EB-2019-0183

ONTARIO ENERGY BOARD

Enbridge Gas Inc.

Application to construct a natural gas pipeline and associated facilities in the Municipality of West Grey and the Township of Chatsworth, both in the County of Grey

and

Application for a new firm transportation service under Rate M17 for gas distributors and to modify the applicability of existing Rate M9 and Rate T3 rate schedules effective December 1, 2019.

WRITTEN SUBMISSIONS

of

INDUSTRIAL GAS USERS ASSOCIATION (IGUA)

1. As stated in its intervention request letter of December 17, 2019, IGUA represents two large industrial customers in the new EPCOR South Bruce (EPCOR) gas distribution franchise whose delivered gas costs will be directly affected by the proposed Owen Sound reinforcement and the M17 rate. IGUA also represents industrial Enbridge Gas (EG) gas delivery customers.

2. The evidence filed by EPCOR in this proceeding focusses on competitive fairness between EPCOR as a new entrant and EG as an encumbent. Competitive fairness was critical at the time of the competitive application to serve South Bruce. EPCOR won that competition, and at this point, and considering the interests of those large gas consumers represented by IGUA and to be served by EPCOR, the more salient principle is "fairness" - i.e. non-discriminatory treatment by EG of EPCOR and its customers in the provision of regulated services.

3. An additional principle important for EG's other customers, including those also represented by IGUA, is that the expansion customers to be served by EPCOR not be subsidized by EG's existing customers. As articulated by the Board in its *Decision with Reasons* in the *Generic Proceeding on Community Expansion* [EB-2016-0004] (Expansion Policy);[1]

> *The OEB does not consider it appropriate or necessary to subsidize projects that result in sufficient savings to customers to cover the costs of the projects.*

4. A central element of the Board's policy on expansion of gas service to new communities, and one that is particularly relevant to the issues before the Board in this application, is the principle that;[2]

> *The communities that receive the benefit [of gas service] will be the ones paying the costs.*

5. While the Ontario government has, since issuance by the OEB of its Expansion Policy, legislated a gas ratepayer funded cross-subsidy to expansion customers, the OEB's own policy remains one of costs following benefits, and no cross-subsidy of expansion customers by non-expansion customers. The Board has effectively reiterated this policy in its *Final Guidelines for Potential Projects to Expand Access to Natural Gas Distribution* issued March 5, 2020 (Final Guidelines). The Minister of Energy recognized the Board's no cross-subsidy principle for gas service expansion in reiterating that among the matters to be considered by the Board in its review of potential expansion projects is the dollar amount of government support needed for each project to meet the OEB's profitability threshold (i.e. a Profitability Index of 1.0).[3] The Board has reiterated this principle in its discussion of the Final Guidelines.[4]

6. The policy that costs should follow benefits and expansion customers should not be subsidized by existing customers is sound and widely practiced economic regulatory

[1] EB-2016-0004 November 17, 2016 *Decision with Reasons*, page 21.
[2] EB-2016-0004 November 17, 2016 *Decision with Reasons*, page 4.
[3] EB-2019-0255, Notice to Interested Parties, page 2, bullet 2.
[4] EB-2019-0255, Notice to Interested Parties, page 12, paragraph 2; page 13, paragraph 3 (end).

policy. It is a policy that should continue to guide the Board in respect of its own regulatory functions, including in respect of the issues raised in this application.

7. On the basis of both the Board's Expansion Policy and the similarly tried and tested principles of no-unjust discrimination in the provision of regulated services, and for the reasons articulated in these Final Submissions, IGUA submits that:

(a) EPCOR should be required to pay a contribution in aid of constructions (CIAC) to cover the full costs of the Dornoch Station, on the basis that this station is dedicated to EPCOR.

(b) If the Hearing Panel accepts EG's evidence that 18% of the capacity resulting from the Owen Sound reinforcement is directly attributable to gas transmission service to EPCOR, then EPCOR should be required to pay a CIAC calculated on the basis of 18% of the costs of the reinforcement, provided that EG is directed to ensure that EPCOR will <u>not</u> ultimately be responsible for any costs associated with the other 82% of the capacity.

(c) The M17 tariff should <u>not</u> include any allocation of cost based storage for seasonal storage purposes, as new expansion customers are not included in the cost based storage allocation to legacy Union Gas customers determined by the Board in the Natural Gas and Electricity Interface Review (NGEIR) proceeding.

(d) EG should be directed to include in the M17 tariff an <u>EG cost</u> based regulated daily balancing service, in the same manner as such a service is provided to T3 and unbundled contract customers.

8. IGUA requests that EG address, in its reply argument, whether the one year delay by EPCOR in commencing service (now anticipated for spring, 2020) combined with the one year deferral of the need for the Owen Sound reinforcement facilitated by the reverse open season turn back obtained by EG in 2019, permits additional deferral of the Owen Sound reinforcement.

9. IGUA further submits that, should an interim rate be required in order for EG to commence service to EPCOR prior to full resolution of EG's application for approval of an M17 rate, EG be directed to apply the existing T3 rate to EPCOR service in the interim.

10. In a number of places in these Final Submissions we have made, and stated, assumptions regarding the facts relevant to this matter. As there was no provision for post-IRR clarification of testing of the sometimes conflicting evidence in this matter, some of the circumstances remain unclear to us. Where we think it might be helpful to the Board and

interested parties we have asked EG to address certain of these circumstances in its reply submissions.

Timing for Owen Sound Reinforcement

11. As we understand EG's evidence[5], the Owen Sound reinforcement would have been required to serve EG's own in-franchise demand growth for winter 2022/2023 and beyond, but needed to be accelerated to meet EPCOR's request for service to the winter of 2019[6]. As a result of the turn back of 2,508 m^3 of capacity in a reverse open season held in anticipation of the need to provide service to EPCOR, a deferral of the Owen Sound expansion by one year - from the winter of 2019 to the winter of 2020 - was enabled.[7]

12. EPCOR's plans have, however, been delayed, such that its first customers will be connected in the spring of 2020, rather than December, 2019. Subsequent customer connections will also be delayed.

13. IGUA requests that EG address in its reply submissions whether the combined effect of the capacity turn back resulting from the reverse open season and the delay in EPCOR's customer connection program permits any further deferral of the in-service date of the Owen Sound reinforcement.

14. To the extent that further deferral is now permitted, any approval granted herein should be on the basis that the expansion should not be accelerated (from its initial winter 2022 need date) more than required to meet EPCOR's service requirements.

Recovery of Costs of Dornoch Station

15. The sole function of the Dornoch Station now constructed is to provide gas transmission service to EPCOR.[8]

[5] See generally ExD/T1/S3 and ExI.EPCOR.2; ExD/T2/S1/p1/para. 1.
[6] ExD/T1/S2/para. 11.
[7] ExD/T1/S2/para. 8.
[8] ExI.Staff.3; EPCOR IRR EG.2 (b).

16. The cost of the Dornoch Station was $4.02 million, and EPCOR has paid this amount to EG pending determination of this application.[9]

17. This station is required specifically and only to provide service to EPCOR. There is no basis upon which the costs of this element of the EPCOR expansion service should be subsidized by EG's current customers. The costs of the station should follow its benefits, and be allocated to EPCOR for payment.

18. EG has confirmed that its Rate T3 takes this approach.[10]

19. EPCOR refers to the treatment of the costs of the (then) Union Gas station connecting the Dawn Parkway System to the (then) Enbridge Gas Distribution (EGD) Segment A pipeline as precedent for the allocation of costs for a station to serve a specific customer to customers at large.[11]

20. EGD's Segment A was built to serve EGD and its in-franchise customers, and ex-franchise customers taking service from (then) Union Gas and (then) TransCanada Pipelines Limited. That is, it was built to serve customers in existing service territories served by Union Gas, EGD and TC Energy. There was no specifically identified gas service community expansion involved in or supported by that project. The Dornoch Station, on the other hand, has one purpose; to transfer gas from the EG system to the new EPCOR system.

21. The decision regarding, *inter alia*, the allocation of costs of the meter station connecting the Dawn Parkway system to EGD's Segment A [EB-2012-0433] was issued in January, 2014. The Expansion Policy which should govern the allocation of upstream costs to EPCOR's new expansion customers was issued in November, 2017. As noted above, the Expansion Policy stipulates that existing customers should not subsidize expansion customers. Allocating the costs of the Dornoch Station to customers other than ECPOR would result in a subsidy from existing customers to EPCOR and its new expansion customers, contrary to the Expansion Policy.

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[9] ExI.EPCOR.5 a).
[10] EG AIC, page 10, paras. 37-38.
[11] EPCOR Evidence, page 22.

22. In any event this Hearing Panel is not bound by the Board's previous decisions. The particular decision cited by EPCOR in support of its request for subsidy of the Dornoch Station does not fit the current circumstances or the Board's current Expansion Policy and should not guide this Hearing Panel in its determination of the appropriate allocation of the costs of the Dornoch Station.

Recovery of Costs of Owen Sound Reinforcement

23. EG's evidence is that 18% of the Owen Sound expansion capacity is required to serve EPCOR (following allocation to EPCOR of some of the existing Owen Sound capacity).[12] This evidence is unchallenged.

24. On this basis, EG proposes to directly allocate to EPCOR 18% of the costs of the Owen Sound Expansion, and to recover these costs from EPCOR by way of a $5.34 million CIAC.[13]

25. EPCOR in its evidence asserts the position that a direct allocation of expansion costs for transmission facilities is inappropriate, given the economic test for transmission project approval set out in the Board's E.B.O. 134 framework.[14] That framework provides that where a transmission project is uneconomic at first instance (i.e. forecast revenues at current rates will not be sufficient to cover project costs), it may nonetheless be economically justified and thus approved on the basis of "stage 2" and "stage 3" tests which consider customer savings and broader economic spin-offs from the project, respectively. EPCOR effectively takes the position that the E.B.O. 134 test should be applied not only to consider whether the transmission investment should be approved (i.e. leave to construct granted), but also how the costs of the investment are to be recovered.

26. EPCOR's position that the E.B.O. 134 calculus for project approval should be applied to determining responsibility for costs would effectively result in transmission investment costs being recovered from all transmission customers all the time, even where a specific,

[12] EXI.EPCOR.2 ; EG AIC par. 9.
[13] EPCOR has elected to pay this cost, if ultimately required, by way of a CIAC rather than an M17 monthly customer charge. ExD/T1/S3/p.2; EPCOR IRR.Enbridge.2 (a).
[14] EPCOR Evidence, page 10, lines 7-16.

identifiable customer or group of customers benefits from all or part of the transmission investment.

27. IGUA does not agree that the E.B.O. 134 test for whether to approve a transmission investment should necessarily be the same test to be applied in determining how the costs of that transmission investment should be recovered.

28. In the current instance, EG's unchallenged evidence is that 18% of the Owen Sound expansion capacity will be used in providing service to EPCOR. Applying the cost recovery principles articulated in the Board's Expansion Policy (no subsidy of expansion customers by existing customers, and costs follow benefits), 18% of the expansion costs should also be allocated to EPCOR.

29. EPCOR in its evidence highlights that the annual subsidy which it effectively requests from existing EG customers would be *de minimus* (equating, for example, to a 12¢ annual bill impact for Union South residential customers)[15]. We note that the Board's Expansion Policy contemplated such relatively minor subsidies[16] in determining that even such minimal cross-subsidies should be avoided.

30. At the same time, and applying the principle of non-discrimination in rate making, should a CIAC from EPCOR be required for 18% of the cost of the Owen Sound expansion, EG should be directed to ensure that EPCOR will <u>not</u> ultimately be responsible for any costs associated with the other 82% of the capacity, now or in the future.[17] If EPCOR is required to pay for its "share" of the expansion capacity without subsidy from other customers (which in IGUA's submission it should be), EPCOR should <u>not</u> also be required to subsidize the other 82% of the costs incurred to serve other EG customers.

31. IGUA asks that EG address in its reply submissions how it will ensure that EPCOR is not allocated any portion of the balance of the Owen Sound expansion costs, now or in the future. (It may be that the proposed EPCOR CIAC has been calculated on that basis, but we have not identified evidence on this point.)

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[15] EPCOR Evidence, page 16, lines 15-18, referencing ExI.EPCOR.2j.
[16] Expansion Policy, page 11, bottom discussed bill impacts as low as $1, and page 12, 2nd full paragraph discussed subsidies of cents per year.
[17] See EPCOR Evidence, page 15, lines 12-19 where EPCOR articulates this concern.

M17 Seasonal Storage Allocation

32. EG proposes that its M17 tariff would not include an allocation of cost based storage, and that EPCOR would be responsible for procuring its own storage.

33. In the NGEIR decision the Board directed reservation of Union Gas' remaining cost based storage for legacy Union Gas customers, as a transitional measure. In the result, all storage procured on behalf of legacy EGD customers since the NGEIR decision has been procured at market cost, and we understand that this practice continues today for legacy EGD customers.

34. There is no basis upon which to allocate any remaining cost based storage to EPCOR's new expansion customers. Just like any other new, non-Union Gas legacy rate zone customers, EPCOR's new expansion customers should be served by competitively available market based storage.

35. We expect that the allocation of cost based storage will be revisited at the time of EG rate rebasing, when EG has indicated it intends to address rate harmonization. At that time we anticipate that the Board will have to consider what to do about the allocation of legacy cost based storage across all EG customers (end-users or utilities). The principle economic regulatory principle of non-discrimination will be applicable to that consideration.

36. In the interim, the principle of non-discrimination should also be applied to any additional new communities to which new gas service is extended, whether such extension proceeds from the legacy Union Gas system or the legacy EGD system. EG should not be permitted to preferentially allocate any remaining cost based storage only to its own new expansion customers.

M17 Daily Load Balancing

37. EPCOR has provided evidence that there is no market based daily balancing service available. This on the basis, as we understand the record, that daily balancing in the circumstances at hand integrally engages EG because;

(a) EG alone has the metering information required to determine daily imbalances, and EPCOR will get that information only the following day[18]; and

(b) daily balancing is, at least in part, operationalized through the use of line pack and other utility assets and the associated costs of these operations are included in other rates (T3 and rates paid by unbundled contract customers).[19]

38. There has been no opportunity to adequately test and attempt to reconcile the apparently conflicting positions of EPCOR that there are no effective market based daily balancing services available and EG's that there are, or could be (it is not clear to us which EG is maintaining).

39. We understand that EG's initial M17 proposal to EPCOR was to include a daily balancing service in the tariff, but to charge for imbalances outside of an M17 tariff specified tolerance at a unit rate embedded in a TC Energy daily balancing tariff.[20] It appears that this TC Energy imbalance charge does not have any relationship to EG costs to provide such a service[21], and this, we assume, is the reason that EPCOR rejected this proposal. EG then reverted to its position that EPCOR will need to contract for daily balancing "in the market", which appears to effectively mean from EG but on an unregulated basis.

40. IGUA submits that there is insufficient evidence to establish that there is a competitive market in which EPCOR could procure daily balancing services. In this circumstance it would be inappropriate for the M17 terms and conditions to effectively require EPCOR (and through EPCOR the Rate 16 customers represented by IGUA[22]) to contract with EG as the only possible provider of competitive daily load balancing service. If the board is persuaded that is the result of EG's proposal then the Board should reject that proposal and require EG to include in its M17 tariff a suitable, <u>EG cost</u> based daily balancing service, such as it offers to T3 and unbundled contract rate customers.

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[18] EG has suggested that EPCOR could install its own check meter in order to get at least proxy information sooner and be able to start to address its daily imbalance sooner; EG AIC para. 66. This proposition has not been subject to any further discovery or testing, though it seems imperfect to us and in any event it seems to not address the real issues raised by EPCOR.
[19] IRR EPCOR-Staff-3; EPCOR evidence, pages 32-34.
[20] EG AIC para. 62; EPCOR Evidence, pages 36-37.
[21] EPCOR Evidence, page 37, lines 9-12; EG AIC, para. 64, where EG submits it incurs this rate to balance its daily load with TC Energy and such rate is *"industry standard within Ontario"* based, it appears, on instances of daily balancing with TC Energy.
[22] EPCOR IRR Enbridge 6, p.2.

41. IGUA requests that EG file with its reply argument information on its costs to provide EPCOR with a daily balancing service if so directed. EG should also address, to the extent relevant, how those costs differ from the costs incurred to provide similar services to other customers (i.e. T3 and unbundled contract rate customers), and should indicate what an M17 rate which incorporates an EG cost based daily balancing service would be.

Interim Rate (if required)

42. It is our understanding that EPCOR anticipates commencing service to gas distribution customers in the spring of this year; likely in May. Should the Board find that it will not be able to render a final decision in this matter prior to EPCOR's anticipated start of service, an interim direction may be required.

43. In that event, it appears to us that directing EG to apply the current T3 rate to EPCOR on an interim basis would be simpler, and thus preferable, to requiring EPCOR to enter into relatively complex arrangements for daily nominations, market storage and daily load balancing (if such this last were possible) pending determination of which of these arrangements will ultimately be required.

ALL OF WHICH IS RESPECTFULLY SUBMITTED by:

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March 6, 2020

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