



By E-mail

March 26, 2008

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Ontario Energy Board
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Dear Ms Walli,

Enbridge Gas Distribution Inc.
Transactional Services Methodology
Board File No.: EB-2007-0932
Our File No.: 302701-000384

This letter contains submissions of the Industrial Gas Users Association (“IGUA”) in response to the Argument-in-Chief (“Argument”) of Enbridge Gas Distribution Inc. (“EGD”) dated March 11, 2007.

In this proceeding, EGD asks the Board to approve two (2) changes to the Transactional Services (“TS”) Methodology which forms the subject matter of a Final Order of the Board dated July 19, 2005. This Order approves a six page Settlement Proposal dated July 4, 2005, and a 15 page Appendix attached thereto.¹

The Settlement Proposal and Appendix 1 thereto entitled “Transactional Services (TS) Surplus Assets Methodology for making assets available to the Market” are the negotiated result of a time consuming pre-hearing process that took place following the issuance by the Board, on March 18, 2005, of a Notice of Proceeding calling for interventions in a proceeding to examine EGD’s proposed TS Methodology.

The two changes EGD is now proposing to the agreed upon TS Methodology are:

- (i) To eliminate the requirement that it use the electronic auction procedure described in Appendix 1 of the Settlement Proposal under the heading “Longer-term, Day-ahead and Intra-Day Assets” when it makes TS assets available to the marketplace. EGD wishes to be permitted to engage in “direct marketing” activities to solicit business from authorized counterparties; and
- (ii) To lift the restrictions on EGD’s ability to enter into TS transactions with its affiliate, Enbridge Gas Services (“EGS”).

IGUA understands that other features of the approved TS Methodology will continue to apply. Of particular interest to IGUA member companies is EGD’s commitment that interruptible customers must not be curtailed as a result of TS activities.

¹ See EGD’s November 29, 2007 letter to the Board, Appendix 1, pp. 1 to 24

When responding to the 2 changes EGD requests, IGUA urges the Board to consider the following points:

- (a) The agreed upon and Board approved TS Methodology is intended to provide all interested parties with fair and non-discriminatory access to surplus utility assets; with the objective of optimizing the value of those assets;²
- (b) Complete transparency is an essential pre-requisite to fair and non-discriminatory access to surplus utility assets.³ To achieve this objective, there must be full, complete and timely disclosure of all of the TS transactions in which EGD engages and particularly, those between EGD and any of its affiliate(s), including EGS. Timely and complete disclosure by EGD of these affiliate transactions, including particulars of the services provided and the prices charged, are necessary to enable other market participants to monitor the extent to which EGD sells temporarily surplus utility assets to EGS and, as a result, the extent to which EGD might be favouring EGS over other market participants;
- (c) The guiding principles listed in Section 2 of the July 4, 2005 Settlement Proposal continue to apply. Any amendments to the TS Methodology should be compatible with these guiding principles which are as follows:
 - Full, fair and non-discriminatory access to utility TS assets by all market participants;
 - No preferential access to utility access for affiliates of the utility;
 - Interruptible customers must not be curtailed as a result of TS activities;
 - Enhancing ratepayer benefits from TS optimization through increased market confidence and value from TS assets;
 - Transparency in the TS market and accountability of the TS administrator; and
 - Ensure ongoing compliance with the TS Methodology, and enforcement in material events of non-compliance with the TS Methodology, as the Board is entitled to do in accordance with its jurisdiction under the *Ontario Energy Board Act, 1998*, as amended (the “*OEB Act*”);

² See RP-2003-0203 Decision with Reasons, November 1, 2004, para. 2.5.8 where the Board stated as follows: “Accordingly, the Board expects the Company to develop a methodology for making such surplus assets known to, and available to, unrelated market participants on a non-discriminatory basis ...” and that “... the Board expects that EGS, acting on its own behalf, could be an active participant in this market, but it is imperative that there be fair, equitable and open market opportunities for others.”

See also para. 2.5.9 where the Board stated as follows: “On or before January 31, 2005, the Board expects the Company to provide: ... ii) a status report on the development of a methodology aimed at providing interested parties with fair and non-discriminatory access to surplus utility assets with the objective of optimizing the value of those utility assets.”

³ See EB-2005-0001/EB-2005-0437 Decision with Reasons, February 9, 2006, para. 6.2.8 where the Board stated as follows: “... it is the Board’s view that the new TS Methodology, approved by the Board in 2005, is likely to increase market confidence, and support returns on the surplus assets. The new process, ..., is characterized by increased transparency and enhanced access to the surplus assets for other market participants.”

- (d) The potential for EGD to prefer its affiliate(s) in “direct marketing” arrangements should be constrained in a manner considered by the Board to be appropriate. “Middlemen” such as EGD’s affiliate, EGS, and other marketers who acquire surplus utility assets, do so to profit therefrom; and
- (e) Any amended TS Methodology for allocating surplus utility assets should be compatible with the methodology the Board eventually adopts to ensure consumer protection within the competitive storage market and ensure non-discriminatory access to transportation services for storage operators and customers. The Board has initiated a proceeding under Board File No. EB-2008-0052 to develop rules of conduct and reporting related to storage. Any amendments to the TS Methodology should be compatible with the outcome of that process.

With these considerations in mind, IGUA has no specific objections to EGD’s request that it no longer be required to use the electronic bidding process to make temporarily surplus utility assets available to the market. The precise wording of amendments to the TS Methodology to achieve this will need to prevent EGD from preferring the interests of its affiliate(s), such as EGS, over the interests of other market participants.

IGUA urges EGD to attach to its Reply Argument its draft of the precise wording changes it proposes to make to Appendix 1 of the July 4, 2005 Settlement Proposal so that the Board and interested parties can submit any comments they have on such wording before any amended Appendix 1 to the July 4, 2005 Settlement Proposal is attached to the Order that issues as a result of these proceedings.

Similarly, relaxing the restrictions in the currently approved TS Methodology on EGD’s ability to engage in TS transactions with EGS is acceptable to IGUA, as long as the amended methodology requires EGD to make timely and complete disclosure of all information required by market participants to evaluate whether EGD is favouring the interests of EGS over other market participants.

In order to assure that amendments to the TS Methodology are compatible with the outcome of the Storage and Transportation Access Rule (“STAR”) proceeding, IGUA suggests that any order the Board grants in these proceedings be subject to further amendment after a decision has been rendered in the STAR proceeding.

IGUA requests that it be awarded 100% of its reasonably incurred costs of participating in this proceeding.

Yours very truly,



Peter C.P. Thompson, Q.C.

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c. Interested Parties EB-2007-0932
Murray Newton (Industrial Gas Users Association)
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