

August 13, 2009

Kirsten Walli
Board Secretary
Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

EB-2009-0154

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Dear Ms Walli:

Re: EB-2009-0154/Enbridge Gas Distribution Inc. 2010 Demand Side Management Plan

On April 19, 2009, the Ontario Energy Board ("Board") issued a letter to the Ontario natural gas distributors requesting them to file a one-year demand side management ("DSM") plan for 2010, extending by one year the DSM framework that was established for the years 2007-2009. On June 1, 2009 Enbridge Gas Distribution Inc. ("EGD") filed an application with the Ontario Energy Board seeking approval of its 2010 DSM plan. By Procedural Order No. 1 the Board established a written hearing process consisting of a round of interrogatories and final written submissions. These are the submissions of the Consumers Council of Canada ("Council").

The Council has supported of extending the parameters of the original three-year plan for an additional year. The Council does, however, believe that the extension should not go beyond 2010. For the reasons set out below, the Council submits that the Board should initiate a review, as soon as possible, to consider a new framework for future plans.

DSM in the natural gas sector, and conservation and demand management initiatives in the electricity sector, have been ramping up significantly in recent years. In addition, the number of parties developing and delivering programs has been expanding, and is expected to continue to do so. It is also important to note that in its April 14, 2009, letter the Board itself has pointed to the introduction of the *Green Energy and Green Economy Act*, 2009 and the unknown implications of that legislation on future energy conservation initiatives. The Provincial government, the Federal government, and the Ontario Power Authority, among others are playing an increasingly significant role in the promotion and delivery of such programs. The environment has clearly changed since the original Board DSM generic proceeding which established the current framework. In light of those factors, a complete review of the framework elements should be undertaken prior to the development of the 2011 plans.

With respect to EGD's 2010 plan the Council has specific submissions on the market transformation initiatives and EGD's proposal to initiate a supplemental pilot program in the industrial sector.

Market Transformation Programs:

EGD is proposing three market transformation ("MT") programs for 2010: Home Performance Contractors; Drain Water Heat Recovery; and Channel Market Support. With respect to the first two programs EGD is seeking approval of shared savings mechanism rewards amounting to \$500,000. There is no reward mechanism proposed for the Channel Market Support (B/T1/S4/p.2).

The point of an MT program is to "transform the market." EGD's program design and metrics do not appear to be focused on actually transforming the market and getting measurable results. With respect to the Home Performance Contractor program the Council believes that EGD should be rewarded on the basis of the actual adoption of the measures and not on contractor engagement or the number of workshops held. We accept that the workshops are an important tool in educating contractors about the weatherization measures, but do not believe that by simply holding a workshop EGD's shareholders should be rewarded. The point is to use the workshops to promote the measures, but the number of workshops held is not indicative of the actual measures adopted.

The Council submits that the Home Performance Contractors program metrics should be weighted more towards results or outcomes. Again, simply holding a workshop is not indicative of market transformation. EGD's shareholders should be rewarded on the basis of how the market has actually transformed. The Council supports the proposal by the Green Energy Coalition to have EGD Evaluation and Audit Committee ("EAC") focus on reworking the metrics over the next several months prior to the start of the 2010 period. The new scorecard should be primarily focussed on measurable market transformation outcomes.

The Council notes that, in EGD's Independent Audit of 2008 Program Results, the Auditor expressed concern with the survey results conducted by EGD in its evaluation of the program. The Auditor concluded that the study had the following flaws: lack of clarity as to how this program and these changes would affect the market; lack of comparable baseline data from non-participating contractors; and lack of measures of statistical significance in the metric change. (I/T3/S3/attachment 2, p. 19) It is not clear whether, or to what extent, EGD redesigned the program to address these concerns.

In EGD's Independent Audit of 2007 Program Results, the Auditors also expressed concerns regarding the metrics associated with EGD's market transformation programs. (I/T3/S3/attachment 1, pp, 20-22) Concerns expressed by the auditors further confirm the need to revisit the proposed scorecard, as proposed above.

With respect to the Drain Water Heat Recovery MT program the Council has the same concerns regarding the reward metrics. The focus of the program is on increasing the units installed. However, under EGD's current proposal only 40% of the overall weight is related to the actual units installed. 50% of the potential reward is related to "builder knowledge", "service provider promotion", "builder training workshops, "contractor/sub workshops" and "trade show promotion." Although we acknowledge that these are tools to be used in transforming the markets, the Council does not support such a heavy weighting for these activities. Once again, simply holding a workshop does not mean the market has been transformed.

The Council submits that EGD should be directed to work with the EAC over the coming months to rework the metrics associated with this program. The new scorecard should be focussed on measureable market transformation outcomes.

Industrial Sector Support Programs:

EGD is seeking approval for additional resources for two new and expanded industrial sector initiatives. The first is an Industrial Metering Support Program and the second is an On-Site Energy Engineers Program. The cost of the pilot programs is \$1.250 million which is incremental to the \$23.8 million overall 2010 budget. (B/T4/S1/p.1)

The Council does not intend to take issue with EGD's pursuing the proposed pilot programs. However, the Council has two concerns with the programs. First, the Council submits that the pilot programs should be funded within EGD's allowed budget as determined by the formula. EGD has the ability within that budget to re-establish priorities and move funds amongst its various programs. The Council submits that the current protocols do not envision an increase in the overall budget. An increase in the overall budget would be unfair to ratepayers. EGD has the ability to increase spending to achieve higher total resource cost test ("TRC") results through the demand side management variance account. However, this is not applicable to pilots. EGD was instructed to use the current framework for 2010 and its proposal to increase spending above the approved budget is outside that framework. Accordingly, EGD should be free to pursue the pilot, but maintain the overall budget level as approved.

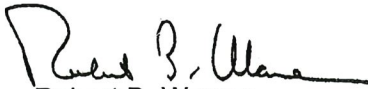
In addition, the results of the pilot program are not subject to shared savings mechanism ("SSM") rewards. Pilot programs have never been a part of the overall SSM reward scheme. EGD has stated that the new 2010 pilot programs are not proposed to have any SSM or TRC target impacts. (B/T4/S1/p. 1) However, the Board needs to be clear in its Decision that this is the case.

Other Issues:

The Council has reviewed the submissions by the Green Energy Coalition. GEC has made a number of recommendations related to new assumptions and the 2008 Auditor recommendations. The Council supports those recommendations and urges the Board to adopt them. Specifically, with respect to assumptions, if the Board were to accept EGD's proposals the Council submits that EGD will be overstating the potential savings from its programs and earn a reward for savings that simply did not materialize.

Yours very truly,

WeirFoulds LLP



Robert B. Warren

RBW/dh

cc: Enbridge Gas Distribution
cc: Joan Huzar
cc: Julie Girvan

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