



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

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Reply To: Thomas Brett
Direct Dial: 416.941.8861
E-mail: tbrett@foglers.com
Our File No. 171294

VIA RESS, EMAIL AND COURIER

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
M4P 1E4

Attention: Kirsten Walli
Board Secretary

Dear Ms. Walli:

**Re: EB-2016-0246: Enbridge Gas Distribution Inc. and Union Gas Limited,
Application for Approval of New and Updated Conservation Measures
and the Technical Resource Manual – Decision and Order on Cost Awards**

While we are not asking for a review of the cost awards, we wish to clear up an apparent misunderstanding. The Decision and Order on Cost Awards states the following:

Work for BOMA was undertaken by a consultant and counsel each with many years of experience. The OEB questions the need for BOMA to engage two experienced professionals given the consultant's familiarity with DSM inputs, her role as an expert in the new OEB-led process and the limited legal issues raised in this proceeding. The OEB appreciates the importance of the issues raised in this proceeding to BOMA's members, but BOMA's level of participation does not justify a substantially higher fees claim compared to SEC and OSEA.

It is important to clarify that in Marion Fraser's role in the new OEB-led process, she has only been involved with the process since the OEB took it over. Projects that she has been involved in have included estimates of potential for the Technical Working group and the evaluation of 2015 results for the Evaluation Advisory Committee

The updated Conservation Measures and the Technical Resource Manual ("TRM") were solely driven by the previous committee of company representatives and elected intervenors. Marion did not have access to any of the material in advance of it being filed as evidence in this proceeding representing over 315 pages of documentation of a highly technical nature and even more pages of IRRs.


It is because Marion has over 30 years of experience in demand side management and understands the differences between natural gas DSM and electric DSM that she found it necessary to closely review the TRM. Together, we found it deficient in many ways:

- The TRM is based on the California Standard Practice first established almost 40 years ago, and uses a methodology that is based on deemed or estimated savings from a more efficient piece of equipment replacing a less efficient and older model piece of equipment, rather than real, measured and metered savings for the buildings) itself, is an outdated and second best approach, for the residential, commercial, institutional, multi-family residential, and industrial sectors. Calculations are based on estimates, assumptions and weighted averages of factors used in a range of studies to determine cost and energy savings. Much of the supporting materials are US sourced, as are the TRM consultants and the evaluation consultants. In many cases, the US based data is based on outdated studies by US based electric utilities where space heating is not as essential as in Ontario's cold climate.
- The terms of reference states that the TRM is to cover natural gas DSM activities. However, it appears that the manual focuses exclusively on replacing a given piece of equipment for a more efficient device. BOMA Toronto members increasingly find that a more holistic "performance based" approach to energy conservation is more successful than a purely equipment based approach to reduce the energy intensity on a per square meter basis.
- The TRM uses a narrow definition of technology, thereby limiting the potential measures that could be used in DSM. Definition: Technology: "Technology" refers to the type of equipment (e.g. Adaptive Thermostat). However, a fuller consideration of all elements of technology is more suitable to DSM as per the dictionary definition which includes:
 - the branch of knowledge that deals with the creation and use of technical means and their interrelation with life, society, and the environment, drawing upon such subjects as industrial arts, engineering, applied science, and pure science.
 - the application of this knowledge for practical ends.
 - the terminology of an art, science, etc.; technical nomenclature.
 - a scientific or industrial process, invention, method, or the like.
 - the sum of the ways in which social groups provide themselves with the material objects of their civilization.
- The TRM is entirely based on assumptions, not real data.

- The deemed savings approach incorporated in the TRM, which had already existed in the US (it had been developed in California), was adopted as it allowed the utilities to quickly amass savings by installing thousands of one-off products, without having to measure actual savings achieved (smart meters and big data had not arrived in 1994).
- The TRM ignores important changes in Ontario's energy conservation institutional framework. New companies have emerged which specialize in assisting commercial, industrial and apartment building owners to measure, understand and manage their energy consumption, and how to reduce that consumption through best energy management and operational practices, senior, middle management, and front-line management, technicians, and staff engagement, intelligent use of control systems, and retrofits, where appropriate, working from both bottom-up and top-down initiatives.
- The TRM makes no use of the data that has resulted from Ontario Regulation 397/11 which requires energy conservation reporting on public sector facilities and agencies (e.g. School Boards) or the improved availability of data or from smart meters, and smart information monitoring, aggregating and reporting systems that are available.

Yours truly,

FOGLER, RUBINOFF LLP



Thomas Brett

TB/dd

cc: Michael Bell, OEB (*by email*)
Stephanie Allman, EGD (*by email*)
Adam Stiers, Union (*by email*)
Dennis O'Leary, Aird & Berlis (*by email*)
Crawford Smith, Torys (*by email*)
Marion Fraser, Fraser & Company (*by email*)
Bala Gnanam, BOMA (*by email*)