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**By electronic filing**

September 9, 2013

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
27<sup>th</sup> floor – 2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms Walli,

**Enbridge Gas Distribution Inc. (“EGD”)**  
**2014 to 2018 Rate Application**  
**Board File No.: EB-2012-0459**  
**Our File No.: 339583-000165**

**A. Introduction and Overview**

We are writing with respect to the condition of intervention described in Procedural Order No. 1 which calls for Canadian Manufacturers & Exporters (“CME”) and the other nine (9) cost eligible intervenors to inform the Board today of their intentions with respect to the filing of expert evidence in this case.

Procedural Order No. 1 also establishes a process which will lead to a Board determination of whether to hear a Preliminary Issue in this case pertaining to the contention of the School Energy Coalition (“SEC”) that the ratemaking method proposed by EGD is inconsistent with Board policy.

We previously advised the Board that CME takes no position on matters pertaining to the Preliminary Issue. That said, we respectfully submit that it is premature for cost eligible intervenors to plan for their possible use of experts in this case before the Board has determined whether to hear a Preliminary Issue pertaining to the appropriateness of the 5 year ratemaking methodology EGD proposes. For this reason and for the others which we describe below, we respectfully urge the Board to establish a new deadline for cost eligible intervenors to file their expert plan(s).

Subject to the timing of the delivery of the report to be provided by Pacific Economics Research Group LLC (“PEG”) to Board Staff, which we discuss below, we request that the deadline for submitting expert plan(s) be extended to a date about seven (7) days after the Board has responded to SEC’s Preliminary Issue proposal.

## **B. EGD's Application**

In contrast to the numerous and broad deferral accounts, passthrough and other protections EGD proposes for its shareholder, the extent to which EGD's proposed rates for the next 5 years have built-in benefits for ratepayers is unclear. As the Board is aware, the list of approvals EGD seeks in this mammoth application is long. Many of the approvals requested are novel. EGD has identified 39 main issues in its application requiring a determination. We estimate that, including sub-issues, EGD's proposed Issues List contains some 74 questions.

In these circumstances, we respectfully submit that it is in the public interest and a matter of importance that the outcome of this proceeding be based upon credible opinion evidence with respect to the significant and, in many cases, novel issues which EGD's application raises.

## **C. Expert Opinion Evidence Filed by EGD**

The areas of EGD's application which we have identified as possibly requiring some analysis by independent experts include the following:

### **1. The compatibility of EGD's 5-yr plan with Incentive Ratemaking**

EGD has filed lengthy expert reports from Concentric Energy Advisors Inc. ("Concentric") and London Economics International LLC ("London Economics") to support its contention that the rate relief it seeks for the period 2014 to 2018 is compatible with and appropriately characterized as a multi-year Incentive Regulation proposal.

By letter dated August 30, 2013, Board Staff notified participants in this proceeding that they had retained PEG to provide a report on the appropriateness of EGD's proposals. We expect that the PEG Report will assess the extent to which EGD's proposals either are or are not compatible with the objectives of Incentive Regulation.

Ratepayers need a reasonable opportunity to review the PEG Report before they can make an informed decision as to whether any further expertise on this issue is likely required. Ratepayer protection mechanisms are vital to rate-setting under a multi-year mechanism of the type EGD envisages. Ratepayer representatives will want to make sure that the PEG Report fully addresses that issue before waiving their right to adduce expert evidence on the matter.

Accordingly, we respectfully submit that the deadline for making an informed decision with respect to the need for any expert evidence in addition to that contained in the Concentric, London Economics, and PEG Reports be extended to a date approximately seven (7) days following the delivery to ratepayer representatives of the PEG Report.

2. *The appropriateness of EGD's proposal to change the methodology for determining a Heating Degree Day ("HDD") forecast for the Central Delivery Area ("CDA")*

This methodology is described in Exhibit C2-1-2. In prior years, the expertise of certain intervenor representatives has been sufficient to enable the cost eligible ratepayer representatives in this proceeding to scrutinize and assess the appropriateness of EGD's HDD proposals. Accordingly, we do not anticipate the need for independent expertise with respect to this issue.

3. *The appropriateness of EGD's proposal to change depreciation rates in 2014 and subsequent years in order to reduce the annual amount of Asset Retirement Obligations ("ARO") or Future-Site Restoration Costs ("FRC") collected in depreciation expense*

Related to this proposal are EGD's plan to refund to ratepayers, over a period of 5 years, excessive depreciation expenses previously collected in rates, and its request for a new Constant Dollar Net Salvage Adjustment Deferral Account ("CDNSADA") in which to record the amount to be credited to ratepayers.

The expert evidence on which EGD relies to support these proposals is found at Exhibit D1, Tab 5. We do not know whether Board Staff has retained anyone to evaluate this evidence and its implications. This evidence should be evaluated by an independent expert in order for all of its implications, not only for EGD but also for all other large Board-regulated utilities who have significant asset retirement obligations, to be clearly understood.

4. *Pension Accrual Costs*

EGD relies on expert reports from Mercer Canada Ltd. ("Mercer") found at Exhibit D1, Tab 16, Schedule 1, at Appendices 1 and 2 to establish these costs. As with HDD methodology, the expertise of some ratepayer representatives is normally sufficient to enable this information and its implications to be scrutinized and assessed. Accordingly, we do not anticipate the need for independent expertise with respect to this topic; however, others might. Board Staff, for example, may wish to have the Mercer opinions checked.

5. *The Costs of Debt and Equity Capital for periods beyond 2014*

As described in Exhibit E2, Tab 1, Schedule 2, Enbridge Inc.'s Treasury Dept. has developed forecasts of Long-Canada Bond yields and spreads between Utility Bond and 30 year Government of Canada yields for years beyond 2014 for the purposes of fixing the Cost of Capital component of EGD's rates for each of the years 2014 to 2018 inclusive. These forecasts should be checked by a Cost of Capital witness.

Over the years, Board Staff has often retained an expert to evaluate the reasonableness of the cost of capital opinions upon which EGD relies. As well, certain cost eligible intervenors, including CME, have traditionally relied on Dr. Laurence Booth to help

assess the appropriateness of the estimates provided by Enbridge Inc. Dr. Booth has not yet been consulted about the appropriateness of the Long-Canada Bond yields and spread estimates upon which EGD relies so that we are unable to provide an estimate of fees that he would charge for providing his opinion on these rates and spreads.

The Board's determination with respect to the Preliminary Issue could either eliminate or postpone the need to obtain an opinion from Dr. Booth with respect to these yields and spreads.

#### **D. Summary and Conclusions**

Having regard to all of these circumstances, we respectfully reiterate our request for a postponement of the deadline for cost eligible intervenors to file their expert plan(s) with the Board to a date seven (7) days following the release by the Board of its decision on whether to hear a Preliminary Issue.

In the event that the PEG Report commissioned by Board Staff has not been delivered prior to the release of the Board's decision on whether to hear a Preliminary Issue, then we respectfully request that a deadline for cost eligible intervenors to notify the Board of their intention to lead expert evidence on matters pertaining to the compatibility of EGD's proposals with Incentive Regulation be established for a day which is about seven (7) days following the delivery of the PEG Report to participants in this proceeding.

Please contact me if there are any questions about the contents of this letter.

Yours very truly,



Peter C.P. Thompson, Q.C.

PCT\slc

c. Norm Ryckman (EGD)  
Fred Cass (Aird & Berlis)  
Intervenors EB-2012-0459  
Paul Clipsham

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