



Ontario  
Energy  
Board | Commission  
de l'énergie  
de l'Ontario

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# **DECISION AND ORDER ON COST AWARDS**

## **EB-2022-0007**

### **ENBRIDGE GAS INC.**

**Application to dispose of balances in certain deferral and variance  
accounts related to the delivery of conservation programs in 2020**

**BEFORE:**    **Michael Janigan**  
                 Presiding Commissioner

**David Sword**  
Commissioner

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**June 14, 2022**

## OVERVIEW

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) on January 14, 2022, seeking approval to dispose of balances in three Demand Side Management (DSM) deferral and variance accounts, as at December 31, 2020, related to the delivery of natural gas conservation and energy efficiency programs.

The OEB granted the Canadian Manufacturers and Exporters (CME), Energy Probe Research Foundation (Energy Probe), Industrial Gas Users Association (IGUA), Pollution Probe, School Energy Coalition (SEC) and Small Business Utility Alliance (SBUA) intervenor status and cost award eligibility.

On May 5, 2022, the OEB issued its Decision and Order in which it set out the process for cost claims.

The OEB received cost claims from CME, Energy Probe, IGUA, Pollution Probe and SEC. On May 19, 2022, SBUA stated that it would not file a cost claim.

On May 30, 2022, Enbridge Gas noted that had no objection with the cost claims, with the exception of Pollution Probe's. Enbridge Gas cited the following excerpt from the OEB's Decision and Order on Enbridge Gas's 2019 DSM Deferral and variance Account Disposition, with respect to the Evaluation Contractor's (EC) scope of work:

The OEB selected the EC and determined the scope of the review with input from the OEB's Evaluation Advisory Committee. At this juncture, the OEB will not require an audit of Enbridge Gas's DSMVA balances as part of the EC's scope of work. Adding an audit function to the EC's scope of work would best be raised in the evaluation, measurement, and verification process which includes OEB staff and the involvement of certain intervenors prior to a clearance application. Alternatively, as SEC suggested in its submission, the subject of an independent review of DSMVA balances should be dealt with as part of the next DSM Plan and Framework.<sup>1</sup>

Enbridge Gas further noted that despite the OEB's findings in this regard, Pollution Probe raised the same issue again in its reply submission in this proceeding, followed by the OEB subsequently rendering a similar decision as it did in the prior year. Enbridge Gas urged the OEB to consider the value of a party submitting cost claims for an issue in which the OEB had previously made a decision on.

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<sup>1</sup>EB-2021-0072, Decision and Order (June 24, 2021), page 6.

On June 2, 2022, Pollution Probe stated that the scope of this proceeding relates to all the accounts requested for clearance by Enbridge Gas including the DSMVA. Pollution Probe stated that Procedural Order No. 1 mentioned the audited results related to the DSM Incentive Deferral Account and the LRAM Variance Account, and noted that the Procedural Order was silent on the accounts not covered through the OEB audit. Pollution Probe noted that it supported the OEB's Decision in this proceeding and it fully aligned with the recommendations made by Pollution Probe. In its Decision the OEB did not exclude consideration of the DSMVA and noted the issues raised by Pollution Probe, IGUA and SEC related to the DSMVA. The OEB ultimately determined that "[a]t this juncture, the OEB will not require an audit of Enbridge Gas's DSMVA balances as part of the EC's scope of work". Pollution Probe submitted that it participated responsibly in this proceeding and that consideration of the DSMVA accounts were not out of scope for the proceeding.

## Findings

The OEB has reviewed the cost claims to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*.

The OEB approves the cost claims as submitted except for Pollution Probe's. The OEB values the contributions made by the intervenors in this application, including that of Pollution Probe. However, as part of Procedural Order No. 1, the OEB indicated that it expected the review of the accounts to be a mechanical process. This proceeding was not intended to act as an opportunity to reconfigure the existing evaluative process. The appropriateness of the Evaluation Contractor's scope of review and the recommendation to also include an audit of the DSMVA balances was raised by some parties, including Pollution Probe, and addressed by the OEB as part of Enbridge Gas's 2019 DSM deferral and variance account proceeding. In the OEB's Decision and Order, it found that:

"[a]t this juncture, the OEB will not require an audit of Enbridge Gas's DSMVA balances as part of the EC's scope of work. Adding an audit function to the EC's scope of work would best be raised in the evaluation, measurement, and verification process which includes OEB staff and the involvement of certain intervenors prior to a clearance application. Alternatively, as SEC suggested in its submission, the subject of an independent review of the DSMVA balances should be dealt with as part of the next DSM Plan and Framework." <sup>2</sup>

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<sup>2</sup> EB-2021-0072, Decision and Order, June 24, 2021, p. 5

The OEB finds that much of Pollution Probe's intervention went beyond the scope of the proceeding and engaged issues previously decided. As such, the OEB is reducing the cost claim submitted by Pollution Probe by 50%.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas Inc. shall immediately pay the following amounts to the intervenors for their costs:

• Canadian Manufacturers and Exporters	\$1,143.56
• Energy Probe Research Foundation	\$3,163.05
• Industrial Gas Users Association	\$2,528.94
• Pollution Probe	\$2,843.37
• School Energy Coalition	\$4,171.96

**DATED** at Toronto June 14, 2022

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar