ONTARIO ENERGY BOARD

EB-2022-0200

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S. O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application by Enbridge Gas Inc. to change its natural gas rates and other charges beginning January 1, 2024

MOTION RECORD

(Environmental Defence Motion Re Improper Use of Ratepayer Funds)

February 2, 2023

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IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S. O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application by Enbridge Gas Inc. to change its natural gas rates and other charges beginning January 1, 2024

Notice of Motion

(Re Use of Ratepayer Funds to Promote Gas Expansion Policies)

ENVIRONMENTAL DEFENCE will make a Motion to the Ontario Energy Board ("OEB") on a date and at a time to be determined by the OEB.

PROPOSED METHOD OF HEARING: Environmental Defence proposes that the Motion be heard by a method of hearing to be determined by the OEB.

THE MOTION IS FOR:

3. 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.

THE GROUNDS FOR THE MOTION ARE:

Ratepayer-funded lobbying

4. Enbridge has been using ratepayer funds and ratepayer-funded staff for lobbying motivated by Enbridge's interests in gas expansion and contrary to the interests of ratepayers. For instance, Enbridge recently sent a letter to municipal mayors and councillors across the province using ratepayer-funded resources asking them to write

their MPPs to support legislation to annul portions of the OEB's recent decision in this case.[1] The letter asks the mayors and councillors to reach out to their municipal advisor (a ratepayer-funded position) to coordinate on the requested lobbying of MPPs against the OEB's decision.[2]

5. Similarly, Enbridge has been reaching out to municipalities to ask them to lobby the Premier, Minister of Energy, and Minister of Finance to pass regulations to reduce OEB oversight of Enbridge by lowering the threshold for leave to construct applications.[3] These lobbying efforts have been conducted by ratepayer-funded staff and resources, including the ratepayer-funded municipal advisors.[4]

6. There are likely other examples of ratepayer-funded lobbying in favour of gas expansion and opposed to OEB regulation, including attempts to indirectly lobby the government through other stakeholders. For instance, there are strong indications that Enbridge has been asking developers to lobby the government to pass legislation to annul portions of the OEB's decision in this case.

7. It also appears that ratepayer funds are being used for anti-electrification and pro-gas advertising, both online and in traditional media.

Use of ratepayer funds is inappropriate

8. It is not appropriate to use ratepayer funds, including ratepayer-funded staff, to promote the expansion of gas service, promote policies geared toward the expansion of gas

[1] Letter from Michele Harradence, President of Enbridge Gas Inc., January 24, 2024 (link).
[2] *Ibid*.
[3] Template resolution drafted by Enbridge and circulated to municipal mayors and councillors (link).
[4] EB-2023-0201, Exhibit I.ED-46 (link).

service, or promote lessened regulatory oversight. This spending is not in the interests of customers.

9. Enbridge is free to conduct this kind of marketing and lobbying. However, it should exclusively do so using *shareholder* resources.

10. The relief Environmental Defence is seeking was recently granted by the Massachusetts Department of Public Utilities (DPU) in its future of gas proceeding. The Massachusetts DPU ruled that its gas utilities "should not be permitted to include in rates any costs associated with marketing geared toward the promotion or expansion of gas service" and that this prohibition extends to "indirect efforts to promote either natural gas expansion or policies geared toward promoting natural gas expansion."[5] The DPU ruled that the gas utilities can undertake such efforts, but "the associated costs will be borne entirely by shareholders."[6]

Misleading information

11. In addition to being an inappropriate use of ratepayer funds, these anti-regulation lobbying campaigns have involved misleading and false information. For instance, the most recent letter from the President of Enbridge to municipalities asking them to lobby the government to overturn aspects of the OEB's decision states that the decision "sets a deliberate course to eliminate natural gas from Ontario's energy mix", when the opposite is true.[7] The decision aims to reduce the risk of stranded assets in order to maintain the affordability of gas as an important part of Ontario's energy mix.

[5] D.P.U. 20-80-B, Massachusetts Department of Public Utilities, Order, December 6, 2023, p. 56-57 (link).
[6] *Ibid*.
[7] Letter from Michele Harradence, President of Enbridge Gas Inc., January 24, 2024 (link).

12. ensure the continued affordability of gas in the face of uncertainty relating to the energy transition and to reduce the risks of stranded assets.

13. Furthermore, the efforts to convince municipalities to engage in pro-gas lobbying are made in the context of a deceptive Enbridge marketing campaign. Enbridge has been telling municipalities and their residents that gas is the cheapest way to heat homes, which is not true.[8] The Commissioner of Competition has commenced an inquiry into the issue pursuant to paragraph 10(1)(a) and under paragraph 74.01(1)(a) of the *Competition Act*. Although some municipalities have taken up Enbridge's call to support its pro-gas lobbying, those efforts are tainted by Enbridge's deceptive marketing.

14. Ratepayers should not be made to pay for the promotion of gas expansion and pro-expansion policies, particularly where that promotion involves deceptive marketing that misleads customers into thinking that gas is the cheapest way to heat homes when that is not true.

15. An order is warranted on an interlocutory basis as the misuse of ratepayer funds is occurring now and is actively misleading individuals and organizations in relation to important matters relating to this proceeding.

16. Environmental Defence relies on legislation, regulations, and other further grounds as counsel may advise and the OEB may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

17. The Record in this proceeding;

[8] Letters from Environmental Defence to the Competition Bureau dated June 19, 2023 (link) and November 2, 2023 (link).

18. Additional evidence to be filed by intervenors or obtained from Enbridge; and

19. Such further and other evidence as the OEB may permit.

February 2, 2023

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Enbridge Gas Inc.
500 Consumers Road
North York, Ontario M2J 1P8
Canada

January 24, 2024

Your Worship and Members of Council,

I am writing to inform you of our concerns with the Ontario Energy Board's (OEB) decision on Phase 1 of the Enbridge Gas 2024 rebasing application, issued on December 21, 2023. The disappointing decision puts future access to natural gas in doubt and sets a deliberate course to eliminate natural gas from Ontario's energy mix. This decision is about the millions of Ontarians who rely on natural gas to keep their homes warm, and the many businesses throughout Ontario who depend on natural gas for day-to-day operation.

Our 2024 rate rebasing application was designed to provide our customers with safe and reliable natural gas at a reasonable cost, in addition to measured steps to help Ontario advance a practical transition to a sustainable energy future. Natural gas plays a critical role in Ontario's energy evolution mix while supporting the reliability of Ontario's electricity system. Natural gas meets 30 percent of Ontario's energy needs, which can not be easily or quickly replaced.

We are taking action to secure the future of natural gas in your communities. We are filing a motion in late January to review evidence with the OEB and seeking a judicial review of this decision.

Without natural gas, communities across Ontario will feel the impacts of this decision in their everyday lives – the stakes are high.

- **Energy Affordability**: Those looking to connect to natural gas will be required to pay an upfront fee, which creates a significant financial barrier to all forms of residential and commercial development. This resulting fee adds thousands of dollars to individual consumers' cost to obtain or expand gas service.

- **Economic Growth**: This decision will put economic developments in your community at risk. The decision limits the ability of future expansion projects to support regional investment to meet the ever-growing energy needs in your community and communities across Ontario. That includes greenhouses, grain dryers, industrial parks, and any new businesses or housing developments seeking access to natural gas.

- **Energy Access**: Preserving customer choice is critical. Constraining access to natural gas through a reduction in capital will significantly limit the future development of essential energy infrastructure vital to moving manufacturing, agriculture, and the consumer goods industry in Ontario.

- **Energy Security**: On an annual basis, natural gas delivers twice the energy to Ontario than electricity, and five times the maximum peak capacity of Ontario's electricity grid at a quarter of the cost. Even in the worst weather conditions, our reliable natural gas system delivers.

As local leaders across the province, your voice matters, and we encourage you to take action.

Reach out to your MPP to share your support for the government's quick action and write the OEB about the consequences of reduced access to the natural gas grid to support economic development, housing growth, energy reliability. Use your voice to acknowledge the need for natural gas and infrastructure in Ontario today and into the future while we take a measured step towards energy transition.

We ask that you reach out to your municipal advisor or find us at municipalaffairs@enbridge.com to get started.

Sincerely,

Michele Harradence
President
Enbridge Gas Inc.

RESOLUTION

RESOLUTION NO.

DATE:

MOVED BY:

SECONDED BY:

WHEREAS the Enbridge Gas has shared with [municipality name] key messages regarding the Ontario Energy Board's Leave to Construct (LTC) process, entitled "reducing red tape for more cost-effective, timely energy connections in Ontario:"

AND WHEREAS [municipality name] supports and wishes to endorse the recommendations put forward by Enbridge Gas in order to expedite the installation of natural gas to rural, remote or underserved communities such [municipality name];

NOWTHEREBE IT RESOLVED:

1. THAT the [municipality name] petition the Ontario Government to expedite the implementation of the following recommendations:

i) THAT the Government of Ontario move to modernize the Ontario Energy Board's (OEB) Leave to Construct (LTC) process for smaller pipeline projects in order to bring reliable, affordable energy options to communities, homes and businesses in a more cost-effective and timely manner;

ii) AND THAT the LTC cost threshold be updated from $2M to $10M for hydrocarbon lines (by amending Ontario Regulation O.Reg.328/03) while maintaining current requirements and expectations for Indigenous consultation and environmental review for projects greater than $2M and less than $10M;

iii) AND THAT these outdated regulations are causing the LTC to apply far more broadly than intended when it was established over 20 years ago due to increased regulatory and cost pressures, as well as inflation, virtually all gas pipeline projects are now greater than $2M rendering the threshold meaningless;

iv) AND THAT roughly 0.5 KM pipe in urban settings now often exceeds the $2M threshold;

v) AND THAT modernizing these outdated regulations would reduce delays and costs for economic development initiatives including transit projects, community expansion projects, housing developments, connections for low carbon fuel blending (e.g.,

renewable natural gas, hydrogen) as well as residential and business customer connections;

vi) AND THAT based on OEB's performance standards, this proposal would save approx. 5-7 months of regulatory process which is in addition to the time needed to undertake Indigenous consultation and environmental review and prepare an application to the OEB;

vii) AND THAT the cost of preparing and having a LTC application heard ranges from approx. ~$50,000 to ~$200,000, which is passed on to customers;

viii) AND THAT while no cost-based threshold exists for electricity lines, there are a range of exemptions ensuring that LTC is only required for significant electricity projects and the proposed changes would help ensure that, consistent with electricity projects, LTC for hydrocarbon lines would only be required for significant projects;

ix) AND THAT increasing the cost threshold to $10M would closer align Ontario with other Canadian jurisdictions (e.g., in B.C., these thresholds are $15M for electricity and $20M for natural gas);

2. AND THAT this resolution be circulated to the President of AMO, Colin Best, Premier Doug Ford, the Minister of Energy, Todd Smith, The Minister of Finance, Peter Bethlenfalvy and all regional municipalities requesting support of the proposed changes regarding reducing red tape for more cost-effective, timely energy connections in Ontario.

_____

MAYOR

ENBRIDGE GAS INC.

Answer to Interrogatory from
Environmental Defence (ED)

Interrogatory

Reference:

EB-2023-0200, Exhibit 1.ED-2, Attachment 1

Question(s):

a) In the Sandford Community Expansion (EB-2023-0200) materials, Enbridge personnel sought support from municipalities for leave to amend the leave to construct threshold. Were there any equivalent communications with the municipalities in this case?

b) Please provide a list of Enbridge's municipal advisors.

c) Please confirm whether the salary of that municipal/stakeholder staff person is funded by ratepayers or directly by the shareholder.

d) If this salary is paid by ratepayers, please explain why or whether it is appropriate that ratepayers pay for Enbridge staff to lobby for less OEB oversight.

Response:

a) Enbridge Gas completed outreach to the municipalities it serves to create a dialogue and share information on the Future of Home Heating and Natural Gas Expansion and modernization of the leave-to-construct process for pipeline projects in November 2023. The information shared included at Attachment 1 of this response was issued to municipalities, including the Township of Bonnechere Valley, the Township of North Algona Wilberforce and the Township of Admaston/Bromley.

b) Enbridge Gas has a municipal advisor for each operating region. The operating regions are:
   - Eastern Region
   - GTA East Region
   - GTA West Region
   - Northern Region

- Toronto Region
- Southeast Region
- Southwest Region

c) The salaries of the municipal advisors are funded by ratepayers.

d) The outreach provided by the municipal advisors was to create a dialogue and ensure the voices of ratepayers and other stakeholders were considered in the design and implementation of the Future of Home Heating and Natural Gas Expansion Program and efforts to modernize the leave-to-construct process for pipeline projects.

environmental defence
INSPIRING CHANGE

June 19, 2023

Josephine Palumbo
Deputy Commissioner, Deceptive Marketing Practices
Competition Bureau
Place du Portage I
50 Victoria Street, Room C-114
Gatineau, Quebec K1A 0C9
Josephine.Palumbo@canada.ca

Dear Ms. Palumbo,

Re: Enbridge Gas Deceptive Marketing Practices

We are writing to request that the Commissioner of Competition commence an inquiry into deceptive marketing practices by Enbridge Gas Inc. ("Enbridge") under s. 9 of the *Competition Act*. As detailed below, Enbridge is misleading consumers into connecting to its gas system using false and misleading representations contrary to sections 52 and 74.01 of the *Competition Act*. Enbridge is telling potential customers that gas is the most cost-effective way to heat their homes and suggesting that it is "clean energy" and "low carbon." None of these representations are true.

These representations are causing real harm. Customers in gas expansion areas stand to lose approximately $20,000 on average if they switch to gas instead of installing a high-efficiency electric heat pump (over the lifetime of the equipment).[1] This will also create far more carbon pollution, making it more difficult and expensive to reach federal climate targets.

We also request temporary orders to stop Enbridge from deceiving potential customers while the proceeding progresses. Enbridge is making these false and misleading representations on an ongoing basis. With each week that passes, more customers sign up to convert their heating to gas instead of purchasing a high-efficiency electric heat pump resulting in unnecessarily high energy costs and carbon pollution to the detriment of consumers, competition, and the climate.

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[1] Dr. Heather McDiarmid, *An Analysis of the Financial and Climate Benefits of Electrifying Ontario's Gas-Heated Homes by Installing Air-Source Heat Pumps*, August 2, 2022, p. 11 (link); For the difference in costs with the latest gas prices, see Ontario Clean Air Alliance, *Heat Pump Calculator for New Gas Communities* (link); see also Evidence of the Energy Futures Group in Ontario Energy Board File # EB-2022-0200, p. 23 (link). The actual savings depend on a variety of factors. See pages 5 and 6 for examples.

Background

Enbridge Inc. and Methane Gas

Enbridge owns nearly all of the methane gas distribution pipelines in Ontario. Methane gas is commonly known as "natural gas". However, methane gas is a potent greenhouse gas that pollutes the environment and causes climate change when it is burned and when it leaks from hydraulic fracturing extraction sites, pipelines, storage facilities, and customer equipment. The combustion of methane gas alone is responsible for approximately one-third of Ontario's greenhouse gas emissions.[2] Heating homes and businesses with gas accounts for approximately 19% of Ontario's green house gas emissions.[3]

In Ontario, Enbridge earns profit by investing in gas pipelines. It therefore has a strong financial interest in encouraging Ontario homes and businesses to switch to gas and remain with gas. The more capital that needs to be invested in pipelines, the more Enbridge stands to earn in profit. Enbridge also has a strong financial interest in gaining and keeping customers to pay for the pipelines it has already built through gas distribution charges that are levied on all customers on their gas bills.

Enbridge has no real competition when it comes to the distribution of gas in Ontario.[4] Due to a past market consolidation, Enbridge serves over 99.7% of all gas customers in the province.[5]

Enbridge's main competitors in Ontario are in fact electricity distribution companies. Most of these electricity distribution companies are owned by municipalities, like Toronto Hydro or Hydro Ottawa. The biggest threat to Enbridge's business is that its customers convert from gas heating to high-efficiency electric cold climate heat pumps. Another threat is that customers with expensive oil heating decide to switch to electric heat pumps instead of gas.

Enbridge has an additional interest in gaining and keeping gas customers in Ontario because it and its parent and sister companies own many of the large gas transmission pipes that bring gas to Ontario and move it between regions within

[2] Enbridge Evidence in Ontario Energy Board File #EB-2022-0200, Exhibit 1, Tab 10, Schedule 3, Page 2 (link).
[3] Dr. Heather McDiarmid, *An Analysis of the Financial and Climate Benefits of Electrifying Ontario's Gas-Heated Homes by Installing Air-Source Heat Pumps*, August 2, 2022, p. 8 (link).
[4] Gas distribution pipelines are a natural monopoly. Each gas distribution company has a monopoly in the area it serves.
[5] Ontario Energy Board, Yearbook of Natural Gas Distributors, 2021/22, p. 15 (link).

Ontario. If gas demand stops growing or falls, Enbridge and its parent and sister companies could lose revenue.

The Context: Gas Expansion Communities

The deceptive marketing in this case was (and continues to be) directed to customers in gas expansion communities. These are small existing communities that Enbridge is adding to its gas system through a government program.[6] Like everywhere else in its system, Enbridge has an interest in signing up new customers in these communities, to help to trigger "upstream" capital investments that Enbridge profits from. New customers also help to generate the revenue needed to pay for existing infrastructure.

Enbridge has a particularly strong interest in signing up new customers in these gas expansion communities because it is required to maintain a "ten-year rate stability period" for each project.[7] That means that Enbridge bears the financial risk for that ten-year period that too few customers connect to the new pipeline to pay for it.[8]

The Competition: High-Efficiency Cold Climate Heat Pumps

For a long time, methane gas was the cheapest way to heat homes. However, electric cold climate heat pumps are now much cheaper than gas for consumers.[9] Annual costs are lower because heat pumps are approximately three times more efficient than gas furnaces (or five times for ground-source heat pumps, also known as geothermal) and because customers can avoid paying monthly charges to Enbridge for use of its gas system.[10] Upfront equipment costs are also often lower because heat pumps provide both heating and cooling in one unit and because of federal rebates.

Heat pumps are so efficient because they *move* heat instead of *converting* gas or electricity into heat. Standard gas and electric heating cannot surpass 100% efficiency, whereas heat pumps can be multiple times more efficient – they can use 1 kW of electricity to move 3 kW of heat (or more) indoors. They can do this even

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[6] For background on the program, see: Globe and Mail, *Ontario increasing reliance on natural gas as others move away from fossil fuels*, June 11, 2021 (link).
[7] Ontario Energy Board, Letter Re Potential Projects to Expand Access to Natural Gas Distribution, March 5, 2020. p. 7-8 (link).
[8] *Ibid*.
[9] Evidence of the Energy Futures Group in Ontario Energy Board File # EB-2022-0200, p. 23 (link); Dr. Heather McDiarmid, *An Analysis of the Financial and Climate Benefits of Electrifying Ontario's Gas-Heated Homes by Installing Air-Source Heat Pumps*, August 2, 2022, p. 11 (link); For the difference in costs with the latest gas prices, see Ontario Clean Air Alliance, *Heat Pump Calculator for New Gas Communities*, (link).
[10] National Resources Canada, *Heating and Cooling With a Heat Pump*, (link).

in cold temperatures because, counterintuitively, there is still a great deal of heat energy in very cold air.[11]

Customers are very vulnerable to deceptive advertising about the benefits of gas heating because most are not aware of heat pumps or the advancements that have been made in heat pumps in recent years. Recent changes that have made heat pumps less expensive than gas heating include the following:

- The efficiency of heat pumps has been increasing with advancements such as variable speed compressors.[12] Units available in Canada are up to 380% efficient even in cold areas like Ottawa (and more for ground source heat pumps).[13] More efficient units are cheaper to operate because they use less electricity.

- Heat pumps are now able to provide heating in Ontario's cold winters.[14]

- Canada's steadily increasing price on carbon pollution makes gas heating more and more expensive every year vis-à-vis electrical heating. By 2030, the carbon pollution price on gas will equal 32.40 cents/m^3.[15] By comparison, that amounts to over *three times* the price charged by Enbridge for methane gas in Toronto in January of 2020 (10.19 cents/m^3).[16]

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[11] National Resources Canada, *Heating and Cooling With a Heat Pump*, (link) ("It may be surprising to know that even when outdoor temperatures are cold, a good deal of energy is still available that can be extracted and delivered to the building. For example, the heat content of air at -18°C equates to 85% of the heat contained at 21°C. This allows the heat pump to provide a good deal of heating, even during colder weather.")
[12] Enbridge Gas, Federal Carbon Charge (link).
[13] National Resources Canada, Heating and Cooling With a Heat Pump (link). National Resources Canada notes: "On a seasonal basis, the heating seasonal performance factor (HSPF) of market available units can vary from 7.1 to 13.2 (Region V). It is important to note that these HSPF estimates are for an area with a climate similar to Ottawa. Actual savings are highly dependant on the location of your heat pump installation." Most Ontarians live south of Ottawa. The conversion factor between HSPF and a seasonal Co-Efficient of Performance (sCOP) is HSPF*0.293. An HSPF of 13.2 amounts to an sCOP of 3.8676, which equates to the heat energy output from the unit being 386% of the electrical energy input into the unit.
[14] National Resources Canada, *Heating and Cooling With a Heat Pump*, (link) ("More recently, air-source heat pumps that are better adapted to operating in the cold Canadian climate have been introduced to the market. These systems, often called cold climate heat pumps, combine variable capacity compressors with improved heat exchanger designs and controls to maximize heating capacity at colder air temperatures, while maintaining high efficiencies during milder conditions.").
[15] Enbridge, *Federal Carbon Charge* (link).
[16] Ontario Energy Board, *Historical Natural Gas Rates* (link).

- The federal government is now providing $5,000 incentives for customers to switch to high-efficiency electric heat pumps as part of its Greener Homes Grant.[17]

- The federal government is now providing an *additional* $5,000 in incentives for customers to switch from oil to high-efficiency electric heat pumps if they earn a median income or lower (e.g. $122,000 after-tax income for a family of 4 in Ontario) through the Oil to Heat Pump Affordability Program.[18]

- The federal government is now providing up to $40,000 in interest free loans, which can be put towards conversions to electric heat pumps, and not gas equipment, through the Greener Homes Loan.[19]

A typical homeowner in a gas expansion community would save approximately $20,000 with an electric heat pump versus gas heating over the lifetime of their heating equipment.[20] These savings mainly come from lower ongoing heating costs and cooling costs, which arise because electric heat pumps are more efficient at heating and cooling in comparison to traditional gas equipment paired with an air conditioner. As noted above, savings can also arise from lesser upfront costs. The $20,000 savings figure does not incorporate the benefit from interest-free financing available for heat pumps or the new $5,000 oil to heat pump incentive.

The actual savings will fluctuate depending on building characteristics, energy prices, and assumptions such as equipment costs. For instance, the savings from heat pumps will decline if, for example, gas prices drop or if a customer requires an upgrade to their electrical panel for the heat pump (which costs approximately $2,000).[21] On the other hand, savings from heat pumps will increase if gas prices increase, a house is heated with electric baseboards (because gas heating requires approximately $7,000 to add ducts whereas heat pumps can be installed without ducts),[22] or a customer with oil heating is eligible for $10,000 in federal rebates.[23] An expert analysis conducted by the Energy Futures Group found that heat pumps are still cheaper on a full lifetime basis even if various assumptions are adjusted to

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[17] Government of Canada, *Canada Greener Homes* Grant (link).
[18] Government of Canada, *Oil to Heat Pump Affordability Program* (link).
[19] Government of Canada, *Canada Greener Homes Loan* (link).
[20] Dr. Heather McDiarmid, *An Analysis of the Financial and Climate Benefits of Electrifying Ontario's Gas-Heated Homes by Installing Air-Source Heat Pumps*, August 2, 2022, p. 11 (link); For the difference in costs with the latest gas prices, see Ontario Clean Air Alliance, *Heat Pump Calculator for New Gas Communities*, link; see also Evidence of the Energy Futures Group in Ontario Energy Board File # EB-2022-0200, p. 23 (link).
[21] Evidence of the Energy Futures Group in Ontario Energy Board File # EB-2022-0200, p. 24 (link).
[22] Enbridge, *Response to Board Staff Interrogatory 4 in EB-2022-0249*, Exhibit I.STAFF.4 (link, pdf page 23).
[23] Government of Canada, *Oil to Heat Pump Affordability Program* (link); Government of Canada, *Canada Greener Homes* Grant (link).

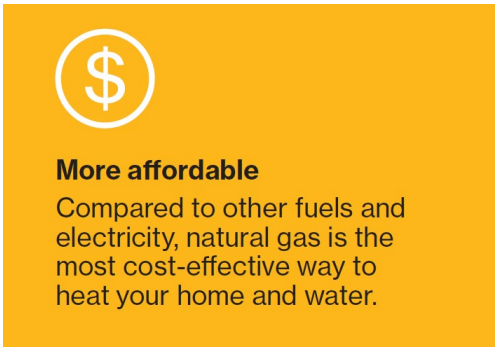
favour gas heating even outside community expansion areas where the 23 cents/m^3 surcharge applies.[24]

False and misleading representations

Enbridge is misleading customers into connecting to its gas system through deceptive marketing. These representations are being made in materials sent by mail, delivered at the doorstep, and posted at community events. A full package of these materials is attached. They are discussed below.

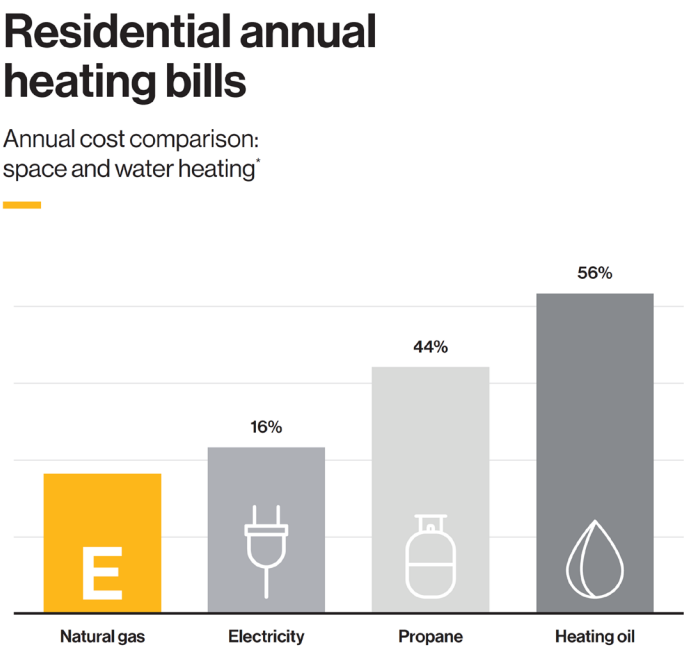
Deceptive representation 1: That gas is the most cost-effective way to heat homes

Various Enbridge marketing materials explicitly state that gas is the most cost-effective way to heat homes. That is false. As noted above, electric heat pumps are far less expensive for homes in Ontario. An example is excerpted below:



In addition, other materials may not *explicitly* say that gas is the most cost-effective way to heat homes, but they leave that general impression. This includes the "annual cost comparison" bar chart shown below:

[24] See, for example, the analysis in the following evidence at pages 23-24 of cost-effectiveness based on different assumptions: Evidence of the Energy Futures Group in Ontario Energy Board File # EB-2022-0200, pp. 23-24 (link).



In addition, the above bar chart explicitly states that gas heating is less expensive than electric heating, which is false. As noted above, electric heat pumps are much less expensive. Old-style electric baseboard heaters may be more expensive than gas, but that is not what Enbridge's materials state – either in the main body of the materials or the fine print. They state that annual heating is cheaper with "natural gas" versus "electricity." As another example, see the following letter sent to residents:

ENBRIDGE
Life Takes Energy®

We're proud to energize the Township of Selwyn!

Dear Selwyn Resident,

Now's the time to apply for natural gas

We have some good news to share with you. Your address is identified as in scope for receiving natural gas shortly, and we want to make sure you're in the best position to connect as soon as possible. By signing up now, we'll be able to prioritize your service install as soon as the natural gas main is installed in front of your house. You may see us working on your street, including items such as survey stakes or locates.

If you're considering converting to natural gas, the earlier you apply the better as permits and locates can take time.

Refer to the Four-Step Process card when you're ready to apply, then visit **enbridgegas.com/savewithgas** to start your application. You're required to agree to the Terms and Conditions – either electronically during sign up at **enbridgegas.com/savewithgas**, or you can complete and email this to our Community Expansion Advisors at **ceapplications@enbridge.com** when the form is complete.

Unlock the value of natural gas

When compared to using electricity, propane or oil, natural gas could save you up to 54%* per year on home and water heating costs. Natural gas is also the most affordable way to run appliances like ranges, clothes dryers and barbecues.

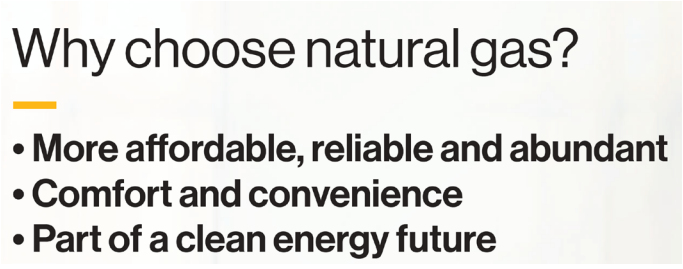
Various Enbridge marketing materials state that customers will save money by switching to gas. That may be true if a customer is switching from oil or propane. But it is highly misleading because it omits two important caveats: (a) customers could save far more by switching to an electric heat pump instead and (b) customers who already have a heat pump (which are admittedly few) would lose money by switching. An example is excerpted below:

Deceptive representation 2: That methane gas is "low carbon" and "clean energy"

Various Enbridge marketing materials use deceptive wording relating to heating by methane gas, including "low carbon" and "clean energy." They leave the general impression that methane gas can be accurately described with those terms and that switching to gas is environmentally conscious, which is false. Methane gas is a potent greenhouse gas that pollutes the environment and causes climate change when it is burned and when it leaks without being combusted.

Switching from propane or oil to gas may result in lower carbon emissions. But switching from electricity to gas will result in *higher* carbon emissions. And heating with heat pumps results in the lowest carbon emissions.

Two examples of deceptive representations are excerpted below:



Lower carbon emissions

Natural gas is cleaner than other fuels and can help reduce your home's carbon footprint.

Knowledge

Enbridge knows that the above representations are false, that gas is not the most cost-effective way to heat homes, and that gas is a potent greenhouse gas that contributes far more to climate change when used to heat homes in comparison to electricity.

Knowledge re cost-effectiveness of heat pumps

In 2020, Enbridge acknowledged in an Ontario Energy Board proceeding that customers would have higher annual heating costs with gas in comparison to high-efficiency electric heat pumps in gas expansion communities. This would have certainly come to the attention of upper-level Enbridge managers because it was discussed in a report of Ontario's Auditor General. The report contained the following passage:

> For example, in 2020, the OEB approved a utility proposal to construct a $10.1-million natural gas pipeline to connect new customers in North Bay. An Enbridge survey had indicated there was interest in doing so from homeowners who were using costly oil, propane or low-efficiency electric baseboards for heating. Once approved by the OEB, the project was eligible to receive a subsidy of $8.7 million to be paid by existing ratepayers. Without this subsidy the project was not economically feasible for the estimated 134 potential new natural gas customers. Even with an average subsidy of $65,000 per potential new customer, **the utility estimated that the potential customers would have higher annual heating costs than if high-efficiency electric heat pumps were used.** (emphasis added)[25]

Enbridge is also aware that heat pumps are more cost effective than gas from evidence in other proceedings it has been involved in and from a recent decision of the Ontario Energy Board, which approved incentives to switch from gas to electric heat pumps on the basis that this would be "a major benefit for customers."[26]

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[25] Office of the Auditor General of Ontario, *Value-for-Money Audit: Reducing Greenhouse Gas Emissions from Energy Use in Buildings*, November 2020, p. 18 (link).
[26] Ontario Energy Board, *Decision and Order in EB-2021-0002*, November 15, 2022, p. 28 (link).

Knowledge that methane gas is not "low carbon" or "clean energy"

According to Enbridge's own evidence in Ontario Energy Board proceedings:

- The combustion of methane gas is responsible for approximately one-third of Ontario's greenhouse gas emissions;[27] and

- Gas heating results in far more carbon emissions than electric heating, even if the electric heating is with baseboards instead of high-efficiency electric heat pumps.[28]

Harm

Enbridge's deceptive representations cause significant harm whenever they succeed in convincing a customer to connect to Enbridge's gas system instead of lowering their bills with heat pumps. Most obviously, it will result in approximately $20,000 in unnecessary costs to the customer over the lifetime of the equipment.

In addition, customers are often effectively locked into gas when they connect to the gas system. For a customer to switch over to gas, they typically must spend thousands of dollars replacing their heating equipment. Enbridge estimates the cost at $5,000 for a home heated with oil and $12,000 for a home heated with electric baseboards.[29] This effectively locks those customers into gas because it is most cost-effective to switch to an electric heat pump when your existing heating equipment requires replacement in any event. That time of "natural replacement" will not occur until their new gas equipment comes to the end of its life in roughly 15 years. Stated differently, the switch to gas wastes money on gas equipment that could have been spent switching over to a heat pump instead.

There are negative impacts on competitors too. More people converting to gas means less demand for heat pumps. This negatively impacts heat pump manufacturers, distributors, and installer. It also negatively impacts companies that generate or transport electricity.

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[27] Enbridge Evidence in Ontario Energy Board File #EB-2022-0200, Exhibit 1, Tab 10, Schedule 3, Page 2 (link)
[28] Enbridge Response to Interrogatories in EB-2019-0188, Exhibit I.ED.7, Attachment 1, Page 2 (link, pdf page 180).
[29] Enbridge, *Response to Board Staff Interrogatory 4 in EB-2022-0249*, Exhibit I.STAFF.4 (link, pdf page 23). According to Enbridge, customers can convert their existing propane furnace to burn methane gas for $600. However, these customers lose the benefit of securing new heating and cooling equipment and would need to incur future equipment replacement costs when their furnace and/or their air conditioner reaches the end of its life. They will also end up with higher heating and cooling costs.

Society as a whole suffers as well. If fewer heat pumps are installed, Ontario's carbon pollution will be higher and it will be more difficult and more expensive to meet our carbon reduction targets. The carbon impacts are particularly problematic because they will persist for the lifetime of the equipment in question. If a consumer installs a gas furnace instead of a heat pump today, that choice could continue to result in higher-than-necessary carbon pollution until 2040.

Temporary orders

Environmental Defence requests that the Commissioner apply for a temporary order to stop the harm described above. Enbridge forecasts connecting 3,855 customers to its gas system in these gas expansion communities alone over 2023 to 2025.[30] If a temporary order is not made, thousands of customers could connect to the gas system while this matter is under consideration, losing approximately $20,000 each on average.

We therefore request an order that Enbridge write to all customers in the gas expansion communities and provide information on the cost-effectiveness of electric heat pumps versus gas equipment for an average customer, including all lifetime costs (equipment, heating, and cooling costs), and specific details of the rebates available for customers from the federal government, with the content to be approved by the Commissioner.

In addition, a temporary order is warranted regarding ongoing marketing. We also request an order that all future marketing materials that refer to the price of gas versus other energy options indicate the comparative cost-effectiveness of electric heat pumps versus gas equipment for an average customer, including all lifetime costs (equipment, heating, and cooling costs), and specific details of the rebates available for customers from the federal government, with the content to be approved by the Commissioner.

Disclosure re other marketing

This request primarily focuses on the deceptive marketing to customers in community expansion areas as these are the only marketing materials that we have access to. However, it is likely that deceptive representations are being made to other potential customers. This likely includes broad-based marketing and materials used with other prospective homeowners inquiring about switching to gas as well as builders and subdivision developers considering which equipment to install in new construction. These other potential customers are important. Enbridge forecasts

[30] Enbridge Gas Inc., Answer to Interrogatory from Environmental Defence in Ontario Energy Board File # EB-2022-0200, Exhibit I.2.6-ED-94, p. 5, (link) (The forecast customers over 2021 to 2023 are 2,150).

connecting over 100,000 customers between 2023 and 2025 alone (with over 13,000 switching to gas and the remaining as new construction).

We therefore request that the Commissioner require Enbridge to disclose all materials with representations relating to potential savings arising from gas, including advertising and materials that Enbridge has provided to homeowners, builders, and subdivision developers.

Although the savings from heat pumps are highest in gas expansion areas where the 23 cents/m^3 charge applies, heat pumps are still much less expensive for the average customer outside these areas.[31] These other customers are very numerous and will still lose large sums if they end up purchasing gas equipment instead of electric heat pumps.

Conclusion

Enbridge's marketing materials combine both falsehoods about the true cost of heating with gas and deceptive greenwashing. Consumers are highly susceptible to these falsehoods and deceptive messages because heat pump awareness is very low among most Ontarians. We ask that the Commissioner commence an inquiry, require further disclosure from Enbridge on its other marketing materials, institute proceedings, seek interim orders to stop the ongoing deception, and request the maximum penalties, all for the sake of protecting consumers, competition, and the climate.

Keith Brooks
Programs Director
Environmental Defence

Attachment 1: Material required by s. 9 of the *Competition Act*
Attachment 2: Marketing material in community expansion areas

[31] Evidence of the Energy Futures Group in Ontario Energy Board File # EB-2022-0200, p. 23 (link); Dr. Heather McDiarmid, *An Analysis of the Financial and Climate Benefits of Electrifying Ontario's Gas-Heated Homes by Installing Air-Source Heat Pumps*, August 2, 2022, p. 6 (link).

environmental defence
INSPIRING CHANGE

November 3, 2023

Josephine Palumbo
Deputy Commissioner, Deceptive Marketing Practices
Competition Bureau
Place du Portage I
50 Victoria Street, Room C-114
Gatineau, Quebec K1A 0C9
Josephine.Palumbo@canada.ca

Dear Ms. Palumbo,

Re: Enbridge Gas Deceptive Marketing Practices

I am writing to follow up on our request that the Commissioner of Competition commence an inquiry into deceptive marketing practices by Enbridge Gas Inc. ("Enbridge") under s. 9 of the *Competition Act* to provide some additional details and to request that the scope of the inquiry include marketing to all customers.

Deceptive marketing to all Ontario customers

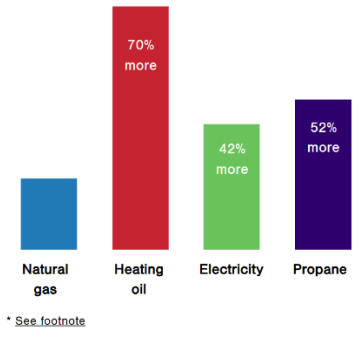
Our original application focused on marketing materials aimed at customers in gas expansion areas (i.e. areas where Enbridge is expanding its gas system to or has recently expanded its gas system to). We now also have evidence that Enbridge has used deceptive marketing aimed at all of its 3.8 million residential customers in Ontario. For instance, until at least September 22, 2023, Enbridge had a page on its website stating that "[n]atural gas is the best value for your energy dollar" and that it is "the most dependable and affordable option on the market."[1] An excerpt from this page is included below:

Natural gas is the best value for your energy dollar

Natural gas is the most dependable and affordable option on the market, at half the price of oil or propane and 43 percent less expensive than electricity. Like other utilities, we buy wholesale to then deliver natural gas to you—you pay what we pay, without markup.*

You can find information on our most current residential and business rates online, anytime.

See a snapshot of your charges | Rate FAQs



[1] A copy of this website as of September 22, 2023 can be found on the Internet Archive, which is a non-profit digital library of Internet sites and other cultural artifacts: https://web.archive.org/web/20230922183038/https://www.enbridgegas.com/gas-rates-notice. A screenshot is also attached.

Although this specific page has subsequently been edited (insufficiently, as discussed below), there are still Enbridge materials online today stating that gas is the "best value for your energy dollar" and stating that it is cheaper than electricity.[2] The clear impression from this marketing is that gas is the cheapest option for home heating, which is not the case as outlined in our application.

Our understanding is that at least some of these materials were provided to Enbridge customers in bill inserts and/or through links in bills or emails. However, we anticipate that Enbridge can provide confirmation and more details on how many customers received or were directed to these materials and how often that occurred.

In light of the above, we ask that the scope of the inquiry be sufficiently broad to include marketing materials outside of gas expansion areas.

Additional cost comparison evidence

A recent document prepared by Ontario's Ministry of Energy confirms that heat pumps are cheaper than gas in gas expansion areas. The analysis shows that gas heating is $700 per year more expensive than heating with a cold climate air source heat pump and that this is expected to rise to at least $1,000 per year by 2030.[3]

This analysis is conservative because it does not account for the energy savings that arise because cold climate heat pumps are much more efficient at cooling in comparison to traditional air conditioners. [4] It is also not clear whether it accounts for savings from avoiding fixed gas distribution charges ($310 per year now, with Enbridge requesting an increase to $398 annually),[5] and the efficiency levels from the latest heat pumps (according to Natural Resources Canada, heat pumps are between 208% and 386% efficient in the climate region for Ottawa on average over the heating season).[6] But even with conservative assumptions, the Ministry of Energy analysis is yet more clear evidence that heating with heat pumps is cheaper than gas.

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[2] https://spring-oreo.itracmediav4.com/view?uuid=f497419a-fb60-4403-86ff-7dc4309a7f54. A screenshot is also attached.
[3] Ontario Ministry of Energy, *Future of Natural Gas Expansion and Home Heating, Affordability - Discussion Paper for Consultation*, p. 10-11 (link). As described in the preceding text, the low end electricity cost number in the figure on page 11 represents a cold climate air source heat pump and the high end number represents electric heating at 100% efficiency (e.g. electric baseboards).
[4] Dr. Heather McDiarmid, *An Analysis of the Financial and Climate Benefits of Electrifying Ontario's Gas-Heated Homes by Installing Air-Source Heat Pumps*, August 2, 2022, pp. 6-7 (link).
[5] Current fixed charges: Enbridge Rate Zone (link); calculation: 22.88 x 12 x 1.13; Requested fixed charges: Enbridge Evidence in OEB File # EB-2022-0200, Exhibit 8, Tab 2, Schedule 7, Attachment 2, Page 8 (link, PDF p. 759); calculation: $29.37 x 12 x 1.13.
[6] Natural Resources Canada, *Heating and Cooling With a Heat Pump* ("On a seasonal basis, the heating seasonal performance factor (HSPF) of market available units can vary from 7.1 to 13.2 (Region V). It is important to note that these HSPF estimates are for an area with a climate similar to Ottawa.") (link); Conversion between HSPF and seasonal Co-efficient of Performance: multiple HSPF by 0.293.

General impression

Enbridge has now changed some of the information it posts on the internet. For instance, the page on its website entitled "Natural Gas Prices Explained" now includes a note at the bottom of the page in small print stating that heat pumps are not included in the savings calculations. This is not sufficient. The general impression left with the customer based on the text and the figure continues to be that gas is cheaper than the other available heating options.

Furthermore, Enbridge has revised the text on this page to say that gas is "a great value for your energy dollar." That is misleading without also including a heat pump cost comparison in the accompanying cost bar chart. Heating with gas is not great value. As detailed above and in our initial application, typical customers with gas equipment will pay many hundreds of dollars more in energy costs annually in comparison to those with heat pumps instead.

Enbridge has clearly changed its materials in response to our request for an inquiry – a tacit acknowledgment that its previous materials were deceptive. However, the changes are far from enough because they continue to leave a misleading general impression (as discussed above) and they do not address the thousands or millions of people who were impacted by the even more deceptive materials used prior to September of this year. Households are likely acting on the incorrect beliefs about the cost of gas heating as we speak, either by replacing their existing gas furnace with another one when it breaks down (instead of a heat pump) or by switching from another fuel source to gas instead of a heat pump. This is concerning.

To address the current marketing materials, we request an order that all future marketing materials that refer to the price of gas versus other energy options indicate the comparative cost-effectiveness of electric heat pumps versus gas equipment for an average customer, which at least includes all incremental energy and distribution costs.

To address the previous marketing materials, we request an order that Enbridge send an email to all of its residential customers and provide information on the cost-effectiveness of electric heat pumps versus gas equipment for an average customer, which at least includes all incremental energy and distribution costs, with the content to be approved by the Commissioner.

Sincerely,

Keith Brooks
Programs Director
Environmental Defence