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May 13, 2024

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, P.O. Box 2319  
Toronto ON, M4P 1E4

Dear Ms. Marconi,

**RE: EB-2024-0111: Enbridge Gas Rebasing Phase 2 Draft Issues List  
Energy Probe Submissions**

In PO No. 1 of April 26, 2024, the OEB made a provision for parties to file written submissions on the draft Phase 2 issues list (including whether the issues list should reflect the issues raised in HRAI's intervention request and Environmental Defence's motion) by May 13, 2024. The following are the submissions of Energy Probe Research Foundation (Energy Probe).

After filing its intervention request, HRAI filed its submission on the draft issues list on May 10, 2024, which provided more information on the issues raised in its intervention request. In its submission HRAI provided information about a major new business initiative, Enbridge Sustain, that Enbridge Gas Inc. launched in November 2022. This is how HRAI described Enbridge Sustain.

*"Enbridge Sustain is in the business of supplying, installing, servicing, and – notably – financing heating and air conditioning systems and power generation and storage systems, including hybrids, ground source and air source heat pumps, solar, and storage. It is structured in an energy-as-a-service (EAAS) business model, meaning that the utility will own all of the assets being supplied to end users for heating, cooling, and electricity.*

*It is a competitive business, but it is being carried out as an unregulated ancillary business within the regulated utility. As such, Enbridge believes the Affiliate Relationships Code does not apply.*

*It 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*

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*a beneficiary of research carried out under the proposed Energy Transition Technology Fund.*

*All employees of Enbridge Sustain are employees of Enbridge Gas Inc., and report through the management of the regulated utility. It is not known how many FTEs are currently assigned to Enbridge Sustain.”*

If the above description is correct, and Enbridge has so far not provided any evidence to the contrary, then Energy Probe has serious concerns with the Enbridge Sustain business initiative.

Enbridge chose not to disclose any information about Enbridge Sustain during Phase 1 of the proceeding. Since Enbridge Sustain was launched in November 2022, there must have been employees working on it in 2023 and are now working on it in 2024. There may have been capital expenditures. These O&M and capital costs must have been hidden in other accounts. This raises questions about the accuracy of the evidence on which the Settlement Agreement was negotiated and on which the OEB reached its Phase 1 Decision.

The position of Energy Probe has always been and continues to be that the regulated monopoly business of distributors ends at the customer’s meter, and that any business behind the meter is part of the competitive market. Had Energy Probe been aware that Enbridge was planning to have behind the meter assets on customers’ premises in its regulated rate base and was offering behind the meter services, Energy Probe would have taken a different position during the Phase 1 proceeding.

Over the years monopoly distributors have attempted to encroach on the competitive market through various business initiatives that used their monopoly position, customer information, and ratepayer subsidies in attempts to control certain areas of the energy services market. Enbridge Gas Inc. appears to be attempting to do this.

While the OEB does not have a mandate to protect the competitive market from encroachment by regulated utilities, it does have the mandate to set rates that prevent utilities from forcing distribution ratepayers to subsidize their initiatives in the competitive market behind the meter.

Energy Probe is also concerned that if Enbridge Gas regulated distribution utility is offering behind the meter energy services to customers in 2024 without approved rates for these services, Enbridge Gas may be in contravention of the OEB Act.

Energy Probe believes that if Enbridge Gas plans to proceed with the Enbridge Sustain business in the regulated distribution utility, like its predecessor, Consumers Gas, did for its ancillary programs such as the water heater rental business, it must file a 2025 rate application for these services. Such a rate application should include a description of the assets it wants to put into rate base, a depreciation study to support the depreciation rates of the assets, their CCA class(s) for tax purposes, a full allocation of corporate support costs, and forecasts of O&M and revenues. Enbridge Gas should also file a rate of return analysis of Enbridge Envision that would show if Enbridge Sustain is earning the rate of return of Enbridge Gas. The OEB established in past

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decisions that ancillary programs that are not earning a utility rate of return must have revenues imputed to them to ensure that they are not being subsidized by distribution ratepayers.

HRAI proposed that the following issue be added to the Issues List.

*“Are the existing and planned activities of Enbridge related to Enbridge Sustain, and the proposal to carry on that business as an unregulated ancillary business within the regulated entity, appropriate, and do the terms and procedures under which it is and will be operated fully protect the ratepayers?”*

Energy Probe supports the addition of this issue because it may address its concerns.

Energy Probe has no submissions on other issues including ones raised by the Environmental Defense Motion.

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi  
TL Energy Regulatory Consultants Inc.

cc. Patricia Adams (Energy Probe Research Foundation)  
Khalil Viraney (OEB Staff)  
EGI Regulatory Proceedings  
Intervenors of Record