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June 18, 2012

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

Dear Ms. Walli:

Re: EB-2012-0087
Union Gas Limited – CME Submissions

We are counsel to Union Gas Limited in the above-noted matter. We are writing in response to counsel for CME's letter dated June 18, 2012 and further to our letter of the same date.

Like FRPO, CME requests a technical conference in this matter. It does not point to any aspect of Union's evidence in the case which requires clarification, other than a broad assertion that further evidence is required in respect of upstream transportation activities that take advantage of TCPL's FT-RAM program. In addition to the reasons set out in our earlier letter, it is Union's position that a technical conference would serve no useful purpose. Why? Because the Board has already addressed this issue.

Contrary to CME's letter, upstream optimization is a recognized, and accepted feature of Union's incentive regulation mechanism. In EB-2008-0220, the Board considered the issue in relation to TCPL's Dawn Overrun Service (DOS-MN); whether revenues associated with that service should flow to ratepayers or be treated as transactional revenues not subject to deferral but shared with ratepayers pursuant to the existing earnings sharing mechanism. In that case, CME argued that,

> In Ex. B2.2, Union indicates that it has contracted for what CME understands to be some cheaper upstream transportation made available by TCPL. The interrogatory response states "Union is not treating any benefit associated with the use of the DOS-MN as a Y Factor." CME questions why reductions in upstream transportation costs are not being flowed through to the benefit of union's ratepayers.[1]

[1] EB-2008-0220, Argument of CME, p. 10

The Board disagreed. It held at pages 8-9:

> Upstream Transportation Changes
>
> Union noted that pursuant to the Settlement Agreement [EB-2007-0606 in which S&T deferral accounts were eliminated] ratepayers were credited with a fixed amount reflecting a forecast performance of its transactional services business. Union also noted that the increased capacity that is associated with the Dawn Overrun Service may have benefits for ratepayers pursuant to the earnings sharing mechanism that continues in place. In other words, ratepayers have been already credited with an amount intended to reflect the transactional services activity of the company. Any additional revenues which may be occasioned by the new TransCanada service will not accrue under this heading, but may lead to earnings sharing distribution.
>
> The Board finds Union's explanation with respect to this concern, which was raised by IGUA [CME] in its submissions, to be convincing. In the Board's view this is a fair approach that is consistent with the general architecture of the IRM plan and the Settlement Agreement. (Emphasis Added.)

In Union's 2008 earnings sharing proceeding (EB-2009-0101) Union further explained its upstream optimization activities including its use of TCPL's FT-RAM program, as follows (Ex. B1, T1, Sch.4):

> Over the last number of years, end use customers have been decontracting firm long haul transportation capacity in favour of recontracting shorter term short haul transportation and commodity purchases at Dawn. This reflects in part a desire by end use customers for shorter term contracts and a lower long term transport contract commitment and related financial exposure.
>
> The increased demand for shorter term short haul services has provided Union with the opportunity to sell increased transportation and exchange services into the market. These services are for terms as short as one day. As described in Exhibit A, Page 7 of 29, lines 10 to 15, to both respond to and support this increased market demand and provide the customer support for these transactions, Union increased its Chatham-based sales staff by two positions in 2008, refocused the contract and customer support staff and initiated process and IT systems changes. The overall objective was to capitalize on these opportunities and optimize and market Union's assets and related services.
>
> Union also focused on further optimizing its upstream supply portfolio. Union was able to extract value from new services introduced by upstream transportation providers in excess of what was achieved historically. An example of these new services includes TCPL's Firm Transport Risk Alleviation Mechanism (FT-

RAM), Storage Transportation Service Risk Alleviation Mechanism (STS-RAM), and Dawn Overrun Service - Must Nominate (DOS-MN). These new services provided increased opportunities for transportation and exchange transactions in the market. These opportunities were also influenced by favourable market conditions experienced in 2008.

By Decision and Rate Order dated June 18, 2009 the Board approved an earnings sharing amount available for distribution to ratepayers of $34.461 million (credit). Consistent with Ex. B1, T1, Sch.4, above, this amount reflected revenues associated with TCPL's FT-RAM program. Union's existing application mirrors this treatment.

Should you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

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CS/tm

cc: All EB-2012-0087 Intervenors
Michael Millar, Board Staff