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By e-mail

January 27, 2025

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

Dear Ms. Marconi

**Re: Enbridge Gas Inc. (“EGI”)
2026-2030 DSM Plan Application – Intervenor Status Request – CME Reply
Board File #: EB-2024-0198**

We are counsel to Canadian Manufacturers & Exporters (“CME”). This letter is in reply to EGI’s letter dated January 21, 2025 (the “**Intervenor Objection**”). In the Intervenor Objection, EGI has objected either fully or in part to the interventions of the Small Business Utility Alliance (“**SBUA**”), the Coalition of Concerned Manufacturers and Businesses of Canada (“**CCMBC**”), and CME. EGI questioned whether CME’s interests and those of CCMBC and SBUA overlap such that their respective interventions should be joined. CME submits that the interests and viewpoints that it represents differ from those of CCMBC and SBUA. Moreover, joining the three intervenors’ interventions is not in the public interest.

Section 22 of the OEB’s *Rules of Practice and Procedure* governs the Board’s exercise of its discretion regarding granting parties intervenor status. Pursuant to subsection 22.02 of the *Rules*, the OEB must be satisfied that the proposed intervenor has a “substantial interest and intends to participate responsibly in the proceeding.”¹ The rule continues that a party has a substantial interest where it primarily represents the direct interest of consumers. As set out in its request for intervention, CME represents small to medium sized businesses, specifically in the manufacturing and related sectors.² These businesses are consumers of natural gas and therefore have a substantial interest in the proceeding. EGI has not attempted to argue that CME’s request for intervenor status does not meet the test provided for in the *Rules*.

On January 22, 2025, the Board released the OEB’s report on Intervenor Status and Regulatory Efficiency (the “**Intervenor Report**”) to the public. Point 3 of the 10-point action plan provides that the Board will establish categories of interest, such as industrial customers, within which to group intervenors. However, the Intervenor Report makes it clear that “more than one

¹ Ontario Energy Board, *Rules of Practice and Procedure*

² Canadian Manufacturers & Exporters, Annual Filing of Frequent Intervenor Form, 2025, found online at: <https://www.rds.oeb.ca/CMWebDrawer/Record/880573/File/document>

intervenor can represent a category of interests”. The report provides that the Board Registrar and assigned panel would expect these intervenors to “coordinate interrogatories and cross examinations”.³ CME already engages in significant coordination with other ratepayer groups and the step proposed by EGI, namely joining interventions at the outset of the proceeding is not necessary for CME to coordinate responsibly with other intervenors.

The Minister of Energy provided that the Board should ensure that intervenors are cost effective, efficient and in the public interest. CME submits that its request for intervenor status is all of those things. In this regard:

- CME’s interventions are cost effective:
 - As set out in the Intervenor Report, intervenor costs are a *de minimis* portion of the revenues of the Board’s regulated utilities, and Ontario’s intervenors cost less on a per customer and per capita basis as compared to other jurisdictions.⁴
 - CME does not intervene in every OEB proceeding, or every OEB proceeding where ratepayers are or could be impacted. It restricts its interventions to proceedings involving the larger utilities where significant policy or monetary impacts will be determined by the OEB;
 - Ontario intervenors, including CME have saved ratepayers an average of \$23 million per year on electricity distribution rate applications.⁵ CME expects that figure to be roughly similar for natural gas distribution rates.
- CME’s interventions are efficient. EGI does not even allege that CME asks a disproportionate or unduly duplicative number of interrogatories. It does not suggest that the positions taken by CME and CCMBC and SBUA have been the same or unduly similar. CME and CCMBC fundamentally differ on their view of the energy issues facing Ontario manufacturers today. CME’s constituents are not the same as the SBUA’s.
- CME’s independent intervention is in the public interest. Given the fact that the Minister listed the public interest separately and as a complement to the principles of cost effectiveness and efficiency, CME submits that the public interest component addresses different concerns aside from those covered by cost effectiveness and efficiency. For instance, it is in the public interest that ratepayers, have a voice that represents their interests. Even where the Board ultimately disagrees with the position advanced by an intervenor, there is a direct public good which is achieved by having those constituents

³ Ontario Energy Board, Report Back to the Minister: Intervenors and Regulatory Efficiency, September 27, 2024, p. 9.

⁴ Ontario Energy Board, Report Back to the Minister: Intervenors and Regulatory Efficiency, September 27, 2024, p. 5.

⁵ Ontario Energy Board, Report Back to the Minister: Intervenors and Regulatory Efficiency, September 27, 2024, p. 5.

represented and having their voices are heard. To the extent that their representation is joined with other intervenors who either disagree about the proper response to energy issues or who represent different interests, those constituents will no longer feel as though they have a say in energy regulation. This would deeply undermine the public interest and the purpose of the intervenor process.

CME and CCMBC do not share a common view with respect to the best solutions to address energy issues. This is clear from their policies. For instance, each of CME and CCMBC's 2023 Pre-Budget submissions to the Ontario Government are publicly available.⁶ Examples of positions in CME's 2023 Pre-Budget Submission on energy and climate change included:⁷

- Establishing positive incentives to help manufacturers reduce emissions by allowing them access to proceeds under the Emissions Performance Standards to fund technology investments and reduce green house gas emissions in their businesses;
- Enabling carbon capture, utilization, and storage through the use of incentives to match the Inflation Reduction Act tax credit for the sequestration or utilization of CO₂;
- Bolstering energy and charging infrastructure, including financial incentives for charging infrastructure needed for the adoption of electric vehicles; and
- Providing tax and program incentives for new energy options, including hydrogen, biodiesel, renewable natural gas, heat pumps, hybrid heating, or other solutions.

In contrast, in its pre-budget submissions to the Ontario Government in 2023 on energy and climate related topics, CCMBC advocated that the Ontario Government should:⁸

- Phase out wind power;
- Consider imposing a tax on wind and solar electricity producers for excess power generation to disincentive the production of “excessive expensive” electricity;
- Enact legislation to prevent the Government of Ontario from entering into long term contracts such as the long-term “green” energy contracts [quotations original];
- Not promote initiatives such as electrification, subsidizing electric vehicles, phasing out natural gas, and should oppose initiatives such as environmental and social governance;

⁶ See https://cme-mec.ca/wp-content/uploads/2023/02/CME-ON_2023-Budget-Submission_Final.pdf for CME's pre-budget submission and <https://www.ccmhc.ca/submissions> for CCMBC's pre-budget submission.

⁷ Canadian Manufacturers & Exporters, CME 2023 Ontario Pre-Budget Submission, February, 2023, Accessed online on January 22, 2025 at https://cme-mec.ca/wp-content/uploads/2023/02/CME-ON_2023-Budget-Submission_Final.pdf.

⁸ Coalition of Concerned Manufacturers & Businesses of Canada, Ontario Pre-Budget Submission, February 14, 2023, accessed online on January 22, 2025, at <https://www.ccmhc.ca/submission>.

- Conduct “proper” cost benefit analyses for all policies, including climate relating policies, in order to ensure that citizens understood the “massive downsides” of these policies; and
- Recognize that net zero carbon policies are “very negative” with negligible upsides, and that the electrification of the economy is neither feasible nor affordable at present.

The fact that the respective organizations do not agree on how to address issues is substantiated by the fact that the organizations who founded CCMBC were former CME members who felt that CME did not represent their voice and their views. As a result, CME’s intervention is not likely to represent CCMBC’s members and how they believe Ontario should address energy issues. Similarly, CCMBC’s intervention will not represent CME’s members interests on the same issues. If the two organizations were required to join their interventions, one or both sets of memberships would not have (or would not feel that they have) had their voices heard before the regulator. This would undermine the public’s confidence in the regulatory process and erode the foundation of what makes Ontario national leaders in energy regulation.

CME understands that it and the SBUA have interests and constituents that are independent of one another. In the Intervention Objection, EGI simply stated that because CME’s memberships are businesses, and SBUA represents businesses, there are no conflicts between SBUA views and those of CME. Setting aside the fact that there is no test that CME is aware of that requires intervenors to have a conflict in their interests with one another to be granted separate intervenor status, it is clear that SBUA’s constituents and CME’s constituents are different such that they likely have a different outlook on energy issues.

SBUA’s mandate as outlined in previous intervention letters is to “protect and promote the interests of small businesses as utility customers.”⁹ CME apprehends that SBUA’s members include numerous types of small business, which may bear no relation to industrial firms, manufacturers or exporters. For instance, SBUA could represent retail businesses, professional services businesses, restaurants, and other businesses.

Industrial and manufacturing businesses have different energy concerns from other small businesses, as they may be particularly energy intensive, or use fuel in different ways during the manufacturing process. They can also have a unique relationship with climate change issues, as some industrial processes can use more fossil fuels and actually reduce carbon emissions as a result of changes to the industrial process. Accordingly, the outlook and interest of industrial and manufacturing ratepayers are properly kept separate from intervenors who are advocating on behalf of small business without a focus on those sectors.

EGI has questioned the overlap in interests between CME, CCMBC and SBUA. However, EGI has not substantiated their concerns. Reviewing the make up and positions taken by these organizations demonstrate that they have different concerns with respect to energy and climate

⁹ Small Business Utility Alliance, Intervention Form, EB-2024-0063, Monday March 25, 2024, accessed online on January 22, 2025 at <https://www.rds.oeb.ca/CMWebDrawer/Record/845965/File/document>.

change issues. CME submits that there is no basis to join the intervention requests of CME to either CCMBC or SBUA, and that doing so would be against the public interest.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 27th day of January, 2025.

Yours very truly



Scott Pollock

c. Dennis O'Leary (Aird & Berlis LLP)
EB-2024-0198 Proposed Intervenors

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