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June 3, 2020

VIA RESS

Ms. Christine E. Long
Registrar & Board Secretary
ONTARIO ENERGY BOARD
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Long:

Re: EB-2019-0194: Enbridge Gas Inc. (EGI) 2020 Rates Application.

**Industrial Gas Users Association (IGUA) Motion for Review and Variance of part of the
Decision and Order dated May 14, 2020.**

Filed with this letter please find a Notice of Motion by IGUA for review and variance of that part of the Board's *Decision and Order* herein which determined to defer reallocation of Panhandle System costs to the time of EGI rate rebasing in 2024.

Should the Board determine, pursuant to Rule 43 of the Board's *Rules of Practice and Procedure*, to consider a threshold question of whether the matter addressed in the Notice of Motion should be reviewed before proceeding with a review on the merits, we request that the Board provide for a written hearing in respect of such threshold question.

In any event, on behalf of IGUA we are preparing and intend to file full written submissions in chief in support of the relief requested, and request a right of reply to any submissions filed in opposition to the relief requested.

We await the Board's further direction with respect to the process for determination of this motion.

Yours truly,



Ian A. Mondrow

- c. Dr. S. Rahbar (IGUA)
- M. Kitchen (EGI)
- D. Stevens (Aird & Berlis LLP)
- K. Viraney (OEB Staff)
- Intervenors of Record

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ONTARIO ENERGY BOARD

Enbridge Gas Inc. (EGI)

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

Industrial Gas Users Association (IGUA)

NOTICE OF MOTION

for review of Panhandle Cost Allocation Determination

IGUA brings this motion to the Board, which is proposed to be heard in writing.

THE MOTION IS FOR;

1. review of those portions of the Board's *Decision and Order* herein dated May 14, 2020 (*Decision*) which found that changes to the methodology and implementation of Enbridge Gas Inc.'s (EGI) cost allocation in respect of Panhandle System costs shall be deferred for examination as part of EGI's 2024 rebasing application;
2. variation of the *Decision* to direct EGI to reallocate Panhandle System costs in accord with the cost allocation study filed in this case, or in the alternative in accord with the methodology for allocation of incremental Panhandle System Reinforcement costs proposed by (then) Union Gas in its application for leave to construct the Panhandle Reinforcement¹, but in either case for implementation in 2021 rates;
3. an order directing EGI to file, within 3 months of the determination of this motion, a rate design proposal for adjustment of rates in accord with the reallocation so directed, for approval now and for implementation as part of its 2021 rate change proceeding; and

¹ EB-2017-0306/0307.

4. an order for recovery by IGUA of its costs reasonably incurred in pursuit of this motion.

THE GROUNDS FOR THE MOTION ARE:

1. The uncontested evidence in the instant proceeding, as expressly acknowledged in the *Decision*, is that;
 - (a) *“the existing cost allocation [methodology] over time has resulted in changes to the costs and benefits to certain parties since the OEB approved Union Gas’ 2013 cost allocation study”*²;
 - (b) the *“current cost allocations are outdated”*³; and
 - (c) *“the Panhandle Reinforcement Project was unique as it involved incremental costs not considered in the 2013 cost allocation study”*⁴.
2. The only reasons cited in the *Decision* for deferral of consideration of Panhandle System cost allocation changes until rebasing for 2024 rates were i) the decoupling of rates from costs and ii) the rate stability intended by incentive regulation.
3. These reasons are inconsistent with, and fail to address, the fact that neither of these principles were applied by the Board when it determined to pass through to rates the Panhandle Reinforcement costs in the first place in accord with the existing (2013) cost allocation methodology, nor when it directed the filing in the instant proceeding of the cost allocation study which the Board specifically directed should propose an update to the cost allocation *“to address the cost allocation implications”* of, *inter alia*, the Panhandle Reinforcement project, with express recognition that such proposal *“will not be perfect”*⁵.
4. In finding that a full cost allocation study to be filed as part of EGI’s 2024 rebasing application *“would be the appropriate time to examine these changes”*⁶ the *Decision*;

² *Decision*, page 17, 2nd full paragraph.

³ *Decision*, page 17, last paragraph.

⁴ *Decision*, page 17, last paragraph.

⁵ *Decision and Order*, EB-2017-0306/0307, August 30, 2018, page 41, as cited at *Decision* page 14

⁶ *Decision* page 17, first full paragraph.

- (a) ignores the previous decisions by the Board which accepted the current misallocation of Panhandle Reinforcement costs expressly on the basis that such misallocation would obtain for only a short term (14 months)⁷;
 - (b) effectively reverses the previous decision of the Board in its *Decision and Order* approving the merger of EGI's predecessor companies and the current EGI incentive rate plan which previous *Decision and Order* expressly directed the filing in the instant proceeding of the cost allocation study in light of the deferral of rebasing of EGI rates until 2024 and in order "to address"⁸ the cost allocation implications of, *inter alia*, the Panhandle Reinforcement; and
 - (c) ignored and effectively reversed these previous Board decisions based on the same arguments advanced by parties in those previous proceedings and without any explanation of why the Board's previous decisions in respect of the same arguments were incorrect or what circumstances have changed to render those previous decisions no longer just and reasonable.
5. The *Decision* is based in part on an assumption that the changes to allocation of the Panhandle System costs as identified in the current cost allocation study would "result in more changes in 2024"⁹, which assumption is completely speculative and unsupported by the evidence, which evidence provides only bald statements to the effect that more changes in 2024 could result from a further cost allocation study.

THE FOLLOWING MATERIALS will be filed in support of the motion:

- 1. Materials from the record herein to be identified in IGUA's argument in support of this motion, to be filed as and when directed by the Board.
- 2. Rule 40.01 of the Board's *Rules of Practice and Procedure*.

⁷ EB-2016-0186, *Decision and Order*, February 23, 2017, page 11, first full paragraph; EB-2017-0087; *Procedural Order No. 3* (November 29, 2017), page 2, last full paragraph.

⁸ *Decision and Order*, EB02017-0306/0307, August 30, 2018, page 41, as cited at *Decision* page 14.

⁹ *Decision*, page 17, last paragraph.

3. Such further materials as counsel may advise and the Board may permit.

June 3, 2020

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