**EB-2013-0046**

# Ontario Energy Board

**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. for an order or orders approving the clearance or disposition of amounts recorded in certain deferral or variance accounts.

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**ENERGY PROBE RESEARCH FOUNDATION**
**("ENERGY PROBE")**

**ARGUMENT**

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**October 18, 2013**

**ENBRIDGE GAS DISTRIBUTION INC.**
**DISPOSITION OF 2012 BALANCES IN CERTAIN DEFERRAL AND VARIANCE ACCOUNTS**

**EB-2013-0046**

# ARGUMENT OF ENERGY PROBE RESEARCH FOUNDATION

## A - INTRODUCTION

This is the Argument of the Energy Probe Research Foundation ("Energy Probe") related to the net revenues from 2012 capacity release exchange transactions generated by Enbridge Gas Distribution ("EGD"). The issue around this net revenue is whether or not it should be considered to be transactional services ("TS") revenues or included within the transportation component of the Purchased Gas Variance Account ("PGVA").

A Settlement Conference was held on July 24, 2013. EGD filed the Settlement Agreement on August 2, 2013. The Board accepted the Settlement Agreement in its Decision on Settlement Agreement and Procedural Order No. 2 dated August 20, 2013.

Subsequent to the Board accepting the Settlement Agreement, Enbridge Gas Distribution Inc. ("EGD") filed a letter on September 6, 2013 indicating that it would no longer contest 2 of the 3 remaining unsettled issues. As a result, the only issue that remains to be resolved is the treatment of the 2012 capacity release exchange transaction revenues.

The Settlement Agreement notes that these revenues total $18.63 million. The Agreement also indicated how these revenues would be treated depending on the Board's Decision in this matter. If the Board determined that these revenues should be considered as TS revenues, then no change is required to EGD's deferral and variance account balances. EGD has included 75%, or $13.97 million, as the ratepayer credit in the Transactional Services Deferral Account ("TSDA"). Alternatively, if the Board determines that these revenues should be included in the PGVA, then the TSDA needs to be reduced by $13.97 million and a credit of $18.63 needs to be recorded within the transportation component of the PGVA.

## B - SUBMISSIONS

### Is the Amount Proposed to be Cleared in the 2012 Transaction Services Deferral Account Appropriate?

Energy Probe notes that in the EB-2007-0615 Settlement Agreement updated on February 4, 2008, it was agreed in Section 5.1 that, among other things, upstream gas costs and upstream transportation, storage and supply mix costs were to be treated as Y factors. This means that the costs associated with these items would be passed through to rates.

Energy Probe continues to believe that capacity releases should be treated as a reduction to gas costs. Capacity releases involve EGD providing gas purchased for use by ratepayers to a third party at one location (i.e. Empress) and assigning that third party a portion of its long haul capacity on TCPL. The third party then gives the gas back to EGD at another location (i.e. Dawn). This is the description provided at page 8 of the EB-2012-0055 Decision and Order dated March 14, 2013. The EGD witnesses agreed that this description was a factually correct description of a capacity release (Tr. Vol. 1, pages 31-32).

In other words, a capacity release reduces the overall cost of gas to consumers through an exchange. The gas purchased at Empress is required to serve the ratepayers and is delivered to Dawn for their use.

Energy Probe submits that the effect of these capacity releases is that the higher upstream transportation costs being paid for by EGD's ratepayers have been replaced with lower cost landed gas through the upstream transportation arrangements used. This saving, in its entirety, should be passed on to the ratepayers.

The use of the capacity release continues to appear to be very similar to the use of STS RAM credits and IT transportation to supply gas to EGD's ratepayers. The Board found that EGD's treatment of its own use of STS-RAM credits as a Y factor and a reduction to the cost of gas reflected in the PGVA was appropriate in the EB-2012-0055 Decision and Order. EGD credits this STS-RAM related reduction in costs to ratepayers through the purchased gas variance account.

Energy Probe submits that there is no reason why the reduction in gas costs (including delivery costs) through the use of capacity releases should be treated any differently. In both cases, the gas purchased at Empress is delivered to EGD at Dawn for the ultimate use by EGD ratepayers. The fact that EGD can get the gas at Dawn at a lower landed price through the use of capacity releases should be a benefit that is passed through in its entirety to ratepayers.

EGD has tried to make a distinction on the invoice it receives from the third party for the capacity release transaction (Tr. Vol. 1, pages 32-33). In particular, the invoice was described as a net of two transactions: the first being the cost of the transport that EGD assigned to the third party (which is the same as would have been if EGD had been billed by TCPL); the second being a credit that reflects EGD's share of the revenues generated by the third party through the use of the capacity released to them.

EGD charges the first of these two components of the invoice to the cost of gas through the PGVA mechanism and then records the credit as a revenue in the TS account (Tr. Vol. 1, page 17). Energy Probe submits that this is not appropriate. The only reason that EGD can get the **credit** is because of the cost of the asset used to generate it. Ms. Giridhar specifically calls this a credit (Tr. Vol. 1, page 32) when she indicates that *"On the same bill, because we have a netting arrangement with the counterparty, they then put back a credit equal to the revenues that they were going to share with us."*

The cost for the asset is paid for entirely by ratepayers. The credit associated with getting the customers gas to where it is needed should be to the credit of those same ratepayers.

The only area that EGD appears to disagree with the Board's EB-2012-0055 Decision and Order related to the treatment of capacity release revenues is related to whether or not the transactions rely on temporarily surplus assets.

In that Decision and Order (page 6) the Board stated:

> *"The essential characteristic of transactional services is that they are arrangements made to generate revenue from unplanned, temporary surplus transportation capacity that Enbridge may have, from time to time, as part of its gas supply arrangements. The portion of utility gas supply assets that is available to support transactional services activities is only the portion of those assets that are temporarily surplus because of factors beyond Enbridge's control (e.g. weather, market demand)."*

EGD confirmed these characteristics of a transactional service (Tr. Vol. 1, page 14).

At page 14 of the Decision and Order, the Board states that:

> *"The Board notes that in a capacity release, the gas purchased by Enbridge at Empress is required to serve its customers. Enbridge could use the underlying assets, which support the capacity release transaction, to transport the purchased gas to its customers. Instead, Enbridge utilizes an exchange to ensure that the gas purchased for its customers is delivered to the location where it requires that gas;* ***these transactions are not relying on temporarily surplus assets****."* (emphasis added)

Clearly this is where EGD disagrees with the Board Decision in EB-2012-0055. As noted on page 4 of the October 4, 2013 Argument in Chief, EGD states that the transaction opportunity must relate to transportation or storage capacity that is temporarily surplus. EGD goes on to indicate that these assets are acquired to meet customer demand in the Company's franchise areas and that capacity is temporarily surplus if it is not required to meet the needs of the customer in the franchise on the day(s) in question.

Energy Probe strongly disagrees with this assertion. While the **capacity** may be surplus to meet the customer demand on any given day, this does not mean that the **asset** is surplus. The fact is, the asset is still required and used even when surplus capacity is available on any given day. The transportation asset is utilized to move the excess capacity on any given day to storage, so it can be used when the FT transportation capacity is not sufficient to meet customer demands on any given day. The only way EGD gets to use these STS rights is to use the transportation asset to move the gas to Dawn storage when surplus capacity to the delivery area is available. This means that the asset is not temporarily surplus. It is being utilized, as planned, to fill storage so that peak day demands can be met with a combination of long haul, short haul, storage withdrawals and STS rights.

As a result, Energy Probe submits that capacity releases, as described by EGD, do not use surplus transportation or storage assets on a short term or seasonal basis. Capacity releases involve EGD delivering gas to Dawn that it has purchased for its system gas customers. This gas is required to meet customer demand and does not result in temporarily surplus transportation or storage assets. It simply results in an exchange to get the needed gas where EGD wants it to be delivered.

If the transportation capacity were truly temporarily surplus, then EGD should not be purchasing the gas and moving it to Dawn. This would indicate that EGD was knowingly purchasing gas for system gas customers that it knows it does not need. Clearly this is not the situation here. EGD indicates that they need the second half of the exchange (i.e. the third party delivering the gas to EGD at Dawn) because that gas will be needed in the winter for high demand days.

In summary, Energy Probe believes that the 'asset' to which the Board refers is more than just the 'capacity' to which EGD refers. The asset provides capacity on any given day. However the assets provide more than just capacity on any given day. It provides a type of a load balancing service that allows the diversion of any excess capacity on a particular day to storage and for a service that allows the movement of gas from storage to where the gas is needed when the capacity from long and short haul transportation is insufficient to meet customer demand. In the absence of a third party requesting this service, EGD would continue to use the underlying assets to transport gas to its customers and to storage for use when required.

## C - COSTS

Energy Probe requests that it be awarded 100% of its reasonably incurred costs. Energy Probe has attempted to minimize its time on this application, while at the same time ensuring a thorough review through co-operation with other intervenors.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**

**October 18, 2013**

**Randy Aiken**
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