

RP-2003-0063

UNION GAS

SETTLEMENT AGREEMENT

September 19, 2003

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ADR AGREEMENT

This Alternative Dispute Resolution Agreement (“Agreement”) is for the consideration of the Ontario Energy Board (“the Board”) in its determination, under Docket No. RP-2003-0063, of calendar 2004 rates for Union Gas Limited (“Union”). Attached as Appendix A to the Agreement is the Board’s issues list which was issued through procedural order number 2 dated July 16, 2003. The Agreement identifies the issues on the Board’s list for which agreement has been reached. The Agreement is supported by the evidence filed in RP-2003-0063.

Each of the issues identified below falls within one of the following two categories:

1. an issue for which there is complete settlement, because Union and all of the other parties who discussed the issue either agree with the settlement or take no position,
2. an issue for which there is partial settlement, agreed to by the majority of parties but one or more parties do not agree with the settlement.

Three issues were settled by negotiation between the parties:

- Issue D1.6 (GRAM) was settled by agreement that the Company would file quarterly GRAM evidence as detailed later in the Agreement. With this agreement, the intervenors agreed not to oppose the Company’s proposals on this issue.
- Issue D8 (DSM) was partially settled by negotiations between the Company and the intervenors.
- Issue G8 (Compression Cost Allocation) was settled when the Company agreed to file corrected evidence. The parties agreed not to oppose the Company’s proposals on this issue, as corrected.

The other ten issues listed in this Settlement Proposal were “settled” by meetings between the intervenors in which they mutually agreed to either reduce the scope of the issue or not to oppose the Company’s proposals on these issues. The Company was not involved in these discussions. The remaining issues listed on the Board-approved issues list have not been settled.

It is acknowledged and agreed that none of the completely settled provisions of this Agreement are severable. If the Board does not, prior to the commencement of the hearing of the evidence in RP-2003-0063, accept the completely settled provisions of the Agreement in its entirety, there is no Agreement (unless the parties agree that any portion of the Agreement the Board does accept may continue as a valid Agreement).

It is further acknowledged and agreed that parties will not withdraw from this Agreement under any circumstances except as provided under Rule 32.05 of the Ontario Energy Board’s Rules of Practice and Procedure.

For greater certainty, the parties further acknowledge and agree that these conditions apply to settled issues in respect of which they are shown as taking no position.

It is also acknowledged and agreed that this Agreement is without prejudice to parties re-examining these issues in a future proceeding.

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 are strictly confidential and without prejudice, and inadmissible unless relevant to the resolution of any ambiguity that subsequently arises with respect to the interpretation of any provision of this Agreement.

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 who participate in the settlement conference are bound by the same confidentiality standards that apply to parties to the proceeding." Board Staff is not a party to this Agreement.

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 B1, Tab 4, Schedule 1, Page 1 will be referred to as B1/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.

By Procedural Order No. 3 dated August 18, 2003, the Board scheduled a Settlement Conference to commence September 8, 2003. The Settlement Conference was duly convened, in accordance with Procedural Order No. 3, with Ms. Cindy Dymond as facilitator. The Settlement Conference proceeded until September 17, 2003.

The following parties participated in the Settlement Conference:

1. Canadian Manufacturers and Exporters ("CME")
2. Consumers' Association of Canada ("CAC")
3. City of Kitchener ("CCK")
4. Coalition for Efficient Energy Distribution ("CEED")
5. Distributed Energy Association ("DEA")
6. ECNG Inc. ("ECNG")
7. Enbridge Gas Distribution Inc. ("EGD")
8. Energy Probe
9. Green Energy Coalition ("GEC")
10. Heating, Ventilation and Air Conditioning Contractors Coalition Inc. ("HVAC")
11. Industrial Gas Users Association ("IGUA")
12. London Property Management Association ("LPMA")
13. Ontario Association of Physical Plant Administrators ("OAPPA")
14. Ontario Association of School Business Officials ("OASBO")
15. Ontario Energy Savings Corporation ("OESC")

16. Ontario Public School Boards' Association ("OPSBA")
17. Ontario Power Generation ("OPG")
18. Pollution Probe
19. Superior Energy Management ("SEM")
20. The Municipality of the City of Timmins ("Timmins")
21. TransCanada PipeLines ("TCPL")
22. Union Energy Inc.
23. Vulnerable Energy Consumers Coalition ("VECC")
24. Wholesale Gas Services Purchasers Group ("WGSPG")

A4 – APPROPRIATENESS OF CAPITAL BUDGETING PROCESS AND ECONOMIC FEASIBILITY TESTS, (COMPLIANCE WITH EBO 188)

(Complete Settlement)

It is agreed that the scope of the disputed portion of this issue is limited to the matters covered by issues B1 and B2 and the capitalization of operating and maintenance (O&M) expenses (principally addressed through issue D2.1).

The following parties agree with the settlement of this issue: CME; CAC; Energy Probe; IGUA; LPMA; OASBO; OPSBA; WGSPG.

The following parties take no position on this issue: CCK; DEA; ECNG; EGD; GEC; HVAC; OAPPA; OPG; Pollution Probe; TCPL.

Evidence References:

1. A/T13
2. J1.166, J7.4, J7.5, J7.6, J7.7, J12.1, J17.9, J18.5, J26.3, J26.4, J26.5, J26.6, J26.17, J26.18, J26.19, J34.10

B3 – DISTRIBUTION NEW BUSINESS GUIDELINES: COMPLIANCE WITH EBO 188 DECISION INCLUDING APPROPRIATENESS OF TERMS AND CONDITIONS, AID TO CONSTRUCT, CALCULATION OF CHARGES, POSSIBILITY OF TOTAL CHARGES RESULTING IN P/I > 1.0; MARKET CHARGE CALCULATION, RELATIONSHIP TO AID TO CONSTRUCT, MECHANISM TO ADJUST RATE BASE AS CHARGES COLLECTED OVER TIME.

(Complete Settlement)

Except for matters falling within the ambit of issue 3.1, it is agreed that there are no longer any matters in dispute with regard to this issue.

The following parties agree with the settlement of this issue: CME; CAC; Energy Probe; IGUA; LPMA; OASBO; VECC; WGSPG.

The following parties take no position on this issue: CCK; DEA; ECNG; EGD; GEC; HVAC; OAPPA; OPSBA; OPG; Pollution Probe; TCPL.

Evidence References:

1. B/T3 Written Direct of Mr. Shervill
2. B5/T5/S1
3. J1.31, J1.32, J1.33, J1.34, J1.35, J7.8, J7.9, J7.10, J8.1, J8.2, J18.19, J18.21, J18.39, J20.4, J26.15, J34.8, J34.9, J34.10, J34.25

C9 - ABC AND GAS MOLECULE SALES ACTIVITIES

Union is seeking the Board's approval to continue to provide Union's Agency Billing and Collection ("ABC") service to gas vendors and approval to continue the sale of gas molecules to consumers not purchasing sales service from a gas vendor.

ABC

(No Settlement)

There was no settlement concerning the continuation of ABC service.

Gas Molecule

(Complete Settlement)

The parties agree that Union's proposal to continue the sale of gas molecules to consumers not purchasing commodity from a gas vendor should be accepted. Union acknowledges that the approval agreed to in respect of the continuation of gas molecule sales concerns gas molecule sales generally and that the discretionary gas supply service identified as issue H6 remains a live issue in the proceeding.

The following parties agree with the settlement of this issue: CME; CAC; Energy Probe; IGUA; LPMA; OASBO; OPSBA; VECC; WGSPG.

The following parties take no position on this issue: CCK; CEED; DEA; ECNG; EGD; GEC; HVAC; OAPPA; OESC; OPG; Pollution Probe; SEM; TCPL; Union Energy.

Evidence References:

1. C1/T5 Written Direct evidence of Messrs. Rogers and Shervill.
2. C1/T5 Addendum Written Direct evidence of Mr. Andrews
3. J34.28, J34.65

D1.4 - UPSTREAM TRANSPORTATION

(Complete Settlement)

The parties agree to the continuation from November 1, 2003 to October 31, 2004 of the vertical slice methodology (which was approved by the Board in its RP-1999-0017 Decision With Reasons) for allocating Union's upstream transportation portfolio for sales service customers moving to direct purchase or an unbundled service.

The following parties agree with the settlement of this issue: CME; CAC; Energy Probe; IGUA; LPMA; OASBO; VECC.

The following parties take no position on this issue: CCK; CEED; DEA; ECNG; EGD; GEC; HVAC; OAPPA; OESC; OPSBA; OPG; Pollution Probe; SEM; TCPL; Union Energy; WGSPG.

Evidence References:

1. D1/T1 Written Direct Evidence of Messrs. Newbury, Isherwood, Dent and Simpson, dated May 2003, page 27; D1/T1 Addendum, June 30, 2003
2. J11.3, J24.10, J24.12

D1.6 - QUARTERLY RATE ADJUSTMENT MECHANISM ("QRAM")

(Complete Settlement)

It is agreed that Union will file a quarterly evidence package, including all components of a standard QRAM application, for implementation on January 1, April 1, July 1, and October 1 in each year, whether or not it is proposing a QRAM price change. In addition, it is agreed that Union may, in exceptional circumstances, file additional QRAM applications during the year. Union will provide the Board and intervenors with timely advance notice of each and every QRAM application. Applications based on exceptional circumstances may require more advance notice.

The parties agree that with the above agreement by Union, Union's proposal on this issue should be accepted.

The following parties agree with the settlement of this issue: CME; CAC; ECNG; Energy Probe; IGUA; LPMA; OASBO; OESC; SEM; Union Energy; VECC; WGSPG.

The following parties take no position on this issue: CCK; CEED; DEA; EGD; GEC; HVAC; OAPPA; OPSBA; OPG; Pollution Probe; TCPL.

Evidence References:

1. D1/T3 Written Direct Evidence of Messrs. Isherwood, Dent and Kitchen
2. H1/T2 Written Direct Evidence of Mr. Kitchen

3. J1.73, J1.75, J1.76, J7.21, J12.6, J12.7, J12.8, J12.6, J17.29, J18.87, J18.95, J18.189, J22.2, J24.13, J24.14, J26.46, J26.47, J34.109, J34.110, J34.111

D3 - 2003 DEPRECIATION STUDY

(Complete Settlement)

Union's 2003 Depreciation Study is found at D2/T2. This study provides the updated provision as compared to the provision using the 1999 version currently built into rates filed under EBRO 499 D2/T2. The updated rates result in a provision for depreciation and amortization of \$153.4 million.

The parties agree that Union's depreciation budget figure of \$153.4 million for 2004 should be accepted.

The following parties agree with the settlement of this issue: CAC; CME; Energy Probe; GEC; IGUA; LPMA; OASBO; OPSBA; VECC; WGSPG.

The following parties take no position on this issue: CCK; CEED; DEA; ECNG; EGD; GEC; HVAC; OAPPA; OESC; OPG; Pollution Probe; SEM; TCPL; Union Energy.

Evidence References:

1. D1/T7 Written Direct Evidence of Ms. Elliott and Ms. Brodie Lumley
2. J1.77, J1.82, J18.123, J26.78-79, J34.74-75

D6 - SERVICE QUALITY INDICATORS

(Complete Settlement)

In its evidence, Union outlined its plan to modify existing SQIs for 2004. For 2004, Union proposes to discontinue two of its existing SQI's; Pipeline System Integrity Surveys and Gas Utilization Infractions. Union also proposes to add a Meter Reading SQI for 2004.

The parties agree that Union's proposals on this issue should be accepted for the 2004 test year only. HVAC's agreement is conditional on Union's commitment to hold discussions with HVAC regarding the potential of developing new SQI(s) to meet HVAC's concerns regarding industry issues.

The following parties agree with the settlement of this issue: CME; CAC; Energy Probe; HVAC; IGUA; LPMA; OASBO; OPSBA; VECC.

The following parties take no position on this issue: CCK; CEED; DEA; ECNG; EGD; GEC; OAPPA; OESC; OPG; Pollution Probe; SEM; TCPL; Union Energy; WGSPG.

Evidence References:

1. D1/T11 Written Direct Evidence of Mr. Rietdyk
2. J1.92, J1.93, J15.1, J15.2, J15.3, J34.68, J34.69, J34.70, J34.71, J34.72, J34.73

D8 – DEMAND SIDE MANAGEMENT (“DSM”)

(Partial Settlement)

The intervenors and Union acknowledge that the Board has initiated a generic consultation process to examine DSM in the natural gas and electricity industries. As a result, the settlement of this issue is without prejudice to positions Union and the intervenors may take during the generic consultation process or future OEB proceedings. Further, this settlement is applicable to Union’s DSM program for 2004 only.

With the exception of Pollution Probe, the parties agree to the following:

2004 DSM Budget

The direct DSM expenditure budget for 2004 is \$4 million. This represents an increase of \$1.25 million over that included in Union’s evidence at D1/T13. The larger budget is required to pursue a greater level of savings and to conduct the research identified below. The amount to be spent on this research shall not exceed \$250,000.

