



# ONTARIO ENERGY BOARD

**FILE NO.**            **EB-2025-0295**                            **Enbridge Gas Inc.**

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**VOLUME:**            **Issues Conference**

**DATE:**                **March 12, 2026**

**BEFORE:**            **Allison Duff**                                    **Presiding Commissioner**  
                              **David Sword**                                    **Commissioner**  
                              **James Sidlofsky**                                **Commissioner**

**THE ONTARIO ENERGY BOARD**

**Enbridge Gas Inc.**

**Application for Multi-Year Natural Gas Demand Side  
Management Plan (2027-2030)**

Proceeding held in person and virtually  
at 2300 Yonge Street, 25th Floor, Toronto, Ontario  
on Thursday, March 12, 2026, commencing at 9:30 a.m.

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ISSUES CONFERENCE  
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A P P E A R A N C E S

DENNIS O'LEARY PATRICK COPELAND MARK KITCHEN HARIS GINIS HENRY REN BONNY ADAMS	ENBRIDGE GAS INC.
RAMAN DHILLON	OEB COUNSEL
JOSH WASYLYK MICHAEL BELL SHELLY-ANNE CONNELL	OEB STAFF
KENT ELSON	ENVIRONMENTAL DEFENCE
IAN MONDROW	INDUSTRIAL GAS USERS ASSOCIATION (IGUA)
JULIE GIRVAN	CONSUMERS COUNCIL OF CANADA
MICHAEL BROPHY	POLLUTION PROBE
MICHAEL BUONAGURO	ONTARIO GREENHOUSE VEGETABLE GROWERS
TOM LADANYI	ENERGY PROBE RESEARCH FOUNDATION AND COALITION OF CONCERNED MANUFACTURERS AND BUSINESSES OF CANADA
SCOTT POLLOCK	CANADIAN MANUFACTURERS & EXPORTERS
CLEMENT LI	BOMA TORONTO OR BUILDING OWNERS AND MANAGERS ASSOCIATION
MYFANWY PARRY	HOUSING SERVICES CORPORATION
DANIEL VOLLMER	THREE FIRES GROUP AND MINOGI CORP.
JUDY SIMON	LOW INCOME ENERGY NETWORK, LIEN, AND THE JOINT SUBMISSION OF LOW INCOME ENERGY NETWORK AND THE VULNERABLE ENERGY CONSUMERS

A P P E A R A N C E S

COALITION, VECC.

SHELLEY GRICE

VULNERABLE ENERGY CONSUMERS  
COALITION

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1 Toronto, Ontario

2 --- Upon commencing on Thursday, March 12, 2026,  
3 at 9:30 a.m.

4 PRESIDING COMMISSIONER DUFF: Please be seated.

5 Good morning. Can everyone hear me online? If  
6 somebody could just give me the hands up, that would  
7 be great. Thank you, Ms. Simon.

8 So we are here today as part of the OEB's  
9 hearing of Enbridge Gas's 2027 to 2030 DSM Plan  
10 application. It's filed under OEB Number EB-  
11 20250295.

12 My name is Allison Duff, and I am presiding  
13 today with Commissioner James Sidlofsky and  
14 Commissioner David Sword. We are your panel hearing  
15 this application.

16 Today is called an issues conference. The  
17 purpose for today -- it's a hybrid hearing for the  
18 panel to hear oral submissions from parties regarding  
19 the draft issues list. It was attached to PO Number  
20 1 as Schedule B, and it was issued on February 27th.

21 To the extent that some parties filed written  
22 submissions with the OEB on March 9th, the panel will  
23 consider those written submissions as well as the  
24 oral submissions we hear today.

25 The panel's objective is to consider submissions  
26 and approve an issues list to define the scope of the  
27 proceeding. Of course, that issues list can be  
28 updated during the course of the proceeding.

1 PO Number 1 documented a starting point, OEB  
2 Staff had assisted the registrar in preparing a draft  
3 issues list that was based off the OEB's approved  
4 list from the prior DSM, the 2026 DSM proceeding.

5 OEB Staff noted that they made minor  
6 modifications to dates and removed references to  
7 specific programs that were no longer being proposed  
8 in the current application before the OEB.

9 Given the passage of time and since the 2026 DSM  
10 proceeding, there have been a few new intervenors, so  
11 the OEB is also reviewing the prior issues list and  
12 we welcome submissions from parties on proposed  
13 additions, deletions, and modifications to that list.

14 I will speak briefly on the panel's intent for  
15 today.

16 The panel issued a letter that was sent to  
17 parties on March 5th, and in which time the panel  
18 requested parties to prepare submissions. We  
19 provided some direction.

20 First, we asked that you could address the draft  
21 issues list and on whether the consideration of the  
22 cost of carbon for DSM cost effectiveness testing  
23 should be within the scope of this proceeding and  
24 added to the draft issues list.

25 In the 2026 decision, the OEB added, and I  
26 quote:

27 "It is necessary for Enbridge to consider how  
28 the economic cost of carbon should be reflected



1           in the TRC-Plus analysis for programs it will  
2           propose in its upcoming DSM plan application."

3           Enbridge Gas provided a response as indicated in  
4           its cover letter in the application that was set out  
5           again in the March 5th letter from the OEB.

6           Now, before I go further on that topic, I think  
7           it's appropriate that we have a land acknowledgement  
8           from Ms. Connell, and then I will ask for  
9           appearances.

10           **LAND ACKNOWLEDGEMENT**

11           S.A. CONNELL: The OEB -- sorry -- Ontario  
12           Energy Board acknowledges that our headquarters in  
13           Toronto is located on the territory of the  
14           Anishinaabeg, Haudenosaunee, and Huron-Wendat  
15           Nations, and that this land is covered by historic  
16           treaties. Traditionally, the territory now called  
17           Toronto was a meeting place for many Nations, and is  
18           still home to many Indigenous Peoples from across  
19           Turtle Island. We are grateful for the opportunity  
20           to live, work, and learn on this land, and  
21           acknowledge our shared responsibilities to all our  
22           relations.

23           PRESIDING COMMISSIONER DUFF: Thank you, Ms.  
24           Connell.

25           Okay. I will take appearances. First, I will  
26           start with the people in the room, and then I will go  
27           to those online.

28           **APPEARANCES**

1 I will start with the applicant. Mr. O'Leary.

2 D. O'LEARY: Thank you, Commissioner Duff. And  
3 good morning to the panel. I'd like to enter an  
4 appearance on behalf of Enbridge Gas, Inc. My name  
5 is Dennis O'Leary as external counsel for Enbridge.  
6 Behind me is my colleague Patrick Copeland. Also  
7 behind me is the director of regulatory, Mark  
8 Kitchen. And to my right is Haris Ginis, technical  
9 manager. To my left is internal counsel at Enbridge,  
10 Henry Ren, and online who will be assisting us today,  
11 if needed, is Bonny Adams, who is the irreplaceable  
12 person who gets everything put up on the screen in a  
13 -- screen in a timely fashion. Thank you.

14 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
15 O'Leary. Perhaps OEB Staff, Ms. Dhillon.

16 R. DHILLON: Good morning, panel. My name is  
17 Raman Dhillon. I am appearing as OEB counsel.

18 J. WASYLYK: Josh Wasylyk, OEB Staff.

19 M. BELL: Michael Bell, OEB Staff.

20 PRESIDING COMMISSIONER DUFF: Thank you.

21 And then we will turn to the people in the room.  
22 If I know your name, I will try to call it out so we  
23 are organized.

24 Mr. Elson.

25 K. ELSON: Good morning. Kent Elson for  
26 environmental defense.

27 I. MONDROW: Good morning, Madam Chair. Ian  
28 Mondrow, counsel for the Industrial Gas Users

1 Association. Acronym is IGUA. Thank you.

2 PRESIDING COMMISSIONER DUFF: Thank you.

3 Ms. Girvan.

4 J. GIRVAN: Julie Girvan on behalf of the  
5 Consumers Council of Canada.

6 PRESIDING COMMISSIONER DUFF: Anyone else in the  
7 room?

8 Okay. For those online, this is a hybrid  
9 hearing, if you can put your camera on and that will  
10 help me identify who could -- and this is in no  
11 particular order just who came up.

12 Mr. Brophy.

13 M. BROPHY: Good morning. Michael Brophy on  
14 behalf of Pollution Probe.

15 PRESIDING COMMISSIONER DUFF: Thank you.

16 Mr. Buonaguro. You're on mute.

17 M. BUONAGURO: Good morning. Michael Buonaguro.  
18 I'm counsel for the Ontario Greenhouse Vegetable  
19 Growers.

20 PRESIDING COMMISSIONER DUFF: Mr. Ladanyi.

21 T. LADANYI: Good morning. I'm Tom Ladanyi. I  
22 represent two intervenors in this proceeding Energy  
23 Probe and CCMBC.

24 PRESIDING COMMISSIONER DUFF: Okay. Mr.  
25 Pollock.

26 S. POLLOCK: Good morning. Scott Pollock,  
27 counsel for Canadian Manufacturers & Exporters.

28 PRESIDING COMMISSIONER DUFF: Mr. Li.

1 C. LI: Good morning. Clement Li. I am  
2 representing BOMA Toronto or Building Owners and  
3 Managers Association.

4 PRESIDING COMMISSIONER DUFF: Okay. Just going  
5 by the name on the screen. Is it Ms. Parry?

6 M. PARRY: Hi. So it's Myfanwy Parry with  
7 Housing Services Corporation.

8 PRESIDING COMMISSIONER DUFF: Okay. Thank you  
9 very much.

10 Mr. Vollmer.

11 D. VOLLMER: Good morning, Commissioners.  
12 Daniel Vollmer. I'm counsel for Three Fires Group  
13 and Minogi Corp.

14 PRESIDING COMMISSIONER DUFF: Okay. And one  
15 more question to OEB Staff, is there any other  
16 parties or people that you would like to have an  
17 appearance this morning?

18 R. DHILLON: No, Madam Commissioner. Thank you  
19 very much.

20 PRESIDING COMMISSIONER DUFF: Okay. Great.  
21 Thank you very much.

22 Oh, and they are still popping up on the screen,  
23 I am sorry. Ms. Simon.

24 J. SIMON: I'm Judy Simon. I am here  
25 representing Low-Income Energy Network, LIEN, and the  
26 joint submission of Low-Income Energy Network and the  
27 Vulnerable Energy Consumers Coalition, VECC. Thank  
28 you.

1 PRESIDING COMMISSIONER DUFF: Okay. Ms. Grice.

2 S. GRICE: Good morning. Shelley Grice  
3 representing the Vulnerable Energy Consumers  
4 Coalition.

5 PRESIDING COMMISSIONER DUFF: And just to  
6 confirm, did I hear that correctly, Ms. Simon will be  
7 making one submission today on behalf of both?

8 J. SIMON: That's correct.

9 S. GRICE: Yes.

10 PRESIDING COMMISSIONER DUFF: Okay. Great.  
11 Thank you very much. Appreciate that.

12 Let's talk about the plan for today.

13 Yesterday afternoon, Ms. Connell distributed an  
14 email with a hearing schedule. Thank you to those  
15 who provided their input and suggestions on the prior  
16 draft version of the schedule. I mean, such feedback  
17 is very helpful to the panel in helping us understand  
18 who would like the opportunity to provide a  
19 submission, and it also help us ensure that we can  
20 use our time efficiently and complete today if  
21 possible.

22 As indicated in yesterday's email, we also  
23 provided a little bit more clarification. The panel  
24 is seeking opening statements today, the first order  
25 of business, maybe two minutes each from each party  
26 to summarize the position.

27 They will address two issues or two questions:  
28 Are there any proposed changes to the draft issues

1 list that was appended to procedural Number 1; and,  
2 second, is the cost of carbon within the scope of  
3 this proceeding; and, if so, how should this be  
4 reflected in the draft issues list?

5 When parties filed their letters on March 9th,  
6 we noted that some parties provided their positions  
7 already, their submissions in writing and others did  
8 not, and that's fine. So the panel thought it would  
9 be helpful today for all parties to know up front  
10 what positions and proposals would be provided  
11 through the course of today. And these positions and  
12 proposals can then, of course, be expanded in more  
13 detail, when people are making their individual  
14 submissions in their time slots.

15 Enbridge Gas, the applicant, will go first,  
16 followed by OEB Staff and then the intervenors. The  
17 panel may have questions as we go along, but we have  
18 reserved half an hour for our questions prior to  
19 break. And then Enbridge would provide its reply  
20 submissions.

21 Is there any questions about what will happen  
22 today or what we're expecting? Any preliminary  
23 matters that I can answer? Well, I'm going to try to  
24 answer.

25 Mr. Elson.

26 K. ELSON: Madam Chair, I don't have any  
27 question, but I do have a bit of a preliminary issue  
28 around the order of speaking today.

1           PRESIDING COMMISSIONER DUFF: Oh, yes.

2           **PRELIMINARY MATTERS**

3           K. ELSON: And we were scheduled to be first  
4 amongst the intervenors, and our request is that we  
5 be moved to last amongst the intervenors. And  
6 there's two reasons for that. One is that we have  
7 already provided our written submissions, and so the  
8 other parties are aware of what we are going to say  
9 and so can respond to that. Whereas, we don't know  
10 what other folks are going to say, and in particular  
11 we haven't heard what, frankly, OEB Staff's  
12 submissions will be in detail. And so we would  
13 appreciate a bit of time in between when OEB Staff  
14 makes their submissions and when we make our  
15 submissions and to be able to respond to what other  
16 parties are saying about, for example, the cost of  
17 capital issue.

18           So our preference would be to go last in the  
19 schedule. If that is an issue for other intervenors,  
20 you know, we can stay in the same spot, but we might  
21 then pipe up again later and say -- while we think  
22 there is, you know, a new issue or a new comment that  
23 we would appreciate the opportunity to respond to.

24           So either we be moved to the bottom or we might  
25 pipe up later if we stay at the top and just say,  
26 "Could we respond briefly to something we have heard  
27 earlier today."

28           PRESIDING COMMISSIONER DUFF: Just a question of

1 clarification, OEB Staff. When we assembled this  
2 list, was there any particular order? Did you have a  
3 purpose when you put the order of the intervenors?

4 R. DHILLON: Madam Chair, I don't believe that  
5 there was any particular order with respect to the  
6 way that the list was made.

7 PRESIDING COMMISSIONER DUFF: Okay. Thank you  
8 very much.

9 Mr. O'Leary, you look like you wanted to say  
10 something?

11 D. O'LEARY: I do want to just offer one  
12 comment, and I certainly don't have any difficulty  
13 with an appropriate reordering of the presentations  
14 today. But it has been a practice somewhat  
15 historically that often the panel will ask those that  
16 are in favour of a particular request, in this case,  
17 those that wish that the cost of carbon be included  
18 on the issues list would all go first and then those  
19 that are opposed to it would have the opportunity to  
20 reply to those, including the applicant, of course.

21 So I am just offering as a suggestion the  
22 proposal that perhaps we could lump or collect  
23 together all those that are in favour of the cost of  
24 carbon being included on the issues list, having them  
25 proceed first, and then those that are opposed to it  
26 going second, as a group.

27 PRESIDING COMMISSIONER DUFF: Procedurally,  
28 that's interesting. I would have thought it was the



1 applicant goes first and all the people in support of  
2 the applicant goes first, and those opposed to the  
3 applicant would go second. But I --

4 D. O'LEARY: I think the position of the  
5 applicant is well known and we do intend to make a  
6 statement up front, and I think all the parties  
7 expected to -- Enbridge Gas to have a statement up  
8 front, but I was actually referring only to  
9 intervenor groups that they would actually coalesce  
10 around their position.

11 PRESIDING COMMISSIONER DUFF: Okay. I'm going  
12 to go to -- I would be interested to hear from Ms.  
13 Simon, you were scheduled to go after ED GEC. I just  
14 wanted to make sure that you would be prepared to go  
15 and start at 10:40 if that was required.

16 J. SIMON: Yes, Madam Chair.

17 PRESIDING COMMISSIONER DUFF: Thank you very  
18 much. Mr. Brophy, did you have a comment? You put  
19 your camera on.

20 M. BROPHY: Yeah. I think -- I think you  
21 actually addressed my comment, Commissioner Duff, in  
22 that I thought it was typical for the applicant to go  
23 and then those supporting that position followed by  
24 those opposing. That's my understanding as well.  
25 And we have seen Environmental Defence's submission  
26 and appreciate that. We have coordinated in advance.  
27 We obviously have a different position, but we are  
28 happy to go in advance and follow the schedule with

1 Environmental Defence going after because we are  
2 aware of what they did submit. Thank you.

3 PRESIDING COMMISSIONER DUFF: Thank you. Any  
4 other comments?

5 K. ELSON: Madam Chair, I apologize. I will  
6 make one more comment.

7 PRESIDING COMMISSIONER DUFF: Yes, sir.

8 K. ELSON: I agree with your comment about how  
9 things normally go and Mr. Brophy. But on another  
10 angle as well, I just want to be clear that we don't  
11 see our submissions as asking for changes to the  
12 draft issues list. We see Enbridge seeking to remove  
13 what is already inherent in the draft issues list and  
14 what the previous panel has already ordered. It may  
15 be a minor point and I should just keep quiet, but --

16 PRESIDING COMMISSIONER DUFF: Well, I don't  
17 think that's a minor point.

18 K. ELSON: Okay.

19 PRESIDING COMMISSIONER DUFF: I noted it in your  
20 letter, so I was interested to hear how you would  
21 address that.

22 And just for those that are -- to be clear, we  
23 had parties that said the draft issues list was fine,  
24 some considered the cost of carbon was included  
25 already, and some said the cost of carbon was not  
26 included, so we need to clarify that. And I suppose  
27 that is something the board will have to consider  
28 when it approves the list is the clarity of that.

1 Thank you very much.

2 The Board is prepared to accept the change in  
3 order. I mean, let's face it, the schedule was  
4 distributed yesterday. There is no particular order  
5 if that's your preference, and I think you have  
6 provided sufficient reasons for that, and I think we  
7 can accommodate that.

8 K. ELSON: Thank you.

9 PRESIDING COMMISSIONER DUFF: Okay. So, Ms.  
10 Connell, I don't know if you distributed another  
11 version, but I think that will be the basis on which  
12 we'll proceed today. Okay.

13 All right. We're 15 minutes ahead of schedule.

14 We are now going to do the preliminary  
15 statements. Now, I'm going to use the revised order  
16 we just made five seconds ago, in which to consider  
17 those statements.

18 I'll start with Enbridge.

19 D. O'LEARY: Thank you, Madam Chair. I'm glad  
20 that I have the additional time now to add to my  
21 allotted time.

22 PRESIDING COMMISSIONER DUFF: This is your two  
23 minutes.

24 **PRELIMINARY STATEMENT BY D. O'LEARY**

25 Yeah. The position that the company has taken,  
26 I think, is quite clear from the prefiled evidence.  
27 We are here today actually, under the belief given  
28 the OEB's letter of March 5th, 2026, at page 2, where

1 the Board states that, "The primary purpose of an  
2 approved issues list is to define the scope of a  
3 proceeding."[as read] We obviously agree with that.

4 "At the issues conference, the panel expects to  
5 hear submissions from parties on whether the  
6 consideration of a cost of carbon for DSM cost  
7 effectiveness testing should be within the  
8 scope of this proceeding and added to the draft  
9 issues list."[as read]

10 So contrary to my friend, Mr. Elson's comments,  
11 it was certainly our understanding that from the  
12 outset the issues list did not include the cost of  
13 carbon. I understand that the panel will be  
14 determining that today, but we will be taking the  
15 position that it is not included in the current draft  
16 issues list, and we will make more fulsome  
17 submissions on why, from a legal, regulatory, and a  
18 policy perspective, it should not be added to the  
19 list.

20 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
21 O'Leary.

22 Ms. Dhillon.

23 **PRELIMINARY STATEMENT BY R. DHILLON**

24 Thank you, Madam Chair.

25 With respect to OEB Staff -- sorry, OEB Staff's  
26 submissions, whether or not there are any proposed  
27 changes to the draft issues list, the OEB Staff  
28 submits that it does not propose any changes to the

1 draft issues list.

2 With respect to the cost of carbon, the cost of  
3 carbon is one factor included in Enbridge's cost  
4 effectiveness calculations. However, it should not  
5 be made a distinct issue in this proceeding. The  
6 OEB's DSM framework set out the manner in which  
7 avoided cost should be considered, and the Government  
8 of Ontario has made its policy on the value of carbon  
9 clear.

10 The OEB's approach to the treatment of carbon  
11 costs should align with these policies. Thank you.

12 PRESIDING COMMISSIONER DUFF: Thank you, Ms.  
13 Dhillon.

14 Ms. Simon.

15 **PRELIMINARY STATEMENT BY J. SIMON**

16 On behalf of LIEN and VECC, thank you very much,  
17 OEB panel, for the opportunity to provide the input  
18 on the issues list.

19 LIEN and VECC, and our joint submission are  
20 proposing changes to the draft issues list regarding  
21 issues 9, 13, 16, and 20. We've had the opportunity  
22 to review the written submissions of other parties  
23 and have an incremental comment to our written  
24 submission in support of the ED GEC submission and an  
25 increment comment to our written submission regarding  
26 setting the value of the cost of carbon in this  
27 issues conference.

28 LIEN and VECC take the position that the cost of

1 carbon is in scope in this proceeding. The cost of  
2 carbon should be treated as a value to be included  
3 and monetized -- greenhouse gas emissions -- in the  
4 TRC-Plus test, and the matter should be treated as  
5 part of issue 16.

6 Thank you very much. Those are our preliminary  
7 remarks.

8 PRESIDING COMMISSIONER DUFF: Thank you, Ms.  
9 Simon.

10 Mr. Brophy.

11 **PRELIMINARY STATEMENT BY M. BROPHY**

12 Thank you, Madam Chair.

13 In relation to issue -- to the question 1, we  
14 did, in our letter, indicate a change to issue 16,  
15 that's noted, and I'll talk about that when we have  
16 our time.

17 We also did note that there's support for some  
18 other changes that were noted, and I won't go through  
19 the list that Ms. Simon went through. VECC and LIEN  
20 were part of the intervenor collaboration in  
21 preparation for this day.

22 And in relation to the cost of carbon, we  
23 believe that it is in scope and was required through  
24 the OEB's decision to be addressed in this  
25 proceeding. Our change to issue 16 is simply just an  
26 administrative one to make application to the  
27 portfolio cost effectiveness a bit more clear, given  
28 that some of the other related assumptions that also

1 are similar to the cost of carbon are addressed in  
2 issue 16. So it just makes it more clear and  
3 transparent. Thank you.

4 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
5 Brophy.

6 Mr. Li from BOMA.

7 **PRELIMINARY STATEMENT BY C. LI**

8 Good morning. BOMA Toronto's position is that  
9 the consideration of the cost of carbon for DSM cost-  
10 effectiveness test should be in scope of this  
11 proceeding. I understand that there are other  
12 parties that believe that it is already included in  
13 the issues list, but just for clarity, I believe that  
14 it should -- we believe that it should be added  
15 explicitly to the issue list just to make it more  
16 clear.

17 No further suggestion when it comes to the issue  
18 list. This is the only one for BOMA Toronto. Thank  
19 you.

20 PRESIDING COMMISSIONER DUFF: Thank you, Mr. Li.  
21 Ms. Girvan.

22 **PRELIMINARY STATEMENT BY J. GIRVAN**

23 Thank you.

24 So CCC doesn't have any proposed additions or  
25 deletions from the proposed issues list.

26 With respect to the carbon issue, we fully  
27 support Enbridge's position. We have a long-standing  
28 TRC-Plus test. There was a federal carbon charge

1 that was reflected in that test, and parties accepted  
2 that. On April 1st, the federal charge was set to  
3 zero. And we agree with Enbridge that the zero value  
4 should remain until and unless some other directly  
5 tangible avoided cost becomes applicable pursuant to  
6 relative -- relevant legislation or government  
7 policy. And we can elaborate on that. Thank you.

8 PRESIDING COMMISSIONER DUFF: Thank you, Ms.  
9 Girvan.

10 Mr. Mondrow.

11 **PRELIMINARY STATEMENT BY I. MONDROW**

12 Thank you, Madam Chair.

13 IGUA has proposed some revisions to the issues  
14 list. In our letter that we submitted, we flagged in  
15 particular issues 2 and 18 in respect of integrated  
16 resource planning and/or the Integrated Energy Plan,  
17 the former being Enbridge's, the latter being the  
18 Government's.

19 We actually agree with Enbridge's proposals for  
20 clarification of those two issues for the reasons  
21 they set out in their letter. And I can speak to  
22 that as required later.

23 We also addressed in our letter issue 4 and  
24 suggested a distinction between Enbridge's obligation  
25 or practice of seeking input and whether that input  
26 needs to be incorporated, as opposed to considered.  
27 And I can address that later as well.

28 And in respect to the cost of carbon, to be



1 clear, IGUA doesn't think there should be a cost of  
2 carbon added. But whether or not it's an issue in  
3 the proceeding, it's our view that it is legitimately  
4 an issue in the proceeding. And I can elaborate on  
5 that later as well.

6 Thank you.

7 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
8 Mondrow.

9 Mr. Buonaguro.

10 **PRELIMINARY STATEMENT BY M. BUONAGURO**

11 Thank you.

12 OGVG filed a letter on Monday, March 9th, noting  
13 that we are not proposing any edits or changes or  
14 additions to the issues list and that, generally, the  
15 issues that we are looking to pursue are already  
16 covered by that list -- the draft list.

17 With respect -- and also with respect to the  
18 cost of carbon, we summarized our position, which is  
19 essentially in support of Enbridge's position and the  
20 positions that I think Board Staff and CCC have set  
21 out orally today, which is that the federal and  
22 provincial governments have effectively set the  
23 carbon price at zero, and that's what should be  
24 reflected in the TRC test, subject to being able to  
25 be adjusted going forward if that changes in the  
26 future.

27 Thank you.

28 PRESIDING COMMISSIONER DUFF: Thank you, Mr.

1 Buonaguro.

2 Mr. Elson.

3 **PRELIMINARY STATEMENT BY K. ELSON**

4 Thank you, Madam Chair.

5 The first question was, "Are we proposing any  
6 changes to the draft issues list?" And the answer  
7 is, "No." But generally, I would say our position on  
8 other parties' changes are supportive or taking no  
9 position.

10 The second question was, "Is the cost of carbon  
11 in scope in this proceeding?" And we say, "Yes, it  
12 is in scope." And I will address later whether it  
13 should or shouldn't be. But just to answer the  
14 question, is it already in scope? And why it would  
15 be because it's currently included in issue 3, which  
16 talks about responsiveness to previous OEB  
17 directions, and we are all familiar with the OEB  
18 direction in the November decision.

19 Also, issue 2, which talks about consistency  
20 with government policy, and I think it's quite clear  
21 that Enbridge views the cost of carbon being included  
22 as inconsistent with government policy.

23 Environmental Defence and the Green Energy Coalition  
24 argue that it is consistent and supportive of  
25 government policy, and so that's another issue under  
26 which it's relevant.

27 A third would be issue 16, which are the input  
28 assumptions and cost-effectiveness test. And, again,

1 whether you are accounting for the carbon reduction  
2 benefits of energy efficiency is relevant to your  
3 cost-effectiveness test.

4 So to answer the question, "Is the cost of  
5 carbon included in the scope?" "Yes." And we will  
6 address in our longer submissions as to why.

7 And I'll just go back to issue 2 briefly,  
8 "Consistency with government policy." I'm not going  
9 to right now explain why we think it's consistent  
10 with government policy. That's in our submissions  
11 relating to the government focus on affordability and  
12 finding the least cost way of decarbonizing, but I  
13 can address that in more detail. I'm worried about  
14 straying into topics that should come later.

15 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
16 Elson.

17 Just I note, SEC had filed a letter on March the  
18 9th. They had proposed an additional issue, so I  
19 just want to make a note of it. A number of  
20 intervenors had reviewed that proposal. I guess  
21 there had been some discussions before letters were  
22 filed. So just for the record, I think I am going to  
23 perhaps even read it out.

24 So it would be draft issue, perhaps, 21.

25 Do you have it?

26 Great. Thank you very much. Way too many  
27 screens.

28 So SEC in their letter proposed the first issue,

1 and I am quoting:

2 "What is the appropriate role, if any, of the  
3 stakeholder advisory group going forward? Is  
4 the SAG -- oh, sorry, incorrect -- if the SAG  
5 is not to have a continuing role, what body or  
6 procedure, if any, should replace it?"[as read]

7 So that will be noted as proposed issue Number  
8 21 for reference.

9 Okay. At this juncture, I think we've had all  
10 the preliminary issues at least stated so that we are  
11 aware of everyone's positions in the room, and then  
12 we can begin with Enbridge's initial submission.

13 **SUBMISSIONS BY D. O'LEARY**

14 Thank you, Madam Chair, Commissioners.

15 I thought I would start with a little bit of  
16 context, leading us to where we are today. Back in  
17 the EB-2024-0198 proceeding in procedural orders  
18 Number 2 and 3, the Board directed the company as  
19 follows:

20 "In preparing evidence relating to the  
21 Government of Canada's removal of the consumer  
22 fuel charge, Enbridge Gas shall include to what  
23 extent the social cost of carbon should be  
24 considered, if at all."[as read]

25 In its decision, then, on November 6th, 2025, as  
26 you noted, Madam Chair, which is the decision to roll  
27 over application the same proceeding, at pages 1 and  
28 10 of the decision, the Board noted that the federal

1 carbon charge represented an economic cost of carbon.  
2 The OEB in that decision then went on to provide the  
3 following direction for the purposes of this  
4 proceeding. And I quote:

5 "In its evidence on cost effectiveness,  
6 Enbridge Gas shall address how the economic  
7 cost of carbon should be reflected in the TRC-  
8 Plus analysis of its programs. It will propose  
9 in its upcoming updated DSM plan with full  
10 supporting rationale."[as read]

11 So I stop there, and I make the observation that  
12 the direction has changed from one relating to a  
13 social cost of carbon to one where it relates to an  
14 economic cost of carbon. We submit that's an  
15 important difference.

16 The company complied with that direction in  
17 several ways.

18 First, it continues to include in its avoided  
19 cost calculations a carbon charge, but has set the  
20 carbon charge to zero dollars, consistent with the  
21 regulation issued by the federal government under the  
22 Greenhouse Gas Pollution Pricing Act, which set the  
23 charge at zero dollars effective April 1, 2025.

24 The company further complied with that direction  
25 by its prefiled evidence, which is filed at Exhibit  
26 C, Tab 1, Schedule 2, which sets out the applicable  
27 legal policy and regulatory principles which support  
28 the determination that the OEB lacks the jurisdiction

1 and should not include a cost of carbon in the TRC-  
2 Plus cost-effectiveness test. There are numerous  
3 compelling reasons for this conclusion.

4 First, the OEB's authority is only granted by  
5 statute. The OEB must exercise its powers in view of  
6 the regulatory compact and its function as an  
7 economic regulator. With respect to natural gas,  
8 this means that the OEB's jurisdiction does not  
9 extend to regulating the downstream use of natural  
10 gas or the effects arising from its use.

11 Importantly, it does not have authority to  
12 institute new environmental pricing mechanisms or to  
13 assign an economic value to carbon to drive emissions  
14 reductions based on the perceived implications of  
15 natural gas usage.

16 Second, environmental regulation is the joint  
17 jurisdiction of the federal and provincial  
18 governments. Greenhouse gas emissions fall within  
19 their jurisdiction. The federal government issued  
20 the Greenhouse Gas Pollution Pricing Act, which  
21 specifically deals with GHG emissions. Under this  
22 legislative regime, it has set the federal carbon  
23 charge at zero dollars.

24 In addition, the provincial government, as noted  
25 by OEB counsel, has made it abundantly clear that it  
26 does not support any regime that involves a carbon  
27 charge, fee or valuation intended to lower GHG  
28 emissions. And it's appropriate to make decisions

1 that are consistent with the Government of Ontario's  
2 policies and legislation.

3 So contrary to the submissions made by certain  
4 parties, the OEB's jurisdiction to consider matters  
5 as part of its role as an economic regulator cannot  
6 be impermissibly broadened by the public interest  
7 mandate.

8 As noted by the divisional court in *The Advocacy*  
9 *Centre for Tenants Ontario versus Ontario Energy*  
10 *Board*, 2008 decision, which is referenced at page 8  
11 of our prefiled evidence at Exhibit C, Tab 1,  
12 Schedule 2, the OEB and I quote:

13 "Mandate is directed primarily at avoiding the  
14 potential problem of excessive prices  
15 resulting, because of a monopoly distributor of  
16 an essential service." [as read]

17 The consideration of the downstream impacts the  
18 use of natural gas in terms of GHG emissions is  
19 wholly irrelevant to the OEB's function of setting  
20 just and reasonable rates in the context of a  
21 monopoly utility. The OEB itself has recognized the  
22 limits on its jurisdiction to consider matters  
23 associated with the downstream impact of natural gas  
24 usage.

25 In EB-2019-0159 in the fairly recent OEB  
26 procedural order Number 2 and decision on the issues  
27 list in that proceeding, dated March 6, 2020, at  
28 pages 9 to 11, the OEB stated, and, again, I quote:

1           "Impacts associated with the extraction and  
2           production of natural gas to be delivered, as  
3           well as the effects of the consumption of that  
4           natural gas in the context of overall national  
5           and globally-focused environmental policies,  
6           are out of scope."[as read]

7           The Board further stated, the phrase "public  
8           interest" does not broaden the Board's jurisdiction  
9           to include an assessment of the environmental or  
10          economic impact of the use of natural gas.

11          I can then remind you, Commissioners, of the  
12          objectives for natural gas in the OEB Act, and  
13          particularly objective 5, which reads:

14                 "The OEB is required to promote energy  
15                 conservation and energy efficiency in  
16                 accordance with the policies of the Government  
17                 of Ontario, including having regard to the  
18                 consumers' economic circumstances."[as read]

19          So it is clear from that statute that the OEB is  
20          statutorily obligated to issue decisions and orders  
21          in respect of energy conservation and efficiency that  
22          are consistent and harmonious with the policies of  
23          the Government of Ontario.

24          I think it's clear to everyone that for many  
25          years, the Government of Ontario is diametrically  
26          opposed to any consumer carbon pricing regime as a  
27          means of lowering GHG emissions. This is not only  
28          government policy, it is statutorily prohibited. And



1 this prohibition applies to all government agencies,  
2 including the OEB.

3 The Protecting Against Carbon Taxes Act  
4 prohibits the establishment of a carbon pricing  
5 program unless the current and future governments  
6 hold a referendum. The definition of carbon pricing  
7 program under the Act is a broad one, and reads, and  
8 I quote:

9 "A program intended to reduce greenhouse gas  
10 emissions by imposing a tax, fee, charge, or  
11 other levy on those emissions." [as read]

12 It's our submission that this definition  
13 certainly includes any valuation given to the alleged  
14 benefits arising from GHG reductions due to a  
15 reduction in natural gas usage, which valuation is  
16 added with the intent of incenting lower GHG  
17 emissions.

18 It obviously applies to any increases in natural  
19 gas rates payable by ratepayers as a consequence of  
20 increasing the DSM budget to support measures and  
21 program offerings that are deemed cost-effective by  
22 reason of a carbon valuation being added to the TRC-  
23 Plus that is other than a non-zero avoided cost.

24 In the Ontario legislature, when it was  
25 considering the Protecting Against Carbon Taxes Act  
26 on April 25, 2024, so very recently, at page 1330 of  
27 Hansard, The Honourable Prabmeet Singh Sarkaria, who  
28 is the Minister of Transportation then and now,

1 stated, and I will quote -- but just to give some  
2 relevance for the purposes of reading from the  
3 Hansard, as Mr. Sidlofsky will undoubtedly know when  
4 courts are asked to interpret statutes, they are  
5 often taken to statements made in the legislature as  
6 quoted in Hansard to give some belief or  
7 understanding of what the legislatures meant by a  
8 statute.

9 The Minister of Transportation stated:

10 "The Act would not cover -- would not only  
11 cover carbon taxes, but any new system that put  
12 a price on carbon, cap and trade or otherwise.  
13 With so many people across the province  
14 struggling just to make ends meet, we are  
15 taking a stand, and we are saying no to carbon  
16 taxes and other faulty carbon pricing  
17 systems." [as read]

18 It is clear that there is no carbon charge that  
19 will be avoided by undertaking DSM measures. The  
20 carbon charge continues to exist, as I mentioned  
21 earlier, but it has been reduced by the federal  
22 government to zero dollars. Which means that natural  
23 gas consumers will not save one additional nickel in  
24 terms of the federal carbon charge by reducing  
25 natural gas consumption. This economic cost no  
26 longer exists.

27 As well, there is no provincially mandated  
28 carbon price on fuel, which would be avoided by a

1 reduction in gas usage by consumers. Despite this,  
2 it appears that some parties want to substitute for  
3 the zero-dollar federal carbon charge, a figure in  
4 the non-energy benefits adder or NEBs. It's our  
5 submission that this side step does not mask the  
6 reality of the situation, that adding the cost of  
7 carbon to the NEBs is equally contrary to the clear  
8 policy of the Government of Ontario and the statute  
9 prohibiting it.

10 It is important to recognize the source of the  
11 NEBs' 15 percent adder. So we begin with:

12 "The Minister of Energy issued its directive in  
13 October 2014 to the OPA, requiring it to add a  
14 15 percent adder to CDM for environmental,  
15 economic, and social benefits."

16 And those are in quotes.

17 It was the Government of Ontario that set this  
18 figure by its directive to the OEB -- sorry -- to the  
19 OPA.

20 Importantly, subsequently, the OEB in its report  
21 of the Board in respect of the DSM framework on  
22 December 22, 2014, at Section 9.2, referenced the  
23 Minister of Energy's directive to add the 15 percent  
24 adder. In consequence of this, the OEB concluded  
25 that to effectively align natural gas DSM programs  
26 with electricity, CDM programs, and take into  
27 consideration government objectives outline of the  
28 conservation directive to the OPA, the same approach

1 should be used for screening DSM programs.

2 Stated differently, the OEB was appropriately  
3 having regard to and adopting the policies of the  
4 Government of Ontario.

5 The Government of Ontario's directive also  
6 require the IESO to update the 15 percent NEBs adder.

7 Schools, SEC, in its submission at page 1,  
8 states that it understands that the IESO is currently  
9 looking at the quantum of this adder, and suggests  
10 that the OEB should consider coordinating its use of  
11 this adder with any new IESO approach. SEC proposes  
12 this in the context of arguing at the top of page 2  
13 in favour of including a value for the cost of carbon  
14 in this proceeding.

15 We took the liberty of inquiring with the IESO  
16 about the status of its update to the NEBs adder, and  
17 were informed that its update has been completed.  
18 Enbridge Gas has been authorized by the IESO to  
19 advise the board and parties as follows, and I quote:

20 "The Ontario government has not yet established  
21 a policy regarding the cost of carbon. Any  
22 decision by the IESO to incorporate an economic  
23 or social cost of carbon will be guided by  
24 provincial policy. Accordingly, until the  
25 Ontario government sets such a policy, or  
26 otherwise directs the IESO to include a cost of  
27 carbon, the IESO will maintain its current  
28 practice of not assigning a value to carbon in

1           its avoided cost calculations."[as read]

2           So importantly, the IESO has acknowledged not  
3           only that its update does not include anything in the  
4           adder for a cost of carbon, the IESO will also not  
5           include anything for a cost of carbon unless so  
6           directed by the Government of Ontario. I think we  
7           can all speculate that that's not likely to happen  
8           any time soon.

9           The threshold in this proceeding relating to the  
10          cost of carbon is not about the broader environmental  
11          issue of reducing GHG emissions, it is about the  
12          ability of the Board to consider and establish a cost  
13          of carbon for the TRC test in light of its  
14          jurisdiction, government policy, and the primary  
15          objectives of DSM, which are set out in the DSM  
16          framework.

17          The current DSM framework states the objective  
18          of DSM is to:

19                 "Result in meaningful reductions in overall  
20                 natural gas volumes with consequent cost  
21                 savings for ratepayers,"

22          And:

23                 "To ensure proposed activities will assist  
24                 customers in making their homes and businesses  
25                 more efficient in order to help lower overall  
26                 natural gas bills."

27          In short, the primary objectives of DSM are  
28          meaningful reductions in overall natural gas volumes

1 and lowering consumers' bills.

2       It is accepted that a reduction in natural gas  
3 usage will result in GHG emissions. The OEB  
4 recognized this in its decision approving DSM  
5 guidelines, dated June 30th, 2011, in EB-2008-0346.  
6 It specifically did not include, as a metric in the  
7 TRC test, a value based on the reduction of GHG  
8 emissions. The OEB stated that it did not accept  
9 this metric as being necessary as it would, and I  
10 quote, "Strongly, if not perfectly, correlate with  
11 the cubic meters accumulative savings of natural  
12 gas." That quote is from page 28 of that decision.

13       Stated differently, the OEB has been cognizant  
14 for years that reductions in natural gas usage will  
15 generate coincidental reductions in GHG emissions. A  
16 reduction in GHG emissions naturally follows and  
17 result from a reduction in natural gas usage. This  
18 makes the addition of GHG emissions metric in the  
19 TRC-Plus test not necessary.

20       The OEB should remain cognizant of this and  
21 content in its role approving a DSM plan that  
22 promotes natural gas volumetric savings and energy  
23 bill reductions.

24       What Enbridge Gas is proposing in the DSM plan  
25 is wholly consistent as well with the Minister of  
26 Energy and Electrification's letter of direction to  
27 the OEB, dated December 19, 2024. And specifically,  
28 that part of the directive, which dealt and promoted

1 regulatory efficiency as an objective, and he  
2 specifically highlighted reducing utility burden.

3       There can be no question that if the cost of  
4 carbon is added to the issues list in this  
5 proceeding, that this hearing will become materially  
6 longer, more complex, and more expensive. One need  
7 only look at the submissions of Mr. Elson on behalf  
8 of ED and GEC to confirm this. Aside from the  
9 additional evidence, discovery, hearing time and  
10 argument that will occur if the issue is added,  
11 adding a cost of carbon may require the company to  
12 amend and refile much of its application.

13       This could draw into question the goal of  
14 implementing the new plan on January 1, 2027.

15       Enbridge Gas submits that now is the time to  
16 recognize that issues relating to a cost of carbon  
17 are outside the scope of this proceeding. This will  
18 save significantly not only in terms of the  
19 applicant's costs, but it will greatly reduce the  
20 intervenors' request for costs and the OEB's own  
21 costs, which, of course, are passed along to  
22 ratepayers.

23       Enbridge Gas further submits that including a  
24 cost of carbon in the issues list will not add to the  
25 Government of Ontario's objective of improving  
26 affordability from an energy perspective.

27       The fact is, and contrary to what I anticipate  
28 my friend, Mr. Elson, will say, whether you include a

1 carbon charge of zero in the TRC test as the company  
2 has proposed, or some added yet-to-be-determined  
3 figure as will be proposed by Mr. Elson and other,  
4 the result from the energy consumers' perspective  
5 will be no change to its energy bill, including a  
6 non-zero value, as some of the intervenors will  
7 propose, for the cost of carbon will not reduce an  
8 energy consumers' bill by one cent.

9 Adding the cost of carbon to the TRC-Plus test  
10 will inflate the apparent cost-effectiveness of  
11 certain measures, which in and of itself, we submit,  
12 may send inappropriate pricing signals to trade  
13 partners and consumers.

14 But those energy consumers who participate in  
15 the DSM programs will not realize one nickel more in  
16 energy savings than they would if the avoided costs  
17 were set at zero dollars.

18 Adding a non-zero cost of carbon will not have  
19 any impact on the affordability of natural gas.

20 Further, it will undoubtedly lead to quite the  
21 opposite. By inflating the cost-effectiveness of  
22 certain measures and offerings, the clear objections  
23 of ED, GEC, SEC, and other intervenors is to promote  
24 more DSM spending. That's been a common theme of  
25 these parties for many years. This will mean higher  
26 budgets and increases in rates.

27 This increase in rates has the same impact as a  
28 carbon charge, which is directly imposed on a



1 consumer, contrary to Ontario's statutory  
2 prohibition.

3 This additional cost pressure on rates, we  
4 submit, is completely contrary to the objective of  
5 the Government of Ontario and its promotion of  
6 affordability.

7 Madam Chair, those are our submissions on the  
8 cost of carbon. I can now, if you wish, also speak  
9 to the other issues that are set to hold in the  
10 parties' submissions that were filed on Monday, or I  
11 can save that for reply.

12 PRESIDING COMMISSIONER DUFF: I think you should  
13 save that for reply. That's fine.

14 And I do note the other specific modifications  
15 to the draft issues list, which you provided in  
16 writing. I just wanted to make note of that as well.

17 D. O'LEARY: And I was going to speak to those  
18 in the context of the submissions by other parties,  
19 because as Mr. Mondrow noted, he supported -- or IGUA  
20 supported several of those, and I would speak further  
21 to that. But I thought it would be best to deal with  
22 them all collectively.

23 PRESIDING COMMISSIONER DUFF: That's fine.  
24 Thank you very much.

25 OEB Staff.

26 **SUBMISSIONS BY R. DHILLON**

27 Thank you, Madam Chair.

28 In the decision and order of Enbridge's 2026 DSM

1 plan application, the OEB directed Enbridge to  
2 address how the economic cost of carbon should be  
3 reflected in the TRC-Plus test applied to DSM  
4 programs. As part of the OEB's instructions in  
5 advance of the issues conference, the OEB requested  
6 and put it on the draft issues listing and suggesting  
7 modifications as well as submissions on whether the  
8 cost of carbon for DSM cost-effectiveness testing  
9 should be within the scope of this proceeding and  
10 added to the draft issues list.

11 The OEB Staff's submissions are as follows: OEB  
12 Staff supports the draft issues list as filed with no  
13 changes, OEB Staff has had the opportunity to review  
14 the parties' submissions on the proposed  
15 modifications to the draft issues list.

16 The OEB Staff submits that the draft issues list  
17 is appropriate as it reflects the issues list  
18 previously approved in Enbridge's prior multiyear DSM  
19 plan proceeding.

20 The parties participating in this application  
21 remain largely unchanged, and the current application  
22 does not present a material change in its core  
23 elements. Accordingly, the draft issues list remains  
24 sufficiently broad to allow all parties to test the  
25 relevant evidence in this proceeding.

26 In addition, with respect to the panel's request  
27 for submissions on whether consideration of a cost of  
28 carbon DSM cost effectiveness testing should be

1 within the scope of this proceeding and added to the  
2 issues list, the OEB Staff submits that it should not  
3 be part of the scope of this proceeding and should  
4 not be added to the issues list.

5 OEB Staff submits that the cost of carbon is not  
6 and -- sorry, the OEB Staff submits that the cost of  
7 carbon is not and is relevant, but only as it relates  
8 to issue Number 16, cost effectiveness considerations  
9 and issue Number 2, consistency with government  
10 policies and should not be added to the issues list  
11 as a separate item.

12 To ensure clarity and avoid any procedural  
13 delays, it is important for the OEB to confirm the  
14 zero dollar per tonne value of the cost of carbon for  
15 cost-effectiveness testing at the outset of this  
16 proceeding.

17 The OEB Staff submits that the OEB should  
18 prioritize this and address it as a preliminary  
19 issue.

20 The OEB Staff further submits consistent with  
21 direction in the DSM framework for Enbridge to use  
22 the best available information to inform its avoided  
23 costs and consistent with the current policy  
24 environment, the appropriate value for cost of carbon  
25 in the TRC-Plus test is zero dollars per tonne.

