



**EB-2007-0679**

**IN THE MATTER OF** a proceeding initiated by the Ontario Energy Board to determine whether it should re-establish the equivalent terms of the E.B.O. 166 Storage Order for storage contracts between Union and its in-franchise customers.

**BEFORE:** Gordon Kaiser  
Presiding Member and Vice Chair

Cynthia Chaplin  
Member

Bill Rupert  
Member

### **DECISION AND ORDER**

In December 2005 the Ontario Energy Board commenced a proceeding on its own motion to determine (i) whether it should order new rates for the provision of natural gas, transmission, distribution and storage services to gas-fired generators (and other eligible customers); and (ii) whether to refrain, in whole or part, from exercising its power to regulate the rates charged for the storage of gas in Ontario by considering whether, as a question of fact, the storage of gas in Ontario is subject to competition sufficient to protect the public interest.

On November 7, 2006 the Board issued its Decision with Reasons in the Natural Gas Electricity Interface Review proceeding (the “NGEIR Decision”). In its decision the

Board determined that it will refrain, in part, from regulating storage rates under Section 36 of the OEB Act and refrain from approving certain storage contracts under 39(2) of the OEB Act. However, the Board did note that it will continue to regulate storage rates for bundled, unbundled and semi-unbundled customers of Union and Enbridge up to the allocated amount.

The Board subsequently issued an Order dated February 5, 2007 rescinding the Union Gas Limited ("Union") Blanket Storage Order (E.B.O. 166, as amended by the settlement in E.B.R.O. 499).

On July 4, 2007 Union sent a letter requesting the Board to re-establish the equivalent terms of the E.B.O. 166 Storage Order for storage contracts between Union and its in-franchise customers. Specifically, Union requested an Order allowing the company to enter into storage contracts with in-franchise customers for volumes up to 2 billion cubic feet ("Bcf") for contract terms not exceeding 17 months without the prior approval of the Board. Union expressed a concern that the Board's February 5, 2007 Order has had the unintended consequence of requiring Union to seek Board approval of certain in-franchise contracts that had been previously exempted from Board review by the Blanket Storage Order.

Prior to the NGEIR Decision and the subsequent February 5, 2007 Order, Union operated under the Blanket Storage Order. The E.B.O. 166 Blanket Storage Order dated September 26, 1989 allowed Union to enter into storage contracts with its customers for volumes up to 2 Bcf with terms of one year or less without prior approval of the Board.

These provisions were further revised in a Board accepted Settlement Agreement in E.B.R.O. 499 dated November 16, 1998. The Settlement Agreement extended the term of the contract to include two off-peak periods and was amended as follows:

- a. the term of the contract may cover no more than one peak period; and
- b. the term of the contract may not exceed 17 months.

With the Blanket Storage Order in place, Union sought Board approval of storage contracts (in-franchise and ex-franchise) only when a contract exceeded 2 Bcf or the term exceeded 17 months. Since the Board has now rescinded the Blanket Storage Order (E.B.O. 166, as amended by the settlement in E.B.R.O. 499), Union is required to file all in-franchise storage contracts for Board approval, irrespective of the storage amount or term of the contract.

In the Procedural Order dated July 20, 2007, the Board advised that it would be reviewing its order rescinding Union Gas' Blanket Storage Order, and intervenors could file submissions on the issue until August 3, 2007.

The Board received written submissions from the City of Kitchener and Industrial Gas Users Association ("IGUA"). While the City of Kitchener stated that it was not affected by the application and therefore had no submissions, IGUA supported the reinstatement of the Blanket Storage Order status quo for Union's in-franchise customers.

The Board has considered all the evidence and finds that it is appropriate to reinstate Union's Blanket Storage Order E.B.O. 166, as amended by the settlement in E.B.R.O. 499, for all storage contracts with in-franchise customers.

### **Costs**

A decision regarding cost awards will be issued at a later date. The eligible parties shall submit their cost claims by September 12, 2007. A copy of the cost claim must be filed with the Board and one copy is to be served on Union. The cost claims must be done in accordance with the Board's Practice Direction on Cost Awards.

Union will have until September 26, 2007 to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.

The party whose cost claim was objected to, will have until October 3, 2007 to make a reply submission as to why their cost claim should be allowed. Again, a copy of the submission must be filed with the Board and one copy is to be served on Union.

**THE BOARD THEREFORE ORDERS THAT**

1. Union's Blanket Storage Order E.B.O. 166, as amended by the settlement in E.B.R.O. 499 for all storage contracts with in-franchise customers is reinstated.
2. This order applies retrospectively to February 5, 2007 and Union need not file any storage contracts that meet the provisions of E.B.O. 166, as amended by the settlement in E.B.R.O. 499, that were entered into between February 5, 2007 and the date of this decision.

**DATED** at Toronto, August 30, 2007.

**ONTARIO ENERGY BOARD**

*Original signed by*

Peter H. O'Dell  
Assistant Board Secretary