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March 31, 2021

Delivered by Email &RESS

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

Dear Ms. Long:

**Re: Enbridge Gas Inc. Integrated Resource Planning Proposal
Final Argument of the Association of Power Producers of Ontario ("APPrO")
Board File No. EB-2020-0091**

Pursuant to Procedural Order No. 9 dated March 5, 2021, please find attached APPrO's Final Argument in the above proceedings.

Yours very truly,

BORDEN LADNER GERVAIS LLP

Per:

A handwritten signature in black ink, appearing to read 'Flora Ho', is written over a horizontal line.

Flora Ho

cc: David Butters, APPrO
Adam Stiers, Enbridge Gas Inc.
David Stevens, Aird & Berlis
Parties to EB-2020-0091

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 Integrated Resource Planning
Proposal by Enbridge Gas Inc.

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

Filed: March 31, 2021

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A. INTRODUCTION:

1. The Association of Power Producers of Ontario ("**APPrO**") makes these written submissions on the Integrated Resource Planning proposal ("**IRP Proposal**") filed by Enbridge Gas Inc ("**EGI**") with the Ontario Energy Board (the "**OEB**") on November 1, 2019 as part of its Dawn-Parkway Expansion Leave to Construct ("**LTC**") proceeding (EB-2019-0159).¹ In its Procedural Order No. 1 of that proceeding, the OEB determined that the IRP Proposal would be heard separately from the Leave to Construct Application.²
1. On April 28, 2020, the OEB issued a Notice of Hearing that initiated a review of Enbridge Gas' IRP Proposal as a separate proceeding and assigned file number EB-2020-0091 to the IRP Proposal proceeding.
2. On May 21, 2020, the OEB issued Procedural Order No. 1, which included a draft issues list for comment.
3. The OEB considered the comments from parties to the proceeding and developed a final issues list. On July 15, 2020, the OEB issued a Decision on Issues List and Procedural Order No. 2 ("**Decision on Issues List**"). The issues list was attached at Schedule A of the Decision on Issues List (the "**Issues List**").
2. On July 22, 2020, EGI filed a report from ICF Canada ("**ICF**") titled "Final Report on Natural Gas Integrated Resource Planning: Initial Assessment of the Potential to Employ Targeted DSM to Influence Future Natural Gas Infrastructure Investment" dated May 18, 2018 (the "**IRP Study**").³
3. Subsequently on October 15, 2020, EGI filed additional evidence, which included an illustrative IRP process plan detailing how IRP will preferably be integrated into system planning processes/activities at EGI going forward and an updated jurisdictional review by ICF of advancements and treatment of natural gas IRP in other jurisdictions since the

¹ EB-2020-0159, EGI Leave to Construct Application, Exhibit A, Tab 13.

² EB-2019-0159, Procedural Order No. 1, January 30, 2020, page 2.

³ EB-2020-0091, EGI's IRP Proposal – IRP Study, July 22, 2020.

completion of the IRP Study.⁴

4. On November 12, 2020, OEB staff filed expert evidence – a report produced by Guidehouse Canada Ltd. titled “Natural Gas Integrated Resource Planning in New York State and Ontario” (the “**Guidehouse Report**”). The Guidehouse report provides expert analysis of natural gas IRP in New York State, in comparison with each of the IRP issues in the Issues List and EGI’s IRP Proposal, and provides recommendations for natural gas IRP in Ontario based on the jurisdictional analysis.
5. Green Energy Coalition (“**GEC**”) and Environmental Defence (“**ED**”) as intervenors to this proceeding also filed expert evidence. On November 23, 2020, GEC and ED filed a report by Chris Neme of Energy Futures Group (“**EFG**”) titled “Best Practices for Gas IRP and Consideration of “Non-Pipe” Alternatives to Traditional Infrastructure Investments” (the “**EFG Report**”), which addresses some of the issues from the Issues List, such as definition and goals of IRP, process to incorporating IRP into EGI’s system planning process, industry best practices, screening criteria and methodology for comparing IRPAs and facility projects, cost recovery, and utility incentives for IRP.⁵
6. A Technical Conference was held on February 10 to 12, 2021, a Presentation Day held on February 19, 2021 and an Oral Hearing was held from March 1 to 4, 2021. During the Oral Hearing, testimony was presented by witnesses from EGI, ICF, Guidehouse and EFG.
7. The OEB issued Procedural Order No. 9 on March 5, 2021, setting schedule for written submissions and asked that EGI’s Argument-in-Chief clearly describe exactly what the OEB is being asked to approve. The OEB also asked that to the extent possible for the parties to follow the format of EGI’s Argument-in-Chief.⁶
8. EGI filed its Argument-in-Chief on March 17, 2021, which among other things, specifies

⁴ EB-2020-0091, EGI’s IRP Proposal, Exhibit B and Exhibit B Appendix A, October 15, 2020.

⁵ “Best Practices for Gas IRP and Consideration of “Non-Pipe” Alternatives to Traditional Infrastructure Investments” by Chris Neme of Energy Futures Group, November 23, 2020.

⁶ Procedural Order No. 9, March 5, 2021, page 1.

the approvals sought by EGI for the IRP Framework.⁷

9. These submissions are prefaced by a general statement of APPrO's position on EGI's IRP Proposal followed by a more detailed set of submissions.

B. EXECUTIVE SUMMARY:

10. APPrO's membership consists of natural gas-fired generators ("GFGs") and GFGs are among EGI's largest customers.
11. The IESO's January 2020 Annual Planning Outlook ("APO") indicates that Ontario is expected to have an adequate supply of energy to 2040 with production from GFGs ramping up to meet growing demand.⁸ The IESO concludes in the APO that natural gas will continue in the production of electricity⁹, especially with the retirement of the Pickering Nuclear Generating plant in 2026, projected demand increases post-pandemic, and as electricity is utilized as part of a Net Zero by 2050 strategy to reduce emissions from heavily emitting sectors such as transportation and buildings.
12. GFGs play an important role as an interface between Ontario's natural gas and electricity systems to provide Ontario with clean, safe, reliable, and secure source of electricity supply.¹⁰ Therefore, the proper treatment of IRPs as well as their cost consequences, are of concern to GFGs and to electricity ratepayers more broadly.
13. As more fully detailed in the submissions below, APPrO's main concerns surround Issues 3, 7 and 8 of the Issues List. Specifically, APPrO is of the view that:
 - a. EGI's proposed IRP Plan Applications require further OEB guidance that elicits evidence consistent with the OEB's statutory objectives;
 - b. EGI's proposed IRPA Cost Recovery and Accounting Treatment would negatively impact ratepayers;
 - c. EGI's proposed "like treatment for like results" treatment of IRPAs and facility

⁷ EGI Argument-in-Chief, Section E, pages 12 to 48.

⁸ EGI Undertaking Responses, J3.1, March 16, 2021.

⁹ IESO Annual Planning Outlook, January 2020, page 21.

¹⁰ Oral Hearing Transcript Volume 3, March 3, 2021 ("Vol. 3 Transcript"), page 50 lines 16 to 24.

alternatives is not the appropriate solution to eliminate bias in decisions as between pipeline and IRPA solutions.

14. APPrO's views on each of the issues of the Issues List are set out below in a format that follows that of EGI's Argument-in-Chief.

C. PURPOSE OF EGI'S IRP FRAMEWORK PROPOSAL:

Issue 1 - What is Integrated Resource Planning (IRP) and what should the comprehensive goals of IRP be?

15. EGI describes IRP as a multi-faceted planning process that includes the identification, evaluation and implementation of realistic natural gas supply-side and demand-side options (including the interplay of these options) to determine the solution to an identified future need or constraint that provides the best combination of cost and risk for EGI's customers. IRP considers facility and non-facility alternatives to address long-term system constraints/needs to arrive at an optimized and economic solution that is proposed and implemented to meet that constraint/need.¹¹
16. EGI further describes its IRP Proposal as being underpinned by four Guiding Principles: 1) Reliability and Safety; 2) Cost Effectiveness; 3) Public Policy; and 4) Optimized Scoping.¹² Of these four Guiding Principles, EGI submits that Reliability and Safety is most important as its obligation is to ensure the safe and reliable supply of natural gas to meet the needs of its customers.¹³ EGI submits that Cost Effectiveness and Public Policy are also important considerations for IRP and EGI has proposed an evaluation methodology that compares the impacts of facility alternatives and IRPAs to evaluate the best option for the utility and its ratepayers, through the Discounted Cash Flow approach.¹⁴
17. EGI submits that its proposed Guiding Principles are consistent with the OEB's statutory

¹¹ EGI Argument-in-Chief, pages 5 and 6.

¹² Ibid, page 6.

¹³ Ibid, page 7.

¹⁴ Ibid, page 8.

objectives in relation to gas.¹⁵

18. APPrO agrees with EGI's description of the IRP as stated in paragraph 15 above. It also appreciates the guiding principles identified by EGI as underpinning the IRP Proposal and agrees with EGI that Reliability and Safety and Cost Effectiveness are among the more important principles as they align with the OEB's statutory objectives with respect to its regulation for gas.¹⁶
19. However, with respect to EGI's position that the Discounted Cash Flow approach is the appropriate evaluation methodology, APPrO has certain concerns, which are raised under its submissions on Issue 6 below.

D. LEARNINGS FROM OTHER JURISDICTIONS

Issue 5 – What are industry best practices for IRP, and how are they applicable to the Ontario context?

20. As stated in its Argument-in-Chief, EGI submits that evidence suggests there has not been significant activity or progress in developing gas IRP frameworks or advancing gas IRP in other jurisdictions to date. New York State has been identified being the leader in the area.
21. EGI believes that its IRP Proposal is consistent with the learnings and guidance that can be taken from other jurisdictions, including: it is difficult to compare gas and electric IRPs; local rules and conditions drive IRP solutions; IRP pilot projects are important; no jurisdiction has implemented an overall natural gas IRP framework; and there is limited specific direction from utility regulators in other jurisdictions to draw from.¹⁷
22. APPrO agrees that given that many jurisdictions are in its early stages in this area, the best practice areas identified by EGI are reasonable.

E. APPROVALS SOUGHT BY EGI FOR THE IRP FRAMEWORK

¹⁵ Ibid, pages 8 and 9.

¹⁶ Section 2, *Ontario Energy Board Act*, 1998.

¹⁷ EGI's Argument in Chief, page 12.

Issue 2 – What is the appropriate process and approach for incorporating IRP into Enbridge Gas’s system planning process, including scope, timing, stakeholder consultation, approval process and evaluation?

23. EGI submits that it will include IRP consideration in its system planning processes, starting from when a need or constraint is first identified. It will consider whether IRP is an appropriate alternative to a facilities solution through a staged evaluation process. EGI states that it will engage with stakeholders in a three-component stakeholdering process and will provide opportunities for feedback well in advance of any final determinations on the appropriate solution to meet an identified need. EGI submits that its decisions, including in relation to IRPAs, will be documented in the Asset Management Plan.¹⁸
24. APPrO submits that EGI’s proposed process and approach for incorporating IRP into EGI’s system planning process is appropriate. In particular, APPrO agrees with EGI’s proposed IRP Stakeholder Engagement Process.
25. EGI’s proposal for the three-component stakeholdering, which includes the aspect of targeted engagement to share information about an identified IRPA or IRP Plan with stakeholders and potentially affected Indigenous groups from the specific geographic area relevant to the IRPA would provide additional insight into the IRPAs that EGI may not have been aware of.
26. In addition, EGI confirms that it is willing to engage with geographically-specific large volume gas customers, including but not limited to GFGs, to see if they are able to provide services that may be beneficial as a potential IRPA.¹⁹
27. APPrO believes that this type of stakeholdering would greatly assist EGI in determining the most suitable IRPA and the best solution to a system constraint/need. APPrO is not convinced that a more costly and time consuming quasi-litigation process should replace this more targeted and customer focused stakeholdering process.

¹⁸ EGI Argument-in-Chief, Section E(ii)(b) and (c), pages 21 to 36.

¹⁹ EGI Interrogatory Responses, I.APPrO.1, page 1.

Issue 3 – What, if any, OEB approvals are required under the IRP Framework, including for IRP Plans?

28. EGI provided a list of items that it requests the OEB to approve as part of the IRP Framework that will be issued by the OEB, which are as follows²⁰:
- i. Guiding Principles
 - ii. IRP Proposal Elements;
 - 1. Types of available IRPAs – demand and supply side alternatives;
 - 2. IRP Assessment Process;
 - 3. Stakeholder Outreach and Engagement Process;
 - 4. IRPA Cost Recovery and Accounting Treatment Fundamentals;
 - 5. Future IRP Plan Applications;
 - 6. Monitoring and Reporting;
 - iii. IRP Costs Deferral Account;
 - iv. IRP Pilot Project Proposal; and
 - v. AMI Acknowledgement.

