

# AIRD & BERLIS LLP

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## BY EMAIL AND FILED VIA RESS

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, ON M4P 1E4

Dear Ms Walli:

**Re: EB-2014-0276: Enbridge Gas Distribution  
2015 Rate Adjustment**

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We represent Enbridge Gas Distribution Inc. (Enbridge, or the Company).

Within Procedural Order No. 3, the Board noted a dispute between parties around the disclosure of Enbridge's 2014 actual results within the context of this Rate Adjustment proceeding. The Board provided a process for parties to make submissions, and then for Enbridge to respond. Enbridge has further considered this issue, and has amended its position. The Company believes that it will be helpful to provide parties and the Board with details of its updated proposed approach in advance of the date for intervenor submissions.

With the goal of being transparent and constructive as the parties proceed to ADR, Enbridge has determined that it is prepared to provide certain of the requested information. In particular, Enbridge is prepared to provide responses to those unanswered Interrogatories and Undertakings that have requested 2014 actual results in relation to items that are subject to update within this Rate Adjustment proceeding.<sup>1</sup> As explained below, though, Enbridge maintains its position that none of this information is

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<sup>1</sup> Enbridge's prefiled evidence at Exhibit A1, Tab 3, Schedule 1, highlighted that most of the elements of Enbridge's 2015 Allowed Revenues were fixed within the EB-2012-0459 proceeding. The items that are subject to annual updates are those related to gas costs (including the rate base value of gas in storage and working cash impacts of gas costs), volumes (including degree days, average uses, customer numbers and contract volumes), a small number of cost items (CIS/Customer Care costs per the 2011-0226 Settlement Agreement, pension/OPEB costs, DSM costs), cost of capital (using current values for ROE and cost of debt) and income taxes (to adjust for the changes in the other items being updated).

relevant to or appropriately used within the context of the 2015 Rate Adjustment proceeding.

In Enbridge's view, a Rate Adjustment Application is properly prepared using the most recent information available when the Application is being developed. Under the Customized IR model, the Company uses the most recent forecasts of volumes and the costs to be updated that are available when developing the Application within the determination of the Test Year rates. That is what Enbridge did in this case. It is these most recent forecasts that existed at the time the Application was being developed that are relevant and applicable to the determination of the Test Year rates.

It is not appropriate for parties to later (months after the Application was filed) make use of more recent actual results that did not exist when the Application was prepared in order to "test" the Company's earlier forecasts. This "testing" would presumably lead parties to then advocate for updates to those forecasts. Such an approach effectively means that the evidence must always be updated throughout a proceeding. Allowing that approach would lead to parties arguing for selective updating of forecasts that underlie the Test Year Rates. As explained below, selective updating is not appropriate. An alternative use of this approach, to require the Company to undertake a wholesale update of all forecasts to a more recent point in time, will lead to large timing problems.

Selective updating of forecasts to use more recent data to update some, but not all, of the items to be adjusted within the 2015 Rate Adjustment Application would create an inconsistent result. It should not be assumed that simply because one of the costs elements to be adjusted has changed since the time of Application that all of the other forecasts have remained static. A selective updating approach would create the opportunity for parties (either the applicant or ratepayers) to update only those items that benefit their position.

If there is to be an update to some of the forecasts that underlie the Rate Adjustment Application, to reflect actual results from a later point in time, then fairness suggests that all forecasts should be updated. The problem there is that wholesale updating would create a very cumbersome process, where the Company would inevitably have to re-cast its whole Application mid-way through the proceeding to take account of all changes in forecasts since the time of filing. This would add many weeks or months to what is meant to be a relatively straightforward and mechanical explanation. The extra time would result from the fact that it is a very complex process to re-determine volume forecasts and then to update a gas supply plan, and then to re-determine Allowed Revenues and update the Test Year rates that would be needed to recover the updated Allowed Revenue amount. Subsequently, after all of the noted items were updated, it can be expected that parties would require further discovery before proceeding to ADR and a hearing.

Given the foregoing, Enbridge repeats its position that 2014 actual results data is not relevant information that would be useful in the context of this case. Enbridge is mindful, though, that other parties take a different view and clearly wish to have such information available in advance of ADR. In order to be transparent and constructive, Enbridge will provide responses to the un-answered Interrogatories and Undertakings that seek 2014 actual information in relation to those items that are subject to update within this 2015

Rate Adjustment proceeding. These responses will be provided as soon as possible, and in advance of the ADR session.

Enbridge submits that any determination from the Board as to whether (and if so, how) the 2014 actuals information in these responses is relevant to the 2015 Rate Adjustment Proceeding does not need to be made at this time.

Enbridge notes that one or more parties have requested 2014 actuals information that goes beyond the items that are subject to update within the 2015 Rate Adjustment Application.

For example, CME Interrogatory #5 seeks an update of the table at Exhibit B1, Tab 1, Schedule 2, which sets out the constituent parts of the Board-approved rate base amount for 2015. Most of the items in that table are not subject to adjustment in this proceeding. They were fixed in the EB-2012-0459 proceeding for each of the five years of the Customized IR term.

Enbridge submits that 2014 actuals information that relates to items that are not subject to update within this 2015 Rate Adjustment Application is not relevant to the determinations that the Board will make in reviewing and approving 2015 Final Rates. Therefore, Enbridge submits that there is no benefit to producing such information in this proceeding and has not changed its position in this regard.

It is important to highlight that Enbridge's 2014 actual results will be publicly filed and subject to review in the upcoming 2014 Earnings Sharing Application. That is where any review of the results could be relevant. This was explained in Enbridge's Interrogatory responses:

Actual data and results from 2014, including data and results related to rate base, will be filed with the Board and subject to review in the context of the Company's 2014 Earnings Sharing Application. It will also be communicated to all stakeholders and discussed as part of the annual stakeholder day that Enbridge will hold later this spring, in accordance with commitments made in the EB-2012-0459 Decision.<sup>2</sup>

Enbridge hopes that the approach set out above will be satisfactory to stakeholders. However, in the event that stakeholders choose to make submissions in response to the Board's Procedural Order No. 3, then Enbridge reserves the right to provide a reply in accordance with the Procedural Order.

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<sup>2</sup> See, for example, the responses to CME Interrogatory #5 and APPRO Interrogatory #2.

Yours very truly,

AIRD & BERLIS LLP

*David* for

David Stevens

cc. Enbridge Gas Distribution  
All parties registered in EB-2012-0459

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