26 The OEB Staff submits that this does not require  
27 any change to the draft issues list and should be  
28 approved as a preliminary matter.

1           With respect to the issue of the consideration  
2 of the cost of carbon for cost-effectiveness testing,  
3 OEB Staff offers the following submissions.

4           In OEB's letter of March 5th, 2026, Enbridge  
5 addressed this topic as part of its pre-filed  
6 evidence. Enbridge indicated that it would not be  
7 appropriate for OEB to conclude a cost of carbon and  
8 DSM cost-effectiveness testing for several reasons,  
9 including the OEB's lack of jurisdiction to create or  
10 impose a carbon price that, in doing so, would  
11 conflict with Government of Ontario policy and that  
12 it would be inconsistent with the objectives of the  
13 OEB's DSM framework. Importantly, Enbridge has also  
14 stated that:

15           "The Government of Ontario set the federal fuel  
16 charge to zero effective April 1st, 2025. As a  
17 result, the avoided federal fuel charge has set  
18 -- has been set to zero in the total resource  
19 cost plus test for DSM. The zero value should  
20 be -- should remain in the TRC-Plus test unless  
21 -- until some other directly tangible avoided  
22 cost becomes applicable pursuant to relevant  
23 legislation or government policy direction. If  
24 the OEB imposes an additional cost of carbon in  
25 the TRC-Plus test, then this will, without  
26 jurisdiction or policy or factual support,  
27 increase the notional cost effectiveness of  
28 DSM, which will lead other parties and

1           potentially the OEB to push for increased DSM  
2           funding with higher ratepayer costs."[as read]  
3           OEB Staff largely agrees with Enbridge's  
4           assessment. However, the OEB Staff submits that  
5           pursuant to Section 2, subsection 5 of the OEB Act  
6           and in respect of conservation and energy efficiency  
7           initiatives, the OEB's direction -- sorry, the OEB's  
8           discretion is to be exercised in accordance with the  
9           policies of the Government of Ontario. In the  
10          current policy environment where federal consumer  
11          charge -- federal consumer carbon charge has been set  
12          to zero, and the Ontario government has explicitly  
13          rejected carbon pricing as an emissions tool --  
14          policy tool. OEB Staff submits that the appropriate  
15          economic cost of carbon for DSM screening is zero  
16          dollars per tonne.

17          On the question of whether or not the cost of  
18          carbon is currently included in the OEB's TRC-Plus  
19          cost-effectiveness test screening, the OEB Staff  
20          submits that the answer is yes, it is zero dollars  
21          per tonne. The OEB's consideration over DSM cost-  
22          effectiveness screening arises from its broad mandate  
23          to set just and reasonable rates, which includes  
24          approving DSM plans that are funded by ratepayers.

25          The TRC-Plus test is an OEB-established  
26          analytical tool and the OEB has historically added or  
27          modified screening parameters where appropriate. For  
28          example, as part of the OEB's 2015 DSM policy

1 framework and filing guidelines, it made the TRC-Plus  
2 test as the primary cost-effectiveness screening  
3 tool, incorporated the 15 percent non-energy benefit  
4 adder in the TRC test and included the program cost -  
5 - the program administrator cost test as a secondary  
6 screening tool.

7       However, the scope of the OEB's considerations  
8 are not unconstrained. The relevant legal question  
9 is not only whether the OEB can set a value, but how  
10 it must exercise that value.

11       Any exercise of discretion shall be grounded in  
12 evidence, be reasonable in the circumstances, that is  
13 to say, result in just and reasonable rates and be in  
14 accordance with the policies of the Government of  
15 Ontario as required by Section 2 subsection 5 of the  
16 OEB Act.

17       While the OEB's TRC-Plus test includes carbon  
18 costs as one of the avoided costs for screening  
19 potential DSM programs, the OEB's discretion on  
20 determining the value of carbon costs is meaningfully  
21 constrained by the broader statutory framework and  
22 government policy direction.

23       Should the OEB set an arbitrary carbon value for  
24 cost-effectiveness screening? It is submitted that  
25 the OEB should not set an arbitrary carbon value.  
26 The OEB's approach must be aligned with the policies  
27 of the Ontario government and should be consistent  
28 with OEB's past approach in establishing policy

1 direction on this topic.

2       On March 14, 2025, the federal government  
3 announced its intentions to remove the requirement  
4 for provinces and territories to have a consumer-  
5 facing carbon price in place and set the federal fuel  
6 charge rates to zero as of April 1st, 2025. The  
7 Ontario government's response and how those should be  
8 considered by the OEB is as follows: A, the Ontario  
9 government policy direction opposes carbon pricing.  
10 Again, Section 2, subsection 5 of the OEB Act  
11 requires that the OEB act in accordance with the  
12 policies of the Government of Ontario. Several  
13 current and influential policy documents demonstrate  
14 that Ontario's position is one of explicit opposition  
15 to carbon pricing. First, the -- Protecting Against  
16 Carbon Taxes Act, 2024. This act defines a carbon  
17 tax broadly as a tax, a fee, charge, or other levy  
18 intended to reduce greenhouse gas emissions and  
19 requires a referendum before any carbon pricing  
20 program can be established in Ontario.

21       This indicates that any mechanism analogous to a  
22 carbon price falls outside acceptable policy  
23 instruments unless authorized through voter approval.

24       Second, the Integrated Energy Plan. Energy for  
25 generations. The government's energy policy states  
26 unequivocally the Ontario plan does not and will not  
27 include a carbon tax. The IEP emphasizes affordable,  
28 predictable, and stable energy costs as the

1 foundation of the province's economic strategy.

2       Lastly, 2025 Ontario budget. A plan to protect  
3 Ontario. The government's 2025 budget further  
4 reiterates its opposition to a tangible and discrete  
5 cost of carbon, noting that it has consistently  
6 called for the elimination of the carbon tax and  
7 welcomes the federal decision to set consumer pricing  
8 -- sorry, consumer carbon charge to zero. The  
9 Ontario government's policy explicitly rejects a  
10 carbon tax and is firmly against carbon pricing in  
11 general. Imposing a non-zero carbon value as part of  
12 OEB's adjudicative process would appear to contradict  
13 these policies and conflict with OEB's statutory  
14 obligation to act in accordance with them.

15       B, OEB policy continuity support as zero dollar  
16 per tonne input. The OEB policy has consistently  
17 maintained a stable benefit-cost framework using the  
18 TRC-Plus test with variables aligned to government  
19 policy, which currently would include a zero dollar  
20 per tonne avoided cost -- carbon cost consistent with  
21 government policy.

22       The TRC plus -- the TRC test has been the long  
23 standing benefit-cost tool employed by the OEB for  
24 addressing whether a proposed DSM program provides  
25 value.

26       The TRC test captures the following: First,  
27 benefits, which are the avoided costs, natural gas,  
28 electricity, water, and carbon.



1           Secondly, cost. The equipment and program  
2 costs. Importantly, as part of the definition of the  
3 TRC-Plus test, the DSM framework indicates that  
4 utility avoided costs should be calculated using the  
5 input assumptions, savings estimates, and adjustment  
6 factors based on the best available information known  
7 to Enbridge Gas.

8           In October 2014, the Minister of Energy updated  
9 its conservation first directive to the IESO,  
10 formerly the Ontario Power Authority, and made it  
11 mandatory that electricity distributor conservation  
12 programs are screened using the TRC test and include  
13 a 15 percent adder to account for any fees associated  
14 with the electricity conservation programs, such as  
15 environmental, economic, and social benefits.

16           As part of the OEB's 2015 DSM framework, the OEB  
17 incorporated a 15 percent NEB adder, this added the  
18 plus to the TRC-Plus test. The NEB adder should be -  
19 - sorry, the NEB adder was adopted by the OEB to  
20 maintain alignment with electricity conservation and  
21 demand management programs.

22           Additionally, as part of the OEB's midterm  
23 review of the 2015 DSM framework, the TRC-Plus test  
24 was updated to assign carbon costs following  
25 implementation of the cap and trade program in  
26 Ontario while maintaining the 15 percent NEB adder.

27           These policies update -- updates reinforce the  
28 notion that OEB is appropriately guided by government

1 policy and can amend benefit cost valuation when  
2 provincial policy supports doing so, not in the face  
3 of contrary government policy.

4 C, economic impact of a carbon cost. OEB Staff  
5 acknowledges that the impact of setting carbon cost  
6 to zero dollars per tonne has a material impact on  
7 DSM cost effectiveness. This was apparent during the  
8 previous proceeding for Enbridge's 2026 multiyear DSM  
9 plan application filed last year. Following the  
10 removal of the federal carbon charge, the application  
11 was required to be put into abeyance to allow  
12 Enbridge to assess the impacts of said removal on its  
13 DSM plan.

14 That effort took multiple months and resulted in  
15 significant different overall DSM plus -- DSM plan  
16 cost effectiveness results.

17 TRC-Plus test with the previous federal carbon  
18 charge was equal to 1.98. The TRC-Plus with the  
19 federal carbon charge set to zero dollars per tonne  
20 is equal to 1.02.

21 The OEB has asked if consideration of a cost of  
22 carbon for DSM cost-effectiveness testing should be  
23 within the scope of this proceeding and, if so, added  
24 to the issues list. The OEB Staff submits that the  
25 OEB's current cost-effectiveness policy guidance is  
26 clear. The TRC-Plus test is used to be -- is used to  
27 be -- sorry, is to be used as the primary benefit-  
28 cost tool. Similarly, the variables in the TRC-Plus

1 test are clear, one of which is avoided carbon costs.

2 Further, as previously stated, the DSM framework  
3 indicates that Enbridge is to use the best available  
4 information to inform its avoided costs. Therefore,  
5 the OEB Staff is of the view that adding a new issue  
6 to consider if the right benefit cost testing is  
7 being used or that -- or if that test includes the  
8 proper variables, is unnecessary.

9 For screening potential DSM programs, the  
10 economic cost of carbon as it pertains to tangible  
11 avoided fuel charges for customers and businesses is  
12 zero. Applying any proxy price to introduce -- would  
13 introduce a counterfactual cost not borne by  
14 taxpayers. It is a reality that Ontario ratepayers  
15 do not experience any direct economic benefit on  
16 their natural gas bills from avoided carbon costs, as  
17 no carbon charge exists to avoid.

18 Further, any proxy carbon price would  
19 artificially inflate the cost-effectiveness of  
20 Enbridge's DSM programs. This could inaccurately  
21 signal some -- that some programs, although  
22 potentially beneficial for other purposes, are  
23 economic and the benefits are equal to -- equal or  
24 greater than costs for Ontario ratepayers. This  
25 would be misleading.

26 This would be misleading. Applying accurate  
27 inputs is central to the OEB's cost-effectiveness  
28 assessment. The OEB's DSM framework enables the OEB

1 to consider any program that fails the TRC-Plus test  
2 on its own merits and reasonably assess any other  
3 potential benefits not captured by the TRC-Plus test,  
4 similar to the OEB's consideration on Enbridge's low-  
5 income program.

6 OEB Staff submits that this is the proper lens  
7 of how the OEB considers programs that do not pass  
8 the TRC-Plus test. Maintaining the TRC-Plus test  
9 with a zero dollar per tonne carbon input ensures  
10 consistency with the current OEB and government  
11 policy.

12 It also avoids artificially inflating benefits,  
13 which could, in turn, inappropriately skew  
14 assessments of the economic costs and benefits of and  
15 thereby the appropriate scope and scale of the DSM  
16 plan.

17 D, proposals for additional information. The  
18 OEB Staff consider the value of testing various cost-  
19 effectiveness sensitivities, including applying the  
20 previous federal carbon charge or break-even carbon  
21 values, inflection points where the carbon charge is  
22 applied at a value that raises the TRC-Plus ratio for  
23 all programs to at least 1.0.

24 However, OEB Staff is of the view that the  
25 exercise would have little, if any, value.

26 Setting the federal carbon charge to zero has  
27 had a -- has had a material impact on overall cost-  
28 effectiveness of Enbridge's DSM plan, particularly

1 the proposed residential program, which has a  
2 forecast TRC-Plus ratio of 0.89. The OEB Staff  
3 submits that the OEB must determine the  
4 reasonableness of Enbridge's proposal and those  
5 programs that fail to meet the TRC-Plus test based on  
6 the merits of those programs. Conducting  
7 sensitivities would require additional time,  
8 resources, and costs in this proceeding without  
9 providing commensurate value to the OEB's  
10 determination.

11 Parties may argue that the broader societal  
12 benefits associated with avoided carbon -- apologies.

13 Parties may argue that the -- that there are  
14 broader societal benefits associated with carbon  
15 emissions. OEB Staff submits that current policy  
16 direction is that these are captured in the 15  
17 percent NEB adder included in the TRC-Plus test.  
18 Additionally, societal impacts are not direct costs  
19 to ratepayers. As such, the OEB Staff submits that  
20 the TRC-Plus test and existing zero dollar per tonne  
21 cost of carbon does not need to be modified to  
22 accurately account for any such benefits.

23 What carbon value should be used? As previously  
24 stated, the OEB Staff submits that the carbon value  
25 should be zero dollars per tonne for the following  
26 reasons.

27 First, it reflects the actual tangible  
28 ratepayer-facing carbon cost today. Second, it

1 aligns with federal and provincial policy, including  
2 the elimination of the federal charge and Ontario's  
3 explicit opposition to carbon pricing. Third, it  
4 avoids creating a de facto carbon price contrary to  
5 the Protecting Against Carbon Taxes Act, 2024, which  
6 prohibits carbon pricing programs absent a  
7 referendum. And lastly, it preserves TRC-Plus  
8 comparability and integrity, maintaining OEB policy  
9 continuity. This approach ensures transparency,  
10 respects statutory requirements, maintains  
11 methodological continuity, and upholds the public  
12 interest and affordability, reliability, and  
13 regulatory clarity.

14 Procedural considerations.

15 Enbridge has requested that the OEB address the  
16 cost of carbon at the outset of the proceeding to  
17 ensure regulatory efficiency and avoid unnecessary  
18 expenditure of resources. The OEB Staff agrees.  
19 Under issues Number 2 and Number 16, the OEB should  
20 make an early ruling that affirms the policies of the  
21 Ontario government with respect to the input value of  
22 zero dollars per tonne for the carbon cost value to  
23 be used in the TRC-Plus calculation, following  
24 submissions from parties.

25 This will ensure that -- that a key variable is  
26 set from the outset. The decision affects the  
27 structure of the DSM plan, and delaying it could  
28 create inefficiency, require recalculation, and

1 increase the risk of procedural delays, all of which  
2 is respectfully submitted on behalf of OEB Staff --

3 PRESIDING COMMISSIONER DUFF: Thank you, Ms.  
4 Dhillon. I do have one question, and you don't have  
5 to answer this now. Actually, I pose it to the  
6 parties as well.

7 OEB Staff says they have no changes to the draft  
8 issues list, but you know that a number of additions  
9 and suggestions have been made, most notably draft  
10 issue Number 21. Are you choosing to stay silent on  
11 that, or are you opposed to those changes? You may  
12 want to consider that and report back. And I kind of  
13 make that comment to all people that say that they  
14 see no changes. We were kind of hoping the  
15 circulation of the suggestions on March 9th would  
16 expedite, and we can get all submissions today.  
17 Okay. Is that understood? Thank you very much.

18 R. DHILLON: Thank you.

19 PRESIDING COMMISSIONER DUFF: Okay. The plan is  
20 today that we will break at 11 o'clock, but we still  
21 have time. So I am going to go ahead with Ms. Simon  
22 for LIEN and VECC.

23 Please proceed.

24 **SUBMISSIONS BY J. SIMON**

25 Thank you very much, Madam Chair.

26 We ask that the OEB rely on LIEN VECC submission  
27 letter for detailed submissions regarding issues 9,  
28 13, 16, and 20.

1           Regarding issue 9, we propose -- we propose to  
2 also ask that for each of the residential, income-  
3 qualified, commercial, industrial, and large volume  
4 program is Enbridge's proposed budget for each of  
5 these programs appropriate? We would suggest making  
6 this modification to issue 9 will avoid a narrow  
7 interpretation of issue 9 as written to only -- which  
8 now potentially could be interpreted as including the  
9 consideration of the total DSM budget as being in  
10 scope, as opposed to the total budget and the budgets  
11 of each of the program components.

12           Regarding issue 13, we would like to make sure  
13 that the scope of the proceeding considers not only  
14 Enbridge Gas's proposed offerings, but also, as part  
15 of that consideration, the proposed modifications to  
16 its existing 2026 offerings that its proposed  
17 offerings entail.

18           This is important to LIEN and VECC since the  
19 residential building code offering was removed from  
20 the residential program, and electric heat pump  
21 incentives were removed from the income-qualified  
22 program.

23           Regarding issue 16, LIEN, VECC proposes to split  
24 the issue into part A, which covers the  
25 appropriateness of the inputs to the cost-  
26 effectiveness test, which is missing from issue 16;  
27 and part B, which covers the treatment of those  
28 inputs in the cost-effectiveness test. And for both



1 parts, we propose to expand the inputs to make it  
2 clear. They include non-energy benefits and the cost  
3 of carbon.

4       Regarding issue 20, we propose to add  
5 stakeholder consultation guidance so that its  
6 inclusion in the scope is clear. We support SEC's  
7 specific issue addition regarding the stakeholder  
8 advisory group. This issue addition could also be  
9 part A to issue 20 if the OEB adopts our proposed  
10 modification to issue 20.

11       Those are our submissions on the issues.

12       For the cost of carbon, LIEN and VECC submit  
13 that the OEB does have jurisdiction to include non-  
14 energy benefits and a monetized value for carbon as  
15 part of its TRC test. As the TRC test is for  
16 planning purposes, for analysis, and screening of  
17 natural gas DSM programs. Monetization of carbon or  
18 greenhouse gases is not a levy, fee, or tax or a  
19 carbon pricing program.

20       We note that the IESO does not use a TRC-Plus  
21 test to screen its eDSM programs. Rather, it uses a  
22 program administrator cost test as its program  
23 screen. And so, taking direction from the government  
24 on -- also adding that as it did with the non-energy  
25 benefit adder is consistent with that.

26       LIEN and VECC support ED GEC's legal  
27 interpretation in their submission and in the remarks  
28 that they will make at the end of this proceeding.

1           The CME submits in its letter that the cost of  
2 carbon value should be zero, and OGVG, in their  
3 written submission, as well -- as well as other  
4 parties that we have heard so far this morning. We  
5 take the position that if the cost of carbon is in  
6 scope, the OEB should not be making a determination  
7 now as part of this issues conference so that all  
8 parties have a full opportunity to make submissions  
9 on this as they would any other -- and provide  
10 evidence as needed, cross-examination as needed, as  
11 they would for any other issue on the issues list.

12           Thank you very much, Madam Chair. Those are our  
13 submissions.

14           PRESIDING COMMISSIONER DUFF: Thank you very  
15 much.

16           Just a question from the panel, please.

17           COMMISSIONER SIDLOFSKY: Sorry, Ms. Simon, you  
18 said that if the cost of carbon is in scope, the  
19 Board shouldn't make a determination at this time.  
20 Are you saying the Board shouldn't make a  
21 determination on the -- on the price?

22           J. SIMON: On the -- on the monetized value of  
23 the costs of carbon in this issues conference, it  
24 should be part of the issues list and treated as all  
25 other matters before the Board panel with opportunity  
26 to provide evidence, cross-examination, and argument.

27           COMMISSIONER SIDLOFSKY: But you do want the  
28 determination made now as to whether the cost of

1 carbon is in scope.

2 J. SIMON: Yes, please.

3 COMMISSIONER SIDLOFSKY: Thank you.

4 PRESIDING COMMISSIONER DUFF: Mr. Brophy, I am  
5 in your hands. Would you like -- I mean, we don't  
6 have -- if you prefer to go now, we can go to ten  
7 after.

8 M. BROPHY: Will certainly be more than ten  
9 minutes. So if you want to take the break now, we  
10 are happy, or we are prepared to go as well.

11 PRESIDING COMMISSIONER DUFF: Okay. Why don't  
12 we take the break then? And we will meet again at  
13 five after 11. Thank you very much.

14 --- Upon recess at 10:50 a.m.

15 --- Upon resuming at 11:07 a.m.

16 PRESIDING COMMISSIONER DUFF: Please be seated.  
17 Mr. Brophy.

18 M. BROPHY: Thank you, Madam Chair.

19 PRESIDING COMMISSIONER DUFF: Please proceed.

20 **SUBMISSIONS BY M. BROPHY**

21 Good morning. My name is Michael Brophy, and I  
22 will be making the oral submissions on behalf of  
23 Pollution Probe this morning.

24 These submissions are supplemental to Pollution  
25 Probe's letter filed March 9th, and I do not plan to  
26 repeat everything that was in that letter. It should  
27 be considered in conjunction with these submissions.

28 In that letter, we also noted coordination and

1 support, or some other adjustments that parties have  
2 proposed. I will not repeat those now since we  
3 talked about those in the opening statement.

4 Specific to the draft issues list, Pollution  
5 Probe proposed a revision to issue 16 to promote  
6 clarity and efficiency, given that issue 16 is the  
7 issue in the draft issues list dealing with portfolio  
8 inputs and assumptions.

9 Pollution Probe simply recommends that the  
10 application of economic cost of carbon and non-energy  
11 benefits be explicitly included in the list with the  
12 other similar portfolio inputs that need to be  
13 modelled together.

14 The proposed issue 16, part B, is simply to  
15 consider if all those elements have been  
16 appropriately applied to the DSM plan.

17 Of course, we believe all of this is implicit.  
18 But given the concerns Enbridge has expressed on  
19 those inputs, I'm sure nobody wants to waste time  
20 debating that all those are part of the inputs  
21 impacting the DSM plan and related programs.

22 Enbridge appears to disagree with the OEB's  
23 decision and direction from the very recent EB-2024-  
24 0198 DSM proceeding.

25 To go further, Enbridge is suggesting that the  
26 OEB does not have the jurisdiction or ability to  
27 consider the economic cost of carbon for DSM in this  
28 proceeding, or, in fact, any proceeding.

1           Enbridge's recommendation is disconnected to the  
2 reality of OEB proceedings since DSM was initiated in  
3 the early 1990s by the OEB. Although the changes may  
4 be Enbridge's preference or opinion, this is clearly  
5 incorrect and not based on actual facts.

6           Enbridge did not challenge the EB-2024-0198  
7 decision on that basis. Enbridge's petition does not  
8 serve ratepayers, policy objectives, or the DSM plan  
9 requirements set by the OEB.

10           Also, ironically, Enbridge prominently  
11 highlights the DSM emissions reductions that lead to  
12 broader benefits in its DSM reports.

13           I will use the term environmental attributes to  
14 align with OEB language, and this includes the cost  
15 of carbon. Whether somebody wants to call it the  
16 economic or social cost of carbon, this appears to be  
17 some semantics.

18           In relation to this proceeding, it doesn't  
19 matter whether you call it economic cost of carbon or  
20 social cost of carbon; it has the same impact on the  
21 DSM portfolio when applied.

22           And let's be clear, environmental attributes for  
23 cost effectiveness of DSM programs is not the same as  
24 charging a customer charge, or as Mr. O'Leary  
25 referred to it this morning, a tax on a bill.  
26 Similar to the 15 percent non-energy benefits adder,  
27 it is not applied to bills, but does represent real  
28 benefits expected from DSM. We believe that Enbridge

1 understands the difference but has chosen to  
2 obfuscate the screening of a DSM program with a tax  
3 added to a ratepayer's bill.

4 Enbridge's request to explicitly exclude  
5 economic considerations of environmental attributes,  
6 or Enbridge's request that the economic cost of  
7 carbon be set to zero if they are included, reduces  
8 the DSM plan cost-effectiveness and would likely  
9 impede DSM delivery during this plan at the level  
10 ordered in the last multiyear DSM OEB decision. More  
11 specifically, the OEB's decision for EB-2021-0002.

12 Enbridge did not take any steps to challenge  
13 that OEB decision either.

14 But those are not the only OEB proceedings and  
15 decisions related to the OEB's authority to consider  
16 environmental attributes in program cost analysis. I  
17 will simply refer to three examples, and there are  
18 many more available.

19 In EB-2019-0294, the Markham hydrogen blending  
20 leave to construct, it was premised on the benefits,  
21 environmental attributes, and aligned with policy to  
22 reduce carbon emissions. As we know, the OEB  
23 approved that project.

24 Recently, Enbridge put forward an application as  
25 part of rebasing Phase 2 in EB-2024-0111, which  
26 included a request for the OEB to consider approval  
27 of a low-carbon energy program, which was premised on  
28 decreasing carbon emissions in Ontario and the socio-

1 environmental benefits of doing so. It was proposed  
2 that reducing the natural-gas use and related carbon  
3 emissions of ratepayers has real environmental and  
4 economic benefits.

5 DSM does this even more effectively than  
6 renewable natural gas would, as referenced in that  
7 proceeding.

8 Enbridge notes in its evidence, and was  
9 mentioned this morning, that the regulatory framework  
10 governing DSM in Ontario for the natural gas sector  
11 is built on the foundation of EBO 169. Since the OEB  
12 laid this foundation for gas DSM in Ontario, it is  
13 included in economic and social benefits and  
14 environmental attributes. The EBO 169 decision  
15 specifically states, and I quote:

16 "The Board concludes that those program  
17 externalities, which include significant  
18 environmental and social costs and benefits,  
19 should be included in the cost analysis of DSM  
20 programs." [as read]

21 There are other relevant references in that OEB  
22 decision. But given the time today, I am not going  
23 to walk you through them all.

24 All of the OEB decisions relate to end-use  
25 natural gas that I mentioned, and there are more.  
26 This is the very thing Enbridge suggests the OEB is  
27 not allowed to do. By its very nature, DSM is  
28 focused on reducing natural gas end use. If the OEB

1 does not have jurisdiction to consider public  
2 interest and ratepayer end-use considerations, it's  
3 unclear whether we can even have a DSM proceeding.

4 We submit that applying environmental and social  
5 attributes is all part of being an economic  
6 regulator, which considers the broader public  
7 interest. If the OEB finalizes the issue lists in a  
8 manner consistent to what we have recommended, we  
9 believe that the proceeding will enable prudent  
10 assessment of the appropriate DSM input assumptions,  
11 including the economic cost of carbon.

12 This is what the OEB's decision and order in EB-  
13 2024-0198 explicitly stated for this proceeding.

14 It is clear that consideration related to the  
15 cost of carbon are within the jurisdiction of the OEB  
16 and relate to the broader public interest. It was  
17 also specifically identified to be part of this  
18 proceeding, as I mentioned. And that decision has  
19 not been challenged or revised.

20 By its very inclusion in this proceeding, that  
21 allows the facts to unfold on what costs should be  
22 used for the screening of DSM programs. Given the  
23 timing, I do not plan to provide detailed opinions on  
24 the interpretation of current policy documents,  
25 including the Integrated Energy Plan. All parties  
26 including Enbridge will be free to put forward  
27 evidence and their interpretations of those policy  
28 documents and the DSM framework during the proceeding



1 once the issue list is finalized. A complete record  
2 does not yet exist in this proceeding to make those  
3 decisions today.

4 Thank you for the opportunity, and those are our  
5 submissions.

6 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
7 Brophy.

8 Next is BOMA.

9 **SUBMISSIONS BY C. LI**

10 Good morning. My submission is going to be  
11 short. BOMA Toronto had a discussion with Mr. Brophy  
12 from Pollution Probe, specifically about the two  
13 parties' position in today's conference, and we have  
14 concluded that the two parties, BOMA Toronto and  
15 Pollution Probe are aligned when it comes to our  
16 positions on the issues list in today's conference.

17 And so, therefore, for regulatory efficiency, I  
18 don't think there's any point for me to repeat my  
19 submission and you can almost consider what Mr.  
20 Brophy has said would be almost like a joint  
21 submission between BOMA Toronto and Pollution Probe  
22 when it comes to the issues list in this conference.

23 Unless, Mr. Brophy, do you have anything to add?  
24 Otherwise, that will be our submission.

25 M. BROPHY: No, I don't believe so. I also  
26 understand the issues list and the cost of carbon  
27 issue together we discussed, so we are aligned on  
28 them. Thank you.

1 C. LI: So we are aligned so there is no point  
2 to repeat again, so that will be BOMA's position.

3 PRESIDING COMMISSIONER DUFF: Thank you very  
4 much. Mr. Li, did you say BOMA Toronto?

5 C. LI: Yes, that is correct.

6 PRESIDING COMMISSIONER DUFF: Who are you  
7 representing in this proceeding?

8 C. LI: BOMA Toronto. Actually, you know what,  
9 I notice that in the PO --

10 PRESIDING COMMISSIONER DUFF: Yeah.

11 C. LI: There might be a mistake in saying that  
12 -- if you look up it top, it clearly say that BOMA  
13 Toronto is -- has been approved as an intervenor.  
14 But if you go to the bottom or the appendix, where it  
15 list detailed contact information, it's listed as  
16 BOMA Ottawa, that is a mistake. So actually, it  
17 would be great if we can correct that.

18 PRESIDING COMMISSIONER DUFF: Okay.

19 C. LI: It will be BOMA Toronto in this case.

20 PRESIDING COMMISSIONER DUFF: Okay. I will take  
21 that under advisement, and -- but thank you very much  
22 for that clarification.

23 C. LI: Yes, thank you.

24 PRESIDING COMMISSIONER DUFF: All right. Then  
25 we will proceed with CCC.

26 **SUBMISSIONS BY J. GIRVAN**

27 Thank you.

28 Just on the general issues list, I just had a

1 couple of comments. The first is LIEN and VECC have  
2 proposed a change to issue 9 about specific program  
3 cost, I think for specific programs. I have just  
4 assumed that that's included in issue 9, that that  
5 what's for consideration isn't the overall budget but  
6 the budget that's comprised of the individual program  
7 budgets. Maybe Staff can clarify that?

8 J. WASYLYK: Sorry, Ms. Girvan. Can you please  
9 just repeat your --

10 J. GIRVAN: Yeah. I believe that LIEN and VECC  
11 -- and they can jump in if I am wrong -- they're  
12 proposing to change issue 9 that says -- I think to  
13 look at the individual budgets so you have the  
14 residential, you have commercial, industrial, et  
15 cetera. I have just assumed that in the context of  
16 issue 9, those are sort of part of the overall issues  
17 that we can explore in this proceeding.

18 J. WASYLYK: Okay. Thank you, Ms. Girvan. I  
19 will just read issue 9 for the panel's sake as it's  
20 currently drafted. It states:

21 "Issue 9: Does Enbridge Gas's proposed budget,  
22 including program costs and portfolio costs,  
23 result in reasonable rate impacts, while  
24 addressing the OEB's DSM objectives and guiding  
25 principles in its DSM Framework, including  
26 having regard to consumers' economic  
27 circumstances."[as read]

28 So on that basis, Ms. Girvan, OEB Staff's

1 position here is that these changes are not  
2 necessary, that the issue is sufficiently broad and  
3 does explicitly note program and portfolio costs.

4 J. GIRVAN: Okay.

5 And I had just one more clarification.

6 If you could turn to issue 15. It is the  
7 proposed evaluation measurement and verification of  
8 natural gas savings appropriate.

9 I just want to confirm that the free ridership  
10 rate for the residential program would be included in  
11 the context of that issue.

12 PRESIDING COMMISSIONER DUFF: Well, I guess you  
13 have just -- perhaps without putting Mr. Wasylyk on  
14 the spot --

15 J. GIRVAN: Sorry.

16 PRESIDING COMMISSIONER DUFF: No, but that's  
17 fine. If you have that question, and you have --  
18 then the panel can take that under -- that's your  
19 submission -- we would like to have it included.

20 J. GIRVAN: Yes, yeah, yeah.

21 PRESIDING COMMISSIONER DUFF: That's your  
22 implicit. Okay.

23 J. WASYLYK: Thank you, Ms. Girvan.

24 J. GIRVAN: Sorry for putting you on the spot.  
25 I just wanted to clarify sort of on the record that I  
26 could ask questions about that.

27 J. WASYLYK: Maybe we will take that away, Ms.  
28 Girvan.

1 J. GIRVAN: Okay. Sure.

2 J. WASYLYK: And we will provide our submission  
3 on that question and our submissions on the proposed  
4 specific issue changes to the panel.

5 PRESIDING COMMISSIONER DUFF: Okay. Great.  
6 Thank you very much. That would be helpful.

7 J. GIRVAN: One more thing to add. On Mr.  
8 Shepherd's proposed, I think it's issue 21, we are  
9 supportive of that in adding that to the list, so.

10 PRESIDING COMMISSIONER DUFF: Thank you very  
11 much.

12 J. GIRVAN: With respect to the carbon cost. I  
13 am just going to repeat quickly what I had said  
14 before and then just add on a couple of other points.

15 We have a long-standing TRC-Plus test that's  
16 been used for cost-effective testing for as long as I  
17 can remember. When there was a federal carbon charge  
18 that was reflected in the test, and I am not aware of  
19 any parties that objected to that in the past. Since  
20 the federal carbon charge has been set to zero, it's  
21 Enbridge's view that it continues to reflect the cost  
22 of carbon in its TRC-Plus test, but that cost now is  
23 zero.

24 We don't believe -- CCC doesn't believe that  
25 Enbridge is in any violation of a Board order or  
26 directive in this regard.

27 We have an overriding concern that adding a non-  
28 zero cost of carbon will make programs appear more

1 economic than they really are. The potential  
2 implication of this is to increase DSM spending,  
3 which I am sure some parties would argue, which will  
4 impact rates and this could be counter to the concept  
5 of -- or the goal of energy affordability.

6 There is a concern from our perspective for non-  
7 participants, those who do not directly benefit from  
8 Enbridge's DSM programs.

9 We also have a number of practical concerns  
10 about the proposals on the table. On what basis  
11 would the OEB set a carbon charge? I guess we'd have  
12 to have evidence from various parties. Would that be  
13 inconsistent with Ontario government policy? And I  
14 think that's the view of Staff and Enbridge. And, if  
15 so, what would be the government's response to that?

16 Also, with respect to sort of practicality, if  
17 the OEB set a carbon cost to what extent would it  
18 impact Enbridge's proposals? And I think Mr. O'Leary  
19 alluded to this earlier what it mean that Enbridge  
20 would have to file updates to its evidence? Would  
21 the program proposals change? In what way and how  
22 extensive would that be? So what process would be  
23 followed and when -- once that new cost would be  
24 established?

25 I would add that OEB could acknowledge the cost  
26 of carbon incorporated into the TRC-Plus test is  
27 included in issue 16. And if that's the case, if the  
28 OEB accepts this, we urge the OEB to make an early

1 ruling on this issue.

2 Those are CCC's submissions, thank you.

3 PRESIDING COMMISSIONER DUFF: Thank you, Ms.  
4 Girvan.

5 Mr. Mondrow.

6 **SUBMISSIONS BY I. MONDROW**

7 Thank you, Madam Chair.

8 I am going to address the cost of carbon topic  
9 first, and then I will address the other  
10 modifications that I had suggested in the letter  
11 filed on behalf of IGUA.

12 The first point I would make is -- and Mr.  
13 O'Leary took some pain to draw a distinction between  
14 -- well, let me back up a second.

15 The first point, I guess, I should make is if  
16 this panel decided in accord with Mr. O'Leary's  
17 submissions and Board Staff's submissions that it  
18 wasn't going to consider an economic or social or  
19 other cost of carbon, the outcome would be in accord  
20 with IGUA's views, so I wanted to make that clear.

21 However -- so I could just endorse their  
22 submissions, but I won't because I think that's  
23 problematic and I am going to proceed to explain why  
24 I think that's problematic.

25 In respect of the distinction drawn between the  
26 social cost of carbon and the economic cost of  
27 carbon, I do agree that there's a distinction  
28 conceptually. I don't understand either concept,

1 perhaps as well as some others in the room, but I  
2 understand them well enough to acknowledge there is a  
3 distinction.

4       However, if that distinction was clear in the  
5 minds of the OEB in writing the roll-over decision,  
6 then the decision wouldn't have indicated the need to  
7 consider the economic cost of carbon. The economic  
8 cost of carbon has been set to zero, I think that's  
9 kind of not debatable, by legislation. So in terms  
10 of the pure cost included in, you know, for gas  
11 consumers of carbon, that's now zero.

12       And so that leaves me to conclude that the  
13 hearing panel in the roll-over decision must have  
14 thought the issue was broader or at least more  
15 nuanced than that.

16       And so in that context I think the distinction  
17 between social cost of carbon and economic cost of  
18 carbon and in any event what kinds of concepts should  
19 apply in evaluating testing and perhaps deploying DSM  
20 is a nuanced issue. And in my view, the roll-over  
21 panel directed that issue to be reviewed in this  
22 case.

23       Now, this panel could ignore that direction, but  
24 I think it would have to some rationale for doing so  
25 and that may be in part what this panel has asked for  
26 submissions on today.

27       But I don't think the issue's been determined  
28 because of the roll-over's decision's use of the term



1 "economic" rather than social. I think that is  
2 overstating a bit the impact of that switch of term.  
3 I don't think it was that purposeful, otherwise, it  
4 wouldn't have had to be addressed in this case at  
5 all.

6 The 21 pages of prefiled material that Enbridge  
7 provided with its filing, the extensive submissions  
8 of Mr. O'Leary today, the stunningly extensive and  
9 comprehensive submissions of Board Staff which were  
10 heard for the first time today, all indicate to me  
11 that as much as IGUA endorses the implications of all  
12 of those submissions, this is an issue and that's  
13 what we are here to talk about today. Not how the  
14 issue should be disposed of but whether it's an  
15 issue.

16 It seems to me abundantly clear that it's an  
17 issue given the submissions you have heard and the  
18 submissions you are going to hear. No one's argued  
19 that it's not a consideration that that is how to  
20 value carbon, that is relevant to the topic of energy  
21 efficiency. There's been arguments about your  
22 jurisdiction to consider that, and I am going to come  
23 back to how you might approach determining that  
24 jurisdiction.

25 But sitting -- leaving aside jurisdiction, no  
26 one has argued it's not a relevant conceptual  
27 consideration. In fact, the extensive submissions  
28 indicate quite the opposite. So maybe we do resolve

1 back to an issue at first instance of jurisdiction,  
2 and I will comment on that in a minute.

3 Generally, the issues process that I had assumed  
4 we were involved in today does not determine issues,  
5 rather it identifies them. And it seems to me what  
6 you've heard, as I said a minute ago, identifies this  
7 as an issue.

8 In this particular instance, in this proceeding,  
9 in respect of the cost of carbon, there are  
10 jurisdictional issues as well as policy determination  
11 -- sorry, jurisdictional determinations as well as  
12 policy determinations to be made in respect of carbon  
13 cost. And that's what's been raised.

14 I agree with the sentiment, I think, that was  
15 embedded in much of Mr. O'Leary's submissions to the  
16 effect that an early determination of the Board's  
17 jurisdiction could well result in a more efficient  
18 proceeding. Indeed, if the Board determines it has  
19 no jurisdiction to consider a cost of carbon beyond  
20 zero, that would be the end of the matter. And any  
21 other determination on that topic would provide  
22 guidance for submissions, cross-examinations,  
23 evidence, and so on. So I think that would be an  
24 efficient approach.

25 However, this is a very important determination,  
26 not only for this framework, but for future DSM and  
27 indeed I expect from many other issues that will  
28 increasingly come before the Board in respect of the

1 broadened role of energy in the energy transition  
2 economic policy. The government has obviously  
3 embraced energy as a part of what it wants to opine  
4 on, on a regular basis.

5 So this is a -- this jurisdictional topic is not  
6 an isolated topic. It's quite a broad topic. It has  
7 potentially broad implications. Either way -- either  
8 way, you decide the issue it's going to have  
9 implications, not only for this case but for other  
10 matters that that come before the OEB.

11 And, of course, this panel can't bind a future  
12 panel, but the reality is that decisions on topics  
13 like this are -- do inform future decisions and  
14 indeed parties take great pains to draw past  
15 decisions to your attention when they are asking you  
16 to make a determination one way or the other. So to  
17 pretend this won't be an influential decision, I  
18 think, is a bit naive.

19 Having said that, because -- and because it's  
20 such an important determination, I respectfully  
21 submit that a more comprehensive review than today  
22 permits is warranted before this panel makes a  
23 definitive determination on these topics.

24 Procedural order -- and perhaps it was just me,  
25 but when I read procedural order Number 1, it  
26 requested a concise letter, and that's a quote, "a  
27 concise letter," indicating the proposed issues  
28 modifications that parties may wish to bring forward

1 and brief -- used the term "brief arguments" related  
2 to the merits of modifications to the draft issues  
3 list, and it also indicated the Board's expectation,  
4 and I quote, "oral submissions regarding their,"  
5 being the parties, positions submissions on the draft  
6 issues list. On the draft issues list.

7 Of course, the Board also asked for comments on  
8 the carbon cost issue and expected -- indicated an  
9 expectation that those comments would be made today  
10 at the issues conference. This is not a full-blown  
11 argument on jurisdiction, at least in my view. It  
12 wasn't -- I didn't expect it to be. I think you have  
13 heard a lot of arguments on that, not on whether it's  
14 relevant but on how you should determine the issue,  
15 and I didn't think that's what we were here to do  
16 today.

17 And again, it may be me, I may have  
18 misunderstood, but I go back to my thesis that the  
19 issue is consequential and important enough that --  
20 and -- you know -- and I don't mean to disparage  
21 Board Staff, but we had no indication of the extent  
22 or the substance of those submissions before we heard  
23 them today, and I'm not that good at note-taker. I  
24 didn't even catch them all, let alone be able to  
25 respond to them all.

26 So if the Board is going to make a  
27 determination, it needs to make it, in my view, on a  
28 more complete, informed, and considered record. I do

1 agree that making that determination as a preliminary  
2 matter would be helpful to the balance of the  
3 proceeding, but I don't think you should make it  
4 based on the submissions you hear today.

5 I would suggest a process be struck to allow  
6 parties to properly exchange informed submissions,  
7 probably written submissions. The panel may wish to  
8 consider, then, oral submissions to supplement those,  
9 but this is a deep and nuanced and important topic,  
10 and I think you need a more extensive and complete  
11 record.

12 I also agree with Pollution Probe and was  
13 interested in what we heard this morning from Mr.  
14 Brophy that consideration of the role of non-energy  
15 benefits necessarily relates to the question of role  
16 of the cost of carbon.

17 There is this notion that the non-energy benefit  
18 adder relates to environmental benefits, which is as  
19 far as I know, have never been defined, and  
20 originally did include emissions. And then emissions  
21 were legislated, so they were removed. And as I  
22 recall, the Board decided the 15 percent adder is  
23 still relevant because it captures other  
24 environmental benefits, and we are not going to  
25 change the number. We didn't do a deep dive into  
26 that but we are going to retain the adder.

27 But I think they're part and parcel of the same  
28 sorts of considerations. And so I think that related

1 to the cost of carbon topic, which I do think you  
2 should review, and I do think you shouldn't make a  
3 determination on and provide direction on, you will  
4 hear analogies and perhaps links to the non-energy  
5 benefit topic, and I think that's completely  
6 appropriate.

7       So those are my thoughts and submissions for  
8 today on the cost of carbon issue, and obviously, I  
9 advocate that further opportunity be given for  
10 parties to make submissions and exchange submissions  
11 in an orderly fashion to inform your determination.

12       Unless you're simply going to decide that it's  
13 an issue today -- sorry, I shouldn't say it that way.

14       I think you can decide today whether it's an  
15 issue or not. I don't think you should take it off  
16 the list based on the jurisdictional arguments you've  
17 heard. I think that would be premature.

18       And so I'm assuming you're going to decide it's  
19 an issue based on what I have heard because clearly  
20 it's an issue that people are concerned about. You  
21 may then determine that before proceeding, you need  
22 to understand and make a determination of your  
23 jurisdiction, the breadth of your jurisdiction in  
24 respect of considering that issue, and I think a  
25 process should be struck for that. So that's a  
26 summary of what I tried to convey a few minutes ago.

27       I am going to move on to the other issues now.  
28 And I should start, Madam Chair, by saying that when

1 I made my opening statement, and I thank you for  
2 putting on the record SEC's proposal, I had forgotten  
3 that I had actually made a note to address that  
4 proposal.

5 To the extent that IGUA agrees that it would be  
6 timely and appropriate to review the function and the  
7 functioning of the stakeholder advisory group, that  
8 group was a new feature of the last framework, like  
9 many other features of the way that DSM would be  
10 governed and reviewed. Enough time and enough  
11 experience has elapsed since then to render a review  
12 of the functioning and the function of the  
13 stakeholder advisory group worthwhile in this case,  
14 and I would endorse SEC's suggestion in that respect.

15 The issues that we did deal with in the letter  
16 we filed were issues 2, 18, and 4. So I'm going to  
17 deal with issues 2 and 18 first. And I must say I  
18 was probably a bit confused when I read those issues,  
19 but I think Enbridge's proposed clarifications of  
20 both of those issues are completely appropriate, and  
21 I would endorse those.

22 So issue 2 refers to Enbridge's DSM plan as,  
23 quote, "adequately supporting, among other things,  
24 integrated planning." And the other things -- and  
25 the adequately supporting wording all come, I assume,  
26 from one of the OEB's statutory objectives in respect  
27 of natural gas, but that objective doesn't include  
28 the phrase "integrated planning." That was added.

1           And our concern with the way that issue was put  
2 forward on the draft list is -- and maybe we should  
3 have caught it at the last proceeding, but we didn't  
4 -- is that you can't -- you shouldn't edit the  
5 Board's objectives and add the term "integrated  
6 planning" to what's otherwise a verbatim reproduction  
7 of the Board's objectives.

8           And in particular, that would lead to a -- if  
9 you were to do that, it would lead to a presumption  
10 that Enbridge's DSM plan should adequately support  
11 integrated planning. And that's not what the  
12 objective says, it doesn't refer to integrated  
13 planning.

14           So whether the DSM plan should support  
15 integrated planning or not is a legitimate issue, but  
16 the presumption that it should, I think, is an error.  
17 And I think Enbridge's clarification has addressed  
18 that concern that we had.

19           In respect of -- and I should add that I'm not  
20 even sure what integrated planning means. I had  
21 thought it might be the integrated resource plan, and  
22 then when I read the issues submissions, I thought,  
23 well, maybe it's the Integrated Energy Plan, which,  
24 of course, is the government's plan.

25           So in any event, I think clarification of which  
26 of those is intended would be appropriate. And it  
27 may be that the -- I forget if the IEP had been  
28 issued when the issues list was first struck for the



1 first round of this proceeding, it may not have been,  
2 but in any event, I think that clarification would be  
3 helpful. And I think Enbridge's proposed revisions  
4 to the way those two issues are drafted achieves that  
5 clarification.

6 Issue 18 asks how Enbridge has considered  
7 deploying DSM to meet integrated resource planning  
8 objectives, IRP. IRP being, of course, a framework  
9 for Enbridge to engage in respect to its capital  
10 planning. And again, I think Enbridge's proposed  
11 revision to issue 18 read together with its proposed  
12 revision to issue 2 clarifies all that. And I think  
13 those are completely appropriate.

14 In respect of issue Number 4 -- I'll just switch  
15 my notes here. Issue Number 4 proposes -- we  
16 proposed in our letter a change to distinguish, in  
17 respect of issue Number 4, the importance of Enbridge  
18 considering input from stakeholders as distinct from  
19 the requirement that Enbridge adopt input from  
20 stakeholders.

