SCOTT POLLOCK
T 613.787.3541
spollock@blg.com

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen St, Suite 1300
Ottawa, ON, Canada K1P 1J9
T 613.237.5160
F 613.230.8842
blg.com

Borden Ladner Gervais

By electronic filing

January 16, 2023

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms. Marconi

Re: Enbridge Gas Inc. ("EGI")
EGI 2024 Rebasing Application
Board File #: EB-2022-0200

We are counsel to Canadian Manufacturers & Exporters ("CME") in the above-noted proceeding. Pursuant to Procedural Order #1, the parties convened for an 'issues list' conference on January 9, 2023. The purpose of the issues list conference was to attempt to reach a consensus on the matters at issue in this proceeding in the form of an issues list, as well as the sequencing of the issues between Phase I and Phase II of this proceeding.

As a result of the issues list conference, parties were able to agree on a substantial number of issues. However, there remain several issues over which the parties disagree. Below are CME's submissions regarding the unresolved issues.

In its draft issues list, the Board included the following issue which is currently numbered as issue #46:

> "Should the cap on cost-based storage service for in-franchise customers established in the NGEIR decision remain at 199.4 PJ?"

CME understands EGI to oppose the inclusion of this issue on the issues list. As CME apprehends it, EGI is of the view that the cap on cost-based storage determined by the Board in the Natural Gas Electricity Interface Reviewing Proceeding (the "**NGEIR Decision**"). decision is permanent, and therefore should not compose part of the issues in this proceeding.

CME disagrees with EGI, and supports the inclusion of this issue on the issues list. The issue of cost-based storage and what, if any, appropriate cap should placed on those assets should be

revisited as a result of the merger between Spectra and Enbridge and the amalgamation of Union Gas and Enbridge Gas.

In its decision of November 7, 2006, the Board released its decision regarding the NGEIR decision. The NGEIR Decision determined that there would be a cap on the amount of cost-based storage allocated to what was then in-franchise customers of Union Gas Limited. This determination was upheld in a subsequent decision.[1]

Subsequent to the NGEIR decision being upheld, Enbridge Gas Distribution Inc. and Union Gas Limited applied to the Board to amalgamate into a single company in EB-2017-0306/0307. In that proceeding, part of the Board's issues list included a review of impacts of the merger on other OEB policies or orders, such as storage.[2] As a result, parties made various arguments regarding the use of cost-based storage assets for the proposed new amalgamated utility. While the Board ultimately determined that a review of NGEIR and the Storage and Transportation Access Rule were out of scope of the proceeding, the Board ordered EGI to file a proposal for how to use excess storage from the legacy Union territory to meet the storage needs of legacy EGD customers as part of its rate harmonization plan.[3]

The Board did not otherwise treat with the parties' arguments regarding the need to revisit storage in light of the merger.[4] If it were the Board's intention to confirm NGEIR's ongoing applicability, it would have done so in clear language. Instead, the Board determined that most storage issues were out of scope for the deferred rebasing period, but ordered EGI to make a proposal for dealing with storage in its rate harmonization plan, thereby deferring a consideration of the storage issue to the rebasing application.

While CME acknowledges that the NGEIR decision purported to decide a permanent allocation of storage at the time it was decided, the fundamental premise upon which that determination was made has shifted. Enbridge Gas Distribution Inc. and Union Gas Limited are no longer two separate companies, but one single entity: EGI. As a result, the Board may determine in this proceeding that the principled basis for allocating cost based storage to one set of customers (legacy Union in-franchise customers) and not to another set of customers (legacy EGD in-franchise customers) no longer makes sense, or that the cap on the total amount of cost based storage available no longer makes sense after doubling the number customers that are required to share that cost-based storage. Although CME is not currently taking a position on the ultimate merits of altering the cap on cost-based storage, it submits that the issue should be included in the issues list for parties to test evidence, and ultimately make submissions on, so the Board can make the best possible decision for ratepayers going forward.

CME submits that issue #47 should also remain as drafted for the same reasons. As CME understands it, EGI wishes to amend the issue to state that only the "procurement process" relating to purchases of market based storage should be part of the issues list in this proceeding. This is in contrast to the wording of the original issue by the Board, which contemplate that

[1] EB-2006-0322/0340 Decision with Reasons, July 30, 2007.
[2] EB-2017-0306/0307 Decision and Procedural Order #3, March 1, 2017, Schedule A Issues List, #6.
[3] EB-2017-0306/0307, Decision and Order, August 30, 2018, p. 51.
[4] The Board recited the arguments made in that respect in Appendix A to its August 30, 2018 decision.

the practice of purchasing market based storage in its entirety was in scope of this proceeding. CME submits that the premise of the allocation of cost-based versus market based storage has shifted, and as a result, the entire practice of purchasing market based storage for in-franchise customer use should be in scope and reviewed by the Board as part of this proceeding.

With respect to the phasing of issues, CME takes no issue with the current proposed issues being determined as part of Phase 2 of the proceeding, if rates determined in Phase 1 are interim until the determination of the matters at issue in Phase 2. The issues in this proceeding are inherently complex and intertwined, such that issues determined as part of Phase 2 could have impacts on the rates determined in Phase 1. Accordingly, CME submits that the Board should set interim rates as part of Phase 1, and final rates after determining all matters at issue in this proceeding.

Yours very truly,

Borden Ladner Gervais LLP

Scott Pollock
SP/tb

c. Vincent Caron (CME)

134196436:v11