April 27, 2007

VIA EMAIL & COURIER

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, Suite 2700
Toronto, Ontario
M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

RE: Multi-year Incentive Rate Regulation for Natural Gas Utilities
EB-2006-0209
Request for Comments on:

1. **Pacific Economic Group (PEG) March 30, 2007 study "Price Cap Index Design for Ontario's Natural Gas Utilities"**
2. **Board Staff April 18, 2007 Proposed Process for the Generic Hearing**

Dear Ms. Walli:

Enclosed please find five (5) copies of Union's comments on the PEG study and the Board staff proposed process for the generic hearing.

An electronic copy will be provided via email in PDF format.

Yours truly,

[original signed by]

Connie Burns, CMA, PMP
Manager, Regulatory Initiatives
Union Gas Limited
cburns@uniongas.com
Fax: (519)436-4641

Incentive Regulation for Natural Gas Utilities
Union Gas Comments on
the March 30, 2007 Pacific Economic Group study
"Price Cap Index Design for Ontario's Natural Gas Utilities"

1.0 Introduction

On January 5, 2007, Board staff provided a draft of their EB-2006-0209 Multi-year Incentive Rate Regulation for Natural Gas Utilities Discussion Paper. On March 30, 2007, the initial results of Pacific Economic Group ("PEG") study entitled "Price Cap Index Design for Ontario's Natural Gas Utilities" was provided. Stakeholders were requested to provide their comments on both the Board staff discussion paper and the PEG study by April 30th, 2007. Union's comments on PEG's study appear below. Comments on the Board staff discussion paper have been provided separately.

1.0 X Factor Formula

PEG Study

The X factor derivation provided by PEG includes the following components:

1) **Input Price Differential** (the difference between the input price trends of the economy and the gas utility industry);
2) **Productivity Differential** (the difference between the productivity trends of the gas utility industry and the economy);

3) **Average Use Factor** (to account for average use trends by gas utility customers); and
4) **Stretch Factor** (to share the benefits of expected performance gains).

Union's Response

The rate indexing research that supported PEG's proposed price cap index design and overall IR framework recommendations for Union and Enbridge appear to be strong conceptually and generally consistent with the associated economic literature. Specifically, Union supports the use of industry TFP trends which are external to the company rather than company specific TFP trends as described in the PEG report on page iv.

Productivity differentials (which implicitly contain an average use component) and input price differentials are standard components of a price cap formula when a macro-economic inflation factor such as GDP IPI FDD is used. [1] It is Union's understanding that the average use factor was shown separately from the productivity differential at the request of stakeholders as it would help stakeholders understand the separate impacts associated with improved cost efficiency and use per customer trends.

[1] As the PEG study indicates on page 12 of its report, the majority of rate indexing plans approved throughout the world do not feature industry-specific inflation measures.

Separate average use factors are typically not required in a price cap formula because productivity differentials are calculated using revenue output weights rather than cost elasticity output weights. Given the desire to separately identify the impacts of declining average use per customer, it became necessary for PEG to calculate its proposed productivity differentials using cost elasticity output weights. PEG also then needed to calculate an average use factor, which is the difference between the revenue and cost elasticity weighted output indexes. Irrespective of whether i) revenue output weights are used or ii) cost elasticity output weights are used with an average use factor shown separately, both approaches result in the same combined outcome.

In Union's view the most appropriate way to calculate the productivity differential is to base it entirely on gas industry productivity trends (which can be derived using either the peer group or econometric research approach) such as PEG has recommended for Enbridge.[2] Averaging Union's own historical productivity trend with the industry productivity trend as PEG has proposed for Union is unusual and penalizes Union for its superior historical productivity growth.

