

January 4, 2008

**BY EMAIL AND ORDINARY MAIL**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2007-0606 / EB-2007-0615**

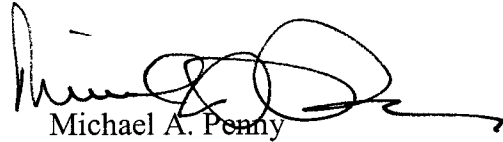
In this proceeding, one issue that was not settled, and which all parties acknowledged would proceed to a hearing, is the issue of the treatment of federal and Ontario tax changes under incentive regulation; specifically, whether such tax changes during the IR term should be treated as Z factor adjustments or whether they will be captured by the national GDP IPI FDD inflation factor.

This issue was litigated and resolved during Union's trial PBR plan in a September 20, 2002 decision of the OEB in EB-2001-0029. In that decision the OEB accepted the evidence of Dr. Jack Mintz and Dr. Tom Wilson. Union's evidence in the current proceeding was based on the OEB's resolution of that issue. Accordingly, Union did not file independent evidence specifically addressing this issue nor did any intervenor challenge Union's position in written interrogatories or file any evidence addressing this issue. Indeed, prior to the issue arising during the settlement conference, no challenge had been raised about this aspect of Union's proposal at all.

Now that the issue has been identified as one specifically in dispute, it is necessary that there be some evidentiary basis upon which the OEB can rely to resolve the matter. As there is currently no evidence from any applicant or intervenor on the issue, Union has retained Dr. Jack Mintz and Dr. Tom Wilson again to provide their opinion on whether the economic effect of announced federal and Ontario tax changes will be captured in the GDP IPI FDD inflation factor that has been adopted as the inflation factor for Union's price cap index. A copy of the evidence of Dr. Mintz and Dr. Wilson is attached.

Union recognizes that all parties must have the opportunity to retain consultants to address this question and to have this issue resolved on the basis of a full evidentiary record. Union prepared its evidence as expeditiously as possible, given the constraints of the holiday season and witness availability. If intervenors require additional time to respond, Union has no objection to them being granted that option.

Yours very truly,

A handwritten signature in black ink, appearing to read "Michael A. Penny", with a stylized flourish at the end.

MAP/jeb  
Attachment