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Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
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DELIVERED BY EMAIL

Dear Ms. Long,

RE: Enbridge Gas Inc. EB-2020-013420 19 Utility Earnings and Disposition of Deferral & Variance Account Balances Application

Please find enclosed the submissions of the Ontario Greenhouse Vegetable Growers in the above noted proceeding.

Yours very truly,

Michael R. Buonaguro

CC: All Parties

ONTARIO ENERGY BOARD
IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O.

1998, c. 15, Schedule. B, as amended;

AND IN THE MATTER OF an application by Enbridge Gas Inc. for an order or orders clearing certain commodity and non- commodity related deferral or variance accounts.

UNSETTLED ISSUE - TAX VARIANCE DEFERRAL ACCOUNT

SUBMISSIONS ON BEHALF OF THE ONTARIO GREENHOUSE VEGETABLE GROWERS

Overview

These are the submissions of the Ontario Greenhouse Vegetable Growers ("OGVG") with respect to the single unsettled issue in Enbridge Gas Inc.'s ("EGI's") application for clearance of its 2019 rate year deferral and variance accounts. As part of its original application EGI sought to defer disposition of its 2018 and 2019 Tax Variance Deferral Account ("TVDA") amounts related to the Accelerated Investment Incentive ("AII") until its next rebasing application. Further to the Settlement Proposal filed and accepted by the Ontario Energy Board ("OEB") the OEB has agreed to hear submissions with respect to the timing and manner of the disposition of the 2018 and 2019 TVDA amounts.

EGI's Proposal

As noted EGI's original proposal was to defer clearance of the TVDA amounts until its next rebasing application. Subsequent to the Settlement Proposal EGI filed supplementary evidence specific to the disposition of the TVDA, suggesting that if the OEB were to dispose of the 2018 and 2019 amounts immediately that the OEB should either:

a) credit 100% of the TVDA amounts as capital contributions against 2 types of capital projects (the "Capital Project Proposal"):

    I. a discrete collection of community expansion projects, and
    II. pilot projects in support of EGI's Integrated Resource Proposal; or

b) credit 50% of the TVDA amounts to ratepayers and 50% of the TVDA amounts to EGI (the "50/50 Proposal").

The Capital Project Proposal Is Inappropriate

On its face the Capital Project Proposal has the appearance of allocating ratepayers 100% of the value of the AII, substituting the distribution of the AII related credit to customers through a rate rider with the application of the credit as a capital contribution against capital spending which would otherwise be added to EGI's rate base and recovered from rate payers over time through rates.

However, the Capital Project Proposal is undermined by the selection of projects against which EGI proposes to apply the credit. In particular, the proposed community expansion projects are, by their nature, uneconomic[1], such that absent the material subsidy represented by EGI's proposal to allocate TVDA credits against those projects as capital contribution those projects are unlikely to be approved by the OEB.

The OEB's decision in EB-2016-0004 dealt with a similar proposal by EGI's predecessor companies to allow explicit subsidies paid for by existing customers to fund community expansion

[1] Exhibit H page 15 paragraph 54; EGI confirms that the proposed community development projects are currently underfunded by a collective $169M.

projects; in that decision the OEB clearly and unequivocally rejected the notion that existing customers should subsidize community expansion projects that under conventional analysis appear uneconomic. Instead, the OEB determined that such projects could leverage the forecast benefits of expansion to new customers by either:

a) utilizing stand-alone rates for the expansion area, or
b) recovering a surcharge from expansion customers in conjunction with base rates.

With respect to the proposal to allow stand-alone rates, the OEB noted that:

> With the ability to propose new rates there is no need to test the profitability of projects against existing rates. Proposals will need to be self-financing and therefore there will be no risk to existing ratepayers.[2]

With respect to the proposal to all an expansion surcharge, the OEB confirmed that:

> An incumbent utility with existing rates may still propose to collect a surcharge over and above those rates to make up for the shortfall in revenues to cover the cost of the expansion. This form of funding does not depart from the mechanics or principles embodied in the E.B.O. 188 assessment.[3]

In both cases existing customers are protected from subsidizing uneconomic expansion; instead, new customers are required to fund the expansion, either through stand-alone rates or, as was recently confirmed by the OEB in EB-2020-0094, a combination of the system expansion surcharge for some customer classes, the use of an Hourly Allocation Factor for other customer classes, and possibly capital contributions where necessary.[4]

In this context the proposal to allocate 100% of the TVDA amounts related to the AII to fund uneconomic community expansion projects is an attempt to do indirectly what the OEB has determined should not be done directly, i.e. have existing customers provide a subsidy to support uneconomic expansion. If it is true that the OEB would not permit the costs of a project that is demonstrably uneconomic to be incorporated into base rates in order to avoid subsidization, then, in OGVG's view, the OEB should also refuse to permit credits accruing to the benefit of existing ratepayers through the TVDA to be applied against the costs of those same, uneconomic projects.

OGVG recognizes that at least some of the projects referred to by EGI are transmission projects[5], and that as transmission projects they would, in the normal course, be evaluated under the framework established in EBO 134 which does permit some level of subsidy between existing and new customers with respect to transmission projects:

> The Board continues to hold the opinion that it is appropriate for existing

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[2] EB-2016-0004 Decision dated November 17, 2016, page 19.
[3] EB-2016-0004 Decision dated November 17, 2016, page 21.
[4] EB-2020-0094 Decision dated December 4, 2020.
[5] Exhibit H, page 15, paragraph 55.

> customers to subsidize, through higher rates, financially non-sustaining extensions that are in the overall public interest if the subsidy does not cause an undue burden on any individual, group or class.[6]

However, OGVG respectfully submits, such subsidies must be scrutinized by the OEB within the EBO 134 framework in order to determine whether, based on all the relevant information, subsidies are justified as a result of the overall public interest, and that the required subsidy does not cause an undue burden on existing customers. EGI's proposal seeks to obviate that analysis by creating the subsidy prior to OEB review of the projects, resulting in subsidy without consideration.

With respect to the IRPA projects, OGVG notes that there is currently no approval of any IRPA project spending; OGVG respectfully submits that generally speaking it would be inappropriate to convert all or some of the TVDA into a fund that the utility can access for future contingent spending. There is, OGVG respectfully submits, a general obligation to process and clear deferral and variance accounts in a timely and straightforward manner in order to as closely as possible maintain intergenerational equity. In OGVG's view tying the disposal of credits owing to ratepayers resulting from capital spending in 2018 and 2019 to the approval and eventual implementation of IRP projects sometime in the future is unreasonable.

The 50/50 Proposal is Inappropriate

The AII is fundamentally different from the usual variations in tax rates.

Variations in tax rates such as an increase or decrease in the corporate tax rate affect a utility's revenue requirement in a single year; while it is true the change in the rate may persist for several years, its effect on a utility's revenue requirement is contained within each rate year.

The AII, in contrast, affects the taxable income of a utility across the entire taxable lifespan of a capital asset each time it is claimed; its effect is not limited to a single rate year, its affect is borne out across several years, and in most cases decades.[7] Compared to the nature of tax changes previously captured in the TVDA, OGVG respectfully submits that the AII is unique, in that the AII does not increase or decrease the CCA of any particular asset; it simply shifts how much of that CCA can be claimed in the first year, with consequential and offsetting impacts on how much of the CCA remains available in the ensuing years.

As EGI confirmed, the effect of the AII is an increase in applicable CCA in the first-year capital spending is closed to rate base, an increase that is offset over the course of the capital spending's lifespan as a CCA generating asset through lower available reductions.[8] For example, in the present case, capital spending in 2018 coupled with the AII decreases revenue requirement in year 1, and then increases the revenue requirement in years 2-X until the related CCA is exhausted in year X.

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[6] Filing Guidelines on the Economic Tests for Transmission Pipeline Applications (EB-2012-0092) February 21, 2013 page 3.
[7] Exhibit I.OGVG.3 a)
[8] Exhibit I.OGVG.3 a)

In theory 50/50 sharing of the effects of AII on revenue requirement could be acceptable if that sharing persisted over the full life cycle of the AII's effect on rates, because as long as the treatment of the revenue requirement impact of AII is consistent over the effect's entire lifespan the result is identical under any scenario.

However it is not EGI's proposal to track 50/50 sharing of the impact of the AII in rates until the impact is exhausted, nor, under the circumstances, would such tracking be ideal. EGI confirmed that while the effect of AII persists for, in many cases, decades, it only proposed to share the impact of the AII 50/50 during the rest of the deferral period.[9] In other words, EGI's proposes to share the initial increase in CCA benefits in the early years of the AII, offset slightly by the reduced CCA in the years prior to rebasing. On rebasing, based on EGI's evidence, the ongoing reduction in CCA caused by the AII would be borne solely by ratepayers, with the effect that EGI would benefit both from a 50% sharing of the initial benefits of the AII and 100% protection against the ensuing decrease in CCA in years 2-X, subject only to some minor sharing of the decrease in CCA prior to rebasing.

In order to hold ratepayers whole there appears to be only two viable solutions; provide ratepayers with 100% of the benefit of AII, which legitimizes the embedding of the reduced CCA in base rates in future years or continue to attribute 50% of the impact of the AII on available CCA to EGI until the effect is exhausted several decades into the future. In OGVG's respectful submission the reasonable solution is to credit 100% of the immediate benefits of the AII on CCA to ratepayer, then allowing the offsetting decrease in CCA to be embedded in base rates going forward. The alternative, tracking a 50/50 split of the effect between customers and EGI, seems to OGVG to be unreasonably cumbersome.

OGVG's Proposal

In OGVG's submission the Board should dispose of the TVDA amounts related to the AII 100% to the credit of ratepayers as a rate rider and continue to track and apply as a credit or debit as appropriate 100% of the impacts of the AII to the credit or debit of ratepayers into the future. On rebasing the ongoing impacts of the AII could then be embedded in base rates, the only caveat being that because AII will continue to apply in some form to capital spending that is used or useful prior to December 31, 2027 it may mean that the tracking of AII impacts in a deferral account to the credit of ratepayers may be required until the rebasing of EGI's rates immediately after 2027; in OGVG' view the precise need for and mechanics of any such future tracking should be confirmed at EGI's next rebasing application.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 8th DAY OF MARCH, 2021

[9] Exhibit I.OGVG.3 b); while EGI does assert that "the tracking and sharing of the net impact of the AII will be accomplished by maintaining a cumulative continuity schedule", EGI qualifies that such tracking would only be performed "throughout the deferred rebasing term"; with a current target of 2023 for rebasing, that can only mean that EGI is not intending to continue to share the net impact in the decades following rebasing.