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**File No. 339583-000119**

November 9, 2011

**By Electronic Filing and By Email**

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
27<sup>th</sup> floor – 2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Walli

**Union Gas Limited**  
**2012-2014 Demand Side Management (“DSM”) Plan**  
**Board File No.: EB-2011-0327**

Please consider this correspondence as the comments of Canadian Manufacturers & Exporters (“CME”) on Union Gas Limited’s (“Union”) request for interim approval of its DSM budgets for 2012, approval of the Resource Acquisition Programs (excluding Large Industrial Rate T1/Rate 100 customers) and approval of its Low-Income Programs.

CME agrees that existing programs offered by Union in 2011 should continue into 2012. Union’s customers should not be prejudiced by Union’s failure to obtain Board approval of its 2012-2014 DSM Plan prior to January 1, 2012. To this end, CME agrees with Board Staff’s submissions that such undue market disruption is not in the best interest of customers. Consequently, CME does not oppose interim approval of existing programs so that Union’s existing activities may continue.

That said, interim approval should be explicitly granted on the basis that it is subject to the Board’s final decision on Union’s 2012-2014 DSM Plan, and that Union is at risk for all differences between the Board’s interim and final approvals.

On October 21, 2011, the Board sent a letter to Union seeking clarification on Union’s request for interim approval. One of the questions asked was whether Union would be at risk for any funds spent on programs during the time the interim order was in place if those programs were subsequently not approved in the Board’s final decision. CME is concerned by Union’s response to that question.

First, Union's response stated that "In an attempt to mitigate any risk for both rate payers and the shareholder." In CME's submission, there should be no risk imposed on rate payers arising from the interim order now requested by Union.

Second, Union goes on to state that "In the event that the Board's approval causes any impact on the programs that Union is carrying over from 2011 to 2012, Union would record the impact in the DSMVA and seek approval to recover or refund the amount as part of its annual deferral account disposition proceeding". CME questions the appropriateness of dealing with discrepancies between the interim approval sought and the Board's final decision through the DSMVA. Instead, any differences should be addressed by the Board in its final decision in this proceeding. If the Board approves Union's DSM programs on an interim basis, but then does not approve those programs in its final decision, Union should be required to immediately refund those costs to rate payers. In so doing, Union will remain at risk for the money spent in the interim – and its rate payers will be kept whole.

In summary, CME submits that any interim approval granted by the Board should expressly state that Union is at risk for any and all funds spent on programs prior to the Board's final decision. This would best be achieved by the Board stating that the interim order is subject to refund or adjustment on the basis of the final decision.

If you have questions or concerns, do not hesitate to contact me directly.

Yours very truly



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Crawford Smith (Torys)  
All Interested Parties  
Paul Clipsham (CME)

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