

Enbridge Gas Inc.

2021 Federal Carbon Pricing Program Application

PROCEDURAL ORDER NO. 1

November 10, 2020

Enbridge Gas Inc. (Enbridge Gas) has applied to the OEB for approval under section 36(1) of the *Ontario Energy Board Act, 1998* (OEB Act) to increase rates effective April 1, 2021 to recover costs associated with meeting its obligations under the federal *Greenhouse Gas Pollution Pricing Act* (GGPPA).

The GGPPA established a Federal Carbon Pricing Program (FCPP) under which a natural gas utility in Ontario, such as Enbridge Gas, is required to pay a carbon charge to the Government of Canada for emissions from the natural gas that it delivers to its customers, and also incurs obligations for emissions from the operation of Enbridge Gas's natural gas distribution system. The carbon charge under the GGPPA came into effect on April 1, 2019, increased on April 1, 2020, and will increase again on April 1, 2021.

A Notice of Hearing was issued on October 14, 2020. Each of Anwaatin Inc. (Anwaatin), Building Owners and Managers Association (BOMA), Canadian Manufacturers and Exporters (CME), City of Kitchener (Kitchener), Energy Probe Research Foundation (Energy Probe) and Federation of Rental-housing Providers of Ontario (FRPO) applied for intervenor status. Anwaatin, BOMA, CME, Energy Probe and FRPO also applied for cost eligibility.

Anwaatin indicated that it intends to make submissions on the applicability of the proposed FCPP natural gas charges to Indigenous and/or on-reserve communities in light of sections 87 and 89 of the *Indian Act*, treaty rights, and section 35 of the Constitution. BOMA indicated that it would represent the interests of commercial, office, retail, and institutional customers, and is interested in examining the prudence of Enbridge Gas's incurred costs of compliance with the GGPPA, and Enbridge Gas's forecast 2021 administration costs. CME stated that it was interested in ensuring that the administration and program costs and the facility-related carbon charges have been accurately calculated and appropriate to recover from customers. Kitchener stated that, as an embedded distributor receiving storage and transportation services, it would be

directly impacted by the proposed rates. Energy Probe indicated that its interest in this proceeding is the impact on customers' rates (particularly residential customers) from carbon pricing (the carbon charge and the Output-Based Pricing System that applies to emissions from Enbridge Gas's transmission and distribution system), and that it would focus on examining Enbridge Gas's forecasts and deferral account balances. FRPO indicated that it wanted to test and understand how administration costs will be mitigated, allocated and recovered, and understand Enbridge Gas's preparation for the coming Clean Fuel Standard.

No objection was received from Enbridge Gas.

Several intervenors (BOMA, CME, Energy Probe, FRPO) indicated an interest in Enbridge Gas's FCPP deferral or variance accounts, and/or FCPP administrative costs. The OEB notes that, in contrast to its 2020 FCPP application (EB-2019-0247), in the current application Enbridge Gas does not request disposition of the balances in any FCPP-related deferral and variance accounts, which includes the variance account for administration costs. Enbridge Gas does provide a forecast of 2021 administration costs, for informational purposes only. Parties should therefore be mindful that Enbridge Gas does not request approval for recovery of administration costs; however, the OEB may allow limited consideration of Enbridge Gas's administration activities, which are relevant to Enbridge Gas's efforts to control and mitigate all FCPP costs on an ongoing basis.

As Anwaatin notes in its intervention request, the OEB (in its [March 19, 2020 Decision on Updated Intervention Requests and Scope of Proceeding](#) in the 2020 FCPP proceeding), determined that it would defer consideration as to whether the FCPP charges are constitutionally applicable in light of the *Indian Act*, relevant treaties, and section 35 of the *Constitution Act, 1982*, until after the Supreme Court of Canada (SCC) issues a decision in two appeals currently before the SCC regarding the constitutionality of the GGPPA. An oral SCC hearing on these appeals took place on September 22-23, 2020. It is not known when the SCC will issue its decision, although as Anwaatin notes, an SCC decision may be handed down while the current OEB proceeding is active. The OEB therefore approves Anwaatin's intervention request, but notes that consideration of these issues remains deferred at this time.

Kitchener's intervention request is denied. In its intervention letter Kitchener states that "Kitchener is an embedded gas distributor in the Union South franchise territory and receives storage and transportation services under Rates T3 and M12. Kitchener will be directly impacted by the proposed rates in this Application." The OEB notes that Kitchener has not provided a specific interest and as such the OEB is not able to assess

Kitchener's interest and its scope of participation in this proceeding. If Kitchener wishes to follow the proceeding it can register on the OEB's website to monitor the proceeding. Alternately, if Kitchener wishes to reapply for intervenor status it must provide additional information on its scope and specific interest in this proceeding.

Anwaatin, BOMA, CME, Energy Probe and FRPO are approved as intervenors. The list of parties in this proceeding is attached as Schedule A to this Procedural Order. Anwaatin, BOMA, CME, Energy Probe and FRPO are eligible to apply for an award of costs under the OEB's [Practice Direction on Cost Awards](#).

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

Being eligible to apply for recovery of costs is not a guarantee of recovery of any costs claimed. Cost awards are made by way of OEB order at the end of a hearing.

Interrogatories

At this time, provision is being made for written interrogatories.

Parties should consult sections 26 and 27 of the OEB's [Rules of Practice and Procedure](#) regarding required naming and numbering conventions and other matters related to interrogatories.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

IT IS THEREFORE ORDERED THAT:

1. OEB staff and intervenors shall request any relevant information and documentation from Enbridge Gas that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **November 24, 2020**.
2. Enbridge Gas shall file with the OEB complete written responses to all interrogatories and serve them on OEB staff and all intervenors by **December 8, 2020**.

Parties are responsible for ensuring that any documents they file with the OEB do not include any personal information (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's *Rules of Practice and Procedure*.

All materials filed with the OEB must quote the file number, **EB-2020-0212**, 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.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Michael Parkes at michael.parkes@oeb.ca and OEB Counsel, Lawren Murray at Lawren.murray@oeb.ca.

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

DATED at Toronto, **November 10, 2020**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original Signed By

Christine E. Long
Registrar

Schedule A

Procedural Order No. 1

Enbridge Gas Inc.

EB-2020-0212

Applicant and List of Intervenors

November 10, 2020

Enbridge Gas Inc.-

2021 Federal Carbon Pricing Program Application

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APPLICANT & LIST OF INTERVENORS

November 10, 2020

APPLICANT

Rep. and Address for Service

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INTERVENORS

Rep. and Address for Service

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Managers Association
Toronto**

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**Federation of Rental-housing
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