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Our File # 339583-257

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June 21, 2019

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> floor  
Toronto, ON M4P 1E4

Dear Ms. Walli

**Re: Enbridge Gas Inc. (“EGI”)  
2016-2018 Cap and Trade Deferral & Variance Account Disposition  
Board File #: EB-2018-0331**

We are counsel to Canadian Manufacturers & Exporters (“CME”) in the above-noted proceeding. Pursuant to Procedural Order No. 4 dated April 25, 2019, please consider this letter as CME’s Submissions regarding the application by EGI regarding the disposition of the 2016-2018 cap and trade deferral and variance accounts.

CME represents 400 Ontario-based member companies. Natural gas is a significant source of energy for the manufacturing sector, and the price of natural gas has a significant and direct impact on CME’s constituents’ ability to remain competitive in the marketplace. The cost consequences arising from the cap and trade plans and their associated deferral and variance accounts are therefore of significant interest to CME’s members.

CME does not have sufficient information available to take any position regarding whether the amounts recorded in the GHG Customer-related Variance Accounts and GHG Facility-related Variance Accounts were prudently incurred. However, CME submits that the Board should not fully accept the administrative costs proposed for recovery by EGI on the basis that Union Gas Limited’s (“Union”) costs were significantly higher than those of Enbridge Gas Distribution (“EGD”).

## Background

On December 7, 2018, the Board released Notice and Procedural Order No.1, which set out the procedural steps in the OEB’s prudence review of the cap and trade-related variance and deferral accounts for EGD and Union (collectively, the “Legacy Utilities”). Procedural Order No. 1 also instructed the Legacy Utilities to file supplemental evidence including, *inter alia*:

- 1) Actual balances in the Greenhouse Gas Emissions Impact Deferral Account (“GGEIDA”) for 2016, documentation supporting the balances, and a description of the nature of the expenses incurred;
- 2) Actual balances in the GGEIDA, GHG Customer-related Variance Account and GHG Facility-related Variance Account (the “Customer and Facility Accounts”) and any forecast amount, where applicable. EGI was instructed to include documentation supporting the balances and a description of the nature of the expenses.<sup>1</sup>

On February 21, 2019, EGI filed its application and evidence in this proceeding supporting its request to dispose and recover the account balances in the GGEIDA and Customer and Facility Accounts for what are now the Union and Enbridge rate zones.<sup>2</sup>

## The Board is Undertaking a Prudence Review of the Deferral and Variance Account Amounts

CME submits that the purpose of this proceeding is for the Board to undertake a full prudence review of the cap and trade-related variance and deferral accounts for EGI. The Board confirmed this in Procedural Order No. 1 stating:

“This Notice and Procedural Order No. 1 provides for procedural steps in the OEB’s prudence review of the cap and trade-related variance and deferral accounts for Enbridge Gas, Union Gas and EPCOR Gas (collectively the Gas Utilities).”<sup>3</sup> (emphasis added)

During the course of the cap and trade program, the Legacy Utilities sought to cast the Board’s earlier compliance plan reviews as an advanced prudence review that would insulate their spending from further scrutiny. In EGD’s argument-in-chief in EB-2016-0300 for example, it argued that there should be a presumption of prudence once the compliance plan had been reviewed by the Board.<sup>4</sup>

The Board did not accede to that submission. In their Decision in EB-2016-0296/0300, the Board found that the Legacy Utilities’ costs were consistent with the expectations established

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<sup>1</sup> EB-2018-0331, Ontario Energy Board, Notice and Procedural Order No. 1, December 7, 2018, p. 3.

<sup>2</sup> Letter from Adam Stiers to the OEB, Re: EB-2018-0331 – Enbridge Gas Inc. – 2016-2018 Cap-and-Trade Deferral & Variance Account Disposition, February 21, 2019.

<sup>3</sup> EB-2018-0331, Ontario Energy Board, Notice and Procedural Order No. 1, December 7, 2018, p. 1.

<sup>4</sup> EB-2016-0300, Enbridge Gas Distribution, Argument-in-Chief [Public] at para 70.

in the Cap and Trade Framework, but held that the actual costs of each utility would be assessed for cost-effectiveness and reasonableness during a later proceeding.<sup>5</sup>

Accordingly, CME submits that the Board should not apply any presumption of prudence to the costs incurred and amounts recorded by the Legacy Utilities, but should ensure that all of the amounts recorded were fully reasonable and cost effective under the circumstances.

Customer and Facility Greenhouse Gas Obligation Variance and Deferral Accounts

On April 25, 2019, the Board issued Procedural Order No. 4, where it determined that auction confidential material and market sensitive information would remain designated as “strictly confidential”.<sup>6</sup> As a result, information regarding the Legacy Utilities’ compliance instrument purchases, strategy and other details have not made available to interveners to test in this proceeding. Accordingly, CME takes no position on the reasonableness or prudence of the amounts recorded in the Customer and Facility Accounts.

CME trusts that Board Staff will raise any and all concerns regarding the prudence and reasonableness of the amounts recorded by the Legacy Utilities in the Customer and Facility Accounts to the Board in this proceeding.

Cap and Trade Administration Costs

EGI is seeking to recover administrative costs relating to the cap and trade program and recorded in the Legacy Utilities’ administrative deferral and variance accounts relating to salary and wages for both EGD and Union during the years 2016-2018. The table below outlines those amounts:<sup>7</sup>

Table 1

Year/Period	Union			EGD		
	Salaries & Wages (\$000’s)	End of Period FTEs	Average FTEs	Salaries & Wages (\$000’s)	End of Period FTEs	Average FTEs
2016	1,682	13.5	8.0	533	3.0	2.8
2017	2,438	11.5	12.5 <sup>2</sup>	695	4.0	4.4
2018 (Jan 1 - Jul 3)	1,211	11.25	11.4	357	5.0	5.0
2018 <sup>3</sup> (Jul 4 - Sep 30)	169	3.0	3.5	162	4.0	4.0

As demonstrated by the table, Union’s salaries and wages throughout the period are significantly and consistently higher than those of EGD. EGI has attributed the material difference in salaries to two things:

<sup>5</sup> EB-2016-0296/EB2016-0300/EB-2016-0330, Ontario Energy Board, Decision and Order, Applications for approval of 2017 Cap and Trade Compliance Plan cost consequences, September 21, 2017, s. 5.1.3.

<sup>6</sup> EB-2018-0331, Ontario Energy Board, Decision and Procedural Order No. 4, April 25, 2019.

<sup>7</sup> EB-2018-0331, Exhibit I. STAFF.6, p. 2 of 8.

- 1) The Legacy Utilities operated under different incentive regulation models, and therefore EGD had additional costs that were already paid for through existing rates and not captured in the deferral and variance accounts; and
- 2) Union began working on longer-term investments, business activities, abatement and offset opportunities earlier.

CME accepts that due to incentive regulation differences, EGD may have been able to leverage existing rates more than Union. However, with regard to Union’s decision to spend significantly more on salary and wages to broaden the scope of their cap and trade activities, CME submits that the Board should disallow recovery of some of those amounts.

EGI explained that it included 5.5 FTEs in its 2017 and 2018 compliance plans whose responsibilities included: evaluating lower carbon customer technologies, reviewing renewable natural gas, evaluating low carbon or renewable gas feedstocks, and evaluating and develop Cap and Trade’s offset strategy and protocols.<sup>8</sup>

The Legacy Utilities have repeatedly stressed that the cap and trade program had a number of unknown elements, and was still in its nascent stages from 2016 to 2018. For instance, in discussing cap and trade in EB-2016-0296, Union stated:

“Given the infancy of the Cap-and-Trade program and the significant uncertainties that remain, (i.e. WCI linking, offsets) it is pre-mature to deviate from established Frameworks.”<sup>9</sup>

Similarly, when testifying before the Board in EB-2017-0224, EGD stated:

“Enbridge notes that the market is still relatively new and there are still unknowns in place including, for example, the upcoming election and ensuing carbon policy and transparency to how revenues will be recycled back into the market, amongst other unknowns.”<sup>10</sup>

Accordingly, at the same time that Union significantly increased the scope of its planning and activities into novel areas, incurring significant additional costs, the Legacy Utilities were still coming to grips with the basic foundations of the program.

Given that the Legacy Utilities knew that there were still significant unknowns with the regard to the program, CME submits that the prudent course would have been a more measured approach to expanding Union’s efforts regarding the cap and trade program. Indeed, EGD took a more measured approach, and as a result, was able to adapt to evolving circumstances within their cap and trade compliance. As stated in EGI’s evidence, EGD originally forecast adding additional roles for offset project development, but after seeing that the offset market in Ontario was developing slowly, was able to hold off on filling those roles.<sup>11</sup>

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<sup>8</sup> EB-2018-0331, Exhibit I. STAFF.6, pp. 4 and 5 of 8.

<sup>9</sup> EB-2016-0296, Written Reply Submission of Union Gas Limited (Public), p. 4.

<sup>10</sup> EB-2017-0224, Transcript Volume 3, April 26, 2018, p. 6.

<sup>11</sup> EB-2018-0331, Exhibit I. STAFF.6, p. 5 of 8.

Accordingly, CME submits that the Board should not allow EGI to recover the full cost of Union's salaries and wages from the 2016-2018 period.

CME requests that it be awarded 100% of its reasonably incurred costs in connection with this matter.

Yours very truly

Borden Ladner Gervais LLP

A handwritten signature in blue ink, appearing to read "Scott Pollock", is centered on a light blue rectangular background.

Scott Pollock

- c. Andrew Mandyam (EGD)
- Fred Cass (Aird & Berlis LLP)
- Mark Kitchen (Union)
- Crawford Smith (Lax O'Sullivan Lisus Gottlieb LLP)
- Intervenors EB-2018-0331
- Alex Greco and Ian Shaw (CME)

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