



EB-2012-0342

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 Natural
Resource Gas Limited for an Order or Orders approving or
fixing just and reasonable rates and other charges for the
sale, distribution, transmission and storage of gas effective
October 1, 2012.

BEFORE: Christine Long
Presiding Member

DECISION AND ORDER
February 7, 2013

Natural Resource Gas (“NRG”) filed an Application on August 7, 2012 with the Ontario Energy Board (the “Board”) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Sched. B, as amended, for an order of the Board approving or fixing rates for the distribution, transmission and storage of natural gas, effective October 1, 2012. The Board assigned file number EB-2012-0342 to the Application and issued a Notice of Application (“Notice”) on September 12, 2012. A revised Notice was issued on September 14, 2012.

The Board issued Procedural Order No. 1 on October 12, 2012 in which it granted intervenor status to Union Gas Limited (“Union”) and the Vulnerable Energy Consumers Coalition (“VECC”), and observer status to Enbridge Gas Distribution Inc. (“Enbridge”).

The Board and VECC filed interrogatories on October 22, 2012 and NRG responded to the interrogatories on November 5, 2012.

Board staff and VECC both filed submissions on November 28, 2012 and NRG filed a reply submission on December 3, 2012.

History of Application

NRG's rate filing under EB-2012-0342 is an annual rate application filed in accordance with its Incentive Regulation Plan ("IRM") approved by the Board under file EB-2010-0018. NRG filed a Cost of Service Application (EB-2010-0018) on April 1, 2010. In its Application in Section H/1/1, NRG stated:

NRG is proposing to increase the monthly fixed charge from \$11.50 per month for Rate 1 customers to \$13.50. The monthly fixed charge for Rate 2 and Rate 4 customers are proposed to increase from \$12.75 to \$15.00. The monthly customer charge for Rate 3 and Rate 5 customers remain at \$150.00. The proposed monthly charge for Rate 6 customers will be set at the same level as is the fixed monthly charge for Rate 3. These changes reflect a movement to recover a higher proportion of fixed costs through fixed charges.

There was a complete settlement on this issue as evidenced in item 8.2 of the settlement agreement ("Phase 1 Settlement Agreement").

EB-2010-0018 also included a proposal on an Incentive Regulation Plan ("Original IR Plan") which was identified in the Phase 1 Settlement Agreement as an unsettled issue. The Original IR Plan was a simplified version of the IR Plan used by Union Gas Limited. NRG decided at the oral hearing phase of the proceeding that it preferred to file its IR plan at a later date as Phase 2 of the proceeding. The parties and the Board agreed to defer the IR Plan to a later date.

On May 6, 2011, as part of Phase 2 of the EB-2010-0018 proceeding NRG filed a Revised Incentive Regulation Plan ("Revised IR Plan"). The Revised IR Plan was based on the Board's multi-year electricity distribution rate-setting plan – the 3rd Generation Incentive Rate Mechanism. This Revised IR Plan replaced the Original IR Plan proposed by NRG.

Proposed Increase to Fixed Customer Charge in the Current Application

In its August 7, 2012 Application (“Current Application”), NRG applied for a \$1 increase to its monthly fixed charge for all customers.

NRG stated that pursuant to the Phase 1 Settlement Agreement in EB-2010-0018, NRG had complete settlement on item 8.2 referenced above. NRG relies upon this section of the Phase 1 Settlement Agreement as authority to continue to adjust its current fixed charges as part of its IRM application.

Board staff and VECC made submissions on this issue.

Board staff stated that although the Board approved NRG’s proposal to increase the monthly fixed charge in EB-2010-0018 for rates effective October 1, 2010, further increases to the monthly fixed charge under an IRM regime were not approved by the Board.

Board staff also stated that in the Phase 2 Settlement Agreement which contained the Revised IR Plan, NRG made no indication of a fixed charge increase, nor was it agreed upon by the parties, and in the absence of a clear approval, NRG’s proposal to increase the monthly fixed charge should be rejected.

Board staff submitted that an increase in the monthly fixed charge will result in larger percentage increases for residential customers than for commercial/industrial customers that have higher consumption. Furthermore, an average residential customer of NRG that is estimated to use 2002 cubic meters annually would experience an increase of 1.1% which is higher than the IRM price cap adjustment of 0.78%.

Board staff stated that NRG provided insufficient evidence to support the need for this adjustment. Furthermore, an adjustment of this nature should normally be undertaken as part of a Cost of Service application, not within an IRM application. Board staff submitted that NRG should be permitted to increase both the monthly fixed and volumetric charges by 0.78%.

VECC submitted that, rather than increasing all components, fixed and variable, by the 0.78% price cap, NRG has proposed a 7.41% increase in the basic monthly charge, no

change to the Rate Rider for Shared Tax Savings, a 2.19% decrease in the first block variable rate, and a 0.78% increase in the second block variable rate.

VECC argued that the effect of the proposed rate re-design is to:

- Propose that a typical residential customer receive a delivery bill increase of fully 141% of the price cap;
- Propose that a typical commercial customer receive a delivery bill increase that is only 25.6% of the price cap; and
- Propose that a typical industrial customer receive a delivery bill increase that is only 76.9% of the price cap.

VECC submitted that this was not agreed to by the Board or Intervenors in the Phase 1 Settlement Agreement and this is acknowledged by NRG.¹ VECC argued that this would result in asymmetric impacts to different Rate 1 customers, i.e., residential, commercial, and industrial, to the detriment of residential customers. VECC also submitted that this would have increasingly detrimental delivery bill impacts for low-volume Rate 1 residential customers. The more that they reduce consumption or they lower their consumption, there would be a decrease in the incentive to conserve by customers since a larger proportion of the delivery bill is independent of actual consumption.

For those reasons, VECC stated that NRG should be directed to file a revised rate proposal that increases both the monthly fixed and variable charges by 0.78%.

In its reply submission, NRG submitted that while there was no definitive proposal in the Phase 1 Settlement Agreement, the Phase 1 Settlement Agreement did not definitely deny movement in the monthly fixed charge.

NRG stated that it originally proposed increases in fixed monthly charges as outlined in its Original IR Plan as set out below.

Furthermore, consistent with the Union and Enbridge agreements, it would be appropriate for NRG to obtain OEB approval for any charges that are introduced for new services. In addition, it would be consistent for modest rate design changes to be permitted, such as the proposed increases to the fixed monthly charge that are similar to the increases

¹Board Staff IR #1 and VECC IR #2a) and 2c)

implemented by Union and Enbridge, provided that there is no impact on the forecast revenue as a result of the rate design adjustments.

NRG submitted that it had complete settlement on section H1/1/1 in EB-2010-0018. That section included the statement which indicated that NRG had initiated a movement to recover a higher proportion of fixed costs through fixed charges. NRG interpreted that as an acceptance of NRG's proposed modest "movement" to adjust fixed charges consistent with its original proposal.

NRG submitted that it is aware that optically the proposed fixed price adjustments will cause some asymmetry in the typical customer's bill impact. NRG noted that any change in the fixed/variable split will have different impacts on customers within a class. Since the Rate 1 class includes residential, commercial and industrial customers and they have different average consumption, it is unavoidable that the proposed rate changes will impact the different types of Rate 1 customers slightly differently.

Regulatory Costs

VECC made a submission on NRG's treatment of regulatory costs embedded in rates.

VECC stated that had these regulatory costs been recovered through a rate rider similar to that approved in respect of shared tax savings and if the regulatory cost rider were treated the same as the shared tax savings rider, the regulatory cost component currently embedded in rates would not be escalated by the price cap.

VECC submitted that NRG and the Board should consider whether the regulatory costs recovery, already embedded in rates, should properly be escalated by the price cap.

Board staff made no submission on this issue.

NRG submitted that they agreed with VECC that the IRM escalation does inflate the collection amount over the three year time period similar to the case of shared tax savings. However, NRG suggested that the potential inflation compounded over the three potential years in total would be less than \$1,000, an immaterial amount when spread over all the rate classes. NRG stated that it is not aware that VECC or any other party in Phase 2 of the EB-2010-0018 proceeding questioned the treatment of regulatory costs when proposed and subsequently approved by the Board. Therefore

NRG takes the position that no further action be considered with respect to VECC's concern.

Board Findings

The Board rejects NRG's proposal to increase the fixed customer charge.

NRG filed a Revised IR plan as part of Phase 2 of the EB-2010-0018 proceeding. NRG's Revised IR plan was based on the Board's multi-year electricity distribution rate-setting plan - the 3rd Generation Incentive Rate Mechanism. This Revised IR Plan replaced the Original IR Plan initially proposed by NRG, which was essentially a simplified version of the IR Plan used by Union Gas Limited. The Original IR plan, although based on the Union Gas IR Plan, was unique and never tested by the Board. It was not the subject of cross-examination at the oral phase of the proceeding in Phase 1 of EB-2010-0018, and was not approved by the Board.

Settlement on item 8.2 of the Phase 1 Settlement Agreement does not provide sufficient evidence that the parties understood that NRG would continue to raise the fixed monthly charge in the way that they now propose to do. When NRG adopted the 3rd generation IRM, it abandoned the Original IR Plan. The Board finds that NRG did not receive approval for the \$1 fixed charge increase and by NRG relying on evidence from the EB-2010-0018 Phase 1 proceeding relating to a fixed charge increase, NRG is relying upon evidence from the Original IR Plan they abandoned.

The Board agrees with Board staff that an adjustment of this nature should normally be undertaken as part of a Cost of Service application, not within an IRM application.

The Board has no issue with regards to NRG's treatment of regulatory costs and finds that the treatment of such costs as set out in the application is reasonable under the IRM model. Furthermore the amount in question is immaterial. No adjustment is required.

THE BOARD ORDERS THAT:

1. NRG shall file with the Board, and shall also send to intervenors, a Draft Rate Order attaching a proposed Tariff of Rates and Charges reflecting the Board's findings in this Decision within **14 days** of the date of this Decision. The draft

Rate Order shall also include a rate rider for revenues to be recovered from October 1, 2012 to March 31, 2013, customer rate impacts and detailed supporting information showing the calculation of the final rates including the Revenue Requirement Work Form in Microsoft Excel format. The final Rate Order issued by the Board will be effective April 1, 2013.

2. Board staff and intervenors shall file any comments on the draft Rate Order with the Board and send to NRG within **7 days** of the filing of the Draft Rate Order.
3. NRG shall file with the Board and send to intervenors responses to any comments on its draft Rate Order within **7 days** of the receipt of any submissions.

Cost Awards

The Board will issue a separate decision on cost awards once the following steps are completed:

1. VECC shall submit its cost claim no later than **7 days** from the date of issuance of the final Rate Order.
2. NRG shall file with the Board and forward to VECC any objections to the claimed costs within **21 days** from the date of issuance of the final Rate Order.
3. VECC shall file with the Board and forward to NRG any responses to any objections for cost claims within **28 days** from the date of issuance of the final Rate Order.
4. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, NRG shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

All filings to the Board must quote file number **EB-2012-0342**, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/ and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. 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 www.ontarioenergyboard.ca. If the web portal is not available parties may email their document to BoardSec@ontarioenergyboard.ca. 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 2 paper copies.

DATED at Toronto, February 7, 2013

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary