

January 17, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli,

**Re: EB-2017-0224/EB-2017-0255 – 2018 Cap-and-Trade Compliance Plans –
Comments on Cost Claims**

Enbridge Gas Inc. (“Enbridge Gas”) received cost claims for the above noted proceedings for Enbridge Gas Distribution Inc. (“EGD”) and Union Gas Limited (“Union”) (together the “Utilities”) from the following parties:

- Association of Power Producers of Ontario (“APPrO”),
- Building Owners and Managers Association, Greater Toronto (“BOMA”),
- Consumers Council of Canada (“CCC”),
- Environmental Defence (“ED”),
- Energy Probe (“EP”),
- Canadian Manufacturers & Exporters (“CME”),
- Green Energy Coalition (“GEC”),
- Industrial Gas Users Association (“IGUA”),
- London Property Management Association (“LPMA”),
- Low Income Energy Network (“LIEN”),
- Ontario Sustainable Energy Association (“OSEA”),
- School Energy Coalition (“SEC”), and
- Vulnerable Energy Consumers Coalition (“VECC”).

As certain parties submitted combined cost claims for EGD and Union, while others submitted separate cost claims, Enbridge Gas has reviewed the cost claims in aggregate and notes the following concerns with the claims of BOMA and GEC.

BOMA

The cost claim submitted by BOMA includes: (i) preparatory time for the Technical Conference in excess of five times the approximate average of the other cost claims and

more than two and a half times the next highest cost claim; and (ii) preparatory time for Argument of more than double the approximate average of other cost claims and nearly double the next highest cost claim.

Consistent with recent comparable cost claims submitted by BOMA,¹ the Ontario Energy Board (the “OEB” or the “Board”) should consider the amount of BOMA’s claim compared to other cost claims and in relation to the incremental value BOMA provided to the Technical Conference and Argument.

GEC

The costs being claimed by GEC are inappropriate as they largely relate to subject matter deemed out-of-scope for the 2018 Cap-and-Trade Compliance Plan proceeding. Similarly, the preparatory time claimed by GEC is excessive relative to other cost claims and the incremental value provided to the proceeding on matters deemed to fall within the OEB-approved scope.

On January 10, 2018, Mr. Kent Elson submitted a letter to the OEB on behalf of ED and GEC requesting that the OEB allow for intervenor evidence.

On January 12, 2018, EGD submitted a letter in response to Mr. Elson noting its concern that Mr. Elson’s letter ostensibly argued for “...*significant expansion of the 2018 Cap-and-Trade Compliance Plan proceeding by turning it into a Demand Side Management (“DSM”) hearing which would involve a detailed inquiry into the extent and cost effectiveness of substantially increasing ratepayer spending on natural gas DSM activities...*” Similarly, on January 18, 2018, Union submitted a letter expressing its support for EGD’s positions and its understanding that “*the proposed evidence from Mr. Neme goes far beyond the scope of [the 2018 Cap-and-Trade Compliance Plan] proceeding.*”

On January 15, 2018, Mr. David Poch submitted a letter in response to EGD’s letter (dated January 12, 2018) on behalf of GEC. Mr. Poch stated, “*ED/GEC have made clear that our evidence would not embark on ‘a detailed inquiry into the extent and cost effectiveness of substantially increasing ratepayer spending on natural gas DSM...*’”

OEB Procedural Order No. 2 and Mr. Neme’s Evidence Outline

On February 7, 2018, the OEB issued Procedural Order No. 2 which concluded: “*Given the scope of the proceeding identified above, and prior to the submission of evidence, the OEB requires that ED and GEC provide an outline of the evidence and its direction, as well as a budget associated with the same, by February 14, 2018.*” Accordingly, on February 14, 2018, Mr. Poch submitted an outline of evidence and proposed budget on behalf of ED and GEC in relation to the intervenor evidence proposed.

¹ EB-2016-0296/EB-2016-0300 Decision and Order on Cost Awards (dated March 28, 2018), pp. 3-5; EB-2017-0319 Decision and Order on Cost Awards (dated January 15, 2019), p. 3.

The Utilities' Persistent Scope Concerns

On February 23, 2018, EGD and Union submitted letters in response to the evidence outline submitted by Mr. Poch (dated February 7, 2018) reiterating their concerns around the scope of Mr. Neme's evidence. Union's letter noted that, "...Mr. Neme's evidence will be premised on the use of tests in addition to those directed by the Cap-and-Trade Framework to determine the cost-effectiveness of incremental abatement opportunities." Union's letter went on to state, "At page 22 of the Framework, the Board stated: Given the newness of the Cap and Trade program the OEB considers it premature to apply the TRC or SCT to the Utilities' Compliance Plans at this time...The Board went on to determine that, "[a]s part of its assessment of cost-effectiveness and reasonableness, the OEB [would] assess whether the Utilities effectively used the OEB MACC [Marginal Abatement Cost Curve], their forecasts, and any other inputs to prioritize and select the compliance instruments and activities they have decided to include in their Compliance Portfolio." Therefore, any evidence from Mr. Neme that proposes or applies any test to measure cost-effectiveness of incremental abatement other than the application of the OEB MACC and Long Term Carbon Price Forecast pursuant to the Framework is out of scope for this proceeding and should not be permitted."

On February 24, 2018, Mr. Elson submitted a letter in response to Union's letter (dated February 23, 2018) stating, "Enbridge and Union argue that Mr. Neme intends to apply cost-effectiveness criteria other than those mandated by the Cap and Trade Framework. There is no basis for this assertion at all whatsoever. Mr. Neme's evidence will not deviate from the approach mandated by the Cap and Trade Framework...Mr Neme has not been asked to propose changes to the cost-effectiveness criteria as set out in the Cap and Trade Framework."

OEB Procedural Order No. 3

On February 26, 2018, the OEB issued Procedural Order No. 3 which explained the OEB's finding that ED/GEC's proposed evidence was relevant and cautioned that "The OEB expects ED and GEC to be mindful of the concerns raised by Enbridge Gas and Union Gas in their respective letters."

Mr. Neme's Evidence and Testimony

On March 19, 2018, in accordance with Procedural Order No. 3 GEC/Mr. Neme submitted evidence. Within Section V of Mr. Neme's evidence, in response to the question of whether Mr. Neme had performed his own assessment of additional cost-effective efficiency potential that the utilities could acquire, Mr. Neme confirmed that he "reviewed several appropriate reference points to inform a reasonable conclusion regarding the potential for both utilities to acquire additional cost-effective efficiency." Mr. Neme goes on to explain that his evidence relies primarily upon the Conservation Potential Study, which was completed for the 2015-2020 DSM Framework.²

² Natural Gas Conservation Potential Study (updated July 7, 2016), p. i, https://www.oeb.ca/sites/default/files/uploads/ICF_Report_Gas_Conservation_Potential_Study.pdf.

Mr. Neme's evidence did not rely on the OEB-approved MACC created specifically for the purposes of assessing cost-effectiveness under the Cap-and-Trade Framework and to be relied upon by the OEB as "*its principal tool for assessing Utilities' selection of compliance options and resulting costs consequences.*"³ Mr. Neme's intentional ignorance of the MACC was confirmed through his oral testimony.⁴ Instead, Mr. Neme's evidence and testimony relied primarily upon the Conservation Potential Study developed specifically for the 2015-2020 DSM Framework which utilizes the Total Resource Cost test.⁵

Conclusions

The costs being claimed by GEC are largely related to cost-effectiveness tests and studies explicitly designed for the DSM Framework, and are out-of-scope for the 2018 Cap-and-Trade Compliance Plan proceeding. GEC pursued these topics despite prior direction from the OEB to be mindful of the appropriateness of Mr. Neme's evidence. The OEB should consider this when reviewing GEC's cost claims.

Further, the cost claim submitted by GEC includes preparatory time for the Oral Hearing of nearly 150 hours equating to over five times the approximate average of the other cost claims and more than four and a half times the next highest cost claim. The Board should consider the amount of GEC's claim compared to other cost claims and in relation to the incremental value GEC provided to the proceeding on matters deemed to fall within the OEB-approved scope for the 2018 Cap-and-Trade Compliance Plan proceeding.

Enbridge Gas also notes that GEC has included disbursements for the cost of meals. This is inconsistent with the Board's *New Guidance on Practice Direction on Cost Awards*.⁶

If you have any questions regarding this letter please contact me at (519)436-4558.

Sincerely,

[Original signed by]

Adam Stiers
Specialist, Regulatory Initiatives

cc:
Myriam Seers, Torys
Dennis O'Leary, Aird & Berlis
All Intervenors (EB-2017-0224/EB-2017-0255)

³ EB-2015-0363, Regulatory Framework for the Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities, p. 20.

⁴ TR, Volume 4, p. 78.

⁵ Natural Gas Conservation Potential Study (updated July 7, 2016), p. ii,
https://www.oeb.ca/sites/default/files/uploads/ICF_Report_Gas_Conservation_Potential_Study.pdf.

⁶ OEB Letter, New Guidance on Practice Direction on Cost Awards, Revised August 25, 2017.