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December 19th, 2008

VIA COURIER

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, ON M4P 1E4

Re: Enbridge Gas Distribution Inc. ("Enbridge")
EB-2008-0271 DSM Variance Accounts - Reply Submission

In accordance with the Ontario Energy Board's (the "Board") Procedural Order No. 1 issued on October 29th, 2008, enclosed please find the reply submission of Enbridge.

The reply submission has been submitted through the Board's Regulatory Electronic Submission System ("RESS"). A copy of the on-line confirmation RESS submission reference number has also been included in this package.

Please contact the undersigned if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Bonnie Jean Adams".

Bonnie Jean Adams
Regulatory Coordinator

cc: EB-2008-0271 Intervenors (via email)
Mr. D. O'Leary, Aird & Berlis (via email and courier)

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Sched. B, as amended;

AND IN THE MATTER OF an application by Enbridge Gas
Distribution Inc. for an order or orders approving the
balances and clearance of certain Demand Side
Management Variance Accounts into rates, as at July 1,
2009

**RESPONSE BY ENBRIDGE GAS DISTRIBUTION
TO INTERVENOR SUBMISSIONS**

1. Enbridge Gas Distribution Inc. ("EGDI" or the "Company") received submissions from the Green Energy Coalition ("GEC"), Canadian Manufacturers and Exporters ("CME"), and the Industrial Gas Users Association ("IGUA"). The following is the response of EGDI to these submissions. This response will first address those issues common to each of the intervenor's submissions. The response will then reply to any remaining specific submissions.
2. Common to the submissions by each of the intervenors is support for clearance of the amounts recorded in the 2007 DSM variance accounts. Stated differently, no intervenor has expressed any concern about the amounts which are recorded in the DSM variance accounts. Accordingly, the Company respectfully requests approval for these amounts and an order permitting clearance through to rates.

Nature of Application

3. This Application seeks approval for the balances in several DSM variance accounts and an order allowing these amounts to be cleared through to rates as of July 1, 2009. As noted in the pre-filed evidence, EGDI followed the DSM Framework approved by the Ontario Energy Board ("OEB" or "Board") by its Decision with Reasons ("Decision"), dated August 25, 2006, in the EB-2006-0021 Natural Gas DSM Generic Issues proceeding ("Generic Proceeding"). The

methodologies used by the Company to determine the amounts recorded in each of the 2007 DSM variance accounts were the subject of, and were approved by the Board, in the Generic Proceeding. The approved framework also provided for stakeholder consultations and monitoring and evaluation steps. The pre-filed evidence summarizes the actions taken by EGDI in compliance with the Decision. This application does not ask for the framework approved by the Board in its Decision to be amended. EGDI notes that the Board has initiated a consultation process to develop guidelines for DSM to be used by natural gas utilities in developing the next generation of DSM plans (EB-2008-0346). EGDI submits that certain submissions made by intervenors are more appropriately the subject of the DSM consultation process which is currently underway.

4. The Generic Proceeding Decision approved a formulaic approach for the annual setting of the SSM target. At page 25 of the Decision, the SSM target for 2008 is to be calculated as follows:

The simple average of \$150 million and the actual 2007 audited TRC value as approved by the Board, increased by 1.5 times the budget escalation factor (i.e., 7.5 percent). The "actual audited TRC values" shall be the total TRC produced for the year in question as determined by the audit in the following year.

5. The Board is being asked in this proceeding to approve the amounts set out in the three DSM variance accounts. These amounts are a derivative of the net TRC benefits generated by EGDI's DSM activities. By approving these amounts, the Board is, in effect, also approving and accepting the value of the TRC benefits generated, which is the figure used for the purposes of setting the 2008 SSM target.
6. As noted in the pre-filed evidence,¹ the actual 2007 LRAM results as set out in the Auditor's Report result in a net TRC value of \$166.9 million, with all

¹ Ex. A-1-3, p. 6

adjustments and using 2007 avoided costs. This LRAMVA includes spillover and is the amount that EGDI and the Evaluation and Audit Committee (“EAC”) agreed should be used for the purposes of calculating the 2007 LRAM. A question arose as to whether the formula approved by the Generic Proceeding Decision requires the 2007 audited TRC value to be adjusted for any changes to input assumptions. It is the view of EGDI and, to its knowledge, the EAC, that for purposes of setting the SSM target for 2008, the framework requires adjustments to input assumptions arising out of the 2007 audited LRAM. To provide an apples-to-apples target for 2008, the 2007 LRAM net TRC value is also adjusted to reflect 2008 avoided costs.

7. The Company submits that it has filed all of the documentation and information required for the approval of the amounts recorded in the several DSM variance accounts. These amounts were the subject of an independent audit, have undergone the scrutiny of the EAC and, based upon the submissions received, do not pose a concern to any intervenor. The pre-filed evidence references a SSM target for 2008. This target reflects the evidence filed in this proceeding. It would have been presumptuous to put forward a SSM target which reflects input assumptions that will be the subject of the Board’s consideration in the Input Assumptions proceeding (EB-2008-0384). It is hoped that the Company will have both a decision in this proceeding and the Input Assumptions proceeding by the time it commences the 2008 audit process in early 2009. EGDI notes that its ability to complete the audit of the 2008 results will depend, in part, on the timing of the Board’s decision in the Input Assumptions proceeding (EB-2008-0384).
8. Some intervenors appear to have different views and approaches on the issue of spillover. It should be noted that if spillover is included, the 2008 SSM target would in fact result in a higher target than without spillover. EDGI is not applying for approval of the 2008 assumptions in this proceeding. The 2008 assumptions, which include spillover, are the subject of the EB-2008-0384 proceeding that is currently underway. Should the Board approve the input assumptions as filed by the Company, which will then be used to calculate actual results in 2008, to

provide an “apples-to-apples” comparison, it would be necessary to also adjust the 2008 SSM target figure to reflect the Board’s decision in the Input Assumptions proceeding. To do otherwise would result in the Company’s results being overstated because no adjustment will have been made upward to the setting of the 2008 SSM target.

9. EGD I agrees with those submissions which state, in effect, that this application is not the appropriate forum to debate the issue of spillover. The Company has not filed the Summit Blue report as part of this application, believing that the issue will properly arise in the course of the input assumption proceeding (EB-2008-0384). All that EGD I attempted to do in this application was to note that if input assumptions, as filed by EGD I, are approved by the Board, the 2008 SSM target will need to be adjusted to reflect spillover. It is the Board’s approval in the input assumption proceeding that may amend the target, not any approval or order in regards to this application. The Board does not need to make any approval of this application “conditional”, as CME suggests EGD I is seeking. The Board has the authority in a subsequent proceeding to order an adjustment to the 2008 SSM target.
10. While EGD I submits that this proceeding is not the appropriate forum for the debate in respect of spillover, EGD I feels compelled to respond to the assertions about its motives and other conduct made by GEC at paragraph 5 of its submission. EGD I submits that GEC’s comments are inappropriate and untrue. Relying upon its agreement with the EAC, EGD I retained Summit Blue and tasked it with the job of determining appropriate spillover rates. Summit Blue reported back and the spillover rates were in fact used, with the agreement of the EAC, for the purposes of the 2007 audited LRAM results. As a result, LRAM was calculated at a net TRC benefit of \$166,940,196. Regardless of whatever reservation of rights language parties employed, the fact is that spillover has been measured by an independent, third party expert in a credible fashion and the benefits generated have been accepted as being real for the purposes of determining the 2007 audited LRAM result.

Response to the “Report” Appended to GEC’s Submission

11. EGDI is also of the view that this Application is not the appropriate forum to raise issues about the effectiveness or functioning of the EAC and the audit of evaluation studies. This being said, several comments of a general nature are appropriate in response to the “Report” attached to the GEC submission.
12. First, some of the comments flow from the fact that some intervenors believe that the EAC should, in effect, be supervising the auditor or, at the very least, partnering in the work. Requests by intervenors to be provided with the same quantum and detail of underlying data and information as the independent auditor is an example of this phenomena. This desire is not new; intervenors have attempted to expand the role of the EAC into more than EGDI believed appropriate for many years. This has continued despite the clear language of the Decision from the Generic Proceeding, which identifies the role of the EAC as being “advisory”. Specifically, the Decision, at pages 17 and 18, states, in part:

*In regards to evaluation activities, the EAC will continue to have an **advisory** role in the following:*

- *review and comment on evaluation study designs;*
 - *input on the research methodology used to determine the input assumptions;*
 - *reviewing the scope and results of evaluation work completed on new programs introduced over the course of the multi-year plan;*
 - *selection of the independent auditor to audit the evaluation report and determine the scope of the audit. The EAC will ensure that all comments on the Evaluation Report from the Consultative are reviewed by the auditor.*
 - *Recommendations of the EAC with respect to DSMVA, LRAM and SSM clearances shall be included in the EAC’s final report. (emphasis added).*
13. At times, it appears to EGDI that some intervenors may fail to appreciate that the independent auditor must be independent of all parties, not just EGDI. While the auditor is required to consider the recommendations and views of the EAC, it

could hardly be considered “independent” if members of the EAC, in effect, supervise the audit, as appears to be their intent. The report appended to the GEC submission specifically raises the issue, at page 4, noting that there was a fundamental disagreement between EGDI and intervenor representatives as to whether the EAC “has an independent role to supervise the work of the auditors.” EGDI sees no language in the Decision which supports the view that intervenors should “supervise” an independent auditor. This philosophy of certain intervenors also carries over into questions about “who finalizes and files the audit report”.² It is the nature of the regulatory process that EGDI is responsible for filing evidence in support of the approvals it seeks. Only EGDI is accountable to the Board, although the Decision does commit the EAC to meeting the timelines set out in the Decision.³

14. Second, despite best efforts by EGDI and members of the EAC, timing has proven to be an issue. Choosing meeting dates which are available, given the busy schedules of each of the members of the EAC, can be challenging. The varying degree of expertise and familiarity in respect of DSM programs and underlying assumptions means that some intervenors require more time than others to feel comfortable with the material. None of this is intended to in any way criticize the diligent participation of intervenors on the EAC, but the fact remains that for intervenors, the EAC is a “part-time” role. With the exception of one party, members of the EAC are not actively involved on a daily basis in DSM activities nor do they continually follow developments and review relevant data and information generated on DSM activities in other jurisdictions.
15. As a result, the role and effectiveness of the EAC is in question. While this is an issue which will arise in the DSM Consultative, EGDI notes that the time may have come for the EAC concept to be abandoned and for an equivalent function to be assumed by Board Staff who, by reason of their ongoing monitoring of DSM

² Report appended to GEC’s submission, page 4, para. 6

³ Generic Proceeding Decision, p. 18

activities and the annual updating of input assumptions, may be more appropriately equipped.

All of which is respectfully submitted.

Dated: December 19th, 2008, at Toronto, Ontario.

[Original Signed]

Enbridge Gas Distribution Inc,
by its counsel Dennis O'Leary