Ontario Energy Board | Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2020-0094

ENBRIDGE GAS INC.

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

BEFORE: Susan Frank
Presiding Commissioner

Robert Dodds
Commissioner

November 5, 2020

Ontario Energy Board | Commission de l'énergie de l'Ontario

Ontario

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1 INTRODUCTION AND SUMMARY

On May 8, 2020, Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) under section 36 of the *Ontario Energy Board Act, 1998*, as amended (OEB Act) for approval of:

- A harmonized System Expansion Surcharge (SES)
- A Temporary Connection Surcharge (TCS)
- An Hourly Allocation Factor (HAF) across its rate zones
- Amendments to Rider I of the Rate Handbook for the EGD rate zone and Rate Schedules for Rates 01, 10, M1 and M2 for the Union rate zones to implement the SES and TCS
- Amendments to the Company's feasibility policies to implement the HAF, SES and TCS

Enbridge Gas submitted that the proposed forms of SES, TCS and HAF are required for Enbridge Gas to achieve consistency regarding its use of these surcharges and the HAF capital allocation mechanism across its rate zones. Enbridge Gas also submitted it will allow Enbridge Gas to accommodate demand for future expansion projects more efficiently without having to seek OEB approval on a project-specific basis.

OEB Findings

The OEB approves the establishment of a harmonized SES and TCS across all of Enbridge Gas's rate zones. This approval will provide consistency across various system expansions with a predictable rate and approach to customer payments.

The OEB approves the establishment of a HAF across all of Enbridge Gas's rate zones. The use of the HAF results in the allocation of the capital costs of a project in a fair and equitable manner as the costs would be allocated over time to eligible customers seeking access to the incremental capacity generated by the project.

The OEB directs Enbridge Gas to file proposed amendments to the Rate Handbook and Rate Schedules for the EGD and Union rate zones to implement the SES and TCS changes approved in this decision. The draft Rate Order shall also include Enbridge Gas's revised feasibility policies to implement the HAF, SES and TCS for each of the EGD and Union rate zones.

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2 THE PROCESS

A Notice of Hearing was issued on May 21, 2020. On June 15, 2020, the OEB issued Procedural Order No. 1, which approved the intervention requests and made provision for the filing of interrogatories and interrogatory responses.

The following parties were granted intervenor status and are eligible to apply for cost awards:

- Building Owners and Managers Association (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Canadian Propane Association (CPA)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Environmental Defence Canada Inc. (Environmental Defence)
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- London Property Management Association (LPMA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- Pollution Probe (Pollution Probe)
- Quinte Manufacturers Association (QMA)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

The City of Kitchener and EPCOR Natural Gas Limited Partnership (EPCOR) were also approved as intervenors.

Interrogatories on Enbridge Gas's evidence were filed on July 6, 2020. Enbridge Gas filed its responses on July 27, 2020.

Procedural Order No. 2 was issued on August 13, 2020, which provided for a one-day technical conference on August 20, 2020 focussed specifically on the HAF. Enbridge Gas filed its argument-in-chief on September 4, 2020. Parties filed their submissions on September 18, 2020. Enbridge Gas filed its reply submission on October 2, 2020.

3 SYSTEM EXPANSION SURCHARGE (SES) AND TEMPORARY CONNECTION SURCHARGE (TCS)

Enbridge Gas requested OEB approval to apply a SES for future Community Expansion Projects undertaken by Enbridge Gas, which it defines as projects with a Profitability Index (PI) of less than 1.0 and provide first-time natural gas access to a minimum of 50 potential customers. The OEB has already provided approval to apply a SES to the entire EGD rate zones and several individual Community Expansion Projects in the Union rate zones. Enbridge Gas is seeking to harmonize the application of the SES throughout its entire service area.

Enbridge Gas also requested that the OEB approve a TCS, which may be applied to Small Main Extension or Customer Attachment Projects, which Enbridge Gas defines as projects with a PI of less than 1.0 and provides natural gas system access to less than 50 potential customers. The TCS is meant to allow all system expansion customers, including those in projects with less than 50 potential customers, to gain similar benefits to customers being served by larger Community Expansion Projects. While similar to the SES in amount and customer-facing terms and conditions, the TCS applies for a term of at least one year and up to 20 years. The TCS project locations will be posted on Enbridge Gas's website rather than in the rate handbooks/schedules.

Several intervenors and OEB staff were generally supportive of the proposed SES and TCS, although they asked the OEB to consider a number of factors. More concerns were raised about the TCS including CCC's submission that more experience was required in successfully implementing the TCS prior to relaxing OEB oversight.

Environmental Defence opposed the TCS, submitting that it would place undue financial risks on existing customers, due to the reduced upfront contributions to natural gas expansion projects. VECC submitted that the OEB should reject the TCS proposal until the OEB has completed a public review of the OEB's policies previously set out in E.B.O. 188. Environmental Defence also raised some jurisdictional concerns, which are discussed in Section 6.

OEB Findings

The OEB approves the establishment of a harmonized SES and TCS across all of Enbridge Gas's rate zones, which will provide a predictable rate and approach to customer payments for expansion projects. While there was general acceptance of the value to customers to connect to natural gas and the advantage of avoiding large

upfront payment, there were several suggestions as to how to change the proposed SES and TCS. The OEB provides findings on each of these issues below.

3.1 Surcharge Rate and Applicability

Enbridge Gas proposed a constant volumetric SES of $0.23/m^3 for Community Expansion Projects, applicable to Rates 1 and 6 customers in the EGD rate zone and Rates 01, 10, M1 and M2 customers in the Union rate zones, who consume no more than 50,000 m^3/year. Customers who consume more than 50,000 m^3/year may elect to pay the SES or pay a contribution in aid of construction (CIAC) or use other contractual mechanisms to cover the revenue shortfall.

Enbridge Gas also proposed the same constant volumetric TCS of $0.23/m^3 which may be applied to Small Main Extension or Customer Attachment Projects, applicable to Rates 1 and 6 customers in the EGD rate zone and Rates 01, 10, M1 and M2 customers in the Union rate zones, who consume no more than 50,000 m^3/year. Customers who consume more than 50,000 m^3/year will have the option of paying the TCS or negotiating another method of contribution to the project. Enbridge Gas proposed to post the geographic location, effective date and term of TCS project areas on its website (rather than in the rate handbook/schedules).

The SES and TCS would be applied to the property such that if a new owner takes possession, they will assume payment of the SES/TCS for the balance of the applicable term.

OEB staff submitted that SES amount proposed by Enbridge Gas is reasonable and consistent with previous SES rates previously approved by the OEB[1]. Energy Probe submitted that there is insufficient evidence in this proceeding for the OEB to issue a finding that the proposed SES of $0.23/m^3 is the appropriate amount[2].

Enbridge Gas argued that the basis upon the surcharge amount was derived continues to be relevant, was recognized by the OEB in its approval of the North Bay Community Expansion Project earlier this year, and that there is no need to revisit the surcharge amount as part of this application. Enbridge Gas also submitted that there is a significant benefit to ensuring that the surcharge amount remains consistent, as it allows Enbridge Gas to have consistency in its customer communications, marketing materials, calculations and processes over a reasonable period of time, reducing customer

[1] OEB Staff Submissions, p. 10
[2] Energy Probe Submissions, p. 3

confusion and allowing customers, contractors and other stakeholders to become more familiar with the surcharge as it becomes more common for projects. Enbridge Gas stated that the same rationale applies for the TCS.

LPMA, FRPO and VECC submitted that small volume customers should have the option of paying a CIAC in lieu of the SES or TCS, as large volume customers would. Enbridge Gas submitted that the additional time, cost and complexity burdens, as well as the high potential for customer confusion outweigh the benefits of providing small volume customers this option.

OEB Findings

The OEB approves the establishment of a TCS of $0.23/m^3 which may be applied to Small Main Extension or Customer Attachment Projects. A CIAC cannot be charged in combination with the TCS. Despite concern over the lack of detail of the basis of the $0.23/m^3, the OEB finds that the $0.23/m^3 is appropriate for both SES and TCS at this time. It is consistent with the rate previously approved by the OEB. The OEB accepts OEB staff's submission that there is no evidence that the conversion costs, annual savings and acceptable payback period have changed in a material way. The OEB agrees with Enbridge Gas's reply that maintaining the current rate provides consistency in its customer communications, marketing materials, calculations and processes. Finally, the $0.23/m^3 surcharge assists customers in their understanding of system expansion charges and how they will be applied prior to indicating their desire to connect natural gas.

The OEB rejects the submission from some intervenors that small volume customers should have the option of paying a CIAC in lieu of the SES or TCS, the same as large volume customers have. Having a monthly charge makes the expansion more affordable for small volume customers and the OEB supports the consistent and simple approach to charging small volume customers. The OEB finds it appropriate to avoid the added cost of administering a system with more choice and acknowledges Enbridge Gas's concern about reducing the forecast accuracy.

3.2 Terms of the Surcharges and Updating the Project Profitability Index (PI)

Enbridge Gas proposed to apply the SES for a term of up to 40 years, to be determined in accordance with Enbridge Gas's feasibility policies, which it states follow the OEB's E.B.O. 188 Guidelines. The TCS is to be applied for a term of 1 to 20 years, and if the economic feasibility of a project does not reach a PI of 1.0 or greater with the

application of the TCS over the maximum 20-year term, Enbridge Gas will require a CIAC in addition to the TCS. Enbridge Gas clarified that any CIAC will be established at the time of the initial feasibility assessment and based on forecasted customers and volumes, prior to construction and not at a later stage.

Enbridge Gas proposed that the terms of the surcharge for each project would be set such that the project would achieve a PI of 1.0, and that once set, even if a project's PI reached a PI of 1.0 prior to the end of the original term, the surcharge would remain in place for the duration of the original term. Enbridge Gas submitted that any increased profitability derived from the project would work towards reducing rates for all ratepayers and the risk of a revenue shortfall is symmetrical to this potential benefit. Enbridge Gas further stated that the annual review of a project PI would be an administrative burden and would provide few potential benefits to ratepayers.

Enbridge Gas clarified that the SES projects would be included in the Rolling Project Portfolio, with the PI tracked and reviewed consistent with other expansion projects and pursuant to E.B.O. 188 requirements. TCS projects would be included in Enbridge Gas's Rolling Project Portfolios and Investment Portfolios to determine financial feasibility and rate impact of these projects as per E.B.O. 188[3].

OEB staff submitted that Enbridge Gas's proposal to not periodically update the project PI (and therefore potentially the SES term) is consistent with a recent OEB decision in the North Bay LTC proceeding and with the current treatment of non-SES expansion projects[4]. OEB staff noted that approving Enbridge Gas's proposal to not provide an annual review of project PIs would supersede the OEB's decision in the Fenelon Falls proceeding (which required such reporting for SES projects in the EGD rate zone), and the 2015 Community Expansion Proceeding (which approved the annual reporting on forecast achievement levels in SES projects in the Union rate zones).

CCC submitted that once Enbridge Gas has reported on the capital cost, attachment and PI information of a project at rebasing, the OEB can assess if Enbridge Gas should eliminate the SES if a project's PI has moved to 1.0 or above.

CCC also stated that it was generally supportive of the TCS, with its acceptance based on Enbridge Gas being very clear in communicating to new customers that they will be required to pay a TCS, and on Enbridge Gas considering extending the term of the

[3] Argument-in-chief, p. 9
[4] OEB Staff Submissions, p. 11

TCS, rather than requiring a CIAC, if the 20-year TCS term does not make a project economically viable[5].

LPMA also argued that customers should be treated equally whether they are in an SES or TCS project area, and that a 20-year maximum for the TCS could have the impact of an upfront CIAC that could be eliminated, or at least reduced, if the maximum term of the TCS was extended to match that of the SES[6]. FRPO supported LPMA's submission on this issue.

Pollution Probe submitted that it has concerns regarding the SES or TCS over-collecting revenues from consumers. Pollution Probe argued that the provincial government's mandate to expand natural gas is meant to reduce energy costs for consumers in Ontario, and that collecting excess revenue from new customers would be contrary to that policy goal[7].

In its reply submission, Enbridge Gas stated that it had proposed a 20-year maximum term for TCS projects because TCS projects are smaller in scope than SES projects and it is less likely that a surcharge beyond the 20-year maximum would be required in order to avoid customers having to pay a CIAC. Enbridge Gas stated that while it believes that the 20-year maximum term should accommodate the majority of TCS projects, it is not opposed to extending this term to the maximum amount allowed by E.B.O. 188 (40 years for small volume customers) if required to help customers mitigate a CIAC payment.

OEB Findings

The OEB approves extending the TCS term to a maximum of 40 years for projects with less than 50 potential customers. While Enbridge Gas proposed a maximum of 20 years for TCS since the projects are smaller than SES projects, the OEB sees no harm in allowing a maximum term of 40 years for TCS. Enbridge Gas indicated it was not opposed to a 40-year maximum term, if required.

The OEB approves Enbridge Gas's proposal to not periodically update the project PI (and potentially the SES term) for all future SES projects. In addition to the added effort and cost to update the PI, Enbridge Gas would need to be able to respond to reductions in PI as well as increases. The OEB does not want to allow terms beyond 40 years or a

[5] CCC Submissions, pp. 3-4
[6] LPMA Submissions, p. 3
[7] Energy Probe Submissions, p. 3

change in the SES. It is more efficient to not update the project PI, as well as being consistent with current practice for most CIACs. The OEB acknowledges that an increase in profitability associated with a PI above 1.0 for a project will increase revenues to Enbridge Gas from the project and reduce rates for all ratepayers. However, a reduction in profitability will reduce revenues to Enbridge Gas and eventually increase rates for all ratepayers.

As part of the approval in two previous Enbridge Gas Distribution community expansion cases (Fenelon Falls[8] and Scugog[9]) the OEB required an annual update to the PI for the projects, and a commensurate adjustment to the term of the SES where warranted. Although the OEB is not requiring this practice going forward, the decisions in the Fenelon Falls and Scugog cases remain in effect.

3.3 Treatment of Revenue Requirement and Capital Costs

Enbridge Gas stated that its proposal is consistent with prior approved applications in that Community Expansion/SES projects will be subject to a ten-year rate stability period (RSP) during which Enbridge Gas would bear the risk of its customer attachment forecast and revenue requirement. Enbridge Gas indicated that it would not seek to recover from existing or new community expansion customers any shortfall related to customer attachment and revenue requirement during the RSP.

At the next rebasing (but before the end of the RSP), Enbridge Gas stated that it would include the original forecasted capital costs (net of any third-party funding) of a project in rate base as of the in-service date. By using the original forecasted capital costs, and not the actuals, Enbridge Gas will be at risk for any variances from the initial estimate during the RSP.

At the next rebasing application after the ten-year RSP expires, Enbridge Gas proposed to use actual revenues and actual capital costs of a project to determine any revenue sufficiency or deficiency for rate-setting purposes. Enbridge Gas clarified that if the expiry of the ten-year RSP occurs during an incentive rate mechanism (IRM) and not a rebasing year, any excess revenue or shortfall in rates would form part of the utility revenue that is subject to earnings sharing until the next rebasing, depending on the approved IRM framework at the time.

[8] EB-2017-0147
[9] EB-2017-0261

Enbridge Gas proposed to treat the proceeds of the SES and TCS as revenue. SES projects would also not be eligible for Incremental Capital Module (ICM) funding.

OEB staff submitted that Enbridge Gas's proposal to include the forecasted capital costs in rate base at the next rebasing before the end of the RSP is consistent with the Generic Decision's requirement for a Community Expansion Project and would achieve the desired goal that Enbridge Gas would bear the risk of any capital cost overrun during the RSP[10].

CCC also submitted that the capital costs, customer attachments and PI information that Enbridge Gas proposes to report should inform the OEB upon rebasing on what costs are to be included in rate base (with any cost overruns to be assessed by the OEB[11]), and whether the application of the SES for each project should continue as planned.

In its reply argument, Enbridge Gas agreed that any future OEB review of SES projects after the RSP is not pre-empted by the approval of this application.

OEB Findings

The OEB finds that inclusion of the forecasted capital costs in rate base at the next rebasing before the end of the RSP is consistent with the Generic Decision's requirement for a Community Expansion Project and would achieve the desired goal that Enbridge Gas bear the risk of any capital cost overrun during the RSP. The OEB also finds that the treatment of actual capital costs at the time of rebasing following the rate stabilization period is appropriately the jurisdiction of the panel reviewing the rate rebasing case.

3.4 Reporting

Enbridge Gas stated that it would inform the OEB of future SES projects by adding a reference to each SES project in the Rider I rate schedule for Community Expansion Projects in the EGD rate zone, and by adding references to each of the SES projects in the Union rate zones' rate schedules[12].

[10] OEB Staff Submissions, pp. 10-11
[11] CCC Submissions, pp. 2-3
[12] Exhibit I.Staff.6(d)

At the end of the ten-year RSP, Enbridge Gas proposed to report the following information for each SES project for the most recently ended fiscal year for which actual information is available on a project-specific basis:

- Budgeted and actual capital costs for the project, both at a gross level, and net of any CIAC, as of a project's in-service date
- Cumulative forecasted customer and actual customer attachments for the duration of the project's ten-year customer addition forecast period
- The project PI updated to reflect the project's actual capital cost and revenues over its RSP

Enbridge Gas did not propose to separately track and report on TCS projects. Instead, it proposed to include TCS projects in its Rolling Project Portfolio and Investment Portfolios alongside other system expansion projects. The TCS project locations will be posted on Enbridge Gas's website rather than in the rate handbooks/schedules.

OEB staff supported Enbridge Gas's proposal to report on the capital costs, customer attachments and PI of SES projects at the end of the ten-year RSP, but submitted that the reporting requirements should apply to all projects, whether they need leave to construct (LTC) or not. OEB staff agreed with Enbridge Gas's proposal to include TCS projects in its portfolios as a means of determining the financial feasibility of these projects, as per E.B.O. 188.

SEC stated its concerns as to how the OEB will ensure that competition is facilitated consistent with the Decision in the Generic Proceeding on Community Expansion (Generic Decision), if Enbridge Gas does not need to apply for any other approvals for community expansion projects[13]. SEC argued that Enbridge Gas should provide notice to the OEB regarding potential community expansion projects, without any exceptions, so that a determination can be made if a competitive process is required.

OEB Findings

The OEB confirms the requirement to continue to report on the capital costs, customer attachments and PI of SES projects that require a LTC at the first rebasing following the end of the ten-year RSP. The same information will be required for TCS projects that require LTC. This information will be vital to the panel deciding on the inclusion of actual

[13] SEC Submissions, p. 3

costs in rate base after the RSP. It will also assist the OEB in the assessment of forecasts of costs and customer attachments in future LTC applications.

The OEB does not accept SEC's recommendation that Enbridge Gas needs to inform the OEB about SES projects that are below the LTC threshold. The OEB finds that these small projects will not have a material impact on competitive construction opportunities.

The OEB acknowledges the benefit of advanced reporting on future SES and TCS projects in assessing the need for a competitive process. The OEB requires Enbridge Gas to report on planned or forecasted SES and TCS projects that will require a LTC. Enbridge Gas is to add a reference to SES projects in the EGD rate zone in the Rider I rate schedule, and a reference to the SES projects in the Union rate zones in the appropriate Union rate zone rate schedule. The OEB accepts the method of reporting proposed for the TCS.

3.5 Communication with Customers

The Community Expansion Projects to which an SES applies will be set out in Rider I for the EGD rate zone and in the applicable schedules for the Union rate zones. Customers affected by the TCS will be informed of these details as the project is being developed and at the time the customers make their application for service to Enbridge Gas.

CCC stated that it was generally supportive of the SES and the need for harmonization and of the TCS, but that its acceptance was based on Enbridge Gas being very clear in communicating to new customers in the new communities that they will be required to pay an SES or TCS.

CPA submitted that if the OEB does grant blanket approval of the surcharges, the OEB should require Enbridge Gas to seek prior OEB approval of its surcharge survey and marketing materials to ensure that customers are not misled and that attachment forecasts are accurate[14].

Enbridge Gas stated in its reply that it has improved its communications materials over time, and that it has not received any complaints about the SES since February 2020, despite attaching hundreds of new customers since that time. Enbridge Gas submitted that requiring advance OEB approval of its survey and marketing materials would

[14] CPA Submissions, p. 3

hamper Enbridge Gas's ability to make any required modifications expeditiously for different geographic locations and circumstances. Enbridge Gas argued that this is one of the reasons why Enbridge Gas is proposing to implement the surcharges consistently across its rate zones, and that approval of this application will support Enbridge Gas's efforts to communicate the SES and TCS in a consistent manner to all stakeholders, to the benefit of existing and prospective customers.

OEB Findings

The OEB will not require prior approval of survey and marketing materials. It is the responsibility and obligation of a regulated utility to ensure customers are adequately consulted and informed by means chosen by the regulated utility. The OEB notes that Enbridge Gas improved its customer communications after its original SES expansions adding various communication tools including educating heating, ventilation and air conditioning contractors. CPA's submission that the OEB should require Enbridge Gas to obtain prior OEB approval of its survey and marketing materials for the surcharges goes against the typical customer communication required for utilities.

The OEB monitors customer complaints and requires utilities to communicate with customers to address any issue. Also, customers have the option to contact the OEB if they are dissatisfied with their service.

4 HOURLY ALLOCATION FACTOR (HAF)

Enbridge Gas requested that the OEB approve the HAF as a capital cost allocation method in calculating the economic feasibility of future Development Projects, which are defined as a system expansion project that will expand capacity over a certain area to serve increasing demands from existing and/or new customers.

Several intervenors noted that the proposed HAF definition did not appear to clearly account for the first step of the HAF calculation which is to split the project and capital cost into a large volume and small volume component based on proportionate demands. In reply, Enbridge Gas clarified that the first step of the HAF calculation is to split the capital cost into large volume and small volume component based on the forecast of respective peak hourly demands. Customer-specific capital costs such as dedicated distribution main, service lines, customer stations and meters are excluded from the feasibility analysis used for calculating the HAF.

The HAF is then calculated by dividing the forecast capital cost of the large volume component of the Development Project (net of any municipal or governmental funding) by the sum of the forecast firm hourly large volume customer demand (regardless of seasonality) that the project serves within the Area of Benefit. The Area of Benefit is determined by hydraulically modelling the pipeline network in the region around the proposed Development Project to determine the geographic extent of the area that will benefit from the incremental capacity of the project.

LPMA and FRPO raised concerns about the timing of connection of some large volume customers and how they could potentially avoid an allocation of the HAF if they delayed connecting or informing Enbridge Gas about their need for gas service. LPMA suggested that Enbridge Gas allocate the HAF to all large volume customers regardless of whether they were specifically forecasted. Enbridge Gas confirmed that this is how the HAF proposal would work and is consistent with how it has been implemented to date. Enbridge Gas further clarified in its reply that its forecast for the large volume component of a Development Project would be for up to 10 years, consistent with E.B.O. 188 Guidelines.

Enbridge Gas proposed to standardize its use of the HAF by establishing two thresholds:

- Threshold of Eligibility: For all new Development Projects, the HAF will only apply to customers within an Area of Benefit whose forecast hourly gas consumption demand is at least 50 m^3/hour.

- Contracted Commitment Threshold: Enbridge Gas will only proceed with a Development Project if it has secured contractual commitments for firm capacity for at least 50% of the large volume capacity available for the project.

Once determined, Enbridge Gas will allocate and apply the HAF as a capital cost to the individual economic analysis of customers that would receive incremental capacity as they commit to or contract for natural gas service. Enbridge Gas clarified that the HAF is not a charge or payment but an allocation mechanism, the employment of which may or may not result in a CIAC payment (and/or surcharge). Once the total incremental capacity has been fully allocated, Enbridge Gas will cease to allocate and apply the HAF to the economic feasibility of new customers requesting service in the Area of Benefit.

Enbridge Gas stated that it intends to use the HAF process on Development Projects that may involve a mix of distribution and transmission facilities. Enbridge Gas clarified that if the small volume component meets the criteria of a Community Expansion Project and has a PI of less than 1.0, then Enbridge Gas would apply the SES. If the small volume component meets the criteria for a TCS project, then Enbridge Gas would apply the TCS.

FRPO, IGUA, LPMA, SEC and OEB staff all generally supported the approval of the HAF proposal. IGUA also noted that the OEB had previously encouraged the consideration of a mechanism to have parties benefiting from "dual function" transmission projects to make a contribution to these projects[15]. SEC expressed a concern that there would be no testing of the attachment and demand forecasts for non-leave to construct projects prior to the project being constructed[16]. FRPO was concerned that Enbridge Gas's proposal to use the estimated capital costs and customer attachment and volumetric forecast for rate setting purposes appears to shift the risk from the utility to ratepayers without the benefit of better information or upside for ratepayers[17].

CCC accepted the HAF as an appropriate method to allocate a portion of project costs to large volume customers, and stated that it expects that HAF implementation will be

[15] IGUA Submissions, p. 6
[16] SEC Submissions, p. 5
[17] FRPO Submissions, p. 4

considered by the OEB on a case-by-case basis to ensure that its implementation is fair to all customers[18].

OGVG submitted that it generally supported the use of an HAF to allocate the costs of a distribution project to large volume customers for the purpose of the required economic feasibility calculation under E.B.O. 188.

EPCOR also submitted that while the risk and benefits in the application and evidence may support the approval of the HAF for small, non-LTC projects, the same cannot be said for larger projects[19]. EPCOR proposed that over the course of three years, the impacts of HAF on LTC projects will be better understood, and that Enbridge Gas could apply for a blanket approval for all community development projects then.

VECC submitted that the OEB should reject the HAF proposal until such time that the OEB has completed a public review of the OEB's policies previously set out in E.B.O. 188. VECC submitted that the HAF is a method of calculating CIAC costs for large volume customers and represents a fundamentally new way of forecasting large system loads in projects[20]. VECC submitted that the HAF exposes all customers, including residential customers, to greater forecast risk, and that there is no proposal for compensating ratepayers for this new risk[21].

Environmental Defence opposed the HAF as it would place undue financial risks on existing customers, as it reduces the upfront contributions to natural gas expansion projects and increases the risk that existing customers would cover the costs if forecast future contractual commitments do not materialize.

Energy Probe submitted that the HAF proposal appears to deal with inequitable situations between large volume customers, but that it increases inequitable situations between new large volume customers and existing customers[22]. Energy Probe submitted that unless Enbridge Gas could address this concern in its reply argument, the OEB should turn down the HAF proposal.

[18] CCC Submissions, p. 4
[19] EPCOR Submissions, p.4
[20] VECC Submissions, p. 12
[21] VECC Submissions, p. 13
[22] Energy Probe Submissions, p. 6

OEB Findings

The OEB approves the establishment of a HAF across all of Enbridge Gas's rate zones. The use of the HAF results in the allocation of the capital costs of a project in a fair and equitable manner as the costs would be allocated over time to eligible customers seeking access to the incremental capacity generated by the project.

The OEB approves of the clarification of the HAF definition through Enbridge Gas's revised definitions in the EGD Rate Zone Economic Feasibility Procedure and Policy and the Union Rate Zones' Distribution New Business Guidelines.

While there is a general acceptance of the establishment of a HAF, there were submissions with respect to suggestions and clarifications to the application of a HAF and the OEB provides findings on these issues.

4.1 Timing of Rebasing and CIAC Collection

Enbridge Gas stated that rate treatment for Development Projects would be consistent with TCS and other system expansion projects (other than SES projects) – it would follow the same reporting requirements set out in E.B.O. 188, and that the Projects would be part of Enbridge Gas's Rolling Project and Investment Portfolios. This means that while it might take time for the new capacity generated by the Development Project to be fully utilized, as long as the Development Project is feasible as per E.B.O. 188 guidelines, its revenue requirement would be fully recoverable from customers in consideration of the regulatory mechanism in place. Enbridge Gas explained that regardless of how much capacity of a Development Project is utilized (or allocated) on the in-service date, the entire revenue requirement of the Development Project would be recovered from customers as follows:

- During the IRM period, Enbridge Gas would use existing rates to determine whether they are sufficient to cover the costs of the project. If the Development Project meets the Incremental Capital Module (ICM) criteria, Enbridge Gas would request approval for ICM treatment for that project.

- At cost-of-service rebasing, the Development Project's entire cost (net of any CIAC) and entire revenue requirement would be allocated to customers based on the approved cost allocation methodology and recovered from customers in rates accordingly.

FRPO proposed that actual capital costs and actual customer attachments should be evaluated to provide the OEB with information to test the on-going balancing of interests with the potential to allow only a partial incorporation of capital until the investment is reasonably used and useful[23].

EPCOR and CME submitted that Enbridge Gas's proposed application of the HAF has the potential to drive over-earning. Both EPCOR and CME noted that Enbridge Gas is proposing to include the entire cost of the project in rate base in the first rate case after the in-service date minus any capital contributions, and then continue to allocate the HAF and require capital contributions if the customer's contract does not result in revenue meeting their HAF allocation[24]. As a solution, EPCOR and CME suggested that Enbridge Gas could be directed by the OEB to deduct incremental CIAC/future HAF capital contributions from rate base at the time they are made, which should prevent over-recovery during the period in between rebasing [25].

In its reply, Enbridge Gas noted that to date, no CIAC payments have resulted from any projects for which a HAF has been applied, and that in Enbridge Gas's experience, large volume customers typically prefer to avoid CIAC payments by negotiating appropriate contract terms. Enbridge Gas stated that to the extent a feasibility analysis results in a CIAC payment, Enbridge Gas will offset the rate base value of the applicable assets at the time that CIAC payment is received. Enbridge Gas explained that depending upon when the project goes into service, Enbridge Gas may be perceived to either be under-earning or over-earning on the project. If a project goes into service within an incentive rate period, Enbridge Gas would have to wait until its next rebasing application to make any adjustments to rate base for the project. At rebasing, a project's entire revenue requirement would be allocated to rate classes based on the approved cost allocation methodology. Enbridge Gas argued that for any project for which Enbridge Gas has made the full investment, the total amount of the capital costs should be included in rate base at rebasing. Enbridge Gas submitted that unallocated capacity does not result in over-earnings, as during the incentive regulation term following rebasing, revenue from new customers taking the unallocated capacity form part of utility earnings that are subject to sharing based upon the incentive regulation model in place at the time. Enbridge Gas submitted that unallocated capacity

[24] EPCOR Submissions, p. 2; CME Submissions, p. 3
[25] Ibid.

is simply a short-term timing variance that, relative to all of the HAF benefits of efficient allocation of project capacity and cost, results in overall benefits to ratepayers.

OEB Findings

The OEB approves the proposed rate treatment for Development Projects since it is consistent with TCS and other system expansion projects (other than SES projects). It would follow the same reporting requirements set out in E.B.O. 188, and the Development Projects would be part of Enbridge Gas's Rolling Project and Investment Portfolios.

The OEB finds that unallocated capacity does not result in over-earnings over time and that Enbridge Gas will be permitted to earn an allowed rate of return on its investment. Unallocated capacity is a short-term timing variance that, relative to all of the HAF benefits of efficient allocation of project capacity and cost, results in overall benefits to ratepayers.

4.2 Economies of Scale

OGVG also proposed that in supporting the aggregation of large user capacity requirements over a forecast attachment horizon, Enbridge Gas should be prepared to demonstrate that: a) the inclusion of forecast large user capacity requirements results in a project with an HAF that is lower than the HAF that would have been experienced by the year, and b) the design of the project is tailored as closely as possible to the forecast capacity requirements over the ten-year attachment horizon so as to minimize the amount of unallocated capacity on the project[26].

In its reply submission, Enbridge Gas stated that its goal for Development Projects is to facilitate the connection of customers seeking service in a fair, efficient and economic manner. Enbridge Gas stated that in general, the higher the total capacity being served, the more economically efficient the costs. Enbridge Gas submitted that a long-term forecast and building the least cost facilities that can serve that forecast is in the best interests of the greatest number of customers.

[26] OGVG Submissions, pp. 3-4

OEB Findings

The OEB finds that Enbridge Gas's projection of capacity based on a long term forecast of larger users and building the least cost facilities to serve that forecast is acceptable and best serves the interests of the greatest number of customers.

Further, in its projections of capacity Enbridge Gas incorporates all available information into the formation of the forecast for Development Projects, including municipal information.

4.3 Forecast Risk

LPMA suggested that municipal zoning bylaws and past development history of an area should be incorporated into the Enbridge Gas ten-year forecasts.

IGUA noted that Enbridge Gas has emphasized a number of processes and tools to be used in applying the HAF to mitigate demand forecast risk aside from the 50% committed capacity threshold, including a formal expression of interest process to test large volume customers' demand forecasts, engaging directly with large volume customers to assess their demand forecasts, and validating their demand forecasts with other parties such as economic development groups and municipalities[27].

In its reply, Enbridge Gas also stated that it does incorporate all available information into the formation of the forecast, including municipal information, and will, where appropriate, include placeholders given the past development history of an area.

Environmental Defence submitted that if new customers convert away from using natural gas, remaining customers would be left to fund the balance of the unpaid portion. Enbridge Gas replied that the risk of existing and new customers migrating away from natural gas service appears to be very low given the CER's projections of increased natural gas demand over the next couple of decades and the significant Ontario municipal support for expanding natural gas distribution systems.

OEB Findings

The OEB finds that the forecast risk is acceptable since Enbridge Gas incorporates all available information into the formation of the forecast for Development Projects,

[27] IGUA Submissions, p. 6

including municipal information, and will, where appropriate, include placeholders given the past development history of an area.

The OEB finds that ED arguments regarding increased forecast risk are not supported by the evidence.

4.4 Use of HAF for Transmission Projects

OGVG stated that its primary concern with Enbridge Gas's HAF proposal was that it may be used inappropriately to underpin transmission projects, causing individual large users to become responsible for capital contributions where, under the OEB's current policies with respect to transmission level projects, no such capital contributions from individual customers would be required[28].

EPCOR submitted 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[29].

Enbridge Gas stated in its reply that it is mindful of customers' perspectives regarding the higher costs associated with large transmission projects and the necessity to assess societal benefits under stages 2 and 3 of E.B.O. 134. Enbridge Gas submitted that in the case of the Chatham-Kent Rural project, although it involved transmission facilities, the HAF was appropriate due to the modest cost and the fact that customers were able to mitigate their costs and avoid a CIAC through reasonable contract terms and condition. Enbridge Gas stated that it is continuing to explore alternatives to applying E.B.O. 134 or E.B.O. 188 in an exclusive manner and how to reconcile the two sets of guidelines in an appropriate case, but that it does not have an alternative to present at this time.

OEB Findings

The OEB recognizes the concern of some parties about the use of HAF in transmission projects and finds Enbridge Gas's commitment to continue to explore alternatives to be acceptable. The OEB approves the use of HAF for projects that are primarily distribution and if there is a minor component of transmission then the OEB would still accept the use of HAF. For exclusively transmission projects, the OEB has not agreed to the application of HAF.

[28] OGVG Submissions, p. 4
[29] EPCOR Submissions, p. 3

4.5 CIAC Refunds

When asked about potential refunds for CIACs paid to a Development Project or true-ups to the HAF "rate" in the event that there was an increase in forecasted demand, Enbridge Gas stated it was not proposing to refund any CIACs collected for a Development Project.

EPCOR submitted that the HAF results in the discriminatory treatment of certain large volume customers vis-à-vis the ability to apply for a refund. Customers who have paid a contribution that was not determined through the HAF allocation process may be eligible for a refund, while Enbridge Gas has proposed that HAF customers who have paid a contribution will not have the option of applying for a refund[30].

Enbridge Gas explained that a Development Project is designed to cater to the load of forecasted customers, and as such it was unlikely that the actual load would exceed the original forecast to trigger a CIAC refund. Enbridge Gas also stated that true-ups to the HAF "rate" (in the event that there was an increase in forecasted demand) had also been previously considered in the Chatham-Kent proceeding, but had been rejected by the OEB. Enbridge Gas reiterated that customers generally had no interest in a provision for a refund, as symmetrically the customers could be liable for any potential capital overages.

OEB Findings

The OEB finds that provision for refunds for CIACs paid to a Development Project or true-ups to the HAF "rate" in the event that there was an increase in forecasted demand would not be appropriate given that (a) customers generally expressed no interest in such a provision and (b) this would require customers to assume liability for cost overages.

[30] EPCOR Submissions, p. 3

5 AMENDED FEASIBILITY POLICIES

Enbridge Gas sought approval for a revised Rider I for the EGD rate zone, revised rate schedules for the Union rate zones to implement the SES and TCS, and for related amendments to its feasibility policies to implement the HAF, SES and TCS.

OEB staff and LPMA submitted that the proposed amendments to Enbridge Gas's rate handbooks and feasibility policies should be approved.

OEB staff also requested that Enbridge Gas indicate in its reply submission whether it could harmonize its feasibility procedures and policy and extend the CIAC refund policy to all customers now rather than await until its next rebasing application[31].

Energy Probe submitted that Enbridge Gas's feasibility policies should be harmonized now into a single policy that references Rider I for the EGD rate zone and the rate schedules for Union Rate zones, and that Enbridge Gas should not wait for rebasing. Energy Probe submitted that the OEB should make its approval of the application conditional on Enbridge Gas filing within 90 days a consolidated set of feasibility policies based on Exhibits C, Tab 2 and Schedules 1 and 2[32].

In its reply, Enbridge Gas stated that it was not opposed to extending the refund option. However, Enbridge Gas submitted that in order to harmonize the CIAC policies, it would be necessary to consider and weigh the pros and cons of either 1) extending the refund policy to the Union rate zones, or 2) eliminating it from the EGD rate zones. Enbridge Gas also noted that the rules related to service lateral installations also differ between the EGD and Union rate zones, and that it would need to present additional evidence for the OEB to harmonize those policies. Enbridge Gas reiterated that it would bring forward evidence in a subsequent application or at its next rebasing application to address further harmonizing its customer connection policies.

OEB Findings

Intervenors' and OEB staff's concern that feasibility policies should be harmonized into a single policy is typically consistent with OEB expectations. However, the OEB has accepted in a previous decision[33] that changing policies and rate treatments across the EGD and Union areas should wait until the next rebasing. It is now only a short time

[31] OEB Staff Submissions, p. 12
[32] Energy Probe Submissions, p. 6
[33] EB-2018-0305

until rebasing and it would be beneficial to review the customer treatment across several areas at the same time. The OEB directs Enbridge Gas to submit revised feasibility policies as part of the rebasing application.

5.1 Minimum Profitability Index (PI) Required

Enbridge Gas is proposing to raise the minimum PI for all individual projects, which was previously considered feasible at 0.8, to a PI of 1.0[34]. OEB staff agreed with Enbridge Gas's view that E.B.O. 188 permits a utility to use a minimum PI of 0.8 for individual projects as long as its portfolio PIs were above 1.0, and that it does not preclude the utility from using a higher PI threshold. OEB staff supported raising the minimum PI to a PI of 1.0 as it further reduces the potential for cross-subsidization between new and existing customers.

OEB staff also noted that approving Enbridge Gas's current proposal would override the OEB's decision in the previous blanket SES approval in the Fenelon Falls proceeding that set the requirement for capital contributions from contract customers to achieve a PI at a minimum of 0.8" [35].

VECC submitted that under Enbridge Gas's proposal, if all projects are required to meet a financial threshold of 1.0 or greater, the concept of a portfolio would be irrelevant[36]. VECC submitted that the OEB should revisit E.B.O. 188 to satisfy itself that ratepayers are receiving fair treatment and that the policy is used to maximize the number of customers who can avail themselves of the benefit of natural gas service[37].

CCC also submitted that given climate change policies, new technologies and the changing economics of alternatives to natural gas, undertaking a wholesale review of the OEB's expansion policies and considering issues related to cross-subsidization and stranded assets, prior to Enbridge Gas's next rebasing, would be in the best interests of natural gas customers in Ontario[38].

Pollution Probe also argued that it would be useful to review the requested changes as part of a generic review of the EBO 188 Guidelines to ensure that all interrelated issues are considered and to reduce the risk of unintended consequences. Pollution Probe

[34] OEB Staff Submissions, p. 14
[35] Ibid.
[36] VECC Submissions, p. 10
[37] VECC Submissions, p. 11
[38] CCC Submissions, p. 4

submitted that the proposed revised feasibility policy does not provide rules on how "exceptional circumstances" where a PI down to 0.8 could be applied and that this could provide more ambiguity than E.B.O. 188[39].

In its reply argument, Enbridge Gas stated that it had not proposed any feasibility policy amendments that are inconsistent with E.B.O. 188, and argued that the proposed PI threshold of 1.0 is fully supported by E.B.O. 188 and prior OEB decisions that have approved the SES and the HAF. Enbridge Gas submitted that the practical application of E.B.O. 188 has and continues to be to ensure that the utility is able to maintain an Investment Portfolio and Rolling Project Portfolio PI of 1.0 or greater. Enbridge Gas stated that this does not mean that it does not apply a PI of 0.8, but that this lower PI threshold is the exception generally reserved for system reinforcement projects, and not the rule.

OEB Findings

The OEB approves the amendments to the Enbridge Gas feasibility policies including changing the PI threshold to 1.0 rather than 0.8 for expansion projects that will be subject to an SES or TCS. The PI of 1.0 avoids current customers subsidizing new customers.

The decision to initiate a review of E.B.O. 188 as suggested by several parties is outside the scope of this panel's review.

[39] Pollution Probe Submissions, p. 5

6 ENVIRONMENTAL DEFENCE'S ARGUMENTS CONCERNING THE OEB'S JURISDICTION

Environmental Defence submitted that this OEB panel does not have the jurisdiction to issue an order that would either approve or prohibit the use of the SES, TCS or HAF in this proceeding, as it would fetter the discretion of future OEB panels considering future applications, and that it would not be appropriate to grant the pre-approval sought by Enbridge Gas without important evidence that will only be available in a future leave to construct or rebasing application.

OEB staff, IGUA and SEC noted that significant expansion projects will require LTC approval and/or have submitted that OEB approval of the SES, TCS, or HAF mechanism do not preclude further review of the projects Enbridge Gas intends to apply to in LTC applications.

Enbridge Gas submitted that Environmental Defence implies that the OEB has already acted improperly in approving the SES on a generic basis in the EGD rate zone, but that Environmental Defence had not challenged that particular OEB decision. Enbridge Gas submitted that its application simply seeks to harmonize and update terms and conditions already approved in both the EGD or Union rate zones. Enbridge Gas reiterated that the OEB will have an opportunity to review project forecasts, assumptions and actuals in required leave to construct (LTC) and rebasing applications and through reporting required pursuant to E.B.O. 188.

Enbridge Gas also clarified that the SES and TCS are rates with applicable terms and conditions, and argued that it is the OEB's "bread and butter" to make orders approving or fixing just and reasonable rates in accordance with section 36 of the OEB Act. Enbridge Gas also submitted that the OEB has found that contributions in aid of construction (CIAC) is a rate and that the E.B.O. 188 Report and Guidelines allow natural gas distributors to recover this rate without seeking approval of it on a project-by-project basis.

OEB Findings

The OEB does not accept Environmental Defence's submission. Environmental Defence's assertion that the OEB does not have jurisdiction to issue an order that would either approve or prohibit the use of the SES, TCS or HAF in this proceeding is without merit. This is an application under section 36 of the OEB Act, with the OEB approving it as a rate order. The SES and TCS are rates of $\$0.23/m^3$, and they will appear in the rate schedules. Similar to a CIAC, the HAF is also a formulaic input to a rate order.

Future panels will use established rates and treatment unless the circumstances in the specific application requires a different rate.

7 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 36 of the OEB Act, a system expansion surcharge (SES) in the form of a rate rider in the amount of $0.23 per m^3 for a maximum term of 40 years is to be applied to all new Rates 1 and 6 customers in the EGD rate zone and Rates 01, 10, M1 and M2 customers in the Union rate zones of future Community Expansion Projects who consume no more than 50,000 m^3/year and otherwise as described in this decision. The surcharge will apply where the Profitability Index absent an SES is less than 1.0 and will provide first-time natural gas access to a minimum of 50 potential customers. Customers who consume more than 50,000 m^3/year may elect to pay the SES or pay a contribution in aid of construction (CIAC) or use other contractual mechanisms to cover the revenue shortfall.

2. Pursuant to section 36 of the OEB Act, a temporary connection surcharge (TCS) in the form of a rate rider in the amount of $0.23 per m^3 for a maximum term of 40 years may be applied to new Enbridge Gas Inc. customers who consume no more than 50,000 m^3/year and otherwise as described in this decision. The surcharge will apply where the Profitability Index absent a TCS is less than 1.0 and will provide first-time natural gas access to less than 50 potential customers in Small Main Extension and Customer Attachment Projects.

3. The Hourly Allocation Factor (HAF) as described in this decision is to be applied in the economic feasibility calculations for all new Enbridge Gas Inc. Development Projects.

4. Enbridge Gas Inc. shall file a draft Rate Order that reflects the findings in this Decision and Rate Order by **November 16, 2020**. The draft Rate Order shall include Rider I of the Rate Handbook for the EGD rate zone and Rate Schedules for Rates 01, 10, M1 and M2 for the Union rate zones to implement the SES and TCS. The draft Rate Order shall also include Enbridge Gas Inc.'s revised feasibility policies to implement the HAF, SES and TCS for each of the EGD and Union rate zones. The OEB expects that the information contained in the rate schedules referenced above will be consistent across the EGD and Union rate zones in terms of the applicability, rate and maximum term. In addition, the OEB directs Enbridge Gas to submit revised feasibility policies to harmonize all their policies as part of the its next rebasing application.

5. Intervenors and OEB staff will have the opportunity to submit comments on the draft Rate Order by **November 23, 2020**. Enbridge Gas Inc. will have the opportunity to provide responses to comments received from intervenors and OEB staff by November 30, 2020.

All materials filed with the OEB must quote the file number, **EB-2020-0094**, and be submitted in a searchable/unrestricted PDF format with a digital signature through the OEB's web portal at https://pes.ontarioenergyboard.ca/eservice. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the Regulatory Electronic Submission System (RESS) Document Guidelines found at www.oeb.ca/industry. We encourage the use of RESS; however, parties who have not yet set up an account, may email their documents to registrar@oeb.ca.

All communications should be directed to the attention of the Registrar and be received no later than 4:45 p.m. on the required date.

Email: registrar@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto November 5, 2020

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar