

May 29, 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 – Motion to Review and Vary (the “Motion”)**

We represent Enbridge Gas. Attached is the Fresh as Amended Notice of Motion from Enbridge Gas requesting that the Ontario Energy Board (“OEB”) review and vary portions of the December 21, 2023 Decision and Order in EB-2022-0200.

This Fresh as Amended Notice of Motion replaces the Notice of Motion filed on January 29, 2024. The scope of the Fresh as Amended Notice of Motion is narrower than the original Notice of Motion, as Enbridge Gas is now pursuing two issues for review, rather than the five issues included in the original Notice of Motion. The main reason for the changes is that there have been developments over the past several months (such as Bill 165 and the OEB’s Generic Proceeding on the Cost of Capital) that have addressed or will address the issues that were included in the original Notice of Motion. A more detailed explanation for the changes is set out in the Fresh as Amended Notice of Motion, at paragraphs 33 and 34.

On February 12, 2024, the OEB issued a letter agreeing to Enbridge Gas’s request to hold this Motion in abeyance until April 30, 2024, as legislation had been tabled (Bill 165) that, if passed, would make portions of the Motion moot. Subsequently, on April 26, 2024, the OEB issued a further letter indicating that the abeyance period for the Motion would be extended to June 28, 2024.

Enbridge Gas requests that the OEB lift the abeyance and resume its processing and consideration of the Motion. Bill 165 was passed by the Ontario Legislature on May 15, 2024 and it received Royal Assent on May 16, 2024. While the new section 36.0.1 of the *OEB Act* included in Bill 165 has not yet been proclaimed, Enbridge Gas expects that this will happen in due course around the time that supporting Regulations are issued. Enbridge Gas does not believe that it is necessary to wait for the proclamation of this section to resume consideration of the Motion.

As noted in our letter accompanying the original Notice of Motion, Enbridge Gas requests that the OEB provide an opportunity for it to make written submissions on the Motion, including submissions within any preliminary process that the OEB might undertake to consider the “threshold question” under Rule 43.01 of the OEB’s *Rules of Practice and Procedure*.

Enbridge Gas also requests that the OEB create a process for the hearing of the Motion that allows for oral submissions. Enbridge Gas notes that this approach has been adopted in earlier motions for review and variance. The process adopted by the OEB provided for the moving party to file written submissions. Other parties then had the opportunity to file responding written submissions. This was followed by an oral hearing where the moving party made submissions and the OEB panel had an opportunity to ask questions. Examples of where this process was directed are EB-2010-0003 and EB-2018-0085.

Please let us know if you have any questions.

Yours truly,

AIRD & BERLIS LLP



David Stevens

c: Ian Richler, counsel to OEB
all parties in EB-2022-0200