

25 April 2018

Ontario Energy Board
2300 Yonge St., 27th Floor
Toronto, ON
M4P 1E4

Attn: Ms Kirsten Walli
Board Secretary

By electronic filing and e-mail

Dear Ms Walli:

Re: EB-2017-0324 / EB-2017-032, Enbridge and Union 2015 DSM Clearance of Accounts
GEC Argument

Enclosed please find our submissions in the above-noted dockets.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch
Cc: all parties

Enbridge and Union 2015 DSM Clearance of Accounts

GEC Argument

Introduction

In this document GEC responds to several issues raised by Enbridge and Union in their arguments-in-chief regarding the application of new net-to-gross (NTG) adjustment factors to the estimated savings from custom commercial and industrial (C&I) projects for the purpose of calculating the Company's shareholder performance incentive. Specifically, we comment on:

- (1) their conclusion that the Board's prior rulings prohibit retroactive application of new NTG study results;
- (2) their suggestion that there are policy arguments for not retrospectively applying new NTG study results; and
- (3) their concerns regarding the credibility and reasonableness of the NTG study used by the Evaluation Contractor (EC) to adjust its 2015 savings and shareholder incentive claims.

GEC's comments are informed by both the evidence filed by Enbridge and Union – including their initial application and discovery responses – as well as our understanding of the NTG study and our knowledge of the EC who performed the study (knowledge in part obtained due to GEC's technical consultant, Chris Neme, having served on the Board's Evaluation Advisory Committee (EAC)).

Consistency of Retroactive Application of New NTG Results with Board Orders

In their arguments-in-chief, Enbridge and Union identify several parts of the Board's order in approving the 2015-2020 DSM plans that appear to suggest the Board did not contemplate retrospective application of a new NTG value.

Most compelling is the highlighting of Union's question to the Board regarding whether it should interpret the Board's initial decision as suggesting that "Union's 2015 results for the purpose of determining the 2015 DSM Incentive will be based on the same input assumptions and net-to-gross adjustment factors used for setting Union's 2015 targets" which "were finalized in Union's 2014 DSM Audit."¹ Both utilities note that in its revised decision the Board responded as follows: "The OEB confirms that Union's interpretation is correct."

On the other hand, we find the Companies' argument that 2015 was a "roll over year", and the corollary argument that if 2015 budgets and targets were "rolled over" from 2014 then "it is

¹ Enbridge argument p. 7, paragraph 24.

inappropriate to retroactively apply adjustments to a program year derived from a different set of input assumptions” (including NTG values) to be less than compelling. Arguably, if the 2015 year was to be a roll over from 2014, then the OEB rules that applied to 2014 would apply to 2015 as well. And it is GEC’s understanding that the rules that governed 2014 were those adopted by the Board in EB-2008-0346 in June of 2011, where it stated the following:

“The evaluation of the achieved results for the purpose of determining the lost revenue adjustment mechanism (LRAM) amounts and the incentive amounts should be based on the best available information, which, in this case, refers to the updated input assumptions resulting from the evaluation and audit process of the same program year.”² (emphasis added)

In short, there appears to be potentially conflicting guidance from the Board on rules regarding retrospective application of new NTG estimates.

Policy Arguments For/Against Retroactive Application of New NTG Results

Enbridge has argued that retrospective applications of new NTG results “creates an unstable and unfair policy environment”, “will materially disincent Enbridge from attempting to achieve higher participation levels and minimizing lost opportunities”, and “will also result in the utilities being discouraged from pursuing commercial and industrial projects that often have long measure lives...”

GEC contends that the policy implications of retrospective application of NTG results to custom C&I projects is far more nuanced than the Company suggests. Generally speaking, it is good policy to hold utilities accountable for those aspects of DSM delivery that are largely under their control. GEC has long argued that should mean measuring progress towards savings goals using the assumptions used to set those goals when the Company has little to no control over the assumptions. This is certainly the case, for example, for savings assumptions associated with measures for which prescriptive rebates are offered for common pieces of efficient equipment. One could also reasonably argue that it is also the case for NTG assumptions for prescriptive rebate offerings – at least for a given (approved) program design – because the utility needs to promote such measures in a market-wide fashion to large numbers of prospective participants, has relatively little control over which customers participate (again, at least for a given program design), and cannot afford the transaction costs of individual customer interactions from which they could potentially gain insight into who will be a free rider.

The situation with custom C&I projects is different and more complicated. Participants are usually quite large with potentially enough savings potential to justify individual interactions. And the measures themselves are often unique to specific industries or even to specific sites. Finally, utilities can tailor marketing and technical support to drive projects that are less likely to be free riders. In short, utilities have much more “control” over whether a custom C&I

² OEB Demand Side Management Guidelines for Natural Gas Utilities, EB-2008-0346, June 30, 2011, p. 20.

participant is a free rider or not than they do for prescriptive rebates. In that sense, it is hard to see why retrospective application of new NTG results should result in disincentives to achieve higher participation – the Company would just need to encourage increased participation through measures not as likely to be installed absent their programs. It is also hard to see why it would discourage investment in longer-lived measures. Generally speaking, one would expect those measures to cost more and therefore be less likely to be free riders than shorter-lived (and less expensive) measures.

All this is not to say that utilities have complete control over free ridership in custom C&I programs, particularly if they offer standardized incentives (i.e. a specific number of dollars per m³ of gas savings) as Enbridge does. It is difficult to reject project proposals from customers (or for projects) likely to be free riders without antagonizing customers. Put simply, utilities have significant control over custom C&I projects that they drive or initiate, but ultimately little control over those initiated by their customers. The question of how those conflicting forces should affect policy on retrospective application of NTG results to custom C&I programs is obviously a policy choice. Again, GEC believes there are reasonable arguments on either side. It is our understanding that different jurisdictions have come down on different sides of this issue.³

Methodological Concerns with the EC's NTG Study

Enbridge and Union identify a number of methodological concerns regarding the Custom C&I NTG study. GEC shares some of those concerns. In particular, we believe that the mechanism for “scoring” answers to questions to determine free ridership is somewhat arbitrary and not always intuitive, and agree that sensitivity analysis to better understand implications of the scoring algorithm would have been helpful. We also believe that the study did not devote enough effort to capturing the influence of vendors who may themselves have been influenced by the utilities’ programs.

On the other hand, we do not share the utilities’ concerns regarding some of the other issues they raise. For example, it appears as if the use of the deemed participant spillover value does not have an adverse effect on the ultimate NTG estimate put forward by the Evaluation Contractor (EC).

It is also important to recognize that this kind of study is very complicated to conceive and carry out. There is necessarily significant subjective judgment required. Put another way, it is highly unlikely that any such study, regardless of its methodology and regardless of who was carrying it out, could have been undertaken without concerns or objections from one or more parties. This is particularly true when one considers that there are time and budget pressures that

³ Union states in its argument-in-chief that “81% of U.S. jurisdictions apply updated input assumptions prospectively”. However, it is unclear whether that is a generic statement regarding assumptions or specific to Custom C&I NTG estimates. GEC has not conducted the research to specifically address the question of Custom C&I NTG estimates.

constrain the work. It is also important to recognize that the previous custom NTG study – the one upon which the utilities most recent NTG assumptions were based – is very outdated (completed a decade ago) and unlikely to have much relevance to recent projects (except, perhaps, by luck or coincidence).

Further, GEC is of the opinion that the firm hired by the Board to conduct the study, DNV GL, is one of the pre-eminent firms in the world for this kind of work. That is not to say that they are infallible. However, in EAC discussions they have provided thoughtful explanations for the various methodological decisions they made (even if the GEC, the utilities and/or other parties disagree with some of them). Unfortunately, the form of this proceeding did not allow for DNV GL to respond to the criticisms of their work – again, some of which GEC shares – and explain or defend the reasonableness (and limitations) of their approach.

Conclusion

As discussed above, GEC has concluded that the Board’s guidance on retrospective application of new NTG values to 2015 results is somewhat ambiguous. While we believe there are reasonable policy arguments for such retrospective application, we readily acknowledge that the issue is complicated and that reasonable people can disagree on this point. There does not appear to be a clear cut, “black and white”, objectively “correct” answer to the question of whether the new Custom C&I NTG estimate should be applied to the utilities’ 2015 savings estimates for the purpose of determining what their shareholder incentives should be. Accordingly, GEC finds itself unable to offer the Board a firm preference.

Finally, though we share some of utilities’ concerns about the study itself, our concerns are more limited than the utilities’ concerns and we have greater faith in the expertise of the EC. Further, the current process does not allow the EC to defend its position or other parties to test it, suggesting that the Board should be cautious in this case about altering the EC’s research findings. We also are concerned about the adverse effects of the alternative of continuing to use a 10-year old NTG estimate that has no demonstrable relevance today.

All of which is respectfully submitted this 25th day of April, 2018

David Poch
Counsel to GEC