EB-2016-0300

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O. 1998, C. 15, Sched. B, as amended.

IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an order or orders approving and/or accepting its Cap and Trade Compliance Plan and approving or fixing rates and/or changes to recover the costs incurred undertaking its Cap and Trade Compliance Plan.

ENBRIDGE GAS DISTRIBUTION INC.

REPLY ARGUMENT

[PUBLIC]

Aird & Berlis LLP
Dennis M. O'Leary
Barristers and Solicitors
181 Bay Street, Brookfield Place
Suite 1800, Box 754
Toronto, ON M5J 2T9

Counsel to Enbridge Gas Distribution Inc.

INTRODUCTION

1. This is the Reply Argument of Enbridge Gas Distribution Inc. ("EGDI" or "Company") to the Public Arguments made by Ontario Energy Board Staff ("Board Staff") and the various Parties to this proceeding. This Reply has been formatted by the issues list approved by the Board in Procedural Issue No. 2 dated February 17, 2017. Within each of these issues, EGDI has identified a number of sub-issues to which Parties have expressed a view. EGDI has attempted to respond to each of the various positions taken by the Parties under these sub-issues (which may be identified by sub-headings).

2. In respect of several matters that overlap between several of the issues identified in the issues list, EGDI identifies where the overlap occurs and the location of the Reply Submission.

ISSUE NO. 1 – COST CONSEQUENCES

Are the requested cost consequences of the Gas Utilities' Compliance Plans reasonable and appropriate?

3. The submissions made by Board Staff and the Parties in respect of the forecast cost consequences of EGDI's Compliance Plan in relation to the forecast of administrative costs and the continued use of the interim carbon proxy price were not extensive. EGDI responds to these several comments below. The largest portion of the commentary received related to the nature and effect of the Ontario Energy Board's ("Board") Decision and Order in this Proceeding and its future impact. This is an important matter to the Utilities who take their obligation to meet their compliance obligations very seriously but wish to undertake their Compliance Plan activities with the assurance that where costs are incurred procuring compliance instruments as contemplated by the Compliance Plan which has been reviewed by the Board and determined to be reasonable, such costs should be fully recoverable.

Administrative Costs

4. EGDI is proposing to record the actual administrative costs it incurs in 2017 in a deferral account which is the 2017 Greenhouse Gas Emissions Impact Deferral Account ("GGEIDA")[1]. The most up to date forecast of costs that the Company may incur is found in an Undertaking response marked as J1.5[2] which reflects the revenue requirement implications of the IT system upgrades. It is important to note that this forecast does not include all of the costs associated with this proceeding and other regulatory proceedings that will occur later this year including the 2018 cap and trade Compliance Plan filing.

5. As noted in the pre-filed evidence, the costs that will be recorded in the GGEIDA are all incremental to the Company's current business and are required for the purposes of the Company meeting its cap and trade requirements.[3]

6. Board Staff in its argument propose that in future, following a two year transition, administrative costs should be fixed to promote efficiency. Presumably this would be similar to a cost of service proceeding where forecast costs are reviewed for reasonableness and if approved by the Board, the approved amount is recovered in rates without subsequent review and true-up.

7. Currently, the Company is of the view that with the uncertainties of the carbon market including its linkage with WCI jurisdictions and uncertainties around the appropriateness and availability of certain procurement instruments, the preferred approach is to record administrative costs in a deferral account for review and disposition later. Should the market evolve as expected and with experience forecasting cap and trade administrative costs, EGDI is prepared to reasonably consider this approach at a future time.

[1] Ex C, T3, S6, p 7
[2] Undertaking J1.5
[3] Ex C, T3, S6, p2

8. The Company has forecast a total of $561,000 for implementation, market intelligence and consulting support.[4] This amount includes the forecast cost for the development of a Company specific marginal abatement cost curve ("MACC") amongst other costs. Board Staff argue that EGDI should not incur the cost to develop a MACC.[5] EGDI understands that the Board is contemplating the development of a MACC which, if appropriate, could eliminate the need for an EGDI-specific MACC. EGDI included a forecast cost for an EGDI-specific MACC out of an abundance of caution and will only incur such costs out of necessity.

9. Board Staff argue that the bad debt expense which EGDI has calculated at $900,000[6] should be normalized for weather and adjusted for natural gas prices. EGDI notes that under its current Custom Incentive Rate Regulation Plan ("CIR") bad debt is included as a fixed amount of $9.796 million [7] and is not subject to adjustment for weather or commodity prices. EGDI submits that adjusting the incremental amount of $900,000 to be added to the amount approved in the Company's CIR for weather and commodity prices will only result in an unnecessary additional administrative burden, create confusion and will be immaterial in terms of rate impact. Board Staff did not give any reasons why the small incremental increase in bad debt should be treated differently than the larger balance and how such a proposal would add greater rate certainty.

10. Board Staff question the Company's estimate of costs for customer education and outreach. While more is stated below under Issue No.3, EGDI acknowledges that several Parties have stated a desire that EGDI minimize customer outreach costs while the Company still meets the customer outreach objectives set out in the the *Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap*

[4] Ex C, T3, S6, pp 9, 10 and 13
[5] Board Staff Argument, p8
[6] Ex C, T3, S6, p13, Table 2
[7] EB-2012-0459, Ex D6, T2, S2, also see Ex.I.1. EGDI.Staff.8

and Trade Activities, dated September 26, 2016 ("Framework"). EGDI discusses the options available to it to reduce costs under Issue No. 3.

11. Board Staff further argue[8] that cost estimates for EGDI and Union Gas Limited ("Union") should recognize a potential merger of the Utilities. EGDI and Union are not merged entities and there is no basis upon which any cost estimates could consider such a situation.

Carbon Proxy Price

12. EGDI notes that Board Staff agree with EGDI's use of its forecast Ontario auction reserve floor price as the proxy price for carbon[9]. This price forecast of $17.70 (CAD) was accepted by the Board for the purpose of setting interim rates[10]. Board Staff do not support updating this figure to use the actual Ontario March 2017 auction reserve price of $18.07 (CAD). Board Staff do not believe the difference is material and submit, correctly, that the floor price in future auctions in 2017 will be subject to currency exchange fluctuations. EGDI concurs and submits further that increasing the proxy price to $18.07 as several interveners have suggested, could cause customer confusion, is an additional administrative burden and may not achieve the intended result which is to minimize the amount included in the variance account for subsequent disposition.

13. In addition, it follows that if you adjust for the first actual auction reserve price, some will argue that you should adjust for every change in auction reserve prices. Making quarterly adjustments would not provide any greater rate predictability, would add complexity and fails to acknowledge the fact that compliance costs are not necessarily driven solely by auction prices.

[8] Board Staff Argument, p9
[9] Board Staff Argument, p10
[10] Interim Rate Order dated November 24, 2016

Purpose of this Proceeding

14. EGDI is very much aware of the concerns of ratepayer groups about the costs for which they will be responsible as mandated by the Government of Ontario through the *Climate Change Mitigation and Low-carbon Economy Act, 2016* ("Climate Change Act") and its regulations[11]. EGDI further appreciates that these concerns are heightened by the fact that material elements of Company's Compliance Plan must, as a matter of law, be filed on a strictly confidential basis. As noted earlier, EGDI takes its obligations to ensure compliance with the *Climate Change Act* on behalf of its ratepayers as a very serious matter and it has therefore developed a comprehensive plan which provides for the involvement of senior officers, managers and staff to ensure that the procurement of appropriate carbon instruments is done on a cost effective basis. EGDI also acknowledges that ratepayer groups want to ensure that the risk to ratepayers is also minimized to the extent possible.[12]

15. For the purpose of attempting to determine the nature of any decision and determination that the Board will make following its review of EGDI's Compliance Plan, it is appropriate to carefully examine the language of the Framework and other relevant matters.

16. At the outset of the EB-2015-0363 Stakeholder Engagement Process which facilitated the development of the Framework, the Board issued a letter dated March 10, 2016 wherein it stated at page 1 that:

> The Framework will guide the OEB's assessment of Natural Gas Distributors Cap and Trade Compliance Plans, including the cost consequences of these plans and the mechanism for recovery of costs and rates.[13]

[11] Including Ontario Regulation 144/16, "The Cap and Trade Program" Regulation
[12] CCC Argument, p2
[13] Board Letter March 10, 2016, EB-2015-0363

17. The Board went on at page 2 of this letter to state that the cap and trade activities of the Utilities will be described in their Compliance Plans and that the Board is responsible for assessing these plans for the purpose of cost recovery from ratepayers. The letter continued stating that the Board is establishing a regulatory framework to assess the cost consequences of natural gas distributor Compliance Plans and to establish a mechanism for recovery of these costs in rates. This language suggests that it was the Board's intention at the outset of the Stakeholder Consultative to develop an approach by which the cost consequences of EGDI's cap and trade activities will be assessed beginning at the Compliance Plan stage.

18. In the Board's July 28, 2016 "Early Determination"[14] which addressed billing issues, the Board stated at page 3:

> This determination does not address the amount of the cost to be recovered or the actual rate impact. These matters will be determined in a future rate hearing where the OEB will undertake a detailed review and assessment of the cost consequences of the Compliance Plan submitted by each of the natural gas Utilities.

19. In the September 26, 2016 covering letter for the cap and trade Framework[15], the Board states at page 2 that it expects to establish interim charges for each of the Utilities by January 1, 2017 being the date when the cap and trade program comes into effect. The Board added that in order to do so, the Utilities are expected to file their applications by November 15, 2016 and that a full review and assessment of the Utilities' Compliance Plans will follow.

20. What has followed is precisely what the Board contemplated as noted above. The Board did approve interim rates which came into effect on January 1, 2017[16] and EGDI's 2017 Compliance Plan has undergone a detailed review for the purposes of setting final rates and charges for 2017. No party to this proceeding has taken the

[14] OEB Early Determination regarding Billing of Cap and Trade Related Costs and Customer Outreach, EB-2015-0363, July 28, 2016
[15] OEB Covering letter, September 26, 2016, EB-2015-0363
[16] Interim Rate Order dated November 24, 2016

position that the evidence filed by EGDI is insufficient for the purposes of the Board issuing a final rate order in respect of the cost consequences of EGDI's cap and trade Compliance Plan. EGDI notes that all of this is consistent with what is contemplated by the Framework itself as noted below.

21. The title of the Framework itself is revealing by stating that it is "the Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' cap and trade Activities". The Framework begins at page 1 by stating that for the purposes of the Board reviewing and approving the cost consequences associated with the Utilities' obligations, the Board expects each Utility to develop Compliance Plans which will provide robust information describing how it will meet its obligations. The Board goes on to state on the same page that:

> The OEB will assess the Utilities' Compliance Plans for cost effectiveness, reasonableness and optimization, and ultimately will determine whether to approve the associate cap and trade costs for recovery from customers.

22. Under the heading "Guiding Principles for Assessment of Costs" at page 7 of the Framework, the Board states that it will review the Utilities' Compliance Plans "**for prudence and reasonableness** in meeting cap and trade obligations with the view to determining the appropriate costs to be recovered from natural gas customers and rates" (emphasis added).

23. While the Framework then states that the Board will not "approve" the Utilities' Compliance Plans given that the Utilities are responsible for deciding the exact make-up of activities to be included in their Plans, how best to prioritize and pace investments in cap and trade compliance options and activities, and how and when to participate in the market, the Framework sets out in detail the principles that will be used to assess the reasonableness of Compliance Plan costs for recovery in rates.

24. For the purposes of its review of the Compliance Plan, the Framework states that the Board will be guided by six principles, the first three of which are:

    - Cost Effectiveness: cap and trade activities are optimized for economic efficiency and risk management.

    - Rate Predictability: customers have just and reasonable, and predictable rates resulting from the impact of the Utilities cap and trade activities.

    - Cost Recovery: prudently incurred costs related to cap and trade activities are recovered from customers as a cost pass-through.[17]

25. At page 8 of the Framework, the Board states that the Board's role is to assess the Plans for reasonableness and cost effectiveness in order "to approve the cost consequences of those Plans".

26. At page 15 of the Framework, the Board states:

> As the rates charged by natural gas utilities are regulated by the OEB, the OEB will assess the Utilities' Compliance Plans for cost effectiveness, reasonableness and optimization and ultimately to determine whether to approve the associated cap and trade costs for the recovery from customers.

27. It is noteworthy that the Board has mandated the use of certain methodologies and certain filing requirements for the Compliance Plans. This includes: the use of the OEB-approved methodology for delivery volume forecasts;[18] the use of O. Reg. 452/09 to calculate Greenhouse Gas Emissions[19]; the use of a Board-determined 10 year carbon price forecast[20]; and the use of an OEB developed, province-wide generic marginal abatement cost curve ("MACC")[21].

---

[17] Framework, p7
[18] Framework, p18
[19] Framework, p18
[20] Framework, p19
[21] Framework, p19

28. EGDI also notes that the Framework contemplated the use of the Intercontinental Exchange ("ICE") average daily settlement price of the California Carbon Allowance but for the reasons set out in EGDI's pre-filed evidence, it has proposed a higher proxy amount based upon its forecast of the Ontario Auction Reserve floor price. Despite EGDI's request for this appropriate variation from the Framework, the point being made is that an important aspect of EGDI's forecast of the cost consequences of its Compliance Plan are impacted by the requirements of the Framework. EGDI submits that it therefore stands to reason that where it has followed the applicable methodologies and the Board has accepted the resulting cost consequences and has made a finding that EGDI's Compliance Plan is cost effective and reasonable, then this decision must have some significance in terms of the subsequent true-up of the associated variance and deferral accounts.

29. It is important to recognize that the Board in this proceeding is making a Rates Order and, as required by Section 36 of the *Ontario Energy Board Act*, 1998 ("OEB Act"), it must make a determination that it is approving and fixing just and reasonable rates. EGDI accepts that for the purposes of this proceeding, in accordance with Subsection 36 (6) of the OEB Act that the burden of proof is on EGDI to demonstrate that the rates which will flow from its cap and trade tariffs are just and reasonable. What some interveners seem to be arguing is that despite the Board's determination that a Utilities' Compliance Plan will generate cost consequences which are cost effective and reasonable and therefore just and reasonable as required by the *OEB Act*, there should be a subsequent further complete review of all of the costs incurred before there is certainty of recovery. It appears that intervenors would attribute little value to the Board's Decision and a determination of reasonableness in this proceeding.

30. Some interveners go further by indicating that if a Utility missed a unique opportunity[22] or where actual costs exceed those recovered in rates, then it is the shareholder that should assume at least some of the risk of the variance. The intervener arguments do not of course propose that any credits generated in the applicable variance account should be retained by the Company. To the contrary, the implication is that the variance account should work on an asymmetrical basis with the Company at risk for any under recoveries and ratepayers benefiting from any over recoveries relative to actuals.

31. Notable by its absence is any acknowledgment by any party that the Company stands to earn nil in respect of its cap and trade activities. The costs it incurs as required by the Board, are a complete pass through without any return to the shareholder. EGDI's cap and trade obligations are set by statute and are no different than any other cost of doing business like a new technical standard set by the Technical Standards and Safety Authority. The Company has no choice but to comply with the statutory requirements and incur such costs.

32. It should not be surprising that the Parties did not make mention of the fact that EGDI is not entitled to earn any return on its cap and trade activities. This is because such a discussion of necessity would lead to a review of EGDI's risk profile and the appropriateness of either or both of changing the allowed rate of return on equity and/or the equity thickness upon which the Company earns a return should it be put at a risk of non-recovery of any Compliance Plan costs. If interveners wish the Company to take on risks associated with the procurement of compliance obligations for ratepayers, the Company's risk profile will need to be reviewed as will the appropriate resulting impact on its regulated rate of return and the applicable equity thickness.

[22] BOMA Argument, p8 and its reference to the neighbor selling a vacuum cleaner at a significant reduction to its retail price

33. It comes as no surprise that there may be tradeoffs between costs and risks. A Compliance Plan that pursues carbon procurement instruments that have certain attendant risks may tend to lower overall Compliance Plan costs but, should the potential risk actually occur, the cost of the Compliance Plan may increase relative to a more conservative approach.

34. An example of this is the question of whether or not a Utility should undertake hedging activities which might lower compliance obligation costs at times but comes with the risk of generating costs without being of any financial benefit. It is clear that several ratepayer groups do not view the risks of hedging as appropriate[23]. While the Framework does not prohibit hedging, it does note that during the Framework Consultative all stakeholders expressed concern about the Utilities undertaking hedging activities.[24]

35. The point being made is simply that where a Utility in its Compliance Plan proposes to either undertake such activities or not undertake such activities, if the Board determines that the Plan is reasonable and cost effective, there should be no subsequent second guessing permitted with the use of hindsight when it comes time to dispose of amounts recorded in the applicable variance account. If, for example, a Utilities' Plan does not contemplate hedging, it cannot be open to any party to allege in a subsequent proceeding that the Utility did not act prudently when, with the use of hindsight, hedging would have resulted in a more cost effective means of securing compliance obligations.

36. The same is true of all aspects of EGDI's Compliance Plan. It would be grossly unfair and inconsistent with established regulatory practices for EGDI's Compliance Plan activities to be viewed with the benefit of hindsight in terms of the actual changes in the carbon market and currency fluctuations. The Utilities must have

[23] CCC Argument, p2, FRPO Argument, p2, BOMA Argument, p14
[24] Framework, p26, Oral evidence of Ms. Oliver-Glasford, TR. V.1, pp 45/46

certainty of recovery where they have proposed and filed a comprehensive plan which has undergone the scrutiny of the Board and which has led the Board to the determination that the cost consequences are cost effective and reasonable. Stated simply, the Decision and Order in this proceeding must have meaning.

37. EGDI has proposed in this proceeding that under the circumstances, there should be a presumption of prudence that is applied when the Board is asked for approval for clearance of the amounts recorded in the deferral and variance accounts. More specifically, the Board should apply the prudent investment test, the elements of which test are helpfully articulated by the Ontario Court of Appeal in *Enbridge v. The Ontario Energy Board.* Briefly, the Court of Appeal endorsed the following specific formulation of the test:

- Decisions made by the utilities' management should generally be **presumed to be prudent** unless challenged on reasonable grounds.

- To be prudent, a decision must have been reasonable under the circumstances that were known or ought to have been known to the utility at the time the decision was made.

- **Hindsight should not be used in determining prudence**, although consideration of the outcome of the decision may legitimately be used to overcome the presumption of prudence.

- Prudence must be determined in a retrospective factual inquiry, in that the evidence must be concerned with the time the decision was made and must be based on facts about the elements that could or did enter into the decision at that time.[25](emphasis added)

[25] Excerpt from *Enbridge v. The Ontario Energy Board.*

38. This formulation of the test remains valid law. While CME in its argument referenced the *Ontario Energy Board v. Ontario Power Generation Inc*., Supreme Court of Canada decision[26], that decision did not invalidate the prudent investment test. It remains a methodology that may be applied by the Board and one which EGDI submits is appropriate in this particular case.

39. In short, the Framework contemplates that the Board will in its review of each of the Utilities' Compliance Plans review each for prudence, cost effectiveness and reasonableness. With such a determination, EGDI submits that this should give rise to an even stronger presumption of prudence than in the case where the Utilities' planned activities have not already been reviewed and accepted by the Board. The subsequent review of amounts recorded in the applicable variance and deferral accounts must then be undertaken in accordance with the rules applicable to the prudent investment test as stated by the Ontario Court of Appeal that hindsight should not be used in determining prudence. Also, the retrospective factual inquiry would recognize that the Utilities' cap and trade obligations are complex and nascent, the Utilities are naturally incented to keep surcharges on gas distribution bills at a reasonable and competitive level and the Utilities are undertaking these legal obligations on behalf of the Utilities' customers for no reward.

40. This being said, it is acknowledged that a presumption of prudence is not a "guarantee" of recovery. Some parties may incorrectly assert this as a reason for not applying the above test. The fact is that a review by the Board and parties is still required and as noted by the Ontario Court of Appeal, the presumption of prudence may be challenged on reasonable grounds.

[26] CME Argument, p3

ISSUES NO 1.1-1.3: FORECASTS (VOLUMES, GHG EMISSIONS AND PROXY CARBON PRICE)

41. EGDI has for simplicity joined issues 1.1 through 1.3 which deal with forecasts into this one subheading for the purposes of its Reply.

42. In terms of its volume forecasts and GHG emissions forecasts, Board Staff confirm that EGDI has undertaken same in compliance with the Framework and the appropriate regulations.[27] LPMA appears to take the position that EGDI should amend its volume forecast and resulting GHG emissions forecast to include the potential results of its Green Investment Fund ("GIF") activities[28]. As stated in evidence, EGDI did not do this because of the uncertainty of the results of its GIF activities and the fact that it will adjust the variance account to reflect actual GIF results at the time of true-up[29]. EGDI submits that making the adjustments at this time simply adds administrative burden as an adjustment for actual GIF results will take place in any event. As well, such an adjustment now will have no perceivable impact on resulting rates.

43. The submissions of several interveners in respect of adjusting the proxy price for carbon was dealt with under Issue No 1: Cost Consequences above. Again, EGDI submits that the proxy price should remain at $17.70 (CAD) for the reasons confirmed by Board Staff being materiality and the fact that the current auction reserve floor price will change based upon currency fluctuations.

ISSUE NO 1.4: COMPLIANCE PLAN (OVERVIEW) – *Is the Compliance Plan overview reasonable and appropriate*

44. This issue is subsumed by the other issues in particular, Issue No 1, Cost Consequences and Issues 1-8 through 1-10 below which deal with long term investments, new business activities and abatement activities.

[27] Board Staff Argument, pp10 and 11
[28] LPMA Argument, p3
[29] Ex A, T1, S2, p2; Ex B, T2, S1, p3

ISSUE NO 1.5: COMPLIANCE PLAN (OPTION ANALYSIS AND OPTIMIZATION)

45. EGDI's Reply to issues that might fall under this Issue 1.5 are subsumed in the other issues set out in this Reply.

ISSUE 1.6: COMPLIANCE PLAN PERFORMANCE METRICS AND COST INFORMATION – *Are the proposed performance metrics and cost information reasonable and appropriate*

46. Board Staff refer to Section 8 of the Framework in its Argument[30] as being appropriate metrics. LPMA submits that the Compliance Plan results of each of the Utilities should be bench marked against one another and their forecasts.[31]

47. EGDI understands and agrees with the metrics which the Board has included at Section 8 of the Framework for monitoring and reporting purposes. How such metrics should be used and the additional metrics which EGDI proposed in its Argument In Chief, is a matter which was the subject of the submission above dealing with what is the purpose of this proceeding. Briefly stated, while EGDI has no objection to the filing of various metrics, it would be patently unfair to measure EGDI's performance against any metric with the benefit of hindsight.

48. In terms of the submission of LPMA, EGDI notes that the statutory requirements necessitating confidentiality apply not only to ratepayer groups but also the Utilities in that each are statutorily prohibited from receiving the strictly confidential evidence and information that relates to the other Utilities' Compliance Plan. This will also apply to Compliance Plan results and hence the bench marking of one against another in a public form is simply statutorily prohibited except at a highly aggregated level. As well, it is again necessary to caution against any use of hindsight in comparing the results of the Utilities Compliance Plan activities.

[30] Board Staff Argument, p12
[31] LPMA Argument p7

ISSUE NO 1.7: COMPLIANCE PLAN (RISK MANAGEMENT) – *Has the Gas Utility appropriately presented Compliance Plan Risk Management processes and analysis*

49. EGDI acknowledges that much of its evidence in respect of the identification of treatment of risks is the subject of strictly confidential treatment. However, it notes that in terms of its creation of the high level Steering Committee, Carbon Procurement Governance Group (the "CPGG**"**) that will provide oversight and approvals for EGDI's cap and trade activities, BOMA stated that it is encouraged by the fact that Ms. Oliver-Glasford is the Manager and it welcomed the details provided in evidence about the workings of the CPGG[32].

50. BOMA however erred in its reference to the view of EGDI's carbon team. At page 18 of its submission, BOMA suggests that EGDI was unaware of the potential impact of Ontario Securities Legislation on the cap and trade Market. This is incorrect as exactly the opposite was stated in EGDI's interrogatory response No. 18 to BOMA[33] which confirmed that EGDI believed that Securities legislation may have applicability to some of its cap and trade activities.

51. In summary, no stakeholder identified any risks that were not identified and considered in the pre-filed evidence. EGDI therefore submits that it has fully and appropriately identified and developed mitigating tools in respect of all reasonably foreseeable risks.

ISSUE NO 1.8-1.10: LONG TERM INVESTMENTS, NEW BUSINESS ACTIVITIES, ABATEMENT ACTIVITIES – *Are such activities reasonable and appropriate*

52. As there was a great deal of overlap between the arguments relating to these types of activities, EGDI believes it is appropriate to deal with them at the same time. As noted in the pre-filed evidence and by the oral evidence of EGDI witness Mr. McGill, the Company is currently evaluating appropriate longer term investment and new

[32] BOMA Argument re Enbridge, p18 and BOMA Argument re Union, p18
[33] TR, v. 2, pp28 and 29

business activities that will be presented in the subsequent Compliance Plans.[34] EGDI notes that Board Staff, IGUA, SEC, LPMA and apparently FRPO agree that it is pre-mature for EGDI to be proposing in this proceeding material new long term investment, new business and abatement activities. These according to several of the intervener groups should be matters that arise subsequently and/or in the context of the DSM mid-term review[35].

53. The majority of the submissions made under this issue related to the concerns expressed by two ratepayer (BOMA and LIEN) and two non-ratepayer groups (ED & OSEA) that the 2017 Compliance Plan did not include more incremental DSM aside from the GIF activities which is the subject of an agreement between EGDI and the Government of Ontario.

54. Given the effort expended by these Parties and the suggestion by ED, that the Utilities be disallowed $500,000 each, it is appropriate to identify the material flaws with such arguments.

55. It was suggested that the Utilities had plenty of opportunity to add incremental DSM to their Compliance Plans. ED specifically stated that the Utilities had over 7 months to prepare[36]. Conspicuous by its absence is any reference to the fact that the ink was barely dry on the Board's Decision and Order in the Multi-Year DSM Plan (2015-2020) Decision and Order which was released on January 20 and February 24, 2016 ("DSM Decisions"). It should be recalled that the Board set as part of the DSM Framework (EB-2014-0134) a $2 per month impact (inclusive of DSM program amounts and shareholder incentive) for a typical residential customer[37]. It should also be recalled that several environmental groups including ED strenuously opposed this cap and vociferously argued for a substantial

[34] Ex C, T3, S4, TR. V.2, pp68 -75
[35] Board Staff Argument, p14, IGUA Argument, p3, SEC Argument, p4, LPMA Argument, p6, FRPO Argument, p3
[36] ED Argument p5
[37] DSM Framework EB-2014-0134, p17

expansion of the gas utilities DSM budgets and the removal of the budget cap.[38] The Board in its DSM Decisions did not accept these submissions and in fact rejected several of the programs which had been put forward by the gas utilities thereby reducing the approved DSM budgets. Importantly, the Board did not accept that its $2 per month impact cap on residential ratepayers should be disregarded and the Board proceeded to set budgetary caps, program targets and score cards for each of the gas utilities portfolio of approved DSM programs.

56. In short, those Parties advocating that a material amount of incremental DSM should have been added to EGDI's 2017 Compliance Plan are effectively arguing that the Board's DSM Decisions should be disregarded and that this cap and trade proceeding should have included a reconsideration of DSM budgets, cost effectiveness, targets and score cards, all it should be noted, in the very first year of the 4-year cap and trade compliance period.

57. It is also noteworthy that the Board in the Framework referenced the Minister of the Environment and Climate Change's Directive dated March 26, 2014 which directed the Board to develop a DSM policy framework for the January 2015 to December 2020 time period. [39] This same Directive also required the Board to complete a mid-term review of the multi-year DSM plan of the gas utilities by June 2018. Consistent with this, the Board states in the Framework that:

> The DSM Framework also includes a mid-term review provision (to be completed by June 1, 2018) that will provide an opportunity to assess the DSM Framework in the light of the cap and trade program.[40]

58. Given the above, EGDI submits that ED's submission that the gas utilities have "fundamentally breached the Board's Framework"[41] is wholly without support or merit. While the Company has acknowledged that there may be overlap between

[38] Submissions of ED, Oct 2, 2016 – EB-2015-0049, paras 64-74.
[39] Framework p28.
[40] Ditto
[41] ED Argument p10

Compliance Plan activities and DSM, as noted by Ms. Oliver-Glasford[42], no other WCI jurisdiction has combined cap and trade with DSM for the purposes of regulatory proceedings. As well, it is noteworthy that it is the same Government of Ontario that issued the above noted Directive to the Board which also issued the Climate Change Act and its regulations. If the Government had believed that cap and trade necessitated a material increase in DSM activities presumably it would have amended the Directive requiring the Board to "re-evaluate" or "re-do" its DSM Framework and/or to move up the date for the mid-term review. This has not occurred.

59. Based on the current proxy price, the cost consequence of EGDI's cap and trade compliance obligations will increase rates for a typical residential ratepayer by approximately $7.00 per month. This is in addition to the $2.00 per month cap which is set out in the Board's DSM Framework. Even if the entirety of this additional $7.00 per month was applied to DSM like customer abatement programs, it is certain that additional financial instruments would need to be secured at an additional cost to meet 100% of the compliance obligations. ED and several others are in effect asking the Board and ratepayers to accept that even greater costs should be added to their monthly bills.

60. As well, EGDI notes that there is no evidence before the Board that supports the conclusion that a 20% increase to DSM budgets would generate 20% greater savings as is suggested by ED[43]. There is no evidence in this proceeding or in any proceeding that demonstrates that there is a linear relationship between increased DSM spending and the resulting savings. Quite the opposite is the case and the reason why the Board has set targets and incentives for DSM programs as the generation of savings near and above the 100% target is the most difficult. Stated another way, just because the historical and forecast numbers for DSM show a

[42] TR, v.1, p150
[43] ED Argument p8

certain cost effectiveness per tCO_2e abated, the next tranche of DSM will not show the same cost effectiveness. DSM will still be valuable at producing savings but will do so at diminishing returns and therefore at higher per tCO_2e costs.

61. EGDI submits that it would have been premature for it to propose incremental DSM as part of its Compliance Plan until the Government's intentions under its Climate Change Action Plan are fully known. What is known is that the Government does see the GIF activities which it has contractually engaged EGDI to undertake as a down-payment on its Climate Change Action Plan. EGDI understands that GIF costs will be paid out of the revenues generated by the cap and trade program[44]. The Government has announced possible other initiatives that would result in material decreases in GHG emissions and these activities should inform the extent to which and nature of the DSM activities that should be undertaken by the Company in future. As noted in evidence, these Climate Change Action Plan initiatives may include: geothermal heating; water heating and cooling systems; renewable natural gas; and the expanded use of compressed natural gas as a vehicle fuel including trucks and buses.[45] EGDI therefore submits that abatement activities should be considered in a broader context to ensure alignment with the Government's Climate Change Action Plan and DSM portfolio.

62. The Company submits that DSM activities have and will continue to generate societal benefits over many years which will result in bill reductions; there are, however, issues which the Board and ratepayers need to address from a cap and trade perspective.

63. EGDI's incremental GIF program[46] in 2017 has a budget of $22.7 million. These expenditures are anticipated to generate CO_2e reductions in 2017 of approximately 20,595 tonnes. The total cost of GIF in 2016 and 2017 is $32.4 million, which is

[44] Ex.I.1.EGDI.BOMA.10, pp 2 and 3
[45] Ex C, T3, S4, p7; Ex C, T6, S1, p1; Ex.I.1.EGDI.Staff.17
[46] Ex. C, T3, S4, p3

forecast to generate total lifetime CO_2e reductions of 502,003 tonnes. This results in approximately $65 per tonne of CO_2e.

64. Aside from the cost per tonne to reduce GHG emissions, it is appropriate to consider the risk of the regulatory environment changing in the coming years. Several Government leaders have said they will significantly alter or abandon cap and trade and/or carbon tax. Whether costs of this magnitude for the reduction in GHG emissions should be incurred in such an environment is an outstanding question. As well, given that GHG procurement obligations take place on an annual basis with a requirement that appropriate credits be submitted following the end of the first compliance period which is December 31, 2020, the question that needs to be asked is whether it is appropriate to justify incremental DSM to achieve GHG reductions based upon the total lifetime CO2e reductions that are forecast to occur many years into the future, well beyond the end of the cap and trade compliance period. Does this fact give rise to inter-generational subsidies and if so, is this appropriate?

65. EGDI has always been and remains supportive of DSM activities but for the above reasons, it believes it is premature to add material incremental customer abatement "DSM" like activities to its Compliance Plan before there is greater certainty about the cap and trade program, the carbon market, the Government's Climate Change Action Plan and the overlap between DSM and cap and trade. Based on the discussion of GIF above, DSM like initiatives may not be, as BOMA submits in its argument to Union Gas, "the most cost effective abatement measure available".[47] This determination must necessarily require an assessment of the scalability and prospects for additional savings by increasing expenditures significantly which is not the subject of this proceeding.

[47] BOMA argument re Union Gas, p6

66. In addition, OSEA has submitted that the proposed GHG abatement activities in the Utilities' 2017 Compliance Plans are not reasonable and appropriate because the Utilities did not include a comparison of costs of investing in abatement versus purchasing allowances. As EGDI notes, it is difficult to make any meaningful evaluation of potential utility investments in carbon abatement until a number of criteria such as the MACC, the 2107 Long Term Energy Plan and Climate Change Action Plan funding initiatives are established.

ISSUE NO. 2 – MONITORING AND REPORTING

67. Board Staff have proposed that the Utilities' document and report on compliance activities using a combination of the templates suggested by EGDI and Union Gas in their Plan filings[48]. EGDI will work with the other Utilities to ensure that any redundancies are eliminated from the reporting templates.

Threshold for Notice to the Board

68. EGDI proposed that it would provide notice to the Board if one of the following thresholds is triggered:

    (a) a 25% increase in the actual weighted average cost of an allowance;

    (b) a 25% change in forecast volumes; or

    (c) a significant market change.

69. EGDI explained that it chose the 25% threshold given that under the QRAM methodology, a 25% change in gas supply costs triggers certain obligations on the part of the Company[49]. Given that the forecast cost of systems supply in 2017 is

[48] Board Staff Argument, p15
[49] TR. V.1 p39

approximately $1.6 billion[50] which is by comparison a significantly greater amount than the forecast cost of compliance under EGDI's Plan which, using the proxy price for carbon is about $400 million, it was believed that the same 25% threshold was appropriate. Stated differently, if 25% of $1.6 billion is considered appropriate for fluctuations in commodity prices, a 25% threshold of $400 million for fluctuations in cap and trade compliance costs does not seem inappropriate.

70. While it is open to the Board as to what steps might be taken should one of these thresholds be achieved and notice to the Board is given, it should be recalled that even where a threshold has occurred and notice has been given, this does not mean that the actual cost of the Plan will change by an amount equal to or greater than the threshold amount. For example, the fact that the actual weighted average cost of allowances or volume forecasts has changed by 25% during the first half of the year is not necessarily representative of what will happen later in the year. As well, the weighted average cost allowances do not necessarily represent the actual costs of compliance. Several interveners have suggested that the above thresholds be reduced from 25% to 10%. EGDI is not supportive of this approach as a 10% change will not result in a material impact on rates and may result in the Company giving notice to the Board on several occasions in a given year. This might only lead to unnecessary confusion. In the end, EGDI notes that Board Staff agree with the reporting requirements proposed by EGDI.[51]

71. One intervener expressed concern that the threshold which relates to the actual weighted average cost of an allowance does not include decreases. This was specifically not included as the auction reserve floor price which is set for the year is based upon the allowance price in California. This becomes the floor price for the year with the only variation in price being due to currency exchange rates. As the

[50] EB-2016-0215, Ex D1, T2, S8, p 2
[51] Board Staff Argument, p16

regulation has set a floor, it is to be expected that decreases of any magnitude are not likely.

Confidentiality and Transparency

72. EGDI understands the concerns expressed by numerous Parties about their inability to review all aspects of EGDI's Compliance Plan due to the strictly confidential nature of portions of the Plan. EGDI notes that BOMA is encouraged by EGDI's response to BOMA Interrogatory No 22[52] to the effect that effort will be made to provide useful information to interveners. While EGDI agrees with the principle of transparency, it is important to remind Parties that the release of certain information publicly is not a choice that either EGDI or the Board can make. Pursuant to the *Climate Change Act,* no person shall disclose whether or not the person is participating in an auction or whether the person is taking part in an auction or any other information relating to the person's participation in an auction, including the person's identity, bidding strategy, the amount of the person's bids and the quantity of emission allowances concerned and the financial information provided to the Direction in connection with the auction[53].

73. For a Utility to legally be in a position to provide the Board with any information about its auction procurement strategies and participation, or lack thereof, the Board itself had to be exempted from the provisions of the *Climate Change Act* by Regulation. This was in fact done by Clause 65 (1) (a) of Ontario Regulation 144/16. Given that such information may only be revealed to a prescribed person, it is necessary for both the Board and EGDI to be cautious as to the release of information lest either be found in contravention of the *Climate Change Act*. As EGDI noted in its pre-filed evidence, a cautious approach is recommended for the

[52] BOMA Argument, pp19 and 20
[53] *The Climate Change Act*, S 32

reasons given and in light of the fact that other jurisdictions like California have confidentiality protocols in place.[54]

74. Until there are regulatory amendments or clear guidance from the Ministry of the Environment and Climate Change as to what it views as strictly confidential information, EGDI is of the view that historical information is caught by the legal prohibition. It is also of the view that its participation, if any, in secondary markets or in procuring offset credits anywhere does disclose, at least indirectly, its bidding strategy and the potential amount of a person's bids. EGDI is of the view that these are matters which are the subject of the prohibitions under the *Climate Change Act* and may not be revealed to anyone other than a prescribed person.

75. EGDI acknowledges that the Board has also identified in its Framework another category of strictly confidential information being market sensitive information. EGDI is concerned that at least some of the market sensitive examples set out at page 10 of the Framework may be caught by the prohibitions in the *Climate Change Act*.

76. Certainly, such information is or could be used by unscrupulous Parties in matters contrary to Section 29 of the *Climate Change Act* which deals with fraud and market manipulation (i.e. "tippage"). While EGDI agrees with the statement by SEC[55] that the tippage sections of the *Climate Change Act* create consequences for the misuse of information not its release, EGDI submits that even where it is clear that such information is not caught by the statutory prohibitions on its disclosure, it is important that such information not be revealed publicly in that its disclosure could lead to misuse in a manner which is contrary to the interest of ratepayers.

[54] Ex A, T3, S1, p3
[55] SEC Argument, p2

77. For the above reasons, EGDI disagrees with the submission made by Board Staff[56] to the effect that information filed in annual monitoring reports should be filed on the public record unless a gas utility can demonstrate that the information is strictly confidential. EGDI submits that precisely the opposite approach should be taken in that given the strict prohibitions in the *Climate Change Act* and the potential harm to ratepayers in the form of increased Compliance Plan costs, unless it is patently obvious that such information may be disclosed, it should be treated strictly confidentially.

78. Several interveners have proposed that a confidentiality undertaking be given to allow their counsel to see strictly confidential materials and/or that some form of working group that includes stakeholders be created for the purposes of allowing persons other than the Board and Board Staff to review strictly confidential materials. To the extent permitted by law, EGDI is not opposed to such processes at a conceptual level but at this time, it must be recognized that neither the Company nor the Board has the ability to exempt any party whether or not they execute a confidential undertaking. An undertaking does not make them a prescribed person under the *Climate Change Act*.

ISSUE NO. 3 CUSTOMER OUTREACH

79. Given the modest budget that EGDI has proposed for customer outreach activities in 2017 of $115,000[57], it is not surprising that few interveners commented on this issue. EGDI notes that the Framework at page 35 provides that the Board expects Utilities to provide information to customers that will achieve a number of objectives including their awareness of the Government's climate change actions and the cap and trade program, the Utilities' role in relation to emissions reductions, an understanding of the regulatory process and how customers might manage their

[56] Board Staff Argument, p16
[57] Ex C, T3, S6, p13

GHG emissions. The submission by LPMA that such expenditures appear counterproductive is inconsistent with the Framework.[58]

80. Board Staff have suggested that the Utilities consult with customers prior to embarking on various outreach programs[59] and LIEN has suggested that the Utilities align their outreach programs where appropriate[60].

81. The 2017 budget of $115,000 consists of customer research, communication and outreach material and call centre costs.

82. EGDI will to the extent reasonable consult with customers prior to embarking on various outreach activities and will coordinate with Union Gas, where possible while being compliant with the Framework.

83. The Company could consider one or several of the following alternatives. It could include cap and trade messages in customer newsletters and rate notices instead of a more costly standalone bill insert. It could leverage with the working group for input on customer communications as opposed to more costly customer research. The Company will continue to use its website and its bill presentment to communicate cap and trade information to customers.

ISSUE NO. 4 DEFERRAL AND VARIANCE ACCOUNTS

i. The GGECFCVA

84. EGDI has proposed one variance account being the Greenhouse Gas Emissions Customer and Facility Cost Variance Account ("GGECFCVA"). As an administrative matter, it did not believe that it was necessary to have a separate variance account for customer related versus facility related GHG cost. From the

[58] LPMA Argument, p7
[59] Board Staff Argument, p17
[60] LIEN Argument

perspective of ratepayers, EGDI does not believe having separate variance accounts will add any greater transparency to the process than what it proposes.

85. EGDI notes that several Parties including Board Staff have suggested that it establish two variance accounts similar to those proposed by Union Gas. It appears from these arguments that the only basis for such submissions is that there is some benefit in having similarity between the two Utilities.

86. EGDI continues to support a single variance account as the most simple, transparent and efficient way to manage and administer such a variance account. The reasons for this preference are set out in its response to IGUA interrogatory No. 6. [61] The key points made in this interrogatory response are for convenience summarized below.

87. In the Framework at page 29 the Board stated that for emissions units procurement, the Utilities will be indifferent as to whether they are purchasing emissions units for their customers, their facilities, or both. Consequently, the Board will expect that the emissions units procurement costs will be a total cost that includes both customer-related and facility-related obligations. The Company agrees with the Board's conclusion. In other words, the Company will procure emissions units to meet its total emissions obligations. The Company will not procure emissions units specifically for customer-related or facility-related obligations.

88. With respect to the disposition of the GGECFCVA balance, the Board also stated at page 33 of the Framework that the variance account balance should be apportioned between customer-related and facility-related obligations. The Company agrees with the Board's statement.

89. The Company's proposed 2017 GGECFCVA was set up to operate as discussed above and will record the difference between actual customer-related and facility-

[61] Ex.I.4.EGDI.IGUA.6

related emissions obligations costs incurred in 2017 and the actual amount recovered from customers in 2017 through cap and trade charges. ‘

90. To apportion the account balance between customer-related and facility-related obligations, EGDI will track and determine actual customer-related and facility-related emissions and the Company’s billing and financial reporting system will be able to track the cap and trade amounts collected from customers for customer-related and facility-related obligations. Consequently, having actual cost and revenue information in place for both customer-related and facility-related obligations, the Company will be able to readily apportion the account balance between customer-related and facility-related obligations and appropriately clear the balance to customers.

91. The proposed approach was the subject of cross examination at the hearing[62] by IGUA, at which time EGDI confirmed that it will put on the public record the information needed to appropriately apportion the variance account balance between customer and facility-related obligations.

92. EGDI submits that the approach of using a single variance account will allow the Board and stakeholders to first review the account balance representing the difference between actual customer-related and facility-related emissions obligations costs incurred in 2017 against the actual amounts recovered in 2017 through cap and trade charges. Second, EGDI’s evidence to dispose of the variance account balance will include actual emissions costs and revenue information for both customer-related and facility-related obligations (for facility-related obligations the evidence will be further broken out by company use, unaccounted-for-gas and Compressor fuel emissions costs and revenues) and the subsequent steps to apportion the account balance between customer-related and facility-related obligations to appropriately clear the balance to customers.

[62] TR. v.1, pp62 and 63

93. The establishment of two variance accounts would introduce unnecessary steps and accounting complexities, while transparency would diminish. In EGDI's view, in the case of two variance accounts, the steps to apportion the difference between actual customer-related and facility-related emissions obligation costs incurred in 2017 and the actual amount recovered in 2017 through cap and trade charges from customers would need to take place before appropriate balances could be recorded in each account. This would unnecessarily reduce simplicity, transparency and efficiency in the management and administration of the account.

94. EGDI further notes that the proposed approach using a single variance account will work equally well if part of the variance account balance results from final cap and trade rates being different than interim cap and trade rates (i.e. OEB Staff, and others, submitted that any such variance between final and interim cap and trade rates be captured in the GGECFCVA).

The GGEIDA

95. EGDI has proposed to record the administrative costs it incurs undertaking its Compliance Plan activities in the GGEIDA. Board Staff and LPMA have suggested that EGDI use wording in its accounting order for this account which is identical to that proposed by Union Gas. EGDI is agreeable to this.

ISSUE NO. 5.1: COST RECOVERY (METHODOLOGY)

Facility Costs Allocation

96. TransCanada has taken the position that EGDI's allocation of facility related GHG emissions costs should be allocated in the same proportion as its administrative and general ("A&G") costs which is how Union has proposed that it will allocate part of its facility related costs. TransCanada agrees that UFG and compressor fuel facility related GHG costs should be allocated on a volumetric basis. EGDI has proposed that its "Company Use" GHG costs similarly be allocated on a volumetric

basis. It is TransCanada's view that its volumes are not directly related to EGDI's facility costs.

97. EGDI agrees with the Board's determination that facility-related obligation costs be recovered from all customers as they are directly related to the delivery of natural gas to customers.[63]

98. EGDI also supports the submission of Board Staff, that:

> OEB staff has reviewed the Gas Utilities' tariffs and is satisfied that the facility-related charges appropriately reflect the customer rate classes' responsibility for costs such as company use, unaccounted for gas and compressor fuel.[64]

99. In its argument, TCPL submits that it would bear too high a proportion of company use emissions obligation costs if it utilized its contract on Rate 332 service at a 100% load factor (i.e. the contract would flow at full (maximum) subscribed capacity each day of the year).

100. Rate 332 service is for a certain level of Contract Demand ("**CD**"), where CD represents the maximum volume of gas that the Company is required to deliver to the customer on a daily basis under the contract. EGDI has hundreds of customers on its system who contract for certain levels of CDs, but none utilize their contracts at maximum capacity each day of the year.

101. EGDI notes that each customer's obligation for a share of actual company use volumes emissions will not be a function of their CD, but rather actual delivered volume. This was illustrated in the hearing in the responses to TCPL's cross-examination [65] by EGDI's witness Mr. Kacicnik.

---

[63] OEB Early Determination, EB-2015-0363 July 28, 2016 and Framework p30
[64] Board Staff Argument, p21
[65] TR. v.1, p89-91

102. Unlike for 2017 cap and trade charges, EGDI will include a forecast of Rate 332 delivered volumes in the derivation of company use facility-related cap and trade charges for 2018. EGDI confirmed this at the hearing. [66] The review and inclusion of forecast Rate 332 delivered volumes for 2018 will provide further clarity to the customer as to the level of Company Use cap and trade charges that will be recovered from the customer on a forecast basis. It should be noted that the customer's actual responsibility for such costs will be based on actual delivered volumes, not forecasted volumes. With this approach, EGDI's customers and the utility are kept whole with respect to actual emissions costs.

103. TCPL's submission that A&G overhead costs would be a better allocator for Company Use emissions costs than delivered volumes is in EGDI's view not correct. A&G consists of departmental costs of administrative functions such as finance and regulatory, and represent only a part of the operating and maintenance expenses the Company incurs to provide safe and reliable service to customers.

104. Furthermore, EGDI does not have an A&G allocator by customer class nor an O&M allocator by customer class. EGDI would need to develop such an allocator. Given the quantum of Company Use emissions costs and the determination by the Board on the treatment of facility-related costs, the Company does not believe such an undertaking is warranted.

105. EGDI recovers the cost of Company Use volumes based on delivered volumes in its base rates. If Company Use emissions costs are recovered based on delivered volumes, cost causality is maintained between the design of the customers' base rates and the design of facility-related Company Use cap and trade charges.

106. Lastly, the evidence in cap and trade compliance filings will consist of volumes and emissions forecasts and carbon price forecasts. In Company's view it is not

[66] TR. v.1, pp87 and 88

warranted nor necessary to introduce another cost element and allocator (such as A&G) into cap and trade compliance filings. EGDI therefore submits that the Board should not change its determination that facility-related obligation costs be recovered from all customers based on delivered volumes. In the Company's view, such an approach strikes an appropriate balance for this cost element between cost causality and administrative simplicity. This is highlighted in the oral evidence of Mr. Kacicnik below:

> MS. JAMIESON: So as a hypothetical, say TransCanada were to flow its rate 332 contract at the 100 percent level, do you believe that TransCanada would drive 50 percent of the fleet-related emissions of Enbridge?
>
> MR. KACICNIK: Yes, I would agree that that would not be the case. However, I think what the Board is looking at here is striking a balance between administrative simplicity and cost causality.
>
> For example, when we look at administration cost for the cap and trade program, there will be large final emitters who will be incurring their own cost to administer the program. They will be buying their own allowances, so they will have administration costs and so forth.
>
> However, the Board struck a balance between the quantum of those costs and cost causality and directed that administration costs be recovered from all customers.
>
> When it comes to facility-related emissions cost, they also said those should be recovered from all customers, and if you look at the quantum, it's roughly 4 million for a facility-related versus 370 million for customer-related.
>
> Now, at Enbridge we went one step further, and we split facility-related emissions between company-use, compressor fuel, and unaccounted-for gas, from which company-use, it's roughly $200,000 out of 4 million.
>
> And again, to strike that appropriate balance we feel that's appropriate, and again, we enhanced the cost causality, augmented cost causality, by going through those three categories, which also mimics cost causality between Cap-and Trade rates and our base rates, but we are not really looking to do anything further than that.[67]

[67] TR. v.1, pp95 and 96

Administrative Costs are not a Z Factor

107. SEC suggests in its argument[68] that when a GGEIDA is brought forward for clearance, EGDI will have to demonstrate that it meets the materiality threshold of its CIR Plan. In a footnote to its submission, SEC references EGDI's Z-Factor materiality threshold of $1.5 million.

108. As was made clear in the pre-filed evidence[69], EGDI's CIR and the evidence supporting it which was filed in EB-2014-0459, did not include any of the cap and trade administrative costs which EGDI has forecasted for 2017. All of the costs which EGDI will record in its 2017 GGEIDA are incremental to and were not contemplated for the purposes of its custom IR filing. Accordingly, the materiality threshold for Z Factors set in EGDI's custom IR is wholly inappropriate. As well, Z factor treatment would not be appropriate as the administrative costs which EGDI has and will incur in 2017 are not unforeseeable.

109. EGDI requests that the Board confirm in its decision that the amounts recorded in the 2017 GGEIDA are incremental to EGDI's custom IR and not subject to any Z Factor considerations.

Clearance of Variance Accounts

110. EGDI has indicated that one appropriate method to clear through to rates variance and deferral account amounts is through a one-time charge. While it is expected that this will not result in a material impact on rates, EGDI did indicate in evidence[70] that a determination about the most suitable approach /manner in which to dispose of account balances is best determined once the magnitude of the account balances and disposition timing are known. This determination should be made by the Board at the time of the Clearance Application. Consistent with

[68] SEC Argument, p3
[69] Ex C, T3, S6, p2
[70] Ex.I.4.EGDI.Staff.24, p2

this, Board Staff noted their agreement that the disposition of such amounts should be determined once the magnitude of the accounts is known.[71] A number of the ratepayer groups, BOMA, CCC and LPMA appear supportive of this position asking that the Board not decide conclusively in this proceeding how account balances will be cleared.[72] It also appears that IGUA supports the position that the Board should retain flexibility over how account balances will be cleared with the determination being made at the time of a Clearance Application[73].

111. Several other Parties being APPrO, CME and the IESO oppose clearing account balances pursuant to a one-time charge[74]. APPrO and the IESO indicate that a one-time adjustment could have a negative impact on natural gas fired generators although EGDI notes that APPrO did agree that the final disposition methodology should be left to the panel charged with ruling on a Clearance Application.[75]

112. EGDI has always intended that the Board would retain flexibility such that the determination about the appropriate recovery methodology (i.e. one-time charge or recovery over numerous months) would be left to the Board panel hearing a Clearance Application. Clearly, if there is a credit owing to ratepayers or the account balances are immaterial, it makes no sense administratively or from a rate impact perspective to prolong this position. Accordingly, EGDI takes no position in respect of how account balances should be recovered at this time other than to indicate its willingness to be as administratively flexible as is reasonable. EGDI can accommodate a number of disposition approaches depending on the magnitude of the account balance. This includes, if warranted, a different (i.e. longer) disposition approach for specific customer classes.

---

[71] Board Staff Argument, p19
[72] Arguments of BOMA, pp25 and 26, LPMA, p9 and CCC, p 2
[73] IGUA Argument, p3
[74] Arguments of APPrO, pp3-7, CME, p5 and the IESO, pp5-7
[75] APPrO, p3-4

113. As noted by Mr. Kacicnik while under cross examination by counsel from APPrO:

> Again, as stated in interrogatory responses, the best way to dispose of those [deferral and variance account] balances is at the time when account balances brought forward for disposition. Then you can see the magnitude and timing, and if the magnitude is large and could negatively impact gas-fire power generators, then go with an approach that would prevent that.[76]

114. In Summary, EGDI can accommodate a number of disposition approaches including:

- One time billing adjustment (based on each customer's 2017 actual volumes);
- Billing adjustment over multiple installments (based on each customer's 2017 actual volumes). This approach can be used if the one time billing adjustment is considered too large to be administered in a single instalment.
- Volumetric rider over 3, 6, 9 or 12 months.

115. EGDI could also accommodate, if warranted and needed, a combination of these approaches to avoid adversely impacting certain customer classes. For example, while a one-time billing adjustment may be a suitable approach for most customer classes, EGDI could clear the balance to rate 125 customers and/or others, over multiple installments or as a volumetric rider.

116. While EGDI can accommodate a number of approaches using its existing billing system algorithms, any disposition methodology that would require EGDI to develop a new approach to the disposition of account balances would require a long lead time and will have associated implementation costs.

117. Again, EGDI submits that the Board should determine the most suitable approach to dispose of account balances to customers once the magnitude of the accounts

[76] TR. v.1, p86

is known. This could possibly include recovery of account balances during the summer months as requested by LIEN.[77]

118. Finally, EGDI notes that LIEN has requested financial assistance for low income rate payers. Given the lack of evidence in respect of the appropriateness of this request and the fact that low income rate payers are eligible to financial assistance already, EGDI submits that this is not the appropriate proceeding for such a request to be entertained. As well, EGDI notes that by providing financial assistance to offset the intended impact of the cap and trade regime which utilizes market forces to incent natural gas users to reduce usage, this request, at a conceptual level, runs contrary to the intentions of the program.

ISSUE NO. 5.1: COST RECOVERY (TARIFFS, CHARGES)

119. EGDI notes that Board Staff has submitted in argument that the Gas Utilities have followed the direction outlined in the Framework when developing their proposed cap and trade charges. Board Staff also stated that they have reviewed the Gas Utilities' Tariffs and are satisfied that facility related charges appropriate reflect the customer rate classes' responsibility for such costs as Company use, unaccounted for gas and compressor fuel.[78]

120. No contrary comments were made by any ratepayer other than BOMA which asks the Board to not make a finding that the tariffs proposed by the Gas Utilities are just and reasonable. The simple response to this is that pursuant to Section 36 of the *OEB Act* no gas distributor may sell gas or charge for the distribution of gas except in accordance with an Order of the Board which has approved just and reasonable rates.

[77] LIEN Argument, p10
[78] Board Staff Argument, p21

121. The fact is that the use of the term "tariff" in issue 5.2 is simply a reflection of the fact that in the Framework, the Board has stated on a number of occasions that the Utilities are required to identify customer related and facility related charges associated with the recovery of the cap and trade program compliance on their "tariff" sheets (example, Framework page 36). There can therefore be no confusion about what is intended by the Utilities in this proceeding, they are looking for a rate Order from the Board approving just and reasonable charges which can be recovered in rates.

ISSUE NO 6: IMPLEMENTATION

122. Board Staff have proposed that the Gas Utilities should update rates, if necessary, following the decision of the Board in this proceeding as part of the next available QRAM application. Board Staff also propose that in the event that any difference between interim and final rates is immaterial, the difference could be included in the appropriate variance account.[79] EGDI concurs with the above.

CONCLUSION

123. EGDI acknowledges that the cap and trade program and its resulting Compliance Plan are new activities. It also recognizes that its current Compliance Plan will necessarily evolve with experience and changes in the carbon market. EGDI understands that these realities create concern amongst ratepayer groups about the cost consequences of EGDI's procurement activities for which ratepayers will be responsible. EGDI hopes that by its efforts to be as transparent as possible and by its dedicated and professional response to the new statutorily imposed obligations that it has been mandated to assume, the Board and ratepayers can take comfort knowing that EGDI's actions have been prudent, cost effective and reasonable.

[79] Board Staff Argument, pp21 and 22

All of which is respectfully submitted June 2, 2017.

[original signed]

_____

Dennis M. O'Leary
Aird & Berlis LLP
Counsel to Enbridge Gas Distribution Inc.