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July 4, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

RE: EB-2018-0305 - 2019 Rates Application – Enbridge Gas Inc. – Submissions of London Property Management Association

Please find attached the submissions of the London Property Management Association in the above noted proceeding.

Yours very truly,

Randy Aiken

Randy Aiken
Aiken & Associates

c.c. EGI Regulatory Proceedings

Enbridge Gas Inc.

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

AND IN THE MATTER OF an Application by Enbridge Gas Inc., pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas of January 1, 2019.

SUBMISSIONS OF LONDON PROPERTY MANAGEMENT ASSOCIATION

A. INTRODUCTION

Enbridge Gas Inc. ("EGI" or "Enbridge Gas") file an application with the Ontario Energy Board ("OEB") on December 14, 2018 for an order approving just and reasonable rates for the sale, distribution, transmission and storage of gas for each of the Enbridge Gas Distribution, Union North and Union South rate zones to be effective January 1, 2019.

EGI submitted a Settlement Proposal to the OEB for its consideration on May 29, 2019 that covered a number of issues. The OEB approved the Settlement Proposal in Procedural Order No. 4 and set out a schedule for written argument on the unsettled issues.

EGI filed its Argument-in-Chief on June 17, 2019 ("AIC").

The following are the submissions of the London Property Management Association ("LPMA") with respect to the unsettled issues in the Settlement Proposal.

B. THE UNSETTLED ISSUES

Listed below are the unsettled issues along with the LPMA submissions on those issues.

<u>Issue 1 – Has Enbridge Gas responded appropriately to all relevant OEB directions from previous proceedings?</u>

Absolutely not. EGI is attempting to change the EB-2017-0306/EB-2017-0307 Decision and Order dated August 30, 2018 ("the MAADs Decision") for the benefit of its shareholder and at the expense of ratepayers. EGI is attempting to do this in two ways.

The first attempt deals with the proposed inflation rate used in the Incremental Capital Module ("ICM") for the Union Gas rate zone and the second attempt deals with the change in the treatment of the Union Gas variance accounts associated with the capital pass through projects approved throughout Union's Incentive Rate Mechanism ("IRM") that is place for rates for 2014 through 2018.

LPMA discusses the proposed inflation rate as part of this issue. Submissions related to the proposals related to the variance accounts are provided under Issue 5 below.

The calculation of the proposed materiality threshold of $375.2 million for the Union Gas rate zone is shown in Table 3 of Exhibit B1, Tab 2, Schedule 1. LPMA has no issues with the calculation of the materiality threshold, with the exception of the price cap index ("PCI") used.

EGI states that the OEB's calculation of the materiality threshold uses a current year PCI and can result in a value that does not represent the actual revenue increase during that period. In place of this OEB approved PCI, EGI has proposed to use a simple average of the actual PCI that was used to increase rates during the price cap IR term since Union's last rebasing.

The EGI proposal results in an PCI of 0.72%, as calculated in Table 4 of Exhibit B1, Tab 2, Schedule 1. In contrast, using the OEB approved methodology yields a PCI of 1.07%, the same as for the Enbridge Gas Distribution rate zone, also shown in Table 4. This figure was agreed to as part of the Settlement Proposal. This PCI is the sum of the inflation index of 1.37% as calculated in Table 3 of Exhibit B1, Tab 1, Schedule 1 and an offsetting productivity/stretch factor of 0.30%, which was approved in the MAADs Decision.

The impact of using an inflation rate of 1.07% in place of the 0.72% used by EGI in the materiality threshold calculation is significant. As shown in the response to Exhibit I.LPMA.11, use of the 1.07% PCI increases the materiality threshold for the Union Gas rate zone from $375.2 million to $398.5 million, an increase of $23.3 million or more than 6%.

More importantly, the use of the 1.07% PCI reduces the maximum eligible incremental capital from $143.3 million (Table 7 in Exhibit B1, Tab 2, Schedule 1) to $120 million, a reduction of more than 16%.

In the EB-2014-0219 Report of the Board *New Policy Options for the Funding of Capital Investments: The Advanced Capital Module* dated September 18, 2014, the OEB states with respect to the PCI (page 21):

> *"For ICM requests and ACM rate rider approvals in a Price Cap IR application, distributors should use the most recently approved IPI and stretch factor as placeholders in their initial filings, and then update that information during the course of the proceeding once the Board establishes updated parameters for the subject year."*

Clearly the updated parameters to be used in the ICM or ACM are for the subject year (in this case 2019) and not an average PCI over the previous IR term. This applies regardless of whether or not the subject year is the first year of the new IR term or any other year within the IR term. The OEB policy is clear – the PCI to be used in the materiality threshold calculation is for the subject year of the application.

