

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. 4

August 29, 2012

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 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. 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.

On August 10, 2012, the Board received a letter from the Heating, Ventilation, and Air-Conditioning Coalition (“HVAC Coalition”) requesting late intervenor status in this proceeding. HVAC Coalition indicated in its letter that its interest is limited to Issue D11 (the “Open Bill issue”) and argues that Enbridge made material changes to its proposal with respect to Open Bill Access when it filed updated evidence on June 8, 2012, necessitating HVAC Coalition’s participation.

HVAC Coalition is an organization representing heating and air conditioning contractors offering services in the Enbridge franchise area. HVAC Coalition has intervened in previous proceedings relating to the Open Bill Issue.

On August 16, 2012, Enbridge filed a letter responding to the requests from HVAC Coalition, indicating that they had come to agreement on a proposal to accommodate HVAC Coalition's late intervention. The terms of this proposal are set out in Enbridge's letter, attached as Appendix "A" to this Order. The proposal set forth procedural dates with respect to additional interrogatories on the updated evidence on Open Bill Access¹, settlement discussions, intervenor evidence, and hearing dates.

On August 27, 2012 the Board received a letter from the Green Energy Coalition ("GEC") requesting late intervenor status and cost eligibility, specifically with respect to the Open Bill issue. GEC indicated that it has only recently become aware that a matter raised in Enbridge's consultations with respect to its Demand Side Management (DSM) plan is related to the Open Bill issue. GEC was granted intervenor status and cost eligibility in Enbridge's DSM proceeding (EB-2011-0327).

The Board accepts GEC and HVAC Coalition as intervenors. GEC and HVAC's participation shall be limited to the Open Bill issue.

Enbridge did not object to HVAC Coalition's request for cost eligibility in relation to the Open Bill issue or GEC's request. The Board grants cost eligibility to GEC and HVAC Coalition.

Any other intervenor, or Board staff, that wishes to ask interrogatories on the updated evidence on the Open Bill issue, may do so according to the schedule set out at Appendix "C" to this Order.

The Board adopts the schedule set out in Enbridge's letter, with the following exceptions: the Board will not set dates to hear the Open Bill issue at this time, nor will the Board commit to rendering a decision on the Open Bill issue by mid-January 2013.

THE BOARD ORDERS THAT:

1. The case timetable which applies to all issues, with the exception of Issue D11, the Open Bill issue, is attached as Appendix "B" to this Order. The Oral Hearing will commence on October 9 rather than October 4, 2012 as previously scheduled. All other procedural dates in the case timetable remain unchanged.

¹ An update to Exhibit D1, Tab 9, Schedule 1 and appendices was filed on June 8, 2012.

2. Board staff and intervenors that require additional information related to the Open Bill Access evidence filed on June 8, 2012, shall request it by written interrogatories filed with the Board and delivered to Enbridge and all intervenors on or before **September 7, 2012**.
3. Responses to interrogatories on the Open Bill issue shall be filed with the Board and delivered to Board staff and intervenors on or before **September 18, 2012**.
4. Enbridge shall hold two meetings, at a minimum, with interested parties during the **week of September 10, 2012** in an effort to resolve the Open Bill issue.
5. If agreement is reached on the Open Bill issue, the parties will make best efforts to include it as part of the overall Settlement Proposal in this proceeding which is scheduled to be filed on or before **September 28, 2012**. If agreement is reached on the Open Bill issue and parties are unable to file agreement as part of the overall settlement, Enbridge shall file this as a standalone settlement agreement on the Open Bill issue on or before **October 2, 2012**.
6. In the event that no settlement is reached on the Open Bill issue by **October 2, 2012**, the parties will advise the Board in writing at that time that no settlement has been achieved. The Board will subsequently make further procedural orders setting out dates to hear the Open Bill issue.
7. A case timetable to address the Open Bill issue (Issue D11) is attached as Appendix "C" to this Order and includes the relevant particulars set out above.

All filings to the Board must quote file number **EB-2011-0354**, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/ 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.

All filings shall 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 the document may be emailed to BoardSec@ontarioenergyboard.ca. Persons who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper

copies. Persons who do not have computer access are required to file seven paper copies. If a document has been submitted through the Board's web portal an e-mail is not required. For all electronic correspondence and materials related to this proceeding, parties must include in their distribution 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 August 29, 2012

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX "A"
Enbridge Gas Distribution Inc.

EB-2011-0354

Letter from Enbridge dated August 16, 2012

Date: August 29, 2012

August 16, 2012

DELIVERED AND FILED VIA RESS

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
Suite 2700
Toronto, ON M4P 1E4

Dear Ms Walli:

Re: EB-2011-0354: HVAC Coalition Intervention Request

We represent Enbridge Gas Distribution Inc. ("Enbridge" or the "Company").

By letter dated August 10, 2012, HVAC Coalition requested late intervenor status in this proceeding in relation to the open bill issue (which is Issue D11 : "Is the proposal for the Open Bill Access Program appropriate?"). In that letter, HVAC Coalition advised that discussions were ongoing with the Company about an appropriate procedure to accommodate HVAC Coalition's intervention in this ongoing proceeding.

Enbridge and HVAC Coalition have reached an agreement on a proposal to accommodate HVAC Coalition's late intervention, and address the open bill issue in this proceeding. This proposal would allow for HVAC Coalition to ask interrogatories and file evidence (if necessary) on the open bill issue, and would allow for the issue to be heard (if necessary) shortly after other issues in this case. While this proposal would require some amendments to the currently set procedure for this proceeding, Enbridge and HVAC believe that the amendments are in the best interests of all parties as they would allow for the full hearing of the open bill issue in a manner that is minimally disruptive to the current schedule. Enbridge and HVAC believe that the proposed procedure to address the open bill issue maximizes the opportunity to have the issue settled outside of a hearing.

The specific terms of the proposal made by Enbridge and HVAC Coalition are the following:

1. Enbridge does not object to the late intervention request of HVAC Coalition, or to HVAC Coalition's request for costs eligibility in relation to the open bill issue in this proceeding.
2. HVAC Coalition agrees to ask interrogatories on the open bill issue on or before September 7, 2012.

3. Enbridge agrees to provide responses to such interrogatories by September 18, 2012, and agrees to provide an update by that time (and earlier if possible) about whether any decision has been made in respect of the continuation of the open bill program beyond 2013.
4. Enbridge and any interested parties (including HVAC Coalition) will meet at least twice during the week of September 10, 2012 in an effort to resolve the open bill issue. Such meetings would take place concurrently with Enbridge's scheduled Settlement Conference in this proceeding. If appropriate, such meetings could continue through the month of September.
5. If agreement is reached on the open bill issue, it will be included either as part of an overall Settlement Proposal for this proceeding, or as a supplementary Settlement Proposal, depending on timing.
6. If no agreement on the open bill issue is reached by October 2, 2012, then the open bill issue would proceed to hearing before the OEB. Enbridge and HVAC Coalition agree that the issue should not be heard as part of the currently-scheduled hearing dates in October 2012, in order to allow time for HVAC Coalition to file evidence, if necessary.
7. If the open bill issue does proceed to hearing, then Enbridge and HVAC Coalition agree that the following items should apply:
 - a. The open bill issues would be heard at a time to be determined by the OEB, following the currently-scheduled dates in October 2012.
 - b. EGD and HVAC Coalition request that the hearing dates for the open bill issue be set for dates (presumably in November 2012) that are early enough to allow for a decision to be issued concurrently with its decision on other issues in this proceeding, or shortly thereafter. The parties hope that the open bill decision by the Board can be issued by mid-January 2013. At the same time as the hearing dates are requested, Enbridge and HVAC Coalition will jointly request that the Board issue an interim order permitting EGD to continue the provision of open bill services beyond December 31, 2012 under the current terms.
 - c. HVAC Coalition would be entitled to file evidence, at least three weeks before the scheduled hearing dates, and EGD would be entitled to provide interrogatories within one week of the evidence filing, to which responses would be filed within one week of the interrogatories being filed.
 - d. At the hearing, parties would be free to take whatever position they deem appropriate in respect of the open bill issue.
 - e. Depending on timing, and on the Board's preference, the decision on the open bill issues might or might not be part of the overall 2013 rates decision (it could also be a supplementary decision).

August 16, 2012

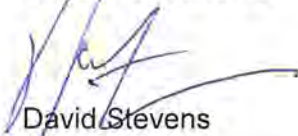
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As a final point, Enbridge and HVAC Coalition would like to emphasize that this proposal for a limited parallel or second "phase" of the hearing in this proceeding is specific to the open bill issue, and is not intended to apply to any other issues. These arrangements are intended to accommodate HVAC Coalition's late intervention, and should not be taken as a precedent for other issues to be postponed beyond the currently scheduled hearing.

Should you have any questions, please do not hesitate to contact me.

Yours very truly,

AIRD & BERLIS LLP



David Stevens

cc. Enbridge Gas Distribution
Jay Shepherd, counsel to HVAC Coalition
All parties registered in EB-2011-0354

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**APPENDIX “B”
Enbridge Gas Distribution Inc.**

EB-2011-0354

Case Timetable

Date: August 29, 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 15
11.	Interrogatories on Intervenor evidence	August 22
12.	Interrogatory responses on Intervenor evidence	August 29
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 (8 hearing days)	October 9 – October 22

APPENDIX "C"
Enbridge Gas Distribution Inc.

EB-2011-0354

Case Timetable for Open Bill issue (Issue D11)

Date: August 29, 2012

	Event	Date
1.	Interrogatories filed	September 7
2.	Interrogatory responses	September 18
3.	Settlement Meetings on Open Bill issue	week of September 10
4.	File Settlement Proposal as part of overall Settlement Proposal, if possible	September 28
5.	File standalone Settlement Proposal on Issue D11 or advise in writing of non-settlement of issue	October 2