



# **DECISION ON SETTLEMENT PROPOSAL AND PROCEDURAL ORDER NO. 4**

**EB-2024-0125**

**ENBRIDGE GAS INC.**

**2023 Deferral and Variance Account Disposition and  
Earnings Sharing Application**

**BEFORE: David Sword**  
Presiding Commissioner

**Allison Duff**  
Commissioner

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**May 27, 2025**

# 1 OVERVIEW

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*, for an order approving the disposition of amounts recorded in certain deferral and variance accounts (DVAs) to December 31, 2023, together with interest to December 31, 2024, and for a review of the 2023 earnings sharing amount.

A settlement conference was originally conducted on September 16, 17 and 18, 2024. The parties participating in the settlement conference reached a complete settlement on the disposition of all 2023 DVA balances that were requested for disposition in this proceeding. The settlement proposal and a draft rate order were filed on October 10, 2024.

As a result of the settlement proposal, the principal balance of all DVA balances requested for disposition would change from a \$4.834 million debit from customers to a \$2.068 million credit to customers with an implementation date of January 1, 2025, as proposed.<sup>1</sup> The decrease is due to the agreed reduction in the Getting Ontario Connected Variance Account (GOCVA). The parties agreed to reduce the principal balance of the GOCVA from \$31.9 million to \$25.0 million.

Other key elements of the settlement proposal are discussed further below. OEB staff filed a submission supporting the settlement proposal and the draft rate order filed by Enbridge Gas.

The OEB issued a Decision on the Settlement Proposal and Procedural Order No. 2 on January 28, 2025, expressing concerns about the settlement proposal and making provision for a one-day continuation of the settlement conference on February 4, 2025. Enbridge Gas filed a letter on behalf of the parties on February 19, 2025 including further context for the settlement proposal and requesting that the OEB approve it.

In Procedural Order No. 3, the OEB did not accept the settlement proposal but provided the parties with another opportunity to respond to its concerns. Enbridge Gas filed the parties' responses to the OEB's questions on March 18, 2025.

The OEB has reviewed the settlement proposal and the parties' responses to the OEB's concerns and questions and does not approve the settlement proposal. For the reasons

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<sup>1</sup> The total net balance of all DVA balances requested for disposition, inclusive of interest to December 31, 2024, increased from a \$2.216 million credit to customers, to a \$9.416 million credit.

discussed below, the OEB has specific concerns with the proposed new 2025 Fugitive Emissions Measurement Plan Pilot Deferral Account.

The settlement proposal provides (in part) that “this Settlement Proposal is subject to a condition subsequent, that if it is not accepted by the OEB in its entirety, then unless amended by the parties it is null and void and of no further effect.”

As a result, the OEB is making provision for the filing of written submissions on all approvals sought in Enbridge Gas’s application. The OEB expects that the parties will advise in their submissions as to those matters on which they remain in agreement. The OEB is allowing more time than is typical for the filing of Enbridge Gas’s argument-in-chief. It would be efficient for Enbridge Gas to identify any matters of agreement in its argument-in-chief.

## 2 THE PROCESS

The settlement conference was initially held on September 16, 17 and 18, 2024 with the objective of reaching a settlement on the issues between the intervenors and the applicant. Enbridge Gas filed a settlement proposal and draft rate order on October 10, 2024, for the OEB's consideration.

The parties reached a settlement on all DVA balances requested for disposition in the proceeding and the method for allocating and disposing these balances. The parties also reached a settlement on the proposed Fugitive Emissions Measurement Plan and the Indigenous Working Group's budget for 2025.

OEB staff filed a submission supporting the settlement proposal on October 17, 2024.

The OEB issued its Decision on Settlement Proposal and Procedural Order No. 2 on January 28, 2025. In Procedural Order No. 2, the OEB did not approve the settlement proposal as filed and expressed concerns regarding the scope of the settlement proposal, the Fugitive Emissions Measurement Plan (and related new deferral account) and the interim disposition of 2023 Unaccounted for Gas (UFG) related accounts. The OEB made provision for the continuation of the settlement conference to give parties an opportunity to consider amending the settlement proposal for the OEB's consideration.<sup>2</sup>

On February 4, 2025, the parties participated in a one-day continuation of the settlement conference.

On February 19, 2025, Enbridge Gas filed a letter on behalf of itself and the other parties to the settlement proposal. In that letter, the parties discussed the outcome of the continued settlement discussions and responded to the concerns expressed by the OEB in Procedural Order No. 2.

In that letter, the parties requested that in the event that the OEB is unable to accept the settlement proposal, they be given an opportunity to respond to any continuing questions or concerns from the OEB. In the alternative, the parties requested an opportunity to reconvene for further settlement discussions.

The OEB issued Procedural Order No. 3 on March 4, 2025. The OEB stated that it was unable to accept the settlement proposal at that time, but provided the parties with an

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<sup>2</sup> Decision on Settlement Proposal and Procedural Order No. 2, January 28, 2025, page 2

opportunity to respond to the following questions related to the proposed Fugitive Emissions Measurement Plan:

- Please discuss the OEB's role in the regulation and measurement of fugitive emissions.
- Based on Enbridge Gas's current operations and regulatory requirements, please discuss the need to fund further study of fugitive emissions.
- Please discuss the timing of the pilot in 2025.
- Given that fugitive emissions are but one component of UFG, please discuss how the measurement of fugitive emissions as outlined in the investigation plan will reduce the cost of UFG for customers or benefit customers.

On March 18, 2025, Enbridge Gas filed responses to the OEB's questions on behalf of the parties. The parties requested that the OEB approve the settlement proposal. If the OEB were to decline to approve the settlement proposal, the parties requested that the OEB not make any findings regarding issues that may be in dispute among the parties. The parties stated that if some or all of the issues proceed to hearing, then it is important that parties are able to bring forward arguments supporting their position without concern that decisions on key issues have already been made.

### 3 DECISION ON SETTLEMENT PROPOSAL

#### 3.1 The Settlement Proposal

As a result of the settlement, the parties proposed a change in the principal balance of all DVA balances requested for disposition from a \$4.834 million debit from customers to a \$2.068 million credit to customers with an implementation date of January 1, 2025.<sup>3</sup> The change is due to the agreed reduction in the Getting Ontario Connected Variance Account (GOCVA). The parties agreed to reduce the principal balance of the GOCVA from \$31.9 million to \$25.0 million.

As part of the settlement proposal, Enbridge Gas committed to filing, in future Integrated Resource Planning (IRP) Deferral Account clearance requests, details on the outcomes and ratepayer benefits related to IRP costs proposed to be cleared.

The parties agreed to the disposition of 2023 balances in UFG-related accounts<sup>4</sup> on an interim basis until Enbridge Gas provides further evidence describing its investigations related to fugitive emissions in its 2024 Deferral Account Clearance application.

Enbridge Gas also committed to file additional reporting items in the next proceeding in which it seeks to clear a UFG account. In addition, Enbridge Gas made certain commitments to Indigenous stakeholders related to fugitive emissions.

As part of the settlement proposal, the parties also agreed to Enbridge Gas's Fugitive Emissions Measurement Plan, subject to certain modifications and additional commitments by Enbridge Gas. In its application, Enbridge Gas requested a new Fugitive Emissions Measurement Administration Deferral Account to record and recover incremental administrative costs, inclusive of costs, associated with the Fugitive Emissions Measurement Plan, with no limit on the costs that could be recorded or its duration. The incremental costs related to the implementation of measurement technologies, configuration of IT systems, incremental staffing, consulting support and other miscellaneous costs associated with methane measurement technologies and methodologies.<sup>5</sup>

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<sup>3</sup> The total net balance of all DVA balances requested for disposition, inclusive of interest to December 31, 2024, increased from a \$2.216 million credit to customers, to a \$9.416 million credit.

<sup>4</sup> Unaccounted for Gas Variance Account (EGD rate zone), Unaccounted for Gas Volume Deferral Account (Union Gas rate zone) and Unaccounted for Gas Price Variance Account (Union Gas rate zone)<sup>5</sup> Exhibit D, Tab 1, Attachment 2

<sup>5</sup> Exhibit D, Tab 1, Attachment 2

The parties agreed with Enbridge Gas's request for a new deferral account to fund a pilot program, subject to certain changes to both the funding and the nature of the expenditures. The parties agreed to a time-limited 2025 Fugitive Emissions Measurement Plan Pilot Deferral Account which would be capped at \$2.6 million. The parties agreed that the purpose of the account is to record the incremental costs associated with the implementation of the pilot program.

The parties also agreed on the \$800,000 budget for the Indigenous Working Group for 2025 as set out in the 2024 Indigenous Working Group Report filed by Enbridge Gas.

### 3.2 Responses to OEB's Concerns in Procedural Order No. 2

In Procedural Order No. 2, the OEB did not approve the settlement proposal as filed. The OEB indicated that it accepted the settled principal balances in 49 deferral and variance accounts with a total balance of \$2.068 million as of December 31, 2023 as a credit to ratepayers<sup>6</sup>, yet expressed concerns regarding the following aspects of the settlement proposal:

- **Scope:** The scope of the settlement proposal appears to exceed Enbridge Gas's requests for approval as stated in its application<sup>7</sup> and the OEB's [Notice of Application](#).
- **Incentive Rate-setting Mechanism (IRM) framework and term:** There are aspects of the settlement proposal with implications to the approved IRM framework during Enbridge Gas's 2024-2028 rate term.
- **Settled issue 5 – fugitive emissions measurement:** Implementing Enbridge Gas's proposed Fugitive Emissions Measurement Plan does not appear to be warranted at this time. The settlement appears based on the premise that the Plan would be accepted and implemented, as nine additional items and a pilot project were proposed.
- **Settled issue 5 – new deferral account:** Enbridge Gas's proposed deferral account as well as the settlement's pilot deferral account, do not appear to meet OEB criteria for establishing a new deferral account.
- **Settled issues 2c, 3q and 3r – interim disposition:** The OEB questions the basis for interim disposition of the three 2023 UFG account balances.

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<sup>6</sup> Settlement Proposal, Appendix A – Updated Balances of Deferral and Variance accounts

<sup>7</sup> Exhibit A, Tab 3 "2023 Deferral account disposition and earning sharing overview and approvals requested"

The OEB made provision for the continuation of the settlement conference. The parties participated in a one-day continuation of the settlement conference on February 4, 2025.

In their February 19, 2025 letter, the parties advised that they are of the view that the settlement proposal represents a fair, balanced solution to the various issues. They responded to the concerns expressed by the OEB in Procedural Order No. 2 and requested that the OEB reconsider the settlement proposal.

Key elements of the letter are discussed below.

### **Scope of the Settlement Proposal**

In Procedural Order No. 2, the OEB expressed its concern that the settlement proposal goes beyond the scope of the approvals sought in Enbridge Gas's application, specifically regarding the Fugitive Emissions Measurement Plan as originally proposed by Enbridge Gas. The parties disagreed and submitted that there is a fair linkage between the application and the settlement proposal, and that the proposal touches only on items addressed in the prefiled evidence. The settlement proposal includes a pilot project with an extended scope and reporting requirements but the parties consider it linked to the evidence and nature of the Fugitive Emissions Measurement Plan.

### **Fugitive Emissions Measurement Plan**

In Procedural Order No. 2, the OEB expressed concern regarding settled issue 5, indicating that the approval of the plan did not appear warranted at this time. The OEB also referenced the nine additional items and commitments proposed in the settlement.

The parties responded that in their view, the agreed-upon fugitive emissions investigation pilot may contribute to a better understanding of how fugitive emissions impact unexplained UFG. The parties acknowledged that the estimated cost to ratepayers of gas lost to known fugitive emissions was relatively modest for 2023, but some parties believe that fugitive emissions may also be a component of the large proportion of UFG that is unexplained.

The letter reiterated that the parties are not proposing to implement the full Fugitive Emissions Measurement Plan as proposed in the application. The parties agreed that there is benefit to understanding how fugitive emissions measurement can be improved. The parties agreed to a \$2.6 million funding limit and reiterated that incremental funding would require OEB review and approval.



## Enbridge Gas Approved IRM Framework

The parties acknowledged that it is unusual for a proceeding dealing with outcomes from one incentive rate period to impact the next incentive rate period, but the parties do not believe this is improper here.

The OEB-approved settlement proposal in Phase 1 of the Enbridge Gas 2024 rebasing proceeding<sup>8</sup> contemplated Enbridge Gas presenting a Fugitive Emissions Measurement Plan in the 2023 DVA Application, as it was the first available adjudicated filing after Enbridge Gas developed the plan. The parties view the OEB's approval of the Phase 1 settlement proposal as a signal that the plan could be reviewed in this case. The inclusion was not intended to introduce new projects for the 2024-2028 IRM term, but rather to address an issue raised in the Phase 1 rebasing proceeding.

## New Deferral Account

The settlement proposal reflects a Fugitive Emissions Measurement Plan Pilot deferral account that changed what was initially requested by Enbridge Gas.<sup>9</sup> The deferral account would have a \$2.6 million cap, a duration until the end of 2025 and a narrowed scope with only expenditures related to the pilot project. The parties' view is that these funding limits are a compromise protecting ratepayers while recognizing that Enbridge Gas is not otherwise funded for this pilot project.

The parties recognized that the cost limit is below the \$3 million materiality threshold for establishing new DVAs during Enbridge Gas's 2024-2028 IRM term, established in Phase 2 of the Enbridge Gas 2024 rebasing proceeding. However, the parties stated that the settlement proposal in this proceeding was reached before a settlement was completed in Phase 2 of the rebasing proceeding and, therefore, parties did not know at that time that there would be a \$3 million materiality threshold. During the presentation day for the Phase 2 rebasing settlement proposal, Enbridge Gas clarified that the \$3 million materiality threshold was not intended to apply to the settlement proposal for the current DVA proceeding.<sup>10</sup> The parties' February 19<sup>th</sup> letter noted that no party to the Phase 2 rebasing settlement proposal disagreed with Enbridge Gas in that regard.

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<sup>8</sup> EB-2022-0200

<sup>9</sup> Enbridge Gas originally requested a new deferral account to record and recover incremental administrative costs associated with the Fugitive Emissions Investigation Plan, with no limit on the costs that could be recorded and its duration.

<sup>10</sup> EB-2024-0111, Motion Hearing and Presentation on Settlement Proposal Transcript, page. 78

### 3.3 Responses to OEB's Questions in Procedural Order No. 3

In Procedural Order No. 3, the OEB noted that it did not find the February 19<sup>th</sup> letter to be responsive to all of the OEB's concerns. The OEB provided parties with a further opportunity to respond to its concerns and set out a series of questions to which it requested the parties' written responses.

A summary of the parties' responses is set out below.

#### The OEB's Role

In Procedural Order No. 3, the OEB asked:

Please discuss the OEB's role in the regulation and measurement of fugitive emissions.

The parties acknowledged that the OEB does not directly regulate fugitive emissions but oversees rate recovery related to UFG. The parties agreed that fugitive emissions account for a portion of UFG but some parties believe there is uncertainty with reported fugitive volumes due to the lack of direct measurement. As part of the OEB-approved settlement proposal in Enbridge Gas's Phase 1 rebasing proceeding, the parties agreed that Enbridge Gas should develop a plan to accurately measure fugitive emissions. Enbridge Gas worked with Highwood Emissions Management Inc. to create a Fugitive Emissions Investigation Plan, which included a pilot to test mobile emissions measurement technology and develop company-specific emission factors.

The parties agreed that it is appropriate to implement the pilot in 2025, and that it could provide insight into the capability of fugitive emissions measurement technologies and determine if they can identify fugitive emissions as a source of UFG. The parties stated that this would be part of ongoing efforts to reduce UFG and its cost consequences which is within the OEB's role and mandate.

#### Need for the Pilot

In Procedural Order No. 3, the OEB asked:

Based on Enbridge Gas's current operations and regulatory requirements, please discuss the need to fund further study of fugitive emissions.

The parties responded that the potential link between fugitive emissions and UFG justifies proceeding with the initial pilot phase of the Fugitive Emissions Investigation

Plan. The parties do not believe there is a “need” for further study in the sense of it being mandatory for health or safety purposes. However, the parties believe the pilot could provide more accurate data, improving understanding of how fugitive emissions impact unexplained UFG and potentially reduce UFG costs. The parties have agreed that it is a reasonable use of ratepayer funds for Enbridge Gas to undertake a limited pilot project investigation related to fugitive emissions.

### **Timing of the Pilot**

In Procedural Order No. 3, the OEB asked:

Please discuss the timing of the pilot in 2025.

The parties noted that if the pilot were implemented after the next rebasing application, it would not be implemented until the vicinity of 2030. The parties do not see a benefit in delaying the potential learnings until that time and some parties believe that the investigation of fugitive emissions is an important issue that should not wait until after Enbridge Gas’s next rebasing application. The parties believe there is an appropriate balance reflected in the fact that only a limited pilot is being proposed at this time.

Enbridge Gas noted that the plan, which it originally assumed would be approved by the OEB by Q4 2024, will not be completed until the end of 2026, to coordinate with annual leak survey and other operational activities. Enbridge Gas stated that it anticipates most of the work would begin in late 2025 and continue into 2026, with the reporting to be included in its 2025 Deferral and Variance Account application.

With this assumed timing, Enbridge Gas requested that the Fugitive Emissions Measurement Plan Pilot Deferral Account be applicable from the date of the OEB’s decision on the settlement proposal until the end of 2026, with the maximum of \$2.6 million to be recorded remaining. The letter confirmed that no party disagreed with Enbridge Gas’s request.

### **Costs and Benefits**

In Procedural Order No. 3, the OEB asked:

Given that fugitive emissions are but one component of UFG, please discuss how the measurement of fugitive emissions as outlined in the investigation plan will reduce the cost of UFG for customers or benefit customers.

The parties acknowledged that there is no guarantee that the plan will result in lower UFG volumes and costs for customers but that it is expected that learnings will occur as a result of the plan to inform future actions. The parties noted that the pilot may lead to advanced technologies for measuring fugitive emissions which can help determine if fugitive emissions are a source of UFG requiring more attention. The parties noted that in this event, there could be a reduction in UFG costs.

If the pilot does not lead to broader implementation of advanced technologies to measure fugitive emissions, the parties believe it could still benefit customers because Enbridge Gas and stakeholders will have gained information from the pilot and can focus their attention elsewhere.

## 4 FINDINGS

The OEB does not approve the settlement proposal. At this time, the OEB is not satisfied that the parties have addressed the concerns identified in Procedural Orders Nos. 2 and 3. For the reasons discussed below, the OEB remains concerned about the proposed new 2025 Fugitive Emissions Measurement Plan Pilot Deferral Account.

The OEB is not satisfied at this time that establishing a deferral account with a \$2.6 million budget is consistent with the OEB's DVA policy and with Enbridge Gas's approved 2025-2028 IRM Framework.

The OEB identified its concerns with the settlement proposal and provided two opportunities for parties to the settlement to respond to those concerns. The OEB has considered the responses and finds the responses do not adequately address the OEB's specific concerns regarding DVA policy and the IRM Framework.

The parties described the settlement as a "creative solution" to reconcile diverse interests<sup>11</sup>. Further, the parties believed the OEB's review of a settlement proposal is more of an overall review and less of an item-by-item review of the individual provisions<sup>12</sup>. The OEB disagrees. The overall settlement proposal is equal to the sum of its parts. Specific terms within a settlement proposal should not override policy or establish policy exceptions without due consideration by the OEB in assessing the public interest.

As noted above, the settlement proposal was subject to the condition that if it was not accepted by the OEB in its entirety, then unless amended by the parties, it was null and void and of no further effect. In rejecting the settlement proposal, the OEB now considers all elements of the proposal null and void.

The OEB is making provision for the filing of written submissions on the approvals sought in Enbridge Gas's application. The OEB wants to provide each party and OEB staff with a full opportunity to be heard in this proceeding.

At page 5 of their March 18, 2025 letter, the parties stated:

The parties ask that the OEB approve the Settlement Proposal. However, if the OEB declines to approve the Settlement Proposal and refers the application back to the parties for further settlement discussions with the potential for later

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<sup>11</sup> Enbridge Gas letter, February 19, 2025

<sup>12</sup> Enbridge Gas letter, March 18, 2025

adjudication where there is no settlement, then we ask that the OEB not make any findings regarding issues that may be in dispute between the parties. This letter and our letter of February 19, 2025, were the result of negotiations between the parties. The letters are not equivalent to submissions and they do not contain many of the arguments and references to the evidence that various parties would rely on if this proceeding were to be adjudicated. If some or all of the matters at issue in this application proceed to a hearing, then it is important that parties be able to bring forward arguments and evidence references supporting their position without concern that decisions on key issues have already been made.

The OEB does not find it procedurally efficient to reconvene the settlement conference once again. The OEB has not yet made a determination on the matters that are the subject of this proceeding, although it does have concerns with the settlement proposal, and the OEB has articulated those concerns below. The OEB expects that OEB staff and the parties will address these concerns in their written submissions as part of their broader submissions on the application. The OEB also expects that the parties will advise in their submissions as to those matters on which they remain in agreement, including Enbridge Gas in its argument-in-chief.

### **DVA Policy**

The settlement proposed a new Fugitive Emissions Measurement Plan Pilot Deferral Account to track the costs of implementing a fugitive emissions measurement pilot project.

The DVA policy has three criteria for establishing a new deferral account<sup>13</sup>:

**Causation** – The forecasted expense must be clearly outside of the base upon which rates were derived

**Materiality** – The forecasted amounts must exceed the OEB-defined materiality threshold and have a significant influence on the operation of the distributor, otherwise they must be expensed in the normal course and addressed through organizational productivity improvements.

**Prudence** – The nature of the costs and forecasted quantum must be reasonably incurred although the final determination of prudence will be made at the time of disposition. In terms of the quantum, this means that the applicant must provide

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<sup>13</sup> Filing Requirements for Natural Gas Rate Applications, February 16, 2017, p.38.

evidence demonstrating as to why the option selected represents a cost-effective option (not necessarily least initial cost) for ratepayers

Consistency and predictability are important ratemaking considerations for the OEB. While other OEB panels are not bound by decisions in other proceedings, the OEB is concerned that granting approval to a deferral account that does not meet these criteria may be seen by future applicants as an indication that these criteria are merely suggestions. Specifically for Enbridge Gas, a precedent could be established applicable to its IRM framework and term.

The OEB is concerned that the proposed new Fugitive Emissions Measurement Plan Pilot Deferral Account with an expenditure cap of \$2.6 million does not meet the materiality and prudence criteria of the OEB's DVA policy.

### **Materiality**

In the context of the approved 2024 OM&A budget of \$821 million, it does not appear to the OEB that an expense of \$2.6 million or 0.32% would have a significant influence on the operation of the distributor.

Procedural Order No. 2 identified the OEB's concern regarding the DVA policy, specifically the materiality criterion. The OEB finds that the parties' response letter of February 19, 2025 did not sufficiently address the OEB's concerns regarding significant influence, to justify an exception to the DVA policy, but the OEB will consider further submissions in this regard.

### **Enbridge Gas's approved IRM Framework**

The OEB is concerned that the proposed Fugitive Emissions Measurement Plan Pilot Deferral Account appears to be contrary to the IRM Framework approved in the Phase 2 rebasing proceeding on November 29, 2024. Enbridge Gas's approved IRM Framework includes the following settled issue:

#### **Settled Issue 1h:**

- For the establishment of a new deferral and variance account, a \$3 million annual revenue requirement materiality threshold will apply.
- This threshold will not impact currently established accounts, nor does it represent a deadband that must be reached before amounts can be recorded into or disbursed from a new account.

The proposed Fugitive Emissions Measurement Plan Pilot Deferral Account for 2025 with an expense cap of \$2.6 million would not meet the \$3 million revenue requirement threshold to apply for a new DVA in accordance with Settled Issue 1h. The capped budget of \$2.6 million in 2025 is less than the \$3 million revenue requirement threshold for any new DVA applicable to the 2025-2028 IRM term.

In its Decision on the Settlement Proposal and Procedural Order No. 2, the OEB acknowledged the concurrent proceedings and indicated its concerns regarding a potential conflict in the two settlement proposals filed three weeks apart<sup>14</sup>. The DVA settlement conference began on September 16, 2024 and the settlement proposal was filed on October 10, 2024. The Phase 2 rebasing settlement conference began on September 10, 2024 and the settlement proposal was filed on November 4, 2024.

Parties responded to the OEB's concerns in the letter of February 19, 2025, explaining "this Settlement Proposal was reached before the settlement in Phase 2 rebasing was completed, and as a result the parties did not know, at the time, that there would be a \$3 million materiality threshold for new accounts."

Despite what negotiating parties knew when the DVA settlement was filed, they knew the DVA settlement was not approved when the Phase 2 rebasing settlement was filed, and the 11 intervenors that were parties to the DVA settlement were a subset of the 21 intervenors that were parties to the Phase 2 Rebasing settlement.

The OEB disagrees with the suggestion that the unapproved DVA settlement should somehow prevail or be grandfathered based on relative filing dates. The OEB finds the approval of the Phase 2 rebasing settlement on November 29, 2024 to be the important date as it established the legally binding 2025-2028 IRM Framework for Enbridge Gas.

There was no timing mishap such that the IRM Framework for 2025-2028 was approved first. The Phase 2 rebasing panel was alive to the potential conflict between the budget cap and the revenue requirement threshold in the concurrent proceedings as evidenced on Presentation Day<sup>15</sup>.

Further, the Phase 2 rebasing decision indicated: "Based on the answers to the OEB's questions during Presentation Day, the OEB understands that the proposal is that Enbridge Gas will not seek approval to establish new deferral and variance accounts that do not meet the proposed materiality threshold. Nothing in the proposal requires the OEB to approve any new deferral and variance accounts under this section of the

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<sup>14</sup> Decision on Settlement Proposal and Procedural Order No. 2, January 28, 2025

<sup>15</sup> EB-2024-0111, Motion Hearing and Presentation on Settlement Proposal Transcript, pp. 77-79



settlement proposal.”<sup>16</sup> These findings are part of OEB’s reasons for approving the settlement proposal.

