EB-2006-0057

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 amending or varying the rate or rates charged to customers as of July 1, 2006.

BEFORE: Cynthia Chaplin
Presiding Member

Paul Sommerville
Member

DECISION AND ORDER

Union Gas Limited ("Union" or the "Company") filed an application dated April 7, 2006 seeking approval for final disposition and recovery of certain 2005 year-end deferral account balances and the 2005 year-end earnings sharing amount. Union originally proposed that the impacts which result from the disposition of 2005 deferral account balances and 2005 earnings sharing be implemented on July 1, 2006 to align with other rate changes expected to result from the July QRAM proceeding. During the proceeding Union revised the proposed timing to align with the October QRAM.

The Board assigned File number EB-2006-0057 to Union's application.

The Proceeding

The Board issued a Notice of Written Hearing and Procedural Order No. 1, dated May 16, 2006, which was served on a list of intervenors involved in related hearings. The proceeding was designated as a written hearing and the deadline for interrogatories on the Application was set at May 26, 2006, with responses to be filed by June 5, 2006. Argument-in-chief was set for June 9, 2006; intervenor argument for June 23, 2006, and reply argument by June 30, 2006. Interrogatories were submitted by the Vulnerable Energy Consumer's Coalition ("VECC"), London Property Management Association and the Wholesale Gas Service Purchaser's Group ("LPMA/WGSPG"), and Board staff. LPMA/WGSPG, VECC, Kitchener Utilities and the Industrial Gas Users Association ("IGUA") filed argument.

LPMA/WGPSG and IGUA requested costs for participation in the proceeding.

The Deferral Accounts

Union applied for disposition of the deferral accounts as follows:

Gas Supply related	$(16.943)
Storage and Transportation related	$(10.152)
Other	$ 16.116
Total deferral accounts to be disposed of:	$(10.979) million

The individual components are as follows:

Gas Supply Related deferral accounts:

The year ending December 21, 2005 net balance in the 2005 Gas Supply related deferral accounts was a $16.943 million credit. The accounts are:

- North Purchased Gas Variance Account (179-105)
- TCPL Tolls and Fuel – Northern and Eastern Operations Area (179-100)
- South Purchased Gas Variance Account (179-106)
- Inventory Revaluation Account (179-109)
- Spot Gas Variance Account (179-107)
- Heating Value Deferral Account (179-89)
- Unabsorbed Demand Cost Deferral Account (179-108)

Storage and Transportation related deferral accounts:

At the end of December 2005, the balance accumulated in the Storage and Transportation-related deferral accounts was a credit of $10.152 million (ratepayer portion).

The accounts are:

- Transportation and Exchange Services Deferral Account (179-69)
- Short Term Storage and Other Balancing Services Deferral Account (179-70)
- Long Term Peak Storage Services Deferral Account (179-72)
- Other S&T Services Deferral Account (179-73)
- Other Direct Purchase Services Deferral Account (179-74)

Other deferral accounts

At the end of December 2005, the balance accumulated in the “Other” deferral accounts was a debit of $16.116 million. The “Other” deferral accounts are:

- Deferred Customer Rebates/Charges Account (179-26)
- Comprehensive Customer Information Program Account (179-56)
- Direct Purchase Revenue and Payments Deferral Account (179-60)
- Lost Revenue Adjustment Mechanism Deferral Account (179-75)
- Intra-period WACOG Deferral Account (179-102)
- Unbundled Services Unauthorized Storage Overrun Account (179-103)
- Storage Rights Compensation Costs Deferral Account (179-110)
- Demand Side Management Variance Account (179-111)
- Deferred Gas Distribution Access Rule Costs (179-112)
- Late Payment Litigation Deferral Account (179-113)
- Incremental OEB Cost Assessment Deferral Account (179-114)
- Shared Savings Mechanism Variance Account (179-115)
- Interest on the Gain on the 2004 Cushion Gas Disposition (179-116) (subject of proceeding EB-2005-0211)

The Company explained the basis for the balances in each account. Intervenors raised concerns about the timing of the disposal of these account balances. LPMA/WGSPG concurred with the proposed timing of the disposition for the in-franchise general service customers over the October QRAM cycle, October 1 through December 31, 2006, but opposed the delay to October 2006 of the one time charge/rebate to distribution contract and ex-franchise customers. LPMA/WGSPG proposed that this latter disposition should occur in the month following the Board decision in this matter. Union argued that for reasons of administration, consistency in communications, complexity and cost, the timing should not differ from the past practice of aligning with QRAM adjustments.

The Board accepts Union’s evidence regarding the account balances and Union’s proposal regarding the allocation of the balances and the proposed timing for disposition. On balance, the Board concludes that the one month difference between a September disposition and an October disposition is not sufficient to warrant the additional cost and complexity involved.

Earnings Sharing

Union adjusted its base revenues of $116.264 million upward to reflect normalized weather for the general service class by an amount of $3.334 million. Union also proposed to make a $4.482 million downward adjustment to the contract market revenues to remove the revenue attributable to a single customer power generation load which, Union asserted, operated in July and August of 2005 only because of abnormally hot weather. An adjustment was made for “Unaccounted For Gas and Fuel costs” which reduced revenues by $0.048 million in the general service market and which increased revenues by $0.397 million in the contract market. The total of all these adjustments reduced pre-tax corporate earning by $0.201 million. Union submitted, based on the above adjustments, that the amount subject to earnings sharing was $8.2806 million (ratepayer portion).

LPMA/WGPSG argued that the normalization should not have been applied to the contract market and that the level of earnings should be adjusted to eliminate this component. The resulting amount for earnings sharing would be $9.822 million. All the other intervenors support this argument.

As indicated above, Union excluded from the earnings sharing pool all of the revenue it received from one power generation facility. The rationale for this exclusion is that insofar as the subject power generation facility operates as a “peaking” plant, all of its use of gas is occasioned by other-than-normal weather conditions. Peaking plants operate at times when the non-peaking generation assets are unable to meet the demand for electricity. This peaking requirement is often associated with particularly warm summer weather conditions. Union assumes that in normal weather conditions the subject plant would necessarily draw no gas from Union’s distribution system.

Union referred to previous Board decisions mandating weather normalization for the earnings sharing calculations as authorization for its exclusion of this revenue from the sharing mechanism. Union pointed to the fact that over the summer of 2005, there were comparatively warm weather conditions and the subject plant was called upon to deliver electricity to the grid. Union concluded that all of the revenue associated with the delivery of gas to this plant ought therefore to be excluded as attributable to non-normal weather.

LPMA/WGSPG articulated the opposition of a number of intervenors. This opposition was based in part on the view that Union ought not to adopt a weather normalization methodology without Board approval. In addition, the intervenors opposing Union’s position did not regard Union’s approach as representing a weather normalization “methodology” at all, and challenged Union’s basic assumptions. LPMA/WGSPG also pointed to Union’s past practice, which it argues expressly excluded volumes of gas delivered under supply contracts from weather normalization treatment.

Board Findings

The Board considers that Union has not provided a sufficient evidentiary or analytical support for the fundamental assumptions which underlie its position.

For example, Union asserted that because the subject facility is a peaking plant, all of its production is attributable to unusual weather conditions. This is asserted but not supported by evidence or analysis. In the Board's view, it is not unlikely that factors other than weather could result in a need for the plant's output. Non-weather related outages by other generation assets could result in such a need. This assumption is fundamental to Union's approach. If it is not accepted, as it is not accepted by the Board, Union's approach cannot be sustained.

The weather normalization applied by Union in this instance is a very primitive instrument. It simply assumes that the peaking plant only operates in other-than-normal weather conditions, and subtracts all revenues derived from that customer.

Apart from the fragility of that assumption, which is commented upon above, the Board notes that most weather normalization practices, including those applied in this jurisdiction, are rooted in the comparison of weather conditions over a statistically significant period of time. This ensures that "normal" weather is defined within a much broader sample. It also enables a measured application of weather normalization, so that incremental adjustments can be made. Union's proposal crudely excludes all of the revenues attributable, as it sees it, to other than normal conditions. There is no attempt to place the weather experience of any year within a context of any kind. To succeed, such a proposal needs an appropriate level of evidentiary and analytical support, which has not been provided in this case.

Union's current earnings sharing calculation is subject to weather normalization of the volumes attributable to the general service customer class. Contract customers have not been subject to weather normalization as part of the rate making process. It has been Union's position in the past that such customers are liable for contracted-for volumes without regard to extra-contractual conditions, such as weather, and that revenues derived from them should not be adjusted.

It may be that a new model needs to be developed to accommodate the kind of facility involved in this case, or indeed with respect to other participants in the contract classes. It is certainly open to Union to bring a subsequent application to provide for the kind of treatment it seeks in this case. The Board would expect significantly enhanced evidentiary support for such a proposal. The Board would also expect that such a proposal would adequately justify the inclusion and equally, the exclusion, of categories of contract customers from weather normalization treatment.

In accordance with these findings, the Board will also exclude the impact of the proposed adjustment for unaccounted for gas and fuel. These adjustments go beyond the established methodology for weather normalization, which is limited to general service customers, and therefore is not warranted in this case.

Accordingly, the Board finds that the ratepayer portion balance (pre-tax) for the earnings sharing shall be approximately $9.8223 million.

The Board awards the intervenors their reasonably incurred costs in this case, according to the prevailing tariffs. Claims for awards of costs shall be submitted to the Board Secretary and Union by August 31, 2006. The Board will not accept claims received after that date. Parties must include adequate documentation in support of any claims. Should Union have any comments concerning any of the claims, these concerns shall be forwarded to the Board and to the claimant by September 14, 2006.

THE BOARD ORDERS THAT:

1. The 2005 actual year end Gas Supply, Storage and Transportation and Other deferral account balances are approved, as listed in attachment “A”.

2. The balances in the deferral accounts shall be cleared as proposed by way of adjustments to customers' bills timed with the next QRAM cycle October 1st though December 31, 2006.

3. The amount of Earnings Share distribution to be disposed of is in the amount of $9.8223 million and interest shall accrue from January 1, 2006 at Union's short term borrowing rate. This disposal shall be timed with the next QRAM for M2, Rate 01 and Rate 10 customers and as a one time adjustment for in-franchise contract and ex-franchise rate classes.

DATED at Toronto, August 2, 2006
ONTARIO ENERGY BOARD

Original Signed by

Kirsten Walli
Board Secretary

Attachment

Attachment“A”

(All amounts are $000’s)

Gas Supply Related Deferral Accounts

Account No	Account Description	
(179-105)	North Purchased Gas Variance Account	9,651
(179-100)	TCPL Tolls and Fuel – Northern and Eastern Operations Area	8,179
(179-106)	South Purchased Gas Variance Account	38,110
(179-109)	Inventory Revaluation Account	(62,372)
(179-107)	Spot Gas Variance Account	(5,913)
(179-89)	Heating Value Deferral Account	(2,709)
(179-108)	Unabsorbed Demand Cost Deferral Account	(1,888)
	TOTAL	$(16,942)

Storage and Transportation Related Deferral Accounts

The storage and transportation related deferral accounts are:

Account No	Account Description	
(179-69)	Transportation and Exchange Services Deferral Account	(3,404)
(179-70)	Short Term Storage and Other Balancing Services Deferral Account	(6,708)
(179-72)	Long Term Peak Storage Services Deferral Account	1,135
(179-73)	Other S&T Services Deferral Account	(427)
(179-74)	Other Direct Purchase Services Deferral Account	(749)
	TOTAL	($10,153)

Other Deferral Account

The other deferral accounts are:

Account No	Account Description	
(179-26)	Deferred Customer Rebates/Charges Account	-
(179-56)	Comprehensive Customer Information Program Account	-
(179-60)	Direct Purchase Revenue and Payments Deferral Account	(1,527)
(179-75)	Lost Revenue Adjustment Mechanism Deferral Account	1,746
(179-102	Intra period WACOG Deferral Account	6,742
(179-103)	Unbundled Services Unauthorized Storage Overrun Account	-
(179-110)	Storage Rights Compensation Costs Deferral Account	502
(179-111)	Demand Side Management Variance Account	3,035
(179-112)	Deferred Gas Distribution Access Rule Costs	-
(179-113)	Late Payment Litigation Deferral Account	783
(179-114)	Incremental OEB Cost Assessment Deferral Account	2,241
(179-115)	Shared Savings Mechanism Variance Account	2,957
(179-116)	Interest on the Gain on the 2004 Cushion Gas Disposition	(363)
	TOTAL	$16,116