

# Elson Advocacy

March 9, 2026

**Ritchie Murray**

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

Dear Mr. Murray:

**Re: Enbridge Gas 2027-2030 Demand Side Management Plan  
EB-2025-0295**

I am writing on behalf of Environmental Defence Canada (“Environmental Defence”) and the Green Energy Coalition (“GEC”) to make initial submissions pursuant to the OEB’s letter of March 5, 2026, on whether the draft issues list should be amended to exclude the question of whether and how the carbon-reduction benefits of energy efficiency should be appropriately considered in gas energy efficiency investment planning.

**Covered by draft issues list**

The degree to which the carbon-reduction benefits of energy efficiency should be accounted for in cost-effectiveness testing is already covered by the draft issues list, including issues 2 and 3. Draft issue 3 reads as follows: “Does Enbridge Gas’s 2027-2030 DSM Plan adequately respond to previous OEB direction and guidance on future DSM activities, including the OEB’s DSM Framework?” Appropriate consideration of an economic cost of carbon in cost-effectiveness testing is clearly included in this issue as this was directed by the OEB in its recent November 6, 2025, decision, which read as follows:

As part of its updated 2027+ multi-year DSM plan application, Enbridge Gas Inc. shall include the following:

- a) In its evidence on cost-effectiveness, Enbridge Gas shall address how the economic cost of carbon should be reflected in the TRC-Plus analysis of the programs it will propose in its upcoming updated DSM plan application with full supporting rationale.

Issue 2 reads as follow: “Does Enbridge Gas’s 2027-2030 DSM Plan adequately support energy conservation, energy efficiency, and integrated planning in accordance with the policies of the Government of Ontario, including having regard to the economic circumstances of consumers and Indigenous communities?” Environmental Defence and GEC intend to establish that consistency with the Integrated Energy Plan requires considering and accounting for the carbon-reduction benefits of energy efficiency in energy efficiency investment planning and allocation decisions. This is necessary to meet the government’s goals of (a) affordable energy, (b) clean energy, and (c) integrated gas-electric planning.

Affordable energy requires appropriate consideration of carbon-reduction benefits in energy efficiency investment planning as this is necessary to help ensure that the most cost-effective means of reducing carbon emissions are pursued. If the carbon-reduction benefits of energy efficiency are ignored, resulting in underinvestment in gas energy efficiency, there is a risk that Ontario will need to invest in other, more costly carbon-reduction measures, increasing overall costs for Ontarians, either now or in the not-so-distant future.

Clean energy requires appropriate consideration of carbon-reduction benefits in energy efficiency investment planning because disregarding these benefits could lead to both underinvestment in energy efficiency and misallocation between different efficiency programs. Ignoring carbon-reduction benefits is incorrect because it assumes those benefits are worth \$0, which is not true.

Integrated gas-electric planning requires appropriate consideration of carbon-reduction benefits to ensure optimized decision-making as between the two sectors. For instance, Ontario is investing huge amounts into nuclear power, in part on the basis that it does not rely on fossil fuel combustion. It would be inconsistent to spend significant sums to reduce carbon emissions in the electricity generation sector while completely disregarding carbon-reduction benefits when deciding how much to invest in gas energy efficiency and how to best allocate gas energy efficiency investments.

We are not seeking to convince the OEB of the above points at this stage. We are simply illustrating how the appropriate treatment of carbon-reduction benefits is a topic that is already encapsulated by multiple issues on the draft issues list, including issues 2 and 3.

### **Pre-scoping is premature**

Enbridge's efforts to scope out questions around the appropriate accounting of carbon-reduction benefits are inappropriate. If the OEB were to limit the scope at this stage, it would in effect accept Enbridge's position without hearing evidence and full submissions on the topic. The OEB will be in a much better position to decide on the issue at the conclusion of this hearing as the OEB will benefit from a full exploration of the topic through interrogatories, expert evidence, and detailed submissions.

Environmental Defence and the GEC will seek to include this topic in its expert evidence proposal. This will include, for example, evidence regarding the treatment of carbon-reduction benefits in energy efficiency investment planning in other jurisdictions. It will also involve expert economist evidence differentiating between a carbon tax/price and the practice of accounting for the carbon-reduction benefits in energy efficiency investment planning processes.

Although the parties are making submissions on this issue today and on Thursday, they will be far less comprehensive than what can be expected at the conclusion of the hearing in this matter. For instance, the parties were made aware three business days ago that the OEB would be accepting Enbridge's request to consider pre-determining this issue prior to the full hearing. This was not expected by some, in light of the draft issues list and the direction given to the OEB in the November 6, 2025 decision regarding appropriate consideration of carbon-reduction benefits.

Additional time, interrogatory responses, hearing testimony, and expert evidence will all result in much more meaningful materials for the OEB to consider on this important topic compared to what is available today.

## **Jurisdiction**

Enbridge argues that the OEB does not have the jurisdiction to account for carbon-reduction benefits in gas energy efficiency investment planning. That is entirely incorrect, and an inappropriate basis on which to scope out the question on a preliminary basis.

Although it is not entirely clear, Enbridge’s argument appears to be based on (a) the overall scope of OEB jurisdiction and (b) the *Protecting Against Carbon Taxes Act, 2024*, S.O. 2024. Although this jurisdictional issue can and should be addressed at the conclusion of this hearing on the basis of a full record and full submissions, we will address it now on a preliminary basis.

The OEB’s jurisdiction is wide, and certainly includes the ability to account for carbon-reduction benefits (and many other kinds of benefits) in energy efficiency investment planning process (and many other kinds of planning processes). This is clear from the Divisional Court decision in *Union Gas Ltd. v. Township of Dawn*, which stated as follows:

In my view this statute makes it crystal clear that all matters relating to or incidental to the production, distribution, transmission or storage of natural gas, including the setting of rates, location of lines and appurtenances, expropriation of necessary lands and easements, are under the exclusive jurisdiction of the Ontario Energy Board ...

These are all matters that are to be considered in the light of the general public interest and not local or parochial interests. The words "in the public interest" which appear, for example, in s. 40(8), s. 41(3) and s. 43(3), which I have quoted, would seem to leave no room for doubt that it is the broad public interest that must be served.<sup>1</sup>

The words of the Divisional Court are clear and expansive. The OEB has jurisdiction over “all matters relating to or incidental to” the distribution of gas. This clearly would include jurisdiction to determine the factors to consider when approving ratepayer-funded energy efficiency programs.

The Divisional Court also held that decisions are to be made “in the light of the general public interest.” Again, this is entirely inconsistent with Enbridge’s suggestion that consideration of certain public interest benefits are beyond the jurisdiction of the OEB.

The decision in *Union Gas Ltd. v. Township of Dawn* was made in 1977 and has been affirmed and relied on multiple times, including by the Court of Appeal<sup>2</sup>. In *Sudbury v. Union Gas Ltd.*, the Ontario Court of Appeal stated that “the Legislature has accorded to the OEB the widest powers to regulate the supply and distribution of natural gas in the public interest.”<sup>3</sup> All relevant

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<sup>1</sup> *Union Gas Ltd. v. Township of Dawn* *Tecumseh Gas Storage Ltd. v. Township of Dawn*, 1977 CanLII 1042 (ON SC), at [p.16](#).

<sup>2</sup> *Sudbury (City of) v. Union Gas Ltd.*, 2001 CanLII 2886 (ON CA), at [para 6](#); See the other [17 citing reference](#).

<sup>3</sup> *Sudbury (City of) v. Union Gas Ltd.*, 2001 CanLII 2886 (ON CA), at [para 6](#); See also the [citing decisions](#).

Divisional Court and Court of Appeal decisions conclusively show that Enbridge’s jurisdiction arguments are without merit.

Finally, the OEB’s wide jurisdiction is not ousted by the *Protecting Against Carbon Taxes Act, 2024*. That act prohibits the establishment of a “carbon pricing program” without a referendum, which it defines as “tax, fee, charge or other levy on [greenhouse gas emissions].”<sup>4</sup> Considering the carbon-reduction benefits of energy efficiency programming when determining investment levels and budget allocation is not a “tax, fee, or charge” on carbon emissions. The OEB considers many factors in its role as an energy regulator, and requires utilities to consider many factors, including those factors outlined in the *Demand Side Management (DSM) Framework for Natural Gas Distributors* and the *Benefit-Cost Analysis (BCA) Framework for Addressing Electricity System Needs*.<sup>5</sup> Accounting for a factor does not constitute a tax on that factor. The *Protecting Against Carbon Taxes Act* does not limit the OEB’s jurisdiction to consider carbon impacts in its decision-making.

### **Other issues**

We have conferred with other parties and need not propose any changes to the draft issues list. Environmental Defence and GEC anticipate supporting a number of amendments proposed by other parties, and will do so on Wednesday.

### **Conclusion**

In light of the above, Environmental Defence and the GEC ask that the OEB refrain from narrowing the draft issues list to exclude questions around the degree to which the carbon-reduction benefits of gas energy efficiency should be considered in determining gas energy efficiency investments and the allocation of investments between programs.

Yours truly,



Kent Elson

cc: Parties in the above proceeding

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<sup>4</sup> *Protecting Against Carbon Taxes Act, 2024 S.O. 2024, c. 9, sched. 5, s. 1-4.*

<sup>5</sup> [\*Demand Side Management \(DSM\) Framework for Natural Gas Distributors\*](#) and [\*Benefit-Cost Analysis \(BCA\) Framework for Addressing Electricity System Needs\*](#)