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

AND IN THE MATTER OF the preparation of a draft handbook for electricity distribution utility rate applications

REPLY SUBMISSSION OF ENBRIDGE GAS DISTRIBUTION INC

Enbridge Gas Distribution Inc. ("Enbridge" or the "Company") respectfully submits the following comments in response to the submissions made on the 2006 Electricity Distribution Rate Handbook draft (the "Handbook") issued on January 10, 2005.

Chapter 3 – Test Year and Adjustments

Historic vs. Future Test Year

To encourage efficiency and cost savings, Local Distribution Company ("LDC") rates should be based on a future test year approach to rate making. However, given the number of electricity rate applications that the Ontario Energy Board ("Board") must process and the limited resources available to many of the smaller LDCs, Enbridge fully supports the efficiency measures proposed by the Board in the Rate Handbook and its multi-year rate plan. Under these conditions, Enbridge recommends that the Board accept the Electricity Distributors Association ("EDA") submission to allow significant material events like a transformer station with a 2006 in-service date to be included in rate base. This will allow the Board to retain regulatory efficiencies of the Handbook while including the expectation of significant future cost increases into rates.

Enbridge does not support the position taken by School Energy Coalition ("SEC") that substation costs which increase rates should not be included in rates without considering all 2006 events that would decrease costs. Under this approach conditions, utilities would either be at risk for the capital expenditures and carrying costs of building a substation or their customers would be at risk of delivery interruptions. The former would not be fair and the latter would be unacceptable to schools or any other consumer in the province. The Board must make its decisions with the forecast information available at the time of the rate application.

Ideally all costs should be forecast in a forward test year, but because that is not practical at this time, the second best alternative is to allow the adjustments as proposed by the EDA, Energy Cost Management Inc. ("ECMI") and others. To provide the most accurate reflection of future actual costs, applicants should be encouraged to adjust their 2004 year end results as close as possible to their

expectation of the rate year costs as suggested by the Canadian Manufacturers and Exporters ("CME") with respect to mandatory and optional adjustments. Enbridge does not support the submission of London Property Management Associaiton ("LPMA") to use retrospective adjustments and duplicate cost reviews to match actual expenditures. It is much more efficient for the Board and interested parties to assess these costs once and, unless there is a significant and extraordinary change, not revisit them. LPMA's suggestion to add variance accounts and rate riders to cover future expenditures is also unnecessary and impractical and ignores the significant benefits of a forward test year.

Given its position on this issue, Enbridge does not support the parties who have argued that disclosure of material 2006 events should not be a filing requirement. Without this information, the Board would not be able to determine whether the rates are just and reasonable for the rate year. Enbridge supports SEC submission that the Board has a responsibility to consider any material facts and that these facts must be presented to the Board to ensure informed decisions. The need to file all material facts is the foundation of appropriate governance and the main point underlying the importance of a future test year. Material limits can be set by the Board if required to address Toronto Hydro's concern that materiality has not be defined in the Handbook. Enbridge recommends that the Board require applicants to file expected material changes and allow material adjustments to provide consumers with the most accurate estimate of the 2006 rates.

Conservation and Demand Management ("C&DM") and Smart Meters

Enbridge does not agree with the submissions from Association of Major Power Consumers in Ontario ("AMPCO") and SEC that distribution expenses and rate base expenditures related to C&DM should not be included in the 2006 rates simply because they were funded through the third tranche of the market base rate of return. To the extent that a C&DM program requires ongoing expenses to support the program in future years, these costs should continue to be recovered in rates. Similarly, investments in approved rate base capital should continue to provide a fair rate of return to the shareholder regardless of whether the investment was made in 2005 or 2006.

To do otherwise would suggest that C&DM costs and investments are not as important as other expenditures, when the opposite would appear to be a more reasonable assumption given the government's focus on electricity supply and conservation. A capital investment financed by funds from the third tranche should not be treated differently than a capital investment from the first two tranches.

The requirement to spend the third tranche on C&DM programs to assist the provincial supply shortfall did not have any other limitations and there was no indication from the Minister or the Board that C&DM investments would be prohibited from earning a fair rate of return. If there had been, a utility investing in 2005 capital programs would have been disadvantaged and C&DM programs may have been

foregone or more effective programs avoided in favour of saving rate base investments for 2006, when the third tranche would be available for rate base investment with no restrictions. The same rate and recovery principles should be applied to utility investments in smart meters as suggested by the ECMI Coalition.

Enbridge does not agree with the SEC that investments funded by the third tranche would be recovered twice if expenses and rate base return related to the C&DM programs were allowed in 2006. Rate base investment by its very nature is recovered over an extended period matching its useful service life and any C&DM expenses incurred in 2005 would not be recoverable in 2006. Expenses in 2006 would be limited to the ongoing expenses required to continue to provide the benefits of the programs.

Chapter 4 – Rate Base

4.7 Treatment of Capital Gains and Losses

Enbridge continues to support the principle that utility assets are owned by the shareholder for its sole benefit. Enbridge notes the submissions of Union Gas that support different treatment for assets that are not required to serve ratepayers and point to the court ruling that customers paying for a service do not gain an equitable or legal right to the proceeds.

Chapter 5 – Cost of Capital

5.1 Maximum Return on Equity

Enbridge recommends that the reference to a maximum return on equity be clarified or reworded as the maximum allowed rate of return on equity. This should be the level of return on the shareholder's invested capital that the Board determines to be just and reasonable when setting the utility's distribution rates. Enbridge agrees with Energy Probe and SEC that a variance account is not required to track the difference between the 2006 Handbook rate and the Board approved maximum return.

However, with respect to Energy Probe's position that the approved return should reflect the most current data, the timing of the forecast should be consistent with the timing of other cost forecasts and the return should not be subsequently adjusted without considering the changes to other cost components. To do otherwise would add regulatory uncertainty and result in unjustified swings in benefits and losses. Enbridge agrees with the LPMA that unilateral adjustments of the return would be unfair and unbalanced and with SEC that ratepayers could be asked to pay more retroactively if rate go up. If the Board decides to use the latest financial data as suggested by Energy Probe and Hydro One, Enbridge recommends that this

approach be treated as an interim measure and that the cost of capital be fully reviewed at a later date as submitted by Hydro One.

In addition, the approved return should not be considered as a cap or limitation on actual returns as suggested by some parties. To do so would remove the incentive that the shareholder has to reduce costs and improve operational efficiency between rate cases. It would also unfairly penalize the shareholder, unless ratepayers were asked to make up any shortfalls when the actual return comes in under the approved ROE. Not only would retrospective ROE adjustments require an unnecessary variance account as submitted by AMPCO and CCC, the adjustments would have the same detrimental impact as historic rate making, if they were applied symmetrically, thereby eliminating any efficiency incentive.

Chapter 6 – Distribution Expenses

6.2.4 Employee Total Compensation

Enbridge supports the use of incentive compensation as a recoverable expense as recommended by Union Gas and the need for the utility to justify its labor costs and compensation polices, but it does not agree that individual compensation should be disclosed as suggested by some parties. The use of a $100,000 threshold for provincial employees should not be a mandatory requirement for companies incorporated under the Ontario Business Corporation Act. Enbridge agrees with the ECMI Coalition and Energy Probe that the disclosure should not be required if it raises privacy issues and with the submissions of Ottawa Hydro and the Power Workers Union (“PWU”) that individual detail adds no meaningful benefit. Municipal disclosure requirements and competitive sensitivities should be the key factors for the Board to consider on disclosure. Enbridge supports Hydro Ottawa’s performance incentive recommendation and its use of a balanced scorecard to improve service.

Chapter 7 – Taxes / PILs

7.1.1 General Principles Underlying the 2006 Tax Calculation

Enbridge does not support the submission by Consumers Council of Canada (“CCC”) that utility taxes should be treated differently than other utility costs and trued up to reflect actual taxes paid. Hiring a consultant to assess this single component of the utility’s cost structure would not be fair or productive. A more equitable and simpler solution, would be to use the same tax treatment that is used in the natural gas industry, where taxes are estimated by the utility and approved by the Board along with all the other cost components making up the rate. On this point, Enbridge notes that the CME supported the recovery of the taxes that a distribution company expects to incur in the rate year. Revisiting one component retrospectively would undermine the Board’s approval process and bring all costs into question. This would add

regulatory costs and complexity with minimal ratepayer benefit since any changes in tax treatment can be adjusted in the subsequent rate case and, in the interim, the utility has an incentive to manage the tax payments prudently as pointed out by the CME.

In support of its position, Enbridge also notes the study commissioned by Hydro One and the Coalition of Issue Three Distributors, which concluded that when utility costs are disallowed the cost burden falls on the shareholder and that therefore any related tax savings should accrue to the shareholder. This position was also supported by Niagara Erie Public Power Alliance (“NEPPA”). Ms. McShane’s evidence and the PWU and LPMA submissions provide further support for Enbridge’s position that utility taxes should be calculated on a stand alone basis whereby the regulated results are not influenced either up or down by the operations of the parent or affiliate companies. Enbridge agrees that the utility’s revenue requirement and rates should reflect the cost of providing the utility service on a stand-alone basis. Enbridge agrees with Ms. McShane that a level playing field objective and the benefits follow costs, stand-alone costs, and no harm principles, must be applied when determining who should receive the benefit of tax savings on disallowed expenses. As concluded by Ms. McShane, when this is done, 100% of the tax savings should be to the benefit of the distributor.

If the Board decides to adjust rates for subsequent tax changes, Enbridge recommends that the adjustments be limited to provincial or federal tax changes as submitted by Hydro One. Given that added administrative burden and frequency of corrections, Enbridge would recommend that the Board not add rate complexity when the benefits are questionable and ratepayers may in fact be asked to pay more and experience more volatility as suggested by Hydro One and Ottawa Hydro.

Chapter 13 – Mitigation

Enbridge recommends that the Board assess the need for rate mitigation on a case by case basis as recommended by Toronto Hydro and a number of other parties. Thresholds should be used only as a guide to determine when and what type of mitigation requirements should be considered along the lines of the ECS criteria recommended by Vulnerable Energy Consumers Coalition in Table 3 of its submission and supported by CCC. The rate impact should be calculated based on the average increase in the distribution charges for each customer class. Enbridge supports Hydro Ottawa’s submission that the need for mitigation should not effect the recovery of prudently incurred costs and that rate impacts should also examine past cost performance as compared to average costs across the province.

In addition, Enbridge supports Hydro One’s submission that electricity distributors should not be required to delay the recovery of prudently incurred costs and that rates should not be structured to shield customers from expected cost increases. When assessing the overall impact and whether rate mitigation is required, Enbridge

supports the position of Hydro One and Union Gas that the appropriate impact measure is the costs that are controllable by the distributor and not the upstream costs that are passed through to the utility ratepayers. Any mitigation for the latter costs should be directed to the originators of those costs.

Enbridge further supports the submissions of the PWU, which point to the need to consider safety, reliability and financial integrity of the utility operations when determining whether a rate increase is required. Enbridge also note Toronto Hydro's submission that mitigation requires the balancing of competing objectives such as inter-customer equity, avoidance of rate shock and equitable risk distribution. The need to assess these individual characteristics provides support for a case by case assessment of mitigation needs.

Other Matters Conservation & Demand Management

General

After reviewing the submissions to date and the supporting evidence, Enbridge is of the opinion that the record before the Board continues to support the positions outlined in Enbridge's C&DM submission dated February 14, 2005. Although some additional alternatives have been provided, they are not supported by evidence and therefore should be given less weight when compared to recommendations based on evidence. To assist the Board with its assessment of the C&DM evidence, Enbridge has provided the following comments to clarify some issues that arise from the February 14, 2005 submissions from various parties.

Although there is general understanding that C&DM measures in 2006 and beyond will be complimentary to the goals of the Ontario Power Authority ("OPA"), there may be some limited hesitation to act now to build a Conservation Culture until the full direction of the OPA is determined. The OPA is currently in a start-up phase and can be expected to advance Board approved programs, which produce positive benefits from the standpoint of electricity supply and conservation. Enbridge cannot find any reason why the OPA would not build upon and expand existing programs in a manner that would be complimentary to the structures already in existence. If the Board agrees, it must conclude that it is clearly not in the interest of the Province to delay LDC-based cost effective conservation results.

CME highlights in their February 14, 2005 submission the cost associated with C&DM including LRAM and incentives for successful results. However, these costs are out of context in that the well documented and understood benefits for customers are not outlined as well. The costs are also not compared to the much larger costs to consumers if conservation results are not achieved through these frameworks.

C&DM Process & Procedures
Stakeholder input to C&DM Plans

Enbridge maintains that there can be value in up-front consultation with stakeholders prior to the development, delivery and clearance of C&DM activities and accounts. However, this process clearly needs to be the responsibility of the LDC which will be held ultimately accountable by the Board at the end of the day.

The February 14, 2005 submission of the Green Energy Coalition suggested that the OEB should select a C&DM Advisory Committee. Enbridge believes that the advice of stakeholders on C&DM and specifically on the design of a Conservation Manual can bring value to the process. However, this type of advice should not be mandated as part of the C&DM process as it may be viewed as an additional approval process outside the Rate Case. Consultation with stakeholders should be on a voluntary basis. These comments apply equally to the Consultative proposed by SECin paragraph 315 of its February 14, 2005 submission.

Incentive Mechanism

The principles outlined in Enbridge's February 14, 2005 submission should remain as the basis for an incentive mechanism for electric LDCs. These principles represent both a prudent approach to C&DM in Ontario and are in line with the consensus view of stakeholders.

The supporting evidence and record before the Board clearly indicates that a percent of net TRC is an appropriate structure for a C&DM incentive mechanism. In addition, sharing of these benefits between ratepayers and LDC shareholders in the ratio of 95:5 represents an equitable allocation of these benefits for both 2006 and beyond. Although conditions may develop to cause this mechanism to be reviewed in the future, this model can be used for many years as it satisfies the following principles:

- The rewards encourage the company to continue to expand its DSM programs.
- The incentive is based on results achieved for ratepayers, not just effort expended.
- Risks and rewards are not be too high.
- The incentive mechanism is transparent and straightforward.
- The rewards vary with results.

If the 5% percent of net TRC model provides an adequate incentive for LDCs to maximize C&DM benefits then it should be retained as a prospective model for future years to ensure that these results continue. As other aspects of the C&DM framework are developed they should also be locked in on a prospective basis. SEC (para. 351) proposes that an incentive model approved for 2006 could be retained for three years. Enbridge suggests that if it is successful in achieving results it could be retained for a period much greater than three years.