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November 17, 2009

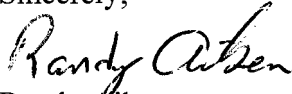
Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, Ontario, M4P 1E4

Dear Ms. Walli:

**Re: EB-2009-0172 –Submissions of BOMA – Enbridge Gas Distribution Inc. - 2010
Rates – Preliminary Motion**

Please find attached the submissions of the Building Owners and Managers Association
of the Greater Toronto Area in the above noted proceeding.

Sincerely,



Randy Aiken
Aiken & Associates

cc Bonnie Jean Adams, Enbridge Gas Distribution Inc.

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

**SUBMISSIONS OF THE BUILDING OWNERS AND MANAGERS
ASSOCIATION OF THE GREATER TORONTO AREA (“BOMA”) ON
PRELIMINARY MOTION**

Enbridge Gas Distribution (“EGD”) filed an Application with the Ontario Energy Board (“OEB”) on September 1, 2009 for an order approving or fixing rates for the distribution, transmission and storage of natural gas to be effective January 1, 2010. The Application was amended on September 14, 2009 and the evidence was filed on October 1, 2009.

Procedural Order No. 1 was issued by the OEB on October 23, 2009 advising that as a preliminary matter, the OEB would determine the issue of whether electricity generation facility projects and their associated costs, assets and revenues should be part of the regulated operations of EGD and thus within the OEB’s ratemaking authority. The OEB invited parties to answer two 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?

On November 9, 2009 the OEB issued Procedural Order No. 2, amend the questions to be answered 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?

EGD filed their written argument on the jurisdictional question on November 4, 2009 and additional written submissions on November 13, 2009. Board Staff submissions were filed on November 11, 2009. BOMA has reviewed the submissions of both EGD and Board Staff.

BOMA submits that the ratemaking authority of the OEB can only be engaged under section 36(2) of the *Ontario Energy Board Act, 1998*, S.O. 1998. This section of the Act grants the OEB ratemaking authority over the transmission, distribution, storage and sale of gas only. BOMA further submits that the OEB's ratemaking powers cannot be changed by Ministerial Directives or additions to the Act's objectives. The ratemaking powers of the OEB granted by section 36(2) can only be amended by the Legislature. No such amendment to section 37(2) has been made as a result of the *Green Energy and Economy Act, 2009*. In summary, BOMA supports the submissions of Board Staff.

BOMA also supports the Board Staff submissions related to the Ministerial Directives. As noted in the Staff submission, both the 2006 and 2009 Directives acknowledge that the ratemaking powers of the Board are separate from and unaffected by the Directives.

In conclusion, BOMA supports the answers provided by Board Staff in response to the two questions posed by the Board in Procedural Order No. 2.

All of which is respectfully submitted this 17th day of November, 2009.

A handwritten signature in cursive script, reading "Randall E. Aiken", is written over a horizontal line.

Randall E. Aiken
Consultant to
Building Owners and Managers Association of the Greater Toronto Area