

ONTARIO ENERGY BOARD

Enbridge Gas Inc.

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 Enbridge Gas
Inc., pursuant to section 36(1) of the *Ontario Energy Board
Act, 1998*, for an order or orders approving or fixing just and
reasonable rates and other charges for the sale, distribution,
transmission and storage of gas a of January 1, 2019

**SUBMISSIONS OF
CANADIAN MANUFACTURERS & EXPORTERS (“CME”)**

July 4, 2019

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TABLE OF CONTENTS

1.0 INTRODUCTION..... 3

2.0 THE APPLICATION..... 3

3.0 THE ONE-TIME ADJUSTMENT FOR CAPITAL PASSTHROUGH PROJECTS (ISSUE 7A) 4

 3.1 The ICM Parameters were Adequately Determined by the Board 5

4.0 INCLUSION OF FULLY BURDENED COSTS INTO THE ICM PROJECTS (ISSUE 10). 8

5.0 EGI’S PROPOSED ADJUSTMENTS TO THE ICM MATERIALITY THRESHOLD (ISSUE 11A and 12A) 12

 5.1 Using the Current Year PCI is the Consistent with the Board’s Policy on ICMs.. 12

 5.2 Using Average PCI Causes a Discrepancy Between Rates and the ICM Materiality Threshold Calculation 13

6.0 THE SUDBURY REPLACEMENT PROJECT (ISSUE 12A)..... 16

7.0 COSTS..... 17

1.0 INTRODUCTION

1. These submissions are made on behalf of Canadian Manufacturers & Exporters (“**CME**”).
2. CME’s members, which include over 400 Ontario based companies, operate energy intensive businesses. Their continued competitiveness in their respective industries is tied directly to how much energy costs them.
3. The cost consequences of this application are significant. For instance, the estimated cost of the four capital projects that Enbridge Gas Inc. (“**EGI**”) has applied for ICM treatment is \$280 million dollars.¹ These expenditures will drive increased energy costs for CME’s members for years to come.
4. These submissions focus on the components of EGI’s application that in CME’s submission, require adjustment in order to ensure rates in Ontario are just and reasonable, and to protect ratepayers with respect to the cost of natural gas distribution. Where these submissions do not touch on an issue that was outlined in the Board’s approved issues list, CME takes no position with respect to that issue.

2.0 THE APPLICATION

5. On November 23, 2018, EGI filed an Application pursuant to subsection 36(1) of the *OEB Act* for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas as of January 1, 2019.
6. Pursuant to Procedural Order No. 2, a technical conference was held on May 1-2, 2019, and a settlement conference was held on May 13-14, 2019. As a result of the settlement conference, the parties presented the Board with a partial settlement proposal, which EGI filed on May 29, 2019.
7. The settlement proposal outlined that the parties had reached an agreement regarding the following issues as set out in the Board approved issues list: 2, 3, 4, 5 a, c-f, 6, 7 b-d, 8.

¹ This represents the sum of the updated costs estimates for the Don River Replacement, Sudbury Replacement, Kingsville Reinforcement, and Stratford Reinforcement project as set out in EB-2018-0305, Exhibit I.EP.16.

The other issues remained unsettled by the parties. The settlement proposal also outlined the parties' positions regarding to proceed by way of written or oral hearing.

8. On June 10, 2019, the Board accepted the settlement proposal, and found that the issues that remained unsettled between the parties could be dealt with by way of written hearing.
9. EGI's application includes the following:
 - An escalation of rates through the price cap index ("**PCI**") of 1.07% for 2019;
 - A one-time adjustment for capital pass through projects in order to recover the revenue requirement as a component of base rates;
 - The recovery of fully burdened costs for four projects through the incremental capital module ("**ICM**") mechanism;
 - Adjustments to the ICM, including the use of an average PCI for escalation of the ICM materiality threshold calculation; and
 - Recovery of the costs of the Sudbury Replacement project through the ICM mechanism.

3.0 THE ONE-TIME ADJUSTMENT FOR CAPITAL PASSTHROUGH PROJECTS (ISSUE 7A)

10. The Applicants propose to make a "one-time adjustment" for capital pass through projects, in order to begin recovering the revenue requirement associated with Union Gas Limited's ("**Union**") 2014-2018 IRM term projects as part of base rates.²
11. In their argument in chief, EGI states that this adjustment is required because the Board's decision in EB-2017-0306/0307 caused a "disconnect" between what rates are, and what the ICM threshold assumes EGI's rates can fund.³

² EB-2018-0305, Argument-in-Chief, June 17, 2019, p. 6.

³ EB-2018-0305, Technical Conference Transcript, Volume 1, May 1, 2019, p. 9, lines 18-22.

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12. CME submits that the Board should not allow EGI's proposed one-time adjustment as the Board adequately determined the transition from Union's Y factor capital pass-through to the ICM mechanism in EB-2017-0306/0307, and EGI did not seek a review or variance of the decision.

3.1 The ICM Parameters were Adequately Determined by the Board

13. The features and requirements of the ICM mechanism were thoroughly canvassed by the Board in EB-2017-0306/0307. Accordingly, there is no need to make the adjustments to the ICM threshold calculation proposed by EGI.
14. Prior to amalgamating with Enbridge Gas Distribution Inc. ("**EGD**"), Union operated under an incentive rate mechanism set by the Board, which was scheduled to last between 2014 and 2018.⁴
15. In order to compensate Union for capital expenditures that it undertook during the plan term, Union's IRM plan provided that major capital additions that met the conditions agreed upon by parties in EB-2013-0202 would be treated like Y factors.⁵
16. In 2017, Union and Enbridge made the business decision to amalgamate, and applied to the Board for approval. In order to effect their desired amalgamation, Union and Enbridge proposed to defer rebasing, and asked the Board for a new rate-making framework for the new amalgamated entity. As part of the new framework, the applicants requested an ICM to provide additional funding for capital expenditures.
17. The ICM that Union and Enbridge requested was different from Union's previous Y factor mechanism. For instance, the ICM mechanism requires a utility to fund additional future amounts of capital spending with existing rates before asking for additional funding through the ICM.

⁴ EB-2013-0202, Decision and Order, October 7, 2013, p. 1.

⁵ EB-2013-0202, Application, Exhibit 2, Tab 2, Settlement Agreement, p. 18.

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18. The change from the Y factor treatment to the ICM was complicated even further in Union's case, as Union requested a further deferral of rebasing at the end of an existing 5 year IR term. As a result, the circumstance arose where Union, and then EGI after amalgamation, would have spent significant amounts on capital over the previous IR term that were not taken into account when calculating the ICM materiality threshold.
19. To address this problem, parties in EB-2017-0306/0307 argued that the rate base and depreciation of the capital projects that were completed and paid for through the Y factor mechanism in Union's previous IRM plan should be added into the ICM threshold calculation.
20. EGD and Union disagreed. In their reply argument for EB-2017-0306/0307, EGD and Union contended that adding the amounts spent by Union during the 2014-2018 IRM to the ICM threshold calculation was inappropriate:

Essentially the capital pass through projects are treated on a cost of service basis and are outside of the Price Cap mechanism. The depreciation expense embedded within the revenue requirement for a capital pass through project represents the recovery of the (original) cost of that specific project over its useful life. Given that, in respect of capital pass through projects, rates are set to match/recover exactly the revenue requirement associated with those projects (no more and no less), depreciation expense for these projects is not available to support investments in other projects.⁶

21. As demonstrated by the above passage, the substance of EGD and Union's argument was that adding amounts from the capital pass through projects into the ICM materiality threshold without also adding the revenue requirement to base rates would cause a disconnect between rates and the ICM threshold calculation.
22. Despite EGD and Union making submissions directly on this point, the Board determined that it was appropriate to include the rate base and depreciation of the capital pass-through projects into the ICM threshold calculation:

The OEB agrees with intervenors who noted that, through Union Gas' capital passthrough mechanism, significant capital additions have

⁶ EB-2017-0306/0307, Reply Argument of the Applicants, June 29, 2018, pp. 57-58.

been funded through rates during the past IRM term. The rate base and depreciation associated with projects that were found eligible for capital pass-through treatment during the IRM term, shall be added to the 2013 OEB-approved rate base and depreciation in determining the eligible incremental capital amount for Union Gas' service territory.⁷

23. Tellingly, while the Board determined it was appropriate to include the rate base and depreciation associated with the capital pass through projects to the ICM threshold calculation, the Board made no provision to include the revenue requirement of the capital pass through projects in base rates.
24. To the extent that EGD or Union felt that this was an error on the part of the Board, there was a mechanism to review the decision. Rule 40.01 of the Board's *Rules of Practice and Procedure* state that any person may bring a motion requesting the Board "review all or part of a final decision or order" and can vary the order at their discretion.⁸
25. Neither EGD nor Union brought a motion to review and vary the Board's decision in EB-2016-0306/0307.
26. Despite not seeking to review the Board's decision, EGI is seeking to argue the point again in this application through the one time adjustment. EGI argues:

"The inclusion of the projects' rate base and depreciation expense, including applying the ICM growth factor to both, in determining the ICM materiality threshold value implies that rates can support an equivalent investment in capital. This is not the case when the projects' annual revenue requirement included in rates is passed through directly to customers as a Y factor adjustment. By definition, a Y factor adjustment does not create incremental revenue to support any capital in excess of the revenue requirement related to the Y factor project."⁹

27. This argument is fundamentally the same as the one put forwarded by EGD and Union in EB-2017-0306/0307: adding the capital pass through projects' rate base and depreciation expense to the ICM materiality threshold calculation causes what EGI perceives to be a disconnect with rates. The Board heard this argument in EB-2017-0306/0307, the Board

⁷ EB-2017-0306/0307, Decision and Order, August 30, 2018 amended September 17, 2018, p. 32.

⁸ Ontario Energy Board, *Rules of Practice and Procedure*, last updated October 28, 2016, p. 29.

⁹ EB-2018-0305, Argument in Chief, June 17, 2019, p. 7.

considered it, and the Board disagreed that an adjustment was necessary to achieve just and reasonable rates.

28. Accordingly, given that EGD and Union:

- 1) Already made submissions to the Board regarding the possible consequences of including the rate base and depreciation into the ICM threshold calculation; and
- 2) Did not feel it was necessary to bring a motion to review and vary the Board's decision in EB-2017-0306/0307, a proceeding where the Board was tasked with determining the appropriate rate-making framework for the new amalgamated entity,

CME submits that should Board should not allow EGI's requested adjustment to the ratemaking framework set in EB-2017-0306/0307.

4.0 INCLUSION OF FULLY BURDENED COSTS INTO THE ICM PROJECTS (ISSUE 10)

29. EGI proposes to recover the fully burdened costs of its ICM eligible projects through the ICM mechanism. The fully burdened costs of the projects are significantly different than those put forward by EGI in the context of the leave to construct applications that were heard by the Board. Below is a table showing the costs of the project that were previously put before the Board in the leave to construct applications, the current proposed costs for recovery from ratepayers, and the variance:¹⁰

¹⁰ Information taken from EB-2018-0305, Exhibit I.EP.16.

Project	Leave to Construct Cost	Cost Proposed for Recovery	Variance (\$)	Variance (%)
Don River Replacement	\$25,597,539	\$35,354,881	\$9,757,342	38%
Sudbury Replacement Project	\$74,057,000	\$95,257,000	\$21,200,000 (\$12,300,000 due to overheads)	28% (16%)
Kingsville Reinforcement	\$105,716,000	\$121,416,000	\$15,700,000	14.8%
Stratford Reinforcement	\$28,540,000 ¹¹	N/A	N/A	N/A

30. As demonstrated by the table, the amounts that EGI is currently proposing to recover from ratepayers through the ICM is significantly larger than the amounts that were put before the Board in the respective leave to construct applications.
31. EGI states that the major driver of the variance is that the leave to construct costs were measured as the incremental costs of the projects. In contrast, EGI states that the costs put forward for recovery through the ICM mechanism are fully burdened costs, which includes indirect overhead which has been allocated to the project.¹² The increase in the cost of the project driven by indirect overhead is approximately \$37 million.¹³
32. EGI justifies the use of fully burdened costs in part by stating that including the fully burdened costs is consistent with “ratemaking principles, the OEB’s Filing Guidelines for Natural Gas Rate Applications (section 2.2.4)”.¹⁴

¹¹ The costs of the Stratford Reinforcement included fully burdened costs as part of the leave to construct.

¹² EB-2018-0305, Transcript Volume 1, May 1, 2019, p. 52, lines 8-28.

¹³ EB-2018-0305, Transcript Volume 1, May 1, 2019, p. 52, lines 8-28.

¹⁴ EB-2018-0305, Argument-in-Chief, June 17, 2019, p. 18.

33. When reviewing the Board's Filing Guidelines for Natural Gas Rate Applications, no mention is made of the ICM. However, the Filing Guidelines for Natural Gas Rates Applications are far from the only relevant Board guidance on ICMs, and a review of those other policies makes it clear that EGI's proposal to include the fully burdened costs is not consistent with the Board's guidance on ICMs.
34. In its report on capital modules in 2014, the Board provided that ICM eligible projects needed to meet the following test:¹⁵

Criteria	Description
<i>Materiality</i>	<p>A capital budget will be deemed to be material, and as such reflect eligible projects, if it exceeds the Board-defined materiality threshold. Any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount (as defined in this ACM Report) and must clearly have a significant influence on the operation of the distributor; otherwise they should be dealt with at rebasing.</p> <p>Minor expenditures in comparison to the overall capital budget should be considered ineligible for ACM or ICM treatment. A certain degree of project expenditure over and above the Board-defined threshold calculation is expected to be absorbed within the total capital budget.</p>
<i>Need</i>	<p>The distributor must pass the Means Test (as defined in this ACM Report).</p> <p>Amounts must be based on discrete projects, and should be directly related to the claimed driver.</p> <p>The amounts must be clearly outside of the base upon which the rates were derived.</p>
<i>Prudence</i>	<p>The amounts to be incurred must be prudent. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.</p>

¹⁵ EB-2014-0219, Report of the Board, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, p. 17.

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35. Accordingly, in order to meet the “need” component of the test, the amounts proposed for recovery through the ICM mechanism “must be clearly outside of the base upon which the rates were derived”.¹⁶
36. The Board’s Filing Requirements for Electricity Distribution Rate Applications contains an expanded discussion of what is required to be filed by a utility in order to be granted ICM treatment for capital expenditures. In the 2018 guide, designed for 2019 rate applications, the Board states that it requires:

“Evidence that the incremental revenue requested will not be recovered through other means (e.g., it is not, in full or in part, included in base rates or being funded by the expansion of service to include new customers and other load growth).”¹⁷

37. Accordingly, as its name suggests, the incremental capital module only covers those amounts that are incremental, which is to say over and above the amounts that already exist in base rates.
38. EGI’s proposal includes significant amounts that are not incremental. As discussed above, the fully burdened costs include indirect overhead. During the technical conference, the following exchange took place which illustrates that the indirect overhead costs are not incremental:

MR. SHEPHERD: But it's true, is it not, that if you didn't do these projects you would still incur that \$37 million of overhead costs?

MS. FERGUSON: Potentially. Those costs would be redirected to support other -- other activities in the company.¹⁸

39. The overhead costs that are allocated to the projects eligible for ICM are therefore already being incurred by EGI, regardless of the existence of the specific ICM projects that may or may not be undertaken by the company. They are not incremental, and are accordingly already incorporated into, and being paid by, existing rates.

¹⁶ EB-2014-0219, Report of the Board, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, p. 17.

¹⁷ Ontario Energy Board, Filing Requirements for Electricity Rate Applications – 2018 Edition for 2019 Rate Applications, Chapter 3, Incentive Rate Setting, p. 25.

¹⁸ EB-2018-0305, Transcript, Volume 1, May 1, 2019, p. 53, lines 6-11.

40. CME submits that the indirect overhead costs are already included in base rates, and as such, are not eligible to be included in the amounts recovered through the ICM.

5.0 EGI'S PROPOSED ADJUSTMENTS TO THE ICM MATERIALITY THRESHOLD (ISSUE 11A and 12A)

41. The Applicants propose to change how the ICM materiality threshold is calculated. Instead of using the current year PCI, EGI has proposed to use a simple average of the PCI's that have occurred since each of EGI's legacy utilities (EGD and Union) rebased. Union last rebased in 2013, while EGD last rebased in 2018.¹⁹

42. The ultimate effect of this request, is to keep the EGD PCI at 1.07% for 2019, but to lower Union's PCI from what would have been 1.07% to 0.72%.²⁰

43. In support of this change, EGI argues that using the current year PCI does not accurately reflect the change in rates experienced by a utility in a multi-year IR term.²¹

44. CME disagrees with EGI's assertion and submits that the Board should use the current PCI on the basis that:

- 1) The use of the current year PCI is in accordance with the Board's explicit direction and policy regarding ICM materiality threshold calculations; and
- 2) The use of an average PCI severs the relationship between rate increases and the ICM threshold calculation.

5.1 Using the Current Year PCI is the Consistent with the Board's Policy on ICMs

45. EGI's application includes a proposal to use the average PCI, calculated with reference to the last time each of the legacy utilities rebased, as the means of calculating the ICM materiality threshold. This is in contrast to the current year PCI. EGI states:

"The [ICM materiality threshold] calculation uses a current year PCI, which does not recognize the actual change in rates experienced over a multi-year price cap IR term and can result in a threshold value

¹⁹ EB-2018-0305, Exhibit B1, Tab 2, Schedule 1, p. 11.

²⁰ EB-2018-0305, Exhibit B1, Tab 2, Schedule 1, pp. 11-12.

²¹ EB-2018-0305, Argument in Chief, June 17, 2019, p. 13.

that does not represent the actual revenue increase during that period.”²²

46. Despite’s EGI’s claims that current year PCI does not recognize changes experienced over multiple years, in 2014, the Board released an update to the ICM policy specifically to address how the ICM was to be calculated in the context of multi-year IR plans. The purpose and recommendation of this update was described by the Board in the following way:

“The original materiality threshold formula for an ICM was structured to support a single year-over-year change (i.e., from the cost of service rebasing to the first IRM rate adjustment application in the following year). However, a distributor could apply for an ICM as part of its annual IRM rate adjustment for any year subsequent to its cost of service application. The single year-over-year formula does not take into account the passage of time over the subsequent IRM period (i.e., the cumulative impacts of cost, inflation, productivity and changes in customers and demand)...

...Having reviewed more than a dozen ICM applications since adopting the ICM, the OEB is of the view that the materiality threshold should change over time during the IR term. The amount of capital that is funded each year should change relative to what was funded in rebased rates to reflect the current price cap adjustment and growth in demand.”²³ (emphasis added)

47. Accordingly, after reviewing the interaction between multi-year IR terms and the ICM materiality threshold, the Board determined that the appropriate way to escalate the ICM materiality threshold was through the current year price cap adjustment, not the average.

5.2 Using Average PCI Causes a Discrepancy Between Rates and the ICM Materiality Threshold Calculation

48. The use of an average PCI will actually cause a significant discrepancy between rate increases and the ICM materiality threshold calculation.
49. The relationship between rates and the ICM materiality threshold is straightforward, but critical to understand before considering any alterations to how the threshold is calculated.

²² EB-2018-0305, Argument in Chief, June 17, 2019, pp. 12-13.

²³ Report of the OEB, EB-2014-0219, New Policy Options for the Funding of Capital Investments: Supplemental Report, p. 13.

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50. The materiality threshold is the amount of money that the utility must spend before it is eligible to ask for additional funding through rates for capital expenditures. The existence of the threshold is premised on the fact that the utility should be able to fund a certain amount of capital spending through existing rates. The materiality threshold is escalated each year as a function of the PCI, which mirrors the rate increase for that year, which is also calculated with reference to the PCI. This matching between rates and the threshold calculation means that the utility, when they collect more money from ratepayers, are required to spend commensurately more on capital before being eligible to ask for additional funding from ratepayers.
51. The Board's policy, using the current year PCI methodology, leads to closely matching increases between rates and the ICM materiality threshold. When rates go up through the formula using a PCI amount for the current year, the ICM materiality threshold calculation is increased by PCI for the current year.
52. In contrast, CME submits that EGI's averaging proposal will sever that connection. EGI has outlined that for the EGD ratezone, the average PCI and the current year PCI is equivalent in 2019, because EGD's last rebasing was in 2018, and according there has only been 1 year of PCI. EGI has confirmed however, that in 2020, the PCI would be the average of the 2019 and 2020 PCIs.²⁴ Accordingly, a simple example can show how the use of the average PCI escalator can cause a schism between rates and the ICM threshold calculator.²⁵

²⁴ EB-2018-0305, Technical Conference, Transcript Volume 1, May 1, 2019, p. 22, lines 14-20.

²⁵ EB-2018-0305, Exhibit B1, Tab 2, Schedule 1, p. 11.

Legacy EGD Hypothetical PCI Increases 2019-2022

Escalator	2019	2020
Rates PCI escalator (current year)	1.07%	1.17%
ICM Threshold PCI escalator (average)	1.07% ²⁶	1.12% ²⁷

53. With a yearly simple average calculation, PCI values at the beginning of the plan term are significantly more important than those at the end because each year's PCI is used to determine not only that year's increase to the threshold, but every succeeding year as well. In other words, the fact that there was a comparatively low increase in the 2019 example year meant that it weighed down the average PCI escalation in 2020.
54. In contrast, the natural gas rates paid by Ontarians, which would be escalated by the current year's PCI, are entirely agnostic as to what increases came before it. Accordingly, the rate increase in 2020 are not impacted at all by the relatively low increase in 2019. This is what leads to the discrepancy.
55. Should the Board accept EGI's proposal, the impact on ratepayers would be evident.²⁸ Despite revenue escalating at 1.07% for 2019, their proposal would only use 0.72% escalation in the ICM materiality threshold calculation for Union ratepayers. The net effect of this proposal would be to make it comparatively easier for EGI, over time, to ask ratepayers for more money through the ICM mechanism, despite utility revenues going up due to the PCI escalation.
56. Accordingly, the Board should decline to allow EGI to calculate the ICM materiality threshold on the basis of an average PCI, and should instead use the current year PCI.

²⁶ The average is equal to the current year as there has only been 1 year worth of escalation.

²⁷ The simple two year average of 1.07% and 1.17%.

²⁸ EB-2018-0305, Exhibit B1, Tab 1, Schedule 1, p. 2.

6.0 THE SUDBURY REPLACEMENT PROJECT (ISSUE 12A)

57. EGI proposes to recover the costs of the Sudbury Replacement project beginning in 2019 through the ICM mechanism, despite the fact that it entered service in October of 2018.²⁹ While Union (as it was then) had a mechanism to fund capital expenditures in 2018, the Sudbury Replacement project did not qualify for funding under Union's previous capital funding mechanism.
58. As a result, EGI now asks the Board to fund it through the ICM. Specifically, EGI's total ICM request for the Sudbury Replacement project is \$91.9 million.³⁰
59. CME opposes EGI's request for ICM recovery of the Sudbury Replacement project, as it does not accord with the Board's ICM policy, and the gap between Union's previous capital spending mechanism and the ICM mechanism was the result of Union and Enbridge's business decision to select the ICM mechanism.
60. As discussed by the Board in its report on capital funding modules, the ICM:
- “[W]as intended to address the treatment of capital investment needs that arise during the rate-setting plan which are incremental to a materiality threshold.” [emphasis added]***³¹
61. The rate-setting plan that is subject to the ICM mechanism in this instance is from 2019-2023. The Sudbury Replacement Project, predates the plan. In 2017, Union asked the Board for leave to construct, which was granted on September 28, 2017.³² The project was completed, and was in service in 2018.³³
62. Accordingly, the capital investment need did not arise during the rate-setting plan. Instead it arose during Union's previous rate-making framework.

²⁹ EB-2018-0305, Exhibit B1, Tab 2, Schedule 1, p. 18.

³⁰ EB-2018-0305, Exhibit B1, Tab 2, Schedule 1, p. 18.

³¹ EB-2014-0219, Report of the Board, New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, p. 4.

³² EB-2017-0180, Decision and Order, Union Gas Limited, Application for approval to construct a natural gas pipeline in the City of Greater Sudbury, September 28, 2017.

³³ EB-2018-0305, Exhibit B1, Tab 2, Schedule 1, p. 18.

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63. Contemporaneous with Union's work on the Sudbury Replacement project, Union and Enbridge made a business decision to amalgamate. The amalgamation posed some challenges for the utilities, such as transitioning disparate rate-making frameworks and integrating the costs and functions of the two utilities. It also had a number of opportunities for the combined utility to find efficiencies, and provide additional value to the shareholder.
64. As part of its decision to amalgamate, Union and EGD specifically asked to use the ICM mechanism. This was not the only mechanism available to them to fund their capital expenditures.
65. CME submits that the choice to move to the ICM mechanism was EGI's. To the extent that EGI felt that a different capital funding mechanism was better suited to its business needs, because it could capture the costs of the Sudbury Replacement project, it was open to them to propose it.
66. They did not do so however. They chose the ICM mechanism, which has a well-articulated set of trade-offs in terms of capital funding. Accordingly, EGI made a conscious choice to apply for the ICM mechanism, and should not be able to bend the rules to achieve additional capital recovery. It must accept the attendant advantages and disadvantages of the ICM mechanism as laid out in the Board's policy.

7.0 COSTS

67. CME requests that it be awarded 100% of its reasonably incurred costs in connection with this matter.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 4th day of July, 2019.



Emma Blanchard
Scott Pollock

Counsel for CME