. Booth noted that had he been asked to submit formal Cost of Capital evidence, he would likely have recommended both a lower return on equity (“ROE”) and a smaller common equity ratio than the Staff Discussion Paper. Dr. Booth’s rationale for this position is that there is minimal risk attached to investing in regulated utilities in Canada and that the overall financial parameters allow these type of assets to sell at significant premiums to book value.

Borden Ladner Gervais LLP
Lawyers • Patent & Trade-mark Agents
World Exchange Plaza
100 Queen Street, Suite 1100
Ottawa ON K1P 1J9
tel.: (613) 237-5160 fax: (613) 230-8842
www.blgcanada.com

VINCENT DEROSE
direct tel.: (613) 787-3589
e-mail: vderose@blgcanada.com

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In Dr. Booth's opinion, if the Board had a Generic Electricity Distribution Cost of Capital hearing with expert evidence from utility and Intervenor witnesses, the ultimate decision would be similar to the Board Staff's recommendations. Board Staff's recommendations for the ROE and common equity ratio are similar to the ROE and common equity findings made by other gas and electricity regulators in Canada. On this basis, Dr. Booth accepted Board Staff's recommendations as fair and reasonable.

At page 21 of his evidence, Dr. Booth confirms that there is no reason to change the ROE Adjustment Mechanism that the OEB reviewed in RP-2002-0158. He states that:

Quite simply nothing of substance has changed in the past 2 ½ years to justify amending the OEB Decision without a full evidentiary record. In my judgment, this represents a fair and transparent way of determining the allowed ROE than that proposed by Board Staff.

IGUA agrees with Dr. Booth. Without a hearing based on a full evidentiary record, the ROE Adjustment Mechanism currently approved by the OEB should be maintained.

The Board should schedule a hearing if it wishes to change the current ROE adjustment formula. All affected parties should be allowed to test disputed facts and opinions pertaining to the Cost of Capital at a hearing before any changes are made to the Cost of Capital *status quo*.

As an eligible Intervenor, IGUA requests to be awarded 100% of its reasonably incurred costs for participating in these proceedings, which have raised important questions on Cost of Capital matters.

Yours very truly

Borden Ladner Gervais LLP

Vincent DeRose

VJD/kt

- c List of Interested Parties
- Peter Fournier (Industrial Gas Users Association)
- Peter C.P. Thompson (Borden Ladner Gervais LLP)

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