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VIA RESS and EMAIL

August 5, 2020

Ms. Christine Long
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Dear Ms. Long:

Re: EB-2020-0066 – Enbridge Gas Inc. ("Enbridge Gas") – Voluntary Renewable Natural Gas ("RNG") Program Application
Reply Argument

In accordance with the Ontario Energy Board's ("OEB") Procedural Order No.3, enclosed please find Enbridge Gas's Reply Argument in the above-noted proceeding.

The submission has been filed through the OEB's RESS.

Please contact the undersigned should you have any questions.

Sincerely,

(Original Digitally Signed)

Brandon Ott
Technical Manager, Regulatory Applications

Cc: David Stevens, Aird & Berlis LLP
All Interested Parties EB-2020-0066

EB-2020-0066

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an application by Enbridge Gas Inc. for an order or orders related to its Voluntary Renewable Natural Gas Program;

AND IN THE MATTER OF an application by Enbridge Gas Inc. for an order or orders amending or varying the rates charged to customers for the sale, distribution, transmission, and storage of gas commencing as of January 1, 2021.

ENBRIDGE GAS INC.

VOLUNTARY RNG PROGRAM

REPLY ARGUMENT

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A. OVERVIEW

1. On July 3, 2020, Enbridge Gas Inc. (Enbridge Gas, or the Company) filed its Argument in Chief setting out its proposal for a Voluntary Renewable Natural Gas Program (Voluntary RNG Program, or the Program). Briefly stated, Enbridge Gas proposes that customers can agree to add $2 per month to their bill, with the proceeds to be used by the Company to purchase RNG that will displace system supply of traditional natural gas. This will reduce overall greenhouse gas (GHG) emissions from the natural gas consumed by Enbridge Gas's customers and meet the Ontario Government's expectations as laid out in the Made-in-Ontario Environment Plan (MOEP). The Program will not increase the rates of non-participating customers throughout Enbridge Gas's deferred rebasing period. Customers will be able to join the Program at any time, and there will be no ongoing commitment for customers who wish to discontinue their participation.

2. Fifteen parties filed submissions in response to Enbridge Gas.[1] This Reply Argument sets out Enbridge Gas's response. Enbridge Gas will not repeat its Argument in Chief, but continues to rely on the positions and argument already submitted. Given the large number and broad scope of the arguments received from other parties, Enbridge Gas will not attempt to respond to every item noted. Failure to respond to any particular item should not be interpreted as acceptance or agreement by Enbridge Gas.

3. At a high level, almost all of the parties in this proceeding support approval of the Voluntary RNG Program, at least on a time-limited basis until the Company's rebasing application for 2024 rates.[2] However, in discussing their support for the Program,

[1] OEB Staff (OEB Staff), Anwaatin Inc. (Anwaatin), Building Owners and Managers Association (BOMA), Canadian Biogas Association (CBA), Canadian Manufacturers & Exporters (CME), Consumers Council of Canada (CCC), Energy Probe Research Foundation (EP), Environmental Defence (ED), Federation of Rental-housing Providers of Ontario (FRPO), Industrial Gas Users Association (IGUA), London Property Management Association (LPMA), Pollution Probe (PP), School Energy Coalition (SEC), Summitt Energy Management Inc. (Summitt), and Vulnerable Energy Consumers Coalition (VECC).

[2] The only parties that argue against approval are SEC and Summitt.

other parties also suggest a range of changes that could be made to Enbridge Gas's proposal.

4. The submissions received focus on nine topic areas. Below is a summary of Enbridge Gas's position on each.

    i. <u>Duration of Approval</u> – Several parties assert that the Ontario Energy Board (OEB, or the Board) should provide only a time-limited or pilot approval for the Program, until the end of Enbridge Gas's deferred rebasing period. Enbridge Gas agrees that it will be making an updated proposal for the Voluntary RNG Program at the time of rebasing, and acknowledges that the Program will be reviewed at that time. However, the Company does not believe that it is necessary to limit the approval of the Program to a three-year period with the implication that all aspects of the Program will be considered anew at rebasing.

    ii. <u>Terms of the Program</u> – Some parties argue for Enbridge Gas to offer more options to interested customers, such as different levels of participation and availability to large customers. Enbridge Gas believes that the best time to consider any significant enhancements to Program design is at rebasing, after there is some practical experience with the Program and once details of the Clean Fuel Standard (CFS) are known.

    iii. <u>Communications with Customers</u> – Some parties have expressed concern regarding whether the Company's marketing materials for the Program will be comprehensive and accurate. Parties have offered a variety of suggestions about what should be included in marketing materials. Enbridge Gas does not believe that it is necessary for the OEB to stipulate the content of Program marketing materials, or to review/approve such materials. Enbridge Gas will ensure that its marketing materials are fair, accurate and appropriate, and that they provide information necessary for potential participants to assess the costs and benefits of their participation. If necessary, the Board has jurisdiction to review and consider any concerns expressed by customers or other stakeholders about the Company's conduct opposite consumers.

    iv. <u>Treatment of Program Costs</u> – Enbridge Gas proposes to fund the costs of the Program from existing revenues during the deferred rebasing term, such that the Program causes no rate increases to non-participants. However, the Company believes that it is appropriate to include the financial impacts of the Program (costs) in its earnings sharing mechanism (ESM) calculation. Some parties object, asserting that Program participants should directly pay the Program costs and/or that the financial impacts of the Program should be excluded from ESM calculations. Enbridge Gas does not propose that Program participants directly pay for the Program costs during the initial period (deferred rebasing term) because this would either reduce the amount of RNG purchased with Program revenues, or increase the monthly charge to a level that may be less attractive. The Company maintains that inclusion of this utility program in ESM calculations is appropriate.

v. Treatment of Federal Carbon Charge Credits – Inclusion of RNG in the Company's gas supply portfolio will reduce the amount of Federal Carbon Charges payable. This will result in a credit balance in the the Federal Carbon Charge – Customer Variance Accounts (FCCCVA). Several parties object to Enbridge Gas's proposal to share this credit among all customers subject to the FCCCVA, because that will benefit customers who do not participate in the Program. The Company maintains that returning Federal Carbon Savings to all customers subject to the FCCCVA is appropriate. Should the Board disagree, the most viable alternative is to apply credit balances in the FCCCVA that result from RNG purchases through the Program toward the purchase of additional volumes of RNG.

vi. Procurement of RNG – Several concerns are raised about the manner in which Enbridge Gas plans to procure RNG for the Program. While the Company acknowledges the possible advantages of long-term contracts for RNG supply, this is not something that is appropriate at the initial stages of the Program and without assurances of cost recovery. This subject could be explored in the Company's next application relating to the Program, at rebasing. Enbridge Gas does not believe that it is necessary to stipulate that any RNG purchased will be inclusive of all environmental attributes, as this may not be the best way to maximize RNG volumes under the Program. However, the Company does agree that where it is possible to monetize environmental benefits associated with procured RNG, then the resulting financial benefits will be applied to further purchases of RNG for the Program.

vii. Affiliate Considerations – A few parties raise questions about the participation of Enbridge Gas affiliates in RNG upgrading and other activities, and seek disclosure requirements about the financial operations of those affiliates. Enbridge Gas does not believe that this is necessary. The Company will comply with all requirements of the *Affiliate Relationships Code* (ARC) and all reporting requirements under the Board's *Reporting and Record Keeping Requirements* (RRRs).

viii. Impact on Competition – Most parties acknowledge that the Voluntary RNG Program does not appear likely to negatively impact competition, because there is little gas marketer activity in this particular area. Enbridge Gas agrees. Were this a meaningful future concern, gas marketers would have participated and filed evidence in this case. Only one gas marketer chose to do so. That marketer (Summitt) did not file evidence, and did not point to plans to offer RNG to customers in the future. Summitt's position that Enbridge Gas's proposal is non-compliant with the *Consumer Protection Act* (CPA) is incorrect. Enbridge

Gas is exempt from CPA requirements because consumer protection for the Company's regulated activities is provided through OEB oversight.

ix. Reporting on Program Results at Rebasing – Several parties offer a long list of items that the Company should report upon when seeking approval of updated terms (or reapproval) of the Program at rebasing. Enbridge Gas acknowledges and agrees that as part of (or at the same time as) its rebasing application for 2024 rates, it will be important to provide the OEB with information about the operating experience of the Program as well as details of any proposals to update the terms of the Program. The reporting will likely address Program results (participation, costs, RNG volumes etc.), marketing materials, RNG procurement approaches and experience, observations on the competitive market, and impact of CFS. The Company does not believe that it is necessary to stipulate the specific contents of this future reporting. Enbridge Gas's requests relating to the Program at that time will be supported by appropriate evidence, and it will be open for parties to seek further information in addition to what is filed.

B. CONTEXT

5. Before providing Enbridge Gas's more detailed reply on each of the topic areas covered by other parties, there are a small number of general items from intervenor submissions that the Company would like to address.

6. SEC's submissions provide a lengthy discussion about the nature and effect of the direction in the MOEP for gas distributors in Ontario to implement a voluntary RNG program.[3] SEC ascribes no weight or importance to the MOEP direction, because it is not in the form of a Minister's Directive. SEC concludes by stating that "no part of the Board's approach to this program can be "We should approve this because the government wants us to do so"".

7. While Enbridge Gas agrees that there is no formal Minister's Directive, and no governmental imperative for the OEB to approve the Voluntary RNG Program, the Company strongly disagrees that the MOEP is irrelevant and should play no part in the OEB's consideration of this Application. It is clear that the Government wants the

[3] SEC Submissions, page 3.

Company to implement a voluntary RNG program, as seen by the wording of the MOEP, and as seen by Enbridge Gas's continued communications and updates to the government about the details and status of the Program[4]. Enbridge Gas submits that government policy is a relevant factor for the OEB to consider, both in general terms, and also in response to the Board's statutory objective "to promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances."[5]

8. EP argues that the Voluntary RNG Program is not natural gas supply and distribution that must be provided under the *OEB Act,* and therefore the Program should be considered non-utility unless it is approved as a pilot program.[6] If EP is questioning whether the OEB has authority to approve the Program then such concerns ought to be disregarded. The *OEB Act* speaks to the sale and distribution of "gas" (which includes substitute natural gas), and the definition of "gas" has been found to include RNG.[7] Therefore, it is appropriate for the Program to be part of the Company's regulated utility operations.

9. Finally, one of SEC's arguments against approval of the Voluntary RNG Program is that it is not substantial enough to make a difference.[8] Enbridge Gas acknowledges the small scale of the Program, but sees this approach as beneficial at this time. As many parties have recognized[9], the launch of the Program is a first step towards building customer awareness of RNG and encouraging the growth of RNG options for the Ontario market. Building on the experience that will be gained from initial operation

[4] Exhibit JT2.6.
[5] *OEB Act*, section 2(5). The Company agrees with observations in the VECC Submissions (pages 5-6) that "energy efficiency", read broadly, includes the substitution of low-carbon RNG and other fuels in place of conventional natural gas. The same could be said of "energy conservation".
[6] EP Submission, page 6.
[7] *OEB Act*, sections 3 and 36. An example of a case where the OEB found that RNG is "gas" for the purposes of the *OEB Act* is EB-2017-0319, where the OEB approved Enbridge Gas Distribution's proposed RNG injection service.
[8] SEC Submissions, pages 2 and 8.
[9] See, for example, OEB Staff Submissions, pages 2-3; IGUA Submissions, pages 5-6; LPMA Submissions, page 2; and PP Submissions, page 3.

of the Program in the deferred rebasing term, Enbridge Gas will be in a position to make an updated proposal for the Program at rebasing. Depending upon items such as customer interest in this Program, growth of RNG supply options (and corresponding reduction in cost), requirements of the CFS and status of gas marketer involvement in RNG supply, it may be appropriate at rebasing for Enbridge Gas to propose an expanded Program or a different approach to including RNG in system gas supply. At present, however, the Company's plans for a limited and measured approach to the Voluntary RNG Program are appropriate.

C. RESPONSE TO INTERVENOR POSITIONS

10. In the Overview section above, Enbridge Gas set out its high-level responses on the main topics addressed in intervenor argument. In the subsections that follow, the Company sets out more detailed responses.

i. Duration of Approval

11. Almost all parties in this proceeding support, conditionally support, or do not oppose, OEB approval of the Voluntary RNG Program.[10] Enbridge Gas will not repeat the reasons favouring approval cited by other parties, but notes that to a large degree other parties acknowledge and endorse the justifications and rationale for the Program set out in Argument in Chief.

12. Most parties supporting/conditionally supporting approval of the Voluntary RNG Program do not request that such approval be time-limited.[11] Presumably these parties are comfortable with that position because they believe that the Board can adjust the approvals for the Program as part of the rebasing proceeding.[12]

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[10] OEB Staff, Anwaatin, BOMA, CBA, CME, CCC, ED, FRPO, IGUA, LPMA, PP and VECC each support or conditionally support approval of the Voluntary RNG Program. EP does not oppose approval. Only SEC and Summitt oppose approval.
[11] These parties are Anwaatin, BOMA, CBA, CME, ED, FRPO, LPMA, PP and VECC.
[12] This position is explicit in some submissions: see, for example LPMA Submissions, pages 10-11; CME Submissions, para. 16; and VECC Submissions, para. 13.

13. Several parties submit that the OEB should provide only a time-limited or pilot approval for the Program, until the end of Enbridge Gas's deferred rebasing period (December 31, 2023).[13] Among other things, these parties assert that a time-limited approval would allow the Board to revisit issues of Program effectiveness/design, impacts on competition and responsiveness to government policy without having made a long-term commitment to the Program.[14]

14. As noted throughout the proceeding, Enbridge Gas will be making an updated proposal for the Voluntary RNG Program at rebasing, and will report on the experience of the Program to date as part of (or at the same time as) its rebasing application.[15] The Company confirms that the Program will be reviewed at that time, and that it will be open for parties (and the Board) to take any position they deem appropriate. With that in mind, the Company does not believe that it is necessary to expressly limit the approval of the Program to a three-year period with the implication that all aspects of the Program will necessarily be considered anew at rebasing.

15. Enbridge Gas would likely have to consider an OEB Decision indicating that Program approvals all expire after 3 years as a signal that continuation of the Program beyond rebasing is at substantial risk. In this way, a time-limited approval of the Voluntary RNG Program may limit any forward-looking work on the Program that Enbridge Gas might undertake during the last year of the deferred rebasing period. Enbridge Gas submits that a more positive signal would be sent through a decision that approves the Program without an end date, while acknowledging that the performance, status and terms of the Program will be evaluated within (or at the same time as) the Company's rebasing application for 2024.

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[13] These parties are OEB Staff, CCC, EP (assuming that's what is meant by approval of a "pilot program"); and IGUA.
[14] See, for example, OEB Staff Submissions, page 2; CCC Submissions, page 3; and IGUA Submissions, para. 22.
[15] Argument in Chief, paras. 26 and 37.

16. Finally, Enbridge Gas notes that there will be some capital costs associated with system changes to enable billing for the Program.[16] In the event that the OEB decides to only provide a limited-time approval of the Program in its Decision, the Company requests that the OEB confirm that recovery of those capital investments will be permitted over the associated life of the assets (which is longer than the deferred rebasing period).

ii. Terms of the Program

17. Enbridge Gas explained its proposed terms for the Voluntary RNG Program in evidence and Argument in Chief.[17] Among other things, Enbridge Gas proposes a single level of participation ($2 per month) and availability to all system gas general service customers. This is intended to maximize participation and make the Program easy to administer.

