

**IN THE MATTER OF** the *Ontario Energy Board Act, 1998*,  
S.O. 1998, c. 15 (Sched. B).

**AND IN THE MATTER OF** a proceeding initiated by the  
Ontario Energy Board to determine whether it should order  
new rates for the provision of natural gas transmission,  
distribution and storage services to gas-fired generators (and  
other qualified customers) and whether the Board should  
refrain from regulating rates for storage of gas.

**AND IN THE MATTER OF** Rules 7, 42, 44 and 45.01 of the  
Board's *Rules of Practice and Procedure*.

**ARGUMENT IN CHIEF  
OF  
ENBRIDGE GAS DISTRIBUTION INC.  
(Motion to Vary NGEIR Settlement Proposal)**

1. Enbridge Gas Distribution Inc. (Enbridge) proposes a delay of the review of new services provided for in section 1.1, paragraph (I) of the *Settlement Proposal for Issues Relating to Enbridge Gas Distribution Inc. in the NGEIR Proceeding* dated June 13, 2006 (the Settlement Proposal). For this purpose, Enbridge seeks an order of the Board varying the Settlement Proposal.

2. The Settlement Proposal was accepted by the Board in the Natural Gas-Electricity Interface Review proceeding (NGEIR, EB-2005-0551). Paragraph (I) of section 1.1 of the Settlement Proposal provides as follows:

Parties recognize that some operating experience with the new Rate 125 and the other rates and services being developed through this proceeding (Rates 300, 315 and 316) is needed before it can be determined whether further modifications to the services and associated rates schedules

should be proposed. Parties agree that, once sufficient operating experience has been gained, and in any event no later than March 31, 2009, interested customer groups and Enbridge Gas Distribution will convene to evaluate and discuss the experience and success of the services offered as a result of this proceeding. At that time, any party may propose further modifications to the rate schedules.

3. For the reasons set out in its pre-filed evidence, Enbridge believes that, by March 31, 2009, there will not be sufficient operating experience with the new services approved in the NGEIR proceeding to have a meaningful review of those services. Further, in a proceeding being dealt with by the Board under docket number EB-2008-0146, Union Gas Limited (Union) has requested that the deadline for the Power Services Review called for in Union's NGEIR Settlement Agreement be changed from March 31, 2009 to March 31, 2010. In Enbridge's view, the review of new services contemplated in the Settlement Proposal should occur sometime in 2010, perhaps at or about the same time as the Power Services Review under Union's Settlement Agreement.

4. As far as Enbridge is aware, no party objected to Union's request for a delay of the Power Services Review called for in Union's NGEIR Settlement Agreement. In fact, the Association of Power Producers of Ontario (APPRO) filed submissions in the EB-2008-0146 proceeding that offered the following points (among others) for the Board's consideration:

(a) APPRO's members are the primary beneficiaries of the Power Services Review provision in Union's NGEIR Settlement Agreement;

(b) APPRO's members believe that they will not have sufficient operating experience with any of Union's new services by March 31, 2009 to allow for a meaningful dialogue at the Power Services Review;

(c) based on feedback from its members, APPrO believes that a Power Services Review would best be held later in 2009 or early in 2010;

(d) APPrO supports Union's proposal to postpone the deadline for Union's Power Services Review by one year to March 31, 2010; and

(e) APPrO supports Union's submissions with respect to the Board's jurisdiction to vary its decisions and Union's request for an extension of time to bring a motion to vary Union's NGEIR Settlement Agreement.

5. Similarly, Enbridge believes that APPrO's members are the primary beneficiaries of the review of new services provided for in section 1.1, paragraph (I) of the Settlement Proposal. In connection with Enbridge's request that the Board vary section 1.1, paragraph (I) of the Settlement Proposal, APPrO submitted a letter to the Board on or about August 14, 2008. In this letter, APPrO stated as follows:

Similar to our note of May 20 2008, with respect to the Union Gas Settlement Agreement, new Enbridge gas-fired generator customers coming into service in 2008 are likely to have had little more than a few months of "sufficient operating experience" by March 2009, and it may be prudent again to explore whether or not a later date might be more useful, for example 2010 as proposed by Union.

6. The Board may vary its decisions under the authority of Rule 42 of the Board's *Rules of Practice and Procedure* and section 21.2 of the *Statutory Powers Procedure Act*. Further, to the extent that any extension of time is necessary for the Board to hear this motion, such extension may be granted under Rules 7.01 and 7.02 of the *Rules of Practice and Procedure*.

7. Enbridge therefore submits that the Board should vary the Settlement Proposal, such that the review of new services referred to in section 1.1, paragraph (l) of the Settlement Proposal will occur once sufficient operating experience has been gained and in any event no later than March 31, 2010.

All of which is respectfully submitted.

September 11, 2008

A handwritten signature in cursive script, reading "Fred D. Cass", is written over a horizontal line.

Fred D. Cass  
Counsel for Enbridge Gas Distribution Inc.