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Via Regular Mail and Email

November 12, 2008

Kirsten Walli, Board Secretary
Ontario Energy Board
P.O. Box 2319, 26th Floor
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

Re: Enbridge Gas Distribution Inc. – 2009 Rate Adjustment Process
EB-2008-0219

We are writing on behalf of Enbridge Gas Distribution (Enbridge) to respond to the interventions that have been filed in this proceeding and, in particular, to address the comments or submissions about procedure that have been made by certain intervenors.

As the Board is aware, the Board-approved Settlement Agreement in respect of Enbridge's Incentive Regulation plan (EB-2007-0615 Settlement Agreement) sets out a specific timeline for the annual rate adjustment process. The Agreement states that Enbridge shall file information by October 1st for the purpose of receiving a Board-approved rate order by December 15th stipulating new rates in time for implementation on January 1st.

Of course, this timeline was established in the context of a settlement agreement for an incentive regulation plan. It may well be that the timeline would seem ambitious when taken in the context of a traditional cost or service proceeding before the Board. However, Enbridge submits that, in considering the application of Enbridge's IR model (specifically, the Distribution Revenue Per Customer Formula) for 2009, the Board will be engaging in an exercise that should not follow a traditional cost of service review. The Settlement Agreement timeline reflects an expectation that the process for the Board's consideration of the application of the Formula in 2009 (and each of the remaining years of the IR plan) will be different from the steps usually followed in a cost of service case and that the process will be expeditious.

In this proceeding, Enbridge has proposed a procedure for consideration of the elements of the Formula that meets the timeline set out in the Settlement Agreement. Enbridge has proposed that the application of the Formula be addressed in the first phase of a two-phase proceeding and that the procedural steps for Phase I be completed within the Settlement Agreement timeline. As already stated by Enbridge, it does not anticipate that an oral hearing should be needed to deal with the Phase I adjustments. Enbridge's proposal is that certain non-formulaic issues be dealt with in Phase II of the proceeding.

The Board's Notice of Application stated that letters of intervention should indicate a preference for a written or oral hearing, and the reasons for that preference, and should include a comment about Enbridge's proposed two-phased approach. The interventions received by Enbridge provide a range of responses to these aspects of the Notice of Application. Enbridge will respond, first, to the positions taken by intervenors with regard to the proposed two-phase proceeding and, second, to the positions of intervenors with regard to whether there should be a written or oral hearing for Phase I. Finally, Enbridge will reply to other points that have been made by intervenors.

Two-Phase Proceeding

The positions of intervenors with regard to Enbridge's proposal for a two-phase proceeding are summarized in the following table:

Support	No Objection	No Position	Oppose/Other
BOMA[1]	CCC	APPrO	CME
BP	Energy Probe[2]	Hydro One	SEC
Direct Energy	IGUA[3]	OES LP	VECC
ECNG	OAPPA	OPG	
Shell	TransAlta	Union Gas	
Sithe Global[4]	TC Energy		
TC Pipelines			
Jason Stacey[5]			

As this table shows, most intervenors either support, or do not object to, Enbridge's proposal for a two-phase proceeding. In fact, it appears that only three parties raise any issue about the proposal for a two-phase proceeding, and only one of these parties (SEC) takes the position that all issues proposed by Enbridge should be dealt with in a single (not phased) proceeding.

VECC does not express any specific objection to the proposal, but points out that the timeframe and approach for Phase II issues have not yet been established; accordingly, VECC provides certain comments about the procedure for Phase II (para. 22 of VECC Notice of Intervention). Enbridge respectfully suggests that it would be appropriate for the Board's initial Procedural Order to deal with the process for Phase I and that the procedure for Phase II issues is best left to be addressed when the outcome of Phase I is known.

CME argues in its intervention letter that the Phase II issues are "risk reduction proposals" that cannot be dealt with until Enbridge files an application at the end of the IR term for rate rebasing. Effectively, therefore, CME argues that there is no need for any Phase II. Enbridge disagrees with CME's characterization of the Phase II issues as risk reduction

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[1] But BOMA says that Phase 1 may not be purely mechanical.
[2] Energy Probe also says that Phase 1 may not be strictly mechanical.
[3] But IGUA comments on Enbridge's procedural proposals.
[4] Sithe Global's support is conditional on the right to make submissions in both phases.
[5] Jason Stacey's support also is conditional on the right to make submissions in both phases.

proposals, but, in any event, submits that there surely must be an opportunity during the term of the IR plan for it to obtain Board approval of matters such as required changes to the rate handbook. Indeed, there are specific reasons why Enbridge is bringing forward each of the Phase II issues at this time and after the Board has heard the evidence in this regard during Phase II, it will be open to all parties, including CME to make their arguments about whether or not it is appropriate for the Board to grant the requested relief.

SEC says that, in retrospect, the timeline set out in the IR Settlement Agreement is very difficult to achieve unless an application is extremely straightforward. SEC concludes that there is "no reasonable likelihood" that the Phase I issues can be determined in time for rates to be in place on January 1, 2009. Based on that conclusion, SEC proposes that the proceeding ought to "proceed with the hearing of all issues in the normal manner".

Enbridge disagrees. While some other parties express concern about whether the Phase I issues can be determined before January 1, 2009, no other party suggests this as a reason not to try to meet that target.

The timeline in the Settlement Agreement was agreed to by all parties and was part of the Settlement Agreement approved by the Board. Enbridge submits that, given the Board-approved Settlement Agreement, all parties should put forward their best effort to make the timeline work in respect of matters pertaining to the Formula. If, despite the best efforts of all parties, it does not prove to be possible to deal with matters pertaining to the Formula within the Settlement Agreement timeline, then, as recognized by Enbridge in its proposal (Exhibit A-3-1, page 5), this could mean further review of one or more elements or sub-elements of the model in Phase II. Enbridge submits, though, that the Settlement Agreement timeline should not be abandoned (in respect of Formula-related issues), before parties have even tried to make it work.

Written or Oral Hearing (Phase I)

The positions of intervenors with regard to whether there should be a written or oral hearing of Phase I issues are summarized in the following table:

Oral	Written	Decide Later	No Position
CME	Direct Energy	BOMA	APPrO
Energy Probe		CCC	BP
SEC[6]		IGUA	ECNG
		VECC	Hydro One
			OAPPA
			OES LP
			OPG
			Shell
			Sithe Global

[6] While SEC does not support a phased hearing, it does appear to assert that any hearing should be oral.

Oral	Written	Decide Later	No Position
			TransAlta
			TC Energy
			TC Pipelines
			Union Gas
			Jason Stacey

This table shows that there is not a strong groundswell of intervenor support for the notion that the Board should decide now that an oral hearing of Phase I issues is required. To the extent that intervenors take a position on the issue, most support a deferral of the Board's decision with regard to the nature of the hearing of Phase I issues. For its part, Enbridge has already stated its position that an oral hearing of Phase I issues should not be necessary. As discussed above, the IR Settlement Agreement timeline reflects an expectation that the process for consideration of Formula-related issues will be streamlined and expeditious.

Other Intervenor Submissions

Direct Energy proposes an additional issue for Phase II of the proceeding. Enbridge submits that whether or not this issue is to be included in Phase II can and should be addressed when the Board sets the Issues List for Phase II.

VECC proposes that the application of the Earnings Sharing Mechanism be "built into" this proceeding as a "phase 3". The IR Settlement Agreement says that Enbridge will file the ESM calculation as soon as is reasonably possible after year-end financial results have been made public. The filing of the ESM calculation is still a number of months away and, at this point, it is unknown to what extent issues may arise in relation to the calculation. Enbridge submits that it is premature to decide upon the appropriate process for consideration of the ESM calculation and that the focus at this time should be setting a procedure for consideration of Phase I issues that meets the Settlement Agreement timeline.

If you have any questions in this regard, please do not hesitate to contact us.

Yours very truly,

AIRD & BERLIS LLP

Fred D. Cass

FDC/
cc: Norm Ryckman/Robert Bourke
All Intervenors