



EB-2011-0038

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, 2011.

**NOTICE OF HEARING, NOTICE OF MOTION HEARING
AND PROCEDURAL ORDER NO. 3**

Union Gas Distribution Inc. ("Union") filed an application dated April 18, 2011 with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act*, 1998, S.O. c.15, Schedule B, for an order of the Board amending or varying the rate or rates charged to customers as of October 1, 2011 in connection with the sharing of 2010 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2010 year-end deferral account and other balances (the "Application"). The Application also requests approval for a cost allocation methodology which is to be used to allocate costs between Union's regulated and unregulated businesses. The Board has assigned file number EB-2011-0038 to the Application.

Union is seeking an order or orders approving \$3.433 million as the customer portion of earnings sharing in 2010 and the proposed disposition of that amount to Union's customers.

Union is also seeking disposition of a \$2.511 million credit payable to ratepayers which is the net of the 2010 balances in the deferral accounts and other balances. In addition, Union is seeking an order or orders approving its proposed cost allocation methodology which is to be used to allocate costs between Union's regulated and unregulated businesses.

A Notice of Application and Procedural Order No. 1 was issued on May 13, 2011, setting due dates for interrogatories and responses to interrogatories. By letter dated June 14, 2011, FRPO, CME and Kitchener (or the Intervenor Group) indicated that they intended to file intervenor evidence in this proceeding.

Procedural Order No. 2 was issued on June 17, 2011 setting out dates for supplemental interrogatories, intervenor evidence, interrogatories on intervenor evidence, responses to interrogatories on intervenor evidence, a Technical Conference, a Settlement Conference and a Settlement Proposal.

By letter dated August 9, 2011, Union advised the Board that the company and intervenors were unable to reach a settlement.

On August 15, 2011, CME filed a Notice of Motion ("Motion") for a Board Order requiring Union to provide the amount of a one time adjustment to the balance of Deferral Account No. 179-72 (Long-Term Peak Storage Services) to reflect corrections for Union's use, in its calculations of deferral account balances for 2008, 2009 and 2010, of certain items that CME alleges were unauthorized and do not constitute "costs" of providing unregulated storage services.

The Motion also requests an Order of the Board requiring Union to provide calculations of the Return on Equity it earned from its unregulated storage assets for 2008 and 2010 in a particular format.

In addition, Union has indicated that it wishes to file evidence in reply to the evidence filed by the Intervenor Group.

Accordingly, the Board will make provisions for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT

1. Union shall file any reply evidence to the evidence filed by the Intervenor Group no later than **Friday, August 26, 2011**.
2. Union shall file its responding motion record no later than **Tuesday, August 30, 2011**.

3. Interrogatories on Union's reply evidence shall be filed with the Board and copied to all parties no later than **Tuesday, September 6, 2011**.
4. CME, and any party supporting the relief sought in the Motion, shall file a factum in support of the Motion no later than **Tuesday, September 6, 2011**.
5. Union, and any party opposing the relief sought by the Motion, shall file a factum opposing the Motion no later than **Friday, September 9, 2011**.
6. Responses to interrogatories on Union's rely evidence shall be filed with the Board and copies to all parties no later than **Monday, September 12, 2010**.
7. If required, the Board may hear submissions on the Motion on **Tuesday, September 13, 2011 at 9:30 a.m.** in the Board's Hearing room, on the 25th floor at 2300 Yonge Street, Toronto.
8. An Oral Hearing will commence on **Monday, September 19, 2011 at 9:30 a.m.** in the Board's Hearing room, on the 25th floor at 2300 Yonge Street, Toronto, and may continue on September 20 and 21 if required.

All filings to the Board must quote file number EB-2011-0038, 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 BoardSec@ontarioenergyboard.ca. 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 seven paper copies. If you have submitted through the Board's web portal an e-mail is not required. All parties must also provide the Case Manager, Lawrie Gluck, Lawrie.gluck@ontarioenergyboard.ca with an electronic copy of all comments and correspondence related to this case.

ISSUED at Toronto, AUGUST 24, 2011

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary