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January 24, 2011

BY EMAIL & COURIER

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge St, Suite 2701  
Toronto ON M4P 1E4

Dear Ms. Walli:

**Board File No. EB-2010-0300 – Union Gas Limited**

**Board File No. EB-2010-0333 – Enbridge Gas Distribution Inc.**

**Pre-Approval of Cost Consequences of Long-Term Natural Gas Transportation Contracts  
Submissions of Energy Probe**

Pursuant to the Notice of Hearing and Procedural Order No. 2, issued by the Board on January 7, 2010, attached please find the Submissions of Energy Probe Research Foundation (Energy Probe) in the EB-2010-0300/0333 combined proceeding for the Board's consideration.

Should you require additional information, please do not hesitate to contact me.

Yours truly,

*Original signed by*

David S. MacIntosh  
Case Manager

cc: Norm Ryckman, Enbridge Gas Distribution Inc. (By email)  
David Stevens, Aird & Berlis LLP (By email)  
Mark Kitchen, Union Gas Limited (By email)  
Emily Kirkpatrick, Torys LLP (By email)

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**Ontario Energy Board**

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

**AND IN THE MATTER OF** an Application by Union Gas  
Limited for an order or orders pre-approving the cost  
consequences associated with three long-term natural gas  
transportation contracts;

**AND IN THE MATTER OF** an Application by Enbridge Gas  
Distribution Inc. for an order or orders pre-approving the  
cost consequences associated with a long-term natural gas  
transportation contract.

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**Submissions of**  
**Energy Probe Research Foundation**

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**January 24, 2011**

**UNION GAS LIMITED AND ENBRIDGE GAS DISTRIBUTION INC.**

**Final Argument On Behalf Of  
Energy Probe Research Foundation**

**How these Matters came before the Board**

- 1. On October 5, 2010, Union Gas Limited ("Union") filed an Application seeking approval of the cost consequences associated with three long-term natural gas transportation contracts. The three contracts are for transportation services on the TransCanada PipeLines ("TCPL") system between Niagara and Kirkwall, between Parkway and Union's Eastern Delivery Area and between Parkway and Union's Northern Delivery Area. The Board assigned File No. EB-2010-0300.**
- 2. Enbridge Gas Distribution Inc. ("Enbridge") filed an application dated November 9, 2010 with the Board seeking approval of the cost consequences associated with a long-term natural gas transportation contract. The contract is for transportation service on the TCPL system between Niagara and Enbridge's Central Delivery Area. The Board assigned File No. EB-2010-0333.**
- 3. On November 1, 2010, the Board issued a Notice of Application and Procedural Order No. 1 with respect to Union's Application setting a schedule for filing interrogatories and filing interrogatory responses. By letter dated December 21, 2010, the Board requested additional information from Union regarding the Application. Union responded by letter dated January 6, 2011.**

4. On December 1, 2010, the Board issued a Notice of Application and Procedural Order No. 1 with respect to Enbridge's EB-2010-0333 Application setting December 10, 2010 and December 29, 2010 for filing interrogatories and filing interrogatory responses respectively.
5. On January 6, 2011, Union updated its evidence in response to a Board request of December 21, 2010, which drew attention to Part V, Other Considerations item 5.2.
6. On January 7, 2011, the Board issued Notice of Hearing and Procedural Order No. 2 consolidating the two applications and expressing an expectation that both Union and Enbridge would fully address the criteria set out in the Filing Guidelines for Pre-Approval of Long-Term Natural Gas Supply Transportation Contracts. The Board drew particular attention to Part V, Other Considerations item 5.2, which requires "an assessment of retail competition, impacts and potential impacts on existing transportation pipeline facilities in the market (in terms of Ontario customers)".
7. On January 17, 2011, Union updated its evidence, amending its Application by withdrawing its request for pre-approval of the cost consequences of contracts for transportation services on the TransCanada PipeLines ("TCPL") system between Parkway and Union's Eastern Delivery Area and between Parkway and Union's Northern Delivery Area.
8. The consolidated Oral Hearing commenced on January 20, 2011.

## **Argument Overview**

9. In its Argument, Energy Probe will not seek to explore all aspects of the Issues before the Board, but will be examining those areas of concern to Energy Probe where we believe we can be of most assistance to the Board.

## **Final Argument – Enbridge**

10. Enbridge is seeking pre-approval of the cost consequences of a long-term transportation contract from November 1, 2010 to October 31, 2022 for service from Niagara Falls to Enbridge's central delivery area ("CDA"). As outlined out in the evidence, the estimated total cost, based on TCPL's current tolls, is in the range of \$13 million over the ten-year term. The volume associated with the contract is in the range of 5 percent of Enbridge's current gas supply purchases.

11. It is the evidence of Enbridge that based on its own analysis, the contract provides its ratepayers with access to the new Marcellus gas supply at a competitive cost, at a lower cost than any of the other options that exist.

12. In support of the Application, Mr. Stevens, counsel to Enbridge, stated the following:

Now, the advantages to Enbridge and its ratepayers of obtaining access to Marcellus supply include the fact that it promotes diversity of supply, allows access to a different source, and this supply is delivered directly to Enbridge's CDA, rather than to Dawn, which may have constraints in terms of transportation out or withdrawal from storage capacity.

It's from a source that's new and is closer Enbridge's franchise areas than the current sources of supply, and the short transportation distance presumably means there will be lower transportation costs associated with the supply than current sources of supply. (transcript volume 2 page 23 line 16 to line 27)

13. As well, in his Argument-in-Chief, Mr. Stevens pointed out to the Board Panel that the contract is not business as usual for Enbridge; their transportation portfolio does not include long-term contracts:

Generally speaking, it does not include contracts such as this that support new infrastructure, that have penalty provisions attached to them. (transcript volume 2 page 26 line 2 to line 4)

14. Energy Probe submits that the Enbridge Application fits within the criteria set out in the Filing Guidelines for Pre-Approval of Long-Term Natural Gas Supply Transportation Contracts. Further, it is in the best interests of Ontario ratepayers to support diversity of supply and security of supply at a competitive landed cost.

15. For the reasons provided above, among others, Energy Probe supports the Application of Enbridge and the pre-approval sought from the Board.

### **Final Argument – Union**

16. Union is seeking pre-approval of the cost consequences of a long-term transportation contract from November 1, 2010 to October 31, 2022 for service between Niagara and Kirkwall.

17. Energy Probe has reviewed the evidence provided by Union, the testimony of its witnesses and the Argument-in-Chief delivered by Ms. Kirkpatrick; Energy Probe has difficulty in accepting that the Filing Guidelines for Pre-Approval of Long-Term Natural Gas Supply Transportation Contracts were intended to apply to the Application brought forward by this Applicant.

18. It is true that Union initially applied for pre-approval of three contracts for transportation services on the TransCanada PipeLines system. Once it withdrew the contracts for services between Parkway and Union's Eastern Delivery Area and between Parkway and Union's Northern Delivery Area, it was left with requesting pre-approval for a contract with little or no prudence risk exposure should the Board require the review of the contract at its next rates application.

19. Indeed, this will allow Union time to continue negotiations on the withdrawn contracts.

20. For the reasons provided above, among others, Energy Probe does not support the Application of Union and the pre-approval sought from the Board.

## **Costs**

21. Energy Probe submits that it participated responsibly in this proceeding. Energy Probe requests the Board award 100% of its reasonably incurred costs.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

**January 24, 2011**

**Energy Probe Research Foundation**