

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, pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas as of January 1, 2013.

**SUBMISSIONS OF
CANADIAN MANUFACTURERS & EXPORTERS ("CME")
Re: Union's Request to Adopt USGAAP for Regulatory Purposes
effective January 1, 2012**

I. INTRODUCTION

1. These are the submissions of Canadian Manufacturers & Exporters ("CME") with respect to whether Union's request for permission to adopt USGAAP for regulatory purposes should be accepted by the Board.

II. SUBMISSIONS

(a) Transition to USGAAP

2. The evidence provided by Union demonstrates that a transition from Canadian Generally Accepted Accounting Principles ("CGAAP") to USGAAP, for regulatory purposes, is far less disruptive than a transition from CGAAP to Modified International Financial Reporting Standards ("MIFRS").
3. In CME Interrogatory #1 to this preliminary issue, which is Exhibit J4.1, Union was asked to provide a list of Canadian gas distributors in British Columbia, Alberta, Manitoba, Quebec, New Brunswick and Nova Scotia and to indicate to what accounting standards each of these distributors plans to transition effective January 1, 2012. Union responded that it does not have any of this requested information.
4. In another proceeding before the Board under docket number EB-2011-0277, Enbridge Gas Distribution Inc. ("EGD") has also asked the Board to approve the use of USGAAP for regulatory purposes effective January 1, 2012. In an Interrogatory Response in that proceeding (EB-2011-0277, Exhibit I, Tab 1, Schedule 13, page 5), EGD provided the following information that may assist the Board:

"There appear to be many Canadian regulated utilities which are adopting USGAAP or considering adopted USGAAP. Examples of such companies include MRF, Fortis, BC Alta Gas, TransCanada PipeLines, Union Gas Limited and Hydro One. This would facilitate benchmarking with peer companies which will benefit EGD and its stakeholder."

EGD is of the view that a complete harmonization of IFRS with USGAAP is not likely to occur in the foreseeable future. There continues to be strong resistance to adopting IFRS by rate regulated entities due to the fact that it does not contain any special treatment for rate regulated operations accounting. By allowing EGD to file under USGAAP, there would be the consistency in reporting which would continue to permit benchmarking and other comparative analysis."

5. In its recent decision approving the request of Hydro One Networks Inc. ("HONI") to adopt USGAAP for regulatory purposes pertaining to its transmission rates, the Board required HONI to provide information on the potential disadvantages of USGAAP, and in particular, to address the increased difficulty of benchmarking to other distributors' CME submits that Union should be directed to also address these issues.
6. That said, the evidence in EGD's case, as quoted above, may be sufficient to prompt the Board to approve Union's transition to USGAAP request now, under the condition that Union elaborate on matters pertaining to the benchmarking issue in a subsequent proceeding.
7. Having regard to all of the evidence that Union has adduced demonstrating the favourable impacts of a transition to USGAAP compared to a transition to MIFRS and the evidence with respect to what other utilities are doing contained in the EGD case, CME supports Union's proposal to transition to USGAAP for regulatory purposes.

(b) Pension Expense Deferral Account

8. For reasons already outlined in our written submissions in Union's EB-2011-0025 proceeding pertaining to its 2012 rates, we submit that the pension expense deferral account that Union requests should be denied.
9. When considering the deferral account relief Union seeks in conjunction with its transition to USGAAP for regulatory purposes, we urge the Board to be guided by the principle that, generally speaking, deferral account relief should be granted only where the account is needed to prevent the utility and its ratepayers from being harmed by uncontrollable costs that turn out to be either higher or lower than the amounts embedded in rates for that particular cost item.
10. We reiterate the submissions that we made in Union's 2012 Rates Application to the effect that the Board should refrain from approving deferral accounts that are not needed for regulatory purposes. More particularly, we reiterate that the Board should refrain from approving the deferral account request, the sole purpose of which is to convince Union's auditor that the existence of the account justifies a conclusion by the auditors that all amounts recorded therein will be recoverable and therefore appropriately classified as a "regularly asset".
11. We accept that, in some circumstances, the creation of a deferral account for the purposes of "tracking" certain accounting items may serve a legitimate regulatory purpose. However, as already indicated in our submissions in the EB-2011-0025

¹ HONI TX Decision, pages 13 and 14.

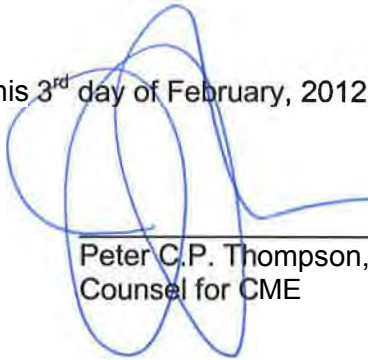
proceeding, there is no justification for the establishment of such an account with respect to Union's unamortized pension and OPEB costs that Union is currently recovering in rates over an amortization period that terminates in 2017.

12. As noted in paragraph 29 of our submissions in the EB-2011-0025 proceeding, if Union wishes to change the pace of the already approved recovery of unamortized losses, its proposal to that effect can be considered and determined by the Board without the prior establishment of a deferral account in which to record the unamortized balances. We submit that the account Union requests is not needed for regulatory purposes.
13. In the alternative and as indicated in our submissions in EB-2011-0025 proceeding, if a deferral account is established, then any balances recorded therein should be subject to verification before they are cleared to ratepayers. In this connection, we reiterate that regardless of the presence or absence of a deferral account, the amounts cleared to ratepayers should be no more than and no less than the amount of the unamortized losses. In this connection, our understanding of the evidence provided by Union witnesses during the course of the hearing in EB-2011-0025 proceeding on January 24, 2012, is that there has been embedded in Union's rates since 2007 an amount for pension and OPEB expenses of \$1.8M each, or a total of \$3.6M. The evidence at Exhibit J5.2 indicates that actual amortized amounts in 2009, 2010, 2011 and 2012 total \$5.7M or about \$1.5M more than the \$7.2M ($4 \times \$1.8M = \$7.2M$) being recovered in rates. In this context, it appears to us that the unamortized balance of pension expenses shown in Exhibit J5.2 at 2012 of \$3.8M may be \$1.5M too high. With respect to OPEB expenses, it appears that the actual amortization amount recorded in the years 2007 to 2012 inclusive is some \$200,000 below the amount collected in rates over that time frame, with the result that the closing balance in 2012 of \$4.1M should be only \$3.9M.
14. If a deferral account is established as a result of the Board's determination of the Preliminary Issue in this case, then, as indicated in paragraph 35 of our submission in the EB-2011-0025 proceeding, it should be made clear that any amounts to be recorded in and/or cleared from the account, including the period of amortization of such clearing, should be subject to further examination and determination in the main phase of Union's 2013 Rates proceeding.

III. COSTS

15. CME requests that it be awarded 100% of its reasonably incurred costs in connection with this matter.

All of which is respectfully submitted this 3rd day of February, 2012.



Peter C.P. Thompson, Q.C.
Counsel for CME