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## **BY E-MAIL AND WEB POSTING**

February 25, 2011

**To: Enbridge Gas Distribution Inc.  
Union Gas Limited  
All Other Interested Parties**

**Re: Announcement: Preliminary Assessment of Incentive Regulation Plans of  
the Natural Gas Utilities  
Board File No.: EB- 2011-0052**

The Board has decided to conduct a preliminary assessment of the incentive regulation plans of the natural gas utilities. The purpose of this letter is to describe the consultation process that the Board intends to use in relation to this initiative. This letter also sets out how interested stakeholders may participate in this initiative, including matters in relation to cost awards.

### **Background**

In 2008, the Board approved multi-year incentive regulation plans for Enbridge Gas Distribution Inc. ("Enbridge") and Union Gas Limited ("Union"). The incentive regulation ("IR") plans are in place for five years (2008-2012). As the Board indicated in its March 30, 2005 report entitled *Natural Gas Regulation in Ontario: A Renewed Policy Framework Report on the Ontario Energy Board Natural Gas Forum*, the Board will conduct a cost-of-service rebasing which will include an examination of the efficiency improvements realized. The natural gas utilities (namely, Enbridge and Union) are expected to file their cost-of-service applications at the end of 2011.

The IR mechanisms are different for each of the natural gas utilities ("utilities"). Enbridge's IR mechanism is a revenue per customer cap which uses a formula to set the annual allowable revenue, which in turn is used to set rates. Union's IR mechanism is a price cap which uses a formula to set the annual allowable rates.

## The Board's Approach

To assess the incentive regulation plans of the natural gas utilities, the overall objectives will include:

- Estimate and compare productivity trends (to each other and comparable utilities);
- Identify performance indicators and review utility results (e.g., financial and operating information); and
- Identify challenges, opportunities and information gaps.

Board staff will be conducting stakeholder meetings with interested stakeholders in April 2011. A preliminary list of topics to guide discussion at the upcoming stakeholder meeting is provided in Attachment B.

The consultation will also be informed by the expert advice of a consultant. A consultant's report will be issued that will include productivity trend estimations and where feasible, comparative analysis.

A Staff Report to the Board on the issues discussed at the consultation will also be issued including recommendations. Following its review of the Staff Report, the Board will then decide how to proceed. This work will be addressed separately in appropriate regulatory processes.

## Invitation to Participate and Cost Awards

Cost awards will be available to eligible participants under section 30 of the *Ontario Energy Board Act, 1998* for their participation in this consultation. Costs awarded will be recovered from Enbridge and Union based on their respective distribution revenues. **Attachment A contains important information regarding cost awards** for this consultation, including the process for making eligibility requests and objections. In order to facilitate a timely decision on cost eligibility, the deadlines for filing cost eligibility requests and objections will be strictly enforced.

## Invitation to Participate and Filing Instructions

The Board encourages participation in this consultation by all interested stakeholders. Those interested in participating should indicate their intent by letter addressed to the Board Secretary by **March 11, 2011**. The letter should include a statement as to whether the participant wishes to request cost eligibility. All requests for cost eligibility are to be accompanied by the information specified in Attachment A under the heading "Cost Award Information".

All filings to the Board in relation to this consultation must quote file number **EB-2011-0052** and include your name, postal address and telephone number and, if available, e-mail address and fax number. Two (2) paper copies of each filing must be provided. The Board asks that participants make every effort to provide an electronic copy of their

filing in searchable/unrestricted Adobe Acrobat (PDF) format and to submit all filings through the Board's web portal at [www.errr.ontarioenergyboard.ca](http://www.errr.ontarioenergyboard.ca). If you do not have a user ID, please visit the "e-filing services" webpage on the Board's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca), and fill out a user ID password request. Additionally, interested stakeholders are asked to follow the document naming conventions and document submission standards outlined in the document entitled "RESS Document Preparation – A Quick Guide" also found on the "e-filing services" webpage. If the Board's web portal is not available, electronic copies of filings may be filed by e-mail at [BoardSec@ontarioenergyboard.ca](mailto:BoardSec@ontarioenergyboard.ca). Those who do not have internet access should submit the electronic copy of their filing on CD.

Filings must be received by **4:45 pm** on the required date.

All written submissions sent to the Board will be placed on the public record, which means that the written submissions will be available for viewing at the Board's offices and will be placed on the Board's website. If the written submission is from a private citizen (i.e., not a lawyer representing a client, not a consultant representing a client or organization, not an individual in an organization that represents the interests of consumers or other groups, and not an individual from a regulated entity), before placing the written submission on the public record, the Board will remove any personal (i.e., not business) contact information from the written submission (i.e., the address, fax number, phone number, and e-mail address of the individual). However, the name of the individual and the content of the written submission will become part of the public record.

All materials related to this consultation will be posted on the "OEB Key Initiatives" portion of the Board's web site at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca). The material will also be available for public inspection at the Board's office during normal business hours.

Questions regarding this consultation should be directed to Laurie Klein at 416-440-7661 or by e-mail at [laurie.klein@ontarioenergyboard.ca](mailto:laurie.klein@ontarioenergyboard.ca). The Board's toll free number is 1-888-632-6273.

Yours truly,

*Original Signed By*

Peter Fraser  
A/Managing Director  
Regulatory Policy

Attachments: A – Cost Award Information  
B – Preliminary Topics for Discussion

## Attachment A – Cost Award Information (EB-2011-0052)

### Cost Award Eligibility

The Board will determine eligibility for costs in accordance with its *Practice Direction on Cost Awards*. Any person requesting cost eligibility must file with the Board, and one copy is to be served on Enbridge and Union, a written submission to that effect by **March 11, 2011**, identifying the nature of the person's interest in this process and the grounds on which the person believes that it is eligible for an award of costs (including addressing the Board's cost eligibility criteria as set out in section 3 of the Board's *Practice Direction on Cost Awards*). An explanation of any other funding to which the person has access must also be provided, as should the name and credentials of any lawyer, analyst or consultant that the person intends to retain, if known. All requests for cost eligibility will be accessible through the Board's website.

Enbridge and Union will be provided with an opportunity to object to any of the requests for cost award eligibility. If a utility has any objections to any of the requests for cost eligibility, such objections must be filed with the Board by **March 25, 2011**. Any objections will be accessible through the Board's website. The Board will then make a final determination on the cost eligibility of the requesting participants.

### Eligible Activities

Cost awards will be available in relation to the following activities.

Activity	Total Eligible Hours per Participant
Preparation for, attendance at, and reporting on a stakeholder meeting of up to two (2) days in length (a maximum of 11 hours for preparation, attendance, and reporting time for each day).	Up to 22 hours

As other activities are scheduled as part of this consultation, the Board will provide participants with further details regarding costs for those activities.

The eligible hours per activity listed above do not currently provide for participants to claim the costs of an expert to prepare a separate expert submission. It would be helpful to the Board if participants requesting cost eligibility would indicate in their request whether costs for separate expert submissions should be provided for in this consultation.

When determining the amount of a cost award, the Board will apply the principles set out in section 5 of its *Practice Direction on Cost Awards*. Groups representing the same interests or class of persons are expected to make every effort to coordinate their

participation in this process. The Board will consider any lack of coordination when determining the amount of a cost award. The maximum hourly rates set out in the Board's Cost Awards Tariff will also be applied.

For more information on the requirements and processes set out above, please see the Board's *Practice Direction on Cost Awards*. The Practice Direction can be found on the Board's website at [www.ontarioenergyboard.ca](http://www.ontarioenergyboard.ca) on the "Rules, Codes, Guidelines and Forms" webpage.

## **Attachment B – Preliminary Topics for Discussion (EB-2011-0052)**

Below is a preliminary list of topics for discussion that staff prepared for the upcoming stakeholder meeting.

### **Questions:**

1. What are the appropriate indicators to measure utility performance under each of the plans? How did each utility perform against these indicators?
2. Did the utility's performance meet customer expectations? For each plan, were benefits/earnings shared between ratepayers and shareholders?
3. Were the elements of each plan appropriate? For example, did the utilities require an adjustment for average use? Was a five-year plan the appropriate length of time to ensure efficiency improvements? What elements, if any, may have had material influence on the utility's performance?
4. Has there been adequate transparency of information during the term of the plans?
5. Was the process for developing the plans appropriate?
6. Are there new challenges and/or opportunities facing the utilities that may impact the development of the next generation IR plans (e.g., industry structure, industry changes, technological advances, trends in demand and supply, changes in accounting standards, etc.)?