21 We believe that the former is appropriate, that  
22 Enbridge should be required to consider that input.  
23 But the issue as worded, to us, reads as if Enbridge  
24 is mandated and required to adopt that input, and I  
25 think whether it should adopt any particular input is  
26 a legitimate issue that should be reviewed, but the  
27 presumption shouldn't be embedded in the issue.

28 So our proposal, in respect of the wording of

1 issue 4, was intended to make that distinction, and  
2 I'd repeat and ask the Board to consider that  
3 proposed amendment.

4 And with that, I think those are my submissions  
5 for cost of carbon and the issues list. Thank you.

6 PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
7 Mondrow. Just give us a second.

8 COMMISSIONER SIDLOFSKY: Thanks for that, Mr.  
9 Mondrow. Just a couple of questions.

10 You've suggested that attributing a non-zero  
11 value to carbon is an issue, but the sense I get from  
12 you is that it's not necessarily an issue for the  
13 issues list for the proceeding. It's a preliminary  
14 issue. Is that how you would treat it? A  
15 determination by the Board as to whether it can or  
16 should be considering a non-zero cost?

17 I. MONDROW: I think that's an excellent  
18 question. I think my answer would be it doesn't  
19 really matter. Not because it's a good question,  
20 it's a great clarifying question. And I would  
21 clarify my answer by saying whether you strike a  
22 process to determine jurisdiction prior to finalizing  
23 the issues list, or put it on the issues list with a  
24 stipulation that it will be a preliminary  
25 determination, the outcome is the same. And I think  
26 either approach would achieve what I am trying to  
27 communicate.

28 COMMISSIONER SIDLOFSKY: Okay. Which leads

1 right to my second question, which is, you've  
2 suggested that there needs to be more process than  
3 today's session given the comprehensiveness of some  
4 of the submissions, and what I guess you would  
5 suggest is the preliminary nature of some other  
6 submissions here.

7 Is that a fair characterization?

8 I. MONDROW: I think that's -- I should have  
9 been clearer in my submissions. I apologize. I  
10 think that's an important aspect. I think the other  
11 aspect is it's both a nuanced and a very important  
12 issue. And so it's in part perhaps, Commissioner  
13 Sidlofsky, the fact that some of us, including me in  
14 particular, didn't get how much you would be hearing  
15 about this today and how important it would be to  
16 prepare comprehensive submissions and legal  
17 references and hear the submissions of others first,  
18 otherwise, I would have made a procedural submission  
19 in advance of today.

20 So part of it was that. And part of it and  
21 related to that is the fact that it's, in my view, a  
22 very important but very subtle issue, that goes to  
23 the Board's jurisdiction and what the public interest  
24 means and how that relates to your statutory  
25 objectives. And so I think it merits a lot more  
26 consideration than it can reasonably be given at this  
27 point.

28 COMMISSIONER SIDLOFSKY: And to be clear, that

1 wasn't a criticism of what you have filed or what  
2 you've said, it's more a matter of framing my real  
3 question, which is, what process would you suggest  
4 here if you feel that more process is needed?

5 I. MONDROW: So I do agree with Mr. -- what I  
6 think Mr. O'Leary was suggesting that determination  
7 of this issue will have implications for how the  
8 balance of the proceeding progresses. And so a yes-  
9 or-no answer from the Board as to whether this is  
10 within its jurisdiction and, if so, how it will  
11 approach the issue, I think will help guide both  
12 whether you spend time on the issue in the proceeding  
13 and the scope of what parties should or shouldn't do  
14 and what topics evidence should or shouldn't address.

15 So in respect of process, I think it's obvious  
16 that written submissions from the parties in a  
17 sequence would be appropriate, so I think Enbridge  
18 should file its position. I think Staff's  
19 articulated a comprehensive position, perhaps it  
20 should file next and then the parties should file.

21 I think dividing it by those in favour and those  
22 against would be difficult at this point. Although,  
23 it's not an illogical suggestion, I don't know how  
24 that would work.

25 But I think Enbridge should file and perhaps  
26 reply, it is their case.

27 And then whether the Board requires oral  
28 submissions to supplement those may depend on what

1 those submissions say. Sometimes, I think hearing  
2 panels like to be able to read the submissions, but  
3 pose questions and have exchanges, and I think that  
4 would -- that's a useful process for a complicated  
5 issue like this.

6 COMMISSIONER SIDLOFSKY: Sorry, Mr. Mondrow.  
7 Just a second.

8 I. MONDROW: No, no, no, that's fine.

9 COMMISSIONER SIDLOFSKY: Mr. Mondrow, thanks for  
10 those answers. I think I've got what I need from  
11 you, but I will give a heads-up to Mr. O'Leary that I  
12 will have similar questions for you, or the panel  
13 will have a similar question for you, about what  
14 process you might suggest.

15 And maybe if you could keep in mind sort of a  
16 sub-question about whether you think Enbridge has  
17 already filed everything it has to say about this, or  
18 you would want another opportunity to file a  
19 submission to which the parties would respond, and  
20 then I assume you would be requesting a right of  
21 reply on behalf of Enbridge, so.

22 I. MONDROW: Commissioner Sidlofsky, if I could  
23 just -- I'm sorry to interrupt.

24 If I could just maybe either complete or  
25 supplement my response depending on whether I took a  
26 pregnant pause or not when you were deliberating as a  
27 panel.

28 So I do think this process that I've been

1 talking about should occur first in the proceeding as  
2 a preliminary matter. I think I tried to make clear  
3 that I think it will dictate obviously a significant  
4 portion of the course of the proceeding.

5 I also think that it's primarily as a  
6 preliminary issue, an issue of jurisdiction --  
7 whether it exists and, if so, what the scope is -- as  
8 opposed to a determination of all of the policy  
9 nuances. If the Board were to determine that it does  
10 have the jurisdiction, how it should read the policy,  
11 what the implications of that policy are on DSM, what  
12 parts of the policy may be within or outside of its  
13 jurisdiction, I think those are all nuances that  
14 would require evidence and exploration with witnesses  
15 who put forward that evidence. I know that parties  
16 intend to file evidence on that if given the  
17 opportunity.

18 So I would distinguish between, you know, do we  
19 have the jurisdiction to consider this type of topic  
20 and how we should determine the topic.

21 The former, I think, is the preliminary issue.  
22 The latter -- how should we determine what cost of  
23 carbon to add or not, if we have the jurisdiction to  
24 -- should come at the end of the process.

25 Hopefully, that's clear enough to be helpful.

26 PRESIDING COMMISSIONER DUFF: It is. I just  
27 acknowledge the compressed time period. I mean, we  
28 were assigned after PO Number 1, and the words we

1 even chose in the letter of March the 5th were based  
2 on a preliminary understanding, which we are now  
3 being informed by submissions about the implications.  
4 By no means was the panel attempting to make  
5 statements other than an issues list defines the  
6 scope of a proceeding, I thought we could safely say  
7 that. But I just acknowledge some of the nuances are  
8 coming to light through submissions and we appreciate  
9 that.

10 I. MONDROW: Thank you, Madam Chair.

11 For me as well, I must say. Thank you very  
12 much.

13 PRESIDING COMMISSIONER DUFF: Yes. But we are  
14 using this time efficiently. I mean, I think we're  
15 covering lots of ground and it's allowing for kind of  
16 neural communication at the same time.

17 Last on the schedule today for initial  
18 submissions was OGVG and Mr. Buonaguro.

19 **SUBMISSIONS BY M. BUONAGURO**

20 Thank you, Madam Chair.

21 I will be brief.

22 On the actual issues list and edits and editions  
23 -- as we said in our letter, we don't have any  
24 suggested edits or editions. And I don't think --  
25 other than issues that indirectly are related to the  
26 carbon cost issue, we're not opposed particularly or  
27 necessarily supportive of any other submissions,  
28 we're not concerned about them. So we would assume

1 that the Board would add or edit as it deems  
2 appropriate, based on submissions of others and the  
3 preponderance of those changes or edits.

4 With respect to carbon, as we've said in our  
5 letter, and, again, this morning, we support  
6 Enbridge's conclusion that the Board should not do  
7 anything other than fix the carbon cost at zero. You  
8 know, reflecting on some of the submissions I've  
9 heard today, I would say that -- well, I'm not going  
10 to try and restate or reinforce the submissions of  
11 Enbridge and Board of Staff that were very extensive,  
12 and then we generally agree with. And I guess I'm in  
13 the enviable position of saying I can agree with them  
14 and not have to try and respond to them in real-time.

15 I would just emphasize the one point, which is  
16 that, you know, however the Board considers its  
17 jurisdiction in this case when it comes to  
18 conservation and energy efficiency under the Board's  
19 objectives, it is constrained by the policies of the  
20 Government of Ontario, and we had a fundamental  
21 change in the policy as it relates to carbon costs  
22 back in 2025.

23 We went from a framework that was ascribing  
24 \$170, at the end of the implementation period, per  
25 tonne of carbon. A carbon cost of \$170 to zero, and  
26 that's the government policy that you're dealing with  
27 today, in addition to the numerous specific Acts and  
28 policies set out by both Enbridge and Board Staff



1 with respect to emissions policy over the last two  
2 years.

3 That's the context that you're now being asked  
4 to exercise your jurisdiction. And, you know, in  
5 that context, we came to the same conclusion as  
6 Enbridge and Board Staff, which is that we don't see  
7 how you can exercise your jurisdiction in a way that  
8 would fundamentally conflict with the impact of a  
9 zero cost of carbon within the TRC test. So that's  
10 how we erected our support of the Enbridge's  
11 position, and -- as it turns out, OEB's submission.

12 Other than that, I'm not going to try and \*ck  
13 audio\* fill up the nuances. Because of their  
14 argument, they were both extensive and speak for  
15 themselves.

16 Those are our submissions.

17 PRESIDING COMMISSIONER DUFF: Actually, I do  
18 have a question for you, Mr. Buonaguro.

19 M. BUONAGURO: Sure.

20 PRESIDING COMMISSIONER DUFF: It's regarding the  
21 one-pager that you filed on March, the 9th. Maybe  
22 I'm reading too much into it. You appear to raise a  
23 concern about timing and consistency with rates.  
24 Okay. Maybe I'm reading into it looking at the  
25 expression on your face.

26 M. BUONAGURO: I'm going to pull it up here so I  
27 can try and figure out.

28 PRESIDING COMMISSIONER DUFF: Yeah. I was just

1 going to ask you to, perhaps, elaborate on what your  
2 concern is. Because you say, what appears to be  
3 addressed in the issues list, and I don't know what  
4 issue it would be.

5 M. BUONAGURO: Oh.

6 PRESIDING COMMISSIONER DUFF: I'm reading from  
7 it. Assuming the new rate structure is approved.

8 M. BUONAGURO: Oh, okay.

9 PRESIDING COMMISSIONER DUFF: And I'm assuming  
10 you're referring to --

11 M. BUONAGURO: My apologies. Yeah. That has  
12 nothing to do with carbon costs.

13 PRESIDING COMMISSIONER DUFF: I assume you're  
14 referring to --

15 M. BUONAGURO: That's why I was confused. So I  
16 can explain what I meant by that, if you like.

17 PRESIDING COMMISSIONER DUFF: Yes, please.

18 M. BUONAGURO: So under Enbridge's proposal, it  
19 allocates the cost of programs, based on where the  
20 participants -- so which classes the participants are  
21 in. So for example, a lot of greenhouses are either  
22 in the M4 class or the M7 class. So as M4 customers  
23 and M7 customers participate in DSM, they attract DM  
24 cast, which are then booked against the rate that  
25 they're charged. And so, if there's a deviation from  
26 what's embedded in rates, it goes up and down.

27 Under the Phase 3 decision, that rate structure  
28 changes, and so there'll no longer be M4 customers

1 paying for M4DSM or M7 customers paying for M7DSM.  
2 It will be something different. I assume it's going  
3 to be something like E10 -- assuming the Board  
4 approves the new structure, that E10 south customers  
5 will be paying E10 south DSM. And if that's the  
6 case, then that'll subtly change the impact of the  
7 proposal on the customers in those classes because  
8 you've gone from -- you've gone from supporting DSM -  
9 - I'll take M7 as an example. There are only 70M7  
10 customers or so.

11 And so, right now, up to 70 customers in that  
12 class can participate in DSM and attract DSM costs,  
13 and those costs are allocated across those 70  
14 customers.

15 Under the new M10 class, it's something like 250  
16 -- you're adding the M4 customers and the M7  
17 customers together, plus a few others. And so it's  
18 now all those M7 costs and all the M4 costs are being  
19 combined into one pool, arguably, if the same  
20 structure is maintained. And we will produce a  
21 different rate impact, depending on how many M4  
22 participants there are who are now E10, and how many  
23 M7 customers.

24 So there's a change based on the new rate  
25 structure that Enbridge notes that it's going to have  
26 to deal with it in its -- in its evidence,  
27 specifically, it says, you know, we have a new rate  
28 structure being proposed. And when it's approved, it

1 has to be implemented, and that will change how we  
2 allocate the cost of DSM to rate classes, because we  
3 have to recognize the new rate structure, but they  
4 haven't made a specific proposal yet.

5 So that's what I was highlighting. Is that  
6 there's -- that's something that's of concern to us,  
7 you know, because we don't know exactly what they're  
8 going to propose. I can guess what they are going to  
9 propose, based on consistency with the current  
10 proposal, but we don't know until they update their  
11 evidence to reflect whatever the Board decides in  
12 Phase 3 of the rate proceeding. That's what I was  
13 highlighting there.

14 PRESIDING COMMISSIONER DUFF: I understand,  
15 actually. Thank you for elaborating on that.

16 I mean, if I could push this a little bit  
17 further, there's also -- so it's timing alignment.  
18 This DSM plan appears to be effective January 1,  
19 2027. But even the draft rate order and all the  
20 documents filed in another proceeding, the Enbridge  
21 Phase 3, indicate that January 1 is not feasible  
22 right now.

23 Do you, in your position representing your  
24 client, see a need to add an issue to this issues  
25 list to consider such alignment? So you'll have --  
26 that's what I thought you were implying.

27 M. BUONAGURO: Yeah. So I'm -- let me put it  
28 this way. I'm a big believer in broad-based issues

1 lists, where as long as I'm -- as long as I am  
2 confident that an issue can be dealt with under an  
3 existing broad issues list, I'm not too concerned  
4 about specifying it.

5 So I assumed -- and that's why I raised the  
6 issue I raised to say I'm assuming that under the  
7 current cost allocation rate design, issues that  
8 would be captured -- and as I said, Enbridge did file  
9 evidence that noted this issue that's going to be  
10 raised, and it's going to have to be dealt with. I  
11 mean, I'm happy to have a separate issue added, if  
12 the Board feels that that's helpful. But I did want  
13 to raise it as an issue for us.

14 Again, Enbridge -- first of all, we don't have  
15 approval from the Board yet on the settlement on  
16 Phase 3, but assuming that -- let's assume that they  
17 settled, then Enbridge is going to have to file new  
18 evidence, and how exactly that's going to be  
19 implemented, and then how that's going to impact how  
20 DSM costs are recovered both under the existing  
21 structure up until the new structure is imposed, you  
22 know.

23 And luckily, I don't have to do that, Enbridge  
24 is going to have to come up with something. And I'm  
25 sure they can speak to it a little bit more if it's  
26 helpful.

27 But I just wanted to raise the issue, because it  
28 does -- it's not -- I would say that it's not as

1 large an issue, I believe, for residential rate  
2 classes, because the residential rate classes are  
3 going from, I think, 2 to 3, and two of them are  
4 relatively the same composition of customers. Like -  
5 - I guess, it's 4 to 3, I should say.

6       It's more, it's more interesting and impactful,  
7 I believe, when it comes to the contract rate  
8 classes, where -- as I said, you have things like the  
9 M4 class and the M7 class that are proposed to be  
10 combined together, you have the T1 and T2 classes  
11 that are joined together. So now you're joining --  
12 you're joining customers that some of them were under  
13 the industrial program, and some were under the large  
14 user program into one class, how is that going to be  
15 handled? Things like that.

16       All of that has to be dealt with, but it has to  
17 be dealt with once the new rate structure is  
18 approved. So it is an issue whether it's dealt with  
19 implicitly under an existing issue or separated in a  
20 separate issue, you know. I just highlighted it has  
21 to be dealt with.

22       PRESIDING COMMISSIONER DUFF: Thank you for  
23 clarifying that. And perhaps, Enbridge can respond  
24 to it in their reply submissions. Or unless you want  
25 to do that now.

26       D. O'LEARY: I was just going to suggest that,  
27 Madam Chair, that we will -- I was not involved in  
28 Phase 3 of the rebasing proceedings, so I need to get

1 some information on how we should respond to that.

2 PRESIDING COMMISSIONER DUFF: And I am -- maybe  
3 I'm speaking out of turn here. The only issue, Mr.  
4 Buonaguro, I could see was Number 6, is the proposed  
5 plan term of 2027, appropriate -- like -- with  
6 starting January 1. That was the only one that I was  
7 thinking perhaps you were suggesting.

8 M. BUONAGURO: Oh, well -- I mean, they're going  
9 to --

10 PRESIDING COMMISSIONER DUFF: Yeah, okay --

11 M. BUONAGURO: Under issue 17, is Enbridge Gas -  
12 - Enbridge Gas's proposed a rate allocation  
13 methodology and accounting treatment.

14 PRESIDING COMMISSIONER DUFF: Oh.

15 M. BUONAGURO: Like -- they have an allocation  
16 methodology, which is to allocate costs of program  
17 participants based on where their class is. That  
18 class bears the cost of their programs. You know,  
19 they're going to have to reintroduce a proposal for  
20 allocating those cost. I expect it will be similar  
21 in framework, but I don't know for sure until they  
22 file it.

23 PRESIDING COMMISSIONER DUFF: Yes. Fair enough.  
24 Thank you for that suggestion.

25 Mr. Elson, how long -- I should have asked you  
26 first. How long do you think it'll be?

27 K. ELSON: That's a good question.

28 PRESIDING COMMISSIONER DUFF: And what do you

1 prefer?

2 K. ELSON: I would like to be longer than my  
3 allotted 20 minutes. But whether that's possible or  
4 not is another question. I think you're trying to  
5 explore whether we should have lunch, and that would  
6 certainly be my preference, in part, because it's a  
7 reasonable time. But also, I've been scrambling a  
8 bit to look up some of the documents that my friends  
9 have referred to. And so lunch would be a bit of an  
10 opportunity to tidy up my notes and make what I say a  
11 little bit more coherent.

12 PRESIDING COMMISSIONER DUFF: Okay. Why don't  
13 we do that, then. That's fine. We'll do that, then.  
14 Okay. So we're going to take our lunch break. We  
15 will reconvene at 1 o'clock, and we will start with  
16 Mr. Elson. Thank you very much.

17 --- Upon luncheon recess at 12:03 p.m.

18 --- Upon resuming at 1:02 p.m.

19 PRESIDING COMMISSIONER DUFF: Please be seated.

20 **PRELIMINARY ISSUES**

21 D. O'LEARY: Madam Chair, if I might, I just  
22 thought I would take an opportunity to try and put  
23 one issue to rest, hopefully. This is in response to  
24 your questions of Mr. Buonaguro and the issues  
25 relating to potential cost allocation questions.

26 It's the position of Enbridge Gas that -- and we  
27 understood this from the beginning that issue 17  
28 would allow Mr. Buonaguro to ask the questions that



1 he wishes to in that regard.

2 We can't promise, obviously, that we can respond  
3 at the time because, number one, there isn't a  
4 decision yet out on the rebasing application Phase 3,  
5 and there will be some decisions that have to be made  
6 within the company about implementation of the  
7 harmonized rates.

8 So timing in terms of the impact on next year's  
9 DSM plan will depend upon those decisions being made.  
10 But certainly, the issue doesn't -- issue 17 deals  
11 with cost allocations, and he would be invited to ask  
12 questions there.

13 PRESIDING COMMISSIONER DUFF: Okay. I don't  
14 know if Mr. Buonaguro is even online.

15 M. BUONAGURO: I am.

16 D. O'LEARY: He is.

17 PRESIDING COMMISSIONER DUFF: Okay. Great. Did  
18 that seem satisfactory? What I hear the applicant  
19 saying is interrogatories could be asked along that  
20 line, and the -- as events unfold and decisions are  
21 issued, perhaps it'll have some clarity.

22 Mr. Buonaguro, does that satisfy your concern?

23 M. BUONAGURO: Yes. Yeah. Okay. My assumption  
24 has been that once they have Phase 3 settled, one way  
25 or the other, they'll have to file some sort of  
26 evidence in this case, depending how it changes,  
27 either immediately or down the line. However, they  
28 incorporate rates since this is the five-year plan,

1 right, so...

2 PRESIDING COMMISSIONER DUFF: Thank you very  
3 much.

4 And Mr. O'Leary is nodding. So thank you very  
5 much. Appreciate that update.

6 Are there any other preliminary issues before I  
7 begin with -- before Mr. Elson proceeds?

8 Okay, great. Mr. Elson, please.

9 K. ELSON: Thank you.

10 PRESIDING COMMISSIONER DUFF: We had allocated  
11 half an hour to the applicant. If you need half an  
12 hour, then take it.

13 **SUBMISSIONS BY K. ELSON**

14 Thank you, Madam Chair.

15 I would like to start this afternoon by talking  
16 first about the issues list and then talking about  
17 the carbon reduction benefits of energy efficiency  
18 and whether that should be in scope.

19 So starting with the issues list, our  
20 submissions are very brief. And like I said earlier,  
21 we either support or do not oppose the proposals by  
22 other intervenors. And so I'll only briefly touch on  
23 three issues.

24 One is issue 18, and issue 18 concerns IRP, and  
25 Enbridge and IGUA proposed some amendments, which we  
26 take no position on. We just wanted to say at a high  
27 level that we do think it is worthwhile exploring  
28 whether the DSM plan could be better aligned with IRP

1 objectives without sacrificing DSM objectives. And I  
2 saw some commentary that, you know, IRP and DSM are  
3 completely different in terms of their objectives,  
4 and I don't think that means necessarily that we can  
5 ignore or should ignore IRP in a DSM proceeding. And  
6 I can think of two ways that IRP objectives would be  
7 relevant. One is how you allocate investments  
8 between two programs or two measures that are  
9 otherwise fairly equal in terms of DSM investment and  
10 DSM objectives.

11 It may be that IRP objectives are relevant to  
12 that, you know, prioritization.

13 And when I say "IRP objectives," I'm referring  
14 to IRP being focused more on peak demand reductions  
15 and DSM being focused more on annual demand  
16 reductions.

17 And that peak demand reductions may and should  
18 also be sometimes relevant to DSM plan development.

19 Another example is that in the DSM plan, there  
20 are avoided transmission and distribution cost  
21 calculations, and there is an open question about  
22 whether those avoided transmission and distribution  
23 cost calculations would be better calculated on peak  
24 instead of annual to make them more accurate, because  
25 it's peak demand that contributes to T & D cost  
26 calculations.

27 Commissioner Duff.

28 PRESIDING COMMISSIONER DUFF: And I don't really

1 want to --

2 K. ELSON: I would like you to. I prefer it.

3 PRESIDING COMMISSIONER DUFF: Okay, great.

4 Then, I will.

5 No. So Enbridge did propose a wording change to  
6 Number 18, and I think it's covering that. I mean --

7 K. ELSON: I do, too.

8 PRESIDING COMMISSIONER DUFF: So that was your -  
9 - it's not what I think. It's that you thought the  
10 revised wording would address what you were trying to  
11 get at.

12 K. ELSON: I think, frankly, the wording before  
13 and after. The only reason I'm -- so, I mean, I have  
14 Enbridge's wording, and we are fine with that.

15 The only reason I'm speaking to the issue in a  
16 bit of detail is that we didn't a hundred percent  
17 agree with all of the rationales behind that change,  
18 and I wouldn't want to be seen to agree that there's,  
19 you know, questions swirling around whether IRP is  
20 even relevant in the first place. But I don't have  
21 anything else to add to on that point.

22 PRESIDING COMMISSIONER DUFF: Okay. Wonderful.  
23 Thank you.

24 K. ELSON: Thank you.

25 Issue 16 concerns input assumptions and cost  
26 effectiveness. And we take no position on the  
27 specific wording as long as it's clear that the  
28 appropriateness of all cost-effective -- sorry, of

1 all input assumptions are within the scope.

2 And, lastly, SEC proposed a new issue relating  
3 to the stakeholder advisory group, and we think this  
4 is a worthwhile issue to explore, including because  
5 the group is new, including because Enbridge has  
6 relied on the existence of the group to suggest there  
7 should be less scrutiny for DSM plans, and also  
8 because there seems to have been a complete lack of  
9 discussion between Enbridge and the stakeholder  
10 advisory group about this specific DSM plan.

11 So we would agree with SEC that it's worthwhile  
12 having a stand-alone issue on the stakeholder  
13 advisory group.

14 PRESIDING COMMISSIONER DUFF: Can I ask you a  
15 question on that, too?

16 K. ELSON: Of course, please do.

17 PRESIDING COMMISSIONER DUFF: Okay. So there is  
18 an issue -- also, I understand SEC's issue, which is  
19 distinct, but then there is an issue Number 4, and  
20 IGUA did comment on it. So I'm using this  
21 opportunity to kind of get your feedback on that,  
22 too.

23 You would have no change to -- so Number 4 was  
24 more about adequately reflecting and considering  
25 their report, which was to inform this application,  
26 as I understand it. So that would -- that's fine?

27 K. ELSON: Yes.

28 PRESIDING COMMISSIONER DUFF: Okay. In your

1 submission. And you are supporting SEC, which is --

2 K. ELSON: An additional issue.

3 PRESIDING COMMISSIONER DUFF: -- issue 21, which  
4 is different -- which is also talking about how is  
5 that stakeholder advisory group or another function  
6 operating going forward.

7 K. ELSON: Yes.

8 PRESIDING COMMISSIONER DUFF: Okay, great.

9 Thank you. I understand.

10 K. ELSON: Thank you.

11 So those are all the comments I have on the  
12 issues. Just to wrap up that last in case it wasn't  
13 clear, we're fine with the wording of issue 4, either  
14 as it is or as IGUA proposes, and we understand that  
15 the issues list, as Mr. Mondrow stated, shouldn't be  
16 presupposing that all of the stakeholder advisory  
17 group ideas are good. And so we are fine with that  
18 being, you know, reflected in a wording change.

19 Moving on now to the carbon reduction benefits  
20 of energy efficiency.

21 Our position on that issue is that it is fine to  
22 leave the issues list as is because it's already  
23 included in a number of issues, like I outlined in my  
24 letter of March 9th, but we would also have no  
25 objection to setting it out. Specifically, there may  
26 be some procedural benefits to that.

27 For us, the broader issue here is whether and  
28 how to consider the carbon reduction benefits of

1 energy efficiency in DSM plan design and investment  
2 planning.

3       And our position for final submissions, if that  
4 is part of the scope of this proceeding, on the  
5 whether to consider an account for those benefits is,  
6 yes, they should be considered. But there's -- in  
7 addition to the whether, also the how. And we do not  
8 yet have a firm position on the -- how those benefits  
9 should be considered, because we plan to listen to  
10 what other parties have to say, including Enbridge,  
11 and we plan to retain expert evidence and hear what  
12 other jurisdictions do, and hear more about why it's  
13 important to consider those carbon reduction  
14 benefits.

15       So it might play into our submissions in terms  
16 of the appropriateness of the overall savings levels.  
17 We may say those savings levels are too low, or it  
18 may play into our submissions in saying the  
19 allocation of investment between programs should be  
20 rejigged. To be honest with you, I don't know. It  
21 could be a suggestion that the carbon reduction  
22 benefits be included in the TRC, that that be the  
23 only number that you calculate, or maybe you  
24 calculate both numbers and look at one table with and  
25 one table without, and consider both. We haven't  
26 landed on a firm position on that, and we would, you  
27 know, benefit from the expert advice that we hope to  
28 be able to obtain.

1           And I just say that as background, that is  
2 about, you know, later in the proceeding, if we're  
3 allowed to explore this.

4           You look like you have a question, Commissioner.

5           PRESIDING COMMISSIONER DUFF: No. My role is to  
6 stay, like, poker-faced. I am trying to do that.

7           K. ELSON: Poker-faced? Okay. Well, as I said,  
8 I like questions, and you don't need to have a poker  
9 face. It's good to know when I'm saying something  
10 that's confusing.

11           So speaking to the question of what the OEB  
12 should do today, overall, I think the question before  
13 you today is whether it's clear and obvious that this  
14 kind of exploration is outside of the scope of OEB  
15 jurisdiction. And I'm going to come back to that --  
16 I'm going to call it the test that's before you  
17 today, but I just wanted to identify that at the  
18 outset.

19           I want to talk about three buckets of arguments  
20 that I've heard and respond to each of them.

21           The first are sort of policy and technical  
22 arguments. And the second would be jurisdictional  
23 arguments. And the third would be procedural  
24 arguments against consideration of carbon reduction  
25 benefits.

26           So I will start with policy and technical  
27 arguments.

28           And in our submission, you do not have what you



1 need now, nor would you until the end of a full  
2 proceeding with evidence have what you need to  
3 determine those policy and technical arguments for  
4 and against accounting for carbon reduction benefits  
5 at all whatsoever. And for or against different ways  
6 in which to account for those benefits, whether it's  
7 including it in the TRC, considering it as a stand-  
8 alone, you know, qualitative measure. There's a  
9 range.

10 One of the things that you don't have now is  
11 expert evidence. And I think expert evidence is  
12 actually quite important because cost-effectiveness  
13 considerations are an area where experts have a lot  
14 to provide. And we haven't had a lot of discussion -  
15 - really any discussion today about the different  
16 kinds of cost-effectiveness tests and why one would  
17 want to include carbon reduction benefits as part of  
18 your analysis of cost effectiveness. And I know that  
19 that's something that an expert would have things to  
20 say about.

21 An expert can also comment on the how and can  
22 comment on what other jurisdictions do, and I think  
23 one key piece for today, an expert would comment on  
24 whether considering carbon reduction benefits is the  
25 same thing as implementing a carbon tax. That's a  
26 live issue before us today, because my friends are  
27 saying that considering carbon reduction benefits is  
28 equivalent to a carbon tax, contrary to provincial

1 legislation, and an expert can untangle that in a way  
2 that, you know -- as lawyers speaking to you today,  
3 we don't have the same level of expertise. An expert  
4 can also talk about interplay with non-energy  
5 benefits.

6 So that's one of the pieces that I think the  
7 Board doesn't have in front of you that you would  
8 benefit from.

9 Another piece is responses to interrogatories.  
10 Asking questions. What difference does it make?  
11 What difference would it make if you were to use, for  
12 example, the values that the federal government have  
13 put out publicly about the social cost of carbon? Or  
14 half those values? Or twice those values? And would  
15 it make a difference for the allocation of resources  
16 between programs? Interrogatories would be helpful.

17 And also the detailed submissions of parties,  
18 and I think Mr. Mondrow addressed this in enough  
19 detail that I don't need to repeat it except to say  
20 you would certainly benefit, in my view, from a more  
21 fulsome back and forth.

22 I'm a bit wary to delve into these policy  
23 questions, because my point is you shouldn't be  
24 looking at them at all right now, but I feel like I  
25 have to, and so I will just very briefly.

26 One of the ways in which it comes up is my  
27 friends say that the OEB objectives refer to -- to  
28 government policy.

1           And so if what is being proposed is contrary to  
2 a government policy, you don't have the jurisdiction  
3 to explore it.

4           Another way in which it comes up is in issue 3,  
5 which talks about -- sorry, issue 2, which talks  
6 about government policy.

7           So I will just address it just briefly.

8           My friends say that the Integrated Energy Plan  
9 is a reason why you should find that this is without  
10 -- outside of scope. And we believe the exact  
11 opposite of that, which is that the Integrated Energy  
12 Plan shows why you would need to, in some way,  
13 consider carbon reduction benefits.

14           One reason I say that is that the Integrated  
15 Energy Plan talks about both affordable, and clean  
16 energy throughout the document and clean energy is  
17 not, you know, energy created with lots of carbon  
18 pollution. I think we all understand that. And the  
19 document refers -- I just did a word search, it  
20 refers to clean energy 28 times, and it refers to  
21 clean 142 times. And there is an implicit value of  
22 reducing carbon emissions in that plan that is not  
23 zero. And that value, it doesn't -- there's no  
24 number, it's just implicit because of the  
25 identification of clean energy as being a priority.  
26 And also because of some of the decisions made by the  
27 provincial government, for example, investing in non-  
28 emitting power sources, such as nuclear power and

1 spending a lot of money in that area. It is  
2 suggesting that there is a value that's being  
3 attached to reductions in carbon emissions.

4 Secondly, affordability. And I think you've  
5 heard from my friends that overestimating, as they  
6 would say, the benefits of energy efficiency will  
7 result in an increased budget, and it's going to cost  
8 customers more, so it's anti-affordability. And we  
9 look at that issue from the exact opposite  
10 perspective in terms of affordability. And that's  
11 because energy efficiency saves customers money. It  
12 reduces overall bills. And so that's an important  
13 piece to keep in mind.

14 There is a very big difference between a  
15 government instituting a policy, which would require  
16 that consumers pay X dollars for every tonne of CO2  
17 emitted when they drive their cars or heat their  
18 homes, versus the OEB saying more money should be  
19 available to customers to help them lower their  
20 energy bills through new windows. They're not  
21 equivalent.

22 Also, in terms of affordability, ignoring the  
23 various -- and I use the word "ignoring"  
24 intentionally, ignoring the trade-offs between, you  
25 know, carbon reduction benefits and, you know, cost,  
26 can lead to a misallocation of resources, and there  
27 are opportunities today to both lower bills and lower  
28 GHG emissions, and some of those opportunities go

1 away.

2           So when you replace your heating equipment, your  
3 opportunity to replace it with something better,  
4 that's gone for 15 years. When you build a new home,  
5 and you don't build it efficiently, that opportunity  
6 is gone for many more years. Renovations, you know -  
7 - there's many examples. And if we are not properly  
8 accounting for the carbon reduction benefits of those  
9 activities, and we lose the opportunity, it might  
10 mean that five years from now, we end up spending a  
11 lot more on renewable natural gas, which is a much  
12 more expensive way to reduce carbon emissions.

13           So the affordability piece is really much more  
14 complex than my friends let on.

15           The Integrated Energy Plan also talks about  
16 choice and enabling customers -- providing customers  
17 options to reduce their energy bills, that's  
18 consistent with energy efficiency. It also talks  
19 about integrated gas and electric planning. And  
20 again, if in the gas context, we are completely  
21 ignoring the carbon reduction benefits of energy  
22 efficiency, but in the electricity context, investing  
23 large amounts in non-emitting generation resources,  
24 that's an inconsistency.

25           My friends had referred to the IESO and some of  
26 the IESO's decision-making around cost effectiveness  
27 and inclusion of carbon reduction benefits or  
28 exclusion thereof. I cannot get into that issue

1 without an expert. Judy Simon touched on it in a way  
2 that I think probably went above all of our heads,  
3 referring to the program administrator test, and how  
4 what they are using is actually consistent with  
5 incorporating carbon reduction benefits in the TRC  
6 test. The point is that's an area where, you know,  
7 we do not agree with our friends that decisions of  
8 the IESO are inconsistent with what we are asking  
9 for.

10 My friends made reference to, I believe it was  
11 OEB Staff, to the budget 2025. So I pulled it up  
12 quickly. And I am going to read to you from page 49  
13 of Budget 2025. They put up forward as an indication  
14 of what government policy is. And it says:

15 "The government is helping families and  
16 businesses save money and save energy by  
17 investing \$10.9 billion over 12 years in energy  
18 efficiency programs. The largest investment in  
19 energy efficiency in Canadian history." [as  
20 read]

21 We are talking about, in this proceeding, how  
22 much to invest in energy efficiency. And greater  
23 levels of investment in programs that save money and  
24 save energy are consistent with government policy.

25 Now, of course, this is talking about  
26 investments in the electricity sector. But to the  
27 extent we are using Budget 2025 as a guide for what  
28 provincial policy is, I think it's suggestive of

1 accounting for all the benefits and making sure that  
2 energy efficiency is available when it would save  
3 customers' money.

4 Now, I have grouped together policy and  
5 technical arguments. A sort of technical argument  
6 that I have heard is, Oh, we should just set it to  
7 zero because that's what the federal government has  
8 said.

9 That would be the same as the Board deciding  
10 today what the avoided electricity costs should be,  
11 what the discount rate should be, what any -- many  
12 other input assumptions should be, without having  
13 argument, without having evidence. And in our  
14 submission, deciding it on a sort of technical basis  
15 or policy basis is very, very premature.

16 I will move on to jurisdiction.

17 I do think it would be open to the panel today  
18 to come to a decision, saying, if it's really clear  
19 and obvious that this is beyond the -- beyond our  
20 jurisdiction, let's not waste our time. I mean, if  
21 somebody proposed a totally preposterous issue, you  
22 could say at the outset, well, it's just so clear or  
23 not, we don't need to talk about this anymore.

24 But that is far from the case here. We think  
25 it's clear and obvious in the other direction that  
26 considering carbon reduction benefits of energy  
27 efficiency is within the jurisdiction of the Board.

28 And, Ms. Adams, if I could ask you to turn up

1 our submissions to page 3 on the screen, that would  
2 be helpful.

3 And as Bonnie is doing that, I am going to be  
4 referring to the decision --

5 D. O'LEARY: Mr. Elson, I am just not certain  
6 Ms. Adams is following the proceeding. We didn't --  
7 we weren't giving notice that --

8 K. ELSON: That's interesting. I thought when  
9 you said this morning -- oh, there she is.

10 D. O'LEARY: Oh, there she is. There you go.

11 K. ELSON: Thank you.

12 I would like to refer to the Divisional Court  
13 decision in Union Gas v. Trawno -- sorry, v. Township  
14 of Dawn, and the often cited description by the  
15 Divisional Court of the jurisdiction of the OEB. I  
16 know this is in my submissions. I was surprised that  
17 I didn't hear any response to this from Enbridge or  
18 the OEB because it seems to me to be determinative of  
19 the issue.

20 Where the Divisional Court says:

21 "In my view, this statute makes it crystal  
22 clear that all matters relating to or  
23 incidental to the production, distribution,  
24 transmission, or storage of natural gas,  
25 including the setting of rates, location of  
26 lines, expropriation of necessary lands, and  
27 easements, are under the exclusive jurisdiction  
28 of the Ontario Energy Board." [as read]



1 And goes on to say:

2 "These are all matters that are to be  
3 considered in the light of the general public  
4 interest, and not local or parochial  
5 interests."[as read]

6 Accounting, or not accounting, for any number of  
7 benefits, including the carbon reduction benefits of  
8 energy efficiency, is clearly relating to or  
9 incidental to gas distribution rates. Seeing as this  
10 proceeding is about how do you set the overall DSM  
11 budget, what are the DSM plan details -- this is a  
12 rational input, as are many other considerations,  
13 both in the electricity and the gas context. And in  
14 Sudbury v. Union Gas, the Ontario Court of Appeal, so  
15 we are going up one level of courts. They say:

16 "The legislature has accorded to the OEB the  
17 widest powers to regulate the supply and  
18 distribution of natural gas in the public  
19 interest."[as read]

20 So they are both very clear that we are talking  
21 about the public interest. And if it is clear and  
22 obvious today that the Court of Appeal and the  
23 Divisional Court would say something different in  
24 relation to carbon reduction benefits. I think it's,  
25 you know, theoretically possible that you could make  
26 that decision today, but, you know, we don't think  
27 that that is a supportable position based on what the  
28 Divisional Court and the Court of Appeal has said

1 before.

2 I will turn now to the Protecting Against Carbon  
3 Taxes Act. And I heard from my friend -- from -- OEB  
4 counsel make reference to the definition. And the  
5 definition of carbon pricing program, which requires  
6 a referendum, is a tax, fee, charge, or other levy on  
7 greenhouse gas emissions. And I think my friend  
8 said, Well, we could also include in there something  
9 that's analogous to that.

10 But that's not what the law says. The law is  
11 talking about a tax, fee, or other levy on greenhouse  
12 gas emissions.

13 And considering the carbon reduction benefits  
14 when you're doing DSM investment planning, that's not  
15 a tax, that's not a fee, that's not a charge.

16 My friends also referred to the Advocacy Centre  
17 for Tenants' case. The Low-Income Energy Network was  
18 one of the plaintiffs in that case. And the  
19 Divisional Court ruled in LIEN's favour, and found  
20 that its issues were within the OEB's jurisdiction.  
21 And so it certainly doesn't stand for the proposition  
22 that the OEB's jurisdiction is somehow narrow.

23 On this jurisdiction piece, ruling that the OEB  
24 has no jurisdiction in relation to the consideration  
25 of carbon reduction benefits would have huge  
26 implications in both the gas sector and in the  
27 electricity sector.

28 In the gas sector, we would need to re-evaluate

1 the entire DSM framework and see whether the same  
2 reasoning would apply to non-energy benefits and to  
3 all the other benefits and costs.

4 And the same is even more so the case with the  
5 benefit-cost analysis framework for addressing  
6 electricity system needs. And I don't think that's a  
7 path that we need to go down.

8 Lastly, I will say I am worried about policy  
9 arguments getting shoehorned into this jurisdictional  
10 bucket, and they should be kept separate.

11 There is a lot of policy debate, whether carbon  
12 reduction benefits should be considered, how they  
13 should be considered, but those are distinct from  
14 jurisdiction. And, in our view, there is no question  
15 that this is within the jurisdiction of the OEB.

16 You don't need to decide that today; you can  
17 decide that in final submissions, but we really don't  
18 think that's up for argument.

19 The last bucket that I wanted to talk about -- I  
20 should be calling them subjects, not buckets.

21 The last subject is, you know, procedural  
22 arguments.

23 And I heard from counsel for OEB Staff the  
24 concern that considering carbon reduction benefits  
25 would lead to delay. And we totally disagree.

26 Environmental Defence in past DSM proceedings  
27 have challenged lots of input assumptions. In this  
28 proceeding, we anticipate making submissions on, for

1 example, the discount rate. We may make submissions  
2 about the appropriate avoided electricity costs and  
3 what that means. The climate -- the carbon reduction  
4 benefits of energy efficiency, that's just another  
5 input, and can be dealt with alongside all the other  
6 inputs. So when -- if we were approved to put in  
7 evidence by the Energy Futures Group and Chris Neme.  
8 He would talk about a variety of inputs. One of  
9 those would be the carbon reduction benefits of  
10 energy efficiency.

11 So this would be considered alongside all the  
12 other issues, in our view, and that need not cause  
13 any delay at all whatsoever.

14 Now, OEB Staff also mentioned the idea that  
15 accounting for carbon reduction benefits might mean  
16 that we need to, you know, recalculate the plan and  
17 refile the plan. Because if we say that carbon  
18 reduction benefits are relevant, we are going to ask  
19 Enbridge to go back and propose, you know, a more  
20 ambitious plan.

21 And, frankly, climate reduction benefits, in  
22 many ways, are no different than other input  
23 assumptions that we have challenged before in the  
24 past. And this concern about sending Enbridge back  
25 to do recalculations or to refiling the plan really  
26 goes to an issue that we have been concerned with for  
27 a long time, which is that Enbridge gives the Board  
28 one option. And we have raised this in a number of

1 past DSM proceedings.

2 So frankly, you don't have a choice; you either  
3 approve this plan, or we have to wait for another  
4 year to develop a new one. And this is what Enbridge  
5 has said in past proceedings.

6 We have said Enbridge should be providing the  
7 Board with three options. Here is what we think in  
8 the middle, and a little bit more would be this, and  
9 a little bit less would be that. But that concern is  
10 the same, whether we are talking about climate  
11 reduction benefits or the discount rate or any other  
12 number of inputs that go into the DSM plan.

13 So looking at considering the carbon reduction  
14 benefits of energy efficiency, it's not going to make  
15 a difference for that issue. That issue is there  
16 whether or not we look at it.

17 If we are going to be saying and making  
18 submissions, there should be higher savings levels.  
19 If we are going to be making submissions, there  
20 should be higher savings levels because that's what  
21 the OEB directed you to do, and we think the OEB got  
22 it right. That argument is still going to be there  
23 with or without accounting for climate reduction  
24 benefits.

25 So we don't see there being, you know,  
26 procedural challenges that are unique for carbon  
27 reduction benefits.

28 I would like to also speak to that final

1 question, which is, let's say that the Board doesn't  
2 decide today, then what do we do?

3         And Mr. Sidlofsky's questions to Mr. Mondrow.  
4 Although it's possible -- and there would be some  
5 benefits to have a preliminary hearing about  
6 jurisdiction. In our submission, it would be most  
7 efficient and most robust and correct for the OEB to  
8 deal with this as part of final submissions and not  
9 to address it via a preliminary motion. There's a  
10 couple of reasons for that.

11         Number 1 is expert evidence. Because for the  
12 OEB to decide on jurisdiction, we think, for example,  
13 it would be helpful to have an expert who talks about  
14 the differences between a carbon tax and  
15 consideration of carbon reduction benefits and DSM  
16 investment planning.

17         Secondly, we think it would be beneficial for  
18 the OEB, before deciding what its jurisdiction is, to  
19 know exactly what the parties are asking the OEB to  
20 do in relation to carbon reduction benefits.

21         Yes. Consider them, but consider them how?

22         Because the how may be relevant to that  
23 question.

24         I think there's a potential for delay if we do a  
25 preliminary hearing, an additional preliminary  
26 hearing just on the jurisdictional question. I know  
27 that Enbridge is very keen to get its DSM plan in  
28 place, and if we have a preliminary hearing, it will

1 push things off. And I think, fourthly, the  
2 motivation for having a preliminary hearing on  
3 jurisdiction is efficiency largely. While if we  
4 decide that this isn't within our jurisdiction, then  
5 we don't need evidence on it, we don't need to talk  
6 about it. But I think there's efficiency arguments  
7 in the other direction as well. Because if we have a  
8 preliminary hearing, we will be addressing the issue  
9 based on speculation. And we may end up having to  
10 make some of the same arguments twice.

11 I also worry, fifthly, that a decision that is  
12 focused exclusively on the jurisdiction to address  
13 carbon reduction benefits of energy efficiency could  
14 be misinterpreted or misconstrued. You know -- if  
15 the decision is this is within OEB jurisdiction, it  
16 could be misconstrued as OEB trying to institute a  
17 carbon tax, or if you find that it's outside of the  
18 jurisdiction, it could be misconstrued as the OEB  
19 believing there's no value in reducing carbon  
20 emissions, and we should just ignore carbon, because  
21 we don't care about the climate. I don't think  
22 either of those are going to be correct  
23 interpretations of the decision. But I think that  
24 risk of misinterpretation is much higher if there's a  
25 stand-alone decision just on this issue as opposed to  
26 waiting until the end of the proceeding and  
27 addressing all of the issues together and having a  
28 decision that, you know, it's going to have a section

1 on this topic, but it's not going to be exclusively  
2 related to this topic.

3 I think in conclusion on this sort of procedural  
4 point, I would just make a higher level observation  
5 that I think we are over-emphasizing this decision,  
6 and when people talk about carbon, it can become a  
7 bit politicized, and I don't think it needs to be.  
8 It's another input assumption. And I don't know at  
9 this stage which of the input assumptions are going  
10 to be the most important. And we should treat this  
11 as we will treat other contested input assumptions  
12 through the normal hearing process and wait for a  
13 decision at the end of the day.

14 Those are our submissions, and I would very much  
15 welcome any questions or comments or disagreements  
16 from the panel.

17 PRESIDING COMMISSIONER DUFF: I have a few  
18 questions, and I'm just trying to figure out should I  
19 direct them a particular way.

20 Mr. Elson, you were talking about this  
21 jurisdiction issue, and I think you're saying you'd  
22 prefer to wait to the end when it's better informed  
23 through evidence and hearing. Do you have any  
24 suggestions regarding what do we do with the plan in  
25 front of us today? Like, we have a plan and an  
26 application, some programs already -- with a PI \*ck  
27 audio\* grade on them already. Do you have any  
28 suggestions for -- your suggestion is still to wait



1 to the very end and that is what you would prefer to  
2 do, or would you -- because that's going to inform  
3 the entire plan and how it works together, I guess,  
4 is what I am trying to say?

5 K. ELSON: I'm going to try to answer that  
6 question, and if I don't properly, please let me  
7 know.

8 So I think my answer would be we should deal  
9 with that in the same way that we deal with all the  
10 other contested input assumptions, in that we're not  
11 asking Enbridge to go back as a preliminary basis and  
12 redo its whole plan, and then start all over again if  
13 you make a certain decision on jurisdiction.

14 We would deal with it the same way we would  
15 other input assumptions. We will ask interrogatories  
16 about the issue, and we will struggle with what to  
17 ask the Board to do because you only have one option  
18 before you in the same way that we always do,  
19 frankly, in DSM proceedings.

20 You may be asking the question, Well, what if  
21 this all ends up taking too long? Are we going to  
22 need a rollover? I don't know. I hope not. It's  
23 possible. But I couldn't speak to that for now.

24 I think my answer is, deal with it in the same  
25 way as other contested.

26 I think I can draw another parallel. You may  
27 decide that we are correct about the discount rate,  
28 and it should be changed. You may decide that we're

1 wrong about the discount rate and it should stay the  
2 same. And the same is true for the climate -- the  
3 carbon reduction benefits of energy efficiency. You  
4 could decide we're right, you could decide we're  
5 wrong, and we will have to decide -- once we have all  
6 the evidence and what we obtain through  
7 interrogatories -- what we'll ask you to do should  
8 you decide that we are right, knowing that we only  
9 have one plan in front of us.

10 COMMISSIONER SWORD: Just one simple one. I  
11 wasn't keeping track, Mr. Elson, in terms of when you  
12 were -- I was, but I didn't the catch full benefit.  
13 Just allow one moment here, please.

14 You were talking about the Integrated Energy  
15 Plan, about affordability, how many times clean  
16 energy -- clean and clean energy had been mentioned,  
17 and stuff like that. Could you please repeat what  
18 you said? They were suggesting a value on emissions.  
19 Was that what you were saying in terms of it was  
20 implicit? And if so, could you just expand on that a  
21 bit?

22 K. ELSON: I could.

23 COMMISSIONER SWORD: And where was the value  
24 placed, do you feel?

25 K. ELSON: I couldn't tell you the number.  
26 Maybe I'll ask Chris Neme if he can come up with one.

27 COMMISSIONER SWORD: Oh, no, no. That's fine.

28 K. ELSON: The implicit value of reducing carbon

1 emissions, I see in the Integrated Energy Plan, like  
2 you said, and its reference repeated to a desire to  
3 have clean energy. But also implicit in some of the  
4 decisions that were made, including significant  
5 investments in resources that are not based on fossil  
6 fuels, like nuclear power, and identifying one of  
7 those benefits being that they're non-emitting  
8 resources. And I think that the government has made  
9 it clear that -- I mean, there's a hell of a lot of  
10 money going here and there's a reason for that, and  
11 one of those reasons is because they are non-emitting  
12 resources.

13 So there is a value that is being expressed in  
14 Ontario government policy in reducing carbon  
15 emissions. I don't think that's the only place that  
16 I would point to. It's one that comes to mind  
17 because the OPG case is, you know, also in the back  
18 of my mind. But that would be one example. There  
19 are others in which the decisions of the Ontario  
20 government are based in part on a recognition that  
21 there is a value in reducing carbon emissions.

22 COMMISSIONER SWORD: And for the purpose of  
23 today, there's a zero cost on carbon at present. And  
24 there's the 15 percent, call that what you will.  
25 Where does the value on emissions, where would that  
26 reside?

27 K. ELSON: I think this is an area where someone  
28 like Chris Neme would give you a much better answer.

1 And what I think he would do is distinguish between a  
2 tax and an assessment of the underlying value of  
3 something. And how you calculate the underlying  
4 value of carbon reductions can include -- well, what  
5 happens if we don't reduce carbon emissions and the  
6 impacts on the economy and people and lives. Another  
7 way you calculate it -- well, let me just stop there.

8 So I don't take anything from the fact that --  
9 and I don't think we should and you should -- that  
10 the federal government has in its regulations set the  
11 number to zero. We all know that the reason that  
12 they did that is so that the day after Mark Carney  
13 was elected, he could do the change that he wanted to  
14 do in a regulation without repealing legislation.  
15 They could have just as easily -- well, they couldn't  
16 have just as easily -- had they done it through  
17 repeal of the ability to set the price, they could  
18 have done it that way.

19 So I certainly do not think setting the number  
20 to zero should be an implied federal value.

21 If we're looking for the implied value of carbon  
22 reductions that has been established by the federal  
23 government, they have such a thing; it's the social  
24 cost of carbon. It's not on the record in this  
25 proceeding. It was in the record on the roll over,  
26 and so that would be the applied value or the  
27 implicit value, you could say, as opposed to the zero  
28 dollars, which is -- the zero dollars is really just

1 an efficient and quick way to fulfil a promise upon  
2 getting elected as opposed to philosophical or a  
3 technical comment on how much it's worth to us as  
4 Ontarians or Canadians to reduce carbon emissions.

5 COMMISSIONER SWORD: Thank you.

6 COMMISSIONER SIDLOFSKY: Mr. Elson, sorry, I  
7 just want to make sure I'm clear on your position  
8 here. Are you -- so as you know -- and I know Board  
9 Staff took us to this, I believe Mr. O'Leary may have  
10 as well -- but under the Board's objectives when it  
11 comes to gas, Section 2 of the OEB Act, paragraph 5:

12 "Among the objectives is to promote energy  
13 conservation and energy efficiency in  
14 accordance with the policies of the Government  
15 of Ontario."[as read]

16 So I'm taking your comment as your position that  
17 not only is Ontario government policy to have zero  
18 carbon taxes, but it's also Ontario policy to reduce  
19 emissions. I'm just trying to understand what you're  
20 suggesting we do.

21 K. ELSON: I think I am suggesting two things.

22 One, obviously, the policy of the Province of  
23 Ontario is that there be no carbon tax. We also  
24 believe it's a policy of the Province of Ontario to  
25 help customers reduce their bills through energy  
26 efficiency. We also think it's the policy of the  
27 Government of Ontario to reduce carbon emissions and  
28 probably to reduce them as cost-effectively as

1 possible in support of, you know, the affordability  
2 goals.

3 But I think there's a prior issue there, which  
4 is we always debate that aspect of, you know, the  
5 Board's objectives. Those are the Board's  
6 objectives. They're not defining jurisdiction.  
7 That's a debate that we have in every hearing, and if  
8 we were to take every hearing and have a preliminary  
9 question, oh, gosh, are we within, you know,  
10 government policy at the beginning? We would just  
11 end up rearguing everything twice.

12 So, you know, part of our comments, Commissioner  
13 Sidlofsky, is that we think government policy is  
14 quite different from what our friends do. But I  
15 think our prior comment is that we shouldn't even be  
16 debating that now. We should be debating that down  
17 the road as we do in every other case where we say,  
18 Oh, well, there is alignment, there isn't alignment,  
19 that's the kind of jockeying and, you know, the  
20 normal back and forth you would expect in final  
21 submissions.

22 PRESIDING COMMISSIONER DUFF: I think that's all  
23 of our questions for you, Mr. Elson.

24 K. ELSON: Thank you.

25 PRESIDING COMMISSIONER DUFF: What the panel was  
26 -- we had reserved -- yes, there's a few outstanding  
27 matters. We had reserved a half hour for panel  
28 questions. I don't think we're going to take that.

1 But OEB Staff, I had asked you to consider -- well,  
2 anybody else, the suggested changes to the issues  
3 list and what your support was or not. If you're  
4 prepared, could you do that now?

5 J. WASYLYK: Yes, we can do that now.

6 And if parties of -- we will do that now. Any  
7 other parties have any additional submissions in  
8 response to OEB Staff's, we are welcome to hear  
9 those.

10 **SUBMISSIONS BY J. WASYLYK**

11 So I'll quickly go through -- these are our  
12 specific submissions in response to the proposed  
13 modifications to the detailed issues. And so with  
14 respect to the proposed changes to issue Number 2,  
15 the modifications to acknowledge the IEP, OEB Staff  
16 does not oppose.

17 Similarly, with respect to issue Number 4, the  
18 proposed modifications suggested by IGUA, OEB Staff  
19 does not oppose.

20 With respect to issue Number 9, I had a  
21 discussion with Ms. Girvan, so this was likely  
22 addressed previously, but just for clarity, OEB Staff  
23 does not see a need to make the revision as proposed  
24 by LIEN and VECC, but does not oppose if the panel  
25 sees benefit in doing so.

26 Moving on, with respect to issue 13. Enbridge's  
27 proposal to modify and align with the IRP framework  
28 objectives, OEB Staff does not oppose.

1           With respect to issue Number 15 and Ms. Girvan's  
2 clarification sought, OEB Staff -- this is related to  
3 evaluation, measurement, and verification activities  
4 -- OEB Staff is of the view that the current draft  
5 issues list, as drafted, allows parties to probe all  
6 areas of the valuation activities, including the  
7 appropriate application of adjustment factors, one of  
8 which would be free-ridership rates. So does not  
9 propose any changes to that.

10           With respect to issue 16, there has been several  
11 proposals to make this issue more discrete and carve  
12 out specific references to NEBs and the cost of  
13 carbon. OEB Staff does not support these changes and  
14 think that these need to be explicitly called out as  
15 they are included within the input assumptions and  
16 avoid a cost already stated in draft issue 16.

17           With respect to issue 18 -- sorry, this is -- I  
18 misspoke earlier. With respect to issue 18, this is  
19 Enbridge's proposal to modify to align with the  
20 integrated resource planning framework, and OEB Staff  
21 does not oppose.

22           Finally, with respect to SEC's proposal for a  
23 new issue, which is also been commented on by LIEN  
24 and VECC, who have proposed a modification to issue  
25 Number 20, OEB Staff generally supports this concept  
26 of assessing the reasonableness of Enbridge's  
27 stakeholder consultation. For some context and for  
28 the record, the stakeholder advisory group was



1 developed by the OEB as part of its decision on  
2 Enbridge's 2023 DSM Plan. The group was to meet  
3 following that decision, develop recommendations, and  
4 file a report. The group completed this work and  
5 filed its report on November 11th, 2024.

6 The OEB's direction then was that the advisory  
7 group's report was to be -- what was -- for Enbridge  
8 to use that and consider the report in the  
9 development of its next multiyear DSM plan. Enbridge  
10 then subsequently filed a multiyear plan last year  
11 for implementation in 2026, due to all the reasons  
12 people have mentioned, that resulted in a rollover  
13 and not a multiyear plan.

14 And so this is now the first multiyear plan  
15 following the stakeholder advisory group's work and  
16 all the recommendations. And so OEB Staff is of the  
17 view that the current draft issue Number 4, and  
18 inclusive of the changes proposed by IGUA,  
19 appropriately addresses the concerns raised by SEC  
20 and our friends at Environmental Defence and GEC  
21 issued \*ck audio\* parties to test how Enbridge has  
22 considered the stakeholder advisory group report as  
23 part of its application in front of the OEB now.

24 And with respect to SEC's suggestion for the  
25 stakeholder advisory group to be added as an explicit  
26 issue and broader stakeholder consultation, OEB Staff  
27 suggests that, instead of it being narrowly scoped,  
28 that it would be more reasonable and useful to take

1 the recommendation from LIEN and VECC and make a  
2 minor modification to issue Number 20.

3 Those are our submissions.

4 PRESIDING COMMISSIONER DUFF: Thank you.

5 The bottom line -- sorry, I don't mean to laugh.  
6 So the bottom line is you're not really supporting  
7 the additional issue 21, then?

8 J. WASYLYK: We are not.

9 PRESIDING COMMISSIONER DUFF: Right. So  
10 instead, you support the modification suggested by  
11 issue 20 and the modification to 4?

12 J. WASYLYK: Correct.

13 PRESIDING COMMISSIONER DUFF: Thank you.

14 D. O'LEARY: Madam Chair, I'm wondering if now  
15 is a good time to allow Enbridge to speak to these  
16 non-carbon issues. I was going to deal with it  
17 further, but I think just for continuity, it might --  
18 I did not make any comments on those earlier because  
19 I mentioned that I would do it later. I am just  
20 thinking, would it be more convenient to hear from us  
21 on the issues now, while you have got it fresh in  
22 your mind?

23 PRESIDING COMMISSIONER DUFF: Well, you're a  
24 party, too.

25 D. O'LEARY: Yes.

26 PRESIDING COMMISSIONER DUFF: So to that extent  
27 -- before I go to the applicant -- and that's really  
28 the technical -- you know, the words on this page as

1 we see them.

2 D. O'LEARY: Yes.

3 PRESIDING COMMISSIONER DUFF: Even if there are  
4 two separate issues, but -- that would reserve your  
5 comments to be a bit more homogeneous. Were there  
6 any other comments from parties regarding the issues  
7 that other people had proposed that they wanted to --  
8 silence is silence, it's not necessarily a vote in  
9 other direct, Mr. Mondrow?

10 I. MONDROW: Thank you, Madam Chair.

11 I just had a question of clarification for Mr.  
12 Wasylyk, if I could.

13 So he addressed, I think, issue 16. And I think  
14 there were different submissions related to issue 16.  
15 This is the inputs assumptions issue.

16 But I thought that one or more parties -- and I  
17 was curious about this, so the Board Staff's view on  
18 this suggested that it's not just updates to the  
19 treatment of inputs, but rather the inputs writ large  
20 that were within scope. And I don't know if Mr.  
21 Wasylyk addressed that. Maybe I just missed it. But  
22 if not, he could.

23 J. WASYLYK: That's fair. Mr. Mondrow, I don't  
24 think I addressed that specifically.

25 OEB Staff views issue 16 as drafted -- as  
26 providing the ability for parties to test the input  
27 assumptions themselves, as well as the updates  
28 proposed by Enbridge.

1 I. MONDROW: Thank you.

2 PRESIDING COMMISSIONER DUFF: I'm going to  
3 repeat. It's Staff's perspective that, as it's  
4 written, it's not constrained to just updates that it  
5 would -- anyhow. But that's fine.

6 J. WASYLYK: Correct.

7 PRESIDING COMMISSIONER DUFF: Okay. So it's not  
8 constrained, and that's your position.

9 J. WASYLYK: Correct.

10 PRESIDING COMMISSIONER DUFF: So therefore, no  
11 changes need to be made.

12 J. WASYLYK: Staff takes the position that no  
13 changes need to be made. However, if the panel sees  
14 changes would help in clarity, Staff would not  
15 oppose.

16 PRESIDING COMMISSIONER DUFF: Thank you.

17 Okay. Mr. O'Leary, did --

18 K. ELSON: Madam Chair, could I speak to that  
19 issue just --

20 PRESIDING COMMISSIONER DUFF: Another one.

21 K. ELSON: I'm sorry. Very briefly.

22 PRESIDING COMMISSIONER DUFF: Don't apologize.

23 **REPLY SUBMISSIONS BY K. ELSON**

24 I think you just said if -- or Mr. Wasylyk just  
25 said, if there are changes to 16 that need to be made  
26 to make clear, that it's not only updates, that would  
27 make sense.

28 If you were to do that, I would just strike out

1 the words "updates to the." So it would then read,  
2 "Are Enbridge Gas's proposed treatment of input  
3 assumptions cost-effectiveness an avoided costs  
4 appropriate?"

5 I agree with what Mr. Wasylyk said earlier. I  
6 think the issue, as it stands now, allows the testing  
7 of all input assumptions. Should the OEB want to  
8 make that clearer, I think you could just delete  
9 those three words, if you wish.

10 PRESIDING COMMISSIONER DUFF: Thank you for that  
11 suggestion.

12 M. BROPHY: Madam Chair, if I may.

13 PRESIDING COMMISSIONER DUFF: Yes.

14 **REPLY SUBMISSIONS BY M. BROPHY**

15 We haven't changed our position on 16. You  
16 know, it is as stated earlier for the reasons as  
17 stated; so I understand that, you know, OEB Staff is  
18 saying that those can already be treated as part of  
19 16. I believe that there's benefit in providing  
20 that. So just, you know -- so silence doesn't  
21 confirm that we would support that change per se.

22 And then secondly, quite a bit of confusion. So  
23 I think I heard OEB Staff indicate that the SEC  
24 proposed addition related to the DSM committee -- I  
25 think it was an addition of issue 21 or an additional  
26 one at the end of the list, could be subsumed in  
27 issue 20.

28 And I do -- you know, I do appreciate Mr.

1 Buonaguro's comments that it's great when we can take  
2 broad view of the issues and, you know, make sure  
3 that we can ensure it allows as much to be considered  
4 in the issue wording as possible. But, you know, we  
5 don't want to hit a point where -- and I think, you  
6 know, to Mr. Buonaguro's concern, Enbridge confirmed  
7 that, you know, his understanding of his -- where his  
8 issue had come up, that they believe it is broad  
9 wording that can be applied.

10 I'm just worried that for issue 20 to also  
11 include the item related to the committee, it -- you  
12 know, it might be a little difficult, unless it's  
13 explicitly indicated in the decision and basically  
14 using wording as proposed by SEC to say it's subsumed  
15 within there.

16 So we're happy either way as long as there's  
17 clarity. And, you know, I think parties had  
18 indicated rushing a proceeding so that it's improper  
19 and doesn't correctly look at all the issues as a  
20 problem, but we'd like to move efficiently as well  
21 and not use another extension if possible, but that  
22 lever is there.

23 So the more efficient we can make the issues  
24 list to help drive the clarity and the issues -- and  
25 then, you know, of course, there will be  
26 interrogatories against them and submissions and the  
27 whole process, you know, the better -- the better it  
28 would be. So those are just some thoughts on that.

1           PRESIDING COMMISSIONER DUFF: Thank you, Mr.  
2 Brophy.

3           It was issue 4 and 20 together. So just to  
4 point that out.

5           Mr. O'Leary now.

6           **REPLY SUBMISSIONS BY D. O'LEARY**

7           Thank you, Madam Chair.

8           This is a bit about -- similar to drafting by  
9 committee -- and I am undoubtedly going to misstate  
10 everyone's position, but I'm hopefully going to land  
11 where I think we may be to move matters along.

12           So I'll just deal with what I think are the  
13 issues that I understand are still being considered.

14           So issue 2, which Mr. Mondrow spoke to and  
15 supported Enbridge's position on that, and which, I  
16 believe, Staff also did not oppose by adding after  
17 the words "Government of Ontario and its Integrated  
18 Energy Plan."

19           We -- Enbridge also support Mr. Mondrow's  
20 suggestion that you remove the words "and integrated  
21 planning," because that is dealt with later in  
22 another issue, and that makes this issue that much  
23 clearer to recognize the distinction between DSM and  
24 integrated resource planning, which is dealt with at  
25 another issue.

26           I believe everyone's in agreement with issue 4.

27           We would -- Enbridge would tend to agree with  
28 Staff's submission that any issues about the SAG

1 could be dealt with there. We would also submit it  
2 could be dealt with under issue 20, as currently  
3 worded, and that you don't need an additional  
4 separate issue for that. And it could be dealt with  
5 under those -- particularly 4, which deals with  
6 specifically and references stakeholder sessions.

7 Issue 9, we agree with Staff, this is the issue  
8 that LIEN/VECC proposed to have the breakdown by the  
9 programs. We assumed that was subsumed in that, in  
10 any event, so we would never have challenged a party  
11 asking questions that relate to the specific program  
12 budgets. So we're content either way, either to have  
13 it broken down as LIEN/VECC have suggested or to  
14 leave it as is.

15 For issue 13, I was a little unclear if there  
16 was anyone really opposing that. Enbridge is  
17 proposing that in the first sentence, the language be  
18 changed, excluding the words "Will maximize natural  
19 gas savings and provide the best value for  
20 ratepayers." And the reason is that there are a  
21 number of goals, objectives, and principles set out  
22 in the DSM framework, which aren't just those.

23 Admittedly, those are some of them. But we  
24 think -- we submit the better wording is to state the  
25 suite of program offerings that are responsive to the  
26 DSM framework's objectives and guiding principles.

27 PRESIDING COMMISSIONER DUFF: And just -- if I  
28 can stop you there, there was also LIEN and VECC's



1 add-ins about -- including proposed modifications to  
2 some of those parts, are you okay with that?

3 D. O'LEARY: We don't have difficulty with  
4 those, other than to say, we don't think it's  
5 necessary that -- the programs, as presented, parties  
6 would be entitled to ask questions about, and to  
7 compare it to prior programs.

8 So it really is subsumed in the issue.

9 Issue 16 -- and I remain a little confused as to  
10 where we have all landed. But we do agree with Board  
11 Staff that the questions that parties want to raise  
12 about input assumptions, cost effectiveness, and  
13 avoided costs are all subsumed in the issue as  
14 currently worded, and you do not need to break it  
15 down as "has been proposed by certain parties."

16 We have -- if you did decide to break it into an  
17 A and B, we have serious concerns about including  
18 language about the cost of carbon, because that's  
19 obviously an issue that's -- here, we're submitting  
20 that the OEB should exclude that from the scope of  
21 the proceedings.

22 So in the proposed language, it should be  
23 excluded in both A and B. And there seems to be  
24 redundancy in referring to the NEB -- to the NEBs  
25 twice. But -- so our submission would be, Madam  
26 Chair, that the wording of issue 16 should remain as  
27 is.

28 PRESIDING COMMISSIONER DUFF: Thank you.

1           D. O'LEARY: I think issue 18, there appears to  
2 be agreement in respect of what Enbridge Gas has  
3 proposed, as I mentioned earlier, to -- this is the  
4 one dealing with integrated resource planning. And  
5 Mr. Elson said he didn't have any difficulty with  
6 that, and Mr. Mondrow supported.

7           Issue --

8           PRESIDING COMMISSIONER DUFF: Could we go back  
9 to 15? That was CCC's concern that, given that  
10 you're the applicant, that free ridership would be  
11 included in Number 15.

12          D. O'LEARY: I think I agree with Mr. Wasylyk.  
13 It was --

14          PRESIDING COMMISSIONER DUFF: You did?

15          D. O'LEARY: No, I haven't said that. But we do  
16 agree with Mr. Wasylyk that, certainly, free riders  
17 would be part of the whole net-to-gross discussion  
18 that takes place. So it's subsumed in that issue.

19          PRESIDING COMMISSIONER DUFF: Thank you.

20          D. O'LEARY: And issue 20, as I have said  
21 earlier, we believe would also encompass any  
22 questions that arise with respect to the future of  
23 SAG. While we do not oppose parties asking questions  
24 or making proposals about future stakeholder  
25 consultation, our concern about adding specific  
26 language to the issue, specific to and/or stakeholder  
27 consultation, as LIEN and VECC have proposed, is that  
28 it seems to highlight that as almost a necessary

1 step.

2 Parties can propose that as a necessary step,  
3 but the issue itself should be, if I may say,  
4 agnostic. And let parties propose it, and the  
5 company will then either support it or give its  
6 reasons why it's not supported, but we just don't  
7 think the language is necessary and would suggest  
8 that it's not required.

9 And based on our views on the ability to raise  
10 matters relating to the SAG in issues 4 and 20, we  
11 don't think a new issue 21 is necessary.

12 And I hope I didn't mix things up too much.

13 PRESIDING COMMISSIONER DUFF: Not at all.

14 This isn't -- this whole process is about  
15 communication as well. Right? And we have heard  
16 submissions, and the degree to which we think some  
17 clarity is needed. We have now heard what people's  
18 concerns are, and we'll take that under advisement.  
19 So that's all good. So I appreciate your comments  
20 today.

21 In terms of panel questions, before we break, I  
22 just had one or two very minor ones. I don't even  
23 know if they're questions or about something that I  
24 could ask you to consider in your reply.

25 There was -- earlier this morning, Mr. O'Leary,  
26 you had referred to a conversation you had with the  
27 IESO regarding their understanding.

28 I don't know how much weight you wanted to put

1 on that, but we have nothing on the record. You said  
2 you'd been authorized to speak, or something, along  
3 that degree. The IESO is an intervenor in this  
4 proceeding. But to the extent that you are planning  
5 to rely on that heavily, we don't have anything to  
6 back that up.

7 D. O'LEARY: I will take that away, Madam Chair.

8 We may have to get authorization to actually  
9 present something in writing, but I was authorized to  
10 say what I said.

11 PRESIDING COMMISSIONER DUFF: Otherwise, the  
12 weight will be accordingly.

13 The other question I had is a little bit more  
14 difficult. I don't even know that I am going to say  
15 this properly.

16 The jurisdiction word was first used by -- based  
17 on my reading, was first used in Enbridge's  
18 application. When I read the 2006 DSM decision, I  
19 didn't see the jurisdiction question, or that was  
20 their intent to raise that. And I'm just asking you,  
21 when Enbridge reviewed that OEB directive from the  
22 2026 decision, did you think it was raising a  
23 jurisdiction issue at that point? Or is it just your  
24 response to it -- necessitated, then, bringing up the  
25 jurisdiction question? And if that's too obtuse, I  
26 apologize.

27 D. O'LEARY: I can certainly indicate that  
28 concerns about jurisdiction immediately arose

1 following the issuance of the directive.

2 PRESIDING COMMISSIONER DUFF: Okay.

3 D. O'LEARY: And the response is in the updated  
4 filing, which includes the prefiled evidence, which  
5 deals with that specifically.

6 PRESIDING COMMISSIONER DUFF: Okay.

7 So the decision itself, you -- Enbridge is  
8 taking the position it raised some jurisdiction  
9 issues?

10 D. O'LEARY: Well, there's nothing in the  
11 decision which the word "jurisdiction" doesn't  
12 appear, to my recollection. But certainly, the fact  
13 that it was raised in the directive immediately gave  
14 -- gave rise to questions about whether or not the  
15 Board had the ability to actually include a cost of  
16 carbon. And we thought that, perhaps, the Board  
17 itself was starting to question its jurisdiction when  
18 it changed from a social cost of carbon to an  
19 economic cost of carbon in the directives.

20 PRESIDING COMMISSIONER DUFF: Okay. And on that  
21 question right there about social and economic and  
22 parsing that out, does Enbridge have a position  
23 regarding the 15 percent adder regarding what the  
24 Board -- it's been in place for a while, it seems to  
25 have adopted it for ten-plus years. Was the Board  
26 exerting its jurisdiction then? And what words would  
27 be dependent on that?

28 D. O'LEARY: Well, I think in my submission, I

1 actually went back and looked at, historically, the  
2 creation of the 15 percent NEBs. It was at the  
3 direction of the government of Ontario to the OPA.  
4 And then the Board stated in -- I will misstate the  
5 docket number, but --

6 PRESIDING COMMISSIONER DUFF: No, fine.

7 D. O'LEARY: But in the appropriate docket  
8 number that the 15 percent was the number for -- to  
9 ensure that the CDM and DSM offerings were treated, I  
10 am going to use the wrong word, but similarly that a  
11 15 percent NEBs should be added to the TRC-Plus test,  
12 but that 15 percent is the figure that was directed  
13 by the Government of Ontario. And if you look  
14 specifically at what they stated it was for, it  
15 included social, environmental, and there was perhaps  
16 one other word as well. And I can go back and take  
17 you to that in our reply.

18 PRESIDING COMMISSIONER DUFF: I appreciate you  
19 being responsive to my question right now, that's  
20 fair.

21 So as I hear what you're saying, the 15 percent  
22 deals with social, that is what I hear you saying,  
23 and that was -- the origin of that was a government  
24 directive to the OPA which that then OEB adopted.  
25 Just according to your submission and your position.  
26 I just want to make sure that I understand the  
27 distinction you're trying to make regarding social  
28 and economic.

1 D. O'LEARY: So the specific wording of the  
2 directive was the 15 percent adder to CDM was for, in  
3 quotes, "environmental, economic and social  
4 benefits."

5 PRESIDING COMMISSIONER DUFF: Thank you. Okay.

6 Thank you those are all the panel questions for  
7 right now. We are going to take half an hour break.

8 Is that still enough for you, Mr. O'Leary?

9 D. O'LEARY: I believe so. Thank you.

10 PRESIDING COMMISSIONER DUFF: We will reconvene  
11 at quarter to 3:00. Thank you very much.

12 --- Upon recess at 2:16 p.m.

13 --- Upon resuming at 2:49 p.m.

14 PRESIDING COMMISSIONER DUFF: Please be seated.

15 Mr. O'Leary, at this time, we were going to  
16 proceed with your reply submission. Before I do  
17 that, are there any preliminary matters that we  
18 should be dealing with?

19 **PRELIMINARY MATTERS**

20 I. MONDROW: I do have a matter, Madam Chair, if  
21 I could.

22 And I mentioned it to Mr. O'Leary, and I think  
23 it's appropriate that I say this now so he can deal  
24 with it or not, depending on how he takes it.

25 But we are supposed to -- within the confines of  
26 representing our clients -- approach these matters  
27 with open minds and I have and I tried to. In  
28 listening to Mr. Elson's submissions on the

1 appropriate process, and this goes to Commissioner  
2 Sidlofsky's -- some of his questions to me, if you're  
3 inclined to kind of isolate and try to address the  
4 jurisdiction issue, I had advocated quite strongly  
5 for doing so with a preliminary process. And I have  
6 changed my mind having listened to Mr. Elson and I  
7 just wanted to share that with you and provide very  
8 briefly why that is.

9 I continue to think it's an important and  
10 impactful topic, but I do agree having listened to  
11 Mr. Elson that having a good understanding of what  
12 you have to decide in the context of Enbridge's DSM  
13 plan on jurisdiction and what impact that decision  
14 might have and how that decision might be applied is  
15 -- would be important context for drawing conclusions  
16 on what jurisdiction means and what its boundaries  
17 are. And I think Mr. Elson's suggestion that that's  
18 best done on a completed record, including how others  
19 have approached the topic, but more importantly what  
20 the implications are and what that means in terms of  
21 applying concepts on DSM plan determinations would  
22 better inform a more robust jurisdictional decision.

23 All of which is to say that I would recant my  
24 submission that the best way to do it is in advance  
25 and adopt what I think Mr. Elson has suggested, which  
26 is if you need to make a determination on it, you're  
27 better off making it in the context of a record on  
28 this application.



1           It still may be an overarching determination,  
2 but at least you'll be better informed of the drivers  
3 and the implications arising from this application.

4           PRESIDING COMMISSIONER DUFF: Thank you.

5           Anybody else have any preliminary matters or  
6 comments they wanted to raise before Mr. O'Leary  
7 provides his reply?

8           Okay. Thank you very much.

9           **REPLY SUBMISSIONS BY D. O'LEARY**

10          Thank you, Madam Chair.

11          I can respond to your question about the  
12 statement we were authorized to make from the IESO  
13 and the request has been made to provide a copy, and  
14 we will as quickly as possible let you know what  
15 their decision is.

16          Madam Chair, you asked me a question before the  
17 break about when the issue of jurisdiction first  
18 arose and my recollection was that it happened with  
19 the first procedural order, but I was reminded, in  
20 fact, that the issue of jurisdiction came up in a  
21 letter that was written July 31 by Mr. Shepherd.

22          He had heard through part of the consultants for  
23 SAG process that Enbridge was concerned about  
24 jurisdiction and he wrote to the Board and said we  
25 need to deal with this right away and in -- on August  
26 7th, 2025, the Board wrote back and said issues of  
27 jurisdiction will not be dealt with in the roll-over  
28 proceeding but they would be dealt with here. So

1 there were issues -- the issue of jurisdiction was  
2 known, but it was not one that the OEB allowed to be  
3 considered in the last proceeding. So I just thought  
4 I would clarify that.

5 PRESIDING COMMISSIONER DUFF: Thank you for  
6 that.

7 D. O'LEARY: So I thought I would start, Madam  
8 Chair, by trying to set some clarity as to what it is  
9 that the company is suggesting.

10 The submission is that the OEB lacks  
11 jurisdiction. This isn't a matter that requires  
12 evidentiary expert evidence. It's appropriate for  
13 submissions of this nature to be made by counsel.  
14 These are the types of things that a court would  
15 hear, which would be submissions on the  
16 interpretation of a statute. They -- a court,  
17 judges, a panel of judges would not look to any  
18 expert to try and explain to them what the proper  
19 statutory interpretation would be. In fact, it would  
20 not permit it.

21 This is not a matter of considering what are the  
22 possible benefits of carbon reduction emissions in  
23 future. We are here simply to submit that the OEB  
24 does not have the jurisdiction to add any value for  
25 the cost of carbon to the TRC-Plus test, or any other  
26 test that the various intervenors may propose. And  
27 it's limited strictly to that.

28 You do have jurisdiction to consider the NEBs in

1 other respects.

2 And there's no attempt to limit the ability of  
3 parties to file proposals and evidence in this matter  
4 in respect of the input assumptions or the NEBs other  
5 than for the reasons that we have stated earlier and  
6 which I hope to reiterate, the fact that you lack the  
7 jurisdiction to include specifically a cost of carbon  
8 in the TRC test or any other test that may be  
9 proposed.

10 So I wanted to make sure that it's known that  
11 that's what we are here for today. And I do have to  
12 compliment Ms. Dhillon on her submissions, on their  
13 depth, clarity, and how comprehensive they were. And  
14 she added to the list of the various policies and  
15 directives by the Government of Ontario, including  
16 the IEP which she noted there is a specific quote in  
17 there, which is contrary to a cost of carbon and the  
18 budget. And I might add that in respect to the  
19 budget, contrary to what Mr. Elson has suggested,  
20 Bill 68, the Government of Ontario actually rescinded  
21 its GHG emissions targets and rescinded the  
22 obligation to even report in respect of those. And  
23 so there are no GHG emissions targets in Ontario,  
24 because they have been rescinded by the government --  
25 Bill 68 which was its 2025 budget.

26 I have always been under the understanding and  
27 was told this many years ago that there are two roles  
28 for OEB Staff and its lawyers. And number one, it is

1 to help protect the public interest to take a  
2 position that is going to advocate for the public  
3 interest no matter what the positions of the parties,  
4 including the applicant are. And the second is to  
5 provide legal advice to the Board and this panel.  
6 And we support the legal advice that has been  
7 provided to this panel by Ms. Dhillon.

8 I will respond to a couple of the other  
9 intervenors first.

10 Mr. Brophy made reference to the EBO 1693  
11 decision which was the decision back. I didn't check  
12 the date, but it's probably 1993 or 1994 as being  
13 support for some consideration today by you of the  
14 cost of carbon. And I need only remind you that that  
15 decision was over 50 years ago. The OEB Act itself  
16 has changed, including the objectives, which is  
17 subsection 2, objective 5. And the Government of  
18 Ontario over the last several years has shown that it  
19 is diametrically opposed to any value being placed on  
20 the cost of carbon or for carbon emissions. So our  
21 submission is that can simply be discounted as out of  
22 date.

23 Mr. Brophy also referred to hydrogen and various  
24 proposals that have been made in respect of RNG and  
25 hydrogen projects. There may be some support for  
26 these projects for reasons other than a carbon cost  
27 valuation. They may, in part, be supported by  
28 emissions reductions, but they have to stand on their

1 own two feet and be proven on the basis of the test  
2 that the Board applies without applying a cost of  
3 carbon valuation.

4 So what he is -- what he suggested -- to suggest  
5 that that somehow has an impact on your jurisdiction  
6 is simply wrong.

7 In with respect of Mr. Elson's submissions, I  
8 begin with something that I mentioned earlier  
9 because, as you may know, I have been involved in  
10 some of these DSM proceedings for many years, and  
11 every time that a framework has come forward, whether  
12 it's ED or GEC, there has been a constant and  
13 consistent submission made by those parties that the  
14 DSM budget should be higher, that more money should  
15 be spent. No one's questioning the desire they have  
16 to achieve certain social objectives, but  
17 consistently they are always asking for higher  
18 budgets.

19 So whether it's masked in terms of energy  
20 efficiency or emissions reductions, to be certain,  
21 what will be asked for if you permit or you don't  
22 permit a cost of carbon to be included on the issues  
23 list will be an increase in the budget.

24 But if the cost of carbon becomes a further  
25 basis for Mr. Elson and his groups to argue that  
26 there should be an increase in the budget, that will  
27 have an impact on rates. As Ms. Girvan has  
28 indicated, it will have the most impact on those

1 consumers that are not participants because they will  
2 achieve no benefits. And as I indicated earlier, it  
3 will have no impact in terms of increasing the energy  
4 savings, the bills that -- or decreasing the energy  
5 bills that consumers who do participate. Because  
6 coming up with an artificial number for the cost of  
7 carbon will not decrease their energy bills simply  
8 because they participate in the program.

9 Mr. Elson referred extensively to the Integrated  
10 Energy Plan and how many times the words clean and  
11 clean energy appeared in the document. First, I  
12 might -- and I assume this would be recognized  
13 automatically, but no matter how many times words may  
14 appear of that nature, that does not establish that  
15 there is some jurisdiction that exists which is not  
16 explicitly stated.

17 Mr. Elson referred to it as being implicit, that  
18 the emissions reductions are implicitly as -- by its  
19 government's actions in terms of nuclear  
20 expenditures, that implicitly supports the inclusion  
21 of some cost of carbon in this proceeding. But that  
22 is not what the government's direction is.

23 The government's direction and clarity is that a  
24 cost of carbon value should not be included. It may  
25 have decided that it's going to support nuclear  
26 energy for various reasons, and that is its  
27 determination, but that doesn't change the fact that  
28 as a legal matter based upon the statute and the

1 government policies as articulated by Ms. Dhillon and  
2 myself, you lack the jurisdiction to include a cost  
3 of carbon in any test for cost effectiveness in this  
4 proceeding.

5 Mr. Elson referred to the Union versus Township  
6 of Dawn Divisional Court Proceeding, and he actually  
7 took you to that and I don't propose to take you to  
8 it specifically. Perhaps you may be so inclined to  
9 review it later, but the words he took you to --

10 K. ELSON: I'm sorry. I should not be  
11 interjecting, but I have to -- Madam Chair, this is  
12 supposed to be a reply. And one of the purposes of  
13 the parties putting forward their submissions was  
14 that my friend would have an opportunity to reply  
15 earlier. So he has had our submissions, he knows our  
16 reliance on the Union Gas case. And he should have  
17 made these submissions earlier. He should have made  
18 the submissions about Environmental Defence just  
19 looking for higher budgets earlier. Those are not  
20 new issues and now I am deprived of an opportunity to  
21 respond.

22 I don't want to be a troublemaker here, but it's  
23 improper, in my view, and it's -- it's not fair.  
24 Thank you.

25 D. O'LEARY: Well, in fairness, Mr. Elson, I did  
26 specifically refer to the fact that historically,  
27 Environmental Defence and GEC has sought higher  
28 budgets in my original submissions. And I am

1 entitled in a reply to respond to what you orally  
2 took the panel to, which is the Union versus Township  
3 of Dawn decision. But I can certainly speak to  
4 aspects of that in a roundabout way, but I think it's  
5 appropriate to speak to it directly. It's 50 years  
6 old. The decision itself does not say what my friend  
7 has interpreted it to mean, that absolutely all  
8 matters incidental to gas distribution are relevant.  
9 The fact is that the case law and prior decisions of  
10 this panel have determined that it's up to the OEB to  
11 determine what is relevant for the purposes of  
12 determining and setting just and reasonable rates.

13 It's not open to intervenors to demand to the  
14 Board that a particular item or pet issue that it  
15 wishes to have heard be heard. And what my friend  
16 didn't refer to is a very recent decision of the  
17 Divisional Court in respect of an appeal by  
18 Environmental Defence and the OEB and Enbridge Gas of  
19 February. It was made quite clear in that Divisional  
20 Court decision that the OEB is the master of its own  
21 process and it has the ability and, indeed, has the  
22 obligation to determine what its jurisdiction and  
23 relevance is.

24 So our submission simply is that the Union --  
25 50-year-old Union versus Township of Dawn case  
26 doesn't apply, and it also predates the change to the  
27 OEB Act which added subsection 2(5) of the  
28 objectives. And it certainly predates the clear



1 policies and legislation of the Government of Ontario  
2 that exists today.

3 I will combine my response to both Mr. Mondrow  
4 and Mr. Elson in respect of their desire to have  
5 further submissions, and I appreciate that Mr.  
6 Mondrow and thank him for giving me a heads-up on him  
7 now, suggesting that you would be better served by  
8 hearing from all of the parties on the whole issue,  
9 and then making a ruling at the conclusion of this  
10 proceeding as to your jurisdiction.

11 I was expecting -- actually, Mr. Elson to  
12 support Mr. Mondrow with the suggestion that it was  
13 somewhat procedurally unfair that parties didn't have  
14 an opportunity to make full submissions today, and  
15 that you should hold another proceeding, perhaps in  
16 writing, perhaps a week down the road, further oral  
17 submissions. I didn't hear that from Mr. Elson. He  
18 is suggesting that you should wait until the very  
19 end.

20 Our submission this morning reminded you of the  
21 government's directive of promoting regulatory  
22 efficiency and reducing utility burden. To allow  
23 parties to seek the right to introduce evidence in  
24 this proceeding -- expert evidence in this  
25 proceeding, to then have this proceeding include all  
26 of the issues relating to the cost of capital, and  
27 you know they're going to be complex, and you know  
28 they're going to be extensive and it may very well

1 inundate and take over a life of itself within this  
2 proceeding, to allow that to go on to the end and  
3 then for you to rule at that point that you don't  
4 have jurisdiction to entertain a cost of capital, we  
5 would submit is -- is most inefficient and  
6 inappropriate.

7 Parties received the company's application  
8 months ago. It's clear from that application and the  
9 prefiled evidence that we took a position in respect  
10 -- the company took a position in respect of the  
11 jurisdiction of this panel in respect of the cost of  
12 capital, and only the cost of capital, that's all  
13 we're dealing with. All the other issues that relate  
14 to cost effectiveness remain on the table. It's just  
15 that in your consideration of cost-effectiveness  
16 inputs and tests, you cannot consider a non-zero cost  
17 of capital.

18 PRESIDING COMMISSIONER DUFF: Carbon.

19 D. O'LEARY: Sorry?

20 PRESIDING COMMISSIONER DUFF: Carbon.

21 D. O'LEARY: Cost of carbon, my apologies.

22 PRESIDING COMMISSIONER DUFF: They both have the  
23 same acronym.

24 D. O'LEARY: They do. And -- and that was an  
25 issue of mine a couple of years ago, but thank you  
26 for that.

27 The application asked for preliminary  
28 determination on the jurisdiction of the Board in

1 this regard. You issued a procedural order, and  
2 there was the letter last week that we understood as  
3 did Mr. Elson required submissions to be made. Mr.  
4 Elson made some substantive submissions on the issue.

5 I feel for Mr. Mondrow if he wished to say  
6 something further, but I'm not sure he -- prior to  
7 changing his mind, after hearing Mr. Elson had really  
8 anything further to say from a jurisdictional  
9 perspective, but he did indicate support for using a  
10 zero cost of capital.

11 So my question back is what would be the  
12 advantage of --

13 COMMISSIONER SIDLOFSKY: Carbon.

14 D. O'LEARY: Cost of carbon.

15 I. MONDROW: To be clear, I would support zero  
16 cost of capital as well. No. Actually, that would  
17 not be a good thing.

18 D. O'LEARY: You just got me fired.

19 The cost of carbon, the purpose of today, we  
20 understood was to deal with this jurisdictional  
21 issue. We do not support kicking over any further  
22 consideration of the cost of carbon until the end,  
23 and we certainly do not support the need for further  
24 submissions on jurisdictional issues.

25 I have not heard from Mr. Elson that there would  
26 be anything else of a legal nature. He would like to  
27 introduce evidence. He would like to muddy the  
28 waters. But in terms of speaking to the actual legal

1 authorities and the jurisdiction of this panel, it's  
2 -- our submission has been fully dealt with here  
3 today.

4 In conclusion, Madam Chair, it's -- I suspect I  
5 can speak on behalf of all parties that we would all  
6 benefit from a very clear decision of the Board's  
7 determination of its jurisdiction.

8 It's important because it will inform how  
9 parties will seek leave to introduce evidence, it  
10 will inform how they will ask interrogatories, and it  
11 will certainly inform how long this hearing will  
12 continue.

13 We request that your determination on the issue  
14 of jurisdiction, which we hope you will agree with,  
15 will make it clear that there will be no  
16 consideration of evaluation of the cost of carbon in  
17 the TRC test, or any other test, which various  
18 intervenors may have -- may propose.

19 We submit that the most efficient means of  
20 dealing with this issue is to deal with it upfront,  
21 and you have the ability, indeed the obligation, as  
22 confirmed by the various Divisional Court decisions,  
23 to make that determination at this point in time, and  
24 that would be consistent with the government's  
25 directive in terms of regulatory efficiency.

26 So we do invite you to consider our submissions,  
27 and thank you for the time to make them.

28 PRESIDING COMMISSIONER DUFF: Thank you very

1 much, Mr. O'Leary.

2 Just one question from Mr. Sidlofsky.

3 COMMISSIONER SIDLOFSKY: And it's actually not  
4 for you, Mr. O'Leary; it's for Mr. Mondrow.

5 So you have changed your mind, and that's okay.  
6 But if the Board were to disagree with you and  
7 determine that we are going to deal with these issues  
8 on a preliminary basis, I know you had suggested an  
9 opportunity for submissions. So if -- if it -- if  
10 the Board determines that it's going to deal with  
11 this earlier rather than later, do you still want to  
12 file a written submission? What are you thinking?

13 I. MONDROW: Thank you for the question, Mr.  
14 Sidlofsky. And, yes, I was listening to Mr. O'Leary,  
15 and I didn't want to interrupt him, but the -- being  
16 persuaded by Mr. Elson that there are various  
17 potential nuances in how a cost of carbon might be  
18 considered in the context of a DSM program and those  
19 nuances would be more informed by a more complete  
20 record should not be taken as me saying I have  
21 nothing else to say about jurisdiction.

22 So if the Board does decide to address this in a  
23 preliminary fashion, I do maintain that it's  
24 important to -- not only because some of us might  
25 have misread the procedural directions or at our own  
26 peril, you know, kind of drawn inappropriate  
27 conclusions about the scope and import of today, but  
28 also because of the extensive submissions -- good

1 submissions, but extensive submissions from OEB Staff  
2 that I still haven't fully internalized, in fact, I'm  
3 not sure I caught them all. I would want an  
4 opportunity to make submissions on the jurisdictional  
5 issue prior to the Board making a determination on  
6 whether it has jurisdiction.

7 COMMISSIONER SIDLOFSKY: Thanks, Mr. Mondrow.

8 PRESIDING COMMISSIONER DUFF: I think we have  
9 gotten to the end of today. It was a long issues  
10 conference, but I think it was informative. I quite  
11 appreciated the back and forth and people's  
12 participation online as well as in person. I think  
13 the panel's understanding has increased multifold,  
14 and we have a lot to consider.

15 So thank you to the court reporter, Enbridge  
16 Gas, all the parties for your time today. And all I  
17 can promise is that we will determine the next steps  
18 in the proceeding.

19 That concludes the issues conference. And we  
20 are adjourned. Thank you.

21 --- Whereupon matter adjourned at 3:14 p.m.