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September 24, 2020

VIA EMAIL and RESS

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

Dear Ms. Long:

Re: Enbridge Gas Inc. ("Enbridge Gas")
Ontario Energy Board File: EB-2019-0294
Low Carbon Energy Project – Reply Submission

In accordance with Procedural Order No. 4, dated July 30, 2020, enclosed please find the Reply Submission of Enbridge Gas in the above noted proceeding.

Please contact the undersigned if you have any questions.

Yours truly,

(Original Digitally Signed)

Joel Denomy
Technical Manager, Regulatory Applications

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an application by Enbridge Gas Inc. under section 91 of the OEB Act for an order or orders granting leave to construct natural gas distribution pipelines and ancillary facilities to enable its Low Carbon Energy Project in the City of Markham;

AND IN THE MATTER OF an application under section 36 of the OEB Act for an order or orders approving a rate rider to be applied to customers impacted by the Low Carbon Energy Project.

ENBRIDGE GAS INC.

LTC APPLICATION: LOW CARBON ENERGY PROJECT

REPLY ARGUMENT

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A. OVERVIEW

1. On August 28, 2020, Enbridge Gas Inc. (Enbridge Gas, or the Company) filed its Argument in Chief setting out the reasons why leave to construct (LTC) should be granted for facilities to enable the Low-Carbon Energy Project (also referred to as the LCEP or the Project).
2. Nine parties¹ filed submissions in response to Enbridge Gas. This Reply Argument sets out Enbridge Gas's response.
3. All parties except for ED and CCC support the Ontario Energy Board (OEB, or the Board) granting LTC approval for the LCEP. The parties in support recognize the benefits from a properly scaled pilot project that will look at the potential for hydrogen blending to reduce the carbon footprint for Enbridge Gas's customers. Parties suggest that Enbridge Gas report on what is learned and observed through the pilot project before expanding hydrogen blending within Ontario. Enbridge Gas agrees.
4. In Argument in Chief, Enbridge Gas described the LCEP and how it meets the Board's LTC requirements and expectations.² Other than ED (supported by CCC), which questions the prudence of hydrogen blending as compared to other decarbonization initiatives, no party raises any concern that the Application fails to satisfy the OEB's LTC requirements. Enbridge Gas submits that LTC approval should be granted, for the reasons set out in Argument in Chief, intervenor submissions and this Reply Argument.
5. A number of parties suggest conditions of approval that the OEB should include. Enbridge Gas agrees that a requirement for reporting about the pilot project is appropriate, and that it is reasonable to stipulate that the approval granted in this LTC Application is for the Phase 1 LCEP Blended Gas Area (BGA) only. The Company

¹ OEB Staff, Consumers Council of Canada (CCC); Environmental Defence (ED); Federation of Rental-Housing Providers of Ontario (FRPO); H2GO Canada (H2GO); Industrial Gas Users Association (IGUA); Pollution Probe (PP); School Energy Coalition (SEC); and Vulnerable Energy Consumers Coalition (VECC).

² Enbridge Gas will not repeat its earlier submissions set out in Argument in Chief, but does rely upon them for the purpose of this Reply Argument.

also agrees that it would be appropriate to update the amount of the Rate Riders for BGA customers each year to reflect current gas prices.

B. SUPPORT FOR THE LCEP

6. While Enbridge Gas will not repeat most of what is found in intervenor submissions, it is instructive to highlight some of the key reasons why other parties support the LCEP.

These positions, as summarized below, align with the Company's evidence and Argument in Chief explaining the benefits of the Project.

- i. OEB Staff support approval of this pilot project, in part because it "takes a measured approach to determining whether hydrogen blending has a future in Ontario".³ OEB Staff conclude that "the Project is a relatively low-cost pilot project that poses little financial risk to ratepayers."⁴
- ii. Several parties recognize the reasonableness of proceeding with a properly scaled pilot project to gain practical experience with hydrogen blending and evaluate its appropriateness for future expansion. SEC summarizes this by stating: "[t]his is a pilot project. Learning enough to help assess later what role hydrogen can play, if any, is the goal. This project can be used to enhance that knowledge."⁵ PP notes that "[p]ilot projects by their very nature are typically small and contained, but with enough scale to provide valuable insights for future or larger scale application in the future. The project proposed by Enbridge fits this category. Should the pilot identify significant challenges or results that are less favorable to other options, that too would be valuable learning."⁶ OEB Staff acknowledge that hydrogen is relatively expensive, but notes its support for this pilot project indicating that "while there are more cost effective alternatives to hydrogen blending for reducing GHG emissions, it would be premature to rule out hydrogen blending as a means to reduce GHG emissions before it is better understood in the Ontario context."⁷
- iii. PP explains that while hydrogen blending on its own will not satisfy all emission reduction requirements, it can be one of many tools employed together to meet future goals: "[h]ydrogen blending itself will not provide the full suite of future solutions required to meet consumer demand and policy requirements. A broad selection of energy options will be required that also includes renewable and increased energy efficiency. Approval of this pilot project should not be construed as hydrogen blending being a better or cleaner energy solution than

³ OEB Staff Submission, page 11.

⁴ OEB Staff Submission, page 13

⁵ SEC Submission, page 5.

⁶ PP Submission, page 4.

⁷ OEB Staff Submission, page 5.

- renewable energy (e.g. heat pumps), but that this is a proof of concept to better understand if hydrogen blending should be considered for the future and to what extent.”⁸ H2GO makes a similar point, highlighting the broader climate and energy context surrounding the Application and indicating that hydrogen blending should be evaluated as being one of “the plurality of all carbon mitigation responses” that are required in order for Canada to meet its GHG reduction commitments.⁹
- iv. SEC recognizes that while hydrogen will not entirely replace natural gas, hydrogen blending can have a role to play in reducing GHG emissions while consumers continue to make use of existing natural gas pipelines and customer appliances.¹⁰ A similar point is recognized by H2GO, who explain why reducing the GHG emissions associated with natural gas is important, noting “the very important role that natural gas, lower carbon blends (including renewable natural gas and hydrogen), and related existing infrastructure has in the affordable energy paradigm – particularly as Ontario emerges from the economic impacts of the COVID-19 virus.”¹¹
 - v. IGUA indicates its support, highlighting the innovative nature of the LCEP stating that: “IGUA has, and continues to, support innovation in energy services, including by regulated utilities, with modest ratepayer funding for prudent innovation initiatives that are within the reasonable scope of regulated activities. The proposed LCEP clearly fits within EGI’s regulated gas distribution activities, and the scope and cost of the initiative is appropriately modest.”¹² SEC makes a similar point, stating: “Enbridge should pursue innovation and develop more knowledge that could benefit customers in the future, and customers should be willing to pay for reasonable expenses associated with innovation.”¹³
 - vi. Finally, H2GO recognizes and acknowledges the benefits to ratepayers from blending hydrogen into the natural gas grid, including: (a) the delivery of blended natural gas with a lower carbon content that measurably lowers the GHG emissions intensity of traditional natural gas fuels; (b) introduction of a fuel that is expected to be compliant with the requirements of the forthcoming federal Clean Fuel Standard (CFS); (c) potential to create new opportunities to develop, operate, and maintain additional lower carbon, blended gas systems in Ontario; and (d) corresponding benefits to electricity ratepayers, who are

⁸ PP Submission, page 3.

⁹ H2GO Submission, para. 7.

¹⁰ SEC Submission, page 3.

¹¹ H2GO Submission, para. 7.

¹² IGUA Submission, page 1.

¹³ SEC Submission, page 6.

typically also Enbridge Gas customers, as the natural gas distribution system can be used to store Ontario's surplus electricity generation.¹⁴

C. RESPONSE TO THE DISSENTING PARTIES

7. In contrast to the parties who support the Application, ED's submissions set out reasons why the Application should be denied. CCC adopts ED's submissions, but does not add any independent analysis.¹⁵
8. Before addressing the substance of ED's submissions, Enbridge Gas has three general comments about the approach taken by ED.
 - i. ED's submissions include a lot of data and calculations relying on a wide variety of sources. In parts, the submissions read more like an expert report or evidence than argument. The result is that ED's submissions advance and rely on a large number of untested assertions – purportedly based on public information, but often not based on evidence advanced or tested in this proceeding. In this context, Enbridge Gas submits that it would be appropriate for the Board to be cautious in adopting conclusions reached by ED.
 - ii. While Enbridge Gas does not believe that it will be helpful to present a detailed response to the many numbers presented by ED (for such things as cost-effectiveness and decarbonization potential), a couple of examples show that there may be flaws with the information presented by ED. First, the reliance by ED on conclusions and data from the Marginal Abatement Cost Curve (MACC) can be questioned. The MACC is now outdated (it was done in 2017, with an intention to update each 3 years) and its purpose was to look at utility costs only, in order to compare to the cost of purchasing allowances in Cap and Trade. Its value may be limited outside of this scope.¹⁶ Second, ED's assertion that electric heat pumps have a "near 100%" decarbonization potential is

¹⁴ H2GO Submission, para. 17.

¹⁵ CCC states that "based on the analysis provided by ED", it does not support the Application – CCC Submission, page 2.

¹⁶ For example, the MACC doesn't include customer costs for the energy efficiency projects, so some of the numbers provided by ED on Table 1 for energy efficiency may not include customer capital or operating expenses – see, for example, page 17 of the MACC Report (https://www.oeb.ca/sites/default/files/OEB_MACC%20Report_20170720.pdf), which states: "It is important to understand that costs for each abatement option were determined based on what it would cost the utility and not from the perspective of what it would cost the customer. This means that the MACC identifies what options are more cost effective for the utilities than purchasing allowances, and not what has the greatest overall economic benefit." Enbridge Gas acknowledges that the numbers in the MACC Report related to heat pumps may include customer costs (see Appendix A to the MACC Report). However, ED does not highlight anywhere in their submissions that electric heat pumps require capital costs can range from \$7,500 to \$11,250 and incremental energy costs of \$600 - \$1,000 per year (2016 numbers, taken from the MACC at Table 28 and 30).

questionable. This is premised on 100% emissions-free electricity, which is not the case in Ontario, which has gas-fired generation.

- iii. ED's submissions do not include any reference or response to the many reports finding that hydrogen has an important role to play in decarbonization, including for space heating. ED filed a late interrogatory request asking Enbridge Gas to answer a list of questions about a recent report by the Fraunhofer Institute for Energy Economics and Energy System Technology (the Fraunhofer Study).¹⁷ Enbridge Gas filed a very detailed response, explaining flaws with the Fraunhofer Study¹⁸ and pointing to 15 other studies and strategies that support the Company's position on the role hydrogen can play in decarbonizing the natural gas system. Enbridge Gas also pointed to 8 projects in other jurisdictions that are testing hydrogen blending in natural gas distribution systems. ED does not respond to or reference any of the information in the Company's interrogatory response, choosing instead to quote directly from the Fraunhofer Study without any reference to the additional information provided by Enbridge Gas.¹⁹ The Company submits that if the Board finds it appropriate to reference third party studies (which are not evidence in this case), then it is fair to consider all such studies and information noted in the record of the proceeding (including the many supportive studies and strategies highlighted by Enbridge Gas).

9. At a high level, ED makes four submissions. Enbridge Gas will respond to each in turn.

10. ED submits that hydrogen blending is an overly expensive solution for emissions reductions.²⁰ Enbridge Gas acknowledges that hydrogen blending is more costly than some other alternative approaches, but submits that this alone does not invalidate the proposed pilot project.

11. As recognized by many other parties, the cost of the LCEP pilot project is relatively low, in the context of Enbridge Gas's province-wide distribution system.²¹ The Company will not expand hydrogen blending unless and until it experiences positive

¹⁷ Exhibit I.ED.12.

¹⁸ Including the fact that the Fraunhofer Study was done on behalf of the Information Center for Heat Pumps and Cooling Technology (IZW), which appears to be focused on electric heat pumps and advocacy in support of electric heat pumps. See Exhibit I.ED.12 (b), page 5.

¹⁹ ED Submission, page 8.

²⁰ See, for example, ED Submission, page 5.

²¹ See, for example, OEB Staff Submission, page 13; and IGUA Submission, page 1.

outcomes from its “proof of concept” pilot project and obtains supplementary OEB approval.

12. In the immediate term, ratepayers are protected because Enbridge Gas is able to acquire the hydrogen required for the LCEP at a cost equivalent to the cost of natural gas.²² As noted by OEB Staff, the arrangement is compliant with the Affiliate Relationships Code, because hydrogen is provided from Enbridge Gas’s affiliate (2562961 Ontario Ltd.) at a price lower than market price.²³ In response to SEC’s question on this topic²⁴, Enbridge Gas confirms that funds received by the affiliate for hydrogen supply will result in a corresponding reduction to payments from the IESO to the affiliate (because, subject to any future changes in the IESO contract, the affiliate’s net costs that are covered by the IESO will be reduced).²⁵
13. It is fair to assume that the cost of hydrogen blending will come down over time, similar to the reduction in costs to produce renewable electricity from solar and wind in recent years. This can be seen in a couple of ways.²⁶ First, as the demand for hydrogen increases the cost to produce electrolyzers will come down. Second, as the cost to produce renewable electricity continues to drop, the cost to produce hydrogen through electrolysis will decrease.
14. In terms of cost, it is also important to note that a main benefit of the LCEP is that it makes use of existing utility and customer assets.²⁷ Customers continue to receive

²² See Argument in Chief, para. 43, and associated references.

²³ OEB Staff Submission, page 18.

²⁴ SEC Submission, page 7.

²⁵ The IESO contract is produced as Attachment 1 to Exhibit I.SEC.9 (the relevant provision is section 3.11).

²⁶ The anticipation of reduced hydrogen production costs in the future is addressed in the Hydrogen Council paper titled “Path to hydrogen competitiveness: A cost perspective.” (20 January 2020) – referenced at Exhibit I.ED.12(a), page 7, item #10. See also the draft Hydrogen Strategy for Canada (July 2020), page 8 (this document was referred to and attached to Exhibit I.ED.12).

²⁷ This point is acknowledged by other parties – see SEC Submission, page 3; and H2GO Submission, para. 7.

safe, reliable and cost-effective distribution service, but they benefit from a lower-emissions energy source.

15. ED also submits that the decarbonization impacts from hydrogen blending are limited.²⁸ Enbridge Gas acknowledges this point, but notes that in the aggregate the emissions savings from hydrogen blending could be meaningful if this activity is expanded to larger parts of the distribution system.²⁹ In any event, Enbridge Gas is not pursuing hydrogen blending as its only means of emissions reductions. This is one piece of Enbridge Gas's overall strategy to reduce emissions. As stated in an interrogatory response:

Enbridge Gas believes a combination of solutions will be needed as part of the transition to a low carbon economy. These solutions include energy efficiency via Demand Side Management (which Enbridge Gas has been doing for over 20 years across Ontario), renewable hydrogen, renewable natural gas from bio sources, electrification, geothermal, the use of gas fired heat pumps, and high efficiency furnaces, amongst others.³⁰

16. ED argues that hydrogen supply should be reserved for other sectors (like transportation), and that money otherwise spent on hydrogen blending should be directed to electric heat pumps.³¹ Enbridge Gas does not agree.

17. It is premature to limit potential uses for hydrogen, and stifle potential innovation by failing to even study small-scale practical applications such as the LCEP.³² The recently released (draft) Hydrogen Strategy for Canada describes hydrogen as a “versatile carbon-free chemical fuel” that can be used for a variety of applications, including “to provide heat for industry and the built environment through burning directly or as a blend with natural gas”.³³ The LCEP is an opportunity to gather real-world experience with blending hydrogen into the gas supply and reduce GHG

²⁸ ED Submission, pages 4-5.

²⁹ Exhibit I.ED.12(b), pages 8-9.

³⁰ Exhibit I.ED.12(b), page 8.

³¹ ED Submission, pages 5-11.

³² This point is endorsed by OEB Staff – see OEB Staff Submission, page 10.

³³ Exhibit I.ED.12, Attachment 1, page 4.

emissions. The LCEP takes advantage of an already-available and proximate source of hydrogen. This type of project should be encouraged.

18. Moreover, any choice between hydrogen blending and electric heat pumps is not under consideration in this Application. The LCEP is one means through which Enbridge Gas seeks to reduce its carbon footprint while continuing to provide safe, reliable and cost-effective service. ED's proposal would require directing customers away from gas towards electric heating, something that is not being debated here.
19. Finally, ED argues that the Board should convene a generic hearing on the decarbonization of buildings in Ontario.³⁴ ED's proposal to convene an industry-wide proceeding to look at options for building heating raises a multitude of issues that are perhaps best left to direction from Government. There is no such direction at this time. The LCEP LTC Application is a request for approval of a modest pilot project to examine the feasibility and implications of one approach to decarbonization. Enbridge Gas submits that it can be reviewed and approved even if the OEB determines that a sector-wide review of decarbonization and building heating is needed in the future.

D. THE LCEP MEETS THE OEB'S REQUIREMENTS FOR LTC APPLICATIONS

20. As explained in Argument in Chief, Enbridge Gas's proposed LCEP meets the OEB's expectations and requirements for LTC applications (the criteria to be examined are need for the project, project alternatives, project costs and economics, environmental impacts, landowner impacts and Indigenous consultation).³⁵ This topic is canvassed at length in the OEB Staff Submission, which includes the conclusion that "the requirements for LTC have been met".³⁶
21. Other than ED (supported by CCC), who argue that that Enbridge Gas has not established that the LCEP is prudent, no party raises any concern about Enbridge Gas failing to meet the Board's LTC criteria. For the reasons set out in Argument in

³⁴ ED Submission, pages 13-14. This position is endorsed by PP and CCC.

³⁵ Argument in Chief, paras. 45-53.

³⁶ OEB Staff Submission, page 5.

Chief and detailed by OEB Staff, Enbridge Gas submits that it is fair to conclude that the LTC requirements and expectations have been met, and that approval should be granted, subject to appropriate conditions.

E. PROPOSED ADDITIONAL CONDITIONS OF APPROVAL

22. The parties who support approval of the LCEP LTC suggest a range of additional conditions of approval or directions that the OEB should include in its approval. The items proposed, and Enbridge Gas's response, are set out below.

Approval limited to Phase 1

23. OEB Staff and VECC each assert that any OEB approval of the LCEP LTC should be limited to Phase 1 of the LCEP, and that Enbridge Gas should be required to seek supplementary approval before expanding hydrogen blending beyond the LCEP Phase 1 BGA.³⁷

24. Enbridge Gas accepts this limitation, and will seek OEB approval before expanding hydrogen blending beyond Phase 1 of the LCEP.

Reporting

25. In Argument in Chief, Enbridge Gas indicated that “[a]fter a reasonable period (likely 5 years), Enbridge Gas commits to report to the OEB and stakeholders about its experience with the LCEP, including observations and recommendations about whether and how to expand hydrogen blending.”³⁸

26. OEB Staff agree that reporting after 5 years of actual experience is appropriate, and provide a list of items to be included in the reporting³⁹:

- i. Actual fully allocated costs of the Project relative to budget;

³⁷ OEB Staff Submission, page 23; and VECC Submission, page 1.

³⁸ Argument in Chief, para. 28.

³⁹ OEB Staff Submission, pages 12-13 and 23.

