

IN THE MATTER OF THE *Ontario Energy Board Act, 1998*;

AND IN THE MATTER OF an Application by Union Gas Limited (Union) 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.

UNION AUGUST 28, 2008 MOTION FOR REVIEW AND VARIANCE

PREFILED SUBMISSIONS OF IGUA

Introduction.

1. On August 28, 2008 Union filed a Notice of Motion with the Board. Union's motion was filed contemporaneously with Union's application for a quarterly commodity rate adjustment effective October 1, 2008 (October QRAM) [EB-2008-0281]. Union's motion seeks clarification of aspects of the Board's incentive rate plan decision for Union ("IRM Decision") [EB-2007-0606/EB-2007-0615].
2. The Board has requested that parties wishing to make submissions at the hearing of the motion pre-file their submissions.
3. These are IGUA's pre-filed submissions on the motion.

Summary.

4. Union seeks clarification of three aspects of the IRM Decision:
 - (a) The direction that Union discontinue its historical commodity risk management program. It is Union's position that this direction pertains, *inter alia*, to a program of financial swaps that facilitate its 24-month fixed-price purchase plan.

- (b) The direction that the costs of Union's discontinued commodity risk management program be removed. It is Union's position that this direction applies to \$103,831 of administration costs previously included in the gas supply administration charge, but does not apply to costs associated with mark-to-market losses that Union may incur as it discontinues its risk management program in a prudent manner.
 - (c) The direction that Union apply 50% of the savings arising from certain federal and provincial tax changes to the account of ratepayers as a z-factor. It is Union's position that this direction does not apply to additions to rate base during the IRM Plan period.
- 5. IGUA intervened in Union's October QRAM, and addressed the first two clarifications sought by Union as listed above. IGUA agrees with Union's positions on these two issues.
 - 6. The third clarification sought by Union was not relevant to Union's October QRAM and so was not commented on by IGUA at that time. IGUA disagrees with Union's position on this issue.

Scope of Union's Discontinued Risk Management Program.

- 7. Union addresses the scope of its discontinued risk management program, and in particular the inclusion in that program of financial swaps that facilitate its 24-month fixed-price purchase plan, starting at page 4 of its evidence herein (Exhibit A).
- 8. In IGUA's submission, Union's evidence establishes that these financial swaps were indeed, and were considered to be, part of Union's historical, and now discontinued, risk management program.

Amount and Disposition of Costs Associated with Discontinued Risk Management.

9. There are two aspects to this part of Union's motion:

- (a) First, that the costs that are to be removed from rates are the administrative costs associated with the discontinued risk management program, totalling \$103,831, and that such costs are to be removed from Union's gas supply administration charge.
- (b) Second, that costs associated with mark-to-market losses that Union may incur as it discontinues its risk management program in a prudent manner are not to be removed from rates (that is, that such costs are to the account of ratepayers, and not the shareholder).

In other words, Union seeks endorsement of its position that costs to be removed from rates upon discontinuation of the risk management program are the administrative costs of the program, and not any costs associated with gains or losses on the program while it is being prudently discontinued.

10. IGUA agrees that gains or losses on the risk management positions being unwound in response to the Board's IRM Decision direction are properly kept in rates. The program was operated by Union, with the sanction of the Board and ostensibly to the benefit of ratepayers, for a number of years. IGUA accepts that risk management positions were entered into during the currency of this Board mandated program, and that such positions must be unwound in a prudent manner. In its September 15, 2008 reply to IGUA's October QRAM submissions, Union confirmed that the costs included in Union's PGVA all pertain to hedges that were purchased prior to the IRM Decision directing discontinuation of Union's commodity risk management program. IGUA agrees that any costs associated with prudent unwinding of these hedges entered into for the benefit of ratepayers are properly for the account of ratepayers.
11. Union's evidence [Exhibit A, page 7] indicates that Union has now unwound all outstanding hedges, including the financial swaps underpinning the 24 month fixed price purchase program. Union indicates that the impacts of this discontinuation have been

flowed through to Union's PGVA, in the form of a gain (i.e. a decrease in gas supply costs) of \$2 million.

12. IGUA sees no cause to object to the prudence of these transactions to unwind the risk management positions, or to the disposition of the costs associated with them in the manner described in Union's evidence.
13. In respect of administrative costs of the program, Union's evidence in support of the October QRAM stated these costs to total \$103,831 annually. This figure is consistent with Union's evidence filed in support of its 2007 rates [EB-2005-0320, Exhibit J10.03]. Union's evidence in support of this application also confirms this figure.
14. Both the QRAM evidence and that from Union's earlier rate case also confirm that these costs of administering the risk management program have historically been recovered through Union's gas supply administration charge, rather than distribution rates. Union's evidence in support of this motion also confirms this fact.
15. In its September 15, 2008 reply to IGUA's October QRAM submissions, Union confirmed both the amount and the historical rate treatment of these administrative costs. Union also confirmed that these costs have already been removed from Union's gas supply charge, effective upon implementation of its October QRAM. Again, Union's evidence in support of this motion also confirms this removal. [Exhibit A, page 6]
16. IGUA submits that the evidence in Union's 2007 rates proceeding, the October QRAM, and this motion supports the clarification sought by Union to the effect that the Board's IRM Decision direction regarding removal of commodity risk management program costs properly requires removal of \$103,831 from Union's gas supply charge.

Basis for Calculation of the Tax Savings Z-factor Pass Through.

17. We have had the benefit of discussions of this aspect of Union's motion with other "customer side" intervenor representatives. We anticipate that IGUA will be in general agreement with the positions to be put forward on behalf of those other intervenors, and that we will thus largely defer to those submissions.
18. In brief, IGUA understands Union to be asserting the position that the z-factor treatment directed by the Board for tax savings arising from federal and provincial capital cost allowance changes applies only to savings associated with capital assets included in Union's forecast of rate base for the 2008 test year. Union reasons that since new capital investments will not be rate based during the IRM plan term, tax savings associated with these new investments should not be included in calculation of the z-factor credits to rate payers during the IRM plan term.
19. Generally, the external economic indexes incorporated in an IRM formula for calculation of rates during an IRM period are intended to capture all "business as usual" changes that ultimately input into the utility's revenue requirement. Those "business as usual" inputs would include earnings on additions to rate base during the plan period. Thus the rates determined through application of Union's IRM calculation formula would include revenue notionally attributable to returns on such rate base additions.
20. In other words, Union is incorrect when it posits that it will not recover in rates any amounts attributable to return on assets added to rate base during the plan period. In fact, it will, as a result of application of the IRM formula to determine rates.
21. As Union will effectively earn a return on new assets added to rate base during the IRM plan period, there is no reason to exclude such asset additions from the calculation of rate credits to be applied to the account of ratepayers through the Board directed z-factor on account of the subject tax changes.

22. IGUA submits that Union's position on calculation of the z-factor for tax change pass through should be rejected, and Union should be directed to include tax savings related to depreciation of capital additions during the IRM plan term in the calculation of the directed z-factor.

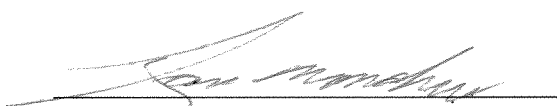
Costs.

23. IGUA requests an order that it be entitled to recovery of its reasonably incurred costs of participation in this motion.

ALL OF WHICH IS RESPECTFULLY SUBMITTED:

Macleod Dixon, LLP

per:



Ian A. Mondrow
Counsel to IGUA

November 6, 2008

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