

BY E-MAIL

February 21, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Long:

**Re: Enbridge Gas Inc. (Enbridge Gas)
2019 Open Bill Access Application
Ontario Energy Board (OEB) File No. EB-2018-0319**

In accordance with Procedural Order No. 11, please find attached OEB staff's submission. Enbridge Gas and all intervenors have been copied on this filing.

Yours truly,

Original Signed By

Donald Lau
Project Advisor – Electricity Distribution: Major Rate Applications & Consolidations

Encl.

ONTARIO ENERGY BOARD

OEB STAFF SUBMISSION

APPLICATION FOR APPROVAL TO CONTINUE THE
EXISTING FINANCIAL TERMS ASSOCIATED WITH
OFFERING OPEN BILL ACCESS SERVICES

Enbridge Gas Inc.

EB-2018-0319

February 21, 2020

Introduction

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) on December 4, 2018 under section 36 of the *Ontario Energy Board Act, 1998*¹, seeking approval to continue the existing financial terms associated with offering Open Bill Access (OBA) services for 2019 and 2020.

The OEB held an oral hearing on January 30 and 31, 2020 to hear the two unsettled issues and set out procedures for Enbridge Gas, OEB staff, and intervenors to file written submissions in Procedural Order No. 11.²

In Procedural Order No. 10 and Decision on Confidentiality³, the OEB ordered parties that plan to cross-examine witnesses at the oral hearing to file their initial positions on the two unsettled items. OEB staff filed its initial positions on January 28, 2020, which is summarized as follows:

1. What control should OBA customers have over the addition, removal and reinstatement of third party charges on their Enbridge Gas bill through the OBA services? (Customer Control)
 - Customers should have full control over whether or not third party charges appear on or are paid through their Enbridge Gas bill.
 - At the request of a customer, a third party charge should be removed in ten business days unless otherwise instructed by the customer.
 - A third party charge should only be added or reinstated at the request of a customer.
2. What restrictions, if any, should be placed on billing OBA customers for penalties, exit or termination fees, or similar charges through the Enbridge Gas bill? (Penalties, Terminations, and Exit Fees)
 - Assuming customers can remove third party charges at their discretion then there should be no restrictions to the placement of these charges on the Enbridge Gas bill.

In Enbridge Gas' evidence-in-chief and argument-in-chief filed on January 28, 2020 and February 7, 2020, respectively, Enbridge Gas proposed changes to the existing dispute process and provided an explanation as to how the proposal addresses concerns raised

¹ *Ontario Energy Board Act, 1998* S.O. 1998, c. 15, Sched. B

² EB-2018-0319, Procedural Order No.11, January 31, 2020

³ EB-2018-0319, Procedural Order No.10 and Decision on Confidentiality, January 16, 2020

during the application. OEB staff has considered Enbridge Gas' proposal and has amended its position as filed on January 28, 2020 below.

Customer Control

Enbridge Gas proposed in its argument-in-chief that the existing dispute process be modified in the following ways:

- All disputes have a 15 day resolution period regardless of whether it is classified as a Consumer Protection Act (CPA) dispute or not.
- If a resolution for the dispute is not reported in 15 days by the third party biller or a dispute is reported as resolved by the third party biller but the customer again reinitiates the dispute process, then Enbridge Gas will remove the disputed charge from the customer bill, credit the disputed amount back to the customer, and block the third party biller from using the same Bill Type Code⁴ for that customer.
- Reinstatement of the disputed charge outside of the 15 day period can only be done if the third party biller provides details of the resolution along with appropriate proof that the customer has agreed to the resolution.

Dispute Time Period

Enbridge Gas proposed a 15 day time period for the dispute process, which is different from the existing dispute process time period of 15 days for CPA disputes and 45 days for non-CPA disputes. In OEB staff's initial position, OEB staff proposed that a customer's request to remove a third party charge be processed after a ten day waiting period. This was to mirror a similar customer request process in the Retail Settlement Code. OEB staff has considered Enbridge Gas' 15 day proposal and submits that the time period is a reasonable resolution time period for all disputes (whether they fall under OEB staff's scenario 1 or scenario 2 discussed below) but notes that Enbridge Gas should still continue to track if the disputes are CPA or non-CPA related.

Dispute Process

In Enbridge Gas's interrogatory responses, it provided the following table that shows the number of disputes that have been reinstated once or twice in historical years.⁵ These disputes are initiated by a customer and can include a customer requesting that a third party charge be removed from their Enbridge Gas bill.

⁴ A Bill Type Code is the identification code used to categorize charges from the OBA program.

⁵ EB-2018-0319, Enbridge Interrogatory Responses Third-Round Updated, January 15, 2020 (staff-9)

	2014	2015	2016	2017	2018	2019 (Jan-Sep)
Resolved By Biller or Customer	25,458	26,509	24,606	22,407	21,520	18,039
Dispute Reinstated Once	1,936	1,774	2,174	2,547	3,013	1,679
Dispute Reinstated Twice	132	165	105	182	317	173

The table shows that from the period of 2014 to 2018, the number of disputes being reinstated once and twice have been increasing. Based on the growing trend in reinstated disputes, it is apparent that while the third party may consider a dispute resolved, the customer does not.

OEB staff notes that based on the oral hearing and Enbridge Gas' argument-in-chief, the first unsettled issue appears to be best assessed by considering two scenarios.⁶ The first scenario is where the customer is disputing whether the charge (or the third party more generally) should appear on the bill at all. The second is the scenario where the customer disputes the accuracy of a particular charge on the bill.

In considering the appropriate response to these scenarios, it is also important to consider the role of Enbridge Gas' system for tracking disputes. OEB staff's understanding is that there is a limitation in Enbridge Gas' current automation process so that Enbridge Gas does not, and cannot, differentiate between the two scenarios above.⁷ Enbridge Gas also relies on the automated process to deal with a large volume of disputes in order to keep costs minimal.⁸ This automated process is essentially a tracking and communication tool for the disputes between Enbridge Gas and the third party biller.⁹ Enbridge Gas relies on the disputes to be resolved between the third party biller and the customer and Enbridge Gas would only manually review disputes if the disputes have been escalated.¹⁰

For the first scenario, OEB staff's view is that when a customer requests that a third party charge be removed from their bill, which currently is considered a dispute (and so it follows the current dispute process), there should be no need for a customer to reinitiate a dispute to have it removed. In OEB staff's view, Enbridge Gas' revised (and shorter) dispute process is still not sufficient to address this scenario since it does not provide customers with total control over their bill. When a customer asks Enbridge Gas to remove a third party biller from the bill because, in the customer's view, the charge or the biller should not be there at all, Enbridge Gas should remove the disputed charge from the customer's account¹¹, credit the disputed amount back to the customer's

⁶ EB-2018-0319, Argument-in-Chief, February 7, 2020 (p. 5)

⁷ EB-2018-0319, Oral Hearing Transcript Volume 1, January 30, 2020 (p. 43)

⁸ EB-2018-0319, Oral Hearing Transcript Volume 1, January 30, 2020 (p. 15)

⁹ EB-2018-0319, Oral Hearing Transcript Volume 1, January 30, 2020 (p. 10)

¹⁰ EB-2018-0319, Oral Hearing Transcript Volume 1, January 30, 2020 (p. 15)

¹¹ By "account" OEB staff is referring to the Enbridge customer account.

account, and block the third party biller from using the same Bill Type Code for that customer, all within the 15 day dispute time period.

OEB staff recommends that Enbridge Gas consider how this can be implemented through an automated process. OEB staff notes that Enbridge Gas' concern with OEB staff's proposal for the first scenario appears to be due to the costs associated with the manual labour required for changes in the dispute process as a result of the limitations to the automated process. Enbridge Gas stated in its evidence-in-chief that it is currently under a system freeze and the back office would need to manually update a customer's account to implement changes. While OEB staff can appreciate the cost increases of incremental manual labour, OEB staff recommends that Enbridge Gas explore the possibility of an automated process that could address the noted limitations, such as implementing a flag that assists Enbridge Gas in differentiating the two scenarios in the automated process. Enbridge Gas may wish to include in its reply submission, an estimate of the amount of time it may need to consider system changes and the earliest possible date to implement these changes.

For the second scenario, OEB staff notes that while the number of reinstated disputes have been growing, a large number of disputes are still resolvable between the third party biller and the customer. OEB staff supports Enbridge Gas' dispute process as described in its argument-in-chief for the second scenario where a customer has a complaint with respect to the quantum of a particular charge.

Finally, OEB staff submits that as part of Enbridge Gas' next OBA application, Enbridge Gas should file updated information for the number of disputes resolved by the third party biller and customers and the number of disputes where a customer reinitiates a dispute. If the number of customer reinitiated disputes continues to grow then Enbridge Gas should propose changes to the dispute process that provides customers more control over the bill under scenario 2.

Restatement of Charges

OEB staff agrees with Enbridge Gas' proposal that a charge can only be reinstated through proof that the customer has agreed to the resolution along with details of the resolution. To clarify, OEB staff's understanding of the required proof is specific written authorization from the customer. Furthermore, OEB staff's understanding of reinstatement of a charge is all instances where a charge was previously removed and not limited to reinstatement of a charge resolved outside the 15 day dispute period.

Addition of Charges

In addition to Enbridge Gas' proposed dispute process above, Enbridge Gas stated that there was no evidence that there are problems with the current business practices and

did not support the need for specific customer instructions in order to add new charges to the customer's bill. Enbridge Gas stated that this would add immense administrative complexity and costs as it adds around 800,000 new OBA charges each year on customers' bills. Given OEB staff's position under scenario 1 above, OEB staff submits that if Enbridge Gas is able to implement an improved automated process for that scenario, then written authorization for the addition of a third party charge is not required since the customer would be able to request removal of the charge without going through the dispute process.

Penalties, Termination, and Exit Fees

Customers who receive these types of charges from a third party through the OBA service, should have the ability to remove these third party charges without being required to go through the dispute process (as revised going forward) similar to the first scenario described above. However, if the customer is challenging the quantum of the charges only, then the dispute should go through Enbridge Gas' dispute process as described in its argument-in-chief, similar to the second scenario described above.

All of which is respectfully submitted