

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 Natural
Resource Gas Limited for the relief necessary to transfer its
natural gas distribution system to EPCOR Natural Gas
Limited Partnership.

SUBMISSIONS OF INTEGRATED GRAIN PROCESSORS CO-OPERATIVE INC. & IGPC ETHANOL INC. ("IGPC")

PART I. Overview

1. IGPC is of the view the Board should issue a decision and order granting leave to permit the proposed transaction to close and the transfer of the necessary regulatory agreements, certificates and instruments. IGPC agrees with the co-Applicants that the "no harm test" is the appropriate test for the Board to utilize in determining this Application. However, IGPC does want to take this time to make some comments about the application of the "no harm test" in this particular circumstance.
2. IGPC submits that the Board should include in its decision and order the obligation to submit the revised rate application within the 6 months of the date of the decision and order.

PART II. Comments on the "No Harm Test"

3. IGPC is of the view that the Board should consider the financial wherewithal; operational and management ability of the purchaser to own and operate the utility at the existing or an enhanced level. IGPC is of the view that the Board should also consider the potential impact on rates resulting from transaction to determine if there will be "harm".
4. The evidence indicates that Epcor has the financial wherewithal to be the owner of a utility the size of NRG. It operates several utilities which are larger than NRG and has access to sufficient amounts of capital to own a utility the size of NRG.

5. Operationally, the evidence indicates that the current employees will continue in their operational roles and so the day to day operation of the utility should not be a potential risk. In addition, Epcor will continue to have access to certain additional resources through the services agreement. This access to institutional knowledge, on an as needed basis, combined with Epcor's history and experience in operating various utilities provides sufficient assurance that management and oversight will not deteriorate and that no harm will result.
6. NRG and Epcor have indicated that expectations are rates will be slightly lower if Epcor owns the utility as compared to what rates would be if NRG continued under its current ownership. In the longer run, Epcor felt the rate advantage for customers could be enhanced if the development of additional utilities under the Epcor umbrella proceeds as currently planned. As such, in the cursory review of rates it appears that ratepayers will not be harmed.
7. In the present case, IGPC is of the view the timing and manner of setting new rates warrants commentary. IGPC is concerned that new rates will not be set as soon as possible and that ratepayers expecting a rate reduction from NRG will have such reduction delayed. The Board can alleviate this potential for harm by ensuring that Epcor is obligated to (a) bring forward the revised rate application as soon as possible; and (b) reimburse customers for any overpayment of rates during the entire period in which interim rates are in place.
8. The Board last approved NRG's cost of service in EB-2010-0018 and those rates have been in place for years longer than intended in that application and as understood by participants in EB-2010-0018. At the conclusion of the incentive rate period, NRG applied to continue that period. The Board, following a hearing on the matter, granted the extension of the incentive rate period despite the overpayment by IGPC to NRG.

9. Almost 2 years later NRG did file a rate application, which was given the proceeding number EB-2016-0236. This rate application included a proposed rate reduction for Rate 6 – IGPC.
10. Further, EB-2016-0236 included a different rate structure for Rate 6 to reflect a revised distribution agreement that NRG and IGPC had entered in 2015. The revised arrangement in the distribution agreement provides for a fixed recovery of NRG expenses regardless of the volume consumed and compensation for the upstream Union Gas costs. The revised rate structure was intended to accommodate increases in gas volumes that would be associated with any expansion of the IGPC facility.
11. That distribution agreement will be assigned to Epcor assuming the Board grants leave in this proceeding.
12. IGPC is currently constructing additional facilities to expand its ethanol production and thereby will require additional volumes of gas beginning in late 2018. If the completion of the expansion precedes a determination of the revised rate application, the amount of over payment by IGPC during the period of interim rates will expand dramatically as a result of the current volumetric aspects of the distribution agreement and the current approved Rate 6.
13. The Board adjourned NRG's rate application in EB-2016-0236 as a result of this Application. Epcor has committed to filing a revised rate application within 9 months of the closing of the transaction. Specifically, the commitment was:

If the present Application is approved, EPCOR will assume responsibility for the EB-2016-0236 application and will file an amended application within six to nine months of the closing of the Asset Purchase Agreement (the "Closing").¹

¹ EB-2016-0351, Exhibit 1, Tab 1, Schedule 1, Page 2 of 7, Amended: January 24, 2017.

14. However, it is not entirely clear how long it will take to close the transaction. NRG also submitted that the public interest is served by an expeditious consideration of this matter and the setting of new rates can occur as soon as possible. IGPC agrees that new rates should be set as soon as possible in order that ratepayers can benefit from the lower rates as soon as possible.

NRG submits that it is in the interests of all parties (including NRG's customers) for these issues to be resolved expeditiously, so that Closing can be achieved and new rates established as quickly as possible.²

15. Reply submissions in this proceeding are due June 30, 2017. It is now more than 8 months after the commencement of interim rates on October 1, 2016 and several months prior to the filing of the revised rate application.

16. Delay in setting new rates means that ratepayers, including IGPC, are paying the higher rates during this interim period. Prolonged payment of interim rates is not good for ratepayers. The exposure to higher interim costs will worsen for IGPC if new rates are not set by around the same time that the new IGPC facilities come online.

17. Therefore, in order to ensure ratepayers are not harmed the Board should require that the transaction close as soon as practical and that the revised rate application be filed as soon as possible.

18. IGPC is concerned that without a Board imposed obligation to file the revised rate application that time will continue to pass and that IGPC will be required to pay additional costs. Assuming a January 2018 filing and 8 months to process the application, it is likely rates could be in place for October 1, 2018 thereby leaving the current interim rates in place for 2 years. This is approximately 4 years after final rates were to be in place following the conclusion of the contemplated rate period under EB-2010-0018.

² EB-2016-0351, Exhibit 1, Tab 1, Schedule 1, Page 3 of 7, Amended: January 24, 2017.

19. As such, IGPC feels the Board should include in its decision that Epcor bring forward a rate application prior to January 1, 2018.
20. In addition to the timing of a rate application, the approach to rates warrants comment. IGPC understands that the Board requires that rates be set on a forward test year which in this case would presumably commence around October 1, 2018.
21. IGPC is concerned that given the timing of the submission of the revised application by Epcor that the evidence in respect of what rates should have been during the post October 1, 2016 period may not be included. It is essential that such information be filed by Epcor in its application and that the evidence provide a mechanism and estimate of the amounts to be repaid to customers as a result of the interim rates being in place. The absence of such evidence would likely extend the period needed to conduct the rate application and thereby extend the period during which ratepayers would continue to overpay. Such a result would be inconsistent with the "no harm test".
22. IGPC request that the Board include in its decision and order in this proceeding direction to Epcor regarding the subsequent rate application including:
 - a. the obligation to file prior to January 1, 2018;
 - b. the obligation to include sufficient evidence to calculate the repayment to customers for the period during which interim rates will have been in effect; and
 - c. a proposal for repayment of customers that had overpaid during the period of interim rates.
23. IGPC would be available to have discussions with Epcor regarding the content of the application to assist in its preparations.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: June 16, 2017

AIRD & BERLIS LLP



Scott A. Stoll - LSUC No. 45822G

*(Counsel for Integrated Grain Processors
Co-operative Inc.)*

TO: Ontario Energy Board
Board Secretary
2300 Yonge Street
27th Floor, P.O. Box 2319
Toronto, ON M4P 1E4
Email: boardsec@ontarioenergyboard.ca

AND TO: Natural Resources Gas Limited
39 Beech Street East
Aylmer, ON N5H 3J6

Brian Lippold, General Manager
Tel: (519) 773-5321
Email: brian@nrgas.on.ca

AND TO: EPCOR Utilities Inc.
2000-10423 1001 St. NW
Edmonton, AB T5H 0E8

Bruce Brandell, Director
Tel: (780) 412-3720
Email: bbrandell@epcor.com

Britt Tan, Legal Counsel
Tel: (780) 412-3998
Email: btan@epcor.com

AND TO: **Osler, Hoskin & Harcourt LLP**
Barristers & Solicitors
Suite 2500
TransCanada Tower
Calgary, AB T2P 5H1

Sander Duncanson
Tel: (403) 260-7078
Email: sduncanson@osler.com

AND TO: **Union Gas Limited**
50 Keil Drive North
P.O. Box 2001
Chatham, ON N7M 5M1

Patrick McMahon, Manager
Tel: (519) 436-5325
Email: pmcmahon@uniongas.com

AND TO: **Vulnerable Energy Consumers Coalition**

Public Interest Advocacy Centre
1139 College Street
Toronto, ON M6H 1B5

Cynthia Khoo, Legal Counsel (External)
Tel: (604) 725-5484
Email: ckhoo@piac.ca

Econalysis Consulting Services
34 King Street East, Suite 630
Toronto, ON M5C 2X8

Mark Garner, Project Manager
Tel: (647) 408-4501
Email: mgarner@rogers.com