

Submission to the Standing Committee of the Interior on Bill 165, April 2024

An Act to amend the Ontario Energy Board Act, 1998 respecting certain Board proceedings and related matters, “The Keep Energy Costs Down Act”

The Industrial Gas Users Association (IGUA) appreciates the opportunity to share its views with the Standing Committee of the Interior on **Bill 165, Keeping Energy Costs Down Act, 2024**.

Who is IGUA?

IGUA represents the largest industrial natural gas consumers from the chemicals, refining, steel, forest products, mining and manufacturing sectors in Ontario and Quebec. IGUA membership is composed of energy -intensive trade-exposed heavy industries who use a highly skilled work force and create thousands of good paying jobs in the province. IGUA members are large employers, at times sole employers, in many remote and rural communities across the Province. IGUA members are main employers in Ontario’s major industrial hubs in Sarnia, Sudbury and Hamilton.

Industry accounts for nearly half of Ontario’s total energy use. The competitiveness of industry depends on reliable access to competitively priced energy including natural gas. IGUA has represented industrial rate-payer views in front of multiple regulators: the Ontario Energy Board, Québec’s Régie de l’énergie and the Canadian Energy Regulator (previously the National energy Board since 1973. IGUA continues to be actively involved in regulatory proceedings at the OEB, the Régie and the CER.

IGUA members will continue to rely on natural gas for a long time and IGUA sees a viable natural gas infrastructure key to keeping Ontario industry competitive and ensuring the resilience and reliability of Ontario’s power grid. IGUA was intimately involved in the year-long review process of the of Enbridge Phase 1 Rebasing Application and the month-long hearing. IGUA’s primary focus in Phase 1 of the Enbridge Rebasing proceedings was to preserve industrial competitiveness through affordable rates and secure long-term reliability of the natural gas system. IGUA offered no views on the residential revenue horizon matter.

What are IGUA’s Comments on Bill 165?

We understand the objective of the Bill is to power Ontario’s economic growth with a diverse energy mix that will provide reliable, affordable energy for households and businesses for decades to come, and to support good, informed, decision making by the Ontario Energy Board. IGUA supports these objectives.

There are portions of the Bill which would have the unintended consequence of doing the opposite for Ontario’s large industry:

- Selective exemption of some industrial sectors from contribution-in-aid-of-construction in the Panhandle proceeding, at the expense of other sectors, under the new powers outlined in Section 96.2.
- Selective intervention into otherwise independent economic regulation which has and continues to keep energy costs down for Ontarians.

Selective Exemption of Industrial Facilities from Contribution-in-Aid-of-Construction Has Negative Unintended Consequences

Where new infrastructure is proposed for the benefit of a particular, identifiable set of customers, the regulator deploys its expertise to ensure that costs follow benefits so that there is no undue burden to non-benefiting customers. Under current practice which has been in place for decades, the approved revenue horizon for industrial customers in Ontario is 20 years. If the cost of any new infrastructure required to serve an industrial customer cannot be recovered through rates over a 20-year period the identified, benefiting customer is called upon to support the new build through one of a number of mechanisms; contractual terms (minimum demand commitments and/or contract term) and/or a contribution towards the residual cost of the build (contribution -in-aid-of-construction). This longstanding practice has supported industrial development through allowing cost recovery over an extended but realistic time horizon, while protecting affordability for existing customers undue exposure to costs incurred in serving specific customers.

Section 96.2 opens the door for unwarranted preferential treatment of select economic actors. Selective exemption of green houses, battery plants and power generators from paying for infrastructure deployed for their direct benefit effectively burdens all other gas consumers and increases their rates. In the case of the Panhandle expansion project, the 7th major expansion of the system, exempting the green houses, battery plants and power producers from contributing their fair share towards the Panhandle system expansion pushes the cost on the industrials in the Hamilton, London, Sarnia, and Windsor areas who would then pick up the lion’s share of expansion cost for infrastructure that they do not need or use. Such government intervention would effectively be mandating the companies in Ontario’s steel and chemical hubs in Hamilton and Sarnia who are not served by the Panhandle system and can derive no benefit from its expansion, and other customers including the industry in the London and Windsor areas who will receive no benefit from infrastructure deployed specifically to connect the new industrial customers, to subsidize the growth and profits of equally-large-billion-dollar companies on the Panhandle system.

Additional expensive expansions of the Panhandle system are anticipated in the coming years to meet more gas demand from expanding greenhouses and other large industrial operations being attracted to the Windsor-Essex corridor. IGUA welcomes government focus on economic development and job creation and emphasis on keeping energy affordable the province and is pleased to see the industrial, manufacturing and greenhouse sectors expand in the province. We ask that these laudable objectives be implemented in a manner that does not inadvertently benefit one industry sector while harming others.

Recommendation 1 – Avoid seeking unnecessary exemptions for contribution-in-aid-of-construction on the expansion of the Panhandle system and permit the regulatory process to strike a properly informed and reasonable balance by ensuring that industrial beneficiaries of expansion projects pay their fair share of the expansion costs.

An Independent Regulator Serves Ontarians Well and Keeps Energy Prices Down

The Ontario Energy Board has the highly specialized expertise to review the applications filed by monopoly companies who distribute power and gas in the province and robust and transparent processes in place to engage Ontario rate payers and energy stakeholders in the review process. It has the legal bandwidth to determine public

interest after careful examination of detailed information. The combination keeps energy prices down for Ontarians.

The ratepayer groups, including IGUA, jointly reviewed all the cases heard and the decisions rendered by the OEB in 2022 and determined that absent a robust review process Ontarians would have been overcharged in that year alone by the monopoly distributors of power and gas to the tune of \$1.5 billion. The utilities had requested to collect \$16.5 billion in rates. The OEB process allowed for careful examination of the evidence filed by applicants, and the counter evidence filed by rate payers and other stakeholder intervenors and resulted in reduction of the collective revenue requirement of the utilities by \$1.5 billion dollars. Without this process Ontario's energy-intensive and trade-exposed industrial customers would have suffered a hit on competitiveness with possible loss of jobs. Further, thoughtful OEB processes which included the opportunity for discovery of information and settling significant issues accomplished this customer benefit in a highly efficient manner.

Recommendation 2 – Maintain a clear boundary between policy and economic regulation and refrain from overturning regulatory decisions that result from the technical expertise and veracity of the OEB and its thoughtful, balanced, transparent and procedurally fair processes.

Respectfully submitted,



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