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**By electronic filing**

March 27, 2012

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

Dear Ms Walli,

**Union Gas Limited 2010 Earnings Sharing & Deferral Accounts and Other Balances**

**Board File No.: EB-2011-0038**

**Our File No.: 339583-000104**

Attached is our letter of request for a correction to the February 29, 2012 Decision and Order in this proceeding (the "Decision").

Hard copies of this material will be delivered to the Board.

Other recipients of this material can contact my assistant, Suzanne Castanza, at [scastanza@blg.com](mailto:scastanza@blg.com), if they wish to receive a hard copy of the material.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'Peter Thompson', is written over a horizontal line.

Peter C.P. Thompson, Q.C.

PCT\slc  
enclosure

c. Chris Ripley (Union)  
Intervenors in EB-2011-0038  
Paul Clipsham (CME)

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Dear Ms Walli,

**Union Gas Limited 2010 Earnings Sharing & Deferral Accounts and Other Balances**

**Board File No.: EB-2011-0038**

**Our File No.: 339583-000104**

We are writing to seek directions pertaining to an issue that has arisen with respect to the Board's February 29, 2012 Decision and Order in EB-2011-0038 (the "Decision"). Please bring this letter to the attention of the Board Panel that rendered the Decision.

We submit that the intent of the Decision was to require Union to credit ratepayers with 100% of the actual 2010 short-term storage revenues in excess of the 10% incentive payment to Union and the amount embedded in the derivation of Union's 2010 in-franchise rates.

An issue has arisen because it turns out that the amount of \$0.831M, which the Decision adopts as the measure of the ratepayers' entitlement, is an erroneous and incorrect calculation of the ratepayers' 100% share of 2010 actual short-term storage revenues after deducting the 10% incentive payment to Union and the amount embedded in Union's in-franchise rates. The correct amount to be credited to ratepayers is \$3.824M.

**A. Sequence of Events**

The events giving rise to this issue are described below. To facilitate the Board's consideration of the matter, we are attaching, as tabbed Appendices to this letter, copies of the relevant documents related to each of the events in the sequence. The sequence of relevant events is as follows:

- (a) Following the issuance of the Board's January 20, 2012 Decision in EB-2011-0038, CME, Board Staff and London Property Management Association ("LPMA") made submissions in support of the proposition that, as a necessary corollary of the Decision's interpretation of the NGEIR Decision, Union was no longer entitled to a 21% share of actual unregulated short-term storage services sales recorded in Deferral Account 179-70 for 2010. In their submissions, CME and Board Staff referred to the evidence filed by Union, CME submitted that the effect of removing the 21% non-utility business share of 2010 actual short-term storage revenues was to increase the ratepayers' share from \$0.675M to \$0.831M. Board Staff referred to the amount

referenced in CME's submissions but, like LPMA, made no submissions as to quantum. Their submissions, as well as those of CME, were to the effect that the entire 21% of 2010 short-term revenues, that were previously being streamed to Union's non-utility storage business, should now be paid to ratepayers. Copies of the letter submission made on behalf of CME dated January 27, 2012, Board Staff's submissions dated February 10, 2012, and the submissions made on behalf of LPMA dated February 13, 2012, are attached at **Tabs 1, 2 and 3**.

- (b) CME's submissions that the effect of removing the 21% non-utility business share of 2010 actual short-term storage revenues was to increase the ratepayers' share from \$0.675M to \$0.831M stemmed from the figure of \$0.924M shown by Union in its evidence as the amount remaining after deducting from 2010 actuals \$15.829M, which counsel for CME assumed represented the sum of the short-term revenue credit embedded in the derivation of Union's 2010 in-franchise rates, plus the 10% incentive payment to Union.
- (c) Union's written Reply to these submissions, dated February 17, 2012, is attached at **Tab 4**. The thrust of these Reply Submissions was to the effect that the ratepayers' entitlement to the entire 21% share of 2010 actual short-term storage sales revenues, that had been previously allocated to Union's non-utility business, should be addressed in its 2013 Rebasing proceeding and not be implemented before expiry of Union's 5-year IRM Plan. Nowhere in its Reply Submissions does Union disclose that the amount of \$0.831M is an incorrect calculation and that \$3.824M is the correct effect of terminating the 21% share of actuals in favour of the non-utility business and increasing the ratepayers' share from 79% to 100% after allowing for the 10% incentive payment to Union.
- (d) As already noted, the Board issued its Decision on February 29, 2012. In the Decision, the Board stated as follows:

*"The Board's findings in this proceeding result in the sharing with ratepayers of all net revenues (minus a 10% incentive payment as set out in the NGEIR Decision<sup>7</sup>) in the Short-term Storage Account as it is a utility asset which is supporting these transactions." (emphasis added)*

The Decision accepted the concept advocated by CME, Board Staff and LPMA to the effect that a necessary corollary of the Board's January 20, 2012 Decision is that, after deducting the 10% incentive payment to Union, ratepayers are entitled to the entire 21% share of those revenues that had been previously streamed to Union's non-utility business. We submit that the Board adopted the incorrect calculation of \$0.831M as the entire 21% share of those revenues because, when it rendered the Decision, it was unaware of the fact that \$0.831M was an incorrect calculation of the amount payable and that the accurate amount to be paid was \$3.824M. The Decision is attached at **Tab 5**.

- (e) On or about March 2, 2012, Union circulated an updated Draft Rate Order to reflect the Board's February 29, 2012 Decision. Included with those materials was Rate Order Appendix C, Schedule 2 Updated showing Union's calculation of the ratepayers' share of actual 2010 net storage margins at \$0.832M. Following receipt of that Draft Rate Order, we requested on March 8, 2012, and received advice from John Rosenkranz, the expert retained by CME, FRPO and the City of Kitchener in this proceeding, that the calculation was incorrect and that the correct amount was \$3.824M. Mr. Rosenkranz provided his calculation of the correct amount having regard to information contained in the document that had been filed by Union in proceedings under docket No. EB-2009-0275 as "Rate Order Working Papers, Schedule 14".

The calculation of the ratepayers' share of Actual 2010 Net Storage Margins of \$0.832M was incorrect and the correct amount due to ratepayers was \$3.824M. A copy of Rate Order Appendix C, Schedule 2 Updated is attached at **Tab 6** and Schedule 14 of the Working Papers in EB-2009-0275 is attached at **Tab 7**.

- (f) Schedule 14 of the Working Papers demonstrated that the submissions made by CME, to the effect that the amount to be credited to ratepayers in 2010 was about \$0.831M, were based on a mistaken assumption that the Board-approved credit embedded in Union's 2010 rates was the 2007 amount initially embedded therein of \$14.246M, being 90% of the Board-approved forecast for 2007 of \$15.829M. The document revealed that this assumption was incorrect because, in conjunction with its implementation of the NGEIR Decision for 2008, being the first year of Union's 5-year IRM Plan, the amount of the credit embedded in Union's 2007 rates of \$14.284M was reduced for the years 2008 and following to 79% of \$14.246M, being an amount of \$11.254M.
- (g) The impact of the lesser amount of 2007 forecast revenues being embedded in 2010 in-franchise rates means that the ratepayers' 100% share of actual storage margins for 2010 (after deduction of the 10% incentive payment to Union) was not \$0.831M, as counsel for CME had mistakenly assumed when they made their Written Arguments pertaining to the initial Draft Rate Order circulated by Union. Rather, the correct amount of the ratepayer entitlement is \$3.824M, being an amount \$2.992M higher than the \$0.832M that Union had calculated in EB-2011-0038 Draft Rate Order, Appendix C, Schedule 2, updated.
- (h) We forthwith notified Mr. Gluck of OEB Staff and Union representatives of the information Mr. Rosenkranz had provided and his calculation of the amount to be paid to ratepayers of \$3.824M. We sought to initiate a process to correct the situation. A copy of our March 8, 2012 e-mail to that effect is attached at **Tab 8**.
- (i) Around the same time that we were communicating with Mr. Rosenkranz, Mr. Gluck and Union representatives, the EB-2011-0038 Rate Order issued on March 8, 2012, and was distributed to interested parties. A copy of the formal Rate Order is attached at **Tab 9**.
- (j) On Friday, March 9, 2012, we received an e-mail response from counsel for Union asserting that there was no error in Union's calculation of the margin of \$0.832M in the short-term deferral account and that the only way we could remedy the alleged error in the calculation of the amount payable to ratepayers was by way of appeal. The e-mail stated:

*"There is no error in Union's calculation of the margin in the short-term deferral account. Contrary to your note, the deferral account balance is calculated not based on what is in rates but rather on the Board-approved 2007 forecast margin of \$15.289 million. The sharing percentages are applied to the difference between the actual margin and the Board-approved forecast. This methodology has been used since 2008, accepted by parties and, through the Rate Order, approved by the Board."*

This e-mail response implies that the methodology we had used to determine the amount payable to ratepayers of \$3.824M was an unapproved methodology. A copy of the e-mail is attached at **Tab 10**.

- (k) By e-mail dated March 11, 2012, we disagreed with the position advanced by counsel for Union, and advised that we would be asking the Board to direct Union to record an entry in its 2011

short-term deferral account balance to correct for an erroneous calculation of a deferral account balance made in a prior year. During the course of the July 26, 2011 Technical Conference that preceded the commencement of the oral hearing in this case, Union accepted, as a matter of principle, that an adjustment to reflect incorrectly calculated balances in a deferral account in prior years should be made by recording the appropriate correction in the corresponding deferral account for the current year, notwithstanding intervening Board approvals of the incorrect calculation.<sup>1</sup> Attached at **Tab 11** is an excerpt of the Technical Conference Transcript.

In response to the March 11, 2012 e-mail, counsel for Union advised that there was a straightforward explanation for the apparent confusion relating to calculation of the short-term margin and, as a result, it was agreed that a conference call would be held to discuss the matter. A conference call was scheduled for Thursday, March 15, 2012, at 10:00 a.m. The exchange of e-mails pertaining to that sequence of events is attached at **Tab 12**.

- (l) We asked Union to provide the details of the calculations upon which it was relying, and the response provided by Mr. Kitchen on March 12, 2012 is attached at **Tab 13**. These calculations distinguish between a “2010 Calculation using 2007 Board-approved forecast of \$15.829M ...” and a “2010 Calculation using Short-Term Margin in rates of \$11.254M ...”. This e-mail appeared to reiterate the theme that our calculation of the \$3.824M amount payable to ratepayers stemmed from an unapproved methodology.
- (m) To respond to what we then believed was a methodology dispute, we prepared and circulated a memorandum pertaining to “The Calculation of Short-Term Storage Sales Deferral Account Balances”. A copy of that document is attached at **Tab 14**. The document was prepared to demonstrate that the \$3.824M is a correct calculation of the amount by which all the 2010 actual short-term storage revenues (net of the 10% incentive payment to Union) exceed the credit amount embedded in rates charged to in-franchise ratepayers. The \$3.824M amount is in accordance with the Board-approved amount that stemmed from the implementation of the NGEIR Decision using the 2007 Board-approved forecast amount of \$15.829M.
- (n) As described in paragraph 6 of the memo, the NGEIR Decision resulted in the 2007 approved forecast amount of \$15.829M being divided into three pieces, namely:

(i)	The 10% incentive amount for Union	\$1.583M
(ii)	The reduced credit amount to be embedded in the derivation of Union’s in-franchise rates, being 79% of the \$14.246M credit previously embedded	\$11.254M
(iii)	A new amount to be allocated to Union’s non-utility business of 21% of the \$14.246M credit previously embedded	\$2.992M
Total:		\$15.829M

As a result of the NGEIR Decision, the in-franchise rates for 2008 were increased to accommodate the flow of \$2.992M of actual revenues to Union’s owner stemming from the 79/21% split of actual short-term revenues as described in that Decision.

<sup>1</sup> July 26, 2011 Technical Conference Transcript, p.12, lines 9 to 26.

- (o) Since the intent of the Decision was to allocate to ratepayers the entire 21% share of actual revenues that had previously been streamed to Union's non-utility business, it follows that if the amount of 2010 actual net revenues had been exactly \$15.829M, then the amount to be allocated to ratepayers would be the \$2.992M previously allocated to Union's non-utility business. Since actual 2010 revenues were \$16.753M, an amount greater than \$15.829M, it followed that the amount to be credited to ratepayers was more than the \$0.832M Union presented in Appendix C, Schedule 2, updated attached to the Draft Rate Order that was circulated on March 2, 2011.
- (p) During the conference call of March 15, 2012, Union representatives now acknowledged that all of the actual 2010 net revenues, in excess of the 10% incentive payment to Union and the amount embedded in 2010 rates, consisted of the \$0.832M that Union presents in Appendix C, Schedule 2, Updated (which is 90% of the difference between \$16.753M and \$15.829M), plus the \$2.992M amount that would flow to ratepayers in a scenario where actual revenues equalled the \$15.829M that Union was using as its fulcrum to derive the deferral account balance. Nevertheless, Union continued to refuse to take the initiative to credit ratepayers this \$2.992M amount by way of a credit entry in the 2011 short-term deferral account. Union now contended that, when rendering the Decision, the Board had specifically ruled that Union gets to keep the \$2.992M that we say is due to ratepayers.
- (q) Counsel for Union argued that, in its Reply Submissions dated February 17, 2012, Union had informed the Board that the \$0.831M, to which counsel for CME and Board Staff referred in their Arguments, did not represent all of the actual 2010 short-term revenues in excess of the total of the 10% incentive payment to Union and the credit amount embedded in Union's 2010 in-franchise rates. Union contended that, as a result of its Reply Submissions, the Board, when rendering the Decision, was actually aware that the accurate amount of the ratepayers' 100% entitlement was an amount \$2.992M higher than the amount suggested by counsel for CME in their Argument. Nowhere in Union's Reply Submissions attached at Tab 4 is it disclosed that the ratepayers' 100% share of actual revenues in 2010, in excess of the 10% incentive payable to Union and the amount included in the derivation of 2010 in-franchise rates, is \$3.824M. Nowhere in its Reply Submissions does Union advise the Board that the \$0.831M is an incorrect calculation of 100% of actual 2010 revenues in excess of the 10% incentive payment to Union and the amount embedded in in-franchise rates.
- (r) Following the conference call of March 15, 2012, we recorded our understanding of Union's position in an e-mail and requested confirmation that we correctly understood Union's position. Our e-mail to that effect dated March 16, 2012, and the response from counsel for Union dated March 18, 2012, are attached at **Tab 15**. In his responding e-mail, counsel for Union states that the differences that led to the conference call had nothing to do with methodology and asserts that our request to have the \$2.992M credited to ratepayers should be rejected because it constitutes a change to Base Rates. This assertion is made despite the fact that the Board, in the Decision, had rejected Union's contention that the ratepayers' entitlement to the 21% share of revenues previously streamed to Union's non-utility business should not be considered until the 2013 Rebasement case and had required Union to pay to ratepayers all of actual 2010 revenues after deducting the 10% incentive payment to Union and the credit amount embedded in in-franchise rates.
- (s) In a follow-up e-mail dated March 19, 2012, we asked Union representatives to provide us with references to the evidence where the Board first reduced the credit amount of \$14.246M embedded in the 2007 Base Rates charged to in-franchise users by \$2.992M to \$11.254M as a consequence of the NGEIR Decision. Counsel for Union responded by an e-mail that referred to

exhibits filed in prior proceedings, coupled with a demand that we refrain from seeking relief to assure that the ratepayers receive the correct amount of actual 2010 short-term revenues to which they are entitled as a result of the Decision. That e-mail exchange is attached at **Tab 16**.

- (t) Following a telephone discussion, counsel for Union subsequently agreed to provide us with copies of the documents referenced in his e-mail. These documents are attached at **Tab 17**. They clearly show that \$2.992M had been removed as a reduction to rates in order to accommodate a streaming to Union's owner of 21% of actual net revenues to reflect the 79/21% split in the NGEIR Decision. Had these documents been provided by Union on February 17, 2012, when it presented its Reply Submissions, everyone would have been aware that all of the actual 2010 Short-Term Storage Margins, to which ratepayers were entitled, were not \$0.831M, as submitted by counsel for CME, but \$3.824M, being the sum of the \$0.832M shown by Union in Appendix C, Schedule 2 updated, and the \$2.992M that had been streamed to Union's owner at the time that the NGEIR Decision was implemented in Union's 2008 Rates. In conjunction with a disclosure of these documents, Union could have then made it clear that it was claiming an entitlement of \$2.992M, notwithstanding the submissions of CME, Board Staff and LPMA and could have proposed that parties opposite in interest be given an opportunity to respond to its request. The Board could then have called for submissions from parties opposite in interest to Union on this point. However, Union chose to refrain from proceeding in this manner.
- (u) Through an e-mail exchange on March 13, 2012, CME and Union agreed that CME's support for and the Board's issuance of Union's April 1, 2012 QRAM Order, including provisions relating to Deferral Account 179-70, would be without prejudice to matters pertaining to the relief requested in this letter.

## **B. Submissions**

Based on the foregoing sequence of events, our current understanding is that Union accepts that the correct calculation of actual 2010 short-term storage revenues, that would previously have been streamed to Union's non-utility business under the 79/21% split feature of the NGEIR Decision, is \$3.824M and not the \$0.831M referenced in submissions made by CME.

Union, nevertheless, continues to refuse to correct the 2010 amount to be credited to ratepayers, by making a credit entry in the 2011 Deferral Account 179-70 of \$2.992M, on grounds that:

- (a) The Board was actually aware of the correct amount because, in its Reply Submissions, Union transparently disclosed to the Board that the correct value of the 21% share of actual 2010 revenues, that would have previously been streamed to its non-utility storage business, was \$3.824M, being an amount of about \$2.992M above the \$0.831M referenced in the submissions of CME;
- (b) In the context of the Board's actual knowledge of the correct calculation of \$3.824M, the Decision requiring Union to pay \$0.831M must be interpreted to mean that Union gets to keep the \$2.992M difference; and
- (c) Requiring Union to credit the deferral account with \$2.992M of 2010 actual short-term storage revenues before expiry of Union's 5-year IRM Plan constitutes a prohibited change to IRM Base Rates.

In a nutshell, Union contends that, in rendering the Decision, the Board specifically intended to permit Union to keep \$2.992M of the actual 2010 revenues that would previously have been streamed to its non-utility storage business. We contend that in rendering the Decision, the Board intended that ratepayers receive the entire 21% share of 2010 actual storage revenues that would previously have been streamed to Union's unregulated business as a result of the 2008 implementation of the NGEIR Decision.

Based on the foregoing, it appears that a judicial resolution of the dispute that we have with Union turns on what the Board intended when it rendered the Decision.

We submit that factors relevant to a consideration of the Board's intent, when it rendered the Decision, include the following:

1. The concept underpinning the submissions made by CME, Board Staff and LPMA;
2. Union's response to that concept, including its failure to disclose facts relevant to its potential implementation;
3. Whether the language of the Decision can reasonably be interpreted to mean that ratepayers receive something materially less than the entire 21% share of revenues formerly streamed to Union's unregulated storage business; and
4. Whether correcting the amount to be credited to ratepayers to Deferral Account 179-70 constitutes a prohibited change to IRM Base Rates.

We address each of these factors below.

**1. Conceptual Basis for Submissions made by CME, Board Staff and LPMA**

The conceptual basis for these submissions was that the Board's findings in the January 20, 2012 EB-2012-0038 Decision to the effect that the NGEIR Decision fixed 100 PJs of Union's integrated storage as a utility asset necessarily included a corollary that all short-term storage transactions and other balancing services Union provides are supported entirely by the 100 PJs of storage space that the Decision establishes as the utility asset. As a consequence of the findings that the Board made in the Decision, there no longer exists any factual basis for allocating 21% of short-term net revenues accorded in Deferral Account 179-70 to Union's non-utility storage business. That this is the conceptual basis for the submissions made by CME, Board Staff and LPMA is clear from their submissions found at **Tabs 1, 2 and 3** of this material.

From this conceptual base, it followed that all short-term storage revenues previously streamed to Union's non-utility storage business under the auspices of the 79/21% split reflected in the NGEIR Decision should forthwith flow to ratepayers. The submissions of CME, Board Staff and LPMA cannot reasonably be interpreted otherwise.

**2. Union's Response to the Concept, including its Failure to Disclose Facts Relevant to its Potential Implementation**

There is no clear disclosure in Union's Reply Submissions of facts that would inform the Board and interested parties that an accurate calculation of the portion of the 2010 actual revenues, that would have been streamed to Union's unregulated storage business under the 79/21% split feature of the NGEIR

Decision, was an amount of \$3.824M, some \$2.992M higher than the amount to which counsel for CME and Board Staff referred in their submissions. Union's Reply Submissions cannot reasonably be interpreted to contain such a disclosure.

Union did not respond by disclosing the error in the amount relied upon by CME. Rather, in response to the conceptual foundation for the submissions of CME, Board Staff and LPMA, Union argued that the concept was procedurally misconceived, inconsistent with existing rates, and to the extent that it warranted consideration, it should be raised in Union's 2013 Rebasing proceeding.

It is now clear that when Union made its Reply Submissions, it was aware that the \$0.831M amount was an incorrect calculation of the entire 21% of 2010 actuals that would previously have been streamed to its non-utility storage business. Union did not produce to the Board any of the documents that have emerged subsequently that clearly demonstrate that an amount of \$0.831M does not represent the entire 21% share of 2010 actuals that would previously have been streamed to Union's owner. If Union deliberately withheld production of these documents when it made its Reply Submissions, then its failure to disclose them should be censured. These documents clearly reveal the error in the amounts referenced in the CME and Board Staff submissions.

Had the Board been aware that Union was seeking to keep \$2.992M of actual short-term revenues that would have been previously streamed to Union's owner, then the Board would have, at the very least, called on parties opposite in interest to Union to make submissions on Union's request to deprive ratepayers of those funds. The fact that the Board did not call on CME, Board Staff and LPMA to make submissions on this point prompts us to conclude that the Board, like counsel for CME and Board Staff, was unaware that the correct amount of the 21% share that would previously have been streamed to Union's owner was \$3.824M and not the \$0.831M referenced by counsel for CME and Board Staff.

Union should have disclosed to the Board that the total amount of 2010 actuals that would have been streamed to Union's owner under the NGEIR 79/21% split regime was \$3.824M, being an amount of about \$2.992M higher than that suggested by CME. Instead, Union remained silent in an attempt to gain an advantage from the mistaken amount of \$0.831M presented by counsel for CME in their submissions.

Union's conduct in failing to fully disclose these facts to the Board falls well short of the standard of disclosure that the Board and others practising before it expect of utilities that the Board regulates. Prior Board Decisions pertaining to the standard of disclosure expected of utilities that the Board regulates are appended at **Tab 18**. They consist of the following:

- Excerpts from RP-2001-0032 Decision with Reasons dated December 13, 2002, from section 6.2.21 to 6.2.23;
- Excerpts from RP-2002-0133 Decision with Reasons dated November 7, 2003, from section 7.1 and 7.2, being paragraphs 870 to 900; and
- Excerpt from EB-2008-0304 Decision and Order dated November 19, 2008, page 11.

These Decision excerpts emphasize that the Board relies on utilities to act with integrity with respect to the timely disclosure of correct information. The Board's reliance on utilities to behave in this manner was described as follows in the RP-2001-0032 Decision with Reasons at page 197:

*"The Board has always relied on the good faith of the utilities in making timely, complete and accurate disclosure of all information relevant to the*

*operations of the utility, whether or not the specific information has a direct impact on the Board's rate-making function."*

A utility's duty to behave in this manner is described in the EB-2008-0034 Decision and Order at page 11 as follows:

*"A publicly regulated corporation is under a general duty to disclose all relevant information relating to Board proceedings it is engaged in unless the information is privileged or not under its control. In so doing, a utility should err on the side of inclusion. Furthermore, the utility bears the burden of establishing that there is no reasonable possibility that withholding the information would impair a fair outcome in the proceeding."*

We submit that Union's attempt to take advantage of the incorrect calculation referenced by counsel for CME and Board Staff in their submissions is incompatible with these principles. The Board should not countenance Union's failure to adhere to these principles.

### **3. The Language used in the Decision**

As noted in sub-paragraph (d) of Section A, the Decision clearly states that, as a corollary of the January 20, 2012 Decision, ratepayers are entitled to all actual 2010 net short-term revenues in excess of the 10% incentive payment to Union. The excerpt from the Decision to this effect that bears repeating is as follows:

*"The Board's findings in this proceeding result in the sharing with ratepayers of all net revenues (minus a 10% incentive payment as set out in the NGEIR Decision<sup>7</sup>) in the Short-term Storage Account as it is a utility asset which is supporting these transactions." (emphasis added)*

We submit that, taken as a whole, the language of the Board's Decision clearly reveals an intent to reverse the 79/21% split feature of the NGEIR Decision for the purposes of deriving the ratepayers' share of the deferral account balance in 2010. We submit that the language of the Decision cannot reasonably be construed otherwise.

The Decision expressly rejects Union's contention that the conceptual basis for the submissions made by CME, Board Staff and LPMA was procedurally flawed. On this point, the Board stated:

*"The Board does not agree with Union's position that addressing this issue as part of the Draft Rate Order process is procedurally misconceived. This outcome is directly related to the Board's findings in its Decision and Order."*

Furthermore, the Board rejected Union's contention that the matter of ratepayer entitlement should be deferred for consideration in Union's Rebasing proceeding by ordering the payment to ratepayers of what was then believed to be the entire share of 2010 actuals that would have previously been streamed to Union's non-utility storage business.

Accordingly, the language of the Board's Decision is incompatible with Union's contention that it was entitled to keep \$2.992M of the actual amount of \$3.824M by which 2010 short-term revenues represented the entire share of revenues that would have previously been streamed to Union's non-utility storage business.

#### **4. Impact of Adhering to the Concept Reflected in the Decision**

The argument that adhering to the concept, that calls for the 21% share of 2010 actual short-term storage revenues, previously streamed to Union's non-utility business, to now be streamed to ratepayers for the purposes of determining the 2010 balance in Deferral Account 179-70, constitutes a prohibited alteration of IRM Base Rates is an argument that lacks merit.

From the information that Union recently provided, it is now clear that the 79/21% split reflected in the NGEIR Decision led to a change in Union's rates in 2008, being Year 1 of Union's 5-year IRM Plan. The amount embedded as a credit in the 2007 Base Year Rates charged to in-franchise users of \$14.284M (being 90% of the forecast of \$15.839M) was reduced by 21% or \$2.992M when Union's 2008 rates were derived. This reduction assures that for every dollar of actual short-term revenues Union received, 21% thereof was streamed to Union's owner. The \$2.992M amount was an item to be applied when determining deferral account balances. We submit that it cannot reasonably be characterized as a Board-approved in-franchise "rate" payable by Union's ratepayers to Union's unregulated storage business.

Accordingly, we submit that there is, in fact, no change to in-franchise regulated rates in 2010 with a reversal of the 21% split. What changes is the \$2.992M of actual 2010 short-term sales revenues that now streams into Deferral Account 179-70 rather than to Union's owner, being the same thing that happens with the 21% of the \$0.924M amount that represents the amount by which 2010 actual revenues exceed the \$15.839M forecast contained in 2007 Base Rates.

The point is that if actual short-term revenues exceed the amount of \$11.254M embedded in the derivation of 2010 rates, then there is no "charge" associated with the streaming of actual funds in excess of \$11.254M to Union's non-utility business.

A "charge" might ensue in a scenario where actual revenues are less than \$11.254M but that "charge" is one that materializes only at the time of deferral account clearance. The amount of the "charge" will vary depending upon the amount of actual short-term revenues. If even that "charge" scenario emerges, the Board is fully empowered to eliminate a "charge" related to the clearance of deferral account balances during the term of Union's 5-year IRM Plan. Since the Board was empowered to reduce 2007 Base Rates in 2008, being Year 1 of Union's IRM Plan, so as to stream 21% of actual short-term revenues to Union's unregulated storage business, it is similarly empowered to remove that streaming requirement when considering matters pertaining to Union's 2010 deferral accounts that relate to Year 3 of the 5-year IRM Plan.

Requiring Union to pay the entire 21% of actual 2010 revenues that would previously have been streamed to Union's unregulated storage business under the 79/21% split feature of the NGEIR Decision does not constitute a prohibited change to IRM Base Rates. Moreover, as already noted, the Board rejected that submission in the Decision when it rejected Union's argument that no change should be made until Union's 2013 Rebasing case.

#### **5. Conclusions Pertaining to Intent of the Decision**

For all these reasons, we submit that the intent of the Decision is that ratepayers are to receive the entire 21% share of 2010 actual revenues that would previously have been streamed to Union's unregulated storage business. The correct amount of 2010 actual revenues to which ratepayers are entitled is \$3.824M and not \$0.831M. Union's submissions to the contrary lack merit.

**C. Appropriateness of the Correctness Relief Requested**

An appeal is not required to correct an incorrect calculation as asserted by Union in the e-mail from its counsel dated March 9, 2012, and attached at **Tab 10**. The Board is fully empowered to correct what we now know is an incorrect calculation of the amount that the Board intended to approve. Rule 43.02 of the Board's *Rules of Practice and Procedure* fully empowers the Board to take such action. The Rule provides as follows:

***"The Board may at any time, without notice or a hearing of any kind, correct a typographical error, error of calculation or similar error made in its orders or decisions."*** (emphasis added)

Moreover, granting the correction relief requested is supported by Union's on-the-record acceptance of the principle that an incorrect calculation of deferral account balances in prior years should be rectified by making the appropriate entry in the corresponding deferral account for the current year. The transcript of this on-the-record statement is attached at **Tab 11**. The Board has ample authority to grant the correction relief we seek.

**D. Relief Requested**

For all these reasons, we urge the Board to require Union to credit ratepayers an amount of \$2.992M for the balance of their entire 21% share of actual 2010 short-term storage revenues that would otherwise have been streamed to Union's non-utility storage business, being their 100% share in actual 2010 short-term revenues in excess of the 10% incentive payment to Union and the credit amount of \$11.254M embedded in the derivation of 2010 in-franchise rates.

**E. Process**

We are circulating these submissions to all interested parties. The amount in issue is significant, being an amount of almost \$3M and is a matter of considerable importance to ratepayers. We invite the Board to provide an opportunity to parties opposite in interest to Union to make submissions with respect to this important and significant issue.

We request that we be allowed an opportunity to reply to the submissions that Union makes with respect to this matter either in writing or at an oral hearing, should the Board consider an oral hearing of this matter to be appropriate.

Please contact me if there are any questions about the contents of this request.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT/kt/slc  
enclosures

c. Chris Ripley (Union)  
Intervenors in EB-2011-0038  
Paul Clipsham (CME)

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**By electronic filing**

January 27, 2012

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

Dear Ms Walli,

**Union Gas Limited (“Union”)**  
**2010 Earnings Sharing & Deferral Accounts and Other Balances**  
**Board File No.: EB-2011-0038**  
**Our File No.: 339583-000104**

I am writing with respect to the Board’s Decision and Order dated January 20, 2012 (the “Decision”).

In the Decision, the Board directs Union “... to file a Draft Rate Order which reflects the Board’s findings in this Decision.”

Union is to submit the Draft Rate Order no later than February 3, 2012, and intervenors who wish to file comments must do so no later than February 10, 2012. I will be out of the country until February 13, 2012, and will be unable to submit comments by the February 10, 2012 deadline date.

As a result, I am submitting one comment now in the hope that the matter can be considered by the Board and by Union and addressed during the Order approval process.

My comment stems from the Board’s findings in the Decision as follows:

- (a) That the intent of the NGEIR Decision was to effect the one time separation of plant assets between Union’s utility and non-utility businesses (page 6 of the Decision);
- (b) That although Union’s system is integrated, Union plans resource optimization activities around non-utility storage assets only and tracks the use of its non-utility storage space for ex-franchise transactions (page 16); and

- (c) That the entire amount of utility storage above in-franchise customer needs is sold as short-term storage service and that all of the costs of this space are to be paid by in-franchise customers (page 20).

It is submitted that a necessary corollary of these findings is that the short-term (under 2 years) storage transactions and other balancing services Union provides are supported entirely by the 100 PJs of storage space that the Decision establishes as the utility asset (page 6). As a consequence of the findings that the Board has made in the Decision, there no longer exists any factual basis for allocating 21% of short-term net revenues recorded in Account No. 179-70 to Union's non-utility storage business.

In the NGEIR Decision, at page 101, the Board had directed Union to split the margins on short-term storage transactions 79/21 between in-franchise customers and the non-utility storage business because of "the impossibility of physically linking a short-term transaction to a specific slice of storage space". Since the Board has now found that Union can and does track which storage space is used for short-term and long-term storage sales, it inevitably follows that 100%, and not 79%, of the net credit in Account No. 179-70 of \$0.924M (to which the Board refers at page 18 of the Decision) is the utility portion of the net revenues on short-term storage sales made entirely from utility storage assets, and that 90% of these net revenues, or \$0.831M, is the amount to be shared with ratepayers.

It is submitted that it necessarily follows from the findings in the Decision that the ratepayers' share of 2010 net short-term revenues is \$0.831M, rather than the \$0.657M referenced in the Decision.

We respectfully submit that this consequence of the Decision should be recognized in the Draft Rate Order that Union submits to reflect its findings.

Our hope is that Union will agree with this analysis and submit a Draft Rate Order that increases the short-term net revenues to be shared with ratepayers from \$0.657M to \$0.831M. If that hope does not materialize, then we respectfully request that the Board invite submissions from Union and others on this point and then determine whether or not it agrees that, as a result of the findings made in the Decision, the ratepayers' share of 2010 short-term storage revenues is \$0.831M.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT\slc

c. Chris Ripley (Union)  
Intervenors in EB-2011-0038  
Paul Clipsham (CME)

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**BY E-MAIL**

February 10, 2012

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
27th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Board Staff Submission on Draft Rate Order  
Union Gas Limited 2010 Earnings Sharing & Disposition of Deferral  
Accounts and Other Balances  
Board File No. EB-2011-0038**

Please find attached the Board staff submission with respect to the above noted proceeding.

Yours truly,

*Original signed by*

Lawrie Gluck  
Case Manager

Attachments

C: Chris Ripley (Union)  
Crawford Smith (Torys LLP)  
All Intervenors of Record



# **ONTARIO ENERGY BOARD**

## **BOARD STAFF SUBMISSION DRAFT RATE ORDER**

**Union Gas Limited**

**2010 Earnings Sharing & Disposition of Deferral Accounts and Other  
Balances**

**Board File No. EB-2011-0038**

**February 10, 2012**

## **Background**

Union Gas Limited ("Union") filed an application dated April 18, 2011 with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Schedule B, for an order of the Board amending or varying the rate or rates charged to customers as of October 1, 2011 in connection with the sharing of 2010 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2010 year-end deferral account and other balances (the "Application").

The Application also requested approval for a cost allocation methodology to be used to allocate costs between Union's regulated and unregulated businesses. The Board assigned file number EB-2011-0038 to the Application.

## **The Proceeding**

A Notice of Application and Procedural Order No. 1 was issued on May 13, 2011, setting dates for interrogatories and responses to interrogatories. By letter dated June 14, 2011, the Federation of Rental-housing Provider of Ontario ("FRPO"), the Canadian Manufactures and Exporters ("CME") and the City of Kitchener ("Kitchener") (or the "Intervenor Group") indicated that they intended to file intervenor evidence in this proceeding.

Procedural Order No. 2 was issued on June 17, 2011 setting out dates for supplemental interrogatories, intervenor evidence, interrogatories on intervenor evidence, responses to interrogatories on intervenor evidence, a Technical Conference, a Settlement Conference and a Settlement Proposal.

By letter dated August 9, 2011, Union advised the Board that the company and intervenors were unable to reach a settlement.

On August 15, 2011, CME filed a Notice of Motion (the "CME Motion") for a Board Order requiring Union to provide the amount of a one time adjustment to the balance of Deferral Account No. 179-72 (Long-Term Peak Storage Services) to reflect corrections for Union's use, in its calculations of deferral account balances for 2008, 2009 and 2010, of certain items that CME alleged were unauthorized and did not constitute "costs" of providing unregulated storage services. The CME Motion also requested an

Order of the Board requiring Union to provide calculations of the Return on Equity it earned from its unregulated storage assets for 2008 and 2010 in a particular format.

Procedural Order No. 3 was issued on August 24, 2011, which set out the process for addressing the CME Motion.

On September 6, 2011, Union filed a Notice of Motion (the "Union Motion") for a Board Order granting Union leave to file the affidavit of Chris Ripley sworn August 31, 2011 (the "Ripley Affidavit"), in response to the motion brought by CME. Union noted that the Ripley Affidavit includes information that is directly responsive to the allegations in the CME motion. Union noted that CME and other intervenors were aware of the method used by Union to calculate the amount recorded in Account 179-72 including the use of a "hurdle" rate in respect of storage related assets acquired by Union subsequent to the Board's NGEIR Decision to provide Long-Term Peak Storage Services. Union noted that granting leave to file the Ripley Affidavit would ensure a complete record before the Board upon which it can render a decision.

Procedural Order No. 4 was issued on September 8, 2011, which set out the process for addressing the Union Motion and set a date for the Oral Hearing.

On September 13, 2011, Union filed Minutes of Settlement relating to both the CME and Union Motions. The Minutes of Settlement stated that Union and CME had agreed to withdraw their respective motions on the following terms:

1. Union will file all of the information sought in the CME Motion;
2. The parties will not seek, directly or indirectly, any relief with respect to the Decisions of the Board in EB-2009-0052 and EB-2010-0039 regarding Deferral Account Nos. 179-70 or 179-72 or related thereto, including through a one-time adjustment to the balances in those accounts as contemplated by the CME Motion or otherwise;
3. Union will not take the position that acceptance by the parties in the settlement agreement in EB-2010-0039 of the disposition of Deferral Account Nos. 179-70 or 179-72 precludes the parties from challenging the correctness of the methods used in EB-2009-0052 and EB-2010-0039 in determining the balances in Deferral Account Nos. 179-70 or 179-72 and will not take the position that the

Board is precluded from approving in this application a different method of calculating the deferral account balances in those accounts in 2010;

4. Subject to paragraph 2 above, the parties will be at liberty to examine the material filed by Union and to argue that the methods of calculation used by Union, in determining the balances in Deferral Account Nos. 179-70 or 179-72, in 2008 and 2009 were incorrect, and that a different method or methods should be used in calculating the deferral account balances in those accounts in 2010;
5. Subject to its right to contest the amount of costs claimed, Union agrees that it will not contest a claim for costs, by the CME or other parties, with respect to the time spent in dealing with the CME Motion and the Union Motion.

As agreed in the Minutes of Settlement, on September 15, 2011 Union filed the information requested in the CME Motion.

On September 19<sup>th</sup> to 21<sup>st</sup> 2011, the Board held a hearing in regards to all matters in this proceeding. On the morning of September 21, 2011 the Board heard the argument-in-chief of Union. At the hearing, the Board set out the schedule for the remaining procedural matters. Namely, the filing of argument by Board staff and intervenors and the filing of reply argument.

On January 20, 2012, the Board issued its Decision and Order. The Board directed Union to file a Draft Rate Order which reflected the Board's findings in its Decision. The Board directed Union to include working papers in its Draft Rate Order which provide:

- An updated margin sharing calculation for the Long-term Storage account which reflects the Board's findings on this matter;
- An updated UDC account balance which reflects the Board's findings on this matter; and
- An updated ESM amount, if necessary, which reflects the Board's findings in this Decision.

The Decision and Order set out the schedule for the filing of the Draft Rate Order and for submissions on the Draft Rate Order.

## Submission

Board staff is of the view that the Draft Rate Order accurately reflects the Board's findings in this proceeding, with one possible exception discussed below.

In regards to the calculation of margin sharing in Account 179-70 Short Term Storage and Other Balancing Services ("Short-term Storage account"), CME filed a letter on January 27, 2012 which stated that the ratepayers' share of 2012 net short-term revenues should be \$0.831 million, rather than the \$0.657 million referenced in the Decision. Board staff agrees with CME.

Board staff notes that the Natural Gas Electricity Interface Review ("NGEIR") Decision set out the methodology for margin sharing of short-term storage transactions. In the NGEIR Decision, the Board stated that:

The Board finds that the entire margin on storage transaction that are underpinned by "utility asset" storage space, less an appropriate incentive payment to the utilities, should accrue to ratepayers...

As long as the utility and non-utility storage is operated as an integrated asset, it will not be possible to determine that any particular short-term transaction physically utilized space from either the "utility asset" or the "non-utility asset"...

Given the impossibility of physically linking a short-term transaction to a specific slice of storage space, the Board considered other methods of determining the amount of storage margins that should accrue to Union's ratepayers. The Board has decided that the calculation should be based on how the costs of the storage facilities are split between the utility and non-utility businesses. Specifically, Union's revenues in any year from short-term storage transactions, less any incremental costs incurred by Union to earn those revenues, should be shared by Union and ratepayers in proportion to Union's allocation of rate base between utility and non-utility assets...

The allocation is currently 79/21 utility/non-utility.<sup>1</sup>

Board staff is of the view that the Board's findings in the current proceeding effectively fix 100 PJs as the utility asset.<sup>2</sup> In addition, the Board findings speak to Union's ability to track what storage assets are being used for each type of storage transaction<sup>3</sup> and state that the entire amount of utility storage above in-franchise requirements is

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<sup>1</sup> See EB-2005-0551, NGEIR Decision with Reasons at pp.101-102.

<sup>2</sup> See EB-2011-0038, Decision and Order at p.6.

<sup>3</sup> See EB-2011-0038, Decision and Order at p. 16.

available for sale short-term storage services (and all costs of this space is to be paid for by in-franchise customers).<sup>4</sup>

Based on the above noted Board findings, Board staff submits that there is no longer a need to utilize the rate base allocator set out in the NGEIR decision to allocate margins in the Short-term Storage account. Board staff submits that all net revenues (minus a 10% incentive payment as set out in the NGEIR Decision<sup>5</sup>) in the Short-term Storage account should accrue to the benefit of ratepayers as it is a utility asset (i.e. the storage space between in-franchise requirements and 100 PJs) which is supporting these short-term transactions.

Board staff notes that CME's comments were not addressed in the Draft Rate Order filed by Union. Board staff has reviewed CME's letter dated February 9, 2012 and LPMA's submission dated February 10, 2012, and does not agree that a separate process needs to be established to deal with this issue, particularly since that process would essentially amount to providing submissions on the issue raised by CME, which the current process can adequately accommodate. There is sufficient time, in Board staff's view, to address this issue in the current Draft Rate Order comment process. If parties have not yet, but would like to address this issue, Board staff is of the view that comments should be included in the submissions due on February 10, 2012 or failing that, prior to February 14, 2012 subject to the Board granting a short extension. Since Union's reply submission is not due until February 17, 2012, Board staff is of the view that there is adequate time for Union to reply to such submissions if received before February 14, 2012. Board staff submits that this suggested process would serve to manage this issue in an efficient manner.

All of which is respectfully submitted.

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<sup>4</sup> See EB-2011-0038, Decision and Order at pp. 20-21.

<sup>5</sup> See EB-2005-0551, NGEIR Decision with Reasons at p.103.

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February 13, 2012

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli,

## **RE: EB-2011-0038 - Additional Comments of London Property Management Association on Draft Rate Order**

These are the additional comments of the London Property Management Association ("LPMA") on the EB-2011-0038 Draft Rate Order related to the amount that should be shared with ratepayers in Account No. 179-70 (the "Short-term Storage Account"). As per Procedural Order No. 5 dated February 13, 2012, the Board indicated that any intervenors that wished to make additional comments on the Draft Rate Order should do so before Tuesday February 14, 2012.

In the EB-2005-0551 Natural Gas Electricity Interface Review ("NGEIR") Decision with Reasons dated November 7, 2006, the Board found, at page 101-102 that:

*"The decision to require Union to notionally divide its existing storage into two pieces – a "utility asset" (maximum of 100 PJ) and a "non-utility asset" (the balance of Union's capacity) is set out in Chapter 6. Union's storage facilities will not be physically split into two pieces and Union is likely to continue operating its storage assets in much the same way as it does today. Union presumably will determine its ability to execute short-term deals based on the amount of temporarily surplus space in the entire storage facility. As long as the utility and non-utility storage is operated as an integrated asset, it will not be possible to determine that any particular short-term transaction physically utilizes space from either the "utility asset" or the "non-utility asset."*

*Given the impossibility of physically linking a short-term transaction to a specific slice of storage space, the Board considered other methods of*

*determining the amount of storage margins that should accrue to Union's ratepayers. The Board has decided that the calculation should be based on how the costs of the storage facilities are split between the utility and non-utility businesses. Specifically, Union's revenues in any year from short-term storage transactions, less any incremental costs incurred by Union to earn those revenues, should be shared by Union and ratepayers in proportion to Union's allocation of rate base between utility and non-utility assets."* (emphasis added).

The 79%/21% split that the Board directed Union to use to split margins on short-term storage transactions between in-franchise customers and the non-utility storage business was based on evidence at the time of the NGEIR proceeding that indicated Union could not and would not be able to link a short-term transaction to a specific slice of the storage space.

LPMA submits that based on the Board's Decision in the current proceeding, along with Union's own testimony, the rationale for the 79%/21% split used by the Board in the NGEIR Decision is no longer appropriate.

In this proceeding, the Board has found that the intent of the NGEIR Decision was to effect the one time separation of plant assets between Union's utility and non-utility businesses (page 6); that Union plans resource optimization activities around non-utility storage assets only and tracks the use of its non-utility storage space for ex-franchise transactions (page 16); and that the entire amount of utility storage above in-franchise customer needs is sold as short-term storage service and that all of the cost of this space are to be paid by in-franchise customers (page 20).

LPMA submits that it is no longer impossible to link a short-term transaction to a specific slice of storage space (i.e. utility or non-utility). As noted in the highlighted sections of the NGEIR Decision reproduced above, the Board assumed Union would determine its ability to execute short-term deals based on the amount of temporary surplus space in the entire storage facility and that it would not be possible to determine that any particular short-term transaction utilizes space from either the "utility asset" or the "non-utility asset".

LPMA submits that the Board Decision in the current proceeding recognizes that this is no longer the case. Ms. Cameron, on behalf of Union, clearly acknowledged that Union only sells any additional storage space within the 100 PJs (utility assets) not used for in-franchise customers on a short-term basis and that Union utilizes all of the non-utility assets (over the 100 PJ) for long-term deals and that none of that non-utility asset would be sold short term (Tr. Vol. 1, page 148) in the following exchange:

MR. AIKEN: Now, my final question had to do with some of the discussion earlier with Mr. Thompson on short-term and long-term storage transactions. My understanding that anything under the 100 PJs not used or not needed for Union's in-franchise customers Union would sell short-term, but not long-term; is that correct?

MS. CAMERON: That is correct.

MR. AIKEN: And then anything over the 100 petaJoules which the Board has deemed to be a non-utility asset, does Union always sell that, along with the resource optimization, but in terms of the physical capacity, the 60-some petaJoules over the 100, does Union always sell that as long-term storage, or are there times when you sell some of that as short-term as well?

MS. CAMERON: We sell that all long-term.

MR. AIKEN: Is there a possibility in the future that some of that could be sold short-term, or that's not in your plans?

MS. CAMERON: Not under the current regulatory framework. We won't change. (emphasis added)

It is apparent that Union has made a significant change in the way that it operates its storage assets. The evidence on the record in this proceeding indicates that utility assets are used for short-term transactions and not for long-term transactions, while non-utility assets are used for long-term transactions and not for short-term transactions. In other words, there is a clear link between short-term transactions and utility assets and between long-term transactions and non-utility assets. At the same time there is no link between short-term transactions and non-utility assets. This is a clear change from the way Union told the Board how its storage operations operated in the NGEIR proceeding.

As a result, LPMA submits that all short term transactions are based on utility assets and the 79%/21% split is no longer justified. 100% of the margins generated from short-term transactions are now demonstrably linked to the use of only utility assets.

If the Board were to leave the current sharing in place despite the clear evidence on this issue in this proceeding, Union could contract out all of their non-utility storage space through long-term transactions and claim an additional 21% of the margins associated with short-term transactions which do not use those non-utility assets. In other words, Union would be earning two sets of revenues from the non-utility assets, while ratepayers only share in 79% of the revenue generated by the utility assets. LPMA submits that this result is clearly wrong and needs to be corrected immediately.

Yours very truly,

*Randy Aiken*

Randy Aiken

Aiken & Associates

c.c. Chris Ripley (Union Gas) (e-mail)  
Lawrie Gluck (OEB) (e-mail)

**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;

**REPLY SUBMISSION OF UNION GAS LIMITED**

**(on comments relating to the draft rate order)**

**Overview**

1. This is the response of Union Gas Limited (“Union”) to the parties’ comments on the draft rate order provided by Union on February 3, 2012 (the “Draft Rate Order”). In its January 20, 2012 decision in this matter (the “Decision”) the Board directed Union to prepare the Draft Rate Order to reflect the Board’s findings in its Decision.
2. It is Union’s position that the Draft Rate Order reflects the Board’s findings in its Decision and should be approved.
3. The position advanced by CME in its letter filed January 27, 2012 that the ratepayers’ share of 2012 net revenues in Short-Term Storage and Other Balancing Services (179-70) (the “Short-term Storage account”) should be \$0.831 million, rather than the \$0.657 million referenced in the Board’s Decision, is procedurally misconceived. The preparation of a draft rate order is properly concerned with giving effect to a decision that the Board has already made. The process of preparing a draft rate order is not the proper context for new and inventive arguments about matters not explicitly dealt with by the Board, particularly where, as here, the Board expressly dealt with the calculation of margin sharing in the Short-term Storage account in its Decision. Accepting CME’s comments on the Draft Rate Order, and those of other parties and Board Staff in support of them, would result in litigation by installments.

4. Finally, if the Board accepts that Union's ability to track its non-utility storage position warrants a departure from the NGEIR Decision, then there is no need to distinguish between short-term and long-term storage at all. The logical consequence is that the categories of short-term and long-term storage should be abolished, not simply that the sharing of margin on the Short-term Storage account should be changed.

**Sharing of 2012 net revenues in the Short-term Storage account**

5. The Short-term Storage account includes revenues from C1 Off-Peak Storage, Gas Loans, Enbridge LBA, Supplemental Balancing Services, C1 Short-Term Firm Peak Storage, and C1 Firm Short-Term Deliverability. The net margin for Short-Term Storage and Other Balancing Services is determined by deducting the costs incurred to provide the service from gross revenue.

*Decision, p. 18*

6. The margin available for sharing in the Short-term Storage account was in dispute in this proceeding. CME, LPMA and others who now object to the rate order took the position that the margin had been understated. Union disagreed. It was Union's position that the NGEIR calculation was unchanged. In the result, the Board agreed with Union.

*Decision, p. 18*

7. In the Decision, the Board found that the credit balance in the Short-term Storage account was \$0.657 million. Notwithstanding this finding by the Board, CME and others take the position that the ratepayers' share of 2012 net revenues in the Short-term Storage account should be \$0.831 million. Their position is procedurally misconceived. The preparation of a draft rate order is properly concerned with giving effect to a decision that the Board has already made. The process of preparing a draft rate order is not the proper context for new and inventive arguments about matters not explicitly dealt with by the Board, particularly where, as here, the Board expressly dealt with the calculation of margin sharing in the Short-term Storage account in its Decision.

*Decision, p. 18*

8. At page 18 of the Decision, the Board began its discussion of the Short-term Storage account. The Board recognized the basis upon which Union had calculated that the credit balance in the Short-term Storage account was \$0.657 million. The Board calculated this balance by comparing the actual 2010 net margin for Short-Term Storage Services of \$16.753 million to the net margin approved by the Board of \$15.829 million in the EB 2007-0606 Rate Order. The result is a net deferral credit of \$0.924 million. The Board adjusted the net deferral margin to \$0.730 million to reflect the 79% utility portion (EB-2005-0551), of which 90% or \$0.657 million is shared with ratepayers.

*Decision, p. 18*

9. The Board expressly dealt with the calculation of margin sharing in the Short-term Storage account in its Decision. It is not proper to attempt to reopen the issue in the context of comments on a Draft Rate Order. Accepting CME's comments would result in litigation by installments.

**CME's position is inconsistent with existing rates**

10. This proceeding relates to the clearance of deferral accounts during the five-year incentive rate period. Base rates established subsequent to the NGEIR Decision reflect the 79/21 split in rate base between utility and non-utility. That is, rates already include a credit to ratepayers of \$11.254 million (Rate Order Working Papers, Schedule 14) to reflect the 79/21 split and the 90/10 sharing. As Union indicated in its argument-in-chief, this allocation may and likely will change (Transcript 3, pp. 31-2).

11. Union is currently in an incentive rate-making period. To the extent this issue warrants consideration at all it should be raised in Union's rebasing proceeding (EB-2011-0210) later this year. Union indicated in argument-in-chief that it would raise this issue in the rebasing proceeding and it has done so (Transcript 3, pp. 31-2).

### **The logical consequence of CME's position**

12. Finally, if the Board accepts the argument advanced by CME and others and concludes that Union's ability to track its non-utility storage position is a reason to depart from the NGEIR Decision in relation to the sharing of margin on short term transactions, then there is no need to distinguish between short-term and long-term storage at all. The logical consequence is that the categories of short-term and long-term storage should be abolished.

13. At page 6 of the Decision the Board held that 100 PJ shall be reserved as the utility asset. The remainder is non-utility. As a result, transactions (be they optimization or otherwise) that utilize only non-utility storage should be 100% to the account of the shareholder regardless of the length of the transaction. Equally, transactions which utilize the utility storage asset (again, regardless of the length of the transaction) should be to the account of ratepayers, subject only to the 10% incentive payment to the shareholder set out at pages 102-103 of the NGEIR Decision.

### **Other Issues**

14. By letter filed February 13, 2012 CME complained that by failing to make submissions in chief that were responsive to CME's position on short-term revenues, Union deprived the other parties of an opportunity to comment on such a response from Union.

15. Here again CME's submission is procedurally misconceived. The Board's Procedural Order No. 4 was clear on the order of submissions to be made by the parties. The order of submissions was confirmed again by Procedural Order No. 5. CME cannot create for itself a right of reply by stealing a march on Union and making pre-emptive submissions on the Draft Rate Order.

February 17, 2012

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TO: Ontario Energy Board  
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AND TO: All Intervenors

**ONTARIO ENERGY BOARD**

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

**EB-2011-0038**

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

	<p><b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b>  Proceeding commenced at TORONTO</p>
	<p><b>REPLY SUBMISSION OF</b> <b>UNION GAS LIMITED</b></p>
	<p>Torys LLP Suite 3000 79 Wellington St. W. Box 270, TD Centre Toronto, Ontario M5K 1N2 Canada Fax: 416-865.7380</p> <p>Crawford Smith (LSUC#: 42131S) Tel: 416.865.8209</p> <p>Alexander C.W. Smith (LSUC #: 57578L) Tel: 416.865.8142</p> <p>Counsel for Union Gas Limited</p>



**EB-2011-0038**

**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 October 1, 2011;

**BEFORE:** Ken Quesnelle  
Presiding Member

Cathy Spoel  
Member

## **DECISION AND ORDER ON DRAFT RATE ORDER**

### **Background**

Union Gas Limited ("Union") filed an application dated April 18, 2011 with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act*, 1998, S.O. c.15, Schedule B, for an order of the Board amending or varying the rate or rates charged to customers as of October 1, 2011 in connection with the sharing of 2010 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2010 year-end deferral account and other balances (the "Application").

The Application also requested approval for a cost allocation methodology to be used to allocate costs between Union's regulated and unregulated businesses. The Board has assigned file number EB-2011-0038 to the Application.

## The Proceeding

A Notice of Application and Procedural Order No. 1 was issued on May 13, 2011. The Board established various procedural steps in the process, including dates for a Settlement Conference and a Settlement Proposal. By letter dated August 9, 2011, Union advised the Board that no settlement had been reached with the intervenors.

On September 19-21 2011, the Board held a hearing on all matters in this proceeding. Arguments were heard in accordance with the schedule established at the hearing and the Board issued its Decision and Order on January 20, 2012.

The Board directed Union to file a Draft Rate Order which reflected the Board's findings in its Decision. The Board directed Union to include working papers in its Draft Rate Order which provide:

- An updated margin sharing calculation for the Long-term Storage account which reflects the Board's findings on this matter;
- An updated UDC account balance which reflects the Board's findings on this matter; and
- An updated ESM amount, if necessary, which reflects the Board's findings in this Decision.

The Decision and Order set out the schedule for the filing of the Draft Rate Order and for submissions on the Draft Rate Order. The Draft Rate Order was filed on February 2, 2012. Submissions on the Draft Rate Order were to be filed on February 10, 2012.

The Canadian Manufacturers & Exporters ("CME"), London Property Management Association ("LPMA"), and the Federation of Rental-housing Providers of Ontario ("FRPO") requested that the Board establish a process for hearing argument regarding the amount that should be shared with ratepayers in Account No. 179-70 (the "Short-term Storage Account"). Board staff and Union submitted that this issue could be sufficiently addressed as part of the existing Draft Rate Order submission process.

On February 13, 2012, the Board issued Procedural Order No. 5 which granted an extension to all parties until February 14, 2012 to file comments on the Draft Rate Order.

**Comments on the Draft Rate Order**

Board staff, CME, LPMA and the City of Kitchener ("Kitchener") were of the view that the Draft Rate Order accurately reflects the Board's findings in the proceeding, with one exception.

CME argued that the ratepayers' share of 2012 net short-term revenues should be \$0.831 million. Board staff, LPMA, and Kitchener supported this position.

The noted parties argued that the 79% / 21% split that the Board directed Union to use to split margins on short-term storage transactions between in-franchise customers and the non-utility storage business was based on evidence at the time of the NGEIR proceeding that indicated Union could not and would not be able to link a short-term transaction to a specific slice of the storage space.

The parties noted that in this proceeding, the Board has found that the intent of the NGEIR Decision was to effect the one time separation of plant assets between Union's utility and non-utility businesses;<sup>1</sup> that Union plans resource optimization activities around non-utility storage assets only and tracks the use of its non-utility storage space for ex-franchise transactions;<sup>2</sup> and that the entire amount of utility storage above in-franchise customer needs is sold as short-term storage service and that all of the cost of this space are to be paid by in-franchise customers.<sup>3</sup>

The parties submitted that based on the above Board findings, it is no longer impossible to link a short-term transaction to a specific slice of storage space (i.e. utility or non-utility). The parties noted that the evidence on the record in this proceeding indicates that utility assets are used for short-term transactions and not for long-term transactions, while non-utility assets are used for long-term transactions and not for short-term transactions. The parties submitted that therefore there is no link between short-term transactions and non-utility assets and that this is a clear change from the way Union told the Board how its storage operations operated in the NGEIR proceeding. As a result, the parties submitted that all short-term transactions are based on utility assets and the 79% / 21% split is no longer justified.

---

<sup>1</sup> See EB-2011-0038, Decision and Order, p. 6.

<sup>2</sup> See EB-2011-0038, Decision and Order, p. 16.

<sup>3</sup> See EB-2011-0038, Decision and Order, p. 20.

This position results in the sharing of 100% of the net short-term revenues in the Short-term Storage Account minus a 10% incentive payment to Union. The noted parties argued that the ratepayers' share of 2012 net short-term revenues should be increased to \$0.831 million.

In its reply submission, Union noted that the Draft Rate Order reflects the Board's findings in its Decision and should be approved as filed.

Union noted that the Short-term Storage account includes revenues from C1 Off-Peak Storage, Gas Loans, Enbridge LBA, Supplemental Balancing Services, C1 Short-Term Firm Peak Storage, and C1 Firm Short-Term Deliverability. Union indicated that the net margin for Short-Term Storage and Other Balancing Services is determined by deducting the costs incurred to provide the service from gross revenue.

Union submitted that the Board found that the credit balance in the Short-term Storage account was \$0.657 million and that the position taken by the noted parties that the ratepayers' share of 2012 net revenues in the Short-term Storage account should be \$0.831 million is procedurally misconceived. Union submitted that the preparation of a draft rate order is properly concerned with giving effect to a decision that the Board has already made, and is not the proper context for new and inventive arguments about matters not explicitly dealt with by the Board, particularly where the Board expressly dealt with the calculation of margin sharing in the Short-term Storage Account in its Decision.

Union submitted that the position taken by the parties listed above is inconsistent with existing rates. Union noted that current proceeding relates to the clearance of deferral accounts during the five-year incentive rate period. Union noted that base rates established subsequent to the NGEIR Decision reflect the 79% / 21% split in rate base between utility and non-utility. Union noted that it is currently in an incentive rate-making period and that, to the extent this issue warrants consideration at all, it should be raised in Union's rebasing proceeding (EB-2011-0210) later this year. Union indicated in argument-in-chief that it would raise this issue in the rebasing proceeding and noted that it has done so.

Union submitted that if the Board accepts the argument advanced by the noted parties and concludes that Union's ability to track its non-utility storage position is a reason to

depart from the NGEIR Decision in relation to the sharing of margin on short-term transactions, then there is no need to distinguish between short-term and long-term storage at all. Union submitted that the logical consequence is that the categories of short-term and long-term storage should be abolished. Union noted that the Board found in the current proceeding that 100 PJ shall be reserved as the utility asset. The remainder is non-utility. Therefore, Union submitted that transactions (be they optimization or otherwise) that utilize only non-utility storage should be 100% to the account of the shareholder regardless of the length of the transaction. Equally, transactions which utilize the utility storage asset (again, regardless of the length of the transaction) should be to the account of ratepayers, subject only to the 10% incentive payment to the shareholder.

### **Board Findings**

The Board finds that the ratepayers' share of 2012 net short-term revenues should be \$0.831 million.

The Board agrees with CME, LPMA, Kitchener, and Board staff that the outcome of the findings in its Decision is the establishment of the ratepayer credit in the Short-term Storage Account of \$0.831 million.

The Board's findings in the current proceeding effectively fix 100 PJs as the utility asset.<sup>4</sup> In addition, the Board's findings are informed by Union's ability to track what storage assets are being used for each type of storage transaction<sup>5</sup> and state that the entire amount of utility storage above in-franchise requirements is available for sale as short-term storage services (and all costs of this space is to be paid for by in-franchise customers).<sup>6</sup>

Although the Board was not explicit in its findings that \$0.831 million is the amount that should be shared with ratepayers, it is a clear outcome of its findings. The Board's findings in this proceeding result in the sharing with ratepayers of all net revenues (minus a 10% incentive payment as set out in the NGEIR Decision<sup>7</sup>) in the Short-term Storage Account as it is a utility asset which is supporting these transactions.

<sup>4</sup> See EB-2011-0038, Decision and Order at p.6.

<sup>5</sup> See EB-2011-0038, Decision and Order at p. 16.

<sup>6</sup> See EB-2011-0038, Decision and Order at pp. 20-21.

<sup>7</sup> See EB-2005-0551, NGEIR Decision with Reasons at p.103.

The Board does not agree with Union's position that addressing this issue as part of the Draft Rate Order process is procedurally misconceived. This outcome is directly related to the Board's findings in its Decision and Order.

The Board notes that the background section on page 18 of the Board's Decision and Order contains a paragraph that describes a calculation used to derive the \$0.657 credit balance. This paragraph is a description of Union's evidence and is footnoted as such. The Board accepts that additional clarity with regard to the context of the paragraph may have avoided the confusion that has apparently arisen.

The Board did not include the specific amount to be shared with ratepayers in its findings related to the Short-term Storage Account, however the Board has found as part of this Draft Rate Order process that the amount of \$0.831 million is a clear outcome of its findings in the Decision and Order.

Union has submitted that accepting the argument advanced by CME, LPMA and others leads to the conclusion that there is no need to distinguish between short-term and long-term storage at all. The Board considers that if there is a need to deal with this issue it would be more properly addressed as part of Union's rebasing application

### **Implementation**

The Board directs Union to file a revised Draft Rate Order which reflects the Board's findings in this Decision. The Board will review the revised Draft Rate Order to confirm that all the necessary changes have been made and will issue a Final Rate Order in due course. As directed in the Decision and Order on January 20, 2012, the Board will seek to have the resulting rate impact of this Decision implemented on April 1, 2012 to align with other rate changes expected to result from the Quarterly Rate Adjustment Mechanism ("QRAM") proceeding.

### **Cost Awards**

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's *Practice Direction on Cost Awards*. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

The Board will issue a Decision on Cost Awards after the steps set out below have been completed.

**THE BOARD THEREFORE ORDERS THAT:**

1. Union shall file a Draft Rate Order reflecting the Board's findings in this proceeding on March 7, 2012.
2. Eligible intervenors shall file with the Board and forward to Union their respective cost claims within 14 days of the date of this Decision.
3. Union shall file with the Board and forward to the intervenors any objections to the claimed costs of the intervenors within 21 days from the date of this Decision.
4. If Union objects to the intervenor costs, intervenors shall file with the Board and forward to Union any responses to any objections for cost claims within 28 days of the date of this Decision.
5. Union shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

All filings to the Board must quote file number EB-2011-0038, be made through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). If the web portal is not available you may email your document to the [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca). Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required.

All parties must also provide the Case Manager, Lawrie Gluck, [Lawrie.gluck@ontarioenergyboard.ca](mailto:Lawrie.gluck@ontarioenergyboard.ca) with an electronic copy of all comments and correspondence related to this case.

**DATED** at Toronto, February 29, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

Filed: 2012-03-02  
 EB-2011-0038  
 Rate Order  
 Appendix C  
 Schedule 2  
Updated

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

Line No.	2010		
	<u>Short term</u> (179-70) (a)	<u>Long term</u> (179-72) (b)	<u>Total</u> (c)
1 Storage revenue	20.887	111.941	132.828
Operating costs			
2 Cost of gas	1.873	(1.282)	0.591
3 O&M	2.261	11.078	13.339
4 Depreciation	-	8.645	8.645
5 Property & capital taxes	-	1.661	1.661
6	<u>4.134</u>	<u>20.102</u>	<u>24.236</u>
7 Interest, return and income taxes	<u>-</u>	<u>21.940</u>	<u>21.940</u>
8 Net margin	16.753	69.899	86.652
9 Board approved	<u>15.829</u>	<u>21.405</u>	<u>37.234</u>
10 Excess	<u>0.924</u>	<u>48.494</u>	<u>49.418</u>
11 Sharing %	<u>90%</u>	<u>25%</u>	/u
12 Deferral balance	<u>0.832</u>	<u>12.124</u>	/u

UNION GAS LIMITED  
Summary of S&T Transactional Margin Included In 2010 Rates

Line No.	Particulars (\$ 000's)	Total Revenue (1) (a)	Allocated Cost (2) (b)	Total Margin (c) = (a - b)	Included in 2007 In-franchise Rates (d)	Included in 2008 In-franchise Rates (e)	Included in 2009 In-franchise Rates (f)	Included in 2010 In-franchise Rates (g)	Change in Sharing of Forecast S&T Margin (h)=(f-g)
1	Transportation & Exchange Services Acct. 179-69								
2	Transportation and Exchanges	4,000	1,417	2,583					
3	M12 Transportation Overrun	-	-	-					
	Total Transportation & Exchanges	4,000	1,417	2,583	222	2,583 (3)	2,583	2,583	-
4	Short Term Storage & Balancing Services Acct. 179-70								
5	Short Term Peak Storage	13,794	847	12,947					
6	Off Peak Storage, Balancing & Loans	4,092	1,285	2,807					
7	Enbridge LBA	75	-	75					
	Total Short Term Storage & Balancing Services	17,961	2,132	15,829	14,246	11,254 (4)	11,254	11,254	-
8	Total Long Term Peak Storage Services Acct. 179-72	42,058	20,653	21,405	19,265	16,054 (5)	10,703 (5)	5,351 (5)	5,351
9	Other S&T Services Acct. 179-73	895	42	853	768	853 (6)	853	853	-
10	Total	64,914	24,244	40,670	34,501	30,744	25,393	20,042	5,351

- Notes:
- (1) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (a).
  - (2) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (b).
  - (3) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin.
  - (4) EB-2005-0551, Decision with Reasons, Section 9.1.2.
  - (5) EB-2005-0551, Decision with Reasons, Section 7.3.
  - (6) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin.

**From:** Thompson, Peter C. P.  
**Sent:** Thursday, March 08, 2012 5:13 PM  
**To:** Lawrie Gluck  
**Cc:** Smith, Crawford; Ripley, Chris; Kitchen, Mark; John Rosenkranz; 'drquinn@rogers.com'; jim.gruenbauer@kitchener.ca  
**Subject:** Union Gas 2010 revised Rate Order

Lawrie

I'm writing to ask you to put a hold on the issuance of the Revised draft order that Union submitted about a week ago until I can get to you tomorrow an exhibit that calls into question the correctness of the calculation of the short term deferral balance that appears at Appendix C of schedule 2 Updated that is included with the materials that were filed by Union on Mar.2,2012.

At line 9 Union is showing the amount currently being recovered in Union's Short Term storage rates as \$15.829 M. John Rosenkranz has just brought to my attention that this is an incorrect number. Based on the EB 2009 Rate Order that issued after the NGEIR Decision. In particular, as shown in EB 2009-0275 Rate Order Working Papers schedule 15 column (g) line 7, the Short Term Revenue amount included in 2010 in franchise rates is \$11,254 M and not the \$15.829 M that Union uses in Appendix C schedule 2.

Based on this materially lower amount being recovered in 2010 rates, the correct deferral account balance to be credited to ratepayers in 2010 is \$3.824 M rather than the 0.832 M that Union shows in Appendix C schedule 2 Updated.

I'll get a letter out tomorrow on this.

I wanted to alert you to the problem today so that we can, if possible, get this straightened out before the Formal Rate Order issues.

Peter T



**Peter C.P. Thompson, Q.C.**

**Counsel**

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**EB-2011-0038**

**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 October 1, 2011;

**BEFORE:** Ken Quesnelle  
Presiding Member

Cathy Spoel  
Member

### **RATE ORDER**

Union Gas Limited ("Union") filed an application dated April 18, 2011 with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Schedule B, for an order of the Board amending or varying the rate or rates charged to customers as of October 1, 2011 in connection with the sharing of 2010 earnings under the incentive rate mechanism approved by the Board as well as final disposition of 2010 year-end deferral account and other balances (the "Application").

The Application also requested approval for a cost allocation methodology to be used to allocate costs between Union's regulated and unregulated businesses. The Board has assigned file number EB-2011-0038 to the Application.

A Notice of Application and Procedural Order No. 1 was issued on May 13, 2011. The Board established various procedural steps in the process, including dates for a Settlement Conference and a Settlement Proposal. By letter dated August 9, 2011, Union advised the Board that no settlement had been reached with the intervenors.

On September 19-21 2011, the Board held a hearing on all matters in this proceeding. Arguments were heard in accordance with the schedule established at the hearing and the Board issued its Decision and Order on January 20, 2012. The Board directed Union to file a Draft Rate Order which reflected the Board's findings in its Decision. The Decision and Order set out the schedule for the filing of the Draft Rate Order and for submissions on the Draft Rate Order. Union filed its Draft Rate Order on February 2, 2012.

The Board received submissions from parties contesting Union's Draft Rate Order with respect to the Short-Term Storage and Other Balancing Services Deferral Account ("Short-Term Storage Account"). The Board issued its Decision and Order on the Draft Rate Order on February 29, 2012, directing Union to file a revised Draft Rate Order reflecting the Board's determination on the matter. The Board noted that it would review the revised Draft Rate Order to confirm that all the necessary changes were made and would subsequently issue a Final Rate Order. The Board noted that it would seek to have the resulting rate impact of the findings in this proceeding implemented on April 1, 2012 to align with other rate changes expected to result from the Quarterly Rate Adjustment Mechanism ("QRAM") proceeding.

Union filed a revised Draft Rate Order on March 2, 2012. The Board has determined that the revised Draft Rate Order accurately reflects the Board's findings in this proceeding.

**THE BOARD THEREFORE ORDERS THAT:**

1. The rate changes set out in Appendix "A" and the rate schedules set out in Appendix "B" are approved effective April 1, 2012. Union shall implement these rates on the first billing cycle on or after April 1, 2012.
2. The deferral account balances totalling \$7.905 million payable to ratepayers as set out in Appendix "C", including interest up to April 1, 2012, are approved for disposition.
3. The earnings sharing amount totalling \$3.496 million payable to ratepayers as set out in Appendix "C", including interest up to April 1, 2012, is approved for disposition.

4. The 2010 Market Transformation Incentive amount of \$0.509 million recoverable from ratepayers as set out in Appendix "C", including interest up to April 1, 2012, is approved for disposition.
5. The 2010 Federal and Provincial Tax Change Amount of \$0.583 million payable to ratepayers as set out in Appendix "C", including interest up to April 1, 2012, is approved for disposition.
6. The 2010 Taxable Capital Base Changes of \$1.671 million recoverable from ratepayers as set out in Appendix "C", including interest up to April 1, 2012, is approved for disposition.
7. Union shall combine the 2010 Deferral account balances, the 2010 Market Transformation Incentive amount, the Federal and Provincial Tax Change Amount, the Taxable Capital Base Changes and the earnings sharing amount for disposition. For General Service rate classes M1, M2, Rate 01 and Rate 10, Union shall dispose of the total balance prospectively for each of these rate classes through a temporary rate adjustment between April 1, 2012 and September 30, 2012 as set out in Appendix "D". For all other rate classes, Union shall apply the unit rates as a one-time adjustment as set out in Appendix "D".
8. Union shall monitor for and maintain records of all future utility storage space encroachments and provide such information in its rebasing application.
9. Union shall include evidence on transportation services for non-utility storage operations in its rebasing application.
10. Union shall pay the Board's costs of, and incidental to, this proceeding immediately upon receipt of the Board's invoice.

**DATED** at Toronto, March 8, 2012

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX "A"**

**TO**

**RATE ORDER**

**UNION GAS LIMITED**

**BOARD FILE NO. EB-2011-0038**

**March 8, 2012**

**SUMMARY OF CHANGES TO SALES RATES**

UNION GAS LIMITED  
Northern & Eastern Operations Area  
Summary of Changes to Sales Rates  
Rate 01A - Small Volume General Firm Service

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change (b)	EB-2011-0038 Approved April 1, 2012
		Rate (a)		Rate (c)
1	Monthly Charge - All Zones	\$21.00		\$21.00
	Monthly Delivery Charge - All Zones			
2	First 100 m <sup>3</sup>	7.5523		7.5523
3	Next 200 m <sup>3</sup>	7.0418		7.0418
4	Next 200 m <sup>3</sup>	6.6791		6.6791
5	Next 500 m <sup>3</sup>	6.3463		6.3463
6	Over 1,000 m <sup>3</sup>	6.0714		6.0714
7	Delivery - Price Adjustment (All Volumes)		(1.5189)	(1.5189) (1)
	Gas Transportation Service			
8	Fort Frances	5.8897		5.8897
9	Western Zone	6.2981		6.2981
10	Northern Zone	7.6495		7.6495
11	Eastern Zone	8.7597		8.7597
12	Transportation - Price Adjustment (All Zones)	1.3541 (2)	(1.9618)	(0.6077) (3)
	Storage Service			
13	Fort Frances	1.8724		1.8724
14	Western Zone	1.8700		1.8700
15	Northern Zone	2.2540		2.2540
16	Eastern Zone	2.5640		2.5640
17	Storage - Price Adjustment (All Zones)			
	Commodity Cost of Gas and Fuel			
18	Fort Frances	11.9660		11.9660
19	Western Zone	12.0283		12.0283
20	Northern Zone	12.1083		12.1083
21	Eastern Zone	12.1783		12.1783
22	Commodity and Fuel - Price Adjustment (All Zones)	(0.9243) (4)		(0.9243) (4)

Notes:

- (1) Includes a temporary credit of (1.5189) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.
- (2) Includes Prospective Recovery of 0.6947, 0.2199, 0.3744, and 0.0651 cents/m<sup>3</sup>.
- (3) Includes Prospective Recovery of 0.6947, 0.2199, 0.3744, and 0.0651 cents/m<sup>3</sup> and a temporary credit of (1.9618) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.
- (4) Includes Prospective Recovery of (0.5462), (0.0922), (0.0185), and (0.2674) cents/m<sup>3</sup>.

UNION GAS LIMITED  
Northern & Eastern Operations Area  
Summary of Changes to Sales Rates  
Rate 10 - Large Volume General Firm Service

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change (b)	EB-2011-0038 Approved April 1, 2012
		Rate (a)		Rate (c)
1	Monthly Charge - All Zones	\$70.00		\$70.00
	Monthly Delivery Charge - All Zones			
2	First 1,000 m <sup>3</sup>	6.0669		6.0669
3	Next 9,000 m <sup>3</sup>	4.8002		4.8002
4	Next 20,000 m <sup>3</sup>	4.0777		4.0777
5	Next 70,000 m <sup>3</sup>	3.6153		3.6153
6	Over 100,000 m <sup>3</sup>	1.8632		1.8632
7	Delivery - Price Adjustment (All Zones)	-	(5.9497)	(5.9497) (1)
	Gas Transportation Service			
8	Fort Frances	5.4555		5.4555
9	Western Zone	5.8639		5.8639
10	Northern Zone	7.2153		7.2153
11	Eastern Zone	8.3255		8.3255
12	Transportation - Price Adjustment (All Zones)	1.3517 (2)	(1.3431)	0.0086 (3)
	Storage Service			
13	Fort Frances	1.1964		1.1964
14	Western Zone	1.1941		1.1941
15	Northern Zone	1.5796		1.5796
16	Eastern Zone	1.8907		1.8907
17	Storage - Price Adjustment (All Zones)	-		-
	Commodity Cost of Gas and Fuel			
18	Fort Frances	11.9660		11.9660
19	Western Zone	12.0283		12.0283
20	Northern Zone	12.1083		12.1083
21	Eastern Zone	12.1783		12.1783
22	Commodity and Fuel - Price Adjustment (All Zones)	(0.9243) (4)		(0.9243) (4)

Notes:

- (1) Includes a temporary credit of (5.9497) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.  
(2) Includes Prospective Recovery of 0.6924, 0.2198, 0.3744, and 0.0651 cents/m<sup>3</sup>.  
(3) Includes Prospective Recovery of 0.6924, 0.2198, 0.3744, and 0.0651 cents/m<sup>3</sup> and a temporary credit of (1.3431) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.  
(4) Includes Prospective Recovery of (0.5462), (0.0922), (0.0185), and (0.2674) cents/m<sup>3</sup>.

UNION GAS LIMITED  
Northern & Eastern Operations Area  
Summary of Changes to Sales Rates  
Rate 20 - Medium Volume Firm Service

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change (b)	EB-2011-0038 Approved April 1, 2012
		Rate (a)		Rate (c)
1	Monthly Charge	\$777.19		\$777.19
	Delivery Demand Charge			
2	First 70,000 m <sup>3</sup>	20.0760		20.0760
3	All over 70,000 m <sup>3</sup>	11.8057		11.8057
	Delivery Commodity Charge			
4	First 852,000 m <sup>3</sup>	0.2634		0.2634
5	All over 852,000 m <sup>3</sup>	0.1908		0.1908
	Monthly Gas Supply Demand Charge			
6	Fort Frances	49.3344		49.3344
7	Western Zone	57.0166		57.0166
8	Northern Zone	86.6848		86.6848
9	Eastern Zone	110.8603		110.8603
10	Gas Supply Demand - Price Adjustment (All Zones)	-		-
	Commodity Transportation 1			
11	Fort Frances	4.2612		4.2612
12	Western Zone	4.4236		4.4236
13	Northern Zone	5.1192		5.1192
14	Eastern Zone	5.6884		5.6884
15	Transportation 1 - Price Adjustment (All Zones)	1.3558 (1)		1.3558 (1)
	Commodity Transportation 2			
16	Fort Frances	0.2893		0.2893
17	Western Zone	0.2668		0.2668
18	Northern Zone	0.4111		0.4111
19	Eastern Zone	0.5383		0.5383
	Commodity Cost of Gas and Fuel			
20	Fort Frances	12.0092		12.0092
21	Western Zone	12.0718		12.0718
22	Northern Zone	12.1520		12.1520
23	Eastern Zone	12.2223		12.2223
24	Commodity and Fuel - Price Adjustment (All Zones)	(0.9243) (2)		(0.9243) (2)
	Bundled Storage Service (\$/GJ)			
25	Monthly Demand Charge	11.097		11.097
26	Commodity Charge	0.239		0.239
27	Storage Demand - Price Adjustment	-		-

Notes:

(1) Includes Prospective Recovery of 0.6965, 0.2199, 0.3743, and 0.0651 cents/m<sup>3</sup>.

(2) Includes Prospective Recovery of (0.5462), (0.0922), (0.0185), and (0.2874) cents/m<sup>3</sup>.

UNION GAS LIMITED  
Northern & Eastern Operations Area  
Summary of Changes to Sales Rates  
Rate 100 - Large Volume High Load Factor Firm Service

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change (b)	EB-2011-0038 Approved April 1, 2012
		Rate (a)		Rate (c)
1	Monthly Charge	\$777.19		\$777.19
2	Delivery Demand Charge All Zones	11.9158		11.9158
3	Delivery Commodity Charge All Zones	0.1635		0.1635
4	Monthly Gas Supply Demand Charge Fort Frances	88.0846		88.0846
5	Western Zone	97.0663		97.0663
6	Northern Zone	131.6881		131.6881
7	Eastern Zone	159.8951		159.8951
8	Commodity Transportation 1 Fort Frances	7.8681		7.8681
9	Western Zone	7.9899		7.9899
10	Northern Zone	8.5116		8.5116
11	Eastern Zone	8.9385		8.9385
12	Commodity Transportation 2 Fort Frances	0.2893		0.2893
13	Western Zone	0.2668		0.2668
14	Northern Zone	0.4111		0.4111
15	Eastern Zone	0.5383		0.5383
16	Commodity Cost of Gas and Fuel Fort Frances	12.0092		12.0092
17	Western Zone	12.0718		12.0718
18	Northern Zone	12.1520		12.1520
19	Eastern Zone	12.2223		12.2223
20	Commodity and Fuel - Price Adjustment (All Zones)	(0.9243) (1)		(0.9243) (1)
21	Bundled Storage Service (\$/GJ) Monthly Demand Charge	11.097		11.097
22	Commodity Charge	0.239		0.239
23	Storage Demand - Price Adjustment	-		-

Notes:

(1) Includes Prospective Recovery of (0.5462), (0.0922), (0.0185), and (0.2674) cents/m<sup>3</sup>.

