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2300 Yonge Street
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March 6, 2020
Our File: EB20190183

Attn: Christine Long, Registrar & Board Secretary

Dear Ms. Long:

Re: EB-2019-0183– Enbridge Owen Sound Reinforcement/M17 – SEC Submissions

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 2, these are SEC’s submissions on the application of Enbridge Gas Inc. (“Enbridge”) for leave to construct the Owen Sound Reinforcement Project (the “Project”) and the new M17 transportation service.

Overview

The proposed Project is to increase the capacity on the existing Owen Sound line to serve the EPCOR Natural Gas LP (“EPCOR”) South Bruce expansion project and Enbridge’s own projected in-franchise growth.¹ While the Enbridge in-franchise demand is the largest driver of the project, the timing is being driven by the in-service date of EPCOR’s South Bruce project.²

SEC accepts that the project is needed, as there is customer growth that requires increased capacity on the Owen Sound line.³ The Board has already approved some of that downstream demand, specifically the EPCOR South Bruce expansion project.⁴ In addition, Enbridge also seeks approval for the rate, and terms and conditions, for its proposed new M17 service. The new service is required as Enbridge does not currently offer an ex-franchise service that can deliver anywhere outside of its Dawn-Parkway system.

SEC’s submissions are limited to certain disputed issues, specifically, i) the requirement for EPCOR to pay a CIAC for the Project, ii) the requirement for EPCOR to pay for the cost of the Dornoch Meter Station, iii) the availability of cost-based storage under the M17 service, and iv) the proposed requirement to obtain market-based load balancing services.

¹ Ex.D-2-1, p.1-2,8; Ex.E-3-3, p.1; Ex.D-2-2, p.1

² Ex.D-1-3, p.1

³ *Ibid.*

⁴ See *Decision and Order* (EB-2018-0263 - EPCOR), July 11 2019

Requirement for EPCOR to Pay a CIAC

Enbridge proposes that since the Project has a P.I. of below 1.0 in stage 1 of the EBO 134 methodology, EPCOR should be required to pay a Contribution In Aid of Construction (“CIAC”) so that its proportionate share of the new demand facilitated by the Project (18%) reaches a P.I. of 1.0.⁵ In its view, this ensures that Enbridge customers do not subsidize EPCOR’s South Bruce customers.⁶ EPCOR’s view is that requiring a CIAC for a portion of the costs of a transmission pipeline is inconsistent with EBO 134 and to require such a CIAC would be unfair to customers of its expansion compared to those of Enbridge’s served by the Project. It believes that this is inconsistent with the principle of competition set out in the Board’s Community Expansion Framework as outlined in the generic decision in EB-2016-0004.⁷

At a high-level, SEC agrees with Enbridge that cost allocation of transmission pipelines should reflect accurate cost causality. The proposed allocation would also be consistent with one of the central principles of the Community Expansion Framework – no cross-subsidies.⁸ Without a CIAC payment, Enbridge’s Union South rate zone customers will be subsidizing EPCOR South Bruce customers, as the revenue generated by the M17 rate will not cover EPCOR’s proportionate share of the costs over the life of the Project. The problem is that the current EBO 134 framework does not allow for this, and selective deviation from the policy, especially when it would impact a competitor, is not inappropriate. Doing so would violate the other central principle of the Community Expansion Framework – facilitating competition.⁹

There is no requirement or mechanism under EBO 134 for payment of a CIAC from a customer, be it another distributor or otherwise, if the P.I. is less than 1, unless the sole purpose of the project is to supply gas in a new area (as without the CIAC there would be an undue burden on existing customers).¹⁰ While the EPCOR project may be a significant driver, it is not the sole purpose of the project. Enbridge’s own allocation methodology, which would require 18% of the costs of the Project to be allocated to EPCOR, is evidence of this. While the rate increase may be unfair to existing Enbridge customers, it cannot fairly be said to reach the level of being undue.¹¹

The Board recently commented in the context of its approval of Union’s Kingsville Project that, unlike the EBO 188 test for distribution projects, for projects with a P.I. below 1 there is no mechanism for a CIAC to be paid by those who benefit from the project under Stage 2 or 3.¹² The Board noted that “[f]or natural gas in Ontario, no economic test or ratemaking mechanism exists today to allow these discrepancies to be addressed”.¹³

Even though every transmission project approved by the Board in the last decade has had a P.I. of less than 1, until this application, Enbridge has only ever asked for a CIAC from a transmission

⁵ Ex.D-1-3, p.2

⁶ Enbridge IRR Staff.13, p.2

⁷ *Decision with Reasons* (EB-2016-0004 – Community Expansion Framework), November 17 2016

⁸ *Decision with Reasons* (EB-2016-0004 - Community Expansion Framework), November 17 2016, p.4, 21

⁹ *Decision with Reasons* (EB-2016-0004 - Community Expansion Framework), November 17 2016, p.24-27

¹⁰ EBO 134, section 7.29

¹¹ Enbridge IRR EPCOR.2(j)

¹² *Decision and Order* (EB-2018-0013 - Union Kingsville), September 28 2018, p.6

¹³ *Ibid*

customer once before in the entire existence of EBO 134.¹⁴ This occurred in 1995, and was for a project that was driven entirely by the one customer (Stelco Lake Erie Works).¹⁵

None of this means that the Board is required to follow EBO 134 rigidly. It is a policy, and therefore does not bind any panel of the Board when considering the specific facts of that application. SEC's concern is that while the Enbridge approach may be fairer to Union South rate zone customers, it is not to EPCOR South Bruce customers, and would be unfairly harming a new entrant in Ontario.

The unfairness of Enbridge's approach is most evident when it has not required similar CIAC to be paid by its own community expansion customers when they also contribute or benefit from upstream reinforcements. For example, the Board recently approved Enbridge's application for the Saugeen First Nation community expansion project.¹⁶ This project appears to be served off the Owen Sound system just upstream of the Project and so will benefit from the additional capacity. No CIAC is being sought from or allocated to those new customers, presumably because it is an Enbridge project.

Furthermore, outside of the Community Expansion Framework, Enbridge's new customer additions that are also a driver of the Project are in the same position as its existing Union South rate zone customers. Both will pay the same amount for the Project, even though the new customers served from the Project will receive the same energy saving benefits that EPCOR's downstream customers will. They are not required to pay any CIAC.

All of these facts suggest that the Board should review EBO 134 to better reflect cost causation principles. Until such time, Enbridge should not be allowed to deviate from existing policy in a way that treats its downstream customers any differently than those of another distributor, especially one that is a competitor.

If the Board does accept Enbridge's proposed approach, then it must ensure that the M17 rate is not allocated any of the remaining portions of the Project costs. Currently, the remaining Project costs are included in the total 'Other Transmission' costs category, which is then part of the allocation to the M17 rate.¹⁷ If EPCOR is to directly allocate 18% of the Project costs, it should not also be required to pay some amount of the remaining 82%, included in the M17 rate. This would amount to a double payment.

Dornoch Meter Station

Enbridge is proposing that EPCOR pay, through a CIAC or as part of the M17 monthly customer charge, the full cost of the new Dornoch customer meter station that is required to be constructed to deliver gas to EPCOR's system. SEC submits that since the meter station is being constructed for EPCOR's sole use, it is appropriate that it be required to pay the cost of construction.¹⁸ The construction of a customer-specific delivery point on Enbridge's system should be paid for by that customer.

¹⁴ Evidence of EPCOR Natural Gas Limited Partnership ["EPCOR Evidence"], p.13, Tables 1,2; Enbridge IRR EPCOR.3c

¹⁵ EBLO 249; EPCOR Evidence, p.17-18; EGLP IRR FRPO.1

¹⁶ *Decision and Order* (EB-2019-0187 - EGI Saugeen FN LTC), February 6 2020

¹⁷ Ex.B-1-3, p.4, 5

¹⁸ EPCOR IRR Enbridge.2(b)

EPCOR opposes this requirement to pay on the basis that the requirement to do so is inconsistent with past practice. It points to the Board's approval for Union Gas customers to pay entirely for the Parkway West interconnection, which included a similar meter station, with Enbridge Gas' GTA Project Segment A pipeline.

SEC agrees with Enbridge that the situation is quite different, as the GTA Project Segment A Pipeline is part of a broader transmission system build that brought gas from the Dawn-Parkway system through Enbridge's system up to the TC Energy system (formerly TransCanada Pipelines). While Enbridge was technically the sole "customer" at Parkway West, TC Energy had a Transportation By Other arrangement on Segment A in which it is a significant customer moving gas from Parkway to its system interconnecting at King's North.

The only concern SEC has with the proposal for EPCOR to pay for the Dornoch meter station costs, is that it may now be double paying for meter station costs. The CIAC is akin to direct allocation of meter station costs, yet under the proposed M17 rate, EPCOR will be paying its share of the pooled meter station costs on the entire Owen Sound line and on the Dawn-Parkway system.¹⁹ If EPCOR is to be allocated to the full costs of the meter station it will use, it should not have to pay the indirect allocation of pooled meter station costs that it will not use. SEC submits that the allocation of costs to the M17 rate should be revised to remove all pooled meter station costs.

Cost Based Storage

Enbridge proposes that the M17 and the modified Rate M9 and T3 services, preclude new gas distributors from accessing Enbridge's cost-based storage allotment. This issue has not arisen before, since there have been no new gas distributors in Ontario since NGEIR.²⁰

SEC submits that this is consistent with the Board's decision in NGEIR. In that decision, the Board found that utilities that had access to competitive storage options would no longer have access to cost-based storage, while essentially grandfathering certain existing utilities.²¹ There does not appear to be any disagreement that EPCOR has access to competitive storage options. It would be especially unfair to allow EPCOR to access the 100 PJs of Enbridge's cost-based storage for Union customers, whereas the Enbridge rate zone customers, part of the same company, cannot have access to that excess cost-based storage.²²

Daily Load Balancing

Enbridge's proposed M17 service requires that customers enter into a daily load balancing agreement ("LBA") with Enbridge or a third-party on market-based terms. EPCOR's evidence is that this requirement is unfair, as only Enbridge can practically provide the service, and so a requirement that load balancing is contracted in the market as opposed to being provided by Enbridge on a cost basis is anti-competitive. SEC submits that insofar as EPCOR is correct that only Enbridge reasonably provide the service, then it is anti-competitive, as Enbridge has a monopoly, and so should be required to be provided as part of the M17 service on a cost-basis.

¹⁹ EPCOR Evidence, p.24

²⁰ *Decision with Reasons* (EB-2005-0551 - NGEIR -), November 7 2006

²¹ *Ibid.*

²² *Decision and Order* (EB-2017-0306/EB-2017-0307 – EGD/Union MAAD), August 30 2018, p.51

EPCOR has provided detailed evidence regarding the specific practicalities of load balancing that simply cannot be provided by any other entity but the transportation pipeline system operator (i.e. Enbridge).²³

Enbridge in turn has filed detailed submissions in its Argument-in-Chief on its interpretation of the proposed daily load balancing requirements contained in the M17 service and the history of negotiations with EPCOR.²⁴ It appears it has taken the view that EPCOR has misunderstood the stringency of its daily load balancing obligations under the proposed M17 terms and conditions.

Enbridge provides cost based daily load balancing as part of the service included for other rate classes (for example M9 and T3).²⁵ Since daily load balancing usually requires the use of storage based assets in addition to system based assets, consistent with NGEIR, EPCOR would not be eligible to access it on a cost-basis.²⁶ The problem with this is that in NGEIR the Board did not consider the competitive impacts of various sub-categories of storage services separately (i.e. seasonal storage versus daily load balancing).

As discussed earlier, there is no real doubt that EPCOR has the ability to access seasonal storage on a competitive basis, but that apparently may not be the case for storage required for daily load balancing. SEC accepts the logic of EPCOR's comments, that unlike other non-distributor customers, daily load balancing is a significantly larger challenge, as ultimately it does not have control of its end-use customers daily consumption.²⁷ This would potentially make third-party services for daily load balancing much harder to obtain and that this is a service that can only properly be provided by the connecting pipeline operator.

EPCOR's evidence is that it issued an RFP for various services which included the load balancing required under the proposed M17 terms and conditions, and that two proponents that responded, both said that it could not be provided by anyone other than the interconnecting pipeline operator, Enbridge.²⁸ This would appear to indicate that third-parties do not believe they are able to provide the required load balancing services. SEC is unclear if the M17 terms and conditions that were included in the RFP were what Enbridge is seeking approval for in this application, or the original version that was proposed in EB-2018-0244. If it is the latter, then that does not tell us much about third-parties ability to meet the proposed M17 terms and conditions for load balancing.

Since SEC has not seen EPCOR's argument with its reply to Enbridge's interpretation of the terms and conditions, we are not in a position to provide a view on the factual dispute. SEC can say, that if the Board does agree with EPCOR that only Enbridge can reasonably provide the load balancing service, then the proposed terms are not just and reasonable.

If the Board makes a finding that daily load balancing for ex-franchise distributors connected to Enbridge's transmission system are is competitive, it should de-forebear from this very specific use of storage only and require it to be provided on a cost-basis as part of the M17 service. Those costs

²³ EPCOR Evidence, p.25-39

²⁴ Enbridge Argument-in-Chief, para. 44-69

²⁵ EPCOR IRR Staff.3(a)

²⁶ *Ibid*

²⁷ *Ibid*

²⁸ EPCOR IRR Enbridge.3(a)



should be based on Enbridge's actual costs to provide the service, not TC Energy's cost to provide Enbridge a similar load balancing services for its Union North rate zone. This was apparently an earlier proposal Enbridge made to EPCOR that does not appear to have any relation to the actual costs to provide a daily load balancing service off the Owen Sound line.²⁹

Yours very truly,
Shepherd Rubenstein P.C.

Original signed by

Mark Rubenstein

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

²⁹ Enbridge Argument-in-Chief, para. 58