



EB-2014-0199

IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to review the Quarterly Rate Adjustment Mechanism process for natural gas distributors.

BEFORE: Ken Quesnelle
Presiding Member and Vice Chair

Marika Hare
Member

DECISION AND ORDER

August 14, 2014

BACKGROUND

The Ontario Energy Board commenced a proceeding on its own motion to review the Quarterly Rate Adjustment Mechanism ("QRAM") for natural gas distributors. This proceeding commenced pursuant to sections 19 and 36 of the *Ontario Energy Board Act, 1998*. The file number assigned to this proceeding is EB-2014-0199.

Gas consumers in Ontario who do not choose to buy their natural gas supply from a gas marketer are supplied by their local regulated gas distributor. These system supply customers pay a price for gas set by the Board through the QRAM process. Each gas distributor applies for a QRAM adjustment quarterly, and the proposed gas supply price is based on the market price for natural gas. Distributors do not make a profit on the gas commodity. The existing QRAM was established in the Board's proceeding on Methodologies for Commodity Pricing, Load Rebalancing and Cost Allocation for Natural Gas Distributors (EB-2008-0106).

In its Decision and Order in one of the April QRAM proceedings, EB-2014-0039, the Board determined that it would commence a process to consider alternatives to the current QRAM protocols associated with the dissemination of information, timing and underlying drivers of the QRAM.

In the Amended Notice of Proceeding and Procedural Order No. 1 for this present process, dated June 5, 2014, the Board decided that the QRAM review would proceed in two phases. The first phase will examine the QRAM review process including the filing of the application and supporting evidence, triggers for a substantive review and the timelines for review and comments. The first phase will also review the Board's policy with respect to rate mitigation and examine protocols with respect to consumer communications. The second phase will be conducted in the context of the 2014 Natural Gas Market Review which is scheduled for the fall of 2014. This review would include an examination of underlying drivers of the QRAM, including the cost and risk trade-offs of different gas supply planning parameters.

The Board also granted intervenor status to all parties who were granted intervenor status in the Board's EB-2008-0106 proceeding. In addition, the Board granted intervenor status to all Ontario licensed gas marketers, as well as the Association of Power Producers of Ontario and Energy Probe Research Foundation Inc. ("Energy Probe").

The Board invited parties to make written submissions as part of the first phase to determine the following:

1. *Whether the QRAM process should be amended to require, in certain cases, a substantive review of the application, including a review of the execution of the gas supply plan.*
2. *If the QRAM process is amended as described, what circumstances should trigger a substantive review.*
3. *Whether the Board should establish a policy on rate mitigation to protect system-supply customers from rate volatility; for example, by further smoothing rate impacts over time.*
4. *Whether the Board should establish protocols for communications to distribution customers.*

Written submissions were received from a broad group of stakeholders, including distributors, marketers and customer representatives. These included, Board staff, Canadian Manufacturers & Exporters (“CME”), the City of Kitchener (“Kitchener”), the Consumers Council of Canada (“CCC”), Direct Energy Marketing Limited (“Direct Energy”), Enbridge Gas Distribution Inc. (“Enbridge”), Energy Probe, the Federation of Rental-housing Providers of Ontario and the Ontario Greenhouse Vegetables Growers (“FRPO/OGVG”), Industrial Gas Users Association (“IGUA”), Just Energy Ontario L.P. (“Just Energy”), London Property Management Association (“LPMA”), Natural Resource Gas Limited (“NRG”), Planet Energy Ontario Corp. (“Planet Energy”), Summit Energy L.P. (“Summit Energy”), Union Gas Limited (“Union”), and the Vulnerable Energy Consumers Coalition (“VECC”).

Submissions received by the natural gas distributors noted that the QRAM has been effective at setting gas commodity rates and passing on the actual cost of gas to system supply customers. They therefore argued that the QRAM does not need to be amended. Natural gas marketers and other various stakeholders also submitted that the QRAM does not need to be amended because of one exceptionally cold winter. Other parties submitted that the QRAM should remain mechanistic but that there may be circumstances when a substantive review of the application may be warranted. Most parties took the position that the Board should not establish a policy on rate mitigation noting that the QRAM provides customers with market pricing signals, while at the same time reduces rate volatility. Other parties argued that further rate smoothing should be considered in exceptional cases only or on a case-by-case basis. With respect to communication protocols, some parties were of the view that no changes are required while others submitted that communication protocols, where substantial rate increases are anticipated, should be enhanced.

The Board has provided its findings in the subsequent section. A detailed summary of the positions of each party on each of the four issues referenced above is contained in Appendix A to this decision.

BOARD FINDINGS

The *Ontario Energy Board Act, 1998* sets out six objectives by which the Board must be guided in carrying out its responsibilities in relation to the regulation of natural gas. The first two objectives are particularly relevant to this proceeding:

- To facilitate competition in the sale of gas to users; and
- To protect the interests of consumers with respect to prices and the reliability and quality of gas service.

The QRAM is intended to strike a balance between ensuring that consumers are receiving appropriate price signals which reflect the actual natural gas market price, and protecting the interests of system supply customers by reducing, to some extent, volatility in the price of natural gas. The QRAM, by design, provides some smoothing of system gas costs by spreading changes over a 12-month period, and thereby reduces the impact of market price signals on system supply customers. However, the Board may consider, in the case of exceptionally large rate increases, whether additional measures should be taken to lessen the bill impact for system supply customers.

The winter of 2014 was exceptional in terms of sustained colder than normal weather. The cold weather of the 2014 winter exerted significant pressure on natural gas prices. To properly consider the April 2014 QRAM applications, filed by two of the three natural gas distributors, the Board allowed for more discovery and argument than is provided for in a typical QRAM application. The Board is of the view that a similar extended review of a QRAM application may be required in some cases, and has decided to create a process to facilitate that review.

The Board finds that where a quarterly increase driven by the disposition of the Purchased Gas Variance Gas Account ("PGVA") balances (i.e. collecting or refunding of the difference between the forecast cost of natural gas and the actual cost that were incurred in the previous quarter) and the projected cost of gas (i.e. setting the new reference price) will have a very significant effect on system supply customers, the goal of reflecting the market price must be compromised, to some extent, in order to provide protection for those consumers. The Board finds that an increase or decrease of 25% on the commodity portion of a typical residential system supply customer's bill (which includes all commodity related rate riders) indicates the need for advance notification to customers, and potentially, a more thorough review of a QRAM application than is currently contemplated under the present QRAM methodology.

The Board will therefore require Enbridge, NRG and Union, one month in advance of the normal QRAM filing date, to complete a preliminary estimate of the change in the commodity portion of a typical residential system supply customer's bill that arises from the forecasted reference price (based on the most current 21-day strip available at the time) for the next quarter and the forecasted PGVA balances to be cleared. A gas

distributor that anticipates an increase or decrease of 25% or more on the commodity portion of a typical residential system supply customer's bill (which includes all commodity related rate riders), must file a letter with the Board describing the anticipated increase or decrease and the cost drivers underpinning the anticipated change. The letter must include information regarding the 21-day strip used and the forecasted PGVA balances that the distributor expects to clear. The letter must be filed with the Board as soon as possible after the preliminary forecast has been completed and no later than 14 days before the filing date of the QRAM application, as contemplated in the Board's EB-2008-0106 Amended Decision and Order.

The Board notes that the letter, as described above, is for information purposes only. The Board will not be making any substantive findings on the basis of the letter. However, the Board will consider whether additional procedural steps will be needed to review the anticipated application.

The Board is of the view that additional information and education for customers would be beneficial, as well as earlier notification of a pending large increase. If an increase greater than 25% is anticipated on the commodity portion of a typical residential system supply customer's bill (which includes all commodity related rate riders), the distributor must use best efforts to ensure that its customers are made aware of the proposed price change through, for example, the issuance of a press release describing the anticipated increase, based on the preliminary estimate, and the cost drivers for it. If a decrease greater than 25% is anticipated, the distributor may choose to issue a press release describing the anticipated decrease and the reasons for it. The distributor must file a copy of any press release it has issued with the letter that it files with the Board. The Board does not intend to approve any press release before issuance.

The Board believes that mandatory communications with customers through a vehicle such as a press release, in advance of the QRAM filing, in situations where the expected rate impact arising from a distributor's QRAM application is expected to be large will provide customers with timely information that their bill is likely to increase significantly starting in the next quarter. This will in turn allow customers the opportunity to react accordingly.

After the letter is filed with the Board (where applicable), the distributor shall file its QRAM application based on the existing QRAM established in the EB-2008-0106 proceeding. If a 25% or greater change on the commodity portion of a typical residential system supply customer's bill (which includes all commodity related rate

riders) is still anticipated, the distributor must also include evidence which explains, in detail, the reasons for the large rate increase (or decrease). Where the change is an increase, the distributor must include a plan for mitigation of the increase. The Board will not, at this time, establish a policy on rate mitigation, but will consider the necessity for and method of implementation of mitigation on a case-by-case basis.

Upon receipt of the QRAM application, the Board will issue a procedural order which may prescribe an extended review process for the application and the scope of the review. The Board notes that an extended review will not necessarily be required in every case where a 25% change in the commodity cost is anticipated.

The Board directs that the next QRAM application for Enbridge, NRG and Union will be for rates effective October 1, 2014. The Board directs Enbridge, Union and NRG to continue to file their respective applications consistent with the mechanism established in the Board's EB-2008-0106 Amended Decision and Order, and that the amendments contained in this Decision and Order be effective for January 2015 QRAM applications.

IT IS ORDERED THAT:

1. Enbridge, NRG and Union shall continue to file quarterly rate adjustment applications consistent with the mechanism established in the Board's EB-2008-0106 Amended Decision and Order, with the following amendments:

One month in advance of the normal QRAM filing date, the distributor must complete a preliminary estimate of the change in the commodity portion of the average residential system supply customer's bill that arises from the forecasted reference price (based on the most current 21-day strip available at the time) for the next quarter and the forecasted PGVA balances to be cleared. A gas distributor that anticipates an increase or decrease of 25% or more on the commodity portion of a typical residential system supply customer's (which includes all commodity related rate riders) bill must take the actions described in this decision regarding notification to the Board and to the distributor's customers of the anticipated change. This amendment shall be implemented as part of the January 2015 QRAM applications.

COST AWARDS

2. Parties eligible for costs shall submit their claims on or before August 21, 2014. A copy of the cost claim must be filed with the Board and a copy is to be served on Enbridge, NRG, and Union. Cost claims must be prepared in accordance with the Board's *Practice Direction on Cost Awards*.
3. Enbridge, NRG and Union will have until August 28, 2014 to object to any aspect of the cost claims. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.
4. Any party whose cost claim was objected to will have until September 4, 2014 to make a reply submission as to why their cost claim should be allowed. One copy of the submission must be filed with the Board and one copy is to be served on Enbridge, NRG and Union.
5. Enbridge, NRG and Union shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

Dated at Toronto, August 14, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

POSITIONS OF PARTIES

BOARD FILE NO. EB-2014-0199

DATED: August 14, 2014

POSITIONS OF PARTIES

Issue #1: Whether the QRAM process should be amended to require, in certain cases, a substantive review of the application, including a review of the execution of the gas supply plan

Enbridge noted that the current QRAM process has shown to be an effective means of dealing with changes in gas costs. Enbridge noted that the QRAM process meets the Board's objectives and balances competing interests, and does so in an efficient and streamlined manner. Enbridge argued that no substantive change to the QRAM is needed.

Union also submitted that the QRAM process does not need to be amended. Union submitted that it does not believe the QRAM process should be amended because of one exceptionally cold year.

Similarly, NRG submitted that the QRAM process should not be amended.

Direct Energy, Just Energy, Planet Energy and Summit Energy argued that the QRAM process should continue to be transparent, formulaic, and consistent in order to properly reflect market prices while balancing the need for rate stability. They concluded that the current QRAM process does not need to be amended.

Energy Probe submitted that the current process is not transparent to the representatives of some customer groups; however, to extend the process to reviews of the implementation of, or amendments to, the gas supply plans would not add additional value.

IGUA noted that this past winter was a 1 in 35 anomaly and that this experience should not, in and of itself, prompt changes to a QRAM process that was thoughtfully and carefully designed and that has functioned well for some time.

Board staff submitted that a two-tier review process should be established for the QRAM. Board staff recommended that the Board undertake a more detailed review of a QRAM application where an increase of greater than 10% to the typical residential customer bill is anticipated. VECC also submitted that a screening metric based on either commodity and/or bill impact could be set by the Board, the breaching of which could trigger a threshold question as to whether a more substantive review should be required on a case-by-case basis.

CCC submitted the current mechanistic QRAM process was not sufficient for the Board to consider whether Enbridge's rate changes (in its April 2014 QRAM application EB-2014-0039) were justified, or whether an alternative clearing mechanism was required.

CME supported the concept that the QRAM process should remain a mechanical and expedient exercise. However, CME noted that exceptional circumstances can occur which should prompt the Board, on a case-by-case basis, to convert the process into one which allows for a more substantive review of a materially significant issue which cannot fairly be determined without further investigation.

LPMA submitted that while the QRAM process is intended to be mechanical in nature and has been so for years, there may be circumstances when a substantive review of the application may be warranted. LPMA submitted that if a substantive review is undertaken, it should not affect the timing of the change in the QRAM price being implemented.

FRPO/OGVG submitted the requirement for an expanded QRAM process could be handled on an exception basis by the Board. FRPO/OGVG noted that the review of the execution of the gas supply plan could use simple metrics like storage fill and other parameters such as a forecast and actual Heating Degree Days to determine if further examination of the execution is warranted. FRPO/OGVG submitted that in situations where there is concern there was significant variance from the plan, the Board could establish the requested rates as interim allowing an additional round of discovery to satisfy itself of reasonable execution.

In its reply submission, LPMA submitted that this substantive review should not be part of the QRAM process as it currently exists today. LPMA suggested that the review be undertaken as a subsequent proceeding, which would allow the Board to set a schedule commensurate with the need for the review. In its reply submission, Kitchener submitted that the QRAM process should not be amended. Kitchener also submitted that the review of a gas supply plan is best done outside of the QRAM process.

In its reply submission, Enbridge submitted that it is neither constructive nor productive to contemplate or debate how to open up opportunities, particularly in the context of QRAM proceedings, for a backward-looking review of gas supply decision-making. Enbridge also submitted that Board staff's proposed second tier QRAM is far from the formulaic and efficient QRAM process. Union also submitted that the Board should not implement a trigger mechanism. Union noted that the Board has jurisdiction to review any application, including QRAM, should they feel circumstances warrant a more substantive review of the evidence.

Issue #2: If the QRAM process is amended as described, what circumstances should trigger a substantive review

Board staff submitted that a QRAM application which proposes an annualized bill increase exceeding 10% for the average residential customer should trigger a more detailed review under the second tier.

FRPO/OGVG submitted the requirement for an expanded QRAM process could be handled on an exception basis by the Board. FRPO/OGVG submitted that this exception process could be used if there were a request for a significant rate increase (e.g. 10% increase in total bill consistent with electricity distributors).

LPMA submitted that a substantive review should only be triggered if the increase in the system gas supply charge exceeds a predetermined percentage. LPMA also submitted that the review should not be triggered by an increase based on a percentage of the total bill. VECC submitted the triggering could be a threshold question to which all parties would have an opportunity to make submissions on a particular application. The Board could then decide, on the evidence before it, whether to proceed with a substantive review.

CCC submitted there should not be a numeric trigger, or a set of specific conditions that trigger a substantive review. CCC submitted that the Board must determine on a case-by-case basis whether conditions warrant a more substantive review.

In its reply submission, Union submitted that if the Board adopts a trigger mechanism, the threshold should be based on increases in gas supply commodity rates only and not expiring or new rate riders.

Issue #3: Whether the Board should establish a policy on rate mitigation to protect system-supply customers from rate volatility; for example, by further smoothing rate impacts over time

Enbridge submitted that further consideration of rate mitigation should await the outcome of the second phase of the QRAM review, which will take place as part of the 2014 Natural Gas Market Review. Union submitted that the Board does not need to establish a policy on rate mitigation to protect sales service customers from rate volatility.

Union noted that the QRAM process provides customers with market pricing signals, while at the same time reduces rate volatility.

Similarly, NRG submitted that the Board should not establish a policy on rate mitigation.

Direct Energy submitted that it does not support rate smoothing. Just Energy also submitted that the current process already provides for rate smoothing. Planet Energy submitted that smoothing rate impacts would undermine competition in the sale of natural gas to all consumers in Ontario, would distort prices for consumers, decrease competition and increase costs to consumers. Summit Energy also submitted that the Board should not establish a policy on rate mitigation.

FRPO/OGVG submitted that adding additional smoothing would potentially jeopardize other market offerings that contribute to a more liquid Ontario market and provide customer choice in some segments. IGUA submitted that the current QRAM process already entails a rate smoothing mechanism in spreading PGVA recovery over the ensuing 12 months, and in basing gas cost and gas cost associated delivery rate changes on a 12-month price forecast. LPMA also submitted that it does not support the establishment of a policy on rate mitigation to protect system-supply customers from rate volatility. Smoothing of rate impacts causes an increased cost to system gas customers due to the additional interest costs on the PGVA balances. Artificially smoothed system gas rates are not comparable to prices available in the marketplace, which eliminates the ability of customers to compare system gas costs with direct purchase options available to them.

Board staff submitted that under the two-tier QRAM approach that it proposes, the trigger of the second tier should include a mitigation plan. The plan should provide alternatives for the Board to consider in determining the optimal resolution.

VECC submitted that only in those cases in which the trigger has been breached should rate smoothing or mitigation be considered.

In its reply submission, Enbridge submitted that given the lack of support for a policy, rate mitigation should be left as an issue to be addressed, as and when necessary, on a case-by-case basis. Enbridge noted that in the event the Board wishes to give further consideration to a rate mitigation policy, it should await the outcome of the second phase of the QRAM review.

Kitchener, in its reply submission, submitted that there is already an appropriate trade-off between market prices and rate stability.

Issue #4: Whether the Board should establish protocols for communications to distribution customers

Enbridge agreed that more could be done to provide ongoing information to stakeholders and customers about the execution of the gas supply plan and anticipated changes to gas prices and PGVA balances. Enbridge expressed willingness, if required, to post on its website a monthly forecast of approximate bill impacts resulting from accumulated monthly PGVA balances, and if the Board sees fit, such information could be posted on the Board's website as well.

NRG supported the idea that the Board establish protocols for communications to distribution customers. Union submitted that the current process for notifying distribution customers is appropriate and does not require the establishment of communication protocols.

Direct Energy supported appropriate communications to distribution customers with respect to anticipated price increases and customer education materials. Just Energy did not see a need to change the current communication process for notifying distribution customers.

Summit Energy submitted that it is of the view that the Board should establish protocols for communication to distribution customers when determining if the current 12-month smoothing period should be extended for any extreme conditions.

Board staff submitted that the distributor should proactively begin communicating with customers as soon as anticipated material rate changes become known or when the utility is required to purchase natural gas at a materially higher market rate. The communication could be handled through their websites and press releases. Board staff submitted that by providing information to customers regarding material rate changes, customers would be better positioned to react and would have an opportunity to manage their consumption accordingly. Board staff further submitted that it does not believe that the Board needs to be prescriptive about the precise nature of the customer communications.

CCC and VECC submitted that communication protocols regarding distribution rates should be enhanced. CCC noted that customers were concerned about the lack of notice given regarding the significant bill impacts arising out of the applications of Union and Enbridge. CCC also noted that many customers were unaware that the gas distributors do not earn a margin on the cost of gas. CCC submitted that the Board should require gas distributors to undertake better customer communication regarding distribution rates and gas cost changes prior to the winter heating period, as well as,

better inform customers of impending gas cost increases. VECC submitted that the Board should establish these protocols on a non-voluntary basis, if the utilities do not voluntarily adopt sufficient protocols.

LPMA submitted that the Board should review the customer notices (from distributors) with the goal of enhancing customer clarity and understanding.

In its reply submission, LPMA submitted that communication to ratepayers should be reviewed as part of Phase 2 to be held in conjunction with the 2014 Natural Gas Market Review.