



EB-2009-0102

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 certain Demand
Side Management input assumptions for the 2009 program
year.

BEFORE: Paul Sommerville
Presiding Member

Cynthia Chaplin
Member

DECISION AND ORDER

Union Gas Limited ("Union") filed an application with the Ontario Energy Board, (the "Board") dated March 31, 2009 seeking approval of certain demand side management ("DSM") input assumptions for its 2009 program year. The Board assigned File No. EB-2009-0102 to this application.

In the Board's Decision with Reasons for the Natural Gas DSM Generic Proceeding in EB-2006-0021 (the "Generic DSM Decision" or the "Generic Proceeding"), it outlined a process allowing for updates to the DSM input assumptions, "arising from the evaluation and audit process, to be filed with the Board and considered accordingly."

Union's proposed input assumptions list for the 2009 program year did not go through the evaluation and audit process. Union stated that it had agreed to provide the 2009 input assumptions to the Board by the end of March 2009. This was done in order to have the 2009 program year input assumptions approved earlier than in the past.

On May 4, 2009, the Board directed Union to serve the Notice of Application and Procedural Order #1 on all intervenors in the Generic DSM proceeding and to all of Union's DSM Consultative members. The Board directed any party that wished to comment on Union's application to do so by written submission.

The Industrial Gas Users Association ("IGUA"), the School Energy Coalition ("SEC"), the Green Energy Coalition ("GEC"), Energy Probe Research Foundation ("Energy Probe"), Vulnerable Energy Consumers Coalition ("VECC") and the Canadian Manufacturers & Exporters ("CME") filed submissions.

All of the submissions were critical of Union's failure to consult with the Evaluation and Audit Committee ("EAC") on the proposed input assumptions prior to Union's application to the Board. Union responded that in order to best design and manage conservation programs, it requires Board approved input assumptions early in the program year. Union also noted that as a result of the 2008 process (EB-2008-0385), the parties agreed that Union would provide its 2009 assumptions to the Board by the end of March 2009.

IGUA, CME and SEC's each submitted that the Board should defer the approval of Union's 2009 input assumptions until the filing of Union's 2009 DSM audit. These parties also suggested that Union's 2009 SSM should be based upon the best available information at the time of the 2009 DSM audit. IGUA noted that the proposed assumptions should form the basis for DSM program design, but the 2009 program year is nearing the halfway mark, and therefore the assumptions will only form the basis for calculation of the SSM in any event. Union responded that this proposal to defer the approval would be contrary to the Board's decision in the Generic Proceeding. Union noted that it was concluded in the Generic Proceeding that input assumptions should be "locked in" for the purpose of calculating SSM.

VECC submitted that the use of the LEAP working group's framework issues could potentially alleviate concerns about best available assumptions for the Low Income DSM segment.

GEC submitted that in light of the Board's acceptance of the April 16, 2009 Navigant Report on 2010 input assumptions, that the Board should simply required the companies to proceed on the basis of the Navigant Report.

The Board engaged the services of Navigant Consulting to produce a draft report on "Measures and Assumptions for DMS Planning." The draft report was posted for stakeholder comment and review. After all submissions were filed, Navigant revised the input assumptions for accuracy and updated information. On April 29, 2009, the Board adopted the Navigant Measures and Input Assumptions Report dated April 16, 2009, for use in the 2010 DSM plans.

In its reply submission, Union proposed to use the Board approved 2010 Navigant input assumptions for purposes of 2009 along with its own input assumptions for two additional programs not covered in the Navigant Report. Union submitted that the Board approved Navigant 2010 assumptions represent the best available information at this time, were developed by a disinterested third party and have been the subject of extensive written comments from all parties. Union proposed to use its 2009 free rider rates. Union also noted that it will not pursue spillover for 2009.

Board Findings

The Board approves the use of the Board approved 2010 input assumptions (as contained in the Navigant Report) for the 2009 program year subject to the two additional programs as proposed by Union. As the Navigant Report does not contain free rider rates, the Board approves the use of the 2009 free rider rates as proposed by Union.

The Board finds the proposal to use the 2010 Board approved Navigant input assumptions to be the most reasonable and appropriate in the circumstances. The Navigant Report offers the best available information and has been thoroughly reviewed and commented on by all parties in this proceeding.

The Board finds that it would not be appropriate to defer the approval of the 2009 input assumptions to the time of 2009 DSM audit. This would represent a substantive shift from the current framework set out in the Generic Proceeding. The Board concludes that the process of updating input assumptions is not the proper proceeding to deal with such a significant change.

With regard to the fact that Union did not meet with its EAC prior to filing its proposed updated DSM input assumptions, the Board notes, as it did in last year's decision, that it finds it advantageous to have input from both the EAC and the respective DSM Consultative. The failure to consult is not satisfactory. The Board understands that all parties are under sometimes difficult timelines, but expects to see effective communication amongst the parties in the future. Consideration of the role and function of the EAC is best conducted as part of the proceeding to be held to determine the framework for the next generation of DSM plans.

Intervenors eligible for an award of costs shall file their cost submissions in accordance with the *Practice Direction on Cost Awards* with the Board Secretary and with EGD within 15 days of the date of this Decision and Order. EGD may make submissions regarding the cost claims within 30 days of this Decision and Order and the intervenors may reply within 45 days of this Decision and Order. A decision and order on cost awards and the Board's own costs will be issued in due course.

THE BOARD ORDERS THAT:

Union Gas Limited is granted approval to use the Board approved Navigant 2010 input assumptions, with the adoption of Appendix A and the five measures noted in Appendix B of Union's reply submission.

DATED at Toronto June 29, 2009.

ONTARIO ENERGY BOARD

A handwritten signature in blue ink, appearing to read "K. Walli", is written over the printed name.

Kirsten Walli
Board Secretary