



EB-2013-0352

IN THE MATTER OF the Ontario Energy Board Act 1998,
S.O. 1998, c.15, (Schedule B);

AND IN THE MATTER OF an application by Enbridge Gas
Distribution Inc. for an order or orders approving the final
balances and for clearance of certain Demand Side
Management Variance Accounts into rates, within the next
available QRAM following the Board's approval.

Before: Marika Hare
Presiding Member

Emad Elsayed
Member

Decision and Order
May 1, 2014

Enbridge Gas Distribution Inc. ("Enbridge") filed an application with the Ontario Energy Board (the "Board") dated October 24, 2013 under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15, (Schedule B) (the "Act"), for an order or orders approving the final balances in certain 2012 Demand Side Management ("DSM") Deferral and Variance Accounts. Enbridge is also seeking the disposition of the balances in these accounts and inclusion into rates, within the next available Quarterly Rate Adjustment Mechanism following the Board's approval. The net balance of the DSM Accounts per the original filing was \$8,473,387 to be collected from ratepayers broken down into the following accounts and balances recorded:

DSM Incentive Deferral Account	\$8,817,529 (to shareholder)
Lost Revenue Adjustment Mechanism Variance Account (LRAMVA")	(\$40,652) (to ratepayers)
DSM Variance Account	(\$303,490) (to ratepayers)

On January 21, 2014, Enbridge filed a revised application with revised balances due to what it said were inadvertent miscalculations in the original application.

The revised balances are as follows:

DSM Incentive Deferral Account ("DSMIDA")	\$8,817,529 (to shareholder)
Lost Revenue Adjustment Mechanism Variance Account	(\$40,652) (to ratepayers)
DSM Variance Account	\$2,506,510 (to shareholder)

The revised net balance of the DSM Accounts is therefore \$11,283,387 to be collected from ratepayers.

The Board's written hearing process included interrogatories and submissions. Submissions were received from Board staff, Building Owners and Managers Association, Industrial Gas Users Association ("IGUA"), and the School Energy Coalition ("SEC"). Enbridge filed a reply submission.

The Board has reviewed all submissions and has summarized the record to the extent necessary to provide context to its findings.

A complete record of the proceeding is on the Board's website and at the Board's office.

Board Findings

In its submission, Board staff recommended that Enbridge, in partnership with Union Gas Limited and appropriate stakeholders, conduct a persistence study in regard to its large custom commercial and industrial programs. A persistence study of DSM savings takes into account how long a DSM measure is kept in place relative to its useful life, the net impact of the DSM measure relative to the base case scenario, and the impact of technical degradation.

The Board finds that a persistence study would be useful and should be used to inform the next DSM framework which starts in 2015.

IGUA stated that it does not object to Enbridge's requested DSM variance clearance and deferred to SEC to review the custom program savings verification studies.

1. SEC identified two important issues with Enbridge's application. The first is the independence and diligence of the various parties involved in the assessment/audit process; and the second is the validity of the assumptions regarding the savings associated with custom projects.

These two issues are addressed below.

1) Independence and Diligence of the Parties

SEC argued that:

- The Custom Project Savings Verification ("CPSV") contractors, who were hired and supervised by Enbridge, may have improved the engineering accuracy of Enbridge's work, but did not test the reasonableness of the claimed results;
- The work of the Auditor with respect to the CPSV contractors was supervised by Enbridge but was not, and could not, be supervised by the stakeholder members of the Audit Committee because they did not have access to the information;
- The Auditor did not in all cases take the necessary steps to investigate and verify the work of the CPSV contractors; and

- The Audit Committee did not have access to the CPSV reports until the reports were finalized.

Enbridge's reply submission stated that:

- There is no evidence to support SEC's submission;
- The Auditor was selected through a competitive bidding process conducted by Enbridge and the Audit Committee using a jointly-developed terms of reference;
- The Auditor, according to its report, had complete access to the CPSV firms, and both the Auditor and members of the Audit Committee specifically dealt with the CPSV firms' reports;
- SEC's comments around the involvement of the Audit Committee in the review and input on the CPSV reports are inconsistent with the facts stated in the Auditor's report; and
- If Enbridge had acted improperly regarding the supervision of the Auditor and possibly influencing the results, as suggested by SEC, the representatives of the three stakeholder groups who served on the Audit Committee would have alerted other stakeholders and the Board to such conduct.

The Board finds that the process followed by Enbridge in this case is reasonable. There is no evidence to suggest that either the CPSV contractors or the Auditor did not act independently or were influenced by Enbridge. As suggested by Enbridge, it is the Board's expectation that, if the stakeholder representatives on the Audit Committee were not satisfied with the process or the results of the third party assessment/verification, they would have raised that concern with other stakeholders or the Board. No such concerns were apparently raised.

2) Validity of Project Assumptions

SEC submitted that:

- Enbridge and its CPSV contractors have sometimes treated the useful life of custom project measures as being the technical life and have ignored the

concepts of persistence and advancement, thus overstating the savings from some custom projects;

- As a result of the above, the shareholder incentive of \$8,817,529 should be reduced by \$5,498,484 being the amount of incentive related to volumes, which is based on the assumption that, when the volumes for custom projects are corrected for errors, Enbridge does not meet the volume threshold needed in order to qualify for a shareholder incentive on this part of the scorecard;
- The LRAMVA should be recalculated by removing all custom project volumes in excess of the minimum incentive threshold;
- The DSMVA claim should be denied in its entirety on the basis that Enbridge only qualifies if it achieves its volume targets and is using DSMVA operating funds to achieve results above the target and Enbridge has not only missed the target, but even missed the minimum threshold;
- SEC highlighted four large industrial custom projects reviewed in the Landry report. For the largest project that Enbridge had in 2012 (RA.IND.EX.RT.021.12), there was no analysis of the baseline for this project. The new, efficient fluidized bed boiler (FBB) replaced an expanded bed reactor (EBR), which had the same function but was much less efficient and that Landry apparently did not make any effort to determine the age of the PBR, or whether it would have had to be replaced at some point in the future in any case, but instead, Landry simply assumed that the EBR would have remained in place for 25 years, the technical life of the new FBB and without evidence to support that assumption, the Board should assume that it is unlikely to be correct; and
- For the other three related projects (RA.IND.EX.NRT.039.12, 040.12, and 041.12), the primary problem with the savings claimed is measure life and that notwithstanding Landry's statement that "The plant's former EMS system, which controlled the operation of (109) Air Houses, was obsolete and remained out of service due to the unavailability of spare parts", Landry assumed that the period over which the new EMS would produce savings (relative to a baseline of no functional EMS at all) was 15 years, the engineering life of the new EMS.

Enbridge replied that:

- The calculation of savings cannot be determined on a practical cost-effective basis without relying upon appropriately determined measure inputs and assumptions. Variances in opinions or speculations on project baselines and whether a project would have been undertaken in any event by those reviewing the project's results after the fact will always arise;
- The savings are, in effect, deemed to arise as a result of the use of the previously approved methodologies and, importantly, the verification and audit process which involves independent experts and intervenors who undertake a review and investigation for reasonableness;
- Regarding SEC's suggestion to deny Enbridge's DSMVA claim of \$2.5 million in its entirety, this amount is not associated with any spending above the Board approved budget for 2012 of \$30.91 million; and
- For the specific custom projects highlighted by SEC, detailed baseline analyses and measure life were documented in the project files and provided to the CPSV contractors for review. The CPSV contractors conducted site audits, analyzed site specific instrumented operational data, and verified savings which were later reviewed and approved by the Auditor. Enbridge states that in reviewing the reasonableness of the measure lives claimed, the CPSV contractors acknowledged that the evaluation of a measure life is not a precise exercise and that it can be influenced by factors that have not yet occurred. When in this uncertain context, the CPSV contractors deferred to their sound engineering judgment.

The Board agrees with SEC that the basic principle in calculating gas volume savings is how the resulting gas usage with the Enbridge-induced conservation measures in place compares to the gas usage had the Enbridge program not been there. In order to support this, independent review and verification is necessary. As stated by SEC, the Board should not itself have to do as significant or time-consuming an investigation into DSM claims as it did in the past, because it can rely on an independent expert opinion as to those claims.

In the Board's view, the responses provided by Enbridge in its reply submission regarding the four large industrial custom projects highlighted by SEC were general in nature and did not adequately address the specific questions raised by SEC. Enbridge's reply reiterated the fact that Landry did review the appropriateness of the baselines and measure lives for these projects. However, in reviewing the relevant sections of the Landry report for these projects, the Board agrees that the supporting rationale for the report's conclusions regarding the appropriateness of the assumed baselines and measure lives was somewhat lacking.

Accordingly, the Board agrees with SEC that a reduction of Enbridge's claim for large industrial custom projects is appropriate. However, the Board finds that SEC's proposal to deny the entire incentive amount related to volumes on the assumption that Enbridge does not meet the volume threshold is not justified. The Board does not consider it possible to make an adjustment for these projects with any kind of precision, given that this would involve an attempt to re-assess each project retroactively. However, the Board's findings in this regard have been well informed by Enbridge's forthright explanations of its approach to the overall management of this program.

Based on the above, the Board considers it appropriate to disallow 20% of the DSMIDA amount attributable to the large industrial custom projects.

Implementation

The Board orders Enbridge to file revised calculations reflecting the Board's findings in this Decision

The Board will provide Board staff and intervenors an opportunity to comment on the revised calculations. Enbridge will also be given the opportunity to respond to the comments of Board staff and intervenors.

Once the revised calculations have been filed and all parties have had the opportunity to comment on it, the Board will issue a subsequent Decision.

The Board notes that the process for cost claims will also be set out in the subsequent Decision.

THE BOARD ORDERS THAT:

1. Enbridge shall file revised calculations reflecting the Board's findings in this Decision on, or before May 15, 2014.
2. Board staff and intervenors who wish to file comments on the revised calculations shall do so no later than May 22, 2014.
3. Enbridge shall file responses to the comments of Board staff and intervenors no later than May 29, 2014.

All filings to the Board must quote file number EB-2013-0352 and be made electronically through the Board's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/> in searchable/unrestricted PDF format. Two paper copies must also be filed. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All filings should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS OF THE BOARD

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ISSUED at Toronto, May 1, 2014

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary