

# AIRD & BERLIS LLP

Barristers and Solicitors

Scott A. Stoll  
Direct: 416.865.4703  
E-mail: sstoll@airdberlis.com

February 22, 2012

VIA COURIER AND RESS

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor, Box 2329  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Updated Evidence  
Enbridge Gas Distribution Inc. ("Enbridge")  
Board File No.: EB-2011-0391**

---

We are counsel to Enbridge in this matter.

Enbridge would like to confirm that it has entered into an easement agreement with one of the three landowners identified in the Application and pre-filed evidence. We have revised the Confidential and Redacted versions of the Negotiations to Date evidence (Exhibit B, Tab 2, Schedule 2) to reflect current negotiations to date. We have not revised the remainder of the application package to reflect this change. The Confidential version is not filed on RESS but is delivered in hard copy, in confidence, to the Board's office. The Redacted version is filed on RESS and will also be delivered to the Board.

Also, please note that Enbridge has been advised one of the remaining parties has switched legal counsel. We continue to dialogue with the remaining parties to try and settle this matter.

If you have any questions please feel free to contact me at your convenience.

Yours truly,

**AIRD & BERLIS LLP**

*Original Signed by*

Scott A. Stoll

SAS/hm

NEGOTIATIONS TO DATE

1. Upon learning of the situation involving the Party A property, Enbridge Gas Distribution Inc. ("Enbridge") reviewed the lands in the vicinity to ascertain if other properties upon which the Pipelines were situated had been sold by the St. Lawrence Seaway Management Corporation. Enbridge approached the other owners, Party B and Party C, to discuss the potential of negotiating an easement for the Pipeline. An easement agreement has been achieved with Party B as indicated in the summary of current status of negotiations provided in Table 1. The easement offered by Enbridge is in the form attached as Exhibit C, Tab 3, Schedule 1. /u
  
2. Enbridge has entered into an easement agreement with one of the three landowners and is still in discussions with the other landowners. /u

Table 1 – Summary of Negotiations with Current Property Owners

<u>Name of Property Owner</u>	<u>Status</u>
Party A	<p>Litigation adjourned <i>sine die</i>.</p> <p>Enbridge approached in November 2009 by Party A.</p> <p>Party A filed Application in Court in April 2011.</p> <p>Following two adjournments where Party A had not filed responding materials to the Enbridge Motion, the Court Application was adjourned <i>sine die</i> at the request of the Party A counsel. No date has been set.</p> <p>Enbridge was served with a responding affidavit dated September 1, 2011 on October 18, 2011.</p> <p>It is understood the City of Welland is not processing the Party A site plan application until the dispute with Enbridge is resolved.</p>
Party B	<p>Easement agreement – February 2012.</p> <p>Enbridge has, pursuant to a verbal arrangement with Party B, made payments to Party B consistent with the terms of the license agreements from the time of Party B's purchase.</p>
Party C	<p>Discussions Ongoing.</p> <p>Party C is in the process of developing a groundmount solar generating facility and is assessing the impact of the Pipeline on the project.</p>

/u