



EB-2009-0103

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

AND IN THE MATTER OF an application by Enbridge Gas
Distribution Inc. for an order or orders approving certain
Demand Side Management input assumptions for the 2009
program year.

BEFORE: Paul Sommerville
Presiding Member

Cynthia Chaplin
Member

DECISION AND ORDER

Enbridge Gas Distribution Inc. ("Enbridge") filed an application with the Ontario Energy Board, (the "Board") dated April 1, 2009 seeking approval of certain demand side management ("DSM") input assumptions for its 2009 program year. The Board assigned File No. EB-2009-0103 to this application.

In the Board's Decision with Reasons for the Natural Gas DSM Generic Proceeding in EB-2006-0021 (the "Generic DSM Decision" or the "Generic Proceeding"), it outlined a process allowing for updates to the DSM input assumptions, "arising from the evaluation and audit process, to be filed with the Board and considered accordingly."

Enbridge's proposed input assumptions list for the 2009 program year did not go through the evaluation and audit process. Enbridge stated that in its submission of the 2008 assumption update (EB-2008-0384), it had indicated that the updated assumption list for 2009 would be filed by the end of the first quarter of 2009.

On May 4, 2009, the Board directed Union to serve the Notice of Application and Procedural Order #1 on all intervenors in the Generic DSM proceeding and to all of Enbridge's DSM Consultative members. The Board directed any party that wished to comment on Enbridge's application to do so by written submission.

The Industrial Gas Users Association ("IGUA"), the School Energy Coalition ("SEC"), the Green Energy Coalition ("GEC"), Energy Probe Research Foundation ("Energy Probe"), Vulnerable Energy Consumers Coalition ("VECC") and the Canadian Manufacturers & Exporters ("CME") filed submissions.

All of the submissions were critical of Enbridge's failure to consult with the Evaluation and Audit Committee ("EAC") on the proposed input assumptions prior to Enbridge's application to the Board. Enbridge responded that its updated input assumption filing was done based on the best available information at the time. Enbridge noted that the updates reflect information from the last completed audit, comments received from parties and updated studies and information that included a detailed review of intervenor recommendations made in the 2010 input assumption proceeding (EB-2008-0346).

The Board engaged the services of Navigant Consulting to produce a draft report on "Measures and Assumptions for DMS Planning." The draft report was posted for stakeholder comment and review. After all submissions were filed, Navigant revised the input assumptions for accuracy and updated information. On April 29, 2009, the Board adopted the Navigant Measures and Input Assumptions Report dated April 16, 2009, for use in the 2010 DSM plans.

IGUA, CME and SEC each submitted that the Board should defer the approval of Enbridge's 2009 input assumptions until the filing of Enbridge's 2009 DSM audit. They also suggested that Enbridge's 2009 SSM should be based upon the best available information at the time of the 2009 DSM audit. IGUA noted that the proposed assumptions should form the basis for DSM program design, but the 2009 program year is nearing the halfway mark, and therefore the assumptions will only form the basis for

calculation of the SSM. Enbridge responded that the proposal to defer the approval would be a significant deviation from past Board decisions that have reviewed this issue and inconsistent with the complete settlement the parties reached as part of the Generic Proceeding.

VECC submitted that the use of the LEAP working group's framework issues could potentially alleviate concerns about best available assumptions for the Low Income DSM segment.

GEC submitted that in light of the Board's acceptance of the April 16, 2009 Navigant Report on 2010 input assumptions, the Board should simply require the companies to proceed on the basis of the Navigant Report.

GEC also provided a summary document prepared by the Vermont Energy Investment Corporation ("VEIC") on its review of the report Enbridge undertook on low flow showerhead savings and the statistical analysis completed by SAS Institute on behalf of Enbridge. The review findings had been provided to the Board as feedback on Navigant's then proposed draft 2010 input assumptions. In its summary, VEIC expressed concerns that the SAS/Enbridge study design was seriously flawed and that there are fundamental questions about the reasonableness of any conclusions made regarding showerhead savings. VEIC stated that the SAS/Enbridge report should not serve as the basis for any savings estimates.

Enbridge responded that the low flow showerhead findings are based on load research rather than a theoretical value and recommended adoption of these values in 2009. Enbridge also noted that the most recently completed DSM audit did not recommend use of the previous theoretical values.

In its reply submission, Enbridge proposed that it use the Board-approved Navigant 2010 input assumptions, subject to the several changes and additions noted in Appendix A of its submission. Enbridge submitted that the changes and additions were

required because they are related to programs that are not proposed for 2010 and because the assumptions are based on the 2009 program design.

Board Findings

The Board approves the use of the Board-approved 2010 input assumptions (as contained in the Navigant Report) for the 2009 program year, subject to the modifications proposed by Enbridge. As the Navigant 2010 input assumptions do not contain free rider rates, the Board approves the use of the 2009 free rider rates as submitted by Enbridge.

The Board finds the proposal to use the 2010 Board approved Navigant input assumptions to be the most reasonable and appropriate approach in the circumstances. The Navigant Report offers the best available information and has been thoroughly reviewed and commented on by all parties in this proceeding.

The Board notes that in its Application (Ex B, Tab 1, S 1, page 2 of 3) Enbridge suggests that the approved Plan will be adjusted over time as may be required to respond to changes in the marketplace, new barriers, new opportunities, and to optimize the DSM portfolio. The Board reminds the Company that the Board expects that the approved Plan be implemented according to its terms. Changes that are meaningful should be subject to prior consultation with the EAC and consideration by the Board. The Company does not have the unilateral right to change the program according to its sole judgement.

The Board finds that it would not be appropriate to defer the approval of the 2009 input assumptions to the time of 2009 DSM audit. This would represent a substantive shift from the current framework set out in the Generic Proceeding. The Board concludes that the process of updating input assumptions is not the proper proceeding to deal with such a significant change.

With regard to the fact that Enbridge did not meet with its EAC prior to filing its proposed updated DSM input assumptions, the Board notes, as it did in last year's decision, that it finds it advantageous to have input from both the EAC and the respective DSM Consultative. The failure to consult is not satisfactory. The Board understands that all parties are under sometimes difficult timelines, but expects to see effective communication amongst the parties in the future. Consideration of the role and function of the EAC is best conducted as part of the proceeding to be held to determine the framework for the next generation of DSM plans.

Intervenors eligible for an award of costs shall file their cost submissions in accordance with the *Practice Direction on Cost Awards* with the Board Secretary and with EGD within 15 days of the date of this Decision and Order. EGD may make submissions regarding the cost claims within 30 days of this Decision and Order and the intervenors may reply within 45 days of this Decision and Order. A decision and order on cost awards and the Board's own costs will be issued in due course.

THE BOARD ORDERS THAT:

Enbridge Gas Distribution Inc. is granted approval to use the Board approved Navigant 2010 input assumptions, with the revisions noted in Appendix B of Enbridge Gas Distribution Inc.'s reply submission.

DATED at Toronto June 29, 2009.

ONTARIO ENERGY BOARD



John Pickernell
Assistant Board Secretary