2004 DSM Target

The 2004 target will be increased from the level included in Union’s evidence at D1/T13 by 51% (21 million m³) to 62 million m³ for 2004. The 2004 target will be further adjusted for the impact of any changes in assumptions that result from the 2002 LRAM evaluation process, except for the adjustment to reflect a 30% free rider rate on custom projects which has already been reflected in the 62 million m³ target.

All parties, including Pollution Probe, agree to the following:

Impact on 2004 Rates

The 2004 demand forecast will be reduced to reflect 50% of the increased 2004 DSM volume savings target and rates will be correspondingly adjusted upwards.

LRAM

The LRAM account will be continued in 2004 in the same manner as in previous years with one exception. The exception is that the variance between the actual volume savings achieved and the 2004 target savings included in rates (instead of total savings achieved) will be recorded in the LRAM account. This change is required because, to the extent that the 2004 volume forecast has been reduced for the impact of 2004 DSM activity the LRAM is

necessary only to record variances from the amount of DSM included in rates. Union and the intervenors agree that no LRAM evaluation process changes will apply to the year 2004.

Shared Savings Mechanism

There will be no shared savings mechanism.

DSMVA

For 2004 only, there will be an interest bearing DSM Variance Account (“DSMVA”) in which Union will record any over or under spending of the approved direct DSM expenditure budget. Despite the variance account, Union will not be entitled to any recovery of DSM expenditures above the approved direct DSM expenditure budget unless Union achieves the agreed 2004 DSM savings target. Amounts recorded in the DSMVA shall be actual over or under spending provided that over spending shall not exceed 20% of the approved direct DSM expenditure budget. Any excess over the approved direct DSM expenditure budget must be for incremental DSM volume savings that are cost effective as determined by the Total Resource Cost Test.

Research

Union will collaborate with Enbridge on market research to obtain information to be able to answer future questions of baseline and market potential. This collaboration will occur where the research outcomes and methods are satisfactory to both Union and Enbridge and where both companies agree on using a common research vendor, and on research scope. Union may do research independent of Enbridge where such independent research is needed to address issues specific to Union’s markets.

2002 LRAM Evaluation

Intervenors and Union agree to work on a best efforts basis to agree to a final 2002 LRAM balance prior to the start of the RP-2003-0063 hearing. Failing agreement the matter will be decided by the Board.

The parties agree that Union’s proposals on this issue should be accepted.

The following parties agree with the settlement of this issue: CME; CAC; DEA; Energy Probe; GEC; HVAC; IGUA; LPMA; OASBO; OPSBA; Pollution Probe; VECC.

The following parties take no position on this issue: CCK; CEED; ECNG; EGD; OAPPA; OESC; OPG; SEM; TCPL; Union Energy; WGSPG.

Evidence References:

1. D1/T13 Written Direct Evidence of Messrs. Shervill and Farmer

2. J1.96 to J1.103, J3.22 to J3.73, J7.59 to J7.63, J8.3, J12.22 to J12.26, J14.1, J14.3, J14.13 to J14.23, J18.81, J18.119 to J18.121, J18.166, J23.13, J26.63, to J26.65, J28.1 to J28.4, J34.81 to J34.89
3. K14 Written Evidence of Green Energy Coalition

G8 - COMPRESSION COST ALLOCATION BETWEEN STORAGE AND TRANSMISSION

(Complete Settlement)

TCPL examined Union's proposal to allocate compression costs to Dawn-Trafalgar transmission and as a result of discussions between TCPL and Union, Union agreed that a correction to its evidence was necessary.

Union has addressed TCPL's concerns by including the outboard storage compression horsepower in the total storage related horsepower. Union agrees to file a corrected response to Exhibit J32.12. The corrected response is found at Appendix B to this agreement. Union further agrees that the allocation of compression costs between transmission and storage will be as reflected in J32.12 corrected.

The parties agree that Union's corrected evidence on this issue should be accepted.

The following parties agree with the settlement of this issue: CME; Energy Probe; EGD; IGUA; OASBO; TCPL.

The following parties take no position on this issue: CAC; CCK; CEED; DEA; ECNG; GEC; HVAC; LPMA, OAPPA; OESC; OPSBA; OPG; Pollution Probe; SEM; Union Energy; VECC; WGSPG.

Evidence References:

1. J32.12 Corrected

H1 – RECONCILIATION OF REVENUE DEFICIENCY TO REVENUE FROM PROPOSED RATES

(Complete Settlement)

Union agrees that following the Board's RP-2003-0063 Decision, it will circulate a copy of the draft rate order to all intervenors for review and comment.

The following parties agree with the settlement of this issue: CME; CAC; CCK; Energy Probe; IGUA; LPMA; OAPPA; OASBO; OPSBA; VECC; WGSPG.

The following parties take no position on this issue: CEED; DEA; ECNG; EGD; GEC; HVAC; OESC; OPG; Pollution Probe; SEM; TCPL; Union Energy.

H3 – COMPLIANCE WITH THE BOARD’S DCC ELIMINATION DECISION

(Complete Settlement)

The parties agree that Union is in compliance with the Board’s DCC elimination decision. The DCC will be eliminated based on the 5 year timeline indicated by the Board in its RP-2002-0130 Decision and outlined in Union’s evidence at Exhibit H1, Tab 1, p.11.

The following parties agree with the settlement of this issue: CME; CAC; CCK; Energy Probe; IGUA; LPMA OAPPA; OASBO; OPSBA; VECC; WGSPG.

The following parties take no position on this issue: CEED; DEA; ECNG; EGD; GEC; HVAC; OESC; OPG; Pollution Probe; SEM; TCPL; Union Energy.

Evidence References:

1. H1/T1 Written evidence of Mr. Kitchen
2. J5.6, J5.7, J5.8, J5.10, J17.25, J18.98, J18.195, J25.3, J34.58

H7 - LATE PAYMENT CHARGE

(Complete Settlement)

Union is proposing to standardize its late payment policy across all in-franchise rate classes in both the Southern Operations area and Northern and Eastern Operations area. In RP-2002-0130, Union implemented a 1.9% monthly compounded late payment charge for rate M2, Rate 01 and Rate 10, commencing 16 days after issuing the bill. The same policy and rate schedule wording is now proposed to be extended to in-franchise contract rate classes.

The parties agree that Union’s proposal on this issue should be accepted.

The following parties agree with the settlement of the issue: CME; CAC; Energy Probe; IGUA; OASBO; WGSPG.

The following parties take no position on this issue: CCK; CEED; DEA; ECNG; EGD; GEC; HVAC; LPMA; OAPPA; OESC; OPSBA; OPG; Pollution Probe; SEM; TCPL; Union Energy; VECC.

Evidence References:

1. H1/T1/page 30 Written Evidence of Mr. Kitchen
2. C3/T3/S1, C4/T3/S1, C5/T3/S1, H3/T3/S1
3. J1.166, J34.59, J34.145

H8 - DIRECT PURCHASE ADMINISTRATION CHARGE

(Complete Settlement)

Union is proposing to recover an increase in annual ongoing costs of \$692,000 in the Direct Purchase Administration Charge (DPAC). The three main functional areas of administration supporting DP for the general service market are: contract administration, gas management and billing & reporting. The DPAC applies only to administering Direct Purchase (“DP”) for the general service market. Those costs required to support the large commercial and industrial rate classes are not recovered through DPAC. Rather, these costs are included in the respective delivery rate because the vast majority of large commercial and industrial customers are on DP arrangements.

In addition to revising DPAC rates to reflect changes in costs, Union is also proposing a change to the rate structure. Currently DPAC consists of charges recovered through three different billing units: an initial processing charge of \$2.25 per new customer, a monthly charge of \$40 per contract, and a monthly charge of \$0.08 per customer. Union’s proposal is to remove the initial processing charge and to recover costs for all types of transactions (ie. customer additions, movement between contracts for the same gas vendor, and movement to sales service) in the monthly customer and contract charges.

Based on the proposed rate structure and forecasted costs, Union’s proposed DPAC rates are \$75 per contract/month and \$0.19 per customer/month.

Subject to unresolved issues relating to the allocation of GDAR costs, the parties agree that Union’s proposal on this issue should be accepted:

The following parties agree to the settlement of this issue: CME; CAC; Energy Probe; IGUA; LPMA; OASBO; OPSBA; VECC.

The following parties take no position on this issue: CCK; CEED; DEA; ECNG; EGD; GEC; HVAC; OAPPA; OESC; OPG; Pollution Probe; SEM; TCPL; Union Energy; WGSPG.

Evidence References:

1. H1/T3 Written Direct Evidence of Mr. Andrews
2. J1.40, J1.169, J7.52, J17.57, J18.184, J18.193, J34.151, J34.152

