



# Ontario Energy Board Commission de l'énergie de l'Ontario

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## DECISION AND ORDER ON COST AWARDS

**EB-2015-0179**

## UNION GAS LIMITED

### Community Expansion Project

**BEFORE: Ken Quesnelle**  
Presiding Member and Vice Chair

**Cathy Spoel**  
Member

**Paul Pastirik**  
Member

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December 11, 2017

## INTRODUCTION AND SUMMARY

In response to the Ontario Government's desire to expand natural gas service to Ontario communities that are not currently served, Union Gas Limited (Union) filed an application<sup>1</sup> in July 2015 with the Ontario Energy Board (OEB) under sections 36 and 90 of the *Ontario Energy Board Act, 1998*, seeking approval to provide natural gas service to certain communities that do not have access to natural gas. In that application, Union proposed new approaches to recover revenues for the expansion projects, including a surcharge from new customers and contributions from existing customers.

In order to address certain generic issues on community expansion, the OEB decided to put Union's application on hold until the completion of the generic hearing<sup>2</sup>. On November 17, 2016, the OEB issued its Decision on the Generic Community Expansion Proceeding<sup>3</sup> (Generic Decision). The Generic Decision provided certain direction and guidelines to facilitate the expansion of natural gas service to communities that do not have access to natural gas and are uneconomic to serve under the existing E.B.O. 188 Guidelines.

The OEB granted the Association of Power Producers of Ontario (APPrO), Building Owners and Managers Association Toronto (BOMA), Canadian Propane Association (CPA), Consumers Council of Canada (CCC), Energy Probe Research Foundation (Energy Probe), Federation of Rental-Housing Providers of Ontario (FRPO), Industrial Gas Users Association (IGUA), London Property Management Association (LPMA), Ontario Federation of Agriculture (OFA), School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC) intervenor status and cost award eligibility for Phase I of the proceeding which included all procedural matters prior to the OEB commencing the generic proceeding on community expansion<sup>4</sup>.

The OEB resumed the review of Union's Community Expansion Application after the Generic Decision had been issued. Union filed its updated evidence on March 31, 2017. In Procedural Order No. 6 issued on April 7, 2017, the OEB determined that parties interested in intervening in Union's revised application must reapply for intervenor status and cost eligibility. The OEB noted that cost eligibility would be granted to parties that are directly impacted by the application and potential intervenors seeking cost eligibility

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<sup>1</sup> EB-2015-0179

<sup>2</sup> Letter of the OEB dated January 20, 2016

<sup>3</sup> EB-2016-0004

<sup>4</sup> EB-2016-0004

must describe in their intervention request how Union's application will impact their members.

Accordingly, intervenor status was granted to each of CCC, IESO, SEC, the Corporation of the Township of Prince and VECC. In an OEB letter dated May 2, 2017, the OEB granted CPA intervenor status for Phase II of the proceeding but limited its participation to the issue of a rate stability period.

On August 10, 2017, the OEB issued its Decision and Order approving Union's proposal with the exception of the Prince Township leave to construct application. The Decision also set out the process for intervenors to file their cost claims, for Union to object to the claims and for intervenors to respond to any objections raised by Union.

The OEB received cost claims from APPrO, CPA, CCC, FRPO, IGUA, LPMA, SEC and VECC. By e-mail, BOMA, Energy Probe and OFA stated that they are not filing any cost claims.

On August 30, 2017, CPA filed its cost claim with \$19,800 in Phase II costs. While CPA claimed full costs for Phase I of the proceeding, it was willing to reduce the time spent for written argument in Phase II by 50% as it agreed that some of the time spent on written arguments may have been out of scope.

On September 8, 2017, Union filed a response to the cost claims and noted that with the exception of the cost claim of CPA, it had no specific concerns. Union noted that CPA claimed Phase I costs in the amount of \$25,315.38. This total exceeded the average of other claims by more than two times. Union further submitted that it disagreed with CPA's assertion that it prepared evidence including expert evidence reports.

With respect to costs for Phase II, Union noted that CPA's claims were significantly higher than the other claims. Union argued that CPA had strayed beyond the scope of its intervention as directed by the OEB in Phase II of the proceeding.

In response to Union's objection, CPA argued that the cost claim did not include any costs related to the preparation of evidence and reports by expert or other third parties. The CPA's cost claim only included the legal fees of counsel for time spent preparing the detailed description of evidence for submission to the OEB on December 16, 2015.

CPA further noted that not a single time entry or claimed amount has been challenged or questioned by Union. The CPA submitted that the OEB should consider its costs as filed.

## Findings

The OEB has reviewed the claims filed by APPrO, CPA, CCC, FRPO, IGUA, LPMA, SEC and VECC to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB will approve the filed cost claims with one exception. CPA's cost claims are \$25,315 for Phase I and \$19,800 for Phase II. Given the scope of Phase I and the obvious impact that the proposed cross subsidy issue would have on its members, the OEB accepts CPA's claim for phase I. With respect to Phase II, CPA admitted that its argument went beyond the permitted scope of its intervention and has offered to reduce its argument preparation time by 50%. The OEB finds that a more significant proportion of CPA's participation in the proceeding went beyond the permitted scope. A number of interrogatories and a portion of the submission went beyond the permitted scope and delved into areas other than rate stability. The OEB disagrees with CPA's assertion that only the written argument may have exceeded the permitted scope of the proceeding. The OEB finds that the proportion of its argument relevant to its permitted intervention scope to be a reasonable proxy for the nature of its participation in its entirety and will grant only 25% of the Phase II claim.

The claim of CPA also requires a reduction of \$249.61 due to revised disbursement receipts/logs for photocopy and courier charges. The OEB finds that the claims of APPrO, CCC, FRPO, IGUA, LPMA, SEC and VECC and the adjusted claim of CPA are reasonable and each of these claims shall be reimbursed by Union.

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited shall immediately pay the following amounts to the intervenors for their costs:

• Association of Power Producers of Ontario	\$4,160.10
• Canadian Propane Association	\$30,481.31
• Consumers Council of Canada	\$21,987.54
• Federation of Rental-Housing Providers of Ontario	\$8,927.20
• Industrial Gas Users Association	\$15,446.96
• London Property Management Association	\$11,820.93
• School Energy Coalition	\$18,668.73
• Vulnerable Energy Consumers Coalition	\$19,010.56

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

**DATED** at Toronto December 11, 2017

**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary