Introduction

The NGEIR decision was a significant decision in the evolution of the natural gas market here in Ontario. The results of that decision will impact the energy landscape in Ontario for decades to come. In its decision, the Board understood that the forbearance on storage regulation was going to impact in-franchise customers and established a time period of transition toward full forbearance and was pragmatic in its use of simplifying assumptions to eliminate the need to plunge Union and its customers back into a full-blown cost allocation study to effect the accounting separation of assets.

In the intervening years since that decision, the cost allocation and ratemaking that has been applied by Union has been somewhat of an enigma to most of us. With additional insights from improved understanding gained over the last two years and particularly in this proceeding, we believe we now have much better insight into Union's accounting methodologies and we can say that we do not agree with these methodologies. In the following submissions, we will outline our concerns, provide alternative perspectives and interpretations and respectfully request the Board order the appropriate corrections to ensure an equitable allocation of the benefits of the storage asset. Due to the fact that we accept that this has been a process of discovery and application in this hearing, we are prepared to evolve some of our thinking including that which was contained in our sponsored evidence to attempt to find publicly interested solutions as opposed to providing diametrically opposed positions to the applicant.

In our view, Union's presentation of evidence obscured the methodology eliminating any previous chance for informed approval by the Board of their accounting scheme. With the additional understanding gained through this proceeding we present our views on:

- Return on Purchased Service
- Hurdle Rate
- Cross-charge of 7.9PJ's
- Optimization
- Cost Allocations

<u>Union did not seek Board approval for significant methodological changes in ratemaking for deferral accounts.</u>

The accounting separation of the assets was the Board's chosen alternative to functional separation or potential divestiture to facilitate forbearance[1]. The Board decided that the cost allocation study that was accepted by intervenors and approved by the Board in EB-2005-0520 was "adequate for the purposes of separating the regulated and unregulated costs and revenues for ratemaking purposes"[2]. Our understanding is that Union would have to apply to the Board for methodology changes that would impact the deferral accounts. However, as was noted by Mr. Thompson, in his cross-examination of Union witnesses[3], Union has attempted in the past to layer on its interpretation of the NGEIR decision to adjust revenues and costs prior to sharing with ratepayers. The Board has disallowed the changes. [4] In this case, as the record shows, not only did Union not seek specific approval from the Board, but also, some of these interpretative errors have been discovered by clarifying the assumptions behind the numbers presented in evidence.

A major example of this type of discovery that occurred in this proceeding was the realization that in reporting Revenues for Deferral Account 179-72 to the Board in evidence, Union had already deducted costs. In attempting to understand better the methodologies, we questioned Union's handling of third party storage costs[5]. Union's evidence[6] including the Black & Veatch independent review[7] only reported costs of $179,000 for Black Creek storage. However, as was further discovered in a supplementary interrogatory[8], the Revenue reported had already was subject to deductions done prior to providing the Revenue amount in evidence. These deductions included:

[1] EB-2005-0551 Decision, page 73
[2] EB-2005-0551 Decision, page 74
[3] Transcript Volume 2, September 20, 2011, page 78 line 23 to page 81
[4] Transcript Volume 2, September 20, 2011, page 78 line 23 to page 81
[5] Exhibit B3.16
[6] Exhibit A. Tab 1, Schedule 6
[7] Exhibit A Tab 4, pages 3-11 and 4-3
[8] Exhibit B3.53

Third Party Storage Costs

Costs paid for storage services from third parties. These costs were discovered to be in addition to the return on purchased assets which indeed are the same services[9].

Resource Optimization

Gas loans and space encroachment used to generate additional storage space. Optimization will be covered later in our submissions.

In our view, Union's evidentiary presentation obscured our ability to understand significant assumptions that Union had made in deducting costs to determine margins available for sharing. Clearly, these assumptions were not articulated in the evidence nor in the Black & Veatch independent review, in spite of the fact that the review identified Resource Optimization as a contributor to space sold[10]. Absent disclosure, we would submit that it would be difficult to have obtained Board approval for the methodology. But now that our discovery has lead to disclosure, in our view, the Board is being asked to determine acceptance and approval of these methodologies in this proceeding based upon the merits of the submissions.

Return on Purchased Services

Our understanding of this implied return scheme has increased through the discovery referenced above. Union has unilaterally determined that during the phase out period of the sharing of long-term margins, that its shareholder has a right to additional margins as if it had actually built the storage to compensate itself against the risk of lower margins in the future[11]. Union provided the

[9] Exhibit B3.53
[10] Exhibit A Tab 4, Schedule 16 page 2
[11] Transcript Volume 1, page 116

calculations that generated the return of $6.6M in response to interrogatories[12]. Union also provided its conceptual underpinnings in cross examination at various points. But when asked if there was a regulatory accounting term for the practice, Union could not provide one.[13] In spite of the quantum of cost associated with it and the unique methodology applied from an accounting perspective and regulatory perspective, Black & Veatch did not comment on the approach. This feature of Union's Return was not presented by Union in evidence until footnoted under return in B&V study as purchased assets[14] but with no explanation of how it was determined or that it was in addition to the cost of the services. In fact, Black & Veatch only displayed the Net Revenues and displayed the Third Party Storage Services as only the Black Creek costs.[15] These omissions tend to bring into question the issue of independence of the review.

However, as we have now come to understand it, these contracts that Union has created a notional return on are purchased services not purchased assets[16]. The contracts do not show up on balance sheets and the expenses are not eligible to be deducted from income tax[17]. In other words, the word asset is a misnomer to create an illusion of upfront capital investment.

Union provided further background on their thinking behind the rate by likening it to a choice between build or buy.

"And to kind of summarize where Ms. Elliott was, you can calculate that risk premium in many different ways, but because for us it is either a buy or build, going back, and you're trying to equate it back to what the capital expense would have been is, I think, a very fair

[12] Exhibit B3.15
[13] Transcript Volume 1, September 19, 2011, page 129, lines 10-14
[14] Exhibit A, Tab 4, Schedule 17, page 2 (Assignment Column describing Return)
[15] Exhibit A, Tab 4, Schedule 17
[16] Transcript Volume 1, September 19, 2011, page 128, line 23 to page 129, line 2
[17] Transcript Volume 1, September 19, 2011, page 127, line 26 to page 128, line 7

way of doing it, instead of picking some random percent premium to put on top of the cost. It makes it very much equivalent to being a buy or build type of decision.[18]"

To create this rate, Union applied a $10/GJ capital cost which they did not submit any evidence to support.[19]

We would respectfully urge the Board to direct Union to remove the Return on Purchased Services from the calculation of margin for the following reasons:

1. Union has tried to portray that the rate is used to make it equivalent to a build or buy decision. It is our submission that what Union has done has given itself the benefit of both. They have bought the service then treated the service contract as if they owned the asset creating an extra cost deduction prior to sharing with ratepayers.
2. The notional return does not show up on their balance sheets or in the calculation of income taxes and therefore does not really exist as a cost except for the purposes of calculating how much margin to share with its ratepayers.

Hurdle Rate

In addition to the practice of using Return on Purchased Services described above, Union has also applied a return rate above the Board-approved rate on new storage assets and the Purchased Services. The existence of this rate came into evidence in this proceeding as part of footnote to the Black & Veatch report and was referred to as the "Weighted average equity threshold".[20] Union translated that in response to our interrogatory identifying the Post Tax Hurdle Rate of 14.40%. Union further described under cross-examination that it was an economic measure used

[18] Transcript Volume 1, September 19, 2011, page 159, lines 6-13.
[19] Transcript Volume 1, September 19, 2011, page 135, lines 21 to 25
[20] Exhibit A Tab 4 Schedule 17, page 2

to determine the ability to attract capital for investment.[21] Union has asserted that the 2010 methodology is consistent with past methodologies approved by the Board[22].

In our submission, hurdle rate is an economic measure used by Union to determine whether a project would proceed or not. Union has asserted that projects would not have proceeded but when asked for the profitability index for the projects to demonstrate this assertion, Union has been unwilling to provide evidence of that assertion.[23]

In our view, Union is treating it as a guaranteed regulatory return in ratemaking. We would submit that this additional cost should not be allowed unless the methodology and the hurdle rate were approved by the Board. Under cross-examination, Union testified that was not the case.

"The methodology has been used since the NGEIR decision, so it's been included in the disposition of the deferral account since that point. But no specific approval of that return or that -- the two returns was sought or obtained".[24]

Union has stated that it needed the addition return from these accounting schemes to cushion itself against returns from the market in future years[25]. We see that position as totally inconsistent Union's their proposition to the Board in NGEIR where they asked to be able to compete in the market by accepting the risks. Further Union witnesses stated they added the hurdle rate to compensate themselves for the incremental risk during the sharing period.[26] From our perspective, the Board ordered Union to share and behind the scenes, Union decided to remove some of that ratepayer sharing through a hurdle rate and return on purchased services. For 2010, Union found a way to increase their return on equity from 48% to over 50% to ensure that they made more money[27].

Therefore, we would respectfully urge the Board to order Union to remove the incremental hurdle rate from the deferral account calculations because:

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[21] Transcript Volume 1, page 112, line 19 to page 113, line 5
[22] Exhibit B 3.17, B3.54
[23] Transcript Technical Conference, July 26, 2011, page 9, lines 1-4
[24] Transcript Volume 1, page 141, lines 19-23
[25] Transcript Volume 1, page 118, lines 6 20
[26] Transcript Volume 2, page 8-10.
[27] Undertaking J1.4

1. The hurdle rate was not knowingly approved by the Board
2. The hurdle rate was not ordered in NGEIR
3. The hurdle rate transfers risks back to ratepayers while the non-utility business is making close to a 50% return on investment.

Further, FRPO has previewed the argument of LPMA and fully support their review of the history of these accounts and their submitted views on risk transfer and will not repeat them here. LPMA's cross-examination of Union resulted in the production of an undertaking that provide the cost impacts of removal of the Return on Purchased Services and the Hurdle Rate[28]. We submit that the undertaking would be helpful to the Board in determining the appropriate adjustments to the deferral accounts.

Union did not follow NGEIR decision in transferring ST costs back to deferral accounts

As referenced previously, the Board decided that the cost allocation study that was accepted by intervenors and approved by the Board in EB-2005-0520 was "adequate for the purposes of separating the regulated and unregulated costs and revenues for ratemaking purposes"[29]. The Board went on in that same decision to make some simplifying assumptions and to provide direction as to how the deferral accounts margins were to be shared[30]. If the Board intended the utility asset to be 100PJ and the costs be borne by ratepayers, it could have ordered that the cost ordered that Union increase its in-franchise rates to reflect the increase from the 92.1PJ it stated[31] to the 100PJ of reserve. In fact, the Board did not order that amount. Instead later in the decision, the Board states[32]:

[28] Exhibit J1.4
[29] EB-2005-0551 Decision, page 74
[30] EB-2005-0551, pages 98-103
[31] EB-2005-0551, page 77
[32] EB-2005-0551, page 102

As indicated in Chapter 5, the allocation is currently 79/21 utility/non-utility. Union's existing policy on what constitutes a short-term storage transaction will continue to apply. As and when Union requires more capacity for in-franchise needs (up to the 100 PJ cap) or adds storage capacity or enhances deliverability of its storage facilities, the cost allocation will presumably change. Once a revised cost allocation has been approved in a Union rates case, the basis on which margins on short-term storage transactions are shared will also change.

In our view, the above reference clearly contemplates that the utility asset amount would change with the needs of the customers as determined in the next cost allocation rate case.

The Board approved costs for in-franchise space in EB-2005-0520. Union agreed to increase the revenue from Short-term Storage services from $1.8 million in the pre-filed evidence to an agreed to $13.8. As this was an agreement, there are no reasons provided but both parties agreed the revised forecast was reasonable. In viewing Union Gas undertaking to the Board in NGEIR K2.3[33], if one would take an average of the actual margins from these storage services from 2002 to 2005, the average margin was approximately $16 million yet Union had forecasted $1.8 million in pre-filed evidence. Specifically, in 2004, the margin was $22 million and Union only sold 3.4PJ's of Short-term space.[34] If Union agreed to increase the forecasted revenue to be included in rates by $12 million without increasing the costs allocated to C1, their recent margin history would say that they would have reason. We would submit that the lower space required historically to generate the margins was a result of optimization of the integrated storage pool as is occurring today (to be described under Optimization). To subsequently shift costs back to ratepayers by notionally transferring the cost of 7.9PJ is not appropriate and was not ordered in the NGEIR decision.

[33] EB-2011-0038 K1.7, Compendium of Cross-examination Material for FRPO, EB-2005-0551 Exhibit K2.3
[34] Exhibit J1.5

FRPO has previewed the submissions of CME and support their views of the inappropriateness of the transfer of the cross-charge. As they will represent, it is tied into the Board's view of the way under-utilized assets were used prior to NGEIR, now referred to as Optimization. We will submit our thoughts on Optimization later and respectfully submit that CME's ideas could provide another approach to ensuring an equitable distribution of the costs and benefits associated with under-utilized assets.

We understand that the issue of the utility asset is an interpretative issue as recognized in dialogue with the panel[35]. With the assistance of Mr. Rosenkranz, we presented the view that the cross-charge was not ordered by the Board in NGEIR and Union's treatment adds costs to ratepayers when Union had agreed to a revised forecast as part of the EB-2005-0520 settlement. We can accept that there may be different interpretations. In the alternative, if the Board rules that the utility asset is 100 PJ, we would respectfully request the Board direct that and it become effective at the next re-basing. It is our submission that if the NGEIR panel expected a transfer of the cost of the 7.9PJ's back to the deferral account, they would not have ordered that the margins be split by the 79/21 ratio that was decided.

However, if Union is threatening remove ratepayers' share of the Short-term margins available in the market and create perverse outcomes as contemplated by Union in the their Argument-in-Chief[36], we are willing to consider how this issue can be resolved in an equitable fashion. If nothing else in this proceeding, we have learned how ratepayers could be treated if Union has full discretion over revenue and cost allocation. Therefore, to preclude Union acting on their submissions referenced above in this paragraph, we would be willing to accept the allocated cost at the next re-basing being rolled into the utility costs for in-franchise customers. Further, this could be done in conjunction with a view to the implications of managing the benefits of optimization as described in our submissions below on optimization and in CME's submissions.

[35] Transcript, Volume 2, page 25 line 26 to page 27 line 19
[36] Transcript Volume 3, page 33, lines 12-22.

Optimization is product of an Integrated Storage Pool

Optimization is strategic employment of an asset to derive maximum benefit. It is our proposition that optimization space is the product of running an integrated pool. Union concurred with that when asked what revenue was derived from the 92.1PJ of space currently in rates. Union responded "Union optimizes the total storage capacity. Union cannot allocate the optimization revenue between utility and non-utility".[37]

Prior to the NGEIR decision, there was no separation of utility and non-utility space. Union optimized the storage asset by optimizing under-utilized capacity to derive additional storage services to be sold in the market. The proceeds were then shared with ratepayers under the prevailing sharing formulae that were in place. Union acknowledged the existence of 14.5 PJ optimization space in the winter of 2006/07[38]. For the next three winters, post-NGEIR, the amount of optimization space hovered in the 15PJ range until escalating to 24PJ for the winter of 2010/11.

In our view, the NGEIR decision created an accounting separation of storage between utility and non-utility. But for all intents and purposes, the storage pool operated on an integrated basis. Union witnesses, in fact, confirmed that the pool levels are assessed on an integrated basis.[39] Further, when asked if Union could distinguish which assets physically provided the storage service, Union responded:

> ***No. Union cannot distinguish what asset is used for storage services. Union operates an integrated storage system and does not allocate any customer activity to specific storage pools***[40].

[37] Exhibit 3.8 c)
[38] Exhibit B3.40
[39] Transcript Volume 2, page 6 line 26 to page 7 line 1
[40] Exhibit B3.60

We have been concerned that Union has continued to optimize the integrated storage asset, while streaming the benefits only to the non-utility. It is our contention that if the storage is operated as an integrated system, then the benefits of operating the system should be split equitably. In spite of multiple assurances by Union in cross-examination that Union would forecast the space it needed for non-utility and take proactive steps to ensure that the limit is not exceeded[41], the 2009 numbers in Undertaking J2.1 and J2.2 prove otherwise. Since most of October and November (including October 31st), the non-utility storage was in excess of 100% and the total utility and non-utility was 99% full for weeks in November, it is clear that, notwithstanding Union's assurances, non-utility gas occupied utility space.

