

## **Ontario Energy Board**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended;

**AND IN THE MATTER OF** an application by Enbridge Gas Distribution Inc. for an order or orders related to its Renewable Natural Gas Enabling Program

**AND IN THE MATTER OF** an application by Enbridge Gas Distribution Inc. for an order or orders amending or varying the rates charged to customers for the sale, distribution, transmission, and storage of gas commencing as of January 1, 2018

---

### **EGDI RNG ENABLING PROGRAM**

#### **Argument**

**Energy Probe Research Foundation**

---

**August 24, 2018**

## Introduction

***The central question before the Board is whether, as applied for by Enbridge Gas Distribution Inc., it should approve Rates for the Upgrading of Renewable Natural Gas and RNG Injection into the gas transmission/distribution system.***

Several related regulatory policy questions are:

- Is the RNG service essential to the provision of natural gas to Ontario consumers?
- Is the RNG upgrade service a monopoly or competitive service? i.e. may others undertake the service?
- Is the use of Utility Assets for the RNG services appropriate?
- Are the Services allowed or proscribed under the provisions of the LGIC Undertakings?
- Are there other relevant Directives?
- Are there prior regulatory precedents in Ontario that may inform the question?

Energy Probe does not have access to Legal Counsel and will focus its argument on the regulatory policy aspects and refer to the OEB Act and Undertakings only as necessary.

## EGDI Arguments

EGDI's main arguments include:

- RNG is an abatement measure identified under the Provinces Climate Change Action Plan<sup>1</sup> that should be supported;
- The Ontario RNG Market will not develop unless Enbridge facilitates this, by upgrading and injection of RNG into its distribution system. (as opposed to on-site Use);
- A rate is required for RNG upgrading and Injection under Section 36(1) of the Act.
- The cost of procured RNG to EGDI customers will be set at the reference price for the Gas Supply Portfolio (no impact on ratepayers);
- Other jurisdictions have enabled RNG procurement.

Energy Probe disagrees with the main arguments of EGDI:

There is no imperative for the Board to allow using utility assets, or to set a rate for either RNG upgrading or injection service.

The OEB Act is broad and permissive and the Board will determine if/how the Public Interest will be best served in this case.

A major factor informing the OEB decision is Ontario Government Environmental policy related to GHG.

## Government GHG Policy

The new Ontario Government has changed the GHG Environmental policy framework dramatically from that in place when the Application was filed. It has announced Ontario will not participate in the Cap and Trade Program.

---

<sup>1</sup> *Climate Change Mitigation and Low-carbon Economy Act, 2016* (“Climate Change Act”),

Accordingly, abatement programs no longer reduce the number of Cap and Trade allowances that the Company will need to procure and hence lower the compliance costs for its existing and forecasted customers.

Inter alia, the Government has also removed funding for the Green Ontario Program, which was to provide the subsidy for RNG and other abatement measures, including Geothermal Energy Systems.

Accordingly, it may be appropriate to be dismissive of the EGDI proposals. .

Energy Probe notes that under the Climate Change Action Plan and Regulations, EGD on behalf of its customers was responsible for emissions from the natural gas it sells and delivers. Cap and Trade was the chosen strategy that is no longer supported by the Ontario Government.

EGDI, like any other business, should address its GHG compliance issues *directly* with both system and end-use natural gas abatement measures, including conservation. It should **not** adopt the GHG responsibility of the Municipalities related to Landfill gas, or that of the agricultural industry.

## EGDI Application and Evidence

*By this application, Enbridge applies to the Board for such final and interim Orders as may be necessary to approve the cost consequences of the Company's Renewable Natural Gas Enabling Program and ~~Geothermal Energy Service Program~~ proposals. This includes approval of the service fees associated with each Program, and approval of including the annual sufficiency/deficiency of the Programs within Cap and Trade Compliance Obligation Variance Accounts.<sup>2</sup>*

The relief requested in respect of the Geothermal Energy Service Program has been withdrawn. It is noted that EGDI has amended its Application in regard to including the annual sufficiency in the Cap and Trade Deferral Accounts. However approval of a RNG Enabling Program Variance Account is now requested<sup>3</sup>.

