ONTARIO ENERGY BOARD

OEB Staff Submission

Enbridge Gas Inc.
2020 Utility Earnings and
Deferral & Variance Accounts

EB-2021-0149

November 29, 2021

Background

In an application filed on June 4, 2021, Enbridge Gas Inc. (Enbridge Gas) applied for an order approving the disposition of amounts recorded in certain 2020 deferral and variance accounts (DVAs) and to review earnings sharing amounts with ratepayers.

Enbridge Gas was formed on January 1, 2019, following the OEB's approval of the amalgamation of Enbridge Gas Distribution and Union Gas Limited.[1] Following the amalgamation, Enbridge Gas maintained the EGD rate zone, and the Union North West, Union North East and Union South rate zones. Enbridge Gas also maintained most of the existing DVAs for each rate zone.

Enbridge Gas's actual utility earnings did not exceed the OEB-approved return on equity by more than the threshold for sharing. Accordingly, no earnings sharing mechanism (ESM) amount was proposed to be shared with ratepayers.

The intervenors and the applicant (together refereed to as parties) reached a settlement on all DVA balances with the exception of the Tax Variance Deferral Account (TVDA). The parties also agreed on the calculation of utility earnings and accepted that there was no ESM amount for 2020. In a decision issued on October 21, 2021, the OEB accepted the settlement proposal and scheduled a written process to deal with the unsettled item (TVDA).

OEB staff in its submission on the settlement proposal noted that the settlement between the parties did not include any reference to the performance scorecard. OEB staff submitted that all parties should be permitted to make submissions on the 2020 performance scorecard as part of the written hearing. The OEB in its decision on the settlement proposal determined that the scorecard was within the scope of the proceeding and the OEB would allow parties and OEB staff to file submissions regarding the performance scorecard.

Enbridge Gas filed supplemental evidence on the TVDA which provided further background on the TVDA account. Intervenors and OEB staff filed interrogatories on the supplemental evidence. Enbridge Gas filed responses to the interrogatories on November 11, 2021 and filed its argument-in-chief on November 18, 2021.

The 2020 balance in the TVDA is a credit balance $16.874 million plus interest to March 31, 2022 of $0.208 million, for a total of $17.082 million. In its evidence, Enbridge Gas noted that the 2020 TVDA balance did not include accelerated CCA impacts attributable

[1] EB-2017-0306 / 0307 Decision and Order August 30, 2018, application by Enbridge Gas Distribution and Union Gas Limited to amalgamate under the OEB's policy on mergers, acquisition, amalgamation and divestiture (MAADs Decision).

to 2020 capital additions related to amalgamation/integration capital projects. The 2020 accelerated CCA revenue requirement impact associated with 2020 amalgamation/ integration related capital additions that is not included in the 2020 TVDA balance, is $3.7 million. However, Enbridge Gas agreed that the $16.874 million balance that excludes the accelerated CCA benefit associated with amalgamation/integration projects should flow 100% to ratepayers.

Enbridge Gas noted that amalgamation and integration related projects during its deferred rebasing term are not recovered in rates. Enbridge Gas submitted that it is expected to fund these projects itself through cost savings or other means during the deferred rebasing term. It was therefore appropriate according to the company, that all benefits during the deferred rebasing period, including the associated accelerated CCA benefit associated with such projects, also remain with Enbridge Gas. Consequently, Enbridge Gas argued that the CCA benefit associated with such projects should not be included in the TVDA.

For the reasons that follow, OEB staff submits that the accelerated CCA revenue requirement related to 2020 amalgamation/integration related capital projects should be added to the 2020 TVDA balance and 100% of the TVDA balance should be credited to ratepayers.

With respect to the performance scorecard, OEB staff notes that Enbridge Gas did not meet the performance metric for two measures. OEB staff requests Enbridge Gas to outline in its reply submission the additional steps that it intends to implement in order to improve the metrics in subsequent years.

1. Tax Variance Deferral Account

In the legacy Union Gas's 2014-2018 incentive ratemaking (IRM) framework, the TVDA was established as part of a settlement. In the case of EGD's previous Custom IR (2014-2018), there was no accommodation for sharing the impacts of tax changes. Cost increases or decreases that were unexpected and outside the control of management (such as impacts of tax changes) were captured through the Z-factor materiality threshold.[2]

In the MAADs proceeding which dealt with the amalgamation of EGD and Union Gas, the OEB retained the TVDA for the Union Gas legacy areas and expanded the account for the EGD rate zone.[3]

[2] EB-2012-0459, Enbridge Gas Distribution Inc. 2014-2018 Rate Application Decision with Reasons, pp. 18-21, July 17, 2014.
[3] EB-2017-0306/0307

In the Enbridge Gas 2019 rates proceeding, the OEB set Enbridge Gas's annual rates as per the new ratemaking framework established in the MAADs proceeding.[4] In that proceeding, the OEB directed Enbridge Gas to follow the direction issued by the OEB in its July 25, 2019 letter.[5] In that letter, the OEB provided accounting direction to regulated utilities regarding Bill C-97. Bill C-97 provides for, among other matters, accelerated capital cost allowance (CCA) deductions for eligible capital assets acquired after November 20, 2018. The Accelerated Investment Incentive Program (AIIP) allows taxpayers to deduct a larger portion of the cost of a newly acquired depreciable asset in the year the asset becomes available for use, though the total CCA deducted over the life of the asset remains the same.

The OEB in its letter directed utilities to record the impacts of CCA rule changes in the appropriate deferral and variance account from the effective date of the Bill C-97 rule changes until the effective date of the utility's next cost-based rate order. The OEB also noted that its long standing practice of sharing the impact of changes in taxes due to regulatory or legislated tax changes during an incentive rate-setting period between utility shareholders and ratepayers on a 50/50 basis should not be expected to necessarily apply in respect of CCA rule changes, and determinations as to the appropriate disposition methodology will be made at the time of each utility's cost-based application.

In the 2019 DVA and review of earnings sharing proceeding, the OEB determined that 100% of the 2019 TVDA balance, which solely comprised of amounts attributable to the impact of accelerated CCA, should be credited in favour of ratepayers.[6]

Position of Enbridge Gas

In this application, Enbridge Gas proposed to exclude the accelerated CCA impacts for amalgamation/integration related capital projects from the TVDA. Enbridge Gas submitted that amalgamation/integration related capital projects are not assumed to be recovered through base rates and cannot receive funding through the Incremental Capital Module (ICM). Enbridge Gas noted that it is expected to fund such projects during the deferred rebasing period through synergies/savings.

Enbridge Gas argued that since it is expected to fund integration and amalgamation costs and activities during the deferred rebasing period, the company should be permitted to retain savings and benefits achieved, subject to earnings sharing. At rebasing, Enbridge Gas will include the net book value of costs incurred for integration/ amalgamation projects during the deferred rebasing period into rate base, and

[4] EB-2018-0305
[5] OEB July 25, 2019 Letter
[6] OEB Decision and Order, EB-2020-0134, May 6, 2021.

according to Enbridge Gas, ratepayers will benefit from efficiencies and savings achieved through integration. This is the normal approach that Enbridge Gas would follow during a deferred rebasing term, if regular CCA was in place and accelerated CCA was never enacted.

Enbridge Gas argued that ratepayers are not "losing out" on benefits related to amalgamation/integration projects costs during the deferred rebasing term because accelerated CCA became available only after base rates were set. Enbridge Gas referenced the OEB's 2019 TVDA Decision in which it noted that its determination to refund 100% of the TVDA balance in favour of ratepayers was consistent with the "benefits follow costs" principle and the treatment ensured that ratepayers are no worse off under an IR plan than under a Cost of Service. Enbridge Gas submitted that its position was consistent with the "benefits follow costs" principle as it was responsible for funding the amalgamation/integration projects and therefore it should retain the associated accelerated CCA benefits.

Enbridge Gas further submitted that its position of excluding the accelerated CCA impacts related to amalgamation/integration projects from the TVDA is consistent with the OEB's MAADs policy. In order to encourage consolidations within the Ontario electric utilities, the OEB provided for a deferred rebasing period of up to 10 years to provide consolidated distributors an opportunity to offset transactions costs with achieved savings.[7]

Staff Submission

OEB staff does not agree with Enbridge gas for two reasons.

First, OEB staff does not agree with Enbridge Gas's position on what is notionally recovered in rates during an Incentive Rate-setting (IR) period.

Enbridge Gas's position is that no aspect of the revenue requirement related to amalgamation/integration project capital additions is currently recovered in rates, and as a result, there is no accelerated CCA impact to be captured in the 2020 TVDA. In response to an interrogatory, Enbridge Gas noted that with the exception of amalgamation/integration capital additions, all other utility capital additions are presumed to be recovered through rates.[8]

OEB staff submits that with the exception of ICM and capital pass-through projects, no new capital spending incurred during an IR period (deferred rebasing period) is directly recovered through rates. OEB staff agrees that in order for capital additions to be directly recovered through rates, the net book value of new spending would need to be

[7] Handbook to Electricity Distributor and Transmitter Consolidations, January 19, 2016, pp. 11-12.
[8] Response to OEB Staff IR# 27.

added to rate base (and therefore recovered through base rates) or the revenue requirement related to capital additions would need to be recovered through rate riders.

For Enbridge Gas's current IR term, with the exception of ICM and capital pass-through projects, no new capital spending during the deferred rebasing period has been added to rate base or recovered through rate riders. The addition of new capital spending to rate base will only happen at rebasing (currently scheduled for 2024 rates).

In OEB staffs' view, Enbridge Gas's position that capital additions during the deferred rebasing period are presumed to be directly recovered through rates is inaccurate. Enbridge Gas's assertion that no aspect of the revenue requirement related to amalgamation/integration capital additions is currently recovered in rates is not atypical and applies to all other capital additions (excluding ICM and capital pass-through projects) during the deferred rebasing period. This is because when the legacy service areas last rebased, the OEB approved an annual capital envelope, that along with any future ICM or other adjustments to base rates, is deemed sufficient to recover Enbridge Gas's capital envelope, including any new in-service capital.

Second, OEB staff does not agree with Enbridge Gas's position that excluding the accelerated CCA impacts related to amalgamation/integration projects from the TVDA is consistent with the OEB's MAADs policy that provides consolidated distributors an opportunity to offset transactions costs with achieved savings. The accelerated CCA under Bill C-97 is not a permanent change to the tax rate, it is merely a deferral of taxes over time. In fact, it is not a change to the income tax rate, rather it is a change in the timing of taxes to be paid. The lifetime deductions available for a specific capital expenditure remain unchanged (i.e. savings now are just paid for later). If the achieved savings that Enbridge Gas has referred to are merely costs that ratepayers have to pay later, it would not be fair to expect ratepayers to pay the costs later while Enbridge Gas retains the benefits of accelerated CCA simply because the AIIP was effective temporarily[9] during Enbridge Gas's deferred rebasing period. In every sense, the accelerated CCA impacts are windfall gains, rather than operational savings, as Enbridge Gas has characterized them. These impacts are entirely outside of Enbridge Gas's control, distinguishing them from genuine savings and synergies attributable to merger-related activity that is contemplated in the MAADs Handbook.

The estimated 2024 opening net property, plant and equipment value of the 2020 amalgamation/integration capital projects (excluded from the 2020 TVDA balance) that would be reflected in rate base at rebasing is $12.8 million. In response to an interrogatory, Enbridge Gas confirmed that undepreciated capital costs associated with integrated/amalgamation projects will be included as part of Enbridge Gas's opening

[9] AIIP is effective for eligible assets acquired after November 1, 2018, and is expected to be phased out starting in 2024

rate base figures at its next rebasing application, and the undepreciated capital costs would be recovered from ratepayers. Enbridge Gas further confirmed that at rebasing, ratepayers will be responsible for funding a greater amount of taxes payable that are embedded in the company's revenue requirement by virtue of Enbridge Gas having less CCA deductions available in the test year.[10]

If the accelerated CCA results in a reduction to the revenue requirement in a year a qualifying capital expenditure is placed into service and increases the revenue requirement in relation to that capital expenditure in subsequent years, then ratepayers should get the entire benefit of the initial reductions. The AIIP is a temporary tax benefit – savings today result in future costs. If ratepayers are expected to absorb those costs in future years when the utility rebases, they should similarly be entitled to the entire benefits. This argument is clearly aligned with OEB's long standing benefits follow costs principle and was referenced to in the OEB's 2019 Enbridge Gas TVDA Decision. Accordingly, OEB staff submits that the revenue requirement related to 2020 amalgamation/integration projects ($3.7 million) should be recorded in the TVDA and refunded 100% to ratepayers.

2. Performance Scorecard

The purpose of the scorecard is to measure and monitor performance over the deferred rebasing period. In the MAADs proceeding, the OEB approved a performance scorecard for the amalgamated utility (Enbridge Gas). The scorecard is produced annually, with 2020 being the second presentation of the scorecard. Enbridge Gas met or exceeded all elements of the scorecard apart from two measures: Time to Reschedule Missed Appointments and Meter Reading Performance. Enbridge Gas has not requested any relief in relation to the 2020 performance scorecard.

The measure "Time to Reschedule Missed Appointments" (TRMA) tracks the percentage of customers contacted to reschedule the work within two hours of the end of the original appointment time. The annual standard for TRMA is 100% and Enbridge Gas achieved 97.0% in 2019 and 97.3% in 2020. The company has implemented additional measures including the Click Mobile system in order to make it easier for employees and third-party providers to record appointments. The most common reason rescheduling is not completed within the two-hour time frame is that Enbridge Gas is unable to contact the customer by phone and the customer does not reply to the voicemail until after the time allotted for this metric.[11]

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[10] Response to OEB staff IR# 7.
[11] Response to VECC IR# 8.

In response to an interrogatory, Enbridge Gas noted that it is making efforts to meet the target of 100% but recommends that the TRMA target be reviewed.[12] OEB staff supports the position of Enbridge Gas that the OEB should consider reviewing the 100% target. OEB staff suggests that this could be done at Enbridge Gas's rebasing application, and notes that a 100% score may be difficult to achieve on a consistent basis every year.

The measure Meter Reading Performance represents the number of meters with no read for four consecutive months or more divided by the total number of active meters to be read. The target for the metric is 0.5% and Enbridge Gas achieved a level of 0.7% in 2019 and 4.4% in 2020. The evidence indicates that Enbridge Gas was unable to meet the Meter Reading Performance Measurement metric due to two main factors: extreme weather and the COVID-19 pandemic. OEB staff notes that the performance of this metric is significantly different between the EGD and Union Gas rate zones. While EGD's metric deteriorated from 0.6% to 2.1%, the metric for the former Union Gas rate zone dropped to 7.6% in 2020 from 0.8% in 2019.[13]

Enbridge Gas has attributed further deterioration of the metric to the COVID-19 pandemic. The pandemic has resulted in closed businesses, increased customer sensitivity over contact with meter readers and reduced accessibility to read in-premise meters. In the case of the Union Gas rate zone, the new vendor contracted to read meters was still transitioning while facing challenges with staffing due to the pandemic.

Enbridge Gas continues to face challenges over meter reading. Customers are refusing access to the meter and meter readers have seen an increase in the number of dog bite incidents. The number of dogs on customer premises have increased significantly during the pandemic raising safety concerns for meter readers.

Enbridge Gas is actively working with its customer care team to contact customers through e-mail or text to submit a meter read where required. It is also offering overtime pay to meter readers in target areas that require consecutive reads. However, Enbridge Gas has noted that the 0.5% target will be difficult to achieve in 2021 and suggests that a reset to the metric should be considered.

OEB staff submits that the impact of the pandemic has declined in recent months. In addition, as the new vendor gains familiarity with operations, meter reading performance is likely to improve. In the event that the pandemic prolongs over an extended period, a resetting of the metric should be considered. There will be an

[12] Response to OEB staff IR# 25.
[13] Response to OEB staff IR# 26.

opportunity to revisit this matter in Enbridge Gas's 2024 rebasing application. However, at present, OEB staff does not believe that revisiting the target metric is warranted.

OEB staff requests Enbridge Gas to outline in its reply submission any additional measures that it intends to implement in order to improve the metrics with respect to the two measures noted above.

– All of which is respectfully submitted –