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January 19, 2010

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VIA COURIER and RESS

Reference: 9483/3640

Ontario Energy Board
P.O. Box 2319, 26th Floor
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: EB-2008-0411: Union Gas Limited ("Union")
Calculation of Under-Recovery
Response to FRPO and CME's Letter of Comment**

We are writing in response to CME and FRPO's letters of comment, dated January 18, 2010, which requested that the Board disregard that portion of Union's Reply that deals with the expected cost of the most economic alternative route to the St. Clair Pipeline.

Union submits there was nothing improper or unfair about its submissions.

A large part of the evidence regarding the cost of the most economic alternative to the St. Clair Pipeline consisted of an update to evidence previously filed by Union in answer to Undertaking X 1.1. Pursuant to Rule 11.02 of the OEB Rules of Practice and Procedure, Union was under an obligation to file that evidence since it constituted a material change to evidence already before the Board:

11.02 Where a party becomes aware of new information that constitutes a material change to evidence already before the Board before the decision or order is issued, the party shall serve and file appropriate amendments to the evidentiary record, or serve and file the new information.

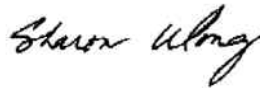
In addition, in paragraph 123 of its November 27, 2009 Decision, the Board specifically invited Union to file evidence regarding the cost of the most economic alternative route:

123 ... Given the Board expects the net gain, calculated as the difference between replacement cost and net book value, will be well in excess of this cumulative under-recovery, it will not be necessary for Union to file evidence on the replacement cost, unless it chooses to do so.

The evidence regarding the replacement cost was responsive to the submissions filed by CME, FRPO and Board Staff because it shows that the amounts that those parties submitted should be allocated to ratepayers exceed the expected gain from the sale. The updated evidence is material information that the Board should have when making its final determination as to what amount should be allocated to the ratepayers.

The main complaint of CME and FRPO seems to be that they did not get an opportunity to respond to the updated evidence regarding the replacement cost. We note, however, that neither CME nor FRPO have requested an opportunity to file responding evidence or argument relating to the substance of the issue. Accordingly, Union requests that the Board dismiss CME's request that the evidence be disregarded.

Yours truly,

A handwritten signature in cursive script, appearing to read "Sharon Wong".

Sharon Wong

SW/kw

c: All Intervenors in EB-2008-0411

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