ONTARIO ENERGY BOARD

EB-2015-0029/0049

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sch.B, as amended;

AND IN THE MATTER OF Applications by
Union Gas Limited and Enbridge Gas Distribution Inc.
pursuant to the *Ontario Energy Board Act*
for Orders approving their demand side
management plans for the years 2015 through 2020

FINAL ARGUMENT

OF

THE FEDERATION OF RENTAL-HOUSING PROVIDERS OF ONTARIO

OCTOBER 2, 2015

INTRODUCTION

The Ontario Energy Board set out to evolve the regulatory construct for the natural gas utilities to align the utilities with the mandate of the government to establish a "Conservation First" approach. Throughout 2014, the Board held consultations resulting in Framework and Filing Guidelines documents published December 22, 2014. Through the course of the winter, utilities and intervenors spent time collectively and individually interpreting these documents and considering implications for the Ontario DSM market. Following the Board's direction, the utilities filed their respective 6 year plans prior to the conclusion of negotiations with intervenors.

The Federation of Rental-housing Providers of Ontario ("FRPO") was engaged in the negotiation process prior to this hearing and was party to the Settlement Agreements in the last DSM regime for each of the respective utilities. We appreciate the opportunity to contribute to the deliberations of the Board in this proceeding.

One of the key aspects of an effective intervenor group in DSM matters, and really in all regulatory matters, is recognizing that through collaboration, we can use our respective strengths of experience and expertise to thoroughly assess applications and provide the Board with sound input for its consideration in rendering decisions. In this proceeding, with many facets, this collaboration was very important for efficiency and effectiveness. As such, we will be supporting other intervenors on most matters in this proceeding and providing extensive comment in only a few areas that we believe will assist the Board.

SUPPORT FOR SEC SUBMISSIONS

Throughout FRPO's involvement in DSM, we have worked alongside and learned from SEC. Whether it be in a negotiation or in a hearing, SEC has shown leadership in seeking solutions in the public interest. As such, in this proceeding, while FRPO has focused on narrower issues where we believed we could be helpful to the Board, we monitored the hearing in the broader areas and noted the issues raised by SEC. Therefore, FRPO formally endorses SEC's positions in the following areas:

Expectations: Due to increased ratepayer funding, the Board and ratepayers should have increased expectations for the utilities to generate a step change of impact through leadership, efficiency and applied knowledge. We support SEC's recommendations.

Shareholder Incentives: FRPO provides qualified support for this position as we believe that the details on how the discretionary component would need to be specified and measured so as not to create unintended consequences.

Summary of Submissions: FRPO provides full support to SEC's summary of submissions.

Rejection of Union Gas Plan: SEC calls for the rejection of the Union Gas plan while rolling over the 2015 plan into 2016. FRPO supports that position as we view Union's application as varying from the Framework in significant areas such as the 125% Upper Band and the Large Volume customer offering. Additionally, while a smaller feature of the proposed plan, we are very concerned with the lack of evidentiary basis and additional information offered on Low-Income programs for Market-based Multi-family buildings. We will expand upon this issue as an example of the lack of rigour in Union's application in the next section.

In the alternative, if the Board accepts Union's plan to some extent, FRPO is very concerned about Union's approach to target setting.[1] Given Union's history of consistently exceeding the 100% target, we are concerned that there ought to be some additional adjustment if targets are to be set formulaically. There are many ways to approach this. However, we have reviewed the submissions of LPMA for DSM Targets and fully support their approach which is informed greatly by an analysis of historic performance. Using the LPMA model would require the utility to exceed historical performance to receive the higher end performance incentives.

While Enbridge has not enjoyed the same level of performance relative to target as Union. Nonetheless, we believe that they should have to stretch to achieve the higher level incentives and therefore support Energy Probe's recommendations for target setting for Enbridge.

[1] Transcripts, Volume 1, page 188-190

LOW INCOME, MARKET RATE MULTI-FAMILY BUILDING DSM PROGRAMS

FRPO supports the implementation of cost effective, low income programs. In its final submissions in EB-2008-0346[2], FRPO highlighted the inequity associated with Low Income Multi-family Building DSM programs being available for only Social and Assisted Housing. At the time, Low-income tenants were precluded from receiving benefits associated with these programs by virtue of the private ownership of the building.

In the course of the negotiations with both Enbridge and Union for the three year DSM program for 2012-2014, FRPO, enjoined by other intervenors such as VECC and LIEN urged the utilities to address the barriers that resulted in this inequity. The resulting Settlement Agreements with the utilities contained provisions for the study of these barriers and a commitment by the utilities to determine if the barriers could be overcome. During the last 3 year regimes, both Enbridge and Union worked with FRPO, VECC, LIEN, BOMA and GEC to look at the barriers in different ways to reach this under-served sector of the Low Income community.

Enbridge Results

Enbridge worked with the aforementioned intervenor groups seeking solutions to market barrier issues. However, Enbridge went steps further and engaged United Way Toronto and City of Toronto's Tower Renewal to understand the market[3]. Not stopping there, Enbridge engaged Toronto Hydro to collaborate on CDM initiatives inside the building envelope for one-stop shopping to increase the value proposition for building owners by getting electricity savings. Further, and we know this from the experience of our members, when Enbridge's initial offer did not receive uptake expected, Enbridge staff re-formulated the offer to overcome initial resistance to the offer and to bring the benefits of the Low Income offers to tenants in these buildings.

As is reflected in Enbridge results[4], the savings attributable to Market rate Multi-residential buildings went from zero at the outset of the three year term to almost 1,000,000 m3 in Gross

[2] EB-2008-0346 FRPO_SUB_DSM_20110214
[3] Transcript, Volume 7, page 179, line 24 to page 180, line 7
[4] Exhibit I.T2.EGDI.FRPO.1

Gas Savings in 2014. In fact, savings from Market rate buildings exceeded those of Social and Assisted Housing and contributed to Enbridge's increase in savings from the combined sector over 2013 results. In our respectful submission, Enbridge's approach is aligned closely with what SEC speaks to in its Argument in terms of "Leadership" and "doing the hard stuff".

Union Results

As mentioned previously, Union engaged intervenor groups in assessing the market and its barriers. We cannot speak to Union's efforts to overcome the barriers by engaging others outside of those meetings. By the end of 2014, Union did not have any savings from Market rate, multi-residential buildings[5].

We did learn that Union was doing a Market rate demonstration project in 2015[6]. While trying to understand Union's experience vis-à-vis the one we enjoyed with Enbridge, we asked Union to provide the thinking and assumptions behind its approach and projections. One specifically identified concern was Union's perception of the capital constraints and financing of the building owners included in this exchange:[7]

MS. BROOKS: …We then drew from our multi-family experience in the social housing market, and made some assumes on what types of projects that we see within this market. And then we applied some relevant discount factors, so we considered the number of projects that won't be taken due to capital constraints and due to available financing.

And based on that, we built up projections of what we thought was reasonable over the course of the plan.

MR. QUINN: Those capital constraints and financing that you referred to at the end, whose capital constraints are we referring to?

MS. BROOKS: The building owners.

MR. QUINN: And how did you assess those capital constraints?

MS. BROOKS: It would have been based on the teams looking at different external

[5] Exhibit B.T3.Union.FRPO.1
[6] Transcript Volume 1, page 180, lines 2-4
[7] Transcript Volume 1, page 181, line 9 to page 182, line 15

reports, anything that would help them inform them of the market, and essentially it comes down to a judgment call made from assumptions.

MR. QUINN: Is it anywhere in the evidence?

[Witness panel confers]

MS. BROOKS: Can I just confirm what you are asking what is in evidence?

MR. QUINN: You have said that they looked at other reports, relied on some judgments about capital constraints of the private market. But I haven't seen any, and I don't believe we discussed any in the working group that would be -- that would have informed this type of judgment. So I was just asking what you were relying on.

MS. BROOKS: We would have to confirm the specifics of that.

MR. QUINN: Okay. Well, if you would do that by way of undertaking. We're concerned with the proactive steps that may be taken in this area, what assumptions have been made, possibly testing those assumptions in or outside of this proceeding, moving forward.

MR. MILLAR: J1.11.

Being encouraged by Union's demonstration program, we looked forward to seeing Exhibit J1.11. Union's response to the undertaking was as follows:

"Union relied on its experience in the multi-family market and discussions it had with multi-family customers to apply the discount factors outlined in Exhibit A, Tab 3, Appendix A, page 93. Union is performing a demonstration project in 2015 to gain further insight on the market rate multi-family market segment. Details of this demonstration project can be found at Exhibit A, Tab 3, Appendix A, page 87."

A review of the evidentiary references only describe Union doing some database analysis and relying on its past experience and market knowledge. Respectfully submitted, Union does not have past experience with Low Income Market Rate Multi-Family buildings. In our view, this is one specific example where Union's application contains proposals that do not show innovation in addressing a market need nor engaging those who could assist them in designing a solution. Given the quantum leap in funding, we would expect more.

DSM BUDGETS

After consultation with all parties in 2014, the Board produced its Framework report calling for DSM budgets to be "*set by the simple principle that DSM costs (inclusive of both DSM budget amounts and shareholder incentive amounts) for a typical residential customer of each gas utility should be no greater than approximately $2.00/month.".*[8] Some groups have been advancing the position that the $2/per residential customer cost should be viewed as net of anticipated savings to non-participants.

In our respectful submission, the Board should reject this approach because it is not consistent with the wording of the framework and the ability to estimate non-participant savings is not available nor tested.

1) <u>Budget is Driven by Costs Net of Savings is not Consistent with the Framework</u>
   The Framework was developed by the Board through significant consultations and represents a balance between promoting conservation and the cost impact to consumers. With that balance in mind, in our view, the Board specifically articulated its expectation of an approximate doubling of ratepayer impact <u>including shareholder incentives</u> (emphasis added to note specificity). Further in the preceding paragraph, the Board acknowledged that there would be beneficial impacts for non-participating customers including environmental[9]. If the Board's intent were to further increase expenditures by adding an expected offset in savings, that specificity would have been added to the original guideline. In our view, interpretation that infers that this $2/customer was net of non-participant benefit calls into question the initial balance sought by the Board.

[8] EB-2014-0134 Demand Side Management Framework for Natural Gas Distributors (2015-2020), page 17
[9] Ibid.

2) <u>Avoided Costs Approaches have Neither Been Developed nor Tested</u>

The oft quoted statement is "least expensive molecule is the one avoided" is likely true as long as you can count the cost to avoid it, substantiate the molecule is actually avoided and estimate properly the achieved savings. If cost effective DSM can result in the avoidance of future facility builds, all customers reap the benefit of this cost avoidance. However, to this point, that correlation has yet to be definitively established.

If one customer's DSM initiative results in a cost avoidance for that customer, they have invested well in reducing their own costs which is well and good. However, establishing the effect that multiple customers exercising that same initiative is going to reduce the local or even continental price for the commodity must be, in our view, studied, understood and tested prior to an investment in wide spread application of an initiative with the uncertain expectation of theoretical savings.

Avoided costs were the subject of some discussion during the proceeding. There is a growing understanding that there is some merit in studying the beneficial effects of the avoided costs. For example, in reference to the cost of carbon, we understand and respect that with recent announcements, the incorporation of that component seems ripe for the mid-term review. However, the specific issue that we want to address is any interim establishment of "placeholder"[10] or "proxy" for the values of these avoided costs above the 15% adder to the TRC test that has not been developed or tested here in Ontario.

Our primary concern, which we pursued through the hearing was the concept of DRIPE and its purported ability to create potential benefits for non-participants. While we will not enter into a theoretical debate on its potential to exist, we respectfully submit that work ought to be undertaken prior to the mid-term review for the Board to receive evidence on this and other effects and the potential implications for Ontario DSM. Given our review of the record, we would expect that the main proponents for incorporation of avoided cost may advance a request to the Board for a placeholder, we believe it would

[10] Oral Hearing, Transcript, Volume 1, 20150817, page 21, lines 6-9

be of assistance to the Board to consider how what seems to make sense theoretically may not have geographical nor even continental application without understanding the differences in the Ontario market.

In the original GEC Chernick evidence, the concept of DRIPE was raised as a contributor to avoided cost. The evidence distinguished DRIPE into two categories: Transportation Price Effects (or Basis DRIPE)[11] and Supply-Level Effects[12]. We will address the two concepts below:

Transportation Price Effects

The spectre of Transportation Price Effects was raised in part by a correlation of the natural gas commodity prices at Dawn to heating degrees in the Toronto market for February of 2015[13]. This graph was advanced to support the notion of the Basis DRIPE. Upon inquiry regarding the graph in Figure 3, it was withdrawn.[14] Clarification was provided in the Technical Conference that the figure was withdrawn due to a data error. However, due to our concerns about the apparent lack of correlation, we had asked for the same graph for February of 2014[15]. A simple read of that graph reveals no correlation between heating degree days and the market price at Dawn[16]. In our submission, price movements at Dawn in February of both 2014 and 2015 had more to do with the storage levels of the utilities, their gas purchases in those periods and the gas balances of Direct Purchase customers in Union Gas' system who need to have a minimum balance in their account at the end of February each year.

<u>Utility Storage Levels and Gas Purchases</u>

In addition to the effect of the balancing policy on the prices of gas at Dawn in the months of February 2014 and February 2015, it should be noted that Enbridge also

[11] Exhibit L.GEC.2, pages 15-17
[12] Exhibit L.GEC.2, pages 8-14
[13] Exhibit L.GEC.2, submitted July 31, 2015, page 15, Figure 3.
[14] Exhibit M.GEC.FRPO.3
[15] Exhibit M.GEC.FRPO.4
[16] Transcripts Volume 11, page 61 line 27 to page 62 line 6

modified it approach to storage balances over the course of the year in between the two Februarys. As we discussed with Enbridge panel 4[17], Enbridge's most significant change in gas management in decades resulted in Enbridge buying gas much further in advance than historically. While this practice not only saved Enbridge ratepayers money[18], it also had a significant effect on the price at Dawn[19].

Union Gas Direct Purchase Balancing Policies

As described by Union Panel 1[20], each winter Union Gas direct purchase customers must meet an inventory position for their contracts by February to support Union's February 28th storage design day requirements. Direct purchase customers receive notification by Union in early February to know if and how much incremental gas they are forecasted to need to bring in to Dawn. If a customer fails to bring in sufficient quantities of gas to meet the forecasted need, as adjusted for by February consumption, the shortfall in gas is provided by Union Gas and the customer is exposed to the highest price of gas transacted at Dawn during February or March. This Union Gas balancing policy has recently been confirmed by the Board[21]

The effect of this policy is the amount of demand for gas at Dawn cannot easily be tied to the amount of heat load on a given day. A significant amount demand can be driven by the need of direct purchase customers to provide additional gas to Dawn for incremental demand relative to forecast that was consumed weeks or months prior to February[22].

In our view, the Union Gas balancing policy and Enbridge gas management change have had profound implications at Dawn in terms of transactions and resulting price. We submit they are a couple of the many factors that would need to be understood for any analysis of Basis DRIPE. We initiated this discovery to ensure that the uniqueness of the

[17] Transcripts, Volume 7, pages 129-134
[18] Transcripts, Volume 7, page 132 line 21 to page 133, line 21
[19] Transcripts, Volume 7, page 133 line 22 to page 134, line 17
[20] Transcripts, Volume 1, pages 85-86
[21] EB-2014-0145
[22] Transcripts, Volume 1, page 86, lines 22-28

Dawn market was understood and the ability to produce a proxy for this effect from a market like TETCo M-3[23], which has no storage[24], is not appropriate.[25]

Now we respect that the GEC witness acknowledged that he was not aware of the balancing policy[26] and GEC has indicated they would not be seeking a placeholder for the Basis DRIPE[27]. Therefore, we are comforted that the proxy value of 0.1cents/m3 would not be an interim proxy. However, we provide the above description to demonstrate the need to clearly understand any analysis of avoided cost and to test the analysis to ensure that theoretical approaches do not result in inappropriate applications that inform important decisions of the Board.

In summary on Basis DRIPE, clearly, there are many factors that influence the price of gas at Dawn that are not directly tied to demand as a result of heating load or consumption. The buying practices of major participants, utilities and direct purchase customers, can have a very significant effect. This effect would be difficult to isolate in any analysis of Basis DRIPE.

Supply Level Effects

While we received acknowledgement there is no proxy available for Basis DRIPE[28], GEC has still maintained that prices at Dawn are impacted by Supply Level Effects or Continental DRIPE[29]. We have come to understand that past analyses have created a correlation for that effect at Henry Hub[30]. However, we are very wary of the use of a Henry Hub generated proxy being applied as a placeholder in Ontario as a result of what we see as structural changes in the market.

[23] Exhibit L.GEC.2, page 15, line 19 to page 16, line 15
[24] Transcripts, Volume 1, page 90, lines 2-6
[25] Transcripts, Volume 1, page 90, lines 7-12
[26] Transcripts, TC Volume 3, page 8, lines 23-24
[27] Transcripts, TC Volume 3, page 10, lines 12-15
[28] Transcripts, Volume 11 page 62, lines 2-6
[29] Transcripts, Volume 1, page 91, line 20-24
[30] Exhibit L.GEC.2, pages 12-13, Figures 1 and 2

By any measure, the North American natural gas market has undergone a significant change. Markets that were traditionally served from Gulf of Mexico or the Western Canadian Sedimentary Basin can access supply in increasing measure from the more proximate Marcellus and Utica supply areas. As a result, northeast North America and North America as a whole has seen a reduction in the cost of natural gas.

The previous cited correlations of changes in price relative to changes in gas demand are presented in the GEC evidence.[31] As discussed with GEC panel, the amount of variation in price relative to variation in demand is represented by the slope of the line[32]. And while the correlation is not as strong in 2014 (Figure 2), the amount of change in the price relative to demand is substantially lower by a factor of 4. A contributing factor to that change was revised estimates of shale gas resources and costs as acknowledged by the GEC panel[33].

While we accept that that analysis can estimate a continental DRIPE and that value can change dramatically over a couple of years, we do not accept that it is directly applicable to Ontario and can be used as proxy until further analysis determines a more precise number (if it can be determined precisely). When asked about the effect of Marcellus and Utica being closer to Ontario than to Henry Hub, the following exchange ensued:

MR. CHERNICK: I would assume that revised estimates of shale gas resources and costs would be one of the factors that would be included here.

MR. QUINN: Okay. Thank you. Now, this is in Henry Hub, and to locate that, that's down in Louisiana, and so really not that proximate to where the predominant Marcellus and Utica shales are found?

MR. CHERNICK: That's correct. But Henry Hub is perhaps the -- I'm sure it is -- the

[31] Ibid
[32] Transcripts, Volume 11, page 48, line 26 to page 49, line 3
[33] Transcripts, Volume 11, page 50, lines 3-5

leading North American reference point for pricing, and it happens to be the one that this DOE report reports on, although they obviously model all of the regions of North America.

MR. QUINN: That's accepted, sir. The geographical proximity I was going to ask was more relative to Ontario's proximity to Marcellus and Utica. So Ontario would be closer to those shale regions than Henry Hub would be. Is that correct?

MR. CHERNICK: Geographically, yes. In terms of the gas supply system, I think Dawn and Henry Hub prices have moved in very close lockstep for the most part, and Dawn prices are generally somewhat higher. It can range from a few cents per million BTU to a dollars per million BTU.

Respectfully, this is where our views and those of the panel differed. Mr. Chernick testified that he thought the Dawn and Henry Hub Prices "moved in very close lockstep for the most part". That has not been our experience. Having examined the Enbridge panel on Day 7, we had asked about their experience in buying at Dawn. Further, we asked them to provide a market outlook for the prices at Henry Hub and Dawn which they provided as Exhibit J7.2.

Our Exhibit K11.1 used in the examination of the GEC panel included Exhibit J7.2 provided by Enbridge which depicted the forward markets view on the relative value of gas in Henry Hub versus Dawn over the next several years. Contrary to Mr. Chernick's belief that the prices at Henry Hub and Dawn moved in lockstep, it was clear that there was a substantial narrowing of the price differential from about 41 cents/GJ in the winter of 2015/16 to about 1 or 2 cents for both the winters of 2018/19 and 2019/2020. Setting aside the technical terms of DRIPE, simply put, this substantial change in value of gas at Dawn versus Henry Hub would make it impossible to impose a Henry Hub based price forecast on Dawn as a proxy.

Once again, our point is not to try to refute that there may be Continental DRIPE in the North American market but to point out that ongoing structural changes and their impact on price at Dawn makes it inappropriate to apply a forecasted value from other markets to the Dawn market.

In summary, we fully support the implementation of the plain wording Board Framework's cap on budgets of the $2 per residential customer and urge the Board to reject including any incorporation of expected reductions from the use of avoided cost concepts. Like other intervenors, we support an Ontario-specific evaluation of the those costs for consideration in the mid-term review.

ALL OF WHICH IS RESPECTFULLY SUBMITTED ON BEHALF OF FRPO,

Dwayne R. Quinn
Principal
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