



Enbridge Gas Inc.

2020 Federal Carbon Pricing Program Application

PROCEDURAL ORDER NO. 1

February 6, 2020

Enbridge Gas Inc. (Enbridge Gas) has applied to the OEB for approval under section 36(1) of the *Ontario Energy Board Act, 1998* (OEB Act) to increase rates effective April 1, 2020 to recover costs associated with meeting its obligations under the federal *Greenhouse Gas Pollution Pricing Act* (GGPPA). Enbridge Gas has also applied to recover from customers the 2019 balances in the related deferral and variance accounts.

The GGPPA established a carbon pricing program under which a natural gas utility in Ontario, such as Enbridge Gas, is required to pay a carbon charge to the Government of Canada, for emissions from the natural gas that it delivers to its customers, and for its own emissions. The carbon charge under the GGPPA came into effect on April 1, 2019, and will increase on April 1, 2020.

The OEB issued a Notice of Hearing on January 3, 2020. This Procedural Order sets out direction on intervenor status and cost eligibility.

The following parties applied for intervenor status:

- Anwaatin Inc. (Anwaatin)
- Building Owners and Managers Association, Greater Toronto (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Chiefs of Ontario (COO)
- City of Kitchener (Kitchener)
- Energy Probe
- Environmental Defence
- Industrial Gas Users Association (IGUA)
- London Property Management Association (LPMA)
- School Energy Coalition (SEC)

- TransCanada Pipelines Limited (TCPL)
- Vulnerable Energy Consumers Coalition (VECC)

Anwaatin, BOMA, CME, Energy Probe, Environmental Defence, IGUA, LPMA, SEC and VECC also applied for cost eligibility.

No objection to the intervention requests was received from Enbridge Gas.

Nature of the Proceeding

The application filed by Enbridge Gas is largely mechanistic in nature. In last year's Federal Carbon Pricing Program proceeding (EB-2018-0205), the first of its kind, in which many intervenors participated, the OEB established a process by which the carbon charge would be assessed and collected from customers. This current application proposes that the unit charge Enbridge Gas collects for customer-related emissions will increase from the current legislated amount of \$20.00 per tonne of carbon dioxide equivalent (3.91 ¢/m³ of natural gas) to the legislated amount effective April 1, 2020 of \$30.00 per tonne of carbon dioxide equivalent (5.87 ¢/m³). This unit charge will be multiplied by actual customer volumes. Enbridge Gas has also proposed an updated Facility Carbon Charge to recover its forecast costs for its facility-related emissions. This proposed methodology does not differ from what was established in the last proceeding. Enbridge Gas has requested clearance of related deferral and variance accounts, which includes collection of 2019 administration costs. OEB staff will be an active participant in the application.

It is in the context of the above that assessments in respect of intervention requests have been made.

Intervention Requests of BOMA, CME, Energy Probe and VECC

The intervention requests of BOMA, CME, Energy Probe and VECC are denied. These parties have not adequately explained their interest in the proceeding. Some parties have not included any statement as to their interest in the application and others have only provided broad statements of interest. As a result, the OEB is not able to assess whether these parties have a "substantial interest" within the meaning of Rule 22.02 of the OEB's *Rules of Practice and Procedure*. As part of their statements of interest, some parties have also noted that they have a substantial interest because they participated in the previous Federal Carbon Pricing Program application and in other Enbridge Gas applications. As the OEB has noted previously, applications for intervenor requests are assessed on a case by case basis and the fact that an intervenor has been granted status in a previous application is informative, but it does not create a precedent

for an intervenor having a substantial interest in a different application. Letters of intervention must provide an adequate description of interest in a proceeding.

If parties seek to provide further information to support intervenor status, they should be mindful that the OEB expects the scope of the current proceeding to be limited. The OEB also notes that this is Enbridge Gas' second application in this matter and the OEB expects its review to be mechanistic in nature.

Intervention Requests of Kitchener and TCPL

Kitchener states that it will be directly impacted by the proposed rates in the application. TCPL states that "it has a direct interest in matters involving the EGI (Enbridge Gas) systems, facilities, rates and policies; and the effects it may have on the services TCPL provides to its customers on the Mainline." TCPL states that it provides integrated services on the Mainline and as a result has an interest in matters that affect the rates on Enbridge Gas' systems. The requests of Kitchener and TCPL do not set out any specific interest in the current application. Their requests appear to be more in the nature of a request to follow the proceeding. The OEB therefore denies both requests for intervenor status. In the event that Kitchener and TCPL decide to provide more specific information to support intervenor status, they must provide a clear description of their substantial interest in this proceeding.

Intervention Requests of IGUA and Environmental Defence

IGUA indicates that its interest is limited to abatement initiatives and states:

In EG's [Enbridge Gas'] 2019 Federal Carbon Pricing Program Application (EB-2018-0205) the Board expressly stated that it would not be considering additional measures that EG should undertake to reduce GGPPA covered emissions (i.e. abatement initiatives), as there were other proceedings in which measures promoting energy efficiency and the reduction of greenhouse gasses could be considered. EG has not addressed the topic of abatement initiatives in the instant application, and IGUA is not advocating that it should. If it remains the case that the Board will not consider the topic of abatement initiatives in reviewing the instant application, then IGUA will have limited interest in this matter and does not anticipate being very active in it.

Based on the OEB's decision on the scope in last year's Federal Carbon Pricing Program proceeding, issues related to abatement initiatives (reduction of customer emissions or facility-related emissions) are not expected to be within the scope of the

current proceeding. Accordingly, IGUA's request for intervenor status is denied at this time.

Environmental Defence states that its interest in this proceeding relates to "... promoting both the public interest in environmental protection and the interests of consumers whose energy bills can be reduced through energy efficiency and other means."

Environmental Defence's interest also appears to be related to abatement initiatives, which for the aforementioned reasons are not expected to be within the scope of the current proceeding. Accordingly, Environmental Defence's request for intervenor status is denied at this time.

Should the OEB Panel hearing this application later determine that issues related to abatement initiatives are within the scope of this proceeding, Environmental Defence and IGUA may reapply for intervenor status.

Intervention Requests of SEC and LMPA

The intervention requests of SEC and LPMA are approved. SEC states that its interest in this proceeding relates to the recovery of GGPPA costs and the disposition of deferral and variance account balances. Similarly, LPMA's interests relate to the disposition of the balances in the deferral and variance accounts, which have not been previously reviewed. SEC and LPMA are also eligible to apply for an award of costs pursuant to the OEB's *Practice Direction on Cost Awards*.

Intervention Requests of the COO and Anwaatin

The COO noted its position that permission from Enbridge Gas to recover the GGPPA carbon levy from customers is subject to provisions in the *Indian Act*, and that Canada ("the Crown") as the fiduciary for First Nations people is obligated to insure the treaty and section 35 rights of First Nations people are not ignored. It is the position of the COO that, under the provisions of the *Indian Act*, energy producing products including natural gas that are "connected" to a reserve are not subject to any type of financial assessment by the Crown.

Anwaatin indicated that it may also make submissions on section 35 issues, and would also provide the OEB with information on energy poverty in indigenous communities, and on the differential impact of natural gas rates on remote and near-remote communities. The issues that the COO and Anwaatin have raised were not considered in Enbridge Gas' 2019 application. The OEB approves the intervention requests of the COO and Anwaatin. Anwaatin has requested and is eligible to apply for an award of costs pursuant to the OEB's *Practice Direction on Cost Awards*.

The OEB Panel hearing this application will make a determination on the extent to which the issues that COO and Anwaatin have raised will be considered as part of the current proceeding.

In its letter of intervention, the COO requests that the Minister responsible for the implementation of the GGPPA and two Ministers in charge of First Nation matters be served with the application and the evidence. The OEB is not aware of any specific obligation to serve the three Ministers in this circumstance and will not require Enbridge Gas to serve the application and the evidence as requested. The OEB notes that the three Ministers referenced above have been copied on correspondence from the COO and the Ministers can apply to intervene in this proceeding.

Next Steps in This Proceeding

The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

In its application, Enbridge Gas requested that the OEB grant approval of just and reasonable rates effective April 1, 2019 on an interim basis by February 13, 2019, should the OEB determine that it is not possible to review and grant the approvals requested on a final basis by this date. The OEB is considering this request and is therefore not providing orders for next steps in this proceeding at this time.

All materials filed with the OEB must quote the file number, EB-2019-0247 and be made electronically in searchable/unrestricted PDF format through the OEB's web portal at <https://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 <https://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 computer access are required to file seven paper copies.

All communications should be directed to the attention of the Board Secretary at the address below. With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Michael Parkes at Michael.Parkes@oeb.ca and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca.

ADDRESS

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DATED at Toronto, **February 6, 2020**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original signed by

Christine E. Long
Registrar and Board Secretary

Schedule A

Enbridge Gas Inc.

EB-2019-0247

Applicant and List of Intervenors

Dated: February 6, 2020

Enbridge Gas Inc.
EB-2019-0247
2020 FEDERAL CARBON PRICING PROGRAM
APPLICANT & LIST OF INTERVENORS

February 06, 2020

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Enbridge Gas Inc.
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February 06, 2020

INTERVENORS

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February 06, 2020

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**Enbridge Gas Inc.
EB-2019-0247
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APPLICANT & LIST OF INTERVENORS**

February 06, 2020

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