

April 26, 2013

BY COURIER AND RESS

Ms. Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Enbridge Gas Distribution Inc.  
Update to the DSM Multi-Year Plan for the Years 2013-2014  
EB-2012-0394**

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These are the submissions of Enbridge Gas Distribution Inc. ("Enbridge") to the issues and process proposed by Environmental Defence ("ED").

### **Proposed Issues**

Enbridge suggests that the Issues List as proposed by ED be only slightly amended in respect of Issue #1. Enbridge proposes that the issues be framed as follows:

1. Is the 2014 DSM Budget (\$32.2M) reasonable and appropriate? Should the Board determine that the DSM budget for 2014 should be increased, what are the implications and required next steps.
2. Should the 2014 DSM Budget be conclusively determined prior to the Board's decision regarding Enbridge's \$604 million application to construct new pipelines in the GTA in EB-2012-0451?

### **Commentary**

Mr. Elson, solicitor for ED has confirmed in his letter that Issue #1 is limited to the magnitude of Enbridge's DSM budget for 2014. Enbridge understands this to mean that Issue #1 is limited solely to the magnitude (i.e. dollar amount) of the Enbridge 2014 DSM budget. The issue does not encompass in this proceeding examining any of the other aspects of the proposed DSM programs for 2014 including program design, the allocation of dollars between program types, targets, metrics, incentives or any of the methodologies used for the purposes of the Settlement Agreement filed in this proceeding.

Mr. Elson attached to his letter the Issues List from the Union Gas Limited 2012-2014 DSM Plan proceeding EB-2011-0327. Enbridge understands that one of the purposes of attaching this issues list was to confirm that with the exception of the quantum of the DSM budget for 2014, none of the issues identified in the Union Gas Issues list are subsumed within Issue #1 as proposed by ED.

On the basis of this understanding, Enbridge agrees to the wording proposed by ED subject to the modest modification proposed above which is simply intended to address next steps in the event that ED is successful in having the Board order an increased budget for 2014. Clearly the ramifications of such a determination and appropriate next steps are matters which need to be considered by the Board in this proceeding.

### **Proposed Process**

Enbridge notes that ED will not be filing any evidence nor producing witnesses in this proceeding but it does not suggest a detailed process to complete the hearing. Enbridge suggests the following:

- (a) Enbridge shall be entitled to file pre-filed evidence in respect of Issue #2
- (b) ED may ask written interrogatories of Enbridge on the evidence
- (c) Enbridge shall provide written responses to ED's interrogatories
- (d) ED files its written argument
- (e) Enbridge and parties to the settlement agreement file their written response to ED's submissions

### **Commentary**

Enbridge has filed a complete record in support of the Settlement Agreement which it submits supports the 2014 budget contemplated in the agreement. Enbridge and the DSM stakeholders worked together diligently to reach a consensus on a comprehensive DSM package. Numerous compromises were made by the Participating Parties to reach a consensus. The agreed upon DSM Plan for 2013 and 2014 included many distinct but interrelated elements. Reductions or increases in one area of the plan, for example to budget, may have financial implications in other areas of the DSM Plan which may or may not be acceptable to some or all of the parties involved in the Settlement Agreement. As a result, as stated explicitly in the Settlement Agreement, none of the agreed upon terms are severable.

Accordingly, Enbridge does not intend to generate and file any further prefiled evidence in respect of Issue #1. It does however believe that it may be appropriate to file evidence in respect of Issue #2 which, until now, was not an issue contemplated by Enbridge and the parties to the Settlement Agreement. Enbridge therefore requests that the timetable afford it an opportunity to prepare and file appropriate evidence in respect of Issue # 2.

Given that almost all intervenors are signatories to the Settlement Agreement, it is likely that interrogatories will come from only a few parties. As well, only those intervenors who are not signatories to the Settlement Agreement can make submissions adverse to the Settlement Agreement. Given this and the narrow scope of issues before the Board in this proceeding, Enbridge requests that the hearing should proceed in writing. Enbridge submits that all of the areas which ED may wish to raise can be addressed in writing through the interrogatory and argument phases of the hearing.

Yours truly,

AIRD & BERLIS LLP



Dennis M. O'Leary

DMO:ct

cc Intervenor

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