Guiding Principles

29. While EGI has articulated its Guiding Principles for its IRP Framework, APPrO submits that the OEB’s guiding principles for assessing a proposed IRPA should draw instead directly from Section 2 of the *Ontario Energy Board Act, 1998* (the “**OEB Act**”).
30. APPrO understands that EGI proposes to first apply to the OEB for an IRPA approval in an “LTC-like process” under Section 36 of the OEB Act, and then to apply a second time

²⁰ EGI Argument-in-Chief, Section E.

for rate approval for the IRPA in the future again under Section 36 of the OEB Act.²¹

31. APPrO believes this proposal has merit. The OEB has broad discretion under the OEB Act to set just and reasonable rates for the distribution of gas.²² In addition, Section 36(3) of the OEB Act allows for the OEB to adopt any method or technique that it considers appropriate for approving or fixing just and reasonable rates. Finally, and as noted by EGI, the OEB's Incremental Capital Module process does provide a mechanism for the OEB to provide an advanced need/prudence approvals for material capital expenditures including those that may or may not necessitate a formal Section 90 leave to construct.
32. However, in this circumstance APPrO submits that the OEB's assessment of a "LTC-like" IRPA application should be based directly on the OEB's statutory objectives set out in Section 2 of the OEB Act. The questions the OEB should be concerned with in an IRPA application are whether or not the proposed IRPA will:
 1. To facilitate competition in the sale of gas to users.
 2. To inform consumers and protect their interests with respect to prices and the reliability and quality of gas service.
 3. To facilitate rational expansion of transmission and distribution systems.
 4. To facilitate rational development and safe operation of gas storage.
 5. To promote energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
 - 5.1 To facilitate the maintenance of a financially viable gas industry for the transmission, distribution and storage of gas.

²¹ Vol. 3 Transcript, page 61 line 18 to page 62 line 7.

²² *Enbridge Gas Inc v. Ontario Energy Board* (2020 ONSC 3616), *Advocacy Centre for Tenants-Ontario v. Ontario (Energy Board)* (2008 CarswellOnt 2830), *Union Gas Ltd. v. Ontario (Energy Board)* (2015 ONCA 453).

6. To promote communication within the gas industry.
33. The ability of an IRPA to satisfy each of these statutory objectives is of fundamental concern to gas consumers, including GFGs. GFGs are particularly sensitive to the objectives related to prices, reliability and quality of service.
34. In this context, it is worth noting that for applications under Section 92 of the OEB Act (i.e. electricity LTC applications), the OEB applies a public interest test that focuses specifically on the OEB's statutory objective of protecting consumers' interests with respect to prices and the reliability and quality of electricity service.²³
35. APPrO submits that the OEB's statutory objectives should guide the OEB's decision-making with regards to different IRPAs and that it would be reasonable to require EGI to file evidence that directly addresses each of these objectives for any proposed IRPAs.

IRP Assessment Process

36. APPrO is generally supportive of EGI's proposed IRP assessment process including its prudent two-stage evaluation process, as well as EGI's proposal to use a Discounted Cash Flow plus ("DCF+") test based on EBO 134 parameters. It makes no sense to complete a detailed cost analysis of an IRPA that does not adequately meet the required need/constraint. In APPrO's submission, customers will generally be reluctant to pursue an IRPA in circumstances where the Stage 1 NPV calculation is greater than zero, in other words, when a pipeline project is the more cost effective solution (on an apples to apples comparison).
37. APPrO is also comfortable that EGI's proposal for Stages 2 and 3 of the DCF+ test will ensure that all other benefits and costs incurred by both customers and society at large will be clearly evidenced in the context of an IRPA proceeding.
38. In this context, APPrO does not agree with the suggestion that the Total Resource Cost Test plus ("TRC+") test is more appropriate. APPrO is concerned that proposals to adopt

²³ Section 96(2) of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B

the TRC+ test seeks to eliminate the gating function that Stage 1 of EGI’s proposed DCF+ test serves, thereby requiring customers to pay more for an IRPA than they would otherwise have to pay for a pipeline solution that meets the same need. This would not be in the best interest of consumers with regards to prices.

Stakeholder Outreach and Engagement Process

39. APPrO is supportive of EGI’s proposed stakeholder outreach and engagement process. APPrO notes that it draws on best practices developed by the IESO and experts in considering wires and non-wires alternatives to meet electricity system needs.
40. APPrO does not agree with the suggestions by some parties that a quasi-litigious process should be forced on top of this stakeholder outreach and engagement process. With the OEB’s ongoing efforts to streamline processes and identify efficiencies, it is not clear to APPrO that the benefits of such a process would outweigh the incremental administrative burden and costs that such a process necessitate.

IRPA Cost Recovery and Accounting Treatment Fundamentals

41. APPrO does not agree with EGI’s proposal for “like for like” cost recovery of proposed IRPAs. APPrO addresses this issue directly under Issue 7 below.

Future IRP Plan Applications

42. One of EGI’s IRP Proposal elements that EGI is seeking approval for is an “LTC-like” process to review and approve a proposed IRP Plan with EGI being given flexibility to adjust the IRP Plan without further OEB review except where costs being adjusted are 25% or greater of the total approved cost.²⁴
43. EGI outlines the types of evidence it expects to file in respect of an IRP Plan approval application at paragraph 130 of its Argument-in-Chief, which according to EGI is equivalent to what is usually filed in a Section 90 LTC application.

²⁴ EGI Argument-in-Chief, page 14.

44. The problem with this analogy is two-fold. First, Section 90 of the OEB Act stipulates a specific legal test for facilities approval that differs from the considerations that the OEB must put their mind to when a Section 36 rate application is filed.
45. Second, LTC applications have been traditionally used for the construction of gas pipelines and the industry is familiar with the methodology, processes and procedures that are used to address issues of cost allocation, rate design and bill impacts for traditional pipelines.
46. The same cannot be said to be true for IRPAs, particularly if a TCF+ test is approved rather than EGI's proposed DCF+ test. The allocation of costs and benefits associated with a particular IRPA may create significant concerns as amongst different customer groups from a cost allocation, rate design and bill impacts perspective.
47. As a consequence, APPrO submits that issues such as cost allocation, rate design and bill impacts must be addressed clearly and directly in any initial IRP Plan approvals application and this evidence should be filed proactively in advance by EGI. How could the OEB protect the interests of consumers with regards to prices if this information is not filed?
48. If EGI's proposal is accepted and an IRP Plan application is filed without information on cost allocation, rate design and bill impacts, there is a risk that the OEB panel which hears an IRPA Application may not be fully informed about certain fundamental equity issues as between customer classes that may arise from a particular proposed IRPA until it is too late – that is until after it is approved. That is not an acceptable outcome.
49. EGI has suggested that in normal LTC proceedings there is a discovery process where parties could pose interrogatories with respect to cost allocation and/or cost recovery.²⁵ While accurate, this suggestion has the effect of flipping the evidentiary burden onto intervenors. APPrO does not agree. EGI should be required to produce clear and compelling evidence in support of a proposed IRPA, including evidence on cost allocation, rate design and rate impacts, prior to the OEB hearing. The evidence should not be expected

²⁵ Vol 3. Transcript, page 63 lines 21 to 27.

to arise on an ad hoc basis through the discovery process.

50. In this context, EGI proposed during the oral hearing that as part of the initial application, the OEB can consider whether or not the proposal in terms of the “accounting treatment” which in broad terms also covers cost recovery, cost allocation, rate design and bill impacts in a broad sense is appropriate.²⁶ If this is true – then APPrO would ask EGI to update its proposed list of evidence in reply submissions to clearly cover these topics.
51. APPrO believes that clear and principled guidance from the OEB on the types of information that it considers as relevant in considering the approval of an IRPA would be helpful not only for EGI but also for other parties.

Issue 4 - Will the IRP Framework necessitate consequential changes to any other OEB policies, rules, or guide-lines? If so, which policies, rules, or guidelines might be affected, and how should these changes be addressed?

52. EGI requests that the OEB establish an approval application process for IRP Plans. EGI believes that “like for like” treatment of IRPAs as capital assets can be accommodated under existing legal and regulatory structures (including section 36 of the OEB Act and the Minister’s Directives expanding EGI’s permitted business activities).
53. APPrO’s position on EGI’s treatment of IRPAs as capital assets in terms of financial recovery of costs is addressed under Issue 7 below.
54. With respect to the approval application process for IRP Plans, APPrO agrees with EGI that the OEB should establish such process. However, although the approval application process can be made under existing legal and regulatory structures as an application under section 36 of the OEB Act, as mentioned above under Issue 3, additional criteria may be required. If this is the case, the OEB should consider establishing clear guidelines concerning such applications, the evidentiary requirements, and the threshold test the OEB

²⁶ Vol. 3 Transcript, page 64 lines 16 to 28 page 65 lines 1 to 19.

intends to apply.

Issue 6 - What screening criteria and methodology should be adopted to evaluate and compare IRP Alternatives (IRPAs) with one another and with facility projects?

55. EGI proposes four steps to determine whether to pursue an IRP solution for an identified need/constraint²⁷:

- i. First step is to identify the need/constraint, include it in the asset management plan, and develop a facility solution to meet the need.
- ii. Second step is to apply five binary screening criteria to the identified system need/constraint to determine whether further IRP evaluation is appropriate.
- iii. Third step is the two-stage evaluation process.
 1. The first stage of the evaluation process is to determine whether IRPA(s) could meet the identified need/constraint.
 2. The second stage of the evaluation process is to perform a Discounted Cash Flow evaluation to compare the IRP Plan(s) that could meet the need/constraint to the baseline facility alternative. EGI proposes to base this evaluation/test on the three-stage approach used for transmission system expansions under the EBO 134 parameters.
- iv. Fourth step is for a periodic review of the IRP and report to the OEB, stakeholders and potentially affected indigenous groups.

56. APPrO generally takes no issue with the screening criteria and methodology proposed by EGI above, except for the economic evaluation proposed.

57. EGI submits that using a DCF methodology, consistent with the principles underpinning

²⁷ EGI's Argument-in-Chief, Section E(ii)(b), page 21 to 32.

OEB's E.B.O. 134 and E.B.O. 188, is an appropriate methodology to assess and compare economic feasibility of IRPAs and facility alternatives. It is not seeking to make any modifications to the DCF methodology when using it to assess IRPAs, but is open to discuss additional costs and/or benefits that could be incorporated into the economic assessment.²⁸ EGI also acknowledge that there is more work to do in order to determine all the appropriate inputs into a DCF+ evaluation.²⁹

58. An alternative to the DCF test is suggested by EFG in the EFG Report, which is the TRC+ test. This test includes consideration of impacts on program participants and the environment as part of the utility cost-effectiveness analyses.³⁰
59. EGI does not agree that the TRC+ test is appropriate evaluation for both IRPAs and facility alternatives as the test is not used to evaluate facility projects but rather energy efficiency type programs.³¹ EGI submits that the TRC+ test does not provide any indication of the rate impact of the IRPA and facility alternative options considered. Whereas the DCF+ evaluation approach will provide such information, which is consistent with the OEB's statutory objectives to protect consumers with respect to prices and to promote energy efficiency in accordance with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.³²
60. APPrO agrees with EGI in this regard. By taking into account other benefits to third parties, the TRC+ test would make cost allocation and rate design a very complicated and contentious matter.
61. From the available information, it appears that EGI's proposal results in straightforward allocation results - apples to apples as it were, with regards to costs and benefits.

²⁸ EGI's Response to Interrogatories, I.Staff.20(a), February 2, 2021, page 3.

²⁹ EGI's Argument-in-Chief, page 29.

³⁰ Best Practices for Gas IRP and Consideration of "Non-Pipe" Alternatives to Traditional Infrastructure Investments, Chris Neme, Energy Futures Group, submitted on behalf of Green Energy Coalition and Environmental Defence, November 23, 2020, Exhibit M2.GEC-ED, ("EFG Report") page 34.

³¹ EGI's Argument-in-Chief, page 30.

³² Ibid, page 31.

Issue 7 - What is the appropriate approach to the recovery of the costs resulting from an approved IRP Plan and the costs for additional investments to support IRP?

Impacts on the Competitive Market

62. EGI states that they seek to capitalize IRPA costs as part of rate base regardless of the nature of the IRPA costs, so both annual operation and maintenance (“O&M”) and capital IRPA costs will be capitalized to rate base.³³
63. EGI submits that the principal rationale for this approach is “like-for-like” treatments.
64. APPrO submits that a very important and pressing concern that is not adequately addressed in EGI’s proposal is the impacts of its approach on the competitive markets related to different IRPAs.
65. In EB-2009-0172, Enbridge Gas Distribution Inc. (“EGD”) (EGI’s predecessor) brought an application, arguing that due to the *Green Energy Act* changes, EGD’s various green energy initiative investments should be part of EGD’s rate base. In its decision in EB-2009-0172, the OEB determined that even if it did have the jurisdiction to include the costs associated with these programs in rate base, it will not allow these costs to be included in rate base because EGD does not have a monopoly franchise for the production of renewable energy. EGD’s franchise is related to the distribution of natural gas. Production of renewable energy occurs within a competitive market and if the costs associated with green energy initiatives were allowed in rate base, then other participants would be materially disadvantaged.³⁴ The OEB ruled that:

“Permitting a well financed public utility to include its costs of participation in this market into its rate base, thereby transferring risk to the ratepayer, is unfair to other market participants.”³⁵

³³ Vol. 3 Transcript, page 141 lines 22 to 25.

³⁴ EB-2009-0172 - Decision on a Preliminary Motion dated December 22, 2009, Enbridge Gas Distribution Inc., page 5 and 6.

³⁵ Ibid.

Another reason the OEB noted for excluding such costs in rate base is that it significantly increases the risk to the ratepayer.³⁶

66. In EB-2017-0319, EGD applied for approval of its proposed Renewable Natural Gas (“RNG”) Enabling Program and Geothermal Energy Service Program. APPrO’s position in that case was that the OEB does not have jurisdiction to set rates relating to RNG Upgrading as it does not fall within section 36 of the OEB Act and even if the OEB has the jurisdiction to approve such rates, it should not approve the RNG Upgrading program as to do so is unfair to other market participants and is anti-competitive. Placing the assets in rate base shifts the risk from shareholders to ratepayers and APPrO’s submitted that ratepayers should not bear the risk and subsidize market transformation.³⁷ In this decision, the OEB concluded that it was not appropriate for the RNG Upgrading Service to be a rate-regulated activity because it was potentially a competitive activity in Ontario and the OEB must consider the risks that natural gas customers would bear for this competitive service. The OEB found that the natural gas customers should not bear such risk.³⁸
67. APPrO understands that EGI intends to issue an RFP and procure service from a market service provider, however it is currently unknown whether EGI would be the sole customer of the market service provider.³⁹
68. In this context, EGI has not addressed any concerns over its potential market power over third party IRPA providers. And EGI has given no indication of the mechanisms that may be available to the OEB to exercise control over this exercise of market power.

Alternative Rate-Setting Framework

69. EGI has a broad discretion at its next rebasing to propose an alternative rate-setting framework that does not solely rely on return on rate base to compensate the shareholder. Indeed, EGI signals that it is aware of this discretion at paragraph 126 of its Argument-in-

³⁶ Ibid, page 6.

³⁷ EB-2017-0319, APPrO Submissions, August 28, 2018, pages 1 and 2.

³⁸ EB-2017-0319, Decision and Order, October 18, 2018, page 11.

³⁹ Vol. 3 Transcript, page 139 lines 4 to 10.

Chief.

70. An example is the alternative rate-setting framework of the Office of Gas and Electricity Markets (“**OFGEM**”) in the United Kingdom. OFGEM uses the RIIO model in gas distribution price control, which uses the formula:

$$\text{Revenue} = \text{Incentives} + \text{Innovation} + \text{Outputs}$$

71. This RIIO price control sets out the outputs that the eight Gas Distribution Networks (“**GDNs**”) in Great Britain need to deliver for their consumers and the associated revenues they are allowed to collect for a period of time (for RIIO-GD1 the period is from 2013 to 2021 and RIIO-GD2 is from 2021 to 2026). The price controls set by OFGEM determine the amount of revenue that the GDNs can earn and stipulate the levels of performance OFGEM expect GDNs to meet.
72. To encourage GDNs to innovate in the design, build and operation of their networks to facilitate the transition to a low carbon economy, there is a Network Innovation Allowance and gas network Innovation Competition, which provides funding for GDN innovative projects.
73. Outputs are composed of six categories: Safety, Reliability, Connections, Customer Service, Social Obligations, and Environmental.⁴⁰
74. OFGEM uses a “totex” approach to set price controls that aim to incentivize companies to deliver outputs at the lowest total cost, without preferring cost savings derived from capital expenditure or operating expenditure solutions. This is achieved by setting the same totex incentive rate (the percentage that the company/licensee bears of an under or overspend against allowances) for both capital expenditure and operating expenditure solutions. This approach encourages GDNs to choose the most efficient way of meeting their outputs.⁴¹
75. The Totex Incentive Mechanism (“**TIM**”) incentivizes GDNs to outperform their totex

⁴⁰ OFGEM, RIIO-GD1 Performance Summary 2018-2019, page 5.

⁴¹ Ibid, page 8.

allowance. Through the TIM, any underspend against allowed totex is shared between the GDN and consumers. GDNs will retain approximately 63% of this underspend and the remainder will go back to consumers after taxes.⁴²

76. Under RIIO, Rate of Regulatory Return on Equity (“**RoRE**”) is made up of several components. First, the base allowed equity return is the return on equity that a company would earn if their expenditure and allowance matched, with no other incentives. This base return on equity is significantly lower than the OEB’s current cost of capital parameters, creating downside risk for utilities that are unable to take advantage of the different incentive mechanisms. Second, is the operational performance based on totex, which compares the totex allowance to the company’s actual totex expenditure and any underspend and overspend would be shared between the company and consumers through TIM. Third, is the company’s overall incentive performance. Financing and tax performance is then added to produce the total RoRE.⁴³
77. APPrO submits that rather than taking a simplistic approach and capitalizing all IRPAs using “like treatment for like results”, EGI has broad discretion to propose an alternative rate-setting framework in its next major rebasing application that eliminates the incentive problems as between IRPAs and pipeline solutions, and as between capital and O&M solutions.
78. APPrO submits that the OEB should not accept EGI’s proposed cost treatment at this stage, and instead should invite EGI to come back with a more innovative approach.

Issue 8 - Who should bear the risk of an IRP Plan that does not accomplish its planned expectations and should there be consequences for not achieving planned expectations?

79. EGI expects that there may be substantial incremental costs associated with evaluating multiple potential IRPAs prior to selecting the best solution and EGI is of the view that it is entirely reasonable that ratepayers, and not EGI, bear the costs associated with the

⁴² Ibid.

⁴³ Ibid, page 11.

success or failure of such investments.⁴⁴

80. It is EGI's position that increasing its risk profile by allocating risk associated with investments in IRP to EGI's shareholders would act as a disincentive to treat investments in IRP on a level plane with facility investments.⁴⁵
81. APPrO does not agree with EGI in this regard. The utility should bear some risk associated with its investment decisions. This should be true of traditional pipeline facilities.⁴⁶ And it should be true of IRPAs as well.

Issue 9 - What incentives are appropriate to ensure effective IRP outcomes?

82. EGI proposes that the "like treatment for like results" of IRPAs (consistent with cost treatment for facilities investments) may be a sufficient incentive to create a "level playing field" and drive effective outcomes.⁴⁷
83. APPrO disagrees with EGI's proposal.
84. As explored under Issue 7 and Issue 8, the appropriate incentive should not be "like treatment for like results" as this approach contains inherent problems.
85. EGI should explore and propose an alternative rate-setting framework like the one used by OFGEM, to better align the incentives of the utility with the needs and preferences of their customers.

Issue 10 - What is the appropriate approach for monitoring and reporting on the progress of IRP Plans, including consideration of metrics and a scorecard?

86. EGI proposes detailed annual reporting on IRP activities, including planning,

⁴⁴ EGI Interrogatory Response, I.APPrO.6, February 2, 2021, page 2.

⁴⁵ EGI Interrogatory Response, I.EP.6, February 2, 2021, page 3.

⁴⁶ In National Energy Board's ("NEB") Decision for TransCanada Pipelines Limited's ("TransCanada") Restructuring Proposal and Mainline Final Tolls (RH-003-2011) dated March 2013, the NEB was of the view that TransCanada must not look to regulation to shield the Mainline from its business risks. It is not just and reasonable for all of the costs and risks associated with competition to be borne by Mainline shippers on the system who do not have access to competing sources of supply for their energy needs. There should be a limit of costs related to the underutilization of the Mainline resulting from competition that the Mainline shippers can absorb for tolls to remain just and reasonable.

⁴⁷ EGI's Argument-in-Chief, Section E(ii)(d), pages 36 to 39.

stakeholdering and implementation. In addition, where EGI makes adjustments to an in-progress IRP Plan that will result in cost changes equal to 25% or less of the OEB-approved IRP Plan costs, EGI will make those adjustments without application to the OEB and details will be provided in the annual reporting.⁴⁸

87. APPrO submits that detailed annual reporting on IRP activities is appropriate. However, APPrO is of the view that the OEB can provide guidance and requirements as to the contents of the annual report. For example, detailed variance analyses on costs and performance, status of potential IRPAs, mitigation measures for underperforming IRPAs, etc.
88. With respect to any adjustments to the IRP costs, APPrO submits that a cost change within 10% should be a more reasonable threshold for application to the OEB and would encourage EGI to incur costs prudently and keep costs within the OEB-approved amount.
89. In its response to interrogatory I.Staff-26, EGI stated that it did not propose any metrics for IRP planning because it believes metrics are not required.⁴⁹ But when asked at the Oral Hearing whether or not it foresees using metrics in the future, EGI confirmed that it would be willing to receive and consider feedback in this regard in the future.⁵⁰
90. APPrO submits that metrics or a scorecard should be included in EGI's annual reporting in order to track performance and allow for evaluation. APPrO agrees that at this stage it may be premature to specify what metrics are to be included, as it may differ for different types of IRPAs, but APPrO suggests that EGI can submit proposed metrics at the stage of IRPA approval and those metrics would be incorporated into the annual reporting.

COSTS:

91. APPrO has participated in this proceeding in a responsible and efficient manner, including coordinating with other intervenors to minimize duplication and maximize efficiency of

⁴⁸ EGI's Argument-in-Chief, Section E(ii)(f), pages 42 to 43.

⁴⁹ EGI Interrogatory Responses, I.Staff.26(c), page 2.

⁵⁰ Vol. 3 Transcript, page 51 lines 15 to 25.

the process. APPrO requests that it be awarded 100% of its reasonably incurred costs in connection with this matter.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 31ST DAY OF MARCH, 2021.

BORDEN LADNER GERVAIS LLP

Per:



Flora Ho

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