Ontario Energy Board

Commission de l'énergie de l'Ontario

EB-2009-0359

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, S.O. 1998, c.15 (Sched. B),

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc., pursuant to section 36(2) of the *Ontario Energy Board Act, 1998,* for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission, and storage of gas as of January 1, 2009;

AND IN THE MATTER OF Enbridge Gas Distribution Inc.'s request for accounting orders to establish the following deferral accounts: 2009 Change in Purchased Gas Variance Disposition Methodology Deferral Account, 2009 Mean Daily Volume Mechanism Deferral Account, and the 2009 International Financial Reporting Standards Transition Costs Deferral Account.

BEFORE: Paul Vlahos
Presiding Member

DECISION

BACKGROUND

On October 1, 2009, Enbridge Gas Distribution Inc. ("Enbridge" or the "Applicant") filed an application with the Ontario Energy Board (the "Board") for approval to establish three new deferral accounts (the "Application").

Specifically, Enbridge requested accounting orders to establish the following deferral accounts as a result of the Board's Decision and Order in the Commodity, Load Balancing and Cost Allocation proceeding (EB-2008-0106):

1) 2009 Change in Purchased Gas Variance Disposition Methodology Deferral Account ("CPGVDMDA")
2) 2009 Mean Daily Volume Mechanism Deferral Account ("MDVMDA")

Enbridge also requested an accounting order to establish the following deferral account as a result of the Report of the Board in the Transition to International Financial Reporting Standards (IFRS) proceeding (EB-2008-0408):

3) 2009 International Financial Reporting Standards Transition Costs Deferral Account ("IFRSTCDA").

The Board issued a Notice of Written Hearing and Procedural Order No. 1 on October 23, 2009 (the "Notice"). In the Notice, the Board adopted the intervenors in the EB-2009-0172 proceeding as intervenors in this proceeding and deemed those intervenors that were eligible for cost awards in that proceeding to be eligible for cost awards in this proceeding. The Notice set out a timeline for all parties to file submissions in this proceeding on the basis that the Board would proceed to hear the application by way of a written hearing, which it did.

Submissions were received from the following parties: Board Staff, Canadian Manufacturers and Exporters ("CME"), Energy Probe, the Industrial Gas User's Association ("IGUA"), the School Energy Coalition ("SEC"), and the Vulnerable Energy Consumer's Coalition ("VECC"). A reply submission was received from Enbridge on November 11, 2009.

2009 CHANGE IN PURCHASED GAS VARIANCE DISPOSITION METHODOLOGY DEFERRAL ACCOUNT AND 2009 MEAN DAILY VOLUME MECHANISM DEFERRAL ACCOUNT

All parties that made submissions supported the establishment of the 2009 CPGVDMDA and the 2009 MDVMDA.

The Board approves the establishment of the 2009 CPGVDMDA and the 2009 MDVMDA. The account descriptions shall be the descriptions provided by Enbridge in its Application.

CME noted that there should not be any entries recorded in these accounts for the period prior to October 1, 2009, the date on which Enbridge filed its Application. Enbridge responded that the Board's September 18, 2009 Decision and Order in the EB-2008-0106 proceeding did not place any timing restrictions on costs that could be recorded in the CPGVDMDA and the MDVMDA and that it is not reasonable to believe that the Board intended that there would be any timing restrictions.

The Board agrees with Enbridge. The Board's Decision and Order in the EB-2008-0106 proceeding did not place timing restrictions on the costs that could be recorded in the CPGVDMDA and the MDVMDA, and it would not be reasonable to place such restriction in this case. The consideration of the nature and prudence of the recorded costs will be a matter for consideration at a future date when the Applicant seeks disposition of the accounts.

2009 INTERNATIONAL FINANCIAL REPORTING STANDARDS TRANSITION COSTS DEFERRAL ACCOUNT

All parties that made submissions supported the establishment of the 2009 IFRSTCDA.

Enbridge described the purpose of the proposed IFRSTCDA as follows:

> To record the incremental one-time administrative costs of transitioning the Company's financial reporting requirements and statements from current compliance with Canadian Generally Accepted Accounting Principles (CGAAP) to future compliance with International Financial Reporting Standards.

Board staff, supported by CME and Energy Probe, submitted that the above noted statement is not adequate in describing the purpose of the IFRSTCDA. Staff noted that in the September 24, 2009 application by Union Gas Limited ("Union") containing a deferral account request for costs in converting from CGAAP to IFRS, the description is more comprehensive and should be adopted by Enbridge. Union's description of the deferral account is as follows:

> To record, as a debit (credit) in Deferral Account No. [xx] the difference between the actual incremental one-time administrative costs incurred to convert accounting policies and processes from their current compliance with Canadian Generally Accepted Accounting Principles (CGAAP) to their future compliance with International Financial Reporting Standards (IFRS) and the costs included in rates as approved by the Board.

Enbridge responded that that it is not opposed to adopting Union's description.

Board staff noted that on October 29, 2009 the Board issued a document to the electricity utilities entitled: Ontario Energy Board Accounting Procedures Handbook - Frequently Asked Questions, where the answer to FAQ #3 is as follows:

> The costs authorized for recording in the [IFRSTCDA] shall be incremental one-time administrative costs caused by the transition of accounting policies, procedures, systems and processes to IFRS. The incremental costs eligible for inclusion in these accounts may include professional accounting and legal fees, salaries, wages and benefits of staff added to support the transition to IFRS and associated staff training and development costs.
>
> These accounts are exclusively for necessary, incremental transition costs and shall <u>not</u> include ongoing IFRS compliance costs or impacts arising from adopting accounting policy changes that reflect changes in the timing of the recognition of income. The incremental costs in these accounts shall <u>not</u> include costs related to system upgrades, or replacements or changes where IFRS was not the major reason for conversion. In addition, incremental IFRS costs shall <u>not</u> include capital assets or expenditures.

Board staff, supported by certain intervenors submitted that the same criteria should be adopted for the gas sector regarding the costs to be recorded in the IFRSTCDA.

VECC, supported by SEC, submitted that there is an additional concern regarding incrementality that does not occur in the case of the electricity distributors. Enbridge Gas Distribution purchases accounting and other financial advisory services from Enbridge Inc. and pays for these services under the Regulatory Cost Allocation Model which is capped during the IRM term. VECC submitted that it will be necessary for Enbridge to demonstrate that any IFRS-related costs are fully incremental to those related to any services purchased from Enbridge Inc.

Enbridge responded that while it is not opposed in general to the accounting guidance provided in the answer to FAQ #3, it is opposed to the suggestion that the capital expenditures and their financial impact should be excluded from the IFRSTCDA. Enbridge submitted that the costs of any system upgrade or replacement incurred by utilities primarily as a result of conversion to IFRS are likely to be capital in nature. Enbridge stated that in meeting the criteria that costs incurred primarily as a result of conversion to IFRS are eligible to be recorded in the deferral account, gas distribution utilities should be allowed to record (and to ultimately recover) such costs regardless of them being operating or capital in nature. Enbridge further pointed out that it is in the middle of a five year incentive regulation regime and it has no mechanism for capital spending adjustments.

The Board approves the establishment of the 2009 IFRSTCDA for Enbridge with the description provided in Union's September 24, 2009 application, as agreed to by Enbridge.

On the question of whether the IFRSTCDA should include costs related to capital assets or expenditures, the Board notes that the July 28, 2009 Report of the Board, "Transition to International Financial Reporting Standards" states the following on page 27:

> The Board will establish a deferral account for distributors for incremental one-time administrative costs related to the transition to IFRS. This account is exclusively for necessary, incremental transition costs…

The term "administrative costs" has been used to include new systems, special audits, and consulting. Specifically, issue 8.1 is stated on page 26 of the Report as follows:

> "Should the administrative costs (e.g., <u>new systems</u>, special audits, consulting) to transition to IFRS be recovered from ratepayers? On what basis?" (emphasis added).

Thus, the Board envisioned the inclusion of new systems in the administrative costs. The Board agrees with Enbridge's submission that systems costs are typically capital in nature.

The confusion seems to arise from interpreting the answer to FAQ #3. The last two sentences in the last paragraph in the answer read:

> The incremental costs in these accounts shall not include costs related to system upgrades, or replacements or changes where IFRS was not the major reason for conversion. In addition, incremental IFRS costs shall not include capital assets or expenditures.

While the first sentence permits the inclusion of incremental costs that are driven primarily by IFRS, the second sentence has been interpreted that Enbridge cannot include any capital costs, which would appear to be a contradiction. In the Board's view, while the language could have been clearer, there is no contradiction. Unlike situations of tracking capital costs, including capital costs in a deferral account does not make a lot of sense as it is the revenue requirement impact of the eligible incremental capital that matters for ratemaking purposes. The revenue requirement impact would of course include depreciation on the capital. What is not clear however is whether it was intended that a financial return on the eligible incremental capital would also be included. In the absence of timely clarification by the Board in that regard, Enbridge may request a return on that capital at the time it seeks disposition of the deferral account.

Cost Awards

The Board may grant cost awards to eligible stakeholders pursuant to its power under section 30 of the *Ontario Energy Board Act, 1998*. When determining the amount of the cost awards, the Board will apply the principles set out in section 5 of the Board's Practice Direction on Cost Awards. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

The Board will issue a decision on costs awards after the steps set out below are completed.

THE BOARD THEREFORE ORDERS THAT:

1) The new accounts and the accounting entries shall be in accordance with those listed on the attached Appendix "A" and these accounts shall be maintained in accordance with the specifications set out in this decision.

2) Intervenors shall file with the Board and forward their respective cost claims within 26 days from the date of this Decision.

3) Enbridge shall file with the Board and forward to the applicable intervenor any objections to the claimed costs within 40 days from the date of this Decision.

4) The applicable intervenor shall file with the Board and forward to Enbridge any responses to any objections for cost claims within 47 days of the date of this Decision.

5) Enbridge shall pay the Board's costs incidental to this proceeding upon receipt of the Board's invoice.

ISSUED at Toronto, December 9, 2009

ONTARIO ENERGY BOARD

Original Signed By

Paul Vlahos
Presiding Member

APPENDIX "A"

TO DECISION AND ORDER

ACCOUNTING ENTRIES

BOARD FILE NO. EB-2009-0359

DATED: December 9, 2009

Accounting Entries

Change in Purchased Gas Variance Disposition Methodology Deferral Account

Debit:	CPGVDM Deferral Account	(Account 179.xxx)
Credit:	Accounts Payable	(Account 251.xxx)

To record the one-time implementation costs in relation to changing the methodology by which the Company disposes of the PGVA account.

Interest on PGVDCC Deferral Account

Debit:	Interest on PGVDCC Deferral Account	(Account 179.xxx)
Credit:	Interest Expense	(Account 323.xxx)

To record simple interest on the opening monthly balance of the 2009 PGVDCCDA using the Board approved EB-2006-0177 interest rate methodology.

Mean Daily Volume Mechanism Deferral Account

Debit:	MDVM Deferral Account	(Account 179.xxx)
Credit:	Accounts Payable	(Account 251.xxx)

To record the incremental costs of establishing and implementing changes required to meet the Company's newly proposed Mean Daily Volume mechanism as ordered by the Board within the EB-2008-0106 proceeding.

Interest on Mean Daily Volume Mechanism Deferral Account

Debit:	Interest on MDVM Deferral Account	(Account 179.xxx)
Credit:	Interest Expense	(Account 323.xxx)

To record simple interest on the opening monthly balance of the 2009 MDVMDA using the Board approved EB-2006-0177 interest rate methodology.

IFRS Transition Costs Deferral Account

Debit:	IFRSTC Deferral Account	(Account 179.xxx)
Credit	Other Admin & General Expense	(Account 728.xxx)
Credit	Depreciation	(Account 303.xxx)

To record, as a debit (credit) in Deferral Account No. [xx] the difference between the actual incremental one-time administrative costs incurred to convert accounting policies and processes from their current compliance with Canadian Generally Accepted Accounting Principles (CGAAP) to their future compliance with International Financial Reporting Standards (IFRS) and the costs included in rates as approved by the Board.

Interest on IFRS Transition Costs Deferral Account

Debit:	Interest on IFRSTC Deferral Account	(Account 179.xxx)
Credit:	Interest Expense	(Account 323.xxx)

To record simple interest on the opening monthly balance of the 2009 IFRSTCDA using the Board approved EB-2006-0177 interest rate methodology.