ONTARIO ENERGY BOARD

FILE NO.: **EB-2007-0606**

VOLUME: **Motion Hearing**

DATE: **November 6, 2007**

BEFORE:	**Gordon Kaiser**	**Presiding Member and Vice Chair**
	Paul Sommerville	**Member**
	Cynthia Chaplin	**Member**

DECISION

MR. KAISER: The Board this morning heard a motion by Union Gas filed on September 21st seeking two Board Orders. First, an order declaring that Union's rates for the distribution, transmission and storage of natural gas would become interim effective January 1st, 2008. Secondly, an order implementing new interim rates effective January 1st, 2008 in accordance with Exhibit D, tab 2 of Union's prefiled evidence in this proceeding.

The rate increase at issue is approximately $15 a year on the average consumer bill for a M1 customer which is currently $350. That would rise to $365 on an annualized basis.

Union concedes that this is not a hardship case and it is not seeking an interim rate increase due to financial distress. The company argues that the sole issue at play here is the avoidance of having to collect significant retroactive charges later in the year.

There are six consumer groups represented in this proceeding and all oppose Union in this application to varying degrees. The intervenors all agree that retroactive charges are to be avoided. However, they all argue that this goal must be balanced against the interests of ensuring that all rates receive full and fair consideration of the arguments and evidence of all of the parties.

The intervenors argue that in order to strike an appropriate balance, the Board should approve by way of interim rates only those matters that have been previously approved by the Board or are uncontested. There are differences between them, however and I will come to those in a moment.

VECC points out, as others do, that the choice is between under-collecting or over-collecting, and that under-collecting, in their view, is to be preferred. In part because the Board can take steps later in this proceeding to mitigate those amounts, i.e., spreading those amounts over longer periods, should that become necessary.

Kitchener supports this as does SEC. Kitchener says that the Board should apply the balance of convenience test and in applying that test the Board should move towards under-collecting as opposed to over-collecting. As Mr. Ryder says, a bird in the hand is something not to be dismissed lightly.

The amounts at issue are set out in Schedule A of Mr. Thompson's factum which reflects Exhibit D, tab 3, schedule 3. The total amount of the change, if Union's application were granted in full, adds up to $21.9 million. That is made up of five components; the storage premium is $3.7 million. The price cap is $8.7 million. Weather normalization is $6.2 million. Incremental DSM is $1.7 million. And GDAR is $1.6 million.

IGUA and others would allow an interim increase totalling some $7 million, which reflects amounts for the

storage premium, incremental DSM and the GDAR.

Kitchener agrees with the GDAR and incremental DSM, but does not believe the storage premium should be granted by way of interim rate increase at this time. That's because there is a petition filed by Kitchener and others to the provincial Cabinet which has yet to be ruled on.

The DSM and GDAR amounts alone would yield an interim rate increase of approximately $3.3 million.

There have been various arguments regarding the degree of analysis and fact finding the Board should engage in at this point. At one end of the spectrum, Mr. Penny says that the Board is not expected to make any fact finding or decision on the merits at this point, it being understood this is an interim decision which is all subject to change ultimately when the final decision is made.

However, Mr. Penny also concedes that he should establish a prima facie case. He says a prima facie case simply means that if his evidence is accepted, it would yield the interim rate increase he is requesting.

Mr. Thompson has taken that a step further. With respect to the price cap and weather normalization, he argued that a prima facie case is not made out on the evidence. He refers to the evidence of Dr. Loube, that there is untested evidence with respect to the components of the PCI adjustment factor for Union, and it is capable of supporting findings that the sum of all components of the X factor will be more than sufficient to offset the currently forecasted rate of inflation.

The Board is not of the view that we need to engage in a detailed fact-finding analysis at this point. The evidence is untested. Everyone recognizes that. We are mindful of the real issue here. It is not an issue of hardship. It is an issue of what is in the best interests of the consumers, or the customers. The customers are represented here by six different groups. And to a man, they all argue that under-collection is the preferred route.

VECC has raised a concern as have others, that any decision at this point would prejudge the outcome of the settlement process or prejudge the Board's ultimate decision. We do not agree with that. We do not think this decision, in any way, prejudges the Board's position on any of these matters.

But weighing all of the interests, we have come to the conclusion that we should accept the position outlined by Mr. Thompson. That is to say, the interim rate increase should be allowed to the extent of the $7 million, as set out in Schedule A of his factum.

Any questions?

MR. POCH: Mr. Chairman, just a point. I believe -- and correct me if I'm wrong, Mr. Thompson -- that would -- of necessity right now doesn't include LRAM adjustment, because I presume it is not calculated yet. I will perhaps wait for my friends at Union. And the Board may simply want to word the -- to accommodate that, once known.

MR. KAISER: Is that in there, Mr. Thompson?

MR. POCH: I was observing, I believe the seven of necessity doesn't include the LRAM amount because it's not yet specified. Is that correct? I'm not sure.

MR. KAISER: Mr. Thompson.

MR. THOMPSON: The application was based on the Exhibit D, tab 3, schedule 3. [inaudible]

MS. CHAPLIN: Microphone.

MR. THOMPSON: Sorry. I don't know if LRAM is in or out, or what my friend is even talking about, quite frankly. But I don't know if Union was asking any special relief with respect to that.

MR. PENNY: From our perspective is it is immaterial in the LRAM. It doesn't matter to us. Some of it is up. Some of it is down.

MR. KAISER: Ms. Chaplin has asked me to point out that we are accepting the implementation of the new M1 and new M2 rate classes.

MR. PENNY: Thank you.

MR. KAISER: Any further questions? Thank you, gentlemen.

MR. PENNY: Thank you.

--- Whereupon the hearing adjourned at 12:15 p.m.