

PETER C.P. THOMPSON, Q.C.
T 613.787.3528
pthompson@blg.com

Borden Ladner Gervais LLP
World Exchange Plaza
100 Queen St, Suite 1100
Ottawa, ON, Canada K1P 1J9
T 613.237.5160
F 613.230.8842
F 613.787.3558 (IP)
blg.com



By electronic filing

December 12, 2012

Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th floor
Toronto, ON M4P 1E4

Dear Ms Walli,

Enbridge Gas Distribution Inc. ("EGD")	
2011 Earnings Sharing Mechanism & Other Deferral and Variance Accounts	
Board File No.:	EB-2012-0055
Our File No.:	339583-000139

Please find enclosed the Written Argument of Canadian Manufacturers & Exporters ("CME") in the above-noted proceeding.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Peter C.P. Thompson', with a long horizontal flourish extending to the right.

Peter C.P. Thompson, Q.C.

\\slc
enclosure

c. Norm Ryckman (EGD)
Fred Cass (Aird & Berlis)
Intervenors EB-2012-0055
Paul Clipsham (CME)

OTT01: 5414445: v1

IN THE MATTER OF the Ontario Energy Board Act 1998,
S.O. 1998, c.15, (Schedule B) (the "Act");

AND IN THE MATTER OF an application filed by Enbridge
Gas Distribution Inc. for an Order or Orders approving the
clearance or disposition of amounts recorded in certain
deferral or variance accounts.

**ARGUMENT OF
CANADIAN MANUFACTURERS & EXPORTERS ("CME")**

December 12, 2012

Peter C.P. Thompson, Q.C.
Vincent J. DeRose
Borden Ladner Gervais LLP
Barristers & Solicitors
100 Queen Street
Suite 1100
Ottawa, ON K1P 1J9

Counsel for CME

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I. INTRODUCTION

1. These are the submissions of Canadian Manufacturers & Exporters (“CME”) with respect to the unsettled issue pertaining to Enbridge Gas Distribution Inc.’s (“EGD”) 2011 Transactional Services Deferral Account (“TSDA”). This issue is whether EGD has treated the upstream transportation optimization revenues in 2011 appropriately in the context of its existing Incentive Regulation Mechanism (“IRM”) Agreement.
2. We have reviewed the written submissions of Board Staff dated December 7, 2012, and those of Mr. Aiken on behalf of Energy Probe dated December 10, 2012. Where possible, we adopt, rather than repeat, submissions made by others, with which we agree, pertaining to the facts and principles that should guide the Board in its determination of matters pertaining to this particular issue.

II. GUIDING PRINCIPLES

3. The principles that should guide the Board’s determination of matters pertaining to EGD’s treatment of upstream transportation optimization revenues realized in 2011 are the same principles that the Board applied with respect to these matters in its EB-2011-0210 Decision and Order dated October 25, 2012, in Union Gas Limited’s (“Union”) 2013 Rebasing case (the “2013 Rebasing Decision”) and in its EB-2012-0087 Decision and Order on Preliminary Issue dated November 19, 2012, in Union’s 2011 Deferral Account case (the “2011 Deferral Account Decision”).
4. In the 2013 Rebasing Decision, findings the Board made with respect to Union’s upstream transportation optimization activities included the following, at page 39:

“Consistent with the long-standing principle that a gas utility should not profit from the procurement of gas supply for its in-franchise customers, and to eliminate the creation of inappropriate incentives during the test year, the Board finds that the optimization activities, as defined below, are to be considered part of gas supply, not part of transactional services.”

5. In the 2013 Rebasing Decision, the Board defined “Optimization” as follows:

“... any market-based opportunity to extract value from the upstream supply portfolio held by Union to serve in-franchise bundled customers, including, but not limited to, all FT-RAM activities and exchanges.”

6. On a go-forward basis, this finding means that for Union, revenues derived from “Base Exchanges” will be classified as upstream transportation cost reductions, rather than as delivery-related transactional services revenues.

7. In the 2013 Rebasing Decision, the Board ordered Union to establish:

“... a new gas supply variance account in which 90% of all optimization margins not otherwise reflected in the revenue requirement are to be captured for the benefit of ratepayers.”

8. The Board’s determination that the level of incentive that Union should derive from upstream transportation optimization activities should be limited to 10% was consistent with the incentive that Union realizes from its Short-Term Storage and Balancing optimization activities.

9. The 2011 Deferral Account Decision was limited to the Board’s consideration of a preliminary issue as to whether Union treated the upstream transportation optimization revenues appropriately in 2011 in the context of its existing IRM Framework. With respect to that issue, the Board found at page 24 that:

“... Union’s 2011 gas supply related upstream transportation FT-RAM optimization revenues shall be classified and treated as gas supply cost reductions.”

10. The Board also found at page 25 that Union’s IRM Framework:

“... reflects a long-standing regulatory principle that the cost of gas and upstream transportation are treated as pass-through items.”

11. The 2011 Deferral Account Decision found that Union managed its upstream transportation arrangements on a “planned” basis so that higher upstream transportation costs that are paid by Union’s customers are substituted with lower cost upstream transportation arrangements and that such “planned” activities produce cost reductions that should be treated as pass-through items. The Board also held that transactional services revenues are limited to those that are derived from optimizing assets that are surplus to the needs of Union’s Gas Supply Plan for reasons outside of Union’s control.

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12. With respect to the level of an incentive payment to Union for engaging in upstream transportation optimization activities, the Board, in the 2011 Deferral Account proceeding, determined that a 10% incentive for having generated such net revenues was appropriate.
 13. Under Union's IRM Agreement, revenues from base exchanges and other exchanges were not recorded in Deferral Accounts. The situation for EGD is different. Under EGD's IRM Agreement, the amounts EGD realizes from all of its upstream transportation optimization activities are recorded either in the Gas Supply Purchased Gas Variance Account ("PGVA") for 100% reimbursement to ratepayers, or in its TSDA where, pursuant to the provisions of the IRM Agreement, ratepayers receive 75% of the amount by which the upstream transportation costs recoverable in rates have been reduced.
 14. Having regard to this distinction between the cases of EGD and Union, we view the issue, in EGD's case, to be limited to the Board's consideration and determination of the extent to which the full amount of upstream transportation optimization revenues realized by EGD and reflected in the TSDA should be re-classified as gas costs and cleared to those ratepayers who pay, in their rates, the costs that have been reduced.
 15. Our understanding is that the total revenues realized from upstream gas transportation optimization for items that led to postings in the TSDA is about \$3.8M, with 75% of that amount or \$2.85M having already been allocated to ratepayers. It is the remaining \$950,000 that EGD proposes to allocate to its shareholder that is the amount in issue between EGD and its ratepayers in this particular proceeding.
 16. In our view, what the Board needs to determine, in this case, is the manner in which the amounts realized by EGD in 2011 from upstream transportation optimization activities should be regulated so as to make the regulatory treatment of those amounts, during the remaining duration of EGD's IRM Agreement, to be reasonably compatible with the

Board's Decisions in Union's 2013 Rebasing and Union's 2011 Deferral Account proceedings.

III. EGD's UPSTREAM TRANSPORTATION OPTIMIZATION ACTIVITIES

17. We adopt Mr. Aiken's analysis of the ways EGD optimizes its transportation portfolio and records the cost reductions it realizes from such activities in either the PGVA or the TSDA.
18. The three (3) ways in which EGD optimizes upstream transportation, as described in the submissions of both Mr. Aiken and Board Staff, include:
 - (a) Base Exchanges,
 - (b) Storage Transportation Service ("STS")-RAM Credit Transactions, and
 - (c) Capacity Releases.¹
19. A Base Exchange occurs when gas is given to a counter-party at one point in exchange for gas at another point. These types of transactions typically only occur in the summertime when EGD has excess long-haul gas being received in the Eastern Delivery Area.
20. Base Exchange transactions are not new. They do not involve TCPL-RAM credits. They have occurred, and have been classified as part of EGD's Transactional Services ("TS") business, since the mid to late 1990's.² We understand that EGD's Base Exchanges are upstream transportation optimization transactions that are supported by assets which are, by reasons beyond EGD's control, surplus to the needs to EGD's Gas Supply Plan. As already noted, these transactions fall within the ambit of "transactional services" as described by the Board in Union's 2011 Deferral Account Decision. Under the IRM Agreement, EGD's shareholder is entitled to a 25% share of the revenues it realized in 2011 from Base Exchanges that satisfy the Board's "transactional services" definition.

¹ Transcript Volume 1, pp.5-6.

² Transcript Volume 1, p.7.

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21. The second category of upstream transportation optimization activities in which EGD engages is STS-RAM Credit Transactions. As Mr. Aiken describes in Energy Probe's submissions, EGD realizes optimization revenues through the use of STS-RAM Credit Transactions in two (2) ways. These are described in those submissions as "STS-Own Use" and "STS-Counterparty Use" of STS-RAM Credits.
 22. Like Mr. Aiken, we understand that any upstream transportation cost reductions that EGD realizes from its own use of STS-RAM credits flow 100% to the benefit of EGD's ratepayers through the PGVA. However, for the STS-Counterparty Use category of transactions, EGD does not flow the optimization revenues that it realizes through the PGVA. Instead, it treats the amount of those optimization cost reductions as TS revenue and returns only 75% thereof to ratepayers.
 23. With respect to the appropriateness of that action, we agree with Mr. Aiken that the question is whether these transactions should be properly characterized as gas cost reductions, that flow 100% to ratepayers, or as "transactional" activities supported by assets that are unused as a result of factors beyond EGD's control.
 24. We support Mr. Aiken's analysis that the revenues EGD realizes from the STS-Counterparty Use of STS-RAM credits satisfies the Board's definition in the 2011 Deferral Account Decision of "transactional" activities.
 25. With respect to Capacity Releases, we agree with Mr. Aiken that the upstream transportation optimization revenues that EGD realizes from these transactions are similar in nature to Union's FT-RAM optimization revenues. Moreover, they are analogous to EGD's own use of STS-RAM credits and IT transportation for the reasons described by Mr. Aiken. Under the approach EGD applies, EGD allocates 100% of these cost reductions to ratepayers. From this, Mr. Aiken urges the Board to conclude that 100% of the revenues realized from the Capacity Releases that are analogous to EGD's own use of STS-RAM credits should be allocated to ratepayers.

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26. We agree and submit that this outcome is supported by the fact that Capacity Releases are done on a “planned” basis as described by Mr. Aiken in the written submissions of Energy Probe. In this connection, we disagree with the submissions made by Board Staff to the effect that EGD’s use of Capacity Releases to generate upstream gas cost reductions is “unplanned”. It is planned and warrants the same Y factor treatment that EGD accords to its own use of STS-RAM credits to reduce its costs of transportation.
27. If the Board rejects Mr. Aiken’s submission to the effect that the revenues realized from Capacity Releases should be allocated in the same manner as EGD allocates the reduced costs it realizes from its own use of STS-RAM credits, then the alternative is to treat EGD’s Capacity Release optimization revenues in the same manner as the Board has treated FT-RAM related optimization revenues in Union’s cases. Under this scenario, 90% of the optimization revenues should be allocated to ratepayers, instead of the 75% portion thereof that EGD proposes. EGD’s shareholder is not entitled to a 25% share of these revenues under the auspices of EGD’s IRM Agreement because that optimization percentage is limited to transactions that meet the Board’s definition of “transactional” activities in the 2011 Deferral Account Decision.

IV. CLASSIFICATION OF EGD’S UPSTREAM TRANSPORTATION OPTIMIZATION REVENUES

28. As already noted, EGD classifies some of the cost reductions that it realizes from optimizing its upstream transportation assets as transactional services revenues and some as gas supply cost reductions. That said, our understanding is that EGD allocates its transactional services revenues recorded in the TSDA and its gas costs reductions recorded in the PGVA only to those customers who pay the upstream transportation costs that were reduced.
29. EGD’s approach to the allocation of these items differs from Union’s approach. Union’s practice was to allocate the upstream transportation optimization revenues to all of its

delivery-related customers. Union did not limit the allocation to those who pay, in their rates, the costs that had been optimized.

30. The point is that, in EGD's case, re-classifying upstream transportation optimization revenues as gas costs reductions is more a matter of form than substance. Such a re-classification has no effect on the manner in which the amounts are being allocated to customers. EGD's current allocation of these amounts is the allocation that applies in a scenario where all of the optimization amounts are classified as upstream transportation costs reductions.

V. INCENTIVE AMOUNT ON "TRANSACTIONAL" AND OTHER UPSTREAM TRANSPORTATION OPTIMIZATION REVENUES

31. Having regard to the Board's 2013 Rebasing Decision and the 2011 Deferral Account Decision, there is an issue as to whether the incentive percentage EGD's shareholder receives from "transactional" upstream transportation optimization revenues should be reduced from 25% to 10% in order to keep the Board's regulatory treatment of EGD reasonably compatible with its regulatory treatment of Union.
32. As already noted, if the Board agrees with the submissions of Mr. Aiken, which we support, to the effect that all Capacity Release optimization revenues should flow 100% to ratepayers, then the difference in the amount that EGD's shareholder recovers under the auspices of a 25% incentive payment versus the 10% incentive payment established by the Board in Union's Rebasing and 2011 Deferral Account proceedings will be immaterial. In this scenario, the STS-RAM credits – Counterparty Use revenues of \$800,000 leads to a 25% share of revenues for EGD's shareholder of about \$200,000. If the Board determines that the incentive payment for the shareholder on these revenues should be reduced to 10%, then the amount recovered would reduce by \$120,000 to \$80,000. The difference between \$200,000 and \$80,000 is an immaterial amount.

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33. That said, we submit that it would be inappropriate to reduce the 25% incentive to EGD's shareholder with respect to "transactional" revenues, that fall within the Board's definition of that phrase in the 2011 Deferral Account Decision. This is because the 25% incentive for that category of revenues was specifically accepted by intervenors as part of EGD's IRM Agreement. We accept and urge the Board to abide by the 25% incentive payment for EGD's shareholder as the appropriate percentage to apply to "transactional" revenues that satisfy the Board's definition of that phrase in the 2011 Deferral Account Decision.
34. With respect to optimization revenues that are not "transactional" in accordance with the Board's findings in the 2011 Deferral Account Decision, and in the scenario where the Board declines to allocate 100% of all Capacity Release optimization revenues to ratepayers and, instead, allows EGD's incentive payment of 10%, being the incentive payment determined by the Board to be appropriate for Union's FT-RAM-related optimization transactions, then the \$3M of Capacity Release revenue would attract an incentive payment of \$300,000. This incentive payment of \$300,000, together with the \$200,000 incentive payment on the transactional STS-RAM-related revenues would bring the total to be allocated to EGD's shareholder to \$500,000, rather than the \$950,000 that EGD claims.

VI. CONCLUSION

35. Based on the foregoing and in order to make the disposition of EGD's 2011 upstream transportation optimization revenues reasonably compatible with the determinations made in Union's 2013 Rebasing and 2011 Deferral Account proceedings, we urge the Board to make the following determinations:
- (a) Classify all upstream transportation revenues realized by EGD as upstream transportation cost reductions;

- (b) Require EGD to credit to ratepayers 100% of the Capacity Release optimization revenues it realized in 2011 in the same manner as it credits to ratepayers, under the auspices of the Y factor in EGD’s IRM Agreement, cost reductions that it realizes from its own use of STS-RAM credits;
- (c) In the alternative, require EGD to credit 90% of the \$3M of Capacity Release optimization revenues to ratepayers so that the shareholder incentive of 10% or \$300,000 is compatible with the 2011 Deferral Account Decision in Union’s case; and
- (d) Approve EGD’s proposed credit to its shareholder of 25% of the \$800,000 of upstream transportation cost reductions that EGD has achieved from “transactional” activities in 2011 that fall within the limits of that phrase as described in the 2011 Deferral Account Decision.

36. Based on our understanding of the evidence, the financial implications of these recommendations are as follows:

(a) Scenario 1 – Capacity Release revenues treated the same as EGD’s Own Use of STS-RAM Credits

	Total	Ratepayer	Shareholder
(a) Capacity Release Revenues	\$3M	\$3M	\$0M
(b) STS-RAM Credits – Counterparty use	\$0.8M	\$0.6M	\$0.2M

In this scenario, of the \$950,000 of the TSDA revenues that EGD proposes to allocate to its shareholder, about \$750,000 is allocated to ratepayers and only \$200,000 is allocable to EGD’s shareholder.

(b) Scenario 2 – Where 90% of Capacity Release revenues are allocated to ratepayers

	Total	Ratepayer	Shareholder
(a) Capacity Release Revenues	\$3M	\$2.7M	\$0.3M
(b) STS-RAM Credits – Counterparty use	\$0.8M	\$0.6M	\$0.2M

In this scenario, of the \$950,000 of the TSDA revenues that EGD proposes to allocate to its shareholder, about \$450,000 is allocated to ratepayers and \$500,000 is allocable to EGD's shareholder.

VII. COSTS

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

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 12th day of December, 2012.



Peter C.P. Thompson, Q.C.
Vincent J. DeRose
Counsel for CME