



EB-2007-0598

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

AND IN THE MATTER OF an Application by Union Gas
Limited for an order or orders amending or varying the rate
or rates charged to customers as of July 1, 2007;

PROCEDURAL ORDER NO. 2

Union Gas Limited ("Union" or the "Applicant") filed an application on April 27, 2007 with the Ontario Energy Board (the "Board") seeking approval for final disposition and recovery of certain 2006 year-end deferral account balances and the 2006 year-end earnings sharing amount. Union also proposes that the impacts which result from the disposition of 2006 deferral account balances and 2006 earnings sharing be implemented on July 1, 2007 to align with other potential rate changes expected to result from the Quarterly Rate Adjustment Mechanism ("QRAM") proceeding.

On May 16, 2007 the Board issued its Notice of Written Hearing and Procedural Order No. 1 setting the dates for submissions on Union's evidence and other procedural matters. As part of the Order, any parties that objected to proceeding by way of written hearing were required to provide good reason why any issues should proceed by way of an oral hearing.

On May 24, 2007 the Industrial Gas Users Association ("IGUA") requested that a matter concerning the treatment of deferred taxes under the Earnings Sharing Mechanism be considered as part of an oral hearing. The amount of deferred taxes for recovery by the Applicant is \$10.524 million. The Issue is outlined in Account No. 179-72 Long-Term Peak Storage Services, Ex. A, Tab 1, Pages 10-15 of Union's evidence (the "Deferred Taxes Issue") and states, "Included in the actual cost to provide storage services in 2006 is an increase in deferred income tax expense of \$10.524 million resulting from the Board's decision in the Natural Gas Electricity Interface Review."

In a letter filed May 25, 2007, the Vulnerable Energy Consumers Coalition ("VECC") endorsed the request for an oral hearing on this issue as proposed by IGUA.

The Board finds the request made by IGUA reasonable and considers it appropriate to hear this particular issue orally. All other issues in this proceeding will be addressed by way of written hearing. The Board will confine the oral hearing to the Deferred Taxes Issue.

The Board's calendar requires a revision to the previously scheduled dates. The revised case timetable for upcoming events is attached as Appendix "A".

On June 11, 2007, the Board received a non-confidential letter from the Applicant requesting that the response to a certain interrogatory (the "Proposed Confidential Response") be kept confidential pursuant to the Board's Rules of Practice and Procedure and its Practice Direction on Confidential Filings. A copy of this non-confidential letter is attached as Appendix "B".

THE BOARD ORDERS THAT:

1. Any parties that object to confidential status being attached to the Proposed Confidential Response must submit their objections in writing to the Board Secretary's Office by Wednesday, June 27, 2007 (please see the Practice Direction on Confidential Filings for guidance on filing any objections).
2. If any objections regarding the Proposed Confidential Response are filed, Union will have until Friday, June 29, 2007 to file any reply submissions.
3. An oral hearing will be held on Monday, July 9, 2007, beginning at 9:30a.m. at 2300 Yonge Street, Toronto, in the Board's West Hearing Room. The hearing is scheduled for 1 day and will be confined to the Deferred Taxes Issue as outlined in this Order. The oral hearing will be transcribed and the transcript will form part of the record of this proceeding.

4. Argument with respect to all issues other than the Deferred Taxes issue shall be filed with the Board by Intervenor and Board Staff on or before Monday, July 9, 2007 and shall be served simultaneously on Union and other Intervenor.
5. Reply argument of the Applicant with respect to all issues other than the Deferred Taxes Issue shall be filed with the Board on or before Friday, July 20, 2007 and shall be simultaneously served on Intervenor.
6. All filings with the Board noted in the Order must be in the form of 10 hard copies plus CD, and must be received by the Board by 4:45 p.m. on the stated date. The Board requires all correspondence to be in electronic form as well as paper. Therefore, all parties must also e-mail an electronic copy of their filings in MS Word and accessible PDF format to the Board Secretary at Boardsec@oeb.gov.on.ca.

ISSUED at Toronto June 22, 2007

ONTARIO ENERGY BOARD

Original Signed by

Peter H. O'Dell
Assistant Board Secretary

APPENDIX “A”

Union Gas Limited – 2006 Deferral and Earnings Sharings Amounts

Board File No. EB-2007-0598

(updated June 22, 2007)

Event (remaining)	Date 2007
Objections to the Proposed Confidential Response	June 25
Reply submission on the Proposed Confidential Response	June 27
Oral Hearing on the Deferred Taxes Issue	July 9
Argument from Board Staff and Intervenor with respect to all issues	July 9
Reply Argument	July 20

APPENDIX "B"

Union Gas Limited – 2006 Deferral and Earnings Sharings Amounts

Board File No. EB-2007-0598

Non confidential Letter dated June 11, 2007

June 11, 2007

BY FAX AND MAIL

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

Dear Ms. Walli:

Re: EB-2007-0598

I am counsel to Union Gas Limited in connection with Union's application for disposition of certain deferral accounts and earnings sharing for 2006 in EB-2007-0598. I am writing to you in connection with Rules 10 and 29.02 of the OEB's Rules of Practice and Procedure and the OEB's Practice Direction on Confidential Filings.

In this proceeding, the London Property Management Association has asked, in connection with Exhibit A, Tab 1, Page 29 and Schedule 4 of Union's evidence in this matter, for details about a "non-utility adjustment" totaling \$1,278,000. Union seeks a determination from OEB that Union's response to this interrogatory be held in confidence.

The OEB has asked Union to record on the public record the basis for the confidentiality request in a manner, obviously, which does not infringe the confidence involved.

The amount arises from the resolution of a potential commercial dispute. Union provided a full and final release. The release contains a confidentiality provision which requires Union to keep the circumstances of the payment confidential for three years (i.e., until well into 2009).

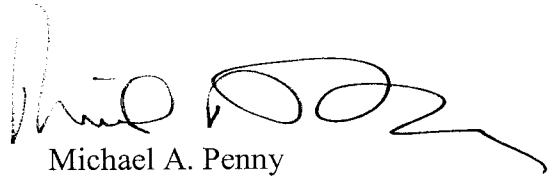
Union's commercial resolution of this issue would be placed in jeopardy through public disclosure, contrary to the terms of the release, of the details of that commercial resolution, to Union's prejudice. The third party has a legitimate interest in maintaining the confidentiality of the payment as well. It is Union's view that the amount can not be construed

as resulting from the sale of distribution, storage or transmission services. For this reason, Union excluded this amount from the earnings sharing calculation as a non-utility adjustment.

If the OEB directs Union to file its proposed answer to this interrogatory, Union requests that it be done so in confidence. Union would propose that, if the LPMA representative wishes to review the document, he be required to sign the form of declaration and undertaking contemplated in Appendix D of the OEB's Practice Direction on Confidential Filings and that any further evidence or argument on this topic also be filed in confidence.

Please do not hesitate to contact me if I can be of further assistance.

Yours very truly,

A handwritten signature in black ink, appearing to read "Michael A. Penny", with a stylized flourish at the end.

Michael A. Penny

MAP/rm