# ONTARIO ENERGY BOARD

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

**AND IN THE MATTER OF** the Mid-Term Review of the DSM Plans of Enbridge Gas Distribution Inc. and Union Gas Limited for the period 2015-2020

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# SUBMISSIONS
# OF THE
# SCHOOL ENERGY COALITION

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**September 28, 2018**

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# 1 GENERAL COMMENTS

## 1.1 *Introduction*

***1.1.1*** On June 20, 2017 the Board issued a letter initiating a process to review the DSM Plans of Enbridge and Union for the period 2015-2020. The process included the filing of information and reports by the utilities, and a two-phase review. The first phase dealt with the intersection of cap & trade and DSM. Parties filed submissions in that regard, but ultimately the termination of the cap & trade regime caused the Board to withdraw that portion of the review by letter dated August 15, 2018. The second phase, including specific issues that the Board had determined would be part of the mid-term review, continued.

***1.1.2*** The utilities filed a number of reports and submissions on September 1, 2017, October 2, 2017, and January 15, 2018, and made oral submissions with an accompanied presentation at the Stakeholder Conference on September 6, 2018[1]. These are the Submissions of the School Energy Coalition.

***1.1.3*** There was no oral hearing in this proceeding, but there was a discussion of some of the issues orally in a two-day Stakeholder Conference. However, that was not transcribed, so there is no record of those discussions. There was no discovery as well, so overall there is no evidentiary record on which the Board can make binding decisions.

***1.1.4*** We did not in this proceeding have the benefit of seeing the submissions of OEB Staff in this proceeding, so we are unable to comment on OEB Staff positions on the issues.

***1.1.5*** SEC has organized these Submissions based on the topics raised by the parties, either in the utilities' filings or in the Stakeholder Conference.

***1.1.6*** SEC notes that the Board only allowed funding for 12 hours for these submissions. Given the 580 pages of proposals by the utilities, many of them very detailed, plus the many hundreds of pages of background material that had to be reviewed and compared, it was not possible for SEC to deal with all of those proposals in detail in these Submissions. We had to stop when our time preparing submissions reached 40 hours, well past the level of Board-approved costs eligibility.

***1.1.7*** In a few places, therefore, SEC simply notes our position on an issue, rather than providing a more detailed analysis of the utility proposals, and the problems within them. While we would have preferred to provide a detailed rebuttal, the time allowed did not permit us to do so.

[1] Cited herein respectively as Enbridge September, Enbridge October, Enbridge January, Enbridge Presentation, Union September, Union October, Union January, and Union Presentation. We have also seen the Enbridge final submission dated September 24, 2018, which we refer to throughout as Enbridge Submission.

## 1.2 *Background Issues*

*1.2.1* There are a number of background issues that should influence the Board's view of the DSM programs going forward.

*1.2.2* ***Merger of Enbridge and Union***. Enbridge Inc. acquired Spectra early in 2017, and included in that transaction was ownership of Spectra subsidiary Union Gas. By order dated August 30, 2018[2], the Board approved an application by the utilities to allow the amalgamation of Enbridge and Union so that they can operate as effectively as possible as a single utility.

*1.2.3* The Board has been encouraging the utilities for some years to work together more closely in their DSM program design and implementation. During the review of the 2015-2020 DSM Plans, the Board heard evidence that customers would prefer to have similar offerings from both. That is particularly true of customers that have operations or facilities in the service territories of both Union and Enbridge (such as some school boards).

*1.2.4* The merger of Union and Enbridge will allow the two programs to be fully combined and integrated. This should result in improved efficiencies, improved market penetration, and increased delivery of results.

*1.2.5* However, SEC also notes that the combination of the DSM programs cannot happen overnight. It will in part be dependent on the speed and structure of the integration of other parts of the organizations, and it will in part be driven by the timing of the next DSM Framework, expected to start in 2021. In the case of the latter, the internal and consultative work on that Plan should be starting at the beginning of 2019, so that information and a single, combined application can be filed by the end of 2019.

*1.2.6* The merger also has some specific impacts, which we note in our Submissions. By way of example, Enbridge has an Open Bill program, but Union Gas does not. Given that Enbridge and Union will, in the relatively near term, combine their billing systems, it would not seem efficient to change the Union billing system to accommodate an Open Bill program before that time.

*1.2.7* ***Shift in Evaluation from Utility Control to OEB Control.*** The first section of these Submissions deals with Evaluation and Audit. One of the major shifts in the new DSM Framework was to move control of the EM&V process from the utilities to the Board. The new process, managed by an Evaluation Contractor under the supervision of OEB Staff, with the input of an Evaluation Advisory Committee, has been disruptive, but ultimately successful.

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[2] EB-2017-0306/7

***1.2.8*** Many of the topics in the mid-term review are affected by the fact that the new EM&V process produces more reliable, and more independent, verified results.

***1.2.9*** It may also mean that, during the transition period, the utilities will be more litigious as the more discplined process affects their incentives[3]. SEC believes that this will only continue for a short time, before the Board and all stakeholders, including the newly-combined utility, get comfortable with a new reality.

***1.2.10*** ***Public and Government Support of DSM.*** The biggest background factor affecting the DSM Framework is the recent change in the positions of the government, and the public, with respect to conservation-related spending. This has major implications, some of which are obvious, and some of which are more subtle.

***1.2.11*** The obvious implications include:

> ***(a)*** ***Termination of the cap & trade regime.*** The original DSM Framework was set up with no cap & trade, but its introduction implied potentially big changes. The termination of that government program nominally brings the DSM Framework back to its starting point, but with the federal carbon tax looming as a factor in the cost-effectiveness of, and public appetite for, DSM programs.
>
> ***(b)*** ***Termination of the Green Investment Fund, Green On and Similar Programs.*** The utilities have been able to augment their DSM budgets with funding from these government programs, as their submissions indicate. The likelihood that this funding will continue in any significant way is low, meaning that the utilities will have to adjust to those programs being scaled back.
>
> ***(c)*** ***Reduced CDM Funding***. Right now, it is not clear whether all CDM funding will be ended, or some of it, or none, although the last is unlikely. The ability of the utilities to collaborate with electrics, or with IESO, can be expected to be severely constrained.

***1.2.12*** It is, however, the less obvious implications that may be more important. Part of the reason for the substantial budget increases in the current 2015-2020 DSM Plans was direction from the government of the day to the Board to expand DSM funding. While the Board did so fairly cautiously, it is clear that the utilities' DSM programs are substantially larger than they were just a few years ago.

***1.2.13*** In the new environment, that is less likely to be the case. The current government

[3] The Board has already seen this in EB-2017-0323/4, the Clearance applications for 2015 DSM programs. We will likely see it in the 2016 clearance applications as well.

appears to be less willing to encourage increases in conservation spending, and can be expected to influence public opinion in that same direction. Both the government and the public can also be expected to be more skeptical of utility results.

*1.2.14* Clearly the main impacts of the change in government and public support will be considered by the Board in the context of the next round of DSM Plans, likely 2021-2025. However, there are some immediate implications as well, such as:

*(a)* ***Budget Requests.*** The utilities have requests for tens of millions of dollars of additional budgets, as well as changes to the incentive rules to make incentives easier to achieve. In the context of the current situation, SEC believes that those changes are ill-timed, and are better left until the next DSM Framework.

*(b)* ***Evaluation and Audit.*** There will almost certainly be a debate over conservation spending in the next couple of years. For those, like SEC, that support a strong commitment to conservation, it will be critical that the results being achieved by the utilities are supported by thorough independent and empirical data. Those who wish to cut conservation spending will rely heavily on the theory that conservation programs are either unnecessary, or an unproductive waste of money. The answer will only be persuasive if it is backed up by robust and independent audits that the public and the government can accept.

*1.2.15* SEC submits that the current state of flux, whether in the utility, in the Board's regulation of DSM, or in the government and public support for conservation, makes this a critical time, with a lot of uncertainty. In our view, it would be wise for the Board in the mid-term review to accept only those very few changes that are demonstrably justified, and cannot be dealt with in two years as part of the next DSM Framework.

## 1.3 ***Summary of Submissions***

*1.3.1* This section provides a brief summary of the main SEC recommendations contained in these Submissions.

*1.3.2* ***Evaluation and Audit***. The new OEB Staff-led evaluation and audit process has been more successful than some expected, although it has given rise to some transitional challenges in the first couple of years. Those now appear to be mostly resolved.

*1.3.3* ***Net to Gross***. The Board should reject the proposal of the utilities to fix the net to gross ratio. The evidence from the 2015 audit demonstrates that the previous NTG ratios may be grossly incorrect, and that proper evaluation requires that the NTG ratio be measured for custom projects as part of the verification of each year's results.

*1.3.4* SEC notes, in this context, that the NTG proposal, which appears to be a technical adjustment to how results are measured, may be the biggest single dollar request from the utilities. As signaled by the number of times the utilities have come back to this issue, this could have a multi-million annual impact on the shareholder incentives paid. If the utilities do not have to actually influence their customers to achieve their gas savings targets, but are simply deemed to do so, as the utilities propose, the difference in incentives could be 50% or more of the total.

*1.3.5* ***Targets***. The utilities are seeking a number of reductions and other changes to their targets to make it easier for them to maximize shareholder incentives, including adjustments to the formula, and reductions in the productivity factor. With one exception, those proposals should be deferred until the next framework.

*1.3.6* ***Target Adjustment Mechanism (TAM)***. Enbridge and Union have proposed that the TAM be altered. Only one adjustment is appropriate. Where a program is designed to include future commitments for customer incentives, the TAM should be calculated on an accrual basis rather than a cash basis. All other adjustments to TAM should be dealt with in the next framework.

*1.3.7* ***Scorecards.*** The utilities have proposed new scorecards that generally reduce the weight given to lifetime cubic meters, and increase the weight to activity-based metrics. They also incorporate some reductions in targets. Those proposals should be part of a broader review of how achievement is measured, and should be dealt with in the next framework, not in the mid-term review.

*1.3.8* ***Outcome-Based Metrics***. The Board directed the utilities to work with stakeholders to develop "options for additional outcomes-based metrics". The utilities took no steps to do so.

*1.3.9* ***Shareholder Incentives***. Union has proposed dramatic changes to the structure of their shareholder incentives, justifying them primarily on the basis of the activity of GreenOn and other programs in the market. These proposed changes should not be approved.

*1.3.10* ***General Adjustment to Targets or Budgets***. This overall request by the utilities is essentially a relitigating of the EB-2015-0029/49. Targets and/or budgets should be adjusted, if at all, in the context of a broader, evidence-based review for the next plans.

*1.3.11* ***Customer Incentive Fund.*** The additional funding requested in the proposed Customer Incentive Fund should be refused. The utilities already have a DSMVA available to them for similar purposes, and there has been no process to test whether additional funding is appropriate.

*1.3.12* ***Energy Leaders and Energy Literacy.*** The continuation of the budget for Energy

Leaders has been justified, and should be continued. The proposed budget for Energy Literacy has not been justified, and should be denied.

*1.3.13* ***Residential Adaptive Thermostats***. Union is requesting incremental funding of $4.5 million for this program. The Board should deny the request.

*1.3.14* ***Budget Flexibility***. The utilities have requested changes to their ability to move money between components of their DSM plans. Those changes should be considered in the broader context of the next framework.

*1.3.15* ***Home Energy Conservation and Optimum Home***. The Board should not provide any comment on the proposed changes to these programs, as there is no tested evidence on which the Board can make any determinations. The Board should, however, caution the utilities that changes to the activities of IESO, electric utilities, and the Green Investment Fund should be taken into account in any changes the utilities implement.

*1.3.16* ***Savings by Design.*** Enbridge proposed to reduce the threshold for this program from 25% above Ontario Building Code to 10%. On September 24th, they changed this to 15%. The Board does not have sufficient or tested evidence to comment on these program design changes. The metric in the Scorecard should remain as already approved by the Board, and should be applied by reference to the current Code.

*1.3.17* ***Open Bill.*** Union should defer any remaining work on this until Amalco combines the Enbridge and Union billing systems, and then implement a single system modelled on the successful Enbridge approach.

*1.3.18* ***Collaboration with Electrics***. In the current changing landscape, the utilities should hold off on further initiatives of this kind until the future directions are clear.

*1.3.19* ***Integrated Resource Planning***. The work done by the utilities to date is insufficient, and the Board should encourage them to move more resolutely in the direction of using DSM to defer capital spending. Leave-to-construct applications are regularly being filed that could have benefitted from deferral or avoidance with more aggressive IRP.

*1.3.20* ***Amortization of DSM Costs***. While the spreading of long-term conservation investments over the period they are useful is intuitively attractive, it is not appropriate to implement such a major change at the mid-term review. The utilities should be encouraged to engage with stakeholders on this issue, and then bring to the next framework proceeding evidence and analysis of the costs, benefits, and other impacts of such a change.

*1.3.21* ***Increases in Size of DSM Programs***. Some parties are proposing increases to the size of the utilities DSM programs. Whether or not those increases are a good idea can only be reviewed in the context of a new framework, based on a solid evidentiary record.

*1.3.22* ***Administrative Costs.*** The utilities have not provided the Board with satisfactory evidence benchmarking their overhead and administrative costs for DSM. They have also admitted that material DSM costs are not included in their DSM budgets at all, which means that their cost-effectiveness calculations are suspect.

# 2 EVALUATION AND AUDIT

## 2.1 *Background*

***2.1.1*** In the current 2015-2020 DSM Plans the Board moved from utility control of the evaluation and audit activities (with stakeholder input), to OEB staff-led evaluation and audit activities. The central responsibility is given to an experienced evaluation contractor, supervised by OEB Staff and advised regularly by a committee of utilities, customer representatives and independent experts.

***2.1.2*** The utilities have complained about this new evaluation and audit approach. This raises two issues for the Mid-Term Review.

*(a)* First, should net to gross be measured as proposed by the evaluation contractor, or using the previous assumptions-based approach?

*(b)* Second, is the new, independent process working properly?

***2.1.3*** SEC provided detailed submissions on these two issues in EB-2017-0323/4, the 2015 DSM Clearances applications by the two utilities. Rather than repeat those submissions, we have attached excerpts from the SEC Final Argument in EB-2017-0324, the 2015 Enbridge Application, which we reference in the summary below.

## 2.2 *Net to Gross Measurement*

***2.2.1*** The evaluation contractor in the 2015 audit proposed that, since a NTG study had been contracted anyway (with the same experts), and that year was being audited, the most efficient approach was to measure the NTG for 2015 as part of the audit process. Because it had been measured directly, it could also be applied to that year. That was done, and the NTG results were much lower than the results from the previous study, which was based on 2004-2006 results.

***2.2.2*** The utilities objected on two grounds. First, they said that the new "assumptions" should not be applied retroactively. The Board determined that, for 2015 only, as a transition year, that was correct. Second, the utilities objected that the survey approach to NTG was not the best approach. In their submissions in the Mid-Term Review, they refer to it as "outdated"[4], and "antiquated"[5].

***2.2.3*** On the first point, SEC's discussion of Measurement vs. Assumptions is at Section 2 of the attached excerpts. While the Board determined that 2015 should have the old

[4] Numerous places.
[5] Enbridge January, p. 29.

assumptions applied, it agreed with customer groups that measurement is the preferred approach, saying[6]:

> *"LPMA and SEC emphasized the benefits of using measured results versus historical assumptions to assess DSM achievements and indicated that prior OEB decisions supported this approach for custom projects. The OEB agrees with this interpretation of the OEB's 2015-2020 DSM Decision for future years but not for 2015."*

***2.2.4*** SEC submits that measured NTG should therefore be used for the 2016-2020 results where possible.

***2.2.5*** The utilities have, instead, proposed that the Board adopt a fixed NTG ratio for the remainder of the current plans, essentially because if the measured results are bad, the utilities will not be able to earn their full shareholder incentives. In fact, they propose a range of 70% to 80%, based not on research, but on what they want. The central thesis of their argument appears to be that, if they are required to actually influence customers to achieve results consistent with their targets, they will be disincented to devote their fullest efforts to their DSM Plans.

***2.2.6*** As we note in the attached excerpt, NTG is largely within the utilities control. If they choose to be order-takers, they can expect the low levels of NTG seen in the 2015 study. If they choose to be more proactive, their measured results will be much better.

***2.2.7*** On the second point, the NTG study methodology, Section 3 of the attached excerpts deals with that in some detail. We note two things in this regard:

***(a)*** The study methodology the utilities decry is in fact the most commonly used methodology in North America for NTG, and is used by almost all experts, including the utilities' own expert in the 0323/4 proceeding.

***(b)*** The utilities' proposal is to replace the study used in most places with no study at all, just a number picked out of the air because it happens to favour the utilities.

***2.2.8*** SEC submits that, if the utilities want to propose a new method to measure their achieved NTG, they should do so in the next framework, with supporting evidence from experts that can be tested by the parties and the Board.

[6] EB-2017-0324 Decision and Order, p. 6..

## 2.3 ***Changes to the Process***

*2.3.1* The utilities complain that the OEB Staff-led process for EM&V is "dysfunctional"[7].

*2.3.2* In Section 4 of the attached excerpts, SEC discussed how the 2015 audit and evaluation proceeded. Since that time, the problems of transition that arose have been addressed. Scheduling is more transparent, and keeps a faster pace. Everything is reviewed by the EAC and OEB Staff at the same time, straight from the evaluation contractor to everyone.

*2.3.3* Further, the overall timeliness of the process has been improved, and it is likely that by the time of the 2018 audit it will be fully on track.

*2.3.4* For example, the EAC is considering conducting the audit of the 2017 and 2018 custom projects (by far the most time-consuming part of the process) together, using a single sample from both years, so that the same realization rates and net to gross factors can be applied to both years as well. One of the independent experts on the committee has suggested that, if this works as expected, it could be implemented in future years, saving evaluation dollars while keeping the integrity of the results. In the meantime, it retains the rigour of a full audit, but saves money and gets the timing back on track.

*2.3.5* As we have noted elsewhere, the only sense in which the current EM&V process is "dysfunctional" is from the narrow point of view of the utilities, i.e. they no longer control that process. From the point of view of the customers, who are footing the bill, this is not dysfunction at all.

*2.3.6* In SEC's submission, increased independence and rigour are good results, not bad ones.

[7] Enbridge January, p. 28.

# 3 TARGETS

## 3.1 *Background*

*3.1.1* The utilities complain that the Board increased their 2016 targets by 10%, but didn't increase their budgets by an equivalent amount. They call this a "mismatch". Enbridge in particular appears to be scandalized by this, as if the Board simply didn't understand what it was doing[8].

*3.1.2* SEC notes that, if the utilities believed that the decision on their DSM Plans was wrong, they had a remedy available in the form of a Motion For Review. They did not file any such motion, but now say that the Board's decision was wrong and should be fixed. They propose that the Board make those fixes in a proceeding in which there is no opportunity for discovery, and no opportunity for testing of the utilities' opinions as set out in their submissions. In effect, they want the Board to take their word for it that the Board got it wrong the first time around.

*3.1.3* With respect, this is simply inappropriate. Adding 10% to budgets, for example, or reducing targets by 10%, are nothing more than reversing the Board's decision on their plans. That was not, in our view, the Board's intention with the Mid-Term Review, and it is certainly not an appropriate way to handle things today.

*3.1.4* In this section and the next, we deal with the various aspects of budgets and targets proposed by the utilities. However, our broader view is that, if the Board wants to make any material changes to the DSM Plans' budgets and targets right now, it should ensure that there is full evidence, with discovery and an opportunity to test that evidence on the record. Under the circumstances, the better way to deal with those proposals is in the context of the next framework.

## 3.2 *General Target Adjustment*

*3.2.1* In its September submissions, Enbridge appears to be proposing that its targets be reduced by 10%, because when the Board increased them it did not increase budgets as well[9].

*3.2.2* It is not clear to us that Enbridge is continuing to pursue that proposal. In its January submissions, it focuses on getting a higher budget, rather than a lower target[10].

*3.2.3* However, if Enbridge is in fact still seeking a 10% target decrease, in our view the

[8] See Enbridge January, p. 15-19.
[9] Enbridge September, p. 25.
[10] Enbridge January, p. 19.

Board should reject that proposal. Not only is it a direct reversal of the Board's decision on the DSM Plans, but in the meantime the utilities have been making substantial shareholder incentives, despite the Board's decision to increase their targets. The only "evidence" provided by Enbridge in support of their target increase is their argument that they disagree with the Board's decision on their DSM Plan. That is not evidence.

## 3.3 *Target Adjustment Mechanism (TAM)*

*3.3.1* There appear to be two proposals for changes to the target adjustment mechanism[11]:

*(a)* Exemption of offerings that have customer incentives committed in one year, to be paid in a future year.

*(b)* Change the productivity factor for market transformation from 10% to 2%.

*3.3.2* The first issue is not new. Early in the Savings by Design program, Enbridge prepared an application (EB-2013-0383) for a deferral account (much like the DSMPIDA proposed in this proceeding) that would have effectively treated future commitments for incentives as spent in the year the customer signed up for Savings by Design. Enbridge did not proceed with that application, because there were many questions that had to be addressed about how it would work.

*3.3.3* Enbridge then raised it in their 2015-2020 plan, but it was not approved there. SEC notes that adjusting the TAM for these programs was not proposed by Enbridge, because in their DSM Plan there was no TAM.

*3.3.4* Thus, the issue of how to address multi-year customer incentives has existed for a long time, and has not been addressed. There is no apparent reason why this Mid-Term Review is suddenly the appropriate time to do so.

*3.3.5* On the other hand, the issue is a real one. If multi-year programs are successful, they can create mismatches between budgets, commitments, and incentives actually paid, which can in turn lead to anomalies in the calculation of targets.

*3.3.6* The utilities propose that multi-year programs be exempt from the TAM, and that targets instead be fixed. Unfortunately, this process does not allow for a review of the appropriate fixed targets to be used. Thus, as a practical matter, it may not be possible for the Board to go to fixed targets as the utilities request.

[11] We are, frankly, unable to determine if there are more, given the state of the utilities' submissions, and the inability to have discovery on their proposals. There may be other changes hidden in the detailed new scorecards proposed. We are not able to comment on those.

*3.3.7* SEC suggests that there may be another alternative. As a temporary measure, Enbridge could, for the named programs, calculate the TAM using an accrual method rather than a cash method. That is, the amount spent for TAM purposes (not for DSMVA or rate recovery purposes) could be the net total of the amounts committed to be paid to customers during the year. It would therefore not include amounts committed in a prior year and paid this year, but it would include amounts committed this year, whether they are paid this year or a subsequent year. Further, if a prior commitment is ended (for example, a customer leaves the program), then that would reduce the amount "spent" in the current year (like a negative commitment).

*3.3.8* This is, in our submission, not the perfect solution to the issue. However, SEC submits that, without a more thorough review, a short-term fix is appropriate in this case. This is one that is conceptually sound, and is unlikely to cause any major problems with targets over the next couple of years. In the next framework, a new method of dealing with multi-year program budgets and targets can be developed.

## 3.4 ***Productivity Factor***

*3.4.1* Enbridge proposes that the productivity factor for market transformation programs, which the Board set at 10%, should be decreased to 2%.

*3.4.2* SEC believes that fundamental changes to the structure of the scorecards should be addressed in the next framework, and should not be dealt with in this Mid-Term Review.

## 3.5 ***Outcome-Based Metrics***

*3.5.1* Union describes the Board's direction to them as follows[12]:

> *"The OEB also suggested that the Utilities work with stakeholders to develop options for additional outcome-based metrics for consideration at the Mid-Term Review".*

*3.5.2* Union then goes on to note that most of its metrics are lifetime natural gas savings (80%), and therefore concludes that[13]:

> *"…a more appropriate time to work with stakeholders to develop options for additional outcome-based metrics would be during the development of the next DSM Framework."*

[12] Union January, p. 14. See also, Enbridge January, p. 12.
[13] Union January, p. 16. See also Enbridge January, p. 13-16. In essence, Enbridge says that they decided it wasn't worth looking at.

*3.5.3* SEC believes it is correct to read that, and the similar statements by Enbridge, as admissions that the utilities disagreed with the Board's guidance, and so ignored it. Indeed, to the best of SEC's knowledge neither Union nor Enbridge made any attempt to engage with stakeholders on additional outcome-based metrics, although it continues to be clear that at least some stakeholders[14] are strong advocates of, for example, metered data analysis.

*3.5.4* SEC is concerned with the utilities' apparent belief that they can simply ignore what the Board says. This is not the only example that arises in this Mid-Term Review, but it is among the most obvious.

*3.5.5* It would be perfectly legitimate for the utilities to engage with stakeholders, then jointly report to the Board that the utilities and the stakeholders have some ideas, but would like to deal with them more fully in the context of the next framework. It would be equally legitimate for the utilities to say that they engaged with stakeholders, but the result of those discussions was a shared view that there are no additional outcome-based metrics that should be introduced.

*3.5.6* It is not legitimate, in our opinion, to say that the utilities unilaterally decided that they would not work with stakeholders on this issue as directed by the Board.

## 3.6 ***Scorecards***

*3.6.1* Union has proposed[15] major changes to the Scorecards, including

*(a)* Remove the bottom 75% threshold for earning a shareholder incentive, so that even the tiniest of performance is incented, and

*(b)* Weight 60% of the incentive to performance up to the target, and only 40% above it, rather that the current method, which incents superior performance more than performance to target.

*3.6.2* As SEC has not heard anything more about those proposals, we assume that they have been abandoned. If they have not been abandoned, SEC submits that they should be rejected by the Board. They are simply an attempt to make it easier to earn a shareholder incentive.

*3.6.3* Another change to the scorecards is being pursued. Enbridge, in its Submissions, is proposing to make material changes to the weightings on its scorecard[16]. Enbridge

[14] See, for example, the Enerlife presentation at the Stakeholder Conference.
[15] Union September, p. 18-19.
[16] Enbridge Submissions, p. 10. We believe Union is also proposing scorecard weighting changes, but we have not been able to determine the current Union proposals.

proposes to increase the weighting to Market Transformation programs from 12% to 20%, while reducing the programs that it offers in that category. It also proposes significant adjustments to the weightings within each program.

***3.6.4*** By way of example, the current Board-approved weighting for the Residential and Commercial Savings by Design programs is 6%. Their metrics have a combined 50% weighting in Market Transformation, which drives 12% of the shareholder incentive. Enbridge now proposes to increase the weighting for those programs from 50% of the category to 80% of the category, and increase the Market Transformation weighting from 12% to 20%.

***3.6.5*** The result is that Savings by Design would drive 16% of the shareholder incentive, rather than 6% as it is today.

***3.6.6*** Similarly, the Board-approved scorecard for Enbridge has 72.7% of shareholder incentives driven by lifetime cubic meters. Under the proposed new scorecard, that would decrease to 63.7%[17].

***3.6.7*** SEC believes that, in the context of the next framework, it may well be appropriate for the Board to look at what activities and results are driving the shareholder incentive. Some parties will want to increase the emphasis on cubic meters, perhaps with different ways of measuring them. Others will want to propose new metrics, some of which measure actual outcomes, and some of which measure activity only. This is an important debate, but in our view it is properly held in the context of the review of the framework.

***3.6.8*** SEC therefore submits that the revised weightings proposed by the utilities should be rejected. The shareholder incentives should, in this plan period, continue to be driven by the same results, in the same percentages.

[17] Enbridge originally proposed 56.2%, but after the Stakeholder Conference changed it to 63.7% by reducing the weightings for Run-it-Right and CEM..

# 4 BUDGETS

## 4.1 *Background*

*4.1.1* As noted in the last section, the utilities have complained that the Board increased their targets by 10% without increasing their budgets. In this Mid-Term Review, in addition to trying to reduce the targets, the utilities are also trying to increase their budgets.

*4.1.2* Given than Enbridge and Union are amalgamating, it is difficult to discern at this point which of the various budget and target proposals are currently being pursued. However, it does appear clear that both utilities are still seeking either a 10% increase in budgets, or a 10% decrease in targets.

## 4.2 *General Increase*

*4.2.1* Union[18] and Enbridge[19] have both asked that their budgets be increased by 10%, essentially on the basis that their targets were increased by 10%, and to require them to deliver more with the same amount of money (i.e. greater productivity, as the Board noted) is unreasonable and unfair.

*4.2.2* In their January submissions, the utilities appear to have abandoned their direct request for more money, although Enbridge is seeking the Customer Incentive Fund, which is basically the same thing (see below).

*4.2.3* To the extent that the requests for general 10% budget increases remain, SEC submits that the utilities have not provided any evidence that they need it. If they truly believe that they should be able to collect more money from the customers to spend on DSM, then they should file an Application, with supporting evidence, to increase their rates to fund higher DSM spending. After proper discovery and testing, the Board can then determine if rates should be increased for that purpose, consistent with the Board's mandate under the Act.

## 4.3 *Customer Incentive Fund*

*4.3.1* Enbridge is seeking approval of a Customer Incentive Fund[20], which is basically an additional 10% of budget made available for incentives (not overheads) if the base budget is insufficient.

[18] Union September, p. 20
[19] Enbridge September, p. 25.
[20] Enbridge January, p. 36-38.

*4.3.2* SEC notes three things in this regard.

*4.3.3* First, each utility already has a DSMVA, which allows them to spend additional customer money on DSM for offerings that are successful.

*4.3.4* Second, each utility is already permitted to shift budget between programs and offerings, subject to limits, if more money is needed to achieve success in a particular area.

*4.3.5* Third, the Board already made a determination that the utilities could achieve their higher targets with their current budgets.

*4.3.6* What Enbridge is requesting is an additional 10% - $16.8 million – over and above the DSMVA, to provide extra money not for successful achievement of targets, but to buttress lack of success in achieving those targets. If an offering is unsuccessful, Enbridge wants to be able to spend more money on it.

*4.3.7* SEC submits that this proposal is an ill-conceived attempt to change the decision on the Enbridge DSM plan. It should, in our submission, be rejected.

## 4.4 ***Energy Leaders***

*4.4.1* The Board expressly determined that it would provide Energy Leaders funding for a limited period, and see how it went. Enbridge has now filed a report, which shows that the money was spent, and good results were achieved.

*4.4.2* Enbridge has proposed to continue the budget at the same level, and has suggested reasonable targets for results in the remaining years. The program is clearly cost-effective, and it is clearly driving leading edge technology.

*4.4.3* This is a small budget adjustment, and does not appear to be opposed by any of the parties. In SEC's view, the Board should approve it.

## 4.5 ***Energy Literacy***

*4.5.1* Enbridge was funded for 2017 and 2018 for an Energy Literacy program. The Board directed the utilities to work together to develop a joint Energy Literacy program, along with IESO and others, and make a proposal for the program for 2019 and beyond.

*4.5.2* Union advises the Board[21] that it has not developed such a program, and will not do so until the Board approves a $250,000 per year budget for that program, sight unseen.

[21] Union October, p. 19.

*4.5.3* Enbridge, on the other hand, advises[22] that they cannot develop anything together with Union or anyone else until Union gets a budget for this. Therefore, they have also not made any joint proposal.

*4.5.4* Enbridge has, however, asked for additional funds for this program, $500,000 in each of 2018-2020[23]. Enbridge has proposed that their scorecard include no metrics for this program[24].

*4.5.5* The Energy Literacy program may well be a useful addition in the future. SEC believes, though, that if the utilities are not willing to make a proposal to the Board, after the Board requested that they do so, there is nothing for the Board to fund. When the utilities do have a program to propose – one that includes joint delivery and performance metrics – that is the time for the Board to consider whether it is an appropriate use of customer funds.

## 4.6 ***Residential Adaptive Thermostats***

*4.6.1* Both programs included activities for residential adaptive thermostats, Enbridge as part of a full program in conjunction with Toronto Hydro, and Union as a pilot. Union is now asking for an additional $1.5 million per year to continue the program, that budget sized specifically to be equal to Enbridge on a per customer basis[25]. Union specifically notes that its program would achieve synergies through joint delivery with Enbridge, electrics, GreenOn, etc.[26]

*4.6.2* However, there is currently uncertainty as to whether there will be funding available on the electric side, in either service territory, and whether the program could be delivered more effectively as part of a combined DSM effort between the gas utilities after they merge their DSM programs as part of amalgamation.

*4.6.3* SEC submits that it is premature to provide additional funding for this program. If the utilities believe that this should be a higher priority than other things they are doing, they have room within their combined budgets to provide money for this. For the Board to order additional funding, it would have to have better evidence, particularly with respect to the continuing potential for this program to be delivered in conjunction with electrics. The Board would also, we believe, want to understand how delivery of the program in both the Union and Enbridge franchise territories will generate economies of scale and therefore greater cost-effectiveness.

[22] Enbridge October, p. 27.
[23] Enbridge January, p. 36.
[24] Enbridge January, Appendix C.
[25] Union January, p. 5.
[26] Union January, p. 4.

*4.6.4* In our submission, this additional evidence is better provided as part of the review of the next framework and plans.

*4.6.5* SEC also notes that the additional cubic meters Union proposes to add to the scorecard is likely to be the subject to testing during the eventual hearing on the proposal. At this point, the Board has insufficient information to be comfortable that the 2,665 net lifetime cubic meters per adaptive thermostat is a realistic assumption for this expanded program.

## 4.7 ***Changes to Budget Flexibility***

*4.7.1* The utilities propose that, when they move budget around to chase successful programs, as they are allowed to do, they should also be allowed to move shareholder incentives around as well.

*4.7.2* While this sounds intuitive, it is not. When the Board approves scorecards, it is implicitly approving a formula for determining shareholder incentives. If you allow the utility to change the scorecards to give greater incentives for successful programs, inevitably that will mean that shareholder incentives will increase.

*4.7.3* However, it is worse than that, because not all offerings cost the same. If you allow incentives to move with budget, that opens up the opportunity for the utilities to move budget, not because of success, but because it is easier to achieve some results than others. The Board's work in balancing customer sectors and other factors can be ignored.

*4.7.4* The structure of the incentive system should not, in our submission, be designed so that the utilities are encouraged to game it in order to improve their financial reward. The system should always encourage only delivering results.

*4.7.5* SEC submits that the scorecard weightings already adjust for the fact that some programs are more successful than others. They have been designed with that in mind. To allow further utility flexibility – related to their own compensation – is in our view just asking for problems.

## 4.8 ***Administrative Costs***

*4.8.1* SEC continues to be concerned about the level of overhead and administrative costs in the utilities DSM departments. There are three components to this issue.

*4.8.2* ***Dunsky Study.*** The Dunsky study filed by the utilities compared the administrative and overhead costs between them, and to other utilities offering substantial DSM plans. Unfortunately, because the budgets of the two utilities categorize costs uniquely, both with respect to each other and with respect to other utilities delivering DSM, Dunsky admits that benchmarking those costs is not really possible.

*4.8.3* The utilities should, as part of the integration of their DSM programs during their amalgamation phase, standardize their accounting and reporting, not just within their combined organization, but also compared to programs in other jurisdictions. This will facilitate future benchmarking. Below we suggest a way of doing this.

*4.8.4* ***Inclusion of All Costs***. Both utilities now admit that significant administrative costs that are directly related to DSM are not included in their DSM budgets. Enbridge, for example, notes "the following DSM costs are recovered through distribution rates, outside of DSM administrative and overhead budgets:"[27]. Union excludes similar items from their budgets[28].

*4.8.5* To put that in perspective, the Dunsky report lists approved 2016 overheads in the current plans of $31.2 million[29], which Dunsky says is probably overstated. However, substantial DSM costs were not included.

*4.8.6* For example, the total of the three categories listed by Enbridge – benefits and STIP, internal shared services, and space/assets uplift – appear to comprise more than 30% of Enbridge's current OM&A, while salaries and wages account for about 40%. Thus, if the salaries and wages component of the utilities' DSM overheads are, say $24 million, the additional amounts customers are paying for the excluded items are probably another $18 million[30].

*4.8.7* In our submission, the utilities' DSM budgets in their current format are misleading. The Board should direct the utilities, in their next plans, to file budgets showing all DSM-related costs, direct and indirect, and to do so in the same format as they file OM&A budgets in rate applications. That is, they should file their budgets by type of expenditure (salaries and wages, audit fees, etc.), and by project/program (residential resource acquisition, savings by design, etc.).

*4.8.8* ***Cost-Effectiveness Testing.*** SEC notes that the addition to the budgets of material costs that were previously excluded could impact the cost effectiveness of some parts of the utilities DSM plans.

*4.8.9* SEC submits that the Board should require the utilities, in their next DSM plans, in addition to full transparency on their administrative and overhead costs, to provide an

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[27] Enbridge Submissions, p. 8.
[28] Union October, p. 29.
[29] Dunsky, p. 3.
[30] This is a guess, of course. The utilities have not provided sufficient detail on their administrative costs for the Board to actually estimate them with any accuracy.

allocation of all costs to individual offerings, with a test of cost-effectiveness of each offering on a fully-allocated basis. This is how all other aspects of the utilities' business are costed. DSM should follow the same "fully allocated" protocol.

***4.8.10*** Even if the Board may ultimately conclude that certain offerings that would otherwise not be cost-effective should continue, it should do so with complete information.

# 5 SHAREHOLDER INCENTIVES

## 5.1 *General*

*5.1.1* Many of the utility proposals are, indirectly, attempts to change how their shareholder incentives are calculated. They have, however, been couched as matters relating to other issues, such as evaluation and audit, or the weighting of the scorecard. We have dealt with those proposals under those various headings, elsewhere in these Submissions.

*5.1.2* For ease of reference, SEC notes some of the proposals that are intended to make it easier to earn shareholder incentives:

*(a)* Change to a fixed net to gross. This would artificially increase the results reported by the utilities beyond what they actually delivered.

*(b)* Customer Incentive Fund. This would increase budget without increasing targets, making it easier to achieve the targets.

*(c)* Reduce targets by 10%.

*(d)* Reduce the productivity expectation for Market Transformation.

*(e)* Change the weightings on the scorecards so that some results will drive higher incentives (Savings by Design), while others will have less impact (lifetime cubic meters).

*(f)* Ability to shift shareholder incentive money on the scorecards at the same time as shifting budget money. This would encourage the utilities to optimize shareholder incentives, rather than optimize customer benefits.

*5.1.3* SEC understands it is human nature for the utilities to want to make achieving their incentive dollars easier. SEC submits that the Board, on the other hand, should expect more from the utilities, not less.

# 6 SPECIFIC PROGRAMS

## 6.1 *Enbridge – Multi-Year Commitments and DSMPIDA*

*6.1.1* SEC has elsewhere proposed an adjustment to the TAM to deal with the calculation of targets for offerings with multi-year commitments, such as Savings by Design. Enbridge is also asking for a deferral account to track future year commitments today, as if the money had been spent.

*6.1.2* As we have noted earlier, this proposal originally came up in 2013, and then in the 2015-2020 Plan. Hindsight being 20-20, it probably would have been best if it had been dealt with fully in EB-2013-0383, instead of being abandoned. Enbridge has not pursued it because all of the implications of the proposed deferral account on rates, and on the DSMVA, have not been worked out.

*6.1.3* This is undoubtedly a problem that has to be resolved, but the simple deferral account proposed in this proceeding is not the right way to solve it. This is part of a larger question of the proper matching of DSM spending with results, which not only affects Savings by Design, but also many of the more normal custom projects.

*6.1.4* SEC therefore submits that the Board should reject this request at this time, but encourage the utilities to engage with their stakeholders to find a workable solution to the increasing use of multi-year commitments to drive DSM.

## 6.2 *Union – Open Bill*

*6.2.1* Union notes that it has been working with Enbridge to learn about the Enbridge Open Bill program, and now expects to launch its own Open Bill, for DSM at least, in Q3 2018[31]. Given the passage of time, it is not clear that the Q3 target continues to be realistic.

*6.2.2* SEC is concerned that, with the amalgamation of Union and Enbridge, the residential billing systems are going to be combined into one system, almost certainly based on the Enbridge system. Thus, any money spent to add Open Bill to the legacy Union system will be wasted.

*6.2.3* SEC therefore submits that, unless the investment to include Open Bill in the Union system has already been made or committed, Union should pause that process at the present time. Open Bill should instead be included as one of the components of the combined Amalco CIS/billing system when it is rolled out. This will a) ensure consistency between the service territories, b) simplify participation by contractors

[31] Union January, p. 11.

and other service providers, c) support province-wide branding and other advantages that will improve end-user participation, and d) save money[32].

***6.2.4*** Since Open Bill would otherwise be funded by the DSM budget for Union[33], saving this essentially wasted spending should free up funds for some of the other priorities Union talks about in their various submissions.

[32] Central to the proposal of the utilities to amalgamate was that amalgamation has benefits. This is a perfect example of the truth of that statement.
[33] Union January, p. 13.

# 7 COLLABORATION WITH ELECTRICS

## 7.1 *General*

*7.1.1* SEC does not believe it is appropriate for the Board to spend any time right now reviewing the utilities' work in collaborating with the electrics.

*7.1.2* We are in a period of significant change when it comes to conservation spending. While the utilities should certainly be very attuned to those changes, and how they may affect their DSM programs in the future, significant investment in joint activities should, in our view, be limited until the new landscape is clearer. There is a real risk that money spent today will be wasted as the situation evolves.

# 8 INTEGRATED RESOURCE PLANNING

## 8.1 *General*

*8.1.1* SEC has reviewed a draft of the GEC-ED submissions on integrated resource planning, and generally agrees with their analysis and conclusions.

*8.1.2* SEC further notes that, with the potential that the cost-effectiveness of conservation programs will come under increasing attack over the next couple of years, IRP is even more important.

*8.1.3* It is often a challenge to convince skeptics that future savings – especially those calculated using the complicated system of engineering assumptions currently used in Ontario – are actually real. This is particularly true when actual gas consumption per customer around the province is not declining at all (in some years), or not declining at a rate consistent with the many millions of dollars spent on DSM in the last twenty years. While there are obviously arguments that support the value of past DSM, it is also probably true that evaluation methods have improved over time. Previous claims may have been higher than would be verified under current approaches. All of this feeds the arguments of conservation skeptics.

*8.1.4* IRP is simpler and easier to grasp. Increasing the size of a pipe to serve new subdivisions will cost $5 million, say. If we spend $2 million on targeted DSM in that specific area, that new pipe can be deferred well into the future, and the local residents and businesses affected have lower bills. This is not a complicated equation, and it doesn't depend on what a skeptic might label "wishful thinking". If we actually didn't invest in the bigger pipe this year, that money has not been spent. Simple as that. Every year we don't spend the capital dollars, the DSM spending is further justified.

*8.1.5* Gas distributors make their money through the ROE on capital investments, so they are not incented to replace capital spending with DSM spending (although, see below). They will move only very slowly in the direction of IRP unless the Board encourages them in a forceful way to speed it up.

## 8.2 *Amortization of DSM Investments*

*8.2.1* SEC agrees in principle with other parties that we know will be proposing the amortization of DSM investments, much like capital investments in gas distribution infrastructure. The spreading of costs with long term benefits/returns over that same payback period has intuitive merit, and should be considered by the Board.

*8.2.2* That having been said, the mid-term review is not the appropriate time to be making such a major change.

*8.2.3* In the next framework, there may well be a place for amortization of DSM spending, based on appropriate proposals and supporting evidence (including expert analysis, where appropriate). At this time, it would be helpful if the Board encouraged the utilities to review the potential for this option, and develop evidence analyzing the issues and potential benefits it would create.

*8.2.4* In the meantime, the current method of expensing DSM spending immediately should, in our submission, be continued.

# 9 OTHER MATTERS

## 9.1 *Costs*

***9.1.1*** The School Energy Coalition hereby requests that the Board order payment of our reasonably incurred costs in connection with our participation in this proceeding. It is submitted that the School Energy Coalition has participated responsibly in all aspects of the process, in a manner designed to assist the Board as efficiently as possible.

All of which is respectfully submitted.

Jay Shepherd
Counsel for the School Energy Coalition

# 2 MEASUREMENT VS. ASSUMPTIONS

## 2.1 *The CPSV Process*

***2.1.1*** The largest component of the savings claims for both Enbridge and Union are the results of custom projects, which include larger commercial, industrial, and multi-family residential. In those projects, while sometimes known and prescriptive equipment and techniques are used, for the most part the projects are specific to the particular plant, building, or enterprise of the customer.

***2.1.2*** Ontario has for many years audited the results of custom projects through the Custom Project Savings Verification process, known as CPSV. Initially under the supervision of the utilities, and now under the supervision of the auditor, trained engineers do a direct review of the project to ensure that it was implemented as claimed, and then check the savings calculations to make sure they are accurate and reasonable. Sometimes this takes place at the customer's site, and sometimes it is done by telephone (known as a TSER).

***2.1.3*** Rather than check all of the projects, as with any audit a sample is developed, designed to get statistically valid results that can be applied to the full census of projects. The sample is selected using strata, to make sure it doesn't erroneously rely on projects that are dissimilar to the norm. Much work has been done to ensure that samples are selected correctly, and the EC is a recognized expert in that area.

***2.1.4*** Once the sample is selected, and the sampled projects have been reviewed, the CPSV engineers reach a conclusion on the appropriate savings for each project reviewed. Those are aggregated into a gross realization rate, which is the percentage of claimed savings that the auditor thinks should be allowed. If the review shows that the actual gross savings for the sampled projects is 97.3%, then that percentage is applied to the gross savings claim of the utility for all custom projects to get the audited results (before NTG)[8].

***2.1.5*** The central principle surrounding custom project verification is that the actual projects for the year are reviewed, and a determination is made on the gross savings that have actually been achieved. The savings are, in effect, measured directly. This does not use assumptions. It uses measurement.

***2.1.6*** This after-the-fact verification of custom project savings claims is widely used throughout North America. No-one complains that the results are applied

[8] As with all of this, the actual process is more lengthy and complex than this description, but the above sets out what we believe to be a correct summary.

retroactively, because in fact they are not assumptions, but measurement[9].

## 2.2 *The Addition of NTG*

***2.2.1*** Some jurisdictions, such as California, go a step further. Instead of limiting their after-the-fact verification of results to the gross savings, California and other jurisdictions also verify, usually through survey questions, the utility influence on those sampled projects[10]. This allows them to get to a net savings figure that is the measured net impact of utility custom projects.

***2.2.2*** Note that this is not about updating assumptions. This is about measuring what actually happened in the year being audited.

***2.2.3*** Assumptions are used, usually in prescriptive or quasi-prescriptive programs, to calculate the impact of the program, because the actual impact is not being measured. If the average efficient boiler saves 35,000 ccm over its lifetime, and 500 were installed due to utility programs, it is possible to estimate the total ccm for those boilers. It is not a measurement, because you don't know the sizes of all of the boilers, or whether they were replacing one that died, or a newer one, or any number of other factors. To avoid having to go out into the field and check, averages and assumptions are used. The TRM contains many of these assumptions.

***2.2.4*** Custom projects are not verified based on generic assumptions[11]. When an engineer goes into a factory to assess the impact of, say, a higher efficiency grain drying system, the engineer looks at how the utility and the customer calculated the savings, and then applies his or her professional judgment to assess whether those savings are correct. The engineer determines what would have been installed in place of the efficient equipment, under standard industry practices; how long the old equipment would have lasted; what production forecasts are appropriate to determine future energy use; etc. While all forecasts are, of course, assumptions, they are in custom projects professional assessments based on the actual situation in which the efficiency measure is being installed. Whether the same equipment would on average have a higher or lower level of savings is not the issue. The issue is, what are the reasonable savings in this specific situation.

***2.2.5*** Thus, fundamental to the verification of custom project savings in Ontario has always been the principle that savings are measured, not assumed.

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[9] But the utilities do object when measurement of net results of these same projects is applied retroactively: EAIC p. 5, UAIC, p. 4.
[10] I.EGDI.SEC.67 and other references.
[11] The suggestion that this is so in B.SEC.32 is not correct. Although some custom projects include prescriptive measures for which there are TRM assumptions, those assumptions are only used for a particular custom project where the information on the ground is consistent with them being true. Thus, the fundamental exercise is still measurement, not assumptions.

***2.2.6*** Unlike places like California, Ontario has not yet applied that same principle to measuring the net savings, but has only applied it to gross savings. As GEC has for years been proposing, using the measurement approach to determine the NTG is a better, more reliable methodology, and the only sticking point is cost.

## 2.3 ***Replacing a Measured Value with an Assumed Value***

***2.3.1*** What the EC recommended for 2015, and OEB Staff accepted (after the EAC did not reach full agreement), was that since the already-contracted NTG Study was expected to look at 2015 projects anyway, and 2015 is the year being audited, it makes sense to apply the actual measured results for 2015[12].

***2.3.2*** That is what is now in the NTG Study that the Board has seen. The EC measured the net impact of the utilities' programs in 2015, using standard methods with statistical significance. The EAC supervised the process throughout. Nothing happened without discussion.

***2.3.3*** SEC submits that if the evidence shows that the utility program delivered X results, that should be the basis on which shareholder incentives are calculated. It is not reasonable, in our submission, to assume higher results when the Board already knows that those higher claimed results are not correct.

## 2.4 ***"Moving the Goalposts"***

***2.4.1*** The utilities argue that this is changing the rules of the game, "moving the goalposts" as Enbridge calls it[13].

***2.4.2*** With respect, this argument completely misses the point. The utilities had targets to reach. They didn't meet those targets, as demonstrated by direct measurement of their achieved results.

***2.4.3*** Should the utilities' targets be retroactively adjusted because they missed them? The utilities argue that their targets assumed certain NTG ratios, so if their actual program influence was lower than those assumptions, they should get the benefit of a retroactive adjustment. The principle proposed appears to be: if we missed our targets, lower our targets.

***2.4.4*** As GEC correctly points out in their Final Argument, for some programs the NTG assumptions are outside of the control of the utility. That is not, however, the case for

[12] This was not a unilateral decision of OEB Staff, as the utilities allege [I.EGDI.SEC.3]. It was much discussed, but the utilities did not agree, so there was not a 100% consensus at the EAC.
[13] EAIC p. 8, 9.

custom projects. It is widely accepted[14], including by the utilities[15], that the utilities have a level of control over the free ridership that arises in their custom programs. They can go back again and again to customers that they already know will be doing efficiency projects, in effect acting as order-takers. Conversely, they can be proactive, looking for opportunities for customers to be more efficient where the customer doesn't see it, or doesn't have the expertise, or doesn't have the knowledge of the latest techniques.

***2.4.5*** It is not unusual that, when commercial industrial programs become mature, the free ridership level gets very high[16], as the NTG study in this case shows. Customers become more sensitized to looking for savings. Efficiency is top of mind in many businesses. Utility intervention, even incentives, becomes less important for those customers, because the market is changing.

***2.4.6*** The answer to this is not to reduce the targets. The answer is for the utilities to identify where they can truly influence the decisions of customers, and focus on those areas. If a utility fails to do so, it will have higher free ridership. On the other hand, if the utility looks to maximize its impact on the market, free ridership will not increase.

***2.4.7*** The reason the Board allows utilities to spend customer dollars to seek efficiency, and incents those utilities when they succeed, is that the Board wants the utilities to have an impact. Otherwise, why spend the money?

***2.4.8*** In 2015, the Applicant has sufficient budget from the customers to deliver on its targets. It was unable to do so completely, despite spending that budget, and more. Part of the reason was insufficient focus on maximizing the utility's influence. The Board's response to that should not be to lower the targets, or to pretend the utility achieved more than they did.

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[14] E.g. by their own expert, Navigant: I.EGDI.SEC.76].
[15] I.EGDI.SEC.31.
[16] As noted by Navigant: I.EGDI.SEC.89, p. 4.

# 3 THE NTG STUDY

## 3.1 *Background*

***3.1.1*** It is useful to step back and look who is involved here. The senior person on the DNV/GL team that did the NTG work in the current audit is Mimi Goldberg. Whether or not she is the foremost expert in the world on this kind of analysis could be debated, but there is little doubt most experts in the field would rate her in the top five.

***3.1.2*** Also certainly included in that top five would be Dan Violette, formerly of Summit Blue and now with Navigant. Mr. Violette provided the Applicant's commentary on NTG best practices. He also was the lead author on the 2008 Summit Blue Free Ridership Study that the Applicant wants the Board to continue to apply[17].

***3.1.3*** It would appear to be common ground amongst the parties that, between Ms. Goldberg and Mr. Violette, this NTG issue is being dealt with by some of the top experts in the field.

***3.1.4*** It is instructive in this regard to see what Mr. Violette says about the DNV/GL study. The Applicant implies that Navigant thinks the EC did a terrible job[18]. What Mr. Violette actually says is the following:

> *"[Question:] Please specify where in Navigant's report that Navigant states the NTG study completed by DNV did not leverage a best-practice approach and should therefore not be considered as a reasonable proxy for the influence of Enbridge's programs.*
>
> *[Response:]… The scope of work for the Navigant study referenced above did not however call for it to comment on the NTG study completed by DNV. Accordingly, the Navigant report included at Exhibit B, Tab 6, Schedule 1 does not contain such a statement on the NTG study completed by DNV."*[19]

And also:

> *"For example, DNV made judgments in the scoring algorithm, such as the use of a 48 month cut-off. The Navigant team is not criticizing the DNV or any specific judgments. All research requires certain judgments."*[20]

[17] Although nowhere in Mr. Violette's evidence, including his interrogatory responses, does he propose that his out-of-date study should be used in preference to the current DNV/GL measurement of 2015 free ridership.
[18] See EAIC, p. 10, 19.
[19] I.EGDI.STAFF.20.
[20] I.EGDI.SEC.83.

***3.1.5*** The DNV/GL team carried out a standard self-report free-ridership survey on a statistical sample of 2015 custom projects for the Applicant and Union Gas. The EAC closely supervised the development of the survey instrument, the implementation of the survey, and the reporting of the results.

***3.1.6*** Spillover was more difficult, because it required a separate sample, survey and implementation process. Given the delays in the process[21], the EC recommended using a spillover value from a recent study in another jurisdiction (Massachusetts) that looked at somewhat similar kinds of projects. The EAC discussed it at length, and could not agree on whether to complete the spillover study before releasing the NTG report, or to use the proxy value in the NTG report, and complete the spillover study later. The utilities insisted on further delay.

***3.1.7*** In the end, OEB Staff had to make the call to go ahead with the proxy value, 3.4% spillover.

***3.1.8*** The Spillover Study has since been completed, after some difficulty due to the very small number of customers that said they did non-incented projects that were indirectly influenced by their program participation in prior years. The final draft is being discussed by the EAC at a meeting on May 2nd. As we note below, the results of the study show that, with the exception of Enbridge Multi-Residential, all of the measured spillover values are much lower than the 3.4% proxy value used for 2015 NTG purposes.

## 3.2 <u>*Critique*</u>

***3.2.1*** The Applicant has offered a number of critiques of the NTG Study carried out by the EC.

***3.2.2*** ***Board Requirements.*** The Applicant quotes the Board as saying that, in the rollover year, the assumptions that will be used will be those from prior years. The implication is that the Board ordered that NTG not be measured for 2015.

***3.2.3*** There are two reasons why the Applicant's submission is incorrect.

***3.2.4*** First, as GEC correctly points out in their Final Argument, what the Board ordered is a rollover of the 2014 rules to 2015 as a transition year. Those 2014 rules included best available information, applied retrospectively if available before the conclusion of the audit.

[21] Due to both the timing of the EB-2015-0029/49 decisions and resulting rate order process, and the challenges of transitioning to a new system.

***3.2.5*** What the Applicant appears to want is a selective rollover, in which 2014 rules favourable to the Applicant are rolled over, but if a new Framework rule is more favourable for 2015, then that should be applied. This is not appropriate.

***3.2.6*** Second, and perhaps more important, the Applicant seeks to categorize NTG as an assumption, like the engineering estimates for efficient equipment. While NTG can and often is an assumption, it can also be measured, which is what happened here[22]. As GEC correctly points out in their Final Argument, custom programs are particularly sensitive to utility program delivery, and therefore are particularly good candidates for direct measurement of NTG[23].

***3.2.7*** What the Applicant's argument boils down to is an assertion – which appears to be incorrect – that the Board said it did not want the 2015 (or 2016) NTG for custom projects to be measured accurately, and it would not consider accurate measurements if they were presented. Aside from being inconsistent with the Board's push for more accurate measurements of DSM results, it is not in fact what the Board said. The Applicant's tortured interpretation of how to apply the Board's words is not true to the sense of what the Board said, and should be discounted.

***3.2.8*** ***Selection of Auditor/EC.*** This is the most head-scratching allegation in the Applicant's argument. The Applicant complains that the selection of DNV/GL as EC was without their input and consent[24]. Therefore, their conclusions in the NTG study should be ignored.

***3.2.9*** What in fact happened is that the TEC unanimously selected DNV/GL to do the NTG study. The Applicant and Union Gas were included in that consensus.

***3.2.10*** OEB Staff, in the interests of efficiency, selected DNV/GL to carry out the rest of the 2015 and 2016 audits, including the NTG component[25].

***3.2.11*** The Applicant has not objected to any of the work of DNV/GL on any aspect if the 2015 audit other than the NTG study, the only component of that audit in which the Applicant actively supported the selection of DNV/GL after a thorough review of all candidates (and much discussion).

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[22] It was, in fact, the EC that proposed this approach: B.SEC.24, Attachment A.
[23] Both utilities point to California on the issue of NTG retroactivity. The approach the EC recommended and carried out, under the EAC's supervision, is, in fact, the same as the method used in California for custom projects: direct measurement applied retrospectively. See the comments of Navigant in I.EGDE.SEC.67, as well as responses by both Enbridge in I.EGDI.STAFF.17 and Union in B.SEC.38. The implication in I.EGDI.STAFF.1 to the contrary appears to be unintentionally misleading.
[24] I.EGDI.SEC.4 and UAIC, p. 3, 9.
[25] And the utilities did not object, as Union Gas, at least, admits: B.SEC.16. It is only after the NTG results came in, and were worse than the utilities expected, that DNV/GL suddenly was such a poor choice.

***3.2.12*** Thus, the complaint of the Applicant on auditor selection is completely misplaced. On the one thing in which they disagree with the auditor, they actively supported their selection[26]. They have nothing to complain about.

***3.2.13*** ***Use of Self-Report Survey.*** The Applicant objects that the use of a self-report survey is subjective, and introduces bias into the result[27].

***3.2.14*** At the same time, the Applicant filed evidence from experts that self-report surveys are far and away the most accepted standard for development of NTG numbers. The response of the Applicant and its experts confirms that this was the appropriate approach for the 2015 Ontario study[28].

***3.2.15*** Based on the evidence of the Applicant (and also on the reality in the market), this objection is not valid.

***3.2.16*** SEC notes that, like the Applicant, we have no love of the self-report survey, which seems to us to be unnecessarily subjective. However, after years of objecting to this approach, we have reluctantly accepted the advice of numerous experts, including all of those involved in this proceeding. that, if we want to measure the influence of utility programs on customer decisions, self-report surveys are the best method currently known. We don't like it, but it appears to be the best we have.

***3.2.17*** ***Sensitivity Analysis.*** The Applicant argues, quite correctly, that any self-report survey is particularly sensitive to the scoring algorithm used[29]. Their expert agrees[30].

***3.2.18*** SEC also agrees. We further agree that, in the best of all possible worlds, there should be a detailed review of that scoring algorithm, including sensitivity analysis. While it adds substantial amounts to the cost, it is usually worth it to get more reliable information. On these things, we agree with GEC as well.

***3.2.19*** However, every study by the Board or a utility must also be subject to time and budget constraints. Sometimes you can't do everything you want. An i may be left un-dotted, and a t uncrossed, in the interests of saving time or money.

***3.2.20*** In the particular circumstances of this case, and recognizing that the EAC and OEB Staff were relying on a firm that had done hundreds of these studies in the past, it was a reasonable judgment to skip the sensitivity analysis step. You might not want to do that every time you review NTG, but in a situation in which there are already

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[26] With respect to what's really happening here, please see Section 4 of this Final Argument.
[27] I.EGDI.SEC.37 and many other cites.
[28] I.EGDI.SEC.51, SEC.55, SEC.61. In fact, both experts agree.
[29] EAIC, p. 14.
[30] B/6/2, p. 3.

significant delays, and relatively high costs, there were efficiency goals that needed to be achieved.

***3.2.21*** As we note elsewhere, this complaint really boils down to reduced control of the process by the utilities, which we discuss in Section 4.

***3.2.22*** ***48 Month Cutoff***. Related to the issue of sensitivity analysis is the decision of the EC to treat projects that would have gone ahead without the utility program, but up to four years later, differently from those that would have gone ahead later. The questions were around whether, if the project would have happened anyway (free ridership, in other words), the program advanced the date the project would have happened. If it advanced the date by less than four years, attribution was reduced. If it advanced it by more than that, the project got full credit.

***3.2.23*** The utilities object that this criterion was arbitrary[31].

***3.2.24*** SEC agrees. However, we note that this cuts both ways. By way of example, if a utility program advanced a twenty-year project by five years, the utility gets 100% credit for all twenty years, even though in reality only the savings from the first five years arose because of the utility. On balance, the use of the cutoff favours the utility, but is a tradeoff given the increasing difficulty in forecasting future events that might have happened. That is why the EAC accepted the EC's proposal to use a four year cutoff[32].

***3.2.25*** ***Delay.*** The delay in the 2015 process, most of which was not the result of problems with the new OM&V structure, had two impacts.

***3.2.26*** The easy one is spillover. As we note below, inclusion of measured spillover in the 2015 NTG results was a casualty of the delay in the process[33]. The work has now been done, but it was more important to get the report filed than to get a relatively small number right.

***3.2.27*** The bigger concern is recall bias, noted in the expert reports[34]. The longer you wait to ask a customer what influenced their efficiency decision, the less likely they are to get the real influences accurate[35].

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[31] I.EGDI.BOMA.4, p. 3, EAIC, p. 17, and elsewhere.
[32] This issue is actually far more complicated than that, since it also brings into play whether the baseline (the counterfactual against which the efficiency measures are compared to calculate savings) should reflect the fact that the project would have occurred earlier than the end of the measure life. The NTG would then be higher, but the gross realization rate would be lower. Many EAC discussions revolved around how baseline, measure life, and attribution interact. The dividing line is not clear cut, but the method used by the EC in this case was appropriate.
[33] EAIC, p. 12; B.SEC.14.
[34] EAIC, p. 13, B/6/3, p. 20.
[35] We note that this is one of several biases, including acquiescence bias [I.EGDI.SEC.87], which usually goes the

***3.2.28*** There is no question that recall bias could be a problem in the 2015 study. However, it is important to understand clearly the choice the Applicant and Union Gas are presenting to the Board.

***3.2.29*** On the one hand, the Board could rely on a study by one of the foremost firms in the industry, and on which they are willing to give their opinion, that looks at the actual 2015 custom projects and measures the utility influence. The drawback is that it was probably done 12-18 months later than is optimal, due to factors outside of the EC's control.

***3.2.30*** On the other hand, the Board could rely on a ten year old study[36] by another top firm, which looked at very dissimilar projects delivered with a program that was not delivered in the same way. It was a study that used almost exactly the same methodology as the current study, despite implications from the utilities to the contrary[37]. And, by the way, it also had a similar problem with recall bias[38], since the genesis of some of the projects studied was four years earlier.

***3.2.31*** SEC submits that the transitional delay in the process should not affect the Board's conclusion whether to accept the results from the auditor.

***3.2.32*** ***Spillover.*** The Applicant complains that the NTG study does not include measured spillover. This occurred because the report was already delayed, so the EAC was asked whether a proxy number could be used (from Massachusetts) for one year only. The utilities objected, but ultimately that is what the auditor used[39].

***3.2.33*** We now have the results of that study, although they haven't been confirmed finally by the EAC[40]. The Enbridge results are as follows:

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other way, and trade ally bias {I.EGDI.SEC.86], which also tends to go the other way. .

[36] UAIC, p. 1, which suggests that the prior number is from the 2014 audit, is unintentionally misleading. The Summit Blue study was done in 2008. In fact, it was so old that, when asked for the backup documentation on that study, Enbridge said that it was too long ago, and the people involved had retired: [I.EDGI.STAFF.2]

[37] I..EGDI.STAFF.8, p. 5, is misleading in that respect.

[38] I.EDGI.SEC.52, Attachment, p. 10.

[39] UAIC, p. 2, 6, B.SEC.9, and many other references from the utilities say that there was no SEC consultation on the use of the proxy spillover value. That is not correct. OEB Staff, without prior consultation, asked the EC to see if they could find a proxy value that might be useful, and could shorten the process of completing the NTG study, which the utilities were insisting had to include spillover. The EC found a number that seemed to be relevant, and the EAC discussed whether it should be used. See I.EGDI.SEC.7, p. 2.

[40] That discussion is scheduled for a meeting May 2, 2018. Initial results had very limited data (and showed very low spillover), so by consensus the EC was instructed to get more data, and was able to do so. The revised results were circulated on April 6, 2018, and the revised final report was provided to the EAC on April 23, 2018.

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
| Custom Industrial | Etool Ventilation | 14.90% | 1.45% | 16.35% | 21.68% | 1.10% | 20.78% |
| | Heat Recovery | 55.25% | 1.45% | 56.70% | 28.59% | 1.10% | 27.64% |
| | Other | 31.04% | 1.45% | 32.49% | 16.79% | 1.10% | 16.75% |
| Custom Commercial | Etool Boiler and Boiler Add-on | 24.09% | 1.36% | 25.45% | 15.08% | 1.52% | 14.98% |
| | Etool Ventilation | 4.93% | 1.36% | 6.29% | 4.51% | 1.52% | 4.77% |
| | Steam Trap | 27.42% | 1.36% | 28.78% | 14.18% | 1.52% | 12.50% |
| | Other | 18.22% | 1.36% | 19.58% | 17.97% | 1.52% | 16.99% |
| Custom Multi-Residential | Etool Boiler | 26.18% | 8.24% | 34.42% | 16.98% | 6.35% | 17.46% |
| | Etool Ventilation | 19.70% | 8.24% | 27.94% | 21.22% | 6.35% | 21.89% |
| | Other | 97.10% | 8.24% | 105.34% | 4.23% | 6.35% | 7.57% |

With the following for Run it Right.

| Domain | Ratios | | | +/- at 90% Confidence | | |
|---|---|---|---|---|---|---|
| | 2015 Attr | SO | NTG | 2015 Attr | SO | NTG |
| RunitRight | 50.06% | 0.00% | 50.06% | 19.63% | 0.00% | 19.23% |

The Union results are:

| Sector | Domain | Ratios | | | +/- at 90% Confidence | | |
|---|---|---|---|---|---|---|---|
| | | 2015 Attr | SO | NTG | 2015 Attr | SO | NTG |
| Custom Industrial | Greenhouse | 40.40% | 0.89% | 41.29% | 26.50% | 0.56% | 25.89% |
| | Heat Recovery | 59.14% | 0.89% | 60.03% | 15.21% | 0.56% | 14.99% |
| | Leak Repair and Hydronic Insulation | 39.71% | 0.89% | 40.60% | 17.45% | 0.56% | 17.26% |
| | Operational Improvements | 10.15% | 0.89% | 11.04% | 14.35% | 0.56% | 13.55% |
| | Controls | 18.21% | 0.89% | 19.10% | 7.92% | 0.56% | 7.75% |
| | Steam Trap | 28.74% | 0.89% | 29.63% | 19.44% | 0.56% | 18.76% |
| | Other | 20.57% | 0.89% | 21.46% | 18.47% | 0.56% | 18.22% |
| Custom Commercial and Multi-Family | Controls | 78.05% | 0.00% | 78.05% | 39.03% | 0.00% | 33.82% |
| | Other | 38.02% | 0.00% | 38.02% | 30.75% | 0.00% | 30.06% |

With the following for Large Volume:

| Domain | Ratios | | | +/- at 90% Confidence | | |
|---|---|---|---|---|---|---|
| | 2015 Attr | SO | NTG | 2015 Attr | SO | NTG |
| Greenhouse | 5.67% | 0.82% | 6.49% | 12.33% | 1.12% | 11.56% |
| Heat Recovery | 12.55% | 0.82% | 13.37% | 12.03% | 1.12% | 11.61% |
| Leak Repair and Hydronic Insulation | 6.59% | 0.82% | 7.41% | 8.82% | 1.12% | 8.60% |
| Operational Improvements | 20.65% | 0.82% | 21.47% | 16.63% | 1.12% | 16.01% |
| Controls | 0.08% | 0.82% | 0.90% | 0.20% | 1.12% | 1.32% |
| Steam Trap | 9.31% | 0.82% | 10.13% | 11.30% | 1.12% | 10.91% |

***3.2.34*** The proxy value was 3.4%. As a result, the overall clearance amounts for both utilities would be reduced if the measured results for 2015 were used. For Enbridge, most spillover would be at 1.45% and 1.39%, with some at 8.24% and some at 0.0%. The result for Union Gas is worse.

***3.2.35*** SEC agrees that it is appropriate to adjust the audited amounts to use the measured spillover. However, given the status of this current proceeding, we believe that it would be better to apply these results to 2016 rather than 2015.

***3.2.36*** We note that the Applicant proposes to use zero spillover[41], which would be even worse still for them.

***3.2.37*** ***Secondary Attribution.*** Finally, the Applicant objects that the NTG study was supposed to include Secondary Attribution, and it did not[42].

***3.2.38*** Secondary Attribution is the influence of the utility's program activities in prior years on customer decisions this year. For example, if a utility convinced a customer ten years ago to implement a steam leak repair protocol, secondary attribution would say that steam leak repairs this year – and forever – would be credited to the utility for shareholder incentive purposes. This would occur even if, in the years in which the actual influence took place, the utility (spending customer dollars, of course) had achieved the maximum allowable incentive for the year. This year they would still get more for that past work.

***3.2.39*** We note that secondary attribution does not include influence with a long sales cycle, such as when a utility works with a customer for a couple of years to get approval for a project that is finally implemented this year[43]. Secondary attribution, by contrast, is work done in past years that, as a collateral result of the success of that early work,

[41] I.EGDI.STAFF.2, p. 4.
[42] EAIC, p. 10; UAIC, p. 6.
[43] SEC notes that, although SEC opposes secondary attribution, SEC initially identified the long sales cycle issue at the TEC, and proposed that it be included in current year attribution (NTG). See I.EGDI.STAFF.8, p. 3.

results in projects in the current year that were not directly influenced by the utility. In effect, the utilities in seeking secondary attribution want to receive incentives, not just for the projects they influence immediately, but also every time that customer does a similar project in the future.

***3.2.40*** The Applicant's position on this is wrong on two counts.

***3.2.41*** First, the Applicant argues that the TEC agreed by consensus to include Secondary Attribution in the NTG study[44]. This is not correct.

***3.2.42*** As is evident from the documents filed[45], this issue was hotly debated at the TEC, and no consensus was reached. The advice of DNV/GL was that including secondary attribution would cause delay and customer fatigue, and was not recommended[46], noting in a memo to the TEC:

> *"The surveys can be designed to capture either type of NTG, but we do not recommend attempting to capture both the current program and cumulative program versions of attribution and spillover at once; this would result in longer, more confusing surveys for customers."*

***3.2.43*** After much TEC discussion, it was accepted that the Board would ultimately have to decide whether incentives should be paid for secondary attribution, and that would happen in some form of contested proceeding. To assist the Board in that determination, the compromise survey design decision was that the NTG survey would include questions sufficient to get some indication of the magnitude of secondary attribution (through a question or series of questions in the survey at a less rigorous level of precision, insufficient for DNV/GL to form a professional opinion). The study would then have information that would allow the Board to determine whether secondary attribution should be considered.

***3.2.44*** At no time did the TEC or the EAC conclude that the NTG results for any year, whether 2015 or otherwise, should include secondary attribution. Any suggestion to that effect by the utilities in their pre-filed evidence or their arguments is incorrect[47].

***3.2.45*** Second, the Applicant's position that they should get current credit for influences they generated ten years ago, aside from having substantial recall bias, is inconsistent with how the Board has approved programs, and built targets and incentives. The Board has never considered incentives that include clipping coupons for work done in the

[44] EAIC, p. 11 and elsewhere.
[45] See I.EGDI.STAFF.5, Attachment 1, p. 4-7.
[46] Ibid, p. 4.
[47] The suggestion by Enbridge in I.EGDI.SEC.34 that they were surprised by the lack of inclusion of Secondary Attribution, is not credible. Given the history, anyone knowledgeable in what had transpired could not have been surprised.

distant past.

***3.2.46*** What the Applicant now appears to be saying is that, if they can't deliver on their targeted program results through their efforts this year, they should be able to bootstrap their incentives through annuities based on their past – previously incented – activities[48].

***3.2.47*** We note that this is even more egregious a position to take because, as the utilities freely admit[49], their targets don't even include any results arising out of secondary attribution.

***3.2.48*** Even if adding in secondary attribution were an appropriate result (which SEC strongly disputes), it is certainly not something that should be implemented after the fact.

## 3.3 ***SEC Conclusion***

***3.3.1*** SEC agrees with GEC that, while the NTG study for 2015 was not perfect, it was still very good. It is sufficient that the Board should rely on its findings.

***3.3.2*** The auditor, based on longstanding and extensive experience in NTG studies, has reached a conclusion on the appropriate net achievement of the Applicant in 2015. SEC submits that the Board should, in this situation, accept the auditor's findings.

[48] In the case of Enbridge, it would increase the amount of the incentive by more than $900,000: I.EGDI.BOMA.3, p. 2.
[49] B.SEC.26.

# 4 LOSS OF CONTROL OF THE PROCESS

## 4.1 *The Former EM&V Process*

***4.1.1*** Prior to the current (2015-2020) Framework, the EM&V process for gas DSM was managed by the two utilities[50] in a collaborative process that had evolved over time.

***4.1.2*** Initially, each of the two utilities had an audit committee made of up utility representatives, plus two or three representatives selected by the intervenors interested in DSM. Over time, the practice was that the three representatives would be one from environmental groups, one from residential customers, and one from non-residential customers, although that was not followed slavishly.

***4.1.3*** The early audit committees had limited visibility as to the activities of the auditor, who clearly worked for the utility. The utility selected the auditor, for example. The audit committee was not involved in that process. The utility had many meetings with the auditor not in the presence of the committee, and provided instructions at various levels of specificity. For example, it was the utilities that, without the knowledge of audit committees, developed a list of measure lives and told the auditors to use them.

***4.1.4*** This system evolved. For example, by no later than 2009 the utilities were providing their live TRC spreadsheet to one of the intervenor representatives who had expertise in the field, so that they could review the cost-effectiveness calculations, the incentives, and the LRAM results.

***4.1.5*** By the 2008 Framework, the intervenors reached agreement with the utilities for an increased role for the audit committee. Subsequently, during that Framework, the idea of an independent audit opinion was proposed and agreed. The intervenor representatives continued to get more information, and have more input into the process, but some aspects, and particularly the CPSV process, continued to be done with little audit committee input[51].

***4.1.6*** Throughout the period up until 2012, the utilities continued to do their own EM&V research, separate from the annual audits. While there were often informal consultations, that work (such as the Summit Blue Free Ridership Study in 2008) was clearly utility product.

***4.1.7*** In the 2012-2014 Framework, the parties agreed to terms of reference for the audit committees that, while still looking for consensus, allowed the non-utility reps to have the final say in the selection of the auditor. There was also more visibility in the

[50] I.EDGI.BOMA.9..
[51] See, for example, I.EGDI.SEC.16, Attachment, p. 2.

CPSV process, although it still took place under the close control of the utilities rather than the audit committees. During that same period, the audit committee members finally got full access to the live calculations[52].

***4.1.8*** That Framework also saw the formation of the Technical Evaluation Committee (TEC) to oversee general EM&V work, including a Technical Reference Manual (TRM). This was a joint committee, with multiple attendees from each utility, plus three intervenor representatives, and two independent experts.

***4.1.9*** By the time the 2015-2020 Framework was decided, two things had happened.

***4.1.10*** First, the problems with the utility-led CPSV process had erupted into contested proceedings, something the collaborative approach was supposed to avoid. Examples are EB-2013-0352 and EB-2013-0019, both of which included NTG as a major issue.

***4.1.11*** Second, the TEC had bogged down into bureaucracy and red tape, and insufficient progress was being made on major work bundles[53]. While much good work was done, too much time was being spent on procedural items, and not enough on substance. The focus on minutes, and terms of reference, and reports, and codes of conduct, etc., although of course necessary, ended up being out of proportion to the value of the items that really mattered.

## 4.2 ***The 2015 Process***

***4.2.1*** The 2015-2020 Framework stipulated that the entire EM&V process would be managed by OEB Staff[54]. The audit committees were gone, as was the TEC, and in their place was a combined advisory body, the EAC. The EAC had a similar composition to the TEC, but added OEB Staff in a co-ordinating role[55]. The most important feature, though, was the appointment of an Evaluation Contractor, an expert firm that would carry out audits, supervise other experts, and work under the direction of OEB Staff to ensure that gas DSM EM&V was done properly.

***4.2.2*** SEC and other intervenors opposed the move from the collaborative process run by the utilities to a new process run by OEB Staff. Our concern was that, after finally achieving more transparency (and independence) within the existing collaborative process, those hard-fought gains might be lost in a new process, in effect leaving intervenors starting from scratch. We were also concerned that OEB Staff would be

[52] B.SEC.29.
[53] See I.EGDI.STAFF.5, p. 2.
[54] UAIC, p.3. We note that, in the Union Gas argument, the suggestion is made that only the utilities and OEB Staff will collaborate, which of course is completely inconsistent with the model the Board was adopting (which had many perspectives at the table in the EAC).
[55] This term, "co-ordinating", has been the focus of much of the complaints from the utilities about claimed overreaching by OEB Staff.

challenged to have sufficient resources to handle the utilities' push for outcomes favourable to their bottom line. There was the potential, as SEC and others saw it, that the new process would be more an ongoing negotiation between OEB Staff and the utilities, where the utilities would have far more resources and where the customers' input would be less important.

***4.2.3*** Conversely, the utilities were generally accepting of the new process, and in their submissions on the 2015-2020 Framework did not express opposition to it.

***4.2.4*** As with most things, what happens in the real world is what matters. As implemented by OEB Staff, the process made listening to everyone's input the primary focus of the activity. Nothing happened without a discussion, and consensus was always sought[56]. When consensus was not achieved, OEB Staff made the call on how to move forward[57], but in no case did they do so without first listening to all points of view on the issues (usually at great length, particularly if the utilities did not agree)[58].

***4.2.5*** The implication[59] that OEB Staff was off on some frolic of their own, controlling the process and making arbitrary decisions, is just not factually correct. On some issues they didn't end up agreeing with the perspectives communicated by the utilities. That is not failure to listen[60]. That is failure to acquiesce, which is simply not the same thing[61].

***4.2.6*** The process benefited from the selection by OEB Staff of DNV/GL as the Evaluation Contractor. This had two advantages. First, DNV/GL was the contractor selected by consensus by the TEC to do the NTG Study, so OEB Staff knew the firm was acceptable to all parties. Second, DNV/GL is known to be one of the foremost EM&V firms in North America, so it should have been a relatively low risk choice.

***4.2.7*** Although it is true that OEB Staff made the decision to select DNV/GL, largely in the interests of timing, it is also true that this selection was discussed at the EAC, and none of the members of the EAC objected to the selection. While future ECs and other experts retained for this process will be selected with prior advice from the EAC, this choice, driven by the exigencies of the transition from one system to another, was

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[56] I.EDGI.SEC.1 and B.SEC.2 are simply wrong in this respect. See, for example, I.EGDI.SEC.7, SEC.16, SEC.33, STAFF.11, and BOMA.10, among other references. There should be no dispute that the EAC operates using a principle of full, meaningful discussion.

[57] Although in their June 2017 memo Enbridge did not agree with OEB Staff making such a call [I.EGDI.SEC.26, Attachment], they now appear to agree that OEB Staff has to have a residual ability to move the process forward: I.EGDI.SEC.13.

[58] The implication in I.EGDI.SEC.13 that "the Chair dominates" is not factually correct. In fact, as the EAC actually unfolded, it couldn't be further from the truth.

[59] EAIC, p. 20.

[60] See EAIC p. 14-16, I.EDGI.STAFF.11, and many other places.

[61] Enbridge now calls it "inexperience" [I.EGDI.SEC.11] but that appears to be a euphemism for "they didn't do what we wanted them to do".

the correct one to make. There are no legitimate complaints here.

***4.2.8*** Interestingly, one favourable result of the selection of EC was that they have, from the outset, seen themselves as fully independent from the utilities. In the past, experts retained by the utilities had to, in the end, satisfy the utilities in order to get paid. They were under contract to the utilities, even when they regularly reported what they were doing to the TEC, or to an audit committee.

***4.2.9*** That is not the case with the EC today. The new structure appears to have freed them up to exercise their professionalism fully. They report to OEB Staff, but they understand that they have multiple stakeholders and experts to whom they must answer, almost like a Board of Directors. This has given them more ability, it would appear, to provide the value of their expertise.

***4.2.10*** SEC does not suggest for a minute that the current process is perfect. There have been obvious missteps, and the process has suffered from what can charitably be described as birthing pains.

***4.2.11*** A good example is the practice followed by OEB Staff of reviewing expert work product of all types before it was seen by the EAC, including providing comments and input that was not seen by, or even known to, the EAC members. When this came to light, it was not the utilities that objected (despite their objections now), but non-utility members of the EAC. A second mistake was then made when OEB Staff – which could have handled the problem quickly and easily with transparency – instead doubled down and said they would not disclose their input to the experts, and would continue to do it. This was an error.

***4.2.12*** This has since been changed, and OEB Staff no longer massages the work of the experts before the EAC sees that work.

***4.2.13*** Similarly, a very volatile and sometimes opaque scheduling protocol[62] has now been fixed, with scheduling known well in advance and adjusted immediately when things happen faster or slower than planned. The 2016 process is, in that respect, much better than the transitional year in 2015.

## 4.3 ***SEC Conclusion***

***4.3.1*** There are still improvements that could be made, of course, but at the root of this is a process in which the utilities are no longer in control of what happens. They have a seat at the table, and their voices are heard. They are able to put substantial resources into trying to influence the EM&V process. They can and do have ten people attend EAC meetings, eager to help direct the results.

[62] See I.EGDI.SEC.22.

***4.3.2*** The complaints by the utilities in both of their applications are, at their root, about losing control of the process. It is human nature. They are fighting for every dollar of incentive and other funds. Control of the process allows them to direct the results more actively. The new process leaves them in a strong position to influence the results, but without their prior level of control.

***4.3.3*** This is an appropriate result. The audit of their results, and the expert work setting the parameters for those audits (like generic EM&V studies) should be independent of those being audited. In a financial audit, the process is managed by an independent audit committee of the Board of Directors, which provides input to the auditors. Management has ample opportunity for input to the auditors, but the auditors ultimately make the decisions based on their expert judgment.

***4.3.4*** This situation is really no different.

***4.3.5*** SEC believes that, if the Board can continue to maintain a fully collaborative and transparent process, while at the same time making it more independent, all stakeholders will benefit.

***4.3.6*** SEC also believes that the complaints from the utilities, while understandable given the changes that have occurred, should be seen for what they are: attempts to re-assert their control and achieve a more dominant role in the assessment of their own results.