18. Some parties argue that the terms of the Program should be expanded, to give customers more choice and increase the amount of RNG procured. For example, CBA proposes that Enbridge Gas should be permitted to charge more than $2 per month to interested customers and to create a higher level of charge for larger customers such as commercial and municipal customers.[18] PP proposes that the Program be available to all customers, not just general service customers.[19]

19. Enbridge Gas appreciates the efforts of parties to make constructive suggestions to expand the impact of the Voluntary RNG Program. However, Enbridge Gas prefers to use its proposed simple and scalable approach to the Program for the initial years starting in 2021 until the end of the deferred rebasing period. There is a limited evidentiary basis on the details and potential impacts of the proposals made by other

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[16] Exhibit I.STAFF.13.
[17] See Argument in Chief, paras. 14-29 (and references cited therein).
[18] CBA Submissions, page 2. CBA also asserts that Enbridge Gas should be permitted to purchase RNG for "own use" gas and recover the costs from ratepayers – see CBA Submissions, pages 3-4. ED also argues that Enbridge gas should offer customers the option to offset a higher proportion of their gas use – ED Submissions, page 10.
[19] PP Submissions, page 8.

parties. Enbridge Gas believes that it will be appropriate to consider enhancements to Program design at rebasing, after there is some practical experience with the Program and once details of the CFS are known. At that time, Enbridge Gas (or other interested parties) can file evidence and proposals about whether/how to update, change or expand the scope and terms of the Program.

iii. Communications with Customers

20. Several intervenor arguments focus on what those parties believe Enbridge Gas should include in marketing and reporting materials for the Voluntary RNG Program.

21. The most prescriptive of these arguments is from ED, who argue for specific disclosure of cost comparisons of various emissions reductions options, customer education of other energy efficiency options including heat pumps, and OEB pre-approval of marketing materials.[20] PP is also somewhat prescriptive in its suggestions, arguing that where Enbridge Gas makes any "marketing material claims", these should be "validated by a credible third party".[21]

22. Other parties commenting on their expectations for customer communications take a higher-level approach, asserting that any materials used should be accurate and complete and provide customers with information sufficient to make an informed decision about whether to enroll in the Program.[22]

23. Enbridge Gas does not believe that it is necessary for the OEB to stipulate the content of Program marketing materials, or to review/approve such materials. Enbridge Gas will ensure that its marketing materials are fair, accurate and appropriate to allow interested customers to make an informed decision about whether to participate in the Program. This is consistent with the manner in which Enbridge Gas has conducted itself in the marketing of energy efficiency programs and other initiatives. The

[20] ED Submissions, pages 3-9.
[21] PP Submissions, page 8.
[22] See, for example, OEB Staff Submissions, page 9; EP Submissions, page 5; FRPO Submissions, page 2; and SEC Submission, page 8.

Company is well-positioned to decide what level of disclosure is necessary and will take into account (but not necessarily adopt) the suggestions made by various parties. As the Company's witness Mr. McGill indicated at the Technical Conference: "What I would say is that the company intends to act with integrity with respect to whatever marketing or sales materials it puts together to support this program, and that the company would stand by that."[23]

24. While Enbridge Gas does not believe that fair-minded consumers will have concerns with the marketing materials that are ultimately produced and used, the Company notes the comment in VECC's submission that the Voluntary RNG Program is a regulated offering and subject to the Board's oversight should complaints arise.[24] Moreover, as pointed out by SEC[25], when Enbridge Gas reports on its initial experience with the Program as part of the rebasing application, parties will be able to request and see the marketing materials that have been used, and to make comments about past and future conduct.

25. Intervenor submissions did not focus on the Company's proposal for annual Program reporting, other than to signal agreement that this should be done.[26] As indicated in Argument in Chief, Enbridge Gas plans to provide annual communications to participating customers outlining information such as the total amount of RNG procured under the Voluntary Program, related GHG emission reductions, future forecasts, Program participation, and/or other relevant metrics.[27]

26. Enbridge Gas's prefiled evidence spoke to the possibility that the Company might offer some form(s) of social recognition to Program participants, such as lawn signs or window decals.[28] In their submissions, both ED and SEC took issue with this proposal,

[23] 1Tr.38.
[24] VECC Submissions, page 8.
[25] SEC Submissions, page 8.
[26] Staff Submissions, page 9; PP Submissions, page 8; and VECC Submissions, page 1.
[27] Argument in Chief, para. 29.
[28] Exhibit B, Tab 2, Schedule 3, para. 6.

essentially arguing that the level of customer investment/commitment involved in the Program does not merit pubic recognition.[29] Enbridge Gas notes that the social recognition aspect of its marketing strategy is a small part of its plans, and is certainly not a focus of the initial launch of the Program. That being said, the Company believes that it is appropriate for the Board to leave it to the utility to decide how to promote and grow the Program, subject of course to the expectation that all materials will be accurate and truthful.

<u>iv. Treatment of Program Costs</u>

27. Enbridge Gas proposes to fund the costs of the Voluntary RNG Program from existing revenues during the deferred rebasing term, so that there is no rate increase to non-participants resulting from the Program.[30] Enbridge Gas acknowledged in Argument in Chief that where customers (including non-participants) may see an impact is through the calculation of any potential earnings sharing (ESM) amount.[31]

28. The Company's proposal for treatment of Program costs received a lot of attention in intervenor submissions. Some parties support or make no comment on the Company's proposal.[32] Some parties object, and assert that Program participants should directly pay the Program costs and/or the financial impacts of the Program should be excluded from ESM calculations.[33] At a high-level, the main complaint is that non-participants should not be cross-subsidizing this voluntary Program to any extent.

29. Most of the opposing parties submit that the appropriate way to ensure that there is no cross-subsidization is to have Enbridge Gas fund the Program costs out of participant revenues (monthly charges). One suggestion is that this could be done by

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[29] ED Submissions, pages 8-9 and 10; and SEC Submissions, page 8.
[30] Argument in Chief, para. 26.
[31] Argument in Chief, para. 27.
[32] OEB Staff, BOMA and CBA support the Company's proposal. Anwaatin, ED, FRPO, PP and Summitt make no comment on the proposed treatment of Program costs.
[33] CCC, CME, EP, IGUA, LPMA and SEC each oppose the Company's proposal for treatment of Program costs.

increasing the monthly charge to around $2.90, so that there is still a net amount of $2 per month available to fund RNG purchases.[34] Alternately, some parties propose that the Program costs could be funded from the proposed $2 per month charge, leaving a smaller net amount available for RNG purchases.[35]

30. Enbridge Gas has not proposed Program participants directly pay for the Program during the initial period (deferred rebasing) because that would reduce the amount of RNG purchased with Program revenues. If the Company funds Program costs from the $2 per month paid by each participant, then RNG volumes will decrease. If the Company increases the $2 monthly charge to cover Program costs, then participation is expected to decrease with corresponding reductions to RNG volumes.[36] Enbridge Gas submits that it is more beneficial, for Program participants and all ratepayers, for the Program costs in the initial years to be funded from existing revenues (essentially absorbed by the utility) in order to maximize RNG procurement under the Program. In Enbridge Gas's view, this approach holds the most promise in ensuring a successful launch of the Program.

31. As noted, Enbridge Gas will make a proposal as part of (or at the same time as) the rebasing application regarding how Program Costs will be treated on a go-forward basis.[37] At that time, it may be appropriate for a more mature Program with more participants to be "self-funded" through participant revenues.

32. Parties who argue against the Company's proposal also assert that all Program costs should be removed from the determination of any ESM amounts, in order to ensure that non-participants see no impact from the Program.[38]

33. Enbridge Gas has two submissions in response.

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[34] See, for example, LPMA Submissions, page 7; and IGUA Submissions, para. 11.
[35] See, for example, CME Submissions, page 4; and EP Submissions, page 6.
[36] Exhibit I.LPMA.16 and 2Tr.12-13.
[37] Argument in Chief, para. 26.
[38] See, for example, CCC Submissions, page 3; SEC Submissions, page 6; and VECC Submissions, page 12.

34. First, the inclusion of Program costs in ESM calculations is consistent with the principles underpinning ESM. The ESM is intended to determine the extent to which the Company's actual utility revenues exceed its actual utility costs during a given year (earnings), and where applicable share a portion of any actual utility earnings greater than 150 basis points above the allowed ROE with ratepayers.[39] The Voluntary RNG Program is a utility activity being conducted in accordance with the policies of the Ontario Government for the benefit of ratepayers and the Province. Program costs will be part of the Company's actual utility costs of providing service to ratepayers and are therefore appropriately included in the determination of Enbridge Gas's utility results for each year of the deferred rebasing term (2021, 2022 and 2023). Failing to include Program results will unduly penalize the Company.

35. Second, the concerns raised about cross-subsidization through ESM are overstated. To the extent that the Company is in an earnings sharing position in any year, the inclusion of Program costs will decrease the ESM amount only modestly, given that Program costs are forecast to be approximately $250,000 per year. The net impact to ratepayers, in any year where the ESM applies, would be less than $150,000.

36. Given Enbridge Gas's position as set out above, there should be no need for an additional deferral or variance account as proposed by EP and LPMA.[40] Voluntary RNG Program costs will be included in overall utility results for ESM purposes, and interested parties will be able to ask questions about the Program's financial performance in future ESM proceedings. As noted in the final subsection of this Reply Argument, Enbridge Gas will also provide reporting about the financial performance of the Program as part of (or at the same time as) the rebasing application.

[39] This is stipulated in the MAADs Decision approving amalgamation of EGD and Union Gas – see EB-2017-0306/0307 Decision and Order, at page 29.
[40] See EP Submissions, page 6; and LPMA Submissions, page 6.

v. Treatment of Federal Carbon Charges Credits

37. The inclusion of RNG in the Company's gas supply portfolio will reduce the amount of Federal Carbon Charges otherwise payable by Enbridge Gas on behalf of ratepayers. As detailed in evidence and Argument in Chief, Enbridge Gas proposes to record the Federal Carbon Charge savings amount (estimated to be less than $50,000 in 2021) as a credit in the FCCCVA such that all customers who pay the Federal Carbon Charge will benefit. The reason for this proposed treatment is that the administrative costs to direct the credit to only Program participants outweigh the benefits.[41]

38. Some parties support or make no comment on the Company's proposal to share this credit among all customers subject to the FCCCVA.[42] Several parties object to this proposal, and offer a variety of alternative treatments.[43]

39. Enbridge Gas submits that its original proposal is appropriate. There is an element of equity with this proposal, as it provides ratepayers with an almost certain benefit in terms of reduced Federal Carbon Charges costs that will help offset any potential reduction in ESM amounts arising from inclusion of Program costs in ESM calculations in years where the Company exceeds the ESM threshold.

40. Should the OEB not agree with the Enbridge Gas proposal, the intervenor proposal to use credit balances in the FCCCVA resulting from RNG purchases through the Program to purchase additional volumes of RNG is the only viable and appropriate alternative among those presented.[44] The Company is able to facilitate such a treatment of the Federal Carbon Charge savings should the OEB directs it do so,

[41] Argument in Chief, para. 28 (and associated references).
[42] OEB Staff, Anwaatin and Pollution Probe support the Company's proposal. BOMA, CCC, CME, ED, SEC and Summit make no comment on the proposed treatment of Federal Carbon Charge savings.
[43] A variety of alternatives are offered by intervenors, including allocating the savings to the Federal Carbon Charge Facilities Account (IGUA Submissions, paras. 14-15); providing annual credits to Program participants (VECC Submissions, page 10); using savings to offset Program costs, assuming that the Program costs are charged to participants (EP Submissions, page 5; and LPMA Submissions, page 9); and using the credit amount to purchase additional RNG for the Program (CBA Submissions, pages 2-3; and FRPO Submissions, page 3).
[44] This is consistent with the proposals made by CBA and FRPO.

though this approach will require corresponding changes to the terms of the FCCCVA. Enbridge Gas estimates that this updated approach will allow the Company to direct an additional annual amount of around $3.00 per Program participant towards the procurement of additional RNG in 2021.[45]

vi. Procurement of RNG

41. Most parties did not address or raise issues with Enbridge Gas's proposed approach to procuring RNG from Program revenues.[46] Of those parties who did provide suggestions, most were focused on two items: long-term contracting for RNG supply[47] and treatment of environmental attributes associated with RNG procured[48].

42. Enbridge Gas explained its position on the topic of long-term supply contracts in Argument in Chief.[49] Briefly stated, the Company acknowledges the possible advantages of long-term contracts for RNG supply, but does not favour long-term contracts at the initial stages of the Program where there is no certainty of future volumes or cost recovery. Enbridge Gas acknowledges CBA's position that any RNG procured through a long-term contract that is not required for the Program could be consumed by the Company as "own-use" gas.[50] Though an interesting idea, this notion is not directly related to the Company's Voluntary RNG Program proposal or the approvals sought in this proceeding.

43. On the topic of environmental attributes associated with RNG, CBA argues that Enbridge Gas should only purchase RNG that includes all applicable environmental

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[45] Exhibit I.EP.10(d). See also 2Tr.24-25. This amount will increase in future years as the level of Federal Carbon Charge increases.
[46] OEB Staff described Enbridge Gas's procurement strategy and indicated that it is reasonable (noting that it should be reviewed when the Program itself is reviewed at rebasing) – OEB Staff Submissions, page 8.
[47] See OEB Staff Submissions, page 8; CBA Submissions, pages 4-5; ED Submissions, page 10; and LPMA Submissions, page 3. Both CBA and ED advocate for the appropriateness of long-term RNG supply contracts, while LPMA and OEB Staff agree with Enbridge Gas that use of long-term supply contracts is not appropriate at this time.
[48] See Anwaatin Submissions, pages 3-5; CBA Submissions, page 7; and PP Submissions, page 6.
[49] Argument in Chief, para. 22.
[50] CBA Submissions, page 5.

attributes, and should direct any benefits received from monetizing environmental attributes to the Program.[51] Anwaatin addresses this topic by suggesting that where Enbridge Gas acquires RNG, the OEB must provide "accounting oversight" to ensure that Enbridge Gas properly further allocates any financial benefits to the Program.[52] PP submits that Enbridge Gas should set procurement criteria that considers the emission factor of RNG being sourced.[53]

44. Enbridge Gas does not believe that it is necessary to stipulate that any RNG purchased will be inclusive of all environmental attributes or to mandate suppliers to provide an emission factor for the RNG. This will complicate, and in some instances hinder, the procurement process. At present there is no protocol for quantifying any additional environmental attributes or emission factors associated to procured RNG.[54] This reality creates uncertainty around the actual quantity of environmental attributes being acquired and the monetization of those attributes. That said, some producers, particularly in other jurisdictions, may assign a value to these additional attributes. As a result, Enbridge Gas could be paying more for RNG than it otherwise would, without any certainty that those additional expenditures would yield additional value through monetization.

45. As noted throughout the proceeding, Enbridge Gas's procurement will generally seek out the lowest cost RNG inclusive of substitution environmental attributes, which have recognized value in the jurisdiction in which the Company operates.[55] At present, in Ontario there are no protocols or methodologies for quantifying any additional environmental attributes or emission factors and no government regulated carbon market or compliance programs that would allow Enbridge Gas to quantify the

[51] CBA Submissions, page 7.
[52] Anwaatin Submissions, pages 3-5. Enbridge Gas takes exception to the accusatory tone of Anwaatin's submissions in this regard.
[53] Pollution Probe Submissions, page 6.
[54] 1Tr.141.
[55] Exhibit JT1.11. Procuring the RNG with the substitution environmental attributes will allow the Company to remove this volume of gas from its Federal Carbon Charge obligation, and will ensure the substitution value of the RNG is not double counted by another party.

monetary value of the environmental attributes. To the degree that the CFS, offset regulations or other developments change this reality, Enbridge Gas will re-assess its approach, and will report on such developments at rebasing should they occur. At present, however, monetizing environmental attributes that are not recognized in Ontario will result in more expensive (and thus less volumes of) RNG, and increased Program costs due to the administrative burden associated with Enbridge Gas understanding and participating in various environmental attribute markets in various jurisdictions that have no applicability to Ontario.

46. Parties also raised several other discrete issues on the topic of RNG procurement.

47. Anwaatin suggests that the Company's Gas Supply Procurement Policies and Practices, including focus on lowest cost supply, may not be applicable to RNG procurement.[56] No other party made mention of this item. Enbridge Gas believes that its Gas Procurement Policies and Practices (which explicitly include RNG within the definition of "gas")[57] are appropriate and sufficiently flexible to be used to guide RNG procurement for the Program. The focus on low-cost RNG is appropriate to meet the Program's goal of maximizing RNG volumes acquired with Program funds.

48. CBA submits that where Enbridge Gas chooses to procure RNG for the Program by means other than an RFP, then the Company should disclose the details of that choice to the OEB for review in a future proceeding.[58] CME goes further and suggests that Enbridge Gas should file evidence about all RNG procurement transactions at the next rebasing application.[59] Pollution Probe goes the furthest and suggests that the Company should include third party participation in the "evaluation committee" that evaluates RNG supply options.[60] Enbridge Gas submits that these requests amount to micro-management of the Program. The Company will report on its procurement

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[56] Anwaatin Submissions, page 7.
[57] The Company's Gas Procurement and Policies document is found at Exhibit I.Anwaatin.3. See also 2Tr.68-70.
[58] CBA Submissions, page 6.
[59] CME Submissions, para. 27.
[60] Pollution Probe Submissions, page 8.

activities on an overall basis as part of the Program reporting with (or at the same time as) the rebasing application. It is not necessary for that information to be at a transaction level.

vii. Affiliate Considerations

49. A few parties raise questions about the participation of Enbridge Gas affiliates or the unregulated business unit of Enbridge Gas in RNG upgrading and other activities, and request that the Board order disclosure requirements about the financial operations of those affiliates.[61] Enbridge Gas does not believe that this is necessary or appropriate.

50. Enbridge Gas will comply with all requirements of the *Affiliate Relationships Code* (ARC) and all reporting requirements under the Board's *Reporting and Record Keeping Requirements* (RRRs).[62] At rebasing, the Company will report on its RNG procurement experience, and will respond to relevant and reasonable requests for information about the regulated utility's transactions (if any) with affiliates or its unregulated business units. To go further, and order that information about the broader activities and results of unregulated entities be disclosed or discoverable is not reasonable or appropriate. Those entities operate in a competitive market and are not subject to OEB oversight.

viii. Impact on Competition

51. As OEB Staff note in their submissions, one issue raised in this proceeding is the potential for the Voluntary RNG Program to impact competition.[63] With two exceptions[64], parties agree with Enbridge Gas's position that the Voluntary RNG Program is unlikely to negatively impact current competition, because of the

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[61] See Anwaatin Submissions, pages 5-6; CME Submissions, pages 4-5; and SEC Submissions, pages 6-7.
[62] See, for example, sections2.3, 2.6 and 2.7 of the ARC and sections 2.1.8 and 2.1.10 of the RRRs.
[63] OEB Staff Submissions, page 4.
[64] The parties who raise current competition-related concerns are SEC and Summitt.

Program's small scale and because there is little gas marketer activity in this particular area.[65]

52. Parties agree that there is no evidence in this case about how the Program would disrupt current or planned activities by gas marketers.[66] It appears that there is one gas marketer offering RNG to consumers in Ontario, and that party chose not to participate in this proceeding.[67]

53. Enbridge Gas submits that if competition impacts were a meaningful future concern, gas marketers would have participated and filed evidence in this case. Instead, only one gas marketer (Summitt) chose to intervene and participate in the current proceeding. Summitt did not file evidence and did not point to plans to offer RNG to customers in the future.

54. SEC raises concerns that Enbridge Gas is taking on the role of gas marketer with the Voluntary RNG Program.[68] Enbridge Gas does not agree. Participants in the Program will receive the same gas supply as before, and will continue to be system supply customers. The participants will be making a voluntary contribution towards "greening" of the Company's overall system gas portfolio. Gas marketers remain free to offer different and more direct RNG supply options, and their customers will not be eligible for the Program given it is only available to general service system supply customers.

55. Summitt raises two concerns about the Voluntary RNG Program. Enbridge Gas submits that neither has merit.

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[65] The parties who explicitly agree that the Program does not raise current competition concerns are OEB Staff, CCC LPMA and VECC. CME notes that there could be competition concerns in the future and suggests that this is something to be monitored and reported upon.
[66] See, for example, OEB Staff Submissions, page 4; CCC Submissions, page 2; LPMA Submissions, page 4; and VECC Submissions, page 4.
[67] Exhibit I.CBA.1(d) and Exhibit I.SUMMITT.8. See also 1Tr.63-65.
[68] SEC Submissions, pages 5-6.

56. First, Summitt argues that proposed processes for the Voluntary RNG Program are contrary to existing consumer protection legislation (the *Consumer Protection Act* and the *Energy Consumer Protection Act*).[69] The problem with Summitt's submission is that those statutes specifically do not apply to Enbridge Gas in relation to activities that are rate-regulated by the OEB[70], as seen in the exemption provisions of the statutes.[71] Summitt argues, without any evidence, that the intent of the exemption provisions of the consumer protection statutes should be construed narrowly to exclude utility offerings beyond default system supply. Enbridge Gas submits that Summitt has missed the point of the exemption provisions of the *Consumer Protection Act* and the *Energy Consumer Protection Act*. The reason why certain types of transactions are exempted from the requirements of the statutes is because those transactions are already subject to different consumer protection oversight.[72] In this current case, the OEB (which is statutorily required to protect the interests of consumers[73]) is providing consumer protection by expressly considering, reviewing and overseeing the Voluntary RNG Program.

57. Second, Summitt argues that Enbridge Gas's offering of RNG to customers will distort the competitive market because the utility is not subject to the same contract disclosure requirements as gas marketers.[74] Enbridge Gas submits that participants in the Voluntary RNG Program will have appropriate information and disclosure about the terms of the Program, and are further protected by the fact that they can discontinue participation at any time. In any event, the concern raised by Summitt is only a theoretical concern because there is no evidence that Summitt or any other gas

[69] Summitt Submissions, pages 3-5.
[70] This is explained at Exhibit I.Summitt.4.
[71] *Consumer Protection Act*, section 2(3) and General Regulation under the *Energy Consumer Protection Act* (O. Reg. 389/10), section 27.
[72] A review of the *Consumer Protection Act* exemptions at section 2 of that statute confirms this observation.
[73] *OEB Act*, section 2(2).
[74] Summitt Submissions, pages 5-7.

marketer (other than the one gas marketer offering this service currently, who did not participate in this case) is interested in making future offerings of RNG available.

58. Taking the foregoing into account, Enbridge Gas submits that there are no competition concerns that should prevent the OEB from approving the Voluntary RNG Program. Enbridge Gas agrees with OEB Staff[75] and SEC[76] that this issue may appropriately be revisited at rebasing, taking into account developments that may occur by that time.

ix. Reporting on Program Results at Rebasing

59. As already explained, Enbridge Gas will be filing an application or request within (or at the same time as) the rebasing application for updated approvals for the Program (effective as of January 1, 2024). This will include, at very least, a proposal for how Program costs will be recovered on a go-forward basis. Enbridge Gas has also agreed that it will report on its experience to-date with the Program as part of (or at the same time as) the rebasing application.

60. Parties appear to agree that Enbridge Gas's proposed approach is appropriate (though, as described earlier, there is debate over whether Enbridge Gas should be seeking complete re-approval of the Program at rebasing, or simply seeking approval of updates to the Program, including approval of a Program funding model on a go-forward basis).

61. Some parties offer suggestions about the items that the Company should report upon when seeking approval of updated terms (or reapproval of the Program) at rebasing.[77] Enbridge Gas acknowledges and agrees that as part of its rebasing application (or as part of any contemporaneous application for continued approvals for the Program), it will be important to provide the OEB with information about the operating experience of the Program. This will likely include reporting on Program results (participation,

[75] OEB Staff Submissions, page 4.
[76] SEC Submissions, page 6.
[77] Suggestions about what should be included in Enbridge Gas's reporting are found in the OEB Staff Submissions (pages 9-10); CCC Submissions (page 3); LPMA Submissions (page 10-11); and SEC Submissions, page 9.

costs, RNG volumes etc.), RNG procurement approaches and experience, observations on the competitive market, discussion of the impact of the CFS, and details relating to go-forward proposals for the future of the Program. The Company does not believe that it is necessary to stipulate the specific contents of this future reporting. By necessity, Enbridge Gas will file complete and sufficient evidence to support its requests of the OEB, including relevant reporting information that is available. To the degree that parties seek additional information not included in Enbridge Gas's pre-filed evidence at that time, they will be free to do so as part of the discovery process.

62. Enbridge Gas confirms that it will also be open for other parties to raise issues or advance proposals about the Program at the time that is revisited. In the Company's view, this would be the appropriate time (once there is some experience with the Program), to raise questions about local issues with heat content[78] and appropriateness of current transportation rates for RNG producers[79].

[78] As discussed in the LPMA Submissions, at pages 9-10.
[79] As discussed in the FRPO Submissions, at pages 6-7.

D. RELIEF REQUESTED

63. As set out in Argument in Chief, Enbridge Gas requests that the Board approve the cost consequences and rates necessary for the operation of the Voluntary RNG Program, to commence January 1, 2021.

64. Specifically, Enbridge Gas requests that the Board issue such final and interim Orders as may be necessary to approve:

   i. The proposed $2 monthly charge for each participant in the Voluntary RNG Program;

   ii. The addition of the Voluntary RNG Program charge to relevant Rate Schedules;

   iii. The proposal to use all the RNG Contributions during the deferred rebasing term to pay for the incremental costs of RNG to include within the Company's gas supply portfolio;

   iv. The proposal to include Voluntary RNG Program costs in the calculation of ESM amounts during the deferred rebasing term; and

   v. The proposal to record reductions in Federal Carbon Charges, resulting from the inclusion of RNG in the Company's gas supply portfolio, into the FCCCVA and to allocate such amounts to all ratepayers who pay Federal Carbon Charges.

All of which is respectfully submitted this 5th day of August 2020.

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