



**EB-2010-0039**

**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 amending or varying the rate or rates charged to customers as of October 1, 2010;

**AND IN THE MATTER OF** relief sought by Union Gas Limited for an Order deferring the disposition of amounts in deferral accounts 179-121 and 179-122 until the sale of the St. Clair Line has closed or the project is cancelled.

#### **NOTICE OF HEARING AND PROCEDURAL ORDER NO. 4**

On November 27, 2009, the Board released its Decision in EB-2008-0411, granting Union Gas Limited ("Union") leave to sell the St. Clair Transmission Line to Dawn Gateway Pipeline Limited Partnership ("Dawn Gateway"). Leave to sell was granted on condition that Union allocate to ratepayers on the sale of the St. Clair Transmission Line the amount of \$6.402 million as the ratepayers' share of a deemed net gain from the sale. The Board ordered that the \$6.402 million should be placed into a deferral account and also that Union create another deferral account to capture the effect of removing the St. Clair Transmission Line from rates effective March 1, 2010. On March 15, 2009, Union filed for approval by the Board two draft accounting orders to create the deferral accounts ordered in EB-2008-0411.

Account 179-121 records the cumulative under-recovery of the St. Clair Transmission Line from 2003 until the time of the sale of the asset. Account 179-122 records the impact of removing the St. Clair Transmission Line (and related St. Clair River Crossing) from rates (including all rate base and OM&A consequences) effective March 1, 2010 until the Board adjusts Union's rates to reflect the asset sale.

Union filed an Application dated April 22, 2010 to address the disposition of 2009 deferral accounts and Market Transformation Incentive amounts, the 2009 earnings sharing amount and the allocation of costs between Union's regulated and unregulated storage operations. The Board assigned docket number EB-2010-0039 to this Application.

On August 10, 2010, the Board approved the Settlement Agreement reached by parties in the EB-2010-0039 proceeding. With respect to the matter of the determination of disposal of balances in the St. Clair deferral accounts (account numbers 179-121 and 179-122), the parties agreed to postpone this issue until after November 1, 2010 when Union expected that Dawn Gateway and its shippers would have determined whether to proceed with the construction of the Dawn Gateway Pipeline. In its Decision and Order dated September 3, 2010, the Board indicated that a two day oral hearing would be scheduled for December 6 and 7, 2010 to address the balances in deferral accounts 179-121 and 179-122.

On November 19, 2010, the Board received a Notice of Motion from Union seeking to adjourn the December 6 and 7, 2010 oral hearing until late February 2011. Union indicated that Dawn Gateway was in the process of determining market interest in the proposed Dawn Gateway pipeline and that the delay sought by Union would provide time to determine whether there was sufficient interest in the pipeline for an in-service date of 2011.

On December 3, 2010 the Board heard submissions on the Motion and rendered an oral decision. The Board granted Union's request for an adjournment on a with-prejudice basis. Also, the Board required Union to file any additional evidence or new evidence with respect to this matter at least 30 days prior to the dates set in consultation with Board staff and intervenors.

By letter dated February 4, 2011, Union filed a request for declaratory relief from the Board ordering that the amounts in deferral accounts 179-121 and 179-122 not be disposed of until the sale of the St. Clair Line has closed or the project is cancelled. Union also included further pre-filed evidence and the evidence of DTE Pipeline Company.

The Board has determined that it will hold an oral hearing of this matter to consider the submissions on Union's request for declaratory relief.

The entire record of proceedings before the Board on December 3, 2010, which was Union's Motion for adjournment and Canadian Manufacturers and Exporter's Cross-Motion, will form part of the record in this proceeding.

The Board has determined that the issues to be considered at the hearing are:

1. Is the disposition of deferral accounts 179-121 and 179-122 dependent on the completion of the transaction between Union Gas Limited and Dawn Gateway Limited Partnership?
2. If the answer to the first issue is yes, what if any action is required by the Board at this time?
3. If the answer the first issue is no,
  - a. As of what effective date should deferral accounts 179-121 and 179-122 be disposed?
  - b. What are the amounts in the accounts as of that date?
  - c. What is an appropriate methodology to apportion the amounts across customer rate classes?
  - d. Does the St. Clair Transmission Line remain in Union Gas Limited's rate base?

The Board considers it necessary to make provisions for the following procedural matters related to this proceeding. Further procedural orders may be issued from time to time.

**THE BOARD THEREFORE ORDERS THAT:**

1. Parties seeking information and material from Union Gas Limited or DTE Pipeline Company on the evidence filed February 4, 2011 shall request it by written interrogatories filed with the Board and delivered to all parties on or before **Thursday March 10, 2011**.
2. Union Gas Limited or DTE Pipeline Company, as appropriate, shall file with the Board and deliver to all parties complete responses to all interrogatories on the evidence filed February 4, 2011 on or before **Wednesday March 16, 2011**.

3. Intervenors who wish to file evidence related to the issues outlined by the Board above or in response to the evidence of Union Gas Limited or DTE Pipeline Company filed February 4, 2011 shall file such evidence with the Board and deliver it to all parties or before **Tuesday March 22, 2011**.
4. Parties seeking information and material that is in addition to any intervenor evidence and that is relevant to the issues outlined by the Board above shall request the same by written interrogatories filed with the Board and delivered to all parties on or before **Monday March 28, 2011**.
5. Responses by intervenors to interrogatories related to any intervenor evidence shall be filed with the Board and delivered to all parties on or before **Friday April 1, 2011**.
6. The oral hearing will be held on **Wednesday, April 6, 2011 at 9:30 am** in the Board's hearing room at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto.

All filings to the Board must quote the file number, EB-2010-0039, be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

**ADDRESS**

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

E-mail: [boardsec@ontarioenergyboard.ca](mailto:boardsec@ontarioenergyboard.ca)  
Tel: 1-888-632-6273 (toll free)  
Fax: 416-440-7656

**DATED** at Toronto March 7, 2011

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary