

Toronto

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Ms. Nancy Marconi  
Acting Registrar  
Ontario Energy Board  
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Dear Ms. Marconi:

**Price Paid by Natural Gas Distributors for Ontario-Produced Natural Gas  
Submissions on Draft Issues List (Ontario Petroleum Institute)  
Board File No: EB-2022-0094**

We have been retained to represent the Ontario Petroleum Institute (“OPI”) in this proceeding. By copy of this letter, we are requesting all parties update their distribution list accordingly.

Pursuant to Procedural Order No. 1, we are pleased to provide OPI’s submissions on the draft issues list. We note that this proceeding was prompted, at least in part, by OPI’s submissions in the OEB’s recent consultation on Enbridge’s gas supply plan (EB-2019-0137). In that proceeding, OPI raised several items threatening the financial viability of domestic Ontario gas producers. At their core, they can be distilled to two key issues:

- What is the price that Ontario producers are getting paid for the gas they produce?
- What are the terms and conditions governing Ontario producers’ access to the gas distribution system?

The Board has focused on the former in this proceeding, but not the latter. In OPI’s view, the two issues cannot be separated. The establishment of a favourable commodity rate for Ontario gas producers, without the ability to access the distribution system on a fair, transparent basis, will do little to resolve the difficulties currently facing Ontario producers. In EB-2019-0137, OPI raised the following concerns with respect to accessing Enbridge’s gas distribution system: (a) being denied access on the basis of local capacity constraints; and (b) unreasonable construction costs, with no ability to mitigate or contest such costs.

Similar issues have been addressed and resolved by the Board in the electricity sector through prescriptive, transparent rule-making. For instance, electricity generators seeking to connect to an electricity distribution system can rely on a standardized connection process set out in the Distribution System Code (“DSC”) and mandatory utility Conditions of Service (“COS”). Under the standardized connection process, a new generator cannot simply be turned away for lack of capacity – the distributor is required to conduct an impact

assessment to determine (and disclose) whether system upgrades are required to accommodate the new generation facility. The new generator must be given an offer to connect with a detailed cost estimate, and a description of what work is contestable (i.e., work that the customer is permitted to perform). Further, the DSC and distributor COS set out standardized connection forms, cost recovery agreements, and connection agreements prescribed or approved by the Board. The detailed regulatory framework provided by the DSC and distributor COS serve as a necessary constraint on a monopoly utility's discretion related to the terms and conditions (and cost) of system access. This is not the case for the natural gas sector, and the situation faced by Ontario gas producers.

In a similar vein, the Board has recognized the need for prescriptive rules governing the terms and conditions of access to the gas distribution system by gas vendors (see sections 3 through 6 of the Board's Gas Distribution Access Rule).

The Board's rules governing system access for electricity generators, and natural gas marketers/retailers evidence the need for regulatory oversight of system access. However, no such rules exist with respect to access by natural gas producers to Enbridge's gas distribution system. This gap needs to be addressed. For OPI's members, it is as important as the issue of the price for the gas they produce.

For these reasons, we are proposing that the following issue be added to the issues list in this proceeding:

3. What rules should be established in order to ensure fair and transparent access for Ontario gas producers to gas distribution systems in Ontario, including requirements related (but not limited) to: available capacity disclosure, system impact assessments, offer to connect requirements, construction contestability, etc.

Please do not hesitate to contact me should you have any questions.

Yours very truly,



Richard J. King  
Partner

RK:

c: All parties to EB-2022-0094