

BY EMAIL AND RESS

March 7, 2025

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

Dear Ms. Marconi:

**Re: Enbridge Gas Inc.
2024-2028 Rates Application: EB-2024-0111
Response to Procedural Order No. 11 re. Commissioner Zlahtic recusal**

On March 4, 2025, Commissioner Zlahtic issued a letter indicating that he is recusing himself from further participation in this proceeding because of off-the-record comments made to an intervenor representative relating to heat pump evidence. Procedural Order No. 11 indicates that the remaining Commissioners on the panel intend to continue hearing the proceeding as a panel of four, and asks for any party with concerns to advise the OEB.

Enbridge Gas does not object to continuing with four Commissioners, but it has a number of comments to contextualize and explain its position.

Enbridge Gas notes that when the OEB initially appointed five Commissioners to this case, the Chief Commissioner wrote a letter stating that “an augmented panel is appropriate given the significance of the matters being heard”. Enbridge Gas appreciated that direction, which provided assurance that any decisions reached would represent the views of at least three Commissioners. The Company has concerns about whether it could be prejudiced by having only four Commissioners, which dilutes the impact of the Chief Commissioner’s direction, and which raises the theoretical possibility of a deadlock. Enbridge Gas assumes that the OEB is taking these considerations into account, and that the OEB is confident there is no prejudice to the applicant from completing this proceeding with four Commissioners.

Without knowing the details of the event(s) leading to Commissioner Zlahtic’s letter, including why the concerns are only being raised several months after the off-the-record comments were made, Enbridge Gas is not able to provide a detailed response to Procedural Order No. 11. It appears that while Commissioner Zlahtic is concerned that his actions could raise doubts as to impartiality, he is confident that his actions have not impacted the remaining Commissioners. Enbridge Gas assumes that the remaining Commissioners concur in that view given their intent to continue to hear the case.

It is fundamentally important that OEB Commissioners are, and are perceived to be, objective, impartial and open-minded in their consideration of matters they are deciding. This is true of

conduct both during and outside formal hearing processes. The “energy transition” matters at issue in recent Enbridge Gas proceedings are often contentious and partisan. That has repeatedly been seen, for example, in debates about the future role of air source heat pumps. Such matters demand fair, objective and evidence-based consideration from the OEB Commissioners assigned to Enbridge Gas cases. The Company trusts that the OEB and the specific OEB Commissioners assigned to Enbridge Gas applications are and will continue to be mindful of these expectations in all of their dealings.

Having considered the limited information available, Enbridge Gas does not object to the remaining four Commissioners continuing to hear this case. The Company and the parties have invested vast amounts of time and resources into this Phase 2 Rebasing case. The OEB has accepted a settlement of most aspects of the case, and the hearing and written argument process for the three Outstanding Issues is now complete. Regulatory efficiency does not favour having to appoint new Commissioners and then re-start any or all of this lengthy and wide-ranging proceeding at this very late stage.

Yours truly,

AIRD & BERLIS LLP



David Stevens

C: all parties in EB-2024-0111