

500 Consumers Road  
North York, Ontario M2J 1P8  
PO Box 650  
Scarborough ON M1K 5E3

**Bonnie Jean Adams**  
**Assistant Regulatory Coordinator**  
phone: (416) 495-6409  
fax: (416) 495-6072  
Email: [bonnie.adams@enbridge.com](mailto:bonnie.adams@enbridge.com)



Wednesday March 12<sup>th</sup>, 2008

**VIA COURIER**

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

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc. ("Enbridge")**  
**EB-2007-0932 Amendments to the Transactional Service Methodology**  
**Approved in EB-2005-0244 - Argument -In-Chief**

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In accordance with the Ontario Energy Board's (the "Board") Procedural Order No. 1, enclosed please find two copies of the Argument-In-Chief ("Argument") of Enbridge. The Argument can be filed in the binder for this proceeding that was provided to the Board on March 6, 2008.

Also, the Argument has been filed through the Board's Regulatory Electronic Submission System (RESS) and included in this package is the confirmation sheet with the reference number of the filing.

If you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink that reads 'Bonnie Jean Adams'.

Bonnie Jean Adams

Encl.

**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., pursuant to section 36(1) of the *Ontario Energy Board Act, 1998*, for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission, and storage of gas as of January 1, 2008.

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**ARGUMENT IN CHIEF OF ENBRIDGE GAS DISTRIBUTION INC.**  
**March 11, 2008**

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**AIRD & BERLIS LLP**  
Barristers and Solicitors  
BCE Place, Box 754  
181 Bay Street  
Toronto, Ontario  
M5J 2T9

David Stevens

Tel: 416-863-7783  
Fax: 416-863-1515

Counsel for Enbridge Gas  
Distribution Inc.

**A. Introduction and Overview**

1. In the EB-2005-0244 proceeding, the Ontario Energy Board (the Board, or the OEB) approved a new Transactional Services (TS) Methodology for Enbridge Gas Distribution Inc. (EGD, or the Company).<sup>1</sup> Among other things, the new TS Methodology provides that EGD shall conduct its TS activities either through an electronic auction process, where all qualified counterparties can participate, or by way of responding to unsolicited bids made by those counterparties to acquire available TS assets. The new TS Methodology also required EGD to assume all responsibility for TS activities from Enbridge Gas Services Inc. (EGS), and prescribes limits on the TS transactions that EGD can undertake with EGS.
2. Over the past two years, the Company has conducted its TS activities in full compliance with the new TS Methodology. In the course of these operations, it has become apparent that two changes ought to be made to the TS Methodology.
3. First, in light of the fact that the electronic auction only accounted for 1% of TS revenues in 2006, and no TS revenues in 2007, the Company seeks to replace the auction with a more direct and iterative form of marketing where the Company can solicit business from all qualified counterparties and maximize TS revenues.
4. Second, now that a full separation from EGS has been effected, EGD believes that there is no continuing reason to limit EGD's ability to participate in TS transactions with EGS.
5. The changes proposed by EGD are expected to increase the total value of EGD's TS activities, assuming that all other factors (including TS asset availability) remain

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<sup>1</sup> The Board's EB-2005-0244 Order, attaching the Settlement Agreement which describes the TS Methodology, is attached as Appendix A to EGD's Application in this proceeding.

equal.<sup>2</sup> This will benefit ratepayers, who receive at least 75% of EGD's net TS revenues.<sup>3</sup>

6. In advance of this Application, EGD provided notice of these proposed changes to stakeholders, and no objections were registered. In fact, those parties who specifically responded to the proposed changes indicated that they support the proposals. Additionally, no parties in this proceeding, apart from Board Staff, have asked interrogatories or actively participated in the evidentiary phase of this proceeding. EGD is not aware, therefore, of any opposition to the relief sought in this Application.

**B. The new TS Methodology**

7. In 2005, the OEB initiated the EB-2005-0244 proceeding, on its own motion, seeking to have EGD develop a new methodology for making surplus TS assets known to and available to unrelated market participants on a non discriminatory basis. One impetus for the proceeding was a concern that had been expressed about the relationship between EGS and EGD, and EGS's perceived unfair advantage in being both the administrator of EGD's TS activities, as well as a potential counterparty in TS transactions with EGD.
8. The parties in the TS Proceeding were able to reach a resolution of all issues in advance of the hearing and agree upon a new TS Methodology. The agreement of the parties is set out in a Settlement Proposal, which has an attachment titled "Methodology for Transactional Services". The Settlement Proposal was approved by the Board on July 5, 2005 and is included as part of the Board's Rate Order in the EB-2005-0244 proceeding, dated July 19, 2005.
9. Among other things, the Settlement Proposal, and the TS Methodology, provide that:

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<sup>2</sup> In response to Board Staff Interrogatory #6, EGD explained the reasons for its expectation that the increased opportunities and flexibility that would result from the requested changes to the TS Methodology will increase its total TS revenues, assuming all other factors remain equal.

<sup>3</sup> The Board-approved Settlement Proposal in EGD's F2007 rate case (EB-2006-0034) provides that ratepayers are to receive 75% of the net TS revenues from transportation-related TS activities, and 90% of the net TS revenues from storage-related TS activities.

- i) all utility functions and services performed by EGS are to be repatriated to EGD, and EGS will not have any role in operating or assisting with EGD's TS business;
  - ii) a new TS Methodology to make surplus assets available to the market is to be implemented by January 1, 2006. Under this new TS Methodology, authorized counterparties will have access to an electronic auction site, where EGD would post information about available TS assets, and the counterparties will have an opportunity to bid on those assets. EGD will then award the TS assets to the best bidder at the close of each auction. Alternately, the new TS Methodology also provides that authorized counterparties will be permitted to solicit (make offers to acquire) TS assets from EGD (referenced as "unsolicited opportunities"), so long as the TS assets are not the subject of an auction process that is not yet concluded;
  - iii) limitations are to be placed on the ability of EGD to enter into TS transactions with EGS (other than through the auction process), except in the case of small transactions of less than \$50,000 and three days duration. Additionally, a report of all TS transactions where EGS is the counterparty will be provided by EGD to all interested parties on a monthly basis;
  - iv) EGD will prepare reports for all interested parties (on a 15 day lagged basis) setting out the results of the auction processes;
  - v) measures will be adopted to ensure that no interruptible customers are curtailed as a result of TS activities or transactions;
  - vi) EGD will conduct annual performance reviews of its administration and compliance with the TS Methodology and will share these reviews with all interested parties; and
  - vii) no changes to the TS Methodology can be made without notice to all TS stakeholders, who must be provided with 15 days notice to register an objection.
12. EGD has met all of its obligations under the EB-2005-0244 Settlement Agreement, and now has two years of experience operating under the new TS Methodology. In September 2007, EGD provided interested parties with its Annual TS Performance Review for the period from January 1 to December 31, 2006.<sup>4</sup>
13. The Annual Review confirms that all utility functions and services related to procurement and optimization of natural gas supply, transport and storage capacity were repatriated to EGD from EGS on January 1, 2006 and a complete separation of information systems has been effected to ensure that EGS does not have access to

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<sup>4</sup> A copy of the Annual Review is attached as Appendix 2 to EGD's Application in this proceeding.

any information about TS functions beyond the information that is provided to all market participants.

14. The Annual Review discloses the fact that there were no unsolicited TS transactions with EGS during 2006. This is not surprising, given the restrictions placed on EGD that prevent it from entering into unsolicited TS transactions with EGS valued at more than \$50,000 (or more than three days in duration). There was one transaction with EGS through the auction process, but its approximate value was only \$3,400 US.
15. The Annual Review also sets out the fact that the electronic auction process has not been successful, in that it only resulted in 7 successful transactions accounting for 1% of TS revenue in 2006.<sup>5</sup>

**C. Proposed Changes to the TS Methodology**

16. Given the fact that parties have not been using the electronic auction system, EGD surveyed its authorized TS counterparties in May 2007 in order to understand the flaws in the system. Through this process, EGD learned that counterparties are unwilling to complete transactions through the auction mechanism, largely because of the rigidity and risks that a static system imposes on what would otherwise be a fluid marketplace. All respondents to the survey indicated that they support the abolition of the auction in favour of a return to more standard transactions that provide volume, timing and market flexibility.
17. In light of its operating experience, and the comments of TS counterparties, EGD has concluded that the TS Methodology does not enable the Company to maximize its options to optimize its TS activities. To address this shortcoming, EGD puts forward two recommendations for changes.
18. First, EGD proposes that the electronic auction process be eliminated, and replaced with a more direct and iterative form of marketing through which the Company can solicit business from all authorized counterparties and maximize TS revenues.<sup>6</sup>

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<sup>5</sup> In response to Board Staff Interrogatory #2, EGD noted that there were no transactions completed through the electronic auction process in 2007.

19. This will enable the Company to do more than simply respond to unsolicited bids from counterparties, and instead directly approach counterparties who the Company believes will be interested in potential transactions. This is typical of the approach that is used by other market players to identify and carry out this type of transaction.
20. Given that EGD's reporting requirements for TS activity will continue, all market participants will be able to monitor transactions and assure themselves that EGD is conducting its activities appropriately.
21. Second, EGD proposes that restrictions on its ability to enter into transactions with EGS be lifted. While it is true that one of the primary objectives of the TS Settlement Agreement and the new TS Methodology was to ensure that EGS did not have an unfair advantage over other market participants, fulfilment of this obligation ought not to result in an unfair disadvantage against EGS. Now that EGS no longer acts as an administrator in respect of EGD's TS activities, and does not have any more information than any other market participant, it is appropriate that EGS be able to have the same right to participate in EGD's TS opportunities as any other market participant.
22. Specifically, EGD seeks to have the restrictions against it entering into transactions with EGS that arise from unsolicited TS opportunities lifted.<sup>7</sup> Those restrictions prevent EGD from entering into such transactions (except by way of RFP) with EGS if the value of the transaction is more than \$50,000 or the duration of the transaction is more than 3 days. In the event that EGD is permitted to solicit TS transactions with interested counterparties, EGD also seeks to be permitted to approach EGS as a potential counterparty for a potential TS transaction. Of course, the Affiliate Relationships Code rules related to affiliate transactions will continue to apply to EGD's TS transactions with EGS.
23. This is in the interest of ratepayers, as it would allow another potential counterparty to be active in TS activities with EGD. Other counterparties can be assured that EGS is

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<sup>6</sup> In response to Board Staff Interrogatory #4, EGD described the methods and approaches that it would use if it were permitted to solicit TS transactions from authorized counterparties.

<sup>7</sup> These restrictions are set out in the TS Methodology, at page 22 of 24 of Appendix 1 to the Application.

not receiving any unfair advantage because EGD's obligation to report each month on all affiliate transactions (solicited or unsolicited) will continue.<sup>8</sup>

**D. No apparent opposition to EGD's proposed Changes to the TS Methodology**

24. EGD circulated its Annual TS Performance Review on September 15, 2007 to all parties who participated in the EB-2005-0244 proceeding. At that time, EGD highlighted the proposed changes to the TS Methodology and, consistent with the provisions of the TS Methodology, asked for any stakeholder comments on the proposed changes to be provided within 15 days.

25. The Company received three responses, all of which support the proposed changes.<sup>9</sup>

26. No objections have been raised by any stakeholder in response to the recommendations in the Annual Review or as part of the evidentiary phase of this Application.

**E. Order Requested**

27. The Rate Order in the EB-2005-0244 proceeding specifically provides that any modifications to the TS Methodology must be brought before the Board for approval. EGD therefore requests that approval be granted for its proposed amendments to the provisions of the TS Methodology.

28. EGD therefore respectfully requests that an Order be issued, providing for the following relief:

- i) As of the date of the Order, EGD is no longer required to use the electronic auction procedure set out in the TS Methodology when it makes TS assets available to the marketplace and can instead use such methods as are typical in the marketplace and that it deems appropriate to solicit bids and enter into TS transactions with authorized counterparties.

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<sup>8</sup> See response to Board Staff Interrogatory #5, where EGD sets out the factors that ensure that there will be fair access to all authorized counterparties for TS transactions with EGD.

<sup>9</sup> Copies of the responses received from stakeholders supporting the proposed changes are attached as Appendix 3 to the Company's Application in this proceeding. While Board Staff did raise the question of whether the relief sought in this Application should be dealt with in the pending Storage and Transportation Access Rule (STAR) proceeding, there was no direct challenge to the relief sought and, in any event, the Company has provided a full response to why the relief sought in this case is separate from the subject matter of any pending STAR proceeding (see Response to Board Staff Interrogatory #1).



- ii) As of the date of the Order, the limitations from the TS Methodology upon EGD's ability to enter into TS transactions with EGS will be lifted.
- iii) All other aspects of the TS Methodology, including all of EGD's reporting requirements for TS activity and affiliate transactions, will continue in full force and effect.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 11th DAY OF MARCH 2008**

A handwritten signature in black ink, appearing to read "David Stevens", written over a horizontal line.

David Stevens, Aird & Berlis LLP  
Counsel to EGD