



uniongas

A Spectra Energy Company

September 15, 2008

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

Dear Ms. Walli:

Re: Section 43(2) Application

Spectra Energy Corporation (“Spectra”) and Westcoast Energy Inc (“WEI”) intend to implement an internal reorganization, effective January 2009, which will result in a transfer of 100% of the voting shares of Union Gas Limited (“Union”) to a limited partnership proposed to be organized under the laws of Ontario (the “limited partnership”).

Accordingly, Union and WEI (on its own behalf and on behalf of the limited partnership to be organized) are applying to the Ontario Energy Board (“OEB”) under section 43(2) of the *Ontario Energy Board Act, 1998*, (“Act”) seeking leave to transfer 100% of the voting shares of Union to the limited partnership. The application and supporting evidence is attached.

The transfer of 100% of Union’s voting shares to the limited partnership will have no adverse impact on any party and no impact on the management or operations of Union. Further, Union’s undertakings to Lieutenant Governor in Council for the Province of Ontario are not affected. As a result, the applicants also request the OEB, under section 21(4) of the Act, to dispose of this application without a hearing.

The granting of leave by the OEB to transfer the voting shares of Union to the limited partnership is the critical first step in the reorganization. As a result, the applicants respectfully request that the OEB issue a decision on this application as soon as possible, preferably by November 19, 2008, but in any event, no later than November 26, 2008.

Should you have any questions with respect to the letter or the application, please contact me at 519-436-5275

Yours truly,

[original signed by]

Mark Kitchen
Director, Regulatory Affairs

Attach.

c.c.: Michael Penny, Torys
Bruce Pydee, WEI
Mark Garner, OEB

ONTARIO ENERGY BOARD

IN THE MATTER OF Section 43 of the *Ontario Energy Board Act*, 1998, S.O. 1998, c. 15, (Sched. B);

AND IN THE MATTER OF an Application by Westcoast Energy Inc. and Union Gas Limited for leave of the Ontario Energy Board to transfer a controlling interest in Union Gas Limited to a limited partnership wholly-owned by Westcoast Energy Inc.

APPLICATION

1. Westcoast Energy Inc. ("WEI") is a holding company controlled indirectly by Spectra Energy Corp ("Spectra"). WEI is the owner of 100% of the voting shares of Union Gas Limited ("Union").
2. Union is a business corporation, incorporated under the laws of the Province of Ontario, with its head office in the Municipality of Chatham-Kent.
3. Union conducts an integrated natural gas utility business that combines the operations of selling, distributing, transmitting and storing natural gas.
4. Spectra and WEI intend to do an internal reorganization which will result in a transfer of 100% of the voting shares of Union to a limited partnership proposed to be organized under the laws of Ontario.
5. WEI will own 99.999% of the limited partnership interest in the limited partnership. WEI will also own 100% of the voting shares of a corporation proposed to be incorporated as the general partner of the limited partnership. The general partner will own the remaining .001% of the limited partnership interest in the limited partnership. Accordingly, the internal reorganization will change the form, but not the substance, of WEI's 100% ownership of Union. Currently, Union is a wholly owned direct subsidiary of WEI. Following the internal reorganization, Union will be a wholly owned, *indirect* subsidiary of WEI.
6. Union and WEI (on its own behalf and on behalf of the limited partnership to be organized) seek leave of the Ontario Energy Board ("OEB") under section 43(2) of the *Ontario Energy*

Board Act, 1998, (“*Act*”) for the transfer of 100% of the voting shares of Union to the limited partnership.

7. The applicants also ask the OEB, under section 21(4) of the *Act*, to dispose of this application without a hearing on the basis that no person will be adversely affected in any material way by the outcome of this application and the applicants consent to the disposition of this application without a hearing.
8. The applicants ask the OEB to dispose of this application as soon as possible, preferably prior to November 19, 2008, but in any event, no later than November 26, 2008.
9. This application is supported by written evidence, which is attached. This written evidence may be amended from time to time as circumstances require.
10. The address for service of the applicant is:

Westcoast Energy Inc.
1055 West Georgia Street
Suite 1100
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Attention: Bruce Pydee
Vice President Regulatory and General Counsel

Telephone: (604) 691-5512
Fax: (604) 691-5883

Email: bpydee@spectraenergy.com

- and -

Union Gas Limited
P.O. Box 2001
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N7M 5M1
Attention: Mark Kitchen
Director, Regulatory Affairs

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Fax: (519) 436-4641

Email: mkitchen@spectraenergy.com

- and -

Torys, LLP
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Toronto, Ontario
M5K 1N2
Attention: Michael A. Penny

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Fax: (416) 865-7380

Email: mpenny@torys.com

DATED: September 15, 2008.

**WESTCOAST ENERGY INC. AND
UNION GAS LIMITED**

By their Solicitors

A handwritten signature in dark ink, appearing to be a stylized name, is written over a horizontal line.

Torys, LLP
Suite 3000, TD Waterhouse Tower
P.O. Box 270
Toronto-Dominion Centre
Toronto, Ontario
M5K 1N2

Pre-filed Evidence of Westcoast Energy Inc. and Union Gas Limited

1. The purpose of this evidence is to explain the internal reorganization that gives rise to this application. The body of this evidence addresses the elements of the reorganization which require Ontario Energy Board approval under section 43(2) of the *Ontario Energy Board Act, 1998* (“*Act*”), the rationale for the reorganization and the impact the reorganization will have on Union’s ownership structure. Attachment 1 to this evidence, for completeness, explains certain steps in the reorganization for which no approvals from the OEB are required.

Background

2. Section 43(2) of the *Act* requires leave of the OEB for any person to acquire 20% or more of the voting securities of a gas transmitter, distributor and storage company such as Union Gas Limited (“Union”). There are certain statutory exceptions which are not applicable in this case.

3. Spectra Energy Corp (“Spectra”), the ultimate owner of Westcoast Energy Inc. (“WEI”) and Union, is proposing to do an internal reorganization that will affect Union’s ownership structure. Although leave is required under the *Act* for the proposed change in Union’s ownership structure, as described below Union will remain a wholly owned subsidiary of Spectra and WEI. The change in ownership structure will have no adverse impact — tax, operational, governance, financial or otherwise — on Union or any of Union’s customers. For this reason, WEI and Union seek the disposition of this application without a hearing under section 21(4) of the *Act*.

The Current Ownership Structure

4. Currently, the voting securities of Union are 100% owned by WEI. WEI is an indirect, wholly owned subsidiary of Spectra, a U.S. corporation. A simplified organization chart illustrating the status quo is attached as Attachment 2.

Proposed Share Transfer

5. Spectra and WEI are conducting an internal reorganization that will result in the transfer of the voting securities of Union to a limited partnership to be organized under the laws of Ontario. All of the voting shares of the general partner of the limited partnership will be owned by WEI. WEI will own 99.999% of the limited partnership units and the wholly owned general

partner of the limited partnership will own the remaining 0.001% of the limited partnership units. Thus, the limited partnership will be wholly owned by WEI. A simplified illustration of the proposed post-reorganization ownership structure is attached as Attachment 3.

6. The purpose of the share transfer is to rationalize the tax position of Union's indirect U.S. parent, Spectra.

7. The steps of the share transfer are as follows:

1. WEI incorporates a general partner as a wholly owned subsidiary of WEI;
2. WEI and the general partner then form a new limited partnership, 99.999% owned by WEI and the other 0.001% owned by the general partner;
3. Ownership of 99.999% of the voting securities of Union is transferred from WEI to the limited partnership;
4. Ownership of 0.001% of the voting securities of Union is transferred from WEI to the general partner; and
5. Ownership of 0.001% of the voting securities of Union is transferred from the general partner to the limited partnership (which now ends up with 100% of the voting securities of Union).

Rationale For the Share Transfer

8. When a U.S. corporation receives repatriated earnings (generally in the form of a dividend) from a foreign subsidiary, the U.S. corporation is subject to U.S. tax if the repatriated earnings are considered to be "earnings and profit" for U.S. tax purposes. Under the current ownership structure, Union's earnings and profit, as determined under U.S. tax rules, are deemed to move to WEI at the time Union pays a dividend to WEI.

9. Inserting a limited partnership between WEI and Union will provide Spectra with more control over when Union's earnings and profit are moved to WEI. Under the new ownership

structure, Union's earnings and profit will be accounted for first by the limited partnership and will only be taken into account by WEI when the limited partnership makes a distribution to WEI. Control over the timing of the limited partnership's distributions will allow Spectra more flexibility in determining when distributions ultimately made by WEI to its parent would include the movement of Union's earnings and profit for U.S. tax purposes.

Additional Steps Being Undertaken

10. Prior to and after the proposed share transfer, WEI and Union intend to undertake certain transactions more particularly described in Attachment 1. Although approval of the OEB is not required to undertake those transactions, WEI and Union are providing a description of those transactions in Attachment 1 for completeness. One of those steps involves the redemption of outstanding Union preferred shares which are only redeemable once every five years, with any notice of redemption required to be provided to preferred shareholders approximately 30 days prior to the redemption date. As discussed in Attachment 1, the next opportunity to redeem Union's preferred shares is January 1, 2009. For this reason, the applicants require the leave sought in this application preferably by November 19, 2008 but no later than November 26, 2008 in order to initiate the planned redemption of Union's preferred shares.

No Adverse Impact

11. The share transfer will have no adverse impact on Union or Union's customers or on Union's costs, revenues, rights, assets, obligations, liabilities, management, operations or governance. Union's Canadian tax status will not change. Union's management, Board of Directors and *de facto* ownership will not change. Union's head office will remain in Chatham, Ontario and the company will continue to be operated and managed from there. Further, Union and its owners will remain in full compliance with Undertakings given to the Lieutenant Governor in Council for the Province of Ontario. The only implication of the share transfer is that instead of controlling 100% of Union's voting securities directly, WEI will control 100% of Union's voting shares indirectly through a wholly owned limited partnership.

Attachment 1

12. Following the share transfer, Union will be continued to Nova Scotia as a Nova Scotia unlimited liability company (“ULC”). Nova Scotia ULCs are incorporated under the *Nova Scotia Companies Act*. All Nova Scotia companies are largely the same as business corporations incorporated in other Canadian jurisdictions. The only material difference between unlimited liability Nova Scotia companies and limited Nova Scotia companies is that the shareholders of an unlimited liability company, on wind-up, may be liable without limit for the obligations of the company. A corporation continued in Nova Scotia and converted into a ULC retains all of the rights and is subject to the same obligations that it had or was subject to prior to such continuance and conversion.

13. For Canadian tax purposes, a ULC is the same as any other business corporation and is subject to tax on all its taxable income. For U.S. tax purposes, however, a ULC is classified as a “flow through” entity and is therefore treated like a partnership or disregarded entity. This enables the parent company of a ULC to consolidate the ULC’s income or loss for U.S. tax purposes with its own. The end result is that Spectra is able to achieve tax efficiencies by converting Union into a ULC; however, there is no impact on Union’s or WEI’s Canadian taxes.

14. No approval is required from the OEB to convert Union into a Nova Scotia ULC.

15. Union currently has approximately \$110 million of preferred shares held by unrelated parties. Because the conversion of Union to a ULC has the potential, on a windup, to expose preferred shareholders to unlimited liability, the preferred shares will be redeemed and replaced with an equivalent amount of unrelated third party debt. Under the terms of one of the series of the preferred shares, Union has a redemption option only once every five years. The next redemption option date is January 1, 2009. Notice of a proposed redemption must be given approximately 30 days prior to the redemption date.

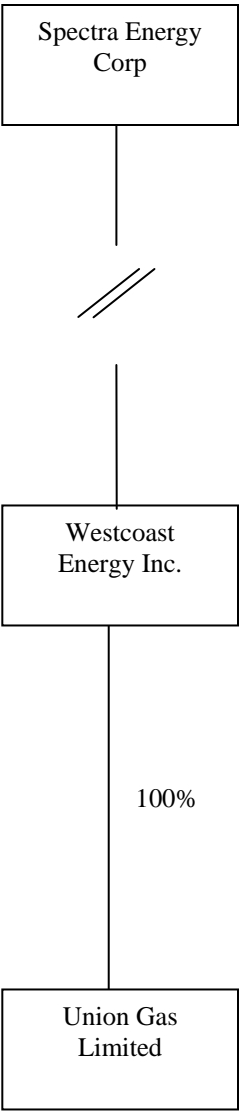
16. The outstanding preferred shares are considered debt for the purpose of calculating Union’s capital structure for regulatory purposes. The replacement of the preferred shares with debt will, therefore, have no impact on Union’s capital structure.

17. No approval is required by Union from the OEB to redeem the preferred shares.

18. In any event, neither the conversion nor the preferred share redemption will have any adverse impact on Union or its customers or on Union's costs, revenues, rights, assets, obligations, liabilities, management, operations or governance. Union's Canadian tax status will not change. Union's management, Board of Directors and *de facto* ownership will not change. Union's head office will remain in Chatham, Ontario and the company will continue to be operated and managed from there. Further, Union and its owners will remain in full compliance with Undertakings given to the Lieutenant Governor in Council for the Province of Ontario.

Attachment 2

Current Structure



Attachment 3

Final Structure

