



**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.

**BEFORE:** Marika Hare  
Presiding Member

Allison Duff  
Member

**DECISION AND ORDER  
ON  
SETTLEMENT AGREEMENT**

**JULY 4, 2013**

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application with the Ontario Energy Board (the “Board”) on March 4, 2013, seeking approval to update its 2012-2014 Demand Side Management (“DSM”) plan. The application was filed pursuant to the Board’s DSM Guidelines. Enbridge sells, distributes, transmits and stores natural gas in Ontario and also undertakes DSM activities. DSM is the modification of consumer demand for natural gas through various methods such as financial incentives, education and other programs. While the focus of DSM is natural gas savings and the reduction in greenhouse gases emissions, it may also result in the saving of a number of other resources such as electricity, water, propane, and heating fuel oil.

Enbridge’s original DSM plan was filed in the EB-2011-0295 proceeding in which the Board accepted a Settlement Agreement and resulting rate consequences for the 2012 year. Following further consultation held in 2012, the parties reached another

Settlement Agreement on the budget allocation, metrics, and targets for 2013 and 2014. This application includes the Settlement Agreement in the form of an update to the 2012-2014 DSM Plan.

The following parties applied for and received intervenor and cost eligibility status:

Association of Power Producers of Ontario ("APPPrO")  
Building Owners and Managers Association Toronto ("BOMA")  
Canadian Manufacturers & Exporters ("CME")  
Environmental Defense ("ED")  
Green Energy Coalition ("GEC")  
Industrial Gas Users Association ("IGUA")  
School Energy Coalition ("SEC")  
Vulnerable Energy Consumers Coalition ("VECC")

TransCanada Energy Ltd. ("TCE") was also granted intervenor status, but did not request cost eligibility.

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. Parties who filed submissions were not in favour of severing the two years given the Settlement Agreement was a package based on compromises by all parties.

ED and APPPrO were not parties to the Settlement Agreement. Through an oral Issues Day, the Board established two issues that could be addressed in challenging the Settlement Agreement:

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?

The Board conducted a written hearing. The hearing process included interrogatories and submissions. All parties to the proceeding, whether signatories to the Settlement Agreement or not, were provided with the opportunity to file interrogatories and submissions. Submissions were received from CME, ED, VECC and reply submissions

were received from Enbridge. Correspondence was received from ED, IGUA and SEC after reply submissions. The complete record for this proceeding is available on the Board's website.

### **Decision on Settlement Agreement**

The Board approves the Settlement Agreement and its rate consequences on an interim basis. In approving the Settlement Agreement, the Board expects Enbridge to proceed with the corresponding DSM activities in 2013 and 2014. The intent of this Board decision is to provide the opportunity for the 2014 DSM budget to be further reviewed. This issue will be reviewed as part of a subsequent proceeding before the Board. The Board's rationale for approval of the rate consequences of this Settlement Agreement on an interim basis follows.

ED was the only party opposed to the Settlement Agreement, challenging the magnitude of the 2014 DSM budget. ED submitted that if the 2014 DSM budget were increased, it might obviate the need for Enbridge's proposed GTA reinforcement project. Enbridge disagreed with ED and submitted that DSM was not a suitable alternative to the GTA reinforcement project. The GTA reinforcement project is a proposed transmission pipeline designed to serve, amongst other things, growing demand in Toronto. It is the subject of a separate Board leave to construct proceeding (EB-2012-0451).

The Board does not have sufficient evidence in this proceeding to opine on DSM as an alternative to pipeline construction. However, in the GTA reinforcement proceeding, related evidence has been filed with the Board and an issues list has been established which includes:

- What are the alternatives to the proposed facilities? Are any alternatives to the proposed facilities preferable to the proposed facilities?
- Is the proposed timing of the various components of the projects appropriate?

Enbridge submitted "while there is no evidence in this proceeding which relates to the GTA Project (EB-2012-0451), it is understood that the Issues List in that proceeding does include the consideration of DSM as a potential alternative".

This panel will not create any barriers, perceived or otherwise, to which these issues are explored in the EB-2012-0451 proceeding. The potential for DSM as an alternative to

avoid or defer, all or part, of the GTA reinforcement project is being considered in EB-2012-0451, and not here. To that extent, the acceptance of 2013 and 2014 DSM budgets in this proceeding is acceptance of a conventional DSM program.

The Settlement Agreement is presented as a package, and the Board must either accept or reject it in its entirety. The Board has decided to accept it and clarify its expectations as the acceptance with respect to the rate consequences of the budget is not final. The Board acknowledges that 2013 is well underway and Enbridge requires some level of certainty regarding what it is permitted to undertake. As no party expressed opposition to the 2013 budget, it is unlikely there will be any retroactive adjustments to the 2013 elements of the plan. To the extent there are changes to the 2014 budget, those changes would be incremental; the budget will not be reduced.

#### **THE BOARD ORDERS THAT:**

1. The Board accepts the filed Settlement Agreement and its rate consequences on an interim basis (i.e.: the rates arising from this Decision will be interim).
2. The proceeding will reconvene for a final determination of rates after the conclusion of the EB-2012-0451 proceeding.

#### **Cost Awards**

1. Intervenors shall file with the Board and forward to Enbridge their respective cost claims up to this stage in the proceeding within **7 days** from the date of this Decision and Order.
2. Enbridge shall file with the Board and forward to intervenors any objections to the claimed costs within **17days** from the date of this Decision and Order.
3. Intervenors shall file with the Board and forward to Enbridge any responses to any objections for cost claims within **24 days** of the date of this Decision and Order.
4. Enbridge shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

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  
27<sup>th</sup> Floor  
2300 Yonge Street  
Toronto ON M4P 1E4  
Attention: Board Secretary  
Filings: <https://www.pes.ontarioenergyboard.ca/eservice/>

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

**DATED** at Toronto, July 4, 2013

**ONTARIO ENERGY BOARD**

*Original Issued By*

Kirsten Walli  
Board Secretary