

February 24, 2018

BY COURIER (2 COPIES) 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 in response to the letters from Enbridge and Union dated February 23, 2018.

ED/GEC Not Seeking to Expand Scope

Enbridge and Union argue that Mr. Neme’s evidence would “improperly, and unfairly, expand the scope of this proceeding.”¹ Enbridge made this same argument to the Board by letter dated January 12, 2018 seeking at that stage to block our clients from submitting evidence. For ease of reference I have excerpted our response of January 16, 2018:

Enbridge argues that filing Mr. Neme’s evidence would expand the scope of this proceeding.² This submission directly conflicts with draft issues list, which clearly includes cost-effectiveness, optimization and customer abatement as live issues within scope (see issues 1, 1.4, and 1.10). Mr. Neme’s evidence would directly relate to these issues. Enbridge’s submissions also conflict with the Board’s decision in the 2017 cap and trade compliance plans proceeding. The Board held that these same issues (i.e. the cost consequences of failing to include incremental abatement in cap and trade compliance plans) were within scope.³ Indeed, the Board took these issues very seriously and considered them over five pages of its reasons.⁴

Although we can understand why the utilities would seek to block intervenors from providing evidence to support an argument that the utilities not be awarded 100% of their proposed costs due to an alleged failure to optimize their plans as required by the Cap and

¹ Letter from Union, February 23, 2018, p. 1; Letter from Enbridge, February 23, 2018, p. 1;

² Letter from Enbridge, January 12, 2018, p. 1.

³ Board Decision, EB-2016-0296/0300/0330, at p. 23-27.

⁴ Board Decision, EB-2016-0296/0300/0330, at p. 23-27.

Trade Framework, there is no basis in their assertion that this kind of argument, or the evidence supporting it, is outside the pre-established scope of this proceeding.

Cost-Effectiveness Tests

Enbridge and Union argue that Mr. Neme intends to apply cost-effectiveness criteria other than those mandated by the Cap and Trade Framework. There is no basis for this assertion at all whatsoever. Mr. Neme's evidence will not deviate from the approach mandated by the Cap and Trade Framework.

How the cost-effectiveness criteria has been applied by the utilities, and whether the utilities have been comparing compliance options on an "applies to apples" basis, are open questions. These matters will be addressed in Mr. Neme's evidence. However, as is clear from the set of questions that Mr. Neme would be asked to answer (outlined in Mr. Poch's letter of February 14, 2018), Mr. Neme has not been asked to propose changes to the cost-effectiveness criteria as set out in the Cap and Trade Framework.

Delay

The utilities object to Mr. Neme's evidence on the basis of potential delay. However, intervenor evidence always requires additional procedural steps. If those procedural steps were justification to disallow intervenor evidence, it is hard to imagine how intervenor evidence could ever be approved.

Furthermore, if the utilities wished to proceed with this matter expeditiously, they should have filed their applications by August 1, 2017 as required by Cap and Trade Framework, or earlier.⁵ Instead of filing their applications earlier than the deadline, the utilities filed their applications three months after the deadline. It is particularly unreasonable for the utilities to expect the board to disallow the filing of intervenor evidence based on time constraints when the utilities themselves could have taken steps to commence this proceeding far earlier in time.

Yours truly,



Kent Elson

Copy: Parties in this proceeding

⁵ OEB, *Report of the Board Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities*, EB-2015-0363, September 26, 2016, Appendix A: Filing Guidelines, p. i.