Ontario

ONTARIO ENERGY BOARD

STAFF SUBMISSION ON
ENBRIDGE GAS INC. 2020 RATES APPLICATION
PHASE 2
EB-2019-0194

April 7, 2020

Background

On August 30, 2018, the Ontario Energy Board (OEB) approved the amalgamation of Enbridge Gas Distribution Inc. (EGD) and Union Gas Limited (Union Gas).[1] In the amalgamation decision (the MAADs Decision), the OEB also approved a rate-setting framework and associated parameters for the deferred rebasing period of 2019 to 2023. The companies amalgamated to form Enbridge Gas Inc. (Enbridge Gas) on January 1, 2019.

Enbridge Gas filed an incentive rate-setting mechanism (IRM) application with the OEB on October 8, 2019 seeking approval for changes to its natural gas distribution rates to be effective January 1, 2020. This application is Enbridge Gas's second annual rate adjustment application under the Incentive Ratemaking (IRM) framework approved in the MAADs decision.

In this application, Enbridge Gas requested that the application be processed and adjudicated in a bifurcated manner to allow for updated interim rates to be in place for January 1, 2020. Enbridge Gas proposed that rate adjustments relating to the IRM component be processed and adjudicated first, and that matters related to the incremental capital module (ICM) funding and the cost allocation study be addressed in Phase 2 of the proceeding.

In Procedural Order No. 1 dated November 12, 2019, the OEB accepted Enbridge Gas's request to process and adjudicate the application in a bifurcated manner. Accordingly, the first phase of the proceeding addressed the IRM related elements and certain deferral and variance accounts. These elements included the annual rate escalation, pass through-costs, capital pass-through adjustments and Parkway Delivery Obligation rate adjustments.

In Procedural Order No. 1, the OEB set an accelerated schedule for Phase 1 of the application to facilitate rates to be implemented January 1, 2020. The parties (applicant and intervenors) reached a settlement on all issues in Phase 1 of the proceeding. In a decision issued on December 5, 2019, the OEB accepted the settlement proposal which included an interim rate order for rates reflecting the IRM adjustments effective January 1, 2020. The OEB also set procedural timelines for discovery of evidence related to Phase 2 of the proceeding.

Phase 2 of the proceeding addressed the following four main issues:

[1] EB-2017-0306 / 0307 (the OEB's Decision on an application filed by Enbridge Gas Distribution and Union Gas Limited under the OEB's policy on mergers, amalgamations, acquisitions and divestitures), August 30, 2018.

1. Asset Management Plan Addendum and ICM Funding
2. Cost Allocation Update
3. Unaccounted for Gas Report
4. E-billing

In Procedural Order No. 3 issued on February 25, 2020, the OEB scheduled written final arguments with respect to the four outstanding issues. OEB staff has provided a summary of its position on each of the issues below followed by a detailed discussion.

- Enbridge Gas has reduced certain Information Technology (IT) spending for the 2020 rate year in the EGD rate zone, but has replaced the reductions with new capital spending resulting in the capital budget for 2020 remaining constant. OEB staff submits that Enbridge Gas has not explained or justified the new spending and therefore the reduction of $7 million in IT spending should be reflected in the 2020 in-service capital forecast to calculate the maximum eligible incremental capital.
- OEB staff submits that the Don River Replacement and the Windsor Line Replacement projects should be eligible for ICM funding. Based on the reduction proposed to the in-service capital forecast for the EGD rate zone, the maximum eligible incremental capital would decline from the proposed $30.1 million to $23.1 million. Therefore, Enbridge Gas would be eligible to recover through rates $23.1 million for the Don River Replacement project. Although OEB staff has sought clarification for the advancement of certain capital expenditures to replace reductions in IT spending for the Union rate zone, it has not proposed a change to the Union rate zone ICM eligible amount.
- In response to the OEB's directive in the MAADs Decision, Enbridge Gas submitted a cost allocation study to update for certain capital projects completed by Union Gas during the last IRM term (2014-2018). OEB staff supports the methodology underpinning the study. However, since a rate design proposal will need to be developed for implementation, OEB staff supports implementing the study no earlier than with 2021 rates in the event that the OEB is inclined to approve and implement the study in advance of rebasing. That said, considering the significant rate impact and discrete nature of the cost allocation changes, OEB staff submits that there are advantages to conducting a comprehensive cost allocation review in advance of any implementation and that this could best be accomplished at rebasing and not during an IRM term when customers expect greater rate certainty and predictability.
- Enbridge Gas filed an Unaccounted for Gas (UFG) report in response to the OEB's directive in the MAADs Decision. OEB staff has reviewed the report

including Enbridge Gas's responses to interrogatories, and has no concerns regarding the UFG report.

- In principle, OEB staff supports the e-billing initiatives of Enbridge Gas. However, OEB staff is concerned with the involuntary switching of customers to e-billing. In order to protect customers' preferences and interests, OEB staff submits that going forward, Enbridge Gas should require the consent of customers to switch to e-billing.

The details of OEB staff submissions are discussed below.

1. Asset Management Plan Addendum and ICM Funding

In this application, Enbridge Gas requested funding for two ICM projects, one for each of the EGD and Union rate zones. In support of its ICM funding request, Enbridge Gas filed an Asset Management Plan (AMP) addendum, which provided an update for the 2020 budget year for the EGD and Union rate zones.

The OEB's ICM materiality threshold calculation results in a 2020 threshold value of $487.1 million for the EGD rate zone and $444.1 million for the combined Union rate zones. The resulting maximum eligible incremental capital for the EGD rate zone is $30.1 million and $84.2 million for the Union rate zones. The maximum eligible incremental capital determines the maximum ICM funding that a utility can request during a rate year. The starting point to determine the maximum eligible incremental capital is the forecast capital budget. Therefore, it is necessary to determine if the forecast capital budget for 2020 is reasonable.

OEB staff notes that the updated AMPs of EGD and Union Gas rate zones are similar to those filed in the 2019 rates application. There are some minor changes but most of the projects and the spending amounts are the same as filed in 2019.

In the 2019 rates application, OEB staff pursued some of the IT spending and argued that not all of the proposed IT spending was required considering that the former utilities have merged and should be reviewing their IT needs and infrastructure before spending on the individual legacy utilities' IT projects. The OEB in its 2019 rates decision reduced IT spending by $13.1 million for the EGD rate zone and accordingly Enbridge Gas did not have any room for funding ICM projects in 2019 for the EGD rate zone.

In this application, OEB staff asked follow-up questions to get an update from Enbridge Gas regarding the review of its IT needs going forward and the IT synergies/savings that will be achieved as a result of the amalgamation. Enbridge Gas in response to an interrogatory indicated that it has reduced IT spending by $7 million for the EGD rate zone and by $8.5 million for the Union rate zone.[2] However, these reductions have been offset by the advancement of certain projects and new spending. In other words, new capital expenditures have been proposed to offset the reductions in IT spending or future capital projects have been advanced with the result that the starting point (capital forecast) for determining the threshold value does not change.

Enbridge Gas provided specific projects for the Union rate zones that have been advanced (Hamilton Gate Station and London Rapid Transit) and provided a breakdown of the reductions in specific IT spending, but for the EGD rate zone, Enbridge Gas stated that the replacement of $7 million in spending within the portfolio "was the creation of specific projects rather than forecast program spends, plus the advancement of meter hand held replacements and a reduction in WAMS enhancement releases".[3] OEB staff notes that there is no information on what these specific projects are and whether they were identified in the AMP. Furthermore, Enbridge Gas has not provided reasons for the advancement of meter hand held replacements. Therefore, OEB staff submits that the $7 million should be reduced from the capital budget to determine the ICM materiality threshold.

For the Union rate zone, OEB staff notes that the Hamilton Gate Station has been identified in the AMP but the London Rapid Transit project was not. In the AMP, the Hamilton Gate Station is scheduled to be rebuilt in 2021. The Hamilton Gate Station Refurbishment Project is a partial rebuild at both Gate #1 and Gate #2 scheduled to be completed in 2022. The AMP notes that the project will begin with refurbishing equipment at Hamilton Gate #2 in the summer of 2021.[4] However, Enbridge Gas has not provided any reasons for advancing the project to 2020. Considering that Enbridge Gas spent $1.9 million in 2019 for maintaining the Hamilton Gate Station, it is not clear why the maintenance spending in 2019 did not enable Enbridge Gas to adhere to the original schedule. OEB staff invites Enbridge Gas in its reply submission to provide the reasons for the advancement of the project and explain why the maintenance spending of $1.9 million in 2019 was insufficient to prevent the advancement of the project.

OEB staff is aware that the City of London plans to build dedicated bus lanes.[5] Enbridge Gas proposed new spending in relation to relocating infrastructure for the City's Rapid Transit project. However, OEB staff is of the view that Enbridge Gas would have known of the City of London's plan for some time and generally municipalities plan for large projects years in advance.[6] It is not clear why the relocation project noted above was

[2] Response to OEB Staff IR#20.
[3] Response to OEB staff IR#20b.
[4] Union Gas AMP, Exhibit C, Tab 3, Schedule 1, pp. 165-167, AMP ID 2304 and 2353.
[5] https://www.londonbrt.ca/
[6] The City Council approved London's Rapid Transit Master Plan in July 2017.

not identified in the AMP of the Union rate zone. If the project was included with other relocations, OEB staff invites Enbridge Gas in its reply submission to identify the above project in the AMP. If it was not included, OEB staff would like to understand the reasons for the exclusion.

In summary, OEB staff submits that the $7 million that Enbridge Gas has labelled as "shifted within the portfolio"[7] in relation to the EGD rate zone should be subtracted from the in-service capital forecast for 2020 as the limited evidence provided is insufficient to support the replacement expenditures.

The resulting threshold calculations are provided below:

Table 1

Particulars ($ millions)	EGD Rate Zone	Union Rate Zone
2020 In-Service Capital Forecast	510.2*	528.3
Less: Materiality Threshold Value**	487.1	444.1
Maximum Eligible Incremental Capital	23.1	84.2

* reduction of capital spending by $7 million as discussed above
** The materiality threshold value calculation is revised from 1.36% to 1.31% as per settlement proposal

Don River Replacement Project – EGD Rate Zone ICM Project

Enbridge Gas requested ICM funding for the Don River Replacement Project. The project is needed to replace approximately 0.25 km of NPS 30 XHP on the Don River Bridge crossing with a new NPS 30 XHP under the Don River. The project was approved by the OEB in the EB-2018-0108 leave to construct application and was identified in the 2019 AMP. In the 2019 rates application,[8] Enbridge Gas requested ICM funding for the Don River Replacement Project but based on the ICM materiality threshold calculation there was no room for ICM funding in the EGD rate zone. However, the project was postponed and Enbridge Gas submitted a Request to Vary with the OEB on October 15, 2019. Enbridge Gas indicated that as a result of certain permit delays, it was unable to complete the final tie-in of the pipeline until the next planned maintenance shut-down of a large volume customer which is scheduled for April 2020. Enbridge Gas considered an alternative option for tying in the pipeline in the winter of 2019 with the use of a bypass but rejected the option due to operational risks

[7] Response to OEB staff IR#20b.
[8] EB-2018-0305

and network constraints. The Don River Replacement Project is now scheduled to be put into service in May 2020. The OEB approved the variance in a letter dated December 5, 2019. Considering that the project is now expected to go into service in 2020, Enbridge Gas has requested ICM funding for the project in this proceeding.

The ICM test is based on need, materiality and prudence. The need and prudence of the project has already been established in the leave to construct proceeding. With respect to materiality, OEB staff notes that the total project cost is $35.4 million which is material in comparison to the overall budget[9] and has a significant impact on Enbridge Gas's operations. Accordingly, OEB staff submits that the project qualifies for ICM funding. If the OEB accepts the argument of OEB staff regarding the insufficient evidence and rationale for the projects that were added to compensate for reductions in IT expenditures, the maximum eligible incremental capital for the EGD rate zone reduces from $30.1 million to $23.1 million as per Table 1. Consequently, the ICM eligible amount for the Don River Replacement Project would be $23.1 million.

Indirect Overheads – Don River Project

The allocation factor of indirect overheads for the EGD rate zone it is 36.4%.[10] In this application, Enbridge Gas clarified the costs that are included as indirect overheads for the EGD and Union Gas rate zones. EGD in its indirect overheads includes administrative general overheads, departmental labour costs (direct support from operations and engineering departments), interest during construction and alliance partner overheads. Enbridge Gas has further provided the actual overheads from 2014 to 2019 for the EGD rate zone. The data shows that the overhead percentage based on total capital and total overheads for the years 2016 to 2019 ranges from 36% to 53%.[11] In the 2019 rates proceeding, the OEB approved the allocation of indirect overheads to ICM project costs.[12] OEB staff has no concerns with the indirect overhead allocation factor of 36.4% for the EGD rate zone.

<u>Windsor Line Replacement Project – Union Rate Zone ICM Project</u>

A significant portion of the existing Windsor pipeline consists of pipe that is between 70 to 90 years old. Enbridge Gas proposed to construct approximately 64 kilometres of nominal pipe size (NPS) 6 natural gas pipeline (Proposed Pipeline) in order to replace a section of the existing Windsor NPS 10 pipeline (along with short sections of NPS 8

[9] 7% of the EGD rate zone capital forecast for 2020 and 3.4% of the total Enbridge Gas capital forecast.
[10] EB-2018-0305, Response to Undertaking JT1.7.
[11] Response to Energy Probe IR#1.
[12] EB-2018-0305, Decision and Order, September 12, 2019, p.29.

pipe). Enbridge Gas filed a leave to construct application with the OEB for the Proposed Pipeline on August 9, 2019.[13]

The total budget for the project is $106.8 million and the proposed in-service date is November 2020. Of the $106.8 million, $91.9 million is forecast to go into service in 2020.

As indicated earlier, the need and prudence of a project is determined in a leave to construct application. The OEB issued its decision on the leave to construct application on April 1, 2020. In its decision, the OEB determined that the need for the replacement project is supported by the integrity concerns identified and the age of the pipeline.[14] With respect to materiality, OEB staff agrees that this is a discrete project with a significant capital outlay when compared to the total 2020 capital budget of Enbridge Gas.[15] Accordingly, OEB staff submits that the project should qualify for ICM funding. Although the OEB in the leave to construct decision approved a lower amount of $105.5 million for the project, the change in the approved amount does not impact the ICM funding request as the 2020 maximum eligible incremental capital for the Union rate zone is $84.2 million.

ICM Revenue Requirement

Enbridge Gas has provided the incremental revenue requirement for the EGD and Union rate zones related to the two ICM projects.[16] Enbridge Gas has also calculated the average annual revenue requirement during the IRM term. OEB staff requests Enbridge Gas to provide in its reply submission the revised revenue requirement and resulting rate impacts based on staff's position in this submission (i.e. reduction in the ICM eligible amount for the Don River Replacement Project). This will allow the hearing panel to be aware of the resulting rate impacts if they were to approve OEB staff's position on this matter.

2. Cost Allocation Study

In the MAADs proceeding, a number of intervenors raised concerns regarding inequities in cost allocation and the over-allocation of costs for some rate classes.[17] In the absence of rebasing, intervenors argued that Enbridge Gas should be required to

[13] EB-2019-0172.
[14] EB-2019-0172, Decision and Order, April 1, 2020, p. 5.
[15] $106.8 million of $1,039 million (10.3%) in 2020 in-service capital forecast for Enbridge Gas Inc.
[16] Exhibit B, Tab 2, Schedule 1, p.28.
[17] APPrO, IGUA, City of Kitchener, SEC and TransCanada raised concerns regarding cost allocation in EB-2017-0306/0307.

update the cost allocation to account for certain projects that were completed by Union Gas during its 2014-2018 IRM period. The OEB in the MAADs Decision on page 41 noted:

> However, the OEB is concerned about the cost allocation issues raised by parties for Union Gas' Panhandle and St. Clair systems. The OEB therefore requires Amalco [Enbridge Gas] to file a cost allocation study in 2019 for consideration in the proceeding for 2020 rates that proposes an update to the cost allocation to take into account the following projects: Panhandle Reinforcement, Dawn-Parkway expansion including Parkway West, Brantford-Kirkwall/Parkway D and the Hagar Liquefaction Plant. This should also include a proposal for addressing TransCanada's C1 Dawn to Dawn TCPL service. The OEB accepts that this proposal will not be perfect, but is intended to address the cost allocation implications of certain large projects undertaken by Union Gas that have already come into service.[18]

Following the OEB's directive, Enbridge Gas filed a cost allocation study for the legacy Union Gas rate zones. Enbridge Gas prepared the cost allocation study based on a 2019 test year. However, Enbridge Gas is not recommending changes to rates as a result of the cost allocation update. Enbridge Gas believes that the cost allocation changes should be implemented at rebasing. Enbridge Gas has requested approval of the cost allocation methodology changes to the Panhandle System and St. Clair System, Parkway Station and Dawn Station. In other words, although Enbridge Gas is not proposing to implement the cost allocation changes in rates, it is seeking approval of changes proposed to the cost allocation methodology.

In its argument-in-chief, Enbridge Gas provided several reasons to support its position of implementing the cost allocation changes at rebasing:

1. Changing unit rates without rate design adjustments may result in unintended impacts to customers and the utility. Enbridge Gas anticipates that there will be additional changes to rates at rebasing in 2024 when it introduces rate harmonization, integration of the cost allocation studies of the combined utilities and the pass-through of synergy cost savings into rates. Should rates be adjusted as part of this proceeding and again in 2024 (at rebasing), customers would be subject to unpredictable rate changes within a short three-year time period.
2. Implementing cost allocation changes in the middle of a deferred rebasing term will promote rate instability and/or volatility. Enbridge Gas is of the opinion that rates should be set through the approved price cap mechanism and other changes that are typically made at rebasing should be avoided.

[18] Decision and Order, EB-2017-0306/0307, August 30, 2018, p. 41.

3. If the cost allocation study results are to be implemented in rates, there could be corresponding impacts on base amounts used in current approved deferral and variance accounts. Certain deferral and variance accounts for the Union Gas rate zones use the revenue requirement in rates as the base to calculate the balances in the deferral accounts.
4. Lastly, Enbridge Gas submitted that cost allocation is a zero-sum exercise. Implementation of any changes will need to ensure that revenue neutrality is maintained in order to ensure that the utility earns a revenue that is consistent with the approved rate-setting mechanism. Any adjustments will therefore result in rate increases for certain rate classes and an equal and offsetting rate decline for other rate classes.

Enbridge Gas submitted that in the event that the OEB determines that the cost allocation changes should be implemented prior to rebasing then the changes should be implemented with 2021 rates (the next rate application). This would provide Enbridge Gas additional time to conduct a more thorough review of rate design considerations and rate class impacts. Enbridge Gas estimated that it would require three months following the OEB's direction in this proceeding to file a draft rate order incorporating the cost allocation study results including a rate design proposal to adjust the unit rates. The total time for the company to implement the new rates is estimated at six months and consequently Enbridge Gas submitted that implementing the changes in this proceeding is not feasible.[19]

OEB staff acknowledges that if a cost allocation update is not implemented in advance of rebasing for 2024, it will have been as long as nine years that these issues were left unaddressed. In that light, OEB staff does not have concerns with the methodology underpinning the cost allocation study but agrees with Enbridge Gas that in order for the cost allocation update to be implemented, Enbridge Gas needs to file a rate design proposal. Accordingly, if the OEB was inclined to approve the cost allocation update and proceed to implementation in advance of rebasing, OEB staff supports the implementation no earlier than with 2021 rates.

That said, OEB staff notes that there are certain drawbacks to implementing this discrete cost allocation update in advance of rebasing. OEB staff agrees with the concerns identified by Enbridge Gas above and offers up these additional comments:

[19] Enbridge Gas argument-in-chief, pp.19-20, para 58.

1. Rate Impacts

In its argument-in-chief, Enbridge Gas noted that cost allocation is a zero-sum exercise and that its revenue requirement should not be impacted as a result of any cost allocation changes that are implemented during the IRM term.[20] OEB staff agrees that the annual revenue requirement during an IRM term is determined through a price cap adjustment and adjustments as a result of cost allocation should not impact the revenue requirement.

In response to an interrogatory, Enbridge Gas provided the rate impact of the cost allocation changes.[21] In some cases, the rate increases are significant as seen in Table 2 below.

Table 2

Rate Class	Delivery Rate Impact (%)	Total Bill Impact (%)
Rate 10	20%	7%
Rate 25	70%	15%
Rate M4 (small)	30%	10%
Rate M7 (large)	31%	10%

The rate classes in Table 2 include business and commercial customers. Some rate classes would also experience a rate decline as a result of the cost allocation adjustments. OEB staff notes that the rate impact for Union Gas residential customers is minimal, ranging from a total annual bill impact of 0.3% to 1.0%.

Enbridge Gas is currently under an IR regime where rates are essentially adjusted for inflation. OEB staff submits that a price cap should not include large rate impacts as rate stability and predictability are important tenets under an IR regime. Large rate impacts are generally not appropriate during an IRM term. Moreover, the magnitude of the rate impacts were not known when the OEB ordered an update to the cost allocation study. At rebasing, the cost allocation changes will include other adjustments to rate base, possible rate harmonization proposals and rate design changes. This will provide a more complete picture of the costs and revenues and the resulting impact to rates which could be significantly different than presented in this update.

[20] *ibid*, para 57.
[21] Response to OEB staff IR#4, Attachment 1.

2. Unintended rate consequences

OEB staff notes that the cost allocation update submitted in this proceeding only includes certain discrete projects completed during Union Gas's last IRM term (2014-2018). It does not include adjustments to rate base as a result of depreciation and asset additions from 2014 (excluding the capital pass-through projects) nor savings due to synergies stemming from the amalgamation. In addition, the proposed cost allocation is not an update as done in a cost of service application. Enbridge Gas is under a price cap regime, so the costs are decoupled from revenues. Although Enbridge Gas has used a 2019 test year, it has not used actual costs or recalibrated the costs for the study. In its evidence, Enbridge Gas noted that it has based the revenue requirement on the 2019 forecast costs of the Union rate zones, which have been set to equal the forecast of 2019 revenue.[22] In other words, Enbridge Gas has allocated revenues and not costs. The cost allocation update is not an accurate representation of the costs to serve the different rate classes and it is possible that a full cost allocation study at rebasing could reveal significant differences or present a very different picture. Furthermore, other proposals such as a revised rate design methodology, rate harmonization and rate class changes could also alter the cost allocation results at rebasing. In such a case, the question is whether customers should be subjected to large rate impacts now with the risk that they may be reversed or significantly change at rebasing.

If the changes are implemented in 2021, OEB staff recommends that Enbridge Gas should be required to file a rate mitigation plan in cases where total bill impacts are material.

3. Requested Approval

Although Enbridge Gas is not seeking to implement the changes as a result of the cost allocation update, it has requested approval of changes to the cost allocation methodology in this proceeding. Enbridge Gas has indicated that it would use the approved methodologies in the preparation of the 2024 cost allocation study. OEB staff notes that Enbridge Gas has not only updated the cost allocation to account for certain projects but also proposed certain changes to the cost allocation methodology to the Panhandle and St. Clair System, Parkway Station and Dawn Station costs. Enbridge Gas indicated that a potential benefit to having the proposed cost allocation methodology changes reviewed and determined in this proceeding is that a participant in the rebasing proceeding would presumably have to show reasons as to why a further change is warranted. This approach seems to have the implication that if the changes

[22] Cost Allocation evidence, November 27, 2019, p. 6, para. 12.

are approved in this proceeding, it would limit the parties' ability to review the approved changes in the rebasing proceeding.

OEB staff disagrees with Enbridge Gas. If the OEB does not intend to implement changes to cost allocation in advance of rebasing, then it should not approve the discrete cost allocation changes. This could lead to the unintended rate consequences discussed earlier as changes approved could turn out to be inaccurate in light of the comprehensive cost allocation study to be completed at rebasing. Accordingly, OEB staff submits that it would be best to not provide a partial approval of the cost allocation methodology in the absence of implementation in this or the 2021 rates proceeding.

In the event that the OEB is inclined to approve the proposed cost allocation methodology changes in advance of rebasing, OEB staff notes that the discrete changes are based on cost causality and how the rate classes are using the assets. So, to that extent, OEB staff does not have concerns with the study. OEB staff further notes that approval of the changes will not result in any rate impacts. It is only if the OEB determines that the changes should be implemented in this or the 2021 rates proceeding will there be rate implications from the cost allocation update. As discussed earlier, OEB staff supports Enbridge Gas's position that if rate changes are to be implemented, they should be done at the earliest in the 2021 rates application.

3. Unaccounted for Gas Study

In the 2016 Earnings Sharing Mechanism proceeding, Enbridge Gas agreed to review potential metering issues that might be contributing to Unaccounted for Gas (UFG) and to report on that review.[23] Since Enbridge Gas did not file a rebasing application for 2019 rates, this report was not submitted. In the MAADs Decision, the OEB stated that it considers the issue of UFG important and directed Enbridge Gas to file a report on this issue for both the legacy Union Gas and legacy EGD service areas by December 31, 2019.[24] Accordingly, Enbridge filed a report at the end of 2019 which was included for review in the current proceeding.[25] Enbridge Gas retained ScottMadden to prepare a report that reviewed and evaluated factors contributing to UFG within the legacy Union Gas and EGD service areas.

UFG represents the difference between gas received by the operator and gas delivered. Essentially, UFG is gas that is "lost" and cannot be accounted for by the operator as

[23] EB-2016-0142
[24] EB-2017-0306 / EB-2017-0307.
[25] OEB PO#2, January 9, 2020.

usage or through appropriate adjustment. The main sources of UFG are retail meter variations, gas station meter variations, leaks, fugitive emissions, third-party damage, theft, company use and accounting adjustments. The data for legacy Union Gas and EGD shows that the primary sources of UFG include physical losses, and retail meter and gate station meter variations.

The report indicates that over the past 10 years, the legacy companies (EGD and Union) demonstrated lower UFG levels than comparative gas utilities. Legacy Union and EGD have an average UFG level of 0.31 percent and 0.81 percent of gas receipts, respectively, over the past 10 years. During the same period, U.S. gas utilities had an average UFG level of 1.06 percent and select Canadian gas utilities have an average UFG level of 1.18 percent. In other words, the legacy utilities have lower UFG levels than comparable utilities in Canada and U.S.

Enbridge Gas has undertaken a number of measures and continues to take measures in order to reduce UFG. Measures include regular testing of meters, replacement of meters with more accurate and technologically advanced meters and identifying and repairing leaks.

OEB staff asked a number of interrogatories on the ScottMadden report and issues concerning UFG. The two main issues identified by OEB staff were the high proportion of UFG attributed to gate station meter variations in the EGD rate zone and the larger comparative decrease in fugitive emissions for the Union Gas rate zone. EGD has attributed the high gate station meter variations to the Victoria Square gate station. EGD stated that it intends to address this issue by replacing the single meter with two 16 inch ultrasonic meters running in parallel and installing a third 4 inch ultrasonic meter to accurately measure low flows.[26]

With respect to the reduction in fugitive emissions for the legacy Union Gas, the utility attributed this to a methodology change for fugitive emission calculations for storage and transmission operations. Additionally, the use of updated emission factors for quantifying emissions due to customer meter sets reduced fugitive emissions for legacy Union Gas. Enbridge Gas intends to implement the updated emission factors for the EGD rate zone as well and monitor its fugitive emissions going forward.[27]

In its report, ScottMadden made certain recommendations and Enbridge Gas has confirmed that it intends to implement all of the recommendations of ScottMadden.[28] OEB staff recognizes that Enbridge Gas has lower UFG levels than comparable U.S.

[26] Response to FRPO IR#17.
[27] Response to OEB Staff IR#30.
[28] Response to OEB Staff IR#27.

and Canadian utilities and intends to adopt measures to further reduce UFG. OEB staff has reviewed the UFG report including Enbridge Gas's interrogatory responses on UFG and has no concerns.

OEB staff notes that Enbridge Gas has not requested any specific approvals regarding UFG. The report has been filed in response to an OEB directive and reports on the factors impacting UFG in the legacy EGD and Union rate zones. OEB staff agrees that the OEB is not required to make a specific finding regarding UFG. However, OEB staff recommends that Enbridge Gas should be required to provide an update in the next rebasing application regarding the implementation of ScottMadden's recommendations regarding UFG and how these measures have impacted UFG in the legacy EGD and Union Gas rate zones.

4. E-billing

Enbridge Gas changed its billing practices in 2019 to make e-billing the default method for new customers and to switch existing paper bill customers to e-billing who had at some point previously provided an email address to the company. These customers view their bills online and do not receive paper bills in the mail. Enbridge Gas maintains that its change in billing practice is appropriate and does not believe that OEB approval was or is required. As part of the Phase 1 settlement proposal, Enbridge Gas and intervenors agreed on a number of interim measures regarding e-billing. Enbridge Gas also agreed to file evidence on e-billing in this proceeding.

The temporary measures on e-billing agreed to in the settlement proposal included:

1. Enbridge Gas will only convert those existing customers to e-bill who have expressly agree to the switch.
2. New customers will be provided the option for e-bill or paper bill service which will be implemented no later than December 31, 2019.
3. Customers (new and moving) that sign up for service online will receive notice in their confirmation e-mail that they have the option to choose paper bills. Additionally, if such customers incur late payment penalty (LPP) charges, they will be contacted by phone to confirm receipt of e-bills and informed of the option to receive paper bills.
4. Enbridge Gas will post a message on its website, and on its e-bills, informing customers that there is a dispute regarding the company's e-bill service before the OEB, and customers can contact the call centre if they have questions about their account or LPP charges.

5. Enbridge Gas will refund 2019 LPP amounts paid by customers who have been switched to e-bill in 2019 (for customers with no history of repeated LPP charges). However, parties will be free to make arguments regarding the LPP refund amounts during Phase 2 of the proceeding.
6. Enbridge Gas will not charge extra amounts for paper bills without receiving OEB approval.
7. Enbridge Gas will ensure that no customer who was switched to e-bill in 2019 is reported to credit agencies based on late payments.

As a result of the measures agreed to in the settlement, Enbridge Gas refunded $289,240 across 33,948 customers in the Union Gas rate zone and $446,242 across 60,370 customers in the EGD rate zone.

Enbridge Gas filed its e-billing evidence on January 15, 2020. In its evidence Enbridge Gas submitted that its expansion of e-billing and myAccount (online information and transaction platform) are in line with OEB's expectations. In its evidence, Enbridge Gas also referred to the OEB's December 2018 Notice to Amend Codes and Rule, which states, "utilities are also expected to explore other opportunities for cost savings such as expansion of e-billing, enhanced and timely communication with customers, and improved collection processes.[29]

Enbridge Gas submitted that given what it states are customers' evolving expectations, it has shifted many customer interactions away from traditional channels (phone calls, paper bills, letters) to a consumer-centric digital experience (myAccount, e-mail, text, chat, social media). In the EGD rate zone, a total of 358,384 customers were switched to e-billing in 2019 while in the Union Gas rate zone 171,905 customers were switched to e-billing.

OEB staff is generally supportive of the initiative of e-billing. OEB staff recognizes that increased adoption of e-billing provides significant savings to the utility and these savings will be reflected in rates at rebasing. However, concerns exist regarding the manner in which Enbridge Gas implemented its e-billing initiative. Specifically, throughout 2019, customers were involuntarily switched from paper billing to e-billing with inadequate notice (e.g. Enbridge Gas provided customers with two to three days' notice of the switch from paper billing to e-billing prior to the bill being issued). In addition to Enbridge Gas's practices resulting in customers being switched to e-billing who may have preferred to remain on paper billing, it also resulted in some customers who previously had good payment history subsequently falling into arrears and incurring

[29] EB-2017-0183, Notice of Proposal to Amend Codes and a Rule, December 18, 2018, p. 42.

late payment charges following the switch to e-billing. OEB staff notes that Enbridge Gas has implemented the temporary measures agreed to in the settlement proposal that address these concerns. However, these measures are interim until the OEB makes a decision on the matter in this proceeding.

To help protect Enbridge Gas customers' preferences and interests, OEB staff submits that it would be appropriate in this case for the OEB to impose conditions under which Enbridge Gas may continue its strategy of converting customers to e-bills.

While in OEB staff's view, Enbridge Gas does not require OEB approval every time it wishes to make a change to its billing practices, the OEB Act does provide the OEB with the power to "impose such conditions as it considers proper" when making an order.[30] In this case, OEB staff understands Enbridge Gas to be taking the position that e-billing conditions are unnecessary, not that the OEB lacks the jurisdiction to impose them.[31] The parties to the settlement agreement, including Enbridge Gas, agreed that the e-billing issue should be considered by the OEB in Phase 2 of this proceeding. OEB staff also notes that regulating the form and content of bills falls squarely within the OEB's mandate – section 44(1)(b.3) of the OEB Act authorizes the OEB to make rules "relating to any matter in respect of invoices issued in respect of gas to consumers, including meeting such requirements as may be provided for by the Board or being in a form approved by the Board."

OEB staff reiterates its support for e-billing generally. However, the evidence in this case indicates that some customers were negatively impacted by being switched to e-billing without their prior consent. In particular, Enbridge Gas explains that it voluntarily refunded late payment penalties charged to customers who called to dispute the penalties amounts on the basis of their switch to e-billing – $72,405 to 8,482 customers in the EGD rate zone and $69,902 to 2,968 customers in the Union rate zone.[32] (That does not include the late payment penalty refunds paid to customers pursuant to the settlement agreement – $446,242 in the EGD rate zone and $289,240 in the Union rate zone.[33]) It would be appropriate for the OEB in this case to include conditions that would avoid such problems in the future. Although e-billing may result in overall efficiencies, those efficiencies should not come at the expense of customers who may have less access to or familiarity with the Internet, or who may be uncomfortable with online payments. As the OEB noted in the last Enbridge Gas IRM decision:

[30] OEB Act, section 23.
[31] Enbridge Gas Argument-in-Chief, paras. 79-81; VECC 23.
[32] Exh. B, Tab 3, Sched. 1, para. 49.
[33] *Ibid*., para. 50.

> It is important during an IRM period that charges to customers are not increased for providing the same services, and services to customers are not diminished. **A utility is expected to manage its costs through productivity improvements, not through material changes to the condition of services to customers.**[34]

OEB staff proposes the following two conditions:

i. **New / Moving Customers**
To help protect the interests of customers, Enbridge Gas should provide new and moving customers (residential and non-residential customers) with the option of paper or e-billing at the time of account opening. Customers should not be registered for e-billing without their consent.

ii. **Existing Customers on Paper Billing**
Enbridge Gas should not switch any existing customer from paper billing to e-billing without the customer's consent.

– All of which is respectfully submitted –

[34] Decision and Order, September 12, 2019 (EB-2018-0305) (emphasis added).