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BY EMAIL

March 6, 2024

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ms. Marconi:

**Re: Ontario Energy Board (OEB) Staff Submission on Settlement Proposal
OEB File Number: EB-2022-0094**

Pursuant to Procedural Order No. 10, please find attached the OEB staff submission on the Settlement Proposal in the above referenced proceeding.

Yours truly,

Ritchie Murray
Case Manager

Encl.

cc: All parties in EB-2022-0094



ONTARIO ENERGY BOARD

OEB Staff Submission on Settlement Proposal

EB-2022-0094

March 6, 2024

Background and Process

The Ontario Energy Board (OEB) initiated this proceeding on its own motion to consider the price paid by rate-regulated natural gas distributors for natural gas produced in Ontario.¹ In its Decision and Procedural Order No. 3, the OEB found that it does not have jurisdiction to directly set the price that Ontario natural gas producers get paid for the gas they produce. In its Decision and Procedural Order No. 4, the OEB limited the hearing to the issue of fair and transparent access to Enbridge Gas Inc.'s (Enbridge Gas) system.²

The OEB approved as intervenors in this proceeding each of Canadian Biogas Association (CBA), Canadian Manufacturers & Exporters (CME), Enbridge Gas, Energy Probe, EPCOR Natural Gas Limited Partnership (EPCOR), Industrial Gas Users Association (IGUA), London Property Management Association (LPMA), Ontario Petroleum Institute (OPI), and School Energy Coalition (SEC) (collectively, Parties to the Proceeding).³

In its Decision and Procedural Order No. 8, the OEB found that Enbridge Gas's connection procedures, applicable to conventional natural gas and renewable natural gas producers in Ontario (Producers), should be documented for inclusion in its transportation contract rates and gas purchase agreements. The OEB further directed that the procedures take into account similar provisions found in the OEB's electricity Distribution System Code (DSC), and address producer connection process and timelines and contestability of certain new connection facilities. The OEB made provision for a settlement conference for parties to file a settlement proposal for the OEB's consideration. The OEB directed Enbridge Gas to provide an initial draft of connection procedures to all parties as the basis for discussions at the settlement conference.

The OEB scheduled the settlement conference for January 9, 2024, and January 12, 2024. Settlement discussions continued after these dates. CBA, Enbridge Gas, and OPI participated in the settlement discussions (collectively, Parties to Settlement). OEB staff attended the settlement discussions. OEB staff filed letters with the OEB that provided updates on the status of settlement discussions on January 16, 18 and 24, 2024.

In response to the letter filed by OEB staff on January 24, 2024, the OEB issued a letter on the following day that granted the Parties to Settlement's request for an extension to the OEB's January 31, 2024, deadline for the filing of a joint settlement proposal and

¹ Ontario Energy Board Notice, issued February 7, 2022

² Decision and Procedural Order No. 4, dated February 7, 2023

³ The Parties to the Proceeding were approved as intervenors in Procedural Order No. 1, issued March 4, 2022, except CBA who was approved in Decision and Procedural Order No. 5, issued February 24, 2023.

associated connection procedures (Settlement Proposal). The OEB also approved a proposal by OEB staff to file a letter with the OEB by February 7, 2024, with an update on the filing date for the Settlement Proposal.

OEB staff filed a letter on February 7, 2024, advising that the parties proposed to file the Settlement Proposal by February 23, 2024. In Procedural Order No. 10, the OEB approved the February 23, 2024, filing deadline, and set a March 6, 2024, deadline for submissions on the Settlement Proposal from OEB staff and intervenors not party to the settlement discussions.

On behalf of the Parties to Settlement, Enbridge Gas filed the Settlement Proposal on February 23, 2024.

OEB Staff Submission

The OEB's *Practice Direction on Settlement Conferences* requires OEB staff to file a submission commenting on two aspects of the Settlement Proposal: whether the settlement represents an acceptable outcome from a public interest perspective, and whether the accompanying explanation and rationale is adequate to support the settlement.

For the reasons discussed below, OEB staff submits that the Settlement Proposal is in the public interest because it sufficiently achieves the objectives established by the OEB in its Decision and Procedural Order No. 8. The detailed connection procedures included as Appendix A - Connection Procedures Document to the Settlement Proposal should assist Producers to better manage their business operations. This in turn should help consumers realize any benefits associated with the connection of locally produced conventional or renewable natural gas. OEB staff also submits that the explanation and rationale in the Settlement Proposal are adequate to support the settlement, with the exception set out below.

Specifically, OEB staff requests that Enbridge Gas file a letter on the record of this proceeding, prior to the issuance of the OEB's decision on the Settlement Proposal, that explains the approach that has been or will be taken to develop the form of Contestable Work Agreement. This letter should also advise whether Enbridge Gas is seeking OEB approval of this form of agreement. Enbridge Gas is encouraged to discuss this letter with the Parties to the Settlement prior to filing it on the record.

Settlement Proposal

The objectives established by the OEB in its Decision and Procedural Order No. 8 specifically directed that the following items be addressed in the Settlement Proposal:

1. *A granular process for Producer connections, including timelines.*

OEB staff submits that the Connection Procedures Document suitably documents the new processes, procedures, information requirements and timelines required for their initial implementation. As discussed in the Implementation section below, OEB staff supports the Parties to Settlement's proposal to revisit the Connection Procedures Document after it has been in place for two years.

OEB staff submits that the Connection Procedures Document should help support the fair and transparent access to Enbridge Gas's distribution system for Producers. This should assist Producers to better manage their business operations. It should also help consumers realize any benefits associated with

the connection of locally produced conventional or renewable natural gas.

2. *A contestability option which includes the opportunity for a Producer to construct certain portions of the connection facilities (the Meter Station).*

The Connection Procedures Document includes the option for Producers to choose “contestable work” (also referred to as alternative bid work) and construct the Meter Station⁴ based on a suite of standard station designs that are intended to evolve and improve over time.

The Connection Procedures Document describes the general terms and conditions for contestable work with respect to such things as design, procurement, fabrication, inspection, commissioning, ownership, costs and timelines.

The Connection Procedures Document states that Enbridge Gas and the Producer will execute a “Contestable Work Agreement” that describes the specific terms and conditions associated with any contestable work. OEB staff notes that the form of Contestable Work Agreement was not included in the Settlement Proposal.

OEB staff requests that Enbridge Gas file a letter on the record of this proceeding, prior to the issuance of the OEB’s decision on the Settlement Proposal, that explains the approach that has been or will be taken to develop the form of Contestable Work Agreement. This letter should also advise whether Enbridge Gas is seeking OEB approval of this form of agreement. Enbridge Gas is encouraged to discuss this letter with the Parties to the Settlement prior to filing it on the record.

3. *A process for providing information to Producers about market capacity for connections at their proposed location.*

The Connection Procedures Document provide background on the variables that affect available system capacity. As part of the Connection Process, Enbridge Gas will conduct a System Capacity Assessment and communicate its findings to the Producer. The System Capacity Assessment will provide estimated flow rates under various operating conditions, which will assist Producers to better understand the nature of the system capacity at any given time.

Enbridge Gas has agreed to work with Producers to adjust regulator settings on Producer stations and to make adjustments on Enbridge Gas’s system to

⁴ As defined in Appendix A - Terms and Definitions, a Meter Station may include metering, filtration, pressure regulation, odourization, and monitoring equipment.

optimize locally-produced natural gas.

If sufficient system capacity is not available to a Producer, additional pipeline facilities may be proposed and costed by Enbridge Gas for consideration by the Producer.

OEB staff submits that the proposed approach to System Capacity Assessment, agreements to adjust equipment to optimize locally produced volumes, and improved information sharing on additional pipeline facilities options should improve fairness and transparency and provide Producers with the information they need to better manage their business operations.

4. *More complete and timely information provision to Producers about shut-ins.*

In the shut-in section of the Connection Procedures Document, Enbridge Gas commits to limiting shut-ins to justifiable operational reasons, providing prompt communications, and making reasonable efforts to minimize the duration or planned and unplanned shut-ins. Some specific timelines and information requirements are established.

OEB staff submits that the proposed approach to managing shut-ins is an improvement and should assist Producers to better manage their business operations.

Additional Items

The Settlement Proposal notes that two additional items were discussed during the Settlement Conference that are not addressed in the Connection Procedures Document:

- a) Rate treatment for customers whose service is interrupted
- b) The salvage value of any contestable work facilities that remain at the time that the Producer ceases to receive service

Enbridge Gas acknowledged that Producers may raise these issues in Phase 2 or Phase 3 of the proceeding on Enbridge Gas's 2024 rates application.⁵ The Parties to the Proceeding may take any position they choose at that time.

OEB staff agrees that these issues could be addressed in the above noted rate proceeding, or some other proceeding, and need not be addressed in the current proceeding.

⁵ EB-2022-0200

Implementation

In its Decision and Procedural Order No. 8, the OEB found that Enbridge Gas's connection procedures, applicable to natural gas and renewable natural gas producers in Ontario, should be documented for inclusion in its transportation contract rates and gas purchase agreements.

The Settlement Proposal states that Enbridge Gas will post the Connection Procedures Document on its website, along with information about how a Producer can make a connection application.

The Settlement Proposal also states that the Parties to Settlement intend for the Connection Procedures Document to prevail if there is a conflict with Enbridge Gas's contracts with Producers. The Settlement Proposal describes how Enbridge Gas will incorporate the Connection Procedures Document into its rates:

Accordingly, where applicable, Enbridge Gas will update its contracts for Rates 401 and M13, as well as its Gas Purchase Agreement (applicable to conventional and renewable natural gas producers), to note and incorporate by reference the relevant provisions and expectations of the Connection Procedures Document. The general terms and conditions applicable to the Rate M13 contract will be referenced in the rate schedule for Rate M13 included in the Company's Rate Handbook (the Rate 401 contract and gas purchase agreement are not part of the Rate Handbook). The parties believe that this approach meets the OEB's expectation from Decision and Procedural Order No. 8 that the new process will be OEB approved and enforceable.⁶

The Settlement Agreement states that the provisions of the Connections Procedures Document will come into effect as of August 1, 2024. This will provide Enbridge Gas with the time necessary to get all related requirements in place, including the standard station design documents, the Producer information package, updates to the Company's website, and the preparation of the form of Contestable Work Agreement mentioned earlier in this submission.

As previously noted, the Parties to Settlement agree that connection procedures should be revisited after experience has been gained with how they work in practice. The Parties to Settlement request that the OEB make provision for a one-day stakeholder session in the Fall of 2026, in order for the parties and OEB staff to discuss whether any changes should be made to the connection procedures on a prospective basis.

⁶ Settlement Proposal, page 7

Following the stakeholder session, the parties would advise the OEB as to whether further process is required.

OEB staff submits that the proposed approach to including the Connections Procedures Document in Enbridge Gas's contract rates and gas purchase agreements is appropriate and meets the OEB's expectation from Decision and Procedural Order No. 8 that, "Enbridge Gas Inc.'s connection procedures, applicable to natural gas and renewable natural gas producers in Ontario, should be documented for inclusion in its transportation contract rates and gas purchase agreements." OEB staff submits that the effective date of August 1, 2024, is reasonable, and a one-day stakeholder session in the Fall of 2026 could be beneficial.

~All of which is respectfully submitted~