

September 12, 2014

VIA RESS AND COURIER

Ms. Kirsten Walli
ONTARIO ENERGY BOARD
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File No. T1001485

Dear Ms. Walli:

Re: EB-2014-0154 - Union Gas Limited (Union) Reduction of Certain Charges Applied to Direct Purchase Customers.

Final Submissions of Industrial Gas Users Association (IGUA).

This letter provides brief submissions on behalf of IGUA in respect of the captioned application.

In RP-2001-0029 in its Decision with Reasons dated September 20, 2002, the Board stated, in part, the following in respect of the importance of customers meeting their contractual balancing obligations:

The Board accepts the premise that it is important to encourage compliance with contractual obligations to balance in a system such as Union's, where a wide variety of users are dependent on such balancing to ensure the integrity, security and efficient operation of the system. The failure to balance can place compliant system participants at risk, and may result in additional costs.

In respect of the penalties payable by those in default of their balancing obligations, the Board stated:

In the Board's view, the penalty must be sufficiently costly to defaulters to strongly discourage strategic non-compliance with balance obligations, and the careless or incompetent acceptance of contractual obligations which are not reasonably achievable. The Board is concerned that parties wishing to engage in the market, either directly or through agents, must be

*appropriately encouraged to manage their obligations responsibly. The system as whole requires that.*¹

IGUA supports these principals, and in particular, the need for customers to meet their contractual balancing obligations with a view to discouraging strategic non-compliance. In order to encourage compliance while being fair to all those subject to the rules, there should be certainty that the penalty provisions will be enforced in a predictable manner. For these reasons, IGUA submits that the Board should reject Union's application for a one-time exemption from Union's rate schedules and reduction of certain penalty charges applied to direct purchase customers who did not meet their contractual balancing obligations.

Over 98% of Southern Bundled Transportation (Southern Bundled T) direct purchase customers met their February 28, 2014 Winter Check Point Obligation, or their February 28, 2014 Contract Expiry Obligation. Indeed, only 11 of 602 of Union's Southern Bundled T direct purchase contracts were not in balance as of February 28, 2014.² This is compelling evidence that the existing penalty regime both promotes compliance and can reasonably be complied with.

In its Argument in Chief, Union stated, in part, that "[I]t would be inappropriate and inequitable for a non-compliant customer to pay a price less than a customer that met their contractual obligation."³ IGUA agrees with this statement. Furthermore, IGUA submits that a non-compliant customer should not pay the same price as a customer that met its contractual obligations. Rather the non-compliant customer should pay more, or the Board's earlier noted principles and objectives would not be met. However, if Union's application is approved, such a circumstance could occur if, for example, a compliant customer purchased spot gas on February 5, 2014, at a price of \$50.50 to meet its contractual obligations, which the evidence indicates was the second highest spot price at Dawn during the month of February, 2014.⁴

It is respectfully submitted that Union's application should be denied.

Cost Impact Mitigation

To address those particular instances of legitimate and significant financial hardship arising from this past record cold winter, a more appropriate remedy would be to provide those direct purchase customers who did not meet their contractual balancing

¹ RP-2001-0029, Decision with Reasons, pg. 31, and referenced within Exhibit B.Staff.1.

² Exhibit B. CME.1.

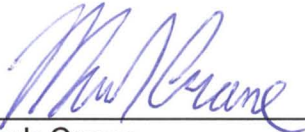
³ Union, Argument in Chief, para 14.

⁴ Exhibit B.Staff.1(b).

obligations with a payment plan, to recover the full penalty over an extended period of time. IGUA would defer to Union and the customer experiencing genuine financial difficulty to determine the appropriate payment plan.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

Gowling Lafleur Henderson LLP, per:



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