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**BY EMAIL**

January 20, 2011

Kirsten Walli  
Board Secretary, Ontario Energy Board  
P.O. Box 2319, 27th Floor  
2300 Yonge Street  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc.  
ARC Exemption Request  
Board File No. EB-2010-0232  
Staff Submission**

Dear Ms. Walli:

Please find attached the Board Staff Submission for the above proceeding. Please immediately forward the attached document to Enbridge and all intervenors in this proceeding.

Yours truly,

*Original Signed By*

Colin Schuch  
Case Manager

Attach.



**EB-2010-0232**

**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 exemptions from section 2.2.4  
of the *Affiliate Relationships Code for Gas Utilities*.

### **BOARD STAFF SUBMISSIONS**

#### **AFFILIATE RELATIONSHIPS CODE EXEMPTION REQUESTS FOR GAZIFÈRE AND WINDFARMS**

#### **Background**

Enbridge Gas Distribution Inc. ("Enbridge" or the "Applicant") filed an application dated November 8, 2010 seeking two exemptions from section 2.2.4 of the *Affiliate Relationships Code for Gas Utilities* (the "ARC").

Section 2.2.4. of the ARC states the following:

A utility shall not share with an affiliate that is an energy service provider any employee who controls the access to utility services, or directs the manner in which utility services are provided to customers, or who has direct contact with a customer of the utility service.

The first exemption sought by Enbridge relates to the sharing of emergency operational services with Gazifère Inc., an affiliate of Enbridge. The Applicant requested that the Board grant a permanent exemption in respect of the sharing of on-call emergency services between the two utilities.

The second exemption relates to the provision of certain communication and control services to Enbridge-affiliated wind farm operations in Ontario, as an extension of an exemption

granted by the Board in 2008 (in proceeding EB-2008-0275) for the Kincardine, Ontario wind farm owned by Enbridge Renewable Energy Infrastructure Canada Inc. The new wind farm operations include the Talbot wind farm in Chatham and the Greenwich wind farm near Thunder Bay, both owned by Enbridge Inc. Enbridge requested that the Board grant an exemption for Enbridge to provide the communication and control services to both existing and future affiliated wind farm operations.

On November 26, 2010 the Board issued amendments to the ARC to keep pace with the fact that Ontario's largest gas utilities (i.e., Enbridge and Union Gas Limited) are now permitted to own and operate certain renewable electricity generation facilities ("qualifying facilities"). The ARC amendments are specifically directed to the qualifying facilities which by definition are facilities less than 10 megawatts in capacity. The subject wind farm facilities are each about 99 megawatts so the ARC amendments are not applicable to this exemption application.

Canadian Manufacturers & Exporters ("CME") and the Industrial Gas Users Association have intervened in the proceeding. CME was the only intervening party to pose interrogatories and on January 14, 2011, Enbridge provided responses to both Board staff and CME interrogatories.

Enbridge clarified its reasoning for requesting a generic form of exemption for the wind farms in its response to CME interrogatory no.5 as follows:

Enbridge is seeking a generic form of exemption in this case in order to avoid having to make repeat applications to approve essentially identical requests. As part of its application, Enbridge is requesting the Board to approve the manner in which Enbridge will charge its affiliate for services, on a fully-allocated cost basis. If the Board approves Enbridge's application, Enbridge does not anticipate the need for any further formal review of extension of the Control Services to additional affiliated facilities. Enbridge would be bound by the Board's decision in how it implements such services arrangements.

## **STAFF SUBMISSIONS**

### **Gazifère Exemption**

Board staff notes that the Gazifère exemption request is limited to the sharing of Enbridge customer information with Gazifère operational personnel specifically for the purposes of providing emergency on-call services. The types of emergencies to which on-call personnel may be required to respond include gas main/service breaks or damage, regulator station malfunction, fire, explosion, detection of strong gas fumes or odour, poor gas pressure, or no gas at a critical facility.

Similarly, Enbridge personnel provide emergency on-call services to Gazifère. Because it is a "like for like" services exchange between the utilities, there is no exchange of funds between the two utilities for the services. The Intercompany Services Agreement ("ISA"), filed in draft form with the pre-filed evidence, notes this exchange of services.

Board staff notes that another section of the ARC - section 2.2.5 - addresses an "emergency situation" and effectively provides for a waiver of the requirement to have an affiliate services agreement in the event of an emergency situation. Enbridge elected to apply for relief under section 2.2.4 and made no reference to 2.2.5. Board staff submits that relief under section 2.2.4 is appropriate in the circumstances of the subject application.

With respect to the Gazifère exemption request, Board staff submits that this exemption poses no harm to Ontario ratepayers or to the competitive energy marketplace. Board staff therefore supports the requested exemption. Board staff also supports allowing this exemption on a permanent basis as requested by Enbridge.

Board staff submits however that in the interest of transparency for ARC exemptions, the Board should direct that the ISA governing the services arrangements between the two utilities be filed with the Board on the public record in this proceeding immediately after the agreement is executed. Enbridge has indicated that it does not object to filing the ISA agreement but noted that it would not be finalized until after the Board has considered the exemption provisions.

Board staff submits that the Board should also direct that if there is a material change in circumstances relating to the exemption, Enbridge must come forward with a new ISA agreement proposal, including an accompanying application for approval. Enbridge should file a copy of any renewed ISA (for example in the case of an expiry) so that the Board always has a current agreement on file. Unless there is a material change in circumstance, Board staff would not see the need for a formal application to the Board for approval.

### **Wind Farm Exemption**

With respect to the exemption for the two new wind farms, Board staff notes that the current exemption is essentially the same as that heard by the Board in 2008. It is for the provision of the same services as the exemption application granted by the Board for the Kincardine wind farm operations in the fall of 2008 (in Board proceeding EB-2008-0275). As before, the exemption would allow Enbridge operational control personnel to provide communications and control services to the new wind farms. The control services consist of SCADA monitoring and data recording, emergency shut off procedures and communications to satisfy the requirements of the Independent Electricity System Operator ("IESO").

In the Board's 2008 Decision on the Kincardine wind farm, the Board granted the exemption with no sunset date. Given that the current exemption request is the same as that granted for Kincardine, Board staff supports granting the same exemption for the two new wind farms, Talbot and Greenwich.

Board staff notes the Applicant's statement that the transfer pricing is in conformity to the ARC requirements for a fully allocated costing approach. The evidence states that the annual fees payable from the three wind farms is about \$290,000. This is in line with the evidence provided in the previous Kincardine wind farm proceeding. Board staff submits that the amount is not material in the context of Enbridge's annual revenue requirement and should therefore, on the basis of materiality, not raise an issue of concern to the Board.

Enbridge is seeking a "generic" exemption to avoid having to return to the Board if other similar affiliated wind farm operations require an ARC exemption for the same control services. Enbridge indicated that there are, in fact, additional wind farms being contemplated. In light of this, and the fact that the original Kincardine exemption has not raised any concerns, Board staff submits that the Board should grant the generic exemption. Board staff submits that there is no harm to the public interest in doing so. Board staff submits however that the "generic" aspect of the exemption should be restricted to the subject "control services" for an affiliate that is a generator. Any new affiliate sharing arrangement contemplated having an ARC implication and that is outside of "control services" for a generator, would require a formal application for approval.

Board staff submits that Enbridge should be required to file on the public record the executed ISA agreements pertaining to each wind farm operation, as soon as they are executed. If there is a material change in circumstance relating to the exemption arrangement, the ISAs should be updated and filed again.

In summary, Board staff submits that the Board should proceed with the approval of Enbridge's requests, including the "permanent" feature of the Gazifère exemption and the "generic" feature of the wind farm exemption. In the interest of transparency, Enbridge should be required file the executed agreements, without delay, on the public record. If there are material changes in circumstances that require a substantive change to any of the affiliated ISAs, Board staff's submission is that this would trigger the need for a formal exemption application with the Board.

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All of which is respectfully submitted.

January 20, 2011