



EB-2005-0551

IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine whether it should order new rates for the provision of natural gas, transmission, distribution and storage services to gas-fired generators (and other qualified customers) and whether the Board should refrain from regulating the rates for storage of gas.

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Cynthia Chaplin
Member

Bill Rupert
Member

ORDER

This Order follows a decision issued orally by the Board on June 27, 2006 on an issue identified in the Union Settlement Agreement dated June 13, 2006. The issue relates to Union's proposed procedure for determining access to F24-T service. The F24-T service is described in Union's pre-filed evidence. In addition, the oral testimony of Mr. Isherwood on June 19, 2006 was that F24-T gives Union customers who subscribe for it more flexibility with respect to nominations and the ability to reserve firm pipeline capacity on a 24 hour per day basis. Page 13 of the Union Settlement Agreement describes Union's proposed proposal for allocating the service. Specifically, the third bullet on that page indicates that:

“There will only be 500,000 GJ/day of F24-T available initially as a result of the 2006 and 2007 expansions of the Dawn-Trafalgar system. This capacity will not be available until the 2007 expansion of the Dawn-Trafalgar system is in service on November 1, 2007. Additional F24-T may become available as a result of future expansion of the Dawn-Trafalgar system and will be made available through an open season process.”

The first bullet of page 13 of the Settlement Agreement outlines Union’s proposed allocation strategy, given the limited availability of the F24-T service: “Union will offer the new F24-T service first to 2007 transportation expansion customers. Union will then hold an open season to determine if any other customers are interested in the service.”

Finally, at the fourth bullet on page 13 of Union’s Settlement Agreement Union states that when the Board accepts the settlement proposal “Union will proceed immediately to contact 2007 expansion customers to ascertain their interest in subscribing to the F24-T service and if remaining capacity is available then hold an open season to determine if other existing M12 shippers are interested in the residual capacity.”

TransCanada Pipelines, Limited (“TCPL”) and Energy Probe oppose Union offering its proposed F24-T service first to 2007 expansion shippers. During the presentation of the Union settlement proposal, the parties indicated that this issue was severable and the parties agreed to render the issue to the Board for determination, separate and apart from any determination on other settled issues eligible for approval by the Board. To that end, Union presented oral evidence and offered a witness on this issue for cross-examination by interested parties. On June 20th, the Board heard argument on this discrete issue from Union, TCPL, Energy Probe, Sithe Global Power, TransCanada Energy, Portlands Energy Centre, the Association of Power Producers of Ontario and the Low Income Energy Network.

The Board issued its Decision on this issue orally on June 27, 2006 and is issuing this Order to implement its Decision.

THE BOARD THEREFORE ORDERS THAT:

1. Union shall develop its proposed F24-T service as described in its evidence filed in EB-2005-0551 and as modified in accordance with the terms of the Union Settlement Agreement.
2. For the purposes of implementing a procedure for the granting of access to Union's F24-T service the following definitions shall apply:
 - (a) "Generator" means the owner or operator of an existing, planned or proposed dispatchable natural gas-fired facility:
 - (i) that is or will be located outside of Union Gas Limited's natural gas franchise area;
 - (ii) that will be owned and/or operated by an entity that has signed a Clean Energy Supply Agreement, Accelerated Clean Energy Supply Contract or similar power purchase agreement with the Ontario Power Authority or is actively negotiating such an agreement for the construction and operation of the facility; and
 - (iii) that is scheduled to be in-service in simple cycle or combined cycle mode, on a date that is not later than December 31, 2008.
 - (b) "Affiliate" shall have the same definition as that ascribed to it in the *Business Corporations Act* (Ontario), R.S.O. 1990, c. B. 16.
3. Union shall provide priority access to its proposed F24-T service to any Generator, or to any marketer or local distribution company or other entity which has contracted to provide gas delivery service to a Generator for service to its dispatchable natural gas facility in Ontario, for daily volumes that are the lesser of:
 - (a) the expected daily requirement in Gigajoules per day of the Generator's generating facility; and
 - (b) the amount of M12 capacity that is currently held or will be held as part of Union's 2007 open season:

- (i) directly by the Generator or an Affiliate of the Generator, or
 - (ii) by a marketer or a local distribution company or other entity that has contracted to provide gas delivery service to the Generator when the Generator's facility is operational.
4. Union shall, within 30 days of the date of this Order, hold an open season for F24-T service and once Union has ascertained the volumes of F24-T capacity that is required to provide priority access to Generators as described herein, Union shall allocate any additional remaining volumes of F24-T capacity to all of Union's M12 shippers on a non-discriminatory basis.

ISSUED at Toronto, June 30, 2006.

ONTARIO ENERGY BOARD

Original signed by

Peter H. O'Dell
Assistant Board Secretary