

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Schedule 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

**REPLY ARGUMENT OF
ENBRIDGE GAS DISTRIBUTION INC.**

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Introduction

1. Enbridge Gas Distribution Inc. (“EGD” or the “Company”) responds to the submissions made by the parties to this proceeding. EGD is appreciative of the efforts made by each party, particularly given the relatively short timeframe involved. EGD also expresses its gratitude to the Ontario Energy Board (the “OEB” or the “Board”) for its expeditious handling of this Application to secure the funding opportunity with NRCan.
2. EGD is seeking in this Application approval to establish DSM deferral accounts for each of the years 2010 to 2014. The purpose of these accounts is to support a five-year Solar Thermal Space Heating pilot project (the “Project”). More specifically, this Project will undertake an evaluation of a variety of solar thermal collectors and combined thermal storage alternatives. The Project will involve the design and development of systems for a number of sites within the Enbridge franchise area. Following installation, the sites will be monitored for their energy usage for a minimum of at least three years and the Project results made publically available. Three solar collector technologies will be tested: flat panel, evacuated tube, and concentrating collectors. As well, three types of thermal storage media will be tested: tank storage, geothermal, and thermal mass storage. Eligible sites could include multi-residential buildings, institutional buildings, and neighbourhoods of individual homes.¹

¹ EGD Application, Exhibit A, Tab 1, Schedule 1, page 4

3. Natural Resources Canada (“NRCan”) is an established leader in science and technology in the fields of energy, forests, minerals and metals and uses its expertise in earth sciences to build and maintain an up-to-date knowledge base of Canada’s landmass. NRCan employs about 4,200 people and has a budget of \$812 million (2003-04). It is one of the largest science-based departments in the Government of Canada, specializing in the sustainable development and use of natural resources, including energy resources. Its vision is to improve the quality of life of Canadians by creating a sustainable resource advantage. The \$1 billion Clean Energy Fund (CEF) was announced in the Budget 2009, as part of Canada’s Economic Action Plan on January 27, 2009. The intent of the CEF is to reduce Canada’s GHG emissions. NRCan is the administrator of the CEF and, following the review of 178 project proposals, selected 19 projects, including EGD’s project for Solar Thermal Heating Systems. NRCan selected EGD’s proposal in recognition of the Project’s importance to energy conservation and the reduction of GHG.
4. EGD notes that Board Staff, GEC, Pollution Probe and, to some extent, SEC are all supportive of the Project contemplated by this Application. Indeed, while other intervenors are not supportive of ratepayer funding being used for the Project, there appears to be an acknowledgment by intervenors generally that the goals of the Project are important and will prove beneficial. It does not, therefore, appear necessary to attempt to defend the need for the work. EGD further notes that there does not appear to be any concern about the establishment and use of deferral accounts should the Board approve this Application. Indeed, Board Staff states that a deferral account “is appropriate.”²
5. EGD is mindful of the fact that it is asking the Board to approve the establishment of a deferral account and that the amounts ultimately recorded in this account may be cleared through to rates. EGD is aware of the concerns of intervenors in that the recovery of such costs through rates, despite being modest in amount, will have a small upward impact on rates in the years that the deferral accounts are cleared. For this reason, it is not surprising that certain ratepayer groups are not supportive of the Project, simply because of the potential small impact on rates.

² Board Staff Submission, page 3

6. Unfortunately, what appears forgotten or has been lost on certain intervenors is the fact that EGD has secured a large financial commitment from a third party, which means that the Project which will be undertaken at a cost to ratepayers at a substantial discount. The fact is that the Project will be undertaken and completed at a cost to ratepayers of significantly less than what the Project actually costs. Indeed, the amount that ratepayers will actually be asked to fund will be less than the maximum request, which is \$4.525 million.
7. What EGD is proposing in this Application is completely consistent with what it has been encouraged to do by intervenors on many occasions in the past. EGD is using its position as a recognized and proven manager of DSM programs to leverage from third parties financial contributions for an important DSM program which, in this case, is a research pilot. EGD is, in effect, reaching out and securing additional funding for the benefit of ratepayers. Yes, ratepayers are asked to guarantee the balance of funding, but their contribution is significantly less than the Project's costs and is a fraction of what the anticipated benefits will be over time.
8. The intervenors have raised several issues in their submissions. Each of the issues raised are grouped and addressed under the several headings below.

Level of Detail of the Application

9. EGD's application to NRCan (the "NRCAN Application") contained sufficient detail about the proposed Project such that NRCan has agreed to invest \$3.975 million in the Project. NRCan always understood that the Project involves the evaluation of various solar and storage technologies, the selection of those which are most promising, and the marrying and evaluation of these technologies in various real-world settings. An important first step in the Project is the evaluation of existing technologies and the selection of those which are considered best suited. Indeed, SEC notes that the Board can take some comfort from the fact that NRCan has approved funding, because NRCan has expertise in the field and it can be presumed that it has done its due diligence and determined that the Project has incremental value.³

³ SEC Argument, para. 2.2.4

10. The Company has provided the Board and intervenors with all of the information that relates to the proposed Project. There is no additional detail or data that could be provided to intervenors at this time. This is simply a reflection of the fact that the Company is proposing a pilot research project and decisions about what technologies will be used and what applications will be evaluated have not been made, because such decisions require the commitment of time and resources that make any selection earlier impractical and not prudent.
11. In its Application to the Board, the Company has identified, generically, the types of technologies that will be evaluated, but until the evaluation and selection phase is complete, EGD cannot identify the specific technologies nor the configuration and combination of technologies. In a sense, some intervenors want the Company to undertake the first and primary functions of the Project before funding is secured.
12. Like all research projects, EGD cannot promise results in advance of undertaking the research. Certainly EGD has positive expectations and anticipates that the information and experience learned from the Project will be of significant future benefit to all rate classes and to all utilities, but it would be scientifically inappropriate to attempt any sort of assessment of results prior to undertaking the research necessary to determine and prove the effectiveness of the joint use of various technologies. One of the expected results of the Project will be the determination of the cost-effectiveness of the use of the various technologies that are evaluated. This will guide and inform the DSM programs that will be developed in future.
13. Similarly, it is both premature and inadvisable to release the names of prospective partners that will participate in the Project. EGD is mindful that some prospective partners may not wish to have their name publicly revealed for competitive reasons, while others are reluctant at this time, pending the negotiation of the details of their involvement. To do so at this time might jeopardize both the negotiations and the prospective partner's ultimate involvement. Certainly, once negotiations are completed and the list of participants is determined, EGD will provide intervenors with the details of their involvement, including their contributions to the Project, to the extent permitted under applicable agreements.

14. EGD submits that the Application materials filed fully satisfy any onus incumbent on it to demonstrate that the Project will be useful and/or benefit ratepayers in future. Evidence of its anticipated usefulness and benefit to ratepayers is self-evident from the fact that NRCan and the federal government have reviewed the proposed Project and are prepared to invest nearly \$4 million. It is EGD's realistic expectation that it will secure funding or contributions in kind from numerous other partners. This is a benefit to ratepayers in that it is expected that a substantial proportion of the Project will be fully financed by non-ratepayer funds and contributions. It is clear from the submissions of Board Staff, GEC and Pollution Probe that they all accept that the Project will generate future benefits. Indeed, EGD submits that no intervenor truly questioned the potential benefits of the Project or the need for such work.

The Project is a DSM Activity

15. EGD is surprised that any intervenor would question the Project from the perspective of whether it is a DSM-type activity. Certainly Board Staff accepts that it is. At page 2 of its submissions, Board Staff states that the Project meets the criteria of a DSM program and that it would serve as a good basis for future DSM program development.
16. One submission characterizes the Project as one that will cause a "displacement" of natural gas for space heating purposes, and for this reason it is not DSM. EGD submits that the choice of verb used to describe a program (to "reduce", "eliminate" or "displace") does not determine whether a program is DSM. Whether a project is intended to reduce, eliminate, or displace natural gas usage, the end result is the same – a reduction in natural gas usage. That is precisely what the Project is intended to accomplish, namely significant reductions in natural gas usage by Project participants. If the precise amount of natural gas savings could be quantified at this time, EGD could have proposed that the savings be added to the LRAM. In due course, this will occur, but for the purposes of the Project, EGD is not looking to recover the reductions in its revenues that will result from the Project. This is an important point in that EGD's shareholder is contributing to the Project by reason of the fact that it is foregoing what will undoubtedly prove to be significant revenues by reason of the reduction in demand by Project participants.

17. The fact that the Project has not been the subject of a cost-effectiveness test should not be surprising. As noted from the Application materials filed, the Project will analyse and determine the effectiveness of various technologies in a number of different usages. It simply would not be credible to attempt a cost-effectiveness study at this time when the specific technologies that will be analysed have not been selected. Indeed, one of the objectives of the Project is to evaluate the results and develop TRC and SCT values and assumptions that can be used in future cost-effectiveness studies. Certainly the DSM programs which evolve from the Project will be the subject of a cost-effectiveness test, and the assumptions used in such tests will be formed by this pilot.

Sharing of Project's Results

18. EGD fails to understand the concerns expressed about its willingness to make public the results of the Project. In its Application, at paragraph 34, EGD states that it "is committed to full and open disclosure of this Project and will report at least annually on the progress of the Project and the costs, funding and potential net cost to ratepayers." EGD went on to state that "the Company proposes to provide the DSM Consultative with an annual informational report in respect of the pilot project operation." EGD added, in its response to Board Staff Interrogatory No. 1, at page 2, that EGD believes that the Project will assist in the development of DSM programs for EGD, its customers and other utilities (emphasis added). Certainly it was the Company's intention to convey to all parties its commitment to share the results of the Project with interested stakeholders. This is in addition to its contractual obligation to provide the results of the Project to NRCan who, EGD understands, will share the results with stakeholders across Canada. EGD had every intention of including detailed Project results in its annual DSM report, and EGD agrees with making this a condition of approval, as suggested by Board Staff.

Process Followed

19. EGD appreciates the commitment that intervenors have made to review this Application and its interrogatory responses on an expedited basis. It understands that the amount of time that has been made available is less than what some intervenors desired. It was hoped that by reason of the fact that this Application involves a pilot research project and that many of the specifics of the Project will not be available until EGD undertakes the initial analysis and selection of participating technologies and participants, that the

review process and the preparation of comments by intervenors would not prove unduly onerous.

20. Intervenors should understand that the March 31, 2010 deadline was set by the major contributor to the Project, NRCan. Out of an abundance of caution and concern that approval and funding from NRCan might be withdrawn if an agreement was not executed by March 31, 2010, EGD brought forward this Application on an expedited basis. Had it not done so and NRCan's approval was withdrawn because of a lack of timely response, EGD believes that it would have been the subject of criticism for not taking appropriate steps to secure NRCan's support.
21. EGD made its submission to NRCan in September 2009. It received no information or status reports from NRCan until it received, on January 6, 2010, an indication that a positive announcement would be made in respect of this proposal, but EGD was obligated by NRCan to keep the approval confidential until the Minister announced the decision publicly on January 11, 2010. It was only at this point that the Company started to undertake all of the necessary steps internally to bring an application forward to the Board. In less than three weeks, EGD selected the Project Manager, confirmed information and next steps with NRCan, completed all of the necessary work and prepared application materials such that this Application could be filed on February 4, 2010. As noted in its Application, EGD raised the Project at the EAC meeting held on February 4, 2010, and made a presentation to intervenors at the Consultative meeting held on February 17, 2010. These meetings represented opportunities for intervenors to ask questions and to seek additional information had they so desired.
22. It has not been EGD's practice to take up time at EAC and Consultative meetings to discuss concepts or potential applications for funding in that there are numerous potential DSM programs and applications to entities like NRCan that do not come to fruition and/or are not approved. Indeed, another application was made by EGD to NRCan at or around the same time as this Project. This other application has not received approval; indeed, EGD has received no indication one way or the other in respect of this other proposal. To have spent time with intervenors discussing the details and merits of such an application, only to subsequently be advised that the

project was not acceptable, would not be a prudent use of intervenors' time and EGD's resources.

23. It is important to understand that the approval being sought in this Application is the establishment of certain DSM deferral accounts into which EGD will record the costs that it incurs in respect of the Project. The amounts that will be brought forward for clearance at the same time as EGD brings forward its other DSM deferral accounts will only include the net costs incurred by EGD (i.e., net of NRCan and other financial third party support). These deferral accounts are appropriately treated as Y factors under EGD's incentive regulation model ("IRM").
24. The net costs incurred in respect of the Project will only have an impact on rates in the year in which the deferral account is cleared. It will not have an impact on rebasing, as these deferral accounts are appropriately Y factors. As well, EGD notes that there is nothing in the IRM agreement which prohibits the Company requesting, and the Board approving, the creation of additional deferral accounts, where appropriate. EGD submits that this is precisely such an occasion. The use of a deferral account in respect of the Project is appropriate given that the exact costs that will be incurred and the amounts of ratepayer funding required cannot be determined at this time.

Certainty of Funding

25. EGD has committed itself to diligently seeking third party funding in addition to NRCan's commitment, either in cash or contributions in kind. EGD has every reasonable expectation that it will be successful in securing the commitment of a number of third parties that will, in the end, reduce the funding required from ratepayers. EGD foresees the need to demonstrate to the OEB and Intervenor its efforts made attempting to attract and secure third party partners.
26. SEC, at paragraph 2.5 of its submission, attempts to determine in a mathematical, formulaic manner how the quantum of NRCan's commitment was determined. SEC's analysis is simply incorrect, being inconsistent with the very high level budget included in the NRCan Application. The fact is that the Project budget included in the NRCan Application was based on very high level cost estimates and was not developed based upon a detailed line-by-line cost assessment that an entity would undertake in a

tendering-type process. EGD did not request, and NRCan did not agree to fund, a particular cost component or aspect of the Project. NRCan simply agreed to fund 47 percent of the \$8.5 million budget that EGD included in the NRCan Application, and this amount is not linked to any capital, O&M or energy savings estimates.

The DSM Framework

27. EGD acknowledges that it is seeking approval for a DSM project which is incremental to its 2010 DSM Plan. It also acknowledges that the funding for this Project would be over and above the 2010 DSM budget generated using the formula approved by the Board in the DSM Generic Hearing Decision (EB-2006-0021). This Decision also approved a formula to develop TRC targets. These targets have a direct impact on EGD's SSM recovery. Accordingly, if EGD directed monies intended for programs identified in its 2010 DSM Plan to the Project, the TRC generated by the other programs would be negatively affected, as would EGD's SSM. This would not be acceptable to EGD, nor to those ratepayers that look to EGD's DSM programs to generate energy bill savings.
28. While the request for approval in this proceeding is incremental to the 2010 DSM Plan, the Company submits that it is justified given the existence of this one-time significant funding opportunity. Stated simply, all stakeholders will benefit by EGD delivering a project that has a cost of \$8.5 million, and ratepayers are only being asked to pay up to a maximum of 53 percent of the Project's costs. This is an exceptional opportunity which therefore warrants this Application. There is no expectation that this funding opportunity will arise again, particularly in light of the federal government's recent pronouncements of fiscal austerity.
29. This being said, EGD notes that the Board's DSM Generic Hearing Decision specifically contemplates natural gas utilities undertaking pilot projects. Accordingly, it is fair to say that the Project contemplated by this Application does fall within the framework of the DSM Generic Hearing Decision of the Board. It should also be recalled that the existing DSM Framework was originally intended only for the years 2007 through 2009, inclusive. Currently, the Framework has been extended for 2010 and 2011. EGD notes that the Board has not prohibited gas utilities bringing forward applications in situations like the case here, where a gas utility has a unique and valuable opportunity to leverage its DSM activities, with another funding partner, such as NRCan.

30. EGD submits that it is appropriate to acknowledge the nature of this Application. EGD is not seeking to fundamentally change the nature of its DSM activities nor its role as a natural gas distributor. It is seeking approval for a research pilot that involves the evaluation of certain technologies that will be put to the test in different applications. It appears that there is agreement that this work is important and should be undertaken. Aside from the appropriateness of undertaking the work from a DSM perspective, EGD submits and NRCan apparently agrees, that the potential use of the knowledge gained from the Project on future load forecasts and system design is such that approval is warranted. EGD believes that NRCan approved this Project because EGD is a natural gas utility. The fact is that the possible reduction in natural gas usage, by reason of the roll out and broad use of the technologies proven by this Project, is likely to have a significant impact on future throughput forecasts, and therefore rates and the design and expansion of EGD's natural gas system. In other words, the results of the Project will not only inform future DSM programs, it will inform the gas distributor as to the expected results of the use of these technologies in future and its implications on the future of natural gas distribution. This is information that is relevant not only to EGD but to all rate groups as well.
31. To the extent that there is any suggestion by intervenors that the Project should have been included in the Company's 2010 DSM application, EGD notes that this simply was not possible. EGD applied for approval for its 2010 DSM plans in 2009, and received approvals prior to it receiving notice from NRCan that the Project proposal was approved. It would have been completely speculative to include in one of EGD's DSM application filings reference to the Project when, at that point, it would not be known whether or not there would be any funding received from NRCan, and hence the amount of funding that would be requested from ratepayers. Certainly the Company would have expected that intervenors would have strongly resisted such an application because of the speculative nature of the request.

EGD is the Best Party to Lead the Project

32. No other entity is as well suited as EGD to design and lead the Project. It appears that NRCan concurs. By reason of its many years of DSM activities, it has developed the expertise and contacts to undertake projects of this nature and to secure the support of

third parties. EGD has the credibility when it comes to DSM programs that it is more likely than any other entity to receive the support of other levels of government.

33. EGD recognizes that the results of the Project are likely to prove beneficial not only to ratepayers in EGD's franchise areas but also natural gas ratepayers across Ontario. It is for this reason that EGD submits that the Project should be viewed as a priority. While it would be possible to generate additional TRCs if additional monies were directed at existing DSM programs, these benefits would accrue only to those ratepayers that participate in such programs; whereas the results of this Project will likely benefit all ratepayers.
34. While EGD may have the expertise and the experience to successfully undertake the Project, there is no compelling reason why its shareholder should be the sole entity responsible for funding that portion of the Project not funded by NRCan. The Project will not generate any financial benefits for EGD or its shareholder. Indeed, as a result of the reduction in natural gas usage by Project participants, EGD's revenues will decline. In effect, the shareholder already is making a financial commitment by reason of the decline in revenues. It is counter-intuitive, and hence unrealistic, to expect the shareholder to fund a pilot research project the purpose of which is to further the understanding and implementation of technologies which will significantly reduce demand for natural gas distribution services.
35. Some may question why EGD is involved in this Project when it will result in declining volumes. EGD first and foremost wants to maintain its position as a recognized leader in the successful delivery of DSM programs and its dedication to the efficient use of energy resources. Apart from this leadership role in conservation, it recognizes that technologies such as these will eventually be tested and installed in its franchise. EGD is determined to be proactive in ensuring that these technologies are introduced to EGD customers in the safest and most cost-effective way possible and to fully understand the implications on its gas distribution system.
36. In terms of how these costs will be allocated, as EGD notes in its response to VECC Interrogatory No. 5, it foresees allocating costs only to Rates 1 and 6 Customers. It is not expected that any funds will be recoverable from Industrial Customer Rate classes. One principle of DSM cost allocation is that costs be allocated to those rate classes that

participate in a program. Consistent with this, EGD proposes to allocate costs to participating rate classes, and it is anticipated that Project participants will consist of residential and commercial ratepayers who will, of course, benefit from the reduction in natural gas usage.

Compatibility with the Preliminary Decision Motion EB-2009-0172

37. Board Staff asked in Interrogatory No. 1(a) for EGD's explanation, given the Board's Decision in the Preliminary Motion in EB-2009-0172, why it is appropriate to seek approval for the Project in this Application. Stated differently, Board Staff was asking EGD to explain what distinguished this Application from the Board's Decision in EB-2009-0172.
38. The short answer is that the approval sought in this Application relates to a pilot research project which is fundamentally different from the *Green Energy Act* ("GEA") programs that the Company was considering and which were the subject of the Preliminary Motion Decision. The differences are obvious and understandable.
39. First, EGD is not looking to include any costs in rate base that will be carried on the books for many years. It is not looking for any return on this Project, and the Project is completely consistent with activities EGD is already undertaking, namely, the numerous DSM programs which have the same goal of reducing or displacing natural gas usage.
40. Second, as noted in EGD's response to Board Staff Interrogatory No. 1, to date there is little research or data on the different technology costs, the effectiveness of these technologies or combination of technologies, and the institutional barriers that exist. There is, therefore, no competitive market which EGD is looking to enter as a market participant with ratepayers funding the capital costs of entry. The Project is a pilot research project that will ultimately lead to the development of DSM programs and assist other utilities and entities in the development of and use of the most promising technologies. This is expected to lead to a dramatic decline in natural gas usage associated with space heating and will ensure that the technology is implemented in the safest and most cost-effective way possible.
41. Third, unlike the GEA activities which were contemplated and were the subject of the Preliminary Motion, EGD's understanding of the technologies that will be evaluated in

this Project and their potential for impact on future throughput, load growth, and, as a result, system expansion and design, is important and necessary from a gas utility operations perspective. EGD believes that stakeholders may wish to rely upon the results of the Project in future proceedings before the Board with a view to establishing or refining load forecasts and considering the appropriateness of system design and expansions.

42. It appears that Board Staff accepts and agrees with the above-noted distinguishing features. Board Staff did not argue in its submission that this Application is subject to the Board's Preliminary Motion Decision and that approval should be denied as a result. Board Staff supports approval for the Project and recognizes its future potential to assist DSM program development.

SEC Partial Approval Suggestion

43. SEC is requesting that the Board approve a deferral account for the Project for 2010 alone. This would necessarily require EGD to come forward in a subsequent application to seek approvals for deferral accounts for the balance of the years in which Project will be undertaken. This, of course, would add to the regulatory burden and costs of the Project.
44. EGD submits that if the Project is worth pursuing, it is worth pursuing through to its completion. As it appears that the Project is not being challenged on its merits, there is no logical reason to bifurcate the regulatory process into more than one application for approval. NRCAN wants EGD to commit fully to the Project, not a one-year partial qualified commitment as proposed by SEC. Such a limited approval could compromise final negotiations with NRCAN and put the Project at risk.

Conclusion

45. The Project represents a valuable opportunity to undertake important research into promising technologies which will lead to the development of significant new DSM programs and important advancements in energy conservation techniques. These DSM programs and the data and experience gained from the Project will inform future decisions and forecasts which may impact system design and operations, all of which is necessary and will benefit ratepayers. In recognition of this, it is not surprising that in

respect of NRCan's \$3.975 million commitment to the Project, SEC articulates, with support, the basic business principle: "Take the money".⁴

46. This opportunity from the federal government is not likely to be duplicated. EGD therefore requests approval of the creation of DSM deferral accounts for the years 2010-2014 so that those costs of the Project not recovered from third parties may be recorded and, subject to a review for prudence, cleared through to rates. EGD asks for approval on or around March 19, 2010, so that it may inform NRCan of the decision to proceed and negotiate the commitment letter in a timely fashion.

All of which is respectfully submitted.

Dated: March 15, 2010.



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⁴ SEC Argument, para. 4.1.2