EB-2011-0210

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 approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas effective January 1, 2013.

Speaking Notes for Oral Argument
Energy Probe Research Foundation

August 23, 2012

EB-2011-0210 Energy Probe Research Foundation
Oral Argument

Overview
Part A will deal with the 2013 Revenue Requirement and
Part B with Cost allocation, Rate design and Rate implementation

A. 2013 Revenue Requirement

The background to the EB-2011-0210 Application is that Union has completed 5 years of regulation during which rates were set by of a Rate Cap Incentive Regulation Mechanism. That has resulted in distribution rates being “flat” (at or below inflation) and has driven out productivity improvements and at the same time allowed Union to significantly exceed its allowed return on equity. That can be seen at J.E-3-5-1.

When the EB-2011-2010 Application for 2013 Rates and Rebasing was filed ratepayers were expecting that the Company would receive an increase in its allowed return in equity following the Boards new Cost of Capital Guidelines and this would increase the 2013 revenue requirement and increase rates.

However, as a ratepayer oriented intervenor we were surprised to see the size of the 2013 revenue requirement and the significant increase in Revenue Deficiency and distribution rates particularly in the North.

Even after a $17.3 million reduction in deficiency from the ADR Settlement, the distribution rate impacts average 6% (J11.10,). This translates to 1.7 percent increase on a typical Southern residential customer's total bill, representing about $1.05 per month. In the north, the bill increases are 7.5 percent for an average residential customer or $5.00 per month.

Union in its AIC (page 4) represents these increases “just and reasonable” using as its measure total bill impacts rather than Distribution rates.

Union claims these increases are in line with the Board’s rate mitigation Guidelines. However, later in its AIC it acknowledges that these rate mitigation Guidelines (EB-2010-0378) are applicable to Electric Distributors and as such are not necessarily appropriate for Gas utilities. We note the different bill structure for gas and electricity.

Given the level of these impacts it is difficult to understand why Union could not have either deferred or phased in its potentially costly proposals to change weather methodology and to increase its Equity thickness. We will address mitigation measures at the end of our submission.

The Updated 2013 Revenue Deficiency as filed was $71.378 million
The Settlement Agreement reached by the parties has Settled 2013 Capital and Operating costs and reduced the 2013 revenue deficiency to $54.524 million.

The major drivers of this remaining $54 million deficiency are shown at A2, tab 1, schedule 1 Updated and listed qualitatively at Page 3 of Union's Argument in Chief (AIC)

- the change in capital structure, ($17.3 million before tax)
- the change in weather methodology applicable to general service volume forecasts ($ 6.5 million)
- a shortfall in General Service market revenues.($13 million)

In addition as we will argue, even though Contract Market Revenue is increased over 2007, the 2013 forecast is understated.

As you will be fully aware a great deal of this proceeding has been focused on historic and test year gas supply plans and the cost consequences resulting from Storage and Transportation (S&T) Transactional Services (TS)related to those plans. We will provide our perspective on the issues.

The main issues, covered in our Argument are as follows:

1. The proposed full adoption of the 20-year declining trend weather methodology and

2. Whether Union's forecast of
   a) General Service
   b) Contract and
   c) Ex-franchise

   Market revenues for 2013 is reasonable.

3. Is the gas supply plan for 2013 appropriate? And
   i) Have ratepayers been disadvantaged by historic transportation optimization activities
   ii) What protection should be afforded ratepayers in 2013 (see issue 6)

4. Is Union's proposed Cost of Capital and its proposal to increase its common equity ratio to 40 percent appropriate?

5. Is Union's plan for Parkway West Loss of Critical Unit (LCU) appropriate and what, if any direction the Board should provide in this application.

6. Deferral and Variance accounts for 2013, including the S&T short-term storage deferral account.

We will summarize our proposed changes/reductions and estimates of these on the

2013 revenue deficiency at the end Part A.

In Part B we will address Cost Allocation and Rate design proposals put forward by Union, including changes affecting 2014 rates.

Finally we will revisit the issue of Rate Mitigation

2013 volume and revenue forecast

Union's Evidence is that the demand forecast combines four separate estimation steps:

> i. Estimate of the total number of billed customers for each rate and service class;
> ii. Forecast the NAC for the residential, commercial and tobacco customer service classes.
> Combining the normalized average usage estimates obtained from the econometric analysis with the billed customer estimates from step 1 yields the total throughput volumes estimates before consideration of the DSM Plan consumption impacts;
> iii. Estimate the total throughput volumes for the industrial customers; and,
> iv. Remove the future consumption savings of DSM Programming from 2011 to 2013 from the individual econometric estimates obtained from steps ii and iii.

Key to the whole forecast is the weather normalization methodology. Heating Degree Days is one if the major independent variables in the regression equations to forecast Normalized Average Consumption (NAC) for the General Service (Residential, Commercial, Industrial) as well as LCI and Greenhouse Contract markets

The Excel Files Regn Results and Regn Data provided in response to EP IRR Exhibit J.C-2-3-2, show the history and analysis details supporting the 2013 heating degree forecasts for the South (3,599 HDD) and North (4,626 HDD) distribution areas. This is based on Union' proposed 20 year trend methodology.

Energy Probe has concerns about Union's Heating Degree Day forecast fundamentals that affect <u>both</u> the current 30:20 yr (55:45) blended HDD forecast methodology and also the proposed 20 year trend forecast methodology.

Union's evidence for comparing heating degree day methodologies is based on Pearson Airport Data (Tr. Vol 2 page 21)

However, the test year volume forecast is produced using historical actual HDD data from 16 weather stations weighted according to actual volume and lags 3 years (i.e.

2013 is based on HDD and total volumes up to 2010). This is used with the test year HDD forecast based on either the current blend or the 20 year trend to produce the general service volumetric forecast . (Tr Vol 2 Page 22; Undertaking J1.1)

There is to our mind also an issue whether the Eastern Delivery Area climate is sufficiently different (25% of “northern” HDD forecast volume weighting) and whether Heat Sensitive Volumes rather than total volumes should be used in the regression equations.

The Normalized Average Use (NAC) for each rate class is derived from the actual volumes normalized to the same HDD forecast as the test year (C1 Tab1 Figures 5-8)

Union claims to have conducted a review of HDD forecast methodology in 2004 and adopted the Pearson Airport based methodology for comparison of HDD forecasts (Tr Vol 1 page 33).

However, Union has not investigated zone- based HDD forecasting methodologies as was done by Enbridge Gas Distribution and resulted the three zone forecast approved by the Board for EGD (Tr Vol 1 Page 34)

In our view it is not reasonable for Union to state that its HDD forecasts based on Pearson Data lead to a conclusion that the 20 year trend is superior to the 30 year trend or the 55:45 blend.
If there are only two choices A-30 year trend and B 20- year trend both based on Pearson Airport data one can demonstrate one is superior BUT that does not answer the question of which HDD forecast methodology gives the best result(s) for Unions geographically diverse regions?

Union is basing its forecast of degree days for the test year based on equations that are not statistically significant at even an 85% level of confidence. That can be seen in the equation shown in Exhibit J1.2. Now my statistics is rusty to say the least, but the data in J1.2 does not impress me. The significance of the F statistic is 0.153, meaning the regression is significant at a confidence level of only 84.7%. The time variable in the equation is also significant at an 85% level of confidence. The R squared, which indicates the amount of the variance explained in the data is only 6.1%.

We suggest that Union needs to do the work to demonstrate whether the best HDD forecast is a regional HDD forecast (two or three regions) using actual weather data from the 16 weather stations for which long term data are available.

We note also that Enbridge's 20 year trend for its Central Region is based on Pearson data for obvious reasons – its geographic and volumetric centrality to its Central region, but the HDD forecast for other regions are based on local weather data.

In the interim, we suggest that the Board approve the existing blended HDD methodology (at 50.50) for generating the 2013 HDD and General Service volume forecast.

According to Undertaking J2.2 the 2013 Revenue Deficiency would decrease by *$6.323 million* if the next step in the blend formula (50:50 -30 year trend and 20 year declining trend) applied to the HDD forecast for 2013

2013 Volume Forecast Normalized Average use per Customer Forecast for the General Service classes.

The 2013 Volume forecast is shown amongst other places (C1 Tab1 Page 3 Table 1)

Energy Probe is of the view that apart from the issues with the HDD forecast, other factors may have contributed to an overstatement of the decline (3830 -3610 m3 -2.9%) in overall Normalized Average Use per Customer from 2011 Actual to 2013 forecast. (J.C-1-2-2 Page 2)

These factors include reductions in average gas bills and reductions in customer additions (Tr.Vol 1 pages 59-60)

Turning to the Residential NAC and Volume forecast.

The evidence (J.C-1-2-2, J.C-1-2-4) is that the 2011 M1 forecast shows a variance of 37m3, (2,264- 2,227) or 1.7 percent. After adjustment for DSM and other factors the residual error was 22m3. If this is applied to the forecast 2013 (44m3 increase over two years, this would translate to a revenue increase of $3.5 million (Tr Vol 2 page 138)

We now turn to the 2011 Commercial Sector NAC result. C1,Tab 2,Table 1 Appendix A.

The residual (difference between forecast and actual) shown in the Regn Results File is the largest ever and Union has no explanation.(Tr Vol 2). More importantly, although answering an IR to show the effect of updating for 2011 actuals (J.C-1-2-6), Union did **not** make an adjustment to the 2013 forecast and retains its earlier forecast (Tr. Vol 2, page 33-34).

We submit that the 2013 forecast for the commercial sector(s) (all rates) is overstated and needs to be increased to at least match the numbers in J.C-1-2-6.The required adjustment can be derived from a comparison of normalized throughput volumes Lines 4&5 for Rates M1 and M2 between C1Tab 1 Table 1 and J.C-1-2-6. To be clear, the

Volumes in J.C-1-2-6 are normalized to the 2013 HDD days of South (3,599 HDD) and North (4,626 HDD) developed using the proposed 20 year declining trend methodology.

Using these Data we believe the 2013 Commercial NAC (all rates) should be higher by minimum of 177 m3. The revenue requirement impact of this can be estimated by using the data from the above schedules or by using the sensitivities provided by Union in the Technical Conference.(Tech. Conf. Tr. May 31, page 226). We have used the former to estimate an adjustment to the revenue forecast based the 2013 Commercial NAC (All rates).
This is $1.2 million.
We have set out the derivation of our estimate in the written copy
.

> The revised numbers in J.C-1-2-6 show the reduction in volume..
> [1,321,076-1,318,753]=2323 103m3. Using customer numbers from C1 Tab1 Table 3 -82283 gives a 2013 Commercial NAC of 16,055 m3 (compare as filed 15,878 m3)
> The revenue Impact can be estimated from C3Tab2 Schedule 2 This shows the average DR per Rate M1 and M2 customer as $934
> This translates to a unit rate of $0.058/m3 based on 16,055 m3
> An increase in 2013 NAC of 177m3 per customer for 88,000 M2 customers times $0.058/m3 ~$900,000 Assuming a similar change for Rates 01 and 10 will produce about 0.3 million for a total of $1.2 million

We believe that the following NAC adjustments are warranted:
As discussed with Mr. Millar (Tr. Vol 2 page137) the 2013 Residential General Service NAC should be increased by 44 m3 with an impact of $3.5 million on the 2013 Revenue Deficiency

The 2013 Commercial General Service NAC (all Rates) should be increased as minimum from 15,876 m3 to 16,055 m3 with an impact of $1.2 million on the 2013 Revenue Deficiency.

With regard to the balance between shareholder and ratepayer risks/rewards related to the General Service volume/revenue forecasts, EP suggests that the Average Use True Up Variance Account 179-118 be continued in 2013. According to Undertaking J2.1 this could net the company additional $2.83 million in revenue, if its forecasts are for 2012 and 2013 are correct. We note that the AUTVA mechanism does not compensate for weather risk.
So how would it work in 2013? If the Board was to reject the full 20 year trend for 2013, then Unions forecast GS NACS are too high. If also you also accept reductions to the GS revenue proposed by intervenors (based on the 20 year trend), then you would have comfort that if any reductions were ordered, it would all come out in the wash--forecast error would not favour either the Company or ratepayers in the long term.

That's why we are suggesting both that adjustments to GS volumes and revenues be made, and in addition the AUTVA be continued for 2013.

2.3 IS THE 2013 CONTRACT CUSTOMER DEMAND FORECAST APPROPRIATE?

The Contract Market history and forecast Is shown at Exhibit C1 Tab 2 Tables 1 (Volume) and 2 (Revenue) It includes segments that are forecast by Econometric Model and others that employ "bottom up" forecasts the latter Includes the Power Market (Undertaking J2.3)

EP observes that In general, growth in contract market has been strong and continues into 2013 with the notable exceptions of the flattening of the Power Market Volumes and Revenues and the continuing decline in the Large Commercial Institutional (LCI) sector.

Turning to the Power Market. Union has several large gas fired generators in its service areas- St. Clair generating station, East Windsor Cogen., Halton Hills and in 2013 there will be a fourth, Thunder Bay.

Total Power Market revenue IR J.C-3-13-1 comprises the demand charge , the commodity, the storage, the overrun and the customer-supplied fuel.(Tr Vol 1 page 91). J.C-3-2-2 shows Power Market growth.

Energy Probe agrees with APPRO, Board Staff and others that the 2013 Power Market revenue forecast is understated. As a minimum, the 2013 forecast of overrun volumes and revenues needs to be increased by about $0.5 million in line with historic experience.(J1.7 and Tr. Vol 1 page 99). Customer supplied fuel is forecast to be down relative to prior years and this is not credible and requires adjustment.

Turning now to the Large Commercial/Industrial (LCI) segment. The volume and revenue is forecast by econometric models as is the Greenhouse Segment. These models for 2013 forecast HDD based on the 20 year trend. The Volumes forecast by the econometric models comprises about 17.5% of the total contract market (Tr Vol 2 Page 99.)

Undertaking J2.6 shows the effect of applying the 55:45 blend (30-20 year trend) as a volume reduction of 11,300 103 m3 and revenue decrease of $106,548.

Other Undertakings (J2.7 and 2.8) show the original and updated LCI and Greenhouse forecasts relative to Lines 3 and 4 of Exhibit C1, Tab 2, Table2
Undertaking J2.9: updates the LCI forecast numbers in lines 3 and 4 of Exhibit C1, Tab 2, Table 2. This shows small increases in the forecast for 2013 relative to J 2.8 equivalent to a increase of revenue of 0.3 million

Having considered the Company's evidence and responses, EP submits that the 2013 contract market volume and revenue forecast is understated and needs to be adjusted

to reflect the impact of the 50:50 blend (30 year and 20 year trend) and a number of factors that have been either omitted or understated by Union including lower gas prices and overrun volumes.
The sum total of these adjustments is of the order of a $2.0-2.8 million decrease in the 2013 revenue deficiency.

In sum, the 2013 Revenue forecast needs to be increased and the Revenue Deficiency post- Settlement needs to be reduced by about $4.7 million due to an increase in GS revenue and $2.8 million for an increase in Contract Market revenue. This is on top of the $6.5 million reduction from applying the 50:50 blend for the 2013 HDD forecast.

This amounts to a $14 million Revenue Deficiency reduction

The Board is obviously facing a process issue if it does not accept Unions full 20- year declining trend weather for 2013. Union would have to amend its forecasts that use the 20 year trend and resubmit these based on the 50:50 blend.. However what to do about the claimed over-statement of certain forecasts is less obvious. The AUTVA helps for GS but this does not apply to the Contract Market.

Gas Supply

Union's evidence on the 2013 Gas Supply Plan is Exhibit D1, tab 1, pages 4 and 5 and pages 11 through 16.

The main issue we will address is over-contracting of Firm Transportation (FT) for the Northern/Eastern Delivery areas.

Unions evidence is that it uses approximately 15 pJs of STS injection and diversions to move excess gas from Union north in the summer into Dawn storage. In the winter, gas is withdrawn, again using STS from Dawn and transported into the North/East without the need for Union to contract for any further Firm upstream capacity. And by doing that, Union claims it is able to make the best use of its transportation portfolio.

Nevertheless, there is still some forecast Unabsorbed Demand Charges expected to occur; the amount for 2013 is forecast at 10.4 pJs. Union has provided the UDC costs incurred from 2007 onwards in Exhibit J4.1. This shows that ratepayers have paid net $5.1 million in unmitigated demand charges

The major gas supply issue is mitigation of the Unabsorbed Demand Charges incurred in the North Delivery zone (mostly Manitoba zone). This is done by releasing capacity to the market and utilizing the TCPL Firm Transportation Risk Alleviation Mechanism (FTRAM) credits (Tr Vol 3 Page 10).See J.C-4-7-9 and J.C-4-7-10

The information provided by Union's gas supply panel indicates that various transactions using contracted firm transportation in the north and eastern delivery zones are undertaken by Union's Storage and Transportation S&T Group. These transactions are complex, but result in revenue to the S&T services account and the shareholder. One such example is at (Tr Vol 3 pages 53-54)

IRR J.D -1-16-2 sets out the History of FTRAM
Currently Union is a member of a TCPL shippers group advocating for continuation of the FT RAM program and according to the evidence (Exhibit K3.1) the earliest date at which the TCPL FTRAM program could end is mid 2013.

As discussed earlier, Union did not include any FTRAM credits in the 2013 S&T Revenue forecast, whereas in our view, it should have included at least ½ year. This issue can be addressed by including at least ½ year of credits in the 2013 revenue requirement and rates together with one or more deferral/variance account treatment of 2013 FTRAM credits. We will return to this later including under Deferral Accounts

To us the other more serious gas supply issue is whether Union has over-contracted for FT services in order to use the RAM credits from the capacity released and how the revenues generated from S&T transactional services using FTRAM credits including Base Exchanges, RAM optimization etc have been and are being credited. The details and who benefits have been discussed at various places on the record. (For example Tr Vol 4 pages 42-43)

This issue is directly tied unto the EB-2006-0606 Settlement which discontinued the S&T variance accounts in exchange for an embedded mount which we believe is $6.9 million, in base rates during the IRM period.

The majority of the evidence and testimony on Exchanges was covered under the topic of ex franchise revenue by the S&T group (see below)

Ex franchise Revenue

The evidentiary reference is Exhibit C1, tab 3
The main issues we will address are the forecast of 2013 ex-franchise revenues and "transportation optimization" activities.

Turning first to the M12 long-term transportation and other long-term transportation forecasts, they're set out in various places C1,Tab 3, Schedules 1 & 2 and including at page 2 behind Tab 1 of Unions AIC Compendium and the other long-term transportation forecast at page 7.

This Schedule shows a significant decline in M12 service revenue between 2013 forecast and 2010 actuals, from 142.4 million to $134.6 million, including 13.5 million of M12X revenue. (C1Summary Schedule 5 updated)

The $11.1 million forecast of transportation revenues will be adjusted upwards by $2 million for the St. Clair Line forecast revenue per the Settlement Agreement.

We have no submissions on Unions M12/M12X Forecast and leave that to others to comment.

