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June 3, 2009

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th floor
Toronto, ON M4P 1E4

Dear Ms Walli,

EGD Phase II

Board File No.: EB-2008-0219

Our File No.: 339583-000017

Please find enclosed the Argument of Canadian Manufacturers & Exporters ("CME").

Yours very truly,

Vincent J. DeRose

VJD/kt

Encl.

c. All Interested Parties
Paul Clipsham (CME)

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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 and storage of gas commencing January 1,
2009.

**ARGUMENT OF
CANADIAN MANUFACTURERS & EXPORTERS (“CME”)**

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I. INTRODUCTION

1. On September 26, 2008, Enbridge Gas Distribution ("EGD") filed an application with the Ontario Energy Board ("Board") for an order approving rates for the distribution, transmission and storage of natural gas to be effective January 1, 2009. That application was divided into two phases. The first phase, which proceeded by way of a settlement agreement approved by the Board on December 8, 2008, set rates for 2009. The second phase dealt with ancillary issues that had no impact of EGD's 2009 rates.

2. On April 29 and 30, 2009 a settlement conference was held to address the "Phase 2" issues. This led to a partial settlement agreement that was accepted by the Board on May 7, 2009. As a result of the Board's acceptance of the Settlement Proposal, there remain only two unresolved issues:

- (a) Issue 7 – Upstream Contracting Requirements; and
- (b) Issue 8 – Incentive Rate Mechanism ("IRM") filing timelines.

3. These are CME's submissions on each of these issues.

II. ISSUE 7 – UPSTREAM CONTRACTING REQUIREMENTS

4. EGD is proposing a revision to the terms of its Rate Handbook that would require that agent type gas delivery agreements meet their obligation to deliver to EGD on any given day by Firm Transportation ("FT") arrangements for at least 90% of their Mean Daily Volume ("MDV"). If accepted by the Board, marketers will be required to provide EGD with evidence on or before November 1st of each year that such FT arrangements are in place (Transcript, Volume 1, page 22).

5. This proposal would result in an increase in FT to the EGD franchise area by an estimated 200,000 GJs/day for the upcoming winter. This would increase the percentage of FT underpinning direct shipper delivery obligations from its current percentage of approximately 8% to approximately 52% (Exhibit C-1-10, page 10,

para. 28). Such a large increase in FT arrangements would constitute a material change in the contracting arrangements made by marketers.

6. EGD's proposal in this application would only affect residential and small commercial customers served under an ABC agreement (Transcript, Volume 1, page 71). CME's small commercial members that have signed energy service agreements with marketers are potentially affected by the approval sought by EGD in this case. Moreover, it is EGD's expectation that the FT requirement proposed in this case for marketers may be expanded to other Ontario T-service customers over the next few years (Transcript, Volume 1, page 73 and Exhibit C-1-10, page 2, para. 4, and page 11, para. 28). EGD confirmed that they will be analyzing this other segment of the direct purchase market to a greater extent and develop proposals for that group of customers. Any proposals EGD makes for these customers will be influenced the decision of the Board in this case. As a result, the decision in this case will likely have an impact on CME's medium and large volume direct purchase members.

7. EGD's stated rationale for its proposal is its concern that the decline in FT arrangements to its franchise area "could pose a significant risk to distribution system reliability" (Argument in Chief, page 2, para 5). In assessing whether EGD's proposal should be approved, CME urges the Board to consider the following two questions:

- (a) Does the decline in the percentage of FT deliveries to EGD's franchise require the Board to impose added protection against system failure?
- (b) If so, then what is the appropriate solution, and who should pay?

A. Does the Decline in the Percentage of FT Deliveries to EGD's Franchise Require the Board to Impose Added Protection Against System Failure?

8. CME questions whether EGD's evidence establishes that the decline in FT arrangements held by direct purchase customers poses significant risk to distribution system reliability. In this regard, CME notes that even EGD does not claim that the decline in FT arrangements has actually caused a risk to distribution system reliability.

EGD's claim is simply that the decline in FT could pose such a risk (EGD Argument in Chief, page 2 of 17).

9. In determining whether the decline of FT arrangements to EGD's franchise area materially increase the risk of distribution system failure, CME suggests that the Board should consider the following factors:

- (a) The historic proportions of FT supporting EGD's franchise;
- (b) The existence of excess transportation capacity on TCPL's system;
- (c) The availability of market mechanisms to satisfy firm delivery obligations;
and
- (d) The absence of comprehensive evidence from EGD.

(i) The Historic Proportions of FT Supporting EGD's Franchise

10. TCPL has confirmed that in 2008/2009, 53.9% of the Average Daily Winter Season Deliveries to the EGD CDA were made pursuant to FT arrangements. This percentage of FT deliveries is not unprecedented. In 2003/2004, 52.7% of the Average Daily Winter Season Deliveries to the EGD CDA was delivered under FT arrangements. In 2006/2007 this amount was 47.6%. (Exhibit L, Tab 18, Item 2, page 7 of 9). Further, over the past decade, the proportion of Average Daily Winter Season Deliveries to the EGD CDA delivered by firm transportation has been well below the 90% threshold that EGD is now proposing be imposed (Transcript, Volume 2, page 6).

11. TCPL has also confirmed that for 2008/2009, 46.2% of Peak Winter Day Deliveries to the CDA was delivered pursuant to FT. Again, this percentage of FT deliveries is not unprecedented. In 2003/2004, the percentage of FT Peak Winter Day Deliveries was 47.4%, and for 2006/07 the percentage was 44% (Exhibit L, Tab 18, Item 2, page 8 of 9). Moreover, the FT relied upon for Peak Winter Day Deliveries to the CDA since 2000/01 has only once been greater than 70%, and that single year was

80.2%. Thus, EGD's proposal that marketer's gas supply obligations be supported by 90% FT would result in a level of FT that has not been experienced in the EGD CDA over the past decade.

(ii) The Existence of Excess Transportation Capacity on TCPL's System

12. There currently exists excess capacity on the TCPL system that is not subject to FT contracts, and as such, is available to be used for discretionary services (Transcript, Volume 1, page 123). Table 4 of TransCanada's pre-filed evidence demonstrates that there is currently about 1.5M GJs/day of un-contracted FT capacity available to the CDA. EGD agreed that there exists a lot of capacity on long haul and that it does not look like there is any reasonable prospect in the near future that the long haul capacity would be dramatically reduced (Transcript, Volume 1, page 123, and Volume 2, page 28).

13. EGD has suggested that the issue for determination is whether there is adequate assurance that gas supply will be delivered on a peak day. If the gas supply is transported through FT or Short Term Firm Transportation ("STFT") arrangements, then according to EGD there is assurance that the supply will be transported on a firm basis to the franchise. On the other hand, according to EGD if it's not FT or STFT, then there is no assurance of delivery. (Transcript, Volume 1, pages 124 to 125).

14. In assessing the risk that direct purchase customers would fail to meet their firm gas supply delivery obligations, EGD has discounted the contribution of discretionary services, including STFT, to a zero probability of being available for the purpose of assessing peak-day delivery. EGD's position is that for design day purposes it has no way of knowing exactly what services are being used if they are not firm. According to EGD it cannot assign a probability to the likelihood that discretionary services will, or will not, be available on a peak day (Transcript, Volume 1, page 141). Consequently, EGD is "not comfortable" forming any conclusions in terms of whether discretionary services will, or will not, be available on a peak day.

15. In considering the excess TCPL long haul capacity that currently exists, CME urges the Board to also note that load growth in traditional sectors is limited by conservation, warming trends, and demand destruction in industrial markets. (Transcript, Volume 2, page 41). This is exacerbated by the onset of the global economic downturn. EGD acknowledges that the deterioration in industrial demand is a continuing trend (Transcript, Volume 2, page 42). The existence of demand destruction in the industrial sector means that the total load being delivered is reduced. By extension, this means that demand destruction necessarily contributes to the continued availability of TCPL long-haul capacity.

16. In light of the excess capacity available on the TCPL system and the ongoing trend of demand destruction, EGD's total dismissal of the use of any material amount of discretionary services on a peak day is suspect. To date, EGD's distribution system and the broader long haul and short haul transportation that feeds into that distribution system, has, as part of a competitive market, responded to EGD's gas supply requirements. Presumably the shifting of the contracting of TCPL capacity from a long-term FT basis to a discretionary basis (including STFT) reflects the confidence of shippers and the availability of capacity to move gas to where they committed to deliver it (Transcript, Volume 2, page 68).

(iii) The Availability of Market Mechanisms to Satisfy Firm Delivery Obligations

17. In CME's view, the evidentiary record in this case supports the conclusion that market mechanisms exist to satisfy firm delivery obligations. In this regard, CME urges the Board to consider the following sub-factors:

- (a) The Board has previously rejected requests to verify upstream contracts that underpin direct purchase customers' delivery obligations;
- (b) The sufficiency of existing penalties for non-delivery of gas supply;
- (c) EGD's recent experience with peak day deliveries; and

(d) The absence of market indicators of any increasing risk of system failure.

18. This Board has previously considered the extent to which utilities should be entitled to verify upstream contracts that underpin their delivery obligations. In EBRO-410 (page 9 of Exhibit HD 1.2), both EGD (at the time Consumers Gas) and Union Gas Limited expressed concern regarding the non-arrival of customers' gas supply and the possible adverse impact on system gas customers. In that case, the utilities claimed that they should be entitled to verify key customers' upstream arrangements, including their respective supplier's gas reserve and the adequacy of key customer arrangements with TCPL. In cross examination, EGD agreed that this was essentially what is being proposed in this case, except that in this case, EGD is limiting the request to only the small volume customer segment (Transcript, Volume 1, page 80).

19. In EBRO-410, the Board concluded that the verification of upstream supply arrangements, including verification of gas reserves, would not be a condition for providing T-service by the utilities. In other words, the Board rejected the utilities' proposal for verification of upstream arrangements (Transcript, Volume 1, pages 81 and 82). The contractual commitment to deliver was considered to be a sufficient response to the risk of a failure to deliver.

20. In determining whether there is a significant system reliability risk associated with the decline of FT arrangements held by direct purchase customers, CME also urges the Board to consider the existing penalties associated with a failure to deliver gas supply. Currently, if a customer fails to deliver gas supply, EGD is entitled to impose a financial penalty equal to 150% of the cost of gas on that day (Transcript, Volume 1, page 57). This penalty does not distinguish between failing to deliver at peak periods compared to off-peak periods. It applies to all delivery obligations.

21. Further, where there has been a continued failure to deliver, EGD has the contractual entitlement to suspend delivery. Thus, the consequences to a marketer who fails to deliver supply is not just the penalty of 150% of the cost of gas, but also, potentially, the loss of their customers, and ultimately, the loss of their business. EGD

agreed that the direct purchase customers' firm obligation to deliver gas supply is backed up by "very significant contractual remedies" (Transcript, Volume 1, page 70), and that these contractual entitlements act as "a powerful incentive" to make sure that marketers deliver gas (Transcript, Volume 1, page 69). Despite the existence of these significant contractual remedies, EGD's position is that the only effective penalty would be one that would actually be tied to a requirement to hold FT, and hence, require the direct purchase customers to demonstrate they have FT arrangements (Transcript, Volume 1, page 59).

22. There is no evidence that any of the penalties that currently exist for non-delivery are ineffective in incenting appropriate behaviour on the part of direct shippers. In this regard, EGD confirms that they are not able to draw the conclusion that the penalties are effective or not effective because they haven't really been "stress tested" in the kinds of scenarios that are raised in this case, which is a very large degradation in the amount of firm transport to the franchise in a situation where most non-firm services are curtailed (Transcript, Volume 2, pages 37-38).

23. With respect to EGD's recent experience with firm gas supply delivery, there is no evidence of any system failure in 2003/2004 or 2006/2007 when the proportion of firm transportation was less than it was in the most recent years (Transcript, Volume 2, page 4). In fact, for the period 2000 to present, EGD was only able to point to one day where its gas supply system team "got nervous" about gas supply, and on that day, the system worked (Transcript, Volume 1, page 29).

24. EGD has not experienced a loss of system reliability (Transcript, Volume 2, page 64). The tension that EGD has identified is whether the risk of system reliability has manifested itself, at this point, to the extent that the Board should not rely upon the market to meet the reliability requirements, but instead, should mandate the utility to intervene in that system and add additional transportation security (Transcript, Volume 2, page 64).

25. Finally, contrary to EGD's rationale for its proposal, market based indicators do not suggest an increased risk of system failure. Direct Energy has addressed this point in its argument at paragraphs 9-12. Market based indicators support a conclusion that the Ontario market is not constrained by limited transportation capacity. As confirmed by Direct Energy's witness, when one looks at the CDA there is "no indication in forward pricing from the marketplace that there is substantial concern over supply security" (Transcript, Volume 3, page 19).

(iv) The Absence of Comprehensive Evidence from EGD

26. EGD's evidence on security of supply in this case is very thin. EGD has not carried out any risk analysis (Transcript, Volume 1, page 144). The Board does not have detailed evidence on the manner in which the competitive gas market in Ontario can operate to enable marketers to meet their firm gas supply obligations. Such evidence would presumably take into account both supply and demand in order to assess whether EGD's system is served by a reliable supply mix (Transcript, Volume 1, page 148). In this regard, EGD's application did not include any detailed evidence on their peak day design requirements, the impact which conservation, demand destruction and the current economic situation have had on their system supply requirements, or detailed evidence on TCPL's upstream transportation.

27. EGD acknowledged that it utilizes very sophisticated techniques for modelling their system and scenarios around how their distribution system would operate in a constrained situation. Nevertheless, EGD maintained that they are unable to assign any percentage probability to the risk of there being a system failure as a result of direct purchase customers not delivering gas because of transportation constraints (Transcript, Volume 2, pages 36-37). The result is that EGD has provided the Board with no quantified risk. As Direct Energy's witness observed, "There are a lot of physical types of evidence I would tend to expect would be produced in a situation where a utility would be raising a supply security situation" (Transcript, Volume 3, page 18).

(v) **CME's Conclusion Based on These Factors**

28. On the basis of these factors, CME is of the view that EGD has not demonstrated the existence of a material risk of distribution system failure. The evidentiary record does not convincingly support a conclusion that the decline in the percentage of FT deliveries to EGD's franchise has increased the risk of distribution system failure.

29. Nevertheless, EGD should be encouraged to present proper evidence to support its contention that a problem exists. For this reason, CME supports BOMA's proposal that the Board direct EGD to undertake a comprehensive review of this situation to determine whether there is an increased system failure risk, and if so, the extent of that risk. CME further urges the Board to ensure that the review addresses a wide range of solutions. The range of solutions could include purchasing additional FT or STFT, increasing short-haul capacity, creation of a vertical slice methodology for transportation or the total unbundling of storage and transportation. In this regard, CME notes that EGD failed to provide any alternative solutions to its proposal for Board consideration in this Application.

30. Pending such a review, CME recognizes that some temporary added transportation protection may be appropriate. CME addresses various transportation protection alternatives in the next section of this argument.

B. If Added Protection Against System Failure is Required, then What is the Appropriate Solution and Who Should Pay?

31. If the Board concludes that some added protection against system failure is required, at this time, then CME suggests that the Board consider the following factors in determining the appropriate solution:

- (a) EGD's role in creating the current situation;
- (b) The anti-competitive and market disruptive effects of EGD's proposal; and
- (c) The possible alternative solutions to EGD's proposal.

(i) EGD's Role in Creating the Current Situation

32. The genesis of this issue is EGD's decision, in 2003, to permit its direct purchase customers to elect to have EGD turn-back 100% of the TCPL capacity it assigned to such direct purchasers. EGD could have limited direct purchaser turn-back elections to something less than 100% of the TCPL capacity assigned to them by EGD. Had EGD followed this course of action it would not now be faced with the problem that it asks the Board to solve in this application. In CME's view, the competitive market's shift from FT to more cost effective discretionary services (including STFT) either was, or should have been, anticipated by EGD in 2003. In effect, EGD is now asking the Board to place them back into the position they would have been had it not decided to offer 100% TCPL turn-back to its assignees in 2003.

33. Moreover, the manner that EGD has dealt with the decline in FT arrangements over the past few years causes CME concern. EGD has, since at least 2007, been internally considering this issue (Technical Conference Transcript, Volume 1, page 148). In April 2007 a presentation was made to EGD's Executive Management Team ("EMT") (Exhibit I, Tab 12, Schedule 5) recommending that all direct purchase customers who require firm distribution service be required to demonstrate firm upstream arrangements.

34. Despite identifying the decline in FT as a problem in April 2007, and recommending to the EMT that steps be taken, for the winter of 2007/2008 EGD did not propose to either the Board or to the marketers that they take steps to underpin their MDV with FT. EGD's explanation for not asking for steps to be taken at that time was that it had "not come to the conclusion that any action was warranted at that point" (Transcript, Volume 1, page 31).

35. On September 15, 2008, another presentation was made to EGD's EMT, this time addressing the winter of 2008/2009. Following that presentation, EGD again chose not to make a proposal to either the Board or to the marketers to the effect that firm

transportation be put in place for the winter of 2008/2009 (Transcript, Volume 1, page 31).

36. In cross-examination EGD was questioned about why it took no action to address the decline in FT arrangements for the winters of 2007/2008 and 2008/2009. EGD's explanation was that it undertook a cost benefit analysis and decided that the arrangements that EGD had in place were sufficient to deal with the risk associated with decline in firm transportation (Transcript, Volume 1, page 33). CME agrees with BOMA that this issue should have been brought to the Board's attention, by way of a separate application, in a much more timely manner, rather than waiting to deal with it in an IRM application that is intended to be mechanistic in nature. Had EGD brought forward an application earlier, the Board would not be faced with an urgent request to approve additional transportation protection for the upcoming winter. The harm caused by EGD's delay is exacerbated by the weak evidentiary base upon which the Board is now asked to base its decision. Had this issue been raised in 2007, then the Board could have directed EGD to undertake a comprehensive review without having to also determine the necessity of imposing additional transportation protection.

37. CME is also troubled by EGD's evidence on the steps it says it will take if the Board rejects its proposal. If the Board decides not to require marketers to demonstrate FT arrangements equalling 90% of their MDV, then EGD does not intend to independently contract for FT in the amount of 200,000 GJs/day (Transcript, Volume 1, pages 43). EGD's stated preference would be to purchase STFT to address system reliability concerns. Thus, if EGD is required to purchase additional transportation, it would not address its system reliability concerns by purchasing the FT arrangements it asks the Board impose upon the marketers.

38. Moreover, EGD confirmed that absent the ability to recover the costs associated with obtaining STFT through rates, EGD would "have its hands tied" and would not be able to take any action (Transcript, Volume 1, pages 43-44). EGD appears to be saying that if the Board refuses to approve EGD's proposal, then EGD will not go out and

acquire 200,000 GJs/day of FT because doing so would impose a "serious risk to the shareholder, in terms of cost recovery" (Transcript, Volume 1, page 44). EGD appears to be disregarding its obligation to maintain the delivery reliability of its distribution system.

39. CME is concerned that, despite the identification of risk to its distribution system reliability over the past two winters, EGD took no steps to remedy the situation. This suggests that either the system reliability risk was not viewed as material, or alternatively, EGD's shareholder elected to accept that risk in order to save transportation costs and thereby enhance EGD's earnings.

(ii) The Anti-Competitive and Market Disruptive Effects of EGD's Proposal

40. CME has had the opportunity to review the Written Argument of Direct Energy dated May 29, 2009. CME shares the concerns of Direct Energy with respect to the anti-competitive impacts of EGD's proposal. CME is particularly concerned by the evidence that EGD's proposal would result in direct purchase customers paying a TCPL toll of \$1.44/GJ compared to EGD's average weighted cost of \$1.30/GJ (Undertaking HDU 2.1) CME further adopts and relies upon paragraphs 20-24 of Direct Energy's Written Argument with respect to the anti-competitive impacts of EGD's proposal.

41. In current circumstances, EGD's proposal to have the Board impose a 90% FT requirement on marketers is, in CME's view, not the appropriate remedy. EGD's 90% solution is an expensive long-term solution that will have an immediate and materially adverse impact on marketers. While EGD acknowledges that there would probably be cost consequences for the marketers to make such changes in their contractual arrangements (Transcript, Volume 1, page 34), it did not undertake any analysis of the cost impacts on marketers or their customers of its proposed requirement that the marketers demonstrate 90% FT arrangements (Exhibit I, Tab 11, Schedule 9). The only evidence of the cost implications of EGD's proposal is at Exhibit L, Tab 7, page 7, where Direct Energy has confirmed that the cost to the Ontario marketplace to unwind the existing hedges for landed Ontario Gas and replace these with new hedges

supported by FT is approximately \$53M over the next five years. EGD accepted Direct Energy's number based on the calculation offered by Direct Energy (Transcript, Volume 1, page 38).

(iii) Possible Alternative Solutions to EGD's Proposal

42. In CME's view, if the Board concludes that some additional protection against the risk of system failure is needed, at this time, then the solution should be short-term in nature so that there can be a smooth transition, without undue cost, to longer-term solutions that are likely to be identified in the comprehensive review that BOMA proposes and CME supports.

43. The alternative solutions to EGD's current proposal include the construction of additional short haul capacity, the creation of a vertical slice methodology for transportation, the complete unbundling of storage and transportation or the purchase of STFT for three months in the winter. With the exception of purchasing STFT, these options are long-term solutions that would not be compatible with the completion of a comprehensive review to determine whether a problem exists, and if so, the appropriate solution to address the problem.

44. Currently there exists no excess short haul capacity into the EGD CDA. While EGD agreed that increasing short-haul capacity to the CDA is one means of addressing its security of supply concerns (Transcript, Volume 2, page 30), TCPL would need 24-36 months of lead time to build additional capacity (Exhibit L, Tab 21, page 13). Similarly, EGD has confirmed that the implementation of a vertical slice methodology for transportation would take about two years (Transcript, Volume 2, page 30). Finally, while it is CME's understanding that EGD's CIS system will be capable of billing unbundled services as of September, 2009, it is not anticipated that complete unbundling of both transportation and storage will be achieved before the 2009/2010 winter.

45. In considering the most appropriate way of providing some added protection against the risk of system failure, CME suggests that, at this time, the only viable short-term solution which is compatible with the proposed comprehensive review is the purchase of additional STFT. EGD has acknowledged and agreed that STFT for a three-month period is a viable short-term option (Transcript, Volume 1, pages 97-98). EGD confirmed that for the upcoming winter, and even for a couple of upcoming winters, STFT could work (Transcript, Volume 2, page 81).

46. The STFT solution is also a much cheaper solution than EGD's proposed 90% FT solution (Transcript, Volume 1, page 43). The cost of purchasing STFT for the upcoming winter, for three months from January to March, for 200,000 GJs/day would be approximately \$21M (Transcript, Volume 1, page 130).

(iv) Who Buys and Who Pays?

47. The obligation to take appropriate action to protect a distribution system against the risk of system failure rests with the distributor. The actions which should be taken are somewhat analogous to the purchase of insurance. In this case, EGD is asking the Board to impose the obligation to purchase additional insurance against system failure on marketers. Having regard to all the circumstances that have given rise to the current situation, it may be unfair to impose this obligation on marketers at this time.

48. EGD's shareholder could reasonably be held partially and perhaps wholly responsible and accountable for the current situation of a decline in FT serving the franchise area. In these circumstances, the Board should consider the appropriateness of a solution whereby EGD conducts a proper risk analysis, as it did in previous years, and then purchases whatever level of insurance it concludes that it needs. The costs associated with this solution should be recorded in a deferral or variance account and brought forward for disposition at the time of the comprehensive review. At this time, it should not be presumed that any or all of these costs will be passed through as load balancing costs recoverable from ratepayers.

(v) CME's Conclusion Based on These Factors

49. Based upon the evidence currently on the record in this case, CME questions whether the Board is in a position to determine if there is a need for the purchase of additional transportation protection for the upcoming winter. Under such circumstances, CME believes it would be appropriate for the Board to reiterate, in its decision, that EGD has an obligation to take all reasonable steps to ensure system reliability.

50. In this regard, EGD confirmed that for the past two winters it undertook a cost benefit analysis and decided that the arrangements it had in place were sufficient to deal with the risk associated with decline in FT (Transcript, Volume 1, page 33). There is no reason why EGD cannot undertake that same analysis for the upcoming winter. If EGD determines the arrangements in place are sufficient to deal with the risk associated with the decline in FT, then no additional STFT should be purchased. Alternatively, if EGD determines that additional transportation protection is needed, then it should purchase additional STFT needed for the winter period. The costs associated with this additional STFT should be recorded in a deferral or variance account as noted above, and brought forward for disposition at the same time as the comprehensive review.

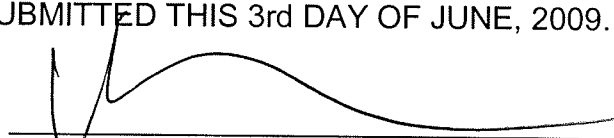
III. ISSUE 8 – INCENTIVE RATE MECHANISM FILING TIMELINES

51. CME does not oppose the IRM filing timeline proposed by EGD.

IV. COSTS

52. CME requests that it be awarded 100% of its reasonably incurred costs for participating in this proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 3rd DAY OF JUNE, 2009.



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