ONTARIO ENERGY BOARD

Enbridge Gas Inc.

**Application for approval of a System Expansion Surcharge,
a Temporary Connection Surcharge and an Hourly Allocation Factor**

WRITTEN SUBMISSIONS OF

EPCOR NATURAL GAS LIMITED PARTNERSHIP ("EPCOR")

Introduction:

Further to EB-2020-0094 Procedural Order No. 2, EPCOR submits the following in regards to Enbridge's request for a blanket approval to apply the System Expansion Surcharge ("SES"), Temporary Connection Surcharge ("TCS") and Hourly Allocation Factor ("HAF") to new Enbridge development projects. EPCOR's submissions focus on Enbridge's proposal to have discretion to apply the HAF to any future development project.

Generally, EPCOR supports the concept of a cost allocation mechanism that aims to achieve economies of scale and fairly allocate costs, insofar as the mechanism is consistent with and upholds existing regulatory principles and does not materially deviate from Ontario Energy Board ("Board") policies. However, in its current form, Enbridge's proposed application of the HAF (i) has the potential to drive overearning, (ii) materially deviates from the current E.B.O. 188 framework, and (iii) results in the discriminatory treatment of certain large volume customers vis-à-vis the ability to apply for a refund.

Although a HAF has been approved by the Board in four previous cases[1], it was found to be appropriate in the specific manner applied for in specific circumstances. Enbridge has not sufficiently demonstrated that blanket approval of the HAF is appropriate for all larger projects that require a Leave-to-Construct ("LTC"). Therefore, an indiscriminate application of the proposed HAF methodology which does not address or mitigate the above-noted concerns, is problematic. These concerns and a proposed approach for addressing or mitigating their impacts are detailed below.

Concerns with Enbridge's Proposed HAF Methodology:

1. **Enbridge's proposed application of the HAF incorporates a process that will enable Enbridge to over earn on projects and over-allocate costs to large volume customers.**

Enbridge's potential to overearn on projects is enabled by the manner in which Enbridge proposes to use the HAF to allocate all capital to customers that will connect immediately plus those who are forecast to connect within ten years.

[1] EB-2020-0094, Enbridge Application, Exhibit B, Tab 1, Schedule 1, Appendix A, Page 1 of 1.

The HAF would be used to allocate capital costs to committed customers as well as future customers who meet the threshold of eligibility, within a defined area of benefit. Enbridge proposes to include the entire cost of the project in rate base at the first rate case after the project's in service date, less any contributions that Enbridge has received at that time.[2] If the portion of project costs allocated to large volume customers (which is based on achieving a minimum PI of 1.0 for their portion of the project costs) has not yet been fully allocated, Enbridge will continue to allocate capital to large volume customers as they connect in the future.[3] If any such customer's contract does not result in revenue meeting the HAF allocation for that customer, Enbridge will require a capital contribution to cover the shortfall (called a contribution in aid of construction, even though the project will likely already have been constructed by that time).[4] When these contributions are made, the entire capital cost of the project will already be in rate base, and Enbridge will already be earning a return on it. Contributions by large volume customers (and any SES/TCS payments by small volume customers in excess of the Test Year's revenue[5]) will result in Enbridge overearning on those assets until the next rate case. Furthermore, when remaining project costs that are not covered by contributions from large customers are rolled into rate base, they will be recovered through rates from all customers, including the initial large volume customers. In other words, the HAF will by design result in large volume customers paying more than their fair share of the project costs, including for projects that are already over an overall project PI of 1.0. This outcome places a greater cost responsibility on large volume customers relative to small volume customers and goes beyond the E.B.O. 188 framework.

In EPCOR's view, there are a number ways that the overearning inherent in Enbridge's proposals could be addressed. For example, Enbridge could be directed by the Board to deduct future HAF capital contributions from rate base at the time they are made. For small volume customers, average forecast SES/TCS revenues for the remaining rate stability period could be used instead of only the test year. Enbridge and the OEB staff are best positioned to determine the most administratively efficient mechanism(s) to protect against overearning and to identify ways in which the over-allocation of costs to large volume customers can be addressed or mitigated.

2. **The Board has historically required a three stage public interest test as defined in EBO 134 when evaluating a proposed transmission project[6]. Enbridge is now seeking discretion to be able to apply the EBO 188 framework in the HAF for transmission projects[7].**

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[2] EB-2020-0094, August 20, 2020, Technical Conference, page 21, lines 1-21.
[3] For small volume customers Enbridge would continue to apply the SES/TCS. This may result in contributions paid by large volume customers and the SES/TCS (which is an alternate to a contribution) being paid by small volume customers.
[4] EB-2020-0094, August 20, 2020, Technical Conference, pages 112-113.
[5] EB-2020-0094, August 5, 2020, Exhibit B, Tab 1, Schedule 1, Page 7 of 17, par 16. In the case of the SES/TCS Enbridge has indicated they will use the projected revenues from those sources in rate cases until the 10 year rate stability period has expired. However, the rate case will only incorporate the Test Year's revenue for these high growth areas and therefore tend to under forecast actual revenue.
[6] EBO 134, June 1, 1987.
[7] EB-2020-0094, July 27, 2020, Exhibit I.EPCOR2 page 1 0f 1; EB-2020-0094, August 20, 2020, Technical Conference, Page 152, lines 24 – 28.

Enbridge intends for the HAF to become an element of the company's economic feasibility policies that addresses the method by which capital costs of a project are allocated, in a manner that is consistent with the Board's E.B.O. 188 Guidelines.[8] Essentially, for any project that Enbridge applies the HAF to, the HAF would extend the E.B.O. 188 requirement for a Profitability Index ("PI") of 1.0 or higher to each large volume customer that utilizes capacity on the project. This PI threshold does not exist in E.B.O. 134, which expressly acknowledges that some transmission projects should be allowed to proceed with PIs below 1.0.[9]

While Enbridge can point to two unique instances[10] in which the Board has approved the use of the HAF for community expansion projects that included transmission, Enbridge was unable or unwilling to clearly delineate what types of transmission projects the HAF would be used for in the future (implying that this would be a matter of Enbridge's discretion).[11]

EPCOR is of the view that applying the HAF to transmission projects amounts to a material policy shift that should be supported by a separate application with relevant evidence and input from a wide range of impacted intervenors. While Enbridge may wish to apply to use the HAF on specific transmission projects in the future (as it did with past transmission connected with community expansion projects), the evidence on file does not support allowing Enbridge discretion to replace the E.B.O. 134 framework with the HAF for future projects that entirely or predominantly consist of transmission facilities.

3. Enbridge's proposed application of the HAF results in the discriminatory treatment of certain large volume customers vis-à-vis the option to apply for a refund.

Enbridge is proposing that large volume customers that have paid a contribution as the result of the HAF allocation process will not have the option of applying for a refund if their contribution is subsequently determined to be excessive (i.e., if Enbridge's forecasts of capital costs and revenues result in higher allocation of costs to large volume customers than is supported by actual costs and revenues). In contrast, customers who have paid a contribution that was not determined through the HAF allocation process may be eligible for a refund[12]. Enbridge has stated that this is the result of customer preference to have certainty when they execute a long term contract[13]. This explanation does not explain why Enbridge has a policy of allowing only certain large volume customers the option to apply for a refund and others not.

EPCOR is of the view that there should be no ability for Enbridge to discriminate among large volume customers that have made a capital contribution and each should have the option of applying for a refund. Without a refund mechanism for HAF allocations, Enbridge may also be incented to design its internal forecasts in a manner that over-allocates costs to large volume customers.

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[8] EB-2020-0094, Enbridge Application, Exhibit B, Tab 1, Schedule 1 Plus Appendix, Page 12 of 16, para. 36.
[9] EBO-134, Page 48, par 6.79.
[10] EB-2018-0188 and EB-2019-0218.
[11] EB-2020-0094, August 20, 2020, Technical Conference, pages 151-158.
[12] EB-2020-0094, August 5, 2020 Exhibit C, Tab 2, Schedule 1, Pages 3 – 4, par 14.
[13] EB-2020-0094, July 27, 2020, Exhibit I.EPCOR.6.

4. **The evidence in this Application is inadequate to sufficiently assess the risks and benefits of a blanket application of the HAF for LTC projects. During the Technical Conference, Enbridge was unable to provide the Board or intervenors with any sense of the impact of Enbridge's HAF proposal for larger projects.[14]**

The risk and benefits set out in the Application and evidence may support approval of the HAF for small, non-LTC projects. However, the same cannot be said for larger projects. It will important to further assess the appropriateness of the HAF for larger projects through the LTC process in the future. As a result, EPCOR submits that approval of the Application should not in any way limit the ability of parties to challenge the application of the HAF (or the design of the HAF) to specific projects in the LTC for those projects. This would allow the Board to better understand the impacts of the HAF for those specific projects. EPCOR proposes that over the course of three years, the impact of the HAF on LTC projects will be better understood and at that time Enbridge could apply for a blanket approval, for all community development projects.

Conclusion:

EPCOR acknowledges that during the Technical Conference on August 20, 2020, Enbridge confirmed that it will not apply the HAF in cases where infrastructure builds are required to service ex-franchise customers[15]. EPCOR's continued interest in this Application is in respect of the consistent application of regulatory principles and policies regarding cost allocation for new development projects, as material deviations from those principles have the potential to directly and adversely impact EPCOR in future proceedings.

As noted above, the Board's approval of Enbridge's proposed HAF methodology could give rise to unintended impacts and a material shift in Board policy on the cost allocation of transmission assets. EPCOR submits that a more measured approach to approving a HAF methodology would assist the Board in better understanding its impacts and ensuring that the Board does not fetter its discretion to evaluate the appropriateness of the HAF for future projects requiring LTC. Furthermore, EPCOR's proposed modifications and/or adjustments to the HAF methodology as outlined above would assist in mitigating known impacts and ensure alignment with regulatory principles.

All of which is respectfully submitted.

September 18, 2020

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Date: 2020.09.18 09:33:14 -06'00'

EPCOR Natural Gas Limited Partnership
Per: Bruce Brandell, Director

[14] EB-2020-0094, August 20, 2020, Technical Conference, Pages 63 – 75.
[15] EB-2020-0094, August 20, 2020, Technical Conference, Page 157, lines 20 – 23.