

July 29, 2024

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms Marconi:

EB-2024-0078 – Enbridge Gas Inc. Motion to Review and Vary – Threshold Test

We are consultants to the Consumers Council of Canada (Council) in the above-referenced proceeding. On December 21, 2023, the Ontario Energy Board (OEB) released its Decision and Order regarding Phase 1 of Enbridge Gas Inc.'s (EGI) 2024-2028 rate application. On January 29, 2024 EGI filed a Notice of Motion to review and vary certain aspects of that Decision. On May 29, 2024, EGI filed an Amended Notice of Motion. The Motion narrowed the scope of the motion to two issues from five. The two aspects of the Decision that EGI seeks to vary are:

1. The lengthening of the Average Useful Life of seven asset classes for depreciation purposes; and
2. The denial of the inclusion of undepreciated capital costs for integration capital in rate base.

On June 21, 2024, the OEB issued a Notice of Hearing and Procedural Order No. 1. Under Rule 43 of the OEB's *Rules of Practice and Procedure*, prior to proceeding to hear a motion to review on its merits, the OEB may determine, with or without a hearing a threshold question of whether the motion raises relevant issues material enough to warrant a review of the decision or order on the merits. EGI requested an opportunity to make written submissions on the threshold question. The OEB set a procedural timetable for arguments on the threshold question.

The Council has reviewed the legal argument submitted by Counsel to the School Energy Coalition (SEC). SEC concluded:

Enbridge's motion to review and vary should be dismissed, as it does not meet the threshold test. The alleged errors are nothing more than a mix of a) disagreements with the hearing panel's exercise of its discretion, b) arguments that the hearing panel rejected, and c) alleged errors which, even if corrected, would not materially, if at all, impact the hearing panel's decision. None of them are a basis for the OEB to consider the motion on the merits¹.

The Council supports the submissions made by SEC. In effect, EGI's motion to review and vary should be dismissed. EGI has simply not met the threshold test.

Yours truly,

Julie E. Girvan

¹ Submissions of the School Energy Coalition, EB-2024-0078, dated July 29, p. 2

Julie E. Girvan

CC: All parties