Enbridge Feedback on the Proposed Amendments to the *Ontario Energy Board Act, 1998*

—

ERO #019-8307

Submission date: April 5, 2024

About Enbridge Gas Inc.

Enbridge Gas is Canada's largest natural gas storage, transmission and distribution company based in Ontario, with more than 175 years of service to customers. The distribution business provides safe, affordable, reliable energy to about 3.9 million homes, businesses and industries and is supporting the transition to a clean energy future through net-zero emissions targets and investments in innovative low-carbon energy solutions. With the recently announced acquisition of three gas utilities serving customers in five US states, Enbridge will own and operate the largest gas utility franchise in North America. The storage and transmission business offers a variety of storage and transportation services to customers at the Dawn Hub, the largest integrated underground storage facility in Canada and one of the largest in North America. Enbridge Gas is owned by Enbridge Inc., a Canadian-based leader in energy transportation and distribution.

Learn more at enbridgegas.com.

Introduction

Enbridge Gas Inc. (Enbridge) commends the Government of Ontario (Government) for its action to ensure fair and informed decision-making at the Ontario Energy Board (OEB) to foster affordable communities. Enbridge also appreciates the opportunity to submit feedback on the proposed amendments to the *Ontario Energy Board Act, 1998* (OEB Act).

The *Keeping Energy Costs Down Act* strongly signals that natural gas is critical to Ontario as it fuels economic growth, reduces industrial emissions, and heats over 75% of homes.

This is not a surprise as recent studies by the Independent Electricity System Operator (IESO), the Canadian Energy Regulator, and the Electrification and Energy Transition Panel all emphasize the importance of natural gas as a critical and foundational energy source.

Natural gas delivers almost twice the energy to Ontario than electricity, affordably at a quarter of the cost. It is the backbone of the province's heavy industries that require intense heat that only natural gas can provide.

Natural gas is also an energy source that supports investment in new or growing industries into the future, such as greenhouses for food production, low carbon steel production, and the electric vehicle supply chain.

This proposed legislation reinforces the critical role of natural gas in keeping energy costs down for Ontarians and the importance of natural gas and its associated infrastructure in achieving Ontario's energy transition in a measured and practical way. Supporting affordable access to natural gas will help fuel a better and more prosperous future for Ontario.

We remain committed to advocating for customer choice, energy affordability, reliability, and sustainability on behalf of Ontarians, now and into the future.

Executive Summary

The proposed legislation is an important step in the right direction. It includes some positive elements, including reversing the OEB's decision to eliminate the long-standing revenue horizon without input by impacted stakeholders, supporting priority gas pipelines (similar to existing ministerial directive powers for priority electricity lines), and streamlining the process for smaller leave to construct (LTC) applications.

However, there remain critical barriers stemming from the OEB's decision in Phase 1 of Enbridge's 2024 rebasing proceeding[1] (OEB Decision) that are hindering Enbridge's ability to deploy sufficient capital to support Ontario's growth, which could be addressed in the confines of this legislation.

Enbridge is committed to working with the Government to ensure the 1.5 million homes the Government wants built will have access to reliable, affordable energy while remaining on the path to emission reductions by leveraging the gas infrastructure to deliver low-carbon fuels and carbon capture and storage (CCS) solutions.

[1] EB-2022-0200

Recommendations:

1. Policy Clarity**:** In accordance with its commitment in the February 22 press release for the proposed legislation and the Electrification and Energy Transition Panel's recommendation to issue a Natural Gas Policy Statement, it is important that the Government issue a policy statement that provides clarity to investors and regulators on the **unequivocal need for natural gas and gas infrastructure in Ontario and the importance of regulatory cost recovery certainty**. This is needed urgently to reduce the regulatory uncertainty that exists without clear government policy direction. The Government could also include minor changes to section 2 of the OEB Act in the proposed legislation to clarify the important role of natural gas in Ontario's diverse energy mix and the need for the OEB to follow and implement Government policy in its regulation of natural gas utilities.
2. Capital: Without ***strong government direction to the OEB*** or some other mechanism to enable cost recovery of prudent investments, Enbridge Gas will not be successful in attracting investment to its Ontario gas distribution business. As a consequence, Enbridge will have to start deferring at best, or cancelling at worst, projects that businesses and communities are depending on.
    - Government should send a clear signal that for existing and continued capital investments in energy infrastructure, which are required to meet Government policy goals and/or the needs of customers, the OEB shall ensure cost recovery mechanisms are in place that provide regulatory certainty for recovery of and fair returns on such capital. This clarification could be included in minor changes to section 2 of the OEB Act as noted above and it could be added to the section 96.2 amendments in the proposed legislation.
3. Investment Climate**:** Government must ***address the lack of competitiveness impacting critical energy investments in Ontario.***
    - Addressing the overall investment climate for energy infrastructure is a major issue for electricity and gas utilities alike. Ontario electric local distribution companies (LDCs) already enjoy greater equity thickness than Enbridge, but even they are concerned about returns on the capital required to meet Ontario's energy needs.
    - As examples from other jurisdictions that are tackling the need for significant investments, the Government of British Columbia has increased the equity thickness for Fortis, and Hydro Quebec is looking to financial markets to attract the capital needed to fund priority investments in energy infrastructure.
    - Government's action can be broadly scoped to provide the appropriate guidance to the OEB (e.g., tied to the above-noted direction to provide certainty on capital recovery) and serve to benefit Ontario's entire energy sector.

Below is Enbridge's more specific feedback on the proposed legislation.

Revenue Horizon

The OEB Decision sets a revenue horizon of zero for small volume customers, starting in 2025. This means that connection costs would be borne by builders connecting new homes to gas at the time of the gas application. In turn, builders will then pass down these costs to homebuyers at a time Ontarians are facing an affordability crisis in housing and other essential areas. Notably, the OEB Decision on this matter was made without adequate representation or input from affected stakeholders in the rebasing proceeding, as was identified by the dissenting OEB commissioner.[2] If the zero-revenue horizon were implemented, the initial average cost impact could be $6,000+ per new residential customer starting in 2025 (subject to variations by connection and project requirements). The OEB Decision to reverse its own system expansion and revenue horizon policy that has been in place for decades without adequate evidence or due process – thus burdening new customers with 100% of the connection costs upfront – creates an alarming barrier to new housing development, driving housing affordability in the wrong direction at a critical juncture.

Additionally, the OEB Decision assumed that adequate electricity capacity and infrastructure will be available to new subdivisions that opt to fully electrify all energy needs, starting as early as 2025. This assumption ignores the immense limitations and challenges in scaling up electricity supply to electrify a high portion of energy use in the province. Inhibiting customer choice to access gas service through high upfront costs and without assured electricity adequacy and coordinated energy planning in place could greatly limit builders' abilities to construct new homes. Notably, if the 1.5 million new homes proposed in the *More Homes Built Faster Act* over 10 years were all electrified, a very conservative estimate outlines that an additional 750 MW in electric demand could be added annually,[3] which is not currently accounted for in electricity procurement forecasts.

The proposed legislation reversing the zero-revenue horizon determined by the two OEB commissioners in their Decision is an important step in the right direction. Enbridge offers one point of clarification on the revenue horizon that the proposed legislation does not appear to differentiate or address. This part of the OEB Decision was only concerned with the revenue horizon for small volume customers and not larger volume customers, for which the revenue horizon is 20 years (in accordance with OEB policies and practices). This 20-year revenue horizon for larger volume customers (industrial and commercial) remains appropriate given the nature of the service requirements of these customers.

Capital Envelope

The OEB Decision reduces Enbridge's capital spend by $250M in 2024 and sets an expectation of lower capital expenditures in future years, despite clear evidence that demand for gas service continues to be strong well into the future. This large initial reduction to capital and signals regarding future capital expenditures, in addition to the lower returns in Ontario, makes investment in the province challenging relative to other opportunities for investment in North America. Moreover, the reduction in capital immediately puts at risk thousands of planned residential and small business connections in 2024 and will significantly constrain Enbridge's ability to invest in energy projects that contribute to addressing Ontario's housing affordability crisis and Ontario's economic development, competitiveness, and emissions reductions. Serving our 3.9 million existing customers safely and reliably will always be our priority, and that's where Enbridge will necessarily maintain its investments. If there is no remaining capital to support growth projects and development across Ontario, greenhouses, grain dryers,

[2] OEB, Decision and Order: EB-2022-0200, pg. 143

[3] Enbridge Gas Inc., "Answer to Undertaking from Commissioner Moran," Exhibit J11.5, EB-2022-0200, pg. 8. https://www.rds.oeb.ca/CMWebDrawer/Record/811635/File/document.

industrial parks, and any new businesses or housing developments seeking access to natural gas will be at risk.

It is imperative that strategic investments in the energy infrastructure are backed by a supportive regulatory environment that not only incentivizes and facilitates those investments but also ensures the availability of capital to meet Ontario's growing demand for affordable, reliable, and resilient energy. The proposed ministerial directive power to identify and support priority gas projects is a key step to enabling essential infrastructure builds, consistent with existing legislative provisions to facilitate priority electricity lines. Nonetheless, the above-noted capital reductions and investment constraints will continue to limit Enbridge's ability to maintain a safe and reliable system while also having sufficient remaining capital to provide for natural gas growth opportunities, including for manufacturers, large scale subdivision work, EV plants, and greenhouses in the southwest.

In addition, capital reductions and regulatory uncertainty could impact ~70% of the projects that would have supported growth beyond 2024, notably for growth projects and major economic development projects totaling up to $26B in investment and up to 6,700 jobs.

That is why in addition to the approach put forward in Bill 165, the development of a provincial policy statement on the role of natural gas will be critical as it will provide much needed clarity and guidance for investors and regulators. This clarity and guidance will support a responsible, collaborative approach that ensures the province can keep the lights on, the heat flowing, and the wheels turning all while reducing our carbon footprint, maintaining consumer choice, and ensuring a prosperous future for generations to come.

Enbridge is proud to play a significant role in Ontario's diverse energy mix, supporting economic development and housing strategies, and is continuing with all efforts to manage costs and drive efficiencies in reliability serving our customers, but – like other businesses – our continued capital deployment requires a reasonable degree of certainty in capital recovery and competitive returns.

Equity Thickness

Regardless of the path to decarbonization or how incremental energy demand will be met, Ontario will need to attract a significant amount of capital to invest in expanding the province's energy infrastructure over the coming decades. Addressing the overall investment climate for energy infrastructure is a major issue for electric LDCs in Ontario, and not just Enbridge. In Ontario, LDCs already enjoy greater equity thickness than Enbridge, but they too are concerned about returns on the capital required to meet Ontario's energy needs and to support the energy transition. Similar challenges exist in other jurisdictions. For instance, the Government of British Columbia has increased equity thickness for Fortis; and Hydro Quebec is looking to financial markets to attract the capital needed to fund priority investments in energy infrastructure.

The lower return and lower equity thickness in Ontario was only workable in the past in a context that Ontario's regulatory environment was viewed by investors as supportive. This allowed Enbridge to maintain relatively stable credit ratings and finance debt at reasonable interest rates. However, regulated investment in Ontario is not viewed as supportive as it once was, especially in the light of the OEB Decision. Enbridge is now facing a credit rating downgrade, which will increase interest costs. This will in turn increase Ontarians' energy bills for years to come, in no small part due to the increasingly uncertain regulatory environment.

Enbridge is somewhat encouraged to see that the OEB has plans to hold a generic hearing on the cost of capital in Q2 2024. Enbridge will participate fully in this proceeding with an expectation that the OEB will conduct a comprehensive review of the business and other risks facing gas utilities relative to electric utilities.

Leave to Construct

We commend the Government for heeding the concerns voiced by municipalities and municipal and agricultural organizations regarding the outdated $2 million threshold that triggers requirements to obtain LTC even for small pipeline projects. This threshold was established in 2003 and has not been updated since.

As a positive step, the proposed legislation paves the way to streamline the LTC process by allowing certain energy projects to benefit from a more streamlined process of obtaining LTC. Due to increased regulatory and cost pressures, as well as ongoing inflation, virtually all gas pipeline projects are now greater than the $2 million threshold that triggers LTC applications. This is evident in the misalignment between the distance-based threshold to trigger LTC (i.e., 20 km) and the significant costs associated with even very short pipeline projects (e.g., a 0.5 km pipe or pipeline realignments required in an intersection in urban settings now often exceeds the $2 million threshold). Therefore, exempting small pipeline projects costing between $2 million and $10 million from a lengthy LTC regulatory process, provided Indigenous consultation and environmental assessment are met, will alleviate unnecessary regulatory burdens and delays.

These changes are poised to enhance pipeline construction and expansion timelines, thereby expediting the development of crucial infrastructure such as housing and transit. Based on the OEB's performance standards, the proposed legislation could save 5-7 months of regulatory processing time per project between $2M and $10M. This saves tens of thousands of dollars, which will be passed on to ratepayers.

Furthermore, updating the LTC threshold acknowledges the inflation and increased construction costs experienced over the past two decades, aligning Ontario more closely with other Canadian jurisdictions.

Overall, the proposed changes go a long way in reducing costs, improving efficiency, and promoting sustainable development in Ontario's energy sector.

Conclusion

Enbridge appreciates the opportunity to provide feedback on the proposed amendments to the OEB Act, emphasizing the importance of natural gas for economic growth and home heating. While the proposed legislation is a step in the right direction by addressing certain concerns such as supporting lowering upfront costs for gas connections, supporting priority gas lines, and improving regulatory efficiency, Enbridge highlights the remaining barriers related to the OEB's rebasing decision that impede capital deployment for Ontario's growth, which could be addressed through clarifications of the proposed legislation and a Natural Gas Policy Statement that espouses the ongoing important role of natural gas and gas infrastructure as part of Ontario's diverse energy mix.

If you have any questions or require additional information, please do not hesitate to contact Islam Elsayed, Senior Advisor, Government Affairs (islam.elsayed@enbridge.com).