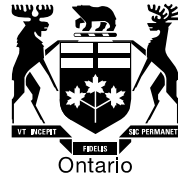


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BY E-MAIL ONLY

January 8, 2010

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

Dear Ms. Walli:

**Re: Board Staff Submission - Union Gas Limited –
Calculation of the Cumulative Under-Recovery of the St. Clair Line –
Board File No. EB-2008-0411**

Please find attached the Board staff submission with respect to the above proceeding.

Yours truly,

Original signed by

Neil McKay
Case Manager

Attachments

C: Sharon Wong, Union Gas Limited
Mark Murray, Union Gas Limited
All Intervenors of Record



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

UNION GAS LIMITED

Calculation of the Cumulative Under-Recovery of the St. Clair Line

Board File No. EB-2008-0411

January 8, 2010

Introduction

On December 23, 2008 Union Gas Limited (“Union”) filed an application seeking an Order from the Board granting leave to sell the St. Clair Line to the Dawn Gateway Pipeline Limited Partnership (“DGLP”).

On November 27, 2009 the Board issued its Decision and Order granting Union leave to sell the St. Clair Line to DGLP subject to conditions including Union filing the calculation of the cumulative under-recovery of the St. Clair Line from 2003 to the current time and its estimate as of the closing date of the transaction.

On December 23, 2009 Union filed its calculation of the cumulative under-recovery of the St. Clair Line. Union estimated the cumulative under-recovery of the St. Clair Line to be \$3.951M as of March 1, 2010.

Board Calculation of the Cumulative Under-Recovery of the St. Clair Line

In the Board’s Decision and Order of November 27, 2009, the Board estimated that the cumulative under-recovery of the St. Clair Line is approximately \$5M. The Board calculated the under-recovery as the difference between the estimated net revenues and the estimated total expenses¹.

The calculation was made using the evidence available to the Board at the time². The evidence available was for the years 2003-2008 inclusive. Therefore, the Board’s estimate of the cumulative under-recovery of the St. Clair Line was materially low as it was for the period January 1, 2003 to December 31, 2008 and did not extend until the expected closing date of the transaction.

Board staff notes that the Board’s estimated calculation was based on the evidence available at the time and believes that Union’s calculation as filed on December 23, 2009, provides a more accurate basis on which the Board can determine the actual ratepayer subsidy.

Union Calculation of the Cumulative Under-Recovery of the St. Clair Line

While Board staff submits that Union’s estimate of the cumulative under-recovery of the St. Clair Line from 2003 to the closing date of the transaction provides a good basis for

¹ The estimated expenses included taxes, return, depreciation expenses, and operating expenses.

² Specifically, information from Undertakings J1.1 and J1.2 and Union’s Response to FRPO Interrogatory No. 6 was used in the calculation.

the Board to make its determination, there are three assumptions in Union's calculation that cause Union's estimate of \$3.951M to be understated. Board staff submits that the following adjustments to Union's calculation should be made:

- 1) Board staff notes that the sale of the St. Clair Line is contingent upon the Board granting DGLP leave to construct the Bickford Dawn Pipeline and authorizing a regulatory framework that is satisfactory to DGLP. Union has assumed that the Board will provide the required approvals by February 26, 2010. Therefore, Union has stated that the sale of the St. Clair Line will occur on March 1, 2010 and has made its estimate of the cumulative under-recovery of the St. Clair Line as of March 1, 2010. Board staff notes that although the Board attempts to process all applications in a timely manner, Union's assumption of a February 26, 2010 decision date is not realistic. DGLP filed its application for Leave to Construct on December 23, 2009 under Board File No. EB-2009-0422 and there are a number of issues that are likely to arise during the review of this Application. The Board has established metric dates for the release of Board Decisions for both written and oral proceedings. The metric schedule for a Leave to Construct Application is that the Board shall issue a Decision within 130 calendar days of the date the application was filed when a written proceeding is held and 210 days if it is an oral proceeding. Therefore, Board staff submits that for the purposes of establishing a timeframe for the EB-2009-0422 proceeding the shortest expected date for a decision should be 130 days. This means that the earliest assumed date for receipt of a Decision should be early May, 2010.

Board staff submits that the estimate of the cumulative under-recovery of the St. Clair Line should be as of May 1, 2010. This would increase the estimated cumulative under-recovery of the St. Clair Line by approximately \$118,000³.

- 2) Union has excluded from its calculation the operating expenses of \$342,000 per annum related to the St. Clair River Crossing toll. Union has excluded these costs as it believes that the cumulative under-recovery amount payable to customers should be limited to the revenues and costs directly attributable to the St. Clair Line itself (and should exclude the cost of any upstream pipeline).

³ The increase in the ratepayer subsidy has been calculated by dividing the pro-rated under-recovery amount for the 2-month period in 2010 of \$118,000 by 2. Then multiplying \$59,000 by 2 which represents the additional 2-month period in 2010 (as compared to Union's calculation) before the transaction is expected to be concluded.

Board staff submits that these expenses have been inappropriately removed from Union's calculation. St. Clair River Crossing costs are clearly attributable to the St. Clair Line as the St. Clair Crossing tolls are embedded in Union's rates and are costs that Union incurs to generate revenues on the St. Clair Line. Board staff also notes that Union had initially acknowledged in its evidence in this proceeding⁴ that St. Clair River Crossing tolls are operating expenses related to the St. Clair Line.

Board staff submits that the St. Clair River Crossing tolls should be included as an operating expense of the St. Clair Line. This would increase the estimate of the cumulative under-recovery of the pipeline by \$2.451M for the period January 1, 2003 to March 1, 2010 and by a further \$57,000 for the period March 1, 2010 to May 1, 2010. This results in an overall increase to the cumulative under-recovery amount of approximately \$2.508M⁵.

- 3) Union did not include interest carrying charges in its estimate of the cumulative under-recovery of the St. Clair Line. Board staff submits that the exclusion of interest carrying charges is incorrect. Interest charges must be applied to the cumulative under-recovery balances to ensure that ratepayers recover the full value, which includes the time value of money of the subsidy that they have been providing to the St. Clair Line since 2003.

Board staff submits that Union should apply the Board approved Accounting Interest Rate Methodology⁶ as set out in the Board's letter of November 28, 2006, under Board File No. EB-2006-0117, to the cumulative under-recovery of the St. Clair Line for the period January 1, 2003 to May 1, 2010.

Board staff submits that the above noted adjustments increase the estimate of the cumulative under-recovery of the St. Clair Line from \$3.951M to approximately \$6.577M plus interest. Board staff submits that the Board should direct Union to file a schedule similar to Appendix B of its December 23, 2009 filing which reflects the above noted revisions.

⁴ See Exhibit J1.1

⁵ Derived amounts from Appendix B to Union's December 23, 2009 Calculation

⁶ The Board's methodology is to apply the relevant Board prescribed interest rate to the cumulative opening monthly principal balances to derive the carrying charge amounts.

Board staff notes that the cumulative under-recovery balance will be placed in a deferral account and will be subject to further review at the time of disposition.

All of which is respectfully submitted.