BY EMAIL and RESS

Mark Rubenstein
mark@shepherdrubenstein.com
Dir. 647-483-0113

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

July 2, 2025
Our File: EB20240125

Attn: Ritchie Murray, Acting Registrar

Dear Mr. Murray:

Re: EB-2024-0125 – Enbridge Gas Inc. 2023 ESM/DVA – SEC Submissions

We are counsel to the School Energy Coalition ("SEC"). Pursuant to Procedural Order No. 4, these are SEC's submissions on the application by Enbridge Gas Inc. ("Enbridge") for disposition of various deferral and variance accounts (DVAs) for the 2023 calendar year. SEC has limited its submissions to the Getting Ontario Connected Act Variance Account ("GOCA VA").

In its Argument-in-Chief, Enbridge has withdrawn its request for the establishment of a Fugitive Emissions Measurement Plan Deferral Account ("FEMP DA") and has decided not to proceed with the initiatives included in its Fugitive Emissions Measurement Plan ("FEMP"). As a result, SEC is not providing submissions on the FEMP DA or the FEMP as outlined in the pre-filed evidence. However, SEC notes that while it believes reducing fugitive emissions should be an important goal for Enbridge, and that the company can do more in that regard, it has significant concerns with the scope of the initial proposals, including both the proposed FEMP DA and the broader work contemplated under the FEMP, beyond the pilot. If the OEB considers approving the FEMP more broadly or the FEMP DA as a result of arguments filed by another party, it should request further submissions.

GOCA VA

As a result of the passage of Bill 93, the *Getting Ontario Connected Act* ("GOCA"), and at the request of several large utilities including Enbridge, the OEB approved a new generic variance account to record incremental costs arising from the new legislation and its implementation. The legislation includes amendments to the *Underground Infrastructure Notification System Act, 2012*, imposing new deadlines for standard locate requests that utilities, including Enbridge, are now required to meet.[1]

Enbridge seeks disposition of a principal balance of approximately $31.9M for 2023 costs beginning April 1st, the effective date of the account.[2] SEC submits that the OEB should approve only $14.45M.

---

[1] C-1, p.28, *Decision and Order* (EB-2023-0143), October 31, 2023, p.2
[2] C-1-1, p.28

Enbridge has treated the GOCA VA as a true-up account for all cost differences related to locate activities since 2021, over and above the annual I-X adjustment. In addition, Enbridge has inappropriately included cost increases in a related category, vital main standby ("VMS"), which is not impacted by the new requirements introduced by GOCA.

The OEB's approval of the GOCA VA was clear that it was a "necessity for utilities to demonstrate that recorded amounts in their accounts are both incremental to the base rates and are a direct result of Bill 93."[emphasis added].[3] This language is included in the relevant Gas Accounting Order.[4] This is consistent with the purpose of the account, which was never intended to be a locate cost true-up account, but rather one specifically directed at costs resulting from GOCA. In contrast, Enbridge's position is that any cost increase above the OEB's approved PCI adjustment is a result of Bill 93.[5]

Locate Costs. Enbridge seeks recovery of $28.9M for incremental locate costs.[6] It attributes the higher per-locate costs to GOCA, asserting that it has necessitated the employment of more locate professionals by its locate service providers ("LSP"), thereby driving up wages. SEC acknowledges that, directionally, GOCA may require more locate professionals and that this could place upward pressure on wages. However, there is no evidence that the entirety of the cost increase is due solely to wage increases, or more importantly, that the entirety of the wage increases is directly attributable to GOCA. Enbridge's has the onus to demonstrate that.[7]

While Enbridge's locate costs may have increased by 111% between 2021 and 2023, it has provided no evidence demonstrating that this increase is entirely the result of GOCA.

The only evidence offered of a direct relationship between cost increases and GOCA appears to be Enbridge's suggestion that, in 2022, when GOCA was introduced and passed, there was a coinciding round of LSP union negotiations, during which labour rates increased significantly to reflect new industry skill set requirements and to attract/retain more specialized talent.[8] However, no evidence has been provided regarding the specific timing of those union agreements relative to the passage of Bill 93, nor any information showing that this was not merely a contributing factor, but the sole or dominant driver of increased rates. It clearly was not.[9]

If the drivers of the changes labour agreements and cost increases were well understood in 2022, Enbridge would not have had to seek a related variance account for 2024 costs as part of its Phase 1 rebasing application, which was filed at the end of that year.

SEC submits that the cost increases are more likely due to a confluence of factors, with GOCA being only one of them. Other contributors may include normal union wage growth over the period, broader labour market competition unrelated to Bill 93, and a general increase in locate activity due to other provincial policies, including those related to housing, transportation, and broadband infrastructure construction.

---

[3] *Decision and Order* (EB-2023-0143), October 31, 2023, p.7
[4] *Decision and Order* (EB-2023-0143), October 31, 2023, Schedule B
[5] Interrogatory Response SEC-3e
[6] C-1, p.27
[7] In addition to the OEB's direction in EB-2023-0143, this is a requirement under the *Ontario Energy Board Act*, section 36(6).
[8] C-1, p.25
[9] See EB-2022-0200, Exhibit 9-3-1, p.8-11

Considering Enbridge's lack of evidence, attributing how much of the cost increase is directly caused by GOCA, and what is not, cannot be done with any precision. On that basis, SEC submits that attributing 50% of the cost increase directly to GOCA is more reasonable, if not generous. This would result in a recovery from ratepayers of $14.45M.

VMS Costs. Not only does Enbridge seek recovery of increased costs per locate, but it also seeks $3 million to reflect increased costs in its VMS program, which it describes as a "locate-related service."[10] The VMS program involves having a resource onsite during third-party excavations near high-risk assets.[11]

Enbridge's VMS costs have increased because it contracts out this activity to the LSPs used for regular locate services. As the cost of those LSP contracts has increased, so too have the costs of the VMS program.

However, unlike locates, GOCA has no impact on VMS activities. It does not regulate timelines or require changes to VMS practices or activities. At best, the cost per VMS activity (measured per hour) is only indirectly impacted by GOCA. The GOCA VA was explicitly not intended to capture these types of indirect costs. Moreover, Enbridge did not raise VMS-related costs in the 100 pages of supporting evidence filed in the proceeding that approved the account.[12]

Moreover, while Enbridge may choose to undertake its VMS activities using LSPs, that is not a legal requirement or industry standard. VMS involves supervision of certain excavation activities. Enbridge should and could have moved away from using LSP and instead use another method. Considering the cost increase it clearly appears imprudent not to have done so. SEC submits the OEB should disallow the $3M related to VMS costs.[13]

Summary. SEC submits that only $14.45M of the proposed $31.9M GOCA VA amounts should be approved for disposition. Enbridge has not demonstrated the remaining costs, including all those related to VMS, are directly attributable to GOCA.

		GOVA VA Summary	
	Enbridge Application	SEC Proposal	Rationale
Locates ($M)	28.9	14.45	Only 50% directly attributale to GOCA
VMS ($M)	3.0	0.0	VMS not directly impacted By GOCA
Total ($M)	**31.9**	**14.45**	

Yours very truly,
Shepherd Rubenstein P.C.

Mark Rubenstein

[10] C-1, p.24
[11] Interrogatory Response EP-8a
[12] See EB-2023-0143, Enbridge Gas Compendium of Supporting Evidence, July 25, 2023
[13] C-1, p.28

cc: Brian McKay, SEC (by email)
Applicant and intervenors (by email)