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By Electronic Filing and By E-mail

August 13, 2009

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th floor
Toronto ON M4P 1E4

Dear Ms Walli,

Union Gas Limited ("Union")
2010 Natural Gas Demand Side Management ("DSM") Plan
Board File No.: EB-2009-0166
Our File No.: 339583-000046

I am writing on behalf of Canadian Manufacturers & Exporters ("CME") to provide comments on Union Gas Limited's ("Union") 2010 Demand Side Management ("DSM") Plan.

Background and Context

Union is currently operating within a three-year DSM Plan that will expire on December 31, 2009. That three year DSM Plan was filed pursuant to the Board's 2006 DSM Generic Decision (EB-2006-0021), which formed the existing "DSM framework" for gas distributors. When the Board issued its 2006 DSM Generic Decision, it was anticipated that the resulting DSM framework would be reconsidered for 2010.

By letter dated April 14, 2009, the Board determined that it would not be appropriate to consider a new multi-year DSM framework to commence in 2010 because of the uncertainties relating to the introduction of Bill 150, *An Act to enact the Green Energy Act, 2009, and to Build a Green Economy, to repeal the Energy Conservation Leadership Act, 2006, and the Energy Efficiency Act and to Amend Other Statutes*. Subsequently, on May 14, 2009 the *Green Energy and Green Economy Act, 2009* (the "Green Energy Act") received Royal Assent.

In its correspondence of April 14, 2009, the Board directed Union to file a one-year DSM Plan for 2010 in order to provide time to assess the impacts of the Green Energy Act on DSM. In so doing, the Board acknowledged that Union's 2010 plan is intended to be a "stop gap measure". The Board also directed that Union's 2010 Plan be filed under the DSM framework established in the 2006 DSM Generic Decision, including increases based on established budget escalators.

Within this context, CME has addressed two issues. The first issue is whether the Board should approve the 2010 DSM Plan filed by Union. In light of the Board's April 14, 2009 correspondence, CME has focussed its assessment of this first issue on whether Union's 2010 DSM Plan is consistent with the existing DSM framework. The second issue addressed is the need to reassess the existing DSM framework for 2011 and beyond.

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Should the Board Approve Union's 2010 DSM Plan?

In CME's view, Union's 2010 DSM plan is consistent with the existing DSM framework. Subject to concerns with the targets proposed by Union for the Market Transformation Drain Water Heat Recovery ("DWHR") Program, set out below, CME does not oppose the approval of Union's 2010 DSM Plan.

CME has reviewed the Interrogatories of GEC and LPMA relating to Union's proposed DWHR program (Exhibits B3.5, B3.6, B5.5 and B5.6). CME has also had the benefit of reviewing the written submissions of LPMA on this issue. CME shares LPMA's concern that the targets proposed by Union for this program are too low. CME urges the Board to adopt the increased targets proposed by LPMA.

The Board Needs to Reassess the Existing DSM Framework for 2011 and Beyond

In CME's view, steps need to be taken in the near future to ensure that there is a fulsome reassessment of the appropriateness of the existing DSM framework well in advance of 2011. The landscape of conservation and energy efficiency in Ontario has changed dramatically since the Board's 2006 DSM Generic Decision. While the Green Energy Act is currently the most obvious change, there have been other material changes that need to be considered in determining the most appropriate DSM framework for 2011 and beyond.

First, there has been an increase in the number of parties that deliver energy efficiency initiatives or other conservation activities, some of which overlap with natural gas distributor sponsored DSM programs. The Federal Government, the Ontario Government and many Ontario municipalities now offer conservation and energy efficiency programs. The Ontario Power Authority has undertaken a variety of energy efficiency initiatives. Electricity LDCs deliver CDM.

CME itself now administers funding, provided by the Government of Ontario, through its "SMART Program", to help small and medium sized manufacturers improve their productivity so that they can compete more effectively in the global economy. CME's SMART Program assists manufacturers in improving their energy efficiency by providing 50% funding for approved upgrades up to \$50,000. In addition, CME offers resources to review manufacturing operations in order to identify areas where energy efficiency improvement is possible. CME's SMART Program also integrates another CME initiative, referred to as the Energy Benchmark Study or "Advancing Opportunities in Energy Management", that provides companies with energy management benchmarks that will guide the identification of energy efficiency improvement opportunities. Union has, in fact, partnered with CME on this initiative. The industry wide benchmarks, which are currently under development, will also help CME, government and utilities develop programs that align with the needs of Ontario industry. Both the SMART Program and the Energy Benchmark Study use the same online diagnostic tool to record and compare energy use, and to assist with the implementation of energy efficiency best practices.

Second, the economic environment has changed dramatically since 2006. The current economy has posed significant challenges for Ontario's manufacturing and exporting sectors. Companies are finding it more difficult to access the financing they require to invest in new products and new technologies, grow their business, and in some cases simply stay in business. CME believes that, if DSM is delivered strategically and cost effectively, then it can assist the manufacturing and exporting sectors to emerge from the recession in a stronger competitive position. CME believes that the existing DSM framework can be improved to better achieve this goal.

Finally, as a result of the 2006 DSM Generic Decision, the DSM costs incurred by Union's ratepayers have dramatically increased. The historic increases are set out Union's answer to CME interrogatory #1 (Exhibit B2.1). For instance, Union's DSM budget has increased from \$13.9 million in 2006 to \$20.57 million in 2009. This represents a percentage increase of about 47%. Such a budget increase was contemplated and approved by the Board's 2006 DSM Generic Decision. That said, in light of the changing landscape of conservation and energy efficiency in Ontario, CME questions whether continuance of such budget increases would be appropriate for 2011 and beyond.

CME believes that the current DSM Framework needs to be reconsidered for 2011 and beyond. As set out in the recent Board Staff Discussion Paper entitled "Draft Demand Side Management Guidelines for Natural Gas Distributors", which was filed in EB-2008-346, the current DSM framework has certain disadvantages including that:

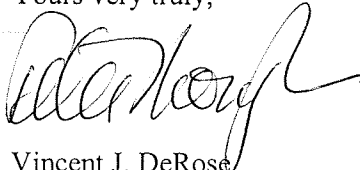
- (i) It requires an enormous amount of time, effort and money on the calculation of, and debating of numbers;
- (ii) It is quite complex and the complexity promotes game playing on the part of the utility and stakeholders;
- (iii) It can, under certain circumstances, create unnecessary distrust or animosity between utilities and stakeholders; and
- (iv) At certain times, it may make ratepayers cynical about DSM activities.

These disadvantages will take time to address. CME urges the Board to begin developing a long-term strategy on how to reconsider the existing DSM framework in advance of 2011. This reconsideration should be informed by the changes that have occurred since 2006, including the Green Energy Act, the increase of parties that are involved with energy efficiency and conservation, the increase of DSM-related costs for ratepayers and the changes in the economy. Further, in assessing how DSM should be measured, what constitutes appropriate shareholder financial incentives and the role of gas distribution companies in program development, delivery and evaluation, the Board should also consider the extent to which gas distribution companies can integrate their DSM programs with other energy efficiency activities conducted by government, other utilities, municipalities or industry associations such as CME.

Costs

CME requests that it be awarded 100% of its reasonably incurred costs of participating in this proceeding. If you have any questions or concerns, do not hesitate to contact me directly.

Yours very truly,


for, Vincent J. DeRose
VJD/kt

- c. Intervenors – EB-2009-0166
Paul Clipsham (CME)