



**BY EMAIL and RESS**

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March 1, 2024  
Our File: EB20220200

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2022-0200 – Enbridge Gas Inc. 2024-28 Phase 1 – Draft Rate Order**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No. 7, these are SEC’s comments on Enbridge’s Draft Rate Order (“DRO”) implementing the Phase 1 Decision and Order (the “Decision”).

**Capital Expenditures**

SEC is unable to determine if Enbridge has appropriately implemented the Decision to reduce its capital expenditures, and requires clarification from both the OEB and the company.

***Overall Capital Budget Reduction or Specific to System Renewal.*** Based on its schedule, included in the DRO, that shows which asset categories Enbridge has applied the capital expenditure reductions, the company has interpreted the Decision as requiring a \$250M envelope reduction to the entire budget.<sup>1</sup> It is not clear that this is the correct interpretation of the Decision. SEC submits that it appears the Decision requires a \$250M reduction to the system renewal budget specifically, although clarity from the OEB is required.

The Decision says in a number of places that Enbridge has to reduce its 2024 capital budget by \$250M, and one specifically, that it is an “envelope reduction to the 2024 capital program and does not specify which projects are to be deferred or reduced to achieve that envelope reduction.”<sup>2</sup> At the same time, the Decision also says that “[t]he OEB is reducing the system renewal budget envelope to motivate Enbridge Gas to improve its approach to integrity management, repair, and life extension, so that only truly necessary replacement projects proceed [emphasis added].”<sup>3</sup> This would seem to indicate that the envelope reduction is specific to system renewal spending, not the entire capital budget.

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<sup>1</sup> Draft Rate Order, Working Papers, Schedule 5

<sup>2</sup> Decision, p.2, 57,58

<sup>3</sup> Decision, p.58

Such an interpretation would be more consistent with much, although not all, of the rationale for the reductions. The Decision found that a reduction was warranted based on Enbridge not meaningfully assessing stranded asset risks of system renewal spending<sup>4</sup>, and its failure to establish that its approach to system renewal spending maximizes system monitoring for the purpose of repair and asset life extension over asset replacement.<sup>5</sup> It also criticized Enbridge for favoring asset age over condition for replacement decisions, and the need for life extensions over premature asset replacements. Both issues are primarily concerns with system renewal investments.<sup>6</sup>

Based on the OEB's findings, it appears to us that the OEB was ordering the company to reduce its system renewal budget by \$250M. SEC requests that the OEB clarify its intent.

***Lack of Supporting Calculations.*** Regardless of how Enbridge interprets the \$250M reduction, it has not provided any information that shows how it has translated the capital expenditure reductions into in-service reductions, nor how the in-service additions resulted in a reduction in the rate base. Without this information, SEC is unable to determine if the capital expenditure reduction has both fairly and accurately implemented the Decision. This also includes the additional \$50M reduction of capitalized overheads.

Enbridge has only provided a table that shows the reduction in 2024 capital expenditures (both the \$250M envelope reduction and the \$50M capitalization reduction) by asset class<sup>7</sup>, and then the 2024 rate base amount.<sup>8</sup> It has not provided updated Gross PP&E, Accumulated Depreciation, and Net PP&E continuity schedules<sup>9</sup>, as well as tables that show the specific adjustments and their basis, so that the parties and the OEB can properly trace through the implementation of the decision to ensure the appropriate rate base has been calculated.

The OEB should require Enbridge to provide that information, and allow further comments. If it is believed that would cause a problem from a timing perspective, as the rates will remain interim in any event, the OEB should consider the issues as part of Phase 2.

### **Integration Capital**

The Decision denied Enbridge's proposal to add \$119M of integration capital to its 2024 rate base.<sup>10</sup> The \$119M represented the net book value, or undepreciated cost, of the integration capital assets at the end of 2023 that Enbridge sought to include in its 2024 opening rate base.<sup>11</sup>

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<sup>4</sup> Decision, p.57: "As discussed previously, Enbridge Gas has not undertaken any meaningful assessment of the risk of stranded assets in relation to its Asset Management Plan supporting its 2024 capital spending proposal. As a result, Enbridge Gas has not identified any adequate steps it would take to mitigate the risk of stranded asset costs arising from system renewal." [emphasis added]

<sup>5</sup> Decision, p.57: "Enbridge Gas has not established that its current approach to system renewal maximizes system monitoring for the purpose of repair and asset life extension over asset replacement, as contemplated in the St. Laurent Ottawa North Replacement Project decision." [emphasis added]

<sup>6</sup> Decision, p.57

<sup>7</sup> Draft Rate Order, Working Papers, Schedule 5

<sup>8</sup> Draft Rate Order, Working Papers, Schedule 2

<sup>9</sup> See Exhibit 2-2-1, Attachment 1, p.4; Exhibit 2-2-1, Attachment 2, p.6; Exhibit 2-2-1, Attachment 8

<sup>10</sup> Decision, p.74; Adding a level of complication to the final rate base and PP&E numbers is that it also includes the impact of the integration capital portion of the Decision.

<sup>11</sup> Decision, p.71

In the DRO, Enbridge has reduced that number to \$91M, claiming for the first time that the \$119M was just an estimate and that “it did not represent the forecast net book value embedded in opening rate base because it is not possible to isolate the net book values of individual assets under group depreciation.”<sup>12</sup> Enbridge points to two generic paragraphs in its pre-filed evidence regarding Enbridge Gas Distribution's rate zone, previous depreciation practices, and how certain asset classes could end up accumulating more or less depreciation than their expected lives. This appears to be a bigger issue with respect to computer software and hardware assets.<sup>13</sup>

Enbridge did not provide any calculations to support how it determined the fair estimate of the net book value is not the \$119M that was included in its own evidence, but this new \$91M amount. It has also provided no specific evidence regarding how it has been able to identify specific integration software assets that were not subject to group amortization accounting. SEC is entirely left in the dark regarding how Enbridge specifically reached the \$91M.

SEC submits that the appropriate reduction to the opening 2024 rate base is \$119M, not \$91M. At no point in the proceeding did Enbridge raise this supposed issue to parties, even though the \$119M number was discussed at length in the evidence<sup>14</sup>, during the oral hearing<sup>15</sup> and included in Enbridge's reply argument.<sup>16</sup> In fact, Enbridge was specifically asked what would happen if the OEB did not approve including the \$119M in rate base.<sup>17</sup> Ms. Ferguson, on behalf of Enbridge, answered that it would be written off. She did not state that, in fact, it would be \$91M (or some number less than \$119M) that would be written off.<sup>18</sup> If she had, and if parties were informed about the difference, they would have asked detailed questions regarding the issue.

Enbridge's attempt after the fact to reduce the impact of the Decision is entirely inappropriate and should be rejected.

### **Depreciation Expense**

SEC has reviewed a draft of the submission of the Industrial Gas Users Association on the issue of the depreciation expense and agrees that further information is required to validate that Enbridge has properly implemented the Decision.

### **Regulated O&M Adjustment**

In Table 1 of the DRO, Enbridge makes additional adjustments to the post-Settlement Proposal revenue deficiency to reflect certain items that were not included in the response to Undertaking J17.11.<sup>19</sup> One of those adjustments is to increase the O&M by \$0.9M “[t]o reflect the allocation of the

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<sup>12</sup> Draft Rate Order, p.4

<sup>13</sup> Draft Rate Order, p.4; Exhibit 4-5-1, p.6-7

<sup>14</sup> See for example, Ex.1-9-1, p.20, Ex.1-9-1, p.21 Table 6, Ex.1-9-1, Attachment 1, p.4

<sup>15</sup> Tr.14, p.152-153, 155, 170. Enbridge confirmed when directly asked the \$119M was the number and not just an estimate (Tr.14, p.155):

MR. RUBENSTEIN: So let me just be clear: Are you actually putting in or proposing to add to opening rate base, \$119 million? Or is this just a simplified calculation; it is actually a different number?

MS. DREVENY: It would be the \$119 million.

<sup>16</sup> Enbridge Reply Argument, para. 147, 189

<sup>17</sup> Tr.14, p.119-120

<sup>18</sup> Tr.14, p.119

<sup>19</sup> Draft Rate Order, p.2

settled \$50 million reduction to O&M between regulated and unregulated."<sup>20</sup> SEC does not understand this adjustment. Enbridge has provided no evidentiary reference for it or the specific basis for the calculation. The agreed \$50M reduction, like the rest of the Settlement Proposal, is for the regulated (or utility) business, and not the unregulated (or non-utility business). The adjustment should be rejected.

### **Site Restoration Cost Variance Account**

SEC does not take issue with Enbridge's request to create the Site Restoration Cost Variance Account ("SRCVA") to implement the Decision. There are three separate issues with respect to the specifics of the proposed SRCVA and the implementation of that aspect of the Decision.

First, Enbridge states that it plans to bring forward an "Investment Policy for review at its next rebasing application."<sup>21</sup> SEC urges the OEB to require Enbridge to bring forward a proposed Investment Policy and any further necessary approvals for a long-term solution much earlier than its next rebasing application, which would not be decided until the end of 2028. Ratepayers bear the lost opportunity cost in the interim as the proposed interest will likely be materially lower than Enbridge's WACC, let alone what it would earn if properly invested.

Second, and related, Enbridge proposes that the SRCVA attract interest at its actual interest provided at its bank.<sup>22</sup> SEC submits that the OEB should set the interest rate at the higher end of the actual bank rate or 5%. This would fairly compensate customers in the interim and provide a necessary incentive for Enbridge to negotiate the best deal from the financial institution, and to develop its long-term plan as soon as possible.

Lastly, while SEC supports the creation of the SRCVA, we urge the OEB not to approve any specific methodology of how certain calculations and entries would be made. Enbridge has only provided types of items that would be included but without further discovery. There is a lot of complexity and questions that remain. Upon review of the account, either as part of the approval of the long-term solution or the next rebasing application, those issues should be canvassed in greater detail.

### **Disposition of Property Deferral Account**

The Decision ordered the establishment of a deferral account to capture the benefit of ratepayers 50% of the proceeds non-depreciable property dispositions, and 100% for depreciable property disposition.<sup>23</sup> It also required Enbridge to propose a methodology for disposing of any balances.<sup>24</sup>

With respect to depreciable property, Enbridge proposes that the net proceeds be recorded as a credit to the SRCVA, not the proposed Disposition of Property Deferral Account ("DPDA").<sup>25</sup> At this time, SEC does not support this proposal. Ultimately, it may be appropriate to transfer those amounts to the SRCVA, but since it was just proposed as part of the DRO, there are several outstanding questions regarding how the SRCVA would work. Additionally, it is not clear that the type of salvage costs that are to be credited to the SRCVA are truly of the same type as proceeds from the sale of a building.

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<sup>20</sup> Draft Rate Order, p.2, Table 1

<sup>21</sup> Draft Rate Order, p.18

<sup>22</sup> Draft Rate Order, p.16

<sup>23</sup> Decision, p.110

<sup>24</sup> Decision, p.111

<sup>25</sup> Draft Rate Order, p.22



The SRCVA is meant to capture amounts primarily for the site restoration of utility pipeline infrastructure upon decommissioning. The proceeds from the sale of a building, while in some ways similar, are of a different character. SEC submits that the OEB should require Enbridge to record the amounts in the proposed DPDA.

Yours very truly,  
**Shepherd Rubenstein P.C.**

Mark Rubenstein

cc: Brian McKay, SEC (by email)  
Applicant and intervenors (by email)