



EB-2005-0551

IN THE MATTER OF a proceeding initiated by the Ontario Energy Board to determine whether it should order new rates for the provision of natural gas, transmission, distribution and storage services to gas-fired generators (and other qualified customers) and whether the Board should refrain from regulating the rates for storage of gas.

PROCEDURAL ORDER NO. 9

On December 29, 2005, the Ontario Energy Board issued a Notice of Proceeding on its own motion to determine (i) whether it should order new rates for the provision of natural gas, transmission, distribution and storage services to gas-fired generators (and other qualified customers); and (ii) whether to refrain, in whole or part, from exercising its power to regulate the rates charged for the storage of gas in Ontario by considering whether, as a question of fact, the storage of gas in Ontario is subject to competition sufficient to protect the public interest. The Natural Gas and Electricity Interface Review ("NGEIR") proceeding was commenced pursuant to sections 19, 36 and 29 respectively of the *Ontario Energy Board Act, 1998*. The Notice of Proceeding directed Enbridge Gas Distribution Inc. ("Enbridge") and Union Gas Limited ("Union") to file evidence on potential rates for gas-fired generators.

On January 23, 2006, the Board issued Procedural Order No. 1 which identified the issues to be addressed in this proceeding to include rates for gas-fired generators, storage regulation and transportation capacity bidding process and allocation. Procedural Order No. 1 also set a schedule for the remaining steps in this proceeding.

On February 28, 2006, the Board issued Procedural Order No. 2 which outlined the mandatory evidence to be filed by Enbridge on the Rate 300 series rates and a revised NGEIR timetable.

On March 15, 2006, the Board issued Procedural Order No. 3 to provide direction to Union for filing evidence on four issues which were moved from the Union 2007 rates proceeding (EB-2005-0520) to the NGEIR proceeding.

On March 23, 2006, the Board issued Procedural Order No. 4 to provide the agenda and procedures for the Technical Conference to be held on April 5 and 6, 2006. The objective of the Technical Conference was to provide Enbridge and Union with the opportunity to present their evidence on proposed generator rates and to provide participants with the opportunity to obtain further clarification of that evidence.

On April 5 and 6, 2006, the Board held a Technical Conference on the mandatory evidence filed by Enbridge and Union with respect to potential rates for gas-fired generators and other qualified customers (Issue I of this proceeding). At the April 6, 2006 Technical Conference, Enbridge presented revisions to Rate 125 – Extra Large Firm Transportation Service and proposed a new High Deliverability Storage Service (Rate 316). The proposed rates were presented on a conceptual basis only, and Enbridge took the position that the setting of rates associated with Rate 125 and Rate 316 should only be done in the context of Enbridge's 2007 rate hearing. The Board did not agree and noted that the Procedural Orders have consistently contemplated the setting of rates as a potential outcome for the NGEIR proceeding. The Board expected Enbridge's evidence both on proposed rates for gas-fired generators (and other qualified customers) and on the Rate 300 series rates (Issue IV) to contain sufficient information for the Board to make a decision on rate setting that will result in a rate order. Therefore, the Board issued Procedural Order No. 5 on April 12, 2006 to direct Enbridge to file supplemental evidence to complete the mandatory evidence on the potential rates for gas-fired generators and other qualified customers (Issue I) and to add a one-day technical conference on April 27, 2006 on Issues I and IV.

Based on the supplemental evidence filed by Union on Issue I and the evidence filed by participants on all issues on May 1, 2006, the Board concluded two extra days should be added to the scheduled technical conference on May 18-19, 2006. The Board issued Procedural Order No. 6 on May 5, 2006 to provide the agenda and procedures for the May 16-19, 2006 technical conference.

During the May 16-19, 2006 technical conference, several participants requested additional time to file undertaking responses. In response, the Board issued Procedural Order No. 7 on May 26, 2006 to extend the due date for written undertaking responses to questions related to Issue II (Storage Regulation) that were raised at the technical conference to June 2, 2006. Procedural Order No. 7 also provided information for the settlement conference and announced the planned hearing dates (June 12, 13, 19, 20, 22, 26, 27, 29, 30, July 10, 11, 13, 14). The Board also announced its intention to begin the oral hearing by hearing evidence with respect to Issue II (Storage Regulation), followed by hearing any issues that are not part of a Board approved settlement proposal.

On June 6, 2006 letters were received from Union and from a representative of gas-fired generators to request that an extension be granted to all participants in the settlement conference to allow a filing of any settlement proposal on June 13, 2006 and a postponement of the presentation of any settlement proposal and the start of the hearing to June 19, 2006. The Board issued Procedural Order No. 8 on June 7, 2006 to address the aforementioned requests and provide information related to the hearing. The Board also added July 17 and July 20, 2006 as hearing dates. The oral hearing began on June 19, 2006 and the Board subsequently added July 12, 2006 as a hearing date.

In the December 29, 2005 Notice of Proceeding, the Board stated that it may order costs in this proceeding.

Twelve parties applied for and have been determined by the Board to be eligible for costs incurred for this proceeding. The twelve parties are: the Association of Major

Power Consumers in Ontario, the Association of Power Producers of Ontario, the Canadian Manufacturers and Exporters, the City of Kitchener, the Consumers Council of Canada, the Industrial Gas Users Association, the Low-Income Energy Network, the London Property Management Association, the School Energy Coalition, the Vulnerable Energy Consumers Coalition, the Wholesale Gas Purchasers Group and Energy Probe (collectively, the "Eligible Parties").

As was communicated previously, Union and Enbridge will be ordered to pay any cost awards for this proceeding.

The Board wishes to provide the schedule for final arguments and cost awards process. The Board may issue further Procedural Orders from time to time.

THE BOARD ORDERS THAT:

1. Union, Market Hub Partners Canada, Enbridge, and Enbridge Inc. (the "Utilities and Affiliates") shall file written final arguments with respect to Issue II (Storage Regulation) with the Board and all participants on or before **August 11, 2006**.
2. The arguments with respect to Issue II of all other parties shall be heard at 9:30 a.m. on **August 28, 2006** at the Board's North Hearing Room, 25th Floor, 2300 Yonge Street, Toronto, and will if necessary, continue on August 29 and August 31, 2006. The Board intends to hear the final arguments of all parties other than the Utilities and Affiliates in the following order:
 - Board Hearing Team
 - Industrial Gas Users Association/Association of Major Power Consumers of Ontario
 - Consumers Council of Canada
 - The Association of Power Producers of Ontario
 - Vulnerable Energy Consumers Coalition
 - School Energy Coalition
 - Canadian Manufacturers & Exporters

- Gaz Métro Limited Partnership
- The City of Kitchener
- Other participants

If a party or representative of any party other than the Utilities and Affiliates is unable to provide its argument orally, that party shall file its written argument with the Board and all participants on or before **August 28, 2006**.

3. The Utilities' and Affiliates reply arguments with respect to Issue II shall be heard at **9:30 a.m. on September 7, 2006** at the Board's North Hearing Room, 25th Floor, 2300 Yonge Street, Toronto, and will, if necessary, continue on September 8, 2006. The Board intends to hear final reply arguments with respect to Issue II in the following order:
 - Union
 - Enbridge
 - Enbridge Inc.
 - Market Hub Partners Canada
4. The Eligible Parties shall submit their cost claims by **September 29, 2006**. A copy of the cost claim must be filed with the Board and one copy is to be served on each of Union and Enbridge. The cost claims must be made in accordance with section 10 of the Board's Practice Direction on Cost Awards.
5. Union and Enbridge will have until **October 13, 2006** to object to any aspect of the costs claimed. A copy of the objection must be filed with the Board and one copy must be served on the party against whose claim the objection is being made.
6. The party whose cost claim was objected to will have until **October 20, 2006** to make a reply submission as to why its cost claim should be allowed. A copy of the submission must be filed with the Board and one copy is to be served on each of Union and Enbridge.

6. All filings to the Board referred to in this Procedural Order, unless noted otherwise, must be in the form of **fourteen (14) hard copies** filed with the Board Secretary at the Board's mailing address and/or by email (see below) **by 4:30 p.m. on the specified dates**. The Board requests that in addition to the hard copies that are filed, all parties include an electronic copy of their filings in searchable PDF format.

Ontario Energy Board

P.O. Box 2319, 27th Floor

2300 Yonge Street

Toronto, ON M4P 1E4

Attn: Mr. Peter H. O'Dell, Assistant Board Secretary

Tel: 1-888-632-6273 (Toll free)

Fax: 416- 440-7656

Email: Boardsec@oeb.gov.on.ca

ISSUED at Toronto, July 13, 2006

ONTARIO ENERGY BOARD

A handwritten signature in black ink, appearing to read 'P. O'Dell', written over a horizontal line.

Peter H. O'Dell
Assistant Board Secretary