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May 17, 2024

VIA RESS AND EMAIL

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Nancy Marconi:

**Re: Enbridge Gas Inc. (Enbridge Gas, or the Company)
EB-2024-0111 - 2024 Rebasing and IRM – Phase 2
Enbridge Gas Reply Submissions on Issues List**

In response to Procedural Order No. 1, Enbridge Gas filed its Submissions on the proposed Issues List on May 6, 2024.

On or around May 13, 2024, 14 intervenors filed their Submissions on the Issues List.¹ Submissions were also filed by proposed intervenor HRAI.²

As permitted by Procedural Order No. 1, Enbridge Gas is now filing its Reply Submissions.

Summary

It is clear from the Submissions filed that there is general agreement with the proposed Issues List attached to Procedural Order No. 1, and with Enbridge Gas's proposed additions to the Issues List.

Very few parties commented on Enbridge Gas's proposal to remove proposed Issue #18 (related to examination of the capital costs of "safe bets" activities) from the Issues List. Some parties who did comment agree that if this issue remains, it should be narrowed and specifically defined, to ensure that there is no re-examination of energy transition and capital budget issues already reviewed and determined in Phase 1.

A small number of intervenors propose new issues.

¹ Association of Power Producers of Ontario (APPRO), Building Owners and Managers Association (BOMA), Canadian Biogas Association (CBA), Canadian Manufacturers & Exporters (CME), Consumers Council of Canada (CCC), Energy Probe Research Foundation (EP), Environmental Defence and Green Energy Coalition (ED and GEC), Federation of Rental-housing Providers of Ontario (FRPO), London Property Management Association (LPMA), Ontario Greenhouse Vegetable Growers (OGVG), Pollution Probe, School Energy Coalition (SEC) and Vulnerable Energy Consumers Coalition (VECC).

² The Heating, Refrigeration and Air Conditioning Institute of Canada.

ED/GEC propose an issue asking whether the Incentive Rate Mechanism (IRM) is consistent with potential energy transition outcomes. That would already be in scope with proposed Issues #1 and 2 which ask if the proposed IRM is “reasonable”.

Pollution Probe suggests many additional issues or sub-issues. None of these are necessary or appropriate for Phase 2.

HRAI proposes a new issue, to address Enbridge Sustain. In support of its position, HRAI puts forth a number of factually untrue statements. Enbridge Gas repeats its positions that a review of Enbridge Sustain as part of Phase 2 is not necessary, as the activities of that business unit are not part of the regulated utility and the cost allocation approach is already being reviewed by the OEB compliance office.

Enbridge Gas maintains its position that there is no need to add the issue proposed by ED and GEC about whether restrictions about the use of ratepayer funds for marketing and lobbying efforts are appropriate. The OEB is already considering whether Enbridge Gas’s energy comparison information in marketing materials is appropriate. If the materials are appropriate, there should be no restriction as to how they are used and paid for.

Each of these items is described in detail below.

A. Enbridge Gas’s Proposed Additions to the Issues List

In its May 6, 2024 Submission, Enbridge Gas proposed six new issues. These proposed additions are generally supported by intervenors.

1. Addition of specific issue related to Dawn to Corunna project rate base amount: *Is the proposed 2024 Dawn to Corunna project rate base amount appropriate?*

No party specifically disputes this proposal.

2. Proposed issue related to the establishment of new deferral accounts: *Is the proposal to establish the OEB Cost Assessment Variance Account and the OEB Directive Deferral Account appropriate?*

While some parties make clear that they do not support the proposed new accounts, only LPMA indicates that it disputes the issue, asserting that the request is premature or bound to fail. Enbridge Gas submits that while parties are free to take any position on this issue during the Phase 2 proceeding, it is proper that the OEB establish an issue to review the Company’s evidence and proposals on new deferral accounts.

3. Modifications to the Incremental Capital Module (ICM) issue (Issue #3) to include the specific requests made by Enbridge Gas related to ICM: *Is the proposed approach to incremental capital funding appropriate, including: (i) the proposed inclusion of overhead costs in ICM amounts; (ii) the opportunity to request ICM funding in leave to construct applications; and (iii) the proposed different ICM treatment for asset life extension projects?*

No party disputes that the OEB can consider Enbridge Gas's ICM proposals, though Pollution Probe and VECC question if the wording of the issue needs to be expanded as suggested. Enbridge Gas asserts that the expanded wording is appropriate, to be consistent with the fact that the existing proposed Issue already identifies one sub-issue (treatment of capitalized overhead).

4. Modifications to proposed Issue #8 related to performance metrics, to include reference to Enbridge Gas's proposal to modify MRPM to exclude inaccessible meters: Are the proposed scorecard Performance Metrics and Measurement targets for the amalgamated utility, including the proposed change to the calculation of the Meter Reading Performance Measurement, appropriate?

No party disputes that the OEB can consider Enbridge Gas's proposal. LPMA suggests expanding the issue to make clear that the question of whether all performance metrics are appropriate is in scope, and also proposes adding a new performance metric to track inaccessible meters. Enbridge Gas submits that each of the items noted by LPMA are accommodated within the proposed expanded wording of Issue #8.

5. Proposed new issue about the implementation of 2024 rates: How should the OEB implement any changes to 2024 interim rates resulting from determinations and decisions on the issues in Phase 2?

This additional issue is specifically supported by several parties (CCC, LPMA, SEC, VECC) and is not disputed by any party.

6. Proposed new issue about the process for implementation of 2025 rates: What is an appropriate process to approve 2025 rates as soon as possible after the Phase 2 Decision on the IRM is complete?

Several parties support the addition of this issue (CCC, LPMA, VECC) and none oppose. SEC proposes that the new issue be worded differently, taking out the reference to approving the 2025 rates "as soon as possible" after the issuance of the Phase 2 Decision. Enbridge Gas disagrees with that change. Timely implementation of 2025 rates is very important. Enbridge Gas has previously taken steps to accomplish this (it sought to have the IRM included in Phase 1³ and it sought to file the Phase 2 evidence in Fall 2024⁴, both in an effort to ensure that 2025 rates can be implemented in a timely manner). Enbridge Gas continues to assert that this is an important goal. Other parties (other than SEC) appear to agree.

³ All parties agreed that the IRM should be in Phase 1, but the OEB decided differently (without submissions from parties) in Phase 1 Procedural Order No. 1 – <https://www.rds.oeb.ca/CMWebDrawer/Record/775869/File/document>, pages 2-3.

⁴ Enbridge Gas letter, dated September 23, 2024: <https://www.rds.oeb.ca/CMWebDrawer/Record/815744/File/document>.

B. Enbridge Gas's Proposed Changes to Issues List

Enbridge Gas proposed three changes to the OEB's proposed Issues List. Only limited comments were received in response.

1. Enbridge Gas submitted alternative wording for the proposed Issue #20 related to site restoration costs (SRC) estimate to make clear that what Enbridge Gas is presenting is for information purposes, rather than for an OEB determination: *Has Enbridge Gas appropriately responded to the directive to file the calculation of site restoration costs and a long-term forecast of the total funds required for site restoration costs?*

Only two parties filed submissions about this proposal. LPMA supports Enbridge Gas. VECC disagrees, stating that the OEB may have to make a determination about the appropriateness of Enbridge Gas's long-term forecast of SRC costs. Enbridge Gas repeats its earlier submission – there is no new information about SRC cost forecasts being presented (or available) and therefore there is no benefit to including an issue that would look at whether this forecast is “appropriate” or “correct”.

2. Enbridge Gas submitted that the OEB should not include proposed Issue #18 (*Are the safe bet proposals for capital spending during the IRM term appropriate?*), or alternatively that the issue should be narrowed to include only the “safe bet proposals” that are not being considered in other processes and proceedings.

VECC agrees that this issue is not needed. Other parties (LPMA, SEC) agreed in part with Enbridge Gas, stating that the OEB should narrowly define the issue. LPMA explains that this approach would aim to avoid the re-examination of energy transition and capital spending issues already dealt with in detail in Phase 1.

CME asserts that if Enbridge Gas wants to remove this issue, then it should withdraw its requested relief for the “safe bets”. To be clear, Enbridge Gas is pursuing approval for two of the “safe bets” in Phase 2, the Energy Transition Technology Fund (ETTF) and the Low-Carbon Voluntary Program proposal. However, these are already separately included in the proposed Issues List at proposed Issues #15-17.

Pollution Probe proposes expanding proposed Issue #18 to include review of “safe bets” with both capital and O&M spending. Enbridge Gas does not agree. This addition would make the Phase 2 process even broader and would risk further re-opening and re-examining already considered in detail (and settled in the case of O&M) in Phase 1.

3. Enbridge Gas submitted that proposed 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?*) be moved to the “Other” issues category of the draft Issues List.

Several parties (ED/GEC, CME, SEC) disagreed, stating that this is a component to consider with the IRM. Enbridge Gas acknowledges the comments from others and withdraws its suggestion.

C. Additional Proposed Issues from Other Parties

In addition to the potential additional issues from HRAI (relating to Enbridge Sustain) and ED/GEC (relating to the use of ratepayer funds for marketing) that were noted in Procedural Order #1, ED/GEC and Pollution Probe propose additional issues to add to the Issues List. Enbridge Gas disputes that any of these are necessary or appropriate.

1. ED/GEC propose that an additional issue could be included under section A of the proposed Issues List (Incentive Rate Setting Mechanism), asking whether the proposed IRM is appropriate in light of the potential outcomes of the energy transition. BOMA supports this addition.

Enbridge Gas believes that the existing proposed Issues #1 and 2 are sufficiently broad to permit parties to pursue whether the proposed IRM is “appropriate” in light of whatever factors those parties believe are relevant to consider, including energy transition.

Enbridge Gas is concerned that adding the proposed additional specific issue about whether the IRM is “appropriate in light of the potential outcomes of the energy transition” could lead to a re-examination of the energy transition and potential outcomes, each of which were addressed in detail already in Phase 1.

2. Pollution Probe makes a large number of proposals for additional issues or sub-issues. Almost all of these proposals would expand Phase 2 beyond its expected scope, and re-examine items that were in scope for Phase 1. For example:
 - Pollution Probe proposes new Phase 2 issues to look at whether IRP is appropriately considered in the Company’s capital plans (“*Has Enbridge appropriately considered alternatives to gas infrastructure, including Integrated Resource Plan alternatives. If not, what adjustments are required?*” “*Has appropriate IRP alternatives been included in the Asset Management Plan?*”). These items were clearly in scope for Phase 1 of the proceeding. Pollution Probe specifically addressed these items in its Phase 1 Final Argument.⁵ In any case, there is no new capital plan or asset management plan being presented in Phase 2
 - Pollution Probe proposes a new issue that would ask “*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?*”. If this was an important item for Pollution Probe to explore, it should have been raised as part of the Phase 1 Issues List. Pollution Probe’s proposed issue would see a large expansion in Phase 2, and could result in the reopening of capital and O&M budgets that have already been determined.
 - Pollution Probe proposes expanding the proposed Issue #21 (review of energy comparison information) to ask questions such as whether Enbridge Gas is

⁵ Phase 1 Pollution Probe Submission,
<https://www.rds.oeb.ca/CMWebDrawer/Record/815041/File/document> : see, for example, pages 10, 29-32, 37 and 62.

providing appropriate support and coordination in alignment with municipal energy and emissions plan objectives. This proposal goes well beyond the scope of the OEB's directive from the Phase 1 Decision and does not connect with the evidence provided for Phase 2.

Enbridge Gas submits that none of the proposed additional issues or sub-issues proposed by Pollution Probe should be included in the Phase 2 Issues List.

D. Proposed issue re. Enbridge Sustain

HRAI proposes an additional issue for Phase 2, related to Enbridge Sustain. This proposal is supported by many intervenors. In its Submission, APPrO provides simpler alternate wording for a new issue related to Enbridge Sustain.

Enbridge Gas maintains its position that there is no need for an examination of Enbridge Sustain in the context of Phase 2 of the Rebasing Application. Enbridge Sustain is operating as an ancillary business, as permitted by the undertakings governing Enbridge Gas's business activities. The costs for the business are being appropriately allocated. That item is being confirmed by the OEB's compliance group, in response to the complaint from HRAI. Should there be a finding of non-compliance, it will be made public.

In its Submission, HRAI makes a number of accusations and misstatements about Enbridge Sustain. Essentially, HRAI seeks to establish that there must be inappropriate behaviour, and therefore it is imperative to include a review of Enbridge Sustain in Phase 2. That is precisely what the OEB compliance office is already investigating, at the behest of HRAI.

Enbridge Gas fully expects that anything that the Company says in response to HRAI will be characterized by HRAI as "untested evidence", thereby justifying including the proposed issue in Phase 2. Importantly, though, none of the statements from HRAI are "evidence" either. Thus, while Enbridge Gas disputes much of what HRAI and other parties say about Enbridge Sustain, the Company will respond only to a small number of very clear mischaracterizations and specious statements about Enbridge Sustain in the submissions from HRAI and EP.

- It is not true that the OEB has no evidence about Enbridge Sustain. In the course of the compliance investigation, Enbridge Gas has answered a lot of questions and provided voluminous information.
- While Enbridge Gas maintains that the Affiliate Relationships Code for Gas Distributors (ARC) does not strictly apply to ancillary activities, the fact is that Enbridge Gas conducts itself in relation to Enbridge Sustain as if the ARC principles apply.
- Enbridge Sustain will not be a beneficiary of the ETTF program. This was stated in Enbridge Gas's May 6, 2024 letter. Parties will be free to ask questions on this topic under proposed Issue #15.
- Enbridge Sustain does not and will not use the Enbridge Gas bill.

- There is no sharing of customer information from the utility to Enbridge Sustain.
- No Enbridge Sustain assets are included in utility rate base or paid for by ratepayers.

HRAI devotes substantial attention in its Submission to an accusation that Enbridge Sustain is part of a continuing trend by Enbridge Gas to improperly use its regulated utility to support a competitive business. That accusation is unfounded. There is no impropriety here. Enbridge Sustain is entirely different from the Enbridge Gas Distribution EnergyLink activity that HRAI raises as an equivalent. EnergyLink was a regulated utility program that proposed to use ratepayer funding to support a dealer network for customers seeking natural gas solutions.⁶ In contrast, Enbridge Sustain is a separate business unit. Enbridge Gas does not seek any OEB approval to operate the Enbridge Sustain business within the regulated utility. No portion of the Company's utility O&M or capital budgets are directed to Enbridge Sustain. Said differently, there is no "ratepayer funding" for Enbridge Sustain.

Enbridge Gas repeats and relies on its previous submissions (see letters dated January 17, 2024 and May 6, 2024) about why it is not necessary to include an issue about Enbridge Sustain in Phase 2.

E. Environmental Defence / GEC Submissions re. Proposed Issue about Use of Ratepayer Funds

ED / GEC propose the addition of an issue asking "*Are directions restricting the use of ratepayer funds for certain lobbying and public relations efforts warranted?*"

VECC disputes the need for this issue, while others (FRPO, LPMA and Pollution Probe) support ED/GEC. The other 9 intervenors who filed submissions are silent on this topic.

Enbridge Gas maintains its position that this issue is not necessary or appropriate. The OEB is already reviewing (within proposed Issue #21) the key part of ED/GEC's concerns, which is the appropriateness of marketing materials with energy comparison information. Enbridge Gas submits that if it is found that the Company's marketing materials are appropriate, there should be no restriction against how they are paid for.

The bases claimed by ED/GEC in their Submission as to why this proposed additional issue is important are not sufficient to justify the expansion of the Issues List.

Enbridge has been using ratepayer funds for lobbying and public relations campaigns in support of its shareholder's interests. These campaigns can be described at a high-level as pro-gas and/or anti-electrification. Environment Defence seeks orders prohibiting or restricting the use of ratepayer funds for these purposes as these uses are for the benefit of the shareholder, not customers, and in some cases harm customers. Furthermore, customers should not be forced to pay through their gas bills for lobbying and public relations campaigns for policies that are contrary to

⁶ EB-2006-0034 Decision and Order, July 5, 2007, pages 25-33: see [here](#).

their conscience, especially when those campaigns are based on misleading or false information. Without interrogatories, we do not know the full cost or full extent of these efforts.

ED's position presupposes that Enbridge Gas's communications include misleading or false information. Enbridge Gas disagrees. Importantly, that is already being addressed under proposed Issue #21. ED's position further presupposes that promoting gas is not allowed, and that all of Enbridge Gas's ratepayers are opposed to gas expansion as a matter of conscience. Neither of those are true.

Additionally, by its own admission, ED's proposal is aimed at expanding the information requests that it can make, to get more information about Enbridge Gas's communications with Government and others. Given the large number of news articles and inflammatory public statements recently issued by ED about Enbridge Gas's activities⁷, it is a fair assumption that ED would use any opportunity arising from the addition of its proposed issue as a back-door way to get more information to fuel its public relations campaigns. As ED's Executive Director has said, "[o]ur overall goal is to put a target on the back of Enbridge, and on the back of gas, and there will be ample opportunity to do this".⁸ Enbridge Gas submits that ED's proposal is aimed at getting discovery of documents and materials that will be used for other purposes, and that should be taken into account when considering the merits of the proposed new issue.

Finally, Enbridge Gas repeats and relies on its previous submissions (see letters dated February 7, 2024 and May 6, 2024) about why it is not necessary to include ED's proposed new issue in Phase 2.

Should you have any questions, please let us know.

Sincerely,

Vanessa Innis
Program Director, Strategic Regulatory Applications – Rebasing

⁷ See, for example, [Stop Lying Enbridge - Environmental Defence](#); [Gregory L. Ebel: The Pipeline Pusher - Environmental Defence](#); [Enbridge wades into gas tax politics | Canada's National Observer: Climate News](#); [Competition Bureau launches investigation into Enbridge over deceptive marketing | Canada's National Observer: Climate News](#).

⁸ See Environmental Defence webinar, April 12, 2024, [Energy For People, Not Profit: Stop Bill165 Webinar \(youtube.com\)](#) 45:36.