Ontario Energy Board

Commission de l'énergie de l'Ontario

Ontario

EB-2012-0087

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 Union Gas Limited for an Order or Orders amending or varying the rate or rates charged to customers as of October 1, 2012.

BEFORE: Karen Taylor
Presiding Member

DECISION AND ORDER
February 5, 2013

Introduction

Union Gas Limited ("Union") filed an application dated April 13, 2012 with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Schedule B, for an order of the Board amending or varying the rate or rates charged to customers as of October 1, 2012 in connection with the sharing of 2011 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2011 year-end deferral account and other balances (the "Application"). The Board has assigned file number EB-2012-0087 to the Application.

The Proceeding

The Board issued a Notice of Application and Procedural Order No. 1 on April 19, 2012 in which it adopted the intervenors in the EB-2011-0025 and EB-2011-0038 proceedings as intervenors in this proceeding. The Board also set out a timetable for the filing of interrogatories, responding to interrogatories, and for informing the Board regarding plans to file intervenor evidence.

In Procedural Order No. 2, dated June 27, 2012, the Board ordered a Technical Conference so that parties would have the opportunity to explore emerging issues such as the use of transportation contract attributes to yield shareholder margins.

The Board directed intervenors to file letters scoping the issues that will be pursued at the Technical Conference. The Board also ordered a Settlement Conference be held on August 28 and 29, 2012, which was subsequently rescheduled to August 21 and 22, 2012.

In Procedural Order No. 3, dated August 15, 2012, the Board determined that it would address the issue of Union's treatment of upstream transportation revenues in 2011 as a Preliminary Issue[1] in this proceeding and would issue a decision on it prior to the Settlement Conference.

The Board also noted that it would hold a Technical Conference on August 21, 2012 so that parties would have an opportunity for further discovery in this proceeding. The Technical Conference was convened on August 21, 2012 and concluded on the same day.

In Procedural Order No. 4, dated August 24, 2012, the Board set out the schedule for argument on the Preliminary Issue.

In Procedural Order No. 5, dated October 24, 2012, the Board established November 27, 2012 and November 29, 2012 as the dates for the Settlement Conference.

The Board issued its Decision and Order on the Preliminary Issue on November 19, 2012. The Settlement Conference was held, as scheduled in Procedural Order No. 5, on November 27, 2012 and November 29, 2012.

In Procedural Order No. 6, the Board set out the schedule for filing of the Settlement Agreement. The Board also established December 21, 2012 as the date for cross-examination on any unsettled issues and for Union's oral Argument-in-Chief. In addition, the Board set out the timeline for the filing of Board staff and intervenor submissions and Union's reply argument on any remaining issues.

[1] The Board defined the Preliminary Issue as follows: "Has Union treated the upstream transportation optimization revenues appropriately in 2011 in the context of Union's existing IRM framework?"

A partial Settlement Agreement was filed on December 14, 2012. At the oral hearing on December 21, 2012, the Board accepted the partial Settlement Agreement.

The Settlement Agreement includes settlement for all issues with the exception of the balance in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130)[2] and the wording for Account No. 179-130's Accounting Order.

In accordance with Procedural Order No. 6, the Board received submissions on the unsettled issues from: Board staff, the Federation of Rental-housing Providers of Ontario ("FRPO"), the London Property Management Association ("LPMA"), the Consumers Council of Canada ("CCC"), and the Canadian Manufacturers & Exporters ("CME"). The Board also received a reply submission from Union.

Balance of Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130)

Background

In the Board's Decision and Order on Preliminary Issue, dated November 19, 2012, on page 32, the Board stated:

> Union's gas supply related upstream transportation FT-RAM optimization revenues shall be classified as gas cost reductions and be recorded in the appropriate gas supply deferral account(s). Union shall share 90% of the net revenue amount of $22 million for 2011, or the appropriate amount as provided by Union, with ratepayers.

In its November 26, 2012 response to the Board's Decision and Order on Preliminary Issue, Union stated:

> The FT-RAM net revenue cited in the Board's EB-2012-0087 Decision and Order on the Preliminary Issue of $22.0 million, less the 10% incentive to Union, is not the amount that should flow to ratepayers as a cost of gas reduction.[3]

Union stated that the appropriate amount to be shared with ratepayers is $22 million less $0.948 million for compressor fuel and unaccounted for gas ("UFG") costs and less Union's 10% incentive payment as follows:

[2] The Board's determination on this issue could have impacts on the earnings sharing calculation.
[3] Union Response to Decision and Order on Preliminary Issue, November 26, 2012 at p. 1.

> As a result, the compressor fuel and UFG attributable to FT-RAM exchanges is $0.948 million. Accordingly, the amount of FT-RAM net revenue that shall flow to ratepayers is $18.947 million. This is 90% of FT-RAM revenue net of third party costs, compressor fuel and UFG ($22.0 million - $0.948 million) X 90%).[4]

Position of Parties

In its Argument-in-Chief, Union set out its position as follows:

> In Union's submission, the Board, having ordered the movement of revenues into a deferral account -- that being account 179-130 -- it is appropriate to move the costs, as well. And absent this movement, ratepayers will receive the benefit of the exchanges, i.e., the revenues, while incurring less than a commensurate amount of the costs.[5]

Union also stated:

> Either the revenues and costs are captured in the deferral account, or, as they were previously, in earnings sharing, but it should not be the case that the revenues are in the deferral account, but the costs are in earnings sharing, which is the effect of that.[6]

Board staff agreed with Union's position. Board staff submitted that it is appropriate that <u>all</u> of the revenues and <u>all</u> of the costs (third-party costs, compressor fuel costs and UFG costs) related to the FT-RAM optimization transactions be reflected in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130). Board staff noted that this ensures an appropriate matching of revenues with the costs incurred to generate those revenues.[7] The intervenors also agreed with the principle, set out by Union, that both the revenues and costs related to the optimization activities should be reflected in Account No. 179-130.

LPMA submitted that, going forward, Account No. 179-130 should clearly set out the revenues, third-party costs, compressor fuel and UFG costs associated with the optimization transactions.[8] Board staff made a similar submission adding that Union

[4] Union Response to Decision and Order on Preliminary Issue, November 26, 2012 at p. 2.
[5] EB-2012-0087, Oral Hearing Transcripts, December 21, 2012 at p. 44.
[6] EB-2012-0087, Oral Hearing Transcripts, December 21, 2012 at p. 48.
[7] Board Staff Submission, January 8, 2013 at pp. 2-3.
[8] LPMA Submission, January 3, 2013 at p. 5.

should be directed to provide detailed schedules highlighting the calculation of the balance in Account No. 179-130 going forward.[9]

With respect to the quantum of compressor fuel and UFG costs which Union has proposed as reductions to the FT-RAM optimization net revenue amount, LPMA submitted that the purpose of the FT-RAM optimization deferral account is to provide 90% of actual net revenue to ratepayers. LPMA stated that the net revenue should be based on actual revenues, actual third-party costs, actual compressor fuel and actual UFG. LPMA noted that Union's approach uses actual information for each of the first three items noted. However, instead of using actual UFG, Union has used a deemed level of UFG based on a Board approved ratio from the 2007 cost of service proceeding. LPMA stated that as a result of using a deemed amount for one of the cost components, Union has not calculated the actual net revenue associated with the optimization services, but rather has provided a deemed net revenue. LPMA submitted that Union should use actual UFG in the calculation of fuel costs which results in total fuel costs related to the FT-RAM optimization activities of $0.739 million.[10] Board staff supported LPMA's submission.[11]

In its reply submission, Union submitted that it is appropriate to use the Board approved UFG ratio to calculate UFG-related costs for Account No. 179-130 as doing so is consistent with the pricing for M12 and C1 transportation services, both of which rely on the Board approved UFG ratio and actual fuel costs. Union noted that, specifically, in the YCR/YCRR[12] calculation, Union trues up for actual compressor fuel costs and uses the Board approved UFG, and this amount is included in rates. Union submitted that using a different amount to calculate the related costs would create a mismatch. Union noted that any variance between actual UFG and the amount approved in rates is captured in the utility earnings calculation and is subject to sharing.[13]

In its argument, FRPO submitted that Union has separated out the revenue collected through the FT-RAM transaction price for the fuel costs and booked those revenues as a reduction to its company-used gas costs. On this basis, FRPO argued that no deduction from the FT-RAM related net revenue amount should be allowed as Union

[9] Board Staff Submission, January 8, 2013 at pp. 4-5.
[10] LPMA Submission, January 3, 2013 at pp. 4-5.
[11] Board Staff Submission, January 8, 2013 at pp. 5.
[12] YCR is Yearly Commodity Required and YCRR is Yearly Commodity Revenue Required.
[13] Union Reply Submission, January 15, 2013 at p. 8.

has been compensated for its fuel costs through the use of optimization related revenues to offset company-used gas costs.[14]

In its reply submission, Union stated that the net revenue amount of $22 million includes all revenues associated with Union's 2011 FT-RAM optimization activities. Union noted that there are no amounts which were booked as part of company-used gas which have not been included in the $22 million net revenue amount.[15]

CME submitted that actual 2011 costs directly attributable to FT-RAM optimization transactions and incremental to actual amounts recovered in 2011 rates for compressor fuel and UFG are deductible from Account No. 179-130. However, CME noted that the actual amounts that Union recovered in 2011 rates for compressor fuel and UFG materially exceeded its actual costs for those items of expense. Therefore, CME submitted that it is unfair to charge the beneficiaries of Account No. 179-130 with items of expense that were actually over-recovered in 2011 rates.

CME submitted that the purpose of Account No. 179-130 is to capture the net FT demand charge savings that Union realized when it effectively monetized segments of its utility FT portfolio so as to acquire substitute transportation for its utility gas in an amount cheaper than the costs being recovered from ratepayers. CME stated that Account No. 179-130 is intended to flow through the actual amount of expense reductions. Having regard to the purpose of Account No. 179-130, CME noted that the question to be determined by the Board is whether Union has incurred actual costs incremental to the amount already recovered in rates for compressor fuel and UFG.

CME noted that Union used two methods to effectively monetize segments of its FT portfolio under TCPL's FT-RAM program. One was capacity assignments where a segment of the FT portfolio was assigned to a marketer who paid an amount to Union and also agreed to transport Union's upstream utility gas to points on Union's system where the gas was needed. In this situation, utility gas for Union's bundled in-franchise customers is delivered to the Union system by the marketer and the cost reductions or savings that Union realizes are the amounts Union receives from the marketer.

[14] FRPO Submission, January 2, 2013.
[15] Union Reply Submission, January 15, 2013 at pp. 7-8.

CME noted that the other method Union used to produce reductions in its upstream transportation costs was through Union's "own use" of FT-RAM credits. In this scenario, Union refrained from using its FT, and instead, used some of the IT available to it under the FT-RAM program to move its utility gas to its system from points upstream. The rest of the available IT optionality was then used to support its sale of exchanges to third-parties. The cost reductions or savings that Union realized under this second scenario stemmed from the net revenues it received from the sale of these exchanges supported by IT that had effectively been paid for by ratepayers.

CME submitted that Union's actual upstream transportation costs, as a result of its use of these two methods of obtaining substitute upstream transportation were $22M less than the amounts paid by ratepayers for TCPL's demand charges. CME noted that Union seeks to reduce the actual amount of the flow through expense reductions by an "allocation" of an amount for compressor fuel and UFG on its system that Union claims were needed to support these FT-RAM optimization activities.

CME submitted that costs for the volumes of UFG and compressor fuel that Union needs to operate its system are recovered from ratepayers in charges that are over and above the amounts ratepayers pay for the FT upstream transportation portfolio. These charges cover all of the utility gas that Union brings to its system under the two substitute transportation methods described above. CME also noted that none of the actual savings realized from the third-party exchanges that Union sells using IT optionality can be reduced to a lower amount without a demonstration by Union that it incurred some costs incremental to amounts already being recovered in rates for UFG and compressor fuel.

CME submitted that Union has not demonstrated that it actually incurred any costs for compressor fuel and UFG incremental to amounts already being recovered in rates. CME submitted that Union's proposal to true-up the actual costs for UFG and compressor fuel in Account No. 179-130 is a departure from the manner in which compressor fuel and UFG have been recovered from ratepayers since 2007.

In its submission, CME provided a detailed analysis highlighting Union's over-recovery of compressor fuel and UFG costs in 2011 rates.[16] CME submitted that the actual costs for 2011 attributed only to in-franchise customers were materially less than what was

[16] CME Revised Submission, January 10, 2013 at pp. 4-5.

recovered in rates. CME stated that Union over-recovered $5.47 million for compressor fuel and $11.812 million for UFG. CME submitted that, overall, Union has recovered $17.282 million more from in-franchise customers than its actual costs for compressor fuel and UFG.

CME submitted that, considering the flow-through purpose of the deferral account is to true-up for actuals, there is no justification for the deduction proposed by Union because there are no actual costs incremental to those already recovered in rates. CME submitted that an allocation of costs already being over-recovered from ratepayers is not an appropriate deduction in a deferral account whose purpose is to true-up for actuals.

CME noted that the fact that the amount by which actual 2011 UFG and compressor fuel costs is less than the amount being recovered in rates for those items is included in Union's earnings should have no bearing on the question to be decided which is to ask whether the actual savings realized are $22M or the lesser amount Union has proposed.

CME submitted that the appropriate manner to determine whether incremental costs for UFG and compressor fuel should be included in Account No. 179-130 is to determine whether Union has incurred actual costs incremental to the amount already recovered in rates for UFG and compressor fuel. On this basis, CME submitted that the deduction of $0.948 million that Union has proposed should be disallowed.[17] CCC supported CME’s submission noting that Union did not incur any compressor fuel and UFG costs and therefore, Union should not receive the benefit of having the fuel costs credited against the revenue to be shared with ratepayers.[18]

In its reply submission, Union highlighted CME’s argument, at paragraph 13, that, “[t]hese charges [fuel and UFG in rates] cover all of the utility gas that Union brings to its system” under capacity assignments or FT-RAM related optimization transactions. Union noted that, to the same effect, CCC asserted that Union did not incur any compressor fuel or UFG costs. Union submitted that both statements are incorrect and contrary to the undisputed evidence.

[17] CME Revised Submission, January 10, 2013 at pp. 2-6.
[18] CCC Submission, January 9, 2013 at pp. 1-2.

Union submitted that, in 2011, it engaged in two types of optimization transactions: capacity assignments and FT-RAM related optimization transactions. Union noted that, as explained in Exhibit K2.3, optimization of the gas supply plan, under either form of transaction, had no impact on the quantity of compressor fuel and UFG necessary to serve Union's in-franchise customers. In this respect, the costs of compressor fuel and UFG on Union's system are not related to the gas supply plan. Union noted that these costs are incurred to provide storage, transportation and distribution services within the franchise with the forecast of these costs based on the demand for these services on the system. Union submitted that how the gas arrives to Union's system has no impact on the costs.

However, Union submitted that, in respect of FT-RAM related transactions (as opposed to capacity assignments), it incurred incremental fuel and UFG in connection with the sale of exchange services to ex-franchise customers. While the same quantity of Dawn-Parkway compressor fuel and UFG was incurred as a result of the optimization of the physical flow of gas, incremental fuel and UFG costs were then incurred to support the sale of the incremental FT-RAM transportation exchange services giving rise to the revenues captured in Account No. 179-130. As explained by Union with reference to an example of a typical transaction:

> In the same month that Union generates the FT-RAM credits, Union enters into a new Dawn-Waddington transportation exchange service … to meet an incremental market need. To facilitate the Dawn to Waddington transportation exchange, Union purchases TCPL IT capacity Parkway to Waddington, using the remaining RAM credits to reduce the cost. To complete the path, Union also uses available Dawn-Parkway capacity, and it is this Dawn-Parkway flow that results in additional fuel and UFG costs that are recovered in the transportation exchange service revenue [as proposed by Union].[19]

Union submitted that the sale of an exchange by Union is necessary to provide a benefit. Without the sale, there would be no reduction in gas costs (i.e., no revenues to be captured in the deferral account). Union noted that only the incremental fuel and UFG costs associated with the exchange services have been recorded in Account No. 179-130.

[19] Exhibit K2.3, CME Question 1 at p. 6.

Union submitted that none of these incremental costs were captured in Union's 2011 delivery rates. Rates approved in 2007 for in-franchise customers were designed to recover the forecast of $16.027 million of compressor fuel and $20.820 million of UFG. Union noted that changes in cost of gas through to 2011 reduced the approved cost level recovered from in-franchise customers by $6.463 million for compressor fuel and $7.616 million for UFG, to $9.564 million and $13.204 million respectively. Union noted that actual costs in 2011 for compressor fuel and UFG attributed to in-franchise customers were below the approved forecast by $5.47 million and $11.812 million respectively. Union stated that the favourable variance in these costs has been included in 2011 utility earnings subject to sharing and noted that the variance was not caused by optimization of the gas supply plan.

Union submitted that the compressor fuel and UFG forecast embedded in 2007 rates did not include any fuel or UFG related to the exchange services now subject to deferral. Therefore, Union stated that it is appropriate to include in Account No. 179-130 both the revenue and costs associated with providing FT-RAM related transportation exchange services as Union has proposed.

Union noted that CME pointed to Union's actual compressor fuel and UFG costs to oppose inclusion of the incremental costs associated with the FT-RAM related activity. Union noted that CME argued that only if Union's actual compressor fuel and UFG costs were to rise above 2007 Board approved levels should costs associated with the FT-RAM related optimization activity be matched to the revenues related to that activity. Union submitted that CME's argument does not follow from its own articulation of the purpose for the deferral account which it describes as capturing, "net FT demand charge savings that Union realized". Union submitted that given that the net savings could only be realized with the incurrence of the fuel and UFG at issue, these costs are part of the net savings and must be recognized in Account No. 179-130.

Union submitted that if CME's argument were accepted it would result in in-franchise customers receiving the full benefit of the FT-RAM related transportation exchange revenue while Union bears a disproportionate share of the costs and would eliminate the Board-approved incentive for Union to engage in the activity in the first place. Union stated that its incentive would be to engage in capacity assignments (which account for roughly half of the total optimization revenue and do not give rise to any incremental fuel or UFG) and not conduct any FT-RAM related optimization transactions in respect of which Union would not receive cost recovery.[20]

Board Findings

The Board agrees with the principle accepted by all parties that all of the revenues and all of the costs (third-party costs, compressor fuel costs and UFG costs) related to the FT-RAM optimization transactions must be reflected in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130).

The Board finds that the evidence in this proceeding supports Union's claim that incremental UFG and compressor fuel costs have been incurred to facilitate FT-RAM optimization activities. Therefore, the Board finds that deducting incremental UFG and compressor fuel costs from the amount to be recorded in Account No. 179-130, as proposed by Union, is appropriate.

The Board notes that the fuel-related costs embedded in rates are not relevant to the Board's findings on this issue. The Board finds that the optimization related credit amount, that is to be shared with ratepayers, could not have been generated without Union incurring incremental UFG and compressor fuel costs. To be clear, the Board finds that incremental UFG and compressor fuel costs arise from additional activities (FT-RAM optimization activities); it does not mean that these fuel costs are incremental to the UFG and compressor fuel costs that are currently reflected in rates. The Board finds that the fuel costs incurred to generate the revenues must be deducted from the revenue amount to ensure that Union is properly compensated for the costs it incurs to facilitate the FT-RAM optimization related transactions at issue in this proceeding.

With respect to the quantum of the fuel-related costs to be deducted from the $22 million amount, the Board finds that the fuel cost amount of $0.948 million, as proposed by Union, is appropriate. The Board agrees with Union's argument that "it is appropriate to use the Board approved UFG ratio to calculate UFG-related costs, for Account No. 179-130, as doing so is consistent with the pricing for M12 and C1 transportation services, both of which rely on the Board approved UFG ratio and actual fuel costs."[21] Therefore, consistent with the evidence in this proceeding, the Board finds that Union is

[20] Union Reply Submission, January 15, 2013 at pp. 4-7.
[21] Union Reply Submission, January 15, 2013 at p. 8.

to utilize actual revenues, actual third-party costs, actual compressor fuel costs and Board-approved UFG to calculate the net revenues related to FT-RAM optimization activities that are to be recorded in Account No. 179-130.

The Board notes that on December 19, 2012, Union filed an updated earnings sharing calculation in Exhibit K2.2 at Exhibit A, Tab 2, Appendix B, Schedule 1. The Board understands that the above noted earnings sharing calculation reflects the removal of the FT-RAM optimization revenues and costs (including the removal of the $0.948 million fuel cost amount at issue in this Decision). Accordingly, the Board finds that no further updates to the earnings sharing calculation are required on the basis of the Board's findings above. The Board directs Union to confirm that the Board's understanding is correct in its Draft Rate Order filing.

The Board finds that all revenues and all of the costs (third-party costs, compressor fuel costs and UFG costs) related to the FT-RAM optimization transactions are to be transparently recorded and reflected in the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130). The Board directs Union to file detailed schedules, at the time that the deferral account will next be disposed of, highlighting the calculation of the balance recorded in the deferral account.

Wording for the Upstream Transportation FT-RAM Optimization Deferral Account (No. 179-130) Accounting Order

Background

Union proposed the following wording for Account No. 179-130:

> To record as a credit in Deferral Account No. 179-130 the ratepayer portion of net revenues related to FT-RAM optimization as ordered by the Board in EB-2012-0087. Net revenue is defined as FT-RAM optimization revenue less related third party and fuel costs to provide FT-RAM optimization transportation services.[22]

[22] Union Response to Decision and Order on Preliminary Issue, November 26, 2012 at Appendix D.

Position of Parties

LPMA submitted that it generally supported the proposed wording for Account No. 179-130. However, LPMA suggested that net revenue would be better defined as follows:

> FT-RAM optimization revenue less related third party costs and incremental compressor fuel and UFG costs directly attributable to the provision of FT-RAM optimization transportation services.

LPMA submitted that its proposed definition more accurately and precisely defines the costs to be included as an offset to the revenues recorded in the deferral account.[23] Board staff supported LPMA's proposed updated wording for the definition of net revenue.[24]

CME supported LPMA's proposed wording on the basis that the Board confirms that "incremental" costs only include actual UFG and compressor fuel costs in excess of the UFG and compressor fuel costs embedded in rates.[25]

In its reply submission, Union stated that it continues to support the language that it proposed in its November 26, 2012 filing (as set out above). Union noted that, in the alternative, it could support the wording proposed by LPMA on the understanding that "incremental" relates to incremental activity, as opposed to incremental to the fuel and UFG amounts recovered in rates.[26]

Board Findings

The Board concurs with the submissions of LPMA and Board staff that the suggested revisions to the definition of net revenue in the accounting order for Account No. 179-130 as proposed by the LPMA more accurately and precisely define the costs to be included as an offset to the revenues recorded in the deferral account. Consistent with the Board's findings elsewhere in this Decision, the Board reiterates that "incremental" refers to incremental UFG and compressor fuel costs arising from additional activity (FT-RAM optimization activities) and does not mean incremental to the fuel and UFG

[23] LPMA Submission, January 3, 2013 at p. 6.
[24] Board Staff Submission, January 8, 2013 at p. 6.
[25] CME Revised Submission, January 10, 2013 at pp. 6-7.
[26] Union Reply Submission, January 15, 2013 at p. 8.

costs currently recovered in rates.

The Board directs Union to update the accounting order to reflect the language proposed by LPMA.

Implementation

The Board directs Union to file a Draft Rate Order which reflects the Board's findings in this Decision and the approved Settlement Agreement. The Board will provide Board staff and intervenors an opportunity to comment on the Draft Rate Order. Union will also be given the opportunity to respond to the comments of Board staff and intervenors.

Once the Draft Rate Order has been filed and all parties have had the opportunity to comment on it, the Board will issue a subsequent Decision and Rate Order. Based on current timing, the Board will seek to have the resulting rate impact of this Decision (and the approved Settlement Agreement) implemented on April 1, 2013 to align with other rate changes expected to result from the Quarterly Rate Adjustment Mechanism ("QRAM") proceeding.

The Board notes that the process for cost claims will also be set out in the subsequent Decision and Rate Order.

THE BOARD ORDERS THAT:

1. Union shall file a Draft Rate Order reflecting the Board's findings in this Decision (and the approved Settlement Agreement) on, or before, February 12, 2013.

2. Board staff and intervenors who wish to file comments on the Draft Rate Order shall do so no later than February 19, 2013.

3. Union shall file responses to the comments of Board staff and intervenors no later than February 22, 2013.

All filings to the Board must quote file number **EB-2012-0087**, be made through the Board's web portal at https://www.pes.ontarioenergyboard.ca/eservice, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the BoardSec@ontarioenergyboard.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required.

ISSUED at Toronto, February 5, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary