

June 4, 2018

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Ms. Kirsten Walli
ONTARIO ENERGY BOARD
P.O. Box 2319, 27th Floor
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Dear Ms. Walli:

Re: EB-2017-0255/EB-2017-0224/EB-2017-0275 – Union Gas Limited (Union), Enbridge Gas Distribution Inc. (EGD) and EPCOR Natural Gas Limited Partnership (EPCOR) 2018 Cap and Trade Compliance Plans.

Industrial Gas Users Association (IGUA) Revised Submissions.

These are the submissions of IGUA in respect of the public aspects of: (i) EGD's application for an order approving the cost consequences of its 2018 Cap-and-Trade Compliance Plan¹; and (ii) Union's application for relief² in connection with its 2018 Cap-and-Trade Compliance Plan.

Scope of IGUA's Submissions

IGUA's submissions are focused on three issues: (i) the abatement construct and the Low Carbon Initiative Fund (LCIF), (ii) the utilities' planned abatement activities, and (iii) disposition and allocation of 2016 administrative costs in respect of the utilities' cap and trade programs.

Because the OEB has determined that the RNG procurement and funding model does not require approval, IGUA makes no comments on the utilities' proposals concerning RNG.³

Abatement Construct and the LCIF

EGD's Request: EGD seeks a determination that it is just and reasonable to spend "up to \$2 million on LCIF initiatives,"⁴ which initiatives are "intended to enable the identification and development of GHG-

¹ EGD Argument, p. 1, para. 1.

² Union seeks: (i) an order approving just and reasonable rates; (ii) an order approving the final 2016 balance of \$2.232 million in Union's Greenhouse Gas Emissions Impact Deferral Account (GGEIDA) for collection from ratepayers and final disposition of this balance; and (iii) determination from the OEB that the cost consequences of Union's 2018 compliance plan are just and reasonable.

³ Procedural Order No. 2, Feb. 7, 2018

⁴ EGD Argument, p. 9, para. 22.

reducing technologies to progress into future abatement opportunities for compliance purposes.”⁵ EGD argues that its request is consistent with the Board’s Cap and Trade Framework because it will facilitate EGD’s identification of future abatement opportunities.⁶ While EGD has asked for approval of the cost consequences of spending up to \$2 million on LCIF initiatives, and adding 2 FTEs to allow it to pursue this work, it has evidenced \$1.9 million in costed projects for 2018.

Union’s Request: Union likewise seeks a determination that its request to spend up to \$2.0 million on LCIF initiatives is just and reasonable.⁷ Union asserts that it developed the abatement construct and proposed the LCIF in order to “address the cost-effectiveness barrier to advancement of incremental energy efficiency.”⁸ Union argues that the LCIF, “will ensure that a consistent and predictable level of funding is available to support the steady flow of initiatives through the AC and related Initiative Funnel to commercialization”. While Union seeks a determination that it would be just and reasonable for Union to spend up to \$2.0 million in 2018 on LCIF initiatives, Union’s work plan includes approximately \$1.1 million in costed projects for the year.

IGUA’s Submissions: IGUA supports innovation and recognizes that “*doing what we have done*” is inconsistent with meeting the government’s economic development, energy, climate and competitiveness objectives. IGUA also recognizes that utilities have a role in advancing these objectives. Nonetheless, IGUA submits that it is premature to approve the utilities’ requests for up to \$4 million in ratepayer funding through the LCIF because:

- **Utilities’ Plans are in Early Stages of Development:** Union’s and EGD’s witnesses were forthright in agreeing that their plans are preliminary and in admitting that they could not produce highly detailed work plans, costing information and business cases to support their request for up to \$4 million (in aggregate) through the LCIF. Neither utility could say whether initiatives that moved through the abatement construct would be pursued by the regulated entity or by unregulated affiliates when they reach the implementation stage. Both utilities, however, argue that the funding is critical to allow them to pursue GHG-reducing technologies that may support future abatement efforts, yet there is no evidence that alternative methods of funding this work are unfeasible (for example, by having utilities’ shareholders develop GHG-reduction plans or strategies outside of regulation and then seeking specific inclusions within regulation when the inclusions are warranted and justifiable).
- **The Sector is Changing:** Union and EGD both emphasized that they face considerable uncertainties, including questions regarding the extent to which and the use that will be made of monies collected by government under the cap and trade program.

The utilities’ LCIF requests raise fundamental questions about the appropriate roles for the regulated and competitive aspects of utilities’ businesses and, as a consequence, how and by whom such efforts should be funded. Once some of the extant uncertainties resolve, decision makers will have better information upon which to assess requests related to utilities’ research and development work on GHG

⁵ EBD Argument, p. 9, para. 22.

⁶ EGD Argument, p. 10, para 25.

⁷ Union Argument, p. 30, para. 74.

⁸ Union Argument, p. 10, para 21.

reduction technologies. Accordingly, while these questions are still under debate, and while the utilities themselves are assessing how best to pursue innovation in this area, IGUA submits that it is premature for the Board to approve the cost consequences of the utilities' LCIF proposals. For clarity, IGUA supports the utilities' proposals for recovery of costs associated with incremental human resources in respect of innovation initiatives to reduce GHG-emissions. It is hoped that with these resources in place the utilities will be well positioned to put forward fully developed, appropriately detailed plans for research and development on innovative GHG-emissions reduction technologies in future cap and trade compliance plan applications.

If the Board does wish to approve the utilities' LCIF requests, then IGUA suggests that it would be appropriate for the Board to articulate the principles under which such utility expenditures should be countenanced. Foremost among them should be the principle that the costs of any utility technological innovation initiatives should be allocated to those utility customers rate classes who stand to benefit and should not be more broadly socialized through utility rates (i.e., industrial rate classes should not pay for research and development initiatives that benefit only commercial and residential rate classes and vice versa.) Moreover, for 2018, IGUA submits that only \$3 million in costs (\$1.1 million for Union and \$1.9 million for EGD) should be accepted because the utilities have not put forward evidence as to how funds in excess of this amount will be used.

The Utilities' Carbon Abatement Activities

EGD's and Union's Requests: Neither EGD nor Union includes incremental DSM in its cap and trade compliance plans as part of its abatement efforts. Witnesses for both utilities testified that their companies had evaluated customer related abatement activities and found none that were cost effective when assessed using the marginal abatement cost curve (MACC). Some intervenors are expected to argue that utilities should be pursuing incremental DSM in support of carbon abatement. IGUA does not agree with this position.

IGUA's Submissions: IGUA agrees with the utilities' analyses and arguments that additional investments in DSM are not supported based on the results of the MACC and that it would not be prudent to adopt incremental DSM programming in the name of carbon compliance at this time. In the cap and trade framework the OEB has determined that MACC costing governs abatement activities. DSM cost effectiveness tests and spending limits are different, for different reasons, and it would not be appropriate to conflate the two types of tests and thus the two separate spending categories without further consideration and clarification from the Board.

In a letter dated May 30, 2018, the Board indicates that the concerns raised by some intervenors about incremental DSM programming will be discussed as part of the DSM mid-term review. The Hearing Panel in this compliance plan proceeding need not, and thus should not, get ahead of that process, which will allow broader input on the overlap between the DSM and cap and trade programs and related issues than has been canvassed in this proceeding.

Disposition of 2016 GGEIDA

EGD's Request: EGD seeks approval to recover administrative costs of \$840,000 incurred in 2015 and 2016 and recorded in the 2016 GGEIDA. EGD proposes to clear such amounts at the next practical

GRAM, with amounts allocated to various customer classes based on the number of customers in each rate class.⁹

Union's Request: Union likewise seeks approval to recover administrative costs of \$2.232 million, which it recorded in the 2016 GGEIDA. Union proposes to allocate the 2016 GGEIDA to rate classes in proportion to Union's 2013 OEB-approved administrative and general O & M expense, and to dispose of the approved balance with disposition of the 2017 non-commodity deferral account balances.¹⁰

IGUA's Submissions: IGUA recognizes the Cap and Trade Framework, which provides that allocation of cap and trade related administrative costs should follow approved allocation methodologies for utilities' general administrative and overhead costs. IGUA also accepts that the utilities' proposals are consistent with this direction.

IGUA's position, however, is that the cost causality principle would better be reflected if administrative costs were allocated in accord with cap and trade specific benefits (i.e., in accord with the allocation of customer versus facility abatement costs). The preponderance of IGUA's members are large final emitters (LFEs) who are required to administer their own cap and trade programs and who incur all associated costs. As a result, LFEs will in effect pay twice for cap and trade related administrative costs if they are allocated administrative costs associated with the utilities' customer-related cap and trade obligation. IGUA supports the Board's suggestion in the Cap and Trade Framework that it could re-examine the administrative costs allocation established in the Framework as experience with the cap and trade program is gained, and encourages the Board to do so.

Sincerely,

Gowling WLG (Canada) LLP



Laura Van Soelen

LV

c: A. Stiers (Union)
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 All Parties to EB-2017-0255 and EB-2017-0224

⁹ EGD Argument, p. 33, para. 86.

¹⁰ Union Argument, p. 29, para. 71.