



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

DECISION AND ORDER

EB-2018-0105

UNION GAS LIMITED

Application for the disposition of amounts recorded in certain deferral and variance accounts and approval of the earnings sharing amount

BEFORE: **Allison Duff**
Presiding Member

Lynne Anderson
Member

Michael Janigan
Member

November 26, 2018

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1 INTRODUCTION AND SUMMARY

Union Gas Limited (Union) is a natural gas storage, distribution and transmission company regulated by the Ontario Energy Board (OEB). It serves approximately 1.4 million customers in more than 400 communities across northern, southwestern and eastern Ontario through an integrated network of over 67,000 kilometers of natural gas distribution pipelines. Union also owns and operates storage and transmission assets at the Dawn Hub in southern Ontario and the Dawn-Parkway transmission system that is a major natural gas delivery system for Ontario, Quebec and U.S. Northeast. Union is an Enbridge Inc. company.¹

Union filed an application with the Ontario Energy Board (OEB) on June 6, 2018 for approval to dispose of and recover certain 2017 deferral account balances. The total net balance of these deferral accounts is a debit of \$2.2 million.

Union indicated that its 2017 actual utility earnings did not exceed the threshold established in Union's 2014-2018 Incentive Regulation proceeding² and therefore there is no sharing of earnings with ratepayers.

A settlement conference was held on September 4 and 5, 2018. By letter dated September 12, 2018, Union advised the OEB that there was no settlement proposal resulting from the settlement conference.

In Procedural Order No. 2, dated September 18, 2018, the OEB established deadlines for the filing of submissions by OEB staff and intervenors and for Union to file its reply argument.

The OEB approves the proposed balances in the deferral and variance accounts with the exception of the Lobo D / Bright C / Dawn H Compressor Projects Costs Deferral Account and the OEB Cost Assessment Variance Account as discussed below. The OEB also finds that there are no earnings to be shared with ratepayers for 2017. Finally,

¹ The OEB approved the amalgamation of Enbridge Gas Distribution Inc. and Union Gas Limited in its Decision and Order, dated August 30, 2018, in the EB-2017-0306/0307 proceeding. By letter dated October 15, 2018, Enbridge Gas Distribution Inc. and Union Gas Limited filed a letter advising the OEB that Enbridge Inc. will amalgamate the two utilities with an expected effective date of January 1, 2019.

² EB-2013-0202.

the OEB approves the allocation methodologies and disposition³ proposed by Union for those deferral and variance accounts that the OEB approves for disposition.

³ The disposition is approved to align with the January 1, 2019 Quarterly Rate Adjustment Mechanism (QRAM) application. The proposed recovery period is approved subject to a final review of the combined bill impacts in the QRAM proceeding.

2 PROCESS

The OEB issued a Notice of Hearing on July 5, 2018. Union served the Notice as directed by the OEB. The OEB granted the following parties intervenor status:

- Building Owners and Managers Association Toronto (BOMA)
- City of Kitchener
- 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 Greenhouse Vegetable Growers (OGVG)
- School Energy Coalition (SEC)
- TransCanada PipeLines Limited
- Vulnerable Energy Consumers Coalition (VECC)

A settlement conference was held on September 4 and 5, 2018. By letter dated September 12, 2018, Union advised the OEB that there was no settlement proposal resulting from the settlement conference.

The OEB received submissions from OEB staff, BOMA, City of Kitchener, CCC, Energy Probe, FRPO, IGUA, LPMA, OGVG, SEC and VECC. Union also filed a reply submission in response to the submissions of parties.

