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October 30, 2015

BY EMAIL, COURIER AND RESS

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

Dear Ms. Walli:

**Re: Ontario Energy Board File No. EB-2015-0233  
Enbridge Gas Distribution Inc. (Enbridge) Application for Exemption from  
the Affiliate Relationships Code for Gas Utilities (ARC) (the Application)  
Response re Confidentiality Request to Submissions made by Industrial  
Gas Users Association (IGUA)**

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We are Counsel to Enbridge in respect of the above Application. This is the response of Enbridge to the submissions made by IGUA to Enbridge's request that two reports referenced in the Application be treated in confidence.

It appears that at least some of the submissions made by IGUA were motivated by what Enbridge has recently determined to be some procedural confusion which occurred earlier. A brief chronology of events is appropriate.

Under cover of a letter dated August 6, 2015, Enbridge filed its Application and supporting evidence for the ARC exemption. This supporting evidence included a Business Case analysis which specifically referenced two reports prepared by Accenture and Gartner Consulting ("Reports"). Appendices 5.1 and 5.3 of the Application materials indicated that these Reports were being filed in confidence.

On the same date, Enbridge also filed a letter requesting confidential treatment of the Reports. This letter was prepared in compliance with the Ontario Energy Board's ("Board") *Rules of Practice* and the *Practice Direction on Confidential Filings*. As Enbridge was requesting confidential treatment for the entirety of the Reports, a description of each was attached to the letter requesting confidentiality (together the "Letter"). Enbridge filed the Letter and unredacted confidential copies of the Reports with the Board on August 6, 2015.

Despite the fact that the Letter referenced the appropriate docket number, it appears that it was not linked to the Application filing, as a result of which the Letter was not posted on the Board's website. Enbridge did not notice this until very recently and this may explain

why Procedural No. 1 dated October 1, 2015 did not reference the request for confidentiality. Indeed, it appears that the Letter was only recently posted.

Pursuant to the Board's Letter of Direction, Enbridge served all parties to the EB-2014-0267 and EB-2015-0122 proceedings with a copy of its Application materials. It however appears that these parties did not receive a copy of the Letter requesting confidentiality. Enbridge regrets this oversight and any confusion that it may have caused. Certainly, there was never any intention to request confidential treatment other than in accordance with the Board's Rules and Practice Direction.

Procedural Order No. 2 was issued on October 14, 2015. This Procedural Order made provision for the request for confidentiality requiring parties interested in reviewing the Reports to file Undertakings with the Board. Of the five intervenors to this proceeding, Canadian Manufacturers and Exporters (CME) and IGUA filed Declarations and Undertakings, and both were provided with a copy of the Reports.

Pursuant to Procedural Order No. 2, the Board set October 26, 2015 as the date for the filing of submissions on Enbridge's request for confidentiality. Board Staff filed a submission on October 23, 2015, supporting the request for confidentiality and Enbridge's request that both Reports be treated in confidence in their entirety. CME has not made any submissions. IGUA filed its submissions on October 27, 2015.

IGUA essentially makes two submissions. The first relates to its apparent non-receipt of the Letter which appears to be the case. It is hoped that the above explanation is satisfactory.

IGUA's second submission suggests that the Reports could have been redacted, with the unredacted portions being placed on the public record. Before responding specifically to this submission, it is noteworthy that IGUA, which has now reviewed the Reports in their entirety, does not take the position that the Reports do not contain commercially sensitive information and data. It appears that IGUA's submission is limited to the issue of whether portions of either or both of the Reports which did not appear to IGUA as being confidential should have been placed on the public record.

Enbridge carefully reviewed both Reports and concluded that after redacting, there would remain virtually nothing which would be of assistance to parties. While title pages, tables of contents, and diagrams illustrating timelines may not be confidential, they are of little or no relevance. Certainly they do not assist parties in a meaningful way.

The Gartner report totals 79 pages, of which Enbridge submits 60 pages would require complete redaction because of the financial data and comparative information. Another 14 pages consist of title, chapter and signature pages, all of which would be of no benefit. The remaining several pages, which include a calendar of timelines, Enbridge submits would again be of little meaningful assistance.

Similarly, of the 23-page Accenture report, 16 pages would require full redaction and 4 more consist of title pages, table of contents, etc.

Enbridge recognized that the Reports while containing much confidential information are relevant to its Application and for this reason, it specifically referenced in its materials the authors, nature, purpose and conclusions drawn from the Reports. This summary of the Reports is contained in the Business Case and its appendices which have been filed on the public record.

While Enbridge acknowledges that there may be certain sentences or paragraphs that could individually and selectively be carved out of the Reports because they do not appear to be confidential, placing isolated pieces of the Reports on the public record would be of questionable relevance, could be taken out of context and might simply cause confusion.

Enbridge accepts that ultimately the determination of whether confidential treatment should be granted to the entirety of the Reports rests with the Board and Enbridge is cognizant of the Board's expectations in respect of open and transparent proceedings. Enbridge is also aware of the Board's Practice Direction, at page 7, which requires an applicant, when requesting confidential treatment, to "prepare **meaningful** redacted documents **or summaries** so as to maximize information that is available on the public record".

Enbridge submits that redacting the Reports would not meaningfully have assisted parties. It further submits that the Application materials specifically include meaningful summaries of the purpose, nature and results of the Reports. Enbridge therefore believes that it has satisfied the requirement to maximize information that is available on the public record.

Enbridge therefore reiterates its request for confidential treatment of the Reports in their entirety.

Yours truly,

AIRD & BERLIS LLP

[original signed]

Dennis M. O'Leary

DMO:ct

cc Ronak Mozayyan, Case Manager, Ontario Energy Board  
[ronak.mozayyan@ontarioenergyboard.ca](mailto:ronak.mozayyan@ontarioenergyboard.ca)

cc Intervenors

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