- ii. Research findings including any evidence of negative impacts on the distribution system and end use appliances, and the actual \$/tCO₂e associated with the Project;
- iii. A log of communications with stakeholders including customers and the Technical Standards and Safety Authority (TSSA);
- iv. Conclusions arising from the project-generated knowledge (e.g., risks/mitigations); and
- v. Recommendations for next steps (e.g., discontinue or expand the pilot, adjust the concentration of hydrogen) and the potential timing of any related applications to the OEB.

27. Enbridge Gas agrees that each of the items noted by OEB Staff is reasonable to include in the reporting. It is possible that some of the information about experience with the Project will be commercially sensitive (valuable to third parties who might be willing to pay for it), and therefore Enbridge Gas might seek confidential treatment of certain portions of the reporting.

28. SEC suggests a similar scope of items for reporting, but submits that Enbridge Gas should be required to provide the reporting on an annual basis.⁴⁰

29. Enbridge Gas does not believe that annual reporting is necessary. It is not clear what benefit will accrue from reporting every year, rather than waiting until there is a meaningful amount of experience operating and observing the LCEP. However, Enbridge Gas does agree (as discussed under the next subheading) that some reporting will be appropriate in the context of the upcoming rebasing proceeding (which is for rates commencing January 1, 2024). This will provide the OEB and parties with interim information about the LCEP before full reporting is provided. Enbridge Gas would then provide a more complete report on the pilot project after there is five years of operating experience (which would not be until around 2026).

⁴⁰ SEC Submission, page 6.

Review of Costs at Rebasing

30. As Enbridge Gas explained in Argument in Chief, the Company is currently in a price cap rate setting regime during its deferred rebasing term, meaning that the cost of the LCEP facilities will not result in any incremental impact to rates until rebasing in 2024.⁴¹ At that time the LCEP facilities will be included in rate base.⁴²
31. Several parties made submissions about the information that Enbridge Gas should file at rebasing, to support the addition of Project costs to rate base, as well as the ongoing operating costs of the LCEP.⁴³
32. Enbridge Gas agrees that it will have to present and justify the costs of the LCEP as part of the rebasing application, both in terms of capital costs incurred and in terms of forecast future operating costs (including the cost and cost treatment of hydrogen supply).
33. Several parties make submissions about how the OEB should evaluate the prudence of LCEP capital costs incurred when these are presented at rebasing.⁴⁴ Enbridge Gas agrees with IGUA's submission on this topic, which states:
- We are assuming that the prudence of the proposed investment is a determination that EGI is seeking now, and once made such a determination should not be subject to revisiting in hindsight. While it is true that during the current incentive rate plan period the investment is not added to rate base, we are not endorsing a proposition that despite LCEP approval EGI should be at risk for the initial investment on the basis of prudence. The wisdom of additional investment, however, is a matter legitimately considered at the time of rebasing.⁴⁵

⁴¹ Enbridge Gas acknowledges IGUA's submission that the Project could have some minor impact on earnings sharing (ESM) amounts in future years of the deferred rebasing term – see IGUA Submission, page 2. The Company believes that it is appropriate to include the impacts of the LCEP in utility results for ESM purposes, since this will be part of utility operations.

⁴² Argument in Chief, para. 41.

⁴³ See, for example, SEC Submission, pages 8-9; PP Submission, page 5; and IGUA Submission, page 2.

⁴⁴ See SEC Submission, page 8; VECC Submission, para. 27; and IGUA Submission, page 2.

⁴⁵ IGUA Submission, page 2.

Rate Riders

34. Enbridge Gas seeks approval of Rate Riders (for Rates 1 and 6) to compensate customers in the BGA for the cost of additional blended gas supply required because of the lower heating value of hydrogen. Parties agree with this proposal.⁴⁶ OEB Staff submits that Enbridge Gas should update the amount for the Rate Riders annually, to take account of updated gas pricing.⁴⁷ Enbridge Gas is agreeable to this proposal, and suggests that the updates could be included as part of the Company's annual rates proceedings.

Treatment of CFS credits and reduced Federal Carbon Charges

35. In its Submission, VECC sets out a proposal for how to treat any CFS credits and reduced Federal Carbon Charges (FCC) resulting from hydrogen blending.⁴⁸

36. Enbridge Gas agrees that any benefits obtained related to the FCC or CFS will be used to the benefit of ratepayers.

37. At this time, hydrogen blended into natural gas does not qualify for an exemption from the FCC.⁴⁹ Where that changes in the future, for example because of Enbridge Gas advocacy with the Federal Government, then Enbridge Gas expects to reflect any savings in the existing Federal Carbon Charge Customer Variance Accounts (FCCCVA).

38. At this time, not enough is known about the CFS to make a proposal for how benefits arising from hydrogen blending will be determined and credited to ratepayers. However, Enbridge Gas does commit to the general principle that any benefits obtained will be used to the benefit of ratepayers.⁵⁰

⁴⁶ See VECC Submission, para. 17; SEC Submission, page 9; and OEB Staff Submission, pages 21-22.

⁴⁷ OEB Staff Submission, page 22.

⁴⁸ VECC Submission, paras. 18-20.

⁴⁹ Exhibit I.H2GO.3(d).

⁵⁰ See Exhibit I.STAFF.2(h).

Treatment of “Intellectual Property”

39. Several intervenors make submissions about how “intellectual property” arising from the LCEP should be treated in the future. The general assertion made is that the “intellectual property” belongs to ratepayers, because they have “paid” for the pilot project.⁵¹

40. Enbridge Gas explained its position on this question in response to a SEC Interrogatory, stating that:

Enbridge Gas confirms that intellectual property developed through the LCEP pilot project relating to hydrogen blending for gas distribution systems will be owned by the Applicant as utility assets. Enbridge Gas does not confirm that utility assets are held for the benefit of ratepayers. Enbridge Gas does acknowledge, however, that the Board may find it appropriate for ratepayers to share in future financial proceeds arising from future use of intellectual property developed by Enbridge Gas through the LCEP pilot project relating to hydrogen blending for gas distribution systems.⁵²

41. As indicated above, Enbridge Gas does not agree that ratepayers own the utility’s assets.⁵³ However, if value is derived from the LCEP in the future (for example, where Enbridge Gas can obtain payment from other utilities who wish to learn from Enbridge Gas’s experience), then the Company acknowledges that the OEB might determine that such value should be shared with ratepayers. At this time, however, there is no “live controversy” about these speculative future matters. Enbridge Gas submits, therefore, that there is no need for the OEB to make a determination on this item.

42. A couple of intervenors address a related issue and argue that because the “intellectual property” is owned by or for the benefit of ratepayers, then Enbridge Gas should make it public.⁵⁴ Enbridge Gas submits that no such categorical determination is appropriate. Even assuming that ratepayers are entitled to the benefits of any such

⁵¹ See, for example, SEC Submission, pages 7-8; and CCC Submission, page 3.

⁵² Exhibit I.SEC.2.

⁵³ As explained by the Supreme Court of Canada in the 2006 *ATCO* decision, ratepayers pay for regulated services through rates – they do not acquire an ownership interest in the utility’s assets - *ATCO Gas and Pipelines v. Alberta*, [2006] 1 S.C.R. 140 at paras. 63 and 68.

⁵⁴ FRPO Submission, page 2; and VECC Submission, page 9.

“intellectual property” (which Enbridge Gas believes is a question for a later day when there are specific facts to consider), it may not be in either the Company’s or ratepayers’ interest to publicize this “intellectual property”. As indicated in response to CCC Interrogatory #15, “some or all of the information about the pilot project may be commercially sensitive and valuable to other players interested in commercializing hydrogen.” Public disclosure of such information would diminish or destroy its value.

Including Hydrogen in Gas Supply Plan

43. PP indicates that because Enbridge Gas “intends for hydrogen (similar to renewable natural gas) to become a more material component of its gas supply options”, it should be included in the Company’s next Gas Supply Plan “with reference material to back-up future supply assumptions”.⁵⁵

44. Enbridge Gas agrees that at some time in the future it may be appropriate to include details about hydrogen supply in the Gas Supply Plan. However, Enbridge Gas believes that at this time such a requirement is premature. All that is currently planned is a pilot project for 3600 customers with an adjacent source of hydrogen supply.

Production of Risk Assessment

45. FRPO’s submissions appear to raise concerns about whether the TSSA have adequately reviewed the LCEP.⁵⁶ FRPO asserts that Enbridge Gas should be required to produce its risk assessment document to the OEB as a condition of approval, for reasons of “public accountability”.

46. Enbridge Gas does not agree that provision of the risk assessment is necessary.

47. The TSSA is charged with promoting, enhancing and ensuring public safety, including in relation to gas carrying pipelines.⁵⁷ This is different from the OEB’s role, which is largely as an economic regulator. In Procedural Order No. 2, the OEB asked the

⁵⁵ PP Submission, page 6.

⁵⁶ FRPO Submission, pages 2-4.

⁵⁷ See the TSSA’s website (<https://www.tssa.org/en/about-tssa/about-tssa.aspx>), as well as the *Technical Standards and Safety Act, 2000*, S.O. 2000, c. 16, at section 3.6 (Objects).

TSSA to provide written evidence “as to the broader safety issues associated with the Project, including any ongoing monitoring activities by the TSSA”. The OEB set out a number of topics to be addressed in the TSSA’s evidence, and provided other parties with the opportunity to ask interrogatories to the TSSA.

48. The TSSA provided evidence as requested, and set out a list of reasons why the TSSA is in support of the Project.⁵⁸ In its evidence, the TSSA indicated that it had not yet reviewed Enbridge Gas’s “risk assessment” document, and that it would want to do so. As confirmed in response to an OEB Staff interrogatory to the TSSA, Enbridge Gas subsequently provided the risk assessment to the TSSA on an expressly confidential basis, and the TSSA reviewed and found it satisfactory.⁵⁹

49. Given the above context, it is not clear why the OEB would need to have the risk assessment produced. The TSSA is responsible for pipeline safety and in response to the OEB’s specific request, the TSSA has confirmed that it supports the LCEP and is satisfied with the risk assessment. The TSSA has further confirmed that it will continue to exercise its oversight function with respect to the LCEP, and will audit and inspect to ensure compliance with applicable technical and safety standards for construction and operation of the Project.⁶⁰ Enbridge Gas respectfully submits that production of the risk assessment is not necessary for the OEB’s decision on this LTC request.

F. RELIEF REQUESTED

50. For the reasons set out in evidence, Argument in Chief and Reply Argument, Enbridge Gas submits that the criteria for LTC approval have been met, and that it is reasonable and appropriate to approve the LCEP.

⁵⁸ TSSA Evidence, July 8, 2020, at page 3.

⁵⁹ TSSA Response to OEB Staff Interrogatory 5. See also TSSA Response to FRPO Interrogatory 8.

⁶⁰ TSSA Evidence, July 8, 2020, at page 3.

51. Enbridge Gas requests that the OEB make the following Orders:

- (i) an Order pursuant to section 90 of the OEB Act granting leave to construct the LCEP facilities;
- (ii) an Order pursuant to section 97 of the OEB Act approving the proposed form of easement agreements; and
- (iii) an Order pursuant to section 36 of the OEB Act approving the proposed Rate Rider for customers in the BGA.

52. Enbridge Gas accepts the proposed Conditions of Approval included in the OEB Staff Submission.⁶¹

53. As indicated in Argument in Chief, Enbridge Gas seeks to commence construction of the LCEP in the second quarter of 2021.⁶² This timing will allow the Company to gain experience with the hydrogen blending in advance of the introduction of the CFS. In order to meet Project timelines, Enbridge Gas respectfully requests the approval of this Application by November 2020.

All of which is respectfully submitted this 24th day of September 2020.

(Original Digitally Signed

David Stevens, Aird & Berlis LLP
Counsel to Enbridge Gas

⁶¹ OEB Staff Submission, page 23.

⁶² Exhibit I.CCC.4.