



EB-2016-0296
EB-2016-0300
EB-2016-0330

**Union Gas Limited
Enbridge Gas Distribution Inc.
Natural Resource Gas Limited**

**Applications for approval of the cost consequences
of cap and trade compliance plans**

**PROCEDURAL ORDER NO. 1
January 27, 2017**

Union Gas Limited (Union), Enbridge Gas Distribution Inc. (Enbridge) and Natural Resource Gas Limited (NRG) (collectively, the Gas Utilities) each filed an application with the Ontario Energy Board (OEB) on November 15, 2016 seeking approval of the estimated costs arising from each of their Cap and Trade Compliance Plans for the January 1 to December 31, 2017 time period. The Gas Utilities filed their applications in accordance with the OEB's *Report of the Board – Regulatory Framework for Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities* (Cap and Trade Framework)¹.

The OEB assigned the following file numbers to the applications: EB-2016-0296 (Union), EB-2016-0300 (Enbridge) and EB-2016-0330 (NRG).

Background

The *Climate Change Mitigation and Low-carbon Economy Act, 2016* (*Climate Change Act*) was passed by the Ontario Legislature and received Royal Assent on May 18, 2016. On May 19, 2016, Ontario Regulation 144/16, *The Cap and Trade Program* (*Cap and Trade Regulation*), was issued. The *Climate Change Act* and the *Cap and Trade Regulation* set forth the details of a cap and trade program for the purposes of reducing greenhouse gas (GHG) emissions in Ontario. The *Climate Change Act* established that the first compliance period for the cap and trade program will run from January 1, 2017 until December 31, 2020, with subsequent three-year compliance periods.

¹ EB-2015-0363.

Under the *Climate Change Act*, the Gas Utilities are required to develop strategies to meet their *Climate Change Act* compliance obligations. New costs will be incurred by the Gas Utilities in their efforts to comply with the *Climate Change Act* and the OEB is responsible for assessing the cost consequences of the Gas Utilities' compliance plans for the purpose of approving recovery of the costs through rates.

Further information about the OEB's Cap and Trade Framework can be found on the OEB's website at

<http://www.ontarioenergyboard.ca/oeb/Industry/Regulatory%20Proceedings/Policy%20Initiatives%20and%20Consultations/Cap%20and%20Trade%20Compliance%20Plans%20%28EB-2015-0363%29>.

The Applications

On November 15, 2016, the Gas Utilities each filed their 2017 Cap and Trade Compliance Plan as required by the Cap and Trade Framework. As part of each application, each of the Gas Utilities' is seeking approval to recover the estimated costs of its Cap and Trade Compliance Plan.

On November 24, 2016 the OEB issued a combined Notice of Hearing (Notice) for the review of the Cap and Trade Compliance Plans of each of Union, Enbridge and NRG. In the Notice, the OEB determined that it will hold a combined public hearing to consider the applications of Union, Enbridge and NRG. The Notice also indicated that anyone interested in participating in the proceeding should apply for intervenor status by January 9, 2017.

On November 26, 2016 the OEB issued an Interim Rate Order approving rates, on an interim basis, that will allow the Gas Utilities to begin to recover the projected costs of each of their Cap and Trade Compliance Plans until the OEB issues its final decision on rates. The OEB's final rate decision in the current proceeding will include any adjustments to the rates recovered on an interim basis pursuant to the Interim Rate Order.

Intervenors

The following parties applied for intervenor status (* denotes a request for cost eligibility):

- Association of Power Producers of Ontario (APPPrO)*
- Building Owners and Managers Association, Greater Toronto (BOMA)*
- City of Kitchener
- Consumer Council of Canada (CCC)*
- Canadian Manufacturers & Exporters (CME)*
- Environmental Defence*
- Federation of Rental-housing Providers of Ontario (FRPO)*
- Independent Electricity System Operator (IESO)
- Industrial Gas Users Association (IGUA)*
- Low-Income Energy Network (LIEN)*
- London Property Management Association (LPMA)*
- Ontario Association of Physical Plant Administrators (OAPPA)*
- Ontario Greenhouse Vegetable Growers (OGVG)*
- Ontario Sustainable Energy Association (OSEA)*
- School Energy Coalition (SEC)*
- Shell Energy North America (Canada) Inc.
- Six Nations Natural Gas Company Limited (SNNG)
- TransCanada PipeLines Limited (TransCanada)
- Mr. Zeljko Zidaric

Union, Enbridge, and NRG did not object to the requests for intervenors status or cost eligibility.

All parties that requested intervenor status in this proceeding are granted intervenor status. The list of intervenors is attached as Schedule A to this Order.

APPPrO, BOMA, CCC, CME, Environmental Defence, FRPO, IGUA, LIEN, LPMA, OAPPA, OGVG, OSEA, and SEC are each eligible to apply for an award of costs pursuant to the OEB's [Practice Direction on Cost Awards](#).

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed. Further, being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of an OEB order, typically at the end of a hearing.

Confidential Filings

The *Climate Change Act* outlines limitations on the disclosure of certain information. These limitations are reflected in section 4 of the Cap and Trade Framework.² The Cap and Trade Framework indicates that there are three categories of information which may be included within a natural gas utility's Compliance Plan: public information, confidential information and strictly confidential information.

The Cap and Trade Framework provides for two categories of strictly confidential information which arise out of the *Climate Change Act* and *Cap and Trade Regulation*³ namely, auction confidential and market sensitive information. Strictly confidential information will be reviewed only by OEB staff and the OEB panel assigned to review and decide the application.⁴

The Gas Utilities sought strictly confidential treatment of certain documents or portions of documents contained in their pre-filed evidence. Union made reference to the areas of its application which it deemed confidential in Exhibit 1, pages 10-11 of its application. Enbridge made reference to the areas of its application which it deemed confidential in Exhibit A, Tab 3, Schedule 1, page 6 of its application. NRG made reference to the areas of its application which it deemed confidential in Exhibit 1, Section 3.

As a general rule, and consistent with the OEB's Rules of Practice and Procedure ([Rules](#)) and Practice Direction on Confidential Filings ([Practice Direction](#)), the OEB places materials it receives in the course of the exercise of its authority under the *Ontario Energy Board Act, 1998* and other legislation on the public record so that all interested parties can have equal access to those materials.

On January 11, 2017, the OEB sent letters to each of Union and Enbridge that identified areas of the pre-filed evidence that the OEB viewed as information that could be placed on the public record. Similarly, on January 16, 2017, the OEB sent a letter to NRG that identified areas in its pre-filed evidence that the OEB viewed as information that could be placed on the public record.

² *Climate Change Mitigation and Low-carbon Economy Act, 2016*, S.O. 2016, CHAPTER 7 (*Climate Change Act*) and EB-2015-0363 Report of the Board - Regulatory Framework for Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities (Cap and Trade Framework).

³ Ontario Regulation 144/16, *The Cap and Trade Program (Cap and Trade Regulation)*.

⁴ Cap and Trade Framework, pages 9-13.

On January 18, 2017, the Gas Utilities each responded to the OEB's letter. Each of the Gas Utilities included additional information on the public record which was initially filed as strictly confidential and subsequently placed further information on the public record.

The OEB has reviewed the Gas Utilities' responses related to confidential information and is satisfied at this time that the evidence is appropriately categorized in accordance with the *Cap and Trade Regulation* and the Cap and Trade Framework.

The areas of the applications which are now on the public record are outlined in Schedule B.

Issues List

The OEB has included a draft Issues List in Schedule C.

The *Climate Change Act* has been passed and the *Cap and Trade Regulation* has been issued by the provincial government. The OEB's Cap and Trade Framework outlines the approach the OEB will take in assessing the cost consequences of the Gas Utilities' plans required to meet their *Climate Change Act* obligations. The purpose of the current proceeding is to assess the cost consequences of the Gas Utilities' plans for complying with their obligations for the purpose of approving cost recovery in rates. Accordingly, neither the design of the Cap and Trade program and the program elements, nor the approach or the requirements of the Cap and Trade Framework are in scope for this proceeding.

The OEB is inviting parties to comment on the draft Issues List. The OEB will consider comments received and a final Issues List will be issued in due course.

Interrogatories on Non-confidential Information

Written interrogatories and interrogatory responses shall be filed as set out in the order below.

OEB staff and intervenors may submit interrogatories to the Gas Utilities on all matters that are on the public record of the applications filed by the Gas Utilities.

Parties must provide evidence references (by exhibit or chapter number or letter in the application) and sort their interrogatories and responses consistent with the final Issues List. Parties should consult sections 26 and 27 of the OEB's Rules regarding required naming and numbering conventions and other matters related to interrogatories.

Interrogatories on Strictly Confidential Information

OEB staff may also file interrogatories on strictly confidential information. Interrogatories on strictly confidential information will be identified as strictly confidential and will not be placed on the public record or made available to other parties. Similarly, interrogatory responses that refer to strictly confidential information or disclose strictly confidential information will be provided to the OEB only and not be made available to other parties. OEB staff will, however, provide a non-confidential description of interrogatories filed on strictly confidential information.

Settlement Conference

The OEB intends to hear all matters in this proceeding and hence will not make provision for a settlement conference.

Schedule of Procedural Steps

The balance of procedural steps, are set out in the order below. The OEB may issue further procedural orders from time to time.

IT IS THEREFORE ORDERED THAT:

1. The parties listed in Schedule A are granted intervenor status in the proceeding.
2. The applicants and intervenors may make submissions on the draft Issues List at Schedule C to this Procedural Order, and shall file any submissions with the OEB and deliver them to all parties no later than **February 3, 2017**.
3. OEB staff and intervenors shall request any relevant information and documentation on non-confidential evidence from each of the Gas Utilities that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **February 24, 2017**. OEB staff interrogatories that reference strictly confidential information shall be clearly identified as strictly confidential and filed with the OEB and only the gas utility to which the interrogatory is directed.
4. Each of the Gas Utilities shall file with the OEB complete written responses to all interrogatories and serve them on all intervenors and OEB staff by **March 17, 2017**.

Responses (or parts of responses) to strictly confidential interrogatories shall be filed with the OEB only and shall be clearly identified as strictly confidential.

5. The oral hearing for this proceeding will begin on **April 18, 2017** starting at 9:30 a.m., at 2300 Yonge Street, 25th floor, Toronto. The oral hearing will continue on for additional days as determined by the OEB.

All filings to the OEB must quote the file numbers **EB-2016-0296 / EB-2016-0300 / EB-2016-0330**, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Josh Wasylyk at Josh.Wasylyk@ontarioenergyboard.ca and OEB Counsel, Ljuba Djurdjevic, at Ljuba.djurdjevic@ontarioenergyboard.ca.

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DATED at Toronto, **January 27, 2017**

ONTARIO ENERGY BOARD

By delegation, before: Kristi Sebalj

Original signed by

Kristi Sebalj
Registrar

Schedule A

EB-2016-0296

EB-2016-0300

EB-2016-0330

APPLICANT(S) & LIST OF INTERVENORS

DATED: January 27, 2017

**Enbridge Gas Distribution Inc.
Union Gas Limited
Natural Resource Gas Limited
EB-2016-0300
EB-2016-0296
EB-2016-0330**

APPLICANT(S) & LIST OF INTERVENORS

January 27, 2017

APPLICANT(S)

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**Enbridge Gas Distribution Inc.
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APPLICANT(S) & LIST OF INTERVENORS

January 27, 2017

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January 27, 2017

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Schedule B

EB-2016-0296

EB-2016-0300

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Areas of Evidence Previously Deemed Confidential

January 27, 2017

Union Gas Limited – EB-2016-0296

The references below, which were previously filed as strictly confidential, have now been placed on the public record by Union Gas Limited.

Exhibit 3:

- Overview of Compliance Plan
 - o page 1, lines 14 – 18
 - o page 1, lines 20 – 21 (first sentence in paragraph)
 - o page 9, lines 3 – 7 (include first three sentences)

- Compliance Instruments:
 - o Page 17, lines 3 – 10, excluding new sentence beginning on line 10 and ending on line 12.
 - o Page 17, lines 14-18
 - o page 18, line 3 (heading)
 - o page 18, line 15 (heading)
 - o page 18, sentence beginning at line 20 and ending at line 21
 - o page 20, line 14 (heading)
 - o page 20, line 15 (first sentence of paragraph)
 - o page 21, first sentence beginning at line 4 and second sentence ending at line 6
 - o page 21, line 11 (heading) and lines 12 – 20 (excluding the new sentence beginning in middle of line 20)
 - o page 22, line 1 (heading) and lines 2-5 and sentence beginning on line 11 that ends on line 12
 - o page 23, line 1 (heading) and lines 2 – 5, excluding new sentence beginning on line 5
 - o page 29, lines 1 – 2
 - o page 34, lines 6 – 8
 - o page 35, line 17 – 18 (first sentence)
 - o page 40, line 21 (last sentence, continued to page 41)
 - o page 41, lines 1 – 3 (first new sentence on page 41)
 - o page 44, line 1

Schedule B

EB-2016-0296

EB-2016-0300

EB-2016-0330

Areas of Evidence Previously Deemed Confidential

January 27, 2017

Exhibit 3, Appendix D (Compliance Instrument Purchasing Strategy)

- page 3 (Executive Summary)
- page 6 (Introduction), first two paragraphs
- page 7, section 1.1

Schedule B

EB-2016-0296

EB-2016-0300

EB-2016-0330

Areas of Evidence Previously Deemed Confidential

January 27, 2017

Enbridge Gas Distribution Inc. – EB-2016-0300

The references below, which were previously filed as strictly confidential, have now been placed on the public record by Enbridge Gas Distribution Inc.

Exhibit B, Tab 4, Schedule 1 (Annual Carbon Price Forecasts)

- paragraphs 1-3, 5-7, 10-14, 20 – 24 and 29
- headings preceding paragraphs 18 and 25

Exhibit C, Tab 1, Schedule 1 (Overview of Compliance Plan)

- paragraphs 1 – 8 (excluding last two sentences), 9
- paragraph 10 (excluding the first two sentences and the last sentence)
- paragraph 11 (first sentence only)
- paragraphs 14, 16 – 21
- paragraph 22 (first sentence only)
- paragraphs 23, 24 (except first two sentences), 25-28, 29 (excluding last sentence), 30- 32
- heading preceding paragraph 35
- paragraphs 42, 44 (first 2 sentences only)
- paragraphs 45 –62, 63 (except second sentence)
- paragraph 64 (heading and first 2 sentences only)

Exhibit C, Tab 1, Schedule 1, Appendix A (Carbon Market Report)

- entire report excluding specific areas deemed strictly confidential

Exhibit C, Tab 1, Schedule 1, Appendix B (Carbon Strategy Report)

- cover page
- pages 4-5 (excluding last paragraph and heading)

Exhibit C, Tab 2, Schedule 1 (Compliance Option Analysis and Optimization of Decision-Making)

- paragraphs 1 – 4,
- headings preceding paragraphs 16, 25, 27
- paragraphs 17, 19 – 21,
- paragraphs 33 – 40

Schedule B

EB-2016-0296

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EB-2016-0330

Areas of Evidence Previously Deemed Confidential

January 27, 2017

Exhibit C, Tab 3, Schedule 1 (Performance Metrics and Cost Information)

- paragraphs 1 – 2, 6 – 10

Exhibit C, Tab 3, Schedule 5 (Compliance Plan – Abatement Activities – Facility)

- paragraph 9

Exhibit C, Tab 4, Schedule 1 (Risk Management – Identification and Mitigation)

- paragraphs 1 – 3, 4 (except bullet “c”), 5-8, 9 (except last two sentences), 10, 12
- heading preceding paragraph 28
- paragraphs 31, 32 (excluding item 2), 34 – 36, 38 – 44, 47, 51, 52, 54, 55 (except last sentence), 56, 58, 59, 60 (except second last sentence)
- paragraph 61 (excluding the last sentence)
- paragraphs 63 – 65, 66 (except first sentence after “...necessary”), 70 – 74, 75 (except last sentence and footnote), 76, 79, 80, 82, 83, 85, 86, 87 (except first sentence), 88, 89 (excluding remainder of sentence after “...surrendering allowances”), 90-92, 94, 95, 96
- heading preceding paragraph 97
- paragraphs 98, 102 – 105, 108 (except last two sentences), 109 (except second sentence), 110, 111, 112 – 113, 117, 121, 123, 124, 125 (except first and second sentences)

Exhibit G, Tab 1, Schedule 2 (Alternate Cost Recovery Statements)

- entire exhibit

Schedule B

EB-2016-0296

EB-2016-0300

EB-2016-0330

Areas of Evidence Previously Deemed Confidential

January 27, 2017

Natural Resource Gas Limited – EB-2016-0330

The references below, which were previously filed as strictly confidential, have now been placed on the public record by Natural Resource Gas Limited.

Ex 1 – Ex Summary, p 2

- Lines 9 – 10 (sentence starting on line 9 with NRG)
- Lines 12 – 17

Ex 3 – Compliance Plan

- Page 12, lines 22 – 24 (1st sentence)
- Page 13, lines 1 – 3 (first two sentences)
- Page 13, lines 21 – 23 (last sentence of paragraph)
- Page 13, lines 24 – 27 (first two sentences)

Schedule C

EB-2016-0296

EB-2016-0300

EB-2016-0330

Draft Issues List

January 27, 2017

1. **Cost Consequences** - Are the requested cost consequences of the Gas Utilities' Compliance Plans reasonable and appropriate?

Forecasts

- 1.1 Is the proposed forecast period reasonable and appropriate?
- 1.2 Are the volume forecasts used reasonable and appropriate?
- 1.3 Are the GHG emissions forecasts reasonable and appropriate?
- 1.4 Is the carbon price forecast reasonable and appropriate?

Compliance Plan

- 1.5 Is the gas utility's Compliance Plan overview reasonable and appropriate?
- 1.6 Has the gas utility reasonably and appropriately conducted its Compliance Plan option analysis and optimization of decision making?
- 1.7 Are the proposed performance metrics and cost information reasonable and appropriate?
- 1.8 Has the gas utility reasonably and appropriately presented and conducted its Compliance Plan risk management processes and analysis?
- 1.9 Are the gas utility's proposed longer term investments reasonable and appropriate?
- 1.10 Are the gas utility's proposed new business activities reasonable and appropriate?

2. **Monitoring and Reporting** – Are the proposed monitoring and reporting processes reasonable and appropriate?

3. **Customer Outreach** – Are the proposed customer outreach processes and methods reasonable and appropriate?

4. **Deferral and Variance Accounts** – Are the proposed deferral and variance accounts reasonable and appropriate? Is the disposition methodology appropriate?

5. **Cost Recovery** – Is the proposed manner to recover costs reasonable and appropriate?