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VIA RESS, EMAIL and COURIER

August 30, 2019

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
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Dear Ms. Walli:

Re: Enbridge Gas Inc. (Enbridge Gas)
Ontario Energy Board (Board) File No.: EB-2019-0105
2018 Disposition of Deferral & Variance Account Balances / 2018 Utility Earnings

Enbridge Gas writes to confirm its intention to seek disposition of amounts recorded in 2018 accounts related to the impacts of Capital Cost Allowance ("CCA") deduction changes in the 2019 Federal Budget. Enbridge Gas acknowledges that the Board's recent Accounting Direction anticipates that such amounts will not be cleared until a Utility's next cost of service proceeding, but the Company does not believe that such an approach is appropriate for Enbridge Gas.

As explained in this letter, a major difference between gas distributors (Enbridge Gas and its predecessor utilities) and electricity distributors is that there is already a process in place to consider and disburse gas distributor deferral and variance accounts on an annual basis. Enbridge Gas (and its predecessor utilities) have established accounts to record the revenue requirement impacts of tax rule changes. In these circumstances, it is not appropriate to require ratepayers to wait until Enbridge Gas's next rebasing proceeding in 2024 to receive their share of the substantial benefits from the CCA deduction changes. This is more appropriately done each year as part of the deferral and variance account clearance proceedings, as has been the case for similar costs over the gas distributors' past two incentive ratemaking terms.

Background

On June 21, 2019, Bill C-97, the Budget Implementation Act, 2019, No. 1, was given Royal Assent. Bill C-97 includes an "Accelerated Investment Incentive" program which provides for a first-year increase in Capital Cost Allowance ("CCA") deductions on eligible capital assets acquired after November 20, 2018 ("Accelerated CCA").

Enbridge Gas filed its 2018 Disposition of Deferral and Variance Account Balances and 2018 Utility Earnings Application (EB-2019-0105) on July 17, 2019, seeking disposition of the 2018 Deferral and Variance Account balances in the Enbridge Gas Distribution ("EGD") and Union Gas ("Union") rate zones. Within the determination of the 2018 utility results and deferral account balances requested for clearance, Enbridge Gas has reflected the impact of the Accelerated CCA. As detailed in the pre-filed evidence, the change in the CCA rules has impacted each rate zone in a different manner.

In the EGD rate zone, the change in CCA rules is reflected in the utility income tax calculation, which impacts the gross sufficiency and corresponding amount of earning sharing payable to ratepayers through the Earnings Sharing Mechanism Deferral Account ("ESMDA"). The 2018 gross sufficiency (or revenue requirement) impact (50 percent) related to Accelerated CCA, and proposed to be shared with ratepayers, amounts to $1.5 million. Even though there is no Tax Variance Deferral Account ("TVDA") in the EGD rate zone, the effect of the ESMDA is the same since it captured 50 percent of the revenue requirement impact of the Accelerated CCA.

In the Union rate zones, 50 percent of the Accelerated CCA revenue requirement impact for 2018 (exclusive of amounts captured in the capital pass-through deferral accounts) is captured in the TVDA to be shared with ratepayers. The 2018 balance related to Accelerated CCA proposed to be shared with ratepayers amounts to $0.9 million.

On July 25, 2019, the Board issued an Accounting Direction letter to Utilities regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax rules for Capital Cost Allowance. The Board directed Utilities to record the full revenue requirement impact of the changes in CCA rules (Accelerated CCA) in a deferral account for the period November 21, 2018 until the effective date of the Utility's next cost-based rate order. The Accounting Direction indicates that, unless the Board orders otherwise, the determination of the disposition methodology will be made by the Board when the balances are brought forward for disposition as part of the Utility's next cost-based application.

The Board's Accounting Direction contemplates that there may be current cost-based applications that will be impacted by the CCA rule changes, stating an expectation that Utilities "should reflect any impacts arising from CCA rule changes in their cost-based applications for 2020 rates and beyond." The Accounting Direction does not mention, though, that Enbridge Gas has a current application before the Board for the disposition of 2018 deferral and variance accounts balances, which reflects the impact of the Accelerated CCA in both EGD and Union rate zones.

Discussion

In Enbridge Gas's particular circumstances, it is not appropriate to wait until its next rebasing case (anticipated to relate to 2024 rates) for the disposition of credit amounts to ratepayers related to the Accelerated CCA.

Enbridge Gas believes that it is appropriate for the 2018 impact of the Accelerated CCA to be determined and reflected in the disposition of its 2018 deferral and variance account proceeding. Enbridge Gas's EB-2019-0105 filing reflects this position.

Similarly, Enbridge Gas believes that it is appropriate for future year impacts of the Accelerated CCA to be determined in the annual deferral and variance account disposition proceedings during its deferred rebasing term (2019 to 2023).

There are several reasons supporting Enbridge Gas's position. If necessary, Enbridge Gas will expand on these items during the course of this EB-2019-0105 proceeding.

First, Enbridge Gas's current application is consistent with the ratemaking approach that has been in place throughout the 2014 to 2018 incentive regulation ("IR") terms for EGD and Union. This Application relates to utility results from that IR term. Throughout those years, EGD has reflected the impact of tax changes in its ESMDA and Union has reflected the impact of tax changes in its TVDA. The relevant amounts have been cleared annually. Enbridge Gas has simply followed the same approach in this Application.

Second, the annual recording and clearing of amounts related to Accelerated CCA into Enbridge Gas 's TVDA during the current deferred rebasing period (2019 to 2023) is consistent with the Board's prior direction in the MAADs decision.[1] In that case, the Board addressed the treatment of any tax rate changes during the deferred rebasing term. The Board ordered Enbridge Gas to keep Union's TVDA for the full deferred rebasing period and expanded its applicability to record the impact of any tax rate changes for both EGD and Union rate zones during the deferred rebasing term (2019 to 2023).

Third, Enbridge Gas is different from electricity distributors. The Board has recognized that for a large gas distributor, there is benefit for all parties (ratepayers and the utility) to address clearance of deferral and variance accounts on an ongoing basis each year of an IR term. There is already an established process in place for this to happen. In each of the last two IR terms, EGD and Union have cleared their deferral and variance accounts on an annual basis. It is expected that this practice will continue during Enbridge Gas's deferred rebasing term.

Finally, waiting until Enbridge Gas's deferred rebasing proceeding to clear recorded amounts related to Accelerated CCA will deprive ratepayers of current benefits. Reviewing and disposing of the CCA rule change revenue requirement impacts starting with the 2018 Disposition of Deferral and Variance Account Balances and 2018 Utility Earnings proceeding will allow Enbridge Gas's ratepayers to obtain annual benefits from the clearance of the TVDA, rather than having to wait until 2024 to receive a lump sum benefit. Enbridge Gas estimates that the ratepayer share of the tax savings associated with Accelerated CCA during the 2018 to 2023 years could total more than $50 million. Enbridge Gas believes that ratepayers should receive these benefits around the years when they are realized, rather than waiting up to six years to receive all the benefits at one time. Enbridge Gas's proposed annual clearance approach will minimize intergenerational inequity and dampen bill impacts.

Please contact the undersigned if you have any questions.

Sincerely,

(Original Signed)

Mark Kitchen
Director, Regulatory Affairs

Cc: David Stevens (Aird & Berlis LLP)
Fred Cass (Aird & Berlis LLP)

[1] EB-2017-0306/EB-2017-0307, Decision and Order, August 30, 2018, p. 45