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Our File # 339583.000279

By electronic filing

March 8, 2021

Christine Long
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Long

Re: Enbridge Gas Inc. ("EGI")
2019 Earnings Sharing and Disposition of Deferral & Variance Account Balances
Board File #: EB-2020-0134

We are counsel to Canadian Manufacturers & Exporters ("CME") in the above-noted proceeding. Pursuant to the Decision on Settlement Proposal dated January 25, 2021, please consider this letter as CME's final submissions regarding the application by EGI for approval to dispose 2019 balances in certain deferral and variance accounts and to review amounts for earnings sharing.

EGI submitted an application to the Board regarding 2019 Earnings Sharing and Disposition of Deferral and Variance Account Balances on September 3, 2020. The Board issued Procedural Order #1 on October 21, 2020 which provided for written interrogatories and a settlement conference.

The settlement conference occurred on December 3, 4 and 7, 2020. The parties were able to settle all of the outstanding issues in the proceeding except one, regarding the disposition of EGI's Tax Variance Deferral Account ("TVDA"), which records the impact of the "accelerated investment incentive."

The accelerated investment incentive was a component of Bill C-97, and it served to accelerate the capital cost allowance of capital investments made by EGI. While EGI had not sought to dispose of the balance of the TVDA in its application, parties were unable to settle the issue of how to proceed with respect to those balances. As stated in the settlement proposal to the Board, "some intervenors believe that the balance in the TVDA should be disposed of in this proceeding."[1]

[1] EB-2020-0134, Settlement Proposal, January 5, 2021, p. 2.

On January 25, 2021, the Board accepted the settlement proposal brought forth by the parties.[2] With respect to the TVDA, the Board determined that a condensed hearing schedule would be appropriate, and provided for supplementary interrogatories and written submissions.[3]

In its Argument-in-Chief, EGI has proposed to deal with the credit to ratepayers recorded in the TVDA in one of two ways:

1) By using the credit balance recorded in the TVDA as a source of funding for "important capital initiatives" such as integrated resource planning pilot projects, or economic development projects;[4] or

2) To split the credit amount 50/50 with ratepayers.[5]

CME disagrees with both of EGI's proposals, and submits that the credit to ratepayers should be given in its entirety to ratepayers.

<u>The Credit Amount Recorded in the TVDA Belongs to Ratepayers</u>

EGI's alternative proposal to split the recorded credit 50/50 would be an unwarranted and inappropriate windfall for the utility. Bill C-97, which included the accelerated investment incentive caused an acceleration of the CCA that could be claimed by EGI with respect to certain investments.

Critically, the accelerated investment incentive did not change the total amount of CCA that would be claimed over the full lifetime of the investment. The total tax benefit from the CCA remains the same as it was before the accelerated investment incentive. Instead, the *timing* of the tax benefit has been accelerated. This was confirmed by EGI in a presentation it created on the TVDA: "Accelerated CCA does not lead to lifetime tax savings."[6]

Consequently, when viewed within the context of the lifetime of the investments, the accelerated investment incentive is not an extra benefit to ratepayers, as the amount of tax savings is equivalent to what ratepayers would enjoy as part of the status quo. The benefit is solely the fact that the tax benefits occur sooner, with more savings occurring in the early years of the investment, and less savings occurring in the later years.

With that context in mind, EGI's proposal to split the credit amount recorded in the TVDA 50/50 represents an inappropriate windfall to the utility. Should the Board split the current recorded amount between ratepayers and the utility, half of the accelerated benefits of the accelerated investment initiative would go to the utility, but when the CCA benefits decelerate,

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[2] EB-2020-0134, Decision on the Settlement Proposal, January 25, 2021, p. 9.
[3] EB-2020-0134, Decision on the Settlement Proposal, January 25, 2021, pp. 9-10.
[4] EB-2020-0134, Unsettled Issue – Tax Variance Deferral Account, Argument-in-Chief, February 26, 2021 at para. 30.
[5] EB-2020-0134, Unsettled Issue – Tax Variance Deferral Account, Argument-in-Chief, February 26, 2021 at para. 42.
[6] EB-2020-0134, Exhibit I, IGUA.1, Attachment 1, p. 5.

in the latter years of the investment, ratepayers would be required to pay 100% of the rates that are no longer mitigated by tax benefits.

Ratepayers can Spur Investment and Produce Economic Benefits as Well as the Utility

EGI's central contention is that the Board should allocate the amounts recorded in the TVDA to defray the costs of integrated resource planning pilot projects, or other economic development projects.

EGI argues that the purpose of the accelerated investment initiative is to further the policy goals outlined by the Government of Ontario in its Fall Economic Statement, namely to allow businesses to deduct the cost of their investments more quickly, to make investments in assets that "drive business growth" and create middle class jobs.[7]

CME agrees with EGI that this is the purpose of the accelerated investment initiative. However, EGI does not have a monopoly on the ability to invest in business growth and creating a strong middle class. CME's members also drive business growth, and help to create a strong middle class. Additionally, allowing ratepayers to receive the benefits of accelerated investment initiative will help ameliorate the impacts of COVID-19. As outlined in Board Staff's report regarding the impact of COVID-19, manufacturing suffered a GDP decline of between 20 and 30% in Q2 2020, as opposed to a 1.3% decline for utilities. By allocating the benefit to ratepayers, the Board can get help to the stakeholders that need it the most.

To the extent that the Board agrees with CME, that ratepayers should receive 100% of the amount recorded in the TVDA, the benefits will flow, in part, to CME's members, who will be able to invest in assets, drive growth, create jobs, and recover from the impacts of COVID-19. Accordingly, CME submits that the tax benefits should be allocated to the group to which it originally belonged – ratepayers.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 8th day of March, 2021.

Yours very truly

Scott Pollock

c. Anton Kacicnik (EGI)
David Stevens (Aird & Berlis LLP)
EB-2020-0134 Intervenors
Alex Greco (CME)

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[7] Argument-in-Chief para 22.