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Delivered by Email

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th Floor, Box 2319
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Inc. 2019 Rates Application (EB-2018-0305)
APPrO Submissions on Draft Issues List**

We are counsel to the Association of Power Producers of Ontario (“APPrO”) in respect of the above noted matter.

This letter represents APPrO’s submission with respect to the draft issues list filed by the applicant in the above noted proceeding, filed in accordance with Procedural Order No. 1 as revised by the OEB’s letter dated February 28, 2019.

We have reviewed, and are in agreement with the submissions of OEB Staff and will not repeat those submissions here. In addition, APPrO submits that a single additional issue should be added to the proposed issues list.

Specifically:

1. Is the application in compliance with prior applicable OEB Decisions and Orders (including commitments made in prior settlements)?

The majority of the applicants’ proposed issues list is focused on assessing compliance of the application with chosen elements of the Board’s Decision and Order issued on August 30, 2018 in Board File No. EB-2017-0306/EB-2017-0307 (the “MAADs Decision”).

However, it is too early at this stage of the process, prior to having conducted any discovery on the application, to properly assess whether or not the specific enumeration of the issues as proposed by the applicant is complete.

For example, OEB Staff in their submissions on the proposed issues list argue for the addition of a new issue to address the applicant’s customer connection policy. OEB Staff is relying on information filed in response to interrogatories made in EB-2018-0131 to make this argument.

Discovery has not yet occurred on this application – so the scope of issues are not yet fully known.

A simple solution is to add a single issue which is more broadly worded and is intended to act as a “catch all” to ensure the application is consistent with prior OEB decisions, orders, and settlements including the MAADs Decision.

Knowledge of certain inconsistencies may not arise until during or after the discovery phase of this proceeding, and those concerns should not be excluded from consideration by the OEB, which we fear is exactly what would happen if we proceed with using the narrowly drafted issues list.

For example, for reasons that are not yet clear to us, certain aspects of the MAADs Decision are not expressly included in the proposed draft issues list or are not included in a manner that we would have expected. We would invite the applicant to explain their thinking in this regard. Specifically:

- Why is the assessment of the Earnings Sharing Mechanism limited only to the consideration of proposed accounting order wording?
- Why is there not an issue proposed to address the proposed Y-factor cost flow through?
- Why is there not an issue to explicitly address the consolidated Utility System Plan (2019-2022) filed by the applicant?
- What issue clearly links the customer engagement undertaken by the applicant to the relief sought in this application?

The applicant has also included throughout its application materials that arise because of prior commitments made as part of pre-merger OEB Decisions, Orders and Settlements. As just one example, the applicant has included heat value information in the evidence because of a commitment EGDI made as part of their EB-2016-0215 settlement.

If the applicant failed to comply with other pre-merger commitments or obligations, it should be open to a party to explore that issue through the discovery process and ultimately for all parties to make submissions on that issue as part of this proceeding.

Regards,

BORDEN LADNER GERVAIS LLP

Per:

Original signed by John A. D. Vellone

John A.D. Vellone

cc: David Butters, APPrO
John Wolnik, Elenchus
All parties in EB-2018-0305