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E.B.R.O. 486-04

**IN THE MATTER OF** the Ontario Energy Board Act  
[12JF7-0:1], R.S.O. 1990, c. O.13;

**AND IN THE MATTER OF** a Notice from the Ontario  
Energy Board to Union Gas Limited that the Ontario Energy  
Board will inquire into and determine just and reasonable  
rates and other charges for the sale, distribution, transmission  
and storage of gas for Union Gas Limited's 1995 fiscal year;

**AND IN THE MATTER OF** an Application by Union Gas  
Limited 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, 1995.

BEFORE: J.C. Allan  
Presiding Member  
G.A. Dominy  
Vice Chair and Member  
E.J. Robertson  
Member

**DECISION WITH REASONS**

April 12, 1996

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# 1. INTRODUCTION

- 1.0.1 On February 2, 1996 the Ontario Energy Board received a Notice of Motion from Union Gas Limited ("Union" or "the Company") concerning gas costs. The Motion was given Board File No. E.B.R.O. 486-04. 13
- 1.0.2 On February 5, 1996 the Board issued Procedural Order No. 1 setting dates for the filing of evidence, a Technical Conference, and an Alternate Dispute Resolution ("ADR") meeting and setting February 22, 1996 for an oral hearing if required. 14
- 1.0.3 On February 9, 1996 Union wrote to the Board advising the Board that it would be filing a supplementary motion seeking in addition to the relief sought in its earlier Motion, disposal of the forecast balance in the Purchased Gas Variance Account ("PGVA"). Union filed the Supplementary Motion on February 12, 1996. 15
- 1.0.4 On February 13, 1996 the Board issued Procedural Order No. 2 notifying parties of Union's Supplementary Motion and cancelling the schedule defined in Procedural Order No. 1. 16
- 1.0.5 On February 16, 1996, the Board issued Procedural Order No. 3, setting new dates for the filing of additional evidence, the Technical Conference, the ADR meeting and the oral hearing. 17
- 1.0.6 The Technical Conference was held on February 26, 1996. The Board was informed that no resolution of issues had resulted from the ADR meeting. 18
- 1.0.7 The Board heard the Motion and Supplementary Motion on March 4, 5 and 6, 1996. Union presented oral argument on March 6, 1996. Intervenors submitted arguments by March 12, 1996. Union submitted reply argument on March 14, 1996. Was page 2 19
- 1.0.8 Copies of all prefiled evidence and exhibits in the proceeding, together with a verbatim transcript of the Technical Conference and the hearing are available for public review at the Board's offices. 20

## 1.1 Background to the Motions

- 1.1.1 On July 19, 1995 the Board issued its E.B.R.O. 486 Decision [12K6B-0:1] in which it approved \$97.466 per  $10^3\text{m}^3$  as Union's weighted average cost of gas ("WACOG") and PGVA reference price for Union's 1996 fiscal year commencing April 1, 1995. In this Decision, the Board also approved a change in Union's gas cost forecasting methodology. 22
- 1.1.2 On December 8, 1995, in its E.B.R.O. 486-03 Decision [12KKY-0:25], the Board approved a revised WACOG and PGVA reference price of \$86.847 per  $10^3\text{m}^3$  effective January 1, 1996. 23

However, the Board ordered that the WACOG of \$97.466 per 10<sup>3</sup>m<sup>3</sup> established in the Board's E.B.R.O. 486 Decision [12K6B-0:1] would remain in place until March 1, 1996 for the contract customers of Union Gas Limited ("Union or "the Company") and May 1, 1996 for its general and wholesale service customers. This delay in implementation for E.B.R.O. 486-03 rates was approved to enable Union to recover the costs associated with revaluing its inventory of gas in storage and the impact on Union's 1995 cost of gas of the change in TransCanada PipeLines Limited ("TCPL") tolls.

## 1.2 The Union Motion and Supplementary Motion

1.2.1 Union's February 2, 1996 Motion requested that the Board's Rate Order in E.B.R.O. 486-03 be varied to incorporate higher gas costs, resulting in a WACOG of \$91.290 per 10<sup>3</sup>m<sup>3</sup> effective January 1, 1996.

1.2.2 Union's Motion also requested an adjustment to the price paid under buy/sell contracts, the disposition of the actual inventory revaluation amount as of January 1, 1996 associated with the change in the cost of gas, and that the reference price for the PGVA be revised to reflect the adjusted TCPL tolls and gas cost forecast.

1.2.3 On February 9, 1996 Union wrote to the Board stating that it had determined a need to acquire additional supplies of winter spot gas in order to maintain firm market requirements. The cost of acquiring these supplies prompted Union to file the Supplementary Motion which requested the disposition of the December 31, 1996 forecast PGVA balance. The Supplementary Motion was combined with the February 2, 1996 Motion into Board File No. E.B.R.O. 486-04 and the two Motions were heard together.

1.2.4 The following parties were represented by counsel at the hearing:

Board Staff	I. Blue
	J. Lea
Union	G. Leslie
Industrial Gas Users Association ("IGUA")	P. Thompson
NovaGas Clearinghouse Ltd. ("NovaGas")	G. Pratte
London School Board Consortium ("the Consortium")	T. Brett
and Cibola Canada ("Cibola")	

Natural Resource Gas Limited ("NRG"),	P. Budd
Direct Energy Limited ("Direct") and	
SunAlta Energy ("Sunalta")	
Consumers Association of Canada ("CAC")	R. Warren
City of Kitchener ("Kitchener")	A. Ryder
London GasSave ("GasSave")	J. Gruenbauer
TransCanada Gas Services ("TCGS")	J. Stacey
Municipal Gas ("Municipal")	D. Brown
ECNG Inc. ("ECNG")	P. Scully
Mutual Gas Association ("Mutual")	S. Tenenbaum

1.2.5 Argument was received from Novacor Chemicals Canada Ltd ("Novacor Chemicals").

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1.2.6 The following Company witnesses were called by Union:

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P. Elliott	Manager, Rates and Cost of Service
A. Fantuz	Manager, Gas Acquisition
W. Killeen	Manager, Gas Supply Planning
C. Shorts	Manager, Industrial Gas Delivery Services
C. Waddick	Manager of Financial Planning

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## 2. GAS COST FORECAST

2.0.1 Union's prefiled evidence reflected changes in Union's cost of gas, risk management activities, and 1996 TCPL tolls, resulting in a WACOG of \$91.290 per  $10^3\text{m}^3$  effective January 1, 1996. The gas cost forecast was prepared using the January 1996 consensus price forecast based on the consensus methodology approved by the Board in E.B.R.O. 486. In addition, Union's Motion was structured to deal not only with changes in WACOG, but also to permit recovery of the 1995 TCPL toll adjustment of \$10.940 million, and an inventory revaluation adjustment of \$6.792 million.

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2.0.2 During the hearing, Union filed an updated gas price forecast that was based on the consensus forecast methodology and on the gas volumes used in preparing the gas cost forecasts in E.B.R.O. 486, E.B.R.O. 486-03 and the Motion. Union testified that the gas volume forecast had not been updated, since it is the Company's practice not to adjust the supply plan in gas cost updates prepared during the test year. The gas price forecast incorporated updated pricing and exchange rate assumptions from the February consensus forecast and new TCPL tolls effective January 1, 1996, as well as the effect of the risk management activity that Union had undertaken since E.B.R.O. 486-03. The update resulted in a WACOG of \$97.768 per  $10^3\text{m}^3$ .

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### Positions of the Parties

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2.0.3 CAC, Cibola, the Consortium, Direct, ECNG, Municipal, Mutual, NovaGas, NRG, Sunalta, and TCGS submitted that the sales rates, WACOG, and buy/sell reference price should be adjusted effective January 1, 1996 to reflect Union's latest filed consensus gas price forecast, namely \$97.768 per  $10^3\text{m}^3$ .

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2.0.4 2.0.4 IGUA and Board Staff recommended that WACOG be set at the E.B.R.O. 486 level of \$97.466 per  $10^3\text{m}^3$  to eliminate the need for inventory revaluation and to simplify rate-setting. Gas-Save also supported maintaining rates at the level set in E.B.R.O. 486, avoiding the need for a January 1, 1996 rate change, eliminating the need for inventory revaluation and establishing a rate which should contain PGVA variances in 1996 to a reasonable level. Cibola and the Consortium endorsed this approach as an alternative measure.

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2.0.5 Kitchener supported Union's initial proposal to increase its WACOG to \$91.290 per  $10^3\text{m}^3$  and accepted the proposed allocation of the 1995 TCPL tolls recovery and the inventory valuation adjustment.

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2.0.6 Novacor Chemicals agreed that the 1995 PGVA should be disposed of, in order to address "the \$10.9 million uptick caused by TCPL's tolls". IGUA recommended deferral of the disposition of this balance.

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2.0.7 Mutual, Sunalta, Cibola, the Consortium and NovaGas recommended that Union be required to recalculate the buy/sell reference price to include the updated gas supply plan, including the high-cost spot gas purchased in the winter of 1995/96. Under this recommendation, buy/sell customers would

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pay for the higher costs of the spot gas purchases in their gas bills, but this would be offset by the increase in the buy/sell reference price. Mutual further submitted that the Board should direct Union to build upward flexibility into its gas supply contracts and reflect any price premium arising from this flexibility in its buy/sell reference price. Cibola also expressed concern that Union had not adjusted the calculation of the buy/sell reference price to reflect lower Ontario production volumes.

2.0.8 Board Staff submitted that including the spot purchases in the supply plan for the purpose of calculating a WACOG and establishing the PGVA and Buy/Sell Reference Prices is inconsistent with the Board's past practice of holding the gas supply portfolio volumes constant and only adjusting the gas prices. Board Staff stated that adjusting the portfolio leads to impacts on the transportation and storage portfolio, and should only be done through a full rate case where all the impacts may be determined.

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2.0.9 Union replied that if WACOG is maintained at the E.B.R.O. 486 level, some specific adjustments to the delivery commitment credit and possibly other amounts would be necessary, since the WACOG fixed in E.B.R.O. 486 does not reflect 1996 TCPL tolls.

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### Board Findings

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2.0.10 The Board notes that all parties to the proceeding requested that the E.B.R.O. 486-03 Rate Order be varied. The Board issued a Vary Order on March 18, 1996, effective January 1, 1996 and continuing on an interim basis, ordering that the E.B.R.O. 486-03 rates be varied to reflect a revised interim WACOG of \$97.466 per  $10^3\text{m}^3$  as currently being paid by customers in rates.

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2.0.11 The Board observes that parties accepted the use by Union of the gas cost consensus forecasting methodology approved by the Board in E.B.R.O. 486 and that most parties submitted that the most current consensus forecast should be used to set rates. The Board agrees that the most current information should be used in the setting of rates and therefore approves the use of a WACOG of \$97.768 per  $10^3\text{m}^3$  effective January 1, 1996 for the purposes of determining Union's rates and other charges, setting the buy/sell reference price and as the reference price for determining amounts to be recorded in the PGVA.

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2.0.12 The Board notes that the alternative suggestion of using a WACOG of \$97.466 per  $10^3\text{m}^3$  would not reflect current TCPL tolls. Further, the Board believes that it is important to maintain the accountability of the utility for the use of an appropriate forecast and is concerned that by directing the Company to adopt a WACOG that differs from the Company's forecast the Board would be weakening this accountability.

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2.0.13 The Board recognizes that adopting the new updated WACOG will not result in any collection of the PGVA debit related to the May 1995 TCPL toll changes. The Board notes that one of the effects of its Vary Order is to eliminate the collection of the 1995 TCPL toll debit that had occurred to date and that the entire \$10.940 million debit remains in the PGVA. The Board directs Union to recover this through a one-time charge to general service, wholesale and contract customers, based on volumes consumed in the period May 1, 1995 to December 31, 1995.

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- 2.0.14 The Board notes that, if Union's updated gas supply plan is to be incorporated into the WACOG forecast, the volumes underlying this plan for the period April 1, 1996 to December 31, 1996 would need to be tested. The Board agrees with Board Staff that adjustments to the supply plan should be made in the context of a full review when all impacts, such as impacts on storage and transportation volumes, can be determined. The Board therefore agrees that it is more appropriate to use the supply plan that underlies Union's E.B.R.O. 486 filing. Was page 10 50
- 2.0.15 In this Decision the Board's consideration of the gas supply volumes has been restricted to the actual volumes of spot gas purchases in order to address the question of the recovery of the PGVA debit related to these purchases. 51
- 2.0.16 With regard to the more general issue that the buy/sell reference price should be adjusted to include the effect of the spot gas purchases, the Board agrees with Union's statement during the hearing that the effect of this recommendation would be that system gas customers bear the entire cost of the spot gas premium. The Board addresses the allocation of the spot gas premium below. 52
- 2.0.17 In its E.B.R.O. 486-03 Decision [\[12KKY-0:37\]](#), the Board found that \$547,000 should be entered into Deferral Account 179-26 in order to reflect the reduction in gas costs in that proceeding. Based on the WACOG approved in this Decision, this adjustment is no longer required and the Board directs Union to reverse the entry in Deferral Account 179-26. 53



### 3. UNION'S GAS SUPPLY PLANNING AND PURCHASING ACTIONS

#### 3.1 Gas Supply/Demand Plan

3.1.1 On June 6th, 1995 Union finalized its "Zero Quarter" forecast. Union updates its gas supply plan for the fiscal year on a quarterly basis. The Zero Quarter forecast was the first of these forecasts. In this forecast, total demand was estimated at 8,455,025  $10^3\text{m}^3$ , while supply consisted of 2,612,461  $10^3\text{m}^3$  of system gas, 5,336,657  $10^3\text{m}^3$  of direct purchase volumes and 505,907  $10^3\text{m}^3$  of storage withdrawals. A need for spot gas was not identified in the Zero Quarter forecast, nor was such a need identified in the E.B.R.O. 486 supply plan. On July 19, 1995, the Board's E.B.R.O. 486 Decision [12K6B-0:1] approved a forecast total demand of 8,714,104  $10^3\text{m}^3$ , 259,079  $10^3\text{m}^3$  higher than the Zero Quarter forecast.

3.1.2 During the hearing, Union indicated that its latest demand forecast, including 10 months of actual and 2 months of forecast data, suggests total demand for the year ending March 31, 1996 will be 9,053,230  $10^3\text{m}^3$ .

3.1.3 Prior to the start of the 1995/96 winter, Union developed a gas supply plan, based on the Zero Quarter forecast. It received an updated demand forecast in October and prepared an updated gas supply plan in late November. Union testified it was only at that time that it recognized that it faced a shortfall in gas supply to meet the winter demand of its firm service customers. This shortfall would need to be met by a combination of spot gas purchases, additional gas supply from direct purchase customers, drawdown of storage inventories and/or curtailments of interruptible customers.

3.1.4 Union noted that, to the extent that there were differences between the Board's approved forecast for large contract customers and Union's forecast for purposes of formulating its supply/demand balance, these differences did not contribute to the need to purchase spot gas last winter. Union testified that its large contract customers were net contributors to the supply/demand balance during the winter.

3.1.5 Union stated that the demand trends it relied on for the Zero Quarter forecast indicated a sustained and continued decline in individual customer use in the general service category. The increase in customer use in the general service category this winter was partially accounted for by extremely cold weather. However, Union indicated that the remaining reasons for this departure from the long-term trend are not clear. Union stated that there have been such variations in the past, and they may be related to extreme weather conditions not being fully accounted for in the weather normalization methodology.

3.1.6 Union also stated that to the extent that customers or brokers or other industry participants are not fully communicating their demand or their supply plans, planning becomes a very difficult exercise.

## Positions of the Parties

3.1.7 Board Staff submitted that, while natural gas purchase cost variances should generally be treated as a "flow through" cost, Union is clearly at risk for its forecast and the weather. Staff noted the Board's finding in E.B.R.O. 486 that there "appears to have been a systemic tendency on the part of the Company to underforecast its contract rate throughput volumes, and that this tendency has been in evidence over a considerable period of time". Board Staff noted that the Board's Decision did not obligate Union to change its forecast, and that a utility must revise its business plan throughout the year to reflect new realities in the market. Board Staff further submitted that "proven forecast deficiencies should have caused Union to take a conservative approach in updating its operating plans." Board Staff took the position that, instead, Union management took an "aggressive outlook" and chose to put the potential enhancements of returns to its shareholders ahead of its obligations to ratepayers.