UNION GAS LIMITED  
Northern & Eastern Operations Area  
Summary of Changes to Sales Rates

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change (b)	EB-2011-0038 Approved April 1, 2012
		Rate (a)		Rate (c)
	<u>Rate 25 - Large Volume Interruptible Service</u>			
1	Monthly Charge	\$189.32		\$189.32
2	Delivery Charge - All Zones Maximum	3.7364		3.7364
3	Gas Supply Charges - All Zones Minimum	14.3135		14.3135
4	Maximum	140.5622		140.5622
	<u>Rate 77 - Wholesale Transportation Service</u>			
5	Monthly Charge	\$144.48		\$144.48
6	Delivery Demand Charge - All Zones	28.5741		28.5741

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Sales Rates

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change	EB-2011-0038 Approved April 1, 2012
		Rate (a)	(b)	Rate (c)
	<u>Utility Sales</u>			
1	Commodity and Fuel	12.1783		12.1783
2	Commodity and Fuel - Price Adjustment	(1.0070) (1)	0.0165	(0.9905) (2)
3	Transportation	5.0623		5.0623
4	Total Gas Supply Commodity Charge	<u>16.2336</u>	<u>0.0165</u>	<u>16.2501</u>
	 <u>M4 Firm Commercial/Industrial</u>			
5	Minimum annual gas supply commodity charge	5.6702		5.6702
	 <u>M5A Interruptible Commercial/Industrial</u>			
6	Minimum annual gas supply commodity charge	5.6702		5.6702
	 <u>Storage and Transportation Supplemental Services - Rate T1 &amp; T3</u>	<u>\$/GJ</u>		<u>\$/GJ</u>
	Monthly demand charges: (\$/GJ)			
7	Firm gas supply service	63.324		63.324
8	Firm backstop gas	1.913		1.913
	Commodity charges:			
9	Gas supply	3.286		3.286
10	Backstop gas	4.935		4.935
11	Reasonable Efforts Backstop Gas	5.764		5.764
12	Supplemental Inventory	Note (3)		Note (3)
13	Supplemental Gas Sales Service (cents/m <sup>3</sup> )	20.1032		20.1032
14	Failure to Deliver	2.566		2.566
15	Discretionary Gas Supply Service (DGSS)	Note (4)		Note (4)

Notes:

- (1) Includes Prospective Recovery of (0.3364), (0.5166), (0.1415), and (0.0125) cents/m<sup>3</sup>.
- (2) Includes Prospective Recovery of (0.3364), (0.5166), (0.1415), and (0.0125) cents/m<sup>3</sup> and a temporary charge of 0.0165 cents/m<sup>3</sup> for the period April 1 to September 30, 2012.
- (3) The charge for banked gas purchases shall be the higher of the daily spot gas cost at Dawn in the month of or the month following the month in which gas is sold under this rate and shall not be less than Union's approved weighted avg. cost of gas.
- (4) Reflects the "back to back" price plus gas supply administration charge.

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Sales Rates

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012 Rate (a)	Rate Change (b)	EB-2011-0038 Approved April 1, 2012 Rate (c)
	<u>M1 Small Volume General Service Rate</u>			
1	Monthly Charge	\$21.00		\$21.00
2	First 100 m <sup>3</sup>	3.5437		3.5437
3	Next 150 m <sup>3</sup>	3.3492		3.3492
4	All over 250 m <sup>3</sup>	2.8892		2.8892
5	Delivery - Price Adjustment (All Volumes)	0.0001 (1)	0.7187	0.7188 (2)
6	Storage Service	0.9735		0.9735
7	Storage - Price Adjustment	-		-
	<u>M2 Large Volume General Service Rate</u>			
8	Monthly Charge	\$70.00		\$70.00
9	First 1 000 m <sup>3</sup>	3.7474		3.7474
10	Next 6 000 m <sup>3</sup>	3.6685		3.6685
11	Next 13 000 m <sup>3</sup>	3.4334		3.4334
12	All over 20 000 m <sup>3</sup>	3.1513		3.1513
13	Delivery - Price Adjustment (All Volumes)	0.0001 (1)	(0.3527)	(0.3526) (3)
14	Storage Service	0.7172		0.7172
15	Storage - Price Adjustment	-		-
	<u>M4 Firm comm/ind contract rate</u>			
	Monthly demand charge:			
16	First 8 450 m <sup>3</sup>	45.2527		45.2527
17	Next 19 700 m <sup>3</sup>	19.6336		19.6336
18	All over 28 150 m <sup>3</sup>	16.3047		16.3047
	Monthly delivery commodity charge:			
19	First block	0.5762		0.5762
20	All remaining use	0.2371		0.2371
21	Delivery - Price Adjustment (All Volumes)	0.0001 (1)		0.0001 (1)
22	Minimum annual delivery commodity charge	0.8900		0.8900

Notes:

- (1) Includes Prospective Recovery of 0.0001, 0.0000, 0.0000, and 0.0000 cents/m<sup>3</sup>.
- (2) Includes Prospective Recovery of 0.0001, 0.0000, 0.0000, and 0.0000 cents/m<sup>3</sup> and a temporary charge of 0.7187 cents/m<sup>3</sup> for the period April 1 to September 30, 2012.
- (3) Includes Prospective Recovery of 0.0001, 0.0000, 0.0000, and 0.0000 cents/m<sup>3</sup> and a temporary credit of (0.3527) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Sales Rates

Line No.	Particulars (cents/m <sup>3</sup> )	EB-2011-0382 Approved January 1, 2012	Rate Change	EB-2011-0038 Approved April 1, 2012
		Rate (a)	(b)	Rate (c)
	<u>M5A interruptible comm/ind contract</u>			
	<u>Firm contracts *</u>			
1	Monthly demand charge	27.4318		27.4318
2	Monthly delivery commodity charge	2.1505		2.1505
3	Delivery - Price Adjustment (All Volumes)	0.0001 (1)		0.0001 (1)
	<u>Interruptible contracts *</u>			
4	Monthly Charge	\$498.20		\$498.20
	Daily delivery commodity charge:			
5	4 800 m <sup>3</sup> to 17 000 m <sup>3</sup>	2.1854		2.1854
6	17 000 m <sup>3</sup> to 30 000 m <sup>3</sup>	2.0555		2.0555
7	30 000 m <sup>3</sup> to 50 000 m <sup>3</sup>	1.9872		1.9872
8	50 000 m <sup>3</sup> to 70 000 m <sup>3</sup>	1.9393		1.9393
9	70 000 m <sup>3</sup> to 100 000 m <sup>3</sup>	1.9050		1.9050
10	100 000 m <sup>3</sup> to 140 870 m <sup>3</sup>	1.8713		1.8713
11	Delivery - Price Adjustment (All Volumes)	0.0001 (1)		0.0001 (1)
12	Annual minimum delivery commodity charge	2.4992		2.4992
	<u>M7 Special large volume contract</u>			
	<u>Firm</u>			
13	Monthly demand charge	25.1902		25.1902
14	Monthly delivery commodity charge	0.0897		0.0897
15	Delivery - Price Adjustment	0.0001 (1)		0.0001 (1)
	<u>Interruptible</u>			
16	Monthly delivery commodity charge: Maximum	2.4559		2.4559
17	Delivery - Price Adjustment	0.0001 (1)		0.0001 (1)
	<u>Seasonal *</u>			
18	Monthly delivery commodity charge: Maximum	2.2118		2.2118
19	Delivery - Price Adjustment	0.0001 (1)		0.0001 (1)
	<u>M9 Large wholesale service</u>			
20	Monthly demand charge	16.8055		16.8055
21	Monthly delivery commodity charge	0.2406		0.2406
22	Delivery - Price Adjustment	0.0001 (1)		0.0001 (1)
	<u>M10 Small wholesale service</u>			
23	Monthly delivery commodity charge	2.5139		2.5139

Notes:

(1) Includes Prospective Recovery of 0.0001, 0.0000, 0.0000, and 0.0000 cents/m<sup>3</sup>.

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Contract Carriage Rates

Line No.	Particulars	EB-2011-0382 Approved January 1, 2012 Rate (a)	Rate Change (b)	EB-2011-0038 Approved April 1, 2012 Rate (c)
	<u>Contract Carriage Service</u>			
	<u>T1 Storage and Transportation</u>			
	<u>Storage (\$ / GJ)</u>			
	Monthly demand charges:			
1	Firm space	0.010		0.010
	Firm Injection/Withdrawal Right			
2	Union provides deliverability Inventory	1.527		1.527
3	Customer provides deliverability Inventory	1.012		1.012
4	Firm Incremental Injection	1.012		1.012
5	Interruptible withdrawal	1.012		1.012
	Commodity charges:			
6	Withdrawal	0.039		0.039
7	Customer provides compressor fuel	0.007		0.007
8	Injection	0.039		0.039
9	Customer provides compressor fuel	0.007		0.007
10	Storage fuel ratio - customer provides fuel	0.597%		0.597%
	<u>Transportation (cents / m<sup>3</sup>)</u>			
11	Monthly demand charge first 140,870 m <sup>3</sup>	19.0307		19.0307
12	Monthly demand charge all over 140,870 m <sup>3</sup>	13.0041		13.0041
	Commodity charges:			
13	Firm - Union provides compressor fuel first 2,360,653 m <sup>3</sup>	0.3390		0.3390
14	Union provides compressor fuel all over 2,360,653 m <sup>3</sup>	0.2253		0.2253
15	Customer provides compressor fuel first 2,360,653 m <sup>3</sup>	0.2264		0.2264
16	Customer provides compressor fuel all over 2,360,653 m <sup>3</sup>	0.1127		0.1127
	Interruptible:			
17	Maximum - Union provides compressor fuel	2.4559		2.4559
18	Maximum - customer provides compressor fuel	2.3433		2.3433
19	Transportation fuel ratio - customer provides fuel	0.554%		0.554%
	<u>Authorized overrun services</u>			
	<u>Storage (\$ / GJ)</u>			
	Commodity charges			
20	Injection / Withdrawals	0.112		0.112
21	Customer provides compressor fuel	0.057		0.057
22	Transportation commodity charge (cents/m <sup>3</sup> )	0.9647		0.9647
23	Customer provides compressor fuel	0.8521		0.8521
24	<u>Monthly Charge</u>	\$1,793.52		\$1,793.52

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Contract Carriage Rates

Line No.	Particulars	EB-2011-0382 Approved January 1, 2012 Rate (a)	Rate Change (b)	EB-2011-0038 Approved April 1, 2012 Rate (c)
<u>T3 Storage and Transportation</u>				
<u>Storage (\$ / GJ)</u>				
Monthly demand charges:				
1	Firm space	0.010		0.010
	Firm Injection/Withdrawal Right			
2	Union provides deliverability inventory	1.527		1.527
3	Customer provides deliverability inventory	1.012		1.012
4	Firm incremental Injection	1.012		1.012
5	Interruptible withdrawal	1.012		1.012
Commodity charges:				
6	Withdrawal	0.039		0.039
7	Customer provides compressor fuel	0.007		0.007
8	Injection	0.039		0.039
9	Customer provides compressor fuel	0.007		0.007
10	Storage fuel ratio- Cust. provides fuel	0.597%		0.597%
<u>Transportation (cents / m<sup>3</sup>)</u>				
11	Monthly demand charge	8.9901		8.9901
Commodity charges				
12	Firm- Union supplies compressor fuel	0.2149		0.2149
13	Customer provides compressor fuel	0.0681		0.0681
14	Transportation fuel ratio- Cust. provides fuel	0.722%		0.722%
<u>Authorized overrun services</u>				
<u>Storage (\$ / GJ)</u>				
Commodity charges:				
15	Injection / Withdrawals	0.112		0.112
16	Customer provides compressor fuel	0.057		0.057
17	Transportation commodity charge (cents/m <sup>3</sup> )	0.5105		0.5105
18	Customer provides compressor fuel (cents/m <sup>3</sup> )	0.3637		0.3637
<u>Monthly Charge</u>				
19	City of Kitchener	\$17,549.76		\$17,549.76
20	Natural Resource Gas	\$2,694.07		\$2,694.07
21	Six Nations	\$898.02		\$898.02

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Unbundled Rates

Line No.	Particulars	EB-2011-0382 Approved January 1, 2012 Rate (a)	Rate Change (b)	EB-2011-0038 Approved April 1, 2012 Rate (c)
	<u>U2 Unbundled Service</u>			
	<u>Storage (\$ / GJ)</u>			
	Monthly demand charges:			
	Standard Storage Service (SSS)			
1	Combined Firm Space & Deliverability	0.021		0.021
	Standard Peaking Service (SPS)			
2	Combined Firm Space & Deliverability	0.102		0.102
3	Incremental firm injection right	0.917		0.917
4	Incremental firm withdrawal right	0.917		0.917
	Commodity charges:			
5	Injection customer provides compressor fuel	0.015		0.015
6	Withdrawal customer provides compressor fuel	0.015		0.015
7	Storage fuel ratio - Customer provides fuel	0.597%		0.597%
	<u>Authorized overrun services</u>			
	<u>Storage (\$ / GJ)</u>			
	Commodity charges:			
8	Injection customer provides compressor fuel	0.045		0.045
9	Withdrawal customer provides compressor fuel	0.045		0.045
	<u>U5 Unbundled Service</u>			
	<u>Storage (\$ / GJ)</u>			
	Monthly demand charges:			
10	Combined Firm Space & Deliverability	0.021		0.021
11	Incremental firm injection right	0.917		0.917
12	Incremental firm withdrawal right	0.917		0.917
	Commodity charges:			
13	Injection customer provides compressor fuel	0.015		0.015
14	Withdrawal customer provides compressor fuel	0.015		0.015
15	Storage fuel ratio - Customer provides fuel	0.597%		0.597%
	<u>Delivery (cents / m<sup>3</sup>)</u>			
	<u>Firm contracts</u>			
16	Monthly demand charge	21.7559		21.7559
17	Monthly delivery commodity charge	1.9602		1.9602
18	Transportation fuel ratio - Customer provides fuel	0.554%		0.554%
	<u>Interruptible contracts</u>			
19	Monthly Charge	\$498.20		\$498.20
	Monthly delivery commodity charge:			
20	4 800 m <sup>3</sup> to 17 000 m <sup>3</sup>	1.6750		1.6750
21	17 000 m <sup>3</sup> to 30 000 m <sup>3</sup>	1.5451		1.5451
22	30 000 m <sup>3</sup> to 50 000 m <sup>3</sup>	1.4768		1.4768
23	50 000 m <sup>3</sup> to 70 000 m <sup>3</sup>	1.4289		1.4289
24	70 000 m <sup>3</sup> to 100 000 m <sup>3</sup>	1.3946		1.3946
25	100 000 m <sup>3</sup> to 140 870 m <sup>3</sup>	1.3609		1.3609
	<u>Authorized overrun services</u>			
	<u>Storage (\$ / GJ)</u>			
	Commodity charges:			
26	Injection customer provides compressor fuel	0.045		0.045
27	Withdrawal customer provides compressor fuel	0.045		0.045

UNION GAS LIMITED  
Southern Operations Area  
Summary of Changes to Unbundled Rates

Line No.	Particulars	EB-2011-0382 Approved January 1, 2012 Rate (a)	Rate Change (b)	EB-2011-0038 Approved April 1, 2012 Rate (c)
<u>U7 Unbundled Service</u>				
<u>Storage (\$ / GJ)</u>				
Monthly demand charges:				
1	Combined Firm Space & Deliverability	0.021		0.021
2	Incremental firm injection right	0.917		0.917
3	Incremental firm withdrawal right	0.917		0.917
Commodity charges:				
4	Injection customer provides compressor fuel	0.015		0.015
5	Withdrawal customer provides compressor fuel	0.015		0.015
6	Storage fuel ratio - Customer provides fuel	0.597%		0.597%
<u>Delivery (cents / m<sup>3</sup>)</u>				
7	Monthly demand charge first 140,870 m <sup>3</sup>	19.0307		19.0307
8	Monthly demand charge all over 140,870 m <sup>3</sup>	13.0041		13.0041
Commodity charges				
9	Firm Customer provides compressor fuel first 2,360,653 m <sup>3</sup>	0.2264		0.2264
10	Firm Customer provides compressor fuel all over 2,360,653 m <sup>3</sup>	0.1127		0.1127
Interruptible:				
11	Maximum customer provides compressor fuel	2.3433		2.3433
12	Transportation fuel ratio - Customer provides fuel	0.554%		0.554%
<u>Authorized overrun services</u>				
<u>Storage (\$ / GJ)</u>				
Commodity charges:				
13	Injection customer provides compressor fuel	0.045		0.045
14	Withdrawal customer provides compressor fuel	0.045		0.045
15	Transportation commodity charge (cents/m <sup>3</sup> )	0.8521		0.8521
<u>Other Services &amp; Charges</u>				
16	Monthly Charge	\$1,793.52		\$1,793.52
<u>U9 Unbundled Service</u>				
<u>Storage (\$ / GJ)</u>				
Monthly demand charges:				
17	Firm space	0.021		0.021
18	Incremental firm Injection right	0.917		0.917
19	Incremental firm withdrawal right	0.917		0.917
Commodity charges:				
20	Injection customer provides compressor fuel	0.015		0.015
21	Withdrawal customer provides compressor fuel	0.015		0.015
22	Storage fuel ratio - Customer provides fuel	0.597%		0.597%
<u>Delivery (cents / m<sup>3</sup>)</u>				
23	Monthly demand charge	8.9901		8.9901
Commodity charges				
24	Firm customer provides compressor fuel	0.0681		0.0681
25	Transportation fuel ratio - Customer provides fuel	0.722%		0.722%
<u>Authorized overrun services</u>				
<u>Storage (\$ / GJ)</u>				
Commodity charges:				
26	Injection customer provides compressor fuel	0.045		0.045
27	Withdrawal customer provides compressor fuel	0.045		0.045
28	Transportation commodity charge (cents/m <sup>3</sup> )	0.3637		0.3637
<u>Other Services &amp; Charges</u>				
Monthly Charge				
29	City of Kitchener	\$17,549.76		\$17,549.76
30	NRG	\$2,694.07		\$2,694.07
31	Six Nations	\$898.02		\$898.02

UNION GAS LIMITED  
Summary of Changes to Storage and Transportation Rates

Line No.	Particulars (\$/GJ)	EB-2011-0382 Approved January 1, 2012	Rate Change	EB-2011-0038 Approved April 1, 2012
		Rate (a)	(b)	Rate (c)
	<u>M12 Transportation Service</u>			
	<u>Firm transportation</u>			
	Monthly demand charges:			
1	Dawn to Kirkwall	1.978		1.978
2	Dawn to Oakville/Parkway	2.323		2.323
3	Kirkwall to Parkway	0.345		0.345
	<u>M12-X Firm Transportation</u>			
4	Between Dawn, Kirkwall and Parkway	2.868		2.868
	Commodity charges:			
5	Easterly	Note (1)		Note (1)
6	Westerly	Note (1)		Note (1)
7	Parkway (TCPL) to Parkway (Cons)	Note (1)		Note (1)
	<u>Limited Firm/Interruptible</u>			
	Monthly demand charges:			
8	Maximum	5.576		5.576
9	Commodity charges : Others	Note (1)		Note (1)
	<u>Authorized Overrun</u>			
	Transportation commodity charges:			
	Easterly:			
10	Dawn to Kirkwall - Union supplied fuel	Note (1)		Note (1)
11	Dawn to Oakville/Parkway - Union supplied fuel	Note (1)		Note (1)
12	Dawn to Kirkwall - Shipper supplied fuel	0.065 (1)		0.065 (1)
13	Dawn to Oakville/Parkway - Shipper supplied fuel	0.076 (1)		0.076 (1)
14	Kirkwall to Parkway - Union supplied fuel	Note (1)		Note (1)
15	Kirkwall to Parkway - Shipper supplied fuel	0.011		0.011
16	Westerly - Union supplied fuel	Note (1)		Note (1)
17	Westerly - Shipper supplied fuel	0.076 (1)		0.076 (1)
	<u>M12-X Firm Transportation</u>			
18	Between Dawn, Kirkwall and Parkway - Union supplied fuel	Note (1)		Note (1)
19	Between Dawn, Kirkwall and Parkway - Shipper supplied fuel	0.094 (1)		0.094 (1)
	<u>M13 Transportation of Locally Produced Gas</u>			
20	Monthly fixed charge per customer station	\$655.83		\$655.83
21	Transmission commodity charge to Dawn	0.025		0.025
22	Commodity charge - Union supplies fuel	0.019		0.019
23	Commodity charge - Shipper supplies fuel	Note (2)		Note (2)
24	Authorized Overrun - Union supplies fuel	0.076		0.076
25	Authorized Overrun - Shipper supplies fuel	0.057 (2)		0.057 (2)

Notes:

- (1) Monthly fuel rates and ratios per Schedule "C".  
(2) Plus customer supplied fuel per rate schedule.

UNION GAS LIMITED  
Summary of Changes to Storage and Transportation Rates

Line No.	Particulars (\$/GJ)	EB-2011-0382 Approved January 1, 2012 Rate (a)	Rate Change (b)	EB-2011-0038 Approved April 1, 2012 Rate (c)
<u>M16 Storage Transportation Service</u>				
1	Monthly fixed charge per customer station	\$664.27		\$664.27
	Monthly demand charges:			
2	East of Dawn	0.725		0.725
3	West of Dawn	0.967		0.967
4	Transmission commodity charge to Dawn	0.025		0.025
	Transportation Fuel Charges to Dawn:			
5	East of Dawn - Union supplied fuel	0.019		0.019
6	West of Dawn - Union supplied fuel	0.019		0.019
7	East of Dawn - Shipper supplied fuel	Note (1)		Note (1)
8	West of Dawn - Shipper supplied fuel	Note (1)		Note (1)
	Transportation Fuel Charges to Pools:			
9	East of Dawn - Union supplied fuel	0.023		0.023
10	West of Dawn - Union supplied fuel	0.026		0.026
11	East of Dawn - Shipper supplied fuel	Note (1)		Note (1)
12	West of Dawn - Shipper supplied fuel	Note (1)		Note (1)
<u>Authorized Overrun</u>				
	Transportation Fuel Charges to Dawn:			
13	East of Dawn - Union supplied fuel	0.068		0.068
14	West of Dawn - Union supplied fuel	0.076		0.076
15	East of Dawn - Shipper supplied fuel	0.049 (1)		0.049 (1)
16	West of Dawn - Shipper supplied fuel	0.057 (1)		0.057 (1)
	Transportation Fuel Charges to Pools:			
17	East of Dawn - Union supplied fuel	0.047		0.047
18	West of Dawn - Union supplied fuel	0.058		0.058
19	East of Dawn - Shipper supplied fuel	0.024 (1)		0.024 (1)
20	West of Dawn - Shipper supplied fuel	0.032 (1)		0.032 (1)
<u>C1 Storage &amp; Cross Franchise Transportation Service</u>				
<u>Transportation service</u>				
	Monthly demand charges:			
21	St. Clair / Bluewater & Dawn	0.967		0.967
22	Ojibway & Dawn	0.967		0.967
23	Parkway to Dawn	0.545		0.545
24	Parkway to Kirkwall	0.545		0.545
25	Kirkwall to Dawn	1.175		1.175
26	Dawn to Kirkwall	1.978		1.978
27	Dawn to Parkway	2.323		2.323
28	Kirkwall to Parkway	0.345		0.345
29	Dawn to Dawn-Vector	0.042		0.042
30	Dawn to Dawn-TCPL	0.220		0.220
31	Short-term: Maximum	75.00		75.00
	Commodity charges:			
32	St. Clair / Bluewater & Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.024		0.024
33	St. Clair / Bluewater & Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.021		0.021
34	Ojibway & Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.029		0.029
35	Ojibway & Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.026		0.026
36	Parkway to Kirkwall / Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.018		0.018
37	Parkway to Kirkwall / Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.020		0.020
38	Kirkwall to Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.018		0.018
39	Kirkwall to Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.020		0.020
40	Dawn to Kirkwall - Union supplied fuel (Nov. 1 - Mar. 31)	0.061		0.061
41	Dawn to Kirkwall - Union supplied fuel (Apr. 1 - Oct. 31)	0.028		0.028
42	Dawn to Parkway - Union supplied fuel (Nov. 1 - Mar. 31)	0.061		0.061
43	Dawn to Parkway - Union supplied fuel (Apr. 1 - Oct. 31)	0.028		0.028
44	Kirkwall to Parkway - Union supplied fuel (Nov. 1 - Mar. 31)	0.029		0.029
45	Kirkwall to Parkway - Union supplied fuel (Apr. 1 - Oct. 31)	0.019		0.019

Notes:

(1) Plus customer supplied fuel per rate schedule.

UNION GAS LIMITED  
Summary of Changes to Storage and Transportation Rates

		EB-2011-0382	EB-2011-0038	
		Approved	Approved	
		January 1, 2012	April 1, 2012	
Line No.	Particulars (\$/GJ)	Rate	Rate Change	Rate
		(a)	(b)	(c)
<u>C1 Storage &amp; Cross Franchise Transportation Service</u>				
<u>Transportation service cont'd</u>				
1	St. Clair / Bluewater & Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
2	St. Clair / Bluewater & Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
3	Ojibway & Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
4	Ojibway & Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
5	Parkway to Kirkwall / Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
6	Parkway to Kirkwall / Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
7	Kirkwall to Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
8	Kirkwall to Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
9	Dawn to Kirkwall - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
10	Dawn to Kirkwall - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
11	Dawn to Parkway - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
12	Dawn to Parkway - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
13	Kirkwall to Parkway - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
14	Kirkwall to Parkway - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
15	Dawn to Dawn-Vector - Shipper supplied fuel (Nov. 1 - Mar. 31)	n/a		n/a
16	Dawn to Dawn-Vector - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
17	Dawn to Dawn-TCPL - Shipper supplied fuel (Nov. 1 - Mar. 31)	Note (1)		Note (1)
18	Dawn to Dawn-TCPL - Shipper supplied fuel (Apr. 1 - Oct. 31)	Note (1)		Note (1)
Interruptible commodity charges:				
19	Maximum	75.00		75.00
20	Dawn(Tecumseh), Dawn(Facilities or TCPL), Dawn (Vector) and Dawn (TSLE)	Note (1)		Note (1)
<u>Authorized Overrun</u>				
Firm transportation commodity charges:				
21	St. Clair / Bluewater & Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.057		0.057
22	St. Clair / Bluewater & Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.052		0.052
23	Ojibway & Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.063		0.063
24	Ojibway & Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.059		0.059
25	Parkway to Kirkwall / Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.080		0.080
26	Parkway to Kirkwall / Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.044		0.044
27	Kirkwall to Dawn - Union supplied fuel (Nov. 1 - Mar. 31)	0.033		0.033
28	Kirkwall to Dawn - Union supplied fuel (Apr. 1 - Oct. 31)	0.034		0.034
29	Dawn to Kirkwall - Union supplied fuel (Nov. 1 - Mar. 31)	0.124		0.124
30	Dawn to Kirkwall - Union supplied fuel (Apr. 1 - Oct. 31)	0.090		0.090
31	Dawn to Parkway - Union supplied fuel (Nov. 1 - Mar. 31)	0.137		0.137
32	Dawn to Parkway - Union supplied fuel (Apr. 1 - Oct. 31)	0.102		0.102
33	Kirkwall to Parkway - Union supplied fuel (Nov. 1 - Mar. 31)	0.041		0.041
34	Kirkwall to Parkway - Union supplied fuel (Apr. 1 - Oct. 31)	0.030		0.030
35	St. Clair / Bluewater & Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.032 (1)		0.032 (1)
36	St. Clair / Bluewater & Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.032 (1)		0.032 (1)
37	Ojibway & Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.032 (1)		0.032 (1)
38	Ojibway & Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.032 (1)		0.032 (1)
39	Parkway to Kirkwall / Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.018 (1)		0.018 (1)
40	Parkway to Kirkwall / Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.018 (1)		0.018 (1)
41	Kirkwall to Dawn - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.039 (1)		0.039 (1)
42	Kirkwall to Dawn - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.039 (1)		0.039 (1)
43	Dawn to Kirkwall - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.065 (1)		0.065 (1)
44	Dawn to Kirkwall - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.065 (1)		0.065 (1)
45	Dawn to Parkway - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.076 (1)		0.076 (1)
46	Dawn to Parkway - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.076 (1)		0.076 (1)
47	Kirkwall to Parkway - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.011 (1)		0.011 (1)
48	Kirkwall to Parkway - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.011 (1)		0.011 (1)
49	Dawn to Dawn-Vector - Shipper supplied fuel (Nov. 1 - Mar. 31)	n/a (1)		n/a (1)
50	Dawn to Dawn-Vector - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.001 (1)		0.001 (1)
51	Dawn to Dawn-TCPL - Shipper supplied fuel (Nov. 1 - Mar. 31)	0.007 (1)		0.007 (1)
52	Dawn to Dawn-TCPL - Shipper supplied fuel (Apr. 1 - Oct. 31)	0.007 (1)		0.007 (1)
Short Term Firm transportation commodity charges:				
53	Maximum	75.00		75.00

Notes:

(1) Plus customer supplied fuel per rate schedule.

**APPENDIX "B"**

**TO**

**RATE ORDER**

**UNION GAS LIMITED**

**BOARD FILE NO. EB-2011-0038**

**March 8, 2012**

**GENERAL SERVICE RATE SCHEDULES**



**uniongas**

Effective  
2012-04-01  
**Rate 01A**  
Page 1 of 2

RATE 01A - SMALL VOLUME GENERAL FIRM SERVICE

**ELIGIBILITY**

Any customer in Union's Fort Frances, Western, Northern or Eastern Zones who is an end user whose total gas requirements at that location are equal to or less than 50,000 m<sup>3</sup> per year.

**SERVICES AVAILABLE**

The following services are available under this rate schedule:

(a) **Sales Service**

For continuous supply of natural gas by Union and associated transportation and storage services necessary to ensure deliverability in accordance with the customer's needs. For this service, the Monthly, Delivery and Gas Supply Charges shall apply.

(b) **Transportation Service**

For continuous delivery on Union's distribution system from the Point of Receipt on TCPL's system to the Point of Consumption on the customer's premises of natural gas owned by the customer and transported by TCPL under a firm transportation service tariff or equivalent National Energy Board Order. For this service, the Monthly and Delivery Charges shall apply. Unless otherwise authorized by Union, customers who initiate a movement to Transportation Service from a Sales Service or Bundled Transportation Service must accept an assignment from Union of transportation capacity on upstream pipeline systems.

(c) **Bundled Transportation Service**

For continuous delivery by Union of gas owned by the customer and for the associated transportation and storage services necessary to ensure deliverability in accordance with the customer's needs. For this service the Monthly, and Delivery Charges, as well as the Storage and Transportation Charges of the Gas Supply Charge shall apply.

**MONTHLY RATES AND CHARGES**

Zone Rate Schedule No.	<u>Fort Frances</u> 201	<u>Western</u> 101	<u>Northern</u> 301	<u>Eastern</u> 601
<u>APPLICABLE TO ALL SERVICES</u>				
<u>MONTHLY CHARGE</u>	\$21.00	\$21.00	\$21.00	\$21.00
<u>DELIVERY CHARGE</u>	<u>¢ per m<sup>3</sup></u>	<u>¢ per m<sup>3</sup></u>	<u>¢ per m<sup>3</sup></u>	<u>¢ per m<sup>3</sup></u>
First 100 m <sup>3</sup> per month @	7.5523	7.5523	7.5523	7.5523
Next 200 m <sup>3</sup> per month @	7.0418	7.0418	7.0418	7.0418
Next 200 m <sup>3</sup> per month @	6.6791	6.6791	6.6791	6.6791
Next 500 m <sup>3</sup> per month @	6.3463	6.3463	6.3463	6.3463
Over 1,000 m <sup>3</sup> per month @	6.0714	6.0714	6.0714	6.0714
Delivery-Price Adjustment (All Volumes)	(1.5189) (1)	(1.5189) (1)	(1.5189) (1)	(1.5189) (1)

Notes:

(1) The Delivery - Price Adjustment is composed of a temporary credit of (1.5189) cents/m<sup>3</sup> for the period April 1 to September 30, 2012



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Effective  
2012-04-01  
**Rate 01A**  
Page 2 of 2

ADDITIONAL CHARGES FOR SALES SERVICE

**GAS SUPPLY CHARGES**

Gas Supply Charge (if applicable)

The gas supply charge is comprised of charges for transportation and for commodity and fuel.  
The applicable rates are provided in Schedule "A".

**MONTHLY BILL**

The monthly bill will equal the sum of the monthly charges plus the rates multiplied by the applicable gas quantities delivered plus all applicable taxes. If the customer transports its own gas, the Gas Supply Charge under Sales Service will not apply.

**MINIMUM MONTHLY BILL**

The Minimum Monthly Bill shall be the Monthly Charge.

**DELAYED PAYMENT**

When payment of the monthly bill has not been made in full 20 days after the bill has been issued, the unpaid balance including previous arrears shall be increased by 1.5% (annual effective rate of 19.56%)

**SERVICE AGREEMENT**

Customers providing their own gas supply in whole or in part, for transportation by Union, must enter into a Service Agreement with Union

**TERMS AND CONDITIONS OF SERVICE**

1. If multiple end-users are receiving service from a customer under this rate, for billing purposes, the Monthly Charge, the Delivery Charge and any other charge that is specific to the location of each end-user shall be used to develop a monthly bill for each end-user at each location. Upon request, possibly for a fee, Union will combine the individual bills on a single invoice or statement for administrative convenience. However, Union will not combine the quantities or demands of several end-use locations so that eligibility to a different rate class will result. Further, Union will not combine the monthly billing data of individual end-users to generate a single bill which is less than the sum of the monthly bills of the individual end-users involved at each location.
2. Customers must enter into a Service Agreement with Union prior to the commencement of service
3. The identified rates (excluding gas supply charges, if applicable) represent maximum prices for service. These rates may change periodically. Multi-year prices may also be negotiated, which may be higher than the identified rates.

Effective

April 1, 2012  
O.E.B. Order # EB-2011-0038

Chatham, Ontario

Supersedes EB-2011-0382 Rate Schedule effective January 1, 2012



**uniongas**

Effective  
2012-04-01  
**Rate 10**  
Page 1 of 2

RATE 10 - LARGE VOLUME GENERAL FIRM SERVICE

**ELIGIBILITY**

Any customer in Union's Fort Frances, Western, Northern or Eastern Zones who is an end-user whose total firm gas requirements at one or more Company-owned meters at one location exceed 50,000 m<sup>3</sup> per year.

**SERVICES AVAILABLE**

The following services are available under this rate schedule:

(a) **Sales Service**

For continuous supply of natural gas by Union and associated transportation and storage services necessary to ensure deliverability in accordance with the customer's needs. For this service, the Monthly, Delivery and Gas Supply Charges shall apply.

(b) **Transportation Service**

For continuous delivery on Union's distribution system from the Point of Receipt on TCPL's system to the Point of Consumption on the customer's premises of natural gas owned by the customer and transported by TCPL under a firm transportation service tariff or equivalent National Energy Board Order. For this service, the Monthly, and Delivery Charges shall apply. Unless otherwise authorized by Union, customers who initiate a movement to Transportation Service from a Sales Service or Bundled Transportation Service must accept an assignment from Union of transportation capacity on upstream pipeline systems. Customers may reduce their assignment of transportation capacity in compliance with Union's Turnback Policy.

(c) **Bundled Transportation Service**

For continuous delivery by Union of gas owned by the customer and for the associated transportation and storage services necessary to ensure deliverability in accordance with the customer's needs. For this service the Monthly, and Delivery Charges, as well as the Storage and Transportation Charges of the Gas Supply Charge shall apply.

**MONTHLY RATES AND CHARGES**

Zone	<u>Fort Frances</u>	<u>Western</u>	<u>Northern</u>	<u>Eastern</u>
Rate Schedule No.	210	110	310	610
<u>APPLICABLE TO ALL SERVICES</u>				
<u>MONTHLY CHARGE</u>	\$70.00	\$70.00	\$70.00	\$70.00
<u>DELIVERY CHARGE</u>	<u>¢ per m<sup>3</sup></u>	<u>¢ per m<sup>3</sup></u>	<u>¢ per m<sup>3</sup></u>	<u>¢ per m<sup>3</sup></u>
First 1,000 m <sup>3</sup> per month @	6.0669	6.0669	6.0669	6.0669
Next 9,000 m <sup>3</sup> per month @	4.8002	4.8002	4.8002	4.8002
Next 20,000 m <sup>3</sup> per month @	4.0777	4.0777	4.0777	4.0777
Next 70,000 m <sup>3</sup> per month @	3.6153	3.6153	3.6153	3.6153
Over 100,000 m <sup>3</sup> per month @	1.8632	1.8632	1.8632	1.8632
Delivery-Price Adjustment (All Volumes)	(5.9497) (1)	(5.9497) (1)	(5.9497) (1)	(5.9497) (1)

Notes:

(1) The Delivery - Price Adjustment is composed of a temporary credit of (5.9497) cents/m<sup>3</sup> for the period April 1 to September 30, 2012



**uniongas**

Effective  
2012-04-01  
Rate 10  
Page 2 of 2

ADDITIONAL CHARGES FOR SALES SERVICE

**GAS SUPPLY CHARGES**

**Gas Supply Charge (if applicable)**

The gas supply charge is comprised of charges for transportation and for commodity and fuel.  
The applicable rates are provided in Schedule "A".

**MONTHLY BILL**

The monthly bill will equal the sum of the monthly charges plus the rates multiplied by the applicable gas quantities delivered plus all applicable taxes. If the customer transports its own gas, the Gas Supply Charge under Sales Service will not apply.

**MINIMUM MONTHLY BILL**

The Minimum Monthly Bill shall be the Monthly Charge.

**DELAYED PAYMENT**

When payment of the monthly bill has not been made in full 20 days after the bill has been issued, the unpaid balance including previous arrears shall be increased by 1.5% (annual effective rate of 19.56%)

**SERVICE AGREEMENT**

Customers providing their own gas supply in whole or in part, for transportation by Union and customers purchasing gas from Union with maximum daily requirements in excess of 3,000 m<sup>3</sup> per day must enter into a Service Agreement with Union.

**TERMS AND CONDITIONS OF SERVICE**

1. Service shall be for a minimum term of one year.
2. If multiple end-users are receiving service from a customer under this rate, for billing purposes, the Monthly Charge, the Delivery Charge and any other charge that is specific to the location of each end-user shall be used to develop a monthly bill for each end-user at each location. Upon request, possibly for a fee, Union will combine the individual bills on a single invoice or statement for administrative convenience. However, Union will not combine the quantities or demands of several end-use locations so that eligibility to a different rate class will result. Further, Union will not combine the monthly billing data of individual end-users to generate a single bill which is less than the sum of the monthly bills of the individual end-users involved at each location.
3. Customers must enter into a Service Agreement with Union prior to the commencement of service.
4. For the purposes of qualifying for a rate class, the total quantities of gas consumed or expected to be consumed on the customer's contiguous property will be used, irrespective of the number of meters installed.
5. The identified rates (excluding gas supply charges, if applicable) represent maximum prices for service. These rates may change periodically. Multi-year prices may also be negotiated, which may be higher than the identified rates.

Effective

April 1, 2012  
O.E.B. Order # EB-2011-0038

Chatham, Ontario

Supersedes EB-2011-0382 Rate Schedule effective January 1, 2012



# uniongas

Union Gas Limited  
Northern and Eastern Operations Area  
Gas Supply Charges

Effective  
2012-04-01  
Schedule "A"  
Page 1 of 2

(A) Availability

Available to customers in Union's Fort Frances, Western, Northern and Eastern Delivery Zones.

(B) Applicability:

To all sales customers served under Rate 01A, Rate 10, Rate 20, Rate 100 and Rate 25.

(C) Rates

Utility Sales

	<u>Fort Frances</u>	<u>Western</u>	<u>Northern</u>	<u>Eastern</u>
<u>Rate 01A (cents / m<sup>3</sup>)</u>				
Storage	1.8724	1.8700	2.2540	2.5640
Storage - Price Adjustment	-	-	-	-
Commodity and Fuel (1)	11.9660	12.0283	12.1083	12.1783
Commodity and Fuel - Price Adjustment	(0.9243)	(0.9243)	(0.9243)	(0.9243)
Transportation	5.8897	6.2981	7.6495	8.7597
Transportation - Price Adjustment (2)	(0.6077)	(0.6077)	(0.6077)	(0.6077)
Total Gas Supply Charge	<u>18.1961</u>	<u>18.6644</u>	<u>20.4798</u>	<u>21.9700</u>

Rate 10 (cents / m<sup>3</sup>)

Storage	1.1964	1.1941	1.5796	1.8907
Storage - Price Adjustment	-	-	-	-
Commodity and Fuel (1)	11.9660	12.0283	12.1083	12.1783
Commodity and Fuel - Price Adjustment	(0.9243)	(0.9243)	(0.9243)	(0.9243)
Transportation	5.4555	5.8639	7.2153	8.3255
Transportation - Price Adjustment (3)	0.0086	0.0086	0.0086	0.0086
Total Gas Supply Charge	<u>17.7022</u>	<u>18.1706</u>	<u>19.9876</u>	<u>21.4788</u>

Notes:

(1) As laid out in Appendix A. The Commodity and Fuel line includes gas supply administration charge of 0.3138 cents/m<sup>3</sup>.

(2) Includes a temporary credit of (1.9618) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.

(3) Includes a temporary credit of (1.3431) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.



# uniongas

Effective  
2012-04-01  
Schedule "A"  
Page 2 of 2

Union Gas Limited  
Northern and Eastern Operations Area  
Gas Supply Charges

Utility Sales

	<u>Fort Frances</u>	<u>Western</u>	<u>Northern</u>	<u>Eastern</u>
<u>Rate 20 (cents / m<sup>3</sup>)</u>				
Commodity and Fuel (1)	12.0092	12.0718	12.1520	12.2223
Commodity and Fuel - Price Adjustment	(0.9243)	(0.9243)	(0.9243)	(0.9243)
Commodity Transportation - Charge 1	4.2612	4.4236	5.1192	5.6884
Transportation 1 - Price Adjustment	1.3558	1.3558	1.3558	1.3558
Commodity Transportation - Charge 2	0.2893	0.2668	0.4111	0.5383
Monthly Gas Supply Demand	49.3344	57.0166	66.6848	110.8603
Gas Supply Demand - Price Adjustment	-	-	-	-
Commissioning and Decommissioning Rate	7.7954	8.4259	10.9620	13.0325

<u>Rate 100 (cents / m<sup>3</sup>)</u>				
Commodity and Fuel (1)	12.0092	12.0718	12.1520	12.2223
Commodity and Fuel - Price Adjustment	(0.9243)	(0.9243)	(0.9243)	(0.9243)
Commodity Transportation - Charge 1	7.8681	7.9899	8.5116	8.9385
Commodity Transportation - Charge 2	0.2893	0.2668	0.4111	0.5383
Monthly Gas Supply Demand	88.0846	97.0663	131.6881	159.8951
Commissioning and Decommissioning Rate	7.6744	8.1356	10.0677	11.6481

<u>Rate 25 (cents / m<sup>3</sup>)</u>				
Gas Supply Charge:	Interruptible Service			
	Minimum	14.3135	14.3135	14.3135
	Maximum	140.5622	140.5622	140.5622

Notes:

(1) As laid out in Appendix A. The Commodity and Fuel line includes gas supply administration charge of 0.3138 cents/m<sup>3</sup>.

Effective: April 1, 2012  
O.E.B. Order # EB-2011-0038

Chatham, Ontario

Supersedes EB-2011-0382 Rate Schedule effective January 1, 2012.



**uniongas**

Effective  
2012-04-01  
**Rate M1**  
Page 1 of 2

SMALL VOLUME GENERAL SERVICE RATE

**(A) Availability**

Available to customers in Union's Southern Delivery Zone.

**(B) Applicability**

To general service customers whose total consumption is equal to or less than 50,000 m<sup>3</sup> per year.

**(C) Rates**

The identified rates (excluding gas supply charges, if applicable) represent maximum prices for service. These rates may change periodically. Multi-year prices may also be negotiated which may be higher than the identified rates.

a)	Monthly Charge		\$21.00
b)	Delivery Charge		
	First	100 m <sup>3</sup>	3.5437 ¢ per m <sup>3</sup>
	Next	150 m <sup>3</sup>	3.3492 ¢ per m <sup>3</sup>
	All Over	250 m <sup>3</sup>	2.8892 ¢ per m <sup>3</sup>
	Delivery – Price Adjustment (All Volumes)		0.7188 ¢ per m <sup>3</sup> (1)
c)	Storage Charge (if applicable)		0.9735 ¢ per m <sup>3</sup>
	Applicable to all bundled customers (sales and bundled transportation service).		
d)	Gas Supply Charge (if applicable)		
	The gas supply charge is comprised of charges for transportation and for commodity and fuel.		
	The applicable rates are provided in Schedule "A".		

During any month in which a customer terminates service or begins service, the fixed charge for the month will be prorated to such customer.

Notes:

(1) The Delivery - Price Adjustment includes a temporary charge of 0.7187 cents/m<sup>3</sup> for the period April 1 to September 30, 2012.

**(D) Supplemental Service to Commercial and Industrial Customers Under Group Meters**

Combination of readings from several meters may be authorized by the Company and the Company will not reasonably withhold authorization in cases where meters are located on contiguous pieces of property of the same owner not divided by a public right-of-way. In such cases, an additional service charge shall be rendered each month in the amount of \$15.00 per month for each additional meter so combined.

**(E) Delayed Payment**

When payment of the monthly bill has not been made in full 20 days after the bill has been issued, the unpaid balance including previous arrears shall be increased by 1.5% (annual effective rate of 19.56%)



**uniongas**

Effective  
2012-04-01  
**Rate M1**  
Page 2 of 2

**(F) Direct Purchase**

Unless otherwise authorized by Union, customers who are delivering gas to Union under direct purchase arrangements must obligate to deliver at a point(s) specified by Union, and must acquire and maintain firm transportation on all upstream pipeline systems. Customers initiating direct purchase arrangements, who previously received Gas Supply service, must also accept, unless otherwise authorized by Union, an assignment from Union of transportation capacity on upstream pipeline systems.

**(G) Overrun Charge**

In the event that a direct purchase customer fails to deliver its contracted volumes to Union, and Union has the capability to continue to supply the customer, Union will do so. The customer may pay 4.5172 ¢ per m<sup>3</sup> for the delivery and the total gas supply charge for utility sales provided in Schedule "A" per m<sup>3</sup>, plus 7¢ per m<sup>3</sup>.

**(H) Bundled Direct Purchase Delivery**

Where a customer elects transportation service under this rate schedule, the customer must enter into a Bundled T Gas Contract with Union for delivery of gas to Union. Bundled T Gas Contract Rates and Gas Purchase Contract Rates are described in rate schedule R1.

**(I) Company Policy Relating to Terms of Service**

- a. Customers who temporarily discontinue service during any twelve consecutive months without payment of the monthly fixed charge for the months in which the gas is temporarily disconnected shall pay for disconnection and reconnection.
- b. When gas is delivered at an absolute pressure in excess of 101.325 kilopascals, then for purposes of measurement, hereunder, such volume of gas shall be corrected to an absolute pressure of 101.325 kilopascals. Atmospheric pressure is assumed to be the levels shown below in kilopascals (absolute) regardless of the actual atmospheric pressure at which the gas is measured and delivered.

<u>Zone</u>	<u>Assumed Atmospheric Pressure kPa</u>
1	100.148
2	99.494
3	98.874
4	98.564
5	98.185
6	97.754
7	97.582
8	97.065
9	96.721
10	100.561
11	99.321
12	98.883

Effective

April 1, 2012  
O.E.B. Order # EB-2011-0038

Chatham, Ontario

Supersedes EB-2011-0382 Rate Schedule effective January 1, 2012.



**uniongas**

Effective  
2012-04-01  
**Rate M2**  
Page 1 of 2

LARGE VOLUME GENERAL SERVICE RATE

**(A) Availability**

Available to customers in Union's Southern Delivery Zone.

**(B) Applicability**

To general service customers whose total consumption is greater than 50,000 m<sup>3</sup> per year.

**(C) Rates**

The identified rates (excluding gas supply charges, if applicable) represent maximum prices for service. These rates may change periodically. Multi-year prices may also be negotiated which may be higher than the identified rates.

a)	Monthly Charge		\$70.00
b)	Delivery Charge		
	First	1 000 m <sup>3</sup>	3.7474 ¢ per m <sup>3</sup>
	Next	6 000 m <sup>3</sup>	3.6685 ¢ per m <sup>3</sup>
	Next	13 000 m <sup>3</sup>	3.4334 ¢ per m <sup>3</sup>
	All Over	20 000 m <sup>3</sup>	3.1513 ¢ per m <sup>3</sup>
	Delivery – Price Adjustment (All Volumes)		(0.3526) ¢ per m <sup>3</sup> (1)
c)	Storage Charge (if applicable)		0.7172 ¢ per m <sup>3</sup>
	Applicable to all bundled customers (sales and bundled transportation service).		
d)	Gas Supply Charge (if applicable)		
	The gas supply charge is comprised of charges for transportation and for commodity and fuel.		
	The applicable rates are provided in Schedule "A".		

During any month in which a customer terminates service or begins service, the fixed charge for the month will be prorated to such customer.

Notes:

(1) The Delivery - Price Adjustment includes a temporary credit of (0.3527) cents/m<sup>3</sup> for the period April 1 to September 30, 2012.

**(D) Supplemental Service to Commercial and Industrial Customers Under Group Meters**

Combination of readings from several meters may be authorized by the Company and the Company will not reasonably withhold authorization in cases where meters are located on contiguous pieces of property of the same owner not divided by a public right-of-way. In such cases, an additional service charge shall be rendered each month in the amount of \$15.00 per month for each additional meter so combined.

**(E) Delayed Payment**

When payment of the monthly bill has not been made in full 20 days after the bill has been issued, the unpaid balance including previous arrears shall be increased by 1.5% (annual effective rate of 19.56%)



**uniongas**

Effective  
2012-04-01  
**Rate M2**  
Page 2 of 2

**(F) Direct Purchase**

Unless otherwise authorized by Union, customers who are delivering gas to Union under direct purchase arrangements must obligate to deliver at a point(s) specified by Union, and must acquire and maintain firm transportation on all upstream pipeline systems. Customers initiating direct purchase arrangements, who previously received Gas Supply service, must also accept, unless otherwise authorized by Union, an assignment from Union of transportation capacity on upstream pipeline systems.

**(G) Overrun Charge**

In the event that a direct purchase customer fails to deliver its contracted volumes to Union, and Union has the capability to continue to supply the customer, Union will do so. The customer may pay 4.4646 ¢ per m<sup>3</sup> for the delivery and the total gas supply charge for utility sales provided in Schedule "A" per m<sup>3</sup>, plus 7¢ per m<sup>3</sup>.

**(H) Bundled Direct Purchase Delivery**

Where a customer elects transportation service under this rate schedule, the customer must enter into a Bundled T Gas Contract with Union for delivery of gas to Union. Bundled T Gas Contract Rates and Gas Purchase Contract Rates are described in rate schedule R1.

**(I) Company Policy Relating to Terms of Service**

- a. Customers who temporarily discontinue service during any twelve consecutive months without payment of the monthly fixed charge for the months in which the gas is temporarily disconnected shall pay for disconnection and reconnection.
- b. When gas is delivered at an absolute pressure in excess of 101.325 kilopascals, then for purposes of measurement, hereunder, such volume of gas shall be corrected to an absolute pressure of 101.325 kilopascals. Atmospheric pressure is assumed to be the levels shown below in kilopascals (absolute) regardless of the actual atmospheric pressure at which the gas is measured and delivered.

<u>Zone</u>	<u>Assumed Atmospheric Pressure kPa</u>
1	100.148
2	99.494
3	98.874
4	98.564
5	98.185
6	97.754
7	97.582
8	97.065
9	96.721
10	100.561
11	99.321
12	98.883

Effective

April 1, 2012  
O.E.B. Order # EB-2011-0038

Chatham, Ontario

Supersedes EB-2011-0382 Rate Schedule effective January 1, 2012.

**uniongas**Effective  
2012-04-01  
Schedule "A"**Gas Supply Charges****(A) Availability:**

Available to customers in Union's Southern Delivery Zone.

**(B) Applicability:**

To all sales customers served under rates M1, M2, M4, M5A, M7, M9, M10 and storage and transportation customers taking supplemental services under rates T1 and T3.

**(C) Rates:**cents / m<sup>3</sup>Utility Sales

Commodity and Fuel	12.1783 (1)
Commodity and Fuel - Price Adjustment	(0.9905) (2)
Transportation	5.0623
Total Gas Supply Commodity Charge	<u>16.2501</u>

Minimum Annual Gas Supply Commodity Charge

Rate M4 Firm and Rate M5A Interruptible Contract	5.6702
--	--------

Storage and Transportation Supplemental Services - Rate T1 & T3\$/GJ

Monthly demand charges:	
Firm gas supply service	63.324
Firm backstop gas	1.913
Commodity charges:	
Gas supply	3.286
Backstop gas	4.935
Reasonable Efforts Backstop Gas	5.764
Supplemental Inventory	Note (3)
Supplemental Gas Sales Service (cents / m <sup>3</sup> )	20.1032
Failure to Deliver: Applied to quantities not delivered to Union in the event the customer's supply fails	2.566
Discretionary Gas Supply Service (DGSS)	Note (4)

**Notes:**

- (1) The Commodity and Fuel line includes gas supply administration charge of 0.3138 cents / m<sup>3</sup>.
- (2) Includes a temporary charge of 0.0165 cents/m<sup>3</sup> for the period April 1 to September 30, 2012.
- (3) The charge for banked gas purchases shall be the higher of the daily spot gas cost at Dawn in the month of or the month following the month in which gas is sold under this rate and shall not be less than Union's approved weighted average cost of gas.
- (4) Reflects the "back to back" price plus gas supply administration charge.

Effective: April 1, 2012  
O.E.B. Order # EB-2011-0038

Chatham, Ontario

Supersedes EB-2011-0382 Rate Schedule effective January 1, 2012.

**APPENDIX "C"**

**TO**

**RATE ORDER**

**UNION GAS LIMITED**

**BOARD FILE NO. EB-2011-0038**

**March 8, 2012**

**DEFERRAL ACCOUNT BALANCES, EARNINGS SHARING, MARKET  
TRANSFORMATION INCENTIVE AND FEDERAL AND PROVINCIAL TAX CHANGES  
AMOUNTS FOR DISPOSITION**

UNION GAS LIMITED

Deferral Account Balances, Market Transformation Incentive and Federal and Provincial Tax Changes  
Year Ended December 31, 2010 with interest accrued to March 31, 2012

Line No.	Account Number	Account Name	Balance (\$000's)	(1)
		<u>Gas Supply Accounts:</u>		
1	179-108	Unabsorbed Demand Costs Variance Account	(4,737)	(2)
		<u>Storage Accounts:</u>		
2	179-70	Short-Term Storage and Other Balancing Services	(847)	/u
3	179-72	Long-Term Peak Storage Services	(12,346)	
4		Total Storage Accounts (Lines 2 + 3)	(13,193)	/u
		<u>Other:</u>		
5	179-26	Deferred Customer Rebates/Charges	-	
6	179-75	Lost Revenue Adjustment Mechanism	2,428	
7	179-103	Unbundled Services Unauthorized Storage Overrun	-	
8	179-111	Demand Side Management Variance Account	(1,039)	
9	179-112	Gas Distribution Access Rule (GDAR) Costs	-	
10	179-113	Late Payment Penalty Litigation	1,845	
11	179-115	Shared Savings Mechanism	6,095	
12	179-117	Carbon Dioxide Offset Credits	-	
13	179-118	Average Use Per Customer	622	
14	179-120	IFRS Conversion Cost	126	
15	179-121	Cumulative Under-recovery – St. Clair Transmission Line	-	
16	179-122	Impact of Removing St. Clair Transmission Line from Rates	-	
17	179-123	Conservation Demand Management	-	
18	179-124	Harmonized Sales Tax	(52)	
19		Total Other Accounts (Lines 5 through 18)	10,025	
20		Total Deferral Account Balances (Lines 1 + 4 + 19)	(7,905)	/u
21		Market Transformation Incentive	509	
22		Federal and Provincial Tax Changes	(583)	
23		Taxable Capital Base Changes	1,671	
24		<b>Total Deferral Account Balances, Market Transformation Incentive, Federal and Provincial Tax Changes, Taxable Capital Base Changes</b>	<b>(6,308)</b>	<b>/u</b>
25		<b>Earnings Sharing</b>	<b>(3,496)</b>	

Notes:

- (1) Account balances include interest to March 31, 2012.
- (2) With the exception of UDC (No. 179-108), all gas supply-related deferral account balances are disposed through the QRAM process.

**APPENDIX "D"**

**TO**

**RATE ORDER**

**UNION GAS LIMITED**

**BOARD FILE NO. EB-2011-0038**

**March 8, 2012**

**UNIT RATES FOR PROSPECTIVE RECOVERY / REFUND & ONE-TIME  
ADJUSTMENT AND STORAGE AND TRANSPORTATION SERVICE AMOUNTS FOR  
DISPOSITION**

**UNION GAS LIMITED**  
 General Service Unit Rates for Prospective Recovery/(Refund) - Delivery  
 2010 Deferral Account Disposition, Market Transformation, Federal & Provincial Tax Changes, and 2010 Earnings Sharing Mechanism

Line No.	Particulars	Rate Class	2010 Deferral Balances (\$'000's)	2010 Market Transformation Incentive (\$'000's)	2010 Federal & Provincial Tax Changes (\$'000's)	2010 Earnings Sharing Mechanism (\$'000's)	Balance for Disposition (\$'000's)	Forecast Volume (10 <sup>3</sup> m <sup>3</sup> ) (1)	Unit Rate for Prospective Recovery/(Refund) (cents/m <sup>3</sup> ) (g) = (ef)*100
			(a)	(b)	(c)	(d)	(e) = (a+b+c+d)	(f)	
1	Small Volume General Service	01	(2,428)	89	181	(600)	(2,758)	181,567	(1.5189)
2	Large Volume General Service	10	(4,990)	-	33	(111)	(5,068)	85,175	(5.9497)
3	Small Volume General Service	M1	5,393	420	423	(1,403)	4,832	672,380	0.7187
4	Large Volume General Service	M2	(602)	-	64	(213)	(751)	212,837	(0.3527)

**Notes:**

(1) Forecast volume for the period April 1 to September 30, 2012.

UNION GAS LIMITED  
 General Service Unit Rates for Prospective Recovery/(Refund) - Gas Supply Transportation  
 2010 Deferral Account Disposition, Market Transformation, Federal & Provincial Tax Changes, and 2010 Earnings Sharing Mechanism

Line No.	Particulars	Rate Class	2010 Deferral Balances (\$000's)	2010 Market Transformation Incentive (\$000's)	2010 Federal & Provincial Tax Changes (\$000's)	2010 Earnings Sharing Mechanism (\$000's)	Balance for Disposition (\$000's)	Forecast Volume (10 <sup>3</sup> m <sup>3</sup> ) (1)	Unit Rate for Prospective Recovery/(Refund) (cents/m <sup>3</sup> ) (g) = (ef)*100
			(a)	(b)	(c)	(d)	(e) = (a+b+c+d)	(f)	
1	Small Volume General Service	01	(3,562)	-	-	-	(3,562)	181,567	(1.9618)
2	Large Volume General Service	10	(1,140)	-	-	-	(1,140)	84,885	(1.3431)

Notes:

(1) Forecast volume for the period April 1 to September 30, 2012.

UNION GAS LIMITED  
 Unit Rates for Prospective Recovery/(Refund) - Gas Supply Commodity  
 2010 Deferral Account Disposition, Market Transformation, Federal & Provincial Tax Changes, and 2010 Earnings Sharing Mechanism

Line No.	Particulars	2010 Deferral Balances (\$'000's) (a)	2010 Market Transformation Incentive (\$'000's) (b)	2010 Federal & Provincial Tax Changes (\$'000's) (c)	2010 Earnings Sharing Mechanism (\$'000's) (d)	Balance for Disposition (\$'000's) (e) = (a+b+c+d)	Forecast Volume (10 <sup>3</sup> m <sup>3</sup> ) (1) (f)	Unit Rate for Prospective Recovery/(Refund) (cents/m <sup>3</sup> ) (g) = (e/f)*100
1	North Sales Service	-	-	-	-	-	178,320	-
2	South Sales Service	103	-	-	-	103	621,710	0.0165

Notes:

(1) Forecast volume for the period April 1 to September 30, 2012.

**UNION GAS LIMITED**  
**Contract Unit Rates for One-Time Adjustment - Delivery**  
**2010 Deferral Account Disposition, Market Transformation, Federal & Provincial Tax Changes, and 2010 Earnings Sharing Mechanism**

Line No.	Particulars	Rate Class	2010 Deferral Balances (\$'000's)	2010 Market Transformation Incentive (\$'000's)	2010 Federal & Provincial Tax Changes (\$'000's)	2010 Earnings Sharing (\$'000's)	Total Balance (\$'000's)	2010 Actual Volume (10 <sup>3</sup> m <sup>3</sup> )	Unit Rate (cents/m <sup>3</sup> ) (g) = (e/f)*100
			(a)	(b)	(c)	(d)	(e) = (a+b+c+d)	(f)	(g)
<b>Northern and Eastern Operations Area:</b>									
1	Medium Volume Firm Service (1)	20	9	-	4	(13)	(0)	122,507	(0.0004)
2	Medium Volume Firm Service (2)	20T	(337)	-	13	(45)	(368)	423,501	(0.0869)
3	Large Volume High Load Factor (2)	100T	1,959	-	23	(76)	1,906	1,882,972	0.1012
4	Wholesale Service	77	(0)	-	0	(0)	-	-	-
5	Large Volume Interruptible	25	(1)	-	8	(26)	(19)	220,408	(0.0084)
<b>Southern Operations Area:</b>									
6	Firm Com/Ind Contract	M4	(1,896)	-	17	(57)	(1,935)	439,257	(0.4406)
7	Interruptible Com/Ind Contract	M5	1,129	-	11	(35)	1,105	523,763	0.2109
8	Special Large Volume Contract	M7	141	-	11	(35)	116	313,484	0.0371
9	Large Wholesale	M9	(37)	-	1	(3)	(39)	59,770	(0.0649)
10	Small Wholesale	M10	(2)	-	0	(0)	(2)	165	(1.1698)
11	Contract Carriage Service	T1	(755)	-	52	(173)	(876)	4,057,920	(0.0216)
12	Contract Carriage- Wholesale	T3	(447)	-	6	(21)	(461)	253,595	(0.1819)

**Notes:**

- (1) Sales and Bundled-T customers only.
- (2) T-service customers only.

**UNION GAS LIMITED**  
 Contract Unit Rates for One-Time Adjustment - Gas Supply Transportation and Bundled Storage  
 2010 Deferral Account Disposition, Market Transformation, Federal & Provincial Tax Changes, and 2010 Earnings Sharing Mechanism


Line No.	Particulars	Rate Class	Billing Units	2010 Deferral Balances (\$'000's)	2010 Market Transformation Incentive (\$'000's)	2010 Federal & Provincial Tax Changes (\$'000's)	2010 Earnings Sharing (\$'000's)	Total Balance (\$'000's)	2010 Actual Volume/Demand	Unit Volumetric/Demand Rate
				(a)	(b)	(c)	(d)	(e) = (a+b+c+d)	(f)	(g) = (e/f)*100
<u>Gas Supply Transportation (cents/m<sup>3</sup>)</u>										
1	Medium Volume Firm Service	20	10 <sup>3</sup> m <sup>3</sup>	(138)	-	-	-	(138)	6,711	(2.0491)
<u>Bundled (T-Service) Storage (\$/GJ)</u>										
2	Medium Volume Firm Service	20T	GJ	(173)	-	-	-	(173)	106,324	(1.631)
3	Large Volume High Load Factor	100T	GJ	(91)	-	-	-	(91)	56,080	(1.631)

**UNION GAS LIMITED**  
**Storage and Transportation Service Amounts for Disposition**  
**2010 Deferral Account Disposition, Market Transformation, Federal & Provincial Tax Changes, and 2010 Earnings Sharing Mechanism**

Line No.	Particulars (\$000's) (1)	Rate Class	2010 Deferral Balances (\$000's) (a)	2010 Market Transformation Incentive (\$000's) (b)	2010 Federal & Provincial Tax Changes (\$000's) (c)	2010 Earnings Sharing (\$000's) (d)	Total Balance (\$000's) (e) = (a+b+c+d)
1	Storage and Transportation	M12	(35)	-	205	(681)	(511)
2	Local Production	M13	(0)	-	0	(1)	(0)
3	Short-Term Cross Franchise	C1	(6)	-	35	(3)	27
4	Storage Transportation Service	M16	1	-	0	(1)	0

**Notes:**

(1) Exfranchise M12, M13, M16 and C1 customer specific amounts determined using approved deferral account allocation methodologies.

 **From:** Smith, Crawford [csmith@torys.com]  
**Sent:** Friday, March 09, 2012 1:23 PM  
**To:** Thompson, Peter C. P.; Lawrie Gluck  
**Cc:** Ripley, Chris; Kitchen, Mark; DeRose, Vincent J.; John Rosenkranz; Smith, Crawford  
**Subject:** RE: Rate Order for EB-2011-0038 Union Gas Limited


Peter,

I have now had an opportunity to review your email with Union. It is not prepared to make the change you have proposed, nor does it agree that such a change is warranted in the circumstances. In Union's view a change cannot, and should not be made, for at least the following reasons:

- The Board has issued a Final Rate Order disposing of the 2010 deferral account balances and approving 2010 earnings sharing. It is not open to Union, CME or any other party to seek to re-open that Rate Order other than through an appeal.
- The Draft Rate Order, submitted by Union on March 2, 2012, was, and is, entirely consistent with the Board's February 29, 2012 Decision and Order.
- There is no error in Union's calculation of the margin in the short term deferral account. Contrary to your note, the deferral account balance is calculated not based on what is in rates but rather on the Board Approved 2007 forecast margin of \$15.289 million. The sharing percentages are applied to the difference between the actual margin and the Board approved forecast. This methodology has been used since 2008, accepted by parties and, through the Rate Order, approved by the Board.

In sum, the change suggested by CME would amount to retroactive rate-making which is both impermissible and unwarranted on the facts. CME's submissions dated January 27, 2012 provided the calculation of the Short-term deferral account balance using the 90/10 sharing it had proposed. The Board accepted that calculation, Union reflected the calculation in the Draft Order, and the Board has issued a Final Rate Order.

Crawford G. Smith  
**Torys LLP**  
 Tel: 416.865.8209  
 Fax: 416.865.7380  
<mailto:csmith@torys.com>  
[www.torys.com](http://www.torys.com)

 **From:** Thompson, Peter C. P. [mailto:PThompson@blg.com]  
**Sent:** March-09-12 11:43 AM  
**To:** Lawrie Gluck  
**Cc:** Smith, Crawford; Ripley, Chris; Kitchen, Mark; DeRose, Vincent J.; John Rosenkranz  
**Subject:** FW: Rate Order for EB-2011-0038 Union Gas Limited

Lawrie

I see that the Rate Order has already issued.

Could you possibly let those in the Board who are handling this know that we think that there is a calculation error that needs to be corrected.

We made our submissions with respect to the initial draft order in the mistaken belief that the amount being recover in 2010 rates was \$15,829 M when the correct amount was \$11,254 M as shown in EB 2009-0275 Working paper 15.

We are hoping that Union will take the initiative to correct this calculation error.

Peter T

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**Peter C.P. Thompson, Q.C.**  
**Counsel**  
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**From:** Susi Vogt [<mailto:Susi.Vogt@ontarioenergyboard.ca>]  
**Sent:** March 9, 2012 9:15 AM  
**To:** [crpley@uniongas.com](mailto:crpley@uniongas.com); [barbara.reuber@opg.com](mailto:barbara.reuber@opg.com); [basil.alexander@klippensteins.ca](mailto:basil.alexander@klippensteins.ca); [EGDRegulatoryProceedings@enbridge.com](mailto:EGDRegulatoryProceedings@enbridge.com); [bdenney@trca.on.ca](mailto:bdenney@trca.on.ca); [csmith@torys.com](mailto:csmith@torys.com); [daveduggan@ecng.com](mailto:daveduggan@ecng.com); [DavidMacIntosh@nextcity.com](mailto:DavidMacIntosh@nextcity.com); [drquinn@rogers.com](mailto:drquinn@rogers.com); [eric.nadeau@transcanada.com](mailto:eric.nadeau@transcanada.com); [fcass@airdberlis.com](mailto:fcass@airdberlis.com); [opgregaffairs@opg.com](mailto:opgregaffairs@opg.com); [ian.mondrow@gowlings.com](mailto:ian.mondrow@gowlings.com); [jgibbons@pollutionprobe.org](mailto:jgibbons@pollutionprobe.org); [jim.bartlett@transcanada.com](mailto:jim.bartlett@transcanada.com); [jim.gruenbauer@kitchener.ca](mailto:jim.gruenbauer@kitchener.ca); [jwightman@econalysis.ca](mailto:jwightman@econalysis.ca); [jfstagey@interlog.com](mailto:jfstagey@interlog.com); [jay.shepherd@canadianenergylawyers.com](mailto:jay.shepherd@canadianenergylawyers.com); [jgirvan@uniserve.com](mailto:jgirvan@uniserve.com); [mbuonaguro@piac.ca](mailto:mbuonaguro@piac.ca); [murray.klippenstein@klippensteins.ca](mailto:murray.klippenstein@klippensteins.ca); [mnewton@igua.ca](mailto:mnewton@igua.ca); [murray.ross@transcanada.com](mailto:murray.ross@transcanada.com); [nadine.berge@transcanada.com](mailto:nadine.berge@transcanada.com); [nick@sixnatgas.com](mailto:nick@sixnatgas.com); [nruzycki@justenergy.com](mailto:nruzycki@justenergy.com); [EGDRegulatoryProceedings@enbridge.com](mailto:EGDRegulatoryProceedings@enbridge.com); [paul.clipsham@cme-mec.ca](mailto:paul.clipsham@cme-mec.ca); [paul.kerr@shell.com](mailto:paul.kerr@shell.com); Thompson, Peter C. P.; [randy.aiken@sympatico.ca](mailto:randy.aiken@sympatico.ca); [ric.forster@directenergy.com](mailto:ric.forster@directenergy.com); [rwarren@weirfoulds.com](mailto:rwarren@weirfoulds.com); [vyoung@aegent.ca](mailto:vyoung@aegent.ca); DeRose, Vincent J.; [wmcnally@opsba.org](mailto:wmcnally@opsba.org)  
**Subject:** RE: Rate Order for EB-2011-0038 Union Gas Limited

Attached, please find corrected Rate Order, issued yesterday, with the in-correct year date 2011.

Thank you.

**Susi Vogt**  
 Case Administrator

**Ontario Energy Board**

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 fax 416.440.7689  
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✉ [susi.vogt@ontarioenergyboard.ca](mailto:susi.vogt@ontarioenergyboard.ca)

**From:** Susi Vogt

**Sent:** March 8, 2012 2:32 PM

**To:** 'cripley@uniongas.com'; 'barbara.reuber@opg.com'; 'basil.alexander@klippensteins.ca'; 'EGDRegulatoryProceedings@enbridge.com'; 'bdenney@trca.on.ca'; 'csmith@torys.com'; 'daveduggan@ecng.com'; 'DavidMacIntosh@nextcity.com'; 'drquinn@rogers.com'; 'eric\_nadeau@transcanada.com'; 'fcass@airdberlis.com'; 'opgregaffairs@opg.com'; 'ian.mondrow@gowlings.com'; 'jgibbons@pollutionprobe.org'; 'jim\_bartlett@transcanada.com'; 'jim.gruenbauer@kitchener.ca'; 'jwrightman@econanalysis.ca'; 'jfstacey@interlog.com'; 'jay.shepherd@canadianenergylawyers.com'; 'jgirvan@uniserve.com'; 'mbuonaguro@piac.ca'; 'murray.klippenstein@klippensteins.ca'; 'mnewton@igua.ca'; 'murray\_ross@transcanada.com'; 'nadine\_berge@transcanada.com'; 'nick@sixnatgas.com'; 'nruzycski@justenergy.com'; 'EGDRegulatoryProceedings@enbridge.com'; 'paul.clipsham@cme-mec.ca'; 'paul.kerr@shell.com'; 'pthompson@blg.com'; 'randy.aiken@sympatico.ca'; 'ric.forster@directenergy.com'; 'rwarren@weirfoulds.com'; 'vyoung@aegent.ca'; 'vderose@blg.com'; 'wmcnally@opsba.org'

**Subject:** Rate Order for EB-2011-0038 Union Gas Limited

The Board has issued its Rate Order for the above matter.  
 Board File No. EB-2011-0038

Please see attached.  
 Thank you.

**Susi Vogt**

Case Administrator

## Ontario Energy Board

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# ONTARIO ENERGY BOARD

**FILE NO.:** EB-2011-0038

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**VOLUME:** Technical Conference

**DATE:** July 26, 2011

THE 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.

Hearing held at 2300 Yonge Street,  
25<sup>th</sup> Floor, Toronto, Ontario,  
on Tuesday, July 26<sup>th</sup>, 2011,  
commencing at 9:30 a.m.

-----  
TECHNICAL CONFERENCE  
-----

A P P E A R A N C E S

KRISTI SEBALJ	Board Counsel
HEMA DESAI	Board Staff
TINA LI	
CRAWFORD SMITH	Union Gas Distribution Ltd.
MARK KITCHEN	
CHRIS RIPLEY	
JULIE GIRVAN	Consumers Council of Canada (CCC)
PETER THOMPSON	Canadian Manufacturers & Exporters (CME)
DAVID MacINTOSH	Energy Probe Research Foundation
DWAYNE QUINN	Federation of Rental-housing Providers of Ontario (FRPO)
JASON F. STACEY	Intervenor
RANDY AIKEN	London Property Management Association (LPMO)
VALERIE YOUNG	Industrial Gas Users Association (IGUA)
JAMES GRUENBAUER	The Corporation of the City of Kitchener
MICHAEL BUONAGURO	Vulnerable Energy Consumers Coalition (VECC)
ALSO PRESENT:	
JOHN ROSENKRANZ	CME, FRPO, Kitchener

# I N D E X   O F   P R O C E E D I N G S

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--- On commencing at 9:30 a.m.	1
Appearances	3
<b>UNION GAS - PANEL 1</b>	5
<b>G. Tetreault, P Elliott, L. Vienneau</b>	
Questions by Mr. Thompson	5
Questions by Ms. Li	32
Questions by Mr. Quinn	46
--- Recess taken at 11:17 a.m.	48
--- On resuming at 11:39 a.m.	48
<b>UNION GAS - PANEL 2</b>	48
<b>R. Feingold, P Elliott, M. Isherwood, C. Cameron</b>	
Questions by Mr. Thompson	48
Questions by Mr. Quinn	55
Questions by Mr. Gruenbauer	68
Questions by Mr. Quinn	78
--- Whereupon the conference concluded at 12:57 p.m.	90

1 in relation to the settlement of those rates, the NGEIR  
2 decision was rendered? Was it before or after?

3 MR. TETREault: I can't recall myself, Peter. It's  
4 before my time in my current capacity.

5 MR. THOMPSON: That's fine. We will find that out.  
6 So what I would like to do is just touch on a few of these  
7 interrogatory responses and get some clarification of  
8 what's taken place here.

9 If you could start with CME 1, so this is Exhibit  
10 B2.1. In subparagraph (a), you are talking about an  
11 adjustment to correct miscalculations in the UDC deferral  
12 account; have I got that straight?

13 MR. TETREault: That's correct.

14 MR. THOMPSON: And it talks about the period April 1,  
15 2007 to December 31, 2009. So can I take it that the error  
16 dated back to April 1, 2007?

17 MR. TETREault: Yes.

18 MR. THOMPSON: All right. And the approach that you  
19 took was to correct the error from the date it was first  
20 made?

21 MR. TETREault: That's correct.

22 MR. THOMPSON: So it was made in -- at this point in  
23 time, for -- am I right -- for fiscal 2007, fiscal 2008 and  
24 fiscal 2009? The 1.931 million is a cumulative correction  
25 for that time frame?

26 MR. TETREault: That's correct.

27 MR. THOMPSON: So that, then, takes me to your B3.53  
28 and some of your responses to Mr. Quinn's written questions

---

→ **From:** Thompson, Peter C. P.  
**Sent:** Monday, March 12, 2012 9:54 AM  
**To:** Smith, Crawford  
**Cc:** Lawrie Gluck; Ripley, Chris; Kitchen, Mark; DeRose, Vincent J.; John Rosenkranz  
**Subject:** RE: Rate Order for EB-2011-0038 Union Gas Limited

Crawford

Good idea. I'll check with John Rosenkranz as to availability and get back to all of the people on the distribution list for this e mail.

Peter T

logo Peter C.P. Thompson, Q.C.  
Counsel  
T (613) 787-3528 | F (613) 230-8842 | pthompson@blg.com  
World Exchange Plaza, 100 Queen Street, Suite 1100, Ottawa, ON, Canada K1P 1J9

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-----Original Message-----

→ **From:** Smith, Crawford [mailto:csmith@torys.com]  
**Sent:** March 12, 2012 9:40 AM  
**To:** Thompson, Peter C. P.  
**Cc:** Lawrie Gluck; Ripley, Chris; Kitchen, Mark; DeRose, Vincent J.; John Rosenkranz  
**Subject:** Re: Rate Order for EB-2011-0038 Union Gas Limited

Peter,

You are, of course, free to write to the Board. However, before doing so, I suggest a conference call with Union, me, yourself and Mr. Rosenkranz (should you choose). As I understand matters, there is a straightforward explanation for the apparent confusion relating to the calculation of the ST Margin. Whether the starting point is the 15m or 11m figure, provided the percentage splits are applied properly - as they were - the result is the same. While I am on vacation this week, I can make myself available. Please let me know your availability.

Crawford

Sent from my iPad

→ On 2012-03-11, at 10:16 PM, "Thompson, Peter C. P." <PThompson@blg.com<mailto:PThompson@blg.com>> wrote:

Crawford

We disagree with the position you have outlined in your e mail below and will be writing to the Board to seek corrections to

the incorrect calculations Union has made in the 2010 Deferral Account as well as in the 2009 and 2008 Deferral Accounts.

The whole purpose of the Deferral account is to capture the difference in actual net revenues from short term sales made by Union in each year and the net short term margins embedded in rates charged to in franchise ratepayers.

The \$15.289M forecast to which you refer in your e mail was the forecast that was approved by the Board for the purposes of setting pre NGEIR Base rates and the forecast upon which the 2007 rates were based.

However, following the NGEIR Decision Union effectively reduced the pre-NGEIR forecast that led to 2007 base rates by 21 % to reflect the NGEIR Decision's 79% /21% split of the entitlement to short term revenues between regulated and unregulated storage.

Following the NGEIR Decision The "Board Approved" amount( being the phrase that Union uses in its deferral account balance calculations as shown in the EB-2011-0038 Rate Order Appendix C schedule 2 Updated)for recovery in in franchise rates was reduced to the \$11.254 figure shown in the EB 2009 -0275 Working Paper 14 that Mr.Rozenkranz drew our attention to on Thursday. After receiving this document,we immediately brought the erroneous calculation of the 2010 Deferral account balance to your the attention of you, your client and Mr.Gluck of OEB Staff.

The "Board Approved" amount of \$15.829 M that Union has used in it's deferral account balance calculations following the NGEIR Decision is not the correct post NGEIR "Board Approved"amount.The "Board Approved amount embedded in Union's 2008,2009 and 2010 rates is the materially lower amount of \$11.254 M.

The incorrect use of the pre NGEIR "Board Approved" amount when calculating the extent to which actual post NGEIR short term storage net margins exceeded the net margins embedded in post NGEIR 2008,2009 and 2010 Rates materially understates the share of margins to which ratepayers are entitled in each of those years.

We calculate the understatement of the ratepayers share of margins to be about \$3M in 2010 and about \$2.3M and 2.4M in 2008 and 2009.We will provide details of calculations using the correct "Board Approved "amount embedded in 2008,2009 and 2010 rates in the letter that we send to the Board tomorrow.

In asking Union to use the correct 'Board Approved' net short term margin amount embedded in Union's post NGEIR in franchise rates in the deferral account balance calculations,we assumed that Union's use of an incorrect and no longer "Board Approved"amount in its post NGEIR deferral account balance calculations had to have been inadvertent.We did not think that Union would deliberately use a number in the post NGEIR deferral account balance calculations that no longer had "Board Approved" status.

In your e mail below are you asserting that Union deliberately used the excessive and no longer approved amount of \$15,829 M in its 2008,2009 and 2010 deferral account balance calculations and represented it to be the "Board Approved" amount when,following the NGEIR Decision, it in fact no longer had "Board Approved 'status'?A clarification of whether this no longer approved number was used by Union deliberately or inadvertently would be appreciated.

We will be asking the Board to direct Union to record an entry in its 2011 Short Term Deferral account balance to correct for these erroneous calculations made in prior years using an amount that was excessive and no longer had 'Board Approved"stays following Union's Board Approved implementation of the NGEIR Decision.

These corrections clearly are appropriate and in accordance with the Error Correction principle to which Union and its witness subscribed in the pre-hearing stages of matters in issue in the EB-2011-0038 proceeding.

More to follow tomorrow.

Peter T

<logo.bmp> Peter C.P. Thompson, Q.C.  
Counsel

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→ From: Smith, Crawford [mailto:[csmith@torys.com](mailto:csmith@torys.com)]

Sent: March 9, 2012 1:23 PM

To: Thompson, Peter C. P.; Lawrie Gluck

Cc: Ripley, Chris; Kitchen, Mark; DeRose, Vincent J.; John Rosenkranz; Smith, Crawford

Subject: RE: Rate Order for EB-2011-0038 Union Gas Limited

Peter,

I have now had an opportunity to review your email with Union. It is not prepared to make the change you have proposed, nor does it agree that such a change is warranted in the circumstances. In Union's view a change cannot, and should not be made, for at least the following reasons:

- The Board has issued a Final Rate Order disposing of the 2010 deferral account balances and approving 2010 earnings sharing. It is not open to Union, CME or any other party to seek to re-open that Rate Order other than through an appeal.

- The Draft Rate Order, submitted by Union on March 2, 2012, was, and is, entirely consistent with the Board's February 29, 2012 Decision and Order.

- There is no error in Union's calculation of the margin in the short term deferral account. Contrary to your note, the deferral account balance is calculated not based on what is in rates but rather on the Board Approved 2007 forecast margin of \$15.289 million. The sharing percentages are applied to the difference between the actual margin and the Board approved forecast. This methodology has been used since 2008, accepted by parties and, through the Rate Order, approved by the Board.

In sum, the change suggested by CME would amount to retroactive rate-making which is both impermissible and unwarranted on the facts. CME's submissions dated January 27, 2012 provided the calculation of the Short-term deferral account balance using the 90/10 sharing it had proposed. The Board accepted that calculation, Union reflected the calculation in the Draft Order, and the Board has issued a Final Rate Order.

Crawford G. Smith

Torys LLP

Tel: 416.865.8209

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[www.torys.com](http://www.torys.com)<<http://www.torys.com/>>

→ From: Thompson, Peter C. P. [mailto:[PTThompson@blg.com](mailto:PTThompson@blg.com)]

Sent: March-09-12 11:43 AM

To: Lawrie Gluck

Cc: Smith, Crawford; Ripley, Chris; Kitchen, Mark; DeRose, Vincent J.; John Rosenkranz

Subject: FW: Rate Order for EB-2011-0038 Union Gas Limited

Lawrie

I see that the Rate Order has already issued.

Could you possibly let those in the Board who are handling this know that we think that there is a calculation error that needs to be corrected.

We made our submissions with respect to the initial draft order in the mistaken belief that the amount being recover in 2010 rates was \$15,829 M when the correct amount was \$11,254 M as shown in EB 2009-0275 Working paper 15.

We are hoping that Union will take the initiative to correct this calculation error.

Peter T

<image001.png>

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Counsel

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---

From: Susi Vogt [mailto:Susi.Vogt@ontarioenergyboard.ca]<mailto:[mailto:Susi.Vogt@ontarioenergyboard.ca]>

Sent: March 9, 2012 9:15 AM

To: criphey@uniongas.com<mailto:criphey@uniongas.com>; barbara.reuber@opg.com<mailto:barbara.reuber@opg.com>; basil.alexander@klippensteins.ca<mailto:basil.alexander@klippensteins.ca>; EGDRegulatoryProceedings@enbridge.com<mailto:EGDRegulatoryProceedings@enbridge.com>; bdenney@trca.on.ca<mailto:bdenney@trca.on.ca>; csmith@torys.com<mailto:csmith@torys.com>; daveduggan@ecng.com<mailto:daveduggan@ecng.com>; DavidMacIntosh@nextcity.com<mailto:DavidMacIntosh@nextcity.com>; drquinn@rogers.com<mailto:drquinn@rogers.com>; eric\_nadeau@transcanada.com<mailto:eric\_nadeau@transcanada.com>; fcass@airdberlis.com<mailto:fcass@airdberlis.com>; opgregaffairs@opg.com<mailto:opgregaffairs@opg.com>; ian.mondrow@gowlings.com<mailto:ian.mondrow@gowlings.com>; jgibbons@pollutionprobe.org<mailto:jgibbons@pollutionprobe.org>; jim\_bartlett@transcanada.com<mailto:jim\_bartlett@transcanada.com>; jim.gruenbauer@kitchener.ca<mailto:jim.gruenbauer@kitchener.ca>; jwrightman@econanalysis.ca<mailto:jwrightman@econanalysis.ca>; jfstacey@interlog.com<mailto:jfstacey@interlog.com>; jay.shepherd@canadianenergylawyers.com<mailto:jay.shepherd@canadianenergylawyers.com>; jgirvan@uniserve.com<mailto:jgirvan@uniserve.com>; mbuonaguro@piac.ca<mailto:mbuonaguro@piac.ca>; murray.klippenstein@klippensteins.ca<mailto:murray.klippenstein@klippensteins.ca>; mnewton@igua.ca<mailto:mnewton@igua.ca>; murray\_ross@transcanada.com<mailto:murray\_ross@transcanada.com>; nadine\_berge@transcanada.com<mailto:nadine\_berge@transcanada.com>; nick@sixnatgas.com<mailto:nick@sixnatgas.com>; nruzycki@justenergy.com<mailto:nruzycki@justenergy.com>; EGDRegulatoryProceedings@enbridge.com<mailto:EGDRegulatoryProceedings@enbridge.com>; paul.clipsham@cme-mec.ca<mailto:paul.clipsham@cme-mec.ca>; paul.kerr@shell.com<mailto:paul.kerr@shell.com>; Thompson, Peter C. P.;

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rwarren@weirfoulds.com<mailto:rwarren@weirfoulds.com>; vyoung@aegent.ca<mailto:vyoung@aegent.ca>; DeRose,  
Vincent J.; wmcnally@opsba.org<mailto:wmcnally@opsba.org>  
Subject: RE: Rate Order for EB-2011-0038 Union Gas Limited Attached, please find corrected Rate Order, issued  
yesterday, with the in-correct year date 2011.

Thank you.

Susi Vogt  
Case Administrator

Ontario Energy Board

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---

From: Susi Vogt  
Sent: March 8, 2012 2:32 PM  
To: 'cripley@uniongas.com<mailto:cripley@uniongas.com>';  
'barbara.reuber@opg.com<mailto:barbara.reuber@opg.com>';  
'basil.alexander@klippensteins.ca<mailto:basil.alexander@klippensteins.ca>';  
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'drquinn@rogers.com<mailto:drquinn@rogers.com>';  
'eric\_nadeau@transcanada.com<mailto:eric\_nadeau@transcanada.com>';  
'fcass@airdberlis.com<mailto:fcass@airdberlis.com>'; 'opgregaffairs@opg.com<mailto:opgregaffairs@opg.com>';  
'ian.mondrow@gowlings.com<mailto:ian.mondrow@gowlings.com>';  
'jgibbons@pollutionprobe.org<mailto:jgibbons@pollutionprobe.org>';  
'jim\_bartlett@transcanada.com<mailto:jim\_bartlett@transcanada.com>';  
'jim.gruenbauer@kitchener.ca<mailto:jim.gruenbauer@kitchener.ca>';  
'jwrightman@econalysis.ca<mailto:jwrightman@econalysis.ca>'; 'jfstacey@interlog.com<mailto:jfstacey@interlog.com>';  
'jay.shepherd@canadianenergylawyers.com<mailto:jay.shepherd@canadianenergylawyers.com>';  
'jgirvan@uniserve.com<mailto:jgirvan@uniserve.com>'; 'mbuonaguro@piac.ca<mailto:mbuonaguro@piac.ca>';  
'murray.klippenstein@klippensteins.ca<mailto:murray.klippenstein@klippensteins.ca>';  
'mnewton@igua.ca<mailto:mnewton@igua.ca>';  
'murray\_ross@transcanada.com<mailto:murray\_ross@transcanada.com>';  
'nadine\_berge@transcanada.com<mailto:nadine\_berge@transcanada.com>';  
'nick@sixnatgas.com<mailto:nick@sixnatgas.com>'; 'nruzycki@justenergy.com<mailto:nruzycki@justenergy.com>';  
'EGDRegulatoryProceedings@enbridge.com<mailto:EGDRegulatoryProceedings@enbridge.com>'; 'paul.clipsham@cme-  
mec.ca<mailto:paul.clipsham@cme-mec.ca>'; 'paul.kerr@shell.com<mailto:paul.kerr@shell.com>';  
'pthompson@blg.com<mailto:pthompson@blg.com>'; 'randy.aiken@sympatico.ca<mailto:randy.aiken@sympatico.ca>';  
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'rwarren@weirfoulds.com<mailto:rwarren@weirfoulds.com>'; 'vyoung@aegent.ca<mailto:vyoung@aegent.ca>';  
'vderose@blg.com<mailto:vderose@blg.com>'; 'wmcnally@opsba.org<mailto:wmcnally@opsba.org>'

Subject: Rate Order for EB-2011-0038 Union Gas Limited

The Board has issued its Rate Order for the above matter.  
Board File No. EB-2011-0038

Please see attached.  
Thank you.

Susi Vogt  
Case Administrator

Ontario Energy Board

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UNION GAS LIMITED  
Calculation of Short-Term Storage and Other Balancing Services (no. 179-70) - **Provided without Prejudice**  
(\$000's)

Pre EB-2011-0038 Decision

Calculation using 2007 Board-Approved Forecast of \$15,829

			2010		2009		2008	
1	Actual		16,753	(1)	22,789	(2)	14,858	(3)
2	2007 Board Approved Forecast		15,829	(4)	15,829	(4)	15,829	(4)
3	Difference before sharing	Line 1 - Line 2	924		6,960	-	971	
4	Apply 79% Ratepayer Portion	Line 3 * 0.79	730		5,498	-	767	
5	Apply 90% Ratepayer Portion	Line 4 * 0.9	657	(5)	4,949	(2) -	690	(3)

Calculation using Short-Term Margin In rates of \$11,254

			2010		2009		2008	
6	Actual		16,753	(1)	22,789	(2)	14,858	(3)
7	Apply 79% Ratepayer Portion	Line 6 * 0.79	13,235		18,003		11,738	
8	Apply 90% Ratepayer Portion	Line 7 * 0.9	11,911		16,203		10,564	
9	Short-Term Margin In Rates		11,254	(6)	11,254	(6)	11,254	(6)
10	Deferral Account Balance	Line 8 - Line 9	657	(5)	4,949	(6) -	690	(3)

Post EB-2011-0038 Decision

2010 Calculation using 2007 Board-Approved Forecast of \$15,829 and per Board Decision

			2010	
11	Actual		16,753	(1)
12	2007 Board-Approved Forecast		15,829	(4)
13	Difference before sharing	Line 11 - Line 12	924	
14	79% Ratepayer Portion - No Longer Applicable		924	
15	Apply 90% Ratepayer Portion	Line 13 * 0.9	832	(1)

2010 Calculation using Short-Term Margin In rates of \$11,254 per P. Thompson email dated March 8, 2012

			2010	
16	Actual		16,753	(1)
17	79% Ratepayer Portion - No Longer Applicable		16,753	
18	Apply 90% Ratepayer Portion	Line 17 * 0.9	15,078	
19	Short-Term Margin In Rates		11,254	(6)
20	Deferral Account Balance	Line 18 - Line 19	3,824	

Notes:

- (1) EB-2011-0038, Rate Order, Appendix C, Schedule 2, Updated.
- (2) EB-2010-0039, Exhibit A, Tab 1, Page 6, Corrected.
- (3) EB-2009-0052, Exhibit A, Tab 1, Page 6.
- (4) EB-2010-0148, Rate Order, Working Papers, Schedule 14, Column (c), Line 7.
- (5) EB-2011-0038, Rate Order, Appendix C, Schedule 2, Line 12.
- (6)

EB-2010-0148, Rate Order, Working Papers, Schedule 14, Column (g), Line 7. \$15.829 million \* 79% \* 90% = \$11.254 million.

**MEMORANDUM**  
**re: THE CALCULATION OF SHORT-TERM STORAGE**  
**SALES DEFERRAL ACCOUNT BALANCES**

**Overview**

1. The purpose of this memorandum is to review the facts that irrefutably demonstrate that, net of amounts payable to Union Gas Limited ("Union"), the actual 2010 short-term storage net margins realized by Union exceed the credit amount embedded in Union's 2010 rates by \$3.842M. A calculation of \$0.832M as the amount of 2010 actual net margins to be credited to ratepayers is incorrect. The correct amount to be allocated to ratepayers is \$3.824M which exceeds the amount of \$0.832M by \$2.992M.

**2007 Decision and its Implementation**

2. It is common ground that:
  - (a) The Board's Decision establishing 2007 Base Rates for Union approved a short-term storage margin forecast in an amount of \$15.829M;
  - (b) Union is to receive an incentive payment with respect to its sales of short-term storage equal to 10% of actual short-term storage transaction margins; and
  - (c) In the Rate Order pertaining to the 2007 Rates Union proposed and the Board approved that the implementation of the foregoing 2 features of its pre-NGEIR rates be achieved by embedding 90% of the \$15.829M of forecast margins or \$14.246M thereof in Union's in-franchise rates.
3. Put another way, the 2007 Decision divided the total approved margin forecast of \$15.829M into 2 pieces, namely:
  - (a) A 10% incentive piece for Union equal to \$1.583M; and
  - (b) A credit amount to be embedded in the derivation of Union's rates of \$14.246M representing 90% of the approved forecast.

**NGEIR Decision and its Implementation**

4. In the NGEIR Decision, the Board sustained the incentive payment for Union at 10% of actual short-term storage margins. The Board also determined that 21% of short-term storage margins would be retained by Union. This meant that 79% of the \$14.246M of forecast margins embedded as a credit in the determination of Union's pre-NGEIR rates, or \$11.254M thereof should be allocated to ratepayers and that 21% of the forecast revenues previously embedded in rates of \$14.246M, or \$2.992M thereof, should now be allocated to Union's non-utility storage business.
5. To implement these three (3) features of the NGEIR Decision, beginning with 2008 Rates, Union proposed and the Board approved that the \$14.246M credit amount of the 2007 forecast, previously embedded in pre-NGEIR rates, be reduced to 79% of \$14.246M or \$11.254M.

6. Put another way, the NGEIR Decision resulted in the 2007 approved forecast amount of \$15.829M being divided into three (3) pieces:

(a)	The 10% incentive amount for Union	\$1.583M
(b)	The reduced credit amount to be embedded in the derivation of Union's in-franchise rates, being 79% of the \$14.246M credit previously embedded	\$11.254M
(c)	A new amount to be allocated to Union's non-utility business of 21% of the \$14.246M credit previously embedded	\$2.992M

Total:		<hr/> \$15.829M
--------	--	-----------------

7. Based on the foregoing, the steps that should be followed to reflect the Board approved method of implementing the NGEIR Decision when calculating the ratepayers' share of actual post-NGEIR short-term storage margins are as follows:

- Determine actual net margins;
- Allocate 10% of the actual net margins to Union for its 10% incentive payment;
- Take 79% of the remaining actual net margins as the ratepayers' share thereof;
- Deduct the \$11.254M credit embedded in the derivation of in-franchise rates;
- Post the difference as a credit or a debit to Deferral Account 179-70 for later clearance to in-franchise ratepayers.

8. For 2008 and 2009, based on short-term storage margin actuals of \$14.858M and \$22.789M respectively, the amounts to be posted to the Deferral Account in each year are calculated as follows:

	2008	2009
1. Actuals	\$14.858	\$22.789
2. Less 10% Incentive Payment to Union	\$1.486	\$2.279
3. Balance equal to 90% of line 1	\$13.372	\$20.510
4. Ratepayers share at 79%	\$10.564	\$16.203
5. Credit amount embedded in the derivation of rates	\$11.254	\$11.254
6. Difference and posting to Deferral Account	(\$690)	\$4.949
	Post (\$0.690) debit to 2008 Deferral Account	Post \$4.949 credit to Deferral Account

#### **EB-2011-0038 Decision and its Implementation**

9. In the EB-2011-0038 Decision, the Board confirmed that Union continues to be entitled to an incentive payment equal to 10% of actuals but that the ratepayers' share of the 90% of actuals remaining should be increased from 79% to 100%.

10. Based on the post-NGEIR Decision rates, that reflected the payment of a 10% incentive amount to Union but only embedded a credit amount in the derivation of rates equal to \$11.254M, the steps that should be followed to implement the EB-2011-0038 Decision when calculating the ratepayers' share of actual storage margins are as follows:
  - (a) Determine actual net margins;
  - (b) Allocate 10% of actual net margins to Union for its 10% incentive;
  - (c) Take the entire amount of the remainder, being 90% of the total actuals, as the ratepayers' share of actual net margins;
  - (d) Deduct the \$11.254M credit embedded in the derivation of 2008, 2009 and 2010 rates; and
  - (e) Post the difference as a credit or debit to Deferral Account 179-70 for subsequent clearance to in-franchise ratepayers.

11. Based on the Board's EB-2011-0038 Decision, the calculation of the ratepayers' share of 2010 actual net margins of \$16.753M is shown below:

	<b>2010</b>
1. Actuals	\$16.753
2. 10% for Union's incentive payment	\$1.675
3. Balance being 90% of actuals at line 1	\$15.078
4. Ratepayers' share at 100%	\$15.078
5. Credit embedded in derivation of 2010 rates	\$11.254
6. Difference	\$3.824
7. Post \$3.824 credit balance to Deferral Account 179-70	

12. Clearly, the actual short-term margins Union recovered in 2010 are \$16.753M and, after deduction of the incentive payment to Union of \$1.675M, the remaining actuals are an amount of \$15.078M, which exceeds the Board approved amount of \$11.254M embedded in the derivation of 2010 rates by an amount of \$3.824M.
13. Union's calculation in Rate Order Appendix C, Schedule 2 Updated circulated on March 2, 2008, only allocates \$0.832M of the \$3.824M by which 2010 actual margins (after deduction of the 10% incentive payment to Union) exceed the credit amount embedded in rates of \$11.254M. Under the approach that Union follows, Union withholds from ratepayers an amount of \$2.992M (\$3.824M – \$0.832M = \$2.992M) which is exactly the portion of the piece of the 2007 approved forecast of \$15.829M that the NGEIR Decision allocated to Union's non-utility business.
14. The EB-2011-0038 Decision requires Union to now credit ratepayers with the \$2.992M portion of the 2007 forecast that the NGEIR Decision allocated to Union's non-utility business. Yet, under the incorrect approach that Union has taken to calculating the ratepayers' share of actual 2010 margins, Union's owner is keeping that sum rather than crediting it to ratepayers. The approach that Union has followed in 2010 is clearly

incorrect and does not reflect the Board's Decision allocating to ratepayers 100% of short-term margins remaining after deduction of Union's 10% incentive payment.

15. The steps that Union follows in its calculation of the 2010 Deferral Account balance are incorrect in that they do not reflect the facts that the short-term margin credit amount embedded in 2010 rates recovered from ratepayers is only \$11.254M and not a higher amount and that the \$2.992M of the 2007 forecast previously allocated to Union's non-utility storage business as a result of the NGEIR Decision is an amount that now belongs to ratepayers.
16. Put another way, Union's approach is incorrect in that it does not recognize that, following the rate changes Union made to implement the NGEIR Decision and the further variances that result from the Board's EB-2011-0038 Decision, the only pieces of the 2007 forecast of \$15.829M that remain deductible from the 2010 actuals are:
  - (a) The 10% incentive piece of \$1.583M described in paragraph 6(a); and
  - (b) The credit amount of \$11.254M embedded in the calculation of Union's rates following the NGEIR Decision described in paragraph 6(b).

The \$2.992M portion of the \$15.829M forecast described in paragraph 6(c) and previously deductible as a payment to Union's non-utility business now belongs to ratepayers.

17. Moreover, even if one were to follow an approach that starts with deducting the portion of the 2007 forecast of \$15.892M that continues to be deductible from the actuals following the EB-2011-0038 Decision, the calculation would be as follows:

1. Actuals	\$16.753
2. Less portions of Board approved 2007 forecast \$15.829M that remain deductible after the EB-2011-0038 Decision;	
(a) 10% thereof, or \$1.583M for Union's incentive	\$1.583
(b) the \$11.254M credit embedded in the derivation of post-NGEIR Decision rates	\$11.254
3. Sub-total:	<hr/> \$3.916
4. Less balance of Union's 10% incentive payment on 2010 actuals of \$16.753M, being \$1.675M less amount of incentive payment recovered above of \$1.583M = \$0.092M	\$0.092
Total:	<hr/> \$3.824 <hr/>
Total credit to be posted to Deferral Account	\$3.824

18. Union's calculation of \$0.832M as the ratepayers' share of the extent to which actual short-term margins exceed the short-term margins that were taken into account in determining 2010 rates is incorrect. It deprives ratepayers of \$2.992M that the EB-2011-0038 Decision clearly allocates to ratepayers.
19. The incorrect calculation of the 2010 ratepayer credit should forthwith be corrected by posting a credit amount of \$2.992M to the 2011 short-term margins Deferral Account

No. 179-70. This is the way that Union corrected, in 2010, its incorrect calculations of Unabsorbed Demand Charge Deferral Account balances made in years prior to 2010.

20. The submissions made by CME and Board Staff to the effect that the amount to be credited to ratepayers to achieve, in 2010, an allocation of 100% of actual short-term revenues, in excess of the 10% incentive amount payable to Union and the credit amount embedded in the derivation of 2010 rates charged to in-franchise ratepayers were about \$0.831M and were based on a mistaken belief that the Board approved credit embedded in the 2010 rates was in amount greater than \$11.254M. Counsel for CME only became aware on March 8, 2012, of the error when Schedule 14 of the Working Papers attached to EB-2009-0275 Rate Order was drawn to their attention.
21. It is assumed that in making its Reply Submissions, Union and its counsel similarly overlooked the fact that it was incorrect to continue to deduct \$15.829M from 2010 actuals when determining the portion of actuals to be credited to ratepayers in Deferral Account 179-70.
22. If Union was aware that the \$0.832M was an incorrect calculation of the ratepayers' entitlement, when it made its Reply Submissions with respect to the Draft Rate Order, then it should have advised the Board of the correct amount to be allocated to ratepayers in the event that the submissions of CME and Board Staff prevailed, being the amount of \$3.824M. Union's shareholder cannot be permitted to derive a \$2.992M benefit as a result of what is clearly a mistaken calculation.
23. Union should immediately take the initiative to correct the calculation of the 2010 Deferral Account amount to be credited to ratepayers. On the basis of the "Error Correction" principle, to which Union subscribed at the outset of these proceedings to correct, in 2010, the errors it had made, in prior years, to the calculation of deferral account balances in the Unabsorbed Demand Charge Deferral Account, the credit amount due to ratepayers for 2010 of \$2.992M should be posted to the 2011 Short-Term Storage Services Deferral Account 179-70. Union's calculation of amounts to be posted to Deferral Account 179-70 in 2011 and 2012 should be based on a correct implementation of the Board's EB-2011-0038 Decision.

March 14, 2012

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→ **From:** Thompson, Peter C. P.  
**Sent:** Friday, March 16, 2012 1:20 PM  
**To:** Smith, Crawford; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** 'Lawrie.Gluck@ontarioenergyboard.ca'; DeRose, Vincent J.  
**Subject:** RE: Conference call Yesterday

I'll prepare our letter on the basis that our understanding of the position is as described in my e mail.

We wish to file our later by Monday.

Hopefully someone can let me know by Monday afternoon whether there is something materially wrong with our understanding of Union's position.

Peter T



**Peter C.P. Thompson, Q.C.**  
**Counsel**  
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**From:** Smith, Crawford [<mailto:csmith@torys.com>]  
**Sent:** March 16, 2012 1:06 PM  
**To:** Thompson, Peter C. P.; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** 'Lawrie.Gluck@ontarioenergyboard.ca'; DeRose, Vincent J.  
**Subject:** Re: Conference call Yesterday

Peter,

I am out of the office and will not have an opportunity to consider your note until next week.

→ **From:** Thompson, Peter C. P. [<mailto:PTHompson@blg.com>]  
**Sent:** Friday, March 16, 2012 12:49 PM  
**To:** Smith, Crawford; 'mkitchen@uniongas.com' <[mkitchen@uniongas.com](mailto:mkitchen@uniongas.com)>; 'CRipley@uniongas.com' <[CRipley@uniongas.com](mailto:CRipley@uniongas.com)>  
**Cc:** Lawrie Gluck <[Lawrie.Gluck@ontarioenergyboard.ca](mailto:Lawrie.Gluck@ontarioenergyboard.ca)>; DeRose, Vincent J. <[VDeRose@blg.com](mailto:VDeRose@blg.com)>  
**Subject:** Conference call Yesterday

Crawford, Mark and/or Chris

Further to the conference call yesterday, I am writing to ask one of you to provide, by return e mail, confirmation that the description that follows correctly paraphrases Union's position with respect to the amount to which ratepayers are entitled as a result of the Board's EB-2011-0038 Order dated Feb 29, 2012. If the description below is inaccurate, then please provide by return e mail an accurate description of Union's position

We initially understood Union's position to be that the method we applied in calculating the amount of the ratepayers entitlement at \$3.824M was not the Board approved method. That theme emerged in Crawford's e mail to me on Friday Mar.9 and carried forward to the calculations Mark circulated on Monday Mar12, 2012. Mark's calculations distinguish between the "Board Approved Forecast" method and the "Short Term margin in Rates" method.

However, as a result of our discussions yesterday, that included reference to the memo we prepared and circulated on Wednesday, we now understand that Union accepts that the accurate measure of 2010 margins in excess of the 10% incentive payable to Union and the amount embedded in 2010 rates is \$3.824 M. Our understanding is that Union is no longer asserting that an unapproved methodology was used to calculate the \$3.284M amount.

Rather, Union is now asserting that, in its Reply submissions dated Feb.17, 2012, Union informed the Board that the correct measure of the margins to be credited to the deferral account was \$3.284M and not the \$0.831M suggested by Counsel for CME and Board Staff. Union contends that, as a result of its alleged disclosure of the \$3,284 amount to the Board in its Reply submissions, the Board decision on Feb 29, 2012, reflecting the \$0.831M amount, means that the Board specifically determined that Union gets to keep the \$2.992 M difference between the \$0.831M amount and the accurate measure of the ratepayers entitlement of \$3.824M.

Do we correctly understand Union's position? If not then please restate it for us so that we can avoid being accused by you folks later of misstating Union's position in the letter that we will be sending to the Board next week seeking directions with respect to this matter.

Peter T



**Peter C.P. Thompson, Q.C.**

**Counsel**

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**Thompson, Peter C. P.**

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→ **From:** Smith, Crawford [csmith@torys.com]  
**Sent:** March 18, 2012 3:12 PM  
**To:** Thompson, Peter C. P.; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** 'Lawrie.Gluck@ontarioenergyboard.ca'; DeRose, Vincent J.; Smith, Crawford  
**Subject:** Re: Conference call Yesterday

Peter,

Thank you for your note and your consideration of my timing in preparing your letter.

We do not agree with your characterization of Union's position, nor am able (given existing commitments today and tomorrow) to further restate that position for you. However, by way of example, Union has never asserted that an "unapproved methodology" was used to calculate the margin available for sharing in the Short-Term Deferral Account.

As we have consistently maintained, Union has accurately reflected the Board's most recent, and final decision in EB-2011-0038. The Board reviewed Union's calculations, as it indicated it would, and issued a Final Rate Order. For procedural and substantive reasons, including those previously discussed with you, there is, in Union's view, no proper basis to challenge that decision. Compounding the issue is the fact that CME is seeking a change, as we understand it, not to the margin calculation but to base rates.

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→ **From:** Thompson, Peter C. P. [mailto:PThompson@blg.com]  
**Sent:** Friday, March 16, 2012 01:20 PM  
**To:** Smith, Crawford; 'mkitchen@uniongas.com' <mkitchen@uniongas.com>; 'CRipley@uniongas.com' <CRipley@uniongas.com>  
**Cc:** 'Lawrie.Gluck@ontarioenergyboard.ca' <Lawrie.Gluck@ontarioenergyboard.ca>; DeRose, Vincent J. <VDeRose@blg.com>  
**Subject:** RE: Conference call Yesterday

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We wish to file our later by Monday.

Hopefully someone can let me know by Monday afternoon whether there is something materially wrong with our understanding of Union's position.

Peter T

**BLG**  
 Borden Ladner Gervais

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**From:** Smith, Crawford [mailto:[csmith@torys.com](mailto:csmith@torys.com)]  
**Sent:** March 16, 2012 1:06 PM  
**To:** Thompson, Peter C. P.; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** 'Lawrie.Gluck@ontarioenergyboard.ca'; DeRose, Vincent J.  
**Subject:** Re: Conference call Yesterday

Peter,

I am out of the office and will not have an opportunity to consider your note until next week.

---

**From:** Thompson, Peter C. P. [mailto:[PTompson@blg.com](mailto:PTompson@blg.com)]  
**Sent:** Friday, March 16, 2012 12:49 PM  
**To:** Smith, Crawford; 'mkitchen@uniongas.com' <[mkitchen@uniongas.com](mailto:mkitchen@uniongas.com)>; 'CRipley@uniongas.com' <[CRipley@uniongas.com](mailto:CRipley@uniongas.com)>  
**Cc:** Lawrie Gluck <[Lawrie.Gluck@ontarioenergyboard.ca](mailto:Lawrie.Gluck@ontarioenergyboard.ca)>; DeRose, Vincent J. <[VDeRose@blg.com](mailto:VDeRose@blg.com)>  
**Subject:** Conference call Yesterday

Crawford, Mark and/or Chris

Further to the conference call yesterday, I am writing to ask one of you to provide, by return e mail, confirmation that the description that follows correctly paraphrases Union's position with respect to the amount to which ratepayers are entitled as a result of the Board's EB-2011-0038 Order dated Feb 29, 2012. If the description below is inaccurate, then please provide by return e mail an accurate description of Union's position

We initially understood Union's position to be that the method we applied in calculating the amount of the ratepayers entitlement at \$3.824M was not the Board approved method. That theme emerged in Crawford's e mail to me on Friday Mar. 9 and carried forward to the calculations Mark circulated on Monday Mar 12, 2012. Mark's calculations distinguish between the 'Board Approved Forecast' method and the 'Short Term margin in Rates' method.

However, as a result of our discussions yesterday, that included reference to the memo we prepared and circulated on Wednesday, we now understand that Union accepts that the accurate measure of 2010 margins in excess of the 10% incentive payable to Union and the amount embedded in 2010 rates is \$3.824 M. Our understanding is that Union is no longer asserting that an unapproved methodology was used to calculate the \$3.284M amount.

Rather, Union is now asserting that, in its Reply submissions dated Feb. 17, 2012, Union informed the Board that the correct measure of the margins to be credited to the deferral account was \$3.284M and not the \$0.831M suggested by Counsel for CME and Board Staff. Union contends that, as a result of its alleged disclosure of the \$3,284 amount to the Board in its Reply submissions, the Board decision on Feb 29, 2012, reflecting the \$0.831M

amount, means that the Board specifically determined that Union gets to keep the \$2.992 M difference between the \$0.831M amount and the accurate measure of the ratepayers entitlement of \$3.824M.

Do we correctly understand Union's position? If not then please restate it for us so that we can avoid being accused by you folks later of misstating Union's position in the letter that we will be sending to the Board next week seeking directions with respect to this matter.

Peter T



**Peter C.P. Thompson, Q.C.**

**Counsel**

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**Thompson, Peter C. P.**

---

➔ **From:** Smith, Crawford [csmith@torys.com]  
**Sent:** March 20, 2012 3:16 PM  
**To:** Thompson, Peter C. P.  
**Cc:** Lawrie.Gluck@ontarioenergyboard.ca; Mark Kitchen (mkitchen@uniongas.com); criphey@uniongas.com  
**Subject:** EB-2011-0038  
**Attachments:** EB-2007-0606 - Exhibit D T1 Pages 3-4.pdf; EB-2007-0606 - Exhibit D T3 S15.pdf; EB-2007-0606 - 2008 Rate Order - Working Papers Schedule - 2008 Storage Margin.pdf; 2009 Rates - Working Papers - Schedule 14.pdf

Peter,

As requested. Also included is the rate order working paper schedule for 2008 and 2009.

Crawford G. Smith  
**Torys LLP**  
 Tel: 416.865.8209  
 Fax: 416.865.7380  
<mailto:csmith@torys.com>  
[www.torys.com](http://www.torys.com)

➔ **From:** Thompson, Peter C. P. [mailto:PTHompson@blg.com]  
**Sent:** March-20-12 11:26 AM  
**To:** Smith, Crawford; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** Lawrie Gluck  
**Subject:** RE: EB-2011-0038

Crawford

Please have Union e mail me complete copies of each of the documents to which you refer namely EB-2007-0606 EX D tab 1 and Ex D Tab 3 sched 15.

I cannot find these documents on the Board's web site.

Peter T

**BLG** **Peter C.P. Thompson, Q.C.**  
 Counsel  
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→ **From:** Smith, Crawford [<mailto:csmith@torys.com>]  
**Sent:** March 20, 2012 10:21 AM  
**To:** Thompson, Peter C. P.; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** Lawrie Gluck; Smith, Crawford  
**Subject:** EB-2011-0038

Peter,

In EB-2007-0606, Ex. D, T1, Union indicated that the change in the short term margin arising from NGEIR was \$2.922 million, and that this would be reflected in rates. See also Exhibit D, Tab 3, Schedule 15, line 7, columns (e) and (f) where the specific figures are clearly set out.

Having regard to the above information, please confirm that you no longer intend to pursue this issue. The calculation of the margin, and the amount embedded in rates, has been well known to the Board and intervenors. At this stage, it is no longer just and reasonable for ratepayers to pay for the costs of CME's pursuit of this issue.

Crawford G. Smith  
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 Fax: 416.865.7380  
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→ **From:** Thompson, Peter C. P. [<mailto:PTHompson@blg.com>]  
**Sent:** March-19-12 2:23 PM  
**To:** Smith, Crawford; 'mkitchen@uniongas.com'; 'CRipley@uniongas.com'  
**Cc:** Lawrie Gluck  
**Subject:** Reduction in Short Term credit included in 2008 rates.

Gentlemen

I am trying to find the initial case in which Union proposed, in its prefiled evidence presented to the Board, to reduce the credit in base rates from \$14,246 M shown column (d) line 7 in Rate Order Working Papers 14 in EB-2009-0275 to \$11,254 M.

Would you please provide me with the docket number of the case in which that change was first proposed and the passage in the pre-filed evidence in that proceeding where Union makes specific reference to the proposal and its impacts. I would appreciate a response to this e mail today, if possible.

Peter T

**BLG** **Peter C.P. Thompson, Q.C.**  
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general service rates were provided by Union at Schedules 22 and 23 of its EB-2005-0520 Rate Order Working Papers.

In this proceeding Union is adjusting 2008 rates to incorporate the incremental GDAR costs (\$1.643 million) provided in the EB-2005-0520 Rate Order Working Papers. The impact on 2008 general service rates associated with implementing the Bill-Ready phase of GDAR appears in column (p) of Exhibit D, Tab 3, Schedule 3. Variances between the GDAR related costs included in rates and actual costs incurred will be captured in the GDAR Deferral Account (Account No. 179-112).

*Treatment of Demand Side Management ("DSM") Costs*

In accordance with the Board's EB-2006-0021 Decision, Union will increase its 2007 DSM budget by 10% per year for each of 2008 and 2009 to \$18.7 million and \$20.6 million, respectively. Union is proposing to treat the costs associated with DSM as a Y-factor. Accordingly, Union will remove the DSM costs currently in rates by rate class prior to applying the price cap index. After the price cap adjustment has been determined, Union will add back the DSM costs by rate class plus 10%. The result is that the increase in the 2008 and 2009 DSM budgets will be allocated in proportion to how the 2007 DSM budget was included in rates. Consistent with the Board's EB-2007-0598 Decision, Union will true-up for differences between the DSM costs included in rates and the actual amount spent on DSM programs on a rate class basis as part of the disposition of the DSMVA.

*NGEIR Implementation*

In its EB-2005-0551 Decision, the Board found that:

1. Union's share of the long term storage premium will increase to 25% in 2008, 50% in 2009, 75% in 2010 and 100% in 2011; and
2. Beginning January 1, 2008, the margin associated with short-term storage services will be shared between Union and its ratepayers in proportion to the split between non-utility

(21%) and utility (79%) storage-related rate base. The Board found that all of the short-term margin arising from the use of non-utility storage assets and 10% of the short-term margin arising from the use of utility storage assets will go to the Company.

Union will be implementing the Board approved changes to the sharing of long-term and short-term storage premiums starting January 1, 2008.

For 2008, the change in sharing associated with the long-term storage premium is \$3.211 million (Exhibit D, Tab 3, Schedule 15, line 8). Consistent with the EB-2005-0551 Decision, Union will phase out the long-term premium in rates entirely by 2011.

The change in sharing associated with short-term storage margin is \$2.922 million (Exhibit D, Tab 3, Schedule 15, line 7). The change in sharing of short-term storage margin will only result in an adjustment to 2008 rates.

Union is proposing to remove the long-term storage premium from in-franchise delivery rates as approved by the Board in the EB-2005-0551 proceeding using a storage premium adjustment factor. The storage premium adjustment factor will be calculated by taking the total annual impact of the change in sharing of forecast margin which results from the NGEIR decision divided by total in-franchise delivery revenue less DSM, storage and upstream transportation, fuel and UFG. The resulting adjustment factor will be applied to each in-franchise rate class. The 2008 adjustment factor will also include the impacts associated with including 100% of the Board approved 2007 forecast of margin from Transportation & Exchange Services, Other S&T Services and Other Direct Purchase Services as well as implementing the short-term storage margin sharing mechanism approved by the Board in the EB-2005-0551 proceeding beginning January 1, 2008. For 2009 to 2012, the storage premium adjustment factor associated with implementing the NGEIR decision will include only the reduction in long-term storage premium. The calculation of the storage premium adjustment factor is found at Exhibit D, Tab 3, Schedule

UNION GAS LIMITED  
Summary of S&T Transactional Margin Included In 2008 Rates

Line No.	Particulars (\$ 000's)	Total Revenue (1) (a)	Allocated Cost (2) (b)	Total Margin (c) = (a - b)	Included in 2007 In-franchise Rates (d)	Included in 2008 In-franchise Rates (e)	Change in Sharing of Forecast S&T Margin (f)=(d-e)
1	Transportation & Exchange Services Acct. 179-69						
2	Transportation and Exchanges	4,000	1,417	2,583			
3	M12 Transportation Overrun						
3	Total Transportation & Exchanges	4,000	1,417	2,583	222	2,583 (3)	(2,361)
4	Short Term Storage & Balancing Services Acct. 179-70						
4	Short Term Peak Storage	13,794	847	12,947			
5	Off Peak Storage, Balancing & Loans	4,092	1,285	2,807			
6	Enbridge LBA	75	-	75			
7	Total Short Term Storage & Balancing Services	17,961	2,132	15,829	14,246	11,254 (4)	2,992
8	Total Long Term Peak Storage Services Acct. 179-72	42,058	20,653	21,405	19,265	16,054 (5)	3,211
9	Other S&T Services Acct. 179-73 / 179-74	895	42	853	768	853 (6)	(85)
10	Total	64,914	24,244	40,670	34,501	30,744	3,756

- Notes:
- (1) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (a)
  - (2) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (b)
  - (3) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin
  - (4) EB-2005-0551, Decision with Reasons, Section 9.1.2
  - (5) EB-2005-0551, Decision with Reasons, Section 7.3
  - (6) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin

UNION GAS LIMITED  
Summary of S&T Transactional Margin Included In 2008 Rates

Line No.	Particulars (\$ 000's)	Total Revenue (1) (a)	Allocated Cost (2) (b)	Total Margin (c) = (a - b)	Included in 2007 In-franchise Rates (d)	Included in 2008 In-franchise Rates (e)	Change in Sharing of Forecast S&T Margin (f)=(d-e)
<b>Transportation &amp; Exchange Services Acct. 179-69</b>							
1	Transportation and Exchanges	4,000	1,417	2,583			
2	M12 Transportation Overrun	-	-	-			
3	Total Transportation & Exchanges	4,000	1,417	2,583	222	2,583 (3)	(2,361)
<b>Short Term Storage &amp; Balancing Services Acct. 179-70</b>							
4	Short Term Peak Storage	13,794	847	12,947			
5	Off Peak Storage, Balancing & Loans	4,092	1,285	2,807			
6	Enbridge LBA	75	-	75			
7	Total Short Term Storage & Balancing Services	17,961	2,132	15,829	14,246	11,254 (4)	2,992
8	Total Long Term Peak Storage Services Acct. 179-72	42,058	20,653	21,405	19,265	16,054 (5)	3,211
9	Other S&T Services Acct. 179-73	895	42	853	768	853 (6)	(85)
10	Total	64,914	24,244	40,670	34,501	30,744	3,756

Notes: (1) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (a)  
(2) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (b)  
(3) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin  
(4) EB-2005-0551, Decision with Reasons, Section 9.1.2  
(5) EB-2005-0551, Decision with Reasons, Section 7.3  
(6) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin

**UNION GAS LIMITED**  
**Summary of S&T Transactional Margin Included In 2009 Rates**

Line No.	Particulars (\$ 000's)	Total Revenue (1) (a)	Allocated Cost (2) (b)	Total Margin (c) = (a - b)	Included in 2007 In-franchise Rates (d)	Included in 2008 In-franchise Rates (e)	Included in 2009 In-franchise Rates (f)	Change in Sharing of Forecast S&T Margin (g)=(e-f)
1	Transportation & Exchange Services Acct. 179-69							
2	Transportation and Exchanges	4,000	1,417	2,583				
3	M12 Transportation Overrun	-	-	-				
3	Total Transportation & Exchanges	4,000	1,417	2,583	222	2,583 (3)	2,583	-
4	Short Term Storage & Balancing Services Acct. 179-70							
5	Short Term Peak Storage	13,794	847	12,947				
5	Off Peak Storage, Balancing & Loans	4,092	1,285	2,807				
6	Enbridge LBA	75	-	75				
7	Total Short Term Storage & Balancing Services	17,961	2,132	15,829	14,246	11,254 (4)	11,254	-
8	Total Long Term Peak Storage Services Acct. 179-72	42,058	20,653	21,405	19,265	16,054 (5)	10,703 (5)	5,351
9	Other S&T Services Acct. 179-73	895	42	853	768	853 (6)	853	-
10	Total	64,914	24,244	40,670	34,501	30,744	25,393	5,351

Notes: (1) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (a)  
(2) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (b)  
(3) Includes In-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin  
(4) EB-2005-0551, Decision with Reasons, Section 9.1.2  
(5) EB-2005-0551, Decision with Reasons, Section 7.3  
(6) Includes In-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin

UNION GAS LIMITED  
Summary of S&T Transactional Margin Included In 2008 Rates

Line No.	Particulars (\$ 000's)	Total Revenue (1) (a)	Allocated Cost (2) (b)	Total Margin (c) = (a - b)	Included in 2007 In-franchise Rates (d)	Included in 2008 In-franchise Rates (e)	Change in Sharing of Forecast S&T Margin (f)=(d-e)
1	Transportation & Exchange Services Acct. 179-69						
2	Transportation and Exchanges	4,000	1,417	2,583			
3	M12 Transportation Overrun	-	-	-			
	Total Transportation & Exchanges	<u>4,000</u>	<u>1,417</u>	<u>2,583</u>	<u>222</u>	<u>2,583 (3)</u>	<u>(2,361)</u>
4	Short Term Storage & Balancing Services Acct. 179-70						
5	Short Term Peak Storage	13,794	847	12,947			
6	Off Peak Storage, Balancing & Loans	4,092	1,285	2,807			
7	Enbridge LBA	75	-	75			
	Total Short Term Storage & Balancing Services	<u>17,961</u>	<u>2,132</u>	<u>15,829</u>	<u>14,246</u>	<u>11,254 (4)</u>	<u>2,992</u>
8	Total Long Term Peak Storage Services Acct. 179-72	<u>42,058</u>	<u>20,653</u>	<u>21,405</u>	<u>19,265</u>	<u>16,054 (5)</u>	<u>3,211</u>
9	Other S&T Services Acct. 179-73	895	42	853	768	853 (6)	(85)
10	Total	<u>64,914</u>	<u>24,244</u>	<u>40,670</u>	<u>34,501</u>	<u>30,744</u>	<u>3,756</u>

Notes: (1) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (a)  
(2) EB-2005-0520, Rate Order, Working Papers, Schedule 24, Column (b)  
(3) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin  
(4) EB-2005-0551, Decision with Reasons, Section 9.1.2  
(5) EB-2005-0551, Decision with Reasons, Section 7.3  
(6) Includes in-franchise impact of the proposed changes to the sharing of forecast S&T transactional margin



**RP-2001-0032**

**IN THE MATTER OF AN APPLICATION BY**

**ENBRIDGE GAS DISTRIBUTION INC.**

**FOR RATES FOR FISCAL 2002**

**VOLUME 1**

**DECISION WITH REASONS**

**2002 December 13**

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**APPENDICES (Contained in Volume 2)**

**APPENDIX A - ISSUES LIST**

**APPENDIX B - SETTLEMENT PROPOSAL**

**APPENDIX C - FINANCIAL SCHEDULES**

words, the evidence of a utility may be literally accurate, yet leave the Board with a general impression that is false.

6.2.21 The Board has always relied on the good faith of the utilities in making timely, complete and accurate disclosure of all information relevant to the operations of the utility, whether or not the specific information has a direct impact on the Board's rate-making function. If this is no longer the case, the Board will have no alternative but to consider other regulatory tools available to it, such as: including conditions regarding disclosure in orders, requiring the preparation of evidence pursuant to subsection 21(1) of the Act, and making rules pursuant to paragraphs 44(1)(f) or (g) of the Act.

6.2.22 Finally, the Board notes that additional evidence and supplemental arguments were sent to the Board well after the applicable filing deadlines had expired. At some point the filing of information and arguments must stop. Constant bickering about who gets the last word only lengthens the regulatory process. The parties must rely on the Board to determine the weight and relevance of the material submitted.

6.2.23 The Board is aware that timeliness of decisions is an issue for not only ECG and the Intervenor but also for the Board. The Board would be greatly assisted in its obligation to issue decisions in a timely fashion, if all parties acted on these comments.

**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 Enbridge  
Gas Distribution Inc. for an Order or Orders approving or fixing  
just and reasonable rates for the sale, distribution, transmission  
and storage of gas for its 2003 fiscal year.

**BEFORE:**

Bob Betts  
Presiding Member

George A. Dominy  
Member

**DECISION WITH REASONS**

November 7, 2003

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## 7 DISCLOSURE AND CONFIDENTIALITY

### 7.1 Background

Disclosure and confidentiality became significant issues in the course of the hearing. During the interrogatory process, a number of parties had requested information relating to the issue of affiliate outsourcing and efficiency gains. EGDI did not answer a number of these interrogatories, on the basis that the information requested was in the possession of affiliates over which EGDI had no control. The Board's rules of practice provide a mechanism to be used by parties who seek information that is not forthcoming during the interrogatory process. However, the parties in question did not pursue this issue until the hearing was underway.

On March 27, 2003 CAC, IGUA and VECC filed a motion requesting the disclosure of documents by EGDI and its affiliates. The motion was argued on April 8 and 9, 2003 and the Board issued its decision on April 15, 2003. In that decision, at paragraph 4.8, the Board stated:

The Board's focus is with respect to what constitutes just and reasonable rates and in that context, the Board wants to understand:

- the basis upon which the decision to outsource was made,
- whether the cost is a market-based price and if so what market-based process was used to select the service provider, and
- where there is no market for the outsourced service, what is the cost to the service provider to provide that service to the utility.

To the extent that documents not yet filed in this proceeding, and in the hands of EGDI, EI, EOS, ECS, EGS, or CWLP, meet these criteria and are relevant and material to determining:

the amount, if any, by which the O&M expenses envelope of \$270 million is to be reduced to reflect the efficiency gains which intervenors say were transferred by Enbridge Gas Distribution to affiliates and then, in part, to a related party between October 1, 1999 and September 30, 2002, being the term of the Board approved targeted performance based regulation ("TPBR") plan, [from the Settlement Agreement, Ex.N1/Tab 1/ Schedule 1, page 36]

the Board requires them to be produced to the moving parties.

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Recognizing that some of the documents to be disclosed might contain commercially sensitive information, the Board established a procedure to deal with the issue of confidentiality. If a producing party had a confidentiality concern with respect to any documents being produced, those documents were to be produced on a confidential basis to the other parties. As required, the parties met to discuss confidentiality issues. At the conclusion of that meeting, parties still had a concern about the adequacy of the disclosure and the issue was brought back to the Board on April 29, 2003. The Board rendered a second disclosure decision orally on May 1, 2003.

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CWLP, EI, ECSI, EOS, and EGS then sought to appeal the Board's disclosure decisions to Divisional Court, challenging the Board's jurisdiction to require the production of documents from non-parties.

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On May 13, 2003 the Board issued summonses requiring a representative of EI and a representative of CustomerWorks Inc. ("CWI") to attend the hearing and to bring with them the documents that were the subject of the disclosure decisions. The summonses were withdrawn after the producing parties agreed to produce the required documents to the Board on a confidential basis. The producing parties made submissions to the Board on May 19, 2003 requesting that the documents be handled in the hearing on a confidential basis. They also requested that when those documents were the subject of testimony, that those portions of the hearing be held in camera. The Board ruled that the documents would be handled on a confidential basis. Given the large number of documents to be handled confidentially, the Board decided that the hearing would be closed to the public while those documents were being discussed.

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The Board directed the producing parties to meet with Board Counsel to review the transcripts from the in camera sessions to discuss which portions of the transcripts actually needed to be kept confidential. As a result of those meetings, the parties were able to agree that only relatively short portions of the transcripts needed to be kept confidential. These redacted transcripts were then placed on the public record. A similar process is being followed for undertaking responses and the written arguments of parties as they pertain to confidential evidence.

## 7.2 Board Findings

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The refusal by EGDI and its affiliates to produce relevant information in response to interrogatories, coupled with the delay by the intervenors in bringing this disclosure issue to the Board, put the Board in a difficult position. On the one hand, there was the need to address the legitimate problem of non-disclosure of relevant information. Disclosure is a critical part of the Board's process. That is why the Board has an interrogatory process. On the other hand, there was the need to complete the hearing process in a timely fashion, given the Board's crowded regulatory agenda. While the Board's approach to the problem was a pragmatic one under the circumstances, it was not ideal. Section 9 of the Statutory Powers and Procedures Act ("SPPA") provides that hearings are to be public unless the tribunal is of the opinion that:

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intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclo-

sure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public.

The Board's process would have been better served if it had been afforded more time to address the issue of confidentiality.

While the Board recognizes that EGDI's refusal to produce relevant information was based in part on the fact that the information was in the hands of affiliates, the Board must point out that EGDI along with its affiliates and EI, its parent, have adopted a common management approach that is based on the concept of "one company, one vision", as it is described in company documents. EGDI bears the burden of proof to establish that the rates it is requesting are just and reasonable. In the absence of relevant information sufficient to discharge this burden, it is always open to the Board to turn down a rates application or disallow specific costs that the applicant seeks to recover in rates. However, the Board is charged with determining just and reasonable rates and is required to act in the public interest, in a balanced and fair manner. To be able to do this properly, the Board requires sufficient information about all of the costs that EGDI seeks to recover in rates.

The disclosure issue first arose in the RP-2001-0032 proceeding. During the course of that proceeding, EGDI was asked to canvas its affiliates with respect to their willingness to disclose information in their possession related to the costs incurred to provide services to EGDI. EGDI reported back that the affiliates declined to produce such information. In its decision, the Board stated, at paragraph 5.11.25:

In the past, the Board has not generally closely examined ECG's arrangements to enter into discrete contracts with unrelated third parties to provide services such as pipeline construction and appliance inspection. However, as the Board has previously noted, due to the extent and nature of the services being outsourced, the Board has a number of concerns with respect to ECG's outsourcing arrangements. The Board expects ECG and all of its affiliates to co-operate fully with the Board and intervenors in providing all necessary information to enable the Board to continue proper regulatory oversight of the utility.

At paragraph 6.2.14, the Board stated:

ECG's general approach to disclosure in this proceeding has not been helpful. In order for the Board to fulfill its mandate, it must first understand the operations of the utility and the business model it is operating within. This can only be accomplished by the utility providing the Board with clear and concise explanations of its operations and business processes. Without full and complete disclosure it is difficult for the Board to understand the business of the utility and to be "lighthanded" in the Board's regulatory approach.

and at paragraph 6.2.21:

The Board has always relied on the good faith of the utilities in making timely, complete and accurate disclosure of all information relevant to the operations of the utility, whether or not the specific information has a direct impact on the Board's rate-making function. If

this is no longer the case, the Board will have no alternative but to consider other regulatory tools available to it, such as: including conditions regarding disclosure in orders, requiring the preparation of evidence pursuant to subsection 21(1) of the Act, and making rules pursuant to paragraphs 44(1)(f) or (g) of the Act.

Notwithstanding this, in the present proceeding, EGDI and its affiliates chose not to disclose relevant information during the course of interrogatory process, and resisted the Board's direction to produce that information until the Board issued summonses.

As a result of its experience with the issues of disclosure and confidentiality in this proceeding, the Board has reached the following conclusions.

First, the Board's process is not served well by having to issue summonses to obtain evidence that should be made available during the interrogatory process. The Board's discovery process should be completed well in advance of the commencement of the oral hearing and any disclosure issues that arise during the discovery stage should be brought to the Board as early as possible if they cannot be resolved amongst the parties. The Board expects intervenors to raise disclosure issues as early as possible and to avoid waiting until the oral proceeding begins and to make timely use of the procedures for compelling disclosure that are provided for in the Board's rules of practice.

Secondly, given that EGDI and its affiliates operate on a shared management philosophy, it is inappropriate for EGDI and its affiliates to refuse to disclose information simply on the basis that EGDI, as the applicant, has no control over information in the possession of affiliates. The fact that EGDI chooses to outsource various functions to its affiliates does not mean that the cost to provide those functions is no longer within the purview of the Board's jurisdiction. Therefore, the Board requires EGDI to inform all affiliates of their responsibility to provide relevant information required by the Board to carry out its statutory mandate.

Thirdly, the Board expects that any confidentiality issues arising out of the disclosure process will be dealt with well in advance of the commencement of any oral proceeding. If EGDI or any of its affiliates wish to claim confidentiality in relation to a particular document, the Board expects the document to be carefully reviewed to minimize the amount of redaction requested. The treatment of evidence on a confidential basis not only creates significant logistical difficulties but also curtails the public's ability to observe and participate in the Board's proceedings.



**EB-2008-0304**

**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  
Westcoast Energy Inc. and Union Gas Limited for  
leave pursuant to section 43(2) of the *Ontario Energy  
Board Act, 1998* (the "Act") for the transfer of a  
controlling interest in Union Gas Limited to a limited  
partnership;

**AND IN THE MATTER OF** an Application by  
Westcoast Energy Inc. and Union Gas Limited  
pursuant to section 21(4) of the Act for the Board to  
dispose of this application without a hearing.

### **DECISION AND ORDER**

On September 15, 2008 Westcoast Energy Inc. ("Westcoast") and Union Gas Limited ("Union") filed an application pursuant to section 43(2) of the *Ontario Energy Board Act, 1998* requesting leave of the Board to transfer a controlling interest in Union from Westcoast to a limited partnership to be organized under the laws of Ontario.

On October 15, 2008, the Board granted intervenor status to four parties, the School Energy Coalition ("SEC"), the City of Kitchener, the Consumers Council of Canada ("CCC") and the Canadian Manufacturers and Exporters Association ("CME"). On November 6<sup>th</sup>, the Board was advised that the CCC would be taking no position on the matter. On the same day, the Board received a letter from the Industrial Gas Users Association ("IGUA") providing comments pursuant to Rule 24. IGUA is not an intervenor.

Union would proceed with the restructuring in the first year of the Incentive Rate Program which is, in fact, exactly what happened.

A public utility in Ontario with a monopoly franchise is not a garden variety corporation. It has special responsibilities which form part of what the courts have described as the “regulatory compact”. One aspect of that regulatory compact is an obligation to disclose material facts on a timely basis. As stated recently by Mr. Justice Lederman in the case of *Toronto Hydro-Electric System Limited v. Ontario Energy Board* [2008] OJ No 3904(QL), para 78.

“At the heart of a regulator’s rate-making authority lies the “regulatory compact” which involves balancing the interests of investors and consumers. In this regard, there is an important distinction between private corporations and publicly regulated corporations. With respect to the latter, in order to achieve the “regulatory compact”, it is not unusual to have constraints imposed on utilities that may place some restrictions on the board of directors. That is so because the directors of utility companies have an obligation not only to the company, but to the public at large.”

Failure to disclose has at least two unfortunate consequences. First, it can only result in less than optimum Board decisions. Second, it adds to the time and cost of proceedings. Neither of these are in the public interest.

A publicly regulated corporation is under a general duty to disclose all relevant information relating to Board proceedings it is engaged in unless the information is privileged or not under its control. In so doing, a utility should err on the side of inclusion. Furthermore, the utility bears the burden of establishing that there is no reasonable possibility that withholding the information would impair a fair outcome in the proceeding. This onus would not apply where the non-disclosure is justified by the law of privilege but no privilege is claimed here.

It should be understood that this obligation is a corporate responsibility. Mr. Penny and Mr. Packer were both involved with the incentive rate