



February 9, 2018

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: EB-2017-0307 – Enbridge Gas Distribution Inc. and Union Gas Limited – Rate Setting Mechanism – Reply Argument on Issues List**

On November 23, 2017 Enbridge Gas Distribution Inc. and Union Gas Limited (collectively “the Applicants”) filed for approval of a rate setting mechanism and associated parameters under EB-2017-0307. The Applicants filed argument-in-chief with respect to the Draft Issues List on January 26, 2018 in accordance with Procedural Order No. 2. Board staff and intervenors filed submissions on February 2, 2018. The Applicants’ reply argument is enclosed.

If you have any questions on this matter, please contact me at 519-436-5334.

Sincerely,

*[original signed by]*

Vanessa Innis  
Manager, Regulatory Applications

cc: Andrew Mandyam, EGD  
Mark Kitchen, Union  
Fred Cass, Aird & Berlis  
EB-2017-0307 Intervenors

## ONTARIO ENERGY BOARD

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

**AND IN THE MATTER OF** an Application by Enbridge Gas Distribution Inc. and Union Gas Limited, pursuant to section 36 of the *Ontario Energy Board Act, 1998*, for an order or orders approving a rate setting mechanism and associated parameters during the deferred rebasing period, effective January 1, 2019.

### **REPLY ARGUMENT** **DRAFT ISSUES LIST**

#### **Introduction**

1. The Applicants, Enbridge Gas Distribution Inc. (“EGD”) and Union Gas Limited (“Union”) seek approval of a rate-setting mechanism, and associated parameters, pursuant to section 36(1) of the *Ontario Energy Board Act, 1998* (the “OEB Act”).
2. In their application under Board docket number EB-2017-0306 (the “MAADs Application”),<sup>1</sup> the Applicants have requested approval to amalgamate and to defer rate rebasing from 2019 to 2029 (the “Deferred Rebasing Period”). In this proceeding, the Applicants seek approval of a rate setting mechanism effective January 1, 2019 that would apply during the Deferred Rebasing Period.<sup>2</sup>
3. A draft Issues List for this proceeding (the “Draft Issues List”) was attached as Schedule A to Procedural Order No. 1. On January 23, 2018, counsel for the Industrial Gas Users Association (“IGUA”) sent to the Board an alternative issues list (the “Intervenor Proposal”) and indicated that a number of intervenors had endorsed the Intervenor Proposal as the basis for their own respective submissions on the issues appropriate for this proceeding.<sup>3</sup>
4. Procedural Order No. 2 sets out a schedule for arguments with regard to the Draft Issues List. In accordance with Procedural Order No. 2, the Applicants filed argument-in-chief on the Draft Issues List (“Argument-in-Chief”) and submissions or comments were filed by the following:

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<sup>1</sup> EB-2017-0306 Application and Evidence, November 2, 2017.

<sup>2</sup> Exhibit B-1, page 2-5.

<sup>3</sup> Letter from counsel for IGUA to the Board dated January 23, 2017 (sic) and attachment.

- (i) OEB Staff Submission (“Staff Submission”);
- (ii) Association of Power Producers of Ontario (“APPrO”) submissions (“APPrO Submission”);
- (iii) Building Owners and Managers Association Toronto (“BOMA”) comments (“BOMA Submission”);
- (iv) Consumers Council of Canada (“CCC”) submissions (“CCC Submission”);
- (v) Canadian Manufacturers & Exporters (“CME”) submissions (“CME Submission”);
- (vi) Energy Probe Research Foundation (“Energy Probe”) argument (“Energy Probe Submission”)
- (vii) Federation of Rental-Housing Providers of Ontario (“FRPO”) submissions (“FRPO Submission”);
- (viii) IGUA submissions (“IGUA Submission”);
- (ix) Kitchener Utilities (“Kitchener”) comments (“Kitchener Submission”);
- (x) London Property Management Association (“LPMA”) submissions (“LPMA Submission”);
- (xi) Ontario Association of Physical Plant Administrators (“OAPPA”) comments (“OAPPA Submission”);
- (xii) Ontario Greenhouse Vegetable Growers (“OGVG”) submissions (“OGVG Submission”);
- (xiii) School Energy Coalition (“SEC”) submissions (“SEC Submission”);
- (xiv) TransCanada PipeLines Limited (“TransCanada”) comment (“TransCanada Submission”); and
- (xv) Vulnerable Energy Consumers Coalition (“VECC”) submission (“VECC Submission”).

5. A number of intervenors have submitted that this rate mechanism application should be heard together with the MAADs Application.<sup>4</sup> OGVG says, for example, that it may be more efficient to consider and decide both applications at the same time.<sup>5</sup> The Applicants concur with the view that, in order to move ahead expeditiously and efficiently, the two applications should be considered and decided together. The Applicants will address this point below (paragraphs 7 to 10), before responding to submissions and comments with regard to the Draft Issues List.

6. As far as the Draft Issues List is concerned, the Applicants will begin their response to submissions and comments made by intervenors with a brief discussion of the context of this case (paragraphs 11 to 15). Then, the Applicants will turn to the submissions of Board staff, because the Applicants believe that the Staff Submission offers a path towards an effective and expeditious resolution of contending views about

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<sup>4</sup> CCC Submission, page 3; OGVG Submission, pages 3-4; VECC Submission, pages 3-4, paragraphs 9-11.

<sup>5</sup> OGVG Submission, page 4.

the appropriate Issues List for this proceeding (paragraphs 16 to 32). Finally, before concluding reply argument, the Applicants will set out how their position in respect of the Staff Submission and their other Issues List submissions, when considered by reference to the Intervenor Proposal, provide a direct path forward to the approval of a final Issues List for this proceeding (paragraphs 33 to 35).

### **Joint Consideration of the Two Applications**

7. As noted in Argument-in-Chief, the Applicants expect that, following the release of the Board's determinations in respect of the MAADs Application and this rate mechanism application, it will be necessary to apply for approval of 2019 rates.<sup>6</sup> In order to allow sufficient time for approved 2019 rates to be in place for January 1, 2019, the Applicants submit that the consideration of the MAADs application and this rate mechanism application can and should be expedited by combining the two processes into one.

8. Thus, the Applicants propose that the Board join the MAADs application and this application so as to combine each step in the Board's processes, from interrogatories and interrogatory responses through to the hearing and Board decision. The joining of the processes would allow the Board to set a single date for each procedural step, such as interrogatories in respect of both applications and interrogatory responses in respect of both applications, rather than having interrogatories in one case follow interrogatories in the other and then interrogatory responses follow interrogatory responses. The joining of the two processes would also make it more efficient and effective for the Applicants to answer interrogatories and provide oral testimony.

9. The Applicants submit further that the Board can and should issue a joint Issues List by combining the approved issues list in this proceeding with the approved issues list for the MAADs Application. The Applicants' submissions on the Issues Lists in the two cases have maintained a distinction between the MAADs application and this application,<sup>7</sup> such that the issues proposed by the Applicants for the two proceedings can be joined without need for wording adjustments.

10. Of course, the test on a rates application is just and reasonable rates, while, as set out in the arguments of the Applicants with respect to the Issues List in the MAADs Application,<sup>8</sup> the test on a MAADs application is the no harm test. The Applicants

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<sup>6</sup> Argument-in-Chief, page 9, paragraph 40. Should the Board approve the amalgamation and the proposed rate mechanism, the 2019 rates application would be made on the basis of the approved rate mechanism.

<sup>7</sup> See, for example, EB-2017-0306 Reply Argument With Respect to Draft Issues List ("MAADs Reply Argument"), February 2, 2018, page 10, paragraph 38.

<sup>8</sup> EB-2017-0306 Argument-in-Chief on Draft Issues List ("MAADs Argument-in-Chief"), January 19, 2018, pages 6-8, paragraphs 24-33; and MAADs Reply Argument, February 2, 2018, pages 4-5, paragraphs 11-14.

submit, though, that the processes for consideration of the two applications can be combined without any effect on the test or associated analytical framework that applies in respect of each application.

### **Issues List Context**

11 The purpose of this rate mechanism application, as indicated above, is to establish the parameters of a rate-setting mechanism during the Deferred Rebasing Period that would accompany a Board decision on the MAADs Application granting leave for EGD and Union to amalgamate with the Deferred Rebasing Period. The Intervenor Proposal itself explicitly recognizes that the context of this proceeding is a request for approval of a framework to set rates “during the deferral period”.<sup>9</sup>

12. The Intervenor Proposal lists a series of 11 issues (together with sub-issues) under the heading “The Appropriate Ratemaking Framework”. Consistent with their placement under the Appropriate Ratemaking Framework heading, Issues A.2 to A.11 in the Intervenor Proposal all appear to be connected to, or to flow from, Issue A.1, which is a very broad question about a rate-making framework.

13. Issue A.1 in the Intervenor Proposal contemplates that questions about an appropriate rate-making framework will arise in the event that the Board grants leave for the proposed amalgamation of EGD and Union, with a deferred rebasing period. Issue A.1 begins with the words “If the Board grants the Applicant’s request for approval of a merger and deferral of rate rebasing” and, again, it refers specifically to a rate-making framework to set rates “during the deferral period”.

14. The overall context of the rate mechanism application and the Intervenor Proposal, then, is a situation in which the Board approves the proposed amalgamation with a deferred rebasing period. However, a number of arguments made by intervenors simply have no application in this context. For example, Kitchener submits that “merging natural gas distributors are not entitled to deferred rebasing as of right”.<sup>10</sup> Kitchener also submits that the Applicants bear the burden of demonstrating that a 10-year deferral is warranted.<sup>11</sup> These arguments about the availability of a deferred rebasing period have no application in the context of an application seeking approval of the parameters of a mechanism to set rates during a rebasing deferral that arises from the approval to amalgamate under the MAADs Application.

15. This rate mechanism application is explicitly premised on Board approval of the Deferred Rebasing Period which is a feature of the Board’s MAADs policies and, in particular, of the *Handbook to Electricity Distributor and Transmitter Consolidations* (the

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<sup>9</sup> Intervenor Proposal, item A.1.

<sup>10</sup> Kitchener Submission, page 6.

<sup>11</sup> *Ibid.*

“Consolidation Handbook”).<sup>12</sup> As set out in Argument in Chief<sup>13</sup> and in the Applicants’ argument-in-chief on the Issues List in EB-2017-0306,<sup>14</sup> the Consolidation Handbook is one of a series of inter-related Board policies that provide guidance for both gas and electricity distributors. In this application, the Applicants have requested approval of the parameters of a rate mechanism to apply during the Deferred Rebasing Period because, in the MAADs Application, they have followed the guidance of the MAADs policies and the Consolidation Handbook with respect to deferral of rebasing. The Applicants exercised the option provided for in the Consolidation Handbook to select the Deferred Rebasing Period and, in doing so, they have met the minimum requirements set out in the Consolidation Handbook.<sup>15</sup>

### **The Staff Submission**

16. The Staff Submission begins with a section on the Background to the Issues List arguments in this proceeding and then provides a Summary of Board staff’s position. In their Summary, Board staff point out that the Board’s *Handbook for Utility Rate Applications*<sup>16</sup> (“Rate Handbook”) and *Filing Requirements for Natural Gas Rate Applications*<sup>17</sup> both indicate that there are two rate-setting models available for natural gas utilities, namely, Price Cap IR and Custom IR.<sup>18</sup>

17. Recognizing that the context of this rate mechanism application is “a merger situation where a deferral period has been approved”, the Summary of the Staff Submission goes on to note that it would defeat the purpose of the deferral period to have the merged utility file a cost-based application before the end of the deferral period.<sup>19</sup> Later in the Staff Submission, Board staff point out that, as noted in the Rate Handbook, Custom IR is a cost-based application that is akin to rebasing.<sup>20</sup>

18. This line of reasoning leads to the conclusion that Price Cap IR is the rate-setting mechanism that applies if the Board approves the proposed amalgamation with a deferred rebasing period. As set out in the Staff Submission, the only two available rate-setting models for gas utilities are Price Cap IR and Custom IR and using Custom IR would defeat the purpose of the deferred rebasing period, regardless of the length of term.<sup>21</sup>

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<sup>12</sup> [Handbook to Electricity Distributor and Transmitter Consolidations](#), January 19, 2016, pages 11-12.

<sup>13</sup> Argument in Chief, page 2, paragraphs 7-10.

<sup>14</sup> MAADs Argument-in-Chief, page 4, paragraph 14.

<sup>15</sup> MAADs Argument-in-Chief, page 9, paragraph 37.

<sup>16</sup> [Handbook for Utility Rate Applications](#), October 13, 2016, page 25.

<sup>17</sup> [Filing Requirements for Natural Gas Rate Applications](#), February 16, 2017, Chapter 1, page 1.

<sup>18</sup> Staff Submission, page 3.

<sup>19</sup> *Ibid.*

<sup>20</sup> Staff Submission, page 5, referring to the Rate Handbook, page 23, footnote 15.

<sup>21</sup> Staff Submission, pages 3 and 5.

19. The Applicants agree with Board staff's line of reasoning. As one step in a path forward through opposing arguments about the Issues List, the Applicants accept Board staff's proposed rewording of Issue A.1 from the Intervenor Proposal ("Price Cap Issue"), as follows:

*If the OEB grants the Applicants' request for approval of the merger and deferral of rebasing, what should be the features of a Price Cap IR mechanism during the deferral period?*

20. After explaining logically why Price Cap IR is the rate mechanism that applies if the Board approves the amalgamation and a deferred rebasing period, the Staff Submission goes on to say that there is no reason why an alternative mechanism that does not involve rebasing, and that is "consistent with the spirit and intent" of the Board's Price Cap IR methodology, cannot be examined. On this basis, Board staff propose a broad issue about "another incentive rate-setting mechanism that may be more appropriate for the deferral period".<sup>22</sup>

21. The Applicants disagree with Board staff's proposed issue about "another" incentive rate-making mechanism for many reasons, which can be summarized in the following points:

- (i) the inclusion of such an issue on the Issues List is contrary to the line of reasoning in the Staff Submission that supports Price Cap IR as the applicable mechanism during a rebasing deferral;
- (ii) significant time and effort has gone into the development of the Board's Renewed Regulatory Framework ("RRF") policies, with the intention that the RRF will provide clarity regarding the rate mechanisms available to utilities, and it undermines the purpose and value of these policies to suggest that intervenors need only request consideration of some other yet to be defined mechanism in order for the scope of a particular case to depart from the clear direction provided by the RRF;
- (iii) the Board's MAADs policies state that Price Cap is the mechanism to set rates during a deferred rebasing period;
- (iv) the broad issue proposed by Board staff about another incentive rate-setting mechanism is a complete departure from Board policy documents indicating that there are two rate models available to gas utilities, yet no justification is given for a departure from Board policy so as to open up such a broad consideration of other undefined rate-setting models;

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<sup>22</sup> Staff Submission, page 5.

(v) Board staff do not explain how a mechanism can be “consistent with the spirit and intent” of Price Cap IR and yet be so different from Price Cap IR as to land outside the scope of Board staff’s Price Cap Issue; and

(vi) while Board staff’s rationale for the broad issue about another rate-setting mechanism is based on the notion that there could be a mechanism consistent with the spirit and intent of Price Cap IR, the wording of the proposed issue extends far beyond consideration of models that are consistent with Price Cap IR.

22. The words of Board Staff’s Price Cap Issue generally encompass “features” of a Price Cap IR mechanism during the deferral period. As a result, there is good reason to question the need for sub-issues in the Issues List about particular features of a Price Cap IR model. If the Board panel prefers to set out the individual components of an incentive rate-setting method as discrete issues, Board staff propose the following wording for an issue about a stretch factor:

*Should a stretch factor apply and if so, what is the appropriate stretch factor?*<sup>23</sup>

23. The Applicants agree with Board staff’s proposed wording for a stretch factor issue, if the Board panel prefers to set out particular components of a Price Cap IR plan as discrete issues in the Issues List.

24. Board staff disagree with intervenors that a capital module mechanism may not be available to the Applicants under a Price Cap IR. Board staff say that that an Incremental Capital Module (“ICM”) is available to all utilities during an incentive regulation period, as provided for in the Rate Handbook.<sup>24</sup> The Applicants agree with Board staff and, further, the Applicants agree with Board staff’s proposed issues with regard to the ICM.<sup>25</sup>

25. Board staff disagree with the issue proposed by intervenors about reconsideration of determinations made by the Board in respect of the MAADs Application in light of determinations made in respect of the appropriate rate framework.<sup>26</sup> Board staff submit that the interdependencies between the two applications are already well known and it is improbable that determinations with respect to the rate-setting framework will not consider determinations with respect to the MAADs Application.<sup>27</sup> A similar point was made by the Applicants in Argument-in-

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<sup>23</sup> Staff Submission, page 6.

<sup>24</sup> *Ibid*; and see the Rate Handbook, Appendix 3, page i.

<sup>25</sup> Staff Submission, page 6.

<sup>26</sup> Intervenor Proposal, item A.4.

<sup>27</sup> Staff Submission, pages 6-7.

Chief.<sup>28</sup> Moreover, there can be no doubt that reconsideration of determinations will be unnecessary if the Board accepts the Applicants' proposal (set out above) for a combined process to consider and decide the MAADs Application and this application.

26. Board staff disagree with the issue about gas supply planning and costing proposed by intervenors.<sup>29</sup> Board staff observe that the Board has initiated a process for the assessment of gas supply plans and that this initiative will address the level and type of process that will be used to review the plans. As far as the impact of the gas supply plan on cost allocation and rates is concerned, Board staff submit that the timing of such changes may not align with the current proceeding and could be dealt with in a future annual rate adjustment application. To the extent that a matter arises out of the gas supply planning initiative that can be addressed in a timely manner in this proceeding, Board staff say that this matter can be examined under Issue A.5 in the Intervenor Proposal, which is as follows:

*What changes to rates, regulated services, cost allocation or rate design should be permitted or required during the rate plan period and what process should be required for such changes to be made?*

27. The Applicants agree with Board staff's submissions about the gas supply planning and costing issue proposed by intervenors. In line with their general acceptance of the path forward laid out in the Staff Submission, the Applicants agree to Issue A.5 proposed by intervenors. Further, the Applicants submit that, particularly if Issue A.5 is included in the approved Issues List, Issue A.6 in the Intervenor Proposal is neither needed nor appropriate.

28. The Staff Submission concludes with a proposed issue about how rates for 2019 should be set if this proceeding is not completed in time for the filing of a 2019 rate application.<sup>30</sup> Board staff disagree with the wording of an issue proposed by intervenors<sup>31</sup> and put forward alternative wording of an issue about how to set 2019 rates.

29. The Applicants object to the proposition that an issue should be included in the Issues List for this proceeding about how 2019 rates are to be set. There is no application before the Board about the approval or setting of 2019 rates.

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<sup>28</sup> Argument-in-Chief, page 9, paragraph 42.

<sup>29</sup> Intervenor Proposal, item A.7.

<sup>30</sup> Staff Submission, page 8.

<sup>31</sup> Staff Submission, page 7.

30. Should the Board approve their proposals, the Applicants expect to file an application for 2019 rates on the basis of the approved rate mechanism. However, the Applicants will not be in a position to know what application or proposal to make in respect of 2019 rates until the Board has issued its determinations in respect of the MAADs Application and this application. Indeed, until the Board has issued its determinations in respect of the two applications, it remains unknown whether approval of 2019 rates will be sought on behalf of the amalgamated entity, or by EGD and Union individually.

31. The Applicants note that the MAADs Application was filed on November 2, 2017 and this application was filed on November 23, 2017. The Applicants note as well that the proposal set out above for joint consideration of the two applications should expedite progress towards determinations that will form the basis for the future application or applications in respect of rates effective January 1, 2019. Further, the Applicants have, in this reply argument, accepted key elements of the Staff Submission that offer an effective and expeditious path forward through opposing arguments about the Issues List for this proceeding.

32. For all these reasons, the Applicants submit that adding the issue proposed by Board staff to the Issues List is not an appropriate way to address the point made in Argument-in-Chief<sup>32</sup> about the timing of a future application or applications for approval of 2019 rates.

### **Summary of a Proposed Path Forward**

33. Obviously, a central theme of this reply argument is that the Applicants have accepted certain issues proposed by Board staff, and they have agreed with much of Board staff's approach, because they believe that doing so will provide a direct path towards approval of an Issues List. This path forward can be seen when the Issues List submissions of the Applicants, and particularly the Applicants' position regarding the Staff Submission, are considered by reference to the framework of the Intervenor Proposal.

34. The Applicants provide the table below to illustrate for the Board how the Applicants' Issues List submissions can be viewed in the framework of the Intervenor Proposal.

35. The Applicants have also provided a new version of a Proposed Issues List for this proceeding that reflects the path forward summarized in the table. The Proposed Issues List is Attachment 1 to this reply argument.

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<sup>32</sup> Argument-in-Chief, page 9, paragraph 40.

<b>Applicant Proposed Issues List</b>	<b>Intervenor Proposal</b>	<b>Summary of Issue</b>	<b>Applicants' Proposed Resolution</b>
1.	A.1	The appropriate ratemaking framework for the deferred rebasing period	The Applicants accept Board staff's wording on features of a Price Cap, using the word amalgamation rather than merger.
N/A	A.2	How the framework ensures identified outcomes	This issue was proposed as a follow-on to intervenor Issue A.1, which contemplates broad consideration of an appropriate framework. It is not needed in the context of the Applicants' proposal and the substitution of Board staff's Price Cap Issue for Issue A.1. <sup>33</sup>
N/A	A.3(a)	Rate cap or revenue cap	This issue should not be included in the final Issues List, as explained at paragraph 21, above.
1.a.	A.3(b)	Inflation Factor	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
1.b.	A.3(c)	Productivity Factor	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
1.c.	A.3(d)	Stretch factor	Included in the Applicants' Revised Issues List; Applicants accept Board staff's re-wording.
1.d.	A.3(e)	Y-factor	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
1.e.	A.3(f)	Z-factor	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
1.f.	A.3(g)	ESM	Included in the Applicants' Revised MAADs Issues List; Applicants accept the wording as proposed.
1.g.	A.3(h)	ICM	The Applicants accept Board staff's wording.
N/A	A.4	Whether Rate Mechanism will	This issue should not be included in the final Issues List, as explained at paragraph 25,

<sup>33</sup> The Applicants' proposal is to use the rate mechanism, namely, Price Cap IR, that the Board's policies have clearly identified as the appropriate rate-making model to meet RRF objectives in this case. Board staff's Price Cap Issue is broadly worded to encompass relevant considerations regarding Price Cap IR.

		have to be re-considered upon a MAADs Decision	above.
2.	A.5	Changes to rates, services, cost allocation or rate design during the deferred rebasing period	The Applicants accept the wording as proposed using the phrase deferred rebasing period rather than rate plan period.
N/A	A.6	Gas costs and related rate adjustments	This issue should not be included in the final Issues List as explained at paragraph 27, above.
N/A	A.7	Gas supply planning and costing	This issue should not be included in the final Issues List as explained at paragraph 26, above.
3.	A.8	Annual rate adjustment process	The Applicants accept the wording as proposed.
4.	A.9	Deferral and variance accounts that should continue	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
5.	A.10	Deferral and variance accounts that should not continue	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
6.	A.11	Additional deferral and variance accounts	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed.
N/A	B.1	Setting 2019 rates	This issue should not be included in the final Issues List, as explained at paragraphs 29 to 32, above.
7. 8. 9. 10.	B.2	Appropriate adjustments for 2019 rates	The Applicants' proposed issues address the relevant adjustments.
N/A	C.1	Harmonization	This issue should not be included in the final Issues List, as explained in the Applicants' argument-in-chief at paragraph 37.
11.	C.2	Directives and	Included in the Applicants' Revised Issues

		commitments	List; Applicants accept the wording as proposed.
12.	C.3	Scorecard	Included in the Applicants' Revised Issues List.
13.	C.4	Reporting	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed using the phrase deferred rebasing period rather than rate plan period.
14.	C.5	Stakeholder engagement	Included in the Applicants' Revised Issues List; Applicants accept the wording as proposed using the phrase deferred rebasing period rather than rate plan period.

### **Conclusion**

36. The Applicants therefore submit that:

- (i) the processes for consideration of this application and the MAADs Application should be joined;
- (ii) the issues in the Proposed Issues List should be approved as the issues for the rate mechanism application; and
- (iii) a joint Issues List for both applications can and should be created by combining the Proposed Issues List with the Revised Draft Issues List attached to argument-in-chief on the Draft Issues List in the MAADs Application (the "Proposed MAADs Issues List").<sup>34</sup>

For the convenience of the Board, a copy of the Proposed MAADs Issue List is appended hereto as Attachment 2.

All of which is respectfully submitted.

February 9, 2018

*[original signed by]*

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Fred D. Cass  
Counsel for the Applicants

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<sup>34</sup> The Proposed Issues List for this proceeding and the Proposed MAADs Issue List both include ESM issues. The Applicants submit that these ESM issues are framed by reference to the respective application (rate mechanism or MAADs) and should all remain in the event that the Board decides to issue a joint Issues List for both applications.

**ENBRIDGE GAS DISTRIBUTION INC. AND UNION GAS LIMITED**

**RATE SETTING MECHANISM APPLICATION**

**PROPOSED ISSUES LIST**

**RATE FRAMEWORK:**

1. If the OEB grants the Applicants' request for approval of the amalgamation and deferral of rebasing, what should be the features of a Price Cap IR mechanism during the deferral period?
  - a. What is the appropriate inflation factor [I]?
  - b. What is the appropriate productivity factor [X]?
  - c. Should a stretch factor apply and if so, what is the appropriate stretch factor?
  - d. Should there be pass through (Y factor) treatment for:
    - i. Gas commodity and upstream transportation costs?
    - ii. Demand side management (DSM) costs?
    - iii. A lost revenue adjustment mechanism (LRAM) for the contract market?
    - iv. Cap-and-trade costs?
    - v. Changes to normalized average consumption/average use?
    - vi. Other factors?
  - e. Should there be a Z factor, and if so what are the appropriate parameters and materiality threshold?
  - f. Should there be an earnings sharing mechanism and if so what are the appropriate parameters?



10. Is the proposed adjustment to reflect the removal of EGD's tax deduction associated with the discontinued SRC refund appropriate?

**OTHER:**

11. How should past Board directives and utility commitments be addressed?
12. Is the proposed scorecard appropriate?
13. What reporting should be required during the deferred rebasing period?
14. What stakeholder engagement should be required during the deferred rebasing period?

**ENBRIDGE GAS DISTRIBUTION INC. AND UNION GAS LIMITED**

**PROPOSED MAAD ISSUES LIST**

**PRICE, COST EFFECTIVENESS AND ECONOMIC EFFICIENCY:**

1. Does the proposed consolidation protect the interests of consumers with respect to price?
2. Have the Applicants clearly identified the specific number of years for which they have chosen to defer the rebasing?
3. Have the Applicants identified an Earnings Sharing Mechanism (ESM) in accordance with the OEB's 2015 Report – Rate-Making Associated with Distributor Consolidation and the OEB's 2016 Handbook to Electricity Distributor and Transmitter Consolidations?
4. Does the ESM, as defined in the application, achieve the objective of protecting customer interests during the deferred rebasing period?

**RELIABILITY AND QUALITY OF GAS SERVICE:**

5. Does the proposed consolidation protect the interests of consumers with respect to adequacy, reliability, and quality of gas service?

**FINANCIAL VIABILITY:**

6. Does the proposed consolidation maintain the financial viability of the consolidated entity in the delivery of the ongoing investment and maintenance of the distribution system?
7. What is the effect of the consolidation on the cost structures of the consolidating distributors?
8. What is the impact of the financing of incremental costs (transaction and integration costs) on the consolidating entities?

**OTHER STATUTORY OBJECTIVES:**

9. Does the proposed consolidation impact the rational expansion of transmission and distribution systems?
10. Does the proposed consolidation impact the rational development and safe operation of gas storage?

**UNDERTAKINGS TO THE LIEUTENANT GOVERNOR IN COUNCIL:**

11. What is the status of the Undertakings to the Lieutenant Governor in Council of Ontario?
12. Should the undertakings be replaced by a condition of the approval of the OEB of the proposed merger?
13. If so, what should the content of the condition be?