3.1.8 Board Staff cited several examples in the evidence in which, historically, there has been no correlation between the weather and Union's need to acquire spot gas, and concluded that the Company has the ability to balance the system without recourse to major spot gas purchases even in periods of cold weather. Board Staff submitted that the fact that the weather was not "normal" is not a sufficient excuse for the lack of planning that occurred. It further submitted that the Company is at risk for the weather and must reasonably expect, and plan for, the fact that in any given year the weather might be colder or warmer than the average.

3.1.9 TCGS submitted that Union's shareholders should be held accountable for the incremental cost of the unplanned winter spot gas purchases, which, in its view, were the result of imprudent management decisions related to Union's gas supply and demand forecasts. TCGS noted that there was no evidence of system or direct purchase supply failure and that all buy/sell and bundled-T customers had delivered and balanced in accordance with their contract requirements.

3.1.10 Cibola and the Consortium submitted that because of incorrect forecasts and/or management decisions, the entire spot gas variance should be borne solely by Union's shareholders.

3.1.11 NRG submitted that Union's need to purchase large volumes of high priced spot gas resulted in large part from its choice to plan its gas supply on the basis of its Zero Quarter demand forecast, which was unreasonably low compared to the forecast approved in E.B.R.O. 486. In NRG's view, Union should be held accountable for this forecast error. NRG criticized Union's gas supply plan arguing that Union did not set appropriate daily contract quantity parameters in the direct purchase contracts; mishandled the restructured western buy/sell contracts which have no load balancing provisions; did not make provision for the reduction in Ontario production; and assumed unjustified risk to maximize revenues from storage.

3.1.12 Kitchener submitted that Union's inability to adjust to the colder than normal winter resulted from Union's building insufficient contingency into its gas supply plan; underforecasting demand; and releasing storage. Kitchener submitted that if Union had adhered to the Board's E.B.R.O. 486 findings on the demand forecast, it would have acquired additional gas volumes in the summer

period and avoided the purchase of expensive winter spot gas. Kitchener concluded that for these reasons the cost responsibility should be placed on the shareholder.

3.1.13 IGUA argued that Union's need to acquire spot gas arose not simply as the "result of extreme winter conditions" but from the combined effects of Union's propensity to underforecast customer demand; from Union's deliberate departure from the plans on which its E.B.R.O. 486 rates were based, in particular the sale to third parties of storage capacity; and from colder than normal weather. IGUA submitted that the increase in profits from the weather and the unforeseen demand should be deducted from any PGVA disposition. 69

3.1.14 IGUA argued that, if the Board were to approve recovery from ratepayers by Union of the spot gas premium, it would be departing from well-established principles of prospective test year rate-making. Under these principles, IGUA submitted that Union's shareholders should be accountable for forecast errors, for variance in weather, and for deliberate departure from plans on which approved rates are based. IGUA observed that it was unusual to grant relief for delivery charge increases during the test year, especially without taking into account other related cost savings or revenues. 70

3.1.15 CAC submitted that, to the extent that the spot gas purchases resulted from mis-forecasting or poor management, Union's shareholders should be responsible for the costs. CAC argued that the questions that should be addressed are whether Union, acting prudently, should have foreseen the possibility of changed circumstances and whether Union managed the problem prudently. 71

3.1.16 Union replied that colder than normal weather was responsible for slightly more than half the increase in general service demand over forecast (3.7 of 6.3 Bcf) and was responsible for approximately 1 Bcf of the increase in contract demand. The extreme weather conditions which resulted in gas shortages generally in North America were also responsible for the very high prices paid for spot gas between December 1995 and March 1996. Moreover, Union submitted that the relationship between weather and the necessity to purchase additional gas supplies is a function of all the circumstances at the time in question, many of which are outside Union's control, such as variations in TCPL Firm Service Tendered ("FST") deliveries or operational failures related to pipelines and gas supplies. 72

3.1.17 Union also replied that the cost of gas is not a business risk for which Union is compensated in its rate of return. In its view, the PGVA was established to remove the possibility of risk and reward associated with the cost of gas. Was page 15 73

### **Board Findings**

3.1.18 Based on Union's evidence, the Board has some reservations about the effectiveness of Union's gas supply planning process. The Board has difficulty in understanding why it was only in late November that Union recognized its need to enter the market to purchase spot gas supplies to meet the demands of its firm service customers. The Board appreciates that management must make its decisions based on the best information available at the time decisions are made; equally it is important that in making decisions, provision be made for contingencies that may arise if the 74 75

assumptions underlying those decisions are wrong. While the Board considers that Union's gas supply planning process was adequate, the Board believes that Union was slow in reacting to early signals that demand was higher than forecast and in making appropriate contingency arrangements. The Board discusses this issue further below.

### 3.2 Spot Gas Purchases

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3.2.1 In late November 1995, Union estimated its purchases of spot gas would reach approximately 12 Bcf, or 332,078 10<sup>3</sup>m<sup>3</sup> by the end of March 1996. Union generally defines spot gas as purchases that do not have transportation capacity on TCPL. At an average unit cost of \$162.905 per 10<sup>3</sup>m<sup>3</sup> as forecast by Union for these spot gas purchases, the variance from the fiscal 1996 WACOG of \$97.768 per 10<sup>3</sup>m<sup>3</sup> produced a spot gas purchase variance of \$21.631 million in the PGVA.

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3.2.2 Mr. Fantuz stated that "even though there was a number like 12 Bcf identified at that particular time, that the plan was to acquire 'chunks' of gas accordingly so that after a week or so [Union] could get together again and have a look at the outlook again". Each purchase was done in a "round," or tranche and provided for gas supplies to be delivered over the balance of the winter. The first round was December 15, 1995 for deliveries of 2.44 Bcf from December to March with an average price of \$3.49 per GJ (Cdn.). In early January there was another round for deliveries of 4.26 Bcf during the January to March period with an average price of \$4.67 per GJ (Cdn.). There were two other rounds in early and mid February. Union's actual spot gas purchases for the four rounds are summarized in the table below:

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Month	Volume 10 <sup>3</sup> m <sup>3</sup>	Average Price \$US/MMBtu	High Price \$US/MMBtu	Low Price \$US/MMBtu
December /95	183	2.50	2.50	2.50
January /96	181,576	3.78	4.00	3.33
February /96	98,265	2.83	2.91	2.04
March /96	54,867	3.33	5.15	1.95

3.2.3 Union stated that it did not go out and buy 12 Bcf of spot gas on December 15th because it anticipated that prices would fall. Mr. Killeen stated that, in addition to anticipating better prices, Union was also hoping for a turn-around in the weather which had been "in excess of 20% colder each month."

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3.2.4 During the hearing there was evidence that Union was anticipating additional purchases of roughly 20 Bcf of spot gas later in 1996. However, it was Union's expectation that the spot requirements would be largely filled by the direct purchase customers as they bring their volumes into balance prior to the end of their contract year.

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## Positions of the Parties

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- 3.2.5 In general, Board Staff submitted that the Board should accept Union's contention that the spot gas purchases were for load balancing purposes. Board Staff submitted that the issue is whether Union appropriately balanced the risk of carrying extra gas through the winter vis-a-vis the risk of needing to purchase spot gas at winter prices. 83
- 3.2.6 Board Staff expressed concern that Union could not adequately explain why, if it knew in November of a potential shortfall of 12 Bcf, it would not have attempted to purchase more gas at a December price of \$2.50(U.S) per MMBtu, and instead wait to purchase supplies at the historically highest price period in January. In Board Staff's view, it was apparent that Union took a risk in December that the weather would get warmer and prices would improve. <sup>Was page 17</sup> 84
- 3.2.7 Board Staff noted that no party brought evidence to refute Union's claim that its spot purchases were at market rates. Board Staff submitted that the Board should accept that Union paid prices that were market-based for the time period in which the supplies were purchased. However, Board Staff questioned whether Union chose the appropriate times to purchase these supplies. Board Staff submitted the Board should take "a conservative approach in its review of the prudence of the amounts and periods in which Union purchased gas." 85
- 3.2.8 Sunalta submitted that should the Board decide that the incremental gas purchases were imprudent, these costs should be completely or partially visited on Union's shareholders. 86
- 3.2.9 GasSave submitted that the issue was not the need for Union to purchase spot gas supplies, but rather whether Union had been sufficiently prudent in planning its gas supply so as to have avoided the high priced spot gas purchases. In GasSave's view, \$6 to \$8 million of the premium on spot gas purchases could be regarded as prudently incurred. 87
- 3.2.10 Kitchener submitted that Union had led satisfactory evidence that the prices it had paid for its spot purchases had been prudent. 88
- 3.2.11 Union stated that it simply would not have been prudent to purchase 12 Bcf of gas based on projections made at the start of the winter operating period without any consideration for potential changes in demand, weather and price during the remainder of the winter. 89
- 3.2.12 Union argued that these costs should be recoverable from ratepayers unless the Board finds that the costs could reasonably have been avoided, judged on the basis of the circumstances that existed at the time the decisions relating to the spot gas purchases were made, and not on the basis of subsequent events unknown to Union's managers at the time they were required to make the judgments in question. <sup>Was page 18</sup> 90
- 3.2.13 Union submitted that if circumstances were such that gas purchased this winter had been available at prices below WACOG, clearly none of the parties participating in this case would be advo- 91

cating that Union's shareholders should retain the amount of the credit in the PGVA resulting from such purchases.

### Board Findings

- 3.2.14 The Board has previously found that Union's gas supply planning process was adequate. However, the Board considers that Union's implementation of the gas supply plan was deficient. Only  $183 \times 10^3 \text{m}^3$  (0.006 Bcf) was purchased for delivery in December. The Board notes Union's evidence that to retain flexibility to react to changes in price and weather and to avoid disturbing the gas supply market, it planned to make the purchases over time as needed. The metaphor Union used was that it would take slices off the salami as winter progressed. While the Board understands Union's need to maintain a degree of flexibility in its gas purchasing, the Board is of the view that maintaining maximum flexibility in the circumstances that faced Union in December does not justify a decision to purchase virtually no spot gas in December. Union's implementation of its gas supply plan appears to the Board to have been designed to minimize the risk to Union's shareholders resulting from the possibility of excess gas supplies in storage at the end of the winter season in the event of warmer than normal weather in the remainder of the winter. The Board would have expected Union to have undertaken a plan to spread its spot gas purchases more evenly over the winter period. The Board is of the view that once Union had identified the 12 Bcf shortfall, it should have taken immediate steps to purchase at least 3 Bcf of spot gas in December to accomplish a more even spreading of spot gas purchases. Union's failure to acquire this gas in December resulted, in the Board's view, in additional costs of at least \$5.140 million when this gas was acquired in January (based on the difference between December and January prices for purchases of 2.994 Bcf). The Board notes that Union's gas supply plans and their implementation were subject to review and approval at the executive level. The Board finds that the amount of \$5.140 million is most appropriately borne by the shareholder and directs that this amount be removed from the PGVA debit.

## 3.3 Storage

- 3.3.1 The gas supply plan filed in E.B.R.O. 486 showed the need to shed  $372 \times 10^6 \text{m}^3$  of gas (approximately 13 Bcf) in order to allow Union's March 31, 1996 inventory targets to be realized. A reduction in Ontario production was incorporated in the Zero Quarter supply plan to shed this volume. Union explained that, because this supply reduction occurred in the summer rather than the winter as originally planned, peak storage space became available last summer, which Union then sold in order to utilize the assets as efficiently as possible.
- 3.3.2 Union noted that there was a storage space shift of  $92 \times 10^6 \text{m}^3$  to bundled-T customers and a further  $21 \times 10^6 \text{m}^3$  to T1 customers. This left  $251 \times 10^6 \text{m}^3$  of storage available for release to Storage and Transportation customers. The first sale of  $85 \times 10^6 \text{m}^3$  of storage space was made on June 12, 1995, the next sale was  $113 \times 10^6 \text{m}^3$  on September 21, and a further  $10 \times 10^6 \text{m}^3$  was released a week later. The final release of  $42 \times 10^6 \text{m}^3$  took place on October 20, 1995.

### Positions of the Parties

- 3.3.3 Board Staff submitted that Union's decision to sell storage in late October rather than to inject gas for the winter season was a senior management decision that weighed the risk to customers with the potential benefit to the shareholder of lower carrying costs and storage sales. 98
- 3.3.4 Board Staff stated that it was "implausible" that Union could hold 54 10<sup>6</sup>m<sup>3</sup> in unused contingency storage and sell an additional 42 10<sup>6</sup>m<sup>3</sup> of storage on October 20 and subsequently find itself short 334 10<sup>6</sup>m<sup>3</sup> (approximately 12 Bcf) of winter gas on November 24. Board Staff submitted that, when Union took upon itself to release 42 10<sup>6</sup>m<sup>3</sup> of storage in October without the benefit of demand estimates more recent than the June 1995 Zero Quarter forecast, "it crossed the line between protecting its ratepayers against risk and entered the realm of seeking potential gains for its shareholders". Board Staff submitted that the Board should deem to have been available an amount of gas equal to the last storage release, or approximately 42 10<sup>6</sup>m<sup>3</sup>. Board Staff estimated that this adjustment would result in a credit to the PGVA of \$1.450 million, using the average December spot gas price of \$132.00 per 10<sup>3</sup>m<sup>3</sup>. 99
- 3.3.5 NRG argued that Union was imprudent in proceeding with the storage releases in September and October in the face of increased demand volumes. Was page 20 100
- 3.3.6 Municipal argued that one reason for Union's difficulties was the management decision taken in June to dispose of "excess" storage capacity to avoid the prospect of unabsorbed demand charges ("UDC") charges. 101
- 3.3.7 IGUA argued that deductions from the PGVA debit should be made for costs avoided and revenues received by Union related to its sale of storage capacity to third parties. 102
- 3.3.8 NovaGas submitted that Union had sold storage that otherwise could have been used to inject cheaper gas in the summer of 1995 to meet the Board's approved demand forecast. 103
- 3.3.9 CAC stated that Union's release of its storage space was a business decision and submitted that Union should be held accountable for the associated risks. 104
- 3.3.10 GasSave argued that some degree of hindsight was justified in assessing Union's actions in disposing of 9 Bcf of peak storage space. GasSave suggested that, because of the protections provided by the PGVA and C1 Storage deferral accounts, Union faced an inappropriately low risk in assigning away too much in-franchise storage space. GasSave submitted that the spot gas variance should be reduced by the gross revenues obtained from the assignment of in-franchise storage to the C1 market and the associated transportation revenues on the Dawn-Trafalgar system. 105
- 3.3.11 Union replied that at the time the final segment of storage was released, its expectation was this space would not be required for its in-franchise customers and would be wasted if it were not made available to others. It was precisely to avoid excess year-end inventories that Union released storage when it did last summer and fall. Union submitted that those were logical and reasonable decisions based on the circumstances known to Union's managers at the time they were made. 106

**Board Findings**

- 3.3.12 The Board notes Union's evidence that the decisions to release storage space were based on the most current information that Union management had available to it at the time these decisions were made. The Board is of the view that Union's decision to release the storage was unconnected with Union's subsequent need to acquire spot gas supplies. The Board accepts Union's evidence that storage space was not a constraint in obtaining gas supplies in the November to March period. The Board finds that Union's release of storage was reasonable in light of the circumstances at that time. 108
- 3.3.13 The submissions of parties on the storage release correctly note that if Union had kept the storage and filled it in the summer, the costs of the spot gas purchases would have been reduced. However, the Board considers that these submissions are made with the benefit of hindsight and do not assist it in determining the prudence of Union's gas supply planning. 109
- 3.3.14 The Board notes that the net revenue from the sale of the released storage space has been entered into the C1 Storage deferral account and the disposition of this account will be dealt with in the main rates case. 110

**3.4 Curtailments**

- 3.4.1 Union testified that during the November 1995 to February 1996 period, it curtailed approximately 3 Bcf of interruptible consumption totalling 21 days, with approximately 19 days' capacity being held in reserve. Maximum curtailment would have yielded approximately 6 Bcf of gas. However, Union explained that only 2 Bcf of further curtailments could realistically be exercised because interruptions are based on peak day requirements and because some interruptible contracts limit curtailments to less than 40 days. Union stated that the full amount of curtailments had not been exercised by early March, because it required flexibility for the remaining part of the winter and that further curtailments were expected. 111
- 3.4.2 Union stated that, in its best judgment, it was necessary to keep the remaining interruptible capability in reserve to deal with contingencies and meet deliverability requirements. Union explained that the remaining capability was to protect against contingencies such as colder than normal weather, increasing demands in firm markets, reduction in TCPL FST deliveries, and/or the possibility of operational failures. Union testified that keeping interruptible capability was necessary because incremental gas supplies were becoming more scarce and higher in cost and upstream pipeline capacity, more difficult to obtain. 112
- 3.4.3 Union testified that, as a result of this winter's experience, a number of interruptible customers were considering converting their contracts to firm service. 114

**Positions of the Parties**



- 3.4.4 Board Staff submitted that Union's responsibility is to balance the interest of all customers and to make clear to all interruptible customers the risk involved in making such contractual arrangements. Board Staff stated that Union was clearly concerned about the reaction of interruptible customers to prolonged stoppages during the coldest days of the year. Board Staff concluded that Union could have avoided buying 2 Bcf of spot gas, had it decided to interrupt customers on a more frequent or prolonged basis in the November to March period, and recommended that shareholders be held liable for the \$1.9 million cost associated with the purchase of those volumes. 116
- 3.4.5 GasSave requested that the Board comment on the prudence of Union's management of its interruptible market this past winter and direct Union to fully enforce the failure to curtail provisions in its delivery service contracts with interruptible customers. GasSave recommended that any penalty revenues from failures to curtail be credited to the PGVA. 117
- 3.4.6 Municipal argued that one of the real reasons for Union's need to purchase large volumes of winter spot gas was the failure to take advantage of its full contractual rights to curtail interruptible customers. 118
- 3.4.7 NRG argued that Union could have curtailed its interruptible customers to a greater extent. NRG recommended reducing the PGVA by \$423,000 from the gas sales margin on one half of the interruptible gas sales that could have been curtailed. NRG recommended a further reduction in PGVA recovery of \$2.11 million to reflect Union's decision not to curtail the interruptible customers further. <sup>Was page 23</sup> 119
- 3.4.8 Kitchener submitted that Union's treatment of its interruptible customers had been prudent. 120
- 3.4.9 CAC submitted that Union should be held accountable for failing to take full advantage of its rights to curtail interruptible customers. 121
- 3.4.10 Union responded that, while it does its utmost to ameliorate the effects of interruption on customers, the decision of whether or not to call an interruption is based on the requirement to ensure that there is sufficient supply to meet firm demand on Union's system. 122

### **Board Findings**

- 3.4.11 The Board understands Union's need to balance its use of curtailments with its need to retain some interruptible capability as a contingency for late winter season supply difficulties and considers it would not have been reasonable for Union to have utilized all its curtailment capability early on in the winter season. However, the Board believes that if Union had initiated curtailment earlier it might have reduced its need to purchase as much gas as it did in January when the premium on spot gas purchases appears to have been highest. The Board is of the view that Union's delay in applying curtailment to interruptible customers is another instance of the Company's slow response in implementing its gas supply plans following the identification of the 12 Bcf shortfall. The Board has considered this slow response in its findings on the PGVA debit reduction above. 123

- 3.4.12 The Board notes the extensive discussion of curtailments and interruptible rates that took place in the hearing, in particular the possibility that there may be a conversion by interruptible customers to firm service as a result of the curtailment experience this winter. The Board expects that the issue of interruptible service rates will be addressed in the main rates hearing. In addition, the Board sees merit in the provision of information on the extent of customer compliance with Union's curtailments and directs that Union provide evidence in the next rates case on any instances of non-compliance and on any revenue received from penalties from failures to comply.

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## 3.5 Risk Management

Was page 24 126

- 3.5.1 A portion of the balance in the PGVA is attributable to Union's risk management activities. In its E.B.R.O. 486 Decision [12K6B-0:1], the Board set out three tests of the prudence of a risk management strategy and program: comparison to other eastern LDCs' prices, comparison to fixed prices available at the time of Union entering into its contracts, and the so-called "do nothing" approach.

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### Positions of the Parties

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- 3.5.2 Board Staff submitted that the Board has insufficient evidence upon which to base a determination of the prudence and appropriateness of Union's risk management activities, as only the "do nothing" approach was supported by sufficient evidence. Board Staff recommended deferring disposition of the \$159,000 in the PGVA not related to Union's spot gas purchase activity at this time, which would allow parties to file relevant evidence on all three prudence tests involving Union's risk management activities in a rates case, along with a consideration of potential changes to the risk management strategy.

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- 3.5.3 Kitchener submitted that a review of the prudence of Union's risk management activities should be deferred.

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- 3.5.4 CAC submitted that Union had not met the onus of establishing that its risk management activities were prudent.

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- 3.5.5 Union contended that its proposal in this proceeding to dispose of the PGVA did not involve any new information concerning risk management beyond that provided in E.B.R.O. 486. Union argued that the impact of risk management activities which impact the PGVA were reviewed and implicitly accepted by the Board during the course of E.B.R.O. 486, and the submission that there has been no independent review of the same activities during these proceedings is spurious.

132

### Board Findings

Was page 25 133

- 3.5.6 The Board in this Decision is only addressing the clearance of the PGVA debits which relate to the purchase of spot gas for the 1995/96 winter period. The Board therefore makes no finding with regard to the prudence of Union's risk management actions but notes that in this hearing Union

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provided evidence related to only one of the three criteria that the Board in its E.B.R.O. 486 Decision [12K6B-0:1] stated it would use to assess Union's risk management actions.

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## 4. CLEARANCE OF THE PGVA DEBITS RELATED TO SPOT GAS PURCHASES

### 4.1 Deferral of the Clearance of the PGVA Debits

- 4.1.1 Whether or not clearance of the PGVA debit related to spot gas purchases should be made now or deferred to Union's main rates case was an issue in the hearing.

#### Positions of the Parties

- 4.1.2 NovaGas argued that it would be inappropriate "at least at this time" to charge costs of additional spot gas supplies to any of Union's customers. NovaGas submitted that Union's shareholders should bear some of the responsibility of the decisions taken by Union management and should be held accountable for the costs of the additional spot gas purchases. However, NovaGas believed Union should be provided the opportunity to mitigate some of these costs over the remainder of 1996, for example through the purchase of additional spot gas at prices below the revised WACOG. NovaGas submitted that final disposition of the PGVA should be deferred until Union brings forward a plan to mitigate these costs whether they be to the account of the shareholder or ratepayers and that deferral to the rates case would allow a fuller examination of the issues raised by the Motion.

- 4.1.3 ECNG submitted that the disposition of the PGVA be deferred to a full rates case. ECNG argued that disposition of the spot gas cost item should not be made in isolation from revenue items such as higher sales volumes and proceeds from the sale of peak storage.

- 4.1.4 Novacor Chemicals argued that disposition of the PGVA debit associated with winter spot gas purchases be deferred until the full rates case to allow all industrial customers more time for review and since there may be further spot gas purchase impacts from the "extraordinary weather in the 1995-96 winter".

- 4.1.5 Municipal opposed disposition of prospective balances in the PGVA relating to the purchase of winter spot gas. Municipal took the position that the questions are complex and could not be adequately examined in what it viewed as an expedited proceeding. Municipal also noted that the evidence in this proceeding was based on forecast rather than actual data and did not include the final balances in other deferral accounts including the C1 storage deferral account.

- 4.1.6 Kitchener expressed concern that the record of this proceeding does not provide sufficient detail of all offsetting costs that should be taken into account, including net revenues from the sale of storage capacity, incremental revenues from increased sales, and the savings in carrying costs resulting from the lower volumes of gas in storage.

