



EB-2010- 0148

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, 2011.

BEFORE: Paul Sommerville
Presiding Member

Karen Taylor
Member

DECISION AND ORDER

INTRODUCTION

Union Gas Distribution Inc. ("Union") filed an Application on September 15, 2010 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, 2011.

The Board assigned file number EB-2010-0148 to the Application and issued a Notice of Application on September 22, 2010.

On September 23, 2010 Union filed evidence and a draft rate order in support of its Application.

The Board granted intervenor status to the Canadian Manufacturers and Exporters, Direct Energy Marketing Limited, ECNG Energy L.P., Enbridge Gas Distribution Inc., the Energy Probe Research Foundation, Industrial Gas Users Association, Federation of Rental-housing Providers of Ontario, Jason Stacey, Just Energy L.P., the London Property Management Association, the Ontario Association of Physical Plant Administrators, Ontario Power Generation, Pollution Probe Foundation, Shell Energy North America (Canada) Inc., Six Nations Natural Gas Company Limited, The Corporation of the City of Kitchener, TransCanada Energy Limited, TransCanada PipeLines Limited, and the Vulnerable Energy Consumers Coalition.

On October 20, 2010 the 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 November 8, 2010, and the hearing of any Settlement Proposal filed by the parties on November 18, 2010.

Also, on October 20, 2010 the Ontario Energy Board issued a letter with respect to proceedings EB-2008-0150 and EB-2007-0722 allowing Union to meet its obligations with respect to emergency financial assistance for low-income customers through its existing Winter Warmth program. By letter dated October 22, 2010 Union withdrew its proposal to include \$836,000 in 2011 rates related to Low Income Energy Assistance Program ("LEAP") funding. Union also withdrew its request for a LEAP deferral account.

THE APPLICATION

Union indicated that the rates proposed under the Incentive Rate Mechanism ("IRM") for 2011 were determined in accordance with the Board approved EB-2007-0606 Settlement Agreement and Addendum. The topics covered in Union's evidence included the 2011 Inflation and Productivity Factors, Y and Z factor Adjustments, Average Use Adjustments, Annual Adjustments to General Service Monthly Charges, Customer Bill Impacts, Rate Schedule Changes, Deferral Account Requests and Implementation.

Union's proposals and requested approvals included:

- An inflation factor of 0.72% (calculated as the average of the year over year percentage change in the Gross Domestic Product Implicit Price Index Final Domestic Demand) and a 1.82% productivity factor (in accordance with the EB-2007-0606 Settlement Agreement) used to calculate the proposed rates;
- Y factor amounts of \$2.263 million for Demand Side Management (“DSM”) and \$5.351 million for the phase out of the in-franchise ratepayers’ share of long-term storage margins;
- Z factor adjustment in the amount of \$2.064 million to the credit of ratepayers;
- Average Use of Gas adjustments for 2011 for General Service rates classes M1, M2 and Rate 10;
- An increase of \$1.00 in the monthly fixed charge (from \$19.00 to \$20.00) for the residential classes M1 and Rate 01 on a revenue neutral basis; and
- Two new deferral accounts:
 - Harmonized Sales Tax (HST) – to record the amount of Provincial Sales Tax previously paid and collected in approved rates now subject to HST credits and to record the amount of HST paid on taxable items for which no tax credits are received from the Canadian Revenue Agency; and
 - Demand Side Management – to record the net revenues associated with Union participating in Conservation Demand Management activities.

Union proposed that the new rates be effective January 1, 2011 as described in the Rate Setting Process of the EB-2007-0606 Settlement Agreement at Section 12.1.1.

SETTLEMENT PROPOSAL

Following the Settlement Conference held on November 8, 2010, a Settlement Agreement was filed with the Board on November 11, 2010 and is attached as Appendix A to this Decision (the “Settlement Agreement”).

The Settlement Agreement indicated that a complete settlement was reached on all issues by all parties who took part in the Settlement Conference with the exception of TransCanada Energy who took no position on all issues.

By Procedural Order No. 2 dated November 15, 2010, the Board cancelled the November 18, 2010 oral hearing to review the Settlement Agreement.

BOARD FINDINGS

The Board has reviewed Union's Settlement Agreement of November 11, 2011 and approves it as filed for rates effective January 1, 2011.

IMPLEMENTATION

Given current timing, the Board expects that the 2011 rates, effective January 1, 2011, will be implemented commencing with the first billing cycle on or after January 1, 2011.

COSTS

A decision regarding cost awards will be issued at a later 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 and Order. 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 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 and Order.
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 and Order.

4. Intervenor, 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-2010-0148, 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 16, 2010.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

TO BOARD DECISION AND ORDER

BOARD FILE NO. EB-2010-0148

**UNION GAS LIMITED 2011 RATES
UNION SETTLEMENT AGREEMENT**

DATED: November 11, 2010



uniongas

A Spectra Energy Company

November 11, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4B 1E4

Dear Ms. Walli:

Re: EB-2010-0148 Union's 2011 Rates Settlement Agreement

Please find attached the EB-2010-0148 Settlement Agreement as agreed to by the Intervenor and Union.

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

Yours truly,

[Original signed by]

Chris Ripley
Manager, Regulatory Applications

c.c.: Crawford Smith (Torys)
EB-2010-0148 Intervenor

EB-2010-0148

UNION GAS LIMITED

SETTLEMENT AGREEMENT

November 8, 2010

EB-2010-0148

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is for the consideration of the Ontario Energy Board (“the Board”) in its determination, under Docket No. EB-2010-0148, of Calendar 2011 rates for Union Gas Limited (“Union”). By Procedural Order No. 1 dated October 20, 2010, the Board scheduled a Settlement Conference to commence at 9:00 a.m. on November 8, 2010. 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”)

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”)

Vulnerable Energy Consumers Coalition (“VECC”)

Industrial Gas Users Association (“IGUA”)

TransCanada Energy Ltd. (“TransCanada”)

A complete settlement was reached on all issues by all parties with the exception of TransCanada who took no position on all issues. The Agreement is supported by the evidence filed in the EB-2010-0148 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-2010-0148, 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. 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 2011 INFLATION FACTOR AND PRODUCTIVITY FACTOR

(Complete Settlement)

The parties accept Union's calculations.

Evidence References:

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

2 Z FACTOR ADJUSTMENTS

(Complete Settlement)

The parties accept Union's calculations.

Evidence Reference:

1. A/T1/pp. 3-6, Rate Order Working Papers/S4, S13 and S15
2. B2.1

3 Y FACTOR ADJUSTMENTS

(Complete Settlement)

The parties reached complete settlement on the Y Factor Adjustments, subject to the following specific settlement related to the removal of Emergency Financial Assistance Funding ("LEAP funding") from the Application.

Subsequent to the filing of the Application the Board issued a letter in proceedings EB-2008-0150, EB-2007-0722, and EB-2008-0346 dated October 20, 2010 allowing Union, in lieu of obtaining LEAP funding from ratepayers, to meet their obligations with respect to emergency financial assistance for eligible low-income customers through their existing contributions to the Winter Warmth program. In the case of Union the contributions to the Winter Warmth program in 2011 exceed what would be their 2011 LEAP funding obligation such that, pursuant to the

Board's October 20, 2010 letter, Union has withdrawn its proposal to include \$0.836 million in 2011 rates related to LEAP funding. The parties acknowledge that Union's contributions to the Winter Warmth fund, which arise from a late payment penalty related court settlement, are collected from ratepayers on a different basis than the collection of LEAP funding pursuant to the Board's October 20, 2010 letter. Accordingly the parties agree that this settlement is without prejudice to the parties' positions with respect to the appropriate allocation of LEAP related funding in future proceedings.

The parties accept Union's calculations.

Evidence References:

1. A/T1/pp. 6-11, Rate Order Working Papers/S2, S4, S10, S11 and 14
2. B1.1, B4.2

4 AVERAGE USE FACTOR

(Complete Settlement)

The parties accept Union's calculations.

Evidence References:

1. A/T1/p. 11, Rate Order Working Papers/S4 and 10
2. B1.3, B1.4

5 ANNUAL ADJUSTMENTS TO GENERAL SERVICE MONTHLY CHARGES

(Complete Settlement)

The parties accept Union's proposal.

Evidence References:

1. A/T1/pp. 12, Rate Order Working Papers/S4

6 CUSTOMER BILL IMPACTS

(Complete Settlement)

The parties accept Union's calculations.

Evidence references:

1. A/T1/p. 12, Rate Order Working Papers/S9
2. B2.1

7 RATE SCHEDULE CHANGES

(Complete Settlement)

The parties accept Union's proposals.

Evidence References:

1. A/T1/p. 12
2. B4.4

8 DEFERRAL ACCOUNT REQUESTS

(Complete Settlement)

The parties accept Union's proposals.

The parties note that Union has withdrawn its request for a LEAP deferral account.

This settlement is without prejudice to matters pertaining to the clearance of credit balances in Deferral Accounts 179-121 and 179-122 currently scheduled for hearing on December 6 and 7, 2010, pursuant to a Decision and Order dated September 3, 2010, in EB-2010-0039.

Evidence References:

1. A/T1/pp. 13-15
2. B1.2, B4.5

9 IMPLEMENTATION

(Complete Settlement)

The parties accept an implementation date of January 1, 2011.

Evidence References:

1. A/T1/p. 15