



Ontario
Energy
Board | Commission
de l'énergie
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DECISION AND ORDER ON EFFECTIVE DATE

EB-2018-0305

ENBRIDGE GAS INC.

Application for approval to change rates and other charges for the sale, distribution, transmission and storage of gas for Enbridge Gas Distribution Inc. and Union Gas Limited effective January 1, 2019

BEFORE: Lynne Anderson
Presiding Member

Susan Frank
Member

September 23, 2019

INTRODUCTION

On September 12, 2019, the Ontario Energy Board (OEB) issued its decision with respect to an incentive rate-setting application filed by Enbridge Gas Inc. (Enbridge Gas) for 2019 rates effective January 1, 2019 (Decision and Order). In its Decision and Order, the OEB determined that 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 indicated that it was considering an April 1, 2019 effective date but invited parties and OEB staff to file submissions and Enbridge Gas to file a reply, before making a final determination on the effective date for base rates.

OEB staff, the London Property Management Association (LPMA), School Energy Coalition (SEC) and Canadian Manufacturers and Exporters (CME) filed submissions on this matter. OEB staff in its submission agreed that an effective date of April 1, 2019 was within the range of reasonable options but an earlier date of January 1, 2019 would be more appropriate. While OEB staff agreed that normally a rate application should be filed well in advance of the proposed effective date, in this case, OEB staff found the timing of Enbridge Gas' 2019 rate application understandable. OEB staff noted that the 2019 rate application was filed within four months of the OEB's decision approving the amalgamation and rate-setting mechanism (MAADs Decision) for Enbridge Gas¹.

LPMA, SEC and CME supported an effective date later than April 1, 2019. SEC submitted that the processing of the application took longer because the applicant included a number of special requests in its application such as Incremental Capital Module (ICM) requests for almost \$250 million, including a project that in SEC's view did not qualify, an adjustment to rate base that was inconsistent with the MAADs Decision, and a calculation of the ICM threshold that was inconsistent with the OEB's policy. SEC submitted that the OEB's normal policy is that the effective date for rates should be the first available time rates can be implemented after the OEB's decision. SEC therefore submitted that April 1, 2019 was too early and the appropriate effective date should be no earlier than July 1, 2019, 10 months from the MAADs Decision. SEC also stated that it also would not consider a November 1, 2019 effective date too late.

¹ EB-2017-0306 and EB-2017-0307. The OEB issued the MAADs Decision with respect to leave to amalgamate and rate-setting mechanism for the deferred rebasing period on August 30, 2018

LPMA noted that the implementation date for rates is November 1, 2019. LPMA submitted that revenue recovery of seven months (from April 1, 2019 to November 1, 2019) was not a reasonable outcome for customers. LPMA noted that the current performance standard for complex incentive rate-setting applications is 165 days and based on this standard, the effective date should be June 1, 2019. LPMA further noted that the leave to amalgamate expired 18 months from the date of the MAADs Decision and Enbridge Gas could have waited until a future date, including January 1, 2020 to amalgamate. LPMA therefore submitted that the effective date for base rates should be no earlier than June 1, 2019 and no later than October 1, 2019.

CME in its submission made similar observations as SEC and LPMA. CME submitted that an effective date of June 1, 2019 balances ratepayer interests and Enbridge Gas' specific circumstances in this case.

Enbridge Gas in reply dismissed the arguments of SEC, LPMA and CME. Enbridge Gas noted that the timing of its amalgamation and rate-setting applications was reasonable, being more than a year in advance of the proposed effective date and consistent with the 220 days set out in the OEB's guidance for section 80 merger applications.

Enbridge Gas rejected LPMA's submission that Enbridge Gas should have prepared its 2019 rates application during the MAADs proceeding. Enbridge Gas noted that it does not have unlimited resources to prepare draft applications. Enbridge Gas argued that all major components of its rate-setting framework application were contentious and it was not possible to prepare a draft application without knowing the outcome. Enbridge Gas further noted that the board of directors of Enbridge Inc. (the parent company) had to make a decision on whether to amalgamate on the basis of the MAADs Decision and this was done expeditiously by October 15, 2018.

Enbridge Gas submitted that given the timing of the MAADs Decision, it was simply not possible to file a rate application 165 days prior to January 1, 2019 in order to comply with the performance standards of the OEB. Enbridge Gas also refuted the submissions of SEC and CME, noting that the complexity of an application should not dictate the effective date. In fact, complexity of the application is the reason that it could not be filed earlier. In response to LMPA's suggestion of delaying the effective date to January 2020, Enbridge Gas submitted that ICM funding is only available for projects that go into service in the

rate year. For these reasons, Enbridge Gas submitted that the effective date for base rates should be January 1, 2019.

FINDINGS

The effective date for base rates shall be April 1, 2019. The OEB provided reasons why it was considering this date in its Decision and Order. The submissions by Enbridge Gas, intervenors and OEB staff have not persuaded the OEB to either lengthen or shorten this date.

The OEB concludes that an April 1, 2019 date appropriately takes into consideration the timing of the application, the timing of the MAADs Decision, the complexity of the application, and the OEB's performance metrics.

The OEB's performance metrics are a guideline for the time required by the OEB to process an application, and they were established considering the size and complexity of applications. The OEB reiterates that 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.

As noted by the intervenors, the application had a number of complexities beyond that of a straightforward incentive rate-setting application. Many of these complexities were matters at the discretion of Enbridge Gas. Enbridge Gas had the opportunity to simplify the application.

The OEB acknowledges the timing of the MAADs Decision. For that reason, the OEB is not establishing a later effective date as suggested by the intervenors. However, the decision to merge was at Enbridge Gas' discretion. Steps could have been taken to file the application at an earlier date, or to bifurcate the application such that the more mechanistic base rate adjustment was filed in advance of the more complicated aspects of the application. Enbridge Gas should reflect on its approach and timeliness for the 2020 rate application.

ORDER

THE ONTARIO ENERGY BOARD THEREFORE ORDERS THAT:

1. The effective date for base rates shall be April 1, 2019. Enbridge Gas is ordered to prepare its draft rate order on that basis and as directed by the OEB in its Decision and Order dated September 12, 2019.

ADDRESS

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DATED at Toronto, September 23, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary