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 approving a one-time exemption from Union Gas Limited's approved rate schedules to reduce certain penalty charges applied to direct purchase customers who did not meet their contractual obligations.

EB-2014-0154

Written Submissions of

The Association of Power Producers of Ontario (APPrO)

September 12, 2014

Introduction

1. The Association of Power Producers of Ontario ("APPrO") provides these written submissions in respect of an application by Union Gas Limited ("Union") with the Ontario Energy Board (the "Board") under section 36(1) of the *Ontario Energy Board Act, 1988* (the "Act") to reduce certain penalty charges related to direct purchase charges.
2. Union applied to the Board on April 3, 2014 for two changes with respect to the application of certain penalty charges for the month of February 2014. These changes relate to the application of the Supplementary Inventory and Rate 25 Unauthorized Overrun Gas Supply charge. The terms of the T1/T2 contracts provide that customers will be charged the cost of gas based on the higher of the daily spot price at Dawn in the month or the month following the month in which gas is sold, but shall not be less than Union's weighted average cost of gas. Union proposed these changes to reflect the exceptional weather conditions in 2014[1]. Union requested that these changes be disposed of without a formal proceeding.
   a. The first change proposed by Union was to limit the penalty charges that reflect the reference spot price of gas at Dawn based on the month in which gas was sold rather than using a reference price reflecting the higher of the current and subsequent months.
   b. The second change proposed by Union was to limit the reference spot price from the highest to the second highest in the month.
3. The application of these proposed changes were to reduce the reference penalty charge from $78.73/GJ to $50.50/GJ for February 2014. Union also proposed to have these changes apply to bundled T-Service customers who did not meet their balancing obligations in March of 2014. This latter change would reduce the charges for the month of March from $78.73/GJ to $52.04/GJ.
4. Union proposed these changes as a one-time event which would be applicable to February and March 2014 only.
5. The Board, in its May 6, 2014 Letter of Direction, did not approve Union's request to deal with the proposed changes without a hearing and issued a Notice of Application to conduct a hearing on these proposed changes.

Other Proposals

6. Natural Resource Gas Limited ("NRG") in its evidence dated August 7, 2014, submitted that:

[1] Union Letter April 3, 2014

The reasonable penalty rate per GJ should be as small as possible, related to the historic norms and/or sufficient to pay Union's cost of gas. Based on the historic norms hereinafter set out in paragraphs 13, and 15, the penalty rate for NRG should be in the range $4.87/GJ to $7.31/GJ.

7. TransCanada Energy ("TCE") in its evidence dated August 7, 2014 indicated that:

   TCE is of the view that, in the circumstances, there is a more appropriate, principled basis for establishing the Penalty Charges that: (a) better respects the underlying rationale for the Penalty Charges that are reasonable in the circumstances.

   TCE suggested that for this past winter, the Board should adopt the same methodology that the Board has approved for Enbridge's Rate 125 customers that incur Unauthorized Supply Overrun charges[2] [3] and in Union's case the penalty would be 150% of the spot price at Dawn. TCE went on to suggest that the context in which this penalty rate was proposed was for a generator subject to real time dispatch under Union's T2 tariff[4] and this should be applicable to only T2 customers and TCE did not offer an opinion on whether this should also apply to Union's other rate classes.[5]

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8. There is no dispute that the winter of 2013/14 was exceptional in nature and resulted in prolonged cold temperatures which strained the system. The protracted cold weather not only increased the current demand for spot gas but it further increased the demand for spot gas as customers tried to refilled their depleted storage positions. These all contributed to the unusually high spot prices of gas at Dawn.
9. Union's penalty mechanism applies the spot highest price in the month or the month following the month in which the customer failed to deliver gas under its contract. For T2 customers that have to balance each day this may create a disconnect between the incentive to ensure that the customer delivers its required supply and the actual penalty amount.
10. APPrO therefore supports the submissions of TCE that the penalty rate for T2 customers over this past winter should be 150% of the spot price on the day that the

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[2] TCE August 7, 2014 Evidence page 2
[3] Enbridge Rate 125 tariff page 2
[4] TCE response to Board Staff IR 1b)
[5] Ibid.

failure occurred. This would be in alignment with Enbridge's Board approved penalty provisions for its unbundled customers.

11. APPrO also supports Union's proposal to lower the one-time penalties for other rate classes.

12. Given that some parties, including Union, have found that the penalty mechanism did not produce the desired results and the penalties themselves were overly punitive given the circumstances, APPrO suggests that the Board direct Union to revisit the penalty provisions in its various tariffs, to assess alternative penalty mechanisms and make a submission at its next rate case on the alternatives considered and any resulting recommended changes.

All of which is respectively submitted this 12th day of September 2014.