

Toronto

January 13, 2023

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

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Dear Ms. Marconi:

**EB-2022-0094 (Ontario-Produced Natural Gas)
High-Level Description of Proposed Evidence
Ontario Petroleum Institute (“OPI”)**

We are counsel to OPI. This letter is further to the Board’s Decision and Procedural Order No. 3 in the above-noted proceeding, dated November 17, 2022.

In its findings with respect to Jurisdictional Question No. 2, the Board determined that:

- the terms of a particular rate (including a contract-based rate) can create or fail to address barriers to fair and transparent access to the natural gas distribution system in Ontario; and,
- a panel of OEB Commissioners has jurisdiction to impose conditions (in any order made pursuant to sections 36 of the *Ontario Energy Board Act, 1998*) that address those barriers.

The Board went on to invite OPI to provide evidence that would assist the Board to better understand how the terms and conditions in the M13 rate schedule and station fees associated with Ontario gas purchase agreements (“GPA”) may impair OPI’s members from obtaining fair and transparent access to Ontario’s natural gas distribution system. The Board also asked that OPI’s evidence describe not only the barriers to access, but also any proposed solutions.

The purpose of this letter is to be responsive to item 1 at page 17 of the Board’s Order – namely, to “provide a high-level description of the proposed evidence and when it will be filed.” OPI’s proposed evidence would be guided by the three items listed by the Board at the bottom of page 15 of the Order, as follows:

- Identification of Barriers to Fair and Transparent Access

OPI's evidence will: (a) identify those specific contractual terms in the M13 Contract that, in OPI's experience, have acted as a barrier to fair access for Ontario gas producers; (b) explain how each term operates as a barrier; (c) where an example is feasible and might be useful to the Board, provide such example; and (d) indicate whether the same term exists in the GPA. To provide the Board with a sense of the specific contractual terms, they would include (but not limited to) provisions allowing for suspension of service or setting out notice periods for curtailment.

In addition to these existing terms in the M13 Contract, OPI's evidence will identify terms and conditions that it believes should be included in the M13 Contract in order to ensure fair and transparent access for Ontario producers. In some cases, the absence of terms and conditions operates to provide Enbridge with discretion that OPI believes has had a detrimental impact on gas producers' fair access. The lack of prescriptive terms in the M13 contract on issues such as permissible shut-in periods and existing capacity (to name two) will be itemized. OPI will provide examples to illustrate how the lack of certain contractual terms have operated to constrain what OPI believes is fair and transparent access.

- Producer Connection Costs

Fairness and transparency in respect of connection costs is an important access issue that is distinct from the contracting barriers noted above. OPI's evidence will provide past examples of customer connection costs quoted by Union/EGI to gas producers to access the Ontario gas distribution system and will where possible provide evidence of alternative costs. The evidence will also provide suggested options for mitigating these costs.

- Proposed Solutions

With respect to the contractual barriers to fair access, OPI's evidence will set out proposed revisions to the specific contractual terms identified in the M13 Contract and provide OPI's views as to how best to address the issues for which there are no terms and conditions in the M13 Contract.

With respect to the production connection costs, OPI's evidence will provide proposals for how to mitigate significant producer connection costs.

OPI will be in a position to file its evidence within one month from being advised by the Board that OPI's proposed evidence as described above is acceptable.

Please contact me directly if you have any questions.

Yours very truly,

A handwritten signature in black ink, appearing to read "Richard King". The signature is written in a cursive, flowing style.

Richard King

RK:mi

- c. All Parties to EB-2022-0094
M. Millar (OEB Counsel)
R. Murray (OEB)