

Ms. Nancy Marconi
Registrar
Ontario Energy Board
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Toronto, ON M4P 1E4

May 13, 2024

EB-2024-0111 – EGI Rebasing Phase 2
Pollution Probe Submission on Issues Lists and Other PO#1 Items

Dear Ms. Marconi:

In accordance with Procedural Order No. 1, please find attached Pollution Probe's submission on the draft Issues List and related subjects where the OEB requested comments from stakeholders.

A) Draft Issues List

Overall, the draft Issues List attached to Procedural Order No. 1 is appropriate to capture the topics identified in Phase 1 and additional relevant topics requiring attention in Phase 2. There are a few recommended adjustments outlined below. Unless otherwise stated, Pollution Probe believes that the wording in the draft Issues List issued by the OEB is appropriate.

Alignment with Phase 3

Pollution Probe notes that the OEB approved Settlement Agreement¹ in Phase 1 outlined certain items that are notionally allocated to Phase 3. These pertain primarily to cost allocation and rate harmonization issues where there was insufficient evidence provided by Enbridge to analyse or support the options or most prudent approach post-merger on a go-forward basis. The specific items are outlined as allocated for Phase 3 in the Settlement Agreement. The OEB approved Settlement Agreement indicated:

The reason for a new Phase 3 is that it will take some time for Enbridge Gas to prepare all of the agreed to additional cost allocation and rate design evidence, scenarios, study and analysis. This would delay Phase 2, which includes the completion of the revenue requirement for 2024 as well as the determination of an IRM mechanism for 2025-2028. Parties agree that it is preferable to instead proceed by way of an additional Phase. It may be possible for Phase 3 to commence before all items in Phase 2 are complete².

Parties expect that Phase 3 may not be completed in time for implementation as of January 1, 2025. In this event, for the purposes of setting rates for 2025, Parties

¹ EB-2022-0200 dec_Settlement Proposal_EGI 2024 Rebasing_20230817

² Ibid, Page 12.

agree that it would be appropriate to apply the IRM mechanism approved in Phase 2 to the 2024 rates that are approved in this proceeding (including reflecting any other adjustments to interim rates resulting from the Phase 2 decision)³.

Although the OEB has flexibility to include additional relevant items in a Phase 3 to the Rebasing proceeding, it would make sense to carry forward the draft list from the Settlement Agreement as an initial placeholder. This will provide clarity that those specific issues will be covered in a separate phase and avoid duplication or confusion in Phase 2. The Settlement Agreement notes that it may be possible for Phase 3 to commence before all items in Phase 2 are complete⁴.

It will be important to realise that detailed analysis and outcome of issues related to Phase 3 could require adjustments to elements of a Phase 1 or Phase 2 decision. An example could be item 8 of the draft Phase 2 Issues Lists “Are the proposed scorecard Performance Metrics and Measurement targets for the amalgamated utility appropriate?”. If the outcome of Phase 3 decide treatment for certain harmonization of metrics for the merged utility, this could affect the metrics, targets and measurement of related items. There has been concern (primarily from Enbridge, but this could also apply to any stakeholder) that future adjustments could be deemed as reopening issues already determined by the OEB in past decisions. For example, Enbridge has suggested that including certain issues in Phase 2 proposed by Environmental Defense is essentially an attack on the Phase 1 process and Decision. It is reasonable and fully acknowledged in the Phase 1 Settlement Agreement that any Decision stemming from Phase 2 or Phase 3 would make the appropriate adjustments. The inclusion of issues in Phase 2 or Phase 3 should not be precluded if they were not specifically already resolved through the Phase 1 Decision.

Draft Issues List

Issue 3 - Is the proposed approach to incremental capital funding appropriate, including the proposed inclusion of overhead costs in ICM amounts?

Pollution Probe suggests that Issue 3 as worded is appropriate. This wording does not restrict Enbridge from making proposals on ICM as outlined in its evidence and written submissions.

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

This is a very relevant issue that if not included could result in negative impacts to ratepayers throughout the IRM term. It is recommended that additional items be added as a subset of Issue 7 or as discrete items:

- “Has Enbridge appropriately considered alternatives to gas infrastructure, including Integrated Resource Plan alternatives. If not, what adjustments are required?”.
- Are adjustments required to the Integrated Resource Plan Framework? If so, what are they and when should they be applied?
- Has appropriate IRP alternatives been included in the Asset Management Plan?

³ Ibid, Page 13

⁴ Ibid, Page 44.

Enbridge has recently updated the 10-year capital forecast resulting from: (i) the annual system reinforcement plan (“SRP”) update, (ii) the annual energy transition adjustments update, which are applied to the Company’s 10-year demand forecast to reflect best available information on energy transition in Ontario, and (iii) the reduction in approved capital in the OEB’s Decision and Order for Enbridge Gas’s Application for 2024 Rates – Phase 1 (EB-2022-0200)⁵. Projects that were put forward in evidence as required in the Phase 1 proceeding are no longer deemed as necessary. This may include projects previously deemed as mandatory. On a related topic, Enbridge indicated in Phase 1 that RNG pipeline projects were not impacted through the Asset Management Plan (AMP) prioritization process since they are deemed Growth projects outside the AMP process and the costs are recovered from the RNG proponents. Pollution Probe understands that many of the Enbridge plan changes impact things that Enbridge previously characterized as “Safe Bets”. Pollution Probe also understands that Enbridge has indicated that its support for RNG projects may be jeopardized due to the OEB’s Phase 1 Decision. If Enbridge’s commitment to support RNG projects has changed from evidence provided in Phase 1, that policy change should be assessed in Phase 2.

Issues 9-14 Storage

It is recommended that an additional issue be added to determine “Is the Enbridge Gas Storage System being developed, allocated and operated in a manner that delivers appropriate value to ratepayers? If not, what adjustments are required?”. This would include consideration of integrated issues such as related pipelines and Integrated Resource Planning opportunities.

Storage space, deliverability, cost/revenue allocation and overall development and operation of gas storage and related assets relate to draft Issue 14 and many other related issues (e.g. Issue 38 Dawn-Parkway Capacity, and potentially Issue 4 since ICM projects and treatment have directly or indirectly relate to overall storage development and allocation). Enbridge has been building out and operating its storage assets in an integrated manner. However, regulated and unregulated asset development and operation are submitted to the OEB for consideration in a siloed, individual manner. There has been no consideration and review of the broader capital development, costs, benefits and operation of the integrated gas storage operations and it has been identified that this Rebasing proceeding is the appropriate place to undertake this broader integrated review⁶. In fact, Enbridge specifically indicated that it was appropriate for a “full court press for the next couple years to get us [Enbridge] to rebasing to figure out what we want the utility and gas supply specifically to look like”⁷. This Rebasing proceeding has consistently been identified as the appropriate proceeding to consider the integrated range of gas supply related issues.

Issue 18: Are the energy transition safe bet proposals with capital spending in the IRM term appropriate?

Pollution Probe supports Issue 18 as outlined by the OEB in the draft Issues List. Greater clarity via Phase 2 is essential for the IRM term. It is assumed that this item already includes the ability to make

⁵ EB-2022-0335 EGI_Ltr_IRP Pilot Projects_Status Update_20240430

⁶ Examples include: EB-2022-0086 dec_order_EGI Dawn Corunna_20221103, Page 9 & 15, EB-2021-0004 Enbridge Stakeholder Conference April 26 2021 transcript. Page 74-75, EB-2020-0074 EGI_Correspondence_20200331.

⁷ EB-2021-0004 Enbridge Stakeholder Conference April 26 2021 transcript. Page 75.

adjustments if required. Many of the safe bets are aligned with enhanced capital spending and some also relate to O&M costs. It is recommended that the item be adjusted to be inclusive of capital and O&M spending in the IRM term. This could be done by deleting “capital spending” or replacing it with “capital and O&M spending”.

Issue 21: Has Enbridge Gas appropriately reviewed the energy comparison information in its informational and marketing materials, and taken appropriate actions based on its review?

Pollution Probe strongly supports this issue. Given the importance of this topic and the urgency to ensure that appropriate, objective and adequate information is available to current or prospective ratepayers, Pollution Probe recommends that the following issues also be added:

- Is Enbridge providing current and prospective customers with appropriate, objective and adequate information required to enable them to make prudent energy decisions?
- What role should the OEB play in reviewing information and marketing materials funded by ratepayers, promoting natural gas and related energy options?
- Is Enbridge providing appropriate support and coordination in alignment with municipal energy and emissions plan objectives?
- Are the processes in place for the regulated gas utility appropriate for providing information and referrals, including on non-gas options.

The OEB and Ministry of Energy has requested for over a decade that better coordinated programs and information be made available to Ontario energy consumers. Little tangible action has been taken to integrate and partner on program and consumer information. Pollution Probe and other stakeholders have highlighted this chronic challenge with ensuring the Ontario energy consumers received the objective, trustworthy and complete information they need. Enbridge has acknowledged these challenges⁸ and a path to resolve these in a tangible and targeted manner is essential. The OEB has acknowledged the gaps in providing the information required to Ontario energy consumers, but has struggled to resolve those gaps in isolated facility proceedings. Pollution Probe agrees that Phase 2 of the Rebasing proceeding is a more appropriate Approach for considering this issue.

B) HRAI Intervention Request

Pollution Probe supports the ability for HRAI to participate in the proceeding based on the information outlined in their submissions. Pollution Probe also agrees that Enbridge’s role in providing objective information to energy consumers is a critical issue. This has become even more important as the energy transition accelerates and additional technology and services have become available. Enbridge Sustain is an Enbridge affiliate service provider linked directly to the energy transition highlighted by Enbridge in Phase 1. Given the importance of servicing current and prospective customers through the energy transition, it is surprising that there has not been more transparency on how the regulated utility is working with Enbridge Sustain and related service providers. Consumers regularly reach out to Enbridge Gas Distribution for support in considering and pursuing non-gas options and it is critical to ensure that there is a process in place to provide the appropriate, objective and adequate information and services.

⁸ Final Transcript EB-2021-0002 EGI DSM Vol 3 March 30 2022. Page 87 line 25 to page 88 line 2.

The OEB has directed Enbridge to provide support and incentives to current and prospective customers⁹ looking to make changes likely those provided by Enbridge Sustain.

C) Environmental Defence Motion

Pollution Probe supports the Motion submitted by Environmental Defence and requests that the OEB include these issues in the Phase 2 Issues List.

Enbridge's suggestion that the Phase 1 Settlement Proposal restricts parties from bringing forward items like this is clearly incorrect. The Settlement Agreement is clearly and specifically written to reflect the narrow band of issues included and not meant to be restrictive to issues outside agreement in the Settlement Agreement. In addition, any amounts approved by the OEB (Capital or O&M), whether they are part of a settlement agreement or not, must be expended in a prudent manner. If ratepayer funds are expended counter to the public interest goals, there is a firm basis for disallowing those costs from rate recovery, regardless of any Settlement Agreement or related Decision. A transparent consideration of the issue and clear direction in Phase 2 would assist in avoiding risk over the IRM term. Enbridge should be proud of its outreach, marketing and stakeholder engagement, not hide from transparency of where ratepayer funds are to be spent. There does not appear to be any rational reason not to include this in Phase 2 given its importance over the IRM term. Potential issue that could be considered for the Issues List are:

- "Is Enbridge's use of ratepayer funds to affect regulatory oversight, promote the expansion of gas service and related policies appropriate?"
- What transparency and reporting is appropriate for ratepayer funds used to influence regulatory oversight, promote the expansion of gas service and related policies?

Respectfully submitted on behalf of Pollution Probe.



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⁹ For example, the EB-2021-0002 Decision provided clarity that ratepayers funds, incentives, programs and support must be provided to current and prospective customers.