

IN THE MATTER of the *Ontario Energy Board Act 1998*, Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an Order or Orders approving amendments to the terms of the Board's approval of Open Bill Access.

NOTICE OF INTERVENTION

OF THE

HVAC COALITION

1. The HVAC Coalition hereby applies for intervenor status in this proceeding, and requests that the Board allow recovery of its reasonably incurred costs of its participation.

General Interest of the Intervenor

2. The HVAC Coalition is a coalition established to represent the interests of Ontario heating and air conditioning contractors, suppliers, and manufacturers in matters relating to energy regulation, policy, and management. It counts amongst its members a majority of the heating and air conditioning contractors operating within the Applicant's franchise area.
3. The intervenor's members have a significant interest in the activities of regulated gas distributors in the province, because any action by a gas distributor to use its monopoly power to affect the competitive markets can dramatically affect not only the economic viability of the members' businesses, but the nature and price of the services available to the members' customers, the ratepayers of the utility. Past actions of utilities have sometimes created barriers to the competitive flow of goods and services within the HVAC equipment and servicing sectors, and have created incremental costs to ratepayers through direct and indirect subsidies. For this reason, the intervenor has been an active participant in all previous proceedings relating to the Open Bill Program.

Issues to be Addressed

4. HVAC's intended participation will focus on the following issues:
 - (a) The proposed revised conditions and terms of the open bill program;
 - (b) The proposed revised terms of the open bill agreement; and
 - (c) Generally to represent the interests of local heating and air conditioning contractors in this process.

The Intervenor's Intended Participation

5. The HVAC Coalition intends to participate in any pre-hearing procedures, including interrogatories or technical conferences, and settlement conferences. HVAC also intends to participate in any oral hearing of this matter, and in written or oral submissions, as well as any other parts of the process that the Board should order.

Nature of Hearing Requested

6. Until interrogatories have been answered, we believe it is premature to assess whether a written or an oral hearing is more appropriate in this proceeding.

Counsel/Representative

7. The HVAC Coalition requests that a copy of all documents filed with the Board by each party to this proceeding be served on the Applicant, and on the Applicant's counsel, as follows:

- (a) HVAC Coalition (electronic copies only):

HVAC COALITION
2800 Skymark Avenue,
Building 1, Suite 201
Mississauga, Ontario
L4W 5A6

Attn: Martin Luymes, Co-ordinator
Phone: 905 602-4700 Ext. 235
Fax: 905 602-1197
Email: mluymes@hrai.ca

- (b) HVAC Coalition's counsel (electronic and paper copies):

JAY SHEPHERD PROFESSIONAL CORPORATION
2300 Yonge Street, Suite 806
Toronto, Ontario, M4P 1E4

Attn: Jay Shepherd
Phone: 416-483-3300
Cell: 416-804-2767
Fax: 416-483-3305
Email: jay.shepherd@canadianenergylawyers.com

Costs

8. In recent years, the HVAC Coalition has only rarely sought or been awarded costs relating to its participation in proceedings before the Board. Those situations in which costs have been allowed have been ones in which the primary focus has been on the impact on ratepayers, and HVAC can provide a perspective to the Board that would otherwise not be available. The Open Bill program is such a program, and in past proceedings relating to that program, HVAC Coalition has been found eligible for costs.
9. In this proceeding, and notwithstanding the current wording of the Board's Practice Direction on Cost Awards, HVAC Coalition therefore asks the Board to exercise its discretion to order that HVAC Coalition be awarded recovery of its reasonably incurred costs of participation. Use of monopoly powers by a rate regulated entity is tightly monitored by the Board, including the use of those powers to control access to the utility bill. The HVAC Coalition is in a unique position to assist the Board in this respect, as it has done in the past.

Respectfully submitted on behalf of the HVAC Coalition this 20th day of June, 2013.

Jay Shepherd
Counsel for the HVAC Coalition