

October 23, 2015

BY COURIER & RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
Suite 2700, 2300 Yonge Street  
Toronto, Ontario  
M4P 1E4

**RE: EB-2015-0029 – Union Gas Limited (“Union”) – 2015-2020 DSM Plan Reply Argument**

Dear Ms. Walli,

Please find enclosed Union’s Reply Argument in the above noted proceeding. It will be filed in RESS and copies will be sent to the Board.

If you have any questions with respect to this submission please contact me at 519-436-5334.

Yours truly,

*[original signed by]*

Vanessa Innis  
Manager, Regulatory Initiatives

Encl.

cc: Lawrie Gluck, Board Staff  
Alex Smith, Torys  
All Intervenors (EB-2015-0029)

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**ONTARIO ENERGY BOARD**

**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 Union Gas Limited pursuant to Section 36(1) of the *Ontario Energy Board Act, 1998*, for an Order or Orders approving the 2015 to 2020 Demand Side Management Plan.

**REPLY ARGUMENT OF UNION GAS LIMITED (“UNION”)**

## **PART I – OVERVIEW**

1. In their responding submissions, the 15 intervenors in this proceeding and Board Staff have proposed a series of changes to Union’s 2015-2020 DSM Plan. Some of the intervenors’ proposed changes are radical, such as the School Energy Coalition’s (“SEC”) submission that Union be required to start afresh and re-file a new Plan for 2017-2020. At the other end of the spectrum, some intervenors—such as the Low-Income Energy Network (“LIEN”)—propose minor changes to particular programs while being “overall very supportive” of Union’s Plan.<sup>1</sup> The overall result is a dizzying variety of suggested changes based on many different perspectives, concerns and priorities.

2. In Union's submission, in considering these many suggestions the Board should do at least three things. First, the Board should continue to be mindful of an important difference between the application submitted by Union and the proposed alternatives presented by the intervenors. Union’s Plan represents a comprehensive balance, consistent with the energy conservation approach contained in the Ministry of Energy’s Long-Term Energy Plan. In developing its Plan, Union balanced competing policy considerations in accordance with the Board’s Framework. In contrast, each of the intervenors’ proposed changes are driven by the policy considerations that are most important to them. As Union stated in its argument-in-chief, the intervenors have not had to concern themselves with striking a balance between competing priorities, while Union has.

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<sup>1</sup> LIEN Submissions, p. 2.

3. Second, the Board should continue to be supportive of the extensive interconnectedness of all of the elements of Union's Plan, particularly targets, budgets and programs. Increasing the budget, to take the example of one of the Green Energy Coalition ("GEC") proposals<sup>2</sup>, is not necessarily a simple matter of adding dollars to programs. Material changes to the budget may require Union to make corresponding changes to other elements of the Plan and present a new Plan to the Board. Redesigning this six-year Plan based on a budget that materially departs from the budget guidance in the Framework is, in Union's view, undesirable and will compromise the timely establishment of this six-year Plan. Other proposed material changes are likely to have the same effect.

4. Finally, the Board should resist calls to turn this application into an ongoing regulatory odyssey. Union was directed by the Board to develop a six-year Plan and has done so. Drastically expanding the scope of the mid-term review or requiring Union to file a new application for part of the term of the Plan would, in effect, require Union to deliver at least two different Plans during the course of the six-year Plan period. The Board has already devoted weeks of hearing time to the gas utilities' DSM Plans. Union submits that the Board's Decision on this application should allow Union to shift its focus from regulatory approval of its DSM Plan to implementation of that Plan and the achievement of the conservation results desired by all.

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<sup>2</sup> GEC Submissions, pp. 18-19.

5. This hearing process has resulted in some refinements that will inform Union's intended implementation of the Plan, but no proposed changes to the application as filed. Union asks that its application be approved as filed.



## **PART II – ISSUES**

6. This is Union’s reply argument in EB-2015-0029. This argument should be read in conjunction with Union’s argument-in-chief. Union has not addressed—and could not have usefully addressed—all of the changes suggested by intervenors and Board Staff, but Union has addressed the most significant proposed changes in this reply argument, which is organized in conformity with the topics list provided by the Board in Procedural Order 1.<sup>3</sup> Where Union has not addressed a proposed change Union’s silence should not be taken as agreement with the proposed change.

### **Issue 1: The Framework’s Guiding Principles and OEB Priorities**

7. The Board’s DSM Framework (the “Framework”) “is designed to reduce natural gas consumption throughout Ontario, and includes the Board’s policies on all elements of the gas utilities’ DSM activities.”<sup>4</sup>

8. In the Framework the Board set out ten principles (the “Principles”) intended to guide Union’s design of individual DSM programs and its DSM Plan as a whole. They are:

- (1) Invest in DSM where the cost is equal to or lower than capital investments and/or the purchase of natural gas;
- (2) Achieve all cost-effective DSM that result in a reasonable rate impact;

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<sup>3</sup> EB-2015-0029/EB-2015-0049, Procedural Order 1, May 12, 2015, Appendix B.

<sup>4</sup> Framework, p. 1.

- (3) Where appropriate, coordinate and integrate DSM and electricity Conservation Demand Management (“CDM”) efforts to achieve efficiencies;
- (4) Gas utilities will be able to recover costs and lost revenues from DSM programs;
- (5) Design programs so that they achieve high customer participation levels;
- (6) Minimize lost opportunities when implementing energy efficient upgrades;
- (7) Ensure low-income programs are accessible across the province;
- (8) Programs should be designed to pursue long-term energy savings;
- (9) Shareholder incentives will be commensurate with performance and efficient use of funds; and,
- (10) Ensure DSM is considered in gas utility infrastructure planning at the regional and local levels.

9. The Board also set out six “key priorities” (the “Priorities”) that the gas utilities’ multi-year DSM Plans are intended to address. Those Priorities are:

- (a) Implement DSM programs that can help reduce and/or defer future infrastructure investments;
- (b) development of new and innovative programs, including flexibility to allow for on-bill financing options;
- (c) increase collaboration and integration of natural gas DSM programs and electricity CDM programs;

- (d) expand the delivery of low-income offerings across the province;
- (e) implement DSM programs that are evidence-based and rely on detailed customer data; and,
- (f) ensure that programs take a holistic-approach and identify and target all energy saving opportunities throughout a customer's home or business.

10. There are obviously tensions between some of these 16 Principles and Priorities, and this required Union to strike a balance between competing and sometimes conflicting policy objectives. An example is achieving high customer participation levels (Principle 5) while maintaining a reasonable rate impact (Principle 2), which the Board directs should limit DSM costs for a typical residential customer to approximately \$2.00/month.<sup>5</sup> Another tension, which was identified by Ms. Lynch in her opening presentation, is between achieving high participation levels (Principle 5) while being holistic about savings and going deeper into a home or business (Priority F).<sup>6</sup> If achieving natural gas savings was the only policy priority, then customers who consume relatively little gas and face material barriers to participation would logically be ignored. If participation was the only policy priority, then natural gas savings would be lower. In contrast, achieving high natural gas savings and high participation rates in the context of a constrained budget is an exercise in trying to strike the right balance. In designing its DSM Plan, Union sought to take a balanced approach to the application of all of the Board's 16 Principles and Priorities.

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<sup>5</sup> Framework, p. 17.

<sup>6</sup> Transcript, Vol. 1, p. 11.

11. In addition to the Principles and Priorities, the Framework also provided the gas utilities with specific guidance on certain procedural and substantive Plan elements. Procedurally, and as required in the Minister's Directive to establish the Framework (the "Directive"),<sup>7</sup> the Framework confirmed the six-year term of the natural gas utilities' DSM Plans. The six-year term was appropriate, in the Board's view, because "Customers need long-term access to natural gas energy efficiency and conservation programs."<sup>8</sup> As the Board explained, the Framework provides the necessary flexibility for natural gas utilities to respond to developments over the six-year term of the Plan:

The DSM framework has the flexibility to allow gas utilities to adapt and change with the market, the stability to ensure programs remain in place so customers can participate, and provides the continuity to manage DSM programs in a changing environment.<sup>9</sup>

As a counterbalance to the effects of a longer Plan term, the Framework also provided that the mid-term review should be completed by June 1, 2018.<sup>10</sup>

12. The Framework also provides Union with substantive guidance on the design of its Plan. Most significantly, the Framework set out the Board's directions on the following issues:

- (a) ***Targets.*** The Board expressed "the view that gas utilities should develop and propose both annual performance targets (natural gas savings and other appropriate program-activity related metrics included within annual weighted

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<sup>7</sup> O.C.467/2014. Directive of the Minister to the OEB dated March 26, 2014.

<sup>8</sup> Framework, p. 3.

<sup>9</sup> Framework, p. 3.

<sup>10</sup> Framework, p. 3.

scorecards), as well as longer-term goals including natural gas savings targets to be met by December 31, 2020.”<sup>11</sup>

- (b) **Budget.** The Board determined that “for DSM activities between 2015 and 2020, the gas utilities’ annual DSM budgets should be guided by the simple principle that DSM costs (inclusive of both DSM budget amounts and shareholder incentive amounts) for a typical residential customer of each gas utility should be no greater than approximately \$2.00/month.”<sup>12</sup> As the current bill impact for a typical residential customer is just under \$1.00/month, the Board determined, in effect, that DSM budgets could be doubled for the 2015-2020 period.
- (c) **Shareholder incentive.** An annual shareholder incentive is available to each of Enbridge Gas Distribution Inc. (“Enbridge”) and Union that is equal to a total annual maximum of \$10.45 million.<sup>13</sup>
- (d) **Large volume program.** The Board directed that “rate funded DSM programs for large volume customers should not be mandated as these customers are sophisticated and typically competitively motivated to ensure their systems are efficient.”<sup>14</sup>

13. Finally, the Framework also provided that the gas utilities could propose alternatives to conformity with the Framework. The Board directed that:

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<sup>11</sup> Framework, pp. 11-12.

<sup>12</sup> Framework, p. 17.

<sup>13</sup> Framework, p. 22.

<sup>14</sup> Framework, p. 27.

While conforming to the DSM framework contributes to a streamlined approval process, gas utilities can propose alternatives in their plans, but they must present the evidence and rationale for any proposed alternative and clearly show how the public interest is enhanced.<sup>15</sup>

### *Intervenors' submissions*

14. The intervenors represent stakeholders with differing interests and, unsurprisingly, it appears that none of them would balance the Framework's 16 Principles and Priorities in precisely the way that Union has in its proposed Plan. Some intervenors and Board Staff nonetheless acknowledge that, broadly speaking, Union's Plan strikes a credible balance. Board Staff acknowledges that Union has "responded to the guiding principles" in the Framework and has set savings targets that are "largely appropriate".<sup>16</sup> The London Property Management Association ("LPMA") acknowledges that Union's Plan "by and large incorporates and properly balances the guiding principles" set out in the Framework and, "As a general comment, LPMA supports the 2015 to 2020 DSM Plan as filed by Union," subject to some exceptions.<sup>17</sup> LIEN acknowledges that the offerings in Union's Plan "fulfill the key objectives" set out in the Framework.<sup>18</sup> The Building Owners and Managers Association ("BOMA") states its belief that Union has "generally adhered to the Board's Guiding Principles" as best it can.<sup>19</sup>

### *The status of the Framework in this proceeding*

15. Board Staff and SEC made submissions on the status of the Framework in this proceeding. Board Staff submits that although the DSM Framework "should provide significant

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<sup>15</sup> Framework, p. 2.

<sup>16</sup> Board Staff Submissions, p. 12.

<sup>17</sup> LPMA Submissions, p. 1.

<sup>18</sup> LIEN Submissions, p. 3.

<sup>19</sup> BOMA Submissions, p. 1

persuasive authority, it is not formally binding” on the Board in this hearing. Instead, “If a party is able to demonstrate that a different approach is preferable based on the evidence in this case, the panel can order something different from what is in the DSM Framework.”<sup>20</sup>

16. SEC submits that the Directive and the Framework itself are constrained by, and operate in the context of, the statutory power that the Board is being asked to exercise in this proceeding, namely, to set just and reasonable rates.<sup>21</sup> The Principle of achieving all cost-effective DSM that results in a reasonable rate impact must be interpreted in this light, and SEC submits that Principle (2) does not require the gas utilities to achieve all cost-effective DSM without regard to rate impact.<sup>22</sup>

*Union’s alternatives to the Framework*

17. As discussed above at paragraph 13, the Framework provided that the gas utilities could propose alternatives to specific directions in the Framework where evidence established that doing so would enhance the public interest.<sup>23</sup> As Ms. Lynch explained in her initial presentation to the Board in this hearing, Union proposed alternatives regarding:

- (a) the treatment of Rate T1 customers;<sup>24</sup>
- (b) not establishing a fee-for-service program for Union’s large volume Rate T2 and Rate 100 customers;<sup>25</sup>

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<sup>20</sup> Board Staff Submissions, p. 4.

<sup>21</sup> SEC Submissions, pp. 14-16.

<sup>22</sup> SEC Submissions, p. 15.

<sup>23</sup> Framework, p. 2.

<sup>24</sup> Exhibit A, Tab 3, Section 12.1; See also para. 145 below.

<sup>25</sup> Exhibit A, Tab 3, Section 12.2; See also par. 144 below.

- (c) applying revised input assumptions and adjustment factors for determining Union's scorecard achievement and results on a prospective basis;<sup>26</sup> and,
- (d) the 125% upper band for Union's targets.<sup>27</sup>

18. Union's proposed alternatives to the Framework are informed by Union's long history of successful programs, which have delivered significant results that benefit ratepayers. In light of that history, the Board can have confidence that Union's proposed Plan will also be successful. In Union's view, any material changes to the Plan as filed threaten to erode that confidence and could detract from Union's ability to build on that record of success.

19. Several intervenors criticize Union's proposed alternatives to the Framework. Each of these criticisms is addressed on its merits in the relevant sections of this reply.

*Intervenors' changes or alternatives to the Framework*

20. While Union has proposed alternatives to the Framework, GEC has taken a more radical approach. In its section on the Board's Principles and Priorities, GEC argues that some Principles and Priorities need to be "amended or re-interpreted."<sup>28</sup> GEC identifies "five main themes" that it submits should inform the Board's approach to amending or re-interpreting the Framework's Principles and Priorities. GEC argues that its approach is warranted because:

- (a) When the Framework was developed and then released on December 22, 2014  
"the magnitude of the benefits to both DSM participants and non-participants was

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<sup>26</sup> Exhibit A, Tab 3, p. 17; See also para. 155-157 below.

<sup>27</sup> Exhibit A, Tab 3, pp. 17-18; Exhibit B.T2.Union.Staff.4; See also para. 73-77 below.

<sup>28</sup> GEC Submissions, p. 5.



not apparent.” As a result, GEC submits, the gas utilities’ budgets should be increased to reflect the magnitude of DSM’s benefits.<sup>29</sup>

- (b) The evidence in this hearing on avoided costs “makes clear that with a proper recognition of the benefits to non-participants and participants, expanded participation can occur without significant net rate impact.”<sup>30</sup>
- (c) The evidence in this hearing establishes that self-directed programs for large volume customers allow these customers to achieve efficiencies that they would otherwise fail to achieve without large volume customers subsidizing their competitors. The Board assumed the opposite when, in the Framework, it concluded that rate-funded DSM programs for large volume customers should not be mandated.<sup>31</sup> Consequently, rate funded DSM programs for large volume customers should be mandated.<sup>32</sup>
- (d) Carbon benefits and natural gas price suppression need to inform the analysis of the cost of DSM programs for the purpose of setting DSM budgets.<sup>33</sup>
- (e) The mid-term review should occur in 2017 rather than 2018 “to allow adjustments for three of the six years of the plan.”<sup>34</sup>

21. In light of these themes, GEC calls on the Board to “refine or reconsider” two elements of the Framework. First, “the \$2 residential rate impact guideline (and budget caps based

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<sup>29</sup> GEC Submissions, p. 5.

<sup>30</sup> GEC Submissions, p. 5.

<sup>31</sup> Framework, p. 27.

<sup>32</sup> GEC Submissions, p. 5.

<sup>33</sup> GEC Submissions, pp. 5-6.

<sup>34</sup> GEC Submissions, pp. 6, 63.

thereon) should be refined to explicitly recognize the net rate impacts from both DSM budgets and the rate lowering effects of DSM, enabling a further ramp up of budgets in 2017 and thereafter.”<sup>35</sup> This involves departing from a “literal reading” of the Framework that GEC concedes “might suggest” that residential rate impact of \$2 per month “is to be calculated simply on the DSM budget gross rate impact”.<sup>36</sup>

22. Second, GEC argues that the Board should “reconsider its guideline cancelling Union’s large volume customer DSM program” and “direct a refinement of that program in light of the results of the forthcoming net to gross study.”<sup>37</sup>

23. SEC also suggests a radical departure from the Framework. SEC proposes that the Board deny approval for Union’s Plan and require that Union “re-file with a new 2017-2020 Plan, incorporating the comments in the Board’s Decision, by June 30, 2016. In the meantime, 2016 programs should continue using a rollover from the 2015 budgets and targets.”<sup>38</sup> This extraordinary measure is appropriate, in SEC’s view, because Union’s Plan does not show leadership and innovation.<sup>39</sup> One consequence of this suggestion is that this application will have to be re-heard by the Board. Another consequence is that, in order to accommodate the re-hearing of this application, Union will not be able to implement a new Plan for 2016 and will instead have to rollover its targets and budgets for 2016.<sup>40</sup>

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<sup>35</sup> GEC Submissions, p. 8.

<sup>36</sup> GEC Submissions, p. 19.

<sup>37</sup> GEC Submissions, p. 8.

<sup>38</sup> SEC Submissions, p. 9.

<sup>39</sup> SEC Submissions, p. 9.

<sup>40</sup> SEC Submissions, p. 10.

24. Of all of the departures from the Framework proposed by intervenors, GEC's and SEC's are the most explicit and are among the most extreme. Other intervenors do, however, make comparable suggestions. Each of these is addressed on its merits in the relevant sections of this reply.

***Union's reply***

*The status of the Framework in this proceeding*

25. Union agrees with Board Staff and SEC regarding the status of the Framework in this proceeding. Where the evidence establishes that an alternative to the Framework is within the statutory authority of the Board and will enhance the public interest, the Board can make an order implementing that alternative.

*Union's alternatives to the Framework are warranted*

26. Union built its Plan on the basis of the Framework. In doing so, Union was mindful of the Framework's direction that "gas utilities can propose alternatives in their Plans, but they must present the evidence and rationale for any proposed alternative and clearly show how the public interest is enhanced."<sup>41</sup> In each instance where Union has proposed an alternative to the Framework, Union has done so on the basis of clear evidence that the proposed approach will enhance the public interest, as discussed further in each relevant section below.

*Intervenors' changes to the Framework are not warranted*

27. GEC all but concedes that it is asking the Board to depart from a "literal reading" of the Framework, which directs that the residential rate impact of DSM should not exceed

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<sup>41</sup> Framework, p. 2.

approximately \$2 per month.<sup>42</sup> As discussed further in the Budget section below,<sup>43</sup> the evidence in this hearing does not support GEC's proposal that the Framework be "amended" in this manner.

28. GEC also argues that the Board should depart from the Framework guidance to cancel Union's large volume customer DSM program and instead "direct a refinement of that program in light of the results of the forthcoming net to gross study."<sup>44</sup> As discussed further in the Programs section below,<sup>45</sup> the evidence in this hearing does not support GEC's proposal that the Framework be "amended" in this manner.

29. SEC's proposal that Union be required to re-file its application is drastic, counterproductive and unsubstantiated. It would delay the implementation of Union's Plan for a year and require a new hearing, contrary to the "streamlined approval process" contemplated in the Framework.<sup>46</sup> This proposal reflects SEC's myopic focus in this proceeding on novel offerings and its comparative disparagement of DSM's goal of maximizing savings (i.e., actual, objectively-measured conservation).

30. As stated in Union's argument-in-chief, innovation was a theme in the hearing and while good examples of innovation are easy to recognize once they exist, defining innovation is more difficult. Like Mr. Neme, Union rejects SEC's approach to innovation whereby you have to be

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<sup>42</sup> GEC Submissions, p. 19.

<sup>43</sup> Issue 3, DSM Budgets.

<sup>44</sup> GEC Submissions, p. 8.

<sup>45</sup> Issue 5, Program Types.

<sup>46</sup> Framework, p. 2.

the first one to do anything to be called innovative.<sup>47</sup> Union defines appropriate innovation as an ongoing process of program development and refinement. Union has applied this approach to DSM in the years since 1997, and will continue to do so over the course of the DSM Plan. Union's program development and refinement innovations include data analytics, approach to market and new technologies. Union also fosters appropriate innovation through research and pilot programs.<sup>48</sup>

31. SEC's radical suggestion that Union be required to re-file its application because it is not innovative ignores the evidence of Union's commitment to innovation. It is also not in the public interest. The Board should reject it.

32. The proposed changes to or departures from the Framework of other intervenors are addressed on their merits in the submissions that follow. In no case are these suggested alterations supported by clear evidence that they will enhance the public interest. In considering these proposed alterations, the Board should be mindful of the fact that adopting them may require Union to substantially revise its Plan, resulting in consequent changes to targets, budgets and programs, as well as delaying Union's implementation of the Plan into the second calendar year of the Plan period.

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<sup>47</sup> Transcript, Vol. 11, pp. 158-159.

<sup>48</sup> Transcript, Vol. 14, pp. 31-32.

**Issue 2: DSM Targets**

33. The Framework directed the gas utilities to roll-forward their 2014 DSM Plans into 2015, including their targets. As a result, no intervenor opposes Union's targets for 2015. Union's targets for 2016 and its formulaic approach to adjusting targets for 2017-2020 are more controversial. Board Staff and intervenors have suggested material changes to:

- (a) Union's targets for the 2016-2020 period, and
- (b) the procedures set out in the Plan, which are intended to facilitate the proposed changes to Union's targets.

34. In Union's submission, these proposed changes to Union's targets for 2016-2020 must be viewed in the context of their impacts on Union's Plan as a whole, including the interrelated impacts on budget and program elements. In the following paragraphs, Union summarizes intervenors' submissions on:

- (a) intervenors' proposed changes to Union's general targets in the years 2016-2020;
- (b) intervenors' proposed changes to scorecard metric caps;
- (c) using the example of GEC, intervenors' proposed changes to targets for particular programs; and,
- (d) Union's formulaic approach to adjusting targets for 2017-2020.

***Targets in 2016 and after – intervenors’ submissions***

*Board Staff*

35. Board Staff believes that the gas utilities’ targets for “natural gas savings are largely appropriate”.<sup>49</sup> Nonetheless, Board Staff submits that instead of allowing Union to continue to use a formulaic approach, the Board should require Union to fix its annual targets for 2016-2020 in light of changes to Union’s DSM Plan that Board Staff submits should be required by the Board in its Decision.<sup>50</sup> Drawing on the evidence of its expert consultant Synapse, Board Staff gives the following explanation for preferring fixed targets:

Having challenging firm targets for the duration of the DSM Framework requires the gas utilities to implement properly designed programs and delivery methods to be able to mitigate impacts on shareholder incentive that could result from the annual evaluation and audit of the programs. The utilities should continue monitoring program performance, updating program designs and making program adjustments as required throughout the term of the DSM Framework, rather than applying a target adjustment mechanism. OEB staff recommends that the static targets be revisited during the mid-term review.<sup>51</sup>

*GEC, BOMA and ED*

36. GEC accepts Union’s Resource Acquisition target levels for 2016, subject to Union’s targets for the large volume program (which GEC submits should continue into 2016 and beyond) being based on the formula set out in prior guidelines.<sup>52</sup> BOMA takes essentially the same position.<sup>53</sup>

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<sup>49</sup> Board Staff Submission, p. 12.

<sup>50</sup> Board Staff Submissions, p. 11.

<sup>51</sup> Board Staff Submissions, pp. 11-12.

<sup>52</sup> GEC Submissions, p. 15.

<sup>53</sup> BOMA Submissions, p. 5

37. Departing from the Framework, GEC submits that targets for 2017 should only be set once the Board has ordered increased budgets for that period in its Decision on this application.<sup>54</sup>

38. GEC also submits that targets for 2018-2020 should not be set at this time. Instead, departing further from the Framework, GEC submits that the mid-term review should be accelerated and the targets for the 2018-2020 period should be set through the mid-term review process.<sup>55</sup>

39. Not to be outdone, Environmental Defence (“ED”) submits that targets for 2017 and beyond should essentially be eliminated, and that the effective target should be all cost-effective conservation unconstrained by bill impact.<sup>56</sup>

*LPMA*

40. LPMA submits “the Board should increase the 2016 targets across the board for each of the scorecards”.<sup>57</sup> LPMA takes this approach because, in its view, Union’s past success in exceeding its targets is only “partly due to good work by Union in delivering their DSM plan over the years” and also reflects a built-in bias to under-forecast results.<sup>58</sup> LPMA submits that the Board should increase Union’s scorecard targets as follows:

- (a) resource acquisition by 10% to 15%;
- (b) low income by 35% to 50%;
- (c) market transformation from 2015 actual plus 20% to 2015 actual plus 25%; and,

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<sup>54</sup> GEC Submissions, pp. 16, 62-63.

<sup>55</sup> GEC Submissions, p. 17.

<sup>56</sup> ED Submissions, p. 23.

<sup>57</sup> LPMA Submissions, p. 2.

<sup>58</sup> LPMA Submissions, p. 3.



- (d) performance based from 25 RunSmart participants and 3 SEM participants to 33 RunSmart participants and 4 SEM participants.<sup>59</sup>

41. In essence, LPMA argues that Union can never be trusted to engage in good-faith forecasting, that Union's bottom-up approach to Plan development is just so much smoke and mirrors, and that the appropriate response from the Board is to raise Union's proposed targets so that if Union delivers all of its programs successfully and nothing goes wrong, Union may be able to reach its 100% target.

*SEC*

42. SEC makes an argument similar to LPMA's, claiming that "naturally in the Plans the proposed targets, and how they are structured, are designed to be as easy to achieve as possible."<sup>60</sup> As a result, SEC supports LPMA's submissions on Union's 2016 targets.<sup>61</sup>

43. Notwithstanding SEC's stated support for LPMA's submissions on Union's 2016 targets, SEC also proposes that in 2016 Union's programs should continue using a rollover from Union's 2015 targets.<sup>62</sup> The purpose of this rollover is to facilitate SEC's submission that Union be required to re-file a new 2017-2020 Plan by June 30, 2016.<sup>63</sup> In this respect SEC's submission on targets is similar to that of GEC.

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<sup>59</sup> LPMA Submissions, p. 3.

<sup>60</sup> SEC Submissions, p. 19.

<sup>61</sup> SEC Submissions, p. 24.

<sup>62</sup> SEC Submissions, p. 9.

<sup>63</sup> SEC Submissions, p. 9.

***Targets in 2016 and after – Union’s reply***

*Board Staff*

44. Board Staff’s submission that Union’s targets should be revised is ancillary to Board Staff’s recommended changes to Union’s Plan, which are dealt with below in the section on program types.<sup>64</sup> As Board Staff’s submissions on Union’s program types should be rejected for the reasons discussed below, Board Staff’s submission on Union’s targets in 2016 and beyond should also be rejected.

*GEC, BOMA and ED*

45. GEC’s submission that Union’s targets should be revised is ancillary to GEC’s recommended changes to Union’s budget, which are dealt with below in the section on Union’s budget.<sup>65</sup> Similarly, GEC and BOMA’s submissions on varying targets with respect to large volume programs are ancillary to their arguments that those programs should be maintained.

46. ED’s submission that the effective target should be all cost-effective DSM is ancillary to its argument that Union’s budget should be revised to remove any constraint regarding rate impacts.<sup>66</sup> As GEC, BOMA and ED’s submissions on Union’s budget should be rejected for the reasons discussed below at paragraph 84, GEC’s submission on Union’s budgets in 2016 and beyond should also be rejected.

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<sup>64</sup> Issue 5, Program Types.

<sup>65</sup> Issue 3, DSM Budgets.

<sup>66</sup> ED Submissions, pp. 26-29.

*LPMA*

47. LPMA's submission on Union's targets disregards the evidence led on Union's targets in this proceeding. As Ms. Lynch explained in her initial presentation, Union's targets were developed using a bottom-up approach:

As far as the process that we used for developing our targets and budgets, we look to set our annual and long term targets based on a detailed analysis that was performed. We performed it on a bottom-up approach, and it was based on our experience, program potential, and what we saw as the market opportunities in different areas.

This included building on the existing programs we have that have been successful, as well as identifying and proposing new program offerings in the residential, low-income, commercial-industrial and for large volume customers.

Our approach was informed by the Board's framework and guidelines, which included the budget and rate impact guidance as I've noted, as well as the guiding principles and key priorities.

We then assessed the offerings we would propose, the expected savings we thought we could achieve with the budget required, and this was done through an iterative process to determine the plan that we now have before you.

The result is a balanced cost effective plan that does meet the budget guidance provided.<sup>67</sup>

LPMA's submission fails to address this evidence.

48. Where the integrity of the utility is being questioned—as is clearly the case in an allegation of inherent bias—it is incumbent on LPMA to put that allegation to the utility's witnesses. LPMA did not do so; instead, LPMA raised this allegation for the first time in its responding argument. Though Union provided responses to a number of interrogatories regarding how Union set its targets for 2016 (including providing numerous Excel spreadsheets

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<sup>67</sup> Transcript, Vol. 1, pp. 8-9.

with detailed calculations),<sup>68</sup> LPMA did not examine Union's witnesses on Union's target-setting process. LPMA also led no evidence on the appropriateness of Union's targets. Having denied Union's witnesses an opportunity to respond to LPMA's allegation of inherent bias, the Board should disregard LPMA's unfounded allegation and its submissions on targets should be rejected.

*SEC*

49. SEC's submissions on Union's 2016 targets are inconsistent and unhelpful. The Board should disregard them.

*Scorecard metric caps – intervenors' submissions*

50. SEC submits that the "whole point of scorecards is to ensure that the utilities pursue multiple goals, not just focus on the ones that are the easiest or the most successful."<sup>69</sup> SEC concedes that some degree of flexibility is important because gas utilities "cannot just turn programs on and off at the flick of a switch", but proposes that the Board alter the gas utilities' scorecard methodology so that:

no individual metric can have a "% of metric achieved" of less than 0% nor more than 150%. Below zero would be 0%, and above 150% would be 150%. The effect of this would be to put the "balanced" back into the concept of "balanced scorecard".<sup>70</sup>

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<sup>68</sup> See Exhibit B.T2.Union.Staff.6, Exhibit B.T2.Union.CME.11, Exhibit B.T2.Union.EP.3, Exhibit B.T2.Union.GEC.24, Exhibit B.T2.Union.GEC.25, Exhibit B.T2.Union.GEC.26, Exhibit B.T2.Union.GEC.27, Exhibit B.T2.Union.GEC.29, Exhibit B.T2.Union.GEC.32, Exhibit B.T2.Union.GEC.33, Exhibit B.T2.Union.GEC.35, Exhibit B.T2.Union.GEC.36, Exhibit B.T2.Union.LPMA.7, Exhibit B.T2.Union.LPMA.10, Exhibit B.T2.Union.LPMA.11, Exhibit B.T2.Union.LPMA.12, Exhibit B.T2.Union.VECC.7, Exhibit B.T2.Union.VECC.20, and Exhibit B.T2.Union.VECC.36.

<sup>69</sup> SEC Submissions, p. 23.

<sup>70</sup> SEC Submissions, p. 24.

51. SEC's counsel cross-examined Mr. Neme on this issue, and in the course of that cross-examination Mr. Neme refined his evidence to acknowledge that while there should be a hard cap, that cap need not necessarily be 150%.

MR. SHEPHERD: And so -- and you achieve it to a somewhat lesser extent if you put multiple metrics on the same scorecard. But as long as you have a cap, you still achieve it to a certain extent.

MR. NEME: Yes, and I should note that my -- the proposal in my testimony of 150 percent needn't be a hard and fast line, or -- actually, I think it's important that there be a hard and fast line. But whether 150 -- I could see in argument for saying, well, let's given us a little bit more flexibility to blow one of them away -- you know, 200 percent or something.<sup>71</sup>

52. Under cross-examination by counsel for Enbridge Mr. Neme further clarified his view:

MR. NEME: And as I noted yesterday, just to kind of underscore that this is not a -- that this is a balancing issue and a judgment call, you know, I suggested in my evidence, you know, 150 per cent is the potential cap. It needn't be at 150. One could set it at 200, for example. I think I mentioned that to Mr. Shepherd. It's a question of where's the right balance. I think allowing it to get up to 500, 700, 1,000 is problematic. [Emphasis added.]<sup>72</sup>

***Scorecard metric caps – Union's reply***

53. Union believes it is important to allow the gas utilities to pursue results beyond the upper band (125%) of a given metric so that successful programs can continue to be pursued in light of Union's evolving experience. If gas utilities are not afforded significant flexibility to pursue successful programs significantly beyond 100% of a given metric, then effective conservation

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<sup>71</sup> Transcript, Vol. 10, p. 55.

<sup>72</sup> Transcript, Vol. 11, p. 135.

will be unnecessarily limited. SEC's submission that the "whole point of scorecards is to ensure that the utilities pursue multiple goals"<sup>73</sup> ignores a crucial aspect of scorecard design: flexibility. Union's scorecards are designed to incent Union to pursue multiple goals while giving Union flexibility to be responsive to the success of particular programs. Mr. Neme's evidence is consistent with this view.

54. At the same time, Union understands the concerns SEC and some other intervenors have about the unconstrained pursuit of successful programs. If, in light of those concerns, the Board determines that metric caps are appropriate for 2016-2020, then Union is agreeable to a metric cap of 200% of target. Union shares Mr. Neme's view that a metric cap of 200% of target is reasonable. Union submits that this level of permissible overachievement is reasonable, and that reasonable overachievement facilitates effective conservation to the benefit of all. Union believes that a metric cap below 200% could unnecessarily limit conservation opportunities for customers.

55. In Union's view, if the Board sees fit to impose this metric cap on successful programs then it should be accompanied by a corresponding constraint of 0% on the scorecard impact of unsuccessful metrics. The rationale for this measure corresponds to the rationale for a cap. For instance, in a scenario where it becomes apparent to Union that a metric target is unattainable, underperformance on that metric could undermine Union's motivation to provide leadership on the other metrics in the scorecard. Without an available shareholder incentive for the scorecard, the utilities may shift focus away from the scorecard as a whole, including all other metrics on

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<sup>73</sup> SEC Submissions, p. 23.

the scorecard. This could result in unnecessarily limiting conservation opportunities for customers.

***Targets for particular programs—the example of GEC’s submissions***

56. Intervenor have also proposed a number of more granular changes to targets for particular programs. Union does not believe that any of these proposed changes are necessary or appropriate. As an example, GEC has called for the following changes to program targets.

57. ***Home reno retrofit.*** GEC “has called for a budget increase for 2017 and beyond and submits that participation in the home retrofit program should grow (beyond the increase Union is already targeting) commensurate with that increase.”<sup>74</sup>

58. ***Low income.*** GEC submits “Union’s low income spending per unit of savings is projected to increase by an average of 60% relative to 2014. Mr. Neme suggests that approximately 20% of this increase is due to the inclusion of furnace efficiency upgrades which he indicates are both extremely expensive and not cost-effective. However no explanation for the rest of the increase was forthcoming.” GEC suggests that “Dropping the furnace measure would enable reallocation of this budget to more effective spending and broader participation, more equity and more savings. Accordingly, GEC calls to increase low income targets by 50%.”<sup>75</sup>

59. ***Performance based*** scorecard. Finally, GEC calls for the elimination of the Performance based conservation scorecard, while continuing the offerings.<sup>76</sup>

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<sup>74</sup> GEC Submissions, p. 31.

<sup>75</sup> GEC Submissions, p. 32.

<sup>76</sup> GEC Submissions, p. 32.

***Union's reply***

60. ***Home reno retrofit.*** GEC's suggestion is based on the false premise that adding budget to the Home Reno Retrofit offering means Union can increase targets at the same rate. Union would need to significantly increase incentive structure to drive additional participants. Union's projected rebate covers an average of 34% of project costs,<sup>77</sup> which correlates with how Union set its target level. Other jurisdictions with higher target levels incent up to 75% of project costs.<sup>78</sup>

61. ***Low income.*** GEC's submissions do not account for the fact that this program is constrained by opportunity, not budget.<sup>79</sup> Merely freeing up money will not lead to higher targets. Adding the furnace component was part of an effort to be responsive to low income stakeholders and customer requests, and to broaden access for low income customers to participate in DSM programs.

62. It is also important to note that Union has added an Aboriginal program, as well as benchmarking initiatives for low income multi-family, which have brought down cost-effectiveness.<sup>80</sup> In addition, Union is expanding the program to new and smaller geographic areas across Union's franchise, which is expected to result in increased costs.<sup>81</sup> There are also enhanced incentives for the multi-family offering.<sup>82</sup>

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<sup>77</sup> Exhibit A, Tab 3, Appendix A, p. 18.

<sup>78</sup> Exhibit A, Tab 3, Appendix A, p. 17.

<sup>79</sup> Exhibit B.T3.Union.Staff.9 part b).

<sup>80</sup> Transcript, Vol. 2, p. 82.

<sup>81</sup> Exhibit A, Tab 3, Appendix A, p. 72.

<sup>82</sup> Exhibit A, Tab 3, Appendix A, p. 95.



63. ***Performance based*** scorecard. Union developed a scorecard for performance-based offerings to create more focus on evidence-based offerings. Union has proposed multiple metrics to measure these offerings, which are better represented on a separate scorecard. Union has created a Performance-based scorecard that addresses the Board's key priority of implementing programs that are evidence based and rely on detailed customer data.<sup>83</sup> GEC's proposed elimination of this scorecard is inappropriate.

***Metrics for particular programs***

64. Board Staff and Energy Probe have also proposed a number of more granular changes to metrics for particular programs. Except as described below, Union does not believe that any of these proposed changes are necessary or appropriate:

- (a) Board Staff suggests<sup>84</sup> Union should split the Resource Acquisition cumulative natural gas savings metric into Large Volume and Small Volume. Union is amenable to splitting this metric into Large Volume and Small Volume categories if the Board determines it is appropriate, and should the Board direct Union to do so, Union will re-file the metric proposal.
- (b) Board Staff suggests<sup>85</sup> that Union should add a Low Income participation metric. Union does not have a Low Income new construction program similar to

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<sup>83</sup> Exhibit B.T2.Union.BOMA.27, Exhibit B.T4.Union.Staff.14.

<sup>84</sup> Board Staff Submissions, p. 12.

<sup>85</sup> Board Staff Submissions, p. 12.

Enbridge, and does not agree there should be one,<sup>86</sup> so a participation metric is not necessary.

- (c) Board Staff suggests<sup>87</sup> that Union add a 2017-2020 Market Transformation scorecard. Union did not propose a 2017-2020 Market Transformation program. Should the Board direct Union to offer a Residential New Construction Market Transformation program, Union will re-file the scorecard proposal.
- (d) Energy Probe (“EP”) suggests that Union be required to add a cost-efficiency metric (\$/CCM) to the Resource Acquisition scorecard at mid-term.<sup>88</sup> In Union’s view, it is not appropriate to add a cost-effectiveness metric, as cost-effectiveness can vary by program and by virtue of the stage of the programs.<sup>89</sup>

***Formulaic approach – intervenors’ submissions***

*LPMA and SEC*

65. Union’s formulaic target setting proposal is a self-correcting mechanism, adjusting up or down based on actual performance in the prior year. LPMA and SEC support Union’s formulaic approach, subject to some suggested changes.<sup>90</sup>

66. SEC’s submissions on Enbridge’s target setting for 2015<sup>91</sup> highlight an advantage of Union’s formulaic approach over fixed annual targets throughout the term of the DSM Plan.

Enbridge’s Home Energy Conservation program target for 2015 does not reflect the dramatic

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<sup>86</sup> Para. 133.

<sup>87</sup> Submissions of Board Staff, p. 12.

<sup>88</sup> Energy Probe Submissions, p. 24.

<sup>89</sup> Transcript Vol. 2, 166.

<sup>90</sup> LPMA Submissions, p. 4; SEC Submissions, p. 24.

<sup>91</sup> SEC Submissions, p. 27.

success of the program in 2014 because Enbridge—in compliance with the Board’s direction—mechanistically rolled over its 2014 Plan. This sort of suboptimal outcome can occur regularly under a fixed target regime. In contrast, Union’s proposed formulaic adjustment would account for the success of the program in the prior year, and adjust the target upwards for the next year with consideration of the budget available.

*Board Staff and Energy Probe*

67. At the other extreme, Board Staff recommends that the Board not approve Union’s formulaic approach on the basis that targets “should not be adjusted throughout the term of the plans”.<sup>92</sup> Energy Probe agrees.<sup>93</sup> Despite Board Staff’s stated preference for “static” targets, Board Staff “recommends that the static targets be revisited during the mid-term review.”<sup>94</sup> Energy Probe submits that “there could be a mechanism equivalent to an IRM off-ramp if external circumstances require material changes to the Plan.”<sup>95</sup>

*Formulaic approach – Union’s reply*

68. Board Staff and Energy Probe’s criticisms of Union’s formulaic approach fail to fully engage the evidence in this hearing. Most significantly, Board Staff’s submission that Union should use fixed targets throughout the term of the DSM Plan<sup>96</sup> does not account for changes that may take place through the 2016-2020 period related to very successful or unsuccessful

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<sup>92</sup> Board Staff Submissions, p. 11.

<sup>93</sup> Energy Probe Submissions, p. 25.

<sup>94</sup> Board Staff Submissions, p. 12.

<sup>95</sup> Energy Probe Submissions, p. 25.

<sup>96</sup> Board Staff Submissions, p. 13.

programs. In contrast, the mid-term review—which Board Staff prefers—provides only one opportunity to account for changes that may take place through the 2016-2020 period.

69. As discussed in Union’s argument-in-chief<sup>97</sup>, the evidence in this hearing suggests that the formulaic approach ensures aggressive and responsive targets. For 2015, Union continues to use its formulaic approach to target setting for resource acquisition and large volume scorecards based on 2014 cost-effectiveness.<sup>98</sup> Union is also proposing to use a formulaic approach to target setting for 2017 through 2020 for resource acquisition and low income scorecards based on cost-effectiveness.<sup>99</sup> This formulaic approach to target setting aligns with how Union has been setting targets in subsequent years of multi-year frameworks since 2006.<sup>100</sup> Though the parties opposing the formulaic approach rely on Synapse’s opposition to it, Synapse was not aware of this ten-year history of successfully applying a formulaic approach when it prepared its report and recommended fixed targets.<sup>101</sup>

70. Union continues to believe that while fixed targets are inflexible and inappropriate for a five-year period, the formulaic approach creates target incentives that are appropriately responsive in the face of changing circumstances.

71. In the alternative, if the Board determines that Union should be required to set fixed targets, which Union opposes, then Union notes that Board Staff does not object to the static

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<sup>97</sup> Transcript, Vol. 14, p. 13.

<sup>98</sup> Exhibit A, Tab 2, pp. 13-17.

<sup>99</sup> Exhibit A, Tab 3, pp. 18-30.

<sup>100</sup> Transcript, Vol. 14, pp. 14-15.

<sup>101</sup> Transcript, Vol. 12, pp. 172-174.

100% targets provided by Union for 2017-2020 for the resource acquisition and low income scorecards.<sup>102</sup>

***Upper band – intervenors’ submissions***

72. Energy Probe,<sup>103</sup> BOMA<sup>104</sup> and Vulnerable Energy Consumers Coalition (“VECC”)<sup>105</sup> approve of Union’s upper band of 125% while Board Staff,<sup>106</sup> SEC,<sup>107</sup> Ontario Greenhouse Vegetable Growers (“OGVG”),<sup>108</sup> LPMA,<sup>109</sup> Federation of Rental-housing Providers of Ontario (“FRPO”),<sup>110</sup> and Canadian Manufacturers & Exporters (“CME”)<sup>111</sup> submit that Union’s upper band should be 150%. Opponents of an upper band of 125% argue, in essence, that reaching the upper band should be difficult and that Enbridge has agreed to an upper band of 150%, so Union should too.

***Upper band – Union’s reply***

73. Union continues to believe that an upper band of 125% is appropriate for three reasons:

- (a) an upper band should be difficult to achieve but achievable,
- (b) Union’s 100% target is already a truly aggressive target, and

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<sup>102</sup> Board Staff Submissions, pp. 11-12; Exhibit B.T2.Union.Staff.6.

<sup>103</sup> Energy Probe Submissions, p. 6.

<sup>104</sup> BOMA Submissions, p. 11.

<sup>105</sup> VECC Submissions, p. 10.

<sup>106</sup> Board Staff Submissions, p. 12.

<sup>107</sup> SEC Submissions, pp. 24-27.

<sup>108</sup> OGVG Submissions, pp. 10-11

<sup>109</sup> LPMA Submissions, pp. 8-9

<sup>110</sup> FRPO Submissions, p. 2.

<sup>111</sup> CME Submissions, pp. 6-8.

- (c) Union believes it has no hope of achieving its upper band at 150% with only a 15% overspend.

74. The evidence supports Union's view. In Union's DSM Plan for the 2012-2014 period, Union had an upper band based on 125% of the target and a 15% Demand Side Management Variance Account ("DSMVA") overspend. Union never achieved the maximum shareholder incentive across all scorecards in any of 2012, 2013 or 2014.<sup>112</sup>

75. The opposing parties' only response to this evidence is to say that achieving the upper band should be hard. That is true, but it is not an argument in favour of setting a 150% upper band that it is impossible for Union to meet.

76. In the alternative, if the Board does decide to impose an upper band of 150%, then Union submits that the DSMVA overspend should be increased from 15% to 30%. Without an increase to the overspend Union does not expect to significantly pass the 100% target. If the upper band is raised to 150% and the overspend remains at 15%, then the most likely consequence will be that the Board will incent mere compliance rather than leadership.

77. Finally, Union wishes to emphasize that a scenario in which the upper band is raised to 150%, the overspend remains at 15% and targets are raised in the manner suggested by LPMA would, in Union's view, be disastrous. Such an approach would call into question Union's ability to achieve its targets and could undermine the business case for engaging in DSM.

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<sup>112</sup> Transcript, Vol. 13, p. 40.

**Issue 3: DSM Budgets**

***Overall budget amount – intervenors’ submissions***

78. Board Staff generally supports Union’s budget amounts for 2015-2020 and sees them as consistent with the budget guidance in the Framework.<sup>113</sup> OGVG does not object to Union’s budget amounts and agrees with Union’s interpretation of the budget guidance in the Framework.<sup>114</sup> Subject to a concern regarding inflation, which is discussed below, LPMA submits that Union’s budget amounts should be approved as filed.<sup>115</sup> CME submits that Union’s budget should not be further increased beyond what Union has proposed.<sup>116</sup> FRPO supports “implementation of the plain wording” of the Board’s \$2 per residential customer guidance from the Framework, as contemplated in Union’s Plan.<sup>117</sup>

***GEC***

79. As anticipated in Union’s argument-in-chief, GEC argues against a “literal reading” of the budget guidance in the Framework that limits “gross rate impact” to \$2 per residential customer per month. GEC argues that when the Framework was developed and then released on December 22, 2014 “the magnitude of the benefits to both DSM participants and non-participants was not apparent.” As a result, GEC submits, the gas utilities’ budgets should be increased to reflect the magnitude of DSM’s benefits, including avoided costs.<sup>118</sup> In GEC’s view, the evidence in this hearing on avoided costs “makes clear that with a proper recognition of the

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<sup>113</sup> Board Staff Submissions, p. 24.

<sup>114</sup> OGVG Submissions, p. 5.

<sup>115</sup> LPMA Submissions, p. 6.

<sup>116</sup> CME Submissions, p. 6.

<sup>117</sup> FRPO Submissions, p. 13.

<sup>118</sup> GEC Submissions, p. 5.

benefits to non-participants and participants, expanded participation can occur without significant net rate impact.”<sup>119</sup> Carbon benefits and natural gas price suppression also need to inform the analysis of the cost of DSM programs for the purpose of setting DSM budgets.<sup>120</sup> GEC therefore argues that “the \$2 residential rate impact guideline (and budget caps based thereon) should be refined to explicitly recognize the net rate impacts from both DSM budgets and the rate lowering effects of DSM, enabling a further ramp up of budgets in 2017 and thereafter.”<sup>121</sup>

*ED*

80. ED submits that Union’s budgets from 2017 onward should be revised to achieve all cost-effective conservation because the \$2 per residential customer per month cap is not necessary.<sup>122</sup>

*BOMA*

81. BOMA submits that there is “no evidence in the record or in the Guidelines that the \$2.00 per month limit on residential rates is reasonable” and urges the Board to address the issue of bill impact on non-participants by increasing participation rates.<sup>123</sup>

*SEC*

82. SEC submits that it would appear that Union’s budget amounts do not comply with the \$2 per residential customer per month guidelines established by the Board in the Framework because Union inappropriately uses the standard 2,200 m<sup>3</sup> per customer to calculate rate impacts.

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<sup>119</sup> GEC Submissions, p. 5.

<sup>120</sup> GEC Submissions, pp. 5-6.

<sup>121</sup> GEC Submissions, p. 8.

<sup>122</sup> ED Submissions, p. 4.

<sup>123</sup> BOMA Submissions, p. 8.



As a result, SEC submits, Union should be required to re-file its budgets for each year of the Plan.<sup>124</sup>

83. Board Staff estimated net bill impacts to participants at approximately \$4/month after removing the behavioural program<sup>125</sup>. In its submission, Board Staff requested Union confirm its interpretation of the impacts of removing the behavioural program.

***Overall budget amount – Union’s reply***

84. Union agrees with OGVG’s submission that both Union and the Board “need to remain concerned about the immediate impact of [DSM] spending on individual ratepayers through distribution rates.”<sup>126</sup> GEC and ED do not appear to share that concern, and as a result they propose radical departures from the straightforward budget guidance in the Framework. Taken at its highest, the evidence relied on by GEC and ED does not establish that their proposed departures are in the public interest, because they either disregard or try to explain away the rate impacts caused by DSM. Similarly, BOMA’s suggestion that the Board address the issue of bill impact on non-participants by increasing participation rates is, at best, a partial solution. Rate impacts from DSM cannot be completely avoided in this way. Disregarding rate impacts is not in the public interest, and the Board should consequently reject the arguments of GEC, ED and BOMA on this issue.

85. SEC’s suggestion that Union should be required to re-file its budgets for each year of the Plan is not proportional to the issue SEC purports to identify and again disregards the importance

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<sup>124</sup> SEC Submissions, pp. 34-35.

<sup>125</sup> Board Staff Submissions, pp. 29-30.

<sup>126</sup> OGVG Submission, p. 6.

of the “streamlined approval process” contemplated in the Framework.<sup>127</sup> In any event, Union has complied with the Board’s direction in the Framework, which provides that “for DSM activities between 2015 and 2020, the gas utilities’ annual DSM budgets should be guided by the simple principle that DSM costs (inclusive of both DSM budget amounts and shareholder incentive amounts) for a typical residential customer of each gas utility should be no greater than approximately \$2.00/month.”<sup>128</sup> As the current bill impact for a typical residential customer is just under \$1.00/month, the Board determined, in effect, that DSM budgets could be doubled for the 2015-2020 period. That is what Union has proposed in its Plan.

86. Union is not able to confirm Board Staff’s analysis in part because Union does not understand how Board Staff reached its conclusion of a \$4/month impact. Union referenced the impacts of removing the behavioural participants during the oral hearing<sup>129</sup>. Removing the behavioural participants from the analysis changes the numbers considerably. For a Rate M1 customer, the net savings increase to approximately \$11/month. For a Rate 01 customer, the net savings increase to approximately \$18/month. The average impact across Rate M1 and Rate 01 is approximately \$12/month.

***DSM IT budget – Board Staff’s submissions***

87. The only substantive submissions on Union’s DSM IT budget came from Board Staff, who supported this portion of Union’s budget but suggested that the Board “ring-fence approved

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<sup>127</sup> Framework, p. 2.

<sup>128</sup> Framework, p. 17.

<sup>129</sup> Transcript, Vol. 3, p. 91.

IT upgrade amounts so that these budgeted amounts can only be used for the purposes of IT upgrades”.<sup>130</sup>

***DSM IT budget – Union’s reply***

88. Union has no objection to this suggestion, provided that it is applied symmetrically.

***Achievable potential study – intervenors’ submissions***

89. The only substantive submissions on Union’s achievable potential study budget came from Board Staff, who supported this portion of Union’s budget but suggested that the Board “establish a specific DSM potential study variance account to track actual achievable potential study costs separate from other generic DSM deferral and variance account costs”.<sup>131</sup>

***Achievable potential study – Union’s reply***

90. Union takes no issue with tracking spending on the achievable potential study, but Union does not agree that a new variance account is necessary or appropriate for this purpose. Subject to being able to carry the budgeted amount forward, Union can deal with the actual costs of the Board-led study—which Union has budgeted at \$450,000—through the DSMVA without having to have an additional deferral account.

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<sup>130</sup> Board Staff Submissions, pp. 26-27.

<sup>131</sup> Board Staff Submissions, p. 27.

***Inflation – intervenors’ submissions***

91. Board Staff does not support Union’s proposal to adjust its budget for inflation and notes that Enbridge has not requested an inflationary increase to its annual budget.<sup>132</sup> SEC takes issue with the \$14.978 million portion of Union’s budget that has been designated to address inflation over the 2016-2020 period of the Plan. SEC concedes that “there may be every reason to believe that Union will in fact spend that \$15 million on cost escalation”.<sup>133</sup> SEC nonetheless suggests that—in the absence of what it views as further necessary details about how Union will spend this portion of the budget—it should be viewed as a “slush fund”.<sup>134</sup> As a result, the Board should not approve any budget amount for inflation.<sup>135</sup>

92. Significantly, while Board Staff and SEC argue for the wholesale elimination of the inflation amount from Union’s budget, they do not call for the corresponding elimination of productivity adjustments for Resource Acquisition.

***Inflation – Union’s reply***

93. Board Staff’s submission fails to recognize Enbridge’s implicit recognition of inflation in its Plan.<sup>136</sup> SEC’s submission on this issue is unduly formalistic and its proposed response to it is completely disproportionate. SEC concedes that “there may be every reason to believe” that the amount Union has designated for inflation will, in fact, be spent on cost escalation. The

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<sup>132</sup> Board Staff Submissions, p. 30

<sup>133</sup> SEC Submissions, p. 35.

<sup>134</sup> SEC Submissions, p. 11.

<sup>135</sup> SEC Submissions, pp. 35-36.

<sup>136</sup> EB-2015-0049, Exhibit I.T3.EGDI.CCC.2.

reason why there is “every reason to believe” that this will happen is because costs will, in fact, escalate during the term of the Plan. Refusing to approve any amount for inflation because Union has not provided what SEC considers to be sufficient detail on this obviously real expense item would penalize Union inappropriately. It would also compromise program delivery as costs rise over time while Union’s budget remains unadjusted for inflation.

94. SEC’s argument for the wholesale elimination of the inflation amount without any corresponding elimination of productivity adjustments for Resource Acquisition is self-serving. Inflation adjustments and productivity adjustments both inform the changing cost to Union of hitting its targets over time. Eliminating inflation adjustments while leaving productivity adjustments in place would be unfairly prejudicial to Union.

95. In the alternative, if the Board decides that some change to Union’s inflation budget is appropriate—and Union submits that no change is necessary—then Union submits that Union should be allowed to recover inflation costs for promotion and administration.

#### **Issue 4: Shareholder incentive**

##### ***2015 incentive – intervenor’s submissions***

96. Board Staff does not believe it is appropriate for the gas utilities to apply inflation to the maximum shareholder incentive amount in 2015.<sup>137</sup> CCC<sup>138</sup> and VECC<sup>139</sup> agree.

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<sup>137</sup> Board Staff Submissions, p. 32.

<sup>138</sup> CCC Submissions, p. 10.

***2015 incentive – Union’s reply***

97. Union’s proposal is based on the Framework direction for 2015 which reads, “The gas utilities should increase their budgets, targets and shareholder incentive amounts in the same manner as they have done throughout the current DSM framework”.<sup>140</sup> In following the Board’s direction, Union escalated its 2014 maximum incentive for inflation.<sup>141</sup>

***SEC’s innovation incentive***

98. SEC proposes that the Board depart from the Framework guidance that the maximum annual shareholder incentive for each gas utility should be \$10.45 million. Instead, SEC suggests in a proposal that was not put to witnesses during the proceeding that the maximum annual shareholder incentive should be \$12 million. Up to \$8 million of that amount could be earned using the scorecard and weighting method currently included in the Framework, while the earnings in respect of the remaining \$4 million would be determined through a new annual regulatory proceeding that would determine “the extent to which the utility has shown leadership, innovation and other attributes that are not fully measured by the formula.”<sup>142</sup>

99. SEC submits that this is necessary because maximizing the gas utilities’ incentives usually means maximizing cumulative cubic metres, which “makes some sense”, but “is not always consistent with developing and maintaining a leading-edge, diverse set of programs”.<sup>143</sup> SEC believes that “there is no formulaic way to incent innovation and leadership”; rather, “you

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<sup>139</sup> VECC Submissions, p. 6.

<sup>140</sup> Framework, p. 37

<sup>141</sup> Exhibit A, Tab 2, p. 20

<sup>142</sup> SEC Submissions, p. 38.

<sup>143</sup> SEC Submissions, p. 38.

know it when you see it”.<sup>144</sup> Thus the need for the Board to have an annual hearing with submissions from intervenors.

***Union’s reply to SEC’s innovation incentive***

100. SEC is essentially asking the Board to broaden the scope of the mid-term review and turn it into an annual hearing that would determine up to a third of the shareholder incentive. The evidence led in this hearing does not suggest that this would enhance the public interest. On the contrary, it would turn what is supposed to be a six-year Plan into a protracted regulatory proceeding. The “know it when you see it” test proposed by SEC would all but guarantee that each intervenor would be motivated to seek annual concessions from gas utilities in accordance with each of their interests. This proposal is a recipe for unending negotiation that would distract the attention of gas utilities from the core task of program delivery. The Board should reject it entirely.

***Embedding in rates – intervenors’ submissions***

101. OGVG supports embedding 100% of the shareholder incentive in rates as a “sensible measure”<sup>145</sup>. SEC is opposed embedding any part of the shareholder incentive in rates because, in its view, performance-based compensation should only be paid on performance. Embedding any part of the incentive in rates will, in SEC’s view, make the gas utilities more inclined to see the incentive as an entitlement rather than a reward.<sup>146</sup>

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<sup>144</sup> SEC Submissions, p. 39.

<sup>145</sup> OGVG Submissions, p. 4.

<sup>146</sup> SEC Submissions, pp. 39-40.

***Embedding in rates – Union’s reply***

102. While SEC is right to observe that the shareholder incentive is a reward for performance that should not be taken for granted, Union believes that this consideration does not outweigh the benefits of smoothing out rate impacts by including a part of the shareholder incentive in rates. OGVG’s support of Union’s proposal underlines the interest customers have expressed in building the DSM Incentive into rates to avoid large out-of-period adjustments when Union disposes of its non-commodity deferral account balances.<sup>147</sup>

***Board Staff’s Cost Efficiency Incentive (“CEI”) formula***

103. Board Staff acknowledges that Union has proposed a shareholder incentive structure that is generally consistent with the Framework.<sup>148</sup> Nonetheless, Board Staff does not support Union’s proposed approach to calculate the CEI and proposes the following alternative formula:

Eligible CEI Amounts = Total Approved Budget – Total Overall Actual Spend  
(including DSMVA spending)<sup>149</sup>

104. Board Staff is also “of the view that it is reasonable that all unspent budget amounts, and not only those directly related to programs (as opposed to portfolio or administration budget amounts), should be eligible to be carried forward into the following year if eligible under the CEI.”<sup>150</sup>

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<sup>147</sup> Exhibit A, Tab 3, p. 37

<sup>148</sup> Board Staff Submissions, p. 32.

<sup>149</sup> Board Staff Submissions, p. 34.

<sup>150</sup> Board Staff Submissions, p. 34.



***Union's reply to Board Staff's Cost Efficiency Incentive formula***

105. Union does not agree that its approach to calculating the CEI is deficient. In fact, Union does not see how it could have reasonably interpreted the Board's direction other than in the manner that it did. Union does not see Board Staff's formula as a scenario that could reasonably be expected to happen or its proposed carry-forward as an improvement. In any event, Union does not believe that the CEI is truly an incentive and it is not something Union envisions being able to use in the future. Accordingly, Union does not see the need or utility of a deferral account for it.

**Issue 5: Program Types**

106. Board Staff and intervenors have suggested a number of changes to Union's programs. The most significant are considered in this section. Except where Union expressly states the contrary below, Union does not agree with the proposed changes to its programs.

***Residential Home Reno Rebate – intervenors' submissions***

107. SEC submits that Union should be permitted, as Union has proposed, to raise the incentive cap per participating customer in this program, but only for participants who implement at least four eligible measures. SEC's rationale for this change is that it "will focus the additional spending where needed, and not simply give more money to those customers for

whom the existing incentive is enough.”<sup>151</sup> SEC also submits that “In any case, it is likely that the customers who would qualify for the additional funds would be the four or more measure participants anyway, meaning that a Board direction requiring that criterion would not materially change the outcome.”<sup>152</sup>

108. SEC also submits that Union’s proposed savings reduction from 25% to 15% “seems mostly driven by the desire to make achieving metrics more easily.”<sup>153</sup>

109. CCC “submits that many of Union’s customers might be quite surprised to find out they are funding, in rates, incentives of up to \$5,000 for other residential consumers” and suggests that Union “consider whether lower incentives would make the program, overall more cost-effective.”<sup>154</sup>

### ***Residential Home Reno Rebate – Union’s reply***

110. Union stands by its proposal with respect to this offering. The evidence shows that Union went to great lengths to determine the appropriate offering design.<sup>155</sup> Union is proposing a significant increase from previous participation levels<sup>156</sup> and the criticisms of SEC and CCC are unfounded.

111. SEC’s motivating premise is incorrect: Union’s proposed increase in incentive cap would not “simply give more money to those customers for whom the existing incentive is enough.”

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<sup>151</sup> SEC Submissions, p. 46.

<sup>152</sup> SEC Submissions, p. 46.

<sup>153</sup> SEC Submissions, p. 46.

<sup>154</sup> CCC Submissions, p.15.

<sup>155</sup> Exhibit A, Tab 3, Appendix A, p.16.

<sup>156</sup> Exhibit B.T5.Union.VECC.16.

Union's incentives per measure are prescriptive and have not been increased.<sup>157</sup> Union's proposal to increase the cap will allow the program to fund more measures within the home, thereby eliminating lost opportunities and increasing savings in the home.<sup>158</sup>

112. SEC is also wrong to suggest that its proposed requirement of four measures per participant "will focus the additional spending where needed". SEC's proposal assumes that customers who install three measures, which is beyond the two measure minimum, did not require incentives to take them beyond the base requirement. This is unfounded and SEC's four-measure requirement is therefore not appropriate.

113. Finally, SEC's submission that Union's proposed savings reduction from 25% to 15% "seems mostly driven by the desire to make achieving metrics more easily" is an observation unsupported by evidence and made without any analysis of why Union is proposing the reduction. Union has proposed this change because Union is changing the approach for modeling heating system efficiency.<sup>159</sup> SEC simply ignores this rationale, as well as the fact that Mr. Neme agrees with Union's approach.<sup>160</sup>

114. CCC's submission implies that Union's incentives are inappropriately high, but in fact Union's incentive levels are not nearly as high as home renovation offerings in other jurisdictions<sup>161</sup> and the average incentive is forecast to be \$1,935 per home from 2016-2020,

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<sup>157</sup> Exhibit B.T5.Union.GEC.38, part b),iii.

<sup>158</sup> Technical Conference Transcript, Vol. 2 (July 7, 2015), p. 90.

<sup>159</sup> Exhibit B.T5.Union.CCC.18.

<sup>160</sup> Transcript, Vol. 10, p. 57.

<sup>161</sup> Exhibit A, Tab 3, Appendix A, pp. 17-18.

which is considerably below the \$5,000 cap.<sup>162</sup> Union's incentive structure is designed to reach the targets set out in the application, and decreasing incentive levels as CCC suggests would decrease participation.

***Behavioural offering – intervenors' submissions***

115. SEC,<sup>163</sup> CCC<sup>164</sup> and BOMA<sup>165</sup> each submit that Union should not be permitted to proceed with its behavioural offering unless the offering passes the TRC plus test.

116. Board Staff submits that the utilities should cooperate on a two-year behavioural pilot instead of a full program, and Union should shift the resources made available by that change to residential new construction, commercial new construction, and on-bill financing programs.<sup>166</sup> GEC suggests shifting resources from the behavioural program to residential retrofit programs.<sup>167</sup> At the other extreme, VECC suggests re-designing the behavioural program to increase participation.<sup>168</sup>

***Behavioural offering – Union's reply***

117. Union's behavioural offering responds to two of the Framework's Principles and Priorities: designing programs so that they achieve high customer participation levels; and implementing programs that are evidence-based and rely on detailed customer data.

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<sup>162</sup> Exhibit B.T5.Union.Staff.22.

<sup>163</sup> SEC Submissions, p. 41.

<sup>164</sup> CCC Submissions, p. 15.

<sup>165</sup> BOMA Submissions, p. 19.

<sup>166</sup> Board Staff Submissions, pp. 37, 56.

<sup>167</sup> GEC Submissions, pp. 16-17.

<sup>168</sup> VECC Submissions, p. 23.

118. The submissions of SEC, CCC and BOMA on the application of the TRC-plus positive test disregard the Framework. The Framework provides: “To recognize that all programs may not pass the TRC-Plus test, the utility should ensure its overall DSM portfolio has a TRC-Plus ratio of 1.0 or greater.”<sup>169</sup> The behavioural offering is a part of Union’s residential program, which, in compliance with the Framework, is TRC-plus positive.<sup>170</sup> The behavioural offering also should not be considered in isolation: the evidence led in this hearing establishes that the behavioural offering plays an important role in customer education as well as cross-promoting other residential offerings.<sup>171</sup>

119. Board Staff’s suggestion that Union embark on a behavioural pilot program rather than a full program appears to be based on the assumption that a pilot would be materially cheaper than a full program. There is no evidence to support that assumption and Union believes that it is false or significantly overstated. There is also no evidence that \$300,000 is a sufficient sum for a pilot project, and, given that development and start-up costs have been budgeted at \$1.55 million, Union believes that \$300,000 is not sufficient.<sup>172</sup>

***Energy Saving Kits (“ESK”) – intervenors’ submissions***

120. Notwithstanding the historical success of the ESK offering, which Board Staff acknowledges, Board Staff suggests discontinuing ESKs because of concerns about saturation and Union’s forecasted savings.<sup>173</sup> CCC agrees.<sup>174</sup>

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<sup>169</sup> Guidelines, p. 32.

<sup>170</sup> Issue 8, Cost-Effectiveness Screening.

<sup>171</sup> Transcript, Vol. 1, p. 130.

<sup>172</sup> Exhibit B.T3.Union.SEC.24.

<sup>173</sup> Board Staff Submissions, p. 48.

***Energy Saving Kits – Union’s reply***

121. Union does not agree that Board Staff’s and CCC’s concerns are warranted in light of the evidence filed in this proceeding.<sup>175</sup> Union continues to believe that, consistent with the Framework’s Principles and Priorities, the ESK offering is cost-effective and ensures broad participation and opportunities for residential customers.

***Optimum Home – intervenors’ submissions***

122. Board Staff,<sup>176</sup> GEC,<sup>177</sup> and BOMA<sup>178</sup> all submit that Union should continue the Optimum Home program for 2017-2020.

***Optimum Home – Union’s reply***

123. Union remains concerned about the actual timing of the updated building code, but if the Board is of the view that the program should continue, then Union is amenable to filing an updated scorecard for this program along with associated budget requirements.

***Commercial/Industrial Upstream Incentives – intervenors’ submissions***

124. GEC recommends that the Board should direct the utilities to begin to implement an upstream incentive approach for 2017 and that Union’s targets should be revised.<sup>179</sup> VECC

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<sup>174</sup> CCC Submissions, p. 13.

<sup>175</sup> Exhibit B.T5.Union.Staff.21 part a).

<sup>176</sup> Board Staff Submissions, p. 64.

<sup>177</sup> GEC Submissions, p. 40.

<sup>178</sup> BOMA Submissions, p. 12.

<sup>179</sup> GEC Submissions, pp. 37-38.

stated the upstream incentive model offers potential for achieving market penetration rates at a lower cost per unit and should be considered at the mid-term review.<sup>180</sup>

***Commercial/Industrial Upstream Incentives – Union’s reply***

125. As stated in Union’s evidence, Union will explore an upstream incentive offer.<sup>181</sup> There are many considerations that Union needs to address for this type of incentive model including: loss of customer touch point; EM&V challenges; and how Union could potentially offer upstream incentives in conjunction with downstream incentives while also ensuring that there is no customer confusion.<sup>182</sup> Union submits it is not appropriate to completely shift to an upstream incentive model without fully exploring all considerations (e.g. through a pilot) to ensure the shift is executed properly, which Union has committed to.

***Commercial/Industrial (“CI”) new construction – intervenors’ submissions***

126. Each of Board Staff,<sup>183</sup> GEC<sup>184</sup> and BOMA,<sup>185</sup> recommend that Union develop a CI new construction offering.

***Commercial/Industrial new construction – Union’s reply***

127. It remains the case that Union does not propose to develop a new commercial new construction offering.<sup>186</sup> Union notes that the commercial new construction segment is eligible

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<sup>180</sup> VECC Submissions, p. 47.

<sup>181</sup> Exhibit A, Tab 3, Appendix A, pp. 28-29.

<sup>182</sup> Transcript, Vol. 2, pp. 91-92; Exhibit B.T13.Union.CME.6 Attachment 7, p. 7.

<sup>183</sup> Board Staff Submissions, p. 64.

<sup>184</sup> GEC Submissions, p. 41.

<sup>185</sup> BOMA Submissions, p. 14.

<sup>186</sup> Exhibit J2.1, p. 11.

for the CI Prescriptive and CI Custom offerings. However, if so directed by the Board, Union is open to revisiting this offering at the mid-term review once Union has had time to assess its approach to market.

***Low Income – intervenors’ submissions***

128. LIEN submits that, for each building participating in Union’s Low Income Market Rate Multi-Family program, Union should be required to implement at least one measure that directly benefits low income tenants.<sup>187</sup> Without this requirement, LIEN argues, the program would only benefit building owners and therefore would not present “truly ‘low-income’ offerings”.<sup>188</sup>

129. LIEN also submits that Union’s Home Weatherization offering should be altered to require that Union’s contractors directly install kitchen faucet and bathroom aerators unless accessibility or compatibility is an issue.<sup>189</sup> VECC takes the same position.<sup>190</sup>

130. Finally, Board Staff<sup>191</sup> and VECC<sup>192</sup> recommend a low income new construction offering.

***Low Income – Union’s reply***

131. Union does not agree that it should be required to install at least one measure that directly benefits low income tenants. Union’s Low Income Market Rate Multi-Family offering was

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<sup>187</sup> LIEN Submissions, pp. 2-3.

<sup>188</sup> LIEN Submissions, p. 9.

<sup>189</sup> LIEN Submissions, p. 7.

<sup>190</sup> VECC Submissions, p. 39.

<sup>191</sup> Board Staff Submissions, p. 67.

<sup>192</sup> VECC Submissions, p. 47.



designed in collaboration with a Low Income Working group, which included LIEN, VECC and FRPO.<sup>193</sup> Discussions with the working group did not include an eligibility criterion to install at least one measure that directly benefits low income tenants. It is unclear to Union how this criterion would be met<sup>194</sup> and instituting this criterion could compromise Union's ability to deliver this program to market.

132. Union is open to piloting direct installation of kitchen faucet and bathroom aerators to assess the full cost of implementing in this manner, including potential call-backs from customers.

133. Union does not agree that it should be required to develop a low income new construction offering because Union does not believe that there is a large enough opportunity in this market to warrant its own offering.<sup>195</sup> Union notes that low income new construction projects can participate through the existing low income program.

***On-bill financing – intervenors' submissions***

134. SEC observes that on-bill financing "has already been explored by the utilities and their stakeholders at some length."<sup>196</sup> SEC submits that Union should be required to act as a facilitator for third-party financiers and customers by facilitating on-bill financing in a manner similar to Enbridge. SEC rejects the suggestion that Union should itself act as financier on the grounds that

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<sup>193</sup> Exhibit B.T13.Union.CME.6.

<sup>194</sup> Transcript Vol. 1, p. 172.

<sup>195</sup> Exhibit J2.1, p.19.

<sup>196</sup> SEC Submissions, p. 42.

third-party financiers can provide cheaper access to capital and that Union should not be lending to customers who cannot get a loan from third-party financiers.

135. BOMA submits that Union should be required to adopt the “open bill concept that Enbridge currently employs”, but urges caution in going beyond that approach because “the utilities should not be a financing institution”.<sup>197</sup> CCC takes a similar position.<sup>198</sup>

136. ED submits that on-bill financing “can be extremely cost-effective because it can address market failures and market barriers that would otherwise result in suboptimal amounts of conservation, including transaction costs, externalities, and imperfect information”.<sup>199</sup> ED asks the Board to direct Union to develop an on-bill financing program that features financing from third-party financial institutions and a network of approved and trusted contractors.<sup>200</sup>

137. Board Staff submits that Union should be required to participate in an on-bill financing working group tasked with exploring a range of issues related to on-bill financing and open bill access.<sup>201</sup> GEC “agrees with the Synapse recommendation that on-bill financing be investigated more meaningfully.”<sup>202</sup> VECC acknowledges Union's findings to date but submits more work is needed on this issue in advance of the mid-term review.<sup>203</sup>

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<sup>197</sup> BOMA Submissions, pp. 16-17.

<sup>198</sup> CCC Submissions, p. 16.

<sup>199</sup> ED Submissions, p. 18.

<sup>200</sup> ED Submissions, p. 3.

<sup>201</sup> Board Staff Submissions, p. 45.

<sup>202</sup> GEC Submissions, p. 39.

<sup>203</sup> VECC Submissions, p. 47.

***On-bill financing – Union’s reply***

138. Union continues to believe, based on the research that it has commissioned and put into evidence in this proceeding, that on-bill financing should not be pursued. Customers do not cite access to financing as an obstacle to undertaking energy efficiency improvements.<sup>204</sup> Union also notes that programs involving financing from Union may be beyond the Board’s jurisdiction.

139. As a result, Union submits that if the Board makes any order in respect of on-bill financing it should be limited to the establishment of a working group, and that the scope of the working group’s mandate should include consideration of the Board’s jurisdiction to order any on-bill financing or open bill access initiatives considered by the working group. Union also notes that Board Staff’s recommendation regarding the scope of a working group has missed a step of addressing whether on-bill financing would be an effective tool to overcoming barriers.<sup>205</sup>

***Large Volume – intervenors’ submissions***

140. Consistent with the Board’s direction in the Framework, Union proposes to discontinue its existing large volume program, which includes financial incentives to large volume customers. Union’s new large volume program is focused on providing technical support but not financial incentives to large volume customers. Board Staff submits that, subject to certain reporting requirements, the Board should approve Union’s new large volume program.<sup>206</sup>

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<sup>204</sup> Exhibit A, Tab 1, Appendix B, pp. 1-3.

<sup>205</sup> Board Staff Submissions, p. 46.

<sup>206</sup> Board Staff Submissions, p. 60.

141. ED asks the Board to direct Union to continue its existing large volume program with an \$8 million budget for 2016 and with a budget sufficient to achieve all cost-effective DSM in future years.<sup>207</sup> GEC also asks that Union's existing large volume program be continued. GEC argues that the Board erred in directing Union to abandon the program because "the stated reasons for a retreat from the program are not supported by any evidence".<sup>208</sup>

142. Taking a directly contrary view, the Association of Power Producers of Ontario ("APPRO") submits that the evidence shows that gas-fired electricity generators "are already undertaking energy efficiency and conservation measures pursuant to contractual or other obligations and do not require the costly assistance of a third party administrative intermediary to continue implementing these measures."<sup>209</sup>

143. The Industrial Gas Users Association ("IGUA") argues that Union should be directed to discontinue all ratepayer funded DSM programs to its Rate T2, Rate T1 and Rate 100 customers and instead further explore a fee-for-service approach.<sup>210</sup> CME makes a similar argument,<sup>211</sup> and SEC agrees with the submissions.<sup>212</sup> IGUA also submits that the Board should reject Union's proposal to include Rate T1 customers in the resource acquisition scorecard rather than the large volume scorecard. While IGUA acknowledges that the evidence indicates that "the consumption levels of Rate T2 and Rate T1 customers are different", IGUA suggests that this is not an

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<sup>207</sup> ED Submissions, p. 3.

<sup>208</sup> GEC Submissions, p. 34.

<sup>209</sup> APPRO Submissions, p. 3.

<sup>210</sup> IGUA Submissions, pp. 10-11.

<sup>211</sup> CME Submissions, p. 11.

<sup>212</sup> SEC Submissions, p. 46.

adequate basis for including Rate T1 customers in the Resource Acquisition scorecard and that such customers should be excluded from mandatory DSM.<sup>213</sup>

***Large Volume – Union’s reply***

144. Union continues to believe that its proposed approach to large volume programming is balanced and appropriate and that Union has complied with the Board’s direction in the Framework on this issue. While abandoning Union’s existing program involves forgoing the associated savings, doing so is responsive to affected customers and complies with the Board’s direction in the Framework. Under its new program Union will continue to provide technical support to Union’s large volume customers, which would not be feasible to the same extent under the fee-for-service model advocated by IGUA.

145. Finally, IGUA’s arguments against including Rate T1 customers in the Resource Acquisition scorecard should be rejected. Contrary to IGUA’s assertion that this is a reintroduction of conventional DSM programming, under Union’s proposal Rate T1 customers will continue to receive DSM programming as they did throughout the 2012-2014 DSM Plan, just not as a part of the Large Volume scorecard. In addition, Rate T1 customers will continue to have access to the same programming as customers in Rate M4, Rate M5 and Rate M7, which are similar in composition.

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<sup>213</sup> IGUA Submissions, pp. 10-11.

**Issue 6: Program Evaluation (including Adjustment Factors)**

***Free ridership and paybacks – intervenors’ submissions***

146. Board Staff recommends that the gas utilities include a minimum payback threshold of 1.5 years or longer in their custom commercial and industrial offerings.<sup>214</sup> SEC argues that Union should ensure that the only custom projects that proceed are projects that would not happen but for Union’s custom DSM program. To achieve this, SEC proposes that custom projects with payback periods of less than two years—which SEC considers to be “obvious free riders”—be “rebuttably presumed to be disqualified from program participation.”<sup>215</sup> In cases of projects with paybacks of less than two years that Union says would not have happened but for Union’s custom DSM program, Union could show, “by direct evidence, that the project would not have proceeded otherwise.”<sup>216</sup> In this way, “obvious free riders are excluded from the outset” and before results are adjusted to account for free ridership.<sup>217</sup>

***Free ridership and paybacks – Union’s reply***

147. Union’s free ridership rate reflects the extent to which participants would have undertaken an efficiency upgrade or action even if the DSM program did not exist. Union’s custom projects establish a baseline to determine incremental savings from each project and are further adjusted by a free ridership rate of 54%. To presumptively exclude projects with a payback period of less than two years from participation before this very material free ridership

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<sup>214</sup> Board Staff Submissions, p. 69

<sup>215</sup> SEC Submissions, p. 44.

<sup>216</sup> SEC Submissions, p. 44.

<sup>217</sup> SEC Submissions, p. 54.

rate is applied is not appropriate and amounts to double counting. This double counting is not mitigated by SEC's proposal to impose an evidentiary burden on Union to establish that a particular project with a payback period of less than two years would not have happened but for Union's DSM program. SEC is silent about how Union's evidentiary obligation should be assessed, but it would necessarily involve a fact-specific inquiry into each such project. This is not proportional or appropriate in light of the existing 54% free ridership reduction and, like many of SEC's suggestions, would result in an undue expansion of the Board's regulatory oversight of individual DSM projects.

148. SEC's argument is also based on the false premise that low payback periods can be equated with free ridership. While projects with short payback periods are more economically efficient than projects with longer payback periods, that does not mean that they are necessarily free riders. At the same time, particular projects with medium payback periods of more than two years can be and in some cases are free riders. While equating free ridership with low payback periods is superficially attractive, it simply is not reflective of the reality on the ground. Payback is only one of many factors that affect a customer's decision to proceed with a project<sup>218</sup>. There are other considerations customers take into account, such as: budget constraints, productivity goals and standards, timing constraints, and operational prioritization<sup>219</sup>. Simply having a low payback on an energy efficiency project does not mean that the customer will pursue that project in the absence of Union's DSM program.<sup>220</sup> Mr. Neme confirmed in his testimony that there are

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<sup>218</sup> Exhibit B.T5.Union.Staff.16.

<sup>219</sup> Transcript, Vol. 1, p. 141.

<sup>220</sup> Transcript, Vol. 3, pp. 33-34.

a variety of different market barriers, including, “a mismatch between expectations on payback periods relative to the planning horizons that are used on the energy system”.<sup>221</sup> He also stated:

“That said, it's equally true, from my perspective, that it would be unreasonable to draw the conclusion that all short payback projects are free riders.

I generally agree with the arguments that Union's witnesses made in this regard. There are a variety of reasons why efficiency projects, even short payback efficiency projects and even those being implemented by large sophisticated customers, are not always free riders.”<sup>222</sup>

149. The payback exclusions proposed by Board Staff and SEC would result in some of the most significant DSM savings in Ontario being entirely missed. Union will not pursue projects that are at risk of being disallowed because of concerns that Union may not be able to recover its costs because of the “but for” test of causation. Such an approach incites extreme caution, not leadership, and unduly constrains Union’s pursuit of cost-effective DSM. Union also believes that such an approach would have such a radical impact on Union’s target levels and that they would need to be reset.<sup>223</sup>

150. The payback threshold approach is duplicative of the free ridership reduction and, in any event, inherently flawed. The Board should reject it.

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<sup>221</sup> Transcript, Vol. 11, pp. 7-8.

<sup>222</sup> Transcript, Vol. 9, p. 175.

<sup>223</sup> Transcript, Vol. 1, p. 143.



**Issue 7: Input Assumptions**

***Intervenors' submissions***

151. Under Union's Plan, at the conclusion of a given year ("Year 1"), the shareholder incentive will be calculated using the same input assumptions that Union uses to plan for program delivery in Year 1. This ensures that Union's performance is evaluated—by means of the shareholder incentive—using the same frame of reference that Union used to plan and deliver its programs during Year 1. As new information about Year 1 becomes available through the audit evaluation process (the "Audit Information"), Union uses it to:

- (a) update LRAM calculations for Year 1, and
- (b) set input assumptions for the following year ("Year 2").

152. Board Staff refers to the application of updated input assumptions to Year 2, but not to Year 1, as the "prospective" application of updated input assumptions. In other words, best available information is used to set new assumptions for Year 2, but the evaluation of Union's Year 1 performance is based on the information that was available to Union as it was delivering its Year 1 programming.

153. In contrast, Board Staff refers to the application of updated input assumptions to Years 1 and 2 as the "retrospective" application of updated input assumptions. This approach is "retrospective" in that Union is not evaluated—for the purposes of determining the shareholder incentive for Year 1—on the basis of the information that was available to Union as it was

delivering its Year 1 programming. Rather, Union's Year 1 performance is evaluated on the basis of information that became available after Union delivered its Year 1 programming.

154. Board Staff takes the position that the shareholder incentive for Year 1 should be calculated retrospectively, i.e., on the basis of information that became available after Year 1 and inform updated input assumptions. Board Staff also suggest that Union's approach to input assumptions is consistent with only 3% of jurisdictions, not 81% of jurisdictions as Union suggested.<sup>224</sup>

*Union's reply*

155. Union continues to believe that it is appropriate to set input assumptions prospectively for the purpose of calculating the shareholder incentive. Union's performance should be assessed in light of what it set out to do based on the information it had at the time. To do otherwise is to "change the goalposts", as Union explained in its argument-in-chief. Changing the goalposts disincentivizes the gas utilities from taking an aggressive approach to innovation. This is because if the input assumption is not going to carry through, then Union is:

- (a) less likely to proceed with a potentially innovative program at all, and
- (b) likely to proceed more cautiously with programs it does pursue.

156. The concept of protecting the shareholder and ratepayers from the consequences of unforeseen changes is not new to this Board. In Union's submission, that principle needs to be respected in this case.

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<sup>224</sup> Board Staff Submissions, p. 81.

157. Board Staff's claim that Union's approach to input assumptions is consistent with only 3% of jurisdictions surveyed is not correct. 81% of jurisdictions surveyed apply input assumptions prospectively.<sup>225</sup> Another 3% apply input assumptions prospectively for some purposes and retrospectively for others. Consequently, 84% of jurisdictions apply some or all input assumptions prospectively, as Union proposes to do with its shareholder incentive.<sup>226</sup>

#### **Issue 8: Cost-Effectiveness Screening**

158. Union's programs include particular offerings, measures, projects, and individual technologies. In the 2012-2014 Guidelines, the Board explicitly stated: "For screening purposes, the TRC test should be performed at the program level only."<sup>227</sup> Consistent with this direction from the Board, Union's practice has been to screen cost-effectiveness at a program level.<sup>228</sup> Union proposes to continue doing so during the term of the 2015-2020 DSM Plan.

159. In the Guidelines the Board directed that Union "should screen prospective DSM programs using the Total Resource Cost-Plus ('TRC-Plus') test".<sup>229</sup> Union followed the Board's Guidelines, screening cost-effectiveness at the program level during the term of the current DSM Plan using the TRC-Plus test.

160. SEC argues that Union should be required to screen at the most granular level, i.e., at the project level, and concludes that "In our view, the solution is to require the utilities to test the

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<sup>225</sup> Exhibit A, Tab 3, p. 17.

<sup>226</sup> Exhibit B.T7.Union.Staff.26.

<sup>227</sup> 2012-2014 DSM Guidelines, p. 16.

<sup>228</sup> For the list of programs, see Exhibit A, Tab 3, Appendix A, p. 1.

<sup>229</sup> 2015-2020 DSM Guidelines, p. 26.

cost-effectiveness of every offering on a regular basis, and each custom project as well. Unless a good reason can be shown for an exception, only cost-effective offerings and projects should be included in the utilities' portfolios."<sup>230</sup>

161. Union continues to believe that, consistent with the Framework, cost-effectiveness should be screened at the program level only (not project or offering or measure levels as suggested by SEC). This ensures a broader suite of projects and technologies can be included for customers, while ensuring that overall each program remains cost-effective. SEC's proposed departure from the Framework, if accepted, would also require resulting changes to Union's targets, which—like so many of SEC's proposals—would cause significant delay.

#### **Issue 9:        Avoided Costs**

162. GEC's detailed arguments on avoided costs are in line with what Union anticipated in its argument-in-chief and Union continues to view this issue as a distraction that has occupied a disproportionate amount of this hearing. As anticipated, GEC argues that savings from avoided costs and DRIPE are distributed to all customers and should cause the Board to order larger budgets for Union's DSM program, as discussed in the budget section above.<sup>231</sup> But, as OGVG points out, while these factors may lead to savings eventually, "that is not necessarily true at the point in time where ratepayers are paying for DSM in rates."<sup>232</sup>

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<sup>230</sup> SEC Submissions, p. 54.

<sup>231</sup> Para. 79.

<sup>232</sup> OGVG Submissions, p. 6.

163. In any event, the Board-led achievable potential study that will be completed by June 2016 will address these issues. The future of cap and trade in Ontario and the impact on DSM (if any) remains completely unclear and it remains Union's view<sup>233</sup> that this should be addressed at the mid-term review. Accordingly, the appropriate time to revisit avoided costs is at the mid-term review. In the meantime, Union will work with Enbridge to understand the differences between the utilities' commodity forecasts and, to the extent possible, will work with Enbridge on ways to facilitate the "apples-to-apples" comparison that Board Staff has called for.<sup>234</sup>

**Issue 10: Accounting Treatment: Recovery and Disposition of DSM Amounts**

***Pooling of M4, M5 and M7 customers – intervenors' submissions***

164. Board Staff "supports Union's proposal to pool the DSM costs of its M4, M5 and M7 rate classes and reallocate the costs in proportion to the 2015 approved billing units." Board Staff also "notes that customers in these three rate classes are similar and that they will all be able to participate in the same DSM offerings." Consequently, Board Staff "agrees that Union's proposal will more appropriately recover DSM costs from the appropriate customers."<sup>235</sup>

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<sup>233</sup> Transcript, Vol. 14, p. 22.

<sup>234</sup> Board Staff Submissions, p. 86.

<sup>235</sup> Board Staff Submissions, p. 29.

165. IGUA muses on possible approaches to align “practice with policy” by exempting additional rate classes—including Rate M4, Rate M5 and Rate M7—from mandatory ratepayer funded DSM, but does not specifically comment on Union’s pooling proposal in detail.<sup>236</sup>

166. CME does not oppose Union’s proposal to pool M4, M5 and M7 customers, subject to some reporting obligations.<sup>237</sup>

***Pooling of M4, M5 and M7 customers – Union’s reply***

167. As no intervenors have raised a material objection to Union’s proposal to pool the DSM costs of its M4, M5 and M7 rate classes Union submits that this portion of its application be approved as filed.

***Rate M1 – intervenors’ submissions***

168. LPMA raises concerns about the recovery of DSM-related costs from non-residential customers in Union’s M1 rate class. LPMA observes that the Rate M1 rate class, which is for general service customers that consume less than 50,000 m<sup>3</sup> per year, contains both residential and commercial and industrial customers.<sup>238</sup> Since DSM-related costs are recovered “solely through the delivery (volumetric) charge”, LPMA submits that this results in the commercial and industrial customers “bearing a disproportionate share of the residential related costs” because

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<sup>236</sup> IGUA Submissions, p. 16.

<sup>237</sup> CME Submissions, p. 10.

<sup>238</sup> LPMA Submissions, p. 13.

“the annual consumption for the commercial and industrial customers is, on average, higher than that for the residential customers.”<sup>239</sup>

169. LPMA “submits that a more appropriate recovery of the costs from customers within this rate class is to recover the residential related costs through a fixed charge per customer per month.” Since Rate M1 is made up of three blocks, LPMA’s admittedly imperfect proposal is that “the commercial/industrial DSM related costs should be recovered through the third block of the delivery (volumetric) charge”, which is the block that applies to all Rate M1 consumption over 250 m<sup>3</sup> per month.<sup>240</sup>

170. SEC raises the same concern and submits “the problem here arises solely because Union recovers DSM costs entirely through the volumetric charge.”<sup>241</sup> SEC’s proposed solution is to recover “all DSM costs associated with residential programs, as well as their share of all common costs,” though a fixed monthly charge.<sup>242</sup>

### ***M1 – Union’s reply***

171. The issue raised by LPMA and SEC in respect of the M1 rate class is a cost allocation and rate design issue. While LPMA has attempted to fashion an interim solution to deal with its concern between now and Union’s rebasing or cost of service proceeding in 2019, its proposal would unduly impact Rate M1 residential customers who consume over 250 m<sup>3</sup> per month. In

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<sup>239</sup> LPMA Submissions, p. 14.

<sup>240</sup> LPMA Submissions, p. 14.

<sup>241</sup> SEC Submissions, p. 60.

<sup>242</sup> SEC Submissions, p. 60.

any event, Union submits that this cost allocation and rate design issue should be dealt with in 2019 rather than in this proceeding.

*Clearance of DSMVA for Contract Classes – OGVG’s submissions*

172. In its submissions, OGVG expresses concern about minimizing the impact of DSMVA clearance on contract rate customers. Specifically, OGVG requests confirmation that contract customers have the option to spread payments for clearance of deferral and variance amounts over time.<sup>243</sup>

*Clearance of DSMVA for Contract Classes – Union’s Reply*

173. When disposing of deferral and variance account balances for contract rate classes, Union applies a one-time adjustment<sup>244</sup>. Union confirms that contract customers can request the option of paying amounts related to deferral and variance account disposition over a period of up to six months.

**Issue 11: Integration and Coordination of Natural Gas DSM and Electricity CDM Programs**

*Intervenors’ submissions*

174. Board Staff recommends that the gas utilities “implement a new scorecard to further incent and encourage the gas utilities to pursue and initiate collaborative opportunities with

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<sup>243</sup> OGVG Submissions, pp. 9-10.

<sup>244</sup> Transcript, Vol. 1, p. 166.



electricity distributors.”<sup>245</sup> Board Staff’s specific suggestion is that “a weighted scorecard be developed, with a shareholder incentive equal to 10% of the overall maximum incentive, as a reasonable starting point considering the gas utilities have not had a collaboration scorecard in the past and some implementation decisions may be out of their control.”<sup>246</sup>

175. Board Staff’s proposed scorecard has three metrics:

- (a) percent of electricity distributors the gas utilities have partnered with for at least one joint offering;
- (b) percent of the DSM programs that are delivered in collaboration with electricity distributors; and,
- (c) percent of natural gas customers who have participated in a collaborative program with electricity distributors.<sup>247</sup>

176. SEC more clearly and fully acknowledges the limited scope of Union’s ability to act unilaterally, conceding that the gas utilities “can’t do it alone, and this Board cannot force the issue within its specific jurisdiction.” SEC fairly acknowledges that “the patience and tenacity” that the gas utilities’ aim to bring to this effort “are the best that can be done.” In all of the circumstances, SEC submits that the Board “should not expect any meaningful steps in this direction in the near term.”<sup>248</sup>

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<sup>245</sup> Board Staff Submissions, p. 93.

<sup>246</sup> Board Staff Submissions, p. 94.

<sup>247</sup> Board Staff Submissions, p. 94.

<sup>248</sup> SEC Submissions, p. 64.

***Union's reply***

177. Union does not believe that a collaboration scorecard is appropriate given that Union cannot require electric LDCs to enter into pilots and programs with Union and has extremely limited control over electric LDC's willingness to do so. Union is already seeking out collaboration opportunities, and applying specific metrics to these efforts at this early stage has the potential to inadvertently compromise the organic development of Union's collaboration initiatives. While a collaboration scorecard may be appropriate in a future DSM Plan, its inclusion in this Plan is premature for the reasons mentioned by SEC.

178. In the alternative, if the Board determines that a collaboration scorecard is appropriate then Union submits that it should be far more basic than the one proposed by Board Staff. Union submits that, in its view, an aggressive but potentially achievable target would be four pilots and/or program agreements with electric LDCs and/or the IESO per year.

**Issue 12: Future Infrastructure Planning Activities**

***Intervenors' submissions***

179. Board Staff submits that the gas utilities should be required to "work together and complete individual, but consistent, studies in how to integrate DSM in infrastructure planning by the middle of 2017." Board Staff "is of the view that the proposed scope of work filed by Enbridge should be used as a basis for the gas utilities' studies and that an expanded joint scope of work be developed, incorporating the recommendations provided by GEC and Synapse."

Drawing on the submissions of GEC, Board Staff suggests that “the gas utilities should ensure that hourly peak day load shapes (and/or an estimate of the relationship between peak hour savings and annual savings) are developed for each potential efficiency measure”.<sup>249</sup>

180. GEC asks the Board to indicate that “it will not consider the approval of rate base additions for infrastructure projects where DSM has not been evaluated as an alternative in whole or in part.”<sup>250</sup>

*Union’s reply*

181. Union acknowledges that Enbridge has made more progress on this front, largely by virtue of the work undertaken by Enbridge prior to and during the GTA Project proceeding. While Union plans to move expeditiously to study how Union can integrate DSM in infrastructure planning, Union does not believe that it should be required to use the proposed scope of work filed by Enbridge to do so. Union does not yet know if the scope of work proposed by Enbridge is appropriate for Union because Union does not yet know if it is reasonably achievable or applicable to Union’s system, which has different operating characteristics. Union submits that it should be allowed to proceed with the development of its own plan while working with Enbridge on a joint scope of work only to the extent and at the time that it becomes practical and productive to do so.

182. GEC’s suggestion that the Board indicate “it will not consider the approval of rate base additions for infrastructure projects where DSM has not been evaluated as an alternative in

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<sup>249</sup> Board Staff Submissions, p. 97.

<sup>250</sup> GEC Submissions, p. 61.

whole or in part” will, at best, result in merely formalistic compliance for the foreseeable future and will potentially lead the Board to ignore the specific circumstances presented in the applications supporting the requested facilities. In its GTA Project Decision, the Board directed applicants to review DSM alternatives in gas leave to construct applications.<sup>251</sup> Union has outlined its approach to its DSM and Infrastructure Planning study in applications since the GTA Project Decision and will provide further detail on the outcomes of the study in time to inform the mid-term review. The Board should allow Union to do the work required to develop an appropriate approach to this very complex topic.

**Issue 13: Other**

***Process to update DSM Plans – Board Staff’s submissions***

183. Board Staff suggests that in the event the Board makes findings that require amendments or updates to the gas utilities’ DSM Plans, the Board should initiate a process that allows the gas utilities to update their Plans based on the Board’s findings.

184. Board Staff “views this process as similar to that which is followed in a rates proceeding.” Gas utilities will file updated DSM Plans that are revised in accordance with the findings from the Board’s Decision. A written comment period would follow prior to the Board issuing a final Decision. Board Staff suggests that the Board indicate that comments for parties

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<sup>251</sup> EB-2012-0451/EB-2012-0433/EB-2013-0074 Decision, p. 47

are limited to the gas utilities' updates and revisions to their DSM Plans in response to the Board's Decision.<sup>252</sup>

***Process to update DSM Plans – Union's reply***

185. Union has no objection to Board Staff's proposed process for dealing with any necessary updates to its Plan. Union emphasizes that the purpose of written comments from intervenors should be strictly limited to the conformity of Union's Plan with the Board's order.

***Mid-term-review – intervenors' submissions***

186. Board Staff submits that "the full scope of the mid-term review cannot be addressed at this point."<sup>253</sup> CME is opposed to placing any limitations on the scope of the mid-term review at this time in light of what CME characterizes as its "broad purpose". CME's position is that the scope of the mid-term review should be determined by the panel that considers the mid-term review.<sup>254</sup>

187. Departing from the Framework, CCC submits that Union's six-year plan should be divided into two plans.<sup>255</sup> The practical consequence of this is to turn the mid-term review into a second application.

188. As discussed above,<sup>256</sup> GEC also suggests that the timing of the mid-term review should be advanced by a year.

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<sup>252</sup> Board Staff Submissions, p. 98.

<sup>253</sup> Board Staff Submissions, p. 99.

<sup>254</sup> CME Submissions, p. 3.

<sup>255</sup> CCC Submissions, pp. 5-6.

***Mid-term-review – Union’s reply***

189. Union agrees with Board Staff that the full scope of the mid-term review cannot be addressed at this point and should be left to the panel that will hear the mid-term review. Union also believes, however, that the Board should indicate that the panel hearing the mid-term review is to establish the scope of the mid-term review based on what it considers to be material developments (for example, the results of the achievable potential study and any material developments related to cap and trade) arising since the date of the Board’s final Decision in this application. This is consistent with the mid-term review being a review, as suggested by the Framework, rather than a new application, as suggested by CCC.

190. Union’s position on the timing of the mid-term review is that it should proceed in accordance with the timing established by the Framework.

**PART III – ORDER SOUGHT**

191. Union asks that the Board approve its application as filed.

October 23, 2015

ALL OF WHICH IS RESPECTFULLY SUBMITTED

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Alex Smith

Lawyers for Union Gas Limited

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<sup>256</sup> Para. 20.