

EB-2014-0154

Ontario Energy Board

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.

Submissions of the

Ontario Greenhouse Vegetable Growers

September 12, 2014

INTRODUCTION

The winter of 2013/14 was one of the coldest in the last four decades¹. While the cold weather had many impacts, it became a "perfect storm" in the views of Union Gas direct purchase customers. In addition to the record cold, this was the first winter whereby TransCanada PipeLine ("TCPL") enjoyed full price discretion on its short-term and interruptible services.² For anyone needing supplemental gas at Dawn this winter, this perfect storm of supply and demand escalated prices to unprecedented levels. Into that environment went customers seeking to meet their contractually obligated checkpoints with Union Gas.

The following are the submissions of the Ontario Greenhouse Vegetable Growers ("OGVG") in reply to Union's matters in dispute outlined in its Argument-in-Chief³ in this Checkpoint Balancing proceeding.

INTENT OF THE PENALTY

The evolution of direct purchase in Ontario resulted in the Board's involvement in balancing the interests of those seeking direct purchase, remaining system gas customers and the Utility in the public interest. After the report of the Ten Year Market review⁴, the Board heard concerns raised by utilities, market participants and customers on their views of the balance of opportunity and risk in an evolving market. As a result, in recognition of the importance of overall security of supply, the Board approved an Annual Contract Balancing approach⁵ and reaffirmed that approach for Checkpoint Balancing in Union's next rebasing proceeding:

*"... The notable virtue of the Applicant's proposal is that it places the responsibility for balancing costs with the direct purchase customers. The proposal is also consistent with the Direct Purchase customers acting as managers of their respective gas supply requirements. It is appropriate and equitable for them to have an enhanced and better informed opportunity to track and manage their position at the two critical periods in the year. To date they have been dependent on the Utility for the management of divergences from forecast. Having chosen Direct Purchase gas supply, it is predictable that direct purchasers would prefer an informed opportunity to manage any divergences from forecast that have arisen at February and September. Finally the Board considers the proposal to be an enhancement of security of supply for the system as a whole ..."*⁶

¹ Exhibit B.NRG.1

² National Energy Board, RH-003-2011, page 126

³ Union Argument-in-Chief submitted September 2, 2014

⁴ Report of the Ten Year Market Review of Natural Gas Deregulation, September 27, 1996

⁵ EB-2001-0029 Decision with Reasons, dated September 20, 2002, page 31.

⁶ EB-2003-0063 Decision with Reasons, dated March 18, 2004, pages 119-120

We respect that the Board has approved the Checkpoint Balancing and the resulting penalty mechanism as a balancing of interests. We appreciate that the penalty is part of the evolution of direct purchase in allowing direct purchasers autonomy for their own supply while creating an incentive for those customers to balance at two key Checkpoints for the security of supply benefiting all customers. Therefore, we support the application of the penalty.

However, we are concerned that neither the previously referenced proceedings nor the Board's Review of QRAM and Load Balancing⁷ addressed the disposition of the resulting proceeds of the penalty revenue over embedded cost. We respectfully understand that this disposition is an issue in the Deferral Account proceeding⁸ but want it understood that our review of the evolution of the Checkpoint Penalty makes it clear that the Penalty was approved as a mechanism to ensure the direct purchase system holds direct purchasers accountable.

Reduction of the Penalty Charge

By way of letter⁹, Union applied to reduce the penalty in recognition of the conditions of this last winter and the resulting impact on some customers.¹⁰ With unprecedented conditions, it is clear that direct purchase customers could not have known the level of penalty to which they were exposed. In some cases, the shortfall at the February Checkpoint could have been an error; an error that some level of grace or indulgence could be afforded. Given the perfect storm conditions that were created and the potential for financial impairment for those who receive the penalty, we would respectfully encourage the Board to recognize the confluence of events and balance the interests of those impacted by reducing the Penalty Charge.

⁷ EB-2008-0106

⁸ EB-2014-0145

⁹ Exhibit B.BOMA.1, Attachment 2

¹⁰ Exhibit B.Staff.1