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October 06, 2020

**VIA EMAIL and RESS**

Ms. Christine Long  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Enbridge Gas Inc. ("Enbridge Gas")  
2021 Rate Adjustment Application ("Application")  
Ontario Energy Board (Board) File No.: EB-2020-0095  
Phase 1 Settlement Proposal and Draft Interim Rate Orders**

Attached to this letter is a Settlement Proposal for Phase 1 of the Application, along with draft Interim Rate Orders reflecting the Settlement Proposal.

The Settlement Proposal includes a complete settlement of all items in Phase 1 of this proceeding. Appendices A and B to the Settlement Proposal provide Draft Interim Rate Orders (and associated materials) reflecting the impact of the Settlement Proposal for the Enbridge Gas Distribution ("EGD") and Union Gas ("Union") Rate Zones.

Enbridge Gas requests that the Board review and approve the Settlement Proposal, as well as the Draft Interim Rate Orders. Enbridge Gas respectfully requests a Board Decision on these items by Thursday, December 3, 2020.

Enbridge Gas plans to file its January 1, 2021 QRAM Application by Friday, December 11, 2020. Receiving a Board Decision on the Settlement Proposal by Thursday December 3<sup>rd</sup> would permit Enbridge Gas to use the Board-approved interim 2021 rates (which reflects the impact of the IRM adjustments including updates to the capital pass-through and PDO costs) as base rates for its January 1, 2021 QRAM application.

The Settlement Proposal and associated Draft Interim Rate Orders have been filed through the Board's Regulatory Electronic Submission System (RESS).

Please contact the undersigned if you have any questions.

Yours truly,

Rakesh Torul  
Technical Manager, Regulatory Applications

cc: Mr. D. Stevens, Aird & Berlis LLP  
All Interested Parties EB-2020-0095

# **SETTLEMENT PROPOSAL**

**Enbridge Gas Inc.**

**2021 Rates – Phase 1**

**October 6, 2020**

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## **PREAMBLE**

This Settlement Proposal is filed with the Ontario Energy Board (the “OEB” or the “Board”) in connection with the application of Enbridge Gas Inc. (“Enbridge Gas” or the “Company”), for an order or orders approving Enbridge Gas’s 2021 rates for the Rate Zones of the former Enbridge Gas Distribution (EGD) and Union Gas Limited (Union) on an interim basis. This Settlement Proposal addresses “Phase 1” of this proceeding – which is limited to the annual rate escalation, pass-through costs, capital pass-through adjustments and Parkway Delivery Obligation cost adjustments.

On July 15, 2020, the OEB issued its Notice of Application in this proceeding. In Procedural Order No. 1, dated August 18, 2020, the Board established the process to address Phase 1 of the application, up to and including a Settlement Conference.

A Settlement Conference was held on September 23, 2020, and discussions continued after that time. Chris Haussmann acted as facilitator for the Settlement Conference. This Settlement Proposal arises from the Settlement Conference.

Enbridge Gas and the following intervenors, as well as Ontario Energy Board technical staff (OEB Staff), participated in the Settlement Conference:

- Building Owners and Manufacturers Association (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Federation of Rental-Housing Providers of Ontario (FRPO)
- Industrial Gas User’s Association (IGUA)
- London Property Management Association (LPMA)
- Ontario Association of Physical Plant Administrators (OAPPA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- Pollution Probe (PP)
- Quinte Manufacturers Association (QMA)
- School Energy Coalition (SEC)
- Six Nations Natural Gas Company Limited (SNNG)
- The Corporation of the City of Kitchener – Utilities Division (Kitchener)
- Vulnerable Energy Consumers Coalition (VECC)

All intervenors listed above participated in the Settlement Conference and subsequent discussions. In this Settlement Proposal, the above-listed intervenors and Enbridge Gas are referred to as “the parties”.

The following items from Enbridge Gas’s Application and pre-filed evidence were addressed by the parties during the Settlement Conference and subsequent discussions:

1. The proposed price cap rate adjustment for 2021 rates in the EGD and Union Rate Zones
2. The proposed pass-through costs included in 2021 rates in the EGD and Union Rate Zones
3. The proposed capital pass-through cost adjustments for 2021 rates in the Union Rate Zones
4. The proposed Parkway Delivery Obligation cost adjustment for 2021 in the Union Rate Zones
5. The timing for implementation of the proposed Phase 1 changes to 2021 rates

The parties have reached complete agreement on all these items.

Collectively, the items discussed during the Settlement Conference are referred to as the "Settled Items" in this Settlement Proposal.

No other issues or proposals were addressed by the parties during the Settlement Conference nor are any other issues addressed in this Settlement Proposal.

All intervenors listed above participated in the Settlement Conference and subsequent discussions. OEB Staff are not a party to the Settlement Proposal. Although not a party to the Settlement Proposal, once the Settlement Proposal is filed, OEB Staff will file a submission commenting on two aspects of the settlement: whether the settlement represents an acceptable outcome from a public interest perspective, and whether the accompanying explanation and rationale is adequate to support the settlement. Also, as noted in the Practice Direction on Settlement Conferences, OEB Staff who participated in the Settlement Conference are bound by the same confidentiality and privilege rules that apply to the parties to the proceeding.

This document is called a "Settlement Proposal" because it is a proposal by the parties to the Board to settle the issues in this proceeding. It is termed a proposal as between the parties and the Board. However, as between the parties, and subject only to the Board's approval of this Settlement Proposal, this document is intended to be a legal agreement, creating mutual obligations, and is binding and enforceable in accordance with its terms. As set forth below, this Settlement Proposal is subject to a condition subsequent, that if it is not accepted by the Board in its entirety, then unless amended by the parties it is null and void and of no further effect. In entering into this agreement, the parties understand and agree that, pursuant to the *Ontario Energy Board Act, 1998*, the Board has exclusive jurisdiction with respect to the interpretation or enforcement of the terms hereof.

Enbridge Gas and all intervenors listed above have agreed to the settlement of the Settled Items as described on the following pages. Any reference to “parties” in this Settlement Proposal is intended to refer to Enbridge Gas and the intervenors listed above. The description of each Settled Item assumes that all parties participated in the negotiation of the item, unless specifically noted otherwise.

Best efforts have been made to identify all of the evidence that relates to each Settled Item. The supporting evidence for each settled issue is identified individually by reference to its exhibit number in an abbreviated format; for example, Exhibit B, Tab 1, Schedule 1 is referred to as B-1-1. The identification and listing of the evidence that relates to each Settled Item is provided to assist the Board.

The Settlement Proposal describes the agreements reached on the Settled Items. The Settlement Proposal provides a direct link between each Settled Item and the supporting evidence in the record to date and/or the additional evidence attached to hereto. In this regard, the parties are of the view that the evidence provided is sufficient to support the Settlement Proposal in relation to the Settled Items and, moreover, that the quality and detail of the supporting evidence, together with the corresponding rationale, will allow the Board to make findings agreeing with the proposed resolution of the Settled Items.

None of the parties can withdraw from the Settlement Proposal except in accordance with Rule 30 of the *Ontario Energy Board Rules of Practice and Procedure*. Further, unless stated otherwise, a settlement of any particular issue in this proceeding is without prejudice to the positions parties might take with respect to the same issue in future proceedings, whether during the term of Enbridge Gas’s current deferred rebasing term, or thereafter.

The parties acknowledge that this Settlement Conference is confidential in accordance with the Practice Direction on Settlement Agreements. The parties understand that confidentiality in that context does not have the same meaning as confidentiality in the OEB’s *Practice Direction on Confidential Filings*, and the rules of that latter document do not apply. Instead, in this Settlement Conference, and in this Settlement Proposal, the parties have interpreted “confidential” to mean that the documents and other information provided during the course of the Settlement Conference, the discussion of each issue, the offers and counter-offers, and the negotiations leading to the settlement – or not – of each issue during the Settlement Conference are strictly privileged and without prejudice. None of the foregoing is admissible as evidence in this proceeding, or otherwise, with one exception: the need to resolve a subsequent dispute over the interpretation of any provision of this Settlement Proposal. Further, the parties shall not disclose those documents or other information to persons who were not attendees at the Settlement Conference. However, the parties agree that “attendees” is deemed to include, in this context, persons who were not physically in attendance at the Settlement Conference but were; a) any persons or entities that the parties engaged to assist them with the Settlement Conference; or b) any persons or entities from whom they seek instructions

with respect to the negotiations; in each case provided that any such persons or entities have agreed to be bound by the same confidentiality provisions.

It is fundamental to the agreement of the parties that none of the provisions of this Settlement Proposal are severable. If the Board does not accept the provisions of the Settlement Proposal in their entirety, there is no Settlement Proposal (unless the parties agree that any portion of the Settlement Proposal that the Board does accept may continue as a valid Settlement Proposal).

Where in this Agreement, the parties “accept” the evidence of Enbridge Gas, or the parties or any of them “agree” to a revised term or condition, including a revised budget or forecast, then unless the Settlement Proposal expressly states to the contrary, the words “for the purpose of settlement of the issues herein” shall be deemed to qualify that acceptance or agreement.

## OVERVIEW

On August 30, 2018, in the MAADs Decision (EB-2017-0306/0307), the Board approved a rate setting mechanism (Price Cap IR) for Enbridge Gas, which sets out a multi-year incentive rate-setting mechanism (“IRM”) for the calendar year term of 2019 to 2023 (the “deferred rebasing term”). The MAADs Decision confirmed that during the deferred rebasing term, distribution rates will be set separately for the EGD and Union Rate Zones.

This 2021 rate application is the third annual rate adjustment application under the IRM approved in the MAADs Decision. Enbridge Gas’s Application is divided into two Phases. Phase 1 (which is the subject of this Settlement Proposal) addresses the IRM related elements of the application and Phase 2 will address Enbridge Gas’s Incremental Capital Module (ICM) requests. Phase 2 will be adjudicated as a separate application, as directed by the Board in its July 15, 2020 letter.

The Phase 1 prefiled evidence sets out and explains the proposed changes to Enbridge Gas’s base rates for regulated transportation, storage and distribution for each of its three Rate Zones (EGD, Union North and Union South) effective January 1, 2021. As explained, adjustments to the base rates for each Rate Zone are determined in accordance with the IRM as follows:

- i. Annual rate escalation, as determined by a price cap index (“PCI”), where PCI growth is driven by an inflation factor using GDP IPI FDD, less a productivity factor of zero and a stretch factor of 0.30% (the “X factor”).
- ii. Demand side management cost changes, lost revenue adjustment mechanism changes for the contract market and average use/normalized average consumption adjustments.

A summary of the impact of the proposed IRM adjustments for each Rate Zone is set out in Table 1 of Exhibit B, Tab 1, Schedule 1 of the prefiled evidence, which is reproduced below.

In accordance with the MAADs Decision and the 2019 Rates Decision and Order (EB-2018-0305), Enbridge Gas has also included updates to capital pass-through and Parkway Delivery Obligation (“PDO”) costs in the Union rate zones in Phase 1.

Through the Settlement Conference process, all parties have agreed, subject to one change, that it is appropriate for Enbridge Gas to proceed to implement its as-filed IRM rate adjustments, as well as the proposed updates to the capital pass-through charges and the PDO. The one change is that Enbridge Gas has updated appropriate items to reflect updated gas costs based on the October 1, 2020 QRAM.

The parties have also agreed that Enbridge Gas will file evidence in its 2022 Rate Adjustment Application addressing the alternatives that the Company has considered to determine whether it is cost-effective to eliminate or reduce the PDO for future years.

All parties agree that it is appropriate for Enbridge Gas to implement the 2021 IRM rate adjustments and other items in this Settlement Proposal on an interim basis, to be effective January 1, 2021. The implementation will be effected in conjunction with the January 1, 2021 QRAM Applications.

Details of the settlement on the Settled Items are set out in the Issues section that follows.

## **THE ISSUES**

### **1. Is the proposed price cap rate adjustment for 2021 calculated properly?**

As set out in the prefiled evidence, Enbridge Gas has applied the Price Cap incentive rate-setting (“IR”) mechanism using a PCI to adjust rates for each of the EGD and Union Rate Zones for 2021.

All parties agree that the inflation factor of 2.0% is appropriate and will not be revised further for calculating 2021 IRM rates. All parties agree that it is appropriate to apply a PCI of 1.7%, based on an inflation factor of 2.0% and the X factor of 0.3%.

The impact of the agreed change can be seen in the table below, which is a reproduction of Exhibit B, Tab 1, Schedule 1, page 3 (Table 1), with an additional column to show the impact of updating items impacted by the updated gas costs using the October 1, 2020 QRAM:



Table 1  
Proposed Changes in Revenue by Rate Zone  
Effective January 1, 2021

Line No.	Particulars	EGD Rate Zone (\$000's) As filed <sup>3</sup>	Union Rate Zones (\$000's) As filed	Union Rate Zones (\$000's) Updated for October 2020 QRAM
	<u>Summary Change in Revenue:</u>			
1	2021 Proposed in EB-2020-0095	1,272,320	1,311,693	1,315,241
2	2020 Approved in EB-2019-0194 (1)	1,252,169	1,292,681	1,295,703
3	Net Change (line 1 - line 2)	20,151	19,012	19,538
	<u>Detail Change in Revenue:</u>			
4	2021 Price Cap Index (1.7%)	20,151	16,257	16,302
5	2021 DSM Budget Change	-	-	-
6	2021 Capital Pass-through Change	-	2,250	2,250
7	2021 Parkway Delivery Obligation Change	-	505	985
8	Total Excluding Incremental Capital Module ("ICM") Funding (lines 4 through 7)	20,151	19,012	19,538
9	2021 ICM Funding	Note (2)	Note (2)	Note (2)
10	Total (line 8 + line 9)	20,151	19,012	19,538

Notes:

- (1) EGD rate zone per Exhibit D, Tab 1, Rate Order, Working Papers, Schedule 7.  
Union rate zones per Exhibit D, Tab 2, Rate Order, Working Papers, Schedule 9.
- (2) 2021 ICM funding request(s) and supporting evidence will be filed separately.
- (3) EGD rate zone Revenue is not impacted by updating for the October 2020 QRAM.

**Evidence:** The evidence in relation to this issue includes the following:

A-2-1	Application
B-1-1	Rate Setting Mechanism
D-1	Draft Rate Order – EGD Rate Zone
D-2	Draft Rate Order – Union Rate Zones
I.STAFF.1	Staff Interrogatory #1
I.BOMA.1 and 4	BOMA Interrogatories #1 and 4
I.LPMA.1 and 3	LPMA Interrogatories #1 and 3
I.PP.3	PP Interrogatory #3

## **2. Are the proposed pass-through costs included in 2021 rates appropriate?**

The MAADs Decision approved the following costs as Y factors:

- Demand Side Management (“DSM”) costs as determined in EB-2015-0029/EB-2015-0049 and any subsequent proceeding;
- Lost Revenue Adjustment Mechanism (“LRAM”) for the contract market; and
- Average Use and Normalized Average Consumption.

The prefiled evidence sets out Enbridge Gas’s calculations of the pass-through amounts associated with these Y factors for each of the EGD and Union Rate Zones.

All parties accept the evidence of Enbridge Gas that it has properly calculated the pass-through amounts included in the application.

**Evidence:** The evidence in relation to this issue includes the following:

A-2-1	Application
B-1-1	Rate Setting Mechanism
I.STAFF.2 and 3	Staff Interrogatories #2 and 3
I.EP.1 and 2	Energy Probe Interrogatories #1 and 2
I.LPMA.2, 4, 5 and 7	LPMA Interrogatories #2, 4, 5 and 7
I.OGVG.2	OGVG Interrogatory #2

## **3. Are the capital pass-through cost adjustments proposed for 2021 rates appropriate?**

In the 2019 Rates Decision and Order (EB-2018-0305), the Board denied the proposed one-time adjustment to base rates for certain capital pass-through projects for the Union Rate Zones. In the prefiled evidence, Enbridge Gas has updated the capital pass-through projects to reflect the 2021 revenue requirement of each approved project consistent with the rate treatment in past years.

All parties accept the evidence of Enbridge Gas that it has properly calculated the capital pass-through adjustments for 2021 rates.

**Evidence:** The evidence in relation to this issue includes the following:

A-2-1	Application
B-1-1	Rate Setting Mechanism
I.EP.4	Energy Probe Interrogatory #4
I.LPMA.6	LPMA Interrogatory #6
Supplementary EP IR (I.EP.5)	Response to Supplementary EP IR

#### **4. Is the Parkway Delivery Obligation cost adjustment for the Union Rate Zones calculated properly?**

As set out in the prefiled evidence and the attached draft Interim Rate Order for the Union Rate Zones, Enbridge Gas has updated the PDO and Parkway Delivery Commitment Incentive (“PDCI”) costs included in 2021 rates for the Union Rate Zones to reflect the 2021 Rate M12 Dawn-Parkway toll and compressor fuel, based on the October 2020 QRAM (EB-2020-0195).

All parties accept the evidence of Enbridge Gas that it has properly calculated the PDO rate adjustment.

As part of the settlement of this item, Enbridge Gas agrees that within its 2022 Rate Adjustment Application (Phase 1), the Company will file evidence detailing what pipeline, non-pipeline and market-based alternative approaches Enbridge Gas has considered in order to determine whether it is cost-effective to eliminate or reduce the PDO and/or PDCI for 2022 and future years.

**Evidence:** The evidence in relation to this issue includes the following:

A-2-1	Application
B-1-1	Rate Setting Mechanism
B-1-1 App. A	Annual PDO Reporting
I.STAFF.4	Staff Interrogatory #4
I.EP.3 and 4	Energy Probe Interrogatories #3 and 4
I.FRPO.1 to 3	FRPO Interrogatories #1 to 3
I.OGVG.1	OGVG Interrogatory #1

#### **5. What is the timing for implementation of the proposed Phase 1 changes to 2020 rates?**

Enbridge Gas has prepared draft Interim Rate Orders for the EGD and Union Rate Zones reflecting the implementation of the IRM adjustments and the proposed updates to the capital pass-through and PDO costs. The draft Interim Rate Orders are attached as

Appendices “A” and “B”, and reflect the impact of updated gas costs based on the October 1, 2020 QRAM decision.

The draft Interim Rate Orders also include the adjustment of the Retail Service Charges to reflect an inflation factor (2.0%) as required by the Board's Report on Energy Retailer Service Charges (EB-2015-0304).

All parties agree that it is appropriate to implement the updated rates as of January 1, 2021, in conjunction with the January 1, 2021 QRAM Application for the EGD and Union Rate Zones. All parties agree that the updated rates should be implemented on an interim basis, so that the impacts resulting from Phase 2 of this Application, if any, can be determined and implemented at a later date if the Board so determines.

**Evidence:** The evidence in relation to this issue includes the following:

A-2-1	Application
B-1-1	Rate Setting Mechanism
D-1	Draft Rate Order – EGD Rate Zone
D-2	Draft Rate Order – Union Rate Zones

**APPENDIX A**

**DRAFT INTERIM RATE ORDER – EGD RATE ZONE**

**FILED SEPARATELY**

**APPENDIX B**

**DRAFT INTERIM RATE ORDER – UNION RATE ZONES**

**FILED SEPARATELY**



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The Settlement Proposal and associated Draft Interim Rate Orders have been filed through the Board's Regulatory Electronic Submission System (RESS).

Please contact the undersigned if you have any questions.

Yours truly,

(Original Digitally Signed)

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