

THE ONTARIO ENERGY BOARD

IN THE MATTER OF the Ontario Energy Board Act, 1998, S.O. 1998, c.15
(Sched. B)

AND IN THE MATTER OF a proceeding commenced by the Board on its own motion to determine whether the Board 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 service

AND IN THE MATTER OF Rule 42 of the Board's Rules of Practice and Procedure

NOTICE OF MOTION

The Association of Power Producers of Ontario (APPrO) will make a motion to the Board at its offices at 2300 Yonge Street, at a time and date to be set by the Board.

The motion is for:

1. A review of the Board's decision in relation to whether there ought to be a short-notice balancing service included in the tariffs of Union Gas Ltd. and Enbridge Gas Distribution Inc.
2. An order adding a short-notice balancing service to the tariffs of Union Gas and Enbridge, based on the storage allocation methodology arising from the settlement agreements entered into by Union Gas and Enbridge in this proceeding.
3. An order extending the time to bring this motion.
4. An order granting APPrO its reasonably incurred costs in relation to this motion.

The grounds for the motion are:

1. Like any utility customer, a gas-fired generator requires delivery and balancing services.
2. Unlike other utility customers, gas-fired generators require short-notice intra-day services not previously available from Union Gas and Enbridge.

3. Union Gas and Enbridge agreed that such services were necessary to meet the operational needs of gas-fired generators, including short-notice intra-day delivery and balancing services.
4. At the settlement conference, agreement was reached with Union Gas and Enbridge on a storage space allocation methodology that was specifically designed to meet the short-notice intra-day balancing service required by gas-fired generators.
5. The space allocation methodology was agreed to on the basis that a gas-fired generator would have the ability to add additional deliverability to the space, recognizing that the allocation would otherwise be inadequate for the short-notice intra-day balancing service required by gas-fired generators.
6. The Board made a finding that short-notice intra-day delivery and balancing services were needed. The Board also accepted the settlement agreements.
7. In its decision, the Board has not considered the need for a short-notice intra-day balancing service required by gas-fired generators in the context of the settlement agreements, as a matter separate from the broader issue of forbearance that the Board addressed in its decision.
8. Since the additional deliverability to be added to the allocated space could only be provided by Union Gas or Enbridge, there is no forbearance issue since there is no other supplier possible.
9. Accordingly, the short-notice intra-day balancing service contemplated by the settlement agreements is, by definition, a monopoly service provided by the utilities and should be provided at cost-based rates.
10. Enbridge has indicated that it would provide the short-notice intra-day balancing service as a result of enhancements it may make to the Tecumseh storage pool or by acquiring it from Union and passing that cost through. In the latter case, the sole provider would be Union and therefore, Union should be providing the additional deliverability required by Enbridge at cost-based rates.
11. APPrO does not seek a review of the Board's general policy decision on forbearance. However, it is clear from the rate orders filed by Union Gas and Enbridge that they have interpreted the Board's decision to mean that there is no requirement upon them to provide the additional deliverability in a manner that would give meaning to the allocation methodology agreed to in the settlement agreements.

The grounds for the request for an extension of time to bring this motion are:

1. APPrO believes in the importance of presenting a consensus view on behalf of generators, something it worked hard to achieve in the main proceeding. The Board's processes benefit from such an approach.

2. The Board has made an important decision in a proceeding that was established to address the needs of generators. APPrO and its members have required some time to develop a response to the Board's decision and have worked diligently to do so.
3. Despite its best efforts, APPrO was not in a position to file a motion by December 18, 2006, the date set by the Board.
4. The additional time requested by APPrO amounts to three days and so no party will be prejudiced by the extension of time requested by APPrO.

The following documentary evidence will be relied upon for this motion:

1. Those portions of the Record relating to the need for short-notice intra-day services, including the evidence presented by APPrO, the evidence provided by the witnesses called by the utilities, and the settlement agreements entered into by the utilities.
2. Such further evidence as counsel may advise and the Board permit.

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Ogilvy Renault
Suite 3800
Royal Bank Plaza, South Tower
200 Bay Street
Toronto ON
M5J 2Z4

Patrick Moran

Tel: 416-216-2989
Fax: 416-216-3930

Email: pmoran@ogilvyrenault.com

TO: All Parties in EB-2005-0551