

# Appendix D

DECISION WITH REASONS

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**RP-1999-0017**

**IN THE MATTER OF** the *Ontario Energy Board Act*[12JF7-0:1], 1998,

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**AND IN THE MATTER OF** an Application by Union 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 in accordance with a performance based rate mechanism commencing January 1, 2000;

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**AND IN THE MATTER OF** an Application by Union Gas Limited for an order approving the unbundling of certain rates charged for the sale, distribution, transmission and storage of gas.

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BEFORE: George Dominy  
Presiding Member and Vice Chair  
Malcolm Jackson  
Member

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## DECISION WITH REASONS

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July 21, 2001

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costs and that Union should report at its next hearing on its revenues from new unbundled services to in-franchise customers.

*Union's Reply - Unbundling Overview and Rationale*

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6.25 Union submitted that its unbundling proposals were well considered and comprehensive and had been developed with the goal of moving towards the "idealized end state" agreed to in the industry consensus, formed through the Working Group on Natural Gas Markets formed pursuant to the Ten-Year Market Review and the Market Design Task Force. Union agreed with CAC and IGUA that its unbundled services should be subject to change by virtue of an application made to the Board.

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6.26 Union questioned the relevance of Energy Probe's evidence, took issue with its proposals and argued, noting CAC's support, that the Board not require Union to undertake a study of the implementation of an independent system operator.

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*Board Findings - Unbundling Overview and Rationale*

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6.27 With changes to the Act in 1998, the Board has seen further development with respect to its mandate and regulatory authority. One of the objectives of the Act[12JF7-0:1] is to create a competitive market in the sale of natural gas.

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6.28 The Ontario natural gas industry, in particular, has been restructuring and evolving since 1985 when customers were given an opportunity to procure their own gas supply, and the Board first addressed issues of non-discriminatory access to transportation, storage and distribution services. In 1995, the Board initiated a review of the structure of the natural gas market in Ontario. In its Report on the Ten-Year Market Review, the Board indicated that it believed that a fully competitive gas commodity market would be more efficient than a regulated market. More recently the industry led Market Design Task Force ("MDTF") submitted its report to the Board in February 1999. While the MDTF was successful in achieving consensus on a number of issues there were some issues which remained unresolved. Another stakeholder-driven process to establish Gas Distribution Access Rule recently filed its "Final Report of the Distribution Access Rule Task Force".

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6.29 In considering this Application, the Board attempts to balance the interests of the stakeholders whomay take advantage of unbundled services and thosewho continue to take bundled services. The Board must also consider the operational integrity of the system for the benefit of all users. This Decision does not address a comprehensive re-engineering or restructuring of the industry.

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6.30 The Board continues to believe that a workably competitive market for gas as a commodity requires a market in which there are many buyers and sellers of the commodity and open access to services required to deliver the gas under terms and conditions and prices that are not unduly discriminatory. Reasonable compromises must be made in moving toward a competitive market.

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DECISION WITH REASONS

6.31 The Board is not able to precisely describe the end-state which the industry may achieve as there is a lack of tested evidence for the Board to consider this matter. Furthermore, it is the Board's preference that flexibility be incorporated into any unbundling regime so as to correct any undesirable practices or outcomes observed in the future. Was page 289 1547

6.32 This Decision should be regarded as a component of an overall, longer term transition to increased competition. It is hoped that when a more robust fluid market exists, many features in the Settlement Agreement and in this Decision will have evolved and been replaced with improved features. 1548

6.33 The Board agrees with the many parties who indicated that Union's proposal should be viewed as a continued evolution of new services in support of a competitive market in natural gas commodity and other non-monopoly services, should not be considered to be "set in stone", and that there should be some flexibility surrounding it. 1549

### 6.3 UPSTREAM TRANSPORTATION 1550

#### 6.3.1 Upstream Transportation - Southern Operations Area 1551

6.34 Over the years, Union has entered into a number of contracts, with varying terms for upstream transportation capacity in order to serve its customers. Under these contracts Union takes delivery at Parkway, Dawn and Ojibway. Union stated that it is not able to remove itself from these contracts without incurring significant costs. 1552

6.35 When a customer moved to direct purchase from system supply the customer was obligated to take an assignment of the upstream transportation that was contracted by Union. In the past the customer received an allocation of TCPL firm transportation ("TCPL FT") capacity with an obligation to deliver at Parkway 365 days per year. Any diversions or assignments of this transportation capacity were subject to authorization by Union. 1553

6.36 Union's current system operation and design relies on the firm delivery of TCPL FT volumes at Parkway. Union argued that its reliance on these volumes has resulted in Union's Dawn-Trafalgar system being smaller than it otherwise would have been, therefore costs were lower, and all customers, both in-franchise and ex-franchise, have benefited from this system design through lower rates. Was page 290 1554

6.37 In the Spring of 1999, Union implemented a TCPL turnback policy in response to requests from customers who wished to take advantage of discounted transportation capacity available in the secondary transportation market. Under this policy a customer is entitled to reduce its assignment of upstream capacity at levels that equal the capacity that Union could turnback to TCPL without Union incurring any direct costs. However, the customer is still required to maintain its obligated firm deliveries at Parkway for 365 days of the year regardless of the amount of capacity the customer turned back. 1555