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**BY EMAIL**

April 10, 2015

Ms. Kirsten Walli OEB  
Secretary Ontario Energy  
OEB P.O. Box 2319  
2300 Yonge Street, Suite 2700  
Toronto ON M4P 1E4

Dear Ms. Walli:

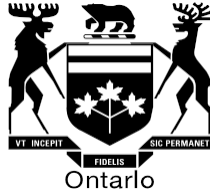
**Re: Application under section 38(3) of the OEB Act-Storage Compensation  
OEB File No.: EB-2014-0351**

Pursuant to Procedural Order No. 1 dated February 15, 2015, please find attached OEB staff's submissions for the above proceeding.

Yours truly,

*Originally Signed By*

Zora Crnojacki  
Project Advisor



## **OEB STAFF SUBMISSIONS**

### **Application for Storage Rights Compensation (EB-2014-0351)**

**April 10, 2015**

## The Application

On November 20, 2014 Mr. Paul Babirad on behalf of his father, Mr. Jim Babirad filed an application with the Ontario Energy Board (OEB) under section 38(3) of the *Ontario Energy Board Act*, 1998 (Act) requesting that the OEB determine the compensation payable to Mr. Babirad by Enbridge Gas Distribution Inc. (Enbridge) for storage rights in Enbridge's Crowland natural gas designated storage area (Crowland Pool). The applicant has no storage rights agreement with Enbridge which makes him eligible to apply to the OEB under section 38(3) to determine the appropriate amount of compensation payable.

## Process

The OEB issued a Notice of Application and Procedural Order (Notice) on February 15, 2015. The OEB decided to proceed by way of written hearing. There are no intervenors.

In addition to the evidence filed with the application, Mr. Babirad filed supporting evidence on February 4, 2015 and on February 12, 2015. Enbridge filed responding material on February 27, 2015. Mr. Babirad, Enbridge and OEB Staff filed interrogatories related to the application and supporting evidence on March 6, 2015. On March 27, 2015 Mr. Babirad and Enbridge filed responses to the interrogatories.

## Evidence

### Crowland Pool

The Crowland Pool was designated as a storage area in 1964.

The Crowland Pool is a lenticular geologic underground formation located in the Niagara Region and is connected to the Enbridge distribution system in the Niagara region.

There are 74 landowners within the Crowland Pool. Enbridge holds storage rights leases (leaseholders) and pays storage rights compensation per acre per year to 71 landowners.

Enbridge operates the Crowland Pool exclusively for regulated storage services. Both Mr. Babirad and Enbridge referred to the OEB's Cozier Report dated May 4, 1964. The Cozier Report reported on a broad scope of issues on the storage of

natural gas in Ontario. The Cozier Report distinguished between pinnacle reefs geology which forms the majority of storage pools in Ontario and lenticular geology storage pools. Due to their geological characteristics, pinnacle reef storage pools have superior performance compared to lenticular pools.

The Crowland Pool is the only lenticular pool operating in Ontario. Based on the evidence filed by Enbridge, storage reservoir performance is measured by a combination of the following factors: injection/withdrawal rate; operating cost per unit of storage; proximity to compressor, transmission and related facilities; and access to gas market. Based on an assessment of all of these measures Enbridge's evidence is that the Crowland Pool has a comparably lower performance and is more expensive to operate than pinnacle reef pools, which supports a lower compensation paid to these leaseholders compared to pinnacle reef leaseholders.

#### Indenture and Mineral Rights

Originally, Mr. Babirad's property was 40 acres. It was later severed and the ownership of 24.03 acres was transferred to a third party. The current area of Mr. Babirad's property is about 16 acres. Mr. Babirad does not hold a storage rights agreement with Enbridge for the Crowland Pool. In 1965 Consumers Gas (now Enbridge), entered into an indenture with the predecessors of Mr. Babirad (Indenture). According to the Indenture, Mr. Babirad's predecessors granted all the mineral rights under the property to Consumers Gas for a one-time payment of \$800. Enbridge's position is that this payment represents full compensation for storage rights to Mr. Babirad.

According to Mr. Babirad and Enbridge, there were no negotiations around storage rights compensation for the property until 2013 when negotiations commenced and continued through 2013 until 2014. The negotiations were not successful.

#### Compensation

Mr. Babirad submitted that he wanted to receive compensation comparable to compensation awarded to the pinnacle reef landowners in Lambton County Storage Association (LCSA) OEB proceeding (RP-2000-0005) and other Enbridge pinnacle reef leaseholders. The Cozier Report noted that the capacity of lenticular pools is much lower than the capacity of pinnacle reef pools and that using the same formula for storage rights compensation would not be appropriate and that the rates agreed upon for Crowland Pool appear to be "fair and reasonable".

Enbridge confirmed that for the historical period up to 2004, Enbridge's pinnacle

reef pool landowners compared to Crowland Pool landowners receive, on average compensation about 16 times higher.

Enbridge retained Elenchus Research Associates Inc. to provide an independent recommendation regarding the quantum of compensation to be paid by Enbridge to the Crowland Pool landowners who have a storage rights agreement with Enbridge. Enbridge filed a report "An Assessment of Reasonable Compensation Amounts to the Enbridge Gas Distribution Inc. Crowland Gas Storage Leaseholders", February 26, 2015 (Elenchus Report) as part of its evidence in this proceeding.

The Elenchus Report recommended that the payments to Crowland leaseholders be increased for 2015 from the current \$6/acre by 43.5% to line up with increases to other Enbridge's pool storage rights compensation increases. Elenchus also recommended that Enbridge further adjust compensation by 2.36% which Enbridge implemented in their payments to its other leaseholders in 2015. Elenchus recommended the 2015 payment to Crowland leaseholders be \$8.81/acre. These recommendations are based on a comparison of the Crowland Pool performance and quality in comparison to other Enbridge pools and comparison of historical increases that Enbridge made to storage rights compensation payments.

### **OEB Staff Submission**

OEB staff notes that Enbridge was willing to negotiate with Mr. Babirad in 2013 and in 2014 it extended offers for storage rights payments in exchange for a storage rights agreement signed by Mr. Babirad. Enbridge's position is the storage rights compensation payable to Mr. Babirad was paid in full 1965 by means of an Indenture. Enbridge also stated that if the OEB orders storage rights compensation to be paid to Mr. Babirad, then the quantum of such compensation should align with the Elenchus Report recommendations.

OEB staff agrees with the recommendations in the Elenchus Report and submits that increasing the payments to all Crowland Pool landowners, including Mr. Babirad, seems fair and equitable.

Board staff submits because the Crowland Pool provides lower performance and higher operating cost per unit of storage, compared to pinnacle reef storage pools operated by Enbridge, it does not warrant the same quantum of compensation for storage rights as pinnacle reef pools landowners.

All of which is respectfully submitted