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Apr. 27, 2018

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

RE: EB-2017-0323 – Union Gas 2015 DSM Deferrals – Submissions of London Property Management

Please find attached the final submissions in the above noted proceeding.

Yours very truly,

Randy Aiken

Randy Aiken
Aiken & Associates

c.c. Adam Stiers (Union Gas)

Union Gas Limited

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, for an order or orders clearing certain non-commodity related deferral accounts.

SUBMISSIONS
OF
LONDON PROPERTY MANAGEMENT ASSOCIATION

A. INTRODUCTION

Union Gas Limited ("Union") has requested an order or orders of the Ontario Energy Board ("Board") approving the final audit balances for all of its 2015 DSM deferral accounts, as adjusted by Union.

Union requests the recovery of $7.895 million in adjusted balances for the LRAM, DSMVA and DSMIDA accounts. The 2015 audited results show a total balance in these three accounts of $7.447 million (Exhibit A, Tab 1, Table 2), for a difference of $0.448 million.

The difference, according to the evidence, is driven by the use of different Net-To-Gross ("NTG") factors. This is supported by the statement in Note 1 of Exhibit A, Tab 3, Appendix A, Schedule 4 that states *"The term audit adjusted refers to the fact that Union supports the application of the 2015 DSM EM&V results with the exception of the NTG Study results"*.

These are the submissions of the London Property Management Association ("LPMA") regarding this application. LPMA has had the benefit of seeing draft submissions from a number of parties in this proceeding.

B. RETROACTIVE APPLICATION OF THE INCOMPLETE AND ONGOING NRG STUDY TO 2015 DSM PROGRAM RESULTS

The above heading in Exhibit A, Tab 2, page 7, summarizes the Union position that the Board should approve the continued use of a 46% custom program NTG adjustment factor. Union provides four objections to the use of the audited DSM NTG figure. Each of these is discussed below. A summary of the Union position has not been provided in the sections below but can be found in Union's evidence at Exhibit A, Tab 2, pages 7 through 15.

i) Inconsistency with the OEB Decision and Order

Union suggests in both its evidence and in its argument-in-chief that the EB-2015-0029/EB-2015-0049 Decision and Order dated January 20, 2016 that the Board determined that input assumptions and NTG adjustment factors are finalized for a given year based on the previous year's final DSM audit. In particular, Union states that *"Union received support from the OEB that 2015 DSM program results should be evaluated based on the same input assumptions and NTG adjustment factors used for setting its OEB-approved 2015 targets (2014 assumptions and factors) in order to determine the 2015 DSM incentive"* (Exhibit A, Tab 1, page 3). To support this position, Union references pages 74-75 of the January 20, 2016 EB-2015-0029/EB-2015-0049 Decision and Order. This is Union's primary objection to the use of the NTG resulting from the audit.

For ease of reference, LPMA has included the Decision portion of **Section 9.5 Input Assumption and Net-to-Gross Changes** from the EB-2015-0029/EB-2015-0049 Decision and Order noted above that Union references in support of its position:

*"**<u>The OEB is modifying the treatment of input assumptions and net-to-gross adjustment factors effective 2015. The OEB has considered the evidence and submissions and agrees with expert witness, Mr. Neme, that input assumptions for prescriptive measures should not be adjusted retroactively based on the results of the annual evaluation process for the purpose of determining eligible shareholder incentive amounts.</u>***

The OEB finds that any updates to existing input assumptions, or new input assumptions identified during a year, should be applied prospectively when evaluating savings from prescriptive measures.

<u>The OEB does not expect the gas utilities to rely on predetermined net-to-gross adjustment factors when calculating savings for custom projects.</u>

There are three uses of input assumptions and net-to-gross adjustment factors in the evaluation of savings. The first is the use of input assumptions and net-to-gross adjustment factors to determine final savings results for the purpose of determining shareholder incentives, as just described above. *The second is the use of the input assumptions and net-to-gross adjustment factors to calculate the next year's targets. The third is the use of the input assumptions and net-to-gross adjustment factors to calculate lost revenues.*

To calculate next year's targets, the OEB directs the utilities to use the new, updated input assumptions and net-to-gross factors that are the result of the annual evaluation process. The OEB finds it appropriate to use the best available information to determine subsequent targets for prescriptive programs.

To calculate lost revenues, the OEB directs the utilities to use the final natural gas savings amounts calculated from the use of the best available information that are the result of the annual evaluation process. It is appropriate to use the best available information when determining lost revenues that are the result of DSM programs as this will provide the best indication of the actual effect of the programs and is needed when comparing this amount with the load reduction amounts included in the gas utilities' load forecast." (emphasis added)

LPMA submits that the Board decision clearly indicates that input assumptions for **prescriptive** measures should not be adjusted retroactively based on the results of the annual evaluation process for the purpose of determining eligible shareholder incentive amounts. Further, the third paragraph in the decision clearly states that gas utilities should not expect to rely on predetermined net-to-gross adjustment factors when calculating savings for custom projects. Yet this is precisely what Union has done and indicating that the Board has approved this approach for 2015. LPMA submits that Union's proposal is not supported by the its own evidence or the decision of the Board noted above.

The Board is also quite clear that when calculating lost revenues, it has directed the utilities to use the final natural gas savings amount calculated from the use of the best available information that are the result of the annual evaluation process. The Board has indicated that using the best available information will provide the best indication of the actual effect of the programs. LPMA agrees.

Union attempts to further muddy the waters with its reference to the EB-2015-0029/EB-2015-0049 Decision and Order dated February 24, 2016 (Exhibit A, Tab 2, page 8). In particular, at page 3 of that revised Decision and Order, under **Section 2.2 Input Assumptions and Net-to-Gross Adjustments**, the OEB confirmed that Union's interpretation was correct when it interpreted the original decision to mean that input assumptions and net-to-gross adjustment factors are finalized for a given year based on the previous year's final DSM audit.

Union's evidence at page 12 of Exhibit A, Tab 2 is, at best, misleading. Union provides an excerpt from its 2015-2020 DSM Plan Written Comments letter to the Board dated February 3, 2016 which discusses the appropriate interpretation of the Board's decision with respect to input assumptions and net-to-gross figures. Union then goes on to state that based on this letter that the Board agreed that Union's interpretation was correct. Union then proceeded to repeat this in its argument-in-chief at paragraphs 14 and 15.

Nowhere in the excerpt from the letter is there any mention of custom or prescriptive assumptions or net-to-gross adjustment factors. However, Union left out of the excerpt the paragraph immediately preceding what it quoted from the February 3, 2016 letter. In particular, Union left out the following:

'At Section 9.5, page 74 of the Board's Decision, the Board states:

"The OEB is modifying the treatment of input assumptions and net-to-gross adjustment factors effective 2015…The OEB finds that any updates to existing input assumptions, or new input assumptions identified during a year, should be applied prospectively when evaluating savings from prescriptive measures."'

Clearly the reference was to assumptions related to prescriptive measures. There is no mention whatsoever of assumptions related to custom measures. There is no way that the Board could have interpreted Union's request for clarification to include anything other than the assumptions related to prescriptive measures.

As noted in the original decision, the approach to net-to-gross adjustments is different for custom projects than it is for prescriptive measures. Nowhere has the Board indicated that net-to-gross adjustment factors for custom projects are finalized for a given year based on the previous year's final DSM audit. Nowhere did Union ask for clarification of the assumptions and net-to-gross adjustment factors for custom projects. As noted above, the Board actually said the opposite – the Board did not expect the gas utilities to rely on predetermined net-to-gross adjustment factors when calculating savings for custom projects. Union did not ask for any clarification related to this finding.

<u>ii) 2015 Input Assumptions for Program Results and Targets Should Align</u>

Union's argument under this heading is essentially the same as that under the previous heading. LPMA's submission from above are equally applicable here.

In addition, it appears that Union has assumed that assumptions should always be used to estimate the impact of programs. LPMA disagrees. Assumptions should only be used to estimate the impact of programs when the results are not directly measured. This approach is quite legitimate for prescriptive measures and the Board agreed with the approach of not changing the input assumptions, include the NTG adjustment factor for prescriptive measures.

However, LPMA submits that where the impact of programs can be directly measured, such as in custom projects using statistical sampling, that data should be used. This is the best information available for the impact of custom projects. This information can then be used to calculate more accurate net-to-gross adjustment figures

Union seeks to use the assumptions in calculating the impact associated with custom projects instead of the measured results. The assumption of a 46% NTG factor is based on a study that was completed on October 31, 2008 and for which Union does not have a record of the calculation workbooks used in the study and could not even confirm whether or not they were every provided (Exhibit B.Staff.7, page 2). LPMA submits that when measured results are available, they should be used in place of the assumptions that are more than a decade old and are not supported with calculations. LPMA submits that this is also supported by the Board Decision in EB-2015-0029/EB-2015-0049 where it indicated that it did not expect the gas utilities to rely on predetermined net-to-gross adjustment factors when calculating savings for custom projects.

iii) Inconsistency with the Scope of the NTG Study Request for Proposal

Union seems to imply that the NTG Study Request for Proposal ("RFP") cannot be used retroactively on 2015 DSM results because the study was to provide guidance on forward looking DSM program activity.

LPMA is not aware of anything in the RFP that limited its applicability. LPMA is not aware of anything that would, or should, prevent the use of actual measured impacts of custom projects rather than a study that is a decade out of date and for which Union cannot support the calculations.

iv) The 2017 NTG Study is Incomplete and Ongoing

While the study may be incomplete and ongoing, it has still provided the best information that is currently available. Based on Union's own evidence (Exhibit A, Tab 2, page 33), the Evaluation Contractor ("EC") resulted in the verification of every project completed at each sampled site. What could be considered better information than this? According to Union it would be assumptions that are more than a decade old and which cannot even be supported by evidence in this proceeding due to the lack of the calculation workbooks noted in the response to Exhibit B.Staff.7 noted above.

LPMA submits that the information used in the audit is much more appropriate to be used to measure the impacts of the custom projects and is responsive to the Board's statement that it did not expect the gas utilities to rely on predetermined net-to-gross adjustment factors when calculating savings for custom projects.

v) Clearance Amount

Based on the above submissions, LPMA submits that the Board should order the clearance of the amounts in the accounts that auditor ha concluded are correct ($7.477 million). The Union estimate based on their adjusted audit results ($7.895 million) does not reflect the use of the best available information for custom projects and ignores the Board's statement in the EB-2015-0029/EB-2015-0049 Decision and Order that it did not expect the gas utilities to rely on predetermined net-to-gross adjustment factors when calculating savings for custom projects.

C. TIMING OF THE ADJUSTMENT TO RATES

Union proposed to dispose of the account balances with the first available Quarterly Rate Adjustment Mechanism ("QRAM") following Board approval. Union assumed implementation with the April 1, QRAM.

Given the current timing of the application, implementation with the April 1 QRAM is no longer possible. LPMA urges the Board to either issue a decision in this application in time to ensure implementation with the July 1 QRAM, or to allow interim implementation with the July 1 QRAM if the decision cannot be released in time for a July 1 implementation. Any true up between interim disposition and final disposition could be done at a later date. LPMA makes no submissions with respect to whether any interim disposition, if needed, should be based on actual audit results or adjusted actual results. The impact on the residential and general service rate classes of both the actual and adjusted actual disposition amounts over the July through December period are shown in the response to an LPMA interrogatory at Exhibit B.LPMA.5.

LPMA submits that there are three reasons for this implementation timeline as opposed to a possible delay to the October 1, QRAM.

First, if implementation is delayed a further three months, additional interest will accrue that will be paid by ratepayers.

Second, the adjustment for the 2015 DSM related deferral accounts would already be 30 months beyond the end of 2015 assuming a July 1 implementation. Extending it to 33 months would only increase the intergenerational inequity.

Finally, given the six-month period that Union uses to recover the amounts from ratepayers, the July 1 implementation period cover the period of July through December. An October through March period associated with an October 1 implementation is a period where most residential and general service customers have their highest natural gas bills. Adding on even a small incremental amount would be an additional burden to customers during the highest cost season.

D. THE EVALUATION PROCESS

In Procedural Order No. 2 dated April 10, 2018, the Board indicated that the OEB panel would not provide direction on the OEB's evaluation policy or its implementation. It also indicated that it expected OEB Staff to continually monitor the process and look for areas to improve.

However, Union has continued their criticism of OEB Staff, the EC and the audit process in general as support of their criticism of the NTG results in their argument-in-chief. LPMA has had the opportunity to see a draft submission of the School Energy Coalition ("SEC"). SEC Counsel Jay Shepherd is a member of the Evaluation Advisory Committee ("EAC") and has indicated that several of the Union statements are at best exaggerations or simply incorrect. As LPMA is not part of the EAC, and with the Board's determination that the evaluation process is not the subject of this proceeding, it is not possible for LPMA to determine if Union is stretching the truth related to the evaluation process to support its claim that the NTG results from the audit should not be used.

LPMA submits that the Board should ignore any and all criticisms of the evaluation process used by Union to discredit the NTG results that resulted from the audit. Parties were not provided with the opportunity to cross examine Union witnesses, or those of other parties, as to the validity of the Union claims.

E. ALLOCATION OF AMOUNTS

LPMA has reviewed the proposed allocation of the amounts in the three accounts that are being cleared and supports the proposed allocation methodology. These accounts are being cleared in the same manner as they have in the past (Exhibits B.LPMA.2, B.LPMA.3 and B.LPMA.4).

F. COSTS

LPMA requests that it be awarded 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED
April 27, 2018

Randy Aiken
Consultant to London Property Management Association