



EB-2008-0292

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 multi-year incentive rate mechanism to determine rates for the regulated distribution, transmission and storage of natural gas, effective January 1, 2008.

NOTICE OF MOTION AND PROCEDURAL ORDER NO. 1

On August 28, 2008 Union Gas Limited ("Union") filed a Notice of Motion (the "Motion") for a review and variance of the Ontario Energy Board's (the "Board") Decision and Order ("Decision"), file number EB-2007-0605/0615, dated July 31, 2008. The Motion requests clarification of certain Decision particulars pertaining to the Risk Management Program and the Treatment of Tax Changes.

The Motion has been assigned file number EB-2008-0292.

Union in its Motion is seeking:

- 1) Clarification and, to the extent the clarification requires, a variance of the Decision to the effect that Union will discontinue all financial commodity risk management activities, including but not limited to, the financial swaps that facilitate the 24-month fixed-price purchase plan.
- 2) Clarification and, to the extent the clarification requires, a variance of the Decision to the effect that:

- a) the costs of commodity risk management that the Board disallowed are the costs related to the administration of Union's Risk Management Program of \$103,831; and
 - b) the elimination of those costs should be accomplished, not by a deferral account to record the elimination of an amount "embedded in rates" but through a reduction in the annual gas supply administration charge of \$103,831. Union proposes, subject to Board approval, to reflect the elimination of \$103,831 for annual risk management administration in its gas supply administration charge beginning with its October 1, 2008 QRAM application.
- 3) Clarification of the Decision from the Board that, in saying Exhibit E3.1.1 is "indicative" of how savings are to be calculated for the purposes of sharing, the Board was not directing Union to share 50% of tax "savings" associated with new capital additions during the incentive regulation term (for which no rate increase for cost of capital and taxes will be available).

The Board is prepared to hear the Motion on its merits, and accepts as intervenors in this proceeding, the intervenors (including Enbridge Gas Distribution Inc.) in the EB-2007-0606/0615 proceeding as identified in Appendix 'A' to this Notice of Motion and Procedural Order NO. 1.

The Board finds it appropriate to hear this matter orally.

The Board considers it necessary to make provision for the following procedural matters. The Board may issue further Procedural Orders from time to time.

THE BOARD THEREFORE ORDERS THAT:

1. Union's Motion shall be heard on Monday November 10, 2008 at 9:30 am in the Board's Hearing room, 25th floor, 2300 Yonge Street, Toronto, Ontario.
2. Union shall file with the Board Secretary confirmation that it has served the parties to the EB-2007-0606/0615 proceeding with the Notice of Motion.

3. Union shall file the submissions it intends to make at the hearing of the Motion, together with any evidence it intends to rely on, with the Board Secretary by October 31, 2008, and copy all parties.
4. Other parties who wish to make submissions at the hearing of the Motion shall pre-file their submissions, together with any evidence they intend to rely on, with the Board Secretary, by November 6, 2008, and copy all parties.
5. The Board may order costs in this proceeding. Any party that was determined to be eligible for costs in the EB 2007-0606/0615 proceeding shall be eligible for costs in this proceeding. Any party that is not automatically eligible for costs but expects to seek costs in this proceeding shall file a letter with the Board and copy Union no later than October 30, 2008 which letter shall provide the grounds for the party's eligibility for costs. Union will have until November 3, 2008 to object to any new cost eligibility request. Requests for cost eligibility and the determination of cost awards will be addressed in accordance with the Board's Practice Direction on Cost Awards. Union will be ordered to pay the cost awards for this proceeding.

All filings to the Board must quote file number EB-2008-0292, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format filed through the Board's web portal at www.errr.oeb.gov.on.ca. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may e-mail your document to Boardsec@oeb.gov.on.ca. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies. All communications should be directed to the attention of the Board Secretary, and be received no later than **4:45 p.m.** on the required date.

Parties must also include the Case Manager, Richard Battista
richard.battista@oeb.gov.on.ca and Board Counsel, Michael Millar
michael.millar@oeb.gov.on.ca in electronic correspondence related to this proceeding.

ISSUED at Toronto, October 27, 2008

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX “A”

TO

NOTICE OF HEARING AND PROCEDURAL ORDER NO. 1

BOARD FILE NO: EB-2008-0292

ISSUED: OCTOBER 27, 2008

**UNION GAS LIMITED
ENBRIDGE GAS DISTRIBUTION INC.**

**2008 RATES CASE
EB-2007-0606
EB-2007-0615**

List of Applicants and Intervenors

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