

February 14, 2018

BY EMAIL AND RESS

Ms. Kirsten Walli

Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700, P.O. Box 2319
Toronto, Ontario M4P 1E4

Dear Ms. Walli:

**Re: EB-2017-0224 – Enbridge Gas Distribution Inc. (“Enbridge”)
EB-2017-0255 – Union Gas Limited (“Union”)
2018 Cap and Trade Compliance Plans**

I am writing on behalf of Environmental Defence and the Green Energy Coalition pursuant to *Procedural Order #2* to provide an outline of the evidence we seek to provide as well as a proposed budget.

Questions for the Expert Witness

We propose to ask Mr. Neme to do the following in his evidence:

1. Provide a technical assessment of the utilities’ evidence regarding an alleged lack of available incremental abatement, including a quantification of the incremental abatement that pre-existing reports and data suggest is available (if any).
2. Estimate the potential cost savings (if any) that the utilities could have achieved for consumers by including incremental customer abatement in their 2018 cap and trade plans.
3. As part of these assessments discuss whether the utilities’ comparison of incremental abatement with other options has been on an ‘apples to apples’ basis.
4. As part of these assessments discuss the potential (if any) to decrease overall compliance portfolio risk for consumers by including incremental abatement.

We have reviewed *Procedural Order #2* carefully and would ask Mr. Neme to avoid any of the topics ruled out of scope. For example, Mr. Neme will not be producing or proposing an “alternative” compliance plan.

Relevance

These questions go directly to the reasonableness of the cost consequences of the compliance plans. Mr. Neme would assess whether, and to what extent, the utilities could have saved money

for consumers by implementing incremental abatement in their 2018 plans. The larger the amount of “foregone lower cost savings,” the less reasonable are the costs that the utilities are seeking from the Board. This failure to include incremental conservation, in our view, means that the plans are not as cost-effective as possible and are not compliant with the Cap and Trade Framework, which in turn justifies a disallowance of a portion of the utilities’ costs.

The proposed evidence relates to a comparison of compliance options that is central to the cap and trade framework, as described in Mr. Elson’s letter of January 10, 2018:

“Under the Board’s cap and trade framework, the utilities must choose between the compliance options so as to produce plans that are as cost-effective as possible.¹ Key to this exercise is balancing carbon allowance purchases and incremental conservation programs.² For a second year in a row, the utilities have declined to include *any* incremental conservation efforts in their cap and trade plans. This could mean that one of the major compliance options is excluded for at least 50% of the four-year period covered by the cap and trade framework.

This was a major issue in the Board’s hearing regarding the 2017 compliance plans. Although the Board approved compliance plans without incremental conservation, it only did so “given the lack of time” to submit those plans and the nascence of the program.³ Furthermore, the Board expressly encouraged the utilities “to give further consideration to these options for inclusion in future Compliance Plans.”⁴

...

This evidence would go to the core of the Board’s mandate to protect the interests of consumers with respect to gas prices. Cost-effective conservation programs can lower carbon emissions for no net cost because they produce savings (i.e. reduced gas usage and costs) that outweigh the cost of the measures (e.g. investment in efficient ventilation controls or heating systems for commercial buildings). In comparison, allowances are a pure cost. Conservation programs can greatly reduce net cap and trade compliance costs (which is why they must be included in the utilities’ compliance plan optimization analysis). In other words, including incremental conservation in compliance plans could significantly reduce consumer gas bills.”

Procedural Order #2 also expressly notes that the comparison of compliance options is relevant:

Therefore the OEB must first ensure that the Compliance Plans meet the requirements of the Cap and Trade Framework including upholding its guiding

¹ OEB, *Regulatory Framework for the Assessment of Costs of Natural Gas Utilities’ Cap and Trade Activities*, September 26, 2016, p. 7.

² OEB, *Regulatory Framework for the Assessment of Costs of Natural Gas Utilities’ Cap and Trade Activities*, September 26, 2016, p. 21-23.

³ Board Decision and Order, September 21, 2017, EB-2016-0296/0300/0330, p. 27.

⁴ Board Decision and Order, September 21, 2017, EB-2016-0296/0300/0330, p. 27.

principles. This determination may involve comparisons to other available compliance options (e.g. allowances, offsets, abatement) so that ratepayers get value for money in the implementation of the Compliance Plan.

We are asking Mr. Neme for a technical assessment of the claims made by the utilities about the lack of available abatement, including a quantification of the abatement that Mr. Neme believes is available. The quantification would be based upon existing data including the recent potential studies, recent utility efficiency program performance, and other available and relevant data. This evidence is relevant to the comparison of compliance options discussed in *Procedural Order #2*. In order to show that the utilities plans are too expensive due to the exclusion of incremental abatement it is necessary to challenge their assertions that incremental abatement is simply unavailable and to estimate the degree to which it is in fact available.

If the evidence shows that the cap and trade costs are unnecessarily high due to the exclusion of incremental abatement, we will be asking Board to disallow some of the utilities' costs. This request directly relates to at least three issues #1 (reasonableness of cost consequences), #1.4 (optimization), and #1.10 (abatement activities). The proposed evidence, in our view, is clearly relevant.

We note that the utilities appear to be measuring the cost of other compliance options with a test analogous to the Utility Cost Test, capturing only utility costs and ignoring customer and taxpayer costs. This differs from the manner that the Board and utilities have traditionally evaluated the cost-effectiveness of additional efficiency resource acquisition. It is not clear which approach the utilities have used in looking at the potential for cost-effective incremental efficiency abatement (to the extent it has been considered at all). Accordingly we have asked Mr. Neme to discuss whether compliance options have been compared on an "apples-to-apples" basis. Applying an overly stringent or otherwise inappropriate cost-effectiveness test to conservation versus other compliance options would result in a sub-optimal portfolio, resulting in unneeded costs and risks for consumers, which would be another factor suggesting that the cost consequences of the utilities' plans are not reasonable.

We also note that compliance portfolio risk is impacted by both the diversity of the different options included in the portfolio and by the longevity or life of the different options included in the portfolio. Accordingly, we expect that incremental abatement may have a significant impact on portfolio risk faced by gas customers over time – a matter we have also asked Mr. Neme to comment upon.

Budget

Mr. Neme expects the costs for his evidence to be as follows from this time forward:

Step	Hours	Cost
Draft Evidence	50	
Respond to Interrogatories	16	
Oral Testimony prep and attend	16	
Total (plus tax)	82	\$27,060

Please note that Mr. Neme has been retained to assist counsel to date and in regard to the settlement (now technical) conference and preparation of cross-examination. Accordingly, the above budget is only for the incremental time and cost to prepare and defend evidence.

Timing

Assuming that the companies are responsive to our interrogatories, Mr. Neme indicates that he could provide his report by March 12th.

Curriculum Vitae

Mr. Neme's *curriculum vitae* is attached again for ease of reference.

Please do not hesitate to contact us if any further information would be of assistance to the Board.

Yours truly,

A handwritten signature in black ink, appearing to read "David Poch". The signature is written in a cursive style with a large, stylized "P" and "C".

David Poch

cc: Parties in this proceeding