March 8, 2021

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

Dear Ms. Long,

RE: EB-2020-0134 EGI ESMDA Unsettled Issue TVDA- Energy Probe Argument

Attached please find Energy Probe's Argument

Yours truly,

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Sustainable Planning Associates (SPA) Inc,

cc.
Anton Kacinic EGI Regulatory
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EB-2020-0134 Intervenors

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EB-2019-0134

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule. B);

AND IN THE MATTER OF an Application by Enbridge Gas Inc. for an order or orders clearing certain non-commodity related deferral or variance accounts and sharing utility earnings pursuant to a Board-approved earnings sharing mechanism;

Unsettled Issue Tax Variation Deferral Account
EGI Supplementary Evidence

Energy Probe Research Foundation Argument

March 8, 2021

EB-2020-0134 Enbridge Gas
EGD and Union Deferral/Variance Accounts and ESM
Unsettled Issue-Tax Variance Deferral Account
Energy Probe Submissions

Background

A settlement proposal related to EB-2019-0134 was filed with the OEB on January 5, 2021.
In respect of the Tax Variation Deferral Account (TVDA), the settlement proposal said that "Some intervenors believe that the balance in the TVDA should be disposed of in this proceeding; accordingly all issues related to the TVDA, including the calculation of the recorded balance, the disposition of the balance as between customers and Enbridge Gas, and the allocation of any disposition to customers are issues that remain unsettled and will proceed to a hearing."

The schedule set out in the Board's Decision related to TVDA provided for argument in chief to be filed by February 26, 2021, intervenor and OEB staff arguments to be filed by March 8, 2021 and reply argument to be filed by March 15, 2021. This is the argument on behalf of Energy Probe pursuant to the EB-2020-0134 Decision.

Tax Variation Deferral Account Balance

In the EB-2017-0306/0307 amalgamation proceeding, the OEB retained the UGL TVDA and expanded the account to record the impact of any tax rate changes for both the EGD and UGL legacy areas.
The TVDA approved for Enbridge Gas Inc. was modified as a result of a letter issued by the OEB on July 25, 2019 (the "July 2019 Letter"). In the July 2019 Letter, the OEB provided accounting direction regarding a recent federal government bill C-97.

The OEB letter directed utilities to record the impacts of CCA rule changes in the appropriate account for the period from the effective date of the Bill C-97 changes, November 21, 2018, until the effective date of the utility's next cost-based rate order. This included recording the full revenue requirement impact of any changes in CCA rules that are not in base rates.

For EGI this relates to the impact of CCA changes until rebasing

According to EGI, as of December 31, 2019, the principal balance in the TVDA was $30.03 million plus accrued interest of $0.698 million, so the total December 31, 2020 TVDA balance for disposition was $30.728 million:
• 2018 impact of Bill C-97 accelerated CCA measures - $4.897 million; and
• 2019 impact of Bill C-97 accelerated CCA measures - $25.134 million.[1]

EGI asserts that EGI's capital additions that are subject to CCA for income tax purposes, all amounts which have been incurred and which have become available for use after November 20th, 2018, have been eligible for the AII. Similarly, EGI anticipates that all amounts which will be incurred and which will become available for use by December 31st, 2027, will be eligible for the AII, based on the AII terms in place in the year the assets become available for use.[2]

EGI States:

> As a result of capital additions that have qualified for the AII in 2018 and 2019 EGI has been able to claim more CCA than it otherwise would have been able to under normal /prior CCA measure , which has resulted in lower corporate/utility income taxes. The higher amount of CCA could have resulted in higher income, had it not been for recognition of the grossed up earnings benefit (i.e. the revenue requirement in deferral accounts).

Energy Probe Submission

The TVDA Balances are as a result of changes to the All treatment of the Capital Cost Allowance related to EGI assets. Unlike prior income tax changes that were shared 50:50 by EGI legacy companies, these savings are simply deferring the payment of taxes that will be paid in future once the AII is over. At that point ratepayers will pay the full tax related to the assets.

[1] Exhibit H, page 4, paragraph 13.
[2] Exhibit H Page 5 paragraph 19

Accordingly the Board should find that in this circumstance, **all** of the CCA savings should go to ratepayers.

EGI Proposal for Disposition

EGI argues that its preference is that the TVDA balances should not be disposed of, but be allocated to fund System Expansion Projects under the Access to Natural Gas Act 2018[3] and/or to Integrated Resource Plan Alternative (IRPA) Pilot Projects.[4][5]

Energy Probe Submissions

Energy Probe has argued that the TVDA balance should be allocated 100% to ratepayers to recognize their future tax liability.

If the Board does not agree with this disposition, Energy Probe still disagrees strongly with the use of any of the funds for the purposes proposed by EGI.

NGEP Projects

Enbridge Gas proposes that a portion of the current and future portion of the TVDA balance up to $115 million be allocated to NGEP Program Projects such as Hamilton Airport, Nanticoke and Dunnville Projects in the Union Rate Zone.

Energy Probe disagrees. The Minister in its letter to the Board noted that the Government of Ontario intends to make available through the Natural Gas Expansion Program an aggregate total of approximately $130 million to support new natural gas projects that can reasonably be expected to commence construction between 2021 and 2023, which is the equivalent of the $1 per month existing customer that is permitted by section 6(1) of O.Reg 24/19.

NGEP projects should follow the normal course of such regulatory proceedings-Applications, Evidence and Board Decision. EGI is attempting to pre-empt the Board's process, by proposing to allocate the TVDA tax savings. This is not appropriate.

[3] EB-2019-0255 Natural Gas Expansion Program ("NGEP").
[4] EB-2020-0091
[5] AIC Paragraphs 30-40

IRPA Pilots

EGI proposes that up to $20 million of the TVDA Balances be used for Integrated Resource Planning Alternative (IRPA) pilot projects The EB-2020-0091 EGI Gas Integrated Resource Plan (IRP) proceeding is in the midst of a hearing to determine a Framework for Gas IRP. Whether the Board will determine if IRPA pilot projects are appropriate, is a matter for the hearing and the Board's decision on the appropriate way forward.

Energy Probe submits EGI's proposal is both premature and inappropriate.

Future Considerations

Enbridge gas estimates that the total cumulative balance in the TVDA account for the 2019 to 2023 period will be in the range of $80 to $115 million.

Energy Probe Submission

The Board should reject EGI's submission and find that future AII Tax Savings continue to be disposed of/allocated in accordance with the Board's Decision in this case.

EGI Scorecard

EGI filed its 2019 Scorecard.[6] It contains 20 metrics with items 1-10 including targets for 2019.

Energy Probe Submission

Filing the Scorecard in the ESMDA proceeding automatically results in the scorecard being retrospective, rather than prospective for the current rate period. The utility of the Scorecard to ratepayers and the Board would be greater if it was filed in the rates case, and included prior year performance and the targets for the rate year, like the electricity utilities. EI should indicate in its Reply, why this cannot be done and also why Targets for Metrics 10-20 cannot be provided.

Respectfully Submitted on behalf of Energy Probe Research Foundation
Roger M.R. Higgin PhD., MBA, P. Eng. SPA Inc.

[6] Exhibit G Tab1 Schedule 1