



EB-2010-0018

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 Natural
Resource 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
commencing October 1, 2010

AND IN THE MATTER OF an Application by Natural
Resource Gas Limited for an Order or Orders approving a
multi-year incentive rate mechanism plan

PROCEDURAL ORDER NO. 7

Natural Resource Gas Limited ("NRG" or the "Applicant") filed an Application, dated February 10, 2010, with the Ontario Energy Board under section 36 of the *Ontario Energy Board Act*, S.O. 1998, c.15, Schedule B. The Board assigned file number EB-2010-0018 to the Application. The Application sought approval for a revenue requirement and rates for the 2011 rate year, and for the approval of a four year Incentive Regulation Mechanism ("IRM") for the period 2012-2015.

The Board issued a Notice of Application dated March 1, 2010. The Town of Aylmer, Union Gas Limited ("Union"), Integrated Grain Processors Co-Operative Inc. ("IGPC") and Vulnerable Energy Consumers Coalition ("VECC") applied for and were granted intervenor status.

The Board issued a decision and order on December 6, 2010 that determined rates for the 2011 rate year (effective October 1, 2010). The Board also accepted NRG's request to address the IRM component of the Application for 2012 and beyond (and certain other discrete issues) in a second phase to the proceeding ("Phase 2"). Accordingly,

the Board determined that it would deal with IRM, IGPC pipeline maintenance costs and gas costs for purchases from the related company in Phase 2 of the proceeding.

NRG filed a letter on April 28, 2011 informing the Board that two companies had filed bids in response to a request for developing a maintenance protocol to maintain the IGPC high pressure steel pipeline. NRG sought the Board's direction on whether to proceed with the second round of the Request for Proposal and solicit bids for the actual maintenance work or to revert back to the original MIG proposal related to maintenance of the IGPC pipeline filed in the Application. The Board issued a letter on May 3, 2011 directing NRG to not proceed any further and determined that it will address this issue in Phase 2 of the proceeding.

NRG filed a revised IRM plan on May 6, 2011. On July 18, 2011, NRG completed its Phase 2 filing requirements by filing an independent system integrity study that identified alternatives to maintaining system pressure in NRG's southern service area as opposed to purchasing gas from the related company.

In addition, on June 7, 2011, IGPC filed a letter requesting the Board to hear a motion (the "Motion") that it had filed on August 3, 2010 related to its dispute over the construction costs of the pipeline built by NRG to serve the IGPC ethanol plant. At the oral hearing in the first phase of the proceeding, the Board determined that its decision would only address issues that had potential rate impacts. The Board indicated at that time that IGPC would be free to recast its Motion on the remaining issues should there be any at a later date.

NRG filed a letter on June 22, 2011 submitting that the Board in its Decision of December 6, 2010 had already determined the capital cost of the IGPC pipeline and that the Board did not have jurisdiction to revisit the issue. NRG maintained that if IGPC believed that there were issues remaining in the motion then it needs to recast the motion and file the relevant materials.

In a letter filed on July 6, 2010, IGPC clarified the elements of its Motion that were, in IGPC's view, still outstanding. IGPC submitted that the capital cost of the pipeline was still in dispute and before the Board in the Motion filed by IGPC. The specific items listed by IGPC include; (i) the administrative penalty; (ii) NRG's claimed legal costs; (iii) the costs claimed in respect of Mr. Mark Bristoll; and (iv) interest and other costs.

When the Motion was originally filed, the Board sought argument from the parties on various issues, including whether or not the Board should address cost disputes between parties that do not directly impact rates (Procedural Order No. 5). Although the Board received written submissions and heard oral arguments, it did not ultimately make a determination on this issue. Instead, it determined that it would hear all rate related issues in Phase 1 of the proceeding, and to the extent additional issues remained they could be raised at a later date. Prior to hearing the Motion on its merits, the Board still wishes to make a determination on whether or not the dispute over pipeline costs is properly before it, and will allow parties to again file written argument on this issue.

The Board accepts the IGPC letter of July 6, 2010 as a Notice of its revised Motion. The Board considers it necessary to make provision for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

THE BOARD THEREFORE ORDERS THAT:

1. Any party wishing to make submissions on whether the matters raised in the Motion are properly before the Board may do so by **August 10, 2011**. If a party wishes to rely on the materials it filed in response to Procedural Order No. 5, it may do so by advising the Board.
2. Parties who wish information and materials from the Applicant that is in addition to the evidence filed with the Board in Phase 2 of the proceeding, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to NRG on or before **August 17, 2011**.
3. NRG shall file with the Board complete responses to the interrogatories and deliver them to the Intervenor no later than **August 31, 2011**.

All filings to the Board must quote file number EB-2010-0018, be made through the Board's web portal at 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. 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 or diskette 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.

DATED at Toronto, August 2, 2011

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary