



Enbridge Gas Inc.

**Application to change its natural gas rates and other
charges beginning January 1, 2024**

**DECISION ON HRAI MOTION AND PROCEDURAL ORDER NO. 4
August 22, 2024**

Enbridge Gas Inc. filed an application with the Ontario Energy Board (OEB) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B), seeking approval for changes to the rates that Enbridge Gas charges for natural gas distribution, transportation and storage, beginning January 1, 2024. The OEB is currently reviewing the second of three phases of the application.

Motion by the Heating, Refrigeration and Air Conditioning Institute of Canada

On August 6, 2024, the Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI) filed a Notice of Motion requesting an order requiring Enbridge Gas to provide “full and adequate responses” to certain interrogatories, technical conference questions and undertakings arising from the technical conference.

HRAI’s request relates to an unregulated line of business operated within Enbridge Gas. Enbridge Gas operates this line of business under the name Enbridge Sustain, and describes it as offering hybrid heating solutions, geothermal solutions, EV charging options and solar power solutions.¹

A virtual hearing was held on HRAI’s motion on August 16, 2024. HRAI grouped its information requests into the following categories:

1. Information requests related to the Enbridge Sustain business plan
2. Information requests related to internal financial data
3. Information requests related to budgets and forecasts
4. Information requests related to a credit facility provided by the Canada Infrastructure Bank
5. Information requests related to corporate cost allocations

¹ Ex. 1, Tab 18, Sch. 1, p. 1.

6. Information requests related to Enbridge Sustain agreements (i.e. equipment rental agreement and HVAC dealer agreement)

HRAI argued that its requests go to Issue 27 on the OEB-approved Issues List: “Has Enbridge Gas demonstrated that Enbridge Sustain’s activities are not funded through rates?” HRAI noted that Enbridge Gas’s predecessor had been in the equipment rental business 25 years ago but exited the business when it was told by the OEB to fully allocate costs. HRAI explained at the hearing: “HRAI’s logic is well, if you couldn’t make it run the business without ratepayer funding then, and make a profit, what’s different today?”² HRAI argued that “Without source documents, the OEB is left with simply taking EGI’s word for it. Just saying something – in this case, claiming there is no ratepayer subsidy – does not meet the onus of ‘demonstrating’ that there is no ratepayer subsidy.”³

Enbridge Gas took the position that its refusals were proper on the ground of relevance. It emphasized that some of the information pertains to 2025 to 2028 even though rates for those years are not being set on a cost of service basis. It added that a “full-scale audit of Enbridge Sustain” is out of scope,⁴ explaining that:

The OEB is not overseeing the competitiveness of the HVAC market. How Enbridge Sustain plans to run its business is not at issue. What is at issue is whether Enbridge Sustain is being subsidized by ratepayers. We say that for consideration of issue 27 it ought not to matter whether Enbridge Sustain is a viable business, now or ever. Is it ought not to matter whether Enbridge Sustain plans to operate at an immediate profit. It ought not to matter whether Enbridge Sustain charges its customers in the same way that a typical HRAI member might proceed.⁵

OEB staff argued that once Enbridge Sustain is moved to an affiliate (by the end of 2024), the Affiliate Relationships Code (ARC) will apply, and concerns about improper ratepayer subsidies can be dealt with as an ARC compliance matter. Accordingly, information relating to the affiliate in 2025 and beyond, such as forecast costs and revenues, is not relevant to this proceeding.

No intervenors participated in the virtual hearing. However, several of them filed letters expressing support for HRAI’s request.

Findings

Issue 27 raises the following questions:

² Motion hearing transcript, p. 8.

³ HRAI Notice of Motion, para. 15.

⁴ Motion hearing transcript, p. 31.

⁵ Motion hearing transcript, pp. 26-27.

- How much does the Enbridge Sustain program cost to operate?
- How are Enbridge Gas resources being allocated to the program and what is the cost of those resources?
- How much revenue is the program achieving?
- To the extent that the program is operating at a loss, how is that loss being covered?

Having heard submissions from HRAI and Enbridge Gas, the OEB is of the view that additional information is required to assist the OEB on the issue, as set out in the table below.

Does the request go to the question of establishing what it costs to operate Enbridge Sustain in 2024, and whether Enbridge Sustain is operating at a loss and if so, how the loss is being recovered?	Disclosure required?
1. Enbridge Sustain Business Plan (I.1.18-HRAI-5 and Tr.4:108 (lines 10-28))	
I.1.18-HRAI-5 and Tr.4:108: Request for all initial and current business plans and forecasts for Enbridge Sustain	
Yes	Yes
2. Internal Financial Data (I.1.18-HRAI-8, Tr.4:111-112, JT4.16)	
I.1.18-HRAI-8, Tr.4:111-112, JT4.16: Request for management financial package for Enbridge Sustain including actual and forecast information on the line of business, including expenses, revenues, assets, liabilities, and cash flows, as well as a commentary on that financial data	
Yes	Current disclosure is sufficient
3. Budgets and Forecasts (I.1.18-HRAI-11, 12, 17, 18, 20, 22, 23, 24)	
I.1.18-HRAI-11: Request for locations of Sustain current/planned operating facilities including details on methodology for allocating these costs for locations owned by Enbridge Gas	
Yes	Current disclosure is sufficient
I.1.18-HRAI-12: Request for Enbridge Sustain costs that were backed out of the 2024 utility test year O&M forecast, and forecast of cost allocations for 2025-2028	
Yes	Yes, for 2024
I.1.18-HRAI-17: Request for forecast number of Enbridge Sustain employees (FTEs and headcount) by position with descriptions of the roles for 2025-2028 and the breakdown of cost between regulated/unregulated activities for each year	
No	No

I.1.18-HRAI-18: Request for Enbridge Gas's "documented processes" for ensuring costs related to Enbridge Gas employees providing support to Enbridge Sustain are fully allocated and not passed to ratepayers	
Yes	Current disclosure is sufficient
I.1.18-HRAI-20: Request for breakdown of direct costs for Enbridge Sustain	
Yes	Current disclosure is sufficient
I.1.18-HRAI-22: Request for breakdown of forecast indirect costs allocated to Enbridge Sustain	
Yes	Current disclosure is sufficient
I.1.18-HRAI-23: Request for breakdown of corporate cost allocations allocated to Enbridge Sustain	
Yes	Current disclosure is sufficient
I.1.18-HRAI-24: Request for breakdown of capital costs incurred by Enbridge Sustain	
Yes	Current disclosure is sufficient
4. Canada Infrastructure Bank (CIB) (I.1.18-HRAI-2, Tr.4:116, JT4.17)	
I.1.18-HRAI-2, Tr.4:116, JT4.17: Request for credit agreement and Memorandum of Understanding between Enbridge Gas and CIB and explanation of how the money will flow and how the Enbridge Gas liability has been structured	
Yes	Yes
5. Corporate Cost Allocations (JT4.19 and Tr4:133)	
JT4.19 and Tr4:133: Request for comprehensive disclosure of spending for the categories at I.1.18-HRAI-23 for 2024-2028 including the non-allocated costs in those categories	
Yes	Current disclosure is sufficient
6. Enbridge Sustain Agreements (Tr4:80-84, 108 (lines 1-9),	
Tr4:80-84: Request for updated equipment rental agreement, with representative numbers included for a reasonable sample customer arrangement	
HRAI argues this will provide indirect evidence of whether there is a subsidy	Yes
Tr4:108 (lines 1-9): Request for HVAC Dealer Agreement	
HRAI argues this will provide indirect evidence of whether there is a subsidy	Yes

In its argument on the motion, Enbridge Gas submitted that it may seek confidential treatment for some of the information if the OEB determines that disclosure is required. To keep the process moving, Enbridge Gas shall provide any such information to anyone signing the OEB's Declaration and Undertaking. Enbridge Gas shall file its request for confidential treatment, identifying in table format the information for which it seeks confidential treatment and basis for the request. The OEB will determine the need

for confidentiality in a separate decision. If Enbridge Gas is not seeking confidential treatment, it shall disclose the information on the public record.

HRAI Evidence

Procedural Order No. 3 suspended the deadline for HRAI to file evidence (originally August 12, 2024) pending the outcome of HRAI's motion.

HRAI shall file its evidence by August 30, 2024. Any interrogatories on HRAI's evidence must be submitted by September 6, 2024. HRAI must respond to any interrogatories by September 12, 2024.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas shall file the information set out in the table above, and copy all other parties, by **August 23, 2024**. Enbridge Gas shall indicate whether it seeks confidential treatment for any of the information.
2. Any objections to a request by Enbridge Gas for confidential treatment shall be filed by **August 27, 2024**, and copied to all other parties.
3. Enbridge Gas shall respond to any objection by **August 28, 2024**.
4. Pending the OEB's determination of a request for confidential treatment, Enbridge Gas shall provide an unredacted version of any information over which it claims confidentiality to anyone signing the Declaration and Undertaking.
5. HRAI shall file its evidence, and copy all other parties, by **August 30, 2024**.
6. Any interrogatories on HRAI's evidence shall be filed, with a copy to all other parties, by **September 6, 2024**.
7. HRAI shall respond to interrogatories by **September 12, 2024**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2024-0111** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Khalil Viraney, at Khalil.Viraney@oeb.ca and OEB Counsel, Ian Richler, at Ian.Richler@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **August 22, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar