



**BY EMAIL and RESS**

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Our File: EB20170129

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2017-0129 –Framework for the Assessment of Distributor Gas Supply Plans**

We are counsel to the School Energy Coalition (“SEC”). These are SEC’s comments on the *Draft Report of the Ontario Energy Board: Framework for the Assessment of Distributor Gas Supply Plans* [“Draft Report”].

SEC supports the Board’s objectives to “inject greater transparency, accountability, and performance measurement....to assure customers are getting value in gas supply”.<sup>1</sup> Putting in place a framework for assessment of gas supply plans is an important evolution to the Board’s regulation of natural gas in Ontario.

Billions of dollars in gas supply costs are flowed through to customers annually in a process that currently provides less than an ideal level of regulatory review to ensure customers are protected.<sup>2</sup> While a number of important steps have been taken over the last few years to increase transparency, such as the filing of annual gas supply memorandums, and for Enbridge, a review of their annual gas supply plans in their annual rate adjustment proceeding, a more robust review process is warranted.

SEC is generally supportive of the content of the framework, including the guiding principles and the criteria used for evaluation. With that said, there are significant concerns that arise from the Draft Report related to process. First, what is the appropriate frequency for review of a distributor’s gas supply plan, and second, what should that review process look like?

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<sup>1</sup> *Draft Report of the Ontario Energy Board: Framework for the Assessment of Distributor Gas Supply Plans* (EB-2017-0129) [“Draft Report”], p.1

<sup>2</sup> Enbridge alone forecasts \$1,754,944,000 in gas supply costs in 2018 (see EB-2017-0086, Exhibit D1, Tab 2, Schedule 5, p.2)

### **Gas Supply Plan Duration**

The Draft Report envisions that distributors would bring forward their gas supply plan for review once every five years. The Draft Report sets out a number of components it believes should be included in the submitted plan in both, the body of the Draft Report and the Filing Requirements. The required information can be categorized into types in two ways: process information and forecast information. Process information includes how a distributor undertakes its planning criteria, governance systems, and risk assessment and planning methodologies. Forecast information includes application of the process to create an actual forecast, and to a supply plan that includes specific supply contracts and rate impacts.

Without the forecast information, the process information is of limited use. This is not to say that ensuring robust processes is not important. Quite the opposite, it is a cornerstone of a proper gas supply plan.

Experience shows that without forecast information to properly understand and test the process information, the value of any review is limited. Gas supply planning has become increasingly complex over the last decade, with an increasingly complex market for supply and transportation caused by the shale gas production in the northeast United States. Recent proceedings<sup>3</sup> have demonstrated that one needs specific information on supply and transportation choices that have or will be made to test the principles set out in the gas supply planning process.

An instructive analogy is the Board's review of Distribution System Plan filed by electricity distributors which are similarly reviewed every 5 years. It is SEC's experience that without individual projects proposed, it is impossible to assess their asset planning processes properly.

SEC submits that a 5 year time-frame for review is appropriate *if* the forecast information will be sufficient to properly test the process information. Presently, SEC understands that Enbridge develops its actual gas supply plan over a 2 year period<sup>4</sup>, and while Union does have a 5 year rolling gas supply plan, it is primarily focused on the first two years.<sup>5</sup> If the forecast information provided in a 5 year gas supply plan is going to be of limited value due to the time horizon, then the Board should consider a more frequent review.

### **Review Process**

The Draft Report outlines that the assessment process begins with a distributor filing a gas supply plan, followed by a stakeholder conference and written submissions by interested parties, after which the Board will provide their evaluation of the plan in a Staff Report to the Board.<sup>6</sup> It is after review of that report that the Board may decide to consider if a hearing is warranted. A second

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<sup>3</sup> For example, Union's Panhandle Reinforcement Project (EB-2016-0186), Union and Enbridge's NEXUS Gas Transmission Pipeline Long-Term Contract Pre-Approval (EB-2015-0166 / EB-2015-0175), Union Burlington-Oakville Project (EB-2014-0182)

<sup>4</sup> *Staff Report to the Ontario Energy Board: Distributor Gas Supply Planning* (EB-2015-0238), August 12 2016, Appendix A – Side-by-side Comparison Document, p.viii

<sup>5</sup> *Ibid*

<sup>6</sup> Draft Report, p.13

assessment, which would follow a similar process, would occur when a distributor files a proposed annual update.<sup>7</sup>

SEC submits that any assessment of a distributor's natural gas supply plan, be it every 5 years or some other interval, and the annual update, should be conducted by way of a formal hearing process which allows for proper scrutiny of the plans by way of interrogatories, technical conferences and/or an oral hearing. Without a rigorous testing of the plan, the Board is not going to achieve two of the fundamental goals it sets out for itself in the Draft Report – transparency and accountability.

Since the QRAM process is and should remain a largely mechanistic process, the Draft Report does not envision that there would be any required proceeding for customers to test the gas supply plan and their costs. This is a significant step backwards from the current process where, at least for Enbridge, on an annual basis the rate application process has included an opportunity for customers to review the annual gas supply plan. Furthermore, if the approach in the Draft Report is implemented, it raises significant procedural fairness concerns. How can the Board fairly exercise its rate-making authority if it does away with a full hearing process, including with adequate discovery rights for affected parties, at any point in the proposed 5 year gas supply planning horizon?

It should be the Board, not Board Staff, who evaluate the gas supply plans by way of a statutory decision, not a non-binding report. Since the QRAM process is already done by way of delegated authority to a member of Board Staff, the Draft Report envisions a process where it may be that no Board panel ever reviews any aspect of billions of dollars of gas supply costs.

The need for a detailed review has only increased since the issuance of the Board Staff Report in the summer of 2016. During that consultation process there was an expectation that better understanding and comparing approaches between Enbridge and Union would help facilitate better review of their future gas supply plans. The Board could benchmark them against each other. Considering the current MAADs application underway, there is only going to be one large distributor in Ontario soon.<sup>8</sup> The Board will now have one less tool to be able to assess the gas supply plans, and the overall importance of the review will have doubled because of the merger.

### **Summary**

The proposed assessment principles, criteria, and associated filing requirements set out in the Draft Report are a big step forward. The problem is that the proposed procedure for conducting the assessment is a step backwards. The Board must ensure that it is the one who reviews and determines the appropriateness of the gas supply plans, and customers, who ultimately pay the cost consequences, are provided the ability not just to comment on the plans, but to test them within the normal adjudicative process.

All of which is respectfully submitted.

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<sup>7</sup> Draft Report, p.14

<sup>8</sup> see EB-2017-0306/0307



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

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)  
Interested Parties (by email)