



EB-2009-0043

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 its
proposal for open billing services.

NOTICE AND PROCEDURAL ORDER NO. 1

Enbridge Gas Distribution Inc. ("Enbridge" or the "Company") filed an application, dated March 27, 2009 (the "Application"), with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act*, S.O. 1998, c.15, Schedule B for an order or orders approving its proposal for continuing open billing services, and the sharing of earnings from those services. On October 15, 2009, Enbridge filed a Settlement Proposal with the Board (the "Settlement Proposal"). In its Application, Enbridge has also applied to the Board for such final and interim Orders and deferral and variance accounts as may be necessary to implement its proposal for Open Bill Services. The Board has assigned Board File No. EB-2009-0043 to this Application.

Background

Open Bill Services or Open Bill Access ("OBA") refers to third party access to the Enbridge bill for the purposes of billing charges on behalf of third parties, and for the purpose of distributing third party marketing information in the form of bill inserts. Billing services were once under the exclusive right of Direct Energy Essential Home Services ("DEEHS") as a result of an agreement between Enbridge and DEEHS.¹ By Board Decision, DEEHS exclusive access concluded February 9, 2006.²

¹ EB-2009-0043, Evidence, Exhibit B, Tab 1, Schedule 2, Page 1

² EB-2005-0001, 2006 Test Year, Decision with Reasons, paragraph 9.5.4

Open Bill Access was an issue in Enbridge's 2006 test year proceeding (EB-2005-0001/EB-2005-0437). In that proceeding, the Board concluded that the issue required further examination, citing among other things, that Enbridge must demonstrate that there are net benefits for ratepayers. The OBA issue was deferred to the 2007 rates proceeding. Enbridge did not settle the OBA issue in the original settlement agreement of Enbridge's 2007 rates proceeding (EB-2006-0034), dated January 29, 2007.

On February 12, 2007, Enbridge and several interested parties reached a supplementary settlement on the OBA issue (the "interim solution") which is the current system in place. As part of the interim solution, Enbridge was to bring forward a comprehensive solution to OBA once the new Customer Information System ("CIS") was in place. Enbridge's new CIS is now operational and the new OBA activities can now be undertaken in the manner contemplated by the filed Settlement Proposal.

Enbridge has been in consultation with interested parties since May 2008 to develop a comprehensive solution. Enbridge provided wide notice to interested parties, and the respondents formed an "OBA consultative" to develop a Settlement Proposal

The Settlement Proposal

A complete settlement of all issues related to OBA was filed with the Board on October 15, 2009. The parties to the Settlement Proposal are: Direct Energy Marketing Limited, the Heating, Refrigeration and Air Conditioning Institute of Canada, LivClean Corporation, National Energy Corporation, Reliance Comfort LP, Vulnerable Energy Consumers Coalition (the "core members").

After the settlement was reached with the core members of the OBA consultative, the Settlement Proposal outlining the comprehensive solution was circulated to all intervenors involved in Enbridge's 2009 rates proceeding (EB-2008-0219) and to all parties in the OBA consultative. Enbridge provided its own process to ask questions on the Settlement Proposal. Enbridge provided the responses to these questions, and attached a copy of these responses to the Settlement Proposal.

All members of the OBA consultative, as well as two other stakeholders (Canadian Manufacturers & Exporters, and the Consumers Council of Canada) have indicated

that they support the Settlement Proposal. No intervenor or OBA consultative member has registered objection to the Settlement Proposal.

The Settlement Proposal outlines an agreement on the rates to be charged and the parameters under which OBA would be made available to parties. The agreement would be in effect until December 31, 2012. The Settlement Proposal includes, as an offset, a \$5.389M ratepayer benefit which is built into the calculation of revenue requirement. The offset is unchanged from the amount in rates which was agreed to in the interim solution. There is no adverse rate impact to ratepayers.

The Settlement Proposal includes a \$2M “deadband” for net revenues from \$5.389 to \$7.389M which the Company will not be required to share. Any revenues in excess of \$7.389M will be shared 50/50 with ratepayers. The offset is reduced to \$4.889M in the event that net revenues fall short of \$4.889M in any given year, which Enbridge indicates would occur with the unforeseen loss of a large OBA customer. Any variance will be placed in a variance account. The earnings sharing arrangement primarily impacts the Rate 1 residential class, with negligible effects on other rate classes. Enbridge notes that the net impact of OBA will never expose ratepayers to any downside risk.

The Settlement Proposal takes steps to ensure that no party taking OBA will be advantaged over another. The salient aspects include:

- the same prices will be offered to all OBA customers with no volume discounts
- affiliate access will be on the same terms as others through notice and “open season”
- there will be no access to bill inserts when a safety notice or rate increase is included with the bill, and bill inserts can be system-wide, or sent in specific business forward sortation areas (FSAs)
- Enbridge may change cost per bill annually at rate of half CPI, and in any event the increase will be no greater than 2% per year.

This list is illustrative rather than exhaustive.

Required approvals

If the Settlement Proposal is approved, Enbridge will file a request for orders to create the following deferral and variance accounts for the term in which the Settlement Proposal would be in effect:

- Open Bill Access Variance Account
- Open Bill Services Deferral Account
- Open Bill Revenue Variance Account
- Ex-franchise Third Party Billing Services Variance Account

Full descriptions of the proposed accounts are available in Enbridge's application.

Participation

The Board notes that Enbridge has provided a copy of the application and the evidence to all parties listed in the EB-2008-0219 proceeding and the members of the OBA consultative on March 27, 2009. Enbridge similarly provided outstanding evidence to those parties on October 15, 2009. The Board accepts these parties as deemed intervenors in this proceeding.

Process

The Board has before it a Settlement Proposal which includes a complete settlement of all issues. The Board wishes to confirm that there is no opposition before it proceeds to consider the Settlement Proposal. The Board will allow those parties that oppose the Settlement Proposal an opportunity to comment.

THE BOARD ORDERS THAT:

1. Any intervenor that wishes to make comment **opposing** the Settlement Proposal shall file such submissions with the Board, copy the applicant, and serve on every other intervenor, on or before **Thursday, November 26, 2009**.

In the absence of further comment opposing the Settlement Proposal, the panel will move to consider the Settlement Proposal once this date has passed.

All filings to the Board must quote file number EB-2009-0043, be made through the Board's web portal at www.errr.oeb.gov.on.ca, and also consist of two paper copies and one electronic copy in searchable/unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. 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 BoardSec@oeb.gov.on.ca. 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.

All communications should be directed to the attention of the Board Secretary and be received no later than 4:45 p.m. on the required date.

DATED at Toronto, November 12, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary