To: "Mary Truemner (ACTO)" <truemnm@lao.on.ca>
Cc: blackss@lao.on.ca, cingravalle@sharethewarmth.org,
edegale@sharethewarmth.org, john@equalityrights.org,
"Keith Stewart" <keith@torontoenvironment.org>,
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"Theresa McClenaghan" <McclenaT@lao.on.ca>,
michael@wellesleycentral.com, michelle@equalityrights.org,
"Sarah Miller" <MillerS@lao.on.ca>,
"Mary Todorow (ACTO)" <todorom@lao.on.ca>
Subject: RE: Board decision on Union DSM06 contained in transcript as was oral decision
From: JSimon@indeco.com
Date: Tue, 28 Mar 2006 22:41:14 -0500
Return-Path: JSimon@indeco.com

Mary,

pp. 85-92 of the transcript previously sent (and now resent in case missing) contains the Board's decision in this matter referred to in my earlier briefing. What is missing is the Board's Order in this matter, which has not yet been issued. Am expecting it to clearly state that Union will pay for the cost of each measure and its installation for its low-income program for 2006.

Judy

Judy Simon, Vice President
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"Mary Truemner \(ACTO\)" <truemnm@lao.on.ca>
2006-03-28 05:59 PM

To
<JSimon@indeco.com>
cc
"Theresa McClenaghan" <McclenaT@lao.on.ca>, "Sarah Miller" <MillerS@lao.on.ca>, <john@equalityrights.org>,

<michelle@equalityrights.org>, <blackss@lao.on.ca>, <edegale@sharethewarmth.org>, <cingravalle@sharethewarmth.org>, <michael@wellesleycentral.com>, <kim@torontoenvironment.org>, "Keith Stewart" <keith@torontoenvironment.org>, "Mary Todorow \(ACTO\)" <todorom@lao.on.ca>
Subject
RE: Quick update on Union Gas DSM proceeding

Judy, great news at the OEB is right. Thanks very much. I look forward to receiving the written decision and the costs break down.

I am copying everyone because I want them all to follow our exchange here in the case they have to make a decision Friday morning, if it is not too late to become involved in the generic DSM proceeding. I am a bit concerned that we are not going to intervene in generic DSM for gas, especially when we are intervening full force in Union Gas' 2007 Rates. My understanding is that LIEN is more interested in intervening in generic hearings than specific hearings. When a generic hearing deals with issues, does the OEB make best practises recommendations, or concluding observations, or can it order all LDC's participating to conform accordingly? How does the result of the generic hearing affect the decision in subsequent hearings which address the DSM with respect to one company only? And for that matter, how will this recent victory affect the OEB as it deliberates the generic DSM without us?

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-----Original Message-----
From: JSimon@indeco.com [mailto:JSimon@indeco.com]
Sent: Friday, March 10, 2006 10:46 PM
To: Mary Truemner (ACTO)
Cc: Theresa McClenaghan; Sarah Miller; john@equalityrights.org; michelle@equalityrights.org; blackss@lao.on.ca; edegale@sharethewarmth.org; cingravalle@sharethewarmth.org; michael@wellesleycentral.com; kim@torontoenvironment.org; Keith Stewart; Mary Todorow (ACTO)
Subject: Quick update on Union Gas DSM proceeding

Hi Mary,

Great news at the OEB! Will provide a more detailed briefing for you after March break, when I am back from holidays. Oral argument ended yesterday and Board gave an oral decision afterwards. Below I provide the LIEN argument and the decision in case you want to have a look before the more detailed briefing.

It was a "precedent setting" decision for several reasons:

1) It was the first time the OEB ever increased the total DSM budget of a utility beyond what the utility was asking for
2)It was the first time the OEB ever gave direction on a DSM program at the program level and in this case it was regarding improvements to the low-income program
3)LIEN and VECC cooperated extensively on developing the details of the low-income program position - we disagreed on DSM budget - VECC went for a lower budget than what Union was proposing and a lower savings target and lower incentive.(LIEN supported Green Energy Coalition on those positions)

4)LIEN asked for a $350,000 budget increase in the Union Gas DSM program to pay for all of the measures and their installation - Union wanted to provide showerheads, aerators and pipe wrap for free, but only wanted to pay for 1/2 the cost of a programmable thermostat, and no installation for any of the measures. The Board approved the LIEN increased budget proposal including the requirement to pay for all the measures in full and their installation. The total low-income program budget approved was $750,000.
5)LIEN becomes recognized by most if not all parties as the leading authority on DSM programs for low-income people and the Board begins to share this view.
5) The only party that opposed the LIEN low-income program suggestions was the Canadian Manufacturers Association. Energy Probe (Can you believe it?) spoke out in favour of the program. Green Energy Coalition and Pollution Probe arguments did not address anything on low-income matters. I think that is because they were trying to help LIEN position itself as the authority. They were clearly supportive in all of the many discussions I had with them.

I will forward to you an email from Jack Gibbons that I received yesterday. It is short, but indicates how important the decision is.

What LIEN did not get

1) The suggested program pilot of $200,000 to test the implementation of deeper measures for low-income households such as insulation and draftproofing, and fuel-switching from electricity to gas, including the payment of installation and full cost of the measure. The Board did not add this program to Union's programs. This is because this was a new initiative. The Board made it clear that this proceeding was about maintaining the status quo as much as possible and any new ideas regarding low-income or anything else DSM related were to be dealt with at the upcoming DSM generic hearing for gas. Low-income matters are on the issues list in that proceeding. LIEN has decided not to intervene in that proceeding.

At the generic hearing one can expect that groups such as the Consumers Council of Canada and Canadian Manufacturers and possibly others will argue against having low-income programs, and in paying the full cost of measures and their installation at the very least.

I will be back in the office on March 20th.

Judy

Judy Simon, Vice President

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You are invited to visit our website: http://indeco.com
IndEco energy services: http://indeco.com/energy
News updates on Kyoto Protocol: http://indeco.com/kyoto

DECISION:

MR. KAISER: Please be seated.

The Board heard argument this morning from Union Gas and a number of the intervenors in connection with Union Gas's application to approve of its demand side management plan for the year 2006.

This process began back on November 1st, when Union applied for a three-year plan. Subsequent to that, the Board determined, in the Enbridge case, that it would hold a generic hearing into this issue. As a result, a Procedural Order was issued by this Panel on January 24th, requesting that Union re-file a one-year plan for 2006, which they did.

Evidence was provided both by Union and GEC with a subsequent interrogatory process and settlement conference which proved to be not successful. Written submissions were filed on all issues by the parties on March 7th, and oral submissions were received today.

By way of introduction, it is important to note, as many parties have, that this is a transitional issue. There has been reference to the procedural order this Board issued on March 2nd with respect to the generic proceeding. The issues are outlined on Schedule A to that Procedural Order, and many of those issues encompass matters at issue here. To the extent possible, this Panel is attempting to defer those issues to the generic proceeding, and any decision here should not be interpreted as prejudging any of the matters that have been referenced to the generic hearing in any shape, or form.

One of the problems that has arisen in this particular case is that the updating of the gas costs has produced a significant increase in the avoided costs, and that has led to a mechanical result, if you will, that the benefit to the utility or the payout, appears to be inordinately large compared to previous years when significantly lower gas costs were used.

Accordingly, some parties have argued before us that the payout should be reduced in some fashion, so that it is more in line with the payout in previous years. Other parties have argued that we shouldn't tinker with this formula at all, that the payout is a function of the benefits derived and the benefits are what they are, and should be left alone.

The one thing that everyone agrees to is we should be using the true avoided costs not only in this proceeding but in other proceedings.

We then turn to the first issue which is the budget. In Union's initial application, the three-year application filed on November 1st, the budget for '06 of some 13.9 million was filed. There's been some discussion about a 13.74 million figure in these proceedings, the difference is a cost of $156,000, which relates to market transformation, which all parties agree should be removed.

For the purpose of our discussion, we are going to use the 13.9 million figure, for reasons which I will elaborate in a moment.

Union, in its re-filed plan, pursuant to the Procedural Order of January 24th, put forward a budget of 10.4 million. There has been some examination and discussion in this proceeding as to the rationale for that. Union's position was that this was a one-year transition period, and they wanted to make the minimum adjustments from their previous budget in '05, which was some 9.5 million.

Other parties have argued that the conservation is very important in this era, and there is no rationale for the scaling-back. The Board has examined this issue carefully. We agree that scaling back of conservation efforts should only be done on the clearest of evidence. There was a presumption that the original budget as filed was prudent. There is nothing in this record that indicates there is a lack of prudence.

Accordingly, the Panel finds that the initial budget of $13.9 should be used for the purpose of this proceeding.

In this connection, some reference should be made to the low-income issue. This was an issue addressed by a number of parties. In the re-filed submission of Union, there was a $400,000 figure included to fund certain low-income programs. The Panel heard argument from at least three parties, that this amount should be increased to reflect the costs of purchasing the actual equipment in issue, thermostats, and the related installation. In fact, in the LIEN evidence at page 6 of their submissions, there is an estimated cost of that additional effort of some

$289,000.

The Panel agrees that low-income programs need to be proceeded with, even though this is a transitional year. We also agree that the amount should be increased to reflect and capture those costs that have been referenced here, namely the installation costs and the costs of the equipment in issue.

The utility can undertake discussions with respect to the interested parties as to exactly what those costs are. Bear in mind that in the 13.9, we have the $156,000 in there that related to the market transformation, which all parties have agreed, and this Panel agrees, is not an appropriate cost at this time. So there is some leeway with respect to that amount.

In any event, the larger budget that we are ruling on here, the 13.9 as opposed to 10.4 will allow sufficient scope to take care of the additional costs related to low-income programs.

We then come to the ultimate issue, which is the discussion as to how the shared saving mechanism should operate.

The utility, at page 5 of 11 of its transitional plan laid out the proposal that it had in this regard.

Bearing in mind that this is a transitional year, this panel has determined that we should try and make the plan for '06, which is a single year plan, have similar logic with respect to the '05 plan. We note that in '05 with a budget of $9.5 million that, if the utility met its target, there was a 4.5 million dollar payout. This panel has ruled that for '06, the budget will be $13.9 million.

Accordingly, we think it is appropriate that the '06 program be designed such that if target is met, there would be a paid out of 6.7 million so there is some symmetry regarding payout in the two years.

The other principle that appears to flow from the '05 decision, which was a settlement of all parties, and most of the parties involved in that settlement are parties before the Board today, was that the payout would start once 75 percent of target had been met. In fact, it was expressed in terms of 75 million, but the two numbers equated. That principle, we believe, is a useful principle to follow forward with, as to the '06 decision we are addressing today.

The target was dealt with in some detail by GEC, on the basis of the $13.9 million budget. Actually, in GEC's case, it had been scaled back to $13.74 million. We are going to use the GEC numbers notwithstanding the fact that we are using $13.9 million gross numbers. The difference is really immaterial.

Mr. Poch's submissions were that the $13.9 million led to a TRC of $236 million which he further scaled back by a factor of 20 percent, to $217 million, reflecting his allowance for the fact that there is less low-hanging fruit as they these programs progress along. That $217 million incidentally compared to $192 million, which was initially the figure put forward by the utility.

So with reference to the $217 million TRC target, the question then becomes what the SSM payout is. Our determination, as I said, in light of the attempt to make this one-year program to be as close in principle to the '05 case, was that for TRC savings between 75 percent and 99 percent of the TRC target, an SSM amount of 12.4 percent of TRC savings in excess of the 75 percent; plus for TRC savings between 100 percent and 109.9 percent of the TRC target, an SSM of 9.4 percent of TRC savings in excess of 100 percent; plus for TRC for savings from 110 percent up to 120 percent of the TRC target, an SSM of 6.4 percent of TRC savings in excess of 110 percent; plus for every subsequent increase of 10 percent over the TRC target. The marginal SSM rate shall decline by a further 3 percent until it equals 3 percent.

This is in reference to the utility's evidence at p.6 of the plan filed February 3, 2006, the program they put forward and that connection.

In terms of giving effect to this formula, Mr. Millar, we will ask you to prepare a draft order which will contain this schedule, or table, and we will ask all parties to comment on it prior to issuance. This will ensure we have the arithmetic right.

That leaves a few additional matters. One was some discussion in these proceedings with respect to the consulting process. We note that in the procedural order that's been issued with respect to the generic hearing that this matter is to be dealt with. This Panel doesn't believe there is any utility for us to discuss it in this proceeding.

All of the parties that appear before us today have requested their costs. The Panel is prepared to award them 100 percent of their reasonably-incurred costs, to be taxed in the usual fashion.

That completes the Panel's decision in this matter, unless there are any questions.

Mr. Smith?

MR. SMITH: No. Thank you very much, Mr. Chairman.

MR. KAISER: Mr. Poch?

MR. POCH: No, that is clear. Thank you, Mr. Chairman.

MR. KAISER: Mr. Shepherd?

All right. Thank you very much. That completes the Board's ruling in this matter.

--- Whereupon hearing adjourned at 2:15 p.m.

Low-Income Energy Network

For immediate release: **March 28, 2006**

Ontario Power Authority/Conservation Bureau on right track with launch of low-income conservation program

(Toronto) The Low Income Energy Network (LIEN) welcomed the announcement by the Ontario Power Authority (OPA) of the launch of its "Low-Income Conservation and Demand Management Program". Energy Minister Donna Cansfield and Peter Love, the province's Chief Energy Conservation Officer, made the announcement today at the Energy Matters conference in Brampton.

"Low-income consumers are the most vulnerable to energy and electricity price increases, and supporting a program in the social housing sector is a good first step," said Theresa McClenaghan, counsel with the Canadian Environmental Law Association.

Low-income energy consumers face challenging barriers to participating in a conservation culture in Ontario without the type of systematic assistance that the OPA announced today. The OPA was responding to a directive from the Minister of Energy asking it to provide 100 MW of electricity savings in low-income and social housing conservation and demand management programs.

Barriers for low-income consumers include lack of access to capital to pay for building improvements and efficient appliance replacement, and lack of control over major factors affecting energy consumption in the case of low-income tenants.

"Inability to pay for energy costs is a leading cause of homelessness in Ontario. It is essential that a low-income conservation and demand management program address the real issues that Ontario low-income consumers are facing, regardless of whether they own their own homes, are tenants in social housing, or are tenants in the private rental market," stated Mary Todorow, policy analyst with the Advocacy Centre for Tenants Ontario. "We look forward to quick development and expansion of the OPA's low-income conservation program beyond the social housing sector later this spring as promised by the Chief Conservation Officer."

LIEN will continue to monitor and participate in development of low-income energy programs assisting Ontario's vulnerable energy consumers to ensure that they are not left on the sidelines as Ontario develops a robust conservation culture.

-30-

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LIEN is a project funded by the Ontario Trillium Foundation and supported by ACTO and Legal Aid Ontario