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May 15, 2012

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

RE: EB-2011-0242 & EB-2011-0283 - Submissions of London Property Management Association

I am not able to attend the oral argument, scheduled for May 22 and May 24, 2012. In accordance with Procedural Order No. 7 dated May 8, 2012, please find attached the final submissions of the London Property Management Association in the above noted applications.

Sincerely,

Randy Aiken

Randy Aiken
Aiken & Associates

Encl.

cc: Karen Hockin, Union Gas Limited (e-mail)
Norm Ryckman, Enbridge Gas Distribution Inc. (e-mail)
Intervenors (e-mail)

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, Schedule B; and in particular section 36 (20 thereof):

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an Order or Orders approving and setting the cost consequences associated with the purchase of Ontario biomethane by Enbridge Gas Distribution Inc.;

AND IN THE MATTER OF an application by Union Gas Limited for an Order or Orders approving and setting the cost consequences associated with the purchase of Ontario biomethane by Union Gas Limited.

SUBMISSIONS OF THE
LONDON PROPERTY MANAGEMENT ASSOCIATION

A. INTRODUCTION

These are the submissions of the London Property Management Association ("LPMA") in the matter of an application by Union Gas Limited ("Union") and an application by Enbridge Gas Distribution Inc. ("Enbridge") seeking an order or orders approving or fixing rates for the sale of natural gas by both distributors that include the cost consequences of the purchase of Ontario biomethane.

The submissions of the LPMA are provided below on each of the issues as set out in the final issues list in Procedural Order No. 3 and Decision on Issues dated January 24, 2012.

While LPMA believes that the creation of a viable Renewable Natural Gas ("RNG") industry in Ontario may be of value in the future, it is submitted that the proposals of Union and Enbridge are premature and should be rejected by the Board at this time.

If the Board allows Union and Enbridge to proceed with some or all of the proposed purchases, then LPMA believes that substantial changes should be made to the proposals to ensure costs are both minimized and recovered from the appropriate customers.

B. SUBMISSIONS

1.0: Role of the Utilities - General Submissions

LPMA believes that the role of the utilities should be to facilitate the production of RNG through the timely provision of information to potential producers about the costs to connect to the distribution system and any constraints around the production of gas into the systems (which may be seasonal in nature). The utilities should continue to be responsible for ensuring the quality of the gas injected into their systems.

LPMA submits that Union and Enbridge should not be involved in long term fixed price (with a price escalator) contracts with RNG producers. There is no need for them to be involved other than as the distributor into which this gas would be produced.

The Board should ensure that customers have a choice of whether or not to pay any premium for "green" gas. LPMA further believes that the joint proposal of Union and Enbridge is similar to the recent negative option billing controversy between cable companies and their customers. Negative option billing is a business practice in which goods or services are provided automatically, and the customer must either pay for the service or specifically decline it in advance of billing. The joint proposal does not offer customers this opt out provision. In fact, the only way for system gas customers to not pay this premium is to switch from system gas supply to direct purchase. LPMA notes that cable customers essentially had the same choice if they did not want to pay a premium for new specialty channels added to the cable lineup. They could switch from the cable company to satellite providers.

LPMA submits that the Board should protect ratepayer interests by disallowing the outcome proposed by the utilities that effectively eliminates customer choice in the gas they receive and the resulting cost of that gas. Consumer protection demands that customers have an opportunity to make informed choices to accept or refuse the offer. The joint proposal does not offer either the information to make a choice, or the opportunity to make the choice.

LPMA notes that the Ontario government outlawed the practice of negative option billing in 2005. LPMA submits that the Board should not endorse a proposal that results in a similar outcome to negative option billing as a result of this proceeding.

Furthermore, there is both information and choice already available to customers. There is already a market for "green" energy. Marketers offer customers the option to purchase "green" gas in Ontario, along with a description of what and how "green" gas works (for

example, see http://www.bullfrogpower.com/products/naturalgas_howitworks.cfm). LPMA notes that the premium for this gas marketed by Bullfrog Power in Ontario is currently 13.3 cents per cubic meter. This compares to an additional cost of 39.0870 cents per cubic meter of the Union and Enbridge proposal (Undertaking J4.9). As the Board is aware, there is a market for "green" electricity in Ontario.

LPMA submits that there is no need to pay a significant premium for RNG at this time. The utilities have used a cost of \$15 per GJ in the calculation of the premiums forecast to be paid. They have also indicated that this might be conservative estimate, because the actual price could be lower. However, they have provided no forecast of the mix of the gas to be purchased, some of which will be at a cost of more than \$15 per GJ and some that will be at a price less than this amount. For example, as shown in Undertaking J3.2, the cost for a large landfill producer could be about \$8 per GJ, but the number of large landfills in Ontario is relatively small. This price compares to the current price of \$2.15 per GJ based on the April 1, 2012 QRAM currently included in rates for Union gas system gas customers in Union South (Undertaking J4.4).

The question that LPMA submits that the Board must ask itself is why should system gas customers, or any customers, be asked to pay for gas at rates of 4 to 7 times the current market price for natural gas? Is there is a shortage of natural gas in Ontario? Clearly not. Is there a looming shortage of natural gas in Ontario over the longer term? Again clearly not, when producers are now looking to ship LNG out of North America rather than import it, as was the plan just a few years ago.

Is there or will there be transportation constraints on getting natural gas to Ontario? Again, the answer is clearly no. The TCPL mainline is running at a fraction of its capacity and shale gas is being brought into Ontario over transportation routes that are shorter and less expensive than gas purchased from western Canada or the Gulf of Mexico.

In short, there is no economic justification for the Board to allow the utilities to purchase premium priced gas and pass those costs on to ratepayers.

The joint proposal relies on four assumptions to bolster the argument that the premium to be paid by ratepayers will decrease over the proposed 20 year contract term. These include a price for carbon or the monetization of environmental impacts and attributes that will be used to offset the higher cost of RNG, significant increases in the price of conventional natural gas, producer sophistication and technology development (Tr. Vol. 3, pages 35-36). LPMA submits that none of these four assumptions should be relied upon by the Board as there is no evidence to support them.

In Ontario there is currently no mechanism to monetize the environmental impacts and attributes and no clear indication of when such a mechanism may be put in place.

There is no evidence that the prices of conventional natural gas will increase significantly over the next 20 years. Indeed, there is evidence that with the continued development of shale gas in close proximity to Ontario and the resulting lower transportation costs to get that gas into the province, that conventional natural gas prices in Ontario may stay depressed for several years.

Producer sophistication assumes that individual producers need to become more involved in the process of creating RNG. LPMA submits that this is not the case. Potential producers are highly likely to hire experts in the RNG industry. This is the same situation that has evolved in the FIT and microFIT industry. Most potential generators of solar power, whether they be large or small, hire engineers and consultants to help them through the application and building processes. They do not do it on their own without any expert guidance.

Finally, LPMA believes there is no merit in the argument that a viable RNG industry in Ontario will aid in the development of technology that would lower the average cost of production. As noted in the map on page 17 of Exhibit I-1-3, Attachment 2, there are over 120 existing biomethane projects running in Europe, Asia and North America. Technology, like capital, flows across borders. It is not logical to think that technology development can only take place as a result of what happens in Ontario.

LPMA notes that Union and Enbridge have framed their proposal as needed to develop a viable RNG industry. LPMA submits that this focus is too narrow. The focus should be on the development of a viable biogas industry. In this context, LPMA is using the definition of biogas to mean the dirty gas before it is cleaned up to become biomethane as clarified by Chair Sommerville (Tr. Vol. 1, pages 39-40).

LPMA submits that there already is a viable biogas industry in Ontario. Some biogas is being used to generate electricity. Some biogas, such as that produced by the City of Hamilton is being cleaned up to pipeline standards and injected into Union's distribution system and wheeled to other locations for consumption by the city as biomethane (Tr. Vol. 3, page 85). Union Gas does not purchase this gas. In fact, as noted on page 21 of the "The City of Hamilton Energy Report 2011" included as Attachment 3 of Undertaking J4.1, this RNG is being used to offset the use in city fleet vehicles or sold in the market place. The city goes on to indicate that it has essentially become a producer of natural gas.

The utilities have not taken into account other municipalities that may be willing to upgrade their biogas to biomethane without necessarily making a profit on the enterprise and use the gas to displace the use of conventional natural gas in order to become a greener community, or like the City of Hamilton, sell the gas into the market.

Marketers can buy biogas that has been updated to biomethane and market that gas to customers. In this regard, the utilities seem to have ignored the potential for RNG to be sold to corporations that are in the process of greening their corporate image. Many corporations purchase green electricity and are likely candidates to purchase green gas. The utilities do not need to be the conduit for these customers to do so.

In addition there are at least two cases that the utilities are aware of where the biogas itself is being used a fuel source. One relates to the use of biogas generated at the Cambridge landfill and being consumed by Gerdau Ameristeel in Union's franchise (Tr. Vol. 2, page 41). The second one is in the Enbridge franchise and relates to the use of biogas generated at the Walker Environmental Ground Landfill in Thorold and being consumed by Abitibi Bowater (Tr. Vol. 2, page 37). Union does not appear to be involved in any form with the project in their franchise, whereas the pipeline used in the Enbridge franchise to transport the biogas and the associated O&M costs are included in Enbridge's revenue requirement (Tr. Vol. 5, page 93) and Enbridge charges a regulated rate for the delivery of this biogas to the consumer.

LPMA submits that there is clearly a market for and an industry associated with the production of biogas, ranging from electricity production, to biomethane production (that is consumed by the producer or purchased by marketers) and the direct use of the biogas to displace other fuels, including natural gas. The City of Hamilton is selling some of its RNG into the natural gas market, without the involvement of Union or Enbridge purchasing this gas. LPMA concludes that this industry does not need any assistance to develop. It is already up and running. The extent to which it expands should be left to market forces and not be artificially stimulated in the short term. This artificial stimulation, through subsidies, will ultimately end and could throw the biogas industry into chaos at that time. It should be allowed to grow and expand based on supply and demand, not through subsidization.

Finally, LPMA notes that if conditions change significantly, the Board can revisit the need to have the utilities attempt to assist in the development of a viable RNG industry in Ontario. For example, if and when a carbon tax is introduced in Ontario, or some form of monetization of environmental impacts and attributes is possible, the Board may wish to review the economics, costs and benefits of a proposal to assist the development of the industry. LPMA notes that the utilities have indicated that producers can be up and

producing in a relatively quick time frame, generally in 18 to 24 months. As a result the impact of any review of the policy by the Board could be translated into production into the distribution systems in a relative short period of time.

1.1 Do the applications fit with the Objectives for natural gas under the OEB Act?

Union and Enbridge rely on Objective 5 in Section 2 of the OEB Act in order to justify their proposed program. This objective is "*To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances*". LPMA submits that the joint proposal only fulfills part of this objective, while at the same time contravening other objectives of the Board.

LPMA does not believe that the joint proposal can be said to promote conservation. While it may be true that the use of RNG conserves conventional natural gas it does not lead to the reduction in energy usage. In fact, it may have the opposite effect. Consumers may believe that they are using biogas that would have contributed to greenhouse gas emissions whether or not it was consumed as RNG. In other words, the desire to use less natural gas may be undermined by the assumption that this consumption is not resulting in incremental emissions. Since the RNG portion of the total gas in the distribution system is relatively small, any increase in consumption, or reduction in the rate of decrease in consumption, ends up increasing emissions from the baseline.

LPMA does, however, believe that the use of RNG would lead to increased energy efficiency, but believes that the joint proposal overestimates the impact. Union and Enbridge indicate that the electrical conversion efficiency of on-site generators is normally less than 40% while existing RNG technology can produce full-cycle efficiencies of up to 80% depending on the end-use natural gas equipment.

In their proposal to kick start the development of a viable RNG industry in Ontario, the proponents have not taken into account the potential development of industries that would locate near these on-site generators in order to use the waste heat. In such circumstances, the efficiency of these sites rises significantly. These types of developments are already taking place at other sites that generate significant amounts of waste energy in the form of heat. For example, it was recently announced that a greenhouse complex covering 90 acres will be built across the road from an ethanol production plant in the City of Chatham. The waste heat will be used in the greenhouses for heating, while the carbon dioxide produced at the ethanol plant helps boost growth and increase yield.

By subsidizing the RNG industry in Ontario, the joint proposal may actually have a negative impact on the development of the greenhouse industry across the province. Moreover, since these types of developments locate near the production of the waste heat, the RNG industry may unintentionally be reducing local economic development and diversity.

LPMA notes that neither Union nor Enbridge appear to have taken into consideration the second part of Objective 5 that relates to having regard to the consumer's economic circumstances. Both utilities hang their hats on the 2% or \$18 per year maximum impact on residential customers.

However, as can be seen in the response to Undertaking J4.6, the annual impact on a typical M2 commercial customer of Union on system gas is a net bill increase of more than \$500 per year, which is 3.7% of the average commercial bill. The impact on a typical Rate 10 Eastern Zone commercial system gas customer is an increase of more than \$730 per year, or an increase of 3.2% in their bill. The impacts on other rate classes that serve commercial customers is even more pronounced. The increase for a typical M4 commercial system gas customer is in excess of \$16,100 per year, an increase of 4.3% in their bill.

LPMA submits that these increases, whether for residential or commercial customers, are not insignificant. Continuing high levels of unemployment and the move to more part time and temporary jobs, along with increasing pressures to reduce pension and benefit costs in both the public and private sectors all have negative impacts on individuals. The cumulative impact, especially on those customers with higher than average consumption, is a material consideration that the Board should take into account when evaluating the joint proposal.

Small commercial businesses will be hit twice. First they will see the increase in costs noted above. Second, their businesses are likely to suffer because consumers will have less money to spend in their shops. The incremental cost of the joint proposal based on current approved rates if the full 5.5 PJs is purchased is \$26.7 million for Union Gas customers and \$39.4 for Enbridge customers (Undertakings J4.6(b) and J4.8, respectively). This is a net reduction of more than \$66 million in discretionary income from consumers in Ontario, the same people upon which many commercial businesses rely. Taking into account the multiplier effect of this reduction in discretionary income, the impact on the Ontario economy is significant.

With respect to the other Board objectives, LPMA submits that the joint proposal will have negative impacts. Objective 1 in Section 1 of the OEB Act is "*To facilitate*

competition in the sale of gas to users". LPMA submits that this objective will be negatively impacted by the joint proposal of Union and Enbridge. Not only does the proposal not promote competition in the sale of natural gas, it actually stifles competition. It removes up to 5.5 PJs of gas from the competitively priced supply procurement practices of the utilities and does so for a period of 20 years. It results in a price that is substantially higher than the prevailing market price now and in the foreseeable future.

LPMA further submits that fixing a price for 20 years is likely to inhibit the development of a viable RNG industry in Ontario. The producers that sign long term guaranteed price contracts with Union and Enbridge will have a significant advantage over those potential producers that do not have such contracts. It is unlikely that producers will be able to obtain the same kind of contracts with any party in the future. A 20 year contract at fixed or guaranteed prices is simply out of touch with reality.

The second Board objective is "*To protect the interests of consumers with respect to prices and the reliability and quality of gas service*". Clearly in the short term, the interests of consumers with respect to prices are not being protected. There is no shortage of natural gas in Ontario, no imminent spike in prices and no potential for supply disruptions from outside of the province.

The utilities have indicated that the intent is develop a different source of supply that would compete with traditional natural gas on the basis of a different attribute in the longer term (Tr. Vol. 3, page 29, lines 6-10).

LPMA submits that the interests of consumers with respect to prices cannot be protected over the long term because there is no certainty with respect to the viability of the RNG industry in Ontario that may result from the joint proposal.

The definition of a viable industry is one that is able to live and grow independently. Union and Enbridge have not provided any evidence that their joint proposal will result in a viable RNG industry at any point in the future. It postulates that if certain assumptions are true, there is a chance that the industry may develop into a mature market at some future point. These assumptions include a price for carbon, significant rises in the price of conventional natural gas, producer sophistication and technology development (Tr. Vol. 3, pages 35-36). There is no credible evidence that any of these assumptions, let alone any combination of these assumptions, will occur. All of these assumption will need to be correct in order for the industry to have a **chance** of being viable. This is a significant **gamble** that is being paid for entirely by ratepayers (or some subset of ratepayers). There is no risk for Union and Enbridge and no cost to them either. It is easy to gamble on an outcome 5 or 20 years in the future when you are using someone

else's money. LPMA submits that the Board should not gamble with the money of the very customers it is supposed to protect.

Objective 6 in Section 2 of the OEB Act is "*To promote communication within the gas industry and the education of consumers*". LPMA submits that both utilities fail to advance this objective through their joint proposal. Customers are not being offered a choice to purchase RNG. The utilities have stated that they do not have a core competency, and are not equipped, to market to customers and attract customers (Tr. Vol. 2, pages 125-127 & Tr. Vol. 3, pages 126-127). LPMA submits that if the utilities are not able to educate consumers with respect to RNG and offer them a choice, then the Board should utilize marketers and other avenues to educate consumers on this issue.

LPMA further notes that, despite statements to the affirmative, neither Union nor Enbridge has any core competency to develop a viable industry for RNG in Ontario. Their core competency rests with the operation of distribution systems, which includes ensuring that the gas entering the system meets required standards. It does not extend to creating new sources of supply.

Finally, LPMA notes that Objective 5.1 of the Board with respect to gas is "*To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.*" There is no mention of a need to facilitate the development of a supply of natural gas in Ontario. As noted earlier, there are no impending supply shortfalls or transportation constraints that would affect the financial viability of the gas industry in Ontario.

In summary, LPMA submits that while there is some minimal positive impacts on the joint proposal of Union and Enbridge with respect to the Board's objectives as set out in Section 2 of the OEB Act, they are more than outweighed by the negative impacts on those same objectives. The Board should reject the joint proposal.

1.2 Is the proposed role of both Enbridge and Union in developing and implementing a biomethane program reasonable and appropriate?

LPMA submits that the clear answer to this question is no. Union and Enbridge are attempting to exert monopoly control over the supply of RNG. The proposal to fix the length of the contracts to 20 years and to fix prices (subject to indexation) essentially precludes other third parties from contracting for RNG supplies at competitive prices. Why would any producer sell to a gas marketer or an end user at prices less than it could get from the utilities? Why would any producer opt for shorter term contract when it can lock in at the high prices for 20 years?

LPMA notes that Union and Enbridge have indicated that they were both informed to a great extent by the FIT and micro Fit programs in Ontario. Indeed, many aspects of their proposal mirror those in these programs, including, but not limited to, the length of the contracts, lack of producer sophistication and the return on equity embedded in the proposed rates.

LPMA notes, however, that unlike the FIT and micro FIT programs, the production of RNG does not provide the same level of benefits to consumers.

As the Board is aware, distributed generation is supposed to provide benefits in terms of lower costs that ultimately flow to electricity ratepayers. These benefits include, but are not limited to, a reduced need for capital expenditures in the distribution and transmission systems (either an outright reduction or through a delay in any expansion required) and reduced line losses.

Distributed production of RNG throughout a gas distribution system does not appear to provide any cost savings to ratepayers. Union and Enbridge have indicated that RNG cannot be considered to be a firm source of gas (Exhibit I-11-4) since there is no obligation, or ability, on the part of the producer to supply a minimum amount of gas on any day.

Similarly, there are no upstream transportation costs associated with the use of Ontario produced RNG (Exhibit I-11-11) as Union and Enbridge cannot rely on the RNG volumes on a firm basis, so they must hold sufficient pipeline capacity to meet its obligations. It was confirmed that there were no other savings associated with the purchase of RNG produced in Ontario (Exhibit I-11-11, part (b) and Tr. Vol. 5, pages 96-97). Furthermore, both utilities indicated that they did not think RNG would have any impact on the level of unaccounted-for-gas (Tr. Vol. 5, pages 97-98).

In summary, unlike the benefits created by distributed generation, there does not appear to be any benefits for ratepayers or for the gas distribution system associated with distributed production of RNG.

LPMA submits that the role of Union and Enbridge in developing and maintaining a biomethane program should be restricted to technical issues and facilitation.

Union and Enbridge should continue to ensure that the quality and heat content of any biomethane gas that enters their respective systems meets their requirements. LPMA notes that this is already being done in the Union system, since it already transporting

biomethane produced from one location in its franchise under an M13 contract on behalf of an in-franchise customer.

Union and Enbridge should also be required to facilitate any requests for information from potential producers, such as the cost of a line and associated assets needed to connect the potential production site to the distribution system. Any potential constraints on the amount of gas that could be produced into the system in different seasons should also be made available by the utilities. This information will allow the potential producers, or their agents, to analyse the costs and determine whether or not it is feasible to proceed, and if so, at what cost it is economic to do so. These producers can then market their RNG to marketers or directly to customers who are interested in purchasing this gas. There would be no need for Union and Enbridge to purchase the gas for system gas customer use or for their own use.

2.0: Cost Consequences - General Submissions

The submissions that follow in this section are made in the event that the Board approves the joint program as proposed by Union and Enbridge or some other program that involves the utilities purchasing some amount of RNG, such as from pilot projects.

LPMA does not see any value in pilot projects at this time. There does not appear that there would be any incremental value to the utilities of pilot projects. The utilities would not gain any experience from the connection of RNG production facilities to their systems that they do not already have from local producers or the facility in the City of Hamilton, or through consultation with other distributors, such as FortisBC.

The technology used by producers is widely available. A pilot project would only have value if the producer were willing to try an untested technology. LPMA submits that natural gas ratepayers should not be expected to finance this testing when funds may be available from other sources (such as governments and manufacturers of the new technology) to test new technologies.

2.1 Are the proposed costs from landfill sources reasonable and appropriate?

LPMA submits that the proposed costs from landfill sources are neither reasonable nor appropriate.

The assumptions used to calculate the proposed costs are full of assumptions that have not been substantiated by the applicants. These assumptions include the need for a return on equity of around 11%. This return is significantly higher than the return on equity

allowed by the Board for regulated natural gas and electricity distributors and transmitters. The assumptions also include a capital structure of 40% equity and 60% debt, similar to the structure for the electricity distributors. There has been no evidence provided in this application to support why this capital structure is appropriate for the RNG industry, especially when the total cost of the facilities can be recovered through a 20 year guaranteed contract. There is no evidence of how the debt component and the resulting costs should be split between long term and short term debt.

No evidence has been provided with respect to the costs if the producer is a non-taxable entity such as a municipal corporation or a not for profit entity. In both cases, the total costs would be reduced by the amount of corporate incomes taxes that have been included in the analysis to arrive at the proposed prices. LPMA believes that there is a high probability that some RNG producers may well be not for profit organizations that do not require a profit to help the environment.

No evidence has been provided that the life of the assets is 20 years. There is no technical evidence that indicates that the assets cannot be continued to be used beyond the 20 year life assumed for depreciation purposes. A longer life would have a substantial impact on the "revenue requirement" for these unregulated business enterprises.

LPMA submits that if the Board determines that the utilities should be involved in the purchase of RNG, then it should direct the utilities to hold a joint RFP process to ensure that the least expensive RNG is purchased first. LPMA submits that this is a key cornerstone for laying a foundation of any viable industry. The least cost producers should be rewarded with the first contracts, not those that are simply the first in line. This would ensure price competition, another fundamental building block of a viable industry. It would also ensure the lowest costs for the customers that ultimately pay for the RNG. Without this protection, prices may be higher than are necessary, inhibiting the expansion of the industry beyond what the utilities purchase.

Throughout the hearing, parties heard that there are many factors that impact the costs of production of RNG. These include the requested return on equity, the cost of debt (which can vary significantly depending on the producer), the capital structure, the tax status of the producer (municipalities are generally free of corporate taxes, as would not-for-profit entities), the capital cost of the equipment, and the capital cost of the aid to construction payable to the utility (which can depend on the length to the distribution system and the take-away capacity of the system) and the costs for the other inputs into the RNG process, to name but a few. A one price fits all approach, as proposed by the utilities for each of the landfill and AD producers, cannot adequately reflect all of the various

components of the costs that need to be reflected in a price for potential producers that face widely varying circumstances.

An RFP process allows producers to set a price based on their own individual circumstances at a price that makes economic sense for them. It encourages cost containment on the part of potential producers. The utilities noted this as "Pro" under the description of the Request for Proposal model shown in the response to Exhibit I-1-5. It minimizes the costs to ratepayers and potential customers that seek to purchase green gas outside of the utility system gas option. In short, it offers the creation of an industry based on market oriented principles that can endure for the long term, maximizing the potential for a viable industry. The utility proposal does not offer this potential in the view of LPMA.

The utilities noted a number of reasons why an RFP process was not the preferred model in Exhibit I-4-6. The first of these stated reasons was the cost of conducting an RFP process or processes. However, when asked what the cost of the process would be, the utilities could not provide a figure (Tr. Vol. 5, pages 16-17). Part of the cost of the RFP process is the cost to the small producers. This is the fourth point noted in the response to Exhibit I-4-6.

LPMA submits that this is not a credible argument since small producers, along with large producers, are likely to hire engineering firms and/or consultants to help them through the process. This would be very similar to the microFIT and FIT processes currently being used by potential producers. These producers would have to go through the same evaluation process whether there was an RFP or a first come first served process. Without their own evaluation process, a potential producer could no more determine that they wanted to be in line than they could determine if they wanted to respond to the RFP.

Further, LPMA notes that the utilities can combine their RFP process into one process. The amount of RNG purchased by each of Union and Enbridge may be set at fixed levels, however, this does not mean that the amount purchased by either utility needs to be purchased from producers within their franchise area. There is nothing to stop Enbridge from purchasing all of its RNG from producers that are connected to Union's distribution system and vice-versa, since the goal of the proposal is to enable a viable Ontario industry, not a viable franchise-specific industry. In fact, the RNG could be produced into the distribution systems of Natural Resource Gas Limited, Kitchener Utilities and/or Kingston Utilities and purchased by either Union or Enbridge. This of course, would have the added benefit to customers of those utilities of reducing the transportation costs paid to move the gas to the franchises.

The second reason for not preferring an RFP model given in Exhibit I-4-6 is the need and cost to evaluate the distribution and transmission systems to determine where projects may or may not be able to connect to provide an RFP process with connection limit information. Again this is not a credible reason to not have an RFP process.

In the response to Exhibit I-11-18, the utilities stated that "*there will be minimal capacity allocation constraints between competing projects for the same distribution system capacity*". The utilities confirmed this during the oral component of the proceeding (Tr. Vol. 4, page 85). In other words, the system capacity or take-away constraint is most likely to be based on a single producer wishing to connect to the distribution system where the take-away capacity would not enable full production.

LPMA submits that this issue will be the same regardless of whether there is an RFP process or a first come first served process. Once an expression of interest has been received - through either process - the utilities will need to determine if there is a capacity constraint. Part of this determination will be the low volume consumption in that area. The other part will be the expected RNG daily consumption from the potential producer.

LPMA further submits that the Board should direct the utilities to hold a pre-RFP expression of interest process that would identify potential producers and their locations. The utilities could then provide capacity constraint issues to these potential producers (if applicable), along with preliminary aid to construction costing information for all potential producers. This information is likely to reduce the interest of potential producers that would have a significant incremental capital cost over and above their own equipment. This would likely reduce the number of responses to the RFP to those producers who are serious about proceeding.

The third reason provided in Exhibit I-4-6 for not preferring an RFP model is that there is a potential need to conduct a second or third RFP process to achieve meaningful volume levels. Again, LPMA does not believe this is a valid argument. Any costs incurred for a second or third RFP process would pale in comparison to the higher costs that would likely result over the 20 year contract lives that would result from the first come first served proposal. Second, there is no evidence provided by the utilities as to what a "meaningful" volume level is.

The final reason provided by the utilities relates to the inability of the less sophisticated producers to respond to an RFP. These less sophisticated producers are often referred to as smaller producers and farmers tend to be smaller producers. LPMA submits that the utilities have underestimated the sophistication of small producers, including farmers. These potential producers deal with both suppliers and buyers on a regular basis in the

operation of their facilities. These businesses often deal with complex government regulations, technological changes, supply management issues and production issues on an ongoing and regular basis. They have access to several provincial and national organizations that represent their interests and provide information to their members.

In summary, LPMA submits that the utilities have provided no compelling evidence whatsoever to remove an RFP process in the determination of the costs that are to be paid for by ratepayers. The lack of an RFP process does not assist in the development of a viable RNG industry in Ontario. It hinders it by allowing high cost producers to get guaranteed contracts for 20 years from the utilities, resulting in a high cost of RNG that is more likely to inhibit the viability of the industry than would lower prices obtained through an RFP process.

LPMA strongly recommends that if the Board determines that the utilities should purchase any RNG that is to be paid for in any manner by ratepayers the Board should direct the utilities to use a transparent pre-screening and RFP process.

2.2 Are the proposed costs from anaerobic digester sources reasonable and appropriate?

The comments provided above in Issue 2.1 are equally applicable to the proposed costs from anaerobic digester sources.

2.3 Is the proposed maximum term length for biomethane contracts (20 years) reasonable and appropriate?

LPMA understands the need for long term contracts so that the producers can obtain debt financing at a reasonable cost. However, LPMA notes that these long term contracts, at prices many times higher than the current market price for natural gas, place the risk of higher than market prices on ratepayers for the proposed 20 year term of the contracts. The joint proposal essentially asks the Board to use ratepayer money to gamble on where prices are going.

If conventional natural gas prices rise and the monetization of environmental impacts and attributes are high enough, ratepayers may benefit from having locked in prices for 20 years at rates lower than market. If prices do not rise quickly enough and/or the monetized value of the environmental impacts and attributes is not sufficient, ratepayers will continue to pay prices above market for gas.

LPMA submits that it is not appropriate for ratepayers to pay the cost for this gamble. Furthermore, LPMA submits that this gamble may lead to intergenerational inequity. As noted under Issue 1.1, the total premium in excess of market prices for the 5.5 PJ cap proposed by Union and Enbridge is approximately \$66 million per year. This is the current annual cost to ratepayers (whether system gas customers, or some other group of customers). If conventional gas prices rise and the value of environmental impacts and attributes are sufficient to offset this premium in the future, future ratepayers will benefit, or at least not be burdened with a premium of the same magnitude as today's ratepayers are being asked to bear. This is a clear instance of intergenerational inequity where current ratepayers are asked to pay more so that future ratepayers have a chance of cashing in and paying less.

LPMA notes that the issue of intergenerational inequity does not exist if the premium continues to exist at comparable levels over the 20 year term of the contracts. Of course, this means that ratepayers have been forced to pay to gamble and have lost.

As noted earlier in these submissions, LPMA believes that if the utilities are allowed to purchase RNG at premium to the price for conventional natural gas, then a RFP process should be used. As part of that RFP process, LPMA submits that the length of the contract should be considered. Not all potential producers may require, or want, a 20 year contract. Shorter contract lengths would reduce the risk to ratepayers and provide the opportunity to the utilities, on behalf of ratepayers, to ladder the maturities of the RNG contracts.

2.4 Is the proposed 5-year contract acceptance window following Board approval for biomethane supply reasonable and appropriate?

If the utilities are allowed to purchase RNG and recover the excess costs from customer or some group of customers, then LPMA submits that a 5-year contract acceptance window is appropriate, given the further constraint of the maximum volume caps proposed below by LPMA.

2.5 Are the proposed maximum volume caps reasonable and appropriate?

If the utilities are allowed to purchase RNG and recover the excess costs from customers or some group of customers, then LPMA submits that the maximum volume caps are at the high end of an acceptable level at 2.2 PJs for Union and 3.3 PJs for Enbridge.

The best estimate of the cost of the premium at this level of consumption is \$66 million per year (Undertakings J4.6(b) and J4.8). This is a significant burden to be recovered

from ratepayers, or a subset of ratepayers. Union and Enbridge indicated that the 5.5 PJs was a volume that made sense in terms of what it would take to develop the market based on a "gut check". It was further indicated that neither utility did not go to the extent of determining what a minimum level of volume that would be required in order to support the RNG program (Tr. Vol. 3, pages 124-125). This glaring oversight in a program, which is designed to support the development of a viable RNG industry, supports LPMA's submission that neither utility has the core competency to develop a viable RNG industry in Ontario.

Given the lack of any evidence as to an amount needed to jumpstart the industry, LPMA submits that the Board should reduce the volume caps to 1.0 PJs for Union and 1.5 PJs for Enbridge. This represents 45.45% of the proposed volumes and translates into a premium to be paid by ratepayers of \$30 million (i.e. \$66 million times 2.5 PJs divided by 5.5 PJs).

LPMA submits that the premium over market based prices should be capped at no more than \$30 million per year. If the premium decreases over the proposed 5 year contract acceptance window, the volumes caps could be increased. Similarly, if the premium increases and the volume caps have not been achieved, the caps should be reduced.

2.6 Is the proposed system for treating any and all environmental impacts and attributes reasonable and appropriate?

The joint proposal uses a deferral account to deal with environmental impacts and attributes. LPMA agrees with this approach.

However, there was less certainty associated with the proposed system for crediting the environmental impacts and attributes to ratepayers. Union and Enbridge propose that these credits would accrue to system gas customers, because under their proposal these customers would pay the premium associated with the RNG purchases.

Enbridge appeared to confirm that these credits would be included as cost reductions through the QRAM process, while Union was less certain as to whether it would be part of the QRAM process or part of the annual deferral disposition of other (non-gas) deferral accounts.

LPMA submits that if the Board decides that the costs should be recovered from only system gas customers, then the credits associated with the environmental impacts and attributes should be rebated to system gas customers and that this reduction should be included as part of the QRAM process. It would be unfair to system gas customers to

include the impact of the higher gas costs associated with the RNG purchases in the calculation of the cost of gas in the QRAM process, while providing a credit to those customers only on an annual basis. The delay in providing the credits to customers through the annual clearance mechanism rather than through the QRAM mechanism would also give rise to unfairness for those customers who switch from system gas to direct purchase and thereby forfeit their share of the credits while they were on system gas. The QRAM mechanism would minimize this potential inequity.

If the Board determines that the premium for the RNG purchases should be allocated to all gas customers, as proposed by LPMA in Issue 4.1 below, and not just to system gas customers, then LPMA submits that the credits should be tracked in a deferral account and cleared to all customers on an annual basis as part of the annual deferral disposition proceeding. Further, the allocation of this credit should be based on the same allocation used for the allocation of the premium cost associated with the RNG to customer classes.

3.0: Impacts on the Distribution System - General Submissions

The submissions that follow in this section are made in the context that regardless of whether or not the Board approves the joint proposal to purchase RNG, the utilities will need to ensure access to the distribution system for potential RNG producers that sell to end users and/or marketers. LPMA notes, as an example, that the City of Hamilton is already producing RNG into the Union Gas system.

3.1 Are the proposed connection procedures, including capital contributions, reasonable and appropriate?

LPMA's concerns are that capital and/or operating and maintenance costs associated with the connection of RNG producers to the distribution system should not be recovered from other customers through distribution rates. LPMA believes that the proposals as put forward by Union and Enbridge are appropriate. By requiring a capital contribution for the entire cost of the project there should not be any cost of capital or depreciation expense to be recovered through distribution rates.

While Union and Enbridge appear to be treating the recovery of O&M costs differently, LPMA believes that both approaches ensure that the costs are recovered from the producers and not from other customers through distribution rates.

LPMA does have some concerns that need to be addressed. First, there is always a possibility that additional capital expenditures will need to be made over the life of the assets. The assets could be damaged or portions such as a meter may have to be replaced

before the contract term is up. LPMA submits that any new capital costs should be recovered from the producer and not included in rate base or the revenue requirement of the regulated utility.

Second, there does not appear to be consideration given to the costs of the removal of the assets, such as the pipeline from the producer to the distribution system, when the contract expires and is not renewed. If the assets used by the producer are no longer required, the utilities may be required to remove them from the right of ways they were using. The cost associated with this removal should not be paid for through distribution rates to customers. Some arrangement should be made with the producer in the contract to deal with potential removal costs.

3.2 Is the proposed capacity allocation process to access the utilities' distribution and transmission systems reasonable and appropriate?

There may be instances where the capacity to absorb RNG production into the distribution systems of either Union or Enbridge may be constrained at some points, or nodes. This constraint is most likely to be do the take-away capacity in the low consumption summer months (Tr. Vol. 3, page 91).

Union and Enbridge have proposed that the capacity be allocated on a first come first served basis (Exhibit B, Tab 1, page 25). LPMA submits that this methodology to allocate the capacity is not appropriate.

LPMA submits that the utilities should utilize an RFP process to allocate capacity where there are or may be market constraints on the take away capacity. This would allow the producers to compete on an equal footing based on the price that they want to receive for their production. This would allow potential producers to factor in their own capital costs, including potentially different aid to construction costs to be paid to the utilities based on different distances to the distribution system, required return on equity, cost of debt and amortization period of the assets. LPMA submits that the lower cost producer should be awarded a contract where capacity constraints may exist. This is a much sounder foundation upon which to develop a viable and sustainable industry than a first come first served approach.

3.3 Has gas quality been adequately assured?

LPMA believes that Union and Enbridge have both put in place the required contractual provisions and safeguards to ensure that gas quality is maintained within acceptable limits. These provisions and safeguards would be needed whether Union and Enbridge

purchase the RNG or it is simply injected into the distribution systems on behalf of end users and/or marketers.

Union, in particular, has several years of experience with gas quality from local Ontario producers and this knowledge should be easily transferred to the gas from RNG producers. As noted earlier, Union already has a producer injecting RNG into its system. As a result Union is gaining experience through this arrangement. LPMA believes that the Board should direct Union to share the knowledge gained through this arrangement with Enbridge and all other gas utilities in Ontario to ensure that gas quality is assured for all customers in Ontario.

However, as noted in Issue 4.1 below, LPMA does have some concerns about the impact on ratepayers of the heat content of the RNG.

4.0: Cost Allocation - General Submissions

LPMA strongly opposes the proposed recovery of the excess gas costs from only system gas customers.

LPMA members consist of both direct purchase customers and system gas sales customers and the issue of who should pay the premium associated with the RNG comes down to fairness, who benefits from the RNG production and customer choice.

First, LPMA submits that it is not fair to allocate the costs to only some customers. The development of a viable RNG industry does not benefit only system gas customers. As a result it is not fair to allocate the premium solely to this group of gas customers, when clearly all gas customers are intended to benefit from the proposal.

Second, as noted above, LPMA submits that Union and Enbridge expect all customers to benefit from both a new source of natural gas produced in Ontario, and from the reduction in greenhouse gases. The utilities also see a benefit accruing to themselves in the branding of Union and Enbridge (Tr. Vol. 1, pages 115-116) and in the value as a "*long-term defensive strategy*" to ensure the continued growth of the utilities (Tr. Vol. 3, pages 141-142). The utilities benefit, but at no cost to themselves.

It would also be unfair to make one group of customers pay simply because it was easier for the utilities to manage. Simplicity is fine, but not when it leads to substantial levels of cross subsidization, as does the proposal to only make certain customers pay.

Third, the utility proposal eliminates customer choice instead of enhancing it. The utilities state that system gas customers who do not want to pay for the RNG can go to direct purchase (Exhibit I-1-5, page 5). This is listed a "Pro" to support the utility proposal but LPMA believes this is a "Con" because it forces system gas customers to take an action that they might not otherwise be interested in taking. There is nothing in the utility proposal that offers customers good choices.

LPMA also notes that the cost to ratepayers in total is more if the premium paid for RNG is allocated to system gas customers than if the gas is purchased for compressor fuel use. As shown in the response to Undertakings J4.6(b) and J4.9 the incremental cost for Union Gas rate payers based on the April 1, 2012 QRAM of the proposal to allocate the cost to system gas customers is \$26.730 million (\$6.385 for Union North and \$20.345 for Union South), while the incremental cost if the RNG was purchased for own use (compressor fuel) use is \$22.670 million. In other words, the Union proposal costs ratepayers an additional \$4.06 million per year. The corresponding figures for Enbridge, based on the July 1, 2011 QRAM prices, are an increase of \$34.389 million for system gas customers (Exhibit C, Tab 1, Schedule 1, Table 1) while purchasing the RNG for own use purposes increases costs by \$31.5 million (Undertaking J4.10), for an increase in the total cost to customers based on the Enbridge proposal of \$2.889 million per year.

For all of the above reasons, LPMA submits that the premium associated with the RNG purchases should not be borne by only system gas customers. The cost should be recovered from all customers, but only after it has been reduced to allow for marketer and system gas RNG purchase options.

In the section below, LPMA provides a proposal that includes selling RNG purchased by Union and Enbridge to marketers at cost so that marketers can include a green gas offering to their customers, offers system gas customers the ability to opt in to a green system gas supply option, and spreads the remaining costs across all customers. System gas customers would have to do nothing to remain on system gas and would not directly pay for the RNG volumes purchased by the utilities but rather would pay indirectly, as would all customers.

4.1 If approved, is the proposed assignment/recovery of the incremental costs of biomethane reasonable and appropriate?

As noted above LPMA submits that the proposed assignment and recovery of the incremental costs of biomethane is neither reasonable nor appropriate. LPMA's submissions are based primarily on Union's rates, but can be extended to Enbridge.

First, LPMA notes that the 2% increase for a typical residential system gas customer does not translate into the same 2% increase for a typical commercial system gas customer. As shown in the response to Undertaking J4.6, the impact on a typical rate M2 commercial customer of Union on system gas is an annual increase of \$505.23 or 3.7% of the average commercial bill. For a similar commercial customer served under Rate 10 in Union's Eastern Zone, the increase is \$737.77, or 3.2% of the typical commercial customer bill. The increase for a typical Rate M4 contract commercial customer is an increase of \$16,161.85 per year, or 4.3% of their average bill. In other words, the increases are significantly above the 2% impact for the residential customers.

Second, as noted in the evidence and in the testimony, the survey of commercial customers did not include any Union commercial customers, under the assumption that there would not be any significant difference in the customers. LPMA asked for a comparison of the multi-family commercial sector between Union and Enbridge. As shown in the response to Undertaking J2.5, the utilities were unable to provide an accurate comparison of customers and average use for the multi-family sector because Union and Enbridge use different definitions. However, a comparison of the responses about the impacts on the average commercial customer shown in Exhibit IE-11-24 and Undertaking J4.6 are informative and show a significant difference in both the volume and impact on typical commercial customers. In particular, the Enbridge response indicates an average Rate 6 system gas commercial customers uses 22,606 m³ annually and the bill impact would be \$133 or 2% annually. The Union undertaking response indicates that the typical Rate M2 Union South commercial system gas customer uses 73,000 m³ per year, with an impact of more than \$500 per year or 3.7% of their total bill. A typical Rate 10 Union Eastern Zone commercial system gas customer uses 93,000 m³ per year, with an impact of more than \$730 per year or 3.2% of their total bill.

Clearly the impact on the average small commercial customer served by Union and Enbridge is significantly different. The typical Union customer consumes about 3 to 4 times the amount of natural gas as does the typical Enbridge customer. This results in a higher cost impact and percent increase on the total bill for the Union customers. As a result, LPMA submits that the commercial customer survey of the Enbridge customers cannot be simply applied to the Union commercial customers because there is an obvious difference of magnitude in both consumption and impact on Union customers relative to Enbridge customers.

LPMA Proposal for the Reasonable and Appropriate Recovery of Incremental Costs

If the Board determines that it is appropriate for the utilities to purchase some level of RNG that results in an increase in costs, then the Board should direct Union and Enbridge to recover those costs based on the following three part process as proposed by LPMA. This process incorporates the best parts of the models/elements shown in the response to Exhibit I-1-5.

Step 1: Any RNG volumes purchased by Union and Enbridge should be available for purchase by marketers that may wish to obtain some RNG to offer to their customers or potential customers. This option is shown in Exhibit I-1-5 as the 'System Gas Procurement with 3rd Party Marketer Pass Through' model. The "Pros" shown for this model include the sale of whatever portion of supply 3rd parties wish to buy (i.e. customer choice), the reduction of the total remaining cost burden on system gas customers (or as recommended below in Step 3 by LPMA, the reduction of the total remaining cost burden on all gas customers), and that it works in concert with the 3rd party voluntary market (customer choice). LPMA supports all of these positive features of this model.

The only negative features of this model are the lack of a mechanism for passing through the cost to marketers and that it likely raises issues with the voluntary market. LPMA submits that these are not valid reasons to negate this option.

First, no mechanism for passing through the cost of the RNG purchased by Union and Enbridge to marketers currently exists. This is no different than when no mechanism existed for passing through the costs of upstream transportation capacity to marketers to enable them to purchase and transport gas for their customers. The Board approved the Vertical Slice methodology that allowed the utilities to recover their costs from the marketers or the direct purchase customer associated with the direct purchase volumes transported through the pipelines, such as TCPL, that were under contract with the utilities.

LPMA proposes that a similar approach could be used to sell the RNG purchased by the utilities to marketers. Marketers would be able to purchase any amount of RNG as long as the total purchased by all marketers was less than or equal to the amount purchased by each of the utilities. The price would be set based on the total average cost per m³ at the time the contract between the market and utility was set. The term of the contract would be negotiable and if the contract is not extended, the RNG would be returned to the utility RNG pool upon expiry.

One potential issue with the above approach is that the average price of RNG to Union and Enbridge may not be known since there are no fixed production volumes involved in any of the contracts between the utilities and the RNG producers. In fact, the amount of gas payable at the lower second tier prices proposed by the utilities would not kick in until well into the contract year with many producers.

LPMA submits that a way to deal with this issue is to offer marketers the option of purchasing RNG with the price set based on the same methodology as used in the QRAM process for system gas customers. A RNG reference price would be set on a quarterly basis in the same manner as the QRAM reference price. The utilities would calculate the reference price by carrying forward any variance account balance that would track the difference between actual and forecasted costs for the historical period, along with a forecast for the volumes and costs of the RNG expected to be purchased in the following 12 months. The marketers would pay this RINGRAM price just as system gas customers pay the QRAM price. This would ensure that marketers pay the cost of the RNG purchased by the utilities and ensure that the utilities collect an amount equal to the cost of the RNG purchased and resold to the marketers. Given the limited number of purchasers (marketers) and sellers (producers), this would not be a complex arrangement for the utilities to track and monitor and builds upon the QRAM experience.

The utilities indicate that this model would likely raise voluntary market issues. Mr. Maclean described these issues (Tr. Vol. 3, pages 73-74) and they essentially boiled down to whether or not third-party marketers would be able to find customers that would be willing to pay a premium for the RNG. He went on to conclude that "*the whole notion of being able to build solely on the basis of a voluntary market place, a market that does not exist today in this real, seems unreasonable to us*". LPMA submits that this conclusion is not supported by the evidence.

There is a voluntary market for green electricity. There is no reason to suggest that a voluntary market for green gas will not develop. The utility voluntary market issues seems to be focused on the cost to a customer to switch to RNG and that it would be prohibitive. The utility analysis, however, appears to assume only one option is available to customers from marketers - 100% conventional natural gas or 100% RNG. This is a bad assumption, especially given the system gas offering known to the utilities of FortisBC in which a customer can purchase a 10% mix of RNG with conventional natural gas, significantly improving affordability for customers who wish to pursue an RNG option.

The utilities appear to want to develop a viable RNG market in Ontario without assuming that a key player in that market, the marketers, will bring any innovation whatsoever to

their offerings. This view is short sighted and again highlights the fact that regulated utilities are not well positioned to develop a viable RNG market in Ontario.

LPMA notes that Mr. Maclean did conclude his remarks by saying that having third party marketers involved did have its advantages and that "*it would be nice if we could find a way to have that coexist with a utility program*". The LPMA proposal would result in such coexistence to the benefit of all parties. Marketers would have access to RNG at cost, customers of marketers would have an option to purchase RNG. The remaining premium cost to be recovered from system gas customers based on the utility proposal, or from all customers under the LPMA proposal detailed in Step 3 below, would be reduced.

Step 2: The Board should direct Union and Enbridge to provide a voluntary opt in provision for system gas customers similar to that approved by the British Columbia Utilities Commission ("BCUC") for Terasen Gas Inc., now FortisBC, in the Biomethane Application Decision dated December 14, 2010. System gas customers would be given the choice to include a 10% mix of RNG in their annual consumption of natural gas. This would allow system gas customers the choice of whether or not to support the RNG industry in Ontario through the purchase of a portion of their gas needs, while at the same time limiting the dollar impact on customers who opt in.

This opt in provision would result in a further reduction in the premium cost of the RNG gas to be recovered from the other system gas customers based on the utility proposal, or from all customers under the LPMA proposal detailed in Step 3 below. At the same time, system gas customers are provided a choice of whether or not to support the RNG industry in Ontario through the purchase of a portion of the gas needs, similar to what has already been approved in British Columbia. This enables a customer to provide support for the RNG industry on a voluntary basis, while still remaining a system gas customer, enhancing customer choices.

In Exhibit I-1-5, this is the 'Voluntary Sign-Up/Opt In or Out' model. The positive points related to this model are shown as the direct cost attribution to specific customers and the customer choice to participate. However, it does not appear to reflect an option for customers to choose a mix of RNG and conventional natural gas.

The four negative points listed for this model are discussed below.

The first "Con" is that such a system is complicated to administer. LPMA submits that this is no harder to administer than is the direct purchase market. In fact, the opt in customers could be set up as customers of a "faux-marketer" with a price that reflects

90% of the QRAM price and 10% of the RNG price. This latter price would need to be calculated based on the recommendation for Step 1 above.

The second "Con" is that it would require significant customer outreach and communication to ensure that customers are able to make an informed choice. LPMA does not view this as a "Con", but rather as "Pro". Customers should be provided with the information they need to make informed choices. The utility proposal effectively says that consumers do not need to know, because as the suppliers of their gas, they know what is best for them. This type of paternalism or superiority on the part the utilities should not be tolerated by the Board.

LPMA notes that one of the Board's objectives with respect to natural gas in Section 2 of the OEB Act is to promote communication within the gas industry and the education of consumers. LPMA submits that the utility proposal essentially violates this objective of the Board by not providing the information and education to customers that would enable them to make an informed choice. LPMA submits that if the Board allows Union and Enbridge to purchase RNG and pass the costs on to customers - whether system supply customers only or all customers - then the Board should also direct the utilities to undertake a RNG customer education campaign, preferably in conjunction with interested marketers, municipalities, other potential producers and the provincial government. If the costs were shared across all parties that have an interest in the promotion of RNG and the development of a viable market in Ontario, the costs to the individual parties would likely be minimal.

The third "Con" to this model is that a separate approval process required for gas supply charge applicable to customers opting in or opting out would be required. LPMA submits that this could be a simple extension of the QRAM exercise using a blend of the QRAM and NRGRAM prices for those customer that opt in. There would be no change in the methodology for setting the price for the system gas customers that do not opt in.

The fourth "Con" is that the opt in model would impede or slow market development. LPMA submits that the opposite is likely to be more accurate. Imposing a cost on customers without a realistic choice is likely to result in a customer backlash against the RNG industry that could slow development of the market.

The Board need look no further than the reaction of customers to the negative option billing practices of cable companies in the recent past. When new specialty services were added and customers were not given the option to opt out of paying for them if they did not want them, (or equivalently to opt in if they wanted them), the cable industry took a hit as did many of the specialty services, with many customers making their opinions

known my opting for the basic service as a matter of principle. Trying to force customers to pay for something is not a good way to get them to buy into the market.

In summary, LPMA does not believe that there are any major impediments to providing system gas customers with an option to purchase RNG as a part of their gas needs. Major benefits include customer choice and no potential for a backlash against the gas distribution industry or the RNG industry. If FortisBC can do it, LPMA assumes but Union and Enbridge are capable of doing it as well.

Step 3: The total premium paid for RNG will be reduced by the amount sold to marketers (Step 1) and the amount paid by system gas customers that opt in to have a portion of their gas supplied from RNG (Step 2). The remainder of the premium should be allocated based on the methodology used to allocate compressor fuel costs to customers across all rate classes.

The utilities could enable the RNG industry by simply purchasing their compressor fuel requirements (including compressor fuel on upstream pipelines) from RNG producers. The amount of the cap for Union is 2.2 PJs, while the compressor fuel purchases are in the neighbourhood of 5 PJ's a year (Tr. Vol. 5, page 95). The amount of the cap for Enbridge is 3.3 PJs, which is about equivalent to the 3.5 BCF of compressor fuel purchases (Tr. Vol. 5, pages 113-114). LPMA notes that both utilities purchase approximately 0.4 PJs of own use fuel in addition to the compressor fuel requirements.

Allocating the remaining premium for RNG as if it relates to the purchase of the compressor fuel for the utilities enables the premium to be split across all customers. As noted earlier in these submissions, it is clear that all customers - both system supply and direct purchase - would benefit if a viable RNG industry results from the joint proposal of the utilities. There would be another source of natural gas available in Ontario and greenhouse gas emissions would be reduced. Neither of these benefits flows exclusively to either a system gas customer or a direct purchase customer. These costs would also be shared by both in-franchise and ex-franchise customers. Again, both types of customers can be expected to benefit from RNG availability in Ontario and greenhouse gas emission reductions.

The impact on Union's system gas customers is significant. As shown in the response to Undertaking J4.9, the impact on a residential customer in the north is a reduction from \$18 per year to \$2.89, or about 0.3% of their annual bill. The reduction for a residential customer in the south is from \$18 to \$1.46, or 0.2% of their bill.

The impact on commercial customers served by Union is even more pronounced. A comparison of Undertaking J4.9 with Undertaking J4.6 shows the following impacts: for Rate M2, the reduction is from \$505.23 (3.7% of average bill) to \$65.41 (0.5% of average bill); for Rate 10, the reduction is from \$737.77 (3.2% of average bill) to \$39.29 (0.2% of average bill) and for Rate M4, the reduction is from \$16,161.85 (4.3% of average bill) to \$1,413.54 (0.4% of average bill).

With reference to Exhibit I-1-5, the 'Cost Recovery Through Distribution Rates' model had the benefits of lower per customer bill impacts (as reflected above in the previous paragraph) and that public interest benefits are distributed across all ratepayers. In addition, the utility witnesses agreed that many of the "Pros" associated with their proposal shown on page 5 of the 'Utility Supply Price Approach' would also be considered "Pros" for the distribution rates model (Tr. Vol. 3, pages 118-119).

The three "Cons" presented with respect to the distribution rates model are discussed below.

The first "Con" is that the RNG costs are attributable to customers not taking RNG supplies, such as direct purchase customers. As noted above, the utilities could purchase RNG for compressor fuel supplies, which are allocated to all customers to move their gas. The utility approach denies customer choice; the LPMA approach enhances customer choice.

The second "Con" is that the delivery rate/deferral account solution requirement could be more complex than the QRAM solution. LPMA disagrees. The compressor fuel allocation solution is already in practice so there is no added complexity whatsoever. The QRAM solution inappropriately puts the burden on a certain group of customers. The compressor fuel option spreads the cost over all customers reflecting that all customers benefit.

The final "Con" is that there is no opportunity for customers to avoid paying for the cost of the RNG supply. LPMA notes that there is equally no opportunity for customers to avoid paying for a return on equity on distribution assets.

The point is, if the Board determines that costs are appropriate, then the costs need to be allocated based on a principled approach. If the joint utility proposal is successful, all customers across Ontario will benefit, including those not served by Union and Enbridge. By allocating costs to all customers based on compressor fuel, all customers will pay a share of the premium, including the distribution utilities other than Union and Enbridge that serve these other customers in the province. If the joint proposal is ultimately

unsuccessful, all customers will have paid the cost of the gamble, not just system gas customers.

Other Submissions: In addition to the above three steps, LPMA makes submissions in the three following areas: allocation of the premium to unregulated own use gas; heat content issues, and working capital.

With respect to the allocation of the premium to unregulated own use gas, LPMA notes that Union uses compressor fuel for its unregulated storage business. As shown in Exhibit I-11-2, the amount of compressor fuel consumed by the unregulated business is almost 7% of the total own use gas over the 2009 through 2011 period. LPMA submits that Union should absorb a proportion of the premium paid to establish a viable RNG industry in Ontario through its unregulated storage business. This business will benefit to the same degree as the customers of Union and Enbridge and should be required to help pay the cost, the same as these other customers. If any of the compressor fuel purchased by Enbridge is used by affiliates or unregulated businesses, the same principle should be applied to them.

With respect to the heat content issues, LPMA notes that the treatment of RNG and conventional Ontario local production appear to be the same in terms of the range of acceptable heat content gas that is allowed into the distribution systems. LPMA is concerned with the increase that could flow from RNG in the Union system in particular.

RNG gas at the lower end of the acceptable heat content range is about 5% lower than the average heat content in Union's system and Union has indicated that there may be capacity constraints in some areas, especially in the low consumption months in the summer. This could translate into a large number of customers, or a large customer, receiving gas with a lower heat content as a result of an RNG producer feeding into a local node on a distribution system. This would result in the customer or customers having to consume a larger volume of gas to get the same energy. Since delivery rates in Ontario are volume based, this could increase both the cost of delivery to these customers and the cost of the gas itself because more will need to be consumed. The Board may wish to investigate whether it would be appropriate to include volume adjustments to reflect heat content differences that may exist in local areas as a result of RNG production, in the same way that it instituted volume adjustments for barometric pressure differences across the province.

Finally, with respect to working capital, LPMA notes that the impact on the working cash appears to be de minimis for both Union and Enbridge. There is also no working capital impact related to the cost of gas in inventory for Union because of the way it is

currently calculated. LPMA notes that Union could seek to change the methodology used to calculate the cost of gas in inventory at some point in the future so that it would reflect the premium paid for RNG. The increase in the cost of inventory for Enbridge has the impact of increasing the revenue requirement by about \$0.5 million per year at the 3.3 PJs level (Exhibit IE-7-11). Given that Union's RNG cap is two-thirds of that of Enbridge, this could result in a revenue requirement increase of about \$0.33 million per year for Union if their methodology were to be changed.

LPMA submits that the Board should direct both utilities to remove the revenue requirement associated with the working capital allowance (working cash, gas in inventory and any other impact) that is the result of the premium paid for RNG. This adds to the costs for ratepayers, while the utilities make a profit on it. The utilities should not be earning a return as a result of RNG when they are not bearing any of the associated costs.

C. COSTS

LPMA requests that it be awarded 100% of its reasonably incurred costs for participating in this proceeding.

All of which is respectfully submitted this 15th day of May, 2012.

Randall E. Aiken

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