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VIA COURIER AND RESS

June 25, 2010

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc. ("Enbridge") Application for
Gas Franchise Approval and Approval to Establish a Certificate of Public
Convenience and Necessity for the City of Mississauga
Ontario Energy Board File Numbers: EB-2010-0188/EB-2010-0189**

Pursuant to the Ontario Energy Board's Notice of Application dated May 18, 2010, interested parties were invited to provide comments regarding Enbridge's above noted application. Submissions were received from Board Staff and Union Gas. As directed, attached please find Enbridge's reply submission.

Enbridge is submitting this application through the Board's RESS and two paper copies are attached as requested.

Enbridge looks forward to further direction from the Board in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'L. Austin'.

Lesley Austin
Regulatory Coordinator

Attachment

cc: Tania Persad – EGD, Senior Legal Counsel, Regulatory
Michael Wagle – Operations Manager – Central Region

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Municipal Franchises Act*,
R.S.O. 1990, c. M.55; as amended;

AND IN THE MATTER OF an application by
Enbridge Gas Distribution Inc. for an order
extending the term of the right to construct or
operate works for the distribution of gas, and the
right to extend or add to the works, in the City of
Mississauga.

AND IN THE MATTER OF an application by
Enbridge Gas Distribution Inc. for an order
canceling the existing certificates of public
convenience and necessity for certain geographic
areas now incorporated within the City of
Mississauga and replacing these with a single
certificate of public convenience and necessity for
the City of Mississauga.

REPLY SUBMISSIONS

1. Enbridge Gas Distribution Inc. ("**Enbridge**") is providing these reply submissions in accordance with the Board's requirement that reply submissions be filed by June 25, 2010. The Board has received submissions from Board Staff and Union Gas Limited ("**Union**") regarding the applications ("**Application**"), both of whom commented on Enbridge's request to modify the definition of "Municipality" in the Model Franchise Agreement ("**Model Agreement**") to reflect the geographic limits of Enbridge's service territory.
2. As noted in the Application, Enbridge has requested the modification for two reasons: (i) because otherwise, the Model Agreement is not clear on its face that Enbridge's service territory does not include the former Milton Lands, and (ii) the Corporation of the City of Mississauga ("**Corporation**") requested that the Model Agreement be modified in this regard, and that this request be made to the Board.

3. Enbridge understands the current regulatory practice to apply the Model Agreement without modification, even in municipalities within which there is more than one gas utility providing service, and that the certificate of public convenience and necessity ("**PCN**") is meant to set out the geographic boundaries of the service territory. Enbridge informed the Corporation of this practice, and advised City Council at the time the Model Agreement was presented to them that the Board may ultimately determine that there are overriding policy reasons to not make any revisions to the Model Agreement. The City Council accepted this possibility.
4. In this case, the Corporation has expressed a desire to delineate the geographic extent of the franchise rights in the Agreement because the Corporation is typically not involved in the PCN process. Although the gas utilities provide a copy of the PCN to the affected municipality, all municipal staff that were involved with the franchise agreement process may not receive the PCN, or be notified of its existence. Therefore, there may be gaps and inconsistencies within the municipality regarding its understanding of the franchise and certificate rights of the utilities. This is less of a concern if the franchise agreement is clear on its face as to the geographic extent of its application.
5. Enbridge notes that there is at least one exception to setting out geographic boundaries in the PCN in the Township of Oro-Medonte, where Enbridge and Union both provide gas distribution services. Enbridge holds certificates of public necessity and convenience for the entirety of both Oro and Medonte, despite the fact that Union serves parts of these townships. Enbridge acknowledges, however, that in the related Centra case number E.B.A. 770, Centra applied to the Board to amend the model franchise agreement (then in effect) for Oro-Medonte in the very same manner that Enbridge is requesting the Model Agreement be modified in this case, but the Board denied that request in favour of the standardized model franchise agreement.
6. Also, one of the franchise agreements that Enbridge currently has with the Corporation, provided at Schedule B to the Application, delineates the franchise territory held by Enbridge. Enbridge nonetheless recognizes that the Schedule B agreement pre-dates the Model Agreement.
7. As Enbridge submitted in the Application, to be consistent, Enbridge would expect that any modification to the Model Agreement that the Board may grant in this case would be similarly incorporated into any future Model Agreement granted to Union by the Corporation. Union has submitted in this case that it does not intend to apply to the Board to amend the Model Agreement in this manner. The form of the Model Agreement would first have to be agreed upon

between Union and the Corporation. Enbridge would promote consistency with the Board's decision in this case, and would hope to receive notice of Union's application at the time to be able to make its submission.

8. If the Board decides to not allow an amendment to the Model Agreement in this case, Enbridge requests that the Board issue an order permitting Enbridge and the Corporation to enter into the Model Agreement without modification, subject to the other relief requested in the Application. Having advised City Council of this possibility, Enbridge can then request City Council to pass a by-law to this effect.

DATED at Toronto this 25th day of June, 2010.

ENBRIDGE GAS DISTRIBUTION INC.
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by its Solicitor



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