



EB-2008-0273

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 pursuant to Section 36 of the *Ontario Energy Board Act, 1998*, seeking changes to reduce its financial exposure in regard to a Bundled T Gas Contract and an M9 Delivery Contract with Natural Resource Gas Limited.

PROCEDURAL ORDER NO. 1

Union Gas Limited ("Union") has filed an application with the Ontario Energy Board (the "Board") on August 1, 2008, as amended on October 9, 2008 and as further amended on October 15, 2008 pursuant to section 36 of the *Ontario Energy Board Act 1998*, S.O. 1998, c.15. The Board has assigned the application file number EB-2008-0273.

Natural Resource Gas Limited ("NRG") delivers gas to Union under a Bundled T Gas Contract first made as of October 2004. Union re-delivers gas, as a gas transmitter, to NRG pursuant to an M9 Delivery Contract first made as of October 2006.

Union has sought certain financial assurances from NRG under the terms of a contract between the parties. In Union's view, NRG has failed to provide the requested assurances and Union considers this to be a breach of the contract between the parties.

On October 15, 2008, the Board held an oral hearing for the Issues Day. The Transcript for that hearing contains the Board's findings and decisions in regard to the approved Issues List, the determination that the Board will consider Union's application under section 36 of the Act, and that the Oral hearing will commence on **Monday, October 20, 2008** and if needed would continue on **Tuesday, October 21, 2008**. The Board also requested that NRG make available its financial auditors (Neal, Pallet & Townsend

LLP) for the hearing. The Board approved Issues List is attached as Appendix A to this Order. The list of Intervenor who shall receive this order is attached as Appendix B.

THE BOARD ORDERS THAT:

1. The oral hearing in Aylmer will start at 10:00 a.m. on Monday October 20, 2008 at the following address:

East Elgin Community Complex
531 Talbot Street West
Aylmer, Ontario N5H 2T9

DATED at Toronto, October 16, 2008
ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

Appendix A

Issues List

1. Does Union have reasonable grounds to believe that NRG's credit worthiness under the prior contract has become unsatisfactory?
2. Was the amount of the financial assurance requested by Union determined in a commercially reasonable manner?
3. Can the need for financial assurances be avoided by restructuring of NRG's bundled T conditions of service to provide for a March 31 year end and a DCQ which targets a March 31 balance of zero (+/- 4%)?
4. Should the Board issue an order imposing conditions of service on NRG which provide for transition to a March 31 year end and an adjustment to NRG's DCQ which targets a March 31 balance of zero (+/- 4%)?
5. Alternatively, should the Board issue an order requiring NRG, as a condition of Union's continued service, to provide the financial assurance Union has requested?
6. What are the rate impacts (to NRG's customers) associated with issues 4 and 5 above?
7. Are there other alternatives (other than moving to an April 1 contract start date) that would avoid the need for financial assurance?

APPENDIX B

UNION GAS LIMITED

LEAVE TO DISCONTINUE SERVICE TO NATURAL RESOURCE GAS EB-2008-0273

LIST OF INTERVENORS

October 16, 2008

Applicant

Rep. and Address for Service

Union Gas Limited

(No Cost Request)

Mark Kitchen
Director, Regulatory Affairs
Union Gas Limited
50 Keil Drive North
Chatham ON N7M 5M1

Tel: 519-436-5275
Fax: 519-436-4641
Email: mkitchen@uniongas.com

AND

Crawford G. Smith
Torys LLP
Suite 3000, TD Waterhouse Tower
Toronto Dominion Centre
Toronto, ON M5K 1N2

Tel: 416-865-8209
Fax: 416-865-7380
Email: csmith@torys.com

Intervenors

Rep. and Address for Service

**1. Corporation of the Town of
Aylmer**

Heather Adams
Chief Administrative Officer
Corporation of the Town of Aylmer
46 Talbot Street West
Aylmer, ON N5H 1J7

Tel: 519-773-4901
Fax: 519-765-1446
Email: hadams@town.aylmer.on.ca

AND

Philip Tunley
Stockwoods LLP
2512 – 150 King Street West
Toronto, ON M5H 1J9

Tel: 416-593-3495
Fax: 416-593-9345
Email: philt@stockwoods.ca

**2. Integrated Grain Processors
Co-operative Inc. (“IGPC”)**

Jim Grey
CEO
IGPC
P.O Box 205
89 Progress Drive
Aylmer, ON N5H 2R9

Email: jgrey@igpc.ca

AND

Dennis M. O’Leary
Barrister and Solicitors
Brookfield Place, 181 Bay Street
Suite 1800, Box 754

Email: doleary@airdberlis.com

AND

Scott Stoll
Barrister and Solicitors
Brookfield Place, 181 Bay Street
Suite 1800, Box 754

Email: ssoll@airdberlis.com