



**DEMARCO  
ALLAN**  
LLP

5 Hazelton Avenue, Suite 200  
Toronto, ON M5R 2E1  
TEL +1.888.389.5798  
FAX +1.888.734.9459  
[www.demarcoallan.com](http://www.demarcoallan.com)

**Lisa (Elisabeth) DeMarco**  
Senior Partner  
CEL +1.647.991.1190  
[lisa@demarcoallan.com](mailto:lisa@demarcoallan.com)

May 13, 2016

**Filed on RESS and Sent via Courier**

Kirsten Walli  
Board Secretary  
2300 Yonge Street, Suite 2700  
Toronto, ON  
M4P 1E4

Dear Ms. Walli:

**Re: Union Gas Limited – Application to clear non-commodity-related deferral accounts  
Board File No. EB-2015-0276**

We are counsel to the Association of Power Producers of Ontario ("APPRO"). Please find enclosed APPRO's final argument in the above-mentioned proceeding.

Should you have further questions on this matter, please do not hesitate to contact me.

Yours very truly,

Lisa (Elisabeth) DeMarco

Encl.

**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders clearing certain non-commodity related deferral accounts;

**EB-2015-0276**

**Association of Power Producers of Ontario**

**FINAL ARGUMENT**

**May 13, 2016**

## INTRODUCTION

1. The Association of Power Producers of Ontario (**APPrO**) is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario. APPrO members produce power from co-generation, hydro, gas, nuclear, wind and solar energy, waste wood and other sources. APPrO's members produce over 95% of the electricity generated in Ontario and own and operate power generation capacity in the province. APPrO's membership includes generators, marketers, contractors, equipment suppliers, consultants, local distribution companies, fuel suppliers, service providers and financiers. APPrO's goal is to facilitate an economically and environmentally sustainable electricity sector in Ontario that supports the business interests of electricity generators, ratepayers and the provincial economy.
2. Union Gas Limited (**Union**) filed an application dated December 9, 2015, seeking approval for the disposition of its 2014 Demand Side Management (**DSM**) deferral and variance accounts.

## OVERVIEW OF SUBMISSIONS

3. APPrO submits that the amounts eligible for inclusion in Union's lost revenue adjustment mechanism (**LRAM**) account (179-75) and DSM Incentive Deferral Account (**DSMIDA**) (179-126) should be adjusted downward to completely eliminate the benefit to Union from funding steam leak repairs.

## BACKGROUND

4. Losses in distribution revenue from the reduced throughput that results from the implementation of a DSM measure are included in the LRAM account for future recovery by the company. The customer savings from implementation of this measure are also included in the calculation of the company incentive amounts.

5. Union has provided DSM incentives for a variety of applications to customers to reduce their energy needs. Some of these projects could be considered regular maintenance projects that would be completed even in the absence of a DSM financial incentive.
6. Union retained an auditor, Evergreen Economics (the **Auditor**), to provide an independent opinion on whether the LRAM, DSM Variance Account (**DSMVA**) and DSMIDA amounts were appropriate and calculated correctly.<sup>1</sup> The Auditor found that there was insufficient record keeping related to customers' maintenance practices and that significant progress had not been made to date.<sup>2</sup> As a result, the Auditor indicated "savings for steam leak projects were reduced by 50% due to the lack of required documentation on customer standard maintenance practices."<sup>3</sup>
7. In Exhibit A of its Application and Evidence in this proceeding, Union acknowledged that the auditors in its 2012 (Concentric Energy Advisors) and 2013 (Evergreen Economics) DSM audits, EB-2013-0109 and EB-2014-0273, respectively (collectively, the **2012/2013 DSM Audits**), made similar recommendations on the need to establish baseline information about a customer's maintenance practices like steam leak repairs to help assess the level of free ridership.<sup>4</sup>
8. APPrO submits that reducing the savings for steam leak repairs by 50% is insufficient, and that, for the purposes of calculating the LRAM and DSMIDA, the entire amounts related to steam leak repairs should be eliminated, resulting in a 100% reduction for these DSM activities. APPrO submits that the entire amount should be eliminated from these calculations for the reasons set out below.

---

<sup>1</sup> EB-2015-0276, Union Gas Limited Application and Evidence filed 9 December 2015, Exhibit A, Tab 2, pages 4-5.

<sup>2</sup> *Ibid*, page 9.

<sup>3</sup> *Ibid*.

<sup>4</sup> *Ibid*, page 8.

9. First, this issue was raised previously in the 2012/2013 DSM Audits. Clearly there is a financial disincentive for Union to move quickly to remedy this situation. Union should not therefore be rewarded for failing to ensure adequate record keeping in this regard and non-compliance with prior audit findings.
10. Second, companies that have programs to regularly maintain their plant and equipment presumably do so to maintain the life of their assets and reduce their overall operating costs. These companies do not need separate financial incentives from the utility to encourage them to implement these maintenance practices. Companies that have maintenance practices in place to reduce energy consumption are free riders and do not require a DSM incentive to encourage them to implement such measures. The Board raised this concern in its Decision and Order in EB-2013-0109, finding that DSM should not occur when it is apparent that the implementation of a proposed project is **not** being influenced by the DSM incentive contribution:

The Board considers it reasonable to expect that at least a minimal level of scrutiny of the value of incentive investments would occur even though there is a free ridership rate applied to the portfolio overall. **The investment in DSM should not occur when it is apparent that the implementation of a proposed project is not being influenced by the DSM incentive contribution. In other words, investments should not knowingly be made in free riders.** The Board does not consider Union's approach to its large industrial custom DSM projects to be sufficient in this respect.<sup>5</sup> [Emphasis added]

11. Finally, there are other maintenance activities, such as steam trap repairs and pipe insulation repairs,<sup>6</sup> that have been funded through the DSM program that have received DSM incentives, yet no similar downward adjustments have been recommended by the Auditor.

---

<sup>5</sup> EB-2013-0109, Decision and Order dated March 27, 2014, at page 39.

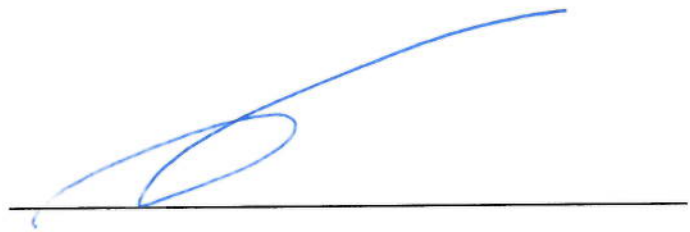
<sup>6</sup> EB-2015-0276, Union Gas Limited Application and Evidence filed 9 December 2015, Exhibit B, Tab 2, Table 14 at pages 32-35.

**REQUESTED RELIEF**

12. In summary, APPrO respectfully requests that the Board eliminate the DSM incentive contributions related to steam leak repairs for the purposes of calculating the LRAM and DSMIDA.

ALL OF WHICH IS RESPECTFULLY  
SUBMITTED THIS

13<sup>th</sup> day of May, 2016



---

**Lisa (Elisabeth) DeMarco**  
DeMarco Allan LLP  
Counsel for APPrO