

IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Union Gas
Limited for an order or orders amending or varying the
rate or rates charged to customers as of July 1, 2009.

WRITTEN SUBMISSIONS OF THE CITY OF KITCHENER

Introduction

1. Section 36(6) of the *Ontario Energy Board Act* places the onus on Applicants in rate setting cases. Accordingly, where there are unanswered questions or concerns respecting the validity of any evidence covering an important point in the Application, it is submitted that the Applicant has not discharged the onus of establishing the point in question.
2. Kitchener submits that the evidence in this case raises real and unanswered concerns respecting Union's position on the disposition of balances in both the Long-Term Peak Storage Services Account and the Short-Term Storage and Other Balancing Services account as shown in Exhibit B3.1, Attachments 1 and 2 respectively.

**Long-Term Peak Storage Services
as shown in Attachment 1 of Exhibit B3.1**

3. Attachment 1 of Exhibit B3.1 is reproduced here for convenience:

Filed: 2009-05-08
 EB-2009-0052
 Exhibit B3.1
Attachment 1

2007 Board Approved vs. 2008 Actual
Long-Term Peak Storage Services

Line No.	Particulars(\$000's)	2007 Board Approved	2008 Actual	Variance
1	Revenue			
2	Long-Term Peak Storage	42,058	81,540	39,482
3	High Deliverability Storage	-	5,554	5,554
4	Total Revenue	42,058	87,093	45,035
5	Costs			
6	Demand	(19,382)	(15,686)	3,696
7	Commodity	(955)	(1,696)	(741)
8	Asset Related	(316)	(18,233)	(17,917)
9	Total Costs	(20,653)	(35,615)	(14,962)
10	Net Revenue	21,045	51,478	30,073

4. It is submitted that the cost increases shown for 2008 are questionable. They have increased to \$35.615 million, an increase of approximately 72%. The major increase is attributed to "asset related" cost. These costs have increased to \$18.233 million or about 5800% above those approved by the Board for 2007. This increase is so extraordinary as to be presumptively invalid in the absence of a justifying and detailed explanation. Absent an explanation in the evidence it is an increase which should not be accepted as proven.

5. Furthermore, the increase in "asset related" cost raises a number of other questions which undermine the acceptability of Union's claim of \$18.233 million.

For example:

It is not known how much of these costs may be already embedded in utility rates.

The costs have not been vetted for reasonableness by the Board, notwithstanding the fact that they affect rates.

If judgment has been applied by Union in allocating integrated storage costs between utility and non-utility assets, as required by NGEIR, how has Union applied that judgment in this accounting of deferred revenues, net of costs?

6. It is submitted that Union's supplemental response in Exhibit B3.1 does not remove the concern as to how costs can undergo such an enormous increase from Board approved levels.

Remedy with respect to the disposition of the Long-Term Peak Storage Services Account

7. Kitchener submits that the concerns relating to the disposition of this account only affect the costs asserted by Union. In these circumstances therefore, an order for disposition of the net revenue shown in Attachment 1 (above) on an interim basis is warranted. Kitchener submits that the question respecting the validity of Union's cost assertions relating to this account be referred to the process underway in EB-2009-0101 for further examination.

Short-Term Storage and Other Balancing Services

8. Attachment 2 of Exhibit B3.1 is reproduced below for convenience.

Filed: 2009-05-08
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Exhibit B3.1
Attachment 2

2007 Board Approved vs. 2008 Actual
Short-Term Storage and Other Balancing Services

Line No.	Particulars(\$000's)	2007 Board Approved	2008 Actual	Variance
1	Revenue			
2	C1 Off-Peak Storage	1,000	2,040	1,040
3	Supplemental Balancing Services	2,000	3,122	1,122
4	Gas Loans	1,000	2,177	1,177
5	Enbridge LBA	75	211	136
6	C1 ST Firm Peak Storage	13,794	15,777	1,983
7	C1 Firm ST Deliverability	92	-	(92)
8	M12 Interruptible Deliverability	-	-	-
9	Total Revenue	17,961	23,327	5,366

10	Costs			
11	Demand	(600)	(2,261)	(1,661)
12	Commodity	(1,532)	(6,208)	(4,676)
13	Total Costs	(2,132)	(8,468)	(6,336)
14	Net Revenue	<u>15,829</u>	<u>14,858</u>	<u>(971)</u>

9. Attachment 2 shows that costs have increased by almost 400% above Board approved levels to \$8.468 million. As in the cost increases that Union asserts for the Long-Term Storage Services account, the cost increases to provide Short-Term Services are so extraordinarily high as to be presumptively invalid in the absence of a justifying and detailed explanation.

10. The points which raise concerns respecting Union's cost assertions in Attachment 2 include:

- (a) the total cost increase of almost 400% as noted above;
- (b) respecting the claimed increase in demand related costs for 2008 on line 11 it should be observed that the Short-Term Storage Services business is derived from using utility assets that are temporarily surplus to the needs of in-franchise customers. This point is made in the NGEIR decision at page 100 in paragraph 2.3.19; shown in Attachment 3 to Exhibit B3.1. The costs of these temporarily surplus utility assets are already included in rates and recovered from in-franchise customers. Given this, it is difficult to see how a 377% increase in demand costs can arise. In other words, if the fixed demand costs of utility storage are already recovered in rates, then their inclusion in the recording of net revenues in the deferral account would be an improper "double counting" of fixed demand costs;
- (c) Similarly, concerns arise over the increase of over 400% in commodity related costs shown on line 12. Kitchener understands that under market-based commercial transactions for Short-Term Storage Services using surplus utility assets, Union is typically kept whole on commodity costs;
- (d) When one combines the increased revenues and costs shown on Attachment 2 for 2008, the net result is that Union incurred a loss of nearly \$1 million. Based on Kitchener's active experience in the market place during 2008, Kitchener is surprised at this result.

- (e) As stated above with respect to the Long-Term Storage Services Account, the questions noted above also combine to raise concerns respecting the allocation of costs between utility and non-utility assets.

11. Again, it is submitted that Union's supplemental response in Exhibit B3.1 does not remove the concerns listed above respecting the costs asserted by Union in this account.

**Remedy with respect to the disposition
of the Short-Term Storage and Other Balancing Services Account**

12. Kitchener submits that the circumstances respecting this account will warrant the same remedy as submitted above for the disposition of the Long-Term Peak Storage Services Account.

All of which is respectfully submitted.

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Per:

Alick Ryder