November 29, 2021

Christine Long
Registrar
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Long:

EB-2021-0149 - Enbridge Gas Distribution Inc. – 2020 DVAs – Argument

Please find, attached, the Final Argument of the Consumers Council of Canada in the above-reference proceeding.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: All Parties

FINAL SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA

RE: ENBRIDGE GAS INC. – 2020 DEFERRAL AND VARAINCE ACCOUNTS

EB-2021-0149

Introduction:

On June 4, 2021 Enbridge Gas Inc. ("EGI") applied to the Ontario Energy Board ("OEB") for approval of the disposition of amounts recorded in a number of Deferral and Variance Accounts ("DVAs"). On September 13 and 14, 2021 EGI and intervenors participated in a Settlement Conference which resulted in a Settlement with respect to all issues except for the Tax Variance Deferral Account ("TVDA").

These are the submissions of the Consumers Council of Canada regarding the TDVA.

Submissions:

The purpose of the TVDA is to record 50% of the revenue requirement impact of any tax changes relative to the tax rates included in rates that affect EGI. It also includes 100% of the revenue requirement impact of any changes in Capital Cost Allowance ("CCA") that are not reflected in rates. This includes impacts related to Bill C-97 CCA rule changes which became effective November 21, 2018. This excludes tax rate and rule change impacts that are captured through other deferral account mechanisms including the Incremental Capital Module Deferral Account and respective Capital Pass-through Project Deferral Accounts.[1]

The 2020 balance in the TDVAis a credit balance of $16.874 million plus interest of $.208 million. It is EGI's evidence that the balance has not, and should not, include accelerated CCA impacts related to the amalgamation/integration capital projects. The 2020 Accelerated CCA revenue requirement impact associated with 2020 amalgamation/integration related capital additions, which is not included in the 2020 TDVA balance was $3.7 million.[2] The question for the OEB to determine is how to treat that $3.7 million.

EGI has provided a summary of its position:

> Enbridge Gas is spending on amalgamation and integration projects during its deferred rebasing term, and those costs are not recovered in rates. Instead, the Company is fully expected to fund these projects itself through cost savings or other means during the deferred rebasing term. Therefore, it is appropriate that all benefits during the rebasing term, included the accelerated CCA benefit associated with such projects, also remain

[1] Exhibit H/p. 1

[2] Supplementary Evidence, para 7

with Enbridge Gas. As a result, the CCA benefit amount associated with integration/amalgamation projects need not be included in the TDVA[3].

> The Enbridge Gas Position recognizes that the Company is expected to fund integration and amalgamation costs and activities during the deferred rebasing term following amalgamation. At the same time, the Company is permitted to retain savings and benefits achieved, subject to earnings sharing. At rebasing, the Company will include the net book value of costs incurred for integration/amalgamation projects during the deferred rebasing period into rate base, and ratepayers will benefit from efficiencies and savings achieved through integration. This is the ordinary approach that the Company would follow during a deferred rebasing term, if regular CCC was in place and accelerated CCA was never enacted.[4]

The Council agrees that given EGI has not included integration/amalgamation projects in rates nor has it sought recovery from ratepayers for the associated costs, the CCA amounts related to those projects should not be included in the TVDA and credited to ratepayers. The problem in this case is that EGI has made it clear that at the time of rebasing (2024) it intends to include the net book value of the costs incurred for these projects in rates for recovery going forward. Customers will, in fact, be funding integration and amalgamation costs if EGI's proposals are approved.

The Council submits that EGI's proposal to ultimately recover the remaining integration/amalgamation projects in rates in 2024 is not consistent with the OEB's MADDs policy as set out in the Handbook to Electricity Distributor and Transmitter Consolidations, dated January 19, 2016. In the Handbook, the OEB explicitly stated:

- Incremental transaction and integration costs are not generally recoverable through rates; and
- The deferred rebasing period is intended to enable distributors to fully realize anticipated efficiency gains from the transaction[5].

The Council believes the MAADs policy is absolutely clear. In addition, when approving the merger of Union Gas Limited and Enbridge Gas Distribution Inc. the OEB stated, "The OEB finds that five years provides a reasonable opportunity for the applicants to recover transition costs."[6] Ratepayers should not fund the integration/amalgamation costs arising from mergers and acquisitions. Utility shareholders are responsible for these costs and can fund these costs through savings.

[3] Argument in Chief, p. 2/9
[4] Argument in Chief, p. 6/9
[5] Handbook to Electricity Distributor and Transmitter Consolidations, dated January 19, 2016, pp. 8-9
[6] EB-2017-0306/0307 - OEB Decision and Order, dated August 30, 2018, p. 22

This proceeding is limited to the disposition of the 2020 balances in EGI's DVAs. Having said that the ultimate disposition of the $3.7 million will depend upon the OEB's ultimate decision in EGI's rebasing application. 100% of the accelerated CCA for 2020 related to the integration/amalgamation costs should not be credited to customers assuming none of those integration/amalgamation costs are funded by ratepayers. If, however the OEB determines that going forward these projects are to be funded by ratepayers the 100% allocation to shareholders would not be fair. Those issues cannot be resolved until the OEB considers EGI's rebasing application. Accordingly, the Council is of the view that a final determination of the balance in the 2020 TVDA at this time would be premature.