



**EB-2007-0599**

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

**AND IN THE MATTER OF** an Application by Union Gas Limited, pursuant to section 36 of the *Ontario Energy Board Act*, 1998, for an order or orders approving the rate or rates charged to gas vendors for Invoice Vendor Adjustment fee as of June 1, 2007;

BEFORE: Cynthia Chaplin  
Presiding Member

Cathy Spoel  
Member

**DECISION AND ORDER**  
**Invoice Vendor Adjustment Fee**

**Application**

Union Gas Limited ("Union") filed an application on April 4, 2007 (the "Application") with the Ontario Energy Board ("Board") under section 36 of the *Ontario Energy Board Act*, 1998, S.O. c.15, Schedule B, for an order of the Board approving the rate or rates charged to gas vendors for Invoice Vendor Adjustments ("IVA"), effective June 1, 2007. Union's Application has been given Board File No. EB-2007-0599.

**Procedural Matters**

On April 19, 2007 the Board issued Notice of Written Hearing and Procedural Order No. 1, which set out amongst other things the case timetable. On May 3, 2007, Union filed a letter with the Board requesting that the settlement conference originally scheduled for May 11, 2007 be rescheduled to May 9, 2007. On May 4, 2007 the Board issued Procedural Order No. 2 granting Union's request for a change to the case timetable.

A Technical Conference was held on May 9, 2007, where Union was requested to provide answers to interrogatories from Intervenor and Board Staff. Subsequently, a Settlement Conference was held on May 9, 2007 and a Settlement Agreement was filed with the Board on May 15, 2007. On May 22, 2007 Union filed a clarification letter with the Board and participants, indicating that the reference to an appendix in Settlement Agreement was an error and that the reference should have been to the table attached to the Settlement Agreement.

### **Settlement Agreement**

On May 15, 2007, a Settlement Agreement was filed with the Board. The Settlement Agreement proposed the complete settlement of the issue. The Settlement Agreement is attached to this Decision as Appendix A.

In its application, Union had requested an IVA fee of \$1.85 for each successfully submitted IVA transaction based on the estimate that 29% of successfully submitted IVA transactions would generate a phone call, having an average duration of 9 minutes per call.

The parties to the Settlement Agreement agreed to a fee of \$1.09 based on the estimate that 26% of successfully submitted IVA transactions would generate a phone call, and an average duration of 5.5 minutes per call. A breakdown of the fee can be found in the Settlement Agreement. Direct Energy Marketing Ltd. and Ontario Energy Savings L.P. agreed with the settlement of this issue, and the Industrial Gas Users Association and City of Kitchener took no position on the issue.

The following parties participated in the Settlement Conference: Direct Energy Marketing Ltd., Ontario Energy Savings L.P., City of Kitchener, and the Industrial Gas Users Association.

### **Board Findings**

The Board accepts the Settlement Agreement, with Union's clarification that the reference to a separate appendix was an error. The table on page 2 of the Agreement, titled Derivation of the IVA Fee, provides the evidentiary support. The Board is appreciative of the efforts of all the parties to come to a settlement of this issue.

## **Costs**

A decision regarding cost awards will be issued at a later date. The eligible parties shall submit their cost claims by June 11, 2007. A copy of the cost claim must be filed with the Board and one copy is to be served on Union. The cost claims must be done in accordance with the Board's Practice Direction on Cost Awards.

Union will have until June 18, 2007 to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.

The party whose cost claim was objected to, will have until June 25, 2007 to make a reply submission as to why their cost claim should be allowed. Again, a copy of the submission must be filed with the Board and one copy is to be served on Union.

## **THE BOARD THEREFORE ORDERS THAT:**

1. Union charge an IVA Fee of \$1.09 for each successfully submitted IVA transaction, in accordance with the Board's Gas Distribution Access Rule.

**DATED** at Toronto, May 25, 2007

ONTARIO ENERGY BOARD

*Original signed by*

Peter H. O'Dell  
Assistant Board Secretary

APPENDIX "A" TO  
DECISION AND ORDER  
SETTLEMENT AGREEMENT  
BOARD FILE No. EB-2007-0599

**EB-2007-0599**

**UNION GAS**

**SETTLEMENT AGREEMENT**

**May 15, 2007**

## **ADR AGREEMENT**

This agreement (the “Agreement”) is the result of the Alternative Dispute Resolution (“ADR”) process held between Union Gas (“Union”) and the parties listed below (the “Parties”). The Agreement is for the consideration of the Ontario Energy Board (“the Board”) in its determination, under Docket No. EB-2007-0599 (the “Proceeding”), for the rate or rates charged to gas vendors for Invoice Vendor Adjustments (“IVA”) by Union Gas Limited (“Union”). The Agreement is supported by the evidence filed in the Proceeding.

It is acknowledged and agreed that parties will not withdraw from the Agreement under any circumstances except as provided under Rule 32.05 of the Board’s Rules of Practice and Procedure.

For greater certainty, the parties further acknowledge and agree that the above condition applies even where they are shown as taking no position.

It is also acknowledged and agreed that this Agreement is without prejudice to parties re-examining these issues in a future proceeding.

The parties agree that all positions, information, documents, negotiations and discussion of any kind whatsoever which took place or were exchanged during the Settlement Conference are strictly confidential and without prejudice, and inadmissible unless relevant to the resolution of any ambiguity that subsequently arises with respect to the interpretation of any provision of this Agreement.

The role adopted by Board Staff in the Settlement Conferences is set out on page 5 of the Board’s Settlement Conference Guidelines. As noted in the Guidelines, “Board Staff who participate in the settlement conference are bound by the same confidentiality standards that apply to parties in the proceeding.” Board Staff is not a party to this Agreement.

The evidence supporting the Agreement on the issue is set out in the Agreement. There is an Appendix to the Agreement which provides further evidentiary support. The parties agree that the Agreement and Appendix form part of the record in the proceeding.

By Procedural Order No. 1 dated April 19, 2007, the Board scheduled a Settlement Conference to commence May 11, 2007. This date was subsequently changed to May 9, 2007, the same day as the Board’s Technical Conference for this same Proceeding.

The following parties participated in the Settlement Conference:

1. Direct Energy Marketing Ltd. (“Direct”)
2. Ontario Energy Savings L.P. (“OESLP”)
3. City of Kitchener (“CCK”)
4. Industrial Gas Users Association (“IGUA”)

## 1. INVOICE VENDOR ADJUSTMENT (IVA) FEE

### A) FEE FOR EACH SUCCESSFULLY SUBMITTED IVA TRANSACTION

(Complete Settlement)

Union Gas may charge gas vendors a flat fee of up to \$1.09 for each successfully submitted IVA transaction, in accordance with the Board's Gas Distribution Access Rule. The fee has been derived on the basis that 26% of IVA transactions will result in a call to Union's call centre and that each such call will average 5.5 minutes in length. Below is a fully detailed derivation of the fee:

#### Derivation of IVA Fee

Cost per minute	\$0.62
Call Handling Time 5.5 minutes	3.41
Contact Centre Cost	<u>0.60</u>
Total Cost per Call	<u>\$4.01</u>
Call Rate 26% x \$4.01	\$1.04
3 <sup>rd</sup> Party Billing Cost	<u>0.05</u>
IVA Fee	<u>\$1.09</u>

The following parties agree with the settlement of this issue: Direct and OESLP

The following parties take no position on this issue: CCK and IGUA