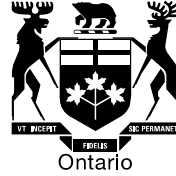


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BY E-MAIL ONLY

October 3, 2011

Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Board Staff Submission
Union Gas Limited 2010 Earnings Sharing & Disposition of Deferral
Accounts and Other Balances
Board File No. EB-2011-0038**

Please find attached the Board staff submission with respect to the above noted proceeding.

Yours truly,

Original signed by

Lawrie Gluck
Case Manager

Attachments

C: Chris Ripley (Union)
Crawford Smith (Torys LLP)
All Intervenors of Record



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Union Gas Limited

**2010 Earnings Sharing & Disposition of Deferral Accounts and Other
Balances**

Board File No. EB-2011-0038

October 3, 2011

INTRODUCTION

Union Gas Limited (“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 requested approval for a cost allocation methodology which is to be used to allocate costs between Union’s regulated and unregulated natural gas storage 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 CME Motion also requested 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.

On September 13, 2011, Union filed the Minutes of Settlement relating to both the CME and Union Motions. The Minutes of Settlement stated that Union and CME had 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 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.

On September 15, 2011, Union filed the information requested by the CME Motion as agreed to in the Minutes of Settlement.

On September 19th to 21st, 2011, the Board held a hearing in regards to all matters in this proceeding. On the morning of September 21, 2011 the Board heard the Argument-in-Chief of Union. At the hearing, the Board set out the schedule for the remaining procedural matters. Namely, the filing of argument by Board staff and intervenors which the Board required to be filed by October 3, 2011 and the filing of reply argument which the Board required to be filed by October 13, 2011.

ALLOCATION OF COSTS BETWEEN UNION'S UTILITY AND NON-UTILITY STORAGE OPERATIONS

Background

In the EB-2010-0039 proceeding, there was a complete settlement regarding the allocation of costs between Union's regulated and unregulated storage operations. The effect of the settlement was to require Union to retain an independent cost allocation expert to study its allocation of costs between its regulated and unregulated storage operations.¹

As required by the EB-2010-0039 Settlement Agreement, Union retained Mr. Feingold of Black & Veatch as an expert on cost allocation matters. Mr. Feingold prepared a report entitled "Independent Review of the Accounting and Cost Allocation for Unregulated and Regulated Storage Operations" which is dated March 2011 and was filed by Union as part of its pre-filed evidence in the current hearing.

¹ See EB-2010-0039 Settlement Agreement.

A group of intervenors, made up of the Federation of Rental-housing Providers of Ontario, the Canadian Manufacturers & Exporters and the City of Kitchener filed intervenor evidence consisting of a report authored by Mr. John Rosenkranz and entitled "Union Gas Storage Margins and Cost Allocation Proposal".

In its evidence, Union noted that it effected the one-time separation of its utility and non-utility businesses through the application of its 2007 cost allocation methodology. Mr. Feingold noted that "in my opinion the conceptual underpinnings and resulting or associated methodologies upon which Union's cost allocation process is based are well conceived, thorough and reasonable in their treatment of storage-related plants and expenses."² Mr. Feingold indicated that the conceptual underpinning of Union's utility/non-utility cost allocation methodology is the principle of cost causality, which he believes is a principle that the Board has consistently applied over the past number of years.

In its Argument-in-Chief, Union made note of the two main outstanding criticisms of Union's allocation of costs between its utility and non-utility storage operations brought forth by the intervenors and their retained cost allocation expert Mr. Rosenkranz.³

First, Mr. Rosenkranz was of the opinion that the non-utility storage allocation factor should be based on the actual marketable storage capacity and deliverability at the time of the separation. Mr. Rosenkranz stated that Union's proposal to use cost allocation factors from its 2007 rate case causes a significant under-allocation of costs to Union's non-utility storage operation, and must be rejected.

Second, Mr. Rosenkranz indicated that resource optimization space should be included in the calculation of utility vs. non-utility storage allocation factors.

In regards to Mr. Rosenkranz's assertion that the non-utility storage allocation factor should be based on the actual marketable storage capacity and deliverability at the time of separation (i.e. Union's 2007 Cost Allocation Study should have been redeveloped using actual 2006 information), Union disagreed.

² See EB-2011-0038, Oral Hearing Transcripts Vol. 1, p 18.

³ See EB-2011-0038, Oral Hearing Transcripts Vol. 3, p. 42 onwards.

