uniongas
A Spectra Energy Company

August 30, 2011

Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON
M4P 1E4

Dear Ms. Walli:

**Re: EB-2011-0038 - Union Gas Limited - 2010 Earnings Sharing & Disposition of Deferral Accounts and Other Balances**

Enclosed is the Motion Record of the Respondent, Union Gas Limited.

If you have any questions, please contact me at (519) 436-5476.

Yours truly,

[original signed by]

Chris Ripley
Manager, Regulatory Applications

cc Crawford Smith (Torys)
EB-2011-0038 Intervenors

EB-2011-0038

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998,* S.O. 1998, c. 15, (Schedule B);

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders amending or varying the rate or rates charged to customers as of October 1, 2011.

# MOTION RECORD OF THE RESPONDENT, UNION GAS LIMITED


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Counsel for the Applicant,
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# TAB 1

union gas

# RP-2004-0213

## NATURAL GAS FORUM

## UNION GAS LIMITED

## FINAL SUBMISSION

NOVEMBER 10, 2004

## C/ STORAGE AND TRANSPORTATION

### SUMMARY

The storage market in Ontario and the surrounding area is workably competitive. The Storage Competition Study authored by EEA and Professor Richard Schwindt and filed October 28, 2004 supports this conclusion. As such, it is Union's position that the Board should forbear from regulating storage in Ontario and that all storage should be priced at market rates. Union notes in this regard that once a finding is made that the storage market is competitive, Section 29 of the OEB Act requires that the Board refrain from regulation.

Further, any value derived from the market value of storage in excess of the underlying cost should flow to the account of those parties that have legal ownership in the underlying assets.

Ratepayers have no entitlement, legal or otherwise, to the underlying assets which are owned by Union. These assets have been financed by Union's shareholders and creditors, not by ratepayers.

Storage is important to the Ontario economy and end use consumers. Ontario is fortunate to have access to the Dawn market hub which is a well established and recognized trading location within the North American gas grid. However, to continue to encourage the development of new and the enhancement of existing storage, a commercial framework is required which supports and encourages storage development within a competitive market. Union, like other participants in storage markets, requires the opportunity to realize market-based returns. The current regulatory framework effectively subsidizes rates by flowing any market premium in excess of cost to ratepayers does not encourage or promote the development of storage in Ontario.

Union's position is that the Board should also refrain from the current requirement and practice of approving storage contracts (i.e., party, term and amount). This requirement should ideally be eliminated or at a minimum, the existing Blanket Storage Order (E.B.O. 166) which governs Union's ability to enter into storage contracts for up to 2 Bcf and for terms up to 17 months without Board approval should be expanded to remove any thresholds related to amount and term.

Union's position in this regard has been influenced by EEA's Storage Competition Study and the positions advanced by parties during the NGF. Perhaps most importantly, Union considers the continued development of new storage and the enhancement of existing storage is critical to meeting Ontario's ongoing energy market requirements. Union's recent storage open season confirmed the demand for significant incremental storage. In Union's view, the current regulatory treatment of storage must change in order to provide a commercial framework to support new development. In this regard, any storage related market premium should be treated separately as a non-utility item and not be included in any earnings sharing mechanism.

# TAB 2

Ontario

# ONTARIO ENERGY BOARD

FILE NO.: EB-2005-0551

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| | | |
|---|---|---|
| VOLUME: | 2 | |
| DATE: | June 20, 2006 | |
| BEFORE: | Gordon Kaiser | Presiding Member and Vice Chair |
| | Cynthia Chaplin | Member |
| | Bill Rupert | Member |

services. You're going put them out for bids, take them back to your exfranchise room, non-utility, look at them, calculate the returns, invest the capital, and get on with life. Nobody will see that, under your proposal.

MR. BAKER: That's correct.

MR. THOMPSON: And if the Board said, no, we want to keep an eye on these services, we'll give you market-based rate authority to do this, and has maybe some reporting requirements, what's the company's reaction to that? I thought it was buzz off, we won't do it.

MR. BAKER: A couple points. I think back to what Mr. Henning said, we would be looking for -- to the extent that there's a finding that the market's competitive, we would be looking for the market would be the ones that that would discipline those prices.

In that case, we would not see a need for the Board to have to look at those on a going-forward basis in terms of what's going on.

MR. THOMPSON: But if the Board says, yes, we'd like to keep an eye on it, the company's reaction is what?

MR. BAKER: I think to the extent that the Board wanted to see it, I mean, that's something that I would have to think about. But it's got to be linked up with the proposal earlier that you cannot have a market price regime with the deferral account mechanism that we have in place today, because it does not compensate for the risk of going forward and developing those kinds of assets on the storage and the deliverability. Because you may have a situation where you undertake a storage development and it doesn't turn out, in which case you've expended capital for which there is absolutely no return. And you need market rates on the facility that you actually develop that is taken to market to manage that risk in total.

MR. THOMPSON: But the deferral account does give the Board a tool to monitor returns. I take your point you may need a higher return to get in this business, as opposed to the 9 percent. But the Board can determine that on a case-by-case basis, and it can determine it by allocating the monies in the deferral account, for example. What's the problem with that?

MR. BAKER: In our view, it's just not a sustainable framework to go forward. You've got third-party storage developers that are looking to invest in this province that are also in Michigan, and to try to have that kind of targeted mechanism for one component of the competitive market relative to others that are operating in a full competitive market just, in our view, it doesn't make sense.

MR. THOMPSON: Okay.

Let's move on to the storage development proposition that you were discussing, I think, in your examination in-chief. Would you agree with me you don't need an exercise of forbearance to stimulate storage development by third party-storage providers? It's not going to help them.

MR. BAKER: Does Union Gas need it? Is that the question? I think third-party storage developers would need an environment where they're allowed to price storage at market to cover the risk and underpin their investment.

MR. THOMPSON: And isn't that the environment now for third-party storage developers in Ontario? I thought Tiperary, or whatever that outfit was, was allowed to -- Mr. Leslie's laughing -- was allowed to carry on with market-based pricing.

MR. POREDOS: Mr. Thompson, third-party developers can price. As I understand the Board's decision a little while back, even through this process, that any new developers could charge market rates. From that standpoint, though, Union believes it should be a level playing field between all players, so that everyone who can develop storage has the same position and can invest the capital at the same way.

MR. THOMPSON: Well, what are Union's storage development plans? Do they have any? I thought that was all under the auspices of MHP.

MR. POREDOS: Union today does not have a stable of prospects to develop storage. Under the present regulatory regime, it would not be feasible for a utility to invest in that, as Mr. Baker said.

If we went out and tried to develop a pool, and let's say we spent $5 or $6 million on that development, which is not out of line, and then found that that pool couldn't be produced in the way to be a storage cavern, there would be no way for Union or a utility to put that money into rate base. So why would a utility go out and spend that kind of money or take that kind of risk, if they're not guaranteed that they can recover the costs?

MR. THOMPSON: Well, you're not going to recover the costs if you don't find anything.

MR. BAKER: I'd change it to say that we're not looking for a guarantee of costs, but we're looking for an opportunity to earn a return on a line of business, so that we would take the good with the bad and manage that risk. So clearly, when we're seeking a determination that the market's competitive and a framework of forbearance, we're looking to manage that, and we aren't looking for a guarantee.

MR. THOMPSON: But you have no immediate plans for storage development; is that correct?

MR. BAKER: That's true as we sit here today, largely because of the framework that we're under. We just can't economically justify doing it.

MR. THOMPSON: What precludes you, if the returns are inadequate, from the storage development perspective of simply -- you have to come to the Board for some approvals when you are developing storage. Why can't you put forward what you suggest is the reasonable return for this line of business? What's wrong with that?

MR. BAKER: You've got step back, again. Our view is that the market is competitive. Union doesn't have market power and, therefore, there's no need for Board oversight to regulate Union as a specific developer of storage capacity relative to other third-party storage developers.

# TAB 3

Ontario

# ONTARIO ENERGY BOARD

| | | |
|---|---|---|
| FILE NO.: | EB-2005-0551 | |
| VOLUME: | 4 | |
| DATE: | June 27, 2006 | |
| BEFORE: | Gordon Kaiser | Presiding Member and Vice Chair |
| | Cynthia Chaplin | Member |
| | Bill Rupert | Member |

year to year.

MR. KAISER: You have indicated that if the regulatory regime changed and you got to keep all of the premium and you got to go to market-based prices, you would increase your investment in this activity. Did I understand that right?

MR. BAKER: We would certainly take a much harder look at the investment opportunities that we see on the storage side; that's correct.

MR. KAISER: Have you done any studies of that?

MR. BAKER: No. We have been out of -- when we step back and look at it, based on the framework we have, we haven't been able to look hard at what else we would want to do with the framework, in terms of going out and amassing a land position or looking at potential developments in terms of greenfield storage. So we, as Union Gas, have not done that.

MR. KAISER: Dr. Schwindt, I just have one question for you. When we started this whole exercise, we were -- they went out and hired a high-priced economist like you experienced in competition policy to define whether these markets were competitive or not, and then to apply the appropriate pricing regime, but then it seems that the lawyers took over and forgot about the economic principles.

We have these dispatchable power people, and you say that that is a competitive market, we heard from Mr. Isherwood, but yet they get a piece of their capacity on a cost-based basis.

# TAB 4

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

Ref: Exhibit A, Tab 1, page 5-7

In providing a summary of the balances in the Storage and Transportation Deferral Accounts, Union refers to net revenues. For greater clarity, please provide:

a) A schedule or summary table detailing the gross revenues while detailing and quantifying the components of expenses that result in net revenues. Please include all asset expense costs and define the nature of those costs as demand or commodity.

b) For storage or transportation capacity that was designated in the Gas Supply Plan at the start of the gas of 2007-08 or 2008-09 to serve in-franchise utility needs and was subsequently shifted to transactional services in the period, please provide a description and a representative calculation that demonstrates how gross revenues and converted to the bottom line taking into account of all costs associated with asset usage.

c) Please provide the rate case and evidentiary reference that articulates the methodology that Union Gas relies on for this derivation. Please attach that content.

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**Response:**

The following responses relate to account No. 179-70 Short-Term Storage and Other Balancing Services and account No. 179-72 Long-Term Peak Storage Services. As part of the IR settlement agreement (EB-2007-0606) Account No. 179-69 Transportation and Exchanges was eliminated.

a) Please see Attachment 1 for Long-Term Peak Storage Services and Attachment 2 for Short-Term Storage and Other Balancing Services.

b) All transactional storage revenues are found in the Short-Term Storage and Other Balancing Services Account No.179-70. Please see Attachment 2 for the calculation of net revenues.

c) The Board's EB-2005-0551 Decision (NGEIR), pp. 98 – 105 defines how Union attributes net revenues to deferral accounts 179-70 and 179-72 and to the Company. Please see Attachment 3.

2007 Board Approved vs. 2008 Actual
Long-Term Peak Storage Services

| Line No. | Particulars ($000's) | 2007 Board Approved | 2008 Actual | Variance |
|---|---|---|---|---|
| 1 | Revenue | | | |
| 2 | Long-Term Peak Storage | 42,058 | 81,540 | 39,482 |
| 3 | High Deliverability Storage | - | 5,554 | 5,554 |
| 4 | Total Revenue | 42,058 | 87,093 | 45,035 |
| 5 | Costs | | | |
| 6 | Demand | (19,382) | (15,686) | 3,696 |
| 7 | Commodity | (955) | (1,696) | (741) |
| 8 | Asset Related | (316) | (18,233) | (17,917) |
| 9 | Total Costs | (20,653) | (35,615) | (14,962) |
| 10 | Net Revenue | 21,405 | 51,478 | 30,073 |

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

Provide descriptions of the costs included in the Short-Term and Long-Term Peak storage deferral accounts, including an explanation for cost variances from Board Approved.

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**Response:**

Short-Term Storage and Other Balancing Services

The short-term commodity costs are comprised of unaccounted for gas ("UFG") and compressor fuel.

The short-term demand costs are comprised of operating and maintenance ("O&M"), depreciation, property & capital tax, interest, income taxes, deferred tax drawdown and return.

The 2007 Board approved costs (EB-2005-0520) for the Short-Term Storage and Other Balancing Services deferral account were based on 2 PJs of Short-Term Peak storage. As part of the EB-2007-0520 Settlement Agreement, the Board imputed $12 million in margin, revenue net of costs, which was embedded in in-franchise rates. The costs were not changed and there was no indication of the costs associated with the higher imputed revenues. The 2008 deferral balance is calculated using total revenues and total costs. Comparing the 2008 actual costs with the 2007 Board Approved costs is not an accurate comparison, since the 2007 Board Approved costs did not identify the incremental costs to achieve the incremental imputed margin.

Long-Term Peak Storage Services

The long-term commodity costs are comprised of UFG and compressor fuel, net of customer supplied fuel.

The long-term demand costs are comprised of O&M, depreciation, and property and capital tax.

The long term asset costs are comprised of interest, return and income tax for unregulated assets. These costs were not forecasted as part of EB-2005-0520 resulting in a variance from the 2007 Board Approved costs.

# TAB 5

**EB-2009-0052**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Sched. B);

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders amending or varying the rate or rates charged to customers as of July 1, 2009.

## SUBMISSIONS OF THE LONDON PROPERTY MANAGEMENT ASSOCIATION

These are the submissions of the London Property Management Association ("LPMA") in the matter of an application by Union Gas Limited ("Union") for approval for final disposition and recovery of certain 2008 year-end deferral account balances.

### Account Balances

LPMA has reviewed the balances in the various deferral accounts that are to be refunded/recovered from customers through this proceeding. In general, with two exceptions, LPMA agrees that the balances appear to be appropriate and accepts the amounts as calculated.

The two exceptions noted above relate to the balances in accounts 179-70 (short-term storage and other balancing services) and 179-72 (long-term peak storage services). The balances in these accounts as calculated by Union are $360,000 and ($28,461,000), respectively as shown in Exhibit A, Tab 1, Schedule 1 and described at pages 5 through 7 of Exhibit A, Tab 1.

As shown in the response to Exhibit B3.1, there are significant changes in the level of both revenues and costs used in the calculation of the net revenue figures shown in Attachments 1 & 2 to the response.

For example, as shown in Attachment 1 to Exhibit B3.1 that calculates the net revenue for long term peak storage services, there is a more than a doubling of the revenues generated. However, despite this increase, there is a decrease in demand costs. On the other hand, there is a substantial increase in the asset related costs from a 2007 Board Approved level of $316,000 to $18,233,000, an increase of more than 5600%.

Similarly, a review of Attachment 2 to Exhibit B3.1 which relates to the net revenue calculation associated with short-term storage and other balancing services, similar questions arise. In this case, revenues increase by about 30% or $5.366 million in 2008 over the 2007 Board Approved level. At the same time, however, total costs (demand and commodity) rise by nearly 300%, or 10 times the percentage increase in revenues. In fact, the increase in costs is $6.336 million, more than the increase in the total revenue.

In the supplemental response to FRPO at Exhibit B3.1 Supplemental, Union indicates that the short term commodity costs are comprised of unaccounted for gas and compressor fuel, while the short term demand costs are comprised of operating & maintenance, depreciation, property & capital tax, interest, income taxes, deferred tax drawdown and return. The response also indicates that the level of costs in 2008 are significantly higher than the 2007 Board approved figure because the Board imputed $12 million in margin which is revenue net of costs. Revenues were increased by the $12 million while there was no increase in costs. LPMA understands this explanation, but notes it would be helpful if Union had provide a more detailed response, especially in relation to the commodity cost increase of more than $4.6 million. This explanation would have related the increase in costs to the increase in unaccounted for gas and compressor fuel that was apparently related to the increased short term storage and other balancing services activity. Union has not provided information for this critical link, as a result LPMA cannot determine whether the results are reasonable or not.

Similarly in the Exhibit B3.1 Supplemental response related to the long term peak storage services, the asset related costs are described as be comprised of interest, return and income tax for unregulated assets. Union indicates that these costs were not forecasted as part of EB-2005-0520. This raises the question of whether or not these unregulated asset related costs are properly included in the calculation for 2008. Union has not provided any further information related to their inclusion.

Based on the above, LPMA is unable to determine if the resulting amounts in these two accounts are reasonable. LPMA submits that the Board should approve the amounts as proposed by Union so as to not delay the disposition in these and the other accounts beyond July 1. However, the Board should require Union to provide further information to the Board and other parties related to these two accounts so that all parties can be satisfied that the amounts calculated are appropriate.

**Allocation of 2008 Deferral Account Balances**

LPMA has reviewed the proposed allocation of the various deferral accounts as proposed by Union and finds that the proposals are acceptable. These allocations are shown in Exhibit A, Tab 2, Schedule 1. All of the allocations appear to be based on allocations used by Union and approved by the Board in the setting of 2007 rates (EB-2005-0520) or approved by the Board in some other past proceeding. For example, Union confirmed that the method proposed for allocating the balances in accounts 179-70 and 179-72 was consistent with that used by Union and approved by the Board in the past (Exhibit B5.5).

With respect to the allocation of the market transformation incentive, Union proposes to allocate this amount to the M1 and Rate 01 rate classes (Exhibit A, Tab 2, page 5). As shown on line 21 of Exhibit A, Tab 2, Schedule 1, this results in an allocation of $12,000 to Rate 01 and $488,000 to Rate M1. This allocation was based on the number of units installed in the M1 residential rate class (Union South) relative to the number of units installed in the 01 residential rate class (Union North) as detailed in the response to LPMA interrogatory # 6 (Exhibit B5.6). LPMA submits that this allocation is an acceptable methodology.

The allocation of the Average Use per Customer deferral account (179-118) is shown on line 17 of Exhibit A, Tab 2, Schedule 1 and includes a credit to customers in Rates 01 and 10 and a charge to customers in Rates M1 and M2. Based on the calculations provided in response to an LPMA interrogatory (Exhibit B5.3) LPMA accepts this allocation. As Attachment 1 to that interrogatory response indicates, the 2008 actual average use for Rates 01 and 10 were higher than the target average use, meaning that these customers are entitled to a rebate. The actual average use for the M1/M2 rate class was slightly less than the targeted figure, meaning those customers should be charged an additional amount. The calculations provided in the attachment appear to LPMA to be appropriate.

**Disposition of 2008 Deferral Account Balances**

Union proposes to dispose of the 2008 deferral account balances for general service rates M1, M2, 01 and 10 prospectively over the July 1, 2009 through December 31, 2009 time period. This disposal does not include balances managed through the QRAM process. In-franchise contract and ex-franchise customers would receive a one-time credit or charge. This approach for both general service customers and for contract customers is consistent with how Union disposed of the 2007 deferral account balances in EB-2008-0034. LPMA supports the continued use of the disposition methodology as proposed by Union.

For the general service rate classes, the forecasted volume for the July 1, 2009 through December 31, 2009 period over which the account balances are to be rebated is based on Union's most current operational forecast for 2009 (Exhibit B5.7). This is not a Board approved forecast.

While LPMA supports use of the most current operation forecast for the same reasons as stated by Union, that is, this forecast is most likely to result in minimal differences between the amounts actually recovered/refunded and amounts approved for recovery/refund, LPMA is concerned that there is potential for a significant potential for over or under recovery of the deferral account balances due to differences between the forecasted and actual volumes for the July through December, 2009 period that would, in part, be weather related.

As shown in the response to Exhibit B5.7, Union indicates that any over or under recovery/refund of deferral account balances accrue to the company and there is no true up for differences between the actual recovery/refund amount and the balances approved by the Board for recovery/refund. Union has indicated that it expects any difference would be minimal.

LPMA submits that the Board should direct Union to provide the Board and intervenors with information on the amount of the difference between the actual disposition of the 2008 account balances and the approved amount when it files its application for the disposition of 2009 balances in 2010. This would allow parties to determine if the difference is minimal or whether the Board should institute some process for a true up.

**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, 2009.

Randall E. Aiken

Randall E. Aiken
Consultant to
London Property Management Association

# TAB 6

unionGas
A Spectra Energy Company

June 1, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 26th Floor
Toronto, ON
M4P 1E4

**Re: Union Gas Disposition of 2008 Deferral Account and Other Balances (EB-2009-0052) – Union's Reply Submission**

Dear Ms. Walli:

Please find attached Union's reply submission in the above noted proceeding.

If you have any questions please contact me at (519) 436-5476.

Yours truly,

*[original signed by]*

Chris Ripley
Manager, Regulatory Applications

cc: M. Penny (Torys)
EB-2009-0052 Intervenors

# TAB 7

EB-2009-0052

**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule. B);

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders amending or varying the rate or rates charged to customers as of July 1, 2009;

**UNION GAS LIMITED**
**FINAL ARGUMENT**

**Overview**

1. The Board issued Procedural Order No. 2 on May 21, 2009 allowing intervenors to submit additional argument with respect to the 2008 deferral account balances in the Short-Term and Other Balancing Service Deferral Account (No. "179-70") and the Long-Term Peak Storage Services Deferral Account (No. "179-72").

2. Additional argument was filed by London Property Management Association ("LPMA"), the School Energy Coalition ("SEC"), the City of Kitchener ("Kitchener"), the Canadian Manufacturers and Exporters ("CME") and the Federation of Rental-housing Providers of Ontario ("FRPO").

3. LPMA submitted that Union's reply argument and subsequent discussion in EB-2009-0101 provided sufficient explanations of the deferral balances in 179-70 and 179-72 and that the balances, as filed, are reasonable.

4. CME alleges that Union did not provide any explanation of the cost differences between Union's 2008 Financial Statements and the actual 2008 deferral balances filed

March 31, 2009. CME argues that the Board should approve the deferral balances as recorded the Financial Statements. Kitchener supported CME's argument.

5. FRPO has submitted that the Board's decision in EB-2008-0154 with respect to deferred tax is somehow related the capitalization of O&M costs and suggests that the O&M costs should continue to be regulated until the phase out of the ratepayer share is complete. SEC supported FRPO's argument.

6. Kitchener argues on the basis of some alleged mismatch between cost recovery and return on new investment, that there should be a "levelized rate of return," given that the sharing of the revenues from 179-72 will cease in 2011.

7. This is Union's reply to all of the above arguments.

**Accounting Differences**

8. CME argues that the 2008 deferral balances should be calculated based on Union's 2008 Financial Statements.

9. Union submits that it is appropriate to adjust deferral account balances submitted for disposition to reflect actual results where there is a difference between the estimate used to close accounts at year end for financial reporting and the actual results. This ensures disposition of more accurate results in the proper period. It has always been Union's practice in previous deferral disposition proceedings to seek approval based the actual deferral balances, not the balances reported in Union's Financial Statements. No question has ever been raised about this practice previously.

10. The practice of using assumptions and estimates in the preparation of financial statements is noted in Union's 2008 annual report (note 1) which says:
"The preparation of financial statements in accordance with Canadian GAAP requires management to make estimates and assumptions that affect the reported amount of assets, liabilities, revenues, expenses and disclosure of contingent assets and liabilities."

11. At year end, Union prepares accrual estimates in an attempt to provide the most accurate financial information for the Financial Statements. Inevitably, the accruals are never 100% correct when compared to the actual revenues and costs following year end. The 2008 Financial Statements and 2008 deferral balances are no different.

12. Union began preparation of its Financial Statements on January 1, 2009. For cost and rate base allocations related to the storage deferral accruals, Union used 2008 actual information for January to November and forecast information for December. The CME allegation that Union could "provide no information whatsoever" as to the cause of these variances is quite wrong. Mr. Ferguson testified at the Technical Conference that the estimates were prepared by his team within a few days of "the close" (i.e., December 31, 2008) and that any difference between the estimate and the actuals, which were also prepared by Mr. Ferguson and his team, were "timing differences".

13. There is no particular magic to the financial statement numbers, as Mr. Thompson brought out in the Technical Conference, p. 6:

> Mr. Thompson: Who made the estimate that appears in the financial statements?
> Mr. Ferguson: My team.

Mr. Thompson: So the auditors just accepted that?

Mr. Ferguson: That's correct.

Mr. Ferguson went on to testify that:
It's a matter of timing. The deferral calculation estimate would have been prepared on the first or second day of the close prior to all numbers being finalized.

14. Financial Statements are not considered finalized until such time as an audit opinion is issued. In the intervening period, the auditor assesses any potential further adjustments in terms of materiality. In Union's case, the external auditor opinion was issued on March 13, 2009. The adjustment to the storage deferral accruals based on actuals was immaterial for purposes of adjustment to the final Financial Statements.

15. Union's deferral disposition application was filed on March 31, 2009 using 2008 actual revenues and costs.

16. Union submits that it is normal accounting practice to "close the books" on estimates. This practice has been approved by the Board and accepted by intervenors in the past dispositions. Further, the explanation of deferral account variances between estimates at "the close" and actuals as of March 31, have never been a feature of deferral account disposition before, so it is hardly surprising that Mr. Ferguson did not have detailed information at his fingertips. If CME had actually wanted this information, it could have asked an interrogatory earlier in the proceedings or for an undertaking at the Technical Conference. CME did not do so.

17. Union requests the Board to approve the 2008 deferral balances in 179-70 and 179-72 as filed.

**Capitalization of O&M Costs**

18. FRPO and SEC argue that the O&M related to the deferral balances in 179-70 and 179-72 should continue to be capitalized as it was under regulated accounting. In support of this argument, they cite the Board's decisions in EB-2007-0598 and EB-2008-0154.

19. Union submits that it is appropriate to deduct all of the actual costs attributable to market priced storage services in the determination of net storage revenues for deferral including the increase in operating and maintenance expenses due to the change in accounting as a result of the change in regulation of storage.

20. Consistent with other rate regulated companies in Ontario, Union capitalizes indirect and general administrative overhead costs associated with utility capital projects. This is a standard rate regulated entity accounting practice.

21. In EB-2005-0551 the Board determined Union's storage operations to be unregulated. As a result, Union's unregulated storage capital projects follow the accounting principle found at section 3861, paragraph 20 of the CICA Handbook which states:

> "The costs of an item of property, plant and equipment includes direct construction or development costs (such as material and labour) and overhead costs directly associated attributable to the construction or development activity".

22. In accordance with section 3861, Union no longer capitalizes indirect general and administrative costs associated with unregulated capital projects. These costs include salaries, wages and benefits for non-directly attributable functions such as Human Resources, Legal and Accounting.

23. Intervenors' reliance on EB-2007-0598 and EB-2008-0154 is completely misplaced. The issue of changes in accounting due to the change in the regulation of storage was addressed in both EB-2007-0598 and in EB-2008-0154 in a manner which totally supports precisely what Union has done in this case. On page 7 of the decision in EB-2008-0154 the Board indicated that

> "Union can include ongoing costs associated with the unregulated storage business to calculate net revenues with the exception of deferred taxes for the period 1997-2006, the liability of which was at issue in the 2006 Deferral Account Decision and for which the Board denied recovery. The 2006 Deferral Account Decision makes no finding as to the appropriate recognition of taxes in the determination of net revenues from storage transactions for the period 2007 and beyond; the decision deals specifically and exclusively with the 1997-2006 deferred tax expense. And, as indicated above, the issue of deferred taxes was not raised at all in the 2007 proceeding, and therefore the 2007 Deferral Account Decision also does not address the treatment of taxes for purposes of determining "net revenues" from ex-franchise storage services. The 2007 Deferral Account Decision accepted the $2.196 million that was included in Union's application but directed Union to recalculate the 2007 balance in account 179-72 in accordance with the Board's finding, for later disposition. There is nothing in that decision to prevent Union from including current and deferred tax expenses related directly to the 2007 revenues as a cost for purposes of determining net revenues."

24. The Board's decisions in EB-2007-0598 and in EB-2008-0154 dealt with deferred taxes. As was made clear in the latter decision, it was only the past liabilities (1997-2006) associated with deferred taxes that were deemed to be unrecoverable. The reduced capitalization of the O&M costs at issue here is an ongoing cost and is not at all comparable to the Board's decision on historical deferred taxes.

25. Changes in accounting, as they relate to the treatment of O&M costs in 179-70 and 179-72, are ongoing costs which Union must account for under the CICA Handbook

rules. Union submits that it has followed the prescribed accounting rules and calculated the deferral account balances correctly.

**Levelized Rate of Return**

26. Kitchener argues that Union's long-term storage return costs in 2009, 2010 and 2011 should be reduced as a result of the impact of ratebase additions that will be depreciated over a period of time in excess of the time period during which there will be sharing of net storage margin. Specifically, Kitchener argues that there may be recovery of costs early in the life of the new storage developments relative the return, and that the returns should be "levelized" to provide a constant return over the economic life of the assets.

27. Union finds this argument difficult to understand. As Mr. Poredos testified at the Technical Conference:

> "The one thing I should remind everyone is that the investment was made and there is no risk to customers. They are sharing on the margin which they have taken no risk on at all. So it's a bit of an issue."

What Mr. Poredos was saying is that there is no down side to customers, only upside, on the issue of new storage development. This is because none of the new storage development costs are embedded in rates. If Union fails to achieve revenue targets, customers pay nothing in rates for the cost associated with these investments. The only way in which the cost of new storage development comes into the equation at all is through the calculation of net margin. In this regard, there can be only credits to customers in respect of new storage development, not debits.

As the passage quote from EB-2008-0154 above makes clear, the net margin for sharing is to be determined on the basis of actual costs. There is no merit to the suggestion that the cost of new storage should be manipulated in the sharing calculations so as to produce a "levelized return."

28. Union has never levelized return in any past cost of service proceedings. Union has always calculated the sharing of incremented revenue, not of incremental costs. There is no precedent or evidentiary basis for making such a change to "levelizing" the return. The concept of "levelizing" return would be a deviation from all previous presentations of cost Union has ever done.

29. Kitchener's position is also opportunistic, in that Kitchener proposes to levelize the costs but proposes to continue to use actual revenue from the sale of storage services at market prices in 2008. It is unfair and illogical to used "levelized" costs but actual incremental revenue.

30. Accordingly, Union submits that the well established methodology for calculating net revenue in these deferral accounts is the correct, well established approach and that it should continue to be utilized in this case.

**Conclusion**

31. In conclusion, for the reasons set out in Union's argument in chief, reply and above, Union requests an order of the Board approving the 2008 deferral and other balances as outlined in Exhibit A, Tab 1 Schedule 1 and Schedules 2, 3 and 4. Union also seeks an order of the Board approving the method of allocation of these amounts as outlined in Exhibit A. Tab 2, Schedules 1 to 3.

# TAB 8

Ontario Energy Board

Commission de l'énergie de l'Ontario

Ontario

EB-2009-0052

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998,* S.O. 1998, c.15 (Schedule B);

**AND IN THE MATTER OF** an Application by Union Gas Limited for an order or orders amending or varying the rate or rates charged to customers as of July 1, 2009.

**BEFORE:** Gordon Kaiser
Presiding Member

Paul Sommerville
Member

Paul Vlahos
Member

## DECISION AND ORDER

### The Proceeding

Union Gas Limited ("Union") filed an application on March 31, 2009 with the Ontario Energy Board (the "Board") seeking approval for final disposition and recovery of certain 2008 year-end deferral account balances including approval and disposition of the market transformation incentive. Union proposed that the resulting impacts from the disposition be implemented on July 1, 2009 to align with other rate changes expected to result from the Quarterly Rate Adjustment Mechanism ("QRAM") process. The Board assigned docket number EB-2009-0052 to the application.

The Board issued its Notice of Written Hearing and Procedural Order No.1 on April 22, 2009, which was served on a list of intervenors involved in Union's 2008 rates proceeding (EB-2008-0220). The Board received one intervention request from an

In their original submissions, intervenors attempted to compare 2008 data to 2007 data, and expressed concerns with the year-to-year increases and the explanation provided by Union in its evidence and interrogatory responses. Intervenors focussed on several key issues where further explanation was required:

- The $12 million of "imputed margin" in the ST account;
- Increased storage activity, and specifically the $4.6 million commodity cost increase in the ST account;
- The significant increase in asset-related costs in the LT account;
- Lack of clarity surrounding the accounting differences between the estimate provided in the Audited Financial Statements ("AFS") and Union's proposed deferral disposition amounts; and
- Lack of clarity around issues of methodology, assumption and cost allocation applicable to Union's deferral accounts.

Union's Reply Argument expanded significantly on Union's interrogatory responses, and on the issues above.

In supplemental submissions on the Storage Revenue Issue, intervenors did not raise further concerns regarding the first three points listed above. The Board views those issues as no longer being in dispute and accepts Union's proposals.

Certain matters involving the Storage Revenue Issue remained unresolved through the expanded discovery process, and were raised in supplemental submissions.

LPMA accepted the further clarification provided by Union, and accepted the balances in all accounts as filed by Union. Other parties did not.

SEC submitted the Operations & Maintenance ("O&M") costs charged to the LT account are too high. SEC alleged that the approximately $1 million increase to O&M costs, due to the deregulation of ex-franchise long-term storage assets, is "exactly analogous" to the Board's denial of an accounting tax liability in a previous disposition proceeding.[3] SEC submitted that costs should continue to be capitalized as if they were regulated assets until the phase out of the ratepayer share is completed. FRPO made similar submissions.

[3] EB-2007-0598 – Decision - Union's 2006 Deferral Account Disposition and Earnings Sharing Proceeding.

# TAB 9

# UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

***Ref:*** EB-2009-0052, B3.1

***Question:***

Preamble: In EB-2009-0052, FRPO was attempting to understand the calculation of balances that contribute Account No. 179-90 Short-Term Storage and Other Balancing Services and Account No. 179-72 Long-Term Peak Storage Services as their balances affect the resulting earnings provided by Union in EB-2009-0101. To provide clarity for the purpose of understanding the calculations performed by Union, the following questions are submitted: For attachment 1, please expand the table to present the additional detail showing line items for:

- The long-term commodity costs: UFG and compressor fuel, net of customer supplied fuel.
- The long-term demand costs: O&M, depreciation, and property and capital tax.
- The long term asset costs: interest, return and income tax for unregulated assets.

For each variance, please provide an explanation as to the source of the variance and Union's expectation for a continuation of that effect in 2009 and 2010. For attachment 2, please expand the table to present the additional detail showing line items for:

- The short-term commodity costs: unaccounted for gas ("UFG") and compressor fuel.
- The short-term demand costs: operating and maintenance ("O&M"), depreciation, property & capital tax, interest, income taxes, deferred tax drawdown and return.

If variance is not a helpful, please provide an explanation as to the source of the 2008 numbers and Union's expectation for a continuation of that level in 2009 and 2010. Further, please provide a verbal explanation of the process of moving these assets from rate base to ST Services and demonstrate how Union is not recovering the cost in any utility service.

---

**Response:**

Please see Attachment 1 and 2 for additional line item detail on short-term and long-term costs.

Attachment 1 and 2 provide detailed calculations of storage margin subject to sharing with ratepayers. The combined 2007 Board approved costs for short and long-term storage services are for storage assets in excess of the 92 PJs set aside for in-franchise growth. 2008 costs for short and long-term storage services, in addition to the costs in excess of the 92 PJs, includes costs related to Union's incremental investments in storage. Costs of revenues are higher than 2008 because, as a result of the NGEIR Decision, Union made "at risk" investments in new storage capacity and third party storage assets. The revenue for both 2007 Board approved and 2008 actuals are consistent with level of cost incurred. Ratepayers are benefiting from these investments through the sharing of storage deferral accounts.

Attachment 2, it appears that Union incurred significant "Asset Costs" over Board-approved in 2008. The 2008 actual costs included as "Asset Costs" are the same types of costs that are included as "Demand Costs" in 2007. Union has attached Schedule 3 to better align cost categories and to provide parties with a better understanding of 2007 Board approved costs when compared to 2008 actual costs.

For the short-term account, the cost variance explanations are as follows:

- Demand costs increased due to 6 PJs of space included in the 2007 long term forecast being sold short term in 2008
- Commodity costs increased due to higher short term activity levels.

Union expects a continuation of similar short-term cost variances from 2007 Board approved in 2009 and 2010.

For the long-term account, the cost variance explanations are as follows:

- Demand costs decreased due to the aforementioned 6 PJs of space included in the 2007 long term forecast actually being sold short term in 2008
- Commodity costs increased due to higher long term activity levels
- Asset related costs increased as a result of investments and additional third party storage costs. Also, income tax expenses are higher as a result of the income tax accounting change as a result of the NGEIR decision. Specifically, deferred tax expenses are recorded as a result of the change in regulation.

Union expects a continuation of similar long-term cost variances from 2007 Board approved in 2009 and 2010.

In the EB-2005-0520 (2007 Rate Case), Union allocated approximately 92 PJs of a total of 162 PJs of storage space to in-franchise customers based on the Board approved allocation methodology. The cost for the 92 PJs remained in Union's 2008 in-franchise delivery rates. The remaining space and associated cost was allocated to ex-franchise storage services.

2007 Board Approved vs. 2008 Actual
Long Term Storage Services

| Line No. | Particulars ($000's) | 2007 Board Approved | 2008 Actual | Variance |
|---|---|---|---|---|
| 1 | Revenue | | | |
| 2 | Long Term Peak Storage | $42,058 | $81,540 | $39,482 |
| 3 | High Deliverability Storage | - | 5,554 | 5,554 |
| 4 | Total Revenue | 42,058 | 87,093 | 45,035 |
| 5 | Costs | | | |
| 6 | Demand | | | |
| 7 | O&M | (5,954) | (9,767) | (3,813) |
| 8 | Depreciation | (4,526) | (4,966) | (440) |
| 9 | Property & Capital Tax | (923) | (953) | (30) |
| 10 | Return | (7,907) | - | 7,907 |
| 11 | Income Taxes | (75) | - | 75 |
| 12 | Total Demand | (19,385) | (15,686) | 3,698 |
| 13 | Commodity | | | |
| 14 | O&M | (955) | - | 955 |
| 15 | UFG | (4,177) | (4,111) | 66 |
| 16 | Compressor Fuel | (3,437) | (3,695) | (258) |
| 17 | Customer Supplied Fuel | 7,614 | 6,110 | (1,504) |
| 18 | Total Commodity | (955) | (1,696) | (741) |
| 19 | Asset Costs | | | |
| 20 | O&M | (15) | - | 15 |
| 21 | Depreciation | (12) | - | 12 |
| 22 | Property & Capital Tax | (9) | - | 9 |
| 23 | Return | (248) | (14,348) | (14,100) |
| 24 | Income Taxes | (33) | (3,886) | (3,853) |
| 25 | Total Asset Costs | (316) | (18,233) | (17,917) |
| 26 | Total Costs (line 12 + line 18 + line 25) | (20,654) | (35,615) | (14,962) |
| 27 | Net Revenue | $21,405 | $51,478 | $30,073 |

Filed: 2009-04-26
EB-2009-0101
Exhibit B
Tab 3
Schedule 2
Attachment 3
Corrected

2007 Board Approved vs. 2008 Actual
Long Term Storage Services - Reclassified Costs

| Line No. | Particulars ($000's) | 2007 Board Approved | 2008 Actual | Variance |
|---|---|---|---|---|
| 1 | Revenue | | | |
| 2 | Long Term Peak Storage | $42,058 | $81,540 | $39,482 |
| 3 | High Deliverability Storage | - | 5,554 | 5,554 |
| 4 | Total Revenue | 42,058 | 87,093 | 45,035 |
| 5 | Costs | | | |
| 6 | Demand | | | |
| 7 | O&M | (5,969) | (9,767) | (3,799) |
| 8 | Depreciation | (4,538) | (4,966) | (429) |
| 9 | Property & Capital Tax | (932) | (953) | (21) |
| 10 | Return | (8,155) | (14,348) | (6,193) |
| 11 | Income Taxes | (108) | (3,886) | (3,778) |
| 12 | Total Demand | (19,700) | (33,920) | (14,220) |
| 13 | Commodity | | | |
| 14 | O&M | (955) | - | 955 |
| 15 | UFG | (4,177) | (4,111) | 66 |
| 16 | Compressor Fuel | (3,437) | (3,695) | (258) |
| 17 | Customer Supplied Fuel | 7,614 | 6,110 | (1,504) |
| 18 | Total Commodity | (955) | (1,696) | (741) |
| 19 | Total Costs (line 12 + line 18) | (20,653) | (35,616) | (14,963) |
| 20 | Net Revenue | $21,405 | $51,477 | $30,072 |

# TAB 10

Ontario

# ONTARIO ENERGY BOARD

**FILE NO.:** EB-2008-0101

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**VOLUME:** Technical Conference

**DATE:** May 25, 2009

MR. QUINN: Okay. So now you have a significant increase in the return for these assets. Now, can you tell me how that return was derived in a way that would substantiate that increase?

MR. FERGUSON: The return is a result -- the increase in return is a result of additional investments in new storage capacity.

MR. QUINN: What would the quantum of that investment be?

MR. PACKER: I don't believe we have exact numbers, but ballpark $100 million.

MS. CAMPBELL: Before we go any further, the reporter has requested a brief recess. So if we could take 15 minutes right now, and then we can come back and finish with you, Mr. Quinn.

MR. PENNY: Sorry, let's finish this issue. I'm not sure we are finished this issue.

MS. CAMPBELL: All right, fine.

MR. PENNY: So if you don't mind, why don't we just close this off, and then take a break?

MS. CAMPBELL: Certainly.

MR. PENNY: Did you have anything further on this particular issue, Mr. Quinn, or is that it?

MR. QUINN: No, I have some more, and I thought this was an appropriate time to take that break.

MR. PENNY: All I'm saying is that if you've got something on this, let's finish it, and then you can move -- take the break and you can move on. I just wanted to make sure we hadn't left something hanging here.

MR. QUINN: I wanted to examine the costs in the other categories of O&M, UFG and compressor fuel, so that would take a little bit of time, Ms. Campbell.

MR. PENNY: Fine. If we're done with the return, that's fine. Let's take the break.

MR. QUINN: We will come back to any clarifications I further need in this area. Thank you.

--- Recess taken at 11:13 a.m.

--- On resuming at 11:33 a.m.

MS. CAMPBELL: We're now ready to proceed. Mr. Quinn, if you would like to start your questioning.

MR. PENNY: Just before we carry on with the questions, it came to our attention over the break that there is a clerical error in Schedule B3, schedule 2, attachment 2, at lines 13 to 17. And that is repeated on the next page at attachment 3 because it's the same numbers that are repeated. Mr. Ferguson is going to walk through the correct numbers. The total doesn't change, but the numbers within that total are not correct, as a result of, as I said was a clerical error. What we'll do is file a corrected version of it this afternoon, but Mr. Ferguson is in a position to correct those numbers now.

MR. FERGUSON: I'm going to give the correction in terms of Exhibit B, tab 3, schedule 2, attachment 3.

At line 14, O&M, the corrected numbers should be negative 955 as opposed to negative 7,784.

At line 15, UFG, the corrected number should be negative 4,177 as opposed to negative 431.

Line 16, compressor fuel, the corrected number should be negative 3,437 as opposed to 354.

There is no change to line 17.

The total commodity for 2007 Board-approved remains 955 negative.

MR. PENNY: Am I correct that those same corrections would be made to Exhibit B, tab 3, schedule 2, attachment 2, to lines 14 to 17?

MR. FERGUSON: That is correct. That's all.

MR. PENNY: That's all we have by way of preliminary.

MS. CAMPBELL: Thank you. Mr. Quinn.

**FURTHER QUESTIONS BY MR. QUINN:**

MR. QUINN: That certainly is going to reduce my questions, but I need to make sure I get clarity on that O&M impact. I heard 995 for line 14.

MR. FERGUSON: That is correct, 955 negative for line 14.

MR. QUINN: 955.

MR. FERGUSON: That's correct.

MR. QUINN: So that would be the same on attachment 2.

MR. FERGUSON: That's correct.

MR. QUINN: Okay. I certainly look forward to the revised schedules, and I think that that will reduce those questions in that area, but I need to go back to the return question because I'm still trying to do my math in the prior time before the break, and I thought maybe as opposed to me doing the math, maybe you can do it for me.

Simply put then, if we look at those two lines of return in line 10 going between 2007 Board-approved and 2008 actual, can you break that down, the 14 million number, and show a schedule that would show what was incremental investment and at what rate, and what was increase utilization or whatever allocation that would, you know, have the number go to 14 million including showing the net of the 6 million pJs or 6 pJs that went to short term. So in other words you've got a number of 8155 for the Board-approved number - sorry, I'm on the wrong schedule, that was attachment 3. On attachment 2, it was 248, now you've got 14,348. Can you show us in a schedule how you break that down?

MR. FERGUSON: I don't have those numbers.

MR. QUINN: Would you be able to take an undertaking to provide that?

MR. KITCHEN: Mr. Quinn, you're looking at attachment 2. The schedule you really should be looking at is attachment 3 when you're comparing the return. The 248, if you look at the Board-approved column on attachment 2, you can see return appears under the demand cost portion. We've aligned those under schedule 3 so the difference is not between the 248 and 14,348 it's between 8,155 and 14,348 which really reflects the increase in investment that was -- that Union entered into as a result of the NGEIR decision.

MR. QUINN: Given your guidance, I will look at attachment 3, but I'll ask the same question. Can you break that down showing the 6 pJs moved into short-term account and then the net impact of investment and net factors that increase the number up to 14 million?

MR. KITCHEN: I'm not sure that we can, Mr. Quinn.

MR. QUINN: Somebody calculated that number. You are asking us to trust in its calculation. I would think breaking it down a little bit would help us all.

MR. KITCHEN: I'm not sure we can break it down in the way that you've asked it to be broken down. We don't actually calculate return based on individual assets, we calculate return based on old assets versus new assets. We have an integrated storage facility and we calculate the total cost for 2008, and that's the total return component. I'm not sure we can actually break it down in the way that you've asked for it to be broken down. In fact, I don't think we can.

MR. QUINN: If you start with 2007 actual and its calculation and compared to 2008 -- or 2007 Board-approved, my mistake, and then compare 2008 actual, you are telling me you can't compare the two?

MR. KITCHEN: We can compare the two in total but I'm not sure we can compare the two in the same way that you've asked us to.

MR. QUINN: I would like to see you give it a good try, if you would, and if it helpful to our understanding, it will help us to understand what is the impact going to be for 2009 and beyond.

MR. KITCHEN: I'm not sure I'm prepared to accept an

# TAB 11

UNION GAS LIMITED

Undertaking of Mr. Quinn
To Mr. Ferguson

To provide a breakdown of Return identified at Exhibit B, Tab 3, Schedule 3, Attachment 3, line 10 in order to establish the nature of its increase.

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Please find attached the Calculation of the Long-Term Storage Return.

UNION GAS LIMITED
Calculation of Long-Term Storage Return
($000's)

| Line No. | Particulars | Rate Base (1) | | Return and Interest | | 2007 Board Approved | 2008 Actual | 2009 Forecast |
|---|---|---|---|---|---|---|---|---|
| 1 | 2007 Board Approved | 102,794 | | 7.93% | (2) | 8,155 | | |
| 2 | 2007 Board Approved | 102,794 | (3) | 7.93% | | | 8,155 | |
| 3 | Less 6 PJ's Sold as Short Term | (9,070) | (4) | 7.93% | | | (720) | |
| 4 | 2008 New Investment and Purchased Storage | 74,395 | (5) | 9.29% | (6) | | 6,913 | |
| 5 | 2007 Board Approved | 102,794 | (3) | 7.93% | | | | 8,155 |
| 6 | Less 6 PJ's Sold as Short Term | (9,070) | (4) | 7.93% | | | | (720) |
| 7 | 2008 & 2009 New Investment and Purchased Storage | 216,664 | (5) | 8.70% | (6) | | | 18,840 |
| 9 | Total | | | | | 8,155 | 14,348 | 26,275 |

Notes:

(1) Rate base additions determined using the average of monthly averages methodology.

(2) EB-2009-0101, Appendix A, Schedule 4, page 1, column (d), line 6 divided by EB-2009-0101, Appendix A, Schedule 4, page 1, column (a), line 6 times 100.

(3) Excludes the annual impact of depreciation on 2007 Board approved rate base and return.

(4) Calculated as ($102,794/68 PJs) x 6 PJs

(5) New Investment and Purchased Storage

| | 2008 Actual | | 2009 Actual | |
|---|---|---|---|---|
| | In-Service | $000's | In-Service | $000's |
| 1 Washington 10 | Jan-08 | 21,000 | | |
| 2 St Clair | Apr-08 | 12,000 | | |
| 3 Huron Tipperary | Jun-08 | 23,000 | | |
| 4 Delta Pressure | Sep-08 | 5,400 | | |
| 5 Dawn Deliverability | Nov-08 | 99,200 | | 11,600 |
| 6 Replacement Capital | 2008 Ongoing | 3,400 | 2009 Ongoing | 10,100 |
| 7 Sarnia Airport | | | Jun-09 | 58,000 |
| 8 Heritage | | | Jul-09 | 12,300 |
| 9 Delta Pressure | | | Nov-09 | 4,000 |

(6) Estimated

# TAB 12

UNION GAS LIMITED

Undertaking of Mr. Quinn
To Mr. Ferguson

To provide 2009 figures for attachment 3, tab 3 for long-term storage services.

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Please see the addition of the 2009 forecast in the attached schedules.

2007 Board Approved vs. 2008 Actual
Short Term Storage Services

| Line No. | Particulars ($000's) | 2007 Board Approved | 2008 Actual | Variance | 2009 Forecast |
|---|---|---|---|---|---|
| 1 | Revenue | | | | |
| 2 | C1 Off-Peak Storage | $1,000 | $2,040 | $1,040 | $2,687 |
| 3 | Supplemental Balancing Services | 2,000 | 3,122 | 1,122 | 2,042 |
| 4 | Gas Loans | 1,000 | 2,177 | 1,177 | 3,958 |
| 5 | Enbridge LBA | 75 | 211 | 136 | |
| 6 | C1 ST Firm Peak Storage | 13,794 | 15,777 | 1,983 | 18,938 |
| 7 | C1 Firm ST Deliverability | 92 | - | (92) | - |
| 8 | M12 Interruptible Deliverability | - | - | - | - |
| 9 | Total Revenue | 17,961 | 23,327 | 5,366 | 27,625 |
| 10 | Costs | | | | |
| 11 | Demand | | | | |
| 12 | O&M | (175) | (743) | (568) | (743) |
| 13 | Depreciation | (132) | (498) | (366) | (498) |
| 14 | Property & Capital Tax | (28) | (102) | (74) | (102) |
| 15 | Return | (258) | (905) | (647) | (905) |
| 16 | Income Taxes | (6) | (13) | (7) | (13) |
| 17 | Total Demand | (599) | (2,261) | (1,662) | (2,261) |
| 18 | Commodity | | | | |
| 19 | O&M | (74) | | 74 | |
| 20 | UFG | (751) | (3,269) | (2,518) | (3,877) |
| 21 | Compressor Fuel | (707) | (2,939) | (2,232) | (3,066) |
| 22 | Total Commodity | (1,532) | (6,208) | (4,676) | (6,944) |
| 23 | Total Costs (line 17 + line 22) | (2,131) | (8,469) | (6,338) | (9,205) |
| 24 | Net Revenue | $15,829 | $14,858 | ($971) | $18,421 |

2007 Board Approved vs. 2008 Actual

Long Term Storage Services - Reclassified Costs

| Line No. | Particulars ($000's) | 2007 Board Approved | 2008 Actual | Variance | 2009 Forecast |
|---|---|---|---|---|---|
| 1 | Revenue | | | | |
| 2 | Long Term Peak Storage | $42,058 | $81,540 | $39,482 | $89,203 |
| 3 | High Deliverability Storage | - | 5,554 | 5,554 | 18,709 |
| 4 | Total Revenue | 42,058 | 87,093 | 45,035 | 107,912 |
| 5 | Costs | | | | |
| 6 | Demand | | | | |
| 7 | O&M | (5,969) | (9,767) | (3,799) | (10,476) |
| 8 | Depreciation | (4,538) | (4,966) | (429) | (7,346) |
| 9 | Property & Capital Tax | (932) | (953) | (21) | (953) |
| 10 | Return | (8,155) | (14,348) | (6,193) | (26,275) |
| 11 | Income Taxes | (108) | (3,886) | (3,778) | (7,743) |
| 12 | Total Demand | (19,700) | (33,920) | (14,220) | (52,793) |
| 13 | Commodity | | | | |
| 14 | O&M | (955) | - | 955 | - |
| 15 | UFG | (4,177) | (4,111) | 66 | (4,875) |
| 16 | Compressor Fuel | (3,437) | (3,695) | (258) | (3,856) |
| 17 | Customer Supplied Fuel | 7,614 | 6,110 | (1,504) | 8,712 |
| 18 | Total Commodity | (955) | (1,696) | (741) | (19) |
| 26 | Total Costs (line 12 + line 18) | (20,653) | (35,616) | (14,963) | (52,812) |
| 27 | Net Revenue | $21,405 | $51,477 | $30,072 | $55,100 |

# TAB 13

UNION GAS LIMITED

Answer to Interrogatory from
City of Kitchener ("Kitchener")

Ref: Exhibit A, Tab 1, page 8, Table 2

Please separately quantify the three cost components to "Interest, return and income taxes" for 2009 and 2008 and provide the detailed calculations which support each cost component. Please explain why "Interest, return and income taxes" disproportionately increased by $ 15.003 million, or about 82%, from 2008 to 2009 while "Storage revenue" increased by $ 24.866 million, or about 23%.

---

**Response:**

The table below quantifies the cost components of interest, return and income taxes for 2009 and 2008.

| | 2009 | | | 2008 | | |
|---|---|---|---|---|---|---|
| | Investment ($000's) | Weighted Average Rate | Cost ($000's) | Investment ($000's) | Weighted Average Rate | Cost ($000's) |
| Interest | 232,557 | 4.95% | 11,507 | 142,861 | 4.95% | 7,069 |
| Return | 317,617 | 4.48% | 14,220 | 183,691 | 3.96% | 7,278 |
| Income taxes | | 34.56% | 7,510 | | 34.81% | 3,886 |
| | | | 33,237 | | | 18,233 |

Interest and return = Investment x weighted average rate.

Income taxes = [Return / (1 – tax rate)] – Return.

The increase in interest, return and income taxes in 2009 results from a full year impact of the storage investment and purchased storage capacity from 2008 and the new investment and purchased storage capacity in 2009.

# TAB 14

UNION GAS LIMITED
Details of Balances in Storage Deferral Accounts
($ Millions)

| Line No. | | 2010 Short-term (179-70) (a) | 2010 Long-term (179-72) (b) | 2010 Total (c) | 2009 Total (d) | Variance (e) |
|---|---|---|---|---|---|---|
| 1 | Storage revenue | 20.887 | 111.941 | 132.828 | 135.286 | (2.458) |
| | Operating costs | | | | | |
| 2 | Cost of gas | 1.873 | (1.282) | 0.591 | 6.318 | (5.727) |
| 3 | O&M | 2.261 | 11.078 | 13.339 | 12.897 | 0.442 |
| 4 | Depreciation | - | 8.645 | 8.645 | 7.312 | 1.333 |
| 5 | Property & capital taxes | - | 1.661 | 1.661 | 1.754 | (0.093) |
| 6 | | 4.134 | 20.102 | 24.236 | 28.281 | (4.045) |
| 7 | Interest, return and income taxes | - | 35.826 | 35.826 | 33.236 | 2.590 |
| 8 | Net margin | 16.753 | 56.013 | 72.766 | 73.769 | (1.003) |
| 9 | Board approved | 15.829 | 21.405 | 37.234 | 37.234 | - |
| 10 | Excess | $ 0.924 | $ 34.608 | $ 35.532 | $ 36.535 | $ (1.003) |

**TAB 15**

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

Long-Term Storage Service Costs

Reference: Exhibit A, Tab 1, Schedule 6, Page 2, Lines 11 and 12

Please explain what is meant by "return on purchased assets" and provide a table showing how this return and the underlying "rate base" are calculated.

---

**Response:**

Subsequent to the Board's NGEIR decision Union invested in additional storage capacity as part of the company's unregulated storage operations. This included the development of new storage capacity as well as contracts to purchase storage from others.

The return on purchased assets is an amount calculated to recognize the expected return on equity equivalent to the return necessary to attract capital for an owned asset. The deemed capital cost used to calculate the return on purchased assets was an estimated simple average of the capital cost of development at the time of the purchase decision.

The calculation is as follows:
Space PJ's x Capital Cost $10.00/GJ x Required Rate of Return x number of months

| Asset Name | Contract Start | Space PJ's | Capital Cost $/GJ | Required Rate of Return | Total Annual Amount | C10 in Service Amount |
|---|---|---|---|---|---|---|
| Washington 10 | Apr-08 | 2.1 | $10.00 | 5.18% | $1,088 | $1,088 |
| Huron Tipperary | Jun-08 | 2.3 | $10.00 | 5.18% | $1,191 | $1,191 |
| MHP/St Clair Pool | Apr-08 | 1.2 | $10.00 | 5.18% | $622 | $622 |
| Sarnia Airport | Jun-09 | 5.8 | $10.00 | 5.18% | $3,004 | $3,004 |
| Michcon/Gateway | May-10 | 2.1 | $10.00 | 5.18% | $1,088 | $725 |
| Total | | | | | | $6,630 |

Required Rate of return is calculated as follows:

| | |
|---|---|
| Equity | 36.00% |
| Post Tax Hurdle Rate | 14.40% |
| Required Rate of Return | 5.18% |

# TAB 16

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

Long-Term Storage Service Costs

Reference: Exhibit A, Tab 1, Schedule 6, Page 2, Lines 11 and 12

Please explain what is meant by "Incremental Return". Please show how the Incremental Return is calculated, including documentation supporting the return on equity.

---

**Response:**

Incremental return is the return in excess of the Board-approved level of 8.54% necessary to attract new investment and is applied to unregulated storage investments and purchased/leased storage assets post NGEIR.

**Calculation is as follows:**
Incremental Return
= (Current Rate base - 07 BA Rate base) * (Required Rate of Return - Weighted Average Return)
= (229,266-106,300) * (5.18% - 3.07%) = $2,594.09

**Required Rate of return is calculated as follows:**

| | |
|---|---|
| Equity | 36.00% |
| Post Tax Hurdle Rate | 14.40% |
| Required Rate of Return | 5.18% |

**Weighted Average Return:**

| | |
|---|---|
| Equity | 36.00% |
| Board-approved ROE | 8.54% |
| | 3.07% |

**Return on Purchased Assets**

Please see the response at Exhibit B3.15.

# TAB 17

## UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

Long-Term Storage Service Costs

Reference: Exhibit A, Tab 1, Schedule 6, Page 2, Lines 11 and 12

Since the 179-72 Deferral Account is a component of Union's regulated utility rates, please explain why Union should not use the Board-approved return for purposes of calculating the margin on long-term storage service. Please provide the derivation and bottom line result for Long-term Margin sharing that would have been calculated using the Board-approved return for each of the years 2008, 2009 and 2010.

---

**Response:**

Union uses an incremental rate of return for storage investments made subsequent to the Board's NGEIR decision to reflect the threshold return on investment required by the shareholder for capital projects in unregulated operations. The additional investment in unregulated storage projects would not have been approved by the shareholder at Board approved rate of return.

The allocation of costs, including a required return on rate base investment that is calculated for deferral account disposition purposes, is consistent with the traditional revenue requirement calculation. This approach has always been used for deferral disposition purposes before and is consistent with the methodology used to cost storage services in the 2007 rate case, which was accepted by the Board in the NGEIR decision.

Please see the Attachment.

Long-Term Margin Sharing 2008-2010

| Line No. | Particulars ($000s) | 2008 | 2009 | 2010 |
|---|---|---|---|---|
| 1 | Return Used in Filing | 7,279 | 14,220 | 16,262 |
| 2 | Board-Approved Return | (5,638) | (9,749) | (10,968) |
| 3 | Difference | 1,641 | 4,471 | 5,294 |
| 4 | Rate Payer Portion | 75% | 50% | 25% |
| 5 | Difference | 1,231 | 2,236 | 1,324 |

# TAB 18

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

REF: Exhibit B3.15

Please provide additional information about the "return on purchased assets" cost for 3rd party storage services.

a) Please explain why Union imputes a return on equity "cost" for 3rd party storage services, in addition to the payments made to the storage operator for the service.

b) Please provide tables in the same format to show how the "return on purchased assets" was calculated for 3rd party storage services for the years 2008 and 2009.

---

**Response:**

a) A return on third party storage services is included to recognize the long-term contracting risk assumed by the shareholder.

b) The interrogatory does not seek to clarify previous interrogatory responses and therefore no response is being provided.

# TAB 19

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

REF: Exhibit B3.16

Union states that the long-term storage margin for 2010 includes $10.7 million of 3rd party storage costs as a reduction to revenue.

a) Are the 3rd party storage costs used for calculating the long-term storage margin different from the amounts Union actually pays the 3rd party storage providers? If not, why not?

b) Are 3rd party storage costs incremental to the "return on purchased assets" addressed in Exhibit B3.15? If they are, please explain why Union is charging both a return on purchased assets for 3rd storage services and additional costs for 3rd party storage services?

c) Please restate the long-term storage revenue for 2010 (Attachment to Exhibit B1.3, col. (d), lines 1 through 7) to exclude any and all reductions, including reductions for 3rd party storage payments. Please provide the same information requested in (c) for the years 2008 and 2009.

---

**Response:**

a) Yes.

b) The return on purchased assets is incremental to the cost of purchasing storage from third parties. The return on purchased assets is included to recognize the risk assumed by the shareholder when entering into long-term storage purchase contracts.

c) Please see the Attachment. Union has revised Exhibit B1.3 to exclude the reductions from the long-term storage revenues. The costs have been included at line 8. It is not appropriate to restate the revenues without including these costs because Union would not have earned the associated revenues without incurring the costs.

The costs for 2008 and 2009 are not relevant and therefore have not been provided.

## 2010 Actual Long-Term Storage Services Account 179-72

| Line No. | Particulars ($000's) | 2010 Actual | 2010 Restated to Exclude Reductions |
|---|---|---|---|
| | Revenue | | |
| 1 | Long-Term Peak Storage | 87,166 | 105,893 |
| 2 | T1 Deliverability and upstream balancing | 1,825 | 1,825 |
| 3 | Downstream Balancing | 742 | 742 |
| 4 | Dehydration Service | 1,257 | 1,257 |
| 5 | Storage Compression | 772 | 772 |
| 6 | High Deliverability Storage | 20,179 | 20,179 |
| 7 | Total Revenue | 111,941 | 130,668 |
| | Costs | | |
| | Demand | | |
| 8 | Incremental Storage | | (18,727) |
| 9 | O&M | (11,078) | (11,078) |
| 10 | Depreciation | (8,645) | (8,645) |
| 11 | Property & Capital Tax | (1,661) | (1,661) |
| 12 | Return | (16,262) | (16,262) |
| 13 | Interest | (11,349) | (11,349) |
| 14 | Income Taxes | (8,215) | (8,215) |
| 15 | Total Demand | (57,210) | (75,937) |
| | Commodity | | |
| 16 | O&M | - | - |
| 17 | UFG | (1,397) | (1,397) |
| 18 | Compressor Fuel [1] | (2,643) | (2,643) |
| 19 | Customer Supplied Fuel | 5,322 | 5,322 |
| 20 | Total Commodity | 1,282 | 1,282 |
| 21 | Total Costs (line 15 + line 20) | (55,928) | (74,655) |
| 22 | Net Revenue (line 7 + 21) | 56,013 | 56,013 |

Notes:
(1) Includes compressor fuel and third party storage costs.

# TAB 20

UNION GAS LIMITED

Answer to Interrogatory from
Federation of Rental-housing Providers of Ontario ("FRPO")

REF: Exhibit B3.17

Please provide additional information concerning the "Incremental Return" cost included in the long-term storage margin calculation.

a) What is the source of the 14.40% Post Tax Hurdle Rate?
b) Prior to the NGEIR Decision, did Union evaluate opportunities to expand or acquire gas storage assets based on the Board-approved return on equity, or did Union use a higher Post Tax Hurdle Rate for these capital investment decisions?
c) Has the Board specifically approved the post-tax hurdle rate approach that Union is using to calculate the margin-sharing credits that would be used to adjust Board-approved rates? If so, please provide that evidence and decision.
d) Union states that "the additional investment in unregulated storage projects would not have been approved". For each of 2007, 2008, 2009 and 2010, please provide the Profitability Index given the expected revenues and costs at the time using the Board-approved return and Union's deemed hurdle rate.

---

**Response:**

a) The 14.4% rate represents the return on common equity required that, when combined with other sources of financing, will achieve an 8.5% internal rate of return (IRR). The 8.5% IRR is the minimum hurdle rate target established by the Company for approval of unregulated investment opportunities.
b) Prior to the NGEIR Decision (EB-2005-0551) regulated investment, including storage opportunities were evaluated on the basis of approved returns and in accordance with Board-approved economic feasibility guidelines. As indicated on pages 48-51 of the NGEIR Decision the utilities, which included Union, indicated that new storage development would only take place in Ontario under a forbearance scenario and not under the previously existing regulatory regime. Page 51 of the NGEIR Decision indicates that "the Board is convinced by the evidence that storage investments are generally riskier than other regulated activities, such as distribution or transmission expansions".
c) The methodology Union is using to calculate the storage margin to be shared is consistent with the approach used to set Board-approved rates. No specific approval of the approach was obtained.
d) The interrogatory does not seek to clarify previous interrogatory responses and therefore no response is being provided.

# TAB 21

UNION GAS LIMITED

Undertaking of Union Gas
To Mr. P. Thompson (CME) and Mr. D. Quinn (FRPO)

Please break out attachment at B3.18 for 2010 into existing incremental storage additions and purchased storage.

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Please see the Attachment.

Long-Term Margin Sharing 2010

| Line No. | Particulars ($000's) | Return used in filing | Board-Approved Return | Difference |
|---|---|---|---|---|
| 1 | Existing Assets | 3,263 | 3,263 | - |
| 2 | Incremental Assets | 6,369 | 3,775 | 2,594 |
| 3 | Purchased Assets | 6,630 | 3,930 | 2,700 |
| 4 | Total | 16,262 | 10,968 | 5,294 |

-