



ONTARIO ENERGY BOARD

**STAFF SUBMISSION
ON EFFECTIVE DATE FOR BASE RATES
ENBRIDGE GAS INC.
2019 RATES APPLICATION
EB-2018-0305**

September 16, 2019

Background

Enbridge Gas Inc. (Enbridge Gas) filed a complete rate application with the Ontario Energy Board (OEB) on December 14, 2018 seeking approval for changes to its natural gas rates effective January 1, 2019. The application was made pursuant to an OEB decision that approved the amalgamation of Enbridge Gas Distribution Inc. (EGD) and Union Gas Limited (Union Gas) under the OEB's policy on mergers, acquisition, amalgamation and divestiture to form Enbridge Gas, as well as a rate-setting framework for the deferred rebasing period of 2019 to 2023 (MAADs Decision).¹

On September 12, 2019, the OEB issued its decision on the 2019 rates application. The decision addressed all matters that were not resolved through an earlier settlement between the parties.

In the September 12, 2019, Decision and Order, the OEB found at p. 37:

... it was unreasonable for Enbridge Gas to expect that an application filed on December 14, 2018 could be processed in time for rates effective January 1, 2019. The OEB acknowledges that Enbridge Gas could not file the application until after the OEB issued its MAADs Decision on August 30, 2018. However, the timing of the filing of the MAADs application, and the timing of the amalgamation following the OEB's approval, was at the discretion of Enbridge Gas.

Accordingly, the OEB determined that it was considering an April 1, 2019 effective date. However, before making a final determination on the effective date, the OEB invited intervenors and OEB staff to make submissions on the appropriate effective date for base rates and for Enbridge Gas to file a reply.

OEB staff submits that an April 1, 2019 effective date would be within the range of reasonable options. An earlier effective date would be more appropriate, and in fact OEB staff sees merit in Enbridge Gas' proposal for January 1, 2019.

¹ EB-2017-0306 / 0307.

Staff Submission

OEB staff agrees that normally a rate application should be filed well in advance of the proposed effective date, providing the OEB with at least as much time to process and hear the application as is contemplated in the OEB's performance standards (which, as noted in the Decision and Order, stipulate 165 days for complex IRM applications). It is entirely appropriate for the utility to bear the consequences of a late filing, as the OEB confirmed in the OPG decision cited in the Decision and Order.²

However, in this case, OEB staff's view is that the timing of Enbridge Gas' rate application was understandable.

EGD and Union Gas jointly filed their application for approval to amalgamate on November 2, 2017. They then filed their application for a rate-setting mechanism for the amalgamated company on November 23, 2017, to be effective January 1, 2019.

The OEB combined the two applications and heard them together. The MAADs Decision was issued on August 30, 2018.

Enbridge Gas submitted its application for January 1, 2019 rates on December 14, 2018, less than four months after the MAADs Decision. (An earlier version of the application, requesting interim rates, was filed on November 23, 2019, less than three months after the MAADs Decision.) Before the MAADs Decision was released, Enbridge Gas could not have known what kind of rate-setting mechanism would be approved, whether that mechanism would include an Incremental Capital Module (ICM), or even whether the amalgamation would be allowed.

As the Decision and Order notes, "the timing of the filing of the MAADs application, and the timing of the amalgamation following the OEB's approval" were up to Enbridge Gas. While that is certainly true, the Decision and Order notes elsewhere, in the discussion of ICM funding for the Sudbury Replacement Project on p. 23, that system planning decisions should be based on need, not on regulatory considerations. By the same token, in OEB staff's view, a business decision as fundamental as the decision to amalgamate should not be driven by regulatory considerations. While the amalgamation could have been postponed, for example to January 1, 2020, that presumably would have also postponed the realization of the synergies that underpinned the decision to amalgamate.

² EB-2018-0085.

OEB staff also acknowledges that the preparation of an application that includes ICM funding request for multiple projects, as well as a Utility System Plan and separate Asset Management Plans for EGD and Union Gas, was a significant undertaking.

In OEB staff's view, the timing of the application for 2019 rates – which came within four months of the MAADs Decision, was reasonable. The timing of the initial MAADs applications (both the application for approval to amalgamate and the application for a rate-setting mechanism), was also reasonable, coming more than a year before the anticipated amalgamation date and the proposed effective date for the new mechanism, both of which were January 1, 2019. Moreover, both the MAADs case and this rate case proceeded fairly smoothly – Enbridge Gas did not do anything that unduly prolonged either case.

That said, Enbridge Gas could have filed two separate applications for 2019 rates, one for the base rate adjustment (Price Cap adjustment and base rate adjustments approved in the MAADs Decision) and a second for ICM funding. The first one, being more mechanistic in nature, might have been filed even sooner after the MAADs Decision, leaving time for the OEB to make a decision before or very soon after January 1, 2019.

Having regard to the series of events leading up to Enbridge Gas' application, an April 1, 2019 effective date would be, in OEB staff's view, within the range of reasonable options. OEB staff's submission is that a date earlier than April 1, 2019 would be more appropriate, and in fact OEB staff sees merit in the January 1, 2019 effective date requested by Enbridge Gas.

- All of which is respectfully submitted -