To try to explain their planned usage of utility and non-utility space, Union created the analogy of a two-car garage[42] to try to explain their use of storage. We submit that analogy breaks down because you do not think of parking a fraction of a car. We believe the better approach is to look at the actual asset utilization. Since the undertakings[43] provided for October and November for the last three years did not reference the specific amount of space that were being used to calculate the percentages, we will use the available capacity on October 31, 2009 as described in Union's evidence[44] . We will use the 100PJ as the utility space and 76PJ as the non-utility space. Since Short-term sales were allocated 9.6 PJ[45], the remaining 90.4 PJ was available for use by in-franchise customers. Union stated that system integrity space was not used[46]. By adding the in-franchise space to the non-utility space, the sum is 166.4PJ of total space.

To see the effect of the non-utility over-fill, please refer to the table attached as Appendix A. For the entire period of October and November 2009, the non-utility had oversold its position. The gas had to be stored somewhere. Given the nature of the integrated pool, excess non-utility gas was being held in space paid for by the utility (in-franchise space). This can be seen in the

[41] Transcript Volume 2, page 12 to 16
[42] Transcript Volume 2, page 30
[43] Exhibits J2.1 and J2.2
[44] Exhibit A Tab 4 Schedule 16
[45] Exhibit A Tab 4 Schedule 16, page 1
[46] Exhibit J2.2

column that entitled “Surplus or Deficit to In-Franchise Reserve of 90.4 PJ. This column clearly shows that the space available to non-utility storage was less than the amount set aside for in-franchise customers. Now, this situation is in stark contrast to the way the Union witnesses portrayed the active monitoring of fill trends to ensure that only non-utility space is encroached upon[47]. It is clear that for two months, no action was taken to reduce the amount of excess non-utility storage. While Union did not use system integrity space, utility space was encroached upon to generate "non-utility" services proving that Union is operated the utility and non-utility on an integrated basis.

NGEIR did not directly address the use of the integrated asset for resource optimization to create space for additional storage services. By Union design the benefits of the pool's optimization are flowing to Long-term storage and eventually only being enjoyed by Union's shareholders. We have previewed the submissions of CME and we support their proposition for the benefits of optimization. We accept that given that the CME proposal may not be able to be implemented until the next re-basing absent the creation of a deferral account. In the interim, we submit that these benefits should be split with ratepayers who own the majority of the assets in the integrated pool. Otherwise, ratepayers will be cross-subsidizing the shareholders revenues.

To be able to ensure equitable allocation of the optimization benefits, additional Annual Reporting would be required to report on Optimization results. Since Union is using the resource optimization to sell extra Long-term storage, we submit that Union should include the results of its optimization activities on an annual basis and report on the amount of space available to utility and non-utility for that year. If for example 25 PJ of optimization space is created in a year that Union is able to sell a total of 75PJ, a pro-rata share of 33% of the Long-term storage space margins should shared with ratepayers. We would propose that the formula for sharing that would be on the basis of the amount physical space that each of the utility and non-utility had available that year.

[47] Transcript Volume 2, page 9 and 10

COST ALLOCATION OUGHT TO REMAIN OPEN FOR THE RE-BASING APPLICATION

Ratemaking allocations should be made on the basis of space as contemplated by the NGEIR

As referenced previously, the Board had accepted that the EB-2005-0520 was adequate for the purposes of separating costs and revenues[48]. As described previously, Union has layered on its interpretation of adjustments that they believed were warranted. We have provided our disagreement with many of their interpretations. In determining the plant allocator moving forward, Union has proposed an average of space and deliverability to use across all of its capital allocations[49]. Our evidence had supported using more up to date asset allocations but applied the Union methodology of the simple average but included Resource Optimization as it contributed to the storage services available.

Since we understand Optimization amounts change each year, if the Board would accept intervenor submissions on the sharing the benefits of annual optimization, we would not expect for Optimization to be included in the storage plant allocators. Evolving our position in this way, with the benefit of the insight of additional discovery, we believe that Union's plant allocators can remain but must be revisited in the next re-basing.

The NGEIR decision came on the heels of a completed cost allocation study and rebasing settlement in EB-2005-0520. The Board directed Union to use the recently agreed to study, with some simplifying assumptions, to effect a split between utility and non-utility assets for the purposes of sharing the margins from short-term and long-term storage. While Union has applied its interpretation of what the Board requested, this proceeding was the first opportunity that intervenors have had specific explanations of the methodologies that Union employed in

[48] EB-2005-0551 Decision, page 74
[49] EB-2010-0039, Exhibit A, Tab 4, page 7 lines 6 to 12

effecting that split. As the proceeding has progressed, it is clear that assumptions that Union has made are not without contention.

The issue of where the 1.5PJ of unutilized space resides for the purposes allocators provides the Board with the understanding that some of the base assumptions in Union's evidence ought to be tested and the drivers understood. After thinking we understood how Union had allocated the unutilized space, their Reply Evidence was confusing. We asked an interrogatory[50] and seemed to get a different understanding than we previously had. Then just before the hearing, we received the letter correcting their Reply Evidence.[51] We view Union's change of answer[52] on the 1.5PJ's as even they have trouble figuring out how their cost study was changed to reflect NGEIR. Even Black & Veatch identified that Union's presentation did not allow for the ability for an outside party to verify Union's methodologies. In its Overall Assessment of Union's allocations, Black & Veatch stated:

> ***However, the presentation of Union's separation of costs between its regulated and unregulated storage operations fails to demonstrate these attributes by not providing a sufficient level of detail and explanation to allow an outside party to understand, trace, and verify the cost allocation methodology's underlying assumptions, computation and processes, and independently confirm the results.***[53]

We believe a review of these methodologies ought to occur in the context of a full cost study giving the Board the opportunity to ensure that before the books are closed that there has been an equitable allocation of all of the costs (Demand and O&M). To be able to perform this review, the Board would require plant continuity to include non-utility assets to ensure that Union's allocators (such as O&M) are appropriate when split between utility and non-utility.

One of the areas of on-going concern is how Union is effected the allocation of O&M between the utility and non-utility. FRPO attempted to achieve clarity if the allocation of these costs for

[50] Exhibit B3.59
[51] Union Letter correcting Reply Evidence, September 15, 2011
[52] Union Letter correcting Reply Evidence, September 15, 2011
[53] Exhibit A Tab 4, Attachment 1, page 1-5

storage operation[54]. Unfortunately, the resulting undertaking did not break our storage operations O&M[55]. However, unless something has changed dramatically, the non-utility business storage operations would only be assessed about 10% of the total storage costs even though about 40% of the utilization is deemed for non-utility. The table below was taken from Union's pre-filed evidence in last year's proceeding demonstrates this fact[56].

	2008			2009		
	Total O&M	Unregulated O&M	Composite Allocation %	Total O&M	Unregulated O&M	Composite Allocation %
Business development	17.3	1.8	10%	18.5	1.8	10%
Storage operations	35.2	3.4	10%	33.6	3.8	11%
Regulatory	10.6	1.1	11%	9.5	1.4	15%
HR	62.6	2.0	3%	62.0	2.3	4%
IT / ITI / BIS	20.4	0.6	3%	20.8	0.6	3%
Administrative and general	103.9	0.8	1%	107.6	0.7	1%
Distribution operations	85.1			82.8		
Net O&M	335.1	9.6	3%	334.8	10.5	3%

In our view, understanding the drivers behind this resulting allocation would allow the Board and intervenors to test Union's methodology to ensure an equitable allocation of costs.

<u>Ratepayers ought to be given consideration for use of Transmission Assets</u>

The issue of the use of transmission assets to deliver integrated storage services was not addressed in NGIER. Prior to the separation, Union's cost study would have provided the appropriate allocation of costs for transmission and ratepayers shared a greater portion of the benefits of the integrated pool. However, if non-utility asset additions place storage space remote from Dawn, such as Jacob pool, we submit that ratepayers should be compensated for the use of the transmission assets. While we accept that, at this time, the Heritage pool's access to Dawn is being treated as a non-utility cost; we heard evidence that it may not stay that way. [57] We would submit that for the non-utility storage to have access to Dawn using utility assets is

[54] Transcript Technical Conference, page 47 lines 2 to 21
[55] Exhibit JTC 1.5
[56] EB-2010-0039 Exhibit A, Tab 4, page 17 Table 4
[57] Transcript Volume 2, page 52-53

not only a cross-subsidization issue, but also is competition issue which was part of the original reasons for the NGIER proceeding.

Even Union's witnesses agreed with that:

> ***With respect to point number one, where there are storage pools connected to transmission assets, I would agree that if the asset was connected to Dawn operations through a transmission asset, there should be a charge for it.***[58]

With the focus on the storage cost allocations, in our submission, there is insufficient evidence to ensure equitable treatment of ratepayers for the use of utility assets in the facilitation of non-utility services and would respectfully request that the Board direct Union to include evidence on this issue in the re-basing filing. In the interim, for any remote non-utility or purchased storage through an affiliate or third party, we submit that the Board ought to direct Union to ensure that a rate M16 be applied.

Conclusion

In our respectful submission, we have three categories of issues in this proceeding. Issues where the evidence is clear, where the issues are interpretative and where there is insufficient evidence to determine.

Clear: We would urge the Board to make a finding to correct the errors in Union's calculation of Long-term Storage premium to remove the Return on Purchased Services and the incremental Hurdle Rate. We support the evidence of LPMA and the numbers included in undertaking J1.4 to inform the Board on the level of correction.

[58] Transcript Volume 1, September 19, 2011, page 97, line 28 and page 98, lines 1-4

Interpretative: It is clear that Union is using the integrated storage pool to provide additional space through Optimizations. We would submit that that CME has proposed a couple of ways to provide a more equitable distribution of the benefits and we have provided an interim or alternative method. The cross-charge is interpretative and yet, CME and FRPO have argued that it would not be consistent with NGEIR and respectfully submit that the 79/21 split was intended to ensure an equitable allocation when the EB-2005-0520 cost study was applied. At the next re-basing, the issue may be determined for the longer term.

Insufficient: In our submission, the complexities of these issues and the recognition of more discovery to be completed make it difficult to approve Union cost allocation methodology beyond the current IR term. We would respectfully request that the Board order that Union provides a more comprehensive evidentiary basis in the re-basing application including the non-utility plant that will contribute to plant allocators in the next comprehensive cost of service rate case.

In closing, we would like to thank the Board and its staff for allowing for a greater level of discovery in this proceeding including the assistance of our retained expert, Mr. Rosenkranz. We would respectfully request an award of our reasonably incurred costs including our portion of Mr. Rosenkranz services.

All of which is respectfully submitted on behalf of FRPO,

Dwayne Quinn

Principal, DR QUINN & ASSOCIATES LTD.

2009 ACTUAL STORAGE UTILIZATION

SOURCE			J2.1	(2)X(3)	(1)-(4)	(5)-90.4 PJ					J2.1	(2)X(3)	(1)-(4)	(5)-90.4 PJ
COLUNN	(1)	(2)	(3)	(4)	(5)	(6)			(1)	(2)	(3)	(4)	(5)	(6)
Date	UTILIITY AND NON-UTILITY AVAILABLE (PJ)	NON-UTILITY AVAILABLE	NON-UTILITY FILL %	NON-UTILITY ACTUAL FILL (PJ)	UTILITY SPACE AVAILABLE (PJ)	SURPLUS OR DEFICIT TO IN-FRANCHISE RESERVE OF 90.4 (PJ)		Date	UTILIITY AND NON-UTILITY AVAILABLE (PJ)	NON-UTILITY AVAILABL E	NON-UTILITY FILL %	NON-UTILITY ACTUAL FILL (PJ)	UTILITY SPACE AVAILABL E (PJ)	SURPLUS OR DEFICIT TO IN-FRANCHISE RESERVE OF 90.4 (PJ)
1-Oct-09	166.4	76	104%	79.0	87.4	-3.0		1-Nov-09	166.4	76	105%	79.8	86.6	-3.8
2-Oct-09	166.4	76	104%	79.0	87.4	-3.0		2-Nov-09	166.4	76	105%	79.8	86.6	-3.8
3-Oct-09	166.4	76	104%	79.0	87.4	-3.0		3-Nov-09	166.4	76	105%	79.8	86.6	-3.8
4-Oct-09	166.4	76	104%	79.0	87.4	-3.0		4-Nov-09	166.4	76	105%	79.8	86.6	-3.8
5-Oct-09	166.4	76	104%	79.0	87.4	-3.0		5-Nov-09	166.4	76	105%	79.8	86.6	-3.8
6-Oct-09	166.4	76	103%	78.3	88.1	-2.3		6-Nov-09	166.4	76	105%	79.8	86.6	-3.8
7-Oct-09	166.4	76	103%	78.3	88.1	-2.3		7-Nov-09	166.4	76	105%	79.8	86.6	-3.8
8-Oct-09	166.4	76	103%	78.3	88.1	-2.3		8-Nov-09	166.4	76	105%	79.8	86.6	-3.8
9-Oct-09	166.4	76	103%	78.3	88.1	-2.3		9-Nov-09	166.4	76	106%	80.6	85.8	-4.6
10-Oct-09	166.4	76	103%	78.3	88.1	-2.3		10-Nov-09	166.4	76	106%	80.6	85.8	-4.6
11-Oct-09	166.4	76	103%	78.3	88.1	-2.3		11-Nov-09	166.4	76	106%	80.6	85.8	-4.6
12-Oct-09	166.4	76	103%	78.3	88.1	-2.3		12-Nov-09	166.4	76	106%	80.6	85.8	-4.6
13-Oct-09	166.4	76	103%	78.3	88.1	-2.3		13-Nov-09	166.4	76	105%	79.8	86.6	-3.8
14-Oct-09	166.4	76	102%	77.5	88.9	-1.5		14-Nov-09	166.4	76	105%	79.8	86.6	-3.8
15-Oct-09	166.4	76	102%	77.5	88.9	-1.5		15-Nov-09	166.4	76	105%	79.8	86.6	-3.8
16-Oct-09	166.4	76	102%	77.5	88.9	-1.5		16-Nov-09	166.4	76	105%	79.8	86.6	-3.8
17-Oct-09	166.4	76	102%	77.5	88.9	-1.5		17-Nov-09	166.4	76	105%	79.8	86.6	-3.8
18-Oct-09	166.4	76	102%	77.5	88.9	-1.5		18-Nov-09	166.4	76	105%	79.8	86.6	-3.8
19-Oct-09	166.4	76	101%	76.8	89.6	-0.8		19-Nov-09	166.4	76	105%	79.8	86.6	-3.8
20-Oct-09	166.4	76	102%	77.5	88.9	-1.5		20-Nov-09	166.4	76	104%	79.0	87.4	-3.0
21-Oct-09	166.4	76	102%	77.5	88.9	-1.5		21-Nov-09	166.4	76	104%	79.0	87.4	-3.0
22-Oct-09	166.4	76	102%	77.5	88.9	-1.5		22-Nov-09	166.4	76	104%	79.0	87.4	-3.0
23-Oct-09	166.4	76	102%	77.5	88.9	-1.5		23-Nov-09	166.4	76	104%	79.0	87.4	-3.0
24-Oct-09	166.4	76	102%	77.5	88.9	-1.5		24-Nov-09	166.4	76	104%	79.0	87.4	-3.0
25-Oct-09	166.4	76	103%	78.3	88.1	-2.3		25-Nov-09	166.4	76	104%	79.0	87.4	-3.0
26-Oct-09	166.4	76	103%	78.3	88.1	-2.3		26-Nov-09	166.4	76	104%	79.0	87.4	-3.0
27-Oct-09	166.4	76	103%	78.3	88.1	-2.3		27-Nov-09	166.4	76	104%	79.0	87.4	-3.0
28-Oct-09	166.4	76	104%	79.0	87.4	-3.0		28-Nov-09	166.4	76	104%	79.0	87.4	-3.0
29-Oct-09	166.4	76	104%	79.0	87.4	-3.0		29-Nov-09	166.4	76	104%	79.0	87.4	-3.0
30-Oct-09	166.4	76	104%	79.0	87.4	-3.0		30-Nov-09	166.4	76	104%	79.0	87.4	-3.0
31-Oct-09	166.4	76	104%	79.0	87.4	-3.0								