



Ontario Energy Board Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2015-0010

UNION GAS LIMITED

Application for Disposition and Recovery of certain 2014 Deferral Account Balances
and approval of Earnings Amount Shared with Ratepayers

BEFORE: **Ken Quesnelle**
 Presiding Member and Vice Chair

Ellen Fry
Member

August 13, 2015

1 INTRODUCTION AND SUMMARY

Union Gas Limited (Union) is a natural gas storage, distribution and transmission company regulated by the Ontario Energy Board (OEB). It serves approximately 1.4 million customers in northern, eastern and southern Ontario through an integrated network of over 67,000 kilometers of natural gas distribution pipelines. Union also owns and operates storage and transmission assets at the Dawn Hub in southern Ontario and the Dawn-Parkway transmission system that is a major natural gas delivery system for Ontario, Quebec and U.S. Northeast.

Union filed an application with the OEB on April 15, 2015 for approval to dispose of and recover certain 2014 deferral account balances. The application also sought approval to share earnings with ratepayers according to the framework agreed to in the Incentive Regulation Mechanism (IRM) approved by the OEB for 2014-2018¹.

Deferral accounts capture amounts not included in existing OEB approved rates or record the difference between estimated and actual amounts for certain types of income or expenditure. The deferral accounts that are the subject of this application, with the exception of the Spot Gas Variance Account, are non-commodity accounts that are not cleared through the OEB Quarterly Rate Adjustment Mechanism process. Section 36 (4.2) of the OEB Act, 1998 states that for this type of account the OEB “shall at least once every 12 months, or such period as is prescribed by the regulations, make an order under this section that determines whether and how amounts recorded in the account shall be reflected in rates.”

The total deferral account balance is \$9.1 million, which is to be recovered from Union ratepayers, and the portion of earnings to be shared with ratepayers is \$7.424 million.

Union has proposed to dispose of the net balances of the total deferral and earnings sharing amounts prospectively over six months starting October 1, 2015 for residential and general service customer rate classes. For in-franchise contract and ex-franchise rate classes, Union has proposed to dispose of the net balances as a one-time adjustment in October 2015 bills.

The rate impact as per the application for a typical residential customer in southern Ontario would be a charge of \$2.79 for the period October 1, 2015 to March 31, 2016 whereas in Union North, it would be a credit of \$3.43 for the same period. As a result of the settlement agreement, this impact would decrease slightly.

¹ EB-2013-0202

In the application, Union also sought approval for a new deferral account to capture the price variance on purchased volumes related to unaccounted for gas. The Unaccounted for Gas (UFG) Price Variance account would be effective January 1, 2015 and be disposed of annually through the deferral account and earnings sharing proceeding.

2 THE PROCESS

As indicated above, Union filed its application on April 15, 2015. The list of intervenors who participated in the proceeding is provided in Schedule A.

A settlement conference was held on July 8, 2015 in which the parties were able to reach a settlement on all monetary issues. The proposed settlement agreement is attached as Schedule B.

Union filed its 2014-2015 Gas Supply Plan Memorandum (the Gas Supply Plan) as part of the evidence in the proceeding. Union agreed to provide an annual update to the gas supply plan as part of the settlement agreement in EB-2013-0202 (Union 2014-18 IRM Framework Application). Although Union did not seek any relief regarding the Plan, the proposed settlement agreement stated that there was no agreement on how or whether the OEB should deal with the Plan in this proceeding.

OEB staff filed a submission supporting the proposed settlement agreement. With respect to the Gas Supply Plan, OEB staff submitted that the OEB should not address the Plan in the current proceeding as Union had not sought any relief concerning the plan. OEB staff further submitted that there were currently several proceedings before the OEB where gas supply issues could be addressed and any review in this proceeding could lead to a duplication of regulatory review.

3 OEB DECISION

The OEB approves the settlement agreement filed by Union and considers that the earnings sharing mechanism follows the direction of the OEB in Union's 2014-2018 IRM framework. The OEB commends the parties for their efforts in coming to an agreement that the OEB considers to be in the public interest.

