

Ontario Energy Board

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 for an order or orders amending or varying the rate
or rates charged to customers as of October 1, 2012.

FINAL SUBMISSIONS ON BEHALF OF
ENERGY PROBE RESEARCH FOUNDATION

January 6, 2013

**UNION GAS LIMITED
2011 IRM EARNINGS SHARING
EB-2012-0087**

Submissions On Behalf Of

Energy Probe Research Foundation

How these Matters came before the Board

- 1. On April 13, 2012 Union Gas Limited (the “Applicant” or “Union Gas”), filed an Application in respect of 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”).**
- 2. The Board issued a Notice of Application and Procedural Order No. 1 on April 19, 2012. As an intervenor in the EB-2011-0025 and EB-2011-0038 proceedings Energy Probe was adopted as an intervenor in this proceeding and deemed eligible for costs in this proceeding. Procedural Order # 1 provided a schedule for submitting and responding to interrogatories. As directed, Energy Probe filed its interrogatories on May 25, 2012.**
- 3. Procedural Order No. 2 was issued on June 27, 2012 and provided for the filing of submissions by of the Canadian Manufacturers & Exporters ("CME"), the Federation of Rental-housing Providers of Ontario ("FRPO") and any other interested intervenors, outlining the issue or issues related to the accounting for upstream transportation services that are relevant to this proceeding and that require additional discovery that should be addressed at the Technical Conference.**
- 4. Procedural Order No. 2 also provided a schedule for the filing of the submissions and responses, the Technical Conference, and a Settlement Conference.**

5. Procedural Order No. 3 was issued on August 15, 2012. In it the Board stated that did not agree with the submissions of CME, FRPO, or Union to the effect that the treatment of upstream transportation optimization revenue should not be considered until after the Board has rendered its decision on the 2013 rebasing application.

6. The Board determined that it would address the issue of Union's treatment of upstream transportation revenues in 2011 as a distinct issue in this proceeding. The Board decided that it would hear the single issue as a Preliminary Issue in this proceeding and would issue a decision on it prior to holding a Settlement Conference. The Preliminary Issue was defined as: "Has Union treated the upstream transportation optimization revenues appropriately in 2011 in the context of Union's existing IRM framework?"

7. Further, Procedural Order No. 3 provided a schedule for parties to file letters describing issues they wished to address at the Technical Conference in addition to the upstream transportation optimization revenue treatment issue. On August 21, 2012, Energy Probe was one of the parties that participated in the transcribed Technical Conference.

8. On August 24, 2012, Procedural Order No. 4 provided a schedule for argument on the Preliminary Issue. Union made its Argument-in-Chief on the Preliminary Issue on September 7, 2012. This was followed on September 14, 2012 by submissions from intervenors, including Energy Probe

9. The Board issued its Decision and Order on the preliminary issue on November 19th, 2012.

10. A settlement conference was held as scheduled in Procedural Order No. 5 on November 27th and 29th. As a result of the settlement conference, a partial settlement was reached by the parties and, in accordance with Procedural Order No. 6, a Settlement Proposal was filed with the Board on December 14, 2012.

11. The Settlement Proposal contains the terms of agreement on all issues except one. The Board's Decision and Order on the preliminary issue required Union Gas to respond to the Board with a confirmation of the total amount of dollars pertaining to the upstream transportation optimization activities that would be subject to the Board-ordered revenue sharing arrangement.

12. Union's response to the Decision and Order on the preliminary issue proposed the establishment of an upstream transportation FT-RAM optimization deferral account. That is account number 179-130. Union proposed that the amount of FT-RAM net revenue that shall flow to ratepayers in account 179-130 should be \$18.947 million. This would be 90 percent of the FT-RAM revenue net of third-party costs, or \$22 million, less compressor fuel and the UFG on Union's system of \$0.948 million.

13. Intervenors do not accept the reduction for compressor fuel and UFG costs on Union's system of \$0.948 million, nor do they agree with the proposed wording of the upstream transportation FT-RAM optimization deferral account, number 179-130.

Submissions

12. Energy Probe did not attend at the oral hearing and relied on the Canadian Manufacturers and Exporters (CME) and the Federation of Rental Housing Providers Ontario (FRPO) to examine the Applicants witnesses. However, we have reviewed the Exhibits provided by Union in response to CME and FRPO questions, the Hearing Transcript, Undertaking 2.1 and the Argument in Chief of Counsel to Union Gas Limited.

13. Energy Probe has also had the benefit of reviewing the submissions of the FRPO and LPMA before preparing its final submission.

14. The essence of the FRPO position is that as a consequence of the Board reclassifying FT RAM transportation optimization activities and associated revenues as a reduction in gas costs, Union should record the amount received from the counterparty and transferred to gas cost from FT-RAM supported exchanges as an allocation of fuel gas and UFG booked to the new 179-130 account. The wording of the Account should reflect this accounting.

15. LPMA in its submission, accepts the Company's accounting for fuel and UFG for FT RAM optimization transactions (not capacity assignments) with the exception of Union using a deemed value for UFG rather than the 2011 actual. Energy Probe agrees that this latter internal inconsistency should be corrected by Union and the 2011 earnings sharing updated as suggested by LPMA.

16. LPMA also submits inter alia, that “part of the confusion in this proceeding is related to the accounting for the incremental compressor fuel and UFG related costs associated with the FT-RAM optimization revenues”. On a going forward basis, LPMA submits that the deferral account (Account 179-130) should clearly show not only the revenues and third party costs, but also the incremental compressor fuel and UFG related costs associated with these transactions that are directly attributable to the transactions that provide the revenue.

17. Energy Probe agrees there is confusion and lack of transparency in the accounting used by Union. However, we adopt and support both the analysis offered and conclusions drawn by FRPO and by LPMA in their submissions which will not be repeated here.

Costs

Energy Probe has participated in the Settlement Conference and is a party to that Agreement. In addition, we have monitored and reviewed the record of the oral hearing in formulating our support of FRPO and LPMA. Accordingly, we request an award of 100% of our legitimately incurred costs in this proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

January 6, 2013

Dr. Roger Higgin SPA Inc.

On behalf of

Energy Probe Research Foundation