

RP-2000-0078

UNION GAS

SETTLEMENT AGREEMENT

January 25, 2002

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List of Appendices

Appendix A – Disaggregated Rate M2 General Service rate schedule updated for 2000 Board approved rates filed as RP-2000-0078, Exhibit B, Tab 3, Appendix C, Updated filed in response to C1.5 Updated.

Appendix B – Rate M2 General Service rate schedule effective 2000-01-01

Appendix C - Letter of Marcel Reghelini dated September 18, 2001

Letter of Michael Janigan dated September 13, 2001

Letter of Marcel Reghelini dated September 4, 2001

AGREEMENT AMONG INTERESTED PARTIES

This Alternative Dispute Resolution Agreement (“Agreement”) is for the consideration of the Ontario Energy Board (“the Board”) in its determination, under Docket No. RP-2000-0078, of the further unbundling of Union’s rates to provide access to unbundled services by small-volume customers served by gas marketers, agents or brokers, and for appropriate accounting or interim orders. The Agreement identifies all issues identified on the Board’s Issues List (procedural order No. 2 dated June 6, 2001) even if no agreement has been reached. The Agreement is supported by the evidence filed in RP-2000-0078. As set out more fully below, very few of the items on the Issues List were settled.

As noted above, the agreement deals with all of the issues on the Board’s Issues List and each issue falls within one of the following categories:

1. an issue for which there is complete settlement, because the Company and all of the other parties who discussed the issue agree with the settlement;
2. an issue for which there is no settlement but on which all parties have agreed on a process for the Board’s consideration of the issue;
3. an issue for which there is no settlement, because the Company and the other parties who discussed the issue are unable to reach an agreement to settle the issue.

It is acknowledged and agreed that this Agreement will be null and void if the Board does not, prior to the commencement of the hearing of the enabling unbundling evidence, accept the Agreement in its entirety. The parties encourage the Board to rule on this Agreement as soon as practicable.

It is further acknowledged and agreed that parties will not withdraw from this Agreement under any circumstances except as provided under Rule 40 of the Ontario Energy Board’s Rules of Practice and Procedure. It is also acknowledged and agreed that this Agreement is without prejudice to parties re-examining these issues in a future proceeding.

The evidence supporting the agreement on each issue is set out in each section of the Agreement. Abbreviations will be used when identifying exhibit references. For example, Exhibit B, Tab 4, Schedule 1, Page 1 will be referred to as B/T4/S1/p1. There are Appendices to the Agreement which provide further evidentiary support. The parties agree that this Agreement and the Appendices form part of the record in the proceeding.

In the Agreement, “customer” refers to an in-franchise customer. In-franchise customers include small volume users (ie. individual residential, commercial customers), wholesale and large

industrial, commercial and institutional customers. “Customer” also refers to Retail Energy Marketers (REMs) that supply gas to end users.

The following parties participated in the Settlement Conference: Union Gas Limited (“Union”), Consumers’ Association of Canada (“CAC”), Coalition for Efficient Energy Distribution (“CEED”), City of Kitchener, Direct Energy, Enbridge Consumers Gas (“Enbridge”), HVAC Coalition (“HVAC”), Industrial Gas Users Association (“IGUA”), London Property Management Association (“LPMA”), TransCanada PipeLines (“TCPL”), Vulnerable Energy Consumers Coalition (“VECC”), and Wholesale Gas Service Purchasers Group (“WGSPG”).

With the consent of all parties the Convergence Group participated pending the disposition of its application for late intervenor status.

The role adopted by Board Staff in Settlement Conferences is set out on page 5 of the Board’s Settlement Conference Guidelines. As noted in that document, “Board Staff will attend the Settlement Conference to ensure that all relevant information is brought forward and considered in negotiations. They will present options for the consideration of the parties and will offer advice on the strengths and weaknesses of the parties’ proposals. Staff will endeavour to help the parties reach a settlement but will not sign the settlement proposal”. Board Staff takes no position on any issue and as a result is not a party to this Agreement.

The parties agree that all positions, information, documents, negotiations and discussion of any kind whatsoever which took place or were exchanged during the Settlement Conference (the “Settlement Negotiations”) are strictly confidential and without prejudice. Further, Board Staff acknowledge that they will not provide any information on the Settlement Negotiations to the Board or any member of Board Staff other than what may be disclosed in the Agreement itself.

1. PROPOSED RATE SCHEDULE CHANGES

1.1 Rates 01 and 10

1.1.1 Disaggregation of Storage Costs from Delivery Costs

1.1.2 Introduction of S1 Rate Schedule

All parties with the exception of CEED, the City of Kitchener and Direct Energy accept Union's proposal on these issues.

1.2 Rate M2

1.2.1 Disaggregation of Storage Costs from Delivery Costs

1.2.2 Modification to U2 Rate

All parties with the exception of CEED, the City of Kitchener and Direct Energy accept Union's proposal on these issues.

CEED, the City of Kitchener and Direct Energy do not agree because Union's proposal does not address the outstanding directive of the Board in E.B.R.O. 499 (and addressed by Union in RP-1999-0017) for Union to address load balancing/flexibility costs, and will ask the Board to condition its approval of Union's proposal with a requirement that Union present a proposal to address this matter in the customer review process for the year 2003.

Evidence Reference:

1. E.B.R.O. 499 Decision with Reasons, para. 3.1.59
2. RP-1999-0017, Exhibit A, Tab 5, pp. 1-4

1.3 Bill Presentation

In order to address concerns about potential customer confusion and increased customer care costs arising from the proposed further disaggregation of the bill, Union has agreed to assess the desirability of conducting focus groups regarding the communications plan outlined in the evidence. Union has also agreed to review its conclusions with and seek input from CAC and VECC.

If as a result of that meeting it is agreed to proceed with focus groups, the costs of doing so will flow to the CCIP Deferral Account and be recovered from small volume customers. Union also agrees to report on the results of any focus groups undertaken in RP-2000-0078.

On this basis all parties accept Union's proposal with respect to item 1.3.

Evidence References:

1. B/T1/p2-3, Purpose of Application
2. B/T3/p1-8, Rate Schedule Changes Required To Provide Retail Energy Marketers Access To The New Unbundled Service
3. B/T3/App.A, Revised Schedule 'A' to the Rate 01 and Rate 10 rate schedules reflecting the proposed disaggregation
4. B/T3/App.B, Schedule detailing how the proposed disaggregation of Rate 01 and Rate 10 bundled transportation rates
5. B/T3/App.C, M2 rate schedule reflecting proposed disaggregation
6. B/T3/App.D, update schedule from RP-1999-0017
7. B/T3/App.E, Revised Rate 01 and Rate 10 rate schedules and the proposed new S1 rate schedule
8. B/T3/App.F, Revised U2 rate schedule
9. C1.4; C1.5; C1.6; C3.1, C3.5, C3.6, C4.27, C14.2, C14.3, C15.3, C15.4, C22.12, C22.13

2. RATE PAYER IMPACTS

2.1 Verification of Impacts of Rate Changes on System Customers

2.2 Impacts on Non-System Customers

Union has confirmed (as shown in Appendix A and B to this agreement) that the disaggregation of rates proposed in this application does not result in any change in rate levels to system customers. Further, except with respect to the recovery of the \$400,000 cost of such disaggregation, which will be dealt with in connection with item 3 on the Issues List, there is no rate impact on system customers or customers that continue to be served under bundled direct purchase arrangements from the proposed disaggregation of the rates.

The attached Appendix A to this Agreement, is the disaggregated rate schedule for M2 customers based on approved 2000 rates as filed in RP-2000-0078. Appendix B is the current approved bundled rate schedule for M2 customers. As can be seen in these schedules, when the storage and delivery charges are added on the disaggregated rate schedule (Appendix A) the delivery charges are as on the previously aggregated schedule (Appendix B).

