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**Industrial Gas Users Association  
Motion to Review and Vary Decision and Order  
dated May 14, 2020  
EB-2019-0194**

Submission  
of the  
Vulnerable Energy Consumers Coalition  
(VECC)

July 17, 2020

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**Vulnerable Energy Consumers Coalition**

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## The Motion

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1. VECC does not support the motion by IGUA.
2. The motion relies on two arguments:
  - i. That the Board has been inconsistent in its decisions made in prior decisions, specifically its decision in the “Enbridge-Union” amalgamation, EB-2017-0306/0307.
  - ii. That the Board provided insufficient reasons in its Decision to meet the test of reasonableness.
3. IGUA also reargues the positions previously put forward in proceedings EB-2017-0306/0307 and EB-2019-0194. Substantially that position is that allocation of the incremental costs related to the Panhandle reinforcement should be modified by one of the methodologies put forward by Enbridge Gas Inc. (Enbridge).
4. We address these arguments below.

## Consistency with Prior Decisions

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5. VECC disagrees with the argument put forward that the Board has been inconsistent as between its Decision in EB-2017-0306/0307 and its Decision EB-2019-0194.
6. The panel in the Merger proceeding (EB-2017-0306/307) was focused on the issue of whether the merger was in the public interest and whether the proposal by the Applicant to defer rebasing (i.e. resetting of rates) was reasonable. The issue of material capital projects that were incremental to the last rebasing period, and for which the Board had allowed the costs to be recovered, was raised as an issue in that proceeding. Some parties, including VECC, argued against rate rebasing deferment for among other things precisely the issue of cost allocation now before the Board. In that case we said:

*A prolonged rebasing deferral would also forestall the Board’s review of the cost allocation and rate design issues of both current utilities. As discussed above this is especially problematic in the case of Union Gas, where there are clear cost*

*allocation issues that need to be addressed to deal with specific large projects like the Panhandle pipeline reinforcement.<sup>1</sup>*

7. The Board acknowledged the issue of integration of incremental capital costs and specifically the question of how those costs might - or might not - be allocated among the various rate classes. In the amalgamation Decision the Board said:

*Amalco is expected to prepare and file a comprehensive cost allocation proposal to be filed with its next rebasing application following the five year deferred rebasing period.*

*However, the OEB is concerned about the cost allocation issues raised by parties for Union Gas' Panhandle and St. Clair systems. The OEB therefore requires Amalco 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. The OEB accepts that this proposal will not be perfect, but is intended to address the cost allocation implications of certain large projects undertaken by Union Gas that have already come into service.<sup>2</sup>*

8. In its Motion IGUA chooses to emphasis the last sentence of this finding<sup>3</sup>. The Panel, having asked for a proposal and recognizing that any proposal would likely be imperfect, IGUA makes the fallacious leap to conclude a determination has been made that a new allocation is necessary and required to be implemented prior to full rebasing.
9. We do not read the Decision that way. The Panel was aware in the amalgamation proceeding of the issue of incorporating costs from incremental capital projects. However, in that proceeding the matter of cost allocation was not directly before the Board. The Panel did not have detailed and tested evidence as to the impact to the various classes of the allocation of the costs in question or a proposal (or proposals) to address the issue. In that situation the Board acted reasonably by directing the Utility to consider the matter and put forth evidence and a proposal in an upcoming proceeding. Having done so it did not predetermine the outcome of the matter. In fact, it could not

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<sup>1</sup> EB-2017-0306/307 Submission of VECC, June 17, 2018, pg.8

<sup>2</sup> Decision with Reasons, EB-2017-0306/0307, pg. 41

<sup>3</sup> IGUA Submissions on Motion. April 10, 2020, pg. 10

have done so, because it is incoherent for the filing requirement to fetter the subsequent disposition of a matter. The only obligation the Board had was to consider the matter it had asked to have brought before it. And that is what it did.

#### **Reasons in EB-2019-0194**

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10. The motion also argues that the Board's decision contains insufficient explanation to meet the test of reasonableness. Again, we disagree.
11. The findings of the Board are succinct but they are also comprehensive. First, they acknowledge the arguments of most parties that the matter of cost allocation should be deferred until a full rebasing of rates. The Board recognized there was merit in the argument, supported by among others, VECC, and which suggested that an incomplete cost allocation might be conceptually incorrect. We also note that the Board explicitly acknowledged in its reasons the (unchanged) position of IGUA.
12. The Board then turned its mind to Enbridge's cost allocation proposal. It is true the Board they recognized that cost allocation was problematic. But they also made the point that IRM requires decoupling of costs from rates and that selective changes were disruptive to rate stability. That is, the Board reaffirmed that with the abandonment of cost of service, of which cost allocation is a component, and its replacement by an incentive rate making plan (IRM) the merits of any non-comprehensive and singular cost allocation proposal was, as stated, problematic.

#### **Is the current allocation reasonable?**

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13. With respect to the merits of the Motion IGUA simply reargues its' past positions. The only addition is the insinuation that the partial allocation proposals of the Utility(ies) has obvious merit. We think this conclusion might be debated by other rate classes required to pay more in order compensate for the reduction in costs to ex-franchise gas shippers and large industrial customers<sup>4</sup>.
14. The Board did not do explicitly explain why the existing cost allocation methodology remains a reasonable way to allocate the incremental costs of the Panhandle project. In our view it did not need to do so. The decision does not rely on making a determination of the cost allocation proposal. Rather the Board relies on the rate making scheme approved for the IRM rate period where rates are decoupled from costs. As such cost allocation is moot.

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<sup>4</sup> These cost shifts are provided in EB-2019-0194, Exhibit B, Tab 1, Appendix C, Schedule 4, pg. 1 of 3

15. Even if one accepts that just and reasonable rate are dependent upon a finding of the merit of a particular cost allocation methodology the Motion should still fail. As we have previously argued, the exercise of cost allocation and rate design is not one of pure science. It is a complicated matter addressing how to allocate largely common cost, the classification and functionalization of costs and choices of allocators for those costs. There are competing theories and no single “correct” methodology to employ.
16. The results of the allocation methodology are then filtered through an informed, but ultimately subjective view as to what the resulting revenue-to-cost ratio rates should reflect. The normal complexity of the exercise is significantly compounded by the merger of Union Gas Limited with Enbridge which raises broader issues of rate and class harmonization and asset allocation as among the former utilities.
17. If the Board is to make a determination of the reasonableness of the cost allocation it should do so in consideration of all customers in the new amalgamated utility. It should not be selective and consider only the subset affected by the St. Clair-Panhandle allocation methodology. The question is not whether the current cost allocation methodology is fair to T2, M16 and C1 customers. It is whether the allocation of costs is fair to all customers including those customers of the two former utilities who now are served by a single utility.
18. The Board comes to this very point in its decision writing:

*At the next rebasing, potential changes to the comprehensive cost allowance [sic] are anticipated including other adjustments to rate base, possible rate harmonization proposals and rate design changes*

19. That is, the Board clearly sees a comprehensive approach as preferable. In doing so it also accepts the underlying premise of Enbridge’s proposal to delay implementation of the proposed partial cost allocation study so as to avoid rate disruptions and which may, in any event, be superseded by a comprehensive review.
20. For these reasons we submit the Motion fails on both the threshold question and the merits of the case.

**THESE ARE OUR RESPECTFUL SUBMISSION**

**JULY 17, 2020**