

UNDERTAKING

Undertaking

TO PROVIDE UPDATE TO (D) OF ENERGY PROBE IR 23

Response

D)

	Rate -\$/MWh	Weighting	\$/MWh
* Forecasted Average HOEP	33.87		
** Forecasted Average Global Adjustment	24.94		
Forecasted Average non-RPP cost	58.81	31%	18.23
** Forecasted Average RPP cost	62.15	69%	42.89
Weighted Average Commodity Cost			61.12

Note:

- * Per October 15, 2009 Ontario Wholesale Electricity Market Price Forecast (avg of May 2010 to Apr 2011 periods)
- ** Per October 15, 2009 Regulated Price Plan Price Report

E) The use of the above weighted average commodity cost results in a 2010 Cost of Power amount of \$1,993.9M compared to the filed amount of \$2,008.4M, a difference of \$14.5M. This lowers the cash working capital amount and rate base by \$1.5M to \$299.2 and 4,834.1 respectively in 2010. This rate base reduction would result in a reduction of 2010 revenue requirement by \$0.1M to \$1,149.5M.

The use of the above weighted average commodity cost results in a 2011 Cost of Power amount of \$1,980.0M compared to the filed amount of \$1,994.6M, a difference of \$14.6M. This lowers the cash working capital amount and rate base by \$1.5M to \$303.9 and 5,144.1 respectively in 2011. This rate base reduction would result in a reduction of 2011 revenue requirement by \$0.1M to \$1,263.4M.



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November 26, 2010

VIA COURIER

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

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc. ("EGD" or the "Company")
Draft Rate Order – 2009 Earnings Sharing Mechanism EB-2010-0042**

Pursuant to the Board's Decision and Order dated November 10, 2010, attached please find the Company's draft materials for inclusion in the Board's Final Rate Order for the 2009 Earnings and Sharing Mechanism docket EB-2010-0042.

The materials for inclusion in the Board's Final Rate Order include the following:

- Appendix "A" – A copy of Exhibit B, Tab 5, Schedule 1, originally filed in the Company's 2011 rate proceeding EB-2010-0146, dated October 1, 2010 indicating the balances and interest for accounts approved in EB-2010-0042 for clearance in January, 2011.
- Appendix "B" – Derivation of Proposed Clearance Unit Rates. The account balances will be cleared to customers as a one-time billing adjustment, shown as a separate line item, on customers' January 2011 bills.
- Appendix "C" – Correspondence received from the Canada Revenue Agency ("CRA") in response to the Company's request for a ruling (excluding the fax cover sheet).

As part of the noted settlement, the Company agreed to seek a ruling from the CRA in regard to the applicable tax rate, either GST or HST, to be applicable on the amounts to be cleared, as follows:

Enbridge agrees to seek a ruling or other binding decision from the Canada Revenue Agency ("CRA") about whether clearance to customers of the balances in the Deferral and Variance Accounts will result in any refund of HST or reduction in HST that would

November 26, 2010
Ms. Kirsten Walli
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otherwise be payable by customers. Should the CRA allow a refund of HST or a reduction in HST otherwise payable, any such HST credit will be passed through to customers, provided always that there will be no expense or outlay by Enbridge or its shareholder to fund or contribute to the HST refund or reduction.

EGD is in receipt of a faxed copy of correspondence from the CRA, dated November 25, 2010, that indicates under the heading **RULING GIVEN**, the following:

Based on the facts set out above, we rule that as the original supply of natural gas to which the adjustment applies was made in 2009, paid as a one-time adjustment to EGDI's customers on their bills for the month of January 2011 is a reduction in consideration for the supply of natural gas by EGDI under subsection 232(2) and GST at 5% would apply to the reduction in consideration.

As a result of the Ruling Given, the one-time billing adjustment in January 2011 stemming from the clearance of the balances in question will attract the GST rate of 5.00%. The CRA correspondence is attached as Appendix C.

The draft materials for the Board's Final Rate Order have been circulated to all parties.

The Company is respectfully requesting that the Board approve and issue the Final Rate Order on or before December 10, 2010 in order that the timetable for the filing and approval January 1, 2011 QRAM and the implementation of 2011 Final Rates resulting from the EB-2010-0146 rate proceeding can be maintained.

Thank you for this consideration.

Yours truly,



Robert Bourke
Manager Regulatory Proceedings

Encl.

cc: Mr. F. D. Cass, Aird & Berlis (via courier)
EB-2010-0042 Interested Parties (via email only)

APPENDIX "C"

Correspondence received from the Canada Revenue Agency

Canada Revenue
AgencyAgence du revenu
du CanadaDraft Rate Order
Filed: 2010-11-26
EB-2010-0042
Appendix C
Page 1 of 3Ontario Region
LPRA Division – GST/HST Rulings
PO Box 2220
55 Bay Street North
Hamilton ON L8N 3E1Enbridge Gas Distribution Inc.
500 Consumers Road
North York ON M2J 1P8Case Number: 129334
Business Number: 105205140Attention: Enzo Baldan
Manager, Tax Services

November 25, 2010

Dear Mr. Baldan:

Subject: GST/HST RULING
Refund of overcharges to customers

Thank you for your fax of September 24, 2010, concerning the application of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) to the refund of overcharges to customers.

HST applies at the rate of 15% in Nova Scotia, 13% in Ontario, New Brunswick, and Newfoundland and Labrador, and 12% in British Columbia. GST applies at the rate of 5% in the remaining provinces and territories.

All legislative references are to the *Excise Tax Act* (ETA) unless otherwise specified.

STATEMENT OF FACTS

We understand the following:

1. Enbridge Gas Distribution Inc. (EGDI) is in the business of natural gas distribution in Canada servicing residential, commercial and industrial customers in Toronto, Ottawa, Peel, Dufferin, York, Durham, the Niagara Peninsula, Peterborough, Barrie, Collingwood and other Ontario communities.
2. EGDI provides its customers with a continuous supply of natural gas to their premises by means of its pipeline distribution system.
3. EGDI is subject to the regulatory authority of the Ontario Energy Board (OEB), which controls the rate charged by EGDI to its customers for the distribution, transmission and storage of natural gas and the price charged for natural gas.

Canada

4. During the 2009 calendar year, the supply of natural gas was made to EGDI's customers at the OEB approved rate plus 5% GST.
5. During 2009, the OEB approved price exceeded the actual costs associated with the delivery of the taxable supply. As mandated by the OEB, EGDI is not allowed to profit from the sale and delivery of natural gas. Per OEB requirements, the difference was accumulated in approved Deferral and Variance accounts.
6. To clear the difference in the Deferral and Variance accounts, quarterly price adjustments to customer billings were made from April 1, 2009 to March 31, 2010.
7. As of April 30, 2010, the total remaining 2009 balance owed to EGDI customers amounted to \$42.5 million. GST of 5% associated with this balance was collected and remitted to the Canada Revenue Agency (CRA).
8. On June 29, 2010, EGDI received an order from the OEB to refund the remaining 2009 monies (\$42.5 million) owed to its customers. The refund will be reflected as a one-time adjustment on a customer's bills for the month of January 2011. This one-time adjustment will only be paid to those customers who were on record during the 2009 calendar year and will be specific to each customer, based on the actual supply of gas to that customer during 2009 (i.e., their actual gas consumption).

RULING REQUESTED

You would like to know whether the refund constitutes a reduction to the consideration of the supply of gas originally made and therefore subject to section 232 and if so, would GST at 5% or HST at 13% apply to the credit.

RULING GIVEN

Based on the facts set out above, we rule that as the original supply of natural gas to which the adjustment applies was made in 2009, the refund paid as a one-time adjustment to EGDI's customers on their bills for the month of January 2011 is a reduction in consideration for the supply of natural gas by EDGI under subsection 232(2) and GST at 5% would apply to the reduction in consideration.

This ruling is subject to the qualifications in GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*. We are bound by this ruling provided that none of the above issues are currently under audit, objection, or appeal, that no future changes to the ETA, regulations or our interpretative policy affect its validity, and all relevant facts and transactions have been fully disclosed.

EXPLANATION

Under subsection 232(2), EDGI has up to four years after the end of the reporting period in which the consideration was reduced to adjust the amount of tax charged or to refund or credit the tax collected to the recipient.

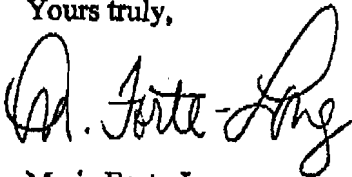
There is no requirement for EDGI to refund, adjust, or credit the GST charged or collected. It is at EDGI's discretion whether the tax is refunded, adjusted or credited. However, it is expected that a refund, adjustment, or credit of the tax will usually be given in instances where the customer is a GST/HST non-registrant.

Where the customer is a GST/HST registrant, EDGI may choose not to refund, adjust or credit the GST previously charged or collected. This may be desirable where EDGI has already accounted for the tax and the customer has already claimed or is entitled to claim a corresponding input tax credit.

For additional information refer to GST/HST Memorandum 12.2, *Refund, Adjustment, or Credit of the GST/HST under Section 232 of the Excise Tax Act*.

If you require clarification with respect to any of the issues discussed in this letter, please call me directly at 905-308-8853. Should you have additional questions on the interpretation and application of GST/HST, please contact a GST/HST Rulings officer at 1-800-959-8287.

Yours truly,



Maria Forte-Long
GST/HST Rulings Centre