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May 28, 2009

VIA E-MAIL & COURIER

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: Union Gas Limited ("Union") – Disposition of 2008 Deferral Account and other balances – Board File No.: EB-2009-0052

This letter provides the further submission of the City of Kitchener ("Kitchener") on the Storage Revenue Issue, as called for by Procedural Order No.2

Kitchener has reviewed the additional evidence which Union submitted in its Reply Argument, the transcript of the technical conference on May 25, 2009, Union's responses to undertakings given at the technical conference and its response to an interrogatory from FRPO in the EB-2009-0101 proceeding at Exhibit B, Tab 3, Schedule 2. While Kitchener submits that Union has provided some explanation for the cost assertions that were of concern to Kitchener as noted in its Written Submissions filed on May 15, 2009, Kitchener submits that two concerns remain.

The first concern is that addressed by Mr. Thompson's questions at the technical conference on May 25, 2009 at pages 4 to 8. This evidence refers to a substantial reduction in the amounts available for clearance in both storage accounts from the amounts confirmed by Union to its accountants as of early January 2009. At the technical conference, Union was unable to identify the causes of these changes.

In the circumstances, it is submitted that Union's proposal for substantial reductions in the amounts for clearances has not been explained and therefore it cannot be said that its proposal is substantiated. Accordingly, Kitchener agrees with the further submission of Mr. Thompson on behalf of CME that the Board should approve clearances for the amounts accepted by Union's auditors.

The second concern relates to the way the costs, including return on assets, of newly developed storage are treated by Union for the purposes of the sharing of net revenues from the long term storage account. This concern was raised by Mr. DeVellis on behalf of SEC at page 65 of the transcript of the technical conference. The newly developed storage facilities have an economic life of up to 40 years or more and, similar to other long life capital projects, there may be an under-recovery of costs, particularly the return, in the early years that are offset in the later years. Kitchener agrees with Mr. DeVellis' proposition that there may be an element of unfairness in the assignment of costs, particularly a levelized rate of return, given that sharing of net long term storage revenues with customers will cease in 2011, only three years or so into the economic life of the new storage assets. Kitchener submits that this unfairness should be corrected for the disposition of net revenues in 2009, 2010 and 2011.

All of which is respectfully submitted.

Yours truly,

RYDER WRIGHT BLAIR & HOLMES LLP

"Alick Ryder"

Alick Ryder
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cc: All Participants, via email
Jim Gruenbauer, City of Kitchener, via email