



BY EMAIL and RESS

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Our File No. EB-2017-0306/7

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2017-0306/307 – Enbridge/Union Merger and Ratesetting

We are counsel for the School Energy Coalition. We enclose our Notices of Intervention for the above two proceedings.

We have also received the correspondence of the Applicant dated November 28, 2017 proposing procedural decisions by the Board relating to these proceedings. This letter provides SEC's input to assist the Board in considering those proposals.

The Applicant has essentially proposed the following procedural items:

1. The Board should assign a single panel to deal with both Applications.
2. The two Applications should be considered on separate but parallel tracks.
3. Consider the MAADs Application by way of a written hearing, with all discovery and arguments concluded prior to commencement of the oral hearing on the Rates Application.
4. Separate the interrogatory process for the MAADs Application from the interrogatory process for the Rates Application, with the former happening first, and then the latter.

5. If necessary, hold separate technical conferences in the MAADs Application and the Rates Application.

SEC agrees with the Applicant that the Board should consider the efficiency benefits that could arise if it exercises its discretion to appoint the same Board panel to adjudicate both cases. We agree that those benefits may be sufficient to warrant the admittedly substantial burden on the panel members hearing both cases.

Aside from proposing a common panel, the Applicant seems intent on ensuring that everything else is done with complete separation. That approach assumes that there is little or no overlap between the two Applications, except the identity of the Applicant.

SEC disagrees. In our submission, the most efficient and effective approach to hearing these matters is by combining the two Applications, and hearing them as one integrated proceeding. In our view, the decision on the MAADs Application could result in significant changes to the Rates Application (and potentially vice versa).

We say that for three main reasons:

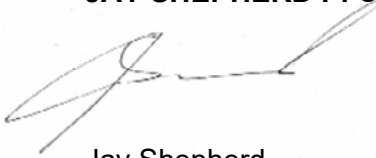
1. A key issue in both these proceedings will be the application of the electricity sector MAADs policies to a merger involving almost all of the gas distribution customers in the province. It is not clear that all components of the MAADs policy make any sense in the context of gas distribution, and it is not clear that the underlying rationale for many aspects of the MAADs policy have relevance to a gas distribution transaction that has already taken place. This includes things like rate incentives to promote consolidation, the relevance of competition in gas distribution vs. electricity, etc. The evidence, and the debate, over these issues will have material impacts on both Applications. By way of example, the electricity MAADs policy includes the use of IRM to set rates over a rebasing deferral period. Electricity IRM relies primarily on benchmarking of distributors to each other, and on productivity studies that require an Ontario comparison group. There are no Ontario peers for Enbridge and Union any more, with this merger, and so the use of IRM in the manner contemplated by the MAADs policy is not possible. Yet, that is precisely what the Applicant proposes to do.
2. The electricity sector is largely either regulated or government-controlled. By contrast, many aspects of gas distribution remain competitive or at least unregulated. Aside from raising questions about the application of a policy designed for electricity to natural gas, the difference also implies other important issues that have to be addressed in the MAADs Application. For example, in NGEIR the Board elected to forebear from regulating some aspects of gas storage. If competition in the Ontario market is affected by this merger, that issue – which affects both the transaction approval and the rates for customers – may require attention. That kind of issue does not arise in electricity MAADs applications. Similarly, both Enbridge and Union rely on competitive third parties for gas supply and transportation, and Union is an important supplier to Enbridge in that regard. Again, that issue may speak both to whether the proposed merger is in the public interest, and what costs should be borne by customers in rates.
3. The Applicant is proposing a ten year holiday from cost of service ratemaking, driven solely by its merger transaction. Without the merger, both Enbridge and Union would be

obligated by the Board to file full cost of service applications for rates commencing January 1, 2019. In a period of significant change in gas distribution (of which cap & trade is only one part, and maybe not even the biggest), those cost of service proceedings were expected to be seminal reviews of utility spending proposals and related customer protection. The MAADs Application is the sole basis being proposed for sidestepping that review. The MAADs Application and the Rates Application are thus inextricably joined.

SEC therefore submits that the Board should join these two Applications and hear them in a single process, with all issues – and interactions between those issues – considered together in a comprehensive manner. We believe that will be a more thorough, yet ultimately faster and more efficient, process.

All of which is respectfully submitted.

Yours very truly,
JAY SHEPHERD P. C.



Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties