

subsequently approved Total Resource Cost Guide, issued September 8, 2005. EGD was not only a listed intervenor in the RP-2004-0188 and RP-2004-0203 proceedings, but it cross-examined expert witnesses, filed written submissions and responding submissions, and was specifically referenced in the Report of the Board, dated May 11, 2005.

4. Enbridge filed a Notice of Late Intervention, dated November 11, 2005, in the 2006 Electricity Distribution Rate Application proceeding (RP-2005-0020). Presumably as a consequence, the Company did not receive a copy of the Board's Notice of Proceeding and Hearing Electricity Conservation and Demand Management Activities, (the "Board's Notice") dated November 11, 2005, in proceeding EB-2005-0523. Enbridge notes that this proceeding was only posted on the Board's Web site on November 16, 2005, which is the day following the date required by the Board in its Notice for the filing of interrogatories. Attached hereto as Exhibit "A" is a true copy of the above Late Intervention of Enbridge.

5. This Affidavit is filed pursuant to paragraph 4 of the Board's Notice, which requires the filing of evidence by December 2, 2005.

#### **Enbridge's Interest in this Proceeding**

6. In addition to the role EGD played in the proceedings which led to the development of the 2006 EDR Handbook and the TRC Guide, the TRC Guide has been filed as an Exhibit (K30.4) in EGD's 2006 Rate proceeding (EB-2005-0001), and EGD has made reference to both the TRC Guide and the Report of the Board, dated May 11, 2005, in its Argument. Briefly, Enbridge supports the development and setting, on a prospective basis, of the various assumptions, including freeridership rates and attribution levels that will be used by utilities for the development, monitoring and evaluation of CDM/DSM programs.

7. As well, Enbridge has partnered with Toronto Hydro to deliver C&DM programs and may deliver CDM programs on behalf of other LDCs.

8. Enbridge's interest in this proceeding is limited to Issue 2 set out in the Board's Notice. Specifically, Enbridge takes the position, for the reasons set out in this Affidavit, that utilities should not be required for the 2006 test year to demonstrate freeridership levels for all CDM programs on a program-by-program basis. Enbridge submits that

freeridership rates should be set prospectively based upon the best information available at the time the rates are set. This is what occurred when the Board issued the TRC Guide. The process should not be allowed to degenerate to the point where freeridership rates are subject to challenge based upon information and analysis undertaken subsequent to the year in which the CDM or DSM programs are delivered.

9. Based upon its years of experience, Enbridge submits that the Board should not approve a process whereby intervenors are incented to bring forward after-the-fact information for the purposes of attempting to reduce a utility's apparent entitlement to claim TRC benefits. It has been Enbridge's experience that the prospect of ratepayer groups being able to influence the level of TRC benefits generated after the fact by retroactively arguing that freeridership rates should be changed leads to delay and unnecessarily complicates the regulatory process.

10. Enbridge also has an interest in this proceeding in respect of the Board's determination of the rules applicable to the attribution of benefits from CDM/DSM programs. Enbridge's experience is that where the attribution rules allow a utility to claim net TRC benefits, despite the fact that a program is delivered jointly with a non-rate regulated third party, the utility is incented to promote partnering and the sourcing of additional funding to facilitate CDM/DSM programs. It would work as a disincentive to utilities who would otherwise seek out partners and non-ratepayer sources of funding for CDM/DSM initiatives if the attribution rules are changed to reduce a utility's entitlement to claim TRC benefits. Enbridge submits that this is not in the best interests of ratepayers in that the incentive to develop partnerships and deliver programs on the most cost-effective basis would be compromised if the attribution rules are changed.

11. Enbridge submits that its interest in this proceeding, in addition to the specific issues identified above, also exists in respect of its belief that, to the extent practical, there should be continuity between DSM and CDM regulatory methodologies.

### **Freeridership Rates**

12. Prior to 2003 ADR agreement, Enbridge was faced with requests to adjust freeridership rates without supporting studies. This issue was resolved in Enbridge's 2003 Rates Case ADR settlement which created what is known as "2003 ADR Rules". The Board decision in RP2002-0133 confirmed that in calculating TRC savings for the

purposes of determining the SSM, program assumptions including freeridership will not be changed retroactively. For the purpose of C&DM programs of electric LDC's, Enbridge submits that freeridership should also be set prospectively.

13. I was advised by SeeLine Group Inc. that the freeridership rates in the TRC Guide relied heavily on the freeridership rates in the natural gas sector which have been studied and developed over time based upon the best available information.

#### **Attribution Rules**

14. The attack on attribution rules is not limited to this proceeding. In the 2006 Enbridge Rates Case, EB-2005-0001, certain intervenors have similarly alleged that Enbridge's ability to claim 100 percent of the net TRC benefits generated in several programs should be denied. Specifically, the Green Energy Coalition ("GEC") has suggested that the freeridership rate in respect of the EnerGuide for Houses program, and the Commercial DAP program, be substantially increased, based simply upon the ratio of the financial incentives made available to potential participants by Enbridge relative to the financial incentives made available by NRCan. While GEC proposes that the freeridership rates be increased, it justifies the increases under its proposed "Attribution Principle".<sup>2</sup> Enbridge submits that it is erroneous to confuse the two concepts. The fact that GEC is proposing a change in the attribution rules and using that to justify an increase in freeridership rates is an example of what can be expected if the attribution rules are changed. Enbridge submits it will only add greater uncertainty to the process.

15. The view of intervenors that propose change to the attribution rules fails to consider the historical origin of many CDM/DSM programs, including Enbridge's efforts to solicit government support and the numerous non-financial means in which Enbridge supports relevant programs. Turning specifically to the origin of programs, it should be noted that Enbridge was a key supporter in the Home Performance Rewards pilot project (later became EnerGuide for Houses), along with the Ontario Ministry of Environment, developed by Green Communities Association and carried out in cooperation with Peterborough GreenUp. Enbridge was not only involved in the program development

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<sup>2</sup> Chris Neme, *Implementing Enbridge's Role in Ontario Conservation Culture*, EB-2005-0001, Ex. L-9-1, June 30, 2005, p. 22

negotiation. Accordingly, Enbridge submits that the Board should not advocate the development of yet a further complicated methodology.

### **Confusion Between Freeridership Rates and Attribution**

21. In many instances, intervenors use the terms "freeridership rates" and "attribution" inter-changeably. Technically, they are not the same and should be distinguished. A freeridership rate is intended to capture those ratepayer participants in a DSM/CDM program that would have undertaken the applicable energy efficiency measure, even if the DSM/CDM program did not exist. For example, furnaces naturally wear out and are replaced, regardless of a utility's CDM program. A certain percentage of efficient replacements will occur in any event.

22. Freerider rates are a different calculation than attribution levels which, in the example of programs that are jointly delivered by two or more rate-regulated entities results in a sharing of the net TRC benefits between the entities delivering the programs. However, in instances where a utility is central to the development of a program that is delivered jointly or in a partnering with non-rate regulated entities, the utility should be entitled to claim 100 percent of the net TRC benefits generated because it was responsible for securing the third party support and funding which is not recovered in rates.

### **Conclusion**

23. The Board has already conducted a proceeding to review the Draft TRC Guide. As part of this process the Board already considered parties comments (including Pollution Probe's submission) before issuing the Final TRC Guide. Enbridge feels that reopening this issue after it has already been addressed will create more uncertainty to the LDC's when pursuing C&DM/DSM initiatives.

24. Enbridge therefore submits that the rules in respect of freeridership rates and attribution levels should remain as stated in the TRC Guide. Enbridge submits that there is no cogent reason to amend the rules at this time. Finally, Enbridge submits, in the alternative, that if the Board accepts all or some of the submissions for change by intervenors, these changes should not be implemented for the purposes of 2006 rates, as utilities have undoubtedly prepared their CDM/DSM plans for 2006 based upon the