



**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 non-commodity related deferral accounts and sharing utility earnings pursuant to a Board approved earnings sharing mechanism;

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order approving a deferral account to capture variances between earnings sharing, deferral accounts and other balances approved for disposition and amounts actually refunded/recovered.

**PROCEDURAL ORDER NO. 4**

**November 11, 2013**

Union Gas Limited ("Union") filed an application dated May 9, 2013 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, 2013 in connection with the sharing of 2012 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2012 year-end deferral account and other balances (the "Application").

An oral hearing was held on October 22-24. A portion of the oral hearing on October 24<sup>th</sup> was held *in camera* because certain documents which were filed by Union in confidence were being referenced during cross examination. Union, SEC and Board staff agreed that they would review the transcripts and propose to the Board what redactions were necessary to protect the confidential information.

On October 31, 2013 Union sent a letter to the Board regarding disputed redactions to the transcript. Union indicated that Union, SEC and Board staff were able to

reach agreement in respect of some, but not all of Union's proposed redactions (the "Disputed Redactions").

The Disputed Redactions are information concerning Union's DSM custom projects. Union submitted that it is extremely important to keep customers' commercially sensitive information confidential. Union provided a letter from the consultant responsible for verification of Union's DSM custom projects expressing the view that the disputed information is commercially sensitive. Union submitted that there is a potential impact to the customers involved, as well as to future DSM activities if the information is provided on the public record. Accordingly, Union submitted that the Disputed Redactions be maintained as confidential.

On November 6, 2013, SEC sent a letter to the Board responding to Union. SEC submitted that the information contained in the Disputed Redactions is material and should be made public. SEC also responded that it has no evidence to provide saying that the consultant's opinion is incorrect, and that given the lack of opportunity to cross-examine the consultant on this opinion, it was unable to verify the correctness of these submissions. SEC submitted that if the Disputed Redactions were maintained, this would prevent SEC from filing a final argument that can go on the public record.

The Board is not convinced that Union's evidence necessarily leads to the conclusion that the Disputed Redactions should be kept confidential. However, given the lack of opposing evidence and the potential for harm to customers, the Board has determined that the Disputed Redactions will remain redacted.

The Board encourages SEC to structure its submissions in a way that allows maximum material to be put on the public record.

The Board also encourages Union to give forethought to the formatting of its commissioned DSM related reports in the future in order to facilitate a public examination of the DSM programs.

### **Request for Extension of Time to File Submissions**

On November 7, 2013, Union sent a letter to the Board requesting an extension for the filing of Argument-in-Chief by two business days.

The Board grants Union's request and will also give the other parties two additional business days to respond to Union's Argument-in-Chief.

**THE BOARD ORDERS THAT:**

1. Union shall file its Argument-in-Chief with the Board and serve it on all other parties on or before **November 12, 2013**.
2. Board staff and intervenors who wish to make written submissions shall file such submissions with the Board, and deliver them to Union and other intervenors, on or before **November 26, 2013**.
3. If Union wishes to reply to the submissions of other parties, the reply shall be filed with the Board and delivered to intervenors on or before **December 3, 2013**.

All filings to the Board must quote file number **EB-2013-0109**, be made electronically through the Board's web portal at [www.pes.ontarioenergyboard.ca/eservice](http://www.pes.ontarioenergyboard.ca/eservice) in searchable / unrestricted PDF format. Two paper copies must also be filed at the Board's address provided below. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address.

All filings shall use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca/OEB/Industry](http://www.ontarioenergyboard.ca/OEB/Industry). If the web portal is not available, parties may email their documents to the address below.

Persons who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

For all electronic correspondence and materials related to this proceeding, parties must include in their distribution lists the Case Manager, Munir Madhavji at [munir.madhavji@ontarioenergyboard.ca](mailto:munir.madhavji@ontarioenergyboard.ca) and Senior Legal Counsel, Kristi Sebalj at [kristi.sebalj@ontarioenergyboard.ca](mailto:kristi.sebalj@ontarioenergyboard.ca)

All communications should be directed to the attention of the Board Secretary and be received no later than 4:45 p.m. on the required date.

**ADDRESS**

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**DATED** at Toronto, November 11, 2013

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary