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 filed by Union Gas Limited for an Order or Orders amending or varying the rate or rates charged to customers as of October 1, 2012.

REVISED SUBMISSIONS OF CANADIAN MANUFACTURERS & EXPORTERS ("CME")

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INDEX

I. INTRODUCTION 1

II. UNION HAS NOT INCURRED ACTUAL COSTS INCREMENTAL TO THE AMOUNT ALREADY RECOVERED IN RATES 2

III. WORDING OF UPSTREAM TRANSPORTATION FT-RAM OPTIMIZATION ACCOUNT NO. 179-130 6

IV. COSTS 7

I. INTRODUCTION

1. These are the submissions of Canadian Manufacturers & Exporters ("CME") on the remaining unsettled issue arising out of the application filed by Union Gas Limited ("Union"). Union is seeking an Order amending or varying the rate or rates charged to customers 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. Union also seeks approval of the disposition of the variance between the Demand Side Management budget included in 2012 rates and the revised budget approved by the Board in EB-2011-0327.

2. In Procedural Order No. 3, the Board determined that it would address the issue of Union's treatment of upstream transportation revenue in 2011 as a distinct and preliminary issue in this proceeding. The Board issued its Decision and Order on the preliminary issue on November 19, 2012.

3. In response to the Board's Decision and Order on the preliminary issue, Union proposed the establishment of an Upstream Transportation FT-RAM optimization deferral account ("Account No. 179-130").

4. Union further submitted that the amount of FT-RAM net revenue to flow to ratepayers through Account No. 179-130 be $18.947 million. This amount represents 90% of the FT-RAM revenue net third party costs, or $22 million, less compressor fuel and UFG of $0.948 million.

5. CME's submissions are primarily focussed on Union's proposal to include $0.948 million for compressor fuel and UFG in its calculation of the FT-RAM net revenue included in Account No. 179-130.

6. In addition, CME also questions the proposed wording of the Upstream Transportation FT-RAM optimization deferral account Order.

II. UNION HAS NOT INCURRED ACTUAL COSTS INCREMENTAL TO THE AMOUNT ALREADY RECOVERED IN RATES

7. As a matter of principle, CME accepts that actual 2011 costs directly attributable to FT-RAM optimization transactions and incremental to actual amounts recovered in 2011 rates for compressor fuel and UFG are deductible from Account No. 179-130. However, CME disagrees with those who submit that Union incurred such "incremental" costs in 2011. In fact, the actual amounts that Union recovered in 2011 rates for compressor fuel and UFG materially exceeded its actual costs for those items of expense. It is unfair to charge the beneficiaries of Account No. 179-130 with items of expense that were actually over-recovered in 2011 rates.

8. CME submits that the purpose of Account No. 179-130 is to capture the net FT demand charge savings that Union realized when it effectively monetized segments of its utility FT portfolio so as to acquire substitute transportation for its utility gas in an amount cheaper than the costs being recovered from ratepayers. In its essence, Account No. 179-130 is intended to flow through the actual amount of expense reductions.

9. This purpose differs from the objective of a transactional services deferral account which is to prompt Union to optimize capacity that is temporarily idle because of factors beyond Union's control. Having regard to the purpose of Account No. 179-130, the question to be determined by the Board is whether Union has incurred actual costs incremental to the amount already recovered in rates for compressor fuel and UFG.

10. Union used two methods to effectively monetize segments of its FT portfolio under TCPL's FT-RAM program. One was capacity assignments where a segment of the FT portfolio was assigned to a marketer who paid an amount to Union and also agreed to transport Union's upstream utility gas to points on Union's system where the gas was needed. In this situation, utility gas for Union's bundled in-franchise customers is

delivered to the Union system by the marketer and the cost reductions or savings that Union realizes are the amounts Union receives from the marketer.

11. The other method Union used to produce reductions in its upstream transportation costs was through Union's "own use" of FT-RAM credits. In this scenario, Union refrained from using its FT, and instead, used some of the IT available to it under the FT-RAM program to move its utility gas to its system from points upstream. The rest of the available IT optionality was then used to support its sale of exchanges to third parties. The cost reductions or savings that Union realized under this second scenario stemmed from the net revenues it received from the sale of these exchanges supported by IT that had effectively been paid for by ratepayers.

12. Union's actual upstream transportation costs, as a result of its use of these two methods of obtaining substitute upstream transportation were $22M less than the amounts paid by ratepayers for TCPL'S demand charges. Union seeks to reduce the actual amount of these flow through expense reductions by an "allocation" of an amount for compressor fuel and UFG on its system that Union claims were needed to support these FT-RAM optimization activities[1].

13. Costs for the volumes of UFG and compressor fuel that Union needs to operate its system are recovered from ratepayers in charges that are over and above the amounts ratepayers pay for the FT upstream transportation portfolio. These charges cover all of the utility gas that Union brings to its system under the two substitute transportation methods described above. Moreover, none of the actual savings realized from the third party exchanges that Union sells using IT optionality can be reduced to a lower amount without a demonstration by Union that it incurred some costs incremental to amounts already being recovered in rates for UFG and compressor fuel.

[1] See Transcript, Volume 2, pp. 16-19.

14. To this end, Union has not demonstrated that it actually incurred any costs for compressor fuel and UFG incremental to amounts already being recovered in rates. To the contrary, as set out below, the amount recovered from ratepayers in 2011 for compressor fuel and UFG materially exceeded Union's actual UFG and compressor fuel costs.

15. CME submits that Union's proposal to "true up" the actual costs for UFG and compressor fuel in Account No. 179-130 is a departure from the manner in which compressor fuel and UFG have been recovered from ratepayers since 2007.

16. In 2007, the Board approved both volume and resulting costs for compressor fuel and UFG. These 2007 Board approved volumes – and the resulting costs – are embedded in rates. As shown in Exhibit K2.3, CME Question No. 1, Attachment 1, for 2007 the Board approved costs, to be recovered in rates, for compressor fuel was $53.603 million and for UFG was $47.987 million. These amounts are for in-franchise and ex-franchise customers.

17. Since 2007, the amount recovered in rates for compressor fuel and UFG has been adjusted through the QRAM process. This QRAM adjustment is a "cost true up" for the price of gas. It is not a "volume true up". Consequently, the QRAM process adjusts the costs of gas on the 2007 Board-approved volumes. In cross-examination, Union confirmed that it accepts the volume risk on compressor fuel and UFG.

18. As set out in Exhibit K2.3, CME Question No. 1, Attachment 1, between 2007 and 2011, the QRAM adjustment to the initial 2007 base rates of $53.603 million for compressor fuel has been reduced by $21.616 million due to the change in the cost of gas. Similarly, the 2007 Board-approved amount of $47.987 million included in 2007 base rates for UFG has been reduced by $17.554 million. As such, for 2011 Union collected in rates $31,987 million for compressor fuel and $30,433 million for UFG. These adjusted costs

are only a reflection of the change in the cost of gas, and remain based on the Board approved 2007 volumes.

19. In 2011, the actual volume of compressor gas was 135,189 10^3m^3, which is 15,606 10^3m^3 less than the 2007 Board-approved volume of 150,795 10^3m^3. The result is that in 2011, Union collected $3.310 million more in rates than its actual cost of compressor fuel.[2]

20. Similarly, Union's 2011 actual volume for UFG was 32,794 10^3m^3, which is 102,202 10^3m^3 less than the 2007 Board-approved volume for UFG of 134, 996 10^3m^3. This has resulted in Union collecting $23.040 million more in rates than its actual cost for UFG.

21. Exhibit J2.1 further confirmed that rates approved in 2007 for in-franchise customers only were designed to recover $16.027 million for compressor fuel and $20.82 million for UFG. Changes in the cost of gas from 2007 through to 2011, as adjusted through the QRAM process, reduced these 2007 Board approved costs to be recovered from in-franchise customers by $6.463 million for compressor fuel and $7.616 million for UFG. Consequently, in 2011, Union recovered $9.564 million for compressor fuel and $13.204 million for UFG from in-franchise customers.

22. The actual costs for 2011 attributed only to in-franchise customers were materially less than what was recovered in rates; Union over-recovered $5.47 million for compressor fuel and $11.812 million for UFG. Consequently, Union has recovered $17.282 million more from in-franchise customers than its actual costs for compressor fuel and UFG.

23. Since the flow through purpose of the deferral account is to true up for actuals, there is no justification for the deduction Union proposes because there are no actual costs incremental to those already recovered in rates. An allocation of costs already being over recovered from ratepayers is not an appropriate deduction in a deferral account whose purpose is to true up for actuals.

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[2] Exhibit K2.3, CME Question No. 1, Attachment 1.

24. The fact that the amount by which actual 2011 UFG and compressor fuel costs is less than the amount being recovered in rates for those items is included in Union's earnings should have no bearing on the question to be decided which is to ask whether the actual savings realized are $22M or the lesser amount Union proposes.

25. CME submits that the appropriate manner to determine whether incremental costs for UFG and compressor fuel should be included in Account No. 179-130 is to determine whether Union has incurred actual costs incremental to the amount already recovered in rates for UFG and compressor fuel. Put another way, if the costs for UFG and compressor fuel are not incremental to the amounts already embedded in rates, then there should be no further recovery by Union. On this basis, the deduction of $0.948 million that Union proposes should be disallowed.

26. In his submissions, Mr. Aiken appears to accept that Union incurred actual costs in 2011 directly attributable to FT-RAM optimization transactions that were incremental to actual costs recovered in 2011 rates for compressor fuel and UFG. However, he does not accept Union's calculation of actual UFG attributable to such transactions. For the reasons we have outlined, we submit that there are no actual costs incremental to amounts already recovered in rates. If there were, however, then both the compressor fuel and UFG components of such costs would need to be calculated on the basis of actual 2011 information.

III. WORDING OF UPSTREAM TRANSPORTATION FT-RAM OPTIMIZATION ACCOUNT NO. 179-130

27. CME submits that the wording of Account No. 179-130 should be modified to reflect the true up nature of the account and to confirm that only incremental costs for UFG and compressor fuel may be recorded in the Account. Within this context, CME urges the Board to expressly confirm that "incremental" costs only include actual UFG and

compressor fuel costs in excess of the UFG and compressor fuel costs embedded in rates.

28. So long as this definition of "incremental" costs is confirmed by the Board, CME supports the wording proposed by LPMA for Account No. 179-130. Specifically, CME urges the Board to define net revenue as follows:

> ***FT-RAM optimization revenue less related third party costs and incremental compressor fuel and UFG costs directly attributable to the provision of FT-RAM optimization transportation services.***

IV. COSTS

29. CME requests that it be awarded 100% of its reasonably incurred costs for participating in this proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 10th day of January, 2013.

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