EB-2011-0242
EB-2011-0283

IN THE MATTER OF the *Ontario Energy Board Act, 1998,* S.O. 1998, c.15, Schedule B; and in particular section 36 (2) thereof;

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an Order or Orders approving and setting the cost consequences associated with the purchase of Ontario biomethane;

AND IN THE MATTER OF an application by Union Gas Limited for an Order or Orders approving and setting the cost consequences associated with the purchase of Ontario biomethane by Union Gas Limited.

Argument of Shell Energy North America (Canada) Inc.

Opposing the Applications as Filed

Shell Energy North America (Canada) Inc. ("Shell Energy") participated in the discovery phase of this proceeding and has closely monitored the hearing. The information elicited at the hearing has reinforced concerns regarding the applications and evidence of Enbridge Gas Distribution Inc. and Union Gas Limited (collectively the "Utilities"). While the environmental objectives of the Utilities are laudable and supported by Shell Energy, the structure and implementation of the proposed program must be altered by the Ontario Energy Board (the "Board") to require competitive elements so that it can be confident that costs to system gas ratepayers are reasonable and that the risks of development are not borne entirely by consumers.

The Proposal Does Not Enable a Market for RNG

The proposal is not a market and it does not enable a market, despite the frequent use of this phrase by the Utilities in their evidence and throughout the hearing. This is a program designed to incent investment and economic development in Ontario, to the exclusion of non-Ontario sources of supply and the spending rigor that accompanies competition. The Utilities made the limitations of their proposal clear in their response to Shell Energy interrogatory #4 (see exhibit I-14-4, also I-14-6, I-14-7, and I-14-8 for similar responses) by stating they support the eventual realization of a market but that,

> *"However the scope of this application pertains to the Utilities' role in enabling a viable RNG production industry within Ontario"*.

Comparisons have been made between the proposals and the Ontario Power Authority FIT program. Despite the success of the FIT program in attracting investment, it has been criticized for the long term cost consequences for ratepayers and the lack of realization of any monetary value for environmental attributes.

The Proposed Contracts Introduce Unnecessary Risk

Too much focus has been on the five year period to sign contracts, without enough consideration of the fact that the proposed contracts are for twenty years and that during this period the contracted facilities will be limited to selling all output exclusively to the Utilities. Any future economic value of the environmental attributes will be realized on their retirement by the Utilities. Rather than fostering future competitive trade in RNG and environmental attributes, there is potential for the program to stifle future market evolution by removing this local supply from the mix of alternatives available to large commercial and industrial consumers, as well as marketers. This would make it more difficult and expensive for them to meet their own voluntary objectives or compliance requirements that may come from future Ontario greenhouse gas regulations.

This dynamic was signaled by the expressions used during the hearing of "first-come, first-served" and the potential for the program to attract only the "low hanging fruit" to early contracting. The implications being, that the "best" or most economically rewarding projects are the ones locked-in by the Utilities for very long terms in advance of the regulations and compliance requirements that could naturally incent the necessary investment through the development of competitive markets and pricing. Alternatively, this could all take place with the discipline and efficiency that come from competitive markets that have enabled trade in environmental products and competitive contracts that support new RNG developments in other North American jurisdictions.

Competition Helps Mitigate Risks of Future Uncertainty

An area of evidence that was explored further orally relates to the distinction between the benefits from the reduction of emissions, and the benefits from the substitution of RNG for conventional natural gas. This distinction is important because it not only establishes what costs and benefits are being paid for under the program, but it will ultimately determine the value that might be realized by the Utilities under a compliance regime. Where a large landfill or municipal wastewater facility is required by law to capture and flare methane, or already does so voluntarily, the future extent and value of emission reductions (or offsets) that may be recognized by regulation comes into question. The future regulatory regime will determine the necessary baselines and measurement protocols. Sources of RNG supply from outside of Ontario, but delivered to Ontario, will accomplish the same substitution objectives of the program and may produce the same treatment related to reductions or offsets as Ontario projects.

The future is uncertain, making it difficult to fully assess the cost consequences and other ramifications of the proposed program. The Utilities feel certain that there will be some sort of compliance regime, but nobody can know when that might happen or what it will look like. The Utilities should be commended for being proactive but the speculative nature of entering into non-competitive long-term contracts unnecessarily raises the risks and costs for consumers.

Shell Energy submits that the applications of the Utilities should be rejected by the Board unless modified in a manner that includes the requirement for competitive bidding from supplies inside as well as outside of the Province, with marketers eligible to participate as suppliers in all situations in addition to developers. This should also include the ability for suppliers to propose terms of less than twenty years. Competition brings the necessary diligence and discipline to the process that can provide a basis for ensuring that ratepayers are bearing risks and costs that are reasonable.

Respectfully submitted,

original signed

Paul Kerr
Shell Energy North America (Canada) Inc.