

**David Stevens**

Direct: 416-865-7783

E-mail: [dstevens@airdberlis.com](mailto:dstevens@airdberlis.com)

December 6, 2006

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

Dear Ms Walli:

**Re: Enbridge Gas Distribution 2007 Rates Application: EB-2006-0034  
Request for Confidentiality related to Interrogatory Responses**

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On November 27, 2006, Enbridge Gas Distribution Inc. ("Enbridge Gas Distribution" or the "Company") made a formal request that certain documents attached to particular Interrogatory Responses be held confidential. On November 29, 2006, the Ontario Energy Board (the "Board") issued Procedural Order No. 4, stating that parties objecting to confidential status being attached to the documents in question should submit their written objection by December 4, 2006. The Board also ordered that Enbridge Gas Distribution file its reply to any objections by December 6, 2006.

On December 4, 2006, two parties filed objections: Industrial Gas Users Association ("IGUA") and Union Energy Limited Partnership ("Union Energy"). IGUA objected to each and every one of the Company's claims for confidentiality, while Union Energy made one specific objection. No other party made any objection.

The following is the Company's response to the arguments made on behalf of IGUA and Union Energy. Enbridge Gas Distribution also continues to rely upon the submissions made in its November 27, 2006 letter.

In the preamble to its objections, IGUA made a number of statements which do not reflect the reality of the current Application. The fact is that Enbridge Gas Distribution has filed thousands of pages of evidence and has made very few requests for confidentiality. The Company recognizes that, as a regulated utility, it has an obligation to file details about its business activities and has limited its objections to documentation that is commercially sensitive or personal. Enbridge Gas Distribution wishes to stress, however, that it is a private business enterprise. As such, many of the decisions that it makes and many of its business records are sensitive. The Board itself recognizes this in the balanced nature of its new Practice Direction on Confidential Filings, as well as in the Natural Gas Reporting & Record Keeping Requirements, which allow for a variety of documentation to be filed on a confidential basis. The Company wishes to highlight that it would find itself at a disadvantage in many of its business activities if it became clear that all commercial counterparties were at risk of having their contractual arrangements and dealings with

Enbridge Gas Distribution, and even their own internal activities, subject to public scrutiny at the behest of IGUA and others. This could be expected to reduce the number of potential counterparties for the Company to deal with, something that is not in the best interest of ratepayers or Enbridge Gas Distribution.

In the Company's submission, it is important to note that, at no point in its objections, does IGUA explain why it is necessary for the confidential information at issue to be part of the public record in order for the Company's Application to be fully considered and tested.

Finally, before proceeding to examine the IGUA's individual objections, it is important to emphasize that Enbridge Gas Distribution has agreed to provide all requested confidential documentation in its possession to counsel and independent experts for all parties. Thus, the documentation will be available to be tested. The Board's new Practice Direction on Confidential Filings recognizes the appropriateness of such an approach. Indeed, the Company's proposal for the treatment of confidential documents in this case proposes using the Declaration and Undertaking that the Board has adopted.

The Company's specific additional replies are as follow.

1. Board Staff Interrogatory No. 34 (Ex. I-1-34)

In this Interrogatory, Board Staff requested Enbridge Gas Distribution's tax returns for 2005. The Company responded that "the requested information is, by definition, confidential in nature and content."

In addition to its previous submissions, the Company points to Appendix C to the Board's Practice Direction on Confidential Filings. That Appendix is titled "Types of Information that Have Previously Been Held Confidential" and lists, among other things "Tax Related Information" (defined as "Information from a tax return or information gathered for the purpose of determining tax liability or collecting a tax"). The Company submits, therefore, that the most recent guidance from the Board recognizes the appropriateness of shielding tax returns from public disclosure.

2. Board Staff Interrogatory No. 58 and IGUA Interrogatory No. 17 (Ex. I-1-58 and Ex. I-9-17)

In these Interrogatories, Board Staff and IGUA requested that Enbridge Gas Distribution file all agreements between Enbridge and CWLP (CustomerWorks Limited Partnership), ECSI (Enbridge Commercial Solutions) or any other EI (Enbridge Inc.)-related entity related to the provision of customer care or CIS; the Program Agreement between CWLP and Accenture, including any amendments or revisions; financial statements for ECSI and CWLP (historical, bridge and test year); and the return analyses described in the EB-2005-0001 Decision. IGUA further requested that Enbridge Gas Distribution provide the ECSI and CWLP financial statements and return analyses described in the Decision for the years 2002 to 2004 inclusive.

Enbridge Gas Distribution responded that the information is confidential and commercially sensitive and that CWLP and Accenture Business Services for Utilities ("ABSU") object to public disclosure. Enbridge Gas Distribution also responded that,

in recent rate case proceedings, the Board had allowed these documents to be filed confidentially.

Through its objection, IGUA is seeking to re-litigate a motion that has been argued a number of times, most recently in the Company's F2006 Rate Case (EB-2005-0001). In that case, the Board considered the submissions of IGUA and others and held that "[w]hile the Board has sympathy for the intervenors' concerns with the prevalence of confidential findings, the Board is of the view that the material requested may contain commercially sensitive information which should be treated as confidential" (21 Tr. 62). The Company submits that there is no reason to now vary or re-address this issue in respect of the very same type of documents. The Company disagrees with the suggestion that these documents are no longer sensitive because they are historic. The financial statements and return analyses requested include years up to 2007.

3. Board Staff Interrogatory No. 65 (Ex. I-1-65)

In this Interrogatory, Board Staff asked whether the DLAI (Douglas Louth and Associates Inc.) Report related to benchmarking of customer care services would be filed in this proceeding.

In response, Enbridge Gas Distribution indicated that it is currently in the process of a Request for Proposal process for the provision of customer care services and that the DLAI Report "contains information that may be able to influence the responses to the Company's customer care RFP." The Company's response continued: "[t]hus, the information is commercially sensitive and will be provided upon the execution of a Confidentiality Agreement."

The DLAI benchmarking information therefore stands on a different footing from benchmarking information that may have been produced in previous cases. Public disclosure in this case could provide valuable market information to parties seeking to bid into the pending customer care RFP. This is not in the interest of the Company or ratepayers. In this regard, the Company points to Appendix B to the Board's Practice Direction on Confidential Filings. That Appendix is titled "Considerations in Determining Requests for Confidentiality" and lists, among other considerations "the potential harm that could result from the disclosure of the information, including ... whether the information could interfere significantly with negotiations being carried out by a party".

Once the RFP process is completed, however, the Company would be prepared to allow the summary results of DLAI's benchmarking to be circulated to all parties.

4. HVAC Interrogatory No. 16 (Ex. I-26-16)

In this Interrogatory, HVAC requested a copy of the market research referred to at Ex. D1-11-1, p. 4 of the pre-filed evidence. In response, Enbridge Gas Distribution provided the relevant excerpts of the study, with third party company information redacted for confidentiality purposes.

The Company has provided all parties with the specific portions of the larger report that support the statements that the Company made in evidence. The Company submits, therefore, that there is sufficient information on the public record to permit Union Energy and others to provide instructions to their counsel about the relevant portions of the market research.

The Company objects to the suggestion that, because the research was a utility activity, it somehow belongs to and must be shared with ratepayers. The fact is that ratepayers pay for a service, not for a share or stake in the assets of the utility.

It is true that Enbridge Gas Distribution is acting as a market facilitator through the EnergyLink™ program. That does not mean, however, that the Company ought to be obligated to share confidential research findings with those industry participants who participate in this rate case process. Moreover, as the market research report is broad in nature and encompasses market research and analysis beyond water heaters, public disclosure of the entire report may prejudice Enbridge Gas Distribution's future market planning activities with potential channels.

5. HVAC Interrogatory No. 17 (Ex. I-26-17)

Part (c) of this Interrogatory requests that the Company provide details and file a copy of any agreement currently in place with any unregulated entity relating to bill insert distribution. Enbridge Gas Distribution responded by stating that "[a] standard bill insert agreement which has been used during the bill insert pilot is attached. ... There is currently 1 confidential agreement in place with one unregulated entity that is similar in form to Attachment 1."

The Company objects to publicly filing the actual agreement on the ground that it is a private business agreement with a non-related third party who has not agreed to the disclosure. All the relevant information contained within the actual agreement has been publicly disclosed through the standard bill insert agreement. Nothing further will be gained through the public disclosure of the actual agreement. Notwithstanding IGUA's protest that this agreement must be available to all competitive market participants, none of those parties, including Union Energy, have objected to this particular request for confidentiality.

6. HVAC Interrogatory No. 7 (Ex. I-26-7)

Not in issue.

7. HVAC Interrogatory No. 11 (Ex. I-26-11)

In this Interrogatory, HVAC requested details of the pricing of billing services provided by Enbridge Gas Distribution or CWLP to DEEHS, as well as a detailed breakdown of all costs incurred by Enbridge Gas Distribution or any affiliate to provide billing services to DEEHS. As seen from the Company's response to this Interrogatory, the Company itself does not have the information requested. Therefore, there is nothing to disclose.

The Company is also concerned that some parties may be able to use the regulatory process to inappropriately obtain competitive market information. For example, if IGUA's insistence on the public disclosure of this billing service pricing is accepted by the Board, and CWLP and DEEHS are somehow forced to disclose the information, then competitors will have access to information about DEEHS' cost structure that would not otherwise be public.

Enbridge Gas Distribution hopes that the foregoing provides sufficient information for the Board to make a determination about its requests for confidentiality.

In the interim, while a decision about the confidentiality issues is pending, and in order for the Company's Application to proceed in a timely way, the Company is prepared to allow all of the confidential documentation to be circulated to counsel who have executed the Board's form of Declaration and Undertaking. This, of course, is without prejudice to the Company's right to request the withdrawal and return of all confidential documentation in the event that the Board orders full public disclosure.

We hope that the foregoing is acceptable.

Please contact me should you have any questions.

Yours very truly,

AIRD & BERLIS LLP



David Stevens

DS/

cc. Patrick Hoey  
All participants in EB-2006-0034