

October 30, 2008

Kirsten Walli, Board Secretary
ONTARIO ENERGY BOARD
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E5

Dear Ms. Walli:

Re: EB-2008-0219: Enbridge Gas Distribution Inc. (EGD) 2009 Rates.

Industrial Gas Users Association (IGUA) Letter of Intervention.

We write as legal counsel to IGUA.

Application for Intervenor Status.

IGUA is in receipt of the Board's Notice of Application in the captioned proceeding dated October 20, 2008. We hereby request, on behalf of IGUA, that the Board accept this application for intervenor status.

Description of IGUA.

IGUA is an association of industrial companies located in the Canadian provinces of Manitoba, Ontario and Québec who use natural gas in their industrial operations. IGUA was first organized in 1973 and it provides a coordinated and effective public policy and regulatory voice for those industrial firms depending on natural gas as a fuel or feedstock. IGUA has become the recognized voice representing the industrial user of natural gas before regulatory boards and governments at both the provincial and national levels.

Nature and Scope of IGUA's Intended Participation.

IGUA has been an active participant in EGD rate proceedings in the past, on a wide variety of issues, including in the Board's recent review of EGD's five year incentive regulation plan in docket EB-2007-0615. IGUA anticipates being an active intervenor on a range of issues in this application, the outcome of which may have a direct or incidental effect on industrial gas consumers.

Intention to Seek an Award of Costs.

IGUA also hereby requests that it be determined eligible for recovery of its reasonably incurred costs of its intervention herein.

As a party primarily representing the direct interests of industrial consumers (i.e. ratepayers) in relation to regulated services, IGUA has in the past been determined to be eligible for cost awards pursuant to section 3.03(a) of the Board's *Practice Direction on Cost Awards*.

Request for Written Evidence and Contact Information.

IGUA requests that copies of written evidence and all circulated correspondence related to this matter be directed to it as follows:

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Comment on proposed review process.

As IGUA understands EGD's application materials, EGD has proposed a two phase review of its application.

In the first phase, the Board would review the mechanical rate adjustment under EGD's approved incentive rate mechanism (IRM). This review would include determination of those elements of EGD's application which underpin calculation of the adjustment. These elements are:

1. Forecast of degree days.
2. Forecast of average use.
3. Forecast of customer additions.
4. Gas volume budget.
5. Y-factor - capital.
6. Y-factors - other.

In the second phase, the Board would review and determine *"other issues...that bear upon approval of fixing of just and reasonable rates, but that do not need to be decided in order for the Board to issue an order regarding the application of the adjustment formula"*.¹ In particular, EGD is seeking approval of:

7. A deferral account associated with the switch to IFRS financial systems.
8. Changes to some non-energy service charges listed on Rider G.
9. Revisions to rate handbook wording in respect of late payment penalties, "force majeure" and other areas.
10. Discontinuation of an ADR commitment to file an EnVision benefit report annually.
11. Revision of the GDAR IVA fee.
12. Approval of an in-franchise title transfer fee to cover additional costs related to provision of this service through the new CIS system.
13. A change in requirements related to the contracting of upstream transportation that would apply to direct purchase bundled service customers.

IGUA believes that EGD, as the applicant, should be permitted to frame its application as it sees fit, subject to any direction that the Board deems necessary for efficient and effective review of the application. IGUA assumes that EGD's proposal is based on the proposition that items 7 through 13, above, have no impact on the calculation of test year distribution rates. On this assumption, IGUA sees no reason to object to EGD's proposal. However, IGUA does note, and endorse, EGD's proposal² that the initial rate order for phase 1 be "interim", which would accommodate the need to alter rates should the assumption set out immediately above turn out to be erroneous.

¹ Application, filed as Ex. A/T2/S1, at p.3, para. 9.

² Ex. A/T3/S1, p.4, para. 5.

IGUA supports the sentiment underlying both the phasing proposal and the other procedural steps proposed by EGD for its proposed phase 1, that with the institution of IRM, rates should ideally be determined and in place in accord with the schedule contemplated in the Board approved IRM settlement agreement. This schedule contemplates rate approval by December 15th, for implementation on January 1st of the following year.

IGUA does, however, wish to comment on some of the procedural steps proposed by EGD for its proposed phase 1 of the review³.

EGD proposes a technical conference with questions submitted in advance by intervenors, in lieu of an interrogatory process. Given the proposal that intervenors submit written questions in advance, this proposal does not seem substantially different from an interrogatory process, save that the interrogatory responses would be given in oral evidence transcribed, rather than in written form. Indeed, EGD's proposal, which includes provision of undertakings, as required, to complete the evidentiary record, seems to allow for additional flexibility and responsiveness relative to the standard interrogatory process. IGUA supports trying EGD's proposed process in this instance. IGUA assumes that EGD's proposal is to limit the scope of this phase 1 discovery process to the phase 1 issues as identified in EGD's application. It would be helpful for the Board to expressly so indicate in its procedural directions.

EGD also indicates that it does not anticipate the need for intervenor evidence or an oral hearing in respect of phase 1 adjustments, but that it does propose a short settlement conference followed by "written comments" by intervenors on any unresolved issues.

On the issue of intervenor evidence, while IGUA tends to agree with EGD's assessment as it relates to the proposed phase 1 issues, intervenors should make that determination at first instance, not the applicant. The Board should, at a minimum, allow intervenors to indicate whether they anticipate filing evidence following conclusion of the proposed interrogatory/technical conference process. If intervenors do not so indicate, then an expedited schedule could be pursued. (To save time, the Board might indicate the expedited schedule on the assumption that no intervenor evidence will be proffered in respect of phase 1, but at the same time make express provision for an alternative schedule should any intervenor indicate, following the conclusion of the interrogatory/technical conference process, that it intends to proffer evidence).

On the issue of an oral versus a written hearing on any issues unresolved during the settlement process, the Board should defer such determination until the results of the settlement process are known. It would behoove the parties to address this aspect of EGD's procedural proposal as part of that settlement process. In this way, both the views of the parties and the Board's consideration of how it should proceed would be informed by the outcome of the settlement process and the record as it stands at that time.

³ Ex. A/T3/S1, p.4.

Your truly,
MACLEOD DIXON LLP


Ian A. Mondrow

- c. Murray Newton, IGUA
Norm Ryckman, EGD
Fred D. Cass, AIRD & BERLIS LLP (EGD counsel)