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June 2, 2009

BY EMAIL & COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge St, Suite 2701
Toronto ON M4P 1E4

Dear Ms. Walli:

Board File No. EB-2008-0219 Phase II
Enbridge Gas Distribution Inc. – 2009 Rates Adjustment
Argument of Energy Probe

Pursuant to the Board's direction, please find attached two hard copies of the Argument of Energy Probe Research Foundation (Energy Probe) in the EB-2008-0219 Phase II proceeding for the Board's consideration. An electronic version of this communication will be forwarded in PDF format.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

David S. MacIntosh
Case Manager

cc: Norm Ryckman, Enbridge Gas Distribution Inc. (By email)
Fred D. Cass, Aird & Berlis LLP (By email)
Interested Parties (By email)

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Ontario Energy Board

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.

**Final Argument On Behalf Of
Energy Probe Research Foundation**

June 2, 2009

**Final Phase II Argument On Behalf Of
Energy Probe Research Foundation**

Argument Overview

1. In Phase II there are two Issues before the Board. In its Argument, Energy Probe will not seek to explore all facets of those outstanding Issues, but will focus where we believe we can be of most assistance to the Board.

Contracting of Upstream Transportation

ISSUE 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?

2. In its evidence in this proceeding, the Applicant stated its concern in respect of a possible system failure, the potential for economic harm arising from that failure and where to look for a solution clearly:

EGD believes that the decline in firm transport to the franchise could pose a significant risk to distribution system reliability. This risk impacts all customers since a failure to deliver adequate supplies to the city gate could result in loss of system pressure and system outages could follow. Gas system outages would cause economic harm for customers and also expose customers to potential physical harm. A solution that increases firm upstream transport to the franchise and reduces system reliability risk is warranted for the upcoming winter and for this reason is proposed for inclusion in EGD Rate Handbook, effective November 1, 2009.¹

¹ Exhibit C, Tab 1, Schedule 10, page 2, para. 3

3. In its Argument-in-Chief, the Applicant describes its favoured solution to the use of non-firm upstream transportation services by direct shippers, which it believes has caused an increased distribution system reliability risk, as follows:

Accordingly, Enbridge proposes a solution that would apply, effective November 1, 2009, to customers who receive their gas supply and upstream transportation through agents, marketers or brokers. More specifically, Enbridge proposes that the Rate Handbook be amended to require that customers taking service pursuant to an agent type Gas Delivery Agreement meet their obligations to deliver gas to Enbridge on any given day by FT service for at least 90% of their Mean Daily Volume (MDV)...²

4. A number of parties to this proceeding have pointed out to the Board that the Applicant has not met the burden of proof to demonstrate that a problem exists, that there is an increased distribution system reliability risk. Further, it has been correctly noted by these parties that, even if a risk exists, Enbridge did not quantify the risk.

5. Dropping demand for power, as already experienced by Ontario's electricity distributors, will allow the Board some breathing space in which to explore other options in addition to the one put forward by the Applicant. It may be that the Board will determine that a lesser percentage of firm transportation will be required to be contracted by marketers, somewhere below 90%.

6. Nevertheless, the use of Discretionary services, which may be curtailed during periods of cold temperatures and peak demand, for higher and higher percentages of gas deliveries to Enbridge, should give rise to concern, not only for Enbridge, but for customers requiring firm delivery and for residential customers.

² EGD Argument in Chief, Page 3, para. 10.

7. It is the Submission of Energy Probe that one of the most important pieces of testimony occurred during the cross examination of Mr. Pohlod, a witness on the TransCanada Pipelines Panel, by Ms. Campbell, Board Counsel, in respect of a report by TransCanada on Discretionary services:

I think what needs to be clarified, perhaps, is that what's important isn't whether or not, in an overall sense, there is sufficient available pipeline capacity. When we look at a peak day on the system, the real question is: Can deliveries to any particular area on an absolute peak day be absolutely assured?

I think the important point is that if one is relying on interruptible or discretionary transportation services, there is a greater likelihood that the supply may not show up on a real peak day. Does it happen often? No. Can it happen? Yes.

The statements that were made in that report were not trying to focus on a peak day. They were trying to look at the system overall, and on an overall basis, the conclusions at that time I believe still hold true.³

8. Energy Probe submits that that having firm markets for gas supply served by firm transportation would certainly increase distribution supply security. It is further the Submission of Energy Probe that it would be in the best interests of both system gas customers and customers who receive their gas supply and upstream transportation through agents, marketers or brokers to have secure distribution supply.

9. If the Board determines that an interim solution is required, Energy Probe submits that the using Short Term Firm Transportation would be appropriate for the 2009 – 2010 winter. It is further submitted that the cost of any interim solution should be borne by the agents, marketers or brokers that are not able to demonstrate firm transportation to the percentage set forth in the Board's Decision.

³ Transcript Volume 3, Page 173, Lines 1 - 15

10. Some parties to this proceeding have submitted that the Board order the Applicant to undertake a more thorough investigation of system security to include consultations with market participants, Union Gas Limited and TransCanada Pipelines, and to file the results in a separate application before the Board. Energy Probe supports that recommendation.

IRM Filing Timeline

ISSUE 8 What should be the timing of the next IRM filing (2010 rates)?

11. Energy Probe does not oppose the proposed approach presented by Enbridge in its Argument in Chief in this proceeding. In particular, Energy Probe supports the process described by the Applicant in Paragraph 42:

Enbridge's proposal encompasses, of course, only the determination of rates under the IRM Adjustment Formula (as in Phase 1 of this proceeding). The proposal assumes that any other issues would be addressed on a separate timeline (as in Phase 1 of this proceeding) or in a different proceeding.

Costs

12. Energy Probe submits that it participated responsibly in this proceeding. Energy Probe requests the Board award 100% of its reasonably incurred costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

June 2, 2009

Energy Probe Research Foundation