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EB-2011-0038

THE ONTARIO ENERGY BOARD

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.

MINUTES OF SETTLEMENT

WHEREAS Canadian Manufacturers & Exporters ("CME") filed a Notice of Motion (the "CME Motion") seeking a Board Order requiring Union Gas Limited ("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.

AND WHEREAS the CME 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.

AND WHEREAS 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 in response to the motion brought by CME.

AND WHEREAS the parties listed below have agreed to the terms of these Minutes of Settlement..

Union and CME have agreed to withdraw their respective Motions on the following terms:

1. Union will file all of the information sought in the CME Motion;
2. The parties will not seek, directly or indirectly, any relief with respect to the Decisions of the Board in EB-2009-0052 and EB-2010-0039 regarding Deferral Account Nos. 179-70 or 179-72 or related thereto, including through a one-time adjustment to the balances in those accounts as contemplated by the CME Motion or otherwise;

3. Union will not take the position that acceptance by the parties in the settlement agreement in EB-2010-0039 of the disposition of Deferral Account Nos. 179-70 or 179-72 precludes the parties from challenging the correctness of the methods used in EB-2009-0052 and EB-2010-0039 in determining the balances in Deferral Account Nos. 179-70 or 179-72 and will not take the position that the Board is precluded from approving in this application a different method of calculating the deferral account balances in those accounts in 2010;
4. Subject to paragraph 2 above, the parties will be at liberty to examine on the material filed by Union and to argue that the methods of calculation used by Union, in determining the balances in Deferral Account Nos. 179-70 or 179-72, in 2008 and 2009 were incorrect, and that a different method or methods should be used in calculating the deferral account balances in those accounts in 2010;
5. Subject to its right to contest the amount of costs claimed, Union agrees that it will not contest a claim for costs, by the CME or other parties, with respect to the time spent in dealing with the CME Motion and the Union Motion.

Dated this 13th day of September, 2011.

The Parties to this agreement are:

UNION GAS LIMITED

CANADIAN MANUFACTURERS AND EXPORTERS

CONSUMERS COUNCIL OF CANADA

VULNERABLE ENERGY CONSUMERS COALITION

SCHOOL ENERGY COALITION

FEDERATION OF RENTAL-HOUSING PROVIDERS OF ONTARIO

INDUSTRIAL GAS USERS ASSOCIATION

LONDON PROPERTY MANAGEMENT ASSOCIATION

ENERGY PROBE RESEARCH FOUNDATION

CORPORATION OF THE CITY OF KITCHENER