The decision also emphasizes ratemaking consistency and the IRM concept within which any new deferral account must be considered by the OEB. The OEB was, and remains, concerned with adding DVAs during the 2025 to 2028 rate term that were not anticipated when the IRM framework was approved.”<sup>17</sup>

In summary, the OEB will consider Enbridge Gas’s proposed account in its application in the context of Enbridge Gas’s approved 2025-2028 IRM Framework. The OEB expects the parties to address this in their submissions.

## **Prudence**

The OEB relies on the evidence filed to make its decisions. The evidence indicates that Enbridge Gas’s current leak survey program is compliant with regulatory requirements, and it applies industry-standard methods.<sup>18</sup> Enbridge Gas indicated that it operates within more stringent internal measurement error tolerances than those established by Measurement Canada.

Specifically, Enbridge Gas operates within +/- 1% as compared to Measurement Canada’s requirement of a +/- 3%<sup>19</sup> range. Enbridge Gas has described its own Plan as going “above and beyond current regulatory requirements and standard practices”<sup>20</sup> and at a potential cost to ratepayers.

Regarding the prudence criteria, there is no evidence indicating that the pilot is needed or is a cost-effective option. The parties acknowledged that there is no “need” for further study in the sense of it being mandatory of something that must be done for health and safety purposes<sup>21</sup>. The parties also acknowledge that there is no guarantee that the investigation plan will ultimately reduce UFG costs for customers<sup>22</sup>. As a result, the OEB cannot conclude at this time that the pilot is cost effective.

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<sup>16</sup> EB-2024-0111, Decision on Settlement Proposal and Interim Rate Order, November 29, 2024, page 11

<sup>17</sup> EB-2024-0111, Decision on Settlement Proposal and Interim Rate Order, November 29, 2024, pp. 11-12

<sup>18</sup> Exhibit 1. EP-12

<sup>19</sup> Exhibit 1. STAFF-7

<sup>20</sup> *Ibid*

<sup>21</sup> Enbridge Gas letter, March 18, 2025, page 3

<sup>22</sup> Enbridge Gas letter, March 18, 2025, page 4

### **Options available to Enbridge Gas during its IRM term**

The DVA policy stipulates that in the absence of a DVA, amounts must be expensed in the normal course and addressed through organizational productivity improvements. This is because the DVA policy is integral to the OEB's incentive ratemaking framework under which all utilities under IRM are regulated.

The OEB's rate setting policy is set out in the "*Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach*" (RRF) and the "*Handbook for Rate Applications*" (Rate Handbook). The RRF provides the distributor with performance-based rate application options that support the cost-effective planning and efficient operation of a distribution network.

In Procedural Order No. 2, the OEB indicated that the approved IRM framework includes explicit financial incentives, budget caps, and Y-factor provisions that, among other things, provide rate predictability for customers.

Consistent with incentive ratemaking, Enbridge Gas could finance new initiatives within its IRM framework, absent potential incremental funding through a new deferral account. The OEB expects parties in submission to address the options available for new initiatives within Enbridge Gas's approved IRM Framework.

### **Next Procedural Steps**

The OEB is providing for the filing of written submissions on the approvals sought in Enbridge Gas's application. The evidentiary basis for submissions includes the application and interrogatory responses, subject to any updates as filed on the record of this proceeding.

To assist with the structure of written submissions, parties may refer to the list of OEB approvals sought in Enbridge Gas's application Exhibit A, Tab 3, items #1 to 13.

## 5 ORDER

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas's argument-in-chief shall be filed with the OEB and served on all parties by **June 17, 2025**.
2. Any written submissions from OEB staff and intervenors shall be filed with the OEB and served on all parties by **July 2, 2025**.
3. Any written reply submission from Enbridge Gas shall be filed with the OEB and served on all parties by **July 16, 2025**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2024-0125** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact [registrar@oeb.ca](mailto:registrar@oeb.ca) for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-888-632-6273 (Toll-Free)

**DATED** at Toronto, **May 27, 2025**

**ONTARIO ENERGY BOARD**

Ritchie Murray  
Acting Registrar