

John A.D. Vellone
T (416) 367-6730
F 416.367.6749
jvellone@blg.com

Flora Ho
T (416) 367-6581
F 416.367.6749
fho@blg.com

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada M5H 4E3
T 416.367.6000
F 416.367.6749
blg.com



November 20, 2020

Delivered by Email & RESS

Ms. Christine Long, Registrar and Board Secretary
Ontario Energy Board
P.O.Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Enbridge Gas Inc. 2021 ICM Application
Notice of Intervention of the Association of Power Producers of Ontario
("APPrO")
Board File No. EB-2020-0181**

We are counsel to APPrO in the above-captioned matter. Please find attached APPrO's Notice of Intervention in this proceeding.

Should you have any questions or require further information in this regard, please do not hesitate to contact me.

Yours very truly,

BORDEN LADNER GERVAIS LLP

Per:

A handwritten signature in black ink, appearing to read 'Flora Ho', is written over a horizontal line.

Flora Ho

cc: David Butters, APPrO
Mark Kitchen, Enbridge Gas Inc.
David Stevens, Aird and Berlis LLP

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended;

AND IN THE MATTER OF an Application by Enbridge Gas Inc., pursuant to section 36(1) of the *Ontario Energy Board Act, 1998* for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas as of January 1, 2021.

**NOTICE OF INTERVENTION OF THE
ASSOCIATION OF POWER PRODUCERS OF ONTARIO (“APPrO”)
NOVEMBER 20, 2020**

APPrO

67 Yonge St Suite 1040,
Toronto, ON M5E 1J8

David Butters

President
Tel: (416) 322-6549, x231
Facsimile: (416) 481-5785
Email: david.butters@appro.org

Borden Ladner Gervais LLP

Bay Adelaide Centre, East Tower
22 Adelaide St W.
Toronto ON M5H 4E3

John A.D. Vellone

Tel: (416) 367-6730
Facsimile: (416) 367-6749
Email: jvellone@blg.com

Flora Ho

Tel: (416) 367-6581
Facsimile: (416) 367-6749
Email: fho@blg.com

INTRODUCTION:

1. On August 30, 2018, in the MAADs Decision (EB-2017-0306 / EB-2017-0307), the Ontario Energy Board (the “**Board**”) approved a rate setting mechanism (Price Cap IR) for Enbridge Gas Inc. (“**EGI**” or the “**Applicant**”), which set out a multi-year incentive rate-setting mechanism (“**IRM**”) for a five-year term from 2019 to 2023.
2. On June 30, 2020, EGI filed an application with the Board under section 36(1) of the *Ontario Energy Board Act, 1998*, as amended, for an Order approving or fixing just and reasonable rates for the distribution, transmission and storage of natural gas effective January 1, 2021 (EB-2020-0095) (the “**Application**”), being the third annual rate adjustment application under the IRM. EGI filed the Application in a manner similar to its 2020 Rates Application (EB-2019-0194) whereby it requests the Board to process and adjudicate the Application in a bifurcated manner. Phase 1 of the Application, filed on June 30, 2020, addresses the IRM related elements (“**Phase 1**”). Phase 2 will address matters related to the ICM funding for one or more projects and EGI will file supporting evidence for Phase 2 no later than October 15, 2020 (“**Phase 2**”).
3. On July 14, 2020 in EB-2020-0095, the OEB determined that it will process Phase 1 and Phase 2 filings for the 2021 Rate Applications as separate applications instead of phases, and assigned docket number EB-2020-0181 for the Phase 2, being the ICM application (“**ICM Application**”).
4. On October 15, 2020, the Applicant filed its 2021 ICM Application seeking Board approval for ICM funding for three projects in 2021 - the St Laurent NPS 12 Replacement in the Enbridge Gas Distribution Inc. (“**EGDI**”) rate zone, and the London Line Replacement Project and the Sarnia Industrial Reinforcement Project in Union Gas Limited (“**UGL**”) rate zones (collectively, “**ICM Projects**”).
5. APPrO was granted intervenor status in EB-2020-0095 and APPrO hereby requests intervenor status in the ICM Application.
6. APPrO is actively participating in the Applicant’s Leave to Construct Application for the

London Line Replacement Project (EB-2020-0192) and has actively participated in the Applicant's 2021 Rate Application "Phase 1" (EB-2020-0095), 2020 Rate Application (EB-2019-0194), 2019 Rate Application (EB-2018-0305) and EGDI and UGL (i.e. the predecessor utilities of EGI) application for amalgamation and rate-setting mechanism (EB-2017-0306 / EB-2017-0307) and in prior year rate adjustments for both EGDI (EB-2017-0086, EB-2016-0215, EB-2015-0114) and UGL (EB-2014-0271, EB-2015-0116) ("**Prior Decisions**").

INTEREST OF THE INTERVENOR:

7. APPrO is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators and suppliers of services, equipment and consulting services. APPrO members produce power from natural gas, as well as hydro, gas, nuclear, wind, waste wood and other sources. APPrO's members have a direct and significant interest in this proceeding.
8. Among APPrO's members are gas-fired generators in both EGDI and UGL's franchise areas. In the EGDI franchise area, generators take service primarily under Rate 125. All customers in the Rate 125 rate class are power generators and are not represented by any other consumer group. Within the UGL franchise area, gas-fired generators contract for distribution and transportation services under several rate classes, including Rate 100 and Rate 20 in Union North and Rate T2 and Rate M12 in Union South.
9. The evidence filed by the Applicant indicates that it seeks approval of ICM funding for the ICM Projects, which would have bill impacts on EGDI and Union South rate zone customers. Specifically, the Applicant's evidence shows that a significant amount of the ICM Project revenue requirement (particularly the London Line Replacement Project and Sarnia Industrial Reinforcement Project) would be allocated to the Union South Rate T2, under which APPrO members take service. The Applicant's request for funding for the ICM Projects are material and will have an impact on gas-fired generators, including APPrO's members.

10. APPrO was an active participant in the proceedings of the Prior Decisions and APPrO has an interest in ensuring that the request for rates is in accordance with the Board's Decision in those proceedings.
11. APPrO's interest in this proceeding is to represent the interests of generators, including in respect of the Applicant's request for ICM funding, focusing on questions that are relevant to the Board's test for ICM eligibility of the ICM Projects, including whether there is a need for the ICM Projects; whether the costs for the ICM Projects are reasonable and prudent; and issues relating to the allocation of the ICM Projects' revenue requirement to the various rate classes.
12. By contrast, APPrO's interest in the London Line Reinforcement Project Leave-to-Construct Application (EB-2020-0192) is to represent the interests of generators in that proceeding, focusing on questions that are directly relevant to the Board's test for leave to construct including issues related to the need for the London Line Reinforcement Project specifically and whether all reasonable alternatives to the London Line Reinforcement Project have been considered; and any impact on reliability and quality of service that may affect generators.

SCOPE OF PARTICIPATION:

13. APPrO reserves the right to participate in all aspects of the proceeding. APPrO also reserves the right to present evidence as it may deem necessary.

APPrO's EXPERIENCE AS A FREQUENT INTERVENOR:

14. APPrO has a record of participating in Board proceedings as an intervenor. As required by Rule 22.03(b) of the Board's Rules of Practice and Procedure and Rule 3.03.1 of the Board's Practice Direction on Cost Awards, APPrO filed with the Board information on APPrO's mandate, objectives, membership, constituency, programs and activities and other relevant information within the previous 12 month period as part of EB-2020-0192, EB-2020-0095, EB-2020-0091, EB-2019-0194, EB-2019-0159, EB-2019-0082. This document has been updated and attached as Attachment 1 to this Notice of Intervention.

COSTS:

15. Pursuant to s. 3.06 of the Board's Practice Direction on Cost Awards, APPrO intends to seek an award of costs from the Applicant. In accordance with s. 3.03(a) of the Board's Practice Direction on Cost Awards, APPrO represents the direct interests of consumers in relation to the Applicant's regulated services. APPrO's members are among the largest consumers of the Applicant's services.
16. APPrO has a record of participating in Board proceedings in a responsible and efficient manner and the Board determined that APPrO was eligible for cost awards in other proceedings, including in EGI's 2020 and 2019 rate case and both UGL and EGDI rates cases and several natural gas proceedings that had unique impacts on power generators (including, among others, NGEIR and storage allocation proceedings). APPrO believes it is appropriate for the Board to do so again in the context of this proceeding and in light of the potential impacts of the ICM Projects on APPrO's members.

COUNSEL/REPRESENTATIVES

17. APPrO requests that the Board, the Applicant and all intervenors provide it and its counsel with copies of all written evidence and correspondence related to the proceeding, at the contact information below. APPrO asks that the Applicant deliver electronic copies of its ICM Application and all other evidence to Borden Ladner Gervais LLP and APPrO at the coordinates listed below.

APPrO
67 Yonge St Suite 1040,
Toronto, ON M5E 1J8

David Butters
President
Tel: (416) 322-6549, x231
Facsimile: (416) 481-5785
Email: david.butters@appro.org

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide St W.
Toronto ON M5H 4E3

John A.D. Vellone
Tel: (416) 367-6730
Facsimile: (416) 367-6749
Email: jvellone@blg.com

Flora Ho

Tel: (416) 367-6581

Facsimile: (416) 367-6749

Email: fho@blg.com

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 20TH DAY OF NOVEMBER, 2020

BORDEN LADNER GERVAIS LLP

Per:



Flora Ho
Counsel to APPrO

Attachment 1

The Association of Power Producers of Ontario

Description

The Association of Power Producers of Ontario ("APPrO") is a non-profit trade and professional organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators and suppliers of services, equipment and consulting services. APPrO is the largest organization of its type in Canada. APPrO was established in 1986 as the Independent Power Producers' Society of Ontario and changed its name to APPrO in 2003.

Mandate and objectives

APPrO's principal objective is the achievement of an economically and environmentally sustainable electricity sector in Ontario that supports the business interests of electricity generators. APPrO's role in the electricity sector is to raise awareness and understanding of its members' concerns with senior decision-makers in government, regulatory bodies and the public at large.

Membership and representative constituency

APPrO currently has about 100 corporate members, who collectively produce more than 95% of the electricity made in Ontario. APPrO's members produce electricity from a range of sources, including natural gas, hydroelectricity, cogeneration, windpower, solar energy, biomass, biogas, nuclear energy and other sources. The total value of assets owned or operated by APPrO members is estimated at more than C\$50 billion, and the total annual sales of electricity by APPrO members exceeds C\$7 billion per year (wholesale value).

Programs and activities

APPrO acts as an advocate for its members. It aims to have a voice on regulatory and policy issues which affect generators in Ontario, including electricity market rules, power procurement processes, the regulation of the natural gas market (both provincially and federally), climate change rules and compliance mechanisms, approval requirements, transmission development, distributed generation, and a number of other issues. APPrO is a leading advocate for public policies and regulatory treatments that it believes will facilitate the development of power generation in the province and assist in the development of a more open and competitive market for power.

APPrO also organizes industry conferences and produces a number of publications. APPrO's magazine, IPPSO FACTO, is an authoritative periodical on the electricity business and policy issues in Canada.

APPrO's authorized representative in OEB proceedings

APPrO's principal authorized representative in proceedings before the Ontario Energy Board (the "Board") is Borden Ladner Gervais LLP ("BLG"), represented by John A.D. Vellone and Flora Ho with support from other BLG associates. BLG will provide support to APPrO for this proceeding EB-2020-0181. BLG's representation of APPrO in proceedings before the Board is pursuant to written retainer agreements.