**EB-2019-0194**

**ONTARIO ENERGY BOARD**

**Enbridge Gas Inc.**

**Application for natural gas distribution rates and other charges effective January 1, 2020**

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# WRITTEN SUBMISSION OF THE BUILDING OWNERS AND MANAGERS ASSOCIATION, GREATER TORONTO ("BOMA")

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**March 26, 2020**

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**WRITTEN SUBMISSION OF BOMA**

**Part 1 – Cost Allocation**

In the MAADs and Rate Setting Mechanism proceeding, the Board directed Enbridge to:

> *"File a cost allocation study in 2019 for consideration in the proceeding for 2020 rates that proposes an update to the cost allocation to take into account the following projects: Panhandle Reinforcement, Dawn-Parkway expansion including Parkway West, Brantford-Kirkwall/Parkway D and the Hagar Liquefaction Plant. This should also include a proposal for addressing TransCanada's C1 Dawn to Dawn TCPL service." (Exhibit B, Tab 1, Schedule 1, Appendix B, p1)*

Enbridge has filed a partial cost allocation study in this proceeding, which responds to this directive using the 2019 test year as a sample [Exhibit B, Tab 1, Schedule 1, Appendix C].

Enbridge is seeking Board approval of cost allocation methodology changes to the Panhandle System and the St. Clair System, Parkway Station, and Dawn Station, and has addressed the cost allocation of the Hagar Liquefaction Plant and the Dawn to Dawn-TCPL Service. Enbridge is proposing to implement the cost allocation methodology changes as part of its next rebasing application.

BOMA agrees with Enbridge's proposal to implement the cost allocation proposals that it approves in this proceeding at its next rebasing, which will be a cost of service proceeding, for several reasons.

First, Enbridge's proposed cost allocation changes will result in major shifts in costs among Union legacy rate classes, including a very large increase in the costs allocated to Rate M4. The costs allocated to M4 increased by ten percent (10%) (Exhibit B, Tab 1, Schedule 1, Appendix C, p5), resulting in estimated bill increases of approximately thirty percent (30%) in the M4 rate (I.Staff.4, Attachment 1, p2).

Under the current Board-approved methodology, M4 customers attract revenue requirement of $34.1 million, against approved revenue of $28.7 million. The proposed cost allocation change would add a further $3.4 million of costs, an increase of over ten per cent (10%). Enbridge's proposal to separate the "functional classification" Panhandle/St. Clair into two "functional classifications", the Panhandle system, and the St. Clair system, results in the M4 rate class bearing a much larger share of design day demands in the new Panhandle system than it would have borne in the combined St. Clair-Panhandle system. While T2 customers in the legacy Panhandle-St. Clair system see a large reduction of $6.8 million in their revenue requirement (Exhibit B, Tab 1, Schedule 1, Appendix C, p5) (and C1 customers see a reduction of $6.948 million), M4 customers are left in an untenable position, because of their rate design (use of demand allocators rather than volumetric allocators). This unintended consequence needs to be addressed either in through rate design changes and/or the integration of the legacy Panhandle system into the single Enbridge system or "functional classification".

These are excessive increases, which are not acceptable. If approved, they would need to be offset by changes in rate design, including redefinition of rate classes.

Second, Enbridge has stated that it anticipates additional cost allocation changes in 2024, when Enbridge introduces rate harmonization, integration of the cost allocation studies for the combined utility and the pass-through of synergy savings into rates (Ibid, p3). Enbridge also states that the cost allocation at rebasing will be comprehensive and all parties and the Board will have the opportunity to review the changes proposed, but not implemented in this proceeding (I.LPMA.2). The Board states:

> *"The cost allocation studies on their own do not represent the fiscal rate adjustment that may occur as part of a cost of service proceeding. The final rate adjustment of a cost of service proceeding would include rate design and other adjustments that may be required to manage revenue to cost ratios, maintain rate class continuity, and address bill impacts. Implementation of cost allocation changes by rate class without consideration of rate design factors may result in unintended impacts that cannot be predicted without a complete rate design review similar to what is completed as part of a cost of service proceeding"* (Exhibit B, Tab 1, Schedule 1, Appendix C, pp3-4).

