

August 12, 2020

Ontario Energy Board  
Attn: Christine E. Long, Registrar and Board Secretary

By RESS and e-mail

Dear Ms Long

**Re: EB-2019-0271 EGI 2021 DSM Plans  
GEC response to Enbridge Objection to Cost Claims**

Pursuant to the Board's Decision and Order of July 16<sup>th</sup>, we offer the following response to Enbridge Gas Inc.'s letter of objection to costs dated August 6<sup>th</sup>.

Enbridge has offered a simplistic analysis of intervenor's cost claims, simply comparing the higher claims to the average of claims and highlighting the limits of the scope of the case without mention of the differences between interventions or the complications the company's conduct created.

**GEC's costs were higher than average for good reasons, including the following:**

**1. Expert Participation**

GEC brought expertise to the matters before the Board by retaining Mr. Chris Neme of Energy Futures Group. Mr. Neme has been retained in several DSM cases and has unparalleled experience in DSM and in analysis of EGI's plans. Other parties routinely rely on GEC to bring Mr. Neme's expertise and specific knowledge of Enbridge's DSM forward. In this case Mr. Neme's input identified and illuminated a key issue before the Board; the impact of new Federal regulations on the Residential Home Retrofit Programs which have a large contribution to both results and shareholder incentives. As noted in our submissions and recited by the Board in its Decision, "due to the overall size of the residential home retrofit program budgets relative to the total program budgets (67.1% for the EGD rate zone and 61.9% for the Union rate zones) and since the shareholder incentive is allocated in proportion to approved budgets, Enbridge Gas has an opportunity to earn a total of \$13.47 million (\$7.01 million for EGD rate zone and \$6.46 million for the Union rate zones) based on outdated efficiency standards".

**2. Enbridge's Inconsistent Information**

The Board ultimately determined that it need not order a change to the program or incentive structure because it would rely on Enbridge's indication that it had already changed the program to recognize the new 95% furnace efficiency regulation and to limit furnace incentives to \$500. Alarmingly, even up to the time of argument, Enbridge's public website did not limit the incentive as Enbridge claims it had done since Jan. 1 2020. The web site information which we reproduced in our argument, shows the following:

## The more you bundle, the more you save

We have two limited-time bundle offers if you complete your pre-renovation energy assessment between Jan. 1, 2020 and Aug. 31, 2020.\*

- **Bundle Offer 1:** Receive a **\$2,150 rebate** for making the following upgrades:
  - Furnace
  - Attic insulation\*
  - Air sealing
- **Bundle Offer 2:** Receive a **\$1,400 rebate** for making the following upgrades:
  - Attic insulation\*
  - Air sealing

HOW DO I GET STARTED? +

As can be seen, the difference between the two ‘bundles’ is the addition of a furnace upgrade, and the difference in customer incentive changes by \$750 not the \$500 Enbridge claims in its submissions to the Board. Enbridge’s poor disclosure and inconsistent information made this issue needlessly more time consuming for all. Indeed, given the web site information, we remain concerned that the company’s practice may still not be in accord with its proclamations to the Board.

### 3. Enbridge’s Inadequate Interrogatory Responses and Resulting Motion Costs

Enbridge initially refused to provide fulsome answers to several of GEC’s IRs necessitating a motion for further and better responses. The Board agreed with the bulk of our request and ordered further responses. Roughly 13 of the approximately 19 hours of counsel time included in GEC’s cost claim were attributable to efforts to voluntarily obtain better responses and then to prosecute the motion including responding to Enbridge’s 20 pages of submissions. Absent that effort, which was necessitated by Enbridge’s non-responses, its refusal to voluntarily supplement responses and its strenuous response to our motion, GEC’s cost claim would be very near the average of intervenor cost claims.

Further, Enbridge’s recital of the limitations of the scope of this hearing in its objection to costs ignores the fact that in ordering further responses the Board found GEC’s IRs and area of inquiry were within scope and relevant.

### Enbridge’s Concern about Environmental Intervenors

Enbridge also raises a concern about possible duplication of representation and effort by four groups it identifies as environmental groups (GEC, ED, PP and OSEA). We note the following:

- GEC is not a sole environmental organization, it is already a coalition of environmental groups created explicitly to reduce overlapping interventions before the Board.
- GEC and ED have routinely cooperated to share the burdens of intervention (which it must be emphasized are not fully addressed by cost awards). The Board will be aware that while GEC and ED have non-identical policy stances on some key matters, they have been able to jointly sponsor evidence in several cases and routinely allocate effort between counsel to reduce duplication where the positions of the groups align.
- In this specific case, GEC and ED expressly coordinated to eliminate any duplication. We engaged in discussions at the outset and throughout the case to accomplish this. This included our submissions: GEC provided detailed program-specific recommendations whereas ED

provided high-level submissions on the importance of DSM and the need to achieve as much savings as possible in 2021.

- OSEA, while motivated by concern for the environment, is an organization primarily representing renewable energy providers and offers its particular expertise and experience to the Board in that increasingly important domain.
- Pollution Probe has only recently recommenced interventions before the Board. We have reached out to Pollution Probe to minimize overlap. However, as the Board will have noted and as amplified by Enbridge's letter of objection to costs, Pollution Probe's concerns did not align with GEC's in this case and it ultimately took a different position. Pollution Probe's approach and position on various issues has traditionally differed from that of GEC's member groups which may in some cases limit the potential for combined effort. For example, Pollution Probe's position on the appropriate role of natural gas in a low-carbon future and the best ways to decarbonize buildings are very different from GEC's.<sup>1</sup>

Furthermore, just as there are multiple consumer intervenors and industrial groups, there will be a diversity of interests, policy positions and overlapping constituencies in the environmental sector. We respectfully suggest that the Board should be cautious about imposing cost award limitations based on simple categorizations such as that Enbridge proposes. The point of public hearings is to provide an opportunity for expression of the range of viewpoints and for the Board's process to be more fully informed of that range. Intervenor groups bear a burden of staff commitment that is not compensated for by the costs regime and have an incentive to avoid needless intervention. Enbridge's applications typically entail hundreds of millions of dollars of rate and consumer expenditure and are deserving of rigorous scrutiny and required transparency.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch

Cc: all parties

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<sup>1</sup> See e.g. Pollution Probe, *What Does the Future Hold for Natural Gas?*, November 2019 (funded by ATCO, Canadian Gas Association, Enbridge, FortisBC, & SaskEnergy ), <https://www.pollutionprobe.org/wp-content/uploads/Future-of-Natural-Gas-November-2019.pdf>