LPMA notes that the OEB updated the materiality threshold formula in the EB-2014-0219 Report of the Board *New Policy Options for the Funding of Capital Investments: Supplemental Report* dated January 22, 2016. This supplemental report changed the formula to a multi-year formula and reduced the dead band from 20% to 10%. However, it did not make any changes to the definition or calculation of the PCI.

The MAADs Decision is quite clear with respect to the approval of the use of the ICM. In that proceeding, the applicants – Union Gas Limited and Enbridge Gas Distribution Inc. – proposed to comply with the OEB's ICM policy with one exception (MAADs Decision, page 30). That one exception, which the OEB denied, was related to the use of current long-term debt and current return on equity for determining the revenue requirement.

At no time did the applicants propose to change the methodology of calculating the PCI. The OEB approved the ICM as discussed in that section of the Decision, that is, the OEB's ICM policy as documented in the ICM reports and as articulated in decisions. EGI has provided no meaningful evidence to support a deviation from the OEB policy in the Union Gas rate zone.

Moreover, the OEB stated at page 33 of the MAADs Decision that:

> *"The OEB approves the proposed formula for calculating the materiality threshold for the ICM, including the 10% deadband.* ***This formula is the same one used for the ICM for electricity distributors.****"* (emphasis added)

As a result, LPMA submits that the OEB should direct EGI to use a PCI of 1.07% for the Union Gas rate zone, and a materiality threshold of $398.5 million and a maximum eligible incremental capital amount of $120 million.

LPMA notes that with an eligible incremental capital amount of $120 million, the Kingsmill Reinforcement project would make of the majority of this capital, at $118.2 million, as shown in Table 8 of Exhibit B1, Tab 2, Schedule 1, leaving only $1.8 million in total project ICM funding for the Stratford Reinforcement project.

Issue 5 – Should the proposed changes be made to the accounting orders for the following deferral accounts?

EGD Rate Zone
b) 179.48 Open Bill Revenue Variance Account

LPMA makes no submission related to this account.

Union Gas Rate Zones
g) 179-136 Parkway West Project Costs
h) 179-137 Brantford-Kirkwall/Parkway D Project Costs
i) 179-142 Lobo C Compressor/Hamilton to Milton Project Costs
j) 179-144-Dawn H/Lobo D/Bright C Compressor Project Costs
k) 179-149 Burlington Oakville Project Costs
l) 179-156 Panhandle Reinforcement Project Costs

The following submissions of LPMA apply to all six of the Union Gas rate zone deferral and variance accounts noted above.

EGI proposes to recover the revenue requirement associated with the capital pass-through projects from Union's 2014-2018 IRM term as a component of base rates and no longer as a Y factor adjustment (AIC, page 6). Furthermore, as indicated on page 5 of the AIC, EGI is proposing to change the deferral accounts related to the capital pass-through projects to only capture the revenue requirement impacts associated with utility tax timing differences. EGI claims that these proposals are responsive to the OEB's direction in the MAADs Decision.

LPMA submits that these proposals are not only <u>not</u> responsive to the OEB's direction in the MAADs Decision, but are an attempt to subvert the intent and outcome of the MAADs Decision for the benefit of the shareholder and the detriment of the former Union Gas ratepayers and should be denied by the OEB.

As part of the MAADs application, the utilities proposed to defer rebasing for ten years. The OEB approved a five-year deferred rebasing period (MAADs Decision, page 22). Now EGI has proposed a partial rebasing or adjustment to base rates to bring each of the Union Gas rate zone projects noted in this issue into rate base and rates in 2019 and increase the revenue requirement under the price cap mechanism for each of the subsequent years in the IR term.

LPMA notes that several intervenors, including LPMA, requested immediate rebasing for the merged utility and submitted that the OEB should require the merged utility to file a rebasing application for 2021 rates. The applicants argued that this approach was contrary to the OEB policies that focus on incentives, outcome and performance. (MAAD's Decision, pages 21-22).

LPMA finds it ironic that in the MAADs decision, the applicants argued for a ten year deferred rebasing period and now in the current proceeding are arguing for an immediate partial rebasing for the very first year of a shorter IR term.

LPMA also notes that nowhere in the MAADs Decision, does the OEB approve or even entertain the possibility of a partial rebasing during the deferred rebasing period.

The only mention of adding rate base associated with the capital pass-through projects to anything in the Union Gas rate zone is found at page 33 of the MAADs Decision:

> *"The rate base and depreciation associated with projects that were found eligible for capital pass-through treatment during the IRM term, shall be added to the 2013 OEB-approved rate base and depreciation in determining the eligible incremental capital amount for Union Gas' service territory."*

Clearly this deals with the calculation of the ICM materiality threshold and is not relevant to the partial rebasing proposed by EGI.

LPMA also notes that Union Gas had the opportunity to propose changes to base rates as part of the MAADs application. It did not, only bringing forward an adjustment to base rates related to the deferred tax drawdown. In making its decision with respect to base rate adjustments the OEB stated (MAADs Decision, pages 39-40):

> *"The OEB approves the four proposed base rate adjustments outlined above. No parties argued against these adjustments. The OEB will not make additional base rate adjustments as proposed by some intervenors. Absent rebasing, it is not clear what the drivers of the over-earnings are and whether they will be sustainable during the deferred rebasing period.* ***<u>Furthermore, a requirement to rebase certain elements upon an amalgamation would be contrary to the purpose of a deferred rebasing period.</u>****"* (emphasis added)

EGI did not bring forward a proposal to adjust base rates as part of the MAADs application. Now they want to effectively change the MAADs application by proposing an adjustment to base rates that the OEB has already indicated would be contrary to the purpose of a deferred rebasing period.

LPMA submits that the partial rebasing proposal is not acceptable within the rate framework approved by the OEB in the MAADs Decision and should be denied.

The EGI proposal to change each of the variance accounts associated with the 2014-2018 capital pass-through projects in the Union Gas rate zone is also inconsistent with the MAADs Decision.

In its EB-2017-0306/EB-2017-0307 Argument-in-Chief dated June 1, 2018, the applicants stated that they had set out in the pre-filed evidence the deferral and variance accounts that they proposed for the deferred rebasing period (page 29) and indicated in response to a question from the Board Chair, that these accounts were integral to the rate mechanism application.

The accounts that were deemed integral to the rate mechanism application and proposed for the deferred rebasing period are found in Exhibit B, Tab 1 of the pre-filed EB-2017-0307 evidence at pages 22 through 26 and in Attachment 4 to that tab. These integral accounts include each of the capital pass-through accounts that are at issue in this proceeding.

In approving the continuation of the accounts, the OEB stated (MAADs Decision, page 45) that:

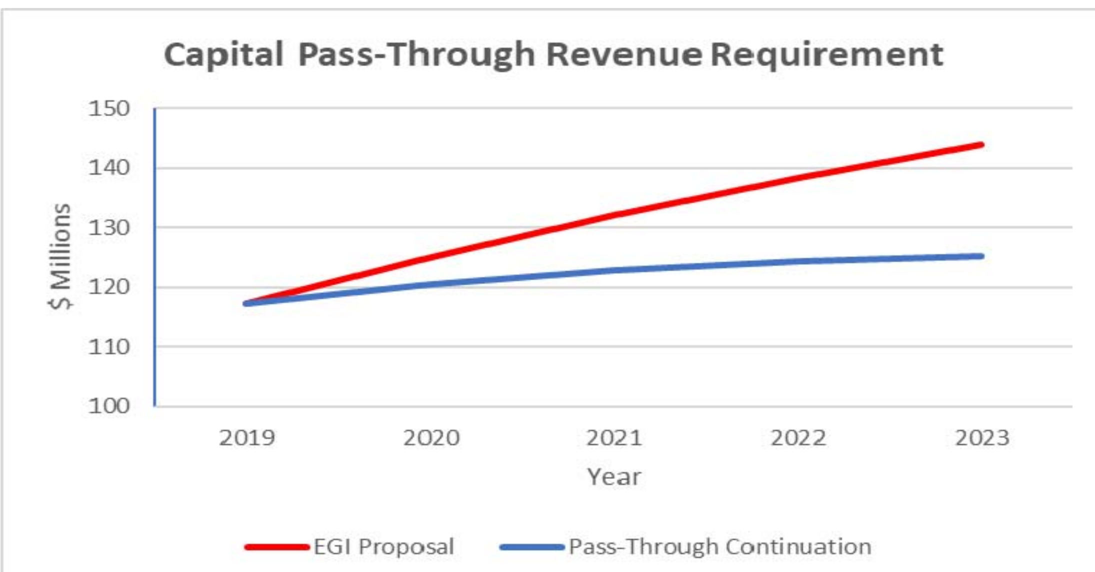
> *"The OEB accepts the applicants' proposal for the accounts that will be continued, with the exception of the Cap-and-Trade deferral and variance accounts which will be addressed in a separate proceeding.* ***<u>The other accounts were previously approved by the OEB and the underlying issues</u>***

***__that resulted in the establishment of these accounts still remain__.*" (emphasis added)

Less than a year later, EGI is proposing to make a fundamental change to these accounts. What has changed? The only relevant change is a reduction in the deferred rebasing period from ten years to five years. If EGI thought the continuation of these capital pass-through accounts was appropriate for ten year, why is it that they are no longer appropriate for the shorter five year period?

LPMA submits that the answer can be found in Exhibit JT1.2. The table provided as Attachment 1 shows the impact on the net revenue requirement based on the EGI proposal as compared to the continuation of the pass-through approach for each of 2019 through 2023.

While there is no difference in the 2019 net revenue requirement, the net revenue requirement under the EGI proposal is an increase of $4.5 million in 2020, $9 million in 2021, $14 million in 2022 and $19 million in 2023. On a total basis, the net revenue requirement is $46.5 million higher over the four-year period from 2020 to 2023. This is a whopping increase of more than 9.4% over this period. The following chart shows graphically the difference that results from the EGI proposal.



So why is EGI proposing this change now? Clearly the answer is money. They are requesting that the OEB approve a scheme to take an additional amount of more than $46 million out of the pockets of ratepayers and stuff it in the pockets of its shareholder, probably to make the merger between the utilities look better financially.

This proposal would make Union Gas ratepayers worse off by more than $46 million in 2020 through 2023 as a result of the merger and the proposal to discontinue the capital-pass through accounts. LPMA submits that the OEB should deny this cash grab and make the utility work to reflect financial benefits rather than to artificially create them through accounting measures.

Issue 7 – Are any rate design proposals appropriate in the context of previous OEB decisions, including:
a) One-time adjustment for Capital Pass-Through Projects

This issue is directly related to the EGI proposal related to the Union Gas rate zone deferral and variance accounts associated with the capital pass through projects approved during the Union Gas 2014-2018 IRM identified under Issue 5 above.

LPMA notes that if the OEB does not accept the proposed changes to the deferral accounts associated with the capital pass-through projects from the current approved methodology of Y factor pass throughs to the base rate increase proposed by EGI, then this adjustment is no longer relevant and is not required.

EGI proposes to recover the revenue requirement associated with the capital pass-through projects from Union's 2014-2018 IRM term as a component of base rates and no longer as a Y factor adjustment. Moving from a Y factor adjustment to base rates has no impact on what EGI will recover from customers in 2019. This can be seen in the response to Exhibit JT1.2, Attachment 1, where the 2019 net revenue requirement is $117,238,000 for both the EGI proposal and the continuation of the Y factor treatment.

However, as noted above under Issue 5, the EGI proposal results in the recovery of $656,805,000 from rate payers rather than $610,334,000 over the 2019 through 2023 period, as shown in Exhibit JT1.2, Attachment 1. This is an unjustified increase of more than $46 million, or 7.6%.

For the same reasons as provided under Issue 5, LPMA submits that the OEB should not approve the one-time adjustment for the capital pass-through projects as proposed by EGI.

Issue 9 – Do the USP and AMPs support approval of the ICMs?

With respect to the EGD rate zone, LPMA notes that the actual capital in-service additions for the 2014 through 2018 period (including actual 2018 additions) was approximately $611.7 million (Exhibit I.LPMA.10, Table 1). As shown in Table 1 in Exhibit B1, Tab 2, Schedule 1, the average capital in-service additions for the 2019-2023 IRM period is about $509 million. This would suggest to LPMA that the USP and AMP for the EGD rate zone does not support approval of an ICM for 2019. Supporting this position even more so is the fact that the 2019 forecast is for $481.7 million, which is less than the actual in-service additions for 3 of the 5 years in the 2014 through 2018 period.

With respect to the Union rate zone, the actual capital in-service additions for the 2014 through 2018 period (including actual 2018 additions was approximately $689.4 million (Exhibit I.LPMA.10, Table 2). As shown in Table 2 in Exhibit B1, Tab 2, Schedule 1 the forecast in-service capital additions over the 2019 through 2023 period average just over $523 million. In other words, based on the USP and AMP, the forecasted in-service additions in 2019 through 2023 are more than $166 million per year or nearly 25% less than the actual in-service additions over the 2014 through 2018 period. Clearly the USP and AMP do not support a need for the ICM for the Union rate zone. Again, the 2019 forecast of capital in-service additions is less than that recorded on an actual basis in the Union rate zone in 3 out of the 5 years during the 2014-2018 IRM.

Issue 10 – Are the costs of the ICM projects appropriate, to the extent that they differ from the costs considered by the OEB in granting leave to construct?

LPMA submits that the costs of the ICM projects are not relevant with respect to the use of the ICM if the cost differences from those considered by the OEB in granting leave to construct are driven by differences in O&M costs or property taxes. The exclusion of both O&M and property taxes from the ICM and the related rate rider calculation is discussed further under Issue 11 below.

If the costs differ from the costs considered by the OEB in granting the leave to construct primarily due to changes in the capital costs, LPMA submits that the OEB's ICM policy deals with this possibility.

Specifically, as described in Appendix A to the EB-2014-0219 Report of the Board *New Policy Options for the Funding of Capital Investments: The Advanced Capital Module* dated September 18, 2014, the OEB indicates that at the next cost of service application, there will be a review of the actual (audited) costs of the ICM project that will require the utility to provide an explanation for material variances between the actual and forecasted costs and timing, if applicable. Based on this review, the OEB may determine if any over or under recovery of the ICM rate riders should be refunded to or recovered from ratepayers.

The only question remaining, in the view of LPMA, is what costs should the rate riders be based on – the costs included in the leave to construct proceeding or in the current rates application?

LPMA submits that the OEB should approve the use of costs included in the leave to construct application for any project for which it approves the use of an ICM project. The cost of the project, including the economic and financial feasibility of a project is explored in depth as part of a leave to construct application.

In the current rates application, the focus is on the eligibility for the use of an ICM for a project and not on the cost of the project. The costs of the project, including changes in costs and the reasons for those cost changes are not explored in depth as part of the ICM issue. The OEB is not going to approve the updated capital cost estimates for a project as part of this proceeding, given that there is no issue in this proceeding that would allow them to do so. The project costs have already been approved as part of a leave to construct proceeding and EGI has not proposed that the OEB revisit the capital cost forecasts as part of this proceeding.

It is LPMA's submission that the ICM rate riders should be based on the approved costs of the project from the leave to construct proceeding. This is the only approved cost associated with a project. To use any other forecast of costs would be inappropriate.

<u>Issue 11 – Is the NPS 30 Don River Replacement Project in the EGD rate zone eligible for Incremental Capital Module (ICM) funding?</u>
<u>a) If yes, is the ICM rate rider for the NPS 30 Don River Replacement Project calculated appropriately?</u>

LPMA submits that the Don River Replacement Project should not be approved as eligible for ICM funding. There are two main reasons for this submission.

LPMA notes that the OEB ACM/ICM policy defines ACM/ICM projects as being discrete, incremental, necessary, material, and not part of the typical annual capital programs.

First, a replacement project should be considered part of the typical annual capital program. EGI replaces pipelines on a regular basis throughout its franchise each year. The Don River project is no exception to this.

Second, the revenue requirement impact of the project forecast to be recovered through the ICM is not material. As shown in Table 11 of Exhibit B1, Tab 2, Schedule 1, the highest revenue requirement over the 2019 through 2023 period is $1.227 million in 2021. This is well below the materiality threshold of EGI of $5.5 million as determined in the MAADs Decision and also below the materiality threshold of the EGD rate zone of $1.5 million.

<u>Issue 12 – Are the Sudbury Replacement Project in the Union North rate zone and the Kingsville Transmission Reinforcement and Stratford Reinforcement projects in the Union South rate zone eligible for ICM funding?</u>
<u>a) If yes, are the ICM rate riders for the Sudbury, Kingsville and Stratford projects calculated appropriately?</u>

LPMA is making separate submissions with respect to each of the three projects noted above. These submissions assume that the OEB determines that the Union Gas rate zone is eligible for an ICM in 2019. In addition to submissions on each of the three projects, LPMA has included submissions related to the inclusion of O&M and property tax expenses in the ICMs and on the timing of the implementation of the ICM rate riders.

<u>i) Kingsville</u>
LPMA accepts that the Kingsville Transmission Reinforcement project is a significant, incremental and discrete capital project and is likely to have a significant influence on the operation of the distributor. The forecasted revenue requirement for this project exceeds $10 million per year in each of 2020 through 2023 (Table 11 in Exhibit B1, Tab 2, Schedule 1). The total in-service forecast of $118.2 million (Table 8 in Exhibit B1, Tab 2, Schedule 1) represents more than 22% of the total forecasted in-service additions for 2019 of $527.5 million (Table 2 in Exhibit B1, Tab 2, Schedule 1). Clearly this is a significant project as it constitutes a large share of the overall capital expenditures in 2019.

However, LPMA also notes that the ICM filing requirements as articulated in the OEB Chapter 3 Incentive Rate-Setting Applications - Filing Requirements for Electricity Distribution Rate Applications – 2018 Edition for 2019 Rate Applications dated July 12, 2018 requires the provision of *"evidence that the incremental revenue requested will not be recovered through other means (e.g., it is not, in full or in part, included in base rates* *or being funded by the expansion of service to include new customers and other load growth)."*

The evidence related to this project (Exhibit B1, Tab 2, Schedule 1, pages 25-26) indicate that there will be recovery of at least some of the incremental revenue requested through the expansion of service to include new customers and other load growth. In particular, the evidence states that the project is needed to respond to increasing natural gas demand in the Kingsville-Leamington market. In fact, in approving the project, the OEB stated that the project addresses incremental demand in the Kingsville-Leamington area in 2019.

LPMA submits that given this increase in revenues, which do not appear to have been taken into account in the calculation of the net incremental revenue requirement, EGI has failed to establish the need for the ICM.

If the OEB does approve the use of an ICM for this project, LPMA submits that the OEB should direct EGI to take into account the incremental revenue that will be generated through the ability to serve this increasing demand for natural gas and the growth in customers that the project will enable. This should be done either through a reduction in the net revenue requirement to be recovered through the ICM rate riders or through separate tracking of the incremental revenue generated by the project for refund to ratepayers upon the next cost of service application review of the actual costs associated with the project.

<u>ii) Stratford</u>
LPMA submits that the Stratford Reinforcement project does not qualify for ICM treatment. The total in-service capital cost of $27.9 million (Table 8 in Exhibit B1, Tab 2, Schedule 1) represents only about 5% of the total forecast in-service additions in 2019 of $527.5 million (Table 2 in Exhibit B1, Tab 2, Schedule 1). LPMA submits that 5% is not a significant portion of the capital expenditures.

In addition, as shown in Table 11 in Exhibit B1, Tab 2, Schedule 1, the annual revenue requirement of this project is in the $2.1 to $2.3 million range in 2020 through 2023. This level of incremental revenue requirement is well below the materiality threshold of EGI of $5.5 million as determined in the MAADs Decision and also well below the materiality threshold of the Union Gas rate zone of $4.0 million.

LPMA submits that the OEB ACM/ICM policy defines ACM/ICM projects as being discrete, incremental, necessary, material, and not part of the typical annual capital programs. As noted above, the revenue requirement associated with the Stratford Reinforcement project is not material to EGI. LPMA also submits that projects such as this one is a typical reinforcement project. What can be more typical than reinforcing a pipeline to a community in order to be able to continue to serve existing customers and provide service to new customers?

Similar, to the Kingsville project above, LPMA again notes that the ICM filing requirements as articulated in the OEB Chapter 3 Incentive Rate-Setting Applications - Filing Requirements for Electricity Distribution Rate Applications – 2018 Edition for 2019 Rate Applications dated July 12, 2018 requires the provision of *"evidence that the incremental revenue requested will not be recovered through other means (e.g., it is not, in full or in part, included in base rates or being funded by the expansion of service to include new customers and other load growth)."*

EGI's evidence with respect to this project states (Exhibit B1, Tab 2, Schedule 1, pages 27-28) that the proposed facilities are required to meet the increasing demands for natural gas starting in the winter of 2019 and that without the project to increase capacity, EGI would not be able to service additional customers.

LPMA submits that EGI has stated that the project will result in service to additional customers and the capacity to serve increasing demands. This means more revenue as a result of the project. In other words, the evidence provided by EGI is the opposite of what is required to support the need for ICM treatment of a project. Again, if approved for ICM treatment, an allowance should be made in the net revenue requirement to reflect the recovery of additional revenue as a result of the project. In summary, EGI has failed to establish the need for the project capital costs to be recovered through an ICM given that there is incremental revenue associated with the project.

Similar to the submissions related to the Kingsville project, if the OEB does approve an ICM for this project, then LPMA again submits that the OEB should direct EGI to take into account the incremental revenue that will be generated through the ability to serve this increasing demand for natural gas and the growth in customers that the project will enable. This should be done either through a reduction in the net revenue requirement to be recovered through the ICM rate riders or through separate tracking of the incremental revenue generated by the project for refund to ratepayers upon the next cost of service application review of the actual costs associated with the project.

<u>iii) Sudbury</u>
EGI is requesting special treatment for the Sudbury Replacement project. The **<u>2018</u>** in-service capital addition for this project is $91.9 million (Table 8 in Exhibit B1, Tab 2, Schedule 1). Despite the project going into service at the end of October, 2018, EGI is seeking recovery of the prudently incurred Sudbury Replacement project costs beginning

in 2019 under the ICM mechanism. The evidence indicates that this is because of the transition to ICM from the capital pass-through funding for the deferred rebasing period.

However, unlike the Kingsville and Stratford projects, EGI is not proposing that the capital costs associated with the Sudbury project should be subject to the 2019 maximum eligible incremental capital amount of $143.3 million. As shown in Table 8 of Exhibit B1, Tab 2, Schedule 1, the entire $91.9 million cost associated with the Sudbury project is over and above the $143.3 million of maximum eligible incremental capital.

LPMA submits that the OEB should deny ICM treatment associated with the Sudbury Replacement project. As with the Stratford project, a replacement of aging pipelines is part of a typical annual program.

An even more important factor for denying ICM treatment of this project is that the expense took place prior to 2019. EGI is, in reality, requesting the OEB to approve an out of period ICM.

Similar to the Kingsville and Stratford projects, EGI has provided evidence that the Sudbury project and in particular the increase in the size of the pipeline to NPS 12 provides capacity for future growth on the Sudbury system (Exhibit B1, Tab 2, Schedule 1, page 24). Once again, this evidence not only does not support the need for ICM treatment of the capital costs, it suggests that at least some of the costs will be recovered through incremental revenue. Again, if approved for ICM treatment, an allowance should be made in the net revenue requirement to reflect the recovery of additional revenue as a result of the project.

Similar to the submissions related to the Kingsville and Stratford projects, if the OEB does approve an ICM for this project, then LPMA again submits that the OEB should direct EGI to take into account the incremental revenue that will be generated through the ability to serve this increasing demand for natural gas and the growth in customers that the project will enable. This should be done either through a reduction in the net revenue requirement to be recovered through the ICM rate riders or through separate tracking of the incremental revenue generated by the project for refund to ratepayers upon the next cost of service application review of the actual costs associated with the project.

As noted above, EGI is proposing that the entire $91.1 million cost associated with the Sudbury project be considered as recoverable over and above the 2019 maximum eligible incremental capital of $143.3 million. While this may make sense, since the $91.9 million capital was expended in 2018 and is not part of the 2019 forecast, it is not reasonable to imply that this amount is incremental to the 2019 forecast. Nor is it reasonable to consider that all of this amount should be recoverable through the a 2019 based ICM.

However, if the OEB determines that the Sudbury Replacement project merits ICM treatment, LPMA submits that the full $91.9 million should not be built into the ICM rate rider calculations. This was not a 2019 expenditure and as such should be not be considered in terms of the 2019 materiality threshold.

Because the expenditure was a 2018 investment, LPMA submits that the OEB should require EGI to calculate the materiality threshold for ICM purposes based on 2018 data, i.e. the year in which the expenditure actually took place.

For simplicity, LPMA proposes that all of the parameters used in the calculation of the materiality threshold for 2019 using the 1.07% inflation rate as proposed by LPMA be used in the calculation of the 2018 materiality threshold. As shown in Exhibit I.LPMA.11, this results in the 2019 materiality threshold of $398.5 million. LPMA submits that this should also be used as the materiality threshold for 2018.

Actual capital in-service additions in 2018 were $432.1 million, excluding the capital pass-through projects, as derived from the information provided in Table 2 of Exhibit I.LPMA.10. This figure is $33.6 million above the materiality threshold for the Union Gas rate zone. It is the submission of LPMA that this is the maximum amount that should be eligible for ICM recovery associated with the Sudbury project. It matches the 2018 costs with the 2018 actual expenditures, excluding the capital pass-through projects, rather than inappropriately and unjustifiably treating the 2018 expenditure as an addition to the 2019 forecast.

iv) O&M & Property Tax Inclusion in ICM

EGI proposes to include costs associated with the capital investment (return on rate base, depreciation expense and associated income taxes) as well as material incremental operating expenses (O&M and property taxes) if applicable (Exhibit B1, Tab 2, Schedule 1, page 29). The evidence goes on to state that because there is no material incremental O&M associated with the 2019 ICM eligible projects, O&M has not been included in the incremental revenue requirement calculation. However, incremental property taxes associated with the project facilities has been included in the incremental revenue requirement (Exhibit B1, Tab 2, Schedule 1, page 30).

LPMA submits that the OEB should direct EGI to remove the inclusion of O&M and property tax in the ICM costs to be recovered through rate riders both now and in future

ICM applications. The inclusion of these costs is not consistent with the OEB's policy with respect to the ICM or ACM.

In particular, the OEB Chapter 3 Incentive Rate-Setting Applications - Filing Requirements for Electricity Distribution Rate Applications – 2018 Edition for 2019 Rate Applications dated July 12, 2018 clearly states, at page 25, that part of the evidence to be provided as part of the ICM filing requirements is the "*calculation of the revenue requirement **(i.e. the cost of capital, depreciation, and PILS)** associated with each proposed incremental capital project.*" (emphasis added)

A review of the 2019 Capital Module spreadsheet, Version 4.20 confirms that the incremental revenue requirement includes only the return on rate base, the depreciation expense and the grossed-up income taxes. There is no recovery of O&M costs or of property taxes.

LPMA submits that the OEB should direct EGI to remove the property tax expenses that are included in the revenue requirement for any of the projects for which the it ultimately approves an ICM.

LPMA further submits that the OEB should make it clear to EGI that in any future ICM funding requests that it abide by the policy to include only the capital related components of the revenue requirement and to explicitly indicate that it has not included any O&M or property tax expenses.

v) Update of Income Tax Calculations
If the OEB approves any of the proposed projects for ICM recovery, LPMA submits that the OEB should direct EGI to update the calculation of the capital cost allowance ("CCA") available for the project to reflect the CCA acceleration measures that were introduced in the federal 2018 Fall Economic Update and that were substantively enacted as part of the 2019 budget implementation bill in April, 2019.

vi) Timing of Inclusion of the Rate Riders
As noted on page 32 of Exhibit B1, Tab 2, Schedule 1, in the first calendar year of a project's in-service date, the revenue requirement may be a credit balance due to utility timing differences related to the difference between utility income and taxable income. In other words, there is often a credit to ratepayers in the first year, followed by a debit to ratepayers in subsequent years. This is illustrated in Table 11 of Exhibit B1, Tab 2, Schedule 1 for the three projects that are placed into service in 2019.

EGI has proposed to reduce this volatility in the impact to customers by netting the credit balance in the in-service year with the balance in the second year and defer the ICM refund until the second year of the project. According to EGI this proposal ensures the credit balance of the first year accrues to the benefit of customers while maintaining stable predictable rate impacts during the deferred rebasing term. The EGI proposal would apply to the Don River Replacement, Kingsville and Stratford Reinforcement Projects, as noted above in Table 11 of the evidence.

While LPMA believes that there is merit in the EGI proposal, it notes that the 2019 credit balances would only attract interest at the OEB approved rate for deferral and variance accounts, which is based on short term interest rates. LPMA notes that the cost of capital used in calculating the capital costs in the ICM are based on the last OEB approved cost of capital and capital structures for the utilities.

LPMA submits that it is unfair and unjust to allow EGI to recover amounts from customers based on a weighted average cost of capital that is significantly higher than what the customers will earn on the credit balance in the ICM account for 2019. Customers should be given the same cost of capital as the utility is recovering from them. To do otherwise would be discriminatory against ratepayers.

If the OEB does not agree with the submission of LPMA that the interest rate on the 2019 credit should be the same as the weighted average cost of capital the utility has included in the ICM, then LPMA submits that the OEB should not accept the EGI proposal to defer the 2019 customer credits to 2020. The credits should flow to customers in the year in which they are incurred, in the same manner that, beginning in 2020, the debits will flow to customers in the year in which they are incurred.

<u>Issue 13 – Is Enbridge Gas' customer connection policy and Profitability Index calculation for consumers appropriate and in accordance with OEB guidelines?</u>

LPMA is not making any submissions on the appropriateness of the connection policy other than to note that the change in the policy, which took place prior to 2018 has two specific impacts. First, it increases the connection costs paid by residential in-fill customers. Second, upon rebasing, benefits will flow to ratepayers because the rate base will be lower by the amount of the increase in the connection payments from the in-fill customers. This will also reduce depreciation expense upon rebasing.

However, even if the change in the policy is appropriate and in accordance with OEB guidelines, LPMA submits that the OEB should determine whether the change in the policy in a non-cost of service year was appropriate given that the result will be a higher return to the shareholder during the IRM term because of the reduced rate base, reduced depreciation expense, and no impact on revenues.

C. COSTS

LPMA requests that it be awarded 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED
July 4, 2019

Randy Aiken
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