



**uniongas**

A Spectra Energy Company

July 24, 2008

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2005-0551  
Union Settlement Agreement dated June 13, 2006 (page 12)  
Request for Delay in Power Services Review**

Attached is a Notice of Motion, with Pre-Filed Evidence requesting:

*“An order varying that portion of the Settlement Agreement, at page 12, in the Natural Gas Electricity Review proceeding (the “NGEIR”), EB-2005-0551, that required interested customers and Union to convene (the “Power Services Review”) no later than March 31, 2009 to discuss and evaluate the experience and success of the new ex-franchise services (the “Power Service”) being offered as a result of NGEIR. Union requests that the deadline for the Power Services Review meeting be changed from March 31, 2009 to March 31, 2010.” (page 1)*

If you have any questions or concerns please contact me at 519-436-5275.

Sincerely,

*[Original signed by]*

Mark Kitchen  
Director, Regulatory Affairs

c.c.: S. Wong  
D. Butters, APPrO  
A. Pye, Board Staff  
V. Cooney, Board Staff  
EB-2005-0551 Intervenors

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Sched. B)

**AND IN THE MATTER OF** the Natural Gas Electricity Interface Review.

**AND IN THE MATTER OF** Rules 7.01 and 42-45 of the Board's Rules of Practice and Procedure.

**NOTICE OF MOTION**

**THE MOVING PARTY**, Union Gas Limited (“Union”), will make a motion before the Ontario Energy Board (the “Board”) at a date, time and place to be fixed by the Board.

**THE MOTION IS FOR:**

1. An order varying that portion of the Settlement Agreement, at page 12, in the Natural Gas Electricity Review proceeding (the “NGEIR”), EB-2005-0551, that required interested customers and Union to convene (the “Power Services Review”) no later than March 31, 2009 to discuss and evaluate the experience and success of the new ex-franchise services (the “Power Service”) being offered as a result of NGEIR. Union requests that the deadline for the Power Services Review meeting be changed from March 31, 2009 to March 31, 2010.
2. To the extent necessary, an order extending the time to bring this motion.
3. Such further and other relief as counsel may advise and the Board permit.

**THE GROUNDS FOR THE MOTION ARE:**

4. On page 12 of the Union Settlement Agreement in NGEIR, the parties agreed to the following:

**1.1 MORE FREQUENT NOMINATION WINDOWS FOR DISTRIBUTION, STORAGE AND TRANSPORTATION THAT CORRESPOND WITH THE NOMINATIONS OF UPSTREAM PIPELINES THAT CONNECT TO THE ONTARIO GAS SYSTEM.**

...

- Parties agree that once sufficient operating experience has been gained and in any event no later than March 31, 2009, interested customer groups and Union will convene to evaluate and discuss the experience and success of the services offered as a result of this proceeding. At that time, any party may propose further modifications to the rate schedules.

5. As stated in the Union Settlement Agreement, the parties' intention was that interested customer groups and Union convene the Power Services Review to evaluate the new Power services "*once sufficient operating experience has been gained*".

6. Customers are only now beginning to take these services. As a result, Union and its customers will not have gained sufficient operating experience by March 31, 2009 to conduct a meaningful review of the new Power Services developed for gas-fired generators. It would be more useful to the parties to postpone the review for one year so that the parties will have gained sufficient operating experience to engage in a meaningful review.

7. Section 21.2(1) of the *Statutory Powers Procedure Act*, and Rules 7 and 42 - 45 of the Board's Rules of Practice and Procedure.

8. Such further and other grounds as counsel may advise and the Board may permit.

**THE GROUNDS FOR THE REQUEST FOR AN EXTENSION OF TIME** to seek review of the approved terms of the Settlement Agreement are:

9. It has only become apparent recently that it would be premature to hold the review meeting by March 31, 2009.
10. No party will be prejudiced by the requested extension of time.
11. Pursuant to Rule 7.01 of the Board's Rules of Practice and Procedure, the Board may extend the time for bringing a motion to review on such conditions the Board considers appropriate.
12. Such further and other grounds as counsel may advise and the Board may permit.

**THE FOLLOWING EVIDENCE** will be used at the hearing of the motion:

13. The record of the proceedings in EB-2005-0551.
14. Union's Pre-Filed Evidence in respect of this motion.
15. Such further and other evidence as counsel may advise and the Board may permit.

July 24, 2008

**BLAKE, CASSELS & GRAYDON**

Barristers and Solicitors

Box 25, Commerce Court West

Toronto, Ontario M5L 1A9

Sharon S. Wong

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Counsel for Union Gas Limited

TO: All Parties in EB-2005-0551

**PRE-FILED EVIDENCE OF UNION GAS LIMITED**  
**Union's motion to vary the Power Services Review Deadline**

1. Union Gas Limited ("Union") is bringing this motion for an order varying that portion of the Union Settlement Agreement (the "Settlement Agreement") in the Natural Gas Electricity Review proceeding (the "NGEIR"), EB-2005-0551, that required interested customers and Union to convene no later than March 31, 2009 to discuss and evaluate the experience and success of the new ex-franchise services being offered as a result of NGEIR (the "Power Services Review"). Union requests that the deadline for holding the Power Services Review be changed from March 31, 2009 to March 31, 2010.

