EB-2013-0109

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 clearing certain noncommodity related deferral accounts and sharing utility earnings pursuant to a Board approved earnings sharing mechanism.

INTERROGATORIES OF THE BUILDING OWNERS AND MANAGERS ASSOCIATION - GREATER TORONTO (BOMA)

1. General

Could you please provide the Retainer Letters or their equivalents with Sussex Economic Advisors, LLC, Concentric Energy Advisors Inc., and Stephen M. Acker?

2. FT-RAM Deferral Account

Union's evidence suggests that Union included revenue from Exchanges, including FT-RAM enhanced exchanges in its S&T activity. How much did Union include in rates for base exchanges and FT-RAM enhanced exchanges in its 2007 rebasing case?

How did Union determine the amount of revenue that it included in 2007 rates?

3. B.1, p5 of 39, Preamble

Union states that:

> "A key premise of the Board's EB-2012-0087 Decision with respect to the treatment of net FT-RAM revenues is that Union's Gas Supply Plan was driven, in part, by optimization opportunities".

Please provide evidence from the Board's EB-2012-0087 Decision, including appropriate quotations, to demonstrate that (a) the Board considered that the Union "gas supply plan" was driven, in part, by optimization opportunities; (b) that Union had a gas supply plan; (c) that the details of the Board's "gas supply plan" were a critical factor in the Board's decision to characterize the FT-RAM enhanced optimization revenues as gas cost reductions.

Please confirm that TransCanada's FT-RAM program (since discontinued by the National Energy Board's RH-003-2011 decision) is no longer in effect.

4. <u>A, 1, p3, lines 10-11</u>

<u>UDC Deferral Account</u>

(a) Please provide the dollar value of the offset to the LDC variance for 2012 of Union's purchase of gas from customers that returned to system gas during the year.

(b) Is that amount included on p4, Table 1, to reduce the actual LDC costs incurred? Please redo the table showing the impact of the supplemental gas purchases.

(c) Please show where the incremental gas purchase costs are accorded, if not, or other than, on Table 1.

5. <u>B, 1, 6 of 39, par 3</u>

<u>Preamble</u>

Union states that:

> "The Board's October 25, 2012 EB-2012-0055 Decision (Enbridge Gas Distribution Deferral Account Disposition Proceeding) finding that temporarily surplus upstream assets may be used to support transportation exchange is consistent with how Union generation transportation exchange revenue".

In EB-2012-0055, the Board dealt with the characterization of capacity release related revenues, on page 13:

> "For the reasons set out below, the Board finds that the capacity release related revenues should be treated as gas cost reductions. As such, the Board finds that the capacity release related revenues should be passed-through, in their entirety, to ratepayers in accordance with Enbridge's IRM Framework.
>
> The Board notes that in a capacity release, the gas purchased by Enbridge at Empress is required to serve its customers. Enbridge could use the underlying assets, which support the capacity release transaction, to transport the purchased gas to its customers. Instead, Enbridge utilizes an exchange to ensure that the gas purchased for its customers is delivered to the location where it requires that gas; these transactions are not relying on temporarily surplus assets.
>
> The Board finds that there are fundamental similarities between capacity release transactions and Enbridge's own use of STS-RAM credits. In both situations, Enbridge purchases gas at Empress for delivery to Enbridge for use by its ratepayers. In the STS-RAM own use situation, Enbridge reduces the cost of the delivered gas through its use of the credits. In the case of the capacity releases, Enbridge reduces the cost of the delivered gas through the capacity release transaction. The outcome of both situations is that the landed price of the gas to be used by Enbridge's ratepayers is reduced. Therefore, the Board finds that similar treatment of the gas cost reductions from both of these types of activities is warranted.
>
> The Board does not agree that Enbridge's capacity release activities occur on a planned basis. The Board notes that, in this proceeding, there is no evidence that Enbridge generated revenue by managing its upstream transportation arrangements on a truly planned basis. Rather, they are a function of circumstances that arise, and factors taken into account by Enbridge's Gas Control group, as the gas supply plan is implemented.
>
> Regardless of the Board's conclusion that Enbridge's capacity releases occur on an unplanned basis, the outcome of these transactions is that gas, which is required by Enbridge's customers, is delivered to these same customers at a reduced cost. Therefore, it is clear to the Board that the revenues generated from capacity release transactions should be treated as gas cost reductions.

