



**EB-2008-0219**

**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 or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas commencing January 1, 2009.

## **PROCEDURAL ORDER NO. 5**

### **Phase 2**

Enbridge Gas Distribution Inc. (“Enbridge”) filed an Application on September 26, 2008 (the “Application”) with the Ontario Energy Board (the “Board”) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. 1998 c.15, (Sched. B), as amended, for an order of the Board approving or fixing rates for the distribution, transmission and storage of natural gas, effective January 1, 2009. The Board has assigned file number EB-2008-0219 to the Application and has issued a Notice of Application dated October 20, 2008 (“the Notice”).

In the Notice, the Board sought input on the advisability of proceeding with a two-phased approach to this Application, as advocated by Enbridge. None of the Parties responding to the Notice objected to the phased approach. In Procedural Order No. 1 for the Phase 1 part of the hearing, the Board determined that it would proceed with the phased approach. With Phase 1 nearing completion, the Board now deems it appropriate to commence Phase 2. This Procedural Order will deal with Phase 2.

In its Application, Enbridge listed seven specific approvals it was requesting from the Board and which it suggested could be reviewed in Phase 2 of the proceeding. The requested approvals are:

- approval of a new deferral account to record the incremental costs of complying with new international financial reporting standards guidelines;
- a change to some of the non-energy service charges listed on Rider G;
- some revisions to wording in the rate handbook in respect of late payment penalties, the “force majeure” clause, and some other areas;
- the discontinuation of an Alternative Dispute Resolution commitment stemming from the EB-2006-0034 proceeding requiring the submission of an EnVision benefit report on an annual basis;
- a revision to the GDAR IVA fee, from a percentage of the absolute value of the adjustment, to a flat transaction fee;
- approval of an In-Franchise Title Transfer fee, to account for additional costs for the provision of this service after the new CIS software becomes operational; and
- a change in the requirements for the contracting of upstream transportation that would require direct purchase bundled service customers to contract for firm upstream transportation. According to Enbridge’s application this change would provide Enbridge with an additional level of security of supply of gas into its territory in the event of an interruption of delivery upstream of its franchise area.

In its letter of intervention dated October 29, 2008, Direct Energy requested that two additional issues be added to the second phase of the hearing. Direct Energy requested that the following issues be addressed by the Board.

1. What is an appropriate approach to the unbundling of storage and transportation services from the delivery of natural gas supply for all customer classes of Enbridge?
2. What conditions should be associated with such unbundling?

The Board has considered the approach to Phase 2 and has prepared a Draft Issues List and attached it to this order. The Board has listed the matters identified by Enbridge and Direct Energy on the Draft Issues List. The Draft Issues List will serve as the basis for submissions from the parties on the nature of the issues for the final Issues

List. The Board will hear the submissions on Issues Day. In addition, the Board requires Direct Energy to file a written submission on its proposed additional issues in advance of Issues Day. The submission shall at a minimum lay out the reasons for the new issues and provide details as to the nature and scope of what Direct Energy expects to achieve as a result of having the Board review these issues at this time.

The Board will now make provision for the following procedural matters. A case timetable for Phase 2 is attached as Appendix A. A Draft Issues List for Phase 2 is attached as Appendix B.

Please be aware that further procedural orders may be issued from time to time.

**THE BOARD ORDERS THAT:**

1. Direct Energy shall file a written submission regarding its proposed addition of the two issues it identified in its letter of October 29, 2008 concerning unbundling. The submission shall be filed with the Board and served on all parties by 4:45 pm on Friday, January 30, 2009.
2. Parties wishing to make a submission on the Draft Issues List attached to this Order may do so on Issues Day on Friday, February 6, 2009. The Issues Day will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto at 9:30 am.
3. Any intervenor wishing to file evidence shall file such evidence with the Board and copy all parties by Tuesday, February 17, 2009.
4. Parties seeking information and material on Enbridge's or any other party's evidence shall request it by written interrogatories filed with the Board and delivered to all the parties no later than Monday, February 23, 2009.
5. Enbridge and the other parties shall file complete responses to all the interrogatories with the Board and deliver the responses to the other parties no later than Tuesday, March 3, 2009.
6. A Technical Conference shall be convened on Wednesday, March 11, 2009 so that parties may respond to questions related to the evidence filed. The

Technical Conference may proceed on March 12, 2009 if required. The Technical Conference will be transcribed and will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto at 9:30 am.

7. Enbridge and the other parties will respond to any undertakings given at the Technical Conference on or before Monday, March 16, 2009.
8. A Settlement Conference will be convened at 9:30 a.m. on Wednesday, March 18, 2009 with the objective of reaching a settlement among the parties on the issues. The Settlement Conference may proceed on March 19, 2009 if needed. The Settlement Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto.
9. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than 4:45 p.m. on Monday, March 23, 2009.
10. The oral hearing will commence in the Board's hearing room on Thursday, March 26, 2009 at 2300 Yonge Street, 25<sup>th</sup> Floor, Toronto at 9:30 a.m. The hearing may proceed on March 27, April 2 and April 3, if needed.
11. The list of Intervenors is attached as Appendix C to this Order.
12. All parties shall file their submissions with the Board Secretary and must quote file number EB-2008-0219. These submissions should be made through the Board's web portal at [www.errr.oeb.gov.on.ca](http://www.errr.oeb.gov.on.ca), and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address and must be sent to the Board by 4:45 pm on the date indicated with a copy to all parties. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca). If the web portal is not available you may email your document to the addresses below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies. With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties

must include the Case Manager, Colin Schuch at colin.schuch@oeb.gov.on.ca  
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**DATED** at Toronto, January 21, 2009  
**ONTARIO ENERGY BOARD**

*Original Signed By*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**Enbridge 2009 Rates  
EB-2008-0219**

**Case Timetable  
Phase 2**

	<b>Event</b>	<b>Date 2009</b>
1.	Procedural Order No. 5 (including draft issues list)	January 21
2.	Submissions from Direct Energy on proposed issue: Unbundling of storage & transportation	January 30
3.	Issues Day	February 6
4.	Procedural Order No. 6 (final Issues List)	February 11
5.	Intervenor evidence filed	February 17
6.	Interrogatories on all evidence (Enbridge & intervenor)	February 23
7.	Interrogatory Responses	March 3
8.	Technical Conference	March 11 & 12
9.	Response to misc. undertakings from Tech. Conf.	March 16
10.	Settlement Conference	March 18 & 19
11.	File Settlement Proposal	March 23
12.	Oral Hearing (4 days)	March 26, 27 April 2, 3

## **APPENDIX B**

### **Draft Issues List**

#### **Enbridge 2009 Rates - EB-2008-0219**

##### **Phase 2**

1. Is Enbridge's request for approval of a new deferral account to record the incremental costs of complying with new International Financial Reporting Standards (IFRS) guidelines appropriate? (Ex. C/1/2)
2. Is Enbridge's request for approval to change some of the non-energy service charges listed on Rider G appropriate? (Ex. C/1/3)
3. Is Enbridge's request for approval of some revisions to wording in the rate handbook in respect of late payment penalties, the "force majeure" clause, and some other areas appropriate? (Ex. C/1/4)
4. Is Enbridge's request for approval of the discontinuation of an Alternative Dispute Resolution (ADR) commitment stemming from the EB-2006-0034 proceeding requiring the submission of an EnVision benefit report on an annual basis appropriate? (Ex. C/1/5)
5. Is Enbridge's request for approval of a revision to the GDAR IVA fee, from a percentage of the absolute value of the adjustment, to a flat transaction fee appropriate? (Ex. C/1/6)
6. Is Enbridge's request for approval of an In-Franchise Title Transfer fee, to account for additional costs for the provision of this service after the new CIS software becomes operational appropriate? (Ex. C/1/7)
7. Is Enbridge's request for approval of a change in the requirements for the contracting of upstream transportation that would require direct purchase bundled service customers to contract for firm upstream transportation appropriate? (Ex. C/1/8)

8. What is an appropriate approach to the unbundling of storage and transportation services from the delivery of natural gas supply for all customer classes of Enbridge? (Direct Energy letter Oct 29/08)
9. What conditions should be associated with such unbundling? (Direct Energy letter Oct 29/08)

## **APPENDIX C**

### **List of Intervenors**

**ENBRIDGE GAS DISTRIBUTION INC.**

**2009 RATES APPLICATION**

**EB-2008-0219**

**APPLICANT & LIST OF INTERVENTIONS**

**January 21, 2009**

**Applicant**

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