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Kristen Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, ON M4P 1E4

Dear Ms. Walli:

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

We are writing on behalf of Enbridge Gas Distribution Inc. (Enbridge) to provide Enbridge's reply submission in accordance with Procedural Order No. 3 in this proceeding.

In Procedural Order No. 3, the Board set out a process for submissions on an issue regarding disclosure of Enbridge's 2014 actual results. The Procedural Order provides for intervening parties and Board Staff to file submissions on this issue by February 27, 2015 and for Enbridge to file a reply submission by March 2, 2015.

On February 26, 2015, we wrote to the Board to indicate that, even though the 2014 actual results are not relevant to any issues in this case, Enbridge would provide responses to unanswered interrogatories and undertakings seeking 2014 actual results in relation to items that are to be updated in the 2015 rate adjustment proceeding. Enbridge indicated its willingness to provide this information, without regard for the fact that it is not relevant, so that the Settlement Conference scheduled to begin on March 5, 2015 can move ahead on a cooperative and constructive footing.

Also on February 26, 2015, Enbridge sent a letter to the Board and to all parties with a list of interrogatory responses that will be updated in accordance with the position set out in our letter of February 26th.

Enbridge has received only two submissions on the issue addressed by Procedural Order No. 3. These two submissions were filed by Board Staff and by Canadian Manufacturers & Exporters (CME).

In its submission dated February 27, 2015, Board Staff accepted that Enbridge's approach, as described in our February 26th letter, is reasonable. CME's submission, however, requests "the issuance of an order" requiring Enbridge to produce "all information pertaining to its 2014 actual results". CME has also asked the Board to order that complete answers be given to all interrogatories in respect of which Enbridge provided responses indicating that 2014 actual results are irrelevant.[1]

It is worthy of note that, although there are more than ten intervenors in this case, CME is the only party that has filed a submission indicating any disagreement with the position set out in our February 26th letter. Moreover, the proposition put forward in CME's submission is truly remarkable: CME asserts that Enbridge should be required to produce information about 2014 actual results even in relation to matters that are not actually at issue in this proceeding.

CME apparently relies on two grounds for the singular proposition asserted in its submission. First, CME says that the "reliability and credibility" of Enbridge's forecasting is an issue and, accordingly, that "information capable of supporting an inference that [Enbridge's] forecasting has a bias" is relevant.[2] Second, CME says that the Board requires "bridge year" actual information before approving "test year" rates.[3]

Enbridge submits, with respect, that neither of the grounds relied on by CME supports the curious proposition, or outcome, that Enbridge should be required to produce 2014 actual results even in relation to matters that are not at issue in this case.

Information that is irrelevant to the matters the Board is called upon to decide in any particular case does not become relevant simply on a broad theory that the "reliability and credibility" of forecasting is at issue. If this were the case, then the scope of relevance would essentially be boundless. Regardless of the issues at play in any particular case, and regardless of the information actually relevant to those issues, a party could argue that irrelevant information should be disclosed on the basis of a contention that, in some way, the information will shed light on the "reliability and credibility" of forecasting. Enbridge submits that this approach cannot be a sound one, because it would leave the important principle of relevance without any meaningful definition at all.

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[1] CME letter dated February 27, 2015 (CME Submission), page 5.
[2] CME Submission, page 2.
[3] CME Submission, page 3.

As to the argument that the Board requires "bridge year" information before approving "test year" rates, this of course is an assertion that confuses annual cost of service regulation with the regulatory model approved by the Board for Enbridge, namely, Custom Incentive Regulation. Indeed, CME makes no attempt to hide, in its submission, that it is arguing for disclosure that would be appropriate in the context of annual cost of service regulation: although the Board has approved a Custom IR model for Enbridge, CME's argument is explicitly based on an assertion that the "model under which [Enbridge] is currently operating is a Cost of Service model".[4]

In the EB-2012-0459 proceeding, the Board rejected arguments that Enbridge's proposed Customized IR model should be viewed as cost of service regulation. From the outset of its EB-2012-0459 Decision with Reasons, the Board referred to Enbridge's proposed regulatory model as Custom IR.[5] The Board noted that Enbridge's application for a "Custom IR plan" was the first of its kind since the Board issued its RRFE report.[6] The Board made the following comments to differentiate Custom IR from annual cost of service regulation, or even "traditional" IR plans:

> A Custom IR is not set based on a single cost of service year the way Enbridge's prior traditional IR plan was. A Custom IR is based on five-year forecasts of costs. Once set, the company is then required to operate within that envelope for the next 5 years.[7]

The concept of filing "bridge year" results in the context of annual cost of service regulation has no application during the term of a Custom IR plan, given that the very purpose of the Board's Custom IR model is to set the regulatory parameters, at the outset of the IR term, on the basis of five-year forecasts of costs.

The EB-2012-0459 Decision with Reasons also sets out the Board's conclusion regarding annual rate adjustments under Enbridge's Custom IR plan. In this regard, the Decision indicates that,

> The Board will accept Enbridge's proposal for setting rates in 2015, 2016, 2017 and 2018. While most elements of Allowed Revenue have been determined in this proceeding, certain specific elements will have a

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[4] CME Submission, page 3.
[5] EB-2012-0459 Decision with Reasons, page 4.
[6] EB-2012-0459 Decision with Reasons, page 5.
[7] EB-2012-0459 Decision with Reasons, page 13.

> placeholder amount set at this time and then be updated in advance of the start of each rate year.[8]
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> (Emphasis added.)

The EB-2012-0459 Decision with Reasons makes clear that, at the outset of Enbridge's Custom IR plan, the Board determined most of the elements of Enbridge's Allowed Revenue for the years from 2015 to 2018. Accordingly, during the annual adjustment process for any of the years from 2015 to 2018, it is not relevant to have a set of "bridge year" results such as the Board typically would see in an annual cost of service context. The annual adjustment process is not intended to be a review or re-consideration of regulatory parameters approved, adopted or accepted by the Board as part of the approval of the Custom IR plan; it is intended to be nothing more than an "update"[9] of certain specific elements of Allowed Revenue.

Enbridge submits for these reasons that the Board should reject CME's arguments calling for disclosure of 2014 results even in relation to matters that are not at issue in this case. Before closing these comments in reply to CME's submission, though, Enbridge will touch on the underlying notion in CME's arguments that it is appropriate for the Board to review Enbridge's 2015 forecasts in the manner contemplated by CME.

CME has set out in its submission the matters that it perceives to be at issue in this proceeding.[10] Certain of these matters that CME says are at issue in this case are actually areas of cost that are or have been determined in other proceedings (Customer Care/CIS costs and DSM). Other costs (referred to by CME as Pension and OPEB expense amounts) are recorded in a variance account that accounts for any variance between actual expenses and amounts approved for recovery in rates. The remaining areas referred to as matters in issue by CME are determined in accordance with models and methodologies (such as the degree day methodology and the average use model or methodology) that have previously been the subject of evidence presented to the Board.

As noted above, the Board has stated that, under a Custom IR model, the Board will require (at least) a five-year forecast of costs and the applicant will be expected to operate within the Board-approved envelope for five years. Enbridge submits that it is completely contrary to the expectations of this model that, on an annual basis during the term of a Custom IR plan, there will be a review of models

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[8] EB-2012-0459 Decision with Reasons, page 83.
[9] Note that the word "updated" is used repeatedly on pages 82-83 of the EB-2012-0459 Decision with Reasons.
[10] EB-2012-0459 Decision with Reasons, pages 1-2.

and methodologies that produce annual forecasts of costs. A fundamental expectation of Custom IR is that, at the time of approving the regulatory model, the Board will look ahead to set regulatory parameters for (at least) a five-year period and that, as a result, there will be no need for an annual review of models and methodologies during each of the five years that make up the term of the plan.

Enbridge therefore respectfully submits that the Board should reject the arguments made by CME and that no order should be made requiring Enbridge to disclose further information in this case.

All of which is respectfully submitted.

Yours truly,

AIRD & BERLIS LLP

Fred D. Cass

FDC

cc. Enbridge Gas Distribution Inc.
All EB-2014-0276 Intervenors