

April 30, 2015

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: EB-2014-0273 - Union Gas Limited – 2013 DSM Deferrals – Reply Argument**

Please find attached Union's Reply Argument in the above noted proceeding.

Should you have any questions, please contact me at 519-436-5334.

Yours truly,

*[Original Signed by]*

Vanessa Innis  
Manager, Regulatory Initiatives

cc: Alex Smith (Torys)  
EB-2014-0273 Intervenors

**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 clearing certain non-commodity related deferral accounts;

**REPLY ARGUMENT OF UNION GAS LIMITED**

**A. Overview**

1. This is Union Gas Limited's ("Union's") reply argument in its application for approval of final balances for all 2013 DSM deferral accounts and an order for final disposition of those balances. In accordance with the Board's second procedural order, this reply argument responds to the arguments of those who filed written submissions on Union's application: the London Property Management Association ("LPMA"), Ontario Greenhouse Vegetable Growers ("OGVG") and OEB Staff.

2. LPMA's submission focuses on suggested refinements for Union's applications in future years, but asks for no changes to what Union is seeking from the Board on this application. Similarly, OGVG's submissions are, as OGVG candidly admits, focused on issues that are better addressed in Union's 2015-2020 DSM Plan application. OGVG does not seek changes to this application. Union agrees that the issues raised by LPMA and OGVG in their submissions are more properly addressed in other applications. Since those issues are not before the Board on this application, Union does not propose to respond to them here, but rather in future applications where the Board is actually required to consider them.

3. Only OEB Staff argues that Union's application as filed should not be granted. OEB Staff expresses concern that the issues identified by School Energy Coalition ("SEC") in Union's 2012

DSM deferral account application (the “2012 DSM Application”) remain an issue in this application. OEB Staff’s concerns regarding SEC’s comments on the 2012 DSM Application are misplaced. In fact, the issues raised by SEC in the 2012 DSM Application were specifically considered during the audit process for this application. As the evidence filed in this application shows, adjustments have already been made to imputed levels of free ridership and results achieved in response to those concerns.<sup>1</sup>

4. OEB Staff’s argument against the approval of this application as filed disregards the extensive evidence filed in this application and downplays the significance of the fact that the audit process has been successfully completed. The audit process is designed to ensure that the deferral account balances at issue in this application are correct. In the course of the audit process, those balances were subjected to rigorous scrutiny by various intervenors representing the legitimate interests of different stakeholders. That audit process has been completed to the satisfaction of all involved.

5. Regardless of this, OEB Staff now urges the Board to disregard the satisfactory completion of the audit process and to adopt a different approach based on evidence adduced in a different application brought by a different applicant and never properly adduced in this application. The evidence on which OEB Staff relies has been introduced in this application for the first time in OEB Staff’s submissions, and it has not been tested in this proceeding. This approach is improper, unfair to Union, and unhelpful to the Board.

6. OEB Staff’s submissions on proposed changes to this application should be rejected in their entirety. As all intervenors in this application have acknowledged—whether explicitly in written argument or implicitly by not submitting written argument—the Board should reject OEB Staff’s submissions and approve Union’s application as filed.

## **B. The Audit Committee process**

7. As detailed in Union’s evidence, the deferral account balances at issue in this application (the “Balances”) arise from Union’s DSM activities in 2013. The Balances were determined

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<sup>1</sup> Exhibit B, Tab 2; Exhibit B, Tab 3.

through the verification and audit process of the audit committee for Union's DSM activities (the "Audit Committee"). OEB Staff's submissions downplay the significance of the extensive Audit Committee process, and before replying to OEB Staff's submissions it will be useful to briefly review that process.

8. Union consults on its DSM activities with the DSM Consultative, a group of stakeholder organizations/intervenors with an interest in Union's DSM activities. Members of the DSM Consultative include representatives of ratepayer and environmental organizations. The DSM Consultative selects three intervenor members to serve on the Audit Committee, along with one representative from Union. In this case, the three intervenors were Green Energy Coalition ("GEC"), Consumers Council of Canada and Canadian Manufacturers and Exporters. The goal of the Audit Committee is to ensure that there is, each year, an effective and thorough audit of Union's DSM results. The Audit Committee establishes the standard scope of the annual audit, provides input and guidance to the Auditor, and recommendations in an Audit Committee Report submitted to the Board.

9. The Audit Committee process is carried out with the input of the joint Technical Evaluation Committee ("TEC"). The TEC consists of seven individuals: representatives of three intervenors, a representative of Union, a representative of Enbridge, and two independent members with technical and other relevant expertise. The goal of the TEC is to establish DSM technical and evaluation standards for natural gas utilities in Ontario.<sup>2</sup>

10. The Joint Terms of Reference on Stakeholder Engagement for DSM Activities by Enbridge Gas Distribution Inc. and Union Gas Limited, and the resulting Audit Committee and TEC processes were approved by the Board in Union's 2012-2014 DSM Plan. The Audit Committee process was followed in this case, and resulted in the Audit Committee reaching consensus on the Balances that Union is submitting to the Board for approval on this application.<sup>3</sup>

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<sup>2</sup> Joint Terms of Reference on Stakeholder Engagement for DSM Activities by Enbridge Gas Distribution Inc. and Union Gas Limited, November 4, 2011, page 9.

<sup>3</sup> Exhibit A, Tab 3, Page 1.

11. OEB Staff were not a part of the Audit Committee process, and while their submissions on the 2013 DSM deferrals application acknowledge that the Audit Committee process took place, they also downplay the significance of that process, which is intended to facilitate the development of a consensus on the Balances based on the best evidence available to the Audit Committee.

**C. The comments of GEC**

12. GEC, which was not an intervenor in this application but was a member of the Audit Committee for 2013, reviewed the interrogatories filed by OEB Staff in this application and became concerned that questions were being raised about some of Union's large volume custom projects, whether baselines were properly established, and whether free ridership was properly accounted for. As a result of these concerns, and before OEB Staff filed its submissions, GEC provided comments to the Board in which GEC noted that these questions were extensively discussed during the Audit Committee process, as can be seen in the Auditor's report<sup>4</sup> and in the Audit Committee Report.<sup>5</sup> GEC's comments are correct, and OEB Staff's submissions, which were filed the day after GEC filed its comments, bear out GEC's concerns about a lack of appreciation for the rigours of the Audit Committee process.

13. Given its mandate, GEC clearly has an interest in ensuring the efficacy of Union's DSM programs. GEC has no incentive to understate the level of free ridership to be imputed to those programs, or to otherwise over-reward Union's DSM conservation efforts—quite the opposite. GEC was directly involved in the Audit Committee process and was and is satisfied that the Balances are appropriate. Despite this, and despite GEC's comments, OEB Staff makes no reference to GEC's comments and offers no explanation of why the Board should prefer OEB Staff's assessment of the efficacy of Union's DSM program to GEC's. The nature and shortcomings of OEB Staff's assessment are described further below.

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<sup>4</sup> Exhibit B, Tab 2, Pages 9-10.

<sup>5</sup> Exhibit B, Tab 3, Page 5.

#### **D. Free Ridership**

14. The free ridership rate underlying the Balances is applied consistently to all customers and all claimed DSM savings across Union's entire custom DSM portfolio.<sup>6</sup>

15. In the application as filed, the free ridership rate applied to Union's Commercial/Industrial and Large Volume programs is based on empirical measurement of Union's project-specific free ridership findings as calculated in the Custom Projects Attribution study performed by Summit Blue Consulting in 2008.

16. The Auditor annually ensures that the free ridership rate has been appropriately applied to Union's custom portfolios pre- and post-audit. Union's 2013 Auditor, Evergreen Economics, stated in the Auditor's Report that "going through the sample of evaluated projects and removing savings for those projects that might be considered free riders would result in an over-correction for free ridership, as a free ridership adjustment is already being applied to the entire sample of projects. Since the free ridership adjustment is being applied to the entire group, no additional project-level adjustment is needed." Union's Audit Committee agreed with the Auditor's recommendation. Notwithstanding the clear statement in the Audit Report that such an approach would result in an over-correction for free riders, this is precisely the erroneous approach taken by OEB Staff in their submissions.

#### **E. OEB Staff's Payback Period Analysis**

17. Instead of focusing its submissions on the extensive work of the Audit Committee, the TEC, and the 800-plus pages of evidence filed in this application, OEB Staff focused its submissions on evidence it led in Enbridge's DSM variance accounts application (the "Payback Period Evidence"), EB-2014-0277. The Payback Period Evidence was not before the Audit Committee, and was not subjected to the scrutiny of the Audit Committee process. Nor was it properly adduced in this application. Notwithstanding this, OEB Staff submits that the Payback Period Evidence provides a sound basis for disregarding the consensus achieved on the correct

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<sup>6</sup> EB-2014-0273, Exhibit A, Tab 2, page 8.

free rider adjustments through the Audit Committee process, and for imposing significant free rider adjustments beyond those approved by the Audit Committee.

18. OEB Staff suggests that the Payback Period Evidence suggests that a “payback analysis could play a significant role in energy efficiency investment decisions” [emphasis added], but also concedes that “the payback period is not the only criterion used in the customer’s investment decisions”.<sup>7</sup> Notwithstanding these admissions, OEB Staff goes on to submit that the Board should impose free rider adjustments that:

- (a) disregard all of the evidence related to free rider adjustments actually filed in this application, except as that evidence is analyzed through the lens of the Payback Period Evidence;
- (b) are in excess of the free rider adjustments agreed on through the Audit Committee process; and
- (c) are based solely and mechanistically on the Payback Period Evidence, which was a high-level assessment in Enbridge’s achievable potential study, and not the basis of a free ridership study.

19. On the basis of this approach, OEB Staff submits that free rider adjustments for large volume custom projects should be increased from 54% to 80% and that free rider adjustments for low-income custom projects should be increased from 5% to 35%. The sole basis for these proposed increases is the Payback Period Evidence, even though OEB Staff concedes that “the payback period is not the only criterion used in the customer’s investment decisions”.

20. The following example highlights the lack of nuance in OEB Staff’s approach. OEB Staff single out IND-0124, a Rate T2 customer, for a very low payback, and of the 15 projects with a payback of less than one year, 12 are Rate T2/Rate 100 and are covered by the Rate T2/Rate 100 Direct Access program. This program is designed to influence these customers to address and prioritize these DSM projects, which may not have been completed otherwise, since they posed

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<sup>7</sup> OEB Staff Submission, Page 4.

no significant risk to production, quality or health and safety standards. OEB Staff's approach totally ignores this fact.

21. The approach suggested by OEB Staff and based on its Payback Period Analysis builds on the approach advocated by OEB Staff in EB-2014-0277. The Board rejected that approach in that case and should do so again in this case.

**F. OEB Staff's Comments on Base Case**

22. While OEB Staff complains about adjustments to the realization rate to correct any inadequacies in the base case assessment, they do not propose adjustments to the base case savings.

23. The base case for each custom project is determined based on what customers would commonly and reasonably have chosen to do as an alternative to the higher energy efficiency option. Given the unique business processes and requirements associated with custom projects, the approach must consider customer-specific circumstances. Base case determination considers a number of factors, as discussed in EB-2014-0273, Exhibit A, Tab 2, Page 5.

24. Looking forward to Union's 2014 DSM deferral account application, OEB Staff suggests that Union collaborate with Enbridge in the commercial boiler efficiency base case study to develop up-to-date assumptions for use in 2014 results. The commercial boiler efficiency base case study has recently been deemed a TEC priority and a process is being put in place to determine scope of work and timelines. The study could take up to 12 months to complete and therefore, cannot be applied to 2014 results.

**G. OEB Staff's Comments on Persistence**

25. While OEB Staff complains that persistence was not adequately considered in assessing project savings, they do not propose adjustments to Union's application on that basis. Union respectfully disagrees that persistence was not adequately considered. Union accounts for persistence. Where adjustments are identified within the program year, the changes are applied to the individual project. Where adjustments are identified after-the-fact within the project sample



through the rigorous Custom Project Savings Verification (CPSV) process, they are reflected in the overall realization rate, and applied to the overall custom project portfolio. Another determining factor in quantifying persistence is technical degradation. Technical degradation is accounted for on a per-project basis.<sup>8</sup>

26. Looking forward to Union's 2014 DSM deferral account application, OEB Staff suggests that Union consider undertaking, with Enbridge, a formal persistence study to provide support for the claimed persistence of savings in 2014 results. To date, the TEC, which sets evaluation priorities, has not prioritized a study of post audit savings persistence. The Guidelines<sup>9</sup> specifically note that there will be trade-offs. Cost, uncertainty about the breadth of a persistence study, and the time period over which the study should be undertaken are all important considerations in prioritizing this work. It is Union's intention to raise the issue of a persistence study as a priority consideration, for budget allocation purposes, as part of Union's 2015 evaluation plan. The study will not be applied to 2014 results, but once the study is complete any adjustments will be applied on a go-forward basis.

27. In Enbridge's 2013 DSM Deferrals Decision, the Board stated that:

*"The OEB agrees that a formal persistence study should be given priority as part of Enbridge's 2015 plan in order to provide support for the persistence of savings associated with large custom commercial and industrial DSM programs. As per the earlier discussion of free ridership rates in this decision, it is noted that persistence studies will also be coordinated by OEB staff according to the new DSM Framework."*

28. A formal post-audit persistence savings study has been noted by the Board as a priority which will be coordinated by OEB Staff according to Section 7.2 of the 2015-2020 DSM Framework.

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<sup>8</sup> EB-2014-0273, Exhibit A, Tab 2, pages 11-13.

<sup>9</sup> Demand Side Management Guidelines for Natural Gas Utilities (EB-2008-0346), Section 7.3.

## **H. Conclusion**

29. OEB Staff's submissions inappropriately downplay the efficacy, rigour and integrity of the Audit Committee process and disregard the adjustments already made to account for concerns raised by SEC in the 2012 DSM Application. As a result, OEB Staff's suggested approach incorrectly overstates the level of free ridership to be imputed to Union's DSM programs.

30. Union requests that the Board disregard in their entirety the submissions of OEB Staff and approve its application as filed.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Alex Smith

Torys LLP  
79 Wellington Street West, 30th Floor  
Box 270, TD South Tower  
Toronto, ON M5K 1N2  
Fax: 416.865.7380

Email: [asmith@torys.com](mailto:asmith@torys.com)  
Tel: 416-865-8142

Lawyers for Union Gas Limited