



**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.

The Building Owners and Managers Association of the Greater Toronto Area (“BOMA”), the Consumers Council of Canada (“CCC”), the Canadian Manufacturers & Exporters (“CME”), Energy Probe Research Foundation (“Energy Probe”), the Green Energy Coalition (“GEC”), Industrial Gas Users Association (“IGUA”), Low Income Energy Network (“LIEN”) and Pollution Probe received intervenor status and were granted approval to apply for an award of costs in this proceeding. Union Gas Limited (“Union”) and Direct Energy requested intervenor status and indicated they were not seeking an award of costs while the City of Toronto requested observer status.

The Board issued its Decision and Order on September 30, 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 BOMA, CME, GEC, IGUA, CCC and LIEN. Enbridge filed a letter stating that it had no objection to BOMA's, CME's, GEC's, IGUA, LIEN's and CCC's cost claims. Energy Probe and Pollution Probe did not file any cost claims.

### **Board Findings**

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

The Board finds BOMA, CME, GEC, IGUA and CCC 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 finds that LIEN's claim is excessive in the circumstances. Its claim for \$8,460 in fees is more than twice as high as the average claim for fees of \$3,312 for the other 5 intervenors. A comparison to the average is not a determinative factor of reasonableness, but is an indication of reasonableness. A claim which is more than twice the average may be reasonable in certain circumstances, for example if the intervenor took a larger role than others in the proceeding or provided expert testimony or otherwise distinguished itself in the proceeding. There are no such circumstances in this proceeding. This proceeding dealt with Enbridge's 2010 DSM program, *excluding* low-income programs. LIEN's submissions were limited in nature and largely adopted the submissions of other parties. The Board finds that the contribution provided by LIEN to the proceeding does not warrant an award of costs beyond that of the average or the other participants.

LIEN will be awarded costs for fees to the level of the average of other participants, \$3,312. 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  
of the Greater Toronto Area \$1,554.37;
  - Canadian Manufacturers & Exporters \$4,284.79;
  - Green Energy Coalition \$4,755.23;
  - Industrial Gas Users Association \$3,577.37;
  - Consumers Council of Canada \$2,598.75;
  - Low Income Energy Network \$3,423.93.
  
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, January 7, 2010

**ONTARIO ENERGY BOARD**

*Original Signed by*

Kirsten Walli  
Board Secretary