



Enbridge Gas Inc.

**Application to change its natural gas rates and other
charges beginning January 1, 2024**

**PROCEDURAL ORDER NO. 1
April 26, 2024**

Enbridge Gas Inc. (Enbridge Gas) filed an application with the Ontario Energy Board (OEB) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15 (Schedule B), seeking approval for changes to the rates that Enbridge Gas charges for natural gas distribution, transportation and storage, beginning January 1, 2024. The OEB is reviewing the application in three phases.

On August 17, 2023, the OEB approved a settlement proposal between Enbridge Gas and the intervenors on some Phase 1 issues (Phase 1 Settlement Proposal).¹ After a hearing, the OEB issued its Decision and Order on the remaining Phase 1 issues on December 21, 2023 (Phase 1 Decision).² An Interim Rate Order for 2024 rates was issued on April 11, 2024.³

This Procedural Order addresses a number of initial procedural matters for Phase 2 of the proceeding.

Administrative Matters

A new file number, **EB-2024-0111**, has been assigned to Phase 2 of the proceeding.

For greater certainty, all intervenors in Phase 1 are considered to be intervenors in Phase 2; and any of them that were eligible for cost awards in Phase 1 are also eligible in Phase 2.

In Phase 2, parties may refer to any evidence filed in Phase 1.

¹ EB-2022-0200, Decision on Settlement Proposal, August 17, 2023.

² EB-2022-0200, Decision and Order, December 21, 2023.

³ EB-2022-0200, Interim Rate Order, April 11, 2024.

Phase 2 Issues List

A draft Phase 2 issues list is attached as Schedule A to this procedural order. The starting point for this draft was the issues list approved early in Phase 1⁴. It has been updated to reflect (a) the changes that were agreed to in the Phase 1 Settlement Proposal, and (b) the findings and directions in the Phase 1 Decision. For simplicity, the draft Phase 2 issues list has been re-numbered.

At this time, the OEB is making provision for written submissions on the draft Phase 2 issues list. To be clear, the Phase 2 issues previously approved in the January 27, 2023 Issues List Decision, as revised by the August 17, 2023 Decision approving the Phase 1 Settlement Proposal, are final. Submissions on the draft Phase 2 issues list should be limited to the characterization of the Phase 2 issues stemming from the Phase 1 Decision, as identified in the footnotes to the draft Issues List in Schedule A.

In the Phase 1 Decision, the OEB found that the revenue horizon for small-volume customers (excluding projects under the current phase of the Natural Gas Expansion Program) should be reduced to zero years starting in 2025, and deferred implementation matters to Phase 2. Enbridge Gas filed a motion to review that finding, as well as certain others. On February 12, 2024, at Enbridge Gas's request, the OEB stayed the Phase 1 Decision insofar as it pertains to the customer revenue horizon issue until April 30, 2024 (since extended to June 28, 2024).⁵ The Government of Ontario has tabled legislation that would, if passed, authorize regulations to override the Phase 1 findings on the customer revenue horizon. Accordingly, the draft issues list for Phase 2 does not include any issues relating to the customer revenue horizon.

HRAI Intervention Request

On January 10, 2024, the Heating, Refrigeration and Air Conditioning Institute of Canada (HRAI) filed a letter with the OEB requesting intervenor status in Phases 2 and 3 of the proceeding, as well as cost eligibility.

HRAI stated that it intends to deal with the effect of a new Enbridge Gas unregulated activity being carried out within the regulated utility, called Enbridge Sustain.

HRAI explained that Enbridge Sustain is a business involving the sale, installation, servicing and financing of solar, electric vehicle, heat pumps, geothermal, and other

⁴ EB-2022-0200, Decision on Issues List and Expert Evidence and Procedural Order No. 2, dated January 27, 2023

⁵ EB-2024-0078, Order for a Partial Stay, February 12, 2024.

energy-related equipment for residential and commercial buildings in Ontario, which is being carried out as an unregulated ancillary business by Enbridge Gas.

HRAI stated that Enbridge Gas did not disclose the Enbridge Sustain initiative on the record of Phase 1 of the proceeding and the materials on the energy transition do not reference Enbridge Sustain, despite it being a key part of Enbridge Gas's strategy to deal with declining market demand for natural gas space and water heating.

HRAI noted that its interests are related to 2025 and beyond and the issues already approved for Phases 2 and 3. Specifically, HRAI noted that the Phases 2 and 3 issues that it has substantial interest in are:

- Incentive Rate Mechanism
- Utility/Non-utility Cost Allocation
- Revenue Horizon on New Connections
- Energy Transition Technology Fund
- Earnings Sharing Mechanism

HRAI added that, "The OEB may conclude that establishing a specific Enbridge Sustain issue, dealing with all aspects of this, a new initiative by a regulated entity that the OEB has not yet had a chance to consider, is the best approach for Phase 2 in terms of regulatory efficiency."

On January 17, 2024, Enbridge Gas filed a letter objecting to HRAI's intervention request. In its letter, Enbridge Gas disputed that the business activities of Enbridge Sustain are relevant to the above issues and that those issues are ratepayer issues for which HRAI is not itself a ratepayer. Enbridge Gas stated that HRAI is not directly impacted by the Incentive Rate Mechanism, Earnings Sharing Mechanism or the Energy Transition Technology Fund. Enbridge Gas further stated that if questions related to Enbridge Sustain are relevant in Phases 2 and 3, they may be pursued by the active intervenors in this proceeding representing ratepayer interests and that HRAI's participation is not necessary.

Enbridge Gas submitted that the cost allocation issue between Enbridge Gas regulated utility and Enbridge Sustain raised by HRAI is not relevant to Phase 2 as the operations and maintenance (O&M) budget was resolved in the Phase 1 Settlement Proposal (aside from the cost allocation issue in Phase 2 relating to gas storage costs). Enbridge Gas stated that it is unclear if HRAI's perspective on how new customers will be served in a zero revenue horizon context is relevant to Phase 2 without an updated Phase 2 issues list and if HRAI's true interest is to provide evidence on the paths towards energy transition, its intervention request should focus on that.

On January 24, 2024, HRAI filed a letter in response to Enbridge Gas. In that letter, HRAI reiterated its position that its interests relate to the Phase 2 and 3 issues. HRAI stated that Phases 2 and 3 are intended to set rates for 2025-2028 and if Enbridge Gas is using utility advantages including cross-subsidies in a rapidly growing competitive business, that will affect what rates will be just and reasonable for customers in 2025-2028. HRAI further stated that it has unique knowledge of the industry within which Enbridge Sustain operates which other intervenors in the proceeding cannot provide as all gas and non-gas heating equipment in new construction is supplied by HRAI members.

Enbridge Gas submitted that if HRAI is granted intervenor status, it should not be granted cost eligibility as it is an organization representing commercial interests of HVAC contractors who would not individually qualify for cost awards for issues related to their business concerns.

In its reply letter, HRAI noted that if HRAI and its members ensure that their intervention is about just and reasonable rates, and only that, then ratepayers will benefit. HRAI submitted that the OEB should grant it cost eligibility with the caveat that an award of costs is dependent on responsible intervention that benefits customers.

At this time, the OEB is making provision for HRAI, Enbridge Gas and intervenors to provide, as part of their written submissions on the draft Phase 2 issues list, submissions on whether the scope of Phase 2 of this proceeding should include questions related to Enbridge Sustain (HRAI and Enbridge Gas may wish to rely solely on the correspondence they have already filed, or they may choose to supplement it). The OEB will make a determination on HRAI's intervention request, including cost eligibility, once the Phase 2 issues list has been finalized.

Environmental Defence Motion

On February 2, 2024, Environmental Defence filed a Notice of Motion seeking an interlocutory order prohibiting Enbridge Gas from using ratepayer funds to promote the expansion of gas service, policies geared toward the expansion of gas service or lessened regulatory oversight.

In the cover letter to its Notice of Motion, Environmental Defence submitted that if the OEB believes the issues raised in the Notice of Motion should not be dealt with by way of an interlocutory motion, then the issues be added to the Phase 2 issues list.

On February 7, 2024, Enbridge Gas filed a letter objecting to Environmental Defence's motion on a number of grounds, including that the motion amounts to a collateral attack on the approved Phase 1 Settlement Proposal – the parties agreed to an overall O&M

budget amount without stipulation as to how Enbridge Gas could spend the budget amount.

Enbridge Gas submitted that if the OEB determines that it will consider Environmental Defence's request, there is no reason to do so on an expedited basis separate from the ongoing proceeding. Enbridge Gas submitted that if the OEB intends to add the issues raised by Environmental Defence in its motion, that Enbridge Gas be granted an opportunity to make submissions on the scope of any additional issues for Phase 2.

At this time, the OEB is making provision for Environmental Defence, Enbridge Gas and intervenors to provide, as part of their written submissions on the draft Phase 2 issues list, submissions on the expansion of the scope of Phase 2 of this proceeding to include the issues raised by Environmental Defence in its Notice of Motion (Environmental Defence and Enbridge Gas may wish to rely solely on the correspondence they have already filed, or they may choose to supplement it).

GEC Change of Counsel

On December 15, 2023, counsel to Green Energy Coalition (GEC) filed a letter advising that a new lawyer, Amanda Montgomery, will be representing GEC.

In its January 17, 2024 letter, Enbridge Gas indicated that the new lawyer is already listed as a representative for Environmental Defence in this proceeding. Enbridge Gas requested that the OEB direct that the interventions of GEC and Environmental Defence be combined with single cost eligibility. Enbridge Gas submitted that throughout Phase 1 of the proceeding, the positions of GEC and Environmental Defence have been virtually indistinguishable.

On January 24, 2024, counsel to GEC and Environmental Defence filed a letter noting Enbridge Gas's position that GEC and Environmental Defence have been virtually indistinguishable is without merit and provided several reasons for that conclusion. The letter also noted that it anticipates that the two intervenors will coordinate closely in Phases 2 and 3 of the proceeding and that, where appropriate, they may file joint submissions. The letter further stated that the clients of each intervenor have distinct interests and there would be little to gain by combining the interventions of GEC and Environmental Defence.

The OEB is satisfied that GEC and Environmental Defence have distinct interests and therefore does not see a need to require the interventions of GEC and Environmental Defence to be combined. However, the OEB expects the two intervenors to continue to coordinate their efforts, and will consider each of their contributions when it is time to assess cost claims. Section 5.01(b) of the *Practice Direction on Cost Awards* states

that, in determining the amount of cost award to a party, the OEB may consider, amongst other things, whether the party “made reasonable efforts to combine its intervention with that of one or more similarly interested parties”.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Enbridge Gas shall file (and send a copy to every other party) its written submission on the draft Phase 2 issues list (including whether the issues list should reflect the issues raised in HRAI’s intervention request and Environmental Defence’s motion) no later than **May 6, 2024**.
2. Parties wishing to file a written submission on the draft Phase 2 issues list (including whether the issues list should reflect the issues raised in HRAI’s intervention request and Environmental Defence’s motion) shall do so (and send a copy to every other party) by **May 13, 2024**.
3. Enbridge Gas may file (and send a copy to every other party) a written reply submission no later than **May 21, 2024**.

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-2024-0111** 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 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 at the address below and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Khalil Viraney at Khalil.Viraney@oeb.ca and OEB Counsel, Ian Richler at Ian.Richler@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **April 26, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

Schedule A
Enbridge Gas Inc.
EB-2024-0111
Draft Phase 2 Issues List

Enbridge Gas Inc.
Rebasing Application – Phase 2
Draft Issues List

Phase 2

A. Incentive Rate Setting Mechanism

- 1) Are the proposed Price Cap Incentive Rate-Setting Mechanism, Annual Rate Adjustment Formula, and term appropriate?
- 2) Are the proposed elements of Enbridge Gas's Price Cap Incentive Rate-Setting Mechanism appropriate?
- 3) Is the proposed approach to incremental capital funding appropriate, including the proposed inclusion of overhead costs in ICM amounts?¹
- 4) Is the proposed earnings sharing mechanism appropriate?
- 5) Is Enbridge Gas's proposal for annual proceedings for clearance of deferral and variance accounts and presentation of utility results (and any ESM amounts) and scorecard results appropriate?
- 6) Is the proposed mechanism to reduce the capitalized indirect overhead balance by \$50 million in each year of the IRM term and expense it as O&M appropriate?²
- 7) How should Enbridge Gas be incentivized to implement economic alternatives to gas infrastructure and how should the recovery of its costs be treated?³
- 8) Are the proposed scorecard Performance Metrics and Measurement targets for the amalgamated utility appropriate?

B. Storage

- 9) Should the cap on cost-based storage service for in-franchise customers established in the NGEIR decision remain at 199.4 PJ?
- 10) Is the purchase of storage service at market-based rates by Enbridge Gas from Enbridge Gas for in-franchise customers appropriate?
- 11) Is the proposal to add 10 PJ of market-based storage at a cost not currently included in the 2024 Test Year gas cost forecast appropriate?
- 12) Is the allocation of capital assets and costs between utility and non-utility (unregulated) storage operations appropriate, including Enbridge Gas's proposal to recover Dawn to Corunna project costs in 2024 rate base?

¹ EB-2022-0200, Decision and Order, dated December 21, 2023, p. 95; EB-2022-0200, Decision on Settlement Proposal, dated August 17, 2023, Schedule A, p. 25

² EB-2022-0200, Decision and Order, dated December 21, 2023, pp. 98, 99 and 140

³ EB-2022-0200, Decision and Order, dated December 21, 2023, p. 52 and p. 108

Enbridge Gas Inc.
Rebasing Application – Phase 2
Draft Issues List

- 13) How should the determinations made for the Phase 2 Storage issues be addressed and implemented, including any required changes to 2024 costs and revenues, the Gas Supply Plan and gas supply deferral and variance accounts?
- 14) Is the proposed harmonized methodology for determining the amount of storage space and deliverability required to serve in franchise customers appropriate, and is the proposed allocation of storage space and deliverability among customers appropriate?⁴

C. Energy Transition Capital Spending, Technology Fund & Voluntary RNG Program

- 15) Are the specific proposed parameters for an Energy Transition Technology Fund and associated rate rider appropriate?
- 16) Is the proposal to establish a new Energy Transition Technology Fund Variance Account appropriate?⁵
- 17) Are the specific proposals to amend the Voluntary RNG Program and to procure low-carbon energy as part of the gas supply commodity portfolio, appropriate?
- 18) Are the energy transition safe bet proposals with capital spending in the IRM term appropriate?⁶

D. Operating Expenses

- 19) In relation to the 2024 Test Year gas cost forecast,
 - a) Are the 2024 load balancing costs including storage appropriate?⁷
 - b) Is the proposed harmonized approach to determining operational contingency space appropriate?⁸
- 20) Is the annual amount for site restoration costs calculated appropriately, and is the long-term forecast of the total funds required for site restoration costs appropriate?⁹

E. Other

- 21) Has Enbridge Gas appropriately reviewed the energy comparison information in its informational and marketing materials, and taken appropriate actions based on its review?¹⁰
- 22) Has Enbridge Gas appropriately responded to relevant OEB directions and commitments from previous proceedings, in relation to Phase 2 issues?

⁴ EB-2022-0200, Decision on Settlement Proposal, dated August 17, 2023, Schedule A, p. 61

⁵ EB-2022-0200, Decision on Settlement Proposal, dated August 17, 2023, Schedule A, pp. 55-57

⁶ EB-2022-0200, Decision and Order, dated December 21, 2023, p.16

⁷ EB-2022-0200, Decision on Settlement Proposal, dated August 17, 2023, Schedule A, p. 35

⁸ EB-2022-0200, Decision on Settlement Proposal, dated August 17, 2023, Schedule A, p. 36

⁹ EB-2022-0200, Decision and Order, dated December 21, 2023, pp. 94 and 140

¹⁰ EB-2022-0200, Decision and Order, dated December 21, 2023, pp. 47 and 140