**EB-2007-0606**
**EB-2007-0615**

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.

# ARGUMENT OF THE BUIDLING OWNERS AND MANAGERS ASSOCIATION OF THE GREATER TORONTO AREA, THE LONDON PROPERTY MANAGEMENT ASSOCIATION AND THE WHOLESALE GAS SERVICE PURCHASERS GROUP ON THE TREATMENT OF CUSTOMER ADDITIONS

This is the combined argument of the Building Owners and Managers Association of the Greater Toronto Area ("BOMA"), the London Property Management Association ("LPMA") and the Wholesale Gas Service Purchasers Group ("WGSPG") on the treatment of customer additions.

The outstanding issue for both Union Gas ("Union") and Enbridge Gas Distribution ("Enbridge") is whether or not there needs to be special treatment provided within a comprehensive incentive regulation framework for the ongoing addition of customers.

The Green Energy Coalition ("GEC") and Pollution Probe ("PP") believe there should be a Y factor related to the incremental revenue requirement impact of the customer attachments or some other special treatment of such attachments during the incentive regulation period. Please note that these customer additions, in the case of Enbridge, do not include large power plants, which were dealt with separately in the Settlement Agreement.

BOMA/LPMA/WGSPG agree with the submission of both Union and Enbridge that the impact on revenue requirement from the normal business capital expenditures related to these customer additions is not required and would simply be an unnecessary regulatory burden on the parties going forward. The Board does not need to approve any special treatment (Y factor or other) for a problem that does not exist.

GEC and PP attempted during cross-examination to demonstrate that the financial impact on the utilities during the term of the incentive regulation plan would be negative. That is, the utilities would be better off financially if they reduced their capital expenditures related to customer additions. Not only did both parties fail to establish this, the evidence actually supports the opposite conclusion.

The key piece of evidence that supports the conclusion that the utilities are better off financially with the addition of customers is Union's Exhibit C20.5 Updated. The table at the top of the second page of that Exhibit shows that the addition of Union's forecast of 22,479 customers in 2008 results in a deficiency of approximately $2.5 million in 2008. This is, apparently, the deficiency that both GEC and PP believe needs to be addressed so that the utilities do not reduce the number of customer attachments in order to improve the short term financial results of the company.

The position of GEC and PP needs to be put into context. As Mr. Birmingham indicated (Tr. Vol. 2, page 24), Union's total annual margin is approximately $875 million. The total deficiency of $2.5 million shown in the response to Exhibit C20.5 Updated therefore represents approximately 0.29% of the total annual margin. This impact would assume that Union added no additional customers whatsoever, a completely unrealistic scenario. If Union were to reduce its customer additions by 10% from its forecast to improve its bottom line in the short term, the reduction in the deficiency would be a staggering $0.25 million, or 0.029% of the total annual margin.

If this were the end of the story, there would not be any need for Y factor or some other special treatment of this issue required simply because the problem envisioned by PP and GEC would have such a small impact on the bottom line of the utility. However, it is not the end of the story. The table at the bottom of the second page of Exhibit C20.5 Updated has been included here, with a column added to show the impact over the entire incentive regulation period of five years.

| Forecast Deficiencies by Year | 2008 | 2009 | 2010 | 2011 | 2012 | Total |
|---|---|---|---|---|---|---|
| 2008 New Customer Adds | (2.5) | 1.5 | 1.6 | 1.7 | 1.8 | 4.1 |
| 2009 New Customer Adds | | (2.5) | 1.5 | 1.6 | 1.7 | 2.3 |
| 2010 New Customer Adds | | | (2.5) | 1.5 | 1.6 | 0.6 |
| 2011 New Customer Adds | | | | (2.5) | 1.5 | (0.9) |
| 2012 New Customer Adds | | | | | (2.5) | (2.5) |
| Cumulative | (2.5) | (0.9) | 0.7 | 2.4 | 4.2 | 3.9 |

The table clearly demonstrates that the addition of customers in 2008 has a net sufficiency to the utility of $4.1 million over the term of the incentive regulation plan. If Union were to reduce customer additions in 2008, it would be reducing its sufficiency in future years. As both utilities noted, if they fail to add a new customer, that customer will use some other energy source, and will be lost to the utilities until at least that customer replaces his equipment, which will be decades from now.

The above table also illustrates the over the incentive regulation plan term, there is an overall net sufficiency of $3.9 million to the utility of adding customers each year of the plan. GEC and PP may argue that customer additions in 2011 and 2012 may be at risk because over the remaining term of the incentive regulation plan, the impact on the utility is a deficiency. However, BOMA/LPMA/WGSPG have already noted above that the impact of a 10% reduction in customer additions is so small as to not be relevant. In addition, by not adding these customers close to the rebasing year, the utility would be forgoing the associated increase in rate base under its subsequent cost of service filing. Again, this would not be in the interest of the utility or its shareholders.

It should also be noted here the difference between the results in Union's Exhibit C20.5 Updated and Exhibit C20.4 Updated. As Mr. Birmingham pointed out, the key differences are that the results in Exhibit C20.5 Updated are based on 2008 rates and a lower return on capital as currently exist (Tr. Vol. 2, pages 30-31). Another factor that has increased the profitability of customer additions is the changes in taxes that have taken place since 2006, including the increase in the capital cost allowance rate related to capital expenditures on mains, services, regulators and meters, the reduction in the provincial capital tax and the reduction in the federal corporate income tax rate. It is not clear if these impacts are shown in the figures provided in Exhibit C20.5 Updated. If they are not, the impact would be to enhance the sufficiency reported there and increase the overall sufficiency during the incentive regulation plan term.

BOMA/LPMA/WGSPG note that the impact on the deficiency/sufficiency of Union and Enbridge is similar for the 2006 customer additions (Exhibit C20.4 Updated and Exhibit I, Tab 9, Schedule 5). In both cases the deficiency becomes a sufficiency in the fifth year. Mr. Birmingham then provided the reasons why the 2008 customer additions for Union switched from a deficiency to a sufficiency in the second year rather than in the fifth year. This acceleration was because of the increase in the rates that took place in 2007 and 2008 and the reduction in the cost of capital from that in 2006. Enbridge would experience the same overall impact of higher net margins and a lower return on rate base, so it could reasonably be expected that Enbridge would also have a sufficiency earlier than the fifth year. A review of Exhibit I, Tab 9, Schedule 5 shows the deficiency for Enbridge in the second year is only $1.591 million, almost $1.0 million less than the deficiency shown by Union in the first year of their analysis for 2006 customer additions. The reduction in the provincial capital tax in 2008 as compared to 2006, the increase in the capital cost allowance deduction in 2008 as compared to 2006 and the decrease in the federal income tax rate in 2008 as compared to 2006 would all work to decrease the deficiency/increase the sufficiency for Enbridge in each year over the 2008 through 2012 period. The end result is that it would be reasonably expected that Enbridge, which shows a lower initial deficiency than does Union for customer additions, would have a similar profile to that of Union shown in Exhibit C20.5 Updated for customer additions during the incentive regulation period.

Mr. Klippenstein indicated that it would likely be Pollution Probe's submission that utility shareholders should be not be financially penalized for attaching new customers as long as the profitability index of its portfolio of new customer additions is 1.0 or greater (Tr. Vol. 2, page 33). The evidence on the record is clear that not only will the shareholders not be penalized for attaching customers; they will in fact be rewarded over the term of plan with a net sufficiency.

GEC and PP have made the assumption that the utilities may cut customer additions for short term financial gains during an incentive regulation plan. As shown above, a substantial reduction in customer additions would have a positive impact of only $0.25 million on the bottom line of Union in the first year. Each year after that, the impact of forgoing these customer additions would be negative to the company. The numbers for Enbridge are even smaller, given their smaller deficiency in the first year.

Both utilities have indicated that the comprehensive settlement proposals are sufficient to support their capital investment programs. BOMA/LPMA/WGSPG also note that the settlement proposals provide for a review if there is a 300 basis point or greater variance in weather normalized utility earnings above or below the amount calculated annually by the application of the Board's ROE formula in any year of the IR plan. As a result, if the situation were to arise such that earnings were substantially lower than expected, the IR plan will be reviewed and adjusted as necessary.

In summary, the evidence on this issue is clear that there is no support, need, or desire for special treatment, Y factor or otherwise, for customer additions as sought by Pollution Probe and the Green Energy Coalition.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of February, 2008.

**BUILDING OWNERS AND MANAGERS ASSOCIATION**
**OF THE GREATER TORONTO AREA**
**&**
**LONDON PROPERTY MANAGEMENT ASSOCIATION**
**&**
**WHOLESALE GAS SERVICE PURCHASERS GROUP**

By their Consultant

**AIKEN & ASSOCIATES**

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