BOMA customers consider rate stability very important. Unnecessary changes in rates and rate volatility make it much more difficult for building owners/managers to manage their large portfolio of leases. Energy costs are usually the second or third largest costs in the operation of a building. The factors outlined above are major changes, including an integrated cost allocation for the merged company, and are likely to result in significant changes to the allocation of costs throughout the company.

For example, the three current rate zones may well be eliminated, resulting in one rate zone for the company. The Panhandle-St. Clair system may no longer be separately functionalized for cost allocation purposes or, the M4 rate class, which is relatively small, may be redefined or merged with other rate classes.

The Panhandle system is something of an anomaly. Its origin is not clear. Its rationale was likely historical, in that the connection with Panhandle predated the arrival in Ontario of gas from Western Canada. Functionally, a separate Panhandle system may be outdated. It is not clear why the Enbridge system, which now includes virtually all of Ontario, should, for cost allocation purposes, include a carve-out for two or three counties, which constitutes a tiny portion of the province. BOMA recommends that the elimination of the Panhandle system and the St. Clair system, as separate "functional classifications" should be part of the comprehensive cost allocation study at rebasing. Moreover, the elimination of the Panhandle-St. Clair separate "functional classifications" at rebasing would make the proposed changes to the Panhandle/St. Clair systems moot.

Enbridge has also stated that assuming the Board were to agree, there is no significant reason why the approval of the cost allocation proposals could not be delayed until the 2024 rebasing decision (I.LPMA.2, p2).

The Parkway Station

The proposals to change the cost allocation factor for the Parkway station compressor from distance weighted demand to demand, illustrates why the implementation of the proposed change should be deferred until rebasing. With a single Enbridge utility for cost allocation purposes, the rationale for the change, namely that the Parkway compressor is not required to move gas to customers east of Parkway, would no longer apply. Most of Enbridge's customers are now east of Parkway. Regional "functional classifications" should be discouraged, otherwise further regions or sub-regions will try to avoid costs based on locational arguments. For example, customers in the Niagara region could argue that they should not be responsible for sharing the cost of the Dawn Trafalgar system since they get little benefit from those expenditures.

Enbridge's' proposal makes sense for the Parkway regulator/measurement infrastructure, which following the Board's EB-2013-0365 decision, should have a straight demand allocator.

The above conclusion is not diminished by the fact that legacy Union South customers do not take gas compressed at Parkway on demand day.

Change to C1 Cost Allocation

Currently, C1 and M16 shippers on the Panhandle/St. Clair system are allocated costs based on design day demand. Enbridge proposes to directly assign to C1 and M16 customer classes the costs of assets in the Panhandle system that are used solely to serve ex-franchise rate C1 customers, notwithstanding the fact that a re-examination of the cost allocation to C1 shippers was not directed by the Board in the MAADs case (our emphasis). Enbridge proposes to directly assign the costs of the Sandwich Transmission Compressor Station and the Ojibway Measurement System, both of which are assets that are only used to move gas in an easterly direction. The two current users of these C1 rates are the Rover Pipeline Marketing Company and Emera Gas Marketing. Enbridge also proposes to directly assign a portion of the Dawn Yard assets and a portion of the Panhandle System Transmission Mains to the C1 and M16 rate classes. Enbridge proposes to calculate the costs of those four assets, based on 214 days (summer) actual use of the marketers' contracted capacity on the Panhandle system. The impact of the proposed change is to reduce the costs allocated to the C1 and M16 rate classes by $6.9 million (Exhibit B, Tab 1, Schedule 1, Appendix C, p9). As noted above, the two marketing companies, Emera and Rover Pipeline Marketing Company have contracted for 58,028 GJs and 39,927 GJs, respectively, from Ojibway to Dawn. Both companies are obliged by contract to deliver those volumes to Dawn 365 days per year. In BOMA's view, those users should continue to share the cost of the Panhandle system based on their contracted demands, notwithstanding the fact that the gas will be used on peak day in the Windsor area. That peak day use is incidental to the reasons that the marketers decided to use the Panhandle system to move gas to Dawn. There appears to be no evidence on the record as to the actual use of the gas on a daily basis throughout the year. Moreover, BOMA does not understand why the proposed separate "functional classifications" of the Panhandle and St. Claim systems should lead to the direct assignment of costs to some Panhandle system assets that had previously been allocated based on peak demands. The impact of the reduction in revenue collection from the two marketers must be made up by larger contributions from customer rate classes, including M4, M2 and M1.

Rate C1 Dawn to Dawn – TCPL Service

Enbridge did not accept TCPL's proposal to eliminate the C1 charge ($0.5 million) during the deferred rebasing period. BOMA agrees with Enbridge's position in this proceeding, but suggests that the issue should be considered at rebasing as part of the comprehensive cost allocation review.

**Part 2 – Incremental Capital Module ("ICM")**

In BOMA's view, the Board should not approve ICM funding for the replacement of the NPS 30 Don River Bridge project (the "Project"). Enbridge applied for Leave to Construct the Project on July 18, 2018 (EB-2018-0108), and received Leave to Construct on November 29, 2018. Following receipt of the decision, Enbridge began to build the line. The company had done preliminary work on the line in 2017 and the first part of 2018, prior to filing the Leave to Construct. It was to complete the 380 meter long line under the Don River by October 2019. The company had budgeted $24 million in 2019 to construct the line. The tie-in of the new river crossing line to the existing pipelines north and south of the Don River was proposed for September 2019 to coincide with the annual maintenance outage of the company's largest customer south of the Don River, TransCanada's gas-fired power plant. As detailed engineering and other work for the line progressed in early 2019, the company encountered some delay in obtaining necessary permits and had more extended discussions than it had anticipated with the

Toronto Regional Conservation Authority, the City of Toronto, and Metrolinx. On May 3, 2019, Enbridge advised the Board by letter pursuant to section 2(b) of the Conditions of Approval of the Leave to Construct, that it intended to commence construction of the Project on May 14, 2019 (copy attached as Appendix "A"). Permits to begin construction on the first segment of the work were issued in mid-May 2019 (I.CME.4). It gradually became clear that the line would not be constructed and ready for tie-in by September 2019, which was the original schedule. The construction work was substantially completed in November/December 2019 except for the tie-in to the existing lines north and south of the river. Enbridge had applied for ICM funding for the Project in its 2019 rates application, which it filed on December 14, 2018, to be effective January 1, 2019. In its September 12, 2019 decision (EB-2018-0305) on Enbridge's 2019 rates application, the Board, contrary to Enbridge's statement in its Argument-in-Chief, considered the project and decided that the project did not qualify for ICM funding, since Enbridge's eligible incremental capital for 2019 was zero (in fact, negative $200,000) (EB-2018-0305, p21). Shortly after the release of that decision, Enbridge applied for ICM funding of the line in its 2020 rates application, EB-2019-0194, the current proceeding, filed on October 8, 2019.

In its application, Enbridge said the expected in-service date would be December 2019.

In October 2019, Enbridge filed a request to vary the schedule for the tie-in from September 2019 to May 2020, which was TransCanada's next planned maintenance outage. The Board approved the request to vary on December 5, 2019 (I.VECC.1, Attachment 6, pp1-4).

In its covering letter for its request to vary, the company stated that:

> *"The Request to Vary involves a change to the schedule for the tie-ins and the in-service date of the project"* (Ibid, Attachment 1, p1).

Some parties suggested that Enbridge construct a by-pass of the bridge line to allow for earlier tie-in to the pipelines north and south of the river. Enbridge considered the alternative of constructing a by-pass and completing the tie-ins in December 2019, but concluded that the additional risks were too great, given the amount of existing infrastructure at the site.

The company noted that the by-pass option, if it were chosen, would be executed starting in mid-December 2019, which indicates that the line, except for the tie-ins (a cost of about $1 million), would have been completed by that date (I.VECC.1, Attachment 5, p4; I.VECC.1, Attachment 4, p2; I.VECC.1, Attachment 5, p6).

To summarize, BOMA does not dispute the need for the Project. However, it is of the view that the Project does not qualify for ICM funding since the project had been under construction for five to six months, and was near completion, except for the tie-in, when the 2020 rates application was filed on October 8, 2019. In BOMA's view, a project nearing completion or completed should not be approved for ICM funding, as the purpose of the ICM is to facilitate the financing of projects that the company is unable to finance without severe strain on its financial integrity without such support. In this case, the company proceeded with the project without ICM funding, after it received Leave to Construct in late 2018, and commenced construction of the first phase of the project in mid-May 2019.

In addition, the estimated costs for the project have increased substantially between the Leave to Construct Application, and the 2020 rates application, especially for Land Costs and External and Regulatory Costs, by six hundred percent (600%) for land costs, and about sixty percent (60%) External and Regulatory Costs (I.BOMA.6). The company provided no evidence for the increase in Land Costs and very little evidence for the increase in External and Regulatory Costs

(I.SEC.11; I.BOMA.6). The Board should not approve the increase in Land Costs and External and Regulatory Costs, regardless of its decision on ICM funding.

<u>Replacement of a Section of the Existing Windsor NPS 10" Pipeline (the "Windsor Line")</u>

BOMA does not believe that the Board should decide on whether to extend ICM financing to the Windsor Line until the Board has made a decision on the Leave to Construct Application for the project (EB-2019-0172). The record of that proceeding shows a disagreement over the scope and consequent cost of the project. Intervenors and Board staff have suggested a hybrid 6"-4" pipe diameter approach, while Enbridge has proposed a uniform 6" pipe diameter solution. Until the Board decides on the Leave to Construct, BOMA cannot determine whether the project is needed, and if so, its configuration and the estimated costs based on that configuration.

The project is the combination of two projects, the replacement of some sections of the NPS 8" pipeline and the replacement of a part of the existing Windsor NPS 10" pipeline. The proposed expenditures are not broken down between the two pipeline replacement projects.

While the project is not a small one, it is a replacement of an older line, at lower pressure, with a smaller diameter, but much higher pressure line, which will require, among other things, the construction of many new stations and the upgrading of many existing stations to regulate pressures at various offtake points.

In BOMA's view, the replacement of a section of pipeline, for reasons of age and issues identified through Enbridge's Integrity Management Program, should be considered part of the normal year over year business of the utility, and not the subject of an ICM proposal. While an exception could be made for extreme cases, for example, very large, costly projects, as was the case for an expansion phase of the Don Parkway System, in which the component projects of the expansion were accorded "pass-through status". Those were generally much larger projects, relative to the overall capital budget of Union Gas. The Windsor Line project is, on the other hand, less than ten percent (10%) of the proposed 2020 Enbridge capital budget and the capital budgets/assets in-service in the subsequent years prior to rebasing. There should be room within the overall Enbridge 2020 budget to accommodate replacement of parts of a pipeline that do not meet integrity criteria, and, at least part of which are sixty to eighty years old. Enbridge/Union has been aware of the weaknesses of sections of the existing Windsor Pipeline for some time, and should have made provision for repairs/replacement in earlier capital budgets. BOMA suggests that no ICM financing be provided.

Indirect Overheads

Moreover, BOMA is troubled by the inclusion of indirect overheads in the ICM proposals. Indirect overheads in the legacy Union rate zone are defined by Enbridge to be:

> *"...the capitalization of support services, such as HR, IT, Finance, Legal, etc., and direct capital support (Engineering, Operations)"* (I.EP.1, p2).

The costs of these services cannot be tied to individual projects as they are provided to the utility as a whole. On the other hand, they are legitimate costs that need to be recovered. BOMA is of the view that, rather than being capitalized, such costs, with the possible exception of Engineering/Operations, should be recovered through OM&A budgets, which are prepared department by department for the company as a whole. If such costs are capitalized, at a flat percentage rate for each discrete incremental capital project, an element of double counting of those costs is the result. BOMA is aware that the Board has authorized indirect overheads as part of ICM requests in an earlier decision. Nonetheless, the Board should reconsider its view, and at the very least, require Enbridge to provide further analysis of the rationale for capitalization of indirect overheads in its 2021 rates proposal, as part of its harmonization of overheads.

E-bill Issues

1. BOMA is of the view that the Board has the jurisdiction to make rules related to a distributor's billing practices, including acceptable methods of bill format or payment. Enbridge appears to agree (I.VECC.23, p2).

2. BOMA is of the view that the Board should direct Enbridge not to convert any of their 73,711 accounts (I.Staff.12) that requested to be switched back to paper bills without first seeking Board approval. The Board should require Enbridge, before making an application to shift customers on paper bills to e-bills, to conduct objective customer research on the wishes of that group of customers.

3. The Board should direct Enbridge not to use e-billing as a default option to an existing paper bill customer, solely based on his/her providing Enbridge an email address during a telephone call or online communication with Enbridge, unless Enbridge has received the customer's consent in writing.

4. The Settlement Agreement for Phase 1 of this proceeding states:

> *"In addition, the parties discussed Enbridge Gas's change in billing practices in 2019 to make e-bill the default billing method for new customers and to switch existing paper bill customers who had previously provided an email address to the Company. Enbridge Gas believes that its change in practice is appropriate, and does not believe that any Board approval was or is required. Other parties disagree. The parties have agreed that issues related to Enbridge Gas's e-bill practices should be included in Phase 2 of this proceeding as described further herein."* (Exhibit N1, Tab 1, Schedule 1, p4)

5. The parties agreed at pp 12-13 of the Settlement Agreement that the issues related to Enbridge's e-bill practices should be included in Phase 2 of this proceeding. The parties stated that:

> *"In order to support the agreement to move the issue related to Enbridge Gas's e-bill practices to Phase 2 of this proceeding, the parties have agreed to a number of interim measures to be implemented and maintained until such time as the Board issues a decision on Enbridge Gas's e-bill practices."* (Ibid, pp 12-13)

The eight interim measures agreed to are provided at pp 13-14 of the Settlement Agreement. BOMA will provide comments on each of the agreed interim measures below.

<u>Interim Measure #1</u>

> *"Enbridge Gas will only convert existing customers to e-bill if those customers have expressly agreed to the switch. This will be implemented immediately."*

BOMA believes that the Board should direct that this interim measure be implemented on an ongoing basis. The evidence in this case is that a substantial number of customers (73,711 customers, out of 358,384 customers (21%)), that were converted from paper bills to e-bills without their consent, have to date been switched back to paper bills at their request. The evidence demonstrates that switching customers without consent was a mistake which should be rectified. As noted above, Enbridge should conduct a survey of those customers remaining on paper bills (both residential and commercial) of their desire to switch to e-bills. Moreover, the evidence shows that the switch to e-billing has resulted in a large increase of late payment notices to customers in 2019 over 2018, an increase of approximately 200,000 late payment notices or thirty percent (30%) (I.VECC.19, p2).

Interim Measure #2

> *"For Enbridge Gas's new or moving customers who contact the Company by phone to request service, Enbridge Gas will provide those customers with the option to choose e-bill or paper bill service, and will not imply that either is required. This will be implemented as soon as possible, and no later than December 31, 2019."*

This practice should also carry forward indefinitely for the reasons outlined above.

Interim Measure #3

> *"For Enbridge Gas's new or moving customers who sign up for service online, Enbridge has asserted that it is not able to change its online form to include a choice of paper or e-bill. Therefore, in this interim period Enbridge Gas will send a confirming email to the new customer indicating that they have the option to choose paper bills rather than e-bills. Additionally, if any such new or moving customer incurs a late payment penalty (LPP), Enbridge Gas will contact that customer by phone to confirm that the customer is aware that their bill is being sent electronically and in that call will indicate that the customer can switch to paper bill service and will determine whether the LPP charge should be waived. This will be implemented as soon as possible, and no later than December 31, 2019."*

This principle seems to give Enbridge discretion over whether to waive a late payment penalty for a new or moving customer, who is placed on e-billing as the default position, and incurs a late payment penalty. Enbridge should automatically reimburse the customer. Interim Measure #3, with the modification stated above, should continue indefinitely. The evidence does not make clear why Enbridge cannot change its online form to include a choice of paper or e-bill. Unless further explanation is forthcoming, Enbridge should change its online form.

Interim Measure #4

> *"Enbridge Gas will post a message on its website, and on its e-bills, informing customers that there is a dispute around the Company's e-bill service*

*being heard by the OEB and indicating that if e-bill customers have questions about their account or LPP charges that are being applied, then they can contact the call centre. Appropriate contact information will be included in this communication. Appropriate scripts will be provided for call centre employees to describe the current situation, and the customer's option to convert back to paper billing. This will be implemented as soon as possible, and no later than December 31, 2019."*

BOMA agrees with this communication point.

Interim Measure #5

*"Enbridge Gas will refund 2019 LPP amounts paid by customers who have been switched to e-bill in 2019, and who have not previously had a history of repeated LPP charges. Enbridge Gas confirms that refunds of such amounts will not bar claims that parties may make during Phase 2 for additional LPP refunds."*

BOMA suggests that this measure should be continued indefinitely

Interim Measure #6

*"Enbridge Gas will not charge extra amounts for paper bills without receiving OEB approval. This will be implemented immediately."*

BOMA suggests the Board direct Enbridge that this practice be continued indefinitely

Interim Measure #7

*"Enbridge Gas will ensure that no customer who was switched to e-bill in 2019 is reported to credit agencies based on late payments. This will be implemented immediately."*

The Board should direct Enbridge that this practice be continued indefinitely.

Interim Measure #8

*"Enbridge Gas will inform all parties to the Settlement Proposal when it has completed implementing the actions described in items 2, 3 and 4."*

BOMA agrees with this measure.

**Part 3 – UFG Report**

BOMA agrees with Enbridge's proposals to review and implement the Scottmadden recommendations, including Enbridge's commitment to report on its progress implementing those recommendations in its 2022 rates filing (I.Staff.27, I.Staff.28(c), and I.EP.ep.25).

***ALL OF WHICH IS RESPECTFULLY SUBMITTED***

# APPENDIX "A"

ENBRIDGE®

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**VIA EMAIL, RESS and COURIER**

May 3, 2019

Ms Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, Ontario, M4P 1E4

Dear Ms Walli:

**Re: Enbridge Gas Inc. Operating as Enbridge Gas Distribution ("Enbridge Gas")
Ontario Energy Board ("Board") File No.: EB-2018-0108
Don River 30" Pipeline Project – Leave to Construct**

On November 29, 2018 the Board issued the Decision and Order for the above noted proceeding which included, as Schedule B, several Conditions of Approval.

Per section 2. (b) i. of the Conditions of Approval Enbridge Gas is to provide the Board with notice in writing of the commencement of construction, at least ten days prior to the date construction commences. Enbridge Gas is therefore advising the Board that construction is scheduled to begin for the above noted project on May 14, 2019.

Please contact me if you have any questions.

Yours truly,

(Original Signed)

Joel Denomy
Technical Manager