



EB-2006-0081

IN THE MATTER OF the *Ontario Energy Board Act 1998*,
S.O.1998, c.15, (Schedule B);

AND IN THE MATTER OF an Application under section 36 of the
Act by Enbridge Gas Distribution Inc. for approval of an accounting
order to establish a deferral account to capture the proceeds from
the sale of land;

AND IN THE MATTER OF an Application under section 36 of the
Act by Enbridge Gas Distribution Inc. 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, 2006.

PROCEDURAL ORDER NO. 3

Enbridge Gas Distribution Inc. ("EGDI", or the "Applicant") filed an Application, dated April 10, 2006, with the Ontario Energy Board (the "Board") under section 36 of the *Ontario Energy Board Act 1998*, S.O. 1998, c.15, (Schedule B) for approval to establish a deferral account to record 50% of the profit on the sale of land in relation to certain utility properties sold in 2005. EGDI proposes that the balance of the principal and interest accounts for these properties will be disposed of in the future as determined by the Board.

The Board on June 9, 2006 issued a Notice of Written Proceeding and Procedural Order No.1 which noted the Board's intention to proceed by way of a written hearing and indicated that any submissions from parties regarding the Application and EGDI's reply submission were to be filed by June 21, 2006 and June 28, 2006 respectively.

The Board received submissions from the Schools Energy Coalition ("Schools") and the Industrial Gas Users Association ("IGUA") dated June 13, 2006 and June 16, 2006 respectively. IGUA submitted that the matter be dealt within EGDI's 2007 Rates

application. Schools posited its views on the tax impact of EGDl's proposed methodology and submitted that the hearing should be oral rather than written.

EGDI, in a letter dated June 23, 2006, submitted that the Application should not be deferred to the 2007 Rates case and that the hearing of the Application should be written.

In a letter dated June 28, 2006, EGDl requested an extension to June 30, 2006 to provide a technical response to the Schools' submission on the Application. By way of letter, dated June 29, 2006, the Board granted an extension to June 30, 2006.

EGDI filed a letter, dated June 30, 2006, requesting an extension to the June 30, 2006 date. EGDl indicated that it required additional time to respond to the tax treatment particulars suggested in Schools' submission due to the complexity of tax rules and allowances, and deductibility.

The Board on July 19, 2006 issued Procedural Order No.2 which extended the date for EGDl to file a response to Schools' submission of June 13, 2006 to Friday July 21, 2006.

On February 9, 2006 the Supreme Court of Canada released its decision on *ATCO Gas & Pipelines Ltd. v. Alberta (Alberta Energy & Utilities Board)* addressing the jurisdiction of public utility tribunals over proceeds from the sale of assets. As stated above, EGDl applied to the Board on April 10, 2006 for approval to establish a deferral account to record 50% of the profit on the sale of land in relation to certain utility properties sold in 2005. This sharing of proceeds is based on settlement agreements previously reached between EGDl and all intervenors in RP-2002-0133 and in RP-2003-0048 and approved by the Board. The Board will also consider the disposition of the account as a part of this proceeding.

The Board would like submissions, if any, from interested parties on the sharing of the profit arising on this sale and

1. Whether the Board has the authority to order sharing of the profit of this sale.
2. What is the impact of the settlement agreements and Board orders approving those settlement agreements in RP-2002-0133 and in RP-2003-0048 on the Board's jurisdiction in this case.

THE BOARD ORDERS THAT:

1. Parties who wish to make submissions shall do so in writing no later than Monday September 11, 2006.
2. All parties shall file their submissions with the Board Secretary, 10 hard copies and one electronic copy in searchable PDF format at boardsec@gov.on.ca, by 4:00 pm on the date indicated, and copy all parties.

ISSUED at Toronto, August 18, 2006.

ONTARIO ENERGY BOARD

Original Signed by

Peter H. O'Dell
Assistant Board Secretary