

# Elson Advocacy

## BY RESS AND EMAIL

May 9, 2024

**Ms. Nancy Marconi**  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. 2024 to 2028 Rates Application  
EB-2024-0111**

I am writing on behalf of Environmental Defence and the Green Energy Coalition to make submissions on the issues list pursuant to *Procedural Order #1*.

### ***Incentive Rate-Setting Mechanism***

Environmental Defence and the Green Energy Coalition believe the incentive rate-setting mechanism issues are sufficient to encompass the issues and evidence that they wish to put forward in Phase 2. But in the alternative, we ask that an additional issue be added.

Environmental Defence and the Green Energy Coalition wish to explore whether the proposed incentive rate-setting mechanism is appropriate in light of range of potential outcomes of the energy transition. This would likely include a request to submit evidence exploring options to reduce the excessive incentive that Enbridge has to build infrastructure. We believe it will be extremely difficult or impossible to protect customers as the energy transition progresses unless we can change the way Enbridge earns profits. In particular, Enbridge's incentive to build fossil fuel assets and expand the rate base is far too high. The options we would like to explore include smaller adjustments to what Enbridge has proposed as well as more significant shifts, including an examination of approaches in other jurisdictions.

We believe this would be captured by issues 1, 2, and 7, which are excerpted here for ease of reference:

- 1) Are the proposed Price Cap Incentive Rate-Setting Mechanism, Annual Rate Adjustment Formula, and term appropriate?
- 2) Are the proposed elements of Enbridge Gas's Price Cap Incentive Rate-Setting Mechanism appropriate?

- 7) How should Enbridge Gas be incentivized to implement economic alternatives to gas infrastructure and how should the recovery of its costs be treated?

In the alternative, if the OEB believes an additional issue is required, we propose the following:

Is the proposed incentive rate-setting mechanism and its proposed elements appropriate in light of the potential outcomes of the energy transition?

Enbridge may ask that the exploration of rate-setting mechanisms only consider minor adjustments to the proposals put forward by Enbridge on the grounds that more substantial changes may be difficult to implement for this rate term. However, we believe this would be a mistake. Minor adjustments are likely to come in the form of additional incentive payments, which may not be cost-effective or sufficient to impact behaviour. We should not rule out at this stage the possibility that a larger shift could be better for ratepayers. Also, we believe it would be premature to limit the options under consideration before evidence and submissions on what can and cannot be implemented within the rate term.

Even if it is ultimately determined that some options are not ready for implementation and need to be considered further in the future, that still represents progress, and is a common way for change to take place. Indeed, the OEB specifically noted in its December 21, 2023 decision, that “An examination of these questions [relating to incentives for non-capital alternatives] in Phase 2 will also assist the OEB in developing direction prior to the next rebasing application.”

Finally, we do not agree with Enbridge’s proposal to move issue 7 from the section on the incentive rate-setting mechanism to the “other” section. The OEB’s decision specifically referred to this issue as being related to the incentive ratemaking mechanism:

In Phase 2 of this proceeding, a key issue regarding Enbridge Gas’s incentive ratemaking mechanism proposal is to determine how performance-based incentives could be used in the face of the energy transition. Phase 2 will provide an opportunity to examine ways in which Enbridge Gas could be provided with an incentive to implement economic alternatives to gas infrastructure replacement projects...

In sum, Environmental Defence and the Green Energy Coalition believe the incentive rate-setting mechanism issues are sufficient to encompass the issues they wish to raise.

### ***Enbridge Sustain***

Environmental Defence and the Green Energy Coalition believe the issues around Enbridge Sustain are better addressed in this proceeding in comparison to compliance proceedings. We are concerned that compliance proceedings could be too narrowly focused on what Enbridge cannot do, instead of examining what the regulated entity should do in addition to what it is doing now to maximize the options for customers to procure energy-as-a-service.

For instance, HRAI notes as follows: “[Enbridge Sustain] uses information of the regulated utility to identify customers and potential customers, and their needs and attributes. Enbridge has not yet disclosed whether Enbridge Sustain will be a beneficiary of research carried out under the proposed Energy Transition Technology Fund.” If this is true, the regulated corporation could be prohibited from continuing to do so. However, this may not be the best for customers who could stand to benefit from energy-as-a-service. It may be better for Enbridge to be directed to share data with other energy-as-a-service providers where appropriate, develop a list of clean energy-as-a-service contractors to provide to potential customers (e.g. those inquiring about gas connections), provide information to existing customers (e.g. in bill inserts) about energy-as-a-service options, share information obtained through the Energy Transition Technology Fund, or otherwise facilitate customer choice when it comes to energy-as-a-service. We are not advocating for any outcomes at this stage. We merely propose that the Enbridge Sustain issues be addressed in a way that will ensure that all options remain on the table.

Furthermore, we believe the OEB would benefit from hearing multiple perspectives on the issues, which is not possible in a compliance proceeding. For instance, some parties see clean energy-as-a-service as very promising “safe bet” to address the energy transition. There will be differing views on whether customers benefit from Enbridge Sustain being able to use its name recognition to attract customers that may otherwise decline to pursue this option. Those kinds of issues are best addressed with a variety of viewpoints, which is possible in this proceeding but not in a compliance proceeding.

### ***Ratepayer-Funded Pro-Gas and Anti-Electrification Lobbying***

Environmental Defence and the Green Energy Coalition propose that the following issue be added to the issues list:

Are directions restricting the use of ratepayer funds for certain lobbying and public relations efforts warranted?

Enbridge has been using ratepayer funds for lobbying and public relations campaigns in support of its shareholder’s interests. These campaigns can be described at a high-level as pro-gas and/or anti-electrification. Environment Defence seeks orders prohibiting or restricting the use of ratepayer funds for these purposes as these uses are for the benefit of the shareholder, not customers, and in some cases harm customers. Furthermore, customers should not be forced to pay through their gas bills for lobbying and public relations campaigns for policies that are contrary to their conscience, especially when those campaigns are based on misleading or false information.

Without interrogatories, we do not know the full cost or full extent of these efforts. However, examples include a letter from the President of Enbridge to municipalities asking them to lobby the government to overturn aspects of the OEB’s December 21, 2023 decision. Enbridge falsely states in that letter that the OEB’s decision “sets a deliberate course to eliminate natural gas from Ontario's energy mix.”<sup>1</sup> Another example includes a series of paid anti-electrification newspaper

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<sup>1</sup> Letter from Michele Harradence, President of Enbridge Gas Inc., January 24, 2024 ([link](#)).

advertisements, including an advertisement alleging that electrification will lead to power outages.<sup>2</sup>

Enbridge opposes any exploration of these issues, but its arguments are without merit. First, Enbridge argues that these issues are already addressed in issue 21 and in the Competition Bureau investigation. However, those relate solely to the accuracy of marketing materials to potential customers. They do not relate to the appropriate use of ratepayer dollars for pro-gas and anti-electrification lobbying and public relations campaigns.

Second, Enbridge argues that the decision of the Massachusetts Department of Public Utilities prohibiting ratepayer funding of certain communications is irrelevant because Massachusetts has different policies regarding gas. This, however, is an argument about the substance of the issue, not whether the issue can be explored at all. We do not agree that government policy in Ontario supports the use of ratepayer funding for pro-gas and anti-electrification lobbying. But in any event, any arguments around government policy should be made in final submissions, not at this stage.

Third, Enbridge argues that this issue would represent a collateral attack on the OEB-approved settlement regarding the O&M budget. This argument is unfounded. The parties agreed on a budget envelope – Environmental Defence and the Green Energy Coalition do not challenge that envelope. The parties did not agree that Enbridge could spend those dollars to the benefit of the shareholder instead of spending them to benefit ratepayers. Furthermore, the extent of the Enbridge lobbying and public relations campaign was not known or disclosed before a settlement was reached, and therefore it cannot be fairly said that the parties or the OEB somehow implicitly condoned or agreed with that use of ratepayer funds.

Thank you for the opportunity to make these submissions.

Yours truly,



Kent Elson

cc: Parties to the above proceeding

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<sup>2</sup> Enbridge Globe and Mail Advertisement, *Innovation meets pragmatism on the path to net zero* ([link](#)) Note also that these advertisements were based around the earlier version of the Guidehouse report filed in these proceedings, which had to be revised to correct \$140 billion worth of errors and was thoroughly discredited in the hearing. See Exhibit KT9.2, p. 4 ([link](#)); Environmental Defence Submissions ([link](#)).