EB-2005-0523

ONTARIO ENERGY BOARD

IN THE MATTER OF THE Ontario Energy Board Act, 1998, S.O. 1998, c. 15, Schedule B, as amended;

IN THE MATTER of a proceeding initiated by the Ontario Energy Board to make certain determinations respecting conservation and demand management ("CDM") by Local Distribution Companies ("LDC") activities as described in the Electric Distribution Rates ("EDR") Handbook and Total Resource Cost ("TRC") Guide pursuant to sections 19(4) and 78 of the *Ontario Energy Board Act, 1998.*

REPLY SUBMISSIONS OF ENBRIDGE GAS DISTRIBUTION INC.

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In this Reply, Enbridge Gas Distribution Inc. ("Enbridge") responds to several positions or statements articulated by Board Staff and several intervenors during the oral proceeding on December 22, 2005.

A. Board Staff Proposal

While Enbridge understands the motivation behind the proposal by Board Staff and its desire to develop a simple and practical approach to evaluating the level at which LDCs should undertake CDM activities by comparing the cost effectiveness of plant reinforcement and expansion versus additional CDM expenditures, Enbridge notes its concern that such a test may not fully allow for and value all of the decision-making variables which a utility considers prior to undertaking plant expansion and reinforcement.

Good utility management requires a utility to not only consider cost-effective alternatives, but also system reliability and integrity issues over an appropriate planning horizon. Any comparison of the economics of either undertaking plant expansion and/or reinforcement versus CDM activities cannot be undertaken in isolation of such planning issues and a utility's projections for growth and the nature of such growth (i.e. residential versus industrial; peak versus base load, etc.) in its service territory. Even where it is generally agreed that CDM programs are likely to generate results, it is probable that a utility must look at more than a simple economic comparison between such programs and the cost of system expansion given the need to consider issues over the longer term. While the prospect of generating CDM results in a service territory may have a strong historical basis, results cannot be forecast locally and therefore cannot be relied upon to address the need to upgrade distribution plant in a specific part of a service territory. Simply stated, it is not appropriate to compare the likelihood of achieving some CDM results in an overall service territory to a facility upgrade or expansion that serves a specific geographic need. It is not possible to guarantee that a specific customer will participate in a CDM program. It may, however, be reasonable to assume that a customer somewhere in the franchise area will agree to participate.

Any consideration of the prudence of undertaking system expansion and reinforcement must consider all relevant factors.

Enbridge is also concerned that by the adoption of Board Staff's proposal, intervenors might be encouraged to more frequently challenge a utility's decision to undertake even the most modest expansion of the distribution system and/or reinforcement programs, neglecting to consider the other important reasons which support a utility's decision. At a minimum, this could result in costly unnecessary delays.

In addition, Enbridge submits that caution should be exercised looking solely to the Total Resource Cost test as a basis for determining the appropriate level of CDM activities. It is well accepted that the TRC test sets the baseline for determining whether a CDM portfolio is cost-effective. However, it is important to acknowledge that the TRC test does not reflect the amounts which CDM programs pay out in incentive payments because they are considered a "pass through" (i.e. paid by ratepayers through rates and paid to ratepayers as incentives). The TRC test, therefore, does not calculate the full impact of a utility's portfolio of CDM programs on rates. Accordingly, Enbridge cautions against solely looking to the TRC test as a determinant of the appropriate level of CDM spending. Other factors, including the impact on rates, must also be considered.

Ultimately, because a utility must justify its proposed spending, it must have the flexibility of setting spending levels that address all of the above issues and is appropriate in light of the unique business requirements of each utility. It should come as no surprise that CDM spending levels will vary from utility to utility based upon the specific nature of each utilities service territory.

B. The Attribution Rule

In its oral submissions, GEC referenced one of Enbridge's DSM programs specifically as being an example of problems which may arise if the TRC Guide remains unchanged. GEC and others point to the fact that recently Enbridge's financial incentive under its EnerGuide for Homes program is less than that provided by NRCan. Enbridge understands that some intervenors support the development of an attribution rule which would simply be based upon the ratio of financial incentives between a utility and a non-rate regulated third party. However, such a rule would not quantify and appropriately reward a utility for its other non-financial efforts in kind, such as the support and effort undertaken by Enbridge in respect of the EnerGuide for Homes program.

Subsequent to oral submissions being made in this proceeding, the Board issued its Partial Decision with Reasons in the Enbridge 2006 rate case (EB-2005-0001) wherein it held that Enbridge would be entitled to claim 50 percent of the benefits generated by this program. It appears that this decision by the Board stands for the proposition that attribution should not merely look at financial incentives but also the role of a utility developing, organizing and supporting initiatives in other ways.

In response to the suggestion by Energy Probe that the attribution rule in the TRC Guide might encourage a utility to participate in a meagre way in a previously existing program and yet claim 100 percent of the benefits, Enbridge submits that this is not a credible scenario. The present wording of the TRC Guide states that LDCs will be allowed to claim 100 percent of the benefits associated with the CDM program "in which they jointly market and deliver the program with a non-rate regulated third party" (at page 16). This language denotes more than a token involvement by a utility with a third party marketing and delivering a particular program. It is unlikely that the scenario suggested by Energy Probe will ever arise, but even were such a claim to be made, intervenors would, undoubtedly, raise the matter as an issue before the Board.

If intervenors are truly concerned about the attribution rule in the TRC Guide applying to a particular program, they should raise the issue at the time that a utility files its plan with the Board for approval but once approval is received, it is essential that all assumptions remain fixed otherwise the certainty needed for a utility to develop its portfolio of programs will be lost.

C. Freerider Rates

It is noteworthy that no intervenor pointed specifically to any freerider rate contained in the TRC Guide which it believes is either completely inaccurate or without any empirical basis. Stated differently, those intervenors opposed to the use of the TRC Guide for 2006 did not develop an evidentiary record or argue that reliance on the freeridership rates in the TRC Guide will result in excessive or exaggerated claims for incentive payments. No intervenor contradicted Enbridge's submission that the opposite could also occur given the currently high freerider rate used for custom projects. The fact is that the freerider rate for custom projects may overstate the percent of freeriders, thereby depriving a utility of an appropriate incentive payment.

The TRC Guide was developed with the purpose of providing LDCs with certainty to assist in the development of a portfolio of CDM programs. To alter the TRC Guide at this time undermines this certainty and is unnecessary given that LDCs will, over time, bring forward information about new and existing programs which intervenors can consider relative to the assumptions contained in the TRC Guide.

The important point being made is that intervenors opposed to the TRC Guide failed to demonstrate that it is flawed based upon any reliable evidence or that it will produce unjust and unreasonable rates. Indeed, no intervenor put forth alternative values for use in 2006. There is, therefore, no basis to warrant change to the TRC Guide for 2006.

All of which is respectfully submitted.

Dated: January 16, 2006.

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