Shepherd Rubenstein

**BY EMAIL and RESS**

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June 21, 2019
Our File: EB20180331

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2018-0331 –Enbridge Gas Cap and Trade DVA – SEC Submissions**

We are counsel to the School Energy Coalition ("SEC"). Enbridge Gas Inc. ("EGI") has requested approval and clearance of the balances in various deferral and variance accounts ("DVA") related to the now cancelled Cap and Trade Program. Pursuant to Procedural Order No. 4, these are SEC's submissions.

The Board has decided that certain material is strictly confidential. As a result, SEC is only able to make submissions on the administrative costs contained in the Enbridge Gas Distribution Inc. ("EGD") and Union Gas Limited ("Union Gas") Greenhouse Gas Emissions Impact Deferral Accounts ("GGEIDA").

Interim Cap-and-Trade Deferral and Variance Account Balances as at Sep 30, 2018 ($000's)

| Line No. | | Account | 2016 | 2017 | 2018 *Jan 1 – Jul 3* | 2018 *Jul 4 – Sep 30* | Total |
|---|---|---|---|---|---|---|---|
| 1 | EGD | GGEIDA | 868 | 2,315 | 1,483 | 314 | **4,980** |
| 2 | | GHG-Customer VA | - | 7,360 | 12,590 | (31,091) | **(11,141)** |
| 3 | | GHG-Facility VA(1) | - | (1,164) | 1,003 | (374) | **(513)** |
| 4 | | **EGD Total(2)** | **868** | **8,511** | **15,077** | **(31,151)** | **(6,674)** |
| 5 | Union | GGEIDA | 2,292 | 3,282 | 1,707 | 306 | **7,587** |
| 6 | | GGECO – Customer-Related | - | 6,026 | 5,364 | (28,243) | **(16,853)** |
| 7 | | GGECO – Facility-Related | - | (835) | (1,067) | (1,623) | **(3,525)** |
| 8 | | **Union Total(3)** | **2,292** | **8,473** | **6,004** | **(29,561)** | **(12,791)** |

**Notes:**
(1) – Forecast facility volumes excluded Rate 315/325/332 from July 4, 2018 to September 30, 2018 equating to approximately $0.020 million; see EB-2018-0249, Exhibit Q4-2, Tab 5, Schedule 1, p. 5.
(2) – Includes interest of $0.396 million up to September 30, 2018.
(3) – Includes interest of $0.200 million up to September 30, 2018.

SEC is providing comments on what balances are eligible for recovery overall, and the amounts eligible for recovery.

***Eligible Recoveries Under IRM Frameworks.*** The GGEIDA accounts are Z-factor accounts for the purposes of the IRM frameworks of EGD and Union Gas. This is not a problem for the EGD account, as the EGD IRM Framework does not have a threshold, and the other criteria are met. For Union, however, the annual amounts in the account do not meet the Z-factor materiality threshold, and therefore should not be recoverable from customers.

In its *Decision and Accounting Order* in EB-2015-0367, while approving the creation of Union's GGEIDA, the Board stated that at the time disposition is sought, it would "review the costs for prudence and will determine whether the costs are appropriate for recovery from ratepayers in the context of Union's IRM framework"[emphasis added][1]. This is that proceeding.

Under Union's approved IRM framework, which governs its rate-setting between 2014 and 2018, a new deferral or variance account for non-commodity costs can be approved in the context of a Z-factor.[2] The GGEIDA was set up to recover non-commodity, and non-commodity like costs, as they are costs that Union had to occur to administer the Cap and Trade Program. This differs from the Customer and Facility related accounts, which are more akin to Y-Factors, as they relate primarily to compliance instruments that Union Gas had to purchase to meet the requirements under the Cap and Trade Program. This is more similar to Union's traditional flow-through accounts.

SEC submits that the purpose of the GGEIDA, as well as the administrative costs included, meet all the requirements of a Z-factor, with the exception of the materiality threshold. The costs were:, i) directly related to the Cap and Trade program, the imposition of which was outside of Union Gas' control (requirement 1), related to a new legal requirement in respect to which Union could not have taken steps to mitigate (requirement 2), and are incremental to costs included in its current price cap index (requirement 3). While SEC challenges the prudence of the level of costs, even assuming all the costs were prudent (requirement 4), the balances do not meet the $4M net delivery revenue requirement materiality threshold (requirement 5).

In each of 2016, 2017, and 2018, the amount is below the materiality threshold - $4M annual net delivery revenue requirement - as set out in the section 8 of the Union Gas 2014-2018 IRM

[1] *Decision and Accounting Order*, (EB-2015-0367 - Union Gas Ltd), April 6 2016, p.2

[2] EB-2013-0202, Union Gas Limited Settlement Agreement, July 31 2015, Ex.A-2, section 8, Approved in *Decision and Order* (EB-2013-0202), October 7, 2013:

> "The parties agree that for prospective or historical cost increases/decreases to qualify for pass through as a "Z factors", the cost increases/decreases must:
>
> 1. causally relate to an external event that is beyond the control of utility's management;
> 2. result from, or relate to, a type of risk;
>    a. for which a prudent utility would not be expected to take risk mitigation steps; and,
>    b. which is out of the realm of the basic undertaking of the utility (per EB-2011- 0277 Decision, page 13);
> 3. not otherwise be reflected in the price cap index;
> 4. be prudently incurred; and,
> 5. meet the materiality threshold of $4.0 million of annual net delivery revenue requirement impact per Z factor event. Net delivery revenue requirement will be defined in the same manner as set forth in Section 6.6 above.

framework. Therefore, consistent with Union's IRM framework, those amounts are not recoverable from customers. SEC submits that, for this reason, the Board should deny recovery.

Unlike Union Gas, EGD's GGEIDA was established initially by the Board in its Custom IR decision (EB-2012-0459) in which there was no materiality threshold for the purpose of recovery.[3] The balances in the EGD GGEIDA are recoverable in full.

***GGEIDA Balances.*** SEC has reviewed the interrogatory responses, and especially those provided in response to SEC-2 (as updated), which provides a comparison between EGD and Union Gas' administrative costs. SEC notes that there are material differences in the administrative costs incurred by EGD and Union Gas, specifically in the cost of salaries and wages.[4]

EGI has tried to explain the difference on the basis that certain EGD costs were included in its Custom IR base rates, whereas Union Gas had not included similar costs in its IRM base rates.[5] Yet, SEC submits EGI has not explained why EGD was able to utilize more of its existing resources as opposed to Union Gas, which hired more incremental FTEs. SEC submits one would expect that both utilities would have had similar available employee resources within their respective companies at the time, and would need roughly the same additional incremental resources. In fact, if anything, one would expect Enbridge to require more resources than Union, considering EGD's compliance obligation under the Cap and Trade Program was higher.

On this basis, SEC submits that, in the event that the Board determines that the materiality threshold for Union does not reduce recovery to zero, then in the alternative the Board should determine that the annual amount that is prudent for Union Gas to to recover is the amount incurred in the same year by EGD.

***Conclusion.*** SEC therefore submits that the Board should allow recovery of the EGD administrative costs, as proposed. However, the Board should deny recovery of the Union Gas administrative costs. In the alternative, the Board should allow recovery of the Union Gas administrative costs in an amount no greater than the EGD administrative costs.

All of which is respectfully submitted.

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[3] While technically the 2016 Enbridge GGEIDA was established in its 2016 rates proceeding (EB-2015-0114), this was due to Enbridge's past practice, which has subsequently been eliminated, of re-establishing all previously approved deferral and variance accounts annually. The original establishment of the account for the purposes of Enbridge's 2014-2018 rates framework was in the Board's Custom IR decision, where Board agreed with EGD's request to establish this new account (See *Decision with Reasons* (EB-2012-0459 Enbridge), July 14 2014, p.70)

[4] Exhibit I.SEC.2

[5] Exhibit I.STAFF.6

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

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)
Applicant and Interested (by email)