

February 7, 2024

**BY EMAIL AND FILED VIA RESS**

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. ("Enbridge Gas")  
EB-2022-0200 – 2024 Rates Application  
Response to Environmental Defence Motion**

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We represent Enbridge Gas.

We write in response to the February 2, 2024 Motion Record from Environmental Defence seeking an interlocutory order "prohibiting Enbridge from using ratepayer funds to promote the expansion of gas service, policies geared toward the expansion of gas service, or lessened regulatory oversight".

Enbridge Gas objects to Environmental Defence's motion on four grounds.

First, Environmental Defence's motion is a collateral attack on the OEB-approved Settlement Proposal in this case. In Issue 12 of the Settlement Proposal, parties (including Environmental Defence) agreed to an overall O&M budget envelope for Enbridge Gas.<sup>1</sup> There was no stipulation as to how Enbridge Gas could, or could not, spend the budget amount. Environmental Defence seeks to now add conditions that could have been included in the Settlement Proposal but which were not. This is not appropriate or permissible. The motion should not be permitted.

On this same topic, Environmental Defence did raise concerns during the Phase 1 hearing about certain of Enbridge Gas's marketing materials. The OEB considered those submissions, and directed Enbridge Gas to consider, update and report on the energy comparison information on its website in Phase 2 (Phase 2 directives).<sup>2</sup> Environmental Defence's motion is an attempt to broaden and/or relitigate that topic after the OEB has issued its decision.

Second, the grounds set out in Environmental Defence's motion are not a proper basis for proceeding. There is no Government of Ontario policy prohibiting or even limiting gas system expansion or addition of new customers. The opposite is true. The Minister of Energy stated as much in his December 22, 2023 response to the Phase 1 Decision and Order.<sup>3</sup> There is no basis to conclude that ratepayer interests are best served by having the Company restrict its activities

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<sup>1</sup> Exhibit O1, Tab 1, Schedule 1, pages 30-31.

<sup>2</sup> EB-2022-0200 Decision and Order, December 21, 2023, pages 46-47 and 140.

<sup>3</sup> [Ontario Government Standing Up for Families and Businesses | Ontario Newsroom](#)

as argued by Environmental Defence. The fact that all ratepayers do not share the same views as Environmental Defence is seen by the fact that no other party (except for the Green Energy Coalition) endorsed a customer attachment policy that would effectively end attachments of new residential and small customers.

Third, the example given by Environmental Defence about a similar remedy being granted recently by the Massachusetts Department of Public Utilities (DPU) should not be viewed as a precedent or guide for the OEB. The statutory objectives guiding the Massachusetts DPU are entirely different from Ontario. The *OEB Act* instructs the OEB to support the rational expansion of the gas system.<sup>4</sup> The Massachusetts DPU is obliged to prioritize reductions in greenhouse gas emissions to meet statewide greenhouse gas emission limits.<sup>5</sup> The proceeding that led to the Massachusetts DPU Order relied upon by Environmental Defence is entirely different from the current Enbridge Gas rate proceeding. The Massachusetts DPU proceeding was an “inquiry .. to examine the role of Massachusetts gas local distribution companies (“LDCs”) in helping the Commonwealth achieve its 2050 climate targets ... potentially recasting the role of LDCs in the Commonwealth”.<sup>6</sup> In that proceeding, the Massachusetts DPU “specifically sought to develop a regulatory and policy framework to guide the evolution of the gas distribution industry in the context of a clean energy transition that requires the Department to consider new policies and structures to protect ratepayers as the Commonwealth reduces its reliance on natural gas.”<sup>7</sup>

The Enbridge Gas 2024 rate case is not an analogous proceeding. While the broad policy framework proceeding undertaken by the Massachusetts DPU, consistent with its statutory mandate, provided a basis for that regulator to issue an order restricting the marketing activities of gas distributors, the same is not true in this Enbridge Gas case. There is no regulatory and policy framework setting out the future role of gas distributors in Ontario in the context of energy transition – indeed, the recent Electrification and Energy Transition Panel points to this as something that the Government of Ontario should consider<sup>8</sup>.

Fourth, and in any event, Enbridge Gas disputes that there is any reason for Environmental Defence’s motion to be heard on an urgent or interlocutory basis. The Company’s O&M budget has been approved on consent from Environmental Defence and many other parties, without limitations such as those now proposed by Environmental Defence that amount to micro-managing Enbridge Gas communications activities. Should the OEB determine that it will consider Environmental Defence’s request, there is no reason for this to be done on an expedited basis, separate from the ongoing rate proceeding. Environmental Defence recognizes this in its cover letter and suggests that the items set out in its motion could be added to the issues list for Phase 2. If that is the OEB’s intention, the Company requests the opportunity to make submissions on the proper scope of any additional issues.

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<sup>4</sup> *Ontario Energy Board, 1998*, section 2(3).

<sup>5</sup> Section 1A of Chapter 25 of the Massachusetts General Laws - [Massachusetts General Laws, c. 25, s. 1A](#).

<sup>6</sup> [DPU-20-80-B-Order-12.6.2313.pdf \(clf.org\)](#), page 4.

<sup>7</sup> [Ibid.](#)

<sup>8</sup> [Ontario's Clean Energy Opportunity - Report of the EETP](#), section 5.7 Policy Direction on Natural Gas, pages 72-74.

As a final comment, Enbridge Gas objects to Environmental Defence's continued inaccurate and unfair accusations about "misleading and false information" being published by Enbridge Gas. The Company strongly disputes these allegations and will respond to the OEB's Phase 2 directives in accordance with the OEB's procedural directions.

Please let us know if you have questions about this letter.

Yours truly,

AIRD & BERLIS LLP



David Stevens  
DS/

c: All parties registered in EB-2022-0200