

26 October 2007

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ONTARIO ENERGY BOARD

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
27th Floor
Toronto, ON
M4P 1E4

EB-2007-0606/0615

OEB BOARD SECRETARY	
File No:	Sub File: <i>19</i>
Panel	<i>G.K./P.S./C.C.</i>
Licensing	
Other	<i>R.B./L.K./M.H./P.D.</i> <i>A.P./V.C./M.M.</i>
00/04	

*DPW
2007-10-26*

Dear Ms. Walli:

Re: EB-2007-0606, 0615 – GEC written response to Union motion for interim rates

Enclosed are 11 copies of our GEC's submissions in response to Union's motion for interim rates.

Sincerely,

David Poch

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 approving or fixing a multiyear
incentive rate mechanism to determine rates for the
regulated distribution, transmission and storage of natural
gas, effective January 1, 2008;

AND IN THE MATTER OF an Application by Enbridge Gas
Distribution Inc. for an Order or Orders approving or fixing
rates for the distribution, transmission and storage of natural
gas, effective January 1, 2008;

AND IN THE MATTER OF a combined proceeding Board
pursuant to section 21(1) of the *Ontario Energy Board Act*,
1998.

WRITTEN ARGUMENT OF GEC IN RESPONSE TO THE UNION GAS MOTION FOR INTERIM RATES

PART I – THE FACTS

1. GEC agrees with Union's statement of the facts

PART II – THE ISSUES

2. GEC accepts Union's statement of the issues as far as it goes, paraphrased as:

Should rates be declared interim?

Should interim rates be new rates?

However, GEC would add a third, preliminary, issue:

Should the Board consider *contested* changes to rates at this time?

PART III - ARGUMENT

Interim rates are appropriate

3. GEC agrees that a declaration that rates are interim effective January 1, 2008 is appropriate.

Contested changes are not appropriate for consideration in interim rates

4. GEC also agrees that it is appropriate to consider *some* of the rate changes that Union requests be included as part of interim rates. Specifically, GEC supports changes to implement *non-contested aspects* of Union's request including DSM budget and LRAM implementation consistent with the Board's previous Generic Gas DSM Decision.
5. In general, in keeping with basic principles of due process, the Board should be reluctant to consider changes to rates without a testing of evidence.
6. GEC takes issue with Union's characterization of its proposal to implement its entire IR proposal in interim rates as being "without prejudice" to other parties. While Union is correct that the very definition of 'interim' suggests that such rates would be subject to change, including the possibility of retroactive change, the reality is that the burden will have *de facto* shifted from the applicant to those who would seek further change.
7. Further, to embark upon a full consideration of the controversial aspects of Union's request at this time would turn this motion into an abbreviated version of a separate consideration of Union's I.R. proposal, a matter that the Board has twice considered and rejected.
8. Union has acknowledged this is 'not a hardship case'. Accordingly, the primary considerations are the impact of multiple rate changes and retroactive changes upon customers and the fairness and efficiency of the hearing process. If Union is allowed to introduce changes that are controversial and ultimately reversed in the final decision, the retroactivity concern that Union seeks to mitigate will not be avoided. As discussed above, even if interim changes were not reversed, Union's proposal would compromise the fairness and efficiency of the hearing process.
9. Accordingly, GEC submits that the Board should, as a preliminary matter, hold that contested rates changes will not be included in interim rates and should not be argued at this time.

All of which is respectfully submitted, this 25th day of October, 2007.

David Poch
Counsel for GEC