Despite recent Government policy changes, EGDI is still requesting approval of the cost consequences of RNG Enabling Program and a Rate for RNG Upgrading Service (Rate 400) and for RNG Injection Service (Rate 401)

The rationale for these services is important to the relief requested.

According to EGDI, the RNG Upgrading Service is **optional** for RNG producers, but RNG Injection Service is not.

EGDI states RNG producers can choose to upgrade their gas to pipeline quality. Accordingly, the primary question for the RNG Upgrading Service is whether dispensation from the LGIC is required to offer this as a regulated service, as opposed to an unregulated service.

However, because of regulation of EGDI's gas transmission and distribution systems under the OEB Act, EGDI's position is that it must provide the RNG Injection service.

## RNG Upgrading Service

We submit that RNG Upgrading is not a service that falls under the provisions of the Act related to transmission and distribution of gas (as defined in the Act).

---

<sup>2</sup> EGDI Application para #9

<sup>3</sup> TCTR4-5. Existing balances in the GHG-Customer VA would also be transferred to the new account.

EGDI could obtain specific dispensation for an affiliate to provide the upgrading pursuant to Section 2.1 of the Undertakings.<sup>4</sup>

EGDI also points to the Ministers Directive as permitting such an activity<sup>5</sup>.

Accordingly we submit that EGD can offer RNG Upgrading outside of regulation if its shareholder so chooses.

This option does not require a Rate for upgrading service and the Board needs only to consider any issues such as competition, market share of EGDI and its affiliate.

### **RNG Injection Service**

The Board could enact a Rule under Section 44(1) d), allowing access to the natural gas transmission and/or distribution system for RNG producers, but this creates issues related to the safety and integrity of the natural gas system, unless EGDI takes title to the gas and fulfills its responsibilities under the requirements of the Act

Accordingly we accept that EGDI must provide the proposed RNG Injection Service as a result of regulation of the EGDI natural gas system.

We note this constraint would not apply to other non-regulated gas distributors such as Kingston and Kitchener who could provide both an RNG upgrading and injection service if they wish.

The remaining regulatory issues relate to need, allocation of risk and the appropriate rate design.

### **Need for RNG Enabling Services**

The important issue that EGDI has not appropriately addressed is *whether there is any need and imperative for EGDI to provide* either RNG Upgrading (Rate 400) or Injection (Rate 401) services and, if so is it in the Public Interest and/or interests of ratepayers to provide the services?<sup>6</sup>

Assuming that the EGDI RNG Injection Service does meet the criteria for a *regulated service*, we note the following regulated services

- Ontario Natural Gas production and
- Compressed Natural Gas (CNG) for vehicles.

The former is a current service provided by Union Gas under Rate M13 for Ontario natural gas producers and includes utility injection and transportation.

The latter is a Program that was offered under Rate 9 by Union Gas to set up utility Compressed Natural Gas (CNG) dispensing stations to compress and deliver gas to natural gas vehicles (NGVs).

---

<sup>4</sup> Exhibit B Schedule 1 Appendix Undertakings to LGIC Section 2.1

<sup>5</sup> 2006 Minister's Directive, filed at Exhibit B, Tab 1, Schedule 1, Appendix 1, page 12 of 13.

<sup>6</sup> Ontario Energy Board: Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities (EB-2015-0363); September 26, 2016,

The number of CNG users and fuelling stations has declined for a variety of market reasons. Nonetheless it is a relevant analogy.

The Board has determined that these services are consistent with its Objects related to natural gas, are in the public interest and accordingly set rates to recover costs.

We accept that the Board **could** allow the relief requested in paragraph 9 of the application, if it determines that this is in the public interest and ratepayer interests.

For example, If EGDI wished to provide a service similar to Union's M13 for Ontario Gas production, for enabling RNG injection and transportation to Parkway or another part of its transmission/distribution system, it could base this on the Union Gas M13 Rate design. It has not done so. Information on Rate 401 is totally inadequate and provides no information on the cost allocation, rate design principles and approach.<sup>7</sup>

### Are RNG Enabling Services a Straw Man?

While waiting for Government GHG policy to clarify<sup>8</sup>, we note the obvious - *is there a demand for the RNG Enabling services?*

In the summary of its AIC EGDI states

3. Although there is currently very little RNG supply in Ontario, there is an active market for RNG in North America, and there is real interest in RNG from Ontario customers. It can be expected that the demand for and usefulness of RNG in Ontario will increase in the coming years<sup>9</sup>.

This is *totally unsubstantiated*; RNG production, upgrading, and sale to the gas utilities is *not economically viable*, without either a government subsidy, based on the carbon price, or a large subsidy from the producers to mitigate their Landfill gas emissions.

In its AIC, EGDI refers to certain moves by the Canadian Gas Association at the Federal level. These are not relevant to Ontario and this application.

In this respect, the noted analogy to CNG/NGV is real –RNG is not economically viable as proposed and EGDI has not addressed how the economic landscape for RNG has changed following the change in Ontario Government policy.

---

<sup>7</sup> Exhibit B Tab 1 Schedule 1 Appendix 10: Enbridge Undertakings to LGIC

<sup>8</sup> Ontario's Long-Term Energy Plan 2017: Delivering Fairness and Choice ("2017 LTEP"), at pages 69-70.

<sup>9</sup> AIC Page 1 para 3

## Conclusion

Energy Probe submits that:

- EGD has not demonstrated that there is a demand for the RNG Enabling Services. Simply pointing to interest from Municipalities a year ago, prior to recent Government policy changes, is insufficient.
- The RNG Upgrading service does not fit with the requirements for gas regulation under the Act.
- The RNG Injection Service meets the requirements for gas regulation, but EGD has not assessed the allocation of risk to RNG producers, ratepayers and the Utility and the evidence to support the rate design is inadequate.

**For the above reasons, the Board should deny the relief requested in the Application.**

## Suggestions re Alternative Options that EGD or Municipalities could pursue

At Exhibit B Tab 1 Schedule 1 Page 14 para 43, EGD provides a list of potential RNG producers and municipalities that have expressed interest in working with Enbridge on RNG opportunities:

1. City of Toronto
2. Region of Peel
3. Durham Region
4. Niagara Region
5. Private Industrial Waste Management Company
6. City of Peterborough

Except for #5, these are all municipalities that have a Landfill Gas emissions problem.

EGD outlines its current approach and options at Exhibit B Tab 1 Schedule 1 Page 21

- a) The RNG producer can use the RNG to provide all or part of their gas supply requirements at another of their locations served by Enbridge (this will require a Direct Purchase arrangement).
- b) The RNG producer can sell the RNG to another Enbridge customer to fulfill all or a portion of their gas supply requirement (this will require a Direct Purchase arrangement).
- c) If the RNG producer wishes to move and sell the RNG outside of the Enbridge service area, Enbridge will facilitate the transportation of RNG produced to a trading hub, typically Dawn.
- d) In the event that Enbridge is purchasing RNG as part of the Company's gas supply mix, the RNG producer will be able to respond to tenders for the sale of RNG to the Company.

As noted earlier, the Board could also approve/enact a Rule under Section 44(1) d) allowing RNG producers to access to the transmission, distribution and storage system.

Absent from the above options is *on site use* by the municipalities, using micro-generator technology under the IESO Microfit program, thereby reducing the landfill sites electricity consumption.

EGDI has indicated it is examining micro generator systems for residential use. Accordingly they, or an affiliate, could cooperate with the municipalities to develop the technology for landfill sites.

### **Costs**

Energy Probe has cooperated with other intervenors and focussed its participation in the proceeding. Reimbursement of its legitimately incurred costs is requested.

A handwritten signature in black ink on a light blue rectangular background. The signature reads "R.M.R. Higgin" in a cursive, slightly slanted script.

Roger M.R Higgin PhD., MBA, P. Eng.

SPA Inc, Consultants to Energy Probe Research Foundation