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May 4, 2023

Sent by EMAIL, RESS e-filing

Ms. Nancy Marconi
Registrar
Ontario Energy Board
27-2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Marconi,

**Re: EB-2022-0184: EPCOR Natural Gas Limited Partnership's ("EPCOR")
Customer Volume Variance Account ("CVVA") Draft Accounting Order - Response**

In accordance with the Ontario Energy Board's April 6, 2023 Decision and Order (Phase 2), please find enclosed EPCOR's comments in response to OEB Staff and Intervenor Submissions received April 27, 2023

EPCOR has included comments in response to two specific topics:

1. Return on Equity Rate for Application of 300 Basis Points Earnings Deadband
2. Accounting Order wording – Rate 1 and Rate 6 accumulation

Please contact me if you require any additional information

Sincerely,

Tim Hesselink, CPA
Senior Manager, Regulatory Affairs
EPCOR Natural Gas Limited Partnership
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c: All Stakeholders in this proceeding.

1. Return on Equity Rate for Application of 300 Basis Points Earnings Deadband

References:

OEB Staff Submission, April 27, 2023, pages 2-3

First, with respect to the proposed use of the OEB-approved 2023 ROE figure (9.36%) for determining the ROE percentage that is 300 basis points below the ROE underpinning rates, OEB staff submits that the 8.78% figure is more appropriate. While it is true that the OEB did not specifically opine on the 8.78% ROE figure in EPCOR's original Custom IR decision, that number does underpin EPCOR's rates. So, in OEB staff's view it is not correct to say that the 8.78% was not approved for rate-setting purposes.

That said, if the OEB agrees with EPCOR that using the 2023 OEB ROE as established by the OEB's annual cost of capital parameter update is appropriate, OEB staff submits that the ROE used to calculate the ROE percentage that is 300 basis points below the approved ROE should then be updated annually. For example, the disposition of 2023 balances in the CVVA would be subject to the 2023 OEB ROE of 9.36% minus 300 basis points. For 2024, the disposition of balances in the CVVA would be subject to the OEB's updated 2024 ROE figure minus 300 basis points. OEB staff notes that this is similar to the approach (i.e., using OEB-approved ROE figures updated annually) applied by Enbridge Gas Inc. in determining amounts subject to earnings sharing.

SEC Submission, April 27, 2023, pages 1-2

SEC submits that the appropriate ROE to use as the starting point for the CVVA calculation is the ROE that underpins EPCOR's rates. It is that ROE that EPCOR's rates are designed to achieve, if all its forecast were perfectly correct. Using any other ROE figure besides 8.78% would be inappropriate, especially considering the unique competitive nature of the competitive Common Infrastructure Plan ("CIP") process in which EPCOR was the successful proponent. As part of the CIP process, while the capital structure was a common parameter, the cost of debt and ROE "were considered competitive". As the company told the OEB in its Custom IR application, its proposed ROE of 8.78% was "consistent with EPCOR's CIP submission".

Additionally, using the ROE that underpins EPCOR's rates is entirely consistent with calculations used by the OEB in similar circumstances. The OEB's policy regarding recovery of the impacts arising from COVID-19, which was referred to in the Decision as an example of a similar mechanism, measures 300-basis points from the utility's OEB-approved ROE, not the deemed ROE released by the OEB in that year. Similarly, the means test in an ACM/ICM, also referenced in the Decision, compares the utility's ROE against that "embedded in the distributor's rates". The same comparison is made for eligibility for a Z-Factor.

EPCOR Response:

In the view of EPCOR, the introduction of an ROE deadband in the decision reflects a material change in the characteristics of the regulatory framework as approved in Southern Bruce Expansion Applications, Decision and Order, April 12, 2018, EB-2016-0137/EB-2016-0138/EB-2016-0139. This includes both a modification in the risk sharing of the customer volume common assumption (the existence of which has not been challenged by any of the parties to this application) as well as EPCOR's ability to earn the approved 10-year revenue requirement.

In regards to EPCOR having an ROE "embedded" or "underpinning" the utilities rates, the OEB made it very clear throughout the competitive process that ROE was a competitive element which the proponents could address as they deemed appropriate. In EPCOR's case, ROE was not tied to any particular OEB approved rate, but was the result of a set of values which were driven by the competitive nature of the application. As a result, given that EPCOR has no approved ROE, in finalizing the mechanism for implementing these new characteristics EPCOR is proposing the use of the OEB's approved ROE at the time of this proceeding as a fair measure for the ROE deadband (9.36%).

2. Accounting Order wording – Rate 1 and Rate 6 accumulation

References:

OEB Staff Submission, April 27, 2023, page 3

OEB staff requests clarification of the following statement that is included in the draft accounting order:

While the revenue variances for each of Rate Class 1 and Rate Class 6 shall be calculated separately and tracked in the subaccounts as outlined below in the accounting entries, for the purposes of disposition these accounts they shall not be bifurcated. Therefore, either the balances in both accounts are disposed of, or as in a case where the EPCOR is not eligible for recovery based on its ROE as described above, neither balance shall be eligible to be recovered/returned to ratepayers.

OEB staff believes that this is intended to mean that either the total balance (both Rate 1 and Rate 6) in the account will be disposed of assuming the ROE deadband is not breached or, alternatively, if the deadband is breached, the total balance will not be disposed. Further, it is OEB staff's understanding that this statement is not intended to, in any way, limit the OEB's discretion in the first application that EPCOR seeks disposition of the CVVA balance to determine an appropriate rate class allocation and disposition methodology. If OEB staff's understanding is correct, OEB staff has no concerns with the inclusion of this language in the draft accounting order.

EPCOR Response:

EPCOR confirms that OEB Staff's understanding of the intended wording included in the accounting order is correct.

VECC Submission, April 27, 2023, page 1/2.

Staff has provided in their submissions an interpretation of this paragraph which itself is also unclear as to its meaning. Whatever the intention of EPCOR (or Staff) it is our submission that it is procedurally inappropriate for an accounting order to incorporate provisions which purport to clarify the originating decision or to limit the discretion of a future panel. In any event the proposed wording is not necessary for the establishment of the accounting order and therefore should be removed.

EPCOR Response:

EPCOR maintains that the wording in the accounting order is appropriate and seeks to include the language to ensure clarity of the process of the accounting order exits. Over-simplification of the accounting order could lead to misinterpretations by parties in future rate proceedings that do not align with the decision in this one.

In an attempt to simplify for the benefit of VECC, EPCOR is stating that the balance in the CVVA shall be looked at on a net basis when assessing whether the CVVA is disposed of or in other words, if the net of the Rate 1 and Rate 6 balance is a receivable to EPCOR but the ROE deadband restrict EPCOR from recovering amounts then neither account shall be disposed of regardless of whether both account or only 1 account gave rise to the net receivable balance.