



EB-2009-0154

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
its 2010 Demand Side Management Plan.

BEFORE: Paul Sommerville
Presiding Member

Cynthia Chaplin
Member

DECISION AND ORDER ON COST AWARDS

Enbridge Gas Distribution Inc. ("Enbridge") filed an application with the Ontario Energy Board (the "Board") dated October 15, 2009, seeking an order granting approval of its 2010 low-income Natural Gas Demand Side Management ("DSM") plan. The Board assigned File No. EB-2009-0154 to the application.

This application was in response to a request from the Board on September 28, 2009, for Enbridge and Union Gas Limited ("Union") to file one year low-income DSM plans for 2010 based on the existing DSM framework, including budget increases based on the established escalators.

On September 30, 2009, the Board issued its Decision and Order approving Enbridge's originally filed application for its 2010 DSM plan. That plan did not include the low-income component. The Board decided to hear the current application as a second phase to the proceeding. The Board noted it would only be addressing the one year low-income DSM plan; all other matters related to the 2010 DSM plan had been addressed in the first phase.

On October 26, 2009, the Board issued Procedural Order No. 2 which directed Enbridge to serve a copy of its low-income DSM plan application on all intervenors in the current 2010 DSM plan proceeding, all intervenors in the Generic DSM Proceeding (File No. EB-2006-0021) and all parties in the DSM Guidelines proceeding (File No. EB-2008-0346). In response to Enbridge serving a copy of its 2010 low-income DSM plan on these sets of parties, the Board received one new request for intervenor status. The Federation of Rental-housing Providers of Ontario ("FRPO") requested intervenor status and requested eligibility for an award of costs. The Board granted FRPO's request. Parties who were previously approved to be intervenors in Phase I of the 2010 DSM plan proceeding remained eligible to participate in Phase II. Procedural Order No. 2 also outlined the schedule for parties to file interrogatories and submissions on Enbridge's application.

The Board issued its Decision and Order on December 14, 2009, in which it set out the process for intervenors to file their cost claims and to respond to any objections raised by Enbridge.

The Board received cost claims from the Building Owners and Managers Association ("BOMA"); the Canadian Manufacturers & Exporters ("CME"), the Consumers Council of Canada ("CCC"), Energy Probe Research Foundation ("Energy Probe"), Industrial Gas Users Association ("IGUA"), Low Income Energy Network ("LIEN") and Pollution Probe Foundation ("Pollution Probe"). On January 4, 2010, FRPO filed a letter stating that it did not intend to request a cost award and therefore no claim will be submitted.

On January 13, 2010, Enbridge filed a letter stating that it has reviewed the intervenor cost claims and found the claims to be consistent with the allowances of prescribed rates within the cost assessment guidelines. Enbridge noted that LIEN's claim did not include time docket supporting the hours claimed for their consultants. On January 20, 2010, LIEN filed the missing detailed dockets claimed for their consultants.

Board Findings

The Board has reviewed the cost claims filed by BOMA, CME, CCC, Energy Probe, IGUA, LIEN and Pollution Probe.

The Board finds that BOMA, CME, CCC, Energy Probe, IGUA and Pollution Probe are eligible for 100% of their reasonably incurred costs of participating in this proceeding. The Board finds that each party's claims are reasonable and will be reimbursed by Enbridge.

The Board has decided to award LIEN \$2,000 for this proceeding. This reduction is consistent with the Board's findings in its recent decisions with respect to LIEN's costs awards (EB-2008-0106, EB-2009-0154 and EB-2009-0166). In those Decisions the Board found that LIEN's costs were excessive and not commensurate with its contribution in the effected cases. LIEN brought motions to review these Decisions, and the motions were denied at the threshold stage. In this case LIEN's claims are substantially higher than any of the other intervenors. Such significantly higher costs could only be justified if LIEN's participation in the case, including its filings, provided like value in enhancing the Board's understanding of the issues. In this case, the Board has awarded somewhat more than the average of the other costs claimants in light of the fact that the subject matter was of particular relevance to LIEN. LIEN will also be awarded its claim for disbursements.

THE BOARD THEREFORE ORDERS THAT:

1. Pursuant to section 30 of the Ontario *Energy Board Act, 1998*, Enbridge shall immediately pay:

• Building Owners and Managers Association	\$ 522.54;
• Canadian Manufacturers & Exporters	\$ 614.25;
• Consumers Council of Canada	\$1,559.25;
• Energy Probe Research Foundation	\$1,340.19;
• Industrial Gas Users Association	\$1,577.10;
• Low Income Energy Network	\$2,049.73; and
• Pollution Probe Foundation	\$ 853.27.

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge shall pay the Board's costs of and incidental to, this proceeding immediately upon receipt of the Board's invoice.

DATED at Toronto, April 22, 2010.

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary