



EB-2007-0837

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 43(2)(a) of the *Ontario Energy Board Act, 1998*, granting leave to acquire voting securities of the Tipperary Gas Corp.

BEFORE: Cynthia Chaplin
Presiding Member

Bill Rupert
Member

DECISION AND ORDER ON COSTS

Union Gas Limited ("Union") filed an application dated October 26, 2007 with the Ontario Energy Board (the "Board") under section 43(2)(a) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B (the "Act") for an order granting Union leave to purchase 75% of the voting securities of Tipperary Gas Corp. ("Tipperary GP"). The Board assigned file number EB-2007-0837 to the application.

The Board Issued the Notice of Application and Written Hearing on November 13, 2007 ("Notice"). Union served the Notice as directed by the Board. No party requested an oral hearing. The Board proceeded by way of written hearing.

In the Notice the Board specified that parties wishing to participate in a written hearing must forward written submissions to the Board and the Applicant. The Board also noted that it might order cost awards and that any party wishing to claim eligibility for a cost awards from Union should state this in their written submissions. The following parties filed written submissions by November 29, 2007: the Industrial Gas Users Association

("IGUA"); the Consumers Council of Canada ("CCC"); the Tipperary Storage Landowners Association ("TSLA"); Mr. Lenus Yeo; and Mr. Goff Brand, a landowner. IGUA, TSLA and Mr. Lenus Yeo indicated they were requesting cost eligibility status.

Union filed its written reply submission on December 10, 2007.

In its Decision and Order issued on December 24, 2007 ("Decision") the Board granted Union leave to acquire voting securities of Tipperary GP pursuant to section 43(2)(a) of the Act. The Board also determined that each party that provided written submissions, regardless if the party asked eligibility was eligible for a cost award. The Decision set the time-line for the cost claims submissions and responses by parties and the Applicant in accordance with the *OEB Practice Direction on Cost Awards*.

Cost Claims and Submissions

The following parties filed cost claims:

- IGUA - \$ 2,162.00 (legal fees at \$2,112 and disbursements of \$50);
- TSLA - \$ 2,301.91 (consulting fees at \$2268 and disbursements at \$33.91); and,
- Mr. Lenus Yeo - \$ 165.92 (\$112.50 for written submissions and \$53.42 for disbursements).

On January 18, 2008, Union filed a letter stating it had no objection to any of the cost claims made by the three above noted parties.

Board Findings

In the Notice of Application and Written Hearing the Board gave interested parties an opportunity to participate in the written hearing by filing written submissions. The costs now claimed by each of the three above noted parties were incurred in preparation of written submissions. The Board notes that Union did not object to these claims.

The Board finds that the parties seeking cost awards added value to the proceeding, through their written submissions. As such, the Board finds that IGUA, TSLA and Mr. Lenus Yeo are entitled to 100% of their reasonably incurred costs in participating in this written proceeding. IGUA and the TSLA are to be reimbursed for their respective legal fees and consulting costs and for their disbursements. The Board finds that Mr. Lenus Yeo, who participated as an individual without legal representation, is to be

recognized for his efforts in preparing his written submission and is entitled to an honorarium in the amount of 100% of his cost claim.

The Board directs Union to pay the cost awards upon receipt of the Board's Cost Order.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Union Gas Limited shall immediately pay:
 - a. Industrial Gas Users Association ("IGUA") the sum of \$ 2,162.00;
 - b. Tipperary Storage Landowners Association ("TSLA") the sum of \$2,301.91; and,
 - c. Mr. Lenus Yeo the sum of \$165.92.

DATED at Toronto February 8, 2008

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary