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August 10, 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 – Response Pursuant to Procedural Order No. 2**

This submission by Union Gas Limited ("Union") responds to the August 3, 2012 submission by the Canadian Manufacturers' & Exporters ("CME") and the Federation of Rental Housing Providers of Ontario ("FRPO") (the "CME/FRPO Letter") regarding the issue or issues that should be addressed at the Technical Conference for this proceeding presently scheduled for August 21, 2012. This submission is made pursuant to paragraph 2 of Procedural Order No. 2 in this proceeding dated June 27, 2012.

Two questions are raised by the CME/FRPO Letter:

- 1) The narrow question as to whether there should be a technical conference and, if so, when and in relation to which issues.
- 2) The broader question as to how, procedurally, this proceeding should be managed having regard to the extant 2013 rebasing application (EB-2011-0210) (the "2013 Application").

***The narrow question.*** As the CME/FRPO Letter acknowledges, the factual allegations relating to upstream transportation optimization revenue raised in that letter have already been raised by these parties in the 2013 Application. Union strongly believes that the Board should not revisit either the amounts previously cleared pursuant to Final Rate Orders or the terms of the incentive regulation mechanism as, in effect, urged by the CME/FRPO Letter, whether in this proceeding or in the 2013 Application. Union also disagrees with the tone and content of the CME/FRPO Letter and considers it improper. Nevertheless, having regard to the fact that CME and FRPO have raised these issues in the 2013 Application, it is Union's view that the technical conference in this proceeding should be adjourned to a later date. There is no utility in

having the technical conference at this time. The issue of the treatment of upstream transportation optimization revenue should not be considered until after the Board has rendered its decision on the 2013 Application. The CME/FRPO Letter admits as much. Having the matter determined at this time risks inconsistent decisions by the Board in relation to the same issue in two different proceedings and based on the same evidence.

One final observation in relation to this question. In Procedural Order No. 2, the Board asked for an outline of the issue or issues to be addressed at the technical conference. In response, CME and FRPO filed a five-page letter, exclusive of attachments, which largely amounts to argument as to the purported merits of their position. It is respectfully submitted that a letter of this nature is entirely inconsistent with the Board's Order. As outlined above, Union does not agree with the CME/FRPO Letter. A comprehensive response, however, would not be appropriate at this time.

***The broader question.*** If the issues in relation to upstream transportation optimization revenue and their impact should not be determined at this time, the question remains how best to deal with this proceeding going forward. Union respectfully submits that the Board should continue with the proceeding in relation to all other issues while adjourning the upstream transportation optimization revenue and related earnings sharing issues to a date to be determined following the release of the Board's decision on the 2013 Application. Union is not aware, at this time, of any concerns in relation to the other issues, nor did any party request a technical conference in relation thereto. As a result, Union believes that the other issues can be dealt with expeditiously either by way of settlement or brief hearing. There is precedent for this approach. In EB-2010-0039, Union's 2009 Deferral Account and Earnings Sharing Proceeding, the parties were able to reach a settlement in relation to all non-Dawn Gateway related issues and a Final Rate Order was issued by the Board. The Dawn Gateway issues were then adjourned to a later date having regard to the uncertainty that then surrounded the project.

Yours truly,

*[original signed by]*

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cc: All EB-2012-0087 Intervenors  
Michael Millar/Kristi Sebalj, Board Staff  
Paul Clipsham, (CME)