



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. 4**

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.

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 (the "CME 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.

Procedural Order No. 3 was issued on August 24, 2011 setting out the process for addressing the CME Motion.

On September 6, 2011, Union filed a Notice of Motion (the "Union Motion") for a Board Order granting Union leave to file the affidavit of Chris Ripley sworn August 31, 2011 (the "Ripley Affidavit"), in response to the motion brought by CME. Union noted that the Ripley Affidavit includes information that is directly responsive to the allegations in the CME motion. Union noted that CME and other intervenors were aware of the method used by Union to calculate the amount recorded in Account 179-72 including the use of a "hurdle" rate in respect of storage related assets acquired by Union subsequent to the Board's NGEIR Decision to provide Long-Term Peak Storage Services. Union noted that granting leave to file the Ripley Affidavit will ensure a complete record before the Board upon which it can render a decision.

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, and any party opposing the relief sought by the CME Motion, shall file a factum opposing the Motion no later than **Friday, September 9, 2011**. (Originally ordered in Procedural Order No.3 and re-ordered here for clarity of schedule).
2. Union shall file a factum and any other relevant materials supporting the Union Motion on **Monday, September 12, 2011**.
3. Board staff and any intervenors wishing to file a factum and/or other relevant materials regarding the Union Motion shall do so by **Thursday, September 15, 2011**.
4. 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. The Hearing will commence with the hearing of the Union Motion. This will be immediately followed by the hearing of the CME Motion. The Oral Hearing will continue with regards to the rest of the proceeding once the hearing on the two Motions is completed. Please note that the hearing 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, September 8, 2011

ONTARIO ENERGY BOARD

Original Signed By

John Pickernell
Asst. Board Secretary