

IN THE MATTER of the *Ontario Energy Board Act 1998*,
Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

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.

Supplementary Submissions of the School Energy Coalition

1. Further to Procedural Order #2 in the above-captioned proceeding, these are the supplementary submissions of the School Energy Coalition ("SEC") in relation to an application by Union Gas Ltd. ("Union") for clearance of certain deferral and account balances for the 2008 rate year.

2. SEC believes the O&M costs charged to the long-term storage deferral account, 179-72, are too high. The O&M for this account increases from \$6.909 million in 2007 Board approved to \$9.676 million in 2008 actual. Union states that \$1 million of this increase in O&M is attributable to a change in capitalization: "as a result of the Board's finding that ex-franchise storage services are competitive, Union is no longer able to capitalize under CGAAP as much O&M as it was able to under regulatory accounting." [Exhibit J1.3]

3. In SEC's submission, what Union has done is similar to what it proposed to do in EB-2007-0598. In that proceeding, Union argued that it was "required to record a deferred income tax expense of \$10.524 million related to storage service as a result of the change in the regulatory treatment of storage services [i.e. the finding in NGEIR that ex-franchise storage

services are competitive] provided to customers outside of Union's franchise area." [EB-2007-0598, Decision and Order, p. 5]

4. Union's rationale was as follows:

Union's contention is that the Canadian Generally Accepted Accounting Principles ("GAAP") require that once a segment of a utility's operation ceases to be rate regulated, as is the case with ex-franchise storage services, that portion of the company's operation ceases to qualify for deferred tax accounting treatment. Accordingly, the deferred tax deferral account which has been in place since 1997 cannot continue to capture amounts related to these operations.

[EB-2007-0598, Decision and Order, p. 5]

5. The Board rejected Union's argument, and in doing so pointed out that there is a difference between financial and regulatory accounting:

The Board notes that while accounting treatment can be an important consideration in the regulatory treatment of matters, it is not always predictive of the regulatory outcome. The fact that Union may have to change its accounting treatment of the deferred tax account as a result of the NGEIR decision, does not automatically lead to the conclusion that the accounting tax liability associated with it should come into rates now, or at all.

[EB-2007-0598, Decision and Order, p. 8]

6. In SEC's submission, the decision in EB-2007-0598 is exactly analogous to the \$1 million increase in O&M allocated to account 179-72 in this proceeding. The only rationale for the increase is that, due to the deregulation of ex-franchise long-term storage assets, financial accounting rules dictate that Union capitalize a lower amount of the O&M costs related to its

storage assets. SEC submits that this is inappropriate and that, for regulatory purposes, costs should continue to be capitalized as if they were regulated assets until the phase out of the ratepayer share is completed.

Respectfully submitted this 28th day of May, 2009.

John De Vellis
Counsel to the School Energy Coalition