



Enbridge Gas Inc.

**Application for review of 2023 Utility Earnings and
Disposition of Deferral and Variance Account Balances**

DECISION ON CONFIDENTIALITY OF INTERROGATORY RESPONSES

November 19, 2024

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) on May 31, 2024, under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), for an order approving the disposition of balances in certain deferral and variance accounts (DVAs) and the sharing of earnings, if any, pursuant to a previously-approved¹ earnings sharing mechanism.

On September 5, 2024, the OEB approved Enbridge Gas's request for confidential treatment of Exhibit D, Tab 1, Schedule 6.² Enbridge Gas then requested confidential treatment on portions of a number of its interrogatory responses.

Among the matters addressed in interrogatories. PP 6 and PP-13, Pollution Probe asked Enbridge Gas to provide the source reference for the Capital estimate and the third-party agreement related to the East Kingston Creekford Rd Project, respectively. In PP-11, Pollution Probe requested a copy of the Highwood Emissions Management contract.

On September 5, 2024, as part of its cover letter to its interrogatory responses, Enbridge Gas requested confidential treatment of certain information provided in response to those Pollution Probe interrogatories, under the OEB's *Practice Direction on Confidential Filings* (Practice Direction). Enbridge Gas submitted that the subject information was presumptively considered confidential by the OEB, under the category of billing rates and/or unit pricing of a third party.³

On September 9, 2024, Enbridge Gas filed its response to an additional interrogatory submitted by the Federation of Rental Housing Providers (FRPO-1.1). Enbridge Gas filed the response confidentially on the basis that the additional FRPO interrogatory

¹ EB-2017-0306 / 0307 Decision and Order dated August 30, 2018, on an application by Enbridge Gas Distribution Inc. and Union Gas Limited to amalgamate under the OEB's policy on mergers, acquisitions, amalgamations and divestitures.

² [Decision on Confidentiality, September 5, 2024](#)

³ Practice Direction on Confidential Filings, Revised December 17, 2021, Appendix B

relates to Exhibit D, Tab 1, Schedule 6, in respect of which the OEB had already approved confidential treatment.

On September 10, 2024, Pollution Probe filed a letter identifying two interrogatory responses filed confidentiality that, in its view, failed to meet the OEB's requirements for confidential treatment:

1. Interrogatory Response PP-6, Attachment 1, Pg.3. Pollution Probe suggests that Table 2 in a Posterity proposal document, particularly the "Level of Effort (hours)" column, should not receive confidential treatment as it contains relevant, non-proprietary information about work conducted.
2. Interrogatory Response PP-13, Attachment 1, Pg.3. Pollution Probe noted that Enbridge did not redact the cost of the proposal, but did redact the number of months, which Pollution Probe believes is relevant information pertaining to the time period for the IRP alternative proposal. Pollution Probe suggests that nothing in Section 6, Line Items 1 & 2 should be considered confidential.

There was no objection to the confidential treatment of the responses to Interrogatories PP-11 and FRPO-1.1.

On September 11, 2024, Enbridge Gas filed a response to Pollution Probe's letter stating that both items are confidential to prevent the determination or disclosure of third-party billing rates. Enbridge Gas referenced Appendix B of the Practice Direction, stating that the billing rates of a third party are presumptively confidential. Enbridge Gas also stated that Parties who have signed the declaration and undertaking are able to view the confidential information if they choose.

Findings

The OEB finds the information redacted from the four interrogatory responses referred to above to be confidential, and approves the redactions as proposed by Enbridge Gas.

Section 4 of the Practice Direction identifies categories of information which will presumptively be treated as confidential, and sets out the process for objecting to requests for confidential treatment of items in those categories. Section 4 provides, in part, that "Where no objection to the confidentiality request is received for information fitting within one of these categories, the OEB will confirm the confidential treatment by way of a letter or as part of a procedural order. Section 4.1.1 provides that "Absent an objection, information identified by the party requesting confidentiality as fitting within one of the categories set out in Appendix B will be accorded confidential treatment, unless the OEB determines that the information does not fit within a category in Appendix B. In such case, the OEB will confirm the treatment in writing."

The Practice Direction contains similar provisions for information that is not considered presumptively confidential. Section 5.1.6 provides that if an objection is not received within the five business day deadline set out in that section the OEB will make its determination on confidentiality without further procedural steps.

As noted above, there was no objection to the confidential treatment of the responses to Interrogatories PP-11 and FRPO-1.1. The OEB is satisfied that the information redacted from both responses is properly considered confidential. With respect to the response to PP-11, the OEB agrees that the redacted hourly and task-specific pricing information is presumptively confidential, and the OEB confirms that it shall remain confidential in this case. With respect to Interrogatory FRPO-1.1, the OEB agrees that the additional FRPO interrogatory relates to Exhibit D, Tab 1, Schedule 6, in respect of which the OEB had already approved confidential treatment; and that the response to Interrogatory FRPO-1.1 should also remain confidential.

With respect to Interrogatories PP-6 and PP-13, the OEB agrees that the redacted information is hourly and task-specific pricing information in the case of PP-6, and pricing information in the case of PP-13. The OEB agrees that the information is presumptively confidential. Beyond that, the Practice Direction provides that one of the factors that the OEB may consider in addressing confidentiality is whether the type of information in question may potentially harm any person's competitive position.⁴ The OEB approves Enbridge Gas's request and accepts that disclosing the pricing information could prejudice the competitive position of the consultants in terms of future negotiations to provide similar services; and the competitive position of Enbridge Gas in its negotiations with other consultants for similar consulting services.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas's request for confidential treatment of information it has redacted from its responses to Interrogatories PP-6, PP-11, PP-13 and FRPO-1.1 is granted. Access to the confidential information is governed by the OEB's *Rules of Practice and Procedure* and its *Practice Direction on Confidential Information*.

DATED at Toronto, November 19, 2024

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

⁴ *Practice Direction on Confidential Filings*, December 17, 2021, Appendix A, p. 1.