

VIA E-MAIL (RESS and Courier to the Board)

May 28, 2009

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

Dear Ms. Walli:

Re: Union Gas Limited (“Union”) – Disposition of 2008 Deferral Account and other balances – Board File No.: EB-2009-0052

This letter provides the further submission of the Federation of Rental-housing Providers of Ontario (FRPO) on the Storage Revenue Issue, as allowed for by Procedural Order No.2

Given the constrained nature of the time frames in the above matter and for simple efficiency, FRPO will not elaborate on some items of concern but simply endorse the further submissions of CME and the City of Kitchener.

As will be noted by a review of the record, it has been the diligent attempt by FRPO to have some understanding of how costs are being allocated in the storage accounts. FRPO submitted interrogatories, supplemental interrogatories and, with the Board’s relief, requested undertakings at the Technical Conference for Earnings Sharing Mechanism to get some understanding of the assumptions made by the applicant and the drivers behind some surprising results in the deferral accounts. After being frustrated by previous responses, the dialogue afforded by the Technical Conference provided some clarity on one issue.

During the Technical Conference, in trying to determine why components of costs changed substantially, Union produced a corrected version of the supplemental interrogatory response¹ that modified some of its Board Approved costs previously submitted as evidence by a factor of 10. While disconcerting, and attributed to a clerical error, this situation further drives home the concerns of FRPO. Is there sufficient evidence on the record to meet the applicant’s onus for establishing the disposition balances are in accordance with past Board directives?

To respond to counsel previously provided, FRPO will lay out its proposition. The forbearance decision on storage² created a situation that allowed Union to operate an integrated storage pool that delivered regulated and un-regulated storage offerings in the public interest. The Board subsequently provided direction on the sharing of net revenues to reduce the complexity associated with managing the transition and associated timing of contract renewal³. However, it

¹ Exhibit B, Tab 3, Schedule 2, Attachment 3, Corrected

² EB-2005-0551

³ EB-2005-0551

is the view of FRPO that timing of these decisions relative to the last cost of service study submitted but not litigated⁴ has not provided intervenors nor the Board with any opportunity to understand the assumption that are being made in cost allocations between Short and Long Term Storage Services and Utility Storage Services.

An example of this concern is provided in the response to questions at the Technical Conference about these costs⁵. One of the resulting undertakings⁶ provides an answer to concerns about increases to O&M. The answer provides detail that the change to competitive services have altered accounting criteria and changed allocations. As far as the change in accounting criteria, it is FRPO's simplified understanding that the Board had confirmed that cost impacts as a result of accounting changes precipitated by a move to competitive services should not be recovered in the deferral accounts as confirmed by the recent Board decision⁷. More importantly, in our view, it is abundantly clear from the record that the amount of understanding of the assumptions that support the allocation of costs that underpin deferral account reporting and utility earnings is very limited. And this lack of understanding is occurring during a time when incentives are in place and evolving between utility earnings and the non-regulated storage business.

Remedy Requested

Beyond the supported submissions of CME and City of Kitchener, FRPO would respectfully request that the Board consider the appropriateness of Union's increase in O&M as a result of non-allowance under CGAAP⁸ due to moving to competitive storage services.

Moreover, FRPO recognizes that the constrained time frame and process afforded this proceeding on the basis of previously formulaic dispositions has limited our ability to understand and potentially support the dispositions presented. It is FRPO's respectful submission that the Board consider an expanded discovery phase for the 2009 and beyond dispositions during the IRM framework to afford understanding and confirmation of the utility's calculation of what it needs to share.

Respectfully Submitted on Behalf of FRPO,



Dwayne R. Quinn
Principal
DR QUINN & ASSOCIATES LTD.

⁴ EB-2005-0520

⁵ Transcript page 43-60

⁶ Exhibit J1.3

⁷ EB-2008-0154

⁸ Exhibit J1.3