resilient LLP

May 19, 2022

**VIA RESS**

Ontario Energy Board
**Attention: Registrar**
P.O. Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Marconi,

**Re: Enbridge Gas Inc. Multi-Year Demand Side Management Plan**
**Board File No.: EB-2021-0002**

We are counsel to the Association of Power Producers of Ontario (**APPrO**) in the above-noted proceeding. Please find enclosed APPrO's final arguments in the above-noted proceeding, filed further to Procedural Order No. 6.

Sincerely,

DT Vollmer

c. Regulatory Affairs, Enbridge Gas Inc.
Asha Patel, Enbridge Gas Inc.
Dennis M. O'Leary, Aird & Berlis LLP
David Butters, APPrO

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**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended (the **Act**);

**AND IN THE MATTER OF** an application by Enbridge Gas Inc. pursuant to Section 36(1) of the Act, for an order or orders approving its Demand Side Management Plan for 2022-2027.

**EB-2021-0002**

**SUBMISSIONS OF**

**THE ASSOCIATION OF POWER PRODUCERS OF ONTARIO (APPrO)**

**May 19, 2022**

## OVERVIEW

1. Enbridge Gas Inc. (**Enbridge**) operates its large volume Demand Side Management (**DSM**) programming under the direction and guidance of the Ontario Energy Board (the **Board**). The Board has defined and updated the parameters of DSM frameworks and plans over the course of several prior proceedings, both to ensure Enbridge's continuing compliance and to ensure that DSM programming continues to serve the statutory and other objectives of the Board.
2. Significant changes over the last several years to the applicable policy and regulatory environment, as well as other related circumstances, leave Enbridge's DSM program increasingly inconsistent with the Board's guidance and objectives and in need of significant refinement and improvement. Accordingly, APPrO requests that the Board direct Enbridge to provide its DSM program for large volume customers on a voluntary basis and allow gas-fired generator members (**GFGs**) to opt out of the program and, upon opt-out, be exempt from related DSM costs.
3. Specifically, APPrO submits that:
   (a) Pancaked carbon costs make DSM programming costly and unnecessary;
   (b) Billing system requirements and unit rate impacts are not a reasonable basis to deny opt-out; and
   (c) Enbridge's proposed changes to the large volume program do not present a viable alternative to an opt-out

## FACTUAL BACKGROUND

4. APPrO is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators, suppliers of services, and equipment, and consulting service providers. APPrO's members produce electricity from natural gas, hydro, nuclear, wind, biogas, and other sources. APPrO's GFGs are large volume customers within the Enbridge's franchise areas. As customers, GFGs individually contract for significant quantities of natural gas services from Enbridge. Enbridge applies to the Board seeks an order or orders approving its DSM Framework effective 2023 and its 2023-2027 Multi Year DSM Plan (the **Application**).
5. Enbridge's large volume DSM programming has been the subject of debate and Board direction and guidance over several prior proceedings, including the DSM Framework for Natural Gas Distributors (2015-2020) (EB-2014-0134) and Enbridge Gas Distribution Inc.

and Union Gas Limited's applications for 2015-2020 natural gas conservation plans (EB-2015-0029/EB-2015-0049). This proceeding accordingly has a long history and is taking place in a rapidly changing public policy context. The Board's DSM guidance in the Post-2020 Natural Gas DSM Framework was, and the Board's decision in this Application will be, rendered at a time when numerous climate change, greenhouse gas (**GHG**) reduction, and other low-carbon transition policies and programs are being developed and implemented. Many of these changes are discussed in Part A, below.

6. These submissions are focused on the large volume DSM program presented in Exhibit E, Tab 1, Schedule 6 of the Application. The large volume program is a mandatory program for all large volume customers directly targeted to the Rate T2 (Storage and Transportation Rates for Large Volume Contract Carriage Customers – Union South) and Rate 100 (Large Volume High Load Factor Firm Service – Union North) rate classes. Large volume customers in these rate classes, including GFGs, must participate in the program and pay for its costs, and are not provided with the flexibility to opt out.

**ISSUES**

7. The central issues addressed in these submissions are:
   (a) **Issue 1.** Whether Enbridge Gas's 2023-2027 DSM Framework and DSM Plan adequately respond to previous OEB direction and guidance on future DSM activities (e.g., DSM Mid-Term Review Report, 2021 DSM Decision, OEB's post-2021 DSM guidance letter);
   (b) **Issue 2.** Whether Enbridge Gas's 2023-2027 DSM Framework and DSM Plan adequately support energy conservation and energy efficiency in accordance with the policies of the Government of Ontario, including having regard to consumers' economic circumstances;
   (c) **Issue 9(f).** Whether Enbridge Gas's proposed scorecards, including performance metrics, metric weightings, and targets are appropriate and, specifically, whether Enbridge Gas's proposed Large Volume Program Scorecard, including targets and performance metrics is appropriate;
   (d) **Issue 10(e).** Whether Enbridge has proposed an optimal suite of program offerings that will maximize natural gas savings and provide the best value for rate payer

funding and, specifically, whether Enbridge's proposed program offerings for large volume customers are appropriate; and

(e) **Issue 16.** Whether Enbridge has proposed a reasonable approach to ensure natural gas DSM programs are effectively coordinated with electricity conservation programs and other energy conservation and GHG reduction programs applicable in its service territory.

**ARGUMENT**

**A. Pancaked carbon costs make DSM programming costly and unnecessary**

8. Enbridge's DSM programming is largely duplicative in terms of any ability to incentivize behaviour on the part of its customers. GFGs are already subject to multiple, pancaked carbon costs that sufficiently incentivize the conservation and efficiencies sought through the large volume program. Any benefits of the large volume program are therefore largely already achieved by other means and do not justify the substantial additional costs, which ultimately increase the price of electricity in Ontario.

9. Furthermore, contrary to the Applicant's stated position, the proposed mandatory large volume program is inconsistent with Enbridge's broader DSM objectives. Subjecting GFGs in Ontario's low-emitting electricity sector to costly and mandatory DSM fails to advance Enbridge's mandate to: (i) assist customers in making their homes and businesses more efficient to help better manage energy costs or (ii) to help lower natural gas usage and meet Ontario's GHG reduction goals.[1] The proposed mandatory large volume program does not deliver on these objectives.

10. First, the large volume program has little or no impact on improving GFG efficiencies and managing energy costs, as existing carbon costs drive a much more significant price signal. Enbridge takes the view that DSM for large volume customers should include strategies to increase natural gas savings by targeting key segments of the market or ***customers with significant room for efficiency improvements*** (emphasis added).[2] However, GFGs are generally the very customers that ***do not*** have significant room for efficiency improvements in light of existing and increasing carbon-related regulations and incentives. Second, the

[1] Oral Hearing Transcript, Volume 1 (March 28, 2022), 55:28-56:4. See also Exhibit E, Tab 1, Schedule 6, paras 9-11.

[2] Oral Hearing Transcript, Volume 1 (March 28, 2022), 56:5-18.

large volume program has a very minor impact on reducing GHG emissions and does so inefficiently in comparison with stronger emission reduction measures.

11. Enbridge acknowledges that there are a range of policies beyond DSM that apply costs and incentives to GFGs targeted at reducing natural gas usage and decreasing the associated GHG emissions. Mr. Ariyalingam confirmed the existence of a range of programs and policies applicable to GFGs that overlap in purpose and effects with Enbridge's large volume program:

> MR. McGILLIVRAY: […] Would you agree at a high level that there are policies beyond DSM that apply costs and incentives to gas-fired generators?
>
> MR. ARIYALINGAM: Correct.
>
> MR. McGILLIVRAY: And for example, these policies might be targeted at reducing natural gas usage?
>
> MR. ARIYALINGAM: Yes.
>
> MR. McGILLIVRAY: Or they might be targeted, or maybe it is an and/or: They might be targeted at decreasingly associated greenhouse gas emissions?
>
> MR. ARIYALINGAM: Yes.
>
> MR. McGILLIVRAY: And you are aware that gas-fired generators are already subject to regulated carbon pricing, either at the provincial or federal level, and pay an emissions performance fee on gas consumed for electricity generation?
>
> MR. ARIYALINGAM: Some element of the charges, yes.
>
> MR. McGILLIVRAY: And you are aware that gas-fired generators may also be subject to charges in and through a proposed border carbon adjustment?
>
> MR. ARIYALINGAM: Yes.
>
> MR. McGILLIVRAY: And you are aware that there are proposed net zero by 2035 obligations, and to the extent that those apply to the electricity sector and electricity generators, those would also apply to gas-fired generators?
>
> MR. ARIYALINGAM: Yes. I gather from the compendium that was sent on Saturday.[3]

12. APPrO moreover submits that there are already a series of very significant pancaked costs to incentivize GFGs to improve efficiencies, conserve natural gas, and reduce GHG emissions — and more coming. These are in addition to the increasing voluntary

[3] Oral Hearing Transcript, Volume 1 (March 28, 2022), 62:6-63:4.

commitments and actions that corporate entities, including GFGs, are taking to accelerate the transition to net-zero. For example:

(a) Ontario's *Greenhouse Gas Emissions Performance Standards* (O. Reg. 241/19) broadly apply carbon pricing to electricity generation from natural gas, with a performance standard for all fossil fuel-fired electricity generation of 370 tCO2e per gigawatt hour, and similar performance standards for thermal energy and cogeneration, all subject to federal back-stop legislation in the form of the *Greenhouse Gas Pollution Pricing Act*;[4]

(b) Canada's *Regulations Limiting Carbon Dioxide Emissions from Natural Gas-fired Generation of Electricity* (SOR/2018-261) apply to electricity generation from natural gas in Ontario in order to limit carbon dioxide emissions;[5]

(c) the federal government has announced that it intends to take additional steps to reduce emissions from the electricity sector through a Clean Electricity Standard (**CES**) and has indicated that "[t]he scope and design of the CES will […] need to be stringent enough to achieve its objectives while including compliance flexibility to allow for the possibility of some natural gas", with GFGs taking on a clear role in facilitating electrification as a necessary generation source on margin;[6] and

(d) the provincial government has asked the Independent Electricity System Operator to assess options for the establishment and ongoing operation and management of a registry to support the creation and/or recognition, trading and valuation, and the retirement of renewable and clean energy credits (CECs) within Ontario, which may impose additional emissions-related constraints on GFGs.[7]

13. APPrO requests that the Board recognize the substantial weight of these non-DSM carbon-related costs and provide GFGs with the flexibility to opt out of Enbridge's large volume program, including DSM-related costs. An opt-out mechanism will facilitate the efficient use of Ontario's low-carbon electricity to reduce GHG emissions in other sectors of the economic with rising emissions (including transportation and buildings), with express reference to the fact that GFGs are incentivized to find efficiencies and reduce GHG emissions from numerous other regulatory requirements.

[4] Exhibit K1.3, Tab 4; Oral Hearing Transcript, Volume 1 (March 28, 2022), 63:27-64:16.
[5] Exhibit K1.3, Tab 5; Oral Hearing Transcript, Volume 1 (March 28, 2022), 64:17-64:25.
[6] Exhibit K1.3, Tab 8; Oral Hearing Transcript, Volume 1 (March 28, 2022), 64:26-65:18.
[7] Exhibit K1.3, Tabs 6 and 7; Oral Hearing Transcript, Volume 1 (March 28, 2022), 65:25-66:13.

14. APPrO notes that it is supportive of continued tracking and reporting of natural gas usage and conservation and related emissions reporting and is prepared to work with the Board and Enbridge to facilitate tracking and reporting in a manner consistent with applicable federal and provincial regulatory requirements.

**B. Billing system requirements and unit rate impacts are not a reasonable basis to deny opt-out**

15. APPrO submits that both the billing system changes and associated unit rate impacts that Enbridge references as hurdles to a GFG opt-out from large volume DSM programs could be easily accommodated.

16. First, the billing system and related changes that Enbridge maintains would be necessary should the Board consider exempting GFG's from any obligation to contribute to the DSM costs allocated to the T2 and T100 rate zones are not a reasonable basis to deny implementation of an opt-out mechanism.[8] Enbridge states, for example, that it would need to consider:

(a) how to separate DSM charges from distribution rates (Mr. Fernandes indicated that this is "procedural in nature", but "would still have administration associated with it"[9]);

(b) how to uniquely identify GFG customers in the billing system and exclude them from DSM charges (Mr. Fernandes noted that GFGs were identified and broken out for the purposes of this proceeding[10]);

(c) how to charge DSM charges to all non-GFG customers; and

(d) how to map DSM charges to a different account in the enterprise financial system (a matter of billing or accounting[11]).

17. Mr. Neme notes, and APPrO agrees, that to the extent that Enbridge embeds DSM costs in distribution rates, it could presumably create a negative DSM surcharge (i.e., a credit) for customers who choose to opt out.[12] Mr. Neme also notes that numerous other jurisdictions appear to have successfully implemented opt-out programs, citing Illinois as an example.[13]

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[8] Exhibit I.10e.EGI.APPrO.5(b).
[9] Oral Hearing Transcript, Volume 1 (March 28, 2022), 60:1-2.
[10] Oral Hearing Transcript, Volume 1 (March 28, 2022), 60:3-14.
[11] Oral Hearing Transcript, Volume 1 (March 28, 2022), 61:3-9.
[12] Exhibit JT4.4.
[13] Exhibit JT4.4 ("In Illinois, the electric utilities just began implemented a new opt out option for very large customers (those with maximum demands in excess of 10 megawatts). That provision went into effect in January 2022, within months of the passage of a new law (in September 2021) that created the opt out program. Our

18. APPrO submits, and Enbridge largely acknowledges[14], that these changes are generally administrative or procedural in nature, or require changes as to form rather than as to substance and/or variances in accounting practices. APPrO submits that they should therefore not present a barrier to implementing an evidence-based opt-out for GFGs.

19. Second, the unit rate impacts that Enbridge calculated are relatively minor and do not justify a refusal to provide GFG customers with a DSM opt-out mechanism. APPrO asked by way of interrogatory for Enbridge to calculate the rate impacts to the Rate T2 and Rate 100 DSM unit rates for 2023 when GFG billing units are excluded from the derivation of the DSM unit rate. The calculations show that:

    (a) in Rate T2, the monthly demand charge on a cents per cubic metre basis for the first 140,870 cubic metres of gas increases by 30% if GFGs are excluded from DSM unit rates, the monthly demand charge for all additional consumption over 140,870 cubic metres increases by 92% if GFGs are excluded, and the interruptible commodity charge is not affected; and

    (b) in Rate 100, the delivery demand charge increases by 16% if GFGs are excluded from DSM unit rates and the delivery commodity charge increases by 14% if GFGs are excluded from DSM unit rates.[15]

20. APPrO submits that, when observed on a percentage change basis, the rate impacts to the Rate T2 and Rate 100 DSM unit rates for 2023 when GFG billing units are excluded from the derivation of the DSM unit rate are well within the bounds of what would be reasonably anticipated and would not unduly affect other large volume customers or Enbridge's customers writ large. APPrO submits that these rate impacts should therefore not present a barrier to implementing a GFG opt-out for the large volume program.

## C. Enbridge's proposed changes to the large volume program do not present a viable alternative to an opt-out

21. Enbridge's proposed changes to the large volume program do not provide sufficient flexibility, underscoring that only the requested voluntary opt-out will adequately achieve the OEB's stated goals. Enbridge proposes to decrease DSM related rate impacts in the Rate

understanding is that the Illinois utilities have essentially created a "toggle" for each large customer eligible to opt out, which results in each customer either paying the energy efficiency surcharge used to fund efficiency programs (if they choose not to opt out) or not paying it (if they choose to opt out).")

[14] Oral Hearing Transcript, Volume 1 (March 28, 2022), 59:22-61:28.

[15] Exhibit I.10e.EGI.APPrO.5(a); Oral Hearing Transcript, Volume 1 (March 28, 2022), 56:23-57:19.

T2 and 100 rate classes and remove some current limitations on measures that are eligible for incentives in order to increase customer opportunities to utilize the program and its incentives.[16]

22. Enbridge's proposed changes appear intended to be responsive to GFGs, which have unique equipment which operates sporadically. In order to keep their equipment operating at peak efficiency levels, these customers need to complete expensive maintenance. The measures being reintroduced include turbine filters, wash and overhauls.[17]

23. However, Enbridge's proposed accommodation fails to supplement their customers' own existing expertise. Large volume customers that are GFGs generally have the internal expertise or capacity to obtain external export resources specific to their industry, to assist with energy conservation and emission reduction measures if required and have the wherewithal to evaluate opportunities specific to their operations and make risk-adjusted decisions on implementation of conservation measures.

24. Enbridge's second proposed form of accommodation is similarly lacking. Mr. Neme's view is that it would be reasonable to allow large industrial customers, including but not limited to GFGs, to opt out of the large volume program "if they can demonstrate that they have addressed all cost-effective efficiency measures", subject to external expert audit.[18] APPrO submits that there is not sufficient evidence on the record in this proceeding for the Board to direct that any opt-out mechanism for GFGs must be accompanied by any such demonstration or audit. APPrO reiterates that GFGs are well-equipped to evaluate opportunities specific to their operations and make risk-adjusted decisions about efficiency measures.

25. Nevertheless, if the Board so directs, APPrO and its members are in a position to collaborate with Enbridge and other interested stakeholders to design simple, evidence-based conditions for an opt-out mechanism.

**CONCLUSION**

26. For the reasons set out in these submissions, APPrO requests that the Board direct Enbridge to provide its DSM program for Large Volume customers on a voluntary basis and allow GFGs to opt-out of the program and, upon opt-out, be exempt from related DSM costs.

[16] Exhibit E, Tab 1, Schedule 6, para 8.
[17] Exhibit E, Tab 1, Schedule 6, para 26.
[18] Exhibit JT4.4.

If the Board grants this request, APPrO and its members are in a position to collaborate with Enbridge and other interested stakeholders to develop and implement an opt-out mechanism that is consistent with applicable policy and regulation as to natural gas conservation and emission reductions.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS

19th day of May, 2022

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