



EB-2007-0615
EB-2007-0606

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

AND IN THE MATTER OF an Application by Enbridge Gas
Distribution Inc. for an Order or Orders approving or fixing
rates for the distribution, transmission and storage of natural
gas, effective January 1, 2008.;

AND IN THE MATTER OF an Application by Union Gas
Limited for an Order or Orders approving or fixing a multi-
year incentive rate mechanism to determine rates for the
regulated distribution, transmission and storage of natural
gas, effective January 1, 2008;

AND IN THE MATTER OF a combined proceeding Board
pursuant to section 21(1) of the *Ontario Energy Board Act*
1998.

BEFORE: Gordon Kaiser
Presiding Member and Vice Chair

Paul Sommerville
Member

Cynthia Chaplin
Member

DECISION

March 11, 2008

Background

Enbridge Gas Distribution Inc. (“Enbridge”) filed an Application on May 11, 2007 under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Sched. B, as amended, for an order of the Ontario Energy Board approving or fixing rates for the distribution, transmission and storage of natural gas, effective January 1, 2008.

Union Gas Limited (“Union”) filed an Application on May 11, 2007 under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Sched. B, as amended, for an order of the Ontario Energy Board approving or fixing a multi-year incentive rate mechanism to determine rates for the regulated distribution, transmission and storage of natural gas, effective January 1, 2008.

Union and Enbridge each filed Settlement agreements which addressed most of the components of an incentive regulation (“IR”) plan (dated January 14, 2008 and February 4, 2008, respectively). The Board, by decision dated January 17, 2008, accepted the Union settlement agreement, and by decision dated February 11, 2008, accepted the Enbridge settlement agreement. In both cases, however, the issue of how customer additions should be treated was unsettled.

Green Energy Coalition (“GEC”) and Pollution Probe took the position that IR reduces the incentives for Union and Enbridge to invest in new customer additions compared to cost-of-service regulation. This reduced incentive arises because even though customer additions are profitable in the long-term, customer additions often result in short-term revenue deficiencies. These revenue deficiencies arise when the revenues a customer contributes in the early years after the connection are lower than the costs of having added that customer to the distribution system. As a result, GEC and Pollution Probe were of the view that customer additions should be treated as a Y factor in the IR plan. This proposal would have the affect of raising rates to all customers, although by a relatively small amount.

The Proceeding

On February 1, 2008, the Board heard oral testimony on the matter, including Union’s and Enbridge’s Argument-in-Chief opposing any adjustment to the IR plan for customer additions. The Board received a joint submission from the Building Owners and Managers Association of the Greater Toronto Area (“BOMA”), the London Property Management Association (“LPMA”), and the Wholesale Gas Service Purchasers Group (“WGSPG”). The Board also received submissions from Energy Probe and the

Industrial Gas Users Association (“IGUA”). Each of these parties supported the position of Union and Enbridge.

On February 6, 2008 GEC and Pollution Probe filed written argument. Union and Enbridge filed reply argument on February 8, 2008.

The Proposals

Pollution Probe proposed that the annual revenue deficiencies associated with new customer additions for Enbridge and Union should be treated as a Y factor. In other words, the annual revenue deficiency associated with customer attachments would be treated as a cost pass-through.

GEC proposed an annual incentive/penalty scheme based on a target number of customer additions as a percentage of Ontario housing starts as follows:

GEC Proposal for Treatment of Customer Additions

Natural Gas Utility	Incentive/Penalty	Target or Pivot
Enbridge	\$141 per customer addition	66.2% of Ontario housing starts (or alternatively, 102.6% of housing starts in Enbridge's franchise area)
Union	\$141 per customer addition	35.4% of Ontario housing starts

The targets or pivot points were based on the five year average of the relationship between customer additions for Union and Enbridge and Ontario housing starts for the years 2002-2006. GEC also proposed that the incentive/penalty could be paid or recovered in the following year or at rebasing for simplicity.

Board Findings

The Board finds that the evidence does not support the conclusion that the new IR framework for Union and Enbridge will create a customer addition disincentive which requires an incremental rate adjustment.

Enbridge and Union testified that their IR plans are sufficient to support their capital investment programs. In particular, witnesses for each company stated that when they have to make capital budget reductions, revenue-generating capital investments such as customer additions is the last category to be cut. In the companies' view, there are several reasons for this:

1. Attaching customers provides the companies with a long-term revenue stream. Both companies noted that reducing customer additions would reduce the first-year revenue deficiency impact, however, they would also be giving up future revenue stream that would contribute to their earnings.
2. The core business of the companies is to provide natural gas services to customers; the companies have an obligation to serve and the business is expanded by new customer additions.
3. If the companies fail to attach new customers then these customers will use some other energy source and will be lost until that customer replaces its equipment, which could be fifteen years or more.

The Board acknowledges that there are short-term revenue deficiencies from customer additions in the early years after connection, because the costs of adding these customers are greater than the revenues generated by these customers. However, there are also revenue sufficiencies generated by customers that were connected in previous years because the costs associated with customers added in the past are more than offset by the revenues they generate. As Union and Enbridge argued customer additions from previous years could more than offset the revenue deficiencies in any given year.

GEC and Pollution Probe both advanced arguments that the disincentive could be observed in past results for Union.

GEC argued that a drop in Union's customer additions in 2001 was linked to the ratemaking framework in that year. However, Union in its reply argument stated two possible reasons for this change: 1) the manufacturing sector in southwestern Ontario experienced a sharp decline and 2) a steep increase in its commodity charges. Also, Union stated that it had experienced a fairly constant level of customer additions from 2000 to 2006 with only three cost-of-service applications in 1999, 2004 and 2007. The

Board concludes that there is no evidence to conclude that the level of customer additions in 2001 was lower than it would otherwise have been as a result of Union's ratemaking framework at the time.

Pollution Probe claimed that the change in Union's rolling profitability index between 2002 and 2003 (from 1.29 to 1.49) was the result of Union rationing its capital. Union in its reply argument stated that the year 2003 (along with 2004) represented the high water mark of annual customer additions in the seven year period from 2000 to 2006. The Board concludes that there is no evidence to support the conclusion that Union rationed its capital available for customer additions during the years in question.

The Board concludes that the underlying and long term incentives to make customer additions (a company's incentive to seek long-term revenue and business growth, the risk of lost opportunities if a customer is not added when equipment choices are being made, and the company's obligation to serve customers) are greater than the potential disincentive to make customer additions under an IR framework.

In addition, the evidence regarding Union and Enbridge's specific plans does not support the conclusion that there is a substantive disincentive in any event. For Union, the evidence shows a modest revenue sufficiency over the five year IR plan term (Exhibit C20.5 Updated). Enbridge's IR plan specifically recognizes the number of customers because the forecast of customer additions will be part of each year's revenue per customer cap determination.

The Board concludes that no IR plan adjustment mechanism related to customer additions is required. The result is that the approved IR plans will not be adjusted and there will be no additional impact on customers arising from the resolution of this issue.

Cost Claims

The Board in its Decision on Motion dated October 15, 2007 allowed that for the purposes of the EB-2007-0606/0615 proceeding eligible intervenors could claim costs on a phased basis. Phase 1 comprised costs incurred to October 19, 2007, being the filing date for intervenor evidence. In this regard the Board issued a Decision and Order on February 7, 2008.

The Decision on Motion indicated that that phase 2 would pertain to costs incurred between the filing date for intervenor evidence and the end of the oral hearing and that

phase 3 would pertain to costs incurred between the end of the oral hearing and the completion of argument.

With the issuance of this Decision, phases 2 and 3 are completed for all issues, except for the unsettled issues of Risk Management and the Treatment of Taxes.

Eligible intervenors will be afforded the opportunity to file their claims for costs incurred to February 8, 2008, including costs related to the unsettled issues. Eligible intervenors also have the option to file a single claim after the completion of argument for the unsettled issues at which time the Board will set the filing particulars.

Accordingly, eligible intervenors claiming costs incurred to February 8, 2008 are to file their claims by April 2, 2008 in accordance with the Board's Practice Direction on Cost Awards. Enbridge and Union shall have until 14 calendar days from the date the cost claim was filed to object to any aspect of the costs claimed. The party claiming costs shall have 7 calendar days from the date of filing of the objections to file a reply. Filings are to be in the form of two hardcopies and one electronic copy in searchable PDF format at boardsec@oeb.gov.on.ca and copy Union Gas Limited and Enbridge Gas Distribution Inc.

DATED at Toronto, March 11, 2008.

Original signed by

Gordon Kaiser
Presiding Member and Vice Chair

Original signed by

Paul Sommerville
Member

Original signed by

Cynthia Chaplin
Member