



EB-2011-0327

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 seeking approval of its 2012-2014 Demand Side
Management plan.

BEFORE: Cathy Spoel
Presiding Member

Cynthia Chaplin
Member

Paula Conboy
Member

DECISION ON INTERIM APPROVAL

Union Gas Limited ("Union Gas") filed an application with the Ontario Energy Board (the "Board") on September 23, 2011, seeking approval for its 2012-2014 Demand Side Management ("DSM") plan.

The Board assigned file number EB-2011-0327 to this application.

Union requested interim approval to maintain the current 2011 programs into 2012 if a Board decision on the complete application could not be released by November 15, 2011. Specifically, Union has requested interim approval of the 2012 DSM budgets, the Low-Income Program and Resource Acquisition Programs, excluding the Large Industrial Rate T1/Rate 100 Programs.

On October 13, 2011 the Board issued a Notice of Application.

On October 21, 2011, the Board sent a letter to Union Gas seeking clarification of the company's request for an interim approval of parts of its 2012 DSM Plan.

On October 28, 2011, Union Gas responded that it is requesting interim approval to maintain the current 2011 programs into 2012 to ensure ongoing program delivery and to prevent market disruption.

On November 4, 2011, the Board issued Procedural Order No. 1 which allowed for parties to file submissions on Union's request for interim approval.

Written submissions were filed by Board staff, the Building Owners and Managers Association of Greater Toronto ("BOMA"), Canadian Manufacturers & Exporters ("CME"), Green Energy Coalition ("GEC"), Low Income Energy network ("LIEN"), School Energy Coalition ("SEC") and Vulnerable Energy Consumers Coalitions ("VECC"). Parties were generally supportive of Union continuing its DSM programs from 2011 into 2012 in an effort to not disrupt the marketplace. Parties were also generally in agreement that during the interim period Union should bear the full financial risk between its interim approval and the Board's final decision.

Union Gas filed its response on November 11, 2011. The company reiterated its earlier response that it seeks interim approval to maintain current 2011 programs into 2012. Union did not agree that it should be at financial risk in the interim period before a final decision is issued by the Board.

Decision on Interim Approval

The Board will not grant any additional interim approval for the 2012 DSM budgets, Resource Acquisition Programs, and Low-Income Program. The Board finds that in light of the recently accepted Settlement Agreement in Union's 2012 rates proceeding (EB-2011-0025), it is not necessary to provide the interim approval requested by Union Gas.

The accepted Settlement Agreement enables Union to continue to collect its existing rates related to DSM programs until a final decision is issued by the Board in this

proceeding. Union is therefore already receiving the funding necessary to continue with its existing suite of programs, albeit through an interim rate order.

What Union appears to be asking for, in effect, is final approval to continue its existing DSM programs until such time as the full and final decision on this current application is rendered. Although the Board has not reviewed these programs in the current proceeding, Union asks to be protected from all risk associated with continuing these programs pending a complete consideration and final order by the Board.

The Board finds it inappropriate to grant Union Gas complete protection from any potential adjustment which might be required for the period between January 1, 2012 and the date of the Board's final decision. The Board has already approved the rates associated with the programs through an interim order. The balance of the relief sought by Union is not "interim" relief at all, and the Board is not prepared to grant Union the complete assurance it has requested prior to hearing the evidence. The Board does not find this to be an appropriate manner in which to hear this application. It is inconsistent with the Board's traditional practice of allowing parties to test the evidence filed by the Applicant.

The Board notes that although it is working to provide a final decision on Union's 2012-2014 DSM Plan as expeditiously as possible, Union Gas has controlled the timing of when it filed its application and its consultation with interested stakeholders. The Board has approved Union's 2012 DSM budget on an interim basis in EB-2011-0025 which allows for Union to proceed with offering its 2011 programs into 2012 and to avoid any marketplace disruption. The Board agrees it is in the best interests of customers and Union Gas that these programs seamlessly flow from one year to the next and the Board will take this into account in its final decision.

DATED at Toronto, November 16, 2011

ONTARIO ENERGY BOARD

Original signed by

Cathy Spoel
Presiding Member

Original signed by

Cynthia Chaplin
Member

Original signed by

Paula Conboy
Member