

July 24, 2012

Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

**RE: EB-2011-0210 – Union Gas Limited – 2013 Rates Application – Day 5
Undertaking Responses**

Dear Ms. Walli,

Please find attached Union's responses to the undertakings from Day 5 of the oral hearing for EB-2011-0210 with the exception of J5.1.

Yours truly,

[original signed by]

Chris Ripley
Manager, Regulatory Applications

cc: Crawford Smith, Torys
EB-2011-0210 Intervenors

UNION GAS LIMITED

Undertaking of Mr. Aiken
To Mr. Broeders

Please calculate actual equity component.

The actual equity components are at a point in time and for the total company (regulated and unregulated business).

	<u>December 2011</u>	<u>June 2012</u>
Preference shares	2.85%	2.96%
Common equity	<u>33.29%</u>	<u>36.50%</u>
Total	<u>36.14%</u>	<u>39.46%</u>

UNION GAS LIMITED

Undertaking of Mr. Brett
To Mr. Broeders

Please file undertakings given by Spectra to the OEB or Government in the context of assessing the risk of Union Gas, with reference to Standard & Poor's report filed at Exhibit A3, Tab 6.

Please see the Attachment.



Ontario
Executive Council
Conseil des ministres

Order in Council
Décret

Filed: 2012-07-24
EB-2011-0210
Exhibit J5.3
Attachment

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and concurrence of the Executive Council, orders that:

Sur la recommandation du soussigné, le lieutenant-gouverneur, sur l'avis et avec le consentement du Conseil des ministres, décrète ce qui suit :

WHEREAS Westcoast Energy Inc., 1001142 Ontario Inc., Union Energy Inc., Union Gas Limited, and Union Shield Resources Ltd. provided Undertakings dated the 27th day of November, 1992 to the Lieutenant Governor in Council and these Undertakings were referred to in Order in Council No. 3639/92;

AND WHEREAS Enbridge Inc. (previously IPL Energy Inc.) and The Consumers' Gas Company Ltd. provided Undertakings dated the 21st day of June, 1994 to the Lieutenant Governor in Council and these Undertakings were referred to in Order in Council No. 1606/94;

AND WHEREAS, with the receipt of Royal Assent for the *Energy Competition Act, 1998* on the 30th day of October, 1998, it is considered expedient to approve new Undertakings provided by Union Gas Limited, Centra Gas Utilities Inc., Centra Gas Holdings Inc., Westcoast Gas Inc., Westcoast Gas Holdings Inc. and Westcoast Energy Inc. and by The Consumers' Gas Company Ltd., Enbridge Consumers Energy Inc., 311594 Alberta Ltd., Enbridge Pipelines (NW) Inc. and Enbridge Inc. (the "New Undertakings");

NOW THEREFORE the New Undertakings, attached hereto, are accepted and approved.

Recommended

Minister of Energy, Science & Technology

Concurred

Chair of Cabinet

Approved & Ordered

DEC 9 - 1998

Date

Lieutenant Governor

**UNDERTAKINGS OF UNION GAS LIMITED,
CENTRA GAS UTILITIES INC., CENTRA GAS HOLDINGS INC.,
WESTCOAST GAS INC., WESTCOAST GAS HOLDINGS INC.,
WESTCOAST ENERGY INC.**

TO: Her Honour The Lieutenant Governor in Council for the Province of Ontario

WHEREAS Centra Gas Utilities Inc. holds all the issued and outstanding common shares of Union Gas Limited ("Union");

AND WHEREAS Centra Gas Holdings Inc. holds all the issued and outstanding common shares of Centra Gas Utilities Inc.;

AND WHEREAS Westcoast Gas Inc. holds all the issued and outstanding common shares of Centra Gas Holdings Inc.;

AND WHEREAS Westcoast Gas Holdings Inc. holds all the issued and outstanding common shares of Westcoast Gas Inc.;

AND WHEREAS Westcoast Energy Inc. holds all the issued and outstanding common shares of Westcoast Gas Holdings Inc. ("Westcoast");

the above named corporations do hereby agree to the following undertakings:

1.0 Definitions

In these undertakings,

- 1.1 "Act" means the *Ontario Energy Board Act, 1998*;
- 1.2 "affiliate" has the same meaning as it does in the *Business Corporations Act*;
- 1.3 "Board" means the Ontario Energy Board;
- 1.4 "business activity" has the same meaning as it does under the Act or a regulation made under the Act; and
- 1.5 "electronic hearing", "oral hearing" and "written hearing" have the same meaning as they do under the *Statutory Powers Procedure Act*.

2.0 Restriction on Business Activities

- 2.1 Union shall not, except through an affiliate or affiliates, carry on any business activity other than the transmission, distribution or storage of gas, without the prior approval of the Board.

3.0 Maintenance of common equity

- 3.1 Where the level of equity in Union falls below the level which the Board has determined to be appropriate in a proceeding under the Act or a predecessor Act, Union shall raise or Westcoast and its affiliates shall provide within 90 days, or such longer period as the Board may specify, sufficient additional equity capital to restore the level of equity in Union to the appropriate level.

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3.2 Any additional equity capital provided to Union by Westcoast or its affiliates shall be provided on terms no less favourable to Union than Union could obtain directly in the capital markets.

4.0 Head Office

4.1 The head office of Union shall remain in the Municipality of Chatham-Kent.

5.0 Prior Undertakings

5.1 These undertakings supersede, replace and are in substitution for all prior undertakings of Union, Westcoast and their affiliates.

6.0 Dispensation

6.1 The Board may dispense, in whole or in part, with future compliance by any of the signatories hereto with any obligation contained in an undertaking.

7.0 Hearing

7.1 In determining whether to grant an approval under these undertakings or a dispensation under Article 6.1, the Board may proceed without a hearing or by way of an oral, written or electronic hearing.

8.0 Monitoring

8.1 At the request of the Board, Union, Westcoast and their affiliates will provide to the Board any information the Board may require related to compliance with these undertakings.

9.0 Enforcement

9.1 The parties hereto acknowledge that there has been consideration exchanged for the receipt and giving of the undertakings and agree to be bound by these undertakings.

9.2 Any proceeding or proceedings to enforce these undertakings may be brought and enforced in the courts of the Province of Ontario and Westcoast, Union and their affiliates hereby submit to the jurisdiction of the courts of the Province of Ontario in respect of any such proceeding.

9.3 For the purpose of service of any document commencing a proceeding in accordance with Article 9.2, it is agreed that Union is the agent of Westcoast and its affiliates and that personal service of documents on Union will be sufficient to constitute personal service on Westcoast and its affiliates.

10.0 Release from undertakings

10.1 Westcoast, Union and their affiliates are released from these undertakings on the day that Westcoast no longer holds, either directly or through its affiliates, more than 50 per cent of the voting securities of Union or on the day that Union sells its gas transmission and gas distribution systems.

11.0 Effective Date

11.1 These undertakings become effective on March 31, 1999.

12/15/98 TUE 08:44 FAX 416 496 5291

12/11/98 11:58 FAX 416 326 6981

UNION GAS EXECUTIVE
M.E.S.T.

+++ REGULATORY CHATH 008
007

DATED this 7th ⁵ day of December, 1998.

UNION GAS LIMITED

by *[Signature]*

CENTRA GAS UTILITIES INC.

by *[Signature]*

CENTRA GAS HOLDINGS INC.

by *[Signature]*

WESTCOAST GAS INC.

by *[Signature]*

WESTCOAST GAS HOLDINGS INC.

by *[Signature]*

WESTCOAST ENERGY INC.

by *[Signature]*

**UNDERTAKINGS OF THE CONSUMERS' GAS COMPANY LTD.,
ENBRIDGE CONSUMERS ENERGY INC., 311594 ALBERTA LTD.,
ENBRIDGE PIPELINES (NW) INC. AND ENBRIDGE INC.**

TO: Her Honour The Lieutenant Governor in Council for the Province of Ontario

WHEREAS Enbridge Consumers Energy Inc. holds all of the issued and outstanding common shares of The Consumers' Gas Company Ltd. ("Consumers");

AND WHEREAS 311594 Alberta Ltd. holds all of the issued and outstanding common shares of Enbridge Consumers Energy Inc.;

AND WHEREAS Enbridge Pipelines (NW) Inc. holds all of the issued and outstanding common shares of 311594 Alberta Ltd.;

AND WHEREAS Enbridge Inc. ("Enbridge") holds all of the issued and outstanding common shares of Enbridge Pipelines (NW) Inc.;

the above named corporations do hereby agree to the following undertakings:

1.0 Definitions

In these undertakings,

1.1 "Act" means the Ontario Energy Board Act, 1998;

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- 1.2 "affiliate" has the same meaning as it does in the *Business Corporations Act*;
- 1.3 "Board" means the Ontario Energy Board;
- 1.4 "business activity" has the same meaning as it does under the Act or a regulation made under the Act; and
- 1.5 "electronic hearing", "oral hearing" and "written hearing" have the same meaning as they do under the *Statutory Powers Procedure Act*.
- 2.0 **Restriction on Business Activities**
- 2.1 Consumers shall not, except through an affiliate or affiliates, carry on any business activity other than the transmission, distribution or storage of gas, without the prior approval of the Board.
- 3.0 **Maintenance of common equity**
- 3.1 Where the level of equity in Consumers falls below the level which the Board has determined to be appropriate in a proceeding under the Act or a predecessor Act, Consumers shall raise or Enbridge and its affiliates shall provide within 90 days, or such longer period as the Board may specify, sufficient additional equity capital to restore the level of equity in Consumers to the appropriate level.
- 3.2 Any additional equity capital provided to Consumers by Enbridge or its affiliates shall be provided on terms no less favourable to Consumers than Consumers could obtain directly in the capital markets.

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4.0 Head Office

4.1 The head office of Consumers shall remain within the franchise area of Consumers.

5.0 Prior Undertakings

5.1 Subject to Article 5.2, these undertakings supersede, replace and are in substitution for all prior undertakings of Consumers, Enbridge and their affiliates.

5.2 The undertakings of British Gas PLC and Consumers dated June 16th, 1994 and approved by the Lieutenant Governor in Council on June 23rd, 1994, remain in full force and effect.

6.0 Dispensation

6.1 The Board may dispense, in whole or in part, with future compliance by any of the signatories hereto with any obligation contained in an undertaking.

7.0 Hearing

7.1 In determining whether to grant an approval under these undertakings or a dispensation under Article 6.1, the Board may proceed without a hearing or by way of an oral, written or electronic hearing.

8.0 Monitoring

8.1 At the request of the Board, Consumers, Enbridge and their affiliates will provide to the Board any information the Board may require related to compliance with these undertakings.

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9.0 Enforcement

9.1 The parties hereto acknowledge that there has been consideration exchanged for the receipt and giving of the undertakings and agree to be bound by these undertakings.

9.2 Any proceeding or proceedings to enforce these undertakings may be brought and enforced in the courts of the Province of Ontario and Enbridge, Consumers and their affiliates hereby submit to the jurisdiction of the courts of the Province of Ontario in respect of any such proceeding.

9.3 For the purpose of service of any document commencing a proceeding in accordance with Article 9.2, it is agreed that Consumers is the agent of Enbridge and its affiliates and that personal service of documents on Consumers will be sufficient to constitute personal service on Enbridge and its affiliates.

10.0 Release from undertakings

10.1 Enbridge, Consumers and their affiliates are released from these undertakings on the day that Enbridge no longer holds, either directly or through its affiliates, more than 50 per cent of the voting securities of Consumers or on the day that Consumers sells its gas transmission and gas distribution systems.

11.0 Effective Date

11.1 These undertakings become effective on March 31, 1999.

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DATED this 7th day of December, 1998.

THE CONSUMERS' GAS COMPANY LIMITED

by T. T. [Signature]
[Signature]

ENBRIDGE CONSUMERS ENERGY INC.

by T. T. [Signature]
[Signature]

311594 ALBERTA LTD.

by [Signature]
[Signature]

ENBRIDGE PIPELINES (NW) INC.

by [Signature]
[Signature]

ENBRIDGE INC.

by [Signature]
[Signature]

UNION GAS LIMITED

Undertaking of Ms. Taylor
To Mr. Broeders

Please restate the tables to show situation at 36 percent and 40 percent.

The attached schedule shows Union's capital structure proposed to finance the 2013 utility rate base at 40 percent common equity and what the capital structure would look like at 36 percent common equity.

The capital structure is established to finance utility ratebase to arrive at the cost of capital included in the test year revenue requirement. Utility ratebase for 2013 as per the settlement agreement is \$3,713,887,000. The proposed capital structure is:

- 40 % common equity;
- the utility portion of preferred shares; and
- the utility portion of the long term debt
- the balance is short-term debt.

In the proposed case the long-term debt reflects Union's actual long-term debt as at December 31, 2011 plus a new issue of \$100 million in October 2012.

Adjusting to the 36% common equity scenario decreases the common equity component and increases the short-term debt component to balance. In this case the resulting short-term debt maximizes the short-term borrowings requiring a long-term debt issue of \$ 200 million in September 2013 to rebalance. The resulting capital structure has a smaller negative short-term component than the proposed structure.

The difference between Union's actual short-term borrowings and the amount included in the utility capital structure relates to the financing of items not included in rate base, these include construction work in process (CWIP), pension contributions in excess of amounts expensed.

UNION GAS LIMITED
Summary of Cost of Capital
Calendar Year Ending December 31, 2013

Line No.	Particulars	Utility Capital Structure		Cost Rate % (c)	Requested Return (\$000's) (d)
		(\$000's)	(%)		
		(a)	(b)		
Per Settlement Agreement at proposed Common equity component of 40%					
1	Long-term debt	2,234,597	60.17	6.53%	145,957
2	Unfunded short-term debt	(108,513)	(2.92)	1.31%	(1,422)
3	Total debt	2,126,084	57.25		144,535
4	Preference shares	102,248	2.75	3.05%	3,117
5	Common equity	1,485,555	40.00	9.58%	142,316
6	Total rate base	3,713,887	100.00		289,969
Per Settlement Agreement at assumed Common equity component of 36%					
7	Long-term debt	2,289,139	61.64	6.47%	148,138
8	Unfunded short-term debt	(14,499)	(0.39)	1.31%	(190)
9	Total debt	2,274,639	61.25		147,948
10	Preference shares	102,248	2.75	3.05%	3,117
11	Common equity	1,336,999	36.00	9.58%	128,085
12	Total rate base	3,713,887	100.00		279,150
		Long-term debt	Short-term debt	Preference shares	Common equity
13	Balance at 40% (Lines 1,2,4,5)	2,234,597	(108,513)	102,248	1,485,555
14	Common equity reduction to 36% (Line 6, col (a) x 4%)		148,556		(148,556)
15	Sept 2013 - \$200 million long-term debt issue	54,542	(54,542)		
16		2,289,139	(14,499)	102,248	1,336,999

UNION GAS LIMITED

Undertaking of Mr. Millar
To Mr. Broeders

Please show how the interest coverage ratio of less than two for the regulated side was reached.

The interest coverage ratio is calculated by dividing available earnings by the interest requirement. Available earnings are defined as net income before long-term interest and income taxes. The interest requirement is a pro-forma value of the long-term interest expense giving effect to new debt issues and any retirements. i.e. it recognizes the annualized interest of debt in existence at the date of the calculation.

Attachment 1 shows the interest coverage ratios calculated as follows:

- 2010 & 2011 excluding the sufficiency and for actual results
- 2012 & 2013 excluding the sufficiency/deficiency and for estimated results
- 2013 assuming a 36% common equity component and 9.58% ROE
- 2013 assuming a 37.25% common equity component and 9.58% ROE as proposed by SEC per K5.1 page 2
- 2013 assuming a 36% common equity component and updated for the June ROE formula of 9.10%

Based on the capital structure and related return the only instance where the Utility company would be in a position to issue debt on its own merit is when the common equity component is 40% since the interest coverage ratio is above the required 2.0. Only by including the unregulated operations to supplement the utility business would Union be able to exceed the requirement.

On an actual basis the regulated business was above the required 2.0 due to earning above the allowed ROE.

Line No	Particulars (\$000s)	2010 Actual E6 T1 S1 (a)	2011 Actual E5 T1 S1 (b)	2012 Estimate E4 T1 S1 (c)	2013 J5.4 - 40% Common Equity (d)	2013 J5.4 - 36% Common Equity (e)	2013 K5.1 pg 2 - 37.25% Common Equity (f)	2013 36% Equity 9.10% ROE (g)
1	Long-term debt	147,329	142,509	143,680	145,957	148,138	135,809	148,138
2	Unfunded short-term debt	1,074	1,312	1,679	-1,422	-190	1,946	-190
3		<u>148,403</u>	<u>143,821</u>	<u>145,359</u>	<u>144,535</u>	<u>147,948</u>	<u>137,755</u>	<u>147,948</u>
4	Preference shares	2,670	3,075	2,892	3,117	3,117	3,115	3,117
5	Common equity	<u>109,765</u>	<u>104,488</u>	<u>107,391</u>	<u>142,316</u>	<u>128,085</u>	<u>132,532</u>	<u>121,667</u>
6		<u>112,435</u>	<u>107,563</u>	<u>110,283</u>	<u>145,433</u>	<u>131,202</u>	<u>135,647</u>	<u>124,784</u>
7	Return	260,838	251,384	255,642	289,969	279,150	273,402	272,732
8	Add (deduct) unfunded short-term debt (Line 2)	-1,074	-1,312	-1,679	1,422	190	-1,946	190
9	Increase return by income tax expense ⁽¹⁾	30,214	33,119	18,560	9,989	9,989	9,989	9,989
10	Adjust actual taxes for deficiency(sufficiency) ⁽²⁾	<u>-13,707</u>	<u>-16,694</u>	<u>-1,527</u>	<u>14,232</u>	<u>9,361</u> ⁽⁴⁾	<u>10,883</u> ⁽⁵⁾	<u>7,164</u> ⁽⁶⁾
11	Available Earnings based on approved/proposed capital structure (sum of Lines 7 to 10)	276,271	266,497	270,996	315,611	298,690	292,328	290,075
12	Regulated interest requirement ⁽³⁾	143,152	141,135	144,596	144,134	151,520	151,520	151,520
13	Utility interest coverage ratio based on interest requirement (Line 11 / Line 12)	<u>1.93</u>	<u>1.89</u>	<u>1.87</u>	<u>2.19</u>	<u>1.97</u>	<u>1.93</u>	<u>1.91</u>
14	(Deficiency)/Sufficiency	<u>44,069</u>	<u>62,449</u>	<u>11,963</u>	<u>-56,580</u>			
15	Actual Utility Available Earnings (Line 11 + Line 14)	320,340	328,946	282,959	259,031			
16	Actual/Projected Utility Interest Coverage Ratio (Line 15 / Line 12)	<u>2.24</u>	<u>2.33</u>	<u>1.96</u>	<u>1.80</u>			

Notes

- Exhibit D1, Summary Schedule 1, line 7, columns (b), (c), (d) respectively
2013 - Settlement Agreement, Appendix B, Schedule 2, Line 13
- Exhibits F6, F5, F4, Tab 1 Schedule 1, Line 6, column (a)
2013 - Settlement Agreement, Appendix B, Schedule 1, Line 6
- The interest requirement gives effect to maturities and new issues to annualize the interest expense for debt issues that exist at the end of the period. See Attachment 2
- Adjusted for reduction in equity from 40% to 36% in line 5, $14,232 + (128,085 - 142,316) / (1 - 25.5\%) * 25.5\% = 9,361$
- Adjustment for reduction in equity from 40% to 37.25% in line 5, $14,232 + (132,532 - 142,316) / (1 - 25.5\%) * 25.5\% = 10,883$
- Adjustment for reduction in ROE from 9.58% to 9.10% in line 5, $14,232 + (121,667 - 142,316) / (1 - 25.5\%) * 25.5\% = 7,164$

UNION GAS LIMITED

Undertaking of Mr. Millar
To Mr. Broeders

Please explain what portion of preference equity is treated as debt versus equity by the auditors.

With the change to US GAAP all of Union's preference shares are classified as equity.