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BY EMAIL

November 9, 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: Application for Union Gas Limited's 2012-2014 DSM Plan
Board File No. EB-2011-0327**

Please see attached Board staff's submission for the above proceeding. Please forward the attached to all interested parties.

Yours truly,

Original signed by

Josh Wasylyk
Advisor, Applications

STAFF SUBMISSION

Board Staff Submission on
Union Gas Limited's Request for Approval of Parts of its 2012
DSM Plan

Board File Number EB-2011-0327

November 9, 2011

Background

On September 23, 2011, Union Gas Limited (“Union Gas” or the “Applicant”) filed an application with the Ontario Energy Board (the “Board”) seeking approval for its 2012-2014 Demand Side Management (“DSM”) plan.

The application has been filed pursuant to the Board’s DSM Guidelines that were issued on June 30, 2011.

Within Union Gas’ application it requested interim approval of its DSM budgets for 2012; approval of the Resource Acquisition Programs; and, approval of its low-income program. Union removed the resource acquisition program targeted to Large Industrial Rate T1/Rate 100 customers from its request for interim approval.

On October 21, 2011, the Board sent a letter to Union Gas seeking clarification on Union Gas’ request for an interim approval of parts of its 2012 DSM Plan. Specifically, the Board asked for Union Gas’ position on whether it was requesting interim or partial approval of the items listed above. The Board noted that partial approval would mean that these areas of the application would not be revisited, whereas interim approval would only allow these programs to proceed until the Board rendered its final decision. The Board also sought Union Gas’ opinion on whether or not it would assume all financial risk in the interim prior to a final Board decision on the entire application.

On October 28, 2011, Union Gas filed its response to the Board’s letter. Union noted that it is requesting an interim order to maintain the current 2011 programs into 2012 to ensure program delivery and prevent market disruption. In response to the Board’s second question regarding the assumption of risk, Union noted that in the event that the Board’s decision causes any impact on the programs that Union hopes to carry forward from 2011 to 2012, Union would record the impacts in the DSMVA and seek approval to either recover or refund the amount as part of its annual deferral account disposition proceeding.

Submission

Union Gas’ response to the Board’s clarification letter indicated that customers have an expectation that the existing programs offered by Union Gas in 2011 will continue into 2012. Board staff agrees that undue market disruption is not in the best interest of

these customers, Union Gas' DSM planning efforts or the province as a whole. Board staff submits that an interim order is appropriate in this scenario. Union has requested interim approval of existing programs so that contracts and planning efforts can continue with program participants. Board staff further submits that if the Board does provide an interim order to Union Gas, it be on the basis that the approval is not final and that the Board's final decision on Union Gas's 2012-2014 DSM Plan can vary from the interim decision. Board staff submits that an interim approval allows parties to test the evidence filed by Union, while allowing for these carry-forward programs to continue and not be disrupted.

In regards to the Board's second question in its letter of clarification, that being whether or not Union Gas should be at risk during the period between the Board providing interim approval and the date it renders a final decision, Board staff submits that Union Gas' response on this issue is clear. Union states that in the event that the Board's final approval causes any impacts on the programs it carries forward from 2011 to 2012, it will record these impacts in its DSMVA and seek to recover or refund the amount when it seeks to dispose of its DSMVA. Board staff submits that it is Union Gas who should bear the financial risk related to the interim approval it has requested from the Board.

DSM activities are funded through distribution rates, which is why DSM applications are filed pursuant to section 36 of the OEB Act. The Application seeks a variety of approvals, but the ultimate outcome of the proceeding, if approved, will be a section 36 rate order that will authorize Union to recover the costs of its DSM programs from ratepayers. Although it is the Board's practice to approve the individual elements of the DSM Plan, ultimately it is approving a rate. Although the Applicant has sought interim approval for the continuance of certain programs and the DSM budget for 2012, it has not formally asked for interim approval of any distribution rate. Board staff submits that the Board should allow Union to record amounts spent on the proposed programs in its DSMVA, and, in the event that the programs are not ultimately approved in the proceeding, consider at a later time the extent to which these amounts should be recovered or refunded. The risk related to recovery of underfunded amounts should rest with Union Gas.

All of which is respectfully submitted.