[2] The OEB RP-1999-0017 Decision (page 88, paragraph 2.283) references the need to use industry specific indices as follows: "Intervenors pointed out that the price cap index should be derived from industry specific parameters, rather than from a company-specific productivity measure and an economy-wide inflation escalator. Union has indicated that it wishes to develop an industry specific index. The Board recognizes that Union, with storage, transmission, and distribution functions, is not readily comparable with a gas distribution utility that does not have storage and transmission businesses. Since the productivity performance in these business lines may differ significantly, the Board expects Union in following through on its commitment to develop separate industry productivity indices for each of these businesses for its next PBR plan.

Average Use Factor

In Union's view it is imperative that the price cap formula include an average use factor to capture the effects of declining average use per customer. Union has been experiencing flat to declining total distribution throughput growth at the same time that the number of customers and costs continue to grow. The rates approved by the OEB under Cost of Service ("COS") regulation have recognized that the utilities are experiencing declining average use. The major contributors to declining average use include:

- Improved efficiency of furnaces, water heaters, and other gas-fired equipment
- Decline in number of persons per household
- Tighter building envelopes (e.g. better building insulation)
- High and volatile natural gas prices which are likely to persist for the foreseeable future.

It should be noted that, as part of the PEG study, the proposed average use factor has been established using historical data. As a result, the utility will be at risk for the acceleration in declining average use which has been Union's most recent experience.

The approach PEG used to calculate the total average use factor appears to Union to be reasonable.

Stretch Factor

In Union's view there is no justification for a stretch factor in its next IR plan term. It should be recognized that Union has not applied annually for rate adjustments. Union has experienced only 3 COS rate cases in the last 10 years (to set rates for 1999, 2004, and 2007). Rates were established under the trial PBR plan structure for 2001, 2002 and 2003. Union was essentially under a rate freeze for 2005 and 2006. Union has therefore had significant motivation to implement productivity improvements over the last 10 years. The result is that there is no need for a stretch factor in the next IR plan.

Union also notes that there is an aspect of double counting of a stretch factor within the X factor PEG has proposed for Union. The productivity differential PEG has proposed for Union has Union's historical (over the relatively short period of time of 2000-2005) TFP trend averaged with the industry TFP trend. Before the stretch factor, the productivity target for Union has been set higher than the productivity trends of Union's U.S. peer group and the econometric research modelling performed by PEG. In addition to this higher productivity target set for Union, PEG has recommended an extra 0.30% stretch factor.

Union will already be stretched to manage its business within an annual inflationary increase due to the faster decline in use per customer; wages and benefit costs escalating at rates greater than inflation; increased costs associated with an aging workforce[3] and high capital spending.

Union also opposes the addition of a stretch factor on the basis that it is purely an ad hoc add-on. Its value cannot be determined from the logic of price indexing. It is usually only added when there is a belief that, during the term of the plan, the utility will have both an incentive and an ability to increase productivity at a greater percentage than that determined by the historical TFP trend.

2.0 Two Approaches to Capital Cost Measurement

PEG Study

PEG calculated the input price and productivity trends using two approaches to capital cost measurement:

Geometric Decay ("GD")

PEG stated that this approach has been extensively used in both scholarly cost research and in index research in support of PCI designs. It features replacement (current dollar) valuation of utility plant and a constant rate of depreciation.

[3] Union's EB-2005-0520 Evidence (Exhibit A2, Tab 1, Schedule 1, Page 23 of 40): One of the most significant issues emerging within the Canadian workplace is the aging workforce and the critical shortage of skilled labour. Union Gas is not immune to this issue and has launched a Workforce Development and Enhancement Initiative that outlines a multi-year targeted approach to address what has become a critical strategic issue for the organization and the industry.

Cost of Service ("COS")

PEG stated that this is a new approach to capital costing that better reflects the way capital cost is calculated for purposes of ratemaking in traditional regulation. It features book (historical dollar) valuation of capital and straight line depreciation. Input price and productivity indexes computed using COS costing tend to be more sensitive to recent investment activity.

Union's Response

Given its academic underpinnings and prevalent use in rate indexing plans approved by other regulators, Union believes that the GD approach should be given the most weight of the two approaches. If the COS approach is to be given any weight in the OEB's deliberations on the establishment of rate indexing plans for gas utilities in the province of Ontario, it should be limited to providing a measure of reasonableness of the output of the GD approach.

Econometric and US Peer Group Research

PEG Study

PEG identified that research of two kinds was undertaken to select appropriate target TFP growth rates for Union from the U.S. data available to PEG. One approach was to calculate the average TFP trend of a peer group of U.S. companies with similar opportunities to realize economies of scale. The second approach was to establish TFP growth targets using PEG's econometric research modeling.

Union's Response

Since both of these forms of research appear to have informative value, Union believes that the output from both approaches should be considered in the selection of the appropriate industry TFP trend.

3.0 Service Group PCI's

PEG Study

PEG produced PCI's for individual service groups that resulted from its calculations using GD capital costing. Separate PCI's were designed for all rate classes that include service and residential customers. The PCI growth for each group was calculated by taking the difference between the recent trend in the GDP IPI and the straw man X factors.

PEG stated that the -0.52% ADJ for the (entirely) non-residential services of Union is something of an anomaly and will be the subject of ongoing investigation. PEG also stated that the impact on the Union service groups must be interpreted cautiously since rates M2 and 01 contain a mix of residential and business customers.

Union's Response

Declining average use per customer is primarily a concern for residential and small volume commercial/industrial customers. Accordingly, a price cap formula which differs by service group should not result in higher annual rate increases for non-residential and large volume commercial/industrial customers. As a result, the service group price caps recommended by PEG do not appear to Union to be reasonable.

Union believes that a simpler and more intuitive approach may be to calculate the X factor applicable to the general service rate classes (M2, Rate 01 and 10) by adjusting the company wide average use factor by the combined revenue share of the general service rate classes. Further, Union recommends that there not be an average use factor adjustment for rate classes other than the general service rate classes. This would result in PCIs for Union's rate classes, without yet incorporating changes for Union's comments in the previous sections of this document, as follows:

	Recent GDPIPI	X Factor Excluding AU	AU Factor	Net X Factor	PCI
General Service	1.77	0.23	-1.14	-0.91	2.68
All other	1.77	0.23	0.00	0.23	1.54

4.0 Summary PCIs

PEG Study

The PEG study states that both capital costing approaches produced growth that is a little above but broadly similar to the growth in the GDP IPI FDD. Ontario gas consumers would, in other words, experience annual escalations in rates for gas utility services that are similar to the general inflation in the prices of final goods and services paid by Canadians.

Union's Response

Union supports an annual net rate adjustment (before Y and Z factors) that approximates inflation.

Incentive Regulation for Natural Gas Utilities Union Gas Comments on the Proposed Process for the Generic Hearing on Incentive Regulation

OVERVIEW

This is Union's submission on the process which should be followed to conclude the OEB's consideration of incentive regulation that began with the 2005 Natural Gas Forum ("NGF") proceeding and Report ("Natural Gas Regulation in Ontario: A renewed Policy Framework").

In Union's view, the NGF Report and its conclusions are a valid exercise of the OEB's regulatory power to set just and reasonable rates. Having established broad policy based principles in the NGF, the OEB is now proposing, in the context of an oral hearing, to develop, in a further phase of implementing incentive regulation ("IR"), the specific inputs and details that will constitute the formula for determining rates that will be just and reasonable.

The NGF Report is not a dead letter. Further, Union has relied on the NGF Report in its approach to rate setting for 2008.

The arguments of some intervenors (represented by Mr. Warren) are unsound in law. They would, in addition, put in peril any reasonable prospect of setting 2008 rates without retrospective effect. It is imperative that the process continue to enable rates to be set without retrospective effect by January 1, 2008.

As well as ensuring that rates are set on a prospective basis, the proposed schedule needs to allow sufficient time to communicate and explain the implications of the OEB's incentive regulation decision to stakeholders; in particular customers, shareholders, investment analysts, and debt rating agencies. This decision will be significant and Union will need time to communicate it’s implications to all interested parties.

1 THE NATURAL GAS FORUM

In Union’s view the starting point for consideration of how to structure the generic hearing process on incentive regulation for natural gas utilities is the OEB’s NGF Report. In the NGF Report, the OEB makes a number of policy related conclusions and identifies how the OEB plans to implement the conclusions of the Report. All stakeholders had an opportunity to participate in the NGF process, as well as the subsequent implementation proceedings/processes, and had access to funding to assist in their participation. Most traditional intervenors (including CCC, VECC, IGUA, Energy Probe, and Pollution Probe) did in fact participate.

As the Board indicated at page 11 of the NGF Report, by late 2003 when the NGF process was initiated, the industry had evolved to a point that the OEB needed to provide specific policy related regulatory direction. In the absence of explicit direction from the Board, stakeholders were left not knowing what the Board's expectations were. As a result, regulatory filings were prepared that were not anticipated by the Board, were viewed to be incomplete or underpinned by assumptions that were inconsistent with the Board's views at the time. This leads to inefficient and ineffective regulation.

The NGF process started with a one-day meeting in the fall of 2003. During the meeting stakeholders' expressed their views on the priority issues for natural gas regulation. From the discussions, the Board identified that the priority issues were: 1) system supply, 2) storage and transportation, and 3) rate regulation. The NGF process was very comprehensive. It involved the preparation of discussion papers, consultations, written submissions, oral presentations/submissions, panel discussions, and technical conferences in each of these three areas (page 13 of the NGF Report describes the process).

2 RATE REGULATION

At page 17 of the NGF Report, the Board noted that stakeholders expressed degrees of skepticism about the trial PBR plans for Union and Enbridge that had preceded the NGF process. There was widespread agreement that the Board should develop guidelines to outline its ratemaking expectations of all parties, irrespective of the model it chose. The Board indicated that it believed that the skepticism was "due in part to the different expectations held by utilities and customers, which in turn are due to the absence of a clearly articulated ratemaking framework".

In the NGF Report the Board explained that it wanted to determine the most effective ratemaking framework that would fulfill its statutory objectives (p. 18). The Board determined that there were three criteria that the gas rate regulation framework must meet. They were:

a) establish incentives for sustainable efficiency improvements that benefit both customers and shareholders,
b) ensure appropriate quality of service for customers, and
c) create an environment that is conducive to investment, to the benefit of both customers and shareholders.

On page 22 of the NGF Report, the Board concluded that:

> *"The Board believes that a multi-year incentive regulation (IR) plan can be developed that will meet its criteria for an effective ratemaking framework: sustainable gains in efficiency, appropriate quality of service and an attractive investment environment. A properly designed plan will ensure downward pressure on rates by encouraging new levels of efficiency in Ontario's gas utilities – to the benefit of customers and shareholders. By implementing a multi-year IR framework, the Board also intends to provide the regulatory stability needed for investment in Ontario. The Board will establish the key parameters that will underpin the IR framework to ensure that its criteria are met and that all stakeholders have the same expectations of the plan."*

Having determined that a multi-year incentive regulation framework would be implemented, the Board proceeded to identify what the key parameters of the framework were (p. 23) and then, following consideration of the views expressed by stakeholders, the Board provided policy direction on those parameters. Specifically, the Board has concluded that:

1) *"The Board will hold a generic hearing to determine the appropriate basis for setting the annual adjustment mechanism."* (p. 24)
2) *"The Board does not intend for earnings sharing mechanisms to form part of IR plans."* (p. 28)
3) *"The Board expects that the term of IR plans will be between three and five years."* (p. 29)

Having set its expectations for an IR framework, the Board identified a number of issues that needed to be addressed before the framework could be implemented and utility specific IR plans approved. A number of these issues have since been addressed by the Board such as data filing guidelines (the Reporting and Recordkeeping Requirements (RRR) were issued December 22, 2004), base rates for each utility (Union's 2007 base rates were approved on December 19, 2006), and the service quality framework (the Gas Distribution Access Rule (GDAR) was amended on March 27, 2006). Again, all stakeholders had an opportunity to participate in these proceedings/processes and most did. The issues that remain to be dealt with include financial reporting framework under IR, the annual adjustment mechanism under IR and the specific term of the IR plan (i.e. 3, 4 or 5 years). These are all the subject of this proceeding.

3 NO "PREDETERMINATION"

The most unusual submission made by Mr. Warren on behalf of CCC, IGUA, VECC, CCK and LPMA is the allegation that, by pursuing policy parameters that were decided in the NGF proceeding, the OEB is guilty of bias or improper predetermination. This argument stands the principle of bias on its head. The whole point of the prohibition against predetermination is to ensure that interested parties are afforded the right to be heard before a matter is decided and that the decision reflects the issues, information and argument presented. The NGF proceeding, as set out above, was a proceeding in which Mr. Warren's clients, and others, received funding and did participate. They made their submissions and they took advantage of their right to be heard. They were heard. A decision was made. The NGF Report's conclusions were released. There was no appeal or motion for reconsideration. The fact that the OEB now proposes to act on the basis of those conclusions is not only entirely within the scope of its powers, it is the only sensible thing to do. To reach any other conclusion would be to say that the NGF proceeding was a colossal waste of time and money.

The only "predetermination" here is that which, based on an open hearing in which Mr. Warren's clients actively participated, was decided in the NGF Report. The NGF proceeding was the first phase of developing a plan to find a better way to set just and reasonable rates.

The Board has therefore, provided clear direction in the NGF Report. As indicated above, during the NGF process parties indicated that the Board should develop guidelines to outline its ratemaking expectations. The Board did this in the NGF Report. Union has relied on the NGF Report to plan, prepare and allocate resources to the various implementation steps outlined by the Board in its report. It would be inappropriate and inefficient for the Board's policy direction as outlined in the NGF Report to be ignored or subject to further debate at this stage of the implementation process.

The approach the Board has taken throughout the NGF policy development and implementation process is both lawful and legitimate. Addressing the issues in stages is an efficient and effective way of dealing with a topic as broad and important as the regulatory structure used to establish regulated gas transmission, distribution and storage rates in the province. Dealing with broad policy issues first and then the detailed implementation of the policy is both logical and pragmatic.

The OEB's Incentive Regulation process involves both policy and adjudicative issues. Section 36(3) of the Act enables the OEB, in approving or fixing just and reasonable rates, to adopt any method or technique that it considers appropriate. This section, in Union's submission, was introduced in the 1998 amendments to the Act precisely to allow the OEB to adopt incentive regulation as an alternative to traditional cost of service regulation.

Also, the OEB's September 2006 Report "A Report with Respect to Decision-Making Processes at the OEB" (page 13) identified that:

> *"... different statutory instruments can and should be used together as part of a comprehensive and coherent approach to energy regulatory issues. In this way, non-adjudicative policy instruments may be used to set the context, framework and policy goals of a given proceeding and the adjudicative process may then be used to identify the adjudicative facts that must be established to make a specific order."*

Even without this power (and certainly with it) the OEB has, in Union's submission, the ability to decide to approach a regulatory initiative in several stages, as it has done in this case.

In stage one, the NGF proceeding addressed broad policy choices. The OEB, in the NGF Report, came to certain conclusions on the best method to set rates. As a further stage, the current process is a proceeding to determine the detailed application of the policy parameters established in the NGF Report.

Mr. Warren's submission seeks to draw a bright line between policy and adjudication. The two are not so easily separated. In Union's view, the OEB's NGF hearing was an appropriate method for defining the broad, policy choices involved in regulating rates. The present proceeding, which will involve more traditional evidence from witnesses who will testify under oath and be available for cross examination, is well suited to fact finding and making decisions about what the specific details and parameters within the selected policy choice should be.

All of this is sound administrative and regulatory process and the OEB is, in Union's submission, not only acting rationally in adopting this approach to incentive regulation, but is within the scope of its statutory powers in doing so.

4 EXTENSIVE CONSULTATION

The stakeholder consultation process for incentive regulation has been comprehensive and inclusive. Individual stakeholder meetings began in September of 2006 with additional stakeholder meetings taking place November 2, 3 and 24. A draft discussion paper was issued by Board staff on January 5th. Pacific Economics Group's ("PEG's") draft Total Factor Productivity ("TFP") study was released on March 30, 2007. A technical conference to gain a better understanding of the study was held on April 18th. Through the consultation process, stakeholders have gained a better understanding of other stakeholders' points of view which should reduce the need for interrogatories and the scope of issues that will be in disagreement at the hearing.

5 OEB HAS CLEAR AUTHORITY TO INITIATE RATE PROCEEDINGS

Further, there is nothing inappropriate about the Board initiating a generic proceeding on its own initiative. Section 36 of the *Ontario Energy Board Act, 1998* expressly provides for it. Given how the entire NGF has proceeded to date, it only seems logical that the next step in the process is for the Board to initiate a generic proceeding to determine the specific parameters of the IR framework, as it indicated it would in the NGF Report. Once the results of the generic proceeding are known (which would include the derivation of all components of an IR framework, including the X factor) it should be a mechanical exercise for the utilities to incorporate the Board's decision into a rate order. This process is not unlike the process the Board followed in 2006 to establish the DSM framework, starting with generic parameters and then detailing multi-year plans for each gas utility.

Mr. Warren is quite wrong in his submission that the OEB can only hear and decide rate applications filed by the utilities. Sections 21 and 36(7) make it clear that the OEB may on its own motion, commence a rate proceeding. The OEB's power to require a utility to come before it to review whether current rates are just and reasonable has never been in doubt. The power to commence rate proceedings does not lie solely with the utility. This conclusion is also supported by the clear power of the OEB in Section 36(5), if it is not satisfied that rates applied for are just and reasonable, to fix rates again on its own motion which *are* just and reasonable.

6 BOARD STAFF DOES NOT DECIDE

Mr. Warren's submission is at times unclear, and at times clearly wrong, on the relationship between the OEB and Board staff. In the context of setting rates, the proposals, recommendations and arguments of Board staff do not represent the views of the OEB. They are no different than the proposals, recommendations and arguments of anyone else. The OEB is obliged to hear and consider them. It is not obliged to follow them[1].

Mr. Warren's attempt to overcome the distinction between the OEB and Board staff on the basis that staff has assumed the NGF Report has decided the policy scope for the incentive regulation hearing is pure sophistry and makes no sense. The NGF proceeding was a legitimate exercise of the OEB's powers. Not only Board staff but also Union has relied upon the conclusions reached by the OEB in the NGF Report.

On the related issue of Dr. Lowry's report for Pacific Economics Group, Union submits that the Board staff frequently sponsors evidence. It did so with Dr. Cannon in the generic ROE proceeding several years ago and it did so more recently in the Natural Gas Electricity Interface Review ("NGEIR") proceeding. It has, in fact, done so for decades. Again, evidence sponsored by Board staff is no different from evidence sponsored by anyone else. It must be tendered and adopted by a qualified witness who may be subject, in the ordinary course, to interrogatories and to cross examination. Board staff has indicated an intention to tender Dr. Lowry's report in the IR proceedings and to produce him as a witness. They are lawfully at liberty to do so.

[1] Page 4 of the OEB's September 2006 Report "A Report with Respect to Decision-Making Processes at the OEB" states that: ***"Role of Staff:*** *Board staff should participate in hearings with the objectives of identifying and evaluating options for the Board's consideration in a proceeding by reference to the public interest. Staff should be required to present its view of the public interest on the record so that parties may respond to it."*

7 UNION'S PROPOSAL FOR A HEARING ON INCENTIVE REGULATION

Board staff circulated a draft generic proceeding process timetable on April 17th. Union is suggesting a few modifications to the schedule which are described below. In suggesting the revisions, Union is guided by a desire to avoid implementing the first rate change which results from the IR framework process retroactivity. In Union's experience, customers do not like retroactive rate adjustments. A shorter process is possible and would be appropriate given the significant amount of work on IR that has taken place to date. A process that involves evidence being filed at different times by the utilities, Board staff and intervenors as suggested by Mr. Warren in his April 23, 2007 letter would needlessly prolong the process, would not recognize the extensive stakeholder consultations that have already taken place and would make retroactivity a virtual certainty given the amount of time left before IR derived rates are to be implemented on January 1, 2008.

As noted previously the proposed schedule also needs to allow sufficient time to communicate and explain the implications of the OEB's incentive regulation decision to stakeholders; in particular customers, shareholders, investment analysts, and debt rating agencies.

The key changes proposed by Union include:

- It is expected that the PEG study will be issued in a final form and that PEG will be making firm recommendations.[2] The PEG study is a TFP study which has been produced by an independent technical expert. Union anticipates that the Board panel will want to take it into consideration when determining how to structure the IR framework for gas utilities. There is nothing unusual about it being filed as Board staff sponsored evidence with the same standing and testing through cross examination as applies to other evidence submissions. Having the PEG study issued in final form and filed as evidence in advance of the stakeholders filing their evidence will help facilitate the evidence preparation by stakeholders.
- All parties should file evidence and answer interrogatories at the same time. As this is a generic proceeding there is no need for the filing of evidence or answering of interrogatories to be staged. Having the same deadlines would expedite the proceedings, which would significantly reduce the chances that rates will have to be implemented retroactively.
- Intervenors should meet prior to the Settlement Conference to determine what their common positions are, if any.
- The number of days set aside for the settlement conference can be reduced in total from 10 days to 5 days.

[2] At the April 18, 2007 stakeholder meeting Union indicated that PEG's study would be much more useful if it was issued in a final form that included specific recommendations. This would be entirely consistent with the reason it was undertaken and the significant time and effort that have gone into its creation. It is not, as Mr. Warren's has suggested in his April 23rd letter, motivated by the utilities wanting Board direction in advance of filing rate applications. Union simply wants to know what PEG's final position is. It has nothing to do with any response from the OEB. Union fails to see any connection whatsoever between the completion of an independent expert study and advance direction from the Board on IR components.

CONCLUSION

In conclusion, Union submits that the NGF Report validly establishes parameters for the next phase of establishing just and reasonable rates through incentive regulation.

The NGF Report should not be jettisoned or ignored. Much time and effort has been invested by all stakeholders in reliance on the policy choices made in the NGF Report and in related, follow on proceedings.

Intervenors had the full opportunity to participate in these proceedings and did so. There is no merit to the claims of procedural unfairness, lack of jurisdiction or improper pre-determination.

The Board should proceed as contemplated in the NGF Report. Subject to the specific adjustments noted, Union generally supports the Board staff's proposals for the remaining process.

April 30, 2007

Union's Proposed Process Timetable

Process	Date
Notice of Proceeding • Scoping • Evidence sought • Draft issues list	26-Apr-07
Issues conference	07-May-07
Issues day	09-May-07
PEG TFP study filed as evidence	15-May-07
Gas utilities and intervenor evidence	25-May-07
Interrogatories due to all parties	01-Jun-07
Interrogatory responses due	18-Jun-07
Settlement conference:	
• Intervenors	Jun 25 - 26, 2007
• Utilities and intervenors	Jun 27 - 29, 2007
Settlement proposal	09-Jul-07
Hearing (2 1/2 weeks)	Jul 16-31, 2007