

**Enbridge Gas Inc. (formerly Enbridge Gas Distribution Inc. and
Union Gas Limited)
EPCOR Natural Gas Limited Partnership**

**Applications for the disposition of Cap and Trade -
Related Deferral and Variance Accounts for the period 2016-2018**

**PROCEDURAL ORDER NO. 3
February 12, 2019**

This proceeding will deal with the prudence review of the cap and trade-related variance and deferral account balances for Enbridge Gas Inc. (formerly Enbridge Gas Distribution Inc. [Enbridge Gas] and Union Gas Limited [Union Gas]) and EPCOR Natural Gas Limited Partnership (EPCOR Gas) (collectively, the Gas Utilities). Given that the applications in this proceeding were filed prior to the completion of the amalgamation of Enbridge Gas Distribution Inc. and Union Gas Limited, this order will use the previous names for ease of reference.

The OEB assigned the following file number to this combined proceeding: EB-2018-0331.

Proceeding Background

On December 7, 2018, the OEB issued a Notice of Hearing and Procedural Order No. 1 for a combined hearing to consider the Gas Utilities' applications. In that Notice and Procedural Order, the OEB directed the Gas Utilities to file supplemental evidence by January 31, 2019. In doing so, the OEB indicated that information that has been previously identified as strictly confidential¹ should be identified and not placed on the public record or made available to other parties.

On January 18, 2019, the OEB issued Procedural Order No. 2 that, among other things, granted Union Gas an extension to file its supplemental evidence by February 21, 2019.

¹ EB-2015-0363 *Report of the Board - Regulatory Framework for Assessment of Costs of Natural Gas Utilities' Cap and Trade Activities* set out two categories of strictly confidential information: auction confidential and market sensitive information

The OEB subsequently granted Enbridge Gas² and EPCOR Gas³ an extension to file their supplemental evidence by February 21, 2019.

Treatment of Strictly Confidential Material

Several intervenors⁴ in this proceeding have filed letters asking the OEB to reconsider whether strictly confidential treatment should be applied to certain information in this proceeding, given the repeal of the *Climate Change Mitigation and Low-carbon Economy Act, 2016* (Climate Change Act) and Ontario Regulation 144/16. In response, Enbridge Gas and Union Gas argued that the revocation of the Climate Change Act does not extinguish the effect of its statutory prohibitions against the release of strictly confidential information.⁵

The OEB has considered the various letters on this issue. The OEB notes that the parties' letters did not cite precedents to support their views. The OEB seeks written submissions from the Gas Utilities, OEB staff and intervenors on the legal effect of a repeal of legislation including where the repealing act is silent as to the effect of the repeal on specific provisions that had been in force. In particular, the submissions should address the required treatment of strictly confidential evidence in this proceeding that follows from the determination of the legal effect of the repeal of the Climate Change Act.

The OEB will not be in a position to make a finding on this issue before the Gas Utilities file their supplemental evidence on or before February 21, 2019. As a result, the Gas Utilities should follow the approach as directed in Notice of Hearing and Procedural Order No. 1 such that information that was previously identified as strictly confidential should not be placed on the public record or made available to any other parties.

The OEB is making provision for the following procedural steps in the order below. The OEB may issue further procedural orders from time to time.

² OEB letter dated January 22 2019

³ OEB letter dated January 29, 2019

⁴ APPRO's letters dated December 19 and 28, 2018; IGUA's letters dated December 13, 2018 and January 11, 2019; and SEC's letters dated December 13, 2018 and January 11, 2019

⁵ Enbridge Gas and Union Gas letter dated December 27, 2018

IT IS THEREFORE ORDERED THAT:

1. The Gas Utilities, intervenors and OEB staff may file a written submission on: (i) the legal effect of the repeal of the Climate Change Act; and (ii) specifically, the treatment of the strictly confidential auction and market sensitive information in this proceeding resulting from the repeal of the Climate Change Act by **March 5, 2019**.

All filings to the OEB must quote the file numbers **EB-2018-0331**, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Laurie Klein at Laurie.Klein@oeb.ca and OEB Counsel, Lawren Murray, at Lawren.murray@oeb.ca.

ADDRESS

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DATED at Toronto, **February 12, 2019**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary