



EB-2009- 0275

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

AND IN THE MATTER OF an Application by Union Gas
Limited for an Order or Orders approving or fixing just and
reasonable rates and other charges for the sale, distribution,
transmission and storage of gas effective January 1, 2010.

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Paul Sommerville
Member

DECISION AND ORDER

INTRODUCTION

Union Gas Distribution Inc. ("Union") filed an Application on September 3, 2009 with the Ontario Energy Board ("Board") under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Sched. B), as amended, for an order of the Board approving or fixing rates for the distribution, transmission and storage of natural gas, effective January 1, 2009.

The Board assigned file number EB-2009-0275 to the Application and issued a Notice of Application dated September 10, 2009.

On September 11, 2009 Union filed evidence and a draft rate order in support of its Application. Subsequently on September 30, 2009 Union filed amended evidence and a draft rate order in response to the Board's letter of September 28, 2009, which concerned new support programs for low energy consumers and requested that the natural gas utilities base their Demand Side Management ("DSM") plans for 2010 on the existing DSM framework, including increases based on established budget escalators.

The Board granted intervenor status to the Consumers Council of Canada ("CCC"), the Industrial Gas Users Association ("IGUA"), the Energy Probe Research Foundation ("Energy Probe"), the Vulnerable Energy Consumers Coalition ("VECC"), the School Energy Coalition ("SEC"), the Association of Power Producers of Ontario ("APPrO"), the Ontario Association of Physical Plant Administrators ("OAPPA"), Ontario Power Generation, Sithe Global Canadian Power Services Limited, Jason Stacey, Just Energy L.P. ("Just Energy"), TransCanada Pipelines Limited, TransCanada Energy Limited, the London Property Management Association ("LPMA"), Kitchener Utilities ("Kitchener"), Canadian Manufacturers and Exporters ("CME"), Direct Energy Marketing Limited, ECNG Energy L.P., Enbridge Gas Distribution Inc., Hydro One Networks Inc. and late intervenor status to the Federation of Rental-housing Providers of Ontario ("FRPO")

On October 6, 2009 Board issued Procedural Order No.1 which included the timeline for the filing of interrogatories and interrogatory responses, the convening of a Settlement Conference on October 28, 2009, and the hearing of any Settlement Proposal filed by the parties on November 6, 2009.

On October 27, 2009 Union filed a letter with supporting schedules notifying the Board that the current evidence contained errors concerning the calculation of savings related to income tax changes. As a result, the ratepayer credit in 2009 would increase from \$0.444 million to \$1.43 million. The resulting credit will be disposed of in the 2009 deferral account disposition proceeding. Union filed an update of all schedules in evidence affected by the correction on October 30, 2009.

THE APPLICATION

Union said that the rates proposed under the Incentive Rate Mechanism ("IRM") for 2010 were determined in accordance with the Board approved EB-2007-0606 Settlement Agreement and Addendum (collectively the "Settlement Agreement"). The topics covered in Union's evidence included the 2010 Inflation and Productivity Factors,

Y and Z factor Adjustments, Average Use Adjustments and Annual Adjustments to General Service Monthly Charges as defined in the Settlement Agreement.

Union's proposals and requested approvals included:

- An increase of \$1.00 in the monthly fixed charge (from \$18.00 to \$19.00) for the residential classes M1 and Rate 01 on a revenue neutral basis;
- Unchanged miscellaneous non-energy charges;
- Y factor amounts of \$2.057 million for DSM and \$5.351 million for the reduction in the in-franchise ratepayers' share of long-term storage margins;
- Average Use of Gas adjustments for 2010 for General Service rates classes M1 and M2
- Inflation Factor (GDP IPI FDD) of 2.73% and a 1.82% productivity factor used to calculate the proposed rates;
- Z factor adjustment in the amount of \$2.656 million for the sharing of incremental tax savings and;
- Maintenance of existing deferral/variance accounts with two exceptions: (i) changes in the accounting system numbers used to record credits in the Demand Side Management Variance Account, Gas Distribution Rule Access Rule Costs and Late Payment Penalty Litigation and (ii) the closure of the Intra-Period WACOG Changes Deferral Account effective December 31, 2009.

SETTLEMENT PROPOSAL

Following the Settlement Conference held on October 28, 2009, a Settlement Agreement was filed with the Board on November 2, 2009 and is attached as Appendix A to this Decision (the "Settlement Agreement").

The Settlement Agreement indicated that no parties took issue with Union's Application, as subsequently updated, and the incentive rate mechanism calculations and related adjustments proposed by Union to generate 2010 rates.

The Board issued Procedural Order No. 2 on November 4, 2009 cancelling the oral hearing to review the Settlement Agreement.

BOARD FINDINGS

The Board has reviewed Union's Settlement Agreement of November 2, 2009 and approves it as filed for rates effective January 1, 2010.

IMPLEMENTATION

Given current timing, the Board expects that the 2010 rates, effective January 1, 2010, will be implemented commencing with the first billing cycle on or after January 1, 2010.

COSTS

A decision regarding cost awards will be issued at a latter date. Eligible intervenors claiming costs should do so as directed below.

THIS BOARD ORDERS THAT:

1. Union shall file with the Board and shall also forward to all intervenors in this proceeding, a Draft Rate Order reflecting the Settlement Agreement within 5 working days of the issuance of this decision. Upon receipt of the Draft Rate Order, Intervenors and Board staff shall have 5 working days to respond to Union's Draft Order. Union shall respond within 3 working days to any comments submitted by the intervenors and Board staff.
2. Intervenors eligible for cost awards shall file with the Board and forward to Union their respective cost claims within 25 days from the date of this Decision.
3. Union may file with the Board and forward these intervenors any objections to the claimed costs within 32 days from the date of this Decision.
4. Intervenors, whose cost claims have been objected to, may file with the Board and forward to Union any responses to any objections for cost claims within 39 days of the date of this Decision.

5. Union shall pay any Board costs of, and incidental to, this proceeding upon receipt of the Board's invoice.

All filings with the Board must quote the file number EB-2009-0275, and be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must be received by the Board by 4:45 p.m. on the stated date. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may e-mail your documents to the attention of the Board Secretary at BoardSec@oeb.gov.on.ca. All other filings not filed via the Board's web portal should be filed in accordance with the Board's Practice Directions on Cost Awards.

DATED at Toronto, November 9, 2009.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

TO BOARD DECISION AND ORDER

BOARD FILE NO. EB-2009-0275

**UNION GAS LIMITED 2010 RATES
UNION SETTLEMENT AGREEMENT**

DATED: November 9, 2009



uniongas

A Spectra Energy Company

November 2, 2009

Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Re: Union's 2010 Rates Application - Settlement Agreement - (EB-2009-0275 – Effective January 1, 2010)

Dear Ms. Walli:

Please find attached the Settlement Agreement (“the Agreement”) for Union’s 2010 Rate application (EB-2009-0275) as agreed to by Union and the intervenors listed in the Agreement. All issues were completely settled.

Union is filing the Agreement in accordance with Procedural Order No. 1.

At the settlement conference, the consensus of intervenors and Union was that, subject to any concerns from the Board, the settled issues and the Agreement would not require an oral hearing on November 6, 2009 as noted in Procedural Order No. 1.

If you have any questions, please contact me at 519-436-5476.

Yours truly,

[original signed by]

Chris Ripley
Manager, Regulatory Applications

cc: EB-2009-0275 Intervenors
Michael Penny (Torys)

EB-2009-0275

UNION GAS LIMITED

SETTLEMENT AGREEMENT

November 2, 2009

EB-2009-0275

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is for the consideration of the Ontario Energy Board (“the Board”) in its determination, under Docket No. EB-2009-0275, of Calendar 2010 rates for Union Gas Limited (“Union”). By Procedural Order No. 1 dated October 6, 2009, the Board scheduled a Settlement Conference to commence at 9:00 a.m. on October 28, 2009. The Settlement Conference was duly convened, in accordance with Procedural Order No. 1, and concluded the same day.

The following parties participated in the Settlement Conference:

Canadian Manufacturers & Exporters (“CME”)

City of Kitchener (“CCK”)

Enbridge Gas Distribution Inc. (“EGD”)

Energy Probe Research Foundation (“Energy Probe”)

Federation of Rental-housing Providers of Ontario (“FRPO”)

Jason Stacey, Energy Consultant (“Stacey”)

London Property Management Association (“LPMA”)

Ontario Association of Physical Plant Administrators (“OAPPA”)

School Energy Coalition (“SEC”)

Vulnerable Energy Consumers Coalition (“VECC”)

The Association of Power Producers of Ontario (“APPrO”), Consumers’ Council of Canada (“CCC”) and Industrial Gas Users Association (“IGUA”) monitored the Settlement Conference and are participants in this Settlement Agreement.

A complete settlement was reached on all issues by all parties. The Agreement is supported by the evidence filed in the EB-2009-0275 proceeding.

It is acknowledged and agreed that none of the provisions of this Agreement is severable. If the Board does not, prior to the commencement of the hearing of the evidence in EB-2009-0275, accept the Agreement in its entirety, there is no Agreement (unless the parties agree that any portion of the Agreement the Board does accept may continue as a valid Agreement).

It is further acknowledged and agreed that parties will not withdraw from this Agreement under any circumstances except as provided under Rule 32.05 of the Ontario Energy Board's Rules of Practice and Procedure.

It is also acknowledged and agreed that this Agreement is without prejudice to parties re-examining these issues in any other proceeding.

The parties agree that all positions, information, documents, negotiations and discussion of any kind whatsoever which took place or were exchanged during the Settlement Conference are strictly confidential and without prejudice, and inadmissible unless relevant to the resolution of any ambiguity that subsequently arises with respect to the interpretation of any provision of this Agreement.

The role adopted by Board Staff in Settlement Conferences is set out on page 5 of the Board's Settlement Conference Guidelines. Although Board Staff is not a party to this Agreement, as

noted in the Guidelines, “Board Staff who participate in the settlement conference are bound by the same confidentiality standards that apply to parties to the proceeding”.

The form of the Agreement generally follows the major issues outlined in the prefiled evidence. There were no other issues raised requiring resolution in this proceeding. The evidence supporting the agreement on each issue is cited in each section of the Agreement. Abbreviations will be used when identifying exhibit references. For example, Exhibit B1, Tab 4, Schedule 1, Page 1 will be referred to as B1/T4/S1/p. 1. On October 27, 2009, Union filed an update to one issue, Z Factor Adjustment, which had the effect of increasing the net credit to customers on account of tax changes in the 2009/2010 period. Those changes were reviewed, discussed and accepted by all parties in the course of the Settlement Conference. A full updated evidence package reflecting the changes to the tax calculations is being filed concurrently with this Agreement at the Board’s request, reflecting the October 27, 2009 evidence update. All evidence references are to the updated evidence package filed on October 30, 2009. The structure and presentation of the settled issues is consistent with settlement agreements which have been accepted by the Board in prior cases. The parties agree that this Agreement forms part of the record in this proceeding.

1 2010 INFLATION FACTOR AND PRODUCTIVITY FACTOR

(Complete Settlement)

Evidence References:

1. A/T1/p. 3, Rate Order Working Papers/S1/pp. 1-2 and S4

2 Z FACTOR ADJUSTMENT

(Complete Settlement)

Evidence Reference:

1. A/T1/pp. 3-4, Rate Order Working Papers/S13 and S15
2. B3.2

3 Y FACTOR ADJUSTMENTS

(Complete Settlement)

The parties wish to clarify that a portion of the 2010 DSM budget relating to the low-income DSM plan (\$1.730 million) had not yet been approved by the Board. As such, the complete settlement of this issue is premised on the agreement that if the amount attributable to the low-income DSM plan is changed by the Board, that change will either be reflected in the draft rate order or, if not resolved in time, reflected in the DSM variance account for future disposition.

Evidence References:

1. A/T1/pp. 4-7, Rate Order Working Papers/S2 and 14

4 AVERAGE USE FACTOR

(Complete Settlement)

Evidence References:

1. A/T1/p. 7, Rate Order Working Papers/S4 and 10
2. B5.3

5 ANNUAL ADJUSTMENTS TO GENERAL SERVICE MONTHLY CHARGES

(Complete Settlement)

Evidence References:

1. A/T1/pp. 7-8, Rate Order Working Papers/S4

6 CUSTOMER BILL IMPACTS

(Complete Settlement (other than CCK which takes no position))

Evidence references:

1. A/T1/p. 8, Rate Order Working Papers/S9
2. B2.1

7 IMPLEMENTATION

(Complete Settlement)

Evidence References:

1. A/T1/p. 8

8 CHANGES TO EXISTING DEFERRAL ACCOUNTS

(Complete Settlement)

Evidence References:

1. A/T1/pp. 8-9