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June 16, 2009

VIA MAIL AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: EB-2009-0055

Please find enclosed the submissions of VECC in the above noted proceeding.

Yours truly,

Original signed

Michael Buonaguro
Counsel for VECC
Encl.

EB-2009-0055

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 clearance or disposition of amounts recorded in certain deferral or variance accounts.

Submissions of

The Vulnerable Energy Consumers Coalition (VECC)

The Vulnerable Energy Consumers Coalition (VECC) comprises the Federation of Metro Tenants Associations (FTMA) and The Ontario Coalition of Senior Citizens Organizations (OCSCO). These stakeholders are represented in Board proceedings, including EB-2009-0055, by the Public Interest Advocacy Centre (PIAC).

VECC's Consultants and Counsel have reviewed the Evidence and interrogatories provided by EGDI and have the following Submissions:

Earnings Sharing Mechanism- Calculation of 2008 Earnings Sharing Amount

VECC submits that Exhibit B Tab 1 Schedule 2 Page 1 and supporting Exhibits as referenced therein, appear to accurately reflect the EB-2007-0615 Settlement Agreement regarding Calculation of Utility Net Income, Return on Equity and Revenue Sufficiency for determination of the 2008 Earnings Sharing amount.

Impact Statement No 1 makes changes to Exhibit B Tab1 Schedule 2 Page 1, (and to the Tax Rate and Rule Change Variance Account) to reflect the impact of tax changes as reflected in Exhibit M Tab 1 Schedule 2 Page 1. The net impact of the update is a reduction of the TRRCVA balance of $1.83 million and a decrease in the gross earnings sufficiency from $11.5 million to $11.2 million and the ESM amount to ratepayers reduces from $5.75 to $5.6 million.

VECC has reviewed and relies on, the due diligence of Mr. R. Aiken on behalf of BOMA and accordingly adopts BOMA's submissions regarding the amendments to the TRRCVA and ESM rebate to ratepayers.[1]

Deferral and Variance Account Balances –Non Commodity Related Accounts

Tax Rule Changes and TRRCVA

As noted above, EGDI has filed Impact Statement No.1 (M/T1/S1) dated 2009-05-26 that updates the treatment of Tax Changes and Clearance of the Tax Rate and Rule Change Variance Account (TRRCVA). The net result is elimination of the $1.83 million balance.

Open Bill Access Deferral Account (OBADA) and Open Bill Access Variation Account (OBAVA)

Exhibit C Tab 1 Schedule 1 Page 3 (updated 2009-05-26) shows the Forecast Balances for Clearance at October 1, 2009.at Lines 9 and 10 as $795,600 plus interest of $21,900. It also indicates that the interest has continued to accrue since February 28, 2009

.

Footnote 3 to Exhibit C, T1, S1 page 3 indicates that "Open Bill related accounts are subject to any impact of the EB-2009-0043 Open Bill Issues proceeding".

However, as shown in the response to a CME interrogatory (Exhibit I, Tab 4, Schedule 2, part (d)), EGD has indicated in this proceeding that it *"no longer seeks to clear the balances in the 2008 Open Bill Service Deferral Account and 2008 Open Bill Access Variance Account as part of this proceeding".* The response goes on to indicate that the balances, disposition and clearance of these accounts are being addressed in a separate proceeding, EB-2009-0043.

BOMA has suggested[2] that EGD remove the balances associated with these accounts from its request for clearance in this proceeding based on the CME IR response.

[1] BOMA Submission Page 2

[2] BOMA Submission Page 2

VECC agrees that the clearance of the OBADA and OBAVA Balances in this proceeding is not appropriate and that it should be considered entirely within the EB-2009-0043 proceeding.

Deferral and Variance Account Balances –Commodity Related Accounts

VECC relies on the Company's evidence and interrogatory responses to Board Staff regarding the methodology used and appropriateness of the balances in the 2008 PGVA.

With regard to the Transactional Services Deferral Account (TSDA), VECC has reviewed the calculation provided in Response to Board Staff IRR #3 and believes it reflects the methodology approved in the Settlement Agreement for calculation of the TSDA amount.

Accordingly for the PGVA and TSDA VECC defers to Board Staff's submissions regarding any required changes to the balances of these accounts.

VECC takes no position with regard to the 2008 UAFVA and 2008 S&TDA.

Cost Allocation and Account Clearance

Cost Allocation

The allocation of balances in the Non Gas Commodity Related Accounts has been previously approved by the Board.

However four new deferral Accounts were approved in EB-2007-0615:

1. Average True-Up Variance Account (AUTUVA),
2. Municipal Permit Fees Deferral Account (MPFDA),
3. Tax Rate & Rule Change Variance Account (TRRCVA), and
4. Earnings Sharing Mechanism Deferral Account (ESMDA.

As noted in BOMA IRR # 4, the cost allocation for these accounts has still to be approved:

> "Note that for 2008, the Board approved the creation of four new accounts. Those are: the Average True-Up Variance Account (AUTUVA), Municipal Permit Fees Deferral Account (MPFDA), Tax Rate & Rule Change Variance Account (TRRCVA), and Earnings Sharing Mechanism Deferral Account (ESMDA).
> The proposed classification and allocation of these accounts by rate class can be found at Exhibit C, Tab 2, Schedule 2, page 3 as well as at Schedule 3, page 1."[3]

VECC agrees with EGDIs proposed Allocation of the Balances for the first three of these accounts (the 2008 TRRCVA has a zero Balance).

However, there appears to be an issue with allocation of the ESMDA balance of $5.6 million plus interest of $63,500.

EGDI has not clearly set out how it is proposing to allocate this to the rate classes. We note that no allocator is shown in the Table on page 3 of Exhibit C, Tab 2, Schedule 2. However it appears from Page 3 of that Schedule that the ESMDA balance is allocated based on Distribution Revenue Requirement (DRR).

BOMA has suggested that the appropriate allocator is rate base, since the return component is a function of rate base. BOMA also notes that in EB-2009-0101, Union Gas has proposed to allocate the Earnings Sharing based on allocation of return on equity. This allocation is consistent with how Union allocated, and the Board approved, earnings sharing for 2003, 2005 and 2006 for Union. [4]

However EGDI's Incentive Regulation Mechanism is entirely different to either Union's historic rate cap IRM scheme or Union's current Rate Cap IRM.

VECC submits that since EGDI has received approval for an IRM based on Distribution Revenue Requirement/Customer, it is therefore reasonable that the $5.6 million balance in

[3] BOMA IRR #4
[4] BOMA Submission Page 4

the 2008 Earnings Sharing Deferral Account plus interest, should be allocated to the rate classes based on *Distribution Revenue Requirement,* not rate base.

<u>Account Balances-Timing of Disposition</u>

VECC agrees with EGDI's proposal to dispose of the balances by a rebate to customers commencing October 1, 2009.

However, VECC questions why two installments (October and November Bills) are necessary[5]

> "Given the timeline of this proceeding and as shown in updated evidence Exhibit C, Tab 1, Schedule 1, Enbridge is now requesting clearance of the deferral accounts to coincide with the October 1, 2009 QRAM. As such, the Company now proposes to clear the balances to customers in two equal installments during the October and November 2009 billing cycles"

Two installments also requires recalculation of interest on the second installment[6]. This is an unnecessary complication and changes the interest shown in the updated evidence.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 16th DAY OF JUNE 2009

[5] Board Staff IRR #1
[6] Ibid