SCOTT POLLOCK
T 613.787.3541
spollock@blg.com

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen St, Suite 1300
Ottawa, ON, Canada K1P 1J9
T 613.237.5160
F 613.230.8842
blg.com

Borden Ladner Gervais

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November 30, 2021

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

Dear Ms. Long

Re: Enbridge Gas Inc. ("EGI")
2020 Utility Earnings/Disposition of Deferral Variance Account Balances
Board File #: EB-2021-0149

We are counsel to Canadian Manufacturers and Exporters ("CME") in the above-noted proceeding. Pursuant to Procedural Order No. 2 dated October 21, 2021, please consider this letter to be CME's submissions regarding the Tax Variance Deferral Account ("TVDA") unsettled issue.

Background

EGI applied to the Ontario Energy Board (the "Board" or "OEB") for approval to dispose of amounts recorded in certain variance and deferral accounts on June 4, 2021.[1]

The Board issued Procedural Order #1 on July 16, 2021, which provided for a settlement conference to be held on September 13 and 14, 2021.[2] The settlement conference produced a settlement proposal, which was presented to the Board on October 4, 2021.[3] The settlement proposal settled many of the issues outstanding between the parties, except for the balance recorded in EGI's TVDA.

Intervenors and EGI could not agree on whether or not capital cost allowance ("CCA") impacts related to amalgamation/integration projects undertaken by EGI should be included in the TVDA balance.[4] The parties proposed, and the Board accepted, that the TVDA issue should proceed to a written hearing after an additional interrogatory process.[5]

[1] EB-2021-0149, Decision on Settlement Proposal and Procedural Order #2, October 21, 2021, p. 3.
[2] EB-2021-0149, Decision on Settlement Proposal and Procedural Order #2, October 21, 2021, p. 4.
[3] EB-2021-0149, Decision on Settlement Proposal and Procedural Order #2, October 21, 2021, p. 4.
[4] EB-2021-0149, Settlement Proposal Cover Letter, October 4, 2021, p. 1.
[5] EB-2021-0149, Decision on Settlement Proposal and Procedural Order #2, October 21, 2021, pp. 6, 8.

In its argument-in-chief, EGI argued that the TVDA should not include $3.7 million worth of accelerated capital cost allowance deductions caused by Bill C-97 for capital projects related to amalgamation/integration.[6] EGI argued that because amalgamation/integration projects are not recovered in rates, the shareholder, rather than ratepayers, should gain the benefit of the accelerated CCA.[7]

The TVDA Balance

CME has had the benefit of reading both the School Energy Coalition ("SEC") and the London Property Management Association's ("LPMA") submissions on this issue. CME agrees with both intervenors that EGI's position is problematic. EGI is attempting to enjoy all of the benefits of the CCA acceleration with none of the drawbacks.

In EB-2020-0134, the Board determined that the accelerated CCA impacts from Bill C-97 should be allocated to ensure that "benefits follow costs". In that case, 100% of the 2019 TVDA balance would be allocated to ratepayers.[8]

In this case, EGI argued that it should recover 100% of the accelerated CCA impacts for amalgamation/integration projects because those projects are not considered to be recovered through rates. In EGI's view, since EGI was notionally paying the costs of amalgamation/integration projects outside of rates, it should recoup 100% of the accelerated CCA impacts.

CME disagrees with EGI. According to EGI's evidence, it intends to add the net value of amalgamation/integration projects into rate base upon rebasing.[9] This would be an addition of $12.8 million to rate base,[10] which would be funded through rates by ratepayers. Under EGI's proposal, ratepayers would be funding a significant portion of EGI's amalgamation/integration projects.

Moreover, EGI confirmed that if they applied greater CCA deductions earlier, ratepayers would be required to fund a greater amount of taxes in future years.[11] As a result, under EGI's proposal, EGI would get 100% of the accelerated CCA benefits, while ratepayers would be required not only to pay for the balance of the capital costs through rates, but also would have to suffer higher taxes as well. This result is neither fair nor consistent with the Board's decision in EB-2020-0134.

Ratepayers Should Not Pay for Any Portion of the Amalgamation/Integration Capital Projects

CME agrees with SEC that pursuant to the Board's MAADs policy, as well as its decision on EGI's amalgamation/integration in EB-2017-0306/0307, EGI should not be able to recover any of the costs of those capital projects when it rebases. The purpose of allowing a deferred

[6] EB-2021-0149, EGI Argument in Chief, November 18, 2021 at paras. 14, 15, 18.
[7] EB-2021-0149, EGI Argument in Chief, November 18, 2021 at para. 18.
[8] EB-2020-0134, Decision and Order, May 6, 2021, p. 15.
[9] EB-2021-0149, Exhibit I, Staff.28, p. 1.
[10] EB-2021-0149, Exhibit I, Staff.28, p. 1.
[11] EB-2021-0149, Exhibit I, Staff.7, p. 3.

rebasing period is for the amalgamating entities to recover the costs of their corporate transaction.[12] It is not designed to allow amalgamating entities to pay for some of the costs of amalgamation and ask ratepayers to bear the rest.

CME acknowledges that EGI's planned additions to rate base at rebasing may not be directly at issue in this proceeding. Consequently, if the Board should decide not to determine the issue in the context of this proceeding, CME submits that the Board should make no determination on this issue. EGI should keep the $3.7 million in accelerated CCA impacts in a deferral account until EGI's next rebasing application.

Yours very truly

Scott Pollock

c. Mathew Wilson (CME)
EGI and Intervenors EB-2021-0149

[12] EB-2017-0307, Decision and Order, August 30, 2018, Amended on September 17, 2018, p. 20.