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April 28, 2025

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

Dear Nancy Marconi,

**Re: Enbridge Gas Inc. (“Enbridge Gas” or the “Company”)
Ontario Energy Board (“OEB”) File No. EB-2024-0186/EB-2024-0197
Motions for Review of OEB Decisions in EB-2022-0111 & EB-2023-0200/0201/0261
Intervenor Cost Claim Objections**

Pursuant to the OEB's decision and order dated April 1, 2025 in this matter, and the cost claims submitted by The Federation of Rental-housing Providers of Ontario (FRPO) and Environmental Defence (ED), Enbridge Gas is providing these submissions in response to the cost claims of these intervenors.

For the reasons addressed below, Enbridge Gas objects to the cost claims of FRPO and ED on these review motions. We submit the claims are excessive in the circumstances and should be reduced accordingly.

FRPO's Cost Claim

On its review motion, FRPO has submitted a cost claim totaling \$13,424 (including HST). Given the limited nature and scope of FRPO's motion, the steps it took during the motion, and findings the OEB made in respect of it, Enbridge Gas submits that FRPO's claim should be reduced by 50%, so that the approved claim would be **\$6,712** (including HST).

First, FRPO's motion to review only pertained to one discrete aspect of one of these underlying OEB decisions: the OEB's approval of the reinforcement line in the Bobcaygeon Community Expansion project¹. The motion was thus narrow in scope, and FRPO prepared and filed relatively little material on its motion. Besides its notice of motion, FRPO's main submissions were only 4 pages, and its reply submissions were 7 pages. Despite this narrow scope and small amount of material it prepared and filed, FRPO claims reimbursement for 36 hours of time in its cost claim, for preparing and filing this limited motion material. That amount of hours, resulting in its claim of \$13,424, is excessive in the circumstances.

¹ EB-2022-0111.

Second, the grounds FRPO pursued on the motion and the relief it sought, including the stay of that part of the Bobcaygeon decision, were in several respects devoid of merit and should not have been brought:

- FRPO sought a temporary stay of the reinforcement line aspect of the Bobcaygeon decision pending a determination of the review motion, and then later withdrew it². There was no proper basis or need for this stay request in the first place, including because it was clear on the record that the proposed construction of the reinforcement line was not going to take place until March 2026, which was well after the review motion would be decided. As such there could not possibly be any harm caused as a result of the reinforcement line approval while the review motion was pending. The OEB expressly noted this timing point in its decision on the review motion, stating that there was “no need for the OEB to consider the stay request” in the circumstances.³ Presumably recognizing that the stay request was without any merit, FRPO itself withdrew the stay request in its reply submissions, after both OEB staff and Enbridge Gas has spent time responding to it. FRPO should not have brought the stay in the first place and should not receive costs reimbursement for having spent time doing so.
- On its motion, FRPO challenged the original panel’s finding that the reinforcement line, in the sizing proposed by Enbridge Gas, was required. This ground amounted to FRPO challenging the *weight* the OEB gave to the evidence and submissions on this topic, but rule 42.01 expressly indicates that challenging the weight the OEB gives to evidence does not amount to an error of fact that can be the basis for a review motion. In its decision on this ground of the motion, the OEB concluded that “FRPO’s argument on the first ground for its review motion is essentially a disagreement with the original panel’s weighing of submissions and evidence regarding the need for the Reinforcement Pipeline”, and that this does not amount to an error of fact, law or jurisdiction for purposes of a review motion.⁴
- In respect of FRPO’s challenge regarding the need for the reinforcement line, FRPO continued on its review motion to suggest that the OEB *Natural Gas Facilities Handbook* requirements had not been met in respect of Enbridge Gas’s filing of this application; a suggestion FRPO had previously made and it had been rejected by the OEB.⁵
- FRPO also raised an issue of procedural fairness, taking the position that the OEB should have convened a technical conference in the Bobcaygeon application, in addition to the interrogatory discovery process that had already taken place. However, as found by the OEB in the motion decision, “FRPO’s review motion does not explain how the decision of the original panel not to provide for a technical conference in the context of the Bobcaygeon proceeding constituted an error of fact, law or jurisdiction.” The OEB

² FRPO Reply Submissions (September 26, 2024), p. 7.

³ EB-2024-0186/EB-2024-0197, OEB Decision and Order (April 1, 2025) p. 36. This statement was made in reference to the similar stay request ED brought and did not withdraw (as FRPO had withdrawn its stay request prior to the OEB’s issuance of its decision).

⁴ Ibid, p. 12.

⁵ EB-2022-0111, Procedural Order No. 1 (August 14, 2023), p. 3. “The OEB has reviewed the amended application and determined that it is complete and complies with the filing requirements set in the OEB Natural Gas Facilities Handbook.”

further noted that FRPO failed to “explain or elaborate on principles of natural justice, or the content of the duty of procedural fairness” in this context.

Since the grounds for its review motion should not have been brought and/or were not supported by cogent argument or explanation, and taking into account its ill-conceived stay request it subsequently withdrew, this a further reason FRPO should not be reimbursed for a significant portion of the time it incurred on the motion and that it has included in its cost claim.

Enbridge Gas therefore submits that a reduction of 50% is appropriate in the circumstances. This level of reduction would result in an approved claim of 18 hours, totaling **\$6,712** (including HST).

ED’s Cost Claim

In addition to the small cost claim ED submitted in respect of FRPO’s motion (to which Enbridge Gas does not object), ED submitted a cost claim of \$12,933 (including HST) on its own review motion. For three reasons summarized below, Enbridge Gas submits that ED’s cost claim should be reduced by 40% so that the approved claim is **\$7,760** (including HST), or alternatively that, at most, the approved claim be \$9,250 (including HST).

First, in large part this review motion by ED was very similar to the review motion (EB-2023-0313) ED brought in the earlier Hidden Valley/Mohawks of the Bay of Quinte/Selwyn community expansion project proceedings in EB-2022-0156/EB-2022-0248/EB-2022-0249, which the OEB dismissed. In the main, that earlier review motion challenged the OEB’s denial of proposed ED evidence on procedural fairness grounds. This latest review motion ED brought, that was also dismissed, was based on similar grounds, including principally challenging the OEB’s denial to permit proposed ED evidence on procedural fairness grounds (along with certain additional grounds). In its own motion material, ED in fact noted the OEB panel’s reliance on its earlier decision in the above prior applications when considering and deciding its evidence request in these proceedings.

Given the similarity in grounds and arguments pursued by ED in this latest review motion (compared to ED’s earlier motion), ED should have been able to realize some efficiencies in researching and preparing this latest motion material and its submissions. One would reasonably expect the number of hours spent and costs incurred to be lower on this second, similar motion, and certainly no higher. However, ED’s cost claim for this latest motion is significantly higher. ED’s hours and costs in the EB-2023-0313 review motion totaled 31 hours and \$9,236 (including HST), which the OEB found to be reasonable.⁶ By contrast, not only are ED’s hours and cost claim on this subsequent motion not lower on account of having realized efficiencies, it is actually approximately 33% higher, at 42.8 hours, totaling \$12,933 (including HST).⁷

Second, the amount of this cost claim is also significantly higher than ED’s approved cost claim on the main individual underlying project application on its merits. On the entire Bobcaygeon application (all phases of it), ED’s cost claim totaled \$7,935 (including HST). The cost claim for this review motion, which focused only on the decision to deny evidence and certain other

⁶ EB-2023-0313, ED cost claim (January 8, 2024); OEB decision on costs in that proceeding (March 5, 2024).

⁷ EB-2024-0197, ED cost claim (April 15, 2025).

specific points, should not be higher than the cost claim on the underlying proceeding. And we note that the review motion involved one set of submissions, focusing principally on Bobcaygeon (it did not involve different issues and submissions for each of the projects⁸).

Third, ED's review motion included a late request for a stay in respect of the reinforcement line in the Bobcaygeon project that did not comply with the OEB's rules, was clearly unnecessary and without merit, and should not have been brought:

- As noted in the OEB's decision denying ED's review motion, rule 42.01(b) requires that any request for a stay be made in the notice of review motion. ED failed to do so. Instead, more than two months after filing its review motion, ED filed a letter with the OEB in which it requested the stay.⁹
- As was also noted by the OEB, there was no need or basis for the stay request for the same timing reason referred to above regarding FRPO's similar stay request, i.e. clearly there was nothing to stay since the review motion decision would be issued well before the planned March 2026 construction timing for the Bobcaygeon reinforcement pipeline, and as such there could not possibly be any harm prior to the final determination of the review motion.

ED should not in these circumstances be reimbursed for costs in respect of making its stay request.

For the above reasons, Enbridge Gas submits that an overall 40% reduction in ED's cost claim on its review motion – reducing it to a total of **\$7,760** (including HST) – is appropriate. This would represent an approved amount of costs that is essentially in line with ED's total approved costs on the underlying Bobcaygeon application on the merits, and would be approximately \$1,475 lower than its costs on its similar prior review motion in EB-2023-0313 since there ought to have been some efficiencies in bringing a second similar motion.

Alternatively, at its highest, ED's costs should be no greater than \$9,236, which was the amount of its approved costs in its earlier review motion.

As a final point, we note that Enbridge Gas is concerned with the repeat nature of ED's similar review motions for NGEP proceedings and the corresponding cost awards being paid to ED by natural gas ratepayers. ED's review motions related to this and previous NGEP proceedings have burdened the regulatory process. ED is repeatedly pursuing its objective of opposing natural gas expansion and promoting non-natural gas alternatives within NGEP project proceedings despite (i) the OEB's findings that interests with respect to broader climate change issues and the promotion of non-natural gas alternatives extend beyond the scope of NGEP proceedings,¹⁰ and (ii) that NGEP Phase 2 communities have been identified by provincial policy and the OEB to receive natural gas service. Further, despite continuing to oppose NGEP projects almost entirely on the stated grounds of ratepayer financial interests, ED is an

⁸ This is the case, though we note the submissions also referred to Ms. Carswell's requested evidence filing in respect of the Sandford project.

⁹ EB-2024-0186/EB-2024-0197, OEB Decision and Order (April 1, 2025), p. 34.

¹⁰ EB-2023-0313, OEB Decision and Order (December 13, 2023), p. 16 ([link](#)).

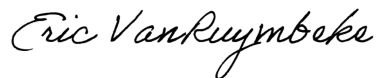
environmental advocacy organization that does not have the representation of ratepayer financial interests as a main objective.¹¹

It is important for the OEB to consistently be mindful of the Minister of Energy and Electrification's December 19, 2024 Renewed Letter of Direction (the Renewed Directive) in which the Minister highlighted his expectation that the OEB ensure "intervenor costs are cost effective, efficient and in the public interest"¹². This consideration extends to the assessment of cost awards, which is key to promoting regulatory efficiency in the public interest.

Enbridge Gas respectfully submits that this should be taken into account by the OEB when determining the appropriate cost award for ED. ED should not be encouraged through significant cost awards (and certainly not increasing awards) to continue to bring repeat motions case after case.

If you have any questions, please contact the undersigned

Sincerely,



Eric VanRuymbeke
Sr. Advisor - Leave to Construct Applications

cc: Arlen Sternberg (Torys, Enbridge Gas Counsel)
Judith Fernandes (OEB Staff)
James Sidlofsky (OEB Counsel)
Intervenors (EB-2024-0186/0197)

¹¹ EB-2024-0193, OEB Procedural Order No. 1, pp. 2-3.

¹² [Stephen Lecce, Minister of Energy and Electrification, December 19, 2024](#), p. 8.