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Nov. 29, 2021

Christine E. Long
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Long,

RE: EB-2021-0149 – Enbridge Gas Inc. 2020 ESM/DVA - London Property Management Association on Unsettled Tax Variance Deferral Account

These are the submissions of the London Property Management Association ("LPMA") on the unsettled issue of the Enbridge Gas Inc. ("EGI") proposal to exclude 100% of the accelerated CCA impacts related to 2020 amalgamation/integration capital projects from the Tax Variance Deferral Account ("TVDA").

As calculated in the response to Exhibit I.Staff.7a, the 2020 grossed up earnings amount associated with the accelerated CCA on the amalgamation/integration capital projects is $3,736,257. It is the sharing of this amount that is unsettled as part of the TVDA.

LPMA has had the opportunity to review the draft submissions of the School Energy Coalition ("SEC") with respect to this unsettled issue.

Like SEC, LPMA agrees with EGI that it should be entitled to 100% of the impact of the accelerated CCA for capital projects that are not funded by ratepayers.

In the 2019 Deferral and Variance Account Decision and Order (EB-2020-0134, dated May 6, 2021), ("EB-2020-0134 Decision") the Ontario Energy Board ("OEB") found that EGI was required to credit 100% of the balances in the TVDA related to impacts of the accelerated CCA changes made to the *Income Tax Act* and deducted by the company. The accelerated CCA rules allows EGI the ability to claim additional CCA deductions in the first year the underlying capital asset is put into service. As the OEB noted in the EB-2020-0134 Decision at page 6, "a larger CCA deduction in the first-year results in smaller CCA deductions in future years." The net impact is lower income taxes payable in the first year and higher amounts payable in subsequent years.

In the EB-2020-0134 Decision, the OEB then went on to determine that EGI must refund 100% of the 2019 TVDA balance to ratepayers, as it "is consistent with the 'benefits follow costs' principle and ensures that ratepayers are no worse off under an IR plan than under a Cost of Service." (page 15).

LPMA submits that, based on the above noted EB-2020-0134 Decision, for capital projects that are funded by ratepayers, 100% of the impact of the accelerated CCA for capital projects should accrue to those ratepayers.

LPMA also agrees with SEC and with EGI that ratepayers should not receive the accelerated CCA, or indeed any CCA, associated with capital projects that do not enter rate base.

The question for the OEB to ask, and answer, is who is and who is not paying for the amalgamation/integration capital projects.

LPMA submits that if all of the 2020 amalgamation/integration capital project costs were incurred during the remaining IR term, the benefits of the accelerated CCA in the first year and the lower amount of CCA available in the following years would, and should, flow to EGI. That is, the benefits would follow the costs. EGI would bear all of the costs and receive all of the CCA related benefits. Ratepayers would bear no costs and would not, and should not, receive any benefits associated with the costs.

While LPMA agrees with SEC that EGI cannot seek recovery of any amalgamation/integration costs (or any other merger related costs) from ratepayers at any time - including the deferred rebasing period and the rebasing period that follows – LPMA notes that this is not a direct issue in this proceeding. It is, however, an indirect issue in that if EGI had **NOT** proposed to include the remaining net book value of the amalgamation/integration assets in rate base upon rebasing, then LPMA would agree that 100% of the accelerated CCA benefit should go to EGI, since ratepayers would not pay for any of the amalgamation/integration assets and would not be entitled to any CCA timing benefits.

However, according to the EGI supplementary interrogatory responses, when it rebases the remaining net book value of the amalgamation/integration capital projects will be included in rate base (Exhibit I.Staff.28) and ratepayers would bear the associated costs (cost of capital, depreciation and income taxes) on those assets from that point on.

The submissions that follow assumes that the OEB makes no determination in this proceeding as to whether the remaining net book value of the amalgamation/integration capital costs at the time of rebasing should or should not be included in rate base upon rebasing. In other words, the submissions are based on the EGI proposal to include the NBV of these assets in rate base as part of the rebasing application expected for 2024 rates.

EGI acknowledges that use of the accelerated CCA on the amalgamation/integration capital projects will result in higher taxes payable by ratepayers than if the accelerated CCA was not taken (Exhibit I.Staff.7e, Updated).

The impact at rebasing of the accelerated CCA is a reduction from $658,955 based on regular CCA to $159,058 based on accelerated CCA (Exhibit I.SEC.2). This difference of $499,897 results in an increase in income taxes in the 2024 revenue requirement of $180,235 ($499,897 x 26.5% / 73.5%, based on a tax rate of 26.5%). Income taxes would continue to be higher in years after 2024, although the magnitude of the difference would fall over time.

This is clearly an example of where the benefits do not follow the costs and ratepayers are worse off as a result of the accelerated CCA and its treatment by EGI. Under the EGI proposal, the company receives a higher CCA deduction over the 2020 through 2023 years of $908,903 (Exhibit I.SEC.2a). With a tax rate of 26.5%, this results in lower grossed up income taxes over this period of $327,700 ($908,903 / 26.5% / 73.5%). Since accelerated CCA results in a higher CCA in the first year and lower amounts in the subsequent years, without changing the amount of total CCA available, this results in higher income taxes in 2024 and subsequent years of the same $327,700 benefit that accrues to EGI over the 2020 through 2023 period. In other words, EGI pockets all of the benefits, while ratepayers end up paying more.

As shown in Exhibit I.SEC.2a, the total capital expenditures associated with the 2020 amalgamation/integration capital projects is $18,912,152. As shown in part (b) of the same supplementary interrogatory response, the net book value the EGI proposed to include in rate base upon rebasing is $12,771,107. The decrease between the original expenditure and the proposed amount to be included in 2024 rate base is $6,141,045 or about 32.5%.

So who pays? And how much do they pay? LPMA submits that based on the above information, the answer is clear. EGI pays for $6,141,045 of the $18,912,152 capital cost over the IR term and ratepayers pay $0 over the same period. Upon and after rebasing, ratepayers pay for the remaining $12,771,107 and EGI pays nothing.

LPMA submits that since EGI will ultimately pay for 32.5% of the amalgamation/integration capital project costs ($6,141,045 / $18,912,152) and ratepayers will ultimately pay for 67.5% ($12,771,107 / $18,912,152) of these costs, the $3,736,257 benefit from the accelerated CCA should be split 32.5%/67.5% in favour of EGI and ratepayers, respectively. This would result in $2,521,973 ($3,736,257 x 67.5%) being added to the TVDA and refunded to ratepayers.

LPMA submits that this approach is just and reasonable and aligns with the benefits follow costs principle. EGI receives 100% of the benefits associated with their share of the costs and ratepayers receive 100% of the benefits associated with their share of the costs.

Yours very truly,

Randy Aiken

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Randy Aiken
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c.c. EGI Regulatory Proceedings (e-mail only)