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June 21, 2007

Kirsten Walli  
Board Secretary  
Ontario Energy Board  
2300 Yonge Street  
Suite 2700  
Toronto, ON M4P 1E4

Dear Ms Walli:

**Re: EB-2006-0322 and EB-2006-0338**

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In response to Procedural Order No. 3 in this proceeding, attached is an original and ten copies of the written reply argument of Enbridge Gas Distribution.

Yours very truly,

AIRD & BERLIS LLP



David Stevens

cc. Patrick Hoey  
All parties in EB-2005-0551

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

AND 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;

AND IN THE MATTER OF a review of certain parts of the Natural Gas Electricity Interface Review (EB-2005-0551) Decision of November 7, 2006 and conducted pursuant to the Board's review decision of May 22, 2007.

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**ARGUMENT OF ENBRIDGE GAS DISTRIBUTION**  
**June 21, 2007**

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# TAB 1

## **Introduction**

Enbridge Gas Distribution Inc. submits this argument in response to a review motion and supporting argument filed by the Association of Power Producers of Ontario. In Procedural Order No. 3, the Ontario Energy Board set out the "Reviewable Matters" that will be considered by the Board at this time, by way of written review motion hearing. The Reviewable Matters related to APPRO's motion are: "the decision regarding additional storage requirements for Union's in-franchise gas-fired generation customers" and "the decision regarding Enbridge Gas Distribution's Rate 316".<sup>1</sup> The Board also indicated that it would review the decision to cap the storage available to Union Gas' in-franchise customers; the moving parties on that issue include CCC, VECC, IGUA and the City of Kitchener.<sup>2</sup>

## **The NGEIR Decision**

On November 7, 2006, the Board issued the NGEIR Decision. The Decision was the product of a broad and far-reaching review of the natural gas storage market, taking into account the evidence and argument from a broad constituency of interests, including ratepayer groups, customers (including two groups representing generators), marketers, storage developers, a pipeline company, a Quebec distributor, Ontario utilities and the OEB itself.<sup>3</sup> This process resulted in an extensive evidentiary record and a Decision on forbearance issues that is solidly and correctly grounded in a thoughtful and logical consideration of the evidence.

A key aspect of the Decision is the finding that the market for Ontario customers who seek storage services extends beyond Ontario: "[t]he Board is satisfied that there are reasonable alternative means for storage customers in Ontario to access a broad market area".<sup>4</sup> The Board accepted that in-franchise bundled customers of the utilities do not have independent access to these markets, but found that customers taking storage services separately (as unbundled customers or as utilities buying storage for their customer base) "do have greater control over their acquisition and use of storage than do bundled customers ... [and] will have access to and use services from the secondary market."<sup>5</sup> This finding extends to the new services offered to gas fired generators. The Executive Summary to the NGEIR Decision stated, under the heading "Services for Gas-Fired Generators", that:

Based on the settlements, the Board has approved a number of new services aimed at the needs of the gas-fired generators, including ... high-deliverability storage services.

There was no agreement on the price at which high-deliverability storage services should be offered. The generators argued for a regulated framework, while the utilities argued for a competitive framework. The key consideration is to ensure that new innovative services are developed. The Board concludes that the public interest is best met by refraining from

regulating these services. This will stimulate the development of these services, by utilities and other providers. The Board will accordingly refrain from regulating the rates for high-deliverability storage services.

The Board has a duty to protect the interests of consumers using these services with respect to price and reliability and quality of service. The crucial factor is the availability of the service itself – namely its reliability and quality. The Board expects Enbridge and Union to fulfill their commitments respecting the offering of these services. Pricing considerations are relevant, but competitive options will provide appropriate price protection.<sup>6</sup>

### **The Review Motions are Fundamentally Flawed**

Although a number of parties brought motions seeking review of almost every aspect of the NGEIR Decision, the Board confined the scope of the motions to the Reviewable Matters. The review motions addressing these Reviewable Matters are flawed though, because they hinge on two fundamental errors about the NGEIR Decision.

The first error lies in the assertion, which underpins the arguments of CCC/VECC and IGUA, that there is a contradiction or inconsistency in the Decision relating to access to competitive alternatives by distribution customers. As seen in CCC's argument, these parties ask the reviewing panel to accept that the Decision erred in finding on the one hand that in-franchise customers do not have the protection of competition while, on the other hand, exposing those customers to the effect of competition because the utilities will have to acquire some storage space for their customers in the open market.<sup>7</sup> This alleged contradiction is relied upon as the basis for the Board coming to a new decision on the Reviewable Matters.<sup>8</sup> There is, however, no such contradiction in the Decision. The Board determined that when a utility such as EGD is buying storage on the open market to serve its bundled customers, it is not in the same position as the customer who is receiving the bundled service and can access the storage market only through the utility. Unlike that customer, the utility has access to the competitive market and "the storage services they acquire are subject to competition sufficient to protect the public interest".<sup>9</sup> The cost for the storage acquired by the utility on the open market is rolled-in with the cost of the utility's existing storage, so that the customer receives the benefit of the competitively priced storage acquired by the utility on its behalf.

In fact, the supposed contradiction that is relied upon as the foundation for the review motions by CCC/VECC and IGUA has already been refuted by the Threshold Decision. The moving parties seek to reargue not only the conclusions reached in the NGEIR Decision, but also the following conclusion found in the Threshold Decision:

It was entirely within the NGEIR panel's mandate and discretion how to assess the competitive position of segments of the market and how to address the regulatory treatment of customers within those segments. The NGEIR panel clearly decided that ex-franchise customers of both Union and Enbridge had access to a competitive natural gas storage market. Further, the decision goes on to make clear on page 61, that Enbridge as a utility is ex-franchise to Union and therefore should be subject to market prices. The NGEIR decision differentiates between the competitive position of a utility (e.g. Enbridge) and the competitive position of that utility's in-franchise customers.<sup>10</sup>

The second fundamental error is one which underpins the entire argument of APPrO: contrary to the clear wording of the EGD Settlement Proposal, APPrO contends that this agreement gives generators an entitlement to add deliverability to the storage space allocated in accordance with the methodology set out in the agreement. APPrO says that "[t]he one issue that was not settled was whether the incremental deliverability to be added to that space for in-franchise generators was to be provided on a cost of service basis".<sup>11</sup> The EGD Settlement Proposal, however, could not have been more clear that there was no agreement that a gas-fired generator would be able to add incremental deliverability to its space allocation. The relevant sections of the EGD Settlement Proposal are attached behind tab 2 of this Argument.

The EGD Settlement Proposal plainly states (under Issue 1.5) that the space allocation methodology for generators is premised on the assumption that high deliverability storage is available to those customers (*i.e.*, the generators) "in the market".<sup>12</sup> This clearly stated proposition is enough on its own to refute APPrO's assertion that the EGD Settlement Proposal contemplated that generators would meet their needs for high deliverability storage service by adding deliverability to their storage space allocation. While it is not really necessary to go further, there are many other provisions of the EGD Settlement Proposal that consistently point to the same conclusion. These include the following:

- under Issue 1.5, the Settlement Proposal states that the agreement does not address "the pricing or allocation" of high deliverability storage service: contrary to APPrO's assertion, there is no doubt that the disagreement between the parties went beyond the pricing issue and that there was no agreement regarding "allocation" of high deliverability storage service;<sup>13</sup>
- in the same paragraph under Issue 1.5, the Settlement Proposal states that the agreement does not address "whether or when" the Company might offer high deliverability storage service using its own assets: in other words, the parties could not possibly have agreed that the generators would have an entitlement to add deliverability to their space allocation from EGD;<sup>14</sup> and

- with respect to the Company's proposed offering of high deliverability storage service under Rate 316, the Settlement Proposal states that there was disagreement not only with respect to the pricing that would apply, but also as to "whether and how" the service would be offered: again, contrary to APPrO's assertion, the disagreement between the parties went far beyond the issue of pricing and extended to whether and how EGD might offer high deliverability storage service.<sup>15</sup>

This issue raised by APPrO in the context of its review motion was thoroughly canvassed during the NGEIR case and EGD's argument in chief in the main proceeding contained considerably more detailed submissions on the subject than those set out above. A copy of the relevant section of the argument in chief is included behind tab 3 of this Argument.

EGD submits that the review motions must fail because the motions are founded on propositions that are, in a word, wrong.

**EGD's Market-secured High Deliverability Offering is Consistent with the NGEIR Decision**

The Threshold Decision pointed to a perceived contradiction or ambiguity arising from the NGEIR Decision in that the Board had approved a Rate Schedule for Rate 316, notwithstanding its forbearance decision related to new services.<sup>16</sup> With respect, there is no contradiction or ambiguity.

During the NGEIR proceeding, EGD gave evidence about a possible enhancement of its Tecumseh gas storage facilities to support a high deliverability storage service offering.<sup>17</sup> As far as the Company is aware, there was no dispute during the proceeding that the risks associated with this possible development of the storage facilities are much different from the risks of operating a gas distribution business.<sup>18</sup> Given the risks and uncertainties of the project, the Company's evidence was that one of the key factors bearing on its determination of whether to proceed with the storage enhancement was the issue of forbearance.<sup>19</sup> Accordingly, the Company's position was, and is, that it will only proceed with the Tecumseh enhancement in a forbearance environment.<sup>20</sup>

During the hearing, the services that might be provided by Tecumseh as a result of an enhancement to its facilities were clearly distinguished from the proposal by EGD to offer high deliverability storage services as part of Rate 316. The Company's Rate 316 proposal comprised two aspects or offerings, both to be delivered to Dawn.<sup>21</sup> The first was a standard 1.2% ratcheted deliverability storage service and the second was a high deliverability storage



service. Under Issue 1.5 in the Settlement Proposal, the Company agreed to an allocation of cost-based storage for gas fired generators that can be used in conjunction with the standard deliverability aspect of Rate 316 service.<sup>22</sup> In addition, the Company committed that, as part of Rate 316, it will offer Board-regulated high deliverability storage to in-franchise generators based on the acquisition of the underpinning services in the market. These underpinning services will be purchased at market prices and the costs of making the acquisitions will be included in the rate for EGD's high deliverability service under Rate 316. This commitment means that, in addition to all of the other alternatives, any in-franchise generator that prefers to deal with EGD will always have the option of acquiring high deliverability storage services from the Company.

In the NGEIR Decision, the Board came to the following conclusion about new storage services, and, in particular, high deliverability storage:

The Board will refrain from regulating the rates for new storage services, including Enbridge's high deliverability service from the Tecumseh storage enhancement project and Rate 316, and Union's high deliverability storage, F24-S, UPBS and DPBS services.<sup>23</sup>

This passage indicates that the Board decided to forbear from regulation of EGD's *high deliverability service*, whether from Tecumseh or from the market-secured cost pass-through Rate 316. The Board was not forbearing from regulating the standard deliverability aspect of Rate 316. Similarly, the Board was not forbearing in respect of Rate 315 (a new standard deliverability unbundled storage offering delivered to the customer's delivery area). This is confirmed by the wording of the Rate Order for EGD arising from NGEIR which states:

The draft Rate Schedule for Rate 316 reflects the Board's decision that the Board will refrain from regulating the rates for new storage services, including Enbridge's high deliverability Rate 316 (EB-2005-0551 Decision with Reasons, p. 70). As a result, the draft Rate Schedule for Rate 316 reflects the fact that this regulated storage rate and service will be standard 1.2% deliverability storage, delivered at Dawn, Ontario. Rate 316 will be available as of July 1, 2007.

All customers taking service under Rate 315 or 316 are entitled to an allocation of cost based standard 1.2% deliverability storage to be calculated in accordance with the Company's Board-approved excess over average methodology. Gas-fired generation customers also have the option to determine their allocation of cost-based standard 1.2% deliverability storage based upon the allocation methodology described at Appendix G.<sup>24</sup>

Approval of the standard deliverability aspect of Rate 316 as a regulated rate is consistent with the EGD Settlement Proposal and with the Board's findings in the NGEIR Decision. As far as high deliverability storage services are concerned, both EGD's offering and the possible services from an enhancement project by Tecumseh are new services that would be delivered into the competitive market at Dawn. Given the Board's decision to forbear from regulation of

new storage services and the findings it made in reaching that decision, it was appropriate for the Board to forbear from regulation of both EGD's market-secured high deliverability offering and the possible services from a Tecumseh enhancement project.

While there are many alternatives open to generators that are looking to enhance their intra-day flexibility (such as running an RFP process to acquire services specific to the needs of the generator or bidding into an RFP run by a provider of high deliverability storage services), the Company's commitment to secure services in the market for any in-franchise generator that prefers to deal with EGD stands unaffected by the NGEIR Decision. The Board said that it expects the Company to fulfill this commitment and EGD fully intends to do so. The unregulated offering of market-secured services has recently been posted on the Company's website, and a copy of the posting is included behind tab 4 of this Argument.<sup>25</sup>

### **Market Alternatives Meet Generators' Needs**

Throughout the NGEIR proceeding and this review process, gas fired generators have expressed their concern that they require services to manage their intra-day gas supply needs.<sup>26</sup> The evidentiary record of this proceeding has established clearly, though, that these services do and will exist to meet the needs of the generators in EGD's franchise area, none of whom will be taking service before the summer of 2008. Based on the evidence in this case, the Board was correct in concluding that appropriate evidence exists to satisfy the requirement under section 29 of the *OEB Act* that this range of services is or will be subject to competition sufficient to protect the public interest.<sup>27</sup> In the course of reaching its decision to forbear from regulation of new storage services, the Board made a number of findings, including findings about the Dawn hub that, the Board said, are similar to the following assessment by the Federal Energy Regulatory Commission:

The Dawn Hub is an increasingly important link that integrates gas produced from multiple basins for delivery to customers in the Midwest and Northeast. ...Dawn has many of the attributes that customers seek as they structure gas transactions at the Chicago Hub: access to diverse sources of gas production; interconnection to multiple pipelines; proximity to market area storage; choice of seasonal and daily peak and lean services; liquid trade markets; and opportunities to reduce long-haul pipeline capacity ownership by purchasing gas at downstream liquid hubs.<sup>28</sup>

These findings about the Dawn hub support the view that a wide variety of service is available to Ontario customers. The evidence in this case is that services are or will be available to gas fired generators in EGD's franchise area to manage their intra-day gas supply requirements from a variety of sources, including:

From the utilities: EGD itself has committed to its unregulated offering of market-secured high deliverability storage services, as well as the Rate 315 and 316 storage services which will have enhanced nomination windows and Rate 125, which is a distribution service for very large customers with enhanced load balancing and additional nomination windows.<sup>29</sup> In a forbearance environment, EGD's Tecumseh facility may also offer its own high deliverability service through an open season process. Union Gas is in the process of obtaining regulatory approvals for new high deliverability storage<sup>30</sup> and has indicated that it may develop additional high deliverability storage in a forbearance environment.<sup>31</sup>

From pipeline companies: The evidence at the NGEIR hearing was clear that, if market demand exists, pipeline companies in the market area (which includes Michigan and New York) are likely to develop and offer services to meet the intra-day needs of gas fired generators.<sup>32</sup> Indeed, in the case of TCPL, which presented evidence in the NGEIR proceeding about its new services designed to meet the particular needs of Ontario gas-fired generators, this has already happened. As TCPL's vice-president of transmission testified at the NGEIR Technical Conference, these short notice services will meet the flexibility and certainty needs of gas-fired generators by ensuring firm access to service, providing up to 96 nomination windows each day and meeting balancing needs in a cost-based fashion.<sup>33</sup> TCPL's short notice services, called FT-SN (firm transportation – short notice) and SNB (short notice balancing) have now been approved by the National Energy Board.<sup>34</sup> In its news release announcing the approval of the services, the NEB stated “[t]hese services are intended to meet the needs of gas-fired power generators in Ontario which require a flexible and firm gas supply to serve fluctuating and weather-sensitive demands for electricity with as little as five minutes notice”.<sup>35</sup> At the NEB hearing where TCPL's short notice services were approved, APPrO and the GTA Generators clearly indicated their support for these services, stating that “we feel that this service is absolutely required in view of the needs of gas power generators in Ontario”.<sup>36</sup> Evidence was also given at the NGEIR hearing about pipelines in the US that have developed services for gas-fired generators<sup>37</sup> and about the plan by Greenfield Energy Centre to tie-in to Vector, and bypass Ontario storage entirely.<sup>38</sup>

From other storage companies: It was recognized on many occasions during the NGEIR proceeding that a gas-fired generator can simulate high deliverability storage, and manage intra-day gas supply needs, by simply acquiring more standard deliverability

storage up to a level where the required amount of gas could be delivered or injected at any given time.<sup>39</sup> In terms of high deliverability storage, witnesses indicated that if new power generators in Ontario make it clear that they are seeking high deliverability service, then it can be expected that storage developers in Michigan and elsewhere will develop that capacity.<sup>40</sup> In particular, there was discussion about high deliverability capacity that is being developed and/or offered in Michigan by Bluewater, Washington 10 and National Fuel Gas.<sup>41</sup>

From the Dawn hub: The NGEIR Decision recognized Dawn as a “major market centre”<sup>42</sup> and a deep and liquid hub where the volumes traded far surpass physical volumes.<sup>43</sup> It was clear from the evidence that there are many marketers operating at Dawn, providing a broad range of services and that it is a deep and liquid secondary market.<sup>44</sup> Services available at Dawn that are substitutes for storage include exchanges, swaps, displacements, backhauls, parking, loans, delivery/redelivery agreements and bundled commodity sales.<sup>45</sup> In its argument, Nexen Marketing indicated that it currently serves gas fired generation load in Ontario.<sup>46</sup> There was also discussion about an EGD transaction with Stagecoach, arranged through Constellation Energy, which provided EGD with access to high deliverability service at Dawn.<sup>47</sup> The evidence is clear that, assuming storage developers create high deliverability storage with intra-day service, then marketers will be able to acquire and re-package and sell those services in offerings that will be useful for gas fired generators.<sup>48</sup>

In short, the evidentiary record leaves no doubt that intra-day gas management services do and will exist. This, of course, is entirely consistent with APPRO’s agreement to the explicitly-stated assumption in the EGD Settlement Proposal that high deliverability storage is available to gas fired generators “in the market”.<sup>49</sup> Moreover, Sithe entered into a 20 year contract to provide gas fired generation from a new facility before any of the new services approved in the NGEIR proceeding had even been proposed, let alone approved<sup>50</sup>, and Greenfield Energy Centre applied for permission to bypass the Union Gas system entirely.<sup>51</sup>

That APPRO continues to object and reargue its case in the face of this evidence makes plain that its issue is not about the availability of service to generators; it is about the price that generators would like to pay relative to their other options. This is confirmed in a response given during the testimony of APPRO’s witness panel, in which it was conceded that generators

would not use a cost-based high deliverability storage service to meet their intra-day needs, and would seek other solutions, if it turned out that the cost of that service is too high:

MR. CASS: So am I not right in interpreting that as meaning that, even in the scenario of it [high deliverability storage] being offered purely as nothing more than incremental cost, if that's too high, our expectation should be that generators will be looking to their other solutions, collectively.

MR. WOLNICK: Sure. And within Rate 125, for instance, there are some other solutions in there. There is the 2% balancing, the tier-1, the tier-2, there is even the cash-out penalty, albeit very expensive, but even within that there's some solutions.<sup>52</sup>

APPrO's focus on price, rather than availability of service, is further confirmed by its position that EGD is obligated to develop its own high deliverability storage, to be sold at cost, if that would be less expensive than meeting generators' needs in the market.<sup>53</sup>

EGD submits that the public interest considerations at play in this case do not support APPrO's position that generators should receive high deliverability storage service at cost. While the price at which high deliverability storage is sold may affect the private interests of the shareholders of the generators, APPrO has provided no evidence whatsoever of any public interest that is affected by this price. To the contrary, APPrO's evidence is that, if the generators don't like the price, they will look to their other solutions. On the other hand, if the price of the service proves to be acceptable to the generators, APPrO concedes that its members may actually profit from receiving high deliverability storage at cost, because there would be times when a generator would re-sell its allocation in the market, at whatever price the market would bear.<sup>54</sup> EGD submits that the Board got it right in the NGEIR Decision when it found that the public interest will best be served if utilities and other parties are encouraged through forbearance to develop new and innovative services which, in turn, will ensure that the gas fired generators' intra-day gas management needs are met in a variety of ways.<sup>55</sup>

### **The NGEIR Decision Promotes Rational Development of Storage**

The NGEIR Decision recognized that "the Board has as an explicit objective to facilitate the rational development of gas storage" and that "[t]he Board therefore must look for means by which to achieve this objective."<sup>56</sup> The uncontradicted evidence during the hearing was that the costs and risks associated with storage development are not commensurate with utility rates of return. It was clear that utilities, and affiliated or third party storage developers, will not develop new storage in a non-forbearance or price regulated environment.<sup>57</sup> On the other hand, EGD has indicated that in a forbearance environment it is likely to develop its own high deliverability storage through the enhancement of the Tecumseh facilities. Equally, in an open-market

environment, other parties such as Union will be encouraged to develop and offer high deliverability service. It is clear that if EGD has the proper incentive to develop this high deliverability storage, a market will exist for the product, as seen in the results of the non-binding open season process where the Company found that demand outstripped supply.<sup>58</sup> It is also clear, as seen from the testimony of John Reed of Concentric Energy Advisors, that if forbearance is allowed, then it is more likely that allocative efficiency will be achieved: in other words, the market will produce the right results, in terms of supply and demand, when those that value the service or product most highly are those that receive it.<sup>59</sup>

The impact of the Board's forbearance decision in respect of new storage services, including high deliverability storage, will be to encourage and enable the rational development of gas storage in Ontario. As the Board stated in its Decision,

[I]t is in the public interest to maintain and enhance the depth and liquidity of the market at Dawn as a means of facilitating competition. One way to do this is to encourage the development of innovative services and to ensure access to those services. Choice is the bedrock of competition.<sup>60</sup>

Assuming that customers are willing to contract for the new high deliverability services at appropriate prices, then the facilities to support the services will be developed. Indeed, as noted by Board Chair Wetston in a recent speech before the Threshold Decision was released, this was already happening as a result of the NGEIR Decision: "since the release of the NGEIR panel decision, major new investments in storage have been announced, and related services for high deliverability of gas have been developed."<sup>61</sup> On the other hand, in a scenario where new high deliverability storage is developed and provided at cost, there would be no incentive to the development of new storage services (especially given the obvious imbalance between risks and potential return) and the Board's objective of facilitating the rational development of storage would not be met.

### **The Standard for Review Has Not Been Met**

In the Threshold Decision, the Board set out the standard that a moving party must meet in order to succeed on a review motion:

With respect to the question of the correctness of the decision, the Board agrees with the parties who argued that there must be an identifiable error in the decision and that a review is not an opportunity for a party to reargue the case.

In demonstrating that there is an error, the applicant must be able to show that the findings are contrary to the evidence that was before the panel, that the panel failed to address a material issue, that the panel made inconsistent findings, or something of a similar nature. It is not enough to argue that conflicting evidence should have been interpreted differently.

The applicant must also be able to demonstrate that the alleged error is material and relevant to the outcome of the decision, and that if the error is corrected, the reviewing panel would change the outcome of the decision.

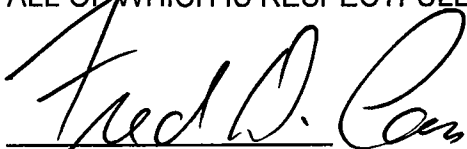
In the Board's view, a motion to review cannot succeed in varying the outcome of the decision if the moving party cannot satisfy these tests, and in that case, there would be no useful purpose in proceeding with the motion to review.<sup>62</sup>

APPRO and the other moving parties have not met these tests. Instead, the moving parties continue their efforts to reargue the case. For example, APPRO's review motion (as it relates to EGD) is based entirely on an argument about the EGD Settlement Proposal that was addressed fully in EGD's argument in chief and that has already been considered by the Board. There is no reason why APPRO's reargument of this issue should now result in a different outcome.

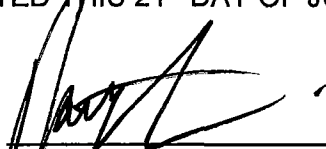
Through the hearing process, the original Board panel was able to observe and assess more than 40 witnesses who, collectively, brought forward a range of facts and points of view. In coming to its Decision, not only did the Board panel have the benefit of the comprehensive record for this proceeding, but it was in a position to take the measure of all the witnesses, including many experts. Now, far from arguing that the NGEIR Decision is contrary to the evidence before the original Board panel, the moving parties advance arguments that are divorced from the extensive evidentiary record in this case. Using the APPRO argument as an example, the only evidentiary references are to APPRO's pre-filed evidence and the settlement agreements; there is not a single reference to the testimony of more than 40 witnesses over fourteen hearing days. Similarly, the arguments of IGUA and CCC/VECC do not contain even one reference to the evidence from the hearing.

EGD submits that the original panel, which had the benefit of the extensive evidentiary record, and the ability to assess and question each witness, issued a Decision that is correct, and ought not to be disturbed. EGD further submits that, in these circumstances where the moving parties have chosen to advance a case in argument in chief that utterly avoids reference to the record from the hearing, any efforts by them in Reply Argument to rely upon the hearing evidence to shore up their positions ought to be discounted and given little or no weight.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 21<sup>ST</sup> DAY OF JUNE 2007,



Fred D. Cass  
Aird & Berlis LLP  
Counsel to Enbridge Gas Distribution



David Stevens  
Aird & Berlis LLP  
Counsel to Enbridge Gas Distribution

## **Endnotes**

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<sup>1</sup> Procedural Order No. 3; Decision with Reasons on the Threshold Issue of whether the Motions to Review should proceed to hearing, May 22, 2007 ("Threshold Decision"), see for example p. 62 and Executive Summary

<sup>2</sup> *ibid.*

<sup>3</sup> See EGD's argument at threshold motion on the review motions, March 6, 2007, transcript vol. 2, pp. 31-34

<sup>4</sup> Decision with Reasons in the NGEIR Proceeding, November 7, 2006 ("NGEIR Decision") - p. 37

<sup>5</sup> NGEIR Decision, p. 57; see also pp. 61 and 63 where the Board determines that utilities buying storage are subject to competition sufficient to protect the public interest

<sup>6</sup> NGEIR Decision – Executive Summary

<sup>7</sup> CCC Argument on Review Motion – paras. 7 and 11; IGUA Argument on Review Motion, at paras. 13-14

<sup>8</sup> CCC Argument on Review Motion – paras. 13, 16 and 17; IGUA Argument on Review Motion, at paras. 13-14

<sup>9</sup> NGEIR Decision, p. 63

<sup>10</sup> Threshold Decision, p. 43

<sup>11</sup> APPrO Argument on Review Motion, para. 5

<sup>12</sup> Settlement Proposal for Issues related to Enbridge Gas Distribution in the NGEIR Proceeding, Issue 1.5, p. 23

<sup>13</sup> Settlement Proposal for Issues related to Enbridge Gas Distribution in the NGEIR Proceeding, Issue 1.5, p. 24

<sup>14</sup> *ibid.*

<sup>15</sup> Settlement Proposal for Issues related to Enbridge Gas Distribution in the NGEIR Proceeding, Issue 1.6, p. 26

<sup>16</sup> Threshold Decision, p. 57

<sup>17</sup> 6 Tr. 18; EGD prefiled evidence from NGEIR Proceeding, Ex. B-3-2

<sup>18</sup> See, for example, 6 Tr. 19-23

<sup>19</sup> 6 Tr. 23-24

<sup>20</sup> 14 Tr. 95 and 132

<sup>21</sup> 14 Tr. 92-94

<sup>22</sup> Settlement Proposal for Issues related to Enbridge Gas Distribution in the NGEIR Proceeding, Issue 1.6, at p. 26

<sup>23</sup> NGEIR Decision, p. 70

<sup>24</sup> Rate Order for Enbridge Gas Distribution arising from NGEIR, December 20, 2006, p. 3

<sup>25</sup> Found in the "Business" section at [www.egd.enbridge.com](http://www.egd.enbridge.com)

<sup>26</sup> See, for example, APPrO's evidence at May 16, 2006 Technical Conference, transcript pp. 191-192; ; APPrO's testimony at 10 Tr. 230; APPrO's argument in the NGEIR proceeding at 15 Tr. 55 and APPrO Argument for Review Motion, para. 5

<sup>27</sup> NGEIR Decision, pp. 69-70



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<sup>28</sup> NGEIR Decision, pp. 7-8

<sup>29</sup> The Rate Schedules describing Rates 125, 315 and 316 are attached as Appendices A, C and D to the Rate Order for Enbridge Gas Distribution arising from NGEIR

<sup>30</sup> Union Gas' leave to construct application is filed as 2008 Dawn Deliverability Project, EB-2007-0633

<sup>31</sup> See, for example, 3 Tr. 78-79

<sup>32</sup> 3 Tr. 49-51, 75-76; 7 Tr. 174-175

<sup>33</sup> May 16, 2006 Technical Conference, transcript p. 76; see also TCPL's Written Evidence, filed May 1, 2006, section 2: "Services for Gas-Fired Power Generators"

<sup>34</sup> National Energy Board, Reasons for Decision in RH-1-2006, November 2006: found at [www.neb.gc.ca](http://www.neb.gc.ca)

<sup>35</sup> National Energy Board, news release titled "NATIONAL ENERGY BOARD APPROVES NEW TRANSCANADA SERVICES FOR GAS-FIRED POWER GENERATORS", December 14, 2006: found at [www.neb.gc.ca](http://www.neb.gc.ca)

<sup>36</sup> National Energy Board, Reasons for Decision in RH-1-2006, November 2006, at pp. 9 and 24; see also RH-1-2006, transcript vol. 4, para. 3448: found at [www.neb.gc.ca](http://www.neb.gc.ca)

<sup>37</sup> 6 Tr. 54; 7 Tr. 165-166 and 174-175

<sup>38</sup> 3 Tr. 72

<sup>39</sup> See for example, testimony of APPrO panel at Technical Conference, May 17, 2006, transcript: pp. 70-71; testimony of EGD panel, 14 Tr. 150-153; testimony of Union panel, 3 Tr. 43

<sup>40</sup> 3 Tr. 42-43

<sup>41</sup> 3 Tr. 40 and 47; note that Bluewater may offer an hourly service

<sup>42</sup> NGEIR Decision, p. 82

<sup>43</sup> NGEIR Decision, p. 37

<sup>44</sup> 13 Tr. 16, 19 and 20-23

<sup>45</sup> Argument of Nexen Marketing in NGEIR Proceeding, p. 8

<sup>46</sup> Argument of Nexen Marketing in NGEIR Proceeding, p. 7

<sup>47</sup> 4 Tr. 173-174; 6 Tr. 126-128

<sup>48</sup> 13 Tr. 45 and 47-48; It should be noted that Nexen, the only marketer to submit substantive argument in the NGEIR proceeding, indicated that the Board should refrain from regulating new storage services and argued that "providing proper incentives for new storage development and/or facilities enhancements should, over time, address this need for additional deliverability and space."

<sup>49</sup> Settlement Proposal for Issues related to Enbridge Gas Distribution in the NGEIR Proceeding, Issue 1.5, p. 23

<sup>50</sup> 14 Tr. 87-8

<sup>51</sup> RP-2005-0022

<sup>52</sup> 10 Tr. 176-177; see also APPrO's evidence at the May 16, 2006 technical conference (Transcript, p. 226, where Mr. Wolnik stated: "I guess maybe just one other thing to add to that and that is, I think that's part of why we really proposed incremental pricing here is because we're going to pay the direct costs of whatever those incremental costs are to deliver that high-deliverability storage. If that price gets too high because of whatever those marginal services are aren't of value to the generators, we'll look for other solutions collectively."

<sup>53</sup> APPrO Argument for Review Motion, para. 38

<sup>54</sup> 10 Tr. 233-236 and 239

<sup>55</sup> NGEIR Decision, pp. 69-70

<sup>56</sup> NGEIR Decision, p. 48

<sup>57</sup> See, for example, discussion in NGEIR Decision, p. 49 and 6 Tr. 23

<sup>58</sup> 7 Tr. 108-110; 14 Tr. 158

<sup>59</sup> 5 Tr. 130

<sup>60</sup> NGEIR Decision, p. 45

<sup>61</sup> Howard Wetston speech to Ontario Energy Network, May 9, 2007: found at [www.oeb.gov.on.ca](http://www.oeb.gov.on.ca) under "Speeches and Presentations"

<sup>62</sup> Threshold Decision, p. 18

# **TAB 2**

**SETTLEMENT PROPOSAL  
FOR ISSUES RELATED TO  
ENBRIDGE GAS DISTRIBUTION INC.  
IN THE NGEIR PROCEEDING**

**ISSUES I and IV**

**June 13, 2006**

## 1.5 STORAGE ALLOCATION METHODOLOGY FOR GAS FIRED GENERATORS (BASE LEVEL DELIVERABILITY)

### **COMPLETE SETTLEMENT**

There is an agreement to settle this issue on the following basis:

Currently, Enbridge Gas Distribution's storage operations are directed at meeting winter demand. The existing Board approved methodology used by the Company for allocating cost based standard storage at 1.2% deliverability is called "excess over average". Under this methodology, storage space is allocated to customers based on the difference between the customer's average winter demand as compared to the customer's average annual demand.

Parties recognize that the current excess over average methodology would not be sufficient or appropriate to meet the profile and needs of gas fired generators. Gas fired generators, like other Enbridge Gas Distribution customers, are entitled to an allocation of cost based standard storage at 1.2% deliverability. A separate storage allocation methodology for cost based standard storage at 1.2% deliverability, subject to the same ratchets as the Company's other ratcheted storage contracts, is appropriate for gas fired generators.

Parties agree that it is appropriate to implement a storage allocation methodology for cost based standard storage at 1.2% ratcheted deliverability for gas fired generators that recognizes the very different characteristics of those customers but which, at the same time, is consistent with the level of storage allocated to existing customers. Currently, the Company's customers only receive an allocation of cost based storage at standard deliverability that meets 57% of the gap between system peak demand and the amount of gas delivered through pipeline supplies. The remainder of this gap is met through other balancing means such as peaking supplies and curtailment. In order to achieve consistency, the Company will limit the storage allocation available to gas fired generators to the same level, such that the allocation of storage at standard deliverability to gas fired generators will be scaled to 57% of the amount of storage at standard deliverability required to meet the gap between demand and pipeline supply.

The allocation methodology for gas fired generators' entitlement to cost based standard storage at 1.2% deliverability is also premised on the following:

- a) The storage space requirement to meet gas fired generators' intra day balancing needs is based on the assumption that high deliverability storage is available to those customers in the market.

- b) This agreement does not address the pricing or allocation of high deliverability storage, nor does it address whether or when the Company might offer that service using its own assets. In the event that the Company does not offer this service using its own assets, and customers request high deliverability storage from the Company, then the Company will use reasonable efforts to procure this service from third parties for its customers.
- c) The storage allocated is offered at rolled-in cost based rates. This means that if the Company has to acquire additional storage capacity to meet the allocations requested by gas fired generators, then the cost of the acquired storage will be aggregated with the cost of the Company's existing storage and a new rolled in rate for all storage will be determined. The Company's best estimate of the impact of acquiring the standard storage at 1.2% deliverability that would be required under the new methodology for gas fired generators, assuming a total of 2000MW of generation capacity, is that the rolled-in cost based rates for storage would increase by approximately 1%.
- d) The storage being allocated is subject to system ratchets, which are the standard ratchets applicable to the Company's storage contracts.
- e) The storage allocated could be used for service under either Rate 315 or Rate 316 (at standard 1.2% deliverability).
- f) Notwithstanding this specific allocation methodology for gas fired generators, a gas fired generator may still request that their base level storage entitlement be determined using the existing excess over average methodology.

The allocation for gas fired generators for cost based standard storage at 1.2% deliverability is as follows:

- g) A gas fired generator is assumed to provide gas supply equal to 17 times the maximum hourly demand of the facility. In the event that the plant is not dispatched, up to 17 hours of supply may need to be injected into storage, assuming that storage is the only means of balancing available.
- h) Assuming that high deliverability storage at 10% is available to meet the gas fired generator's needs, this would result in a space demand of 17 times the maximum hourly demand, divided by 10%.
- i) The space demand that is determined is then multiplied by .57 to determine the amount of cost based standard storage at 1.2% deliverability available to the gas fired generator.

It is the Company's expectation and belief that the storage allocation proposal for gas fired generators accepted in this proceeding will not have any adverse impact on the quality of or access to the utility's existing services. Based upon the current information available to the Company, and the Company's best estimates, the only rate impacts of this proposal on other customers of the Company is described above at subparagraph (c).

**Participating Parties:** All parties participated in the negotiation and settlement of this issue, except IESO, TCPL, Direct Energy, Jason Stacey, OPA, Aegent and Kitchener.

**Approval:** All participating parties accept and agree with the proposed settlement of this issue.

**Evidence:** The evidence in relation to this issue includes the following:

*APPrO Evidence*

PowerPoint Presentation at May 16, 2006 Technical Conference

*Technical Conference Evidence*

April 6, 2006 Tr. 107-111 and 178-181 (Enbridge Gas Distribution)

April 27, 2006 Tr. 62-64 (Enbridge Gas Distribution)

May 16, 2006 Tr. 198-201 (APPrO)

## 1.6 RATE 316

### ***NO SETTLEMENT***

The Company has filed extensive written evidence about its proposed Rate 316, and has answered questions from all interested parties about this proposed Rate over the course of two days of Technical Conference (April 6 and 27, 2006). The Company's specific proposals for Rate 316, along with a discussion of the pricing for aspects of the proposed Rate, are set out in its prefiled evidence at C-1-1 (Overview), C-3-1 (Rate 316), C-3-3 (Rate 316 – Draft Rate Schedule) and C-3-4 (Rate 316 – Derivation of Charges). Certain of the undertaking responses filed by the Company also relate to the proposed Rate 316.

Evidence about the storage needs of gas fired generators, prepared by APPrO (APPrO evidence: pp. 31-32 and 62; and PowerPoint Presentation at May 16 Technical Conference), has also been filed in this proceeding and addressed through Technical Conference on May 16 and 17, 2006.

While it appears that parties are supportive of many of the technical aspects of the proposed Rate 316, there is disagreement as to whether and how the service would be offered, and what pricing would apply.

In the event that the Company does offer Rate 316 storage service, it is prepared to offer the service using the same nomination windows as agreed to for Rate 125 (described at subsection 1.1(a) of this Settlement Proposal).

***Evidence:*** The evidence in relation to this issue includes the following:

#### *Enbridge Gas Distribution Evidence*

- A-1-1 Overview and Background
- B-1-1 Current Experience
- B-2-1 Operational Characteristics and Needs of Power Generation Customers
- B-3-2 Operational Characteristics, Issues and Proposed Solutions: Storage
- B-4-1 Rate Design Principles and Approaches
- C-1-1 Overview
- C-3-1 Rate 316
- C-3-2 Proposed Tariff for Rate 316
- C-3-3 Rate 316 – Draft Rate Schedule
- C-3-4 Rate 316 – Derivation of Charges
- F-2-1 Response to APPrO evidence (Rates 125 and 316)



# TAB 3

**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.

## **SUBMISSIONS OF ENBRIDGE GAS DISTRIBUTION INC.**

### **A. Introduction**

This proceeding was initiated by a Notice of Proceeding issued by the Ontario Energy Board (the "Board" or the "OEB") on December 29, 2005. The Board's Notice indicated that it would hold a generic hearing to determine whether it should order new rates for natural gas transmission, distribution and storage services that contain the following:

1. more frequent nomination windows for distribution, storage and transportation;
2. firm higher deliverability from storage;
3. greater operational flexibility in the provision of distribution services, including the removal of inter-franchise barriers, the ability to redirect or acquire gas on short notice and the removal of unreasonable restrictions on the title transfer of gas in storage; and
4. gas storage and distribution as discrete new services to gas-fired generators (and other qualified customers).

In addition, the Notice of Proceeding indicated that the Board would determine whether to refrain, in whole or in part, from exercising its power to regulate the rates charged for the storage of gas in Ontario. The Notice went on to say that the Board would reach this determination by considering whether, as a question of fact, the storage of gas in Ontario is subject to competition sufficient to protect the public interest.

revenue forecast will be changed to reflect the fact that transactional storage services revenues will no longer be part of the regulated portion of the Company's business. As explained in oral testimony, there is no need to reduce the Company's storage-related rate base in conjunction with forbearance for transactional storage services.<sup>82</sup>

While the issues related to changes in Enbridge Gas Distribution's cost and revenue forecasts can and will be dealt with in its next rate case, the Company submits that the Board should rule in this proceeding that, from and after January 1, 2007, it will forbear from regulating the rates, revenues and costs associated with the Company's transactional storage services.

### **High Deliverability Storage**

The Company in its evidence described an enhancement of its Tecumseh storage facilities that possibly could be completed in order to enable Tecumseh to offer a high deliverability storage service. As Mr. Grant explained, there are a number of risks and uncertainties associated with any such offering of high deliverability storage by Tecumseh. Mr. Grant testified that:

One of the key factors, of course, is this question of forbearance, because, in doing this build, we of course are competing at the margin in, we believe, a very competitive marketplace.

...

It is an additionally complex decision for us, though, because there are also a number of risks associated with this build, from our standpoint. Those risks must be well understood before we make any final decisions.<sup>83</sup>

Mr. Grant went on to discuss in greater detail the reservoir risk, drilling risk, well interference risk, re-contracting risk and regulatory risk that must be analyzed before any decision is made to proceed with the storage enhancement project.<sup>84</sup>

As indicated in the testimony of Mr. Grant, one of the key factors bearing on the Company's determination of whether or not to proceed with the Tecumseh storage enhancement project is the question of forbearance. The returns available under distribution cost of service regulation are not commensurate with the risks of the storage enhancement project.<sup>85</sup> It is important to distinguish, though, between the Tecumseh project that may proceed if forbearance is

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<sup>82</sup> 6 Tr. 34-36

<sup>83</sup> 6 Tr. 19

<sup>84</sup> 6 Tr. 19-24

<sup>85</sup> 6 Tr. 23

granted and the Enbridge Gas Distribution Rate 316 offering that will be made available as a Board-regulated service whether or not forbearance is granted through this proceeding. That is to say, regardless of whether a forbearance ruling and other factors align so as to support the Tecumseh storage enhancement project, Enbridge Gas Distribution will acquire the necessary services from the marketplace in order to be able to meet in-franchise demand for Rate 316 high deliverability storage.<sup>86</sup> The underpinning services acquired in the market will be purchased at market prices and the costs of making such acquisitions will be included in the rate for Enbridge Gas Distribution's high deliverability storage service. Tecumseh potentially will be a bidder to provide service at market prices to underpin Enbridge Gas Distribution's Rate 316 offering.<sup>87</sup> Even in the event that a forbearance ruling and other factors align such that Tecumseh is able to offer a high deliverability service, however, it is quite conceivable that Enbridge Gas Distribution will acquire services from other sources, given that the non-binding open season for the Tecumseh service was oversubscribed.<sup>88</sup>

The important point to be taken out of all this is that, in any scenario, gas-fired generators will have options to acquire high deliverability storage service. In one possible scenario, Tecumseh will offer high deliverability service at market prices. It will be open to gas-fired generators to bid for this service, but, if they choose not to bid or if they bid unsuccessfully, they can look to Enbridge Gas Distribution for service under Rate 316. In the other scenario, the Tecumseh storage enhancement project will not proceed, but high deliverability service will still be available under Rate 316.

Furthermore, the record of this case confirms that the Board need have no concerns whatsoever about the existence of options to Enbridge Gas Distribution's proposed high deliverability storage service. The Settlement Proposal for issues related to Enbridge Gas Distribution was reached on the basis that there was no certainty as to whether the Rate 316 high deliverability storage service would be offered by the Company. Under Issue 1.6, dealing with Rate 316, the Settlement Proposal states that there is disagreement as to "whether" and "how" the service would be offered, and what pricing would apply. The uncertainty about "whether" the Company will offer the high deliverability storage service is reflected in the next sentence of the Settlement Proposal, which says that "[i]n the event that the Company does offer Rate 316 storage

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<sup>86</sup> 14 Tr. 89-90

<sup>87</sup> 14 Tr. 90-1

<sup>88</sup> 14 Tr. 158

service", it is prepared to offer the service using the same nomination windows as agreed to for Rate 125.

The same uncertainty is reinforced in paragraph (b) of the settlement described under Issue 1.5 in the Settlement Proposal. Issue 1.5 deals with the methodology for allocating storage to gas-fired generators at 1.2% deliverability. In paragraph (b) under Issue 1.5, the Settlement Proposal plainly states that the Settlement Proposal does not address "whether" or "when" the Company might offer high deliverability storage services using its own assets. Paragraph (b) also states that, in the event that the Company does not offer the service using its own assets, but customers request the service, the Company will use "reasonable efforts" to procure the service from third parties.

Notwithstanding the uncertainty in the Settlement Proposal about whether high deliverability storage would be offered by Enbridge Gas Distribution, a storage allocation methodology based on assumed availability of 10% deliverability was agreed to by, among others, APPrO, PEC, Sithe and TCE (for ease of description, this group will be referred to herein as "the generators"). This can be seen from the complete settlement of Issue 1.5. The allocation methodology for base level deliverability agreed upon in the context of Issue 1.5 includes a determination of "space demand", that is derived by multiplying the maximum hourly demand by 17 and then dividing by 10%. As stated in paragraph (h) under Issue 1.5 in the Settlement Proposal, the maximum hourly demand over 17 hours was divided by 10% because an assumption was made that "high deliverability storage at 10% is available to meet the gas fired generator's needs".

In short, the settlement of Issue 1.5 was agreed to by the generators on the basis of an assumption that 10% deliverability will be available, even though the Settlement Proposal gives no certainty that Enbridge Gas Distribution will provide such deliverability. Paragraph (a) under Issue 1.5 in the Settlement Proposal describes more fully the nature of the assumption that was made about the availability of high deliverability storage. This paragraph says that the storage space requirement to meet gas fired generators' intra day balancing needs is based on the assumption that high deliverability storage is available "to those customers in the market". This paragraph speaks of high deliverability storage that is available "to those customers", not to a utility like Enbridge Gas Distribution. Further, this paragraph speaks of high deliverability storage that is available "in the market", not from Enbridge Gas Distribution. Paragraph (a) therefore makes clear that the determination of "space demand" in the methodology for establishing base level deliverability assumes the availability of 10% deliverability to generators from market sources other than Enbridge Gas Distribution. In order to reach agreement on a storage allocation methodology

that assumes the availability of 10% deliverability from the market, the generators must have been confident about the ability of the market to deliver appropriate services.

This confidence about the ability of the market to deliver appropriate services to the generators was revealed in the testimony of the generators' representatives at the Technical Conference on May 16, 2006. Ms Duguay asked a question about APPrO's proposal in the event of a constraint on provision of high deliverability service to in-franchise customers.<sup>89</sup> At the conclusion of his answer to this question, Mr. Wolnik said that the generators would pay the direct costs or incremental costs to deliver that service, but that, if the price gets too high, "we'll look for other solutions collectively".<sup>90</sup> Similarly, during the Technical Conference on May 17, 2006, Mr. Cramer said, in respect of high deliverability storage service, that "it's going to be available in some form from some source on some sort of cost basis".<sup>91</sup>

The generator's confidence in the ability of the market to deliver appropriate services is confirmed by other evidence as well. As stated by Mr. Charleson:

...I think one example we can look at is Sithe, where they entered into a contract in the absence of all of these services that are being discussed before the Board right now being available. And they obviously have expectations that they have means of being able to do the load balancing and managing that plant by the nature of entering into a contract to provide services.<sup>92</sup>

The evidence is that, if built, the Tecumseh storage enhancement project will not be complete until 2008<sup>93</sup>, but no concerns were expressed about the availability of appropriate services for generators in the meantime.<sup>94</sup>

Enbridge Gas Distribution therefore submits that, if forbearance in respect of the Tecumseh high deliverability service is granted, and if other factors support a decision to proceed with the storage enhancement project, Tecumseh will be in a

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<sup>89</sup> Technical Conference, May 16, 2006, Tr. 225

<sup>90</sup> Technical Conference, May 16, 2006, Tr. 226

<sup>91</sup> Technical Conference, May 17, 2006, Tr. 31

<sup>92</sup> 14 Tr. 87-8

<sup>93</sup> Exhibit B, Tab 3, Schedule 2, pp. 22-24

<sup>94</sup> Not only were no concerns expressed, but, on the contrary, see testimony at 10 Tr. 172, lines 8-9 confirming that "it's something that can be done in some way" and at 10 Tr. 173, lines 9-10 indicating that "if it's available to Enbridge, it's also available to generators to go out and get, that may be true"

position to offer a service that will represent an additional option for gas-fired generators above and beyond other high deliverability storage options available to them. Consistent with its proposal that the Board should forbear from economic regulation of future increments of storage capacity and deliverability effective in the 2007 Test Year, the Company submits that the Board should forbear from rate or economic regulation of Tecumseh's proposed high deliverability storage service.

### **C. Rate Issues**

#### **Rate 125 and revenue deficiency impacts of customer migration to unbundled rates (Issue 1.1)**

##### ***Rate 125***

Following the approval of the Settlement Proposal related to Enbridge Gas Distribution's rate offerings, the remaining issue related to Rate 125 is whether it should be limited to new loads only.<sup>95</sup> Through the Settlement Proposal, IGUA, AMPCO and CME reserved their right "to request that the Board limit the availability of Rate 125 to new loads only". As described below, the Company submits that Rate 125 should continue in the form that was previously approved by the Board, such that it is available to all customers (existing or new) who meet the 600,000 m<sup>3</sup>/day volume threshold. The Company therefore seeks to have a draft Rate 125 Rate Schedule similar to the form that was filed as Exhibit S1.3A (Rate Sheet with heading "To any applicant who enters into a service contract with the Company") approved by the Board. A copy of the draft Rate 125 Rate Schedule, with two changes from Exhibit S1.3A (as a consequence of the approval of the Settlement Proposal and of changes to Rate 316) is attached as Appendix A.<sup>96</sup>

The Board first approved Rate 125 in the RP-1999-0001 case.<sup>97</sup> The RP-1999-0001 decision indicates that IGUA, among others, supported the introduction of Rate 125.<sup>98</sup> In that case, the Board approved the new Rate 125 "to respond to the emerging opportunities for natural gas fueled cogeneration and power

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<sup>95</sup> Settlement Proposal, Exhibit S1.1, section 1.1(r)

<sup>96</sup> The changes are found in the definition for "Aggregate Delivery" and in the "Effective Date" section

<sup>97</sup> excerpt from the Decision with Reasons from that case is found at Tab 6 of Exhibit S1.6

<sup>98</sup> RP-1999-0001 Decision with Reasons, at para. 6.5.5

# TAB 4





## **High Deliverability Storage Service**

An Offering from Enbridge Gas Distribution

As Enbridge Gas Distribution Inc. (the Company) indicated during the Natural Gas Electricity Interface Review (NGEIR) proceeding, it is prepared to procure high deliverability gas storage with intra day flexibility, delivered to Dawn, for its in-franchise customers who request such service. The Company will not provide this service using its own regulated storage assets, but instead will meet its customers' requests by obtaining service from the open market on behalf of those customers.

Some of the important aspects of this offering are as follows:

Interested customers will provide the Company with information about the service that they wish to receive, including amount of storage space, injection/withdrawal rates and term duration.

The Company will conduct an RFP process to procure from the market the 3<sup>rd</sup> party service(s) necessary to support the customer's request and will then provide the customer with information about the pricing and timing for the service, at which time the customer will indicate whether it will commit to the service. The customer may choose to take an assignment of the 3<sup>rd</sup> party service (s).

The pricing will reflect the costs that the Company will incur to obtain the necessary 3<sup>rd</sup> party services from the market and the administrative and legal costs of acquiring and providing such service(s).

The earliest commencement date will depend on the time that it takes for the Company to conduct the RFP process and enter into a contract with the customer or 3<sup>rd</sup> party service provider(s). As a result, the customer must provide the Company with sufficient lead time to meet any required commencement date.

The contract terms and conditions for this high deliverability service will reflect the terms and conditions of the 3<sup>rd</sup> party service(s) procured by the Company from the market to match the customer's request.

The Company will facilitate additional nomination windows (beyond the standard NAESB nomination

windows), as long as the customer has contracted for the same additional nomination windows for transmission and distribution service.

High deliverability storage service procured for the customer is an unregulated service offering and will be administered separately from the Company's Board-approved regulated storage rates and the allocation of cost-based storage space at 1.2% ratcheted deliverability applies only to the Company's Board-approved storage rates and cannot be used for high deliverability storage service.

For more information about this offering, please contact your account executive at Enbridge Gas Distribution.