

February 20, 2024

BY EMAIL AND FILED VIA RESS

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: Enbridge Gas Inc. (“Enbridge Gas”)
EB-2024-0078 – Review Motion / EB-2022-0200 – 2024 Rates Application
Response to OEB Request for Further Information about Stay Requests**

We represent Enbridge Gas.

On February 12, 2024, the OEB issued an Order for a Partial Stay, directing a temporary stay of the EB-2022-0200 Phase 1 Decision in relation to the Customer Revenue Horizon Issue until April 30, 2024. The Partial Stay was granted in response to Enbridge Gas’s request in its Notice of Motion. In making this Order for a Partial Stay, the OEB recognized that the Minister of Energy has indicated that the Ontario government will be introducing legislation that would reverse the OEB’s findings in respect of the customer revenue horizon. The OEB concluded that “it would be inefficient to spend time on these matters when they could soon become moot”.

In the Order for a Partial Stay, the OEB noted that Enbridge Gas not only requested a stay of the Phase 1 Decision in relation to the Customer Revenue Horizon Issue, but also requested a stay in relation to some or all of the other “Review Issues” (the issues subject to the Motion for Review and Variance). The OEB directed Enbridge Gas to provide a detailed explanation of the Company’s request for a stay of the other Review Issues.

In the Notice of Motion, Enbridge Gas requested the following relief:

A stay of the Decision in relation to some or all of the Review Issues while the OEB conducts any rehearing of those issues, including any related issues to be dealt with in Phases 2 and 3 of the EB-2022-0200 proceeding.

This request was different from the Company’s request for a stay of the portion of the Phase 1 Decision related to the Customer Revenue Horizon Issue, which was requested “while this Motion is being determined”.

The intent of the broader stay request is to signal that the Company may seek a stay of further portions of the Phase 1 Decision in the event that the OEB grants Enbridge Gas’s Motion for Review and Variance and orders a rehearing of all or some of the Review Issues. Accordingly, Enbridge Gas is not seeking any further stay at this stage of the process.

At such time as Enbridge Gas determines that it wishes to proceed with its request for any further stay of the Review Issues from the Phase 1 Decision, then the Company will make an interlocutory motion or similar filing. This could happen following the OEB's decision in the Motion for Review and Variance, or earlier in the event that circumstances change. Any such filing will set out a detailed explanation of the additional stay(s) being sought, and why this should be granted.

In the meantime, as the Draft Rate Order process moves ahead, Enbridge Gas relies on the fact that the 2024 rates being approved are interim in nature, such that they can be adjusted as necessary in the future to address any outcomes following the Motion for Review and Variance.

Enbridge Gas has a further request for the OEB to consider. The Company requests that the OEB suspend its consideration of the Motion for Review and Variance until April 30, 2024 or such earlier date as there is clarity about any Ontario government response to the Customer Revenue Horizon Issue. This would be an efficient and fair approach.

The OEB's issuance of the Partial Stay signals that the portion of the Motion for Review and Variance related to the Customer Revenue Horizon Issue cannot (or at least will not) proceed until at least April 30, 2024. The OEB premises its Partial Stay on a determination that it would not be efficient to spend time on matters that may soon become moot.

Enbridge Gas submits that it would not be appropriate to proceed with any part of the Motion for Review and Variance until there is clarity about the status of the Customer Revenue Horizon Issue. There are several reasons for this. First, if the Ontario government ultimately takes no action, this would lead to the Motion for Review and Variance being heard in two parts - that is not efficient or logical. Second, a significant portion of the Company's motion is premised on questions of whether the Phase 1 Decision is inconsistent with government policy - it makes sense to wait for any directly relevant new legislation to be released before determining those matters. Third, the grounds for appeal in Enbridge Gas's Notice of Motion are largely interconnected, relying in part on inconsistencies between the OEB's findings on the Customer Revenue Horizon and its findings on other Review Issues - in that context, it would be appropriate to have clarity on the status of the Phase 1 Decision on the Customer Revenue Horizon Issue before considering the balance of the Review Issues.

Please let us know if you have questions about this letter.

Yours truly,

AIRD & BERLIS LLP



David Stevens
DS/

c: All parties registered in EB-2022-0200