EB-2020-0181

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. pursuant to section 36(1) of the *Ontario Energy Board Act, 1998* for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas as of January 1, 2021.

ENBRIDGE GAS INC.

2021 RATES - PHASE 2

REPLY ARGUMENT

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A. INTRODUCTION

1. On March 1, 2021, Enbridge Gas Inc. (Enbridge Gas, or the Company) filed Argument in Chief setting out why the Ontario Energy Board (OEB, or the Board) should grant approval for the Company's 2021 Incremental Capital Module (ICM) funding requests. The two ICM requests relate to the London Line Replacement Project and the Sarnia Industrial Reinforcement Project (both in the Union Rate Zones).

2. Fourteen parties[1] filed submissions in response to Enbridge Gas's Argument in Chief. 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. However, failure to respond to any particular items should not be interpreted as acceptance or agreement by Enbridge Gas.

3. Several parties, including OEB Staff, support or do not oppose Enbridge Gas's ICM requests. OEB Staff confirmed that Enbridge Gas's requests are consistent and compliant with the OEB's ICM policies.[2]

4. Other parties object to parts or all of the ICM requests. Many times, the objections raised by intervenors go beyond the OEB's ICM policies, and seek to add additional requirements or expectations for ICM approvals.

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[1] OEB Staff (OEB Staff), Association of Power Producers of Ontario (APPrO), Building Owners and Managers Association (BOMA), Canadian Manufacturers & Exporters (CME), 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), Ontario Greenhouse Vegetable Growers (OGVG), Pollution Probe (PP), Quinte Manufacturers Association (QMA), School Energy Coalition (SEC), and Vulnerable Energy Consumers Coalition (VECC).

[2] OEB Staff Submission, pages 12-13. The OEB's ICM policies are articulated in the EB-2007-0673 Supplemental Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors, September 17, 2008; the EB-2014-0219 Report of the Board on New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, dated September 18, 2014 (the ACM Report); and the EB-2014-0219 Report of the OEB: New Policy Options for the Funding of Capital Investments: Supplemental Report, dated January 22, 2016 (the Supplemental Report).

5. In this Reply Argument, Enbridge Gas has grouped the submissions opposing aspects of the Company's ICM requests into five categories: ICM eligibility; Change in Overhead Capitalization Policy; Maximum Eligible ICM Amount; London Line Replacement Project; and Sarnia Industrial Line Reinforcement Project. These categories, and Enbridge Gas's position and response on each, are summarized in the sections that follow, starting with a brief overview of items and areas where there is little or no dispute.

B. AREAS OF AGREEMENT

6. Enbridge Gas is seeking ICM funding for two projects in 2021 that are not notionally funded through existing rates – the London Line Replacement Project and the Sarnia Industrial Reinforcement Project. Enbridge Gas explained in Argument in Chief the reasons why each project meets the OEB's ICM criteria in terms of materiality (including the means test and discrete project criteria), need and prudence.

7. Each of OEB Staff, APPrO and QMA indicate in their submissions that they agree with, or do not oppose, Enbridge Gas's requests in this proceeding.[3] The OEB Staff Submission reviews relevant aspects of the OEB's established "tests" for ICM eligibility and concludes that "the two projects meet the ICM criteria established by the OEB".[4]

8. Putting aside the concerns raised by two intervenors (ED and SEC) that Enbridge Gas should not be eligible for any ICM funding (discussed below), there are several aspects of the OEB's ICM criteria that do not appear to be seriously at issue in this case.

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[3] APPrO Submission, paras. 24 and 31; and QMA Submission, pages 3 and 4.
[4] OEB Staff Submission, page 13. As noted earlier, the OEB Staff Submission makes specific reference to the OEB's ICM policies in its evaluation of the Enbridge Gas proposals.

9. No party disagrees with Enbridge Gas's submission that it meets the "means test" for ICM eligibility.[5] Additionally, no party takes issue with Enbridge Gas's calculation of the "materiality threshold", of $474.2 million, that will apply for 2021 to determine the level of capital spending in the Union Gas Rate Zones that is notionally supported by existing rates.[6] These items are not addressed in the Reply Argument.

10. Almost no party takes issue with the materiality and discrete nature of the two ICM projects. One of the 14 parties (VECC) argues that the Sarnia Industrial Reinforcement Project is not material.[7] Another party (EP) argues that the London Line Replacement Project includes several discrete projects, and that some of these should be excluded from the ICM funding request.[8]

11. Almost no party argues that the "need" for the two ICM projects has not been demonstrated.[9] One party (FRPO) argues that the London Line Replacement Project (which recently received LTC approval) is not "prudent".[10]

12. Finally, other than those intervenors who argue for no ICM eligibility (ED and SEC) and the one party who argues against the "need" for the London Line Replacement (FRPO), the other parties (11 in total) accept that the London Line Replacement Project should receive ICM funding (though there is disagreement as to the level of ICM eligibility).

[5] Argument in Chief, para. 27. See OEB Staff Submission, page 13.
[6] See para. 24 of the Argument in Chief, and associated references.
[7] VECC Submission, paras. 6-10.
[8] EP Submission, page 9.
[9] Some intervenors do argue that there is no "need" for ICM treatment of the Sarnia Industrial Line Project.
[10] FRPO Submission, page 7.

C. ICM ELIGIBILITY

13. Two intervenors[11] argue that Enbridge Gas should not have access to ICM funding for 2021. At a high level, the argument is that Enbridge Gas has not properly justified its overall capital budgets, so it should not have access to additional capital funding.

14. Enbridge Gas does not agree with or accept the premise of these arguments. The Company has followed appropriate budget processes to identify and prioritize capital spending requirements for 2021 in order to continue to provide safe and reliable service. While the Company is able to accommodate all required capital spending for the EGD Rate Zone within the amounts notionally funded by 2021 rates, the two ICM projects in the Union Rate Zone (one of which is a very large undertaking) are not completely funded by 2021 rates.

15. Fundamentally, the ED and SEC submissions ask the OEB to undertake a bottom-up review of the Company's 2021 capital budget. Enbridge Gas does not believe that this is appropriate or necessary in the context of an ICM request. The OEB's ICM policies do not contemplate or require the review and determination of a distributor's overall capital budget(s) within an ICM application. This is not a cost of service proceeding. There would be no regulatory efficiency in requiring a lengthy justification of capital budgets each year of an Incentive Regulation (or deferred rebasing) term where there was also an ICM request.[12]

16. ED's Submission makes two main points. First, ED argues that Enbridge Gas has "disregarded" the OEB's direction to conduct integrated resource planning (IRP) analysis before proceeding with facilities projects, and that this could have been expected to reduce capital costs.[13] Second, ED argues that Enbridge Gas has not

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[11] ED and SEC.
[12] The OEB appeared to take this same position in Procedural Order No. 3 in this case, where a Technical Conference was permitted by the OEB. In the Procedural Order, the OEB warned about getting overly detailed in the examination of underlying capital budgets, stating (at page 4) that: "This is an IRM application. The intent is not to undertake the same detailed assessment of the USP and AMP that would normally occur in a rebasing application (cost of service or Custom IR). The USP and AMP will be assessed in the next rebasing application, along with the overall capital plan."
[13] ED Submission, pages 2-6.

justified the capital budget, because no information has been provided about the demand forecast underlying the capital budget.[14] The premise of this second point appears to be that Enbridge Gas should have a demand forecast that shows steep declines in future demand as carbon pricing increases, and that would have impacted the capital budget.[15]

17. On ED's first point, Enbridge Gas does not agree that it has "disregarded" the OEB's directions about IRP. The Company's recent leave to construct (LTC) applications have included information about IRP-type investigations undertaken to consider potential alternatives to new or replacement facilities.[16] Enbridge Gas acknowledges that the OEB expects more review of IRP potential where system needs or constraints are identified in the future. The Company has presented a comprehensive IRP Proposal to the OEB for review and approval in the EB-2020-0091 proceeding that is aimed at establishing an IRP Framework for Enbridge Gas. Final submissions in that proceeding will be completed by late April 2021. Enbridge Gas expects that the OEB's IRP Framework will provide more guidance about when and how IRP is to be considered and implemented in relation to future system needs and constraints.

18. Enbridge Gas disputes that its 2021 capital budget is deficient for having failed to consider IRP in the manner that ED expects. There is no overall expectation that has been created by the OEB that all potential facilities projects must include IRP consideration, and there is certainly no overall framework directing how that would be done.[17] In any event, there is no reason to conclude that Enbridge Gas's capital budgets would have been lower had IRP been broadly considered. It is clear from the evidence in the IRP Framework proceeding that effective IRP has to be implemented

[14] ED Submission, pages 5-6.
[15] ED Submission, pages 6-11.
[16] See, for example, the EB-2020-0136 Cherry to Bathurst LTC proceeding.
[17] That is the focus of the IRP Framework proceeding. It may be instructive to note, as explained in Enbridge Gas's Argument in Chief in the EB-2020-0091 IRP Framework proceeding (see para. 33, including the references cited) that no other jurisdiction has a comprehensive gas IRP framework in place. To Enbridge Gas, this signals that neither Ontario nor Enbridge Gas itself are lagging behind others in the consideration and implementation of gas IRP.

several years in advance of an identified need or constraint, and there is no certainty that IRP solutions will be less expensive for gas ratepayers than facilities options.[18]

19. On ED's second point, Enbridge Gas denies that its demand forecasts are relevant and necessary to the consideration of overall capital budgets in the context of an ICM request. The USP filed in this case explains how the demand forecasts are developed.[19] The details of the demand forecast would not specifically tie-in to each of the 2021 capital expenditure items, many of which are derived from and explained within the Asset Management Plan (AMP). To Enbridge Gas's knowledge, the OEB has never required a demand forecast in past years in order to determine an Enbridge Gas ICM request.

20. ED's real argument appears to be that any demand forecast that Enbridge Gas has prepared is wrong, because any such forecast does not include expectations of declining demand resulting from decarbonization.[20] Enbridge Gas does not agree with the premise of this argument. The Company's capital budget identifies needs and solutions, and these relate to near-term issues. There is no reason to doubt the near-term demand forecasts. Questions about longer-term forecasts, including around the impact of decarbonization, are better suited to the rebasing proceeding. That is the case where demand forecasting methodologies and ratemaking models will be debated. In the meantime, Enbridge Gas is executing on its AMP and ensuring continued safe, reliable service to its 3.8 million customers. For the most part, this is being done using funding provided by existing OEB-approved rates during the deferred rebasing period. The ICM requests reflect the fact that in 2021, there are two discrete projects that require additional funding (with a total impact of less than $3 per year for Union South ratepayers, and no impact on other ratepayers).[21]

[18] See Enbridge Gas Argument in Chief in the IRP Framework Proceeding, for example at Figure 1 and paragraph 90.
[19] Exhibit C, Tab 1, Schedule 1, pages 16-24.
[20] ED Submission, pages 6-11. SEC takes a similar approach, arguing that continued growth is not an appropriate planning assumption – SEC Submission, pages 5-6.
[21] Exhibit B, Tab 2, Schedule 1, para. 57.

21. SEC's Submission takes issue with the Company's 2021 capital budget, arguing that it includes unreasonable increases, improperly promotes ICM-eligible projects and does not include rigorous prioritization and optimization.[22] Enbridge Gas disagrees. The evidence does not support SEC's contentions.

22. In terms of the level of the budget, there is evidence explaining and supporting the reasons why there are increases to various items, including in the area of system renewal.[23] The additional spending in the EGD Rate Zone is notionally supported by existing rates (there is no ICM request). The additional spending in the Union Rate Zone is largely supported by existing rates, except for the two ICM-eligible projects. Other than FRPO's objections to the already-approved London Line Replacement Project, no party takes issue with specific items or projects within Enbridge Gas's 2021 capital forecast.[24]

23. Enbridge Gas does not agree that its budget process lacks rigour and prioritization, or that it unduly favours or promotes ICM-eligible projects.

24. The evidence is that the Company's asset management process results in the creation of an initial budget that is much higher than the final proposed capital budget. In the case of the Union Rate Zones, the initial 2021 capital budget was approximately $925 million[25], and that was reduced to $627 million through the prioritization process, described below.[26]

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[22] SEC Submission, pages 2-5. FRPO advances similar arguments – see FRPO Submission, pages 1-4.
[23] The AMP sets out details of the system requirements, and planned projects for 2021. Enbridge Gas has provided further details in responding to more than 167 Interrogatories (not including sub-parts), as well as at the February 17, 2021 Technical Conference which included 13 follow-up Undertakings. At the Technical Conference, the Enbridge Gas witnesses gave lengthy explanations about the contributors to the 2021 capital budgets, including the increases in system renewal costs- see, for example TC Tr.13-26.
[24] OEB Staff indicate that they are satisfied with the variance in capital expenditures between 2020 and 2021 – OEB Staff Submission, page 5.
[25] AMP, Figure 6.1-4 – see Exhibit C, Tab 2, Schedule 1, page 256.
[26] OEB Staff acknowledge the prioritization approach, at pages 6-7 of the OEB Staff Submission.

25. The Company uses an iterative prioritization process to determine and optimize the budget and capital spending plans for the subject year.[27] The "constraint" applied during the budget process is the ICM materiality threshold – in other words, the Company tries to create a budget that fits within the capital budget that is notionally funded by existing rates.[28] It is only where that exercise fails (because projects that must be completed in the subject year exceed the threshold) that the Company then seeks to further optimize by "removing" large ICM-eligible projects from the budget process to try to reduce the underlying budget further. At this final stage, it is only the subset of those ICM-eligible projects that are confirmed as required but whose costs don't fit within the constraint that are removed from the budget optimization process but still included in the overall budget. In most years, there will be projects that otherwise meet ICM criteria but which will be notionally supported by base rates.

26. In summary, Enbridge Gas submits that it has submitted appropriate and credible evidence to support its underlying 2021 capital budget for the Union Gas Rate Zones. Under the OEB's ICM policies, the Company should be found to be eligible for ICM funding for the London Line Replacement Project and the Sarnia Industrial Line Reinforcement Project for 2021.

D. CHANGE IN OVERHEAD CAPITALIZATION POLICY

27. The evidence is that Enbridge Gas harmonized its overhead capitalization policy as of January 1, 2020.[29] The rationale for the change is explained in an Ernst & Young Report to Enbridge Gas from May 2020:

> Prior to the amalgamation, EGD and UGL capitalized indirect overhead using their respective legacy methodologies that, as asserted by management, conformed with US GAAP and that were also previously (and separately) approved by the OEB. After the amalgamation, EGI pursued a harmonized capitalization methodology due to the need for more a streamlined and efficient approach to capitalize overhead and incorporating industry best practices that have developed since the time of legacy approaches. Further, the new methodology is inspired by the need for unified

[27] AMP, section 6.1 – see Exhibit C, Tab 2, Schedule 1, pages 252-259.
[28] The capital budget optimization process was discussed in detail at the Technical Conference – see, for example, TC Tr.28-44. Examples of projects removed from the budget as a result of the optimization process are listed at Exhibit JT1.4.
[29] TC Tr.80-81, and Exhibit I.STAFF.4 and Exhibit I.LPMA.7(c).

accounting policies and meeting the regulatory requirement of ensuring that capitalization rates actually reflect the capital work within the newly amalgamated entity.[30]

28. As explained in Argument in Chief, as a result of the harmonized overhead capitalization policy, there has been a net increase in the amount of overhead costs capitalized, and a corresponding net decrease in amounts expensed as part of operations and maintenance (O&M) costs for Enbridge Gas (or for the EGD and Union Rate Zones), as compared to what would have occurred under the legacy utility overhead capitalization policies.[31]

29. The OEB and parties have known that Enbridge Gas (the amalgamated utility) would not seek or receive OEB approval for any changes in overhead capitalization policy during the deferred rebasing term. That is seen in the MAADs Decision, where the OEB observed that: “During the deferred rebasing period, the applicants expect to change accounting policies and practices as part of the implementation of an integrated accounting system, including changes in the calculation of depreciation rates and its cost capitalization policy.”[32] In recognition of the fact that there could be impacts arising from Enbridge Gas changes in accounting policies during the deferred rebasing term, the OEB (in the MAADs Decision) directed the establishment of the Accounting Policy Changes Deferral Account (APCDA).[33]

30. For the changes resulting from the harmonized overhead capitalization policy, the APCDA is capturing the revenue requirement impact of the reduction in O&M, net of the revenue requirement impact of the increase in capital.[34] The impact on revenue requirement from the increase in capitalized overhead (which includes all capital including the ICM capital) and the corresponding reduction in O&M recorded in the APCDA in fact removes the impact of the new overhead capitalization policy from the

[30] E&Y Report titled “Enbridge Gas Inc: Overhead Capitalization Study”, May 15, 2020, page 1 – filed as an attachment to Exhibit JT1.6.
[31] Argument in Chief, para. 20.
[32] EB-2017-0306/0307 Decision and Order, August 30, 2018 (MAADs Decision), page 46.
[33] MAADs Decision, page 47.
[34] Argument in Chief, para. 20.

utility results and keeps the ratepayers and the utility whole with respect to the change in overhead capitalization policy.

31. An advantage of the APCDA is that it facilitates the gradual harmonization of accounting policies within the deferred rebasing period rather than all at once on rebasing. Ratepayers are protected from the impacts of unapproved accounting policy changes during the deferred rebasing term, because the revenue requirement impacts are recorded in the APCDA for later disposition. In other words, despite rates being decoupled from costs in a price cap regime, impacts on revenue requirement will nevertheless be accurately determined and appropriately allocated.

32. The total impact of the overhead capitalization policy change in 2020 for the Union Rate Zones was an increase of approximately $8 million in capitalized expense, with a corresponding reduction to O&M expenses.[35] The revenue requirement impact of that change (a net credit to ratepayers) was recorded in the APCDA.[36]

33. In connection with their submissions about potential problems arising from Enbridge Gas's change in overhead capitalization policy, several intervenors have made submissions about the magnitude of the resulting impacts in 2021, and about how those impacts should be addressed in this case.

34. EP argues that the overall impact of the overhead capitalization policy change for 2021 in the Union Rate Zones will be in the order of $48 million.[37] That is not the case. As already noted, the 2020 impact was approximately $8 million for the Union Rate Zones. It is fair to assume that the overall impact will not be substantially different in 2021.

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[35] Exhibit I.LPMA.7(c). Enbridge Gas confirms that the amounts shown in that response represent impacts for the Union Rate Zones only. On a utility-wide basis, the impact of the capitalization policy change for 2020 was $5.7 million, because there was an impact of $(2.3 million) for the EGD Rate Zone.
[36] Exhibit I.LPMA.7(c).
[37] EP Submission, page 4. LPMA assumes a different mathematical approach and suggests that the overall impact of the change in capitalization policy in 2021 is $29 million.

35. While intervenors now make a variety of arguments about how the OEB should treat the increase in 2021 capitalized overheads resulting from the Company's new policy, the specific question of what the magnitude of that change is for 2021 was never asked or answered in this case.

36. While acknowledging that this is new evidence, Enbridge Gas believes that it will be helpful to the OEB to have information about the Company's forecast of the 2021 cost impact of the change in overhead capitalization policy. In total, Enbridge Gas forecasts that the 2021 change in overhead capitalization policy will result in increased capitalized overhead costs of $9.3 million.[38] The revenue requirement impact of the 2021 change in overhead capitalization policy (taking into account increased capitalization and corresponding reduced O&M costs) will be recorded in the APCDA.

37. Some intervenors appear to be concerned that the APCDA will not capture the impacts of the overhead capitalization policy change in relation to ICM project overhead capital costs.[39] In response, Enbridge Gas confirms that the revenue requirement calculation to be recorded in the APCDA will reflect the impact of the new overhead capitalization policy as it impacts all projects during the deferred rebasing term, whether or not they receive ICM treatment. For example, where the change in capitalized overhead policy causes an increase in the cost of an ICM-eligible project, the revenue requirement impact of that increase (along with the revenue requirement impact of the corresponding decrease in O&M expenses) will be reflected in the APCDA for later disposition to ratepayers.

38. Some intervenors also raise concerns about "double-recovery" of costs where capitalized overheads are included in ICM project costs, alleging that Enbridge Gas recovers those costs in rates (for O&M expenses) and in ICM rate riders (for capitalized overheads).[40] Enbridge Gas does not agree that this is a valid concern.

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[38] This impact is for the amalgamated utility (not for the Union Gas Rate Zones only).
[39] See, for example, CME Submission, page 3 and EP Submission, page 6.
[40] See, for example, IGUA Submission, pages 2-3, FRPO Submission, page 7 and SEC Submission, pages 6-7.

There is always a portion of O&M costs that are recovered as capitalized overheads. Note that capitalized overheads are treated in the same manner as direct capital costs. Accordingly, this does not result in double-counting or double-recovery, because those costs were always treated as if they would be recovered as capital costs. This can be seen in cost of service filings, where the O&M budget presented includes offsets (credits) recognizing the O&M amounts being capitalized.[41] It can also be seen in the annual earnings sharing case evidence, which shows the amount of capitalized O&M each year.[42] In the last two Rate Cases, the OEB has confirmed that it is appropriate to include capitalized overhead costs in ICM amounts.[43]

39. Finally, several intervenors argue that the change in overhead capitalization policy will increase the 2021 capital forecast and therefore also increase the Maximum Eligible ICM Amount for 2021.[44] Those intervenors indicate that the impact of the change in overheard capitalization policy should be removed from the determination of the Maximum Eligible ICM Amount.

40. Enbridge Gas does not agree that this change is necessary. The capitalized overhead costs are "costs" that are appropriately included in a subject year's capital budget forecast. Through the APCDA, ratepayers will be kept whole for the portion of the ICM project costs attributable to the change in capitalized overhead policy. As already described, the APCDA tracks the revenue requirement impacts of changes in accounting policy, such that ratepayers and the Company are put back in the position where they would have been before the change. If there was also an adjustment made to the Maximum Eligible ICM Amount, then the same change would be reflected twice, which could amount to double-counting. As already noted, despite rates being

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[41] See, for example, the Enbridge Gas 2013 Cost of Service filing, which shows over $100 million in capitalized overheads acting as a credit towards the net $250 million Other O&M budget. See EB-2011-0354, Exhibit D1, Tab 3, Schedule 1, Table 2, lines 21 and 22.
[42] For example, the evidence from the 2019 ESM proceeding shows that Enbridge Gas capitalized approximately $240 million in O&M expenses – see EB-2020-0134, Exhibit B, Tab 3, Schedule 1, line 15.
[43] EB-2018-0305 Decision and Order, September 12, 2019, page 29 and EB-2019-0194 Decision and Order, May 14, 2020, page 9.
[44] See, for example, LPMA Submission, page 7; EP Submission, page 4; CME Submission, page 3; and SEC Submission, pages 7-9.

decoupled from costs in a price cap regime, the APCDA ensures that impacts on revenue requirement will nevertheless be accurately determined and appropriately allocated.

E. MAXIMUM ELIGIBLE ICM AMOUNT

41. Under the OEB's ICM policies, the Maximum Eligible ICM Amount is the difference between the forecasted total in-service capital additions for a year, and the ICM materiality threshold for that year.[45]

42. Enbridge Gas has calculated the 2021 Maximum Eligible ICM Amount for the Union Rate Zones to be $152.8 million, which represents the difference between the forecast in-service capital additions of $627 million, and the ICM materiality threshold of $474.2 million.[46]

43. No party takes issue with the ICM materiality threshold calculation. However, some intervenors take issue with the 2021 forecast of in-service capital additions, and argue that it should be reduced, which would lead to a lower Maximum Eligible ICM Amount.

44. There are two main arguments made in this regard. Importantly, neither of these main arguments take issue with any of the specific items within the 2021 in-service capital additions forecast.

45. First, some intervenors argue that the 2021 forecast is likely overstated (taking into account historic information), and it should be reduced.[47] The argument advanced is that the actual in-service capital additions for the Union Gas Rate Zones in 2019 were around $11 million less than forecast, and this shows a pattern of over-

[45] ACM Report, page 22. In the 2020 Rates Decision (EB-2019-0194), the OEB confirmed that the in-service capital amounts are what are relevant for ICM determinations (see pages 5-8).
[46] Argument in Chief, paras. 24-26 and associated references.
[47] On this same point, OEB Staff reviewed the information on the record and concluded that "OEB Staff has no concerns with the 2021 in-service capital forecast": OEB Staff Submission, page 7.

forecasting/underspending which justifies reducing the 2021 forecast by around $11 million.[48]

46. Enbridge Gas does not agree with the intervenor arguments. These arguments take a selective view of spending for one year and make broad conclusions about what that means for future years. The fact that there was modest under-spending in one Rate Zone in a particular year is not predictive of future years. There will inevitably be some variances in an overall capital budget of around $1 billion (for the combined utility), but these can be either positive or negative variances. In the specific case of 2019 (the only year for which there are both forecast and actual results available for the amalgamated utility), the total variance between forecast and actual capital costs for the combined utility was an underage of $10.2 million on a total forecast budget of $1,025.4 million.[49] That is equal to slightly less than 1%. That does not justify a reduction in the 2021 in-service capital additions forecast.

47. Second, some intervenors argue that the portion of the 2021 forecast capital spending associated to the change in overhead capitalization policy should be removed from the calculation of the Maximum Eligible ICM Amount. Intervenor estimates of the amount that should be removed range from $8 million to $47.6 million.[50]

48. As explained earlier in paragraph 40, Enbridge Gas does not agree that it is necessary or appropriate to remove the amounts associated to the overhead capitalization policy change from the capital budget forecast used to determine the Maximum Eligible ICM Amount. These are actual costs. The APCDA will record the revenue requirement impact of the change in treatment of the costs.

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[48] See CME Submission, page 3 (suggesting a reduction of $10.7 million); EP Submission, page 4 (suggesting a reduction of $11.5 million); and LPMA Submission, page 8 (suggesting a reduction of $12.5 million).
[49] See Exhibit I.LPMA.2.
[50] See CME Submission, page 3 (arguing for an $8 million reduction); EP Submission, page 4 (arguing for a $47.6 million reduction); and LPMA Submission, page 7 (arguing for a $29 million reduction).

F. LONDON LINE REPLACEMENT PROJECT

49. Almost all parties accept that the London Line Replacement Project qualifies for ICM treatment. The main disagreements with Enbridge Gas's proposal are in relation to the eligible cost for the project, and the cost allocation treatment for the project.

50. The only party that dissents is FRPO, who argues that the project is not a priority and is not "prudent".[51] Enbridge Gas disagrees with this contention. The OEB considered the "purpose, need and timing" for the London Line Replacement Project in the recent EB-2020-0192 LTC proceeding. FRPO was an active participant in that proceeding. In its January 28, 2021 Decision and Order, the OEB found that Enbridge Gas had demonstrated the need for the Project, and that the estimated costs are reasonable.[52] The LTC Decision and Order indicated the OEB's expectation that Enbridge Gas would commence construction of the project within 12 months.[53]

51. EP argues that the forecast cost for the London Line Replacement Project should be reduced, to remove costs associated with the Strathroy lateral and the rebuilding of the Strathroy Gate Station.[54] EP's position is that an ICM request should be for a single project, not a grouping of projects.[55]

52. EP raised this same issue in the London Line LTC Proceeding.[56] Enbridge Gas will therefore repeat its responding submission on the topic from that proceeding:

> Referring to the Project's three components - the 51.5 kilometer replacement of London Lines, the 8.4 kilometer Strathroy lateral, and the rebuilding of the Strathroy Gate Station – Energy Probe suggests that these components should be seen as separate discrete projects for purposes of ICM treatment. However, identifying aspects as component parts of a larger project does not lead to the conclusion that those components are separate discrete projects. This is an incorrect premise. The work reflected in these components will only occur in conjunction with each other and they do not exist independently of each other. They would not be undertaken

[51] FRPO Submission, pages 4-7.
[52] EB-2020-0192 Decision and Order, January 28, 2021, pages 2, 11 and 19.
[53] *Ibid*., Schedule B, Conditions of Approval, item 6.
[54] EP Submission, pages 8-9. EP asserts that the costs that should be removed total $7.8 million.
[55] *Ibid*.
[56] EB-2020-0192, EP Submission, page 2.

except in conjunction with the project as a whole. As a result, they are one project for ICM purposes.[57]

53. Enbridge Gas maintains its position from the London Line LTC proceeding, which is that the Strathroy lateral and Strathroy Gate Station are all part of the overall project. The entire project and associated costs are eligible for ICM treatment under the OEB's ICM policies.[58]

54. PP argues that the ICM eligible project cost for the London Line Replacement Project should be limited to $95 million, which is said to represent the costs of the mainline part of the project.[59] Enbridge Gas does not agree. As stated above, the London Line Replacement Project is a single project, with several inter-related components. Enbridge Gas presented the full costs of the project ($164.1 million) in the LTC application.[60] Enbridge Gas is appropriately seeking ICM treatment for the $124 million portion of the total cost that is forecast to go into service in 2021.[61]

55. EP also argues (similar to parties in the last two ICM applications) that no overhead costs should be included for recovery in the ICM project budgets.[62] EP makes no attempt to distinguish this case from the 2019 and 2020 Rate Cases, where the OEB considered similar arguments and decided (and then confirmed) that indirect overheads are part of rate base and should be included in the assessment of ICM.[63] Enbridge Gas submits that there is no reason for the OEB to depart from that twice-stated determination.

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[57] EB-2020-0192, Enbridge Gas Reply Submission, para. 32.
[58] ACM Report, pages 13-14.
[59] PP Submission, page 5.
[60] The total costs were indicated to be $164.1 million – see EB-2020-0192 Decision and Order, January 28, 2021, page 20 (Table titled London Line Replacement Project, Total Estimated Project Capital Costs). That total was later adjusted to $161.4 million, dues to a change in overhead costs – see Exhibit I.VECC.8.
[61] Argument in Chief, paras. 37-38 and references cited therein.
[62] EP Submission, page 6.
[63] EB-2018-0305 Decision and Order, September 12, 2019, page 29 and EB-2019-0194 Decision and Order, May 14, 2020, page 9.

56. EP further argues that the amount of overhead costs included in the ICM eligible costs for the London Line Replacement Project should not include the incremental overheads resulting from the Company's harmonized overhead capitalization policy.[64] Enbridge Gas does not agree. As discussed above, the revenue requirement impact of the change in overhead capitalization policy, including impact relevant to ICM projects, will be recorded in the APCDA. No further adjustments are necessary.

57. Finally, several intervenors dispute Enbridge Gas's cost allocation proposal for the London Line Replacement Project.[65] Those intervenors argue that there should be no change from the cost allocation treatment that applies to the facilities being replaced.

58. In evidence, Enbridge Gas explained the reasons why it proposes updated cost allocation treatment for the London Line Replacement Project, including the fact that the new pipeline is being classified as a distribution asset and the proposed treatment will be consistent with the treatment applied for the Windsor Line Replacement Project.[66]

59. Enbridge Gas maintains that its proposed approach is appropriate. It recognizes the character and purpose of the London Line Replacement Project.

60. In any event, Enbridge Gas notes that regardless of the OEB's determination on the appropriate cost allocation, there will be an opportunity for all parties to revisit the allocation at rebasing, at which time the Company anticipates proposing a harmonized cost allocation approach across the amalgamated utility.

G. SARNIA INDUSTRIAL LINE REINFORCEMENT PROJECT

61. A number of intervenors dispute whether the Sarnia Industrial Line Reinforcement Project should be eligible for ICM treatment.[67] Those intervenors argue that the

[64] EP Submission, page 9. Other parties appear to adopt or agree with this position – see BOMA Submission, page 3 and VECC Submission, page 2.
[65] LPMA Submission, pages 9-10; SEC Submission, page 10; and VECC Submission, page 5.
[66] See Argument in Chief, para. 46 and the references cited therein.
[67] See, for example,. BOMA Submission, page 3; CME Submission, page 2; EP Submission, page 7; LPMA Submission, pages 2-5; OGVG Submission, pages 3-8; and SEC Submission, pages 9-10.

project will result in incremental revenues to Enbridge Gas, and therefore there is no "need" for ICM treatment.[68]

62. Enbridge Gas does not dispute that it will receive incremental revenues from the Sarnia Industrial Line Reinforcement Project, and that those revenues will be higher than the revenue requirement for the project in the deferred rebasing term years. The Company submits, however, that under the OEB's ICM policy, this fact is not determinative of the "need" for ICM treatment. As the OEB has previously recognized, revenues are decoupled from costs during a deferred rebasing term, meaning that whether a particular project on its own is revenue positive or revenue negative does not dictate whether it is eligible for ICM treatment.

63. In the 2016 Supplemental Report, the OEB updated its ICM policy to include a multi-year formula and annualized growth factor that would apply to the calculation of the ICM Materiality Threshold for each year of an IR (or deferred rebasing) term.[69] The growth factor is determined based on the annualized growth in a distributor's revenues over time.[70]

64. The implication of the annualized growth factor is that the factors that drive revenue growth over time (i.e. growth in customer, volumes and contract demand) are accounted for in the ICM Materiality Threshold in the determination of ICM eligibility. There would be an inequity and lack of symmetry if projects above the ICM Materiality Threshold were treated differently than projects below the ICM Materiality Threshold given that the annualized growth factor already reflects distributor specific growth as outlined above.

65. EP argues that the growth factor used to determine the 2021 ICM Materiality Threshold is based on annualized revenues and does not specifically include the

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[68] In contrast, OEB Staff reviewed the same record and concluded that the Sarnia Industrial Line Reinforcement Project qualifies for ICM treatment notwithstanding the incremental revenues that will be generated – OEB Staff Submission, page 12.
[69] Supplementary Report, pages 14-16 and 19.
[70] Supplementary Report, Appendix B.

impact of the additional revenues from the Sarnia Industrial Line Reinforcement Project.[71] However, considering and making ICM eligibility determinations based on forecast test year revenues is not the approach that the OEB chose to use for determination of the ICM Materiality Threshold. In the OEB's 2016 Supplementary Report on ICM, the OEB adopted a multi-year formula to set the ICM Materiality Threshold during each year of an IR term. This approach includes the use of an annualized growth factor that is used to determine the ICM Materiality Threshold. The annualized growth factor extends and applies average growth into the test year, meaning that growth is assumed and applied each year to set the ICM Materiality Threshold. The result is that each successive year the Company will have to notionally fund more current year capital expenditures through existing rates (not ICM) because of the impact of the annualized growth factor.

66. Under the OEB's ICM policy, an applicant must satisfy the OEB's eligibility criteria of materiality, need and prudence (as set out in section 4.1.5 of the ACM Report). Under the category of "need", it is said that: (i) the distributor must pass the Means Test; (ii) amounts must be based on discrete projects, and should be directly related to the claimed driver; and (iii) the amounts must be clearly outside of the base upon which rates were derived.[72]

67. Enbridge Gas has met the "need" test for the Sarnia Industrial Line Reinforcement Project as articulated in the ACM Report.[73] None of the intervenor arguments discuss the higher-level criteria that are set out in the OEB's ICM policy as the requirements for ICM eligibility. Instead, all of the intervenor arguments on this topic focus only on a single item within the list of 10 evidentiary items that a distributor seeking ICM treatment is asked to file.

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[71] EP Submission, page 7.
[72] ACM Report, page 17. This same definition of "need" is included in the 2020 Filing Requirements referenced above (at page 27).
[73] VECC argues that the project is not "material" (see VECC Submission, pages 2-5), but does not explain why a project with a capital cost of $32.9 million is not "material" where the OEB had previously set a $10 million threshold for ICM eligibility for Enbridge Gas in the MAADs Decision (at pages 32-33).

68. Enbridge Gas acknowledges that the OEB's Filing Requirements indicate that information about whether the incremental revenue requested will be recovered through other means should be included with an ICM request.[74] Enbridge Gas does not agree, though, that its evidence was deficient.

69. Important context here is that the OEB has already reviewed and addressed a similar situation during the Company's deferred rebasing term, and found that full ICM treatment for a project was appropriate even in the circumstance where that project would deliver some incremental revenues for Enbridge Gas.

70. In the Company's 2019 Rate Case, an objection was raised by LPMA to ICM treatment for the Kingsville Transmission Reinforcement Project, indicating that because there was an increase in revenues that would result from the project, Enbridge Gas had failed to establish the need for ICM treatment. LPMA further argued that if ICM treatment was approved, it should take account of the additional revenues to be received by Enbridge Gas.[75] In its Decision and Order in that case, the OEB found that Enbridge Gas had established the "need" for ICM treatment, and declined to adopt LPMA's further suggestion, indicating as follows:

> LPMA argued that Enbridge Gas should be required to take into account the incremental revenue generated from the increase in volumes delivered and growth in customers. The OEB notes that the ICM policy does not require utilities to record possible incremental revenues in a deferral account or include it in the rate rider. As discussed under section 4.3.2, the ICM policy is being applied to the current framework, and the policy should apply in its entirety. The materiality threshold calculation for determining the maximum eligible incremental capital includes a growth factor that accounts for incremental revenues and growth in customers that may arise due to the implementation of an ICM eligible project. The OEB further notes that Enbridge Gas is under a Price Cap IR wherein revenues and costs are decoupled.[76]

71. Taking the OEB's guidance from the 2019 Rate Case into account, Enbridge Gas did not and does not believe that the existence or amount of incremental revenues that may result from an ICM-eligible project is relevant to the determination of "need" for

[74] OEB Filing Requirements for Electricity Distribution Rate Applications – 2020 Edition for 2021 Rate Applications, Chapter 3, Incentive Rate-Setting Applications, page 27. See also ACM Report, page 25.
[75] EB-2018-0305, LPMA Submission, page 12.
[76] EB-2018-0305 Decision and Order, September 12, 2019, page 26.

ICM treatment. This is consistent with the facts outlined above, namely that the inclusion of a revenue growth adjustment in the ICM Materiality Threshold is the way that that OEB takes account of additional revenues that may result from either an ICM-eligible project and/or projects below the ICM Materiality Threshold.

72. Some intervenors argue that the current ICM request is different from the Kingsville Transmission Project because, in this case, the incremental revenues that will be received are relatively higher (and exceed the revenue requirement for the project).[77] Enbridge Gas disagrees. The same principles applied by the OEB in the 2019 Rate Case apply here. Revenues and costs remain decoupled for Enbridge Gas, and the OEB's ICM policy reflects the impacts of revenue growth in the determination of the ICM Materiality Threshold.

73. In summary, for the reasons set out in Argument in Chief, and in this Reply Argument, Enbridge Gas submits that it is appropriate for the OEB to approve ICM funding for the portion of the Sarnia Industrial Line Reinforcement Project that is not notionally funded by existing rates.

74. Finally, EP makes the same arguments in relation to this ICM request as with the London Line Replacement Project ICM request about not including indirect overhead costs, or alternately not including the incremental indirect overhead costs arising from the harmonized overheads capitalization policy in the ICM calculation. Enbridge Gas repeats and relies on its submissions above in response.

[77] See, for example, LPMA Submission, pages 4-5; and OGVG Submission, page 6.

F. RELIEF REQUESTED

75. Enbridge Gas respectfully requests the following relief:

a) Approval of the ICM funding requests for the London Line Replacement Project and the Sarnia Industrial Line Reinforcement Project (Union Rate Zones), and approval of the associated ICM unit rates.

All of which is respectfully submitted this 23rd day of March 2021.

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