

**IGUA/AMPCO
ARGUMENT OUTLINE**

I. INTRODUCTION

II. THE NARROWING OF UNRESOLVED MATTERS IN ISSUE

- Hearing Background,
- Filing of Evidence,
- Settlement proposals,
- Unresolved matters in Issue at outset of Hearing,
- Storage-related Proposals of Union, MHP, EGD and Kitchener,
- Non-Storage-related Proposals of EGD.

III. ADVERSE IMPACT ON RATEPAYERS OF CURRENT AND “END STATE” FORBEARANCE PROPOSALS

IV. OVERVIEW OF IGUA/AMPCO POSITION RE: FORBEARANCE PROPOSALS

- All participants in these proceedings, except MHP, now acknowledge that there is insufficient competition to protect the public interest with respect to those gas consumers who acquire Dawn-based storage services from Union or EGD at a transaction point downstream from Dawn. These customers represent 72% or about 180 Bcf of the 250 Bcf of Dawn-based storage capacity held and sold by Union and EGD. There can be no forbearance of any aspect of rate regulation pertaining to the sale by Union or EGD of Dawn-based storage services to such customers. There can be no “transition” to complete forbearance when it is acknowledged that competition is insufficient to protect the interests of 72% of the market acquiring Dawn-based storage services from Union and EGD.
- The degree of competition which exists for those who acquire Dawn-based storage services from Union and EGD at Dawn is insufficient to protect the public interest and cannot justify the scope of the forbearance relief which Union and EGD seek.
- Having regard to item 1, there is now no basis for eliminating the previously Board-approved distinction between Union’s in-franchise and ex-franchise customers. Any changes to be considered in response to discrimination concerns must now be confined to a consideration of whether the existing value of service rate regime, currently applicable to ex-franchise customers of Union, should be modified for any particular categories of ex-franchise customers.
- When determining the total revenue requirement recoverable from ratepayers, the Board’s consideration and inclusion of revenues realized from the sale of storage and storage-related services under the auspices of market-based rates is necessary to assure an outcome which is a surrogate for a competitive market

outcome. Regardless of the degree of competition in storage services which exists at Dawn, it is insufficient to justify the forbearance relief which Union seeks with respect to this particular aspect of the Board's rate regulation of long term storage revenues.

- Similarly, the inclusion of revenues realized by Union and EGD from storage-related Transactional Services ("TS") is and remains an integral feature of regulation to assure that Union and EGD fulfill their obligations to ratepayers to optimize revenues realized from the use of utility assets. There is no rational basis for relieving EGD from this obligation as it proposes.
- There is no basis for concluding that Union and EGD can now more reliably forecast revenues from storage-related activities. The revenue margin deferral accounts pertaining to these activities should be discontinued.
- No changes in circumstances have occurred which could possibly justify a material alteration to Union's long-standing policy of allocating storage capacity to meet the needs of its in-franchise customers, which it is obliged to serve, in priority to its ex-franchise customers, which it is not obliged to serve. There should be no "freeze" on the amount of Union storage allocable to in-franchise customers.
- The allocation of storage between in-franchise customers needs to be sufficiently flexible to respond to the unique requirements of individual large volume customers, including LDCs such as Kitchener. Union's repeated representations to its existing large volume industrial customers that they can keep what they have, precludes it from modifying such storage allocations without first obtaining the consent of the large volume customer.
- Changes to Union and EGD rates are not needed to prompt new storage development. Market-based pricing authority for new storage developers is all that is needed to stimulate such development.
- In the context of their obligation to serve their in-franchise customers, a failure by Union and EGD to develop and/or acquire incremental capacity, which is reasonably needed to respond to the needs of their in-franchise customers, should not be tolerated.
- The cost consequences for Union and EGD ratepayers of any acquisition by them of storage services from third parties should continue to be carefully scrutinized to assure that they are just and reasonable.
- High-deliverability storage is a new and heretofore unavailable service which the Board should initially regulate. The Board should proceed cautiously before taking a "hands off" approach to the regulation of such services.

V. GUIDING PRINCIPLES

(a) Terminology

- Utility Services,
- Rate Regulation,
- Forbearance, in whole or in part,

- Overlap between Rate Regulation and Forbearance in part,
- Value of Service Rates,
- Workably Competitive Market,
- Auctions,
- Bundled Services,
- Good Substitutes.

(b) History, Origin and Nature of the Existing Storage Services Regulatory Regime

- Union,
- EGD,
- Third Party Storage Providers,

(c) Board's Powers and Duties

(d) ATCO Decision

(e) Obligation to Serve

(f) Measures of Sufficiency of Competition to Protect the Public Interest

- Reasonable Bystander Test,
- Integration Issues,
- Market Power Analysis.

(g) Elements of Market Power Analysis

- FERC approach,
- CRTC approach.

(h) Onus

(i) Estoppel

(j) Precedent Decisions

VI. EVIDENCE ANALYSIS RE: FORBEARANCE PROPOSALS

(a) Application of Reasonable Bystander Test,

(b) Consideration of Integration Issues,

(c) Market Power Analysis,

- Dawn-based storage services sold and acquired at transaction points downstream of Dawn,
- Application of FERC test,
- Application of CRTC test,

- Dawn-based storage services transacted at Dawn,
- Application of FERC test,
- Application of CRTC test.

(d) Discrimination Concerns

(e) Regulation of Storage Revenues

- Union ex-franchise storage revenues,
- Union storage revenues deferral accounts,
- Union TS revenues,
- EGD storage-related TS revenues.

(f) Storage Allocation

- Between In-Franchise and Ex-Franchise markets,
- Among In-Franchise customers.

(g) New Storage Development,

(h) Acquisition of Incremental Storage by Union and EGD,

(i) High Deliverability Storage Services.

VII. SUMMARY OF IGUA/AMPCO SUBMISSIONS RE: UNRESOLVED ISSUES LINKED TO STORAGE REGULATION

(a) Union,

(b) MHP,

(c) EGD,

(d) EDDI,

(e) Kitchener.

VIII. NON-STORAGE-RELATED ISSUES

(a) EGD Rate 125,

(b) EGD Rate 300.

IX. CONCLUSION - RESPONSE TO BOARD'S QUESTIONS

X. COSTS