Union responded that Mr. Rosenkranz's suggestion is contrary to cost allocation principles. Union stated that actual events will change from year to year, as a result, primarily, of weather. Union noted that when determining cost allocation, as a fundamental principle you are attempting to reflect how particular systems were designed when they were built and assigning the related costs on that basis.

Union also noted that Mr. Rosenkranz's argument is inconsistent with the Natural Gas Electricity Interface Review ("NGEIR") Decision (EB-2005-0551). Union asserted that on page 74 of that Decision, the Board concluded that Union's current cost allocation study (being the 2007 Cost Allocation Study) is adequate for the purposes of separating the regulated and unregulated costs and the revenues for ratemaking purposes.⁴

In regards to Mr. Rosenkranz's argument that resource optimization space should be included in the calculation of utility vs. non-utility storage allocation factors, Union provided the following counter-arguments.⁵

By way of summary, Union first noted that this proposal is contrary to the principles of cost causality. Resource optimization has no fixed costs and therefore, to allocate on the basis of space breaches the principle of cost causality. Also, Union says this proposal results in the allocation of non-existent costs. Finally, Union indicates that the proposal is inconsistent with how Union actually uses optimization space. Union only optimizes that portion of its storage capacity that is designated as non-utility.

Board Staff Submission

Board staff is of the view that Union's existing cost allocation methodology is appropriate. Board staff notes that Mr. Rosenkranz provided substantial evidence to the contrary, however, Board staff submits that Mr. Rosenkranz's evidence does not appropriately interpret the Board's Decision in the NGEIR proceeding.

Specifically, with regard to the two arguments that are listed above and described by Union as Mr. Rosenkranz's main outstanding criticisms of Union's cost allocation methodology, Board staff notes the following:

⁴ See EB-2005-0551 Decision and Order at pg. 74.

⁵ See EB-2011-0038, Oral Hearing Transcript Vol. 3, p. 48, line 28 to p. 52, line 25.

The Appropriateness of the Non-utility Storage Allocation Factor

The non-utility storage allocation factor utilized by Union is in accordance with the NGEIR Decision. Also, the fundamental premise upon which the non-utility storage allocation factor was developed is appropriate.

Board staff submits that the cost allocation methodology used by Union to allocate costs between its utility and non-utility storage operations is in compliance with the Board's NGEIR Decision. The Board's Decision in NGEIR stated at Page 74, "We also conclude that Union's current cost allocation study is adequate for the purposes of separating the regulated and unregulated costs and the revenues for ratemaking purposes."⁶

In addition, Union's cost allocation methodology was formulated in a manner which reflects how particular systems were designed when they were built and assigns the related costs on that basis. Board staff submits that this methodology is appropriate.

Should Resource Optimization Space be Included in Storage Allocation Factors

In Union's reply evidence to the intervenor/Rosenkranz evidence,⁷ Union stated that resource optimization activities are limited to its non-utility storage operations. This was also expressed in *vive voce* evidence given by Mr. Isherwood during his cross-examination by Mr. Quinn.⁸

With respect to whether storage optimization space should be included in the storage numbers used for allocating utility and non-utility costs, Union indicates that this would be inappropriate. In particular, Union distinguishes between physical storage which it says is actual storage space that is sold to both utility and non-utility customers and attracts fixed costs which are allocated between both utility and non-utility customers; and optimization space to which Union says no fixed costs associated with physical assets can be attributed.

⁶ See EB-2005-0551, Decision and Order. p. 74.

⁷ See EB-2011-0038, Ex. K1.9.

⁸ See EB-2011-0038, Oral Hearing Transcript Vol. 2, p. 9, lines 2 and 12-16, and p. 19, lines 9-19.

Union addressed the methodology proposed in the Rosenkranz report which introduces non-utility optimization space into the allocation of costs between utility and non-utility storage as follows:

If optimization space is to be included in this allocation, then so must the associated optimization revenues, costs and risks. This is an unnecessarily complex approach, and it is inappropriate to include purely non-utility revenues, costs, risks and space in an allocation exercise between utility and non-utility, when they can be streamed directly to the non-utility business as Union does now.

In addition, the costs associated with Union's physical storage space are already allocated between its regulated and unregulated businesses. Union's unregulated storage business is already paying for its portion of Union's physical space. Including Union's optimization of unregulated long-term space in the allocation of space-related costs between its regulated and unregulated businesses effectively double-counts the costs of that space.⁹

In the absence of any evidence to the contrary, Board staff accepts that there are no fixed costs related to resource optimization activities and that there is therefore no basis for cost allocation of this space. Board staff notes that Union has confirmed that resource optimization activities only occur related to its non-utility storage operations and that Union is able to track the non-utility customers independent of the utility customers in for example, deciding whether to use system integrity space or to resource optimize by doing a gas loan or a space encroachment.¹⁰ In other words, Board staff is of the view that Union has clearly indicated that it can attribute issues that arise related to the use of or need for storage space back to either utility or non-utility customers and use the appropriate tools and resources depending on the type of customer. Board staff is therefore of the view that it is appropriate for Union's resource optimization related variable costs, revenues, and risk to be tied only to its non-utility storage accounts.

DISPOSITION OF DEFERRAL ACCOUNTS AND OTHER BALANCES

ACCOUNT No. 179-70 SHORT-TERM STORAGE AND OTHER BALANCING SERVICES

Background

⁹ See EB-2011-0038, Ex. K1.9, pp. 5-6.

¹⁰ See EB-2011-0038, Oral Hearing Transcript, Vol. 2, p. 10, lines 7-18.

The Short-Term Storage and Other Balancing Services deferral account ("Short-term Storage account") includes revenues from C1 Off-Peak Storage, Gas Loans, Enbridge LBA, Supplemental Balancing Services, C1 Short-Term Firm Peak Storage, and C1 Firm Short-Term Deliverability. The net margin for Short-Term Storage and Other Balancing Services is determined by deducting the costs incurred to provide service from the gross revenue.

The credit balance in the Short-term Storage account is \$0.657 million. The balance is calculated by comparing the actual 2010 net margin for Short-Term Storage Services of \$16.753 million to the net margin approved by the Board of \$15.829 million in the EB-2007-0606 Rate Order. The result is a net deferral credit of \$0.924 million. The net deferral margin is adjusted to reflect the 79% Utility portion (EB-2005-0551) and is to equal \$0.730 million, of which 90% or \$0.657 million is shared with ratepayers.¹¹

A cost of \$2.261 million has been recorded in this account for 2010. This is the same cost that has been recorded in the account every year since the NGEIR Decision. Mr. Rosenkranz has argued that the amount that should be recorded in the account as a cost is \$0.599 million. Mr. Rosenkranz indicated that the additional \$1.662 million in costs (\$2.261 million - \$0.599 million) should be shifted to the Long-term Storage account (Account No. 179-72).¹²

This disagreement arises due to differing interpretations of the NGEIR Decision. Union is of the view that the entire 100 PJ amount is considered the utility asset, while Mr. Rosenkranz is of the view that the utility asset is only the amount that is actually required for in-franchise customer needs in a given year.

Union noted that the \$0.599 million cost is the cost that Union originally calculated as part of its 2007 Cost Allocation Study and this was based on a forecast of being able to sell approximately 2 PJs of storage space on a short-term basis. However, Union stated that the NGEIR Decision set out that the amount above in-franchise storage requirements (which at that time was forecasted to be 92.1 PJs) up to the maximum set aside for in-franchise customers (100 PJs) would be available for sale on a short-

¹¹ See EB-2011-0038, Application / Ex. A / Tab 1, p. 5.

¹² See EB-2011-0038, Ex. K2.4, pp. 11-12.

term basis. Therefore, Union has included as a cost in the Short-term Storage account the costs of 7.9 PJs (100 PJs – 92.1 PJs) of storage space.¹³

Board Staff Submission

Board staff interprets the NGEIR Decision in the same manner as Union. Board staff believes that the Board's intent in NGEIR was to set aside the entire 100 PJ amount as a utility asset. This means that any amount in excess of the in-franchise storage needs and up to the 100 PJ maximum set by the Board would be available for sale on a short-term basis (and the margins would be shared in the manner indicated in the NGEIR Decision).

This is evident from the Board's Decision in the NGEIR proceeding. The Board notes on page 101:

The Decision to require Union to notionally divide its existing storage into two pieces – “utility asset” (maximum of 100 PJ) and a “non-utility asset” (the balance of Union's capacity) is set out in Chapter 6.”¹⁴

The Board further adds in the same paragraph:

As long as the utility and non-utility storage is operated as an integrated asset, it will not be possible to determine that any particular short-term transaction physically utilizes space from either the “utility asset” or the “non-utility” asset.”¹⁵

If Board staff were to accept Mr. Rosenkranz's opinion that the utility asset is only the amount that is actually required for in-franchise customer needs in a given year, then there would be no additional storage capacity within the “utility asset” for short-term transactions.

Moreover, as quoted above, the NGEIR Decision notes that it would not be possible to determine whether a particular short-term transaction physically utilizes space from the “utility asset”. Board staff submits that considering the NGEIR Decision refers to

¹³ See EB-2011-0038, Oral Hearing Transcripts, Vol. 3, pp. 29 -33 .

¹⁴ See EB-2005-0551, Decision and Order at p. 101.

the notion of not being able to identify whether a particular transaction physically utilizes space from the utility or non-utility asset, implies that there is additional capacity that could be used from the “utility asset” (which essentially points to the 100 PJ limit set by the Board as being the reasonable conclusion to make).

Board staff also submits that including only the \$0.599 million amount as a cost in the short-term deferral account results in in-franchise customers receiving margin sharing on the entire sold short-term storage above in-franchise customer needs (which has ranged from 87 PJs to 91.4 PJs in the 2007 – 2010 period) while only paying the costs on 2 PJs of that sold storage.

Therefore, Board staff submits that the inclusion of \$2.261 million in the Short-term Storage deferral account is appropriate.

ACCOUNT No. 179-72 LONG-TERM PEAK STORAGE SERVICES

Background

The Long-Term Peak Storage Services deferral account (“Long-term Storage account”) includes revenues from High Deliverability Storage, T1 Deliverability Upstream Balancing, Downstream Balancing, Dehydration Service, Storage Compression, C1 Long-Term Storage, and Long-Term Peak Storage. The net margin for long-term storage services is determined by deducting the costs incurred to provide the service from gross revenue.

The balance in the Long-term Storage account reflects the ratepayer portion of the deferred margin or 25% of the difference between actual revenue in excess of the costs to provide long-term peak storage services and the revenue forecast in excess of the cost to provide these services as approved by the Board in the EB-2005-0520 Rate Order.

The credit balance in the Long-term Storage account of \$8.652 million is 25% of the variance between the forecast of \$21.405 million and the actual net revenues of \$56.013 million.¹⁶

¹⁵ See EB-2005-0551, Decision and Order at p. 101.

¹⁶ See EB-2011-0038 Application, Ex. A /Tab 1, pp. 5-6.

Below is a table with sets out the calculation of the amounts in the Long-term storage account.¹⁷

2007 Board Approved vs. 2010 Actual Long-Term Storage Services Account 179-72							
Line No.	Particulars (\$000's)	2007		2010			
		Board Approved (\$)	Cost % of Total Revenue	Actual (10 ³ M ³)	Actual (\$)	Actual vs. Board Approved (\$)	Actual vs. Board Approved (%)
		(a)	(b)	(c)	(d)	(e)	(f)
	Revenue						
1	Long-Term Peak Storage	42,058		5,546,837	87,166	45,108	107%
2	T1 Deliverability and upstream balancing	-		61	1,825	1,825	100%
3	Downstream Balancing	-		107	742	742	100%
4	Dehydration Service	-		-	1,257	1,257	100%
5	Storage Compression	-		-	772	772	100%
6	High Deliverability Storage	-		920,717	20,179	20,179	100%
7	Total Revenue	42,058		6,467,723	111,941	69,883	166%
	Costs						
	Demand						
8	O&M	(5,969)	(14%)		(11,078)	(5,109)	86%
9	Depreciation	(4,538)	(11%)		(8,645)	(4,107)	91%
10	Property & Capital Tax	(932)	(2%)		(1,661)	(729)	78%
11	Return	(3,317)	(8%)		(16,262)	(12,945)	390%
12	Interest	(4,838)	(12%)		(11,349)	(6,511)	135%
13	Income Taxes	(108)	(0%)		(8,215)	(8,107)	7,506%
14	Total Demand	(19,700)	(47%)		(57,210)	(37,510)	190%
	Commodity						
15	O&M	(955)	(2%)		-	955	(100%)
16	UFG	(4,177)	(10%)		(1,397)	2,780	(67%)
17	Compressor Fuel ⁽¹⁾	(3,437)	(8%)		(2,643)	794	(23%)
18	Customer Supplied Fuel	7,614	18%		5,322	(2,292)	(30%)
19	Total Commodity	(955)	(2%)		1,282	2,237	(234%)
20	Total Costs (line 14 + line 19)	(20,653)	(204%)		(55,928)	(35,273)	171%
21	Net Revenue (line 7 + 20)	21,405			56,013	34,608	162%
22	Deferral Sharing (2010 - 25%)					8,652	

Notes:

(1) Includes compressor fuel and third party storage costs.

