



RP-2003-0203

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

**AND IN THE MATTER OF** an Application by Enbridge Gas Distribution Inc. for an Order or Orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission and storage of gas commencing October 1, 2004.

### **PROCEDURAL ORDER NO. 3**

Enbridge Gas Distribution Inc. filed an application dated December 17, 2003, with the Ontario Energy Board under section 36 of the Ontario Energy Board Act 1998, S.O. 1998, c.15, (Schedule B). The Board has assigned file number RP-2003-0203 to the application and has issued a Notice of Application dated December 19, 2003.

At the Issues Day held on March 25, 2004, the Board heard submissions on Issue 5.5 on the Proposed Issues List. The wording of the issue was presented to the Board as follows:

- 5.5 The role of the utility in providing system gas pending the outcome of the Natural Gas Policy Forum, including:
- a) contracting practices, including entering into long term commitments for the acquisition of system gas;
  - b) relationships of EGDI to projects and/or transactions in which EGDI affiliates have an interest; and
  - c) EGDI's proposed actions in promoting system gas and/or retaining system gas customers and its consequential effect on system gas pricing, if any.

The Board heard submissions from Enbridge Gas Distribution Inc. ("the Company"), the School Energy Coalition, the Canadian Manufacturers and Exporters, Pollution Probe, TransCanada PipeLines, Petro Canada, Energy Probe, Direct Energy, Ontario Energy Savings Corporation and Superior Energy Management. In addition, written submissions from the Consumers' Association of Canada, the Industrial Gas Users Association and the Vulnerable Energy Consumers Coalition

were read into the record by Board staff. A transcript of the proceeding is available from the Board's public files and the Board's website.

The essence of the Company's submission was that the hearing of Issue 5.5 is necessary because the Company must currently make decisions about long-term gas supply commitments and cannot afford to wait until the outcome of a generic proceeding on gas supply. Through Issue 5.5, the Company said that it "seeks direction as to what it should do with these live issues pending whatever generic proceeding and outcome the Board may produce in the future". Further, the Company sought to provide the disclosure required by the Board in RP-2001-0032.

All of the parties were supportive of the Company's view that there is a need to address issues raised in Issue 5.5 in some regulatory forum, be it a rate case or a broader industry policy forum. Indeed, the Board notes that Issue 5.5 was presented as an uncontested issue. Several parties argued that the Board's Natural Gas Forum, currently underway, was the best venue to consider the matters raised in Issue 5.5. Others argued that certain of the issues raised by Issue 5.5 were appropriate for the Natural Gas Forum, while other issues were better served by examination through the rates case. Another suggestion was for a bifurcated process which would separate the rate-making aspects of the issues from the generic aspects. However, more than one party argued that it would be difficult to divorce the generic aspects of the issue from those aspects related to specific long term contracts, and cautioned the Board against attempting to do so.

The Board has considered all the submissions and is of the view that while rate cases should generally involve only matters that generate rate implications for the test period, there may be circumstances where the examination of other matters is appropriate. The Board is convinced that there is merit in examining some of the issues raised in proposed Issue 5.5. However, it is also the Board's view that the scope of the proposed issue is too broad for the rate case and its scope should be limited. With this in mind, the Board has recast Issue 5.5 as follows:

5.5 Matters under review by EGDI filed in this proceeding that require commitments to be made prior to the next planned rate application, specifically:

- a) entering into long term commitments for the acquisition of system gas;
- b) relationships of EGDI to projects and/or transactions in which EGDI affiliates have an interest; and
- c) managing the risk of load erosion related to system gas, as required to support these proposed long term supply commitments.

The Board will be examining in other forums a range of industry-wide issues around system gas supply. To the extent that the Company has specific plans for submission within the time frame of this proceeding, the Board will hear evidence on those specific plans and their implications. However, the Board does not wish to expand Issue 5.5 beyond that.

The Company has brought forward a proposal to promote system gas, including the recovery of the costs of promotion. The Board's review is required at this time because system gas promotion costs are proposed for recovery in 2005 rates. While the Board sees this matter as being linked to the issue of long term supply commitments, it is one alternative among several of managing the risk of reduced system gas loads and potential stranded supply costs. If the Company wishes to continue to seek recovery of system gas promotion costs, it should provide evidence of other alternatives.

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The Board also notes that there is a separate process underway for the review of the Affiliate Relationships Code for Gas Utilities. Accordingly, the Board's view is that all matters relating to the review of that code should take place in that forum.

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In finding that Issue 5.5 will remain on the list, the Board wishes to caution the applicant on two matters. First, depending what direction from the Board the Company is seeking, the Board may require disclosure at a greater level of detail than has been provided by the Company. Secondly, as the Company is aware, disclosure to and direction from this panel of the Board does not bind of a future panel who may determine policy or rate-making implications of the matters discussed under Issue 5.5.

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**THE BOARD ORDERS THAT:**

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1. The Issues List for this proceeding is attached as Appendix "A" to this Order.

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**DATED** at Toronto, April 1, 2004

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ONTARIO ENERGY BOARD

Peter H. O'Dell  
Acting Board Secretary

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**APPENDIX "A" TO  
BOARD FILE NO. RP-2003-0203  
DATED: APRIL 1, 2004  
ISSUES LIST  
NOT AVAILABLE IN ERF**