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VIA RESS, EMAIL and COURIER

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

Dear Ms. Walli

**Re: Enbridge Gas Distribution Inc. (“Enbridge”)
Ontario Energy Board (“Board”) File Number EB-2017-0324
2015 Demand Side Management (“DSM”) Clearance of Deferral and
Variance Accounts – Reply Argument**

In accordance with the Board’s Procedural Order No. 2 dated April 10, 2018, enclosed please find Enbridge’s Reply Argument in the above noted proceeding.

This submission has been filed through the Board’s Regulatory Electronic Submission System and will be available on the Enbridge website at:

www.enbridgegas.com/ratecase

Please contact the undersigned if you have any questions.

Yours truly,

(Original Signed)

Stephanie Allman
Regulatory Coordinator

cc: Mr. D. O’Leary, Aird & Berlis LLP (via email)
All Interested Parties EB-2017-0324 (via email)

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B, as amended;

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an order or orders approving the balances and the clearance of certain Demand Side Management Variance Accounts into rates, within the next available QRAM following the Board's approval.

**REPLY ARGUMENT OF
ENBRIDGE GAS DISTRIBUTION INC.
MAY 7, 2018**

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INTRODUCTION

1. This is the Reply Argument of Enbridge Gas Distribution Inc. ("**Enbridge**") or the ("**Company**") to the various arguments made by parties to this proceeding. The following parties submitted arguments in respect of Enbridge's Clearance Application: Ontario Energy Board Staff ("**Board Staff**"); The Buildings Owners and Managers Association of Greater Toronto ("**BOMA**"); Energy Probe Research Foundation ("**EP**"); Green Energy Collision ("**GEC**"); Industrial Gas Users Association ("**IGUA**"); The Ontario Sustainable Energy Association ("**OSEA**"); and Schools Energy Coalition ("**SEC**").

2. Enbridge has attempted to aggregate the comments made by various parties into the subheadings used in this Reply Argument. Enbridge has not attempted to specifically identify and repeat each of the comments made by individual parties. This being said, its comments under the particular headings are intended to apply to related submissions by individual stakeholders even in situations where a specific stakeholder is not identified. To the extent possible, Enbridge has attempted to avoid repeating its Argument-in-Chief. It does however continue to rely upon its Argument-in-Chief in addition to the submissions made herein.

OVERVIEW

3. This Clearance Application is brought by Enbridge seeking clearance of the amounts it submits should be approved for recording in the various deferral and variance accounts and for clearance through to rates. This Clearance Application is unique in that the report prepared by the Evaluation Contractor ("**EC**"), under the direction of Board Staff, did not include the determination for the DSMIDA which Enbridge submits is the correct determination because of an interpretation made by Board Staff of the Ontario Energy Board's ("**OEB**" or "**Board**") Decision and Order¹ in respect of the Multi-Year DSM Plans filed by the Natural Gas Utilities. While Board Staff are entitled to take a position, they are the overseers of the EM&V process, not the OEB. Enbridge submits that the EC's report should have included calculations using Enbridge's interpretation of the DSM 2015-2020 Framework² and the Decision as well as calculations consistent with the interpretation by Board Staff.

¹ Decision and Order dated January 20, 2016, EB-2015-0029 ("**Decision**")

² Report of the Board, Demand Side Management Framework for Natural Gas Distributors (2015-2020), EB-2014-0134, December 22, 2014, ("**Framework**").

4. This being said, leaving aside questions about the correct interpretation of the Framework and Decision on 2015 results, there is agreement on the following base numbers. First, there is agreement on the quantum of the DSMVA. Second, there is an agreement in respect of the adjustments made to the gross results by the CPSV Contractors which lowered the gross results identified in Enbridge’s Annual Report. The significant disagreement which exists relates to the application retroactively of the recent NTG Study³ and the determination of the 2015 DSMIDA and 2015 LRAMVA.⁴

5. Enbridge submits the correct amounts which should be approved by the Board for clearance are:

2015 DSM Deferral and Variance Accounts and Balances	
Demand Side Management Variance Account (DSMVA)	\$ 825,460
Demand Side Management Incentive Deferral Account (DSMIDA)	\$ 10,077,695
Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) (Reimbursable to Ratepayers)	\$ (72,589)
Total Amount Recoverable (*Numbers may not add up due to rounding)	\$ 10,830,567 *

6. While this Reply Argument deals with the various issues raised by several parties, the issues can be grouped into two questions: (1) What is the appropriate treatment for 2015 results under the Framework and Decision; and (2) What confidence can the Board place on the NTG Study for the purposes of this Clearance Application? Enbridge notes that if the Board accepts Enbridge’s submissions in respect of question (1) above, that 2015 was a rollover year and its results should not be adjusted retroactively, then the Board need not deal with question (2). In this case, Enbridge asserts, the NTG Study can then be addressed within the Evaluation Advisory Committee (“**EAC**”) to ensure that appropriate consideration of the methodology is undertaken, including a sensitivity analysis, to the satisfaction of its members.

³ Net-to-Gross Study dated October 12, 2017, (“**NTG Study**”) Updated December 20, 2017.

⁴ Enbridge notes that Board Staff and certain parties have incorrectly used the LRAM figure confirmed by the EC of \$16,405 being an amount recoverable from Ratepayers however the EC did not review the LRAMVA only the LRAM. Enbridge submits the correct LRAMVA is actually (\$72,589) payable to Ratepayers. This is dealt with further later in this argument.

7. This Reply Argument deals first with the above two questions. It then addresses a significant procedural concern that is evident from the arguments of Board Staff and SEC who have both included what would clearly be evidence had it been filed before the evidentiary record was closed. This is wholly improper. For the Board to accept and rely upon assertions made in argument as fact for the purposes of a decision is not only contrary to the rules of evidence and procedural fairness, it would call into question the integrity of the process and set a precedent that would impair future proceedings. Notwithstanding the impropriety of such assertions and their lack of evidentiary value, Enbridge has felt compelled to respond to several of the inappropriate statements in this argument.

QUESTION 1: WHAT IS THE APPROPRIATE TREATMENT FOR 2015 RESULTS?

(a) The Retroactive Application of the NTG Study

8. Before addressing the specifics of the arguments of the several intervenors opposed to the proposed clearance amounts, it is submitted that it is first appropriate to apply a dose of common sense. Simply stated, if you want to measure the performance of someone in the 100 yard dash, you cannot measure their speed in meters. It of course makes no sense to try and measure performance if the units of measurement are different. What is worse in this proceeding is that the unreasonableness of this approach has been taken one further step. Not only are the determinations of the commercial and industrial custom offer NTG values different, the methodology in which those measurements were generated are different, making the comparisons all the more ridiculous.

9. Common sense also dictates that it is also appropriate to consider “what would have been” if the recent NTG Study outcomes had been available in the course of setting 2015 targets (and the Board requirement for a rollover in 2015 was not ordered).

10. Had the recent NTG Study been available in late 2014 and available to inform 2015 DSM Programs, Enbridge would have factored the NTG Study estimations to generate targets for 2015. The NTG estimates would have been used by the Company to plan and execute at a detailed level its program offerings, to settle priorities and the spending that would be directed at its particular program offerings. It would do these things to maximize results and the shareholder incentive. All parties would agree that in such circumstances the Company used the best available information to generate its targets and given the currency of the values used,

there would be no issue about using the same values to calculate the year's results. Arguably, the same methodology (including the approach taken, the survey instrument used, the scoring applied and a consistent consideration of those parties to be included or not included in the analysis, i.e., vendors) might then have been repeated in the future to compare changes in NTG in a consistent, "apples to apples", manner.

11. Of course, the recent NTG Study was not available in 2015 (and was not available in 2016) for the purposes of setting targets and responding accordingly with appropriate adjustments to program offerings and spending. Enbridge did however use the best available information at the time, the results from the prior NTG Study, which it was directed to do. Enbridge appropriately relied upon the best available information being 2014 audited values, undertook and operated its DSM suite of programs in good faith and with the expectation of its performance being assessed using the same values which the Board ordered it to use for the purposes of setting targets.

12. The DSM programs operated in 2015 did, as a matter of fact, generate gross savings, including savings from custom commercial/industrial programs which have been verified by the CPSV consultants. Enbridge has no concerns about the adjustments recommended by the CPSV contractors which were reviewed by the EC. Its concerns relate to the fact that, materially different free ridership rates are being applied to 2015 program results than those which the Board directed the utilities to use for the purposes of setting 2015 targets which were to be rolled over using the same inputs as those applied in 2014. Stated differently, it is not the measurement of actual gross savings made by the CPSV contractors which is at issue, it is the subjective value which some intervenors wish to apply to reflect free ridership to adjust downward the attribution of such savings to the gas utilities.

13. A number of intervenors agree with Enbridge in its description of what this clearly is, namely, a moving of the goal posts. IGUA at page 3 expresses sympathy for the utilities in respect of this moving of the goal post. IGUA submitted further that the utilities have a "legitimate concern with applying one set of free ridership assumptions to set targets and a different set of free ridership assumptions to evaluate performance against those targets" (page 4). OSEA argues (at page 2) that it is inappropriate that the NTG Study calculates 2015 DSM program results using different assumptions than those used to calculate 2015 DSM targets which were approved by the Board. BOMA noted (at page 2) that applying the NTG Study to 2015 DSM program results causes misalignment between program results and targets

and is inconsistent with best practices in most US jurisdictions where input adjustments are updated prospectively not retroactively.

14. Those intervenors that support applying the NTG Study to 2015 results rely on two principal arguments: (1) their interpretation of the Framework and Decision; and (2) the mischaracterization of the NTG Study as a quantitative measurement of actual results which clearly it is not. Even beyond this particular NTG study, experts universally recognize the challenges in estimating NTG values. Enbridge's multiple expert witnesses provided extensive commentary regarding the numerous inadequacies of any such process that seeks to assess how customers might have acted in an otherwise hypothetical, counterfactual circumstance. These estimates are highly subjective, prone to significant variability and can in no way be considered as accurate, "actual measurements", contrary to any assertions otherwise made by SEC.

15. Board Staff relied heavily upon their interpretation of the Framework and Decision. On the basis of its interpretation, Board Staff directed the EC to apply the recent NTG Study to 2015 results notwithstanding objections by the utilities and at least one member of the EAC, discussed further below.

16. Before turning to Board Staff's specific submissions, it should be noted that each of BOMA, OSEA and IGUA do not apparently agree with Board Staff's interpretation. As well, GEC argues that the Board's guidance on the retrospective application of NTG Study values to 2015 results is "somewhat ambiguous". GEC found "most compelling", the argument of the utilities that they relied upon the Board's confirmation of Union's understanding that 2015 results for the purposes of determining the 2015 DSM incentive would be based on the same input assumptions and net to gross adjustment factors used for setting Union's 2015 targets (GEC Argument, page 1).

17. GEC's comment refers to the Board's response to Union Gas' written comments submitted February 3, 2016. In these comments, Union Gas requested clarity on the treatment of input assumptions and NTG adjustments by explicitly requesting confirmation as follows:

Union interprets the [OEB's Decision] to mean that input assumptions and net-to-gross adjustment factors are finalized for a given year based on the previous year's final DSM audit...This process ensures that targets and achievements are based on the same set of input assumptions and net-to-gross adjustment factors.

Given that the Board's Decision is effective for 2015 and based on the process outlined above, Union's 2015 results for the purpose of determining the 2015 DSM Incentive will be based on the same input assumptions and net-to-gross adjustment factors used for setting Union's 2015 targets. These inputs were finalized in Union's 2014 DSM audit.⁵

18. In its revised Decision and Order dated February 24, 2016, the Board provided the following confirmation:

The OEB confirms that Union's interpretation is correct.⁶

19. All of this leads to the conclusion that Enbridge proceeded on a reasonably held belief that 2015 results would be calculated using the "same input assumptions and net-to-gross adjustment factors" used to set 2015 targets. It is noteworthy that parties which support a retroactive application of the NTG Study to 2015 results generally do not address the above confirmation by the Board of Union's understanding.

20. Enbridge in its argument referred to section 5.2.6 of the Decision where the Board stated that in 2016, free ridership rates will be updated based on the results of the net-to-gross study in support of its submission that the NTG Study should not be applied to 2015 DSM program results. It is important to note that this passage does not relate to 2015. The Board only refers to its expectation that the NTG Study would be completed in 2016, and that the Board did not expect the utilities to rely on predetermined rates for the duration of the **2017 to 2020** [emphasis added] term. In fact, neither the Decision nor the Framework anywhere specifically state that 2015 results should be adjusted retrospectively using a future NTG Study. While it is clear that the Board anticipated the NTG Study to be completed two years earlier than it was, given its expectation at the time, it is noteworthy that the Board could have stated, but did not, that the NTG Study should be used to adjust 2015 results.

21. What is troubling is how Board Staff can argue that the above language, which clearly relates to NTG values, in a section of the Decision specifically discussing the utilities' Commercial & Industrial Custom Programs, is not relevant because it does not appear in section 9.5 of the Decision⁷. Enbridge submits that, as always, it is appropriate to examine the

⁵ EB-2015-0029/0049, Union Gas Written Comments RE: Decision and Order, February 3, 2016, pages 2--3.

⁶ DSM Plan Decision (revised), page 3.

⁷ Board Staff Argument, pages 6 and 7.

language and intentions of the Board from a Decision in its entirety and that it is inappropriate to cherry pick and discount Board determinations.

22. Moreover, Board Staff make the surprising argument in respect of 2015 that “Enbridge should have known or ought to have known that the level of free-riders had changed, potentially significantly” relative to the NTG Study values which the Board ordered the Company to use for the purposes of 2015. This unsupported and unsubstantiated assertion is not reasonable. Such an assertion, however inaccurate, should have been, at a minimum, put to the Company in an interrogatory. To suggest this in argument as support for its interpretation of the Decision when no such assertion was put to the utilities is wholly inappropriate. More will be stated on this statement later.

23. SEC attempts to justify using the recent NTG Study retroactively based upon its assertion that the utilities have control over free ridership⁸ and that, in effect, the utilities should be penalized for free ridership levels. The fact is that free ridership is a phenomena known throughout North America and for this reason attempts are made to estimate its extent.

24. Indeed, as noted in GEC’s Argument:

“This is not to say that utilities have complete control over free ridership and custom C&I programs, particularly if they offer standardized incentives (i.e. a specific number of dollars per m3 of gas savings) as Enbridge does. It is difficult to reject project proposals from customers (or for projects) likely to be free riders without antagonizing customers (page 3)”.

25. Board Staff and SEC in argument try to create the mirage of “measured actual results” which they suggest are the result of the NTG Study. Leaving aside all of the issues and concerns with respect to the methodology of the NTG Study (which are discussed briefly later), Enbridge submits that it is most disingenuous to suggest that any determination of free ridership estimates have the same credibility as actual measured results. As noted by GEC in its argument at page 3, and echoed throughout the findings of Enbridge’s expert witnesses, NTG studies are very complicated to conceive and carry out and there is necessarily a significant subjective judgment required.

⁸ SEC Argument, page 10

26. Again, Enbridge does not question the CPSV contractors' calculations of gross savings. What it questions is the label Board Staff and SEC want to give to the estimation of the Company's contribution to such savings. To be clear, Enbridge supports the continual updating of information and data which will result in adjustments to various values. The Company submits however it is inappropriate to equate the subjective determination of a utilities' contribution to actual measured results as being an actual measure of data. Enbridge submits that mischaracterizing any estimation of free ridership as "measured actual data" as suggested by Board Staff and SEC, is not a basis for applying such subjective determinations retroactively.

27. Another approach, taken by EP,⁹ was to reference only a segment of the findings of Navigant in support of its position that retroactive treatment is appropriate. While Navigant referenced this occurring in several jurisdictions, EP failed to reference Navigant's conclusion that the drawbacks listed by the experts of retrospective treatment outweighed any alleged advantages. Navigant specifically stated:

"All stated the prospective application of NTG results leads to more effective program planning and more certainty for PAs [i.e., Program Administrators] in terms of the actions needed to achieve program targets and incentives".¹⁰

28. In addition, EP incorrectly characterized an IR response by Union Gas to SEC 50¹¹. The actual response stated that "13 of 24 States determine NTG for their custom programs prior to the beginning of a program year". The point EP avoids acknowledging is that even if it appears that a jurisdiction is applying NTG on a retrospective basis, one must look more closely as in many cases, the NTG values are updated at the beginning of the program year. Enbridge submits that this was the hope of the Board for the completion of the NTG Study and its availability and use in 2016 for setting targets beginning in 2017 as outlined in section 5.2.6 of the Board's Decision and discussed above. Consistent with this, the Board stated at page 75 of its Decision that to calculate next year's targets, the OEB directs the utilities to use the new updated input assumption and net-to-gross factors that are the result of the annual evaluation process.

⁹ EP Argument, page 7.

¹⁰ Exhibit B, Tab 6, Schedule 1, page 9.

¹¹ EB-2017-0323, IRR, Exhibit B.SEC.50, page 1.

(b) 2015 Was A Rollover Transition Year

29. There is unanimity amongst all parties that what Enbridge did for the purposes of setting its targets for 2015 was consistent with the Framework which required the gas utilities to roll forward their 2014 DSM plans, including all programs and parameters (i.e. budget, targets, incentive structure) into 2015.¹² The Board further stated that 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 (i.e., 2013 updates, 2014 should now apply as 2014 updates to 2015).¹³ Stated simply, not only were 2014 values used for the purposes of setting targets in 2015, the Board required the utilities to roll forward “all programs and parameters”.

30. Accordingly, even if the utilities “ought to have known” of the free ridership levels that a study completed years subsequently might estimate (as Board Staff unrealistically suggest) the utilities were required by the Board to set targets using 2014 updated values and to roll over their existing programs.

31. One interpretation of Board Staff’s “ought to have known” comment from their argument (page 8) is that it is asserting that Enbridge deliberately welcomed free riders or it was willfully blind to free ridership. Obviously there is no evidence to support this and thus Enbridge will give Board Staff the benefit of the doubt and assume that this is not what they intended. However, the fact remains that Board Staff raised this in the context of their argument about why the recent NTG Study should be applied retroactively back to 2015 results. This view is not based on any reasonable interpretation of how the Board expected 2015 results to be addressed. It appears to be Board Staff’s own belief, without evidence, that the utilities should have taken additional steps to change their programs in an effort to lower free ridership levels, including undertaking an investigation into the level of free ridership in 2015. This appears to be the motivation behind Board Staff’s comment despite the fact that the Board directed the utilities to rollover their programs into 2015 as they were designed and were being operated in the market in 2014.

¹² Report of the Board, Demand Side Management Framework for Natural Gas Distributors (2015-2020), EB-2014-0134, December 22, 2014, page 37 (“**Framework**”).

¹³ *ibid.*

32. This position of course does not align with the Board's expectations as set out in the Decision that the NTG Study would be completed on a timely basis and would assist in the development of targets for 2017. Board Staff failed to explain why the utilities should have proceeded with an "investigation into free ridership levels" prior to any study which would seek to update free ridership estimates, is completed. It should be noted that Navigant was selected to complete a jurisdictional review in 2013 to investigate NTG factors in an effort to assist the Technical Evaluation Committee ("**TEC**") and its deliberations about the appropriate approach to NTG values for custom commercial and industrial offers¹⁴. The TEC ultimately decided to undertake a further study to determine an estimation of NTG based on a survey assessment of Ontario customers and it proceeded to RFP the study and hire DNV to "develop transparent free ridership and spillover factors for customer, commercial and industrial programs, to be used for future programs".¹⁵

33. During the Board's consideration of Enbridge's 2015-2020 Multi-Year Plan, "three parties questioned the appropriateness of Enbridge's 2015 targets given Enbridge's significant over achievement of its home energy conservation program in 2014 and 2015 and its significant underachievement of its lifetime natural gas savings metric on the Resource Acquisition scorecard"¹⁶. Notwithstanding this, the Board approved Enbridge's proposed metrics and targets for all scorecards. In other words, the requirement of the Framework to roll forward and use 2014 updated values to set 2015 targets was confirmed.

34. All of this leads to the conclusion that the Board in effect made all of the 2015 program year based upon pre-determined values given the direction to rollover values from 2014. Even had the utilities wanted to adjust values for the purposes of setting 2015 targets to reflect more current information, this was not something contemplated by the Framework as confirmed by the Decision.

35. As noted by OSEA at page 2 of its Argument:

In any given year, it would be impossible for the Natural Gas Utilities to use assumptions that had not yet been developed. Applying a set of assumptions developed two years after the fact is not appropriate and restricts the ability of

¹⁴ Exhibit B, Tab 6, Schedule 4

¹⁵ Exhibit A, Tab 1, Schedule 3, page 9

¹⁶ EB-2015-0049, Decision and Order, January 20, 2016, page 63

DSM Management to drive toward achieving or beating their targets which is the whole intent of the shareholder incentive.

36. The above arguments were made in Enbridge's Argument-in-Chief and are repeated in part above because they led the Company to conclude that where parties now assert new NTG estimated values should be used to evaluate 2015 DSM results, it amounts to a collateral attack on the Board's determinations in the Framework and Decision. Enbridge notes that none of the intervenors dealt with this specific legal submission in their argument. Given that most intervenors submitted argument through Counsel, this is noteworthy and leads to the conclusion that parties did not respond to this submission because it is correct. In short, collateral attacks on any judicial or quasi-judicial Decision are unlawful and are therefore not sustainable. This is because they amount, in effect to an "appeal" often years after the time for such expired.

37. Board Staff do not address Enbridge's alternatively proposed approach that 2015 targets be adjusted by the NTG Study values in the same way that 2015 results are proposed to be adjusted. If the direction of the Board, as interpreted by Board Staff, means that none of the net to gross adjustments for custom projects are pre-determined, then it logically follows that if the NTG Study represents the best available information, then both the targets (which are based on predetermined values) should be adjusted by the same values from the NTG Study that are proposed to be used to adjust results. To be clear, Enbridge does not believe that the Board contemplated by its Decision the retrospective adjustment of either results or targets in 2015. Enbridge believes this expectation is intended for the 2017-2020 period. Enbridge is simply noting that there is another compelling interpretation of the Board's statement that the utilities should not rely upon pre-determined NTG values which is inconsistent with the view submitted by Board Staff. If the values used for 2015 targets are not pre-determined as Board Staff submit, then there is no logical reason to not adjust both results and targets using the same NTG Study values.

QUESTION 2: WHAT CONFIDENCE CAN THE BOARD PLACE ON THE NTG STUDY FOR THE PURPOSES OF THIS CLEARANCE APPLICATION?

38. In this part of the Reply Argument, Enbridge deals with some of the numerous identified methodological concerns that it and other parties acknowledged in their argument about the NTG Study. What this part of the Reply Argument does not do is respond to the several misstatements about Enbridge's evidence and Argument-in-Chief made by SEC nor its many pages of evidentiary assertions and process related submissions that are improper and contrary

to Procedural Order 2. In respect to the former, for clarity and for the record, Enbridge does not oppose accurate measurements, indeed it has been the proponent of improvement throughout.¹⁷ The Natural Gas Utilities did not cause the NTG Study to be delayed.¹⁸ Enbridge did not imply that Navigant believes that the EC “did a terrible job”.¹⁹ Such assertions are misrepresentations of Enbridge’s argument plain and simple. For further certainty, contrary to Energy Probe’s argument, Enbridge in no way interfered with any of the EC’s data collection.²⁰ There is no such claim made of Enbridge in the EC’s findings or final report.

This Reply Argument continues under the following subheadings.

(i) SPILLOVER AND SECONDARY ATTRIBUTION

39. Both of these estimates, spillover and free-ridership (which should include both current project specific and longer term customer support and utility influence, i.e., “primary” and “secondary” attribution), are intended to adjust the estimates of a utilities’ influence on customers to adopt and participate in DSM programs to reflect the full influence of the utilities’ efforts over, in some cases, many years. As noted in Enbridge’s Argument-in-Chief, spillover values and secondary attribution values for Ontario were supposed to be generated from the NTG Study as detailed in the scope of work²¹. Ultimately however, Board Staff unilaterally decided to apply a proxy spillover value sourced from a study in Massachusetts and the secondary attribution determinations outlined in the EC’s findings were not included in the quantification of the NTG estimations.

40. It is noteworthy that Board Staff confused the definition of spillover with secondary attribution. Board Staff at page 10 state that:

“Secondary attribution refers to the longer term effect of the DSM program on participant decision making” **[which is correct]**.

41. Board Staff then go onto state:

¹⁷ SEC 3.2.7

¹⁸ Contrary to SEC 3.1.6.

¹⁹ Contrary to SEC 3.1.4

²⁰ EP, point 15, page 5

²¹ Exhibit I.EGDI.STAFF.5, Attachment 1, Page 5 and 6

“It relates to the likelihood of an energy efficiency project or optimization, operational and maintenance projects being completed/continued without the utilities’ involvement, but because of all of the utilities’ assistance for all previous projects” **[which is incorrect]**.

42. This second statement is not secondary attribution, it is spillover. Secondary attribution was a distinction made by DNV in setting out the scope of the study as part of its free-ridership assessment. Secondary attribution is a component of attribution that captures the utilities’ influence on an incented project, specifically that influence which would have been provided and occurred in supporting the customer before the year the project took place, i.e., the effect on the current project of prior and indirect program experience. In short, one free ridership value is intended to capture both the utility influence in an incented project that occurred in the year the project takes place (primary) and historic utility influence (secondary) in propelling an incented project from years prior.

43. Board Staff’s only comment about the secondary attribution value was that it was calculated for information purposes only²² yet it is important to recognize its relevance and therefore impact on the estimation of free ridership. This assessment of attribution confirms Enbridge’s influence on the customer’s decision to proceed with the current year’s project from prior dealings with the customer and should, therefore, be attributed to the Company. While Enbridge strongly opposes the retrospective application of NTG Study values to 2015 results, if this is to occur, secondary attribution values should not be excluded. Including Secondary Attribution in the NTG estimation and the resulting calculations would increase the EC’s audited DSM Incentive Deferral Account balance from \$6,207,339 to \$7,125,344.²³ No explanation is given by Board Staff about why secondary attribution, since it was estimated, should not be used.

44. SEC deals with secondary attribution beginning at page 18 of its argument. SEC argues at Subsections 3.2.47 and 3.2.48 that secondary attribution should not be used because 2015 targets do not include any results arising out of secondary attribution and “it is certainly not something that should be implemented after the fact”. This is a surprising position being taken by SEC in light of the fact that it supports Board Staff’s application of the other values set out in

²³ Exhibit I.EGDI.GEC.4, page 2.

the NTG Study (i.e. free ridership and a proxy spillover) all of which are similarly “after the fact”. SEC appears to be attempting to have it both ways.

45. Board Staff, in a footnote, and SEC, in its argument, reference draft Ontario spillover values specific to Enbridge's programs. Enbridge notes that: (a) the values are not on the record; and (b) the values referenced by Board Staff are incorrect, they are not the values currently reflected in the EC's draft determinations.

46. It is clear that a proxy spillover value was chosen in light of the lateness of the NTG Study. Board Staff unilaterally directed the EC to research and apply a proxy deemed value in an effort to expedite the finalization of the 2015 evaluation process. This means that the use of this proxy was selected at the “eleventh hour” and was not, contrary to the characterization made by SEC, the subject of an examination for its appropriateness by the EAC or the parties to this proceeding

(ii) NTG STUDY METHODOLOGICAL CONCERNS

47. Enbridge notes that there was fairly broad acceptance by parties that there is a factual basis for the methodological concerns raised by Enbridge about the NTG Study. While these concerns admittedly vary in scope from party to party, the fact that they are broadly shared should, in Enbridge's submission, give rise to the Board being concerned about relying upon the NTG Study in such circumstances. Examples of the concerns acknowledged by parties are summarized below.

48. GEC at page 3 stated that:

“Enbridge and Union identify a number of methodological concerns regarding the custom C&I NTG Study. GEC shares some of these concerns. In particular, we believe that the mechanism for “scoring” answers to questions to determine free ridership is somewhat arbitrary and not always intuitive, and agree that sensitivity analysis to better understand implications of the scoring algorithm would have been helpful. We also believe that the study did not devote enough effort to capturing the influence of vendors who may themselves have been influenced by the utilities programs”.

49. EP at page 4 stated that it does support the utilities' view that some of the scoring appeared arbitrary.

50. SEC indicates its agreement with Enbridge's concerns (as shared by its experts) that any self-report survey is particularly sensitive to the scoring algorithm used and that there should be a detailed review of that scoring algorithm including its sensitivity analysis.²⁴ SEC further agrees with the assertion that the 48 month cut off was arbitrary.²⁵ SEC then however goes on to suggest that this arbitrary decision favours the utilities. This is incorrect and in many ways mirrors what SEC and other parties were asking the Board to accept during the Multi-Year Plan proceeding by imposing a one year payback threshold below which none of a customer's savings would be attributable to the utilities. The Board rejected such a threshold because it noted that custom commercial/industrial programs generate significant gas savings²⁶. It appears that a one year payback period was seen as an arbitrary threshold.

51. SEC further acknowledged at pages 15/16 the significant issue of recall bias given the delay in completing the NTG Study. SEC's response was to simply say in effect that a NTG Study with methodological concerns is preferable to the prior NTG Study. While the two studies have different values, Enbridge notes that the earlier study did not generate "assumptions" or "deemed values". Like the NTG Study completed by the EC late in 2017, the earlier NTG Study involved an NTG estimation based on using a survey self-report approach on a sample of customers in an effort to translate customer survey responses through a scoring algorithm and provide an adjustment factor. A key difference is that the earlier study "employed" a completely different survey instrument to the EC's NTG Study, utilized a different scoring algorithm, a different sampling methodology, and was executed by a different "in person"/on site "interview group" versus telephone interviews²⁷. There is, therefore, no basis to challenge the credibility of the NTG estimates set out in the earlier NTG's Study by characterizing these NTG values (which were the inputs used in the determination of 2015 targets) as "deemed" values. SEC's suggestions to this effect are simply an obvious attempt to justify the inappropriate application of the recent NTG Study values to 2015 results.

52. Enbridge submits that undertaking efforts to update values and considering best available information is appropriate however, the Board should not be willing to accept results which are questionable to several parties given the impact of factors such as recall bias. The

²⁴ See Argument p 14.

²⁵ See Argument p 15.

²⁶ Decision, page 21.

²⁷ (i) EGD.I.Staff.8

real delay evidenced in this process unquestionably exacerbated concerns with recall bias inherent in self-report NTG surveys.

LRAM VALUES

53. It appears that Board Staff have confused LRAM with the LRAM Variance Account (“**LRAMVA**”) in their submission. The LRAMVA is the variance between the forecasted and the actual LRAM amounts recovered in rates. The EC did not review the LRAMVA. It only verified the LRAM as summarized in its findings. The EC recommended LRAM is \$16,405, but Board Staff (as well as SEC and EP) incorrectly suggest that this is the number that should be recovered from Ratepayers.²⁸

54. The LRAMVA sought for Clearance by Enbridge as noted in Enbridge’s Argument-in-Chief is (\$72,589) which amount is payable to Ratepayers, and reflects Enbridge’s interpretation that the recent NTG Study estimation values should not to be applied retroactively to 2015 results.

OTHER MATTERS

55. Enbridge is cognizant of Procedural Order No. 2 and the Board’s statement that this proceeding will not consider the EM&V process. This did not prevent SEC and Board Staff from making certain mischaracterizations and misstatements to which Enbridge feels compelled to briefly respond.

56. It is both unfortunate and inaccurate for SEC to suggest that Enbridge’s concern about the Board Staff managed EM&V process is the result of the utilities losing control of the process²⁹. Contrary to the suggestions made by SEC, Enbridge did not “control” the former process. Stakeholders elected members to the joint utility Technical Evaluation Committee, as well as the Enbridge audit committee and it collectively selected the auditor and developed the evaluation scope of work. The process sought to reach consensus on the audit however, where a member of the audit committee or any other stakeholder disagreed with the results, they were free and often did raise their concerns in proceedings before the Board.

²⁸ Tables 1 and 3 in Board Staff’s Argument incorrectly identify \$16,405 as the EC determined LRAMVA. This value is the EC’s determination of LRAM, **not** LRAMVA.

²⁹ See Argument page 21-25, 4.3.2 specifically

57. The concerns expressed by Enbridge reflect a frustration with the fact that in the prior governance structure, the EM&V process had evolved to the point where the undertaking of studies and evaluations were being conducted pursuant to an agreed upon and Board approved joint terms of reference. Enbridge has more recently observed a loss of transparency and of the former objective of reaching a consensus where possible in the Board Staff managed process. While these can be described as “growing pains”, they had a material impact and shouldn’t be dismissed. The fact is they occurred as did the unilateral determinations made about the NTG Study.

58. Enbridge acknowledges that improvements to the EM&V process are in the works but that issues remain including the recognition that, described expert members of the EAC are not in all instances truly independent.

59. Board Staff at page 3 of their original Argument state that “the independent expert members of the EAC also support the findings of the EC”. Enbridge has two concerns with this statement. The first is that it was a misstatement to indicate that the members of the EAC supported the findings of the EC. After filing its argument, Ms. Marion Fraser, one of the members of the EAC, objected to the misstatement by Board Staff as she did not support the EC’s views in respect of the retroactive application of the NTG Study to 2015. As a result, Board Staff had to amend and refile their Argument. The second problem with this statement is the mischaracterization of the membership of the EAC as being independent. As noted by the Board in its letter dated August 21, 2015 where it established the new EM&V process, Mr. Shepherd, Mr. Neme and Ms. Fraser were appointed to “represent non-utility stakeholders on the EAC”. These representatives are not “independent”. Furthermore, there is no evidence at all about the views of the two truly independent expert members of the EAC, Ted Kesik and Bob Wirtshafter. Accordingly, the evidence confirms that only SEC supports Board Staff as GEC finds the argument of the utilities “compelling” and Ms. Fraser opposes the matter.

THE HEARING PROCESS

60. In the interest of hearing efficiency and to save costs, the Board employs a written hearing process in circumstances it considers appropriate. This is the process the Board adopted for this proceeding. In accordance with this process, Enbridge as the Applicant filed evidence in support of the rate approvals and other relief sought in this proceeding. The evidence filed is no different than the pre-filed evidence filed by applicants in oral proceedings

and is similarly generated knowing that the evidence must be complete and truthful. The fact is that when Enbridge filed its pre-filed evidence in this proceeding, it had no advance notice that the matter would proceed by means of a written hearing. The evidence was therefore prepared under the full expectation that the authors of the evidence might be subject to both written and oral examination in respect of the pre-filed evidence.

61. While the Board in Procedural Order No. 2 dated April 10, 2018 determined that it would proceed by means of a written proceeding without oral evidence, this decision does not in any way detract from the *bona fides* of the pre-filed evidence filed. Despite this, SEC suggested that the hearing process in effect prohibited it from challenging the factual evidence asserted by the Company in its pre-filed evidence. Such submissions are procedurally incorrect and were made as a justification for the improper practice of attempting to submit new previously undisclosed evidence in argument.

62. To suggest that a party had no mechanism to respond to factual assertions with which they disagree is not correct. Every party had an opportunity to ask interrogatories in which details of meeting discussions, e-mails, statements by individuals and other relevant material could have been put to Enbridge's witnesses in writing and an explanation requested about any alleged inconsistency. The interrogatory process is not limited to the pre-filed evidence, it could have attached other materials and asked Enbridge to agree or disagree with relevant factual matters. It is difficult to accept that SEC really felt constrained in this proceeding particularly given the dozens of interrogatories it posed.

63. Accordingly, the after the fact statements by SEC are, as SEC acknowledges at page 5 of its argument, "not evidence". As a result, it should be treated as if such statements were never made as they cannot be relied upon or used in respect of any decision ultimately made.

RELIEF SOUGHT

64. Enbridge respectfully requests approvals as follows:

- a) Approve Enbridge's deferral and variance accounts balances for DSMVA, LRAMVA and DSMIDA values as outlined in Enbridge's Application and Evidence, Exhibit A, Tab 1, Schedule 3, Table 1 and restated below:

2015 DSM Deferral and Variance Accounts and Balances	
Demand Side Management Variance Account (DSMVA)	\$ 825,460
Demand Side Management Incentive Deferral Account (DSMIDA)	\$ 10,077,695
Lost Revenue Adjustment Mechanism Variance Account (LRAMVA) (Reimbursable to Ratepayers)	\$ (72,589)
Total Amount Recoverable (*Numbers may not add up due to rounding)	\$ 10,830,567 *

b) In the alternative to (a), in the event that the Board orders that 2015 results should be adjusted retroactively using the NTG Study as concluded by the EC, Enbridge requests that the Board order that secondary attribution be included in the NTG study results and the same adjusted NTG values be similarly applied to the targets set for 2015 so that both targets and results are determined using the same adjustment factors.

c) In the further alternative to (a) and (b), in the event that the Board orders that 2015 results should be adjusted retroactively using the NTG Study but that the targets should not be similarly adjusted using the NTG Study results, Enbridge requests that the Board order that secondary attribution be added to the results for purposes of the shareholder incentive and that the Board approve the DSMIDA amount set out in Table 3 of Enbridge's Argument in Chief and included above in the reply discussion regarding Spillover and Secondary Attribution.

All of which is respectfully submitted

Dennis M. O'Leary