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March 12, 2021

**Delivered by Email & RESS**

Ms. Christine Long, Registrar  
Ontario Energy Board  
P.O.Box 2319, 27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Enbridge Gas Inc. 2021 ICM Application  
Final Argument of the Association of Power Producers of Ontario ("APPrO")  
Board File No. EB-2020-0181**

Pursuant to Procedural Order No. 4 dated February 19, 2021, please find attached APPrO's Final Argument in this proceeding.

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

Per:

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Flora Ho

cc: David Butters, APPrO  
Parties to EB-2020-0181

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended; -

**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.

**FINAL ARGUMENT OF THE  
ASSOCIATION OF POWER PRODUCERS OF ONTARIO (“APPrO”)**

**Filed: March 12, 2021**

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**BACKGROUND:**

1. The Association of Power Producers of Ontario ("**APPrO**") makes these written submissions on Enbridge Gas Inc.'s ("**EGI**") application to request for ICM funding filed with the Ontario Energy Board (the "**OEB**") on October 15, 2020 pursuant to section 36 of the *Ontario Energy Board Act, 1998* (the "**OEB Act**") for an Order approving or fixing interim rates for the distribution, transmission and storage of natural gas effective January 1, 2021 ("**Application**").
2. The OEB assigned file number EB-2020-0181 to the Application.
3. In this Application, EGI sought OEB approval for ICM funding for three projects in 2021, namely the St. Laurent NPS 12 Replacement (the "**St. Laurent Project**") in the Enbridge Gas Distribution Inc. ("**EGD**") rate zone, and the London Line Replacement Project (the "**London Lines Project**") and the Sarnia Industrial Reinforcement Project (the "**Sarnia Project**") in the Union Gas Inc. ("**Union**") rate zones. EGI also filed a consolidated Utility System Plan (including Asset Management Plan and a Customer Engagement Study) for the ICM requests.
4. APPrO filed interrogatories on December 21, 2020, which included a line of questioning related to evidence for the St Laurent Project. Specifically, in I.APPrO.1, APPrO expressed concerns on how the OEB would be able to make an informed decision on the prudence of the St. Laurent Project based on the lack of evidence provided by EGI.<sup>1</sup> APPrO also questioned whether EGI intended to withdraw the ICM funding request for the St. Laurent Project based on the lack of evidence.<sup>2</sup> APPrO also raised concern as to the timing of the Leave-to-Construct ("**LTC**") application for the St Laurent Project as there appeared to be a delay and if EGI was to file updated evidence in the Application then time would also be required for parties to assess the evidence and ask questions.<sup>3</sup>

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<sup>1</sup> Interrogatory 1.APPrO.1(a) dated December 21, 2020.

<sup>2</sup> Interrogatory 1.APPrO.1(d) dated December 21, 2020.

<sup>3</sup> Interrogatory 1.APPrO.1(b),(c) and (e) dated December 21, 2020.

5. In its response to APPrO's interrogatories, EGI indicated that it would file the St Laurent Project's LTC application in early 2021 and that the ICM treatment for the St Laurent Project would be contingent on the LTC approval.<sup>4</sup> EGI also indicated that they would not withdraw the ICM funding request for the St Laurent Project.
6. Subsequently on January 28, 2021, EGI filed a letter requesting to file updated ICM evidence relevant to the St Laurent Project to reflect updated cost forecast and any other relevant information from the St Laurent Project's LTC application by February 22, 2021 and to allow for supplementary interrogatories.
7. Also on January 28, 2021, several intervenors made requests to the OEB to schedule a technical conference for further clarification regarding certain interrogatory responses.
8. The OEB issued Procedural Order No. 3 on February 5, 2021, raising its concerns that:
  - the filing of updated evidence by EGI and further discovery in relation to that evidence would significantly delay this proceeding;
  - there may be overlapping evidence and duplication of effort between the St Laurent Project LTC application and this ICM application, which should be avoided;
  - there is the possibility that there may be a delay of the in-service date of the St. Laurent Project beyond 2021;
  - the funding requested for the St. Laurent Project that formed part of the ICM application, which is Phase 3 of the entire project, may not be separate from Phase 4 of the project and that Phase 3 may not be a discrete project from Phase 4 for the purpose of ICM funding.
9. On February 10, 2021, EGI filed a letter in response to the OEB's comments and concerns set out in Procedural Order No. 3 and in that letter indicated that EGI has decided to withdraw its request for 2021 ICM funding for the St. Laurent Project and plans to request

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<sup>4</sup> Response to Interrogatories, Exhibit I.APPrO.1 dated January 21, 2021 page 3 of 3.

ICM funding for Phase 3 and Phase 4 of the St Laurent Project in a single ICM request within Phase 2 of EGI's 2022 Rates Application.

10. The OEB scheduled a one-day technical conference on February 17, 2021.
11. As a result, EGI is now requesting 2021 ICM treatment for two projects only – the London Lines Project and the Sarnia Project.

**LONDON LINES PROJECT:**

12. Under the OEB's ICM policies, capital projects must meet the criteria of materiality, need and prudence to be eligible for recovery.<sup>5</sup>
13. APPrO participated in the London Lines Project LTC proceeding in EB-2020-0192.
14. On January 28, 2021, the OEB issued a Decision and Order<sup>6</sup> ("**London Lines LTC Decision**"), pursuant to which the OEB determined that EGI demonstrated need and prudence for the London Lines Project and ultimately approving EGI's LTC Application for the London Lines Project.
15. APPrO relies on the London Lines LTC Decision for EGI's demonstration of need and prudence for the London Lines Project.
16. With respect to materiality, EGI has calculated a 2021 threshold value of \$474.2 million for the combined union rate zones using the OEB's ICM materiality threshold calculation.<sup>7</sup> EGI calculated its 2021 in-service capital forecast for Union Rate Zones to be \$627 million.<sup>8</sup> Therefore, the 2021 maximum eligible incremental capital for the Union Rate Zone is \$152.8 million<sup>9</sup>.
17. The total London Lines Project in-service amount requested by EGI is \$124 million, which

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<sup>5</sup> EB-2014-0219 Report of the OEB – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014 ("ICM Report"), Section 4.1.5.

<sup>6</sup> EB-2020-0192 Decision and Order dated January 28, 2021.

<sup>7</sup> Exhibit B, Tab 2 Schedule 1, Page 8 of 33.

<sup>8</sup> Exhibit B, Tab 2, Schedule 1, Page 5 of 33.

<sup>9</sup> Exhibit B, Tab 2, Schedule 1, page 13 of 33.

is within the maximum eligible incremental capital amount of \$152.8 million.

18. In the Decision and Order dated August 30, 2018 (EB-2017-0306/0307) (“**MAADs Decision**”), the OEB directed EGI that any individual project for which ICM funding is sought must have an in-service capital addition of at least \$10 million.<sup>10</sup>
19. The London Lines Project with an in-service amount of \$124 million, exceeds the materiality level as required in the MAADs Decision.
20. As part of the criteria to be eligible for ICM funding, a distributor must pass the Means Test by demonstrating that its regulated return is less than 300 basis points above the deemed return on equity (“**ROE**”) embedded in the distributor’s rates.<sup>11</sup>
21. EGI’s 2019 ROE was calculated to be 10.475%, which is less than 300 basis points above the 2019 OEB-approved ROE of 8.98%.<sup>12</sup>
22. In addition, to be eligible for ICM funding, a request must be based on discrete, material projects and the amount claimed must be clearly outside of the base upon which rates were derived.<sup>13</sup>
23. EGI submitted that the London Lines Project is a discrete project for a new pipeline and related facilities required to replace existing pipelines, as EGI details in its pre-filed evidence.<sup>14</sup> EGI also submitted that the London Lines Project is material, with influence on EGI’s operations and the London Lines Project is not part of the utility’s typical annual capital maintenance programs.<sup>15</sup>
24. Based on the above, APPrO has no objections to EGI’s ICM request for the London Lines Project.

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<sup>10</sup> EB-2017-0306/0307 Decision and Order, August 30, 2018, pages 32 to 33.

<sup>11</sup> ICM Report Section 4.1.5.

<sup>12</sup> Enbridge Gas Argument in Chief dated March 1, 2021 page 8 of 14.

<sup>13</sup> ICM Report, Section 4.1.5

<sup>14</sup> Enbridge Gas Argument in Chief, page 9 of 14.

<sup>15</sup> Ibid.

**SARNIA PROJECT:**

25. EGI filed a LTC Application for the Sarnia Project on October 7, 2019 (EB-2019-0218). In its Decision and Order dated March 12, 2020 (“**Sarnia LTC Decision**”), the OEB found that EGI demonstrated the need for the project and that EGI considered a reasonable range of alternatives with the Sarnia Project being superior to these alternatives.<sup>16</sup>
26. APPrO relies on the Sarnia LTC Decision for EGI’s demonstration of need and prudence for the Sarnia Project.
27. The total Sarnia Project in-service amount is \$31.5 million and EGI’s maximum incremental capital amount for the combined Union Rate Zones is \$152.8 million. With \$124 million already allocated to the London Line Project, the total in-service amount of the two projects, being \$155.5 million would exceed the maximum eligible incremental amount. As a result, EGI has requested \$28.8 million for the Sarnia Project, which is less than the total in-service capital for the Sarnia Project, thereby meeting the maximum eligible incremental capital amount of \$152.8 million.
28. The Sarnia Project also meets the materiality level required in the MAADs Decision as it exceeds \$10 million.
29. As mentioned above, EGI passes the means test as its ROE is less than 300 basis points above the OEB-approved ROE for 2019.
30. Finally, as submitted by EGI, the Sarnia Project is a discrete project for a new pipeline to supply the increased demand for reliable and safe delivery of natural gas and future growth in the Sarnia area.<sup>17</sup>
31. Based on the above, APPrO has no objections to EGI’s ICM request for the Sarnia Project.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 12<sup>TH</sup> DAY OF MARCH, 2021

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<sup>16</sup> EB-2019-0218 – Decision and Order dated March 12, 2020 page 4 and 5.

<sup>17</sup> Enbridge Gas Argument in Chief, page 9 of 14.

**BORDEN LADNER GERVAIS LLP**

**Per:**

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