Some concerns were raised in regards to the calculation of the return component listed at Line 11 in the table above. There are two components of this return calculation.

- 1) **Return calculated on incremental assets.** These are storage assets built and operated by Union. Union applied to these assets what has been described in this hearing as the post-tax hurdle rate ("hurdle rate"). The hurdle rate is 14.4% which is in excess of the Board approved return on equity ("ROE") of 8.54%.

A number of parties have opined that only the Board approved ROE should be allowed as a return related to these assets.

¹⁷ See EB-2011-0038, IR Responses, Ex. B1.3.

- 2) **Return calculated on long-term storage contracts (purchased assets).** These are assets (storage space) that Union has acquired through long-term contracts. Union has also applied the hurdle rate of 14.4% to these assets.

A number of parties have opined that no return should be allowed related to long-term storage contracts and that only the contract costs should be allowed in the margin calculation for the Long-term Storage account.

Board Staff Submission

Board staff submits that the Board approved ROE should be used to calculate the return on incremental assets and no return should be applied to the long-term storage contracts.

Board staff notes that the NGEIR Decision does not explicitly approve the use of a ROE above the Board approved ROE. Board staff is of the view that without Board approval of the use of a hurdle rate (in excess of the Board approved ROE), the hurdle rate is not allowable in the calculation of margin sharing. Therefore, Board staff submits that only the Board approved ROE should be applied to the incremental assets for the calculation of margin sharing in the Long-term Storage account.

Board staff notes that the long-term storage contracts discussed in this proceeding are no different from any other contracted service that Union retains.

The rationale that Union provides for including an additional rate of return on long-term storage contracts is that these long-term incremental storage contracts expose Union to significant market risks and therefore require additional protection translating to a higher return.¹⁸ Board staff submits that these are normal business risks voluntarily undertaken by companies in their day-to-day operations. If Union would not be able to sell this additional storage capacity, it would not enter into these contracts in the first place. Board staff submits that regardless of the length of contract, contracted services (whether for general services or incremental storage space) do not attract a return as they are considered Operation & Maintenance (“OM&A”) expenses. Contracted costs (which can also be described as operational expenses) can only be passed onto customers. Moreover, a number of these contracts are with related

¹⁸ See EB-2011-0038, Oral Hearing Transcripts, Vol. 1, pp. 115-116.

parties and this leads to a further increase in costs as the storage provider (related party) already includes the Spectra Energy hurdle rate as a cost and Union adds an additional rate of return on purchased assets as a cost item without incurring a capital expenditure.¹⁹ Therefore, Board staff submits that no return should be allowed to be applied to the long-term storage contracts (purchased assets).

In addition, Board staff notes that the Board already considered the incremental risk associated with long-term storage services by adopting a phase-out mechanism for the sharing of margins related to Union's long-term storage transactions in the NGEIR Decision.²⁰ The phase-out mechanism was a rough proxy of a conceptual approach described in the NGEIR Decision. Specifically, NGEIR noted that ratepayers would be credited with 90% of the margins on existing contracts (for the remaining terms of those contracts) which were negotiated and priced prior to the Board's forbearance decision.

Board staff notes that the NGEIR Decision further stated that "the share accruing to Union will increase over that period to recognize that contracts will mature and a larger part of Union's total long-term margins will be generated by new transactions."²¹

Therefore, Board staff submits that the Board has already acknowledged the higher risk related to long-term storage services and decided not to approve a specific higher ROE for these services.

If the Board decides that a return is allowable on long-term storage contracts that return should be set at a rate no higher than the Board's approved ROE.

Board staff requests that Union file a schedule highlighting the balances in the Short-term Storage account and in the Long-term Storage account which reflects Board staff's proposed methodology discussed above.

DSM-RELATED DEFERRAL ACCOUNTS

ACCOUNT NO.179-75 LOST REVENUE ADJUSTMENT MECHANISM ("LRAM")

ACCOUNT NO. 179-115 SHARED SAVINGS MECHANISM ("SSM") VARIANCE ACCOUNT

¹⁹ See EB-2011-0038, Oral Hearing Transcripts, Vol. 2, pp. 75- 76.

²⁰ See EB-2005-0551, Decision and Order at p 107.

²¹ See EB-2005-0551, Decision and Order at p. 107.

Background

The School Energy Coalition (“SEC”) has opined that the balances in the two DSM-related accounts cited above should not be cleared on the basis of unaudited DSM results. SEC’s cross-examination alludes to the suggestion that audited DSM results should be used in the current proceeding to determine what amounts should be disposed of in the two accounts cited above.²²

Board Staff Submission

Board staff notes that it has been a common practice of the Board to dispose of unaudited DSM-related amounts in Union’s earnings sharing and deferral account disposition proceedings. The DSM-related amounts are then trued-up in the year immediately following based on the actual audited DSM results.

Board staff submits that the same process should be followed this year and therefore, it is appropriate to dispose of the unaudited DSM-related balances in this proceeding which will be subject to true-up in Union’s 2011 earnings sharing and deferral account disposition proceeding. Board staff submits that the 2011 earnings sharing and deferral account disposition proceeding is the appropriate time to review the audited DSM results and parties can take any position on the audited results at that time.

DISPOSITION OF OTHER DEFERRAL ACCOUNTS AND BALANCES

ACCOUNT No. 179-108 UNABSORBED DEMAND COST (UDC) VARIANCE ACCOUNT

ACCOUNT No. 179-26 DEFERRED CUSTOMER REBATES/CHARGES

ACCOUNT No. 179-103 UNBUNDLED SERVICES UNAUTHORIZED STORAGE OVERRUN

ACCOUNT No. 179-112 GAS DISTRIBUTION ACCESS RULE (GDAR) COSTS

ACCOUNT No. 179-113 LATE PAYMENT PENALTY LITIGATION

ACCOUNT No. 179-117 CARBON DIOXIDE OFFSET CREDITS

ACCOUNT No. 179-118 AVERAGE USE PER CUSTOMER

ACCOUNT No. 179-120 IFRS CONVERSION COST

ACCOUNT No. 179-124 HARMONIZED SALES TAX

MARKET TRANSFORMATION INCENTIVE

FEDERAL AND PROVINCIAL TAX CHANGES

TAXABLE CAPITAL BASE CHANGES

²² See EB-2011-0038, Oral Hearing Transcripts, Vol. 1, Pp. 26-34.

Board Staff Submission

Board staff has no concerns with regards to the balances, disposition, and allocation of any of the above noted deferral accounts and other balances.

EARNINGS SHARING

Board Staff Submission

Board staff has no concerns with Union's earnings sharing calculation. However, Board staff notes that the earnings sharing calculation is subject to change if the short-term and long-term storage deferral account balances are changed and if the Board approves revisions to Union's utility / non-utility cost allocation methodology.

OTHER ISSUES – TRANSPORTATION SERVICES FOR NON-UTILITY STORAGE OPERATIONS

Board Staff Submission

Board staff has some concerns regarding the provision of transportation services for non-utility storage customers. When transportation for non-utility storage services is provided by assets connected to Union's Dawn operations a charge should be applied to reflect the use of utility assets. Union in its evidence agrees that if the asset is connected to Dawn operations through a transmission asset, there should be a charge for it.²³

Board staff notes that this issue only arises in relation to storage services provided by the Jacob and Heritage pools. There are no direct issues regarding the Jacob Pool however, as this storage pool is still under development.

In regards to the Heritage Pool, Union noted that this pool is connected through the St. Clair Line which is currently classified as a non-utility asset and therefore no utility charge is required.²⁴ Board staff submits that although the St. Clair Line is not currently a utility asset it very well could be in the future (depending on the decision whether or not to proceed with the Dawn Gateway Pipeline project).

²³ See EB-2011-0038, Oral Hearing Transcripts, Vol. 1, p. 98, Lines 2-4.

²⁴ See EB-2011-0038, Oral Hearing Transcripts, Vol. 1, p. 98, Lines 10-12.

Board staff requests that Union respond to the following questions as part of its reply argument:

- 1) Are any charges related to the provision of transportation service for Heritage Pool storage services being recorded for eventual disposition to in-franchise customers? If not, why not?
- 2) In the scenario that the development of the Dawn Gateway Pipeline does not proceed and the sale of the St. Clair Line is never actually completed, please provide a discussion of the implications for in-franchise customers of moving the St. Clair Line back into rate base. Will in-franchise customers ever recover the revenues related to the provision of transportation service for non-utility storage operations during the current period (when the line is classified as a non-utility asset)? After the St. Clair Line is shifted back into rate base, will a charge be applied to non-utility storage services for the use of a utility transmission asset?

All of which is respectfully submitted.