



**EB-2006-0034**

**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 January 1, 2007;

**AND IN THE MATTER OF** Phase Two of that Application dealing with the Regulatory Cost Allocation Methodology (RCAM).

**BEFORE:** Gordon Kaiser  
Vice Chair and Presiding Member

Ken Quesnelle  
Member

## **DECISION AND ORDER ON COST AWARDS – PHASE 2**

### **Background**

On May 20, 2008, the Ontario Energy Board (the “Board”) issued its Phase 2 Decision with Reasons on an application by Enbridge Gas Distribution Inc. (“Enbridge”) fixing just and reasonable rates for the sale, distribution, transmission, and storage of gas for Enbridge’s 2007 fiscal year.

The Consumers Council of Canada (“CCC”), Energy Probe Research Foundation (“Energy Probe”), Industrial Gas Users Association (“IGUA”), Pollution Probe, School Energy Coalition (“SEC”) and Vulnerable Energy Consumers Coalition (“VECC”) intervened in the proceeding and were found to be eligible for award of costs. On June 23, 2008, the Board received comments from Enbridge stating that it had reviewed the Phase 2 Cost Claims and that it had no objection to the costs claimed.

The HVAC Coalition sought recovery of its costs for Phase 2. As noted in the Board’s letter dated October 27, 2006 regarding the acceptance of this group as an intervenor in these proceedings, the Board found the HVAC Coalition to be ineligible for cost awards. The Board finds no reason to change that position notwithstanding the fact that Enbridge did not object to HVAC Coalition’s cost claim. The Board therefore has not awarded any costs to the HVAC Coalition in this Phase of the proceeding.

The Board has reviewed all the parties’ cost claims. The Board notes the request by VECC that costs for Mr. Buonaguro be “grandfathered” under Tier 2 of the tariff consistent with the award in Phase 1. VECC also states that such grandfathering would equally apply to the claim advanced by Mr. De Vellis on behalf of the SEC.

### Board Findings

The Board notes that in its Decision and Order on Cost Awards EB-2007-0606/0615:

“The Board notes the request by VECC that costs for Mr. Buonaguro be compensated at the Tier 2 rate because VECC formed an expectation, based on past Board cost orders, that he would be compensated at that level. The Board will award costs at the Tier 2 level for Mr. Buonaguro for the time up until December 13, 2007. That is the date of the Board’s Decision and Order on Cost Awards in EB-2007-0063 which based the cost award on the correct application of the tariff (namely, compensating Mr. Buonaguro at the Tier 1 level). It is the Board’s conclusion that as of that date, VECC could no longer have an expectation that Mr. Buonaguro would be compensated at the Tier 2 level. The Board notes that the same approach is applicable to Mr. DeVellis, representing SEC, but no claim was made for time prior to December 13, 2007 and therefore no “grandfathering” applies.”

The Board has reached the same conclusion in this case. Mr. DeVellis' cost claims cover the period from April 30 to July 11, 2007 and Mr. Buonaguro's cost claims cover the period from April 16 to October 16, 2007. Therefore, consistent with the reasoning applied in EB-2007-0606/0615, Mr. DeVellis and Mr. Buonaguro should be compensated at the Tier 2 level.

The Board finds all parties to be entitled to 100% of their reasonably incurred costs of participating in this proceeding. The Board also finds each party's cost claims to be reasonable and approves them.

**THE BOARD THEREFORE ORDERS THAT:**

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

- CCC \$5,565.00;
- Energy Probe \$6,485.32;
- IGUA \$8,482.62;
- Pollution Probe \$143.69;
- SEC \$14,532.50; and
- VECC \$130,273.94.

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

**DATED** at Toronto, September 18, 2008

ONTARIO ENERGY BOARD

*Original signed by*

John Pickernell  
Assistant Board Secretary