

**ONTARIO ENERGY BOARD**

**Enbridge Gas Inc.  
2023 Utility Earnings and Disposition of  
Deferral & Variance Accounts**

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**POLLUTION PROBE SUBMISSION**

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**Consultant for Pollution Probe**

Enbridge Gas Inc. (Enbridge) 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. In accordance with the timelines prescribed by the OEB, Enbridge included in its application:

- the IRP Annual Report,
- annual IRP Technical Working Group Report, and
- the Indigenous Working Group Report.

Although there is a partial linkage between accounts requested to be cleared in this proceeding and Enbridge's Integrated Resource Plan (IRP) activities, the annual reports required to be filed for IRP and Indigenous coordination align with broader regulatory requirements and are not constrained to the review and numerical reconciliation of the 2023 accounts put forward for clearance.

Pollution Probe understands that the OEB is interested in a streamlined approach for annual account clearance and it is not clear why regulatory requirements for filing and review of the annual IRP and Indigenous reports have been consolidated by the OEB in the annual DVA and earning sharing clearance proceeding. Review and consideration of those types of annual reports relate more typically with rates case proceedings and perhaps that is where the OEB typically expects a more detailed review of those annual reports. Given that the annual DVA and earning sharing clearance proceeding focuses primarily on the accounts listed for proposed clearance, it is recommended that it be noted in the Decision so that stakeholders do not assume that a detailed compliance review has been completed in this proceeding for the IRP or Indigenous annual reports. This would also provide clarity between the review undertaken by the OEB Panel in this proceeding in comparison to the reviews undertaken by the OEB in other proceedings, such as the Rebasing proceedings<sup>1</sup>. The OEB may also wish to transfer the filing requirement of those annual reports to the annual rates case instead of the DVA and earning sharing annual account proceeding.

Parties to this proceeding attended a Settlement Conference which ultimately resulted in a full settlement proposal. The OEB requested additional details which were provided by the parties. Significant effort was extended by parties participating in the settlement process to put forward a balanced and fair settlement proposal that enabled all parties to accept, while also providing sufficient evidentiary and informational support for the OEB. The parties also took a best effort approach to provide supplemental information to the OEB in support of the Settlement Proposal. Although it appears that the OEB

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<sup>1</sup> Including EB-2024-0111 and EB-2025-0064.

Panel was generally in favour of the Settlement Proposal, the OEB ultimately rejected the Settlement Proposal. It appears that the OEB Panel may not be in favour of including the specific pilot program related to Enbridge's Fugitive Emissions Measurement Plan or that the Panel may not believe the OEB has the ability to put in place the related account that was initially requested by Enbridge. Procedural Order No. 2 suggested that the Settlement Proposal goes beyond the scope of the approvals sought in Enbridge application, specifically regarding the Fugitive Emissions Measurement Plan. The parties to the Settlement Proposal indicated that the proposed actions related to the Fugitive Emissions Plan were in scope based on their assessment. Limiting the OEB's authority in a proceeding to what Enbridge has requested in its application does not align with Pollution Probe's understanding of the OEB's authority and seems to vary from the approach in other proceedings, including those with OEB approved settlement agreements. It appears that this was an OEB Panel decision specifically related to this annual account clearance proceeding and not meant to be the basis of a general precedent going forward.

Settlement agreements submitted to the OEB are typically a logical package of trade-offs that parties believe are reasonable and enable some or all parties to sign on to the settlement. It appears that there may be considerations being applied in this proceeding by the OEB which is not visible or known to the parties that participated in the settlement process. Pollution Probe suggests that parties did their best in responsible participating in the settlement process and it was ultimately not possible to submit a complete settlement proposal to the OEB that included an 'a la carte' approach and excluded progress associated with Enbridge's Fugitive Emissions Measurement Plan.

Pollution Probe suggests that the Settlement Proposal filed by the parties represents the best holistic option to provided a balanced outcome in the public interest. Evidence details and references have already been submitted to the OEB and are not duplicated again in this submission. This approach already embeds reasonable trade-offs, particularly given the uncertainty and over estimation included in several of the accounts put forward by Enbridge for clearance. There is also incremental benefits that result from the specific wording against each issue in the Settlement Proposal. If the OEB uses this approach, it is important to include wording from the Settlement Proposal for each item in the OEB's Decision. For example, the proposed clearance of the Integrated Resource Planning (IRP) Operating Costs Deferral Account does not suggest that the project costs included in that account reflect a project that delivers the IRP benefits intended by the OEB in the IRP or to represent on a go-forward basis. The detailed basis of this project resulted in asking for customer confirmation of future gas demand which resulted in the project no longer being required. Some proactive activities were undertaken by Enbridge to initiative a short-term alternative, which were ultimately not required on the customer forecast was validated. Any interpretation of an OEB Decision

that considers that the East Kingston project represents a typical IRP project would result in a watering down of the current OEB requirements. A detailed assessment of the East Kingston project would require additional activities that have not been done in this proceeding and are more appropriately included in the Rebasing proceeding<sup>2</sup>. Given the limited progress on IRP that the OEB is already ware of (and is being assessed through other proceedings), Pollution Probe is supportive of the OEB enabling Enbridge to clear those costs on a non prejudicial basis, since it is important to incent Enbridge to advance more IRP. This will also enable this issue to be more appropriately assessed in the other proceedings, including Rebasing Phase 3<sup>3</sup>.

The settlement process is an important component of this proceeding and the Settlement Proposal and subsequent correspondence to the OEB provide the evidentiary references and basis to why each component is reasonable for the OEB to accept. Although parties to the Settlement Proposal were not in a position to propose an 'a la carte' set of options to the OEB, the OEB Panel does have the ability to accept the Settlement Proposal with an adjustment to any specific item if the OEB Panel believes that there is a basis for doing so. It was unclear if the basis for the OEB Panel to reject the proposed settlement terms related to the Fugitive Emissions Measurement Plan would enable the Panel to determine that the Settlement Proposal was in the public interest, with an adjustment to the item related to the Fugitive Emissions Measurement Plan. Pollution Probe suggests that the trade-offs that are publicly visible in the Settlement Proposal and subsequent OEB correspondence submitted to the OEB represent a logical set of trade-offs that the OEB could arrive at based on the public information available in this proceeding. The OEB could adopt the Settlement Proposal and make adjustments to Fugitive Emissions Measurement Plan based on submissions for that topic.

Pollution Probe requests that the OEB provide some clarity in its Decision on why it seemed in favour of the Settlement Proposal (or at least some elements of it), but was not able to accept it. This is particularly important and valuable if it informs stakeholders on a go forward basis. Pollution Probe surmises that the OEB may be attempting to restrict issues in the annual DVA and earnings sharing account clearance to a numerical reconciliation exercise rather than a more robust consideration of the related issues. This would make sense if the annual DVA and earnings sharing clearance applications only pertained to an annual mathematical reconciliation and clearance of account. As noted above, the application included other important compliance reports and even for the accounts included, those accounts pertain to an underlying forecast and impact, which is much larger than the variance captured in the accounts. If the OEB remains silent on evidence filed related to IRP and Indigenous requirements, is it proper

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<sup>2</sup> The OEB approved Settlement Agreement in EB-2024-0111 deferred assessment of IRP to EB-2025-0064.

<sup>3</sup> EB-2025-0064.

for a party to interpret that the OEB accepted those reports and implicitly endorses them. Silence has been suggested to represent OEB implicit endorsement, rightly or wrongly. These types of issues could also pertain to the OEB's position on previous and current commitment related to Enbridge's Fugitive Emissions Plan.

Pollution Probe is supportive of a pilot to advance Enbridge's Fugitive Emissions Measurement Plan, particularly a pilot which enables Enbridge to provide current and detailed information that would inform the most appropriate path to consider cost-effective options to mitigate fugitive emissions. The requirement for Enbridge to advance investigation and action to reduce emissions exists even if an additional deferral account is not granted to Enbridge.

In an annual account clearance proceeding, the OEB typically only looks at the variance against budget which is not representative of the full ratepayer and societal impact related to fugitive emissions. Enbridge has indicated that the unaccounted for gas (UFG) has an annual impact in the range of \$10 million to \$40 million<sup>4</sup>. Variance from the estimate does not represent the actual full impact of UFG. Pollution Probe is aware that Environmental Defence intends to highlight the historical commitments and requirements for Enbridge to evaluate and reduce UFG and the associated benefits. Therefore, Pollution Probe has avoided duplicating those additional details in this submission. Given the current policy environment which the OEB and Enbridge operate, it is important to also recognise that this issue is more relevant than ever before. One of the four key principles announced in the recently released Ontario energy plan is related to reducing energy system emissions<sup>5</sup>. Natural gas is noted as a current energy source currently being used directly and indirectly (e.g. natural gas generation) in Ontario. Understanding and reducing fugitive emissions is directly linked to Ontario's energy supply emissions and current Ontario policy direction.

To the extent that the OEB has a specific regulatory limitation or, if there is a new policy at the OEB that excludes the ability for the Panel to consider the item related to advancing Enbridge's Fugitive Emissions Measurement Plan in this proceeding, clarity for stakeholder on how to address this issue would be helpful. If the OEB defers advancement of Enbridge's Fugitive Emissions Measurement Plan to a future proceeding, it would be helpful to understand which proceeding the OEB Panel believes would be the best placed to advance this issue.

Notwithstanding the information and recommendations above, Pollution Probe notes that the Getting Ontario Connected Act ("GOCA") Variance Account amounts as requested by Enbridge would represent clearance of some amounts that were already


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<sup>4</sup> EB-2024-0125, Exhibit I.ED-4, Attachment 2.

<sup>5</sup> [Energy for Generations | ontario.ca](https://www.energy.gov.on.ca/en/energy-for-generations)

included in base rates. Clearance of those account as requested by Enbridge would result in double payment for those costs. The reduction noted in the Settlement Proposal was a compromise directional reflection to reduce the double payment, but was balanced off against other items in the Settlement Proposal, as the OEB is aware. If this account is to be assessed individually without the trade-offs related to any of the other issues in this proceeding, the amount to be cleared should actually lower than the \$25 million included in the Settlement Proposal. Pollution Probe is aware that the details are being included in another submission which would reduce the GOCA VA amounts to a range closer to \$15 million. Based on the information shared by the coordinating stakeholders, Pollution Probe believes that range is more appropriate if the issue is considered in a discrete manner.

Respectfully submitted on behalf of Pollution Probe.

A handwritten signature in black ink, appearing to read "Mike Brophy", is written over a horizontal line.

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