ONTARIO ENERGY BOARD

FILE NO.:	**EB-2017-0306** **EB-2017-0307**	**Enbridge Gas Distribution Inc.** **Union Gas Limited**

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DATE:	**May 4, 2018**	
	Lynne Anderson	**Presiding Member**
	Christine Long	**Vice-Chair and Member**
	Cathy Spoel	**Member**

EB-2017-0306
EB-2017-0307

THE ONTARIO ENERGY BOARD

Enbridge Gas Distribution Inc. and Union Gas Limited.

Enbridge Gas Distribution Inc. and Union Gas Limited Application for Amalgamation and Rate-Setting Mechanism

Hearing held at 2300 Yonge Street,
25th Floor, Toronto, Ontario,
on Friday, May 4, 2018,
commencing at 9:33 a.m.

VOLUME 2

BEFORE:

LYNNE ANDERSON	Presiding Member
CHRISTINE LONG	Vice-Chair and Member
CATHY SPOEL	Member

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KHALIL VIRANEY	Board Staff
FRED CASS MALINI GIRIDHAR VANESSA INNIS	Enbridge Gas Distribution Inc./Union Gas Limited
JOHN VELLONE	Association of Power Producers of Ontario (APPrO)
TOM BRETT	Building Owners and Managers Association, Toronto (BOMA)
SCOTT POLLOCK	Canadian Manufacturers & Exporters (CME)
ROBERT WARREN	Municipality of Chatham-Kent
JULIE GIRVAN	Consumers' Council of Canada (CCC)
BRADY YAUCH TOM LADANYI	Energy Probe Research Foundation
DWAYNE QUINN	Federation of Rental-housing Providers of Ontario (FRPO)
IAN MONDROW	Industrial Gas Users' Association (IGUA)
JAYA CHATTERJEE	City of Kitchener
MICHAEL BUONAGURO	Ontario Greenhouse Vegetable Growers (OGVG)

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JESSICA ANNE BUCHTA ALAN ROSS	Rover Pipeline
JAY SHEPHERD	School Energy Coalition (SEC)
BARRY WADSWORTH	Unifor
MARK GARNER	Vulnerable Energy Consumers' Coalition (VECC)

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Friday, May 4, 2018

--- On commencing at 9:33 a.m.

PRELIMINARY MATTERS:

MS. ANDERSON: Please be seated.

Good morning, everyone. We are here for Day 2 of the hearing of applications by Enbridge Gas and Union Gas for approval of an amalgamation and rate framework.

I understand some new compendiums came in, so hopefully those have been circulated. We don't need them, I think, immediately, but we will before too long.

So just to open, yesterday, Mr. Warren, you had asked whether the Panel was prepared to make a ruling on the conditions for Chatham-Kent and we said that we are not. It did raise a question as to whether that was a matter that could go directly to argument, and just for your information, that's not how we plan to proceed. We plan to open it up to you first thing this morning, to either cross-examine the witnesses or if you have any comments on some things that were said, so that's -- unless there's any other preliminary matters to start this morning, that's...

MR. CASS: I have one preliminary matter, Madam Chair, but it can go after Mr. Warren. It doesn't have to go right away.

MS. ANDERSON: Sure. Okay. Then Mr. Warren...

MR. WARREN: Thank you, Madam Chair, members of the Panel.

There are two issues. One is a process issue and one is a substantive issue, and if I could deal with the substantive issue first.

Just by way of background, as the members of the Panel are no doubt aware, the City of Chatham -- the Municipality of Chatham-Kent have been protected by undertakings given by successive owners of Union Gas over a period of more than 30 years. Those undertakings were negotiated between those successive owners and the Lieutenant Governor in Council, and the undertakings provided reduced to their essence that, regardless of the changes of ownership, that the head office of Union Gas would be kept in Chatham, and the understanding embodied in that was that those jobs of Union Gas were important to the economy of Chatham-Kent.

Now, with this amalgamation, those undertakings come to an end. Legally they come to an end, a provision of the last iteration of the undertakings which -- they were amended by directive from the Cabinet in 2009, but that directive related to CDM issues and not to the substance of the undertakings.

In light of the fact that the undertakings were coming to an end, the Municipality of Chatham-Kent and Union Gas, principally in the person of Mr. Baker, sat down to negotiate some form of continuation of the protections.

And the result of those negotiations are the terms that were embodied, set out in my letter to the Board May 1st, 2018.

And if I could explain the bargain that was struck, in an ideal universe, Chatham-Kent, the City of Chatham, would like to continue the undertakings and the protection of having a head office there and head-office jobs, but they realize that in the context of an amalgamation that's not an economic -- economically realistic, that there will be job changes, and the job changes will affect Chatham-Kent.

So in an attempt to reach a reasonable compromise the terms were struck, and those are, if I can refer you to them: During the deferred rebasing period any employment impacts resulting from the amalgamation will be managed on a roughly proportionate basis between Chatham-Kent and the City of Toronto.

There was a recognition that you could not put a number in that, for example, that there would be 600 or 800 jobs in Chatham-Kent, because that would unduly restrict the economic flexibility of the amalgamating parties. But there was an undertaking that there would be an approximate proportionate balancing of the job impacts.

MS. ANDERSON: Mr. Warren, just to stop you for a second. I find the background helpful. It's not exactly cross-examination, but just, let's not veer into what will be the argument stage of it. So I think the background is very helpful, but --

MR. WARREN: Well. the difficulty I have, Madam Chair, is that you have to understand that this is an agreement --

MS. ANDERSON: Mm-hmm.

MR. WARREN: -- struck between Union Gas, Union, Enbridge, and my client, and in light of that, I can't cross-examine this panel because they're parties to the agreement. So that's -- and I indicated to Board Staff that if the Panel were prepared to accept these conditions, that I would not be cross-examining. It would be inappropriate for me to cross-examine this panel, because they're party to the agreement.

So I'm in that difficult position, but that's the background of the agreement, and it's one that's been accepted by Union, Enbridge, and that's reflected in the response to Exhibit -- to Board Staff Interrogatory No. 12.

So I have no further submissions on it. If it's a matter of argument then we'll leave it to argument, but that's our position. Perhaps Mr. Cass would like to speak to it as well.

MR. CASS: Yes, thank you, Madam Chair. I can add a few comments. As Mr. Warren just alluded to, there was an interrogatory asked by Board Staff on this issue. It's an interrogatory of several parts. It's Board Staff Interrogatory No. 12. Part of the question was specifically whether the applicants would agree to an OEB-imposed condition, and another part was to propose wording.

So in response to part B of the interrogatory, Union and Enbridge Gas Distribution indicated they would accept certain commitments, and they proposed the actual wording for conditions of approval. This is set out in part B of response to Board Staff Interrogatory No. 12.

The applicants indicated that at the time, what is set out in this interrogatory response, and they continue to stand behind what is in the interrogatory response.

As Mr. Warren has pointed out, there is a particular history to this that arises from undertakings given in previous proceedings. In my submission, it's not something that requires evidence on cost-benefit analysis or any of that sort of thing. It is a particular history, and I might say virtually a unique situation arising from the undertakings, and I -- and I would submit it's not as complicated as, perhaps, others have alluded that it may be. It's something that arises from that history that Mr. Warren has referred to. Thank you.

MS. ANDERSON: Okay. Thank you, I find that -- the background helpful. I'm suggesting then from this point perhaps you can just be a matter of argument.

MR. SHEPHERD: Madam Chair, I do have questions of the witnesses on this.

MS. ANDERSON: Of which panel?

MR. SHEPHERD: I assume it's this panel. I don't know.

MS. ANDERSON: Okay. We'll think about that at the break, and Mr. Mondrow's...

MR. MONDROW: Madam Chair, I -- with this background it actually, to my mind, raises some questions, but it seems to me that the issue isn't whether there is a deal between Chatham-Kent and Union, Enbridge. The issue is what this Board should do about that, if anything, and the suggestion has been made through Staff's interrogatory that the Board should somehow approve conditions to any merger, permission that it gives pursuant to the act, and I don't have instructions on this yet, but it's not clear to me that the Board has the jurisdiction to do that and, even if it did, whether it should do that.

So I do believe that will be -- could be a matter of argument, subject to instructions, and the background is helpful, but so far it's not evidence, so I think some evidence is needed, and I will also consider my position in respect of questions I may want to ask about that.

Unless the utilities propose to lead some evidence, I think the only way to get that evidence is to ask them some questions.

MS. ANDERSON: Okay, again, we'll take that under advisement, and it is not part of our hearing schedule at the moment, but we'll consider that.

Okay. Thank you. Mr. Warren, that concludes, I guess, what you wanted to raise in your cross-examination?

MR. WARREN: It is. I don't --

MS. ANDERSON: As you said, you are not going to cross-examine this -- on this matter.

MR. WARREN: I'm not going to cross-examine and -- I find myself in the position of not knowing whether I should wait any further for something which may or may not come. It's a cost burden to the residents of Chatham-Kent to have me sit here for no reason. So my inclination would be to leave, unless I can get some direction that this is an issue which is going to be dealt with during the course of the hearing today.

MS. ANDERSON: I think our expectation is it wouldn't be. Well, I guess the problem is with this panel, and we do intend to conclude this panel today. But I think the panel needs to discuss it. So unfortunately, I can't give you that guidance right now.

MR. WARREN: Thank you.

MS. ANDERSON: Our preference would be to deal with this matter at the end of the hearing, when we're talking about the scheduling of arguments. That would be our preference, but -- and that may be something that, simply through counsel, we might be able to work out.

MR. SHEPHERD: Madam Chair, if I can be of assistance? I probably have only fifteen minutes of questions, and I can do them any time you want. I can do them five minutes from now, if you want.

[Board Panel confers]

MS. ANDERSON: I guess that's a good question, how much -- if Mr. Shepherd has fifteen minutes. Mr. Mondrow, you don't have instructions, so you probably don't have questions at this point. Is that correct?

MR. MONDROW: That's right, I don't have instructions on a position. I could have questions, but my sense is that once Mr. Shepherd is done, I may have none. So I think he should proceed. I feel we're probably going to ask the same things.

MS. ANDERSON: Would anyone else be asking Questions?

MR. YAUCH: We would probably have maybe one or two questions. But again, Mr. Shepherd might cover it off if he goes first.

MS. GIRVAN: Could I make a suggestion? Maybe if we took a few minutes, maybe some of the intervenors could just confer and...

MS. ANDERSON: Five minutes.

MS. GIRVAN: Yes.

MS. ANDERSON: Okay, we'll take five. Thank you.

--- Recess taken at 9:45 a.m.

--- On resuming at 9:51 a.m.

MS. ANDERSON: Please be seated.

Okay. Yes, Mr. Shepherd, do you have --

MR. SHEPHERD: Yes, I think the intervenors have agreed that I'm going to take 15 minutes or so, and it's likely that nobody else will have any questions. We'll see.

MS. ANDERSON: Okay, we'll agree to that. Thank you.

ENBRIDGE GAS DISTRIBUTION/UNION GAS - PANEL 1: MAADS & RATE MECHANISM POLICY, resumed

Dave Charleson,

Paul Reitdyk,

Mark Kitchen,

Kevin Culbert,

Warren Reinisch; Previously Affirmed

CONTINUED CROSS-EXAMINATION BY MR. SHEPHERD:

MR. SHEPHERD: So witnesses, you are familiar with this deal?

MR. CULBERT: Yes.

MR. SHEPHERD: Okay. So this is an agreement that is intended to be -- the agreement that Mr. Baker and the mayor, or the council, whoever it was, reached, is intended to be an agreement that is binding on Union Gas, right?

MR. KITCHEN: It is a commitment that we have made, that will, as a condition of approval, we will abide by.

MR. SHEPHERD: Yeah, but if it is not a condition of approval, that's my question, it is still a binding agreement between you and Chatham, right? Is that the intention?

MR. KITCHEN: I guess what I'm struggling with is, not being a lawyer, what you mean by "binding". Like, we have committed to maintain proportional representation in both Chatham-Kent and the City of Toronto, and that commitment will stand over the deferred rebasing period.

MR. SHEPHERD: I wonder if I could ask if Enbridge's counsel would tell us what the answer to this question is so we don't waste a lot of time on it. I understand Mr. Kitchen is not a lawyer. The question for a lawyer is a fairly straightforward one: It is either a legally binding agreement or it isn't? Could we find that out? Because it colours the whole discussion.

MS. ANDERSON: I actually do think it is an important question as to, is this only -- you are seeking this as a condition of approval. Is this an agreement outside -- if there was not a condition of approval, is there an agreement?

MR. SHEPHERD: Or Mr. Warren might know as well, if Mr. Cass does not.

MR. CASS: The answer to the question is, no, there is no formal binding agreement between the parties.

MS. ANDERSON: Okay. Thank you.
MR. SHEPHERD: Okay. So then if this is not a condition of approval, then you would not be bound by these statements?
MR. KITCHEN: Mr. Shepherd, in our evidence, it's Exhibit B, tab 1, page 17, we indicated that we will continue to maintain a significant presence in Chatham-Kent post-amalgamation. That commitment stands, and our view is that what we've done here in these commitments that are referenced in Staff 12 is we've really just -- we've put meat on the bones. What we've done is we've basically made clear what we mean by a "a significant presence".
MR. SHEPHERD: If you amalgamate, the undertakings end, right?
MR. KITCHEN: The Union undertakings fall away, yes.
MR. SHEPHERD: The Enbridge undertakings continue.
MR. KITCHEN: That's correct.
MR. SHEPHERD: But Union's do not because Union becomes part of Enbridge.
MR. KITCHEN: They fall away because the undertakings contain a provision if West Coast no longer owns 50 percent --
MR. SHEPHERD: Yes.
MR. KITCHEN: -- of Union, then those undertakings fall away.
MR. SHEPHERD: So as a result, normally what would happen is if there were undertakings involved in a merger, the board would be asked by the LGIC to give input, if you

like, to the LGIC. That doesn't happen here because there will be no undertaking for Union, right?

MR. KITCHEN: That's correct, it legally will fall away.

MR. SHEPHERD: And as far as you know -- and again, if counsel wants to step in, feel free -- the Board has not been asked by the LGIC to provide input on the Enbridge undertakings in this proceeding, right?

MR. KITCHEN: They have not.

MR. SHEPHERD: Okay, thank you.

When Union entered into this arrangement, did you look at how much it would cost?

MR. KITCHEN: Just before I answer that question, if this is an agreement between -- that involves not just Union but also EGD, they were also involved in the discussions around our commitments. Did we do a cost/benefit analysis? No. But there is no material cost/benefit analysis that needs to be done, because whether you have people in Chatham-Kent or you have them in Toronto, you still have to pay those people, and given that our salary structures or compensation packages are very similar, there would be no material difference as a result of --

MR. SHEPHERD: Well --

MR. KITCHEN: -- this. And in fact, as I've said, we've already said that we would maintain a significant presence in Chatham-Kent, and that is what we intend to do, and this, as I said, is just merely giving structure to that.

MR. SHEPHERD: And what I'm trying to understand is -- I mean, obviously if it was the most efficient way to run the organization to have people in Chatham-Kent, then you would. You wouldn't have to make a commitment; you'd just do it. And so the only way that this commitment would have any impact is if it's not the most efficient way to run the utility, right?

MR. KITCHEN: No, I can't accept that. We're making this commitment because of the long-standing history of Union Gas in the municipality of Chatham-Kent.

Union Gas plays a significant role in its economy and in the community, and that's why we're making this commitment.

MR. SHEPHERD: Well, I'm not suggesting for a minute that that is a bad thing. What I'm saying is -- what I'm trying to get to is there's a difference between doing something because it's efficient and doing something because you have other goals that are not related to cost.

MR. KITCHEN: I think what you're suggesting to me is that it's inefficient for us to make this commitment.

MR. SHEPHERD: That's what I'm suggesting.

MR. KITCHEN: And I disagree with that.

MR. SHEPHERD: But you haven't done any study of that.

MR. KITCHEN: I don't think we need to do a study of that. We're going to maintain -- we have a facility in Chatham-Kent that we've already said we will be maintaining a significant presence in, and it's not about whether one's efficient or one's not. We currently have employees all across our franchise, as does EGD. It doesn't mean it's inefficient.

MR. SHEPHERD: The -- no, I understand that, and in fact, is it correct that closing down your Chatham-Kent operations could have very significant costs for you?

MR. KITCHEN: Closing down?

MR. SHEPHERD: Yes, if you decided that Chatham-Kent wasn't the best place to have your southwestern operations, maybe London was better, it would cost you a lot of money to close down in Chatham-Kent.

[Witness panel confers]

MR. KITCHEN: There would be significant costs, I would expect, yes, because we'd have to -- there would be relocation costs, we would have to build a new building somewhere. There would be costs, yes.

MR. SHEPHERD: And the building you have there is not necessary saleable at premium prices; this is not Toronto, right?

MR. KITCHEN: I would expect that it would be difficult to sell that building, yes.

MR. SHEPHERD: Okay, so then the last thing I wanted to ask about is that this agreement appears to say things are proportionate between the City of Toronto and Chatham-Kent, and that, for example, the Centre of Excellence -- if you are going to have a Centre of Excellence, which I understand is in your plans, you can only choose either the city of Toronto or Chatham-Kent.

MR. KITCHEN: I think, actually, if you turn to Board Staff 12 --

MR. SHEPHERD: Yes.

MR. KITCHEN: -- the actual wording is:

"Centres of Excellence may be created in either the Municipality of Chatham-Kent or the City of Toronto."

And then we go on to say:

"To the extent they are created, these centres of excellence shall reflect a range of skills and compensation levels, including leadership roles."

And that's the same wording that appears in the letter in attachment 1.

MR. SHEPHERD: Well, so it's not, in fact. What, in fact, the letter says is:

"Any Centre of Excellence will be located in either Chatham-Kent or the City of Toronto."

Period. That's it.

[Witness panel confers]

MR. KITCHEN: I think that there is a difference in the wording in Mr. Warren's letter relative to what's in Staff 12. What's in Staff 12 is consistent with the attachment 1, which is the agreement, and just to be clear, you know, we currently have centres of excellence outside of Chatham and outside of Toronto. And there may be centres of excellence created as part of the amalgamation; they may be included in either location.

MR. SHEPHERD: Well, so that's what I'm -- the reason why I'm asking it is because Enbridge has a substantial operation in York Region, right, the training centre and all sorts of stuff, right?

MR. KITCHEN: That's correct.

MR. CULBERT: That's correct.

MR. SHEPHERD: And so if the smart place to put a new Centre of Excellence for whatever you're doing is there, doesn't this agreement say you can't? You're not allowed to? You've agreed with Chatham that you won't?

MR. KITCHEN: If you read Staff 12, Staff 12, in the conditions of approval that we put forth, states exactly what is in the letter contained in the attachment. And that is centres of excellence may be created in either the municipality of Chatham-Kent or the city of Toronto -- may.

MR. SHEPHERD: So what is in the Weir & Foulds letter is not the deal? Because what's in the Weir & Foulds letter says if you have a centre of excellence, you have two places you can put it and that's it.

MR. KITCHEN: What it says in bullet 2 is that it will be located in either. What we have in Chatham -- what we have in Staff 12 as the conditions is what is contained in the letter agreement in attachment 1.

MR. SHEPHERD: Is the Weir & Foulds letter not the agreement?

MR. KITCHEN: I would say what's contained in the letter in attachment 1, that's the agreement.

I'm not speaking to what Mr. Warren wrote in his letter. We can go back and forth on this all day, if you'd like. But what I'm telling you is what in the letter is reflective of what's in Staff 12.

MS. LONG: Sorry, can I just ask a question here? So if we were to agree to the conditions, being condition 2, what does that mean? To me, it seems like a bit of a hollow condition that the centre of excellence, if it's may, if it is permissive, it could be anywhere. So I guess I'm wondering what the purpose of that condition is.

MR. KITCHEN: Because I think as we go through the amalgamation, there will be opportunities to establish centres of excellence. And of course we're going to look to what makes the most sense in terms establishing those centres of excellence, and they may be established in Chatham-Kent, they may be established in the city of Toronto. But it doesn't preclude us from establishing it somewhere else, so it doesn't make sense.

MR. SHEPHERD: If the Board were to put conditions on this -- and I'm not suggesting they should; I'm just asking the question -- would it be, in your view, consistent with the understanding between Chatham-Kent and the company for those conditions to say these are the conditions, but they are only conditions to the extent that they don't create inefficiencies in operation of the company.

Is that -- would that still be consistent with the agreement? Can you tell me?

MR. KITCHEN: Can you repeat that, please?

MR. SHEPHERD: These are the conditions, exactly the ones that you have in the letter to Mr. Hope, to Mayor

Hope. But the Board says but we are -- these are the only conditions to the extent that they do not cause the company to be less efficient than it would otherwise be, to operate in a less efficient manner.

MR. KITCHEN: Personally, I don't think the Board needs too to add that as part of the condition, because we are not going to operate in an inefficient manner. One part of our goal is to create efficiencies.

Why don't we just go back to the...

MR. SHEPHERD: Sorry. First please answer my questions. Would that be consistent with the deal, yes or no?

[Witness panel confers]

Mr. Kitchen, sorry to interrupt, but if you want to take an undertaking and get the advice of counsel, that would be perfectly acceptable.

[Witness panel confers]

MR. KITCHEN: We'll do that. I just wanted to go back actually to the centres of excellence and the question from the Board Panel.

When we refer to centres of excellence, you know, in many cases we've talked about -- Mr. Shepherd raised the training centre already that's in EGD. We have centres of excellence around customer care in Brantford.

But largely, in terms of centres of excellence here, we are talking about corporate function. So if there is a centre of excellence in finance, it would be very unlikely that it would be located out somewhere other than Chatham or Toronto. Or a centre of excellence in engineering; again, very unlikely that it would be located somewhere other than Chatham or Toronto.

So I just want to make clarification.

MR. SHEPHERD: Can I get an undertaking?

MS. LONG: I understand that. I guess my question is with respect to "may". The Board doesn't usually condition "may"; they usually condition "shall", so something that will be done as opposed to something that might be done. That was my question.

MR. RICHLER: So there is an undertaking given. We can number that J2.1.

UNDERTAKING NO. J2.1: TO ADVISE WHETHER IT WOULD, IN YOUR VIEW, BE CONSISTENT WITH THE UNDERSTANDING BETWEEN CHATHAM-KENT AND THE COMPANY TO IMPOSE CONDITIONS CONCERNING AMALCO'S CONTINUTED PRESENCE IN CHATHAM-KENT, BUT ONLY TO THE EXTENT THEY DO NOT CREATE INEFFICIENCIES.

MR. SHEPHERD: Thank you. Madam Chair, those are my questions.

MS. ANDERSON: Thank you. Any re-direct?

MR. MONDROW: Sorry, Madam Chair, I do have a question that wasn't asked by Mr. Shepherd.

MS. ANDERSON: We are just about at our 15 minute mark, so you'll be quick about it.

CONTINUED CROSS-EXAMINATION BY MR. MONDROW:

MR. MONDROW: I will, thank you.

Gentlemen, are Union and Enbridge asking that these points in Staff 12 be made conditions of your approval?

MR. KITCHEN: Yes.

MR. MONDROW: And why is that an important request from Amalco's perspective?

MR. KITCHEN: It is an important request from Amalco's perspective because it is important to Chatham-Kent. It is important that the conditions be there so that it's clear to the community that we are making that commitment.

MR. MONDROW: Thank you.

MS. ANDERSON: Thank you. Mr. Cass?

MR. CASS: Madam Chair, if I may, I would like to keep my re-direct on this issue, together with my re-examination on all issues.

Of course, I will not in any way be speaking with the panel members about that. But I would like the opportunity to think about it, as I would with any re-examination, and do it at the end.

MS. ANDERSON: That's perfectly fine. I just wanted to give you the opportunity with Mr. Warren here. So we will -- now this matter will be a matter of argument, and we trust that parties will address the questions of jurisdiction that have been raised in those arguments.

And that moves us on to Mr. Garner and VECC.

MR. GARNER: Thank you, Madam Chair. I will try to be quick. I've got my tight shoes on.

I will start right away -- sorry, I should start with, we did circulate yesterday a compendium. I don't believe it has an exhibit number.

MS. ANDERSON: We have it electronically, but not in hard copy.

MR. GARNER: I did give some to Board Staff yesterday.

MS. ANDERSON: Yes, we have it.

MR. RICHLER: Madam Chair, we can call the VECC compendium K2.1.

MR. GARNER: Thank you.

EXHIBIT NO. K2.1: VECC CROSS-EXAMINATION COMPENDIUM FOR PANEL 1

MR. GARNER: And what I want to do is -- I will be jumping around a little bit in this compendium, but why don't I start with tab 6.

At tab 6, which is page 23 of the compendium, you had a question about the Z factor threshold, and Ms. Girvan talked to you yesterday about this. But I want to just ask you a little bit about this based upon your -- as I understand it, your view that the policies of the Board regarding MAADs -- and we'll talk later about some of the other policies -- applying to Amalco.

Now, one of the things, as you point out in this response, is that the Board set the threshold at a million dollars for distribution utilities with requirements up to 200 million.

Now, when they did this, did you have -- do you have any idea of the order of magnitude of the distribution revenue requirements of the utilities the Board regulated and electricity vis-a-vis your combined distribution revenue requirement, how large it is in comparison to every other utility?

MR. CULBERT: No, I can't say we have that.

MR. GARNER: Okay. Would you take, subject to check, that your Amalco revenue requirement would be substantially larger, in the order of twice as large as the next largest utility in this province? Would that be a surprise to you?

MR. CULBERT: No, it wouldn't be a surprise, no.

MR. GARNER: So let's talk a little bit about this Amalco utility also.

Have you done -- you certainly know the Ontario utility field. When this utility combines, will it not be the largest utility in this province, an energy utility regulated by this Board in terms of both revenue requirement and customers?

[Witness panel confers]

MR. CULBERT: I can't say for certain. It probably would be one of the top -- in the top two or three for sure.

MR. GARNER: Well, I'd like you to look into it. Maybe we'll talk about this at the very end of this questioning, because my understanding is that it will not only be the largest, it will be substantially larger than the next largest utility in this province, which is Hydro One, in both customers and revenue requirements.

MR. CULBERT: That's what we were thinking of as a comparison. We're not sure of the size of Hydro One because of its...

MR. GARNER: Perhaps could you do that comparison. And in doubt that comparison, could you do another comparison for me, because I think it's important the Board understand the magnitude of this transaction. Would it not be true that other than one other utility in this country, that being Hydro-Québec, this will become the largest energy distribution regulated utility in the country?

MR. CASS: Madam Chair, we would be in the hands of the Board on this one, but I'm not sure why it's helpful to do that work. I think it's clear that this will be a very large utility if the amalgamation is approved and proceeds. The witnesses have confirmed that.

As to where it stands relative to other utilities in this province or outside this province, I'm not sure how it's helpful to do the work that would result in answers to questions like that.

MR. GARNER: May I respond? I don't think the work is large. I think the point I'm going to make as we get through this -- and perhaps if Mr. Cass would let me get through the rest of the questions on this -- is to get an understanding of how the Board's policies might have applied to electricity utilities but would in no way apply to a utility like this, and I think you understanding the magnitude of this utility is important in that way.

MR. KITCHEN: Mr. Garner, maybe I can help without taking the undertaking. After the amalgamation, I do know that Amalco will be the largest gas utility in Canada and either second or third in North America.

MR. GARNER: Thank you. That's sufficient.

Now, yesterday we were talking -- people were talking about the order of the Board's approval in this, and there are in fact two applications, right? And initially they were set up separately. There was the merger application and the rate application.

Now, you'd agree with me that both of those applications are going to be determined by the Board on, in essence, a different standard. The merger application the Board has talked about the no-harm test, and as I understand it, rates are generally judged on the idea of just and reasonableness, so the Board has to make two determinations; does that seem reasonable to you?

MR. KITCHEN: Yes.

MR. GARNER: Now, what dawned on me when we were having this discussion and people were saying how unusual it was in some fashion, including the fashion that you may not go forward if the Board were not to approve the rate application, is what if the Board were to determine the merger does meet the no-harms test and then wait for you it decide how to proceed on your rate application? What happens in that event? It seems reasonable the Board can make a determination that there is no harm by two utilities merging under the current rate, but in no way at this point can make a rate application decision -- for whatever reason, as we go through this.

MR. KITCHEN: I'm not sure that's a hypothetical that I can comment on. The applications were joined. Our expectation is that we will get a decision on both applications together.

MR. GARNER: Well, the reason I raise it, because I think it may be raised in argument that the Board might want to do it, so I just wanted to give you an opportunity to explain to the Board what might happen, but if you don't know that's fine.

MR. KITCHEN: Well, I can tell you this, Mr. Garner. If that situation was to happen, we would still need to understand the rate-setting mechanism going forward before we could consider amalgamating.

MR. GARNER: Right. Thank you.

Now, I want to talk a little bit about another thing that people talked about. Mr. Ladanyi in his cross-examination yesterday with his history talked a little bit about the history. I have a certain history also about many of the mergers and amalgamations, including Centra, and I have to say that this is the only time I've seen such -- as you point out, the largest gas utility in this province, where the current CEOs of the company have not appeared in front of the Board to present the case.

And I'm not asking for that, I just find it unusual in the sense that you have this chicken-and-egg problem, and your CEOs have taken the time to speak to the Chair of the Board outside of this forum but not to this Panel. Is there any particular reason for that?

[Witness panel confers]

MR. KITCHEN: I'm only able to answer the question in this way, Mr. Garner. In determining who would testify before this Panel, it was management's decision that it would be made up of panel 1, those you see in front of you, and we brought others for the other panels that can speak to the specific issues.

MR. GARNER: Okay, thank you. And I'm certainly happy you're here, so I'm going to get to some questions that I do want specifically you to take a look at. And this -- and I'm going to move on, and this one is really matter of some clarity for me, and I think, Mr. Culbert, probably for you, clarifying it for my benefit.

If you go to tab 1 -- I'm really changing gears here -- and you look at the GTA. This is about the GTA project, and it talks about the $182 million overrun.

And then in that same tab, the next response, which was to the undertaking of Mr. Brett, you have the revenue-requirement impacts of that GTA overrun.

I was a little confused, and I'm sure it's just me. These revenue-requirement impacts of the overrun that are shown on the second response in the undertaking, do they show up in the rates that we're going to see at all?

MR. CULBERT: No. I'm not sure who I had the conversation with yesterday. The proposal we're making, the price cap rates that we're proposing, are a continuance of our existing rates in 2018, which do not include these revenue requirements in those rates. These are the revenue requirements that are resident in the stand-alone calculations, were we to rebase entirely from a cost-of-service perspective.

MR. GARNER: That's that what I thought. I just wanted to confirm. I was getting a little confused.

Now, there is a cost overrun, and as I understand it, your proposal will be that the Board will deal with the prudency of that overrun ten years from now; is that your proposal?

MR. CULBERT: Well, for rate-setting purposes, I suppose a prudence review for rate-setting purposes would occur at that rebasing.

MR. GARNER: Was there any other purpose? You are saying rate-setting purpose as if there was something to that. I mean, I'm just looking at, when does the Board actually look at this and say, "$183 million, holy smokes, why did do you that?"

MR. CULBERT: So my comment would be, as we've said, we're not doing a cost-of-service rebasing. The Board, in a cost-of-service rebasing, would be doing a prudence review of all the costs that are included in the forecast, et cetera. As well, in our view, the Board would also be looking at the net impact of projects of this nature and other projects.

So I think what's important to understand about this project is it's not just about the cost; there were significant benefits that came from this project with respect to reductions in gas supply and landed costs.

MR. GARNER: I'm sure there were, and I'm not here to argue one way or the other. What I'm really asking right now is, again, because I want to anticipate how to think about this in an argument, is: Would the company have an objection, for instance, if people were to suggest that these large projects need to be reviewed in and of themselves prior to ten years from now in order to get some understanding of where they stood and how they should stand, before it becomes so far in the past that it's difficult for everybody to get to that issue?

And I'm not talking about the, just so you know, the immaterial parts. This is a large project, you'd admit, right; it is not a small amount of money, and the overrun is significant. Twenty percent, I think, or better.

[Witness panel confers]

MR. CULBERT: So perhaps if I could understand your question. Did you ask: Would we be opposed to your -- that suggestion?

MR. GARNER: If the Board were to, for instance, put in as part of the rate-making scheme that you would have to, you know, do a prudence review of that, and maybe any other large project. I don't have any in my mind at this moment, but in looking at the evidence you have may have, saying, is these projects should be reviewed for the purpose of prudency by the Board while they are still within the ambit of in-service time, as opposed to ten years from now.

MR. CULBERT: Well, I don't think it would be necessary, myself. There would be a lot of determination of project size that would need to be reviewed by the Board. Union has had significant projects that have been undertaken. EGD has had a multitude of other projects undertaken, so the Board would have to go through an extensive review of what projects would need to be reviewed.

I don't see the rationale behind it, necessarily. A cost-of-service rebasing at 2029 would be sufficient for --

MR. GARNER: I was only talking about the material ones. I understand Union has some, too, that are within -- there are always variances. I was suggesting that there were material variances. Would that be an issue?

MR. KITCHEN: I think, Mr. Garner, if the Board were to determine that that was something that was necessary, obviously we would be complying. But I think what Mr. Culbert is saying and what I'd be saying is that we don't think it's necessary until we rebase.

MR. GARNER: Fair enough.

Now, I want to go to tab 4, and again, Mr. Culbert, this is probably just my confusion. I think I know the answer, but maybe you can help me. And there was a long discussion about head counts and FTEs, and that's not where I'm going.

You have -- this is about the savings, the annual customer savings, that are shown in here and their gross costs, et cetera. Again, are those savings embedded in the current rate? Are they outside of where the current rate is? So all of those savings in FTEs or head counts -- again, I'm not standing on the language -- are they embedded in the current rate that's going forward or...

MR. CULBERT: No. Again, those would be items that, if we were doing a full cost-of-service rebasing, would be added into the numbers, or are resident in the numbers in the stand-alone calculations. So they are not amounts that are in rates, just as the capital overages, capital spend amounts versus forecast are not in rates. So no, they're not in rates.

MR. GARNER: Okay. So if I look as this chart, I get this understanding -- and you can correct me if I'm wrong. There has been a significant reduction inside of Enbridge over the past three to four years, probably within the three-year range, in -- I'm not sure to use FTEs or head count, but I think you understand what I mean. There has been a significant change within the company, is that correct?

MR. CULBERT: That's correct.

MR. GARNER: Thank you. This one I don't have a tab for, and this actually came up at the technical conference, Mr. Kitchen, and I don't know if it was on the record and I don't see anything in the undertakings, so perhaps you'll just help me with this.

We had a discussion about putting together a table that would show the rates of the two various utilities, so that there would be an easy way for the Board in understanding what's happening here, if they could understand the difference between similar customers in both utilities, what they would face -- not so much in rate impacts, which has been discussed, but actually in rates and structure and that. I know we're going to have a rate panel later, but I'm wondering if that's possible to produce before that panel.

So again, the issue about rate impact is one issue. But the other issue I want to -- my client's interested in is the issue about how similar customers will face different types of rates in the sense of structure.

MR. KITCHEN: I do recall the conversation and I'm not sure how we ended up resolving it. But I guess, just so that I understand, what you'd be looking for is a table, for instance for M1, that would show the fixed charge, the charges by block and storage charges side by side, with a rate 6 residential comparison, something like that?

MR. GARNER: Right, and you'd have to have two zones.

MR. KITCHEN: One of the challenges that we have is that we have volume break points in our general service market, whereas I believe EGD has end use as determining...

MR. GARNER: Right, and I appreciate that.

MR. KITCHEN: It is not going to be an apples to apples.

MR. GARNER: Exactly, and that's what I appreciate, and that's why I think it's important for the Board to see that because it's not -- when you finish this, if you get approval, there will be -- and this is something we'll talk about a little later, but there will be some customers, especially, let's say, in the Burlington-Oakville area, who will be very close to each other with different rate structures, but a company of the same name providing them those rates. And you know, at their barbecue, I keep saying they'll talk about the rate structure and wonder what's happening.

But really, seriously, the Board will have to sort of see what is happening to this group of customers, what are they going to be looking at.

So if you could do your best efforts, I totally understand what you're saying. This is not a simple thing for it, but...

MR. KITCHEN: I guess first of all, remind me not to come to one of your barbecues.

[Laughter]

I guess the next question is how far down do you want us to go? In terms of do we need to go into all the contract rate classes?

MR. GARNER: No. For my purposes -- and I speak can't speak for anybody else, but for my purposes, we are talking about the residential and small cheques class, let's call it that, for both zones and for Enbridge. So that's my request.

MR. KITCHEN: We can do that.

MR. GARNER: Thank you.

MR. RICHLER: Madam Chair, the undertaking to provide the table comparing rates will be J2.2.

UNDERTAKING NO. J2.2: TO PREPARE A TABLE COMPARING RATES

MR. GARNER: Thank you. Now, if we could go to tab 3 of the VECC compendium, I want to go to page 17 of that compendium and it's a table showing the high and level and maximum cost of savings and costs.

And yesterday there was a lot of discussion around a number of point estimate of $680 million. But as I understand your evidence, that's -- that's not what's going to happen. What's going to happen is something in between this range, is that right?

I mean, that point estimate is simply what you've -- and maybe correct me, what you've used for the purpose of your analysis, is that correct?

MR. KITCHEN: That's correct. The 680 is sort of an estimate based on what we think we can achieve. But there is a range, as you point out, that it is identified in table 4.

MR. GARNER: So your analysis is using 680, which is, looking at this table, pretty much at the high end of what you think is the table.

MR. KITCHEN: It's at the high end, yes.

MR. GARNER: And again, just so I understand how I'm going to look at this table, can I read this table and say you could spend the maximum of $250 million and get as little as $350 million in savings?

MR. KITCHEN: Conceivably; that is possible. I don't think that's a likely outcome, but that could...

MR. GARNER: Right, because you haven't done the work yet.

MR. KITCHEN: Based on the table, that is a way to interpret the table, yes.

MR. GARNER: Am I right because, as I heard you say, one of the problems you have is you are not really going to delve into that detailed work until the merger is approved, and then you can go forward and work out all of that sort of detail. Is that correct?

MR. KITCHEN: That's correct, the detailed planning will come post the Board's decision.

MR. GARNER: Thank you. Now yesterday, also on that compendium, the page before, page 13, there was discussion about the returns of the utilities that are shown in these tables.

You were asked yesterday, I think, Mr. Culbert, to -- or I'm sorry, for Union sorry, Mr. Kitchen, you, if you could provide the results on a weather-normalized basis and you said no, that would be difficult, and I understand that.

But my question to you, Mr. Culbert, is what about the reverse? If I wanted to look at apples to apples, can I look at non-weather returns? So if I was -- this table could show me on an apple-to-apples basis, what the two utilities' returns were, is that possible?

MR. CULBERT: Yes, we typically have both calculations, unnormalized and normalized, so we already have those somewhere.

MR. GARNER: Could we do that, so that we could have both, so we can understand if you looked at them the same way, this is the way they would both look? Just on the returns. I'm not asking for all of the other data to be...

MR. CULBERT: That data is probably in past proceedings. We could put that into a table for sure.

MR. RICHLER: J2.3.

UNDERTAKING NO. J2.3: TO PREPARE A REVISED VERSION OF THE TABLE AT VECC COMPENDIUM TAB 3, PAGE 17, TO SHOW NON-WEATHER-NORMALIZED RESULTS FOR BOTH UTILITIES

MR. GARNER: One thing that caused me to pause here, for the ESM -- and this has probably been asked somewhere -- how does that get calculated, on a weather-normalized or a non-weather-normalized, when you are one utility?

[Witness panel confers]

MR. KITCHEN: Mr. Garner, I think that -- we were just talking about whether that's in the record anywhere, and we don't believe it is. I think that we'd have to have some discussions internally around how that would be calculated.

MR. GARNER: I'm wondering if it's possible to do an undertaking on that, because it seems to me that if the Board were to approve an ESM, it needs to understand the basis of it, I mean how will it be done, right?

MR. CASS: Madam Chair, in case this is helpful, my understanding is there is something in the evidence on it at Exhibit B, tab 1.

MR. KITCHEN: Yes, I just...

MR. GARNER: If there is, and you can look at it maybe at the break. I want to move on. If there is, and if not, we can move back and say there needs to be an undertaking. I don't want to take up time that doesn't need to be taken up -- if that's okay with you, Mr. Cass.

MR. KITCHEN: I think if you just give me a second, we can deal with it right now.

MR. GARNER: Sure.

MR. KITCHEN: So in line 18...

MR. GARNER: What are you referring to?

MR. KITCHEN: I'm sorry. It's Exhibit B, tab 1, page 43 -- 42, sorry. I was looking at the next page, 42.

We started at paragraph -- the second paragraph from the bottom -- the first paragraph from the bottom, line 18:

> "If in any calendar year the actual utility ROE is greater than 300 basis points above the ROE as set out in the OEB's policy...," et cetera.

So it's actual.

MR. GARNER: It's actual, okay, thank you. That would bring me to my next question, and I know we are going to have a panel here with deferral accounts and I know you may want to have them answer questions. But I really want to talk about rate-making concepts right now.

If you go to tab 5, and really the interrogatory isn't important, but it is an interrogatory about the average use and that, and Mr. Kitchen, Mr. Culbert, I'm just -- for the purpose of me understanding, both utilities have an account for NAC, and average use.

Are the way those accounts work and the purpose identical right now for each utility? Is that an identical concept in each utility?

[Witness panel confers]

MR. KITCHEN: I think conceptually they are similar, but there is always the devil is in the details, and I think the actual calculations are best left --

MR. GARNER: Right. And I don't want to do the calculations, but am I right that conceptually the idea of the average use counts right now is that they are a protection from declining average use that's attributable to DSM or that type of thing?

MR. CULBERT: It is a symmetrical treatment, whether average use is going up or down.

MR. GARNER: Right.

MR. KITCHEN: But the original idea behind an average use deferral account was to capture changes in use that are outside of management's control or driven by DSM or other factors. So that could be building codes --

MR. GARNER: Well, that's why I'm asking, because it seems to me there is a distinction, and again, this is at the high level. There are two things they can protect against. One is the Board's policies on demand-side management, which are, in a sense, imposed on you and then actually hurt you, so they basically, as a concept, to recover that, to take away the disincentive. But then there's other risks, you know, people do things and they don't use as much gas.

Right now it covers you for both of those concepts; is that the idea?

MR. KITCHEN: That's correct.

MR. GARNER: So it --

MR. KITCHEN: As I say, it's a symmetrical, so the extended average use goes up in a year for --

MR. GARNER: Right.

MR. KITCHEN: -- other reasons. Again, ratepayers also get the benefit of that.

MR. GARNER: Right, so it's basically -- it's concept where you're taking a long-run review of use and then comparing it to the current use and that's how the adjustment is made.

Now, for the purpose of demand-side management, is there any forum in which the demand-side management results are somehow then compared to your average use accounts, in the sense of putting those two concepts together because you're doing demand-side management and you have average use accounts? And just so Mr. Cass knows why I'm asking, the reason I'm only asking is if you were to have a ten-year period I'm asking myself how those accounts continue and whether they have links to other aspects of Board policy like demand-side management and -- or if they should.

MR. KITCHEN: Yeah.

[Witness panel confers]

MR. KITCHEN: Yeah, I think it is probably best to have this question asked of another panel, because there are differences between Union and EGD.

Union, for instance, which I can speak of, again, at a high level, uses the NAC deferral to cover off all changes in average use, both DSM and other changes.

We used to have an LRAM --

MR. GARNER: Right.

MR. KITCHEN: -- right, that was outside of NAC, and we brought the two together in our last -- with our last, I guess would be in 2013 rebasing application. But again, I think it's -- Enbridge does it slightly differently. I think it is better to have those people that can speak to those details on the panel.

MR. GARNER: That's fair enough.

MS. ANDERSON: Mr. Kitchen, which panel would that be?

MR. KITCHEN: Panel 3.

MR. GARNER: three.

I want to change to another issue. I think this is -- yeah, this is tab 2. Now, at tab 2 the response to your question to the School Energy Coalition was, looking at the third paragraph, and it says -- this is about the Competition Bureau and its assessment of the transaction, and it says:

> "The fact that the Bureau issued a no-action letter and did not review its decision within the following year represents a clear conclusion that the parent company merger and resulting common control of the underlying distribution, transmission storage business (including unregulated storage) did not have a substantial detrimental competitive impact..."

And so on. Now, in --

MR. CASS: Sorry, Madam Chair, just - I'm sorry to cut you off, Mr. Garner, but just for clarity, we were expecting questions of this nature would go to panel 2. I don't think that panel 1 is really in a position to address this at all. So in terms of saving time I thought I would say that immediately. Thank you.

MR. GARNER: Thank you, Mr. Cass, that's fine.

I think the next place I'd like to go is tab 6, and if I can remember what it is myself. I always forget. Oh, no, sorry, forget tab 6, tab 7 -- and actually, it's not -- at tab 7 there are a number of documents, but I really want to go to page 31, and I'll start -- that's the thing called the asset management plan.

But before I do, the applicants have been relying, it seems to me, I think I'm correct, on the applicability of the MAADs policy to the gas utilities, but there are a number of policies that relate in a part of the MAADs structure, the Board's RRF structure, and they've been refined over a number of years with applications by electrics, at least we've seen this.

And for instance, recently a Hydro One Distribution case was criticized by the Board for not having benchmarking internal and external as part of their prolonged plan. And I didn't see benchmarking as part of -- your internal and external benchmarking as part of your rate application. Is that not part of it?

MR. KITCHEN: With the exception of the industry benchmarking that happens through Dr. Makholm's work, we have not done any other benchmarking.

MR. GARNER: Okay. Now, one of the other things I found interesting is, for instance, even in amalgamations, like the recent Alectra amalgamation, in that case there was an acquired -- or part of the amalgamation was the company Enersource, and Enersource did not have a distribution system plan prior, so the Board in that case had them file and then made renderings on that distribution system plan as part of that amalgamation.

Now, as I understand it, you don't have a distribution system plan. That's -- yet. That's to come; is that right?

MR. KITCHEN: As I said yesterday, our distribution system plan will be filed as part of our '19 rates application.

MR. GARNER: Right. So after, not as in that case with, it will be -- it will become -- once the Board has to make a decision and then look at a plan.

MR. KITCHEN: I think that, Mr. Garner, to even look at how we got to where we got to, both utilities were proceeding down a path of rebasing, and would have developed individual utility system plans as part of that application. Once we've made the decision to amalgamate, then our focus turned to the MAADs application and the rate-setting --

MR. GARNER: Right.

MR. KITCHEN: -- mechanism application, and as such, the utility system plan we brought together under Amalco as part of the '19 rates application.

MR. GARNER: Right. It is a long and I'm sure difficult process, but at page 31 then is -- what is the thing I'm looking at at page 31 called an "asset management plan" that was done on January 12th?

And the reason I ask is I've done over the past five, six years maybe 50 different applications of electric, and I've seen this: I've seen an asset condition assessment. I have seen a distribution system plan, and the Board puts those under the ambit of something called the asset management plan, and the way they work is that the asset condition assessment forms the basis of the understanding of the assets, which then feeds into the distribution system plan.

This, that I'm looking at, I can't quite understand what it is. It doesn't seem to match either of those concepts, and I just wondered, what is this purporting to be as part of your application or -- and actually, it was filed as part of a -- it wasn't in your application; it was filed as part of a response to.

MR. RIETDYK: So in the case of both Union and EGD it is very similar, and I'll reference the Union -- the purpose of this plan, because it's a little easier for me to reference than the Union Gas plan itself, which would have been -- I'll look up the reference here.

So Staff 54, attachment 2, and I'll just go to the middle of the page right after the executive summary, which speaks to the purpose of the plan, where it's a forecast of the growth and maintenance expenditures plan for Union Gas and, very similarly, for Enbridge Gas Distribution, for the assets from the years 2018 to 2027.

It is comprehensive of all the growth and all the maintenance expenditures over that period of time.

MR. GARNER: Okay. So it's not purporting to be a asset condition assessment; it is not doing any analysis of the condition of the assets of either of the current utilities to determine their age, need for replacement, that sort of thing. That's not what it's doing, is it?

MR. CULBERT: If I could chime in briefly? I'm certainly not an expert on this asset management plan. But I do know at EGD there was an asset health review element as part of this plan.

So there was an asset health review that occurred in EGD's asset management plan. I can't speak to Union's. I would assume there was a similar review done.

MR. RIETDYK: It was very similar to Union's plan as well, where we did look at the health of the assets.

This is where, when I was speaking yesterday about the methodology and looking at the risk associated with the various assets, and both the differences in the semi-quantitative process that Union Gas uses and the quantitative process that Enbridge Gas Distribution uses to determine the health of the assets, and when those assets need to be replaced.

MR. GARNER: So I'm a little confused then. You clearly believe that the Board's policies regarding MAADs apply to you. But prior to Staff asking you, you seem to be saying you have something like an asset condition assessment.

I'm still not quite clear what this is, if it's a distribution system plan. But you don't seem to have made the effort then to meet the requirement of the Board. If you are following Board policies that apply to MAADs, it would therefore follow, in the sense of doing a distribution system plan prior to an ICM.

That's not -- maybe I don't want to argue with you. I just really want to say is -- so what you're planning to do in 2019, will that be that thing that I'm talking about then?

MR. CASS: Madam Chair, I'm just a little concerned. There has been so much terminology thrown onto the record in this proceeding, I'm afraid that the filing requirements are becoming somewhat confused.

Earlier on, I thought there was a discussion that was more clear, and I believe you may have been involved in this, Board Chair.

The filing requirements of course for gas utilities involve a utility system plan, it's called. Part of that is an asset management plan. Throwing in these words like distribution system plan and asset condition assessment, they have relevance in their own context. I'm afraid that in the context of the filing requirements for gas utilities, the terminology is getting quite confused.

If Mr. Garner is referring to particular filing requirements, maybe he could take us to them and we could use terminology that is consistent with the requirements that actually apply here, the utility system plan, part of which is an asset management plan, among other things.

MR. GARNER: I don't think much turns on the terminology. I think the essence of both documents is really twofold.

One is an asset condition assessment and the other one -- which tells you the condition of your assets, and the other one, whatever you want to name it, is a plan on how those assets will be revitalized and reused over a five-year period is what the Board does in both those cases.

MR. RIETDYK: And I think I can be helpful here, in the sense that in both the case of the Union Gas and the Enbridge Gas Distribution asset management plans, they consider both the condition and health of the assets and what the long-term replacement needs are for those assets, so it covers both.

MR. GARNER: And that's not a part of this application; it isn't filed in this application?

MR. RIETDYK: No, we filed the asset management plans in response to an interrogatory from Board Staff.

MR. GARNER: Right, for this one, and the health index hasn't, though. Is that correct?

MR. KITCHEN: And Mr. Garner, as I said, we will be filing a utilities system plan as set out on page 22 of the filing requirements for natural gas.

MR. GARNER: Right, and I know -- before Mr. Cass gets more frustrated, I know that what I'm really trying to understand, because that statement -- because that statement is in the norm, it seems to me, is when looking at other electric applications of the Board's policies, the distribution system plan -- or whatever it's got, its gas equivalent -- precedes the idea of the ICM's approval; i.e. the Board has reviewed such things in the past, and therefore draws its comfort from ICMs in having those plans and things done.

You seem to be, am I incorrect, reversing that order. The Board will actually give you the idea of an ICM, and then it will take a look at all these plans and decide how they should -- how an ICM should fit within them.

That seems to me -- and if I'm wrong, then you can tell me I'm wrong.

[Witness panel confers]

MR. KITCHEN: I'm not sure that I agree with the reversing concepts. We, in this application, are merely seeking approval of the ability to use the ICM and the calculation of the threshold.

When we file our '19 rates application, we all have a USP with an asset management plan that will support an ICM.

MR. GARNER: Okay, thank you. And my final question, Mr. Reinisch, for you, is at tab 3 again.

Again, this -- I don't want to spend too much time on this because I believe it was Mr. Shepherd who went through this issue about, on page 15, comparing basically your forecast of achieved ROEs and then your past practice and then discussing a bit about the ICM -- or ESM, pardon me.

The difficulty, of course, I think many of us or at least I'm having is this plan does basically present a concept that 20 basis points provides the required needs. And I think I understood your answer yesterday which is -- and you can correct me, if I'm wrong -- which is yes, but you need to build in incentive in order even to maybe get that 20 basis points, is that correct?

That's the way you were talking about the ESM needing to be 300 basis points and then -- or band in the fifth year. Is that a good summary of what your thought was?

MR. KITCHEN: It may have been me that was speaking to that.

MR. GARNER: It's the same question. It is trying to put that 20 basis points together with what you're asking for, which is 300 in five years, and why the big gap.

MR. KITCHEN: I think again the 20 basis point number is based on our current point estimate of where we'll end up, assuming $680 million in savings, right?

The earnings-sharing mechanism is there, as we've indicated in Staff 37, I believe, there to provide the utilities with the appropriate incentive to make investments in technology and process change that will then lead to -- also lead to savings for ratepayers, and the utilities need time to make the investments, time to recoup the cost of those benefits, and then pass those on to shareholder -- or on to customers.

MR. GARNER: I think I understand, and what I think is more difficult for me to understand is if 20 basis points provides the returns, and even if one layers over that you need some incentive to maintain and get that 20 basis points, if the Board were to approve a plan that said you get everything over 50 basis points is yours, starting in year 1 and going to the end, it doesn't seem to me that's really -- that meets all your requirements. It is your 20 basis points, plus it's another 30 basis points if you do even better than that to incent you. And then it seems like everything is tickety-boo, as they say. Why is that not the case?

MR. REINISCH: Could you please rephrase the question, because it is a little confusing. I just want to -- just for clarity, so the 20 basis points is the average return in excess of allowed ROE that we forecast as part of the application. That's achieved if we hit our $680 million cost saving target, as well as only invest 150 million with capital that we have in our forecast, along with all of the other risks and everything else that goes into running the largest utility in North America, as you point out.

So I'm not sure. This is specifically with respect to the earnings-sharing, and where the earnings-sharing should start? Is that --

MR. GARNER: It is, and I didn't say you are the largest utility. I think that's Hydro Quebec will be. But anyway, yes, that's what it is.

And what you are saying to me is that the 20 -- just so I'm clear, the 20 basis points gets you to what? I was saying, is it gets you to your return for your investment and your risk, and you seem to be saying, no, that just gets me to getting back what I've invested. I'm a little confused now.

MR. REINISCH: Just for clarity, so the allowed ROE that we have forecasted is contained at the bottom of this page if you scroll down a little bit. We have the forecasted allowed ROE ranging from 9.2 percent in 2019 up to 9.4 percent in 2028.

Based on our financial projections, based on our forecasts that we've put forward in the application, if all of those forecasts come true, we will earn between the 9.2 and the 9.7 percent throughout the term of the deferred rebasing. That averages 20 basis points. There is obviously some volatility there. 2019 we are earning our allowed. There's just over 30 basis -- roughly 30 basis points in 2026 and 2027.

MR. GARNER: Right.

MR. REINISCH: So those are our financial projections.

MR. GARNER: Right. And so what you're saying, as I understand it, is we think if we do this, let's say in 2027, we will be 300 basis points above the allowed return, and we'll do this because that's what our expectation is.

And I'm saying to you is, okay, so then why wouldn't it be reasonable for the Board to say, yeah, okay, that seems that you want to do it, that's your expectation, you are going to take a little bit of risk. They could either say, that's fine, then we'll just use your chart, or they could say, well, you know, we'll put something in a little bit more.

But why -- what I'm saying is your plan, which is basically to have no earnings sharing for the first five years and then a large bandwidth, which by the way doesn't -- is larger than it seems to be anything you've even hit to this day, over the last ten years, why is yours in a sense so overly generous to you for an incentive and so what I'd call underly (sic) generous to me as a consumer if I just -- on the face of it? It seems to me lopsided.

MR. REINISCH: Please bring up Board Staff 37. So I think there are again two concepts here. One is what our financial projections are, so our financial projection is that as a result of the amalgamation we would be earning 20 basis points above the allowed rate of return. But as stated in our response in the third paragraph, the Board's rate handbook says that:

> "While an earnings sharing mechanism protects customers from excess earnings, it can diminish the incentive for a utility to improve their productivity and any benefits to customers are deferred."

Again, the next paragraph goes on to read -- and I won't read it, but at the end of the day, the mechanism that we are proposing is consistent with the goals of the RFF and the applicants concluded that the MAADs policy now extends to all utilities, and the goal of this earnings sharing mechanism is to provide the incentive required in order for the utilities to amalgamate and deliver sustainable cost savings that will ultimately benefit ratepayers.

MR. GARNER: Well, thank you.

If you'd take a look at the last page of my compendium. It doesn't have a page number on it. So I went and looked at that. If you could actually -- if I could ask that that last interrogatory be put back where you have that quote.

So I went to look at that quote. And you will see that quote is on page 28, and it's on the Handbook for Utility Rate Applications, but underneath that quote is a little bit more, and if I could read it into the record, it says:

> "If a utility proposes an earnings sharing mechanism as its mechanism to protect customers against excess earnings, it should be based on an overall earnings at the end of the term, not an assessment of earnings in each year of the term, consistent with the approach to limiting midterm updates."

But also what it seems to be saying is the Board is saying is, well, you've got to take a bit of a longer-term look at this, right? We don't want somebody to sort of, we'd say make out like bandits, and somewhere along the way you have to look at the total horizon over this ten years.

I mean, that's the way I read the second part of what the Board's saying is one has to be cautious about that.

MR. KITCHEN: Mr. Garner, I think that what we're saying is that over the long term, over the ten years, with the earnings sharing mechanism that we've proposed and that has been approved by the Board in other applications, that provides the company Amalco with the appropriate incentive to go out and make the deep, meaningful savings that we believe we can.

In relation to earnings at 20 basis points over allowed, again, that's based strictly on our projection at this point, but the point you've already made that we could be somewhere else within the band, and that, right now, is our estimate for the purposes of the analysis, but where we end up in that range is unknown.

I think that what the mechanism that we propose takes into account is the heavy investments that take place in the early years and the fact that the benefits won't come until the later years. And I think the other thing that we need to recognize is that the earnings sharing mechanism is asymmetric, so to the extent that we are -- take on the risk of the investments and the risk of the return, and if that doesn't pan out as we hope, there is -- there is no protection for the utility.

MR. GARNER: Thank you, Mr. Kitchen. I believe I'm 15 minutes shy of my time, Madam Chair, and I'm finished. Thank you, panel.

MS. ANDERSON: Okay, thank you. Is it Mr. Wadsworth that --

MR. WADSWORTH: It is.

MS. ANDERSON: -- that is next? Okay. Yeah, I was hoping to get a little bit of your cross in before we took a break. Is there a natural -- given that we've already had a break already this morning, so we'll start off, and then maybe ten after. Do you want to break now? Yeah, I would like to try and get a part of it in.

MR. WADSWORTH: Totally in your hands. There is no natural break. I plan to wander aimlessly through these documents. But I'll keep an eye on the clock and --

MS. ANDERSON: We will too.

CROSS-EXAMINATION BY MR. WADSWORTH:

MR. WADSWORTH: Okay. So there is a compendium. So I'm going to be working with the numbers on the document that's up on the screen, because we are a small, poor, not well-organized little union, and so I didn't have an opportunity to actually page-number the compendium itself.

So I'm going to start at tab 1, which is page 4. And so this is the responses to the union's interrogatories, and there's a number of questions, as you may see there, and the first one under (a) is:

"What work force restructuring and alignment are applicants contemplating in the area of customer care?"

And then it goes all the way down to (l), and if we go to the response, the response is:

"Please see response to BOMA interrogatory 16, found at Exhibit C, BOMA 16."

And that's the response for all of (a) to (l).

Now, I've taken a look through C.BOMA.16, which you guys have referred to on a number of occasions as the

Talmud, and I don't find an answer to the questions that are posed by the union.

To be of assistance, it might be that what you are saying in C.BOMA.16 is: We don't know the answers. And you didn't want to write that twice, so you just sent us over to C.BOMA.16.

Is that my understanding of what the answers are to each one of these questions?

MR. CHARLESON: I believe you have characterized -- I believe you have characterized this in the right way, where, you know, BOMA 16, the attachment 1 is intended to speak to the fact that we haven't done detailed planning yet at this time, and so we've tried to lay out the thinking that has been done to date in terms of how we've arrived at, say, the range of estimates in terms of both costs and benefits.

And so rather than, you know, responding to each of the individual questions in Unifor's interrogatory as planning is still underway, we've directed -- we've tried to direct you to our response that we believe is the most responsive in terms of describing the planning efforts that have been done and the uncertainty that still exists related to those plans.

MR. WADSWORTH: So I'm going to go to the next page, page 5 of tab 1. How did the applicants -- and this is with reference to table 4, Exhibit B, tab 1, page 26 of 44:

"How did the applicants arrive at a potential O&M savings of between 350 million and 750 million?"

And again your response is "see BOMA 16."

That's a fairly wide variance, isn't it, 350 million to 750 million?

MR. CHARLESON: Yes, I agree it is, and I think that highlights the risk that there is associated with this plan and the uncertainty we've got as we move forward.

MR. WADSWORTH: Okay. So with respect to that range and those numbers, how did you come up with the 350 million? Because that's not specifically addressed in BOMA 16.

MR. RIETDYK: So if you go to BOMA 16, page -- attachment 1, page 2 of 20, that is a summary represented there of the different functions and the different cost savings that are associated with it.

At the bottom, you see the total of the $350 million. The details that we have, or the best details that we have are described later in the document of how those savings were arrived at.

MR. WADSWORTH: Okay. Well, I mean, we'll get to them. But those numbers are based on certain assumptions that you described.

MR. RIETDYK: That's correct, that's correct, very high-level assumptions.

MR. WADSWORTH: They are high-level assumptions. But there is no way to understand how you came to a $350 million target on the low side, or 750 on the high side. None of those explanations are on how you came to those numbers. You came to assumptions, but there is no way to set up those assumptions against the numbers that you've utilized.

MR. RIETDYK: I disagree with that. I think we've explained in the document, BOMA 16, how we arrived at -- what assumptions we made and how we arrived at those -- at the range of cost savings.

MR. WADSWORTH: Okay, I -- if you can -- if you can say -- let's say we have a process. It costs $100 million to do and if we do this, we will save between, you know, 10 million and 20 million. I can understand that, you know, because you've given a specific this is what will get us the 10 million, this is what will get us the 20 million.

But all you've done basically in BOMA 16 is in three different places, said the same thing over and over again. That really doesn't tell me how you came to a number of 350 million.

MR. CHARLESON: So perhaps to be helpful, if you go to appendix B of attachment 1 in BOMA 16 -- and I won't go all the way through it, but I'll just point you to a couple of references.

So on page 12 of 20 in attachment 1, and this is in the section where we're talking about customer service.

MR. WADSWORTH: Yes.

MR. CHARLESON: And then the net O&M savings assumptions summary, which is the column to the right, if you go down near the bottom of that column, it talks about the minimum cost savings was established as two-thirds of the base ten-year average, or approximately $12 million per year or $120 million over the ten years. Minimum cost savings assumes that aggressive 10 percent of sustained -- that the aggressive 10 percent of sustainable 17 percent of annual savings percentage are not achieved.

So there we've kind of laid out the basis for our calculation.

Similarly, when we go into the next section around distribution work management and moving to page 14 of 20, in the top box on the right-hand side, the middle paragraph, it indicates:

> "Minimum cost savings was established as one-third of the base ten-year average..."

And I won't read the whole paragraph, but I believe -- so within that table, we have tried to outline the basis for how we arrived at the minimum cost assumptions. So I think we have described it.

MR. WADSWORTH: Okay. The cumulative savings -- and this is going back to page 12. The cumulative savings from the first and second tranche of customer service integration equals a total of cost reduction of approximately 192 million or a 10-year average of $19 million a year.

That is in a couple of places within the document. It just seems to me that's division, isn't it? You know, an average of 19 million a year, 192, divided by 10.

MR. CHARLESON: Yes, that's what we've used as the -- I'd say the target number that we -- as our base. But as we've indicated, there’s a lot of risk associated with all of those. So that's where we’ve tried to look at a range of potential benefits that could be achieved, and we've tried to articulate the basis for that range.

MR. WADSWORTH: Okay. And then the next paragraph is the one that you've referenced, which is a minimum cost savings was established as two-thirds of the base ten-year average, or approximately 12 million over -- or per year or 120 million dollars over ten years.

Where do you come up with those numbers? Like:

> "The minimum cost savings was established as two-thirds of the base ten-year average or approximately $12 million..."

Where did you come up with the two-thirds?

MR. CHARLESON: It was an estimate that was done at a very high-level, where -- just to try and apply an order of magnitude in terms of degree of risk that we’ve seen associated with those savings.

MR. RIETDYK: And it was based on the experience of management, who have gone through similar initiatives in the past.

MR. WADSWORTH: Okay. So now we've got experience. See, there's something I can grab on to, you know. We know this, we've done this before, we know what the savings might be given a range.

Did you guys write it down anywhere? Or you just get together in a room and say, "Hey, guys, what do you think the average is?" "Well, I think it's two-thirds of the 192."

MR. RIETDYK: I think you've described it accurately. It was based on the experience of those that were in the room at the time on having looked at both the base budgets and what the potential opportunities might be in an amalgamated company.

MR. WADSWORTH: And nobody thought to write this down anywhere, except of course in the document that you've provided in response to the interrogatory from BOMA.

MR. KITCHEN: I’d say where it's written is, as you’ve said, in the response from BOMA. It is also contained our pre-filed evidence.

MR. WADSWORTH: Not an explanation of how you got to the two-thirds of 192 that brings you to 120.

MR. KITCHEN: No, but the explanation of how we come came up with the overall savings and the range in terms of applying management experience.

We took a high-level view. We haven't done detailed planning. All of that is contained within the pre-filed.

MR. WADSWORTH: Okay. So, no, you didn't write it anywhere when you had your little meeting? Is that correct, you didn't write it down?

MR. RIETDYK: I think we said we did write it down, and it's been documented in our pre-filed evidence and in BOMA 16.

MR. WADSWORTH: Okay.

MS. ANDERSON: Mr. Wadsworth is, this a natural break perhaps --

MR. WADSWORTH: Sure.

MS. ANDERSON: -- as you're getting ready for your next question?

Okay, we'll take a 15-minute break. And it looks like the clock time has been fixed because it seems to be matching my time pretty closely now. We were about three minutes different yesterday, I think. So fifteen minutes.

--- Recess taken at 11:10 a.m.

--- On resuming at 11:28 a.m.

MS. ANDERSON: Okay. We are on the air again, and I will attempt to do this too. I am told that volumes in here are not very good, so just to remind people to speak up. We've checked, and it is at maximum volume, so I will attempt to do that myself and ask everyone also.

So back with Mr. Wadsworth.

MR. WADSWORTH: Thank you. I'm going to go...

[Reporter appeals.]

MR. WADSWORTH: [Turns mic on] I'm glad somebody knows what I'm doing.

I'm going to go to page 12 of our compendium, and the chart there at table 1. I'm not going to go through the numbers, because I think we just clarified that there's nothing in the documentation that specifically proves what the low number is versus the high number or how you got to them, other than the experience of those who were in the room. Who were those individuals, by the way?

MR. KITCHEN: It would have been senior vice-presidents, presidents.

MR. WADSWORTH: Just to be sure, does that mean you don't know who they were or you just know that it was among those groups of individuals?

MR. KITCHEN: I didn't feel it necessary to name names, but those were the -- those were the people involved.

MR. WADSWORTH: Okay, so you do know the names?

MR. KITCHEN: Yes, I know the names, and if it's important to have the names I can give them to you. All I'm saying is that we had executive vice-presidents, vice-presidents, and I think there was a vice-president or two as well.

MR. WADSWORTH: Okay. And do you recall when they got together?

MR. KITCHEN: There would have been a number of meetings over the, sort of the spring of '17 through to really the July time frame.

MR. WADSWORTH: And that would have been the period during which the contemplation of going to the Amalco occurred?

MR. KITCHEN: Yes.

MR. WADSWORTH: Okay. So we talked a bit, just quickly, about the variances, and the variances were based on various risk factors, and that's how you came up with a range. Forget what the numbers are, but that's how you came up with a range?

MR. RIETDYK: That's correct, and it's not unusual in my experience to, at least at the start of an initiative, any kind of an initiative, that we would take a look at what the potential costs and savings might be. It is a fairly common process that we use. Granted, we haven't done anything at this level, bringing together two large utilities like this, but I am very familiar with the process of doing various system implementations and estimating what the savings might be, including the ranges on the top end and the bottom end.

MR. WADSWORTH: Okay. Familiarity with; not as large as this, but you have some familiarity with the amalgamation of various utility companies?

MR. RIETDYK: That's right, and very large system and implementations and process and proven initiatives, I have done a fair amount of that in my career.

MR. WADSWORTH: And when you did that this time and you came up with the risk factors that determined what the range of possible savings might be, did you write that down anywhere?

MR. RIETDYK: Again, this was just based on very high-level estimates, based on the experience of those individuals in the room. I wasn't part of this particular discussion, but I'm very familiar with the process and, having reviewed the material, I'm very comfortable with the numbers that have been put forward.

MR. WADSWORTH: And what provides you with that comfort?

MR. RIETDYK: Just based on my own experience.

MR. WADSWORTH: Okay. So you weren't part of the discussion, you don't know how they came up with the numbers, you don't know what risk factors they considered to come up with the range, but you're comfortable based on your experience?

MR. RIETDYK: That's correct, and we've gone through the material in a fair amount of detail, including the assumptions that were used, and I'm very comfortable with the assumptions on both the top end of the estimates, as well as the low end of the estimates.

Just point out as well that we recognize that the base case that was presented, in our application, is fairly aggressive. We've described it as moderate to aggressive in terms of the $680 million in savings and the $150 million in costs, but certainly very comfortable with the full range of both cost and savings that have been provided.

MR. WADSWORTH: Okay. So if the Board, in order to approve this, was to try and figure out how you came up with these numbers so that you know what may or may not be able to be passed on to either the ratepayers or the shareholders, they're supposed to base that on your comfort level with a discussion that you weren't part of?

MR. RIETDYK: Well, I think what I said is that I have had subsequent discussions and have reviewed all the material and the assumptions that have gone into that and I am very comfortable with that.

I also -- when you look at the mechanism that we are proposing here, it's a price cap mechanism, so certainly to the extent that the efficiencies aren't realized, it is the company that is taking the risk.

MR. KITCHEN: And I'd just like to add that the evidence sets out a range of capital spend and a range of benefits, and we base those ranges on our experience with other system changes, with other process changes, and what they are is a range, and we have not done the detailed planning, and we will do that detailed planning once we have the Board's decision, and that's what our proposals we based on.

But at this point in time, based on our experience, we believe the ranges make sense, and we believe that our estimate makes sense.

MR. WADSWORTH: So when you come up with the detailed plan, are you going to come back to the Board and seek approval of that?

MR. KITCHEN: No, because once we are in the deferred rebasing period it will be up to the company Amalco to make the investments in order to bring forward the maximum in savings for ratepayers. We will be in a price cap. We will have annual rate-setting. We will keep the Board informed of what is happening with the amalgamation over the ten-year deferred rebasing. Stakeholders will also be kept informed, but we won't be seeking any specific approval of a plan.

MR. WADSWORTH: Okay. So it's just -- it's just about the numbers.

MR. KITCHEN: I'm not sure what you --

MR. WADSWORTH: At this point -- at this point it is just about the numbers, presenting them with the numbers, and some point in the future you will come back and say: We hit our marks, we didn't hit our marks, and give us a rate based on what we've done.

MR. KITCHEN: Our rate through the deferred rebasing term will be based on a price cap mechanism which will incorporate inflationary increases and whatever capital is approved through an ICM --

MR. WADSWORTH: Okay.

MR. KITCHEN: -- so I'm not sure I'm following...

MR. WADSWORTH: But, I mean, part of this has to do with you actually being able to provide a quality and reliable and safe service to the public.

MR. RIETDYK: Yeah, we've committed to that and are certain that that will be the case throughout the entire framework. In fact, those are core values of the organization, something that will sustain us not through this period, but beyond.

MR. WADSWORTH: Right. But the changes that you make either will or won't improve the quality, reliability, and safety of the services you provide.

MR. RIETDYK: I'm not sure I agree with that. I think what we've said is there are opportunities to continue not only to maintain but potentially improve the service levels for the organization. It's not just purely about the numbers.

We also recognize that we're in a highly competitive environment in the province. We even just saw that as evidenced in, when EPCOR was provided the winning bid for the South Bruce project, so it's in our interest to continue to manage costs and make sure we're as efficient as possible as an organization.

MR. WADSWORTH: But Amalco is going to be one of the largest utility providers in North America, so there are certain areas within certainly Ontario you are not going to need to be competing with anybody really? Small utilities that, quite frankly, aren't going to be worth your time to deal with.

MR. KITCHEN: I think Mr. Rietdyk's point is only that the environment in energy is changing. Not only is there competition, there is also a move towards a lower carbon economy and we need to be able to compete with that -- in that environment, find new ways to grow the business, et cetera, and that's what -- not only does the ten-year deferred rebasing period allows us to do that, that's what the earnings-sharing mechanism allows us to do, and all of that will ultimately benefit ratepayers while maintaining safe reliable services.

I also want to go back to one of your points about whether safe reliable service will or will not increase.

One of the things we had proposed, and perhaps we are going to come to this, is a scorecard. And in that scorecard, we will have the SQRs that we currently have. We've also got SQRs around safety and reliability and financial metrics, so there will be an ongoing way to monitor how Amalco is proceeding through the deferred rebasing term.

MR. WADSWORTH: Right. And are those SQRs subject to Board approval?

MR. KITCHEN: The SQRs themselves were the subject of a proceeding by the Board. I can't recall the docket for that proceeding, but there was a proceeding and the -- that's also where the minimum requirements were set.

MR. WADSWORTH: So minimum requirements -- but all I'm saying is that the SQRs themselves, are they subject to Board approval once...

MR. KITCHEN: I'm not sure I'm following. The SQRs are Board-approved.

MR. WADSWORTH: Again, when I had asked about the information on table 1, the 120 to 250 or -- I'm sorry, the 350 to 750 variance, in each one of those categories, customer service, distribution work, management, shared services, storage transmission, management functions and other, would I basically get the same answer for how the numbers came up with for the degree of variance?

MR. CHARLESON: Yes, the information has been laid out in the same table that I took you to before, and all of that was determined in the manner that we've spoken to today and as we've described in our evidence.

MR. WADSWORTH: Okay. So there's no actual documentation with respect to how you came up with, in customer service, a 120 low and a 250 high?

MR. CHARLESON: I think we've described to you how we arrived at that, and that's in our evidence.

MR. WADSWORTH: Going to page 21 and looking at the right-hand column, "Net O&M savings assumption summary", under first tranche of savings in 2020 to 2023, it just -- you might have an explanation for it, because when I look it at it, it seems a little circular.

"Savings in this first tranche are targeted to realize a 10 percent reduction to the estimated combined utilities' customer care cost of 150 million, 10 percent, " again, a piece of division, "as a reasonableness check of the 10 percent target of reduction in costs. A comparison was made to the equivalent cost per customer reduction, and annual 15 million reduction would equate to an estimated reduction of approximately $4 per customer across the combined 3.5 million customer base."

What is it you are -- because it sounds like you're checking the reasonableness of the 150 million reduction as against the output of approximately 4 million -- or $4 per customer across the $3.5 million, or a million customer base.

What are you actually checking? "To check the reasonableness, or check -- a reasonableness check of the 10 percent target of reduction in costs, a comparison was made to the equivalent cost per customer reduction."

Now, isn't the 4 percent reduction to the customer based on reducing it by 150 million? Am I just not getting that? Because it seems like a circular argument.

MR. CHARLESON: Sorry, it wasn't 4 percent, it was $4 per customer --

MR. WADSWORTH: Four dollars, yes.

MR. CHARLESON: -- which equates to the -- kind of the $15 million per year.

MR. WADSWORTH: Okay. So you're checking the reasonableness of the $15 million per year against the 4 million that's actually a result of reducing it by $150 million over the ten years.

MR. CHARLESON: Sorry, I'm not following you.

MR. WADSWORTH: Yes, that's my problem.

MR. CHARLESON: So what we've looked at is we believe that, say, a 10 percent reduction in terms of our customer care cost was likely feasible. So that was, say, the $15 million a year, which equates to 150 million over the period. As a means of validating that, we looked at our current cost per customer and assessed whether we believed the $4 per customer reduction was reasonable, or something we believed was achievable.

So it was kind of -- like I’ve said, like you've indicated, it was that check against the reasonableness of -- so if you say a 10 percent reduction, what does that equate to in terms of a reduction per customer? And when you look at those two numbers, we looked at and said, okay, that seems reasonable and achievable, but still not without risk.

MR. WADSWORTH: Okay. But we can't explain how we came to the 10 percent number in the first place, because nobody appears have been at the meeting of the senior vice-president and vice-presidents who determined that 10 percent was a number.

MR. CHARLESON: Again, as we've indicated, those numbers were arrived at through discussions by senior management with experience in these types of areas and with expertise.

Subsequent to those discussions, there have been -- as Mr. Rietdyk has indicated, he reviewed the output, I reviewed the output, and based on what we're seeing as well, we see these as being reasonable estimates as well based on our experience.

MR. REINISCH: Just to be of assistance to the questions to the Board, if you could scroll up -- sorry, back -- again, without the page numbers, it is difficult on the compendium. But if you could go back a couple of pages, I think probably four pages, there is a page that says "Net O&M savings assumptions, customer care."

This is from the -- okay, right here. So this again was filed in response to BOMA.C.16. And in this, it does highlight exactly how the $150 million savings that you are asking about were arrived at.

And I'd like to again bring the attention to the second paragraph that starts with "The two customer care groups have different operating practices", and then scroll down to the actual -- the last sentence of that paragraph that outlines the different ways in which these savings will be achieved.

The efficiencies could be realized as a result of activities such a as digitization campaigns, that’s e-bill awareness, increased collection efficiencies, optimizing workforce with one of or either of the Union EGD models, or a hybrid approach with some services that are outsourced and others that are in-sourced.

So again, the derivation of the numbers are contained within, and this applies not just to customer care as I’ve highlighted here, but all of the other savings we've outlined in our response.

MR. WADSWORTH: I understand that response, because I've read it and what it says to me was you haven't done any tags to each one of those efficiencies, whether it's to digitization, or increased e-billing, or increased collection efficiencies, optimizing the work force. I mean, there is no numbers attached to any of those.

I understand that that's because you haven't done a detailed plan, so you don't know how much you are going to save in each one of those. But if you don't know how much you are going to save in each one of those, how did you come up with the 150 million?

The senior vice-presidents and presidents got together and...

MR. CHARLESON: I think we've answered that question.

MR. WADSWORTH: Okay. It’s just that the response that I got in directing me to this doesn't tell me anything. It just tells me that you came up with a list of things that you might be able to find efficiencies in, but you didn't look at how you would create the efficiencies or what efficiencies -- what those efficiencies would create in terms of savings.

MR. CHARLESON: That would require a more detailed level of planning that we haven't conducted at this time, and that we would undertake following approval and a decision to proceed with amalgamation.

MR. RICHLER: Madam Chair, I hate to interrupt and I apologize. But we’ve been advised by the transcription folks that they are having a bit of trouble picking up Mr. Charleson. I know that we've been having some issues with that microphone, so perhaps if we could just ask Mr. Charleson to hold the mic closer or use the mic right next to him. Thank you.

MS. ANDERSON: Mr. Wadsworth, you are probably in your last five, six minutes of time.

MR. WADSWORTH: Yes, ma'am. Thank you.

Frankly, this is not an in-depth question. This is just for my own edification.

Page 69, it is tab 5, the first document that's there. Do you know who prepared this document?

MR. REINISCH: Yes, I believe this is a working paper from Dr. Jeff Makholm.

MR. WADSWORTH: You say that as if I should know who Jeff is. So --

MR. REINISCH: My apologies, our productivity consultant, so the information contained within this -- or this schedule was provided to Dr. Makholm by Union Gas in this case.

MR. WADSWORTH: Okay, and so the document at tab 6, pages 71 and 72, what I did was with the document that was provided, I just took the book ends, I took the first year and the last year out of that. Who would have prepared this?

MR. KITCHEN: I'm sorry, Mr. Wadsworth, I am having trouble understanding what --

MR. WADSWORTH: Oh, it's the same question. Who prepared this document? It is the same question that I asked with respect to the document at tab 5.

MR. REINISCH: This as well is out of the information -- the working papers that Dr. Makholm filed.

MR. WADSWORTH: Okay. And again, nothing turns on this one. Just to -- is he from or resident in the United States when he did these charts?

MR. KITCHEN: Dr. Makholm is stationed in -- works out of the -- out of Boston.

MR. WADSWORTH: Okay.

MR. KITCHEN: So, yes.

MR. WADSWORTH: Okay. If anybody is familiar with Reach for the Top, this is an open question. It is worth ten points. Nobody remembers Reach for the Top? I'm going to ask you -- and it really -- although it's structured as a hypothetical, it really has to do with what the Board is supposed to do here.

If one of your employees who reports to you came to you and said, I can save the company between 10- and

$20 million. All I need you to do is approve my doing it before I even tell you what it is, what would your response be, and why shouldn't the Board take the same position with respect to the numbers that are provided here that don't have a detailed plan for how you're going to get to them?

MR. KITCHEN: Everybody is looking at me.

Let me start out by saying this: In the hypothetical you described, if an employee came to me and said they could save 10- to $15 million, and I just have to say yes before knowing what it is, then I'll do it, I guess I would say to that, I need to understand what you are proposing.

And I think that's what we've tried do here in the evidence, is to lay out what we're proposing, and what we're proposing to do is to, under the MAADs policy, to take on the risk of investing in technology and process change, while still continuing to maintain safe, reliable service in order for us to ultimately get a benefit to ratepayers.

And as I've said earlier, the Board will be kept informed and stakeholders will be kept informed as to how amalgamation is going. At the end of the deferred rebasing period there will be a full cost-of-service hearing, and at that point there will be the opportunity to assess just exactly what savings are actually being built into rates.

The important point here is that we believe that under MAADs, which is a Board policy that we believe is applicable in this case, is the best way for us to achieve those savings, and to bring about a more efficient utility and a utility that's better positioned to grow in the future and also to meet customer needs at lower cost.

I think there's a difference in your hypothetical from what we're actually proposing.

MR. WADSWORTH: No, and I understand why. But what essentially you are doing is providing the Board with a destination but not giving them a roadmap how you're going to get there.

MR. KITCHEN: That's because the company is taking the risk and the reward over the ten-year deferred rebasing period in order to bring customers -- bring customers the savings at the end.

MR. RIETDYK: And I would suggest that we have provided a roadmap; it is just not at the level of detail, perhaps, that you may be comfortable with, but certainly for those who have experience at implementing these types of initiatives and who are ultimately accountable for delivering the savings based on the costs that are here, those, including myself, are comfortable with this.

So we have a roadmap, we have a destination, and we've committed that we will move forward on this basis.

MR. WADSWORTH: Okay. I think I just got slapped fairly well. But I think the rest is left to argument, and those are my final questions. Thanks very much.

MS. ANDERSON: Thank you. Now, I believe it's OEB Staff that's next; is that correct? Mr. Richler, you are prepared to begin.

CROSS-EXAMINATION BY MR. RICHLER:

MR. RICHLER: Yes, thank you, Madam Chair.

Good morning, witnesses. Actually, for this witness panel, Mr. Millar and I will be a tag team. I have some questions on the deferred rebasing period and the earnings sharing mechanism, and then Mr. Millar has some questions on the ICM.

First of all, could I ask the witnesses if they've got a copy of Staff's compendium, which was marked yesterday as Exhibit K1.6?

MR. KITCHEN: Yes, we do.

MR. RICHLER: Could you please turn to tab 1 of the compendium, which is the OEB's MAADs handbook. And on page 1, we'll see there is a description of the background and impetus for the MAADs handbook, specifically in the second paragraph that explains:

> "The commission on the reform of Ontario's public services, the distribution sector review panel, and the Premier's Advisory Council on Government Assets have all recommended a reduction in the number of local distribution companies in Ontario and have endorsed consolidation."

Then in the fifth paragraph it says:

> "The OEB recognizes that there is a growing interest in and support for consolidation."

You will acknowledge there hasn't been the same groundswell for consolidation in the gas sector in Ontario?

MR. KITCHEN: We recognize that the MAADs policy was developed to encourage consolidation of electric LDCs, but we believe that the principles of the MAADs policy and what it achieves are equally applicable to gas.

MR. RICHLER: No blue-ribbon panel is recommending consolidation in the gas sector in Ontario?

MR. KITCHEN: No.

MR. RICHLER: Turning to page 11 of the MAADs handbook, we get to the discussion of deferred rebasing. Beginning on the bottom of that page, it says:

> "To encourage consolidations the OEB has introduced policies that provide consolidating distributors with an opportunity to offset transaction costs with any achieved savings."

I won't read the entire section, but the following paragraph begins:

> "While the OEB has determined that allowing a longer deferred rebasing period is appropriate to incent consolidation. There must be an appropriate balance between the incentives provided to utilities and the protection provided to customers."

So, you will agree with me -- and perhaps, Mr. Kitchen, this is what you just told us -- the thrust of the ten-year deferral policy is to incent consolidation in the electricity sector?

MR. CULBERT: Yes. We've agreed numerous times that that was the initial intent from our perspective, yes.

I'd also like to point out that we believe one of the major thrusts of the eventual policy, if we look back to page 1 of the document we're referring to, was that the consolidation would permit a larger scale of operation with the result that customers can be served at a lower per-customer cost.

So we believe one of the major thrusts was -- while we understood that there was a multitude of electric utilities that were trying to be consolidated, the major thrust was reduction in costs in that energy sector.

That's our understanding of the policy, to a great degree.

MR. RICHLER: All right. Now on page 12 of the MAADs handbook, at the very top there is a reference to a 2015 report of the OEB on rate-making associated with distributor consolidation, and I'd like to turn to that next. It's at tab 2 of our compendium.

Now, this report is mentioned in your application, so I presume you are familiar with it?

MR. KITCHEN: Sorry, I'm just having trouble turning it up.

MR. CULBERT: Yes, we have it.

MS. VINCE: Yes, we have it.

MR. RICHLER: And you are familiar with the report?

MR. KITCHEN: Yes, we are.

MR. RICHLER: The context for this report is summarized at the top of page 4, and I quote:

> "After considering the government's policy expectations, the results of the consultations, and the OEB's own expectations that the

distribution sector should continue to seek out efficiencies, especially through consolidation, the OEB has concluded that it will proceed at this time with amendments to its rate-making policy associated with electricity distributor consolidation."

Would you agree with me that that sounds like this document emerged from the same policy environment that led to the MAADs handbook? There was general agreement with 70 plus unrelated electricity LDCs in the province, that some sort of nudge was needed it there was to be any consolidation?

MR. KITCHEN: I would agree that that was the basis for the report, yes. I don't think that that changes anything that I've said around its applicability to gas, though.

MR. RICHLER: On pages 4 and 5 of the rate-making Report, it explains that the previous OEB report on rate-making policies for consolidating distributors issued in 2007 had found that the consolidated distributor should be able to defer rebasing for up to five years after the closing of the transaction.

And it further explains on page 5, in the second paragraph, that the purpose of the 2007 policy was

"To allow the net savings of the consolidation to accrue to a distributor’s shareholders for an extended period. The OEB recognized that providing a reasonable opportunity to use savings

to at least offset the costs of a MAADs
transaction is an important factor in a utility's
consideration of the merits of a given
consolidation initiative."

Do you see that?

MR. KITCHEN: I see that.

MR. RICHLER: And the 2015 rate-making report goes on in the next paragraph to explain that:

"Some distributors had complained the five years
provided for in the 2007 policy was not long
enough."

Again I quote:

"It is the view of distributors that the current
policy may not provide sufficient time to achieve
the savings and efficiency gains necessary to
enable the recovery of transaction costs.
Distributors expressed the view that the risk for
shareholders of not recovering transaction costs
is a significant impediment to consolidation."

MR. KITCHEN: I see that.

MR. RICHLER: Then in the next paragraph, the report elaborates that the 2007 policy may not provide sufficient time. Distributors said:

"It may take anywhere from 6 to 10 years to reach
a break-even point where the cumulative savings
exceed the cumulative acquisition and integration
costs."

Do you see that?

MR. KITCHEN: Yes, I see that.

MR. RICHLER: And so the OEB listened to what it was hearing from the electricity distributors, and agreed to allow consolidating distributors to defer rebasing for up to ten years.

On page 6, in the second paragraph under the heading "OEB policy", the OEB says that doing so "may encourage more consolidation." Do you see in the second paragraph under "OEB Policy"?

MR. KITCHEN: Yes, I do.

MR. RICHLER: So in light of what the OEB said in this document about the break-even point, I would like to ask you to turn to tab 3 of our compendium, which is a chart OEB Staff prepared based on your answers to an interrogatory from BOMA.

Madam Chair, we did circulate this entire compendium, including this chart, on Wednesday.

First of all, have you had a chance to look at this chart?

MR. REINISCH: We have.

MR. RICHLER: Would you agree that it accurately reflect your answer to BOMA 16?

MR. REINISCH: I can agree that the numbers underpinning the chart were the numbers that were provided in response to BOMA 16.

The one thing, though, that I would note is that those numbers provided in BOMA 16 again don't include the return on investment. So it excludes -- it simply -- these are the capital costs. It doesn't include the return, or any of the revenue requirements associated with those returns.

MR. RICHLER: All right. We can see on the chart that the orange line represents the cumulative OM&A savings from the merger, and the blue line represents the cumulative capital investments associated with the merger. And the orange line crosses the blue line in year 3, or 2021. And after that, the blue line levels off as the integration is completed, but the orange line keeps rising and rising.

So if the break-even point is in year 3, why are you asking for ten years?

[Witness panel confers]

MR. REINISCH: I think one of the things that this chart fails to include is that the savings from the integration, so that portion of the $680 million in savings, are required for the utility to simply earn its allowed ROE, let alone exceed its allowed ROE.

So based on our financial projections of that $680 million savings, we are only earning just over $100 million in excess of our forecast for allowed ROE.

So although the actual costs of the integration from a cash-flow perspective, ignoring again return of an en route investment, do cross around 2021, the simple fact is that the $680 million is required for the utility, the combined Amalco utility to earn its allowed ROE and then approximately 20 basis points above the allowed ROE on average throughout the deferred rebasing period.

MR. RICHLER: All right, maybe I need a little help understanding that answer. We saw that the Board's policy allowing a ten-year deferral emerged from this notion that consolidating utilities ought to have an opportunity to break even.

We're seeing here the break-even occurs in year 3, and I'm still not sure I understand why seven more years of deferred rebasing is required.

MR. KITCHEN: I think that's Mr. Reinisch's point, that this doesn't reflect the simple payback of the two streams of cost and benefits, because you have to take into account the fact that not only are we making these investments in technology and processes to get a benefit, but we're also continuing to run a base business, and that base business requires us to use the synergy savings in order to maintain our allowed ROE. This is a very simplistic chart, I guess is what we're saying, and doesn't represent the whole picture.

MR. RICHLER: Now, looking at this chart, and again, seeing the lines cross in year three, why would the earnings sharing mechanism only kick in year five and not earlier?

MR. KITCHEN: Again, perhaps I'll go back and talk a bit about the -- what we're proposing.

We have two utilities that we're bringing together that have very complex and different systems, and in order to bring those systems together it will take a tremendous amount of resources.

Mr. Rietdyk has already talked to the complexity of the integration around technology and IT and the resources required. And those will bring benefits over the longer term, which why is we need the ten-year deferred rebasing period.

In terms of earnings sharing, again, the earnings sharing is there to provide protection to ratepayers, but also to not disincent the utilities from taking on significant investments, so the reason it kicks in in year five is because year five is when we hopefully will have spent and invested a large amount of that capital and we start bringing the benefits into play from year five to -- from year six to year ten.

I think the other thing I want to point out is around the length of the deferred rebasing period, is our proposal and the capital that we are proposing to invest, the systems that we are proposing to change, the cost that we're hoping to save, are very much dependent on the ten-year deferred rebasing period. If we had something less than that, significantly less than that, then we'll have to have a different plan. For example, it would be very unlikely that you would merge a billing system, a system that would take three to five years to actually get to stabilization if you only had a five-year deferred rebasing period. So the deferred rebasing period is very important to the plan that we have.

MR. RICHLER: I have some more questions on the earnings sharing mechanism, and this topic was explored extensively yesterday and today so I'll try to be brief.

We heard you say that you're forecasting that Amalco will overearn above approved ROE only slightly by an average of about 20 basis points, right?

MR. REINISCH: That's correct.

MR. RICHLER: Now, in your evidence you've stressed repeatedly that the numbers around consolidation on both the investment side and the savings side are high-level and the detailed planning is yet to commence. So presumably the forecast of overearning by only 20 basis points is also quite rough?

MR. REINISCH: Again, I'll agree that only detailed planning has been done; that is correct.

MR. KITCHEN: High-level planning.

MR. REINISCH: Sorry, high-level planning has been done. My apologies. The one thing I will note, though, is that the $680 million of synergy savings is on quite the high end of our cost -- or our savings estimate. We've estimated between 350- and $750 million in savings, and what we have used for the purposes of modelling is the 680 million, so it is fairly far up the high end of our estimated range.

MR. RICHLER: So, sorry, does that mean the 20-basis-point forecast is on the high end and you would actually expect it to be lower?

MR. REINISCH: There is the potential for it to be lower if we're unable to realize the synergy savings that we have forecasted.

MR. KITCHEN: In which case with an asymmetric earnings sharing mechanism we'd actually underearn and not have any recourse.

MR. RICHLER: Now, the ESM you have proposed with the 300 basis-point deadband and the 50-50 sharing above the deadband kicking in after year five is the same ESM contemplated in the MAADs handbook. Is that why you chose the ESM design? Because it's in the handbook?

MR. KITCHEN: It's part of the handbook; it also was approved for other utilities using MAADs.

MR. RICHLER: You didn't start from first principles and ask what sort of mechanism would be fair to both Amalco and its ratepayers? You didn't ask yourselves which of EGD's or Union's current ESM might be a model?

MR. KITCHEN: Well, no, what we did is we looked at the Board's handbook and we looked at the complexity of the amalgamation and the risk return that we felt we'd have over the ten-year deferred rebasing period and felt that that provided us the appropriate incentive.

MR. RICHLER: You don't have to turn it up, but I'm wondering if any of the witnesses on this panel have looked at the report filed in this proceeding by Energy Probe in which they did a scan of how regulators in other jurisdictions have dealt with utility merger applications?

MR. KITCHEN: We have -- we have read the report but are not able to speak to it.

MR. RICHLER: My question isn't on the report per se, so let me put it to you, and if you think it's better left for someone else, then fine, but one of the observations made by Energy Probe is that in several of the cases they looked at the merging utilities promised some sort of upfront rate credit to customers, and so I'm wondering whether that was something that Union and Enbridge considered when preparing this application.

MR. KITCHEN: It is not something we considered. What we considered is the Board's MAAD policy, which would defer rebasing and start with a price cap off of the '18 -- off of '18 rates, which, as I said yesterday, for Union, includes an upfront productivity adjustment already and includes -- and includes rates that were only increased by 40 percent inflation, and on the EGD's side a commitment to maintain O&M flat. So, no, we did not consider it. We considered the MAADs policy.

MR. RICHLER: This concept of an upfront rate credit is not unknown to the applicants. In the EB-2013-0202 proceeding, which established Union's IRM framework for the 2014 to 2018 period, Union agreed to provide what it called an upfront productivity commitment of four and a half million dollars, right?

MR. KITCHEN: That was the upfront productivity commitment I just referred to.

MR. RICHLER: Okay. And, in fact, this was mentioned once or twice in early -- in cross-examination by some of the intervenors, but I don't think anyone asked you directly: Is there any reason some sort of similar mechanism to that $4.5 million would not be appropriate during the deferred rebasing period?

[Witness panel confers]

MR. KITCHEN: Mr. Richler, it is actually already embedded in our rates by virtue of the fact that we were on a price cap since '13.

The second thing I just want to point out is that it's in our evidence that through the deferred rebasing, through the IRMs over the last 15 years, utilities have picked the low-hanging fruit, and the areas where we think we can get the most gains now come through amalgamation. So I guess what I'm saying is our rates already reflect that upfront productivity gain and already reflect inflationary increases that were substantial -- sorry, increases that were substantially lower than inflation by virtue of the X-factor that we had from 2014 to 2018.

MR. RICHLER: Let me just phrase it slightly differently, and then I'll hand it over to Mr. Millar. But we still have the Staff chart up on the screen, and we see the diverging lines, so after year three there's going to be a bigger and bigger surplus, let's say, and I heard what you said earlier about how this chart is a -- doesn't paint the entire picture. But I'm wondering, is there -- would it be inappropriate to offer, on an upfront basis to ratepayers, some of the, let's call it the surplus that we'll be seeing from year three on?

MR. KITCHEN: I don't think you can use this chart to draw that conclusion, because what it excludes is the fact that the synergy savings that we've included in the application are there also to meet our allowed ROE, or exceed it, in our case, by an average 20 basis points.

So I don't think you can say, by looking at this chart, that you could -- should make an adjustment up front because it's not providing the whole picture.

MS. LONG: Sorry, Mr. Richler. Just while we're on this chart, Mr. Kitchen, did you and the panel form a view, I guess given the considerations that you say we should be taking into account in looking at this chart, where you feel the lines cross?

MR. KITCHEN: We did not, but I think that what I'd like to do is to, over the lunch, see if we could come up with a representation that would include both the contribution to the base business, because I think that would paint a different picture and may show -- would show something different in terms of where the lines cross.

But I'd like to see it, first of all, and talk with folks to see that if that can be done.

MS. LONG: I'd like to see that.

MR. RICHLER: Thank you, witnesses. I'll turn it over to Mr. Millar now.

MR. KITCHEN: We should probably have an undertaking for that one. I'm fairly confident we can do something, so we'll take the undertaking.

MS. LONG: And if you're producing something, I'd like to you set out exactly what your line contains.

MR. KITCHEN: And we'll include all the assumptions around that.

MR. RICHLER: Okay, so that's J2.4.

UNDERTAKING NO. J2.4: TO PROVIDE A REVISED VERSION OF OEB STAFF'S CHART AT TAB 3 OF EXHIBIT K1.6.

CROSS-EXAMINATION BY MR. MILLAR:

MR. MILLAR: Thank you, Mr. Richler, and good Afternoon, panel. My name is Michael Millar, also counsel for Board Staff.

I have a few questions about your proposed incremental capital module that you hope to use for the term of your plan. Just to -- let me start off with some of the basics, to I make sure I understand exactly what's being proposed.

What you've proposed to use is essentially the Board's existing ICM policy as it was developed by the Board in reports issued in 2014 and 2016. Is that correct?

MR. REINISCH: That is correct.

MR. MILLAR: At a high level, the way that that works is that if there's a significant project or more than one project that requires incremental capital investment beyond what is normally funded through your rates, then subject to certain rules, you can apply for additional funding through an ICM, is that right?

MR. REINISCH: That is our understanding, yes.

MR. MILLAR: If an ICM is approved, a revenue requirement associated with the ICM qualifying CAPEX for the asset is calculated, and that amount becomes a rate rider that is attached to your base rates.

MR. REINISCH: That is our understanding, yes.

MR. MILLAR: So you don't actually adjust your rate base. What you do instead is you derive a revenue requirement that would be associated with the asset, and then that becomes the rate rider.

MR. REINISCH: That's correct, to recover the incremental cost of the investment.

MR. MILLAR: Thank you. And that rate rider is calculated for the year that the asset enters service, is that right?

MR. REINISCH: Yes.

MR. MILLAR: And it would remain in place until the utility's next rebasing?

[Witness panel confers]

MR. REINISCH: Yes, that is our understanding.

MR. MILLAR: At that point, the rate rider would end and the asset would be added to your rate base in the normal fashion?

MR. REINISCH: Correct. Upon rebasing, the asset would be rolled into overall rate base.

MR. MILLAR: When the ICM policy was initially developed by the Board, can you confirm for me that the maximum amount of time that a utility could go between rebasings was four years?

MR. REINISCH: I believe that was the case, yes.

MR. MILLAR: And that was later extended to five years, when the ICM policy was reviewed in 2014-2015?

MR. REINISCH: Yes, that's my understanding.

MR. MILLAR: And your proposal, as we've heard, is to be out by ten years, is that right?

MR. REINISCH: That is correct.

MR. MILLAR: Could I ask you to turn to the Board Staff compendium, which is K1.6, tab 6, please?

I'm hoping maybe we can get that blown up a little. I apologize if this is a little hard on the eyes; it is hard on mine as well.

This is a chart that Staff prepared, so it was not in the pre-filed evidence. But we did provide it to you, I think on Tuesday, but it was certainly part of the compendium we gave you on Wednesday.

Have you had a chance to see this chart that we've done?

MR. REINISCH: Yes, we have.

MR. MILLAR: So I just want to walk through what we've tried to do here, and then ask you a few questions about it.

What we’ve done is we've prepared a spreadsheet that tries to show two scenarios, and both of these scenarios deal with a hypothetical $100 million asset that goes into service as an ICM during the first year of your ten-year deferred rebasing period.

Under both scenarios, we used the same depreciation rate, which assumes a 33-year asset life, and the same cost of capital and the same tax rates.

If you look at the chart at the top of the page, what that does is that sets out the revenue requirement that would be associated with the asset if it were being looked at under a cost of service regime for ten years.

And, you know, you can see there, you can see the opening net book value for every year, the closing net book value and then the cost of debt, the ROE, the taxes, depreciation, and then sort of about eight rows over, you will see the revenue requirement associated with the asset. And we’ve done that for all ten years.

Do you see what we've done there?

MR. REINISCH: Yes.

MR. MILLAR: As we confirmed earlier, under your proposal, which I take it you've taken from the Board's own policies, the revenue -- pardon me, the revenue requirement rate rider would be calculated on the basis of the year 1 numbers, is that correct?

MR. REINISCH: Yes, that is correct. But I should interject here that for the purposes of the financial modelling that we've done, we've taken the approach that is outlaid -- that you've just described, where as rate base is reduced year over year as a result of depreciation, the revenue requirement decreases throughout the term.

So the projections we have before the Board in our application have actually been modelled using the first scenario 1 that we just discussed.

MR. MILLAR: Okay, well, it -- maybe this whole line of questioning goes away if I'm understanding you correctly.

But when I asked you at the outset whether you based the rate rider that you were going to attach to rates on the year 1 numbers, and I heard to you say yes. But do you actually update the revenue requirement for every year?

MR. REINISCH: It was our understanding based on Board policy -- again, we may have misinterpreted it, but it is was our understanding that we would set up the rate rider in year 1 with the actual cost of the asset -- the forecast that would go into service, and then we would track the actual cost and any difference would be captured in a deferral account. And therefore, any differences over the period of ten years would accumulate in a deferral account to be rebased either at the end of the term, or, as we've proposed, potentially annually during a deferral account disposition.

MR. MILLAR: And what deferral account would that go into?

MR. REINISCH: It would go into an ICM deferral account.

MR. MILLAR: Okay. So let me make sure I understand you here, and I can skip many of my questions if this is the case.

You’ll doubtless have seen where I was going by looking a this chart, and if you look at the table at the top, the revenue requirement that would be associated with this hypothetical asset over the ten years would be $95.126 million?

MR. REINISCH: Yes.

MR. MILLAR: And what is the amount -- assuming you put amounts into your DVA and they were cleared as you expected, what is the amount you would actually recover from ratepayers over those ten years?

MR. REINISCH: In this example, 95.126.

MR. MILLAR: So it would be the same number?

MR. REINISCH: That's correct.

MR. MILLAR: Okay, I think handles that issue. Thank you very much.

I do have one other quick area that I wanted to review. This is just some quick follow-up to some questions, an exchange you had with Mr. Shepherd yesterday.

And this was about the Sudbury project. Do you recall that discussion?

MR. KITCHEN: Yes.

MR. MILLAR: Just to refresh our memories, this is a project that you expect is going to enter service this year, 2018?

MR. KITCHEN: It will be in service November of 2018, yes.

MR. MILLAR: And your proposed new price cap framework will commence in 2019, if you get what you ask for?

MR. KITCHEN: Yes, that's correct.

MR. MILLAR: And it's your view, if I heard your discussion with Mr. Shepherd correctly, that you will be able to apply for an ICM for the Sudbury project in 2019. Did I get that right?

MR. KITCHEN: That is our intention, yes.

MR. MILLAR: Okay. So this would be -- first of all, it would be the year after the project enters service?

MR. KITCHEN: It would be -- yes, it would be the first full year of service.

MR. MILLAR: Okay, but the year after.

MR. KITCHEN: '19 is the first full year of service, so after '18.

MR. MILLAR: But it enters service in 2018.

MR. KITCHEN: It enters service in 2018.

MR. MILLAR: It will also have entered service in a period where you were operating under an entirely different rate framework?

MR. KITCHEN: That's correct.

MR. MILLAR: And it is your view that your proposal is consistent with the Board's ICM policies?

MR. KITCHEN: It is our view that this is consistent with the ICM policies in that we have a project that is there to meet a specific need, a reliability need that we could not wait to do. The reason it is not being captured in 2019 rates normally is because we were planning to rebase.

And so the revenue requirement for -- in '18 is only two months, but we have a full year's revenue requirement taking place in '19, where we will be under a new price cap mechanism, but has an ICM, and we don't believe that because of this project sort of falling between the cracks of one mechanism as we transition to a new mechanism should somehow not be recovered in rates.

MR. MILLAR: Well, I understand your rationale, why you'd want to do it, but my question was more specific, and whether that's consistent with Board policies, and is there somewhere in a Board policy that actually addresses that, or is the Board silent on that and you think this is how it should be?

MR. KITCHEN: There is nothing that I'm aware of in Board policy that deals specifically with the Sudbury project; we just believe it is the right thing to do and to bring it forward for recovery.

MR. MILLAR: Okay, that's a helpful clarification.

Could I ask you to pull up -- it's not in our compendium because I hadn't expected to go here, but if you could turn to Staff IR 25, so C.Staff.25. And I think there is a footnote -- yes, you will see a footnote at the bottom of that page where we had quoted the Board's -- the report of the Board on new policy options for funding of capital investments, and you'd be familiar with that report?

MR. KITCHEN: Yes.

MR. MILLAR: And then we've provided two quotes from that -- from that report. You will see the first one is from page 17. It says:

> "Funding shall not commence for any projects that are not forecasted to be in service during the subject IR year."

But then perhaps more importantly we quote from page 25, which is the next lines there, and it states:

> "In the price cap IR application for the year in which the capital projects will go into service and the applicant is seeking to commence recovery through rate riders, the distributor should

provide updated, current information with respect to the above..."

And it continues in that fashion.

And as I read that, it seems to me that the Board's policy is that you are meant to apply for the ICM in the year in which the project enters service. Do you take a different view from reading that?

MR. KITCHEN: I don't disagree that that's what the policy says. As I have said, I think that this -- that the Sudbury project is unique in that it is caught in this transition from one pass-through mechanism to another. We didn't have an ICM or an ACM in our last IRM -- that's a lot of acronyms -- in our last IRM mechanism, and so now what we will bring forward is a proposal to put Sudbury into rates in '19 as full cost of service.

We are not asking for approval here for anything around Sudbury, but we believe that Sudbury is unique and needs to be given consideration.

MR. MILLAR: Okay. And that was going to be my last question, which I think you've already answered, but the Board doesn't actually have to decide that in this proceeding; is that right?

MR. KITCHEN: That's right. We're not --

MR. MILLAR: In fact, the Board should not decide that.

MR. KITCHEN: We are not asking for any approvals related to Sudbury or any other project in this proceeding.

MR. MILLAR: Okay. That's helpful. Thank you for that. I think anything else would be getting into argument, so Madam Chair, thank you, those are my questions.

MS. ANDERSON: Thank you.

Mr. Quinn, I believe you're next. We would hope to have a lunch break at 1:00, so whether we can fit... So we were hoping to try and fit you in. We've cut you a little bit short, but let's see how we go.

MR. QUINN: I won't quibble over a couple of minutes, but I would ask an indulgence Madam Chair, if possible. I'm very interested in what is going to be produced in J2.4, so if I can end early, if I could still have an opportunity to ask questions once they bring back that, because some of my questions were along the lines of what was said, and I think we'd all be better informed by Member Long's request and what Union may produce.

MS. ANDERSON: You would end early now, we'd take our lunch break, and then would you have questions on it?

MR. QUINN: I would have questions to clarify if that would be sufficient.

MR. KITCHEN: I'm sorry, I'm not sure we'll be coming back with a completed table after the lunch break. I think what I said, we are confident we can do it. It's as an undertaking.

MR. QUINN: Okay. Well, then with that clarification, Madam Chair, when I get to the end of my cross I will be asking for just a clarification of the content of the undertaking and making sure that we are on the same page as to what was being proposed, and then I'll have to leave the rest for argument.

MS. ANDERSON: Okay.

MR. QUINN: Okay, I also did submit a compendium, and I have provided copies to Board Staff, to Mr. Richler. They might be in front of Mr. Millar at this point, and I've circulated them around the room, and Ms. Adams was good enough to give the witness panel their copies.

Because it was not part of the package, Mr. Shepherd went through yesterday, I guess if we could have it marked as an exhibit.

MR. RICHLER: Madam Chair, that will be exhibit K2.2, the FRPO compendium.

EXHIBIT NO. K2.2: FRPO CROSS-EXAMINATION COMPENDIUM FOR PANEL 1.

CROSS-EXAMINATION BY MR. QUINN:

MR. QUINN: Do you have that? Okay, if we could start on page 2 of the compendium, please. This was an undertaking Mr. Culbert had given me. It was pertaining to a discussion we had at the technical conference regarding Union's development of an -- what I should say, development of -- maybe I'll put it to the witness panel to describe it, but Union is going to use the Enbridge developed WAM system for their work management process; is that correct?

MR. RIETDYK: There are parts of the framework that we can use so that we don't have to redo it, but it is not a complete use of the existing system that's there. It's partial.

MR. QUINN: So in your evidence where you had a range of 30- to 85 million, what, you know, in your experience, Mr. Rietdyk, what percentage of that 30- to 85 million would be the process of integrating Union Gas data into the parts of the system that you can use?

MR. RIETDYK: So it is more than integrating data. There is integrating to other existing systems as well, and this gets to the complexity of doing multiple system implementations at a single point in time.

So in this particular case there is part of the project that is outside of that number that was quoted. I think the point estimate that we had provided was roughly $50 million in there, so there is $30 million being spent right now to replace Advantex, which is the automated planning and dispatch system which is no longer being supported, so that is being done right now outside of this process.

There is additional monies that we would spend to establish a maximal back end to the system, which is very aligned to what Enbridge Gas Distribution has, and would ultimately map over so that we could combine it down the road into a single system.

Then there are other connections to customer information system, to the financial systems, those sorts of things, that would stand on their own as well, so it is not just a simple mapping of the data from one system to another. There are other pieces of that that need to be developed coincidentally.

MR. QUINN: So is there, like, a project plan for how these systems will come together?

MR. RIETDYK: No, there is no project plan specifically on how the Union system will be done. Right now we're just -- we've started going down the path of replacing the Advantex system with Click, which is also the EGD solution, so they can be aligned down the road, and establishing the back end maximal system. Beyond that there is no project plan that's been established to bring the two systems together.

MR. QUINN: Well, Mr. Packer had updated us at the technical conference, and you don't need to turn it up, but he had said that there's an updated estimate of 55 million. Do you recall that, at the technical conference?

MR. RIETDYK: Yes, I do recall that, yes.

MR. QUINN: So there obviously has been an advancement of that work to be able to refine your estimate from 50- to 55 million. Is there anything you can provide us that helps us to see how you developed the 55 million?

MR. RIETDYK: So as Mr. Packer explained at the technical conference, roughly 30- of that $55 million is just the pure replacement of the Advantex system. The $25 million is establishing the maximal back end of that system, and so that's what's being pursued right now, is that there's further monies that would have to be spent within the -- within the estimates that have been provided to amalgamate the two systems into one.

MR. QUINN: So there is nothing more you can provide us in terms of the detail of how that 25 million will be spent?

MR. RIETDYK: There is a project plan for the $55 million, but certainly not to bit two systems together.

MR. QUINN: There is a project plan for the 55 million?

MR. RIETDYK: That is correct.

MR. QUINN: Is that on the record anywhere?

MR. CASS: Sorry, Madam Chair, as I understand what Mr. Rietdyk is saying is the $55 million is a project in progress, not contingent on the amalgamation. There would be additional costs to bring the systems together, if I'm understanding that correctly.

MR. RIETDYK: That's correct.

MR. CASS: So I'm not understanding the relevance of exploring costs that are being incurred anyway, and not contingent on the amalgamation.

Maybe Mr. Quinn could help with that. I'm not seeing it myself.

MR. QUINN: Thank you, Mr. Cass, that distinction has eluded me to this point.

In your estimates, as you provided to your board of directors, you had estimated between 30 and 85 million for distribution work management, correct?

MR. RIETDYK: That's correct.

MR. QUINN: So the Advantex 30 million is not part of that 30 to 85 million?

MR. RIETDYK: That's correct, that's being spent now.

MR. QUINN: So the 55 million then specifically that's part of the amalgamation process, is there a project plan for that 55 million and a better estimate?

MR. RIETDYK: I can see the confusion here, because we have two different things going on at the same time.

So we've got the current project that is being undertaken by Union to replace the current Advantex system and create the back end, the maximal system. The total of that is $55 million.

Then there's the estimate to bring the systems together down the road, and that's way what you are referencing, the distribution work management which includes a number includes a number of other things as well.

MR. QUINN: I'll accept that as certainly clarification, because that’s something I didn't understand to this point. So thank you, Mr. Rietdyk. I'll move to another area.

So if we could -- actually, I'm going to start with some additional background.

I understand that the companies have planning base rate adjustments for deferred tax drawdown and customer care costs.

That's correct? Those are your base rate adjustments you are planning to make?

MR. CULBERT: That's correct.

MR. QUINN: Now, it has escaped me up until now, until we were preparing for this hearing, but if you could turn up page 4 of the compendium, this is the settlement framework that was approved by the Board in EB-2013-0365, which laid out the opportunity for customers to move their deliveries from Parkway to Dawn.

Can you confirm that, I assume, Mr. Kitchen?

MR. KITCHEN: That's correct.

MR. QUINN: So in paragraph 3, it states:

"The ultimate objective of the modified proposal is to remedy an equity. The guiding principle is to keep Union whole rather than to enhance or reduce its earnings during the operation of the incentive regulation mechanism, IRM, to December 31st, 2018."

So with that background, my understanding is this agreement terminates as of December 31st, 2018. Is that your understanding, Mr. Kitchen?

MR. KITCHEN: I think, Mr. Quinn, that although I'm on this panel, and I'm on the next panel, I think that it would be better to have Panel 2 address this when Ms. Mikhaila is here and Mr. Redford.

MR. QUINN: Okay. And so you're going to be on the next panel, Mr. Kitchen?

MR. KITCHEN: I'm actually on all the panels.

[Laughter]

MR. QUINN: You're fortunate. Okay, I'll accept that and defer further...

MR. KITCHEN: I just think it would be helpful to have their perspective as well.

MR. QUINN: Okay. But I guess the question I asked specific to that agreement that was approved by the Board is more of a, in my view, a contract question and a Board approval question.

Is there something you are going to bring that's different, that would say that the agreement does not terminate as of December 31st, 2018?

MR. KITCHEN: Again, I this I we need to have the perspective of Mr. Redford and Ms. Mikhaila.

MR. QUINN: My time is going to be shortened, but I am going to ask two follow-up clean-up questions.

One is -- yesterday, Mr. Kitchen, you had an extensive discussion with Mr. Ladanyi regarding your RCAM forecast. Do you recall that?

MR. CULBERT: You are speaking to Mr. Culbert; you said Mr. Kitchen.

MR. QUINN: My mistake, Kevin, I apologize.

Mr. Culbert, you had an extensive discussion yesterday with Mr. Ladanyi?

MR. CULBERT: Yes, we had a discussion of RCAM, yes.

MR. QUINN: And it brought me to reconsider my understanding of how you are making rates. So I went back -- and you don't need to turn it up, but in CCC 4, you had actually put in that there’s a placeholder of $50.2 million that -- even though your allocations haven't been set for 2018, you put a placeholder of $50.2 million. Do you recall that?

MR. CULBERT: Yes, there is a placeholder in the stand-alone data calculations, I'm assuming.

MR. QUINN: Yes, okay. My question is fairly direct. What's in rates? What amount would be put into the 2018 rates at this point?

MR. CULBERT: What is in rates? In the chart that we were referring to, I think was about $34.6 million that is currently approved by the Board and embedded in rates, and that's the jump-off point in our price cap that we're proposing.

MR. QUINN: Okay. I just wanted to make sure my understanding was correct, so thank you for that.

Lastly, and this goes to J2.4, Mr. Reinisch had said that basically some of that spread, as I understand was going to be, for lack of a better term, converged by the fact that it doesn't represent the return of capital -- return on capital. Is that correct, Mr. Reinisch?

MR. REINISCH: Yes, that is correct. The $150 million that's contained in BOMA 16 is simply the capital outlay. It does not include the return of or the return on -- sorry, the return on the capital.

MR. QUINN: The return on the capital. And I think your statement was that once you take that into account, this only allows us to make our ROE, plus maybe $100 million.

MR. REINISCH: It is not simply that one fact, the inclusion of the return on the capital that does that. It is the overall balanced package that we’ve proposed before the Board that sees us allowing over -- just 20 basis points above our allowed ROE.

MR. QUINN: The reason I'm asking those questions is because the picture is helpful, but the data behind it is also very important and the assumptions that went into it.

So I would just ask that if you are presenting a graph, which may be helpful to see it at a glance, that also the line data that went into it and the numbers that were put into the graph, we would be very interested in seeing if you could make sure that is part of your undertaking.

MR. REINISCH: We will endeavour to footnote each of the assumptions that are made, and reference them to where they appear on the record.

MR. QUINN: No disrespect, Mr. Reinisch, but you might remember the conversation from the technical conference where we were asking for data behind the graph and we were told it's an illustrative graph.

In this case here, we're not talking about an illustrative graph. You are going to try to reconcile a couple of different items, which would be helpful for the Board to see. We'd just like to make sure we see it in entirety with the numbers and the assumptions. That’s all I’m asking.

MR. KITCHEN: We will provide the data behind the graph in tabular form.

MR. QUINN: Thank you very much. Those are my questions, Madam Chair.

MS. ANDERSON: Thank you, and we will take a lunch break.

I guess the question -- you have an undertaking over the lunch hour. We would normally take an hour. Is that sufficient time for you to complete that undertaking? Should we come back at two?

MR. KITCHEN: When I started out with the undertaking, I said I think we'll see if we could pull something together. I then -- I believe that we can, but I think it will take us longer than the lunch break.

It will probably be filed -- in order to do the tab, the table, all the assumptions, et cetera, it will be filed probably not today.

MS. ANDERSON: Okay. So you are doing it -- is there something you are working on over the -- what I'm just trying to establish is are we taking an hour, or do we need to come back at two? Do you need that time?

MR. KITCHEN: We won't be working on the undertaking over lunch. We will be sorting out how we will do what we've committed to document.

MS. ANDERSON: Okay, we'll take an hour then.

MR. QUINN: Madam Chair, if I may? They've deferred me to panel 2 for those questions, and it may or may not affect my estimate. But I'll look at what Mr. Vellone does for panel 2 and try to work out my estimate again. But I'm going to have to explore that in my panel 2 cross.

MS. ANDERSON: So we will go to Mr. Vellone after lunch is what you're saying?

MR. QUINN: No, no, I'm sorry. I want to make sure that I kept the time that I need for the second panel 2. What I tried to ask of panel 1 has now been shifted to panel 2. So I will try to be time conscious.

MS. ANDERSON: Okay. Thank you.

MR. QUINN: Thank you.

MS. ANDERSON: We'll take a break.

--- Luncheon recess taken at 12:49 p.m.

--- On resuming at 2:08 p.m.

MS. ANDERSON: One more time. Apologies for the technology problems. But I guess we'll be going -- it's not on? Is it on? Got it? One more time. Apologies for the technology problem. We're going to go old school as far as the way we're going to hear this, and I might have misspoke before the lunch break about who was next, and it's Mr. Pollock, so he does seem to know that, so that works. So please proceed --

CROSS-EXAMINATION BY MR. POLLOCK:

MR. POLLOCK: Thank you very much, Madam Chair.

It is a little bit of inconvenient timing, because I do have a few references, but I don't have a physical compendium. So unfortunately we may be a little bit behind the eight ball, but we will try our best.

So I wanted to start off with some questions about ESM, which I know you guys have covered already, so I won't belabour the point. But just for my own understanding, you had a discussion yesterday with Mr. Ladanyi, and you were talking about how it would be prudent for your board to go and review this Board's decision to make sure that whatever the conditions of amalgamation were or the rate mechanism was, that you would still be financially viable; is that fair?

MR. KITCHEN: Financially viable, and then we'd be able to continue to earn -- have an opportunity to earn our allowed ROE, yes.

MR. POLLOCK: Thank you. And it was also in the context of your discussion with Mr. Shepherd, because you've had, I think, a number of ESM proposals that are not what are in your application put before you, and my understanding of your evidence was that to the extent that the Board -- this Board approved an ESM mechanism that wasn't what you proposed, you would have to go back to your board.

And my question is: Is that the same review that you would do for a financial liability?

MR. KITCHEN: Yes, we would have to consider the entire decision of the Board which would include earnings sharing. One of the key aspects of earnings sharing is that it provides an incentive to the utility to make the investments to earn the savings, and an ESM that is too stringent will take away that incentive.

MR. POLLOCK: So I guess, to follow you up on that, I'm interested in the relationship between the ESM and specifically financial viability, which is to say, as you pointed out, your ability to earn not only your cost but an appropriate ROE. So, sorry, if you wanted to say something --

MR. KITCHEN: No, go ahead.

MR. POLLOCK: Okay. So to the degree that the ESM is put above your allowed ROE, wouldn't it have no impact on your financial viability? Which is to say either you don't earn your ROE, which is the same risk that would you have taken absent the ESM, or you would make the ROE and share some of it, but in that case you're financially viable?

MR. KITCHEN: I think when it comes to the earnings sharing mechanism, as I said, the important thing about it is that it has to provide sufficient incentive to the utility to actually partake or make the investments that it is committing to make.

So to the extent that there was an earnings sharing mechanism at some point, like, the 300 basis points, for instance, that we feel gives us the incentive that we need. If it was from dollar one, that incentive wouldn't be there.

MR. POLLOCK: So I guess I want to get at -- there seems to be -- maybe I'm misunderstanding -- but two different things going on here. One is a cost-benefit analysis and one is a financial viability analysis, and I guess -- I still don't understand how the ESM impacts your financial viability.

[Witness panel confers]

MR. KITCHEN: I guess, Mr. Pollock, I think that there's a couple of points I'd like to make. One is if you are relating it to financial viability, and, you know, to the extent that we look at the decision and we look at the whole decision, we're going to want to do that in the context of how we will see ourselves performing over the ten years and that whether or not we're able to have a reasonable opportunity to earn our allowed ROE.

The thing about earnings sharing mechanism is, one, it's asymmetric, which means if we underearn we have no opportunity of recovering that money from ratepayers in any way or sharing that with ratepayers.

The second point is that the earnings sharing mechanism, as I said, is an incentive. It's an incentive for us to overperform, and when we overperform, ratepayers will benefit from that.

MR. POLLOCK: Thank you. I guess I'll move on.

With regards to ESM, would you agree that the ESM only diminishes your incentive to the degree that is a realistic expectation of the utilities to meet the threshold amount? So I'll give you an example. If the ESM threshold were 2,000 basis points and it would be 20 percent over ROE, that wouldn't really diminish your incentives, because it would be a Herculean task of productivity to get there, right?

MR. KITCHEN: Well, yes, with the scenario you gave me, it would be a Herculean task, and it wouldn't diminish it.

MR. POLLOCK: So it wouldn't diminish it.

MR. KITCHEN: No.

MR. POLLOCK: So the last question on the ESM that I have is, you've talked a lot about your forecasts, and you used the $680 million and the achieved ROE that I think is in FRPO 1, which -- no, it's okay -- so it's in FRPO 1, so we'll just leave it at that.

Are there any other forecasts? Are there any other, you know, you do a little bit worse than that or you do better than that? Anything else, but just this one analysis, this one band?

MR. REINISCH: Magically, FRPO 1 appears.

[Laughter]

MR. POLLOCK: Just give me a moment to pull it up here. I'm sorry, while we're pulling it up, could we pull up to, I think, page 22 of attachment 1. 22 or 23. We can actually see the... Go one down. There we go, I think.

So that is your one analysis that I know of which is the achieved ROE on your 680 million, so I was just wondering if there were any others that you forecasted below, above, anything like that?

MR. REINISCH: So this slide here in the presentation to our board of directors, it shows our proposal, our MAADs proposal, and it is the scenario that we have modelled.

To support this presentation to the Enbridge -- Union and Enbridge Gas Distribution board of directors we also ran sensitivities around some of the variables. Those can be found, if you flip ahead to slide 26, 27, and 28, and start with 26.

So, in slide 26 we have modelled some sensitivities around interest rate fluctuations, inflation tracking, and tax risks, so as you can see from this slide, when you go to the far right, there is a table that discusses the sensitivities that we have run and then attempts to quantify those sensitivities if they were to actually occur.

MR. POLLOCK: Was there any step forward from that that discusses how likely you found the -- so, you know, for example, this one that we're on right here, shocked up or down by one move across the yield curve, is there anything that says "here's how likely we think one move across the yield curve is" or anything like that?

MR. REINISCH: So there was no probability attached to the sensitivities. These were sensitivities that were provided to the Board to give a range of reasonable, possible outcomes that could impact our ability to earn the allowed ROE and to meet the performance and the projections laid out on slide 23.

MR. POLLOCK: Okay, thank you. I think I will move on to areas that haven't been covered by anyone else.

So I was wondering if we could turn up Exhibit B, tab 1, page 27. Do you have that available on the screen? Yep, okay. There we go.

So I just wanted to have a brief word about your stakeholder meeting proposal, and as I understand it, it will be biannually and just so I make sure, that's once every two years, not twice a year, correct?

MR. KITCHEN: Sorry, Mr. Pollock, you are referring to 0307, correct?

MR. POLLOCK: Yes, that’s correct.

MR. KITCHEN: Sorry, we were on 0306.

MR. POLLOCK: I apologize. I'll give a second.

MS. ANDERSON: While by we're waiting, is it possible it get the blinds lowered a little bit so we're not seeing shadows of the witnesses? Thank you.

MR. POLLOCK: So you’ve got it?

MR. KITCHEN: Yes.

MR. POLLOCK: As I understand it, the stakeholder meetings under your proposal will be biannual, which is to say once every two years, rather than twice a year?

MR. KITCHEN: That's our proposal, yes.

MR. POLLOCK: And if we go down -- right there, okay. So you've listed 1 through 6. This is sort of the scope of the review, is that correct?

MR. KITCHEN: That's correct.

MR. POLLOCK: And number 3 is you'll be talking about the ICM capital projects, or the new projects that meet the ICM criteria. And number 4 is you will present an update -- sorry, number 5 is you'll present an update on the...

MS. LONG: Sorry, Mr. Pollock, we can't hear you. So maybe you can wait until we resolve the blind issue and then ask to repeat the question.

[Laughter]

MR. KITCHEN: The cone of silence.

MR. POLLOCK: So as I understand it, the scope of this will include number 3, which is new capital projects that meet the ICM criteria, and number 5, it will also include the integration planning and execution. Is that right?

MR. KITCHEN: That's correct.

MR. POLLOCK: All right. So currently, as I understand it, both utilities separately hold an annual stakeholder day, so two per year in total.

MR. KITCHEN: That's correct.

MR. POLLOCK: And if we turn up number 8 -- I don’t know if it’s necessary, but if we could turn it up, they asked you why you were proposing the shift from every year to every two years. And your answer, as I understood it, was twofold.

One is that it's too frequent and a more meaningful discussion could be had every two years, and second part of it is that the information will be available to the parties in other forums.

I just want to focus on the first reason. Is it correct to say that there's just not -- in your view, there’s not enough information that gets developed over the course of a year to really have a meaningful conversation every year?

MR. KITCHEN: I think there are two issues really. One is that -- and I think Mr. Culbert may comment on this as well. But at let's from a Union perspective, to prepare the stakeholder presentation is a significant undertaking as we were trying to get ready the deferral account filing, et cetera. So we found it, first of all, to be a very significant undertaking.

Second, when we did the presentations, although there were some questions, we really didn't find that there was really enough to talk about.

And we felt that by having them every two years, we could have more meaningful discussions around what's been happening over that two-year period, rather than leaving it to a single year. That's the simple reason.

MR. POLLOCK: So in terms of there not being enough to talk about, if I understand it correctly, since there's at least initially going to be two asset management plans, if you were to do it as amalgamated company every year, you would have -- maybe not exactly double, but, you know, a significantly larger number of capital projects than any individual utility prior to talk about.

MR. KITCHEN: There would be more projects potentially as under the ICM, because we are bringing together two companies, yes. But -- and we're not saying that those won't be discussed at all. What they'll be discussed through is the annual rate-setting mechanism and there will be a broader discussion during the customer meeting every -- or at the customer stakeholder meeting every two years.

MR. POLLOCK: We can get to that I understood would be the second are part in AOP 8. So hang onto that, because we’ll get there.

But there will be more to talk about than there was just with the individual utilities on a capital project basis, yes?

MR. KITCHEN: Presumably so, yes.

MR. POLLOCK: In terms of the number 5 previously, the new integration and execution of the integration, I believe your evidence was earlier this was high-level thus far, and there is really a lot of planning that needs to go into developing more refined estimates. And all of those things you could communicate to the stakeholder event that you wouldn't have been able to, or there wouldn't be an integration to talk about previously?

MR. KITCHEN: That's correct.

MR. POLLOCK: And so I guess my final discussion point is on the second part of your answer here, that there are other forums that you will be discussing this information.

My understanding was part of the, I guess, regulatory value of the stakeholder sessions was proactive communications, so that intervenors and other interested stakeholders wouldn't have to wait for those sort of annual applications, but you would be able to inform us of what's going on ahead of time and thus cut down on some questions.

MR. KITCHEN: Well, I think -- I'm not sure it would cut down on questions. But I do agree with the concept that you've talked about in terms of being a proactive discussion.

Again, I think, though, that there are ample opportunities through the normal regulatory process to deal with these things. So for example, the last one, talk about the integration planning and such, I expect that to be raised as part of our annual rate-setting process as well.

So, I guess, the way we're looking at this is we're not going to be losing the ability to provide information to stakeholders. We're just cutting out that one annual stakeholder meeting each year, right? That's -- or sorry, we're cutting out the stakeholder meeting every other year.

MR. POLLOCK: Thank you, those are my questions.

MS. ANDERSON: Thank you, Mr. Pollock, I believe Mr. Buonaguro is next.

MR. BUONAGURO: Thank you, good afternoon.

CROSS-EXAMINATION BY MR. BUONAGURO:

Good afternoon, panel. I'm Michael Buonaguro, counsel for the Ontario Greenhouse Vegetable Growers, who, in case you don't know, are primarily Union customers.

I submitted an exhibit for use -- a visual aid for use in my cross-examination by email three times.

The third one was right, I think, and perhaps I can get an exhibit number for that and it's on the screen.

MR. LIPPOLD: Madam Chair, we can Mark that as Exhibit K2.3. Does the panel have a hard copy?

MR. KITCHEN: The one that's on the screen is not the same as the one that I have.

MR. BUONAGURO: The last version that was up this morning has a line 11 and 12, and I made copies and they are by the front desk there.

MR. KITCHEN: That's the one that we have.

MR. BUONAGURO: In case anybody is tracking, the difference between this one and the last one was just a notation on the side. I had the wrong line number.

All right. I made nineteen copies and they were at the front desk. I don't know what happened to them.

MR. RICHLER: Madam Chair, we don't have those copies with us right now. We can get them for you at the break. If it is only one page maybe, the screen will suffice. Otherwise, we may have to pause now while we get those for you.

MS. ANDERSON: I think it would be helpful if the screen was a little bit bigger.

MS. SPOEL: If you could make the screen bigger so we can see it, then we may not need the hard copies.

MR. BUONAGURO: That should do it.

MS. SPOEL: Yes, that’s...

MR. RICHLER: Apologies, Madam Chair. We've located hard copies and they are coming to you right now.

MS. SPOEL: Thanks very much.

MR. BUONAGURO: Thank you very much. So that's K2.3, I believe.

MR. RICHLER: Yes.

EXHIBIT NO. K2.3: OGVG CROSS-EXAMINATION COMPENDIUM FOR PANEL 1

MR. BUONAGURO: Thank you. I should preface this by saying that I believe all, if not most of my questions are -- most if not all of my questions are -- most if not all of my questions are related to the rate proposal and so the justification for the rate proposal.

And what you'll see here -- and I would not be surprised if the information on this sheet is similar to the list of assumptions that's in the graph that you are going to produce, if I'm not mistaken, but I guess we'll see.

This sort of sets out an easy way, at least in my mind, to see what it is that the company is proposing as justification for it. And what I propose to do first is just go through some of the items and confirm some things.

So line 1, I've called it the stand-alone cost and rate proposal, on the premise that this is certainly -- and Exhibit B, tab 1, page 20 is described as what the company says would be the stand-alone costs for both utilities in combination if there was no merger, correct?

MR. REINISCH: That is correct.

MR. BUONAGURO: And then I call it the rate proposal, because you tell us what the stand-alone rate proposal, you're saying this is what we would charge customers if there was no merger, correct?

MR. REINISCH: That is the correct. That is the assumption that we would apply to stand-alone cost-of-service custom IR proposals --

MR. BUONAGURO: Thank you. And I'm not sure you have to turn it up, but LPMA 5, so Exhibit C.LPMA.5 asked about the stand-alone costs, and it was described in an interrogatory answer that those costs were based on the custom IR, correct?

MR. REINISCH: That's correct.

MR. BUONAGURO: And specifically when you look at Part A, the response, it says here:

> "It would be similar to EGD's current custom IR plan as approved by the Board in EB-2012-0459."

Correct?
MR. REINISCH: It would be similar, yes.
MR. BUONAGURO: And when you say "similar" do you mean similar in terms of what Enbridge applied for in that application?
MR. CULBERT: It means it would be a custom IR application that is similar in nature. Of course, we would be adhering to all of the current custom IR requirements that the Board has on file, so it would have a rebasing year to begin, and then all aspects of what's required for a custom IR application.
MR. BUONAGURO: All right. And I asked the question because in contrast to what the Board decided in that case, which was very different than -- in my mind, anyway, different than what was applied for in certain aspects.
MR. CULBERT: Yeah, I agree, the Board in that hearing identified some shortcomings relative to what their expectations of custom IR were. Of course, that was just evolving at the time, and the Board noted that in its decision that custom IR was just evolving, and they have since, I'll say, better quantified what custom IR means to them and to other parties applying, so, yes, we would be following the Board's custom IR requirements as identified --
MR. BUONAGURO: Thank you.
MR. CULBERT: -- currently.
MR. BUONAGURO: And just to round it off, because we are talking about ten years and two utilities during

deferral period, we're talking about line 1 representing a forecast of what four separate custom IR applications would produce, correct?

MR. REINISCH: That is correct. Both utilities through the ten-year period would have two custom IR periods each.

MR. BUONAGURO: And at the risk of stating the obvious, there's -- there are no such applications before the Board in any form, correct?

MR. REINISCH: That is correct. We have not applied for a custom IR.

MR. BUONAGURO: If you said yes I would have been in big trouble.

So line 2, I call it the Amalco rate proposal, and I expect you do too, and that's also in that same exhibit, Exhibit B, tab 1, page 20, and that's what you are saying rates will look like for the two utilities in total, in terms of how much those rates will cost ratepayers during the deferral period if the merger's approved and the proposal goes through as applied for, right?

MR. KITCHEN: That's -- the 411 million identified in line 3 is the result of a no-harm test, yes, and it's basically stand-alone versus the price cap mechanism that we've proposed.

MR. BUONAGURO: All right. So I was referring to line 2. You jumped ahead.

MR. KITCHEN: Okay.

MR. BUONAGURO: Line 2 is the actual proposal, and then you've identified line 3, which is the difference between the two.

MR. KITCHEN: That's correct.

MR. BUONAGURO: But I was right in how I characterized line 2?

MR. KITCHEN: Yes.

MR. BUONAGURO: Thank you.

And one of the things I was looking at for both of those items, you will see -- well, if you jump down to lines 11 and 12 you will see that I have a line there that says "Amalco rate proposal", which is line 2, and I put "including a .3 stretch factor". I didn't use the word "factor", but I think everybody in the room, if you don't know that when I say "stretch" I mean "factor", I don't know if you should be here.

I included .3 stretch factor because the Board Staff initial positions that were filed suggested a .3 stretch factor as a possible position.

Now, the way I did that -- so basically I was trying to say, well, what would happen if instead of your proposal, which is inflation, minus for a productivity of zero and minus of -- stretch factor of zero, there was a stretch factor of .3, so I said, well, how would that look like? And to my knowledge, that isn't on the record, nobody has done that calculation, have they?

MR. REINISCH: No, that calculation has not been provided, but we have reviewed your calculation and we agree that that would be the impact of a 30-basis-point stretch factor.

MR. BUONAGURO: Right, thank you. And then you see I've done a cumulative dollar value for that in line 12. I did line by line, but then I also did the cumulative is about $410 million?

MR. REINISCH: So, yes, it does show that what might seem like a very small stretch factor, 30 basis points, is actually very significant when it's compounded over the full-year rebasing period, so again, to achieve the projected returns that we were providing, and when you look at line 7, which is really the shareholder benefit, and we can correct as you go line by line, there is one thing missing from the calculation there, but ultimately that shareholder benefit of 139 million, with a 30 percent stretch factor applied, would be negative, making it --

MR. BUONAGURO: .3 percent.

MR. REINISCH: -- making it very -- sorry, .3 percent. Making it very difficult to achieve our financial projections.

MR. BUONAGURO: So the reason I refer to that now, as was about how I did that, and what I did was I went into what I've called here in the references FRPO 11A with ICM impact calculations, 2018-04-02, which is a date, and after I did that this morning, I realized, I don't think that's on the record. It was a document that was exchanged between Mr. Shepherd and the company, and the company produced a version that it said was corrected, and I think it was used in the technical conference, but it wasn't actually put on the record. Does that sound familiar? It is an Excel spreadsheet with -- and I have it here.

The last version of it, the company, I think in red, changed some of the assumptions with respect to the ICM proposal.

MR. CULBERT: Yes, this is a sheet that was prepared by Mr. Shepherd and went back and forth between us at the technical conference. I thought Mr. Shepherd provided this in a final version in his compendium, but...

MR. SHEPHERD: I wonder if I could just step in here. The last page of this is in our compendium, but the full spreadsheet was never put on the record, because the full spreadsheet builds up to it, takes all the FRPO 11 stuff, and builds up to this last sheet, so the last sheet was what we talked about, but the full spreadsheet is what you've checked, right?

MR. CULBERT: Oh, yeah, all I was getting at is, if this is relative to the document that we ended up at, then, yes, I --

MR. BUONAGURO: Yes, thank you, and it's because I put it in the exhibit, I want to make sure it was on the record, so perhaps we can get an exhibit number for the Excel spreadsheet, the whole thing is in, and if you look at it, I think all of it is simply reproductions in Excel sheet form of the assumptions that were set out in FRPO 11.

MS. ANDERSON: Can I just clarify, is that this last worksheet or all of the worksheets?

MR. BUONAGURO: I'm looking for all of them, because I don't actually use this last one. The information I was looking at is in the first few.

MR. RICHLER: So Madam Chair, just to be clear, we can mark the entire spreadsheet as Exhibit K2.4, but I trust Mr. Buonaguro will actually file the complete spreadsheet with the Board?

EXHIBIT NO. K2.4: SPREADSHEET PREPARED BY MR. BUONAGURO.

MR. BUONAGURO: Yes, I can do that. Thank you.

So I was looking at it to see when the company says it was forecasting a custom IR result for the both companies, what kind of inflation factors, for example, it was using.

And if you go to EGD stand-alone as an example, and I think it's the same for both, the inflation factor would be the GDPIPI factor there, the 1.73 percent?

MR. CULBERT: That's correct.

MR. BUONAGURO: Right. And it is assumed throughout the period?

MR. CULBERT: That's correct.

MR. BUONAGURO: And the productivity factor is zero, and there is no placeholder for a separate stretch factor, but obviously that means it was zero?

MR. CULBERT: That's correct.

MR. BUONAGURO: Okay. And I was interested because I looked at the actual utility OM&A to see how that factor was applied. In the spreadsheet, the numbers were inputted as numbers without being -- they weren't actually mapped back to a formula, so if you look at all -- it as highlight

-- it happens to be highlighted there.

But I think if you'll take it, subject to check, that if you were to -- especially for Enbridge, if you were to look at the percentage change in all the different utility OM&A categories over the entire range, other than the first two years, the escalation is 1.73 percent. And I think in the first few years it's 2 percent.

MR. REINISCH: That was included in a response, actually in FRPO 11, response B. It outlines that over the first three years, OM&A costs were inflated for EGD at 2 percent and then, for the remainder of the period, inflated at the GDP IPI at 1.73 percent.

MR. BUONAGURO: Can you explain why, in the first two years, it was 2 percent as opposed to 1.73?

MR. REINISCH: Based on management forecasts of cost increase pressures, it was landed upon that for the first three years, costs are expected to be going up by 2 percent.

MR. BUONAGURO: Now, if this had been an actual custom IR, which I understand it’s not, there would be sort of explanations for that, like more detailed explanations, correct? You would have evidence supporting those management decisions?

MR. REINISCH: Yes, we would be providing a full cost breakdown of our forecasted OM&A cost for the period of the custom IR.

MR. BUONAGURO: Thank you. And then for the Union tab, if you go over there, you can see the same 1.73

percent GDP IPI figure. Do you see that?

MR. REINISCH: That's correct.

MR. BUONAGURO: Now, I won’t -- well, maybe I'll ask the quick question. I see customer care at zero for the first three years, and then it goes up in $2 million increments from 2022 on.

I am assuming on the record there is an explanation for that. Perhaps you can tell me what's happening here.

MR. REINISCH: So the banner billing system, which is our customer care billing system, is reaching the end of useful life. So it was management's forecast that around the period of time, 2021, 2022, they would require capital investments as well as other cost pressures related to that system that would start increasing the costs of the customer care function above its current baseline.

MR. BUONAGURO: Then for DSM, I see it's held constant at 63 throughout. But I understand, if I’m not wrong, that whether you are under custom IR or whether you were under a price cap, the DSM would be a pass-through in any event.

MR. REINISCH: That's correct.

MR. BUONAGURO: So it has no impact. You could put zero and it would have no impact on the differential.

MR. REINISCH: Yes, as long as you zeroed it out and didn't include it in total OM&A.

MR. BUONAGRO: And then on department and others, which I assume is the rest of the OM&A, again I had the same issue.

The first two years were -- from '19 to '20, the escalation was 3.42 percent, then down to 1.78 percent in the year 2021. And then throughout the rest of the period, it was -- I think it's 2.06 percent, I think it rounds in one year. So it's similar to what's happening in Enbridge, but the inflation factor of 1.78 is never used -- 7.3, sorry, is never used, and in the first three years, there is a bit of jumping around.

Can you explain those two -- what I call anomalies?

MR. REINISCH: Yes, it was discussed in the response to undertaking. JT1.14 provides a more specific breakdown. If you'd be able to bring that up, please, that would be of assistance.

So this shows the assumptions that underpin the O&M forecast that is being used for Union Gas. As you can see, we have the 2019 base year departmental O&M. The inflationary increases throughout the period are forecasted to be 2 percent per year.

We do have, starting in 2020, a one-time asset management plan related to O&M increase. This is cost pressures related to a number of asset management related work that we have factored into the plan.

We have also then our total net service -- this is our corporate costs and that we have also inflating at 2 percent a year, which on a base of 7 million per year, it goes up marginally in the latter period of the forecast.

And then finally DSM; we've held constant at the 63 million and then the incremental customer care which I've just discussed.

MR. BUONAGURO: Can you explain why it seems to me you are using an inflation figure over 2 percent, while Enbridge is using an inflation figure over 2 percent. Why are you using two different inflation figures?

MR. REINISCH: Again, both of these cost forecasts were developed independently. They were developed by Union Gas for Union, and by EGD for EGD. Both utilities have been operating under different IRM frameworks for the last number of years, and have been facing different cost pressures and have different productivity potential.

But again, in both cases there is a marginal difference of 2 percent versus 1.73 percent inflation per year when you go out past 2021, and again the key there is that the forecasts were developed independently, factoring in all the available information we had at the time.

MR. BUONAGURO: In terms of -- you said one there that I'm interested in. You said they have different productivity -- what was the word -- potential.

But if I'm not mistaken, there's no productivity assumed in any of these escalations, correct, by either company?

[Witness panel confers]

MR. REINISCH: So there is an implicit productivity for both forecasts.

There are customer attachments each year. Roughly 50,000 customers combined for Amalco; about 30,000 for Enbridge and 20,000 for Union Gas.

These incremental customers come with incremental costs, postage, billing, et cetera.

There is no -- as you can see in this breakdown, there is no assumption for increased costs associated with those customers. So there is embedded in these assumptions some level of productivity that will need to be achieved to fund the increased costs associated with the attaching 50,000 customers a year.

MR. BUONAGURO: There is also increased revenue, correct? When you add a customer, they become a customer and they start paying bills?

MR. REINISCH: Yes, there will be increased revenue, but that revenue is required to cover all costs, not just O&M.

MR. BUONAGURO: Well, that's true of every utility that's ever been, right? I mean, you are not describing anything new that is specific to Enbridge and Union?

MR. REINISCH: Again, it is important to note, though, that when we look at the custom IR, we the are not looking at revenues from customers. We are looking at a cost-based approach, and so we are discussing costs in this instance, not the revenues associated with customers.

MR. BUONAGURO: So from a productivity point of view, when I asked the question about productivity potential, you are telling me that the productivity that you've embedded in your forecast per custom IR is productivity associated with adding customers?

MR. REINISCH: That is correct. We've assumed that there is no incremental cost to add 50,000 customers a year

-- an assumption that is in essence false, because we know there is cost associated with adding customers. But we have not included that in our custom IR proposal.

MR. BUONAGURO: And then line 3, as Mr. Kitchen jumped to, has the differential between volumes 1 and 2.

I have used the number 411, because that's what's in the exhibit. If you do the actual math in my spreadsheet, it is a little off. It's a million, which I assume has to do with rounding.

MR. KITCHEN: It would be rounding.

MR. BUONAGURO: And this is one of the lynchpins, I'd call it, of your proposal in the sense that it's the 411 benefit -- a ratepayer benefit, as I think you refer to it As -- justifies your rate proposal.

MR. KITCHEN: The $411 million is what we've used to show that there's no harm, to put forward the no-harm test, and it is the result of our rate proposal, yes.

MR. BUONAGURO: I see. So you're not claiming that this math justifies your rate proposal?

MR. KITCHEN: Well, I believe what I am saying is we have brought forward a proposal to amalgamate. In order to do the no-harm test, we looked at what two the stand-alone utilities would look like compared to our price cap proposal. That generates $411 million in savings to ratepayers through the no-harm test, right?

We are applying -- we are applying for a rate mechanism under a price cap, and we are applying for a zero productivity, zero stretch factor, and a number of other components. But this essentially sets out what the results of those components -- all those components are.

The no-harm test was used to justify -- to support the amalgamation, as opposed to supporting the rate application. But this is the result of that rate.

MR. BUONAGURO: Okay. Let's --

MR. KITCHEN: Maybe we are splitting hairs on this a Bit, but --

MR. BUONAGURO: I don't necessarily think so. I think that was very useful. You are saying that when the Board is looking at your rate proposal, it is not directly the -- whether or not that rate proposal produces just and reasonable rates under the circumstances doesn't rest on this calculus between what you say is your custom IR costs.

MR. KITCHEN: I think to a certain extent it does. Like, for example, if we go down to line 12 where you've calculated the .3 stretch factor, you know, when I look at that and see $410 million compared to our base forecast, and in order to achieve that base forecast, essentially what we're saying, with that stretch factor, is that we would need to achieve an additional $410 million in savings beyond what we proposed just to maintain the allowed ROE. You know, I just don't know how that is even achievable. It's almost not reasonable. It's -- actually, it is outside of even the band of what our projections are for what we can save based on table 4 in our evidence.

MR. BUONAGURO: So that's -- thank you for that. That all, though, depends -- all that math depends on line 1 being accurate, right?

MR. KITCHEN: I think what that math -- irrespective of the math in line 1, line 1, from our perspective, is a reasonable assumption as to what our rates would look like if we were on a stand-alone basis, and, you know, you can poke at the math in line 1. However, that doesn't change the fact that there is going to be savings to ratepayers, and those savings are the magnitude of $411 million if we do nothing and potentially much greater if we amalgamate.

However, what I'm saying is if you layer a stretch factor on to that it likely becomes unreasonable that we would even be able to achieve our allowed ROE.

MR. BUONAGURO: I'm going to move on to line 5 before I forget, because I have conflicting numbers for that, and I just want to make sure I have the right numbers. In OGVG number 7 I was given a number of $151 million total revenue requirement for capital, for the capital spending over the term. It wasn't broken down by year, but the total was given to me was -- and I didn't ask for it by year -- was 151.

My understanding, in hearing evidence especially early today, was that in the cites there, Exhibit C.FRPO.1, attachment 1, page 23, it had a line-by-line, what I understood to be the same thing, revenue requirement associated with the capital, and it totalled 133 million.

So are they the same thing, and if so, which one's the right one?

MR. REINISCH: So they are actually two different things --

MR. BUONAGURO: Okay.

MR. REINISCH: -- the information provided in FRPO 1, on slide 23, that is the earnings drag as a result of the investments, rather than the revenue requirement associated with the revenue -- or with the investments.

For clarity, really the difference is FRPO 1, slide 23 excludes the return on the investment, so it only includes the depreciation expense and the interest expense --

MR. BUONAGURO: Okay.

MR. REINISCH: -- but it doesn't include the return on the investment.

MR. BUONAGURO: So that accounts for the extra $18 million?

MR. REINISCH: Correct.

MR. BUONAGURO: Okay. So the total there should be -- shouldn't be 133, it should be 151, which is what was in OGVG number --

MR. REINISCH: Yes, that's correct.

MR. BUONAGURO: Okay. Thank you.

Now, you will see -- you've already confirmed for me that I did 11 and 12, right? Correct?

MR. REINISCH: That is correct.

MR. BUONAGURO: Okay. And looking at 8, 9, and 10, you will see I've done a little bit of math just to see what this comes out to. And it seems to me that if your stand-alone cost and rate proposal is accurate, and if rates were held at the Amalco rate proposal number, and if the forecast savings and merger capital costs, subject to the adjustment that we just talked about, were all accurate, the total savings relative to line 1 would be a rate reduction of 1.83 percent, sorry, 8.5 percent, over the course of the period, right?

MR. REINISCH: That's correct.

MR. BUONAGURO: And then there is sort of an implicit split between ratepayers and shareholder. This number here is 75/25, sort of earnings sharing over ten years, it will be a little different, I guess, if we make that update, but it is around 75/25?

MR. REINISCH: Yeah, it is around 75/25, with the updated merger capital costs, the percentage savings to shareholders would decrease slightly.

MR. BUONAGURO: Now, I don't want to put words in your mouth, because I don't think you are committing to 75/25 sharing, under all circumstances, correct?

MR. BUONAGURO: This analysis is not related to earnings sharing. This analysis is relating to the benefit of our proposal and how ratepayers will be better off and suffer no harm under our proposal relative to the alternative, which would be the stand-alone cost and rate proposal.

MR. BUONAGURO: I see. I misspoke. I shouldn't have used the word "earnings sharing". I think that's what I said. You are not committing to the 75/25 split of the benefit of the merger, in the way that they are presented here in terms of the cost savings, net cost savings?

MR. REINISCH: So our proposal under the MAADs is to have a price cap with a capital tracker adjustment for the ICM to allow us to make investments during -- above our threshold during the deferred rebasing period.

Customers will benefit starting effectively in year one with lower rates as a result of our proposal relative to the stand-alone scenario, and then when you go through, if we have the appropriate framework, the appropriate incentive, to pursue the cost savings that we have set out makes every sense that we would continue to attempt to pursue as aggressively as prudent and possible cost savings.

At the end of the day, as you can see from this chart, in 2028, forecasted savings of $85 million, the merger capital, the revenue requirement is slightly more than 16 million. These are, as we've modelled, sustainable cost structure reductions that would be passed along to ratepayers upon rebasing in 2029.

MR. BUONAGURO: Now, that's still all assuming that the company --and this, I guess, becomes theoretical -- would go forward in the alternative with four separate custom IR applications that would all be based on zero productivity and zero stretch factor implications, right?

MR. REINISCH: That is correct. That's what we have modelled.

MR. BUONAGURO: And if the Board approves your rate proposal none of that will happen. There won't be any custom IR applications, no custom IR evidence, no accounting for the -- there will be no filing of evidence to support that forecast ever. There will be ex post facto evidence about what happened, but there will never -- there never -- a forecast basis the Board would never look at four separate custom IRs to support that as being what the alternative rate structure was going to be and that would bear out exactly as you proposed, right?

MR. REINISCH: That is correct. We would file a 2019 and subsequent years rate proposals based on the framework that the Board has approved as part of the MAADs application, and we would not be required to file a custom IR.

MS. ANDERSON: Mr. Buonaguro, I think you are about at your time. You're good?

MR. BUONAGURO: Perfect. Then I can say on the record that the Board told me I had to stop right now.

MS. ANDERSON: I didn't tell you that. I was going to check if you were finishing up.

MR. BUONAGURO: No, I'm -- that's a perfect time to stop. Thank you.

MS. ANDERSON: Thank you. Ms. Chatterjee, do you have any cross-examination?

MR. CHATTERJEE: No, we'll be going for panel 3.

MS. ANDERSON: Okay. Thank you.

So that leaves us with Mr. Vellone, and we were hoping to complete this panel before we take the break as incentive for you to be quick, so that we can excuse the panel and get ready for panel 2.

MR. VELLONE: Thank you, Madam Chair. Having had a chance to listen to the questions my colleagues have asked over the last two days, I believe the topics I wanted to cover have been thoroughly exhausted, and I'm not going to use up the time.

MS. ANDERSON: Well, I think that works then.

So I think -- I will just check with my panel members.

Okay. We have some questions from the panel.

QUESTIONS BY THE BOARD:

MS. LONG: I just wanted to go back to a question that Ms. Girvan raised in her compendium, and it was on page 12, where I guess there was a list of proposal summary based on Union's last application, and she asked you some questions about this commitment that you made for a full cost-of-service filing for 2019.

And are guess I'm just wondering, and maybe, Mr. Cass, you wanted to answer this question, but my understanding is that this settlement agreement was part of a Board order, part of a Board decision.

And I'm just wondering, given that that commitment has not been fulfilled, whether or not you are seeking any relief from this Panel in the decision, what your position is with respect to that.

MR. CASS: Ms. Long, I don't think we had considered that it was needed to request that relief.

Again, as the witnesses have explained, because there will not be a rebasing, I think it was our expectation that that was not necessary.

If the view of the Panel is otherwise, I suppose we could add that as additional relief that we are seeking. But it hadn't been our understanding, really, that it would be necessary to request that.

MS. LONG: Am I clear that there's no -- there's been no agreement with the other parties to this agreement that this requirement could be waived?

MR. CASS: That is certainly my understanding, yes.

MS. ANDERSON: I think those are the questions from the panel. Mr. Cass?

MR. CASS: I actually have no re-examination, Madam Chair.

MS. ANDERSON: Wow.

MR. CASS: So we are finished with this panel.

MS. ANDERSON: I think we can then excuse panel 1, and take a 20-minute break. I recognize how long it takes to get down the elevators and grab a coffee and come back up, so I'll give you a little extra time and we'll start then with panel 2 and Mr. Vellone. Thank you.

Since I still have the mic, we have a hard stop at 4:30, just to give you a heads-up. So we are going to actually try and stop a little bit before that.

--- Recess taken at 3:00 p.m.

--- On resuming at 3:21 p.m.

MS. ANDERSON: Thank you. We should be ready with panel 2. Mr. Cass --

MR. CASS: Thank you, Madam Chair. Just before we come to panel 2, there was a matter arising out of the

previous panel that I wanted to address with the Board. I've spoken with Mr. Buonaguro about it. The Board will recall that there was cross-examination on Exhibit K.3. In the course of that examination, Mr. Buonaguro had asked questions
on -- about line 1 and whether it included productivity, and there was some discussion on that.

Afterwards we realized that perhaps it was a question towards the end where Mr. Reinisch may have appeared to have agreed that there was no productivity in line 1, and we are concerned that that was not consistent with what he had said previously and, in fact, was not what he intended to say, that there was no productivity in line 1.

So I've spoken with Mr. Buonaguro about it, and I think we understand it the same way that that was not Mr. Reinisch's intention to say there is no productivity at all in line 1.

MR. BUONAGURO: Yes, I understood that we had a detailed conversation about what he meant by productivity being built into the line 1. My question at the end was about external productivity factor absent specific initiatives and such. So I understood the same way he did.

MS. ANDERSON: Understood. Thank you.

MR. CASS: Thank you, Madam Chair, so to move on expeditiously with panel 2, I would propose to do much the same as did I with the first panel. I will introduce the new panel members, and they can be affirmed, and then we'll do just a very quick examination-in-chief with Mr. Kitchen to adopt the evidence.

So as the Board can see, we have two panel members returning who have already been affirmed, Mr. Kitchen and Mr. Charleson. The additional panel members are Amy Mikhaila, manager, rates and pricing with Union Gas, and Jim Redford, vice-president, business development, storage, and transmission with Union Gas. Those two witnesses need to be affirmed. Thank you.

ENBRIDGE GAS DISTRIBUTION/UNION GAS - PANEL 2:
STORAGE AND TRANSMISSION
Mark Kitchen,
Dave Charleson, Previously Affirmed;
Amy Mikhaila,
Jim Redford; Affirmed.

MS. SPOEL: Thank you very much.

MR. CASS: So Madam Chair, again I will ask a few questions of Mr. Kitchen on behalf of the panel to just have the evidence adopted so we can move on to cross-examination.

MS. ANDERSON: Thank you.

EXAMINATION-IN-CHIEF BY MR. CASS:

MR. CASS: Mr. Kitchen, can you confirm, please, that this witness panel is responsible for the evidence in these applications generally in the areas of storage and transmission and gas supply?

MR. KITCHEN: Yes, I can.

MR. CASS: And was the evidence in those areas prepared by the members of the witness panel or under your direction and control?

MR. KITCHEN: Yes, it was.

MR. CASS: Can you please confirm that the evidence in those areas, including answers at the technical conference, are best to the -- are accurate to the best of your knowledge or belief?

MR. KITCHEN: They are.

MR. CASS: Thank you. Thank you, Madam Chair.

MS. ANDERSON: Good. Any other preliminary matters before we start with panel 2? Seeing none, we will move it to Mr. Vellone.

CROSS-EXAMINATION BY MR. VELLONE:

MR. VELLONE: Thank you, Madam Chair. I did have a chance to distribute some materials in advance. You should have in front of you three documents, probably stacked with the Natural Gas Electricity Interface Review decision and order that was circulated electronically as a compendium. Perhaps if I can get this marked as an exhibit.

MR. RICHLER: Madam Chair, just so I'm clear, and perhaps this is directed to Mr. Vellone, did you want to mark all three of the documents that comprise your compendium together as one exhibit?

MR. VELLONE: Yes, I think that's easiest. The electronic compendium is all merged together --

MR. RICHLER: Right. And just so the record is clear, I see that there is excerpts from the board NGEIR decision, there is what appears to be a redacted version of a CRA memorandum, Charles River Associates, and finally a document by the Government of Canada called the Practical Guide to Efficiencies, Analysis, and Merger Reviews.

MR. VELLONE: Correct.

MR. RICHLER: So together, Madam Chair, we can mark that as K2.5, APPrO's compendium.

EXHIBIT NO. K2.5: APPRO CROSS-EXAMINATION COMPENDIUM FOR PANEL 2

MS. ANDERSON: And I'm assuming because this is a redacted version that you are not intending to go -- to have us go in camera?

MR. VELLONE: That was my next point. Some of the information filed in this memorandum was filed in confidence. We are not intending to make any reference to that information in our cross-examination today, so our intention is to proceed on the public record. My friends can interrupt if they have any objections. Thank you, Madam Chair.

The focus of my examination today will be on issue 6, whether the proposed merger would have any impact on other OEB rules, policies, procedures, and the specific OEB prior order that I'm going to make reference to is the NGEIR decision, so why don't we start with that.

In NGEIR -- and I'm flipping forward to page 33 of the electronic compendium -- that is the first page of the electronic summary of the NGEIR decision -- the Board made two principal determinations that are relevant to my questions today.

The first related to the creation of new services for gas-fired generators, and those arose at that time because of the increasing number of dispatchable gas-fired generators, and looking at that first paragraph there, it really gives it a context for why these new services were needed.

And for the panel today I just want to confirm that then, as is today, gas-fired generators operate in response to five-minute dispatch instructions from the IESO, and as a result their gas consumption profiles are more volatile and difficult to forecast than the relatively stable profiles for residential, commercial, and industrial gas users.

Is that still true today?

MR. REDFORD: Yes, that is still true today.

MR. VELLONE: Great. And then flipping forward to the next page, the gas-fired generators and the utilities work together to develop a number of new services intended to address the concerns of this customer group. And there are two services there that are specific with regards to my questions today.

The first is more frequent nomination windows for the distribution, storage, and transportation of gas. And the second is high deliverability storage services.

These -- both of these services are still offered for gas-fired generators today, correct?

MR. REDFORD: They are offered today still, correct.

MR. VELLONE: And if I refer to them for the balance of my discussion as high deliverability and short notice services, you know what I'm referring to?

MR. REDFORD: I do.

MR. VELLONE: Thank you.

My observation here is that this was arrived at because from a settlement between gas-fired generators and the utilities in response to generators' needs and concerns. Would you agree that that's correct?

MR. REDFORD: Yes, I would agree it's correct. At the time that -- around NGEIR the gas-fired generators required services that at the time, frankly, we didn't offer. So there were discussions amongst both parties, the natural gas industry, as well as the electricity industry, power generation industry, to come up with a suite of services that would work for them and enable them to meet their power generation needs.

MR. VELLONE: Thank you very much. I'm going to touch on that topic again at the end of my discussion.

The second part of the NGEIR decision, if you flip forward just to page 3, was a decision by the Board Panel regarding the competition of storage -- in storage in Ontario, and the Board concluded that the Ontario storage operators compete in a broad geographic market that included Michigan, Illinois, New York, and Pennsylvania, and that as a result the market is competitive and that neither Enbridge nor Union had market power; is that correct?

MR. REDFORD: That's correct.

MR. VELLONE: Great. Now I'd like to turn to the three reports that the applicants filed on April 19th, 2018 in response to a motion to compel further and better interrogatory responses that were brought by the School Energy Coalition. These reports were filed after the technical conference, so this is parties' first opportunity to conduct discovery on them.

My understanding is that this material was filed with the federal Competition Bureau as part of their assessment of the merger of Enbridge and Union's respective parent companies in early 2017. Is that correct?

MR. REDFORD: These three reports that you reference were filed with the -- or were submitted to the Competition Bureau as part of the merger.

MR. VELLONE: I'm just going to summarize the first two of those reports. That's an ICF analysis of merchant natural gas storage competition in Ontario dated January 30th, 2017, as well as the statistical analysis of Dawn Hub gas prices dated January 31st, 2017, by Charles Rivers Associates as providing information which tended to support the OEB's findings in the NGEIR decision, are still largely valid today.

Would you say that's a fair assessment of those reports?

MR. REDFORD: Yes, I would say that's a fair assessment. Both reports are very similar to materials that were filed at the time of NGEIR as well as in support of that hearing.

MR. VELLONE: Thank you very much. So the focus of my questions then are going to be on the third report that was made -- that was included with that filing, and that is the February 8th, 2017, CRA memorandum entitled "Enbridge/ Spectra section 96 trade-off analysis".

Now, truthfully when I saw this, I didn't know what a section 96 trade-off analysis was. So I dug up a practical guide published by the federal Competition Bureau, and I did include it into in my compendium.

Why don't we just spend a few minutes on that, just to set the context of what a section 96 trade-off analysis is, so everyone is on the same page.

So flipping forward to the first page of the practical guide, under the section 1 titled "Introduction", a section 96 trade-off analysis, what this really is is a circumstance where the federal commissioner may exercise their discretion not to challenge what is in their view an otherwise anti-competitive merger due to certain efficiency gains.

I'm reading that right from the first paragraph in part 1 there.

Is that roughly your understanding of what a section 96 trade-off analysis is all about?

MR. REDFORD: Yes, I would say that's a fair assessment.

MR. VELLONE: And in conducting a trade-off analysis looking forward to section 1.1, the federal commissioner really does two things. They look at the anti -- the concern around the anti-competitive effects of the merger, on the one hand, and balance that against the efficiency gains from that merger when making their assessment.

Is that a good, high-level description of what a section 96 trade-off analysis is?

MR. REDFORD: I think -- see, my understanding is that to the extent that the bureau believes that there are anti-competitive effects -- and I think that's the first step, is to establish that -- then the next step is to look at are there offsets in efficiencies to any anti-competitive impacts.

MR. VELLONE: Right. So even if the bureau does find there are anti-competitive effects, they may still approve a merger because the efficiencies outweigh those anti-competitive effects.

Is that kind of a rough statement of what section 96 allows the commissioner to do?

MR. REDFORD: Yes, I think -- I think that is the case. And as I read through, I found the practical guide was quite helpful, that the trade-off analysis typically is a quite complex and iterative process, and typically there are initial submissions followed by -- followed by a number of follow-ups in order to fully assess efficiencies in trade-off analysis.

MR. VELLONE: Okay. And just so we're on the same page, this Board Panel may or may not consider a similar trade-off analysis. But the test we're looking at here is something a little bit different. It is a no-harm test; it is not necessarily a section 96 versus 92 trade-off analysis. Is that fair to say? I will take an answer from counsel.

MR. CASS: Yes, that sounds fair it me, Mr. Vellone, through you, Madam Chair.

MR. VELLONE: Okay. The last part I wanted to do while I'm on this practical guide is really look at the second full paragraph under part 1, because the bureau really does lay out its process for assessing these merger applications and for the most part, the vast majority of mergers they say see do not raise any competition concerns whatsoever.

Only in a minority of cases do they raise a potential material competition concern, and therefore require the production of documents pursuant to a supplementary information request or a court order.

And then we're really down at the bottom of this funnel when they say that in an even narrower subset of cases, an analysis of efficiency claims will be required.

So when we're looking at the section 96 analysis and this trade-off memo, we are really in that very narrow subset of cases that the panel -- the Competition Bureau looks at. Is that fair to say?

MR. REDFORD: Well, are you specifically talking about the trade-off analysis that was filed with the Competition Bureau?

MR. VELLONE: That's what I'm going to be asking questions about, so yes.

MR. REDFORD: Well, I will say that we really don't know the extent to which the Competition Bureau assessed the trade-off analysis. It was filed -- or it was completed February 28th. A no action letter was issued two weeks later, but we have no idea whether the Competition Bureau, and to what extent they would have considered the initial submission that was made.

My read of the practical guide would say that an efficiency analysis is quite extensive and in fact, in the past when the bureau has done efficiency analysis as part of a merger, they have, as part of their release on approving the merger, they've actually have released that they did an efficiencies analysis, none of which was included in this case; we got a no action letter from the bureau.

So I think it's hard to -- I would -- we did not and I would not make the leap that the trade-off analysis means that the bureau did an efficiencies analysis on the merger. We don't know that.

MR. VELLONE: We don't know. Just to correct one thing. You said the trade-off analysis was filed on February 28th. Did you mean February 8th?

MR. REDFORD: Sorry, February 28th is what I said. I might be dry. Sorry.

MR. VELLONE: Why don't we turn that up now. That's the Charles Rivers Associates memorandum dated February 8th, 2017, Enbridge/Spectra section 96 trade-off analysis.

What I'd like to do just to start is try to unpack what the Competition Bureau's concern was that you were trying to address with this trade-off analysis.

And I understand you may or may not agree with what that concern was. I'm just trying to understand what the Competition Bureau's concern was. So I'm going to take my shot at articulating it, and you let me know if you agree or disagree.

My understanding is that the bureau was concerned that there are some merchant storage customers at Dawn who do not have adequate access to alternatives, and could be subject to a post-merger price increase. And, in particular, the bureau was concerned about Ontario power generators.

Is that a fair characterization?

MR. REDFORD: Well, I will say the reason that the analysis was filed, and counsel in the merger requested it, was they wanted to make sure that all information or any information that the Competition Bureau required was in front of the Competition Bureau. And it was done as our target closing date or our target merger date was approaching, which is why we submitted the -- why the trade-off analysis was submitted.

I can say from discussions with the Competition Bureau that they looked at the entire unregulated storage market, and they did focus on the power generators and access to services for power generators.

So did they have specific concerns around power generators? I think that was one of the classes of services that they looked at. Was this in response, necessarily, to something that the Bureau requested? I would say, no, it was done on our own volition.

MR. VELLONE: Could you maybe flip forward to the second page of that section, that trade-off analysis memorandum, and really I'm looking at the paragraph number 1 there right at the bottom. And I'm reading from the second -- starting at the second sentence in paragraph number 1 there:

> "We understand that the Bureau's concerns are focused on Ontario power generators because they may have sufficiently high-deliverability requirements that commit them to using merchant storage at Dawn."

Is that a fair statement of what the Bureau's concern was?

MR. REDFORD: That's what it says in that paragraph.

MR. VELLONE: Thank you. And for the benefit of the Panel and those that aren't technically savvy, me being one of them, I just want to unpack that concern for a moment.

So you'd agree with me that gas-fired generators require short-notice transportation service to make effective use of -- this term again -- high-deliverability, short-notice gas storage; is that true?

MR. REDFORD: Yes, I would agree. Our short-notice transportation services are actually regulated. The F24 T-services is actually a rate-regulated service.

MR. VELLONE: And this service currently is only available in Ontario pursuant to the settlement approved by the Board in the NGEIR decision; is that correct?

MR. REDFORD: Well, our particular service is only available in Ontario. That's where our assets are. TransCanada offers a short-notice balancing service on their pipeline system, and Vector also offers hourly balancing and hourly nominations services on their system as well.

MR. VELLONE: Okay, but the net effect of that pipeline network and those service offerings is that Ontario gas generators really do not have meaningful access to gas storage in other markets, whether in Michigan, New York, or Illinois; is that a fair statement?

MR. REDFORD: No, I don't think that's a fair statement. I think that Ontario power generators do have access to storage in other jurisdictions, including Michigan.

MR. VELLONE: So to make meaningful use of storage resources, Ontario generators need both short-notice and high-deliverability service, and to the best of my knowledge there is no way to access the storage resources in Michigan currently to achieve -- with those service offerings, to make use of it?

MR. REDFORD: Again, Vector Pipeline offers -- they offer hourly -- hourly nomination and balancing services, their FTH service, and you could couple that with services at Dawn to balance and move gas from Michigan into Ontario.

And in fact, I suspect that power generators that are located west of Dawn, in fact, do use those services on

Vector Pipeline.

MR. VELLONE: That's interesting, because that's not mentioned in the CRA analysis that was filed with the federal Competition Bureau at all. Did they miss it?

MR. REDFORD: No, not necessarily. I will say Vector, Vector Canada in particular, has no requirement to post an index of customers. So they are -- it's hard to find that information publicly, but as I said, we suspect that power generators are using Vector's balancing service.

MR. VELLONE: Hmm. I don't agree, but I'm going to move on.

The balance of this memorandum also sets out roughly the scope of the problem, and as of -- my understanding is as of January 2017 there were eight gas-fired generators that held storage contracts with either Enbridge or Union, and they are actually listed in Exhibits 3A and 3B of this memorandum, and they included the Greenfield Energy Centre, Greenfield South, Goreway, Portlands Energy Centre, St. Clair Energy Centre, Thorold Cogen, TransCanada Power, and New York Energy Centre.

Does that sound roughly right, or you can check Exhibits 3A and 3B, if you like.

MR. REDFORD: That sounds like the -- there were eight at the time of the -- at the time of the report. I think there's a ninth now, which is TransCanada Energy Napanee.

MR. VELLONE: Thank you very much.

And flipping forward to Exhibit 4, in total these generators paid $13.312 million for gas storage in the

January to October 2016 time period, right? Is that correct?

MR. REDFORD: For the period January to October of 2016? Yeah, 13.312 million.

MR. VELLONE: And so generators' concerns around this merger is the potential for an increase, an anti-competitive increase, to the prices paid for gas storage. That's a -- you understand the nature of that concern?

MR. REDFORD: I can understand a concern. I will say that our interests are well-aligned with the gas-fired power generators in Ontario. After NGEIR, we put in the ground about half a billion dollars' worth of assets to serve the power generation market, many of those under long-term contracts, and we have an interest in making sure that they remain utilized, same as the power generators have an interest in making sure that their facilities remain utilized.

So to the extent -- and while there may not be other physical options for storage in Ontario, there are other options available to generators, specifically around high-deliverability storage services. As contracts roll off and expire, power generators have the ability to look at term, deliverability, space in -- either on a stand-alone basis or in combination with other market participants, including marketers, to recontract.

So I don't actually believe that gas-fired power generators have few options. It's a storage service. It has different parameters or different attributes than, say, what an LDC might take to serve residential customers, but there are market participants that gas-fired generators could appeal to to get bids for, for storage services.

MR. VELLONE: So just continuing on that point and basically where I started from as well, which was the NGEIR decision really did result in a negotiated settlement between gas-fired generators and the utilities, are the utilities willing to formally commit to work together with gas-fired generators to address their concerns about potential anti-competitive effects of the merger on their access to gas storage in Ontario?

[Witness panel confers]

MR. REDFORD: So generally, yes, we're willing to work with gas-fired generators. We're willing -- we are willing to work with all of our customers and potential customers, and -- but we would expect commitments that were made at the time of NGEIR and any contracts would continue forward.

About two-thirds of our transportation that gas-fired generators have on our system and about two-thirds of the deliverability, the terms of those contracts extend past 2028, so they're -- they are long-term contracts. We do have contracts that are renewing in the near future and absolutely, we would work with gas-fired generators to see what their needs are and what we can do to make it work for them.

MR. VELLONE: That's good to hear. Do you happen to know, when Charles Rivers Associates was preparing this memorandum for the federal Competition Bureau, whether or not they consulted with any gas-fired generators before filing this analysis?

MR. REDFORD: I couldn't tell you. I will say that I suspect no, but I can't tell you definitively.

MR. VELLONE: Sure. The reason I'm asking is because the CRA memo includes a number of statements that I would characterize as very concerning to gas-fire generators, and I wanted to give the utilities an opportunity to clarify whether the statements in this memorandum are actually reflective of the utilities' views.

The first one occurs right at the bottom of page 1, and it says in the last full sentence there:

> "First, changes in Ontario's electricity markets are expected to reduce Ontario power generators' need for committed storage at Dawn."

So do you actually believe that your largest customers, dispatchable gas-fired generators, will have less of a need for storage at Dawn in the future?

MR. REDFORD: I think what Charles Rivers is referring to there is really the uncertainty that faces the gas-fired power generation market in Ontario.

The ISO is just going through a market renewal process. They are going to go from, I'll say, a contract market to a capacity market, where incremental capacity is secured by auction, and they’ll be establishing a day ahead market as well.

So I think what they are referring to really is the uncertainty going forward and in that market, an expectation that perhaps commitments aren't going to be able to be made on a long term basis by power generators.

MR. VELLONE: So I can take the proposition that the development in the electricity market is uncertain with market renewal currently. I think the challenge we really have is the assumption that the need for gas storage at Dawn will go down as a result of that uncertainty. It could just as easily stay the same or go up.

For example, you mentioned a capacity auction process. Our understanding of that is generators would still be subject to strict dispatch instructions, would probably still need access to gas storage. Whether it's a day ahead market or a real -- or an actual day of market, there would still be binding and rigid dispatch obligations that the generators would have to meet.

So what we really struggled with was the assumption that the need for gas storage would go down as a result of this uncertainty.

MR. REDFORD: I hope they are incorrect as well. I hope that there is a need for gas storage going forward because, as I said, we invested half a billion dollars in assets to serve those markets and, you know, we'd like to continue to serve those markets.

MR. VELLONE: Thank you. My next question is on page 3 of the CRA analysis. It's paragraph 4A on page 3, where CRA claims that storage costs represent a small fraction of any affected power generator's costs of natural gas.

Would you believe me that storage and transportation costs do make up a significant portion of a generator's total costs and that moreover, access to high-deliverability storage and short notice storage and transportation is necessary for generators to make their near-term offers to the IESO?

MR. REDFORD: I don't doubt that. This is strictly -- paragraph 4(a) is strictly addressing storage costs and not transportation costs as well, a demand cost to hold capacity to move gas to plants.

MR. VELLONE: Thank you. And moving on to 4(b), in the middle of the paragraph there, if states:

> "To the extent the proposed transaction removes some customers’ ability to threaten to shift suppliers from Union to Enbridge, or vice versa, this would change the negotiation of the fixed price component without affecting the per unit pricing or contracted quantity of storage."

Would you understand my client's concern that a post merger increase, whether it's in the fixed price or in the variable price, is exactly their area of concern?

MR. REDFORD: Sorry, I can't hear.

[Laughter]

MR. REDFORD: The rain is pretty loud behind us.

MR. VELLONE: Okay. I am going to try to be louder than the rain. Is this better?

MR. REDFORD: You might have to yell. It is pretty loud.

MR. KITCHEN: It's pretty loud here.

MR. VELLONE: I am looking at page 3, paragraph 4(b), the last full sentence -- wave at me if you can't hear -- which states:

"To the extent the proposed transaction removes some customers’ ability to shift supply from Union to Enbridge or vice versa, this would only change the negotiation of the fixed price component without affecting the per unit pricing or contracted quantity of storage."

Would you agree with me that from the perspective of gas-fired generators, it doesn't really matter to them whether the post merger increases is in the fixed price component or the variable price component, and this is exactly what their area of concern would be?

MR. REDFORD: So I think when you look at the statement, it would only change the fixed price component without affecting the per unit price or contracted quantity.

I think the assumption is that the power generators will need the quantity that they need, will want to contract for that.

The unit price or the variable price for Union's storage is really based on the MPSS schedule which is posted online, and the variable costs generally are the same for most storage services, specifically commodity prices.

So the fixed component really is the -- really is the negotiated piece, and I think that's the recognition that

Charles Rivers was making there.

It’s really how we've done business in the past.

MR. VELLONE: And you could see how power generators would be concerned about a post merger price increase of this negotiated fixed price. That would be an area of concern?

MR. REDFORD: I mean, with or without the merger, I would assume that they would be concerned with paying more for services in the future.

I think the flexibility that power generators will have going forward -- and again, it is not contracted quantities -- those that are under contract now, the contracts will continue on until they finish. And as I’ve said, most of the capacity on a deliverability and transportation basis will expire in 2028 or later.

Contracts that are coming up in the near term, I think power generators have the flexibility to look at shorter terms to secure their services. They don't have to look at a single supplier. They can look at marketers, they can look at a combination of using physical storage and using delivered services.

There’s many options available to power generators, I think no different than there are options available to any other person that's looking -- or entity that's looking for storage services.

So power generators, as their contracts come up, really have the ability to seek offers from the market and seek proposals from the market with various terms and conditions applied to it. So, you know, I think they have -- I think they have options available to them.

And as far as our pricing, we will be disciplined by the cost of those products in the market, including buying gas on the day.

MR. VELLONE: Thank you for that. I'm going to leave the balance of that for argument, I think.

My next question is on page 4 of the same memorandum, and it's paragraph number 5 where it states:

> "Any wealth transfer from these customers to shareholders emerging firms would not be considered socially adverse under the competition tribunal's standard adopted in the Superior Propane redetermination case."

Would you agree with me that any wealth transfer from gas-fired generators to the merging firm's shareholders could potentially, in our Ontario market structure, flow through into the hourly Ontario electricity price, through a generator's bids into the IESO market or otherwise flow into the global adjustment charge through the terms of a generator's relative power purchase agreement?

[Witness panel confers]

MR. REDFORD: I'd say theoretically that's likely.

MR. VELLONE: Thank you, Madam Chair. Those are my questions.

MS. ANDERSON: Just thinking about the weather and about the time, but it is only four o'clock. We might have Mr. Quinn start with maybe 15, 20 minutes.

Thank you.

CROSS-EXAMINATION BY MR. QUINN:

MR. QUINN: Yes, thank you, Madam Chair. I tried to signal to Mr. Millar that I'm prepared to stop at the appropriate time. I did look at the weather forecast earlier. This was supposed to be short-lived, so hopefully we'll have more sunshine when we leave.

MS. ANDERSON: If it reaches a point where we can't hear at all, we may end it sooner rather than later.

MR. QUINN: I'll look for feedback from the witnesses. If they're having trouble hearing me, we'll try to communicate better. If not, then --

MS. ANDERSON: And the court reporter.

MR. QUINN: Yes, thank you.

Good afternoon, panel, Dwayne Quinn on paragraph of FRPO. I know all of you. Thanks for some of the overview that has been done to this point, but I'm going to start before I get into my cross-examination, some of which flowed over from this morning.

I was following along with Mr. Vellone's discussion with you, and I have two follow-up questions.

First off, Mr. Redford, you had mentioned there was half a billion dollars of assets put into the ground after NGEIR. Would you know off the top of your head how much of that was regulated assets versus non-utility assets?

MR. REDFORD: Not off -- my apologies, not off the top of my head.

MR. QUINN: Okay. I don't know that anything significant turns on that, but there was a combination, I would suggest, of both non-utility and utility assets, utility being transmission, non-utility being likely storage?

MR. REDFORD: That's correct, there are utility and non-utility assets that make up part of that half a billion dollars.

MR. QUINN: Okay, thank you. I said two but it is going to be a total of three.

Last, near the end you talked about the fixed-price component, and you said the variable prices in your MPSS, market price schedule -- is that the acronym?

MR. REDFORD: That's correct, yeah, or the price service schedule.

MR. QUINN: Service schedule. Thank you. Okay.

Would you agree with me that the fixed price is the far greater cost to any customer than the variable cost?

MR. REDFORD: Yes, it is.

MR. QUINN: Overwhelmingly so, 80 or 90 percent of --

MR. REDFORD: It's a much larger component.

MR. QUINN: Yeah, I think that's important that that's clear.

Lastly -- and I want to say this carefully, Mr. Redford, because I had read this with some interest myself. And first of all, Charles River was working for Union Gas; correct?

MR. REDFORD: Charles River was retained by counsel to put this together, but I guess ultimately they would have been working for the merged parties through counsel.

MR. QUINN: Okay. So Enbridge Inc. or Union Gas?

MR. REDFORD: Well, I think it was probably more Union Gas than EGD.

MR. QUINN: Okay. So when Mr. Vellone was putting a proposition to you -- and I don't want to paraphrase your words badly, so correct me if I'm wrong, but you said, you know, you would not be happy if they didn't need your services or there was reduction in the need for your services, but if you turn up the page 2 in the second paragraph, it says:

> "As Mr. Steve Baker discussed at our meeting, if Ontario's electric markets change in the manner that is expected given the government's desire to reduce gas-fired generation capacity in order to reduce greenhouse gas emissions and increase competition among generators bidding into the power grid, Ontario power generators will have less need for committed storage at Dawn."

So this is Mr. Baker speaking -- or giving his views to Charles River, correct?

MR. REDFORD: This was Mr. Baker giving his views to the Bureau, to the Competition Bureau.

MR. QUINN: As captured by Charles River?

MR. REDFORD: Yeah. I think, you know, I talked with Mr. Vellone about market renewal. There were multiple pressures that natural gas-fired generation are seeing in Ontario, including changes in public policy, which are referenced here, in terms of releasing greenhouse gases, you have the emergence of renewable gas -- or -- renewable gas -- renewable power generation, that's about 10,000 megawatts in the province now.

You also have the emergence of new technologies, such as battery storage, that are receiving grants and funding that would impact the need for peak power, so -- peak power generation, pardon me. So there are a number of different items that are at play, that are putting pressure on natural-gas-fired generators here in Ontario, and I think that's where Mr. Baker's comments were to the Bureau, that if all those come to bear on gas-fired generators, then it is possible that they will not need as much storage moving forward, because we won't need as much gas-fired generation moving forward.

MR. QUINN: Okay, well, I risk not being helpful here so I'm just going to leave it at that for now and move back to -- the issue was remaining from this morning.

I had brought a compendium, and we had started into a discussion about the Parkway delivery obligation, and probably for the Board's benefit, this was a negotiated settlement that was undertaken as part of EB-2013-0365, and Mr. Kitchen, you were involved in the negotiations to come up with the settlement, were you?

MR. KITCHEN: Yes, I was.

MR. QUINN: Okay. And so I think I covered it off this morning, but to remind everyone, this was an opportunity that Union worked with customers who had an interest to move their gas supply daily commitments from Parkway to Dawn?

MR. KITCHEN: That's correct, as it said in paragraph 2, to rectify this inequity, which was really the delivery point. The issue, the parties agreed that the PEO should permanently be reduced primarily in the manner that Union had proposed --

MS. ANDERSON: Mr. Quinn, I believe you are on page 4 of your compendium; is that correct?

MR. QUINN: Oh, I'm sorry. Page 4, yes, I -- thank you, Madam Chair, that was my mistake.

MR. KITCHEN: And we would use excess Dawn-Parkway transmission capacity in order to reduce the delivery obligation at Parkway.

MR. QUINN: Okay, short excess capacity that was available in the short-term?

MR. KITCHEN: It was -- I guess -- there was temporarily available capacity --

MR. QUINN: Temporary --

MR. KITCHEN: -- which was then replaced with permanent capacity.

MR. QUINN: Okay. Now, that's important, and we may come back to it, but we stopped at paragraph 3, where I had asked about the fact that this agreement was to be in place and was approved by the Board to be in place till December 31st, 2018, and yet in talking with the previous panel, I didn't see a commensurate reduction to base rate adjustments, and just to flip ahead before I ask the question, if you move to page 12, I'll get you to confirm that currently in your 2018 rates there is, in line 4 on page 12, line 4 of the table 1 on page 12, there is $11.4 million currently in rates for the PDO -- sorry, Parkway delivery obligation. Correct?

MS. MIKHAILA: Yes, the 11.4 million that's in our rates is to recover the change in the demand. That was used to accommodate the PDO shift, so the Kirkwall to Dawn turnback was used to facilitate that shift, and that is the recovery of those costs, since we're no longer able to sell that capacity.

MR. QUINN: Well, we'll come to that in a moment, but my first question is: If this agreement is terminating as of December 31st, 2018, as is laid out in the agreement, why -- is Union making a base rate adjustment of the $11.4 million for 2000 -- at the outset of its 2019 rates?

MR. KITCHEN: I don't read paragraph 3 the same way you do, Mr. Quinn. The paragraph 3 says the ultimate objective of the modified proposal is to remedy an inequity, and the guiding principle is to keep Union whole rather than to enhance or reduce earnings during the incentive mechanism to December 31st, 2018. It doesn't say anything about the agreement expiring at 2018.

In fact, what would happen is that these -- sorry, what happens is that the PDO actually continues. Customers continue to receive the benefit of being -- of giving -- having their deliveries at Dawn, paying for the capacity they use to replace their delivery obligation, and as well as the amount in rates existing, so does the credit paid out to customers that continue to deliver at Parkway.

MR. QUINN: Again, we are probably going to have to defer some of this to argument, but I'm going to walk through a little bit of what you've said.

First off, when the agreement was formed and it was dated here September -- sorry, June -- June 3rd, 2014, it was filed and was approved by the Board in that same year.

If you turn to page 6 of the compendium, you would agree with me that the -- there was a temporary available capacity because the -- sorry, in A and B, the table in A and B, the demand on the Dawn-Parkway system was less than the capacity, therefore there was surplus capacity, correct?

MR. KITCHEN: You are looking at the winter of 2014-2015?

MR. QUINN: Correct.

MR. KITCHEN: Yes.

MR. QUINN: Okay. And it was part of the agreement, and we can file the entire agreement for -- when we get together on May 14th, if that's helpful. But in the agreement, it was recognized that that capacity that was available was deemed to be temporary and that there was going to be a tightening of that capacity, and therefore Union Gas needed to find ways of making up that shortfall that was allowing for the Parkway delivery obligation to occur going into 2015-16; is that correct?

MR. REDFORD: To the extent that we have available capacity, we would look to sell that on a long-term basis preferably, or alternatively on a short-term basis.

MR. QUINN: Yes, and the -- I was dealing specifically, Mr. Redford, with the notion of temporarily available. In the agreement, Mr. Kitchen, there was a recognition that the capacity that would be used was only temporarily available, and that Union would have to find other means of making sure all of its commitments to Parkway were maintained while these customers moved a portion of their load from Parkway back to Dawn.

MR. KITCHEN: The initial capacity was temporarily available, and then it was replaced with capacity that was turned back from Kirkwall -- sorry, from Dawn to Kirkwall.

MR. QUINN: But in 2015-16, there was still a shortfall because the demand in the system exceeded the capacity, correct?

MR. KITCHEN: Yes.

MR. QUINN: Okay. So in asking that question, and this was part of the agreement, Union would have to find ways of doing that and the costs were -- that the ratepayers were paying were to help Union ensure that it had the wherewithal to be able to make sure all of its customers' commitments were maintained.

MR. KITCHEN: We agreed to manage the shortfall and ratepayers agreed to pay the cost of the capacity.

MR. QUINN: Okay. So then we asked in this same interrogatory in D:

"The measures that use Union used and the costs incurred to manage the Parkway delivery shortfall to acquire incremental resources and the costs of which are already recovered in base rates, Y factors and/or existing deferral and variance accounts."

Which was wording that was taken directly from the agreement.

And you can see the answer down below:

"Union did not acquire incremental resources in any of the years listed to manage Parkway delivery shortfall."

Correct?

MR. KITCHEN: That's correct.

MR. QUINN: Okay. So fast forward to today, or this winter just passed because I don't think we have -- your gas supply plan is not complete at this point, I would suggest, Mr. Redford?

MR. REDFORD: For 2018? No, it's not.

MR. QUINN: For 2018-19.

MR. REDFORD: No, that's correct.

MR. QUINN: So what we only have on record here is the most recent winter. And would you agree with me, Mr. Redford, that the last winter at least shows that Union has incremental capacity on the system. Over and above the demands of its customers, you have incremental capacity of about 140 TJs?

MR. REDFORD: That's correct.

MR. QUINN: So who is paying for that 140 TJs currently in rates?

MS. MIKHAILA: I believe that 140 TJs reference there was roughly -- or largely a result of the 2017 Dawn to Parkway build. Coming out of that build, there was excess capacity on the system.

MR. QUINN: And because of the capital -- we’re getting our terminologies mixed up. But we've used the word capital tracker or capital pass-through. Ratepayers are paying for that capacity, correct?

MR. MIKHAILA: Yes, they are. Sorry, it is largely paid for by M12 customers, and I don't have the settlement agreement in front of me, but there is an adjustment to be made to the deferral account of that project related to that excess capacity, if it still exists.

I don't have the exact details, but there is something in the settlement related to the excess capacity.

MR. QUINN: Could you bring those additional details and have them filed before Monday the 14th, so that we can discuss that?

MR. KITCHEN: We will be prepared to speak to them, yes.

MR. QUINN: We would prefer and we would ask for an undertaking that we would be able to look at them also, to try to understand them before we get into a discussion around them. Then I can refine my questions in a way that's helpful to keep the Board on time.

MS. MIKHAILA: Sorry, what additional details are you requesting? The settlement agreement?

MR. QUINN: You had just referred to that you were going to bring some additional -- that you wanted to look back at the additional --

MS. MIKHAILA: Settlement.

MR. QUINN: -- material. Settlement. So if you'd like to file what you are going to be referring to ahead of time, that would be helpful so that I can refine my questions.

MS. MIKHAILA: Do you have any specific questions on the excess capacity, or where you were going?

MR. QUINN: I'm going to ask this one more question. I'm watching the clock with one eye and the witnesses with the other.

You've said that M12 customers are paying for part of that capacity because of their contracts. But the 140 TJs in a surplus, are there any M12 customers that are paying for that?

MS. MIKHAILA: The cost of that excess capacity is built into rates largely paid for by M12 customers.

MR. QUINN: But I'm speaking specifically -- if you didn't have a customer with a contract, because the demand is only 7,783, there is excess capacity. Translated differently, it is uncontracted capacity, correct?

MS. MIKHAILA: Yes.

MR. QUINN: Okay. And so then if it is, then M12 customers can't be paying for it.

MR. KITCHEN: We will undertake to provide some information prior to the next session to help the questioning. But I think I might misunderstand the premise of your question.

If the capacity was available at the time we constructed the facilities, then that excess capacity is built into rates.

If the capacity was not available and then turned back, then I agree with your premise, there won't be any revenue associated with that.

MR. QUINN: In this case, though, if the materials you are bringing you can show us how the whole 7,923 is being paid for, broken out between M12 customers and in-franchise customers, I think that would be helpful to this Board.

MR. KITCHEN: We can endeavour to do that.

MR. QUINN: Madam Chair, I’m thinking this is an appropriate part to break off. I really want to be respectful of your time, and I want to make sure I stay on my time for Monday the 4th. So I'll end my questions there. Thank you.

MR. RICHLER: Madam Chair, we should give an undertaking number to that last undertaking, which I won't endeavour to summarize, but that will be --

MR. KITCHEN: We'll read the transcript and try to figure it out.

MR. RICHLER: That will be J2.5.

UNDERTAKING NO. J2.5: TO PROVIDE INFORMATION ON THE SETTLEMENT AGREEMENT

MR. QUINN: Thank you, Mr. Richler.

MS. ANDERSON: Thank you. One thing that I've been remiss in doing is as someone who has been trying to follow electronically, I appreciate greatly when someone is doing it so capably. And I believe Ms. Adams -- is that correct, Bonnie Adams? I just wanted to thank you. It’s been very helpful and you are always getting exhibits up faster than I am, so you are very capable about it.

Anything, Mr. Cass, before we...

PRELIMINARY MATTERS:

MR. CASS: Madam Chair, I do have one matter. I know you have a hard stop, but this should be quick.

I had a follow-up item from yesterday. I did mention this morning I had a preliminary matter, but events kind of overtook me.

MS. ANDERSON: Yes, thank you.

MR. CASS: So I'll just quickly address it now. Not that anyone needs to turn it up, but for reference purposes, this is from yesterday's transcript at page 185. I don't think you need to turn it up. You will recall that Mr. Ladanyi was asking questions about services that Union Gas now gets from Enbridge Inc. There was a question about whether agreements could be provided before panel 3 comes up. Panel 3 will actually be addressing these issues.

I've learned there are no agreements to be produced, so that is the answer to the question. There are no agreements to be produced before panel 3 comes up, and of course the questions can be addressed by panel 3 itself.

MS. ANDERSON: Okay.

MR. CASS: That was all it was. Thank you.

MS. ANDERSON: Thank you. And with that, I think we'll adjourn for the day and see you again on the 14th at 9:30. Thank you.

--- Whereupon the hearing adjourned at 4:23 p.m.