

March 22, 2013

BY COURIER (2 COPIES) AND EMAIL

Ms. Kirsten Walli

Board Secretary

Ontario Energy Board

P.O. Box 2319

2300 Yonge Street, Suite 2700

Toronto, Ontario M4P 1E4

Fax: (416) 440-7656

Email: boardsec@oeb.gov.on.ca

Dear Ms. Walli:

**Re: Request for Intervenor Status by Environmental Defence
EB-2012-0394 – Enbridge Gas Distribution Inc. (“Enbridge”)
2012-2014 Demand Side Management (“DSM”) Plan**

We are writing to request intervenor status in the above proceeding on behalf of Environmental Defence and to request that an oral hearing be held.

Summary

As detailed below, Environmental Defence seeks intervenor status and costs eligibility as a leading environmental organization that represents both the public interest in environmental protection and the interests of consumers whose energy rates and bills can be reduced through cost-effective energy conservation measures.

Environmental Defence also requests an oral hearing due to the importance of the issues at stake, the need to address potentially contested factual issues, and to allow for cross-examinations of the applicant's witnesses, as detailed below.

Grounds for Intervention and Costs Eligibility

Description of Environmental Defence and Some of Its Achievements

Founded in 1984, Environmental Defence is a registered charity with a large base of supporters. As discussed below, Environmental Defence is a leading advocate on energy and environmental issues in Canada.

Environmental Defence has been highly successful in its public interest advocacy on energy issues. For example, Environmental Defence was instrumental in the passage of Ontario's *Green Energy and Green Economy Act, 2009*, which established new and important statutory objectives for the Ontario Energy Board (the "Board") relating to conservation and renewable generation. The *Act* has also led to a large expansion of renewable energy in Ontario. Building on this success, Environmental Defence continues to advocate for improvements to the feed-in tariff created by the *Act*.

Environmental Defence's environmental work, on issues ranging from toxic chemicals to clean beaches, has led to concrete improvements in the lives of Canadians. For example, the dangerous chemical Bisphenol A ("BPA") is now banned in baby bottles in Canada due to concerns first raised by Environmental Defence in 2007. For many years, Environmental Defence has participated in the federal government's Chemicals Management Plan. Environmental Defence is also the coordinator of Blue Flag Canada, which certifies beaches so that Ontario families can enjoy this public resource. Environmental Defence recently co-founded Blue Green Canada with the United Steelworkers, which promotes green energy initiatives that have positive employment and economic impacts.

The Honourary Board of Directors of Environmental Defence includes prominent Canadians such as Robert Bateman, Ray Civello, Farley Mowat, David Suzuki, John Swaigen, and Donald Wright. Environmental Defence also works with and is supported by major organizations such as Sears Canada, Xerox Canada, and the Toronto Dominion Bank's environmental foundation.

Furthermore, Environmental Defence publishes reports and guides in the area of energy conservation, efficiency, and policy. For example, it has created an interactive online tool to help energy consumers reduce their bills through energy efficiency initiatives. Some further recent publication titles include:

- *Building Ontario's Green Economy: A Road Map*;
- *Ontario Feed-In Tariff: 2011 Review*;
- *The Global Clean Energy Jobs Race: Ontario's Opportunity*;
- *Blowing Smoke: Correcting Anti-Wind Myths in Ontario*;
- *Faces of Transformation: Jobs, economic renewal and cleaner air from Year One of Ontario's Green Energy Act*;
- *Falling Behind: Canada's Lost Clean Energy Jobs*; and
- *Greening Canada's Building: Report Card*.¹

Finally, Environmental Defence includes an economic perspective in its energy work, including in terms of savings for homeowners and consumers, as well as overall economic impacts. This fits well with the Board's role as an economic regulator mandated to protect the interests of consumers.

¹ See <http://environmentaldefence.ca/issues/clean-energy/reports>

Avoiding Duplication and Respecting Board Processes

Environmental Defence was granted intervenor status and recently participated in EB-2012-0064 (Toronto Hydro 2012-2014 Rates) and EB-2012-0337 (Union Gas 2012-2014 Large Volume DSM Plan). In both proceedings, Environmental Defence participated responsibly and raised important issues that were not duplicative of the work of others.

Environmental Defence has retained an expert consultant, Jack Gibbons of the Ontario Clean Air Alliance, and experienced legal counsel in the law firm of Klippensteins, Barristers and Solicitors. Mr. Gibbons and Klippensteins have a demonstrated track record of effective representation at the Board in raising new and important environmental and energy issues in a way that respects the Board processes and is not duplicative of the work of others.

Interest in Proceeding and Intended Participation

Environmental Defence's interest in this proceeding is in reducing rates and customers' bills while also lowering greenhouse gas ("GHG") emissions. Environmental Defence intends to advocate for increased DSM programs on the grounds that this would simultaneously further the interests of customers, the public interest, and government policy. For example, increased DSM programs would:

1. Lower rates by potentially deferring the need for the \$600 million GTA pipeline proposed by Enbridge;
2. Achieve significant net savings for customers;
3. Assist Ontario in achieving its GHG emission reduction targets; and
4. Further the Government of Ontario's policy of being a leader in energy conservation, as outlined in the 2013 Throne Speech.²

Environmental Defence wishes to file interrogatories, participate in a hearing, make submissions, and seek a cost award. Environmental Defence does not wish to submit evidence in this proceeding.

Conclusion re Grounds for Intervenor Status and Costs Eligibility

Based on its long and successful track record in promoting the public interest on energy and environmental issues, its intended focused and selective approach to this hearing, and the importance of the issue it wishes to raise, Environmental Defence asks that it be granted intervenor status and costs eligibility in the above proceeding.

² 2013 Throne Speech, <http://www.premier.gov.on.ca/news/thronespeech.php>, ("And because conservation is the cheapest source of energy available, Ontario will continue to be a leader in smart-grid technology and energy conservation, and see the creation of new-economy jobs through the development of leading energy efficiency technologies in our homes and businesses.")

Request for Oral Hearing

Environmental Defence requests that an oral hearing be held in this matter. First, the matters at issue are highly important to customers, the public interest, and the furtherance of government policy. Again, as detailed above, Environmental Defence wishes to advocate for increased DSM programs on the grounds that this would simultaneously further the interests of consumers, the public interest, and government policy.

Second, an oral hearing and cross-examinations may be needed to address contested factual issues. Those issues could include the potential for increased DSM, the impact of increased DSM on rate predictability and stability, and the practical implications of increasing the DSM budget.

Third, the parties may wish to cross-examine the witnesses put forward by Enbridge.

In sum, Environmental Defence submits that an oral hearing is required due to the importance of the issues at stake, the need to address potentially contested factual issues, and to allow for cross-examinations of the applicant's witnesses.

Requests for Evidence and Addresses of Representative and Party

As detailed below, please note that Mr. Gibbons requests a hard copy of the evidence in this proceeding.

Environmental Defence requests two copies of the pre-filed evidence/materials. Please deliver one copy to Murray Klippenstein and myself as counsel for Environmental Defence at the law firm address above (e-mail addresses: kent.elson@klippensteins.ca and murray.klippenstein@klippensteins.ca). Please deliver the other to Environmental Defence's consultant, Jack Gibbons of the Ontario Clean Air Alliance. Electronic copies are sufficient for legal counsel, but Mr. Gibbons requests a hard copy of the evidence.

We also request that counsel (Mr. Klippenstein and Mr. Elson) and Mr. Gibbons be listed on the intervenors' list under Environmental Defence. Mr. Gibbons is located at:

Ontario Clean Air Alliance
160 John Street, Suite 300
Toronto, Ontario M5V 2E5
Tel: (416) 260-2080 ext. 2
Fax: (416) 598-9520
E-mail: jack@cleanairalliance.org

Environmental Defence's full name and address is:

Environmental Defence Canada Inc.
116 Spadina Avenue, Suite 300
Toronto, Ontario M5V 2K6

Tel: (416) 323-9521
Fax: (416) 323-9301

Please send correspondence and any other materials to both Jack Gibbons and to counsel as the authorized representatives.

Service on other Parties

Environmental Defence requests the Board's directions as to whether this letter should be served on any other parties.

Please do not hesitate to contact me if anything further is required.

Yours truly,

A handwritten signature in blue ink, appearing to read 'K. Elson', is written over the 'Yours truly,' text.

Kent Elson

cc: Applicant