> The Board notes that in Enbridge's 2013 rebasing proceeding (EB-2011-0354) the Board accepted that going forward all transactional services net revenues will be shared 90/10 between ratepayers and Enbridge's shareholder; however the specific issue in this proceeding is framed to determine the treatment of transactional services revenues in 2011 "in the context of Enbridge's existing IRM agreement". In finding that capacity releases are to be classified and treated as gas cost reductions and in accordance with Section 5.1 of the existing IRM agreement, the capacity release related net revenues, in their entirety, should be passed onto ratepayers. Therefore, the Board will not provide a 10% incentive on the net revenues generated by Enbridge from the capacity release activities in 2011."

Does Union agree that, with respect to revenues obtained from transactions which have as one component, a capacity release of existing TCPL capacity, the Board characterized such revenues as reduction to gas costs that should be passed through to ratepayers, absent even any "incentive retention" by Enbridge?

6. <u>Preamble, p6</u>

In EB-2011-0210, the Board stated (p39):

> "Consistent with the long-standing principle that a gas utility should not profit from the procurement of gas supply for its in-franchise customers, and to eliminate the creation of inappropriate incentives during the test year, the Board finds that the optimization activities, as defined below, are to be considered part of gas supply, not part of transactional services.
>
> * * * * *
>
> Consistent with the description provided by Union, the Board will define optimization as any market-based opportunity to extract value from the upstream supply portfolio held by Union to serve in-franchise bundled customers, including, but not limited to, all FT-RAM activities and exchanges.
>
> The Board finds that 90% of all optimization net revenues shall accrue to ratepayers and 10% shall accrue to Union as an incentive to continue to undertake these activities on behalf of ratepayers. Although Union has undertaken optimization activities for a lengthy period of time, it has indicated that absent an incentive, these types of activities may not occur. The Board has not considered the issue of whether optimization is an integral part of prudent utility practice that should be undertaken by Union without the payment of an incentive. Absent consideration of this issue by

> the Board in the context of this proceeding, the Board is of the view that it is appropriate for an incentive to be continued, at a 10% rate. This level of incentive is consistent with that associated with short-term storage and balancing."

In EB-2012-0087, the Board stated, inter alia:

> "The Board finds that Union has used TCPL's FT-RAM program to create a profit from the upstream transportation portfolio and has treated this profit as utility earnings, subject only to the provisions of the earnings sharing mechanism.
>
> The Board finds that this treatment is inconsistent with the Settlement Agreement on the IRM Framework and contrary to long standing regulatory principle inherent in the IRM Framework that the cost of gas and upstream transportation are to be treated as pass-through items, and therefore that Union cannot profit from the procurement of gas supply for its customers.
>
> As such, the Board finds that Union's upstream transportation FT-RAM optimization revenues are gas cost reductions, and are properly considered Y-factor items in accordance with Union's IRM Framework. The Board directs Union to confirm that the net revenue amount related to FT-RAM optimization activities for 2011 is $22 million." (p26-27)
>
> "The Board does not agree that these optimization activities are sustainable efficiency improvements found during the IRM term as argued by Union. They are clearly reductions to upstream transportation costs that result in an overall reduction to the cost of achieving Union's gas supply plan, and are subject to pass-through treatment in the IRM Framework." (p28)
>
> "The Board has found that the FT-RAM optimization activities associated with Union's upstream transportation services represent a departure from long-standing regulatory principle that the cost of gas and upstream transportation are treated as pass-throughs. The Board finds that Union must be mindful of the information asymmetry that exists between it and ratepayers. In particular, the Board finds that Union has an obligation to disclose departures or potential departures that it intends to make from regulatory principle inherent in the IRM Framework during the term of the IRM. The Board finds that the nature of Union's FT-RAM optimization activities and its treatment of the resulting revenue is an example of the type of departure that warrants a much higher level of disclosure than was produced in prior proceedings." (p29)
>
> "Consistent with the treatment of Union's short-term storage transactions during the IRM period, the Board is of the view that it is appropriate for Union to receive a 10% incentive for having generated these net revenues in 2011. Ratepayers are thus entitled to 90% of the $22 million net revenue amount related to Union's 2011 FT-RAM activities in the form of an offset to gas supply costs." (p31)

Given these two recent Board decisions, dated October 24, 2012 and November 19, 2012, respectively, what are the new circumstances that would apply in 2012 that were not present in 2011, or not anticipated in 2013, that would justify the Board taking a different view of the matter than it did in the previous two Union decisions?

7. B, T5, p6, Preamble

Union states that:

> "Union accepts Sussex's recommendations as they relate to: the documentation and analysis of the design day process and review; the development of a Gas Supply Plan memorandum or narrative; the common process regarding contracting; and the periodic review of the St. Clair and Bluewater contracts".

For each of the Sussex's recommendations that Union did not accept, please provide the recommendation and the reasons why Union did not accept each of them. Please discuss the reasons fully.

8. C, T2, p7

How many of the utilities surveyed develop an integrated resource plan or use integrated resource planning principles in the development of the gas supply plan? Please provide details.

9. C, 2, p 6, Preamble

Sussex states that:

> "In addition, the OEB outlined eleven specific elements, that should be included in the independent review; eight of those elements are addressed by Sussex herein".

(a) What are the three elements that Sussex did not address?

(b) Why did it not address each of the three elements? Please discuss fully.

10. <u>C, 2, p1</u>

(a) Please explain the significance of the comment that "Sussex recognizes that the Union North forecasted design day demand becomes a direct impact into the gas supply design day plan, while the Union South forecasted demand day is an input into the storage and transportation plan". What are practical consequences of Union's practice in the South?

(b) How does the storage and transportation system plan differ from a gas supply plan? Is it derived from the gas supply, and how?

(c) Did Sussex examine Union's storage and transportation plan? Does such a plan exist? In what form?

11. <u>C, T2, p3</u>

Sussex states:

> "While there are various alternatives used by LDCs to extract value from portfolio assets, the current approach utilized by Union leverages the core competencies of the Gas Supply and Storage and Transportation group, is consistent with other approaches used by LDCs (eg. asset management arrangements), and is reasonable".

For each of the LDCs included in the benchmark against which Union's practices were measured, please provide:

1. the methods used to record exchange and other "optimizations" transaction.

2. the nature of the activities undertaken, both transportation and storage related.

3. the revenues accrued from these activities in each of the last five years (versus the amounts included in rates).

4. the arrangement for sharing of those revenues with ratepayers, including the percentages allocated to ratepayers and the shareholders.

5. the use of deferral accounts to hold the revenues.

6. the degree to which these revenues were characterized as gas cost reductions.

12. C, T2, p3, pp 2 and 3, Preamble

In EB-2011-0210 (p35), the Board stated:

> "Although the issues of optimization and natural gas supply planning are listed separately on the issues list, it is evident to the Board from this proceeding that the issues are, in fact, interrelated".

In concluding that the gas supply portfolio (including transportation) is "appropriately sized", did Sussex examine the impact on the gas supply plan of Union's "optimization activities", including the use of FT-RAM? Please discuss in detail. If Sussex did not examine the plan from this perspective, please explain why it did not.

13. C, T1

Mr. Acker testifies to the benefits of an "active and efficient" secondary market to Ontario customers and utilities, and the importance of LDC participation in that market to its continued vitality. Does Mr. Acker agree that, provided the LDCs are given an appropriate incentive to participate in the secondary market, the characterization by the

Board of the utility revenues accruing from that optimization activity as reduction to customers gas costs (including gas transportation costs) should not have a material impact on the market? Please provide reasons.