

25 April 2013

Ontario Energy Board  
2300 Yonge St., 27<sup>th</sup> Floor  
Toronto, ON  
M4P 1E4

Attn: Ms Kirsten Walli, Board Secretary

By electronic filing and e-mail

Dear Ms Walli:

**Re: EB2012-0394 EGDI DSM Update – GEC Notice of Motion and Motion Record**

Attached please find GEC's Motion Record containing a Notice of Motion in this matter with supporting affidavits. Please note that due to Mr. Neme's vacation commitments he has not been able to appear before a notary to attend to the swearing of his affidavit but has indicated that he will be able to do so to enable its filing on Monday.

We would also like to advise the Board and other parties of our intention to request a brief adjournment of the proceedings on Monday morning to allow the parties to consider an amendment to the settlement agreement. Parties to the settlement agreement were advised of the nature of our proposed amendment in a confidential e-mail on April 12<sup>th</sup>. We would anticipate that the matter would require at most 30 minutes. If a suitable amendment to the agreement can be reached it may become unnecessary for the Board to hear the motion.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Poch', with a stylized flourish at the end.

David Poch  
Cc: All parties

**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**

**GEC MOTION RECORD**

Notice of Motion dated April 25, 2013

Affidavit of Christopher Neme (to be sworn subsequently)

Affidavit of John Bennett

DATE: April 25, 2013

TO: Board Secretary

AND TO: All Parties

David Poch

Counsel to GEC

613-264-0055

**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**

**NOTICE OF MOTION**

The Moving Party, The Green Energy Coalition ("GEC"), will bring a motion to the Board on April 29<sup>th</sup> at 9:00 am in the Board's North Hearing Room or at such other time as the Board may direct for an order granting:

- 1) Declaratory relief as follows: a declaration that any approval granted by the Panel seized with this matter is without prejudice to any finding or direction that the Board may make in the GTA Project proceeding (EB-2012-0451) in regard to the role of additional DSM commencing in 2014 in the GTA area, which DSM may form part of an alternative in whole or part to the proposed facilities being considered in that application;
- 2) Leave to withdraw from the proposed settlement in this matter to the extent it is incompatible with a finding similar to that sought in the above-noted declaration; and,
- 3) Such further and other order that the Moving Party requests and that the Board considers appropriate.

The grounds for the orders are:

- 1) In EB-2012-0451 Enbridge has applied for leave to construct and related approvals for the approximately \$600 million “GTA Project” which in combination with the related proposed facilities in the Union Gas franchise area, is an approximate \$1 billion undertaking.
- 2) In the GTA Project proceeding Enbridge has indicated that facilities are needed *inter alia*: to meet load in 2015; to respond to notice of new gas supply constraints due to TCPL’s proposed conversion of gas pipeline to oil transmission; to enable Enbridge to lower pressures on specific GTA pipelines; and, to lower peak demands flowing through certain Enbridge supply stations in the GTA region. For additional GTA-focussed DSM to play a significant role in meeting any or all of these identified needs within the timeframe that Enbridge has identified, such efforts would most reasonably be made as early as possible and certainly commencing in the 2014 period.
- 3) GEC was a central participant in the settlement discussions that led to the unanimous Proposed Settlement agreement in this proceeding. The Proposed Settlement herein generally conforms to the Board’s DSM Guidelines, and specifically to the budget caps suggested therein. The Proposed Settlement addresses the role of DSM generally and does not purport to address the role that conservation may play in specific geographically limited parts of the franchise area as part of a local integrated resource planning response to system needs such as those identified in the GTA project proceeding.
- 4) Notice of the GTA Project proceeding was filed on March 5, 2013 after the submission of the Proposed Settlement herein.
- 5) As a DSM-specific intervenor concerned with cost containment GEC was not a participant in any information sessions that Enbridge has hosted in regard to the GTA Project nor was it otherwise aware of the scale, scope or

potential DSM implications of the proposed facilities until it became aware of the evidence filed in EB-2012-0451 which was reviewed after receipt of the March 5<sup>th</sup> notice and following the finalization of the Settlement Agreement herein.

- 6) In recent years GEC has not been an intervenor in Enbridge rate cases with the exception of the EB-2011-0354 hearing in which GEC was a late intervenor with its participation limited to the “open bill” issue in so far as it related to the “on bill financing issue”, an issue that arose in the context of the DSM consultations. The Settlement Agreement in EB-2011-0354 notes that GEC “participated only in the “open bill” issue” ... “and not in any other discussions”. Accordingly, GEC was not made aware of the scale, scope or DSM implications of the GTA Project due to its interventions before the Board.
- 7) Enbridge’s materials filed in support of its GTA Project do not identify additional GTA-focused DSM as an alternative to the facilities in whole or part. GEC’s intervention in that proceeding will seek to examine the role that additional GTA-focussed DSM could be part of a preferred facilities configuration.
- 8) Should the Board in this proceeding accept the Settlement Agreement herein without a declaration as sought or an amendment to the agreement to the same effect Enbridge or any other party could seek to exclude the consideration of DSM commencing in 2014 in the GTA Project case and the Panel therein may be reluctant to consider the matter. At the very least, such an objection could precipitate a debate about the scope and intent of the settlement and any order herein, which debate would risk both a waste of regulatory resources and procedural unfairness as it would take place in a proceeding where all the parties that have participated herein would not be present.

- 9) Determination of the need for additional GTA-focussed DSM in this proceeding at this time would entail consideration of the complex issues arising in the GTA Project case and would be both inefficient and risk inconsistent determinations.

The following documentary evidence will be relied upon at the hearing of this matter:

- 1) The affidavit of Christopher Neme
- 2) The affidavit of John Bennett
- 3) Such other material as may be advised and this Board may allow

DATE: April 25, 2013

TO: Board Secretary

AND TO: All Parties

David Poch  
Counsel to GEC

613-264-0055

**BEFORE THE ONTARIO ENERGY BOARD**

**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**

**AFFIDAVIT**

**I, Christopher Neme, of the Town of Shelburne in the State of Vermont, MAKE  
OATH AND SAY:**

- 1) I am an energy conservation consultant and have been retained by the Green Energy Coalition ("GEC") to provide expert assistance and evidence as required in the matter of Enbridge Gas Distribution Inc.'s current application before the Board for approval of the 2013-14 aspects of its DSM programs and budgets and also in regard to the DSM aspects of Enbridge's GTA Project application, and as such have knowledge of the matters hereinafter deposed.
- 2) In the GTA Project proceeding Enbridge has indicated that facilities are needed *inter alia*: to meet load in 2015; to respond to notice of new gas supply constraints due to TCPL's proposed conversion of gas pipeline to oil transmission; to enable Enbridge to lower pressures on specific GTA

pipelines; and, to lower peak demands flowing through certain Enbridge supply stations in the GTA region. For additional GTA-focussed DSM to play a significant role in meeting any or all of these identified needs within the timeframe that Enbridge has identified, it is my opinion that such efforts would most reasonably be made as early as possible and certainly commencing in the 2014 period.

- 3) As part of my practice I advise on local integrated resource planning.
- 4) Based on my knowledge of Enbridge's current and historic DSM efforts and my understanding of the purpose and scale of the GTA Project proposal, I expect that there would be significant additional cost-effective DSM potential in the GTA region. For such additional DSM to impact on the scale – and therefore the cost – of needed GTA facilities, delivery efforts would likely need to begin as soon as possible, certainly by 2014, to have any significant effect by November 2015, the date by which Enbridge has indicated system adjustments are required.
- 5) It is my understanding that the materials Enbridge has filed in support of its GTA Project do not identify additional GTA-focused DSM as an alternative to the proposed facilities in whole or part. I understand that GEC's intervention in that proceeding will seek to examine the role that additional GTA-focussed DSM could play as part of a preferred facilities configuration.
- 6) I sit on the Enbridge DSM Audit Committee and I participated in the negotiations that resulted in the Proposed Settlement in the EB-2012-0394 case. Throughout the negotiation period I was unaware of the GTA Project and I am informed and do verily believe that the other members of GEC's intervention team were unaware of the scope and scale of the GTA Project and its potential implications for DSM in the 2014 period until the March 5<sup>th</sup>, 2013 publication of the Notice of Application in that matter.



- 7) To the best of my knowledge Enbridge did not advise the parties of the implications for 2014 DSM of the GTA Project proposal as part of the negotiations of the proposed Settlement and specifically, Enbridge did not indicate that any adjustment to its avoided costs were to be made to reflect the potential to avoid GTA facilities.
- 8) I am advised by GEC representatives and do verily believe that as a DSM-specific intervenor concerned with cost containment GEC was not a participant in any information sessions that Enbridge has hosted in regard to the GTA Project nor was it otherwise aware of the scale, scope or potential 2014 DSM implications of the proposed facilities until it became aware of the evidence filed in EB-2012-0451, which evidence was reviewed after receipt of the March 5<sup>th</sup> notice and following the finalization of the Settlement Agreement herein.
- 9) In the EB-2011-0354 hearing on Enbridge's 2013 rates GEC was a late intervenor with its participation limited to the "open bill" issue in so far as it related to the "on bill financing issue", an issue that arose in the context of the DSM consultations. The Settlement Agreement in EB-2011-0354 notes that GEC "participated only in the 'open bill' issue"... "and not in any other discussions". Accordingly, GEC was not made aware of the scale, scope or DSM implications of the GTA Project due to its interventions before the Board.
- 10) The Proposed Settlement herein generally conforms to the Board's DSM Guidelines, and specifically to the budget caps suggested therein. The Proposed Settlement addresses the role of DSM generally and does not purport to address the role that conservation may play in specific geographically limited parts of the franchise area as part of a local integrated resource planning response to system needs such as those identified in the GTA project proceeding.

- 11) The economics of utility investment in DSM that enables the cost-effective reduction of investment in facilities is fundamentally different than the economics of the system-wide efficiency initiatives that Enbridge has historically implemented. In particular, such geographically-targeted DSM investment offers greater benefits, in the form of lower rates, to non-participating DSM rate-payers. Accordingly, any concern for ratepayer impacts and cross-subsidies that might inform the appropriate level of general DSM budgets is not applicable to the extent that such DSM is justified by such facilities investment avoidance.

Sworn before me )  
this day of April, 2013 )  
at , Vermont.)

---

Christopher Neme

---

BEFORE THE ONTARIO ENERGY BOARD

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

AFFIDAVIT

I, John Bennett, of the City of Ottawa, MAKE OATH AND SAY:

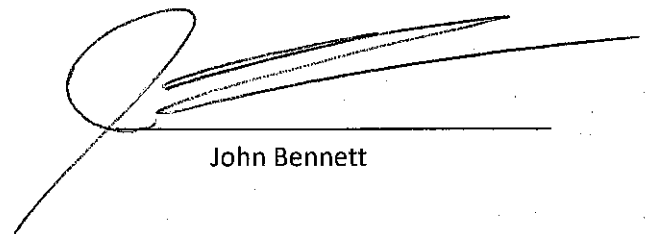
- 1) I am a member of the Green Energy Coalition ("GEC") Steering Committee and as such have knowledge of the matters herein.
- 2) I first became aware of the GTA Project on March 11th, 2013 when GEC's intervention team advised the GEC Steering Committee of the issuance of the formal notice for that case and a determination was made to intervene in the GTA Project case.
- 3) The GEC Steering Committee is comprised of one member from each constituent group. I have been informed by the other members of the GEC Steering Committee and do verily believe that they first became aware of the GTA Project on March 11th, 2013 when GEC's intervention team advised the GEC Steering Committee of the matter.
- 4) To the best of my knowledge, throughout the late summer, fall and early winter of 2012 when the proposed settlement in the Enbridge DSM case was negotiated, the GEC intervention team and the GEC Steering Committee, were unaware of the potential implications for 2014 DSM due to Enbridge's proposed facilities expansion in the GTA area.

Sworn before me )  
this 24th day of April, 2013 )  
at Ottawa, Ontario. )



A commissioner, etc.

**MICHAEL BOSSIN**  
Barrister & Solicitor



John Bennett