

ONTARIO ENERGY BOARD

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

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

**SUBMISSIONS OF THE
BUILDING OWNERS AND MANAGERS ASSOCIATION, GREATER TORONTO
("BOMA")**

March 8, 2021

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SUBMISSIONS OF BOMA

Overview

1. Enbridge Gas Inc. ("EGI") filed an application with the Ontario Energy Board (OEB) on September 3, 2020, under section 36 of the *Ontario Energy Board Act, 1998*, for an order approving the disposition of amounts recorded in certain deferral and variance accounts (DVAs) and to review earnings sharing amounts with ratepayers. The amounts requested for disposition include principal balances as at December 31, 2019, and interest up to December 31, 2020.

2. A settlement conference was held between the applicant and the intervenors (collectively, the parties) on December 3, 4 and 7, 2020, with the objective of reaching a settlement amongst the parties. The parties reached a settlement on all DVAs considered in this proceeding, with the exception of the Enbridge Gas Tax Variance Deferral Account ("TVDA") (unsettled item). EGI filed a settlement proposal for the OEB's consideration on January 5, 2021.

3. On January 25, 2021, the OEB issued its decision of the settlement proposal, approving it as filed and setting out a timeline for a written hearing to address the unsettled item through a written hearing consisting of supplementary evidence filing by February 4, 2021, written interrogatories by February 11, 2021, responses to interrogatories by February 19, 2021, argument-in-chief by February 26, 2021, final arguments by March 8, 2021 and reply argument by March 15, 2021.

4. On February 4, 2021, EGI filed supplementary evidence on the unsettled item proposing that 100% of the TVDA balance be used as a source of funding for Economic Development projects and IRP pilot projects and in the alternative, that the TVDA balance be cleared "in accordance with the OEB's longstanding practice that the impacts of tax changes during the term of an IR plan are shared between utility ratepayers and shareholders on a 50/50 basis".
5. BOMA does not support either of EGI's proposed alternatives. BOMA submits that further to the OEB's July 25, 2019 Accounting Direction Regarding Bill C-97 and Other Changes in Regulatory or Legislated Tax Rules for Capital Cost Allowance, the appropriate disposition methodology for the TVDA resulting from the impacts of the Bill C-97 / CCA rule change is to refund 100% of the TVDA balance to ratepayers.
6. BOMA does not support the proposal to use 100% of the TVDA balance as proposed due to the uncertain status of the projects put forward. BOMA submits that a more prudent approach would be to refund the balance to the ratepayers who have already expended the funds.
7. BOMA also does not support the alternative proposal of sharing the TVDA balance on a 50/50 basis between ratepayers and shareholders because of the temporary nature of the tax deferral. Ratepayers will be expected to absorb the full costs in future years as such they should receive all of the benefits currently. Although not binding, BOMA notes that 100% refunds of TVDA have been recently approved by the OEB in the following matters: EB-2020-0059 (page 39 of 43 of the Decision and Rate Order issued on

December 10, 2020); EB-2020-0040 (pdf page 62 of 141 of the Decision and Rate Order issued on February 4, 2021); and EB-2020-2019 (EB-2019-0261 Exhibit 9, Tab 1, Schedule 4 UPDATED May 5, 2020 Page 6 of 7).

**ALL OF WHICH IS RESPECTFULLY SUBMITTED ON BEHALF OF BOMA
ON MARCH 8, 2021**

Albert M. Engel, Counsel for BOMA