On this basis, all parties agree that there is no issue with respect to this item.

Evidence References:

1. B/T2, Enabling Retail Energy Marketers Access To The New Unbundled Service
2. C1.7, C15.2, E22.4, E22.6, E22.11, E22.14

3. SYSTEM AND PROCESS CHANGES

3.1 Scope and Substance of Union's Proposal

3.2 One Time and Ongoing Cost Changes

The forecast and actual amounts of the one-time costs in RP-1999-0017 (\$7.5 million) and RP-2000-0078 (\$8.2 million) are filed in Exhibit C1.15. The quantum and prudence of a portion of those costs (which total \$15.7 million) are currently the subject of review in the RP-2001-0029 Customer Review Process. Some explanation of the amounts making up the forecast costs, is also contained in the evidence in this case. At the time it was filed, Union's evidence contemplated that a portion of these amounts would be the subject of a further customer review process in the future. In the current circumstances, all parties agree that the most effective and efficient disposition of the quantum and prudence is in one proceeding, namely this one. They therefore agree that the Board should review and determine the quantum and prudence of the \$15.7 million in this hearing. In this regard, it is agreed that interrogatory responses and prefiled evidence related to these issues from the RP-2001-0029 Customer Review Process should be filed as evidence in this case.

Parties are encouraged to give Union advance notice of any further information they require pertaining to this matter before the hearing commences on February 18, 2002. Union will respond to these questions at the Hearing, and if possible before the Hearing commences.

3.3 Deferral Account Treatment

3.3.1 Appropriateness of Recovery from Customers

3.3.2 Appropriateness of Allocation by Rate Class

These issues were included on the Issues List prior to the release of the Board's RP-1999-0017 Decision. Union has interpreted the subsequently released RP-1999-0017 Decision as deciding the method of allocation, and hence recovery (subject to issue 3.2) of the Incremental Unbundling Costs Deferral Account. Other parties contend that the Board's decision has not decided this issue in respect of either of the costs identified in RP-1999-0017 (\$7.5 million) or those identified in RP-2000-0078 (\$8.2 million). Correspondence addressing this issue is included in the attached Appendix C. All parties have agreed to ask the Board to hear argument on this issue on February 1, 2002.

Evidence References:

1. B/T2, Enabling Retail Energy Marketers Access To The New Unbundled Service
2. B/T6, Deferral Account Treatment and Disposition
3. A/T2, application para.4
4. RP-2000-0078, B/T1, pg.2
5. B/T3, pg. 6, Rate Schedule Changes Required To Provide Retail Energy Marketers Access To The New Unbundled Service
6. B/T6, pg.2, Deferral Account treatment and Disposition
7. RP-2000-0078, B/T2, pg.5
8. B/T4, Retail Billing Options
9. B/T1, pg.7, Purpose of Application
10. C1.8, C1.9, C1.10, C1.11, C1.15, C3.3, C3.4, C3.26, C4.1, C4.2, C4.3, C4.4, C4.5, C4.6, C4.7, C4.8, C4.9, C4.10, C4.11, C4.12, C4.13, C4.14, C4.15, C4.16, C4.17, C4.18, C4.19, C4.20, C4.21, C4.22, C4.23, C4.24, C4.25, C4.26, C4.53, C4.54, C4.55, C14.1, C14.6, C14.7, C15.6, C22.1, C22.5, C22.6, C22.7, C22.8, C22.9, C22.10, C22.10, C22.11, C22.24, C22.25, C22.26, C23.2, C23.3, C23.4, C23.5, C23.6, C23.7, C23.8, C23.9

4. COMMUNICATION/EDUCATION WITH RESPECT TO PROPOSED CHANGES

4.1 Scope and Substance of Union’s Proposal

4.2 One Time Costs

4.3 Deferral Account Treatment

4.3.1 Appropriateness of Recovery from Customers

4.3.2 Appropriateness of Allocation by Rate Class

There is no agreement on this issue.

Evidence References:

1. B/T5, Communication Plan For “Unbundling Access”
2. B/T6, Deferral Account Treatment And Disposition
3. B/T4, og.4, Retail Billing Options
4. RP-1999-0017, Decision with Reasons para. 4.79
5. C1.12, C1.13, C1.14, C1.15, C1.16, C1.17, C1.18, C1.19, C1.20, C1.21, C1.24, C1.25, C3.24, C3.25, C3.27, C4.45, C4.46, C4.47, C4.48, C4.49, C4.50, C4.51, C4.52, C15.7, C22.21, C22.22, C22.23, C22.24, C22.25, C22.26, C23.1

5. EFFICIENCIES RESULTING FROM UNION’S PROPOSAL AND ASSOCIATED REVENUE REQUIREMENT IMPACTS

There is no agreement on this issue.

Evidence References:

1. B/T2, Enabling Retail Energy Marketers Access To The New Unbundled Service
2. C12.1

6. BILLING

6.1 Union’s Proposal – Split Billing

6.2 Other Options – Retailer Consolidated Billing

6.2.1 Board’s Jurisdiction (argument only)

6.3 Continuation and Enhancement of ABC Service

6.4 Customer Relationship and Customer Care Function Impacts

6.5 Components and Calculation of Billing Fees and Credits

6.6 Code Requirements

There is no agreement on this issue.

Evidence References:

1. B/T1, Purpose of Application
2. B/T2, Enabling Retail Energy Marketers Access To The New Unbundled Service
3. B/T4, Retail Billing Options
4. B/T4/App.A, Summary of Union Gas Bill Inserts
5. B/T5, Communication Plan For “Unbundling Access”
6. B/T6, Deferral Account Treatment And Disposition
7. B/T7, The Economic Costs And Benefits Of Gas Marketer Billing, Richard Schwindt
8. B/T1/App.A, pg.5, History Of Deregulated Natural Gas Retail Service
9. C1.22, C1.23, C1.26, C1.27, C1.28, C1.29, C1.30, C1.31, C1.32, C1.33, C1.34, C1.35, C1.37, C1.38, C1.39, C1.40, C1.41, C1.42, C1.43, C1.44, C1.45, C1.47, C1.48, C1.49, C1.50, C1.51, C1.52, C1.53, C1.54, C1.55, C1.57, C1.58, C1.59, C1.60, C1.61, C1.62, C1.63, C1.64, C1.65, C1.66, C1.67, C1.68, C3.2, C3.13, C3.14, C3.15, C3.16, C3.17, C3.18, C3.19, C3.20, C3.21, C3.22, C3.23, C4.28, C4.29, C4.30, C4.31, C4.32, C4.33, C4.34, C4.35, C4.36, C4.37, C4.38, C4.39, C4.40, C4.41, C4.42, C4.43, C4.44, C12.2, C12.3, C12.4, C12.5, C12.6, C12.7, C12.8, C12.9, C12.10, C14.4, C14.5, C15.1, C15.5, C16.1, C16.2, C16.3, C16.4, C16.5, C16.6, C16.7, C16.8, C16.9, C16.10, C22.4, C22.5, C22.14, C22.15, C22.16, C22.17, C22.18, C22.19, C22.20
10. Direct evidence of Michael J. Trebilcock
11. Direct evidence of North Star Research Partners
12. Direct Evidence of John D. Todd

7. IMPLEMENTATION OF UNION’S PROPOSAL

There is no agreement on this issue.

8. IMPACT OF RP-1999-0017 DECISION

This issue was placed on the Issues List because the RP-1999-0017 Decision had not been issued prior to the Issues Day for this Application. Other than as set out elsewhere in this agreement, all Parties agree that there is no need for further Board findings on this issue.