



EB-2009-0172

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, 2010.

PROCEDURAL ORDER NO. 2

PRELIMINARY MOTION

Enbridge Gas Distribution Inc. ("Enbridge") filed an Application on September 1, 2009 (as amended on September 14, 2009) with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Sched. B, as amended, for an order of the Board approving or fixing rates for the distribution, transmission and storage of natural gas, effective January 1, 2010. The Board assigned file number EB-2009-0172 to the Application and has issued a Notice of Application dated September 18, 2009.

The Application is for rates for 2010 to be set under the Incentive Regulation plan methodology as approved by the Board under File No. EB-2007-0615. The Applicant's evidence was filed on October 1, 2009.

On October 23, 2009 the Board issued a Procedural Order which, among other things, advised that the Board had decided to determine whether certain initiatives proposed by Enbridge, and their associated costs, assets and revenues, were properly part of the

regulated operations of Enbridge and thus under the Board's ratemaking authority as a preliminary matter (the "Preliminary Motion").

All parties wishing to make written submissions were asked to answer the following questions:

1. Are the electricity generation facility projects, and their associated costs, assets and revenues properly part of the regulated operations of Enbridge and thus under the Board's ratemaking authority?
2. If not, does the Board have jurisdiction to deal with the electricity generation facility projects and their associated costs, assets and revenues outside of the ratemaking process?

In its Written Argument filed on November 4, 2009, Enbridge noted that certain of the Green Energy Initiatives described in its Application would not be categorized as "electricity generation facility projects"; assumed that those which fell outside that category had been acknowledged by the Board to be within its ratemaking jurisdiction; and advised that although its submissions on the Board's jurisdiction focused on "electricity generation facility projects", most of its submissions applied equally to the Board's jurisdiction to consider Enbridge's other Green Energy Initiatives in the ratemaking process.

The Board wishes to receive submissions that deal with its jurisdiction to deal with all Green Energy Initiatives proposed by Enbridge in its Application. The Board will amend the questions to be answered on the Preliminary Motion to read as follows:

1. Are the Green Energy Initiatives described in Enbridge's Application (Ex. B, Tab 2, Sch. 4), their associated costs, assets and revenues properly part of the regulated operations of Enbridge and thus under the Board's ratemaking authority?
2. If not, does the Board have jurisdiction to deal with the Green Energy Initiatives, their associated costs, assets and revenues outside of the ratemaking process?

Parties with submissions outstanding are requested to address the questions above in their submissions. If Enbridge is of the view that additional written submissions are

required to establish the Board's ratemaking jurisdiction over those Green Energy Initiatives which are not categorized as electricity generation facility programs, it may do so by November 13, 2009. Given Enbridge's statement that most of its submissions applied to all Green Energy Initiatives, the Board assumes that such submissions would be brief.

The Board will make provision for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Parties with submissions outstanding who wish to address the issues to be dealt with on the Preliminary Motion should address the following questions in their submissions:

Are the Green Energy Initiatives described in Enbridge's Application (Ex. B, Tab 2, Sch. 4), their associated costs, assets and revenues properly part of the regulated operations of Enbridge and thus under the Board's ratemaking authority?

If not, does the Board have jurisdiction to deal with the Green Energy Initiatives, their associated costs, assets and revenues outside of the ratemaking process?

2. Enbridge may make an additional written argument on the Board's ratemaking jurisdiction over those Green Energy Initiatives which are not categorized as electricity generation facility programs and shall file its written argument by Friday November 13, 2009 and provide copies to all parties.
3. All parties shall file their submissions with the Board Secretary and must quote file number EB-2009-0172. These submissions should be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address and must be sent to the Board by 4:45 pm on the date indicated with a copy to all parties. Please use the document naming conventions and document submission standards outlined in the RESS

Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to the addresses below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies. With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Colin Schuch at colin.schuch@oeb.gov.on.ca and Board Counsel, Donna Campbell at donna.campbell@oeb.gov.on.ca.

DATED at Toronto, November 9, 2009
ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary