



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

UNION GAS LIMITED

2011 EARNINGS SHARING & DISPOSITION OF DEFERRAL ACCOUNTS AND OTHER BALANCES

Board File No. EB-2012-0087

January 8, 2013

Introduction

Union Gas Limited (“Union”) filed an application dated April 13, 2012 with the Ontario Energy Board (the “Board”) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Schedule B, 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”). 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-2011-0038 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.

In Procedural Order No. 2, dated June 27, 2012, the Board ordered a Technical Conference so that parties would have the opportunity to explore emerging issues such as the use of transportation contract attributes to yield shareholder margins.

The Board directed intervenors to file letters scoping the issues that will be pursued at the Technical Conference. The Board also ordered a Settlement Conference be held on August 28 and 29, 2012, which was subsequently rescheduled to August 21 and 22, 2012.

In Procedural Order No. 3, dated August 15, 2012, 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 noted that it would hear this single issue as a Preliminary Issue¹ in this proceeding and would issue a decision on it prior to the Settlement Conference.

The Board also noted that it would hold a Technical Conference on August 21, 2012 so that parties would have an opportunity for further discovery in this proceeding. The

¹ The Board defined the Preliminary Issue as follows: “Has Union treated the upstream transportation optimization revenues appropriately in 2011 in the context of Union’s existing IRM framework?”

Technical Conference was convened on August 21, 2012 and concluded on the same day.

In Procedural Order No. 4, dated August 24, 2012, the Board set out the schedule for argument on the Preliminary Issue.

In Procedural Order No. 5, dated October 24, 2012, the Board established November 27, 2012 and November 29, 2012 as the dates for the Settlement Conference.

The Board issued its Decision and Order on the Preliminary Issue on November 19, 2012. The Settlement Conference was held, as scheduled in Procedural Order No.5, on November 27, 2012 and November 29, 2012.

In Procedural Order No. 6, the Board set out the schedule for filing of the Settlement Agreement. The Board also established December 21, 2012 as the date for cross-examination on any unsettled issues and for Union's oral Argument-in-Chief. In addition, the Board set out the timeline for the filing of Board staff and intervenor submissions and Union's reply argument on any remaining issues.

A partial Settlement Agreement was filed on December 14, 2012. At the oral hearing on December 21, 2012, the Board accepted the partial Settlement Agreement.

The Settlement Agreement includes settlement for all issues with the exception of the balance in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130) and the wording for Account No. 179-130's Accounting Order.

Board Staff Submission

Balance of Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130)

In the Board's Decision and Order on Preliminary Issue, dated November 19, 2012, on page 32, the Board stated:

Union's gas supply related upstream transportation FT-RAM optimization revenues shall be classified as gas cost reductions and be recorded in the appropriate gas supply deferral account(s). Union shall share 90% of the net revenue amount of \$22 million for 2011, or the appropriate amount as provided by Union, with ratepayers.

In its November 26, 2012 response to the Board's Decision and Order on Preliminary Issue, Union stated:

The FT-RAM net revenue cited in the Board's EB-2012-0087 Decision and Order on the Preliminary Issue of \$22.0 million, less the 10% incentive to Union, is not the amount that should flow to ratepayers as a cost of gas reduction.²

Union stated that the appropriate amount to be shared with ratepayers is \$22 million less \$0.948 million for compressor fuel and unaccounted for gas ("UFG") costs and less Union's 10% incentive payment as follows:

As a result, the compressor fuel and UFG attributable to FT-RAM exchanges is \$0.948 million. Accordingly, the amount of FT-RAM net revenue that shall flow to ratepayers is \$18.947 million. This is 90% of FT-RAM revenue net of third party costs, compressor fuel and UFG (\$22.0 million - \$0.948 million) X 90%).³

In its Argument-in-Chief, Union set out its position as follows:

In Union's submission, the Board, having ordered the movement of revenues into a deferral account -- that being account 179-130 -- it is appropriate to move the costs, as well. And absent this movement, ratepayers will receive the benefit of the exchanges, i.e., the revenues, while incurring less than a commensurate amount of the costs.⁴

Union also stated:

Either the revenues and costs are captured in the deferral account, or, as they were previously, in earnings sharing, but it should not be the case that the revenues are in the deferral account, but the costs are in earnings sharing, which is the effect of that.⁵

Board staff agrees with Union's position. Board staff submits that it is appropriate that all of the revenues and all of the costs (third-party costs, compressor fuel costs and UFG costs) related to the FT-RAM optimization transactions be reflected in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130). This

² Union Response to Decision and Order on Preliminary Issue, November 26, 2012 at p. 1.

³ Union Response to Decision and Order on Preliminary Issue, November 26, 2012 at p. 2.

⁴ EB-2012-0087, Oral Hearing Transcripts, December 21, 2012 at p. 44.

⁵ EB-2012-0087, Oral Hearing Transcripts, December 21, 2012 at p. 48.

ensures an appropriate matching of revenues with the costs incurred to generate those revenues.

Board staff believes that the FT-RAM optimization net revenue amount of \$22 million already includes all of the revenues generated through the FT-RAM optimization activities less the relevant third-party costs. As such, Board staff submits that it is appropriate that the net revenue amount of \$22 million be reduced by the costs incurred on Union's system for the incremental compressor fuel and UFG used to facilitate the transactions. This will ensure that Union is appropriately compensated for the costs incurred to generate the FT-RAM optimization related revenues.

Board staff have had the opportunity to review the submission of the Federation of Rental-housing Providers of Ontario ("FRPO"). Board staff notes that FRPO has stated that Union includes the cost of the compressor fuel and UFG in the price, paid by the third-party, of the FT-RAM optimization transaction. Board staff understands FRPO's position to be that Union has separated out the revenue collected through the FT-RAM transaction price for the fuel costs and booked those revenues as a reduction to its company-used gas costs.⁶ Following this line of thought, the \$22 million net revenue amount would not include the revenues generated by the fuel cost price that is embedded in the total price of the transaction as those revenues are directly booked as gas cost reductions (and reflected in utility earnings). As noted above, Board staff believes that the FT-RAM optimization net revenue amount of \$22 million already includes all of the revenues generated through the FT-RAM optimization activities. If this is not the case and Union has directly streamed FT-RAM optimization related revenues to offset gas costs (bypassing the deferral account), then Board staff would not support a reduction to the net revenue amount of \$22 million for fuel costs as Union would have, in an alternative manner, been compensated for those costs. Board staff requests that Union, in its reply submission, confirm for the Board that all of the FT-RAM optimization related revenues have been included in the \$22 million net revenue amount.

Going forward, Board staff submits that all of the revenues and all of the costs (third-party costs, compressor fuel costs and UFG costs) related to the FT-RAM optimization transactions should be transparently recorded and reflected in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130). Board staff

⁶ FRPO Submission, January 2, 2013.

submits that Union should be directed to provide detailed schedules highlighting the calculation of the balance in Account No. 179-130.

In regards to the quantum of compressor fuel and UFG costs which Union has proposed as reductions to the FT-RAM optimization net revenue amount, Board staff supports London Property Management Association's ("LPMA") submission. LPMA stated:

The purpose of the FT-RAM optimization deferral account is to provide 90% of actual net revenue to ratepayers. This net revenue should be based on actual revenues, actual third party costs, actual compressor fuel and actual UFG. Union's approach uses actual information for each of the first three items noted. However, instead of using actual UFG, Union has used a deemed level of UFG based on a Board approved ratio from the 2007 cost of service proceeding. As a result, by using a deemed amount for one of the cost components, Union has not calculated the actual net revenue associated with the optimization services, but rather has provided a deemed net revenue.⁷

LPMA submitted that using actual UFG in the calculation of fuel costs results in total fuel costs related to the FT-RAM optimization activities of \$0.739 million.⁸ Board staff submits that \$0.739 million is the appropriate fuel cost amount that should be applied against the net revenue amount of \$22 million. Board staff also submits that, going forward, Union should utilize actual UFG (and actual revenues, actual third-party costs, and actual compressor fuel) when calculating the balance in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130). Board staff recognize that using a deemed ratio for UFG provides simplicity (and annual consistency) in the fuel cost calculation. However, given that the purpose of the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130) is to allocate 90% of the actual net revenues related to FT-RAM optimization activities to ratepayers, Board staff is of the view that it is appropriate to use the actual UFG when calculating the balance in the account.

Board staff notes that, depending on the Board's findings on the issue of the balance in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130), updates to the earnings sharing calculation may be required.

⁷ LPMA Submission, January 3, 2013 at p. 4.

⁸ Ibid at p. 5.

**Wording for the Upstream Transportation FT-RAM Optimization Deferral
Account (No. 179-130) Accounting Order**

Board staff supports the revisions to the definition of net revenue in the accounting order as proposed by LPMA at page 6 of its submission. Board staff is of the view that the LPMA's proposed language provides more accuracy to the description in the accounting order.

All of which is respectfully submitted.