

FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA

**RE: ENBRIDGE GAS DISTRIBUTION – CLEARANCE OF 2012 DEFERRAL AND
VARIANCE ACCOUNTS**

EB-2013-0046

October 18, 2013

INTRODUCTION:

By Application dated May 24, 2013, Enbridge Gas Distribution Inc. (“EGD”) applied to the Ontario Energy Board (“Board”) for approval to clear or dispose of amounts recorded in its 2012 deferral and variance accounts. Those accounts were established as part of EGD’s five-year incentive regulation plan.

On July 24, 2013, a Settlement Conference was convened. A Settlement Agreement was reached by the parties, leaving three issues unsettled. That Settlement Agreement was accepted by the Board on August 20, 2013. Prior to the commencement of the oral hearing EGD filed a letter with the Board indicating that only one of the three remaining issues would be contested.

The only remaining issue in this proceeding is:

*Is the amount proposed to be cleared in the 2012 Transactional Services
Deferral Account appropriate?*

These are the final submissions of the Consumers Council of Canada (“Council”) with respect to this issue.

SUBMISSIONS:

EGD has been undertaking transactional services (“TS”) for many years. An amount of \$8 million was embedded in EGD’s 2012 rates. To the extent EGD generates net revenues above that amount those revenues are shared between EGD’s ratepayers and its shareholders on 75:25 basis. The amounts flowing to ratepayers are recorded in the Transactional Services Deferral Account (“TSDA”) for disposition.

The entire balance in the 2012 TDSA is not at issue in this case. What is at issue is how to treat the revenues generated by capacity release exchanges. Specifically, the question for the Board to consider is whether these revenues are related to transactional services, or whether they arise from gas cost transactions and should be recorded in the Purchased Gas Variance Account (“PGVA”).

The total revenues that EGD generated from capacity release transactions in 2012 were \$18.6 million. If the Board decides that these are, as proposed by EGD, arising from transactional services then \$13.97 million (75%) is the correct amount to be recorded in the TSDA. If, in the alternative, the Board determines that these revenues are to be recorded in the PGVA, the PGVA should be credited the full \$18.6 million.

In EGD's 2011 Deferral and Variance Account clearance proceeding the Board determined that the revenues from capacity release exchange transactions should be treated as gas cost transactions rather than transactional services (EB-2012-0055). The Board did indicate that it would, however, consider the issue again in the 2012 deferral and variance account proceeding and encouraged EGD to bring forward comprehensive evidence in support of its position.

In that proceeding, the Council concluded that capacity release exchange transactions reduce the overall upstream transportation costs put in place as a part of EGD's overall gas supply plan. Therefore, consistent with EGD's IR plan, those reductions should be subject to pass-through treatment. The Council does not believe that EGD, in this proceeding, has demonstrated that the nature of these transactions has changed. Accordingly, we submit that the 2012 revenues should be treated in the same manner.

In the EB-2012-0055 Decision the Board made a distinction between traditional TS transactions and capacity releases. With respect to transactional services the Board stated, "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 its control." (Decision and Order, EB-2012-0055, p. 6)

With respect to capacity releases the Board stated, "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 uses an exchange to ensure that the gas purchased for its customers is delivered to a location where it requires that gas; these transactions are not relying on temporarily surplus assets." (Decision and Order, p. 14)

From the Council's perspective capacity releases are clearly undertaken as a part of EGD's gas supply management activities. The entire transaction is being undertaken to bring gas to EGD's customers, whether for consumption in its franchise area or to be injected into storage at Dawn. The fact that EGD has found a less expensive way to service its gas supply customers does not qualify this type of transaction as a transactional service.

EGD has explained that in order for a transaction to be considered a TS transaction it must be unplanned, at the request of a third-party, and involve temporarily

surplus capacity (Ex. C/T1/S6/p. 8). The Board concluded in the previous proceeding that it did not view these transactions as ones relying on the use of temporary assets. The Council agrees. The asset is being used and the use of that asset is required to get the gas where EGD needs it to serve its customers. The activity is not being facilitated through the use of “a surplus asset”. The asset is still required and used even when surplus capacity is available on any given day.

EGD has confirmed that the way in which it conducts capacity releases has not changed over the last year (Tr. Vol. 1, p. 20). EGD has not presented any additional evidence in this proceeding evidence to demonstrate that capacity release exchange transactions should form part of its transactional service activities. The transaction is simply being undertaken to get the gas required to EGD’s customers, like all other transactions that form part of it gas supply management activities.

Accordingly, the Council does not support EGD’s proposal to record \$13.97 million in the TSDA. The full \$18.6 million, which arises from a gas supply transaction, should be recorded in the PGVA.

COSTS:

The Council requests that it be awarded 100% of its reasonably incurred associated with its intervention in this proceeding.

All of which is respectfully submitted,

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