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BY EMAIL and RESS

October 30, 2008
Our File No. 2080618

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

Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2008-0219 – Enbridge Gas Distribution 2009 Rates

We are counsel for the School Energy Coalition. The School Energy Coalition wishes to intervene in the above-named application. A copy of our formal Notice of Intervention is attached.

The Board has asked intervenors to provide submissions on the proposed two-stage procedure for this Application, as set forth in Exhibit A, Tab 2. This letter constitutes the submissions of the School Energy Coalition.

The Applicant in this matter is dealing with Settlement Agreement timelines that are, in retrospect, very difficult to achieve unless an application is extremely straightforward. This has led the Applicant to seek a solution that complies with the Settlement Agreement, but also gives the Board and the parties sufficient time to deal with certain of the issues. We also acknowledge that the Applicant made a point of engaging intervenors in a dialogue on procedure, before filing this Application, so that it could refine its solution as much as possible.

Despite those facts, it is submitted that the matters the Applicant asks the Board to consider in its proposed first phase include items that may be contentious, are clearly material, and require proper review including testing of the evidence. Those items include:

1. Substantial incremental (Y-factor) spending budgetted for merchant generation, and

2. Forecast changes to gas volumes and customer counts resulting from customer migration and other such factors, including a significant drop in annual customer adds.

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While the Applicant's extensive evidence on these and other points may well be correct, it has not yet been tested, and there is no reasonable likelihood that can be done in time for the Board to determine those issues and set rates that can be in place by January 1, 2009.

Given these issues, it is submitted that the relief sought by the Applicant in the two-stage procedure – i.e. to have rates in place by January 1, 2009 – is more efficiently achieved by a modified approach. We therefore propose that the Board instead follow the following procedure:

- Order that the Applicant's rates be adjusted as of January 1, 2009 as requested, on an interim basis, with the understanding that the Board has, in such order, not approved any of the items listed in Exhibit A, Tab 3, page 2, items (i) through (vi).

- Proceed with the hearing of all of the substantive issues in the normal manner, with interrogatories and/or technical conference, ADR, and oral hearing if required, with a view to a final order as soon as possible.

We accept that this will mean interim rate increases that are not trivial. On a distribution only basis, for example, before considering reductions in load balancing costs, some customers will have increases that exceed 4%. On the other hand, it can reasonably be expected that the final order can issue early in 2009, with the result that any period of overcharging, if there is one, would be short, and those interim increases would be mitigated by reductions in load balancing costs.

We therefore submit that the first phase proposed by the Applicant should be narrowed to include only approval of an interim increase, and the second phase be expanded to include all of the substantive issues on which evidence must be tested before the Board can make a final decision.

All of which is respectfully submitted.

Yours very truly,
SHIBLEY RIGHTON LLP

Jay Shepherd

cc: Bob Williams, SEC (email)
Gail Anderson, SEC (email)
Fred Cass, Aird & Berlis (email)
Interested Parties (email)