



EB-2011-0354

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. for an Order or Orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas commencing January 1, 2013.

PROCEDURAL ORDER NO. 1
March 29, 2012

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application on January 31, 2012 (the “Application”) with the Ontario Energy Board (the “Board”) under section 36 of the *Ontario Energy Board Act, 1998, S.O. c.15, Schedule B* for an order of the Board approving or fixing rates for the sale, distribution, transmission and storage of natural gas, commencing January 1, 2013. The Board assigned file number EB-2011-0354 to the Application and issued a Notice of Application dated March 2, 2012.

Enbridge has applied to set new rates for 2013 on a cost of service basis using a forecast of 2013 costs. If the application is approved as filed, the total bill for a typical residential customer consuming 3,064 m³ per year would increase by \$34 per year, or 3.2%. For a typical commercial customer consuming 22,606 m³ per year, the total bill would increase by \$186 per year, or 2.8%.

Preliminary Issue

Over the last several years the Board has worked with the full range of stakeholders to consider the implications of the anticipated global adoption of International Financial Reporting Standards (“IFRS”). This culminated in the production of the *Report of the Board, Transition to IFRS* on July 28, 2009 (the “Report of the Board”) and subsequently the issuance on June 13, 2011 of the *Addendum to Report of the Board*:

Implementing International Financial Reporting Standards in an Incentive Rate Mechanism Environment (the “Addendum Report”). Both of these reports were products of a Board policy consultation concerning the implementation of IFRS. The consultation was assigned Board file number EB-2008-0408.

The Addendum Report recognized the need to provide some flexibility to accommodate unique circumstances in terms of permitting rate applications or Reporting and Record Keeping Requirements (“RRR”) reporting using US Generally Accepted Accounting Principles (“USGAAP”) as an alternative to IFRS.

The Board notes that Enbridge’s application includes evidence on its USGAAP accounting change at Exhibit A1 Tab 6 Schedule 2.

The Addendum Report noted that the Board must consider the general public interest in ensuring efficiency and consistency in utility regulation in Ontario, and requires utilities to explain the use of an accounting standard other than Modified IFRS for regulatory purposes¹. These requirements are as follows:

The Board requires a utility that adopts USGAAP or an alternate accounting standard other than IFRS, in its first cost of service application following the adoption of the new accounting standard, to:

- demonstrate the eligibility of the utility under the relevant securities legislation to report financial information using that standard;
- include a copy of the authorization to use the standard from the appropriate Canadian securities regulator (if applicable); and
- set out the benefits and potential disadvantages to the utility and its ratepayers of using the alternate accounting standard for rate regulation.

The Addendum Report also noted that the Board retains the authority to require specific accounting standards and practices for regulatory purposes in any case where the Board finds that the public interest requires uniformity in those standards and practices among utilities.

¹ Addendum Report, page 33.

As a result, the Board has determined that it will consider Enbridge's application for the adoption of USGAAP for regulatory purposes in advance of hearing other matters in this case. In particular, the Preliminary Issue is as follows:

Is it appropriate to establish USGAAP as the approved accounting standard for rate setting, regulatory accounting and regulatory reporting purposes commencing January 1, 2013? (the "Preliminary Issue")

The Board will allow an initial round of interrogatories by parties to seek additional information specifically related to the Preliminary Issue. Following Enbridge's responses to these interrogatories, parties may file submissions on whether Enbridge's application for the adoption of USGAAP for regulatory purposes should be accepted by the Board. Enbridge may then file a reply submission.

The Board is currently considering matters related to the transition to USGAAP in Enbridge's 2012 incentive regulation rates proceeding (Board file number EB-2011-0277). The Board notes that there is a substantial record of relevant evidence filed in that proceeding. In order to facilitate the current process, the Board will adopt all evidence relevant to the transition to USGAAP from EB-2011-0277 as evidence in this proceeding.

Intervenors

The Board will grant intervenor status to all of the following the parties that requested such status. These parties are:

- Association of Power Producers of Ontario ("APPrO")
- Building Owners and Managers Association Toronto ("BOMA")
- Canadian Manufacturers & Exporters ("CME")
- Consumers Council of Canada ("CCC")
- Direct Energy Marketing Limited
- Energy Probe Research Foundation ("Energy Probe")
- Federation of Rental-housing Providers of Ontario ("FRPO")
- Industrial Gas Users Association ("IGUA")
- Jason Stacey, Natural Gas Specialist
- Just Energy Ontario L.P.
- Ontario Association of Physical Plant Administrators ("OAPPA")

- Ontario Power Generation
- School Energy Coalition (“SEC”)
- Shell Energy North America (Canada) Inc.
- TransAlta Cogeneration LP
- TransCanada Energy Ltd.
- TransCanada PipeLines Limited
- Union Gas Limited
- Vulnerable Energy Consumer’s Coalition (“VECC”)

The Board received one request for Observer status from Accenture Business Services for Utilities Inc. which it hereby grants.

Cost Award Eligibility

A number of parties responding to the Notice requested eligibility to claim an award of costs. The Board hereby grants cost eligibility status to APPRO, BOMA, CME, CCC, Energy Probe, FRPO, IGUA, OAPPA, SEC and VECC.

Cost Claims

The Board will make use of certain criteria noted below in assessing claims that may be made for cost awards for intervenors determined as eligible for cost awards under the Practice Direction in this proceeding. These criteria are designed to ensure that costs are only awarded where the party provides assistance to the Board in examining relevant issues and that only reasonable costs are awarded.

Appendix A of the Practice Direction, the Cost Award Tariff (the “Appendix”), outlines hourly rates for legal and analyst/consultant fees. The Appendix notes that analysts/consultants are experts in aspects of business or science such as finance, economics, accounting, engineering or the natural sciences and that time spent providing expert evidence, expert professional advice to the Board, or acting as an expert witness will be compensated at the appropriate rate as set out in the tariff. The Appendix also notes that a copy of the expert’s curriculum vitae must be attached to the cost claim.

The Appendix further notes that if a consultant provides case management services, these hours are to be listed separately and will be compensated at the case management rate. In this context, intervenors should ensure that, if time is to be claimed for case management services, the time spent on case management should be clearly separated from time spent on other activities and a full justification provided as to why the case management time was necessary and how it was differentiated from the time spent on other activities.

The Board also expects that where cost claims for any oral hearing days are concerned, intervenors will generally only claim costs for one representative present in the hearing room, either counsel or an analyst/consultant, but not both. The Board would generally allow costs for more than one representative only to facilitate effective cross-examination of certain specialized evidence.

In considering all cost claims, parties should also be mindful of Section 5.01 of the Practice Direction, which outlines the criteria the Board may consider in determining the amount of a cost award to a party. In particular, the Board expects intervenors to work together to the extent possible and to coordinate their efforts so as to ensure that interrogatories, areas of any cross-examination and submissions are not duplicative and, where possible, joint submissions are made.

The Appendix also provides guidance as to acceptable claims for disbursements, noting that reasonable disbursements, such as postage, photocopying, transcript costs, travel and accommodation directly related to the party's participation in the process will be allowed. The Board is of the view that given the widespread availability and use of electronic documents, it is no longer reasonable for intervenors to make claims for the recovery of costs of copying or printing case documents, other than materials that are filed for use during the hearing.

The Board will now make provision for the following procedural matters. Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. The approved List of Intervenors and Observer are attached as Appendix A to this procedural order.
2. Parties seeking information and material that is relevant to the Preliminary Issue and that is in addition to the evidence already filed shall request it by written interrogatories filed with the Board and delivered to all the parties no later than **April 11, 2012**.
3. Enbridge shall file with the Board complete responses to the interrogatories and deliver them to all parties no later than **April 18, 2012**.
4. Parties may file with the Board a written submission on the Preliminary Issue and deliver it to all other parties by **April 27, 2012**.
5. Enbridge may file a reply submission with the Board and deliver it to all other parties no later than **May 4, 2012**.

All filings to the Board must quote file number **EB-2011-0354**, be made through the Board's web portal at www.errr.ontarioenergyboard.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address.

Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.ontarioenergyboard.ca. If the web portal is not available you may email your document to the BoardSec@ontarioenergyboard.ca. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file seven paper copies. If you have submitted through the Board's web portal an e-mail is not required. With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Colin Schuch at colin.schuch@ontarioenergyboard.ca and Senior Legal Counsel, Kristi Sebalj at kristi.sebalj@ontarioenergyboard.ca.

All communications should be directed to the attention of the Board Secretary and be received no later than 4:45 p.m. on the required date.

ADDRESS:

Ontario Energy Board
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E-mail: Boardsec@ontarioenergyboard.ca

DATED at Toronto, March 29 2012

ONTARIO ENERGY BOARD

Original Signe

Kirsten Walli
Board Secretary

APPENDIX A

List of Intervenors & Observer

**Enbridge Gas Distribution Inc.
EB-2011-0354**

APPLICANT & LIST OF INTERVENORS & OBSERVER

March 29, 2012

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EB-2011-0354**

APPLICANT & LIST OF INTERVENORS & OBSERVER

March 29, 2012

INTERVENORS

Rep. and Address for Service

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**Enbridge Gas Distribution Inc.
EB-2011-0354**

APPLICANT & LIST OF INTERVENORS & OBSERVER

March 29, 2012

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**Enbridge Gas Distribution Inc.
EB-2011-0354**

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March 29, 2012

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APPLICANT & LIST OF INTERVENORS & OBSERVER

March 29, 2012

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March 29, 2012

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EB-2011-0354**

APPLICANT & LIST OF INTERVENORS & OBSERVER

March 29, 2012

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March 29, 2012

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March 29, 2012

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