

Elson Advocacy

June 1, 2021

Ms. Christine Long

Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Dear Ms. Long:

**Re: Enbridge 2022 to 2027 Demand Side Management (“DSM”) Plan
EB-2021-0002**

I am writing to respond to Enbridge’s letter of today’s date regarding the evidence that Environmental Defence and the Green Energy Coalition seek to submit relating to the preliminary relief sought by Enbridge in this proceeding. Enbridge’s concerns about the proposed evidence are unfounded. Mr. Neme’s extensive knowledge and expertise would greatly assist the OEB in considering the envelopes proposed by Enbridge for DSM investments.

Enbridge argues that evidence on energy bill impacts and participant rate impacts are unnecessary because Enbridge can discuss these issues during a presentation day. However, we wish to provide additional evidence from a different perspective based on Mr. Neme’s extensive experience. These issues are not purely mechanical. For example, it appears to us Enbridge is not calculating the cost and rate impacts of DSM programs in a manner that is consistent with the OEB’s directions in past decisions. Also, the OEB has made it quite clear that it views bill impacts as a key factor in the determination of the DSM investment levels. The OEB should not be left with only one side and one interpretation, especially on an issue relating to hundreds of millions of dollars in spending and an even greater amount of potential avoided gas supply costs.

Enbridge argues that investment levels in leading jurisdictions are irrelevant. We disagree. The OEB frequently looks to other jurisdictions as a reference point. Doing so does not conflict with the OEB’s letter of December 1, 2020.

Enbridge also argues “that any evidence produced by Mr. Neme must be limited to what constitutes a modest budget increase.” However, the OEB’s statement that it “anticipates modest budget increases ... in the near-term” can be reasonably interpreted a number of ways and does not dictate the precise figure of 3% increases proposed by Enbridge. Furthermore, the appropriate investment levels are not to be determined simply by parsing the meaning of the word “modest” as Enbridge seems to suggest. For instance, the OEB explicitly stated that the DSM plan should be informed by factors that Mr. Neme would examine such as “bill impacts”, “the government’s policies and commitments,” and the “2019 Achievable Potential Study.”¹

¹ OEB, Letter of December 1, 2020, p. 2-3.

Enbridge argues that the proposed evidence is improper and contrary to the OEB's letter of December 1, 2020. This is also without merit. The proposed evidence will be highly relevant to the implementation of the OEB's guidance in that letter. For example, the OEB stated that "the appropriate level of ratepayer funding expended for DSM programs must weigh the cost-effective natural gas savings to be achieved against both short-term and long-term customer bill impacts." The proposed evidence will speak directly to these issues and assess whether Enbridge has appropriately weighed those factors.

Enbridge argues that we should have requested a review under the OEB's *Rules of Practice and Procedure* of the OEB's letter of December 1, 2020. There is no basis for that contention. As noted above, the proposed evidence will speak directly to factors outlined in the letter. In any event, a review is only available for a "final order or decision," which has not yet been made with respect to DSM investment levels.²

Finally, Enbridge argues that we are inappropriately seeking "pre approval of costs." However, our letter stated the opposite. We confirmed that cost recovery would be sought in accordance with the OEB's *Practice Direction on Cost Awards*. We provided a cost estimate because the OEB recently requested one in the Integrated Resource Planning proceeding. We took the initiative to do this at this very early stage to help accommodate Enbridge's request for an expedited process.

Overall, Enbridge is seeking to block and restrict expert review of its proposed DSM investment levels. This is contrary to the administrative law principle of *audi alteram partem*. It is also not in the interests of consumers or the OEB, which would benefit greatly from Mr. Neme's extensive knowledge and expertise.

Yours truly,



Kent Elson

cc: Enbridge Gas and the parties referenced in the OEB's letter of direction (i.e. those in the 2021 Demand Side Management (DSM) Plan proceeding (EB-2019-0271), the post-2020 DSM framework policy consultation (EB-2019-0003), and in the combined 2015-2020 DSM Plan proceeding (EB-2015-0029/0049))

² OEB, *Rules of Practice and Procedure*, Rule 40.01.