

David Stevens  
Direct: 416.865.7783  
E-mail: dstevens@airdberlis.com

July 20, 2011

**DELIVERED AND FILED VIA RESS**

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, ON M4P 1E4

Dear Ms Walli:

**Re: EB-2011-0226: Enbridge Gas Distribution application re.  
CIS and Customer Care Costs for 2013 to 2018**

---

We represent Enbridge Gas Distribution Inc. ("Enbridge").

We understand that the Ontario Energy Board (the "OEB" or the "Board") will very shortly issue a Notice of Application and Letter of Direction in this matter. We further understand that the Board's current intention is to require Enbridge's application to proceed through a full hearing process, without allowing for any settlement conference or other means for stakeholders to enter into a settlement proposal.

Assuming that we are correct in the matters described above, the Board's proposed approach for this case raises a number of concerns. We write to explain those concerns, so that the Board may take them into account before issuing any Notice of Application and Procedural Order in this case.

Enbridge's first concern arises because the Board's proposed approach to this Application would not allow for a settlement conference process or for the possibility that a Settlement Proposal may be presented to the Board.

The relief sought in this proceeding is effectively the extension of a 2007 Settlement Agreement that was approved by the Board. That Settlement Agreement was reached as the result of an intensive, collaborative consultative process that benefitted the Company and ratepayers. In approving that Settlement Agreement, the Board recognized the value of the collaborative approach that had been taken to negotiate and resolve very complicated issues (EB-2006-0034, Transcript Volume 15, March 22, 2007, at pages 83-85). The fact that the customer care and CIS issues in 2007 were resolved through a settlement meant that Enbridge and ratepayers were able to enjoy substantial cost savings, because Enbridge had the necessary endorsement to enter into long-term cost-effective arrangements for a new CIS and customer care service provider, and because a lengthy and expensive hearing was avoided.

Since the time that the 2007 Settlement Agreement was approved, it has worked well and Enbridge has continued to work closely with a stakeholder steering committee (composed of three very active intervenors who were nominated by the broader intervenor group to work with Enbridge on customer care and CIS issues) to address ongoing customer care and CIS matters. Enbridge believes that this stakeholdering process has been consistent with the Board's previous endorsements of such approaches, and is in the best interest of the Company and ratepayers. The ongoing consultative process has allowed for Enbridge and the stakeholder steering committee to address CIS implementation issues and has given the Company a mandate to tentatively agree upon cost effective future customer care arrangements. In particular, this approach has allowed the Company to avoid undertaking a lengthy and expensive RFP process for customer care services, which would be necessary if the Company had doubts about whether ratepayer groups would object to an extension and update of the current arrangements. In Enbridge's view, the work of the stakeholder steering committee is a good example of the mutually beneficial results that can be achieved through consultative processes between the Company and stakeholder representatives in appropriate circumstances.

The members of the stakeholder steering committee have indicated that they are very supportive of continued settlement discussions between stakeholders and the Company to seek to resolve all the matters set out in Enbridge's Application (in particular the amounts set out in the 2013 Template attached to the Application). Enbridge has made clear its willingness to provide whatever information is required to allow stakeholders to fully understand the substance and impact of the relief sought. During the course of the Settlement Conference for Enbridge's 2010 ESM proceeding, the Company and the steering committee introduced this EB-2011-0226 Application to all participating stakeholders, and explained that the intention was to seek to negotiate an overall resolution of all matters in the 2013 Template so that a comprehensive settlement could be presented to the Board for consideration by mid-September 2011. No concerns were raised at that time, all stakeholders appeared to support this approach and to date Enbridge has not received any negative feedback from any of these parties.

Another consideration with respect the appropriateness of dealing with this matter by way of the extension and amendment of the 2007 Settlement Agreement is that although the costs addressed in the Company's proposal are significant, the scope of the 2013 Template is the same as that of the 2007 arrangement that was arrived at through the 2007 Settlement Agreement. Further, the total annual costs and customer cost per customer covered by the 2013 Template are in line with those of the 2007 Settlement Agreement, apart from the change in the new CIS revenue requirement, which increase was understood and known to be required through the 2007 Settlement Agreement.

In these circumstances, Enbridge is concerned with the Board's apparent determination that the matters at issue in this Application ought not to subject to settlement, and instead must be determined through an oral hearing. As set out below, Enbridge does not believe that a full contested oral hearing is necessary to allow the Board to fully review and test the relief sought by Enbridge and the supporting evidence. A direction that further settlement discussions are not appropriate or sanctioned would discount the intensive efforts that Enbridge and stakeholders have made over the course of several years to address customer care and CIS issues in a collaborative fashion. As described in the

Application materials, the stakeholder involvement has been lengthy and comprehensive; over the course of more than one year the stakeholder steering committee has been heavily involved in reviewing and commenting upon the process through which Enbridge negotiated the update and extension to the current Customer Care Services Agreement ("CCSA").

Enbridge's second concern is that the Board's proposed process will not allow for a Board decision by September 15, 2011, as requested in Enbridge's Application.

As explained in the Application materials, and in our June 20, 2011 cover letter that accompanied Enbridge's Application materials, there is some urgency to the relief sought. The reason is that Enbridge's current CCSA with Accenture expires on April 1, 2012, and six months' notice must be provided if Enbridge wishes to extend the term of the current CCSA. The extended and updated CCSA that Enbridge has negotiated with Accenture will take effect as of April 1, 2012, but only if OEB approval of the cost consequences of that agreement has been obtained prior to that date. As a result, unless Enbridge receives OEB approval by September 30, 2011, it will have to negotiate another shorter term extension of the current CCSA in order to ensure that customer care services will be in place as of April 1, 2012. Further, if no OEB approval is received by around December 2011, then Enbridge will have to initiate a fresh RFP process for customer care services as of April 1, 2014 (which is the last date provided for in any alternate extension of the current CCSA), because of the lead time associated with such a process. That lead time would cover the RFP process, and any necessary transition to a new service provider. This step will be required even if Board approval of the extension and update of the current CCSA is still under consideration, because Enbridge will have to protect itself and ratepayers against the possibility that Board approval is not ultimately granted.

These timing issues could have substantial financial and other impact on Enbridge and its ratepayers.

In the event that Enbridge is required to negotiate an extension of the current CCSA (because OEB approval is not received by September 30, 2011), there will be costs associated with negotiations and implementation of the extension. These will include legal costs and potentially higher costs from Accenture.

As explained in the Application materials, one of the advantages of the extension and update of the current CCSA with Accenture is that it allows the Company and ratepayers to avoid the costs of an RFP process and transition to a new customer care service provider. In the event that Board approval is not received by December 2011, and Enbridge is required to proceed with an RFP process, the cost consequences to Enbridge and ratepayers could be significant. The costs associated with an RFP process are estimated at between \$5 million and \$7 million. If a transition to a new service provider is required, the transition costs are estimated at around \$20 million. Of course, it is in the interest of the Company and ratepayers to avoid such costs.

### **A Path Forward For This Application**

Taking all of this into consideration, Enbridge requests that the Board reconsider its proposed process for this Application. The Company has several suggestions in this regard that would allow for the case to be determined expeditiously, potentially through an approval of a negotiated settlement, while at the same time ensuring that the Board can fully understand and test the evidence supporting Enbridge's Application and any settlement.

First, for the reasons set out above, Enbridge requests that as part of the process for determining this Application, the Board allow for a settlement conference process with the possibility that a Settlement Proposal may be presented to the Board.

It is important to highlight that proceeding in this manner does not mean that there will be no evidence presented to the Board, nor that the Board would be deprived of the opportunity to test the evidence and the settlement. Enbridge proposes that any settlement would be presented in an oral hearing and supported by one or more witness panels (likely including the stakeholder steering committee's own expert) who would explain the underlying facts and the basis for the settlement, and would answer questions from Board Staff and the Board Panel. That process could be structured to give the Board the opportunity to review any written settlement agreement in advance of a hearing, and then provide guidance to the parties about what additional evidence (including evidence from independent experts) might be helpful to assist the Board's review and determination of the settlement agreement. Additionally, intervenor evidence could be prepared (perhaps through their independent expert) to explain how the collaborative process leading to the settlement allowed for all matters to be fully tested, and resulted in an outcome that replicates what would be achieved through an adversarial hearing process. We believe that such an approach would allow the Board to fully review any and all matters of concern before making any determination about whether to approve a settlement as being in the public interest.

Second, Enbridge urges the Board to adopt a process that will allow for the matters at issue to be determined as quickly as possible for the above-mentioned reasons.

Enbridge requests that the Board forego the notice process that the Company understands is currently contemplated. The Company makes this request based on the fact that the Application has already been served upon all participants in Enbridge's most recent rate-related applications and upon all participants in the 2007 proceeding that approved the original customer care/CIS Settlement Agreement.

Additionally, Enbridge requests an expedited discovery process through a transcribed technical conference.

Finally, Enbridge's view is that allowing for a settlement process as part of this proceeding would likely lead to a quicker determination, because it would lead to a shorter hearing process.

July 20, 2011  
Page 5

Should you have any questions, please do not hesitate to contact me.

Yours very truly,

AIRD & BERLIS LLP

A handwritten signature in black ink, appearing to read 'David Stevens', followed by a period.

David Stevens

cc. Enbridge Gas Distribution  
All parties registered in EB-2011-0008 and EB-2006-0034

4873563.1