**EB-2018-0105**

# Union Gas Limited ('Union')
# Application for disposition and recovery of certain 2017 deferral account balances and approval of the earnings sharing amount

Submission
of the
Vulnerable Energy Consumers Coalition
(VECC)

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# 1.0 SUMMARY OF THE SUBMISSIONS

1.1 With the exception of the following and with the proviso herein VECC does not oppose the disposition of the deferral accounts, including the amounts with respect to 2017 earning sharing. We submit that:

(i) The Board should disallow disposition of Account 179-151 OEB Cost Assessment Variance Account.

(ii) In approving the amounts for earnings sharing, no finding should be made with respect to reasonableness of the operating costs related to affiliate transactions.

(iii) The Board should correct the amounts for disposition of Account 179-144 so as to correctly reflect a proportionate share of revenue generated by the sale of long-term capacity.

# 2.0 REVIEW OF THE ISSUES

**Account No. 179-151 OEB Cost Assessment**

2.1 The balance of this account is a debit from ratepayers of $1.159 million plus interest as of December 31, 2017 of $8,000 for a total of $1.167 million. The account was established in 2016 as a result of the Board's changes to the OEB Cost Assessment model. In Union's Board-approved rates, there is $2.5 million in OEB cost assessment amounts. In 2017, the total amount of cost assessment invoices was $3.659 million, resulting in a variance of $1.159 million.[1]

2.2 VECC submits that recovery of this account should be denied for two reasons. First, the amount in the account does not meet the IRM threshold. Union is subject to the following restrictions with respect to Z-factor adjustments[2]:

> For prospective or historical cost increases/decreases to qualify for pass through as a Z factor, the cost increases/decreases must:
> 1. causally relate to an external event that is beyond the control of utility's management;
> 2. result from, or relate to, a type of risk:
>    a. for which a prudent utility would not be expected to take risk mitigation steps; and,
>    b. which is out of the realm of the basic undertaking of the utility (per EB-2011-21 0277 Decision, page 13).
> 3. not otherwise be reflected in the price cap index;
> 4. be prudently incurred; and,
> 5. meet the materiality threshold of $4.0 million of annual net delivery revenue requirement impact per Z factor event.

[1] Exhibit A, Tab 1, pg.63
[2] EB-2013-0202 Exhibit A, Tab 1, pgs. 35-35

The amount requested fails to meet the materiality threshold described in condition five.

2.3 In any event, the amounts captured by the account does not just capture variances arising due to the change in the Board's assessment methodology but also all other variances related to the changes over time in revenues and customer numbers.

2.4 The Board made the following changes to the cost assessment methodology in 2016:[3]

> Material changes include:
> 1. Updating the OEB's direct cost allocations (staff time and Market Surveillance Panel cost) to align with the OEB's mandate.
> 2. Updating of electricity distribution and gas distribution intra-class allocations from a revenue based allocation to a customer number based allocation, resulting in increased stability and predictability.

That is, the purpose of the deferral account is to capture variances which are caused by the change from a revenue based allocation to a customer allocation. Under either methodology variances are incurred due to annual changes in customers or revenues, as the case may be.

2.5 In our submission, the purpose of the account is to only capture variances due to the change in methodology. Under Union's IRM rate plan it is not allowed to recover the normal variances as between its forecast regulatory costs and actual costs. Therefore, the proper way to measure any variances due only the methodological change would be to consider the customer numbers, rather than revenues, at the time the original regulatory forecast was made. At B.VECC.10 Union was asked to show how its forecast of $2.5 million built into rates would have been adjusted had it used customer numbers to estimate its regulatory costs. In its response Union states that "*it is not possible to calculate how the estimate would have changed based on the current OEB assessment methodology*"

2.6 This response is simply not plausible. It would be in fact a simple task to use the number of customers at the time of rate setting in EB-2013-0202 to calculate an OEB assessment cost to compare to the $2.5 million estimate embedded in rates. In fact, the stated purpose of the Board's new methodology is to provide greater certainty and ease since customer numbers are both more stable and easier to estimate than revenues. In any event, it is clear from the Board's guidance on the establishment of these accounts that the issue of correctly measuring the variance that might be recovered and the materiality of that variance were matters to be considered and tested. The Board's letter on this is very specific:[4]

[3] Ontario Energy Board, Letter to Regulated Entities subject to the OEB's Cost Assessment, February 9, 2016
[4] Op. Cit. OEB February 9, 2016

> Regulated entities are expected to seek disposition of the variance account balances when their rates, payment amounts or fees, as applicable, are next rebased/reset, and the accounts will be closed to any further entries at that time.
>
> Regulated entities are reminded that, in the normal course, any disposition of deferral and variance account balances must meet any OEB default or company-specific materiality thresholds.

2.7 In our submission, since Union is neither rebasing and therefore no testing of the amounts is being undertaken, nor does it meet the noted threshold for account disposition.

**OM&A costs related to affiliate and related transactions**

2.8 VECC has a number of concerns as to the correctness of including merger and other affiliated related costs as part of its earning sharing calculation. These costs are in the order of $5.6 million. A discussion of the costs can be found in response to various interrogatories including Exhibits B.EP-5; B.LPMA-13 and B.B-Staff-16.

2.9 The Benchmark return on equity (ROE) for 2017 was 8.93%. Union's 2017 earnings provide an ROE of 9.16%. The Utility is subject to a sharing mechanism on earnings above 100 basis points of the Benchmark rate. As such the Utility is not subject to any earnings sharing. Furthermore, the margin of 77 basis points to trigger earning sharing is significant. As such, it is unlikely that the matters of concern to VECC would cause any change to the ultimate ESM outcome. However, it is not clear how these or related costs might impact future calculations of the ESM.

2.10 VECC acceptance of the ESM proposal of the Applicant does not therefore incorporate an acceptance of all of the OM&A costs presented. We may in future proceedings argue against similar types of affiliate transactions being incorporated into the ESM calculation.

**Account 179-144 – Lobo D/Bright C/Dawn H Compressor Project Costs**

2.11 VECC adopts the argument of SEC with respect to the "proportionate share" methodology for calculating the variance in this account as described in their argument. We do not intend to replicate this argument as it is a clear and, in our view, a compelling dispensation of the issue.

# 3. COSTS INCURRED

3. VECC respectfully submits that it has acted responsibly and efficiently during the course of this proceeding and requests that it be allowed to recover 100% of its reasonably incurred costs.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**