

September 30, 2009

Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E5

Dear Ms. Walli:

Re: EB-2009-0172: Enbridge Gas Distribution Inc. (EGD) 2010 Rates.

Industrial Gas Users Association (IGUA) Letter of Intervention.

We write as legal counsel to IGUA.

Application for Intervenor Status.

IGUA is in receipt of the Board's Notice of Application in the captioned proceeding dated September 18, 2009. We hereby request, on behalf of IGUA, that the Board accept this application for intervenor status.

Description of IGUA.

IGUA is an association of industrial companies located in the Canadian provinces of Manitoba, Ontario and Québec who use natural gas in their industrial operations. IGUA was first organized in 1973 and it provides a coordinated and effective public policy and regulatory voice for those industrial firms depending on natural gas as a fuel or feedstock. IGUA has become the recognized voice representing the industrial user of natural gas before regulatory boards and governments at both the provincial and national levels.

Nature and Scope of IGUA's Intended Participation.

IGUA has historically been an active participant in gas distribution rate setting proceedings. IGUA was centrally involved in the proceedings that set the incentive regulation mechanism (IRM) regimes for each of EGD and Union Gas Limited, and has remained active in rate setting proceedings under those regimes.

IGUA's interests in this proceeding include: i) validation of the appropriate application of EGD's IRM to establish 2010 rates; and ii) review and evaluation of requested y or z factor pass throughs to ratepayers proposed by EGD. IGUA may identify other issues of interest as the record herein is developed.

Hearing Process.

The Notice of Application requests that applicants for intervenor status indicate their preference for a written or oral hearing, and the reasons for that preference. EGD has suggested in its Application (paragraph 14) that it may be appropriate for the Board to implement a two-phase proceeding in order to accommodate the hearing of some or all of the "other" issues that EGD's application raises (in relation to Y and Z factors, and deferral and variance accounts).

IGUA anticipates that issues regarding the application of the IRM rate adjustment formula *per se* will be amenable to disposition in writing. There are other requests made by EGD in its Application, such as approval of a regulatory framework for the offering and provision of district energy and alternative or renewable energy activities and services by the regulated utility in future years, that may require more in-depth review, including potentially in an oral phase of this proceeding. It is difficult for IGUA to determine in advance of review of the evidence to be filed by EGD on October 1st which issues may be disposed of in an early, written phase of the proceeding and which issues may require more in-depth examination in a second phase of the proceeding. Following the filing of EGD's evidence, the Board may wish to:

1. Issue a draft issues list, encompassing all of the issues raised by the prefiled evidence.
2. Request the comments of parties regarding which of the proposed issues may be disposed of in a first, written phase of the proceeding. The issues that the Board determines are appropriate for a written hearing could be subject to Phase I interrogatories followed by a Phase I technical conference, prior to the written hearing thereon. (IGUA respectfully suggests that the Board provide some time for review of interrogatory responses prior to the date of the technical conference, to facilitate full and efficient discovery.)
3. The balance of the issues raised could then be subject to a second phase of discovery (through Phase II interrogatories and a Phase II technical conference), and a settlement conference. Parties could then propose as part of the outcome of the settlement conference which of the remaining issues should be heard by the Board orally and which can be dealt with in writing.
4. Under this approach, the Board would make provision in its schedule at the outset for an oral phase for issues that the Board determines it will hear orally.

Intention to Seek an Award of Costs.

IGUA also hereby requests that it be determined eligible for recovery of its reasonably incurred costs of its intervention herein.

As a party primarily representing the direct interests of industrial consumers (i.e. ratepayers) in relation to regulated services, IGUA has in the past been determined to be eligible for cost awards pursuant to section 3.03(a) of the Board's *Practice Direction on Cost Awards*.

Request for Written Evidence and Contact Information.

IGUA requests that copies of written evidence and all circulated correspondence related to this matter be directed to it as follows:

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