3 DECISION

3.1 Deferral and Variance Account Balances

Union requested approval to dispose of balances in certain 2017 deferral and variance accounts. The net balance in the various deferral accounts is a debit balance of \$2.2 million as at December 31, 2017 (including interest to that date).⁴

DEFERRAL AND VARIANCE ACCOUNTS			
GAS SUPPLY ACCOUNTS			
	Account #	Account Name	Balance (\$000's)
	179-107	Spot Gas Variance Account	-
	179-108	Unabsorbed Demand Cost Variance Account	(4,159)
	179-131	Upstream Transportation Optimization	11,057
	179-132	Deferral Clearance Variance Account – Supply	320
	179-132	Deferral Clearance Variance Account – Transport	507
		Total Gas Supply Accounts	7,725
STORAGE ACCOUNT			
	179-170	Short-Term Storage and Other Balancing Services	1,183
OTHER ACCOUNTS			
	179-103	Unbundled Services Unauthorized Storage Overrun	-
	179-112	Gas Distribution Access Rule Costs	76
	179-120	IFRS Conversion Costs	-
	179-123	Conservation Demand Management	(245)
	179-132	Deferral Clearance Variance Account – Delivery	1,763
	179-133	Normalized Average Consumption	(2,914)
	179-134	Tax Variance	(331)
	179-135	Unaccounted for Gas Volume Variance Account	-
	179-136	Parkway West Project Costs ⁵	(528)
	179-137	Brantford-Kirkwall/Parkway D Project Costs	(868)
	179-138	Parkway Obligation Rate Variance	(121)
	179-139	Energy East Pipeline Consultation Costs	-
	179-141	Unaccounted for Gas Price Variance Account	103
	179-142	Lobo C Compressor/Hamilton-Milton Pipeline Project Costs	(6,327)
	179-143	Unauthorized Overrun Non-Compliance Account	(8)
	179-144	Lobo D/Bright C/Dawn H Compressor Project Costs	4,918

⁴ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 1 / Schedule 1.

⁵ Union seeks interim disposition of the balance in the Parkway West Project Costs account subject to a future prudence review.

	179-149	Burlington-Oakville Project Costs	(3,477)
	179-151	OEB Cost Assessment Variance Account	1,167
	179-153	Base Service North T-Service TransCanada Capacity	-
	179-156	Panhandle Reinforcement Project Costs	83
		Total Storage & Other Accounts	(5,526)
		TOTAL DEFERRAL ACCOUNT BALANCES	2,199

The focus of OEB staff and intervenor submissions was on the Parkway Obligation Rate Variance Account, the Lobo D / Bright C / Dawn H Compressor Projects Costs Deferral Account, and the OEB Cost Assessment Variance Account. With respect to the other deferral and variance accounts listed above, parties either took no position or agreed with Union's proposed disposition.

Findings

The OEB approves the proposed balances in the deferral and variance accounts for disposition as filed with the exception of the Lobo D / Bright C / Dawn H Compressor Projects Costs Deferral Account and the OEB Cost Assessment Variance Account.

With respect to the balance in the Parkway West Project Costs Account, the OEB approves Union's proposal to dispose of the balance on an interim basis. The OEB notes that in the 2016 deferral account disposition proceeding⁶, all parties agreed that the 2016 balance in the Parkway West Project Costs Account should be disposed of only on an interim basis to allow the OEB to perform a prudence review of the capital overspend prior to final disposition of the balance in the account.⁷ The OEB's approval in the current application is consistent with the approval granted in the 2016 deferral account disposition proceeding.⁸

The OEB sets out its findings with respect to the contested deferral and variance accounts in the sections that follow.

Parkway Obligation Rate Variance Account

In the 2014 Rates proceeding⁹, Union and intervenors agreed to permanently shift the Union South Direct Purchase (DP) Parkway Delivery Obligation (PDO) to Dawn over

⁶ EB-2017-0091.

⁷ EB-2017-0091, Updated Settlement Proposal, p. 12.

⁸ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 1 / pp. 29.

⁹ EB-2013-0365.

time and agreed to the payment of a Parkway Delivery Commitment Incentive (PDCI) for any continuing obligated Daily Contract Quantity deliveries at Parkway beginning November 1, 2016.

As described in the accounting order¹⁰, the deferral account records variances associated with timing differences between the effective date of changes to PDO and PDCI (November 1) and the inclusion of these changes in approved rates (January 1 of the following year). The total balance in the Parkway Obligation Rate Variance Account as at December 31, 2017 is a credit to ratepayers of \$0.121 million, which reflects the impact of these timing differences for the period November 1, 2017 to December 31, 2017.¹¹

IGUA and SEC submitted that the proposed balance in the account has been calculated correctly and should be approved for disposition. Both parties noted that a broader issue with the PDO framework identified in the PDO settlement agreement¹² will need to be addressed by the OEB in a subsequent proceeding.¹³

Energy Probe argued that the account should not be cleared as part of the current proceeding pending a review of the PDO framework. This submission was supported by the City of Kitchener.¹⁴ BOMA argued that the account should either not be cleared or only cleared on an interim basis.¹⁵

Finally, FRPO argued that the overall deferral and variance account clearance should be adjusted by a \$5.014 million credit to ratepayers as the PDO amounts recovered by Union in 2017 are not in accordance with the PDO Reduction Framework Agreement.^{16,17}

In its reply submission, Union reiterated that the calculation of the balance in the deferral account is consistent with the PDO Reduction Framework Agreement.^{18,19}

¹⁰ EB-2016-0245, Decision and Rate Order, Appendix F, p. 22.

¹¹ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 2 / pp. 41-42.

¹² EB-2013-0365.

¹³ EB-2018-0105, IGUA submission, pp. 1-2; SEC submission, p. 3.

¹⁴ EB-2018-0105, Energy Probe submission, p. 3; City of Kitchener submission, p. 1.

¹⁵ EB-2018-0105, BOMA submission, p. 2.

¹⁶ EB-2013-0365, Settlement Framework for Reduction of Parkway Delivery Obligation.

¹⁷ EB-2018-0105, FRPO submission, p. 1. FRPO provided detailed rationale supporting its position at pp. 1-11 of its submission.

¹⁸ EB-2018-0105, Union reply submission, p. 2.

¹⁹ EB-2013-0365, Settlement Framework for Reduction of Parkway Delivery Obligation.

Findings

The OEB approves the balance and proposed disposition of the Parkway Obligation Rate Variance Account. The OEB finds that the purpose of the variance account is clearly defined in the accounting order. The purpose of the account is to capture rate variances associated with the effective date of changes to PDO and PDCI (November 1) and the inclusion of these changes in approved rates (January 1 of the following year). It is appropriate for the OEB to approve Union's request to clear this account in the current proceeding.

The OEB acknowledges parties submissions on the broader issue of Union's PDO framework. However, the OEB finds that this broader issue is out of scope for this proceeding. The clearance of the variance account has no impact on the PDO Reduction Settlement included as part of Union's 2014 Rates approved settlement proposal²⁰ or on the OEB's ability to address the related issues in Union's next rebasing proceeding. The OEB reiterates its findings made in the Union and Enbridge Gas Distribution Inc. MAADs proceeding that, at the time of rebasing, the OEB will review the PDO costs and amounts recovered through rates.²¹

Lobo D / Bright C / Dawn H Compressor Projects Costs Deferral Account

The account tracks the difference between the actual revenue requirement related to costs associated with the Lobo D / Bright C / Dawn H project and the revenue requirement included in rates. The deferral account has a debit balance of \$4.912 million, plus interest of \$0.006 million for a total balance of \$4.918 million. The debit balance is largely driven by the assets being put into service earlier than the forecast in-service date.²²

In the 2017 Dawn Parkway Project approved settlement proposal, Union noted that it expected to be in a slight surplus capacity position of 30,393 GJ/d on the Dawn Parkway system upon the completion of the project. Union further stated that it will actively market the surplus capacity and that the revenues from such marketing will be credited to the proposed Lobo D / Bright C / Dawn H Compressor Projects Costs Deferral Account.²³

²⁰ EB-2013-0365, Settlement Framework for Reduction of Parkway Delivery Obligation.

²¹ EB-2017-0306/0307, Decision and Order, p. 49.

²² EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 1 / pp. 50-58.

²³ EB-2015-0200, Settlement Agreement, p. 8.

In response to an OEB staff interrogatory, Union explained that it included the delivery revenue requirement of the project in 2017 rates, which excluded the revenue associated with the 30,393 GJ/d of surplus capacity associated with this project. Union stated that if it experiences surplus capacity in excess of 30,393 GJ/d due to expiring contracts or adjustments to total system capacity, revenue obtained by selling that capacity would form part of utility earnings and would be subject to earnings sharing. Once all surplus capacity in excess of 30,393 GJ/d has been sold on a long-term basis, any further sales would then be applied to the Lobo D / Bright C / Dawn H Compressor Project Costs Deferral Account. As Union's actual Dawn to Parkway surplus for winter 2017 / 2018 was in excess of 30,393 GJ/d, no long-term Dawn-Parkway revenue was applied to the Lobo D / Bright C / Dawn H Compressor Project Costs Deferral Account.²⁴

The submissions of parties focused on the issue of whether a credit should be applied to the account related to the revenues generated from the sale of surplus capacity associated with the Lobo D / Bright C / Dawn H Compressor project.

SEC and VECC argued that the credit should be based on revenues associated with the sale of long-term capacity.²⁵ The other parties argued that the credit should be based on revenues generated from the sale of all surplus capacity on the Dawn-Parkway system multiplied by the proportion of the total Dawn-Parkway system surplus that was created by the Lobo D / Bright C / Dawn H Compressor project.²⁶

In its reply submission, Union argued that there should be no credit to the account as the 30,393 GJ/d of surplus capacity associated with the Lobo D / Bright C / Dawn H Compressor project was not sold.²⁷ Specifically, in response to the submissions of SEC and VECC, Union stated that there was no sale of the Lobo D / Bright C / Dawn H Compressor project-related surplus capacity on a long-term basis. Union noted that its surplus capacity in 2017 was greater than at the time of the 2017 Dawn Parkway

²⁴ EB-2018-0105, Interrogatory Responses, OEB Staff-13, p. 2.

²⁵ EB-2018-0105, SEC submission, p. 2; VECC submission, p. 4.

²⁶ EB-2018-0105, OEB staff submission, pp. 3-4; BOMA submission, p. 5; CCC submission, p. 2; Energy Probe submission, p. 3; FRPO submission, pp. 11-13; IGUA submission, pp. 2-3; City of Kitchener submission, p. 1; LPMA submission, pp. 2-4. OGVG submission, p. 1.

²⁷ EB-2018-0105, Union reply submission, p. 6.

Project settlement²⁸, which evidences the fact that no incremental long-term contracting of surplus capacity has occurred.²⁹

With respect to the arguments made by other parties that the credit to the account should include a proportional share of revenues generated from the sale of all surplus capacity on the Dawn-Parkway system, Union stated that its 2013 approved revenue forecast already included short-term transportation revenue of \$11.067 million. The margin generated from this revenue is included as a credit to 2017 in-franchise rates. Union argued that the implication of OEB staff and intervenor submissions is that Union, while earning only \$8.318 million in actual short-term transportation revenue in 2017 compared to the \$11.067 million credited in rates, should be required to credit a portion of this revenue again through the deferral account. Union submitted that proportionally allocating its short-term transportation revenue was not the intent of the 2017 Dawn Parkway Project settlement³⁰ and is not justified if a higher amount has already been included for the benefit of in-franchise ratepayers in base rates.³¹

Findings

The OEB directs Union to allocate a proportional share of the short-term transportation revenue generated through the sale of surplus Dawn Parkway system capacity in 2017 to the Lobo D / Bright C / Dawn H Compressor Project Costs Deferral Account. The OEB finds that the proportional share should include only revenues that were generated after the project went into service and from Dawn Parkway system paths where the project has provided incremental capacity. The OEB does not agree with Union's submission that a credit to the account be considered only if the total surplus is less than 30,393 GJ/d. Union operates an integrated system, yet Union's proposal effectively results in "colour coded capacity" as submitted by LPMA.³²

The approved 2017 Dawn Parkway Project settlement proposal, in which it was agreed that the deferral account would be established, also calculated a \$1.34 million credit to the account based on the maximum annual revenue that could be generated through the sale of long-term firm surplus capacity.³³ The settlement proposal also indicated that the account would be symmetrical to capture both positive and negative variances.

²⁸ EB-2015-0200, Approved Settlement Proposal.

²⁹ EB-2018-0105, Union reply submission, p. 9.

³⁰ EB-2015-0200, Approved Settlement Proposal.

³¹ EB-2018-0105, Union reply submission, p. 9.

³² EB-2018-0105, LPMA submission, p. 3.

³³ EB-2015-0200, Approved Settlement Proposal, p. 23.

The OEB finds it is appropriate to consider the sale of both short-term and long-term surplus capacity as the approved settlement proposal did not restrict the source of the excess sales revenue.

The OEB acknowledges Union's argument that 2017 rates include a credit for the margin associated with the forecasted short-term transportation revenue of \$11.07 million and that Union generated only \$8.32 million of revenue on an actual basis.³⁴

The issue of forecast risk with respect to short-term transportation revenues that were forecast at the time of the 2013 rebasing (and included in 2017 rates) is distinct from the issue of excess capacity and the purpose of the deferral account. With a forecast test year, Union is expected to bear the risk of variances in short-term transportation revenue between forecast and actual.

When Union received approval for the Lobo D / Bright C / Dawn H Compressor project, there was a known amount of surplus capacity generated by the project.³⁵ That surplus capacity was for all paths on the Dawn Parkway system with limited exceptions.³⁶ To the extent that Union earns a return on those assets and recovers depreciation, it is appropriate to offset the associated costs to customers by applying a portion of the revenue generated by Union's total, expanded capacity to the deferral account. Due to the integrated nature of Union's system, a proportional allocation of the 2017 short-term transportation revenues is a reasonable way to ensure ratepayers receive an offset to rates, given that the project being funded through rates includes surplus capacity.

Based on its review of the 2017 Dawn Parkway Project approved settlement proposal³⁷, the OEB finds that this is consistent with the description of the deferral account. The OEB does not find Union's submission regarding the technical conference held in the 2017 Dawn Parkway Project proceeding to be a relevant consideration.³⁸ The technical conference indicated Union's intent at the time, prior to the settlement conference. The

³⁴ EB-2018-0105, Union reply submission, p. 9.

³⁵ EB-2015-0200, Approved Settlement Proposal, p. 8. The settlement proposal states, "...upon the completion of the proposed facilities Union expects to be in a slight surplus capacity position of 30,393 GJ/d on the Dawn Parkway System, as a result of the "lumpy" nature of transmission capacity expansions."

³⁶ EB-2018-0105, Union reply submission, p. 10. Union in its reply submission noted that the incremental capacity from the project excludes paths west of Dawn and paths moving westerly on the Dawn Parkway system.

³⁷ EB-2015-0200, Approved Settlement Proposal.

³⁸ EB-2018-0105, Union reply submission, p. 8.

OEB has no insight into what issues Union or other parties conceded in order to reach a settlement proposal. The OEB must base its decision on the words included in the settlement proposal approved by the OEB.

As part of the draft rate order, Union shall file a detailed calculation of the proportional allocation of short-term transportation revenues to the Lobo D / Bright C / Dawn H Compressor Project Costs Deferral Account.

In future years, Union shall file detailed information explaining the proposed allocation of long-term and / or short-term revenues to the account as part of its pre-filed evidence.

