January 9, 2013

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Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Union Gas Limited 2011 Earnings Sharing & Disposition of Deferral Accounts and Other Balances – OEB File No. EB-2012-0087**

We are counsel to the Consumers Council of Canada ("CCC") in this matter. Set out herein are our client's submissions on one remaining issue in this proceeding, namely the balance in the Upstream Transportation FT-RAM Optimization Deferral Account.

In calculating the balance in this account, the issue is whether $948,000, for compressor fuel and unaccounted for gas ("UFG") costs should be deducted from the revenue to be shared with ratepayers.

The CCC agrees with the principle that, all else equal, revenues and costs should be matched. That principle is embodied in the following statement from the Board Staff Submission in this matter:

> ...Board staff submits that it is appropriate that the net revenue amount of $22 million be reduced by the costs incurred on Union's system for the incremental compressor fuel and UFG used to facilitate the transactions. This will ensure that Union is appropriately compensated for the costs incurred to generate the FT-RAM optimization related revenues. (Board Staff Submission, p. 4)

The difficulty, however, is that the evidence in this proceeding is that Union did not, in fact, incur any compressor fuel and UFG costs.

Ms. Elliott conceded the point in the following exchange with Mr. DeRose:

> Mr: DeRose: Okay. And I take it that you would agree with me that when we look at – at least for 2011, when you look at the amount that the

> Board approved as it's been adjusted through the QRAM cumulatively up to 2011, you have collected enough in rates – in fact, more than enough in rates to cover all of your compressor fuel and UFG for 2011, including the $948,000. You aren't out of pocket?
>
> Ms. Elliott: We're not out of pocket the $948,000 of fuel. We, in fact, recovered that fuel in UFG costs from the C1 activity from – in the revenue from the C1 activity. (Transcript, Vol. 2, p.15)

Given that Union has not actually incurred costs, it should not receive the benefit of having the $948,000 credited against the revenue to be shared with ratepayers.

We have had the benefit of reading the argument of the Canadian Manufacturers & Exporters on this point. We agree with, and adopt, that argument.

Yours truly,

**WeirFoulds LLP**

Robert B. Warren

RBW/mb

cc: Union Gas Limited
cc: Torys, LLP, Attention Crawford Smith
cc: Julie Girvan
cc: All Parties

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