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BY EMAIL

December 7, 2015

Ontario Energy Board
P.O. Box 2319
27th Floor
2300 Yonge Street
Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: OEB STAFF SUBMISSION

**APPLICATION FOR AN EXEMPTION FROM SECTION 2.2.2 OF THE
AFFILIATE RELATIONSHIPS CODE FOR GAS UTILITIES.**

EB-2015-0233

In accordance with Procedural Order No. 3, please find attached OEB Staff's Submission with respect to the above referenced application.

Yours truly,

Original Signed By

Ronak Mozayyan
Project Advisor, Facilities and Infrastructure

cc: Parties to EB-2015-0233



ONTARIO ENERGY BOARD

OEB Staff Submission

**Application by Enbridge Gas Distribution Inc. (EGDI) for an Exemption from
Section 2.2.2 of the Affiliate Relationships Code for Gas Utilities.**

EB-2015-0233

December 7, 2015

INTRODUCTION

These are the submissions of the Ontario Energy Board (OEB) staff in response to the OEB's Decision and Procedural Order No. 3 dated November 24, 2015 (EB-2015-0233).

BACKGROUND

Enbridge Gas Distribution Inc. (EGDI) filed an application with the Ontario Energy Board on August 6, 2015 under section 19 and 44 of the *Ontario Energy Board Act, 1998*, seeking an exemption from section 2.2.2 of the *Affiliate Relationships Code for Gas Utilities* (ARC). If granted, the exemption would enable EGDI to share Information Technology (IT) services on a consolidated basis with its corporate parent Enbridge Inc.

The OEB issued a Notice of Hearing on August 28, 2015.

On October 1, 2015, the OEB issued Procedural Order No. 1 which granted intervenor status to the Building Owners and Managers Association, Greater Toronto (BOMA); Canadian Manufacturers & Exporters (CME); Union Gas Limited (Union), Energy Probe Research Foundation (Energy Probe) and Industrial Gas Users Association (IGUA).

On November 24, 2015, the OEB issued its Decision on Confidentiality and Procedural Order No. 3 in which it set out the process for filing interrogatories and final arguments. OEB staff, IGUA, CME and Energy Probe filed interrogatories and EGDI provided responses to all interrogatories.

THE APPLICATION

As noted above, EGDI submitted an application seeking an exemption from section 2.2.2 of the ARC. Section 2.2.2 of the ARC states that "where a utility shares information services with an affiliate, all confidential information must be protected from access by the affiliate. Access to a utility's information services shall include appropriate computer data management and data access protocols as well as contractual provisions regarding the breach of any access protocols...."

The need for the exemption arises from Enbridge Inc.'s efforts to eliminate duplication in IT services across its affiliates, including EGDI (Enterprise). Accordingly, Enbridge Inc.

has consolidated all of its IT infrastructure services to enable sharing across Enterprise. The consolidation of IT services occurred in late 2014, early 2015 and since then EGDI has been receiving certain IT shared services pursuant to the Regulatory Cost Allocation Methodology (RCAM) Intercompany Service Agreement (ISA). However, EGDI has been unable to fully participate and receive all of the anticipated benefits of IT shared services because of ARC restrictions.

EGDI states in its application that under the IT shared services model, EGDI employees and contractors would be consolidated within Enterprise and become Enterprise employees and contractors (ITSS Contractors). The ITSS Contractors would be shared amongst all affiliates. In the course of carrying out certain IT shared services, the ITSS Contractors will have incidental access to confidential information¹ within EGDI's information systems.

In support of its application, EGDI has prepared a business case that describes the structure and benefits of the IT shared services. The business case also outlines how EGDI will ensure the continued security of customer information through certain safeguards. As well, EGDI has proposed to file with the OEB on an annual basis that the facts or circumstances underlying the exemption request remain unchanged. It has further proposed to provide notice to the OEB if there is any material change to the ISA for the provision of IT Shared Services.

SUBMISSION

OEB staff submits that an exemption from section 2.2.2 of the ARC should be granted to EGDI.

In reviewing EGDI's application, OEB staff focused on assessing the incidental access to confidential information and the proposed safeguards that protect unauthorized use and access by ITSS Contractors. Based on this review, staff submits that adequate safeguards exist to ensure continued security of EGDI customer information.

The IT shared services consist of six service categories, three of which may result in incidental access to confidential information. The three categories are Service Management, Productivity Services and Security Operations. With respect to Service

¹ As defined in section 1.2 of the ARC, which states ""confidential information" means information relating to a specific consumer, marketer or other customer of a utility service, which information the utility has obtained in the process of providing current or prospective utility services."

Management and Productivity Services, EGDI has stated that ITSS Contractors may have limited and incidental access to customer information while, for example, repairing hardware or troubleshooting. However, as explained in the response to staff interrogatory no. 3 and Energy Probe interrogatory no. 9, these incidental views do not include customers' financial information.

In its application, EGDI stated that for incidents involving Security Operations, ITSS Contractors would have the ability to conduct forensic investigations and retrieve information from a user's (i.e. EGDI's) hard drive, mobile device e-mail and file-sharing/Microsoft Share Point sites. EGDI explained in its application and responses to staff interrogatory no. 5 that such investigations have been "very rare" and are "strictly controlled and managed by EGDI personnel." EGDI further explained that personnel are required to execute a confidentiality undertaking to provide information gathered only for the EGDI Compliance Officer directing the investigation. Customer information retrieved for such investigations are always delivered to EGDI personnel and not stored with ITSS Contractors after the investigation.

Further, in response to staff interrogatory no. 3, EGDI clarified that ITSS Contractors will only have access to EGDI's customer information when there is a system issue, required maintenance, or an investigation as authorized by EGDI and that permission is always required from EGDI personnel to perform any IT shared services.

EGDI has established a number of safeguards to ensure that customer information is protected from unauthorized use and that access by ITSS Contractors requires EGDI's permission, is limited and controlled. ITSS Contractors are required to receive specific training on privacy and IT standards. As noted in staff interrogatory no. 4, in the last two years, EGDI has not experienced any instances where its IT employees or IT contractors have breached any organizational protocols, or have accessed and misused confidential information.

EGDI has stated that Enterprise does not offer any competitive retail energy services in Ontario. EGDI's affiliate, Tidal Energy Marketing Inc., conducts natural gas marketing activity in Ontario for industrial and wholesale customers, but does not provide services in the retail energy market.

In its pre-filed evidence, EGDI has proposed to provide annual updates and to notify the OEB in the event of any material change to the ISA. OEB staff supports EGDI's proposal.

Therefore, for the above noted reasons, OEB staff submits that an exemption from section 2.2.2 of the ARC should be granted to EGDI provided that EGDI does not engage in any retail energy services going forward.

The OEB staff further submits that If an exemption is granted to EGDI, the OEB should consider adding a condition to any exemption confirming that the OEB would retain the jurisdiction to audit activities with respect to any of the safeguards EGDI has established to ensure customer information is protected.

All of which is respectfully submitted