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**Enbridge Gas Inc.**  
500 Consumers Road  
North York, Ontario M2J 1P8  
Canada

September 18, 2019

**VIA RESS, EMAIL and COURIER**

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, Suite 2700  
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

**Re: EB-2018-0305 Enbridge Gas Inc. ("Enbridge Gas") – 2019 Rate Application  
Reply Argument**

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In accordance with the Decision and Order dated September 12, 2019, enclosed is the Reply Submission on the appropriate effective date for rates of Enbridge Gas for the above noted proceeding.

Please contact the undersigned if you have any questions.

Yours truly,

(Original Signed)

Rakesh Torul  
Technical Manager, Regulatory Applications

cc: EB-2018-0305 Intervenors  
Crawford Smith, Lax O'Sullivan Lisus Gottlieb

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**ONTARIO ENERGY BOARD**

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

**AND IN THE MATTER OF** an Application by Enbridge Gas Inc.,  
pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for  
an order or orders approving or fixing just and reasonable rates and  
other charges for the sale, distribution, transmission and storage of gas  
as of January 1, 2019.

**ARGUMENT: EFFECTIVE DATE FOR 2019 RATES**

**September 18, 2019**

**INTRODUCTION**

Enbridge Gas Inc. (“Enbridge Gas” or the “Applicant”) filed an application with the Ontario Energy Board (“OEB” or the “Board”) on December 14, 2018, under section 36 of the *Ontario Energy Board Act, 1998*, for an order approving just and reasonable rates for the sale, distribution, transmission and storage of gas for each of its Enbridge Gas Distribution, Union North and Union South rate zones to be effective January 1, 2019 (the “Application”). The Application was prepared in accordance with all relevant OEB guidance and included a request for incremental capital funding.

The Application was preceded by an earlier application filed on November 23, 2018 in which Enbridge Gas had asked that the Board approve new interim rates effective January 1, 2019 arising from the application of the price cap index (PCI), base rate adjustments approved in the amalgamation application, and other pass through costs such as normalized average consumption adjustments, demand side management budget changes and capital pass-throughs.

On September 12, 2019, the Board issued its Decision and Order in the Application. In the Decision, the Board indicated that it was considering an effective date of April 1, 2019. The Board invited

1 submissions from Board Staff and intervenors on this issue. Submissions were subsequently received  
2 from Staff, SEC, LPMA and CME.

3 For the reasons set out below, it is Enbridge's position that rates should be effective January 1, 2019,  
4 as requested in the Application. Having regard to the exceptional circumstances associated with this  
5 case, the Application was filed at the earliest possible opportunity. Parties that oppose this request, or  
6 suggest a date even later than April 1, 2019 fail to recognize these circumstances entirely or wrongly  
7 seek to downplay them.

8 **ARGUMENT: RATES SHOULD BE EFFECTIVE JANUARY 1, 2019**

9 In its Submission, Staff concludes by stating, "that a date earlier than April 1, 2019 would be more  
10 appropriate, and in fact OEB staff sees merit in the January 1, 2019 effective date requested by  
11 Enbridge Gas." The basis for Staff's position is as follows:

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

20 SEC, LPMA and CME all propose effective dates later than April 1, 2019<sup>1</sup> no doubt in an attempt to  
21 counterbalance this submission. In support of their positions, these parties make two main arguments:

- 22 1. The timing of the Application was, at least partly, within Enbridge Gas's control and it was  
23 filed late, only shortly before January 1, 2019;
- 24 2. The Application was complex and included a number of significant requests including in  
25 relation to Incremental Capital Module ("ICM") funding for four capital projects.

26 Neither of these arguments withstands scrutiny or supports an effective date later than January 1,  
27 2019.

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<sup>1</sup> SEC proposes July 1, 2019 at the earliest, while LPMA and CME propose June 1, 2019 at the earliest.

1           **The Application was filed at the earliest available opportunity**

2   This was Enbridge Gas’s first annual rate setting application following the Board’s August 30, 2018  
3   Decision and Order approving the proposed amalgamation of Enbridge Gas Distribution Inc. and  
4   Union Gas Limited and establishing the rate setting framework for a deferred rebasing period of 2019  
5   to 2023 (the “MAADs Decision”). The amalgamation and rate setting applications which resulted in  
6   the MAADs Decision were filed in November 2017. The timing of these applications was reasonable,  
7   being more than a year in advance of the proposed effective date for the amalgamation and consistent  
8   with the 220 days set out in the Board’s guidance for Section 80 merger applications.<sup>2</sup>

9   Likewise, it was reasonable for Enbridge Gas to file this Application only after the receipt of the  
10   MAADs decision and it did so at the earliest opportunity.

11   In their submissions, while acknowledging that Enbridge Gas could not file prior to the MAADs  
12   Decision, parties nevertheless suggest it should have been filed earlier than December, 2018. Indeed,  
13   LPMA suggests that Enbridge Gas should have prepared this Application during the MAADs  
14   proceeding. There is no air of reality to these submissions. Enbridge Gas does not have unlimited  
15   resources, or regulatory personnel who could prepare draft applications. The MAADs and rate-setting  
16   applications were a considerable undertaking and required the full dedication of utility staff.  
17   Moreover, parties’ submissions entirely ignore the fact that almost all aspects of the MAADs Decision  
18   were contested. Parties opposed the amalgamation, along with all major components of the rate  
19   setting framework, including the productivity factor to be used in the PCI formula and the availability  
20   of ICM. In these circumstances, no meaningful draft application could have been prepared (assuming  
21   resources were even available).

22   Moreover, parties ignore that even prior to beginning work on this Application, the board of directors  
23   of Enbridge Inc., had to make a decision on whether to amalgamate having regard to the MAADs  
24   Decision. Once again, this was done expeditiously, a process conducted and Enbridge Gas advised  
25   the OEB by October 15, 2018 of the intention to amalgamate.

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<sup>2</sup> The guidance provided in relation to merger proposals for electricity generation, transmission and distribution companies. No guidance was then in effect for a merger of gas distribution companies.

1 SEC further points to the Board’s “normal policy” that the effective date will be the first available  
2 date after the Board’s decision. LPMA refers to the Board’s decision in the *Ontario Power*  
3 *Generation* (“*OPG*”) case in which the Board indicated that it anticipates applicants to make a  
4 reasonable assessment of the time necessary to process an application and to file with sufficient time  
5 before the requested effective date.

6 In this case, the “normal policy” and the decision in *OPG* have no application:

- 7 • It was simply not possible to file any earlier given the timing of the MAADs Decision and the  
8 matters that had to be addressed in the Application (e.g. the ICM requests). Parties’ reliance  
9 on the typical number of days it takes to process an application of this type is inapposite.  
10 Enbridge Gas simply could not have filed 165 days prior to January 1, 2019.
- 11 • Enbridge made reasonable efforts to mitigate any associated rate impacts arising from the  
12 timing of its filing by proposing interim rates which proposal (ironically) was opposed by  
13 SEC despite its mitigating effects.
- 14 • The facts in *OPG* are entirely distinguishable. In that case, OPG had filed a five year custom  
15 application based upon a forward test year. Moreover, OPG had already been cautioned in an  
16 earlier decision about the timing of its applications (and had received a November 1  
17 implementation date, see EB-2013-0321) and understood this would not be acceptable going  
18 forward. Neither circumstance applies here. The Application is an Incentive Rate Mechanism  
19 (“IRM”) Application based on a rate framework that was not known until the end of August,  
20 2018.

21 **No Reason to Delay the Effective Date Based on Complexity**

22 SEC and CME claim that the Application was complex such that it took longer than a normal IRM  
23 proceeding. This is not a reason to delay the effective date for 2019 rates. As set out above, the timing  
24 of the Application was driven by the MAADs Decision.

25 Indeed, the complexity of the Application explains why it could not have been filed any earlier than  
26 December, 2018. The main complicating factor in the Application was the request for ICM funding.  
27 This in turn drove the need to file Asset Management Plans (“AMPs”) covering the Enbridge Gas

1 Distribution and Union Gas rate zones. However, it is important to note that in relation to each of the  
2 ICM projects, the Board had already rendered a decision granting the utility leave to construct thus  
3 confirming that each project was needed and in the public interest. As the Board held in relation to  
4 the Sudbury Project, delaying the leave to construct application in order to confirm the funding  
5 mechanism for the project was simply not an option. It was therefore entirely appropriate – having  
6 already received leave to construct and begun construction in respect of each of the projects - that the  
7 Application includes the request for ICM funding and the associated AMPs.

8 Parties' submissions on this issue are difficult to reconcile with the positions they took in argument.  
9 To the extent parties suggest Enbridge Gas should have delayed the Application and asked for rates  
10 effective January, 2020 they overlook entirely their own argument that ICM is only available if  
11 brought in the year in which a project goes into service (2019).

12 All of which is respectfully submitted this 18th day of September, 2019.

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**ENBRIDGE GAS INC.**

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By its counsel, Lax O'Sullivan Lissus Gottlieb LLP

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(Original Signed)

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Crawford Smith

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