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By electronic filing

May 13, 2024

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> floor  
Toronto, ON M4P 1E4

Dear Ms. Marconi

**Re: Enbridge Gas Inc. (“EGI”)**  
**EGI 2024 Rebasing Application – Phase 2**  
**Board File #: EB-2024-0111**

We are counsel to Canadian Manufacturers & Exporters (“CME”) in the above-noted proceeding. Pursuant to Procedural Order #1 of the Phase 2 proceeding, below are CME’s submissions regarding the draft issues list.

The Issues on the Issues List

CME is in general agreement with the issues list. However, outlined below is its position with respect to some of the proposed changes from other parties.

EGI proposes to remove issue #18 from the Issues List. Issue #18 asks whether or not EGI’s energy transition safe bet proposals with capital spending in the IRM term appropriate? CME does not agree with EGI’s proposal. The Board made it clear in its Decision and Order for EB-2022-0200 that the ‘safe bet’ initiatives would be considered in Phase 2. The Board stated:

“Enbridge Gas is seeking approval for the Energy Transition Technology Fund and the Low-Carbon Voluntary Renewable Natural Gas Program in Phase 2. Spending for several additional safe bet proposals is included in Enbridge Gas’s capital expenditures over the rebasing term, although approval of these individual projects is not specifically requested. These will also be examined in Phase 2.”<sup>1</sup>

EGI argues that having an issue about the “safe bets” will require it to update its evidence to include information about the safe bet initiatives that would not otherwise be required. CME submits that this is irrelevant. EGI is requesting relief with respect to its “safe bets”. To the

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<sup>1</sup> EB-2022-0200, Decision and Order, December 21, 2023, p. 16.

extent that it would like the Board to engage with these issues, it should provide the necessary evidence for the Board to properly evaluate its requests. If EGI feels that these initiatives do not warrant the time and effort required to review them, it can withdraw its requested relief and pay for these initiatives without resort to ratepayers. Accordingly, CME submits that it Issue 18 should be maintained from the Issues List.

CME disagrees with EGI's suggestion to move issue #7 to the "other" category. While EGI's proposed approach to economic alternatives may not engage the IRM mechanism, other parties and the Board may decide that the appropriate approach to economic alternatives and EGI's incentives are tied to incentive rate making principles or other components of the IRM. CME submits that there is a sufficient nexus between incentive ratemaking and issue #7 to include it as part of the IRM issues.

#### Enbridge Sustain and HRAI's Intervention Request

CME supports Heating Refrigeration and Air Conditioning Institute of Canada's ("**HRAI**") intervention request in this proceeding and submits that HRAI's proposed issue should be included on the issues list.

In its intervention letter dated January 10, 2024, the Heating, Refrigeration and Air Conditioning Institute of Canada ("**HRAI**") stated that it applied to be an intervenor in Phase 2 and 3 of EGI's rebasing application in order to address the impacts of activities it states EGI is carrying out under the name of "Enbridge Sustain".

HRAI stated that Enbridge Sustain involved in the "sale, installation, servicing and financing of solar, EV, heat pumps (gas and electric), geothermal, and other energy-related equipment for residential and commercial buildings in Ontario."<sup>2</sup> While CME's understanding is that Enbridge Sustain generally engages in unregulated business activities, HRAI set out several concerns with Enbridge Sustain's business that could be relevant to its regulated activities and the Board's mandate, including: customer confusion, cost allocations between EGI's regulated and unregulated businesses, issues surrounding the affiliate relationship code, and others. Accordingly, HRAI argued that it had a substantial interest in phases 2 and 3 of EGI's application. HRAI proposed an additional issue to be added to the issues list regarding the appropriateness of Enbridge Sustain's Activities.

In its response, EGI denied any wrongdoing, and stated that it is following all applicable regulatory rules in relation to Enbridge Sustain, including rules as to cost allocation and the affiliate relationship code.<sup>3</sup> As CME understands it, EGI made two arguments for why Enbridge Sustain's activities were not related to the matters at issue in this proceeding, and therefore why HRAI should not be granted intervenor status. First, EGI argued that Enbridge Sustain's activities did not impact the specific issues encompassed by the draft issues list. Second, EGI argued that the Board is already reviewing a complaint from HRAI about

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<sup>2</sup> EB-2022-0200, Letter from J. Shepherd to the Board Registrar, January 10, 2024, p. 2.

<sup>3</sup> EB-2024-0111, Letter from D. Stevens to the Registrar, May 6, 2024, pp. 5-7.

Enbridge Sustain's activities through its compliance group and it should not therefore also review it in this proceeding.<sup>4</sup>

CME takes no position at this time as to whether or not Enbridge Sustain's activities are improper in any respect. Currently, there is not sufficient information on the record for CME to come to any conclusions in this regard.

However, given the nature of the activities at issue, Enbridge Sustain's activities could impact multiple issues which have been included on the issues list. For instance, if Enbridge Sustain's activities as an unregulated business were drawing from EGI's regulated business without proper cost allocations, it could impact the Board's decision with respect to the earnings sharing mechanism for example. The Board may determine that it is appropriate to compensate ratepayers for the advantages provided to Enbridge Sustain from the regulated business through a more generous ESM. As another example, there could also be a nexus between the Energy Transition Technology Fund and Enbridge Sustain, given the types of activities the ETTF would fund and Enbridge Sustain's proposed business. Accordingly, while EGI and Enbridge Sustain may be doing nothing inappropriate, CME submits that it is critical for the Board to review these activities to ensure it makes an appropriate decision with respect to EGI's IRM framework and rates for the next several years.

Moreover, CME submits that the existence of a complaint regarding Enbridge Sustain's activities should not preclude the Board from reviewing it in the context in this proceeding. As set out above, Enbridge Sustain's activities could have impacts on the matters at issue in this proceeding. The Board should be provided with a fulsome record that includes complete information on the relevant issues, regardless of whether the matter is the subject of a complaint or not so that it can render the best possible decision.

Accordingly, CME submits that it is appropriate for the Board to approve HRAI's intervention request and include HRAI's proposed issue to the issues list.

Yours very truly,

**Borden Ladner Gervais LLP**



Scott Pollock  
SP/wb

c. Vincent Caron (CME)

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<sup>4</sup> EB-2024-0111, Letter from D. Stevens to the Registrar, May 6, 2024, pp. 5-7.