



EB-2014-0053
EB-2014-0361
EB-2015-0044

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Natural Resource Gas Limited, pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission, and storage of gas as of April 1, 2014;

AND IN THE MATTER OF the Quarterly Rate Adjustment Mechanism;

AND IN THE MATTER OF an Application by Natural Resource Gas Limited, for an order or orders granting rate relief and/or a stay from the imposition of interest on any amounts due for payment to Union Gas Limited related to the application of certain penalty charges;

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;

AND IN THE MATTER OF a hearing on the Board's own motion.

NOTICE OF MOTION TO REVIEW AND PROCEDURAL ORDER NO. 3
March 13, 2015

BACKGROUND

On October 9, 2014, the Ontario Energy Board (OEB) issued its Decision and Order, in the EB-2014-0154 proceeding, with respect to Union Gas Limited's (Union) application requesting approval to reduce the penalty charges applicable to customers who did not meet their contractual obligations during the months of February and March, 2014. The OEB approved Union's application as filed.

As a direct purchase customer that did not meet its contractual obligations, Natural Resource Gas Limited (NRG) was applied the reduced penalty charge approved by the Board. NRG was an intervenor in the EB-2014-0154 proceeding.

NRG filed a Notice of Motion dated December 10, 2014 with the OEB (EB-2014-0375) under Rule 40.01 of the OEB's Rules of Practice and Procedure (the Rules) requesting that the OEB review and vary its Decision and Order dated October 9, 2014 in the EB-2014-0154 proceeding as it relates to the penalty charge applicable to NRG.

NRG relied upon Section 42.01 of the Rules for setting the grounds for its motion. Specifically, NRG stated that it had discovered new evidence, facts and expert opinions that were not available and could not have been previously placed in evidence in the EB-2014-0154 proceeding, and could not have been discovered by reasonable diligence up to the time that the OEB rendered its Decision and Order on October 9, 2014.

In Procedural Order No. 1, dated January 9, 2015, the OEB determined that, pursuant to Rule 43.01, it would hear submissions on a threshold question of whether NRG's Motion should proceed to be heard on its merits. The OEB held an oral hearing on January 27, 2015 to hear argument on the threshold question.

The OEB issued its Decision and Order on NRG's Motion in EB-2014-0375 on March 13, 2015. The OEB dismissed NRG's Motion on the basis that the threshold test was not met. However, the OEB noted that it does have some concerns with the narrow question of whether the implications of NRG's status as a natural gas distributor regulated by the OEB was adequately addressed in the EB-2014-0154 proceeding.

MOTION TO REVIEW

Pursuant to section 19(4) of the *Ontario Energy Board Act, 1998*, and Section 41.01 of the Rules, the Board will, on its own motion review the October 9, 2014 Decision and Order in the EB-2014-0154 proceeding with respect to the appropriate penalty charge

applicable to NRG. The Board is concerned that the implications of NRG's status as a natural gas distributor may not have been adequately addressed in the EB-2014-0154 proceeding.

The OEB would like to receive further evidence, and hear further argument, in relation to the following questions:

1. Does NRG's status as a natural gas distributor warrant a different treatment from Union's other non-compliant direct purchase customers?
2. If so, what is the impact of this consideration on setting an appropriate penalty charge to be applied to NRG for not meeting its contractual balancing obligations?
3. Should the costs associated with the penalty be recovered from NRG's ratepayers?
4. Should NRG be granted rate relief and/or a stay from the imposition of interest on the amounts due for payment to Union related to the application of certain penalty charges (as requested by NRG in its EB-2014-0361 application)?

Pursuant to Section 21(5) of the OEB Act, the OEB has determined that it will combine the motion to review (EB-2015-0044) with NRG's interest rate relief proceeding (EB-2014-0361) and Phase 2 of NRG's ongoing QRAM proceeding (EB-2014-0053).

The Board adopts Union and the intervenors in the EB-2014-0154 proceeding as intervenors in this proceeding. Intervenors that were eligible for costs in that proceeding are deemed eligible for costs in this proceeding. A list of intervenors for the EB-2014-0053 / EB-2014-0361 / EB-2015-0044 proceeding is attached as Appendix "A" to this order.

Accordingly, the Board will make provisions for the following procedural matters. Further procedural orders may be issued from time to time.

THE OEB ORDERS THAT:

1. The parties listed in Appendix "A" are granted intervenor status in the proceeding. Intervenors that were granted cost eligibility in the EB-2014-0154 proceeding are also granted cost eligibility in this proceeding.

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2. If OEB staff, NRG or any intervenor would like to file evidence that is relevant to this proceeding, that evidence shall be filed with the OEB, and delivered to intervenors, no later than **March 26, 2015**.
 3. If OEB staff, NRG or any intervenors are seeking information and material from OEB staff, NRG or any other intervenor that is in addition to the evidence filed with the OEB, and that is relevant to this proceeding, that information shall be requested by written interrogatories filed with the OEB, and delivered to intervenors, on or before **April 9, 2015**.
 4. OEB staff, NRG and intervenors shall file with the OEB complete responses to the interrogatories and deliver them to all parties in the proceeding no later than **April 23, 2015**.
 5. An Oral Hearing will be held on **May 14, 2015** beginning at 9:30 a.m. in the Board's Hearing room, on the 25th floor at 2300 Yonge Street, Toronto, Ontario, to hear argument on all issues in this proceeding. If necessary, the hearing may continue on **May 15, 2015**.

All filings to the OEB must quote file number **EB-2014-0053 / EB-2014-0361 / EB-2015-0044**, be made electronically through the OEB's web portal at www.pes.ontarioenergyboard.ca/eservice in searchable / unrestricted PDF format. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address.

All filings shall use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available, parties may email their documents to the address below.

For all electronic correspondence and materials related to this proceeding, parties must include in their distribution lists the Case Manager, Lawrie Gluck at Lawrie.Gluck@ontarioenergyboard.ca and Senior Legal Counsel, Michael Millar at Michael.Millar@ontarioenergyboard.ca.

All communications should be directed to the attention of the Board Secretary and be received no later than 4:45 p.m. on the required date.

ADDRESS

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ISSUED at Toronto, March 13, 2015

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

NOTICE OF MOTION TO REVIEW AND PROCEDURAL ORDER NO. 3

LIST OF INTERVENORS

BOARD FILE NO. EB-2014-0053 / EB-2014-0361 / EB-2015-0044

DATED: March 13, 2015

Appendix A
BOARD FILE NO. EB-2014-0053 / EB-2014-0361 / EB-2015-0044

APPLICANT & LIST OF INTERVENORS

March 13, 2015

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Appendix A
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APPLICANT & LIST OF INTERVENORS

March 13, 2015

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March 13, 2015

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March 13, 2015

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March 13, 2015

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