

August 21, 2024

BY EMAIL AND FILED VIA RESS

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. (“Enbridge Gas”, or the “Company”)
EB-2024-0111 – 2024 Rebasing and IRM – Phase 2
Enbridge Gas request to file reply evidence**

We represent Enbridge Gas.

On August 12 and 13, 2024, OEB staff, Environmental Defence (ED) and Green Energy Coalition (GEC) filed their expert evidence in this proceeding. As directed in Procedural Order No. 2, Enbridge Gas will file interrogatories about the intervenor evidence later this week.

We write to request, pursuant to Rule 13.03 of the OEB’s Rules of Practice and Procedure, that Enbridge Gas be permitted to file reply evidence in response to Exhibit M3: Evidence of Pacific Economics Group titled “Empirical Research for Enbridge Gas IR”, prepared for OEB staff (referred to as the PEG Report). This reply evidence would be prepared and filed by Enbridge Gas’s expert, Dr. Lawrence Kaufmann who has already filed his report in this proceeding (referred to as the BV Report).

The PEG Report includes a response to the BV Report, and also includes the recommendations from PEG as to the productivity and stretch factors to be used based on PEG’s own econometric and benchmarking analysis.

The PEG Report addresses a very important issue in this case – the design and components of the rate adjustment mechanism for 2025-2028, with focus on the X factor that should apply to the annual adjustment mechanism. The X factor is comprised of the productivity factor and the stretch factor, each of which is addressed in the PEG Report.

Based on a preliminary review of the PEG Report, Dr. Kaufmann advises that there are a number of areas where he wishes to respond to PEG. It will be much more efficient to do this in writing, in advance of any oral hearing in this case, rather than providing Dr. Kaufmann’s comments, responses and supplementary analysis in evidence in chief at the outset of any hearing. This approach will assist other parties in preparing for cross-examination at the oral hearing. It will support a fair and efficient processing of the application.

While it will be necessary to receive PEG's responses to the interrogatories that Enbridge Gas is submitting before having final views about the scope of Dr. Kaufmann's reply evidence, we are advised that it is likely that the reply evidence may address some or all of the following matters:

1. The reliability of PEG's econometric evidence.
2. PEG's use of a "Custom IR Peer Group" rather than industry trends to estimate TFP growth.
3. The merits of PEG's chosen 11 Custom IR peers.
4. Regulatory precedents supporting PEG's TFP measurement approach.
5. Evidence in support of Hyperbolic Decay, compared with the alternatives.

All of the items set out above are responses to new evidence filed by PEG that Enbridge Gas and its expert could not have been expected to address before this time. They are matters that are important to the case, and merit a response.

As the applicant, Enbridge Gas should have a full opportunity to file necessary evidence in support of its case, including in response to expert evidence from other parties. On this point, the Company notes that it seeks to file reply evidence only in relation to one of the three intervenor expert reports received to date.

Enbridge Gas submits that the proposed reply evidence will be both relevant and material, considering the importance of the matters addressed in the PEG Report. Enbridge Gas submits that it is fair and appropriate for its expert to be permitted to respond to OEB staff's expert, and that this approach has been permitted in prior cases. Most recently, the OEB permitted reply expert evidence in the Toronto Hydro Custom IR proceeding.¹

As noted, Enbridge Gas will be submitting interrogatory requests to OEB staff, asking questions and clarifications about the PEG Report. In order to assist Dr. Kaufmann in preparing his reply evidence as soon as possible, Enbridge Gas requests that the response to one of these Enbridge Gas interrogatories be provided before the due date - if possible, by Friday August 30th:

For each year from 2006 through 2022 in Table 6 (Econometric Cost Level Benchmarking Scores) of the PEG Report (Exhibit M3, p. 80), please provide the following components of PEG's benchmarking analysis:

- EGI's actual total costs;
- EGI's actual capital costs;
- EGI's actual O&M costs;
- EGI's predicted total costs;

¹ [EB-2023-0195, Procedural Order No. 6, May 31, 2024.](#)

- The percentage change in EGI's predicted total cost, relative to the preceding year;
- The independent variables listed in table 3, for each sampled U.S. utility, 2006-2022;
- EGI's predicted capital costs; and
- EGI's predicted O&M costs.

Enbridge Gas proposes that the reply evidence from Dr. Kaufmann would be filed as soon as possible after the interrogatory responses from OEB staff/PEG are received. The interrogatory responses are currently scheduled to be filed by September 6, 2024. Enbridge Gas would aim to file the reply evidence within a week of that date assuming that complete answers to interrogatory requests are provided.

The Company acknowledges that this timing means that the reply evidence will not be filed in time for the start of the Settlement Conference, but submits that it will be possible to proceed with the Settlement Conference without this reply evidence. The venue at which the reply evidence would be most relevant and useful would be at any oral (or written) hearing of the case. The proposed timing to file the reply evidence means that it will be available to be reviewed well in advance of any hearing.

Please let us know if you have any questions.

Yours truly,

AIRD & BERLIS LLP



David Stevens

c: all parties in EB-2024-0111