



RP-2003-0203
EB-2004-0468

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

AND IN THE MATTER OF an Application by Enbridge Gas Distribution Inc. for an order or orders approving or fixing just and reasonable rates and other charges for the sale, distribution, transmission, and storage of gas commencing October 1, 2004.

BEFORE: Pamela Nowina
Presiding Member

Paul Sommerville
Member

George Dominy
Member

DECISION WITH REASONS

Enbridge Gas Distribution Inc. ("EGDI", the "Applicant") filed a letter dated December 1, 2004, advising the Board that EGDI had met with Intervenor on November 30, 2004 to review the earnings sharing results for 2004. EGDI noted that there remained one area of disagreement between EGDI and the Intervenor in connection with the calculation of the 2004 quantum to be shared.

EGDI described the issue as whether the 2004 Operating and Maintenance Deferral Account (“O&MDA”) amount of approximately \$7.1 million, related to Customer Care Services (“CCS”) costs, should be included or excluded from the earnings sharing calculation. EGDI noted that it included the \$7.1 million of CCS costs in its calculation.

EGDI advised that it awaited further direction from the Board on the issue, and indicated that, should a recalculation be required, direction would be needed by December 13, 2004, in order to reflect the recalculated one time adjustment in time for the January billing cycle. Given the time constraint, EGDI also included an argument-in-chief on the issue.

On December 22, 2004, the Board issued the 2005 Test Year Rate Order which noted that, although the Board was passing through the 2004 earnings sharing total as proposed by EGDI, the CCS cost issue remained to be determined.

To ensure that all parties had an opportunity to comment, the Board issued a Letter of Direction, dated December 10, 2004, which directed that intervenor submissions and EGDI reply were due December 22, 2004 and January 7, 2005 respectively.

The Board received submissions from the School Energy Coalition ("SEC"), the Industrial Gas Users Association ("IGUA"), the Consumers Council of Canada (“CCC”), the Vulnerable Energy Consumers Coalition (“VECC”) and Canadian Manufacturers & Exporters (“CME”) and reply submissions from EGDI.

The Board has reviewed and considered the various points and arguments submitted by the parties.

The Board must determine what is the fair and reasonable treatment in the earnings sharing calculation of the \$7.1 million in 2004 CCS costs.

The Board is guided by the 2003 Test Year Decision, RP-2002-0133, dated November 7, 2003 and the 2004 Test Year Decision, RP-2003-0048, dated September 4, 2003, in this determination.

These costs were disallowed by the Board in its consideration of the 2003 Test Year rates application. EGDI had paid this amount to an affiliated company in excess of what the Board found to be fair market value of the ongoing services provided by the affiliated company.

In the 2004 Test Year Decision, the Board accepted the partial settlement (Issue 1.2, 2004 Settlement Proposal) which proposed that rates for 2004 be established by applying a rate index to 2003 revenues, subject to certain specified conditional adjustments. These adjustments included the provision that, if the Board determined that an amount should be credited to the O&MDA for 2003, but did not fix a number for 2004, the 2004 O&MDA amount would be the amount determined by the Board for 2003, increased by 90% of the inflation factor. The effect of this aspect of the partial settlement was to continue the exclusion of the disallowed CCS costs.

The Board also, out of a concern for potential over-earnings in 2004, imposed an earnings sharing mechanism in the 2004 Test Year Decision.

In the Board's opinion, the inclusion of the \$7.1 million in CCS costs in the earnings sharing calculation is inconsistent with the Board's decisions to disallow the recovery of the \$7.1 million in CCS costs from ratepayers in 2003 and 2004 rates. In the Board's view, if a specific expenditure is disallowed for ratemaking purposes, then it should not be included when calculating regulated earnings for the purposes of an earnings sharing mechanism. Including a disallowed \$7.1 million in costs results in reduced earnings which, otherwise, would be available for earnings sharing.

The Board notes that EGDI was aware of the Board's specific disallowance of the recovery of \$7.1 million in CCS costs from ratepayers in 2003 and in 2004 rates. The effect of the Board's disallowance of an expense as improper or not prudent is not constrained by EGDI's accounting and financial reporting practices, or the treatment that such an expense may be afforded for other purposes.

For these reasons, the Board finds that the \$7.1million in CCS costs should not be included in the 2004 earnings sharing calculation.

The Board expects EGDI to file a revised earning sharing calculation, similar to that contained in Appendix "D" of its Draft 2005 Final Rate Order filing, dated November 11, 2004, within 30 days of this Decision. The Board directs EGDI to record the ratepayer credit arising from this Decision in the 2004 O&MDA and to include the disposition of the recorded amount in the next Quarterly Rate Adjustment Mechanism application.

Parties claiming costs for this proceeding shall submit their claims in the normal manner, referencing the file number, and copying the Applicant.

Dated at Toronto, January 26, 2005

ONTARIO ENERGY BOARD

Original signed by

On behalf of the Panel
Pamela Nowina
Presiding Member