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September 9, 2008

Kirsten Walli, Board Secretary  
**ONTARIO ENERGY BOARD**  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E5

Dear Ms. Walli:

**Re: EB-2008-0281 - Union Gas Limited's (Union) October 1st QRAM Application.**

We write as legal counsel to the Industrial Gas Users Association (IGUA). IGUA's advisors have reviewed Union's Application for quarterly adjustment of rates (QRAM) to be effective October 1<sup>st</sup>, 2008. Based upon their advice, and conformance of Union's application with the Board approved QRAM process, IGUA does not oppose approval of the October QRAM. IGUA does suggest that Union provide, in its reply submissions, clarification on two matters discussed below.

**Amount proposed for elimination on account of Risk Management Program administration costs.**

In its review of the Application IGUA has considered Union's prefiled evidence regarding a proposed reduction in the gas supply administration charge from 0.3173 cents/m<sup>3</sup> to 0.3138 cents/m<sup>3</sup>. This reduction is proposed to reflect the elimination of the administration cost of Union's historical Risk Management Program [Prefiled Evidence Tab 2, page 3, lines 14-18]. The Board ordered discontinuance of the Risk Management Program in its July 31, 2008 decision in EB-2007-0606/0615.

The total cost proposed herein to be removed from the gas supply charge and related to the administration of Union's Risk Management Program is reported in the prefiled evidence in support of this Application to be \$103,831. This figure is consistent with Union's evidence in its 2007 rate case (EB-2005-0520), as stated at Exhibit J10.03 therefrom. That earlier evidence also

confirms that the cost of administering the Risk Management Program is recovered through the gas supply administration charge. That earlier evidence also states that the \$103,831 figure is not prepared on a fully allocated cost basis, though it does not provide any information on the basis upon which that figure is prepared.

In light of the relatively small amount in issue in this proposed gas supply administration charge adjustment, and in light of the consistency of Union's prefiled evidence in this Application regarding these costs with Union's earlier evidence regarding these costs as filed in EB-2005-0520, IGUA does not object to acceptance of the amount of \$103,831 for gas supply charge adjustment on account of the administration costs of the discontinued Risk Management Program. IGUA does suggest, however, that Union complete the record on the basis upon which this figure is prepared.

### **Method proposed for elimination of Risk Management Program administration costs.**

In the EB-2007-0606/0615 decision in which the Board ordered discontinuation of Union's Risk Management Program, the Board directed the company to record the costs associated with the program in a deferral account for disposition later, and directed that the appropriate adjustments to Union's distribution rates to reflect elimination of costs associated with the discontinued Risk Management Program would be considered at the time the time of Union's next rebasing. [EB-2007-0606/0615, July 31, 2008 Decision with Reasons, page 17].

Union has filed a Notice of Motion with the Board dated August 28, 2008. Included in the relief sought by Union in its motion is clarification of that portion of the Board's July 31, 2008 decision that relates to the treatment of costs of Union's discontinued Risk Management Program. In its motion Union suggests that the elimination of those costs should be accomplished not by deferral account recording but through a reduction in the annual gas supply administration charge in the amount of \$103,831, beginning with the gas supply administration charge applicable to this QRAM Application. [Notice of Motion in EB-2007-0606/0615, paragraph 10]

Considering the evidence from this QRAM Application and the evidence from EB-2005-0520 (all as noted above) that the Risk Management Program administration costs in 2008 rates are included in the gas supply administration fee, and not in distribution rates, IGUA supports elimination of these costs through adjustment to the gas supply charge effective October 1<sup>st</sup>.

### **Continued inclusion in PGVAs of Risk Management Program mark-to-market gains/losses.**

In its August 28, 2008 Motion for clarification, Union states an assumption that the Board's earlier (EB-2007-0606/0615, July 31, 2008) decision to disallow any future Risk Management Program costs did not intend to exclude from inclusion in purchase gas variance accounts the mark-to-market gains/losses from financial hedge positions that remain in place "until termination" of the Risk Management Program. [Notice of Motion in EB-2007-0606/0615, paragraphs 8 and 9] IGUA assumes that Union is in these paragraphs in its Notice of Motion referring to the 24 month rolling hedges entered into prior to the Board's July 31<sup>st</sup> decision in EB-2007-0606/0615 and that have yet to expire. IGUA invites Union to clarify this information

in its reply submissions herein. If IGUA's assumption is correct, then IGUA accepts Union's position in respect of PGVA inclusion of these gains/losses on extant hedging instruments that have yet to run their full course.

**Reflection of storage allocation decision and rate order.**

IGUA further notes that Union's October 1<sup>st</sup> rate schedules (for T1 rates and for other rates) appropriately reflect the Board approved wording stemming from the Board's recent storage allocation decision and related rate order [EB-2007-0725].

**Costs.**

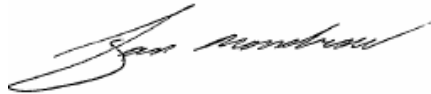
Pursuant to the Board's *Practice Direction on Cost Awards*, IGUA is eligible to apply for a cost award as a party primarily representing the direct interests of ratepayers in relation to regulated gas services. IGUA requests that the Board award IGUA its costs reasonably incurred in review of Union's QRAM.

IGUA reviews QRAM applications as a matter of course, in order to properly discharge its mandate and responsibility to protect its members' interests in respect of gas regulatory matters, including appropriate application of the Board approved quarterly rate adjustment mechanism. IGUA has, in the past, been awarded modest costs for review of QRAM applications. In making such awards IGUA respectfully submits that the Board has recognized some value (commensurate with modest costs) in the independent and informed review of such applications that IGUA provides.

IGUA continues to be mindful of the need for efficiency in its regulatory interventions, in particular in respect of relatively non-contentious matters such as is the case with QRAM applications. IGUA has retained Aegent Energy Advisors Inc., whose professionals are expert in Ontario gas commercial and regulatory matters, including rate matters in particular. Aegent conducts a cursory review of the application as filed, and provides a report to IGUA. Provided that Aegent's report does not indicate any concerns with either the application of the QRAM protocols or the rate outcome, IGUA is in a position to advise the Board that it has no cause for objection, as is the case in respect of the instant application. In this case, IGUA has also considered Union's proposals regarding Risk Management Program costs and mark-to-market gains/losses, and has also reviewed the applicable rate schedules for appropriate reflection of the Board's recent storage allocation decision and associated rate order. IGUA has satisfied itself as to Union's proposal in these respects, subject to the suggestions above for clarification from Union in its reply submissions.

IGUA submits that it has acted responsibly with a view to informing the Board's review and decision on this application, while maintaining due attention to cost efficiency. On this basis, IGUA is requesting recovery of its costs for participation in this process.

Sincerely,  
**MACLEOD DIXON LLP**



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