



**BY EMAIL and RESS**

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January 22, 2018  
Our File: EB20170147

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2017-0147 – Enbridge Fenelon Falls CE – SEC Submissions**

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 2, please find SEC's submissions. In its application, Enbridge Gas Distribution Inc. ("Enbridge") is seeking approval from the Board not just for Leave to Construct, a Certificate of Public Convenience and Necessity, and a system expansion surcharge ("SES") for its proposed Fenelon Falls project, but also approval for the ability to charge a uniform SES for all community expansion projects that it undertakes. Below are SEC's submissions on both the specific Fenelon Falls project, and the generic proposal.

***Fenelon Falls***

Enbridge is seeking approval for leave to construct and rates approval for its Fenelon Falls community expansion project. SEC submits that based on the evidence in this proceeding, if Enbridge is awarded the full amount of its request from the Natural Gas Grant Program, then the project would meet the economic evaluation criteria set out by the Board in its Generic Community Expansion Decision<sup>1</sup>, as clarified by its EB-2015-0179 Decision.<sup>2</sup> Insofar as the Board applies the same approach it took to Union in its EB-2015-0179 Decision, then the Board should equally approve Enbridge's proposed project.<sup>3</sup>

SEC has the same concerns regarding Enbridge's application of the Generic Community Expansion Decision as it did for Union in its EB-2015-0179 application. Enbridge's proposal for its 10-year rate stability period only requires it to accept the risk of lower than forecast customer attachments, not

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<sup>1</sup> *Decision with Reasons* (EB-2016-0004 - Generic Proceeding on Community Expansion), November 17 2016 ["Generic Community Expansion Decision"]

<sup>2</sup> *Decision and Order* (EB-2015-0179 – Union Gas Community Expansion), August 10 2017

<sup>3</sup> SEC is only taking a position regarding the economic and rate aspects of the proposed projects. SEC takes no position on other aspects such as Enbridge's compliance with the Environmental Guidelines for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario, its fulfillment of the duty to consult, as well as any land or construction matters.

any risk for prudent overspending on capital costs. Further, since its proposal is not to adjust the amount of the SES in any circumstance, or increase its duration, if the Profitability Index after 40 years is below 1.0<sup>4</sup>, it is its existing customers who will bear the burden of making up the shortfall in revenue. For customer attachments, this cross-subsidy will begin after year 10, and for capital costs, it will begin whenever Enbridge next rebases.

In EB-2015-0179, Union proposed a similar approach. In that decision, the Board determined that with respect to variances in project costs, it will determine the appropriate treatment of any capital cost overrun at the time of rebasing”.<sup>5</sup> With respect to recovery of any revenue requirement shortfall after the 10 year stability rate period, for example, due to lower than forecast attachments or volumes, the Board required Union to provide a revised DCF calculation based on actuals, and that it will “determine the appropriate revenue recovery methodology at that time.”<sup>6</sup> The Board reiterated that in doing so, its “determination in the Generic Proceeding that cross-subsidies from existing customers are inappropriate will govern that review.”<sup>7</sup>

SEC submits the Board’s approach in its EB-2015-0179 Decision should equally be applied to Enbridge as well. In its Interrogatory Response to CCC #3, Enbridge has agreed to such an approach, at least with respect to any request to recover, after the 10 year period, a revenue requirement shortfall.<sup>8</sup>

Furthermore, since the Board has said that it will require a revised DCF calculation after 10 years based on actuals, and that it will determine the recovery methodology if there is a request to collect any revenue shortfall, the *potential* outcome of a future application may be to increase the SES amount or extend its duration. In recognition of this possibility, the Board should make it clear to Enbridge that in the marketing of the project to potential consumers it should not tell them that the SES amount will remain unchanged at \$0.23m<sup>3</sup> for more than the 10 year stability period or that it will only be in place for 40 years. All Enbridge should say is that it is the current forecast. The amount and duration may change in the future.

### ***Generic Proposal***

Enbridge is seeking approval to apply its proposed 0.23m<sup>3</sup> SES to all customers that take distribution services from a community expansion project, without the need for specific approval from the Board, as it is seeking in this application. Enbridge has defined a community expansion program in a manner consistent with the Board’s Generic Community Expansion Decision.

In principle, SEC does not oppose this request as it allows for regulatory efficiency for proposed projects that do not require any other approvals (e.g. Leave to Construct, Franchise Agreement, and/or Certificate of Public Convenience and Necessity), and that may be very small in size. SEC does note that a number of practical considerations need to be recognized and accommodated.

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<sup>4</sup> Exhibit I.B.EGDI.STAFF.3(b)

<sup>5</sup> *Decision and Order* (EB-2015-0179 – Union Gas Community Expansion), August 10 2017, p.15

<sup>6</sup> *Ibid*, p.14

<sup>7</sup> *Ibid*, p.14

<sup>8</sup> I.B.EGDI.CCC.3(a)

First, since there will be no review of the inputs to the DCF analysis that determine the economic evaluation of the project, including the forecast SES duration, and any grants or contributions needed, the Board must be clear to Enbridge that it bears the risk of making unreasonable decisions that may lead to future disallowances.

Under Enbridge's generic proposal, the Board and intervenors will most likely not have an opportunity to review the decision to undertake a given community expansion project until a rebasing application. This is in contrast to the proposed Fenelon Falls project, where the Board will be making a determination on the reasonableness of the forecast cost and DCF inputs.

Enbridge is thus taking the risk that its capital costs may be too high or that its customer attachments forecast too optimistic. In doing so, the Board may determine at a rebasing review that customers (new or existing) should not bear the costs and that Enbridge's decision to go ahead with a specific community expansion project was imprudent.

Second, similar to the comments regarding Fenelon Falls, Enbridge should not state to any potential customers that the SES will remain at the rate of \$0.23m<sup>3</sup> for more than the 10 year stability period or that the duration will be as it forecasts. This is especially important for projects where this generic approach is applied, since the forecast duration is a function of a number of inputs that will not have been tested by the Board.

Third, with respect to expansion projects that do not require any other approvals from the Board, it is not clear how the Board will ensure that competition is facilitated consistent with the Generic Community Expansion Decision. Enbridge has stated that its proposal is not that there be no competitive process, but that if there is a competitive interest, it would be its expectation that the Board would facilitate a process to assess the competing proposals.<sup>9</sup> The problem is that the Board would have no visibility into what projects Enbridge is undertaking, and how to determine if there is competitive interest so as to undertake a selection process. Currently, the Board, on receipt of either an application or a letter informing of a distributors' intent to file an application, has sent a letter to interested parties to determine if there is interest from another entity to service the same communities.<sup>10</sup> To ensure a competitive process can still take place, Enbridge should still be required to file a letter with the Board informing it of a new community expansion project it will undertake, even if no application needs to be filed with the Board. The Board can then notify other potential entities to register any competitive interest.

All of which is respectfully submitted.

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<sup>9</sup> I.B.EGDI.STAFF.8(c)

<sup>10</sup> See for example, Letter to All Natural Gas Distribution Service Providers Re: Enbridge Gas Distribution Inc. Bobcaygeon Pipeline Project (EB-2017-0260) and Scugog Island Pipeline Project (EB-2017-0261), dated November 2 2017



Shepherd Rubenstein

Yours very truly,  
**Shepherd Rubenstein P.C.**

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)  
Applicant and interested parties (by email)