



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.

BEFORE: Paula Conboy
Presiding Member

Cynthia Chaplin
Vice Chair and Member

DECISION ON PRELIMINARY ISSUE AND PROCEDURAL ORDER NO. 2
May 16, 2012

Introduction

Enbridge Gas Distribution Inc. ("Enbridge") filed an application on January 31, 2012 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 (the "Notice"). The application was filed on the basis of US Generally Accepted Accounting Principles ("USGAAP").

The Board issued Procedural Order No. 1 on March 29, 2012, which established the approved list of intervenors for this proceeding. In addition, Procedural Order No.1 recognized the need for the Board's determination on Enbridge's request for the adoption of USGAAP for regulatory purposes (the "Preliminary Issue") in accordance

with the EB-2008-0408 *Addendum to Report of the Board: Implementing International Financial Reporting Standards in an Incentive Rate Mechanism Environment* (the “Addendum Report”). Procedural Order No.1 identified the Preliminary Issue 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?

With respect to the Preliminary Issue, the Board set a timeline for interrogatories, interrogatory responses, submissions, and Enbridge’s reply submission to take place in advance of further procedural steps in the proceeding. In addition, the Board adopted all evidence relevant to the transition to USGAAP from Enbridge’s Incentive Regulation Plan (the “IR Plan”) 2012 rate adjustment proceeding under Board file number EB-2011-0277 as evidence in this proceeding.

In this Decision, the Board will make its findings on the Preliminary Issue.

USGAAP Transition

Background

In its EB-2008-0408 Addendum Report, the Board indicated that a utility adopting USGAAP or an alternate accounting standard other than Modified International Financial Reporting Standards (“MIFRS”) must:

- 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 as standard from the appropriate Canadian securities regulatory (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.

Enbridge provided the exemption decision issued by the Alberta Securities Commission approving the use of USGAAP by Enbridge in Alberta and Ontario for financial reporting purposes. The exemption decision provided Enbridge with authorization to use USGAAP for a period of three years, until December 31, 2014.

Enbridge identified the advantages of adopting USGAAP over MIFRS as the following:

- alignment between financial reporting and regulatory accounting;
- transparency;
- ease of reconciliations;
- more reflective of the economic realities of regulated operations;
- greater consistency between earnings and revenue requirements;
- facilitates industry comparability;
- reduced regulatory costs; and
- reduced revenue requirement.

With respect to the revenue requirement, Enbridge's evidence was that there is a reduction in its 2013 revenue requirement of \$54 million through the use of USGAAP in place of MIFRS. The largest contributing factor to the increased level of revenue required under MIFRS is the amount of costs that would be required to be recognized as current operating costs versus being capitalized. This higher level of current operating costs was quantified by Enbridge to be approximately \$42.5 million. The increase in operating costs is mostly due to the indirect administrative and general overhead costs and pre-construction project costs which under Canadian Generally Accepted Accounting Principles ("CGAAP") and USGAAP are permitted to be capitalized, versus being recognized as operating expenses under the IFRS accounting standard.

Enbridge confirmed that there would be no impact on its proposed 2013 revenue requirement as a result of moving to USGAAP from CGAAP with respect to Enbridge's capitalization policies.

Enbridge also pointed to the fact that Union Gas Limited is converting to USGAAP which will mean that the two large gas distribution utilities in Ontario would be reporting using the same accounting methodology. Enbridge noted that other examples of Canadian utilities using USGAAP include: Emera, Fortis BC, AltaGas, TransCanada Pipelines, Hydro One and Ontario Power Generation.

On page 19 of the Addendum Report, the Board addressed the issue of the use of USGAAP as a short-term solution, stating:

The Board cautions utilities that the adoption of USGAAP as a short term solution may be counter-productive. If a utility is required to transition to IFRS for financial reporting purposes a few years after adopting USGAAP, certain transitional issues may not have been avoided, but delayed, and additional costs may be incurred if the utility changes its accounting standard twice. The Board will carefully scrutinize the costs incurred to accomplish two successive transitions if the utility seeks to recover these costs from ratepayers.

Enbridge explained that its plans with respect to financial and regulatory accounting upon expiry of the exemption granted by Canadian securities commissions will depend upon the status of the convergence of USGAAP to IFRS. If USGAAP and IFRS accounting standards become largely aligned in the future, no further exemption will be required. If these accounting standards do not become largely aligned, Enbridge expects that it will request a further exemption.

Enbridge indicated that it is not seeking recovery of the costs associated with USGAAP transition in this rate application and does not anticipate seeking future recovery of such costs.

Enbridge also provided information about the impact of transitioning from CGAAP to USGAAP. The main impact on rates resulting from Enbridge's transition to USGAAP is due to other post-employment benefits ("OPEB"). Enbridge declared that under USGAAP, it is required to record OPEB on an accrual basis versus the previously allowed cash basis. Enbridge stated that this movement to the accrual basis results in an approximate \$1.7 million revenue requirement increase in 2013.

In the 2012 IR Plan proceeding, EB-2011-0277, Enbridge was granted Board approval to establish a 2012 Transition Impact of Accounting Changes Deferral Account (the "2012 TIACDA"). The Board stressed that by approving the 2012 TIACDA, it was in no way presuming or implying that amounts in the deferral account would be approved for disposition. The total impact to be accommodated by the 2012 TIACDA is projected to

be approximately \$90 million. The 2012 TIACDA would be used primarily to capture the retained earnings adjustment relating to the write-off of the OPEB regulatory offset account. In the current proceeding, Enbridge is requesting that the \$90 million be recovered from ratepayers over 15 years in installments of \$6 million each year commencing in 2013.

Enbridge has proposed to establish a new TIACDA, the 2013 Transition Impact of Accounting Changes Deferral Account (the "2013 TIACDA"). Enbridge stated that as it is seeking recovery of the balance in the 2012 TIACDA over a future 15 year period commencing in 2013, a 2013 TIACDA and further future year TIACDAs will be required to record any approved recovery of yet un-cleared amounts going forward. Further, Enbridge stated that no additional principal amounts will be recorded in the TIACDA from January 1, 2013 forward.

Position of Parties

Submissions were received from Board staff, the Canadian Manufacturers and Exporters ("CME"), Energy Probe Research Foundation ("Energy Probe") and the School Energy Coalition ("SEC").

All the submissions were supportive of Enbridge's request for the adoption of USGAAP for regulatory purposes. The submissions noted that with both the large gas utilities in Ontario using USGAAP, the comparability of financial results between the two largest gas distributors will be of value going forward.

Energy Probe pointed out that the substantial reduction in revenue requirement of \$54 million is an important advantage in using USGAAP over MIFRS. Energy Probe maintained that ratepayers will benefit not only in 2013, but also in subsequent years, irrespective of whether the rates are set on a cost of service basis or under an incentive ratemaking regime. Energy Probe agreed with Enbridge that it does not see any significant disadvantage in using USGAAP versus MIFRS.

Despite being in agreement with Enbridge's move to USGAAP, CME and SEC expressed some concerns about the deferral accounts.

CME submitted that the Board should emphasize that the decision it renders with respect to the Preliminary Issue will have no impact on matters relating to Enbridge's 2012 TIACDA and 2013 TIACDA, including amounts proposed to be recorded or disposed of in these accounts.

SEC submitted that it is concerned about the 2012 TIACDA and the possibility that the \$90 million OPEB figure may be overstated. SEC stated that the need for, and proposed scope of, the 2013 TIACDA is unclear at this time. However, since these issues have not been included in the question put by the Board as the Preliminary Issue, SEC deferred further submissions on these matters until the appropriate time in the current proceeding.

Board staff submitted that Enbridge has demonstrated the required eligibility under the relevant securities legislation and has filed the required copy of the authorization to use USGAAP from the relevant securities regulator. Board staff submitted that it is appropriate in this case to establish USGAAP as the approved accounting standard for rate setting, regulatory accounting, and regulatory reporting purposes commencing January 1, 2013.

In addition, Board staff noted that Enbridge's future transition plans depend on the status of the convergence of USGAAP to IFRS. As a result of the uncertainty over future standards, Board staff submitted that the Board may not be able to assess the full impact of a later transition or convergence by Enbridge at this time. Board staff noted that the Board will have the opportunity to scrutinize the costs of the convergence if Enbridge seeks recovery of the costs in a future Board proceeding.

In its reply submission, Enbridge noted that all of the parties who filed submissions agreed that it is appropriate to establish USGAAP as Enbridge's approved accounting standard commencing January 1, 2013. In light of this, Enbridge submitted that the answer to the Board's Preliminary Issue is "yes".

Board Findings

The Board approves Enbridge's request to use USGAAP for regulatory purposes.

Enbridge has taken the steps necessary to meet the Board's preconditions for deviation from a transition to MIFRS. Enbridge has received authorization from the relevant securities regulator permitting USGAAP to be used for its financial reporting purposes, albeit for a limited term.

Enbridge has also demonstrated that there are measureable and material advantages to ratepayers associated with the transition to USGAAP as opposed to MIFRS.

Enbridge has also addressed the question of the meaning of this transition for benchmarking within the sector. The Board is reasonably satisfied that the use of USGAAP by Enbridge will not compromise the Board's ability to make comparisons with relevant comparators, or to conduct meaningful benchmarking exercises. However, if it becomes apparent that such comparisons and benchmarking exercises are compromised, Enbridge may be obliged to provide information, data and statistics in a form and format which conclusively corrects that deficiency.

The Board notes that the authorization granted to Enbridge by the relevant securities regulators is time limited, or may be subject to other conditions. Enbridge must develop a plan to address the possibility that the authorization it relies upon will lapse or otherwise become ineffective. If such an event occurs during a period when Enbridge is subject to an IRM rate setting regime, Enbridge will be obliged to develop a plan for presentation to the Board to address any issues arising from the termination of the authorization.

The Board notes the concerns raised by CME, SEC, and Board staff regarding the deferral accounts relating to the accounting standards change. The Board will offer an opportunity for parties to make submissions on the appropriate framing of these issues when it considers the issues list. The Board further emphasizes that even though the Board granted the establishment of the 2012 TIACDA in the EB-2011-0277 proceeding, its establishment does not guarantee that the amount in the deferral account will be automatically disposed, consistent with the principles underlying all Board-approved deferral accounts.

Procedural Matters

A Draft Issues List has been included as Appendix A. A Case Timetable has been included as Appendix B. The Board will convene an Issues Conference to allow parties to review the Draft Issues List. Any issues may be amended or removed, subject to the agreement of the parties. The applicant or any party may contest an issue and the Board will take submissions on the question. The Board will then decide on the appropriateness of the issue for inclusion on the Issues List.

The pre-filed evidence presents forecast information for 2011 operating and financial data. The Board notes that the Settlement Agreement setting up the incentive regulation framework required that 2011 actual data would be provided. At section 13.1 page 37 on the subject of rebasing, the EB-2007-0615 settlement states:

At the time of rebasing, the Company will provide 2011 actual, 2012 bridge and 2013 forecast information.

The Board will direct Enbridge to make a submission on the availability of 2011 actual data and on whether and how the evidence should be updated to address the 2011 actual data. Intervenors will be provided the opportunity to make submissions, and Enbridge will have the right of reply.

The Board's process will include the filing of written interrogatories. The Board requires that interrogatories reference the pre-filed evidence and be filed by issue. The Board also directs that Enbridge file the responses to these interrogatories by issue (instead of by intervenor). Interrogatory responses for each issue shall be grouped by intervenor within the issue.

The Board will make provision for the following matters related to this proceeding. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. The approved accounting standard for rate setting, regulatory accounting and regulatory reporting purposes at Enbridge Gas Distribution Inc. commencing January 1, 2013 shall be USGAAP.
2. Enbridge shall file a submission on the availability of 2011 actual data and whether and how the evidence should address the 2011 actual data. This must be filed by **May 23, 2012** and delivered to all intervenors.
3. Parties may file submissions on the issue of 2011 actual data. This must be filed by **May 28, 2012** and delivered to Enbridge and all intervenors.
4. Enbridge may file a reply submission on the issue of 2011 actual data. This must be filed by **May 31, 2012** and delivered to all intervenors.
5. An Issues Conference, involving Board staff, intervenors and Enbridge, will be convened on **June 4, 2012** at 9:30 a.m. to review the Draft Issues List. The Issues Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto.
6. Any issues may be amended or removed, subject to the agreement of the parties. Any contested issues may be identified and a relevant written submission filed by the party or parties proposing the contested issue. Any such submission must be filed with the Board and delivered to all parties by **June 6, 2012**.
7. Enbridge or any party (other than any parties making a submission as per part 6) may file a written submission in response to the submission referred to in part 6 and deliver it to all parties on or before **June 8, 2012**.
8. Board staff and intervenors who wish information and material from Enbridge that is in addition to Enbridge's pre-filed evidence and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to Enbridge and all intervenors on or before **July 5, 2012**.

9. Enbridge shall file with the Board complete responses to the interrogatories, by issue, and deliver them to the intervenors no later than **August 3, 2012**.
10. Board staff and intervenors who wish to present evidence shall file that evidence with the Board and deliver it to Enbridge and all intervenors on or before **August 10, 2012**.
11. Anyone (intervenor, Board staff or Enbridge) who requires additional information related to any intervenor evidence, and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to Enbridge and all intervenors on or before **August 17, 2012**.
12. Responses to the interrogatories on intervenor evidence shall be filed with the Board and delivered to Enbridge and all intervenors on or before **August 24, 2012**.
13. A Technical Conference involving Board staff, intervenors and Enbridge will be convened on **September 5, 2012** and **September 6, 2012** at 9:30 a.m. The Technical Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The Technical Conference will pertain only to Enbridge's evidence.
14. Any undertakings from the Technical Conference shall be filed with the Board and delivered to all parties on or before **September 11, 2012**.
15. A Settlement Conference will be convened on **September 11, 2012** at 9:30 a.m. with the objective of reaching a settlement among the parties on the issues. The Settlement Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto and if necessary may continue until **September 21, 2012**.
16. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than **September 28, 2012**.
17. The Oral Hearing will commence on **October 4, 2012** in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The hearing may continue until **October 22, 2012** if needed.

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
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto May 16, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX "A"
Enbridge Gas Distribution Inc.
2013 Rates
EB-2011-0354

Draft Issues List

B. Rate Base

1. Is Enbridge's forecast level of capital spending in 2013 appropriate?
2. Is the proposed Test Year Rate Base appropriate?
3. Is Enbridge's proposal for an Asset Plan appropriate?
4. Are the proposed Leave to Construct projects appropriate?
5. Is the proposed Information Technology Capital Budget appropriate?
6. Is the proposed budget for Storage Capital Expenditure appropriate?
7. Is the forecast of Customer Additions appropriate?
8. Is the allocation of capital expenditures between utility and non-utility ("unregulated") operations appropriate?

C. Operating Revenue

1. Is Enbridge's revenue forecast appropriate?
2. Is Enbridge's gas volume forecast appropriate?
3. Is Enbridge's degree day forecast for each of the Company's delivery areas (EDA, CDA, and Niagara) appropriate?
4. Is the Average Use forecast appropriate?
5. Is the Budget Degree Days Forecast appropriate?
6. Is the level of Unaccounted For (UAF) volume appropriate?
7. Is the proposal for the treatment and sharing of Transactional Services revenues appropriate?
8. Is Enbridge's forecast of other service and late payment penalty revenues appropriate?

D. Operating Costs

1. Is the 2013 O&M budget appropriate?
2. Is Enbridge's forecast of gas, transportation and storage costs appropriate?
3. Are the proposed changes to Peak Gas Day Design Criteria (PGDDC) and methods of cost recovery appropriate?
4. Is the forecast of Employee Future Benefit costs which will be incurred under USGAAP appropriate, including the request to recover Pension Expense and Other Post-Employment Benefits ("OPEB") Expense on an accrual basis commencing January 1, 2013?
5. Is the corporate cost allocation ("RCAM") appropriate?
6. Are the affiliate charges appropriate?
7. Are the proposed depreciation rate changes appropriate?
8. Is the municipal taxes expense appropriate?
9. Is the demand side management budget appropriate?
10. Is the income tax expense forecast appropriate?
11. Is the proposal for the Open Bill Access Program appropriate?
12. Is the proposed O&M budget for Finance appropriate?
13. Has Enbridge properly implemented the revenue requirement associated with the Customer Care and CIS Settlement Agreement (per EB-2011-0226)?
14. Is the proposed O&M budget for Energy Supply, Storage Development and Regulatory appropriate?
15. Is the proposed O&M budget for Law appropriate?
16. Is the proposed O&M budget for Operations appropriate?
17. Is the proposed O&M budget for Information Technology appropriate?
18. Is the proposed O&M budget for Business Development & Customer Strategy appropriate?
19. Is the proposed O&M budget for Human Resources appropriate?

20. Is the proposed O&M budget for Pipeline Integrity & Safety appropriate?
21. Is the proposed O&M budget for Public and Government Affairs appropriate?
22. Is the proposed O&M budget for Non-Departmental O&M Expenses appropriate?
23. Are the results and actions taken for the Service Quality Requirements reporting for 2009 and 2010 appropriate?

DV. Deferral and Variance Accounts

1. Are Enbridge's existing and proposed deferral and variance accounts appropriate?
2. Is Enbridge's request to recover from ratepayers an approximate \$90 million forecasted balance as at December 31, 2012 in the 2012 Transition Impact of Accounting Changes Deferral Account ("TIACDA") appropriate?

E. Cost of Capital

1. Is the forecast of the cost of debt for the Test Year, including the mix of short and long term debt and preference shares, and the rates and calculation methodologies for each, appropriate?
2. Is the proposed change in capital structure increasing Enbridge's deemed common equity component from 36% to 42% appropriate?
3. Is the proposal to use the Board's formula to calculate return on equity appropriate?

F. Revenue Sufficiency / Deficiency

1. Are the revenue requirement and revenue deficiency or sufficiency for the Test Year calculated correctly?
2. Is the overall change in revenue requirement reasonable given the impact on consumers?

G. Cost Allocation

1. Is Enbridge's utility Cost Allocation Study, including the methodologies and judgements used and the proposed application of that study with respect to Test Year rates, appropriate?

2. Are the Cost Allocation Study methodology relating to Customer Care and CIS costs appropriate?

H. Rate Design

1. Are the rates proposed for implementation effective January 1, 2013 and appearing in Exhibit H just and reasonable?

RI. Rate Implementation

1. How should the Board implement the rates relevant to this proceeding?

O. Other Issues

1. Has Enbridge responded appropriately to all relevant Board directions from previous proceedings?
2. Are Enbridge's economic and business planning assumptions for the Test Year appropriate?
3. Is service quality, based on the Board specified performance indicators acceptable?
4. Are sustainable productivity and efficiency gains achieved under incentive regulation appropriately reflected in Enbridge's Cost of Service estimates?
5. Does the 2013 revenue requirement include any capital items that were deferred under the Enbridge's IR Plan?
6. Are Enbridge's Conditions of Service (i.e. customer service policies including security deposits, late payment penalty, etc.) compatible with Board directives?
7. Have all impacts of the conversion of regulatory and financial accounting from CGAAP to USGAAP been identified, and reflected in the appropriate manner in the application, the revenue requirement for the Test Year, and the proposed rates?

APPENDIX "B"
Enbridge Gas Distribution Inc.

EB-2011-0354

Case Timetable
Date: May 16, 2012

	Event	Date
1.	Enbridge Submission on 2011 actual data	May 23
2.	Parties' Submissions on 2011 actual data	May 28
3.	Enbridge Reply Submission on 2011 actual data	May 31
4.	Issues Conference	June 4
5.	Submissions on Contested Issues	June 6
6.	Reply Submissions on Contested Issues	June 8
7.	Procedural Order No. 3 (Final Issues List)	June 14
8.	Interrogatories filed	July 5
9.	Interrogatory responses	August 3
10.	Intervenor evidence	August 10
11.	Interrogatories on Intervenor evidence	August 17
12.	Interrogatory responses on Intervenor evidence	August 24
13.	Technical Conference	September 5, 6
14.	Undertakings from Tech Conf filed	September 11
15.	Settlement Conference	September 11 – 21
16.	File Settlement Proposal	September 28
17.	Oral Hearing (10 hearing days)	October 4 - October 22