- 4.1.7 CAC submitted that clearance of the PGVA should be deferred to the main rates case because of the possibility that the debit in the PGVA may be reduced or offset by credit balances in other variance accounts and to allow for a more thorough examination of the evidentiary basis of Union's case. 145
- 4.1.8 IGUA questioned the accuracy of Union's estimates of the spot gas premium since further spot purchases were planned that could reduce the premium if they were made at prices below an updated WACOG. IGUA proposed that clearance of the PGVA debits be deferred to the main rates case. 146
- 4.1.9 Sunalta and Direct noted that the Motions have raised a number of serious gas cost issues related to forecasting; spot gas purchases to balance the system; differing treatment of customers and rate classes; and methods of allocation and collection of amounts paid. They recommended that these issues should be raised in the next main rates case. 147
- 4.1.10 Union replied that the deliveries of spot gas this summer, which are to be made largely by direct purchase customers, will not affect the PGVA one way or another. Union did not feel that delaying the resolution of this issue until a future hearing would improve or significantly change the record that is already available to the Board as a result of these proceedings. Union believed that, because of the amounts involved, it was desirable to resolve the issues arising in connection with the debit as soon as possible, so that customers affected can be properly advised and that the disposition of the PGVA take place as close to the causal events as possible. <sup>Was page 29</sup> 148

### **Board Findings**

- 4.1.11 The Board is concerned that deferral of the collection of these costs would unreasonably separate the relationship between the cause of these costs - namely the abnormally cold weather and the supply requirements of the customers in the period November 1995 to March 1996 - and the collection of these costs. The Board is of the view that the evidence presented at the hearing provides a sufficient basis for it to make a disposition of the PGVA debit related to spot gas purchases. However, as discussed below, the Board has decided to defer the disposition of a component of the debit that relates to unaccounted for gas, heating value and Company use gas. 149

## **4.2 Allocation of the PGVA Debts to Customers**

- 4.2.1 Union proposed that the PGVA debit associated with the spot gas purchases be recovered by means of a rate rider or charge applicable to both system and non-system customers, because additional supplies had to be bought to meet the balancing needs of the entire system. The rate rider or charge would apply to all rate classes other than M5, M6, M7, T1 and Special Industrial. Union proposed that M7 customers be held harmless from the spot gas PGVA variance because Union had worked with the M7 customers to bring in the necessary supply to meet the increase in demand for these customers. Union also proposed to exempt M5 customers as they are interruptible and M6 customers, as they have no winter consumption. T1 (unbundled-T) customers purchase their own gas and arrange for storage and so are unaffected by the need to purchase spot gas. 152

**Positions of the Parties**

- 154  
4.2.2 Board Staff submitted that purchases of spot gas were legitimately used to load balance the system and as such the variances recorded in the PGVA should be to the account of all ratepayers, with the exception of unbundled-T customers.
- 155  
4.2.3 Board Staff further submitted that Union was giving preferential treatment to M7 customers by allowing only those customers the ability to opt out of system-wide effects brought on by cold weather and its own management decisions. Board Staff submitted that these actions were discriminatory, and could not be justified by reason of administrative simplicity and cost causality.
- 156  
4.2.4 TCGS argued that system, buy/sell direct purchase and bundled-T service customers already pay within the rates for adequate storage levels so that Union can fulfil its obligations to balance supply and demand. TCGS noted that Union could receive some offsetting revenue resulting from recovery of storage inventory carrying charges based on higher than actual storage levels, proceeds from the sale of the released storage capacity, and the sales margins from interruptible customers who were not fully curtailed. TCGS submitted that Union's shareholders should face the consequences of management's decisions and Union should not be allowed to recover all of the incremental unplanned winter spot purchases in rates. TCGS proposed that Union should be permitted to recover 10 percent of the PGVA debits from all customers. TGCS recommended that this amount be recovered from all customers, including M7 and M5 customers, but excluding unbundled-T customers who contracted separately for storage and load balancing services.
- 157  
4.2.5 NRG submitted that all customers that used gas in the period November 1995 to March 1996 should bear the costs of the winter spot gas purchases, since all customers except T1 customers contributed to the requirement to purchase additional supplies to balance. NRG submitted that Union had not provided sufficient evidence to conclude that M7 customers were not contributing to the supply/demand imbalance whereas the other customer classes were. NRG also expressed concern that neither it nor Kitchener had been notified of the supply shortfall Union was facing so that they could have taken corrective action - an opportunity which was afforded to M7 customers.
- 158  
4.2.6 NRG submitted that "based on Union's own admission that the winter spot gas purchases are both a delivery issue and a cost of gas issue, that the full incremental cost of gas of \$23.782 million should not be recovered through the PGVA as a cost of gas" and that a substantial portion of these costs should be viewed as an increase in the cost of delivery or cost of service that should be borne by Union's shareholder.
- 159  
4.2.7 NRG recommended that the Board should disallow recovery of \$17.975 million in the PGVA. NRG further recommended that the remaining costs should be offset by the \$3.5 million revenues from the sale of the C1 peak storage and the associated transportation revenues.
- 160  
4.2.8 Novacor Chemicals argued that the PGVA amounts related to the spot gas premiums should not be allocated to direct purchase customers who obtained their gas supply under buy/sell or bundled T-service contracts since they had complied with both the spirit and intent of the agreements they had entered with Union and any application of a rider to recover these costs from M7 customers

would be completely unjustifiable. Novacor Chemicals argued that the portion of the premium costs that could not be attributed to the system customers should be borne by the shareholders.

4.2.9 Cibola and the Consortium argued that any variance not borne by the shareholder should be collected from Union's system gas customers. If a portion of the costs are allocated to direct purchase customers then it was their view that M5 and M7 customers should not be exempted. Cibola and the Consortium argued that the fact that M7 customers were in balance may have been more a function of a spring renewal date. Further they questioned why smaller customers had not been provided with an opportunity to bring in additional supplies. 161

4.2.10 NovaGas submitted that Union attempted to mitigate its supply difficulties with only the M7 class of customers without providing an opportunity to other direct purchase customers. Citing the buy/sell contractual provisions, NovaGas submitted that, while there may be circumstances where direct purchase customers should contribute to the cost of balancing loads, the facts in this case cannot justify such cost allocation. 162

4.2.11 ECNG argued that any rate rider arising from these spot gas purchases should not be imposed on buy/sell and bundled-T customers. It noted that Union has always previously cleared the PGVA to system customers. ECNG also focussed on the contractual terms in the restructured buy/sell contract approved by the Board, in its E.B.R.O. 476-03 Decision, for buy/sell customers with volumes less than 100 10<sup>3</sup>m<sup>3</sup> per day. ECNG submitted that Union has taken on the responsibility for load balancing in the restructured buy/sell contracts in exchange for the commitment by direct purchase customers to deliver their estimated requirements within specified tolerances. It concluded that Union's proposals violate the ratemaking principles of cost causality and of providing appropriate market signals for direct purchase customers. Was page 32 163

4.2.12 Municipal submitted that none of the costs associated with the spot purchases should be borne by rate M2 residential buy/sell customers because such action would unilaterally alter the contracts between Union and these customers. Municipal argued that under the restructured buy/sell contract, Union assumes the risk for any volume differences in excess of the tolerances in the contract year. Further Municipal Gas argued that under this contract, there was no clause that would permit Union to charge a premium above the buy/sell reference price where a variance of supply occurs as contemplated by the contract. 164

4.2.13 Municipal agreed that general regulatory principles would allow a utility to pass through any prudent gas costs to the gas customer. However, Municipal submitted that Union, by the terms of its restructured buy/sell contract, had surrendered that principle and is bound by its contract which only allows it to pass on gas costs at the buy/sell reference price. 165

4.2.14 IGUA argued that Union had no right to demand payment for costs incurred by Union to meet a temporary inventory imbalance without affording the customer the opportunity to remedy the delivery shortage. IGUA submitted that Union's shareholders are accountable for forecasts, for weather variations and for the actions of Union management. Accordingly, it was IGUA's position that Union's shareholders are responsible for the costs incurred by Union to meet its load balancing obligations. 166

- 4.2.15 CAC submitted that if the PGVA is cleared it should be cleared to the account of Union's shareholder. Any charge to ratepayers should reflect the circumstances that caused it and be in proportional relationship to ratepayers' responsibility for the circumstances that gave rise to the charge. Was page 33 167
- 4.2.16 Kitchener suggested that, if the Board finds that Union acted prudently in providing for supply, there should be some sharing of the costs between ratepayers and shareholders. Kitchener cited the Board's treatment of the synthetic natural gas contract premium as an example of shared cost responsibility. 168
- 4.2.17 Board Staff submitted that an order that determines how the PGVA balance is to be recovered in rates for the sale of gas is a valid order made under section 19 of the Act. No contract made between Union and a customer, including the restructured Buy/Sell contract, can limit, inhibit, or interfere with the Board's statutory authority to make such an order based on the Board's judgment of what is in the best interests of all of Union's gas customers. 169
- 4.2.18 Board Staff rejected the suggestion by parties that, "because of the Board approving a new form of contract [i.e. the restructured buy/sell contract], customers who sign such contracts would be forever free from paying PGVA charges associated with Union acquiring gas to meet its contractual obligations to these customers". It noted that the restructured Buy/Sell Agreement provided that the participants acknowledge that their rights are subject to any valid order the Board may make, including orders disposing of PGVA balances. 170
- 4.2.19 Union responded that, with respect to arguments based on customers' individual circumstances, Union's infrastructure simply does not permit Union to determine individuals' supply/demand balances. Union submitted that its proposals are based on common treatment of customers within a common rate class. It further submitted that these proposals are consistent with past practice, and are in keeping with sound ratemaking principles. 171
- 4.2.20 Union noted that there is no requirement under the relevant supply contracts for customers to make additional deliveries to Union so long as they balance their supply and demand within specified tolerances annually. In the absence of such an obligation, Union submitted that, even if it had asked customers concerned to make additional deliveries, they clearly would not have done so at the prices prevailing in the market at the time. Union submitted that there is no basis for the Board to conclude that the supply difficulties that arose this winter could have been resolved at less cost had Union made further efforts to invoke the assistance of either additional customers or brokers. Was page 34 172
- 4.2.21 Union argued that the balancing provisions of the buy/sell and bundled-T contracts do not govern or even deal with the prices the customers in question may be required to pay for gas which they received from Union under the applicable gas sales, or, in the case of bundled-T service, gas delivery contracts. Union noted that, in the case of buy/sell customers, the gas sales contracts applicable to the delivery of gas at the customer's receipt point specifically provide that the demand and commodity charges payable under the contract are the charges contained in the applicable rate schedule, as amended from time to time, by the Board. Similar provisions appear in the gas delivery contract applicable to bundled-T service. 173



## Board Findings

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4.2.22 The Board has determined, based on the evidence and on an updated WACOG of \$97.768 per 10<sup>3</sup>m<sup>3</sup> effective January 1, 1996, a PGVA debit for winter spot gas premium costs of \$21.631 million. The Board has also found that this debit should be reduced by \$5.140 million to reflect the Board's findings above. The Board further finds in the following section that a portion of these costs (\$4.982 million) should be attributed to the increased volumes contained in Union's gas supply plan to reflect other gas supply requirements. The Board therefore finds that the PGVA debit related to winter spot gas purchase premium to be allocated for recovery is \$11.509 million.

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4.2.23 The Board is of the view that the evidence is clear that rate classes M2, M4, M9 and M10 by their consumption in the colder than normal weather conditions, drew down inventories and that additional gas was not supplied by these rate classes. The Board concludes that Union therefore made spot gas purchases, drew down storage and curtailed interruptible customers to ensure that firm service customers could continue to receive service.

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4.2.24 The Board notes that the supply contracts between Union and its direct purchase suppliers do not contain in-year balancing provisions. The Board further notes that Union has balanced the requirements of all its firm service customers by replenishing the inventory it had on hand for supply to its system gas customers, thereby providing a benefit to direct purchase customers for which they have not paid. In the past, a larger component of Union's gas supply was system gas, volumes in storage were higher, additional FST deliveries were more readily available and spot gas prices were not significantly above WACOG. In these circumstances, the costs of providing this load-balancing service could be absorbed through the assignment of such spot gas purchase volumes to the PGVA and recovered from system gas customers without material impact on system customers. However in this case, insufficient FST deliveries were available, spot gas prices were significantly above WACOG and there were insufficient volumes in storage to defer spot gas purchases. The Board therefore believes that it would be unfair to visit all the costs on the system gas customers alone and further to do so would ignore the cost causality for the make-up which resulted from the increased consumption of all firm service customers, not just system gas customers.

Was page 35 177

4.2.25 The Board heard submissions that buy/sell customers and bundled-T service customers should have been given the opportunity to purchase additional gas supply on their own behalf once the shortage had been identified, similar to the opportunity afforded M7 customers. The Board is not convinced that, had this opportunity been provided, such customers would have availed themselves of the opportunity given the prevailing high spot prices. In this regard, the Board notes that no parties took issue with the market prices paid by Union for its spot gas supplies.

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4.2.26 The Board notes the evidence of Union that it worked with the M7 customer class to provide additional supplies and that in aggregate this customer class was not out of balance in this critical winter period and did not contribute to a net drawdown of gas storage inventories. The Board is of the view that for it to allocate additional costs to this class in addition to the costs that customers in this class have already incurred to provide additional supplies would be unfair. However, the Board believes that the special treatment afforded this class by Union through its actions is inappropriate. The Board observes that the existing contracting arrangements do not require direct purchase customers to provide in-year additional gas supplies in the event of higher than expected

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consumption. The Board believes that this incident clearly demonstrates that this circumstance needs to be addressed and expects that Union will bring forward proposals to address this situation which will ensure that other rate classes are treated in a consistent manner with M7 customers.

- Was page 36 180
- 4.2.27 The Board considers that T1 and Special Industrial customers who do not draw from storage should not be allocated a portion of the PGVA debits. The Board notes that M6 customers are seasonal and did not consume during the winter period and therefore should not be allocated a portion of the PGVA debits.
- 181
- 4.2.28 The Board has previously found that it would not have been reasonable for Union to have utilized all its curtailment capability early in the winter season. The Board therefore rejects the submissions of parties that M5 customers should be allocated a portion of the PGVA debit.
- 182
- 4.2.29 The Board finds that all customers in rate classes M2, M4, M9 and M10, whether system customers, buy/sell customers or bundled-T customers derived some benefit from Union's actions this winter and should therefore contribute to the recovery of the costs incurred. The Board finds that the PGVA debit of \$11.509 million should be recovered from all customers in these rate classes. The allocation is to be based on the volumes consumed by customers in these rate classes in the period November 1, 1995 to March 31, 1996.
- 183
- 4.2.30 The Board has previously noted its concerns with the balancing provisions in the buy/sell and bundled-T contracts and the benefits that these are providing buy/sell and bundled-T customers. The Board also notes the discussion during the hearing as to the need to improve the forecasts provided for these customers. Further, the Board notes the possibility that interruptible customers may convert to firm service as a result of this winter's curtailments and the declining component of system gas in Union's gas supply plan. The evidence in this proceeding indicates to the Board that Union's flexibility in its gas supply planning is decreasing and the adequacy of the contingency allowance in its gas supply planning will be increasingly tested. The Board directs Union to file in its next main rates case, evidence concerning the determination of the contingency volumes in its gas supply plans, including the March 1 and March 31 storage control points.

Was page 37 184

### 4.3 Other Gas Supply Requirements

- 185
- 4.3.1 In E.B.R.O. 486, Union's forecast of unaccounted for gas, company use gas and heat value adjustments amounted to a total of 29,147  $10^3\text{m}^3$ . The most recent forecast showed a need for 160,924  $10^3\text{m}^3$  for these items, a difference of 131,777  $10^3\text{m}^3$ . Union was unable to explain this variance.

#### Positions of the Parties

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- 187
- 4.3.2 Board Staff expressed concern at the dramatic increase in unaccounted for gas, from 55,325  $10^3\text{m}^3$  forecast in E.B.R.O. 486 to 120,910  $10^3\text{m}^3$  in the latest forecast. This amount of unaccounted for gas represented a loss of some \$12 million based on the current WACOG. Board Staff noted that the evidence was clear that Union did not have an answer at this time to explain this

high variance. Therefore, Board Staff submitted that the variance in the PGVA associated with unaccounted for gas be excluded at this time from disposition and that Union file a report on this area in its next main rates case.

- 4.3.3 Union replied that the assumption that there would be greater certainty regarding the increase in unaccounted for gas during the main rates case is unjustified. Union submitted that it is not correct to assume a direct link between the increase in unaccounted for gas and the necessity to purchase additional spot gas.

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**Board Findings**

189

- 4.3.4 The Board notes that, while there may not be a direct link between the increase in unaccounted for gas and the spot gas purchases, Union's witness acknowledged that the increase in unaccounted for gas created part of the shortfall this winter, resulting in an increase in the spot gas purchases.

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- 4.3.5 The Board further notes that, under Union's proposal, the costs associated with the increase in unaccounted for gas, company use gas and heat value adjustments are borne solely by the M2, M4, M9 and M10 rate classes. The Board is of the view that Union has not justified that it is appropriate for these rate classes to bear all of the costs associated with the increases in these categories.

Was page 38 191

- 4.3.6 The Board sees merit in the report recommended by Board Staff and requires information on the cost causality of the gas volume increases in these categories. The Board has determined that the gas volume increases in these categories account for \$4.982 million, based on the proportionate share of the volume demand variance in this category to the total demand volume variance from the Zero Quarter forecast. The Board therefore directs that this amount remain in the PGVA. The Board further directs Union to bring forward a proposal in the main rates hearing for the disposition of the \$4.982 million PGVA debit that the Board has attributed to the increase in volumes in these categories.

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**4.4 Rate Implementation**

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- 4.4.1 The ratemaking treatment for the recovery of the PGVA debit if approved by the Board was also an issue at the hearing.

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**Positions of the Parties**

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- 4.4.2 Union noted that it would not be administratively possible for it to process a rate change and a one-time charge simultaneously. Accordingly, if there were a one-time charge it would need to follow the rate change by at least one month.

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- 4.4.3 Board Staff understood Union's concerns that a one-time charge would not be received sympathetically and was aware of the customer relation problems such a charge would pose. However, the fact that customers find such a charge unpalatable would not be, in Board Staff's submission, suf-

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efficient cause to approve a proposal whose only virtue would be to hide the charge from the customers. Board Staff submitted that a one-time charge would also send the appropriate price information to the customers. Board Staff considered that a one-time charge would be more equitable than a rate rider, since it would minimize inter-generational inequities.

4.4.4 Board Staff estimated that the one-time charge for residential customers would likely be less than \$20. It did not accept that allowing staggered payments for customers with large bills would be overly burdensome to Union. It submitted that, where necessary, commercial customers could make alternative credit arrangements to allow them to pass along higher input costs. Was page 39 198

4.4.5 TCGS submitted that the PGVA debit should be collected in the form of a one-time charge as soon as possible for intergenerational and cost causality reasons. 199

4.4.6 NRG objected to the use of the proposed rate rider because the forecast sales volumes on which the calculation is based are untested and too low and would result in overcollection from the M9 rate class. NRG recommended that if the Board accepts a rate rider it should be specific to each rate class to prevent cross-subsidisation. NRG was concerned that the period over which the rider would be collected would be far removed from the period of causation. NRG submitted that Union should be prepared to allow its contract customers the option of a one-time charge recovered through payments spread over a twelve-month period. 200

4.4.7 Kitchener supported the use of a rate rider but submitted that the collections from the rider should equate to the allocated costs and any under- or over-collection should be recorded for subsequent disposition. 201

4.4.8 CAC submitted that the most equitable solution would be a one-time charge levied as close in time to the events giving rise to the charge. CAC stated it was not opposed to the use of a rate rider for those customers on whom a one-time charge may impose a hardship. 202

**Board Findings** 203

4.4.9 The Board's preference would be to recover the costs in the PGVA relating to spot gas purchases costs by way of a one-time charge with an instalment payment option. However the Board understands that Union is not able to implement this option with its current computer systems. 204

4.4.10 For M2, M9 and M10 customers the Board directs Union to collect the PGVA debit using a one-time charge. However, as there are only two customers in the M9 class and three customers in the M10 class, the Board does not consider that it will be burdensome for Union to make specific arrangements to collect the one-time charge from these customers by instalments ending no later than April 30, 1997. Such arrangements shall not include interest. Was page 40 205

4.4.11 Given the costs involved and the variability in consumption for the M4 customer class, the Board has determined that it would be appropriate to recover the PGVA debit related to the spot gas purchases from M4 customers by way of a prospective volumetric rate rider to be in place for the 206

period May 1, 1996 to April 30, 1997. The Board further directs that Union record as a separate item in the PGVA the difference between the costs allocated to the M4 rate class and the revenues recovered from this rate class by the rate rider.

4.4.12 The Board recognizes that, with a WACOG of \$97.768 per  $10^3\text{m}^3$ , adjustments will be necessary to recover the inventory revaluation adjustment arising from this change in WACOG. The Board directs that this credit be allocated on the same basis as storage costs are allocated. The Board also recognizes that for the period from January 1, 1996 to the implementation date for the new rates, Union will have undercollected in its rates the difference between the new approved WACOG and the WACOG on which E.B.R.O. 486 rates were based. The Board directs that Union recover this difference based on actual customer consumption on or after January 1, 1996.

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4.4.13 The Board directs that the net impacts of disposing of the 1995 TCPL tolls, the inventory revaluation and the underrecovery of gas costs subsequent to December 31, 1995, shall be recovered through a one-time adjustment to the customers' bills immediately following the date of the implementation of the new rates. For M2, M9 and M10 customers, this one-time adjustment is to be combined with the one-time charge resulting from the PGVA debit due to spot gas purchases.

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## 5. COSTS AND COMPLETION OF THE PROCEEDINGS

### 5.1 Costs 210

5.1.1 Section 28 of the Act authorizes the Board at its discretion to fix or tax the costs of and incidental to any proceeding before it. 211

5.1.2 The following parties applied for an award of costs in this proceeding: 212

CAC, ECNG, IGUA, Kitchener, NRG, Sunalta, Municipal, Direct, NovaGas, Cibola and the Consortium, GasSave, Mutual, and Novacor Chemicals. 213

5.1.3 Union filed no objections in response to the requests for costs. 214

#### **Board Findings** 215

5.1.4 The Board is concerned that there were a large number of overlapping interests individually represented at the proceeding and that it received submissions from 10 ABM representatives. The Board recognizes that because of the expedited nature of this proceeding the opportunity to seek joint intervention was limited. Nevertheless the Board notes that a number of parties were able to arrange some joint participation and in this way reduce duplication. In this regard, the Board has made adjustments in its cost awards to reflect this duplication and urges parties to avoid duplication in future hearings. 216

5.1.5 The Board finds that the interventions of all parties were of some assistance to the Board and makes the following percentage awards of their reasonably incurred costs of participation in the E.B.R.O. 486-04 proceeding, subject to the Board's assessment process. Was page 42 217

5.1.6 The Board awards 100 percent to CAC, IGUA, NRG, Novacor Chemicals and Kitchener who represented clearly distinct interests in the proceeding. 218

5.1.7 The Board awards 90 percent to parties with a similar interest who made an attempt to reduce costs by combining parts of their intervention, namely Cibola/the Consortium and Sunalta/Direct (also combined with NRG). The Board expects that the costs claimed by these parties should reflect the resultant savings. 219

5.1.8 The Board awards the following participants 80 percent in view of the Board's concern regarding duplication and overlap of participation, namely NovaGas, GasSave, ECNG, Municipal, and Mutual. 220

5.1.9 The Board directs that the costs awarded in this proceeding shall be paid by Union immediately upon the receipt of the Board's cost orders. 221

5.1.10 The Board directs Union to pay the Board's costs of and incidental to the E.B.R.O. 486-04 proceeding immediately upon receipt of the Board's invoice. 222

## 5.2 Completion of the Proceedings 223

5.2.1 The Board directs Union to produce rate schedules of final rates to be effective from January 1, 1996, which shall reflect the Board's findings herein. Given the timing of this Decision, the Board expects that every effort will be made so that the E.B.R.O. 486-04 Rate Order drafting and approval processes can be undertaken on an expedited basis, so that rates can be implemented on May 1, 1996 and buy/sell payments can be adjusted for April 20, 1996. In any event, the Board finds that the rates shall be implemented forthwith upon the issuance of the Board's Rate Order, and no later than the first billing cycle after May 31, 1996. 224

5.2.2 Union is also directed to prepare draft notices to its customers that will effectively explain the impact of this Decision. These notices shall be subject to the Board's approval and shall accompany the first of each customer's bills following the implementation date of this decision. <sup>Was page 43</sup> 225

5.2.3 Union is also directed to submit for approval, within 5 business days after the release of this Decision, a draft rate order to be accompanied by the following: 226

i) proposed rate schedules, with appropriate supporting documentation incorporating the Board's findings herein; 227

ii) the calculation of the allocation of the PGVA debit, with appropriate supporting documentation; 228

iii) the calculation of the one-time charge, with appropriate supporting documentation; 229

iv) the draft accounting orders and entries, in the form required by the Board, reflecting the authorization of deferral accounts to be effective January 1, 1996; and 230

v) drafts of the proposed notices to customers. 231

DATED at Toronto April 12, 1996.

J.C. Allan  
Presiding Member

G.A. Dominy  
Vice Chair and Member

E.J. Robertson  
Member