

ONTARIO ENERGY BOARD

**Enbridge Gas Distribution Inc. and Union Gas Limited  
Application for approval of a rate setting mechanism and  
associated parameters from  
January 1, 2019 to December 31, 2028**

Final Submission  
of the  
Vulnerable Energy Consumers Coalition  
(VECC)

02 FEBRUARY 2018

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## 1.0 Introduction

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1. VECC supports the Proposed Issues List of the Intervenor (January 23, 2018). We also have reviewed the submissions of the School Energy Coalition and adopt their arguments.
2. As with the Issues List in EB-2017-0307, the crux of the disagreement between the Intervenor and the Applicants is whether the Board's Merger and Acquisition policies for Electricity Distributors, including associated rate policies, apply without question or consideration to a merger between affiliated Natural Gas utilities. We think not.
3. VECC has made detailed submissions arguing that it is not clear that the Board MAADs policies as articulated in the Handbook to Electricity Distributor and Transmitter Consolidations (MAADs Handbook)<sup>1</sup> apply to a merger between Natural Gas utilities and even if they did apply, the Board should consider how they should be applied. We will not repeat those arguments, but refer the Board to them as they are as equally applicable in this case.<sup>2</sup>
4. Neither the most current MAADs Handbook nor any of its related predecessor documents mention natural gas utilities. The entirety of the Applicant's argument rests on an inference. The Handbook for Utility Rate Applications<sup>3</sup> sets out a variety of rate-setting policies that apply to rate applications in Appendix 3 and encourages applicants to consult relevant policy documents for guidance. It does not follow, as the applicants argue, that every policy listed in Appendix 3 is applicable to rate setting application. Rather, those policies provide guidance for the subset of applications where they are applicable.
5. The fact of the matter is that upon a close reading one finds that the "MAADs" section of the Utility Rate Handbook talks about the requirements upon the first cost of service or custom incentive rate applications<sup>4</sup>.

*This will include consideration of:*

- *The treatment of any premium above book value paid as part of a consolidation (no premium is to be recovered from customers).*
- *The savings that have been generated through the consolidation.*
- *Whether there were any inducements or incentives beyond the purchase price to encourage a shareholder to agree to the consolidation and if so whether there is any intent to recover the costs of those inducements or incentives from customers. Any costs*

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<sup>1</sup> Handbook to Electricity Distributor and Consolidations, January 19, 2016

<sup>2</sup> EB-2017-0306, VECC Submissions on Proposed Issues List (26 January 2018).

<sup>3</sup> Handbook for Utility Rate Applications, October 13, 2016.

<sup>4</sup> *Ibid*, page 21

*incurred will be reviewed to ensure that the costs incurred are delivering the best value to customers.*

- *Whether the rate harmonization plan includes a detailed explanation and justification for the implementation plan, and an impact analysis. For acquisitions, distributors can propose plans that place acquired customers into an existing rate class or into a new rate class. Regardless of the option adopted, the OEB will assess whether the proposed harmonized rates will reflect the cost to serve the acquired customers, including the anticipated productivity gains resulting from consolidation.*

These are all matters that fit neatly within the intervenor's proposed issues list.

## 2.0 The Affiliate Utility's Proposed Issues List

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6. Even if in the alternative, if the Board were to find that it intends both electricity and natural gas utilities it still does not follow that the current policies apply in their entirety. For one the Union Gas and Enbridge are already now affiliate companies. The Board's policies are silent on the matter of two affiliated utilities amalgamating into one utility.
7. In any event, in our respectful submission it is against the public interest for the Board to fetter its own decision making based upon policies which do not articulate why they are in the interest of natural gas consumers. For example, given the two utilities are now both Ontario regulated gas utility affiliates, why is not in the public interest to derive rates based on the lower shared common costs they may have? The stand-alone principle of ratemaking does not prohibit the examination of how two regulated affiliates share costs. If cost savings and resulting rate reduction can be realized simply from affiliation, do the generous incentives to promote mergers provided for in the MAADs handbook remain appropriate? VECC believe such questions must be considered.
8. VECC is not proposing to "reconsider" the Board's policies as alleged by the applicant. Rather VECC is proposing to consider whether and how those policies should apply to a merger between affiliated natural gas utilities.

## 3.0 Joint Hearing of the Proceedings

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9. Finally, as noted at the start of this submission there is a singular commonality with this application and the associated EB-2017-0306 amalgamation application. In our submission the Board should hear the matters jointly and for two reasons.

10. The first is simple practicality and the efficient hearing of the matter. In our respectful submission it would be difficult for the Board to hear one part of the application without the other. For example, even on the proposed issue list of the Applicants there are rates issues (ESM and rebasing period) to be decided. Likewise it is our position that the no-harm test cannot be completed unless one understands the rate implications of the amalgamation. It appears to us the Board has also concluded this in the case of Hydro One Inc. acquisition of Orillia Power Distribution Corporation where in adjourning the proceeding it stated:

*The OEB recognises the economies of scale that consolidation can provide. This recognition is embedded in its stated policies on mergers, acquisitions, amalgamations and divestitures.(4) The application of the OEB's no harm test ensures that consolidations occur with due consideration to the directly impacted customers. This is particularly important in cases involving Hydro One given its spectrum of density related cost structures. (4) OEB Handbook to Electricity Distributor and Transmitter Consolidations issued January 19, 2016*

*Therefore, this hearing is adjourned until a decision in Hydro One's distribution rate application has been rendered.*

11. It appears to us that the Board is, like VECC concerned that one must understand the rate implication of the transaction in order to determine whether and what harm might be in the waiting if an amalgamation transaction is approved. If this indeed the case then it would seem prudent to hear the matters jointly and determine the issue jointly.

## 4.0 Summary

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12. In our submission the joint intervenor list provides the broadest and most comprehensive view of the issues before the Board. To us it appears as if the Applicants are attempting fetter the Board's decision making by unnecessarily limiting the issues to be decided upon.
13. The OEB Act clearly contemplates that gas regulation be different than that for electricity distributors, hence the different sections. The Board's mandate for electricity is significantly more detailed indicated by the more detailed legislative requirements under both the OEB and Electricity Acts. The nature of the services themselves differ with electricity being considered by most consumers as an essential service in a modern economy whereas natural gas, while potentially more efficient than the alternatives is but one of a number of energy sources that can be used for heat load or industrial feed stock. There are substantial differences in economics and typical scale of distributors in the two industries. It is not intuitive that the Board's electricity policies are applicable to the natural gas sector much in the same way that the

Board's regulation of natural gas storage may be ancillary but is not directly related to the regulation of electricity.

14. The intervenors issues list takes a broader approach to seek rates which will be just and reasonable for the over 3.6 million natural gas customers in the Province. We urge the Board to adopt this list or its modified form of this list so as to best protect the interest of Ontario consumers.

## 5.0 Costs Incurred

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15. VECC respectfully submits that it has acted responsibly and efficiently during the course of this proceeding and requests that it be allowed to recover 100% of its reasonably incurred costs.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**