

May 22, 2017

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: EB-2016-0300/EB-2016-0296/EB-2016-0330 Cap and Trade Compliance Plans – Combined Proceeding – Enbridge Gas Distribution Inc., Union Gas Limited and Natural Resource Gas Limited - Submissions of the Consumers Council of Canada

We represent the Consumers Council of Canada (“Council”) in the above-referenced proceeding. The Council has a few brief submissions to make regarding the Cap and Trade Compliance Plans and supporting evidence filed by Enbridge Gas Distribution Inc. (“EGD”) and Union Gas Limited (“Union”). The Council has no submissions to make regarding the Compliance Plan filed by Natural Resource Gas (“NRG”) as the Council did not intervene in the NRG proceeding. The Council has limited submissions to make given the fact that a large portion the Compliance Plans and supporting evidence have been deemed “strictly confidential” through legislation, limiting access to that information to ratepayer groups and others. Much of the evidence in this proceeding was only available to the Ontario Energy Board (“OEB” or “Board”) and its Staff. In addition, although the obligations for the natural gas local distribution companies (“LDCs”) under the Cap and Trade program are long-term obligations, the LDCs have proposed one-year Compliance Plans for 2017. New Compliance Plans for the LDCs for the period beyond 2017 will be filed later this year.

General Comments:

The *Climate Change Mitigation and Low-Carbon Economy Act, 2016*, (“Climate Change Act”) was passed by the Government of Ontario on May 18, 2016. On May 19, 2016, Ontario Regulation 144/16, the Cap and Trade Regulation, was issued. The Climate Change Act and the associated Cap and Trade Regulation established the details of Ontario’s Cap and Trade program. Under the Cap and Trade program natural gas local distribution utilities have the following compliance obligations:

- Facility-related obligations for facilities they own or operate; and
- Customer-related obligations for natural gas fired generators, and residential, commercial and industrial customers who are not Large Final Emitters or voluntary participants.

On September 26, 2016, the OEB issued its Report on the Regulatory Framework for the Assessment of Costs of Natural Gas Utilities’ Cap and Trade activities (“OEB Framework”). Each of the three LDCs filed applications on November 15, 2016, for OEB approval of the cost consequences arising from their Cap and Trade Compliance Plans for the period January 1, 2017 to December 31, 2017. On November 26, 2016, the Board approved, on an interim basis an order allowing the LDCs to begin to recover the projects costs associated with their plans beginning in January 2017.

The OEB has made it clear that the purpose of the current proceeding is to assess the cost consequences of the LDCs plans for complying with their obligations for the purpose of approving cost recovery in rates.¹

In its OEB Framework Report the Board indicated that it would assess the Compliance Plans for cost-effectiveness, reasonableness and optimization, and ultimately to determine whether to approve the associated cap and trade costs for recovery from customers. The Board set out six guiding principles that it will use to assess the reasonableness of the Compliance Plan costs in rates. These are:

- Cost-effectiveness: cap and trade activities are optimized for economic efficiency and risk management;
- Rate Predictability: customers have just and reasonable, and predictable rates resulting from the impact of the utilities' cap and trade activities;
- Cost Recovery: prudently incurred costs related to cap and trade activities are recovered from customers as a cost pass-through;
- Transparency: cap and trade activities and costs related to them are transparent and well documented to inform the OEB's assessment, while maintaining market integrity;
- Flexibility: cap and trade strategies are flexible and can adapt to changing market conditions and utility specific characteristics; the Regulatory Framework may evolve as the market matures and experience is gained;
- Continuous Improvement: Utilities demonstrate continuous improvement in the processes and practices they use to meet their compliance obligations cost effectively.²

The Council supports the use of these guidelines in assessing the cost consequences of the Compliance Plans. From the Council's perspective the most important principles are cost-effectiveness and rate predictability. The Cap and Trade obligations are significant and over the next several years the LDCs will be seeking to recover costs from their customers that will increase over time. It is critical that the OEB focus on cost-effectiveness to ensure that the interests of the ratepayers are sufficiently protected. The LDCs should be obligated to undertake their compliance plans in the most cost-effective way possible while ensuring that the risk to the ratepayers is also minimized to the extent possible.

Rate predictability is also important to ratepayers. The recovery of variances from forecast costs should be done in a way that minimizes rate volatility. When deferral and variance accounts are cleared, the Board should consider what other rate changes are going on at the same time, and the overall size of the balances in the accounts. The Council submits that this panel should refrain from establishing a methodology for disposing of these balances as a part of this proceeding. Large balances may be treated in a different way relative to smaller balances. All parties should have an opportunity at the time of the disposition of the accounts to make submissions as to what specific methodology should be applied.

As noted above, the evidence has in this case been deemed "strictly confidential" and has been redacted. Accordingly, the Council and other ratepayer groups cannot assess the reasonableness of the plans, whether they are consistent with the OEB Framework and whether the resulting costs and risks

¹ Procedural Order No. 1, dated January 27, 2017, p. 5

² Report of the Board – Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities, pp. 7-8

are appropriate. We therefore have no submissions on the plans themselves or whether the proposed costs are reasonable. Although the legislation restricts access to information we are hopeful that going forward the Board will consider greater transparency that would allow intervenors to assess the reasonableness of the plans and the cost consequences. Transparency is important, not only with respect to the development of the plans, but also with respect to the execution of those plans.

The Council has limited its submissions on a few of the key issues that are within the scope of the OEB's review, but not subject to the confidentiality provisions.

Specific Issues:

The Council has submissions on the following issues:

- Administrative Costs
- Forecasts
- Monitoring and Reporting
- Deferral and Variance Accounts

Administrative Costs:

Union and EGD have both provided administrative costs for 2016 and 2017. The actual 2016 costs are to be cleared this year when other 2016 deferral and variance account balances are to be considered. The Council submits that this is appropriate. Neither LDC is seeking to have the Board rule on whether these costs are prudent at this time, so we will not be making any specific submissions on the reasonableness or prudence of those costs.

With respect to the 2017 costs, the Council submits that both Union and EGD should bring the actual costs forward when they apply for approval of their 2019 Compliance Plans. This will allow the Board to consider these costs together and review any differences between what EGD and Union have spent. The Board promotes the use of benchmarking and it will be important to consider benchmarking in this case. A comparison of the administrative costs of both LDCs will be important in evaluating the reasonableness of those costs.

Forecasts:

Both Union and EGD used existing OEB-approved methodologies to prepare the customer-related and facility-related volume forecasts for their Compliance Plans. The Council supports this approach as they are relying on existing methodologies that have previously been approved by the Board.

With respect to the GHG emissions forecasts, both EGD and Union have complied with the applicable regulations and the OEB Framework requirements. The Council support this approach.

Both EGD and Union have used the forecast of the Ontario allowance auction floor price which is \$17.70 for 2017. Since that time the Ontario March 2017 reserve price was \$18.07. The Council supports using the actual March reserve price in order to avoid significant balances accumulating in the deferral and variance accounts.

Monitoring and Reporting:

The Council has no issues with respect the proposed monitoring and reporting templates proposed by EGD and Union with one exception. The Council does have concerns with the trigger proposed by EGD with respect to material changes to its plan. EGD has proposed to inform the Board when there is:

- A 25% increase in the actual weighted average price of allowances;
- A 25% increase or decrease in forecasted volumes; and
- A significant market change (for example, linkage with the WCI being confirmed).³

The Council is concerned that this may allow for large balances to accumulate in the deferral and variance accounts. The Council would support a threshold of 10% (or something less than the 25%). If the forecast weighted average cost of allowances increases by 10%, or there is a change in the actual volumes relative to forecast of 10% EGD and Union should inform the Board and intervenors. It may be appropriate to clear the balances sooner than proposed, if they are significant. The Council believes a meaningful threshold is important in ensuring rate predictability and rate stability.

Deferral and Variance Accounts:

Union is requesting two new accounts: the Greenhouse Gas Emissions Compliance Obligation – Customer-Related Deferral Account; and the Greenhouse Gas Emissions Compliance Obligation – facility Related Deferral Account. The Council supports the establishment of these accounts. They are consistent with the OEB Framework. Union is also proposing to update the wording of its existing Greenhouse Gas Emissions Impact Deferral Account to restrict it to the Cap and Trade Administrative costs. The Council supports this approach.

EGD has not proposed two new accounts, but rather one for both customer-related and facility related amounts. The Council submits that EGD should be required to establish two new accounts as the cost allocation and disposition methodology may differ with respect to these two categories of costs.

Costs:

The Council requests that it be awarded 100% of its reasonably incurred costs for its participation in this proceeding

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: EGD, Regulatory
Union, Regulatory
All parties

³ Tr. Vol. 1, p. 14