



**RP-2000-0001**

**IN THE MATTER OF** ss. 44 and 45 of the  
*Ontario Energy Board Act, 1998*, S.O. 1998, c.  
15, (Sched. B);

**AND IN THE MATTER OF** the Gas Distribution  
Access Rule, made on December 11, 2002.

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

Cathy Spoel  
Member

## **DECISION AND ORDER**

This Decision and Order relates to the Gas Distribution Access Rule (“GDAR”) issued by the Board on December 11, 2002 pursuant to section 44 of the *Ontario Energy Board Act* (the “Act”). More specifically, this Decision and Order addresses the requirement in section 3.2.1 of GDAR for the development of a Board-approved form of Service Agreement to be entered into by a gas distributor and each gas vendor that provides or intends to provide gas supply services to consumers in the gas distributor’s franchise area. This Decision and Order also addresses the development and implementation of an electronic business transaction system, which section 4.7.1 of GDAR contemplates may be mandated by the Board.

### **Background**

On May 9, 2005, the Board issued a Decision in which it directed Board staff to develop, within specific timelines, a standard form of Service Agreement, as well as an Electronic Business Transactions Standards appendix (the “EBT Standards Appendix”) to that

standard form of Service Agreement. That Decision also contained direction as to the scope and content of the Service Agreement and the EBT Standards Appendix, including in particular that those documents should: (a) to the maximum extent possible mirror the comparable documents currently in use in the electricity sector; and (b) contain adequate detail with respect to service transaction requests (“STR”) so as to allow the market to operate competitively and ensure that consumers have the maximum choice of gas suppliers. The Decision contemplated that the Board would issue a Final Order in relation to the Service Agreement and subsequently issue a Final Order in relation to the EBT Standards Appendix, both within specific timelines. The Board would then issue a Notice proposing new implementation dates for section 3.2.1 and Chapters 4 and 6 of GDAR. Those dates were anticipated to be no later than January 1, 2006.

Following consultations with parties, Board staff filed with the Board a proposed Service Agreement on July 8, 2005 in accordance with the timelines set out in the Board’s May 9, 2005 Decision. On July 15, 2005, the Board issued Procedural Order No.1 inviting interested parties to submit comments on Board staff’s proposed Service Agreement. Written submissions were received from the following parties: Enbridge Gas Distribution Inc. (“Enbridge”), Union Gas Ltd. (“Union”), Kitchener Utilities (“Kitchener”), Utilities Kingston (“Kingston”), Natural Resource Gas Limited, Direct Energy, Ontario Energy Savings Corp. (“OESC”), MXenergy, Aegent Energy Advisors Inc. and Coral Energy Canada Inc. (“Coral”).

Following extensive consultations with parties, Board staff filed with the Board a proposed EBT Standards Appendix on September 6, 2005 in accordance with the timelines set out in the Board’s May 9, 2005 Decision. On September 13, 2005, the Board issued Procedural Order No. 2 inviting interested parties to submit comments on Board staff’s proposed EBT Standards Appendix. Written submissions were received from the following parties: Enbridge, Union, Kitchener, Kingston, Direct Energy, OESC, MXenergy, Superior Energy Management (“Superior”) and the Vulnerable Energy Consumers’ Coalition (“VECC”).

Also on September 13, 2005, the Board issued a Decision in which it decided that it would issue a Final Order regarding both the Service Agreement and the EBT Standards Appendix at the same time, rather than in sequence as originally contemplated in the May 9, 2005 Decision. The Board’s September 13, 2005 Decision also contained findings on two billing issues that were the subject of comment by parties

in relation to Board staff's proposed Service Agreement. Specifically, the Board endorsed Board staff's approach to vendor-consolidated billing ("VCB"), which contemplates that the terms and conditions associated with VCB be negotiated in good faith between the parties in the event that the gas vendor requests that the gas distributor provide VCB. The Board also endorsed Board staff's proposal that gas distributors offer both a bill-ready and a rate-ready form of distributor-consolidated billing ("DCB"). Under bill-ready DCB, the gas vendor calculates the dollar amount payable by a customer and provides that information to the gas distributor for inclusion on the bill whereas under rate-ready DCB, bills are calculated and issued by the gas distributor on the basis of price information provided by the gas vendor.

### **Issues and Board Findings**

In accordance with the Board's direction, Board staff's proposed Service Agreement and EBT Standards Appendix mirror the comparable documents currently in use in the retail electricity sector, adapted to suit the gas market and to reflect GDAR. The overall scope and content of Board staff's proposed documents are also consistent with the direction given by the Board in its May 9, 2005 Decision.

The Board has considered the submissions filed by the parties in relation to Board staff's proposed Service Agreement and EBT Standards Appendix. The form of Service Agreement and EBT Standards Appendix approved by the Board in this Decision and Order reflect a number of revisions that have been made in response to those submissions, not all of which are described in this Decision and Order.

Listed below are some of the more significant issues identified in the submissions filed by the parties in response to the Board's two Procedural Orders. For each issue, the position of the parties is followed by the Board's findings.

#### **1. Service Agreement**

In its May 9, 2005 Decision, the Board indicated that the Service Agreement must, in order to be effective, address all matters that govern commercial relationships between a gas distributor and a gas vendor. This includes incorporation of pre-existing agreements between the parties in order to provide a common understanding of those commercial relationships. Board staff's proposed Service Agreement accommodates this approach by incorporating by reference certain existing agreements. The relevant

section of the proposed Service Agreement makes it clear that, to the extent that any such “incorporated agreement” conflicts with GDAR or the remainder of the Service Agreement, these latter govern.

Both Direct Energy and OESC submitted that the terms and conditions relating to matters such as gas transportation and delivery and customer account management should be standardized rather than being addressed by means of incorporation by reference of existing agreements.

While standardization of the terms and conditions relating to matters such as gas transportation and delivery and customer account management could be a desirable longer-term objective, it is not expedient to embark on that process at this time. In its report on the Natural Gas Forum (“NGF”), the Board indicated its intention to undertake a review of the pricing, services and infrastructure related to natural gas storage and transportation in Ontario, matters which are addressed in the “incorporated agreements”. If terms and conditions relating to these issues were to be standardized as part of the Service Agreement at this time, the Board may be required to make significant revisions to the Service Agreement following completion of the NGF review. To wait for the resolution of these matters through the NGF process would further delay implementation of GDAR, which the Board does not consider to be in the best interests of gas consumers. The Board therefore concludes that it is not necessary to standardize the terms and conditions relating to these upstream processes at this time, and adopts the approach proposed by Board staff to the effect that these matters be addressed by means of the incorporation of existing agreements into the Service Agreement by reference. The list of existing agreements has, however, been revised to refer to “bundled” transportation agreements and to include gas delivery agreements.

## **2. Billing Options**

### **a. Vendor-consolidated Billing and Forms of Distributor-consolidated Billing**

As noted above, in its September 13, 2005 Decision, the Board made two findings in relation to billing options. The first is that the terms and conditions governing VCB need not be developed now, but should be negotiated between the parties in the event that the gas vendor requests that the gas distributor accommodate VCB. The Board remains of the view that this approach is appropriate, both for VCB and for split billing.

The second finding is that gas distributors should be required to offer both a bill-ready and a rate-ready form of DCB. The current standard in the gas industry is a rate-ready form of DCB, although gas vendors have supported the requirement that gas distributors also offer a bill-ready form of DCB. The Board remains of the view that gas distributors should be required to offer a bill-ready form of DCB. However, the Board has determined that it is appropriate to delay implementation of this requirement to January 1, 2008 in order to allow sufficient time to design the required processes. Earlier implementation of bill-ready DCB could result in higher costs to correct deficiencies that might result from faster implementation. In addition, the Board notes that, in Enbridge's case, there could be a cost saving if implementation of bill-ready DCB were to coincide with implementation of that company's new Customer Information System, which is expected to be in operation by 2008.

In the interim, the Board believes that consumers and vendors could benefit from being provided with additional billing flexibility. In its submissions on the proposed Service Agreement, Union proposed as an alternative to bill-ready DCB that distributors be required to provide an additional billing line under rate-ready billing. The additional billing line would provide gas vendors with the ability to correct billing errors or process rebates. The Board finds that, pending complete implementation of bill-ready DCB, distributors should support a form of rate-ready DCB that allows gas vendors to add a line to the bill. The Service Agreement has been revised to reflect this requirement.

Certain gas vendors had submitted that gas distributors should be required to provide the additional billing line under both rate-ready and bill-ready DCB. The Board does not consider this to be required under bill-ready DCB, nor does it consider this to be necessary under rate-ready DCB once gas vendors have the option of using bill-ready DCB. Following implementation of bill-ready DCB, gas distributors may at their discretion continue to provide an additional billing line under either form of DCB, but will not be required to do so.

#### b. Other Billing Issues

Two additional billing issues raised by the parties remain outstanding. The first is the request by both Direct Energy and OESC that gas distributors be required to offer bill-ready and rate-ready DCB on an individual customer account basis. This was not opposed by any of the gas distributors. The Board finds that this requirement will provide greater choice for vendors and consumers, and should be implemented once

the requirement to provide bill-ready DCB comes into effect. The Service Agreement has been revised accordingly.

The second issue arises as a result of the definition of “split billing” in the Service Agreement. Specifically, Coral indicated that members of the industry currently use a form of split billing where the gas vendor bills its customers for certain charges without the need for any consumer consumption information from the gas distributor. Coral expressed the concern that Board staff’s proposed Service Agreement could prohibit or inhibit the continuation of this practice unless and until the parties have negotiated suitable terms and conditions. This is not the intention, and the Service Agreement has been clarified to provide that gas distributors may continue to accommodate this form of split billing without further negotiations where the gas vendor does not require consumer consumption information from the gas distributor for the purpose of billing its customers. Where the form of split billing requires the gas distributor to provide customer consumption information to the gas vendor for billing purposes, the terms and conditions for the provision of split billing will remain subject to negotiation between the parties as required by, and in accordance with, the Service Agreement.

### **3. *EBT Standards Appendix***

Parties raised a number of issues in relation to Board staff’s proposed EBT Standards Appendix, the more significant of which are described below. Parties also made submissions proposing numerous wording changes and process improvements. The Board considers that many of these matters are most appropriately and expediently addressed through the “Change and Version Control Process” contemplated in Appendix B of the EBT Standards Appendix. To address all of these proposals at this time would result in additional delay, which is not warranted given acceptance by the parties of the “Change and Version Control Process”. In addition, consultations with parties has revealed that use of the “Change and Version Control Process” may result in the identification and adoption, on a collaborative basis, of processes that allow greater flexibility for both gas distributors and gas vendors relative to the potentially more constraining requirements of GDAR.

The Board has, however, revised the “Change and Version Control Process” to clearly identify the creation and membership of the Advisory Committee, and to clarify that final authority in relation to revisions to the EBT Standards Appendix rests with the Board.

a. Customer Account Number

Gas distributors provided comments on the validation of STRs where the gas vendor does not have the consumer's account number. Enbridge submitted that the EBT Standards Appendix should clarify that a gas vendor may only submit an STR without an account number when one has not been assigned by the gas distributor. Union supports the approach where a gas distributor would release a consumer's account number to the gas vendor provided that the consumer has provided the necessary authority allowing the gas distributor to do so. The Board finds that, under section 4.3.3.3 of GDAR, a gas distributor must reject an STR that does not include an account number if the gas distributor determines that an account number has been assigned and the consumer has been so advised. The EBT Standards Appendix has been revised accordingly.

b. Completion of Initial Screening Process

Enbridge and Kitchener submitted that the requirement to respond to an STR within seven days is not consistent with the GDAR provision that states that the initial screening process must be completed within 14 days. The Board agrees, and the EBT Standards Appendix has been revised to allow gas distributors 14 days within which to complete the initial screening process.

c. "Added Scope" STRs

Gas distributors submitted that some of the transactions identified as STRs in the EBT Standards Appendix are "added scope" (the term used by Enbridge) relative to GDAR in that they are not expressly contemplated or stipulated in GDAR. Specifically, Enbridge and Kitchener submitted that STRs for Contract and Price Point Maintenance and Consumer Information Requests are not required by GDAR. Enbridge submitted that GDAR does not require an STR to Change Consumer Information. Enbridge and Kitchener also disagreed with the need for a change in a consumer service address to be done in a seamless manner.

The gas vendors generally support all of the transactions identified as STRs in the EBT Standards Appendix, although as discussed below Direct Energy and OESC have proposed that the functionality to process certain STRs to change service provider be deferred.

The Board disagrees with the characterization of certain of the STR transactions as “added scope” relative to GDAR simply because they are not expressly identified in GDAR itself. While section 4.1.2 of GDAR contains a list of STRs, it is clear that additional transactions are necessary to support those STRs and that GDAR contemplates an EBT system to provide for the exchange of the necessary data. As noted in its May 9, 2005 Decision, the EBT Standards Appendix should contain adequate detail with respect to service transaction requests that will allow the market to operate competitively and ensure that consumers have the maximum choice of gas suppliers. However, the Board believes that while certain transactions contained in Board staff’s proposed EBT Standards Appendix should be mandatory, others should be optional. Specifically, the Board is not prepared at this time to mandate transactions to effect upstream processes, although it sees no harm in retaining them as discretionary elements. The EBT Standards Appendix has therefore been revised to include a table that identifies which transactions are mandatory and which are optional.

#### **4. *Timing of Implementation***

Several parties commented on timing of implementation of the EBT Standards Appendix, the general consensus being that implementation by January 1, 2006 is not feasible due to the time required to design and test the systems necessary to implement the EBT Standards Appendix. Parties submitted proposals for alternative implementation schedules, with final and complete implementation by 2008.

As noted earlier, certain gas vendors have submitted that the functionality to effect certain types of switching should be deferred. Direct Energy and OESC have proposed that the functionality to process STRs to change service from one gas vendor to another be deferred for one year. Direct Energy also submitted that a gas distributor’s ability to initiate a return to system gas should similarly be deferred for one year. Conversely, MXenergy submitted that transactions to change from one service provider to another should move forward as soon as possible.

Direct Energy and OESC submitted that a phased approach to implementation would be appropriate. Phase I, which would require about 12 months to complete, would consist of activities needed for implementation of a rate-ready form of DCB in the context of existing contracts and system gas-to-gas vendor switches. Direct Energy proposed that Phase II, which would be complete by approximately January 2008, would consist of activities required for implementation of a bill-ready form of DCB, for gas vendor-to-gas

vendor switches and for gas vendor-to-system gas switches. OESC's proposal was similar, although it was silent on the timing of implementation of gas vendor-to-system gas switches. Union proposed similar timing (18 to 24 months) for implementation of the billing functions, as did Kingston. Kitchener indicated that, with the exception of bill-ready DCB, 20 months are required for implementation once the requirements have been finalized. Enbridge submitted that full implementation could occur within 12 to 18 months once detailed requirements are known. However, Enbridge also submitted that a delay until 2008, to coordinate with implementation of the company's new Customer Information System, would result in a cost saving, and further submitted that it would consider making an application for exemption from certain provisions until they can be provided by the new Customer Information System. VECC indicated support for Enbridge's proposed timeline based on the potential for cost savings.

The Board is of the view that STRs related to the provision of "full mobility" for consumers should be introduced as soon as possible, in keeping with the intent and objective of GDAR to facilitate competition and give consumers greater choice. The provisions of GDAR related to mobility have been in force for a considerable time. In addition, gas vendors and gas distributors have had to deal with customer mobility for over 15 years. The Board therefore does not accept the proposals made by certain gas vendors requesting deferral of implementation of certain forms of switching.

The Board accepts that a delay in implementation of the Service Agreement and the EBT Standards Appendix beyond January 1, 2006 is appropriate, and that implementation should occur in two stages. Functionality for rate-ready DCB and for all transactions necessary to provide full consumer mobility (system gas-to-gas vendor, gas vendor-to-gas vendor and gas vendor-to-system gas switching) must be implemented by January 1, 2007. Functionality for bill-ready DCB must be implemented by January 1, 2008.

## **5. *Costs of Implementation***

Although Union and Enbridge indicated that a final and accurate estimate of the costs associated with implementation of GDAR could not be determined until the EBT Standards Appendix is finalized, both gas distributors indicated that the cost will be significant. Enbridge's preliminary estimate is that compliance with the requirements of GDAR, as contemplated in the Service Agreement and the EBT Standards Appendix, is expected to cost approximately \$39 million (capital), plus a still undetermined amount

for operations and maintenance. Union's estimate is that it will cost \$18.2 million for GDAR capital expenses plus an annual increase of \$500,000 in operating expenses.

Enbridge indicated its assumption that all of the costs reasonably incurred and directly attributable to GDAR implementation will be recoverable through rates, but requested that the Board address the treatment of GDAR implementation costs in its Final Order in this proceeding in order to provide regulatory certainty. Union has indicated that it does not intend to carry out any further GDAR implementation work without certainty from the Board that the estimated costs will be recovered through rates.

The rate implications associated with implementation of new regulatory requirements are properly addressed in a rate proceeding duly convened for that purpose. While the Board cannot in this proceeding predetermine the outcome of such a rate proceeding, the Board expects that costs reasonably incurred and directly attributable to the implementation of Board-mandated requirements, such as those embodied in the Service Agreement and the EBT Standards Appendix, would be recoverable through rates in the normal course. The Board does, however, remind the parties that compliance with such requirements becomes mandatory as soon as the requirements come into effect. Compliance is not optional, and in particular cannot be considered as conditional on confirmation of cost recovery through rates.

Board staff's proposed Service Agreement contemplates that the gas distributor may charge fees for certain services provided to the gas vendor, and in certain cases includes placeholders into which the fees in question would be inserted by the gas distributor. These fees are charges that are subject to approval by the Board under section 36 of the Act. The Service Agreement has been revised accordingly, and the Board expects that gas distributors will obtain approval for these fees in advance of the date on which they will commence to be charged under the Service Agreement.

### **Next Steps**

The Board will issue a Notice under section 45 of the Act proposing amendments to GDAR as it relates to the timing of implementation of the Service Agreement and the EBT Standards Appendix to reflect this Decision and Order.

Board staff are directed to promptly convene the Advisory Committee contemplated in the EBT Standards Appendix and initiate the "Change and Version Control Process" for

the purpose of addressing the outstanding wording change and process improvement matters referred to in the first paragraph of section 3 above.

**THE BOARD THEREFORE ORDERS THAT:**

1. The Service Agreement attached as Attachment A to this Decision and Order is approved by the Board as the form of Service Agreement to be used by gas vendors and gas distributors under section 3.2.1 of the Gas Distribution Access Rule, effective on the date determined for that purpose through the notice and comment process under section 45 of the Act referred to under “Next Steps” above.
2. Gas distributors shall, for the purposes of section 4.7.1 of the Gas Distribution Access Rule, have in place an electronic business transactions system that implements the mandatory transactions set out in the EBT Standards Appendix to the Service Agreement attached as Attachment A to this Decision and Order, effective on the date determined for that purpose through the notice and comment process under section 45 of the Act referred to under “Next Steps” above.

**Dated** at Toronto, November 15, 2005

*Original Signed By*

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Signed on Behalf of the Board Panel  
Gordon E. Kaiser  
Vice Chair and Presiding Member

**APPENDIX A TO  
BOARD DECISION AND ORDER  
IN THE MATTER OF RP-2000-0001  
DATED NOVEMBER 14, 2005**

Being the Board-approved Service Agreement and EBT Standards Appendix to the Service Agreement.