

July 25, 2011

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File 10606.00025

Kristen 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**

I am counsel to the Consumers Council of Canada. I am, with Peter Thompson and Jay Shepherd, a member of the steering committee working with Enbridge Gas Distribution Inc. on the CIS and customer care arrangements that are the subject of this application. Messrs. Thompson and Shepherd have read this letter and are in agreement with what it proposes.

Because the work of the steering committee is an essential component of the application, we felt it incumbent on us to write in support of the positions set out in Mr. Stevens' letter to you of July 20, 2011.

Some background is essential. The consultative process, described in Mr. Stevens' letter and in the application materials themselves, began after repeated attempts, over many years, by Enbridge Gas Distribution Inc. (EGD) to get approval of a new CIS. Those attempts were the subject of several heavily contested, costly oral hearings. Those attempts also resulted in a substantial measure of suspicion, and indeed ill will, between EGD and interveners on the subject of a new CIS. As a result of those failed attempts, the Board suggested, to EGD and the interveners, that working cooperatively might eliminate the negative elements that made a solution difficult and might form the basis for a solution that would be acceptable to all parties, without the need for yet another tested oral hearing.

The result was the 2007 settlement agreement. The settlement agreement was endorsed by the Board in part because it reflected a successful cooperative process. The consumers paying the costs of the CIS and customer care arrangements had been actively involved in ensuring that those costs were reasonable. The process was transparent and open. In addition, the end result of the process was scrutinized by the Board. In submissions we made to the Board at the

time, we argued that the consultative process, and its outcome, reflected the optimum operation of the regulatory system.

The consultative process continued with the implementation of EGD's new CIS. In addition, EGD sought to continue the consultative process when it came time to renew its customer care arrangements. EGD was candid in presenting the options available to it. The steering committee had its own, independent consultants who assessed those options and made recommendations to the steering committee as to the best option in the interest of consumers. The end result of the process was that the steering committee was satisfied both with the way EGD went about negotiating the CIS and customer care arrangements, and with the end result.

Given the amount of money involved in CIS and customer care arrangements over the next IR period we understand the Board's desire to ensure that this application is properly scrutinized, that the arrangements are prudent, and that resulting costs give rise to just and reasonable rates. At the same time, however, we hope that the process for consideration of the application takes account of the considerable effort that the steering committee and EGD have put into the consultative process. In particular, we hope that the Board would allow for the possibility of a settlement between EGD and the interveners. That settlement would not preclude the ability of Board staff, and the Board itself, from carefully scrutinizing all aspects of the proposed CIS and customer care arrangements.

The steering committee is aware of the time constraints under which EGD is operating. We have no reason to doubt EGD's assertions that, if the application is not granted in time, the necessary alternate arrangements, whether in the short or the long terms, will almost certainly result in less than optimal customer care arrangements and higher costs for consumers. We agree with Mr. Stevens that every effort should be made to avoid that.

The steering committee intends to meet with the interveners to allow them to explore with us and with the steering committee's consultant the considerations that went into our support of EGD's proposed CIS and customer care arrangements. We are confident that doing so will ensure that the other interveners are fully informed and that any concerns that they may have are fully and properly addressed.

In order to ensure that the application gets the appropriate level of scrutiny, and to meet the time constraints described in Mr. Stevens' letter, we suggest that the Board do the following:

1. Fix a date for a technical conference, in the early part of August, at which EGD and the steering committee's consultant would answer questions about the proposed CIS and customer care arrangements;
2. schedule a settlement conference to immediately follow the conclusion of that technical conference;
3. fix a date, for the early part of September, for an oral hearing at which the Board will be able to examine both EGD's witnesses and the steering committee's consultant, with a view to satisfying itself that the proposed arrangements are in the public interest and will result in just and reasonable rates.

We believe that following the suggested process will allow the Board to fully examine the application and to satisfy itself that the proposed arrangements are in the public interest, while still allowing EGD to meet the timeline described in Mr. Stevens' letter.

A copy of this letter has been sent, in draft form, to what we assume will be the most active interveners, with an invitation to them to comment on whether the procedure we have proposed is acceptable to them. They have expressed no objection to the procedure we have proposed.

Yours truly,

**WeirFoulds LLP**



Robert B. Warren

RBW/el

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