



**EB-2012-0087**

**IN THE MATTER OF** the *Ontario Energy Board Act* 1998, S.O.1998, c.15, (Schedule B) (the “Act”);

**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, 2012.

**PROCEDURAL ORDER NO. 2**

**June 27, 2012**

Union Gas Limited (“Union”) filed an application dated April 13, 2012 with the Ontario Energy Board (the “Board”) under section 36 of the Act for an order of the Board amending or varying the rate or rates charged to customers as of October 1, 2012 in connection with the sharing of 2011 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2011 year-end deferral account and other balances. The application also requests approval for the disposition of the variance between the Demand Side Management (“DSM”) budget included in 2012 rates and the revised budget approved by the Board in EB-2011-0327. The Board has assigned file number EB-2012-0087 to the Application.

The Board issued a Notice of Application and Procedural Order No.1 on April 19, 2012 in which it adopted the intervenors in the EB-2011-0025 and EB-2011 proceedings as intervenors in this proceeding. The Board also set out a timetable for the filing of interrogatories, responding to interrogatories, and for informing the Board regarding plans to file intervenor evidence.

Union filed its interrogatory responses on June 8, 2012. Union filed responses to Board staff interrogatory No. 9 (b) and BOMA interrogatory No. 2 (c) under confidential cover. Union requested that the Board treat these documents as confidential per the Board’s *Practice Direction on Confidential Filings*. The Board is of the view that these two documents are properly considered confidential in accordance with the *Practice Direction on Confidential Filings*. Intervenors who would like to review these documents may do so after filing a Declaration and

Undertaking on Confidentiality. Union shall provide the confidential responses to any intervenor that has signed a Declaration and Undertaking on Confidentiality.

By letter dated June 14, 2012, the Federation of Rental-housing Providers of Ontario ("FRPO"), an intervenor in the proceeding, requested that the Board hold a Technical Conference so that intervenors have the opportunity to explore emerging issues such as the use of transportation contract attributes to yield shareholder margins. The Canadian Manufacturers and Exporters ("CME"), also an intervenor in the proceeding, filed a letter on June 15, 2012 supporting FRPO's request.

In response to FRPO's letter, Union filed a letter on June 15, 2012 stating that there is no basis for a Technical Conference and moreover, given the tight regulatory schedules that Union is operating under, Union will be prejudiced if a Technical Conference is ordered by the Board. In response to CME's letter, Union filed a letter dated June 18, 2012 stating that a Technical Conference would serve no useful purpose as the Board has previously addressed the issue raised by FRPO and CME in their respective letters.

The Board is of the view that FRPO and CME have raised issues related to the accounting for upstream transportation services that are relevant to this proceeding and that require additional discovery. The Board has determined that a Technical Conference is the appropriate forum for these issues to be further examined. The Board will therefore establish a Technical Conference in this proceeding. The Board directs FRPO and CME and any other interested intervenors to file a coordinated submission scoping the issue or issues to be addressed at the Technical Conference. Union and any parties that wish to respond will have an opportunity to file a responding submission. The Board will determine the final issues to be addressed at the Technical Conference.

The Board will make provision for procedural matters in this Procedural Order. Please be aware that further procedural orders may be issued from time to time.

#### **THE BOARD ORDERS THAT:**

1. FRPO, CME and any other interested intervenors shall, **on or before August 3, 2012**, file with the Board and copy all other parties a single submission outlining the issue or issues that should be addressed at the Technical Conference.

2. Union or any other party may, **on or before August 10, 2012**, file with the Board and copy all other parties a response to the submission filed by FRPO, CME and other parties.
3. A Technical Conference involving Board staff, Intervenors and the Union will be convened on **August 21, 2012**. The Technical Conference will be held at 2300 Yonge Street, Toronto in the Board's hearing room on the 25<sup>th</sup> floor.
4. A Settlement Conference will be convened at 9:30 a.m. on **August 28, 2012** with the objective of reaching a settlement among the parties on all outstanding issues in this proceeding. The Settlement Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto, and may continue until **August 29, 2012** if needed.
5. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than 4:45 p.m. on **August 31, 2012**.

All filings to the Board must quote file number **EB-2012-0087**, be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available you may email your document to the [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca). Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required.

All parties must also provide the Case Manager, Lawrie Gluck, [Lawrie.Gluck@ontarioenergyboard.ca](mailto:Lawrie.Gluck@ontarioenergyboard.ca), with an electronic copy of all comments and correspondence related to this case.

**ISSUED** at Toronto, June 27, 2012

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary