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Tuesday April 8th, 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 - Reply Argument

In accordance with the Ontario Energy Board's (the "Board") Procedural Order No. 1, enclosed please find two copies of the Reply Argument of Enbridge for the above noted proceeding.

Also, the Reply 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

CC: EB-2007-0932 Interested Parties (via email)

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.

**REPLY ARGUMENT OF ENBRIDGE GAS DISTRIBUTION INC.
APRIL 8, 2008**

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A. Overview

1. Enbridge Gas Distribution Inc.'s (EGD, or the Company) Application in this case seeks two changes to the existing Transactional Services (TS) Methodology. First, EGD seeks permission to cease using the electronic auction mechanism to market TS assets, and instead be permitted to directly solicit potential counterparties. Second, EGD requests the lifting of the limitations on its ability to enter into TS deals with its affiliate Enbridge Gas Services (EGS). The changes proposed by EGD are not expected to increase EGD's costs and are expected to increase the total value of EGD's TS activities, assuming that all other factors (including TS asset availability) remain equal.¹ This will benefit ratepayers, who receive at least 75% of EGD's net TS revenues.²
2. Notice of these proposed changes was provided in September 2007 to participants in the TS market, and to other Intervenor who were involved in the Ontario Energy Board's previous TS Methodology proceeding (EB-2005-0244). No party objected to the proposed changes at that time.³
3. Subsequently, the Company formally requested approval of the proposed changes to the TS Methodology in its November 2007 Application in this case. On March 11, 2008, the Company filed its Argument in Chief setting out the reasons why the proposed changes to the TS Methodology should be approved.
4. Only two parties made submissions in response: Ontario Energy Board Staff (Board Staff), and the Industrial Gas Users' Association (IGUA).
5. IGUA's Argument indicates that it does not object to the relief sought.

¹ 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.

² 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.

³ Application, p. 4 and Appendices 2 and 3 – several parties actually indicated their support for the proposed changes.

6. The Board Staff Submission raises three concerns about the relief sought – the first two relate to how the proposed changes to the TS Methodology will fit with the Board's Storage and Transportation Access Rule (STAR) proceeding, and the third relates to whether additional protections are needed to ensure that there is no preferential access to TS assets.
7. The Company's specific responses to the issues raised by Board Staff and IGUA are set out in the body of this Reply. In short, EGD does not believe that the STAR proceeding should or will deal with the type of short term transactions that are covered by the TS Methodology. Moreover, there is nothing to prevent the Board from subsequently changing the TS Methodology if that is mandated by the separate STAR proceeding. Finally, the reporting requirements already found within the TS Methodology, along with the additional disclosure requirements that apply to EGD's dealings with affiliates, provide sufficient protection to ensure that parties can assure themselves that EGD is not providing improper preferential access to any party in its TS dealings.
8. Stepping back from the Board Staff and IGUA submissions though, the most significant and telling fact for the Board to note is that none of the parties who participate in the TS market, and who are presumably most impacted by the relief sought herein, have filed any submissions in respect of this Application (much less any objections). In fact, as noted in the Application, at the time that EGD first provided notice of the proposed changes to the TS Methodology, three of the counterparties who participate in the TS market indicated that they support the proposed changes.⁴ Finally, no ratepayer group has indicated any objection to the relief sought, presumably because ratepayers are the main beneficiaries of TS revenues and because the proposed changes to the TS Methodology are expected to increase TS revenues (assuming all external factors influencing TS revenues remain equal).
9. In all of these circumstances, EGD submits that it is fair and appropriate that its requested changes to the TS Methodology be approved.

⁴ Application, Appendix 3.

B. Issues raised in Board Staff and IGUA Submissions

a) Disclosure requirements will assure parties that EGD is acting properly

10. The Board Staff Submission questions whether allowing EGD to contact counterparties for TS transactions could lead to preferential access or treatment. The underlying premise appears to be that the existing auction process is better, because EGD has no control in that case over what counterparties are successful. Board Staff invited other parties to comment in this regard, but no party chose to do so.
11. With respect, EGD submits that Board Staff's concerns are misplaced.
12. The fact is that counterparties are not willing to use the existing auction process. The evidence in this Application is that there were only 7 successful bids through the auction mechanism in 2006, and no bids were made or awarded through the auction mechanism in 2007.⁵ The Company has not been able to engage EGS in any transactions of any consequence.⁶ Therefore, another approach is needed. That is why EGD seeks to be permitted to solicit potential counterparties, including EGS.
13. In its proposed solicitation of potential counterparties, there is no reason to suspect or worry that EGD will be awarding assets in a fashion that is not fair and transparent.
14. EGD will be incented to enter into the best possible transactions when it solicits potential counterparties, because it is permitted to retain between 10% and 25% of net TS revenues.⁷ In this regard, it can be expected that EGD will take the following considerations into account if it is permitted to solicit potential counterparties for TS deals:

⁵ Response to Board Staff Interrogatory #2.

⁶ As set out in the Application, at p. 3, EGD only entered into one transaction with EGS in 2006, and its total value was only \$3400. Effectively, this has meant that EGD has one less potentially interested counterparty to deal with for potential transactions.

⁷ This is discussed in more detail in the Response to Board Staff Interrogatory #5.

- i) TS revenue is maximized when the TS administrator interacts with multiple counterparties in a competitive environment in search of “best price”
- ii) TS revenue is also maximized when the TS administrator is able to identify and interact with those counterparties who are most likely to be interested in the subject opportunity
- iii) In trying to maximize TS revenues, EGD will seek out transactions with those counterparties who it has identified as being most likely to be interested in a particular opportunity

15. As well, all authorized counterparties will continue to be able to solicit EGD for TS deals. This means that counterparties are able to directly impact on their own ability to enter into TS deals with EGD.⁸ Counterparties are clearly comfortable with that approach, given that it accounted for 99% of EGD's TS revenue in 2006⁹, and given that EGD was transacting with between 13 and 18 counterparties each month during 2007.

16. It is important to appreciate that the transparency of EGD's TS activities will continue to be assured by the ongoing reporting requirements that exist under the TS Methodology. Specifically, the TS Activity Summary which is circulated to market participants each month allows the participants to track and monitor EGD's overall TS activity¹⁰ and, if appropriate, to ask questions.

17. In its Argument, IGUA makes specific observations about the importance of ensuring that market participants have sufficient information to evaluate whether EGD is favouring EGS over other market participants.

18. As set out in response to Board Staff Interrogatory #3, EGD will continue to report on a monthly basis, as required by the TS Methodology, on all transactions with an affiliate. The information that EGD will disclose in these reports will include the

⁸ See Response to Board Staff Interrogatory #5.

⁹ Annual Transactional Services Performance Review – 2006, attached as Appendix 2 to the Application.

¹⁰ As noted in the Response to Board Staff Interrogatory #2, these reports present information on an aggregated basis, and do not disclose trade specifics to the public, because counterparties have indicated that they would resist monthly reporting of details of their transactions, since this could cause the disclosure of commercially sensitive information to competitors. No counterparty has requested that the Company disclose details of its transactions with non-affiliates.

number of transactions, transaction type, duration, volume and total value of the transactions. Moreover, interested parties will be able to ask questions of EGD to follow up on the information set out in the monthly reports.¹¹ Given this sharing of information (which is more detailed than the information that EGD will disclose in respect of its TS deals with non-affiliates), participants in the TS market will be able to assure themselves that EGD is not favouring its affiliate.

19. In addition, the OEB's Affiliate Relationships Code for Gas Utilities (ARC) and Natural Gas Reporting and Record Keeping Requirements (RRRs) set additional rules for the conduct and disclosure of affiliate transactions.¹² These OEB reporting requirements, and the OEB's review of the Company's reporting, should give additional comfort to all parties that EGD is acting appropriately in any of its affiliate transactions.

b) The STAR Proceeding is not relevant to this Application

21. Contrary to the concern raised in the Board Staff Submission, EGD is not aware, and does not expect, that the pending proceeding regarding a STAR will have any impact on any rules for the use of its TS assets.¹³
22. The proposal for a STAR originated in the EB-2005-0551 Natural Gas Electricity Interface Review proceeding (NGEIR) from the City of Kitchener, and was also supported by the Board Hearing Team. The filings, cross-examinations and argument from those parties do not suggest how, or if, any STAR proposal those parties were advocating would relate to EGD's short term TS activities. To the contrary, their proposals seemed to relate primarily to things such as:
- i) reporting of transmission and storage capacity and transactions (which would occur on a quarterly basis)
 - ii) a complaint system to deal with discriminatory access concerns
 - iii) concerns about ensuring open access to Union Gas' transmission system, without which access to storage is of little use to Ontario market participants

¹¹ Response to Board Staff Interrogatory #3.

¹² The reporting requirements set out in these regulatory instruments are described in some detail in the Response to Board Staff Interrogatory #3.

¹³ EGD addressed this question in its Response to Board Staff Interrogatory #1.

iv) rules and information requirements for open seasons (for long term capacity)

23. Similarly, the portion of the Board's Decision with Reasons in NGEIR that determines that the Board will develop and implement a STAR does not appear to relate to TS activities, which by their nature are short term.¹⁴ In the "Reporting" section of the NGEIR Decision, the Board indicated that it was concerned about ensuring consumer protection within the competitive market for storage in Ontario and ensuring access to Union Gas's transportation system on a non-discriminatory basis to new and existing storage operators. The Board's Decision continued by stating that "it is necessary to develop appropriate operating and reporting procedures to ensure these objectives are addressed", so it would initiate a process to develop a STAR that would address:

- i) requirements to ensure that Union Gas cannot discriminate in favour of its own storage operations or against third party storage operators
- ii) reporting requirements for all storage providers
- iii) a complaint mechanism for customers (or other market participants)

24. After this proceeding was underway, the Board issued notice of its EB-2008-0052 proceeding, which is titled "Rules of Conduct and Reporting related to Storage – Storage and Transportation Access Rule".

25. In the letter accompanying notice of the STAR proceeding, the Board confirmed its expectation that the STAR would address the three items noted in the NGEIR Decision and set out above.¹⁵

26. In EGD's submission, none of these three items relates to the changes to the TS Methodology for which EGD is seeking approval.

27. The first item appears to relate to Union Gas, not EGD. In any event, though, the issues of non-discrimination do not directly apply to TS activities which, by their nature, are designed to favour the utility. This is seen in the fact that all TS deals are premised on the subject assets being surplus to the utility's needs. Indeed, one of the

¹⁴ EB-2005-0244, Decision with Reasons, at pp. 74-76.

¹⁵ EB-2008-0052, letter dated March 5, 2008; the letter also stated that the Board intends to conduct stakeholder meetings with interested parties, which will lead to the development of a Staff Discussion Paper.

principles in the TS Methodology that governs TS activities is that “interruptible customers must not be curtailed as a result of TS activities”.¹⁶ The TS Methodology provides that EGD must unwind any TS deals that are in place during a period of curtailment where those transactions would negatively impact upon interruptible customers. In effect, therefore, the utility is required to discriminate in favour of its own operations for TS activities.

28. The second item, which relates to reporting requirements, would also appear to be inapplicable. EGD is not seeking any changes to the reporting requirements that already exist within the TS Methodology. As discussed in EGD’s Application, and herein, the TS Methodology already provides for ongoing reporting of TS activities, with enhanced reporting provided for affiliate transactions. In addition, EGD has indicated its willingness to respond to questions that stakeholders may have in respect of items disclosed through this ongoing reporting.
29. In relation to the third item, none of the relief sought by EGD herein relates to any complaint mechanism that might be considered as part of a STAR. EGD is not seeking any relief that would in any way bear upon a subsequent examination by the Board of what types of complaint mechanisms might be implemented as part of a STAR. EGD notes, however, that the TS Methodology already expressly provides that the OEB may exercise its discretion to address any material non-compliance with the TS Methodology.¹⁷
30. Finally, it is important to appreciate that many (and often most) of the assets that EGD uses for its TS activities are not EGD’s own assets, but are instead transmission, storage and other assets acquired from third parties which EGD re-sells on a short-term basis when they are not needed for utility operations. As such, EGD is not unlike an unregulated marketer (or reseller) in these activities. In addition, some of the assets that EGD uses for its TS activities, such as pipeline capacity, are outside of Ontario. Finally, the only utility asset that EGD uses for its TS activities is the portion of its Tecumseh storage operations that is reserved for utility operations and that asset

¹⁶ See Application, Appendix 1, p. 8 of 24.

¹⁷ See the Compliance/Enforcement section of the TS Methodology, at p. 24 of Appendix 1 to the Application.

is only used for TS when it is temporarily surplus to utility operations meaning that EGD is not in a position to influence or control the market. EGD does not expect, therefore, that a STAR would relate in any way to most of the assets that it uses for its TS activities.

31. Based on the foregoing, and in response to the concern raised by Board Staff, EGD does not expect that the issues that may arise in a STAR proceeding will relate to its TS activities. On the other hand, though, EGD does have its own concern that Board Staff appears to be prejudging and predetermining the scope of what will be included within the STAR before it has even begun the process of meeting with stakeholders to discuss what ought to be included within that Rule.

c) There is no reason to delay consideration of this Application

32. Even if there is some prospect that the STAR may impact on the TS Methodology (which EGD disputes), that is not a sufficient reason to decline to address this Application at this time. EGD puts forward three reasons why this is so.

33. First, contrary to the suggestion made in the Board Staff Submission, the benefits of EGD's proposed amendments to the TS Methodology clearly outweigh the costs:

- i) EGD expects that the proposed changes will enable it to increase TS revenues, assuming all else remains equal.¹⁸ Of course, this will benefit ratepayers, who receive 75% or more of the net TS revenues.
- ii) On the other hand, there are no anticipated costs associated with EGD's proposed amendments to the TS Methodology.¹⁹

34. Second, it seems harsh to require EGD to wait up to a year and a half to receive a decision on its request in this Application. EGD provided notice of the proposed

¹⁸ This issue is addressed in detail in EGD's Response to Board Staff Interrogatory #6. As EGD has explained, it is unable to predict or quantify the magnitude of the anticipated increase in TS revenues that would result from the proposed changes. This is because there is a multitude of factors that drive TS revenues, most of which are outside of EGD's control. For example, in the event of a cold winter where EGD is required to use most or all of its assets to serve customers, there will be few assets available for TS activities. In that case, even with the requested changes to the TS Methodology, EGD's TS revenues might decline from a previous year.

¹⁹ The Board Staff Submission notes that EGD did not comment on the costs in its Application or evidence. While that is true, it is also true that no party, including Board Staff, asked any Interrogatory on that topic. Had such an Interrogatory been asked, EGD would have set out its expectation that the proposed amendments to the TS Methodology will not add to its costs.

changes to the TS Methodology in September 2007, and this Application was filed in November 2007. Board Staff suggests that the estimated completion date for the STAR process is March 2009. EGD submits that, in these circumstances where there is little or no opposition to the relief sought, it is appropriate for the Application to be addressed at this time.

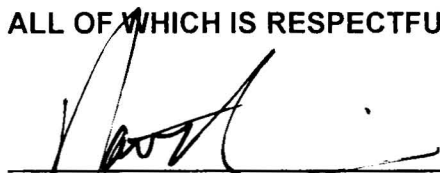
35. Third, as noted by IGUA, any changes that are made to the TS Methodology as a result of this Application can be made to be subject to further amendment through the STAR proceeding.

C. Relief Sought

36. IGUA's Argument asks EGD to specify the precise wording changes that it seeks to the TS Methodology. In fact, EGD does not seek changes to the wording of the TS Methodology itself, since all of the wording of the TS Methodology was the subject of a complete settlement between all parties in the EB-2005-0244 proceeding. EGD believes that it would be presumptuous to unilaterally propose specific wording changes to the actual text of the TS Methodology in those circumstances.
37. Instead, EGD proposes that the Order to be issued by the Board in this proceeding provide for certain exemptions to the TS Methodology, as follows.
38. First, EGD will no longer be required to use the electronic auction procedure set out in the TS Methodology when it makes TS assets available to the marketplace. EGD is authorized 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.
39. Second, the limitations from the TS Methodology upon the size of TS transactions that EGD may enter into with EGS will no longer apply. EGD will continue to report on all TS transactions with EGS (or any other affiliate) on a monthly basis to all parties on the TS Distribution List. The report will set out the number of transactions, transaction type, duration, volume and total value of the transactions.

40. All other aspects of the TS Methodology will continue in full force and effect.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 8th DAY OF APRIL 2008



David Stevens, Aird & Berlis LLP
Counsel to EGD