



uniongas

A Spectra Energy Company

September 21, 2007

Ontario Energy Board
2300 Yonge Street,
27th Floor
Toronto, ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Re: EB-2007-0606/EB-2007-0615 – Notice of Motion – Interim Rates

Dear Ms. Walli:

Please find enclosed Union Gas Limited's ("Union's") Notice of Motion regarding interim rates.

Yours truly,

[original signed by Joanne Clark for]

Mike Packer
Director, Regulatory Affairs

Enclosure

cc: All EB-2007-0606 Intervenors of Record
Michael Penny, Torys

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 approving a multi-year incentive rate mechanism to determine rates for the regulated distribution, transmission and storage of natural gas, effective January 1, 2008;

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an Order or Orders approving or fixing rates for the distribution, transmission and storage of natural gas, effective January 1, 2008;

AND IN THE MATTER OF a combined proceeding Board pursuant to section 21(1) of the *Ontario Energy Board Act*, 1998.

NOTICE OF MOTION

Union Gas Limited will make a motion to the Ontario Energy Board at a time and place to be determined by the OEB.

THE MOTION IS FOR an order:

1. declaring Union's rates for the distribution, transmission and storage of natural gas to be interim effective January 1, 2008; and
2. implementing new interim rates effective January 1, 2008 in accordance with Exhibit D Tab 2 of Union's pre-filed evidence in this proceeding.

THE GROUNDS FOR THE MOTION ARE:

3. Union's 2007 rates were fixed by the OEB on December 19, 2006.
4. The OEB issued its report on Natural Gas Regulation in Ontario: A Renewed Policy Framework, in March of 2005. The NGF Report introduced the OEB's plan to institute multi-year incentive regulation in the natural gas distribution industry effective January 1, 2008.
5. The goals for incentive regulation articulated in the NGF Report were sustainable gains in efficiency, appropriate quality of service and the creation of an attractive investment environment.

6. The proceeding to address the features of incentive regulation was, according to an OEB letter to stakeholders of September 14, 2005, to have been concluded by mid-2007.
7. Stakeholder consultations on multi-year incentive regulation for gas distribution utilities in Ontario began in September 2006 and carried on through November 2006.
8. A detailed discussion paper on multi-year incentive regulation was released to all stakeholders by OEB staff in January 2007.
9. The initial draft of the Pacific Economics Group incentive regulation study and recommendations, commissioned by the OEB, became available on March 30, 2007. The final report was delivered in June 2007.
10. Although it was originally contemplated that the incentive regulation process would be an OEB sponsored process, as a result of intervenor concerns the OEB asked Union to initiate its own utility specific application. Union did so by filing its present application on May 11, 2007.
11. The OEB's Procedural Order No. 1 in this proceeding established a joint proceeding for Union and Enbridge, required both applicants' evidence to be filed by July 9, 2007 and provided for a joint hearing to commence on October 4, 2007. Union filed its evidence on June 28, 2007.
12. As a result of delays in the timetable for concluding this proceeding, Union became concerned that rates could not be set prospectively effective January 1, 2008.
13. In order to avoid retroactive implementation of 2008 rates, Union asked that its application proceed independently of Enbridge.
14. On July 13, 2007, Union's request that its application proceed independently of Enbridge was denied.
15. In denying Union's request, the OEB said:

With respect to the retroactivity concern, we understand the concern of Mr. Penny on behalf of his client. The Board and intervenors also recognize that concern, but in all likelihood there are mechanisms such as interim rates and rate smoothing to reduce the rate shock he is concerned with, even though the consumption at issue is in the winter months when consumption is high. In short, The Board is convinced there are mechanisms to deal with the concerns Union has with retroactivity.

16. As a result of further delays in the scheduled procedural steps and hearing in this matter, Union brought a motion for a reconsideration of the OEB's earlier decision, again requesting that its application proceed on a timetable independent of the Enbridge application. That motion, heard September 13, 2007, was also denied.

17. In rejecting Union's further request to proceed on a separate timetable, the OEB stated:

Of course, we remain concerned, as we were on July 13th, about retroactivity. We said so then and we say it again, retroactivity is not good. It is bad. There are, however, mechanisms, we believe, to reduce its impact. We will explore those mechanisms when and if these two applicants bring forward applications for interim rate increases and deal with it at that time.

18. It is well known that customers abhor retroactive increases in rates. While not avoiding the investment and operating uncertainty associated with the determination of Union's final rates for 2008, granting an interim rate increase will eliminate the impact of accumulated retroactive charges on customers which would otherwise occur.

UNION WILL RELY ON:

1. Union's pre-filed evidence in these proceedings.

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Torys LLP
Suite 3000
79 Wellington St. W.
Box 270, TD Centre
Toronto, Ontario
M5K 1N2 Canada

Michael A. Penny LSUC#: 23837N
Tel: 416.865.7526
Fax: 416.865.7380

Solicitors for Union Gas Limited

TO: Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

AND TO: All Intervenors