March 12, 2021

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

Dear Ms. Long,

RE: EB-2020-0181 Enbridge Gas Inc. 2021 ICM Application
Energy Probe Argument Submission

Attached is the argument submission of Energy Probe Research Foundation (Energy Probe) in the EB-2020-0181 proceeding, the application by Enbridge Gas Inc. to the Ontario Energy Board for the approval of 2021 ICM projects.

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi Digitally signed by Tom Ladanyi Date: 2021.03.12 10:13:22 -05'00'

Tom Ladanyi
TL Energy Regulatory Consultants Inc.

cc. Enbridge Gas Inc. (Regulatory Proceedings)
Patricia Adams (Energy Probe Research Foundation)

EB-2020-0181

ONTARIO ENERGY BOARD

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

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.

Enbridge Gas Inc. 2021 ICM Application

Energy Probe Argument Submission

March 12, 2021

Executive Summary

Energy Probe submits that the OEB should approve the request for ICM funding for the London Lines Replacement project but limit it to the cost of the replacement line and excluding the cost of the lateral to the Strathroy Gate Station, the cost of the rebuilding of the station, and the allocated overhead costs. The appropriate amount estimated by Energy Probe is $89.0 million.

Energy Probe submits that the OEB should not approve the ICM funding request for the Sarnia Industrial Line Reinforcement project. The additional capacity created by the project results in incremental revenue greater than the project revenue requirement. Enbridge clearly does not need ICM funding from ratepayers.

The Application

Enbridge Gas filed an application with the Ontario Energy Board (OEB) on October 15, 2020 seeking approval for unit rates related to its 2021 Incremental Capital Module (ICM) funding for three capital projects. Two of the projects were in the Union Gas South Rate Zone: London Lines Replacement project and the Sarnia Industrial Line Reinforcement project. One project was in the Enbridge Gas Distribution Rate Zone, the St. Laurent Boulevard project. Following several procedural steps, Enbridge withdrew its ICM application for the St. Laurent Boulevard project on February 10, 2021. The argument submission of Energy Probe will deal with the OEB criteria for ICM funding applications and if the two ICM funding applications for the Union South Rate Zone meet the criteria.

The Criteria for ICM Projects

Materiality Threshold

The EB-2014-0219 Report of the Board explains the concept of the materiality threshold.

The materiality threshold is in effect a capital expenditure threshold which serves to demonstrate the level of capital expenditures that a distributor should be able to manage with its current rates.[1]

[1] EB-2014-0219 Report of the OEB – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, section 4.1.5, page 17

The threshold value is determined by a formula[2]. The EB-2014-0219 Report of the Board explains how to use the materiality threshold.

A capital budget will be deemed to be material, and as such reflect eligible projects, if it exceeds the Board-defined materiality threshold.[3]

Therefore, the key to obtaining approval for ICM funding is for a utility to have a capital budget that exceeds the materiality threshold. In the EB-2017-0306/EB-2017-0307 decision the OEB allowed Enbridge Gas to treat the EGD Rate Zone and the two Union Rate Zones as separate utilities for the purpose of calculating ICM materiality thresholds. Based on the data inputs[4] Enbridge Gas has calculated the 2021 Materiality Threshold amount to be $474.2 million for the two combined Union Rate Zones.[5]

To get ICM funding, Enbridge Gas needs to prove to the OEB that its 2021 in-service capital for the Union Rates Zones exceeds $474.2 million. According to Enbridge the in-service capital forecast for the combined Union Rate Zones is $627.0 million[6]. The 2021 Maximum Eligible Incremental Capital of $152.8 million is obtained by subtracting the 2021 Materiality Threshold amount of $474.2 from the 2021 Capital In-service Forecast of $627.0 million.

The 2021 Capital in-service Forecast for the London Lines project is $124.0 million and for the Sarnia Reinforcement is $31.5 million totalling $155.5 million. This exceeds the 2021 Maximum Eligible Incremental Capital of $152.8 million by $2.7 million[7]. Enbridge decided to apply the $2.7 million reduction to the Sarnia Reinforcement project[8]. Accordingly, Enbridge is requesting OEB approval for ICM funding for $124.0 million for the London Lines Replacement Project and for $28.8 million for the Sarnia Industrial Line Reinforcement[9].

Energy Probe Submission

To get ICM funding for the combined Union Rate Zones, Enbridge has to convince the OEB that its 2021 Capital In-service Forecast of $627.0 million is credible. Based on 2019 results, the last year where actual results are available it appears that 2021 forecast may be overstated. The 2019

[2] *Ibid*., section 6, page 19
[3] *Ibid*, section 4.1.5, page 17
[4] Exhibit B, Tab 2, Schedule 1, Table 3, Page 9
[5] *Ibid*, Page 8
[6] *Ibid*, Table 6, page 13
[7] I.EP.5, (b), page 2
[8] *Ibid*, (d), page 2: AIC, paragraph 25, page 7
[9] Exhibit B, Tab 2, Schedule 1, Table 7, page 14

actual in-service capital was $507.0 million[10]. In the rate proceeding where Enbridge applied for ICM rider for 2019, its 2019 Capital In-service Forecast was $518.5 million[11], a difference of $11.5 million. Energy Probe submits that the in service forecast for 2021 should therefore be reduced by $11.5.

The $627 million 2021 Capital In-service Forecast for the combined Union Rate Zones includes $113.4 million of overhead[12]. This overhead amount is based on EGI's new overhead allocation policy. The impact of this policy is an increase in overhead as can be seen in response to an interrogatory[13] where the overhead increased from $2.9 million to $5.0 million. This increase in overhead allocation is confirmed by Enbridge[14].

Enbridge claims that ratepayers will not be affected by the change because the effects of the increase in overheads will be recorded in the Accounting Policy Changes Deferral Account (APCDA) to capture the revenue requirement impact of this change. The APCDA is capturing the revenue requirement impact of the reduction in O&M costs, net of the revenue requirement impact of the increase in capital. However, APCDA is not capturing higher ICM rider revenue resulting from the change. Since APCDA was not designed to deal with ICM applications, and the new overhead allocation policy has not been approved by the OEB, the overhead based on the previous OEB approved overhead allocation policy should be used. Based on that policy Energy Probe estimates that the overhead would have been 2.9 / 5.0 times the $113.4 million overhead allocation based on the new policy, which equals $65.8 million, a reduction of $47.6 million.

In summary, the $627.0 Enbridge's 2021 Capital In-service Forecast for the Union Rate Zones should be reduced by the $11.5 million over-forecast of 2019 in-service additions, and the un-approved increase in capitalization of O&M costs recovered in base rates of $47.6 million. The appropriate amount is $567.9 million. Subtracting the threshold amount of $474.2 million from $567.9 million yields the 2021 Maximum Eligible Capital amount of $93.7 million for the combined Union Rate Zones.

The Means Test

The OEB requires that a distributor seeking funding actually needs it.

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[10] I.EP.2, page 3
[11] EB-2018-0305 Decision, September 12, 2019, page 25, footnote 49
[12] I.EP.2, page 3
[13] I.LPMA.7 (c)
[14] AIC, page 5, Paragraph 20

"If the regulated return exceeds 300 basis points above the deemed return on equity embedded in the distributor's rates, the funding for any incremental capital project will not be allowed.[15]"

According to evidence the 2019 calculated return of Enbridge Gas did not exceed 300 basis points above the respective Board-approved ROE. The 2019 actual ROE was calculated to be 10.475%, which was 149.5 bps above the 2019 Board-approved ROE of 8.98%[16].

Discrete Project Criteria

The OEB requires that ICM funding requests must be based on discrete, material projects.

"Amounts must be based on discrete projects, and should be directly related to the claimed driver.[17]"

For Enbridge the OEB set a restriction that an individual project must exceed $10 million in service capital to be eligible for ICM funding.[18]

<u>The Requests for ICM Funding</u>

The Sarnia Industrial Line Reinforcement Project

Enbridge Gas filed a Leave to Construct application with the OEB for the Sarnia Industrial Line Reinforcement on October 7, 2019 under docket number EB-2019-0218. The project was to install approximately 1.2 km of NPS 20 pipeline and ancillary facilities from the Dow Valve site to the Bluewater Interconnect including tie-ins to the existing Sarnia Industrial Line system. The project is needed to supply the increased demand for natural gas and future growth in the Sarnia area, specifically to support a $2 billion expansion of Nova Chemicals existing Corunna site. The project is economically feasible. The OEB approved the application and issued a Leave to Construct order on March 12, 2020. The capital cost of the project, including overheads, is $31.5 million. Enbridge is requesting approval for ICM funding from ratepayers for $28.8 million. According to Enbridge the "$2.7 million reduction was taken against the Sarnia

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[15] EB-2014-0219 Report of the OEB – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, section 4.1.4, page 15
[16] Exhibit B, Tab 2, Schedule 1, page 15
[17] EB-2014-0219 Report of the OEB – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, section 4.1.5, page 17
[18] EB-2017-0306/EB-2017-0307, Decision and Order, August 30, 2018, pages.32 and 33

Industrial Line Reinforcement project instead of the London Line Replacement project based on the size magnitude of the projects[19]."

Energy Probe Submission

The current cost estimate for the project is $32.9 million[20]. That number includes $5.0 million in overhead[21]. The Leave to Construct project approved by the OEB included $2.9 million of allocated overhead. The increase in the overhead allocation of $2.1 million is due to a change in overhead allocation policy that was not approved by the OEB[22]. Enbridge explained the change in a response to an interrogatory[23].

"Under the previous methodology, the Union rate zones overheads line was comprised of indirect overhead allocations, Alliance partner overheads and district contractor pre-work costs. Union rate zones also applied burdens or 'loadings' directly to capital projects.

Under the new methodology, the overhead line is comprised of indirect overhead allocations, direct and indirect burdens and interest during construction. The same components are applied for the EGD rate zone."

Based on that explanation the costs estimated for components of the project cost estimate would have changed as a result of the application of the new overhead allocation policy. For example, the Labour Cost of $18,485 thousand[24] under the old policy included burdens or loadings. Under the new policy this is no longer the case. One would therefore expect that the $18,485 thousand Labour Cost would be change under the new overhead allocation policy. But the evidence shows that it did not change. Energy Probe submits that $2.1 million of additional overhead allocated to the Sarnia Project is an attempt to capitalize $2.1 million more of Enbridge Gas costs that are already recovered through base rates. The OEB should reject this attempt at increased double recovery.

Having said that, Energy Probe believes that there should be no allocation of overheads to ICM projects in the combined Union Rate Zones. Allocated overhead costs are not incremental costs and should not be included in the calculation of ICM rate riders because it would result in double recovery. The overhead costs being allocated are not based on current costs but are derived from

[19] I.EP.5, (d)
[20] I.EP.7, page 2
[21] I.APPrO.2, page 2; I.STAFF.4 (b); I.LPMA.7 (c)
[22] Transcript pages 80-87, JT1.6
[23] I.LPMA.7 (c)
[24] I.APPrO.2, page 2

the O&M costs presented to the OEB in the last Union Gas cost of service rate case, EB-2011-0210 which established rates for the 2013 Test Year. The rates set for 2013, which are the base rates for the combined Union Rate Zones did not contemplate capitalization of O&M costs to 2021 ICM projects. Therefore, any allocation of overhead costs to ICM projects results in double recovery of costs.

The 2021 to 2023 revenue requirement for the Sarnia Line is $3.992 million[25]. For the same period Sarnia Line will generate $5.813 million[26] in revenue. Enbridge claims that the fact that the revenue generated exceeds revenue requirement is immaterial because the growth factor used in the calculation of Materiality Threshold accounts for the incremental revenue [27].

Energy Probe submits that growth factor used in the calculation of 2021 Materiality Threshold is based on 2019 revenues[28] and could not possibly include Sarnia Reinforcement Project revenues since it had not been built at that time. The ICM deferral account only records the difference between the revenues collected by the ICM rider and the revenue requirement based on actual costs of the project, it does not take into account actual revenues that Enbridge Gas will collect from Sarnia Industrial Line customers[29]. The excess actual revenues excluding the ICM rider revenues collected from Sarnia Industrial Line customers will be reflected in earnings sharing if there is any earnings sharing in 2021.

Enbridge response to an interrogatory[30] confirmed that the Sarnia Industrial Line was evaluated under EBO 188 guidelines and has an NPV of 1.09. That means that customers on the line are paying more than enough to cover the revenue requirement of the Sarnia Reinforcement Project. Enbridge witnesses also said that the revenue generated by the project is not relevant.

Energy Probe submits that the OEB Filing Requirements[31] clearly say that the incremental revenue is relevant. The Filing Requirements specify that a distributor provide evidence regarding revenue generated by the proposed ICM project.

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[25] I.EP.10 (a)
[26] I.STAFF.4 c
[27] I.OGVG.1; Transcript pages 89 to 91
[28] Exhibit B, Tab 2, Schedule 1, page 10
[29] JT1.7
[30] I.SEC.4, Attachment 1,
[31] Filing Requirements For Electricity Distribution Rate Applications - 2020 Edition for 2021 Rate Applications - Chapter 3 Incentive Rate-Setting Applications May 14, 2020, pages 27 and 28

"Evidence that the incremental revenue requested will not be recovered through other means (e.g., it is not, in full or in part, included in base rates or being funded by the expansion of service to include new customers and other load growth).

Calculation of each incremental project's revenue requirements that will be offset by revenue generated through other means (e.g. customer contributions in aid of construction)."

ICM approval is not only based on simple application of the threshold formula. It also depends on other considerations such as incremental revenue. When they are both considered, Sarnia Industrial Line does not qualify for ICM. The incremental revenue generated by the project is more than adequate to cover its revenue requirement. Enbridge Gas clearly does not need additional funding from ratepayers through the ICM rider.

The London Lines Replacement Project

On September 11, 2020, Enbridge Gas filed the EB-2020-0192 application seeking a Leave to Construct approval from the OEB for a $164.1 million project to build 51.5 kilometres of NPS 4 and 39 kilometres of NPS 6 steel pipeline to replace the existing 60 km London South Line and the 75 km London Dominion Line. As part of its application Enbridge was also seeking approval of a $5.8 million lateral NPS 6 line of 8.4 km that would connect Strathroy Gate Station to the new pipeline[32], and the $2 million cost[33] of rebuilding the gate station. In its decision of January 28, 2021, the OEB approved the application as filed.

The current forecast of project cost is $161.1 million[34] Enbridge is applying for $124.0 million of ICM funding. The difference between the two numbers is $37.1 million. Of that amount, $22.4 million cost of dismantlement is excluded from the ICM application, presumably because dismantlement costs are charged to accumulated depreciation**.**

<u>Energy Probe Submission</u>

A Leave to Construct application can be a grouping of several projects, in this case three projects: the 51.5 km replacement of London Lines, the 8.4 km Strathroy lateral, and the rebuilding of the Strathroy Gate Station. However, the OEB requires that an application for ICM funding must be for a single project and not for a grouping of projects. If the OEB issues a single

[32] I.STAFF.1
[33] I.EP.8
[34] I.EP.7, page 2

LTC order for the combination of these three projects, it should not mean that all three projects should be included as components of a single ICM in another proceeding.

Energy Probe submits that the pipeline replacement, the lateral line to Strathroy Gate and the rebuilding of the Gate Station[35] are three separate discrete projects and not a single project. Their replacement of London Lines for integrity reasons does not require that a lateral pipeline to the Strathroy be built. The London Lines that are being replaced were not directly connected to the Strathroy Gate Station. The cost of the new lateral pipeline to the Strathroy Gate Station is $5.8 million and the cost of the rebuilding of the Strathroy Gate Station is $2 million. Both of these projects are less than $10 million which makes them ineligible for ICM funding[36]. Removing these costs from the $124.0 million ICM application leaves $116.2 million.

The $116.2 million amount should further be reduced by excess overhead costs that are due to the new un-approved overhead allocation policy. Energy Probe estimates that the overhead based on the previous overhead allocation policy would be 2.9/5.0 of the $27.2 million of new overhead costs which is $15.8 million, a reduction of $11.4 million. This leaves $104.8 million as the amount of potential ICM funding if one accepts that overheads should be allocated to ICM projects. However, as explained above in Energy Probe's submission regarding the Sarnia Industrial Line Reinforcement, Energy Probe submits that no overheads should be allocated to the Incremental Capital Module projects. Therefore $116.2 million should be reduced by the $27.2 million of allocated overheads which leaves $89.0 million as the appropriate amount. That amount is less than the 2021 Maximum Eligible Capital of $93.7 million, so the $89.0 million is the appropriate amount to be used in the calculation of the ICM rate rider for London Lines Replacement.

Conclusion

Energy Probe submits that the OEB should not approve the ICM funding request for the Sarnia Industrial Line Reinforcement project. The additional capacity created by the project results in incremental revenue greater than the project revenue requirement. Enbridge clearly does not need ICM funding from ratepayers.

Energy Probe submits that the OEB should approve the request for ICM funding for the London Lines Replacement project but limit it to the cost of the replacement line and excluding the cost

[35] I.EP.8
[36] EB-2017-0306/EB-2017-0307, Decision and Order, August 30, 2018, pages.32 and 33

of the lateral to the Strathroy Gate Station, the cost of the rebuilding of the station, and the allocation of overhead costs which leaves $89.0 million as the appropriate amount.

Energy Probe believes that it has participated efficiently and responsibly in this proceeding and requests that it be allowed to recover 100% of its reasonably incurred costs.

Respectfully submitted on behalf of Energy Probe by,

Tom Ladanyi
TL Energy Regulatory Consultants Inc.