



EB-2010-0055

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 its 2011
Demand Side Management Plan.

BEFORE: Marika Hare
Presiding Member

Paula Conboy
Member

DECISION AND ORDER

Union Gas Limited (“Union”) filed an application with the Ontario Energy Board (the “Board”) dated April 30, 2010, seeking an order granting approval of its 2011 Natural Gas Demand Side Management (“DSM”) plan. The Board assigned File No. EB-2010-0055 to this application.

This application is in response to the request by the Board on January 7, 2010, directing EB-2008-0346 and EB-2008-0150 participants to file a one-year DSM plan for 2011 based on the existing DSM framework, including budget increases based on the established escalators.

On May 17, 2010, the Board directed Union to serve the Notice of Application on all intervenors in the Generic DSM Proceeding (EB-2006-0021) and to all of the parties in the DSM Guidelines Proceeding (EB-2008-0346). In response to the Notice of Application, Canadian Manufacturers & Exporters (“CME”), Vulnerable Energy Consumers Coalition (“VECC”), The Green Energy Coalition (“GEC”), Industrial Gas Users Association (“IGUA”) and Low Income Energy Network

("LIEN") requested intervenor status and requested eligibility for an award of costs. Enbridge Gas Distribution Inc. ("Enbridge") and the City of Kitchener requested intervenor status and indicated they were not seeking an award of costs. All requests were granted. Ontario Sustainable Energy Association ("OSEA") was granted intervenor status but the Board denied OSEA's cost request.

On June 15, 2010, the Board issued Procedural Order No. 1 which outlined the schedule for parties to file interrogatories and submissions on Union's application.

On July 20, 2010, Union provided its responses to all interrogatories. Within its responses Union confirmed that it based its 2011 plan on the existing DSM framework established in the Generic DSM Proceeding.

Intervenors' interrogatories also indicated an interest in Union's historical results from its DSM spending and in particular, the associated savings and performance bonuses awarded for its efforts. Union provided full historical figures of its spending over the life of the Generic DSM Framework as well as Total Resource Cost ("TRC") savings and Shared Savings Mechanism ("SSM") payouts.

On August 4, 2010, the final written submissions from intervenors were filed with the Board. Submissions were received from IGUA, VECC, CME, OSEA, and LIEN.

While all intervenors acknowledged that the Union proposal was generally consistent with the approved DSM framework, four areas of concern were identified.

The first area of concern was the scope and extent of Conservation and Demand Management ("CDM") initiatives which may be undertaken by Union in 2011, and the treatment of costs and revenues associated with these initiatives.

IGUA submitted that it is premature for Union to embark on any significant expansion of joint DSM/CDM initiatives, and therefore proposed that the Board indicate its expectation that Union will not significantly expand the scale and

scope of its regulated electricity CDM involvement pending establishment of the new CDM framework.

OSEA's submission pointed out that the Board's proposed Code for CDM by electricity distributors addresses the issue of co-ordination with natural gas distributors, amongst other parties, in the provision of energy conservation, and appeared to be supportive of Union undertaking CDM activities. OSEA further suggested that this new direction would require expanded funding for DSM.

CME pointed out that the existing DSM framework does not address the manner in which the costs associated with CDM initiatives should be allocated and the extent to which revenues arising out of CDM activities should accrue to the shareholder or ratepayers. CME therefore suggested the creation of a deferral account to track all of Union's CDM initiatives for 2011.

In its reply submission, Union stated that 2011 is a transition year that will provide the first steps towards a robust and integrated energy conservation strategy. It intends, however, to only engage in CDM initiatives which are complementary and ancillary to Union's DSM portfolio while leveraging the existing processes and infrastructure. Union Gas also proposed that any revenues earned from CDM activities be tracked in a deferral account to be shared on a 50/50 basis between ratepayers and shareholders.

The second area of concern raised was with respect to Union's proposed research and program initiatives within the gas fired power generation sector. IGUA submitted that the Board should reject Union's proposal to engage in DSM programming or research regarding efficiency of natural gas fired electrical power generation in 2011, claiming that Union had no particular expertise in gas fired generation equipment, that there is no evidence of any market need for that sector, and that this is a highly competitive activity. In its reply submission Union stated that its DSM expertise encompasses all natural gas combustion equipment, including natural gas fired generation equipment. Union submitted that customers can achieve energy savings through these programs.

The third area of concern raised by a number of parties was with respect to low income DSM programs, particularly as a result of direction provided by the Minister of Energy. VECC requested that the Board not approve Union's 2011

DSM plan until enhancements are made to the 2011 DSM Plan which reflect the direction to increase low income DSM programs. With respect to this same direction, LIEN urged the Board to require Union to file a revised 2011 DSM plan within two months of the approval of the 2011 DSM plan. In particular, LIEN noted a component of this augmentation would be an increase to the low-income DSM budget to expand the geographic reach, as well as increase the participants and savings/customer, for Union's weatherization program. In reply, Union Gas urged the Board to accept its DSM plan for 2011 as filed, but indicated that a revision would be filed which would address the Minister's direction regarding additional DSM programs for low-income consumers. The plan would be filed after consultation with LIEN and VECC.

Lastly, LIEN submitted that the Board should require Union to use a scorecard approach for low income DSM rather than the current TRC, citing the Conservation Working Group Report¹ regarding the limitations of TRC.

Board Findings

The Board finds that Union's proposal for its one year 2011 DSM plan is consistent with the approved DSM framework established in the Generic DSM Proceeding, and therefore approves the Plan as filed for 2011. The Board commends Union's commitment to working with stakeholders in the consultative established in EB-2006-0021. The Board is aided by full and complete stakeholder consultation prior to the filing of an application of this nature.

With respect to the areas of concern raised, the Board notes the following. Concerning Union's involvement in CDM, the Board notes that a closer integration of DSM and CDM is in the interest of energy consumers, however, expects that for 2011 Union will not significantly expand the scale or scope of its regulated electricity CDM involvement pending the establishment of the new DSM framework. The forthcoming review of the DSM framework is expected to address the issue of gas/electricity conservation coordination for 2012 and beyond.

¹ Report on the proposed short term (2010) framework for natural gas low-income DSM – Final report of the Conservation Working Group to the Ontario Energy Board. 2009. IndEco Strategic Consulting

With respect to any earnings arising from CDM initiatives, in the Board's view, as DSM revenues are excluded from the Earnings Sharing Mechanism ("ESM"), the Board will follow the precedent established in the Enbridge case (EB-2005-0001/EB-2005-0437) and require that there will be a deferral account to track revenues from 3rd party CDM activities, to be shared 50/50 between the shareholder(s) and ratepayers. This issue may also be reviewed in the forthcoming DSM framework review.

With respect to IGUA's concern regarding gas fired power generation, the Board's view is that research on gas fired power generation is appropriate at this time. The proposed expenditures are modest and the resulting savings could be significant. This should not be interpreted as a predetermination that significant funds could be spent on DSM programs pertaining to gas fired power generation in future DSM plans – that can be examined at a later point in time.

The Board does expect greater involvement in initiating low income DSM programs. However, the Board does not agree that as a condition of approval of this plan Union should be directed to file an amendment which increases the scope of low income DSM programs within two months. The Board also rejects VECC's suggestion that the entire 2011 plan should not be approved until the amendment to the plan is received which deals with low income programs. Rather, the Board expects Union Gas to file an amendment to the plan which recognizes the government's policy with respect to increased conservation programs for low-income consumers as expeditiously as possible. The Board further expects that Union will consult on the plan amendments with all members of the consultative group (stakeholders that meet at a minimum of two times a year as outlined in EB-2006-0021). In the plan amendment Union Gas can request additional funds for low-income programs, should it choose to do so. Any request for additional funding will be examined as part of that application. No other expansion of the DSM budget, other than for low income programs, will be considered.

The Board will not approve the change from using TRC to a scorecard approach for low income DSM in 2011. That issue can be more fully and appropriately examined in the context of the new DSM framework for 2012 and beyond.

Intervenors eligible for an award of costs shall file their cost submissions in accordance with the *Practice Direction on Cost Awards* with the Board Secretary and with Union within 15 days of the date of this Decision and Order. Union may make submissions regarding the cost claims within 30 days of this Decision and Order and the intervenors may reply within 45 days of this Decision and Order. A decision and order on cost awards and the Board's own costs will be issued in due course.

THE BOARD ORDERS THAT:

1. Union Gas Limited is granted approval of its updated 2011 DSM plan, filed on April 30, 2010, subject to the findings noted above.
2. Union shall establish a deferral account to track all revenues associated with CDM activities. Amounts recorded in this account will be split 50/50 with ratepayers at a future date.

DATED at Toronto September 09, 2010.
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary