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Ms. Nancy Marconi
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November 1, 2024

EB-2024-0078 – Enbridge Motion to Review and Vary (the "Motion")
Pollution Probe Submission on the Integration Capital Issue

Dear Ms. Marconi:

Procedural Order No. 2 for the above-noted proceeding requested that parties submit responding submission related to Enbridge Gas's (Enbridge's) submissions on the merits of its motion in respect of the Integration Capital Issue. Please find below Pollution Probe's submissions.

Pollution Probe submits that the OEB should not vary its Decision which included the Integration Capital Issue for the reasons noted below. If there was a change to the Decision contemplated, the OEB would need to consider the impact in relation to the entire Decision since it would result in a net change in total Capital rate base stemming from the Phase 1 Rebasing Decision. Attempting to move forward costs that were meant to recovered in the merger rate term into the new rate term (2024-2028) is essentially retroactively reopening the MADDS Decision[1], as well as increasing net Capital related costs in the current rate term (EB-2022-0200 Rate Decision).

Pollution Probe is in concurrence with the OEB's summary[2] and Rebasing Decision[3] as it pertains to the Integration Capital Issue. Pollution Probe submits that the OEB Decision was aligned with the OEB's own policies, the Merger rate term Decision[4] and the evidence presented in the Rebasing Proceeding[5]. Nothing in the Enbridge submission factually undermines the evidence and thorough process that led to the OEB's Decision which included the denial of inclusion of the undepreciated Integration Capital costs from the merger rate period flowing into the new Rebasing term. Changing that principle (particularly retroactively) would undermine the costs controls and synergy benefits expected from such mergers, thereby setting a precedent that any utility could ask for additional future rate term recovery of costs that were meant to be covered through the merger rate term.

Enbridge's request for a rehearing of the Integration Capital Issue as an isolated issues is frivolous and not appropriate. Enbridge had the ability to place a logical and fact-based argument forward in its submission and now appears to be wanting to relitigate the Rebasing Phase 1 Decision through a new hearing that would retroactively increase rates for 2024. Any rehearing would also require a rehearing related to all the integrated issues in the Rebasing Phase 1 Decision. A relitigating of the Rebasing Phase 1 proceeding based on new evidence to be filed is neither appropriate, practical or procedurally prudent. By requesting a reopening of the Phase 1 Rebasing Decision, Enbridge should understand that the OEB could consider all the integrated issues to ensure that the Decision remains in balance based on any new evidence

[1] EB-2017-0306/0307
[2] EB-2024-0078 dec_Threshold_PO2_EGI_Motion_20241008_esigned
[3] EB-2022-0200
[4] EB-2017-0306/0307
[5] EB-2022-0200

filed. Modifying one isolated element based on a rehearing of the case would be a form of biased retroactive ratemaking.

Enbridge suggests that ratepayers are receiving the full ongoing benefit of integration savings achieved during the deferred rebasing term (more than $85 million per year) in the new 2024 rates and also that ratepayers are also receiving the ongoing benefit from the refreshed IT systems (specific accounting and net rate reduction details not provided). Enbridge was provided the flexibility to undertake merger activities as long as those costs were dealt with in the merger rate term. The onus was on Enbridge to clearly and transparently account for integration costs and benefits during the merger rate term and to show how these will lead to sustainable ratepayer benefits. Enbridge was not able to demonstrate this during the Phase 1 Rebasing proceeding. Not only is Enbridge's estimate of benefits at the bottom of the estimated range for the merger, but there was no clear evidence that ratepayers are actually receiving any sustainable net benefits following the merger rate term. The majority, if not all of the benefits from the merger have flowed to Enbridge and its shareholders, not ratepayers. Enbridge also failed to provide transparent and tangible net benefits through the decommissioning of legacy IT systems or through the IT refresh which had they occurred, would lead to a net reduction in related Capital rate base and/or Operating costs starting in 2024. No such savings or efficiencies are apparent based on the evidence available. On face value, it appears that ratepayers are being asked to pay for all the IT costs that they did before the merger, plus additional costs related to the merger integration.

The merger period was intended for the consolidated utilities to recover transaction and integration costs, including through synergies expected from the merger. This aligns with the "benefits follow costs" principle outlined by Enbridge since the merger itself was expected to enable Enbridge to fund merger and integration costs over the merger rate term ending in 2023. The suggestion that Enbridge has Integration Capital costs that should now be recovered following the merger rate term would indicate the Enbridge Integration Costs were excessive to what was considered in the MADDS proceeding or that the benefits generated were lower than what was expected, or both. The evidence Enbridge put forward in EB-2022-0200 certainly did not provide that story to the OEB or participating stakeholders. The issues related to Integration Capital were clear and straightforward based on the facts and it appears that Enbridge is an isolated party in its interpretation that the OEB misinterpreted the facts in the proceeding and that it deserves to recover $119 million of undepreciated capital costs for integration capital in 2024 rate base.

Enbridge repeatedly suggested in the Rebasing proceeding that its synergy savings due to merger integration were significant, but now seems to be suggesting that the actual merger savings during the merger rate term (and therefore those likely to be sustained) are much lower when compared to the relative Integration Capital Costs. Stated in another manner, that Enbridge was not able to cover its merger and integration costs over the merger period as intended. This suggestion is counter to its Rebasing evidence that the merger delivered on what was promised and expected. Logically, if Enbridge had taken this position in the Rebasing proceeding that Integration Capital Costs far exceeded benefits over the merger rate term, it would have undermined Enbridge's credibility as delivering the benefits expected from the merger. It is irrational to claim that Enbridge delivered on all the expectations from the merger and that it has residual net costs that should be recovered post-merger. Suggesting that ratepayers should incur additional merger costs in the new rate term would further reduce any meagre sustainable benefits that were delivered to ratepayers..

Respectfully submitted on behalf of Pollution Probe.

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