



EB-2012-0459

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. for an order or orders approving or fixing rates for the sale, distribution, transmission and storage of gas commencing January 1, 2014.

**DECISION ON NEED FOR A PRELIMINARY ISSUE
AND
PROCEDURAL ORDER NO. 2**

October 3, 2013

Enbridge Gas Distribution Inc. (“Enbridge”) filed an application dated July 3, 2013 with the Ontario Energy Board (the “Board”) under section 36 of the *Ontario Energy Board Act, S.O. 1998, c.15, Schedule B* for an order or orders approving rates for a five year period commencing January 1, 2014. The Board has assigned file number EB-2012-0459 to the application and has issued a Notice of Application dated July 22, 2013.

A record of all procedural matters in this proceeding is available on the Board’s web site.

Decision on Need for a Preliminary Issue

The Board in its Procedural Order No. 1 dated August 27, 2013 invited parties to make submissions on the need for determination of a preliminary issue as proposed by the School Energy Coalition (“SEC”). SEC submitted that Enbridge’s proposed ratemaking

approach runs contrary to the Board's usual Incentive Regulation Mechanism ("IRM") approach which is to de-couple revenues and costs. SEC raised the possibility that, if the Board waits until the end of the proceeding and decides against Enbridge's methodology, then time and money will have been wasted. Therefore, SEC argued that it would be more efficient to make a determination on this preliminary issue up front.

The Board asked that the written submissions address the following questions:

- Is there a need to determine a preliminary issue and if so, what is the issue and what is the rationale for determining the issue prior to hearing the full application?
- What evidence is required to hear the preliminary issue which is in addition to the evidence already filed (for example, interrogatories, oral testimony, etc.)? Why is this additional evidence necessary?

In determining whether to hear the preliminary issue, the Board indicated that it would consider, among other things, whether hearing the preliminary issue will improve the overall hearing efficiency.

The Building Owners and Managers Association ("BOMA"), Board staff and Enbridge submitted that hearing the preliminary issue would necessitate delving into substantive matters which would result in a delay in the proceeding. These parties submitted that it would be more efficient to proceed with hearing the application in full.

BOMA, Enbridge and Board staff also noted that the Board's Renewed Regulatory Framework for Electricity ("RRFE") policy contemplates a custom approach to ratemaking for electricity distributors and that Enbridge has generally followed that approach.

The Canadian Manufacturers and Exporters ("CME") and Energy Probe took no position on the preliminary issue.

The Board has considered the parties' submissions and finds that the most efficient course is to proceed immediately with the entire application. In the Board's view, the preliminary issue is sufficiently broad and the process not sufficiently defined to be conducive to improving the overall hearing efficiency. In making this determination, the

Board is also of the view that it is not obligated to either approve or deny the framework as proposed by Enbridge. The Board has not heard any compelling case that it would be restricted from establishing an alternative framework, were it to find that it would be appropriate to do so, and provided that there was an evidentiary basis for it.

The Board will now make provision for the following procedural matters. A preliminary case timetable is attached as Appendix A. A Draft Issues List is attached as Appendix B. Please be aware that further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. Enbridge shall hold an information session on **October 11, 2013** to provide an overview of its application and a forum for intervenors and Board staff to pose questions in an effort to introduce, inform and guide the development of issues in the proceeding. Intervenors and Board staff shall notify Enbridge of any topics of interest in advance of the information session and no later than **October 8, 2013**. Enbridge, Board staff and intervenors will determine at the end of the information session, what documents from that session will be placed on the public record and when they will be placed. The information session will commence at 9:30am and be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The information session will not be transcribed.
2. Board staff shall file the expert evidence referred to in its August 30, 2013 letter, the PEG written assessment of Enbridge's proposed customized IR Plan, on or before **October 22, 2013**.
3. An Issues Conference, involving Board staff, intervenors and Enbridge, will be convened on **October 25, 2013** to review the Draft Issues List. The Issues Conference will commence at 9:30am and be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto.
4. Enbridge, Board staff or any intervenor supporting the inclusion of any contested issue(s) or advocating for a particular articulation of an issue shall file a written submission with the Board on **October 29, 2013** and copy all other parties. Enbridge, Board staff or any intervenor may file a reply submission on **October 31, 2013**.

5. Board staff and intervenors who wish information and material from Enbridge that is in addition to Enbridge's pre-filed evidence and that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to Enbridge and all intervenors on or before **November 13, 2013**.
6. Enbridge and any intervenor who wishes information and material on the PEG reports filed in this proceeding shall request it by written interrogatories filed with the Board and delivered to Enbridge and all intervenors on or before **November 13, 2013**.
7. The Board requires that interrogatories reference the pre-filed evidence and be filed by issue. Interrogatories should be numbered consecutively throughout and not have new starting points for each issue, or section of issues.
8. Enbridge shall file with the Board complete responses to the interrogatories and deliver them to the intervenors no later than **December 11, 2013**. The responses to interrogatories shall be filed by issue (instead of by intervenor). Interrogatory responses for each issue shall be grouped by intervenor within each issue.
9. Board staff shall file with the Board complete responses to the interrogatories on the PEG reports and deliver them to Enbridge and the intervenors no later than **December 11, 2013**. The responses to interrogatories shall be filed by issue (instead of by intervenor). Interrogatory responses for each issue shall be grouped by intervenor within each issue.
10. Any intervenor that wishes to present evidence shall file that evidence with the Board and deliver it to the Applicant and all intervenors on or before **December 18, 2013**.
11. Anyone (intervenor, Board staff or Enbridge) who requires additional information related to any evidence filed by Board staff or an intervenor, that is relevant to the hearing, shall request it by written interrogatories filed with the Board and delivered to Enbridge, Board staff and all intervenors on or before **December 23, 2013**.

12. Responses to the interrogatories on intervenor evidence shall be filed with the Board and delivered to Enbridge, Board staff and all intervenors on or before **January 10, 2014**.
13. A Technical Conference involving Board staff, intervenors and Enbridge will be convened on **January 16, 2014** and **January 17, 2014** at 9:30 a.m. The Technical Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The Technical Conference will pertain to the evidence filed by all parties and any relevant witnesses may be required to be in attendance.
14. Any undertakings from the Technical Conference shall be filed with the Board and delivered to Enbridge, Board staff and all intervenors on or before **January 23, 2014**.
15. A Settlement Conference will be convened on **January 27, 2014** at 9:30 a.m. with the objective of reaching a settlement among the parties on the issues. The Settlement Conference will be held in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto and if necessary may continue until **February 7, 2014**.
16. Any Settlement Proposal arising from the Settlement Conference shall be filed with the Board no later than **February 14, 2014**.
17. The Oral Hearing will commence on **February 20, 2014** in the Board's hearing room at 2300 Yonge Street, 25th Floor, Toronto. The hearing may continue until **March 7, 2014** if needed.

All filings to the Board must quote file number **EB-2012-0459**, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice/, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address, telephone number, fax number and e-mail address.

All filings shall use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at

www.ontarioenergyboard.ca/OEB/Industry. If the web portal is not available, parties may email their documents to the address below.

Persons who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

For all electronic correspondence and materials related to this proceeding, parties must include in their distribution lists the Case Manager, Colin Schuch at colin.schuch@ontarioenergyboard.ca and Senior Legal Counsel, Kristi Sebalj at kristi.sebalj@ontarioenergyboard.ca

All communications should be directed to the attention of the Board Secretary and be received no later than 4:45 p.m. on the required date.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4
Attention: Board Secretary

Filings:
<https://www.pes.ontarioenergyboard.ca/eservice/>

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto October 3, 2013

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary

APPENDIX "A"

Enbridge Gas Distribution Inc.

EB-2012-0459

Preliminary Case Timetable

Date: October 3 2013

	Event	Date
1.	Notice	July 23
2.	Procedural Order No. 1	August 27
3.	Submissions on need for a Preliminary Issue	September 4
4.	Submissions on Experts Plan	September 9
5.	Responding submissions on need for a Preliminary Issue	September 11
6.	Decision on need for a Preliminary Issue & Procedural Order No. 2	October 2
7.	Letter – from Board staff re: PEG deliverables	October 4
8.	Parties notify Enbridge of topics of interest for Information Session	October 8
9.	information session (hosted by Enbridge)	October 11
10.	File PEG written assessment report	October 22
11.	Issues Conference	October 25
12.	Submissions on Contested Issues	October 29
13.	Reply Submissions on Contested Issues	October 31
14.	Procedural Order No. 3 (Final Issues List)	November 6
15.	Interrogatories filed (Enbridge & PEG)	November 13
16.	Interrogatory responses (Enbridge & PEG)	December 11

17.	Intervenor evidence	December 18
18.	Interrogatories on Intervenor evidence	December 23
19.	Interrogatory responses on Intervenor evidence	January 10
20.	Technical Conference	January 16,17
21.	Undertakings from Tech Conf filed	January 23
22.	Settlement Conference	January 27 – February 7
23.	File Settlement Proposal	February 14
24.	Oral Hearing (10 hearing days)	February 20- March 7

APPENDIX “B”

Draft Issues List

EB-2012-0459

DRAFT ISSUES LIST

A. The Customized IR Plan

1. Is Enbridge’s proposal for a Customized IR plan for a 5 year term covering its 2014 through 2018 fiscal years appropriate ?
 - a. Does Enbridge’s Customized IR plan include appropriate incentives for sustainable efficiency improvements ?
 - b. Does Enbridge’s Customized IR plan ensure appropriate quality of service for customers ?
 - c. Does Enbridge’s IR plan create an environment that is conducive to investment, to the benefit of customers and shareholders ?
2. What are the alternatives to the rate proposal? Are any alternatives to the rate proposal preferable to the rate proposal?
3. Is the methodology within Enbridge’s Customized IR plan for determining annual Allowed Revenue amounts appropriate ?
4. Is the methodology within Enbridge’s Customized IR plan for updating the 2017 and 2018 Annual Revenue amounts within the 2016 Rate Adjustment proceeding appropriate ?
5. Is the methodology within Enbridge’s Customized IR plan for determining final rates for 2014 appropriate ?
6. Is the methodology within Enbridge’s Customized IR plan for setting final rates for 2015 and 2018 through annual Rate Adjustment proceedings appropriate ?
7. Are the cost of capital parameters for 2014 to 2018 (ROE, debt rates) within Enbridge’s Customized IR plan appropriate ?
8. Are the following components within Enbridge’s Customized IR plan appropriate?

- a. Z Factor mechanism
 - b. Off-ramp condition
 - c. Earnings Sharing Mechanism
 - d. Treatment of Cost of Capital
 - e. Performance Measurement mechanisms, including Service Quality Requirements (SQRs)
 - f. Sustainable Efficiency Incentive Mechanism
 - g. Annual reporting requirements
 - h. Rebasing proposal
9. Is the proposal to continue Enbridge's current deferral and variance accounts through the IR term appropriate ?
10. Is the proposal for the creation of the following new deferral and variance accounts appropriate ?
- a. Greater Toronto Area Project Variance Account ("GTAPVA")
 - b. Constant Dollar Net Salvage Adjustment Deferral Account ("CDNSADA")
 - c. Customer Care Services Procurement Deferral Account ("CCSPDA")
 - d. Greenhouse Gas Emission Impact Deferral account ("GGEIDA")
11. Is the proposal to permit Enbridge to apply for changes in rate design and new energy and non-energy services during the IR term appropriate ?

B. Allowed Revenue

12. Is the Allowed Revenue amount for 2014 calculated properly ?
- a. Is the depreciation amount, including the impacts of the 2014 capital budget, within the 2014 Allowed Revenue appropriate ?
 - b. Is the operating costs amount within the 2014 Allowed Revenue appropriate ?
 - c. Is the amount for income and municipal taxes within the 2014 Allowed Revenue appropriate ?

- d. Is the cost of capital amount within the 2014 Allowed Revenue appropriate?
 - e. Is the Other Revenues amount within the 2014 Allowed Revenue appropriate ?
13. Is the Allowed Revenue amount for 2015 calculated properly ?
- a. Is the depreciation amount, including the impacts of the 2014 and 2015 capital budgets, within the 2015 Allowed Revenue appropriate ?
 - b. Is the operating costs amount within the 2015 Allowed Revenue appropriate ?
 - c. Is the amount for income and municipal taxes within the 2015 Allowed Revenue appropriate ?
 - d. Is the cost of capital amount within the 2015 Allowed Revenue appropriate?
 - e. Is the Other Revenues amount within the 2015 Allowed Revenue appropriate ?
14. Is the Allowed Revenue amount for 2016 calculated properly ?
- a. Is the depreciation amount, including the impacts of the 2014 to 2016 capital budgets, within the 2016 Allowed Revenue appropriate ?
 - b. Is the operating costs amount within the 2016 Allowed Revenue appropriate ?
 - c. Is the amount for income and municipal taxes within the 2016 Allowed Revenue appropriate ?
 - d. Is the cost of capital amount within the 2016 Allowed Revenue appropriate?
 - e. Is the Other Revenues amount within the 2016 Allowed Revenue appropriate ?
15. Is the preliminary Allowed Revenue amount for 2017 calculated properly ?
- a. Is the preliminary depreciation amount within the 2017 Allowed Revenue appropriate ?

- b. Is the operating costs amount within the 2017 Allowed Revenue appropriate ?
 - c. Is the preliminary amount for income and municipal taxes within the 2017 Allowed Revenue appropriate ?
 - d. Is the preliminary cost of capital amount within the 2017 Allowed Revenue appropriate ?
 - e. Is the Other Revenues amount within the 2017 Allowed Revenue appropriate ?
16. Is preliminary Allowed Revenue amount for 2018 calculated properly ?
- a. Is the preliminary depreciation amount within the 2018 Allowed Revenue appropriate ?
 - b. Is the operating costs amount within the 2018 Allowed Revenue appropriate ?
 - c. Is the preliminary amount for income and municipal taxes within the 2018 Allowed Revenue appropriate ?
 - d. Is the preliminary cost of capital amount within the 2018 Allowed Revenue appropriate ?
 - e. Is the Other Revenues amount within the 2018 Allowed Revenue appropriate ?

C. 2014 Rates

- 17. Is the 2014 forecast of Customer Additions appropriate?
- 18. Is the 2014 revenue forecast appropriate ?
- 19. Is the 2014 gas volume forecast appropriate?
- 20. Is the 2014 degree day forecast for each of the Company's delivery areas (EDA, CDA and Niagara) appropriate?
- 21. Is the 2014 Average Use forecast appropriate?
- 22. Is the 2014 level of Unaccounted For ("UAF") volume appropriate?

23. Is Enbridge's forecast of gas, transportation and storage costs for 2014 appropriate?
24. Is the Allowed Revenue deficiency or sufficiency for the 2014 Fiscal Year calculated correctly?
25. Is the overall change in Allowed Revenue reasonable given the impact on consumers?
26. Is Enbridge's utility Cost Allocation Study, including the methodologies and judgments used and the proposed application of that study with respect to 2014 Fiscal Year rates, appropriate?
27. Are the rates proposed for implementation effective January 1, 2014 and appearing in Exhibit H, just and reasonable?
28. How should the Board implement the rates relevant to this proceeding?

D. Other

29. Is the proposal for the treatment and sharing of Transactional Services ("TS") revenues appropriate?
30. Is the proposal to introduce a new Hybrid 50/50 forecasting methodology for the determination of a heating degree day ("HDD") forecast for the Company's "Central Delivery Area" appropriate?
31. Is the proposed implementation, treatment and cost recovery related to the change in the peak gas day design criteria, approved by the Board in the 2013 rate application (EB-2011-0354), appropriate?
32. Are the proposed depreciation rate changes, to be in use beginning in the 2014 Fiscal Year, related to a reduction in the annual level of Site Restoration Cost/Asset Retirement Obligation ("SRC/ARO") collected, appropriate?
33. Are the proposed amounts to be returned to ratepayers over a 5 year period related to the estimated reduction to the amount of SRC/ARO previously collected, appropriate?
34. Is the proposal for the Open Bill Access Program appropriate?

35. Are the proposed changes to rate 100 and rate 110 appropriate?
36. Are the proposed changes to the Rate Handbook appropriate?
37. Is Enbridge's rate design for the proposed TCPL Transportation rate appropriate?
38. Is the rate of return on the Natural Gas Vehicle ("NGV") program appropriate?
39. Has Enbridge responded appropriately to all relevant Board directions from previous proceedings?
40. Are Enbridge's economic and business planning assumptions appropriate?