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Kirsten Walli  
Board Secretary  
Ontario Energy Board  
P. O. Box 2319, 26<sup>th</sup> Floor  
2300 Yonge Street  
Toronto, Ontario  
M49 1E4

Dear Ms. Walli:

**Re: EB-2009-0152**  
**Board Staff Discussion Paper on the Regulatory Treatment of**  
**Infrastructure Investment for Ontario's Electricity Transmitters**  
**and Distributors**

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I am writing to provide the comments of Enbridge Gas Distribution ("Enbridge") on the Board Staff Discussion Paper in EB-2009-0152. The Discussion Paper deals with the regulatory treatment of infrastructure investment for Ontario's electricity transmitters and distributors. One of the issues set out in the paper is whether the frameworks and mechanisms identified in it should apply to other rate-regulated entities. Accordingly, the Board's notice dated June 10, 2009 inviting comments on the paper was circulated to other rate-regulated entities, including Enbridge, as well as to electricity transmitters and distributors and interested stakeholders.

Enbridge appreciates this opportunity to provide comments on the Board Staff Discussion Paper. Enbridge will not address individually each of the 26 issues set out in Chapter 6 of the Discussion Paper, but will provide some general comments that have a bearing on many of the 26 issues.

Enbridge's comments fall into four main categories, as follows: (1) application of the frameworks and mechanisms to natural gas distributors; (2) incentives; (3) prior approval process; and (4) flexibility. These four areas will be addressed under the headings on the next pages.



### **Application to Natural Gas Distributors**

Issue 1 set out in Chapter 6 of the Discussion Paper is comprised of two questions and the second of these questions has two parts. The first question is: Should the framework and mechanisms identified in this Discussion Paper apply to other rate-regulated entities? In the event of an affirmative answer to this first question, the two parts of the second question are: (1) why; and (2) for what types of projects. Enbridge submits that the first question should be answered in the affirmative. The framework and mechanisms identified in the Discussion Paper should apply to other rate-regulated entities, including Ontario's natural gas distribution utilities.

With respect to the first part of the second question, there are a number of reasons why the framework and mechanisms for electricity distributors and transmitters should apply to gas distributors. As a general matter, it is appropriate that, wherever possible, regulation of electricity and gas utilities be guided by the principle of a level playing field. While there may be some areas where it is necessary for regulation of electricity utilities and gas utilities to differ, the concept of innovative approaches to encourage infrastructure investment is one that should apply equally to both sectors. Gas-fired generation of electricity has taken on an important role in the Province's electricity supply mix and is linked directly with the objectives of the *Green Energy and Green Economy Act, 2009* (GEGEA), because it serves as a backstop for intermittent renewable sources of energy. With the increasing integration of gas and electricity markets, there is a future potential to capture synergies between these markets as smart grid solutions overlap with the uptake of high-efficiency distributed generation and the use of natural gas solutions in a hybrid approach to when and how electricity is generated and used. For all of these reasons, Enbridge submits that the framework and mechanisms set out in the Discussion Paper should apply to the gas distribution utilities.

With respect to the second part of the second question in Issue 1, Enbridge submits that the Board should not be prescriptive about the types of projects to which the framework and mechanisms will apply, but should leave open as much flexibility as possible. While, of course, general guidance about the applicability of the framework and mechanisms will be useful, flexibility is also important so that the Board can reach the best result when it actually has the particular features and circumstances of a specific project before it for consideration. As an example, Enbridge notes the potential for gas distributors to support high-efficiency distributed generation that enhances the public benefits associated with smart electrical grids and also complements intermittent renewable energy supply. Enbridge submits that the Board's framework and mechanisms should allow flexibility for consideration of projects such as these.

### **Incentives**

Incentives are a valuable and effective tool to encourage activities that advance the Board's objectives and the public interest of Ontario. This can be seen, for example,



from the success of the Board-approved incentives for Demand Side Management activities by the Province's gas distributors, including Enbridge.

Enbridge submits that, even where the Board is empowered to "mandate" infrastructure investment, incentives are an effective tool to bring about the desired result. Incentives encourage utilities to be resourceful and creative in finding ways to fulfill the Province's energy objectives. In contrast, utilities are unlikely to see any reward for resourcefulness and innovation if there are no incentives, yet the utilities bear the responsibility of justifying their system plans to the Board.

Incentives potentially can take a number of different forms and can be structured into different combinations, depending on the nature of the particular project. While it would be useful for the Board to identify examples of incentives that will be available in particular circumstances, Enbridge again submits that the Board should not be prescriptive. Each project should be left open for consideration based on its particular features and circumstances. Rather than a prescriptive approach, the Board could establish guidelines regarding the desired results that will occur as an outcome from various projects and investments.

For the same reason, Enbridge submits that the Board should not adopt a project-specific ROE incentive, or range of incentives, but should leave the amount of any such ROE incentive to be determined on the basis of the circumstances of each individual case.

### **Prior Approval Process**

Enbridge believes that a prior approval process should be available to establish the mechanism or framework that will apply to a particular infrastructure investment. To be more specific, Enbridge is not suggesting that prior approval of the mechanism or framework be required for each investment, but that this avenue be available to be pursued by a utility that looks for certainty about regulatory treatment before proceeding with a project commitment.

The Discussion Paper indicates that the Board's initiative is founded on provisions of the GEGEA that require the Board to be guided by the objective of promoting or facilitating certain electricity infrastructure investments. Similarly, the Board's notice of June 10, 2009 that invited comments on the Discussion Paper refers to the Board's commitment to creating conditions that will foster timely and appropriate investment in such infrastructure. The innovative approaches under consideration by the Board will be most effective in promoting, facilitating or fostering infrastructure investment if there is a process to establish, before a project proponent makes a significant investment, the regulatory treatment that will apply to the project.

In other words, a particular type of regulatory treatment is most likely to act as an incentive for a project if it is known before a significant financial commitment has been



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made to the project. A prior approval process allows the Board to consider all of the features and circumstances of a proposed project and then provide some level of certainty to the project proponent about the regulatory treatment that will apply to the project.

### **Flexibility**

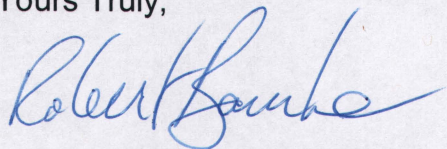
It is not possible to anticipate in advance all of the particular features and circumstances of those infrastructure projects that may be worthy of innovative approaches to regulatory treatment. Further, any attempt to anticipate in advance the treatment that may be afforded to infrastructure projects leads to a risk of pre-judging projects before the Board has heard about the individual characteristics of the projects.

For these reasons, and as discussed under certain of the headings above, Enbridge submits that the Board's regulatory treatment of infrastructure investment should leave open as much flexibility as possible. It would be useful for the Board to provide guidelines and examples, but the guidelines should make it clear that the Board is not being prescriptive and that the Board will allow applicants an opportunity to justify the regulatory treatment that they believe to be appropriate based on the particular characteristics of individual projects.

In conclusion, Enbridge supports a move to an incentive framework for infrastructure investments by both electricity and gas distributors. Enbridge submits that the framework should allow flexibility for consideration of the appropriate regulatory treatment for a range of different projects and should include a prior approval process to establish a level of certainty about regulatory treatment before significant project commitments are made.

If you have any questions about these comments, do not hesitate to contact me.

Yours Truly,



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