

**INDUSTRIAL GAS USERS ASSOCIATION**

**MOTION TO REVIEW AND VARY THE MAY 14, 2020  
DECISION AND ORDER RE ENBRIDGE GAS INC.'S  
2020 RATES (EB-2019-0194)**

**EB-2020-0156**

**ONTARIO ENERGY BOARD STAFF SUBMISSION**

**JULY 17, 2020**

## A. Introduction

The Industrial Gas Users Association (IGUA) has filed a motion pursuant to Rule 40.01 of the *Rules of Practice and Procedure* to review and vary the Decision and Order of the Ontario Energy Board (OEB) dated May 14, 2020 concerning 2020 rates for Enbridge Gas Inc. (Enbridge Gas).<sup>1</sup> The only aspect of the Decision and Order challenged by IGUA is the OEB's determination that no changes to the cost allocation in respect of the costs of the Panhandle pipeline system would be made until Enbridge Gas's 2024 rebasing application.

In the Notice of Hearing and Procedural Order No. 1 dated June 17, 2020, the OEB invited written submissions on both the threshold question of whether the matter should be reviewed and the merits of IGUA's motion.

For the reasons that follow, OEB staff submits that although IGUA's motion meets the threshold test, it should be dismissed on the merits.

## B. Facts

OEB staff substantially agrees with the facts as set out by IGUA in paragraphs 11-21 of its June 30, 2020 submission. To summarize briefly, concerns about the allocation of Panhandle costs have been raised in four OEB proceedings in the last five years, not including this motion to review. The first time was in Union Gas Limited's (Union Gas) application for leave to construct the Panhandle Reinforcement Project filed in 2016.<sup>2</sup> Union Gas in that application proposed an alternate methodology to allocate the costs of the project, but in the decision granting leave to construct, the OEB deferred the cost allocation issue to Union Gas's next rebasing application, which at the time was expected for 2019.<sup>3</sup> In the current rates for the Union Gas rate zones, the Panhandle System and St. Clair System are combined for cost allocation purposes. In the Panhandle Reinforcement Project, Union Gas proposed a different methodology to recognize that with the addition of significant project costs related only to the Panhandle System and no change to the cost of the St. Clair System, the use of the combined system for cost allocation purposes no longer reflected the costs to serve customers on each respective transmission system.

In Union Gas's 2018 rate case – the first case where the costs of the Panhandle Reinforcement Project were actually included in rates – the OEB again confirmed that “The issue of the allocation of these costs on a going-forward basis to Union rate

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<sup>1</sup> [EB-2019-0194](#).

<sup>2</sup> EB-2016-0186

<sup>3</sup> [Decision and Order](#), February 23, 2017 (EB-2016-0186).

classes will be dealt with in Union's 2019 rates proceeding."<sup>4</sup> Despite IGUA's concerns, the OEB applied the allocation methodology that had been approved in 2013.

In fact, rebasing did not happen in 2019, as a result of the merger of Union Gas and Enbridge Gas Distribution Inc. to form Enbridge Gas Inc. In its decision approving the merger and establishing a rate framework for the new entity (the MAADs Decision), the OEB determined that rebasing would be deferred for five years (less than the 10 years requested by the applicants).<sup>5</sup> In response to the concerns raised by IGUA and others, the OEB in the MAADs Decision directed Enbridge Gas to file a cost allocation study with its application for 2020 rates. The study was to cover not only the Panhandle Reinforcement Project but also the Dawn-Parkway expansion including Parkway West, Brantford-Kirkwall/Parkway D and the Hagar Liquefaction Plant, as well as TransCanada's C1 Dawn to Dawn TCPL service. These projects were completed during Union Gas's last IRM term (2014-2018) and there has been no update to the cost allocation since 2013.

Enbridge Gas duly included a cost allocation study with its application for 2020 rates. Although Enbridge Gas sought approval for the methodology underlying the study, it did not propose to actually implement the approach set out in the study but rather to wait until its next rebasing proceeding to do so.

The OEB heard a range of submissions from the other parties. IGUA strongly objected to Enbridge Gas's proposal to defer any changes to cost allocation; indeed that was the only issue on which it made submissions in the rate case. The Association of Power Producers of Ontario (APPRO) and Energy Probe also urged the OEB not to defer the matter. Most intervenors, as well as OEB staff, supported deferral, although they disagreed with Enbridge Gas's request for approval of the methodology in the 2020 rate case.

Ultimately the OEB decided not to approve any changes to the cost allocation in 2020, finding that such changes (as well as Enbridge Gas's proposed methodology) should be reviewed at the next rebasing.

### **C. The threshold question**

Rule 43.01 of the OEB's *Rules of Practice and Procedure* states:

In respect of a motion brought under Rule 40.01, the Board may determine, with or without a hearing, a threshold question of whether the matter should be reviewed before conducting any review on the merits.

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<sup>4</sup> [Decision and Order](#), January 18, 2018 (EB-2017-0087). The 2018 rate application was made under the incentive rate-setting mechanism (IRM) established for Union Gas in 2013.

<sup>5</sup> [Decision and Order](#), August 30, 2018 (Amended September 17, 2018) (EB-2017-0306/0307).

Rule 42.01 provides that a notice of motion to review and vary must:

(a) set out the grounds for the motion that raise a question as to the correctness of the order or decision, which grounds may include:

- (i) error in fact;
- (ii) change in circumstances;
- (iii) new facts that have arisen;
- (iv) facts that were not previously placed in evidence in the proceeding and could not have been discovered by reasonable diligence at the time.

The grounds listed in Rule 42.01 are illustrative, not exhaustive. The OEB has broad discretion with respect to determining whether to review a decision. Under s. 21.2 of the *Statutory Powers Procedure Act*, “A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order” (emphasis added).

The OEB’s most thorough analysis of the threshold question came in the Natural Gas Electricity Interface Review (NGEIR) Decision:

Therefore, the grounds must “raise a question as to the correctness of the order or decision”. In the panel’s view, the purpose of the threshold test is to determine whether the grounds raise such a question. This panel must also decide whether there is enough substance to the issues raised such that a review based on those issues could result in the Board deciding that the decision should be varied, cancelled or suspended.

With respect to the question of the correctness of the decision, the Board agrees with the parties who argued that there must be an identifiable error in the decision and that a review is not an opportunity for a party to reargue the case.

In demonstrating that there is an error, the applicant must be able to show that the findings are contrary to the evidence that was before the panel, that the panel failed to address a material issue, that the panel made inconsistent findings, or something of a similar nature. It is not enough to argue that conflicting evidence should have been interpreted differently.

The applicant must also be able to demonstrate that the alleged error is material and relevant to the outcome of the decision, and that if the error is corrected, the reviewing panel would change the outcome of the decision.

In the Board’s view, a motion to review cannot succeed in varying the outcome of the decision if the moving party cannot satisfy these tests, and in that case, there would be no useful purpose in proceeding with the motion to review.<sup>6</sup>

In this case, OEB staff is of the view that the threshold has been met. IGUA’s main argument is that the OEB’s reasons for deferring the cost allocation issue were insufficient. IGUA says this is a legal question. It also points to an alleged factual error in the decision: the finding that making changes to cost allocation now would “result in more changes in 2024”.

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<sup>6</sup> [Decision with Reasons](#), May 22, 2007 (EB-2006-0322/EB-2006-0338/EB-2006-0340), p. 18.

Although OEB staff does not agree with IGUA's argument that the reasons of the hearing panel were "perfunctory", the *nature* of that argument warrants its consideration on the merits by this review panel. Put another way, if IGUA were right, and the reasons really were insufficient, that would cast the "correctness" of the decision in doubt. IGUA says that it "and its affected members have been unable to conclude that they have actually been listened to."<sup>7</sup> This type of concern needs to be taken seriously. As IGUA notes, the recent decision by the Supreme Court of Canada in *Canada (Minister of Citizenship and Immigration) v. Vavilov* underscores the importance of reasons by administrative tribunals.<sup>8</sup> Although in OEB staff's view, the reasons in this case withstand scrutiny, the review panel should not simply decide at the threshold stage not to scrutinize them. IGUA's argument is not obviously spurious and should be considered on its merits.

IGUA also points to what it characterizes as a factual error. Although an "error in fact" is the type of allegation that can properly found a motion to review, as the NGEIR panel noted, the applicant must be able to show "that if the error is corrected, the reviewing panel would change the outcome of the decision". In OEB staff's view, a reviewing panel should no more engage in a "line-by-line treasure hunt for error" than a reviewing court.<sup>9</sup> In this case, it does not appear that the alleged factual error was determinative. The finding that making changes to cost allocation would "result in more changes in 2024" was not the only basis for deferring the cost allocation issue. On its own, this allegation by IGUA would not be enough to pass the threshold. In any case, OEB staff does not agree with IGUA's characterization of that finding as a factual error and has provided an explanation to that effect below.

#### **D. The merits**

##### ***The OEB's reasons were sufficient***

After canvassing the submissions of the parties, the OEB "acknowledge[d] that the existing cost allocation over time has resulted in changes to the costs and benefits to certain parties since the OEB approved Union Gas's 2013 cost allocation study".<sup>10</sup> It then went on to explain that, although Enbridge Gas had responded to the direction in the MAADs Decision to prepare an allocation study, it made sense to delay the implementation of that study until the next rebasing:

However, the OEB notes that, consistent with the approved rate setting mechanism, the rates for 2020 continue to be decoupled from costs. Rate stability and predictability offered through incentive regulation also rely on the decoupling of rates from the allocating utilities' costs among

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<sup>7</sup> [IGUA submission](#), June 30, 2020, para. 7.

<sup>8</sup> [2019 SCC 65](#) (*Vavilov*).

<sup>9</sup> *Vavilov*, para. 102.

<sup>10</sup> [Decision and Order](#), May 14, 2020 (EB-2019-0194), p. 17.

different customer classes. At the next rebasing, potential changes to the comprehensive cost allowance are anticipated including other adjustments to rate base, possible rate harmonization proposals and rate design changes.<sup>11</sup>

The passage above demonstrates that the OEB was alive to the concerns about unfair cost allocation raised by IGUA and some other parties. Nevertheless, there were countervailing factors identified by Enbridge Gas and others, in particular, the importance of rate stability and predictability during the period between rebasing.

It does appear that there is a typo in this passage: the next rebasing may involve changes to the comprehensive cost *allocation*, not the comprehensive cost *allowance*. What the OEB is saying in that sentence is that it would be preferable to make any cost allocation changes regarding the Panhandle and the other Union projects included in the study at rebasing, when they can be examined as part of a comprehensive review of Enbridge Gas's costs and how they should be allocated between ratepayers, rather than on a piecemeal basis. This is consistent with what Enbridge Gas, OEB staff and several intervenors had argued.

The OEB also dealt with the suggestion that the Panhandle Reinforcement Project was "unique" and acknowledged IGUA's argument that the current cost allocations are outdated:

Enbridge noted the Panhandle Reinforcement Project was unique as it involved incremental costs not considered in the 2013 cost allocation study. The OEB acknowledges that the current cost allocations are outdated; however, attempting to make selected changes at this time will be disruptive to the predictability of rates and result in more changes in 2024. The OEB reiterates that rate stability and predictability offered through incentive regulation rely on the decoupling of rates from the allocating utilities' costs among different customers classes.<sup>12</sup>

The concern about making "selected changes" echoes concerns expressed by the OEB in previous cases. For instance, the OEB denied a proposal by Horizon Utilities Corporation (Horizon) to update the load profile information for one rate class (the large use class) for the purposes of cost allocation, finding that "selective updating" can be unfair:

While the use of more up to date data is generally preferable, in this case, the Board is concerned with the inequity that may result from selective updating. The Board is sympathetic to Horizon's difficulty in obtaining updated information for the general service and residential classes, but does not see any advantage in proceeding with partially updated information as the whole exercise is to determine what share each group will pay.<sup>13</sup>

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<sup>11</sup> *Ibid.*, p. 17.

<sup>12</sup> *Ibid.*, p. 17.

<sup>13</sup> [Decision and Order](#), December 11, 2014 (EB-2014-0002), p. 6.

In another case the following year, the OEB denied a proposal by Horizon to update the load profile for the street lighting class in the absence of new load profile data for other classes, for the same reasons: “there is no advantage to selective updating. Until data that is more accurate is available for all classes, Horizon must continue to use the existing load profiles for the purpose of its cost allocation model.”<sup>14</sup> That decision was upheld by the Divisional Court, which observed that “the Board’s concern with selectively updating load profiles based on partial load data is one of fairness.”<sup>15</sup>

Even more to the point, in its decision on 2018 rates for Union Gas, which denied IGUA’s request to reallocate the Panhandle costs before rebasing, the OEB explained why cost allocation should not be done on a piecemeal basis:

The OEB is of the view that any change to the existing cost allocation model should be done with the assistance of a comprehensive system-wide full cost allocation study. Cost allocation is a zero sum exercise. A full study ensures that all changes to facilities, operations and use in the transmission system since the development of the previous cost allocation model are recognized across all customer classes. This form of study provides that positive and negative changes in costs throughout the system are accounted for. A finding that current rates are inequitable because of the underlying allocation of costs for one project could introduce other inequalities by an incomplete analysis of the changing cost impacts on customers. Equitable cost causality is only possible with a full study. (Emphasis in original.)<sup>16</sup>

Of course, despite such concerns about selective updates to cost allocation, the MAADs Decision directed Enbridge Gas to file a cost allocation study with its application for 2020 rates. IGUA argues that the hearing panel “effectively reversed” that aspect of the MAADs Decision.<sup>17</sup> OEB staff does not agree.

Implicit in the hearing panel’s findings was its interpretation that the MAADs Decision did not *require* any cost allocation changes to be implemented in the 2020 rate case. That, in OEB staff’s view, is a fair reading of the MAADs Decision. All that decision required was the filing of a study that would include a proposal on cost allocation; the MAADs Decision left it to the panel assigned to the 2020 rate case to determine what to do about that proposal. Specifically, the directive in the MAADs Decision was for 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 ... 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.”<sup>18</sup> Had the MAADs panel intended for costs to actually be reallocated in 2020, regardless of the results of the study, it could have said so expressly. The MAADs

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<sup>14</sup> [Decision and Order](#), December 10, 2015 (EB-2015-0075), pp. 6-7.

<sup>15</sup> [Hamilton \(City\) v. The Ontario Energy Board](#), 2016 ONSC 6447, para. 10.

<sup>16</sup> [Decision and Rate Order](#), January 18, 2018 (EB-2017-0087), p. 8.

<sup>17</sup> IGUA submission, para. 47.

<sup>18</sup> Decision and Order, EB-2017-0306/0307, August 30, 2018, p. 41.



panel could not have known the resulting rate impact or the revenue to cost ratios that would ensue. OEB staff submits that these are important factors in making a determination regarding cost allocation.

It turned out that, as discussed below, the study showed that there would only be a modest overall benefit from the proposed reallocation flowing to the large customers who are currently disadvantaged by the allocation of the Panhandle system costs, while some other rate classes would see significant bill increases. Viewed in that context, the 2020 rates hearing panel's concerns about rate stability and predictability seem especially salient.

IGUA also argues that the 2020 rates hearing panel "failed to even mention the alternative approach argued by IGUA that (then) Union Gas' initial proposal to address allocation of only the incremental costs of the functionally discrete Panhandle Expansion Project in accord with the benefits accorded by that project would address the current inequity without necessitating reconsideration of the cost allocation parameters currently applicable."<sup>19</sup> Although IGUA is correct that the hearing panel did not specifically address that alternative argument, in OEB staff's view, the panel's reasons for not implementing the methodology proposed in the study answer that alternative argument as well. Indeed, the panel's concerns about selective updating (as opposed to the preferred comprehensive approach) would suggest that IGUA's narrowly targeted alternative approach is even less attractive than the approach outlined in the study.

OEB staff acknowledges that the reasons in this case on the cost allocation issue could have been more detailed. Nevertheless, although brief, the reasons fulfill their fundamental purpose: to "explain how and why [the] decision was made".<sup>20</sup> They convey to the reader (especially a reader familiar with the OEB's ratemaking framework, including the basic principles underlying incentive regulation) that, despite the recognized issues concerning the cost allocation for certain Union Gas projects, the panel was not persuaded that making selective cost allocation changes in the middle of the IRM term was appropriate. This was a balancing exercise: the panel concluded that any harm to some ratepayer classes from deferring the allocation changes would be outweighed by the advantages to other classes of rate certainty and predictability. Moreover, although IGUA's argument is grounded in a concern about fairness, the hearing panel recognized that it can also be unfair to make changes to cost allocation on a piecemeal basis.

Even if the review panel concludes that the hearing panel's reasons were in any way deficient, that in itself would not be enough to reverse the decision. Rather, the review

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<sup>19</sup> IGUA submission, para. 53(b).

<sup>20</sup> *Vavilov*, para. 49.



panel should, in OEB staff's view, consider not only the reasons themselves but the outcome reached by the hearing panel. This deferential approach is in keeping with the OEB's previous decisions on motions to review. As the review panel noted in a motion to review brought by Ontario Power Generation Inc., "The OEB has previously applied the reasonableness standard in considering a motion to review, and has said that the original hearing panel is entitled to deference."<sup>21</sup> Only if the review panel finds that the decision to defer the Panhandle allocation issue to rebasing was unreasonable should it vary the decision.<sup>22</sup>

***The OEB did not make a factual error***

IGUA argues that "the Hearing Panel erred in concluding that making selected changes to Panhandle System cost allocations now will result in more changes when a comprehensive cost allocation is considered at rebasing despite there being no evidence to substantiate that conclusion (i.e. an error of fact as contemplated in paragraph 42.01(a)(i) of the Rules)."<sup>23</sup>

OEB staff does not agree that the OEB made a factual error. The impugned sentence in the OEB's reasons reads: "The OEB acknowledges that the current cost allocations are outdated; however, attempting to make selected changes at this time will be disruptive to the predictability of rates and result in more changes in 2024."<sup>24</sup> In OEB staff's view, IGUA's concern arises from a misreading of that sentence.

According to IGUA, "The conclusion that implementing select cost allocation changes now will result in more changes in 2024 is not explained or referenced to any evidence. In fact, there is no such evidence that adopting the changes advocated by EGI would result in any more changes at rebasing than would otherwise be the case." In OEB staff's view, while the wording could perhaps have been clearer, the OEB did not mean that implementing the cost allocation changes now "would result in any more changes at rebasing than would otherwise be the case". All that was meant in OEB staff's view by the reference to "more changes in 2024" is that implementation now would only be a temporary band-aid solution – the specific allocation issues addressed in the study would still need to be re-evaluated as part of a comprehensive review of costs, cost allocation and rate design in the next rebasing proceeding as is typically the case in a cost based application. Adjusting rates now (beyond the routine annual adjustments contemplated under incentive regulation) would cause ratepayers to experience more rate volatility than they would normally expect during the IRM term. That is the essence

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<sup>21</sup> [Decision and Order](#), August 30, 2018 (EB-2018-0085), p. 5.

<sup>22</sup> This review panel is empowered under Rule 40.01 to "vary, suspend or cancel" the decision.

<sup>23</sup> IGUA submission, para. 59.

<sup>24</sup> [Decision and Order](#), May 14, 2020 (EB-2019-0194), p. 17.

of the concern expressed by Enbridge Gas in its submissions to the OEB, and echoed by several other parties.<sup>25</sup>

***There are other reasons that support the OEB's decision***

In addition to the reasons provided by the OEB, there are, in OEB staff's view, other reasons to support its decision to defer reallocation to the next rebasing. If the review panel agrees, it would be appropriate to refer to these reasons in its own decision. Doing so would address IGUA's concern that the hearing panel's decision was unjustified.

In OEB staff's view, the hearing panel's conclusion is supported by the cost allocation study itself. A review of the study helps put IGUA's concerns about fairness in context.

In that regard, it is first worth noting that the study reveals that the current relevant revenue-to-cost (RTC) ratio falls within an acceptable range. This is a point made by the Ontario Greenhouse Vegetable Growers (OGVG) in its submission in the rate case.<sup>26</sup>

For many years, it has been OEB policy that, although generally costs should be allocated based on the principle of cost causality – that is, rate classes should not have to pay for costs that are not incurred for their benefit – a perfect match between revenues and allocated costs is not always achievable or even in some cases even desirable.<sup>27</sup> The RTC ratio illustrates to what extent the class is paying its share of the allocated costs to serve that specific rate class. An RTC ratio of 1.0 means that the rate class is paying its full share of the allocated costs. For the electricity sector, the OEB has established RTC target ranges for different rate classes. Currently, for example, the target range for both the large user class and the residential class is 0.85 to 1.15 (sometimes expressed as 85% to 115%), and for the GS < 50 kW and GS 50 to 4,999 kW classes it is 0.80 to 1.20 (or 80% to 120%).<sup>28</sup> The OEB has also tolerated a departure from 1.0 or “unity” in gas cases. For instance, in the recent EPCOR Southern

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<sup>25</sup> Enbridge Gas said in its [Argument-in-Chief](#) at para. 55:

The Board-approved rate setting mechanism provides reliable and predictable rates during the deferred rebasing period. The Company anticipates there will be additional changes to rates at rebasing in 2024 when Enbridge Gas 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 based on the 2019 cost allocation study in 2021 and again in 2024 at rebasing, customers would be subjected to unpredictable rate changes within a short 3-year time period, with some rate classes experiencing a rate increase and others experiencing a rate decrease.

<sup>26</sup> [OGVG submission](#), pp. 3-7.

<sup>27</sup> [Report of the Board: Review of Electricity Distribution Cost Allocation Policy](#), March 31, 2011 (EB-2010-0219); [Report of the Board: Application of Cost Allocation for Electricity Distributors](#), November 28, 2007 (EB-2007-0667).

<sup>28</sup> *Ibid.*

Bruce decision, the OEB approved an RTC ratio of 0.78 for one class and 1.37 for another.<sup>29</sup>

In its cost allocation evidence, Enbridge Gas provided a summary of the RTC ratios for the different rate classes. In Union Gas's last cost of service proceeding,<sup>30</sup> the OEB approved a final RTC ratio of 1.000 for the T2 rate class (the class IGUA says is unfairly prejudiced).<sup>31</sup> Under the methodology proposed in the study (which reallocates the costs of the Panhandle Reinforcement Project and the other projects examined in the study), the T2 class would be allocated about \$8.6 million less than it is now (before rate design is taken into consideration). As a result of this \$8.6 million sufficiency, the T2 class's implied RTC is currently 1.148.<sup>32</sup> The \$8.6 million sufficiency in revenue requirement is comprised of two components: storage revenue requirement (\$2.4 million) and transportation revenue requirement (\$6.3 million). IGUA is primarily concerned with the allocation of transportation revenue requirement.

Although an RTC ratio of 1.148 indicates that there is some cross-subsidization of other rate classes by the T2 class, it is within the acceptable range previously approved by the OEB for the electricity sector. As noted above, in the electricity sector a ratio of up to 1.20 is acceptable for non-residential classes.

OEB staff agrees with OGVG's submission in the rates proceeding that the OEB should only depart from the general rule against mid-term adjustments to cost allocation in exceptional cases. The evidence suggests that this case is not exceptional. While it is true that some of IGUA's members are contributing more than their fair share to the costs of the Panhandle system, the overall over-allocation of costs to the T2 class falls within the range of tolerance that has been accepted by the OEB in other cases.<sup>33</sup>

It is also important to put the Panhandle system costs in context. IGUA points out that reallocating those costs (and not the costs associated with the other projects) in accordance with the study's proposed methodology would result in a rate reduction of \$4.9 million for the T2 class.<sup>34</sup> That works out to an average of a little more than \$200,000 for each of the 23 customers in the class. Those customers are large users of gas. Enbridge Gas explains on its website that "Rate T2 is designed for our largest customers in Southern Ontario", including "power generators, refineries, large hospitals

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<sup>29</sup> [Decision and Order](#), November 28, 2019 (EB-2018-0264), p. 17.

<sup>30</sup> EB-2011-0210.

<sup>31</sup> [Exhibit I.LPMA.3, Att. 1](#), p. 1.

<sup>32</sup> [Cost Allocation Study](#), Tables 1 and 3, and Working Papers Schedule 4, p. 1.

<sup>33</sup> The study also implies that there is an allocation above unity to some classes other than T2, but still within the normally acceptable range, e.g. 1.181 for Rate C1-Other – see Cost Allocation Study, Table 3, and OGVG submission, pp. 4-7.

<sup>34</sup> IGUA submission, para. 34; *ibid.*, Table 2.

and petrochemical, steel and fertilizer plants”.<sup>35</sup> IGUA notes in its submission in this motion that its four member companies served primarily under Rate T2 have a collective daily contract demand of over 5 million cubic meters and collectively consume almost 2 billion cubic meters of natural gas per year.<sup>36</sup>

The actual bill impact for the average T2 customer in the Union South rate zone that would result from adjusting the unit rates to address the variances from the 2013 OEB approved methodology would be small.<sup>37</sup> Although delivery charges would go down by 10.7%, the total bill would go down by only 0.9% (or 1.1% excluding the federal carbon charge).<sup>38</sup> These impacts were calculated by Enbridge Gas on the basis of all of the changes proposed in the study being implemented; presumably if only those relating to the Panhandle were implemented, the bill decrease would be even smaller.<sup>39</sup>

By contrast, as OEB staff noted in its submission in the rate case, the total bill *increase* would be significant for some other ratepayer classes: 7% for Rate 10, 15% for Rate 25, 10% for each of Rate M4 (small) and Rate M7 (large).<sup>40</sup> Again, these impacts were calculated on the basis of all the projects studied, not only the Panhandle. The revenue requirement during an IRM is set through a mechanistic adjustment (price cap adjustment). Any decrease to the T2 rate class revenue requirement resulting from a cost allocation update would be recovered from other rate classes to keep the utility whole.

In OEB staff's view, it would be reasonable to conclude that those significant adverse impacts, when compared to the modest benefits to the 23 customers in T2, do not warrant a departure from the OEB's normal practice of leaving the reallocation of costs to a rebasing proceeding, when it can be done on a comprehensive basis.

## E. Conclusion

The allocation of Panhandle costs is a difficult issue, and does not lend itself to a single “right” answer. OEB staff can understand IGUA's frustration at having been told repeatedly that a known inequity would be deferred to another proceeding. But ultimately the hearing panel's decision is justifiable by well-established principles of rate-making, in particular:

- **Cost allocation is best done on a comprehensive basis:** Because cost allocation is a zero-sum exercise, “selective” or piecemeal updating is generally

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<sup>35</sup> <https://www.uniongas.com/business/account-services/unionline/contracts-rates/rate-t2>.

<sup>36</sup> IGUA submission, para. 12(j).

<sup>37</sup> Cost Allocation Study, Table 1.

<sup>38</sup> [Exhibit I.Staff.4](#), p. 3.

<sup>39</sup> See Cost Allocation Study, Table 2.

<sup>40</sup> [OEB staff submission](#), p. 11; [Exhibit I.Staff.4](#).

to be avoided. In this case, the minor bill reductions for T2 customers would pale in comparison to the significant bill increases for some other rate classes.

- **RTC ratios can fall within a range:** Just and reasonable rates do not require a RTC equal to unity. In this case, the T2 rate class is within reasonable ranges established and previously approved by the OEB.
- **Under incentive regulation, significant changes are generally left to rebasing:** Generally only routine annual adjustments are made to rates during the IRM term (leaving aside established adjustment mechanisms such as the Incremental Capital Module); one of the advantages of this approach is rate stability and predictability.

The hearing panel's decision was not inconsistent with the MAADs Decision. The MAADs Decision required Enbridge Gas to come up with a proposal for addressing the cost allocation issue. Enbridge Gas did so, and after considering the submissions of all parties on that proposal (most of whom did not support the implementation of any allocation changes before rebasing), the hearing panel determined that it was best to wait until rebasing.

For these reasons OEB staff submits that the review panel should confirm the hearing panel's decision to defer reallocation to rebasing.

**– All of which is respectfully submitted –**