



ONTARIO ENERGY BOARD

STAFF SUBMISSION ON DRAFT ISSUES LIST

**ENBRIDGE GAS INC.
2024 REBASING APPLICATION
EB-2022-0200**

January 13, 2023

Background

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B), seeking approval for changes to the rates that Enbridge Gas charges for natural gas distribution, transportation and storage, effective January 1, 2024.

The OEB issued Procedural Order No. 1 on December 16, 2022, that outlined a procedural schedule for the proceeding. Among other things, the Procedural Order provided for an issues conference to consider the draft issues list, the assignment of issues to each phase of the proceeding, as well as the timing to consider phase 2 issues. The OEB's draft issues list was attached to Procedural Order No. 1.

An Issues Conference was held on January 9, 2023, to discuss the draft issues list and produce a proposed issues list for the OEB's consideration. For issues and phasing related matters that remained unresolved, parties could file written submission on these matters by January 16, 2023.

OEB staff filed a marked-up copy of the draft issues list on January 13, 2023, that reflected the issues for which there was agreement and the issues that were disputed. In its cover letter to the draft issues list, OEB staff noted that it would be filing comments on one of the issues.

Comments of OEB Staff

The draft issues list included in Procedural Order No. 1 was prepared by the OEB, and OEB staff therefore acted largely as a facilitator for the issues list conference which took place on January 9, 2023. With the exception of its comments on proposed issue 59 as set out below, OEB staff takes no position on any of the proposed changes to the issues list that have been brought forward by all or some of the parties.

Proposed issue 59, which was not part of the OEB's draft issues list, states: "Should the OEB Commissioners make a recommendation, as proposed, to the Chief Executive Officer of the OEB for a review of GDAR's [i.e. the Gas Distribution Access Rule] SQR measures based on customer experience and expectations, and current industry and technical standards?"

As the parties are aware, under the *Ontario Energy Board Act, 1998* (OEB Act) the power to create or amend natural gas rules (such as the GDAR) rests with the OEB's

Chief Executive Officer. That power is exercised in accordance with the statutory process set out in section 45 of the OEB Act, which includes providing notice, inviting written representation and describing the anticipated costs and benefits of the proposal. While proposed issue 59 is not asking the OEB to create or amend a natural gas rule in this proceeding, OEB staff question whether undertaking an analysis of the potential desirability of a policy change to the GDAR as a rule of general application to natural gas distributors (including but not limited to Enbridge Gas) with a view to making a recommendation is appropriate when considered in that context. To the extent that a party believes that changes to the GDAR are needed, they may bring that directly to the attention of the Chief Executive Officer by other means.

OEB staff further submits that the purpose of an issues list is to establish the scope of the proceeding in respect of the order or orders that are being sought through the proceeding. That does not appear to be the case with proposed issue 59 in the context of a proceeding under section 36 of the OEB Act.

No order would arise from this issue, nor any decision relating to an order.

– All of which is respectfully submitted –