

February 19, 2015

VIA RESS AND COURIER

Ms. Kirsten Walli
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File No. T998376

Dear Ms. Walli:

Re: EB-2013-0365 - Union Gas Limited (Union) 2014 Rates Application.

Industrial Gas Users Association ("IGUA") Costs.

We have reviewed the February 18, 2015 letter filed herein by counsel for CME, regarding the Board's findings in respect of the cost claims for this proceeding submitted by IGUA and CME.

Counsel for CME suggests that the Board has misapprehended the facts regarding the intense activities engaged in by counsel for IGUA and CME between mid-March 2013 and early June 2014 towards negotiation of a comprehensive settlement of the Parkway Delivery Obligation (PDO) issue. IGUA agrees, and concurs with, and supports, those submissions made by counsel for CME in his letter. IGUA also agrees with counsel for CME that the Board has the ability to correct such misapprehended facts.

In his letter counsel for CME effectively submits that the Board has mistakenly assumed that all activities of counsel for CME and IGUA which took place between March 19th and June 3rd 2014 related to the preparation of the settlement agreement, rather than participation in, and direction of, a continuance of the settlement conference with respect to the PDO issue. In fact, the letter from counsel for CME accurately describes what actually transpired in that timeframe.

IGUA further notes that the Board has additionally misapprehended the facts in proceeding from the premise that all of the 109 hours of preparation time shown in the cost summary for Mr. Mondrow related to settlement activities. The detailed dockets submitted in support of IGUA's cost claim show that (at most) 96.1 hours were spent in relation to the settlement activities (including participation in the settlement conference in relation to issues other than the PDO issue, the protracted negotiations described by counsel for CME in his letter, and keeping our client apprised). The Board's use of the 109 hours aggregated on the "preparation" line of the costs summary rather than the 96.1 hours reflected in the dockets to have been spent on settlement related activities in particular is an additional misapprehension of the facts.

In its *Decision and Order on Cost Awards* the costs Hearing Panel also states, in relation to its assumption that 109 and 128 hours was spent by counsel for IGUA and CME respectively on preparation of the settlement agreement, that:

While the Parkway issue may have been technically complicated, the amount of hours spent outweighs the ultimate impact on customers.

The costs Hearing Panel makes no further comment on its understanding of *"the ultimate impact on customers"*.

IGUA agrees with the comments of counsel for CME in his letter to the effect that, for direct purchasers, the benefits of the PDO settlement amount to in excess of \$30 million over the duration of Union's current 5 year rate plan. The \$75,000 worth of time identified by the costs Hearing Panel as claimed by IGUA and CME in respect of settlement of the PDO issue represents approximately one quarter of one percent of the impact of the PDO resolution on Union's parkway obligated customers over 5 years, and prior to considering the hearing costs avoided by the PDO settlement. Further, the PDO settlement presents a permanent solution to the previous PDO inequity acknowledged by all of the parties through the settlement, and the impact of the settlement will continue well beyond the 5 years of Union's current IRM plan, thus significantly increasing the "benefit" side of the "cost/benefit" calculus of impact and value.

IGUA thus requests, as did CME, that, pursuant to rule 41 of the Board's *Rules of Practice and Procedure*, the Board reconsider its disallowances and increase the fees allowed to IGUA by \$6,270 plus HST and to CME by \$12,540 plus HST.

Yours truly,



Ian A. Mondrow

cc: S. Rahbar (IGUA)
D. Prokop/G. Carrière (IGUA)
C. Ripley (Union)
C. Smith (Torys)
K. Viraney (Board Staff)
Intervenors of Record

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