



## Jay Shepherd

Professional Corporation  
2200 Yonge Street  
Suite 1302 M4S 2C6  
Toronto, ON M4P 1E4

**BY EMAIL and RESS**

March 4, 2016  
Our File: EB2015367

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2015-0367 – Union GHG Emissions Impact Deferral Account – Submissions**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 1, these are SEC’s submissions with respect to the application by Union Gas Ltd. (“Union”) for approval of an accounting order to establish a deferral account to record the impacts of provincial and federal regulations related to greenhouse gas emission (“GHG”) requirements.

SEC accepts that the proposed deferral account is appropriate, and notes that it is consistent with similar account approved recently for Enbridge Gas Distribution in its recent 2016 rates cases.<sup>1</sup> With respect to the types of costs that Union forecasts to incur, as is related to distribution costs, they *generally* appear to meet the requirement of a Z-Factor pursuant to section 8 of the approved 2014-2018 IRM Framework (EB-2013-0202 Settlement Agreement).<sup>2</sup> The announced cap and trade

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<sup>1</sup> Decision and Accounting Order (EB-2015-0114), December 12 2015, p.18. Interrogatory Response B.Staff.1(a)

<sup>2</sup> EB-2013-0202, Union Gas Limited Settlement Agreement, July 31 2015, Ex.A-2, section 8:

“The parties agree that for prospective or historical cost increases/decreases to qualify for pass through as a “Z factors”, the cost increases/decreases must:

1. causally relate to an external event that is beyond the control of utility’s management;
2. result from, or relate to, a type of risk;
  - a. for which a prudent utility would not be expected to take risk mitigation steps; and,
  - b. which is out of the realm of the basic undertaking of the utility (per EB-2011- 0277 Decision, page 13);
3. not otherwise be reflected in the price cap index;
4. be prudently incurred; and,
5. meet the materiality threshold of \$4.0 million of annual net delivery revenue requirement impact per Z factor event. Net delivery revenue requirement will be defined in the same manner as set forth in Section 6.6 above.”

T. (416) 483-3300 F. (416) 483-3305

[mark.rubenstein@canadianenergylawyers.com](mailto:mark.rubenstein@canadianenergylawyers.com)

[www.canadianenergylawyers.com](http://www.canadianenergylawyers.com)

legislation<sup>3</sup> and regulation<sup>4</sup> are clearly outside of management's control, the costs will be directly related to a new legal requirement, and are not likely to be reflected in the current price cap index. Furthermore, insofar as certain types of costs are not covered by existing commodity deferral accounts such as the purchase of allowances, SEC submits they similarly meet the requirements for a type of deferral account that should be established to ensure prudently incurred commodity costs are passed through to customers as a Y-Factor.

With respect to the requirements of prudence and materiality for a Z-Factor, since the proposal is simply for a deferral account at this stage, the determination of specific prudence of any costs and their materiality should be determined when the account is to be disposed of, or in some future application. Since few details have been provided to date, it is not clear that *all* the types of proposed costs should even be included in the first place. For example, a certain amount of regulatory and consultant costs are, in fact, built into rates. SEC submits the most reasonable course of action at this time is simply to address the specific inclusion of certain costs at the time of disposition. This would mirror what was agreed to with Enbridge.<sup>5</sup>

Since there is a potential for very significant costs to be incurred by Union, SEC submits the Board should require Union to bring forward a full application for review for the inclusion of cap and trade related costs into rates, as soon as feasible, after the issuances of final cap and trade regulations.

All of which is respectfully submitted.

**Jay Shepherd P.C.**

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)  
Applicant and all parties (by email)

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<sup>3</sup> Bill 172, *Climate Change Mitigation and Low-carbon Economy Act, 2016*  
<[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&Intranet=&BillID=3740](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=3740)>

<sup>4</sup> Draft Cap and Trade Regulation <[http://www.downloads.ene.gov.on.ca/envision/env\\_reg/er/documents/2016/012-6837\\_DraftReg.pdf](http://www.downloads.ene.gov.on.ca/envision/env_reg/er/documents/2016/012-6837_DraftReg.pdf)>

<sup>5</sup> "Second, in relation to the 2016 Greenhouse Gas Emissions Impact Deferral Account ("GGEIDA")... [t]he parties acknowledge that there may be disagreement as to the scope of what expenses can be included in the GGEIDA, but agree that any such issues are properly addressed at the time that clearance of that account is requested". (EB-2015-0114, Settlement Proposal, p.9)