*Background*

2. The Settlement Agreement, dated June 13, 2006, is attached as Appendix F to the NGEIR Decision with Reasons.

3. The Ontario Energy Board (the "Board") orally approved the Settlement Agreement as part of the NGEIR proceeding. (See Volume 4 of the NGEIR hearing transcript, p. 152, line 2)

4. The parties to the Settlement Agreement accepted Union's proposal to develop four new ex-franchise services intended to primarily serve gas-fired generators: F24T, F24S, UPBS and DPBS as described in Union's NGEIR evidence and modified in the Settlement Agreement (the "Power Services"). (See Settlement Agreement, p. 9).

5. As part of the settlement of that issue, the parties agreed to the following:

**1.1 MORE FREQUENT NOMINATION WINDOWS FOR DISTRIBUTION, STORAGE AND TRANSPORTATION THAT CORRESPOND WITH THE NOMINATIONS OF UPSTREAM PIPELINES THAT CONNECT TO THE ONTARIO GAS SYSTEM.**

...

- Parties agree that once sufficient operating experience has been gained and in any event no later than March 31, 2009, interested customer groups and Union will convene to evaluate and discuss the experience and success of the services offered as a result of this proceeding. At that time, any party may propose further modifications to the rate schedules.

(Settlement Agreement, p. 12)

*Grounds for the Requested Extension*

6. As stated in the Settlement Agreement, the parties' intention was that interested customer groups and Union convene the Power Services Review to evaluate the new Power Services "*once sufficient operating experience has been gained*".

7. The Association of Power Producers of Ontario ("APPrO") is the industry association that generally represents the interests of the gas-fired generators at the Board. On May 20, 2008, APPrO wrote a letter to the Board (attached hereto as Exhibit A) which referred to the requirement in the Settlement Agreement for the Power Services Review to be convened before March 31, 2009 and then went on to state:

Since few of the large new gas-fired generators coming into service in 2008 are likely to have had more than a few months of "sufficient operating experience" by March 2009, it may be prudent to explore whether or not a later date might be more useful, for example late 2009 or early 2010.

I do not think APPrO or its members would be necessarily opposed to a delay in the interests of ensuring the best outcome in such discussions, but in any event it is certainly worth having the conversation so that everyone's time is utilized in the best manner.

8. Customers for the new Power Services are only now beginning to take these services. As a result, Union agrees with APPrO that the customers will not have gained sufficient operating experience by March 31, 2009 to conduct a meaningful review of the Power Services developed for the gas-fired generators. Union believes that it would be more useful to the parties to postpone the deadline for the Power Services Review for one year to March 31, 2010, so that the parties will have gained sufficient operating experience to engage in a meaningful review.

*Board's Jurisdiction to Vary the Deadline*

9. The Board has jurisdiction under s. 21.2(1) of the *Statutory Powers Procedure Act* and Rule 42.01 the Board's *Rules of Practice and Procedure* to vary its decisions.

10. Pursuant to Rule 7.01 of the Board's Rules of Practice and Procedure, the Board may extend the time for bringing a motion to vary on such conditions the Board considers appropriate.

11. It has only become apparent recently that it would be premature to hold the review meeting by March 31, 2009, and no party will be prejudiced by an extension of time to bring this motion to vary the approved deadline.

25 Adelaide St. E  
Suite 1602  
Toronto ON, M5C 3A1



**APPRO**  
ASSOCIATION OF  
POWER PRODUCERS  
OF ONTARIO

May 20, 2008

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli,

**Re: EB-2005-0551 Union Gas Limited Settlement Agreement**  
**June 13, 2006**

In the above noted Settlement Agreement<sup>1</sup>, the parties agreed that "...once sufficient operating experience has been gained and in any event no later than March 31, 2009, interested customer groups and Union will convene to evaluate and discuss the experience and success of the services offered as a result of this proceeding. At that time, any party may propose further modifications to the rate schedules."

Since few of the large new gas-fired generators coming into service in 2008 are likely to have had more than a few months of "sufficient operating experience" by March 2009, it may be prudent to explore whether or not a later date might be more useful, for example late 2009 or early 2010.

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<sup>1</sup> Union Gas Limited Settlement Agreement: Rates for Gas-Fired Generators (and other qualified customers), p.12

I do not think APPrO or its members would be necessarily opposed to a delay in the interests of ensuring the best outcome in such discussions, but in any event it is certainly worth having the conversation so that everyone's time is utilized in the best manner.

Sincerely,

A handwritten signature in black ink, consisting of a large, loopy 'D' followed by a stylized 'B' and a trailing flourish.

David Butters  
President