**By EMAIL and RESS**

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March 7, 2025
Our File: EB 2024-0198

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2024-0198 – Enbridge DSM Plan – Issues List**

We are counsel for the School Energy Coalition (SEC). This letter is sent pursuant to Procedural Order #1 to provide our submissions on the Issues List.

SEC believes that the following additional issue should be added to the General section:

> *"Should the OEB continue to sole source DSM programs through Enbridge Gas Inc., or should some or all of the DSM offerings be designed and/or delivered by one or more other program administrators? If the latter, what process should be used to identify and procure the services of those new participants?"*

The OEB will be aware that SEC has expressed a concern several times in the past that, as the DSM Programs get larger, there is a question whether it is appropriate to sole source the design and delivery of those programs to Enbridge, particularly given the fact that Enbridge has a built-in conflict of interest with respect to reductions in natural gas use in Ontario.

For example, in Final Argument on the last DSM Plan (EB-2021-0002), SEC in Sections 1.2 and 2.2 detailed the ways in which Enbridge's stewardship of DSM Programs – once considered very successful - no longer meets the needs of the ratepayers and the people of Ontario generally. The conclusion we reached (at para. 2.2.20 and 21) was:

> *"SEC therefore submits that the OEB, in its Decision in this proceeding, should signal that the proposals of Enbridge are insufficient, and will have to be beefed up. Further, the OEB should direct Enbridge to be ready, following the OEB's decision in its five year rate application, to propose a significantly more aggressive DSM Plan, consistent with the rate plan.*
>
> *Further, the OEB should advise other parties in this proceeding that, at the same time as Enbridge is beefing up its plan, they should be making ready to prepare their own alternatives, which may include the potential to shift responsibility for DSM from Enbridge to a fuel-agnostic third party administrator."*

The Commissioners did not address contestability directly in the Decision, but made clear that more aggressive and more effective DSM Programs would be required in the next DSM Plan (this one), and established minimum levels of natural gas reductions expected in this plan. The Commissioners also set up the Stakeholder Advisory Group to help Enbridge deliver on that goal.

We note that the Commissioners in the Decision also had to step in to change several programs proposed by Enbridge that included a built-in bias in favour of the Applicant retaining natural gas customers that might otherwise disconnect from the gas distribution system.

SEC also wrote to the OEB on this subject on October 4, 2023, detailing the reasons why further steps relating to contestability of DSM Programs were necessary. A copy of that letter is attached. SEC is not aware of any actions the OEB has taken in this regard.

The DSM Plan proposed in this Application claims that the minimum levels established by the Commissioners are essentially impossible to achieve, and proposes dramatic increases in spending of ratepayer monies to achieve much lower savings.

SEC submits that the OEB has no way of determining if the Applicant's claims are correct, given they have no alternatives for comparison. Further, SEC submits that, based on the current evidence before the Commissioners, it is not appropriate to authorize the spending of what appears to be more than $1.8 billion of ratepayer funds on DSM Programs without an objective procurement process that identifies who, if anyone, is better able to design and deliver DSM in Ontario than Enbridge.

SEC believes that if the requested issue is added, parties will be in a position to propose alternatives to sole sourcing through the Applicant. Further, parties and the Commissioners will be in a position to question the Applicant on the steps it has taken, if any, to explore transfer of some or all of its offerings to other program administrators in order to improve the results and reduce the cost.

In our view, very little of what is currently being proposed in the Enbridge plan is new or innovative, and the Applicant has failed to heed the target minimums the Commissioners established just a couple of years ago. Instead, the new plan appears to throw considerably more money at the problem, without even trying to achieve those target minimums.

Further, it appears that the Applicant, given the opportunity in EB-2021-0002 to earn a substantial additional incentive by producing meaningful results, has not come close to achieving any of it. Thus, it is arguable that shareholder incentives are no longer working, and it is time to see whether competition for the role of program administrator is a more effective way of protecting the funds of ratepayers and providing benefits they value.

SEC therefore submits that adding the proposed new issue will allow parties and the Commissioners to consider a fuller range of alternatives to the DSM Plan Enbridge is currently proposing.

All of which is respectfully submitted.

Yours very truly,
**Shepherd Rubenstein Professional Corporation**

Jay Shepherd

cc: Brian McKay, SEC (by email)
Interested Parties (by email)

By EMAIL

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October 4, 2023
Our File: EB20210002

Ontario Energy Board
2300 Yonge Street
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**Attn: Nancy Marconi, Registrar**

Dear Ms. Marconi:

**Re: EB-2021-0002 – Enbridge 2023-25 DSM Plan – Contestability of Next Plan**

We are counsel to the School Energy Coalition ("SEC"), and were active participants in EB-2021-0002.

(You will also be aware that the undersigned is a member of the DSM Stakeholder Advisory Group ("SAG") and the IRP Working Group, although the subject of this letter is not expected to be within the scope of those two advisory bodies.)

This letter is a followup to the 2023-25 DSM Plan proceeding. We are asking that the OEB explore whether the next DSM Plan can be made contestable, in whole or in part.

Briefly, we would urge the OEB to take the following steps as soon as possible, and well in advance of the next DSM Plan filing by Enbridge, expected to be in late 2024:

- Ascertain, through a request for expressions of interest, or some other process or processes, including direct investigations, what organizations, if any, are willing and able to take on the role of independent, fuel agnostic program administrator of all, or a segment of, DSM programs in Ontario.

- Assuming the response to the first step is strong enough, seek and obtain detailed proposals from qualified and interested organizations to deliver some or all of the DSM programming in Ontario.

The goal would be that, when Enbridge files its next DSM Plan, the OEB will have full visibility into the alternatives available to it in the event that the Commissioners determine it is in the public interest if the DSM Plan would be made contestable, in whole or in part. In essence, the OEB would green light the market to communicate to the OEB what it can do.

**Background**

Enbridge Gas and its predecessors have, for more than 20 years, delivered DSM programs to natural gas customers in Ontario. Recently, Enbridge has started to deliver both natural gas and electricity programs to residential customers under an agreement with NR-Can.

In EB-2021-0002, Enbridge applied for what was ultimately a five year DSM plan application, largely the continuation and expansion of existing programs. The Application was intensely contested, with certain ratepayer and environmental groups (including SEC) expressing concern that a) the high-cost Enbridge DSM programs were not delivering net reductions in natural gas use, and b) an underlying conflict existed for Enbridge in delivering programs that would reduce gas use. (We note that, as the energy transition gathers steam, this basic conflict has the potential to grow in importance.)

Some parties argued that an independent, fuel-agnostic program administrator should be appointed to deliver DSM programs instead of Enbridge Gas. In effect, its sole goal would be to reduce natural gas use in the most cost-effective way consistent with the interests of the customers and the province. However, it was noted (including by SEC) that the OEB did not at that time have a proposal from anyone other than Enbridge Gas to deliver DSM, and thus did not have a strong evidentiary foundation for such an important change. It was therefore not practical for the OEB to go in the direction of an independent, fuel neutral delivery agent in that case.

The Decision in EB-2021-0002 agreed with many of us that DSM has to deliver higher levels of efficiency, including absolute reductions in natural gas use. The Commissioners approved a shorter term plan, with the stated expectation that the next DSM Plan will be significantly more ambitious. The Decision also set up the SAG, to provide advice and input during the development of the next plan by Enbridge.

However, the Decision did not comment on whether an independent, fuel-agnostic program administrator should be explored.

We would like to ensure that the lack of alternatives to program delivery by Enbridge Gas does not continue with the next plan, expected to be filed by Enbridge later in 2024. To that end, we are asking that the OEB invite potential program administrators other than Enbridge Gas to communicate their interest, if any, in delivering some or all of the DSM programs in Ontario.

If there is sufficient interest (as we think there will be), then as a next step the OEB could invite proposals from those interested parties. This would allow the OEB to understand the Enbridge application for its next plan in context, and to consider whether one or more of the alternative delivery agents could be a better choice, either in parallel with or in place of Enbridge.

**Types of Contestability**

We note that conservation and energy efficiency programs (gas and electric) are delivered in a variety of different ways around North America. Many are delivered by utilities, and in fact conflict issues often come up in those cases. Several are delivered state-wide by a state-sponsored “efficiency utility”. Other programs are delivered in smaller geographic areas, or by entities who address a particular market segment. There are also various combinations of those approaches, only limited by the creativity of the stakeholders in each jurisdiction.

***Single Program Administrator.*** At the highest level, there will likely be some entities that will, individually or in groups, be interested in replacing Enbridge as the sole delivery agent for gas

DSM throughout the province. The Consortium for Energy Efficiency, a US trade group of which Enbridge is a member, will have resources on independent program administrators who may be interested in expanding into Ontario. Vermont Energy Investment Corporation, which has delivered the Efficiency Vermont programs for decades after winning competitive bids, may be one such example.

In addition, there may be energy efficiency consultants (like Dunsky, or DNV, or others like that) who could take on the responsibility for program delivery. Another possibility may be more general energy consulting groups, like Guidehouse or Accenture, who have experience running this kind of business activity.

Anyone who actually took over as the single program administrator would likely hire many of the staff delivering DSM at Enbridge today. The OEB will note that Enbridge has spun off business activities, together with large groups of staff, to third party owners in the past, including at least the equipment business and customer care.

***Smaller Geographic Areas.*** There are a number of places in the province where there are potential program delivery agents whose knowledge of their local area could be invaluable. Toronto Hydro, for example, may well be interested in delivering energy efficiency programs to natural gas customers, especially if they can arrange to deliver electricity and gas conservation together. There is also the potential that they could work with Alectra, and/or Elexicon, to cover a large part of the Golden Horseshoe.

In Ottawa, where you have Hydro Ottawa already interested in conservation programming, and the City of Ottawa fully engaged in long term GHG reductions, a combination of those entities, perhaps with outside assistance or even with federal government support, may have an interest.

***End User Segments.*** Much of current and potential energy efficiency programming is specific to an end user group, and there are organizations that already work with significant end user segments throughout the province. Some have experience delivering conservation. Some or all of BOMA, CME, IGUA, FRPO, LPMA, and other organizations may be well-placed, either alone or in a consortium, to deliver programs to those important segments. The same may be true of organizations supporting low-income individuals, new home builders, etc.

The general point is that the range of potential information the OEB can gather from those already in the market, and the services they may be able to provide, is quite broad. We believe that finding out what else is available – other than a single-sourced DSM program from Enbridge – could be highly beneficial.

## Conclusion

We therefore ask that the OEB

- Through market wide communications and direct contact, engage potential program administrators who could deliver some or all of the DSM programs, and find out the extent and types of interest and capabilities that those in the market may have.

- If the response is sufficiently strong, consider next steps, including an RFP, a competitive procurement process, or some other approach that brings to the regulator detailed information on what the market could deliver by way of independent, fuel agnostic DSM program delivery.

Shepherd Rubenstein

We believe that this is urgent, since within the next twelve months Enbridge will file a new DSM application. It is important that the OEB not, at that time, be in the same situation of having no choice but to once more sole source DSM to Enbridge.

All of which is respectfully submitted.

Yours very truly,
**Shepherd Rubenstein Professional Corporation**

Jay Shepherd

cc: Brian McKay, SEC
Josh Wasylk, OEB
Chris Humphries, OEB
Susanna Zagar, OEB
Members of the DSM SAG
Malini Giridhar, EGI
Interested parties