The second component of the short-term transportation revenue forecast we would like to discuss is the 2013 exchange revenue forecast. The major issue is Union's forecast of FTRAM exchange revenue for 2013. Union initially forecast zero revenue from FTRAM in 2013, but now updated that to $11.6 million (J.C-4-7-9), based on the program continuing until May 2013. EP submits that the forecast be accepted, either this amount be flowed through the PGVA as a transportation related gas cost, or deferral/variance account treatment be accorded.

The different treatments are summarized in Unions AIC page 36

> Put simply, the 179-69 account captured optimization activity and exchange activity. It was closed.
> The PGVA and northern tolls transportation deferral account and the other gas cost deferral accounts capture commodity changes and toll changes, and those have been in effect, again, back from the '90s all the way through the currency of IRM.

With respect to historic 2007-2012 FTRAM related exchange revenues as the Board knows there is a major dispute between Union and ratepayers.

As noted above, Unions position is that as part of the EB-2006-0606 Settlement Agreement the S&T deferral accounts were closed in exchange for embedding an amount of revenue ($6.9 million) in rates. Therefore the shareholder has received the direct benefit of S&T transactions above that floor. To be fair, ratepayers have also benefitted from earnings sharing that included the contribution of S&T revenues (Tr Vol 6 Page 87).

Importantly, Union was not originally proposing to reinstate the discontinued S&T deferral/variance accounts for 2013. However it seems to have changed position on this, at least in respect of FTRAM. (See AIC Page 39). Here are issues around how the accounts should operate and the sharing of net revenues. We will make submissions on those matters in afew minutes under the topic of what should happen in 2013 and again under 2013 Deferral accounts.

Turning now to Union's transportation optimization transactions 2007-2012.

We understand based on Procedural Order #2 the EB-2011-0087 ESM and Deferral Account Proceeding that part of this matter is now scheduled to be addressed in that case, at least for Calendar 2011.

With regard to transportation optimization in the period 2007-2012 under IRM, we support the positions expressed by FRPO CME and Others that ratepayers are due a credit for the excess profits realized by Union from transportation optimization transactions in the period 2007-2012.

We are in your hands as to whether to make our submissions on this topic. We note Board Staff did so at pages 15-16 of their submission.

If not, we have attached to our written copy a summary of our positions on this matter.

We will move now to submissions on what should happen in 2013.

Decisions on Gas Supply Related Issues for the EB-2011-0210 2013 Rates Case

The first topic is

a) **Gas Supply Planning**

We submit that Union's Gas Supply Planning process and longer term supply plan needs independent review for both the EDA and CDA.

Exhibit J3.6 --the much viewed chart of EDA contracted Capacity and Actual shows contracting based on Firm Transportation to the EDA. In today's market we suggest that some portion of the transportation portfolio should be STFT and other services. Union rejects this in its AIC (Page 49-51). As the Board will recollect, the Settlement dealing with Enbridge's issues about System Reliability lead, among other things to replacement of peaking supplies by 200,000 Gj of STFT. (Paragraph 2 of the Settlement Agreement). We don't pretend to have any expertise in this area which is why we suggest an independent expert review is needed.

b) **S&T Transactional Services Deferral/Variance Accounts (previously 179-69 etc)**

To avoid a repeat of the past, unless the Board provides a different treatment of 2013 FTRAM credits, Union should be directed to re-establish the S&T Transactional services accounts for the 2013 Test year (we will deal with this some more in submissions on 2013 deferral accounts)

c) 2013 Revenue Sharing from Optimizing Gas Supply and Transportation

Two issues are key to a decision on this matter in this Case.

The first as noted our position is the S&T TS accounts should be reinstated in 2012/2013. TCPL is unlikely to discontinue FTRAM until some time into 2013 and the NEB may support its continuation.

Union has proposed (AIC page 36) that the 2013 S&T TS Account be set up with $11.6 million as the “fulcrum” *and* sharing of 75-25, but it should also have 100 percent downside protection for Union in the event that the RAM program is discontinued, because there had been imputed revenues relating to a program that the NEB has discontinued.

This proposal is not acceptable to EP.
We suggest that one approach is for FTRAM costs to be classified as a gas cost and passed through the PGVA.

However, if the Board agrees with Union that this is a Deferral Account matter then it should direct Union to confirm its forecast and embed that amount in rates. The other issue for the S&T TS accounts is sharing of any revenues above the forecast.
In this regard EP neither accepts Unions proposed 75:25 sharing as fair, or agrees with Board Staff and others that 90:10 in favor of ratepayers is more appropriate. We suggest 100% to ratepayers is appropriate since it is Firm Transportation paid for by ratepayers that generates the revenues.

Also in addition Union has forecasted $9.1 of revenues in 2013 rates attributable to non-FT RAM related exchanges. We believe the evidence on 2012 year to date shows that this amount is low and the forecast should be updated.

In sum, we submit that the Board accept that FTRAM costs, including credits are a gas transportation cost.
However, if this is not the Board’s Finding, then the Board should authorize the re-establishment of the S&T TS deferral/variance accounts and direct Union to include $11.6 Million revenue from forecast 2013 FTRAM transactions in base rates with the variance to be recorded with other exchange revenue in the S&T transactional services account.

The S&T TSDA balance amounts should be cleared to ratepayers in the 2014 Deferral Account proceeding on the same basis as the demand charges are recovered from customers in each operating area.

<u>Conclusion</u>

The Board panel hearing the 2013 case has clear evidence about transportation optimization activities in the period 2007-12.

However, the scope of this proceeding is 2013 Rebasing and Rates and accordingly we submit that the requested three actions by the Board in respect of Gas Supply related Transportation services that we outlined above, are critical to protect ratepayers in the 2013 Rate year

We have a few Comments on Matters Addressed by the Finance Panel

The main evidence is A2, Tab 2, B1 Tab 2, D1 tab 2 plus Interrogatory Responses

<u>Average Use True Up Account.</u> (Appendix C from Exhibit H1, tab 4),

In our view the proposed wording does not make it clear that it will not apply to 2013 (Tr Vol 8 page 11/12)

However, as noted under the Volume Forecast submissions, we believe that it should continue to operate for 2013 as part of an accommodation of shareholder and ratepayer interests around the 2013 NAC and volume forecasts

We will revisit this under the topic of Deferral Accounts

<u>Allocation of Costs between regulated and unregulated storage</u>

The references are Transcript Vol 8 Page 23 and Undertaking J 8.3
We have comments on two Issues-
Changes to the allocation for new/replacement assets and related O&M and
Transparency of Unions information on the allocation of costs between regulated storage and transmission
On the former, the changes that have been uncovered in the discovery process may be valid but require independent verification.
Second it is clear that Union needs to improve the transparency of its application of the approved methodologies.

For these reasons we submit Union should be directed to commission a short update of its Storage cost allocations by independent experts as was done for the EB-2011-0038 proceeding.

Board Staff have raised an Accounting issue related to Audited Financials for Union's Unregulated Business that is now a significant (24%) proportion of the consolidated Financial position of Union Gas Limited. Discussion with Counsel for Board Staff (Tr. Vol 8 Pages 64/65) was centered on whether Union is following CICA Guideline 1701 in this respect.
We have no submissions on this matter.

Unaccounted For Gas (UFG)

The evidentiary references are D3 Tab2 Schedule 2 (2013F) D4,Tab2,Schedule 2 (2012 E)

Unions UFG accounting methodology has not changed for 2013. This is described at Tr. Vol 8 page 40. The quote is in our Written Copy

> MS. ELLIOTT: So the methodology for arriving at the estimated unaccounted-for gas in any given year is the -- as I said, the weighted average of the last three years' actual experience. So for 2013, we obviously don't have 2012 experience, so we're still using 2011 -- the three-year average ending with 2011.
> So we take the actuals, which are represented on lines 1, 2 and 3 for each of those years. And they get weighted -- basically it's a three-two-one weighting -- to get an actual.
> We take a look at the throughput for those same three years to get a ratio of unaccounted-for gas losses over volumes handled, and then we multiply that ratio against the forecast throughput for the year.(Tr Vol 8 page40)

Now this methodology differs from that of some other Canadian utilities, including Enbridge Gas Distribution, so it may be appropriate to review the various approaches and confirm/deny that Union's method continues to be the most appropriate for its franchise.

Cost of Capital

The first issue we will comment on is whether there is a change in Unions risk profile as required by the Board's Cost of Capital Guidelines for a review of the deemed Capital Structure

The Report of the Board on the Cost of Capital for Ontario's Regulated Utilities dated December 11, 2009 (EB-2009-0084) on page 50 states:
For electricity transmitters, generators and gas utilities, the deemed capital structure is determined on a case-by-case basis. *The Board's draft guidelines assume that the base capital structure will remain relatively constant over time and that a full reassessment of a gas utility's capital structure will only be undertaken in the event of significant changes in the company's business and/or financial risk.*

Unions Counsel in his AIC (page 64) challenges the absolute nature of the Board's statement and that it is merely a guideline. In essence Unions argument is that things have moved on and capital markets are different as a result of the economic downturn and financial crises affecting sovereign debt.

Union's view is that its current equity structure is not commensurate with its risk. However, it agreed that its business or financial risk has not changed materially since 2007. In fact, Union witnesses confirmed several times during the oral hearing that that there had been no material increase to its business or financial risk.(Vol. 4 at p.128 and Vol. 5 at p.15 and 31.)

Union has consistently earned, in fact over-earned, it's allowed rate of return 2007-2011 J.E-2-12-9, contributing to its excess earnings of 278.7 million J.E-3-5-1 and Tr.Vol 4 Page134.

We submit that Union has not demonstrated any change in its Business or Financial Risk

Unions request for an increase in Equity thickness in the deemed Capital structure to 40% is based on a selective analysis of Comparables, both US and Canadian, as set out in the evidence of its experts Mr. Steven M. Fetter and Dr. Vander Weide. Regarding the latter, we note that Dr. Vander Weide's ambit was Return on Equity and his comments related to equity thickness were unsupported by any filed analysis.

The evidence is that Union's Debt Rating has been maintained by DBRS for many years although other utilities have changed. S&P rates Union lower, but the evidence is this is in part due to its parent Spectra Energy.(Tr Vol. 6 p.50.)

Exhibit J.E-2-3-6 shows the Equity thickness and ratings for Canadian Utilities.

Union's experts contend it has more exposure than most of those listed to a potential downgrade if the 2008/2009 financial crisis reoccurs.

Union also contends that its forecast (utility standalone) Interest Coverage is below the critical level of 2.0X (J5.5 and AIC page 69). Union contends this takes into account the effect of higher ROE ($19 million) on 2013 net income. It's not just Interest coverage, but how the financial markets view Union Gas.

Turning to the impact of increasing Equity Thickness on ratepayers

The Board is being asked to make a Decision that Unions ratepayers should pay $17 +million plus a year for reducing unproven financial risk.

In response to J.E-1-1-2 b) Union confirmed that an equity component of 40% will not lead to a higher credit rating or a lower cost of debt ,so ratepayers are not likely to receive any benefit from a higher common equity ratio.

The shareholder will directly benefit from increased equity and that's on top of receiving $19 million in increased earnings as a result of the application of the Boards ROE Formula.

Dr. Booth in his evidence (K6.3) and testimony (Tr Vol 6) concurs that Unions Business risk has not changed and in fact may have decreased slightly due to the change in competitive market position of natural gas (Tr Vol 6 page 6 line 18)

Dr Booth also unequivocally states that Unions Financial market access is "very good" as evidenced by its proposed 2012 MTN at 3.9%.The issue was immediately sold out (Tr Vol.4 p.134.)

Dr Booth summarized the significance at Tr Vol 6 page 56

> "It just indicates that Union Gas is (has sic) a very (good) investment credit, and the investment dealers will talk to Union Gas about raising money and they can raise that money relatively quickly, given the fact that it is a good investment-grade credit."

With respect to Canadian Comparables (J.E-2-3-6) Dr Booth noted

> "So there are benchmarks. I prefer to look at them as benchmarks, that the reasonable range is, say, on this basis, 36 to 40 percent for the big gas distributors, and within that

> range there are ones that are a little bit more risky, like Gaz Métro, and I continue to place Enbridge and Union as amongst the lowest risk." (Tr Vol 6 Page 62)

We fundamentally disagree with the selective nature of Unions evidence. It has relied on comparability arguments and rating criteria from Standard and Poors and ignores the fact that Union has maintained its DBRS rating, has had stable earnings, a stable regulatory environment and as demonstrated by its most recent MTN at 3.9%, has had no problem accessing Capital Markets.

For all of these reasons, we agree with Dr Booth that there is no evidence that Union requires higher Equity and in our view, Union has not made the case for changing its deemed equity ratio, particularly now that it has higher allowed ROE and potentially higher net income in 2013 and beyond.

This places the Board in the position to consider the broader issue of the future direction of Capital markets and whether for an A rated gas utility such as Union and Enbridge, some change in deemed capital structure may be warranted. We have no expertise to say yes or no, simply to request that the cost/benefit to ratepayers be a key consideration.

Summary of Energy Probe proposed Changes to the 2013 Revenue Requirement and Revenue Deficiency.

Based on our submissions to this point we estimate the following reductions to the 2013 Revenue Requirement and Post-Settlement Revenue Deficiency of $54 million:

Heating Degree Day 50:50 Blend	**-$6.4 million**
General Service Volume Forecast	**-$4.7 million**
Contract Market Volume Forecast	**-$2.8 million**
S&T FTRAM Exchange Revenue	**-$11.6 million**
Cost of Capital-Retain 36% Equity	**-$17 million**
TOTAL	**-$42.6 million**

We will now go on to non- Revenue requirement issues

Parkway West Project

We note that there are two projects at the Parkway Station- the Parkway Extension and Parkway West Loss of Critical Unit (LCU) project.
These submissions pertain to the latter.

The matter of whether the Parkway West project is a prudent investment was Unsettled in the Settlement Conference.
The prefiled evidence is at B1 Tab 9 and a number of interrogatory responses have been provided. Some of these are corrected in Exhibit K8.3 (Corrected IRRs J.B-1-1-2, J.B-1-7-12). This shows that the Capacity loss from a Parkway B outage is 1.1 pjs/day and Parkway A outage 0.5 Pjs/day (Tr Vol8 Pages 72/ 73). (Also see Correction to J.B-1-7-1 part c and J.B-1-7-14 part 7)

J.B-1-7-13.J.B-1-1-2 attachment (Diagram) shows the configuration of Parkway West Valve site.

Union is not asking for approval of its Parkway West Project Capital Expenditures in this proceeding, since the project will not complete and close to Rate Base until 2014. Union states the reason for bringing it forward is the Filing Guidelines, plus the materiality of the capital expenditure and timing of the project. Significant costs are and will be incurred in 2012 up to $37.3 million (slide 13 of Spectra Presentation) and 2013 $61 million (Tr. Vol 8 Page 123).

TCPL has provided Evidence on 4 alternatives to provide LCU protection at Parkway Union rejects these in its IRRs and testimony (Tr Vol 8 Pages 78-80)

It is clear to us that the record shows that the Parkway West Project is not simply about LCU protection for Union's gas transmission service to Enbridge, but also may generate collateral benefits from transactional services at the Dawn Hub (Tr vol 8 Page.102). Undertaking J.8.9 seeks to clarify this. The presentation to Spectra Executives (Slide 12) forecasts revenues attributable to the project of $23 million in 2015. This revenue generation does not reconcile with Union claiming the Project is pure LCU with NO incremental capacity.
This is confirmed in one of our interrogatories (J.B-4-3-1 referred to J.B.1-7-11 a) and a TCPL IRR (J.B 1-7-16)

> a) *The proposed Parkway West Project is not planned to create any additional capacity…...*
> *Union will not sell any part of the capacity required for LCU as transportation capacity. As such, there are no additional* <u>*firm*</u> *(emphasis added) transportation contracted volumes supporting the addition of LCU coverage for Parkway.*

We submit that while the primary motivation for the Parkway West project is to provide additional security of supply for deliveries to the EGD Central region, thereby reducing the chance of EGD de-contracting on the Dawn-Parkway system, as well as providing increased security for gas flowing on to Maple, there are potential collateral benefits to Union including delivering gas east of Parkway and providing short term S&T Services from Dawn.

The evidence and testimony put on the record in this case will allow the Board to be more aware of these additional factors when it considers its comments in this case.

We believe ratepayer interests would be protected by a comprehensive review of options for LCU , Parkway Extension, Enbridge reinforcements and/or long term transportation arrangements before these projects are approved. In an ideal world this would require Union, EGD and TCPL to collaborate, but competitive considerations appear to prevent this.

Union in its AIC (pages 72-73) talks about collaboration, but does not make a commitment to this. In fact the tone of Union's AIC submission is that Union will file for Leave to Construct later in 2012 and all parties can argue about Need and Alternatives before the Board.

<u>Deferral and Variance Accounts</u>

Unions evidence on the Proposed 2013 Deferral accounts is at H1 Tab 4 Appendices A, B,and C

We have comments on three proposed deferral accounts

Short-term storage account. 179-70

The evidentiary Reference is (C1 Tab 7)

Union is proposing to allocate the total margins associated with short-term peak storage transactions between its utility and non-utility operations in proportion to the utility and non-utility share of the total quantity of peak short-term storage. In addition the average price per transaction will be used to calculate the amount recorded. Union states this is fair and will reduce complexity,(AIC page 74)

Mr. Rosenkranz proposed that the account should be broadened to include short term storage revenues obtained from optimizing utility storage space that is not classified as excess utility storage space. (K10.7 at Page 11).

Board Staff suggest (Submission page 38) that the account also capture all revenue realized from encroachment of Utility Space.

We agree with these proposals.

Storage and Transportation Transactional Services Accounts (Previously 179-69, 179-73, and 179-74)

As we have argued above, either these accounts should be re-established or a new S&T TS account established to capture 2013 S&T transactions, including 2013 exchange revenues associated with continuation of the FTRAM program into 2013. Union's 2013 S&T Margin forecast is $23.9 million (this amount has been built into in-franchise rates). This amount is exclusive of any FT-RAM revenues

We have already argued that the estimated FTRAM revenue of $11.6 million be included in base rates and the Account record any differences from this amount as well as the variance related to other transactions.

As to the issue of sharing the additional revenue, we note the historic Ratio was 75:25 in favour of ratepayers. However given the limited evidence on transactions other than those involving FTRAM credits, however as noted earlier, we suggest 100% in favour of ratepayers to protect ratepayers from a repeat of the last IRM term

<u>Average Use True Up Account 179-118</u>

As noted earlier in the section on 2013 General Service revenue forecasts, we submit that as part of an overall balancing of ratepayer and shareholder interests around the 2013 Volume and revenue forecast, certain adjustments to the Revenue forecast for the General Service classes are warranted. The largest of these proposed adjustments are the Residential and Commercial Market forecasts.

To ensure both ratepayers and shareholder are protected from forecast error, we submit the AUTVA should be continued in its present form for 2013. The AUTVA will true up the Normalized Average Use per customer and associated revenues for Rates M1,M2 Rate 01 and Rate10.

We note that the Account does not true up for weather risk, which continues to be Company risk.

Details of the 2011 true up can be found in EB-2012-0087 -2011 ESM and Deferral Account proceeding.

<u>Cost Allocation</u>

EP accepts most of Union's proposed cost allocation changes, but we have concerns with the proposals that follow.

Allocation of Storage Operating costs

The evidence on the 2013 cost allocation was initially filed at A2 Tab 2, but lacked detail. This was only produced in the late stages of the proceeding as a result of questions from FRPO. (FRPO Supplemental Questions 1 and 2)

As noted earlier we are concerned that although the cost allocation was reviewed by Black & Veatch in a report filed in EB-2011-0038, it is important to ratepayers to get it right in this Rebasing application. We are hesitant to recommend an update by B&V, but believe this is the only sure way to have confidence going forward (potentially into another IRM period.)

Allocation of S&T Margin DA 179-69 etc

Assuming that the Board agrees that one or more 2013 S&T margin accounts are established, the remaining question is how the revenues will flow to ratepayers. Undertaking J11.2 provides an answer to this

> If the Transportation and Exchange deferral account existed, the deferral balance would be disposed to rate classes in proportion to the actual capacity available. Union South customers would be allocated their portion of the balance based on their design day demand and Union North customers would be allocated their portion of the balance based on approved storage demand costs in approved rates.
> This is consistent with the methodology used and approved by the Board before the elimination of the Transportation and Exchange deferral (account 179-69) as a result of the EB-2007-0606 Settlement Agreement.

We cannot comment whether this Methodology is still appropriate given the limited evidence on the nature of the 2013 transactions

Allocation of Parkway Station Costs

In his evidence (Exhibit K10.7) Mr. John Rosenkranz witness for FRPO CME recommended that the Parkway Station costs should be separated from the overall Dawn-Trafalgar Easterly Transmission costs and allocated to rate classes on the basis of design day requirements.

Union provided background to the Peak Design Day criterion, (AIC Pages18-25) citing the Board's Decision in E.B.R.O. 493/494 (Excellent Decision!) that accepts that on design day the flow is unidirectional West-East) and part of that flow serves in-franchise customers.
Energy Probe does not agree with Mr. Rosenkrantz' proposal for four reasons:

1. The Peak design day design criteria have not been challenged

2. It would allocate more of the costs of Parkway Station to services contracted by ex-franchise customers.(M12 etc).
   Raising rates for M12 service could exacerbate de-contracting on Dawn-Parkway, thereby resulting in lower revenues for Union which will need to be compensated by an increase in in-franchise rates.
3. It will also increase costs for Enbridge customers the largest users of C1/M12 service by about $1.6 million in 2013 and twice that in 2014 if Parkway West LCU proceeds
4. The agreement in the Settlement Agreement to re-examine the Parkway Delivery Obligation could result in changes to the treatment of Parkway Station costs.

For these reasons Mr. Rosenkrantz' proposal is not a win for either in-franchise or ex-franchise customers. Leaving the cost allocation as is for 2013 in our view preferable.

Rate Design

The evidence in his topic is summarized at Exhibit H1, Tab 1, Updated filed on July 13th 2012 and Exhibit H3, tab 1, schedule 1, page 1.Undertakings J10.2 and J10.3 are also informative.

<u>2013 Rates</u>

<u>Revenue to cost ratios</u>
The reference for this is Exhibit H1,Tab 1p.12 (Updated). Exhibit H3, Tab 1, Schedule 1. We are of the view that Union's 2013 Revenue to cost ratios are within accepted bounds with the exception of Union's proposal to increase rates in Rate M1 to slightly beyond unity (1.003) and over-recover from that rate class by an amount of $1.14 million,

This transfer of Revenue from M1 to other Classes is discussed at Tr Vol11 Page145-147. This indicates that Union has preferentially streamed $10.4 million of the Total S&T revenue of $20.8 million (Updated to $23.9 million) preferentially to the North to offset the allocated revenue Deficiency (Tr. Vol. 11 Pages 147)

We submit that under the circumstances of the Rate increase for the North, this allocation is appropriate, but if this drives up the Rate M1 R/C ratio this should be adjusted for.

<u>2014 Rate Design Change of Breakpoint to 5,000m3 for M2 and Rate 10</u>

We support the submissions of others to the effect that Unions proposed 2014 rate redesign proposals for the general service classes M1, M2, Rate 01 and Rate 10 are not appropriate and have major impacts for about 4-5% of customers (~60,000).(J.H-3-1-1).

The impacts are shown in IRR J.H-1-14-2. The former shows the Distribution rate impacts for customers consuming 5000-10000 m3 as up to 33%. Even with a lower Monthly charge ($35 vs $70) that constitutes rate shock for these customers.
We note that the impacts will be even greater if Union increases the 2014 revenue requirement under an IRM application.

Union dismisses these impacts on a “greater good” argument
(AIC Page 78)
You will see at page 22 in cross-examination, in answer to Mr. Aiken's question, what Mr. Tetreault says at page 12 is that Union's:

> "...rate design proposals in total are revenue neutral, and the number of customers that are impacted adversely in some way by our rate design proposals in general service is a very small percentage of the overall customer base. I believe it is in the neighbourhood of 58 to 60,000 customers out of a general service customer base of approximately 1.4 million, so somewhere in the order of, I'll say, 4 percent of the total customer base."

With respect to Union, the impacts faced by customers around the proposed Breakpoint are simply <u>too</u> large. Union has to either amend its redesign and/or to propose mitigation measures for these 60,000 general service customers. A number of possible mitigation measures have been discussed on the record, including changing the M2/Rate 10 monthly charges from $35/month to $40 in the North and $30/month in the South.

We do not oppose a new block structure in 2014 for Rates 01 and Rate 10 in order to harmonize with Rates M1 and M2. However the support for the current proposal based on Union’s proposed weightings 1.0, 1.5 and 2.0 (which are based on EB-2005-0510) is inadequate.

Rate Impacts and Rate Mitigation

We will start with Union’s position and that is set out in the AIC at page 81

> “And you will see at attachment 1 and attachment 2 the total bill impacts arising from Union's application -- and as I say, you will see at page 1, for example, of attachment 1 in the upper right-hand corner, the small Rate 01, that is the 7.5 percent that I mentioned at the very outset. And then on page 2 of 2 of attachment 1 at the very top, you will see the 1.7 percent.

> Now, Union didn't stop there. The mitigation alternatives are laid out there. Union -- and in my submission, mitigation -- having regard to the total bill impacts, mitigation is not necessary.
>
> However, if you were to consider mitigation, any one of the mitigation measures that are outlined there would keep, obviously, keep the total bill impact below the 10 percent. And they're each -- each discussed there, ending with an adjustment to the revenue-to-cost ratio. You will see Union's view that, generally speaking, that shouldn't happen.
>
> But they're each outlined there to be responsive, ***but the overarching submission I wanted to make is that, in Union's view, mitigation is unnecessary.***

Union then goes on to indicate (AIC p81) that it has streamed the transactional services margin (H3, tab 10, schedule 1) preferentially to the North rate classes, which belies the position that rate mitigation is unnecessary.

Energy Probe is of the view that if the Board accepts all of the revenue requirement and deficiency reductions we have proposed, rate impact mitigation may not be necessary.

However if not, then rate mitigation measures should be invoked. We suggest of those options set out in Undertaking J11.10, the least harm to the Company would be phasing in any change in Equity Thickness over 4 years,$11.1 million, deferring the change in weather normalization methodology ($5.8 million) and re-establishing the S&T transactional services Deferral/variance account with an FTRAM amount of $11.6 million in base rates. Based on J11.1 these measures will reduce the 2013 Revenue deficiency by about 28.5 million or just over half of the post ADR amount of $54.5 million.
We have not calculated the impact of a residual $25 million Deficiency but a Review of J11.1 excluding the Change in ROE, leads to a conclusion that using Delivery Rates as the measure, increases in the North will be about 10% and some rate classes in the South (M1, M2) will see similar increases.

Madam Chair and Member Taylor Those are Energy Probes submissions.

Summary of EP Position on Transportation Optimization 2007-2012

Transportation Optimization transactions are described at several places on the EB-2011-0210 record including Tr Vol 6 pages131/132

> MR. ISHERWOOD: The S&T group will optimize the gas supply plan, and, again, a lot of these decisions are made because of FT RAM being a feature of FT.
>
> So if there's economics and if the market requires exchanges, and we try to generate FT RAM credits, one way of doing that would be to leave the Empress to EDA contract empty. That would create FT credits -- or IT credits, sorry, and we would flow that gas from Empress to Dawn on an IT basis.
>
> MR. QUINN: So what you've just described, then, is not an assignment. This is a choice by Union to leave the pipe empty, bank the credit and find a cheaper path to Dawn?
>
> MR. ISHERWOOD: And what happens in that case --
>
> MR. QUINN: Sorry, is that correct?
>
> MR. ISHERWOOD: That's correct. And, Mr. Quinn, just to expand on that, when we do the IT volumes from Empress to Dawn, that path is going to be cheaper than the path from Empress to EDA.
>
> So at the end of the day, we will end up with extra FT credits and we will do other market-based exchanges to derive value out of that. But as the gas supply panel testified to, in all of that case, we're still buying the same gas at Empress and we're still delivering that same gas to Dawn; just on that day we're doing it differently. And I call that option A.
>
> Option B was the option that you had started your question with, which was we assigned the Empress to EDA contract to a third party, and, as part of that deal, they would deliver gas, the same volume of gas we bought at Empress, to Dawn.
>
> So both option A and option B have exactly the same result. They just pay us the differential, if you want, as an S&T benefit.

A number of Exhibits and Undertakings show the amounts realized by Union from Transportation Optimization transactions

We have listed a few of the more significant ones in our written copy.

Attachment 1 of Exhibit J.DV-2-2-1 shows the margins that would have been in account in 179-69 for the last three years had the account not been discontinued for the IRM period;

Undertaking. J6.1: to Update Chart at J.DV-2-2-1, Attachment 1, TO Exclude the Impact of FTRAM

UNDERTAKING NO. J6.2: to ADD TO ATTACHMENT 1 THE SAME TYPE OF INFORMATION THAT WOULD HAVE BEEN IN ACCOUNTS 179-73 AND 179-74 FOR THE 2010 THROUGH 2013 PERIOD.

EXHIBIT NO. K7.3: UNION GAS DOCUMENT ENTITLED "PORTION OF FT RAM DEMAND CHARGE MITIGATION AMOUNTS NOT CREDITED TO RATEPAYERS - 2007 TO 2012."

UNDERTAKING NO. J7.11: to PROVIDE A FORECAST FOR THE BALANCE OF 2012, ASSUMING FT RAM CONTINUES FOR THE BALANCE OF THE YEAR.

J.C-4-7-9, attachment 1

J3.7,

We support the submissions of CME, FRPO and others to the effect that Union, having discontinued the Transportation-related deferral accounts in 2007, conducted transportation optimization transactions, based on the availability of FTRAM credits and discounted transportation services from TCPL during the period 2007-2012. The margin from these transactions was passed through Unions S&T margin account boosting net income and shareholder profit. Ratepayers on the other hand paid full Firm Transportation tolls for gas transportation to the 3 delivery zones, offset to a degree by FTRAM credits generated from assignments.

Ratepayers received the benefit from embedding an amount of S&T revenue in rates ($6.9 million). Ratepayers also indirectly benefited from earnings sharing related to the resulting net income in excess of the allowed regulated return.
The big issue is whether Ratepayers are due a rebate from the net transportation optimization margin generated on transportation paid for by ratepayers in the period 2007-2012

Energy Probe says <u>YES.</u>

WE support CME/FRPO and Others on this point who claim that

- Union Converted Ratepayer Funded Demand Charges to into shareholder Profit
- By December 31, 2012 Total Profits from this Scheme will Exceed $60 Million
- Union was Never Authorized to Effectively Convert FT Demand Charges to Profits for Its Shareholders
- Union Cannot Profit from its Unauthorized Transportation Optimization Actions

<u>Accounting to Ratepayers 2008-2011</u>

(a) Profits to December 31, 2011

With respect to the manner in which Union should account, we agree with FRPO, CME and others that the S&T transactional services account be set up at December 31 2010 with an opening balance of the net profit realized, i.e. the net profit after deducting the share of earnings allocated to ratepayers in 2008, 2009 and 2010.

The $22 million S&T margin realized in 2011 should be recorded in the 2011 Gas Supply Deferral Accounts and the December 31, 2011 Total Balance 2008-2011 should be cleared to the ratepayers in each operating area in the same proportion that the demand charges were paid for by ratepayers in each operating area.(EDA and CDA).

(b) S&T Margin for 2012

The 2012 Earnings Sharing and Deferral Account proceeding will not occur until the first quarter of 2013

Based on current estimates, the $37.8 million of profits that Union expects to realize in 2012 from the conversion of customer-funded upstream transportation services demand charges should be recorded in the 2012 Gas Supply Deferral Accounts and cleared to ratepayers in that proceeding.