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BY EMAIL and RESS

July 9, 2020
Our File: EB20190247

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attn: Christine Long, Registrar & Board Secretary

Dear Ms. Long:

Re: EB-2019-0247 – Enbridge Gas Federal Carbon Pricing Program – SEC Submission

We are counsel to the School Energy Coalition ("SEC"). These are SEC's submissions on the application by Enbridge Gas Inc. ("Enbridge") for approval for various relief related to its Federal Carbon Pricing Program ("FCPP"), specifically costs associated with its pass-through obligations under the *Greenhouse Gas Pollution Pricing Act,* and the disposition of related deferral and variance account ("DVA") balances.

General Comments

SEC has reviewed the application and the responses to interrogatories, and subject to the concerns raised in these submissions, finds the relief sought in the application is reasonable and consistent with the Board's decision in Enbridge's 2019 application. Enbridge has correctly calculated the appropriate 2020 Federal Carbon Charge, and the balances in the customer and facility-related variance accounts reflect the correct 2019 variances. SEC also submits that the amounts for disposition in the Enbridge Gas and Union Gas Rate Zone Greenhouse Gas Emissions Administration Deferral Accounts ("GGEADA") are reasonable.

SEC notes that while Enbridge has provided forecast 2020 administration costs, it is not seeking any relief with respect to those costs in this application as they will be considered when it seeks to clear the 2020 GGEADAs balances in its next application. On that basis, SEC is not providing any comment on the reasonableness of those forecast costs.

Q3 Interest Rate

Enbridge has included its forecast interest costs through Q3 of 2020, based on the Board's prescribed interest rate, for each of the DVAs it is requesting recovery.[1] For Q3 2020, the Board's prescribed interest rate is 1.38%, which is a change from the approved methodology. If the Board had applied the approved methodology for Q3, the prescribed rate would have been 0.57%.[2] The Board should apply

[1] Interrogatory Response LPMA#42 (I.LPMA.4)
[2] OEB Letter, Re: 2020 Q3 Prescribed Interest Rates, dated June 16, 2002

the Board's approved methodology in setting the prescribed interest rate for Q3 for the purposes of this application and not the rate announced in its June 18th,, 2020 letter.

The approved methodology has been in existence since November 28, 2006. In its letter announcing that methodology, the Board noted that "[t]he key objectives of the plan were to derive an accounting interest rate methodology that would reflect market rates and be responsive to changes in market conditions."[3] The Board's revised methodology is expressly not based on changing market conditions, but "[w]ith a view to maintaining stability for the interest rates".[4] Yet, at the same time the Board has not proposed adjusting the Q2 prescribed interest for accounts that have yet to be cleared to reflect the fact they were set before the COVID-19 emergency, and do not reflect that the actual interest rates in that quarter dropped significantly.

For almost fourteen years that prescribed interest rate has gone up and down with the market, including through the Great Recession, and both utilities and their customers have been treated fairly by the consistency of the policy's application. There is no reason to depart from the methodology now.

As SEC noted in its letter asking the Board to vacate its decision to deviate from the approved methodology for Q3 (see Attachment A to these submissions), while the COVID-19 pandemic is unprecedented and has put pressure on utilities, customers are under the same, or even greater pressure.[5] Additional costs borne by customers is a significant challenge for them, and they should not have to unfairly bear the burden of the pandemic. Other customer groups filed similar letters objecting to the approach taken by the Board in setting the Q3 prescribed interest rate.

SEC believes this panel should apply the longstanding methodology for determining the Q3 interest rate. This would result in a rate of 0.57% applied to Q3 DVA balances at issue in this proceeding. If the Board does determine that there *may* be a reason to adjust that policy at this time, it should defer consideration of any increase from the approved methodology so that it can be determined in the context of the Board's on-going EB-2020-0133 consultation, which is expressly designed to deal with the impacts of the COVID-19 pandemic.

Bad Debt Accounting

SEC has a concern with how Enbridge plans to account for any incremental FCPP-related bad debt it will incur caused by the COVID-19 pandemic. Enbridge proposes to record all FCPP-related bad debt in its two GGEADAs, including any incremental FCPP-related bad debt that is caused by the COVID-19 pandemic. This is instead of recording these amounts in the Board's specified generic subaccount that is in place to capture bad debt caused by the COVID-19 emergency (Account 1509 – Impacts Arising from the COVID-19 Emergency, Subaccount Other Costs).[6] SEC submits that this is not appropriate and the amounts should be recorded in the appropriate Account 1509 subaccount.

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[3] See Letter from the OEB, Re: Approval of Accounting Interest Rates Methodology for Regulatory Accounts Board (EB-2006-0117), dated November 28, 2006; See also

[4] OEB Letter, Re: 2020 Q3 Prescribed Interest Rates, dated June 16, 2020, p.2

[5] Letter from the School Energy Coalition to the Registrar and Board Secretary Re: Q3 Prescribed Interest Rates, dated June 18, 2020, p.2

[6] Interrogatory Response SEC#2(b) (I.SEC.2)

By issuing the generic sector-wide Accounting Orders creating these accounts, the Board has recognized that the COVID-19 emergency is a unique situation, and that a different approach may be warranted regarding these incremental impacts of the pandemic.[7] This may include, as has been argued by many ratepayer groups in the EB-2020-0133 consultation, that there should be no recovery unless the financial viability of a utility is at issue. It may also involve some form of sharing of costs between ratepayers and the utility.[8] This broader question, which is at issue in the consultation, equally applies to Enbridge's incremental FCPP bad debt expenses that can be attributed to the COVID-19 emergency. Until the Board has issued its policy, those amounts, like any other COVID-19 related expenses a utility may seek to recover from ratepayers, should be placed in the appropriate Account 1509 subaccount.

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

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

[7] OEB Letter Re: Accounting Order for the Establishment of Deferral Accounts to Record Impacts Arising from the COVID-19 Emergency (March 25, 2020), p.2
[8] OEB Letter Re: Consultation on the Deferral Account – Impacts Arising from the COVID-19 Emergency (May 14, 2020), Appendix A, Draft Issues List, Issue 16(a)

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BY EMAIL and RESS

June 18, 2020
Our File: SEC General

Ontario Energy Board
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M4P 1E4

Attn: Christine Long, Registrar & Board Secretary

Dear Ms. Long:

Re: Q3 Prescribed Interest Rates

We are counsel to the School Energy Coalition ("SEC"). On behalf of SEC, we are writing this letter to express their objection to, and concern regarding, the Board's June 16th announcement, in a new policy made without consultation, of a material financial benefit to regulated entities at the expense of customers.

The Board has, apparently without input except from utilities, departed from a longstanding formula for interest rates on deferral and variance accounts (DVAs), increasing the rate for these accounts by 0.81% for Q3, from 0.57% as determined by the formula, to 1.38% as determined by the Board. The Board's figure is expressly not reflective of market interest rates.

By way of example, if the average balance in qualifying deferral and variance accounts in Q3 is $1 billion (average DVAs are a multiple of this amount, but some do not attract the prescribed interest rate), then this is a shift in cost responsibility from customers to regulated entities of $20 million for one quarter. No evidence has been provided supporting that benefit.

SEC notes that the Prescribed Interest Rate policy has been in existence since November 28, 2006. In its letter announcing the new policy, the Board said:

> *"The key objectives of the plan were to derive an accounting interest rate methodology that would reflect market rates and be responsive to changes in market conditions."*

In setting the rate formula based on short term market rates, the Board expressly noted that the rate should reflect both borrowing costs, and opportunity costs of capital (GICs and T-Bills), since DVAs would be financed both by borrowing and by internally generated capital.

Throughout, the basic regulatory principle that cost of capital is in fact a cost like any other, and that the market sets the level of that cost, was upheld. The Board's policy specifically tracks market

movements in short term interest rates, so that over time the time value of DVA balances would be tracked with precision. For almost fourteen years that prescribed interest rate has gone up and down with the market, and both utilities and their customers have been treated fairly by the consistency of the policy's application.

Further, Board panels deciding individual applications routinely rely on this policy to establish interest rates. Even in the face of customer representatives arguing for interest reductions, the Board has consistently relied on the policy. By way of recent example, the Board said this in the Enbridge 2020 Rate Case, EB-2019-0194, just last week [Rate Order Decision, p. 4]:

> *"VECC raised concerns regarding interest rates on DVAs and the substantial decline in Bank of Canada's interest rates from the last time the OEB updated its prescribed interest rates in early March 2020. The OEB notes that the prescribed interest rate on DVAs will be updated on July 1, 2020 consistent with normal OEB practice." [emphasis added]*

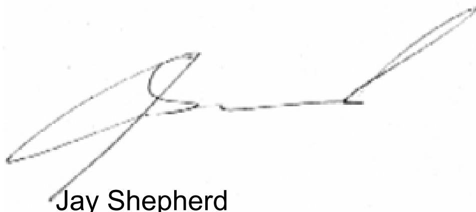
The Board's June 16th letter notes that the Covid-19 pandemic is unprecedented. That certainly is true. However, it is not just utilities that are feeling its impacts. Customers are also under at least as much pressure, maybe more, and any additional cost borne by customers is a significant challenge for them. Shifting a pandemic impact of utilities onto the backs of customers is something that should be done, if at all, carefully and with principled justification.

We note one other thing. It is the practice of the Board that, if anyone wants the Board to reject the use of a policy in any given situation, the onus is on that person to demonstrate that the policy should not apply. The Board has provided no public information on what submissions were made to the Board on this policy, and so the customers have no way of knowing how that onus was met in this case, if at all.

SEC believes that the Board should vacate its June 16th letter, and instead follow its longstanding interest rate policy for Q3. If there is reason to make any changes, the appropriate venue for that discussion is EB-2020-0133, which is expressly designed to deal with the impacts of the Covid-19 pandemic, and will allow the Board to hear all perspectives, with the full range of pandemic impacts under consideration at the same time.

All of which is respectfully submitted.

Yours very truly,
Shepherd Rubenstein Professional Corporation



Jay Shepherd

cc: Wayne McNally, SEC (by email)
Interested Parties (by email)