

March 30, 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 submissions pursuant to *Procedural Order #2* 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.

Facts: carbon-reduction benefits of energy efficiency

It is indisputable that gas energy efficiency programs generate major benefits to ratepayers and Ontarians by reducing greenhouse gas (GHG) emissions in the province. These benefits are the inverse of the harms caused by the combustion of fossil fuels. These harms have been described by the Supreme Court of Canada as follows:

Global climate change is real, and it is clear that human activities are the primary cause. In simple terms, the combustion of fossil fuels releases greenhouse gases (“GHGs”) into the atmosphere, and those gases trap solar energy from the sun’s incoming radiation in the atmosphere instead of allowing it to escape, thereby warming the planet. Carbon dioxide is the most prevalent and recognizable GHG resulting from human activities. Other common GHGs include methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride.

At appropriate levels, GHGs are beneficial, keeping temperatures around the world at levels at which humans, animals, plants and marine life can live in balance. And the level of GHGs in the atmosphere has been relatively stable over the last 400,000 years. Since the 1950s, however, the concentrations of GHGs in the atmosphere have increased at an alarming rate, and they continue to rise. As a result, global surface temperatures have already increased by 1.0°C above pre-industrial levels, and that increase is expected to reach 1.5°C by 2040 if the current rate of warming continues.

These temperature increases are significant. As a result of the current warming of 1.0°C, the world is already experiencing more extreme weather, rising sea levels and

diminishing Arctic sea ice. Should warming reach or exceed 1.5°C, the world could experience even more extreme consequences, including still higher sea levels and greater loss of Arctic sea ice, a 70 percent or greater global decline of coral reefs, the thawing of permafrost, ecosystem fragility and negative effects on human health, including heat-related and ozone-related morbidity and mortality.

The effects of climate change have been and will be particularly severe and devastating in Canada. Temperatures in this country have risen by 1.7°C since 1948, roughly double the global average rate of increase, and are expected to continue to rise faster than that rate. Canada is also expected to continue to be affected by extreme weather events like floods and forest fires, changes in precipitation levels, degradation of soil and water resources, increased frequency and severity of heat waves, sea level rise, and the spread of potentially life-threatening vector-borne diseases like Lyme disease and West Nile virus.¹

Because GHG emissions have such catastrophic impacts, both today and into the future, reducing those emissions is beneficial. Enbridge is asking the OEB to completely ignore those benefits in this proceeding and in DSM planning in general.

Preliminary issue: should the OEB ignore carbon-reduction benefits

Procedural Order #2 asks “whether the consideration of a cost of carbon for DSM cost-effectiveness testing should be within the scope of this proceeding.” However, the carbon reduction benefits of energy efficiency are relevant to this proceeding beyond the question of whether those benefits should be included in the cost-effectiveness test.

The carbon-reduction benefits of energy efficiency could be considered in DSM planning a variety of ways. Enbridge’s submissions appear to assume that those benefits would be accounted for in the TRC test through a monetized value for those benefits, and that the same test would be used to assess overall cost-effectiveness when determining savings levels, investment levels, and budget allocations. However, it is also possible that the OEB could decide to consider the TRC test results both with and without a monetized value for the carbon-reduction benefits. Or the OEB could decide to account for carbon-reduction benefits when considering the allocation of DSM investments between programs only.

Alternatively, the OEB could decide to consider carbon-reduction benefits of energy efficiency entirely outside the cost-effectiveness test. For example, the OEB may decide to consider the carbon-reduction benefits of energy efficiency separately by examining the cost of reducing carbon emissions via energy efficiency versus other means that have been proposed by Enbridge, such as RNG.

The carbon-reduction benefits of energy efficiency are relevant to this proceeding even if they are *not* accounted for in the DSM cost-effectiveness testing. For example, parties may argue that the OEB should focus on the Program Administrator Cost test (the “PAC” test) if carbon-reduction benefits are not included in the TRC test on the basis that a Total Resource Cost test

¹ *References re Greenhouse Gas Pollution Pricing Act, 2021 SCC 11*, at [para 7-10](#).

that excludes carbon-reduction benefits is asymmetrical in accounting for all costs but not all benefits.

Enbridge is asking that all these options be ruled out of scope at the outset before any evidence or expert opinion. This is beyond the question set out in *Procedural Order #2* of “whether the consideration of a cost of carbon for DSM cost-effectiveness testing should be within the scope of this proceeding.” Enbridge is arguing that the carbon-reduction benefits be pre-emptively and completely ignored and treated as nil in DSM planning. As detailed below, Environmental Defence and GEC oppose a preliminary scoping decision that would rule any consideration of carbon-reduction benefits as being out of scope, including, but not limited to, the question of whether the consideration of a cost of carbon for DSM cost-effectiveness testing should be within the scope of this proceeding.

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.²

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 the jurisdiction to determine the factors to consider when approving ratepayer-funded energy efficiency programs.

² *Union Gas Ltd. v. Township of Dawn* *Tecumseh Gas Storage Ltd. v. Township of Dawn*, 1977 CanLII 1042 (ON SC), at [p. 16](#).

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.

Enbridge argues that the decision in *Union Gas Ltd. v. Township of Dawn* is no longer good law as it was made long ago (in 1977). This argument is entirely without merit. Many seminal court decisions were made long ago – their continued relevance is determined not by age, but by subsequent treatment in Court decisions. *Union Gas Ltd. v. Township of Dawn* is clearly still good law – for example, it was affirmed by the Ontario Court of Appeal in *Sudbury v. Union Gas Ltd.* in 2001.³

Furthermore, in *Sudbury v. Union Gas Ltd.*, the Ontario Court of Appeal held that “the Legislature has accorded to the OEB the widest powers to regulate the supply and distribution of natural gas in the public interest.”⁴ This Court of Appeal decision was affirmed by two Divisional Court decisions in 2024.⁵

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].”⁶ 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 distinction between considering carbon-reduction benefits in planning processes and levying a price on carbon emissions is reflected in the Supreme Court of Canada’s analysis of Canada’s carbon pricing regime. The Supreme Court of Canada refers to GHG pricing as a specific “regulatory mechanism” that seeks “to change behaviour by internalizing the cost of climate change impacts, incorporating them into the price of fuel and the cost of industrial activity.”⁷ The OEB is not being asked to implement GHG pricing in this proceeding.

Finally, the jurisdictional decision sought by Enbridge would upend decades of OEB regulation and call into question the consideration of important public interest impacts in other regulatory areas. 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*.⁸ Enbridge’s request is contrary to these and other OEB policies and decisions and would require a re-evaluation of the OEB’s role across the regulatory spectrum.

³ *Sudbury (City of) v. Union Gas Ltd.*, 2001 CanLII 2886 (ON CA), at [para 6](#).

⁴ *Sudbury (City of) v. Union Gas Ltd.*, 2001 CanLII 2886 (ON CA), at [para 6](#); See also the [citing decisions](#).

⁵ *Leamington (Municipality of) v. Enbridge Gas Inc.*, 2024 ONSC 867, at [para 16](#); *Essex (County of) v. Enbridge Gas Inc.*, 2024 ONSC 866, at [para 14](#).

⁶ *Protecting Against Carbon Taxes Act*, 2024 S.O. 2024, c. 9, sched. 5, [s. 1-4](#).

⁷ *References re Greenhouse Gas Pollution Pricing Act*, 2021 SCC 11, at [para 175](#).

⁸ [Demand Side Management \(DSM\) Framework for Natural Gas Distributors](#) and [Benefit-Cost Analysis \(BCA\) Framework for Addressing Electricity System Needs](#)

Policy

Enbridge argues that accounting for the carbon-reduction benefits of gas energy efficiency would be contrary to government policy. Congruence with government policy is a matter that should be determined at the conclusion of this hearing based on a full record as typically occurs in OEB matters.

However, we provide these preliminary comments now. 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.

Affordability

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.

The OEB has considered such factors before, such as in the phase II Enbridge rebasing case, where it made the following findings in declining to approve certain ratepayer funded renewable natural gas purchases:

In terms of GHG emissions reduction, the evidence indicates that DSM programs have a significantly lower unit cost per tonne CO₂e. Enbridge Gas confirmed that its DSM programs had delivered GHG emissions reductions at a unit cost of \$42.41/tonne CO₂e (based on 2023 results); while the cost of GHG emissions reductions from purchases of RNG was between \$96.40/tonne CO₂e and \$420.80/tonne CO₂e.

Consideration of carbon-reduction benefits (and the cost of those benefits) is important as decarbonization proceeds.

Clean energy

Ontario set out four principles that are the “central focus” of its integrated energy plan: affordability, security, reliability, and **clean energy**.⁹ Clean energy is referenced over 25 times in the plan. Similarly, the Premier has repeatedly indicated his goal of reaching 100% clean energy.¹⁰ Although many believe the province’s efforts to achieve clean energy are insufficient, that is different from saying that the province attaches zero value to carbon emissions reductions.

⁹ Ontario, *Energy for Generations*, June 2025, Executive Summary ([link](#)).

¹⁰ E.g. Ontario leaders’ debate – May 16, 2022, 1:18:21 ([link](#)) (“I’m never happy until we hit 100%” clean energy).

However, that is what Enbridge argues – that provincial policy requires that no value be assigned to carbon emissions reductions. Enbridge’s position is inconsistent with the clear wording in the Integrated Energy Plan and with statements by the Premier of Ontario,

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.

Integrated gas-electric planning

The Integrated Energy Plan calls for planning processes for the gas and electricity systems to be integrated.¹¹ 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.

Gas policy statement

The gas policy statement in Ontario’s Integrated Energy Plan states that “Ontario will continue to seek opportunities to support energy efficiency, clean fuels and carbon capture to lower energy costs for consumers and reduce emissions.”¹² This policy explicitly calls out the value of energy efficiency in reducing emissions.

Energy efficiency

Enbridge’s submissions describe additional investments in energy efficiency as being akin to a carbon tax to the extent that they are funded out of rates. This is certainly not how the province views energy efficiency. On the contrary, the province is highly supportive of energy efficiency. For instance, the most recent Ontario budget refers to “the province’s historic 12-year, \$10.9 billion Energy Efficiency Framework, the largest investment in energy-efficiency programs in Canadian history.”¹³

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

¹¹ Ontario, *Energy for Generations*, June 2025, p. 118 ([link](#)).

¹² Ontario, *Energy for Generations*, June 2025, p. 95 ([link](#)).

¹³ Budget 2026, p. 118 ([link](#)).

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 evidence differentiating between a carbon tax/price and the practice of accounting for the carbon-reduction benefits in energy efficiency investment planning processes. 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.

Regulatory efficiency

Enbridge argues that allowing consideration of carbon-reduction benefits will cause delay. We disagree. Environmental Defence and the GEC will seek to retain expert evidence on this topic in the same report from Chris Neme of the Energy Futures Group that will address multiple other issues. Adding this one item will not materially impact hearing timing. On the contrary, it is Enbridge's attempts to narrow the scope of this proceeding that is causing unnecessary delay.

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