OEB Cost Assessment Variance Account

On February 9, 2016, the OEB issued a letter to regulated entities about the OEB's cost assessment notifying stakeholders of changes to the OEB's Cost Assessment Model (CAM). As part of these changes, the OEB established a variance account to record any material differences between OEB cost assessments currently built into rates, and cost assessments that will result from the application of the new CAM effective April 1, 2016.³⁹

Currently, \$2.5 million in OEB assessment costs are included in Union's rates. In 2017, the actual amount of cost assessment was \$3.659 million. As such, the balance in the account requested for clearance is a debit from ratepayers of \$1.159 million plus interest of \$0.008 million for a total of \$1.167 million.⁴⁰

Intervenors argued that Union should not be allowed to dispose of the balance in the OEB Cost Assessment Variance Account. Submissions referred to the OEB's February 9, 2016 letter that stated, "Regulated entities are reminded that, in the normal course, any disposition of deferral account and variance account balances must meet any Board default or company-specific materiality thresholds."⁴¹ The main argument set out

³⁹ OEB Letter, Re: Revisions to the Ontario Energy Board Cost Assessment Model, February 9, 2016, p. 2.

⁴⁰ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 1 / pp. 63-64.

⁴¹ OEB Letter, Re: Revisions to the Ontario Energy Board Cost Assessment Model, February 9, 2016, p. 2.

by intervenors is that the balance is not material relative to Union's company-specific materiality threshold for Z-factors of \$4 million.⁴²

In its reply submission, Union argued that it is not seeking Z-factor treatment in relation to the OEB cost assessments and therefore the reference to the materiality threshold for Z-factor is inappropriate. Union also argued that if a materiality threshold were to apply it should be the threshold for the establishment of new deferral accounts. Union referred to the \$1 million threshold amount for the establishment of new deferral accounts set out in the Filing Requirements for Natural Gas Rate Applications (the Filing Requirements).⁴³ OEB staff argued that the materiality threshold set out in the Filing Requirements should be considered guidance only as the requirements post-date the OEB's February 2016 letter.⁴⁴ Union submitted that OEB staff's argument overlooks that the filing guidelines in place at the time for electricity distributors also included a materiality threshold of \$1 million, which the OEB could also use as guidance.⁴⁵

Findings

The OEB does not approve disposition of the 2017 balance in the OEB Cost Assessment Variance Account. The OEB finds that there was no OEB-approved materiality threshold for Union's deferral and variance accounts in 2017. In 2017, the only company-specific materiality threshold applicable to Union was the Z-factor threshold of \$4 million as specified in the approved settlement proposal.⁴⁶ In the absence of a stipulated deferral and variance account materiality threshold, the OEB applies the only materiality threshold available at the time of \$4 million for Z-factor events. As a result, the OEB finds the balance of \$1.167 million for 2017 is not material and denies Union's request for disposition. The amount should be removed from the account and not recovered from ratepayers.

In the Filing Requirements, a materiality threshold of \$1 million for new deferral and variance accounts was established.⁴⁷ The Filing Requirements are designed to provide

⁴² EB-2018-0105, OEB staff submission, p. 6; BOMA submission, p. 4; CCC submission, p. 2; Energy Probe submission, p. 3; FRPO submission, p. 14; IGUA submission, p. 3; City of Kitchener submission, p. 1; LPMA submission, p. 4; OGVG submission, p. 1; SEC submission, p. 1; VECC submission, p. 2.

⁴³ Ontario Energy Board, Filing Requirements for Natural Gas Rate Applications, February 16, 2017, Chapter 2, p. 38.

⁴⁴ EB-2018-0105, OEB staff submission, p. 6.

⁴⁵ EB-2018-0105, Union reply submission, p. 11.

⁴⁶ EB-2013-0202, Approved Settlement Proposal, Exhibit A / Tab 1 / p. 36.

⁴⁷ Ontario Energy Board, Filing Requirements for Natural Gas Rate Applications, February 16, 2017, Chapter 2, p. 38.

direction to applicants for filing cost of service rate applications in the years following the date that the Filing Requirements were issued. Given the circumstances of this case, the OEB approves a new OEB Cost Assessment Variance Account for Union for 2018. As a result, a \$1 million threshold will apply to the account balance beginning in 2018.

Union is under a deferred rebasing plan and is not expected to rebase its costs until 2024, as approved by the OEB.⁴⁸ The OEB finds it appropriate to establish the new account because the OEB letter makes clear an expectation that utilities would be able to recover costs qualifying as material arising as a result of the new cost assessment. Based on the incremental cost assessment in 2017, for the six-year period from 2018 to 2023 the additional cost assessment could be in the order of \$7 million.

Union shall file, as part of its draft rate order, a draft accounting order for this account, which reflects the OEB's findings.

3.2 Earnings Sharing

As per Union's approved settlement proposal in the 2014-2018 Incentive Regulation proceeding⁴⁹, Union did not exceed the return on equity (ROE) threshold and therefore there is no earnings sharing with ratepayers. If the difference between the actual ROE and the benchmark ROE is greater than 100 basis points but less than 200 basis points, the excess earnings are shared 50/50 between Union and its ratepayers. If the difference between the actual ROE and the benchmark ROE is greater than 200 basis points, the excess over 200 basis points is shared 90/10 to the benefit of ratepayers. For 2017, the difference is 23 basis points and therefore Union has not applied for any earnings sharing.⁵⁰

A number of parties noted that the earnings sharing calculation includes \$5.6 million of merger-related costs (and \$3.7 million of related savings) associated with the Enbridge Inc. and Spectra Energy merger.⁵¹ In response to an interrogatory, Union provided the earnings sharing calculation with the \$5.6 million merger-related costs removed (but

⁴⁸ EB-2017-0306/0307.

⁴⁹ EB-2013-0202, Approved Settlement Proposal, Exhibit A / Tab 1 / p. 37.

⁵⁰ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 2 / p. 8.

⁵¹ The earnings sharing calculation excludes \$0.18 million of legal costs associated with the Union Gas Limited / Enbridge Gas Distribution Inc. merger application. EB-2018-0105, Interrogatory Responses, IGUA-1, p. 1.

maintaining the \$3.7 million savings in the calculation). The result of that calculation is that there are still no earnings to be shared with ratepayers (as Union is still below the threshold for sharing).⁵²

Most parties argued that the OEB should accept the proposed 2017 earnings sharing calculation as the inclusion of merger-related costs has no impact on the amount to be shared. However, parties raised the issue of the appropriateness of including merger-related costs in the earnings sharing calculation and stated that this issue would need to be addressed in the future.⁵³ Energy Probe argued that the OEB should find that the earnings sharing calculation must be adjusted to remove the merger costs and reflect an appropriate adjustment for the OEB cost assessment amounts if the OEB determines that the balance in the deferral account is to be revised.⁵⁴

In its reply argument, Union stated that whether or not the cost incurred by Union in relation to the merger of Enbridge Inc. and Spectra Energy are included in the earnings sharing calculation, there are no earnings to be shared with ratepayers. Union provided, for completeness, its position that those costs should be included if the OEB were to make a determination on this issue. Union explained that the savings related to the merger have been included in the earnings sharing calculation. Therefore, it would be inappropriate to exclude the costs while including the savings.

Findings

The OEB agrees with Union that there are no earnings to be shared with ratepayers, even if merger costs were excluded from the requisite calculation. Accordingly, the OEB will not decide the issue of the inclusion of such costs in any future calculation of potential earnings sharing during the IRM period.

3.3 Allocation and Disposition of Deferral and Variance Account Balances

With two exceptions, the allocation of 2017 deferral account balances to rate classes is consistent with the allocations previously approved by the OEB in Union's 2016 Deferral

⁵² EB-2018-0105, Interrogatory Responses, Staff-16.

⁵³ EB-2018-0105, OEB staff submission, pp. 8-9; BOMA submission, pp. 4-5; IGUA submission, pp. 3-4; City of Kitchener submission, p. 1; OGVG submission, p. 1; SEC submission, p. 3; VECC submission, p. 4.

⁵⁴ EB-2018-0105, Energy Probe submission, p. 4.

Account Disposition Proceeding⁵⁵, Union's 2013 Cost of Service Proceeding⁵⁶ or Union's Dawn Reference Price proceeding.^{57,58}

The OEB Cost Assessment Variance Account and Panhandle Reinforcement Project Costs Deferral Account have not been previously disposed.

For the OEB Cost Assessment Variance Account, Union proposed to allocate the balance to rate classes in proportion to the 2013 OEB-approved administrative and general operating, maintenance and administration (OM&A) expenses.⁵⁹

For the Panhandle Reinforcement Project Costs Variance Account, the 2017 balance in the account reflects the actual net revenue requirement, as there was no amount related to this project included in 2017 rates. Union proposed to allocate the balance to rate classes on the basis of an updated cost allocation study (using the OEB-approved 2013 study as a starting point), which includes the project costs and revenues associated with the project.⁶⁰

OEB staff and LPMA submitted that they have no concerns with Union's proposed allocation of the balances in the deferral and variance accounts.⁶¹

For general service rate classes, Union proposes to dispose of the deferral and variance account balances prospectively over a 6-month period (January 1, 2019 – June 30, 2019).

For in-franchise contract and ex-franchise rate classes, Union proposes to dispose of the deferral and variance account balances as a one-time adjustment with the January 2019 bills customers receive in February 2019.⁶²

OEB staff submitted that the proposed approach is consistent with how Union has disposed of deferral account balances during the current IRM term as previously

⁵⁵ EB-2017-0091.

⁵⁶ EB-2011-0210.

⁵⁷ EB-2015-0181.

⁵⁸ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 3 / pp. 1-2.

⁵⁹ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 3 / p. 9.

⁶⁰ EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 3 / p. 10.

⁶¹ EB-2018-0105, OEB staff submission, pp. 9-10; LPMA submission, p. 5. LPMA took no position on the allocation methodology for the OEB Cost Assessment Variance Account as it submitted that Union should not be allowed to recover the balance in the account.

⁶² EB-2018-0105, Pre-filed Evidence, Exhibit A / Tab 3 / p. 11.

approved by the OEB. The only difference is that the balances are typically disposed over a 6-month period beginning October 1. Given the timing of the filing, that is not possible with respect to the 2017 balances.⁶³

Findings

The OEB finds that the balances in the deferral accounts have been allocated appropriately, with the exception of the OEB Cost Assessment Variance Account. The OEB will make no finding on the proposed allocation for the OEB Cost Assessment Variance Account as the disposition of the balance is not approved.

The OEB also approves Union's proposed disposition to align with the January 1, 2019 Quarterly Rate Adjustment Mechanism (QRAM) application. The OEB requires Union to file, as part of its draft rate order, the unit rates resulting from this decision based on Union's proposed recovery period (over 6-months for general service customers and as a one-time adjustment for in-franchise contract and ex-franchise customers). The OEB approves the proposed recovery period subject to a final review of the combined bill impacts in the QRAM proceeding.

The OEB orders Union to file a draft rate order that incorporates its findings in this decision and includes updated interest amounts for each deferral and variance account based on a January 1, 2019 disposition date.

The OEB will establish a process for cost awards in the Rate Order.

⁶³ EB-2018-0105, OEB staff submission, p. 10.

4 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Union shall file a draft rate order reflecting the findings set out in this decision by **November 29, 2018**.
2. OEB staff and intervenors who wish to file submissions on the draft rate order shall file such submissions, and deliver them to Union and other intervenors, by **December 3, 2018**.
3. If Union wishes to reply to the submissions of OEB staff and intervenors that submission shall be filed with the OEB, and delivered to other intervenors, by **December 4, 2018**.

All filings to the OEB must quote the file number, **EB-2018-0105**, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a USB drive in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Registrar at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Lawrie Gluck at lawrie.gluck@oeb.ca and Counsel, Michael Millar at michael.millar@oeb.ca.

ADDRESS

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DATED at Toronto, November 26, 2018

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary