

REPORT OF THE BOARD: LOW-INCOME ENERGY ASSISTANCE PROGRAM

WRITTEN COMMENTS OF ENBRIDGE GAS DISTRIBUTION INC.

Introduction

Enbridge Gas Distribution Inc. (“Enbridge”) is taking this opportunity to offer its comments as provided in the March 10, 2009 letter from the Ontario Energy Board (“Board”).

The comments of Enbridge are directed to the stated principles that were included in the Report of the Board: Low-Income Energy Assistance Program (“Program”) and also to the specific amendments to the Distribution System Code (“DSC”), the Retail Settlement Code (“RSC”) and the Standard Supply Service Code (“SSS”) (collectively the “Codes”) proposed by Board Staff. Enbridge understands the Board expects the natural gas utilities to embrace the principles captured by the proposed amendments. Generally, Enbridge supports the guiding principles and the intent of the proposed amendments, and, many of Enbridge’s current practices and policies are consistent with the Board’s proposed changes.

Several of the utilities have been providing programs, such as the Winter Warmth Fund, to help alleviate the energy burden and specific circumstances in which low-income consumers find themselves. Enbridge has developed several programs and policies to help all consumers, including low-income consumers, to better manage their energy usage, to avoid being disconnected and, where required, to get reconnected. The Board expects utilities to do more for low-income consumers and Enbridge accepts that challenge.

An overarching theme to the Low-Income Consumers Consultation (“Proceeding”) has been to develop a cost effective approach to expand support to low-income consumers that need assistance while not placing an undue burden on the utility or its other ratepayers. This is a significant challenge, especially during a time where the broader economy has been suffering and it is likely that such programs will be more in demand than ever before. Enbridge submits that the Board, Intervenors, social service agencies, and consumers should have patience and understand that the industry has a learning curve in implementing this new program.

During its submissions, Enbridge indicated that further work needed to be completed and supported the creation of an ongoing task force or working group to better understand the issues and help achieve the goals. Enbridge is pleased the Board has indicated it will be forming the Low-Income Implementation Working Group (the "Working Group"). Enbridge recognizes the importance and significance of the Board's objectives as they relate to low-income consumers and is pleased to volunteer to have a representative on the Working Group. The successful development of a comprehensive assistance program will depend upon the Working Group helping utilities, especially during this start-up phase.

Enbridge has divided its submissions to these sections: (I) Comments on guiding principles; (II) Comments on specific amendments; and (III) Comments on DSM and low-income.

PART I. Comments on the Guiding Principles

1. Emergency funding available to low-income energy consumers should be increased.

Enbridge recognizes that there is a real potential for fuel poverty to increase within the broader economic context. Enbridge is pleased the Board has chosen to make its expectations of the distribution sector known to permit the utilities to properly plan for and meet such expectations. Regulatory certainty is an important foundation that will enable parties to commit the resources needed to ensure a successful program. This direction should also reduce the time spent reviewing such matters during rate proceedings.

Enbridge has been participating in the Winter Warmth Fund and has several other existing programs that meet with expectations and direction expressed in the Report. Enbridge will take the necessary steps to increase the funding as directed by the Board.

2. Funding should be accessible on a province-wide basis.

Enbridge agrees that the Low-Income Energy Assistance Program ("LEAP") funding should be available to all consumers in the province and that geography should not preclude a person from being able to benefit from the assistance program. Enbridge submits that funding provided by a utility should be spent within the service territory of that utility. This would allow ratepayers to know that the funding of LEAP is being spent in their community, for their neighbours, and this will reduce the concern regarding subsidization across service territories.

Consistency across the electricity and natural gas distribution sectors should be encouraged, however, Enbridge would like to remind the Board that Union Gas Ltd.

("Union") and Enbridge collectively serve over 3 million (Enbridge approximately 1.9 million and Union approximately 1.3 million) customers across numerous municipalities throughout the province. The magnitude and scope of such operations may necessitate the consideration of additional or different factors when reviewing proposed amendments from the perspective of the gas industry.

3. Funding should be available to both electricity and natural gas consumers.

The Board has chosen to propose a number of amendments to the Codes to which electricity distributors must adhere; thereby making LEAP a potential compliance issue. Gas distributors are regulated in a different manner and Enbridge understands the Board is effectively seeking voluntary adoption of similar practices for natural gas distributors.

Enbridge is committed to being an industry leader in its practices and Enbridge's current processes embody many of the Board's proposed amendments and the Board's intent. However, in certain instances these existing practices provide most, if not all of the intended benefits, but may not be identical to the Code amendments. In such situations, the costs of changing Enbridge's existing programs to be identical with the Codes may not be cost effective and therefore encourages the Board to remain open minded and flexible in its assessment of the utility's assistance program delivery.

Enbridge makes specific comments about the proposed Code amendments in Part II of its submissions.

4. Distributors should develop partnerships with social service agencies.

Enbridge has partnered with the United Way in the delivery of its program. Enbridge's expertise is in the transmission, storage and distribution of natural gas, not in the delivery of social assistance programs. Social service agencies know how to administer and deliver such programs and the communities who rely on such programs and are in a better position to ensure funding is properly directed to those intended to benefit from the program and those who are in need of assistance.

Utilities were rightfully concerned about their ability to identify the intended recipients and their ability to manage the in-field delivery of an assistance program cost effectively. Partnering with a social service agency without providing an overly mechanistic approach allows those agencies to have some flexibility to ensure the intended recipients actually receive the benefits. This allows the utility to support the program but does not require the utility to take on tasks for which it is unsuited.

Given the existence of over 80 rate regulated utilities, and the Board's stated expectations of unlicensed distributors, smart sub-meter providers and retailers and marketers, there is a potential for a wide divergence of social service agencies to become involved in LEAP. It is everyone's interest that the right social service agencies

are chosen to implement this program. Some factors that should be considered include: social service agency mandate; administration effectiveness; resources capacity; and geographic service area.

Enbridge would support the Board providing clear guidance to the industry on a specific level of administration that it would consider appropriate to predispose the Board to permit utility recovery from ratepayers of such costs. For example, the Board could develop a model contract agreement or template that sets out the operating and reporting requirements that agencies must adhere to in order to be eligible for LEAP funding. This will help Intervenors, utilities and Board Staff to manage this program in the rate making context.

Enbridge, along with a few other utilities, has worked with the United Way to fund the Winter Warmth Program. The United Way acts as the lead agency administering the program with the help of additional "in-take" agencies that have the face-to-face dealings with the community. This system appears to work well but Enbridge recognizes that other utilities may have different but equally valid methods of delivering the assistance programs.

An early focus of the Working Group may be to provide clear expectations for the social service agencies to provide distributors with greater certainty in dealing with such agencies. Existing programs should be presumed to be appropriate for inclusion in rates as outlined by the Board.

While Enbridge understands that the Board is not looking to introduce incremental administrative burden or risk for the utilities, it is important to consider that Enbridge alone could accumulate as much as \$4 million in a low-income deferral account. Certainty regarding recovery of those amounts would benefit the distributor and communities we serve.

5. Eligibility for the assistance program should be based upon need, as determined by a social service agency.

Enbridge agrees that the assistance program should be used to help those with a real need for the assistance. Throughout the Proceeding there was concern raised by participants about the ability, especially with respect to utilities, to identify the proper recipients of the aid. In addition, several parties raised concern over the increased costs of managing an ever changing database of personal information. Social service agencies are better equipped to identify and track persons that need and benefit from LEAP.

The Report declines to adopt a specific definition of "low-income" and leaves this to the social service agency. Given the current knowledge and experience of the energy industry in this area of social policy, the lack of a definition is understandable. The Board could provide direction, based upon the variety of definitions put forth, of a

minimum qualification criteria or a list of indicators that are reasonable to use for decision making. The utilities and the Board should expect the social service agencies to have appropriate and understandable guidelines for identifying recipients and in the allocation of funding. The Working Group should monitor the delivery of the assistance programs by the various social service agencies so that a more coherent and targeted approach can be developed over time.

6. The assistance program should not be overly costly or complicated to administer.

This principle is key to ensuring that the program provides the overall societal benefit that participants anticipate. Utilities understand that the decisions made in the course of business must meet a prudence standard. An overly burdensome cost of administration defeats the purpose of assistance program and will prevent those in need from receiving assistance.

Enbridge would suggest an agency quarterly reporting scheme that tracks the amount paid out, the amount remaining, the number of recipients and the number of people that have been turned away, and those consumers that have exhausted their funds. This reporting provides an appropriate level of detail for the utility, the Board, and Intervenors. Understanding the reasons people do not qualify can aid the social service agency and the utility in ensuring the assistance program evolves to better achieve its purpose.

The Working Group should review the agency reports and provide an overall summary of the delivery of the assistance program from an industry perspective. This Report could provide direction to improve the future delivery of programs. The Working Group could provide an “approved” list of agencies eligible for funding as it would be administratively complex and impractical for utilities to be required to assess and defend the efficacy of numerous agencies that may be competing for limited resources.

There are a number of proposed amendments to the Codes which warrant further comments. The specific comments on the amendments are provided in Part II of these submissions.

7. The assistance program should result in more effective and efficient handling of arrears management and disconnection.

Enbridge supports the proposition that LEAP should, if designed and implemented properly, create overall societal benefits. However, Enbridge is cautious that some of the proposed measures will, in fact, have the opposite effect and may cause additional costs to be incurred. The industry is at the very early stages of the program and it is likely that less than perfect decisions will be made and stakeholders should not be overly judgmental or critical.

An example of such a situation arises in the context of a disconnection notice. Utilities generally understand that more information and notice is better. However, a concept of “over-noticing” was raised that would indicate there is a point where consumers receive too much information and it loses its impact. Enbridge suggests that similar situations may be encountered in the future and that changes should be fully evaluated prior to implementation to reduce the potential of unintended consequences arising.

The specific comments on the proposed amendments are included in Part II.

PART II. Comments on the Specific Amendments

The Report proposes a number of changes to the current practices of the electricity distributors to provide enhanced funding and a more consistent approach across the industry. In order to ensure electricity distributors meet the expectations, the Board is proposing to amend specific sections of the Codes. Compliance with the Codes is a legal obligation for the electricity distributors and therefore, failure to fulfill such obligations can be the subject of enforcement proceedings. Given the number of licensed and unlicensed distributors and other electricity industry participants, the adoption of amendments to the Codes is necessary.

Gas distributors are not subjected to the code making provisions of the *Ontario Energy Board Act, 1998* nor are they subjected to the licensing framework of the Board. However, Enbridge understands that the Report encourages the gas utilities to implement similar programs and to abide by the spirit of the Report. In considering a gas distributor’s existing policies and programs, the Board should undertake a contextual, rather than a mechanical, analysis of the comprehensive approach to low-income energy assistance. In that way, the Board can evaluate the extent to which the intentions of the Board have been satisfied.

Prior to making specific comments on the proposed amendments, it should be remembered that Enbridge serves approximately 1.9 million customers with 100,000 low-income consumers. The scale and scope of the proposed changes must be considered in light of the incremental benefit that may be achieved.

Also it should be understood, a level of bad debt was embedded within Enbridge's existing rates. These amounts were established prior to this proceeding. Therefore, if the implemented measures increase costs, administrative burden and bad debt, the utility is put at risk for such costs. Enbridge is concerned that some measures, although well intended, may result in an increase in bad debt.

a) *Bill Issuance and Payment*

- i. *Billing Dates.* Enbridge currently determines the late payment effective date by adding to the billing date 17 days for payment and 3 days for mailing for a total of 20 days, as opposed to the proposed 16 day and 21 day periods. Enbridge submits that this 20 day period that is available for all customers is sufficient in the circumstances and that the costs of providing a single day to a specific group of customers would not provide sufficient benefit to justify the costs of changing the billing system and the manual intervention in the process. Enbridge's current process provides 4 additional days beyond the minimum and thereby provides greater benefit to a large customer group. Enbridge does not see a need to change its current practice.
- ii. *Payment receipt date.* Enbridge's current practices are consistent with the proposed amendments.
- iii. *Allocation of payments.*
 - i. This is not consistent with Enbridge's current practice and would require significant programming changes in the Customer Information System. Unless a customer expressly directs their payment, Enbridge applies it first to security deposits and then to total arrears - allocated by proportion of the outstanding arrears. This change would have the very real potential to increase the bad debt arising from non-gas charges. Under Enbridge's incentive regulation structure the company is at risk for any increased bad debt that may result from implementation of these service level changes and operating practices.
 - ii. Enbridge would like to point out that the allocation issues will vary between natural gas and electricity. Electricity distributors have the security deposit and commodity issues but many electricity distributors also provide billing for other services (water and waste water). The majority of electricity utilities are owned by the municipality that it serves. Municipalities have different rights and obligations regarding security and providing such services. A balance needs to be struck. The customer made the commitment for the products and services; therefore they should pay the charges for each proportionately. Enbridge does not see the need to change its policies.
- iv. *Repayment of overpayments by cheque.* This principle is consistent with Enbridge's current practice. Utilities should provide a timely repayment to the customer.

- v. *Repayment of underpayment.* This would be a change in process and would limit the legal right of utilities to recoup costs under *the Electricity Act, 1998*, the *Limitations Act, 2002* and the *Electricity and Gas Inspection Act*. The amendments to the DSC propose a 12 month limit for which the utility can recover retroactive charges. Currently, utilities have the legal right to reach back 6 years. This proposed change would increase the bad debt expense if Enbridge is required to write off such debts immediately. Utilities should not have their legal rights unnecessarily restricted and should be able to deal with this issue through their existing collection policies.
- vi. *Equal ("Budget") billing.* Enbridge has a budget billing program that is offered to all customers and encourages enrolment in the program. This program is consistent with the principals outlined and therefore Enbridge submits that it should be permitted to continue with its current program unchanged.

b) Disconnection

- i. *Disconnection notice form and content.* The Report currently proposes a tiered disconnection notice period (10, 20 and 60 days) with a prescribed form of notice. Enbridge understands the current proposal is intended to provide a minimum period in which the consumer has the opportunity to make alternative arrangements with the distributor to avoid disconnection. Enbridge submits that the current proposal is unnecessarily complicated, will take additional resources to administer, and will cost significantly more for utilities to implement. As such, Enbridge has serious concerns with the changes proposed. Further, the recommendation is that the notice would only be valid for 11 days before a new notice would be required. Enbridge's practice is a 48 hour notice, which is valid for 30 days and which is accompanied by a call, 48 hours prior to disconnection which confirms that disconnection will occur unless satisfactory arrangements are made. Enbridge submits that its current practice satisfies the intent of the amendments.
- ii. *Third Party Notification.* Enbridge currently offers a third party notification program. Third party notification takes place the time the account goes into arrears to reduce the potential need for disconnection. Enbridge submits its current practice is appropriate and consistent with the intent of the amendments.

c) Security Deposits

- i. *Low-Income customers not required to provide security deposits.* Enbridge feels the proposed amendments are not appropriate and may

even be beyond the Board's jurisdiction. Furthermore, the proposed amendments will create a significant increase in the work to manage security deposits and therefore Enbridge feels the proposed amendments are inconsistent with the principle of developing a cost effective and simple assistance program. It is probable that if the amendments are implemented that bad debt will actually increase. Security deposits are an effective, common, and accepted utility practice to mitigate bad debt risk and low-income consumers represent a significant portion of this risk. Enbridge currently works with customers on a case by case basis and would propose that this practice continue.

- d) **Arrears Management.** Enbridge currently has an arrears management program that it submits is appropriate.
- i. *Payment arrangements.* The amendments propose to waive late payment penalties on payment arrangements; the arrangements will be between 5 and 10 months in length depending upon the amount owed. This would be a significant change in practice for Enbridge and would be costly to administer. The utility would be required to undertake a manual intervention to write off the penalty. Also, this amendment would restrict the recovery of working capital costs. Longer payment arrangements require increased monitoring and increases the potential for non-compliance with the payment arrangement as the customer must also maintain current payments in addition to the arrears. This creates more administrative work to follow up on broken arrangements and also ultimately would result in more bad debt expense. Enbridge submits the proposed amendment is inconsistent with the principle from both the perspective of administrative burden and cost.
 - ii. *Enhanced Arrears Management Program.* Enbridge agrees with the Board that it is not necessary to mandate that utilities to undertake an enhanced arrears management program. The Board encourages distributors to adopt the additional arrears management measures outlined in the LEAP Appendix. Enbridge has concerns about specific aspects of the identified measures. For example, one suggestion would have distributors forgive a part of the principle that is owed where the customer honours its payment arrangement. The feeling is this would encourage good payment behaviour. However, such a practice would actually increase bad debt, as debt would be forgiven that would otherwise have been collected. Enbridge is also concerned that such a program may be administratively burdensome due to the need for manual administration of each arrangement.

e) Management of Customer Accounts

- i. *Third Party Requests to Open a New Account.* Enbridge's current practices are appropriate and there is no need for the Board to mandate standards.
- ii. *Default Account Holders When Customer Departs (Landlords).* The proposed changes would require an agreement between the utility and a landlord prior to a utility being able to recover charges from a landlord when a tenant leaves. This change will increase the number of disconnections as the utility will be forced to disconnect service rather than be put at risk of non-payment. Enbridge submits that landlords should be the default account holder as they receive the benefit of heat to avoid damage to their properties. The requirement of an agreement will increase the administration costs of the utility without a corresponding benefit.

f) Funding the Assistance Program

- i. *Quantum.* The Board has indicated that utilities will be expected to spend approximately 0.12% of its distribution revenue on the assistance program which translates to approximately \$1 million per year for Enbridge. This amount should be considered a target level of spending rather than the maximum that can be recovered through rates. In addition, the Board has encouraged the utilities to supplement this funding (e.g., charitable donations) and it is unclear how the Board intends to administer such funding. This is a significant expenditure and Enbridge submits it is proper that utilities have reasonable assurance of recovery of such expenditures and therefore requests the Board provide additional guidance to utilities on this matter.
- ii. *Ratemaking principles and Recovery.* There should be an express recognition that the approach endorsed in this proceeding may, in order to provide the desired social objectives, conflict with traditional ratemaking practices. For example, utilities are generally not permitted to recover out of period costs. The Report includes the following statement, "Board staff acknowledges that this approach would require those distributors that are not subject to cost of service rebasing in the near future to use funds from existing revenue requirement amounts." In addition, there are issues around cross-subsidization and it should be understood that this assistance program is an exception to some of the principles that have been in place for several decades. The Board should also consider that changes to existing service levels and operating practices, if required by the Board, will require funding that is not currently reflected in the rates of

most utilities. It is important for the Board to define a mechanism for the utilities to recover such implementation costs.

PART III. Comments on LEAP and DSM Programs

Enbridge has for the last several years undertaken DSM that is targeted to low-income consumers as a part of the overall DSM program. Although Enbridge's current DSM Plan was to expire at the end of 2009, the Board has indicated in its letter dated April 14, 2009 that the gas utilities should extend the existing DSM framework for one more year before making any significant framework changes, to allow for any impacts of the Green Energy Act to be more fully understood. The letter also indicates that the Board will issue direction on DSM programs for low-income customers separately. In this context, Enbridge offers the following comments on LEAP and DSM.

a) De-coupling of Low-Income from Traditional DSM

Enbridge submits that the Low-Income DSM program activity should be administratively de-coupled from traditional DSM (i.e., non-Low-Income) activity. This would mean a separate budget and separate tracking of Low-Income DSM spending and results. Also, given the differences between Low-Income DSM and the traditional DSM there should be a separate performance scorecard. This will have two immediate benefits:

- i. allowing for quicker decisions and action on the low-income portfolio as the Board considers longer-term changes to the overall DSM framework over the next year; and
- ii. the traditional high TRC-based drivers of DSM program selection can be put aside for a more suitable scorecard approach to Low-Income, which will allow for a broader set of measures and programs which will provide greater benefits to be achieved.

b) Re-calibration of Existing DSM Budget and SSM Threshold

When the Low-Income DSM budget is de-coupled from the traditional DSM budget, the existing DSM budget and SSM threshold must be adjusted accordingly to reflect the removal of the existing Low-Income budget and associated TRC.

c) LRAM and Shareholder Incentive

In order to ensure successful delivery of natural gas energy efficiency programs to the low-income consumer, the gas utilities must continue to be kept financially whole from potential lost revenue, and have financial incentive to succeed. This

will keep Low-Income DSM on equal footing with other revenue-generating activities in the Company (such as traditional DSM). There is no explicit mention of a shareholder financial incentive for Low-Income DSM activities in the Board's Report; however, the gas utilities can propose the structure of this incentive as part of the low-income program portfolio and scorecard to be approved by the Board at a later date.

d) Low-Income Budget Framework

Enbridge believes it is important for the Board to establish a budget framework for Low-Income DSM activity. Enbridge looks forward to working productively with low-income stakeholders on program design and direction, and this relationship should not be put at risk by lengthy, contentious budget debates. A clearly defined and communicated budget and/or budget framework from the Board would allow all parties to immediately focus on program design and implementation. Enbridge believes it is no longer necessary or beneficial to link the Low-Income budget to the traditional residential DSM budget, as there may be DSM framework changes affecting that component of traditional DSM activity.

e) Eligibility

On page 7 of the Board's Report, the Board concludes that "...the individual assessment of eligibility should not be the responsibility of the Board or the distributor..." As indicated earlier in these submissions, Enbridge supports the idea that eligibility for Low-Income DSM programs should be primarily determined by social service agencies. However, in some cases it may be appropriate for the distributors to have a default eligibility requirement of its own, to ensure that the "working poor" that are not currently accessing social agency support can still apply directly to the distributor or its delivery partners for the DSM programs. Enbridge is prepared to work with low-income stakeholders to establish fair default eligibility criteria.

f) Clarification of Timing

Enbridge plans to continue delivery of its existing suite of low-income programs, under the existing DSM framework, for the balance of 2009. Enbridge anticipates that, following the Board's communication on Low-Income budget criteria, that it will have the balance of 2009 to consult with stakeholders and design a suite of programs, the performance scorecard and proposed shareholder incentive mechanism, which will be considered and approved by the Board for implementation in January, 2010.

IV. Summary

Enbridge is supportive of the intent and objectives of the assistance program and has some concerns with the proposed methods of implementing such changes. The Ontario utility industry is new to providing this type of assistance on such a large scale. For many utilities the changes are significant and despite having heard about the experiences of several jurisdictions, no single approach has been universally adopted.

Enbridge supports an incremental approach to implementing the assistance program that will build on existing distributor programs without causing extensive changes to the utilities' operations. Delivering a few programs very well may be more beneficial than trying to make too many changes.