The OEB also agrees with the submission of OEB staff that it should not address the Gas Supply Plan in the current proceeding, given the fact that Union has not sought any relief concerning the Plan in this application. The OEB will not provide guidance or direction on the Plan as part of this proceeding.

4 ORDER

THE BOARD ORDERS THAT:

1. Union shall file with the OEB and shall forward to all intervenors a draft rate order attaching a proposed tariff of rates and charges and revised bill impacts on or before August 18, 2015.
2. The draft rate order shall also include a draft accounting order related to the Unaccounted for Gas Price Variance account as noted in the settlement agreement and approved by the OEB.
3. The intervenors shall file any comments on the draft rate order with the OEB and forward them to Union on or before August 21, 2015.
4. Union shall file with the OEB and forward to the intervenors responses to any comments on its draft rate order on or before August 25, 2015.

All filings to the OEB must quote the file number, EB-2015-0010 and be made electronically in searchable / unrestricted PDF format through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD 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 at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS

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

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **August 13, 2015**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

SCHEDULE A
DECISION AND ORDER
UNION GAS LIMITED
EB-2015-0010
AUGUST 13, 2015

LIST OF INTERVENORS

- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association Toronto (BOMA)
- Canadian Manufacturers and Exporters (CME)
- City of Kitchener
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Federation of Rental-housing Providers of Ontario (FRPO”
- London Property Management Association (LPMA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- School Energy Coalition (SEC)
- TransCanada Energy Ltd.
- TransCanada PipeLines Limited
- Universities Group of Southwestern Ontario (UGSWO)
- Vulnerable Energy Consumers Coalition (VECC)

SCHEDULE B
SETTLEMENT AGREEMENT – JULY 27, 2015
UNION GAS LIMITED
EB-2015-0010
AUGUST 13, 2015

ONTARIO ENERGY BOARD

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 clearing certain non-commodity related deferral accounts.

SETTLEMENT AGREEMENT

July 27, 2015

This Settlement Agreement (“Agreement”) is for the consideration of the Ontario Energy Board (“the Board”) in its determination, under Docket No. EB-2015-0010, for an Order of the Board amending or varying the rate or rates charged to customers as of October 1, 2015 in connection with the final disposition of 2014 year-end deferral accounts and 2014 earnings sharing amount (the “Application”). By Procedural Order No.1 dated May 27, 2015, the Board scheduled a Settlement Conference to take place on July 8, 9 and 10, 2015. The Settlement Conference was duly convened, in accordance with Procedural Order No. 1, with Mr. Chris Haussmann as facilitator. The Settlement Conference commenced and concluded on July 8, 2015.

The following intervenors participated in the Settlement Conference (herein, with Union, referred to as the “parties”):

Association of Power Producers of Ontario (“APPrO”)

Building Owners and Managers Association Toronto (“BOMA”)

Canadian Manufacturers and Exporters (“CME”)

City of Kitchener (“Kitchener”)

Consumers Council of Canada (“CCC”)

Energy Probe Research Foundation (“Energy Probe”)

Federation of Rental-housing Providers of Ontario (“FRPO”)

London Property Management Association (“LPMA”)

Ontario Greenhouse Vegetable Growers (“OGVG”)

School Energy Coalition (“SEC”)

Vulnerable Energy Consumers Coalition (“VECC”)

The purpose of this proceeding is to obtain:

- (a) approval of final balances for all 2014 deferral accounts and an order for final disposition of those balances;
- (b) approval of \$7.424 million as the customer portion of the earnings sharing in 2014 and proposed disposition of that amount to Union's customers; and,
- (c) approval of a new Unaccounted for Gas Price Variance Deferral Account No. 179-XXX effective January 1, 2015.

Except as expressly noted below, for the purposes of settlement of the issues in this proceeding, the parties agree to the relief sought by Union in the Application and accept Union's position that the claimed relief is supported by Union's pre-filed evidence and its responses to interrogatories. References to the pre-filed evidence and the interrogatories are provided in relation to each of the agreed items contained in the Agreement.

The role adopted by Board Staff in Settlement Conferences is set out on pp. 5-6 of the Board's April 24, 2014 Practice Direction on Settlement Conferences. Although Board Staff are not a party to this Agreement as noted in the Guidelines, "Board Staff who participate in the settlement conference in any way are bound by the same confidentiality standards that apply to the parties to the proceeding".

As described above, the evidence supporting the agreement on each issue is cited in each section of the Agreement. Abbreviations will be used when identifying exhibit references. For example, Exhibit A, Tab 4, Schedule 1, Page 1 will be referred to as A/T4/S1/p.1. The structure and presentation of the settled issues is consistent with settlement agreements which have been

accepted by the Board in prior cases. The parties agree that this Agreement forms part of the record in this proceeding. The identification and listing of the evidence that relates to each issue is provided to assist the Board. The identification and listing of the evidence that relates to each settled issue is not intended to limit any party who wishes to assert, either in any other proceeding, or in a hearing in this proceeding, that other evidence is relevant to a particular settled issue, or that evidence listed is not relevant to the issue, or that the concise description of the issue prepared by Union is incorrect or incomplete.

According to the Practice Direction (p. 4), the parties must consider whether a Settlement Agreement should include an appropriate adjustment mechanism for any settled issue that may be affected by external factors. The parties who participated in the settlement discussions agree that no settled issue requires an adjustment mechanism other than as may be expressly set forth herein.

With the exception of the one unsettled issue, all of the issues contained in this proposal have been settled by the parties as a package and none of the provisions of this settlement is severable. Numerous compromises were made by the parties with respect to various matters to arrive at this Settlement Agreement. The distinct issues addressed in this proposal are intricately interrelated, and reductions or increases to the agreed-upon amounts or changes in other agreed-upon parameters may have financial consequences in other areas of this proposal, which may be unacceptable to one or more of the parties. If the Board does not accept this package in its entirety, then there is no settlement (unless the parties agree that any portion of the package that the Board does accept may continue as part of a valid Settlement Agreement).

In the event the Board directs the parties to make reasonable efforts to revise the Settlement Agreement, the parties agree to use reasonable efforts to discuss any potential revisions, but no party will be obligated to accept any proposed revision. The parties agree that all of the parties who took on a position on a particular issue must agree with any revised Settlement Agreement as it relates to that issue prior to its re-submission to the Board.

None of the parties can withdraw from this Settlement Agreement except in accordance with Rule 30.05 of the Rules. Moreover, the settlement of any particular issue in this proceeding and the positions of the parties in this Settlement Agreement are without prejudice to the rights of the parties to raise the same issue and/or to take any position thereon in any other proceeding, whether or not Union is a party to such proceeding.

1. Spot Gas Variance Account (No. 179-107)

Union South Bundled Direct Purchase Load Balancing Costs

(Complete Settlement, APPrO, and Kitchener take no position)

The parties accept Union's evidence that the balance to be disposed of in the Spot Gas Variance Account (No. 179-107) is a credit of \$1.271 million which represents spot gas purchased to manage weather and consumption variances in February and March of 2015 for Union South bundled DP customers. This is similar to the 2013 Deferral Account disposition proceeding (EB-2014-0145) that requested clearance of 2013/14 winter spot gas purchases.

Evidence References:

1. A/T1/pp.2-6
2. Exhibit B.Staff.1, Exhibit B.BOMA.1, Exhibit B.BOMA.2, Exhibit B.CME.2, Exhibit B.Energy Probe.1, Exhibit B.LPMA.1, Exhibit B.OGVG.1, Exhibit B.OGVG.2, Exhibit B.OGVG.3, Exhibit B.OGVG.4, Exhibit B.OGVG.5

2. Unabsorbed Demand Cost Variance Account (No. 179-108)

(Complete Settlement, APPrO, and Kitchener take no position)

The parties accept Union's evidence that the balance to be disposed of in the Unabsorbed Demand Cost ("UDC") Variance Account (No. 179-108) is a credit of \$5.629 million which represents the difference between the actual UDC incurred by Union and the amount of UDC collected in rates.

Evidence References:

1. A/T1/pp.7-11
2. Exhibit B.Staff.2

3. Gas Supply Review Consultant Cost (No. 179-128)

(Complete Settlement, APPrO, and Kitchener take no position)

The parties accept Union's evidence that there is no balance in the Gas Supply Review Consultant Cost Deferral Account (No. 179-128). Union will request closure of this account as part of its 2016 Rates application.

Evidence References:

1. A/T1/p.11

4. Upstream Transportation Optimization (No. 179-131)

(Complete Settlement, Kitchener takes no position)

The parties accept Union's evidence that the balance to be disposed of in the Upstream Transportation Optimization Deferral Account (No. 179-131) is a debit of \$9.883 million, which is meant to capture the variance between 90% of the net revenues from optimization activities and the amount refunded to ratepayers in rates.

Union credited \$17.010 million in rates to ratepayers during 2014. The \$9.883 million debit represents the difference between the amount included in rates and 90% of 2014 net revenues (\$7.127 million less \$17.010 million).

Evidence References:

1. A/T1/pp.11-12, A/T1/App.A/S2
2. Exhibit B.CCC.1, Exhibit B.CME.3, Exhibit B.Energy Probe.3, Exhibit B. Energy Probe.4, Exhibit B.OGVG.8

5. Short-Term Storage and Other Balancing Services (No. 179-70)

(Complete Settlement)

The balance to be disposed of in the Short-Term Storage and Other Balancing Services account (No. 179-70) is a debit balance of \$3.265 million. The balance has been calculated by comparing \$1.286 million (90% of the actual 2014 Short Term Storage and Other Balancing Services net revenue of \$1.429 million) to the net revenue included in rates of \$4.551 million in the EB-2011-0210 Rate Order. The parties do not agree on all aspects of the calculation of this account. However, as the impacts of the calculation differences are lower than the materiality threshold, the parties have agreed to settle on the basis proposed by Union. Therefore, and for greater certainty, in future years if the same calculation differences arise again, and the amounts are material, the acceptance of the results in this proceeding by the parties or the Board will not be considered a precedent for those future years.

Evidence References:

1. A/T1/pp.12-17, A/T1/App.A/S3, A/T1/App.A/S4, A/T1/App.A/S5
2. Exhibit B.Staff.3, Exhibit B.LPMA.5, Exhibit B.OGVG.6, Exhibit B.OGVG.9, Exhibit B.OGVG.10

6. Unbundled Services Unauthorized Storage Overrun (No. 179-103)

(Complete Settlement)

The parties accept Union's evidence that there is no balance in the Unbundled Services Unauthorized Storage Overrun account (No. 179-103), i.e. that there were no unauthorized storage overrun charges incurred by customers electing unbundled service in 2014.

Evidence References:

1. A/T1/p.17
2. Exhibit B.VECC.1

7. Gas Distribution Access Rule (“GDAR”) Costs (No. 179-112)

(Complete Settlement, APPrO, and Kitchener take no position)

The parties accept Union’s evidence of the debit balance of \$0.750 million in the Gas Distribution Access Rule (“GDAR”) Costs account (No. 179-112). The costs will be collected from ratepayers based on the annual revenue requirement related to the capital costs incurred in 2011, 2012 and 2013.

Evidence References:

1. A/T1/pp.17-20
2. Exhibit B.Energy Probe.2, Exhibit B.LPMA.2

8. Carbon Dioxide Offset Credits (No. 179-117)

(Complete Settlement)

The parties accept Union’s evidence that there is no balance in the Carbon Dioxide Offset Credits account (No. 179-117) because there were no sales of or dealings in carbon dioxide credits relating to Union’s DSM activities in 2014.

Evidence References:

1. A/T1/p.20
2. Exhibit B.VECC.2

9. Average Use Per Customer (No. 179-118)

(Complete Settlement, APPrO, and Kitchener take no position)

The parties accept Union's evidence that there is no balance in the Average Use per Customer account (No. 179-118). Union will request closure of this account in its 2016 Rates proceeding.

Evidence References:

1. A/T1/p.20

10. International Financial Reporting Standards ("IFRS") Conversion Costs (No. 179-120)

(Complete Settlement)

The parties accept Union's evidence that the balance in the International Financial Reporting Standards ("IFRS") Conversion Costs account (No. 179-120) is a debit of \$0.244 million. In accordance with the EB-2010-0039 Settlement Agreement, Union agreed to replace the capital costs with the annual revenue requirement related to those capital costs.

Evidence References:

1. A/T1/p.21
2. Exhibit B.CCC.2, Exhibit B.LPMA.3

11. Conservation Demand Management (No. 179-123)

(Complete Settlement, Kitchener takes no position)

The parties accept Union's evidence that the amount to be disposed of in the Conservation Demand Management account (No. 179-123) is a credit of \$0.253 million which represents 50% of total net revenues of \$0.505 million, plus interest of \$0.001 million.

Evidence References:

1. A/T1/pp.21-24
2. Exhibit B.CCC.3

12. Preparation of Audited Utility Financial Statements (No. 179-129)

(Complete Settlement)

The parties accept Union's evidence that there is no balance in the Preparation of Audited Utility Financial Statements account. Union agrees to request closure of this account as part of its 2016 Rates application.

Evidence References:

1. A/T1/p.24

13. Normalized Average Consumption (No. 179-133)

(Complete Settlement, APPrO takes no position)

The Normalized Average Consumption Account 179-133 is being filed for the first time. For 2014, the balance in the NAC deferral is a credit to ratepayers of \$2.090 million offset by interest of \$0.014 million. The parties do not agree on all aspects of the calculation of this account. However, as the impacts of the calculation differences are lower than the materiality threshold, the parties have agreed to settle on the basis proposed by Union. Therefore, and for greater certainty, in future years if the same calculation differences arise again, and the amounts are material, the acceptance of the results in this proceeding by the parties or the Board will not be considered a precedent for those future years.

Evidence References:

1. A/T1/pp.24-30, A/T1/S6
2. Exhibit B.CCC.4, Exhibit B.CCC.5, Exhibit B.OGVG.7

14. Tax Variance Deferral Account (No. 179-134)

(Complete Settlement)

The parties accept Union's evidence that the Tax Variance account (No. 179-134) has no balance. The establishment of this account was approved through EB-2013-0202 Settlement Agreement. Its purpose is to record 50% of the variance in costs resulting from the difference between the actual tax rates and the approved tax rates included in rates as approved by the Board. The rate payer portion of \$0.848 million income tax rate increase was included in 2014 rates as approved by the Board in its EB-2013-0365 Decision.

Evidence References:

1. A/T1/p.30

15. Unaccounted for Gas Volume (No. 179-135)

(Complete Settlement)

The parties accept Union's evidence that there is no balance in the Unaccounted for Gas Volume ("UFG") account (No. 179-135). The account was approved through the EB-2013-0202 Settlement Agreement to capture the difference between Union's actual UFG costs and the Board-approved UFG costs included in Union's rates, related to UFG volume variances as a percentage of throughput volumes. The account is subject to a symmetrical \$5 million dead-band, with amounts within the dead-band being to Union's account only. Union's actual experienced UFG expense has a UFG volume variance of \$4.1 million greater (unfavourable) than Board approved.

Evidence References:

1. A/T1/p.31
2. Exhibit B.Staff.4, Exhibit B.CCC.6, Exhibit B.LPMA.4

16. Parkway West Project Costs (No. 179-136)

(Complete Settlement)

The parties accept Union's evidence that the balance in the Parkway West Project Costs account (No. 179-136) is a credit of \$0.475 million, which represents the difference between the \$0.276 million credit included in 2014 rates (EB-2013-0365) and the calculation of the actual revenue requirement of \$0.751 million credit. The Board approved the establishment of this account in its EB-2012-0433 Decision.

Evidence References:

1. A/T1/pp.31-37
2. Exhibit B.CCC.7, Exhibit B.CCC.8, Exhibit B.Energy Probe.5, Exhibit B.VECC.4

17. Parkway Obligation Rate Variance (No. 179-138)

(Complete Settlement)

The parties accept Union's evidence that the balance in the Parkway Obligation Rate Variance account (No. 179-138) is a debit of \$4.665 million. The purpose of the account is to record rate variances associated with timing differences between the effective date of the Union South DP Parkway Delivery Obligation changes and the inclusion of the cost impacts in approved rates (January 1 of the following year).

Evidence References:

1. A/T1/pp.37-39, A/T1/App. A/S7
2. Exhibit B.CCC.9, Exhibit B.Energy Probe.6

18. Energy East Pipeline Consultation Costs (No. 179-139)

(Complete Settlement)

The parties accept Union's evidence that there is no balance in the Energy East Pipeline Consultation Costs (No. 179-139) account. The account was created to record the consultation costs related to the Energy East Pipeline Project allocated by the Board in accordance with the Board's Decision in EB-2014-0271. This account will be continued.

Evidence References:

1. A/T1/p.39

19. Unaccounted for Gas ("UFG") Price Variance (No. 179-XXX)

(Complete Settlement)

The parties agree with Union's proposal for a new deferral account to capture the price variance on purchased volumes related to UFG, effective January 1, 2015 and to be disposed of annually through the deferral account and earnings sharing proceeding. The UFG price variance deferral account will capture the variance between the actual price of Union's purchases and the applicable Board-approved reference price, applied to Union's actual experienced UFG volumes.

Evidence References:

1. A/T1/p.39 and A/T1/App. B
2. Exhibit B.CME.4, Exhibit B.Energy Probe.7

20. 2014 Earnings Sharing

(Complete Settlement)

The parties accept Union's earnings sharing calculation and all adjustments to that calculation.

The customer portion of earnings sharing above the 2013 Board-approved Return on Equity is \$7.424 million.

Evidence Referenced:

1. A/T2
2. Exhibit B.Staff.5, Exhibit B.Staff.6, Exhibit B.BOMA.3, Exhibit B.CCC.11, Exhibit B.CME.1, Exhibit B.Energy Probe.8, Exhibit B.Energy Probe.11, Exhibit B.FRPO.1, Exhibit B.FRPO.2, Exhibit B.FRPO.3, Exhibit B.FRPO.4, Exhibit B.LPMA.6, Exhibit B.LPMA.7, Exhibit B.LPMA.8, Exhibit B.VECC.3

21. Allocation of 2014 Deferral Account Balances and 2014 Earnings Sharing

(Complete Settlement)

The parties accept Union's proposal for allocation of 2014 Deferral Account Balances and 2014 Earnings Sharing.

Evidence References:

1. A/T3
2. Exhibit B.BOMA.4, Exhibit B.CCC.10, Exhibit B.Energy Probe.9, Exhibit B.Energy Probe.10, Exhibit B.LPMA.9, Exhibit B.LPMA.10

22. Disposition of 2014 Deferral Account Balances and 2014 Earnings Sharing Amount

(Complete Settlement)

The parties accept Union's proposal to dispose of balances prospectively over six months, over the October 1, 2015 to March 31, 2016 time period, for the general service rate classes. For in-franchise contract and ex-franchise rate classes, parties agree to dispose of the net 2014 delivery-related deferral account balances as a one-time adjustment with October 2015 bills customers receive in November 2015.

Evidence References:

1. A/T3

23. Incremental Transportation Contracting and the Gas Supply Memorandum

Unsettled

Union has filed gas supply and transportation evidence in this proceeding at Exhibit A, Tab 4 and Tab 5. The parties have not been able to agree on how, or even whether, the Board should deal with that evidence in the proceeding.