June 1, 2018

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

Re: EB-2017-0306/EB-2017-0307 – Enbridge Gas Distribution Inc. and Union Gas Limited – Argument-in-Chief

On November 2, 2017 in EB-2017-0306 the Applicants, Enbridge Gas Distribution Inc. and Union Gas Limited filed an Application seeking approval to amalgamate pursuant to subsection 43(1) of the Ontario Energy Board Act, 1998 ("OEB Act") and to defer rate rebasing from 2019 to 2029. On November 23, 2017 in EB-2017-0307 the Applicants filed an Application pursuant to subsection 36(1) of the OEB Act seeking approval of a rate-setting mechanism, and associated parameters, to apply during the proposed deferred rebasing period.

In accordance with Procedural Order No. 9 issued on May 31, 2018, enclosed is the argument-in-chief of the Applicants with respect to the above-noted Applications.

If you have any questions on this matter, please contact me at 519-436-5334.

Sincerely,

[*original signed by*]

Vanessa Innis
Manager, Regulatory Applications

cc: Andrew Mandyam, EGD
Mark Kitchen, Union
Fred Cass, Aird & Berlis
EB-2017-0306/EB-2017-0307 Intervenors

EB-2017-0306
EB-2017-0307

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Sched. B);

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. and Union Gas Limited, pursuant to section 43(1) of the *Ontario Energy Board Act, 1998*, for an order or orders granting leave to amalgamate as of January 1, 2019;

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. and Union Gas Limited, pursuant to section 36 of the *Ontario Energy Board Act, 1998*, for an order or orders approving a rate setting mechanism and associated parameters during the deferred rebasing period, effective January 1, 2019.

ARGUMENT IN CHIEF OF THE APPLICANTS

A. INTRODUCTION

1. On November 2, 2017, the Applicants, Enbridge Gas Distribution Inc. ("Enbridge") and Union Gas Limited ("Union") filed an Application seeking approval to amalgamate (the "MAADs Application") pursuant to subsection 43(1) of the *Ontario Energy Board Act, 1998* (the "OEB Act") and to defer rate rebasing from 2019 to 2029. On November 23, 2017, the Applicants filed an Application pursuant to subsection 36(1) of the OEB Act seeking approval of a rate-setting mechanism, and associated parameters (the "Rate Mechanism Application"), to apply during the proposed deferred rebasing period.

2. In its Decision and Procedural Order No. 3 issued on March 1, 2018, the Board determined that it would combine the two Applications. The Board also approved an Issues List for the Combined Proceeding (the "Approved Issues List"), as set out at Schedule A to Decision and Procedural Order No. 3.

3. After the Applicants had responded to written interrogatories, a Technical Conference in the combined proceeding was held on March 28 and 29 and April 3, 2018 and an oral hearing of evidence was held on May 3, 4, 14, 15, 18 and 28, 2018. At the conclusion of the oral hearing of evidence, the Board gave directions regarding the schedule for written submissions. The argument schedule was subsequently confirmed by Procedural Order No. 9, wherein the Board set the following dates for written submissions: argument in chief by June 1, 2018; intervenor and Board staff arguments by June 15, 2018 and reply argument by June 29, 2018.

4. This argument in chief of the Applicants is filed in accordance with the schedule for written submissions established by the Board. The Applicants will begin their argument in chief with a summary of the proposal they have put forward for approval of the Board. The Applicants' submissions will then follow the general structure of the Approved Issues List, addressing first MAADs Application issues and then Rate Mechanism Application issues.

B. THE APPLICANTS' PROPOSAL

5. Enbridge and Union have successfully delivered benefits to Ontario natural gas ratepayers over the past 15 years under their respective Incentive Regulation frameworks.[1] At this juncture, the two utilities have limited individual opportunities to deliver similar benefits under a new five-year framework for rates. The proposed amalgamation, with a ten year deferred rebasing period, will allow the amalgamated entity (referred to in this proceeding as "Amalco") to tackle integration of larger, more complex systems and processes with a view to delivering the benefits of such integration to ratepayers on rebasing.[2] The Applicants' companion rate mechanism proposal will ensure that ratepayers also benefit during the deferral period from rates that are lower than they would otherwise have been.

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[1] EB-2017-0306 Exhibit B ("MAADs Exhibit B"), Tab 1, pages 2-3.
[2] MAADs Exhibit B-1, pages 2-3 and 43-44.

6. There can be no doubt that integration of the systems and processes of Enbridge and Union will require careful planning and execution and that the risks associated with this undertaking are not insignificant. The ten year rebasing deferral period will give Amalco the "runway" that it needs to carry out detailed integration planning, to make major capital investments, to execute on the integration while maintaining safe and reliable service to customers, to manage the risks associated with these activities and to optimize savings and synergies from the merger that will be delivered to ratepayers on rebasing. The Applicants' proposed approach ensures that all of the risk associated with the amalgamation is borne by the shareholder.

7. While Amalco is engaged in these activities, rates will be determined under a Price Cap mechanism and, in essence, customers will see increases in their rates which are limited to inflation along with recovery of such costs related to capital spending as may be allowed on Incremental Capital Module ("ICM") applications made to the Board by Amalco during the deferred rebasing period. Customers will not bear the costs or the risks of the integration, but on and after rebasing, the benefit of the integration savings and synergies that Amalco is able to realize over the deferred rebasing period will be reflected in rates. In addition to the benefit that customers will receive on rebasing, they will be better off by $410 million during the deferred rebasing period than they would have been if Enbridge and Union were to continue to operate on a stand-alone basis.[3]

8. During oral testimony at the hearing, the Applicants' proposal was described as a "win-win situation". For example, Mr. Culbert's testimony in this regard was as follows:

> What we're saying is we've both been through periods of – fifteen years of incentive regulation. We've achieved many of the productivities that we can as separate entities. This is an opportunity to drive out even further synergies and savings by amalgamating.

[3] MAADs Exhibit B-1, page 22.

> ...We changed to incentive regulation because we thought cost of service wasn't necessarily producing the best result. ... And we view this as being the same thing. If you want to drive out the greatest level of savings, this is the best model for doing that. It's a win-win situation. Ratepayers get a $410 million reduction in rates versus status quo. They don't have to pay for the $150 million in capital investment. [Amalco] has to drive out $680 million in synergies ... to deliver on a net basis $120 million of potential savings ... . And then at the end of the ten-year term, the ratepayers get that additional $120 million put back to rates. It is a win-win situation. It incents us to do the best job possible.[4]

C. THE MAADs APPLICATION

(i) No Harm Test

9. The Board confirmed in Decision and Procedural Order No. 3 that it will use the no harm test for assessing the application.[5] The decisions and policies of the Board make clear that the no harm test is to be applied by reference to the Board's statutory objectives and that the application of the test involves consideration of whether a proposed transaction will have an adverse effect on the attainment of the statutory objectives.[6]

10. The Board's statutory objectives in respect of natural gas regulation are set out in section 2 of the OEB Act. In the *Handbook to Electricity Distributor and Transmitter Consolidations* issued on January 19, 2016 (the "MAADs Handbook"), the Board noted that it has implemented a number of instruments that ensure regulated utilities continue to meet their obligations with respect to conservation and demand management and the Board said that it is satisfied that the attainment of this objective will not be adversely affected by a consolidation.[7]

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[4] 1 Tr., pages 25-26.
[5] Decision and Procedural Order No. 3, March 1, 2018, page 4.
[6] See, for example, the Board's EB-2016-0351 Decision and Order (acquisition of the natural gas system of Natural Resource Gas Limited by EPCOR Natural Gas Limited Partnership) and the MAADs Handbook, at pages 3-4.
[7] MAADs Handbook, page 6.

11. In its EB-2016-0351 Decision and Order with respect to the acquisition of the natural gas system of Natural Resource Gas Limited by EPCOR Natural Gas Limited Partnership (the "EPCOR/NRG Decision"), the Board said that it had focused its review on the objectives that were of most direct relevance to the proposed transaction, namely, price, reliability and quality of gas service and financial viability.[8]

12. As set out in the evidence filed in support of the MAADs Application, the Applicants took guidance regarding the application of the no harm test from the MAADs Handbook, and other MAADs policies of the Board, as well as the EPCOR/NRG Decision.[9] Subsequently, in their submissions on the Issues List for the MAADs Application, the Applicants accepted that the section 2 objectives with regard to gas storage and with regard to the rational expansion of transmission and distribution may be of greater relevance in this proceeding than they were in the EPCOR/NRG case.[10]

13. As to the statutory objective relating to financial viability, the evidence of the Applicants is that the amalgamation is expected to have no impact on the financial viability of Amalco as there is only a conversion of Enbridge and Union shares into shares of Amalco and no change of control. [11] This evidence goes on to indicate that the financial viability of Amalco will depend on the rate mechanism approved for the determination of rates during the deferred rebasing period and that the rate mechanism proposed by the Applicants (discussed below) will provide Amalco a reasonable opportunity to earn its allowed return on equity ("ROE") while at the same time producing integration savings that will ultimately benefit ratepayers.[12]

14. With respect to the statutory objective relating to the reliability and quality of service, the Applicants have committed that Amalco will continue to maintain the safety, reliability and quality of service to Enbridge and Union customers, both in-franchise and ex-franchise, that currently exists. Amalco will continue to be subject to, and will report

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[8] EPCOR/NRG Decision, page 3.
[9] MAADs Exhibit B-1, pages 18-20.
[10] EB-2017-0306 Issues List Reply Argument, February 2, 2018, page 3.
[11] MAADs Exhibit B-1, page 23.
[12] MAADs Exhibit B-1, pages 23-24.

on, all existing Service Quality Requirements ("SQRs") applicable to gas utilities and, as part of the Rate Mechanism Application, the Applicants have proposed a Scorecard for Amalco.[13]

15. With respect to the statutory objective relating to prices, the evidence is that the amalgamation will provide greater benefits to customers than continued stand-alone operations of Enbridge and Union. A comparison of the annual revenue requirement for Enbridge and Union, were they to continue as stand-alone entities, to the revenue of Amalco operating as an amalgamated entity under the proposed price cap mechanism over the deferred rebasing period shows a cumulative benefit to customers of $410 million.[14]

16. During the hearing, the Applicants' witnesses were cross-examined on the evidence regarding the ratepayer benefit of $410 million. Counsel for the School Energy Coalition (SEC) put forward a document called a "Gives and Gets Summary"[15] and indicated that the purpose of his cross-examination using this document was to "unpack" the ratepayer benefit.[16]

17. In order to determine the ratepayer benefit of $410 million, the Applicants provided a forecast of revenues and costs over the ten year deferred rebasing period for Enbridge and Union as stand-alone entities under Custom IR rate frameworks.[17] This was compared to a revenue requirement for the same ten year period that was derived on the basis of the Price Cap mechanism and included costs related to incremental capital projects to be passed through to customers using the ICM.[18]

18. Thus, the ratepayer benefit determined by the Applicants is "inclusive of everything".[19] As stated by Mr. Kitchen: "It was looking at the total based on a forecast

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[13] MAADs Exhibit B-1, page 23.
[14] MAADs Exhibit B-1, pages 20-23.
[15] Exhibit K6.1, page 21.
[16] 6 Tr. 23, 35 and 51.
[17] MAADs Exhibit B-1, pages 20-23; 6 Tr. 114.
[18] MAADs Exhibit B-1, page 22.
[19] 6 Tr. 114.

of what we thought would happen under stand-alone versus what would happen under price cap."[20]

19. The Applicants submit that SEC's Gives and Gets Summary is not a full comparison of revenue requirement under the Price Cap mechanism to reasonable estimates of revenues and costs in a stand-alone scenario. Indeed, it is questionable whether the Summary can be seen as an "unpacking" of the ratepayer benefit at all, because it includes items that are not part of any ratepayer benefit determination, such as an entirely speculative category of gains on property sales for the account of Amalco's shareholder.[21] Further, counsel for SEC was unsuccessful in eliciting evidence to support the proposition that meaningful financial data can be inserted into particular categories of the Gives and Gets Summary.[22]

20. Counsel for SEC also questioned the extent to which the Applicants have done a detailed analysis of Custom Incentive Rate-making ("Custom IR") applications for Enbridge and Union in the stand-alone scenario.[23] Of course, in the context of applications for approval of a utility consolidation and a Price Cap rate-setting mechanism, it is not possible for the applicants to present the full and detailed evidence that would be filed if the individual entities were to apply for Custom IR on a stand-alone basis. However, in this case, the Applicants have provided a reasonable evidentiary foundation for the Board to determine that the no harm test has been met with respect to the statutory objective relating to prices.

21. These points were addressed by the Board in its EB-2016-0025/EB-2016-0360 Decision and Order with respect to the MAADs application by Enersource Hydro Mississauga Inc., Horizon Utilities Corporation and PowerStream Inc (the "Alectra Decision"). As appears from the Alectra Decision, the evidence of the applicants in that case was that, during the ten year deferred rebasing period, customers would benefit from distribution rates that would be lower than under a status quo scenario. The status

[20] *Ibid.*
[21] Exhibit K6.1, page 21.
[22] See, for example, 6 Tr. 54 and 89-90.
[23] See, for example, 6 Tr. 28.

quo scenario assumed that each of the consolidating entities would continue to rebase their rates once their current rate-making plans had expired and thereafter would have 5-year Custom IR plans in place.[24] Intervenors argued that the amounts proposed by the applicants in terms of costs and potential savings were estimates and did not reflect the amounts with certainty.[25]

22. In the Alectra Decision, the Board took note of the arguments made by intervenors about the certainty of cost estimates, but concluded that the estimates were sufficiently accurate for the purposes of the analysis under the no harm test.[26] Similarly, the reasonable estimates made by the Applicants in determining the $410 million ratepayer benefit in this case provide the Board with a sufficiently accurate basis for its analysis under the no harm test. After all, while the ratepayer benefit during the deferred rebasing period is calculated to be $410 million, the test is not actually a benefits test, but is a test of "no harm", under which the Board considers whether a proposed transaction will have a neutral or positive effect on the attainment of the statutory objectives.

23. In the Alectra Decision, the Board also found that the scale enhancements of service delivery embedded in the proposed transaction could be expected to result in long term benefits to customers.[27] The evidence with respect to the amalgamation proposed by Enbridge and Union supports the same conclusion.[28]

24. Insofar as the Board's objectives with regard to gas storage are concerned, the Board indicated in Procedural Order No. 5 that it will consider storage issues in the context of Issue 6 in the Approved Issues List.[29] Issue 6 is as follows: "Would the proposed merger impact any other OEB policies, rules or orders (e.g. regulation of new

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[24] Alectra Decision, December 8, 2016, page 8.
[25] Alectra Decision, page 12.
[26] *Ibid.*
[27] *Ibid.*
[28] MAADs Exhibit B-1, page 44.
[29] Procedural Order No. 5, April 16, 2018, pages 3-4.

storage, Storage and Transmission Access Rule (STAR))? If so, what are those impacts and how should the OEB address them?"

25. In the EB-2005-0551 Decision and Reasons in the Natural Gas Electricity Interface Review ("NGEIR"), the Board reserved 100 PJs of Union's storage capacity for the needs of Union's in-franchise customers at cost-based rates.[30] The Applicants' witnesses were asked questions in this proceeding about the availability to Amalco in-franchise customers in the Enbridge rate zone of cost-based storage from the 100 PJs of reserved capacity that is excess to the needs of Amalco in-franchise customers in the Union rate zones.[31]

26. Union's customers benefit from the sale of excess storage from the 100 PJs of reserved capacity. As explained by Mr. Kitchen, Union's rates include about $2.5 million associated with the sale of excess capacity from the 100 PJs and revenue over $2.5 million is shared on a 90/10 split with Union's ratepayers.[32] Consequently, customers in Amalco's Union rate zones would be harmed if, instead of selling the excess storage, Amalco were to make it available to in-franchise customers in the Enbridge rate zone at cost-based rates.[33] However, if the storage capacity is not made available to in-franchise customers in the Enbridge rate zone at cost-based rates, they will not be harmed, because the situation would be no different than it is currently.

27. As for the more general implications of the proposed amalgamation in relation to the findings made by the Board in the NGEIR proceeding, the evidence is that, as far as competition is concerned, there has been positive change in the storage market since the time when the Board issued its NGEIR decision and that the amalgamation will not have negative implications for this market.[34] Mr. Redford elaborated on these points in the following testimony:

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[30] NGEIR Decision and Reasons, November 7, 2006, pages 82-83.
[31] 3 Tr. 46, 70-74 and 101-102.
[32] 3 Tr. 68.
[33] Exhibit JT2.12.
[34] 3 Tr. 105-110.

> At the time of NGEIR, the rates for market storage were much higher than they are now, and I'd say almost double. ...
>
> The price of market storage in the past number of years has dropped, particularly as you have the shale revolution happening and an abundancy of gas in North America. Storage prices have actually dropped; they have not increased for market-based. ...
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> ...in my view, the amalgamation doesn't really have a lot of impact. ...19 PJs of merchant storage that EGD had ... will be combined with what Union had ... it is a small drop in the bucket compared to the market in which we compete.[35]

28. The Applicants submit that the evidence has established that the proposed amalgamation will not have any adverse impact on the attainment of the Board's statutory objectives for gas and, further, that no serious challenge was made to the Applicants' evidence on the no harm test through the course of interrogatories and many days of Technical Conference and hearing.

(ii) Deferred Rebasing

29. In their proposal for a 10 year deferral of rebasing, the Applicants were guided by the Board's MAADs policies. The MAADs Handbook indicates that consolidating distributors may choose to defer rebasing for up to 10 years and that no supporting evidence is needed to justify the selection of the deferred rebasing period subject to certain minimum requirements.[36]

30. In any event, quite apart from the guidance provided by the MAADs policies, the Applicants submit that the evidence in this case strongly supports a 10 year deferred rebasing period. Thus, there are two different grounds for the approval of a 10 year rebasing deferral in this proceeding. First, the Applicants submit that the MAADs policy framework applies to the proposed amalgamation and that policy allows consolidating

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[35] 3 Tr. 80.

[36] MAADs Handbook, pages 12 and 16. The minimum requirements are that a definitive time-frame must be selected for the rebasing deferral and that the deferred rebasing period cannot be shorter than the shortest remaining rate-setting term of the consolidating distributors. As well, consolidating entities that propose to defer rebasing beyond five years must implement an Earnings Sharing Mechanism for the period beyond five years. All of the minimum requirements have been met by the Applicants in this case.

distributors to select a deferred rebasing period for any definitive time period of up to 10 years without supporting evidence. Second, the evidence in this case does indeed support the approval of a ten year rebasing deferral. These two different grounds will be addressed under the following sub-headings.

(a) Deferred Rebasing Under MAADs Policies

31. In Decision and Procedural Order No. 3, the Board made the following comments about the MAADs policies:

> The MAADs policy framework was established to encourage and incentivize consolidation within the electricity distribution sector. There is no such policy driver in the gas distribution business. There is no reference to natural gas in the MAADs Handbook. The OEB will therefore not restrict the ability of OEB staff and intervenors to question the applicability of the policies within the electricity MAADs policy framework.[37]

32. The Applicants submit that the Board's MAADs policies can and should be applied in respect of the proposed amalgamation of Enbridge and Union. While the context of consolidation is different for gas distributors than electricity distributors due largely to the sheer number of electricity distributors in Ontario, there are striking similarities between the expected outcomes of consolidation in both sectors and therefore the same rate making and regulatory parameters should apply to both.

33. An analysis of the interrelationships among the rates policies and MAADs policies supports the conclusion that the MAADs policies are intended to apply to gas. This conclusion is further substantiated by a consideration of the underlying principles and objectives (and expected outcomes) of the MAADs policies. Each aspect is addressed below.

34. According to its explicit words, the Board's *Handbook for Utility Rate Applications* (the "Rate Handbook") applies to all rate regulated utilities.[38] A section of the Rate Handbook entitled Rate-setting Policies says that the Board has a number of accounting

[37] Decision and Procedural Order No. 3, page 4.
[38] Rate Handbook, page 1.

and rate-setting policies that are applicable to rate applications;[39] Appendix 3 to the Rate Handbook sets out summaries of these policies. Appendix 3 includes a section under the heading Rate-setting Policies for Consolidations, that focuses on the MAADs policies, including the MAADs Handbook.[40]

35. There is nothing in this section of Appendix 3 that says, or even suggests, that the Board intended its reference to "Rate-setting Policies for Consolidations" to be understood to apply only to a particular sector or sectors, even though the Rate Handbook itself applies to all regulated utilities. On the contrary, the third sentence of this section of Appendix 3 (on the subject of the ESM) starts with the words "For electricity distributors", which makes clear that, where the Board intended to limit the guidance in this section of Appendix 3 to a particular sector, it used specific words to do so.

36. Further, the Rate Handbook contains a section entitled Mergers, Acquisition, Amalgamations and Divestitures (MAADs) that also cross-references to the MAADs Handbook.[41] The MAADs section of the Rate Handbook says that rate-making is generally not a consideration in reviewing a consolidation and that, in the first cost of service or Custom IR application following the consolidation, the Board will scrutinize specific rate-setting aspects of the MAADs transaction, including a rate harmonization plan and/or customer rate classifications.

37. This wording in the MAADs section of the Rate Handbook links directly to the Board's *Filing Requirements for Natural Gas Rate Applications* (the "Gas Filing Requirements").[42] The Utility Consolidations section of the Gas Filing Requirements refers to a MAADs transaction and echoes the words of the MAADs section of the Rate Handbook, stating that: "In the first cost of service application following a consolidation, the applicant is expected to address any rate-making aspects of the MAADs

[39] Rate Handbook, page 29.
[40] Rate Handbook, Appendix 3, page v.
[41] Rate Handbook, page 21.
[42] Gas Filing Requirements, Chapter 2, February 16, 2017.

transaction, including a rate harmonization plan and/or customer rate classifications post consolidation."[43]

38. Beyond the inter-related provisions of the policies, the underlying principles, objectives and expected outcomes of the MAADs policies are equally applicable to the natural gas sector.

39. It is noteworthy that the Board's key rate regulation policy (the Renewed Regulatory Framework, or "RRF") was initially developed in response to circumstances in the electricity distribution sector, but was later determined to be applicable to the gas sector because of common principles and objectives. Similarly, while the MAADs policies were initially developed in response to drivers in the electricity distribution sector, the principles, objectives, and expected outcomes are equally applicable to the gas sector.

40. The MAADs Handbook states that consolidation is desired because it can increase efficiency through the creation of economies of scale and/or contiguity. It also states that consolidation permits a larger scale of operation with the result that customers can be served at a lower per customer cost. And it identifies that consolidations that eliminate geographical boundaries between distribution areas result in a more efficient distribution system.[44] All of these principles (and desired outcomes) apply in respect of the consolidation of gas distributors.

41. The witnesses explained that Enbridge and Union have limited potential for further cost efficiencies operating as separate companies, but that amalgamation provides significant opportunity for further scale economies.[45] Although each entity is already large (in comparison to many of Ontario electric distributors) scale economies are still achievable upon amalgamation.[46] With amalgamation, boundaries between

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[43] Gas Filing Requirements, pages 17-18.
[44] MAADs Handbook, page 1.
[45] Exhibit C.BOMA.3; 1 Tr. 41.
[46] 1 Tr. 47; 1 Tr. 102; 1 Tr. 36.

contiguous service territories will be eliminated. This has potential to bring customer service benefits and efficiencies.[47]

42. Further, the MAADs Handbook identifies that consolidation enables distributors to address challenges in an evolving industry and that it may be more cost effective for larger distributors to develop or retain innovation and internal capabilities to deliver on public policy goals.[48] The Board has recognized, for example in its *Strategic Blueprint*, that the pressures of energy sector transformation and the impact of climate change policies are factors present in both the gas and electricity sectors. The Applicants' evidence has explained how the proposed amalgamation of Enbridge and Union will enable greater strategic focus and capability to face challenges and opportunities that will come from technology change, government policy – including climate change policy – and rising customer expectations.[49]

43. The Board has already determined that the MAADs policies are applicable beyond electricity distribution. The policies set out in the MAADs Handbook were applied by the Board in its decision with respect to the acquisition of Great Lakes Power Transmission by Hydro One Inc. (the "GLP Decision").[50] The electricity transmission and gas distribution sectors in Ontario share a common feature in that there are few regulated utilities in these sectors, in contrast to the large number of electricity distributors in the Province. Moreover, the context of the GLP Decision is that there was already a greater level of concentration in the transmission sector than there was in the natural gas sector. Nevertheless, the GLP Decision confirms that the expectation of positive outcomes from consolidation in the electricity distribution sector applies to the consolidation of electricity transmitters. The evidence of the Applicants is that the same positive outcomes can be expected from their amalgamation, and it is the MAADs policy framework that provides the incentives to pursue that amalgamation.

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[47] 1 Tr. 39; March 28 Tr. 46.
[48] *Ibid.*
[49] MAADs Exhibit B-1, page 3.
[50] EB-2016-0050 Decision and Order, October 13, 2016.

44. Accordingly, the Applicants concluded that the MAADs policies should be applied and therefore took guidance from the MAADs Handbook and, in particular, from the provisions indicating that no supporting evidence is required to justify the selection of a ten year rebasing deferral period. However, the evidence shows that a ten year deferral is justified on the merits in any event.

(b) Justification for 10 Year Rebasing Deferral

45. The Applicants submit that a deferred rebasing period of ten years is an appropriate fit with their proposal to undertake a large and complex integration and to deliver significant integration savings and synergies to ratepayers on rebasing. As indicated in the pre-filed evidence, significant software costs and implementations are expected over the deferred rebasing period from 2019 to 2028 to support the integration.[51] Integration of the Applicants' business processes is expected to take place largely over the first six years, but will occur over the full 10 year period.[52]

46. Mr. Rietdyk elaborated on some of the integration challenges in his testimony during the hearing. With respect to the overall scope of the integration effort, he gave the following evidence:

> ...I can assure you that we know enough to know that we have different operating models, different systems, and different processes and even use different materials in our system, so we are sufficiently different that we know it's going to be a significant effort to bring these two organizations together, and that in and of itself drives significant risk.
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> And I think the other thing that's worth noting is it's not just a single system or process that we're bringing together. We're talking about bringing together every system and process we have, our customer information systems, our ERP systems, and ... the change management that has to go along with that as well.[53]

[51] MAADs Exhibit B-1, page 26.
[52] MAADs Exhibit B-1, page 27.
[53] March 28, 2018 (Technical Conference) Tr. 127.

47. Mr. Rietdyk also explained that the integration effort continues beyond the implementation of common systems and processes. His evidence with respect to consolidation of field operations was as follows:

> ...there's a couple of things that need to happen before we could really operate ... across the province as one ... . The first is having common systems and business processes right across the piece and as we've laid out, it is going to take quite some time before that happens.
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> There is another very practical component of this as well, and that's just our fundamental procedures and detailed work instructions, the material we use in our system are different, and we also need to align all those, which again is going to take a significant amount of time. That's not a matter of any system. That is literally we have to – we train and we qualify our staff to our processes and detailed work instructions.[54]

48. When questioned further about these differences, Mr. Rietdyk noted that Union has something in the order of 1,100 procedures in its construction and maintenance manual and that Union's employees are trained to these 1,100 procedures. Enbridge has 1,600 procedures in its construction and maintenance manual that are written differently from those of Union and Enbridge trains and qualifies its employees to these very specific procedures.[55] Something as simple as welding procedures and plastic fusion procedures are actually different between the two organizations.[56]

49. A high level planning document for the amalgamation was provided by the Applicants in response to an interrogatory. This document includes Project Timelines that are presented as Moderate/Aggressive and Low/Moderate.[57] In the Moderate/Aggressive scenario, integration execution and the planning or stabilization period extend from 2019 to 2025 and, in the Low/Moderate scenario, the overall period extends from 2019 to 2026. During the stabilization period, Amalco will continue to fine-tune its systems and processes and the stabilization period is a critical piece of the

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[54] March 28 Tr. 46-47.
[55] March 28 Tr. 128-129.
[56] March 29 Tr. 129.
[57] Exhibit C.BOMA.16, Attachment 1, page 19.

implementation of the systems and processes.[58] The overall range for execution and stabilization in the Moderate/Aggressive scenario is seven years and in the Low/Moderate scenario it is eight years.[59]

50. The Moderate/Aggressive scenario assumes that a number of system and process changes are initiated coincidentally and are stacked one on top of another, while the Low/Moderate scenario allows more time to space out these changes. It is important to note that, while there could be some coincidental work going on, stacking together the changes in the manner contemplated by the Moderate/Aggressive scenario is very aggressive and is something that neither utility has done before.[60]

51. Given the scope and magnitude of the effort involved in integrating Enbridge and Union, and the time period required to implement this integration, the Applicants submit that anything less than ten years would be insufficient to allow a full opportunity for completion of the integration, nor would it allow an appropriate incentive period for Amalco to tackle this complex task with a view to optimizing deep, meaningful and sustainable savings and synergies.

52. It is in the interests of both the Applicants and the ratepayers for the integration to be as thorough and successful as possible. The ten year deferral serves to align the interests of the Applicants and ratepayers: it provides the incentive for Amalco to complete the amalgamation thoroughly and effectively, thereby maximizing synergies to the benefit of ratepayers on rebasing, while still ensuring that the risks of integration are borne by shareholders in return for the opportunity to retain savings achieved during the deferral. Reducing the deferral period would substantially increase the risk to the shareholder, by reducing the period available to complete the integration, recover the costs, and see some net savings. The disincentive effect of a shorter deferral period would require a reconsideration of the scope and depth of integration activities.[61]

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[58] 1 Tr. 101-102.
[59] 1 Tr. 102
[60] 1 Tr. 99.
[61] 2 Tr. 83.

(iii) ESM/Customer Protection

53. In the context of the proposed rebasing deferral period, the Approved Issues List includes issues about an ESM and any additional considerations or requirements that may be appropriate to protect the interests of customers pending rebasing.[62]

54. The Applicants have proposed an ESM that is aligned with the MAADs Handbook. According to the MAADs Handbook, consolidating entities that plan to defer rebasing beyond five years must implement an ESM for the period beyond five years. The MAADs Handbook refers back to the 2015 Report of the Board: Rate-Making Associated with Distributor Consolidation (the "2015 Report")[63] and says that no evidence is required in support of an ESM that follows the form set out in the 2015 Report.[64] The ESM proposed by the Applicants follows the form of the 2015 Report.

55. The MAADs Handbook also says that an ESM may not achieve the intended objective of customer protection for all types of consolidation proposals and that, for these cases, applicants are invited to propose an ESM that better achieves the objective of protecting customer interests. The example given in the MAADs Handbook is that, when a large distributor acquires a small distributor, an ESM may be proposed such that excess earnings will accrue only to the benefit of the customers of the acquired distributor.

56. The example given in the MAADs Handbook bears no similarity to the Applicants' proposal, which of course does not involve the acquisition of a small distributor by a large distributor. As discussed above, the Applicants believe that their proposal is a "win-win" proposition and thus additional customer protection beyond the standard ESM is neither necessary nor appropriate in this case.

57. During the deferred rebasing period, Amalco will take on the costs and risks of a significant integration effort and customers will be protected from those costs and risks.

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[62] Approved Issues List, Issues 4(b) and (c).
[63] EB-2014-0138 Report, March 26, 2015, pages 6-7.
[64] MAADs Handbook, page 16.

The Applicants submit that the ESM should not be recast in a manner that undermines the incentive for Amalco to tackle the challenges and uncertainties of integration. Indeed, it is important to remember that the power of the incentive ultimately works to the benefit of customers, because the more Amalco responds to the incentive by finding integration savings and synergies during the deferred rebasing period, the greater will be the benefits delivered to customers on rebasing.

58. In the course of cross-examination at the hearing, it was suggested that, because the Applicants' forecasts do not result in an ROE materially higher than the Board-allowed ROE, the Applicants should be prepared to accept an ESM that takes effect at a much lower level than 300 basis points above allowed ROE.[65] But the notion that the Board should take away or diminish the incentive for Amalco to do better than the forecasts made by the Applicants is out of step with the Board's policies that are founded on an incentive-based approach to regulation. Using the Applicants' forecasts as a basis for a low earnings sharing threshold removes or diminishes the incentive for Amalco to surpass those forecasts.

59. The Applicants accept that, as contemplated by the MAADs Handbook, the ESM is the appropriate tool to achieve the objective of customer protection during the deferred rebasing period. However, the Board recognized in the Rate Handbook that the effect of an ESM can be to diminish incentives. Specifically, the Rate Handbook says that, while an earnings sharing mechanism protects customers from excess earnings, it can diminish the incentives for a utility to improve their productivity, and any benefits to customers are deferred.[66]

60. The Applicants note as well that, as set out in the prefiled evidence in support of the Rate Mechanism Application, the Amalco Scorecard proposed by the Applicants is another tool that advances the objective of customer protection.[67] The Scorecard will include measures in the categories of Customer Focus, Operational Effectiveness,

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[65] 1 Tr. 27-28.
[66] Rate Handbook, page 28.
[67] EB-2017-0307 Exhibit B ("Mechanism Exhibit B"), Tab 1, pages 20-22.

Public Policy Responsiveness and Financial Performance and it will demonstrate Amalco's continued focus on providing safe and reliable service to customers.[68]

61. The Applicants submit that the "win-win" proposition they have put forward for approval by the Board fairly balances Amalco's risks and incentives and the protection of customers during the deferred rebasing period. To the extent that any consideration is given to a recasting of the proposed ESM with a view to an even greater level of customer protection, the Applicants submit that is important not to lose sight of the potential diminution of the incentive for Amalco to tackle a very large and complex integration.

(iv) Undertakings/Conditions

62. Enbridge and Union and their then parent affiliate companies have provided undertakings (the "Undertakings") to the Lieutenant Governor in Council ("LGIC") that set out certain restrictions on the business activities of Enbridge and Union. The substance of the Enbridge and Union Undertakings is very similar, with one difference that is relevant in this case. The Enbridge Undertakings state that the head office will remain in the franchise area and the Union Undertakings state that the head office will remain in the Municipality of Chatham-Kent ("C-K").[69]

63. The signatories to the Union Undertakings are released from the Undertakings when Westcoast Energy Inc. ("Westcoast") no longer holds, directly or through affiliates, more than 50% of the voting securities of Union. Upon the completion of the amalgamation proposed by the Applicants, Westcoast will no longer hold, directly or through affiliates, more than 50% of the voting securities of Union and the Union Undertakings will cease to have effect.[70]

64. The Applicants have made commitments to C-K with regard to the presence that Amalco will maintain in C-K in the event that the amalgamation is approved by the

[68] Mechanism Exhibit B-1, pages 21-22.
[69] MAADs Exhibit B-1, page 15.
[70] MAADs Exhibit B-1, page 16.

Board and Amalco is created. In response to an interrogatory from Board staff, the Applicants indicated that they will accept these commitments as a condition of approval to amalgamate and they proposed wording for such a condition of approval.[71]

65. During the hearing, it was noted that the proposed condition of approval set out in the Applicants' interrogatory response says that Centres of Excellence "may" be created, while the Board does not typically approve conditions stating that a particular action "may" be taken.[72] In their answer to Undertaking J2.1 the Applicants provided the following wording to address this concern: "To the extent that Centres of Excellence are created in either the Municipality of Chatham-Kent or the City of Toronto, the Centres of Excellence shall reflect a range of skills and compensation levels, including leadership roles."

66. The Undertakings have a unique history that dates back to the time when the LGIC was empowered to approve certain transactions that are now subject to Board approval under section 43 of the OEB Act. On a number of occasions, the Board reported to the LGIC with recommendations regarding the LGIC's exercise of its power to approve proposed transactions and, in arriving at its recommendations, the Board reviewed and considered Undertakings to be given to the LGIC.

67. Given the history of the Undertakings, the Applicants submit that, insofar as Amalco's continued presence in C-K is concerned, a transition to the proposed condition of approval is appropriate rather than an abrupt end to the provision of the Undertakings stating that Union's head office will remain in C-K. In these unique circumstances, the Applicants submit that the Board should approve the condition of approval that they have proposed.

D. THE RATE MECHANISM APPLICATION

(i) Inflation Factor

[71] Exhibit C.STAFF.12, Response to Board staff Interrogatory #12 modified in Response to Undertaking J2.1.
[72] 2 Tr. 18.

68. The Applicants propose to use the quarterly Gross Domestic Product Implicit Price Index Final Domestic Demand ("GDP IPI FDD") Canada as the inflation factor in the Price Cap rate-setting mechanism. The factor will be calculated annually and will be available when Statistics Canada publishes its Q2 data, which usually occurs in Late August.[73]

69. Union has used GDP IPI FDD for the inflation factor in its previous Price Cap formulae and the Board is therefore familiar with the operation of this factor. The GDP IPI FDD comes from a respected, impartial source (Statistics Canada),[74] it is easy to get and it is transparent.[75] A change from the method that Union currently uses to a two-factor IPI that includes average weekly earnings would not have a material impact on the output of the proposed Price Cap formula.[76] In fact, on the basis of averages for the period from 2007 to 2016, there was only a very small difference between the two-factor approach (70% GDP IPI FDD; 30% AWE) and 100% GDP IPI FDD and the small difference actually represents a slightly higher inflation factor using the two-factor approach.[77]

(ii) Productivity Factor

70. The Applicants retained National Economic Research Associates Inc. ("NERA") to recommend a productivity factor for the Price Cap rate-setting mechanism.[78] NERA used a Total Factor Productivity ("TFP") growth analysis to determine empirically the magnitude of the productivity factor.[79] NERA found that the inflationary index proposed in this case, GDP IPI FDD, is appropriate for setting rates under the Price Cap mechanism and NERA recommended a productivity factor of zero.[80]

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[73] Mechanism Exhibit B-1, page 8.
[74] *Ibid.*
[75] 5 Tr. 61.
[76] 5 Tr. 60.
[77] Exhibit J5.2.
[78] Mechanism Exhibit B-1, page 8.
[79] Mechanism Exhibit B-2, page 4.
[80] Mechanism Exhibit B-2, pages 30-33.

71. Board staff retained Pacific Economics Group Research LLC ("PEG") to prepare analysis and commentary on NERA's productivity research and testimony.[81] PEG concluded that the 0% base TFP growth trend proposed by NERA is reasonable[82] and recommended 0.0% as the base productivity growth target for Amalco.[83]

72. Because NERA and PEG have both recommended a productivity factor of zero for the Price Cap rate-setting mechanism, there is no dispute in this case with regard to the conclusion that the productivity factor is zero. Nevertheless, PEG has put forward a critique of NERA's productivity research and testimony.[84]

73. The Applicants submit that the Board need not, and should not, embark on a consideration of the relative merits of the two approaches to the productivity factor recommendation when the outcome of both approaches is the same. The important point in this case is that the Board has clear and uncontradicted evidence to support a zero productivity factor in the Price Cap formula because NERA and PEG, even while following different approaches, have both arrived at this same result.

74. Further, with respect to PEG's efforts to critique NERA's approach, the Applicants note that NERA's theory, data, sources, timing, judgments on inputs and computations for deriving the TFP element of the X-factor were accepted by the Alberta Utilities Commission ("AUC") in a proceeding in which Dr. Makholm was retained by the AUC as an independent expert.[85]

75. The AUC proceeding was the largest-ever generic investigation of objective and transparent TFP growth studies for electricity and gas distribution rate incentive purposes.[86] Dr. Lowry confirmed, from his experience in regulated utility cases involving these issues, that the AUC proceeding had more expert witnesses on TFP

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[81] Exhibit M-1, page 4.
[82] Exhibit M-1, page 5.
[83] Exhibit M-1, page 6.
[84] Exhibit M-1, pages 26-36; 4 Tr. 143-149.
[85] 4 Tr. 4.
[86] *Ibid.*

analysis, as accepted by the AUC, than any other case.[87] There is no similar basis in this proceeding for the Board to consider the relative merits of different approaches to TFP analysis, but, in any event, such a comparison of approaches is unnecessary because there is a consensus on the zero productivity factor for Amalco that results from the TFP analysis.

(iii) Stretch Factor

76. NERA recommended that a stretch factor not be included in the Price Cap mechanism. NERA's evidence is that the consensus among economists performing productivity studies in Performance Based Regulation ("PBR") plans in North America is that the purpose of a stretch factor is to reflect expected productivity growth due to heightened incentives that accompany a transition from a cost of service regime to PBR. NERA concluded that, for gas distributors in Ontario, there is nothing in the generally-accepted foundation for price cap regulation to justify the imposition of a stretch factor.[88]

77. Dr. Lowry confirmed that, in the AUC proceeding, when given an opportunity to explain the rationale for a stretch factor, his answer was that the rationale is to share some of the expected acceleration in productivity growth as you go from a cost of service rate-making system to a performance based rate-making system.[89]

78. Dr. Lowry also expressed the view that a stretch factor should continue until a credible levels benchmarking study has shown that the utility is a superior performer.[90] He confirmed that the benchmarking study to which he referred would include capital and would be a study of TFP level rather than TFP growth or trends.[91] However, he indicated that the hardest thing to benchmark is capital costs; he said that this is an area he is working on in a project with the OEB; he described his work in this area for

[87] 4 Tr. 168-170.
[88] Mechanism Exhibit B-2, page 31.
[89] 4 Tr. 185-186.
[90] 4 Tr. 186-187.
[91] 4 Tr. 188-189.

the Alberta government as "experimental"; and he confirmed that a levels benchmarking study has never been done for gas companies in Ontario.[92]

79. As shown in Exhibit J2.4, over the deferred rebasing period, Amalco's costs to operate the business will exceed the revenues it will receive under the proposed Price Cap mechanism, including ICM rate adjustments. Achieving Amalco's allowed ROE each year is dependent on achieving forecasted integration savings for which Amalco bears the associated risk. In addition, in response to undertaking Exhibit J4.1 and through testimony, the Applicants have indicated that the revenue projections already include a stretch. Amalco's revenues carry forward the $4.5 million productivity commitment and a PCI that is equal to 40% of inflation in Union Gas's 2014 to 2018 IRM.[93] Amalco has $60 million of additional unidentified efficiencies over the deferred rebasing period that must be found in order for it to achieve the forecasted 20 basis points in excess of the average ten year allowed ROE.[94] In effect, there is an embedded stretch amount which Amalco will have to deal with from a revenue shortfall perspective.

80. The evidence in this case is that the stretch factor of 30 basis points recommended by PEG, although seemingly small, is very significant and would make it very difficult for Amalco to achieve the Applicants' financial projections.[95] It would add $410 million to the savings that Amalco needs to achieve in order to maintain the allowed ROE.[96] In other words, as an increment to the savings of $680 million that the Applicants have projected in their forecasts, the stretch factor of 30 basis points would require Amalco to find savings of over $1 billion.[97] The likely result is that adding such a stretch factor would make it unreasonable to expect that Amalco would even be able to achieve the allowed ROE.[98] The imposition of a stretch factor of 0.3% would therefore create a significant disincentive to amalgamation because of the magnitude of the

[92] 4 Tr. 190-192.
[93] 1 Tr. 130.
[94] MAADs Exhibit B-1, Attachment 12.
[95] 2 Tr. 125.
[96] 2 Tr. 134.
[97] 4 Tr. 31.
[98] 2 Tr. 135.

financial hurdle it would create in relation to the total expected achievable integration savings.[99]

(iv) Incremental Capital Module

81. During the deferred rebasing period, Amalco will apply for rate adjustments using the ICM to recover costs associated with qualifying incremental capital investment beyond that which is normally funded through approved rates, consistent with the Board's ICM policy.[100] The Applicants have calculated ICM materiality thresholds for Enbridge and Union and have presented the 2019 capital investment thresholds in their evidence.[101]

82. The Applicants' intention is that Amalco will file a Utility System Plan, of which an asset management plan would be a part, in its 2019 rate application.[102] More specifically, Mr. Kitchen confirmed in his testimony that, when Amalco files its 2019 rate application, the filing will include a Utility System Plan with an asset management plan that will support an ICM.[103]

83. The Applicants intend that Amalco will have a single asset management plan as quickly as possible, but there will not be time to bring together the Enbridge and Union plans for the 2019 application. It is expected that most aspects of the asset management plan will be brought together for Amalco's second rate application. It will take somewhat longer to bring together certain aspects of the plans.[104]

84. While the Board's policy contemplates the use of approved cost of capital parameters when calculating revenue requirement for the purposes of an ICM application, the policy was established for five-year rate-making models and ICM applications by Amalco will be filed during a ten year deferred rebasing period. The

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[99] *Ibid.*
[100] Mechanism Exhibit B-1, page 12.
[101] Mechanism Exhibit B-1, Table 1.
[102] 1 Tr. 95.
[103] 2 Tr. 45.
[104] 1 Tr. 95-96.

Applicants therefore propose that Amalco's cost of capital for ICM purposes will reflect, in each instance, the latest forecast of debt, incremental long-term debt requirement for the capital project and allowed ROE at the time of the application and be based on the Applicants' current capital structure at 64% debt and 36% equity.[105]

85. The Applicants were questioned about rate impacts that include ICM assumptions,[106] about whether particular projects qualify as ICM projects[107] and about recovery under the ICM compared to Union's capital pass-through mechanism.[108] In response to these questions, the Applicants' witnesses pointed out that ICM projects brought to the Board for approval by Amalco will need to meet the ICM eligibility criteria[109] and will be subject to review by the Board.[110]

86. Board staff raised an issue about whether Amalco will calculate the ICM revenue requirement rate rider on the basis of "the year 1 numbers".[111] Mr. Reinisch clarified that it is the expectation of the Applicants that Amalco will set up the ICM rate rider in the first year with the forecast cost of the asset that would go into service and then will track the actual cost so as to capture any difference in an ICM deferral account. Any differences over the ten year deferred rebasing period could be rebased at the end of the period or, as proposed by the Applicants, could be disposed of annually at the time of deferral account disposition.[112]

(v) Z Factor

87. The Applicants have proposed a Z factor mechanism based on the criteria set out in the Gas Filing Requirements, namely, causation, materiality, prudence and management control.[113] The discussion of materiality thresholds in the Gas Filing

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[105] Mechanism Exhibit B-1, pages 15-16.
[106] 1 Tr. 26-27.
[107] 1 Tr. 91-93, 2 Tr. 94-97.
[108] 6 Tr. 79.
[109] *Ibid.*
[110] 1 Tr. 27.
[111] 2 Tr. 92.
[112] 2 Tr. 93.
[113] Mechanism Exhibit B-1, page 11.

Requirements specifically notes a lack of consistency among the thresholds used in Z factor mechanisms of gas distributors and also notes that thresholds for gas distributors have differed from those used in the electricity sector.[114]

88. The Gas Filing Requirements indicate that, in Custom IR applications, utilities may propose alternative mechanisms for unforeseen events and, further, that an applicant filing under the Price Cap IR method may follow this same approach. The Gas Filing Requirements say that, in the absence of a proposal for an alternative mechanism, the current materiality thresholds for each utility will continue to apply.[115]

89. The Applicants have proposed a Z factor materiality threshold for Amalco of $1 million, which is consistent with the threshold for electricity distributors.[116] The proposed materiality threshold was the subject of cross-examination during the hearing, the thrust of which was a suggestion that a threshold of $1 million is too low for Amalco.[117]

90. For electricity distributors with distribution revenue requirements of more than $200 million, regardless of their size relative to one another or how much their revenue requirements exceed $200 million, the Z factor materiality threshold is set at $1 million. The Applicants believe that, as in the case of the RRF, the Board has been seeking to bring greater consistency and alignment to the application of its policies to electricity and gas distributors.[118] Accordingly, the Applicants submit that it is appropriate for Amalco's Z factor materiality threshold to be consistent with the threshold for electricity distributors with distribution revenue requirements greater than $200 million.

(vi) Other Elements of the Applicants' Rate-setting Proposal

91. In the course of the testimony of the Applicants' witness panel addressing rates issues, Ms. Spoel asked whether it would be possible for Amalco to carry out a cost

[114] Gas Filing Requirements, page 39.
[115] *Ibid.*
[116] Mechanism Exhibit B-1, page 12.
[117] See, for example, 1 Tr.140-141.
[118] Exhibit C.STAFF.23.

allocation study during the deferred rebasing period. The response to her question was that a cost allocation study can be done, although it might come with a number of assumptions; the fact that it might not be used to underpin rates does not mean that such a study cannot be done.[119]

92. The Applicants have committed that, at some point during the deferred rebasing period, perhaps at the five-year point, Amalco will bring forward a rate harmonization study that will include a review of existing cost allocation methodologies. Further, the Applicants have committed that the study will be the subject of a stakeholder consultation which will afford an opportunity for stakeholders to provide their input.[120] As stated by Mr. Kacicnik:

> We would like to involve stakeholders in that process so that they don't see our proposal on rebasing, but they see all the assessment and challenges we are working through, and once we bring forward the proposal on rebasing everybody will already know what's possible to do and what's not possible.[121]

93. As a further response to Ms. Spoel's question, the Applicants will make a commitment that Amalco will carry out a cost allocation study. This study will provide visibility to the Board and stakeholders on differences in the allocation of costs from the last Board-approved cost allocation study for each of Union and Enbridge. If deemed appropriate by the Board, the study could be used to determine whether any rebalancing of rates should be made within the total revenue requirement as determined by the Price Cap framework.

94. The Applicants have set out in the pre-filed evidence the deferral and variance accounts that they propose for the deferred rebasing period.[122] As indicated in response to a question from the Board Chair, these accounts are integral to the Rate Mechanism Application. They are directly linked to the Applicants' proposal that Amalco

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[119] 5 Tr. 48-49.
[120] 5 Tr. 13-14.
[121] 5 Tr. 14.
[122] Mechanism Exhibit B-1, pages 22-26 and Attachment 4.

rates will be determined on the basis of three rate zones (that is, the existing Union North and South zones together with an Enbridge rate zone).[123]

95. In a more specific area of enquiry relating to the deferral and variance accounts proposed for Amalco, Mr. Garner on behalf of the Vulnerable Energy Consumers Coalition ("VECC") asked about the purpose of Enbridge's Average Use True-Up Account and Union's Normalized Average Consumption ("NAC") Account. Mr. Kacicnik pointed out in response to VECC's questions that the existence of a true-up for average uses is very important to the gas utilities.[124]

96. In addition to the large DSM programs of the utilities, Enbridge and Union have cap and trade abatement goals and energy conservation is encouraged through a variety of government policies. Removing the protection afforded to both customers and utilities on average uses would signal that the business approach should shift from supporting energy conservation to promoting load growth opportunities.[125]

97. Mr. Tetreault supplemented Mr. Kacicnik's testimony with a comment about subtle differences between Enbridge's approach to average uses and Union's NAC. He said that this area needs to be addressed "on an Amalco basis going forward, to make sure we are looking at that holistically across the new company".[126] As a follow-up to Mr. Tetreault's comment, the Applicants propose that Amalco will consult with stakeholders as it works towards a single, revenue neutral approach to average uses/NAC for a future rate application.

98. The Applicants have provided evidence regarding adjustments to be made to the base rates to which the proposed Price Cap mechanism will be applied.[127] In response to questions about particular adjustments, Mr. Culbert noted that smoothing mechanisms put in place for rate impacts that could have been implemented on a one-

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[123] 5 Tr. 59-60.
[124] 5 Tr. 21-26.
[125] *Ibid.*
[126] 5 Tr. 23.
[127] Mechanism Exhibit B-1, pages 16-18 and Evidence Addendum filed on January 11, 2018.

time basis have reached completion. The Applicants propose that adjustments be made for these smoothing mechanisms that have reached their natural completion.[128]

99. Other aspects of the Applicants' proposals in the context of the Rate Mechanism Application relate to customer engagement, reporting and stakeholder meetings. As far as customer engagement is concerned, Amalco will continue to develop its customer engagement processes during the deferred rebasing period and it will ensure that the results of those processes inform its business plans[129], including ICM requests.[130]

100. In the interests of transparency during the deferred rebasing period, Amalco will prepare and report on utility information that largely aligns with schedules provided in Enbridge's 2014-2018 Custom IR proceeding and Union's 2014-2018 IRM proceeding. These schedules are listed in the pre-filed evidence.[131]

101. Amalco's annual reporting will include a report on any material changes associated with its work to harmonize accounting policies of Enbridge and Union.[132] At the current time, the effort to proceed toward harmonization of accounting policies is a work in progress.[133] The Applicants, propose, though, that Amalco will provide annual reporting to the Board with regard to the financial impacts of accounting changes until all changes due to harmonization have been implemented. When all changes have been implemented, Amalco will report to the Board on the net financial impact of the changes and it will put forward a proposed treatment of any material net impact.

102. The Applicants proposed in the pre-filed evidence for the Rate Mechanism Application that Amalco will host a funded stakeholder meeting every other year starting in 2019.[134] In response to questions about the rationale for not holding a stakeholder meeting every year, the Applicants expressed concern that an annual meeting is too

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[128] 1 Tr. 128-130.
[129] Mechanism Exhibit B-1, page 29.
[130] Exhibit C.BOMA.31
[131] Mechanism Exhibit B-1, pages 28-29.
[132] 5 Tr. 33.
[133] 5 Tr. 32.
[134] Mechanism Exhibit B-1, page 27.

frequent.[135] It has been the Applicants' experience that preparation of a stakeholder presentation is a significant undertaking and that during such presentations, while there have been some questions, there really has not been enough to talk about.[136]

103. The expectation of the Applicants is that more meaningful discussions are likely to occur at stakeholder meetings held every two years than at annual meetings.[137] Nevertheless, the Applicants are open to the suggestion that stakeholder meetings be held annually if this suggestion has general support from intervenors.

E. CONCLUSION

104. The Applicants therefore submit that, by way of the MAADs Application and the Rate Mechanism Application, they have put before the Board a proposal that fairly balances utility risks and incentives and customer protection; that aligns the interests of the utilities and ratepayers; and that advances the objectives and policies of the Board. For all of the reasons set out above, the Applicants submit that the relief requested in the MAADs Application and the Rate Mechanism Application should be granted by the Board.

All of which is respectfully submitted.

June 1, 2018

Fred D. Cass
Counsel for the Applicants.

[135] Exhibit C.OAPPA.8
[136] 2 Tr. 116-117.
[137] 2 Tr. 117.