

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended;

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an Order or Orders approving or fixing rates for the sale, distribution, transmission and storage of gas commencing January 1, 2014.

ASSOCIATION OF POWER PRODUCERS OF ONTARIO (“APPrO”)

EXPERT PLAN

SEPTEMBER 9, 2013

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INTRODUCTION:

1. Enbridge Gas Distribution Inc. (“Enbridge”) has filed an application with the Ontario Energy Board under section 36 of the *Ontario Energy Board Act, 1998*, as amended, for an Order or Orders approving or fixing rates for the sale, distribution, transmission and storage of gas as of January 1, 2014 (the “Application”). The Board has assigned file number EB-2012-0459 to the Application and has issued a Notice of Application dated July 22, 2013.
2. APPrO has been granted intervenor status and cost eligibility in respect of the Application, and hereby files this Expert Plan in accordance with the requirements of Procedural Order No. 1.

A. What are the issues for which the party intends to file expert testimony?

3. APPrO intends to engage an expert pursuant to Rules 13.01 and Rule 13A of the Board’s *Rules of Practice and Procedure* to review the Application and give evidence in the proceeding in respect of Draft Issues List (Ex A1 Tab 4 S1) issue number 25 which states:

Is Enbridge's utility Cost Allocation Study, including the methodologies and judgments used and the proposed application of that study with respect to 2014 Fiscal Year rates, appropriate?

4. Enbridge has proposed a major capital expansion project to their extra high pressure system referred to the “GTA Reinforcement” (Ex B2 Tab 3 S2 Attachment 2) which is not driven by the needs of and will provide very little benefit to the APPrO members serviced by Rate 125 and other unbundled customers. This and other significant reinforcement projects for non-contract customers (see for example, Ex B2 Tab 3 S1 Table 2 and Ex B2 Tab 3 S2 Attachment 1) results in a dramatic rate increase for Rate 125 customers who derive very little benefit from the proposed reinforcements. Specifically, Enbridge has forecasted that the Rate 125 will increase by **over 30%** in the next 5 years:

| | |
|-------|----------------------------------|
| 2014: | (0.8)% (Ex H1 Tab1 S1 page 3) |
| 2015: | 2.1% (Ex H3 Tab1 S1 Appendix A) |
| 2016: | 10.0% (Ex H3 Tab1 S1 Appendix A) |
| 2017: | 9.9% (Ex H3 Tab1 S2 Appendix A) |

2018: 9.9 % (Ex H3 Tab1 S2 Appendix A)

B. Will the party be participating jointly with other parties in the commissioning of any expert evidence?

5. Rate 125 customers are large unbundled customers. APPrO represents all the customers in this rate class and no other intervening party represents these customers and therefore APPrO is not proposing to participate jointly with other parties in this proceeding.
6. APPrO takes its responsibility to carefully plan for and manage its costs and time commitments in respect of all Ontario Energy Board proceeding very seriously.
7. In respect of this Application, APPrO is proposing an expert that will focus on a single issue – cost allocation – that is of material consequence to the APPrO membership serviced under the Rate 125 customer class.
8. APPrO's expert will assist the Board impartially by giving evidence in respect of the above noted issue that is fair and objective and meets the requirements of Rules 13 and 13A of the Board's *Rules of Practice and Procedure*.

C. What is the estimate of costs for the expert (including an explanation of the assumptions regarding participation in various parts of the proceeding, including a joint expert conference)?

9. APPrO has issued a Request for Proposals to provide expert support as part of this proceeding (the "**RFP**"). A draft of this RFP is attached as Appendix "A". Due to the short timeframes specified in Procedural Order No. 1, APPrO is not in a position to estimate the costs for the expert because APPrO is still waiting for responses to its RFP. The purpose of the RFP is to ensure a qualified, independent and cost-effective cost allocation expert is retained for this proceeding. APPrO will undertake to provide the Board with an estimate of the costs of the expert (including an explanation of the assumptions regarding participation in various parts of the proceeding, including a joint expert conference) within 5 business days of its selection of a winner of the aforementioned RFP process.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 9TH DAY OF SEPTEMBER, 2013

BORDEN LADNER GERVAIS LLP

Per:

Original signed by John A.D. Vellone

John A.D. Vellone

Counsel to APPrO

TOR01: 5317636: v4

APPENDIX “A”

Please see attached.

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SENT BY EMAIL & COURIER

September 9, 2013

[Contact Details]

Dear []:

Re: The Association of Power Producers of Ontario ("APPrO") is seeking the services of a cost allocation expert.

Enbridge Gas Distribution Inc. ("Enbridge") filed an application dated July 3, 2013 with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act*, S.O. 1998, c.15, Schedule B for an order or orders approving rates for a five year period commencing January 1, 2014 (the "Application"). The Board has assigned file number EB-2012-0459 to the Application and has issued a Notice of Application dated July 22, 2013.

We are acting as counsel for APPrO in respect of the Application.

APPrO wishes to retain the services of an independent cost allocation expert in this proceeding to review the Application, assist in the preparation of written interrogatories, review of the interrogatory responses, and, if necessary, to prepare and defend evidence in respect of the following issue:

Is Enbridge's utility Cost Allocation Study, including the methodologies and judgments used and the proposed application of that study with respect to 2014 Fiscal Year rates, appropriate?

APPrO is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators and suppliers of services, equipment and consulting services. APPrO members produce power from natural gas, as well as hydro, gas, coal, nuclear, wind, waste wood and other sources.

Among APPrO's members are gas-fired generators in Enbridge's franchise area. These generators take service from Enbridge primarily under Rate 125. The evidence filed by Enbridge indicates that rate 125 is forecasted to increase minimally in the first year, followed by significant increases over the balance of the five year period proposed by Enbridge (see below Section 3).

All customers in the Rate 125 rate class are power generators and not represented by any other consumer group.

APPrO is seeking:

A written proposal with the following information:

- Names and a CV listing the credentials of the individual or team you would assign to this project.
- Estimate of the rates you would charge for this project with an estimate of anticipated expense total for the proceeding for counsel and consultation services which may be required. For the purposes of providing an estimate of anticipated expense total, please state your all of your assumptions (including number of hours assumed in respect of each of the areas where APPrO requires support as set out in Section 4 below).
- References (minimum #2).
- A list of all regulatory or court proceedings that you have appeared before, the issue you appeared in respect of, for whom did you appear, and what role you took (qualified expert, advisor, etc.).

1. Background

- APPrO members produce 95% of the power generation in the Province of Ontario, including gas-fired power generators.
- Within their franchise, Enbridge provides service to most large gas-fired power generators under Rate 125.
- Because large power generators require high pressure and their loads are large, service from the utility is always provided from its extra high pressure (XHP) mains.
- Rate 125 is primarily derived based on the allocation of the cost of service of the XHP system, plus metering costs.
- The XHP main costs are allocated on the basis of peak day demand of Rate 125 customers to the total current peak day demand of all customer rate classes.

2. Summary of Enbridge's Recent and Current XHP Main Projects

- Enbridge is seeking to add approximately \$700 million to their XHP system in 2014 and 2015, including the GTA Reinforcement Project (Ex B2 T3 S2 Attachment 2), the Ottawa Reinforcement Project (Ex B2 T3 S2 Attachment 1) and several other smaller projects.
- The GTA Reinforcement is not driven by the needs of unbundled contract customers and will provide very little benefit to the APPrO members serviced by Rate 125.

3. APPrO Member's Concern

- This and other significant reinforcement projects for non-contract customers (see for example, Ex B2 Tab 3 S1 Table 2 and Ex B2 Tab 3 S2 Attachment 1) results in a dramatic rate increase for Rate 125 customers who derive very little benefit from the proposed reinforcements. Specifically, Enbridge has forecasted that the Rate 125 will increase by over 30% in the next 5 years:

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|-------|----------------------------------|
| 2014: | (0.8)% (Ex H1 Tab1 S1 page 3) |
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4. Cost Allocation Expert Assistance Required

- APPrO is concerned that Enbridge's current cost allocation methodology over allocates XHP main costs to Rate 125 which is driving the significant rate increases for this rate class with little to no benefit.

- APPrO requires the support of an independent cost allocation expert to assess Enbridge's current cost allocation methodology and, if possible, to develop a more equitable cost allocation methodology. More specifically to:
 - Review the cost allocation evidence in the Application, which is available online at:
 - http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/re/c/401940/view/EGDI_Appl_ExG_Cost%20Allocation_20130628.PDF
 - http://www.rds.ontarioenergyboard.ca/webdrawer/webdrawer.dll/webdrawer/re/c/401941/view/EGDI_Appl_ExH_Rate%20Design_20130728.PDF
 - Provide support for the drafting of interrogatory questions to Enbridge in the area of cost allocation;
 - Assess the reasonableness of the current cost allocation methodology, especially in light of the significant expansion projects being proposed;
 - Evaluate other potential cost allocation methodologies and their relative impact on Rate 125 and Enbridge's other rate classes;
 - Make a recommendation for any proposed changes to Enbridge's cost allocation methodology;
 - Prepare expert testimony to support the recommendations;
 - Respond to any interrogatory requests from Enbridge and other intervenors;
 - Attend an expert pre-hearing conference, if required by the Board;
 - Provide any support that may be required for cross examination questions of Enbridge;
 - Appear at the Enbridge hearing for cross examination if required;
 - Respond to any undertakings; and
 - Provide support as may be required for APPrO argument.

All experts before the Ontario Energy Board are required to comply with Rule 13A of the Board's *Rules of Practice and Procedure*. We recommend that you refer to your obligations under Rule 13A, which for ease of reference is excerpted as Attachment 1 to this document.

5. Application Timeframe

The Board has issued a Procedural Order No. 1 and is current awaiting written submissions on a preliminary issue raised by several other intervenors. In addition, the Board has required APPrO and other cost eligible intervenors to file an expert plan by September 9, 2013.

As of yet, no procedural steps have been set aside from the preliminary issue but it is anticipated that the IR support will be required by mid/late September and the hearing will likely occur during October/November.

6. Requirements

Required areas of expertise:

- Knowledge of cost allocation methods, principles and practice
- Knowledge and experience in natural gas system:
 - rate design
 - general pipeline system operation and design principles

Desirable but not necessarily required expertise:

- Knowledge of APPrO member business objectives and APPrO strategic objectives
- Previous experience working with APPrO
- Prior appearances as an expert before the OEB or other energy regulatory authority

7. Next Steps

Interested parties may submit proposals by mail, fax or email, but they must be received by 5:00:00 pm on Friday, September 20, 2013 marked "Enbridge Custom IR Case – Cost Allocation Expert -- CONFIDENTIAL" and addressed to APPrO's legal counsel:

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Borden Ladner Gervais LLP
Suite 4100, Scotia Plaza, 40 King Street West
Toronto ON M5H 3Y4

Tel: (416) 367-6730
Facsimile: (416) 361-2758
Email: jvellone@blg.com

With a copy to:

Mr. David Butters
President
The Association of Power Producers of Ontario (APPrO)
Suite 1602, 25 Adelaide St. E.
Toronto, ON M5C 3A1

Tel. 416-322-6549
Fax 416-481-5785

Any questions may be addressed to Mr. Vellone prior to September 20th.

Sincerely,

John A.D. Vellone
Counsel to APPrO

ATTACHMENT 1 – EXCERPT OF RULE 13A OF THE OEB’S RULES OF PRACTICE AND
PROCEDURE
(Revised January 17, 2013)

13A. Expert Evidence

13A.01 A party may engage, and two or more parties may jointly engage, one or more experts to give evidence in a proceeding on issues that are relevant to the expert’s area of expertise.

13A.02 An expert shall assist the Board impartially by giving evidence that is fair and objective.

13A.03 An expert’s evidence shall, at a minimum, include the following:

- (a) the expert’s name, business name and address, and general area of expertise;
- (b) the expert’s qualifications, including the expert’s relevant educational and professional experience in respect of each issue in the proceeding to which the expert’s evidence relates;
- (c) the instructions provided to the expert in relation to the proceeding and, where applicable, to each issue in the proceeding to which the expert’s evidence relates;
- (d) the specific information upon which the expert’s evidence is based, including a description of any factual assumptions made and research conducted, and a list of the documents relied on by the expert in preparing the evidence; and
- (e) in the case of evidence that is provided in response to another expert’s evidence, a summary of the points of agreement and disagreement with the other expert’s evidence.

13A.04 In a proceeding where two or more parties have engaged experts, the Board may require two or more of the experts to:

- (a) in advance of the hearing, confer with each other for the purposes of, among others, narrowing issues, identifying the points on which their views differ and are in agreement, and preparing a joint written statement to be admissible as evidence at the hearing; and
- (b) at the hearing, appear together as a concurrent expert panel for the purposes of, among others, answering questions from the Board and others as permitted by the Board, and providing comments on the views of another expert on the same panel.

13A.05 The activities referred to in Rule 13A.04 shall be conducted in accordance with such directions as may be given by the Board, including as to:

- (a) scope and timing;
- (b) the involvement of any expert engaged by the Board;
- (c) the costs associated with the conduct of the activities;
- (d) the attendance or non-attendance of counsel for the parties, or of other persons, in respect of the activities referred to in paragraph (a) of Rule 13A.04; and
- (e) any issues in relation to confidentiality.

13A.06 A party that engages an expert shall ensure that the expert is made aware of, and has agreed to accept, the responsibilities that are or may be imposed on the expert as set out in this Rule 13A.