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Our File: EB20200094

Attn: Christine Long, Registrar & Board Secretary

Dear Ms. Long:

Re: EB-2020-0094 – Enbridge SES/TCS/HAF – SEC Submissions

We are counsel to the School Energy Coalition (“SEC”). This is SEC’s submissions on the application by Enbridge Gas Inc. (“EGI”) for approvals to charge a harmonized System Expansion Surcharge (“SES”) for community expansion projects, a Temporary Connection Surcharge (“TCS”) for small extension projects, as well as to use and apply its proposed Hourly Allocation Factor (“HAF”) approach to economic feasibility calculations under EBO 188.

As discussed below, SEC does not oppose the proposed approvals, as they are either modifications to harmonize previously approved rate approaches across the Union and Enbridge Rate Zones, or in the case of the HAF, if appropriately implemented, are modifications that may be beneficial to customers.

System Expansion Surcharge

Enbridge seeks approval for a harmonized SES for all community expansion projects. The SES would be at a rate of \$0.23/m³, and would remain in place until the project feasibility calculation reaches a Profitability Index (“PI”) of 1.0, up to a maximum of 40 years. Any project where an SES is used would be subject to a 10-year rate stability period, and any new customers that attach during the period of the SES term will be subject to the same SES until its expiry.¹

The Board has approved the same SES rate and terms and conditions in a number of previous proceedings for both the Union and Enbridge Rate Zones. With respect to the Enbridge Rate Zone, in EB-2017-0147 the Board approved the use by Enbridge of the SES, without additional approval by the Board, with respect to projects that do not require leave to construct approval.² Enbridge, in this application, seeks a similar authority for its entire service territory.

¹ Interrogatory Response I.SEC,1

² See [Decision and Order](#) (EB-2017-0147), March 1 2018, p.10-15

SEC prefers processes that require Enbridge to seek specific approvals for individual community expansion projects. At the same time, SEC recognizes that in certain circumstances that may not strike the appropriate balance of accountability with regulatory efficiency. Consistent with SEC's position in EB-2017-0147, SEC does not oppose Enbridge's request to charge the SES using the approved methodology for all community expansion projects, without the need to bring a separate rate application before the Board. With that said, SEC reiterates what it said in EB-2017-0147 regarding required considerations if the Board is to grant a generic approval for the SES.

First, since there will be no review of the inputs to the Discounted Cash Flow ("DCF") analysis that determines the economic feasibility of the project, including the forecast SES duration, and any grants, subsidies or other contributions needed, the Board must be clear to Enbridge that it bears the risk of making unreasonable assumptions, and that they may lead to future disallowances. Enbridge is thus taking the risk that its capital costs may be too high or that its customer attachments forecast too optimistic. If Enbridge does so, the Board may determine at a rebasing that customers (new or existing) should not bear the costs and that Enbridge's decision to go ahead with a specific community expansion project was imprudent. In short, if there is no review in advance, Enbridge has the risk that the after-the-fact prudence review will be unfavourable.

Second, Enbridge should not state, to any potential customers, that the SES will under all circumstances remain in place for the forecasted time period. Since the forecast duration of the SES is a function of a number of inputs that will not have been reviewed by the Board, they may need to be adjusted (either made shorter or longer) after being reviewed in a subsequent rebasing application, if the inputs were found to be unreasonable.³

In addition, SEC is concerned that for community expansion projects that do not require any other Board approvals, it is not clear how the Board will ensure that competition is facilitated consistent with the Generic Community Expansion Decision (EB-2016-0004).⁴ Specifically, Enbridge is seeking to apply the SES to eligible projects that do not require other approvals. In that situation, the Board will not have visibility into what projects Enbridge is undertaking, and how to determine if there is competitive interest, so as to undertake a selection process as required by the Generic Community Expansion Decision.

When asked about this issue in SEC Interrogatory #7, Enbridge responded that there is no need to inform other potential distributors of any proposed new community expansion projects for the duration of the Government's Natural Gas Expansion Program, because the recipients of any funding will be published in the regulation.⁵ SEC accepts that issuance of the regulation is notice, and for all intents and purposes will act to choose the distributor, although whether this is effective notice to competitors is not self-evident. More importantly, there is nothing in Enbridge's proposal that limits SES to projects that are also funded by way of the Natural Gas Expansion Program. Enbridge recognizes this but notes that a competitive process should only be initiated for all other unserved areas, where a gas distributor has notified the Board that it intends to submit an application for which a) another gas

³ SEC notes that this is the one area where there is a change in the terms and conditions of what has been approved previously for the generic approval in the Enbridge Rate Zone in EB-2017-0147, and have been approved in the projects considered for the Union Rate Zone. In EB-2015-0179, the SES term could be reduced if warranted based on periodic updates on project economics to the Board, whereas in all Enbridge approvals this has not been included. (See Interrogatory Response 1.SEC.1)

⁴ See [Decision with Reasons](#) (EB-2016-0004 - Generic Proceeding on Community Expansion), November 17 2016

⁵ Interrogatory Response 1.SEC.7

distributor currently holds a Certificate of Public Convenience and Necessity for the service area being requested, but there is no infrastructure in place; or b) where the proposed service area is not currently covered by a CPCN.”⁶

Enbridge is confusing two distinct issues: Should notice be provided to the Board, and, if so, when and in what form? SEC submits notice needs to be provided to the Board regarding potential community expansion projects so a determination can be made if a competitive process is required. This should not be in dispute, nor should there be any exceptions. In the past, notice has been met by filing an application or a letter informing of a distributors’ intent to file an application.⁷ In the context of community expansion projects that require funding through the Natural Gas Expansion Project, the publishing of the applicable regulation can meet the notice requirement. Moreover, realistically, no competitive process can be undertaken for those projects anyways.

For any other community expansion project that Enbridge seeks to construct without Natural Gas Expansion Program funding, Enbridge must still provide adequate notice to the Board. Where no application is required from the Board (i.e. for leave to construct, franchise agreement, or CPCN) then a simple letter informing the Board is adequate.

SEC is also concerned with Enbridge’s views on situations where the Board should require a competitive process to be undertaken to serve communities outside of those funded by the current Natural Gas Expansion Program. Enbridge seeks to limit it to situations where there is either no CPCN in place or where another distributor has a CPCN but has not built the distributor infrastructure to serve. SEC is not clear what the basis is for such a limitation. Any party who seeks to construct a community expansion project should be required to notify the Board of their intent, regardless if they are the holders of the CPCN for that territory or not. If no other distributor comes forward to notify the Board that it also seeks to serve that community, then no further action is required from the Board, but it should not be limited to situations where the non-CPCN holder seeks to serve a community. Considering Enbridge’s dominant position in the province, its proposal is anti-competitive, as it is the holder of the vast majority of CPCNs over unserved communities.

Temporary Connection Surcharge

Enbridge seeks approval to charge a TCS for small main extension projects anywhere in its entire service territory. The TCS is simply a renaming of the SES for small main extension projects that the Board approved on a generic basis for the Enbridge Rate Zone in EB-2017-0174. SEC supports the proposal to harmonize this surcharge, subject to the same qualification regarding risks that Enbridge must bear and the potential modification of the TCS duration discussed earlier with respect to the SES.

SEC does query the appropriateness of calling the charge a *Temporary* Connection Surcharge. While it is technically accurate that the charge is temporary, for many customers a charge that can last up to 20 years does not feel temporary, and they may be confused. This is especially important considering issues that have already arisen, which Enbridge says that it is remedying, regarding

⁶ Interrogatory Response I.SEC.7

⁷ See for example, Letter to All Natural Gas Distribution Service Providers Re: Enbridge Gas Distribution Inc. Bobcaygeon Pipeline Project (EB-2017-0260) and Scugog Island Pipeline Project (EB-2017-0261), dated November 2 2017

disclosure of the SES to potential customers.⁸

Hourly Adjustment Factor

Enbridge seeks approval to apply the HAF methodology for allocating upfront capital costs of certain projects on a generic basis for the purposes of customer specific economic feasibility requirements. The Board has previously approved the application of a version of the HAF methodology in four recent leave to construct applications⁹

As SEC understands the HAF, it is a methodology for allocating capital costs for projects to multiple large volume customers within an identified area (called an “Area of Benefit”) for the purpose of determining required large volume customer-specific PI in the economic feasibility calculations. These customer-specific economic feasibility calculations are required to ensure that over the life of the asset the revenues that Enbridge will collect will be sufficient to cover the allocated costs of the project. If they do not, the customer will be required to pay a CIAC or agree to additional contractual terms, to ensure there will be no cross-subsidy between new large volume customers (or new load) and existing customers.

A large customer under the HAF methodology is defined as a customer with an hourly forecast peak demand of at least 50 m³.¹⁰ The HAF is calculated by dividing the capital costs of a development project by the capacity that the project adds to the Area of Benefit on m³ per hour basis.

The purpose of the HAF is to remedy two different problems or inequities that can occur. First, new large customers or those adding capacity within the first year or two of a new development project, can bear a disproportionate cost of the project compared to other large customers who either connect or who require additional capacity in the later years. This is because of the inherent lumpiness of capacity that can be added by a new pipe. It may be greater than required, for the first set of customers and allows later customers to connect or add capacity, without any project capital costs being allocated to them for the purposes of their economic feasibility calculation. In Enbridge's view this “gaming” can and does occur on both an unintentional and an intentional basis.¹¹

Second, in certain circumstances, Enbridge may currently be required to undertake multiple phases to building capacity in an area where there is both an immediate need for new capacity to accommodate large customers, and there is a forecast of future large customer capacity growth that is expected to materialize in the medium term (within the first 10 years). Under the current default approach, without the HAF, Enbridge will not construct the larger pipe that accommodates this future large customer growth because it cannot obtain financial assurances from future customers, and new large customers understandably do not want to be allocated the cost of a large pipe to serve future growth.¹² The HAF will allow Enbridge to build a large pipe which is more economical for all, due to the economies of scale, but fairly allocate the costs to all large customers whenever they attach (or require additional capacity) within the initial 10 years of the project life.

⁸ Interrogatory Response I.CPA.3

⁹ Exhibit B, Tab 1, Schedule 1, Appendix A

¹⁰ Exhibit B, Tab 1, Schedule 1, p.14-15. SEC understands this is general equivalent to a customer with a total annual demand of 50,000 m³.

¹¹ Technical Conference Transcript, p.7

¹² Technical Conference Transcript, p.215-216

SEC is not opposed to Enbridge's proposed use of the HAF methodology to allocate costs for the purpose of the customer-specific economic feasibility process, if implemented correctly. The HAF methodology appropriately balances the need to limit the possibility of cross-subsidization, between new large volume attachments (and/or incremental load) and existing customers by ensuring large customers who drive the need for the system expansion will pay their fair share, while at the same time solving some inequities that occur because of the timing of new customers and load.

There remains a risk that existing customers will subsidize a new project subject to the HAF if the forecast new large customers or loads never materialize within the 10-year period.¹³ Enbridge notes that proposed revisions to its economic feasibility policies would not obviate the review on how the HAF is allocated, including forecast attachment and demands for future projects, through a leave to construct application. SEC agrees and notes there may be unique circumstances that arise in large projects that require leave construction approvals, specifically transmission projects subject to EBO 134, that require material deviations from any approved HAF methodology.

The problem in this application is for non-leave to construct projects, where there would be no testing of the attachment and demand forecasts before the project is constructed.¹⁴ Some of this concern is mitigated by Enbridge's proposal that it would not proceed with a project until it has secured contractual commitments from customers who make up at least 50% of the large volume capacity made available.¹⁵ But a concern remains, and the Board must send a clear signal to Enbridge that it expects a rigorous forecasting process to ensure that forecast demand within the 10-year period is more than just likely, but highly probable. If not, Enbridge should be at risk at a subsequent rebasing application that the revenue shortfall associated with the unallocated HAF is not borne by existing customers.

A more appropriate approach may be to require Enbridge to bring forward for approval all projects that would be subject to the HAF, even if they are not subject to a leave to construct requirement. This would ensure that there is an upfront review to mitigate risk to customers and that its forecast are reasonable. Projects that would be subject to the HAF are likely to have significant enough total cost that even if leave to construct approval is not required, an application to the Board is reasonable.¹⁶ This is in contrast to some community expansion projects that require an SES, which as discussed above, SEC recognizes generic approval may be appropriate as they can be very small.

All of which is respectfully submitted.

Yours very truly,

Shepherd Rubenstein P.C.

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¹³ This subsidization occurs because under a scenario with fewer future large volume customer attachments, those HAF costs would have been allocated for economic feasibility purposes to the other large volume customers and would result in lower individual Profitability Index calculations. This may have thus required those customers to pay a CIAC (or a larger one), or contracted for a longer period of time, among other options.

¹⁴ Interrogatory Response I.VECC.1

¹⁵ Exhibit B, Tab 1, Schedule 1, p.14-15

¹⁶ Under [section 91](#) of the [Ontario Energy Board, 1998](#), an application for leave to construct can be brought even if it one is not required under [section 90](#).



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cc: Wayne McNally, SEC (by email)
Enbridge Gas Inc. and intervenors (by email)