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March 10, 2010

VIA MAIL AND EMAIL

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
26th Floor
2300 Yonge Street
Toronto, ON
M4P 1E4

Dear Ms. Walli:

Re: EB-2010-0029

Please find enclosed the submissions of VECC in the above noted proceeding.

Yours truly,

Michael Buonaguro
Counsel for VECC
Encl.

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998,*
S.O. 1998, c. 15, Sched. B, as amended;

AND IN THE MATTER OF an application by Enbridge Gas Distribution Inc. for an accounting order or orders establishing certain Demand Side Management Deferral Accounts for the years 2010-2014

Application

Enbridge Gas Distribution Inc. (EGDI or the Company) has applied to the Ontario Energy Board (the "OEB" or the "Board"), for an Accounting Order or Orders establishing DSM Deferral Accounts for each of the years of 2010 through 2014 inclusive, in respect of a solar thermal space heating pilot project which the Company proposes to undertake during this time frame.

The Company has requested that the Application be expedited, and any Decision and Order granting the approvals sought is received before end of day March 19, 2010.This deadline relates to the Company's relationship with Natural Resources Canada (NRCan).

Summary of VECC Position

VECC is not supportive of the Application and Requests that the Board deny the relief requested by EGD.

In VECC's view it is not a priority for the Gas Distribution Utility to deploy utility resources under the mantle of DSM for this Solar Thermal Pilot Program and to have ratepayers pay part of the cost. There are many more immediate opportunities for re-deploying and expanding the current DSM programs.

If EGDI wishes to proceed with the project, VECC suggests that it can do so, either under the current EGDI R&D Budget, or alternatively as a shareholder-funded non-utility initiative.

The Project

The project is described in the pre-filed evidence (Exhibit A Tab 1 Schedule 3 Page 4 para 13)

> 13. The underlying purpose of the project is twofold:
> - To expand the use of solar thermal technology from its current applications

for water heating to include space heating and thus reduce the use of fossil fuels and GHG emissions.

 To increase the potential for thermal storage applications in both new buildings and retrofits and marry the production of solar energy with the varying need for thermal energy during the course of a day, week, or year.

Relationship to EB-2009-0172 Motion Decision and GEA

EGD is not positioning the project as falling under the Green Energy Act and the Minister's Directive that *inter alia* allowed EGD relief from its Undertakings to invest in Conservation, thermal storage renewable energy projects. EGDIs rationale is summarized in the response to Board Staff IRR #1.(Exhibit B, Tab 1 Schedule 1):

> In EGD's view, *<u>the focus of this application is entirely on a DSM research pilot project</u>* and not on matters associated with either the provincial Green Energy and Green Economy Act, or the latest changes to the EGD's Undertakings recently directed by the Minister.
>
> In EB-2009-0172 EGD asked the Board to look to the future and consider benefits of EGD actively leading in the development of new Green Energy opportunities within its regulated utility. In this case, the proposed solar thermal research pilot project should be characterized as a research project to assess, evaluate, test, and compare the effectiveness of various solar thermal technologies combined with various therma storage technologies in a number of different applications. The focus of the project and its research is on the development and evaluation of solar thermal space heat in technologies for the benefit of its ratepayers and the province.[Emphasis Added]

Fit With DSM Program and IRM DSM Y Factor

VECC suggests that despite EGDI's positioning of the project as different to the EB-2009-0172 Motion, the Application raises the same questions about the Board's mandate to include the costs associated with EGD's solar thermal project in rates.

The Board's December 22, 2009 *Decision on a Preliminary Motion* in EB-2009-0172 includes the following findings with respect to EGD's then proposed "green energy initiatives":

When assets are allowed in rate base it is generally because those assets are related to the monopoly franchise. EGD does not have a monopoly franchise for the production of renewable energy, which occurs within a broad competitive market involving the provision of a variety of new and refined energy and conservation products. Permitting a well financed public utility to include its costs of participation in this market into its rate base, and thereby transferring risk to the ratepayer, is unfair to other market participants.

Including such costs in rate base would significantly increase the risk to the ratepayer. The ring fencing of utility assets from non-utility assets, begun for EGD the mid-1990s, was based on a concern that the diversification activities by the gas utilities would expose utilities' customers to undue risk.

VECC cannot see how the current proposal differs in any respect to the thrust of the Board's findings. In response to Board Staff IR #1 (Exhibit B,Tab1, Schedule 1) EGDI relies on the fact that it does not propose to include any assets in rate base for this program, and that the reasons presented by the Board in EB-2009-0172 spoke to the inclusion of assets in rate base. In VECC's view, the inclusion of Solar Project O&M costs in the Distribution Revenue Requirement affects rates just as much as the return on rate base capital.

Leaving aside the questions that the Application raises regarding the Board's mandate to include solar thermal project costs in rates, VECC has three other more direct concerns:

a) The Current DSM Program is constrained by application of the Y factor under IRM. In response to VECC IRR #3 (Exhibit B Tab 2 Schedule 3) EGDI confirms that:

Solar Space Heating Program costs/accounts will be separated from the base DSM program for 2010-2014 and will not access the DSMVA or LRAMVA or SSMVA.

Interest will be charged in the same manner as all other deferral accounts.

Nonetheless, granting of the Solar Pilot Deferral Account de-facto increases the DSM Y factor in 2010-2013 even though it may have no direct financial impact during IRM and may not be cleared until rebasing.

b) Current "Standard" DSM programs are, in VECC's opinion, underfunded. This is particularly the case for EGDI's Low Income DSM Programs.

c) EGD proposes to deploy utility resources that arguably are, and should be, utilized for higher priority work.

The response to VECC IRR#1 (Exhibit B, Tab 2, Schedule 1, Attachment (Section 2.2 Project Methodology and Risk Mitigation)) indicates that EGDI will deploy a project team of 8 including some senior personnel.

Obviously these staff will not be doing their regular work which in some cases includes DSM –related work.

Details of the Accounting Order Lacking in the Application

EGD has not provided sufficient information regarding the accounting treatment of the requested deferral account (VECC IRR#5 Exhibit B Tab 2 Schedule 5):

a) The account can go under any name. EGD suggests calling the account the DSM Solar Space Heating Research deferral account.

b) Accounting entries have not been finalized at this time. EGD will follow similar procedures as other Board approved deferral accounts.

c) NRCan will audit the work completed and invoices paid. In addition, this deferral account would require the usual annual application for approval to clear any amounts through the current Board processes.

d) The exact allocation plan cannot be determined at this time. EGD's intent fo the remaining $4.5 million is to recover those costs from partners and participants as well as other funding agencies prior to seeking any funding from ratepayers.

VECC submits that the Board cannot grant the Order for a deferral account given these deficiencies.

Inadequate Consultation with the EAC and DSM Consultative

VECC IRR #1 (Exhibit B, Tab 2,Schedule 1, Attachment) shows that the Application to NRCan was signed by the EGDI Vice President of Business Development and Customer Strategy on September 14, 2009. EGDI did not consult with the EAC and did not provide information to the DSM Consultative until February 17, 2010 (Exhibit B, Tab 2, Schedule 6, Attachment) i.e. 2 weeks after the current Application was filed.

VECC suggests that the actions of EGDI are inappropriate and not in the spirit of open communication with Stakeholders on DSM matters. Despite the known cost consequences of the NRCan application, 5 months elapsed before any direct communication with stakeholders.

Timing of Application

EGD filed its application on February 4th, 2010 *4and 1/2 Months after the NRCan application*. EGD requested expedited consideration, on the basis that NRCan requires EGD to execute a Contribution Agreement before March 31, 2010. However in Response to Board Staff IRR #1 (Exhibit B, Tab 1, Schedule 2 part a)),it appears this is not the case.

In the result, intervenors have been allowed only one month to review the Application file IRs and review the responses and then file final submissions.

Costs

VECC has acted effectively and efficiently in its review of the Application and requests an award of 100% of its Costs in this proceeding.

All of which is respectfully submitted this 10th day of March, 2010