Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

July 16, 2020

Christine E. Long
Registrar & Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
BoardSec@oeb.ca

Dear Ms. Long:

Re: Ontario Energy Board (OEB) Staff Submission
Enbridge Gas Inc. Voluntary Renewable Natural Gas Program Application
OEB File Number: EB-2020-0066

In accordance with Procedural Order No. 3, please find attached the OEB staff submission on Enbridge Gas Inc.'s Voluntary Renewable Natural Gas Program application. The attached document has been forwarded to Enbridge Gas Inc. and to all other parties to this proceeding.

Yours truly,

Original Signed By

Rachele Levin
Policy Advisor, Strategic Policy

Encl.

ONTARIO ENERGY BOARD

OEB Staff Submission

Enbridge Gas Inc.

Voluntary Renewable Natural Gas Program Application

EB-2020-0066

July 16, 2020

Summary of Application

On March 5, 2020, Enbridge Gas Inc. (Enbridge Gas) applied to the OEB under section 36(1) of the *Ontario Energy Board Act, 1998* (OEB Act) for approval to implement a Voluntary Renewable Natural Gas (RNG) Program starting in January 2021 which would include a fixed charge of $2 per month for participating customers.

Enbridge Gas proposes to use contributions from participating customers to fund the incremental cost of RNG (relative to traditional natural gas), with no direct costs for RNG procurement assigned to non-participating customers. Enbridge Gas proposes to manage the operating costs of the Voluntary RNG Program (the Program) within its existing budgets until rebasing in 2024.

Enbridge Gas requests approval of the cost consequences and rates necessary for the operation of the Program, to commence as of January 1, 2021, including:

- The proposed $2 monthly charge for each participant in the Voluntary RNG Program
- The addition of the Voluntary RNG Program charge to relevant Rate Schedules
- The proposal to use all the RNG Contributions during the deferred rebasing term to pay for the incremental costs of RNG to include within the Company's gas supply portfolio
- The proposal to include Voluntary RNG Program costs in the calculation of Earning Sharing Mechanism (ESM) amounts during the deferred rebasing term
- The proposal to record reductions in the Federal Carbon Charges resulting from the inclusion of RNG in the Company's gas supply portfolio into the Federal Carbon Charge – Customer Variance Accounts (FCCCVA) and to allocate such amounts to all ratepayers who pay Federal Carbon Charges

Enbridge Gas intends to display customer contributions towards the Program (i.e. the $2 charge) as a separate line item on the bill of participating customers.

Summary of OEB Staff Submission

OEB staff makes the following submissions. The rationale for these submissions is described in more detail in the following sections.

OEB staff is of the view that the cost consequences and rates necessary for the recovery of the costs of the Program should be approved on a time-limited basis until Enbridge Gas's next rebasing application in 2024. At the time of filing its rebasing application, OEB staff submits that Enbridge Gas should report back to the OEB on the operation of the Program, at which time the OEB can consider whether to approve the Program on a permanent basis.

To that end, OEB staff supports a time-limited approval of the Program, including the cost consequences of the Program and the other approvals requested by Enbridge Gas, until Enbridge Gas's next rebasing application to the OEB in 2024.

Below, OEB staff also provides submissions on RNG procurement, communications, and information that should be included by Enbridge Gas in its next rebasing application to the OEB in 2024 which will further assist the OEB in determining whether to approve the Program on a permanent basis at that time.

The details of OEB staff's submissions are discussed below.

1. Cost consequences and rates for Time-Limited/Temporary approval of the Voluntary RNG Program

OEB staff submits that the cost consequences and rates necessary for the operation of the Program should be approved on a time-limited basis until Enbridge Gas' rebasing in 2024, at which time the OEB will determine whether to approve the Program on a permanent basis. Staff submits that this temporary approval should encompass Enbridge Gas' proposed $2/month charge for participants in the Program, the addition of the Program charge to relevant Rate Schedules, and Enbridge Gas' proposal to use all the Program contributions during the deferred rebasing term to pay for the incremental costs of RNG.

Staff is of the view that a temporary approval to be reviewed at rebasing has the benefit of providing a balance between responsiveness to government policy and greater customer choice, and concerns about the potential impact of the Program on the competitive market. Allowing the OEB to re-assess the Program upon rebasing provides more time for the provincial and federal policy landscapes to evolve, including the potential development of any new or revised provincial or federal policy or legislation, including the Government of Ontario's Made-in-Ontario Environment Plan (MOEP) and the federal government's Clean Fuel Standard (CFS). In addition, a temporary approval from January 2021 until rebasing has the benefit of allowing Enbridge Gas to gain experience with running the Program before it reports back to the OEB on its proposal for funding the Program following rebasing in 2024.

The relevant policy and market considerations are discussed below.

Policy Considerations

On November 29, 2018, the Government of Ontario released its MOEP.[1] Among other things, the MOEP identifies intended actions to increase access to clean and affordable energy for families. One of the actions identified in the MOEP is "encouraging uptake of renewable natural gas and the use of lower carbon fuels"[2]. The MOEP also identifies the government's intent to "Require natural gas utilities to implement a voluntary renewable natural gas option for customers."[3] At present, there is no provincial legislation requiring utilities to implement voluntary RNG programs.

Enbridge Gas acknowledged that there is currently no legal requirement (such as legislation or regulation) for it to implement a voluntary RNG program.[4] Enbridge Gas further stated that the provincial government has expressed its support for the Program.[5]

At the federal level, there are also developments that could be relevant to the Program. The Government of Canada is currently developing a CFS, which, if implemented, would require fossil fuel distributors, including Enbridge Gas, to reduce the carbon intensity of the fuels that they distribute. The CFS is expected to impose a compliance obligation on the natural gas sector starting January 1, 2023.[6] One of the proposed compliance pathways that is expected to be made available to natural gas distributors to satisfy their CFS obligation is the blending of low carbon intensity fuels with traditional natural gas. As a result, Enbridge Gas may be required to procure RNG as part of its supply portfolio.[7]

These policy developments support OEB staff's proposed approach to revisit the

[1] Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan ("MOEP")
[2] Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan ("MOEP"), page 23.
[3] Preserving and Protecting our Environment for Future Generations: A Made-in-Ontario Environment Plan ("MOEP"), page 33.
[4] Exhibit I.STAFF.2; Technical conference transcript, June 16 2020, page 47-48.
[5] Technical conference transcript June 16, 2020, p. 48; Technical conference transcript June 18, 2020, page 31-32, 131.
[6] Argument in Chief, p. 12
[7] Exhibit B, Tab 1, Schedule 1, no. 10; Exhibit I.STAFF.9; Exhibit I.VECC.4.

Program at rebasing. Such an approach provides more time for the provincial and federal policy landscapes to evolve, including the potential development of any new or revised provincial or federal policy or legislation, including the Government of Ontario's MOEP and the federal government's CFS.

Market Competition Considerations

One issue raised in this proceeding is the potential for the Program to impact competition. This concern is not new. In 2011, the OEB considered a request from Enbridge Gas Distribution Inc. and Union Gas Limited (the utilities) to include RNG as part of the utilities' respective gas supply portfolios for all system supply customers. During that proceeding, a number of parties suggested that the utilities undertake a voluntary RNG program instead of the proposed mandatory program. In its interim decision, the OEB held that a voluntary program would be "inappropriate" as it would effectively place the utilities in the position of competing directly with marketers and distort the competitive market.[8] In its Interim Decision, the OEB also found that the utilities had not provided enough evidence concerning some necessary elements of the proposed program, and the utilities were given an opportunity to augment the evidentiary record. The utilities did not file any additional evidence.

In this application, Enbridge Gas acknowledged that the sale of RNG has the potential to be a competitive market activity, but stated that it does not believe that a limited offering of RNG as a very small portion of a customer's overall gas supply cost is an option currently available or likely to be available in the market.[9] OEB staff agrees with this position.

At present, the competitive market for RNG is limited to one natural gas marketer operating in Ontario, and there are no gas marketers offering customers the opportunity to purchase only a portion of their gas supply as RNG.[10] OEB staff notes that the natural gas marketer currently offering RNG to customers in Ontario did not intervene in this proceeding or submit a letter of comment on the application despite being given notice. OEB staff is proposing that the OEB approve the Program on a time-limited basis. Such an approval would allow the OEB to revisit potential impacts on competition in 2024.

OEB staff has also considered whether an affiliate of Enbridge Gas should run the Program instead of the regulated utility. Enbridge Gas has acknowledged that an affiliate could run the Program. However, Enbridge Gas raised concerns that running the Program through an affiliate would be difficult given the OEB's requirements under

[8]EB-2011-0242&EB-2011-0283, Interim Decision and Order, July 12 2012, p. 23
[9] Exhibit I.STAFF.3, p. 3; Exhibit I. LMPA.15
[10] Exhibit I.STAFF.3. p. 3; Exhibit I.CBA.1(d); Exhibit I.SUMMITT.8; Technical conference transcript June 16, p.63-65.

the Affiliate Relationships Code, Gas Distribution Access Rule and Code of Conduct for Gas Marketers, as there would be a large amount of administration to create a separate, licensed affiliate to offer this relatively small program.[11] Enbridge also noted that customers receiving their gas supply from a gas marketer, including a potential Enbridge Gas affiliate, would be required to receive their entire supply from that marketer, which is a requirement that is at odds with the Program, which would allow customers to support the procurement of a small volume of RNG.[12] In order to advance the benefits of the Program on a time-limited basis, OEB staff submits that this issue be re-assessed at the timing of rebasing.

2. Including Program costs in the calculation of ESM amounts

As noted above, Enbridge Gas proposes to absorb the operating costs of the Program during the deferred rebasing term. In other words, Enbridge Gas proposes to manage the operating costs of the Program within its existing budgets until its next rebasing application in 2024. It also seeks approval to include the Program's operating costs in the calculation of ESM amounts during the balance of the deferred rebasing term, from 2021-2023.

Enbridge Gas argues that the inclusion of Program costs within ESM calculations is consistent with the fact that those calculations capture all utility results that are not subject to a separate cost-sharing approach; and that in any event, amounts in question are immaterial relative to Enbridge Gas's annual revenue.[13]

Total Program operating costs over the first 10 years are estimated to be $2.7M, which Enbridge Gas proposes to cover under existing rates until rebasing in 2024[14]. Total FCC reduction over the same 10 year timeframe is estimated at $1.045M, which represents approximately 50% of total operating costs. Enbridge Gas proposes that the benefit of a decrease in FCC resulting from RNG procurement would go to all customers with FCC obligations.[15]

Enbridge Gas acknowledged that although non-participating customers would not see any additional amounts included on their bills as a result of the Program, they may see an impact from the Program in the calculation of any ESM amount.[16] This is because, to the extent that Enbridge Gas is in an earnings sharing position in any year[17], the

[11] Exhibit I.SEC.12
[12] Ibid.
[13] Argument in chief, p.8, Technical conference transcript June 16 2020, p. 97-101
[14] Exhibit B, Tab 2, Schedule 4, p.1-2 #3,4; Exhibit C, Tab 2, Schedule 2
[15] Exhibit I.STAFF.10; Technical conference transcript, June 16, 2020, p. 101
[16] Program costs would be part of Enbridge Gas' costs of providing service to ratepayers and would therefore be included in the determination of Enbridge Gas' net revenues for each year of the deferred rebasing term (2021, 2022 and 2023)
[17] i.e. utility ROE of at least 150 basis points above allowed ROE

inclusion of Program costs would decrease the amount to be shared with customers[18]. Enbridge Gas stated that forecast Program costs are only approximately $250,000 per year, which is immaterial relative to Enbridge Gas' annual revenues during the deferred rebasing term (and the costs that would be used to assess any earnings sharing). Enbridge Gas stated that as a result, any decrease to the ESM amount would likely be very small.[19]

When asked whether Enbridge Gas would object to an approach where the Program costs are not included of the ESM calculation, Enbridge Gas said that is not something they would agree to on the basis that these costs are not material.[20]

OEB staff notes that unless otherwise directed by the OEB, actual costs incurred associated with the operation of the regulated business would normally be included in the ESM calculation. OEB staff acknowledges that, to the extent that Enbridge Gas is in an earnings sharing position during the incentive regulation intervening years, including Program costs in the calculation of ESM amounts may result in a decrease to the ESM amount and a cross-subsidization by non-participating customers to Program participants[21]. However, OEB staff notes that Enbridge Gas is proposing to flow the benefits of reduced FCC to all customers with FCC obligations, which would also include non-participating customers. According to Enbridge Gas, these projected FCC reductions are forecast to amount to about 50% of the total operating costs of the Program.[22] As a result, these would act as an offset to any cross-subsidization by non-participating customers.

OEB staff is of the view that, given that annual Program operating costs are expected to be in the range of $250,000 per year, and the annual FCC benefit to be about half of this amount, any potential impact resulting from decrease to the ESM amount to non-participating customers is not material.

In addition, OEB staff submits that requiring Enbridge Gas to report on the impact of including Program costs on ESM amounts would provide the OEB with a better understanding of actual impacts of the Program on ESM amounts and on non-participating customers. The OEB would then have three years of data upon which to make its assessment in regards to approving Program costs, including potential impacts on ESM amounts, on a more permanent basis. Given the immaterial nature of the current program, OEB staff is of the view that there are no apparent adverse impacts on

[18] Argument in Chief, p. 8; Exhibit I.LPMA.10(a); Technical conference transcript June 16, 2020, p. 96-98; Technical conference transcript June 18, 2020, p. 131-132)
[19] Exhibit I.LPMA.10 p. 2; Argument in Chief, p. 9; Technical conference transcript June 16, 2020, p. 111
[20] Technical conference June 18, 2020, p. 131-132
[21] Technical conference transcript, June 16 2020, p. 111
[22] Argument in Chief, p. 9; Technical conference transcript, June 16, 2020, p. 101

customers in the meantime.

3. Avoided costs tracked in Federal Carbon Charge – Customer Variance Accounts

Pursuant to the *Greenhouse Gas Pollution Pricing Act* (GGPPA), Enbridge Gas is required to pay to the federal government the FCC for GHG emissions from the natural gas that it delivers to its non-exempt customers.[23] The calculation of the quantity of natural gas, for the purpose of calculating the FCC under Part 1 of the GGPPA, excludes RNG (referred to as "biomethane" in the GGPPA).[24] As a result, purchases of RNG as part of the Program, would be expected to reduce Enbridge Gas's FCC obligations.

Enbridge Gas proposes that the reductions in its FCC obligations arising from the purchase of RNG be tracked in its existing FCCCVA. Enbridge Gas further proposes that these "savings" be returned to all Enbridge Gas customers that are subject to the FCC.[25]

In response to questions related to why Enbridge Gas would not flow FCC savings exclusively to Program participants, Enbridge Gas stated that providing the FCC reduction benefit only to Program participants would require modifying the billing system, which would increase administrative complexity and add costs.[26] In contrast, Enbridge Gas estimates that the amount of FCC saved as a result of the Program would be less than $50,000 in total for the first year of the Program, which would amount to only $0.25-$0.30 each month for participating customers.[27]

OEB staff is of the view that crediting reductions in the FCC arising from RNG purchases to all Enbridge Gas customers who pay the FCC is appropriate because the costs of operating the Program will also be borne by all customers. While the net result is not a complete "wash", OEB staff is of the view that the treatment of costs and benefits are consistent, and the end result is not material.

[23] Certain customers (e.g. industrial customers and greenhouses) are eligible for full or partial exemption from the federal carbon charge under the GGPPA for their emissions, and are thus also exempt from Enbridge's Federal Carbon Charge.
[24] GGPPA section 8(7)
[25] Exhibit B, Tab 2, Schedule 1, Page 3-4 of 9, No. 11. The inclusion of RNG in the Company's gas supply portfolio would reduce the amount of FCC payable by Enbridge Gas on behalf of ratepayers. Enbridge Gas would then subtract the amount of RNG from the total customer volumes of natural gas subject to the FCC. The difference between the amount of FCC paid to the federal government and the amount billed to customers would create a variance, which would be recorded in the FCCCVA.
[26] Exhibit I.STAFF.14; Technical conference transcript June 16 2002, p. 174
[27] Argument in Chief, p. 9; Technical conference transcript, June 16, 2020, p. 101; Technical conference transcript June 18 2020, p. 57

4. Other issues

RNG Procurement

Enbridge Gas plans to procure RNG to support the Program based on funding derived from actual participation.[28] Enbridge Gas proposes to procure RNG using short-term contracts (e.g. seasonal or annual delivery contracts), and indicated that it is not prepared to enter into long-term (multi-year) RNG supply commitments at this time without having a mechanism in place that would ensure recovery of the associated RNG costs in rates.[29] Enbridge Gas will employ an RFP process to select RNG providers, and will consider price and availability of RNG, as well as credit ratings of potential suppliers in its selection. Enbridge Gas stated that as changes occur to applicable Provincial and/or Federal laws and regulations, it may apply additional criteria when evaluating offers to purchase RNG.[30]

Enbridge Gas states that in the event that Program funding falls short of covering the cost of RNG, Enbridge Gas would defer entering into further RNG purchase agreements until funding was replenished.[31] In regards to potential conflicts of interest in the procurement process related to Enbridge Gas affiliates, Enbridge Gas stated that they would keep records of any affiliate transactions that occur as part of the RNG procurement process.[32] In addition to keeping records of any affiliate transactions, Enbridge Gas must also ensure that it complies with all requirements of the Affiliate Relationships Code for Gas Utilities.[33]

Although Enbridge Gas did not request approval of its RNG procurement approach, OEB staff submits that the approach contemplated by Enbridge Gas with respect to the selection criteria is reasonable at this time. As more experience with the Program is gained, OEB staff would expect that other criteria such as the benefits of one type of RNG supply over another in terms of GHG reductions should also be a factor considered when assessing competitive bids. In OEB staff's view, a time-limited approach would allow Enbridge Gas to gain experience and report to the OEB upon rebasing on the effectiveness of their RNG procurement strategy, and on any suggested changes to the strategy.

[28] Exhibit B, Tab 2, Schedule 2, Page 1 of 2, No. 1
[29] Exhibit B, Tab 2, Schedule 1, Page 4 of 9, No. 12
[30] Exhibit I.STAFF.6, Page 3 of 3, No. 3 and Technical conference transcript, p. 54 and p. 154
[31] Exhibit I.STAFF.6, Page 3 of 3
[32] Technical conference transcript June 18, 2020, p. 81-83
[33] https://www.oeb.ca/sites/default/files/uploads/documents/regulatorycodes/2019-01/Affiliate-Relationships-Code-for-Gas-Utilities-ARC-20101125.pdf

Communications

If the Program is approved, Enbridge Gas intends to display the $2 charge as a separate line item on the bill of participating customers. Enbridge Gas also plans to provide annual communications to participating customers outlining information such as the total amount of RNG procured under the Program, related GHG emission reductions, future forecasts, Program participation, and/or other relevant metrics.[34]

Although approval was not requested for Enbridge Gas' communications strategy, OEB staff is of the view that customers should be provided with detailed information to support an informed decision making process and therefore foster consumer protection. To that end, OEB staff is of the view that Enbridge Gas should provide a clear explanation of the Program to its customers in order that they are able to make an informed decision in regards to whether to participate in the Program. Enbridge Gas should also clearly communicate with customers regarding how they may opt in and opt out of the Program, and that customers may cancel their enrollment in the Program with 30 days' notice.[35] Staff also suggests that Enbridge Gas should clearly explain to customers that the price it will pay to procure RNG is a market price that may change from time to time, and that participating customers will not receive a specified proportion of their gas as RNG, nor will their contributions fund a set volume of RNG purchases, but that Enbridge Gas will use the fixed contributions from participating customers to procure as much RNG as can be purchased with the amount collected. Finally, OEB staff agrees with Enbridge Gas' proposal to share communications with participating customers regarding the results of the Program in terms of volumes of RNG that Enbridge Gas procures and the associated avoided GHG emissions.

5. Staff submission regarding Enbridge Gas's reporting upon rebasing in 2024

OEB staff submits that Enbridge Gas' Voluntary RNG Program should be approved on a time-limited basis. Upon rebasing in 2024, OEB staff submits that Enbridge Gas should report back to the OEB on the following elements of the Program, at a minimum:

a) Participant information
    a. Number of participants signing up for the Program per year
    b. Number of participants leaving the Program per year
    c. Customer complaints regarding the program and reasons for customers leaving the Program

[34] Exhibit B, Tab 2, Schedule 1, p. 3, No. 9
[35] Exhibit B, Tab 2, Schedule 1, p. 2, No. 7

b) Actual operating costs
c) Actual FCC costs avoided as a result of RNG procurement and incremental RNG supply costs relative to conventional natural gas
d) Volumes of RNG procured and GHG emissions avoided
e) Impacts of Program on non-participating customers, including ESM amounts decreased due to the Program, if any
f) An update on provincial and federal government policy as it relates to RNG
g) An assessment of the competitive market for provision of RNG to natural gas customers in Ontario, including:
    a. An update on the state of the RNG market in Ontario and neighbouring jurisdictions, including RNG suppliers, available volumes, costs, and benefits associated with each type of supply (e.g., GHG reductions)
    b. An analysis of the natural gas marketers offering RNG as a supply option to natural gas customer in Ontario, if any
h) Criteria applied by Enbridge Gas in their procurement of RNG
    a. For example: price, availability, credit ratings of potential suppliers, and any additional criteria
i) Success of Enbridge Gas' proposed procurement strategy, i.e.,
    a. Success in using short-term contracts by way of an RFP process to procure RNG at intervals determined based on market conditions and funds collected
    b. In the event that Program funding falls short of covering the cost of RNG, deferring entering into further RNG purchase agreements until Program funding has been replenished

In the view of OEB staff, the above information will assist the future OEB panel in determining whether the Program should be approved on a permanent basis.

All of which is respectfully submitted.