

September 28, 2006

**BY EMAIL AND COURIER**

Ms Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
27th Floor, P.O. Box 2319  
Toronto, Ontario  
M4P 1E4

Dear Ms Walli:

**Re: Enbridge Gas Distribution Inc. – Fiscal 2007 Rates  
Ontario Energy Board (“Board”) File No. EB-2006-0034**

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We write in respect of the Notices of Intervention recently filed in this matter on behalf of the Vulnerable Energy Consumers’ Coalition (“VECC”) and on behalf of the Low-Income Energy Network (“LIEN”). It appears from these Notices of Intervention that both VECC and LIEN intend to participate fully in the Fiscal 2007 rate case for Enbridge Gas Distribution Inc. (“Enbridge” or the “Company”).

Enbridge objects to the proposed funded interventions on the ground that it is neither necessary nor appropriate for more than one intervenor to represent the same interest in the rate case. As set out below, VECC and LIEN both represent and advocate on behalf of the same constituency, low income gas customers. While both VECC and LIEN have intervened in some recent generic proceedings involving the Company, this is the first Enbridge rates proceeding in which both have sought to intervene. Enbridge believes that it is appropriate at this time to highlight to the Board its concerns about the funded participation of two groups representing the same interest in a rate proceeding.

VECC’s Notice of Intervention is filed by the Public Interest Advocacy Centre (“PIAC”) and states that :

VECC is a coalition of groups that represents the interests of those energy consumers who, because of their household income, or other distinguishing characteristic such as age, literacy etc., have a set of concerns that may differ in kind, and, in magnitude, from those of more affluent residential consumers as well

as commercial and industrial customers. The Vulnerable Energy Consumers' Coalition (VECC) is currently comprised of the Ontario Coalition of Senior Citizens (OCSCO), and the Federation of Metro Tenants Association.

In VECC's Notice of Intervention, PIAC states that it "coordinates the participation of VECC". While information about VECC is included on PIAC's website ([www.piac.ca](http://www.piac.ca)), there is no separate office, contact information or website for VECC itself.

LIEN's Notice of Intervention states that:

LIEN is an organization of more than 50 member organizations from across Ontario, including, energy, public health, legal, tenant/housing, education and social and community organizations. ....

As an umbrella organization, LIEN offers the opportunity for one entity to represent the similar interests of many organizations that have come together under LIEN.

...

The Low-Income Energy Network:

- aims to ensure universal access to adequate, affordable energy as a basis necessity ...
- promotes programs and policies which tackle the problems of energy poverty and homelessness ...

LIEN's website ([www.lowincomeenergy.ca](http://www.lowincomeenergy.ca)) lists the members "that have come together under LIEN". Two of these members are PIAC and the Federation of Metro Tenants Association.

It appears to the Company, therefore, that not only do VECC and LIEN represent the same interest, that of low income customers, but that additionally, to some extent, they also represent the same organizations.

Dual representation of a single interest unnecessarily adds to the length, complexity and costs of rate proceedings.

To the extent that the two groups advance identical positions, nothing is gained from this additional burden. Moreover, in that case where a constituency is served by two proposed intervenors, it achieves an unfair advantage because it receives two opportunities to advance its position rather than the single opportunity afforded to all other participants.

To the extent that the two groups advance different or contradictory positions, an absurdity results because an inconsistent case is presented to the Board on behalf

of the same constituency. Further, the applicant is forced to respond to positions advanced on behalf of a particular interest that cannot be reconciled with one another. This is more than just a speculative problem; it has already arisen in the recent DSM generic proceeding. In that case, VECC was a signatory to the partial settlement agreement, which was ultimately approved by the Board in totality, including the commitments to low income customers. LIEN opposed the partial settlement and proposed a level of spending and proportionality substantially different than in the partial settlement agreement. The Board did not accept LIEN's position.

Dual representation of a single interest by intervenors seeking to be funded for their participation also adds to the costs of the proceeding. To the extent that both intervenors participate in any particular aspect of the case, then the costs will increase substantially. This concern is particularly acute in the context of lengthy proceedings where parties spend many days in settlement conference and hearing. The cost award applications made in the recent DSM proceeding illustrate this concern. In that case, LIEN's total cost claim (which includes an expert) is for approximately \$109,000 and VECC also makes a cost claim for about \$39,000. Both intervenors make claims for substantial counsel time spent at the settlement conference (LIEN – 48.75 hours and VECC – 61 hours) and at the hearing itself (LIEN – 69 hours and VECC – 81 hours). Additionally, while the costs claims have not yet been submitted for the recent Natural Gas Electricity Interface Review proceeding, based upon its observations of the level of participation of each intervenor, the Company expects that both VECC and LIEN will make substantial cost claims including, among other things, many days spent by each of the two parties at the settlement conference and many hours spent preparing argument.

The Company agrees with the Board's comments included in a cover letter when changes to the costs awards process were introduced. In that letter, dated October 27, 2005, the Board stated that "it benefits from receiving the perspective of a variety of stakeholders, many of whom would not be in a position to participate without a contribution towards their costs". On the other hand, however, there is no incremental benefit in having multiple representatives of the same constituency intervene separately in the same proceeding. Enbridge does not dispute the perspective that either VECC or LIEN brings to a proceeding, but does dispute the need to have two organizations, who seek to have their interventions funded through a costs award, represent the same interest. This is particularly so in a long proceeding like a rate case that already has as many as fifteen active intervenors, as was the case in the Company's last rate case.

For the reasons set out above, Enbridge believes that it is appropriate that LIEN and VECC should combine their interventions and jointly represent their constituency in this proceeding.

Alternately, in the event that the Board does not believe that ordering a joint intervention is appropriate, the Company submits that such interventions should be approved on the basis that the two intervenors will share one set of costs (provided that all other criteria for an award of costs are satisfied at the conclusion of the proceeding). The Company notes that this is the approach that the Board took in the RP-2003-0048 case (Enbridge's 2004 rate case) where it determined, in respect of the proposed interventions of the Ontario Association of School Board Officials and the Ontario Public School Boards' Association, that "both parties will be eligible to one cost award to be shared between them".

Should you have any questions with respect to the foregoing, please do not hesitate to contact us.

Yours very truly,

AIRD & BERLIS LLP



David Stevens

DS/

cc: Patrick Hoey, Director of Regulatory Affairs, Enbridge Gas Distribution  
Michael Janigan, counsel to VECC  
Paul Manning, counsel to LIEN

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