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Mary 13, 2024 **VIA E-MAIL**

Ms. Nancy Marconi
Acting Registrar (registrar@oeb.ca)
Ontario Energy Board
Toronto, ON

Dear Ms. Marconi:

Re: EB-2024-0111 Enbridge Gas Inc. (EGI)
2024 Cost of Service distribution, transmission and storage rates Phase 2
Submission on Phase 2 Draft Issues list of the Vulnerable Energy Consumers Coalition (VECC)

These are the submissions of VECC on the draft issues as set out in Procedural Order No. 1 in the above noted phase of this proceeding.

Our comments are organized as follows: (i) the proposed modifications of EGI as set out in their letter of May 6, 2024; (ii) whether the Issues List should reflect the issues about Enbridge Sustain raised in the Heating, Refrigeration and Air Conditioning Institute of Canada's (HRAI) intervention request; and (iii) whether the Issues List should reflect the issues raised in Environmental Defence's motion.

VECC generally supports the OEB's draft issues list as set out in Procedural Order No. 1. We note that it may be administratively convenient to cross reference the issues list so as to more closely follow the evidence and as shown in Exhibit 1, Tab 3, Schedule 1, Attachment 3 of EGI's EB-2024-011 evidence.

EGI Proposed Amendments

EGI proposes a number of modifications to the OEB draft issues list. We agree or have no substantive objections with the following EGI proposals:

(i) the inclusion of a specific issue with respect to the proposed 2024 Dawn to Corunna project for inclusion in rate base;
(ii) the inclusion of specific reference to the proposed OEB Cost Assessment Variance Account and the proposed OEB Directive Deferral Account;
(iii) the inclusion of additional language to reflect EGI's ICM proposals - however we believe more general language is preferred:
3/44 - Is the proposed approach to incremental capital funding appropriate, including: (i) the proposed inclusion of overhead costs in ICM and the proposed modifications to the ICM policies and mechanisms appropriate?

(iv) the proposal to add wording with respect to issue (8/58) to include its proposal to adjust the meter reading performance metrics - we have no objection to this change, though it is not strictly necessary as the specific issue is subsumed in the current drafting;
(v) the inclusion of an issue specifically on the matter of implementing 2024 interim rates at the conclusion of Phase 2 of this proceeding; and,
(vi) the inclusion of an issue specifically on the matter of implementing 2025 rates at the conclusion of Phase 2 of this proceeding result of Phase amounts.

It may be administratively simpler to add the last two issues under a general issue on rate implementation.

We also agree with EGI that the inclusion under Issue 18 of so called "safe bets" capital investments appears to be a re-examination of a matter dealt with in Phase 1 of this proceeding. It is not clear to us from the Draft Issue lists noted reference of page 16 of the EB-2022-0200 Decision or otherwise in that document how one would discern the issue being resurrected in Phase 2. In any event EGI's current Phase 2 evidence appears limited to the related issues of the Energy Transition Technology Fund (ETTF). These issues are covered under section C of the Draft Issues List.

As VECC argued in the prior Phase, EGI's approach to "energy transition specific" investments are moderate and in keeping with the evolving circumstances. If the Board holds that it has the mandate to direct specific capital spending to meet specific social outcomes (as opposed approving notionally capital investments as prudent for the purpose of a rate calculation) then it should be clear as to its objective. And, if that is indeed the case, then the issue should be more broadly worded to capture whether capital investments made during the IRM period meet whatever should become the Board's "energy transition capital spending" requirement.

VECC disagrees with EGI's proposed changes of the following issue.

Issue 20

EGI objects to the inclusion in Issue 20 - whether the long-term forecast of the total funds required for site restoration costs are appropriate. Enbridge Gas interprets the OEB's direction to require an <u>informational filing</u>, rather than a filing that would form the basis for an OEB approval.[1] The Board's Decision states:

"*To address the existing unfunded liability, the OEB directs Enbridge Gas to file evidence in Phase 2 indicating how the annual amounts are calculated and to provide a long-term forecast of the total funds required to pay for site restoration costs. The forecast may be aggregated for the amalgamated utility for 2025, with the expectation that further segmentation may be warranted based on the ten asset accounts to be tracked*."[2]

That is there is no indication that such a filing is intended for informational purposes only. Even if that were true the "appropriateness" of the long-term forecast would, in our submission, be a matter to be determined. In sum, a plain reading of the Decision supports the inclusion of Issue 20 as drafted in Procedural Order No. 1

[1] EGI Letter of May 6, 2024, page 5
[2] Decision and Order, EB-2022-0200, December 21, 2023, page 94

HRAI – Energy Sustain

There has been significant correspondence between EGI and the Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI) since the conclusion of Phase 1 of this proceeding. None of which constitutes evidence and so none of which VECC can attest to its veracity. We rely on is what we see advertised on Energy Sustain's web site.[3] Enbridge Sustain offers an energy consultancy with a full service of design, install and maintenance for its solutions. The company clearly shares employees with the regulated utility as evidenced by the appearance of the current president of EGI, Michele Harradence on the website.

HRAI raises a number of issues, some of which if true, raise concerns about ratepayer subsidies. Since there is no clear transparency as to the number and nature of all of EGI's affiliates and related companies HRAI can hardly be blamed for bringing the matter up as soon as it became apparent to them. However, it must be recognized that what is raised was not contemplated under the Board's Phase 2 Draft Issues list and would most likely have been dealt with in Phase 1 had it been raised earlier.

While HRAI has distilled the matter succinctly into one sentence its own correspondence shows the matter may be complex and certainly contentious. Both EGI and HRAI also agree that there are investigations of the relationship between EGI and Energy Sustain underway by the OEB and the Competition Bureau. We are concerned that the Board should have two separate regulatory processes concurrently reviewing the topic. We would expect that at some point a compliance report will be delivered to the Board and that it may go through a decision-making process different from the one in this proceeding. That seems to us at the very least, confusing.

While we do not object to the addition of the issue proposed by HRAI our recommendation is that the Board include the issue in Phase 3 of this proceeding. Presumably at that time the Board's own compliance report could be made public. Enbridge could then file under the direction of the Board evidence which would form the basis of any future process.

Environmental Defence (ED) Motion/Issues List Proposal

VECC does not support the inclusion of ED's proposed issue: *Are directions restricting the use of ratepayer funds for certain lobbying and public relations efforts warranted*?

ED's Motion is best summed by paragraphs 8 and 9 of its Notice of Motion[4]

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 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.

In our view ED's position is misguided and misunderstands the Board's rate making authority. The Ontario Energy Board sets rates for monopoly distributors. It does not run the business of natural gas

[3] https://www.enbridgesustain.com/enbsustainwebsite/index.html#

[4] Environmental Defence Motion Re Improper Use of Ratepayer Funds

or electricity distributors. Nor does it set the laws regarding the types of energy consumers are allowed to purchase.

Having set rates all the monies collected become the property of shareholders as administered through their management proxies. With the exception of limited circumstances, such as with a leave-to-construct, the utility is not legally obligated to spend monies in the same fashion as it has presented them in a rate proceeding. A utility is free to spend its monies as it (that is, its shareholders) sees fit. For capital projects the only constraint is that the spending be on assets that are used or useful. For operating costs, the only constraint is the Utility's consideration that drifting too far from what was presented in setting rates will likely have serious repercussions in future rate making proceedings (or the early termination of a rate plan). While one might like it to be otherwise there are no ratepayer owned monies. Ratepayers pay for all the services but as with any other businesses this does not give entitlement as to how those monies are subsequently used by shareholders.

Our second objection is that it appears the Motion is based on the premise that the Utility should be prohibited from enticing consumers to become natural gas customers. The Utility is not obligated to present speculative energy scenarios questioning the wisdom of becoming a natural gas customer. Provided its acts within the law and provides truthful information EGI is entitled to advertise its services. This includes explaining that future changes may make joining the system cheaper now than later. VECC supports the ability of low-income consumers to access services at the lowest cost.

These are the respectful submissions of VECC on the proposed Board issues list.

Yours truly,

Mark Garner
Consultants for VECC/PIAC

Mark C. Garner

Digitally signed by Mark C. Garner
Date: 2024.05.13 16:58:07 -04'00'

Email copy:
Vanessa Innis, Manager, Strategic Applications, EGI
EGIRegulatoryproceedings@enbridge.com