2.1.10 The intervenors proposed 2006 capital budgets ranging from $250 million to $300 million. In general, the intervenors argued that the Company should be able to manage within these levels, as these amounts are close to the Company's historic capital budget levels.

2.2 BOARD FINDINGS

2.2.1 It is not the Board's role in a rates case to micro-manage Enbridge's capital spending plans for any given year. Generally, Enbridge must determine for itself what level of spending is appropriate for a relevant period. This process within the Company must involve a thoughtful and programmatic assessment and prioritization of projects that have ripened to the extent that there is confidence that they can and should be accomplished within the period. This is particularly so in an environment that has seen significant increases in energy prices and where the Company is seeking a very substantial increase in overall capital spending. It may be that the Company will have to make choices about which projects are most critical, and which may have to await completion until future periods.

2.2.2 The Board's role is to ensure that the Enbridge's total spending program is balanced in that it is not so low as to threaten the orderly maintenance and development of the system, nor so high as to place undue upward pressure on rates, either in the test year or some future period. In fulfilling this role the Board attempts to place the capital spending plans within historical norms, which can be presumed to have found that appropriate balance. If spending well in excess of historic norms is proposed, the Board must assess whether the increase is justified through the presentation of evidence regarding the Company's analysis, prioritization, and judgement respecting budget components.

2.2.3 In the instant case, Enbridge has proposed an unprecedented increase in capital spending. The applied for amount represents an increase of over 80% of not only the previous year's budgeted amount, but also the average of the last five years. While the rate impact of this proposal in the Test Year may be modest, the implication of the budget for subsequent periods is significant. Over $400 million would be added to rate base for the 2007 rate year, which will result in a rate base impact of approximately 11% in that year.

2.2.4 In such a case the Board must examine Enbridge's proposal carefully to determine if such an unprecedented increase is balanced and justifiable or if the budget should be adjusted to enable the Company to make choices between programs of varying priority and at different stages of development.

2.2.5 To support the magnitude of the increase, Enbridge advanced the proposition that a number of extraordinary circumstances had come together at this time to create the need for this extraordinary capital spending budget. These circumstances are:

- extraordinary system expansion requirements;
- a pressing safety and reliability issue occasioned by cast iron and bare steel mains in Toronto; and,
- the advent of gas-fired merchant generation in its franchise area.

2.2.6 The Board is not convinced that Enbridge has proven that its environment has changed so markedly as to justify the proposed level of capital spending.

2.2.7 Looking first at the issue of expansion within Enbridge's system, the Board notes that the number of customer additions in 2006 is roughly the same as that for other years in the recent past. Enbridge suggested that there is not a linear relationship between customer additions in a given year and the capital expenditures necessary to accommodate them and that there is a point where the Company "catches up" for past years. This assertion by the Company is not supported by any direct evidence.

2.2.8 The Board notes that the rate of customer additions has been remarkably stable over the last number of years and considers that the capital budgets in each of those prior years should be presumed to, in aggregate, approximately accommodate the additions. In the Board's view, more compelling evidence is required before it can accept Enbridge's claim that this is an extraordinary year from a customer additions point of view and that such an unusually high level of capital spending is needed to accommodate them.

2.2.9 The acceleration of the bare steel and cast iron mains replacement program from 8 years to 3 years accounts for a significant portion of the increase in the capital budget for 2006. It is clear from the evidence that senior management intervened to accelerate the program and to increase the budget accordingly as a result of a change in its tolerance for the risks associated with managing this aging mains stock. The responsible engineering personnel had recommended a reduction in the spending amount for 2006. The technical challenges presented by the bare steel and cast iron mains did not change, nor did prevailing engineering practice. The existing program, which provides for a replacement of the bare steel and cast iron mains over an 8 year period, had been established by the Company's engineering staff and repeatedly presented and represented as being adequate to the risks associated with the mains. Nothing has intervened to change the adequacy of the 8 year replacement program, except senior management's risk tolerance.

2.2.10 Enbridge attempted to suggest that imminent changes in technical standards governing bare steel and cast iron pipe management would require an accelerated replacement program. In fact, Enbridge was unable to document or support this suggestion. No such change in the regulatory environment appears to be imminent.

2.2.11 Enbridge also suggested that an acceleration of the replacement program was justified because the anticipated decrease in the number of system leaks had not materialized. It looked to a study conducted by the American Gas Foundation to support this view. In fact, the AGF Study does not support or mandate the much more aggressive approach adopted by Enbridge for the purposes of this budget.

2.2.12 Similarly, Enbridge was unable to document any specific concerns on the part of the primary regulator of pipeline integrity in Ontario, the Technical Safety Standards Authority, with its 8 year replacement program. The Board also notes that Enbridge has not taken any steps to alert other public authorities, or its insurer, respecting a concern that the bare steel and cast iron mains now represent a previously underestimated danger to public safety.

2.2.13 What is clear from the evidence is that the acceleration of the bare steel and cast iron mains replacement program is the result of a change in senior management's risk tolerance, and not with any demonstrable change in the technical challenges presented by that pipeline stock. While it is laudable that the Company's senior management is focused on this program and determined to manage it aggressively, such a change in attitude without a change in the actual risk cannot justify an increase in the capital spending budget of the magnitude sought by the Company. Enbridge may choose, and perhaps, given Mr. Schultz' testimony, has already chosen, to afford the replacement program a priority beyond that which its own engineering forces identified, but it must do so within a budget that has not been unduly inflated to account for changes in mere risk tolerance.

2.2.14 Finally, Enbridge suggested that the prospect of new gas-fired electricity generation plants within its franchise territory justifies some extraordinary and significant increases in its capital spending budget. The increases are related to the construction of the infrastructure necessary to supply such plants with gas. This budget item references the prospect of gas-fired electricity generation and provides a "placeholder" for two potential generation plants in the Enbridge franchise area in 2006.

2.2.15 It is no secret that Ontario has identified a need for increased electricity generation. The Company has not provided any detail respecting imminent projects, and it would generally be considered unreasonable to insert placeholders in the budget without more substance. However, the Board, being mindful of the provincial imperative of developing more generation, is prepared to acknowledge that some provision should be made for as yet unspecified generation projects.

2.2.16 In conclusion, Enbridge has not demonstrated that circumstances exist which justify the extraordinary increase sought in the total capital budget. The Board does consider, however, that a case has been made for some increase in the budget over historical norms. While the Board is not convinced that the customer additions justify the extent of increase sought, it is prudent to make provision for some additional spending to ensure that system requirements are appropriately maintained. Similarly, while Enbridge has failed to support its claim for a radical acceleration of the bare steel and cast iron mains replacement program and the sharp increase in spending associated with it, some additional funds may be needed to adjust to developments in this area. The same kind of provision is appropriate for the development of infrastructure to support gas-fired generation projects and other system reinforcement.

2.2.17 Accordingly, the Board will approve a capital budget which is equivalent to the average for the five years 2001 to 2005 with an additional amount of $50 million to provide for the contingencies suggested by Enbridge in its evidence and general inflationary pressures. The total approved capital budget will therefore be $300 million.

2.2.18 In approving this budget amount, the Board leaves it to Enbridge's management to determine which projects it will pursue in the Test Year and at what pace it will pursue them. If the Company decides to accelerate the bare steel and cast iron mains replacement program, the Board would anticipate that claims for subsequent years would be reduced commensurately.