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

Dear Ms Walli:

Re: Exhibit L, Tab 8
Enbridge Gas Distribution Inc.
2008 Earnings Sharing Mechanism and Other Deferral and Variance Accounts/ EB-2009-0055

On March 18, 2009, Enbridge Gas Distribution Inc. ("EGD") filed an application with the Ontario Energy Board for an order approving the disposition of balances in certain deferral and variance accounts, including the 2008 Earnings Sharing Account ("ESM"). These are the submissions of the Consumers Council of Canada ("Council") regarding the disposition of the balances in those accounts. The Council does not intend to comment on all components of the application and will only address certain issues. With the exception of the issues set out below, unless information arises in EGD's reply submissions the Council does not intend to take issue with any of EGD's other proposals.

Capital Cost Allowance Tax Rate Changes:

In its initial evidence EGD did not reflect the tax reductions in the Tax Rate and Rule Change Variance Account related to the anticipated capital cost allowance ("CCA") tax rate changes for 2008 as the changes had not yet been passed into law. Since that time the CCA rate changes have been passed into law. EGD has provided updated evidence to reflect these savings. The Council supports the updated evidence and the proposal to flow through the impacts of the CCA rate changes.

Energy Efficiency Initiatives:

In its evidence EGD states, "The other income change of $4.1 million is mainly due to revenue from the management of fee for service external 3rd party efficiency initiatives" The Council asked for a complete description of all activities EGD is doing with respect to 3rd party energy efficiency initiatives. EGD's interrogatory response was that 3rd party energy efficiency initiatives consisted of non-LDC program delivery. EGD provided the costs and benefits, but no details regarding the activities undertaken and the costs and revenues associated with each of those activities (Ex I/T6/S2).

The Council submits that it is incumbent that EGD provide a detailed explanation of the activities undertaken in order to ensure the costs and revenues are accounted for properly. In addition EGD should be required to demonstrate that these activities are appropriate activities for a regulated gas distribution company. Without any details, it is unclear from the Council's perspective if EGD's calculation of the Earnings Sharing Mechanism ("ESM") is appropriate.

2008 Ontario Hearing Costs Variance Account:

EGD has recorded in the Ontario Hearing Costs Variance Account an amount of $105,200 for the "Integrated Power System Plan" ("IPSP") (Ex C/T1/S6/p. 1) In response to an interrogatory from the Council EGD indicated that the amount is related to legal costs incurred to date by EGD through its attendance and involvement in the IPSP proceeding. (Ex. I/T6/S8) The Council sees no reason why EGD's ratepayers should be required to fund the $105,200 related to EGD's involvement in the IPSP process. EGD has not provided any evidence to indicate that EGD's involvement in that process provided any benefit to its ratepayers. In the absence of any evidence EGD's request to recover these costs should be rejected by the Board.

EGD has also included in the 2008 OHCVA an amount of $993,000 related to consulting costs. EGD has indicated in an interrogatory response that the services rendered included the Productivity Study and evidence in relation to the Incentive Regulation ("IR") proceeding. (Ex. I/T6/S9) This amount is in addition to an amount of $975,000 for legal costs. As noted by Counsel to the Canadian Manufacturers and Exporters in his submissions, the IR proceeding (EB-2007-0615) was settled in early 2008. Clearly the majority, if not all, of the consulting costs were incurred in 2007. The Council submits that it would be inappropriate for EGD to now recover from its customers almost $2 million in legal and consulting costs that were incurred in 2007. The Council submits that the Board should reject EGD's request to recover these costs from it customers.

Yours very truly,

WeirFoulds LLP

Robert B. Warren

RBW/dh

cc: Enbridge Gas Distribution Inc.
All Parties
Joan Huzar
Julie Girvan

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