



EB-2012-0394

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. seeking approval for an update to its 2012-2014 Demand Side Management plan

PROCEDURAL ORDER NO. 2
April 19, 2013

Enbridge Gas Distribution Inc. ("Enbridge") filed an application with the Ontario Energy Board (the "Board") on March 4, 2013, seeking approval for an update to its 2012-2014 Demand Side Management ("DSM") plan.

The Board has assigned file number EB-2012-0394 to this application.

The application has been filed pursuant to the Board's DSM Guidelines that were issued on June 30, 2011. This application presents the financial package for 2013 and 2014 and any related program changes in the form of an Update to the 2012-2014 DSM Plan as filed in EB-2011-0295.

Prior to filing the application, Enbridge reached a complete settlement on all issues (the "Settlement Agreement") with most of the parties that are participating in this proceeding. This Settlement Agreement was filed with the application. Environmental Defence ("ED") was not a party to the settlement discussions or to the Settlement Agreement. It filed a request for intervenor status, which was accepted by the Board. ED is opposed to certain elements of the Settlement Agreement, in particular with regard to the DSM plan for 2014.

In Procedural Order No. 1, the Board sought submissions from parties on the possibility of severing the 2013 and 2014 portions of the Settlement Agreement. In response, both BOMA and Enbridge opposed such a severance. As there does not appear to be agreement amongst the parties to the agreement that severance is appropriate, the Board will not pursue this option further and will consider the Settlement Agreement as a complete package.

All of the parties to this proceeding, with the exception of ED and APPrO, are signatories to the Settlement Agreement. ED is opposed to certain elements of the Settlement Agreement. The Board understands that APPrO does not intend to oppose the Settlement Agreement. As the Settlement Agreement has been presented as a complete package, the Board must either accept the agreement in its entirety or reject it in its entirety. The Board will hear ED's objections to the Settlement Agreement and then make a determination as to whether it should be accepted or rejected.

The Board's *Settlement Conference Guidelines* (the "Guidelines") make provisions for parties that do not agree with a filed settlement agreement. Parties that do not agree with a settlement are entitled to offer evidence in opposition to the proposal and to cross-examine the applicant.

In order to conduct this proceeding in an efficient manner, the Board would be assisted by a better understanding of the exact issues ED wishes to address, and the process by which these issues should be considered. The Board will therefore hold an Issues/Process Day on April 29, 2013. The Board will require ED to pre-file a list of the issues it would like to see addressed in the proceeding, as well as its proposal for procedural steps (including, for example, an indication if it intends to file evidence). Parties that are opposed to ED's proposed issues and/or process are invited to pre-file their objections. The Board will hear oral argument on the proposed issues and process.

In a letter to the Board dated April 10, 2013, GEC indicated that it may seek leave to withdraw from the Settlement Agreement. The Guidelines allow a party to withdraw from a settlement with the permission of the Board. Since GEC has not yet made a formal request to withdraw from the Settlement Agreement, the Board will not consider this issue at this time.

THE BOARD ORDERS THAT:

1. Environmental Defence shall file with the Board, and serve on all other parties, its proposed issues list and procedural steps by April 24, 2013.
2. Any parties opposing the proposed issues list or procedural steps proposed by Environmental Defence shall file these objections with the Board, and serve on all other parties, by April 26, 2013, at 1:00 p.m.
3. The Board will hold an Issues/Process Day on April 29, 2013, in the Board's North Hearing Room. The Issues/Process day will convene at 9:00 a.m., and shall conclude by 1:00 p.m.

All filings to the Board must quote the file number, EB-2012-0394, be made through the Board's web portal at <https://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 and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guidelines found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available you may e-mail your document to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4
Attention: Board Secretary
Filings: <https://www.pes.ontarioenergyboard.ca/eservice/>

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, April 19, 2013

ONTARIO ENERGY BOARD

Original Issued By

Kirsten Walli
Board Secretary