



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Enbridge Gas Distribution Inc.

2014 – 2018 Rate Application

Board File No. EB-2012-0459

September 4, 2013

Introduction

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application on July 3, 2013 with the Ontario Energy Board (the “Board”) under section 36 of the *Ontario Energy Board Act, 1998*, S.O. c.15, Schedule B for an Order or Orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas commencing January 1, 2014. Enbridge describes the application as a 5-year Customized Incentive Regulation (“IR”) rate plan (“Customized IR Plan”) covering the years 2014 to 2018.

The Board in its Procedural Order No. 1 dated August 27, 2013 invited parties and Board staff to make submissions on the need for a preliminary issue. The context of the invitation was that four (4) parties had submitted letters saying that Enbridge’s proposed ratemaking methodology was inconsistent with Board policy and that in the interest of regulatory efficiency and cost savings, the Board should first hold a preliminary process to decide if it should hear the application as filed.

The Board framed the questions for the parties’ response as follows:

- Is there a need to determine a preliminary issue and if so, what is the issue and what is the rationale for determining the issue prior to hearing the full application?
- What evidence is required to hear the preliminary issue which is in addition to the evidence already filed (for example, interrogatories, oral testimony, etc.)? Why is this additional evidence necessary?

Board staff is making these submissions pursuant to the Board’s invitation above.

Is there a need to determine a preliminary issue?

In Board staff’s submission the answer to the question is “no”.

The Board’s policy for natural gas rate regulation is set out in the Board’s 2005 Natural Gas Forum Report (“NGF Report”).¹ In the NGF Report, the Board provides guidance for natural gas rate regulation and established criteria for a multi-year

¹ Natural Gas Regulation in Ontario: A Renewed Policy Framework. Report on the Ontario Energy Board Natural Gas Forum. March 30, 2005.

incentive regulation framework of sustainable gains in efficiency, appropriate quality of service, and an attractive investment environment.

Section 36(3) of the *Ontario Energy Board Act, 1998* grants the Board broad authority to choose a ratemaking framework:

In approving or fixing just and reasonable rates, the Board may adopt any method or technique that it considers appropriate.²

Board staff submits that there is nothing in the Board's current policy preventing a regulated gas utility such as Enbridge from proposing a particular ratemaking framework after rebasing. Indeed the legislation allows the Board to adopt any appropriate method or technique in setting rates. Enbridge has done nothing more than put forward a proposal at this point. The applicant has characterized its proposal as a "Customized IR plan". Board staff submits that the merits of this proposal and whether it meets appropriate criteria should be tested through a hearing process.

Board staff does not see that holding a preliminary hearing on the appropriateness of the application rather than moving straight to simply hearing the application itself will benefit the process or the substantive evaluation of the evidence. In fact, staff is of the view that that it will be difficult to assess the appropriateness of the application without delving significantly into substantive matters, which would result in a delay in the proceeding.

Board staff also submits that embarking on a consideration of the application itself, in no way suggests a pre-determination of the outcome. Based on past experience with multi-year rate plans at this Board, it is quite possible and indeed likely, that the end result will be different than what was proposed in the application.

Board staff would suggest that Enbridge's now-concluded first and second generation multi-year rate plans³ represented a "customized" approach to ratemaking as both plans contained elements that when viewed together in the context of the full plan, appear to be an applicant-specific, "customized" approach. In both cases, the plans

² Ontario Energy Board Act, section 36(3)

³ See Enbridge "Targeted O&M Incentive PBR Plan" covering the 3-year period 2000, 2001 and 2002, E.B.R.O. 497-01 Decision dated August 22, 1999. Also see Enbridge "Revenue per Customer Cap" IR Plan EB-2007-0615, Settlement Agreement dated February 4, 2008 covering the 5-year period 2008 to 2012.

as originally proposed were modified through the Board's adjudicative processes. Also, Enbridge and Union Gas Limited have put forward different types of Customized IR Plans over the past 10 to 15 years, and as a result, the Board and all parties are experienced in reviewing and evaluating different types of ratemaking frameworks as part of the adjudicative process. Board staff suggests that the circumstances are not fundamentally different in this case. In other words, this Board is equipped to evaluate the proposed framework in Enbridge's application and the Board's experience and processes in such matters are perfectly suited to doing just that.

Board staff also acknowledges Enbridge's references to the Board's Report on a Renewed Regulatory Framework for Electricity Distributors ("RRFE Report") and that its decision to file a Customized IR Plan was influenced by the availability in the RRFE Report of a "Custom IR method" for qualified electricity distributors. The Board may wish to take into consideration that filing a custom application in natural gas is consistent not only with past practice but also with a stated future direction of regulation by the Board.

In conclusion, Board staff wants to emphasize that in endorsing a view that the Board should proceed to hear the application now in no way suggests that the framework, methodologies, mechanisms or techniques contained within the application are appropriate or that they are in any way exempt from rigorous scrutiny and challenge.

- All of which is respectfully submitted -