



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION ON DRAFT RATE ORDER

UNION GAS LIMITED

**2011 EARNINGS SHARING & DISPOSITION OF DEFERRAL
ACCOUNTS AND OTHER BALANCES**

Board File No. EB-2012-0087

February 19, 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 assigned file number EB-2012-0087 to the Application.

The Proceeding

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.

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 Preliminary Issue¹ in this proceeding and would issue a decision on it prior to the Settlement Conference.

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,

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?”

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, dated December 3, 2012, the Board set out the schedule for the 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 included 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.

The Board issued its Decision and Order on the unsettled issues on February 5, 2013. In its Decision, the Board directed Union to file a Draft Rate Order reflecting the Board's findings in the Decision and the approved Settlement Agreement. In its Decision, the Board also set out a process for Board staff and intervenors to file comments on the Draft Rate Order and for Union to respond to those comments. Union filed the Draft Rate Order on February 11, 2013 in accordance with the February 5, 2013 Decision and Order.

The following are Board staff's submissions on the Draft Rate Order.

Board Staff Submission on Draft Rate Order

Board staff submits that the Draft Rate Order accurately reflects the Board's findings in its February 5, 2013 Decision and Order and the approved Settlement Agreement with one minor exception.

Board staff notes that on Page 3 of the Draft Rate Order, in the "Board Orders" section, Union stated the following:

Union shall combine the 2011 Deferral account balances, the 2011 Market Transformation Incentive amount, the 2011 Low-income Program Incentive amount, the 2011 earnings sharing amount and the 2012 DSM

Settlement rate impacts for disposition. For General Service rate classes M1, M2, Rate 01 and Rate 10, Union shall dispose of the total balance prospectively for each of these rate classes through a temporary rate adjustment between April 1, 2013 and September 30, 2013 as set out in Appendix "D". For all other rate classes, Union shall apply the unit rates as a one-time adjustment as set out in Appendix "D".²

Board staff notes that Item 21 of the approved Settlement Agreement states:

The parties accept Union's proposal to dispose of balances prospectively over six months for the general service rate classes and as a one-time adjustment for ex-franchise rate classes. For in-franchise contract rate classes parties agree to dispose of 2011 earnings sharing and deferral account balances as a one-time adjustment. Customers in contract rate classes will, however, have the option of paying any amount owing for earnings sharing and deferral account clearance either immediately in full, or in a number of equal monthly instalments to a maximum of 6.³

Board staff submits that the language in the "Board Orders" section of the Draft Rate Order, and cited above, should be updated as follows:

...For all other rate classes, Union shall apply the unit rates as a one-time adjustment as set out in Appendix "D". The Board notes that, in accordance with Item 21 of the Settlement Agreement, Union shall offer in-franchise contract rate class customers the option of paying any amount owing for earnings sharing and deferral account clearance either immediately in full, or in a number of equal monthly instalments to a maximum of 6.

In addition, Board staff requests that Union advise, in its reply comments, how it plans to communicate the payment plan optionality to its in-franchise contract rate class customers.

All of which is respectfully submitted.

² Union Draft Rate Order, February 11, 2013 at p. 3.

³ EB-2012-0087, Partial Settlement Agreement, December 14, 2012 at pp. 12-13.