



ONTARIO ENERGY BOARD

STAFF SUBMISSION

UNION GAS DISPOSITION OF 2008 DEFERRAL AND VARIANCE ACCOUNT BALANCES

EB-2009-0052

May 15, 2009

INTRODUCTION

Union Gas Limited (“Union” or the “Applicant”) filed an application (the “Application”) on March 31, 2009 with the Ontario Energy Board (the “Board”) seeking approval for final disposition and recovery of certain 2008 year-end deferral account balances including approval and disposition of the market transformation incentive and capital tax deferral amounts. There is a \$30.707 million credit to ratepayers associated with the requested disposition of the deferral and variance accounts in this proceeding. Union also filed evidence pursuant to the Vector Pipeline transportation contract.

These submissions reflect observations and concerns arising from Board staff's review of the pre-filed evidence and interrogatory responses from Union.

Timing of Deferral Disposition in Consideration of the *Green Energy Act*

The *Green Energy Act, 2009* (the “GEA”) amends the *Ontario Energy Board Act, 1998*, subsection 26.1(1) to require the Board to make assessments for expenses and expenditures incurred by the Ministry of Energy and Infrastructure with respect to conservation and renewable energy programs.¹ Gas distributors are named as one party that would be assessed costs in this manner. The *Special Purpose Conservation and Renewable Energy Fund* (“special purpose amounts”) named in the legislation would track the funds associated with the aforementioned assessments and would be maintained by the Minister of Finance.²

Staff's submission is based on the assumption that the *GEA* will receive Royal Assent before July 1, 2009. The submission should be read bearing in mind this context.

In response to Board staff IR#2, which sought Union's view on whether it would apply to the Board to align the timing of the disposition of deferral and variance account balances (“DVA disposition”) with the recovery of costs associated with special purpose amounts contemplated in the *GEA*, Union indicated that the magnitude of the costs

¹ The *Green Energy Act* (Bill 150) was passed by the Legislature on May 14, 2009 and is awaiting Royal Assent. Subsection 26.1(1) is found in Schedule D, section 6 of the *GEA*.

² Ibid, subsection 26.2(3)

contemplated in the *GEA* would be one of the factors that would determine whether Union would apply to the Board to align the timing the two impacts discussed above.

Staff agrees with Union that the magnitude of the special purpose amounts that will be assessed to Union is unclear at this time. Staff invites Union to comment in its reply on the threshold above which it would consider it prudent to align the timing of the DVA disposition and the special purpose amounts contemplated in the *GEA*.

Union stated in IR#2 that it expects to apply for a deferral account once the assessments and any administrative or direct costs are known. Union typically requests that the DVA disposition balances be aligned with the July 1 quarterly rate adjustment. If Union becomes reasonably certain of the magnitude of the impacts before the panel reaches a decision in the immediate proceeding, it is staff's recommendation that Union consider making an application to the Board to delay the DVA disposition to align the timing with assessments for special purpose amounts. Staff notes that doing so would involve alignment with the October 1 quarterly rate adjustment, or possibly a later period.

To maintain rate stability and minimize rate shock, the Board may wish to consider aligning the recovery of the DVA disposition credits with the recovery by Union of its *GEA* assessed costs. Delaying the DVA disposition would provide an opportunity to offset any contemplated special purpose charges with the \$30.707 million credit to ratepayers associated with the DVA disposition at the time of seasonally higher utility bills. While the amount of the *GEA* assessment is unknown at this time, it is foreseeable that a large credit commencing in July, followed by a potentially large debit in a subsequent rate period could result in rate volatility; aligning the recovery of the credit with the debit will minimize rate shock.

Vector Pipeline

Staff initially questioned the appropriateness of the inclusion of the Vector Pipeline evidence in this proceeding. Union's response to Board staff IR #4 clarified that the filing of the contracting analysis in the immediate proceeding, rather than 2009 rates application, is consistent with Union's 2007 deferral disposition proceeding (EB-2008-0034).

Union is not seeking approval of the Vector Pipeline contract renewal in this proceeding, and was required to file the evidence pursuant to the EB-2005-0520 settlement agreement, in the application in which it sought cost recovery of any contract renewal. Union also provided an updated analysis, as of May 2009, demonstrating that the Vector Pipeline is still the lowest cost option based on the alternatives available in Union's initial analysis in May 2008.

Staff submits that the Vector Pipeline transportation contract appears to be the best alternative available, and that recovery of the cost consequences associated with the Vector Pipeline transportation contract are appropriate in this proceeding.

All of which is respectfully submitted